

# ESG Battlegrounds:

How the States Are Shaping the Regulatory Landscape in the U.S.

Updated as of  
April 2024

## Introduction

Socially responsible investing principles have been around since the 1960s,<sup>1</sup> but have only recently undergone scrutiny by state legislative bodies. In 2021, Texas was the first state to pass a so-called anti-boycott law.<sup>2</sup> Since then, 35 other states have passed either pro- or anti-ESG bills related to financial institutions and other large companies, fracturing an already complicated landscape for financial services companies, including private investment managers that invest money on behalf of state pensions.

Anti-ESG legislation primarily takes the following forms:

- **Anti-ESG investing** laws prohibit the consideration of “non-pecuniary” factors by public pension funds or state and local government authorities and their investment managers as being inconsistent with the exercise of fiduciary duties. The measures define this concept differently, but ultimately capture the use of factors other than those that seek specifically to maximize investment returns.
- **Anti-boycott** laws restrict the ability of state entities to do business with companies that “boycott” or “discriminate” against certain industries disfavored by the ESG movement; several measures require or authorize state regulators to develop and maintain a blacklist of financial entities that engage in boycotts of fossil fuel companies.
- **Contracting restriction** laws either (i) compel companies entering into contracts with state entities to attest, as a condition of doing business with public entities, that they do not and will not engage in boycotts during the life of the contract or (ii) prohibit state entities from contracting with companies on the basis of ESG factors.
- **Anti-discrimination** laws primarily prohibit entities from discriminating in business decisions on the basis of ESG scores.

Pro-ESG legislation generally falls into one of the following categories:

- **Consideration of ESG factors** laws generally require state entities to consider environmental, social and other sustainability factors in investment decisions.
- **Divestment/investment restriction** laws prohibit state entities from making new investments in certain ESG disfavored industries and require divestment from existing investments in such industries.
- **ESG-related disclosure** laws require disclosure of climate-related metrics and risks (in reference to the GHG Protocol or the TCFD recommendations), disclosures related to voluntary carbon offsets and/or disclosures that report diversity metrics.

The charts below summarize relevant state anti- and pro-ESG laws and categorize them into the noted groups. The charts also include related state policies, resolutions and statements, as well as multi-state anti- and pro-ESG initiatives.

<sup>1</sup> “The Evolution of ESG Investing,” MSCI, available [here](#).

<sup>2</sup> [SB 13](#), in effect 9/1/21.

Please click below to access the following information:

- [Anti-ESG Laws: By State](#)
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## Anti-ESG Laws: By State

Anti-ESG Investing

Anti-Boycott

Contracting Restriction

Anti-Discrimination

Statute		Description	Exceptions/Notes
<b>Alabama</b>			
<a href="#">SB 261</a> , in effect 8/1/23	Contracting Restriction	Prohibits state governmental entities from entering into contracts for goods or services (valued at \$15K or more) absent written verification that the company does not and will not engage in an economic boycott against companies in the fossil fuel, timber, mining, agriculture or firearms industries, companies that do not meet or commit to meet environmental standards or make DEI disclosures, or companies that do not facilitate or commit to facilitate access to abortion or sex or gender change treatments, during the term of the contract.	Does not apply to a contract relating to the issuance, incurrence or management of debt obligations or the deposit, management, borrowing or investment of funds.  May be waived in situations where the governmental entity determines it would significantly increase costs or limit the quality of options or services available, and a waiver would be in the best interest of the public.
<b>Arkansas</b>			
<a href="#">HB 1253</a> , in effect 8/1/23	Anti-ESG Investing	Requires public pension benefit plan fiduciaries to consider only pecuniary factors in investment decisions.  Introduces requirements with respect to shareholder and proxy voting.	Acknowledges circumstances in which ESG considerations may be pecuniary and evaluated in public investment decisions.  Provides exception regarding proxy voting advisor requirements where no economically practicable alternative available.
<a href="#">HB 1307</a> , in effect 8/1/23	Anti-Boycott	Creates ESG Oversight Committee.  Requires State Treasurer to maintain a list of financial services providers (determined by the ESG Oversight Committee) that discriminate against companies in the energy or firearms industries or otherwise refuse to deal with companies based on environmental, social justice, and other governance-related factors.  Prohibits public entities from investing cash funds with a listed financial services provider; requires State Treasurer and public entities to divest state assets from all direct or indirect holdings with a listed financial services provider.	Exempts an investment otherwise subject to divestment but locked into a maturity date such that an early divestment would result in a financial penalty and cause negative financial impact to the state.

Statute		Description	Exceptions/Notes
<a href="#">HB 1845</a> , in effect 8/1/23	Anti-Boycott	Clarifies what information the ESG Oversight Committee may consider and rely on when determining whether or not to list a financial services provider for divestment purposes.	
<a href="#">SB 62</a> , in effect 8/1/23	Contracting Restriction	Prohibits public entities from entering into contracts for goods or services (valued at \$75K or more) absent written verification that the company does not and will not engage in boycotts of companies engaged in the energy, fossil fuel, firearms and ammunition industries during the term of the contract.	Does not apply to companies that offer to provide goods or services for at least 20% less than the lowest certifying business.
<b>Florida</b>			
<a href="#">HB 3</a> , in effect 7/1/23	Anti-ESG Investing	<p>Requires all state and local investment decisions to be made on the basis of pecuniary factors only.</p> <p>Prohibits state and local entities from issuing ESG bonds.</p> <p>Requires shareholder rights like proxy voting to be exercised only on the basis of pecuniary factors.</p> <p>Requires retirement systems and plans to offer annual reporting to state governmental bodies on their governance policies, voting decisions and adherence to fiduciary standards.</p> <p>Requires any communications between an investment manager to a company in which the manager invests public funds on behalf of a governmental entity that discuss ESG interests, or advocate for an entity other than shareholders, to include a conspicuous disclaimer that the views are the sender's and not the state's.</p>	Wide-ranging law that covers a number of related areas. See our previous <a href="#">client memo</a> for additional information.
<b>Idaho</b>			
<a href="#">HB 190</a> , in effect 7/1/23	Anti-Boycott	Prohibits banks and credit unions designated as state depositories from boycotting companies/individuals engaged in fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, agriculture or firearms industries; requires state depositories to file affidavits with the state treasurer, including an anti-boycott certification; noncompliance is subject to revocation of the QPD designation.	Certification requirement does not apply to state depository designation if it would be inconsistent with the constitutional or statutory duties of the state treasurer, or would negatively impact the business needs of the state.

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Statute		Description	Exceptions/Notes
<a href="#">HB 191</a> , in effect 7/1/23	Contracting Restriction	Prohibits public entities from accepting or denying a contract based on subjective ethical or sustainability criteria unrelated to the specifications of a contract or qualifications of the contractor.	
<a href="#">SB 1405</a> , in effect 7/1/22	Anti-ESG Investing	Prohibits public entities from considering ESG characteristics in investment decisions in a manner that could override the prudent investor rule.  Requires notification by investment agents when they adopt or revise a policy related to disfavored investments or investment limitations identified as against the public policy of the state, and applicable to state investments.  Introduces requirements with respect to proxy voting.	Public entities serving as fiduciaries to select investment options for investors may offer ESG- preferred investments to participants if they are optional and sufficient alternatives are offered.
<b>Indiana</b>			
<a href="#">HB 1008</a> , in effect 7/1/23	Anti-ESG Investing	Prohibits state public retirement system board from making investment decisions to influence social or environmental policy, or attempting to influence the governance of any corporation for nonfinancial purposes, and prohibits system from making a commitment with the nonfinancial purpose to further social, political or ideological interests with respect to system assets.  Introduces requirements with respect to proxy voting.	Does not apply to a bank holding company or a subsidiary of a bank holding company, defined contribution plans, annuity savings plan or a private market fund.
	Contracting Restriction	Prohibits board from contracting with a service provider that acts with the nonfinancial purpose to further social, political or ideological interests.	Does not apply to a bank holding company or a subsidiary of a bank holding company, defined contribution plans, annuity savings plan or a private market fund.  Provides examples where a service provider may be determined to have made an ESG commitment.  Exception where it would violate the board's fiduciary duty or there is no comparable replacement service provider.
<b>Kansas</b>			
<a href="#">HB 2100</a> , in effect 7/1/23	Anti-ESG Investing	Requires fiduciaries of state public employees retirement system assets to consider only financial factors in making and supervising investments of the system.	Alternative or real estate investments as defined in state law exempted.

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Statute	Description	Exceptions/Notes
	Introduces requirements with respect to proxy voting. Imposes penalty for violations (equal to 3x the fees paid for services).	Exception to investment restriction where no economically practicable alternative available.  Provides examples where a fiduciary may be determined to have taken an action or considered a factor with a purpose of furthering social, political or ideological interests.  Exception regarding proxy voting advisor requirements where no economically practicable alternative available.
	Contracting Restriction	Prohibits state and state agencies from discriminating in procurement decisions based on ESG factors.
<b>Kentucky</b>		
<a href="#">HB 236</a> , in effect 6/29/23	Anti-ESG Investing	Requires state-administered retirement system fiduciaries to consider only pecuniary factors in investment decisions, and prohibits the consideration of or actions with respect to ESG interests.  Introduces requirements with respect to proxy voting.
<a href="#">SB 205</a> , in effect 4/8/22	Anti-Boycott	Requires (i) State Treasurer to prepare and maintain a list of publicly-traded financial companies that have engaged in boycotts against companies in the fossil fuel-based energy industry and (ii) state governmental entities to divest from listed financial companies that do not cease engaging in boycotts against companies in the fossil fuel-based energy industry within established timeframes; applies to state governmental entities involved in state investment, deposits or transactions above a specified threshold.
	Contracting Restriction	Allows a state governmental entity to cease divesting where reasonable evidence shows that it has suffered or will suffer a material financial loss.  Does not apply where the state governmental entity determines the requirements are inconsistent with the entity's fiduciary responsibility.  Not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds.  Notes: An initial <a href="#">list</a> of financial companies was released on 1/3/23.
	Contracting Restriction	Prohibits state governmental entities from entering into contracts for goods or services (valued at \$100K or more) with a company absent written verification that the company does not and will not engage in boycotts against companies in the fossil fuel-based energy industry during the term of the contract.  Does not apply if inconsistent with constitutional, statutory or fiduciary duties relating to the issuance, incurrence or management of debt obligations or the deposit, management, borrowing or investment of funds.

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Statute	Description	Exceptions/Notes
<b>Louisiana</b>		
<a href="#">HCR 70</a> , in effect 5/30/23	Anti-Boycott	Requires state, statewide retirement systems and the state treasurer to submit a report to the legislature that includes the names of (i) any investment management company, investment advisor, mutual fund, or other entity in contract with the state that uses ESG factors not directly related to risk-adjusted returns, and (ii) any entity under contract known to boycott companies in the fossil fuel-based energy industry.
<b>Montana</b>		
<a href="#">HB 228</a> , in effect 4/19/23	Anti-ESG Investing	Requires state board of investments to consider only pecuniary factors in public investment decisions.  Introduces requirements with respect to proxy voting.
<a href="#">HB 356</a> , in effect 10/1/23	Contracting Restriction	Prohibits state governmental entities from entering into contracts for goods or services (valued at \$100K or more) with a company absent written verification that the company does not and will not discriminate against an entity or trade association in the firearms industry during the term of the contract.
<b>New Hampshire</b>		
<a href="#">HB 457</a> , in effect 8/29/23	Anti-ESG Investing	Requires state retirement system independent investment committee and board of trustees to file quarterly reports regarding compliance with duty to make all investment decisions solely in the interest of the participants and beneficiaries of the state retirement system.
<a href="#">HB 1469</a> , in effect 6/17/22	Anti-Discrimination	Establishes committee to study the need for anti-discrimination legislation in the state's financial services industry.

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<b>North Carolina</b>		
<a href="#">HB 750</a> , in effect 6/27/23	Anti-ESG Investing	Requires the State Treasurer and state pension plan fiduciaries to consider only pecuniary factors in the evaluation of investment decisions or exercise of rights in association with investments.
	Contracting Restriction	Prohibits the state and state agencies from considering ESG criteria or economically targeted investment requirements in the awarding of state contracts.
		May consider environmental or social considerations as pecuniary factors only if qualified investment professionals would treat these risks and opportunities as material economic considerations.  May reasonably conclude that not exercising a right is in the best interest of the fund's beneficiaries.
<b>North Dakota</b>		
<a href="#">HB 1429</a> , in effect 8/1/23	Anti-ESG Investing	Prohibits investment of state funds for the purpose of social investment, which includes the consideration of ESG impact criteria for the purpose of obtaining an effect other than the maximization of return.  Introduces requirements with respect to proxy voting.
	Anti-Discrimination	Prohibits insurers from refusing to insure or charging a different rate based on ESG criteria, DEI policies, or political and ideological factors.  Requires state bank to study ESG trends, laws and policies that impact businesses in the state, and to issue a report of its findings and recommendations.
		Does not apply where state investment board can demonstrate that a social investment would provide an equivalent or superior rate of return as compared to a similar non-social investment with a similar time horizon and risk.
<a href="#">SB 2201</a> , in effect 3/24/21	Anti-ESG Investing	Prohibits investment of state funds for purpose of social investment.  Requires state Department of Commerce study on ESG-related investment policies, state involvement with companies that consider ESG factors in their decisions, and the implications of total divestment from companies that boycott energy or commodities.
		Does not apply where state investment board can demonstrate that a social investment would provide an equivalent or superior rate of return as compared to a similar non-social investment with a similar time horizon and risk.

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Statute	Description	Exceptions/Notes
<b>Oklahoma</b>		
<a href="#">HB 2034</a> , in effect 11/1/22	Anti-Boycott	<p>Requires (i) State Treasurer to prepare and maintain a list of publicly-traded financial companies that have engaged in boycotts of companies in the fossil fuel-based energy industry and (ii) state governmental entities to divest from listed financial companies that do not cease engaging in boycotts against companies in the fossil fuel-based energy industry within established timeframes; applies to all state retirement systems.</p> <p>Allows a state governmental entity to cease divesting where clear and convincing evidence shows that it has suffered or will suffer a material financial loss; describes such loss as a loss in the value of assets under management as opposed to material financial loss.</p> <p>Does not apply where the state governmental entity determines the requirements are inconsistent with the entity's fiduciary responsibility.</p> <p>State entities are not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds.</p> <p>An initial <a href="#">list</a> of financial companies was released on 5/3/23 and <a href="#">updated</a> on 8/15/23.</p> <p>In August 2023, Oklahoma Public Employee Retirement System, which holds over \$10 billion in assets, <a href="#">voted to take the financial exemption</a> to avoid divesting from a listed asset manager.</p> <p>On November 20, 2023, an Oklahoma pensioner <a href="#">filed a lawsuit</a> to block enforcement of HB 2034, alleging the law is unconstitutional and violates the First Amendment.</p>
	Contracting Restriction	<p>Prohibits state governmental entities from entering into contracts for goods or services (valued at \$100K or more) with a company absent written verification that the company does not and will not boycott companies in the fossil fuel-based energy industry during the term of the contract.</p> <p>Does not apply where the state governmental entity determines the requirements are inconsistent with the entity's fiduciary responsibility.</p>
<b>South Carolina</b>		
<a href="#">HB 3690</a> , in effect 2/5/24	Anti-ESG Investing	<p>Requires the state Retirement System Investment Commission to consider only pecuniary factors when investing and managing retirement system assets.</p> <p>The commission may use a proxy firm or advisory service in exercising shareholder proxy rights provided the proxy advisor commits in writing to follow proxy guidelines that are consistent with a focus on pecuniary factors.</p>

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Statute	Description	Exceptions/Notes
	Requires the commission to cast shareholder proxy votes in line with its fiduciary duties based on pecuniary factors, and any engagement with a company regarding the exercise of shareholder proxy votes to be based solely on pecuniary factors and for the sole purpose of maximizing shareholder value.	
<b>Tennessee</b>		
<a href="#">SB 955</a> , in effect 5/17/23	Anti-ESG Investing	Restricts State Treasurer to investment decisions based on financial factors, which does not include ESG interests that may not be material to the financial analysis of the investment.  Introduces requirements with respect to proxy voting.
<a href="#">SB 2649</a> , in effect 7/1/22	Contracting Restriction	Prohibits State Treasurer from entering into contracts or amendments with any state depository that has a policy prohibiting financing to companies in the fossil fuel industry.  Does not apply where the governmental entity determines the state depository's services are necessary for it to perform its functions and/or services may not be obtained elsewhere.
<b>Texas</b>		
<a href="#">SB 833</a> , in effect 9/1/23	Anti-Discrimination	Prohibits state insurers from using an ESG model, score, factor or standard to charge a rate different than the rate charged to another business or risk in the same class for a similar hazard.  An insurer does not violate the statute if its actions are based on an ordinary insurance business purpose, including the use of sound actuarial principles, or financial solvency considerations reasonably related to the type of risk.
<a href="#">SB 13</a> , in effect 9/1/21	Anti-Boycott	Requires (i) State Treasurer to prepare and maintain a list of publicly-traded financial companies that have engaged in boycotts against companies in the fossil fuel-based energy industry and (ii) state governmental entities to divest from listed financial companies that do not cease engaging in boycotts against companies in the fossil fuel-based energy industry within established timeframes.  Allows a state governmental entity to cease divesting where clear and convincing evidence shows that it has suffered or will suffer a material financial loss.  Does not apply where the state governmental entity determines the requirements are inconsistent with the entity's fiduciary responsibility.  Not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds.  Notes: An initial list of financial companies was released on <a href="#">8/24/22</a> , updated on <a href="#">3/20/23</a> , and most recently updated again on <a href="#">11/1/23</a> .

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Statute	Description	Exceptions/Notes
		<p>The Office of the Attorney General (“OAG”) sent a <a href="#">letter</a> expressing concern for a large U.K. bank’s affiliation with the Net Zero Alliance, implying that the bank may be a fossil fuel boycotter. On 1/26/24, the OAG <a href="#">announced</a> the bank’s ineligibility to participate in Texas’s bond market.</p> <p>The Comptroller published updated FAQ related to the methodology used in the creation and publication of the list in <a href="#">October 2023</a>.</p> <p>On 3/19/24, the Texas Permanent School Fund Corporation <a href="#">announced</a> the termination of two contracts for investment management services with a large investment management company on the basis that the company boycotts energy companies.</p>
	Contracting Restriction	Prohibits state governmental entities from entering into contracts for goods or services (valued at \$100K or more) with a company absent written verification that the company does not and will not engage in a boycott of companies in the fossil fuel-based energy industry during the term of the contract.
<a href="#">SB 19</a> , in effect 9/1/21	Contracting Restriction	Prohibits state governmental entities from entering into contracts for goods or services (valued at \$100K or more) with a company absent written verification that the company does not and will not discriminate against an entity or trade association in the firearms industry during the term of the contract.
		Does not apply where the governmental entity determines the requirements are (i) inconsistent with the entity’s fiduciary responsibility or (ii) inconsistent with the governmental entity’s constitutional or statutory duties related to managing its investment of funds.
		Does not apply where the governmental entity contracts with a sole-source provider or does not receive bids from a company that is able to provide the required written verification.
		Certain other contracts exempted.
<b>Utah</b>		
<a href="#">SB 96</a> , in effect 5/3/23	Anti-ESG Investing	Requires public entities to invest public funds with the sole purpose of maximizing risk-adjusted returns.
		Introduces requirements with respect to proxy voting.
		Exempts certain funds.

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Statute		Description	Exceptions/Notes
<a href="#">SB 97</a> , in effect 5/3/23	Contracting Restriction	Prohibits public entities from entering into contracts for goods or services (valued at \$100K or more) with a company absent written verification that the company does not and will not, during the term of the contract, boycott companies in the fossil fuel-based energy, timber, mining, agriculture or firearms industries, companies that do not meet or commit to meet environmental standards, and companies that do not facilitate or commit to facilitate access to abortion or sex characteristic surgical procedures.	Permits public entities to contract with restricted companies where there is no economically practicable alternative, or to comply with federal law.
<a href="#">HB 449</a> , in effect 7/1/23	Anti-Boycott	Prohibits companies from coordinating to eliminate viable options for companies in the firearms industry to obtain a product or service.	
<a href="#">HB 281</a> , in effect 5/2/23	Anti-Discrimination	Prohibits governmental entities from using social credit scores and requires state consumer protection division to establish and operate a system to receive consumer reports regarding a company's or financial institution's use or creation of a social credit score to discriminate against, advocate for or cause adverse or preferential treatment of a person.	
<b>West Virginia</b>			
<a href="#">HB 2862</a> , in effect 6/8/23	Anti-ESG Investing	Introduces requirements with respect to shareholder and proxy voting.	Includes an exception where "reasonable efforts" have been made among other factors.
<a href="#">SB 262</a> , in effect 6/10/22	Anti-Boycott	Authorizes State Treasurer to prepare and maintain a list of financial companies that have engaged in boycotts of companies in the fossil fuel-based energy industry, to exclude listed companies from the selection process for state banking contracts, to refuse to enter into banking contracts with listed companies, and to require, as a term of banking contracts, an agreement by a financial institution not to engage in energy company boycotts for the duration of the contract.	An initial list of five restricted financial companies was released on <a href="#">7/28/22</a> . On 2/22/24, the State Treasurer <a href="#">notified</a> six additional companies by letter that they would be added to the list unless they demonstrate within 30 days of receipt of the letter that they are not boycotting fossil fuels.
<b>Wyoming</b>			
<a href="#">HB 0236</a> , in effect 7/1/21	Anti-Boycott	Prohibits financial institutions from discriminating against companies or trade associations in the firearms industry.	Does not apply where a financial institution opts not to provide services for business or financial reasons or pursuant to a regulation or written company policy prohibiting discrimination against these entities.

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## Anti-ESG Resolutions / Policies / Statements: By State

Measure	Description
<b>Alabama</b>	
Attorney General <a href="#">Written Testimony</a> , 5/10/23	States that ESG policies threaten America’s democratic system, focusing on climate alliances.
<b>Arizona</b>	
State Treasurer’s Office <a href="#">investment policy statement</a> , adopted 8/30/22	<p>Prohibits consideration of non-pecuniary factors when evaluating state investments or discharging duties.</p> <p>Introduces requirements with respect to shareholder and proxy voting.</p> <p>Prohibits lending securities to any borrower with a practice of or a commitment to engaging with companies or voting shares based on non-pecuniary factors.</p> <p><i>Note:</i> On 2/13/23, the State AG <a href="#">announced</a> that Arizona would end <a href="#">investigations into financial institutions pursuing ESG investing</a>, which were initiated under the state’s previous AG; it is unclear how and to what extent the statement affects implementation of the revised investment policy.</p>
<b>Florida</b>	
State Board of Administration <a href="#">revised investment policy</a> , in effect 8/23/22	Restricts state board evaluation of retirement system investment decisions to pecuniary factors.
CFO <a href="#">Directive</a> , 1/23/23	Prohibits asset managers from investing income of participants in state’s deferred compensation program in financial products associated with ESG standards.
<b>Georgia</b>	
<a href="#">General Statement of Investment Policy</a> , 9/15/22	Prohibits state employee retirement system trustees from sacrificing investment returns or increasing risk to promote non-pecuniary interests, including furtherance of social, political or ideological interests.
<b>Indiana</b>	
Attorney General <a href="#">Opinion</a> , 9/1/22	Establishes that choosing investments for Indiana’s Public Retirement System on the basis of ESG considerations violates fiduciary duties.

Measure	Description
<b>Iowa</b>	
Governor <a href="#">Proposal</a> , 2/15/23	Proposes that investment firms that manage the state’s money must not boycott fossil fuel energy or firearms companies, or generally invest funds to further ESG, political or ideological interests over maximized returns.
<b>Kentucky</b>	
Attorney General <a href="#">Opinion</a> , 5/26/22	Establishes that stakeholder capitalism and ESG investment practices are inconsistent with state law governing fiduciary duties owed by investment management firms to state public pension plans.
<b>Louisiana</b>	
<a href="#">HCR 59</a> , in effect 6/4/23	Requests U.S. Securities and Exchange Commission to withdraw proposed Climate Disclosure Rule.
<a href="#">HCR 110</a> , in effect 6/7/23	Urges and requests state retirement system boards of trustees not to allow ESG policies to influence their investment decisions.
<b>Mississippi</b>	
Treasurer <a href="#">letter</a> to Public Employees’ Retirement System Board Members, 11/14/22	Urges board to reject ESG policies and formally prohibit the use of nonpecuniary factors in investment policy.
<b>Missouri</b>	
<a href="#">HR 12</a> , in effect 5/12/23	Urges the state and its executive officers, state agencies and officials to oppose (i) a forced imposition of ESG policies, (ii) costs on state citizens related to the imposition of ESG policies, (iii) any action based on the assumption that net zero is likely to occur, (iv) any SEC regulations or other climate-related rules, (v) any private governmental agency discussion on climate-change risk and ESG policies and (vi) any policies of federal banking regulators that require ESG to be used in the decision-making process.
<a href="#">15 CSR 30-51.170 6/1/2023 Amendment</a> , in effect 7/30/23	Requires a broker-dealer or agent to disclose to a customer or potential customer the incorporation of any social objective or other nonfinancial objective when buying or selling a security or commodity.  A trade association for broker-dealers, investment banks and asset managers filed a <a href="#">lawsuit</a> on 8/10/23 against the Missouri Secretary of State and Securities Commissioner, alleging that the amended 15 CSR 30-51.170 and 15 CSR 30-51.172 (below) violate federal laws.
<a href="#">15 CSR 30-51.172 6/1/2023 Amendment</a> , in effect 7/30/23	Requires investment advisers to disclose to a client or prospective client the incorporation of any social objective or other nonfinancial objective when buying or selling a security or commodity.  A trade association for broker-dealers, investment banks and asset managers filed a <a href="#">lawsuit</a> on 8/10/23 against the Missouri Secretary of State and Securities Commissioner, alleging that the amended 15 CSR 30-51.170 (above) and 15 CSR 30-51.172 violate federal laws.

Measure	Description
<b>Montana</b>	
<a href="#">HJ 11</a> , in effect 4/14/23	Joint resolution urging (i) state congressmen to compel the U.S. Senate Banking Committee, as well as the committees it oversees, to withdraw or modify ESG investment policies for financial institutions and (ii) the state division of banking and financial institutions to avoid implementing examination policies or guidelines beyond the scope of traditional “safety and soundness” risk assessments.
<b>New Hampshire</b>	
<a href="#">Executive Order</a> 2023-03	Establishes restrictions on ESG factors in state investments and associated reporting.
<b>Utah</b>	
<a href="#">SCR 9</a> , in effect 3/14/23	Encourages State AG to furnish legal advice to the State Treasurer and investment managers on various topics, to take legal action to protect the state’s investments when necessary, to implement investment policies that restrict the use of ESG criteria, and to conduct audits of state investments.
Attorney General <a href="#">Statement</a> before the U.S. House Committee on Oversight and Accountability, 5/10/23	Urges committee to undertake various ESG-related investigations, including on the role of proxy advisors and the U.S. Department of Labor 401(k) rule.
<b>Wyoming</b>	
State Treasurer’s <a href="#">Statement</a> on its updated ESG Policy, 5/3/23	Prohibits State Treasurer from considering factors that further social, political or ideological interests in state investment decisions.
<a href="#">002-4 Wyo. Code R. § 4-7</a> , in effect 2/27/24	Requires a broker-dealer to disclose to a customer the incorporation of any social objective when buying or selling a security or commodity, or when making recommendations to do so.
<a href="#">002-5 Wyo. Code R. § 5-7</a> , in effect 2/27/24	Requires a securities agent to disclose to a customer the incorporation of any social objective when buying or selling a security or commodity, or when making recommendations to do so.
<a href="#">002-10 Wyo. Code R. § 10-15</a> , in effect 2/27/24	Requires an investment adviser to disclose to a customer the incorporation of any social objective when buying or selling a security or commodity, or when making recommendations to do so.

## Anti-ESG Multi-State Initiatives

Initiative	Date	Description	Participating States
Attorneys General <a href="#">Letter</a> to Net Zero Financial Service Providers Alliance	9/13/23	Expresses concern that Net Zero Financial Service Providers Alliance members' commitment to enforce a collective climate agenda may violate state and federal law.	Alabama, Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Oklahoma, Ohio, South Carolina, Utah, Virginia, West Virginia and Wyoming (21 states)
Republican Attorneys General <a href="#">Letter</a> to Fortune 100 CEOs	7/13/23	Argues that DEI policies violate federal law and urges CEOs to employ race-neutral principles in employment and contracting practices.	Alabama, Arkansas, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, South Carolina, Tennessee and West Virginia (13 states)
Attorneys General <a href="#">Letter</a> to BlackRock Directors	7/6/23	Requests information about conflicts of interest analysis related to BlackRock directors, in part resulting from ESG investing policies.	Alabama, Arkansas, Georgia, Iowa, Indiana, Kansas, Louisiana, Missouri, Mississippi, Montana, New Hampshire, South Carolina, South Dakota, Utah and Virginia (15 states)
Attorneys General <a href="#">Letter</a> to large bank CEOs	5/19/23	Alleges inconsistency between (i) management recommendations on climate-related shareholder proposals at the banks, and (ii) the banks' past proxy voting record in its asset management role.	Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia and Wyoming (23 states)
Attorneys General <a href="#">Letter</a> to Net-Zero Insurance Alliance	5/15/23	Expresses concern that Net-Zero Insurance Alliance members' commitment to enforce a collective climate agenda may violate state and federal law such as antitrust laws.	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 and Wyoming (23 states)
Attorneys General <a href="#">Letter</a> to Asset Managers	3/30/23	Alleges that asset managers are in breach of their fiduciary duties relating to the inclusion of ESG factors in managers' investment decisions, and antitrust violations implicated by their involvement in climate-related coalitions; some of these states have followed up with civil investigative demands seeking information about the asset managers' participation in the Net Zero Asset Managers initiative.	Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia and Wyoming (21 states)
Governors' <a href="#">Statement</a> on Anti-ESG Investing	3/16/23	Forms an alliance to force change in the use of ESG factors in asset managers' investment decisions and limit financial institutions' ability to use social credit scores, among others; the coalition has not taken any formal steps, though various policy points are mirrored in anti-ESG legislation signed into law in Florida, and Governor DeSantis made an anti-ESG platform part of his 2024 presidential campaign.	Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Iowa, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, West Virginia and Wyoming (19 states)



Initiative	Date	Description	Participating States
Attorneys General <a href="#">Letter</a> to Congress regarding the DOL ESG Rule	2/14/23	Urges members of Congress to disapprove of the DOL's ESG rule because the rule allegedly violates federal law and threatens the financial stability of Americans who have invested in an ERISA plan.	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 and Wyoming (27 states)
Attorneys General <a href="#">Lawsuit</a> against the DOL and the Secretary of Labor	1/26/23	Alleges that the DOL's ESG Rule violates ERISA and the Administrative Procedure Act. On 9/1/23, the federal district court for the Northern District of Texas upheld the ESG Rule. In response, the Attorneys General filed an appeal.	Alabama, Alaska, Arkansas, Florida, Georgia, Indiana, Idaho, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia and Wyoming (25 states)
Attorneys General <a href="#">Letter</a> to ISS and Glass Lewis	1/17/23	Expresses concern that the firms, by advocating for and acting in alignment with climate change goals, potentially violated their duties as proxy advisers, and seeks responses to questions concerning how ESG considerations affect their proxy voting recommendations.	Alabama, Alaska, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Ohio, South Carolina, Texas, Utah, Virginia and West Virginia (21 states)
Attorneys General <a href="#">Investigation</a> into large U.S. banks	10/22	Initiates a coordinated investigation by issuing civil investigative demands to the six largest U.S. banks, seeking information relating to the banks' participation in global climate change initiatives such as the Net-Zero Banking Alliance and the Glasgow Financial Alliance for Net Zero, based on purported antitrust and consumer-protection concerns. Five states joined but cannot be named due to state laws or regulations regarding confidentiality.	Arizona, Arkansas, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Tennessee, Texas, Virginia and five other states that <a href="#">cannot be named due to state confidentiality laws/regulations</a> . (19 states)
Attorneys General <a href="#">Letter</a> to BlackRock CEO	8/4/22	Criticizes BlackRock's efforts to mitigate climate change and implies BlackRock has violated its fiduciary duty of loyalty and care by not focusing solely on financial returns.	Alabama, Arizona, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, Texas, Utah and West Virginia (19 states)
Attorneys General <a href="#">Letter</a> to SEC Secretary	6/17/22	Opposes the proposed SEC climate-related disclosure rule because the rule allegedly exceeds the SEC's scope of authority. The letter also argues that the rule would significantly increase reporting burdens for registrants without providing investors with any additional information that would help them evaluate the financial value of companies.	Alaska, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, South Carolina, Texas and Utah (12 states)

## Pro-ESG Laws: By State

■ Consideration of ESG Factors
 ■ Divestments/Investment Restriction
 ■ ESG-related Disclosures

Statute		Description	Exceptions / Notes
<b>California</b>			
<a href="#">SB 54</a> , in effect 1/1/24	ESG-related Disclosures	Requires qualifying “venture capital companies” with ties to CA to annually survey and report specified information relating to the diversity of the founding and executive team members of business in which the company has invested. <sup>3</sup>	Annual reports must be submitted by March 1, 2025 covering the period beginning January 1, 2024.
<a href="#">SB 253</a> , in effect 1/1/24	ESG-related Disclosures	Requires covered companies doing business in California to annually disclose Scope 1, 2 and 3 emissions calculated in accordance with the Greenhouse Gas Protocol standards and related guidance, beginning in 2026 (with assurance requirements phased in). <sup>4</sup>	<p>Governor Gavin Newsom addressed the California State Senate in a signing <a href="#">memo</a>, directing his Administration to work with the legislature on clean-up legislation to be adopted in 2024. It is unclear at this stage whether clean-up legislation will be introduced.</p> <p>Six business groups filed a lawsuit on 1/30/24 against the California Air Resources Board alleging that SB 253 and SB 261 (below) violate constitutional law. The California Air Resources Board must file a motion to dismiss or other responsive pleading by 3/27/24.</p>
<a href="#">SB 261</a> , in effect 1/1/24	ESG-related Disclosures	Requires covered companies doing business in California to biennially disclose climate-related financial risk reports created in accordance with TCFD. <sup>5</sup>	Governor Gavin Newsom addressed the California State Senate in a signing <a href="#">memo</a> , directing his Administration to work with the legislature on clean-up legislation to be adopted in 2024. It is unclear at this stage whether clean-up legislation will be introduced.

<sup>3</sup> Please see our [client memo](#) for additional information.

<sup>4</sup> Please see our [client memo](#) for additional information.

<sup>5</sup> Please see our [client memo](#) for additional information.

Statute		Description	Exceptions / Notes
			Six business groups filed a lawsuit on 1/30/24 against the California Air Resources Board alleging that SB 261 and SB 253 (above) violate constitutional law. The California Air Resources Board must file a motion to dismiss or other responsive pleading by 3/27/24.
<a href="#">AB 1305</a> , in effect 1/1/24	ESG-related Disclosures	Requires covered entities that market or sell voluntary carbon offsets, and/or make claims of carbon reduction/removal within the state to disclose specified information related to such offsets and claims. <sup>6</sup>	Although the bill did not have a clear implementation date, the bill's sponsor, Assemblyman Jesse Gabriel, noted that his intent was for reporting to begin <a href="#">January 1, 2025</a> .  A new bill, <a href="#">AB 2331</a> , introduced on February 12, 2024, would clarify the reporting date of January 1, 2025 and exclude renewable energy certificates from the definition of voluntary carbon offset.
<a href="#">SB 185</a> , in effect 4/8/15	Divestments / Investment Restriction	Prohibits boards of the California Public Employees' Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS) from making new investments in thermal coal companies.  Requires boards to divest investments in existing thermal coal companies by 7/1/17, to report to the state legislature by 1/1/18 on divestment activities, and in conjunction with the California Environmental Protection Agency to report on the feasibility of divesting from fossil fuel investments.	
<b>Colorado</b>			
<a href="#">SB 23-016</a> , in effect 8/8/23	ESG-related Disclosures	Requires public employees' retirement system to provide annual report on climate change risk assessments, anticipated impact on investment strategy, use of climate-related reporting and actions taken to manage climate risk.  Requires certain insurers to participate in a climate risk disclosure survey.	Annual reporting requirements begin January 1, 2025.

<sup>6</sup> Please see our [client memo](#) for additional information.

Statute	Description	Exceptions / Notes	
<b>Illinois</b>			
<a href="#">HB 2782</a> , in effect 1/1/24	Consideration of ESG Factors	Requires public entity investment managers to disclose any process through which they integrate sustainability factors into investment decision-making, analysis, portfolio construction, diligence and investment ownership in order to maximize risk-adjusted financial returns.	
<a href="#">SB 2152</a> , in effect 9/1/23	Consideration of ESG Factors	Requires state pension board to publish its guidelines for voting proxy ballots and a detailed report on its website describing how the board is considering sustainability factors as defined in the state's sustainable investing act (PA 101-473 below).	
<a href="#">SB 653</a> , enacted 8/6/21	Consideration of ESG Factors	Requires State Treasurer to develop, publish and implement an investment policy covering the management of all state funds under its control. In preparing the policy, State Treasurer must consider material, relevant and decision-useful sustainability factors such as corporate governance and environmental and social capital factors.	
<a href="#">PA 101-473</a> , in effect 1/1/20	Consideration of ESG Factors	Requires state and local government entities managing public funds to develop, publish and implement policies outlining how they consider ESG factors in relation to their overarching goals of achieving sustainable returns.  Requires entities to prudently integrate sustainability factors into investment decision-making, investment analysis, portfolio construction, due diligence and investment ownership.	Does not apply to financial institution time deposits or processing services.
<a href="#">HB 1471</a> , enacted 7/12/19	Consideration of ESG Factors	Identifies environmental and social considerations and governance policies as one of many factors that a trustee managing a trust may consider in making investment decisions.	
<b>Maine</b>			
<a href="#">HP 65 / LD 99</a> , in effect 10/18/21	Divestments / Investment Restriction	Prohibits State Treasurer from investing in any prime commercial paper or corporate bonds issued by a fossil fuel company.	Does not preclude <i>de minimis</i> exposure of funds.  Although the system is divesting from fossil fuel industries as mandated by the law, it has expressed <a href="#">concerns of breaching its fiduciary duty</a> in connection with a complete divestment.

Consideration of ESG Factors
  Divestments/Investment Restriction
  ESG-related Disclosures

Statute	Description	Exceptions / Notes
		<p>Requires divestment of fossil fuel companies by state permanent funds held in trust by employees retirement system to divest from the fossil fuel industry by 1/1/26, and specifically identifies the 200 largest public fossil fuel companies as determined by carbon in their reserves.</p> <p>Requires the public employees retirement system board to annually report on its ESG investment policy, including a disclosure of environmental performance metrics of the board's investments.</p>
<b>Maryland</b>		
<p><a href="#">HB 740</a> / <a href="#">SB 566</a>, in effect 6/1/22</p>	<p>Consideration of ESG Factors</p>	<p>Requires state retirement and pension board to consider climate risks in its investment policy and associated with its portfolio across certain sectors and asset classes, to identify investment opportunities in certain energy sectors, to develop a process to regularly assess certain impacts of climate risk, and to report annually on climate risk levels across the portfolio.</p> <p>Requires fiduciaries to consider systemic risks posed by climate change, including monitoring net-zero aligned investments and climate solutions to ensure a long-term sustainable portfolio.</p>
<b>New Hampshire</b>		
<p><a href="#">SB 49</a>, enacted 7/1/21</p>	<p>Consideration of ESG Factors</p>	<p>Allows trustees to engage in investing strategies that align with interested persons' social, environmental, or governance objectives or other values or beliefs, regardless of investment performance.</p>

Consideration of ESG Factors
  Divestments/Investment Restriction
  ESG-related Disclosures

## Pro-ESG Resolutions / Policies / Statements: By State

Measure	Description
<b>California</b>	
Public Employees' Retirement System ("CalPERS") <a href="#">initiatives</a> , adopted in 11/23	CalPERS adopted a sustainable investing strategy, including (i) increasing investments in climate solutions with a 2030 investment target of \$100B, (ii) engaging portfolio companies on net zero plans, (iii) developing a process to exit certain securities (i.e. companies without credible net zero plans), (iv) integrating climate risk and opportunity assessment into investment decisions and (v) enhancing measurements and reporting of portfolio emissions.
<b>Connecticut</b>	
State Treasurer's Responsible Gun <a href="#">Policy</a> , adopted and in effect 12/3/19	Prohibits state retirement plans and trust funds investment in civilian firearm manufacturing companies.  Requests banks and financial institutions to disclose their gun policies to the Office of the Treasurer, and requires that office to consider such policies when contracting for financial services.
<b>Maryland</b>	
Building Energy Performance <a href="#">Standards</a> ("BEPS"), in effect 1/1/24	Requires covered buildings that are 35,000 square feet or larger (excluding parking garage areas) to report GHG data, starting in 2025 and to meet specific targets related to GHG emissions and energy use intensity standards.
<b>Massachusetts</b>	
PRIM Board proxy voting <a href="#">guidelines</a> , in effect 3/1/22	Permits state pension funds to vote against directors at companies targeted by the Climate Action 100+, and vote on a case-by-case basis on directors at companies not included on the Climate Action 100+ action list that have failed to align their business plans with the goals of limiting global warming to 1.5 degrees Celsius, and/or that have failed to establish a plan to achieve net zero emissions by 2050.
<b>Nevada</b>	
Treasurer <a href="#">Announcement</a> , 6/3/22	Announced state divestment from businesses that sell or manufacture assault-style weapons.

Measure	Description
<b>New Mexico</b>	
Permanent Funds Environmental, Social, and Governance <a href="#">Policy</a> , approved by the New Mexico State Investment Council in August 2021	Establishes guidelines for the incorporation of ESG considerations into state investment office and council state investment management process.
<b>New York</b>	
State Teachers' Retirement System <a href="#">divestment</a> , 12/28/21	Announced end to further investment in 20 oil and gas and thermal coal reserve holdings and divestment of \$66 million of thermal coal holdings.
State Pension Fund <a href="#">sets 2040 Net Zero Carbon Emissions Target</a>	New York State Common Fund adopted a goal to transition its portfolio to net zero emissions by 2040, including (i) a review of investments in energy sector companies, (ii) an assessment of transition readiness and climate-related investment risk and (iii) divestment of companies that fail to meet minimum standards.
City Teachers' Retirement System and City Employees' Retirement System <a href="#">initiatives</a>	<p>2015 - divested from thermal coal</p> <p>2017-2022 - conducted climate risk assessments and divested from fossil fuel reserve owners and increased investments in climate solutions</p> <p>2021 - committed to reach net zero by 2040</p> <p>2023 - announced four strategies whereby system will achieve net zero emissions by 2040: (1) disclose emissions and set interim targets; (2) engage portfolio companies and asset managers to be net zero-aligned; (3) invest in climate change solutions and (4) divest to reduce risk</p> <p>In May 2023, <a href="#">four public employees sued</a> the New York City Teachers' Retirement System, Employees' Retirement System and Board of Education Retirement System for breaching their fiduciary duties in the process of divesting from fossil fuel companies. On August 7, 2023, the <a href="#">pension funds filed a motion to dismiss</a> on the grounds that the decision will have no impact on the employees' retirement benefits, and the employees therefore lack standing.</p>
City Board of Education Retirement System <a href="#">initiatives</a>	<p>Divested from fossil fuel reserve owners in 2021.</p> <p>See discussion of lawsuit above.</p>

Measure	Description
<b>Oregon</b>	
Investment Council approval of an <a href="#">amendment</a> to the state investment policy for Oregon Public Employees Retirement Fund, 9/9/20	Formally integrates ESG factors into fund management policy.
<b>Rhode Island</b>	
State Pension <a href="#">Initiative</a> , in effect 1/22/20	Requires state investment commission to divest the public pension fund from companies that manufacture assault-style weapons for civilian use or operate private for-profit prisons.
<b>Texas</b>	
Teacher Retirement System <a href="#">Investment Policy Statement</a> , in effect 10/1/23	Formally incorporates ESG statement into investment policy.



## Pro-ESG Multi-State Initiatives

Initiative	Date	Description	Participating States
Attorneys General <a href="#">Letter</a> to Congress	12/14/23	Explains why fund managers' use of ESG factors is consistent with prudent investment decision-making.	Arizona, California, Colorado, Connecticut, DC, Delaware, Illinois, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Vermont, Washington and Wisconsin (18 states)
Democratic Attorneys General <a href="#">Letter</a> to Fortune 100 CEOs	7/19/23	Expresses view that corporate efforts to recruit diverse workforces and create inclusive work environments are legal and in fact reduce legal risk for claims of discrimination.	Arizona, California, Colorado, Connecticut, Delaware, DC, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont and Washington (21 states)
Attorneys General <a href="#">Letter</a> to Senate Committee on Banking, Housing, and Urban Affairs	11/21/22	States that ESG factors in investment decisions are like any other material factors that inform investment decision-making.	California, Connecticut, Delaware, DC, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Washington and Wisconsin (17 states)
Attorneys General <a href="#">Letter</a> to SEC Secretary	8/16/22	Expresses support for the proposed Certain Investment Advisers and Investment Companies about Environmental, Social and Governance Investment Practices Rule in light of investors' need for consistent, comparable and reliable information on ESG-based investment products and strategies.	California, Delaware, Illinois, Maryland, Minnesota, New Jersey and New York (7 states)
State Treasurers' Public <a href="#">Letter</a>	9/14/22	Argues signatories' opposition to state efforts to ban the use of nonpecuniary factors in investment decisions.	California, Colorado, Delaware, Illinois, Maine, Massachusetts, Nevada, New Mexico, New York City, Oregon, Rhode Island, Vermont, Washington and Wisconsin (14 states/cities)