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(Original Signature of Member)

116TH CONGRESS  
2D SESSION

**H. R.**

To amend the Employee Retirement Income Security Act of 1974 to require retirement plans to establish Sustainable Investment Policies.

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IN THE HOUSE OF REPRESENTATIVES

Mr. LEVIN of Michigan 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 require retirement plans to establish Sustainable Investment Policies.

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 “Retirees Sustainable  
5 Investment Policies Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Fiduciaries for retirement plans should—

1 (A) incorporate all relevant factors, includ-  
2 ing environmental, social, and governance (here-  
3 inafter in this Act referred to as “ESG”) fac-  
4 tors, into investment analysis and decision-  
5 making processes, consistent with the invest-  
6 ment time horizons of plan participants and  
7 beneficiaries;

8 (B) encourage the adoption of best prac-  
9 tices for ESG performance in the companies or  
10 other entities in which they invest;

11 (C) consider plan participants’ and bene-  
12 ficiaries’ sustainability-related interests and  
13 preferences when making investment decisions;

14 (D) consider the impact of plan invest-  
15 ments on the stability and resilience of the fi-  
16 nancial system; and

17 (E) disclose how they have implemented  
18 these commitments.

19 (2) There is now incontrovertible evidence that  
20 ESG factors are financially material to investors and  
21 relevant to investment decisionmaking.

22 **SEC. 3. PURPOSE.**

23 The purpose of this Act is to require retirement and  
24 welfare benefit plans that are covered by the Employee  
25 Retirement Income Security Act of 1974 (29 U.S.C. 1001

1 et seq.), to adopt and implement policies in consideration  
2 of ESG factors when making investment decisions, be-  
3 cause considering ESG factors is relevant to the fiduciary  
4 duty of prudence, as such factors help ensure investments'  
5 long-term sustainability.

6 **SEC. 4. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**  
7 **COME SECURITY ACT OF 1974.**

8 (a) DISCLOSURE OF SUSTAINABLE INVESTMENT  
9 POLICIES.—Section 102 of the Employee Retirement In-  
10 come Security Act of 1974 (29 U.S.C. 1022) is amended  
11 in subsection (b), by inserting “the sustainable investment  
12 policy of the plan (as established under section  
13 402(b)(5));” after “collective bargaining agreement;”.

14 (b) ESTABLISHMENT OF SUSTAINABLE INVESTMENT  
15 POLICY.—Section 402 of the Employee Retirement In-  
16 come Security Act of 1974 (29 U.S.C. 1102) is amend-  
17 ed—

18 (1) in subsection (b)—

19 (A) in paragraph (3), by striking “and”;

20 (B) in paragraph (4), by striking the pe-  
21 riod and insert “, and”;

22 (C) by inserting after paragraph (4) the  
23 following:

24 “(5) provide a sustainable investment policy of  
25 the plan in accordance with subparagraph (d) unless

1 the plan elects to rely on the sustainable investment  
2 policies of the plan’s fiduciaries as defined by section  
3 3(38)”;

4 (2) by adding after subsection (c) the following:

5 “(d)(1) A sustainable investment policy under sub-  
6 section (b)(5) shall include guidelines with respect to—

7 “(A) corporate governance practices by entities  
8 in which the plan invests, including executive com-  
9 pensation, board diversity, the independence of  
10 board chairs, political spending and lobbying disclo-  
11 sure;

12 “(B) characteristics of workforces employed by  
13 entities in which the plan invests, including com-  
14 pensation and benefits, health and safety, diversity  
15 and demographics, skills and training, retention and  
16 turnover, full-time and part-time employment, and  
17 the use of independent contractors;

18 “(C) labor and human rights compliance by en-  
19 tities in which the plan invests, including workers’  
20 freedom of association, the right to collectively bar-  
21 gain, and the prevention of employment discrimina-  
22 tion, child labor, and forced labor in company oper-  
23 ations and supply chains;

24 “(D) the implementation, to the extent prac-  
25 ticable, of practices which enhance diversity and in-

1 elusion performance within the workforce, senior  
2 leadership, business procurement, philanthropy, and/  
3 or board of directors;

4 “(E) environmental risks to the assets and  
5 properties of entities invested in by the plan and re-  
6 lated disclosures, including—

7 “(i) climate risks and contributions;

8 “(ii) environmental risks that may not be  
9 related to climate, such as industrial pollution,  
10 habitat destruction, and other forms of environ-  
11 mental degradation;

12 “(iii) impact to species endangerment and  
13 extinction; and

14 “(iv) pollution of land, air, and water re-  
15 lated to the operation of the entities invested in  
16 by the plan;

17 “(F) due diligence and practices regarding sup-  
18 ply chain management, including environmental,  
19 human rights and worker compensation consider-  
20 ations; and

21 “(G) tax practices of entities in which the plan  
22 invests, including international tax avoidance strate-  
23 gies and tax payment disclosure.

1 “(2) A plan subject to the requirements of section  
2 402(d)(1) shall conduct a review of the sustainable invest-  
3 ment policy under subsection (b)(5) on an annual basis.

4 “(3) Section 404(a) shall not be construed to prohibit  
5 a plan fiduciary from doing the following:

6 “(A) In choosing among investments with com-  
7 mensurate degrees of risk and rates of return, to se-  
8 lect one or more such investments based on environ-  
9 mental, social, and governance considerations.

10 “(B) To monitor or dispose of a plan invest-  
11 ment alternative based on considerations that in-  
12 clude environmental, social, and governance consid-  
13 erations.

14 “(C) Vote proxies in accordance with the plan’s  
15 proxy voting guidelines.”.

16 (c) QUALIFIED INVESTMENT ALTERNATIVES.—Sec-  
17 tion 404(c)(5) of the Employee Retirement Income Secu-  
18 rity Act of 1974 (29 U.S.C. 1104(c)(5)) is amended by  
19 adding at the end the following:

20 “(5) A qualified default investment alternative  
21 (as defined in section 2550.404c-5(e) of title 29,  
22 Code of Federal Regulations, or a successor regula-  
23 tion) may include an investment alternative—

24 “(A) with an environmental, social, and  
25 governance investment mandate; or

1                   “(B) that was selected, in part, on the  
2                   basis of an environmental, social, and govern-  
3                   ance consideration.”.