

AMERICAN BENEFITS
COUNCIL

April 4, 2025

The Honorable Michael Rulli
421 Cannon House Office Building
Washington, DC 20515

Dear Representative Rulli:

On behalf of the American Benefits Council (the Council), I am writing in strong support of your bill regarding adverse interest agreements entered into by the U.S. Department of Labor (DOL). We also strongly support the part of the bill that would make it clear that a policy of ERISA is “to promote, encourage, and facilitate the voluntary establishment and maintenance of, and contribution to, [retirement] plans.” This key point needs to be the guiding principle in the administration of ERISA.

The Council is a Washington, D.C.-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and their families. Council members include more than 220 of the world's largest corporations and collectively either directly sponsor or support sponsors of health and retirement benefits for virtually all Americans covered by employer-provided plans.

The DOL has publicly acknowledged previously entering into a secret agreement with plaintiffs to, in the words of the magistrate dealing with a pending case, “feed” the plaintiffs information to use in litigation against a retirement plan sponsor. Under the agreement, The DOL provided the plaintiffs with information gathered by DOL using its broad investigative powers. The magistrate found the secret agreement to be very concerning, stating: “[This] would allow a government agency to weaponize private litigation against some target before confirming the target should be a target. Moreover, the government could litigate in the shadows, without giving the opposing party an opportunity to adequately probe and defend itself” (emphasis added). The magistrate ordered DOL to make the secret agreement public but DOL has declined pending appeal.

Under the prior administration, the DOL publicly defended these secret agreements as a “well-established legal tool.” This is very concerning for employers to know that their government views it as well-established that it can secretly hurt employers that voluntarily help their employees prepare for retirement. Your bill would bring

transparency to a previously secret set of arrangements by ensuring that plan sponsors and fiduciaries and Congress know about these agreements. We strongly support your bill.

We thank you for your leadership on these issues and look forward to working with you to enact this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Lynn D. Dudley". The signature is fluid and elegant, with the first letters of each word being capitalized and prominent.

Lynn D. Dudley

Senior Vice President, Global Retirement and Compensation Policy