March 12, 2026

The Hon. Tim Walberg
Chair
Committee on Education & Workforce
U.S. House of Representatives
Washington, DC 20515

The Hon. Robert Scott
Ranking Member
Committee on Education & Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chair Walberg and Ranking Member Scott,

We are former United States Department of Labor employees with decades of combined experience writing regulations, setting policy, and bringing Employee Retirement Income Security Act of 1974 (ERISA) lawsuits on behalf of the government in both Republican and Democratic Presidential Administrations. Drawing on that experience, we write to share our concerns that H.R. 6084 will significantly weaken the enforcement framework Congress designed to protect the retirement and health benefits of America's workers, retirees, and their families.

H.R. 6084 was purportedly introduced to ensure that "retirement plan fiduciaries, employers, and participants operate under a more predictable, fair, and efficient legal framework."[1] That is not what the bill does. Instead, it replaces the settled expectations of a legal regime based on hundreds of years of trust law and ordinary rules of civil procedure with a new and untested framework that tips the scale in favor of defendants charged with prudently and loyally managing plan assets, and will obstruct meritorious claims.

H.R. 6084 comes months after the United States Supreme Court, in a 9-0 decision, protected the statute's private right of action by confirming that Congress crafted ERISA's prohibited transaction exemptions as affirmative defenses that must be raised and proven by the defendant claiming the exemption. *Cunningham v. Cornell University*, 604 U.S. 693 (2025).[2] H.R. 6084 would not only override that unanimous decision but also heighten the pleading and proof standards for a wide variety of transactions Congress viewed with special concern.

ERISA broadly prohibits transactions that are subject to abuse, including fiduciary self-dealing in all circumstances and transactions between plans and related parties, unless plan fiduciaries can show that they were fair and thus subject to an exemption. At issue here, ERISA prohibits transactions to furnish goods, services, or facilities between a plan and a "party in interest," a term that includes service providers, but it provides an exemption for reasonable arrangements for necessary services for which the plan pays reasonable compensation. Similarly, a plan's purchase or sale of securities of the employer's company would ordinarily be prohibited, but ERISA exempts such transactions if, among other conditions, the transaction was for "adequate

[1] Press Release, *Congressman Fine Introduces ERISA Litigation Reform Act to Strengthen Legal Standards and Protect Retirement Plans* (Nov. 24, 2025) (https://fine.house.gov/news/documentsingle.aspx?DocumentID=109).
[2] The Opinion also recognized that federal courts already have a variety of tools at their disposal to address meritless claims and abusive litigation.

consideration," a term defined in the Act.

When enacting ERISA, Congress recognized the fundamental and longstanding principle that a statutory right must have a remedy at law and equity to enforce that right.[2] Congress also stressed, in the first section of ERISA, the desire to provide plan participants and their beneficiaries with ready access to the courts to protect their benefits and enforce their rights to well managed plans. Accordingly, the statute's substantive participant rights are given effect through broad remedial provisions. Those remedial provisions in turn rest on both government enforcement and a private right of action to ensure that participants can be made whole when something goes wrong. Both of those essential pillars of the remedial scheme are under stress.

Since early 2025, the U.S. Department of Labor's Employee Benefits Security Administration (EBSA), which is charged with protecting the ERISA rights of workers and their families covered by over 4 million benefit plans, has experienced unprecedented levels of attrition. This attrition comes after a decade of an essentially flat base budget, which means, adjusting for increases in mandatory costs, EBSA's budget has shrunk. Reduced budgets significantly impact operations: the agency is able to do fewer investigations as its capacity shrinks. At a current level of only 590 employees (a reduction of 251 employees from what the agency could afford in FY2025) and facing a President's budget request that recommended reducing its funding even more, the agency will struggle to achieve its mission. With federal enforcement capacity so severely diminished, preserving the longstanding ability of participants to obtain redress through private actions is more important than ever.

After EBSA's ability to investigate violations of ERISA has been severely limited, this bill would severely constrain litigation on behalf of plan participants in several ways. Taken together, these changes would make it dramatically harder to uncover wrongdoing, hold fiduciaries accountable, and recover losses to plans.

First, H.R. 6084 would require that plaintiffs plausibly allege *and prove* that these otherwise illegal transactions between plans and parties in interest – plan fiduciaries, service providers, employers, employee organizations, or individuals with ownership interests or managerial relationships with the employer or employee organization – are not covered by the exemption for reasonable services and compensation, or in the case of employer securities, that the plan did not receive "adequate consideration." However, the information potential plaintiffs would need – even in the most meritorious cases – is typically possessed by the plan fiduciaries or employer. Since plan participants do not have the same broad investigative authority available to the Secretary of Labor, they would not be able to obtain that information unless they can conduct discovery.

For example, if enacted, section (n) of this legislation would require some participants alleging that their plans overpaid for services to plead and prove facts about the decision-making process at meetings they did not attend, the minutes of which they lack access to. Likewise, section (o) would require participants alleging that ESOP trustees did not correctly value their closely held company stock to plead facts about how plan assets were valued when they do not have access to

[2] *See e.g.*, Marbury v. Madison, 5 U.S. 137, 163 (1803). The Supreme Court described this principle as "the very essence of civil liberty."

the valuations. Overall, H.R. 6084 could limit significant types of litigation to only those situations where a whistleblower comes forward to confess to a breach of fiduciary duty. That will not strengthen fiduciary accountability and will not result in better management of plans. Quite the contrary.

Second, although H.R. 6084 purportedly targets retirement plan litigation, by its own terms the legislation applies to any ERISA plan. Plan sponsors of ERISA health plans already face significant obstacles in obtaining fulsome disclosure of the fees they pay and the services they receive from other parties. H.R. 6084 would also obstruct meritorious litigation involving those health plans, including litigation by fiduciaries of health plans against a pharmacy benefit manager (PBM) or third-party administrator (TPA) alleging they collected undisclosed and excessive compensation. Congress recently passed legislation to help health plan fiduciaries hold their service providers accountable, but this bill would impede transparency and instead make it harder for fiduciaries to challenge abuses, recover overpayments, and limit overspending.

Third, the legislation applies to every category of plaintiff. This will impact lawsuits by plan sponsors against their service providers, as illuminated by the example above. It will also impact litigation brought by the Department of Labor, which will need to engage in additional investigation and argument to resolve any disputes about whether it has met the legislation's standards when it brings litigation. This will delay resolution of the case, which is in tension with recent Congressional efforts to require the Department to complete its ERISA investigations more quickly. *See* H.R. 2869, EBSA Investigations Transparency Act, Comm. on Education & the Workforce, U.S. House of Representatives; Letter from Virginia Foxx, Chairwoman & Bob Good, Subcommittee Chairman, Comm. on Education & the Workforce, U.S. House of Representatives, to Julie A. Su, Acting Sec'y of Labor (Sept. 19, 2023).

Fourth, the stay on discovery in section (p) will further disadvantage ERISA plaintiffs by making it more likely that compelling and persuasive evidence is lost or never uncovered. Courts already often limit discovery to some degree while a motion to dismiss is pending, but H.R. 6084 would remove judges' ability to exercise that authority within the context of a particular case and prevent them from taking the steps that might be most fair and efficient in the course of litigation. Although sections (p)(2) and (p)(3) attempt to mitigate the potential harm of the stay on discovery by requiring that evidence be preserved, the actual knowledge requirement of section (p)(2) limits the effectiveness of the preservation obligation. In practice, this provision would increase the risk that critical documents disappear before plaintiffs are permitted to access them, undermining the fair and efficient resolution of litigation the bill aims to promote.

The provision in section (p)(4) allowing federal courts to stay state court proceedings also seems unnecessary. In general, ERISA's broad preemption provision would preempt most related state proceedings. Allowing a federal court to stay the rare non-preempted state court proceeding against a non-fiduciary is particularly troublesome to basic notions of federalism.

Weakening ERISA's private right of action in these ways now will erode one of the few tools available to protect participants from losses caused by prohibited transactions and fiduciary misconduct. It will inevitably lead to more plan mismanagement and self-dealing. Accordingly, we respectfully request that the Committee reject H.R. 6084.

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