NATIONAL TAXPAYERS UNION

January 30, 2024

The Honorable Caroline McGuire
Chairwoman
House Executive Departments and Administration Committee
333 North State Street
LOB 306-308
Concord, NH 03301

The Honorable Jaci Grote
Ranking Member
House Executive Departments and Administration Committee
333 North State Street
LOB 306-308
Concord, NH 03301

Re: Oppose HB 1267 Prohibiting environmental, social, and governance standards in selecting government investments.

Dear Chairwoman McGuire and Ranking Member Grote,

The National Taxpayers Union (NTU), the "Voice of America's Taxpayers"[1] and the nation's oldest taxpayer advocacy organization, submits the below comments in response to the public hearing scheduled to review HB 1267, an act "relative to prohibiting environmental, social, and governance standards in the selection of government investments."

Last year, Governor Sununu signed an executive order barring officials in the New Hampshire Retirement System from investing in funds based solely on environmental, social, and governance criteria (ESG). Last year, the state legislature also enacted HB 457, which ensures that state pensions and investments are made in the most prudent goals of taxpayers or fiduciaries, ensuring the state is focused on maximizing returns when investing.

HB 1267, unfortunately, does not build on these reforms. The New Hampshire Retirement System, in a note accompanying HB 1267, wrote, "the proposed investment restrictions could potentially reduce investment returns."[2] In addition, the New Hampshire Retirement System wrote the legislation creates "unclear definitions, misaligned authorities, and conflicting laws that would make it difficult to administer and implement."[3]

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[1] https://www.ntu.org/about/
[2] https://www.gencourt.state.nh.us/bill_Status/pdf.aspx?id=21602&q=billVersion
[3] https://www.gencourt.state.nh.us/bill_Status/pdf.aspx?id=21602&q=billVersion

HB 1267 also injects politicization into the state's retirement system, requiring state treasury employees to weigh political factors above fiduciary requirements when investing on behalf of state employees and retirees. This conflicts with HB 457, which requires these same officials to make fiduciary decisions that are the most prudent to taxpayers. Certain funds, considering ESG factors, may be the most high-performing and deliver the greatest return to taxpayers. New Hampshire retirees and New Hampshire officials should not be limited by lawmakers and politicization that would be injected into the state retirement system.

Furthermore, the bill is overly punitive, making it a felony for state officials to consider ESG criteria when investing funds from the state treasury, retirement system, or executive branch agencies. This would be punishable by imprisonment of 1 to 20 years. Lawmakers should consider the chilling effect this will have on career public servants in New Hampshire who are working to provide the greatest retirement returns to state employees, retirees and taxpayers.

Lastly, the bill is overly broad, potentially barring all executive-level branch agencies from working with financial firms that use ESG factors, limiting the state from working with nearly all of the nation's large financial institutions. This could imperialize a number of key state financial functions. For example, New Hampshire could be forced to end its relationship with bank merchant payment processors, limiting that state's ability to accept credit or debit cards for tax, fee, and other payments and limiting the ability of state-operated New Hampshire Liquor and Wine outlets from accepting or processing debit and credit cards.

In September 2021, Texas passed legislation barring local governments from borrowing from financial institutions with certain ESG policies. A study conducted by Daniel Garrett of the Wharton School of the University of Pennsylvania, and Ivan Ivanov of the Federal Reserve Bank of Chicago, entitled "How US anti-ESG laws raise borrowing costs for public finance,"[4] found that the Texas laws resulted in at least five financial institutions leaving the municipal bond market, thus raising borrowing costs. The paper found, "This increase in yields translates to an additional US$300 million to US$500 million in borrowing costs on the US$31.8 billion in municipal bond issuance during the first eight months following enactment of the laws."

In short, higher municipal borrowing costs harmed Texas taxpayers. Lawmakers in New Hampshire should take these findings into consideration before enacting HB 1267 into law.

NTU urges committee members to carefully examine the effects HB 457 would have on New Hampshire taxpayers and how expanded state authority over state investment decisions would ultimately harm New Hampshire taxpayers in the form of potentially higher borrowing costs and limited retirement and pension returns.

Sincerely,
National Taxpayers Union

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[4]https://www.unpri.org/academic-blogs/how-us-anti-esg-laws-raise-borrowing-costs-for-public-finance/11330.article