

BALANCE THE SCALES ACT

FEBRUARY 20, 2026.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALBERG, from the Committee on Education and Workforce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2958]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Workforce, to whom was referred the bill (H.R. 2958) to amend the Employee Retirement Income Security Act of 1974 to require that the Employee Benefit Security Administration submit an annual report to Congress on adverse interest agreements, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Balance the Scales Act”.

SEC. 2. REPORT ON ADVERSE INTEREST AGREEMENTS.

(a) IN GENERAL.—Section 504 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1134) is amended by adding at the end the following:

“(f) COLLABORATION WITH PLAINTIFF ATTORNEYS.—

“(1) IN GENERAL.—In the event that the Secretary provides adverse assistance to an individual, prior to providing the adverse assistance, the Secretary shall—

“(A) enter into a written agreement with the individual that details the nature and scope of such assistance, and

“(B) provide a copy of such agreement to any employer, plan sponsor, or fiduciary that may be directly and adversely impacted by such assistance.

“(2) ADVERSE ASSISTANCE DEFINED.—For purposes of this subsection, the term ‘adverse assistance’ means assistance or advice, including the disclosure of in-

formation as described in subsection (a), that is directed specifically toward an attorney for potential use in a civil action under section 502(a).

“(3) REPORT.—

“(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, and by December 31 of each year that begins after such date, the Secretary shall submit to Congress a report containing information on all agreements to provide adverse assistance in effect for the preceding fiscal year, including, in relation to each such agreement—

“(i) a copy of the agreement, with any information described in subparagraph (B)(ii) redacted;

“(ii) the date the agreement was entered into;

“(iii) a detailed description of the nature and scope of the assistance provided during the fiscal year, including—

“(I) the information shared, including the source, type, and amount of the information, and the date on which such information was shared;

“(II) a log of verbal communications, including—

“(aa) the date of each communication;

“(bb) the parties engaged in such communication;

“(cc) the mode of communication; and

“(dd) the nature of any information shared; and

“(III) a log of meetings, including—

“(aa) the date of each meeting;

“(bb) the parties present at the meeting;

“(cc) mode of the meeting; and

“(dd) the purpose of such meeting and the nature of any information shared; and

“(iv) an explanation of how such agreement is consistent with the public policy of promoting the voluntary sponsorship of employee benefit plans subject to this Act.

“(B) IDENTIFYING INFORMATION.—The report described under subparagraph (A)—

“(i) shall identify the parties to each agreement; and

“(ii) may not include any information that may be used to identify any other person (including an employer, plan sponsor, plan fiduciary, service provider, or any other potential defendant).”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to subsection (b), the amendments made by this section shall apply to any adverse assistance provided on or after the date of enactment of this Act.

(2) EXISTING AGREEMENTS.—For the purposes of paragraph (1) of section 504(f) (as added by this section) of the Employee Retirement Income Security Act (29 U.S.C. 1134(f)), if, not later than 60 days after the date of enactment of this Act, the Secretary of Labor takes the actions required in subparagraphs (A) and (B) of such paragraph in relation to an existing arrangement to provide adverse assistance, the Secretary shall be deemed to have taken such actions prior to providing such adverse assistance.

SEC. 3. PRIVATE PENSION PLANS AS INTEGRAL TO THE CONTINUED WELL-BEING AND SECURITY OF EMPLOYEES AND THEIR DEPENDANTS.

Section 2 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by adding at the end the following:

“(d) Congress finds that the retirement security of millions of employees and their dependents is directly impacted by the voluntary sponsorship and maintenance of pension plans. It is hereby declared to be a policy of this Act to promote, encourage, and facilitate the voluntary establishment and maintenance of, and contribution to, such plans.”.

PURPOSE

H.R. 2958, the *Balance the Scales Act*, amends the *Employee Retirement Income Security Act of 1974* (ERISA) to require that the Employee Benefits Security Administration (EBSA) make an annual report to Congress detailing the assistance given to attorneys for potential use in civil litigation.

COMMITTEE ACTION

119TH CONGRESS

First Session—Hearing

On June 5, 2025, the Committee on Education and Workforce (Committee) held a hearing entitled “Examining the Policies and Priorities of the U.S. Department of Labor,” which reviewed the Department of Labor’s (DOL) past and present operations and looked ahead to its plans for Fiscal Year 2026, including action taken with respect to information sharing with plaintiff attorneys for potential use in civil litigation. The witness was the Honorable Lori M. Chavez DeRemer, Secretary of Labor, Washington, D.C.

On July 22, 2025, the Subcommittee on Health, Employment, Labor, and Pensions (HELP) held a hearing entitled “Restoring Trust: Enhancing Transparency and Oversight at EBSA,” which examined EBSA’s information sharing authority and H.R. 2958, the *Balance the Scales Act*, among other proposals to protect the retirement savings of workers and their families. Witnesses were Mr. Lars Golumbic, Principal, Groom Law, Washington, D.C.; Mr. Andy Banducci, Senior Vice President, Retirement and Compensation Policy, ERISA Industry Committee (ERIC), Washington, D.C.; Mr. James Bonham, President and CEO, The ESOP Association, Washington, D.C.; and Mr. Ali Khawar, Founder and President, FCP, LLC, Washington, D.C.

Legislative Action

On April 17, 2025, Representative Michael Rulli (R–OH) introduced H.R. 2958, the *Balance the Scales Act*, which was referred solely to the Committee. On September 17, 2025, the Committee considered H.R. 2958 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 19–16. Representative Rulli offered an amendment in the nature of a substitute that made a technical change to the bill. The amendment passed by voice vote.

COMMITTEE VIEWS

INTRODUCTION

Private pension plans are integral to the long-term financial well-being and security of employees and their families. The Committee believes that ERISA should state that it is a policy of the statute to promote, encourage, and facilitate the voluntary establishment of, maintenance of, and contribution to such plans. The Committee learned in 2024 that DOL was covertly assisting class action plaintiff attorneys by sharing confidential information obtained through investigations conducted by EBSA. The Committee believes that transparency is fundamental to good government and that DOL should be fully transparent to Congress and to affected parties regarding the information it shares and the assistance it provides to plaintiff attorneys.

BACKGROUND

ERISA authorizes the Secretary of Labor to administer and enforce the statute's protections.¹ EBSA is the agency at DOL tasked with the primary responsibility for ensuring employer-sponsored retirement and group health plans comply with Title I of ERISA.² This enforcement mandate is expansive: EBSA's jurisdiction extends to about 837,000 private retirement plans, 2.8 million health plans, and 521,000 other welfare benefit plans holding approximately \$14.6 trillion in assets.³

EBSA exercises its enforcement authority through investigations. EBSA investigators may compel testimony, subpoena documents, and coordinate with DOL's Office of the Solicitor to pursue civil litigation or refer criminal matters to the Department of Justice. ERISA provides that the Secretary of Labor may "make available to any person actually affected by any matter which is the subject of an investigation . . . information concerning any matter which may be the subject of such investigation."⁴ Information sharing is an important tool Congress granted to DOL to administer and enforce ERISA's provisions. However, the Biden-Harris administration abused this authority by secretly feeding information to plaintiffs' class action attorneys in a way that amounted to an end-run around federal rules of procedure and discovery.

EBSA'S ABUSE OF INFORMATION-SHARING AUTHORITY UNDER THE
BIDEN-HARRIS ADMINISTRATION

EBSA's enforcement activities include using common interest agreements to share information with outside litigants. A common interest agreement (CIA) is a legal arrangement typically used when two parties with common legal interests are cooperating toward common litigation. The CIA allows them to share privileged information with each other without waiving confidentiality.⁵

In the EBSA context, under the guise of a CIA, DOL shared information from an ongoing EBSA investigation with a private plaintiffs' class action law firm that was simultaneously suing the same employee benefit plan sponsor. Effectively, EBSA was secretly collaborating with one side of a private class-action lawsuit against a plan fiduciary by feeding the plaintiffs' lawyer information gathered while the agency was exercising its investigative powers.⁶ On July 22, 2025, the defense attorney who initially uncovered this secretive collaboration, Mr. Lars Golumbic, Principal and Co-Chair of Groom Law Group's ERISA Litigation Group, testified before a HELP Subcommittee hearing:

It was not until last year that [Groom Law Group] uncovered concrete proof that the DOL has been working hand-in-glove with the plaintiffs' bar [A] plaintiffs

¹ ERISA §§ 501–521, 29 U.S.C. §§ 1131–1151.

² <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/what-we-do>.

³ <https://www.dol.gov/agencies/ebsa/about-ebsa> (accessed Oct. 1, 2025).

⁴ 29 U.S.C. § 1134(b), ERISA § 504(b).

⁵ *Harrison v. Envision Mgmt.*, No. 1:21-cv-00304-CNS-MDB, at 17 (D. Colo. filed Sept. 11, 2024) (order) (Braswell, Mag. J.).

⁶ This practice came to light in late 2024 during litigation over an employee stock ownership plan (ESOP). An ESOP is an ERISA pension plan funded by employer stock. In *Harrison v. Envision Management*, the defense counsel discovered that DOL was sharing confidential investigation information with the plaintiffs' law firm, which claimed the sharing arrangement was privileged and must remain secret because it was a CIA. The court disagreed. *Id.*

firm that specializes in bringing ERISA class action lawsuits [was] forced to produce in discovery an agreement formally memorializing the supposed common interest relationship between the DOL and Plaintiff's counsel. This "common interest agreement" outlined the terms governing the manner in which the DOL would spoon-feed Plaintiffs' counsel information designated as confidential under the Freedom of Information Act ("FOIA") that the DOL collected during its investigation to help Plaintiffs' counsel prosecute its case.⁷

When this clandestine agreement surfaced, the federal magistrate in the case refused to grant attorney client-privilege to the plaintiffs, which would have preserved confidentiality for the CIA, calling the arrangement a "dangerous precedent."⁸ The court warned that such an arrangement "would allow a government agency to weaponize private litigation against some target before confirming the target should be a target," essentially enabling DOL to "litigate in the shadows" without affording the employee benefit plan sponsor a fair chance to defend itself.⁹ The magistrate's opinion stated that the "Plaintiffs" arrangement with the DOL has given Plaintiffs' access to information they can leverage, use to take shortcuts, and rely upon to circumvent ordinary discovery protocols. The Court cannot allow that to continue."¹⁰ In the court's view, EBSA's secret partnership with the plaintiffs' attorney undermined fundamental due process. Mr. Golumbic, who served as defense counsel in the case, summed up the court's reaction: "In a series of rulings, the District Court rightly lambasted the [class action plaintiffs] attorneys and the DOL for this insidious practice, holding that they did not, in fact, share a common interest."¹¹ Mr. Golumbic added:

The DOL's actions are not only distastefully underhanded, but they also run afoul of a number of legal protections to which plan sponsors, fiduciaries, and service providers are entitled under the law [I]n my experience, the DOL regularly circumvents these safeguards when it shares such information with the plaintiffs' bar.¹²

Unfortunately, DOL's secret assistance was not an isolated incident. Mr. Golumbic stated:

We had uncovered proof positive that the DOL had been secretly feeding confidential information and documents that plan sponsors, fiduciaries, and service providers had provided during investigations and audits to private plaintiffs' attorneys. Since this initial discovery [in 2024], my firm and others have uncovered even more evidence of this secret partnership between the plaintiffs' bar and the gov-

⁷*Restoring Trust: Enhancing Transparency and Oversight at EBSA: Hearing Before the Subcomm. on Health, Emp., Lab., & Pensions of the H. Comm. on Educ. & Workforce*, 119th Cong. (2025) (written statement of Lars Golumbic, Principal, Groom Law Group, at 2) [hereinafter *Restoring Trust*], https://edworkforce.house.gov/uploadedfiles/golumbic_testimony.pdf.

⁸*Harrison*, No. 1:21-cv-00304-CNS-MDB, at 16.

⁹*Id.*

¹⁰*Id.* at 17.

¹¹*Restoring Trust*, *supra* note 7 (written statement of Lars Golumbic, Principal, Groom Law Group, at 2).

¹²*Id.* (written statement of Lars Golumbic, Principal, Groom Law Group, at 3-4).

ernment. For example, just one recent, targeted FOIA request revealed that the DOL has shared information with plaintiffs' counsel in many other class action lawsuits in the past few years alone, providing information and documents, coordinating on discovery, recommending favorable mediators, discussing legal strategy, and much more. Our understanding is that the DOL has done so in some matters even without the existence of a common interest agreement.¹³

The initial discovery and subsequent events confirmed what many in the benefits community had long suspected: that EBSA was sharing confidential information with class action law firms to support their lawsuits. Mr. Golumbic stated:

The ERISA defense bar has long suspected DOL had been supplying private plaintiffs' attorneys information it collected during investigations. It has been common in my experience for a frenetic DOL investigation to suddenly stagnate after the target produces documents or sits for interviews, only for a plaintiffs' law firm that specializes in ERISA class action lawsuits to file a complaint against the fiduciaries or company sponsor of the same retirement plan concerning the very issues at the center of the DOL's investigation.¹⁴

DOL's underhanded practices are not without harm. According to Mr. Golumbic:

The DOL stomps on the scales of justice when it circumvents [the Federal Rules of Civil Procedure] guardrails, creating an uneven playing field for plan sponsors, fiduciaries, and service providers—not to mention potentially significant pay days for the ERISA plaintiffs' bar. Armed with key information and documents that they would not otherwise have access to, private plaintiffs' attorneys have far better odds of surviving a motion to dismiss, unlocking the gates to costly discovery and, by extension, obtaining leverage to extort favorable settlements—even for defendants who have fully complied with ERISA's standards but, in the absence of a settlement, would need to endure onerous discovery to get to trial and prove it. As the Supreme Court recently put it: “[I]n modern civil litigation, getting by a motion to dismiss is often the whole ball game because of the cost of discovery. Defendants facing those costs often calculate that it is efficient to settle a case even though they are convinced that they would win if litigation continued.”¹⁵

Mr. Golumbic added:

This continues to be true in the ERISA class action space, even as defendants in such lawsuits have largely prevailed on summary judgement and at trial, i.e., once the case actually reaches the merits.¹⁶

¹³ *Id.* (written statement of Lars Golumbic, Principal, Groom Law Group, at 3).

¹⁴ *Id.* (written statement of Lars Golumbic, Principal, Groom Law Group, at 1–2).

¹⁵ *Id.* (written statement of Lars Golumbic, Principal, Groom Law Group, at 5).

¹⁶ *Id.* (written statement of Lars Golumbic, Principal, Groom Law Group, at 5).

COMMITTEE OVERSIGHT ACTIONS

Employee benefit plan fiduciaries who cooperate with EBSA inquiries reasonably expect that the information they provide will be used for enforcement purposes only, not handed off to private lawyers who are suing them. Yet here, under the guise of a “common interest,” EBSA breached that expectation. In a November 2024 letter to DOL’s Office of Inspector General (OIG), the Committee wrote that EBSA appeared to be using its governmental investigatory authority to sidestep the normal rules of court discovery.¹⁷ On January 23, 2025, Chairman Tim Walberg (R-MI) renewed the request that the DOL OIG investigate these agreements.¹⁸

In December 2024, a DOL spokesperson stated that EBSA had “entered into nine common interest agreements since 2022, of which six were with private plaintiffs” firms.” DOL implied this was a small number, noting that EBSA had over 1,600 open civil investigations since 2022. DOL also contended that it has legal authority to share information with “any person actually affected” by an investigation under ERISA.¹⁹ However, employee benefit plan sponsors and many experts strongly challenge the propriety of this practice. They argue that while limited information sharing may be lawful in certain contexts, the plaintiffs’ law firm was using an invalid agreement “to circumvent ordinary discovery protocols,” as the magistrate judge noted in *Harrison*.

The Committee’s ongoing oversight, which included a request that the DOL OIG review the matter, prompted the DOL OIG to expand its initial review and open an audit in June 2025 examining DOL’s use of CIAs and “how [DOL] has shared investigative information with non-governmental entities involved in class action litigation.”²⁰ This audit is expected to ascertain the extent of EBSA’s information sharing and what internal controls, if any, governed these decisions. The audit underscores the opacity of EBSA’s actions in this area.

THE NEED FOR A POLICY CHANGE AT DOL

The vast majority of ERISA plans are voluntarily sponsored and maintained by private employers. These employee benefit plans are foundational to the well-being of American workers and their families. Employers should be encouraged to sponsor these plans. As the primary administrator of ERISA, DOL should promote, encourage, and facilitate the voluntary establishment of, maintenance of, and contribution to these plans. However, the plan sponsor community does not view DOL as a partner in compliance with ERISA’s complicated framework. Rather, DOL is viewed as adversarial to plan sponsors and plan fiduciaries.

Mr. James Bonham, President and CEO of The ESOP Association, testified at the HELP Subcommittee’s July 22 hearing regarding EBSA enforcement:

¹⁷ https://edworkforce.house.gov/uploadedfiles/11.21.24_dol_oig_letter_re_ebsa_aiding_plaintiffs_attorneys.pdf.

¹⁸ https://edworkforce.house.gov/uploadedfiles/01.23.25_ebsa_info_sharing_letter_to_dol_oig.pdf.

¹⁹ <https://www.psc.org/news/psca-news/2025/6/dol-inspector-general-to-audit-common-interest-agreements>.

²⁰ <https://www.oig.dol.gov/public/oaprojects/DOL%20Common%20Interest%20Agreements%20Engagement%20Letter.pdf>.

The enforcement and investigative actions by [EBSA] are broken, misaligned, and abusive, and have been for decades. Sadly, the chilling effect of this longstanding posture on plan formation has denied potentially millions of workers the chance for a better retirement and a better workplace. EBSA needs substantial reforms.²¹

With respect to EBSA's increasing hostility to plan sponsors that voluntarily sponsor retirement and other employee benefit plans, Mr. Golumbic stated:

The DOL's apparent practice of using common interest agreements is a disappointing development. Earlier in my career, the DOL was viewed as a welcome partner in a collaborative regulatory process. While the DOL and private sector did not always see eye-to-eye, the relationship was not antagonistic; reasonable minds were able to come together to reach commonsense agreements that worked for all stakeholders. Now, the notion that the DOL is on the same "team" as the ERISA plaintiffs' bar, with the regulated community on "the other side," seems to have metastasized within the DOL—despite the fact that all are aligned in furthering ERISA's goal of encouraging employers to create and maintain benefit plans for their employees. Common interest agreements are but one symptom of this broader problem.

One reason for this unwelcome development seems to be the revolving door between the DOL and the ERISA plaintiffs' bar: frequently attorneys departing the DOL slide directly into private practice with the very plaintiffs' firms to which the DOL attorneys backchanneled confidential information during their tenures. This incestuous relationship creates an alarming conflict for DOL personnel: use the DOL's subpoena power to force businesses to produce valuable confidential information, enrich plaintiffs' firms by providing it to them under the guise of a "common interest," and get rewarded with a lucrative landing spot after leaving your government post.²²

Further, during the HELP Subcommittee hearing, Mr. Andy Banducci, Senior Vice President for Retirement and Compensation Policy at ERIC, stated:

Rather than reflexively viewing plan sponsors as adversaries, the [DOL] should see plan sponsors as key partners in enhancing health care and retirement security. Instead, our member companies—who invest millions of dollars in compliance and take pride in their benefits programs—too often are the subject of "gotcha" enforcement. Rebuilding this balance will take time and leadership, but we have some good recent developments [under the Trump administration]. For example, the [DOL's] recently modernized

²¹*Restoring Trust*, *supra* note 7 (written statement of James Bonham, President & CEO, The ESOP Ass'n, at 1), https://edworkforce.house.gov/uploadedfiles/golumbic_testimony.pdf.

²²*Id.* (written statement of Lars Golumbic, Principal, Groom Law Group, at 5–6).

opinion letter initiative [announced June 2, 2025] is a positive first step toward emphasizing compliance assistance.²³

THE NEED FOR TRANSPARENCY AND ACCOUNTABILITY

The Committee believes that it is crucial for Congress and the employee benefit plan sponsor community to know the nature and extent of assistance that DOL is giving plaintiff attorneys. Mr. Banducci's testimony states that "policymakers should demand transparency and accountability from the regulatory agencies charged with administering" the laws that govern benefit plans.²⁴

Mr. Golumbic agreed and noted how the *Balance the Scales Act* could improve DOL's practices:

Given the current state of affairs, the "Balance the Scales Act" is a much needed and welcome reform that will help to bring the DOL's underhanded activities out into the light of the public eye—as they should have been from the very beginning The importance of protecting the retirement assets of American workers cannot be understated. It is equally as essential to encourage employers to sponsor retirement plans in the first place. Fewer will do so if they feel that the playing field is tilted against them, even where they and fiduciaries unquestionably meet their obligations under ERISA. Together, these laws are an important first step in remedying the broken system that has, unsurprisingly, disrupted the careful balance that Congress struck when it enacted ERISA's regulatory and enforcement scheme.²⁵

Mr. Bonham's July 22, 2025, testimony also underscores the need for the public to understand the extent of EBSA's assistance to plaintiff attorneys: "While we do not yet know the full extent of these secret agreements, it is clear that EBSA is using its investigatory authority to support private law firms and plaintiff litigants, thereby violating plan sponsor due process and fairness."²⁶

Plan sponsors should not have to guess what EBSA is doing with the information it collects during an investigation. Sunlight is the best disinfectant.

SUPPORT FOR H.R. 2958

H.R. 2958 is supported by the National Coordinating Committee on Multiemployer Pension Plans, the Society of Professional Asset Managers and Recordkeepers Institute, the Business Group on Health, the American Benefits Council, The ESOP Association, ERIC, the Investment Company Institute, and the U.S. Chamber of Commerce.

²³ *Id.* (written statement of Andy Banducci, Senior Vice President, Retirement & Comp. Policy, ERIC, at 2), https://edworkforce.house.gov/uploadedfiles/banducci_testimony.pdf.

²⁴ *Id.* (written statement of Andy Banducci, Senior Vice President, Retirement & Comp. Policy, ERIC, at 5).

²⁵ *Restoring Trust*, *supra* note 7 (written statement of Lars Golumbic, Principal, Groom Law Group, at 6), https://edworkforce.house.gov/uploadedfiles/golumbic_testimony.pdf.

²⁶ *Restoring Trust*, *supra* note 7 (written statement of James Bonham, President & CEO, The ESOP Ass'n, at 2), https://edworkforce.house.gov/uploadedfiles/bonham_testimony.pdf.

CONCLUSION

ERISA should be amended to explicitly state that a fundamental policy of the statute is to promote, encourage, and facilitate the voluntary establishment, maintenance, and funding of employee pension plans. ERISA should also be amended to provide transparency for plan sponsors and fiduciaries by requiring DOL to notify private parties who may be adversely impacted by any assistance DOL provides to plaintiff attorneys. Further, ERISA should be amended to ensure accountability by requiring DOL to report annually to Congress, detailing the adverse assistance that DOL gives to plaintiff attorneys. The report should include a detailed explanation of how that assistance aligns with ERISA's core policy objective of promoting voluntary private pension plan sponsorship and participation.

H.R. 2958 SECTION-BY-SECTION SUMMARY

Section 1. Short title

Section 1 provides that the short title is the “Balance the Scales Act.”

Section 2. Amending ERISA to require an annual report on EBSA investigations

Section 2(a) amends section 504 of part 4 of subtitle B of Title I of ERISA by adding a new paragraph (f) to require an annual report to Congress.

New subparagraph 504(f)(1) of ERISA requires the Secretary of Labor to enter into a written agreement with an attorney detailing the nature and scope of any adverse assistance for potential use in civil litigation before providing such assistance, and to provide that agreement to any employer, plan sponsor, or fiduciary that may be directly and adversely impacted by such assistance.

Under new subparagraph 504(f)(2) of ERISA, adverse assistance for this purpose means any assistance or advice (including information sharing) specifically directed toward an attorney for potential use in civil litigation.

New subparagraph 504(f)(3) requires the Secretary to file an annual report with Congress detailing all adverse assistance agreements with attorneys for potential use in civil litigation which were in effect during the previous fiscal year. A copy of each agreement must be included with the report (with information redacted regarding private parties such as the employer, plan sponsor, plan fiduciary, service provider, or any other potential defendant). The report must also include the date the agreement was entered into, the specific information shared, and a log of verbal communications and meetings. Finally, the report must include an explanation of how each adverse assistance agreement is consistent with the public policy of promoting the voluntary sponsorship of employee benefit plans.

Section 2(b) of the bill provides that the effective date is the date of enactment, and the requirements for written agreements and notice to potentially affected parties is immediate. In the event that the Secretary is already operating under a written common interest agreement as of the date of enactment, the Secretary has 60 days

to conform the agreement to the terms of the statute and to provide notice to affected parties.

Section 3. Amending ERISA to expressly state public policy

Section 3 amends section 2 of subtitle B of Title I of ERISA to add a new section 2(d) with findings and policy to guide DOL and EBSA in the administration of ERISA. The new section 2(d) states that Congress finds that the retirement security of millions of employees and their dependents is directly impacted by the voluntary sponsorship and maintenance of pension plans. The new Section 2(d) provides that it is a policy of ERISA to promote, encourage, and facilitate the voluntary establishment and maintenance of, and contribution to, pension plans.

EXPLANATION OF AMENDMENTS

The amendment in the nature of a substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of Public Law 104–1.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344 (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act of 1995, Pub. L. No. 104–4), the Committee traditionally adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the Congressional Budget and Impoundment Control Act of 1974.

EARMARK STATEMENT

H.R. 2958 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 09/17/2025

COMMITTEE ON EDUCATION AND WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 2

Bill: H.R. 2958

Amendment Number: N/A

Disposition: Motion to Report Bill, as amended (19y-16n)

Sponsor/Amendment: Rep. Rulli (OH)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. WALBERG (MI) (Chairman)	X			Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)	X			Mr. COURTNEY (CT)		X	
Mrs. FOXX (NC)	X			Ms. WILSON (FL)		X	
Mr. THOMPSON (PA)	X			Ms. BONAMICI (OR)		X	
Mr. GROTHMAN (WI)	X			Mr. TAKANO (CA)		X	
Ms. STEFANIK (NY)	X			Ms. ADAMS (NC)		X	
Mr. ALLEN (GA)	X			Mr. DESAULNIER (CA)		X	
Mr. COMER (KY)			X	Mr. NORCROSS (NJ)		X	
Mr. OWENS (UT)	X			Ms. MCBATH (GA)		X	
Ms. MCCLAIN (MI)	X			Ms. HAYES (CT)		X	
Mrs. MILLER (IL)	X			Ms. OMAR (MN)		X	
Ms. LETLOW (LA)			X	Ms. STEVENS (MI)		X	
Mr. KILEY (CA)	X			Mr. CASAR (TX)		X	
Mr. RULLI (OH)	X			Ms. LEE (PA)		X	
Mr. MOYLAN (GU)	X			Mr. MANNION (NY)		X	
Mr. ONDER (MO)	X			Ms. ANSARI (AZ)		X	
Mr. MACKENZIE (PA)	X						
Mr. BAUMGARTNER (WA)	X						
Mr. HARRIS (NC)	X						
Mr. MESSMER (IN)	X						
Mr. FINE (FL)	X						

TOTALS: Ayes: 19

Nos: 16

Not Voting: 2

Total: 37 / Quorum: 35 Report: Passed

(21 R - 16 D)

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House of Representatives rule XIII, the goal of H.R. 2958, the *Balance the Scales Act*, is to support the voluntary maintenance of ERISA pension plans, to provide advance notice to employee benefit plan sponsors and others who service these plans of any adverse assistance DOL provides to plaintiff attorneys for potential use in civil litigation, and to provide an annual report to Congress regarding the details any such adverse assistance.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2958 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the body of this report.

REQUIRED COMMITTEE HEARING

In compliance with clause 3(c)(6) of rule XIII of the Rules of the House of Representatives the following hearing held during the 119th Congress was used to develop or consider H.R. 2958: On July 22, 2025, the Subcommittee on Health, Employment, Labor and Pensions held a hearing on “Restoring Trust: Enhancing Transparency and Oversight at EBSA.”

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2958. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the Committee adopts as its own the cost estimate for the bill prepared by the Director of the Congressional Budget Office.

H.R. 2958, Balance the Scales Act			
As ordered reported by the House Committee on Education and Workforce on September 17, 2025			
By Fiscal Year, Millions of Dollars	2026	2026-2030	2026-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 2958 would require the Secretary of Labor to notify sponsors of employee benefit plans and employers when the Secretary provides “adverse assistance,” which is defined in the bill as information or advice that could be used by plan participants in a civil action against the plans or employers. Under current law, participants in retirement and health plans can sue plan managers and employers. The Employee Benefits Security Administration has the authority to investigate those plans to ensure that they comply with requirements in the Employee Retirement Income Security Act of 1974. In some cases, that agency shares information from those investigations with plan participants for use in potential litigation.

H.R. 2958 would require the Department of Labor (DOL) to enter into a written agreement with the recipient before sharing such information and to provide that agreement to any employer, plan sponsor, or fiduciary that could be directly and adversely affected by the information. The bill also would require DOL to report annually to the Congress on each of those agreements.

Using information from DOL and based on the costs of similar reporting requirements, CBO estimates that implementing H.R. 2958 would cost less than \$500,000 over the 2026–2030 period. Any related spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Noah Meyerson. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2958. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the Committee has re-

quested a cost estimate for the bill from the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

* * * * *

TITLE I—PROTECTION OF EMPLOYEE BENEFIT RIGHTS

SUBTITLE A—GENERAL PROVISIONS

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that the growth in size, scope, and numbers of employee benefit plans in recent years has been rapid and substantial; that the operational scope and economic impact of such plans is increasingly interstate; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organizations, and other entities by which they are established or maintained; that a large volume of the activities of such plans is carried on by means of the mails and instrumentalities of interstate commerce; that owing to the lack of employee information and adequate safeguards concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made and safeguards be provided with respect to the establishment, operation, and administration of such plans; that they substantially affect the revenues of the United States because they are afforded preferential Federal tax treatment; that despite the enormous growth in such plans many employees with long years of employment are losing anticipated retirement benefits owing to the lack of vesting provisions in such plans; that owing to the inadequacy of current minimum standards, the soundness and stability of plans with respect to adequate funds to pay promised benefits may be endangered; that owing to the termination of plans before requisite funds have been accumulated, employees and their beneficiaries have been deprived of anticipated benefits; and that it is therefore desirable in the interests of employees and their beneficiaries, for the protection of the revenue of the United States, and to provide for the free flow of commerce, that minimum standards be provided assuring the equitable character of such plans and their financial soundness.

(b) It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, by establishing standards of conduct, responsibility, and obligation for fiduciaries of employee benefit plans, and by providing for appropriate remedies, sanctions, and ready access to the Federal courts.

(c) It is hereby further declared to be the policy of this Act to protect interstate commerce, the Federal taxing power, and the interests of participants in private pension plans and their beneficiaries by improving the equitable character and the soundness of such plans by requiring them to vest the accrued benefits of employees with significant periods of service, to meet minimum standards of funding, and by requiring plan termination insurance.

(d) Congress finds that the retirement security of millions of employees and their dependents is directly impacted by the voluntary sponsorship and maintenance of pension plans. It is hereby declared to be a policy of this Act to promote, encourage, and facilitate the voluntary establishment and maintenance of, and contribution to, such plans.

* * * * *

SUBTITLE B—REGULATORY PROVISIONS

* * * * *

PART 5—ADMINISTRATION AND ENFORCEMENT

* * * * *

INVESTIGATIVE AUTHORITY

SEC. 504. (a) The Secretary shall have the power, in order to determine whether any person has violated or is about to violate any provision of this title or any regulation or order thereunder—

(1) to make an investigation, and in connection therewith to require the submission of reports, books, and records, and the filing of data in support of any information required to be filed with the Secretary under this title, and

(2) to enter such places, inspect such books and records and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation, if he has reasonable cause to believe there may exist a violation of this title or any rule or regulation issued thereunder or if the entry is pursuant to an agreement with the plan.

The Secretary may make available to any person actually affected by any matter which is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter which may be the subject of such investigation; except that any information obtained by the Secretary pursuant to section 6103(g) of the Internal Revenue Code of 1986 shall be made available only in accordance with regulations prescribed by the Secretary of the Treasury.

(b) The Secretary may not under the authority of this section require any plan to submit to the Secretary any books or records of the plan more than once in any 12 month period, unless the Sec-

retary has reasonable cause to believe there may exist a violation of this title or any regulation or order thereunder.

(c) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act (15 U.S.C. 49, 50) are hereby made applicable (without regard to any limitation in such sections respecting persons, partnerships, banks, or common carriers) to the jurisdiction, powers, and duties of the Secretary or any officers designated by him. To the extent he considers appropriate, the Secretary may delegate his investigative functions under this section with respect to insured banks acting as fiduciaries of employee benefit plans to the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))).

(d) The Secretary may promulgate a regulation that provides an evidentiary privilege for, and provides for the confidentiality of communications between or among, any of the following entities or their agents, consultants, or employees:

- (1) A State insurance department.
- (2) A State attorney general.
- (3) The National Association of Insurance Commissioners.
- (4) The Department of Labor.
- (5) The Department of the Treasury.
- (6) The Department of Justice.
- (7) The Department of Health and Human Services.
- (8) Any other Federal or State authority that the Secretary determines is appropriate for the purposes of enforcing the provisions of this title.

(e) The privilege established under subsection (d) shall apply to communications related to any investigation, audit, examination, or inquiry conducted or coordinated by any of the agencies. A communication that is privileged under subsection (d) shall not waive any privilege otherwise available to the communicating agency or to any person who provided the information that is communicated.

(f) *COLLABORATION WITH PLAINTIFF ATTORNEYS.*—

(1) *IN GENERAL.*—*In the event that the Secretary provides adverse assistance to an individual, prior to providing the adverse assistance, the Secretary shall—*

(A) enter into a written agreement with the individual that details the nature and scope of such assistance, and

(B) provide a copy of such agreement to any employer, plan sponsor, or fiduciary that may be directly and adversely impacted by such assistance.

(2) *ADVERSE ASSISTANCE DEFINED.*—*For purposes of this subsection, the term “adverse assistance” means assistance or advice, including the disclosure of information as described in subsection (a), that is directed specifically toward an attorney for potential use in a civil action under section 502(a).*

(3) *REPORT.*—

(A) IN GENERAL.—*Not later than 60 days after the date of enactment of this subsection, and by December 31 of each year that begins after such date, the Secretary shall submit to Congress a report containing information on all agreements to provide adverse assistance in effect for the pre-*

ceding fiscal year, including, in relation to each such agreement—

- (i) a copy of the agreement, with any information described in subparagraph (B)(ii) redacted;
- (ii) the date the agreement was entered into;
- (iii) a detailed description of the nature and scope of the assistance provided during the fiscal year, including—

- (I) the information shared, including the source, type, and amount of the information, and the date on which such information was shared;

- (II) a log of verbal communications, including—

- (aa) the date of each communication;

- (bb) the parties engaged in such communication;

- (cc) the mode of communication; and

- (dd) the nature of any information shared;

and

- (III) a log of meetings, including—

- (aa) the date of each meeting;

- (bb) the parties present at the meeting;

- (cc) mode of the meeting; and

- (dd) the purpose of such meeting and the nature of any information shared; and

- (iv) an explanation of how such agreement is consistent with the public policy of promoting the voluntary sponsorship of employee benefit plans subject to this Act.

(B) IDENTIFYING INFORMATION.—The report described under subparagraph (A)—

- (i) shall identify the parties to each agreement; and

- (ii) may not include any information that may be used to identify any other person (including an employer, plan sponsor, plan fiduciary, service provider, or any other potential defendant).

* * * * *

MINORITY VIEWS

INTRODUCTION

The Employee Benefits Security Administration (EBSA) within the U.S. Department of Labor (DOL or the Department) protects workers' hard-earned health and retirement benefits. EBSA's enforcement program helps ensure that workers get their promised benefits. H.R. 2958, the *Balance the Scales Act*, amends the *Employee Retirement Income Security Act* (ERISA) to limit EBSA's ability to communicate with attorneys representing workers.¹ The bill does not include any commensurate limitations on EBSA's ability to communicate with attorneys representing corporations or health insurance companies. Committee Democrats believe that, instead of advancing this partisan bill that is designed to favor the defense bar, Congress should work to ensure that EBSA has the funding and personnel it needs to fulfill its critical mission and growing responsibilities.

H.R. 2958 IMPOSES A NEEDLESS, ONE-SIDED REQUIREMENT IN RESPONSE TO A LEGALLY PERMISSIBLE AND RARELY USED DOL PRACTICE

Under ERISA, the Secretary of Labor is permitted to share information obtained during an investigation with "any person actually affected by any matter which is the subject of an investigation."² Using this grant of authority, the Department has, in a small number of cases, entered into common interest agreements with certain parties to litigation in which there is a shared interest in furthering the Department's statutory mission of advancing the interest of workers through enforcement of the requirements of ERISA.³ These agreements are rare. In fact, in response to a *Freedom of Information Act* (FOIA) request covering a 15-year span (2009–2024) and more than 31,000 investigations, EBSA reported that they were only able to identify "less than four common interest agreements for every 10,000 investigations."⁴

However, in November 2024, after finding out that EBSA had been sharing information with plaintiff's counsel pursuant to a common interest agreement in a case involving an employee stock ownership plan,⁵ Committee Republicans complained that these

¹ Employee Retirement Income Security Act, Pub. L. No 93–406, 88 Stat. 829 (1974).

² *Id.*

³ 29 U.S. Code § 551 ("The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States").

⁴ U.S. Department of Labor, Freedom of Information Act Request Response to Request Number 2025–F–05090 (Feb. 7, 2025) (on file with Committee staff).

⁵ The case, *Harrison and Heath v. Envision Management Holding, Inc. Board of Directors, et al.*, was brought on behalf of participants and beneficiaries of the Envision Management Holding, Inc. Employee Stock Ownership Plan (ESOP). The lawsuit alleges that numerous ERISA

Continued

rare, legally permissible agreements are unfair to employers who are the subject of investigations. Rep. Virginia Foxx (R–NC), who then chaired the Committee, wrote to the DOL Office of Inspector General (OIG), arguing that DOL was “abusing its authority” by “secretly sharing confidential information with a plaintiffs” attorney for use against plan fiduciaries.”⁶ In her letter, then-Chair Foxx called on the DOL OIG to investigate DOL’s use of common interest agreements. At the time of Chair Foxx’s request for an OIG investigation, a DOL spokesperson maintained that common interest agreements are a “well-established tool . . . used by government and private litigants alike.”⁷

In January 2025, Committee Chair Walberg renewed the request for the DOL OIG to investigate DOL’s use of common interest agreements.⁸ In April 2025, Rep. Michael Rulli (R–OH) introduced H.R. 2958. In June 2025, the DOL OIG confirmed that it was “initiating an audit to review how the U.S. Department of Labor has shared investigative information with non-government entities involved in class action litigation and the extent of any related controls.”⁹

Rather than wait for the results of the DOL OIG audit they requested, Committee Republicans hastily advanced H.R. 2958. The bill amends ERISA to impose barriers on EBSA’s ability to communicate (even through informal sharing of public information) with attorneys representing workers in any matters brought under ERISA unless the agency enters into formal, written agreements and provides copies of such agreements to affected employers, plan sponsors, or fiduciaries. H.R. 2958 also requires the Department to provide an annual report to Congress listing all instances in which it provides any assistance to attorneys representing workers, including copies of agreements and detailed information about the scope of assistance provided, the identity of parties receiving information, and logs of verbal and written communications between the Department and plaintiffs. Additionally, the bill amends ERISA to add a new statutory purpose and requires the Secretary to justify any common interest agreements based solely on how they advance this purpose.

Regrettably, the transparency provided under this bill flows only in one direction. While the Department must identify plaintiffs to lawsuits, it explicitly shields the identities of employers, plan sponsors, fiduciaries, and service providers (such as health insurance companies) who may have violated ERISA. Additionally, the bill imposes requirements only on communications between the Sec-

violations occurred in connection with the sale of Envision Management Holding, Inc. to the ESOP at an inflated price, which caused a multi-million-dollar loss to the ESOP.

⁶Letter from Chair Virginia Foxx to the Inspector General of the Department of Labor Larry Turner (Nov. 21, 2024), https://edworkforce.house.gov/uploadedfiles/11.21.24_dol_oig_letter_re_ebsa_aiding_plaintiffs_attorneys.pdf.

⁷Paul Mulholland, *DOL Common Interest Agreements: A Closer Look*, AMERICAN SOCIETY OF PENSION PROFESSIONALS & ACTUARIES (Dec. 20, 2024), <https://www.asppa-net.org/news/2024/12/dol-common-interest-agreements-a-closer-look/>.

⁸Letter from Representative Tim Walberg to the Inspector General of the Department of Labor, Larry Turner (Jan. 23, 2025), https://edworkforce.house.gov/uploadedfiles/01.23.25_ebsa_info_sharing_letter_to_dol_oig.pdf.

⁹U.S. Department of Labor, Office of Inspector General, Memo on Audit of the U.S. Department of Labor’s Information Sharing with Non-Governmental Entities, Project No. 09-P25-002-08-001 (Jun. 13, 2025), https://www.oig.dol.gov/public/oaprojects/DOL%20Common%20Interest%20Agreements_Engagement%20Letter.pdf.

retary and plaintiffs; it does not impose any such restrictions on communications with employers or other defendants.

Moreover, the bill forces the Department to justify how common interest agreements are consistent with promoting employer's sponsorship of benefit plans. Such justification does not advance the Department's traditional mission of protecting plan participants. This will all but invite the Department to assist employers in secret while discouraging the Department from assisting attorneys representing hardworking families and retirees.

H.R. 2958 IMPEDES EBSA'S ABILITY TO FULFILL ITS CRITICAL MISSION

EBSA is the primary federal agency charged with providing participant protection, education, and oversight of retirement, health care, and other employee benefit plans. EBSA has jurisdiction over approximately 837,000 private sector retirement plans, 2.8 million health care plans, and other employee benefit plans such as those providing life or disability insurance.¹⁰ In total, such plans cover nearly 155 million workers, retirees, and their families and hold approximately \$14.6 trillion in assets.¹¹

Laws within EBSA's jurisdiction include ERISA, the *Patient Protection and Affordable Care Act* (ACA),¹² the *Mental Health Parity and Addiction Equity Act* (MHPAEA),¹³ the *Genetic Information Nondiscrimination Act* (GINA),¹⁴ and the *Consolidated Omnibus Budget Reconciliation Act* (COBRA).¹⁵ Over the past several years, additional requirements have been placed on the agency through the *Setting Every Community Up for Retirement Enhancement* (SECURE) Act,¹⁶ the *Securing a Strong Retirement Act* (SECURE 2.0),¹⁷ the *No Surprises Act*,¹⁸ and the *American Rescue Plan Act* (ARPA).¹⁹ EBSA also has interpretive and regulatory responsibilities with respect to Individual Retirement Accounts (IRAs) as well as audit and oversight responsibilities with respect to the federal Thrift Savings Plan (TSP).²⁰

¹⁰U.S. Department of Labor, Employee Benefits Security Administration, *About EBSA*, <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us> (last visited Feb. 4, 2026).

¹¹*Id.*

¹²In this document, the Affordable Care Act (ACA) refers jointly to the Patient Protection and Affordable Care Act, Pub. L. No. 111–148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111–152, 124 Stat. 1029 (2010).

¹³Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, Pub. L. No. 104–204, tit. VII, 110 Stat.2874 (1996).

¹⁴Genetic Information Nondiscrimination Act of 2008, Pub. L. No. 110–233, 122 Stat. 881 (2008).

¹⁵Consolidated Omnibus Budget Reconciliation Act of 1985, Pub.L. No. 99–272, 100 Stat.82 (1986).

¹⁶Further Consolidated Appropriations Act, 2020, Pub. L. No. 116–94, div. O, 133 Stat. 2534 (2019).

¹⁷Consolidated Appropriations Act, 2023, Pub. L. No. 117–328, div. T, 136 Stat. 4459 (2022).

¹⁸Consolidated Appropriations Act, 2021, Pub. L. No. 116–260, div. BB, tit. I, 134 Stat. 1182 (2020).

¹⁹American Rescue Plan Act of 2021, Pub. L. No. 117–2, 135 Stat. 4 (2021).

²⁰This responsibility is the result of the enactment of the *Federal Employees' Retirement System Act*, 5 U.S.C. § 8477(g)(1). The TSP is the largest defined-contribution (DC) retirement plan in the United States, with 7.25 million participants and over \$938 billion in assets (as of April 2025). See, Federal Retirement Thrift Investment Board, Thrift Savings Fund Statistics (Apr. 2025), www.frtib.gov/pdf/minutes/2025/May/att2-FRTIB%20Participant%20Activity%20Report%20April%202025.pdf.

While EBSA’s responsibilities have grown in recent years, its annual appropriations have not kept pace. In FY 2015, EBSA received \$181 million in appropriations to support 963 full-time equivalents (FTEs).²¹ A decade later, EBSA received \$191 million in its base appropriation in FY 2025, supporting only 687 FTEs.²² In FY 2026, the agency was again flat-funded at \$191.1 million,²³ despite President Trump’s proposal to cut its funding to \$181.1 million.²⁴ Because EBSA’s budget has remained flat or received minimal increases over the years, the number of FTEs hired through its base appropriation has declined.²⁵ This decline in FTEs limits EBSA’s ability to assist and educate workers, plan sponsors, fiduciaries, and service providers.

In June 2024, the then-Assistant Secretary of EBSA, Lisa Gomez, testified before the Committee’s Health, Employment, Labor, and Pensions (HELP) Subcommittee at which time she contrasted the small number of EBSA employees with the enormity of the agency’s jurisdiction. Specifically, she said that EBSA has “less than 1 investigator” for every 13,900 ERISA-covered health, retirement and other benefit plans.²⁶ The Trump Administration’s FY 2026 budget request would have further exacerbated this problem by accounting for just 640 FTEs—a decrease of 47 FTEs.²⁷

Instead of advancing one-sided bills such as H.R. 2958, the Committee should work to ensure EBSA has the funding and personnel it needs to fulfill its statutory mission to help workers, families, and retirees.

CONCLUSION

EBSA is vital to protecting the benefits owed to workers and their families. Despite its title, this bill would, in fact, put a thumb on the scale in favor of employers while shifting DOL’s mission away from its statutory obligation of defending the rights of workers. For the reasons stated above, Committee Democrats unanimously opposed H.R. 2958 when the Committee on Education and Workforce considered it on September 17, 2025. We urge the House of Representatives to do the same.

ROBERT C. “BOBBY” SCOTT,
Ranking Member.
 SUZANNE BONAMICI,

²¹ U.S. Department of Labor, Employee Benefits Security Administration, FY 2025 *Congressional Budget Justification* at 10 (2024), https://www.dol.gov/sites/dolgov/files/general/budget/2025/CBJ_2025-V2_01.pdf.

²² See U.S. Department of Labor, Employee Benefits Security Administration, FY 2026 *Congressional Budget Justification* at 10 (2025), https://www.dol.gov/sites/dolgov/files/general/budget/2026/CBJ_2026-V2_01.pdf. [hereinafter FY26 Budget].

²³ Consolidated Appropriations Act, 2026, Pub. L. No. 119–75 (2026).

²⁴ See FY26 Budget, *supra* note 22.

²⁵ *Id.*

²⁶ Examining the Policies and Priorities of the Employee Benefits Security Administration: Hearing Before the H. Comm. on Educ. & the Workforce, 118th Cong. (June 27, 2024) (statement of The Honorable Lisa Gomez), https://democrats-edworkforce.house.gov/imo/media/doc/gomez_testimony.pdf.

²⁷ See FY26 Budget, *supra* note 22.

MARK DESAULNIER,
JAHANA HAYES,
SUMMER LEE,
Members of Congress.

