

**Testimony before Senate Judiciary Committee  
In support of SB 361  
On behalf of the Oregon State Bar Sustainable Futures Section  
February 4, 2019**

Senator Prozanski, members of the Committee:

Good morning. My name is June Wyrick Flores and I am an attorney with Miller Nash Graham & Dunn in Portland. I am here today as a representative of the Sustainable Futures Section of the Oregon State Bar in support of SB 361.

**Oregon State Bar**

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the court with over 14,000 active members. The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice. Among its core values are fairness and diversity. The Oregon State Bar licenses and disciplines lawyers and performs other functions to benefit the public: including lawyer referral services, modest means and veterans programs, and legal education for attorneys and members of the public.

**Sustainable Futures Section**

The Sustainable Futures section of the Oregon State Bar was originally formed in 2009, and today is made of up of over 100 attorneys who practice in a wide range of areas.

**Prudent Investor Statute**

Oregon's Uniform Prudent Investor Act, codified at ORS 130.750-775 requires trustees to manage assets both in accordance with the wishes of the trustor set forth in the trust document, and in a manner that protects the interests of trust beneficiaries by ensuring that trust resources are managed responsibly. Trustees are required to consider a range of factors including general economic conditions and tax consequences of specific investment decisions in order to maximize returns for the beneficiaries.

As a part of a prudent investment strategy, many trustees take into account Environmental, Social and Governance Factors (ESG Factors). Financial analysts combine material ESG factors with traditional financial metrics to make investment recommendations. ESG factors, although sometimes described as "non-financial," often have a significant long term impact on investments. This is why financial analysts increasingly use ESG factors in developing investment strategies.

While Oregon's Prudent Investor Act is silent on the use of ESG factors, some trustees have expressed concerns about whether they are permitted to consider these factors in making investment decisions. This bill would clarify the existing act by specifying that a trustee may consider any material financial or extra-financial factors that affect investments, including ESG factors.

The bill does not require trustees to consider these factors or to change their existing practices in any way. The bill simply provides certainty to trustees who believe they need to consider ESG factors in order to fulfill the wishes of the trustor and to fully protect the beneficiaries' financial interests.

We look forward to continuing to work on this important issue and would be happy to answer any questions you might have.