



119TH CONGRESS
2D SESSION

S. _____

To amend the Employee Retirement Income Security Act of 1974 to require that the Employee Benefit Security Administration make annual reports to Congress on investigations relating to enforcement and on adverse interest agreements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BANKS (for himself, Mr. CASSIDY, Mr. TUBERVILLE, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Employee Retirement Income Security Act of 1974 to require that the Employee Benefit Security Administration make annual reports to Congress on investigations relating to enforcement and on adverse interest agreements, and for other purposes.

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 “Investigation Status
5 and Governance for Honest Transparency Act” or the
6 “INSIGHT Act”.

1 **SEC. 2. ANNUAL REPORT ON INVESTIGATIONS.**

2 Section 504 of the Employee Retirement Income Se-
3 curity Act of 1974 (29 U.S.C. 1134) is amended by adding
4 at the end the following:

5 “(f) REPORT ON INVESTIGATIONS.—

6 “(1) IN GENERAL.—Not later than December
7 31 of each year following the date of enactment of
8 this subsection, the Secretary shall submit to Con-
9 gress a report on the status of cases in enforcement
10 status, including investigations that are active, or in
11 relation to which the Secretary asserted investigative
12 authority or engaged in targeted compliance moni-
13 toring, under subsection (a), during the preceding
14 fiscal year.

15 “(2) CONTENTS.—

16 “(A) IN GENERAL.—The report required
17 under paragraph (1) shall include the following
18 information in relation to each investigation
19 under subsection (a):

20 “(i) The regional or district office, or
21 any other office, of the Employee Benefit
22 Security Administration that opened the
23 investigation.

24 “(ii) The date the investigation was
25 opened.

1 “(iii) The date on which the Secretary
2 first requested documents from the target
3 of the investigation.

4 “(iv) In relation to the date on which
5 the Secretary first requested documents
6 from the target of the investigation in rela-
7 tion to such investigation—

8 “(I) whether the investigation
9 was concluded within the 36-month
10 period beginning on the date of such
11 request; and

12 “(II) if such investigation has
13 not been concluded by the end of such
14 36-month period—

15 “(aa) information on why
16 such investigation has not been
17 concluded; and

18 “(bb) the estimated date of
19 conclusion.

20 “(B) EXCLUDED INFORMATION.—The re-
21 port shall not include any information that
22 identifies any private party to the investigation,
23 including any plan, plan sponsor, fiduciary,
24 service provider, employee, or participant or
25 beneficiary.

1 “(C) CONCLUSION OF INVESTIGATIONS.—

2 For the purposes of paragraph (A)(iv), an in-
3 vestigation shall not be considered concluded
4 until the later of—

5 “(i) the date on which the Secretary
6 ceases to assert investigative authority in
7 relation to such investigation; or

8 “(ii) if applicable, terminates any tar-
9 geted compliance monitoring,

10 in each case as memorialized in a closing letter
11 delivered to the target of the investigation or
12 the party subject to compliance monitoring. In
13 the event that the issues or topics under inves-
14 tigation change during the course of an inves-
15 tigation, the Secretary’s continuing assertion of
16 authority under this section shall be treated as
17 a continuing investigation and not as a separate
18 investigation.”.

19 **SEC. 3. REPORT ON ADVERSE INTEREST AGREEMENTS.**

20 (a) IN GENERAL.—Section 504 of the Employee Re-
21 tirement Income Security Act of 1974 (29 U.S.C. 1134),
22 as amended by section 2, is further amended by adding
23 at the end the following:

24 “(g) COLLABORATION WITH PLAINTIFF ATTOR-
25 NEYS.—

1 “(1) IN GENERAL.—In the event that the Sec-
2 retary provides adverse assistance to an individual,
3 prior to providing the adverse assistance, the Sec-
4 retary shall—

5 “(A) enter into a written agreement with
6 the individual that details the nature and scope
7 of such assistance; and

8 “(B) provide a copy of such agreement to
9 any employer, plan sponsor, or fiduciary that
10 may be directly and adversely impacted by such
11 assistance.

12 “(2) ADVERSE ASSISTANCE DEFINED.—For
13 purposes of this subsection, the term ‘adverse assist-
14 ance’ means assistance or advice, including the dis-
15 closure of information as described in subsection (a),
16 that is directed specifically toward an attorney for
17 potential use in a civil action under section 502(a).

18 “(3) REPORT.—

19 “(A) IN GENERAL.—Not later than 60
20 days after the date of enactment of this sub-
21 section, and by December 31 of each year that
22 begins after such date, the Secretary shall sub-
23 mit to Congress a report containing information
24 on all agreements to provide adverse assistance

1 in effect for the preceding fiscal year, including,
2 in relation to each such agreement—

3 “(i) a copy of the agreement, with any
4 information described in subparagraph
5 (B)(ii) redacted;

6 “(ii) the date the agreement was en-
7 tered into;

8 “(iii) a detailed description of the na-
9 ture and scope of the assistance provided
10 during the fiscal year, including—

11 “(I) the information shared, in-
12 cluding the source, type, and amount
13 of the information, and the date on
14 which such information was shared;

15 “(II) a log of verbal communica-
16 tions, including—

17 “(aa) the date of each com-
18 munication;

19 “(bb) the parties engaged in
20 such communication;

21 “(cc) the mode of commu-
22 nication; and

23 “(dd) the nature of any in-
24 formation shared; and

1 “(III) a log of meetings, includ-
2 ing—

3 “(aa) the date of each meet-
4 ing;

5 “(bb) the parties present at
6 the meeting;

7 “(cc) mode of the meeting;
8 and

9 “(dd) the purpose of such
10 meeting and the nature of any
11 information shared; and

12 “(iv) an explanation of how such
13 agreement is consistent with the public pol-
14 icy of promoting the voluntary sponsorship
15 of employee benefit plans subject to this
16 Act.

17 “(B) IDENTIFYING INFORMATION.—The
18 report described under paragraph (A)—

19 “(i) shall identify the parties to each
20 agreement; and

21 “(ii) may not include any information
22 that may be used to identify any other per-
23 son (including an employer, plan sponsor,
24 plan fiduciary, service provider, or any
25 other potential defendant).”.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the amendments made by this section shall apply to
4 any adverse assistance provided on or after the date
5 of enactment of this Act.

6 (2) EXISTING AGREEMENTS.—For the purposes
7 of section 504(g)(1) of the Employee Retirement In-
8 come Security Act (29 U.S.C. 1134(f)(1)) (as added
9 by subsection (a)), if, not later than 60 days after
10 the date of enactment of this Act, the Secretary of
11 Labor takes the actions required in paragraphs (A)
12 and (B) of such section 504(g)(1) in relation to an
13 existing arrangement to provide adverse assistance,
14 the Secretary shall be deemed to have taken such ac-
15 tions prior to providing such adverse assistance.

16 **SEC. 4. PRIVATE PENSION PLANS AS INTEGRAL TO THE**
17 **CONTINUED WELL-BEING AND SECURITY OF**
18 **EMPLOYEES AND THEIR DEPENDENTS.**

19 Section 2 of the Employee Retirement Income Secu-
20 rity Act of 1974 (29 U.S.C. 1001) is amended by adding
21 at the end the following:

22 “(d) Congress finds that the retirement security of
23 millions of employees and their dependents is directly im-
24 pacted by the voluntary sponsorship and maintenance of
25 pension plans. It is hereby declared to be a policy of this

- 1 Act to promote, encourage, and facilitate the voluntary es-
- 2 tablishment and maintenance of, and contribution to, such
- 3 plans.”.