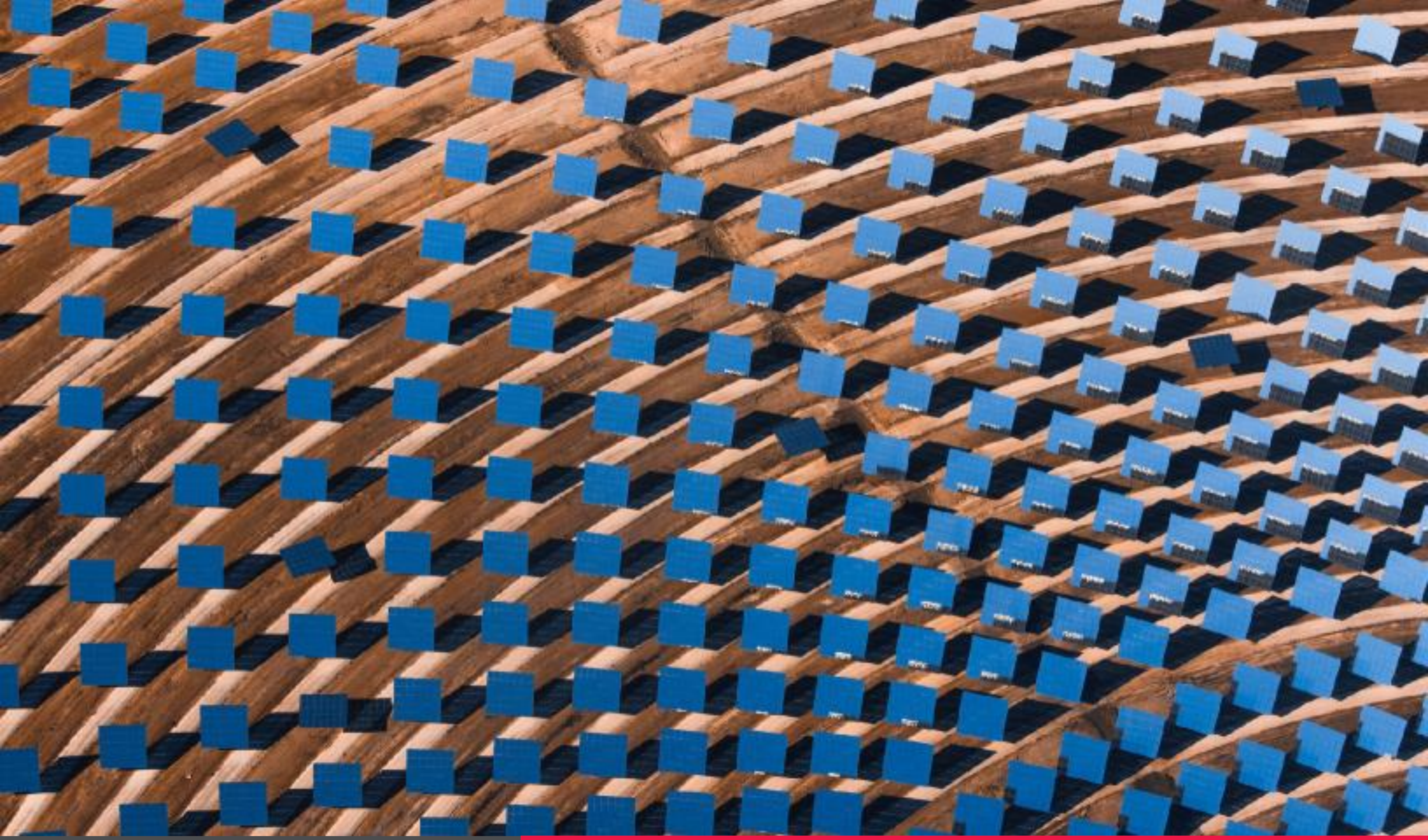

Debevoise & Plimpton

State-Level ESG Investment Developments Tracker

Last updated on August 25, 2023

Debevoise & Plimpton

Contents

Multistate & State Developments

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

Multistate & State Developments **Page**

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 will continue to be revised as the Tracker is updated.

- So far in 2023, the trends of 2022 continue, with more bills restricting ESG investment being introduced than those supporting it. Of the bills restricting ESG in 2023, the number that have been enacted is roughly the same as those that have failed in the legislative sessions. Nearly every state has now introduced legislation related to ESG. This year's bills, along with previous years' bills, are discussed further below. The total number of ESG investment bills introduced since 2020 exceeds 200. Though many states' regular legislative sessions have concluded for the year, we will continue to monitor the status of legislation and track other actions taken by elected officials and state entities.

- In addition to legislation, states have taken other actions to restrict ESG initiatives. For example, in May 2023, 23 state attorneys general took collective action to issue a letter to the Net-Zero Insurance Alliance (NZIA) expressing concerns over the group's efforts to "advance an activist climate agenda." In the weeks since the letter was sent, half of the 28 NZIA member companies have left the alliance. Additionally, in December of 2022, the Texas Senate Committee on State Affairs subpoenaed executives from BlackRock, Vanguard, State Street and ISS to testify about their climate priorities. However, after Vanguard withdrew from the Net Zero Asset Managers initiative, it was not represented at the hearing. Debevoise monitors such investigations and inquiries at the state and federal level in the Debevoise ESG Investigations Tracker.

- State laws are increasingly requiring companies to take certain actions to demonstrate their compliance with anti-ESG laws. For example, recent anti-boycott laws in Utah (S.B. 97), Idaho (H.B. 90), Florida (H.B. 3), Arkansas (H.B. 1307) and Montana (H.B. 356) require a company to verify its compliance by providing a written certification that it does not boycott certain industries. Additionally, Florida (H.B. 3) requires that written communications by an investment manager to a company in which such manager invests public funds contain a conspicuous disclaimer if such communication is related to certain ESG interests. Montana (H.B. 228) and West Virginia (H.B. 2862) require proxy advisors to commit to make voting decisions based solely on pecuniary factors. State agencies are also promoting certain types of actions, including the Missouri Secretary of State, which has introduced a rule that broker-dealers, investment advisers and their agents make clear and conspicuous disclosure of any "nonfinancial objective" in discretionary investment decisions and obtain the customer's written consent before making such investments. These laws are already in effect (the Missouri rule became effective July 30, 2023) or will become effective over the next few months.

SUMMARY

Below is a summary by the numbers, of legislation supporting and restricting ESG investing introduced across all states in the United States since 2020, as further described in the Tracker. Developments other than legislation, while included in the Tracker below, were not counted for this Summary. The "STATES" column indicates how many states have introduced such legislation, regardless of whether enacted. For the purposes of the "STATES" column only, each state is counted only once, 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	ENACTED	FAILED	STATES
Supporting ESG	37	8	12	19
Restricting ESG	58	30	57	37

TRACKER

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		MULTISTATE DEVELOPMENTS	
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 vital efforts to advance diversity and expand opportunities for the nation's workforce."	Letter
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	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*	Letter

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	considered in employment decisions	*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."	
Alabama, Arkansas, Georgia, Iowa, Indiana, Kansas, Louisiana, Missouri, Mississippi, New Hampshire, South Carolina, South Dakota, Utah, Virginia	July 2023: Attorney generals 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 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.	Pension and Investments Article Reuters
Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia,	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	Letter

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
West Virginia, Wyoming		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.	
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 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.	Letter
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	Office of the Attorney General for the State of Montana, Louisiana and Utah Reuters

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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.	
Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Iowa, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, Wyoming	March 2023: Joint Statement on alliance of 19 U.S. states to oppose ESG measures	Governors of 19 U.S. states, led by the Florida governor, announced an alliance to lead state-level efforts in protecting taxpayers from ESG 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.	Joint Statement
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,	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Utah, Virginia, West Virginia, Wyoming			
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
Arizona, Arkansas, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Tennessee, Texas	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.	Bloomberg Article Virginia Mercury Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Virginia, and five others		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).	
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, Washington, Wisconsin	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 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."	Letter
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.	Letter

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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.	
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
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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		STATE DEVELOPMENTS	
Alabama	June 2023: S.B. 261, passed	The Republican-sponsored 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
	May 2023: H.B. 188, failed	The bill would prohibit 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" is 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	April 2023: H.B. 174, pending	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	May 2022: H.B. 394, failed	Would have required the state to create a blacklist of companies that boycott Taiwan, among other foreign countries, as well as Alaska's fossil fuel industry. State entities would have been required to divest from such companies.	H.B. 394
	December 2020: Governor's Announcement	In December 2020, Governor Dunleavy announced plans to introduce legislation requiring state entities to end relationships with financial institutions that refuse to finance oil and gas activities in the Arctic.	Alaska Office of Governor's Press Release
Arizona	June 2023: S.B. 1500, Governor vetoed	The Republican-sponsored bill requires 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 are 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, will be 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 Republican-backed bill prohibits state public entities from entering a contract with a company, unless the company certifies in writing that it does not implement an "ESG Standards Policy." Public entities would be prohibited from adopting a procurement, investment or other policy that can induce or require a company to implement an "ESG Standards Policy."	S.B. 1611
	June 2023: S.B. 1138, failed	Would prohibit financial institutions in the state from discriminating based on political affiliation or ESG criteria or similar values-based or impact criteria. The rule exempts financial institutions offering products or services that include subjective standards if the standards are fully disclosed to investor prior to entering the contract.	S.B. 1138
	May 2023: S.B. 1694, failed	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
	February 2023: S.B. 1096, Governor vetoed	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	February 2023: S.B. 1612, pending	The bill empowers the state treasurer to cancel contracts with financial institutions with written ESG policies boycotting fossil fuels. On the treasury's referral, state AG shall investigate the financial institutions. State entities will also not invest 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
	January 2023: H.B. 2471, pending	Would require asset managers to consider only pecuniary factors when making investment decisions or discharging fiduciary duties. Only the government entity that maintains the plan can vote the shares held by the plan and cannot grant proxy voting authority to any person who is not the government entity, unless that person follows guidelines consistent with the obligation to act only on pecuniary interests.	H.B. 2471
	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 Investment Policy Statement	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 environmental or social goals, corporate government structures and social and environmental goals to be nonpecuniary interests that cannot be considered.	AZ Investment Policy Statement
	March 2022: H.B. 2656, failed	The Republican-sponsored bill sought to limit the state treasurer's investment decisions to only pecuniary interests and restrict the treasurer from considering "nonpecuniary benefits or other nonpecuniary social goals." The bill also sought a public list of investment managers that attested that they did not hold investments in ESG-related products.	H.B. 2656
	March 2022: H.B. 2473, failed	The Republican-backed bill restricted firms from working with local governments in the state if they had restrictive gun policies.	Bloomberg Article H.B. 2473

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	November 2021: Arizona AG Announcement	Arizona AG Mark Brnovich announced the ESG investment practices and CA100+ membership of major firms would be investigated. "My office is committed to fair business practices and competition," said Attorney General Mark Brnovich. "We will take action to ensure companies are not operating in the shadows to move a political or woke agenda."	AZ AG Office Press Release
Arkansas	May 2023: S.B. 41, failed	Would require 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	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	Fiduciaries of state pension benefit plans must 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 state treasurer and state public entities must 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), 401(k), 403(b) or 457 of the Internal Revenue Code, 1986. The law became effective on August 1, 2023.	H.B. 1307 Arkansas Advocate Article
	March 2022: State Treasurer withdrew funds from BlackRock	The state treasurer withdrew approximately $125 million from BlackRock money market accounts because of BlackRock's ESG practices. The state	Arkansas Democrat Gazette Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		treasurer claimed BlackRock was "handpicking companies that aligned with their ESG beliefs and beliefs [the treasurer's office] feel most Arkansans are opposed to" and that BlackRock's ESG practice "directly affects Arkansas's economy."	Financial Times Article
California	May 2023: California State Teachers Retirement System adopt low-carbon strategy	The California State Teachers Retirement System (CalSTRS) board approved a plan to lower carbon emissions by 12% within its Fixed Income Portfolio.	CalSTRS Announcement
	March 2023: S.B. 253, pending	Would require 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.	SB 253
	February 2023: S.B. 637, pending	Would prohibit 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.	SB 637
	January 2023: S.B. 252, pending	Would forbid 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.	SB 252
	January 2023: S.B. 261, pending	Business entities in California with total annual revenues in excess of $500,000 (excluding insurance companies) would have to submit a climate-related financial risk report by December 31, 2024 and annually thereafter.	SB 261
	June 2022: S.B. 1173, failed	Forbade 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.	SB 1173
Colorado	May 2023: S.B. 23-016, passed	Under this Democrat-backed bill, Colorado Public Employee Retirement Association Board ("PERA") would be required to annually report its climate-related investment risks, impact on its portfolio and risk management strategies. The bill would also update 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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: S.B. 23-026, failed	Would prohibit financial institutions doing business in Colorado from discriminating against persons based on environmental criteria.	S.B. 23-026
	February 2023: H.B. 1092, failed	Would prohibit 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
	July 2021: HB21-1303, Global Warming Potential for Public Project Materials, enacted	Under this law ("Buy Clean Colorado"), public construction projects will have to meet clear environmental criteria for the use of seven common construction materials. The law requires the Office of the State Architect and the Department of Transportation to each establish policies that include the maximum acceptable global warming potential for specific categories of construction materials.	Greenbiz Article HB21-1303 Colo. Rev. Stat. § 24-92-117, *et seq.*
Connecticut	January 2023: S.B. 1115, pending	Would require the state insurance commissioner to collect a 5% surcharge on premiums any insurance company licensed in the state receives from fossil fuel companies.	S.B. 1115
	January 2023: H.B. 6397, pending	The pro-ESG bill would require 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 2023: S.B. 42, pending	State treasurer would have 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 2023: H.B. 6348, pending	Would authorize the state treasurer to divest state funds from any entity that contributes to the production of coal, oil and gas.	H.B. 6348
	February 2020: Connecticut State Treasurer's Responsible Gun Policy announced	CT treasurer announced in 2019 a Responsible Gun Policy that went into effect in February 2020 and applies to the Connecticut Retirement Plans and Trust Funds. The policy is a "framework for guiding sound financial decisions and responsible corporate behavior on guns." It prohibits the investment in civilian firearm manufacturing companies, requests banks and financial institutions to disclose their policies on guns if working with the office of the treasurer and weighs a	Connecticut State Treasurer's Press Release

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		financial institution's gun policy when the office of the treasurer contracts banking and financial services.	
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	May 2023: H.B. 3, passed	• Directs the Florida State Board of Administration (SBA) 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.	H.B. 3

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 SBA approved measures to prohibit ESG investments. The measures will update the state pension plan policy and SBA 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
	August 2022: S.B.A. Resolution, in effect	State Board of Administration 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 SBA, 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 State Board of Administration ("SBA") fund managers from considering ESG factors when	FL Governor Press Release

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		investing the state's money and requiring SBA fund managers to only consider maximizing the return on investment on behalf of Florida's retirees.	
Georgia	February 2023: S.B. 266/H.B. 481, failed	Would prohibit 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 include, but shall not be limited to, any social, political or ideological interests.	S.B. 266/H.B. 481
Hawaii	January 2023: S.B. 423, pending	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 will notify fund managers and request alternatives or will divest within five years.	S.B. 423
	January 2023: H.B. 1505/S.B. 1226, pending	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	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
	February 2021: H.B. 1205/S.B. 801, failed	Required a public investment fund to develop and implement socially responsible investment policies and submit an annual report to the legislature disclosing investments in accordance with ESG and socially responsible investment policies.	H.B. 1205
	December 2021: H.B. 557 HD1/S.B. 488, failed	Required the board of trustees of the ERS to reevaluate its existing future investments in coal, oil, natural gas, oil and natural gas services and pipeline companies; to divest from companies that have not invested more in clean renewable energy sources than in fossil fuels or are not set up for favorable long-term investment returns by having clear plans to abandon fossil fuels by 2030; and to submit annual reports to the legislature. Notably, the investment policy statement of the ERS currently applies Principles of Responsible Investing, which includes consideration of ESG factors.	H.B. 557 HD1/SB488

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Idaho	March 2023: H.B. 189, failed	Would prohibit 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. Would allow relaxation if public entities determine that the prohibition conflicts with their debt obligations or investment of funds.	H.B. 189
	April 2023: H.B. 190, passed	Would prohibit 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. Would authorize the state treasurer to revoke depository certifications for currently noncompliant institutions.	H.B. 190
	March 2023: H.B. 191, passed	The bill seeks to block consideration of ESG standards in awarding of public contracts. "ESG standards" are standards that would screen or score on subjective ethical or sustainability criteria unrelated to contract or vendor qualification. The prohibition would extend to a wide range of contracts, including for goods and services, design-build, public works construction and procurement in state higher education.	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	Established provisions regarding disfavored state investments. Prohibited public entities from considering ESG factors if it overrode the prudent investor rule.	S.B. 1405 Idaho Code § 67-2345
	March 2022: H.B. 737, failed	Prohibited contracts and investment practices involving companies that boycott certain production industries including energy, mining, agriculture and commercial timber.	H.B. 737
Illinois	August 2023: S.B. 2152, passed	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. The law became effective on August 4, 2023.	S.B. 2152

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	July 2023: H.B. 2783, passed	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.	H.B. 2783
	February 2023: S.B. 2429, pending	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	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	Aims to prohibit 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.	H.B. 1293 The State Journal Register Article
	January 2020: PA 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.	IL Treasurer Press Release Illinois Sustainable Investing Act
Indiana	April 2023: H.B. 1008, passed	Would direct 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 would annually report proxy votes by such fiduciaries. The board would be directed to amend the board's investment policies to comply with the bill by December 31, 2023. There are some exemptions in the bill for private market funds to accommodate state pension investments in private equity.	H.B. 1008 The Centre Square Article Inside Indiana Business Article
	February 2023: S.B. 292, pending	Would require 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. 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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	February 2023: S.B. 372, failed	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
	January 2022: H.B. 1224; S.B. 397, failed	Required the Board of Depositories to maintain a list of financial companies that boycott energy companies and divest from them if they did not cease their boycott. Also forbade the government to contract with companies, unless the company verified that it did not participate in such boycotts and would not during the term of the contract.	H.B. 1224/S.B. 397
	January 2022: H.B. 1409; S.B. 397, failed	Forbade government to contract with companies, unless the company verified that it did not participate in boycotts against a firearm entity or trade association and would not do so during the term of the contract.	H.B. 1409; S.B. 397
	January 2022: S.B. 170, failed	Required the Board of Trustees of the Indiana Public Retirement System to divest from any publicly traded company identified as one of the 200 largest reserve-owning fossil fuel companies based on the amount of carbon emissions in a company's oil, gas and coal reserves.	SB 170
Iowa	January 2023: S.F. 507, pending	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: H.F. 27, pending	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.	H.F. 27
	March 2023: HF 653/HF 2, failed	Would prohibit 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 include 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 require 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. Would restrict public entities from entering contracts of $1,000 or above with companies that economically boycott protected companies.	H.F. 653/H.F.2
Kansas	March 2023: H.B. 2436/S.B. 291, pending	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.	S.B. 291/H.B. 2436
	March 2023: HRC 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	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	April 2023: H.B. 2100, passed	Would require 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.	H.B. 2100 AP News Article
	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
	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
	May 2022: HB 2664, failed	Prohibited banks, trust companies, credit unions and other business entities from discriminating based on certain "subjective or arbitrary factors," including ESG and sustainability factors.	H.B. 2664
	May 2022: S.B. 482, failed	Forbade government entities from contracting with companies, unless the company verified that it did not participate in boycotts against a firearm entity or trade association and would not do so during the term of the contract.	S.B. 482
	May 2022: S.B. 518, failed	Required the Kansas Public Employees' Retirement System to divest from entities boycotting energy companies. Forbade government entities to contract with such companies, unless the company verified that it did not participate in boycotts against an energy company and would not do so during the term of the contract.	S.B. 518 KPERS Bill Recap

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Kentucky	March 2023: H.B. 236, passed	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.	H.B. 236
	February 2023: H.B. 533, failed	Would require 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	Would prohibit 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
	February 2023: S.B. 166, failed	Would 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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	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 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
	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
	May 2022: AG Opinion 22-05 announced	AG asserted that ESG investment practices are "inconsistent with Kentucky law governing fiduciary duties owed by investment management firms to Kentucky's public pension plans" and that such "politics has no place in KY's public pensions."	KY AG Opinion
	April 2022: S.B. 205, passed	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.	Fox News Article S.B. 205
	January 2022: H.B. 123, failed	Prohibited state from entering into major contracts with a company discriminating against firearm entities or firearm trade associations.	H.B. 123
Louisiana	June 2023: HCR 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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	June 2023: HCR 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: HCR 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
	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
	March 2022: H.B. 25, failed	Prohibited a retirement system from investing in companies with policies discriminating against energy companies. Bill was intended to limit only direct investment and not indirect investments through ETFs, mutual funds, and other comingled accounts.	H.B. 25
	June 2022: H.B. 978, failed	Prohibited public entities from contracting with companies that discriminate against firearm and ammunition industries, unless the company verifies that it does not participate in such boycotts and will not do so during the term of the contract.	H.B. 978
	May 2022: H.R. 137, failed	House Resolution requested the state retirement systems to invest with companies and work with minority fund managers with diversity, equity and inclusion practices.	H.R. 137
	June 2022: H.R. 203, passed	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	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
	2018–2021: State Bond Commission actions	State Bond Commission acted over several years to take a stand regarding firearms boycotts. In 2018, it rejected Citigroup and Bank of America as underwriters because of their restrictive gun policies. In 2020, it excluded Citigroup from its list of approved banks owing to the company's gun control policies. In 2021, it replaced JPMorgan Chase with Wells Fargo on a state debt refinancing contract because of JPMorgan	Bloomberg Article LA Illuminator Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Chase's policies against doing business with companies that sell military-style weapons to civilians.	
Maine	May 2023: L.D. 1562, failed	Would require 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	Requires the Maine Public Employees' Retirement System to divest from fossil fuel industry by 2026. Specifically, the law forbids investment in the 200 largest public fossil fuel companies as determined by the carbon in their reserves.	H.P.65 / L.D. 99
Maryland	April 2022: H.B. 740; S.B. 566, passed	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
Massachusetts	February 2023: S. 1644, pending	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	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	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	Would prohibit investment in and require divestment within 12 months from ammunitions and firearms companies. 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	H. 2503

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	
	January 2023: H. 2504, pending	Would mandate the review of climate risk to protect public pension beneficiaries and taxpayers by a Climate Risk Review Committee. 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	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, 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	Would prohibit investment in and require divestment within 12 months from ammunitions and firearms companies. 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
	December 2022: H. 4170, failed	Mandated the review of climate risk to protect public pension beneficiaries and taxpayers by a Climate Risk Review Committee.	H.4170

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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, required that the fund managers be asked to remove restricted companies from funds or create similar funds excluding those companies.	
	December 2022: S. 722, failed	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	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
	February 2022: PRIM Board approves proxy voting guidelines	Massachusetts Pension Reserve Investment Management (PRIM) Board approved the state treasurer's proposal to permit state pension funds to vote against directors at companies who were not aligned with the Paris Accords, as well as to create an ESG Committee.	Treasurer Press Release
Michigan	December 2022: S.B. 1192, failed	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 State Retirement Plan Protection Act would prohibit subordination of financial interests of plan participants to non-pecuniary objectives, when investing state pension fund assets or exercising shareholder rights.	H.F. 3322

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: S.F. 940 / February 2023: H.F. 1902, pending	Would prohibit investment in, and require divestment by July 1, 2028 from, public companies boycotting mining, energy production, production agriculture or commercial lumber production. Applicable to the Combined Funds, which hold assets of the Minnesota State Retirement System, the Public Employees' Retirement Association and the Teachers' Retirement Association. Would 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. Seeks to prohibit banks or financial institutions from discriminating based on social credit scores or ESG factors.	S.F. 940 / H.F. 1902
	January 2023: H.F. 707/ S.F. 1225, pending	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. Would 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. Would prohibit discrimination in financial services by banks or financial institutions based on political affiliation or ESG credit factors.	H.F. 707 / S.F. 1225
	April 2022: H.F. 4574/ S.F. 4441, failed	Prohibited investment in, and required divestment by July 1, 2022 from, companies boycotting mining, energy production, production agriculture or commercial lumber production. Applicable to the Combined Funds, which holds the assets of the Minnesota State Retirement System, the Public Employees' Retirement Association, and the Teachers' Retirement Association.	H.F. 4574 / S.F. 4441
	May 2022: H.B. 4904, failed	Energy Discrimination Elimination Act prohibited investment in companies boycotting fossil fuel companies. Required Commissioner of Commerce to maintain a list of such companies and required divestment from listed companies that do not cease their boycotts within 90 days of receiving notice from state entity. Applicable to state pensions as determined by the Commissioner. For indirect holdings, required that the fund managers be asked to remove restricted	HB 4904

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		companies from funds or create similar funds excluding those companies. Prohibited the government from contracting with companies, unless the company verifies that it does not participate in such boycotts and will not do so during the term of the contract.	
	February 2022: S.F. 3384/H.F. 4028, failed	Required Minnesota State Board of Investment to prepare a report covering the financial risks of investing in fossil fuel companies, as well as identifying alternative investments.	SF3384 / HF4028
Mississippi	February 2023: S.B. 2849, failed	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	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.	H.B. 818
	January 2023: H.B. 1099, failed	Required investments of a public retirement system to be made solely in the financial interest of plan participants. Fiduciaries required to account for only financial factors in discharging their plan duties, including in proxy voting. Details of proxy voting required to be made publicly available. Required a noncompliant fiduciary to pay three times the amount received from the retirement system in damages.	H.B. 1099
	January 2023: S.B. 2383, failed	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.	S. B. 2383
	January 2023: Treasurer looks to limit ESG investments	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	Mississippi state treasurer released a letter to the Public Employees' Retirement System asking the officer of the system to reject ESG policies. In the letter, the treasurer also asked the retirement system	MS Treasurer Press Release and Letter

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		to "formally prohibit the use of any considerations besides financial performance in its investment policy."	
Missouri	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.	MO SoS Rule (15 CSR 30-51.170 and 15 CSR 30-51.172)
	February 2023: H.B. 863, pending	Would prohibit investment fiduciaries of state systems from considering ESG characteristics in a manner that overrides their fiduciary duties. Would require proxy votes for investments by state systems to be cast solely in the economic interest of plan participants. Broker-dealers and investment advisers would be required to provide clients' prior disclosures of any social or nonfinancial objectives incorporated in their investment decisions. The amendment would require 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
	January 2023: H.B. 174 / S.B. 286, pending	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.	H.B. 174 / S.B. 286
	January 2023: H.B. 824, pending	A proposed amendment would require 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, pending	The bill would prohibit an investment fiduciary investing state retirement assets from considering ESG characteristics in a manner that would override their fiduciary duties. Fiduciaries would have 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 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 would be prohibited.	HB 769

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: H.B. 770, pending	The bill would prohibit 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."	H.B. 770
	January 2023: S.B. 436, pending	Would require 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. A fiduciary violating the provisions would have to pay the state three times the fiduciary's earnings from the state for its services.	S.B. 436
	January 2023: S.B. 200, pending	Similar to legislation S.B. 1048 introduced in 2022. This 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. 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, pending	Would require state agencies to not preferentially treat or discriminate 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, pending	Would require state agencies to not preferentially treat or discriminate against bidders or contractors based on their ESG scores while entering into contracts. Would prohibit any discrimination against a limited liability company or corporation registered in Missouri, based on their ESG scores.	S.B. 316 S.B. 177
	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 involved in ESG rulemaking receive public feedback from affected groups.	House Resolution 12
	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	The Daily Signal article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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."	
	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
	April 2022: S.B. 1048, failed	Prohibited state from entering into major contracts for purchase of goods or services with a company discriminating against firearm entities or firearm trade associations.	S.B. 1048
Montana	May 2023: SB 361, failed	Would require 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. Would also prohibit 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.	SB 361
	April 2023: HJ 11, passed	This 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."	HJ 11
	April 2023: HB 228, passed	Would require consideration of only pecuniary factors in investments by the board (not defined). 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." Attorney general would be able to bring actions to prevent violations of the provisions.	HB 228
	April 2023: HB 356, passed	Would prohibit a governmental entity from contracting for goods or services valued at $100,000 or above with a company that discriminates against firearms entities, unless the company certifies that it does not and will not for the term of the contract so discriminate.	HB 356

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Contracts entered with sole-source providers or when no other bids are received with such certification would be exempt.	
	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: LR 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.	LR 237
	January 2023: LB 743, pending	Public fund investments would have to be made, supervised and voted exclusively in "financial" interest of plan beneficiaries. Would apply to any investment manager, fiduciary, governing body, or financial institutions involved in such function. 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.	LB743
	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)
	March 2022: Legislators sign letter to Nebraska Investment Council	Several state senators sent a letter to the Nebraska Investment Council, a governmental agency that guides investment of state funds, asking it to divest from Genstar Capital on the basis that the firm prioritizes ESG initiatives that the senators are concerned will harm the state's cattle industry.	Letter
Nevada	April 2023: SB 228, failed	Would have prohibited the Public Employees' Retirement Board from investing, providing investment advice or engaging in shareholder proxy voting for any purpose other than the financial interest of the Public Employees' Retirement System; and prohibited, under certain circumstances, certain governmental entities from contracting with companies that engage in	SB 228

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		economic boycotts; and providing other matters properly relating thereto.	
	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	July 2023: HB 457, passed	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 report to the legislative branch on compliance with this duty. The law will become effective on August 29, 2023.	HB 457
	April 2023: Governor's Executive Order 2023-03	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
	June 2022: HB 1469, passed	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.	HB 1469
New Jersey	June 2022: A. 4232 / S. 2701, pending	Would prohibit Division of Investment in the state treasury from investing state pension and annuity assets in companies producing or maintaining nuclear weapons. Divestment from such restricted companies would be required within two years.	A. 4232 / S. 2701
	January 2022: A. 1865, pending	Would require creation of a plan for the State Investment Council to identify ESG risk of managed investment portfolios, and ESG investment analysis for each potential investment.	A. 1865
	January 2022: A. 1733/ S. 416, pending	Would require state's Public Employees' Retirement System and the Teachers' Pension & Annuity Fund, among other such funds managed by the Director of	A1733 / S416

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Investment, to divest from the fossil fuel industry by January 1, 2022. Specifically, would forbid investment in the 200 largest public fossil fuel companies as determined by the carbon in their reserves.	
	January 2022: A. 1752/ S. 1407, pending	Would prohibit investment by the state of any pension and annuity funds in companies manufacturing, importing and selling assault firearms for civilian use. Divestment from such restricted companies would be required within three years.	A. 1752/S. 1407
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 Policy
New York	April 2023: NYC Pension Funds, in effect	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
	April 2023: A 6525, pending	Would require a person contracting with a public authority to make a statement of non-investment in the Russian energy sector.	A 6525
	March 2023: S 5437, pending	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
	February 2023: A 4090, pending	Would prohibit trustees of state public retirement system funds from using ESG criteria "as a screening method" for investment selections.	A4090
	January 2023: S 1953, pending	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	S1953

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		production of coal would need to be completed within one year of the law coming into effect.	
	January 2023: S 899/A 1101, pending	Similar to the Teachers' Fossil Fuel Divestment Act in 2022 that did not pass. 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.	S899/A1101
	January 2023: A 1831, pending	Introduces 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. 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.	A1831
	January 2022: S 4783A /A 6331, failed	Teachers' Fossil Fuel Divestment Act prohibited investment in coal as well as oil and gas producers, specifically, those to be included on an exclusion list. Divestment from coal producers must be completed within one year and divestment 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.	S4783A/A 6331
	December 2021: NYS Teachers' Retirement System Announcement	New York State Teachers' Retirement System announced a freeze on any further investments in 10 of the biggest thermal coal company holdings and 10 biggest holdings in oil and gas companies. It will also divest from direct holdings in coal producers.	NYSTRS Announcement
	December 2020: NYS Pension Fund Announcement	NY State Common Retirement Fund to achieve net zero greenhouse gas emissions for its portfolio by 2040. To accomplish this, the retirement fund will review energy-related investments and assess climate investment risks, and then divest from companies that fail to meet certain minimum standards.	Office of the NY State Comptroller

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
North Carolina	June 2023: H 750, passed	Similar to S 679 and S 737, would provide 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.	H 750 NC State Treasurer Statement
	May 2023: S 737, pending	Similar to S 679 and S 750, would prohibit fiduciaries from considering ESG factors for investment decisions and proxy voting.	S 737
	April 2023: H 784, pending	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. 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 forbid 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
	January 2023: H 24, pending	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: HB 1429, passed	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.	HB 1429
	February 2023: HB 1278, failed	Would expand restrictions on social investments introduced by earlier legislation (SB 2291). Would prohibit 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.	HB 1278

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Also, would direct the State Investment Board to provide investment reports to the state legislative audit and fiscal review committee.	
	February 2023: HB 1347, failed	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. Authorized the state treasurer to not enter into banking contracts with the restricted institutions. The bill was voted against 90-3.	HB 1347 Pension and Investments Article
	February 2023: HB 1469, failed	Would direct 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. Would require shares held by a plan to be voted only in pecuniary interest of the plan. Would have 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.	HB 1469
	February 2023: HB 1283, failed	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.	HB1283 Center Square
	March 2021: SB 2291, passed	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. 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.	SB 2291
Ohio	May 2023: S.B. 6, pending	Bill regarding 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 decisions with the primary purpose of influencing any social or environmental	S.B. 6

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		policy or attempting to influence the governance of any corporation."	
	May 2021: H.B. 297, failed	Firearm Industry Non-discrimination (FIND) Act would have prohibited government to contract with companies, unless the company verifies that it does not participate in boycotts against a firearm entity or trade association and would not do so during the term of the contract.	H.B. 297
Oklahoma	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 enacted bill H.B. 2034.	OK State Treasurer's Restricted Financial Companies List
	April 2023: H.B. 2218, failed	Would have prohibited 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.	H.B. 2218
	February 2023: H.B. 2547, pending	Would require all investment decisions by or on behalf of a governmental entity to be determined solely on pecuniary factors. Governmental entities, including public 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.	H.B. 2547
	February 2023: S.B. 455, pending	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. Would prohibit implementation or enforcement of federal actions found unconstitutional.	S.B. 455
	February 2023: S.B. 1004, pending	The proposed 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.	S.B. 1004

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		Would require a noncompliant fiduciary to pay three times the required annual payments for services rendered.	
	February 2023: S.B. 974, pending	State agencies would be prohibited from participating in use of any “environmental, social or governance criteria” (ESG) or “economically targeted investment requirements” (ETI) policies in employment. 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	H.B. 1947 introduces the Eliminate Economic Boycotts Act. The bill would restrict state contracts with companies involved in economic boycotts of businesses: (a) in fossil 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. This bill would not apply to contracts valued below $100,000 and companies with fewer than 10 employees.	H.B. 1947/H.B. 2340
	February 2023: H.B.1617, H.B. 2545 and H.B. 2777, 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. 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 HB3144, which failed the legislative process in 2022.	Press Release SB15
	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	May 2022: H.B. 2034, passed	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. Prohibits investment in any listed companies and prohibits state governmental entities from entering a contract for goods or services with a listed company, unless alternatives are not available. 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. Applicable only to companies with at least 10 full-time employees. Enacted as 74 O.S. § 12002, et seq.	HB2034
	May 2022: H.B. 3144, failed	Prohibited Oklahoma state governmental entities from entering into a contract for goods or services worth at least $100,000 and paid partly from public funds, unless the company verified in writing that it did not discriminate against firearm entities or trade associations and would not do so during the contract term.	HB3144
Oregon	February 2023: HB 3478, pending	Would require 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.	HB 3478
	February 2023: HB 3219, pending	Would establish standards for a fiduciary of a pension benefit plan offered by a public body and limit factors that may be considered in investments of assets of the plan, such as nonpecuniary factors related to environmental, social, corporate governance and similar considerations.	HB 3219
	January 2023: HB 2601, pending	The *Treasury Investment and Climate Protection Act* would require the state treasurer to ensure that no state investment funds acquire carbon-intensive investments. Would require 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.	HB 2601
	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	Treasurer's Statement

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		pension fund to 50% decarbonization by 2035 and net zero carbon by 2050.	
	September 2020: Oregon Investment Council Amends Investment Policy	Oregon Investment Council amended its investment policy to adopt ESG principles to its statement of investment and management beliefs, stating that the incorporation of ESG factors "may have a beneficial impact on the economic outcome of an investment and aid in the assessment of risks associated with that investment."	Chief Investment Officer Article Item 8 of Statement of OIC Investment and Management Beliefs
Pennsylvania	September 2022: HB 2799, failed	*Liberty, Virtue and Independence Act.* This bill forbade financial institutions from discriminating based on "subjective or arbitrary" standards, including using social credit or environmental, social, or governance scores and imposed fines for such offenses and allowed for criminal prosecution if five or more offenses are committed.	HB2799
	July 2021: SB748, failed	Amended *Protecting Pennsylvania's Investments Act.* Involved Pennsylvania State Employees' Retirement System and the Public School Employees' Retirement System. Provided for identification of assault weapons manufacturers, for required actions and reports related to assault weapons manufacturers. Prohibited investment in assault weapons manufacturers and required divestment from restricted companies that do not cease their weapons manufacturing activities within 180 days of receiving notice of the state entity's intention to divest within 26 months. Indirect holdings or holdings in alternative investments were inapplicable.	SB748
Rhode Island	March 2023: HB 5417/ SB 545, pending	Would require 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.	SB 545/HB 5417
	February 2023: HB 5811, pending	Would require 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.	HB 5811
	January 2020: Rhode Island Divestment announced	Announced State Investment Commission's divestment from companies manufacturing assault-style weapons for civilian use or companies operating private for-profit prisons. Involved Employees' Retirement System of Rhode Island.	Rhode Island to Divest from Private Prisons, Gun Makers
South Carolina	April 2023: H 3690, pending	The bill titled *ESG Pension Protection Act* would require the South Carolina Retirement System Investment Commission to only consider "pecuniary factors" in	H 3690

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		investing state retirement assets. Investment strategies prioritizing “nonpecuniary factors” like promotion of ESG goals are considered if they provide a superior risk adjusted return. Would require the public retirement system to exercise shareholder proxy votes based solely on “pecuniary factors”.	
	March 2023: SB 634, pending	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.	SB 634
	March 2023: SB 583, pending	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.	SB 583
	January 2023: H 3056, pending	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: HB 3393, pending	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. Would not apply if the company is a single-source provider or if no company provides such a certification. Financial institutions would not discriminate against firearms businesses.	HB 3393
	January 2023: H3565, pending	A bill introduced to 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	This bill prohibits 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: S0111, pending	This bill prohibits 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."	S0111
	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
	February 2022: H. 4978, failed	This bill forbade financial institutions from discriminating in lending determinations based on "subjective or arbitrary" standards, including the use of "social credit, environmental, social, and governance, or similar values-based or impact criteria."	H. 4978
	February 2022: H. 4996, failed	Prohibited investment in and contracting with companies that boycott energy companies.	H. 4996
South Dakota	February 2023: H.B. 1207, failed	Would prevent financial companies and insurers from denying services to someone using anything other than "impartial risk-based financial standards," thus excluding ESG criteria.	H.B. 1207
	January 2023: H.C.R. 6008, failed	Affirming, supporting and defending 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
	February 2022: S.B. 182, failed	Prohibited discriminatory actions against persons engaged with the firearms industry.	S.B. 182

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
Tennessee	May 2023: SB0955/HB1286, passed	Would require 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."	SB0955/HB1286
	July 2022: SB2649, passed	Prohibited 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.	SB2649
Texas	June 2023: SB 833, passed	Would prohibit 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.	SB 833
	May 2023: SB 242, failed	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.	SB 242
	May 2023: SB 1060, pending	Would prohibit 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."	SB1060
	May 2023: UBS settles claims with Texas independent school district arising from SB 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 SB 13 in 2021 (*see below*), which forbids companies on the Comptroller's anti-boycott list from contracting with government entities in the state.	Law360
	May 2023: SB 2146, pending	Would require financial institutions that oversee mutual funds to submit reports to the Texas	SB 2146

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		comptroller discussing any current or intended divestment from fossil fuel companies.	
	May 2023: SB 1446, pending	Would forbid state pensions or their agents from considering "social, political, or ideological" factors in investment decisions. Bill also prohibits 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.	SB 1446
	March 2023: HB 5252, pending	Would prohibit discrimination by financial institutions against lawful companies and businesses in the oil and gas industry.	HB 5252
	March 2023: HB 5245, pending	Would prohibit discrimination by financial institutions against lawful companies and businesses in the firearms and ammunition industry.	HB 5245
	March 2023: SB 2149, pending	Would prohibit boycotts, coercion and intimidation activities by insurance companies regarding environmental, social and governance matters.	SB 2149
	March 2023: HB 982, pending	Would forbid government entities from contracting with certain companies that use certain environmental, social and governance criteria.	HB 982
	March 2023: HB 3399, pending	Similar to SB 13, this bill would prohibit 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.	HB 3399
	February 2023: HB 2068, pending	A bill that would require 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. Would prohibit 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.	HB 2068

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	February 2023: HCR38, pending	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
	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: HB 1091, pending	A bill to repeal S.B. 13, which blacklisted firms considered to boycott energy companies, as selected by the comptroller.	HB 1091
	December 2022: HB 645, pending	A bill that would prohibit financial institutions and other businesses from using values-based criteria in their business practices.	HB 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 impacts that the firm's ESG policies may have on Texans' retirement savings.	Bloomberg Article
	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	Texas Comptroller Press Release List of Financial Companies that Boycott Energy Companies ESG Clarity Article

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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.	BlackRock: "Setting the Record Straight"
	September 2021: SB 13, passed	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." 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.	SB 13
	September 2021: SB 19, passed	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." Directs state pension and school funds to divest shares they hold in financial groups that, in the government's view, boycott firearm companies.	SB 19
	October 2021: Teacher Retirement System ESG Policy	Teacher Retirement System of Texas adopted formal policy to consider ESG factors material to long-term returns and levels of risk.	TRS Investment Policy Statement
Utah	March 2023: S.B. 96, passed	Requires the 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. This law became effective on May 3, 2023.	S.B. 96
	March 2023: S.B. 97, passed	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, 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	S.B. 97

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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. This law became effective on May 3, 2023.	
	March 2023: SCR009, passed	Directs 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.	SCR009
	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
	April 2022: Treasurer's Statement on ESG	Treasurer released a statement, saying: "The promotion of ESG in any form is destructive to our capital markets and economic freedoms and, ultimately, as seen in Europe, our national security."	Gravity Exists Article
	March 2022: H.B. 312, failed	Prohibited a public entity from entering a contract for financial services with a financial company, unless: (1) the contract included a written certification that the company does not have a policy of refusing to finance fossil fuel companies; and (2) the company agreed not to adopt a policy of refusing to finance fossil fuel companies for the duration of the contract.	H.B. 312
Vermont	April 2023: S42, pending	Bill relating to divestment by 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 any fossil fuel company by December 31, 2030. Investments of state pension funds in fossil fuel companies would be prohibited after July 1, 2031.	S42
	February 2023: H197, pending	Bill relating to divestment by 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 any fossil fuel company by December 31, 2030. Investments of state pension funds in fossil fuel companies would be prohibited after July 1, 2031.	H197

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	March 2022: S251, failed	Bill relating to divestment of state pension funds from fossil fuel companies. Involves Vermont Pension Investment Commission, the Vermont State Teachers' Retirement System, the Vermont State Employees' Retirement System and the Vermont Municipal Employees' Retirement System; required divestment by January 1, 2025 from restricted companies. Prohibited investment in the 200 publicly traded fossil fuel companies whose fossil fuel reserves have the largest potential carbon emissions.	S251
Virginia	February 2023: S.B. 213/H.B. 645, failed	Involved Board of Virginia Retirement System and local retirement systems; required divestment by January 1, 2027 from restricted companies. 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. The board could not invest 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.	S.B. 213/H.B. 645
	February 2023: S.B. 1437/H.B. 2335, failed	The board of trustees of the Virginia Retirement System or its fiduciaries would not be able to invest state funds in social investments (based on ESG factors), unless they can show that a social investment has a superior rate of return than a similar noninvestment.	S.B. 1437/H.B. 2335
Washington	January 2023: H.B. 1283, pending	The Washington State Investment Board would, every three years, publish 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 provide at least three investment options to individual participants in self-directed investment funds consistent with ESG policies.	H.B. 1283
West Virginia	March 2023: H.B. 2862, passed	Requires the state's investment boards to cast proxy votes based exclusively on financial interests of pensioners and taxpayers, rather than ESG factors. This bill will become effective on June 8, 2023.	Press Release HB 2862
	February 2023: S.B. 600, pending	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

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
	January 2023: S.B. 182/H.B. 3400, pending	Would prohibit 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, pending	Would authorize 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 be exempt from the rule.	S.B. 112
	June 2022: S.B. 262, passed	Relates generally to financial institutions engaged in boycotts of energy companies. Allows treasurer to maintain list of financial institutions that boycott energy companies, in addition to disqualifying bids from said institutions, refusing to enter state banking contracts with them and requiring institutions to verify they will not boycott energy companies during term of contract (in writing).	S.B. 262
	February 2022: S.B. 555, failed	Bill sought to amend the Code of West Virginia, 1931, by adding a new section relating generally to financial institutions engaged in boycotts of firearms companies. Allowed treasurer to maintain list of financial institutions that boycotted firearms companies, in addition to disqualifying bids from said institutions, refusing to enter state banking contracts with them and requiring institutions to verify they will not boycott firearms companies during the term of contract (in writing).	S.B. 555
	January 2022: H.B. 3084, failed	Related to West Virginia Public Employees' Retirement system and prohibited investment of funds in companies divesting from natural gas, oil, coal, petrochemicals, forestry products or agriculture commodities. Empowered board to name restricted businesses to a restricted business list and to remove seven investments from restricted businesses with notice.	H.B. 3084
Wisconsin			
Wyoming	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, citizens, industry, and the financial well-being of Wyoming and America."	Wyoming Truth

STATE	DEVELOPMENT	KEY POINTS	FURTHER READING
		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: SF0159, failed	The "Stop ESG – Eliminate Economic Boycott Act" 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.	SF0159
	February 2023: SF0172, failed	The "Stop ESG – State Funds Fiduciary Act" 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 include any action taken, or fact considered, by a fiduciary or trustee with any purpose whatsoever to further social, political or ideological interests.	SF0172
	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
	July 2021: H.B. 0236, passed	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.	H.B. 0236

AUTHORS


Kristin A. Snyder
kasnyder@debevoise.com


Ulysses Smith
usmith@debevoise.com


Amanda H. Esteves
aesteves@debevoise.com


Tanaya Sanyal
thsanyal@debevoise.com


Jacob Dougherty
jtdougherty@debevoise.com