STAND

STAND

Sustain.
Transform.
Authenticate.
North Dakota.

North Dakota’s competitive advantage in a carbon-managed world.

JUNE 2024

Executive Summary

Over half of North Dakota's economy prospers from its robust energy and agriculture sectors, which serve as the foundation for sustaining and improving livelihoods. Access to reliable and affordable food and energy is essential for driving economic growth and prosperity, and North Dakota's abundant natural resources serve a pivotal role in meeting both domestic and global demands. However, these sectors face challenges from the market-driven Environmental, Social, and Governance (ESG) movement and government climate mandates, which closely examine energy sources and agricultural methods. In light of these challenges, North Dakota is actively evaluating the situation and devising strategies to protect its economy and conserve its natural resources, while also recognizing economic opportunities.

For decades, North Dakota has reinvested coal and oil and gas taxes into programs that are leading the nation in energy and agriculture transformation while preserving the state's production, transportation and utilization of natural resources. While other governments are creating rules and mandates, North Dakota is leveraging innovation before regulation. Strategic public-private partnerships are influencing industries to be better environmental stewards to meet growing global demands for energy and food production. This is the unique story that North Dakota needs to share.

The 68th Legislative Assembly directed the Bank of North Dakota (BND), the sole state-owned bank in the United States, to lead a comprehensive ESG study. North Dakota's common-sense approach to sustainability reflects a blend of political ideology, economic targets, conservation priorities and concerns about regulatory overreach. 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 charting a new course by outlining a blueprint that demonstrates how transformation and innovation can thrive in a world focused on carbon management.

Blueprint for North Dakota's Sustainable Integrity & Transformation

People First: Protect the well-being and livelihood of North Dakota residents and businesses.

Resilient Agriculture: Advance farming and ranching techniques to ensure food security and meet global food supply demands.

Economic Development: Forge strong partnerships between state and global governments, along with private industry, cultivating a resilient local and global economy.

Environmental Conservation: Conserve the state's natural resources through responsible and sustainable environmental practices, ensuring resource management.

Reduce Foreign Dependency: Evaluate production lifecycles, from material sourcing to decommissioning, to minimize impacts, optimize resource utilization, maximize efficiency and reduce dependency on foreign imports.

Governance and Ethics: Uphold the highest standards of governance and ethics to build trust and ensure accountability.

Technological Advancements: Use technology to drive innovation towards a future that positively impacts both society and the environment.

Insurability: Build infrastructure capable of withstanding weather events to mitigate risks and protect people and personal property.

Energy Transformation: Explore diverse energy solutions, emphasizing efficiency, grid resilience, and innovative technologies to create a reliable energy landscape that meets the needs of both communities and economic development.

Marketing and Recognition: Present North Dakota's pioneering spirit highlighting the state's people and industries that contribute to energy and agriculture production.

Defining ESG

The global ESG movement has become a prominent framework for assessing the environmental, social, and governance impacts of business practices, including energy, agriculture and the financial and insurance sectors. In tandem with this movement, there has been an increase in climate-related financial disclosure requirements, both voluntary and mandated, driven by government rules and regulations and heightened consumer expectations for transparency and accountability. Companies are facing mounting pressure to disclose the environmental risks and opportunities associated with their operations.

At the time of this report, there is no standardized legal definition for ESG. The terms below were used to define ESG.

Environmental: Energy efficiencies, carbon footprints, greenhouse gas emissions, deforestation, biodiversity, climate change and pollution mitigation, waste management and water usage.

Social: Labor standards, wages and benefits, workplace and board diversity, racial justice, pay equity, human rights, talent management, community relations, privacy and data protection, health and safety, supply-chain management and other human capital and social justice issues.

Governance: Corporate board composition and structure, strategic sustainability oversight and compliance, executive compensation, political contributions and lobbying, bribery and corruption.

Note: This report focuses primarily on the environmental aspects of ESG and how it relates to economic opportunities and barriers.

Disclaimer

The North Dakota ESG Report was prepared by Bank of North Dakota pursuant to House Bill 1429 authorized by 68th Legislative Assembly. Neither Bank of North Dakota nor any steering committee members, nor any other person acting on its behalf:

A. Makes any warranty or representation, expressed or implied, with respect to the accuracy, completeness or usefulness of the information contained in the report;
B. Makes any warranty or representation, expressed or implied that the use of any information apparatus, method or process disclosed in the report may infringe privately owned rights; or
C. Assumes any liabilities with respect to the use of, or for damages resulting from the use of, any information, apparatus, method or process disclosed in the report.

Last update June 12, 2024

Acknowledgments

Thank you to the legislators, government officials, private industry representatives, and association stakeholders for your valuable insights and contributions. As we proceed with the recommendations within the report, we are confident that our collective efforts will result in a more resilient and prosperous future for the state of North Dakota.

Kelvin Hullet

SVP of Business Development, Bank of North Dakota

Co-Chair

Charlie Gorecki

CEO, Energy & Environmental Research Center (EERC)

Co-Chair

Kayla Ver Helst

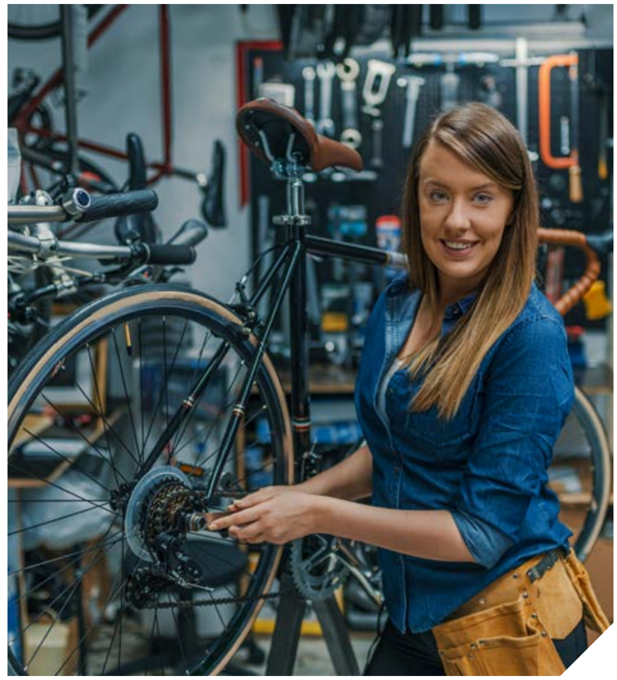
Sustainability Officer, Bank of North Dakota

Project Lead

Table of Contents

Marketing and Recognition

The most effective way for North Dakota to strengthen its position as a global leader in affordable, efficient, and reliable energy and food production is to tell its unique story.



Throughout the research phase of the report, a consensus emerged among steering committee members, workgroup participants, and stakeholder interviews that North Dakota must formulate and implement a proactive plan to articulate its achievements and contributions on a national and global level.

North Dakota is rich in natural resources, from productive soil to extensive lignite and oil and gas reserves to ample wind. The state's expansive grasslands are effective for biological carbon sequestration, and the state has the best geology in the world for carbon storage. Enhanced oil recovery could produce hundreds of millions of gallons of oil in the Williston Basin. The ethanol industry is already sequestering carbon to produce low-carbon fuels. The coal industry is transforming existing mines to sequester carbon to produce low-carbon coal and coal byproducts.

North Dakota's diverse landscape, geology, and abundant energy sources are crucial assets in meeting global food and energy demands. The absence of a centralized and accessible information source about North Dakota's agriculture and energy industries creates a void that allows for unfounded assumptions to take hold. Without a concerted effort to present a unified and accessible repository of data, the state risks becoming a canvas for external, often misguided, or incomplete, perceptions. Recognizing the potential consequences of these assumptions, it becomes clear that a strategic and systematic approach is needed to protect North Dakota's story.

Recommendations

North Dakota must articulate its contributions, which extends beyond the state's borders, as an exporter of goods and services to over 190 countries worldwide. Staying silent in the face of global initiatives, such as ESG frameworks and carbon management, poses significant economic risks. Without actively shaping our narrative, external entities can alter how the world perceives North Dakota's contributions. By sharing our story transparently and authentically, we can highlight our commitment to environmental stewardship, efficient resource utilization, and principled governance. This proactive approach will strengthen our global reputation and build trust and credibility with our domestic and international economic partners. If North Dakota remains silent, the risk stands of being misrepresented or misunderstood, potentially leading to missed opportunities for economic growth, international collaboration, and positive impact on a global scale. Therefore, it is important for North Dakota to tell its story, ensuring that the state's global contributions are accurately recognized and valued worldwide.

Develop Cross-Industry, Statewide Brand, STAND. Strategically position North Dakota as a leader in energy and agriculture production by establishing the brand, STAND (Sustain, Transform, and Authenticate North Dakota). Using a digital platform, the website will feature key elements such as a state-specific carbon accounting, utilization of state invested funds, success stories from local businesses and communities, a showcase of innovative technologies, and academic resources.

The overarching objectives are to promote ongoing statewide initiatives, highlight how industries are adopting innovative practices, and authenticate the state's commitment to transparency and transformation. The website will engage a diverse audience of external stakeholders, investors and the global community.

Leverage the Only State-Owned Bank in the U.S. to Promote North Dakota. As the only state- owned bank in the U.S., BND serves as a distinct platform for North Dakota to leverage its influence in communicating the state's robust economy, conservation stewardship and vision for successful carbon management implementation. Functioning as both a financial institution and a government agency, BND can enhance the state's credibility and transparency. This dual identity captures the public's interest, making BND a powerful tool to integrate financial and sustainability initiatives.

Annual Media Immersion Experience. State agencies and the private sector should collaborate to establish an annual immersion event tailored for media representatives from local, state, regional, national, and international outlets, inviting them to experience North Dakota firsthand. This event will serve to cross-promote industries and research endeavors, nurturing deeper understanding, transparency, and collaboration among North Dakota, the media, and the public. Media participants will have the opportunity to engage with expert speakers and officials, gaining access to institutional insights and accurate data, thereby ensuring they are equipped with reliable information for future reporting efforts.

Unify State-Specific Messaging for Cross-Promotion. To enhance collaboration and promote a unified image of North Dakota, there is an opportunity to align state-specific messaging across various agencies for cross-promotion purposes. This approach ensures consistency and coherence in communication efforts, strengthening the state's brand. By integrating key messages and coordinating communication strategies, North Dakota can effectively showcase its strengths and values, contributing to greater visibility and recognition on regional, national, and international platforms. Updates should be made annually to incorporate new data, ensuring relevance and accuracy while enhancing transparency in communication efforts.

Expand Reporting Metrics for State-Funded Research and Development Projects. To better understand the value of state-funded business research and development programs, it is proposed to expand the current reporting metrics for funded recipients. The objective is to quantify tangible outcomes of North Dakota's investments, ensuring accountability and transparency in resource allocation.

Energy


Basin Electric
POWER COOPERATIVE
LELAND OLDS
STATION
DUSTY SIMMONS

North Dakota's comprehensive stance toward energy production reflects a strategic and forward-thinking approach, aligning with the demands of an evolving energy landscape and creates a blueprint for other governments to replicate.

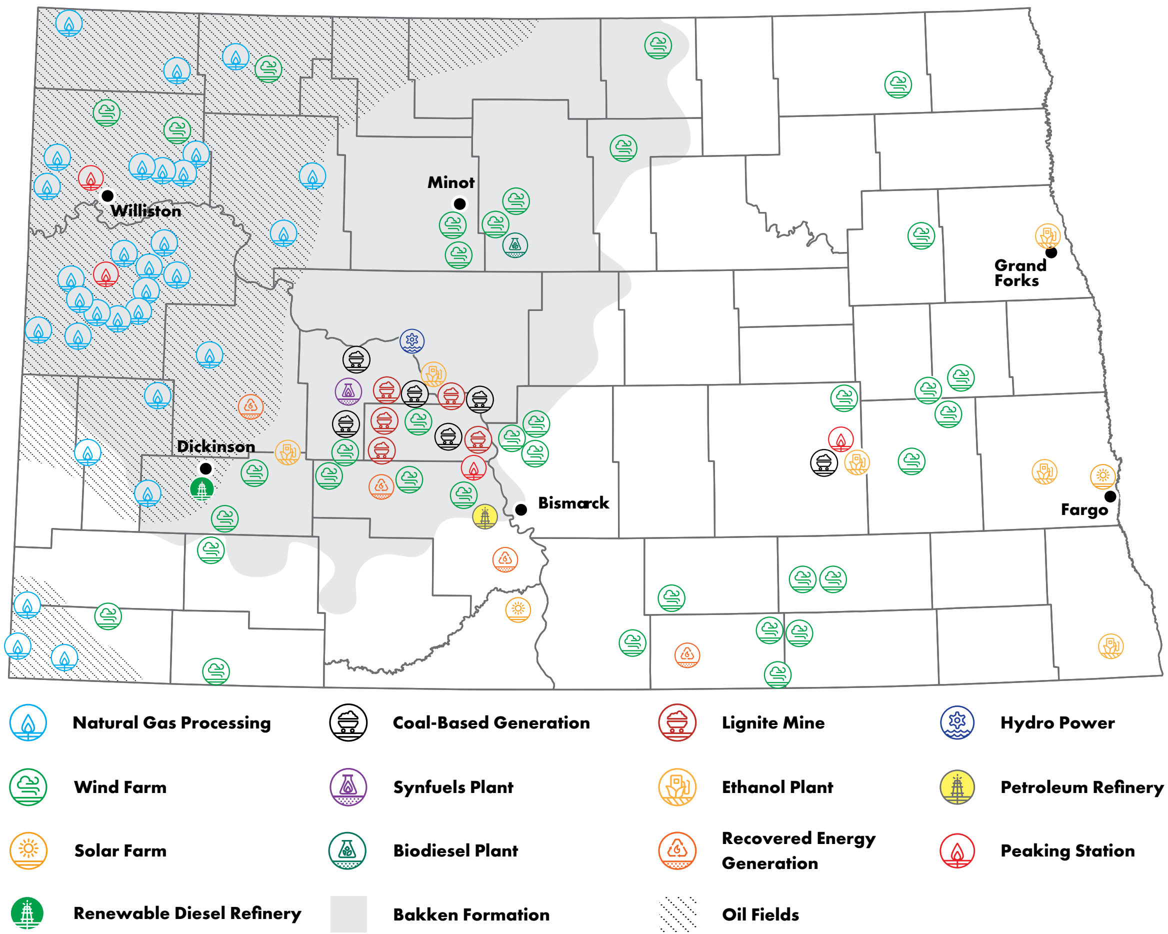
Recognized as an energy powerhouse, the state is abundant in oil, natural gas, coal, hydrogen, wind and biofuels. This diverse energy portfolio is the result of concerted efforts to harness and optimize all available resources within the state. North Dakota is an example of how a state can effectively balance economic growth, environmental stewardship, and energy self-sufficiency to meet its own energy needs and contribute significantly to the nation's overall energy security.

In 2010, North Dakota exported 60% of its electric power, reflecting its significant contribution to regional and national energy markets. Over the years, this export percentage has steadily declined as more electricity is being used in state and aging power sources have retired.[1] This shift underscores the growing energy demands within North Dakota itself, driven by various factors such as population growth, industrial expansion, and advancements in technology. To meet both current and future energy needs effectively, it is important to leverage all of the state's energy sources comprehensively. By maximizing the utilization of the state's diverse energy portfolio, including clean and low-carbon sources of fossil fuels, renewables, and emerging technologies, North Dakota ensures a reliable and sustainable energy supply for its residents and continues to contribute positively to energy markets beyond its borders.

North Dakota's Energy Rankings in the U.S. in 2022[2]

- Total Energy Production #2
- Crude Oil Production #3
- Coal Production #5
- Wind Production #6
- Ethanol Production Capacity #10
- Natural Gas Production #10
- Total Net Electricity Generation #33

Energy Sites of North Dakota



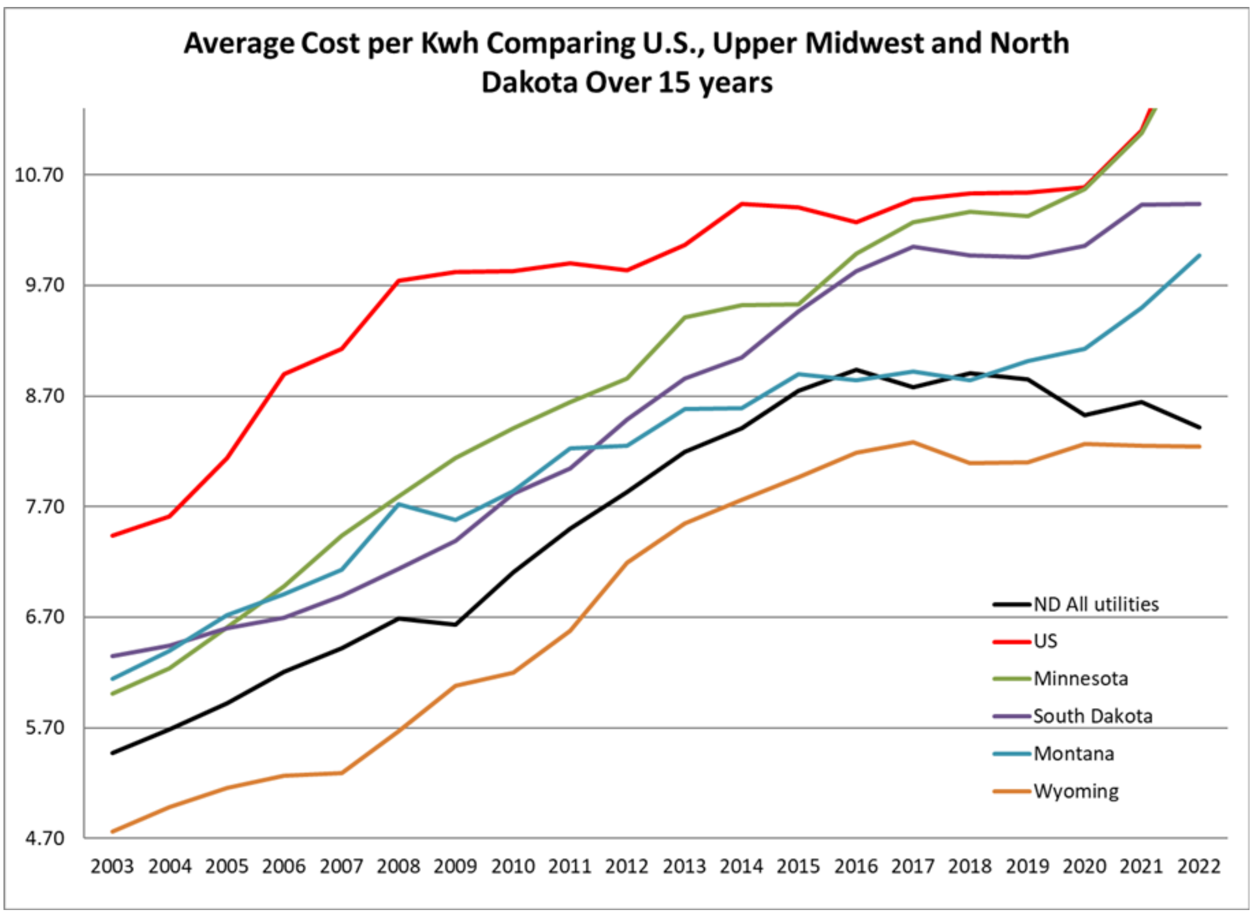
+ *Map courtesy of Bismarck State College's National Energy Center of Excellence.*[3]

Societal Benefits of North Dakota's Energy Mix

Clean, affordable, and reliable energy sources offer numerous societal benefits, not only for the citizens of North Dakota but also for consumers worldwide who rely on the state's energy exports. By prioritizing the utilization of various energy resources, North Dakota ensures accessibility to energy that is both environmentally sustainable and economically viable. As environmental stewards, the state places great emphasis on how energy is produced, striving to minimize ecological impact while maximizing efficiency and reliability.

The diverse energy mix of fossil fuels and renewables allows the state to be able to produce electricity 24/7, even when temperatures range from below zero to above 100 degrees.[4] In 2023, the state's power grid had an average of 0.89 outages per customer, lasting approximately 51.2 minutes, which is less than the national average of 1.27 outages lasting 137.24 minutes.[5] North Dakota's electric rates are consistently competitive and among the lowest costs states. Even though rates have increased over the past 15 years, the average cost per kilowatt hour in North Dakota continues to rise at a substantially lower rate comparative to the U.S. average. This trend provides assurance of continued reliable and cost-competitive power to residents and new or expanding businesses looking to develop within the state of North Dakota.[6]

The energy sector is a major employer in North Dakota and offers some of the highest wages in the state. In 2021, the industry accounted for the following direct and indirect jobs across the state: oil and gas 49,385; coal 12,800; wind 4,000-5,000; and ethanol 1,200. Employment compensation, which includes wages, salaries and employee benefits, was estimated at $3.9 billion for the oil and gas industry and $1 billion for the coal industry in 2021.[7]



ESG and Government Rules and Regulations

Over the past 20 years, the ESG movement and government mandates have targeted the fossil fuels industry as a way to lower global greenhouse gas emissions. Despite the fossil fuels industry's response, including increased investments into research and technology to develop cleaner and more sustainable products, the push for certain low-carbon sources has garnered widespread attention. The political shift towards renewable energy sources, as advocated by the current U.S. administration and governmental regulatory agencies, has prioritized the reduction of carbon emissions, however, the lack of a long-term energy plan at the federal level has hindered all forms of energy development. While there continues to be more restrictive government rules and regulations, non-energy industries and organizations are becoming more vocal, advocating for reliability and affordability to be the main drivers of power generation capacity growth – allowing all energy sources to be part of the overall power generation mix.[8]

Beyond the single-issue narrative of emission reduction, policy makers, industries and the public have expanded the scope of ESG to encompass a range of considerations that the energy sector must address, including:

Greenhouse Gas Reduction and Emphasis on Renewables:

- Pressure to reduce greenhouse gas emissions.
- Insufficient renewable energy sources and infrastructure available to meet current and expanding energy demands.
- Financial cost of restricting fossil fuels and how these costs impact commodity price volatility and affordability to consumers.
- Addition of intermittent power generation mix and lack of transmission lines to be able to meet growing energy demands.

Carbon Offsetting:

- Utilization of carbon offsets as a trading strategy to neutralize total emissions.

Financial and Insurance Sector Carbon Reduction Commitments:

- Financial and insurance companies aligned with global alliances focused on reducing greenhouse gas emissions, vocalizing their commitment to "decarbonize their portfolios" and refrain from providing services to carbon-intensive industries.
- Oversimplification of eliminating any energy source without the resources and capacity to fill the void and the impacts to society.
- Due to public declaration of alliances, there is escalating political and legal pressures within the U.S. that have influenced some financial and insurance companies to disassociate from global alliances focused on reducing greenhouse gas emissions to safeguard their business objectives and sidestep potential legal repercussions.

Greenwashing and Green Hushing:

- Businesses face accusations of misleading claims about commitment to environmental sustainability.
- Companies are downplaying ongoing operations to avoid drawing attention from external audiences to prevent potential damage to the company's brand.

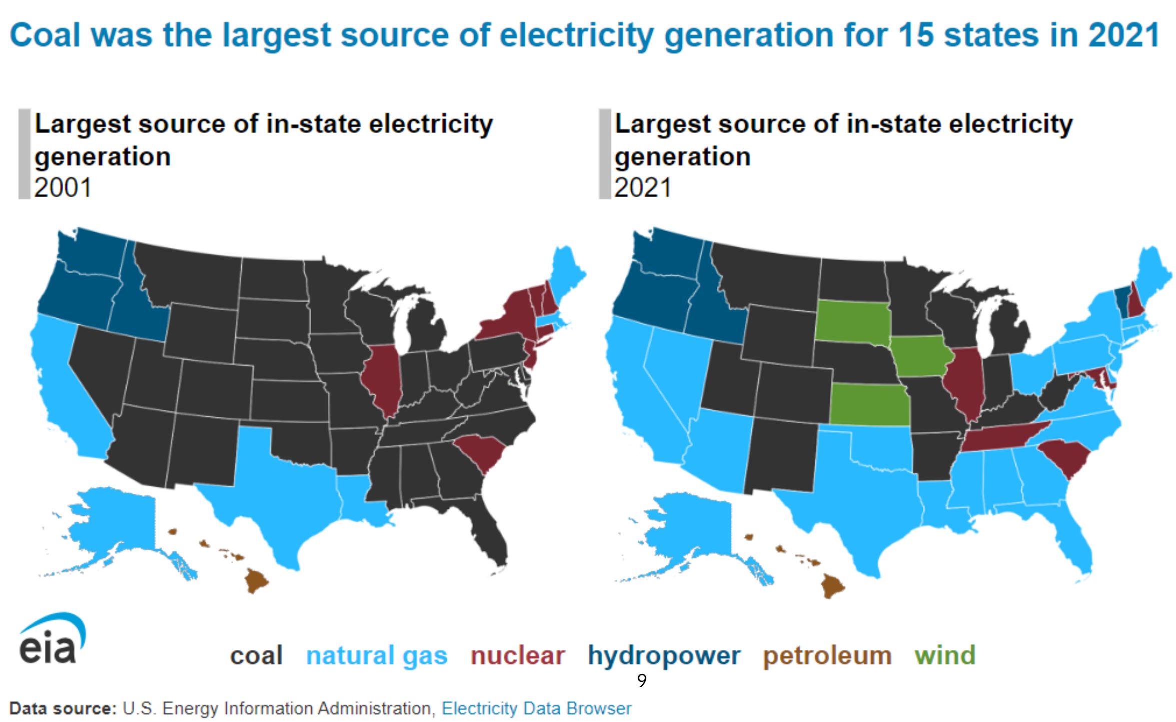
Climate Change Rules and Regulations:

- Government rules and regulations associated with climate change initiatives are targeted specifically at phasing out the fossil fuels industry. These regulations include climate disclosure reporting, requiring businesses to account for greenhouse gas emissions, and potentially facing financial penalties per ton of emissions.
- Proposed rules could force early retirement of baseload resources if modifications and technology aren't available to meet the targets outlined in the rules.
- Energy policy is being influenced by legal proceedings, with lawsuits shaping perspectives and implementation on both sides of the policy spectrum.

U.S. Energy Development

The U.S. has undergone a significant shift in its approach to electricity generation, which used to be dominated by the coal industry. In 2001, coal was the predominate energy source in 32 states, a number that has decreased to 15 by 2021.[9] Of the 15 states that are still using coal as the primary source of electricity, half have state statutes outlining greenhouse gas emission targets by 2040 or 2050.[10] As more states strive to achieve low- to no-carbon electricity by leveraging regulatory authority to enforce the reduction of greenhouse gases in the energy sector, the national grid has been impacted. In 2007, technological advancements in horizontal drilling and hydraulic fracking led to a rise in U.S. natural gas production. At the same time, there was a substantial increase in wind production. The subsequent decline in natural gas prices positioned natural gas-fired power plants as a viable alternative to coal, marking a pivotal change in the energy mix.

North Dakota provides electricity on two Regional Transmission Organizations (RTO), Southwest Power Pool (SPP) and Midcontinent Independent System Operator (MISO). Both RTOs have experienced extended periods of no electricity to consumers during extreme weather conditions. The reliability of baseload energy, historically supplied by coal, has been a cornerstone of power grids in the U.S. and globally. The consistent and predictable nature of coal-fired power plants ensured a stable and constant energy supply, meeting the demands of industrial operations and residential usage. Federal and state government rules to regulate carbon emission from coal and natural gas



[9]

plants are requiring plants to either retire by certain dates or be retrofitted with emerging technologies to capture and store carbon or co-fire with low-carbon hydrogen. However, MISO's February 2024 report strongly warned governments that if coal and natural gas power sources are forced to retire before enough replacement capacity is built, grid reliability will be compromised.[11] At this time, it is unknown how seriously the federal or state governments will heed MISO's warning or if they will modify their greenhouse gas reduction targets.

Government emissions rules are constraining some capital investments necessary in the energy sector. The existing energy infrastructure, largely designed around the reliability of fossil fuels, is not seamlessly adaptable to the characteristics of renewable and other low-carbon energy sources. Moreover, the scale of investment needed to transition entire energy systems is a formidable task. It involves updating existing power plants and electric transmission and distribution networks to accommodate the decentralized nature of renewable energy generation. All these activities require extensive capital.

During fiscal years 2016-2022, 46% of federal energy subsidies were associated with renewable energy and 35% were given to energy end users. Federal support for renewable energy of all types more than doubled from $7.4 billion in 2016 to $15.6 billion by 2022.[12] While the government pushes toward low-carbon energy sources is undeniable, a realistic understanding of the existing infrastructure limitations and the amount of capital needed is necessary. As of 2023, 39% of North Dakota's energy production was from renewables, particularly wind and hydro production.[13]

North Dakota Energy Development

North Dakota, with its rich array of energy resources, finds itself at a pivotal juncture of growth and transformation. The state's predominate use of coal has evolved into a diversified energy landscape, encompassing coal, oil, natural gas, wind, biofuels and hydrogen. North Dakota's energy sources position it as a vital player in meeting the escalating future energy demands and provides reliability amongst geopolitical disruption.

However, any form of energy production experiences challenges. Landowner frustration has emerged as a significant obstacle, necessitating a delicate balance between energy development and respecting individual property rights. Addressing concerns about new technologies requires effective outreach and information sharing to address authentic questions and build public understanding. Additionally, the state must contend with philosophical differences regarding climate change and the ongoing support for the fossil fuels industry. These challenges underscore the need for an inclusive approach to ensure integration of future energy sources. By actively involving stakeholders in the decision-making process and promoting a shared vision of a resilient energy future, North Dakota can create a model for other states to implement. The state's commitment to balancing economic growth, environmental stewardship, and community well-being will shape its trajectory as a dynamic and responsible energy contributor.

Recommendations

North Dakota holds a crucial role in securing both U.S. and global energy independence through the production of affordable, reliable, and clean energy sources. To uphold the state's energy industry strategically, a balanced approach is imperative, ensuring the continued contribution of fossil fuels while exploring more efficient and effective methods to produce low-carbon sources. The state's diverse energy sources play a vital role in stabilizing the MISO and SPP grids during extreme weather conditions, necessitating a reliance on all available energy sources. By encouraging innovation, implementing adaptive governance, and promoting a cohesive narrative, North Dakota can exemplify a sustainable and resilient energy future, leveraging its full spectrum of energy resources.

Expand Electric Generation to Stabilize Regional Electrical Grids Across MISO and SPP. Expanding electric generation in North Dakota holds significant potential to stabilize and create more resiliency for the regional electrical grids across the MISO and SPP regions. With its abundant and diverse mix of natural resources, North Dakota can increase its capacity to generate more electricity, thus meeting future energy demands within the state and across the nation. In order to expand electrical generation, the state must preserve the existing electric baseload generation to prevent rolling brownouts and blackouts, which have become more prevalent as other states are retiring power facilities without a sufficient energy supply to withstand emergency situations.

Prioritize Synergies Between Energy and Agriculture Industries. North Dakota should prioritize endeavors focused on the intersection between its energy and agriculture sectors, recognizing the pivotal role each industry contributes to the state's energy mix. By identifying into these synergies, the state can uncover pathways that address societal needs, elevate energy production, and advance environmental stewardship. Through collaborative initiatives, North Dakota can pinpoint opportunities to integrate agricultural practices with energy production processes, such as bioenergy and renewable fuels, while optimizing the utilization of fossil fuel resources. Additionally, investigating the feasibility of co-locating energy and agricultural facilities can yield mutual benefits for both sectors. Exploring the creation of value-added products derived from agricultural resources can bolster clean energy production and carbon reduction endeavors, all while supporting responsible fossil fuels extraction and utilization.

Support Expansion of Electric Transmission Capacity. Supporting the expansion of electric transmission capacity in North Dakota is needed for meeting present and future energy needs. The North Dakota Transmission Authority is updating the Transmission Capacity Study, offering insights into the present and anticipated future capacity of the state's transmission system. Currently in the development phase, the study identified 60 projects in queue with regional transmission organizations. Most of these projects are infrastructure upgrades to accommodate new load and generation sources and align with market-driven in-state and out-of-state energy demands. Anticipated to conclude by the end of 2024, the study's findings and recommendations should be taken into account during the 2025 legislative session.

Additionally, the state could explore the possibility of implementing tax exemptions for transmission line infrastructure and weather preparedness. Currently, there is a tax exemption for the construction or expansion of electric generating facilities, and this could be expanded to include all transmission lines built by non-utility companies. A new exemption could be considered to incentivize preparedness for emergencies with the intent of reducing downtimes due to weather-related events.

Support Expansion of Natural Gas Pipeline Infrastructure. The 67th Legislature authorized the North Dakota Pipeline Authority to secure a line of credit up to $60 million from BND, to diversify and expand the state's economy by developing natural gas transmission infrastructure for North Dakota's petroleum industry. The Pipeline Authority estimates that natural gas solutions will be required for an additional 1+ billion cubic feet per day, with the goal of increasing in-state consumption while also facilitating the movement of natural gas from western North Dakota eastward. As market conditions justify, the state can strategically utilize the funding to support pipeline construction and extend natural gas availability to more regions of the state. It is recommended that the 69th Legislative Assembly continue to prioritize the expansion and optimization of natural gas pipeline infrastructure in North Dakota.

Optimize Utilization of the Missouri River. The Department of Water Resources in collaboration with the Garrison Diversion Conservancy District is researching optimal locations for industrial water intakes with sufficient capacity throughout the Missouri River corridor from the Montana border to Washburn, ND. This focused effort will conclude in a formal report providing the state with an understanding of how optimizing water resources can effectively catalyze industrial expansion, sustaining economic prosperity in the region, while at the same time preserving the integrity of this natural resource. The identified locations may have secondary purposes for irrigation or municipal uses. Recommendation from the study will be presented by the Department of Water Resources before the end of the year, 2024.

Continue Funding Energy-Focused Research and Development. Demonstrating a robust commitment to economic diversification, North Dakota strives for resilience by reducing dependence on singular sectors and exploring avenues to generate value-added products within the state. By adopting a balanced strategy that integrates diversification, competitiveness, local endorsement, strategic investments, and an improved quality of life, the state positions itself as a central hub of economic potential. The state has implemented numerous programs to bolster the competitive advantage of the energy industry. It is strongly recommended that funding for these programs be maintained, recognizing their pivotal role in sustaining and advancing the competitiveness of North Dakota.

- Legacy Investment for Technology Loan Fund (LIFT)
- North Dakota Development Fund
- Partnership in Assisting Community Expansion (PACE)
- Clean Sustainable Energy Authority
- Renewable Energy Program
- Lignite Research Program
- Oil and Gas Research Program
- Outdoor Heritage Fund

Utilize Existing Energy Informational Platforms to Create a Comprehensive Archive. Leverage existing resources to establish an information archive dedicated to all of the state's energy sources and ongoing developments. This centralized resource will utilize already established platforms to offer accurate and up-to-date information on environmental impact, safety measures, community engagement, and technological advancements associated with each energy source. Using accessible language and multimedia formats, this initiative is designed to promote transparency and provide accurate and current information regarding the diverse energy sources within the state.

Continue Actively Utilizing the North Dakota Federal Environmental Law Impact Review Committee (FELIRC). North Dakota should continue to utilize FELIRC and prioritize ongoing financial support to the federal environmental law impact review fund (FELIRF) to challenge federal laws, regulations, and rules negatively affecting the state's energy and agriculture industries. FELIRC is comprised of agriculture, energy, industry, legislative, and environmental subject matter experts. The committee collaborates with the Attorney General's office to determine the best course of action for the state. If legal action is warranted, the Attorney General may pursue litigation with funding from FELIRF, authorized by the Agriculture Commissioner and FELRIC.

Agriculture

Crop and livestock production in North Dakota not only drives the state's economy but also exemplifies a continued steadfast commitment to environmental stewardship and sustainability.

Agricultural production systems in North Dakota are resilient because farmers and ranchers remain highly responsible stewards of the land, routinely implementing effective practices that prioritize and maintain soil health, water conservation, environmental protection, and biodiversity preservation. The state's farmers and ranchers resolutely care about clean air and preserving the land, which is essential to producing abundant food, feed, fuel, and fiber and ensuring future generations can do the same.

Carbon-neutral and carbon-negative farming and ranching practices are becoming increasingly common. Through innovative techniques, agricultural producers in the state actively work to enhance soil organic matter, improve water infiltration, and mitigate erosion, thereby diligently safeguarding the state's natural resources. Animal agriculture rotational and cell grazing practices promote the development of robust grassland ecosystems that store carbon in root systems and organic matter while also naturally consuming most, if not all, of the methane produced by the livestock. These techniques, technology, and systems improve soil health, reduce inputs, increase carbon sequestration and soil biological diversity, and build organic matter – creating a more resilient and sustainable agriculture industry.

Moreover, by effectively integrating crop and livestock production systems, North Dakota producers optimize resource utilization and promote ecological resilience. The synergistic relationship between crops and livestock enables nutrient cycling, reduces reliance on external inputs, and results in effective, productive, and ecologically friendly land management practices. Through practical diversified farming operations and conservation-focused initiatives, producers in North Dakota consistently demonstrate a profound commitment to environmental stewardship, ensuring the long-term health and continued productivity of agricultural landscapes while significantly contributing to the conservation of the state's natural resources.

Agriculture is North Dakota's Legacy Industry

Agriculture is quintessential North Dakota and has consistently defined it since statehood in 1889. North Dakota has roughly 25,000 farms and ranches, comprising nearly 39.3 million acres, or approximately 90% of the total land area that is owned, operated, or managed by North Dakota producers. Of North Dakota's approximately 780,000 residents, only about 2% are farmers and ranchers. Nonetheless, agriculture broadly supports nearly 25% of the state's workforce and generates over $11 billion in cash receipts each year with an overall annual economic impact totaling well over $35 billion.[14]

As the nation's 11th largest agriculture exporting state, North Dakota is often cited as the "breadbasket of the world." The state's farmers lead the nation in the production of more than a dozen important commodities, among them spring and durum wheat, rye, food grains, assorted beans, barley, flaxseed, canola, honey, sunflowers, pulse crops and more. The state is also a hotbed for emerging crops like industrial hemp, hops, fava beans, and carinata.[15]

In total, North Dakota contributes more than 50 commodities to the global food supply as well as to biofuel production. Soybeans, wheat, corn, cattle and calves, and canola are North Dakota's top commodities in terms of gross cash receipts. Moreover, North Dakota's agricultural significance extends beyond traditional crops and livestock. Agribusiness and food processing, agriculture equipment manufacturing and dealerships, innovative technology, local food and farmers markets, agritourism, and agricultural education all are part of the state's thriving and most predominant industry.[16]

Crop Agriculture. North Dakota farms are natural carbon sinks. Carbon is the one critical element necessary for the existence and survival of all life, especially plants. All plants require, continually capture, and synthesize

carbon during photosynthesis which is an indispensable part of sustaining the Earth's recurring climate processes and cycles. Cropland and pasture occupy and cover approximately 50% of the world's habitable surface land.

Correspondingly, soils remain the Earth's second largest reservoirs of carbon, second only to the planet's vast oceans. Plants, through photosynthesis cycles, create and release the oxygen and structurally bind carbon into the dirt creating more regenerative organic matter – leading to more rich, healthy, and fertile soil. The richer and healthier plant cover is on established agricultural lands, the more effectively that this plant cover collectively uses carbon during photosynthesis.

North Dakota farmland in active crop production remains a massive, inexpensive way to sequester carbon, store it underground, and productively utilize it longterm. This added level of carbon and organic matter consequently locked into soil advantageously leads to increased plant health and growth; more deposited nutrients and heightened soil microbial actions; reduced fertilizer use; accelerated new topsoil formation; more stored water; and, increased present and future food production.

Examples of effective sustainable crop agricultural techniques and practices include: (1) strip till to conserve soil, reduce costs, and save time; (2) minimal and no-till cultivation to reduce erosion; (2) variable seed, pesticide and fertilizer input rate application technology for applying critical inputs; (3) grassland and wetland maintenance and restoration; (4) drone use to identify pathogens, soil nutrient deficits, drought stress, and invasive and noxious weeds; (5) advanced sprayer and drone technology for spot input application and drift reduction; (6) riparian buffers to protect water; (7) nutrient management for better soils; and (8) cover crops to protect soil from erosion, attract pollinators, assist in weed and pest management, and sequester carbon dioxide from the atmosphere.

Animal Agriculture. Rotational livestock grazing is particularly important in relation to atmospheric carbon emissions. This present day highly common ranching practice involves moving livestock between a series of small pastures for shorter intervals of time – allowing longer periods for plants to recover from grazing to stimulate new growth and promote healthy native grass restoration.

Through this systematic rotational grazing, the livestock are effectively curtailed from over-depleting the nutrient-dense pastureland grass. Consequently, that grass is permitted to continuously renew taking even more carbon out of the air and putting it back into the soil. In fact, grasslands and rangelands are more effective carbon sinks than present-day dense forests.

Effective selective cutting of pasture high-forage grasses for feed along with proper cattle grazing management help mitigate potential climate change through sustained plant regrowth that recurrently enriches soil health. Appropriately range-

managed under the right confluence of conditions – cattle, swine, sheep, horses, goats, nontraditional livestock, and poultry all improve soil health, reestablish degraded soils, and restore healthy ecosystems, which consequently further manifestly increase plant carbon utilization and soil carbon sequestration.

Animal agriculture in North Dakota and across the country regularly employs ecologically sustainable ranching practices such as: (1) innovative restorative rangeland management that integrates livestock into regenerative rotational grazing systems – all of which improves working land soil conditions and herd health, boosts the efficiency of livestock production, and mitigates gas emissions; (2) pasture management that prevents over-grazing, and that enriches and sustains forage quality; (3) incorporation of supplemental dietary fat and grain into livestock feed along with other methane-reducing feed additives; (4) enhanced manure management including efficient land application, regular aeration, concentrated animal feeding operation composting with anaerobic methane digesters, and utilization of manure storage covers; and, (5) selective genetic animal breeding practices and husbandry.

ESG and Government-Mandated Climate Disclosures

Government-mandated and market-driven climate reporting frameworks are becoming increasingly burdensome for the private sector. Large companies must factor in estimated greenhouse gas emissions from the production and transportation of raw materials to manufacturing, and ultimately consumer purchases. These companies would be required to navigate the unpredictable, poorly structured, and often extreme complexities inherent in accounting for and reducing total estimated emissions of their products and services. Consequently, climate disclosure regulations in Europe, the U.S., and California will continue to face significant legal resistance.

European Union. The European Commission's Sustainable Food Systems regulation, part of the European Union's (EU) Green Deal and Farm to Fork strategies, purports to reduce the usage of pesticides, fertilizers and antibiotics while also pursuing an increase in organic production by 25%. For EU farmers, the reduction in inputs without viable alternatives will lead to a projected 20% drop or more in overall productivity and quality, necessitating substantially increased imports to feed their populations.[17]

However, the actual implementation of these measures in the EU faces significant practical challenges as 2024 is an election year and public opposition continues to increase about these arbitrary and EU standards. Moreover, the EU's continued attempts to enforce mirror clauses, requiring agricultural imports to meet its standards, has raised substantial objections from global trading partners about unilateral EU policy imposition that violates existing international trade practices, agreements, and protocols.

United States. In the United States, on March 6, 2024, the U.S. Securities and Exchange Commission (SEC) adopted sweeping administrative rules on a national scale, in an attempt to mandate specific climate-related disclosures by public companies and in public offerings. The final rules reflected the Commission's climate-related disclosures regarding emissions, impact of climate-related risks, and other environmentally based information – all with inordinate associated financial costs placed upon businesses and industry.

These SEC rules were to become effective 60 days after they were published in the Federal Register. However, as a matter of course, numerous states, organizations, and businesses consequently sued the SEC to prevent the new rules from being implemented. These lawsuits were combined into one which is now pending in the U.S. Eighth Court of Appeals. The SEC consequently pragmatically halted implementation of its climate-risk disclosure rule while it faces and defends against this monumental multi-party legal challenge.[18]

California. In late 2023, California became the first state in the nation to mandate climate risk disclosures aligned with an ESG framework. This framework applies to all companies doing business within its state and whose revenues exceed $1 billion. As a result, at the beginning of 2024, numerous agriculture and business groups filed a lawsuit in federal court against California. This lawsuit is currently pending.[19]

Recommendations

North Dakota's agriculture and ranching production stands at the forefront of global efforts to feed and fuel the world, distinguished by its commitment to innovation, ingenuity and environmental responsibility. Navigating the existing complex regulatory and business ESG landscape while remaining competitive on a global scale requires a multifaceted approach for North Dakota's agriculture sector. Any viable ESG initiative must first aim to safeguard our national food and energy security and minimize adverse impacts to producers and consumers. While the state will resist mandatory regulatory requirements, the state will support methods and voluntary programs, like those examples mentioned below, that serve to increase the viability and competitiveness of North Dakota agriculture products. In this vein, the state can assist North Dakota's industrious agricultural producers to become even more innovative and productive through additional conservation-based initiatives.

Prioritize Further Synergies Between Agriculture and Energy Industries. North Dakota should continue to prioritize initiatives that foster collaboration between its agriculture and energy sectors, recognizing the significant contributions of each to the state's economy. By effectively leveraging these synergies, the state can identify pathways that address societal needs, enhance food and energy production, and promote environmental stewardship. Through continued collaborative efforts, North Dakota can explore opportunities to integrate agricultural practices into energy production, such as bioenergy and renewable fuels, while optimizing the use of fossil fuel resources.

Additionally, enhancing the co-locating of energy and agricultural facilities can yield mutual benefits for both sectors. The development of value-added products derived from agricultural resources can further bolster clean energy production and carbon reduction efforts while supporting responsible fossil fuels extraction and utilization. By capitalizing on these synergies, North Dakota can position itself as a leader in agriculture-energy integration, driving economic growth, environmental sustainability, and technological innovation.

Establish North Dakota as a Regional and Global Leader in Agricultural Technology (AgTech). North Dakota has an opportunity to expand upon the achievements of a coalition of local ecosystem partners, who recently secured a significant $160 million grant from the U.S. National Science Foundation. This funding is earmarked to drive forward solutions to tackle food insecurity and support cross-cultural engagement through innovative AgTech.

Disbursed over a decade, this grant will propel the state's efforts in establishing an interdisciplinary, systems-based approach to research and development. This approach will address the various natural resource and technological challenges impacting food and energy security, ultimately enhancing the resilience of North Dakota's agricultural sectors.

The outcome of this endeavor will be the creation of an innovative AgTech corridor, engaging not only Indigenous and rural communities but also international corporations. Together, these stakeholders will collaborate on advancing early-stage technology projects. By catalyzing larger agricultural investments and fostering technology development, intellectual property activity, start-ups, and commercial ventures, North Dakota will accelerate its regional and global contributions. These positive efforts can then serve as a model for other regions, improving the quality and affordability of food and energy on a broader scale.

Continue Actively Utilizing the North Dakota Federal Environmental Law Impact Review Committee (FELIRC). North Dakota should continue to utilize FELIRC and prioritize ongoing financial support to the federal environmental law impact review fund (FELIRF) to challenge federal laws, regulations, and rules negatively affecting the state's energy and agriculture industries. FELIRC is comprised of agriculture, energy, industry, legislative, and environmental subject matter experts. The committee collaborates with the Attorney General's office to determine the best course of action for the state. If legal action is warranted, the Attorney General may pursue litigation with funding from FELIRF, authorized by the Agriculture Commissioner and FELRIC.

Develop a Grassland Utilization and Resilience Program. Develop a dual-use program to provide landowners the opportunity to voluntarily enroll in a Grasslands Utilization and Resilience Program designed to promote conservation and effective land management practices on grasslands while keeping the land productive for haying and rotational grazing. Through this voluntary program, farmers and ranchers could receive financial support and technical assistance to establish resilient grasslands and improve soil health.

The haying component of the program would allow for periodic forage harvest, providing supplementary income and supporting local feed needs. Rotational grazing guidelines would be implemented to ensure responsible and effective land management practices, prevent overgrazing, and promote sustained ecological balance. This voluntary program would aim to enhance grassland conservation, support local agricultural economies, and contribute to efficient and productive livestock operations.

Consistently Promote Accurate, Science-Based Information About Agriculture and the Climate. North Dakota agriculture is environmentally sustainable and significantly aids climate resiliency. The state should actively disseminate this factual information, detailing and promoting the many innovative and increasingly common farming and ranching practices that sequester carbon and mitigate other gas emissions, benefiting the environment and climate. Equally critical, whenever North Dakota agriculture is inaccurately portrayed as a substantial carbon emitter or polluter, North Dakota should consistently and promptly counter such misinformation with concise, fact-based data.

Review Bank of North Dakota Agriculture Funding Programs. Conduct an internal review of existing agriculture funding programs to assess alignment with the current and future needs of the agriculture community within the state. Engage the local private banking community to learn more about specific needs. If gaps are identified, evaluate existing programs or explore the creation of new ones.

Insurance

North Dakota's insurance landscape stands resilient amidst the global movement to regulate the industry.

Renowned for its lower-risk profile compared to states susceptible to natural disasters, North Dakota boasts a unique advantage that instills confidence among insurers. While challenges persist, particularly in securing insurance coverage for the coal industry, the state's proactive approach to risk management and regulatory stability mitigates potential obstacles. Looking ahead, with strategic initiatives and collaborative efforts paving the way, North Dakota remains positioned for continued economic growth and resilience in the insurance sector.

Insurance and Weather

The insurance industry naturally undergoes cyclical patterns known as hard and soft markets, each impacting insurance coverage and premiums. In a hard market, insurance capacity decreases, leading to reduced competition among insurers. This scarcity of available coverage often results from increased claims, reduced investment returns or other economic factors. The U.S. is at the epicenter of insurance claims arising from catastrophic events, including hurricanes, floods, wildfires and severe winter storms, insufficient fire suppression methods and building in locations prone to risks. In 2023, the U.S. experienced a record-breaking 28 disasters each exceeding $1 billion, costing over $92.9 billion and resulting in at least 492 direct or indirect fatalities.[20]

Consequently, in hard market conditions insurers become more selective in underwriting, demanding higher premiums and imposing stricter policy terms and conditions. Conversely, a soft market sees increased insurance capacity, fostering heightened competition. During this phase, insurers are more willing to take on risks, resulting in lower premiums and more favorable terms for policyholders. Various economic, regulatory and global factors influence these cycles. The shifts between hard and soft markets have significant implications for businesses and individuals seeking insurance, as they directly impact the cost of coverage and the availability of certain policy options.

Insurance and ESG

In 2023, North Dakota and Texas enacted legislation limiting the ability of certain kinds of insurers from incorporating nonfinancial ESG criteria in underwriting and rating decisions. While these two states stand alone, a broader initiative led by the National Association of Insurance Commissioners created a voluntary standard for insurance companies to disclose climate-related risks. The standard, titled the Climate Risk Disclosure Survey, is a voluntary risk management tool, enabling state insurance regulators to annually request nonconfidential disclosure from insurers regarding their assessment

and management of their climate-related risks.[21] As of 2024, 17 states which encompass more than 80% of the U.S. insurance market are requesting this information. The coalition reflects a significant shift toward reporting transparency and accountability in evaluating climate-related risks within the U.S. insurance industry.

Outside the U.S., foreign regulators are exerting significant pressure on insurers to align with a carbon reduction agenda. The global push is reinforced by two influential entities, the Net-Zero Insurance Alliance (NZIA) and the Net-Zero Asset Owner Alliance. Both alliances actively encourage their members to establish goals to decarbonize their portfolios, achieving net-zero greenhouse gas emissions by 2050. In 2023, 23 Republican attorneys general directed a letter to 28 affiliated insurance companies, seeking details on their commitment to reducing fossil fuels usage, addressing climate change, and ensuring compliance with antitrust laws.[22] Within 10 days, seven members left NZIA, most of which had substantial U.S. business interests.[23] Although companies did react to the letter, the impact of foreign regulatory influences carries more weight in shaping insurers' business practices.

Insurance and the Energy Sector

The American Property Casualty Insurance Association (APCIA) and similar organizations acknowledge that fossil fuels will continue to play a significant role in the U.S.'s energy landscape for decades. Even in the most ambitious decarbonization scenarios, alternative energy sources cannot replace fossil fuels due to the relative affordability of traditional energy sources and related infrastructure in the global economy. The safe, secure and reliable functioning of the energy sector is crucial for societal well-being, national energy independence, and especially during unforeseen events like natural disasters or pandemics.[24] However, market hardening and global trends of insurers divesting away from certain industries led insurance companies to redeploy capital into other less carbon intense industries. This makes it more challenging for companies in the power generation and mining sectors to find adequate insurance coverage. In order to reduce exposure to fossil fuel commitments, some insurers have created "mix of energy" standards and will not provide insurance to power generation companies if total generation from fossil fuels is above a certain threshold.[25]

As part of the 2021 North Dakota Insurance Reserve Fund Study, information was sought from the Lignite Energy Council's membership in North Dakota, shedding light on their experienced circumstances relevant to rising premiums and deductibles and shrinking policy limits.[26] Noted within the study, only two companies are committed to offering insurance products to coal companies in North Dakota. Despite the continued commitment of the two insurers in the state, they are not impervious to market pressures and have enacted stricter underwriting standards based on their internal risk assessments, which has led to adjustments such as rate increases, policy modifications, and in some instances, nonrenewal of policies.[27] There is speculation that as the insurance industry transitions through a naturally occurring hard-and-soft market cycle, there will be more insurers and reinsurers that will reenter the market to provide services and more competitive pricing.

Insurers are pivotal in both maintaining and operating existing energy infrastructure and in planning and constructing future investments. While the immediate concern is access of insurance to the state's coal industry, emerging technologies and applications of renewable energy sources poses challenges for insurers when crafting policies. Insuring renewable energy systems is further complicated due to the intermittent power generation and the potential for damage from extreme weather. Insurers are exploring various insurance products, including coverage for carbon capture and storage, green hydrogen solutions, damage to physical assets generating carbon offset credits, and emissions trading.[28]

Property Insurance Market and North Dakota

When costs become prohibitively high and insurers can no longer effectively transfer excessive risk, a substantial disaster has the potential to either force an insurance company out of business or

lead them to exit a particular state, as observed in California, Florida, Colorado and Louisiana. Insurers, being risk-averse entities, conduct thorough evaluations of their portfolios and pricing structures. In response to unfavorable conditions, insurers may choose to reassess their strategies, considering adjustments to portfolios and pricing, or alternatively, deciding to exit a location or discontinue certain service offerings based on a strengthened business case.

For insurance consumers in North Dakota, lower insurance rates are a direct result of the state's lower risk profile and stable insurance market. With fewer catastrophic weather events and a competitive yet stable market, insurance companies can offer reduced premiums to consumers, passing on savings from lower losses. Additionally, consumers benefit from high-quality customer service in a competitive market environment, with companies striving to differentiate themselves through comprehensive coverage options and quick claims processing.

However, North Dakota does not have state-adopted and enforced universal building codes, which is point of a concern for the insurance industry. Codes would ensure that new homes and buildings would be considered "structurally hard" meaning they could withstand the state's naturally occurring weather events such as drought, flooding, high winds and winter storms. North Dakota has an opportunity to enhance its overall disaster resilience, better protect its communities, and access federal funding to mitigate the potential impact of future natural disasters. Mitigating potential losses may help bend the property-loss curve downward, which may help ease some of the pressures on insurance costs.

Recommendations

North Dakota's favorable conditions for insurance companies include a stable regulatory environment and lower-cost, weather-related losses provide a competitive edge. Severe weather events like blizzards and floods, while present, result in less catastrophic damage due to their predictable nature, allowing insurers to model risks accurately and set aside reserves effectively. The state's transparent, fair, and consistent regulatory practices enable insurers to operate confidently and plan expansions without fear of sudden changes. However, despite these advantages, the energy industry has faced challenges in securing coverage. Therefore, the following recommendations seek to address this issue and further strengthen the insurance market in North Dakota.

Develop Statewide Building Standards. Collaborating with the Insurance Institute for Business & Home Safety, North Dakota can formulate and enforce a robust building code to reduce future losses and safeguard people, personal property and infrastructure. This will be a collaborative effort including the Insurance Commission, North Dakota Department of Commerce and North Dakota Department of Emergency Services along with representation from the construction community and local government officials. Drafting the codes will take time and require extensive public input.

Create a Home Hardening Program. North Dakota should consider implementing a home hardening program to enhance residential resilience against natural disasters. This program could mirror similar programs established in Alabama and Louisiana to incorporate incentives and public-private partnerships to fortify structures, reduce vulnerability and promote long-term disaster resilience.

Market North Dakota's Attributes to the Insurance Industry. North Dakota can elevate the state's attributes to the insurance industry by creating a comprehensive communications plan and roadshow that highlights the state's supportive and reliable regulatory environment. Strategically emphasize the role of energy and agricultural companies in ensuring energy and food security and showcase their leadership in these critical sectors. Additionally, establish positive communication channels with insurers currently conducting business with the energy and agriculture sectors in the state. Regular and constructive outreach and dialogue with these insurers will provide valuable information to address future challenges and identify new pathways to attract more insurance capital into North Dakota.

Validate and Publish North Dakota Insurance Risk Management Data. Efforts should be made to collect comprehensive loss and premium data specific to North Dakota for property and casualty insurance, with a particular focus on the agriculture and energy sectors. This initiative seeks to gather valuable insights to inform targeted risk management strategies and improve insurance solutions tailored to the unique needs of these industries. Additionally, promoting the utilization of state-issued capital proves the state is invested in the preservation of these robust sectors.

Establish Framework for New Insurers in North Dakota. The state can create a comprehensive framework for new insurers by encompassing model laws to streamline the formation process for industry-specific entities and captive insurers. Additionally, review existing impediments to entering or operating in the state to mitigate any unintentional barriers that have been established. To expand the state's ability to provide more insurance options, consider amending the Century Code to accommodate the introduction of captive market insurance, diversifying the state's insurance portfolio.

Investigate the Viability of a Multi-State Insurance Captive Market Tailored to the Coal Industry. North Dakota should take the lead in exploring the establishment of a group captive insurance market to enhance risk management and encouraging collaborative solutions among coal-producing states. This initiative should begin with proactive discussions with other states to identify potential insurance structures that would offer additional options for the industry. Coal-producing states that already have a captive market should be considered to leverage their expertise and implement this effort effectively.

Attract and Retain Insurance Capital Improving Statewide Economic Development. North Dakota can position itself as a leading destination for insurance capital, aligning with the state's broader economic development efforts. Recognizing the success of states that prioritize the insurance industry in their economic strategies, North Dakota seeks to encourage new entity formation and domiciling within its borders. By fostering a regulatory environment conducive to insurance operations, especially for entities serving the energy and agriculture sectors, the state aims to attract and retain insurance capital effectively. Additionally, efforts to assess and strengthen the municipal bond structure and tax-exempt asset framework are underway to bolster the insurance market's investment portfolio, enhancing its financial resilience and investment effectiveness. A review and modification of rate and form filing provisions may need to be considered to make adjustments that attract capital while ensuring consumer protection remains a top priority.

Investments

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.

In March 2021, North Dakota became the first state to pass legislation opposing ESG as the primary basis of investment decisions. Senate Bill 2291 directed the State Investment Board (SIB) to refrain from "social investments" unless there were demonstrated expectations that such investments would yield performance at least comparable to similar nonsocial investments. The legislation was expanded in 2023 to include all state agencies. In 2020, Illinois took a contrasting stance by being the first state to embrace pro-ESG legislation. The divergent approaches of North Dakota and Illinois set the stage for a broader trend in state-level legislation concerning ESG investments. By 2023, nearly every state in the U.S. introduced legislation related to ESG, both for and against, collectively contributing to a surge in the total number of ESG-investment-related bills introduced since 2020, surpassing 200 in total.[29]

Since 2020, ESG has become increasingly political with both blue and red states implementing boycott legislation, but their intentions diverged along differing philosophical ideologies. Blue states focused on boycotting investments in fossil fuels and firearms, aligning with pro-ESG considerations; red states implemented legislation prohibiting state divestment from fossil fuels and firearm industries. However, the clarity and enforcement of these measures varied significantly from state to state. The evolving landscape of state-level regulations reflected the increasing significance of ESG factors in investment and business practices and the differences between Democratic- and Republican- led state governments.[30]

Almost three years since North Dakota's 2021 social investment prohibition law went into effect, it has been highlighted nationally as a good model for other states to replicate.[31] The bill clarifies that state investments for the sole purpose of "social investments" are prohibited unless equivalent or superior returns are expected compared to nonsocial investments with similar time horizons and risk. 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. It is important for North Dakota to retain this flexibility as it relates to the recently created Legacy Fund in-state investment program that prioritizes investments within the state which is by definition a societal investment. The North Dakota Legacy Fund and new in-state investment program receive increased attention due the fund's ability to support the financial health of the state now and in the future. The SIB and the independent managers of this program understand that North Dakotans are interested in learning more about how the assets of the Legacy Fund are being invested in our state. The SIB, however, is also obligated to ensure that the disclosure of this information is consistent with requirements of North Dakota law which requires the SIB to maintain the confidentiality of records that contain proprietary information.*

The legislation outlined in the following table encompasses a diverse range of measures enacted from 2020-2023 reflecting the nuanced approaches and priorities each jurisdiction has taken in addressing ESG considerations within the realm of investments. Bills related to investments with other countries, such as Israel, Russia, China, etc., were excluded from the table if they did not explicitly mention ESG in their language, despite falling under the broader category of "Social" within the ESG framework; the same logic applies to divesting and blacklists associated with firearms.

* Alaska has also publicly identified this balance of the public's desire to know more with the need to protect information that is impactful to the investment function of its in-state investment program funded by its sovereign wealth fund. See APFC's webpage specific to In-State Investments.

State-Level ESG Investment Legislation Passed 2020-2023[32]

YEAR (PASSED)	STATE: POSITION	BILL NUMBER	INTENT	CATEGORY
2020	**IL: PRO**	**PA 101-437**	Directs state and local government entities managing public funds to integrate sustainability factors, including ESG, into their processes and policies.	Investing
2021	**ND: ANTI**	**SB 2291**	Prohibits State Investment Board from making investments for the sole purpose of ESG goals unless it can be demonstrated that such investments are expected to perform at least as well as similar non-social investments would.	Investing
	TX: ANTI	**SB 13**	Requires the comptroller to prepare and maintain a list of financial institutions that boycott energy companies. Prohibits the state retirement system from investing in financial companies that boycott energy companies or companies who do business with energy companies. Requires divestment of securities with such company if they continue to boycott. Prohibits the state from contracting for goods and services with companies that boycott energy companies. Requires companies to provide written verification that they do not boycott and will continue to abstain from said boycott of energy companies for the duration of the contract.	Boycott Contract Investing
		SB 19	Prohibits a government entity from contracting for goods and services with a company that has at least 10 full-time employees and has a contracted value of at least $100,000 unless the company certifies, in writing, that it does not and will not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association for the term of the contract.	Contract
	ME: PRO	**HB 65**	Prohibits the investment of any state pension, or annuity fund in any fossil fuels company or any subsidiary, affiliate, or parent of any fossil fuels company. Requires the divestment from said fossil fuels company by January 1, 2026.	Investing

YEAR (PASSED)	STATE: POSITION	BILL NUMBER	INTENT	CATEGORY
2022	**ID: ANTI**	**SB 1405**	Prohibits any public entity engaged in investment activities from considering environmental, social, and governance characteristics to override the "prudent investor rule."	Investing
	KY: ANTI	**SB 205**	Requires the treasurer to prepare and maintain a list of all financial companies that engage in energy company boycotts. Prohibits investment and requires divestment from the financial firm if it fails to cease its ideological boycott. Prohibits the state from contracting for goods/services unless the contract contains a verification that the company does not and will continue to not engage in an energy company boycott for the duration of the contract.	Boycott Contract Investing
	OK: ANTI	**HB2034**	Requires the treasurer to prepare and maintain a list of financial companies that engage in energy company boycotts. Requires divestment from such companies within 360 days if they fail to cease their boycotts; prohibits further investment and contracting with listed companies; prohibits a government entity from contracting for goods and services with a company that has at least 10 full-time employees and has a contracted value of at least $100,000, unless the company certifies, in writing, it does not and will not engage in an energy company boycott for the term of the contract.	Boycott Contract Investing
	TN: ANTI	**SB 2649**	Prohibits the treasurer from contracting with a state depository for the state's primary cash management banking services if the state depository has a policy that prohibits financing to companies in the fossil fuels industry.	Contract
	WV: ANTI	**SB 262**	Requires the treasurer to prepare and maintain a list of financial institutions engaged in a boycott of energy companies. The treasurer is authorized to refuse to contract with companies on the list and to require institutions to agree to not boycott energy companies for the duration of the contract as a term for such contract.	Boycott
	MD: PRO	**HB 740**	Requires a fiduciary of the State Retirement and Pension System to consider climate risks on assets of the systems to ensure a long–term sustainable portfolio.	Investing

YEAR (PASSED)	STATE: POSITION	BILL NUMBER	INTENT	CATEGORY
2023	ND: ANTI	HB 1429	Requires fiduciaries of a state investment plan only to consider pecuniary factors and discharge their duties solely in the pecuniary interest of the participants and beneficiaries. Includes proxy voting requirements.	Investing/ Proxy Voting
	UT: ANTI	SB 97	Prohibits a public entity from contracting to acquire or dispose of goods or services with a company that has at least 10 full-time employees and has a contracted value of at least $100,000, unless the company certifies, in writing, it does not and will not engage in a boycott of the State of Israel or engage in an economic boycott for the term of the contract. Requires the company to notify the public entity, in writing, if the company begins engaging in an economic boycott.	Contract
	UT: ANTI	SCR 009	Encourages the Office of the Attorney General to provide legal advice to the treasurer and investment managers on the enforceability of state investment policies and the risks of using ESG criteria in investment decisions, and when necessary, take legal action to protect the state's investments; Encourages the Office of the State Treasurer to implement investment policies that restrict the use of ESG criteria in the selection of investments for state portfolios; Encourages the Office of the State Auditor to conduct audits of state investments to determine if the investments comply with the state's policies and objectives.	Investing
	TN: ANTI	SB 955/ HB 1286	Require state treasurer to invest, manage, reinvest and select investments for program assets for financial reasons, excluding environmental, social, and governance interests that may not be material to the financial analysis of the investment.	Investing
	NH: ANTI	HB 457	State pension and insurance fund requires all investments and their management to be governed by the fiduciary duty to maximize benefits for the state and beneficiaries.	Investing
	MT: ANTI	HB 228	Public investments require the consideration of only pecuniary factors. Does allow ESG considerations if they are deemed material.	Investing
	LA: ANTI	HCR 110	Requests the statewide retirement system boards of trustees to uphold their fiduciary duty when making financial decisions and to not allow environmental, social and governance policies to influence their investment decisions.	Investing
	LA: ANTI	HCR 70	Requests the state treasurer and statewide retirement systems to compile a report of investment advisors and companies used by the treasurer and the retirement systems that discriminate against the fossil fuels industry through environmental, social and governance policies; their investment of state and pension plan funds using nonpecuniary factors; and the asset allocation of all their investments.	Boycott

YEAR (PASSED)	STATE: POSITION	BILL NUMBER	INTENT	CATEGORY
2023	**KY: ANTI**	**HB 236**	Requires board members, investment managers, fiduciaries, or proxy advisers to discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries. Requires compliance with the Investment Advisors Act of 1940 and includes evidentiary principles for when an advisor considered/acted upon nonpecuniary interest. Prohibits waiver of liability of a fiduciary.	Investing
	KS: ANTI	**HB 2100**	State retirement investment systems require all financial institutions, managers, and advisors to discharge their duties solely in the interest of the beneficiaries. Fiduciaries are only to consider financial factors when discharging their duties.	Investing
	IN: ANTI	**HB 1008**	Prohibits the board of trustees of the Indiana Public Retirement System and its fiduciaries from making an "ESG Commitment" and shall not make an investment decision for the purpose of: (1) influencing any social or environmental policy; or (2) attempting to influence the governance of any corporation for nonfinancial purposes.	Investing
	NC: ANTI	**HB 750**	Requires fiduciaries of a state investment plan to only consider pecuniary factors and discharge their duties solely in the pecuniary interest of the participants and beneficiaries. Includes proxy voting requirements.	Investing
	ID: ANTI	**HB 191**	Awarding public contracts including for goods and services and procurement in higher education, prohibits the consideration of ESG standards. ESG standards shall not be used as a "qualification" for a contract bidder.	Contract
	FL: ANTI	**HB 3**	Fiduciaries to only consider "pecuniary factors" when investing state funds; prohibits any issuer from issuing ESG bonds; prohibits financial institutions from discriminating against and limiting services to people based on: political or religious beliefs, involvement with firearms, fossil fuels, timber, mining and ag, or failure to meet extraneous ESG standards; prohibits state school systems from giving preferences to vendors based on social, political, or ideological interests.	Boycott
	AR: ANTI	**HB 1307**	State treasurer and public entities must divest public money from financial service providers or investment managers that discriminate against fossil fuels, firearms or ammunition, or those who use ESG factors. Creates an ESG Oversight Committee to determine a list of financial institutions that discriminate.	Boycott Investing

YEAR (PASSED)	STATE: POSITION	BILL NUMBER	INTENT	CATEGORY
2023	**AR: ANTI**	**HB 1307**	State treasurer and public entities must divest public money from financial service providers or investment managers that discriminate against fossil fuels, firearms or ammunition, or those who use ESG factors. Creates an ESG Oversight Committee to determine a list of financial institutions that discriminate.	Boycott Investing
	AR: ANTI	**HB 1253**	A fiduciary's evaluation of an investment in state pensions shall only consider pecuniary factors. ESG considerations may only be made when such factors present a material economic risk.	Investing
	AR: ANTI	**HB 1845**	Enables Arkansas' ESG Oversight Committee to make a determination of whether a financial service provider should be included on the list of providers that discriminate against fossil fuels, firearms, ammunition or based on ESG factors.	Boycott
	AL: ANTI	**SB 261**	Restricts government entities from contracting for goods or services with companies that engage in an economic boycott of certain sectors or industries.	Contract
	CO: PRO	**SB 23-016**	Requires the Colorado Public Employee Retirement Association Board to analyze both financial and environmental risk before casting votes at shareholder meetings. Report annually climate-related investment risks and the impact on its portfolio.	Investing
	IL: PRO	**SB 2152**	Authorizes the state treasurer to manage domestic and international proxy voting activity for the shares held by the State Employees Retirement System. Requires the investment board to publish guidelines for proxy voting as well as provide how they are accounting for and considering sustainability factors.	Investing
	IL: PRO	**HB 2783**	Requires an investment manager to disclose, prior to award of a public contract, a description of its process in which the manager integrates the sustainability factors into its investment decision-making, investment analysis, portfolio construction, due diligence, and investment ownership in order to maximize anticipated risk-adjusted financial returns, identify projected risk, and execute the manager's fiduciary duties.	Investing

North Dakota State Fund Investments Agencies

Retirement and Investment Office (RIO)

Retirement Investment Office (rio.nd.gov)

As stated in **N.D.C.C. § 54-52.5-01**, RIO coordinates the activities of the SIB and the Teachers' Fund for Retirement (TFFR) board of trustees. The SIB has statutory responsibility for the investment program and the TFFR board for the retirement program, while RIO manages both programs on behalf of the boards. Currently, the agency provides investment services for 31 client funds, including the Legacy Fund which is the state's sovereign wealth fund; and it administers a retirement program with over 25,000 members and more than 200 business partners.

In 2021, state legislation established an in-state investment program requiring a portion of Legacy Fund assets be invested in North Dakota. This legislation empowers the SIB, as advised by the Legacy and Budget Stabilization Fund Advisory Board, to administer the in-state investment program. The in-state investment program is North Dakota's only exemption to its anti-ESG legislation, by prioritizing the societal goal of investment in North Dakota over other pecuniary factors. The North Dakota in-state investment program is one of the largest in the nation for dollars allocated.

RIO investment and fiscal reports are updated monthly, quarterly and annually.

- *State Investment Board Clients (rio.nd.gov/state-investment-board-clients)*
- *Legacy Fund (rio.nd.gov/legacy-fund)*
- *Publications (rio.nd.gov/publications)*

Office of the State Treasurer

The Office of North Dakota State Treasurer (treasurer.nd.gov)

The Treasurer's Office serves as a custodian for all state funds and is tasked with managing the investment of the state's general and special funds, along with various trust funds and agricultural commodity funds. State funds are invested in the form of certificates of deposit (CDs) with Bank of North Dakota. Agricultural commodity fund money, on the other hand, is invested in banks and credit unions across the state of North Dakota.

Treasurer reports are updated quarterly.

- *North Dakota Government Funds (treasurer.nd.gov/north-dakota-government-funds)*

ND Department of Trust Lands (Trust Lands)

Trust Lands (land.nd.gov)

Trust Lands functions as the administrative agency for the Board of University and School Lands (Board) and the Commissioner appointed by the Board. It strategically invests revenues generated from trust lands into a diverse financial portfolio. Under **Article IX** of the North Dakota Constitution, the primary beneficiaries of the permanent trust fund are educational and other institutions. The Department manages educational trusts, oversees mineral acres, and administers assets for the benefit of public schools and institutions in North Dakota. Trust Lands manages the Strategic Investment Improvement Fund (SIIF) and North Dakota's Unclaimed Property Program. Currently, there are 13 permanent trust funds overseen by the department.

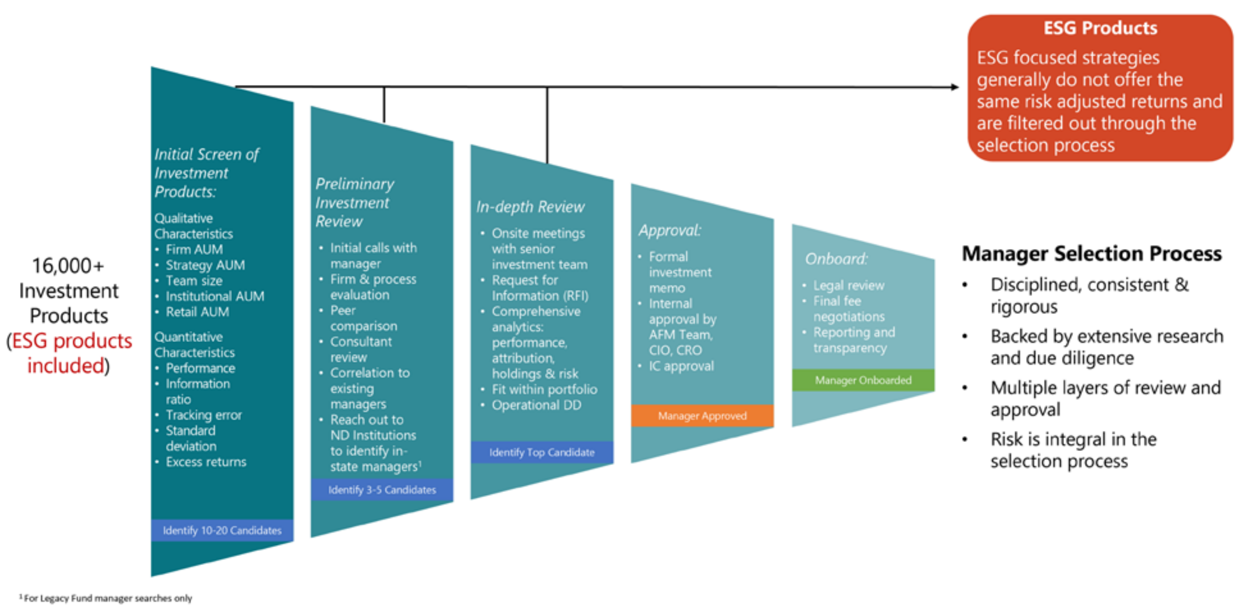
Trust Land reports are updated on a quarterly and annual basis.

- *Financial Reports (land.nd.gov/resources/financial-reports)*

Investment Process to Ensure Compliance with North Dakota Policy

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. For example, the diagram below summarizes the selection process RIO utilizes to select public markets managers. 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. Through this process, ESG funds are removed from the candidate pool. The manager selection process is rigorous, involving multiple layers of review and approval.

RIO's Manager Selection Process (Public Markets)



Recommendations

North Dakota has enacted significant legislation to ensure the integrity of investment policies and processes, safeguarding funds for the client's exclusive benefit. The existing laws governing the state's investment management practices promote the agility and responsiveness of state entities and enable them to function as proficient institutional investors. Enhanced transparency in investment processes and performance fosters public confidence in the state's fiduciary role. However, it is important to observe that other states have gone forward with codifying provisions that specifically protect investment data as opposed to relying on general protections for proprietary information, which is something North Dakota should consider pursuing.

It's worth noting that the banking community supports the legislation enacted by the 67th and 68th Legislative Assemblies, recognizing its effectiveness in safeguarding the right to access affordable capital. This, in turn, enhances services for the citizens of North Dakota, underscoring the importance of maintaining these legislative measures.

The following recommendations further address the state's Century Code in relation to state fund investments.

Proxy Voting

N.D.C.C. § 54-06-40. Proxy Voting.

Proxy votes made on behalf of state funds or the funds of political subdivisions which receive investment management services from the state must be made in accordance with the requirements provided in N.D.C.C. § 21-10-08.1.

A state entity may not adopt a practice of following the recommendations of a proxy advisory firm or other service provider unless the proxy advisory firm's or the service provider's voting guidelines comply with the requirements of N.D.C.C. § 21-10-08.1. The state entity responsible for investment and monitoring compliance with this section shall report to its governing authority annually the voting guidelines in use.

Transparency

N.D.C.C. § 54-06. New Investment Reports

Any state entity responsible for the investment management of funds on behalf of the state or political subdivisions shall prepare reports on the investment performance of each fund under its control. Such reports must be published on the entity's website.

The reports should include:

1. A list of the investment managers used by the board or agency.

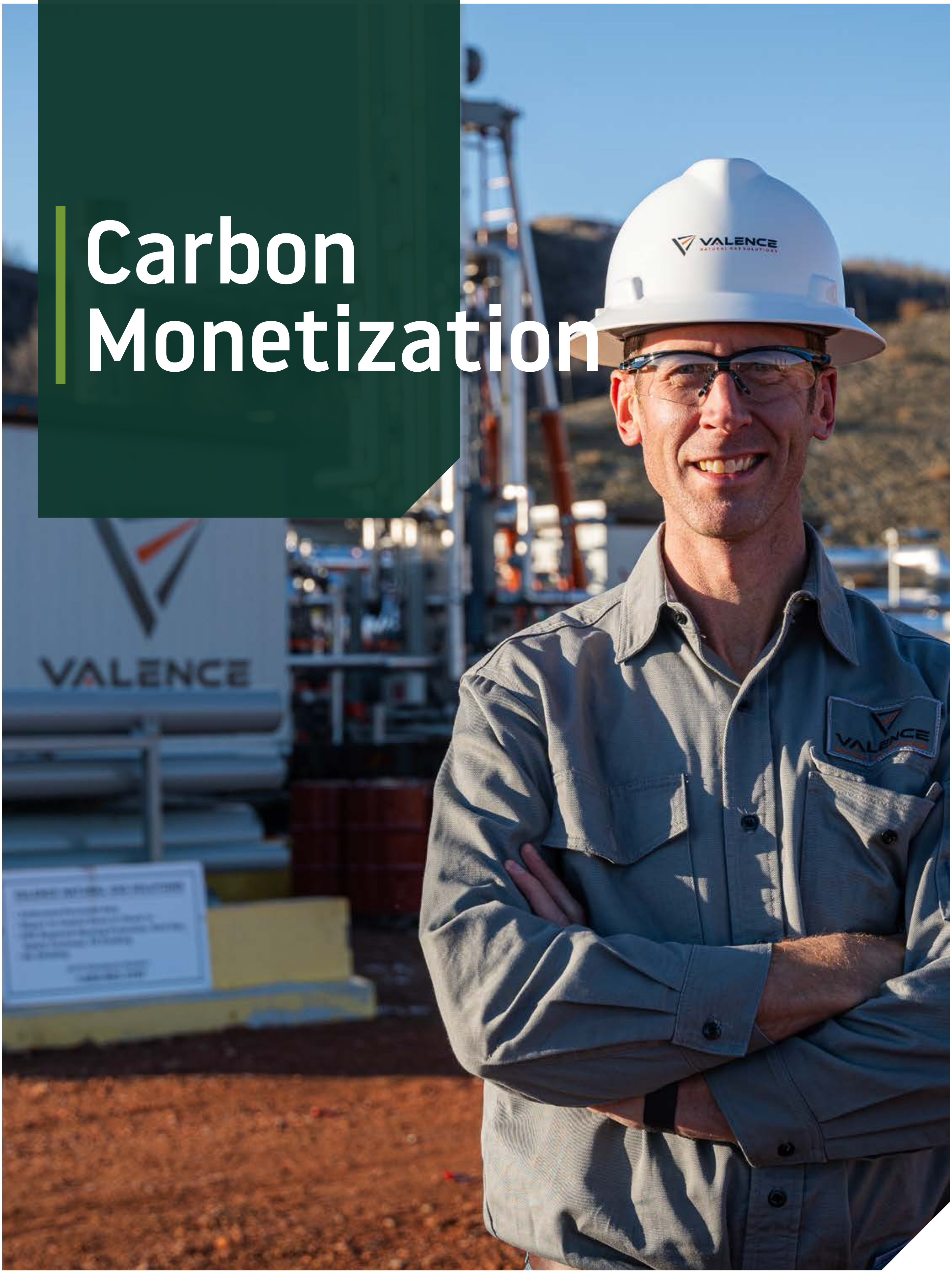
2. A list of each fund's market value managed by the investment manager.

3. Periodic investment returns for each fund compared to the fund's relevant benchmark.

Enhance Proxy Voting Procedures in Compliance with North Dakota Law. It is recommended to conduct a comprehensive review of each investment manager's proxy voting policy to ensure alignment with North Dakota law. If existing policy is not compliant, work with the manager to develop a policy that is.

Avoid Blacklists. It's 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.

Carbon Monetization



North Dakota's unique geological and grassland landscapes, coupled with its robust agriculture sector and abundant energy resources, offer opportunities to explore carbon monetization initiatives.

Positioned uniquely due to its exceptional geological and biological assets, North Dakota stands as a promising hub for carbon storage and utilization, presenting numerous possibilities. By voluntarily engaging in carbon offset and inset programs or investing in carbon capture and storage projects, agriculture and energy producers can diversify their revenue streams and buffer against potential economic impacts of carbon pricing policies. This strategic exploration of carbon monetization not only underscores North Dakota's proactive stance but also ensures the sustained viability and adaptability of its key sectors in the face of evolving environmental regulations and market dynamics. Through innovative approaches and early adoption, North Dakota could chart a course towards economic diversification and long-term resilience.

The prolific oil-producing zones, such as the Bakken in the Williston Basin Formation holds over 300 billion barrels of oil. Looking ahead, maximizing the efficiency and production of the Bakken will require carbon utilization technologies. North Dakota's coal industry is exploring advancements to capture emissions and production of low-carbon energy. Ethanol facilities in the state are already capturing emissions to produce carbon-negative fuel. As technology evolves, more opportunities emerge to capture and utilize carbon in products that are increasingly in demand as governments and businesses prioritize reducing carbon emissions. Beyond the energy sector, farming and ranching practices across the state are increasingly focused on capturing and storing carbon. Companies specializing in carbon credits are actively engaging with farmers and ranchers to incentivize these practices and contribute to carbon sequestration efforts.

In North Dakota, carbon monetization initiatives could provide another financial incentive to agriculture and energy producers. By choosing to voluntarily participate in carbon offset and inset programs or investing in carbon capture and storage projects, the agriculture

and energy industries can diversify their revenue streams and mitigate potential economic impacts of carbon pricing policies. Additionally, exploring carbon monetization opportunities could advantageously position North Dakota ensuring the long-term viability and resilience of its agriculture and energy sectors amidst evolving environmental regulations and market dynamics.

Outside of North Dakota, carbon monetization in the U.S. is primarily implemented through market-based mechanisms such as cap-and-trade programs and carbon offset initiatives. Entities can buy and sell allowances based on their emissions levels, providing a financial incentive to reduce emissions. Additionally, carbon offset programs allow businesses to invest in projects that reduce or offset carbon emissions in exchange for carbon credits.

Globally, carbon monetization efforts vary depending on regional policies and initiatives. The EU operates the largest carbon market in the world through the EU Emissions Trading System (EU ETS), which covers various sectors and countries within the EU. International agreements, such as the Paris Agreement, encourage countries to implement carbon pricing mechanisms and pursue carbon monetization strategies to reduce greenhouse gas emissions. Overall, carbon monetization is becoming increasingly more complex as governments and businesses pursue reduced emissions and promote sustainable development.

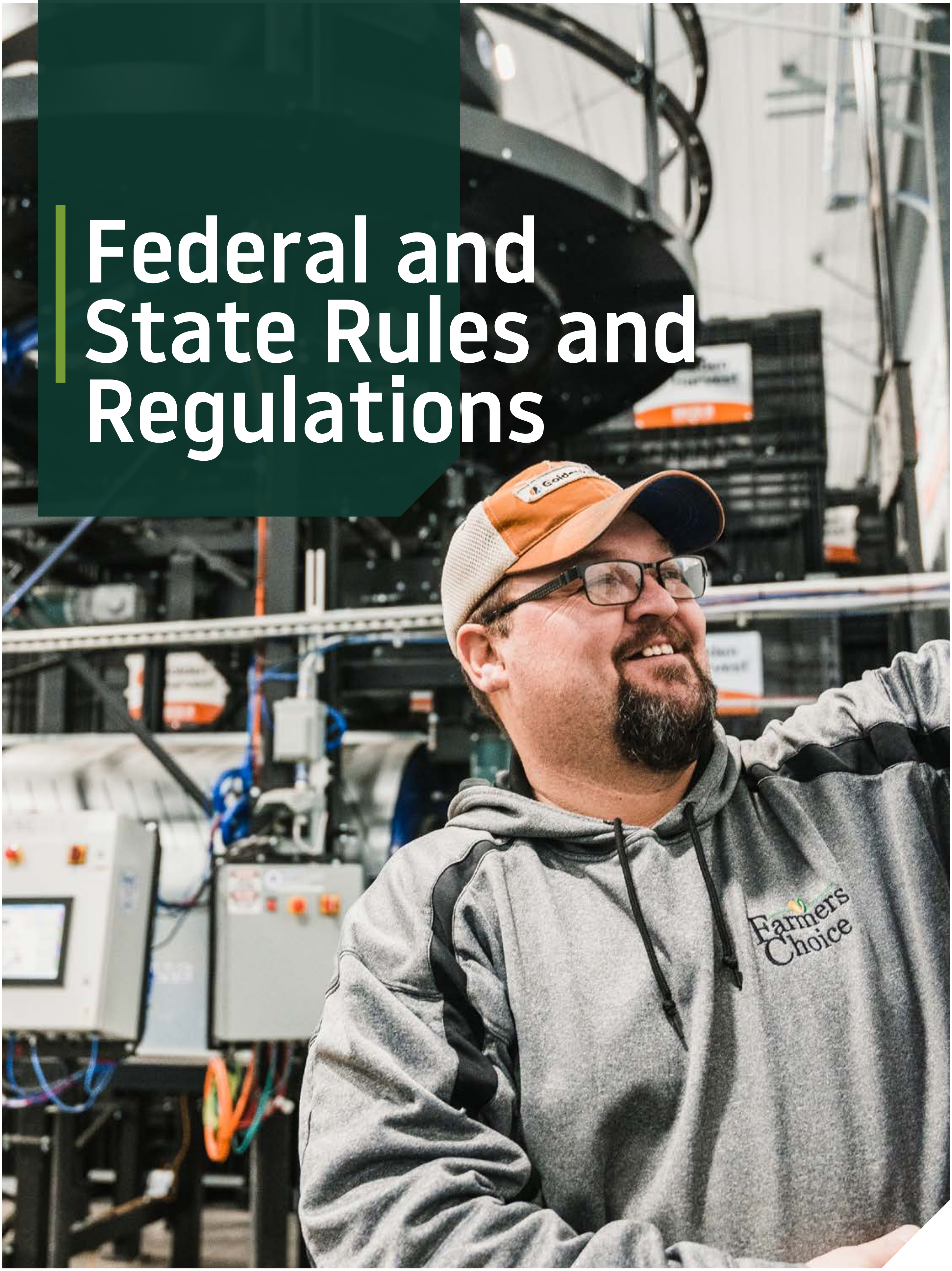
Recommendations

North Dakota should explore carbon monetization opportunities by leveraging its unique assets, including distinctive geology for carbon storage, federal carbon storage permits, expansive grasslands, and robust agriculture and energy sectors. Collaboration with stakeholders across sectors and the use of scientific data are necessary to ensure credibility and alignment with market objectives. Through these initiatives, North Dakota has the potential to diversify its economy and enhance resilience to financial and regulatory shifts, establishing itself as a leader in sustainable development regionally and nationally.

Assess Potential for North Dakota's Carbon Market. Initiate comprehensive research into the voluntary carbon market to determine potential opportunities or barriers for North Dakota. This research should encompass an analysis of potential opportunities for carbon offsets and insets and include a thorough risk assessment of financial stability. By exploring the voluntary carbon market, North Dakota can identify avenues for private industry to participate in carbon offset and inset programs, potentially leading to enhanced revenue streams and economic growth for the state. Understanding the risks associated with these ventures will enable the state to develop strategies to mitigate any adverse impacts. Ultimately, the outcomes of this research could include the identification of lucrative opportunities for private industry engagement in carbon offset and inset projects within the state, the establishment of effective risk management strategies, and the promotion of sustainable economic development in North Dakota.

Analyze Current North Dakota Tax Policy Pertaining to Enhanced Oil Recovery. The EERC and the North Dakota Office of the State Tax Commissioner are currently collaborating on a study to evaluate the state's tax policy concerning future enhanced oil recovery within the state. The initial phase of the study focuses on developing a comprehensive model to assess potential for enhanced oil recovery from the Williston Basin Formation. Subsequently, the study will analyze existing tax policy to gauge potential revenue gains from the deployment of enhanced oil recovery, and continued prosperity of the state's lignite industry. Potential revenue impacts will also be outlined if such developments do not occur. Additionally, the study will explore secondary revenue source derived from maintaining energy development within the state and assess how federal climate rules may influence tax revenue. Completion of the study is anticipated in 2024, with further recommendations expected thereafter.

Federal and State Rules and Regulations



Renowned nationwide for its pristine air and water, North Dakota is committed to conserving the quality of its natural resources, guided by scientific principles and legal frameworks.

The state's environmental policy balances the conservation of natural resources, environmental protection, property rights, public health, and energy and agriculture production. The primary focus of the report was to analyze ESG-specific policies, trends, and regulations impacting North Dakota's two largest industries: agriculture and energy. Although not initially within the report's scope, the steering committee recognized the need to address federal and state regulations perceived as lacking scientific basis and impeding energy and agriculture production.

North Dakota state government is currently monitoring over 30 proposed and implemented federal and state rules and regulations significantly affecting the agriculture and energy sectors. These regulations, often deemed overreaching and detrimental, encompass a range of issues from land use restrictions to burdensome energy production standards, each posing challenges to national economic vitality and environmental stewardship of the state.

It is important to clarify that North Dakota supports well-founded regulations. The state has established clear guidelines for industries to meet clean air and water standards, setting a benchmark for other states to follow. However, federal agencies and some states have crafted regulations influenced by politics rather than science, creating challenges for North Dakota. The state remains vigilant, defending its interests and collaborating with like-minded states and industry representatives to oppose these overreaching regulations.

Recommendations

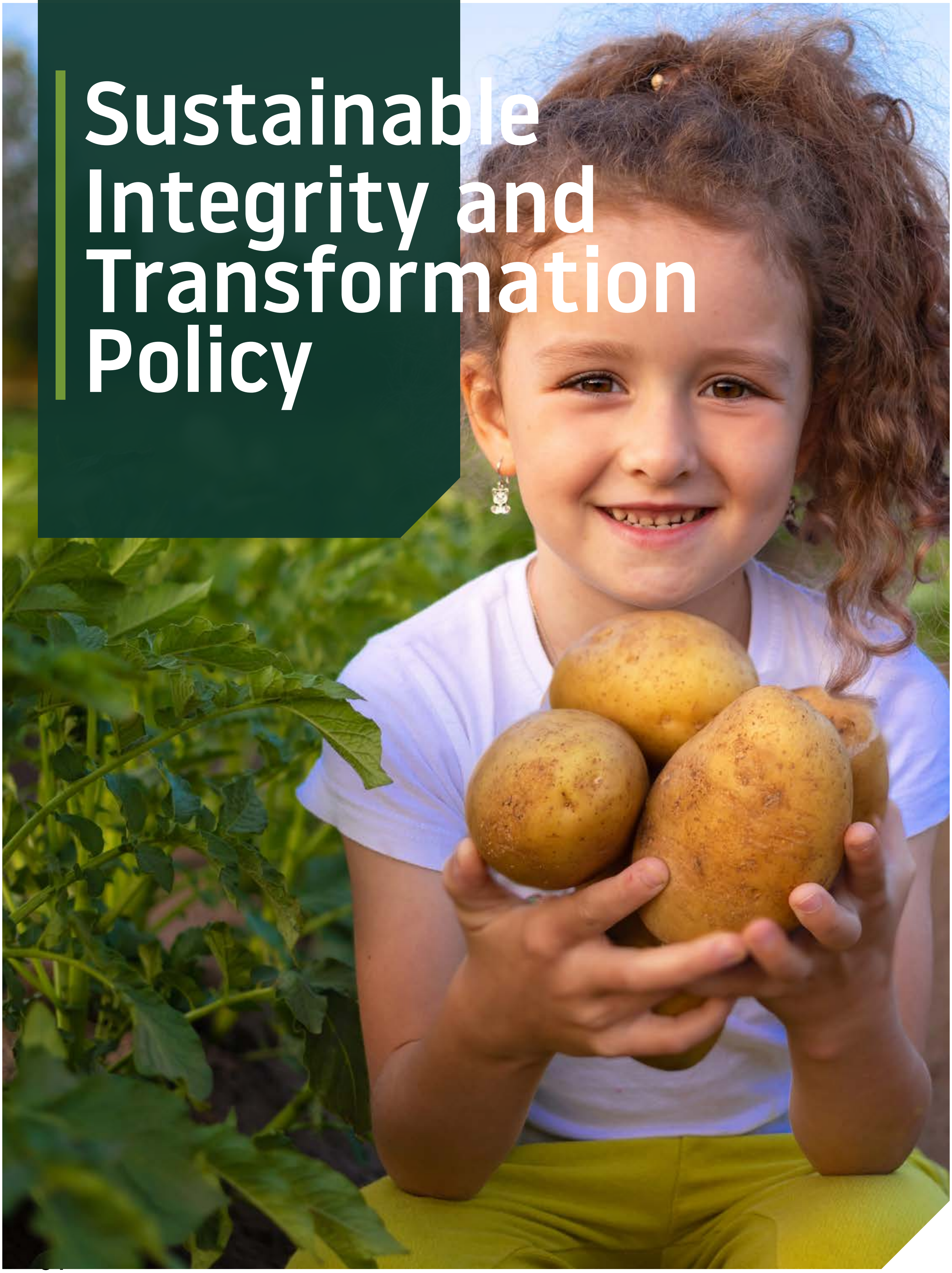
North Dakota stands resilient against the challenges posed by unfounded federal regulations targeting its energy and agriculture sectors. The state has a long history of maintaining superior air and water quality while exemplifying environmental stewardship. Through a multifaceted approach encompassing legal action, collaborative efforts with industry stakeholders and other states, and advocating for evidence-based policies, North Dakota remains dedicated to ensuring continued prosperity and resource preservation for future generations.

Increase State Funding Allocation for Federal Litigation. The state of North Dakota is actively monitoring over 30 federal and state rules and regulations that unfairly target the energy and agriculture sectors. The 68th Legislative Assembly demonstrated its commitment by allocating a minimum of $15 million from the state budget to support legal actions contesting federal regulations. The funding was distributed among the Industrial Commission, the Department of Agriculture and the Attorney General's Office, with the intention of protecting the coal, oil and gas and agriculture industries. Additional funding is needed to strengthen the state's legal capacity in combating these regulations, which encroach upon state sovereignty and impose undue economic burdens. North Dakota will continue collaborating with other states to consolidate legal efforts where feasible. Such strategic investment is vital to uphold the state's interests and ensure the stewardship and utilization of North Dakota's natural resources.

Strategically Partner with Other States to Amplify Influence. North Dakota should strategically collaborate with other states to create a unified front against state and federal rules and regulations impacting the energy and agriculture sectors. By joining forces with like-minded states, North Dakota can enhance its advocacy efforts and leverage collective political clout to effectively address common challenges and protect their respective industries. This collaborative approach will strengthen North Dakota's position and promote regional and national solidarity in advocating for policies that support economic prosperity and environmental sustainability.

Develop Stronger Relationships with Federal Agency Leadership. North Dakota should prioritize developing strong relationships with key officials within federal agencies to effectively convey the state's commitment to environmental stewardship, robust regulatory frameworks, evidence-based approaches, active engagement with private industries, and proactive leadership in protecting natural resources. By establishing clear lines of communication and creating mutual understanding, North Dakota can ensure that federal agencies recognize the state's comprehensive efforts and unique contributions toward environmental preservation and sustainable development. This collaborative approach will facilitate more informed decision-making processes that benefit the state and the nation.

Sustainable Integrity and Transformation Policy



Proposed: Sustainable Integrity and Transformation Policy

The proposed Sustainable Integrity and Transformation Policy is designed to create flexibility for the state of North Dakota to navigate global sustainability initiatives from the financial industry, governments, private industry and consumers while outlining foundational principles important to North Dakota.

Sustainable Integrity and Transformation Policy

The state of North Dakota is steadfast in its commitment to feeding and fueling the world by cultivating a robust economy and regulatory environment to ensure food and energy security, while preserving the state's natural resources by enacting the Sustainable Integrity and Transformation Policy.

Policy Statements:

1. **People First:** Protect the well-being and livelihood of North Dakota residents and businesses, giving them the freedom to choose food and energy sources.
2. **Food and Energy Security:** Ensure the production and exportation of a stable and secure supply of food and energy for local, national and global requirements, prioritizing safety and environmental stewardship as fundamental priorities.
3. **Economic Resilience:** Strengthen partnerships between state and global governments alongside private industry, fostering a resilient economy that fuels innovation and business competitiveness.
4. **Environmental Conservation:** Conserve the state's natural resources through responsible and sustainable environmental practices, ensuring resource management.
5. **Quality of Life:** Enhance the well-being of present and future generations by cultivating healthier, more equitable, and prosperous communities throughout the state.

6. **Governance and Ethics:** Uphold the highest standards of governance and ethics to build trust and ensure accountability.
7. **Technological Advancements:** Use technology as a catalyst for innovation driving toward a sustainable future that aims to positively impact both society and the environment.
8. **Weather-Resilient Infrastructure:** Build infrastructure to withstand natural weather events capable of enduring evolving community needs.
9. **Energy Development:** Explore multifaceted energy solutions emphasizing energy efficiency, grid resilience and innovative technologies, creating a sustainable and reliable energy landscape to meet community and economic development needs.
10. **Reduce Foreign Dependency:** Evaluate production lifecycles, from material sourcing to decommissioning, to minimize impacts, optimize resource utilization, maximize efficiency and reduce dependency on foreign imports.

Implementation and Collaboration:

1. **State-Funded Investments:** Reinvest revenue generated from oil and gas and coal taxes toward state-administered programs supporting environmental stewardship, technological advancements, education, and enhancement of community infrastructure.
2. **Regulatory Framework:** Establish and enforce regulations that uphold the integrity of state law and protect personal rights.
3. **Legal Mitigation:** Endorse and enable actions taken by the Federal Environmental Law Impact Review Committee acting in the best interest of the state of North Dakota.

4. **Research and Development Initiatives:** Reinvest revenue generated from taxes on oil and gas and coal toward the development of transformational technologies and practices. Promote collaborations between the public and private sectors to accelerate sustainable advancements in these fields.

5. **Public-Private Partnerships:** Encourage partnerships between government, private sector entities, non-government organizations, research institutions and communities. Collaborate in financing and developing technologies and broaden industries to solidify North Dakota as a global leader in energy and agriculture.

6. **Public Awareness and Education:** Launch educational initiatives and public awareness campaigns aimed at involving citizens, businesses, and communities in understanding and participating in state-driven endeavors.

7. **Marketing and Recognition:** Showcase North Dakota's innovative culture and abundant natural resources on a national and global scale. Raise awareness of the state's distinctive approaches in managing carbon and fulfilling the growing need for accessible and cost-effective agricultural, energy, and fuel commodities.

Appendices

Methodology

House Bill 1429 – North Dakota ESG Study

The enactment of House Bill 1429 was the catalyst for the ND ESG Study led by Bank of North Dakota.

HB 1429 BANK OF NORTH DAKOTA STUDY - ENVIRONMENTAL, SOCIAL AND GOVERNANCE TRENDS - REPORT TO LEGISLATIVE MANAGEMENT.

> **Bill sponsors:** Rep. Novak, Sen. Elkin, Rep. Koppelman, Rep Louser, Sen. Magrum, Rep. J. Olson, Rep. S. Olson, Rep. Porter, Rep. M. Ruby, Sen. Rummel, Rep. Thomas

During the 2023-24 interim, Bank of North Dakota shall study environmental, social and governance trends, laws and policies that impact businesses and industries of this state. The study must include input from representatives from state government and industry with expertise in the areas of energy, agriculture, investment, insurance, economic development, finance, procurement and contracting, and laws related to these areas.

1. The study must identify laws and regulations enacted by the federal government and other state governments related to environmental, social and governance policies and trends which impact the state's energy and production agriculture industries. The study also must examine corporate environmental, social, and governance policies and trends impacting the state's energy and production agriculture industries, including finance, lending, insurance and boycotts of energy or production agriculture commodities
2. The study must identify a strategy to make the delivery of investment reports relating to state funds available and readily consumable to the public.
3. The study may identify industry-specific public policy strategies for immediate and long-term implementation to help the state continue to be a global leader in energy and agriculture. Strategies may include marketing and advocacy for state industries, exploration of emerging technology and practices, and examination of investment policy.
4. Before June 1, 2024, Bank of North Dakota shall provide a report of its findings and recommendations to the legislative management, together with any legislation and appropriation requests required to implement the recommendations.

House Bill 1429 – ESG Study Methodology Study trends, laws and policies that impact energy, agriculture, insurance, investments, economic development, contracting and finance.		
Structure	Engagement	Research
BND led the ESG Study outlined in House Bill 1429. Developed a 24-member steering committee, appointed two co-chairs and identified the project lead.	Sought input from industry experts across eight diverse working groups and conducted more than 50 fact-finding interviews.	Comprehensive examination of ESG and climate-focused initiatives across state, federal and global governments to evaluate their influence on the state's economic resilience.

ESG Study Recommendations Each chapter details the unique story of North Dakota and its progressive actions and challenges that need to be addressed. Recommendations are categories to improve resilience or increase market competition.	
Improve Resilience	Increase Market Competition
Navigate evolving sustainability expectations to chart a defined trajectory for the state's future growth and development, all while conscientiously focusing on conserving natural resources.	Differentiate North Dakota by emphasizing distinctive sustainability practices, economic resilience, and innovative focus, supported by a government blueprint.

Steering Committee

The ESG Study Steering Committee included representatives from government agencies, the private sector and various associations, with two co-chairs and a designated project lead. Throughout the study, the committee convened on three occasions to deliberate and contribute to the research endeavors.

Tammy Miller

Lt. Governor

Dale Patten

Senator

Anna S. Novak

Representative

Alisa Mitskog

Representative

**Co-Chair
Kelvin Hullet**

SR. VP of Business Development, Bank of North Dakota

**Co-Chair
Charlie Gorecki**

CEO, Energy & Environmental Research Center

**Project Lead
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

VP of Environmental, Safety & Health, ONEOK

Blu Hulsey

Sr. VP of Environmental, Safety & Health, Gov. & Reg. 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

VP & Chief Accounting Officer, MDU Resources Group

Chris Johnson

Sr. VP & CFO, 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

Workgroups

Eight specialized workgroups were assembled, uniting experts to delve into the examination of ESG challenges and opportunities relevant to industries in North Dakota. Most recommendations presented in the report were formulated through intensive discussions within these workgroups.

- Agriculture
- Carbon Monetization
- Electrical Transmission
- Finance
- Hydrocarbon
- Insurance
- Procurement
- State Fund Investments
- Water

Note 1) The study did not have a federal climate-based regulations workgroup.

As delineated in North Dakota Century Code Section 4.1-01-18, the Federal Environmental Law Impact Review Committee has 11 members tasked with evaluating federal environmental laws and regulations that may adversely affect, or have the potential to adversely affect, the state's agriculture, energy, or oil production sectors. The committee actively engages with the attorney general to seek guidance on involvement in administrative or judicial processes related to legislation or regulations.

It is important for North Dakota to continue to assess and mitigate federal climate rules and regulations that will impact the agriculture and energy industries.

Note 2) The study did not have an environmental justice workgroup.

In March 2024, the North Dakota Department of Environmental Quality successfully concluded the initial report for the Climate Pollution Reduction Grant, overseen by the U.S. Environmental Protection Agency. The report assessed environmental impacts that could potentially affect North Dakota residents and provided recommendations.

For more information about Environmental Quality's report and the grant, click here.

Stakeholder Interviews

Fact-finding conversations were conducted with 80 diverse entities, resulting in a comprehensive overview of how ESG considerations, sustainability practices, the global economy, internal business strategy, investor relations, environmental activism and federal regulations influence opportunity assessments and risk mitigation strategies.

- Alaska Division of Oil and Gas
- American Bankers Association
- American Property Casualty Insurance Association
- Apex Energy
- Applied Digital
- Bank of America
- Bank of North Dakota
- Basin Electric Power Cooperative
- Bremer Bank
- CHS, Inc.
- Clean Connect.AI
- ConocoPhillips
- Continental Resources
- Ducks Unlimited
- Ecological Insights Corp.
- Emerging Prairie
- Energy & Environmental Research Center
- Fargo-Moorhead Diversion
- Garrison Diversion Conservancy
- Greater North Dakota Chamber
- Grid United
- HDR, Inc.
- Independent Community Banks of North Dakota
- KPMG, LLP
- Lignite Energy Council
- MDU Resources Group, Inc.
- Moody's Analytics
- Moore Engineering
- Morning Star
- Nasdaq
- Natural Resources Trust
- Nature Conservancy
- Neset Consulting Services
- NextEra Energy
- North American Coal
- North Dakota Bankers Association
- North Dakota Clean Sustainable Energy Authority
- North Dakota Department of Agriculture
- North Dakota Department of Commerce
- North Dakota Department of Emergency Services
- North Dakota Department of Environmental Quality
- North Dakota Department of Financial Institutions
- North Dakota Department of Mineral Resources
- North Dakota Department of Office Management and Budget
- North Dakota Department of Water Resources
- North Dakota Ethanol Council
- North Dakota Farm Credit Services
- North Dakota Farmers Bureau
- North Dakota Farmers Union
- North Dakota Office of the Governor
- North Dakota Indian Affairs Commission
- North Dakota Industrial Commission
- North Dakota Insurance Department
- North Dakota Mill and Elevator
- North Dakota Petroleum Council
- North Dakota Pipeline Authority
- North Dakota Public Finance Authority
- North Dakota Public Service Commission
- North Dakota Retirement and Investment Office
- North Dakota Soybean Council
- North Dakota State University
- North Dakota Tax Department
- North Dakota Trade Office
- North Dakota Transmission Authority
- North Dakota Treasurer Office
- O'Leary Ventures Advisor
- ONEOK, Inc.
- Rainbow Energy
- Rauschenberger Consulting, LLC
- RBC Capital Markets
- Red Trail Energy
- Refinitive
- Reinsurance Association of America
- 701 Venture Capital Fund
- S&P 500
- Summit Carbon Solutions
- Sustainalytics
- United Crystal
- University of Wyoming
- Western Area Water Supply Authority
- Xcel Energy

Global ESG Overview

North Dakota's common-sense approach to ESG reflects a blend of political ideology, economic targets, conservation priorities and concerns about regulatory overreach. In an effort to comprehend the influence of ESG factors on North Dakota, the 68th Legislative Assembly enacted House Bill 1429. This legislation directed Bank of North Dakota (BND), the sole state-owned bank in the United States, to lead a comprehensive statewide 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.

Introduced 20 years ago by the United Nations and endorsed by 18 major financial and investment institutions, ESG has caused a global paradigm shift influencing corporate operations and shaping investment decisions. Branded as a catalyst for societal good, ESG incorporates principles of environmental sustainability, social responsibility and effective governance into corporate practices and investment strategies.

Global, state and local governments have built upon the voluntary ESG movement by enforcing change through rules and regulations. Government actions are considering environmental factors, social impacts and governance practices in business and policymaking. One significant aspect that is greatly impacting the energy and agriculture industries are the rules and regulations focused on climate change and the reduction of carbon emissions.

The following information is a brief overview of ESG and how is has caused a global paradigm shift as the financial and investment industries began using non-financial metrics to measure environmental sustainability, social responsibility, and effective governance as a function of investment strategies, in addition to government rules and regulations.

Deciphering ESG

ESG is not legally defined. The lack of a standardized and lawfully binding definition has led to ambiguity around ESG criteria, further segmented across jurisdictions and industries. Industries use reporting frameworks developed by international nongovernment organizations (NGOs) that vary significantly by area of focus and metrics recommended. Until 2024, ESG reporting remained voluntary. However, global corporations had no choice but to comply with reporting due to investor and public pressures and to get ahead of mandatory government climate disclosures. While the frameworks do not set targets for metrics such as reducing greenhouse gas emissions or increasing board diversity, they outline the metrics and qualitative elements for companies to consider disclosing, in addition to the format and frequency of reporting.

Without tangible consequences, companies could strategically select which information to disclose and how to present the information that benefited their reputation. This unintended consequence prevented investors and the public from accurately comparing businesses within the same industry or measuring progress toward ESG goals and outcomes. While pursuing sustainable and socially responsible business practices is considered the right thing to do, challenges and potential drawbacks emerge when ESG initiatives inadvertently overshadow a business's ability to maintain a competitive edge.

As reporting became more public, a new booming business sector emerged to "rate" companies. Without a universally accepted definition, rating agencies developed their own in-depth methodologies, creating more chaos for companies to navigate. The more information companies share, the more opportunity for public scrutiny, resulting in companies going on the defense to safeguard their brands and reputations. Some investors and financial institutions leverage ESG reporting to determine the cost of capital. Companies with a higher ESG score tend to have a lower cost of capital, and those with lower scores have higher costs. Using non-financial data, ESG metrics create another layer to evaluate a company's exposure to risks, long-term financial sustainability, regulatory compliance, market perception, stakeholder engagement, and insurability.

Consumers and the general public are demanding greater transparency from companies, and companies are allocating significant financial and personnel resources to provide ESG data. Regardless of these efforts, a portion of the public either lacks understanding or does not pay attention. A 2023 public poll brought attention to this gap, revealing that 60% of Americans have limited or no familiarity with the term ESG. Furthermore, 59% of respondents expressed no opinion on ESG factors concerning businesses or investing.[33]

Wait, Isn't ESG Going Away?

In 2023, ESG faced intense political backlash, legal threats and consumer criticism over greenwashing. Despite the declining relevance of the ESG acronym, leading corporations to reevaluate their short- and long- term business objectives, the foundational principles of ESG have undergone a process of refinement and maturity. As corporate and government practices faced increased scrutiny, a growing skepticism emerged regarding the perceived financial benefits and costs associated with ESG initiatives. This skepticism extended to questioning the tangible societal and environmental impacts, prompting a deeper examination of whether the anticipated benefits have materialized. While ESG has not proven to be a cure-all for society's problems, there is a more acute awareness of the issues it sought to address.

Despite the decline in ESG, Europe continues pushing forward with regulations directed at global corporations to address greenhouse gas emissions and other environmental impacts. The U.S. federal government has failed to advance similar regulations. In this lull, an uptick in U.S. states have passed anti-ESG legislation that has effectively gained the attention of the largest financial institutions that were bullish toward the rapid growth of ESG investments.

Starting in 2023, businesses made conscious efforts to stop talking about or publishing ESG information and others began rebranding their sustainability efforts. The absence of public ESG proclamations, also known as green hushing, does not signify a diminishing commitment to operational efforts to advance sustainability plans and reporting. Instead, it serves as a strategic response to sidestep potential regulatory scrutiny or criticism politically and from the public. Organizations may actively engage in sustainable practices while opting for a more cautious approach to manage expectations and avoid potential repercussions.[34]

As tensions over ESG grow and differing interpretations of its objectives arise, these issues are increasingly seeking resolution in courtrooms or through the media. The legal arena has become a key battleground for addressing consumer, corporate and government disputes and clarifying the goals and approaches associated with ESG initiatives. Legal proceedings will play a pivotal role throughout 2024 in shaping the practical implementation and standardization of ESG, even as companies continue to progress with their initiatives.

ESG's Global Momentum

In 2015, nearly 200 nations at the United Nations Climate Change Conference (COP21) adopted the Paris Agreement on Climate Change, an international climate change treaty, to pursue efforts to limit global temperature increasing 1.5 degrees Celsius. This was the first initiative where almost all of the world's nations publicly supported a common strategy to cut greenhouse gas emissions. While the agreement is binding in some elements like reporting requirements, emission targets country sets are non-binding.

Shortly after the Paris Agreement, another significant global milestone occurred: adopting the United Nations' 2030 Agenda for Sustainable Development, which includes the 17 Sustainable Development Goals. The Sustainable Development Goals encompass a comprehensive range of priorities, addressing poverty, climate action and gender equality. These goals are intertwined into ESG reporting frameworks, and by 2018, approximately 40% of the world's largest companies had included some of the Sustainable

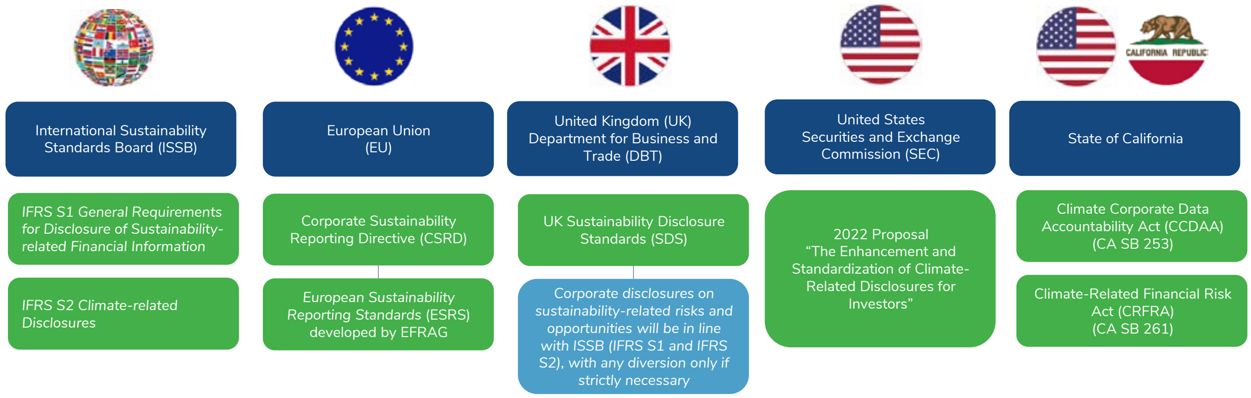
Development Goals in their annual reports. Each goal is assigned a specific number based on its priority:[35]

1. No Poverty
2. Zero Hunger
3. Good Health and Well-Being
4. Quality Education
5. Gender Equality
6. Clean Water and Sanitation
7. Affordable and Clean Energy
8. Decent Work and Economic Growth
9. Industry, Innovation and Infrastructure
10. Reduced Inequalities
11. Sustainable Cities and Communities
12. Responsible Consumption and Production
13. Climate Action
14. Life Below Water
15. Life on Land
16. Peace, Justice and Strong Institutions
17. Partnerships for the Goals

Prominent global NGOs, including the Net Zero Banking Alliance, Net-Zero Insurance Alliance, Net Zero World Initiative, Net Zero Asset Managers Initiative, Glasgow Financial Alliance for Net Zero, and the Net-Zero Government Initiative, wield considerable influence in driving forward the objectives outlined in the Paris Agreement and the Sustainable Development Goals. These alliances concentrate their efforts on carbon-intensive industries, aiming to redirect access to capital and insurance away from sectors that contribute significantly to carbon emissions. In doing so, they play a pivotal role in reshaping the global financial landscape.

Fast forward to 2023, and one of the most significant advancements of ESG and climate-change initiatives was the adoption of the EU's European Sustainability Reporting Standards (ESRS) falling under the purview of the Corporate Sustainability Reporting Directive (CSRD). The EU CSRD structures comprehensive data collection, storage and quality control procedures concerning ESG reporting directives (e.g., climate change, biodiversity, human rights). This ensures that investors gain a nuanced understanding of the sustainability initiatives of the companies they invest in. The CSRD, with its broad reach encompassing both EU and non-EU companies, is reshaping the EU economy. As the phased rollout of the CSRD reporting timeline unfolds, companies within the U.S. that form part of the European supply chain may soon experience its effect by having to track and report their carbon emissions.[36]

Beyond the EU, governments and regulators are actively proposing and adopting rules and regulations focused on ESG and sustainability. The following list is some of the key corporate reporting initiatives that have the potential to impact global audiences.

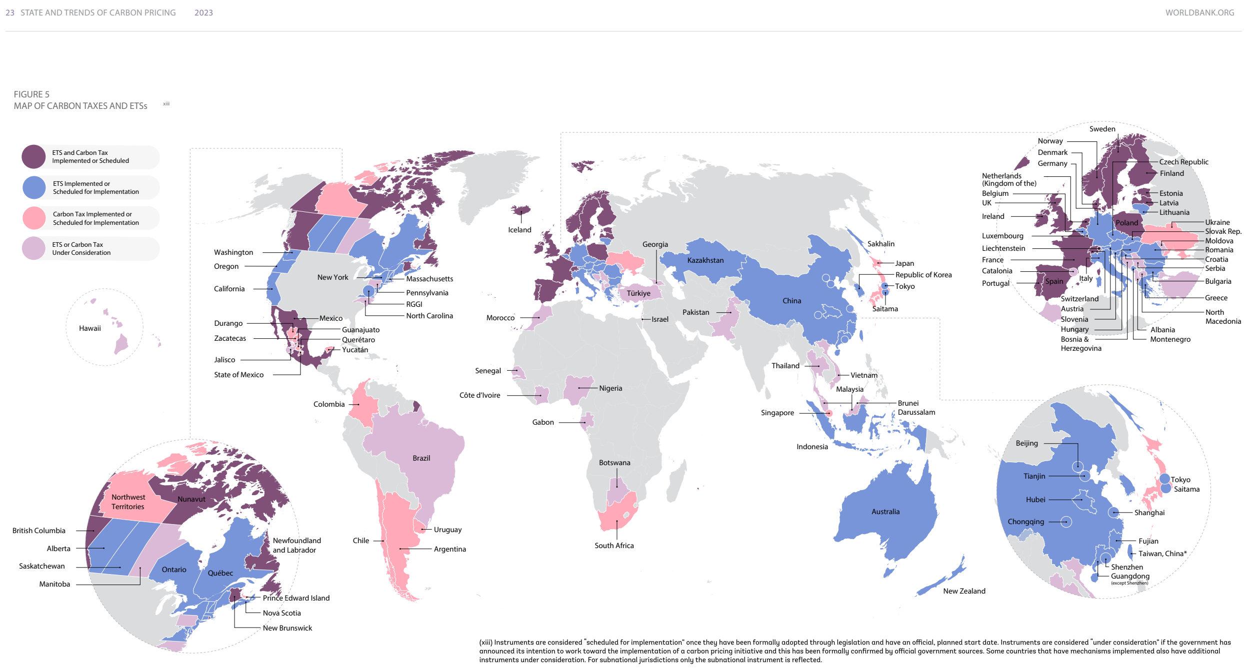


Carbon & Methane are the Newest "Sin Tax"

The notion of a "sin tax" conventionally pertains to levies imposed on goods or activities considered detrimental to society, such as alcohol or tobacco. In a similar vein, carbon dioxide and methane are characterized as an environmental "sin tax" designed to dissuade emissions by imposing fees on activities or entities generating these greenhouse gases. The environmental aspect of ESG calls explicitly for reducing greenhouse gas emissions to address and mitigate climate change.

As of April 2023, 73 countries, provinces, and U.S. states have adopted carbon taxes and emissions trading systems, significantly increasing operational costs and financial risks for companies that export their products. The methods employed for charging greenhouse gas emissions encompass two primary approaches. One method involves the implementation of a carbon tax, imposing a fixed price on each unit of greenhouse gas emissions. The second method is a carbon emissions trading system (ETS), which sets a cap on total emissions and allows companies to trade allowances based on their emissions. These methods increase financial burdens on high carbon emitting industries, serving as a means for countries and local jurisdictions to generate funds for their environmental initiatives.[37]

As governmental bodies strive to address environmental concerns, regulations that hold companies accountable for their contributions to greenhouse gas emissions have come under legal scrutiny. Companies, environmental activist organizations, and political watchdog associations are challenging or contesting emission-related directives in court. The outcomes of these legal proceedings are shaping the course of environmental governance as more countries and U.S. states deliberately implement carbon taxes; these legal battles determine the potential ramifications and broader implications of such regulatory measures. In this context, the courtroom serves as an arena where the intricacies of environmental policies, corporate responsibility and legal considerations converge to shape the future landscape of climate change mitigation.



Navigating Political Battlegrounds

ESG has become a political battleground in the U.S., with passionate advocates and staunch opponents framing the discourse. Proponents of ESG affirm its significance, heralding it as a thoughtful approach to the environment that encourages individuals and institutions to align their financial decisions with environmental and ethical values. In contrast, critics argue that the ESG movement poses a threat, contending that it jeopardizes the economic security of investors, injects politics into capital markets and private enterprises, and even casts a shadow over the stability of the nation's energy supply. As the debate intensifies, the political dimensions of ESG continue to influence policies, market dynamics and corporate strategies.

Federal Government

ESG policy at the federal level in the U.S. has demonstrated a boomerang effect, changing from Democrat to Republican leadership and back. Recent policy developments seek to finance a "business-friendly" ecosystem to garner Republican support while also strategically aligning with environmental and social issues advocated by Democrats. One of the major hurdles over the past two years has been the Securities and Exchange Commission's (SEC) proposed rules on ESG-based climate disclosures, which would parallel Europe's climate disclosure regulations. These rules were passed on March 6, 2024, however, numerous states immediately filed lawsuits to prevent implementation of the rules.

Most climate change rules are implemented through the U.S. Environmental Protection Agency (EPA) to control greenhouse gas emissions and enforce clean air and clean water regulations. Within new EPA rules to control methane emissions, economists modified calculations that would give the government legal authority to aggressively limit emissions. This calculation is for the Social Cost of Carbon, which estimates the cost of the impacts to the environment and society with each additional ton of carbon emissions. This change is poised to usher in more robust climate rules and stringent regulations, justifying stricter controls on power plants, vehicles and other major sources of greenhouse gas emissions. The Social Cost of Carbon, initially set at $42 per metric ton in 2016, increased to $190 per metric ton, with projections to reach $308 by 2050, adjusted for inflation. This recalibration of costs is anticipated to facilitate the rejection of projects, permit denials and increased expenses for hydrocarbons, significantly impacting fossil fuels industries, including coal and oil and gas.

The following information is a condensed timeline of ESG initiatives and proposals under the Biden administration.[38]

2021

- Executive order mandates comprehensive action on climate pollution and risks across all sectors of the economy.
- SEC adopts an all-agency strategy to address climate change and ESG issues, establishing a Climate and ESG Task Force for enhanced enforcement.
- Financial Stability Oversight Council, comprised of various federal agencies, urges financial regulators to prioritize capacity building, disclosure, data and risk assessment related to climate change. It forms a new interagency committee for coordination and information sharing.
- Department of Labor proposes rules allowing fiduciaries to consider ESG factors in investment decisions and engage in proxy voting without needing special justification for exercising shareholder rights on ESG matters.

2022

- Inflation Reduction Act signed into law earmarked significant tax incentives and spending to accelerate the energy transition.
- National Association of Insurance Commissioners Executive Committee updated the Climate Risk Disclosure Survey for insurance companies to align with the task force on Climate-Related Financial Disclosures (TCFD) framework.

- Federal Trade Commission announced potential changes to its Green Guides, which provide guidance on green marketing standards. The Federal Supplier Climate Risks and Resilience Rule proposal would require certain federal contractors to offer climate disclosures aligned with the TCFD framework.
- U.S. Treasury's Federal Insurance Office released its report in response to the Biden administration's 2021 executive order, which outlined its recommendations to state insurance regulators and NAIC on incorporating climate-related risk into regulatory and supervisory practices.

2023

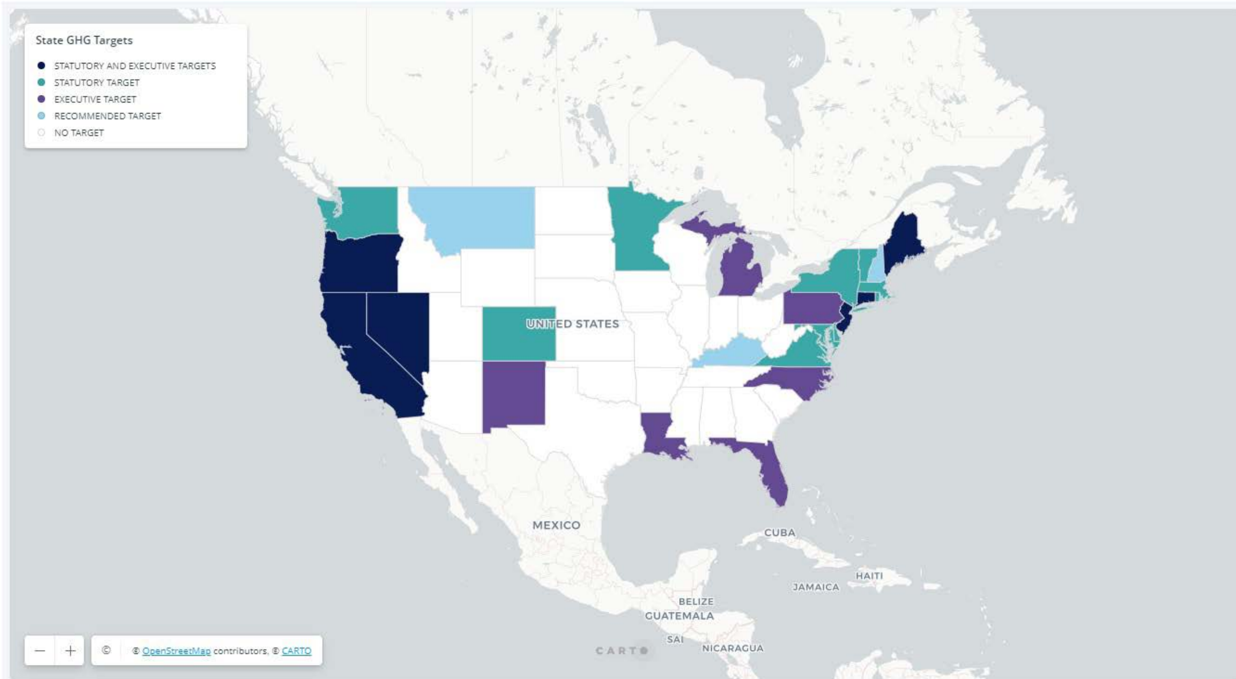
- Federal bank regulators establish principles for managing climate-related financial risks in large institutions.
- SEC implements new rules on cybersecurity incident disclosure and management.
- SEC amends the Investment Company Act to ensure funds reflecting ESG focus invest at least 80% accordingly.
- Federal Acquisition Regulation Council proposes a Sustainable Products and Services procurement rule for federal buyers.
- EPA updated the Social Cost of Carbon to $190 per ton, rising to $308 in 2050, impacting oil and gas sector standards.

2024

- Department of Energy pauses approvals of new natural gas export terminals and licenses.
- SEC adopted rules for standardized climate-related disclosures for investors. Pending legal actions from multiple states to prevent implementation.
- Anticipated: Social Cost of Carbon rules to be adopted by additional federal agencies such as Department of Energy, Department of Transportation, National Highway Transportation Safety Administration, and Bureau of Land Management.

State Government

Rather than passively waiting for new federal rules, many state legislatures have addressed ESG matters independently. In 2023, 18 states adopted anti-ESG laws, and four states adopted pro-ESG laws on managing public retirement systems or public funds.[39] These laws primarily impact residents with publicly managed retirement accounts. However, climate-focused legislative actions now impact energy and utility companies across state lines. As of December 2023, 23 states and the District of Columbia have established economywide greenhouse gas emissions targets, while three states have proposed recommended targets. These targets vary in scope, ranging from economywide objectives to sector-specific greenhouse gas reduction goals. The map illustrates economy



wide targets, enacted through either statutory measures or legally binding executive actions, alongside targets recommended by the governor.[40]

California

The state of California may have changed the trajectory of ESG in the U.S. In 2023, California became the first state to mandate climate risk disclosures aligned with an ESG framework for all companies doing business in the state and whose revenues exceed $1 billion.[41] California did what the federal government has not been able to accomplish in terms of ESG reporting and is aligned more closely with the EU's climate disclosures. California is the world's fifth biggest economy, and its gross domestic product is poised to overtake Germany, the fourth largest in the world after the U.S., China and Japan.[42] Due to California's powerful economy, the disclosure requirements will impact corporations around the world and create more pressure to lower emissions. However, only four months after putting the mandate into state law, business and agriculture groups sued California in January 2024, arguing that the policies overstep the federal government's authority to regulate emissions nationwide. The U.S. Chamber of Commerce, California Chamber of Commerce, American Farm Bureau Federation and other groups filed the lawsuit.

Glossary

Biological Carbon Sequestration: Process by which living organisms, such as plants and trees, naturally capture and store carbon from the atmosphere through photosynthesis. After capturing the carbon, plants convert it into carbon compounds, and store it in their biomass, including leaves, stems and roots. When plant material decomposes or when organic matter is incorporated into the soil, carbon is retained in the soil, contributing to carbon sequestration.

Carbon Capture and Sequestration: A process designed to capture carbon emissions produced from industrial processes or power generation, preventing their release into the atmosphere. The captured carbon is transported and securely stored underground in geological formations, such as depleted oil and gas fields or deep saline aquifers.

Carbon Dioxide: A colorless, odorless gas composed of one carbon atom and two oxygen atoms. It is naturally present in the Earth's atmosphere and is released through various natural processes such as respiration and volcanic activity. Human activities of burning of fossil fuels and industrial processes contribute to elevated levels of carbon dioxide. Carbon dioxide is a greenhouse gas, meaning it traps heat in the Earth's atmosphere.

Carbon Intensity: A measure that quantifies the amount of carbon emissions produced per unit of a specific activity, process, product or service. It is commonly expressed in grams or kilograms of carbon emitted per unit of output, energy generated or economic activity.

Carbon Sequestration: A natural or artificial process by which carbon dioxide is removed from the atmosphere and held in liquid or solid form. Carbon sequestration is a naturally occurring process, but it can be enhanced or achieved with technology. The two main types of carbon sequestration are geological and biological.

Climate Change: Long-term alterations in temperature, precipitation patterns and other atmospheric conditions on Earth. The term describes both regional and global shifts in climate over extended periods, impacting ecosystems, weather patterns and sea levels.

Climate Disclosures: Organizational information about climate-related risks, opportunities and performance, aiming to provide stakeholders with transparency on the impact of climate change on their operations and strategies for addressing related challenges. Details on emissions reduction goals, climate adaptation strategies, and other measures align with government-mandated environmental regulations.

Environmental, Social, Governance (ESG): There is no legal definition for ESG. For the purpose of this report, the terms below were used to categorize ESG.

> **Environmental:** Energy efficiencies, carbon footprints, greenhouse gas emissions, deforestation, biodiversity, climate change and pollution mitigation, waste management and water usage.
>
> **Social:** Labor standards, wages and benefits, workplace and board diversity, racial justice, pay equity, human rights, talent management, community relations, privacy and data protection, health and safety, supply-chain management and other human capital and social justice issues.
>
> **Governance:** Corporate board composition and structure, strategic sustainability oversight and compliance, executive compensation, political contributions and lobbying, bribery and corruption.

ESG Frameworks: Criteria used by investors, businesses and other stakeholders to evaluate and measure a company's performance in areas related to environmental impact, social responsibility and corporate governance. These frameworks provide a structured approach for assessing non-financial aspects of an organization.

Emissions: The release of greenhouse gases into the atmosphere.

European Union (EU): International organization comprising of 27 European countries and governing common economic, social and security policies.

Greenhouse Gas: Any gas that absorbs infrared radiation in the atmosphere and prevents the radiation from escaping back into space. Greenhouse gases include carbon dioxide, methane, nitrous oxide, ozone, chlorofluorocarbons, hydrochlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Greenwashing: Deceptive advertising or claims by businesses, countries or organizations to exaggerate their sustainability achievements.

Green Hushing: Strategic decisions by companies to deliberately remain silent about their sustainability goals, even when the goals and actions are well-intentioned or plausible.

Paris Agreement: The Paris Agreement is a global accord adopted in 2015 under the United Nations Framework Convention on Climate Change. The agreement aims to address climate change by limiting global warming to well below 2 degrees Celsius above pre-industrial levels, with efforts to limit the increase to 1.5 degrees Celsius. It outlines commitments from participating countries to reduce greenhouse gas emissions, enhance climate resilience, and provide support for developing nations in their climate-related efforts.

Sustainability: Fulfilling the needs of current generations without compromising the needs of future generations, while ensuring a balance between economic growth, environmental stewardship and social well-being.

17 Sustainable Development Goals: The 17 Sustainable Development Goals (SDG) are a set of global objectives established by the United Nations to address various social, economic and environmental challenges by the year 2030. These goals encompass a wide range of issues, including poverty, hunger, health, education, gender equality, clean water, affordable and clean energy, climate action and partnerships for sustainable development. The SDGs serve as a comprehensive framework for international cooperation and action toward a more sustainable and equitable future and were adopted after the Paris Agreement.

U.S. Environmental Protection Agency (EPA): The EPA is a federal agency tasked with protecting human health and the environment by enforcing regulations and conducting research to address environmental issues. EPA's regulatory oversight involves developing and enforcing environmental regulations, setting standards for air and water quality, managing hazardous waste, overseeing pesticide use, and conducting research to inform evidence-based policies aimed at mitigating environmental risks and promoting sustainability.

References

1. Oakland, T. (2023). Compilation of North Dakota data published by U.S. Energy Information Administration. Retrieved on 29 April 2024.
2. Spotlight on North Dakota Energy: 2022 Annual Report. (2023). https://energynd.com/uploads/1/spotlightonenergy2022webv12.pdf
3. Spotlight on North Dakota Energy: 2022 Annual Report. (2023). https://energynd.com/uploads/1/spotlightonenergy2022webv12.pdf
4. Spotlight on North Dakota Energy: 2022 Annual Report. (2023). https://energynd.com/uploads/1/spotlightonenergy2022webv12.pdf
5. North Dakota Public Services Commission (2024). Compilation of North Dakota data published by U.S. Energy Information Administration. Retrieved on 13 May 2024.
6. North Dakota Public Services Commission (2024). Compilation of North Dakota data published by U.S. Energy Information Administration. Retrieved on 13 May 2024.
7. Spotlight on North Dakota Energy: 2022 Annual Report. (2023). https://energynd.com/uploads/1/spotlightonenergy2022webv12.pdf
8. Murti, A. (2024). Will AI Be Our Salvation Toward A Healthier Energy Evolution?" Retrieved on 18 March 2024, https://arjunmurti.substack.com/p/will-ai-be-our-salvation-toward-a?utm_medium=ios
9. EIA Today in Energy (2022). "Coal Was the Largest Source of Electricity Generation for 15 States in 2021." Retrieved 24 Feb. 2024, https://www.eia.gov/todayinenergy/detail.php?id=54919#:~:text=Coal%20was%20the%20largest%20source%20of%20electricity%20generation%20for%2015%20states%20in%202021,-Data%20source%3A%20U.S.&text=In%2015%20U.S.%20states%20last,electricity%20generation%20in%2032%20states
10. State Policy Opportunity Tracker. (2021). SPOT for Clean Energy. Retrieved on 24 Feb. 2024, https://spotforcleanenergy.org/
11. MISO's Response to the Reliability Imperative: Updated February 2024. (2024). Retrieved 24 Feb. 2024, https://wdeawebsite.blob.core.windows.net/usrfiles/documents/miso_2024_reliability_imperative_report.pdf
12. Federal Financial Interventions and Sub- sidies in Energy in Fiscal Years 2016-2020. (2023). U.S. Energy Information Administration. Federal Financial Interventions and Subsidies in Energy in Fiscal Years 2016–2022 (eia.gov)
13. Spotlight on North Dakota Energy: 2022 Annual Report. (2023). https://energynd.com/ uploads/1/spotlightonenergy2022webv12.pdf
14. Bangsund, D. and Hodur, N. (2022). North Dakota Agriculture Industry Economic Contribution Analysis. NDSU Agribusiness and Applied Economics Report No. 816-S.
15. U.S. Trade Representative. (2023). "North Dakota Trade Facts." Retrieved 22 May 2024, https://ustr.gov/map/state- enefits/nd#:~:text=North%20Dakota%20is%20the%20country's,of%20Agriculture)

16. U.S. Department of Energy. "DOE Explains...The Carbon Cycle." Retrieved 22 May 2024, https://www.energy.gov/science/doe-explainsthe-carbon-cycle#:~:text=Scientists%20use%20the%20term%20%E2%80%9Ccarbon,permafrost%2C%20grasslands%2C%20and%20forests

17. Green, D. (2023). "A U.S. perspective on the EU's Farm to Fork strategy". Retrieved on 8 Feb. 2024, www.openaccessgovernment.org/usa-perspective-eu-farm-tofork- strategy/163297/

18. Frazin, R. (2024). 9 More States Sue SEC Over Climate Disclosure Rule. The Hill. Retrieved on 21 March 2024, https://thehill.com/policy/energyenvironment/4529327-9-statessue-sec-climate-disclosure-rule/

19. Silk, D., and Lu, C. "Environmental, Social & Governance Law USA 2024." Global Legal Group. 2 Feb. 2024, https://iclg.com/practice-areas/environmentalsocial-and-governance-law/usa

20. Smith, A. (2023). A historic year of U.S. billion-dollar weather and climate disasters. Retrieved on 20 Jan. 2024, https://www.climate.gov/news-features/blogs/beyond-data/2023-historic-year-us-billion-dollar-weather-and-climate-disasters

21. National Association of Insurance commis- sioners. (2022). "U.S. Insurance Commissioners Endorse Internationally Recognized Climate Risk Disclosure Standard for Insurance Compa- nies." Retrieved on 26 Jan. 24, https://content.naic.org/article/us-insurance-commissioners-endorse-internationally-recognized-climate-risk-disclosure-standard

22. 2023-05-15-NZIA-Letter. (2023). Retrieved on 26 Jan. 24, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://attorneygeneral.utah.gov/wp-content/uploads/2023/05/2023-05-15-NZIA-Letter.pdf

23. Wilkes, T., Hubner, A., and Sims, T. (2023). "Insurers flee climate alliance after ESG backlash in the U.S." Retrieved on 20 Jan. 2024, https://www.reuters.com/business/allianz-decides-leave-net-zero-insurance-alliance-2023-05-25/

24. American Property Casualty Insurance Association. (2002). Energy Resources and Insurer Roles During the Energy Transition.

25. North Dakota Insurance Reserve Fund Insurance Study. (2022). chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.insurance.nd.gov/sites/www/files/documents/Communications/Reports/NDIRF_Insurance_Study_Guidehouse_Final_March-2022.pdf

26. North Dakota Insurance Reserve Fund Insurance Study. (2022). chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.insurance.nd.gov/sites/www/files/documents/Communications/Reports/NDIRF_Insurance_Study_Guidehouse_Final_March-2022.pdf

27. North Dakota Insurance Reserve Fund Insurance Study. (2022). chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.insurance.nd.gov/sites/www/files/documents/Communications/Reports/NDIRF_Insurance_Study_Guidehouse_Final_March-2022.pdf

28. American Property Casualty Insurance Association. (2002). Energy Resources and Insurer Roles During the Energy Transition.

29. State-Level ESG Investment Developments Tracker. Debevoise & Plimpton. Last updated 11 Dec. 2023. https://www.debevoise.com/-/media/files/pdf/esg--statelevel-esg-investment-developments-tracke.pdf?rev=f956b7e8ef8b42ab979af68210383eec&hash=8DA222C0AEC52435EB2762460EF7696E

30. State-Level ESG Investment Developments Tracker. Debevoise & Plimpton. Last updated 11 Dec. 2023. https://www.debevoise.com/-/media/files/pdf/esg--statelevel-esg-investment-developments-tracke.pdf?rev=f956b7e8ef8b42ab979af68210383eec&hash=8DA222C0AEC52435EB2762460EF7696E

31. Lehrer, E. (2023). "ESG and the States. National Affairs". Retrieved on 10 Dec. 2023, https://www.nationalaffairs.com/publications/detail/esg-and-the-states

32. State-Level ESG Investment Developments Tracker. Debevoise & Plimpton. Last updated 11 Dec. 2023. https://www.debevoise.com/-media/files/pdf/esg--statelevel-esg investment-developments-tracke.pdf?rev=f956b7e8ef8b42ab979af68210383eec&hash=8DA222C0AEC52435EB2762460EF7696E

33. Sadd, Lydia. (2023). "ESG Not Making Waves with American Public." Retrieved on 5 Jan. 2024, https://news.gallup.com/poll/506171/esg-not-making-waves-american-public.aspx

34. Cutter, C., & Glazer, E. (2024). "The Latest Dirty Word in Corporate America: ESG." The Wall Street Journal, retrieved on 9 Jan 2024, https://www.wsj.com/business/the-latest-dirty-word-in-corporate-america-esg-9c776003?st=h5zrym1asdqhbfl&reflink=article_email_share

35. United Nations 17 Sustainable Development

36. Hafke, T. (2023). "EU Approves ESG Report- ing Standards: Impacts on the U.S." Retrieved on 6 Jan. 2024, https://www.alpha-sense.com/ blog/trends/eu-esg-reporting-standards/

37. World Bank. (2023). "State and Trends of Carbon Pricing 2023." Retrieved on 24 Jan. 2024, http://hdl.handle.net/10986/39796 License: CC BY 3.0 IGO." Pg. 23.

38. Silk, D., and Lu, C. (2024). "Environmental, Social & Governance Law USA 2024." Global Legal Group. Retrieved on 2 Feb. 2024, https://iclg.com/practice-areas/environmental-social-and-governance-law/usa

39. Smokelin, J., & Eddy, S. (2023). "A Nation Divided: The ESG Fight at the Federal and State Leve.l" Retrieved on 10 Jan. 2024, https://www.ehslawinsights.com/2023/08/a-nation-divided-the-esg-fight-at-the-federal-and-state-level/

40. "U.S. State Greenhouse Gas Emissions Targets." (2023). Center for Climate and Energy Solutions. Retrieved on 3 Feb. 2024, https://www.c2es.org/document/greenhouse-gas-emissions-targets/

41. Newsom, G. (2022). "ICYMI: California Poised to Become World's 4th Biggest Economy." Retrieved on 3 Feb. 2024, https://www.gov.ca.gov/2022/10/24/icymi-california-poised-to-become-worlds-4th-biggest-economy/

42. Austin, S. (2023). "Business and agriculture groups sue California over new climate disclosure laws." Retrieved on 3 Feb. 2024, https://apnews.com/article/california-climate-disclosure-emissions-reporting-business-cab2011439c4849005988bd871104cce