BEFORE THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE
OPPONENT TESTIMONY ON SENATE BILL 6

Chairman LaRe, Vice-Chair Pizzulli, Ranking Member Dell'Aquila, and members of the House Financial Institutions Committee thank you for the opportunity to provide opponent testimony on Senate Bill 6 (SB 6). My name is Andrew Collier and I am the Director of Freedom to Invest at Ceres.

Ceres is a national business nonprofit organization with more than 200 members in our Investor Network, who collectively have over $30 trillion in assets under management. Ceres' also has more than 80 member companies in our Business for Innovative Climate and Energy Policy (BICEP) Network. Together, our member companies rely upon Ceres to advocate for public policies that advance a sustainable economy.

In our efforts to promote sustainability and a thriving economy, Ceres opposes Senate Bill 6 because it codifies a government mandated investment strategy that limits free market activities. Under Senate Bill 6, Ohio's public employees' retirement boards, the Ohio Bureau of Workers' Compensation (BWC) board, and all boards of trustees for state higher education institutions may not make any investment decision that has the primary purpose of influencing ESG considerations. By prohibiting the use of environmental, social, and governance (ESG) considerations as the "primary purpose" for an investment decision, Senate Bill 6 limits how financial professionals invest, jeopardizes returns for Ohio retirees, and creates an unnecessary risk of litigation for the state's institutional investors. Investment managers need the freedom to consider all relevant factors before making investments on behalf of current and future retirees.

The vagueness of the "primary purpose" prohibition also opens Ohio's institutional investors to additional litigation risk. The primary purpose prohibition creates undue litigation risk by enabling outside interests to allege any investment decision by a state pension, the BWC, or a public university violates this provision. That litigation risk could have a chilling effect on investment managers and may also result in the state's institutional investors pursuing a limited number of investment strategies.

In addition to the limitations on free market activities and heightened litigation risk, Senate Bill 6 also interferes with statutory duties of the pension systems' fiduciaries in existing law. Under the federal Employee Retirement Income Security Act 1974 (ERISA), the fiduciaries of each pension system must discharge their duties using the care, skill, prudence, and diligence of a prudent person and must diversify investments to minimize the risk of large losses. Senate Bill 6 conflicts with these mandates because it diminishes the pension system's ability to consider all risks and opportunities associated with an investment by implementing a vague "primary purpose" standard when evaluating governance and other similar risks.

Similarly, existing law addresses the aims of Senate Bill 6 without any unnecessary litigation risk or creating new investment criteria since fiduciaries must already carry out their duties "solely in the interest of the participants and beneficiaries."

Aside from the implications we have already discussed, legislation from other states show it is costly to implement ESG restrictions on state investors. In Texas, their restrictive ESG legislation increased interest charges on the state's bonds by $532 million because only a limited number of banks can meet the bill's requirements to finance public debt in Texas. Likewise, the Kansas budget office projected reduced returns of $3.6 billion for the Kansas Public Retirement System (KPERS) if the state had adopted proposed legislation with similar investment restrictions. Oklahoma is facing several legal challenges with new restrictive ESG legislation amidst the Oklahoma Public Employees Retirement System projecting compliance with the law could cost the fund $9.7 million in taxes, fees and commission costs.

The experiences from other states highlight how legislation restricting free market activities by limiting investment choices results in higher costs and lower investment yields, which hurts retirees and may create unfunded pension liabilities that strain public budgets.

In closing, Ceres opposes Senate Bill 6 because it diminishes free market choices, creates additional liability risk, increases costs, and may hinder investment returns. Thank you for the opportunity to testify and I welcome any questions from the committee.