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Testimony of Brent Bennett, Ph.D.
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Texas Public Policy Foundation
Before the
North Dakota Senate
Energy and Natural Resources Committee

Chairman Kreun and Members of the Committee:

Thank you for the opportunity to testify today in support of SB 2291. I am the Policy Director of Life:Powered, a project of the Texas Public Policy Foundation to raise America's energy IQ. My career has spanned oil and gas, utility-scale batteries, financial research, and now energy policy, so the subject of this bill – namely the growing movement to pressure banks and investment firms to boycott and collude against oil, gas, and coal companies – is of great personal interest to me. More importantly, as I will explain later, we believe this bill could have significant import in Texas and many other energy producing states.

As an organization committed to limited government, we are not naturally inclined to seek policy responses for misguided corporate behavior. However, this energy discrimination movement has reached a point where it demands a response from our states. Not only does it negatively impact our vital energy businesses and threaten our energy independence, it strikes at the heart of many bedrock principles of capitalism that have made our country so prosperous.

First, I want to clarify that we do not entirely oppose the right of companies to pursue ESG investing goals. **Environmental, social, and governance (ESG) goals are appropriate when those goals benefit a company's shareholders.** Companies that want to maximize long-term returns to their shareholders must take care of the environment, their employees, and their communities. We encourage charitable activities from companies for this reason. The problem arises when, under the guise risk management and ESG principles, advocacy groups are attempting to bypass the checks and balances of our political process and forcing corporate boards to place narrow political agendas above their fiduciary responsibilities.

Unfortunately, the environmental aspect of the ESG movement has devolved into a myopic focus on climate change and carbon emissions. A prominent example is the Climate Action 100+ group. Its members, which include BlackRock and JP Morgan, are responsible for over $52 trillion dollars in assets. These members are asked to "engage" companies to reduce greenhouse gas emissions in a manner consistent with the Paris Agreement's goals and to comply with Michael Bloomberg's Task Force on Climate-Related Disclosures. This engagement is primarily done through proxy voting and shareholder actions, and, as is happening now with ExxonMobil, it can go as far as replacing board members.

By focusing solely on carbon emissions, these groups distort incentives and direct resources from other environmental, social, and financial concerns. More concerning, however, is the pressure to move beyond corporate engagement into boycotting and divestment. **We are now seeing major banks and investment firms colluding to deny financing and investment to energy companies.** These actions are hostile to free and competitive energy markets and harmful not just for energy businesses but also for energy consumers. The result will not be improvements in environmental quality but instead higher energy prices and greater dependence on foreign energy producers.

We recently spoke with the Governor of Alaska, whose state is having to invest its own money to develop new Arctic oil and gas reserves because the major banks and oil and gas companies will not invest there. North Dakota is already fighting legal and regulatory interventions on the Keystone and Dakota Access pipelines. What happens when the big banks decide to collectively deny financing to drilling and mining activity in the state? While legal strategies have been contemplated to fight the misuse of ESG, there is no clear legal mechanism to stop energy discrimination via investment schemes.

One solution is to turn the tables on the banks. If they will not do business with us, we will not do business with them. Right now, the large banks and investment firms are being rewarded instead of penalized for boycotting and divesting. However, if energy producing states refuse to invest with these firms, then they will face a real financial penalty for their actions. As of September 2020, the North Dakota Legacy Fund had more than $2 billion invested with firms in the Climate Action 100+ group. Money derived directly from North Dakota's energy businesses should not be invested with firms that are actively seeking to punish those businesses.

The real impact will come when all energy producing states work together. Several other states, including Texas, are considering similar legislation to refuse to invest in or contract with firms that engage in this energy discrimination. This bill only commits North Dakota to study the implications of such actions, but if you pass this bill first, it will set a strong example for other states to follow.

Just like when our states came together to fight the Clean Power Plan and other federal regulatory excesses – efforts which will likely be reprised given Biden's regulatory agenda – it is worth our time and effort to work together on this issue. The collective economic power of the energy producing states is the only way to slow the spread of what has become a clear and present threat to all sectors of the energy economy and the states that fuel and power our nation.

For more information on the threat energy discrimination poses to our country, our energy economy, and our way of life, please take time to read the attached documents.

Sincerely,

Brent Bennett, Ph.D.
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Texas Public Policy Foundation