# RESOLUTION OPPOSING EFFORTS TO WEAKEN THE U.S. ECONOMY OR RESTRICT THE U.S. ENERGY SUPPLY BY THE WHITE HOUSE, SECURITIES AND EXCHANGE COMMISSION, AND ~~WHITE HOUSE MANDATES AND OTHER FORMS OF COERCION ON CLIMATE-RELATED FINANCIAL MATTERS~~INTERNATIONAL ORGANIZATIONS

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**Model Resolution**

WHEREAS, the White House has repeatedly taken actions to restrict the United States energy supply, including revoking the Keystone XL pipeline permit, and freezing oil and gas leases; and

WHEREAS, in May 2021, the White House issued an Executive Order on Climate-Related Financial Risk, directing a suite of federal agencies to develop and implement a government-wide strategy on climate-related financial risk that may impact a variety of public and private companies; and

WHEREAS, in March 2021, the Securities and Exchange Commission (SEC) sought "public input . . . from investors, registrants, and other market participants on climate change disclosure" and explored imposition of new rules for climate change risk disclosure as well as broader disclosure standard related to environmental, social, and governance (ESG) matters that may apply to publicly traded and privately held companies; and

WHEREAS, the SEC intends to propose and finalize regulations to "enhance registrant disclosures regarding issuers' climate-related risks and opportunities" in 2021 and early 2022; and

~~WHEREAS, in May 2021, the White House an Executive Order on Climate-Related Financial Risk, directing a suite of federal agencies to develop and implement a government-wide strategy on climate-related financial risk that may impact a variety of public and private companies; and~~

WHEREAS, in 2021, the SEC sent threatening letters to a number of companies claiming that "information related to climate change-related risks and opportunities may be required in disclosures related to a company's description of business, legal proceedings, risk factors, and management's discussion and analysis of financial condition and results of operations"; and

WHEREAS, climate change risk and ESG disclosures, as well as other elements of the federal government's climate-related financial risk strategy, are inconsistent with the First Amendment, constituting compelled speech or, in the case of some elements of the Executive Order on Climate-Related Financial Risk, unconstitutional conditions; and

WHEREAS, these efforts are inconsistent with SEC's mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation; and

WHEREAS, SEC Commissioner Hester Peirce has warned that an SEC climate or ESG disclosure regime would result in public shaming of certain firms based on nebulous, incomplete, arbitrary, inconsistent, and political information; and

WHEREAS, Congress has not provided statutory authority for the SEC to adopt mandates related to climate change risk or ESG disclosures (with the Congressional Research Service recognizing in 2021 that "Federal securities law does not explicitly require disclosure of specific climate-related risks"), nor has Congress authorized any of the activities directed under the Executive Order on Climate-Related Financial Risk. Paul G. Mahoney and Julia D. Mahoney of the University of Virginia School of Law explained that "The SEC has neither the expertise nor the political accountability to pursue climate, diversity, or other public policy goals"; and

WHEREAS, previous national rulemakings on climate change have included multiple public hearings around the United States, including outside of Washington, DC and in areas with significant energy production; and

~~and~~WHEREAS, these mandates will substantially increase costs for a wide variety of businesses; and

WHEREAS, ~~failures in~~the United States must exercise global energy leadership ~~have~~to counter ~~empowered~~ authoritarian regimes such as China and Russia; and~~including China; and~~

WHEREAS; in March of 2022, U.S. gas prices reached the highest price on record; and

WHEREAS, rising energy prices drive further inflation in the United States; and

~~WHEREAS, previous national rulemakings on climate change have included multiple public hearings around the United States, including outside of Washington, DC and in areas with significant energy production; and~~

WHEREAS, many American corporations have committed to jointly use their market power through international organizations such as Climate Action 100+ and the Glasgow Financial Alliance for Net Zero to phase out natural gas and coal powered energy generation, restrict investment in fossil fuels, and otherwise use their combined market power to pursue environmental or other ESG policies without regard to the economic and other consequences such transition will have on American citizens, including the citizens of (state); and

WHEREAS, a forced transition to "net zero" would have negative effects on ~~the~~ (state) and its citizens, including but not limited to: increased energy costs, increased inflation, job losses, reduced job creation, reduced state tax base, harmed retirees and state pension beneficiaries, reduced capital investment, reduced diversity of energy sources, increased vulnerability of energy sources and the citizens of (state) who rely on them to cold weather or other natural events.

NOW, THEREFORE, LET IT BE RESOLVED that (state legislature) hereby urges (state) to:

Exercise all of its authorities, including litigation, legislation, administrative action, or any other available efforts, to oppose efforts to weaken the U.S. economy, or restrict the U.S. energy supply, including ~~prevent a forced~~the imposition of environmental or other ESG policies, whether from the government or other forms of coercion, and join together with other states sharing this commitment; and

Exercise all discretion afforded its Governor and executive officers under its law to ensure that governments, domestic or international organizations or agreements, or other forms of coercion furthering environmental or other ESG policies do not impose costs and consequences on the citizens of (state); and

Ensure that no (state) agency base any action or decision upon the assumption that a transition to “net zero” is likely to occur; and

Use all tools at its disposal, including filing public comments and exploring legal challenges to forthcoming SEC regulations as well as implementation of the Executive Order on Climate-Related Financial Risk, to oppose these top-down, one-size-fit-all mandates; and

Demand that the SEC restrict its rulemaking to that which is statutorily allowed and that SEC and other agency rulemakings on climate change risk disclosure, ESG, and climate-related financial risk be open and transparent, including abiding by the Administrative Procedure Act and striving to hold multiple public hearings to receive feedback directly by people most impacted by these mandates (including outside of Washington, DC); and

Provide a copy of this resolution to the U.S. House Committee on Financial Services, U.S. Senate Committee on Banking, Housing, and Urban Affairs, SEC and other regulatory bodies considering mandates related to climate change risk disclosure, ESG, and climate-related financial risk.