The Honorable Tim Walberg
Chairman, Committee on Education and Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Robert C. "Bobby" Scott
Ranking Member, Committee on Education and Workforce
U.S. House of Representatives
Washington, DC 20515

June 25, 2025

Re: Opposition to H.R. 2988, Protecting Prudent Investment of Retirement Savings Act

Dear Chairman Walberg, Ranking Member Robert C. "Bobby" Scott, and Members of the House Committee on Education and Workforce:

The undersigned 35 labor unions, investors, and public interest organizations write in opposition to H.R. 2988, Protecting Prudent Investment of Retirement Savings Act. This bill's amendments to the Employee Retirement Income Security Act (ERISA) would undermine workers' retirement security by: 1) chilling fiduciaries' consideration of a slew of important financial risks and opportunities, 2) undermining prudent investments that generate collateral benefits for beneficiaries in addition to financial returns, 3) silencing workers' voices in the governance of the companies they're invested in, and 4) stymying efforts to increase value by diversifying retirement plan service providers.

This bill would effectively repeal the Department of Labor's 2022 "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" rule[1] and reinstitute 2020 rules that were discarded due to their unworkability and broad opposition from stakeholders. The 2022 rule clarified that: 1) ERISA fiduciaries are allowed to take into account environmental, social, and governance factors that are relevant to a risk and return analysis when making investment decisions; 2) ERISA fiduciaries can consider benefits to plan participants in addition to financial returns when the investments being considered would equally serve the financial interests of the plan; and 3) exercising shareholder rights, including proxy voting, is an important component of fiduciary management.[2]

[1] U.S. Department of Labor. Employee Benefits Security Administration. "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights, Final Rule, Employee Benefits Security Administration." Federal Register. December 1, 2022.
[2] *Id.*

Labor unions, investors, and public interest organizations strongly supported the 2022 rule when it was proposed, and defended it from a Congressional Review Act challenge[3] and attempts to legislate its reversal last Congress.[4] The 2022 rule has also survived legal challenges, with a district court judge ruling twice to preserve the rule.[5] Notwithstanding the strong stakeholder support of the rule and its demonstrated legal durability, the current administration has indicated that it is considering rescinding the rule[6] and H.R. 2988 seeks to do so legislatively.

H.R. 2988 would chill the consideration of important financial risks and opportunities necessary to protect workers' deferred wages by creating an ill-defined and deeply flawed distinction between "pecuniary" factors that ERISA fiduciaries can take into account and "non-pecuniary" factors they cannot. Indeed, when the 2020 rules that first made this distinction were being considered, they were widely criticized and have since been rescinded because they produced significant confusion about what fiduciaries are allowed to consider when making investment decisions and had a chilling effect on the consideration of financially relevant information.[7]

More specifically, the concern is that fiduciaries may not consider relevant environmental and social risks and opportunities even though it would be prudent to do so. Environmental and social factors are relevant in evaluating investment risk and return and it is entirely appropriate — and in many cases necessary — for fiduciaries to consider these factors when making investment decisions. For example, the Human Capital Management Coalition — comprised of 36 institutional investors representing over $10 trillion in assets[8] — has noted that "[t]here is broad consensus that human capital management is important to the bottom line, and a large body of empirical work has shown that skillful management of human capital is associated with better corporate performance, including better risk mitigation."[9] As another example, the Financial Stability Oversight Council, in its 2021 report on climate-related financial risk, found that physical risks like the "[i]ncreased frequency and severity of acute physical risk events such as hurricanes, wildfires, floods, and heatwaves . . . are expected to lead to increased economic and financial costs."[10] Ignoring these real risks puts workers'

---

[3] Americans for Financial Reform, Public Citizen, et al. "Re: Defend the Department of Labor Rule that Safeguards Workers' Retirement Security." Letter to Congressional Leadership. February 24, 2023.
[4] *See* Americans for Financial Reform et al. "Re: Opposition to anti-ESG bills that threaten workers' retirement security and our financial system, and weaken tools of corporate accountability." Letter to Members of the U.S. House of Representatives. September 17, 2024; *see also* Americans for Financial Reform. "Re: Markup of anti-ESG bills." Letter to Education and Workforce Committee, U.S. House of Representatives. September 13, 2023.
[5] Adams, Nevin E. "Federal Judge Again Backs ESG Rule." National Association of Plan Advisors. February 18, 2025.
[6] *State of Utah et al. v. Chavez-DeRemer et al.* United States Court of Appeals for the Fifth Circuit. "Motion for Abeyance." No. 23-11097. April 2025.
[7] *See* Brandon J. Rees & Alex Roe. AFL-CIO Comment on Financial Factors in Selecting Plan Investments. July 30, 2020. *See also* Renaye Manley. SEIU Comment on Financial Factors in Selecting Plan Investments. July 30, 2020.
[8] Human Capital Management Coalition. "About the Coalition."
[9] Human Capital Management Coalition. "Petition for Rulemaking to Require Issuers to Disclose Information About Their Human Capital Management Policies, Practices and Performance." U.S. Securities and Exchange Commission. July 6, 2017.
[10] Financial Stability Oversight Council. U.S. Department of the Treasury. "Report on Climate-Related Financial Risk." October 2021 at 17.

retirement security at risk.

H.R. 2988 would undermine prudent investments that generate collateral benefits for beneficiaries in addition to financial returns by creating an unnecessarily high bar for their consideration and instituting burdensome documentation requirements. To maximize benefits to participants and avoid their own assets being weaponized against them, ERISA fiduciaries should be able to consider benefits to participants in addition to financial returns. Retirement investments can affect the real-life economic fortunes of workers and retirees in ways that go beyond the performance of those investments. The scale of pension investments can ameliorate economic burdens (through investments that generate collateral benefits) or exacerbate harms by making investments that disadvantage communities (like housing unaffordability). It is appropriate for pensions to consider the impact of their investments on the workers and retirees whose wages fund the pensions — without sacrificing workers' ability to retire with dignity. ERISA fiduciaries should not be prohibited from doing so.

H.R. 2988 would silence workers' voices in the governance of the companies they're invested in by creating unnecessary and burdensome documentation requirements for regular exercises of shareholder rights and creating safe harbors that would make it easier for fiduciaries to abstain from many proxy votes. This bill largely mirrors one of the 2020 rules[11] that was criticized for creating the perception that fiduciaries "would need to have special justifications for even ordinary exercises of shareholder rights."[12] This bill would put a thumb on the scale against fiduciaries exercising shareholder rights on behalf of workers whose deferred wages they are responsible for managing, which would result in enhancing the power of public companies' management and decreasing the say and power of workers in the companies they are invested in.

H.R. 2988 would stymie efforts to increase value by diversifying retirement plan service providers. The bill would prohibit the consideration of "race, color, religion, sex, or national origin" in "selecting, monitoring, and retaining any fiduciary, counsel, employee, or service provider of the plan." This section seems to be a thinly-veiled attempt to stymie efforts to "increase the absolute number of, and assets under management by, diverse-owned asset management firms for institutional investors."[13] These efforts have been gathering steam, with some institutional investors committing to increase the diversity of those who manage their assets. Illinois Treasurer Michael Frerichs has commented on these efforts, noting that "[u]sing diverse investment firms is not only about creating growth and opportunity in our communities, but it's integral to increasing our investment returns."[14] Similarly, working for New York City Comptroller Brad Lander, Steven Meier, Chief Investment Officer and Deputy Comptroller for Asset Management noted that "[d]iversity,

---

[11] U.S. Department of Labor. Employee Benefits Security Administration. "Fiduciary Duties Regarding Proxy Voting and Shareholder Rights, Final Rule, Employee Benefits Security Administration." Federal Register. December 16, 2020.
[12] U.S. Department of Labor. Employee Benefits Security Administration. "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights, Final Rule, Employee Benefits Security Administration." Federal Register. December 1, 2022.
[13] Diverse Asset Managers Initiative.
[14] Illinois State Treasurer Michael W. Frerichs. Equity, Diversity & Inclusion.

equity and inclusion are an important component of our fiduciary duty to generate sustainable and superior returns to benefit the nearly 800,000 City employees, retirees and their families who participate in the City's pension funds."[15] New Mexico recently followed suit, announcing a new diversity initiative in December 2024. New Mexico State Treasurer Laura Montoya commented that New Mexico State Investment Council's "forward-thinking approach to the makeup of our investments, from the team to the fund managers, sustains and reflects New Mexico's uniquely diverse resource and population landscapes. When our investments remain in lockstep with our state's values and who we serve, we maximize yield, minimize risk, and build a resilient economy."[16] There are sound reasons consistent with fiduciary duty to consider racial, gender, and other types of diversity in selecting asset managers[17] and other service providers and such considerations should not be made illegal.

Thank you for your consideration of our perspective. Please do not hesitate to contact Natalia Renta at natalia@ourfinancialsecurity.org if you have any questions.

Sincerely,

AFL-CIO
AFT
American Association of People with Disabilities
Americans for Financial Reform
As You Sow
Communications Workers of America
CorpGov.Net
Dominican Sisters of Sparkill
Figure 8 Investment Strategies
Friends Fiduciary Corporation
Green Retirement, Inc.
Harrington Investments, Inc.
HIP Investor Ratings + Portfolios
Interfaith Center on Corporate Responsibility
International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Workers
International Union of Bricklayers and Allied Craftworkers
Majority Action
Miller/Howard Investments, Inc.
Nia Impact Capital

---

[15] New York City Comptroller Brad Lander. "Comptroller Unveils First Public Report Detailing Share of Minority and Women-Owned Businesses in NYC's Asset Management and Public Finance." November 1, 2022.
[16] Press Release. "State Investment Council Adopts New Vision and Mission Statements to Become Best Managed and Diversified Sovereign Wealth Fund Globally." Cibola Citizen. December 11, 2024.
[17] *See* Jenna Weinberg & Simon Greer, "Fiduciary Guide to Investing with Diverse Asset Managers and Firms." Diverse Asset Managers Initiative. April 2017 at 8-10.

Oxfam America
Private Equity Stakeholder Project
Public Citizen
Sanctum Foundation
Seventh Generation Interfaith Coalition for Responsible Investment
SharePower Responsible Investing
Sierra Club
SOC Investment Group
Sonoma Private Wealth, LLC
Stance Capital, LLC
Teamsters
Transparency Task Force
UFCW International Union
United Church Funds
United for Respect
Veris Wealth Partners