TESTIMONY OF BRANDON J. REES
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AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS

"ENSURING THAT 'WOKE' DOESN'T LEAVE AMERICANS BROKE: PROTECTING SENIORS AND SAVERS FROM ESG ACTIVISM"

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Chair Smith, Ranking Member Neal, and members of the House Ways and Means Committee, my name is Brandon Rees and I am the Deputy Director of Corporations and Capital Markets for the American Federation of Labor and Congress of Industrial Organizations (the "AFL-CIO"). Thank you for the opportunity to testify today on the consideration of Environmental, Social and Governance ("ESG") factors by investors including with regard to the retirement savings of working people.[1]

The AFL-CIO is a federation of 60 national and international labor unions that represent 12.5 million working people. We have one overarching goal: a better life for working people which includes a financially secure retirement. For union members, both defined benefit pension plans and defined contribution retirement savings plans, like 401(k) plans, are a big part of the compensation package negotiated through collective bargaining. Union members also participate in the capital markets as individual investors.

Congress should not be playing politics with our nation's retirement funds. We view the recent attacks on ESG investing as little more than partisan politics – and the search for a sound bite – rather than being based on factual reality. Moreover, proposals to limit investors' ability to consider ESG factors have more in common with a totalitarian command economy than a free market system. Retirement savers should not be subject to government overreach telling us what we and our retirement plans can and cannot invest in. As the AFL-CIO's Executive Council recently stated:

> *Pension plans represent the deferred wages of working people and must be invested with prudence and loyalty to provide retirement benefits. The proper stewardship of retirement savings requires the freedom to consider all relevant investment considerations, including ESG risks. Laws and regulations that restrict the ability of retirement plan trustees and asset*

[1] At the end of 2022, U.S. retirement plans and individual savings accounts held nearly $38 trillion in assets, including over $26 trillion in employer-sponsored retirement plans. John Topoleski, John Gorman, and Elizabeth Myers, "U.S. Retirement Assets: Data in Brief," Congressional Research Service, September 20, 2023, *available at* https://crsreports.congress.gov/product/pdf/R/R47699.

managers to consider ESG risks directly contradict their fiduciary duties. Fiduciaries, not politicians, should make these judgments.[2]

It's Time for Congress to Address the Real Retirement Income Security Crisis

We urge Congress to focus on and address the genuine retirement income security issues that we face in our nation rather than encouraging ESG-related "woke" hysteria. The Butch Lewis Act, part of the American Rescue Plan, is an example of important legislation that secured the hard-earned pensions of over 350,000 American workers, retirees, and their families.[3] Notably, not even one multiemployer plan in the country required special financial assistance because of ESG investing.

But there is more to be done to address working people's mounting retirement insecurity. Our retirement income crisis is rooted in our patchwork system which, with the decline of traditional defined benefit pensions, requires workers to go it on their own, e.g., through defined contribution retirement savings plans, like 401(k) plans.[4] Defined contribution plans shift the burden of saving for retirement, investment risk, and longevity risk of outliving one's retirement savings onto individual workers.[5]

We strongly support the Department of Labor's proposed fiduciary rule to protect defined contribution plan participants from financial professionals' conflicts of interest.[6] There is no question that these regulations need updating to account for the changes in the retirement savings landscape. In particular, the Department's proposed fiduciary rule covers investment advice about rollovers to IRAs – for many people, this is the most consequential financial decision they will make during their lifetime. We hope all members of Congress will support getting this rule over the finish line.

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[2] "Pension Plans Need the Freedom to Consider Environmental, Social and Governance Risks and Responsible Workforce Management Principles," AFL-CIO, July 18, 2023, *available at* https://aflcio.org/about/leadership/statements/pension-plans-need-freedom-consider-environmental-social-and-governance.

[3] "President Biden Announces Historic Relief to Protect Hard-Earned Pensions of Hundreds of Thousands of Union Workers and Retirees," The White House, December 8, 2022, https://www.whitehouse.gov/briefing-room/statements-releases/2022/12/08/fact-sheet-president-biden-announces-historic-relief-to-protect-hard-earned-pensions-of-hundreds-of-thousands-of-union-workers-and-retirees/.

[4] Monique Morrissey, "The State of American Retirement: How 401(k)s Have Failed Most American Workers," Economic Policy Institute, March 3, 2016, *available at* https://www.epi.org/publication/retirement-in-america/.

[5] William Fornia and Dan Doonan, "A Better Bang for the Buck 3.0: Post-Retirement Experience Drives the Pension Cost Advantage," National Institute on Retirement Security, January 2022, *available at* https://www.nirsonline.org/reports/betterbang3/.

[6] "Retirement Security Proposed Rule and Proposed Amendments to Class Prohibited Transaction Exemptions for Investment Advice Fiduciaries," Employee Benefits Security Administration, Department of Labor, October 31, 2023, *available at* https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/retirement-security-proposed-rule-and-proposed-amendments-to-class-pte-for-investment-advice-fiduciaries.

Workers find it hard to save for retirement for a variety of reasons: first and foremost, low wages make it hard to pay today's bills, let alone save for the future. According to data from the 2020 Census, the median account balance for employer-provided retirement savings plans was just $30,000; the median balance for individual retirement accounts was about the same, just $30,820.[7] At a prudent 4 percent withdrawal rate, $30,000 in retirement savings can support just $1,200 in annual spending, or only $100 per month – hardly enough for a dignified retirement.

To strengthen the freedom of working people to negotiate for higher wages and retirement benefits, we urge Congress to enact the Richard L. Trumka Protecting the Right to Organize ("PRO") Act (HR 20). On average, union workers' weekly earnings are 18 percent higher than nonunion workers,[8] with an even greater union wage advantage for workers with less formal education and workers of color.[9] Furthermore, two thirds of private sector union workers have access to a traditional defined benefit pension, while only 10 percent of private sector nonunion workers have this benefit.[10]

While we appreciate the provision in the recently-enacted SECURE 2.0 Act of 2022 to provide a tax credit for low wage workers' IRA contributions, we must do much more. The tax code provides the bulk of retirement savings incentives to the highest earners who are the most able and likely to save without any incentives.[11] Tinkering around the edges of the tax code will not fix the retirement income security crisis. Nearly half of all Americans do not have an employer-provided retirement plan account or an IRA at all.[12] In other words, they have no retirement savings.

For these workers, Social Security is the only retirement benefit they can count on; it is our nation's nearly universal, albeit too modest, retirement plan. Social Security's long-term funding needs can be addressed without benefit cuts; the AFL-CIO opposes cuts of any kind, including increasing the retirement age, altering the benefit formula, or

[7] Maria Hoffman, Mark Klee and Briana Sullivan, "New Data Reveal Inequality in Retirement Account Ownership," U.S. Census Bureau, August 31, 2022, *available at* https://www.census.gov/library/stories/2022/08/who-has-retirement-accounts.html

[8] "Union Members – 2022," U.S. Bureau of Labor Statistics, January 19, 2023, *available at* https://www.bls.gov/news.release/union2.htm.

[9] "White House Task Force on Worker Organizing and Empowerment," The White House, 2022, *available at* https://www.whitehouse.gov/wp-content/uploads/2022/02/White-House-Task-Force-on-Worker-Organizing-and-Empowerment-Report.pdf.

[10] "Employee Benefits in The United States – March 2023," U.S. Bureau of Labor Statistics, September 21, 2023, *available at* https://www.bls.gov/news.release/ebs2.nr0.htm.

[11] Jean Ross, "Tax Breaks for Retirement Savings Do Not Help the Workers Who Need Them Most," Center for American Progress, May 20, 2022, *available at* https://www.americanprogress.org/article/tax-breaks-for-retirement-savings-do-not-help-the-workers-who-need-them-most/.

[12] Maria Hoffman, Mark Klee and Briana Sullivan, "New Data Reveal Inequality in Retirement Account Ownership," U.S. Census Bureau, August 31, 2022, *available at* https://www.census.gov/library/stories/2022/08/who-has-retirement-accounts.html.

reducing cost-of-living adjustments.[13] Instead, Congress must strengthen Social Security by eliminating the cap on taxable income for high earners and expand benefits to provide a secure retirement with dignity for all Social Security recipients.[14]

ERISA Already Prohibits Inappropriate Consideration of ESG Factors

The Employee Retirement Income Security Act of 1974 ("ERISA") governs the investment of private sector retirement plan assets and there are similar state laws for public sector retirement plans. ERISA does not mandate or prohibit particular types of investments. Instead, under ERISA's prudent expert rule, retirement plan fiduciaries have a duty to act with the same degree of care, diligence, prudence, and skill that a prudent person acting in a similar capacity, and familiar with such matters, would use.

For expert financial professionals acting in a fiduciary capacity, the consideration of ESG factors is an established best practice. Today, 85 percent of chartered financial analysts take ESG factors into consideration, up from 73 percent in 2017.[15] As of 2022, ESG factors were considered in the professional management of $8.4 trillion in U.S. assets.[16] And globally, over 5,300 institutional investors, representing $121 trillion in assets under management, have signed the UN Principles for Responsible Investment.[17]

Numerous academic studies have demonstrated that ESG factors are material information for investors and that their consideration contributes to financial performance.[18] According to a review of over 2,000 academic papers, 90 percent of studies have found a non-negative relationship between ESG and corporate financial

[13] "Convention Resolution 13: Retirement Income Security for All," AFL-CIO, June 13, 2022, *available at* https://aflcio.org/resolutions/resolution13.

[14] Josh Bivens and Elise Gould, "A Record Share of Earnings Was Not Subject to Social Security Taxes in 2021," Economic Policy Institute, January 17, 2023, *available at* https://www.epi.org/blog/a-record-share-of-earnings-was-not-subject-to-social-security-taxes-in-2021-inequalitys-undermining-of-social-security-has-accelerated/.

[15] "Future of Sustainability in Investment Management: From Ideas to Reality," CFA Institute, 2020, *available at* https://www.cfainstitute.org/-/media/documents/survey/future-of-sustainability.ashx.

[16] "2022 Report on US Sustainable Investing Trends," US SIF Foundation, December 2022, *available at* https://www.ussif.org//Files/Trends/2022/Trends%202022%20Executive%20Summary.pdf.

[17] Letter from the Principles for Responsible Investment to U.S. House Committee on Financial Services, July 12, 2023, *available at* https://www.unpri.org/download?ac=18874.

[18] "Empirical Research on ESG Factors and Engaged Ownership," Council of Institutional Investors, June 2022, *available at* https://www.cii.org/files/publications/June%202022%20update%20bibliography%20final.pdf; "Financial Performance With Sustainable Investing," US SIF, *available at* https://www.ussif.org/performance; "Top Academic Resources on Responsible Investment," Principles for Responsible Investment, *available at* https://www.unpri.org/research/top-academic-resources-on-responsible-investment/4417.article.

performance. To the contrary, the authors conclude that "the business case for ESG investing is empirically well founded. Investing in ESG pays financially."[19]

In light of the materiality of ESG factors to investors, the AFL-CIO strongly supported the U.S. Department of Labor's 2022 regulation titled "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights," commonly referred to as the Department of Labor's ESG rule.[20] This rule clarifies that retirement plan fiduciaries may consider, but are not required to consider, ESG factors just as they would consider any other investment factor.[21] The ESG rule was recently upheld by the U.S. District Court of the Northern District of Texas.[22]

The 2022 ESG rule revised two Department of Labor regulations that hastily were adopted at the end of the Trump Administration titled "Financial Factors in Selecting Plan Investments"[23] and "Fiduciary Duties Regarding Proxy Voting and Shareholder Rights."[24] The AFL-CIO strongly opposed these regulations because they introduced confusing new language by attempting to distinguish between "pecuniary" and "non-pecuniary" factors. This vague language is nowhere to be found in the text of ERISA and would have a chilling effect on financially beneficial investments.[25]

The Department of Labor's 2022 ESG rule also properly lifted the previous rule's prohibition on selecting ESG investments as the qualified default investment alternative

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[19]Gunnar Friede, Timo Busch, and Alexander Bassen, "ESG and Financial Performance: Aggregated Evidence from More than 2000 Empirical Studies," Journal of Sustainable Finance & Investment, Volume 5, Issue 4, p. 210-233, 2015, *available at* https://ssrn.com/abstract=2699610.

[20]Letter from the AFL-CIO to the Employee Benefits Security Administration, Department of Labor, December 12, 2021, *available at* https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/public-comments/1210-AC03/00767.pdf.

[21]"Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights," Employee Benefits Security Administration, Department of Labor, 87 FR 73822, December 1, 2022, *available at* https://www.federalregister.gov/documents/2022/12/01/2022-25783/prudence-and-loyalty-in-selecting-plan-investments-and-exercising-shareholder-rights.

[22]*State of Utah v. Walsh*., slip op. (N.D. Tex. September. 21, 2023).

[23]"Financial Factors in Selecting Plan Investments," Employee Benefits Security Administration, Department of Labor, 85 FR 72846, November 13, 2020, *available at* https://www.federalregister.gov/documents/2020/11/13/2020-24515/financial-factors-in-selecting-plan-investments.

[24]"Fiduciary Duties Regarding Proxy Voting and Shareholder Rights," Employee Benefits Security Administration, Department of Labor, 85 FR 81658, December 16, 2020, *available at* https://www.federalregister.gov/documents/2020/12/16/2020-27465/fiduciary-duties-regarding-proxy-voting-and-shareholder-rights.

[25]Letter from the AFL-CIO to the Employee Benefits Security Administration, Department of Labor, July 30, 2020, *available at* https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/public-comments/1210-AB95/00637.pdf; letter from the AFL-CIO to the Employee Benefits Security Administration, Department of Labor, October 5, 2020, *available at* https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/public-comments/1210-AB91/00259.pdf.

for defined contribution retirement savings plans. We support allowing retirement plans to select the best investment options for plan participants regardless of whether the investment reflects a consideration of ESG factors. Moreover, as noted by the Department of Labor, offering ESG-related investment options in defined contribution plans may increase the eagerness of plan participants to save for retirement.

Importantly, the Department of Labor's ESG rule preserves the ability of retirement plans to consider the collateral benefits that result from their investment decisions such as good job creation, affordable housing, and economic growth for local communities. Under this "all things being equal" or tiebreaker standard, ERISA plans may consider collateral benefits so long as the competing investment courses of action equally serve the financial interests of the plan over the appropriate time horizon.

ERISA Also Regulates Proxy Voting and the Exercise of Shareholder Rights

The Department of Labor's ESG rule also regulates proxy voting and the exercise of shareholder rights by private sector retirement plans. Since the Reagan Administration, the Department has taken the view that ERISA's fiduciary duties of loyalty and prudence apply to proxy voting by pension and employee benefit plans.[26] ERISA's fiduciary duties apply to the voting of proxies and the exercise of shareholder rights by plan fiduciaries because the right to vote at shareholder meetings is a valuable plan asset.

The ESG rule holds proxy voting and the exercise of shareholder rights to the same fiduciary standards as any other investment decision under ERISA. Pension plans may refrain from proxy voting if the costs of voting exceed the potential benefit, e.g., certain international proxy voting materials may not be available in English. But they are not required to conduct an economic analysis before casting each individual vote as such a requirement would be more costly than simply deciding how to vote. And the rule correctly requires that proxy voting and the exercise of shareholder rights be held to the same documentation standards as any other investment decision.

It will be to their detriment if ERISA plans stop voting proxies because state corporate laws presume that shareholders take an active role in the governance of companies by voting at shareholder meetings.[27] Without shareholder votes, corporate directors could not be elected and other corporate decisions and actions could not be approved. And because an ERISA plan's decision not to vote effectively cedes voting power to other shareholders, it should be permitted only on a case by case basis – not pursuant to a general safe harbor to refrain from voting.

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[26] Letter from the Department of Labor to Mr. Helmuth Fandl, Chairman of the Retirement Board of Avon Products, Inc., February 23, 1988, 198 WL 897696 ("In general, the fiduciary act of managing plan assets which are shares of corporate stock would include the voting of proxies appurtenant to those shares of stock."). The Department of Labor subsequently restated this view in 1994 (Interpretive Bulletin 94-2, 59 FR 38863, July 29, 1994); in 2008 (Interpretive Bulletin 2008-02, 73 FR 61731, October 17, 2008); in 2016 (Interpretative Bulletin 2016-01, 81 FR 95879, December 29, 2016); and in 2018 (Field Assistance Bulletin 2018-01, April 23, 2018, *available at* https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-01).

[27] *See e.g.* Delaware General Corporation Law, § 211 - § 233.

Finally, the ESG rule permits retirement plans to hold corporate CEOs accountable on ESG issues by exercising their shareholder rights to submit proposals at company annual meetings. Since it was first adopted in 1942, the Securities and Exchange Commission's shareholder proposal rule (Rule 14a-8) has been an integral part of our nation's shareholder democracy.[28] The submission of shareholder proposals is the most cost-efficient way for investors to elevate their concerns to boards of directors, corporate management, and their fellow shareholders.

Shareholder proposals are not generally binding on companies, but they have successfully promoted the voluntary adoption of best practices.[29] Examples of ESG best practices that have been widely adopted include environmental sustainability disclosure, respect for international human rights, and the appointment of independent board chairs.[30] Academic studies have found that shareholder proposals create long-term value by holding corporate management accountable and helping to reduce agency costs that stem from the separation of ownership and control in public companies.[31]

Anti-ESG Legislative Proposals Jeopardize Retirement Income Security

Given that retirement plan fiduciaries need to have the freedom to consider ESG factors in order to make prudent investment decisions, the AFL-CIO strongly opposes the various anti-ESG bills that have been reported this Congress by other House committees: the Guiding Uniform and Responsible Disclosure Requirements and Information Limits Act (HR 4790), the Businesses Over Activists Act (HR 4655), the Protecting Americans' Retirement Savings from Politics Act (HR 4767), the Roll Back ESG to Increase Retirement Earnings Act (HR 5339), the Retirement Proxy Protection Act (HR 5337), and the No Discrimination in My Benefits Act (HR 5338).

If enacted, HR 4790 will make compliance with future Securities and Exchange Commission ("SEC") disclosure rules voluntary depending on whether corporate management deems ESG information to be "material" to investors. Since the 1930s, Congress has authorized the SEC to issue uniform disclosure rules for public companies

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[28] 17 CFR 240.14a-8; *see also* 7 FR 10655 (Dec. 22, 1942).

[29] Letter from the Council of Institutional Investors to the Securities and Exchange Commission, January 30, 2020, *available at* https://www.sec.gov/comments/s7-23-19/s72319-6729684-207400.pdf; Letter from the AFL-CIO to the Securities and Exchange Commission, February 3, 2020, *available at* https://www.sec.gov/comments/s7-23-19/s72319-6744323-207881.pdf.

[30] "The Business Case for the Current SEC Shareholder Proposal Process," CERES, USSIF and the Interfaith Center on Corporate Responsibility, April 2017, *available at* https://www.ussif.org/files/Public_Policy/Comment_Letters/Business%20Case%20for%2014a-8.pdf.

[31] Andrew Prevost, et.al., "Labor Unions as Shareholder Activists: Champions or Detractors?" Financial Review, Vol. 47, Issue 2, May 2012, pp. 219-421; Luc Rennebooga and Peter Szilagyi, "The Role of Shareholder Proposals in Corporate Governance," Journal of Corporate Finance, Vol. 17, Issue 1, February 2011, pp. 167-188. Lucian Bebchuk, "The Case for Increasing Shareholder Power," Harvard Law Review, Vol. 118, No. 3, pp. 833-914, January 2005.Matthew Denes, et. al., "Thirty Years of Shareholder Activism: A Survey of Empirical Research," Journal of Corporate Finance, Vol. 44, June 2017, pp. 405-424.

that provide consistency and comparability for investors.[32] Going forward, HR 4790 will radically curtail the SEC's authority to issue uniform disclosure rules for public companies by allowing corporate CEOs to decide whether or not to comply.

HR 4655 will effectively abolish the SEC's long-standing shareholder proposal rule by making compliance voluntary. Attacks on the shareholder proposal rule are motivated by the false premise that there are too many proposals. In reality, shareholder proposals make up a tiny fraction of all proxy votes.[33] Out of more than 171,500 votes at over 18,000 shareholder meetings during the 2022 - 2023 proxy season, only 813 of these votes were on shareholder proposals - less than 0.5 percent of all proxy votes cast.[34]

HR 4767 not only interferes with shareholders' ability to submit ESG shareholder proposals, but also seeks to disenfranchise investors from voting altogether. The bill creates unnecessary and burdensome red tape for the proxy voting advisors on whom institutional investors rely for independent proxy voting advice.[35] Investment managers will be faced with a Hobson choice of complying with a regulatory burden on their proxy voting or violating their duty of loyalty by always voting with corporate management, which includes casting votes to approve executive compensation.

HR 5339 will discourage fiduciaries from considering ESG factors by prohibiting the consideration of so-called "non-pecuniary" factors unless the fiduciary satisfies unnecessarily burdensome documentation requirements. Similarly, HR 5337 will discourage fiduciaries from voting proxies on ESG issues that might be considered "non-pecuniary" and disenfranchise retirement savers by creating a safe harbor to not vote at all. The Department of Labor has wisely rejected the distinction between pecuniary and non-pecuniary factors based on concerns that this ill-defined terminology causes confusion and has a chilling effect on financially beneficial investment choices.[36]

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[32] *See* Allison Lee, "Living in a Material World: Myths and Misconceptions about 'Materiality'," Securities and Exchange Commission, May 24, 2021, *available at* https://www.sec.gov/news/speech/lee-living-material-world-052421.

[33] "CII Fact Sheet on Proxy Advisory Firms and Shareholder Proposals," Council of Institutional Investors, November 5, 2019, *available at* https://www.cii.org/files/about_us/press_releases/2019/11-05-19%20CII%20Fact%20Sheet%20on%20Proxy%20Advisory%20Firms%20and%20Shareholder%20Proposals.pdf.

[34] "2023 Global Voting Spotlight," Blackrock, 2023, *available at* https://www.blackrock.com/corporate/literature/publication/2023-investment-stewardship-voting-spotlight.pdf.

[35] *See* "CII Fact Sheet on Proxy Advisory Firms and Shareholder Proposals," Council of Institutional Investors, November 5, 2019, *available at* https://www.cii.org/files/about_us/press_releases/2019/11-05-19%20CII%20Fact%20Sheet%20on%20Proxy%20Advisory%20Firms%20and%20Shareholder%20Proposals.pdf.

[36] "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights," Employee Benefits Security Administration, Department of Labor, 87 FR 73822, December 1, 2022, *available at* https://www.federalregister.gov/documents/2022/12/01/2022-25783/prudence-and-loyalty-in-selecting-plan-investments-and-exercising-shareholder-rights.

HR 5338 takes aim at ERISA plans' consideration of diversity when selecting investment advisors. We oppose this bill as a blatant attempt to obstruct efforts to address long-standing racial and gender under-representation in asset management. Under existing regulations, ERISA plans are permitted to consider the benefits of investment advisor diversity so long as the plan does not sacrifice risk-adjusted returns. Indeed, studies have shown that diversity can be a source of investment outperformance by casting a wider net for professional talent that might otherwise be overlooked.[37]

We are also disturbed by the recent introduction of anti-ESG legislation in various states that seeks to blacklist investment advisors that consider ESG factors.[38] Estimates of the costs of these misguided proposals to state public retirement systems have been enormous, e.g., $6.7 billion for Indiana,[39] $6 billion for Texas,[40] and $3.6 billion for Kansas.[41] And state bills modeled on a 2021 Texas law that blacklisted municipal bond underwriters for anti-ESG reasons will cost taxpayers hundreds of millions more in higher interest rates.[42]

[37] "Diversity Wins: How Inclusion Matters," McKinsey & Company, May 19, 2020, *available at* https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters; Jenna Weinberg and Simon Greer, "Fiduciary Guide To Investing With Diverse Asset Managers And Firms," Diverse Asset Managers Initiative, April 2017, *available at* https://www.diverseassetmanagers.org/dami-studies.

[38] Connor Gibson and Frances Sawyer, "2023 Statehouse Report: Right-Wing Attacks on the Freedom to Invest Responsibly Falter in Legislatures," Pleiades Strategy, 2023, *available at* https://www.pleiadesstrategy.com/state-house-report-bill-tracker-republican-anti-esg-attacks-on-freedom-to-invest-responsibly-earns-business-labor-and-environmental-opposition.

[39] Christine Williamson, "Indiana PRS would lose $6.7 billion over 10 years if ESG funds banned," Pensions and Investments, February 14, 2023, *available at* https://www.pionline.com/esg/under-esg-ban-indiana-prs-could-lose-67-billion-over-10-years.

[40] Danielle Moran and Shelly Hagan, "Money Managers Raise Alarms Over Anti-ESG Crusade in GOP States," Bloomberg, March 28, 2023, *available at* https://www.bloomberg.com/news/articles/2023-03-28/anti-esg-crusades-in-gop-states-stumble-amid-pension-pushback.

[41] Michelle Celarier, "Kansas Pension Says New Anti-ESG Bill Could Cost $3.6 Billion in Returns," Institutional Investor, March 9, 2023, *available at* https://www.institutionalinvestor.com/article/2bstry3hba83a8f02m77k/culture/kansas-pension-says-new-anti-esg-bill-could-cost-3-6-billion-in-returns#.

[42] "ESG Boycott Legislation in States: Municipal Bond Market Impact,"Econsult Solutions, Inc., January 12, 2023, *available at* https://econsultsolutions.com/wp-content/uploads/2023/01/Sunrise-ESG-boycott-Impact_FINAL.pdf.