To amend the Employee Retirement and Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for the electronic delivery of pension plan information.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2016

Mr. BROWN (for himself and Mr. ENZI) 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 and Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for the electronic delivery of pension plan information.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Receiving Electronic Statements To Improve Retiree Earnings Act”.

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SEC. 2. ELECTRONIC COMMUNICATION OF PENSION PLAN INFORMATION.

(a) Amendments to Employee Retirement Income Security Act of 1974.—

(1) IN GENERAL.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021 et seq.) is amended by adding at the end the following:

“SEC. 112. ELECTRONIC COMMUNICATION OF PENSION PLAN INFORMATION.

“A document of any type that is required under this title to be furnished to a plan participant, beneficiary, or other individual with respect to a pension plan may be furnished in electronic form if—

“(1) the system for furnishing such a document—

“(A) is designed to result in effective access to the document by the participant, beneficiary, or other specified individual through electronic means, including—

“(i) the direct delivery of material to an electronic address of such participant, beneficiary, or individual,

“(ii) the posting of material to a website or other internet or electronic-based information repository to which ac-
cess has been granted to such participant, beneficiary, or individual, but only if proper notice of the posting has been provided (which may include notice furnished by other electronic means if the content of the notice conveys the need to take action to access the posted material), and

“(iii) other electronic means reasonably calculated to ensure actual receipt of the material by such participant, beneficiary, or individual,

“(B) permits the participant, beneficiary, or other individual to select among the specific electronic means made available through which such a document shall be furnished, to modify that selection at any time, or to elect at any time to begin receiving paper versions of such documents at no additional direct cost to the individual, and

“(C) protects the confidentiality of personal information relating to such participant’s, beneficiary’s, or individual’s accounts and benefits,
“(2) an annual paper notice is provided to each participant, beneficiary, or other individual that describes—

“(A) the selection of the specific electronic means for the furnishing of such documents made by the participant, beneficiary, or other individual under paragraph (1)(B) in effect at the time of the provision of the notice, or

“(B) if applicable, the election made by the participant, beneficiary, or other individual under paragraph (1)(B) to be furnished paper versions of such documents, and

“(3) the electronically furnished document—

“(A) is prepared and furnished in a manner that is consistent with the style, format, and content requirements applicable to the particular document, and

“(B) includes a notice that apprises the individual of the significance of the document when it is not otherwise reasonably evident as transmitted.

For purposes of this section, the term ‘document’ includes reports, statements, notices, notifications, and other information.”.
(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 111 the following:

112. Electronic communication of pension plan information.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(aa) ELECTRONIC COMMUNICATION OF PENSION PLAN INFORMATION.—A document of any type that is required under this title to be furnished to a plan participant, beneficiary, or other individual with respect to a plan to which this subchapter or section 457 applies may be furnished in electronic form if—

“(1) the system for furnishing such a document—

“(A) is designed to result in effective access to the document by the participant, beneficiary, or other specified individual through electronic means, including—

“(i) the direct delivery of material to an electronic address of such participant, beneficiary, or individual,

“(ii) the posting of material to a website or other internet or electronic-based information repository to which ac-
cess has been granted to such participant, beneficiary, or individual, but only if proper notice of the posting has been provided (which may include notice furnished by other electronic means if the content of the notice conveys the need to take action to access the posted material), and

“(iii) other electronic means reasonably calculated to ensure actual receipt of the material by such participant, beneficiary, or individual,

“(B) permits the participant, beneficiary, or other individual to select among the specific electronic means made available through which such a document shall be furnished, to modify that selection at any time, or to elect at any time to begin receiving paper versions of such documents at no additional direct cost to the individual, and

“(C) protects the confidentiality of personal information relating to such participant’s, beneficiary’s, or individual’s accounts and benefits,
“(2) an annual paper notice is provided to each participant, beneficiary, or other individual that describes—

“(A) the selection of the specific electronic means for the furnishing of such documents made by the participant, beneficiary, or other individual under paragraph (1)(B) in effect at the time of the provision of the notice, or

“(B) if applicable, the election made by the participant, beneficiary, or other individual under paragraph (1)(B) to be furnished paper versions of such documents, and

“(3) the electronically furnished document—

“(A) is prepared and furnished in a manner that is consistent with the style, format, and content requirements applicable to the particular document, and

“(B) includes a notice that apprises the individual of the significance of the document when it is not otherwise reasonably evident as transmitted.

For purposes of this subsection, the term ‘document’ includes reports, statements, notices, notifications, and other information.”.
(c) PROTECTION OF EXISTING METHODS.—Nothing in the amendments made by this section shall be construed to prohibit—

(1) the furnishing of documents by electronic means under any law or under any regulations or guidance prescribed by the Secretary of Labor or the Secretary of the Treasury (referred to in this subsection as the "Secretaries") prior to the date of the enactment of this Act, or

(2) the Secretaries from prescribing additional methods for furnishing documents as the Secretaries deem necessary or appropriate.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents furnished with respect to plan years beginning after December 31, 2016.