

FDRA

State Legislation Tracker: ESG

A look at state legislative actions on ESG

December 4, 2024

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Roadmap

- **Overview**
- State highlights

Environmental, Social, Governance (ESG) is an umbrella term for socially responsible corporate operations



Environmental

Green efforts and sustainability

- Carbon footprint
- Resource conservation
- Regulatory compliance

Social

Employee relations and Diversity, Equity, and Inclusion (DEI)

- Community relations
- Employee protection
- Labor practices

Governance

Corporate structure

- Political activities
- Executive pay
- Corruption and ethics

States have taken different actions to promote or restrict ESG practices

OVERVIEW

- Some states have taken action to promote ESG and others have taken action to restrict it, with a sharp partisan divide between approaches
- State actions have largely targeted public state-aligned entities

Anti-ESG actions



Restriction on ESG factors in state investment strategy



Restriction on the ability of state-aligned businesses to boycott Anti-ESG businesses



Actions that restrict both boycott rights and the use of ESG factors for state-aligned entities

Pro-ESG actions



Promotion of ESG factors in state investment strategy

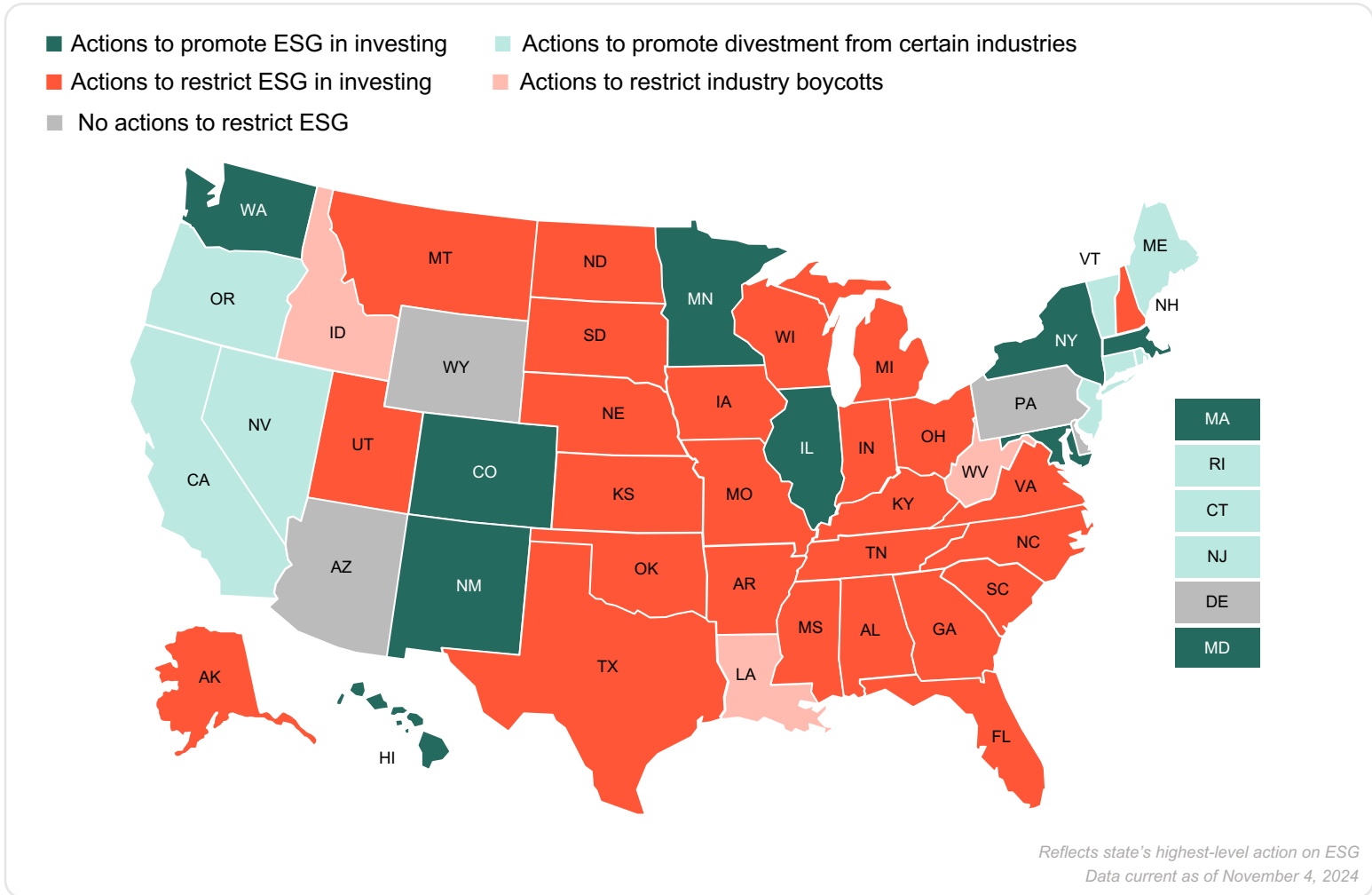


Restriction on public investments in certain industries (largely fossil fuels and firearms)

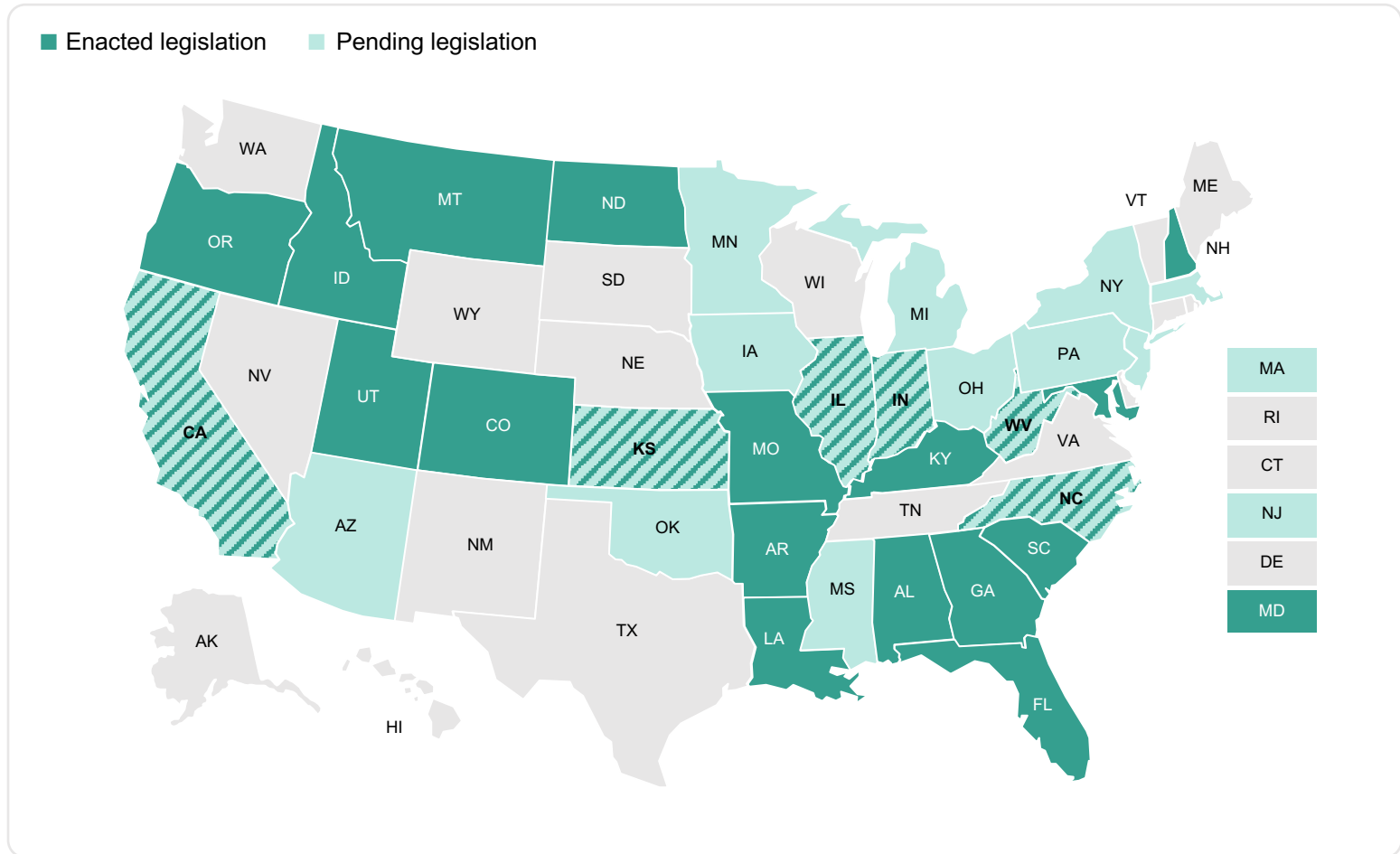


Requirements for corporations to disclose greenhouse gas emissions and climate-related risks

Mapping state actions on ESG



Since January 2023, 22 states passed ESG legislation



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Roadmap

- Overview
- **State highlights**

California ESG legislation



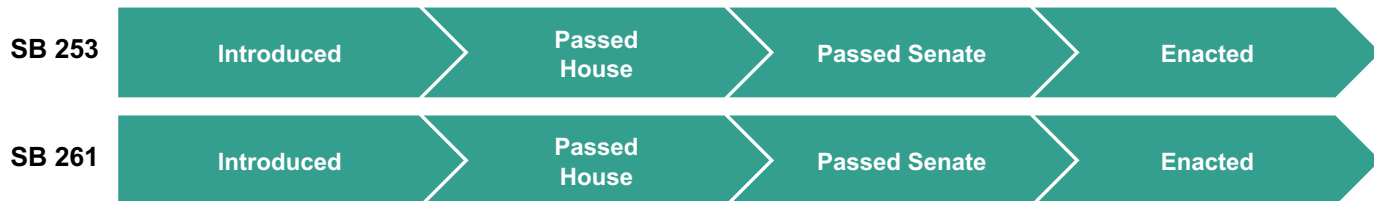
Party Control

CA Senate	DEM
CA House	DEM
CA Governor	DEM

Summary

- California recently enacted two landmark climate disclosure and financial reporting laws
- SB 253 requires companies to disclose three categories of GHG emissions including the controversial Scope 3 category for indirect emissions from sources the company does not own
- SB 261 requires companies to submit climate-related financial risk reports disclosing risks and measures the company is taking to reduce them
- The laws were enacted in October 2023 and take effect in 2026
- A lawsuit was filed in January 2024 challenging the laws and alleging violations of the First Amendment and Supremacy Clause

Status



Florida ESG legislation



Summary

- Florida House Bill 3, one of the broadest ESG bills, restricts the use of ESG factors in investments and bans discrimination on the basis of ESG scores
- Specifically, the legislation:
 - Requires the Florida Chief Financial Officer and state retirement plans to **only consider financial factors** when making investment decisions
 - Requires a public investment manager to provide an ESG disclaimer in any written communication on the social, political, or ideological interests of a company
 - Prohibits state and local governments from considering ESG scores in the procurement process
- Florida Governor Ron DeSantis (R) signed the bill in May 2023, and it took effect two months later in July

Party Control

FL Senate	GOP
FL House	GOP
FL Governor	GOP

Status

HB 3

Introduced

Passed House

Passed Senate

Enacted

Arizona ESG legislation



Summary

- Arizona Rep. Steve Montenegro (R-13) introduced HB2457 in January 2024; the bill requires fiduciaries to only account for pecuniary factors when evaluating investments, specifically calling out nonpecuniary factors as relating to “social or environmental goals”
- Under former Governor Doug Ducey (R), Arizona previously adopted similar anti-ESG initiatives in its investment practices, which this legislation would make law if enacted
- Governor Katie Hobbs (D) vetoed a similar bill in June 2023 that would have required investments to be made “in the sole interest of the beneficiary taxpayer”

Party Control

AZ Senate	GOP
AZ House	GOP
AZ Governor	DEM

Status

HB 2457

Introduced

Passed House

Passed Senate

Enacted

Illinois ESG legislation



Summary

- Illinois has enacted a series of pro-ESG legislation over the years, beginning with the Sustainable Investing Act in 2020, which directed fund managers to consider ESG factors in investing
- In 2023, Illinois enacted HB 2782, which went into effect in January 2024 and requires investment managers to integrate sustainability factors into decision making and also requires annual disclosure
- Following HB 2787's effective date, Rep. Brad Halbrook(R-107) introduced a bill to repeal the Sustainable Investing Act in February 2024; the bill has not progressed in the House and currently has no cosponsors

Party Control

IL Senate	DEM
IL House	DEM
IL Governor	DEM

Status

HB 2782

Introduced

Passed House

Passed Senate

Enacted

New Hampshire ESG legislation



Party Control

NH Senate	GOP
NH House	GOP
NH Governor	GOP

Summary

- New Hampshire H.B. 457, enacted in June 2023, requires that all state investments must be governed by only traditional financial fiduciary factors to maximize the state’s financial benefits
- The legislation prohibits state entities from doing business with institutions that “prioritize social, political, or ideological interests above or concert with” traditional financial factors
- In December 2023, House Republicans introduced another anti-ESG bill (HB 1267) prohibiting incorporating ESG factors into state investing; however, the bill designates “knowingly” investing using ESG criteria as a felony, punishable by up to 20 years in prison
- HB 1267 currently has two cosponsors and has not progressed through the House

Status

HB 1267

Introduced

Passed House

Passed Senate

Enacted

Oklahoma ESG legislation



Summary

- In 2022, Oklahoma enacted HB 2034, the Energy Discrimination Elimination Act of 2022, which targeted groups boycotting the oil and gas industries and prohibited investment in those companies
- The state currently has an additional 14 active anti-ESG bills in session, including HB 3541, which expands HB 2034 to include boycotts of the timber, mining, and agriculture industries, and HB 2547, which restricts proxy voting in investment decisions
- HB 3541 passed the House in March 2024 and HB 2547 is one of a series of bills that has been carried over from the 2023 legislative session

Party Control

OK Senate	GOP
OK House	GOP
OK Governor	GOP

Status

HB 3541

Introduced

Passed House

Passed Senate

Enacted

Maryland ESG legislation



Summary

- In April 2024, Maryland enacted HB 1212, which mandates that the Chief Investment Officer of the governance division of the State Retirement Agency monitor and quantify the risks of ESG factors in investing and include ESG factor consideration in investment decisions
 - The bill also establishes a DEI program within the agency and names DEI as an ESG factor to consider
 - The bill goes into effect On July 1, 2024

Party Control

MD Senate	DEM
MD House	DEM
MD Governor	DEM

Status

HB 1212

Introduced

Passed House

Passed Senate

Enacted

North Carolina ESG legislation



Summary

- North Carolina House Bill 750 restricts the consideration of non-financial factors in the evaluation of an investment
 - ESG factors may only be considered if they are determined to present economic risks or opportunities that a qualified investment professional would consider financial under acceptable investment theories
- North Carolina Governor Roy Cooper (D) vetoed the bill but the Republican-controlled state legislature overrode the governor's veto and the bill went into effect in June 2023

Party Control

MD Senate	GOP
MD House	GOP
MD Governor	DEM

Status

HB 750

Introduced

Passed House

Passed Senate

Enacted