NORTH Dakota | Retirement & Investment
Be Legendary.

House Bill 1309
North Dakota Retirement and Investment Office (RIO)
Testimony before Industry, Business and Labor
Representative Jonathan Warrey, Chair

Jodi Smith – Interim Executive Director
Scott Anderson, CFA, MBA – Chief Investment Officer
Chad Roberts, MAc – Deputy Executive Director/Chief Retirement Officer

I. RIO Statutory Authority and Responsibilities

The Retirement and Investment Office (hereinafter "RIO") was created by the 1989 Legislative Assembly to capture administrative and investment cost savings in the management of the investment program of the State Investment Board (SIB) and the retirement program of the Teachers' Fund for Retirement (TFFR). Statutory authority for the agency is found in North Dakota Century Code chapter 54-52.5 and the programs are governed by chapters 21-10 (SIB) and 15-39.1 (TFFR).

The SIB has the statutory responsibility to administer the investment program for 31 funds including the Legacy Fund, TFFR, PERS, and WSI. It also maintains contractual relationships for the investment management of multiple political subdivisions and governmental funds. Currently SIB is responsible for the investment of the Legacy Fund, seven pension funds and 23 other non-pension funds for a total of 31 separate client funds with an overall fund value of roughly $23 billion as of October 31, 2024.

II. Opposition to H.B. 1309

Over the past two legislative sessions, North Dakota thoroughly evaluated its approach to investing state funds, prioritizing strategies to maximize financial returns and increase transparency.

The 68th Legislative Assembly enacted House Bill 1429. This legislation directed Bank of North Dakota (BND) to lead a comprehensive statewide Environmental, Social, Governance (ESG) study. Throughout this initiative there was a clear understanding that North Dakota is not stepping back from its commitment to energy and agriculture. Instead, it is forging a new path by outlining a blueprint that demonstrates how transformation and innovation can thrive in a world focused on carbon management.

The ESG study specifically recommended to avoid the use of blacklists for state contracts or investments. Blacklists have the potential to increase fees, limit investment opportunities, and reduce investment returns.

The ESG Study Steering Committee included representatives from government agencies, the private sector and various associations. The following were the representatives

ESG Study Steering Committee	
Tammy Miller	Lt. Governor
Dale Patten	Senator
Anna Novak	Representative
Alisa Mitskog	Representative
Kelvin Hullet	Senior VP of Business Development, Bank of North Dakota
Charlie Gorecki	CEO, Energy & Environment Research Center
Kayla Ver Helst	Sustainability Officer, Bank of North Dakota
Doug Goehring	Commissioner, North Dakota Department of Agriculture
Jon Godfread	Commissioner, North Dakota Insurance Department
Randy Christmann	Commissioner, North Dakota Public Service Commission
Thomas Beadle	Treasurer, North Dakota State Treasurer
Claire Vigesaa	Executive Director, North Dakota Transmission Authority
Dave Glatt	Director, North Dakota Department of Environmental Quality
Jan Murtha	Executive Director, North Dakota Retirement and Investment
Lynn Helms	Former Director, North Dakota Department of Mineral Resources
Reice Haase	Deputy Director, North Dakota Industrial Commission
Tom Oakland	Energy Research & Development Manager, North Dakota Department of Commerce
Ashley Zickefoose	Vice President of Environmental, Safety & Health, ONEOK
Blu Hulsey	Senior Vice President of Environmental, Safety & Health, Government & Regulation Affairs, Continental Resources
Chris Kunkle	Director of State Affairs, Apex Clean Energy
Kathy Neset	President, NESET Consulting
Nick Martin	Director of Strategy & Advocacy, Xcel Energy
Stephanie Sievert	Vice President & Chief Accounting Officer, MDU Resources Group
Chris Johnson	Senior Vice President & Chief Investment Officer, Basin Electric Power Cooperative
Jason Bohrer	CEO, North Dakota Lignite Energy Council
Jesse Beckers	Energy Program Manager, North Dakota Natural Resources Trust
Ron Ness	President, North Dakota Petroleum Council

This ESG study, noted that before ESG became mainstream, fiduciaries routinely integrated aspects of environmental, social and governance as part of their due diligence process. This included evaluating corporate governance and other relevant criteria to gauge a company's long-term solvency and sustainability. Reinforcing flexibility for investments in actively managed funds should prioritize returns over other factors, which is in the best interest of any state.

North Dakota state funds are not invested in dedicated ESG funds pursuant to state law and the prudent investor rule. State agencies employ a disciplined and rigorous manager selection process to identify investment managers for its client funds. With the exception of searches for the Legacy Fund which is required by state law to prioritize investment in the state's business economy through the in-state investment program, managers are selected with the goal of maximizing forward-looking, risk-adjusted returns.

While ESG-dedicated funds may be included in the initial list of viable investment products, ESG funds are filtered out through the selection process because other products are superior and/or these ESG funds do not maximize risk-adjusted returns. If an ESG-focused fund does meet minimum requirements, the firm that manages this fund oftentimes offers a similar non-ESG strategy that is objectively superior for maximizing risk adjusted returns.

Opposition to HB 1309 should in no way be construed as a lack of support for investment in the agriculture or energy sectors. The SIB recognizes the importance of the energy and agriculture sectors for a thriving economy and continues to invest in companies in this sector and implements business practices that would not restrict any investment or business activities within these sectors for non-pecuniary reasons.

III. Summary

Pursuant to both North Dakota law and SIB policy, RIO implements business practices that would not restrict any investment or business activities within either the energy or agriculture sectors for non-pecuniary reasons. The proposal, though well intentioned, may be infeasible to administer and significantly increase the cost and resources needed to perform compliance monitoring as well as have the unintended consequence of requiring the agency to internalize many functions that are currently performed by external partners. An additional consequence of impairment to contracting with third parties and a subsequent need to internalize operations at a speed beyond our current phased proposal would have a detrimental impact to the investment program and client fund earnings.