

**AMENDMENT TO H.R. 2988, AS REPORTED  
OFFERED BY MR. CASTEN OF ILLINOIS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Freedom to Invest in  
3 a Sustainable Future Act”.

**4 SEC. 2. ERISA AMENDMENTS.**

5 Subsection (a) of section 404 of the Employee Retirement  
6 Income Security Act of 1974 (29 U.S.C. 1104) is  
7 amended by adding at the end the following new para-  
8 graph:

9 “(3)(A) Provided that a fiduciary discharges the fidu-  
10 ciary’s duties with respect to a plan in a manner otherwise  
11 consistent with this subsection, a fiduciary may—

12       “(i) consider environmental, social, governance,  
13       or similar factors, in connection with carrying out an  
14       investment decision, strategy, or objective, or other  
15       fiduciary act; and

16       “(ii) consider collateral environmental, social,  
17       governance, or similar factors as tie-breakers when  
18       competing investments can reasonably be expected to  
19       serve the plan’s economic interests equally well with

1 respect to expected return and risk over the appro-  
2 priate time horizon.

3 “(B) In a case described in clause (i) or (ii) of sub-  
4 paragraph (A), a fiduciary shall not be required to main-  
5 tain any greater documentation, substantiation, or other  
6 justification of the fiduciary’s actions relating to such fi-  
7 duciary act than is otherwise required under this part.

8 “(C) Nothing in this part shall preclude an invest-  
9 ment selected in accordance with clause (i) or (ii) of sub-  
10 paragraph (A) from being treated as a default investment  
11 or a component of such a default investment (as described  
12 in regulations issued by the Secretary under subsection  
13 (c)(5)(A)), if such investment would otherwise qualify for  
14 such treatment under such regulations.”.

