

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 Retire-
6 ment 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.”.

