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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.**

To amend the Employee Retirement Income Security Act of 1974 to permit retirement plans to consider certain factors in investment decisions.

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IN THE HOUSE OF REPRESENTATIVES

Ms. DELBENE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Employee Retirement Income Security Act of 1974 to permit retirement plans to consider certain factors in investment decisions.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. ERISA AMENDMENTS.**

7 Subsection (a) of section 404 of the Employee Retire-  
8 ment Income Security Act of 1974 (29 U.S.C. 1104) is

1 amended by adding at the end the following new para-  
2 graph:

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

6 “(i) consider environmental, social, governance,  
7 or similar factors, in connection with carrying out an  
8 investment decision, strategy, or objective, or other  
9 fiduciary act; and

10 “(ii) consider collateral environmental, social,  
11 governance, or similar factors as tie-breakers when  
12 competing investments can reasonably be expected to  
13 serve the plan’s economic interests equally well with  
14 respect to expected return and risk over the appro-  
15 priate time horizon.

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

21 “(C) Nothing in this part shall preclude an invest-  
22 ment selected in accordance with clause (i) or (ii) of sub-  
23 paragraph (A) from being treated as a default investment  
24 or a component of such a default investment (as described  
25 in regulations issued by the Secretary under subsection

1 (c)(5)(A), if such investment would otherwise qualify for  
2 such treatment under such regulations.”.