S. 2832

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2009

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.

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 “Lifetime Income Disclosure Act”.

SEC. 2. DISCLOSURE REGARDING LIFETIME INCOME.

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

(1) in clause (i), by striking “and” at the end;
(2) in clause (ii), by striking “diversification.”
and inserting “diversification, and”; and
(3) by inserting at the end the following:
“(iii) the lifetime income disclosure
described in subparagraph (D)(i).

In the case of pension benefit statements de-
scribed in clause (i) of paragraph (1)(A), a life-
time income disclosure under clause (iii) of this
subparagraph shall only be required to be in-
cluded in one pension benefit statement in each
calendar year.”.

(b) LIFETIME INCOME.—Paragraph (2) of section
105(a) of such Act (29 U.S.C. 1025(a)) is amended by
adding at the end the following new subparagraph:
“(D) LIFETIME INCOME DISCLOSURE.—
“(i) IN GENERAL.—
“(I) DISCLOSURE.—A lifetime in-
come disclosure shall set forth the an-
nuity equivalent of the total benefits
accrued with respect to the partici-
pant or beneficiary.
“(II) ANNUITY EQUIVALENT OF
THE TOTAL BENEFITS ACCRUED.—
For purposes of this subparagraph,
the ‘annuity equivalent of the total
benefits accrued’ means the amount of monthly payments the participant or beneficiary would receive at the plan’s normal retirement age if the total accrued benefits of such participant or beneficiary were used on the date of the lifetime income disclosure to purchase the life annuities described in subclause (III), with payments under such annuities commencing at the plan’s normal retirement age.

“(III) LIFE ANNUITIES.—The life annuities described in this subclause are a qualified joint and survivor annuity (as defined in section 205(d)), based on assumptions specified in rules prescribed by the Secretary, including the assumption that the participant or beneficiary has a spouse of equal age, and a single life annuity. Such annuities may have a term certain or other features to the extent permitted under rules prescribed by the Secretary.
“(ii) Model disclosure.—Not later than 1 year after the date of the enactment of the Lifetime Income Disclosure Act, the Secretary shall issue a model lifetime income disclosure, written in a manner so as to be understood by the average plan participant, that—

“(I) explains that the annuity equivalent is only provided as an illustration;

“(II) explains that the actual annuity payments that may be purchased with the total benefits accrued will depend on numerous factors and may vary substantially from the annuity equivalent in the disclosures;

“(III) explains the assumptions upon which the annuity equivalent was determined; and

“(IV) provides such other similar explanations as the Secretary considers appropriate.

“(iii) Assumptions and rules.—Not later than 1 year after the date of the
enactment of the Lifetime Income Disclosure Act, the Secretary shall—

“(I) prescribe assumptions that administrators of individual account plans may use in converting total accrued benefits into annuity equivalents for purposes of this subparagraph; and

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

In prescribing assumptions under subclause (I), the Secretary may prescribe a single set of specific assumptions (in which case the Secretary may issue tables or factors that facilitate such conversions), or ranges of permissible assumptions. To the extent that an accrued benefit is or may be invested in an annuity contract, the assumptions prescribed under subclause (I) shall, to the extent appropriate, permit administrators of individual account plans to use the amounts payable under such contract as an annuity equivalent.

“(iv) LIMITATION ON LIABILITY.—No plan fiduciary, plan sponsor, or other per-
son shall have any liability under this title solely by reason of the provision of annuity equivalents which are derived in accordance with the assumptions and rules described in clause (iii) and which include the explanations contained in the model lifetime income disclosure described in clause (ii). This clause shall apply without regard to whether the provision of such annuity equivalent is required by subparagraph (B)(iii).

“(v) EFFECTIVE DATE.—The requirement in subparagraph (B)(iii) shall apply to pension benefit statements furnished more than 12 months after the latest of the issuance by the Secretary of—

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

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

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

○