

United States Senate

WASHINGTON, DC 20510

August 22, 2025

The Honorable Lori Chavez-DeRemer
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

Dear Secretary Chavez-DeRemer:

We are thankful for President Trump's recent executive order directing the Department of Labor to expand Americans' access to a modern retirement framework by increasing investment choice and diversification. Like the President, we believe this is a critical step in leveling the playing field for the 90 million American workers with a 401(k) or other defined-contribution retirement plan who lack the freedom to invest in private equity, cryptocurrency, and other alternative assets. For too long, abusive and meritless litigation fueled by outdated and burdensome regulations has disincentivized employers and fiduciaries from offering employee 401(k) plans with the compelling returns and diversification provided by alternative investments. We urge you to work expeditiously to implement the executive order with a regulatory safe harbor through a formal notice and comment rulemaking. Doing so will maximize the order's effectiveness and ensure industry has the certainty needed to deliver on behalf of American retirees.

Today, more than eight times as many workers have defined-contribution plans than defined-benefit plans, a significant reversal from 1975 when defined-benefit plans outnumbered defined-contribution plans. However, whereas defined-benefit plans allocate roughly one-third of their \$12 trillion in retirement assets to alternative assets, these same assets are unfairly unavailable to those with defined-contribution or 401(k) plans—America's preferred retirement savings vehicle. This disparate treatment is especially unfair considering the lack of material differences between the average characteristics or risk profiles of workers with a 401(k) versus those with a defined-benefit plan. As the preference for defined-contribution plans has continued to grow, modernizing the regulatory framework and addressing the lack of equal access has become even more essential to enhancing the retirement security of America's workers.

The relegation of 401(k) participants to commoditized mutual funds that mimic public markets, and whose returns generally lag the long-term net returns achieved by public pension plans and other institutional investors, is the product of years of meritless litigation that ignores the interest of the American worker. Such weaponization of the legal process has chilled the willingness of employers to offer alternative asset investment options. This is especially frustrating to American workers who want to reap the same benefits offered to other similarly situated workers with public pension plans.

Thanks to innovation in the financial system, private equity and other alternative asset products can be tailored through investment vehicles that make them compatible and safe options for defined-contribution plans. Additionally, recent economic studies from across the political ideological spectrum agree on the potential of alternatives, finding material increases to economic value for American retirees from expanded access to alternative assets. Specifically, in 2024, the National Association of State Retirement Administrators found that, "the higher real rate of return for public pension funds," compared to defined-contribution plans, is the formers "higher allocations to alternative assets, particularly private equities, which usually have a higher expected return than most other asset classes." To put in financial terms, a 2018 study by Georgetown University concurred, estimating that access to more diversified plans, like those with alternative asset investment options, could "increase retirement plan values by 17% over the life of the plan and reduces losses in a downturn."

As you look to begin implementing the President's executive order, we request that the process be done expeditiously through a formal rulemaking that establishes essential critical safe harbor protections. Your success will enable highly skilled plan fiduciaries to offer prudent allocations to alternatives without fear of frivolous lawsuits, aligning private-sector workers' opportunities with those of institutional investors. We look forward to working together with you and the President to further our shared belief in unleashing the full potential of U.S. financial markets for all of America's workers.

Sincerely,



Steve Daines
United States Senator



Markwayne Mullin
United States Senator



Jim Banks
United States Senator



Bernie Moreno
United States Senator



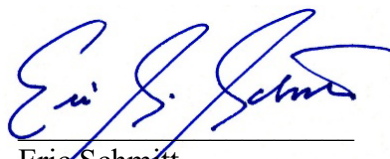
Cynthia M. Lummis
United States Senator



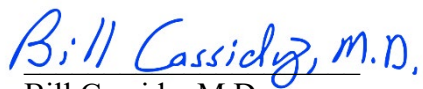
Bill Hagerty
United States Senator



Katie Boyd Britt
United States Senator



Eric Schmitt
United States Senator



Bill Cassidy, M.D.
United States Senator

\