

Anti-ESG Legislation

Why it Matters &
What States Can Do

July 10th at 2pm ET



Introduction

Kristen Soares



State Climate Policy
Network Manager

CLIMATE X CHANGE
[SCPN]

State Climate Policy Network (SCPN)

- Network of 18,000+ policymakers, advocates, business leaders and experts pushing for effective and equitable climate policies in their states
- Host monthly national calls and webinars
- Share updates, research, and analysis on various climate policy topics

How can we help you?

We specialize in state climate policy design and analysis. Reach out to kristen@climate-xchange.org with your questions on:

- **Bill drafting**, analysis, and technical design
- **Gap analysis** of your state's climate policy landscape
- **Example states** to follow for a given policy

Or, check out our **State Climate Policy Dashboard**, which tracks state-level climate policy and resources across all 50 states.



Speakers

Connor Gibson



**Opposition Research
Specialist**

Jordan Haedtler



**Climate Financial
Policy Consultant**

Jessica Church



**Advocacy & Political
Manager, Take on Wall
Street**
Americans for Financial
Reform

Speaker

Connor Gibson

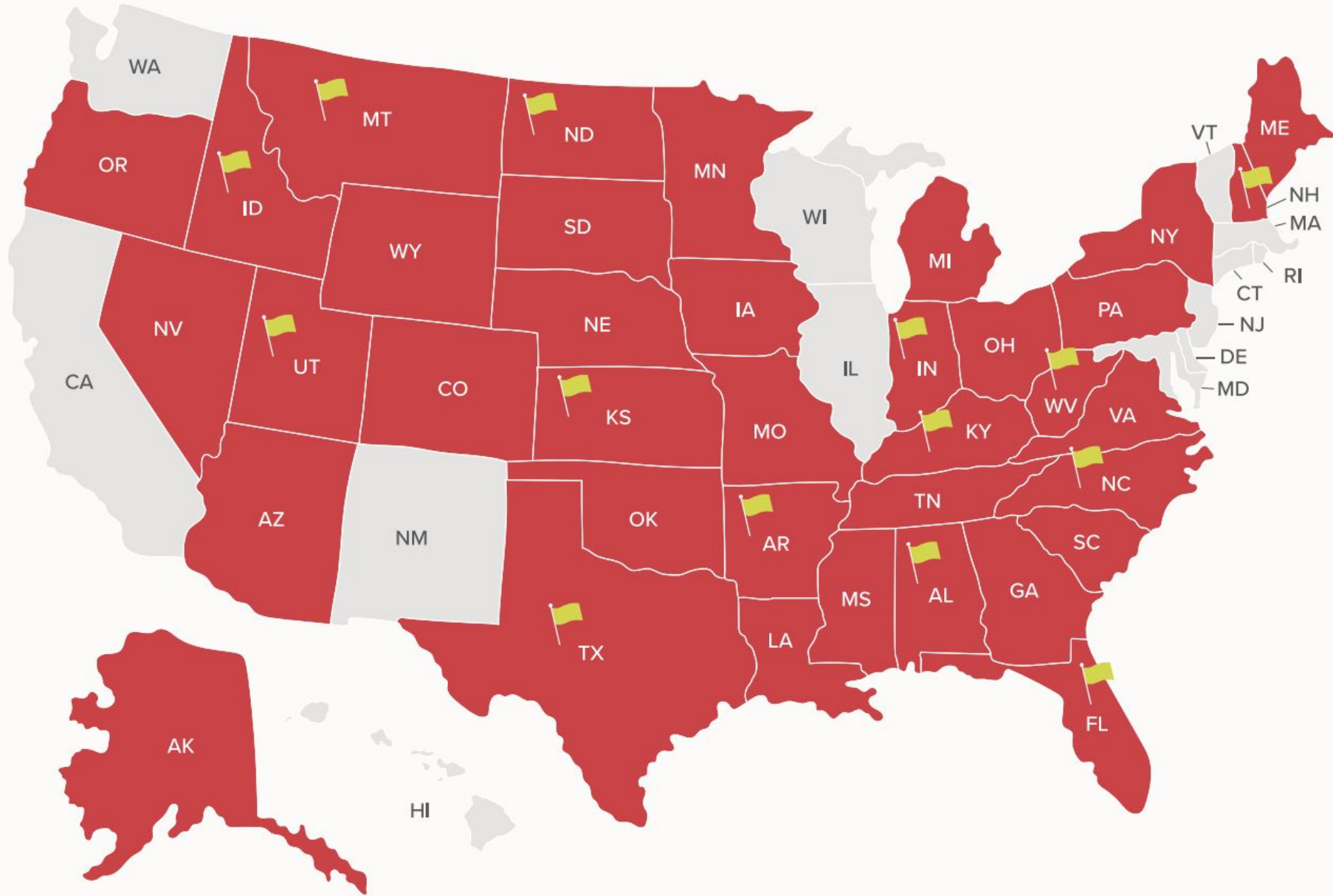


**Opposition Research
Specialist**

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**Legislative Strategies
in
the States**

2023 ANTI-ESG BILLS AND LAWS



 Bills (laws) were approved in the following states

Updated Facts (7/5)

165 distinct legislations / 37 states

→ 84 dead bills / 23 states:

◆ No laws / 18 states

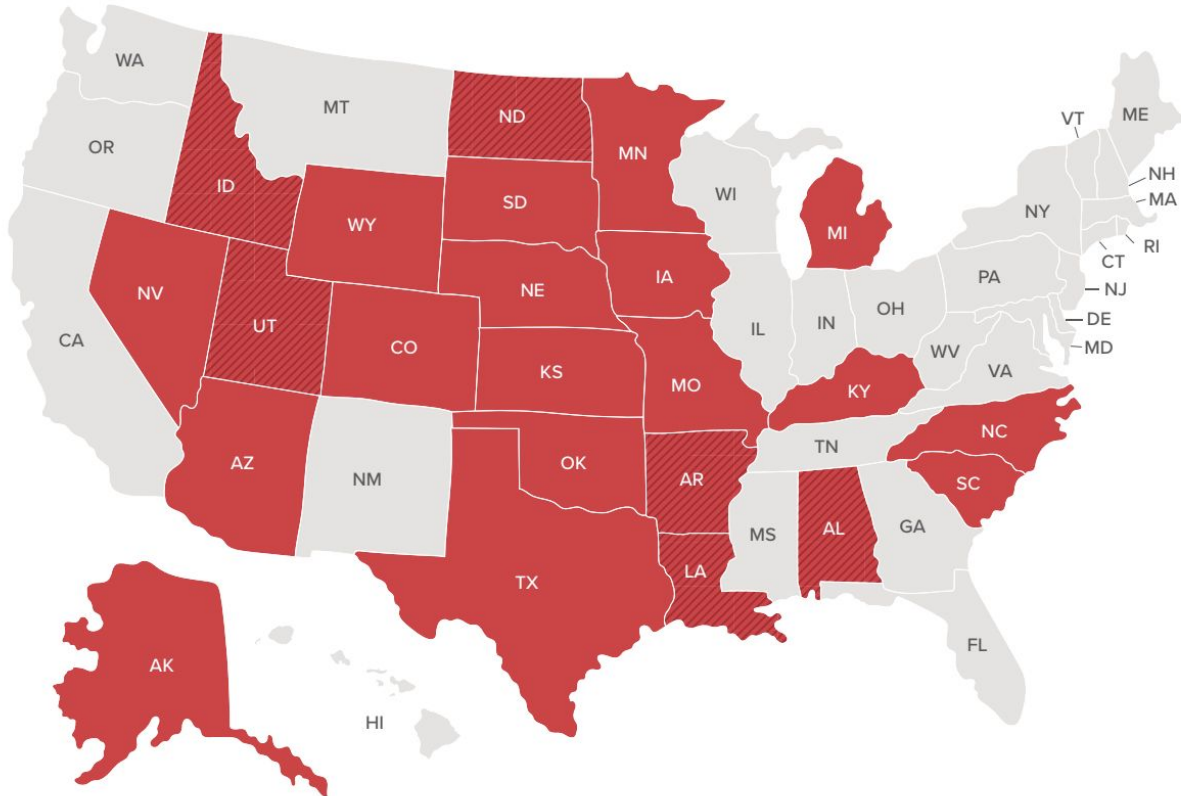
◆ 42 bills / 10 states carry over into 2024 - watch for IA, OK, SC

→ 22 bills + 6 resolutions were approved / 14 states

→ Active bill in OH passed the Senate

WEAPONIZING STATE CONTRACTS

42 BILLS WERE CONSIDERED IN 23 STATES THIS YEAR



6 LAWS AND ONE RESOLUTION PASSED IN 6 STATES

Alabama SB 261

Idaho H 190

North Dakota HB 1429

Arkansas HB 1307 + SB 62

Louisiana HCR 70 (resolution)

Utah SB 97

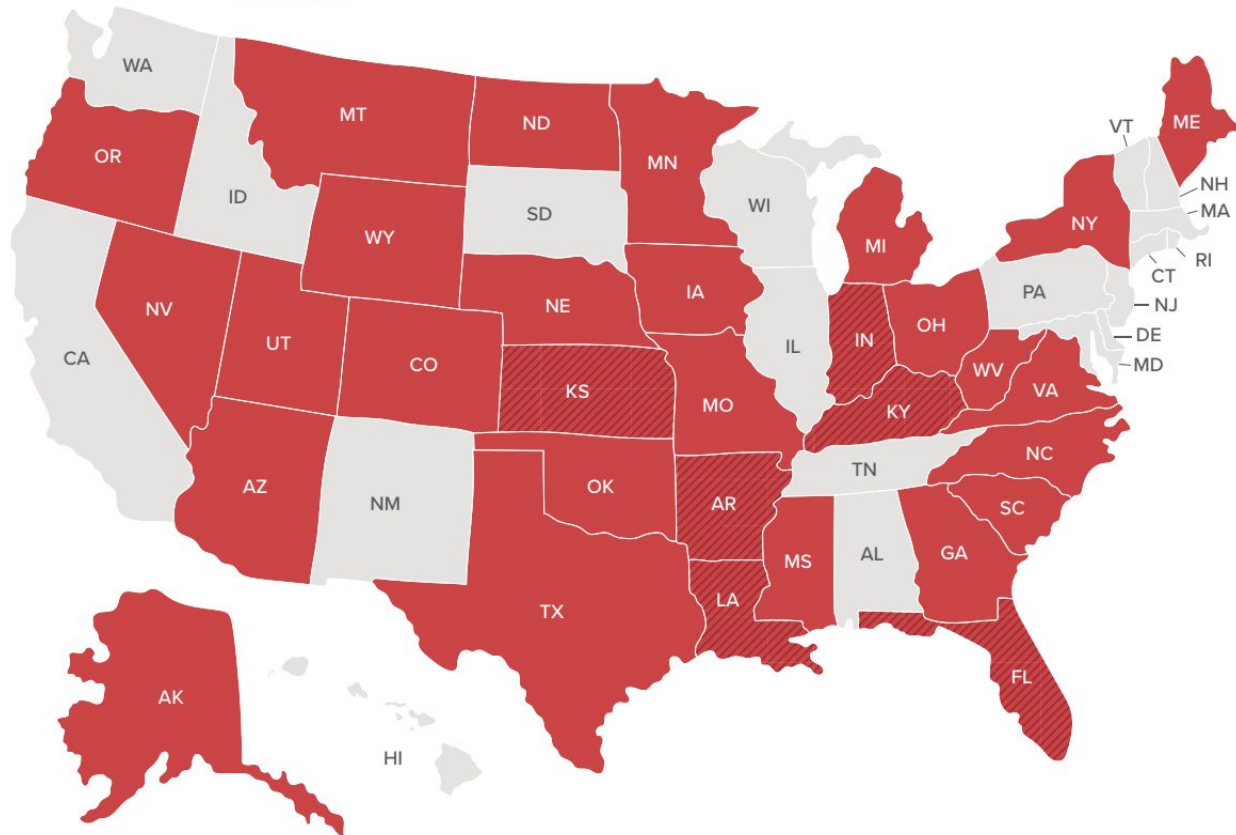
Models:

- Energy Discrimination Elimination Act (ALEC)*
 - No laws in 2023. 5 in previous years.
- Eliminate Economic Boycotts Act (Heritage)*
 - 5 laws / 4 states.
- Protecting Free Enterprise and Investments Act (FGA)*
 - 3 laws + 1 res. / 4 states.

* anti-BDS adaptations

WAGERING RETIREE PENSIONS

59 BILLS WERE CONSIDERED IN 30 STATES THIS YEAR



11 LAWS AND ONE RESOLUTION PASSED IN 10 STATES

Arkansas HB 1253 + HB 1307

Florida HB 3 + SB 110

Indiana HB 1008

Kansas SB 2100

Kentucky HB 236

Louisiana HCR 110 (resolution)

Montana HB 228

North Carolina H 750

Utah SB 96

West Virginia HB 2862

Models:

- State Government Employee Retirement Protection Act (ALEC)
 - 7 laws / 6 states
- State Pension Fiduciary Duty Act (Heritage)
 - 4 laws / 4 states

Indiana pension system contracts with conservative anti-ESG firm

Strive co-founder Vivek Ramaswamy paid \$4,000 an hour; now running for president

BY: LESLIE BONILLA MUÑOZ - MARCH 20, 2023 7:00 AM



STRIVE

ASSET MANAGEMENT

STRIVE ASSET MANAGEMENT TARGETS



– The Late Show with Stephen Colbert / Tooning Out the News ([video](#))

DISCLOSURE + LIABILITY THREAT

Model:

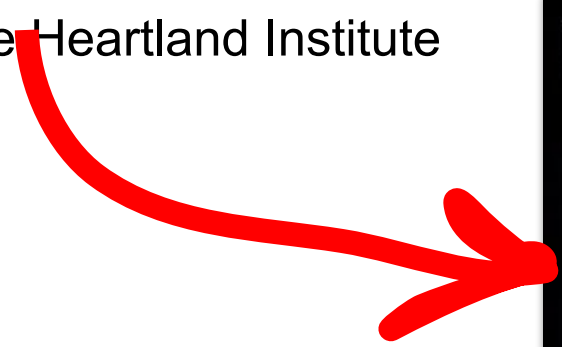
- “Fair Access to Financial Services Act” ... hmm...
 - 25 bills were considered in 18 states
 - **No laws passed in any state.**
- Bills appear to be based on New Hampshire’s 2022 HB 1469.
- Circulated by The Heartland Institute



The New York Times

Senate Bill Would Outlaw Bank Discrimination for the First Time

Democrats unveiled a proposal to close a loophole in the Civil Rights Act of 1964 after a New York Times report on obstacles faced by customers.



OPINION

| COMMENTARY

Follow

A Solution Is in Sight for the ESG Controversy

It's fine for investors to support social objectives, but only with disclosure and affirmative consent.

By Vivek Ramaswamy

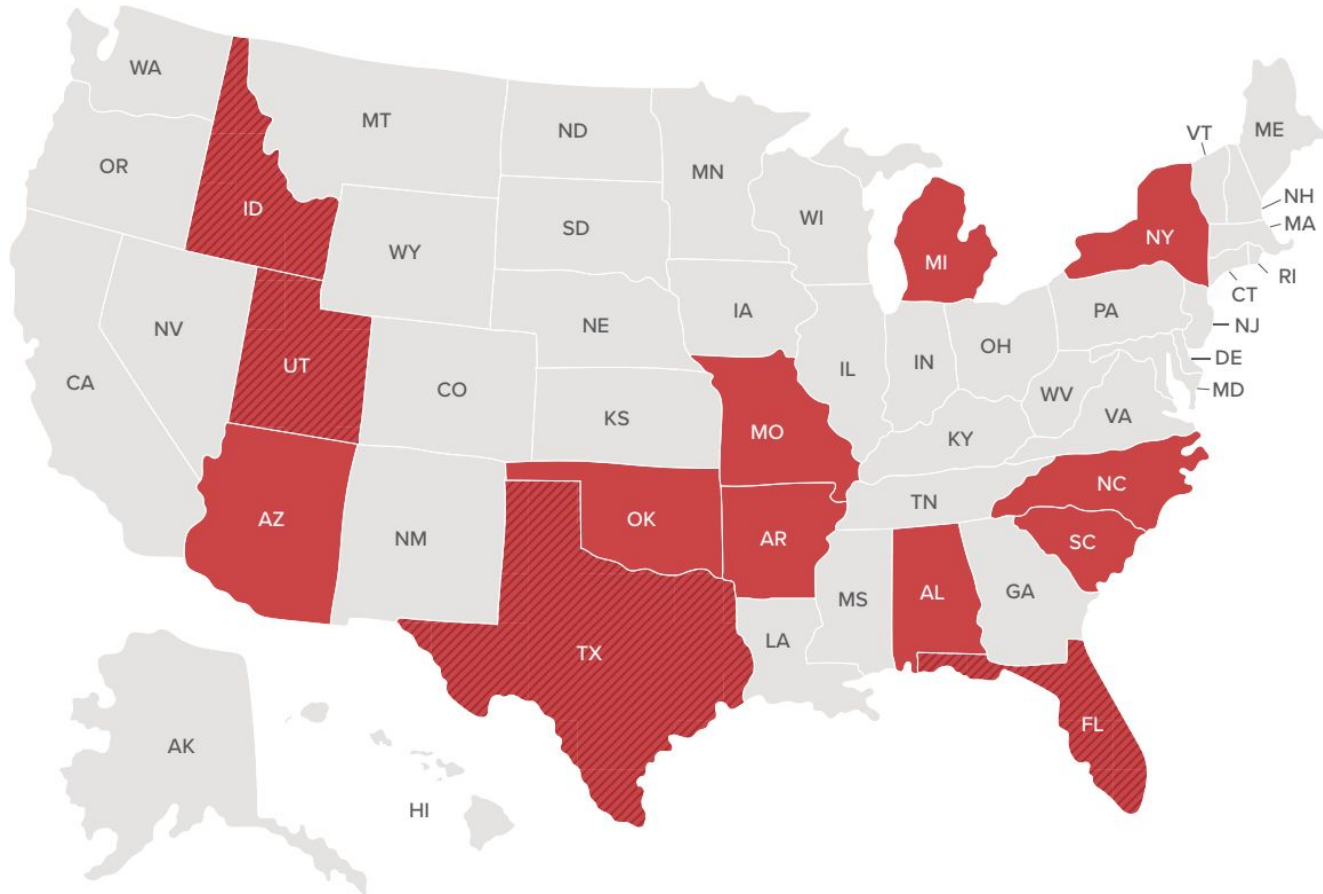


Jan. 16, 2023 2:28 pm ET



STOKING FEAR THROUGH ESG SCORES

23 BILLS WERE CONSIDERED IN 13 STATES THIS YEAR



5 LAWS PASSED IN 5 STATES

Florida HB 3

Texas SB 833

North Carolina H 750

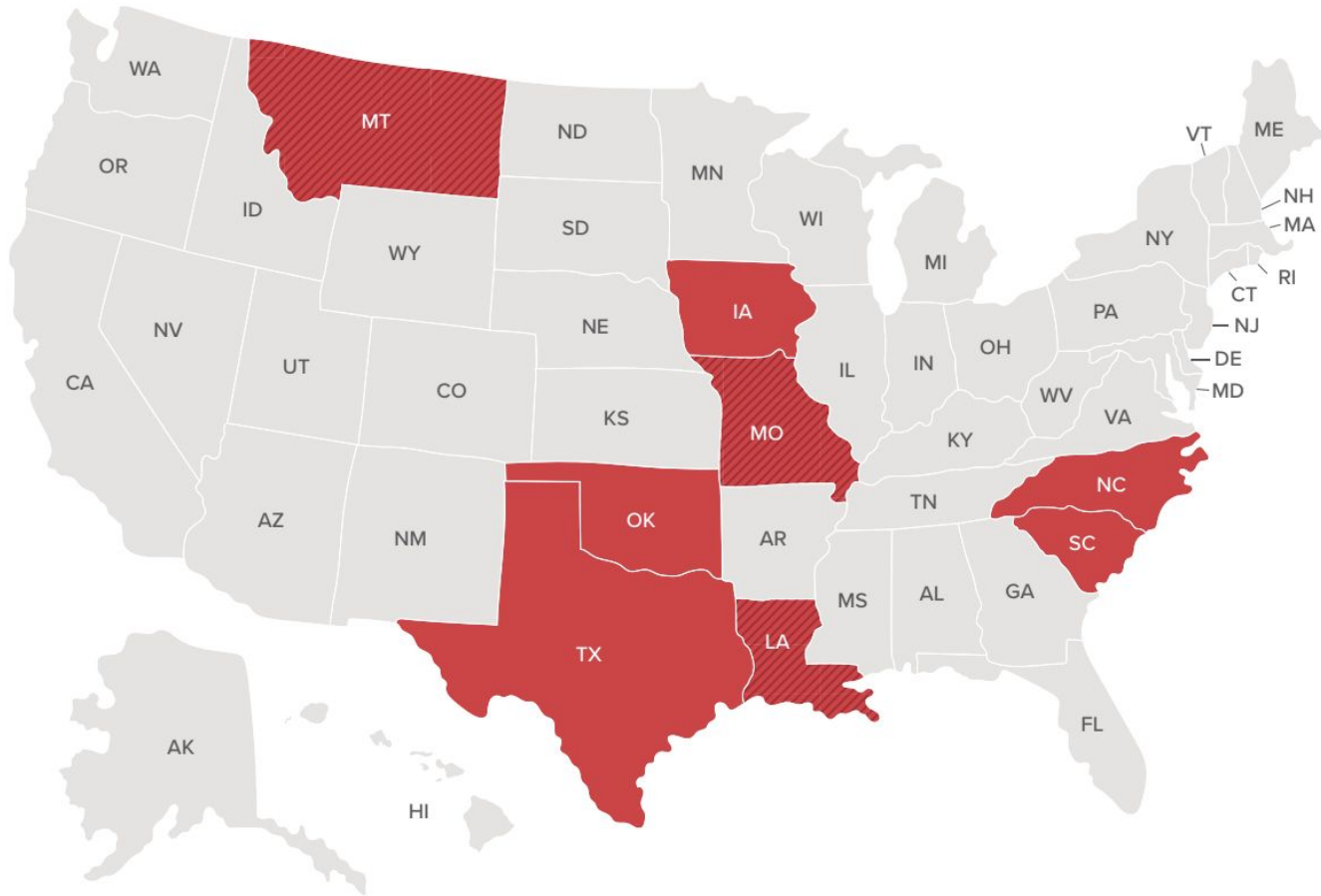
Idaho H 191

Utah HB 281

No known models.

OPPOSING FEDERAL RULES

10 BILLS & RESOLUTIONS WERE CONSIDERED IN 8 STATES



NO LAWS PASSED. THREE RESOLUTIONS WERE APPROVED:

Louisiana HCR 59

Missouri HR 12

Montana HJ 11

No known models...yet.

Text was often copied verbatim across states.

Legislation Opponents

Private Sector:

- State Bankers Associations
- State Chambers of Commerce
- Insurance lobbyists (ex: APCIA)

Government:

- Investment & financial officers
- Pension fund leadership

Labor:

- AFL-CIO, SEIU, AFT, NEA

Climate Advocates:

- Sierra Club
- Climate Cabinet
- Ceres

Libertarians & Free Marketeers:

- Cato Institute
- R Street Institute
- National Taxpayers Union
- AZ Republican Liberty Caucus

Legislation Proponents



The Foundation for Government Accountability



www.SFOFexposed.org

Pleiades Strategy

www.pleiadesstrategy.com

> “Reports”

2023 STATEHOUSE REPORT:

Right-Wing Attacks on the Freedom to Invest
Responsibly Falter in Legislatures



Speaker

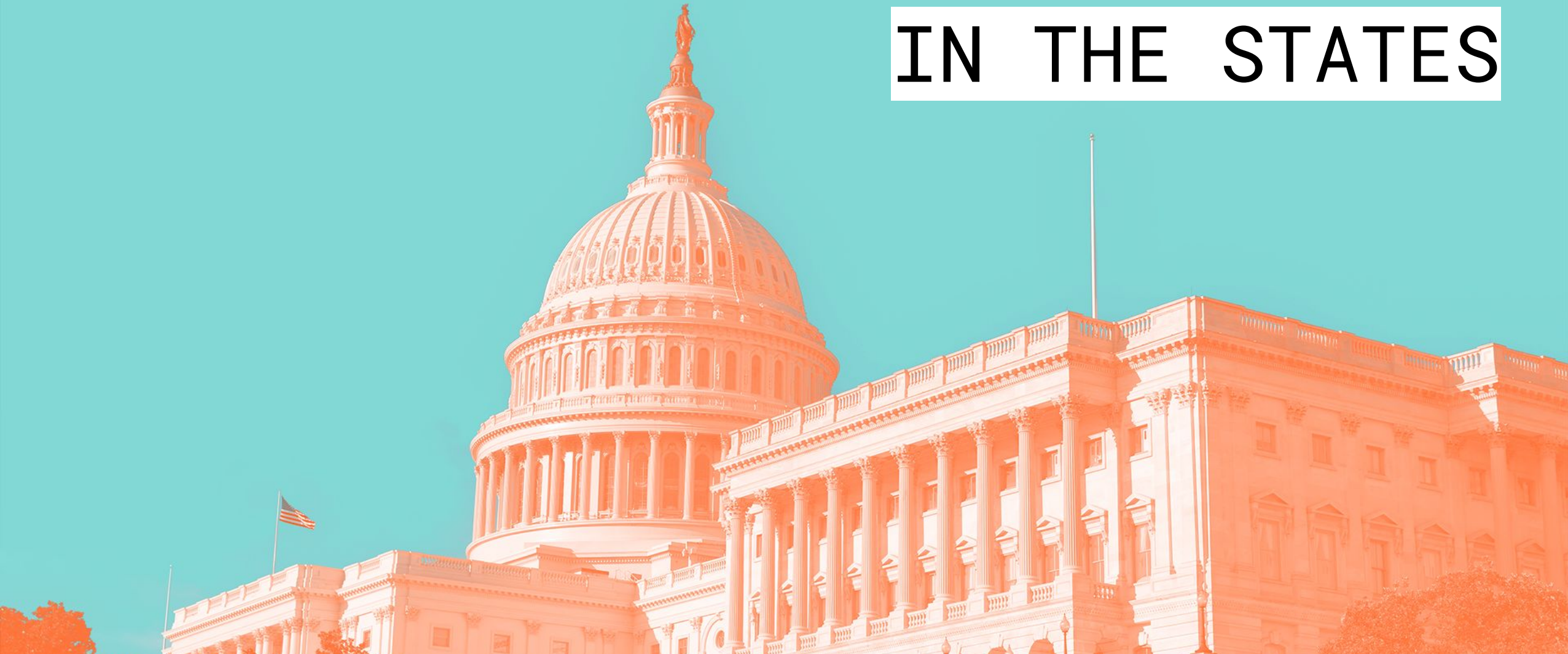
Jordan Haedtler



**Climate Financial Policy
Consultant**

CLIMATE **X** CHANGE
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CLIMATE FINANCE IN THE STATES



Climate change as a threat to the financial system

Physical Risks:

- Damages from floods
- Wildfires
- Drought

Wildfires: Burning Through State Budgets

Increased spending on suppression threatens fiscal stability and impedes cost-saving mitigation efforts

REPORT | November 30, 2022 | Read time: 39 min

Transition risks:

- Lost value
- Utilities
- Energy

Fiscal Year 2021 Revenues Below Pre-COVID Projections in Many States

State	Change in General Fund Revenues Compared to Pre-Pandemic Estimates
Alabama	-2.7%
Alaska	-37.0%
Arizona	4.6%
Arkansas	-3.5%
California	3.0%
Colorado	-9.8%

Under the Biden admin, federal climate financial regulation is taking shape

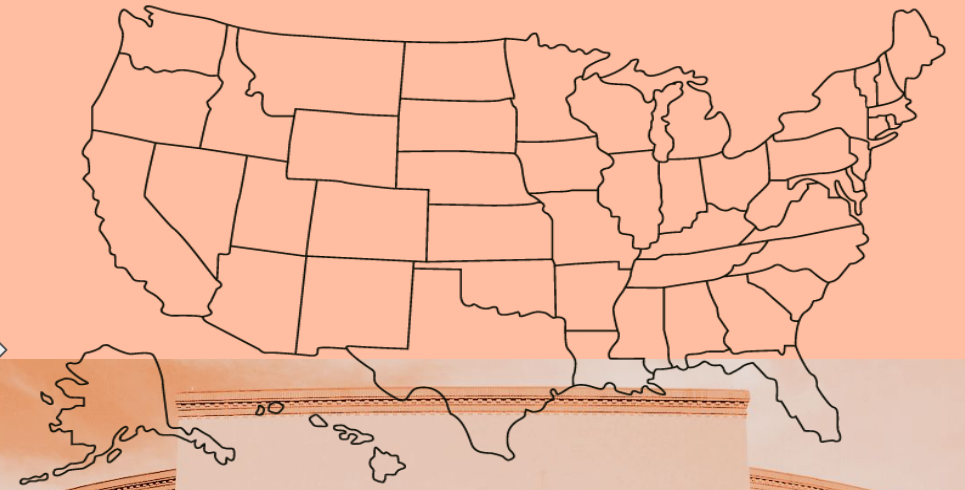
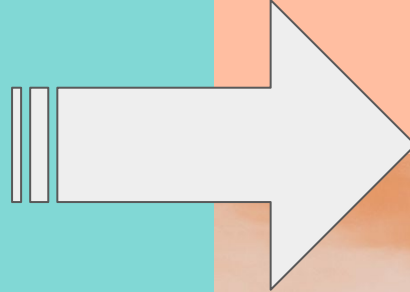


- Department of Labor: Climate risk
- SEC: Climate risk disclosure rule
- SEC: ESG standards
- Banking agencies (Federal Reserve, OCC, FDIC): Climate-related financial risk guidance
- Federal Insurance Office: Data collection for home property insurance

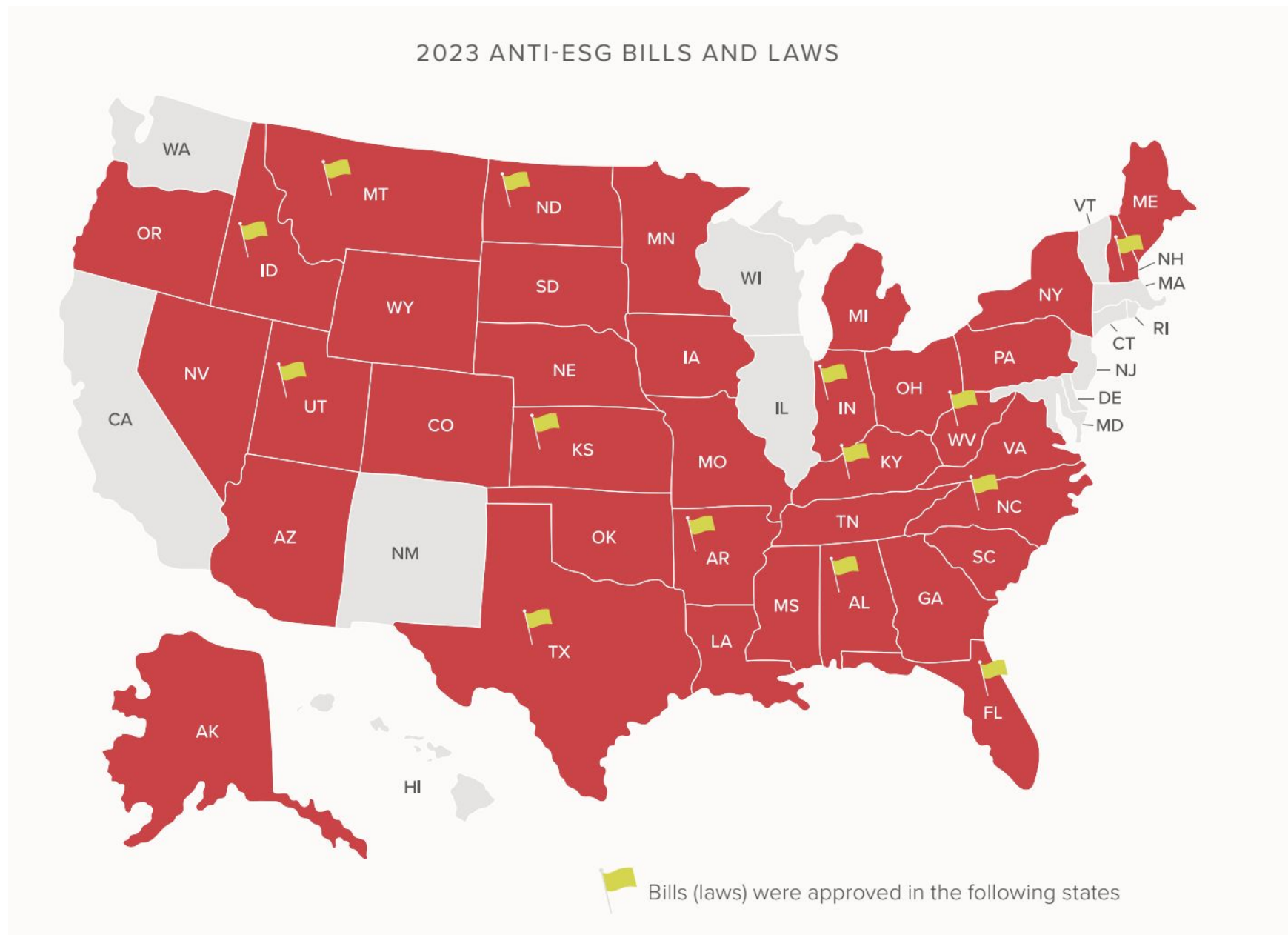
"Climate change is an emerging and increasing threat to America's financial system that requires action"

- Treasury Secretary Janet Yellen

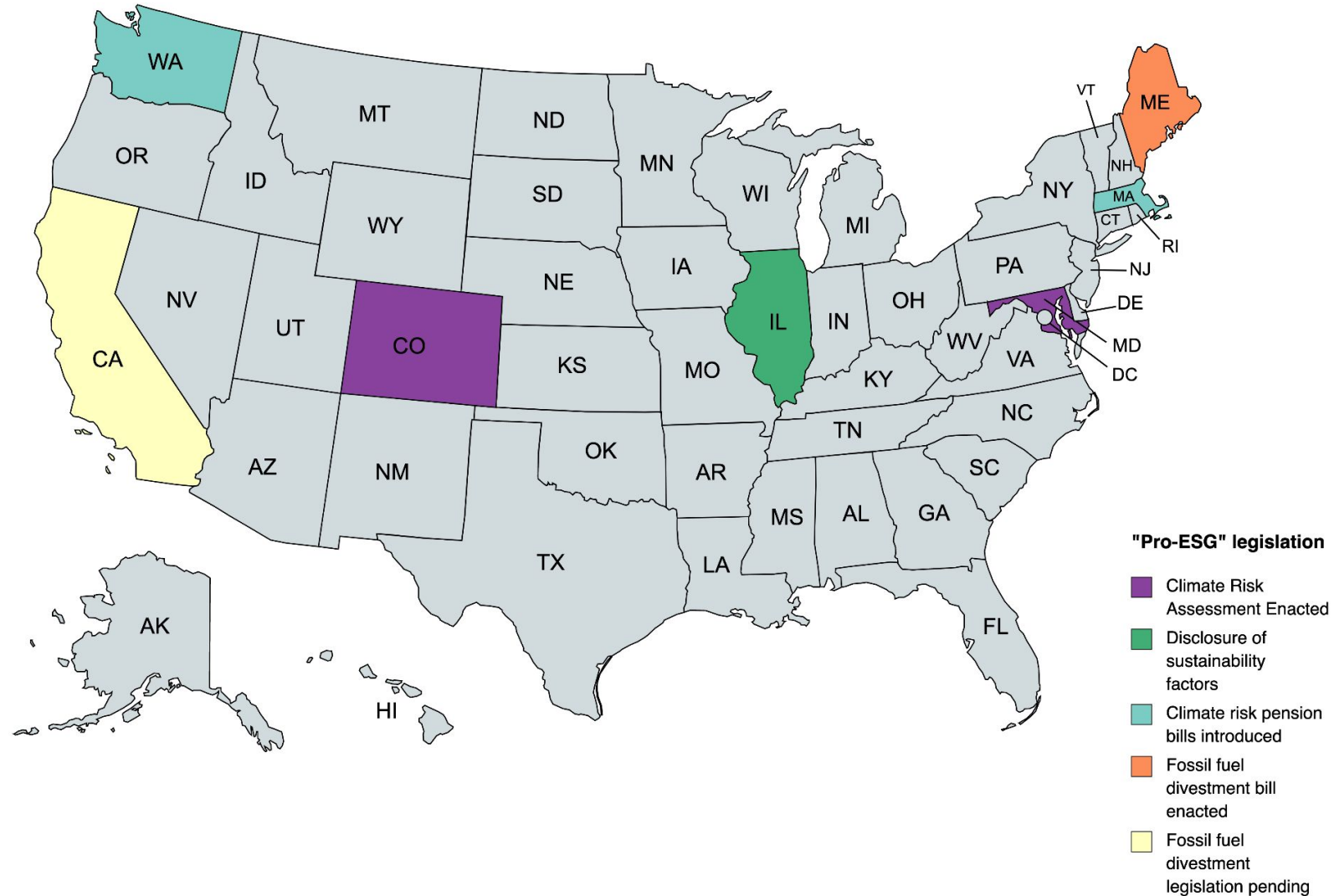
States are critical battlegrounds in the years ahead



States are attacking the “freedom to invest”



Limited Progress Protecting Pensions from Climate Risk



Policy considerations when shaping climate risk legislation

- “Offense” vs. “Defense”
- “Voice” vs. “Exit”
- Proxy voting power



Strengthen state insurance regulation

- Climate risk disclosure
- Insurance “scenario analysis”
- Climate-based capital requirements



Speaker

Jessica Church



**Advocacy & Political
Manager, Take on Wall Street**

Americans for Financial
Reform

CLIMATE **X** CHANGE
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Anti-ESG at the Federal Level

Jessica Church
Advocacy and Political Manager
Take On Wall Street

Threats to regulatory agenda

- DOL ESG rule
- Climate-risk disclosures
- Human capital management disclosures
- Shareholder proposals rule
- Private markets rules

Tools: Congressional Review Act resolutions, bad bills, & lawsuits

Biden issues his first veto on retirement investment resolution

By Clare Foran and Betsy Klein, CNN
Updated 1:32 PM EDT, Mon March 20, 2023



Congress wants in on the action

ESG Part I: An Examination of Environmental, Social, and Governance Practices with Attorneys General

Subject ESG Part I: An Examination of Environmental, Social, and Governance Practices with Attorneys General
Date May 10, 2023
Time 10:00 am
Place 2154 Rayburn

Full Committee on Oversight and Accountability



ESG Part II: The Cascading Impacts of ESG Compliance

Subject ESG Part II: The Cascading Impacts of ESG Compliance
Date June 6, 2023
Time 2:00 pm
Place 2154 Rayburn

Economic Growth, Energy Policy, and Regulatory Affairs

Health Care and Financial Services



Rep. Andy Barr (R-Ky.) declares July “ESG month”

(AND NOT IN A GOOD WAY)

- July 12: House Financial Services Committee Full Hearing on ESG at 10am
- July 13: Capital Markets Subcommittee Hearing on ESG at 10am
- July 13: Oversight Subcommittee Hearing on ESG at 2pm
- July 14: Housing and Insurance Subcommittee Hearing on ESG at 9am
- July 18: Capital Markets Subcommittee Hearing on ESG at 10am
- July 18: Financial Institutions Subcommittee Hearing on ESG at 10am
- July 26: Markup on ESG Bills

Legislation, Part I

The Ensuring Sound Guidance (ESG) Act: This act would jeopardize the ability of fiduciaries that manage workers' money from taking all relevant risks and opportunities into account in their investment decisions. It would amend the Investment Advisers Act and ERISA to make the [unworkable](#) pecuniary v. non-pecuniary distinction from the Trump-era DOL rule some states are trying to replicate.

The Investor Democracy is Expected (INDEX) Act: This act would undermine workers' shareholder voice by letting asset managers opt out of voting their clients' shares. This lets asset managers off the hook on their duty to vote in their clients' best interests.

The Putting Investors First Act: This act would stymie the ability of proxy advisory firms to give sound advice to investors, particularly when that advice is to vote against management's recommendation.

The Mandatory Materiality Requirement Act: This act would stymie the SEC's ability to fulfill its investor protection mission by making it harder for the agency to issue rules requiring disclosures that are important to investors.

Legislation, Part II

The Protect Farmers from the SEC Act: This act would block the SEC's ability to require information from public companies that is critical for investors to protect themselves from climate-related risks. (The SEC climate disclosure rule, as proposed, includes extensive protections to avoid burdens on small private businesses—including small farmers.)

Scope 3 Act: This Act would block the SEC from requiring Scope 3 emissions from any issuer. Scopes 3 emissions has nearly unanimous support from investors who told the SEC during the comment period that they need this information to assess transition risk of companies.

Stop TSP ESG Act: This act would undermine the shareholder voice of the federal workers whose money is being invested for retirement through the Thrift Savings Plan by prohibiting the asset managers contracted to manage that money from voting their clients' shares.

No ESG at TSP Act: This act would prevent federal workers saving for retirement through the Thrift Savings Plan from investing in ESG funds.

**What's the
good news?**

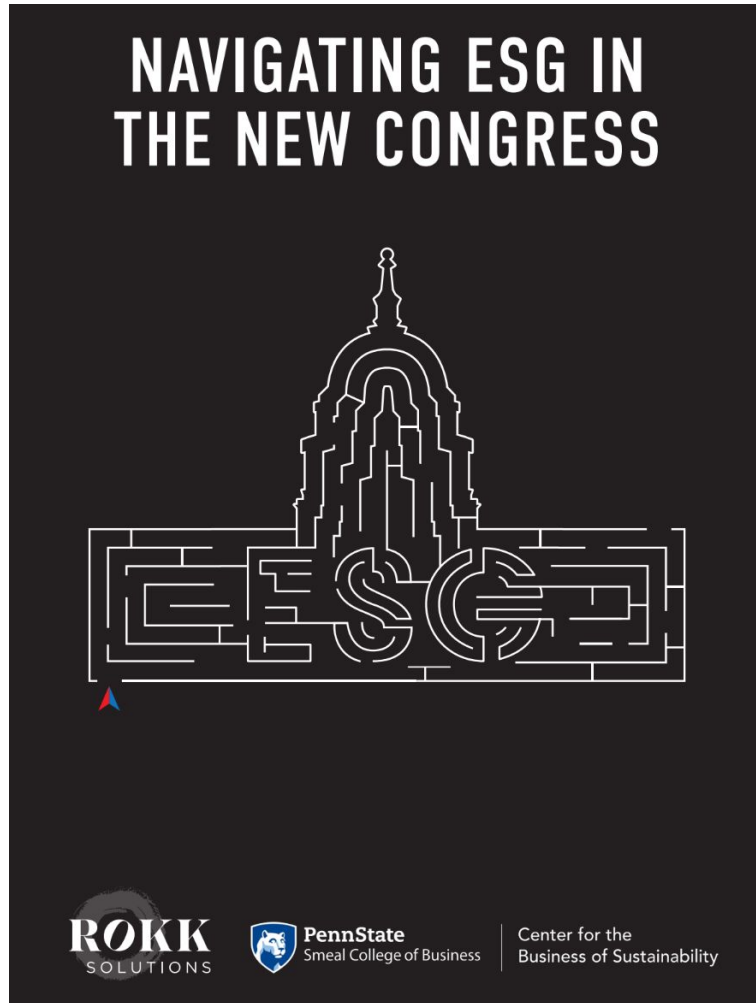
Progressive Groups Are Mobilizing

- Americans for Financial Reform is hosting a **July 18th Hill Briefing** on “Protecting Workers' Retirement Security from Anti-ESG Attacks”
- Working with Congressional Progressive Caucus to **distribute messaging materials**
- Segmenting our messaging to **target key constituencies** who are not yet involved in this fight
- Using online communication tools to **inform and educate activists**
- Working with allies to build consensus on what an **affirmative policy agenda** can look like

**Organizations
Garner Over
60,000
Signatures
Urging SEC to
Strengthen
Climate Risk
Disclosure Rule
as Comment
Period Closes**



Voters are on our side



- 63% of voters agree the **government should not set limits on corporate ESG investments**, including 70% of Republicans and 57% of Democrats.
- 76% of voters agree that **companies should be held accountable to make a positive impact on communities** in which they operate, including 69% of Republicans and 82% of Democrats.

Our Vision:

Worker Power

Climate Justice

Racial Equity

Q&A

Thank you for joining!

**Reach out to
kristen@climate-xchange.org with any
additional questions!**

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