

**HOUSE BILL NO. 1278**

Introduced by

Representatives Satrom, Grueneich, Headland, Lefor, S. Olson, Ostlie, Schauer, Steiner  
Senators Conley, Wanzek

1 A BILL for an Act to ~~create and enact a new subsection to section 21-10-02.1 of the North-~~  
2 ~~Dakota Century Code, relating to the prudent investor rule; and to~~ amend and reenact  
3 ~~section~~sections 21-10-02, 21-10-06.1, ~~subsection 1 of section~~ 21-10-08.1, and subsection 210  
4 of section ~~21-10-11~~54-44.4-02 of the North Dakota Century Code, relating to the powers and  
5 duties of the state investment board ~~and the legacy fund, restrictions on perpetual contracts,~~  
6 required reports, and the prohibition on social investments; and to provide for a legislative  
7 management study.

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

9 **SECTION 1. AMENDMENT.** Section 21-10-02 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **21-10-02. Board - Powers and duties.**

- 12 1. The board is charged with the investment of the funds enumerated in section  
13 21-10-06. It shall approve general types of securities for investment by these funds  
14 and set policies and procedures regulating securities transactions on behalf of the  
15 various funds. Representatives of the funds enumerated in section 21-10-06 may  
16 make recommendations to the board in regard to investments.
- 17 2. The board or its designated agents must be custodian of securities purchased on  
18 behalf of funds under the management of the board. ~~Any designated agent acting as a~~  
19 ~~custodian of securities purchased on behalf of funds under the management of the~~  
20 ~~board may not be a member of any association that has not publicly supported the~~  
21 ~~fossil fuel and agriculture industries of this state. All contracts between the board and~~  
22 ~~any designated agent, custodian, or investing entity must include a written requirement~~  
23 ~~that the designated agent, custodian, or investing entity supports the fossil fuel and~~  
24 ~~agriculture industries of this state.~~

1           3. The board may appoint an investment director or advisory service, or both, who must  
2           be experienced in, and hold considerable knowledge of, the field of investments. The  
3           investment director or advisory service shall serve at the pleasure of the board. The  
4           investment director or advisory service may be an individual, corporation, limited  
5           liability company, partnership, or any legal entity which meets the qualifications  
6           established herein. ~~After five years of offering advisory services, the board shall~~  
7           ~~re-evaluate the contract for all legal entities offering advisory services by issuing a~~  
8           ~~request for proposal to interested bidders.~~ The board may authorize the investment  
9           director to lend securities held by the funds. These securities must be collateralized as  
10          directed by the board.

11          4. The board may create investment fund pools in which the funds identified in section  
12          21-10-06 may invest.

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

15          6. The board may use the services of external investment managers and establish  
16          policies and procedures for internal investment management of client funds under  
17          section 21-10-06.

18          ~~**SECTION 2.** A new subsection to section 21-10-02.1 of the North Dakota Century Code is~~  
19          ~~created and enacted as follows:~~

20                 ~~Notwithstanding section 21-10-07, a designated agent acting as a custodian of~~  
21                 ~~securities purchased on behalf of funds under the management of the board or entities~~  
22                 ~~offering advisory services shall publicly support the fossil fuel and agriculture~~  
23                 ~~industries of this state.~~

24          ~~**SECTION 3. AMENDMENT.** Subsection 1 of section 21-10-08.1 of the North Dakota~~  
25          ~~Century Code is amended and reenacted as follows:~~

26          ~~1. As used in this section, "social investment" means the consideration of socially~~  
27                 ~~responsible criteria in the investment or commitment of public funds for the purpose of~~  
28                 ~~obtaining an effect other than a maximized return to the state. The term does not~~  
29                 ~~include any transactions made by the board or a designated agent acting as a~~  
30                 ~~custodian of securities purchased on behalf of funds under the management of the~~

~~board which makes an investment with a person or legal entity that publicly supports the fossil fuel and agriculture industries of this state.~~

~~SECTION 4. AMENDMENT. Subsection 2 of section 21-10-11 of the North Dakota Century Code is amended and reenacted as follows:~~

~~2. The goal of investment for the legacy fund is principal preservation while maximizing total return and to provide a direct benefit to the state by investing a portion of the principal in the state. Preference must be given to qualified investment firms and financial institutions with a presence in the state for investment of the legacy fund and those that publicly support the fossil fuel and agriculture industries of this state.~~

**SECTION 2. AMENDMENT.** Section 21-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**21-10-06.1. Board - Investment reports - Report to legislative audit and fiscal review committee.**

1. The board ~~shall~~ annually shall prepare reports on the investment performance of each fund under its control. The reports must be uniform and must include:

~~1. a.~~ A list of the advisory services managing investments for the board.

~~2. b.~~ A list of investments at market value, compared to previous reporting period, of each fund managed by each advisory service.

~~3. c.~~ Earnings, percentage earned, and change in market value of each fund's investments.

~~4. d.~~ Comparison of the performance of each fund managed by each advisory service to other funds under the board's control and to generally accepted market indicators.

e. A list of countries in which the funds are invested.

2. On an annual basis, or if requested, the board shall provide investment reports to the legislative audit and fiscal review committee.

3. On an annual basis, or if requested, the board shall provide investment reports on the investment performance of the in-state investment program under section 21-10-11 to the legacy and budget stabilization fund advisory board.

**SECTION 3. AMENDMENT.** Section 21-10-08.1 of the North Dakota Century Code is amended and reenacted as follows:

1       **21-10-08.1. Social investment - Prohibition.**

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

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

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

19      **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - ENVIRONMENTAL, SOCIAL, AND**  
20      **CORPORATE GOVERNANCE.** During the 2023-24 interim, the legislative management shall  
21      study current environmental, social, and corporate governance trends, issues, policies, and  
22      impacts to citizens, businesses, and industries of this state. The study must include input from  
23      representatives from state government with industry-specific expertise in the areas of  
24      investment, insurance, economic development, and finance. The legislative management shall  
25      report its findings and recommendations, together with any legislation required to implement the  
26      recommendations, to the sixty-ninth legislative assembly.