



# North Dakota House of Representatives

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## **Representative Anna S. Novak**

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## **COMMITTEES:**

Education  
Energy and Natural Resources

February 6, 2023

Good morning, Mr. Chairman and members of the IBL committee! For the record, my name is Anna Novak. You have before you HB1469, which basically disallows any state dollars to be invested in funds that promote ESG. ESG stands for "Environmental and Social Governance" and it is a framework within businesses that encourage "responsible investing". At first glance, this sounds great and gives people a feeling like they are using their money to do good things for the environment and society. But the truth is, it promotes policies that damage our critical state sectors, such as energy and agriculture, and oftentimes goes against traditional family values.

We do already have some language in the Century Code that deals with ESG, but the language in Century Code Chapter 21-10 is pretty vague. The fact that we still have a fair amount of money invested in companies that promote ESG two years after the legislation was passed tells me that it didn't go far enough. This bill will create and use a list of large banks that have been very open about their support of ESG practices by their own public statements or information published by the financial institutions themselves. They are refusing to deal with or are terminating business activities with coal, oil or natural gas companies without reasonable business purposes. They basically use their capital to promote policies that encourage divestment in the fossil fuel and agriculture industries. Examples of banks on this list are Blackrock, Goldman Sachs, JP Morgan, Morgan Stanley and Wells Fargo. Vanguard was on the list but they walked back their support of ESG investing about a month ago and have been removed. Why? Because the actions that states are taking to stand up to them are hurting them and their investors financially. It's working!

The idea that North Dakota can't make a difference if we participate is simply wrong. The idea that other states say they've pulled out of ESG investing but they are still doing it is wrong too. I've had conversations with people in the legislature and at the state level and frankly, I'm disappointed because these banks are trying to damage industries that affect many, many people that we represent. Yes, this will likely cost money upfront and yes, this isn't going to be easy. There is a pretty large fiscal note attached to this bill. Honestly, when I saw it I about fell off my chair. But please, don't let that make you hesitate supporting this bill. Our energy sector is why we have



the Legacy Fund. Our energy sector is why we have a surplus in our budget this biennium. We would be foolish to not protect that industry in every way we can. The fiscal note on this bill is a drop in the bucket in terms of how financially valuable the energy sector is to our state.

Over the weekend, I realized that the bill was missing something and I have an amendment, which you all should have in front of you. It basically allows investing in one of the "blacklisted" firms if no other options are available.

You've all read and seen the stories on our local media asking why we still have investments in banks and investments that want to harm our energy and agriculture industries. The public has been very clear on wanting us to take a stand. The legislature needs to do something and the time is now. This is a good bill and I've run it by many people. I ask that you give HB1469 a strong Do-Pass Recommendation.

I have Dr. Brent Bennett online and he has helped the state of Texas with their ESG laws. I believe he will be a valuable resource to this committee in answering technical questions about this bill. Thank you, and I'll stand for any questions.





## RESTRICTED FINANCIAL INSTITUTION LIST

Pursuant to West Virginia Code §§12 1C 1, et seq., the West Virginia State Treasurer is authorized to prepare and maintain a list of financial institutions engaged in a “boycott of energy companies,” as defined in West Virginia Code §12 1C 1(a)(2). Financial institutions included on the list are referred to as “restricted financial institutions.”

In selecting a financial institution to enter into a State “banking contract,” as that term is defined in West Virginia Code §12 1C 1(a)(1), the State Treasurer is authorized to take any and all of the following actions:

- Disqualify a restricted financial institution from the competitive bidding process or from any other official selection process.
- Refuse to enter into a banking contract with a restricted financial institution based on its restricted financial institution status.
- Require, as a term of any banking contract, an agreement by the financial institution not to engage in boycott of energy companies for the duration of the contract.

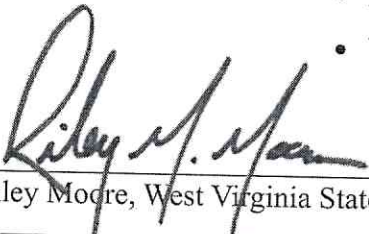
Following a financial institution’s inclusion on the Restricted Financial Institution List, the State Treasurer will remove the institution from said list if the institution demonstrates that it has ceased all activity that boycotts energy companies according to West Virginia Code §§12 1C 1, et seq.

Inclusion on the restricted financial institution list is not an indication of unsafe or unsound operating conditions at any financial institution nor any risk to consumer deposits.

Pursuant to West Virginia Code §§12-1C-1, et seq., the West Virginia State Treasurer’s Office has determined, based on publicly available statements published by financial institutions authorized to enter into financial services contracts with the State Treasurer’s Office, that the financial institutions listed below are restricted financial institutions and are hereby placed on the West Virginia State Treasurer’s Restricted Financial Institution List.

- **BlackRock Inc.**
- **Goldman Sachs Group Inc.**
- **JPMorgan Chase & Co.**
- **Morgan Stanley**
- **Wells Fargo & Co.**

Signed:

  
Riley Moore, West Virginia State Treasurer

Effective Date: July 28, 2022

\*Banks currently authorized to enter into financial services contracts with the West Virginia State Treasurer’s Office include those institutions that are currently designated state depositories or institutions offering sweep accounts that the Treasurer is authorized to select on behalf of the Board of Treasury Investments.



**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2291  
(Senator Bell)

AN ACT to create and enact a new section to chapter 21-10 of the North Dakota Century Code, relating to social investments made by the state investment board; to provide for a department of commerce study of the implications of complete divestment of companies that boycott energy or commodities; to provide for reports to legislative management; and to declare an emergency.

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

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

**Social investment - Prohibition.**

1. As used in this section, "social investment" means the consideration of socially responsible criteria in the investment or commitment of public funds for the purpose of obtaining an effect other than a maximized return to the state.
2. Except as otherwise provided in a state investment policy relating to the investment of the legacy fund and unless the state investment board can demonstrate a social investment would provide an equivalent or superior rate of return compared to a similar investment that is not a social investment and has a similar time horizon and risk, the state investment board may not invest state funds for the purpose of social investment.

**SECTION 2. DEPARTMENT OF COMMERCE STUDY OF DIVESTMENT OF COMPANIES THAT BOYCOTT ENERGY OR COMMODITIES - REPORT TO LEGISLATIVE MANAGEMENT.** During the 2021-22 interim, the department of commerce shall study environmental social governance as it pertains to a set of nonspecific, quantifiable, and nonquantifiable criteria with attributing factors used for making determinations, decisions, or investments as it pertains to government and private industry in the state. The study must include an evaluation of investment policy as it relates to environmental social governance and the level of involvement the state has with companies that use environmental social governance in their ranking when making business or investment decisions. The study must also include the potential implications for the state as it relates to the boycott of energy or production agriculture commodities by companies that intend to penalize, inflict economic harm on, or limit commercial relations. All aspects of boycotts, including the transport, sale, utilization, production, or manufacturing of natural gas, oil, coal, petrochemicals, or production agricultural commodities must be evaluated. The department of commerce shall report its findings and recommendations to the legislative management by June 1, 2022.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2291 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas 42                      Nays 4                      Absent 1

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas 82                      Nays 12                      Absent 0

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State