

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 section
3 21-10-02, subsection 1 of section 21-10-08.1, and subsection 2 of section 21-10-11 of the North
4 Dakota Century Code, relating to the state investment board and the legacy fund.

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

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

8 **21-10-02. Board - Powers and duties.**

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

1 investment director or advisory service may be an individual, corporation, limited
2 liability company, partnership, or any legal entity which meets the qualifications
3 established herein. After five years of offering advisory services, the board shall
4 re-evaluate the contract for all legal entities offering advisory services by issuing a
5 request for proposal to interested bidders. The board may authorize the investment
6 director to lend securities held by the funds. These securities must be collateralized as
7 directed by the board.

8 4. The board may create investment fund pools in which the funds identified in section
9 21-10-06 may invest.

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

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

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

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

20 1. As used in this section, "social investment" means the consideration of socially
21 responsible criteria in the investment or commitment of public funds for the purpose of
22 obtaining an effect other than a maximized return to the state. The term does not
23 include any transactions made by the board or a designated agent acting as a
24 custodian of securities purchased on behalf of funds under the management of the
25 board which makes an investment with a person or legal entity that publicly supports
26 the fossil fuel and agriculture industries of this state.

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

29 2. The goal of investment for the legacy fund is principal preservation while maximizing
30 total return and to provide a direct benefit to the state by investing a portion of the
31 principal in the state. Preference must be given to qualified investment firms and

- 1 financial institutions with a presence in the state for investment of the legacy fund and
- 2 those that publicly support the fossil fuel and agriculture industries of this state.