

112TH CONGRESS
1ST SESSION

S. 267

To amend the Employee Retirement Income Security Act of 1974 to require a lifetime income disclosure.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2011

Mr. BINGAMAN (for himself, Mr. ISAKSON, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement Income Security Act of 1974 to require a lifetime income disclosure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lifetime Income Dis-
5 closure Act”.

6 **SEC. 2. DISCLOSURE REGARDING LIFETIME INCOME.**

7 (a) IN GENERAL.—Subparagraph (B) of section
8 105(a)(2) of the Employee Retirement Income Security
9 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

10 (1) in clause (i), by striking “and” at the end;

1 (2) in clause (ii), by striking “diversification.”
 2 and inserting “diversification, and”; and

3 (3) by inserting at the end the following:

4 “(iii) the lifetime income disclosure
 5 described in subparagraph (D)(i).

6 In the case of pension benefit statements de-
 7 scribed in clause (i) of paragraph (1)(A), a life-
 8 time income disclosure under clause (iii) of this
 9 subparagraph shall only be required to be in-
 10 cluded in one pension benefit statement during
 11 any one 12-month period.”.

12 (b) LIFETIME INCOME.—Paragraph (2) of section
 13 105(a) of such Act (29 U.S.C. 1025(a)) is amended by
 14 adding at the end the following new subparagraph:

15 “(D) LIFETIME INCOME DISCLOSURE.—

16 “(i) IN GENERAL.—

17 “(I) DISCLOSURE.—A lifetime in-
 18 come disclosure shall set forth the life-
 19 time income stream equivalent of the
 20 total benefits accrued with respect to
 21 the participant or beneficiary.

22 “(II) LIFETIME INCOME STREAM
 23 EQUIVALENT OF THE TOTAL BENE-
 24 FITS ACCRUED.—For purposes of this
 25 subparagraph, the term ‘lifetime in-

1 come stream equivalent of the total
2 benefits accrued’ means the amount of
3 monthly payments the participant or
4 beneficiary would receive if the total
5 accrued benefits of such participant or
6 beneficiary were used to provide life-
7 time income streams described in sub-
8 clause (III), based on assumptions
9 specified in rules prescribed by the
10 Secretary.

11 “(III) LIFETIME INCOME
12 STREAMS.—The lifetime income
13 streams described in this subclause
14 are a qualified joint and survivor an-
15 nuity (as defined in section 205(d)),
16 based on assumptions specified in
17 rules prescribed by the Secretary, in-
18 cluding the assumption that the par-
19 ticipant or beneficiary has a spouse of
20 equal age, and a single life annuity.
21 Such lifetime income streams may
22 have a term certain or other features
23 to the extent permitted under rules
24 prescribed by the Secretary.

1 “(ii) MODEL DISCLOSURE.—Not later
2 than 1 year after the date of the enact-
3 ment of the Lifetime Income Disclosure
4 Act, the Secretary shall issue a model life-
5 time income disclosure, written in a man-
6 ner so as to be understood by the average
7 plan participant, that—

8 “(I) explains that the lifetime in-
9 come stream equivalent is only pro-
10 vided as an illustration;

11 “(II) explains that the actual
12 payments under the lifetime income
13 stream described in clause (i)(III)
14 that may be purchased with the total
15 benefits accrued will depend on nu-
16 merous factors and may vary substan-
17 tially from the lifetime income stream
18 equivalent in the disclosures;

19 “(III) explains the assumptions
20 upon which the lifetime income stream
21 equivalent was determined; and

22 “(IV) provides such other similar
23 explanations as the Secretary con-
24 siders appropriate.

1 “(iii) ASSUMPTIONS AND RULES.—

2 Not later than 1 year after the date of the
3 enactment of the Lifetime Income Dislo-
4 sure Act, the Secretary shall—

5 “(I) prescribe assumptions that
6 administrators of individual account
7 plans may use in converting total ac-
8 crued benefits into lifetime income
9 stream equivalents for purposes of
10 this subparagraph; and

11 “(II) issue interim final rules
12 under clause (i).

13 In prescribing assumptions under sub-
14 clause (I), the Secretary may prescribe a
15 single set of specific assumptions (in which
16 case the Secretary may issue tables or fac-
17 tors that facilitate such conversions), or
18 ranges of permissible assumptions. To the
19 extent that an accrued benefit is or may be
20 invested in a lifetime income stream de-
21 scribed in clause (i)(III), the assumptions
22 prescribed under subclause (I) shall, to the
23 extent appropriate, permit administrators
24 of individual account plans to use the
25 amounts payable under such lifetime in-

1 come stream as a lifetime income stream
2 equivalent.

3 “(iv) LIMITATION ON LIABILITY.—No
4 plan fiduciary, plan sponsor, or other per-
5 son shall have any liability under this title
6 solely by reason of the provision of lifetime
7 income stream equivalents which are de-
8 rived in accordance with the assumptions
9 and rules described in clause (iii) and
10 which include the explanations contained in
11 the model lifetime income disclosure de-
12 scribed in clause (ii). This clause shall
13 apply without regard to whether the provi-
14 sion of such lifetime income stream equiva-
15 lent is required by subparagraph (B)(iii).

16 “(v) EFFECTIVE DATE.—The require-
17 ment in subparagraph (B)(iii) shall apply
18 to pension benefit statements furnished
19 more than 12 months after the latest of
20 the issuance by the Secretary of—

21 “(I) interim final rules under
22 clause (i);

23 “(II) the model disclosure under
24 clause (ii); or

1 “(III) the assumptions under
2 clause (iii).”

○