

**AMENDMENT TO H.R. 2988, AS REPORTED
OFFERED BY MR. DESAULNIER OF CALIFORNIA**

Strike division A and insert the following:

1 **DIVISION A—INVESTMENT
2 DUTIES**

3 **SEC. 1001. INVESTMENT DUTIES.**

4 Section 404(a) of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C. 1104(a)) is amended by
6 adding at the end the following:

7 “(3) INVESTMENT DUTIES.—

8 “(A) For purposes of paragraph (1), a fi-
9 duciary shall be considered to act solely in the
10 interest of the participants and beneficiaries of
11 the plan with respect to an investment or in-
12 vestment course of action if the fiduciary’s ac-
13 tion with respect to such investment or invest-
14 ment course of action is based on factors that
15 a fiduciary reasonably determines are relevant
16 to a risk and return analysis, using appropriate
17 investment horizons consistent with the plan’s
18 investment objectives, and taking into account
19 the funding policy of the plan established pur-
20 suant to section 402(b)(1). Risk and return fac-

1 tors may include the economic effects of climate
2 change and other environmental, social, or gov-
3 ernance factors on the particular investment or
4 investment course of action. The fiduciary may
5 not subordinate the interests of the participants
6 and beneficiaries in their retirement income or
7 financial benefits under the plan to other objec-
8 tives and may not sacrifice investment return or
9 take on additional investment risk to promote
10 benefits or goals unrelated to interests of the
11 participants and beneficiaries in their retire-
12 ment income or financial benefits under the
13 plan.

14 “(B) Notwithstanding subparagraph (A), if
15 a fiduciary prudently concludes that competing
16 investments, or competing investment courses
17 of action, equally serve the financial interests of
18 the plan over the appropriate time horizon, the
19 fiduciary is not prohibited from selecting the in-
20 vestment, or investment course of action, based
21 on collateral benefits other than investment re-
22 turns. A fiduciary may not, however, accept ex-
23 pected reduced returns or greater risks to se-
24 cure such benefits.”.

Page 3, line 7, strike the item relating to division A and all that follows through the item relating to section 1002 and insert the following:

DIVISION A—INVESTMENT DUTIES

Sec. 1001. Investment duties.

