

# Examples of ESG Backlash

## Compendium: Examples of ESG Backlash from Federal and State Policymakers

Compiled by [The Conference Board ESG Center](#)

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Federal Policymakers				
Source	Target(s)	Summary	Date	Link
<b>Legislative Branch (House &amp; Senate)</b>	<ul style="list-style-type: none"> <li>US Department of Labor</li> <li>President Biden</li> </ul>	Resolution to nullify Department of Labor rule that fiduciaries may consider climate change and ESG factors in investment decisions and shareholder voting. Vetted by President Biden.	2023	<a href="#">Congress.gov</a>
<b>Legislative Branch (House)</b>	<ul style="list-style-type: none"> <li>SEC</li> <li>Market actors</li> </ul>	House Financial Services Committee announced formation of Working Group to “combat the threat to our capital markets posed by those on the far-left pushing [ESG] proposals”.	2023 - Present	<a href="#">House.gov</a>
<b>Legislative Branch (House)</b>	<ul style="list-style-type: none"> <li>Climate Action 100+</li> </ul>	House Judiciary Committee launched investigation into Climate Action 100+ as a “cartel” – demanding a trove of documents to illustrate network of influence.	2022 – Present	<a href="#">House.gov</a>
State Policymakers				
Source	Target(s)	Summary	Date	Link
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>State pension funds</li> <li>State retirement plans</li> <li>State investment funds</li> </ul>	Legislation by State legislatures, that requires fiduciaries of government pension funds, retirement plans, and investment funds to only consider “pecuniary factors” and prohibits consideration of ESG factors in investment decisions and proxy voting.	2022 – Present	<ul style="list-style-type: none"> <li><a href="#">Florida</a></li> <li><a href="#">Georgia</a></li> <li><a href="#">Indiana</a></li> <li><a href="#">Kansas</a></li> <li><a href="#">Kentucky</a></li> <li><a href="#">Missouri</a></li> <li><a href="#">Montana</a></li> <li><a href="#">Nebraska</a></li> <li><a href="#">Nevada</a></li> <li><a href="#">North Dakota</a></li> <li><a href="#">Ohio</a></li> <li><a href="#">Oklahoma</a></li> <li><a href="#">South Carolina</a></li> <li><a href="#">Utah</a></li> <li><a href="#">Virginia</a></li> <li><a href="#">West Virginia</a></li> <li><a href="#">Wyoming</a></li> </ul>

<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ Bidders for public contracts</li> </ul>	Legislation that prohibits consideration of ESG factors when awarding public contracts.	2022 – Present	<ul style="list-style-type: none"> <li>▪ <a href="#">Alabama</a></li> <li>▪ <a href="#">Idaho</a></li> <li>▪ <a href="#">Oklahoma</a></li> <li>▪ <a href="#">Utah</a></li> </ul>
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ Bidders for public contracts</li> </ul>	Legislation that prohibits State and local government from entering contracts with companies who “boycott” certain industries – typically fossil fuels and firearms.	2023	<ul style="list-style-type: none"> <li>▪ <a href="#">Idaho</a></li> <li>▪ <a href="#">North Dakota</a></li> <li>▪ <a href="#">Oklahoma</a></li> <li>▪ <a href="#">South Carolina</a></li> <li>▪ <a href="#">Texas</a></li> <li>▪ <a href="#">Utah</a></li> </ul>
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ Financial institutions and instruments</li> </ul>	Legislation by that requires State to divest holdings in financial companies or instruments that use ESG criteria in investment strategies or management decisions.	2022 – Present	<ul style="list-style-type: none"> <li>▪ <a href="#">Alaska</a></li> <li>▪ <a href="#">Idaho</a></li> <li>▪ <a href="#">Oklahoma</a></li> </ul>
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ Financial institutions</li> <li>▪ Asset managers</li> </ul>	Legislation that requires State to divest from financial institutions and asset managers that use ESG factors or “boycott” certain industries – typically fossil fuels and firearms.	2022 – Present	<ul style="list-style-type: none"> <li>▪ <a href="#">Arkansas</a></li> <li>▪ <a href="#">Indiana</a></li> <li>▪ <a href="#">Idaho</a></li> <li>▪ <a href="#">Iowa</a></li> <li>▪ <a href="#">Kansas</a></li> <li>▪ <a href="#">South Carolina</a></li> <li>▪ <a href="#">Tennessee</a></li> <li>▪ <a href="#">Texas</a></li> </ul>
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ Financial Institutions</li> </ul>	Legislation that requires State Treasurer to keep list of financial institutions that engage in “boycotts” of fossil fuel companies.	2022 – Present	<ul style="list-style-type: none"> <li>▪ <a href="#">Kentucky</a></li> <li>▪ <a href="#">West Virginia</a></li> </ul>
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ ESG rating agencies</li> </ul>	Legislation that prohibits state agencies from publishing information, adopting laws or rules, or issuing guidelines regarding ESG scores or “social credit” scores.	2023	<ul style="list-style-type: none"> <li>▪ <a href="#">Missouri</a></li> <li>▪ <a href="#">Ohio</a></li> <li>▪ <a href="#">Oklahoma</a></li> <li>▪ <a href="#">Wyoming</a></li> </ul>
<b>State-level Legislature</b>	<ul style="list-style-type: none"> <li>▪ Federal government (Executive Branch)</li> </ul>	Legislation that prohibits implementation of a Presidential Executive Order if deemed unconstitutional – including regulation of the financial sector on ESG standards.	2023	<ul style="list-style-type: none"> <li>▪ <a href="#">Missouri</a></li> <li>▪ <a href="#">South Carolina</a></li> </ul>
<b>Florida Legislature</b>	<ul style="list-style-type: none"> <li>▪ Walt Disney Company</li> </ul>	Repeal of Reddy Creek Improvement Act (1967), which established the area surrounding the Walt Disney World Resort as its own governmental authority. Accompanying bill also removed Disney’s exemption from anti-deplatforming social media bill. Part of ongoing conflict between State of Florida and Disney, stemming from Disney speaking out against controversial Parental Rights in Education Act.	2022 - Present	<a href="#">Flsenate.gov</a>
<b>Georgia policymakers</b>	<ul style="list-style-type: none"> <li>▪ Coca-Cola</li> <li>▪ Delta Airlines</li> <li>▪ Major League Baseball</li> </ul>	Several of Georgia’s largest companies received blowback and calls for boycotts after speaking out against voting bill.	2021	<a href="#">WSJ</a>

<b>Utah policymakers</b>	<ul style="list-style-type: none"> <li>▪ S&amp;P Global Ratings</li> </ul>	Utah policymakers and representatives (including Governor, Attorney General, Treasurer, Auditor, US State Senators, and US House Representatives) sent letter to S&P Global Ratings objecting to their ESG credit indicators, ESG ratings, and other ESG scoring systems. The letter demands that S&P withdraw those credit indicators and cease to publish any ESG factors, ratings, indicators, or other scoring system relating to or referencing Utah.	2022	<a href="http://Utah.gov">Utah.gov</a>
<b>Louisiana State Bond Commission</b>	<ul style="list-style-type: none"> <li>▪ Bank of America</li> <li>▪ Citigroup</li> <li>▪ JPMorgan Chase</li> </ul>	Louisiana State Bond Commission rejected Citigroup and Bank of America as underwriters because of their firearms policies; excluded Citigroup from list of favored banks due to gun control policies; and replaced JPMorgan Chase on refinancing contract due to company's refusal to do business with companies that manufacture military-style weapons.	2018 – Present	<a href="http://La.gov">La.gov</a>
<b>Texas Comptroller</b>	<ul style="list-style-type: none"> <li>▪ BlackRock</li> <li>▪ BNP Paribas SA</li> <li>▪ Credit Suisse</li> <li>▪ Group AG</li> <li>▪ UBS Group AG</li> <li>▪ Danske Bank A/S</li> <li>▪ Jupiter Fund Management</li> <li>▪ Nordea Bank ABP</li> <li>▪ Schroders</li> <li>▪ Svenska Handelsbanken AB</li> <li>▪ Swedbank AB</li> <li>▪ Goldman Sachs</li> <li>▪ JPMorgan Chase</li> </ul>	Texas Comptroller Glenn Hegar banned 10 financial firms from doing business with the state, for boycotting the oil and gas industry. The 10 firms banned completely are: BlackRock, BNP Paribas SA, Credit Suisse Group AG, UBS Group AG, Danske Bank A/S, Jupiter Fund Management PLC, Nordea Bank ABP, Schroders PLC, Svenska Handelsbanken AB, and Swedbank AB. Sustainable funds within larger companies were also banned, such as Goldman Sachs' "Paris-aligned Climate US Large Cap Equity ETF" and JP Morgan's "U.S. Sustainable Leaders Fund."	2022	<a href="http://Texas.gov">Texas.gov</a>
<b>State Governors</b>	<ul style="list-style-type: none"> <li>▪ Investment funds</li> <li>▪ Asset Managers</li> <li>▪ Financial Institutions</li> <li>▪ Federal Government</li> </ul>	Governors from 19 states issued a joint statement, declaring they will lead state-level efforts to block the consideration of ESG factors in state investment decisions; prevent financial institutions from considering "social credit" scores for customers; and other anti-ESG actions.	2023	<a href="http://Fl.gov">Fl.gov</a>

		19 states: Florida, Alabama, Alaska, Arkansas, Georgia, Idaho, Iowa, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, Wyoming.		
<b>State Treasurers and Chief Financial Officers</b>	▪ BlackRock	State Treasurers committed to divest all assets under management by BlackRock.  7 States: Arizona, Arkansas, Florida, Louisiana, Missouri, South Carolina, Utah.	2022 – 2023	▪ <a href="#">Arizona</a> ▪ <a href="#">Arkansas</a> ▪ <a href="#">Florida</a> ▪ <a href="#">Louisiana</a> ▪ <a href="#">Missouri</a> ▪ <a href="#">South Carolina</a> ▪ <a href="#">Utah</a>
<b>State Treasurers</b>	▪ Financial institutions	16 State Treasurers wrote open letter to the US banking industry, notifying them that they will be taking collective action in response to the ongoing and growing economic boycott of traditional energy production industries by US financial institutions.  16 States: West Virginia, Arizona, Arkansas, Idaho, Louisiana, Missouri, Nebraska, North Dakota, South Carolina, South Dakota, Utah, Wyoming, Alabama, Texas, Kentucky, Utah.	2021	<a href="#">Utah.gov</a>
<b>State Treasurers</b>	▪ President Biden	24 State Treasurers (along with the State Financial Officers Foundation) sent a letter to President Biden, calling for policies to “support, promote, and incentivize traditional energy production in the United States, thereby strengthening global stability and prioritizing the needs of American families over partisan special interest groups”.  24 States: Nebraska, Missouri, Arkansas, Utah, Louisiana, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kentucky, Mississippi, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, West Virginia, Wyoming.	2022	<a href="#">Utah.gov</a>
<b>State Attorneys General</b>	▪ Asset managers	Attorneys general from 21 States sent warning in open letter to 53 asset managers with \$40 billion or more in assets. The letter states that asset managers may be pushing the political goals of Climate Action 100+ and the Net Zero Asset Managers Initiative rather than acting in the best fiduciary interests of their clients, which is their legal obligation.  21 States: Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire,	2023	<a href="#">Utah.gov</a>

		<i>Ohio, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.</i>		
<b>State Attorneys General</b>	<ul style="list-style-type: none"> <li>▪ ISS</li> <li>▪ Glass Lewis</li> </ul>	<p>Attorneys general from 21 States sent letter to proxy advisory firms ISS and Glass Lewis, warning they have “made several commitments that may interfere with your ability to honor your legal obligations”, based on the firms’ analyses and voting recommendations on climate and diversity issues. The letter also asks ISS and Glass Lewis to identify asset managers in the Net Zero Asset Managers Initiative that engaged with them on emissions reduction issues.</p> <p><i>21 states: Alabama, Alaska, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Ohio, South Carolina, Texas, Utah, Virginia, West Virginia.</i></p>	2023	<a href="https://utah.gov">Utah.gov</a>
<b>State Attorneys General</b>	<ul style="list-style-type: none"> <li>▪ US Department of Labor</li> </ul>	<p>Attorneys general from 24 states sued the US Department of Labor (in the Northern District of Texas Court) to overturn a Department of Labor rule that authorizes retirement plans to consider nonfinancial factors when administering trust assets. The plaintiffs challenging the ESG Rule argue that it is contrary to the ERISA statute, exceeds the DOL’s authority, and is arbitrary and capricious. As of April 2023, the case is proceeding.</p> <p><i>24 states: Utah, Texas, Virginia, Louisiana, Alabama, Alaska, Arkansas, Florida, Georgia, Indiana, Idaho, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, South Carolina, Tennessee, West Virginia, Wyoming.</i></p>	2023	<a href="#">Climate case chart</a>
<b>State Attorneys General</b>	<ul style="list-style-type: none"> <li>▪ US Municipal Securities Rulemaking Board</li> </ul>	<p>Attorneys General (along with Treasurers, Auditors) from 24 states sent letter to US Municipal Securities Rulemaking Board, challenging Request for Information on Environmental, Social and Governance (ESG) Practices in the Municipal Securities Market (2021-17). The letter notes that “seemingly innocuous RFI questions are actually precursors to MSRB rules that would require municipalities to make ESG-related disclosures”.</p> <p><i>24 States: Utah, Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, West Virginia, Wyoming.</i></p>	2022	<a href="https://utah.gov">Utah.gov</a>

<b>State Attorneys General</b>	<ul style="list-style-type: none"> <li>▪ BlackRock</li> </ul>	<p>Attorneys General from 19 states wrote letter to BlackRock, stating that BlackRock is using “the hard-earned money of our states’ citizens to circumvent the best possible return on investment, as well as their vote”.</p> <p><i>19 states: Arizona, Nebraska, Alabama, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Ohio, Oklahoma, South Carolina, Texas, Utah, and West Virginia.</i></p>	2022	<a href="https://texasattorneygeneral.gov">Texasattorneygeneral.gov</a>
<b>State Attorneys General</b>	<ul style="list-style-type: none"> <li>▪ US Securities and Exchange Commission (SEC)</li> </ul>	<p>Attorneys General from 21 states submitted comments on the SEC’s proposed rule on Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices (to be finalized in October 2023). They state that the proposed rule is problematic and will “amend several forms and add onerous reporting requirements for investment funds with no rational justification”.</p> <p><i>21 states: West Virginia, Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, South Carolina, Texas, Utah, Virginia, and Wyoming.</i></p>	2022	<a href="https://wv.gov">Wv.gov</a>