



WESTERN DAKOTA ENERGY ASSOCIATION

February 6, 2023

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Testimony of:

Geoff Simon, Lobbyist #144

in support of HB 1469 – Stick to the Prudent Investor Rule
House Industry, Business and Labor Committee

Chairman Louser and Committee members:

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), we wish to express our strong support for HB 1469 which simply reaffirms the state's commitment to follow the prudent investor rule when investing state employee and teacher retirement funds.

This legislation contains definitions for esoteric terms such as fiduciary, pecuniary and non-pecuniary factors, but its premise is direct and easily understood. It specifies that fiduciaries (individuals charged with investing state retirement funds) strictly adhere to the prudent investor rule established in North Dakota Century Code 21-10-07:

“... The "prudent investor rule" means that in making investments the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. The retirement funds belonging to the teachers' fund for retirement and the public employees retirement system must be invested exclusively for the benefit of their members and in accordance with the respective funds' investment goals and objectives.”

The point of the legislation is ensuring that firms investing retirement funds on behalf of North Dakota teachers and state and local government employees closely follow the provisions of 21-10-07, and not engage in what we would term “feel-good” investments. WDEA would emphasize subsection (4) which states:

“The shares held directly or indirectly by a plan may be voted only in the pecuniary interest of the plan ... the share may not be voted to further non-pecuniary, environmental, social, political, ideological, or other benefits or goals and plan assets may not be entrusted to any fiduciary that has a practice of ... engaging with companies or voting shares based upon non-pecuniary factors.”

WDEA applauds Representative Novak for introducing this bill and urges the committee to give it a strong DO Pass recommendation.

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