

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4790
OFFERED BY Mr. Meeks**

Insert after section 1 the following:

1 **SEC. 2. SENSE OF CONGRESS THAT COMPANIES THAT IN-**
2 **CORPORATE DIVERSITY, EQUITY, AND INCLU-**
3 **SION PERFORM BETTER.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The impact of diversity, equity, and inclu-
6 sion (“DEI”) practices on organizational perform-
7 ance has consistently been illustrated across empiri-
8 cal research studies.

9 (2) Across a range of studies, research shows
10 that diverse boards lead to improved financial re-
11 sults, indeed companies with the highest percentages
12 of women board directors outperformed those with
13 the least by 53 percent when it comes to return on
14 equity.

15 (3) Despite the clear profit motive for compa-
16 nies to prioritize DEI, according to a recent analysis
17 of the boards of the 3,000 largest publicly traded
18 companies—

1 (A) just 12.5 percent of board directors
2 come from underrepresented ethnic and racial
3 groups, despite making up 40 percent of the
4 U.S. population; and

5 (B) African Americans make up just 4%,
6 and African American women only 1.5%, of the
7 individual board directors included in the re-
8 view.

9 (4) The companies that fail to prioritize DEI
10 are not only putting themselves and shareholders at
11 a financial disadvantage, they are also putting them-
12 selves at significant reputational, and in some cases,
13 litigation risk.

14 (5) A September 2020 Business Reporter arti-
15 cle noted that, “boards with only a token attempt at
16 diversity and inclusion, who practice ‘one and done’,
17 are unlikely to convince stakeholders that they are
18 really making an effort. They may well damage the
19 company’s reputation, especially in the eyes of inves-
20 tors looking for exemplary corporate governance
21 practice”.

22 (6) A failure to have a meaningful DEI policy
23 in place could also make it harder for companies to
24 hire and retain the best talent.

1 (7) In February 2021, a major newspaper re-
2 ported that many younger job seekers — those born
3 in the Millennial and Gen Z generations — see DEI
4 as a workplace requirement and may choose not to
5 work for companies that lack workforce diversity or
6 that are not making commitments to address the
7 issue of systemic racism.

8 (8) A 2020 DEI workplace survey noted that
9 job seekers and employees from historically under-
10 represented groups — about 4 in 5 Black, Hispanic,
11 and LGBTQ respondents — reported that “a di-
12 verse workforce is an important factor when evalu-
13 ating companies and job offers”.

14 (9) According to McKinsey, both women and
15 men are happier and plan to stay at their company
16 for longer when they believe their company is “high-
17 ly committed to gender diversity”.

18 (10) Given the risk of future talent gaps, busi-
19 ness risk professionals have advised that diversity
20 for investors is no longer simply just “nice to have”,
21 but a “must have” to manage the risks associated
22 with their forecasted talent gap.

23 (b) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that—

1 (1) the principles of diversity, equity, and inclu-
2 sion have a real and material impact on a business'
3 overall performance and financial outlook; and

4 (2) going forward, Congress shall make a good
5 faith effort to legislate in a way that ensures Amer-
6 ican companies incorporate DEI fundamentals into
7 their business strategy.

