Public Comment Submitted for
Senate Industry and Business Public Hearing
Re: HB 1429

March 15, 2020

Delivered by CFACT President Craig Rucker:

Thank you, Chairman and Committee members.

My name is Craig Rucker and I serve as the President of the Washington, D.C. based Committee For A Constructive Tomorrow (CFACT). CFACT is a non-profit, public policy think tank that is based in Washington, D.C. and was founded in 1985 to promote a constructive, free market perspective on issues dealing with Environmental, Energy and Climate policy.

I am speaking today in support of the policies contained in HB 1429.

CFACT's interest in this bill stems from its involvement with the topic of ESG financing. There are three areas we have principally become involved with this issue.

One of them is by our long-standing participation in the United Nation's Climate, Biodiversity and Sustainability process to which CFACT is an NGO and has recognized observer status. I myself have been to roughly 30 of such conferences, most recently at the UN COP climate meeting in Sharm el-Sheikh, Egypt.

This is important, because in our opinion, the push for implementation of ESG criteria in North Dakota is not some sort of homegrown initiative that sprouted up on a farm outside Fargo. In fact, its roots are not just domestic, but international. Having participated in UN conferences where this has been discussed, we have had kind of a front row seat in witnessing some of the discussions and developments that have taken place (in our opinion regrettably) to advance the ESG cause.

A second reason we can offer some insight on HB 1429 is that we've been involved in "shareholder activism" to a degree. We hold a modest number of shares in major banks, social media, and energy companies for the purpose of using them to partner with other like-minded pro-market organizations and speaking out against efforts by certain activist groups to push companies away from the mission of profiting their shareholders. In fact, I was a participant in the Exxon shareholder meeting when Engine No. 1 infamously removed three Exxon board members and replaced them with their allies by forging an alliance with Blackrock, State Street, CalPERS and Vanguard on May 26, 2021. That event, probably more than any other, showcased to us why we needed encourage policymakers to act and put forth bills like HB 1429.

In addition to observing this issue at the UN level and participating in shareholder meetings where ESG has been pushed, we also write extensively on this issue, have published reports on it, and assisted legislators and policy makers with becoming more informed about it. You can find much of our research, articles, and other information about ESG on our website CFACT.org.

So what are our concerns about ESG activism and why we think this bill is a good one? We feel there are three major problems with ESG:

1. It is not concerned with advancing the economic interests of North Dakotans. Instead, it is a top-down, elitist inspired effort reflecting the interests and priorities of multi-billionaires and internationalists.
2. ESG is random with its ratings, it's not applied fairly, and it empowers America's adversaries – notably China.
3. It simply doesn't work. ESG investing is not getting the returns it promised investors, nor is it changing the world for the better. In fact, it's doing the opposite!

Now allow me to explain each of these and why I believe such claims are true.

Regarding the first point I raised, namely that the ESG cause is an elitist one. If we look at where ESG started, it was done so quite openly in 2005. It was then that former Secretary General Kofi Annan, in a highly covered media event, invited a group of the world's largest institutional investors to join a process to develop the Principles for Responsible Investment. This included a 20-person investor group drawn from institutions in 12 countries and was supported by a 70-person group of experts from the investment industry." These people put together six principles of responsible investment, the sum of which is to encourage businesses around the world to make sustainable development, a.k.a ESG, a priority in their operations.

They succeeded beyond their wildest dreams. According to the PRI website, this network now boasts 7,000 corporate signatories in 135 countries and is the world's largest voluntary corporate sustainability initiative.

My point in telling you this history lesson is to inform you that all this ESG stuff that's coming on your radar is not originating from your constituents here in North Dakota. It is coming from people on an elite level -- in Geneva, Davos, and Wall Street -- who have their own political and business priorities foremost in mind, and do not necessarily even live here in this country, nor have its interests at heart. Among their priorities, btw, is shutting down the fossil fuel industry, which could cause significant harm to this state. This should give you pause when it comes to giving them leverage over your financial affairs, including setting rules for your investments and business activities in North Dakota.

And now we come to point number two, namely that their standards are quite random, not applied equally, and tend to help our adversaries, namely China.

If you've ever reviewed how ESG scoring is done, it's a good way to get your head spinning. This is because there are numerous firms that are involved in the business, and they each have their own way of scoring how a company is performing with respect to ESG compliance. Among the major firms doing the scoring include the CDP, Standard and Poor's, Bloomberg, the Global Reporting Initiative, and the Sustainable Accountability Standards Board, among many others. They are not consistent, and this has led to efforts to try and get them all on the same page.

The bottom line is, to get a good ESG score is a game of hit or miss, depending on who performs it. As the *Economist* magazine notes:

> **The ESG rating agencies are the veritable acme of inconsistency. A study of six of them found that they used 709 different metrics across 64 categories. Only ten categories were common to all…**

I would also like to mention that while our U.S. firms are tripping all over themselves trying to get a good ESG score, foreign firms, like those in China, aren't nearly so concerned it. This is because they are often the beneficiaries of gobbling up contracts that are denied U.S. firms because of their poor ESG scores.

My final point as to why ESG should be resisted is that it doesn't offer what it promises, good returns. Yes, there are statistics used by these ESG scoring firms to highlight how they are providing great returns for their investors … but if you look at what more neutral analysts are saying, a much different picture is painted.

- Bloomberg news reported in December 2022 that the10 largest ESG funds by assets have all posted double-digit losses last year, with eight of them falling even more than the S&P 500's 14.8% decline.
- Bloomberg went on to say ESG advocates have gone from saying it makes more money to saying people are willing to lose money to invest in ESG:

- "University of Chicago researchers analyzed the Morningstar sustainability ratings of more than 20,000 mutual funds representing over $8 trillion of investor savings. They found that none of the high sustainability funds outperformed any of the lowest rated funds."

ESG funds also aren't improving ESG categories:

- "Researchers at Columbia University and London School of Economics compared the ESG record of U.S. companies in 147 ESG fund portfolios and that of U.S. companies in 2,428 non-ESG portfolios. They found that the companies in the ESG portfolios had worse compliance record for both labor and environmental rules. They also found that companies added to ESG portfolios did *not* subsequently improve compliance with labor or environmental regulations."

So in sum, the bottom line is ESG is not home grown, it doesn't serve the interests of North Dakotans, it's structure is a mess, and doesn't give a good rate of return. That pretty much covers it!

Now as to HB 1429 specifically, I think this bill does a good job with trying to reign in ESG criteria on four fronts.

First, in section one, it amends the North Dakota Century Code in Section 21-10-08.1 by clearly spelling out the words "environmental," "social" and "governance" by name. This is good as it removes all ambiguity. This clarification is a plus.

In section two of the bill it tackles insurers, which is a good thing because they are also being urged to become activists in the ESG drama.

In section three of the HB 1429, which tackles the troublesome issue of proxy voting, this is a positive as it should be common sense to forbid management services guided by an ESG philosophy to be relied upon to make sound investment decisions – especially when they have ulterior motives beyond getting high returns for investors.

And in section 4, conducting a study to evaluate how ESG might impact North Dakota also seems like a no-brainer.

At this point, I'd like to conclude my comments, Mr. Chairman, and am happy to answer any questions that you'd like to direct my way. Thank you.