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Neutral, Written-only Testimony by Rabbi Moti Rieber on SB291, Kansas public investments and contracts protection act concerning environmental, social and governance (ESG) criteria

Senate Committee on Federal and State Affairs, Sen. Mike Thompson, chair

March 8, 2023

Mr. Chair, Members of the Committee:

Kansas Interfaith Action is a statewide, multifait issue advocacy organization that represents mostly Mainline Christian, Jewish and Muslim communities on a variety of important issues. As the State Public Policy office of the Central States Synod of the ELCA Lutheran Church, the Episcopal Diocese of Kansas, the Kansas-Oklahoma Conference of the United Church of Christ, and the Mercy & Justice Team of the Great Plains Conference of the United Methodist Church. I am also testifying on behalf of the Kansas chapter of Lutherans Restoring Creation.

There are three main points I want to make:

The first is the topic of ESG investing is the latest in the long of ginned up controversies around climate policy. Over the years there have been numerous attempts to restrict the ability of the federal government, the state, and even of individuals and organizations to develop and pursue policy to address the climate crisis. ESG legislation is this year's version of this. It may gin up the base, it may impress donors, but it's a bad idea. Any legislation, no matter how carefully written, is going to have a lot of unintended consequences. So my first point is that ESG legislation is culture war nonsense, not worthy of this legislature's time or effort.

The second is that there is there is a longstanding effort by faith organizations to divest their holdings from fossil fuels. In 2016 the Evangelical Lutheran Church in America (ELCA) voted to work towards the goal of discontinuing any investment by the church in fossil fuel companies, and to commit to investing in corporations that are taking positive steps toward a sustainable environment.

I will draw your attention to two articles: one from National Catholic Reporter from March of 2020 titled, "42 Faith Groups in 14 Countries Announce Divestment from Fossil Fuels"¹ and one from a website called Operation Noah from July 2022 titled, "Global Faith Institutions Announce Divestment as Oil and Gas Companies Threaten 1.5° Climate Goal with Reckless Expansion Plans."²

The organizers of the fossil fuel divestment campaign claim that endowments, portfolios and pension funds worth just shy of \$40 trillion have now committed to full or partial abstinence from coal, gas and oil stocks. 35.2% of that amount is related to faith-based investing.³

¹ <https://www.ncronline.org/earthbeat/justice/42-faith-groups-14-countries-announce-divestment-fossil-fuels>

² <https://operationnoah.org/featured/press-release-global-faith-institutions-announce-divestment-as-oil-and-gas-companies-threaten-1-5c-climate-goal-with-reckless-expansion-plans>

³ <https://divestmentdatabase.org/>

Fr Joshtrom Isaac Kureethadam, Coordinator of the Ecology Sector in the Vatican Dicastery for Integral Human Development, which assists Pope Francis's work on the environment, said:

In 2020, the Vatican called on Catholic institutions to divest from fossil fuel companies given their harm to the environment. I applaud these prophetic institutions divesting today and encourage every institution in the world to reduce our dependence on such harmful energy sources by divesting from fossil fuels. This is how prophetic institutions can live out our values and help the most vulnerable among us. If we want to achieve peace, and ensure a livable planet for all, including the future generations, we need to end our dependence on fossil fuels that fuel the current climate crisis.

These decisions are a morally appropriate response to the reality of human-caused climate disruption, and these faith communities have every right to invest their money in ways that support their values – including the value of creation stewardship. I would urge this body not to pass any legislation that would potentially punish these institutions financially for their sound moral decision-making.

And my third point is perhaps a more down-to-earth one: financial institutions and companies have economically legitimate reasons for pursuing sustainability goals. They are doing so in response to two incentives: first, the desire of their customers to invest in ways that promote their values, including a livable planet, and second, a recognition that financial policies that take into account a changing investment environment caused by policy responses to climate change are pursuing prudent financial stewardship.

Here's a quote from an article on the Intentional Endowments Network website, called "Fiduciary Duty is Not an Obstacle to Addressing ESG":

A long-term investment horizon requires the consideration of factors that might influence investment performance and strategies over time. The lead-up to the 2008 financial crisis, for instance, demonstrated how a focus on quarterly gains, or "quarterly capitalism," can drive behaviors that may have immediate benefits but endanger performance over a long-term investment horizon.

Fiduciary practices that fail to address key material factors over a relevant time horizon can fall short of maximizing a portfolio's risk and return profile. As recommended by the CFA Institute, trustees should "consider all relevant risk and value factors deemed appropriate when designing the scheme's investment strategy. In addition to typical financial measures, these factors may include environmental, social, and corporate governance issues."⁴

Members of the committee, it is not in the state's interests to restrict its pension funds or other investments from taking climate risks into account when making investment decisions – it's an important factor, and will only become more so. Neither is it in the state's interest to use state power to defend an individual industry, no matter how important this industry might appear in the state's self-definition. Kansas is already moving to being a clean energy bastion, and I applaud that movement -- that's where the future lies, not in providing rearguard protection for an industry that's past its prime.

Thank you for your attention.

⁴ https://www.intentionalendowments.org/fiduciary_duty_is_not_an_obstacle_to_addressing_esg