Calvert
Cammack
Caraveo
Carbajal
Cárdenas
Carey
Carl
Carson
Carter (GA)
Carter (LA)
Carter (TX)
Cartwright
Casar
Case
Casten
Castor (FL)
Castro (TX)
Chavez-DeRemer
Cherfilus-McCormick
Chu
Ciscomani
Clark (MA)
Clarke (NY)
Cleaver
Cline
Clyburn
Clyde
Cohen
Cole
Collins
Comer
Connolly
Correa
Costa
Courtney
Craig
Crawford
Crenshaw
Crockett
Crow
Cuellar
Curtis
Davids (KS)
Davidson
Davis (IL)
Davis (NC)
De La Cruz
Dean (PA)
DeGette
DeLauro
DelBene
Deluzio
DeSaulnier
DesJarlais
Diaz-Balart
Doggett
Donalds
Duarte
Duncan
Edwards
Ellzey
Emmer
Escobar
Eshoo
Espaillat
Estes
Ezell
Fallon
Feenstra
Ferguson
Finstad
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Fletcher
Fong
Foster
Foushee
Foxx
Frankel, Lois
Franklin, Scott
Frost
Fry
Fulcher
Gallego
Garamendi
Garbarino
García (IL)
García (TX)
Garcia, Mike
Garcia, Robert
Gimenez
Golden (ME)
Goldman (NY)
Gomez
Gonzales, Tony
Gonzalez, V.
Gooden (TX)
Gottheimer
Graves (LA)
Graves (MO)
Green (TN)
Green, Al (TX)
Griffith
Grothman
Guest
Guthrie
Harder (CA)
Harshbarger
Hayes
Hern
Higgins (LA)
Hill
Himes
Hinson
Horsford
Houchin
Houlahan
Hoyer
Hoyle (OR)
Hudson
Huffman
Huizenga
Hunt
Issa
Ivey
Jackson (IL)
Jackson (NC)
Jackson (TX)
Jacobs
James
Jayapal
Jeffries
Johnson (GA)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Kamlager-Dove
Kaptur
Kean (NJ)
Keating
Kelly (IL)
Kelly (MS)
Kelly (PA)
Kennedy
Khanna
Kiggans (VA)
Kildee
Kiley
Kilmer
Kim (CA)
Kim (NJ)
Krishnamoorthi
Kuster
Kustoff
LaHood
LaMalfa
Lamborn
Landsman
Langworthy
Larsen (WA)
Larson (CT)
Latta
LaTurner
Lawler
Lee (CA)
Lee (FL)
Lee (NV)
Lee (PA)
Leger Fernandez
Lesko
Letlow
Levin
Lieu
Lofgren
Lopez
Loudermilk
Lucas
Luetkemeyer
Luna
Luttrell
Lynch
Mace
Magaziner
Malliotakis
Maloy
Mann
Manning
Mast
Matsui
McBath
McCaul
McClain
McClellan
McCollum
McCormick
McGarvey
McGovern
McHenry
Meeks
Menendez
Meng
Meuser
Mfume
Miller (IL)
Miller (OH)
Miller (WV)
Miller-Meeks
Mills
Molinaro
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Moore (WI)
Moran
Morelle
Moskowitz
Moulton
Mrvan
Mullin
Murphy
Nadler
Napolitano
Neal
Neguse
Newhouse
Nickel
Norcross
Nunn (IA)
Obernolte
Ogles
Omar
Owens
Pallone
Palmer
Panetta
Pappas
Pelosi
Peltola
Pence
Peters
Pettersen
Pfluger
Phillips
Pingree
Pocan
Porter
Pressley
Quigley
Ramirez
Raskin
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Ross
Rouzer
Ruiz
Rulli
Ruppersberger
Rutherford
Ryan
Salazar
Salinas
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Scholten
Schrier
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Self
Sessions
Sewell
Sherman
Simpson
Slotkin
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (WA)
Smucker
Sorensen
Soto
Spanberger
Stansbury
Stanton
Stauber
Steel
Stefanik
Steil
Stevens
Strickland
Strong
Suozzi
Swalwell
Sykes
Takano
Tenney
Thanedar
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tiffany
Timmons
Titus
Tlaib
Tokuda
Tonko
Torres (CA)
Torres (NY)
Trahan
Underwood
Valadao
Van Drew
Van Duyne
Van Orden
Vargas
Vasquez
Veasey
Velázquez
Wagner
Walberg
Waltz
Wasserman Schultz
Waters
Watson Coleman
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Wexton
Wild
Williams (GA)
Williams (NY)
Williams (TX)
Wilson (FL)
Wilson (SC)
Wittman
Womack
Yakym
Zinke

NAYS—22

Biggs
Boebert
Brecheen
Burchett
Burlison
Cloud
Crane
Gaetz
Good (VA)
Gosar
Greene (GA)
Hageman
Harris
Massie
McClintock
Norman
Perry
Posey
Rosendale
Roy
Spartz
Steube

NOT VOTING—15

D'Esposito
Dingell
Dunn (FL)
Evans
Flood
Granger
Grijalva
LaLota
Nehls
Ocasio-Cortez
Perez
Scalise
Sherrill
Trone
Turner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining.

□ 1418

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LALOTA. Mr. Speaker, I regret to have missed the following votes. Had I been present, I would have voted YEA on Roll Call No. 420, YEA on Roll Call No. 421, YEA on Roll Call No. 422, YEA on Roll Call No. 423, YEA on Roll Call No. 424, and YEA on Roll Call No. 425.

ROLL BACK ESG TO INCREASE RETIREMENT EARNINGS ACT

Ms. FOXX. Mr. Speaker, pursuant to House Resolution 1455, I call up the bill (H.R. 5339) to amend the Employee Retirement Income Security Act of 1974 to specify requirements concerning the consideration of pecuniary and non-pecuniary factors, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SMITH of Nebraska). Pursuant to House Resolution 1455, in lieu of the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce, printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 118–50 shall be considered as adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 5339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Protecting Americans' Investments from Woke Policies Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—ROLL BACK ESG TO INCREASE RETIREMENT EARNINGS

SEC. 1001. SHORT TITLE.

This division may be cited as the ''Roll back ESG To Increase Retirement Earnings Act'' or the ''RETIRE Act''.

SEC. 1002. LIMITATION ON CONSIDERATION OF NON-PECUNIARY FACTORS BY FIDUCIARIES.

(a) IN GENERAL.—Section 404(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(a)) is amended by adding at the end the following:

''(3) INTEREST BASED ON PECUNIARY FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1), a fiduciary shall be considered to act solely in the interest of the participants and beneficiaries of the plan with respect to an investment or investment course of action only if the fiduciary's action with respect to such investment or investment course of action is based only on pecuniary factors (except as provided in subparagraph (B)). The fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives and may not sacrifice investment return or take on additional investment risk to promote non-pecuniary benefits or goals. The weight given to any pecuniary factor by a fiduciary shall reflect a prudent assessment of the impact of such factor on risk and return.

''(B) USE OF NON-PECUNIARY FACTORS FOR INVESTMENT ALTERNATIVES.—Notwithstanding paragraph (A), if a fiduciary is unable to distinguish between or among investment alternatives or investment courses of action on the basis of pecuniary factors alone, the fiduciary may use non-pecuniary factors as the deciding factor if the fiduciary documents—

''(i) why pecuniary factors were not sufficient to select a plan investment or investment course of action;

''(ii) how the selected investment compares to the alternative investments with regard to the composition of the portfolio with regard to diversification, the liquidity and current return of the portfolio relative to the anticipated cash flow requirements of the plan, and the projected return of the portfolio relative to the funding objectives of the plan; and

''(iii) how the selected non-pecuniary factor or factors are consistent with the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan.

''(C) INVESTMENT ALTERNATIVES FOR PARTICIPANT-DIRECTED INDIVIDUAL ACCOUNT PLANS.—In selecting or retaining investment options for a

pension plan described in subsection (c)(1)(A), a fiduciary is not prohibited from considering, selecting, or retaining an investment option on the basis that such investment option promotes, seeks, or supports one or more non-pecuniary benefits or goals, if—

''(i) the fiduciary satisfies the requirements of paragraph (1) and subparagraphs (A) and (B) of this paragraph in selecting or retaining any such investment option; and

''(ii) such investment option is not added or retained as, or included as a component of, a default investment under subsection (c)(5) (or any other default investment alternative) if its investment objectives or goals or its principal investment strategies include, consider, or indicate the use of one or more non-pecuniary factors.

''(D) DEFINITIONS.—For the purposes of this paragraph:

''(i) The term 'pecuniary factor' means a factor that a fiduciary prudently determines is expected to have a material effect on the risk or return of an investment based on appropriate investment horizons consistent with the plan's investment objectives and the funding policy established pursuant to section 402(b)(1).

''(ii) The term 'investment course of action' means any series or program of investments or actions related to a fiduciary's performance of the fiduciary's investment duties, and includes the selection of an investment fund as a plan investment, or in the case of an individual account plan, a designated investment alternative under the plan.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken by a fiduciary on or after the date that is 12 months after the date of enactment of this Act.

DIVISION B—NO DISCRIMINATION IN MY BENEFITS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''No Discrimination in My Benefits Act''.

SEC. 2002. SERVICE PROVIDER SELECTION.

Section 404(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(a)(1)) is amended—

(1) in subparagraph (C), by striking ''and'';

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) by selecting, monitoring, and retaining any fiduciary, counsel, employee, or service provider of the plan—

''(i) in accordance with subparagraphs (A) and (B); and

''(ii) without regard to race, color, religion, sex, or national origin.''.

DIVISION C—RETIREMENT PROXY PROTECTION

SEC. 3001. SHORT TITLE.

This division may be cited as the ''Retirement Proxy Protection Act''.

SEC. 3002. EXERCISE OF SHAREHOLDER RIGHTS.

(a) IN GENERAL.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

''(f) EXERCISE OF SHAREHOLDER RIGHTS.—

''(1) AUTHORITY TO EXERCISE SHAREHOLDER RIGHTS.—

''(A) IN GENERAL.—The fiduciary duty to manage plan assets that are shares of stock includes the management of shareholder rights appurtenant to those shares, including the right to vote proxies. When deciding whether to exercise a shareholder right and in exercising such right, including the voting of proxies, a fiduciary must act prudently and solely in the interests of participants and beneficiaries and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying the reasonable expenses of administering the plan. The fiduciary duty to manage shareholder rights appurtenant to shares of stock does not require the voting of every proxy or the exercise of every shareholder right.

''(B) EXCEPTION.—This subsection shall not apply to voting, tender, and similar rights with respect to securities that are passed through pursuant to the terms of an individual account plan to participants and beneficiaries with accounts holding such securities.

''(2) REQUIREMENTS FOR EXERCISE OF SHAREHOLDER RIGHTS.—A fiduciary, when deciding whether to exercise a shareholder right and when exercising a shareholder right—

''(A) shall—

''(i) act solely in accordance with the economic interest of the plan and its participants and beneficiaries;

''(ii) consider any costs involved;

''(iii) evaluate material facts that form the basis for any particular proxy vote or exercise of shareholder rights; and

''(iv) maintain a record of any proxy vote, proxy voting activity, or other exercise of a shareholder right, including any attempt to influence management; and

''(B) shall not subordinate the interests of participants and beneficiaries in their retirement income or financial benefits under the plan to any non-pecuniary objective, or promote non-pecuniary benefits or goals unrelated to those financial interests of the plan's participants and beneficiaries.

''(3) MONITORING.—A fiduciary shall exercise prudence and diligence in the selection and monitoring of a person, if any, selected to advise or otherwise assist with the exercise of shareholder rights, including by providing research and analysis, recommendations on exercise of proxy voting or other shareholder rights, administrative services with respect to voting proxies, and recordkeeping and reporting services.

''(4) INVESTMENT MANAGERS AND PROXY ADVISORY FIRMS.—Where the authority to vote proxies or exercise other shareholder rights has been delegated to an investment manager pursuant to section 403(a), or a proxy voting advisory firm or other person who performs advisory services as to the voting of proxies or the exercise of other shareholder rights, a responsible plan fiduciary shall prudently monitor the proxy voting activities of such investment manager or advisory firm and determine whether such activities are in compliance with paragraphs (1) and (2).

''(5) VOTING POLICIES.—

''(A) IN GENERAL.—In deciding whether to vote a proxy pursuant to this subsection, the plan fiduciary may adopt a proxy voting policy, including a safe harbor proxy voting policy described in subparagraph (B), providing that the authority to vote a proxy shall be exercised pursuant to specific parameters designed to serve the economic interest of the plan.

''(B) SAFE HARBOR VOTING POLICY.—With respect to a decision not to vote a proxy, a fiduciary shall satisfy the fiduciary responsibilities under this subsection if such fiduciary adopts and is following a safe harbor proxy voting policy that—

''(i) limits voting resources to particular types of proposals that the fiduciary has prudently determined are substantially related to the business activities of the issuer or are expected to have a material effect on the value of the plan investment; or

''(ii) establishes that the fiduciary will refrain from voting on proposals or particular types of proposals when the assets of a plan invested in the issuer relative to the total assets of such plan are below 5 percent (or, in the event such assets are under management, when the assets under management invested in the issuer are below 5 percent of the total assets under management).

''(C) EXCEPTION.—No proxy voting policy adopted pursuant to this paragraph shall preclude a fiduciary from submitting a proxy vote when the fiduciary determines that the matter being voted on is expected to have a material economic effect on the investment performance of a plan's portfolio (or the investment performance of assets under management in the case of an investment manager); provided, however, that in all cases compliance with a safe harbor voting policy shall be presumed to satisfy fiduciary responsibilities with respect to decisions not to vote.

''(6) REVIEW.—A fiduciary shall periodically review any policy adopted under this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to an exercise of shareholder rights occurring on or after January 1, 2024.

DIVISION D—PROVIDING COMPLETE INFORMATION TO RETIREMENT INVESTORS

SEC. 4001. SHORT TITLE.

This division may be cited as the ''Providing Complete Information to Retirement Investors Act''.

SEC. 4002. BROKERAGE WINDOW DISCLOSURES.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

''(7) NOTICE REQUIREMENTS FOR BROKERAGE WINDOWS.—

''(A) IN GENERAL.—In the case of a pension plan which provides for individual accounts and which provides a participant or beneficiary the opportunity to choose from designated investment alternatives, a participant or beneficiary shall not be treated as exercising control over assets in the account of the participant or beneficiary unless, with respect to any investment arrangement that is not a designated investment alternative, each time before such a participant or beneficiary directs an investment into, out of, or within such investment arrangement, such participant is notified of, and acknowledges, each element of the notice described under paragraph (B).

''(B) NOTICE.—The notice described under this paragraph is a four part information that is substantially similar to the following information:

''1. Your retirement plan offers designated investment alternatives prudently selected and monitored by fiduciaries for the purpose of enabling you to construct an appropriate retirement savings portfolio. In selecting and monitoring designated investment alternatives, your plan's fiduciary considers the risk of loss and the opportunity for gain (or other return) compared with reasonably available investment alternatives.

2. The investments available through this investment arrangement are not designated investment alternatives, and have not been prudently selected and are not monitored by a plan fiduciary.

3. Depending on the investments you select through this investment arrangement, you may experience diminished returns, higher fees, and higher risk than if you select from the plan's designated investment alternatives.

4. The following is a hypothetical illustration of the impact of return at 4 percent, 6 percent, and 8 percent on your account balance projected to age 67.

''(C) ILLUSTRATION.—The notice described under paragraph (B) shall also include a graph displaying the projected retirement balances of such participant or beneficiary at age 67 if the account of such individual were to achieve an annual return equal to each of the following:

''(i) 4 percent.

''(ii) 6 percent.

''(iii) 8 percent.''.

(b) DESIGNATED INVESTMENT ALTERNATIVE DEFINED.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

''(46) DESIGNATED INVESTMENT ALTERNATIVE.—

''(A) IN GENERAL.—The term 'designated investment alternative' means any investment alternative designated by a responsible fiduciary of an individual account plan described in subsection 404(c) into which participants and beneficiaries may direct the investment of assets held in, or contributed to, their individual accounts.

''(B) EXCEPTION.—The term 'designated investment alternative' does not include brokerage windows, self-directed brokerage accounts, or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by a responsible plan fiduciary.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2025.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce, or their respective designees.

The gentlewoman from North Carolina (Ms. FOXX) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentlewoman from North Carolina (Ms. FOXX).

GENERAL LEAVE

Ms. FOXX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material under H.R. 5339.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in full support of the Republican fight against the woke, progressive agenda.

The Committee on Education and the Workforce is proud to lead debate on the Protecting Americans' Investments from Woke Policies Act, or H.R. 5339, a bill that would confront and dispatch one of the most nefarious and hidden forms of wokeness.

Wokeness comes in all shapes and sizes. It is a problem when it is pushed at your local public school. It is an existential threat to the country when it is pushed by the institutions that police how we think, what we say, and where our money goes.

Wokeness destroys everything it touches, including the value-neutral institutions that America used to take for granted.

First, wokeness conquered academia. Then, it conquered the media. The final frontier of the woke mind virus is the banks and capitalism itself.

You may say, what? Banks are woke? They are driven by things like profit motive and the markets. Well, we need to think again.

Under the guise of a practice known as environmental, social, and governance investing, or ESG for short, banks are responsible for woke social engineering on a scale that history's authoritarians could only dream of.

In essence, a big bank or asset manager will take your hard-earned pension or 401(k) and invest it in radical, progressive causes. These ESG funds exclude businesses deemed insufficiently woke.

What may disqualify a company from receiving woke capital is including, but not limited to, too many White, straight men on the board, too much profit in the oil and gas industry, or too many politically incorrect takes by your CEO on X, formerly known as Twitter.

That the S&P 500's ESG index delisted a green company like Tesla only proves the point that ESG is nothing but a woke power grab.

Concerns about the environment are secondary to enforcing bland, progressive conformity. What is more, ESG factors guide about one-fourth of all assets under management, or $30 trillion.

□ 1430

Yet, these funds underperformed when compared to their conventional peers. Take this from the Financial Times: ''Over the past 12 months, global sustainable equity funds made an 11 percent return, compared with 21 percent for conventional stock funds, according to a May report from JPMorgan.''

Sacrificing pensions and retirement income for woke impact should be illegal. This legislation makes it clear that other people's retirement income may not be sacrificed for woke impact.

Pensioners forged the infrastructure that powers modern American cities. Pensioners built the industries that make America great.

Pensioners put their life and work into this country, and they don't want their hard-earned nest egg deflating because its principal is serving political causes.

I especially thank Representative ALLEN from Georgia, Representative HOUCHIN from Indiana, Representative GOOD from Virginia, and Representative BANKS from Indiana for leading this charge on behalf of pensioners and retirees.

The Protecting Americans' Investments from Woke Policies Act is a product of their hard work, and it is the necessary first step toward making ESG investing illegal under certain retirement plans.

Mr. Speaker, I urge a ''yes'' vote on H.R. 5339 and reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 5339, the so-called Protecting Americans' Investments from Woke Policies Act.

This bill packages four separate bills that the Committee on Education and the Workforce reported on party line votes.

H.R. 5339 relates to what is known as environmental, social, and governance or ESG investing. Many of us believe that workers should be able to invest in a way that reflects their values, whether combating climate change or promoting health and labor standards, without sacrificing investment returns.

To be clear, this kind of investing is not at odds with making a profit. In fact, it makes good financial sense to carefully consider investments that account for a company's exposure to such liabilities as high liability risks, fossil-fuel-dependent business practices, or vulnerability to sea level rise, like whether or not an asset is going to be underwater in 15 years. It would be nice to know that, but you shouldn't be prohibited from even considering it. These are among the factors that could cause a stock to suffer over the long-term horizon. Considering that workers often contribute to their retirement accounts for decades before drawing down their savings, it makes perfectly good sense for those managing the workers' accounts to consider long-term impacts when making investment decisions.

ESG investment is a sound, profit-centered, risk mitigation strategy, and the financial services industry recognizes it.

For example, State Street Global Advisors, one of the largest asset managers, noted that, as a fiduciary, they have ''a duty to act prudently and in the best interest of our clients, which increasingly includes consideration of environmental, social, and governance factors relevant to the performance of the companies in which our clients invest.''

The Trump administration issued a rule that imposed needless barriers and onerous requirements related to ESG investing. Fortunately, the Biden-Harris administration reversed course and finalized a sensible rule clarifying that a plan's fiduciaries may consider ESG factors when they make decisions for retirement plan participants. Let's be clear, the rule is not a mandate.

H.R. 5339 codifies the Trump-era ESG rule. It also codifies the Trump-era rule that would disenfranchise plan fiduciaries from exercising their shareholder rights on behalf of workers.

The bill also undermines efforts to increase diversity among asset managers. This is a worthwhile endeavor, as the GAO noted a few years ago that only 1 percent of the $7 trillion in global assets under management are managed by firms owned by women or people of color.

There is also research to suggest that nondiverse firms do not outperform diverse firms across all asset classes.

In sum, H.R. 5339 takes us backwards and undercuts retirement professionals who are legally bound to make prudent decisions for workers and retirees.

Mr. Speaker, I urge opposition to the bill and reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding the time.

I rise in support of my bill, H.R. 5339, the Protecting Americans' Investments from Woke Policies Act. The Committee on Education and the Workforce worked diligently this Congress to hold the Biden administration accountable for their destructive policies that only serve to harm American families, workers, and retirees.

That is why I proudly partnered with many of my committee colleagues to put together this package of bills before us today that stops this administration's assault on the retirement security of millions of Americans.

Saving for retirement has become increasingly difficult as prices continue to skyrocket. Over the last 3½ years, we have witnessed a sharp rise in the cost of basic necessities, putting a significant strain on household budgets.

The average household in Georgia is paying over $1,000 per month to purchase the same goods and services as in January of 2021. Cumulatively, the average Georgia household has spent over $27,000 more due to inflation in that same timeframe.

As a result of the Biden-Harris administration's out-of-control spending policies, inflation is soaring. Many seniors are living paycheck to paycheck, retirement savings are in jeopardy, and hardworking Americans are struggling to secure their financial future.

One example of how the Biden administration is jeopardizing retirement savings is through a Department of Labor rule that allows financial advisors to ignore their responsibility to prioritize financial returns in favor of investing America's retirement savings into risky, climate-related environmental, social, and governance, or ESG, funds. Now, let's be clear. This mandate came from the Department of Labor. It did not come from the financial investment community.

ESG funds are proven to carry higher risk and charge steeper fees, and financial institutions have become more brazen in professing partisan and ideological preferences while investing Americans' hard-earned retirement savings.

As families continue to struggle to afford basic necessities like gas and groceries due to record inflation, the last thing hardworking taxpayers need is for their retirement savings to be depleted due to politically motivated mismanagement.

That is why I was proud to introduce the Roll back ESG To Increase Retirement Earnings, the RETIRE Act. This bill rolls back this overreaching rule and ensures ERISA retirement plan sponsors prioritize financial returns over ESG factors when making investment decisions on behalf of their clients, as mandated by the Department of Labor.

My RETIRE Act makes clear what ERISA intended. Retirement plan sponsors should invest their clients' hard-earned money in a manner that maximizes financial returns and minimizes risk, period.

We must get back to a point where financial institutions make investment decisions based on standards of return, credit, collateral, raw data, and balance sheet numbers. We can do so by passing today's legislation.

Mr. Speaker, I strongly urge a ''yes'' vote on H.R. 5339.

Ms. MANNING. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. MAGAZINER), my good friend.

Mr. MAGAZINER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding.

I rise in opposition to H.R. 5339, a misguided bill that will hurt the retirement savings of millions of hardworking Americans.

The evidence is clear. Companies that adopt thoughtful policies to manage their environmental risks, their social risks, and have sound corporate governance policies outperform those that don't.

As a former State treasurer and an investor in the private sector, I can tell you that companies that take steps to mitigate their environmental footprint to do right by their customers, to do right by their employees, and to promote corporate diversity tend to outperform their peers. Any investor who knows what they are doing would be foolish to ignore those factors.

Even if you disagree with me, even if you don't think that those factors matter in company performance, you ought to believe that in a free market, investors should have the right to consider whatever factors they believe are relevant to performance without Congress getting in the way.

Why is the Republican majority, which claims to be the party of small government, so obsessed with walking away from free markets and taking away Americans' freedoms?

This is yet another example of this trend.

House Republicans want to tell you what books you can and can't get from the library, who you are and aren't allowed to marry, what reproductive healthcare decisions women have the right to make, and now they want to try to make it illegal for investors to even think about a company's environmental or social performance when doing their jobs.

The people who are going to get hurt are the American workers whose retirement savings will take a hit if this bill takes effect.

By the way, no one is asking for this bill. There are no constituents back home who are saying, you know, the biggest problem in our country today is ESG investing.

How about my Republican colleagues do their job, focus on keeping the government funded and open, and not take away the freedom of investors to do their jobs the way they see fit?

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume. My colleagues on the other side of the aisle have made many claims about the supposed advantages of ESG, just now saying that ESG funds tend to do better.

Well, let me set the record straight. ESG funds have underperformed for years. According to a Bloomberg report, the 10 largest ESG funds posted double-digit losses in 2022, and 8 of the 10 performed worse than the S&P 500.

It is no surprise that in 2023, according to The New York Times, investors pulled $13 billion out of ESG funds.

Another study from Boston University found there is little reason to infer that ESG criteria is reliable for predicting stock returns. I think it is really important to set the record straight.

To make matters worse, ESG products charge higher fees to participants than traditional investment funds, which can significantly reduce participants' retirement savings over time.

Finally, according to researchers at George Mason University, ESG funds expose workers and retirees to additional investment risk.

Increased costs, increased risk, and lackluster returns make for a bad cocktail. Weakening the investment portfolios is not what we should be doing here.

I yield 3 minutes to the gentleman from Virginia (Mr. GOOD).

Mr. GOOD of Virginia. Mr. Speaker, as the chair said, if ESG funds performed better, investors would choose those based on their performance, not because they are ESG compliant.

Mr. Speaker, I support passage of 5339. This legislation will protect Americans' retirement savings from the left's woke agenda.

On day one, the Biden administration pursued a radical agenda focused on so-called diversity and equity instead of truly helping everyday Americans.

This agenda infiltrates every sector of our society under the Biden administration, including the way people invest their hard-earned money.

For decades, Federal law has required fiduciaries, or those we trust to invest on our behalf, to adhere to principles of prudence and loyalty to the investors' best interests.

The prudence and loyalty of the fiduciary to the investor protects the American public. Now the Biden administration has decided these principles are no longer the primary concern.

No, under Biden-Harris, your best interest is not the main priority. Investments must now meet certain radical and environmental standards and support the left's equity agenda.

This could mean investing in a solar energy company and overlooking an oil or a gas stock that might be a better financial investment.

It might mean that the company overseeing your portfolio needs to adhere to DEI practices and hire people because they look a certain way, not because they are the most qualified. This is called ESG investing, and, of course, this is wrong.

The bill today includes one of my bills, No Discrimination in my Benefits Act, which amends the law to say that any fiduciary must be selected without regard to race, color, religion, sex, or national origin.

Adding this language will preserve the merit-based standard that Americans expect employers to use when hiring.

Instead of addressing the state of the economy, which would be a much better way to ensure that individual retirement plans are doing well, Democrats double down on DEI and believe, or at least claim to believe, that a lack of diversity is why your pension or your 401K isn't getting the rate of return you expected. They, of course, don't want to blame the Biden-Harris economy.

□ 1445

For example, Senate Democrats actually sent a letter to 25 companies requesting information about the gender and race, the DEI makeup, of the asset managers of their pension plans. The letter voiced concern over the problem of White men dominating the industry and demanded answers from the companies on their plans to diversify their employees based on sex and race rather than their skills and expertise.

The American people don't care about the diversity makeup of someone who is flying a plane or who is performing surgery on them, and they don't want it with respect to the management of their life savings, but the Democratic Party wants to force companies to make decisions in direct contradiction to the longstanding Civil Rights Act, which they claim to support.

Using someone's race or sex to determine their eligibility for a position is wrong, and civil rights law agrees, even if the Democratic Party does not.

Hardworking Americans want the most competent and knowledgeable person to manage their benefits. They want to know their assets are safe and they will have a good return on investment.

The ESG investing agenda is in direct opposition to this, so I urge passage of H.R. 5339.

Ms. MANNING. Madam Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KILDEE), my friend.

Mr. KILDEE. Madam Speaker, the bill before us is really nothing more than a distraction, a distraction from the real issues facing American seniors and retirees. What seniors want is their government to lower the cost of everyday necessities like groceries, gas, water, and electric bills. They want their hard-earned savings protected. They don't want Congress dictating to them where and how to invest for their retirement.

If Republicans were truly serious about protecting American retirees, they would be working to restore the pensions of Americans who have lost their retirements, their pensions or seen them cut, like the thousands of Delphi salaried retirees across the country.

Americans who work their whole lives should not have to worry if they will be able to retire in dignity, but when General Motors filed for bankruptcy during the Great Recession, the U.S. Pension Benefit Guaranty Corporation, the PBGC, unfairly cut retirement benefits by as much as 70 percent for more than 20,000 Delphi salaried retirees.

These cuts have been devastating for these retirees. We have heard stories from Delphi salaried retirees facing extreme hardship, even forgoing medical treatment because their pensions were slashed so much.

Under the past administration, the former President made a promise that he would fix this issue. He did not. He didn't even try.

Last Congress, under the leadership of Speaker PELOSI and Democrats, this body passed my legislation, the Susan Muffley Act, to be clear, in a bipartisan fashion, to restore the pensions of thousands of Delphi workers—as I said, a bipartisan bill that would restore those pensions. We had 218 Democrats, 36 Republican Members of this body voting for it.

These men and women worked hard. They followed the rules, and then they got the rug pulled from under them. When the government rescued GM and left these workers behind, their families were left hanging, and that was wrong.

At the appropriate time, I will offer a motion to recommit this bill back to committee. If the House rules had permitted, I would have offered the motion with an important amendment to the bill. My amendment would substitute this legislation with the Susan Muffley Act, my bipartisan legislation that would right the wrong for the Delphi salaried retirees, restoring their pension benefits that they were expected to receive before the bankruptcy.

Again, this bill is a commonsense, bipartisan bill that has already passed the House of Representatives in a bipartisan fashion. I ask unanimous consent to insert the text of my amendment immediately prior to the vote on the motion to recommit.

The SPEAKER pro tempore (Ms. TENNEY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Madam Speaker, in closing I will just say this: I hope my colleagues join me. This is something we ought to be able to do together. We ought to solve this problem in a bipartisan fashion. I ask you to join me in voting for the motion to recommit to right this historic wrong for the Delphi salaried retirees.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. MILLER).

Mrs. MILLER of Illinois. Madam Speaker, the Biden-Harris administration is once again putting its radical political agenda ahead of the well-being of the American people. The administration's new rule would put the retirement fund of millions of Americans at risk by forcing fiduciaries to consider ESG over financial factors. This is deeply irresponsible.

ESG funds are well known for poor performance and high risk, yet this administration is encouraging fiduciaries to gamble with retirees' hard-earned savings. This rule shows that the Biden-Harris administration doesn't care about the financial security of millions of retirees.

Retirement savings should focus on maximizing returns, not advancing the far left's political agenda. Americans invest to provide for themselves and their families, not to fund activist projects or woke policies.

Fortunately, Republicans are taking action to stop this dangerous trend with the Protecting Americans' Investments from Woke Policies Act. This bill ensures that retirement plans are focused solely on economic factors, protecting workers' savings from politically driven, underperforming ESG investments.

Madam Speaker, I urge my colleagues to support this bill.

Ms. MANNING. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. CASTEN), my good friend.

Mr. CASTEN. Madam Speaker, let me pose a question to everybody in here. Why do pension fund managers, why do State treasurers, why do individual investors invest in ESG funds? Well, I will give you a hint. It is the same reason that they invest in high-yield bonds or mid-cap international equities or real estate investment trusts or anything else that is a part of a diversified portfolio. It is because they believe that it will make them more money; not ''know.'' None of us know, but they believe.

Maybe my colleagues across the aisle don't believe that companies that attract and retain diverse talent create more long-term value. Maybe my colleagues across the aisle don't believe that climate change is real and don't believe that companies who are repositioning their assets for a world with higher sea levels, with more frequent forest fires, and with rapidly moving consumer demand in favor of cheaper, cleaner energy are better positioned to win the future.

That is your right. Nobody is telling you that you have to wake up and stop investing in sleepy companies that are missing out on what is happening in the future.

Yet, here we are. Having defended your right to invest however you want, you are now saying that fiduciaries with opinions different from your own should not be free to invest as they see fit. That is not pro-market.

Let me tell you that if you have fallen in love with State-directed capitalism, I would encourage you to talk to, I don't know, maybe some Chinese

or Soviet economic leaders who can tell you how that plays out.

Yet, we find ourselves here with the Republican Party introducing legislation that not only rips off the policies of Lenin and Mao, but also unsurprisingly rips off Project 2025 because what all those have in common is you would like to use the power of the State to protect your political allies against the vicissitudes of a competitive market.

Let's be really clear, though. This is not just about politics. Real Americans in red States, I would point out, are losing money today because of these policies. In Texas, anti-ESG laws like the one you are proposing are costing the State nearly $700 million in lost economic activity and more than 3,000 jobs.

In Kansas, the State budget office has estimated that anti-ESG laws there would cost retirees $3.6 billion in lost returns over 10 years. That is what you are imposing on the rest of the world if you accomplished this.

Madam Speaker, I get it, competition is hard. It is scary. Climate change is real, and no matter how nightmarish certain White folks of low character might find the realization of Martin Luther King's dream, it is the only way that we move forward as a society. In the name of free markets and a brighter tomorrow, I would urge a ''no'' vote.

Ms. FOXX. I ask that the speaker's words be taken down.

Mr. CASTEN. On what basis?

The SPEAKER pro tempore. The gentleman will suspend. The Clerk will report the words.

The gentleman will take a seat.

□ 1515

Ms. FOXX. Mr. Speaker, I withdraw my demand.

The SPEAKER pro tempore (Mr. BENTZ). The demand is withdrawn.

Mr. CASTEN. Mr. Speaker, I reiterate, as I hope was clear from the plain text of my remarks, they were not directed at anybody in the Chamber.

Mr. Speaker, I close by saying, in the name of free markets and a brighter, more tolerant tomorrow, I urge a ''no'' vote on this bill.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important, I think, that we again set the record straight. The RETIRE Act codifies the principles in the Trump Labor Department rule on retirement plan ESG investing. Under this bill, as with the Trump rule, if a fiduciary finds that an ESG factor is a pecuniary or financial factor, then that factor can be considered when investing and exercising shareholder rights. Nothing in the Trump rule prevents a fiduciary from appropriately considering any material risk with respect to investment.

Like the Trump rule, the RETIRE Act recognizes ESG factors can present an economic risk or opportunity, which qualified investment professionals would appropriately treat as material economic considerations under generally accepted investment principles.

This bill neutrally applies financial investment principles to all investment decisions. To suggest that this bill bars a fiduciary from appropriately considering any factors that may be material to an investment is blatantly false. Unlike the Biden-Harris rule, this legislation is neutral regarding fiduciaries' prudent decisions.

Mr. Speaker, I reserve the balance of my time.

Ms. MANNING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, contrary to what we have heard this afternoon, the Biden-Harris administration has put forth a sensible rule related to ESG investing that puts the decisionmaking where it belongs: with the retirement plan professionals who are best positioned and bound by law to make sound decisions on behalf of workers. They, not Members of Congress, know what is best for their particular retirement plan.

H.R. 5339 reflects a mistaken premise that House Republicans, not retirement plan professionals bound by fiduciary responsibilities, know what is best. A diverse group of stakeholders, including the AFL–CIO, AFSCME, Americans for Financial Reform, League of Conservation Voters, National Women's Law Center, Oxfam America, and others weighed in against this bill.

Mr. Speaker, I include in the RECORD two letters.

AFL–CIO,
September 17, 2024.

DEAR REPRESENTATIVE: On behalf of the AFL–CIO, I urge you to oppose H.R. 5339, RETIRE Act, which is composed of the following four anti-ESG bills:

No Discrimination in My Benefits Act (H.R. 5338).

Retirement Proxy Protection Act (H.R. 5337).

Providing Complete Information to Retirement Investors Act (H.R. 5340).

Roll Back ESG to Increase Retirement Earnings Act (H.R. 5339).

H.R. 5339 would roll back or block the inclusion of relevant investment factors in retirement plans, which include environmental, social, and governance (''ESG'') risks. Pension plans represent the deferred wages of hard working Americans, and ERISA requires plan fiduciaries to invest plan assets according to the duties of prudence and loyalty in order to maximize benefits.

H.R. 5339 would limit the criteria fiduciaries can consider when selecting investments to solely pecuniary or financial factors. The only exception is when two investments are indistinguishable based purely on pecuniary factors or the fiduciary satisfies burdensome documentation requirements. Similarly, provisions from H.R. 5337 will discourage fiduciaries from voting proxies on ESG issues that might be considered ''non-pecuniary.'' This bill would effectively disfranchise retirement plan participants from having their shares voted on important ESG issues. The Department of Labor (''DOL'') has wisely rejected the distinction between pecuniary and non-pecuniary factors based on concerns that this terminology causes confusion and has a chilling effect on investment choices that may increase plan participants' retirement income security.

Provisions from H.R. 5338 prohibit the consideration of diversity by ERISA plans when selecting a fiduciary, counsel, employee, or service provider. We oppose this bill as a blatant attempt to obstruct efforts to address under representation of minority- and women-owned firms in asset management. DOL rules permit ERISA plans to consider the benefits of investment advisor diversity so long as the plan does not sacrifice risk-adjusted returns. Indeed, studies have shown that diversity can be a source of investment outperformance by casting a wider net for professional talent.

Provisions from H.R. 5340 were intended to deter self-directed defined contribution plan participants from selecting ESG investments, for example those in a 401(k) plan. This legislation would require defined contribution plans to provide a written warning to participants who are choosing from investments through a brokerage window rather than those selected by the plan. While we do not oppose suitable warnings for plan participants that choose to invest through a brokerage window, we are concerned that this bill is intended to interfere with the freedom of 401(k) plan participants to invest in ESG-related funds of their own choosing.

Continued attempts to block plans from considering ESGs have deep impacts on retirees. ESGs are critical factors in assessing and mitigating risks and creating opportunities for enhanced returns. Therefore, AFL–CIO urges you to oppose H.R. 5339.

Sincerely,

JODY CALEMINE,
Director, Government Affairs.

SEPTEMBER 17, 2024.

Re Opposition to anti-ESG bills that threaten workers' retirement security and our financial system, and weaken tools of corporate accountability.

HON. MIKE JOHNSON,
Speaker, House of Representatives,
Washington, DC.
HON. HAKEEM JEFFRIES,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER JOHNSON AND MINORITY LEADER JEFFRIES: Americans for Financial Reform (AFR) and the 39 undersigned organizations write in opposition to Prioritizing Economic Growth Over Woke Policies Act (H.R. 4790) and the Protecting Americans' Investments from Woke Policies Act (H.R. 5339), which are packages of several bills that are part of a broader, unpopular campaign against common sense investment practices. This campaign seeks to both force financial actors to ignore a slew of financial risks to the detriment of workers' retirement security and the integrity of our financial system, and weaken tools of corporate accountability. The bills at issue were marked up by the House Financial Services Committee (HFSC) and the House Committee on Education and the Workforce. If passed, they would represent a giveaway to corporations at the expense of workers, investors, and the public.

The bills marked up by HFSC in July of last year were the culmination of what the committee's majority publicly characterized as ''ESG month''—a series of six hearings and a markup designed to discourage financial actors from taking into account environmental, social, and governance (ESG) factors in their investment decision-making and undermine corporate accountability. The bills can be categorized based on the effects they would have: (1) undermine regulations that would equip investors with more information to make better investment decisions (H.R. 4790); (2) insulate the management of public companies from investor

input and accountability, including by eliminating fundamental investor rights to file shareholder proposals (H.R. 4767 and H.R. 4655); and (3) hamstring the ability of federal banking regulators to respond effectively to micro- and macro-prudential risks to the financial system (H.R. 4823). For a more detailed discussion of these bills, see AFR's letter of opposition submitted ahead of the markup.

The bills marked up by the House Committee on Education and the Workforce in September would amend the Employee Retirement Income Security Act (ERISA) with the effect of undermining workers' retirement security. Two of the bills—H.R. 5339 and H.R. 5337—have a longer history, mirroring two Trump-era Department of Labor (DOL) rules. Those rules were widely criticized and have since been rescinded because they produced significant confusion about what fiduciaries are allowed to consider when making investment decisions, and had a chilling effect on the consideration of financially relevant information—thereby putting workers' retirement security at risk. The other two bills would also harm workers saving for retirement, H.R. 5338 by interfering with efforts to increase diversity among asset managers managing workers' savings and H.R. 5340 by mandating confusing and misleading information be sent to investors. For a more detailed discussion of these bills, see AFR's letter of opposition submitted ahead of the markup.

Congress should not lend support to an effort that would harm the public interest and has triggered fierce and effective opposition from a broad coalition of diverse stakeholders. For example, state-level anti-ESG legislation—which included 161 pieces of legislation introduced in 28 states this year—faced significant pushback from public pension beneficiaries, retirement system officials, bank and local business associations, and unions. As a result, the vast majority of the bills were defeated. A strong coalition has also opposed past anti-ESG congressional actions.

Voters overwhelmingly oppose measures like these. Although the anti-ESG campaign is well-funded, polling decidedly shows a strong majority of voters do not support its goals. For example, 63 percent of voters do not believe the government should set limits on corporate ESG investments. And when it comes to how companies should operate in our society, ''most voters (76 percent) feel companies play a vital role in society and should be held accountable to make a positive impact on the communities in which they operate.'' This includes both the majority of Republicans (69 percent) and the majority of Democrats (82 percent), reflecting strong bipartisan support. Additionally, a recent poll by Public Citizen found that voters oppose Congress passing legislation to limit the type of information about a corporation's business record that is disclosed to pension and retirement fund managers, investors, and the public, and that voters would reward an elected official who favors requiring corporations to disclose environmental, social, and governance information about their business dealings to investors and the public.

For all the reasons stated above, the undersigned organizations urge you to oppose these anti-ESG bills. Thank you for your consideration of our perspective.

Sincerely,

Americans for Financial Reform; 17 Communications; 350.org; Adrian Dominican Sisters, Portfolio Advisory Board; AFL-CIO; Alabama Interfaith Power & Light; American Federation of State, County and Municipal Employees (AFSCME); American Federation of Teachers; Center for Popular Democracy; ClientEarth USA; Communications Workers of America; Congregation of St. Joseph; Daughters of Charity, Province of St. Louise; Environmental Defense Fund; For the Long Term; Global Reporting Initiative (GRI); Green America; Interfaith Center on Corporate Responsibility; International Brotherhood of Teamsters; Invest Vegan.

League of Conservation Voters; Majority Action; Mercy Investment Services, Inc.; National Education Association; National Women's Law Center; NETWORK Lobby for Catholic Social Justice; Oxfam America; Private Equity Stakeholder Project; Public Citizen; RFK Human Rights; Rhia Ventures; Rise Economy (formerly California Reinvestment Coalition); Sierra Club; SOC Investment Group; Stance Capital; Strong Economy For All Coalition; Take on Wall Street; The People's Justice Council; Tulipshare, Sustainable Investment Fund; Unlocking America's Future.

Ms. MANNING. Mr. Speaker, we should reject this bill, and I yield back the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard today about the riskiness of ESG. We have heard about the radicalness of ESG. We have heard about the racism inherent in ESG investing.

If today's debate has proven one thing, it is that wokeness will not be satisfied until the entire country thinks the same way.

To my colleagues, I urge that we return to the neutral fiduciary standard. Let's quit playing ideological games that have a real impact on workers' livelihoods.

To my banking-sector friends, I will put it this way: There is no alpha in ESG. Our adversaries will surpass the American financial industry if we continue down this path.

The Protecting Americans' Investments from Woke Policies Act would safeguard our financial system from politically driven agendas, ensuring that capital is allocated based on merit and performance, not ideology.

For these reasons, I support its passage, and I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1455, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. KILDEE. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Kildee of Michigan moves to recommit the bill H.R. 5339 to the Committee on Education and the Workforce.

The material previously referred to by Mr. KILDEE is as follows:

Mr. Kildee moves to recommit the bill H.R. 5339 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith, with the following amendment:

Page 1, strike line 1 and all that follows and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Susan Muffley Act of 2023''.

SEC. 2. GUARANTEED BENEFIT CALCULATION FOR CERTAIN PLANS.

(a) IN GENERAL.—

(1) INCREASE TO FULL VESTED PLAN BENEFIT.—

(A) IN GENERAL.—For purposes of determining what benefits are guaranteed under section 4022 of the Employee Retirement Income Security Act of 1974 (in this section referred to as ''ERISA'') with respect to an eligible participant or beneficiary under a covered plan specified in paragraph (4) in connection with the termination of such plan, the amount of monthly benefits shall be equal to the full vested plan benefit with respect to the participant.

(B) NO EFFECT ON PREVIOUS DETERMINATIONS.—Nothing in this Act shall be construed to change the allocation of assets and recoveries under sections 4044(a) and 4022(c) of ERISA as previously determined by the Pension Benefit Guaranty Corporation (in the section referred to as the ''corporation'') for the covered plans specified in paragraph (4), and the corporation's applicable rules, practices, and policies on benefits payable in terminated single-employer plans shall, except as otherwise provided in this section, continue to apply with respect to such covered plans.

(2) RECALCULATION OF CERTAIN BENEFITS.—

(A) IN GENERAL.—In any case in which the amount of monthly benefits with respect to an eligible participant or beneficiary described in paragraph (1) was calculated prior to the date of enactment of this Act, the corporation shall recalculate such amount pursuant to paragraph (1), and shall adjust any subsequent payments of such monthly benefits accordingly, as soon as practicable after such date.

(B) LUMP-SUM PAYMENTS OF PAST-DUE BENEFITS.—Not later than 180 days after the date of enactment of this Act, the corporation, in consultation with the Secretary of the Treasury and the Secretary of Labor, shall make a lump-sum payment to each eligible participant or beneficiary whose guaranteed benefits are recalculated under subparagraph (A) in an amount equal to—

(i) in the case of an eligible participant, the excess of—

(I) the total of the full vested plan benefits of the participant for all months for which such guaranteed benefits were paid prior to such recalculation, over

(II) the sum of any applicable payments made to the eligible participant; and

(ii) in the case of an eligible beneficiary, the sum of—

(I) the amount that would be determined under clause (i) with respect to the participant of which the eligible beneficiary is a beneficiary if such participant were still in pay status; plus

(II) the excess of—

(aa) the total of the full vested plan benefits of the eligible beneficiary for all months for which such guaranteed benefits were paid prior to such recalculation, over

(bb) the sum of any applicable payments made to the eligible beneficiary.

Notwithstanding the previous sentence, the corporation shall increase each lump-sum payment made under this subparagraph to account for foregone interest in an amount determined by the corporation designed to reflect a 6 percent annual interest rate on each past-due amount attributable to the underpayment of guaranteed benefits for each month prior to such recalculation.

(C) ELIGIBLE PARTICIPANTS AND BENEFICIARIES.—

(i) IN GENERAL.—For purposes of this section, an eligible participant or beneficiary is a participant or beneficiary who—

(I) as of the date of the enactment of this Act, is in pay status under a covered plan or is eligible for future payments under such plan;

(II) has received or will receive applicable payments in connection with such plan (within the meaning of clause (ii)) that does not exceed the full vested plan benefits of such participant or beneficiary; and

(III) is not covered by the 1999 agreements between General Motors and various unions providing a top-up benefit to certain hourly employees who were transferred from the General Motors Hourly-Rate Employees Pension Plan to the Delphi Hourly-Rate Employees Pension Plan.

(ii) APPLICABLE PAYMENTS.—For purposes of this paragraph, applicable payments to a participant or beneficiary in connection with a plan consist of the following:

(I) Payments under the plan equal to the normal benefit guarantee of the participant or beneficiary.

(II) Payments to the participant or beneficiary made pursuant to section 4022(c) or otherwise received from the corporation in connection with the termination of the plan.

(3) DEFINITIONS.—For purposes of this subsection—

(A) FULL VESTED PLAN BENEFIT.—The term ''full vested plan benefit'' means the amount of monthly benefits that would be guaranteed under section 4022 of ERISA as of the date of plan termination with respect to an eligible participant or beneficiary if such section were applied without regard to the phase-in limit in subsection (b)(1) of such Act and the maximum guaranteed benefit limitation in subsection (b)(3) of such Act (including the accrued-at-normal limitation).

(B) NORMAL BENEFIT GUARANTEE.—The term ''normal benefit guarantee'' means the amount of monthly benefits guaranteed under such section with respect to an eligible participant or beneficiary without regard to this Act.

(4) COVERED PLANS.—The covered plans specified in this paragraph are the following:

(A) The Delphi Hourly-Rate Employees Pension Plan.

(B) The Delphi Retirement Program for Salaried Employees.

(C) The PHI Non-Bargaining Retirement Plan.

(D) The ASEC Manufacturing Retirement Program.

(E) The PHI Bargaining Retirement Plan.

(F) The Delphi Mechatronic Systems Retirement Program.

(5) TREATMENT OF PBGC DETERMINATIONS.—Any determination made by the corporation under this section concerning a recalculation of benefits or lump-sum payment of past-due benefits shall be subject to administrative review by the corporation. Any new determination made by the corporation under this section shall be governed by the same administrative review process as any other benefit determination by the corporation.

(b) TRUST FUND FOR PAYMENT OF INCREASED BENEFITS.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Delphi Full Vested Plan Benefit Trust Fund'' (hereafter in this subsection referred to as the ''Fund''), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

(2) FUNDING.—There is appropriated from the general fund such amounts as are necessary for the costs of the payment of the portion of monthly benefits guaranteed to a participant or beneficiary pursuant to subsection (a) and for necessary administrative and operating expenses of the corporation relating to such payment. The Fund shall be credited with amounts from time to time as the Secretary of the Treasury, in conjunction with the Director of the corporation, determines appropriate, from the general fund of the Treasury.

(3) EXPENDITURES FROM FUND.—Amounts in the Fund shall be available for the payment of the portion of monthly benefits guaranteed to a participant or beneficiary pursuant to subsection (a) and for necessary administrative and operating expenses of the corporation relating to such payment.

(c) REGULATIONS.—The corporation, in consultation with the Secretary of the Treasury and the Secretary of Labor, may issue such regulations as necessary to carry out this section.

(d) TAX TREATMENT OF LUMP-SUM PAYMENTS.—

(1) IN GENERAL.—Unless the taxpayer elects (at such time and in such manner as the Secretary may provide) to have this paragraph not apply with respect to any lump-sum payment under subsection (a)(2)(B), the amount of such payment shall be included in the taxpayer's gross income ratably over the 3-taxable-year period beginning with the taxable year in which such payment is received.

(2) SPECIAL RULES RELATED TO DEATH.—

(A) IN GENERAL.—If the taxpayer dies before the end of the 3-taxable-year period described in paragraph (1), any amount to which paragraph (1) applies which has not been included in gross income for a taxable year ending before the taxable year in which such death occurs shall be included in gross income for such taxable year.

(B) SPECIAL ELECTION FOR SURVIVING SPOUSES OF ELIGIBLE PARTICIPANTS.—If—

(i) a taxpayer with respect to whom paragraph (1) applies dies,

(ii) such taxpayer is an eligible participant,

(iii) the surviving spouse of such eligible participant is entitled to a survivor benefit from the corporation with respect to such eligible participant, and

(iv) such surviving spouse elects (at such time and in such manner as the Secretary may provide) the application of this subparagraph,

subparagraph (A) shall not apply and any amount which would have (but for such taxpayer's death) been included in the gross income of such taxpayer under paragraph (1) for any taxable year beginning after the date of such death shall be included in the gross income of such surviving spouse for the taxable year of such surviving spouse ending with or within such taxable year of the taxpayer.

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KILDEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Avery M. Stringer, one of his secretaries.

ANTI-BDS LABELING ACT

Mr. SMITH of Missouri. Mr. Speaker, pursuant to House Resolution 1455, I call up the bill (H.R. 5179) to require the maintenance of the country of origin markings for imported goods produced in the West Bank or Gaza, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1455, the amendment in the nature of a substitute recommended by the Committee on Ways and Means, printed in the bill, shall be considered as adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 5179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anti-BDS Labeling Act''.

SEC. 2. CONTINUATION IN EFFECT OF COUNTRY OF ORIGIN MARKING POLICY FOR IMPORTED GOODS PRODUCED IN THE WEST BANK OR GAZA.

The policy of the Government of the United States with respect to country of origin marking of imported goods produced in the West Bank or Gaza, notice of which was published by U.S. Customs and Border Protection in the Federal Register on December 23, 2020 (85 Fed. Reg. 83984), shall remain in effect until repealed by an Act of Congress.

SEC. 3. PROHIBITION ON USE OF FUNDS TO RESCIND OR CHANGE THE COUNTRY OF ORIGIN MARKING POLICY FOR IMPORTED GOODS PRODUCED IN THE WEST BANK OR GAZA.

Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for the Department of State or U.S. Customs and Border Protection on or after the date of the enactment of this Act may be obligated or expended to prepare or promulgate any policy; guidance; regulation; notice; or Executive order or to otherwise implement, administer, or enforce any policy that rescinds or changes the policy of the Government of the United States with respect to country of origin marking of imported goods produced in the West Bank or Gaza, notice of which was published by U.S. Customs and Border Protection in the Federal Register on December 23, 2020 (85 Fed. Reg. 83984).

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means, or their respective designees.

The gentleman from Missouri (Mr. SMITH) and the gentleman from Illinois (Mr. SCHNEIDER) each will control 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in