Debevoise & Plimpton

State-Level ESG Investment Developments Tracker

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Contents

Multistate & State Developments

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KEY INSIGHTS

Environmental, Social and Governance ("ESG") investment issues continue to be hotly contested and increasingly politicized across the United States. Below are some key insights on the most recent state developments aimed at supporting and restricting ESG investing. These key insights will continue to be revised as this Tracker is updated.

- 2023 was a landmark year for state-level legislation concerning ESG investments. Nearly every state has now introduced legislation related to ESG, with the total number of ESG investment-related bills introduced since 2020 exceeding 200. Debevoise will continue to monitor the status of legislation and track other actions taken by elected officials and state entities as many states' regular legislative sessions begin in January 2024.

- In many cases, bills that stalled in the 2023 legislative sessions are being reintroduced as new bills, either wholesale or in part (i.e., sections of old bills being worked into new bills that have been introduced since the start of 2024). Most bills that did not pass in the 2023 legislative sessions in states without carryover—where legislative committees are authorized to hold specific, identified bills in committee beyond the end of a legislative session—have been marked as failed for the purposes of this Tracker.

- In addition to legislation restricting ESG, various states and other parties have recently stepped into the litigation ring, in both state and federal arenas, to challenge ESG laws and regulations regarding climate-related disclosures.

    - In California, the American Farm Bureau Federation and California Chamber of Commerce, among others, filed a lawsuit in federal court against the California Air and Resources Board seeking to overturn climate disclosure laws enacted by California in October 2023: the Climate Corporate Data Accountability Act (S.B. 253) and the Climate-Related Financial Risk Act (S.B. 261). The plaintiffs argue that the laws violate the First Amendment's prohibition against compelled speech, are a violation of the Commerce Clause by attempting to regulate greenhouse gas emissions across states' borders and are precluded by the federal Clean Air Act.

    - In the federal arena, several states have filed suits to challenge the Securities and Exchange Commission's final climate-related disclosure rule, adopted March 6, 2024, under the major questions doctrine, Administrative Procedures Act and First Amendment, among other bases. On March 21, 2024, the Judicial Panel on Multidistrict Litigation lottery selected the Eighth Circuit Court of Appeals as the venue for hearing a case consolidating nine petitions against the SEC's climate rule, which were filed in six different federal circuits. Debevoise is closely monitoring this litigation and will be publishing updates on significant developments as they occur. For more details, refer to *SEC Issues Long-Awaited Climate-Related Disclosure Rule*, DEBEVOISE IN DEPTH (Mar. 7, 2024); *An In-Depth Analysis of the SEC's Climate Related Disclosure Rules*, DEBEVOISE IN DEPTH (Mar. 15, 2024); *Potential Legal Challenges to the SEC's Climate Disclosure Rule*, DEBEVOISE IN DEPTH (Mar. 14, 2024); *Fifth Circuit Stays SEC's Climate Disclosure Rule*, DEBEVOISE DEBRIEF (Mar. 18, 2024).

SUMMARY

Below is a summary by the numbers, of legislation supporting and restricting ESG investing considerations introduced across all states in the United States since June 2022, as further described in the Tracker. Developments other than legislation, while included in the Tracker below, and failed legislation prior to June 2022, are not counted for this Summary. The "STATES" column indicates how many states have introduced such legislation, regardless of whether passed. For the purposes of the "STATES" column only, each state is counted only once per row, regardless of how many pieces of relevant legislation its legislature has proposed, in order to provide an overview of the number of states supporting or restricting ESG investing.

TYPE	PENDING	PASSED	FAILED	STATES
Supporting ESG	**30**	**8**	**15**	**15**
Restricting ESG	**83**	**32**	**78**	**39**

TRACKER

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
MULTISTATE DEVELOPMENTS			
Alabama, Alaska, Georgia, Indiana, Iowa, Louisiana, Mississippi, New Hampshire, Oklahoma, South Carolina, Texas, Virginia, West Virginia, Wyoming, et al.	March 2024: Several states sue SEC over Climate Disclosure Regulation	Since the SEC's adoption of its climate disclosure regulations on March 6, 2024, several states have filed suits to challenge the rule (including in the Second, Fifth, Sixth, Eighth, Eleventh and D.C. Circuits). Petitions include claims under the major questions doctrine, Administrative Procedures Act and First Amendment, among other bases. On March 15, 2024, the Fifth Circuit stayed the new regulations, pausing the Rule's applicability. On March 21, 2024, the Judicial Panel on Multidistrict Litigation lottery selected the Eighth Circuit Court of Appeals as the venue for hearing a case consolidating nine petitions against the SEC's climate rule, which were filed in six different circuits. To read more, see *SEC Issues Long-Awaited Climate-Related Disclosure Rule*, DEBEVOISE IN DEPTH (Mar. 7, 2024); *An In-Depth Analysis of the SEC's Climate Related Disclosure Rules*, DEBEVOISE IN DEPTH (Mar. 15, 2024); *Potential Legal Challenges to the SEC's Climate Disclosure Rule*, DEBEVOISE IN DEPTH (Mar. 14, 2024); *Fifth Circuit*	Law 360 Bloomberg Law

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Stays SEC's Climate Disclosure Rule, DEBEVOISE DEBRIEF (Mar. 18, 2024).	
Alabama, Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Ohio, Oklahoma, South Carolina, Tennessee, Utah, Virginia, West Virginia, Wyoming	September 2023: 22 attorneys general sign letter requesting documents and information from members of the Net-Zero Financial Service Providers Alliance	On September 13, 2023, 22 Republican attorneys general, sent a letter to Net Zero Financial Service Providers Alliance (NZFSPA) signatories expressing concern that their NZFSPA commitments may run afoul of state and federal laws. The AGs have asked NZFSPA members to disclose their communications with other signatories on NZFSPA commitments as well as with non-signatories on setting net-zero and Scopes 1, 2 and 3 emission targets, among other topics. Similar information has also been requested from members of the NZFSPA Exchange (a sub-group of NZFSPA) and the Glasgow Financial Alliance for Net Zero (GFANZ). Members have until October 13, 2023, to respond. The letter asserts that many alliance members who directly compete with one another are undertaking "coordinated efforts" to align their products and services to meet the NZFSPA commitments. According to the letter, their collective market reach also pressures non-members to adopt emission targets and may cause a boycott of energy companies not aligned with their goals.	Letter
Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington	July 2023: 21 Democratic attorneys general pen letters to Fortune 100 CEOs in response to earlier letters from Republican attorneys general (see below)	On July 19, 2023, 21 Democratic attorneys general sent letters to Fortune 100 CEOs about DEI programs in response to the letters sent by the Republican attorneys general (see below). The Democratic attorneys general wrote, "the letter you received from the 13 [Republican] state attorneys general is intended to intimidate you into rolling back the progress many of you have made" in recruiting diverse workforces. The Democratic attorneys general went on to state that they wrote this letter to "reassure [the CEOs] that corporate efforts to recruit diverse workforces and create inclusive work environments are legal and reduce corporate risk for claims of discrimination." The letter provided support for this statement and concluded by stating that the Democratic attorneys general will "vigorously oppose any attempts to intimidate or harass businesses who engage in	Letter

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		vital efforts to advance diversity and expand opportunities for the nation's workforce."	
Alabama, Arkansas, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, South Carolina, Tennessee, West Virginia	July 2023: 13 Republican attorneys general send letter to Fortune 100 CEOs urging the executives to immediately cease utilizing race as a factor considered in employment decisions	On July 10, 2023, 13 Republican attorneys general sent a letter to the CEOs of the Fortune 100 companies reminding the executives of "their obligations... to refrain from discriminating on the basis of race, whether under the label of 'diversity, equity, and inclusion.'" This letter follows the recent SCOTUS decision in *Students for Fair Admissions v. President & Fellows of Harvard College,* which, the AGs state, "should place every employer on notice of the illegality ... of race-based preferences in employment practices." In their letter, the AGs claim that companies who engage in "racial discrimination ...will face serious legal consequence."	Letter
Alabama, Arkansas, Georgia, Iowa, Indiana, Kansas, Louisiana, Missouri, Mississippi, New Hampshire, South Carolina, South Dakota, Utah, Virginia	July 2023: Attorneys general send an inquiry to BlackRock over potential issues related to mutual funds for which BlackRock both directs and serves as an investment adviser.	On July 6, 2023, a group of attorneys general sent a letter to BlackRock seeking information on financial relationships and managerial structures that could undermine individual company independence from the firm. Principally cited as independence concerns were BlackRock fund trustees who serve as directors for companies where BlackRock owns more than 5%. Part of that inquiry centers around BlackRock's ESG investing policies. The attorneys general question whether a director of a mutual fund would not "feel pressure against standing up to BlackRock's ESG agenda – even when it is not in the financial interest of the fund's shareholders."	Letter
Alabama, Alaska, Arkansas, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, South Carolina, South Dakota, Texas, Utah, West Virginia	May 2023: Republican attorneys general file motion to intervene with the Federal Energy Regulatory Commission in regards to BlackRock's investment in public utilities	On May 10, 2023, 17 Republican attorneys general filed a motion with the Federal Energy Regulatory Commission (FERC) seeking review of BlackRock's utilities holdings. In the motion, the attorneys general expressed concern over BlackRock using its voting stake to "pressure or force utility companies to phase out traditional energy investment." BlackRock is permitted to own $10 million or more of U.S. utility company voting shares pursuant to a "blanket authorization" from FERC. The waiver was originally granted on the basis of BlackRock being a passive and non-controlling investor. However, the attorneys general allege	Pension and Investments Article Reuters

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		that BlackRock is no longer functioning as a passive investor in utility companies but rather is seeking to influence utility companies' operations. The motion ultimately requests that FERC audit BlackRock for compliance with the waiver and issue orders requiring BlackRock and its subsidiaries to "function as passive, non-controlling investors," as appropriate.	
Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wyoming	May 2023: 22 Attorneys general pen letter decrying "hypocritical" actions of big banks in rejecting emission-reduction policies for own companies while "forcing" the same policies on other businesses	On May 19, 2023, 22 attorneys general sent a letter to the CEOs of JPMorgan Chase, Bank of America, Citigroup, Goldman Sachs, Morgan Stanley and Wells Fargo regarding the potential disconnect between the way such banks encourage their shareholders to vote on internal resolutions and how such banks vote on portfolio companies' resolutions. The letter states that, in the most recent proxy season, the boards of each bank unanimously opposed shareholder resolutions related to climate change; however, the attorneys general note that these banks voted in favor of similar resolutions for companies of which they are shareholders. The letter concludes by stating that if such banks continue to vote in a manner inconsistent with their own internal policy, such a contradiction will raise serious questions, and that the attorneys general will use the full measure of their investigative authority to seek answers.	Letter
Alabama, Alaska, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, Wyoming	May 2023: 23 attorneys general sign letter requesting documents and information from members of the Net-Zero Insurance Alliance	23 state attorneys general sent a letter to members of the Net-Zero Insurance Alliance (NZIA), requesting documents and information relating to legal concerns brought about by NZIA's members' commitments to collaborate with other insurers in order to advance an "activist climate agenda." Membership in NZIA comes with numerous requirements or protocols. In the letter, the attorneys general express concerns about whether such requirements are permitted under federal law, as well as each attorney general's respective state laws. The statutes apply to private actors, including federal and state-equivalent antitrust laws and prohibitions on insurers altering insurance terms for reasons not	Letter

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		reasonably related to the risk or expense of providing the insurance. In the weeks since the letter was sent, half of the 28 NZIA member companies have left the alliance. One insurer, Germany's Munich Re, cited concerns about "material antitrust risks", in explaining its rationale for leaving NZIA.	
Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, Ohio, South Carolina, Tennessee, Texas, Virginia, Utah, West Virginia, Wyoming	March 2023: Republican attorneys general challenge asset managers over ESG considerations	On March 30, 2023, the office of the Montana Attorney General, on behalf of the Montana Attorney General and 20 other Republican attorneys general, issued a letter to 53 of the largest asset managers in the United States, including BlackRock, State Street and JPMorgan Chase. The letter asserts that the asset managers have disregarded their fiduciary duties to their clients by joining initiatives that seek to reduce greenhouse gas emissions, such as the NZAM and Climate Action 100+. The letter asserts that the asset managers, after joining such initiatives, failed to advertise all of their funds as ESG despite the emissions commitments made; failed to adequately explain the risks of funds advertised as ESG; and failed to disclose conflicts of interest between climate and financial motives. The letter also discusses a number of shareholder proposals where the asset managers will be required to choose between ESG policy and prioritizing financial returns, namely: (1) climate change resolutions in banking; (2) underwriting activities in insurance; (3) net zero compliance in utilities and energy; and (4) abortion and political spending. For each category, the letter notes that the shareholder proposal fails to explain any financial benefit to the company or to explain how the policy promotes financial goals over what the letter states are political and partisan ESG policies. The letter concludes by noting the attorneys general's intention to continue to evaluate the asset managers' activities as part of ongoing investigations into potential violations in this area.	Office of the Attorney General for the State of Montana, Louisiana and Utah Reuters
Alabama, Alaska, Arkansas, Florida, Georgia, Idaho,	March 2023: Joint Statement on alliance of 19 U.S.	Governors of 19 U.S. states, led by the Florida governor, announced an alliance to lead state-level efforts in protecting taxpayers from ESG	Joint Statement

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Iowa, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, Wyoming	states to oppose ESG measures	influences across state systems and in the financial sector. These states will coordinate efforts to block use of ESG in state- and local-level investment decisions, including in municipal bond issuance and state fund investing decisions by fund managers. Financial services similarly cannot be extended on "social credit scores" or discriminate based on religious, political or social beliefs.	
Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wyoming	February 2023: Letter to Congress to block DOL ESG Rule	27 Republican state AGs issued a letter calling on Congress to use its powers under the Congressional Review Act to overturn a U.S. Department of Labor (the "DOL") rule. The rule, finalized in November 2022 and most parts of which went into effect on January 30, 2023, expressly permits fiduciaries under the Employee Retirement Income Security Act of 1974, as amended, to take ESG factors into account as long as they comply with ERISA's fiduciary duties of prudence and loyalty (the "ESG Rule"). Congress had 60 days from January 30, 2023 to pass a joint resolution of disapproval of the DOL ESG Rule under the Congressional Review Act. The House of Representatives approved the resolution on February 28, 2023 by a 216–204 vote. The Senate followed, approving the resolution by a 50–46 vote. President Biden vetoed the resolution, and Congress was unable to overrule the presidential veto, leaving the ESG Rule in effect.	Letter Pension & Investments Article Pension & Investments Article
Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wyoming	January 2023: Lawsuit to block DOL ESG Rule	25 Republican AGs sued the DOL in the U.S. District Court for the Northern District of Texas, seeking to block the ESG Rule.	Complaint Debevoise Update

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Alabama, Alaska, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Ohio, South Carolina, Texas, Utah, Virginia, West Virginia	January 2023: Letter to ISS and Glass Lewis	21 state AGs signed a letter from the Utah and Texas offices of the Attorney General to Institutional Shareholder Services ("ISS") and Glass Lewis, questioning the proxy advisors' voting recommendations related to ESG. The AGs claimed that the proxy advisors violated their fiduciary and contractual duties regarding certain climate and board diversity decisions.	Office of the Attorney General for the State of Utah
Alabama, Arkansas, Indiana, Kentucky, Louisiana, Mississippi, Montana, Nebraska, Ohio, South Carolina, South Dakota, Texas, Utah	November 2022: Protest to Vanguard Group Inc.'s EC19-57 application	13 state AGs collectively protested Vanguard Group Inc.'s application to the Federal Energy Regulatory Commission for blanket authorization to buy shares of U.S. utilities under Section 203 of the Federal Power Act. The AGs, which largely represent states whose economies are significantly dependent on fossil fuels, primarily argued that Vanguard may be breaching its Section 203 requirements by participating in the Ceres Investor Network and a Net Zero Managers initiative (of which it is no longer a part), and that such activities will harm consumers.	S&P Global Article Motion to Intervene
California, Connecticut, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Washington, Wisconsin	November 2022: Letter to Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services	17 state AGs signed a letter from the D.C. Office of the Attorney General to the Chairpersons and Ranking Members of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services. The AGs expressed that the fund managers' use of ESG factors in assessing the risks and rewards of investments is like their use of other material factors that inform investment decision-making. The letter also stated that ESG factors are "consistent with legal responsibilities to evaluate potential risk and reward in assessing the merits of an investment" and can help managers provide the best return by mitigating risks facing their investments. Finally, the letter argued that fund managers' commitment to the Net Zero Managers Alliance is not, without more, an antitrust violation.	Office of the Attorney General for D.C. Letter

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Arizona, Arkansas, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Tennessee, Texas Virginia, and five others	October 2022: Civil investigations into ESG practices of big banks	19 state AGs launched civil investigations into whether the ESG practices of some of the nation's largest banks are harmful to the energy industry. The banks under investigation include Bank of America, Citigroup, Goldman Sachs, JPMorgan Chase, Morgan Stanley and Wells Fargo. The investigations target activity related to each bank's membership in the United Nations Net-Zero Banking Alliance ("NZBA"), a UN-convened group of over 100 banks that are "committed to aligning their lending and investment portfolios with net-zero emissions by 2050." (Five of the states involved in the investigation cannot be named due to state laws or regulations regarding confidentiality).	Bloomberg Article Virginia Mercury Article
Alabama, Arizona, Georgia, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, Ohio, Oklahoma, South Carolina, Texas, Utah, Virginia, West Virginia	September 2022: Letter to U.S. Comptroller of the Currency	17 state AGs signed a letter from the Utah Office of the Attorney General to incoming U.S. Comptroller of the Currency Michael J. Hsu regarding the appointment of Dr. Yue (Nina) Chen as the Chief Climate Risk Officer at the U.S. Office of the Comptroller of the Currency (the "OCC"). The letter condemned the appointment of Dr. Chen and the OCC's focus on "climate risk" in the financial system, calling it a politicization of financial regulation "by using financial agencies to promote radical environmental policy that restricts energy production and punishes small businesses and consumers." The letter further warned that the states will investigate, litigate and lobby against any report from banks in their states that federal regulators are pressuring them to cut off services based on the Biden Administration's political agenda.	Letter
California, Colorado, Delaware, Illinois, Maine, Massachusetts, Nevada, New Mexico, New York, Oregon, Rhode Island, Vermont,	September 2022: Public Letter	The treasurers of 13 states and of New York City published a letter opposing recent efforts to ban the use of nonpecuniary considerations in state pension fund management. The letter was published on the website of a 501(c)(3) organization called For the Long Term and is considered a response to the anti-boycott blacklisting of some financial firms. The open letter stated that states engaging in efforts to blacklist companies accused of	Letter

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Washington, Wisconsin		boycotting fossil fuel producers are thinking in the short term, asserting that "disclosure, transparency, and accountability make companies more resilient by sharpening how they manage, ensuring that they are appropriately planning for the future."	
California, Delaware, Illinois, Maryland, Minnesota, New Jersey, New York	August 2022: Letter to the U.S. Securities and Exchange Commission ("SEC") Secretary	7 state AGs sent a letter to SEC Secretary Vanessa Countryman expressing support for proposed SEC rules governing disclosures for ESG investment products, particularly in support of the proposed rule titled "*Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social and Governance Investment Practices*," Release No. IA-6034. The letter supported the SEC's moves toward "consistent, comparable, and reliable information" on ESG-based investment products and strategies. It further noted that: (1) investment companies play an important role in the investment choices available to U.S. investors; (2) the growing prevalence of ESG investments, lack of disclosure and potential for fraud necessitate enhanced disclosures; and (3) the proposed rule is expected to provide numerous benefits and clarifications for investors. The letter concluded by proposing additional clarifications to the proposed rule.	Letter
Alabama, Arizona, Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, Texas, Utah, West Virginia	August 2022: Letter to BlackRock CEO	19 state AGs sent a letter to BlackRock CEO Laurence Fink asserting that the company's stated objectives on decarbonization may violate the Sherman Antitrust Act and "multiple state laws," including laws related to fiduciary duties owed to the firm's clients. Among other things, the letter criticized BlackRock's public commitment to the Paris Agreement, worrying that it will "increase energy prices, drive inflation, and weaken the national security of the United States, noting that the agreement was not ratified by the Senate." The letter also accused the firm of environmental activism in the energy sector, of disregarding its obligation to maximize financial returns in favor of sustainability dialogue and of breaching its fiduciary duties of loyalty and care to its clients.	Letter

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Alaska, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, South Carolina, Texas, Utah	June 2022: Letter to SEC Secretary	12 state AGs wrote to SEC Secretary Vanessa Countryman expressing opposition to proposed rules standardizing climate-related disclosures for securities. The AGs stated their concern about proposed rule "*The Enhancement and Standardization of Climate-Related Disclosures for Investors*" 87 Fed. Reg. 21334, File Number S7–10–22. Specifically, the proposed rule was deemed to be burdensome, unnecessary and to "flagrantly exceed the SEC's delegated role of ensuring capital markets continue to function and that investors are provided timely, accurate, and material information." The letter further stated the AGs' belief that the SEC lacks the statutory authority for such a rule; that the rule is too burdensome and does not apply the factors required for SEC rulemaking; that the rule would produce inconsistent, unreliable and irrelevant information for investors; and finally, that the SEC did not properly weigh the costs and benefits of this rule.	Letter

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		STATE DEVELOPMENTS	
Alabama	February 2024: S.B. 151, pending	The bill would prohibit the boards of the Teachers' Retirement System of Alabama and the Retirement Systems of Alabama from prioritizing any non-pecuniary factors over the interest of their members and beneficiaries or the impact of an investment on the well-being of the State of Alabama when making investment decisions. The bill would also prohibit any state agency or political subdivision from considering any ESG criteria when entering into a contract wholly funded by state funds for the procurement of goods or services.	S.B. 151
	January 2024: H.B. 61, pending	The bill would prohibit ESG criteria from being considered when awarding public contracts and would require the bidder to certify under penalty of perjury that its employees will not be subject to a personal ESG rating for the purposes of hiring, firing or evaluating.	H.B. 61

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	June 2023: S.B. 261, passed	The law prohibits a government entity from entering a contract for goods or services with companies that: (i) boycott companies engaged in the fossil fuel-based energy, timber, mining, agriculture, firearms or ammunition business; (ii) fail to (a) meet or commit to meet certain "environmental standards" (specifically those related to greenhouse gas emissions reductions), (b) meet or commit to meet certain corporate employment or board composition criteria or (c) facilitate or commit to facilitate abortions or sex or gender surgery. ("Environmental standards" are not clearly defined in the bill.) If the government entity is unable to comply with these provisions without significantly increasing costs, the entity can waive the requirement by posting a statement on its publicly available website that the entity has made "reasonable and good faith efforts to obtain services meeting the requirements" of the bill, but that complying with the bill would result in costs that appear "significantly higher" or quality that is "significantly lower" "than the services available to similarly oriented governmental entities not subject to similar requirements." Additionally, no company in Alabama shall be required to engage in economic boycotts. Moreover, the attorney general must seek to prohibit the adoption of federal laws, rules and other actions that would penalize or harm any Alabama company or resident. The bill grants the attorney general the authority to investigate entities deemed to violate the act.	S.B. 261

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	May 2023: H.B. 188, failed	The bill would have prohibited the consideration of ESG criteria when awarding a public contract and would require the company bidding for the contract to certify, under penalty of perjury, that it will not subject its employees to a "personal ESG rating" as a basis for employment decisions and determinations. Under the bill, "personal ESG rating" was defined as a measurement of an individual's lifestyle choices, including dietary choices, energy usage, transportation habits, environmental impact, sustainable clothing choices, ethical or sustainable purchasing choices, recycling habits, carbon footprint, personal contributions to social justice issues, and composting practices.	H.B. 188
Alaska	January 2024: H.B. 303, pending	The bill would prohibit the Alaska Retirement Management Board and the Alaska Permanent Fund Corporation Board from relying on ESG considerations when exercising their duties with respect to a defined benefit plan, unless doing so relates to an economic risk or opportunity that would be considered material under generally accepted investment theories. It also would prohibit voting shares on behalf of the plan to further ESG goals.	H.B. 303
	April 2023: H.B. 174, pending	The bill would prohibit the fiduciary of a state fund, the Alaska Retirement Management Board and the Alaska Permanent Fund Corporation Board from taking an action involving investment for the purpose of furthering social, political or ideological interest.	H.B. 174
Arizona	January 2024: H.B. 2457, pending	The bill would require the state treasurer to make investment decisions based on pecuniary interests and would prohibit the state treasurer from promoting nonpecuniary benefits or other nonpecuniary social goals. The bill would prohibit a fiduciary from considering any nonpecuniary factors when making investment decisions. The bill would require the government entity that establishes a plan to vote the shares held by such plan, and such votes must be votes only in the pecuniary interest of the plan, and may not be voted to further any nonpecuniary interest.	H.B. 2457

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2024: S.B. 1014, pending	The bill would prohibit a financial institution, insurer or credit reporting agency doing business in the state from discriminating against any person based on political affiliation or other ESG score.	S.B. 1014
	June 2023: S.B. 1500, Governor vetoed	The bill would have required the evaluation of investment decisions by the state treasurer and state plan fiduciaries solely on pecuniary factors, disregarding any nonpecuniary or other factor. Shares held by a state plan would have been required to be voted only in the plan's pecuniary interest. Fiduciaries that engage with companies based on nonpecuniary factors, or with a history of voting based on such factors, would have been prohibited from managing state plans. The Bill also asks the state treasury to release a public list of current investment managers.	S.B. 1500
	June 2023: S.B. 1611, Governor vetoed	The bill would have prohibited state public entities from entering a contract with a company, unless the company certified in writing that it does not implement an "ESG Standards Policy." Public entities would have been prohibited from adopting a procurement, investment or other policy that could induce or require a company to implement an "ESG Standards Policy."	S.B. 1611
	June 2023: S.B. 1138, failed	The bill would have prohibited financial institutions in the state from discriminating based on political affiliation or ESG criteria or similar values-based or impact criteria. The bill would have exempted financial institutions offering products or services that included subjective standards if the standards were fully disclosed to investor prior to entering the contract.	S.B. 1138
	May 2023: S.B. 1694, failed	The bill would have prohibited public entities from requiring an employee to engage in a diversity, equity and inclusion ("DEI") program, spending public monies on such program, requiring contractors to participate in a DEI program or employing an office or individual to oversee a DEI program.	S.B. 1694
	January 2023: H.B. 2471, failed	The bill would have required asset managers to consider only pecuniary factors when making	H.B. 2471

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		investment decisions or discharging fiduciary duties. Only the government entity that maintains the plan could vote the shares held by the plan and could not grant proxy voting authority to any person who is not the government entity unless that person followed guidelines consistent with the obligation to act only on pecuniary interests.	
	February 2023: S.B. 1096, Governor vetoed	The bill would have prohibited state public entities from entering a contract for goods or services worth at least $100,000, unless the company certifies in writing that it does not discriminate against a firearm entity or firearm trade organization and will not do so during the contract.	S.B. 1096
	February 2023: S.B. 1612, failed	The bill would have empowered the state treasurer to cancel contracts with financial institutions with written ESG policies boycotting fossil fuels. On the treasury's referral, state AG would have been required to investigate the financial institutions. State entities would have been prohibited from investing public money in such financial institutions.	S.B. 1612
	February 2023: Arizona AG Announcement	Newly elected Arizona AG Kris Mayes announced that Arizona would stop participating in investigations into major American banks and other financial institutions over ESG practices related to investing, saying "Arizona is not going to stand in the way of corporations' efforts to move in the right direction."	AZ AG Office Press Release
	December 2022: Treasury announced it will continue to divest from BlackRock	The state treasury released a statement saying that the Arizona Treasury had reduced its exposure to BlackRock's money market funds, the only investments the state treasury had with BlackRock, by 97% earlier in the year. The state treasury committed to continuing to divest from BlackRock money market funds, stating that the asset manager has moved "away from its fiduciary duty" as a general asset manager and moved toward a "political action committee."	State Treasurer Press Release
	August 2022: Arizona State Treasurer's Office	The Arizona treasurer's office released an investment policy statement that said that investments by or on behalf of the treasurer can only consider pecuniary factors. The policy statement considers agreements related to	AZ Investment Policy Statement

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	Investment Policy Statement	environmental or social goals, corporate government structures and social and environmental goals to be nonpecuniary interests that cannot be considered.	
Arkansas	May 2023: S.B. 41, failed	The bill would have required the state treasurer to divest public moneys from funds and financial service providers that discriminate against fossil fuel, firearms or ammunition industries or those that use ESG factors.	S.B. 41 Arkansas Times Article
	April 2023: H.B. 1845, passed	The law authorizes the state's ESG Oversight Committee to make the determination of whether to include a financial service provider on the list of providers that "discriminate" against fossil fuel, firearms or ammunition industries, as set out in H.B. 1307 below. This act replaces the state treasurer with the ESG Oversight Committee. The law became effective on August 1, 2023.	H.B. 1845
	April 2023: H.B. 1253, passed	The law requires fiduciaries of state pension benefit plans to discharge their duties relating to plans solely in the pecuniary interest of participants and beneficiaries, evaluate investments based only on pecuniary factors, and cannot promote a nonpecuniary benefit/goal. An ESG consideration is a pecuniary factor only if it "presents an economic risk or opportunity that a qualified investment professional would treat as a material economic consideration under generally accepted investment theories." Voting of shares held by or for a pension benefit plan or its beneficiaries must be solely in the pecuniary interest of the plan participants. The law became effective on August 1, 2023.	H.B. 1253
	March 2023: H.B. 1307, passed	The law requires the state treasurer and state public entities to divest public funds from listed financial service providers that discriminate against fossil fuel, firearms or ammunition industries or use ESG factors. A list of providers that so "discriminate" will be released by the state treasurer at the direction of the AG. The divestment mandate excludes funds invested in retirement plans described in Sections 401(a),	H.B. 1307 Arkansas Advocate Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		401(k), 403(b) or 457 of the Internal Revenue Code, 1986. The law became effective on August 1, 2023.	
California	October 2023: S.B. 253, passed	The law requires the State Air Resources Board to develop and adopt regulations requiring businesses with annual revenues in excess of $1 billion and that do business in California to publicly disclose to the emissions registry their greenhouse gas emissions, categorized as scope 1, 2 and 3 emissions from the previous calendar year.	S.B. 253
	October 2023: S.B. 261, passed	The law requires entities doing business in California with annual revenues of $500 million or more to publish reports every other year disclosing their climate-related financial risks as well as the mitigation and adaptation measures they have adopted to address the disclosed risks.	S.B. 261
	October 2023: A.B. 1305, passed	The law requires business entities that are marketing or selling voluntary carbon offsets within the state to disclose on their website specified information about the applicable carbon offset project and details regarding accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits. Also requires an entity operating in the state that purchases or uses voluntary carbon offsets that makes claims regarding the achievement of net zero emissions or other similar claims (even if such claims are made in the state, but the entity does not operate in the state) to disclose on their website certain information related to those claims. Violations of these requirements will result in a civil penalty of up to $2,500 per day but will not exceed a total amount of $500,000. The bill was signed by the governor on October 7, 2023.	A.B. 1305
	September 2023: S.B. 637, failed	The bill would have prohibited a state agency from entering into a contract with, depositing money into or receiving a loan from a financial institution that does business with a company that manufactures firearms or ammunition.	S.B. 637

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	August 2023: California Public Employees' Retirement System turns over documents to Congress	The California Public Employees' Retirement System (CalPERS) provided thousands of pages of documents to Congress in response to the House Judiciary Committee's request for ESG-related documents. The House Judiciary Committee's letter accused CalPERS of potential antitrust violations because of its participation in initiatives with Ceres and Climate Action 100+.	Bloomberg Article
	June 2023: S.B. 252, failed	The bill would have prohibited investment by California public employee retirement funds in the 200 largest public fossil fuel companies, as determined by the carbon in their reserves. Required divestment from such companies by July 1, 2030.	S.B. 252
	June 2022: S.B. 1173, failed	The bill would have prohibited investment in the 200 largest public fossil fuel companies, as determined by the carbon in their reserves. Required divestment from such companies by July 1, 2030.	S.B. 1173
Colorado	May 2023: S.B. 23-016, passed	This law requires Colorado Public Employee Retirement Association Board ("PERA") to annually report its climate-related investment risks, impact on its portfolio and risk management strategies. The law also updates the statewide GHG emission reduction goals to add a 65% reduction by 2035, a 75% reduction by 2040, a 90% reduction by 2045 and a 100% reduction by 2050. The law became effective on August 8, 2023.	S.B. 23-016 Capital & Main Article
	February 2023: H.B. 1092, failed	The bill would have prohibited state money from being used to further ESG interests by requiring the state's public employees' retirement association to make investments solely on financial factors. The bill defined "Nonfinancial" as meaning in furtherance of ESG interests beyond what controlling federal and state law require.	H.B. 1092
	January 2023: S.B. 23-026, failed	The bill would have prohibited financial institutions doing business in Colorado from discriminating against persons based on environmental criteria.	S.B. 23-026
Connecticut	January 2024: S.B. 1115, failed	The bill would have required the state insurance commissioner to collect a 5% surcharge on	S.B. 1115

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		premiums any insurance company licensed in the state receives from fossil fuel companies.	
	January 2024: H.B. 6397, failed	The bill would have required the state treasury to divest by October 1, 2023 all public funds from investments in companies that derive greater than 10% revenues from fossil fuel sale.	H.B. 6397
	January 2024: S.B. 42, failed	The bill would have required the state treasurer to issue an annual report scoring companies with investments by state pension funds and detailing any failure of the companies to comply with Connecticut's climate sustainability goals.	S.B. 42
	January 2024: H.B. 6348, failed	The bill would have authorized the state treasurer to divest state funds from any entity that contributes to the production of coal, oil and gas.	H.B. 6348
Delaware	January 2023: State Treasurer statement	Delaware treasurer says anti-ESG legislation that bans financial institutions is "in contrast to the golden goose that made America great and that makes American dreams possible." The treasurer said that the misinformation related to ESG and investment risk is concerning.	The Hill Article
Florida	January 2024: Florida Governor announcement	On January 31, 2024, the Florida governor announced that the state intends to bring enforcement actions for violations of Florida's H.B. 3. Governor DeSantis mentioned that the state will work to ensure compliance with requirements under state legislation, including attestations from financial institutions that they don't engage in ESG activities or use social credit scores.	Video
	May 2023: H.B. 3, passed	The law:	H.B. 3

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		• Directs the Florida State Board of Administration (S.B.A) and fiduciaries to only consider "pecuniary factors" when investing public monies, including retirement system assets, and exercising shareholder rights like proxy voting on behalf of the retirement system or plan. Fiduciaries cannot sacrifice investment return for promotion of "nonpecuniary factors." "Pecuniary factor" refers to a factor "expected to have a material effect on the risk or return of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy." Does not include any "social, political or ideological interests." • Requires any investment manager who invests state funds to include a conspicuous statement in its external communications that the views and opinions expressed are those of the investment manager and do not reflect the views and opinions of the State of Florida when the investment manager's external communications to a company in which the investment manager invests such state funds discuss social, political or ideological interests. • Prohibits state agencies from issuing ESG bonds. • Restricts banks and financial institutions from limiting services to persons based on, among other things: (a) political opinion or religious beliefs; (b) involvement in firearms, ammunition, fossil fuel energy, timber, mining and agriculture businesses; (c) failure to meet ESG standards, compose corporate boards based on protected characteristics or provide diversity training to employees. Periodic attestations of compliance are required from banks. • Restricts preference to a vendor in state contracts based on the vendor's social, political or ideological interests.	

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	February 2023: Florida Governor announces anti-ESG legislation	The Florida governor, along with the Senate President and House Speaker, announced legislation to prohibit ESG investments. The legislation will prohibit: (a) use of ESG in state- and local-level investment decisions; (b) request or consideration of ESG information, in procurement and contracting, by state entities; (c) consideration of ESG factors in state and municipal bond issuance and bar on rating agencies whose ESG ratings negatively impact issuer's bond ratings; and (d) banks engaging in corporate activism from holding government funds as a Qualified Public Depository.	Governor's Statement
	January 2023: Florida CFO directive	The Florida CFO issued a directive prohibiting asset managers of the state's deferred compensation plan from investing participants' compensation in ESG financial products. The CFO's directive states, "ESG standards are undemocratic, and un-American because global asset managers are using proxy votes to re-engineer society, through billion-dollar industries, circumventing the democratic process."	CFO's Directive CFO's Press Release
	January 2023: Florida formalizes anti-ESG measures	The Florida governor and S.B.A approved measures to prohibit ESG investments. The measures will update the state pension plan policy and S.B.A corporate governance proxy voting guidelines to define asset managers' duties when making investment decisions, prohibiting ESG considerations in those decisions.	Governor's Statement
	December 2022: Florida divests from BlackRock	Florida treasury announced it will begin to divest $2 billion from BlackRock funds, citing BlackRock's consideration of ESG. Florida's chief financial officer said that BlackRock's ESG standards serve to "police" who should and who should not receive capital.	Law 360 Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	August 2022: S.B.A. Resolution	State Board of Administration ("S.B.A.") trustees passed a resolution directing (1) the state to disregard ESG factors in its investment management practices, obligating managers to only weigh "pecuniary factors" and (2) the S.B.A., when exercising shareholder rights and voting proxies, to act "for the exclusive purpose of providing benefits to participants and beneficiaries and defraying the reasonable expenses of the Florida Retirement System Defined Benefit Pension Plan."	FL Governor Press Release
	July 2022: Governor Announcement	Florida governor announced ESG-related legislative proposals and regulatory initiatives for the 2023 legislative session, including (1) Amendment of Florida's Deceptive and Unfair Trade Practices statute to prohibit "discriminatory practices by large financial institutions based on ESG metrics" and (2) Amendment of Investment Policy Statement prohibiting S.B.A. fund managers from considering ESG factors when investing the state's money and requiring S.B.A. fund managers to only consider maximizing the return on investment on behalf of Florida's retirees. The law became effective on July 1, 2023 and is codified at FLA. STAT. § 280.025 *et al.*	FL Governor Press Release
Georgia	February 2024: H.B. 481, pending	The bill would prohibit fiduciaries (e.g., asset managers) from subordinating the financial interests of their participants or accepting any increased investment risk in the promotion of nonpecuniary interests. Under the bill, nonpecuniary interests would include any social, political or ideological interests. The bill would require all covered retirement systems to comply with its provisions by November 1, 2024. The bill has received both House and Senate approval and is pending final adoption. A similar bill was introduced and failed in 2023.	H.B. 481
	January 2024: H.B. 1018, pending	Known as the "Georgia Firearms Industry Notification Act," the bill would prohibit (i) financial institutions from requiring use of a firearms code to distinguish firearms retailers from other retailers and (ii) discrimination against a firearms retailer by declining payments based on assignment of a firearms code to a retailer.	H.B. 1018

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	February 2023: S.B. 266 / H.B. 481, failed	The bill would have prohibited fiduciaries (e.g., asset managers) from subordinating the financial concerns of their participants or accepting any increased investment risk in the promotion of nonpecuniary interests. Under the bill, nonpecuniary interests would have included, but were not limited to, any social, political or ideological interests.	S.B. 266 / H.B. 481
Hawaii	January 2023: S.B. 423, pending	The bill would require the Employees' Retirement System ("ERS") in Hawaii to divest its holdings in listed coal, oil and gas companies by an unspecified date. For indirect holdings in actively managed investment funds, the ERS would notify fund managers and request alternatives or will divest within five years.	S.B. 423
	January 2023: H.B. 1505 / S.B. 1226, pending	The bill would require the state's employer-union health benefits trust fund to develop investment objectives consistent with its current investment policy and consider investments into industries that will sustain the state's natural environment.	H.B. 1505 / S.B. 1226
	January 2023: H.B. 1506 / S.B. 1227, pending	The bill would amend Section 88-119 of the Hawaii Revised Statute to encourage the employees' retirement system evaluating venture capital investments to consider opportunities in industries that will sustain Hawaii's natural environment or produce economic opportunities for its residents, including renewable energy business or businesses transitioning to become sustainable. The board would have to annually report its investments in such industries and provide a rationale for its decision that it is not prudent to so invest.	H.B.1506 / S.B.1227
Idaho	February 2024: House Joint Memorial 7 Resolution	The Idaho House State Affairs Committee passed and submitted to the Idaho state legislature, a resolution expressing concern over proposals from the United Nations and the World Economic Forum, including imposition of ESG standards on business and use of social credit scores.	H.J.M 7
	April 2023: H.B. 190, passed	The law prohibits banks and credit unions that are state depositories and hold Idaho state funds from boycott of companies in industries like fossil fuel energy, hydropower, nuclear energy, timber, minerals, agriculture and firearms. The	H.B. 190

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		law authorizes the state treasurer to revoke depository certifications for currently noncompliant institutions. The law became effective on July 1, 2023 and is codified at IDAHO CODE ANN. §§ 26-2155, 67-2739.	
	March 2023: H.B. 189, failed	The bill would have prohibited contracts between public entities and companies that boycott industries like fossil fuel energy, hydropower, nuclear energy, timber, minerals, agriculture and firearms. Applicable to contracts valued at a minimum of $100,000. The bill would have allowed relaxation if public entities determine that the prohibition conflicts with their debt obligations or investment of funds.	H.B. 189
	March 2023: H.B. 191, passed	The law blocks consideration of ESG standards in awarding of public contracts. "ESG standards" are defined as standards that would screen or score on subjective ethical or sustainability criteria unrelated to contract or vendor qualification. The prohibition extends to a wide range of contracts, including for goods and services, design-build, public works construction and procurement in state higher education. The law became effective on July 1, 2023 and is codified at IDAHO CODE ANN. §§ 54-5411, 67-2347, 67-5711A, 67-5711C, 67-9203, 67-9210 and 67-9225.	H.B. 191
	November 2022: Republican legislators and officials prepare for upcoming session	The Idaho legislature's Joint Interim Committee on Federalism met to discuss legislation that would limit or block the use of ESG factors for contracts and investments using public money.	Big Country News Article Idaho Capital Sun Article
	July 2022: S.B. 1405, passed	The law establishes provisions regarding disfavored state investments and prohibits public entities from considering ESG factors if it would override the prudent investor rule. The law became effective on July 1, 2022 and is codified at IDAHO CODE ANN. § 67-2345.	S.B. 1405 Idaho Code § 67-2345
Illinois	February 2024: H.B. 5201, pending	The bill would repeal the Illinois Sustainable Investing Act passed in 2020 and amend the Public Funds Investment Act and the Illinois	H.B. 5201

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Pension Code (that directed state and local government entities managing public funds to integrate sustainability factors into their investment policies and processes).	
	February 2024: H.B. 5268, pending	The bill would amend the University of Illinois Act and require the board of trustees to direct the university of Illinois Foundation, in accordance with sound investment criteria and consistent with fiduciary obligations, to not invest assets of any endowment fund in fossil fuel companies. After one year of adoption of the legislation, the board of trustees would also direct the University endowment funds to divest holdings greater than 1% in fossil fuel companies.	H.B. 5268
	February 2024: S.B. 3717, pending	The bill would prohibit investment of five Illinois state pension funds and four Chicago pension funds in fossil fuel companies. Pension plans that would be covered by the legislation are the General Assembly Retirement System (GARS), the State Employees' Retirement System of Illinois (SERS), the State Universities Retirement System (SURS), the Teachers' Retirement System of the State of Illinois (TRS), and the Judges' Retirement System of Illinois (JRS); the Illinois Municipal Retirement Fund (IMRF); the Municipal Employees', Officers', and Officials' Annuity and Benefit Fund of Chicago (MEABF), the Laborers' and Retirement Board Employees' Annuity and Benefit Fund of Chicago (LABF), the Policemen's Annuity and Benefit Fund of Chicago, and the Firemen's Annuity and Benefit Fund of Chicago.	S.B. 3717
	August 2023: S.B. 2152, passed	The law authorizes the state treasurer to manage proxy voting activity for shares held directly by the State Employees Retirement System and execute required ballots on behalf of the retirement system. The law requires the investment board to publish annually its guidelines for proxy voting and a detailed report describing how the board is considering sustainability factors as defined in the Illinois Sustainable Investing Act.	S.B. 2152

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		The law became effective August 4, 2023 and is codified at 40 ILL. COMP. STAT. ANN. 5/15-177.5, 5/16-188 and 5/22A-113.4.	
	July 2023: H.B. 2782, passed	The law requires that an investment manager provide a description of the process through which the investment manager will integrate sustainability factors into its investment decisions of public monies. The law became effective January 1, 2024 and is codified at 30 ILL. COMP. STAT. ANN. 238/10, 238/20.	H.B. 2782
	February 2023: S.B. 2429, pending	The bill would require that an investment manager provide a description of the process through which the investment manager will integrate sustainability factors into its investment decisions of public monies.	S.B. 2429
	February 2023: H.B. 3037, pending	The bill would prohibit pension systems' investment in fossil fuels. One year after the enactment of this amendment, the pension system shall not invest in any indirect investment vehicle unless the pension system's trustees are satisfied that the vehicle is unlikely to have more than 2% of its assets invested in fossil fuels.	H.B. 3037
	December 2022: H.B. 1293, passed	The law prohibits public money from being invested in assets related to Russia and Belarus for their engagement in the war in Ukraine. Prohibits investment of state pension funds and retirement systems in assets with ties to Russia or Belarus and urges the funds to divest from such assets where feasible. The law became effective December 21, 2022 and is codified at 5 ILL. COMP. STAT. ANN. 100/5-90.	H.B. 1293 The State Journal Register Article
	January 2020: P.A. 101-473, passed	Illinois Sustainable Investing Act directs state and local government entities managing public funds to integrate sustainability factors, including ESG, into their processes and policies. The law became effective on January 1, 2020 and is codified at 30 ILL. COMP. STAT. ANN. 238/1, 238/5, 238/10, 238/15, 238/20, 238/100, 238/105 and 238/110.	IL Treasurer Press Release Illinois Sustainable Investing Act

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Indiana	April 2023: H.B. 1008, passed	The law directs a fiduciary managing the investments of the public pension system to discharge its duties, including voting solely in the financial interest of plan participants and beneficiaries based on financial factors. The board of trustees of the Indiana public retirement system have to annually report proxy votes by such fiduciaries. There are some exemptions in the legislation for private market funds to accommodate state pension investments in private equity. The law became effective on July 1, 2023 and is codified at IND. CODE §§ 5-10.2-14, 5-10.5-5.1.	H.B. 1008 The Centre Square Article Inside Indiana Business Article
	February 2023: S.B. 292, failed	The bill would have required the board of trustees of the Indiana public retirement system to make investment decisions with the primary purpose of maximizing the target rate of return on the board's investments. The bill would prohibit the board from making an investment decision to influence any social or environmental policy or governance of any corporation for nonpecuniary purposes.	S.B. 292
	February 2023: S.B. 372, failed	The bill would have required fiduciaries to make investment decisions solely in the financial interest of the participants and beneficiaries. Asset managers entrusted with public pension assets would be required to commit in writing to making investment decisions based solely on pecuniary interests. If a company was found by the attorney general to be in violation of the provisions, then the company would be subject to civil penalties equal to three times the amount paid to the company.	S.B. 372
	September 2022: Attorney General Official Opinion	Indiana AG released an official opinion regarding the Indiana Public Retirement System and ESG Investments that concludes that, because state law mandates investing "solely in the interest of the beneficiaries," investing for ESG-related purposes is a violation of fiduciary duties.	AG Official Opinion 2022-3

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Iowa	February 2024: H.S.B 667, pending	The bill would impose voting responsibilities on fiduciaries for the benefit of the beneficiaries of a public pension plan and, *inter alia*, imposes prohibitions on the fiduciaries against voting in favor of (*i*) subordinating the economic interests to any ESG goals or (*ii*) promoting ESG goals unless such goals are based on economic analysis and in the economic interest of the beneficiaries.	H.S.B. 667
	February 2024: S.F. 2032 / H.F. 2291, pending	The bill would authorize the legislature to review any executive orders by the President of the United States relating to, among other topics, the regulation of the financial sector through the imposition of ESG standards, and right to bear arms. Would prohibit implementation of federal orders found unconstitutional.	S.F. 2032 / H.F. 2291
	January 2023: S.F. 507, pending	The bill would prohibit a public fund from entering into a contract with a company to provide investment or management services with "scrutinized companies" (i.e., an investment company that, on behalf of a public fund, engages in nonpecuniary social investment or boycotts companies engaged in certain businesses, including firearms, fossil fuel-based energy, timber and mining, among others).	S.F. 507
	March 2023: H.F. 653 / H.F. 2, failed	The bill would have prohibited state public funds from granting proxies to or entering agreements with investment managers or proxy advisors, unless they commit in writing to act solely in the financial interest of plan participants and beneficiaries and not based on "improper financial factors" like furthering ESG goals. ESG goals includes commitments to reduce greenhouse gas emissions; limiting investments in fossil fuel-based energy, timber, mining, agriculture and firearms companies and companies not meeting ESG standards ("protected companies"). The bill would also have required that all proxy votes on behalf of public funds be posted publicly. Rules would not apply if the public fund determines no "economically practicable alternative" is available. The bill would have restricted public entities from entering contracts of $1,000 or above with companies that economically boycott protected companies.	H.F. 653 / H.F. 2

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Kansas	April 2023: H.B. 2100, passed	The law requires that financial institutions managing the assets of the Kansas public employees' retirement system only consider the financial interests of the system's participants when making investment decisions. Unless there is no economically practicable alternative, the system's assets must be entrusted in a fiduciary who commits in writing to act solely in the financial interests of the participants. The law became effective on July 1, 2023 and is codified at KAN. STAT. ANN. § 74-4921.	H.B. 2100 AP News Article
	March 2023: H.B. 2436 / S.B. 291, pending	The bill would prohibit the state from adopting any procurement regulation or policy that causes any bidder, offeror, contractor or subcontractor to be given preferential treatment or be discriminated against based on ESG factors. Investment managers, proxy advisors or contractors must discharge their duties solely in the financial interest of the participant or beneficiaries. Would require all shares to be voted solely in the financial interest of the participants and their beneficiaries.	H.B. 2436 / S.B. 291
	March 2023: H.R.C. 5014, pending	This joint resolution would permit the state treasurer to study ESG standards and draft legislation that protects the state and its citizens from the use of ESG standards.	H.R.C. 5014
	February 2023: S.B. 224 / H.B. 2404, pending	The bill would require the state treasurer to maintain a list of financial institutions that engage in "ideological boycotts." If the financial institution placed on the list does not provide verification that it has ceased to engage in ideological boycotts, the board shall divest from the financial institution.	S.B. 224 / H.B. 2404
	January 2023: State Treasurer Seeks to Limit ESG Investments	The newly elected Kansas state treasurer said he is working closely with the state AG to draft legislation that would limit ESG investments. The treasurer said such legislation may include creating a list of funds using ESG factors and directing pension boards to divest from those funds, identifying financial institutions that boycott "signature industries" and divesting from them and defining the fiduciary duty as providing the best return for the pensioners.	The Sentinel Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	November 2022: Kansas State Treasurer Op-Ed	Kansas Treasurer Lynn Rogers penned an op-ed in the *St. John News* requesting that state legislators avoid the ideological battles around ESG investment. The treasurer took a neutral stance toward ESG, stating that he is "against any law either requiring or banning the use of ESG investment data." Lynn Rogers was defeated in the November 2022 election by Republican Steven Johnson for the treasurer position.	Kansas Treasurer Op-Ed
Kentucky	March 2023: H.B. 236, passed	The law requires board members, investment managers and proxy advisors of the state retirement system to make investment decisions solely in the interest of the members and beneficiaries. A fiduciary's communications with portfolio companies, policies and proxy votes, as well as its involvement in coalitions, initiatives, agreements or other commitments may be evidence that such fiduciary acted in furtherance of a nonpecuniary interest. No contract or agreement may be made in any manner to waive, restrict or limit fiduciary's liability as to any of their duties under this law. Requires the board to adopt proxy voting guidelines consistent with their fiduciary duties under this law. The law is codified at KY. REV. STAT. ANN. §§ 21.450, 61.650, 78.790, 161.430.	H.B. 236
	February 2023: H.B. 533, failed	The bill would have required the treasurer to maintain and publish a list of financial institutions boycotting certain companies and divest from such companies. This bill would amend the list of certain companies considered to be politically sensitive to include "agricultural commodities associated company," "energy services associated company," "firearms goods and services company," "petrochemical commodities associated company" and "social media information company."	H.B. 533
	February 2023: H.B. 254, failed	The bill would have prohibited the government from entering into a contract for the purchase of goods or services of $100,000 or more, unless the contract contains a written verification from the company providing such goods and services stating that it does not discriminate against firearms.	H.B. 254

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	February 2023: S.B. 166, failed	The bill would have required require board members, any investment managers, proxy advisers, consultants or other fiduciaries of the state retirement system to discharge their duties solely in the interest of the members and beneficiaries. A fiduciary's communications with portfolio companies, policies and proxy votes, as well as its involvement in coalitions, initiatives, agreements, or other commitments, may be evidence that such fiduciary acted in furtherance of a nonpecuniary interest. The board would be required to adopt proxy voting guidelines consistent with their fiduciary duties under this bill. Fiduciaries must acknowledge their fiduciary duties in writing, and a contract or agreement to waive, restrict or limit a fiduciary's liability as to their duties is not permitted.	S.B. 166
	February 2023: CERS objects to anti-ESG law S.B. 205	In a letter to the state treasurer, Trustees of Kentucky County Employees' Retirement System ("CERS") informed the treasurer that CERS is not subject to the state law mandate on divestment from entities that boycott energy companies. This mandate, CERS noted, is "inconsistent with its fiduciary responsibilities with respect to the investment of CERS assets." Kentucky passed legislation S.B. 205 in April 2022 directing such divestment (*see below*).	Chief Investment Officer Article Pension & Investments Article
	January 2023: Treasurer places 11 financial institutions on energy boycott list	The Kentucky state treasurer released a list of 11 financial institutions that boycott energy companies. A law was passed by the Kentucky legislature in 2022 (S.B. 205) directing the treasurer to release such a list. The companies on the list must stop boycotting energy companies to avoid divestment by Kentucky.	Treasurer's Press Release Restricted Financial Companies List
	December 2022: Kentucky Bankers sue to classify climate risk as financial risk	The Kentucky Bankers Association challenged the state AG's investigation into banks that limit their investment in fossil fuel companies as a means of limiting their climate risk.	IEEFA Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	October 2022: State Attorney General and Treasurer Letter to KY Public Retirement Systems	The Kentucky attorney general and treasurer wrote a letter to the KY Public Pension Authority and the Kentucky Teachers' Retirement System requesting that the retirement systems report to their offices regarding each system's investment decisions to ensure that they are not using ESG considerations.	Kentucky AG and Treasurer Letter
	April 2022: S.B. 205, passed	The law requires the state to maintain a list of financial companies that boycott energy companies and divest from them if they do not cease their boycott. Prohibits government from contracting with companies, unless the company verifies that it does not participate in such boycotts and will not during the term of the contract. The law is codified at KY. REV. STAT. ANN. Ch. 41 and § 286.2-015.	S.B. 205 Fox News Article
Louisiana	March 2024: S.B. 5, pending	The bill would require any Louisiana public pension plan to ensure that their fiduciaries only consider financial factors while making investments. *Inter alia*, GHG offsets and use of exclusions list are considered as nonfinancial factors.	S. B. 5
	June 2023: H.C.R. 110, passed	This concurrent resolution requests the state and statewide retirement system boards to uphold their fiduciary duty when making financial decisions and to not allow ESG policies to influence their investment decisions.	H.C.R. 110
	June 2023: H.C.R. 59, passed	This concurrent resolution requests the SEC to withdraw its proposed rule: "The Enhancement and Standardization of Climate-Related Disclosures for Investors."	H.C.R. 59
	May 2023: H.C.R. 70, passed	This concurrent resolution requests the state treasurer and the state's retirement systems to report to the state legislature (i) on investment advisors and companies used by the treasurer and retirement systems that discriminate against the fossil fuel industry through ESG policies, (ii) on their investments in nonpecuniary factors and (iii) on the asset allocation of all of their investments.	H.C.R. 70

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	October 2022: State Treasurer Letter to BlackRock	Louisiana state treasurer wrote a letter informing BlackRock that it would liquidate all BlackRock investments by the end of 2022 (approximately $794 million) because of BlackRock's ESG considerations.	Louisiana Treasurer Press Release and Letter
	June 2022: H.R. 203, passed	This House Resolution created the ESG Task Force to study and make recommendations relating to the use of ESG criteria in lending and investment practices.	H.R. 203
	June 2022: H.R. 246, passed	This House Resolution created the ESG Criteria Study Group to make recommendations relating to regulation of the use of ESG factors in lending and investment practices.	H.R. 246
Maine	May 2023: L.D. 1562, failed	The bill would have required a fiduciary of the state retirement system's assets to consider only pecuniary factors in its investment decisions. Considering nonpecuniary factors like environmental, social, corporate governance, ideological or political factors are prohibited.	L.D. 1562
	June 2021: H.P. 65 / L.D. 99, passed	The law requires the Maine Public Employees' Retirement System to divest from fossil fuel industry by 2026. Specifically, the law prohibits investment in the 200 largest public fossil fuel companies as determined by the carbon in their reserves. The law is codified at Me. Rev. Stat. Ann. tit. 5, §§ 135, 138, 1957.	H.P.65 / L.D. 99
Maryland	February 2024: H.B. 1212, pending	The bill would require the Executive Director of the State Retirement Agency to employ a Director of Diversity, Equity, and Inclusion of the State Retirement and Pension System to ensure access and opportunities to underrepresented groups and establish a governance program within the Investment Division of the State Retirement Agency.	H.B. 1212
	April 2022: H.B. 740 / S.B. 566, passed	The law requires assessment of climate risk in investments of MD State Retirement and Pension System. Requires its board to report annually on the climate risk levels across its portfolio and allows the Chief Investment Officer to make investment decisions based on the information in the report.	H.B.740 / S.B. 566

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		The law became effective on June 1, 2022 and is codified at STATE PERS. & PENS. §§ 21-116, 21-116.1.	
Massachusetts	February 2023: S.1723, pending	The bill would authorize Massachusetts public pension schemes to divest, in whole or in part, from any investment in fossil fuel companies.	S.1723
	February 2023: S. 1644, pending	The bill would expand the definition of "Fiduciary Duty" pertaining to the state's retirement systems and pension laws to include "the protection of future social and environmental benefits."	S. 1644
	February 2023: S. 1648, pending	The bill would prohibit the state's retirement systems from investing or otherwise contributing to investment vehicles or funds managed by a financial institution headquartered in a state whose legislative or executive actions prohibit such state's treasurer, retirement systems or public pensions from investing utilizing ESG policies.	S. 1648
	January 2023: H. 2515, pending	The bill would authorize public pension systems to divest from investments in coal, consumable fuels and oil and gas companies. Boards of pension systems would be able to invest in index funds and other vehicles that do not invest in fossil fuel companies.	H. 2515
	January 2023: H. 2503, pending	The bill would prohibit investment in and require divestment within 12 months from ammunitions and firearms companies. The bill would apply to the Pension Reserves Investment Trust charged with managing the assets of state employees' and teachers' retirement systems, as well as assets of local retirement systems under the control of the Pension Reserves Investment Management Board. For indirect holdings in investment funds that are actively managed, would require that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	H. 2503

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: H. 2504, pending	The bill would mandate the review of climate risk to protect public pension beneficiaries and taxpayers by a Climate Risk Review Committee. The bill would prohibit investments in "climate risk investments" and require divestment of publicly traded companies engaged in such investment by January 1, 2026. This is defined as "any fossil fuel investments or investment in other industries, including, but not limited to biofuel, that may have a negative impact on the global climate, that scientific evidence has established as contributing to climate change, that conflict with or undermine the commonwealth's climate goals, and that pose a risk to the portfolio performance for beneficiaries of the public fund." For indirect holdings in investment funds that are actively managed, would require that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	H. 2504
	January 2023: H. 2480 / S. 1651, pending	The bill would prohibit investment by public funds in, and require divestment within one year from, any nuclear weapon producers. For indirect holdings in investment funds that are actively managed, the bill would require that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	H. 2480 / S. 1651
	January 2023: H. 2591 / S. 1690, pending	The bill would prohibit investment in and require divestment within 12 months from ammunitions and firearms companies. The bill would apply to the Pension Reserves Investment Trust charged with managing the assets of state employees' and teachers' retirement systems, as well as assets of local retirement systems under the control of the Pension Reserves Investment Management Board. For indirect holdings in investment funds that are actively managed, would require that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	H. 2591 / S. 1690

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	December 2022: H. 4170, failed	The bill would have mandated the review of climate risk to protect public pension beneficiaries and taxpayers by a Climate Risk Review Committee and prohibited investments in and directed divestment by January 1, 2025 from "climate risk investments." This was defined as "any fossil fuel investments or investment in other industries, including, but not limited to biofuel, that may have a negative impact on the global climate, that scientific evidence has established as contributing to climate change, that conflict with or undermine the commonwealth's climate goals, and that pose a risk to the portfolio performance for beneficiaries of the public fund." For indirect holdings in investment funds that are actively managed, the bill would have required that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	H.4170
	December 2022: S. 722, failed	The bill would have authorized independent retirement boards and some state public pension systems to divest from fossil fuel companies. Not applicable to the State Employees' Retirement System, the State Teachers' Retirement System or the State-Boston Retirement System.	S. 722
	December 2022: H. 43, failed	The bill would have prohibited investment in and required divestment within 12 months from ammunitions and firearms companies. Applied to the Pension Reserves Investment Trust charged with managing the assets of state employees' and teachers' retirement systems, as well as assets of local retirement systems under the control of the Pension Reserves Investment Management Board. For indirect holdings in investment funds that are actively managed, required that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	H. 43
Michigan	April 2023: H.B. 4381, failed	The bill would have required managers of Michigan's state and local public pension systems to only consider "pecuniary factors," thus	H.B. 4381

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		excluding ESG considerations in its investment decisions.	
	March 2023: H.B. 242, pending	The bill would require board diversification to ensure the adequate representation of female members on the board of publicly held domestic or foreign corporations with principal executive offices in the State of Michigan as per the SEC Form 10-K.	H.B. 242
	December 2022: S.B. 1192, failed	The bill would have required managers of Michigan's state and local public pension systems to only consider "pecuniary factors," thus excluding ESG considerations in its investment decisions.	Michigan Capitol Confidential Article S.B. 1192
Minnesota	May 2023: H.F. 3322, pending	The bill would prohibit subordination of financial interests of plan participants to non-pecuniary objectives, when investing state pension fund assets or exercising shareholder rights. The bill is referred to as the "State Retirement Plan Protection Act."	H.F. 3322
	January 2023: S.F. 940 / February 2023: H.F. 1902, pending	The bill would prohibit investment in, and require divestment by July 1, 2028 from, public companies boycotting mining, energy production, production agriculture or commercial lumber production. The bill would be applicable to the Combined Funds, which hold assets of the Minnesota State Retirement System, the Public Employees' Retirement Association and the Teachers' Retirement Association. The bill would also require vendors in state contracts of goods and services to certify that they do not and will not for the duration of the contract, boycott companies in above industries. The bill also seeks to prohibit banks or financial institutions from discriminating based on social credit scores or ESG factors. The bill does not define "social credit scores."	S.F. 940 / H.F. 1902
	January 2023: H.F. 707/ S.F. 1225, pending	The bill would prohibit investments by the Minnesota State Board of Investment in assets that intentionally exclude Minnesota-based energy, natural resources, agriculture and livestock companies to further the assets' ESG ratings.	H.F. 707 / S.F. 1225

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		The bill would also require direct holdings in restricted companies to be divested. For indirect holdings, would require that the fund managers be asked to remove affected assets from the funds or create similar funds excluding the restricted assets. The bill would also prohibit discrimination in financial services by banks or financial institutions based on political affiliation or ESG credit factors.	
Mississippi	March 2024: H.B. 1170, failed	The bill would have prohibited the Board of Trustees of the Mississippi Public Employees' Retirement System from making investment decisions with the primary purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation. The bill died in committee in March 2024.	H.B. 1170
	February 2023: S.B. 2849, failed	The bill would have prohibited the Mississippi Public Employees' Retirement System from investing with the primary purpose of influencing any ESG policy or goals. The system's board would have to maximize the safety of and return on its investments.	S.B. 2849
	January 2023: H.B. 818, failed	The bill would have prohibited the Mississippi Public Employees' Retirement System from investing with the primary purpose of influencing any ESG policy or goals. The system's board should maximize the safety of and return on its investments. The bill died in committee in January 2023.	H.B. 818
	January 2023: H.B. 1099, failed	The bill would have required investments of a public retirement system to be made solely in the financial interest of plan participants. The bill also would have required fiduciaries to account for only financial factors in discharging their plan duties, including in proxy voting. The bill also would have required that the details of proxy voting be made publicly available. The bill also would have required a noncompliant fiduciary to pay three times the amount received from the retirement system in damages. The bill died in committee in January 2023.	H.B. 1099

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: S.B. 2383, failed	The bill would have prohibited state agencies from contracting with a company for purchase of goods or services worth $40,000, unless the company certified that it did not and would not during the contract term discriminate against firearm or knife businesses. The bill died in committee in January 2023.	S. B. 2383
	January 2023: Treasurer looks to limit ESG investments	The Mississippi state treasurer authored an op-ed in which he said he would work with the state legislature to limit ESG investments. The treasurer said the simple solution was to direct the Public Employees' Retirement System to look only to financial return when considering investments.	Vicksburg Post Op-Ed
	November 2022: Treasurer urges state retirement system to reject ESG	The Mississippi state treasurer released a letter to the Public Employees' Retirement System (PERS) asking the officer of the system to reject ESG policies. In the letter, the treasurer also asked the retirement system to "formally prohibit the use of any considerations besides financial performance in its investment policy."	MS Treasurer Press Release and Letter
Missouri	February 2024: H.B. 2799, pending	The bill would require investment advisers, their representatives and broker-dealers to provide prior disclosure and obtain written consent from their clients for incorporating a social or nonfinancial objective into any discretionary investment decision. Failure to do so under the bill would constitute a dishonest or unethical business practice.	H.B. 2799
	February 2024: S.B. 1397, pending	The bill would require a public entity entering into contracts above $1,000 with a company to require a written verification that the company does not discriminate against a firearms entity. Exempt from the bill are contracts with sole source providers and contracts where the public entity does not receive a bid from a company that is able to provide such written verification. The bill is the same as S.B. 200, which was introduced in January 2023 but did not pass the 2023 legislative session.	S.B. 1397
	January 2024: S.B. 1350, pending	The bill would prohibit public bodies from preferentially treating or discriminating against bidders or contractors based on their ESG scores while entering into contracts. This component of	S.B. 1350

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		the bill is similar to S.B. 50, which was introduced in January 2023 but did not pass in the 2023 legislative session.	
	January 2024: H.B. 1620, pending	The bill would authorize the Missouri legislature to review any executive orders by the President of the United States relating to, among other topics, the regulation of the financial sector through the imposition of ESG standards and the right to bear arms. The bill also would prohibit the implementation of federal orders found unconstitutional. The bill is the same as H.B. 174, which was introduced in January 2023 but did not pass the 2023 legislative session.	H.B. 1620
	January 2024: H.B. 1700, pending	The bill would require an investment fiduciary of the public retirement systems to discharge their duties in the interests of the participants in a public employee retirement system and their beneficiaries for the sole purpose of providing financial benefits and paying reasonable expenses for administering the public employee retirement system. Such fiduciaries would only be permitted to take into account financial factors when making investments. The bill would also require that all shares held by or on behalf of a public employee retirement system, the participants thereof and their beneficiaries be voted solely in the financial interest of the participants and their beneficiaries. Investment fiduciaries found to be in violation of the bill would be required to pay damages in an amount equal to three times all moneys paid to the company by the system. The bill is the same as H.B. 1333, which was introduced in February 2023 and similar to S.B. 436, which was introduced in January 2023. Neither of these bills passed in the 2023 legislative session.	H.B. 1700
	January 2024: H.B. 1699, pending	The bill would prohibit contracts worth $50,000 or more between governmental entities and companies with 10 or more full-time employees that engage in economic boycotts based on ESG criteria (i.e., criteria that do not relate to ordinary	H.B. 1699

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		business purposes). A governmental entity would not be permitted to enter into a contract with a company for goods or services, unless the contract contained a written verification from the company that it does not and will not engage in any economic boycotts either currently or during the term of the contract.	
	January 2024: H.B. 1937, pending	The bill would prohibit investment fiduciaries of the public employee retirement systems from considering ESG characteristics in a manner that would override their fiduciary duties and subjecting to legislative, regulatory or other mandates to invest with environmentally, socially, or other non-economically motivated influence unless they are consistent with the fiduciary's responsibilities, or divest from any direct holdings. The bill would also require that all shares of common stock held directly by a retirement system be voted solely to further the economic interest of plan participants and prohibit the consideration of noneconomic environmental, social, political, ideological or other goals when voting. This bill is similar to H.B. 769, which was introduced in January 2023 but did not pass in the 2023 legislative session.	H.B. 1937
	January 2024: S.B. 1113, pending	The bill would prohibit investment fiduciaries of public employee retirement systems from engaging in the following activities: ▪ Considering ESG characteristics in a manner that would override their fiduciary duties; ▪ Subjecting to any legislative, regulatory or other mandates to invest with environmentally, socially or other non-economically motivated influence, unless the mandates are consistent with the fiduciary's responsibility or as provided in the system's governing statutes, ordinances, charter or documents with respect to the investment of system assets or other duties imposed by law relating to the investment, management, deposit or custody of system assets; and	S.B. 1113

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		▪ Subjecting to any legislative, regulatory or other mandates for divestment from any indirect holdings in actively or passively managed investment funds or in private assets. The bill would also require that all shares of common stock held directly by a retirement system be voted solely in the economic interest of participants of the system. The bill is substantially similar to H.B. 769, which was introduced in January 2023 and provisions in H.B. 863, which was introduced in February 2023. Neither bill passed in the 2023 legislative session.	
	January 2024: S.B. 815, pending	The bill would require that the written investment policies of the state and each political subdivision include provisions requiring the investment of public funds to be based solely on pecuniary factors. The bill would similarly require investment fiduciaries for retirement systems to make investments based solely on pecuniary factors. The bill would also prohibit public entities from preferentially treating or discriminating against bidders or contractors based on social, political or ideological interests while entering into contracts. Public entities would also be prohibited from asking for documentation or information relating to any social, political or ideological interests. The bill would also prohibit bond-issuing public entities from issuing ESG bonds, using moneys derived from the issuance of bonds to pay for the services of a third-party verifier related to the designation or labeling of bonds as ESG bonds, and entering into a contract with any rating agency whose ESG scores for such issuer will have a direct, negative impact on the issuer's bond ratings. These provisions would not apply to any bonds issued before August 28, 2024. The bill would also prohibit financial institutions from denying services to or otherwise discriminating against persons or entities based on their religious beliefs, religious exercises or religious affiliations or any rating, scoring, analysis, tabulation or action that takes into	S.B. 815

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		consideration a social credit score based on certain factors. Certified agents of each financial institution would be required to submit to the Division of Finance a certification of compliance with this provision during the previous 12-month period beginning on August 28, 2025.	
	January 2024: S.B. 827, pending	The bill would require that the written investment policy prepared, maintained and adhered to by the state treasurer include provisions prohibiting the investment of state funds in any particular investment held by any entity that prioritizes a social objective or other nonfinancial objective into its discretionary business or investment decisions. The bill would also prohibit state agencies from preferentially treating or discriminating against bidders or contractors based on their ESG scores or based on the prioritization or lack of prioritization of any socially responsible criteria while entering into contracts. This component of the bill is similar to S.B. 50, which was introduced in January 2023 but did not pass in the 2023 legislative session. The bill would also prohibit an investment fiduciary investing state retirement assets from considering ESG characteristics in a manner that would override their fiduciary duties. Fiduciaries would have had to disregard any legislative or regulatory mandate to invest with a non-economically motivated influence, unless consistent with the fiduciary's duties. Further, the bill would prohibit the direct voting of shares held by a retirement system, directly or by proxy, to be solely in the economic interest of the plan participants. Advancing ESG or other goals. This component of the bill is identical to H.B. 769, which was introduced in January 2023 but did not pass in the 2023 legislative session. The bill would prohibit investment fiduciaries of state systems from considering ESG characteristics in a manner that overrides their fiduciary duties. Further, broker-dealers and investment advisers would be required to provide clients' prior disclosures of any social or nonfinancial objectives incorporated in their investment decisions. This component of the bill is identical to provisions in H.B. 863, which was	S.B. 827

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		introduced in February 2023 but did not pass in the 2023 legislative session.	
	January 2024: S.B. 1142, pending	The bill would allow the state treasurer to create a "restricted financial institution" list containing the names of financial institutions that are engaged in a boycott of a company on the basis that the company (a) engages in the exploration, production, utilization, transportation, sale or manufacturing of fossil fuel-based energy, timber, mining or agriculture; (b) engages in the exploration, production, utilization, sale or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (c) does business with a company that engages in the exploration, production, utilization, transportation, sale or manufacturing of fossil fuel based-energy. The list would be used by the treasurer to determine which financial institutions to enter into a banking contract with and would be made publicly available on the treasurer's website. The bill would also prohibit state agencies from preferentially treating or discriminating against bidders or contractors based on their ESG scores while entering into contracts. This component of the bill is similar to S.B. 50, which was introduced in January 2023 but did not pass in the 2023 legislative session.	S.B. 1142
	July 2023: MO Secretary of State's rule on ESG disclosure	The Missouri Secretary of State's rule considers a broker-dealer, investment adviser or their agent's failure to disclose incorporation of a "social objective" or "other nonfinancial objective" in discretionary investments for a customer, as dishonest or unethical business practice. Disclosure of such objectives to the customer and prior customer consent is required. The rule became effective on July 30, 2023. In August 2023, the Securities Industry and Financial Markets Association (SIFMA) filed a federal lawsuit to challenge the rules on the grounds that they (1) "fail to acknowledge that federal law, regulations, and applicable rules already require financial advisors to act in the best interest of their clients when providing personalized	MO SoS Rule (15 CSR 30-51.170 and 15 CSR 30-51.172) SIFMA Complaint (filed August 10, 2023)

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		investment advice;" (2) are "grossly overbroad;" (3) treat common considerations used to make investment decisions as "nonfinancial objectives;" and (4) violate the proscriptions of the National Securities Markets Improvement Act of 1996 (NSMIA), the Employee Retirement Income Security Act of 1974 (ERISA), and fundamental tenets of the U.S. Constitution (freedom of speech, "ascertainably certainty" standards, and the interference of the government with the marketplace of ideas).	
	February 2023: H.B. 863, failed	The bill would have prohibited investment fiduciaries of state systems from considering ESG characteristics in a manner that overrides their fiduciary duties. The bill also would have required proxy votes for investments by state systems to be cast solely in the economic interest of plan participants. Broker-dealers and investment advisers would have been required to provide clients' prior disclosures of any social or nonfinancial objectives incorporated in their investment decisions. The bill would have required municipal green bonds to invest at least 85% of the bond proceeds in eligible green projects, including renewable energy, clean transport and green buildings.	H.B. 863
	February 2023: H.B. 1333, failed	The bill would have prohibited fiduciaries of the state public retirement system (e.g., investment managers or proxy advisors) from considering nonfinancial factors in carrying out their duties and would prohibit the board of trustees of the state public retirement system from selecting an investment manager or proxy advisor that considers such non-financial factors "unless no economically practicable alternative is available."	H.B. 1333
	January 2023: H.B. 174 / S.B. 286, failed	The bill would have authorized the legislature to review any executive orders by the President of the United States relating to, among other topics, the regulation of the financial sector through the imposition of ESG standards, and right to bear arms. The bill also would have prohibited the implementation of federal orders found unconstitutional.	H.B. 174 / S.B. 286

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: S.B. 377, failed	The bill would have prohibited a public entity from entering into a contract with a company to acquire or dispose of services, supplies, IT, or construction unless the contract included a written certification that the company is not currently engaged in any kind of economic boycott and will not engage in any kind of economic boycott during the term of the contract.	S.B. 377
	January 2023: H.B. 824, failed	The bill would have required an investment adviser to disclose and obtain written consent from a client prior to incorporating a "social" or nonfinancial objective in investment decisions. "Social" objectives involve criteria that further ESG goals and corporate governance structures based on social characteristics.	H.B. 824
	January 2023: H.B. 769, failed	The bill would have prohibited an investment fiduciary investing state retirement assets from considering ESG characteristics in a manner that would override their fiduciary duties. Fiduciaries would have had to disregard any legislative or regulatory mandate to invest with a non-economically motivated influence, unless consistent with the fiduciary's duties. The bill would have directed voting of shares held by a retirement system, directly or by proxy, to be solely in the economic interest of the plan participants. Advancing ESG or other goals would be prohibited.	H.B. 769
	January 2023: H.B. 770, failed	The bill would have prohibited any state agency from sharing or publishing information, adopting laws, promulgating rules or issuing guidelines "for purposes of social credit scores or other environmental, social justice, or governance scores or metrics that restrict the ability of any industry." The bill did not define "social credit scores."	H.B. 770
	January 2023: S.B. 436, failed	The bill would have required investment fiduciaries to invest, manage and vote a public employee retirement system's assets exclusively for the financial benefits of plan participants and solely on financial factors. Proxy votes shall be reported publicly.	S.B. 436

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		A fiduciary violating the provisions would have had to pay the state three times the fiduciary's earnings from the state for its services.	
	January 2023: S.B. 200, failed	The bill would have required a public entity entering into contracts above $1,000 with a company to require a written verification that the company does not discriminate against a firearms entity. Contracts with sole source providers or when bids are not received with such certification would be exempt.	S.B. 200
	January 2023: S.B. 50, failed	The bill would have prohibited state agencies from preferentially treating or discriminating against bidders or contractors based on their ESG scores while entering into contracts.	S.B. 50
	January 2023: S.B. 316 and S.B. 177, failed	The bill would have prohibited state agencies from preferentially treating or discriminating against bidders or contractors based on their ESG scores while entering into contracts. The bill also would have prohibited any discrimination against a limited liability company or corporation registered in Missouri, based on their ESG scores.	S.B. 316 S.B. 177
	January 2024: S.B. 430, failed	The bill would have prohibited public entities from entering into contracts with total potential value of $100,000 or more with companies having 10 or more employees, unless the company certified in writing that it did not currently engage in and would not, for the duration of the contractual term, engage in any kind of economic boycott. The bill would have granted the state attorney general enforcement authority. Contracts failing to comply with the bill would be deemed void as a matter of public policy and companies found to be in violation of the bill would have had to pay damages equal to three times the monies paid to the company under the contract.	S.B. 430
	January 2023: Missouri House Resolution urging action against federal ESG initiatives	The Missouri House of Representatives in a resolution urged all state agencies in Missouri and the Missouri Congressional Delegation to oppose federal initiatives on ESG, including disclosure of climate risks and use of ESG in credit decisions, and demanded that the SEC and other agencies	House Resolution 12

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		involved in ESG rulemaking receive public feedback from affected groups.	
	January 2023: Proposed Amendment to Broker-Dealer Practices	A proposed amendment would require a broker-dealer or its agents to disclose that it incorporates social or nonfinancial objectives into its discretionary investment decisions. Under the proposed amendment, failing to disclose such practices would be considered a dishonest or unethical business practice.	Secretary of State Proposed Rules
	November 2022: State Auditor to target ESG	The incoming state auditor, who will take office in January 2023, said that he would focus on limiting ESG investments, that there would be new legislation addressing ESG issues and proxy voting, and that the reason ESG investments are a top priority is that it "prioritizes nonfinancial factors in investment decisions."	The Daily Signal article
	October 2022: Missouri Treasurer announces divestment from BlackRock	Missouri state treasurer announced that the Missouri State Employees' Retirement System (MOSERS) would be divesting approximately $500 million from BlackRock, stating that BlackRock prioritizes other considerations "above the financial interests of their customers." Additionally, the announcement indicated that in June 2022, the board voted to remove proxy voting power from asset managers advancing ESG strategies, including BlackRock.	Missouri Treasurer Press Release
Montana	May 2023: S.B. 361, failed	The bill would have required a financial credit or credit services provider in the state to certify that the provider does not discriminate against persons involved in manufacture, sale, distribution or possession of firearms. The bill would have also prohibited state contracts with a provider of goods and services valued at $100,000 or more in any calendar year, unless the provider provides a certificate of nondiscrimination.	S.B. 361
	April 2023: H.J. 11, passed	The joint resolution urges the state's federal lawmakers to "push back" against federal agencies to "rescind, withdraw, modify, or amend subjective, unwarranted, unquantifiable ESG policies and directives."	H.J. 11
	April 2023: H.B. 228, passed	The law requires consideration of only pecuniary factors in investments by the board (not defined).	H.B. 228

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Shares held by or on behalf of the board would have to be voted solely in the pecuniary interest of fund beneficiaries. ESG considerations are pecuniary factors "only if they present economic risks and opportunities that qualified investment professionals would treat as material economic considerations under generally accepted theories." The state attorney general may bring actions to prevent violations of the provisions.	
	April 2023: H.B. 356, passed	The law prohibits a governmental entity from contracting for goods or services valued at $100,000 or above with a company having at least 10 full-time employees that discriminates against firearms entities, unless the company certifies that it does not and will not for the term of the contract so discriminate. Contracts entered with sole-source providers or when no other bids are received with such certification are exempt. "Company" is defined as "a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, a majority-owned subsidiary, a parent company, or an affiliate of those entities or associations that exists to make a profit." The law became effective on October 1, 2023 and is codified at MONT. CODE. ANN. § 30-20-301.	H.B. 356
	February 2023: H.B. 608, failed	The bill would have required the state to divest from companies that boycotted Israeli companies in the view of the state.	H.B. 608
	January 2023: Governor and state Board of Investments announcement	The Montana governor and Montana Board of Investments committed to anti-ESG investment policies. The governor and Board said it would continue to maximize shareholder return and prohibit the state's asset managers from voting the state's proxies in alignment with ESG investment decisions.	Governor's Announcement
Nebraska	May 2023: L.R. 237, pending	The resolution would propose an interim study to determine the extent to which companies operating in, or contracting with, the state of Nebraska are using ESG metrics.	L.R. 237

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: L.B. 743, pending	The bill would require that public fund investments be made, supervised and voted exclusively in "financial" interest of plan beneficiaries. Nonfinancial interests would include reducing greenhouse gas emissions, instituting corporate board or employment criteria, divesting from companies that do not meet environmental standards or engage in firearms business, furthering access to abortion, sex or gender change, in each case, beyond what is required by law. The bill would apply to any investment manager, fiduciary, governing body or financial institutions involved in such function.	L.B. 743
	January 2023: L.B. 67, pending	The bill would require the office of the State Treasurer to ensure that any money deposited by the office is not used by financial institutions for social or political causes or objectives.	L.B. 67
	January 2023: L.B. 730, pending	The bill would prohibit a financial institution from denying a person or legal entity a financial product or service for reasons that are not based on the entity's failure to meet "quantitative, impartial, and risk-based financial standards." The bill would also require financial institutions that use ESG criteria in determining the access or denial of financial services to a person or entity in the state to disclose the use of such standards to regulators and to the person or entity denied the service.	L.B. 730
	December 2022: Nebraska AG publishes report on ESG investing	Nebraska's attorney general published a report titled "The Endgame of ESG," seeking to inform policymakers of ESG and describe what he views as the "legal threat" presented by ESG-based investments. In the report, he stated: "This movement is a threat to our democratic form of government, so it is critical to understand its endgame" and noted that ESG is a means to let the UN "impose its hand-picked, politically preferred metrics on American businesses."	NBC Nebraska Article (includes full report)
Nevada	April 2023: S.B. 228, failed	The bill would have prohibited the Public Employees' Retirement Board from investing, providing investment advice or engaging in shareholder proxy voting for any purpose other	S.B. 228

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		than the financial interest of the Public Employees' Retirement System. The bill also would have prohibited, under certain circumstances, certain governmental entities from contracting with companies that engage in economic boycotts.	
	June 2022: Nevada Treasurer Announcement	Nevada treasurer announced that the state is to divest from businesses that sell or manufacture assault-style weapons. Office of the Treasurer is conducting a review of all current assets and will work to divest in "the most fiscally prudent manner possible." The move will reportedly affect less than 1% of the $49 billion investment portfolio.	USA Today Article
New Hampshire	January 2024: S.B. 520, pending	The bill would require fiduciaries acting on behalf of the state or local retirement system board as an investment manager or proxy advisor to take into account only financial factors when discharging their duties with respect to the public retirement system. The bill would also require that all shares held directly or indirectly by or on behalf of the state public retirement system and/or its participants and beneficiaries be voted solely in the financial interests of such participants and beneficiaries.	S.B. 520
	January 2024: H.B. 1267, pending	The bill would prohibit the investment of the funds of the state treasury, executive branch agencies and the state retirement system in investments that consider ESG criteria. On February 8, 2024, the New Hampshire House Committee on Executive Departments and Administration unanimously rejected a version of this bill that would have made it a felony punishable by up to 20 years in prison to knowingly make investments considering ESG criteria. The Committee's unanimous recommendation was accepted by a full House.	H.B. 1267 Bloomberg Article – Rejection of Felony Designation
	July 2023: H.B. 457, passed	The law requires that investment and management decisions, in the context of state retirement system and treasury funds, maximize benefits for the state or fund beneficiaries. The state treasurer, investment committee and board of trustees of retirement systems have to	H.B. 457

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		report to the legislative branch on compliance with this duty. The law became effective on August 29, 2023.	
	April 2023: Governor's Executive Order 2023-03	The executive order bars officials in the New Hampshire Retirement System from investing in funds "solely" based on ESG criteria, encouraging them to comply with their fiduciary obligations to maximize shareholder value. Additionally, the retirement system and state treasurer must report to the executive and legislative branches on compliance with this order.	Executive Order
	January 2023: H.B. 227, pending	The bill would have required financial institutions to make the financial services it offers available to all persons on a nondiscriminatory basis and would prohibit a financial institution from denying financial services to a person based on non-pecuniary factors. Any financial institution found to be in violation would have been deemed guilty of unfair or deceptive business practices under New Hampshire state law.	H.B. 227
	June 2022: H.B. 1469, passed	The law created a committee to determine the need for anti-discrimination legislation in the state's financial industry, including discrimination based on political opinion. The bill text introduced originally aimed to prevent financial institutions from discriminating based on "social credit, environmental, social, and governance, or similar values-based or impact criteria," but it was amended during the legislative process. The bill does not define "social credit." The law went into effect on June 22, 2022.	H.B. 1469
New Jersey	January 2024: S. 2418, pending	The bill would prohibit the investment of pension and annuity funds by the state in entities that avoid "Superfund" obligations to the state. "Superfund" obligations arise under the federal Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). The bill would require that divestment occur within three years of the bill's effective date or within three years of an initial identification of a business, country or country's instrumentality	S. 2148 CERCLA Overview

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		that is in violation of the bill. The bill would also require the director of the treasury to file a report with the legislature of all investments held in violation of the bill within 180 days of the bill's effective date. The bill would take effect immediately if passed. The bill is a carryover of previous bills A. 2791, introduced in February 2022, and S. 915, introduced in January 2022.	
	January 2024: S. 198, pending	The bill would prohibit the Director of the Division of Investment from investing any assets of the state retirement funds in any of the top 200 companies that hold the largest carbon content fossil fuel reserves. The bill would require that divestment from coal companies occur within two years and divestment from all other fossil fuel companies to occur within one year. The bill would also require the State Investment Council and the Director of the Division of Investment to report on the divestment efforts required by the bill within 120 days of the bill's effective date and annually thereafter. The bill would take effect immediately if passed. The bill is a carryover of previous bills A. 1733 and S. 416, both introduced in January 2022.	S. 198
	January 2024: S. 1115, pending	The bill would prohibit the state from investing any assets of any pension or annuity fund under the management of the Division of Investment in the Department of the Treasury in companies that manufacture, import or sell assault firearms for civilian use. Investments in companies that manufacture, import or sell assault firearms for the exclusive use by nations' official military organizations and law enforcement agencies would be exempt. The bill would require that divestment from such companies occur within three years. The bill would take effect immediately if passed. The bill is a carryover of previous bills A. 1752, introduced in January 2022, and S. 1407, introduced in February 2022.	S. 1115

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New Mexico	August 2021: State Investment Council adopts ESG policy	The State Investment Council adopted guidelines to incorporate ESG considerations in connection with the New Mexico Permanent Funds. In investing and managing the Permanent Funds assets, the importance of long-term sustainability and ESG factors that "can present material business risks or opportunities" will be considered, subject to fiduciary duties of the State Investment Officer and Council.	ESG Guidelines
New York	January 2024: NYC Pension Funds plans	NYC Comptroller, NYCERS and the Teachers Retirement System (TRS) announced implementation plans to reach goal of net zero emissions in investment portfolios by 2040. The Net Zero Implementation Plans cover four strategies: (i) Disclose emissions and set interim targets; (ii) Engage portfolio companies and asset managers to be net zero-aligned; (iii) Invest in climate change solutions; and (iv) Divest to reduce risk.	Comptroller's Press Release
	January 2024: A. 6525, pending	The bill would require a person contracting with a public authority to make a statement of non-investment in the Russian energy sector.	A. 6525
	January 2024: S. 5437, pending	The bill would require certain corporations and financial institutions subject to the supervision of the Department of Financial Services to annually prepare a climate-related financial risk report for submission to the secretary of state and to make such report available to the public.	S. 5437
	January 2024: A. 4090 / S 6472, pending	The bill would prohibit trustees of state public retirement system funds from using ESG criteria "as a screening method" for investment selections.	A. 4090 / S. 6472
	January 2024: A. 4277, pending	The bill would prohibit the investment of public funds in institutions or companies doing business in Iran. The comptroller would be required to divest investments held in violation of the bill and report to the legislature all investments held prior to the bill's application.	A. 4277
	January 2024: A. 881, pending	The bill would prohibit the investment of the money from the common retirement fund in any corporation or company (or any subsidiary, parent, or affiliate of any corporation or	A. 881

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		company) engaged in the boycott of Israel, including Iran-restricted companies and Sudan-restricted companies.	
	January 2024: S. 1953, pending	The bill would require the SUNY and CUNY Board of Trustees and affiliated nonprofits to cease investments in 200 of the largest publicly traded fossil fuel companies by July 1, 2024 and divest from investments in such companies by January 1, 2028. Divestment from companies engaged in the mining, extraction and production of coal would need to be completed within one year of the law coming into effect.	S. 1953
	January 2024: S. 899 / A. 1101, pending	The bill would prohibit investment in coal as well as oil and gas producers, specifically, those to be included on an exclusion list. Would require divestment from coal producers within one year and from oil and gas producers within two years of a company being included on the exclusion list but in any event no later than five years from the effective date of the legislation. Applicable to the NY State Teachers' Retirement System. Similar to the *Teachers' Fossil Fuel Divestment Act in 2022* that did not pass that year.	S.899 / A.1101
	January 2024: A. 1831, pending	The bill would introduce the *Reputational Insight and Oversight Transparency Act* to hold public retirement systems accountable for political contributions, in response to the January 2021 storming of the U.S. Capitol. The bill would restrict certain political contributions by investee firms of NY State Common Retirement Fund and related NY municipality pension funds. Would disallow contributions to political action committee (super PACs), tax-exempt political organizations, and § 501(c)(4) entities. Senior executives of investee firms would have to report contributions exceeding $10,000 to NY comptrollers.	A. 1831

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North Carolina	June 2023: H. 750, passed	Similar to S. 679 and S. 737, the law provides that fiduciaries may only evaluate investments based on pecuniary factors. North Carolina's State Treasurer endorsed H 750 in a public statement on June 6, 2023. The statement noted that the Treasurer recently signed an agreement enabling the North Carolina Retirement Systems (NCRS) to vote its shares for investments managed by BlackRock, in an attempt to gain control over voting the system's assets. The law became effective on June 27, 2023 and is codified at N.C. Gen. Stat. §§ 143-162.6, 147-69.7.	H. 750 NC State Treasurer Statement
	May 2023: S. 737, pending	Similar to S. 679 and S. 750, the bill would prohibit fiduciaries from considering ESG factors for investment decisions and proxy voting.	S. 737
	April 2023: H. 784, pending	The bill would prohibit banks, credit unions and state associations from discriminating in the provision of financial services solely based on political affiliation or value- or impact-based criteria, including ESG credit factors. The bill would permit institutions to offer investments based on subjective standards if standards are disclosed and consented to by the customer.	H. 784
	April 2023: S. 679, pending	Similar to S. 750 and S. 737, the *North Carolina Public Finance Protection Act* would prohibit consideration of non-pecuniary factors in public finance investment decisions. Specifies that ESG or other similarly oriented considerations are pecuniary factors only if they present economic risks or opportunities that qualified investment professionals would treat as material economic considerations under generally accepted investment theories; and sets out provisions governing consideration of those factors.	S. 679
	March 2023: H. 417, pending	The bill would prohibit the North Carolina Retirement Systems and the State Treasurer from investing in companies that boycott Israel or energy companies that engage in "improper boycotts," which includes the refusal to deal with a company, termination of business activities with a company, or another action intended to penalize, inflict economic harm on, or limit commercial relations with a company that	H. 417

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		engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy, or does business with a company that does the same. The bill would require the State Treasurer to develop a list of companies that engage in boycotts of energy companies within 120 days of the adoption of the policy and update the list annually.	
	January 2023: H. 24, pending	The bill would request review of Federal Acts/Rules/Regulations by the attorney general, including regulation of investments related to ESG factors, to determine constitutionality.	H. 24
North Dakota	April 2023: H.B. 1429, passed	The law discourages companies and investment firms from basing decisions on social factors, particularly if they would be deemed harmful to North Dakota's agriculture and energy sectors. The law is codified at N.D. CENT. CODE §§ 26.1-04-03, 21-10-08.1, 54-44.4-02 and adds a new section to Ch. 54-06.	H.B. 1429
	February 2023: H.B. 1278, failed	The bill would have expanded restrictions on social investments introduced by earlier legislation (S.B. 2291) and would have prohibited State Investment Board and any state entity investing public funds from making "social investments," unless it can be demonstrated that such investment will perform at least as well as a similar nonsocial investment would. "Social investments" would be amended to cover socially responsible and ESG impact criteria. The bill would have directed the State Investment Board to provide investment reports to the state legislative audit and fiscal review committee.	H.B. 1278
	February 2023: H.B. 1347, failed	The bill would have required the state treasurer to prepare and publish a list of financial institutions engaged in boycott of energy companies. Limiting business relationships with companies in fossil fuel-based energy was considered a boycott under the bill. The bill would have authorized the state treasurer to not enter into banking contracts	H.B. 1347 Pension and Investments Article

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		with the restricted institutions. The bill was voted against 90-3.	
	February 2023: H.B. 1469, failed	The bill would have directed a fiduciary of state retirement, deferred compensation, or taxpayer funds use plan to consider "pecuniary factors" when evaluating investment or discharging other duties relating to a plan. Nonpecuniary or other factors are not permissible factors. The bill would have required shares held by a plan to be voted only in pecuniary interest of the plan. The bill would also have required the State Investment Board set up a list of financial institutions not eligible to receive state funds based on the institution's intended or actual furtherance of political, ESG, or other goals conflicting with the state's energy and agriculture industries.	H.B. 1469
	February 2023: H.B. 1283, failed	The bill would have prevented financial institutions (including banks and insurance companies) from denying service to customers based on ESG criteria and would have required them to disclose if ESG was considered in the financial decision-making process.	H.B.1283 Center Square
	March 2021: S.B. 2291, passed	The law prohibits State Investment Board from making "social investments," unless it can be demonstrated that such investments will perform at least as well as similar non-social investments would. The law also directs the state's Department of Commerce to report on (1) ESG-related investment policies and (2) the state's involvement with companies that consider ESG factors in their decisions and the implications of companies boycotting energy or production agriculture commodities. The law is codified in an added section of N.D. CENT. CODE Ch. 21-10.	S.B. 2291
Ohio	May 2023: S.B. 6, pending	The bill would focus on environmental, social and corporate governance policies with respect to the state retirement systems, Bureau of Workers' Compensation and state institutions of higher education, noting that a board may not "adopt a policy, or take any action to promote a policy, under which the board makes investment	S.B. 6

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		decisions with the primary purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation.	
	February 2023: H.B. 4, pending	The bill would declare the legislature's intention to enact legislation regarding financial institutions and other businesses that conduct economic boycotts or discriminate against certain companies or customers based on certain factors, including dealing with state contracts between state government entities and such financial institutions and other businesses.	H.B. 4
Oklahoma	February 2024: State Treasurer Statement Regarding Financial Institutions Leaving UN Climate Alliance	Oklahoma's state treasurer commends asset managers, BlackRock, State Street and J.P. Morgan Chase for leaving Climate Action 100+. These three asset managers are on the state's Restricted Financial Company List. However, the state treasurer stated that "to regain the trust necessary to manage the state's money, firms like Blackrock should focus only on financial return, and depart from any other climate groups that require using client money to pursue ESG goals". This includes continuing membership in the Glasgow Financial Alliance for Net Zero ("GFANZ"), the Net Zero Managers Initiative and the Net-Zero Banking Alliance.	OK State Treasurer's Statement
	May 2023: State Treasurer publishes Restricted Financial Company List	Oklahoma's state treasurer publishes list of financial companies deemed to be engaging in energy company boycotts, pursuant to passed bill H.B. 2034.	OK State Treasurer's Restricted Financial Companies List
	March 2024: S.B. 1536, pending	The bill would amend the *Energy Discrimination Elimination Act of 2022* to provide that in the event the Treasurer disagrees with the determination made by a state governmental entity to not divest from a listed financial company, the Treasurer shall seek an Attorney General opinion ruling whether the determination is in compliance with state laws binding the state governmental entity.	S.B. 1536
	March 2024: H.B. 3541, pending	The bill would amend certain sections of the *Energy Discrimination Elimination Act of 2022* to address companies that boycott "targeted companies" (defined generally as those involved in the timber, mining, agriculture or fossil-fuel-based energy sectors). The bill would change	H.B. 3541

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		definitions and procedures with respect to funds managed by state governmental entities. The state treasurer would be required to maintain a list of financial companies that boycott targeted companies. Amongst other things, the Treasurer will have the authority to terminate contracts under certain conditions, prescribe procedures for divestment and prescribe standards for evaluation of certain financial companies.	
	February 2024: H.B. 3114, pending	The *Oklahoma Welfare for Corporations Act* would require specific procedures before introducing or amending a bill or joint resolution that establishes a new tax incentive (a "Corporate Welfare Bill"). The bill would require a comprehensive cost and risk analysis be conducted by an Incentive Evaluation Commission before a corporate welfare bill may be considered, including evaluation of (i) the impact on public finance and (ii) risks associated with the corporation's participation in DEI and ESG. The cost analysis will examine the financial impacts, such as tax revenue loss, potential budgetary constraints and the long-term fiscal impact on the government. The risk analysis will examine the uncertainties, such as economic viability of the corporation, potential job creation or retention, market conditions and any potential negative consequences for other industries or taxpayers. This bill would become effective November 1, 2024.	H.B. 3114
	February 2024: H.B. 3118, pending	The bill would require that before a review committee makes any recommendation to a governing body related to the formation of an incentive district or an increment district, the review committee must be provided with the following information related to each for-profit business enterprise that would benefit from the formation of the district: whether the legal entity has pursued or adopted (i) environmental, social or governance policies that are inconsistent with profit maximization and (ii) diversity, equity or inclusion policies. This bill would become effective November 1, 2024.	H.B. 3118

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	April 2023: H.B. 2218, failed	The bill would have prohibited the state from contracting with companies that discriminate against a firearm entity or firearm trade association. This law would not have applied to contracts valued below $100,000 and companies with fewer than 10 employees.	H.B. 2218
	February 2023: S.B. 985, pending	The bill would permit the Administrator to deny any securities registration or revoke, suspend, condition, or limit any registration if the Administrator determines that any applicant or registrant, any member, principal, or director of the applicant or registrant or any person directly or indirectly controlling the applicant or registrant has made a material misrepresentation or false statement to, or concealed any essential or material fact from, any person in the rendering of investment advice or the sale of a security to such person. "Misrepresentation or false statement to" or "concealment of any essential or material fact" includes the rendering of investment advice based on non-pecuniary factors.	S.B. 985
	February 2023: S.B. 1075, pending	The bill would prohibit any state agency or political subdivision from entering into an agreement or contract with a business without written verification that the business does not engage in economic boycotts and will not engage in economic boycotts during the term of the agreement or contract.	S.B. 1075
	February 2023: H.B. 2567, pending	The bill would provide that all shares held by or on behalf of a state governmental entity must be voted solely in the pecuniary interest of plan participants and their beneficiaries. The measure prohibits relying on the guidance of any entity listed by the Treasurer as it relates to the Energy Discrimination Act of 2022 (see H.B. 2034 below). Additionally, proxy voting would not be granted to any person or entity that is not a part of the state government entity unless that person or entity commits in writing to follow guidelines that match the state governmental entity's obligation to act solely upon pecuniary factors.	H.B. 2567
	February 2023: S.B. 469, pending	The *Higher Education Energy Discrimination Elimination Act of 2023*.	S.B. 469

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		The bill would subject higher education entities to the provisions of the Energy Discrimination Act of 2022. The measure specifies, however, that a higher education entity and the Treasurer would be exempt from any conflicting statutory or common law obligations including any obligations with respect to making investments, divesting from any investment, preparing or maintaining any list of financial companies, or choosing asset managers, investment funds, or investments for the higher education entity's securities portfolios.	
	February 2023: S.B. 470, pending	The bill would provide that all shares held by or on behalf of a state governmental entity must be voted solely in the pecuniary interest of plan participants and their beneficiaries. The measure would prohibit relying on the guidance of any entity listed by the Treasurer as it relates to the *Energy Discrimination Act of 2022* (see H.B. 2034 below). Additionally, proxy voting would not be granted to any person or entity that is not a part of the state government entity unless that person or entity commits in writing to follow guidelines that match the state governmental entity's obligation to act solely upon pecuniary factors.	S.B. 470
	February 2023: H.B. 2544/ S.B. 672, pending	The bill would require a financial institution that utilizes standards or guidelines based on non-financial, non-traditional, or subjective criteria, such as ESG scores or DEI policies to disclose to the state authority that oversees it (and to the denied person, as applicable) the specific standards, guidelines, and criteria used to determine access or denial of a financial service.	H.B. 2544/ S.B. 672
	February 2023: H.B. 2212, pending	The bill would provide that no bank or trust company doing business in this state, either directly or through the use of an outside contractor, may discriminate against any individual, business, or other customer based on subjective or arbitrary standards, including, but not limited to environmental criteria or other values-based criteria.	H.B. 2212
	March 2023: H.B. 2547, pending	The bill would require all investment decisions by or on behalf of a governmental entity to be determined solely on pecuniary factors. Governmental entities, including public	H.B. 2547

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		retirement systems, would not be able to grant proxy voting authority to a third-party fiduciary unless no other economically practicable alternative is available and that person has a practice of acting and signs a written commitment to act solely upon pecuniary factors. Every proxy vote taken by a designated fiduciary would have to be reported annually to the state treasurer and posted on the treasurer's website. The measure also would prohibit a governmental entity from relying on voting guidance from a company classified as a restricted financial institution by the State Treasurer.	
	February 2023: S.B. 455, pending	The bill would authorize the legislature to review executive orders by the President of the United States relating to, among other topics, the regulation of the financial sector as it relates to ESG standards. The law would prohibit implementation or enforcement of federal actions found unconstitutional.	S.B. 455
	February 2023: S.B. 1004, pending	The *Oklahoma Pension Fiduciary Duty Act* would require consideration of only "financial factors" by a fiduciary investing public retirement system assets. Retirement systems would not entrust plan investments or authorize non-employees for proxy voting, unless the fiduciary commits to acting only in the financial interest of plan participants. The bill would require a noncompliant fiduciary to pay three times the required annual payments for services rendered.	S.B. 1004
	February 2023: S.B. 974, pending	The bill would prohibit state agencies from participating in use of any "environmental, social or governance criteria" (ESG) or "economically targeted investment requirements" (ETI) policies in employment. The bill would block use of ESG or ETI criteria in awarding of state contracts. Vendors would have to certify their employees are not subject to such metrics.	S.B. 974
	February 2023: H.B. 1947 / H.B. 2340, pending	The *Eliminate Economic Boycotts Act* would restrict state contracts with companies involved in economic boycotts of businesses: (a) in fossil	H.B. 1947 / H.B. 2340

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		fuel energy, timber, mining, agriculture, firearms; (b) that do not meet ESG standards or corporate board metrics based on protected characteristics; (c) that do not facilitate access to abortion, sex or gender change, or transgender surgery; or (d) that do business with any of the above categories. The bill would not apply to contracts valued below $100,000 and companies with fewer than 10 employees.	
	March 2024: H.B.1617, pending February 2024: H.B. 2777, pending February 2023: H.B. 2545, pending	The *Oklahoma Public Finance Protection Act* would obligate fiduciaries investing for public retirement plans to account for only pecuniary factors. Plan fiduciaries are restricted from factoring nonpecuniary goals, including in voting. The board of trustees of the concerned plan would have voting authority, which will be delegated only if the fiduciary commits to vote in pecuniary interest of plan participants. The bill would apply to all pension and retirement plans offered by state and local governments in Oklahoma and any education or enterprise operated by the state.	H.B. 1617 / H.B. 2545 / H.B. 2777
	February 2023: S.B. 15, pending	The bill would prohibit the state from contracting with companies that discriminate against a firearm entity or firearm trade association. This bill would not apply to contracts valued below $100,000 and companies with fewer than 10 employees. This is a similar bill to H.B.3144, which failed the legislative process in 2022.	Press Release S.B.15
	February 2023: S.B. 842, pending	The bill would prohibit the state from contracting with companies that discriminate against a firearm entity or firearm trade association. This bill would not apply to contracts valued below $100,000 and companies with fewer than 10 employees.	S.B. 842
	May 2022: H.B. 2034, passed	The law involves all Oklahoma state retirement systems and requires treasurer to maintain and provide to each state governmental entity a list of financial companies that boycott energy companies. The law prohibits investment in any listed companies and prohibits state governmental entities from entering a contract for goods or	H.B.2034

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		services with a listed company, unless alternatives are not available. The law prohibits state governmental entities from entering a contract for goods or services worth at least $100,000, unless the company verifies in writing that it does not boycott energy companies and will not do so during the contract. The law is applicable only to companies with at least 10 full-time employees. The law is codified at OKLA. STAT. tit. 74 § 12002, et seq. (the "Energy Discrimination Act of 2022").	
Oregon	March 2024: H.B. 4083, pending	The law directs the Oregon Investment Council and the State Treasurer to make efforts to eliminate certain investments in thermal coal companies. Divestments must be accomplished without monetary loss to the investment funds. The State Treasurer may retain an investment in a thermal coal company if the company demonstrates that it is transitioning to clean energy on a reasonable timeline.	H.B. 4083
	June 2023: H.B. 3478, failed	The law would have required the State Treasurer, when marketing securities, to make climate risk disclosures to potential investors, including regarding the oversight and governance by the state of climate-related risks.	H.B. 3478
	June 2023: H.B. 3219, failed	The law would have established standards for a fiduciary of a pension benefit plan offered by a public body and limit factors that would be considered in investments of assets of the plan, such as nonpecuniary factors related to environmental, social, corporate governance and similar considerations.	H.B. 3219
	June 2023: H.B. 2601, failed	The *Treasury Investment and Climate Protection Act* would have required the state treasurer to ensure that no state investment funds acquire carbon-intensive investments. The bill would have required divestment from publicly traded investments in entities on the Carbon Underground 200 List in six months and on the Urgewald Global Coal Exit List or Urgewald Global Oil and Gas Exit List in two years. Would require divestment from all carbon-intensive investments by January 1, 2035.	H.B. 2601

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	November 2022: Treasurer Releases Statement on Decarbonization	Oregon's treasurer announced that his office would devise a long-term decarbonization plan for the state's pension fund investments by early 2024. He further noted that the goal would be for the state to get the pension fund to 50% decarbonization by 2035 and net zero carbon by 2050.	Treasurer's Statement
Pennsylvania	March 2023: H.B. 334, pending	The bill would require a financial institution that utilizes standards or guidelines based on non-financial, non-traditional, or subjective criteria, such as ESG scores or DEI policies to disclose to Department of Banking and Securities of the Commonwealth (and to the denied person, as applicable) the specific standards, guidelines, and criteria used to determine access or denial of a financial service.	H.B. 334
	September 2022: H.B. 2799, failed	*Liberty, Virtue and Independence Act.* This bill would have prohibited financial institutions from discriminating based on "subjective or arbitrary" standards, including using social credit scores or environmental, social, or governance scores and imposed fines for such offenses and allowed for criminal prosecution if five or more offenses are committed. The bill defined "social credit scores" as "systems to evaluate the trustworthiness or reliability of an individual based on a complex combination of personal data, like demographic information, online and offline behaviors and social network activity."	H.B.2799
Rhode Island	January 2024: H.B. 7127 / S.B. 2045, pending	The bill would establish the Rhode Island Secure Choice Retirement Savings Program Act providing a retirement savings program for Rhode Island private sector employees. The bill would require the state investment commission to provide options for investment in securities of companies that demonstrate good governance, efficient use of environmental resources and thoughtful management of social impact.	H.B. 7127 / S.B. 2045
	March 2023: H.B. 5417 / S.B. 545, failed	The bill would have required state investment commission to provide options for investment in securities of companies that demonstrate good governance, efficient use of environmental resources and thoughtful management of social impact.	S.B. 545 / H.B. 5417

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	February 2023: H.B. 5811, failed	The bill would have required the state's investment commission to identify and divest from pension fund investments in military weapon manufacturers whether held directly and indirectly with certain exceptions.	H.B. 5811
South Carolina	January 2024: S.B. 1014, pending	The bill would prohibit conduct including misrepresentation of facts, false statements or failure to disclosure important facts in providing investment advice regarding securities, so as to set disclosure standards for investment advisers who render services based on social or non-financial factors.	S.B. 1014
	January 2024: H. 3690, passed	The law titled *ESG Pension Protection Act* requires the South Carolina Retirement System Investment Commission to only consider "pecuniary factors" in investing state retirement assets. Investment strategies prioritizing "nonpecuniary factors" like promotion of ESG goals are considered if they provide a superior risk adjusted return. The law requires the public retirement system to exercise shareholder proxy votes based solely on "pecuniary factors." The law was first introduced in January 2023. The law became effective on February 5, 2024 and is codified at S.C. CODE ANN. §§ 9-16-10, 9-16-30, 9-16-50, 9-16-320, 9-16-330, 9-16-110.	H. 3690
	December 2023: H.B. 4699, pending	The bill would prohibit the state or any political subdivisions from offering incentives or subsidies to companies that engage in the promotion of environmental, social or governance objectives through scoring or rating systems deemed to have no significant financial impact. Companies would be required to certify non-participation in such ESG evaluations and affirm in writing that they will operate in the best interests of the people of South Carolina.	H.B. 4699
	March 2023: S.B. 634, pending	This is a resolution to express the sense of the SC senate that public funds should not be dedicated to economic development projects that benefit a corporation that is actively engaged in promoting environmental, social or political goals, objectives or outcomes.	S.B. 634

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	March 2023: S.B. 583, pending	The bill would prohibit the promotion of nonpecuniary factors in investing; would require insurance companies and financial institutions to disclose if and how nonpecuniary considerations affect their services.	S.B. 583
	February 2023: S. 559, pending	The bill would provide that banks may not use social credit scores when making decisions concerning whether to provide services to a consumer or business entity and that credit unions may not use social credit scores when making decisions concerning whether to provide services to a consumer or business entity. The bill does not define "social credit score."	S. 559
	January 2023: H. 3056, pending	The bill would provide that the SC general assembly, either of its respective bodies, a standing committee, the speaker of the house of representatives, the president of the senate or not less than five members of the general assembly may review any Presidential Executive Order not affirmed by Congress and may recommend that the attorney general review a Presidential Executive Order to determine its constitutionality under certain circumstances.	H . 3056
	January 2023: H.B. 3393, pending	The bill would prohibit a governmental entity from contracting with a company for goods or services valued at $100,000 or more, unless the company certifies that it does not, and will not for the duration of the contract, discriminate against firearms businesses. The bill would not apply if the company is a single-source provider or if no company provides such a certification.	H.B. 3393
	January 2023: H. 3565, pending	The bill would provide that "state retirement funds must be invested solely to achieve a return for pension plan beneficiaries and not to achieve certain political and social objectives," including: reducing greenhouse gas emissions; instituting board or employment, composition, compensation or disclosure criteria that incorporate protected characteristics; divesting from any company for failing to meet environmental standards or disclosures; providing access to abortion, sex or gender change or transgender surgery; or divesting from firearms companies.	H. 3565

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: H. 3564, pending	The bill would prohibit the state from contracting with companies that boycott or discriminate against certain companies engaging in "economic boycotts," including: (a) those engaged in fossil fuel-based energy, timber, mining, agriculture, firearms; (b) those that do not meet environmental standards or disclosure criteria, particularly related to greenhouse gas emissions, or board or employment standards or criteria, particularly related to protected characteristics; (c) those that do not facilitate access to abortion, sex or gender change, or transgender surgery; and (d) those that do business with the above.	H. 3564
	January 2023: S. 0111, pending	The bill would prohibit banks and financial institutions from discriminating based on certain "subjective or arbitrary" standards, including "social credit, environmental, social and governance, or similar values-based or impact criteria." However, they "may offer customers investments, products, and services that include subjective standards, provided that the standards are fully disclosed and explained to any potential customer or investor before entering into a contract for such products and services." The bill does not define "social credit."	S. 0111
	October 2022: South Carolina Treasurer announces divestment from BlackRock	South Carolina State Treasurer announced that the state will be divesting approximately $200 million from BlackRock due to the manager's ESG and sustainable investing policies. The treasurer noted that he had already been working "systematically to remove BlackRock-managed funds from our state's various investment portfolios" over the last five years.	PI Online Article
South Dakota	January 2024: H.B. 1247, pending	The bill would provide consumer protection through fair access to financial and insurance products and services and would notably consider it unsafe or unsound to deny or cancel services to a person or to discriminate against a person on the basis of non-financial factors (including failure to meet ESG standards).	H.B. 1247
	February 2023: H.B. 1207, failed	The bill would have prevented financial companies and insurers from denying services to someone using anything other than "impartial	H.B. 1207

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		risk-based financial standards," thus excluding ESG criteria.	
	January 2023: H.B. 1208, failed	The bill would have provided that state entities may not, under any governmental authority, enter into a contract unless the contract contains a written verification from the company that it does not engage in economic boycotts and will not engage in economic boycotts during the term of the contract.	H.B. 1208
	January 2023: H.C.R. 6008, failed	The resolution would have affirmed, supported and defended certain principles, values and goals, including that government should not compete with private enterprise and the implementation of ESG standards should be opposed.	H.C.R. 6008
Tennessee	January 2024: H.B. 2887 / S.B. 2842, pending	The bill would define "materially negative financial impact" and "service provider" for the purposes of the Uniform Prudent Management of Institutional Funds Act, resulting in institutional funds management and investing decisions to restrict the use of ESG criteria.	H.B. 2887 / S.B. 2842
	December 2023: State sues BlackRock	The State of Tennessee filed a lawsuit against BlackRock, alleging that the asset manager has downplayed the impact of ESG factors on the firm's investment strategies and the extent of the effect on companies' performance and outcomes. According to the complaint, the state is claiming BlackRock has breached consumer laws by making misleading statements about its ESG investment considerations.	Complaint
	May 2023: S.B.0955 / H.B.1286, passed	The law requires the treasurer to invest for "financial reasons, excluding [ESG] interests that may not be material to the financial analysis of the investment, for the exclusive benefit of the beneficiaries of the programs while maximizing long-term shareholder value." The law became effective on May 17, 2023 and is codified at TENN. CODE ANN. tit. 9, ch. 4.	S.B.0955 / H.B.1286
	March 2023: H.B. 728/ S.B. 1091, failed	The bill would have required a financial institution that utilizes standards or guidelines based on non-financial, non-traditional, or subjective criteria, such as ESG scores or DEI policies to disclose to the Department of Financial	H.B. 728 / S.B. 1091

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Institutions (and to the denied person, as applicable) the specific standards, guidelines, and criteria used to determine access or denial of a financial service.	
	July 2022: S.B.2649, passed	The law prohibits state treasurer from entering into a contract with a state depository if the state depository has a policy prohibiting financing to companies within the fossil fuel industry. The law became effective on July 1, 2022 and is codified at TENN. CODE ANN. tit. 4, tit. 9 and tit. 12.	S.B.2649
Texas	November 2023: Texas Comptroller Updates Blacklist	Texas Comptroller published an updated list of companies and investment funds considered to boycott the oil and gas industry, simultaneously encouraging state governmental entities to investigate the companies they do business with, even if not listed in the blacklist, to ensure there is no violation of Texas's anti-boycott laws.	Texas Comptroller Press Release
	June 2023: S.B. 833/H.B. 1239, passed	The law prohibits insurers from using an ESG score, factor or standard to charge a rate different than the rate charged to another business or risk in the same class for essentially the same hazard. Bill does not apply if the insurer's actions are based on an ordinary insurance practice. The law became effective on September 1, 2023 and is codified at INS. §§ 565.001-565.007.	S.B. 833/H.B. 1239
	May 2023: S.B. 242, failed	The bill would have required a monthly report by the attorney general to the executive and legislative branches that (i) identifies rules adopted by federal government agencies during the previous month related to, among other topics, the regulation of the financial sector as it relates to ESG standards, and (ii) determines if such rules violate the United States Constitution. This bill would further have prohibited cooperation by state and local entities with such acts.	S.B. 242
	May 2023: H.B. 2530, failed	The bill would have prohibited a state governmental entity from entering into a contract with a company unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; (2) will not boycott energy companies during the term of the contract; (3) is not a listed financial	H.B. 2530

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		company; and (4) is not an affiliate of a listed financial services or banking company.	
	May 2023: S.B. 1060, failed	The bill would have prohibited insurers from implementing shareholder proposals or including proposals in proxy statements if they limit business with fossil-fuel producers or otherwise "limit an insurer's ability to insure an entity involved in legal activity for the purpose of achieving [ESG] ends."	S.B.1060
	May 2023: UBS settles claims with Texas independent school district arising from S.B. 13's anti-boycott restrictions	UBS Group AG (UBS) has agreed to pay $850,000 to the Normangee Independent School District of Texas after the school district had to rebid a contract at a higher interest rate when UBS was placed on the Texas Comptroller's list of companies that boycott energy companies in August 2022. UBS had certified when signing the deal with the school district that it was not boycotting the energy industry. Once it was listed by the Texas Comptroller as a firm that is considered to engage in such boycott, it was prevented from underwriting an $18.6 million bond issuance due to the passing of S.B. 13 in 2021 (*see below*), which prohibits companies on the Comptroller's anti-boycott list from contracting with government entities in the state.	Law360
	May 2023: S.B. 2146, failed	The bill would have required financial institutions that oversee mutual funds to submit reports to the Texas comptroller discussing any current or intended divestment from fossil fuel companies.	S.B. 2146
	May 2023: S.B. 1446, failed	The bill would have prohibited state pensions or their agents from considering "social, political, or ideological" factors in investment decisions. The bill would have prohibited the governing body of TX public retirement systems from granting proxy voting authority to a proxy advisor unless the proxy advisor has a policy stating that their sole goal is to maximize financial return. Additionally, public retirement systems shall post, on a public website, how a proxy advisor will cast a proxy vote made on behalf of the system not later than 24 hours before the proxy vote is to be cast.	S.B. 1446

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	April 2023: H.B. 3619, failed	The bill would have prohibited the investment of the permanent university fund, the national research university fund, or money held by a public institution of higher education in financial companies that boycott certain energy companies.	H.B. 3619 / S.B. 1489
	March 2023: H.B. 1683, failed	The bill would have prohibited lenders from discriminating in transactions based on ESG scores or value-based lending.	H.B. 1683
	March 2023: H.B. 3661, failed	The bill would have required a financial institution to provide nonconfidential information regarding the institution's policies for the use of ESG scores to the finance commission in the form and manner prescribed by the commission, including whether an ESG score affects the institution's determination of whether to make a loan or other extension of credit to a customer.	H.B. 3661
	March 2023: H.B. 5252, failed	The bill would have prohibited discrimination by financial institutions against lawful companies and businesses in the oil and gas industry.	H.B. 5252
	March 2023: H.B. 5245, failed	The bill would have prohibited discrimination by financial institutions against lawful companies and businesses in the firearms and ammunition industry.	H.B. 5245
	March 2023: S.B. 2149, failed	The bill would have prohibited boycotts, coercion and intimidation activities by insurance companies regarding environmental, social and governance matters.	S.B. 2149
	March 2023: H.B. 982, failed	The bill would have prohibited government entities from contracting with certain companies that use certain environmental, social and governance criteria.	H.B. 982
	March 2023: H.B. 3399, failed	Similar to S.B. 13, the bill would have prohibited the state and local governments from contracting with firms that avoid business with companies failing to commit to environmental or diversity, equity and inclusion (DEI) standards.	H.B. 3399
	February 2023: H.B. 709, failed	The bill would have prohibited the use of environmental, social and governance credit scores by financial institutions and other lenders in Texas.	H.B. 709

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	February 2023: H.B. 2068, failed	The bill would have required the governing body of a public retirement system and investment agents to discharge their duties solely in "pecuniary" interest of the plan participants and beneficiaries; not factor promotion of ESG goals in investment decisions, unless such factor presents a financial risk or opportunity. Shares held by a public retirement system would have to be voted solely in the pecuniary interest of participants, and not to further any ESG goal. The bill would have prohibited entrustment of public retirement system assets with investment agents, unless they have a practice, and commit in writing, to be consistent with the duty to act in a pecuniary interest.	H.B. 2068
	February 2023: H.C.R. 38, failed	House Concurrent Resolution urging the U.S. Congress to investigate the "anti-fiduciary practices" of BlackRock CEO on use of ESG standards in their investment practice.	H.C.R. 38
	February 2023: H.B. 2977, failed	The bill would have prohibited the Texas Department of Transportation from giving preference to a bid that proposes using certain materials based on ESG criteria, including carbon emission criteria, if the proposed materials are less cost-effective or durable than alternative materials for the same project.	H.B. 2977

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	January 2023: Texas AG blocks Citigroup participation in domestic bond offerings	The Texas AG noted in a letter that "Citigroup has a policy that discriminates against a firearm entity or firearm trade association," in violation of the state's S.B. 19 legislation from 2021. This is expected to restrict Citigroup's ability to underwrite most municipal bond offerings in Texas.	Reuters Article
	December 2022: H.B. 1091, failed	The bill would have repealed S.B. 13, which blacklisted firms considered to boycott energy companies, as selected by the comptroller.	H.B. 1091
	December 2022: H.B. 645, failed	The bill would have prohibited financial institutions and other businesses from using values-based criteria in their business practices.	H.B. 645
	December 2022: Texas Senate hearing with BlackRock, State Street and ISS	The Texas State Senate's Committee on State Affairs conducted a hearing with executives from BlackRock, State Street and ISS regarding ESG, including with respect to ESG considerations in investment portfolios. During the hearing, Committee members raised questions regarding fiduciary responsibility, participation in the Climate Action 100+ initiative, use of proxy voting, and the existence of any biases in making investments. In response, the representatives sought to make clear that when making investment decisions, their firms consider a variety of material financial factors— including ESG-related considerations—that may impact the performance of their clients' investments. They also focused on proxy voting, as well as efforts to expand voting choice to more of the underlying investors in their funds.	Hearing (Part I) with BlackRock and State Street Hearing (Part II) with ISS Reuters Article
	November 2022: Texas Senate subpoenas BlackRock	The Texas State Senate's Committee on State Affairs issued a subpoena to BlackRock requesting ESG-specific documents and testimony from its executives (including CEO Larry Fink) with the stated intention of discussing	Bloomberg Article

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		impacts that the firm's ESG policies may have on Texans' retirement savings.	
	August 2022: Texas Comptroller publishes list, and firms respond	Texas Comptroller published a list of 10 financial institutions that the Comptroller identified to be boycotting energy companies and published an FAQ regarding the methodology that the Comptroller used to reach its determination. Following this development, BlackRock and at least four other major financial firms on the state comptroller's divestment list have asked to be removed from it, arguing that they shouldn't have been included at all. In an October 3, 2022 letter to the comptroller, BlackRock representatives stated: "We believe your determination is incorrect and is contradicted by verifiable public information. . . . BlackRock does not boycott energy companies" under the relevant state code.	Texas Comptroller Press Release List of Financial Companies that Boycott Energy Companies ESG Clarity Article BlackRock: "Setting the Record Straight"
	September 2021: S.B. 13, passed	The law calls upon "the comptroller of public accounts to prepare, maintain, and provide to the permanent school fund (PSF) and each statewide retirement system a list of all financial companies that boycott energy companies." The law directs state pension and school funds to divest shares they hold in financial groups that, in the government's view, "boycott energy companies." Texas's comptroller announced on August 25, 2022 that 10 investment companies and 350 investment funds "boycott" fossil fuel companies in the state. These now face possible divestment by state pension funds due to S.B. 13 and restrictions on contracting with Texas government entities. The law became effective on September 1, 2021 and is codified at GOV'T §§ 809.001-809.006, 809.051-809.057, 809.101-09.102, 2274.001-2274.002.	S.B. 13
	September 2021: S.B. 19, passed	The law requires every financial institution doing business with state and local government entities to certify that it does not "have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association."	S.B. 19

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		The law directs state pension and school funds to divest shares they hold in financial groups that, in the government's view, boycott firearm companies. The law became effective on September 1, 2021 and is codified at GOV'T §§ 2274.001-2274.003.	
Utah	November 2023: Utah AG Letter to S&P	Utah attorney general and other officials wrote a letter to S&P, criticizing it for publishing ESG credit indicators as part of its credit ratings for states and state subdivisions, requesting the company to stop "relying on subjective criteria that play to political policy whims."	Utah AG Statement
	March 2023: H.B. 449, passed	The law provides that any company that offers a product or service may not, "with the specific intent of destroying a boycotted company and without an ordinary business purpose, coordinate or conspire with another company to eliminate the viable option for the boycotted company to obtain the product or service." The law includes an exemption, however, for activity that "is regulated or supervised by state government officers or agencies under the laws of this state or federal government officers or agencies under the laws of the United States." The law became effective on July 1, 2023 and is codified at UTAH CODE ANN. §§ 13-63-101, 13-63-201.	H.B. 449
	March 2023: S.B. 96, passed	The law requires the state board and fiduciaries to invest public pension plan assets with the sole purpose of maximizing risk-adjusted return on investments and ensuring that proxy voting maximizes return for exclusive benefit of plan beneficiaries. The law became effective on May 3, 2023 and is codified at UTAH CODE ANN. §§ 49-11-203, 51-7-2, 51-7-14, 53B-8a-107.	S.B. 96
	March 2023: S.B. 97, passed	The law prohibits public entities from entering into contracts with a company, unless said company includes a written certification that the company is not currently engaged in (i) a boycott of the State of Israel, or (ii) an economic boycott of a company that: (a) engages in the exploration, production, utilization, transportation, sale or manufacture of fossil fuel-based energy, timber,	S.B. 97

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		mining or agriculture; (b) engages in the firearms industry; (c) does not meet or commit to meet environmental standards; or (d) does not facilitate or commit to facilitate access to abortion or sex characteristics surgical procedures. Additionally, the company must agree to notify the public entity in writing if the company begins engaging in an economic boycott. The law became effective on May 3, 2023 and is codified at UTAH CODE ANN. §§ 63G-27-102, 63G-27-201, 63G-27-202.	
	March 2023: S.C.R. 009, passed	The resolution states that investment funds should be managed by investment managers with a commitment to focus solely on financial interests; encourages the treasurer to restrict the use of ESG criteria in the selection of investments for state portfolios; requests that the Utah attorney general provide legal advice on ESG criteria and take legal action to protect the state's investments; and encourages the State Auditor to conduct audits of state investments to determine if the investments comply with the state's policies and objectives.	S.C.R. 009
	September 2022: Utah Treasurer announces divestment from BlackRock	Utah's state treasurer announced that the state would be divesting approximately $100 million from BlackRock because of the manager's ESG and sustainable investing policies and moving the funds to different managers.	The Salt Lake Tribune Article
Vermont	April 2023: S. 42, pending	The bill would require the Vermont Pension Investment Commission to review the assets of the Vermont State Employees' Retirement System, the Vermont State Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System, to determine if they are invested in fossil fuel companies. The bill would prohibit such investments after July 1, 2031 and would require divestment from such companies by end of 2030.	S. 42
	February 2023: H. 197, pending	The bill would prohibit investment by the Vermont Pension Investment Commission of assets of the Vermont State Employees' Retirement System, the Vermont State Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System in	H. 197

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		fossil fuel companies after July 1, 2031 and would require divestment from such companies by end of 2030.	
Virginia	February 2023: S.B. 213/H.B. 645, failed	The bill would have applied to the Board of Virginia Retirement System and local retirement systems, which would have been prohibited from investing any assets in the stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company. The bill would have prohibited investment in the 200 publicly traded fossil fuel companies with the largest fossil fuel reserves and the 30 largest public companies with coal-fired power plants, and would have required divestment by January 1, 2027 from restricted companies.	S.B. 213/H.B. 645
	February 2023: S.B. 1437/H.B. 2335, failed	The bill would have prohibited the board of trustees of the Virginia Retirement System or its fiduciaries from investing state funds in social investments (based on ESG factors), unless they could show that a social investment had a superior rate of return than a similar "nonsocial" investment.	S.B. 1437/H.B. 2335
Washington	January 2024: H.B. 2405, pending	The bill would require the Washington State Investment Board to integrate sustainability factors into its investment decision-making, investment analysis, portfolio construction, due diligence and investment ownership, including factors related to topics of: corporate governance and leadership, environmental, social capital, human capital and business models and innovation. The bill would also require the board to develop and publish proxy voting guidelines that recognize climate change as both a business and systemic risk, and support shareholder resolutions calling for companies to reduce activities contributing to climate change. The board would have to provide annual reports from the board on the environmental sustainability of the board's investment decision-making process.	H.B. 2405
	January 2023: H.B. 1283, pending	The bill would require the Washington State Investment Board to publish, every three years,	H.B. 1283

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		an analysis of climate-related financial risks, including alignment to the Paris climate agreement and state climate policy goals, proxy voting and corporate governance policies, in its investment portfolio. The board would have to provide at least three investment options to individual participants in self-directed investment funds consistent with ESG policies.	
West Virginia	February 2024: WV Treasurer issues warning to banks over ESG	West Virginia's state treasurer issued a warning to several major banks, notifying them that they would be banned from state business if they continue to engage in what he referred to as boycotting of the fossil fuel industry, which, according to the state treasurer, causes a threat to West Virginia's critical energy economy.	ESG Dive
	February 2024: H.B. 5615/H.B. 5616, pending	The bill would prohibit state agencies from contracting with entities that engage in unlawful activity, including: supporting "abortion, genocide, terrorism, rape or racism," supporting "use of surgery or chemical means to attempt to alter the sex or sexual appearance of anyone under the age of 18," and using or incorporating ESG "agendas as part of any financial activities or investments." The bill provides that such existing contracts would be terminated at the earliest opportunity. The bill would also require the secretary of state to maintain a list of companies and individuals identified as conducting these activities, to be presented annually. Additionally, the bill indicates the West Virginia executive branches would coordinate with their counterparts in several states "to determine if they maintain and will share similar lists of entities" conducting these activities.	H.B. 5615/H.B. 5616
	January 2024: H.B. 4578, pending	The bill would prohibit state public entities from entering a contract for goods or services worth at least $100,000, unless the company certifies in writing that it does not discriminate against a firearm entity or firearm trade organization and will not do so during the life of the contract.	H.B. 4578

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	January 2024: S.B. 186/S.B. 350, pending	The bill would prohibit financial institutions from discriminating against a firearm entity, including by refusing to do business with them entirely, except for a business or financial reason or as a result of a directive by a state banking commissioner or a bank supervisory agency. The bill provides a civil cause of action for any person injured through violation of this bill, as well as providing that the attorney general may file a civil action for such violation. Additionally, the attorney general would submit the name of any financial institution in violation to the governor and request that the state terminate any business relationship with the financial institution. The bill would not apply if a financial institution has a written policy prohibiting it from discriminating against firearm entities.	S.B. 186/S.B. 350
	January 2024: S.B. 275, pending	The bill would authorize the state treasurer to maintain a list of financial institutions that boycott firearms companies and to disqualify restricted institutions from bids and refuse to enter into banking contracts, unless such financial institution provides written verification that it will not engage in such boycott during the term of the contract. West Virginia Investment Management Board would have been exempt from the rule.	S.B. 275
	January 2024: S.B. 214, pending	The bill would require financial institutions to disclose and inform a person seeking financial services of the specific rules, regulations and policy associated with ESG that were used to deny financial services to them. The bill would also require the financial institution utilizing ESG criteria to disclose such criteria to any state or federal authorities that oversee it.	S.B. 214
	January 2024: H.B. 5010, pending	The bill would prohibit any company from discriminating against a firearm entity, including by refusing to do business with them entirely. The government would be prohibited from contracting with companies considered to boycott the firearm industry, unless the contract contains a written verification from the company that it does not do so.	H.B. 5010

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	March 2023: H.B. 2862, passed	The law requires the state's investment boards to cast proxy votes based exclusively on financial interests of pensioners and taxpayers, rather than ESG factors. The final bill was amended to exempt the boards from complying if compliance would involve "significantly increasing costs or limiting the quality of investment options or services available to the board." The law became effective on June 8, 2023 and is codified at W. VA. CODE §§ 12-6-11a and 12-6C-13.	Press Release H.B. 2862
	February 2023: S.B. 637, failed	The bill would have required financial institutions to disclose and inform a person seeking financial services of the specific rules, regulations, and policy associated with environmental, social, and governance that were used to deny financial services to them.	S.B. 637
	February 2023: S.B. 600, pending	The bill would prohibit shareholder votes for the West Virginia Investment Management Board and the Board of Treasury Investments to be cast for the purposes of furthering non-pecuniary interests.	S.B. 600
	January 2023: S.B. 182/H.B. 3400, failed	The bill would have prohibited financial institutions and governmental entities from discriminating against firearms and ammunitions companies, except when regulation or business reasons are present. Business reasons do not mean a policy of refusal to engage with such entities. Attorney general could bring civil actions for violation.	S.B. 182/ H.B. 3400
	January 2023: S.B. 112, failed	The bill would have authorized the state treasurer to maintain a list of financial institutions that boycott firearms or ammunition companies and to disqualify restricted institutions from bids and refuse to enter into banking contacts. West Virginia Investment Management Board would have been exempt from the rule.	S.B. 112
	March 2022: S.B. 262, passed	The law relates generally to financial institutions engaged in boycotts of energy companies. It allows the treasurer to maintain list of financial institutions that boycott energy companies, in addition to disqualifying bids from said institutions, refusing to enter state banking	S.B. 262

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		contracts with them and requiring institutions to verify they will not boycott energy companies during term of contract (in writing). The law became effective on June 10, 2022 and is codified at W. VA. CODE §§ 12-1C-1 through 12-1C-7.	
Wisconsin	November 2023: S.B. 686/A.B. 722, pending	The bill would prohibit any government agency or unit from considering ESG or DEI factors in awarding a grant, loan or any financial assistance to any person.	S.B. 686
	November 2023: A.R. 19, pending	The resolution states that members of the Wisconsin Assembly condemn the "Boycott, Divestment, and Sanctions movement" as well as what the resolution refers to as the "increasing incidents of anti-Semitism."	A.R. 19
Wyoming	February 2024: Governor vetoes portions of proposed ESG disclosure rules	After reviewing the ESG investment disclosure rules proposed by the secretary of state (see below), the governor issued line-item vetoes of certain parts of the rules. According to a press release, the governor determined that such vetoed portions are beyond the secretary of state's legal authority. The governor stated: "While I agree that ESG investment guidance is improper and misleading, the answer to too much government interference in our lives is not more government. No government should have the right to direct people's personal investment strategies."	Governor's Press Release
	December 2023: Office of Secretary of State seeks to require ESG investment disclosures	The secretary of state proposed amendments to Wyoming's Securities Rules with the Wyoming Administrative Rules System to require disclosure of ESG investment strategies by requiring advisers, broker-dealers and securities agents to disclose to their customers or clients if they are considering such factors in their investment decisions. The amendments to the rules have been sent to the governor for review and approval.	Proposed Rules Packet ESG Dive
	August 2023: State Loan and Investment Board adopts ESG Policy	The Board adopted a policy condemning use of ESG criteria in investment decisions, stating that such ideological investment criteria "have crippled, corrupted, disadvantaged, subverted, damaged, or otherwise harmed the children,	Wyoming Truth

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		citizens, industry, and the financial well-being of Wyoming and America." Under the new policy, investment managers must seek "the highest total return on a risk adjusted basis" and, if the state treasurer believes an investment partner is "acting in a non-pecuniary manner," the office will reach out and take action.	
	May 2023: Treasurer's Statement on ESG	The Wyoming state treasurer's office recently stated that the "goal of Wyoming's investment managers should be to maximize Wyoming's risk-adjusted return, not be the government or act like non-elected representatives for cultural change." The treasurer's office has deemed that fiduciary decisions can only be based on pecuniary factors" which "do not include the furtherance of social, political, or ideological interests."	Treasurer Statement
	February 2023: S.F. 0159, failed	Stop ESG – Eliminate Economic Boycott Act. The bill would have required government entities to receive written assurance from companies, prior to entering into contracts with them, ensuring that they will not "engage in economic boycotts" of "[n]umerous essential American industries, including fossil fuel production, agriculture, timber production and firearms," for a variety of reasons, including not meeting environmental standards or disclosing climate data.	S.F. 0159
	February 2023: S.F. 0172, failed	Stop ESG – State Funds Fiduciary Act. The bill would have required investment entities making and supervising investment of state funds to discharge investment duties solely in the financial interest of the beneficiaries of the applicable state funds. "Financial" interest would not have included any action taken, or fact considered, by a fiduciary or trustee with any purpose whatsoever to further social, political or ideological interests.	S.F. 0172
	January 2023: H.B. 210, failed	The bill would have authorized the state treasurer to prepare and maintain a list of financial institutions engaged in discrimination against energy companies and would have required the state treasurer and state auditor to	H.B.210

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		refuse to enter into a banking contract with a financial institution on the list once published.	
	December 2022: Lawmakers place anti-ESG bill as high priority	Republican lawmakers in Wyoming identified the prohibition of investing public money in ESG funds as a top priority in the coming legislative session.	WyoFile Article
	April 2021: H.B. 0236, passed	The law prohibits financial institutions from discriminating against firearms businesses. In the context of this act, "discriminate" means refusing to trade goods or services, and discontinuing or terminating an existing relationship, among others. The law became effective on July 1, 2021, and is codified at WYO. STAT. ANN. §§ 13-10-301 through 13-10-303.	H.B. 0236

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