

Calendar No. 233

109TH CONGRESS
1ST SESSION**S. 1802**

To provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2005

Mr. ENZI introduced the following bill; which was read the first time

SEPTEMBER 30, 2005

Read the second time and placed on the calendar

A BILL

To provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

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 “Pension Flexibility in
5 Natural Disasters Act of 2005”.

1 **SEC. 2. AUTHORITY TO THE SECRETARY OF LABOR, SEC-**
2 **RETARY OF THE TREASURY, AND THE PEN-**
3 **SION BENEFIT GUARANTY CORPORATION.**

4 The Secretary of Labor, the Secretary of the Treas-
5 ury, and the Executive Director of the Pension Benefit
6 Guaranty Corporation shall exercise their authority under
7 section 518 of the Employee Retirement Income Security
8 Act of 1974 (29 U.S.C. 1148) and section 7508A of the
9 Internal Revenue Code of 1986 to postpone certain dead-
10 lines by reason of the Presidentially declared disaster
11 areas in Louisiana, Mississippi, Alabama, Texas, and else-
12 where, due to the effect of Hurricane Katrina or Rita. The
13 Secretaries and the Executive Director of the Corporation
14 shall issue guidance as soon as is practicable to plan spon-
15 sors and participants regarding extension of deadlines and
16 rules applicable to these extraordinary circumstances.
17 Nothing in this section shall be construed to relieve any
18 plan sponsor from any requirement to pay benefits or
19 make contributions under the plan of the sponsor.

20 **SEC. 3. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON**
21 **OF THE PRESIDENTIALLY DECLARED DIS-**
22 **ASTER CAUSED BY HURRICANE KATRINA OR**
23 **RITA.**

24 (a) **WAIVERS, SUSPENSIONS, OR EXEMPTIONS.**—In
25 the case of any pension plan which is an individual account
26 plan, or any participant or beneficiary, plan sponsor, ad-

1 administrator, fiduciary, service provider, or other person
 2 with respect to such plan, affected by Hurricane Katrina
 3 or Rita, or any service provider or other person dealing
 4 with such plan, the Secretary of Labor may, notwith-
 5 standing any provision of title I of the Employee Retire-
 6 ment Income Security Act of 1974, prescribe, by notice
 7 or otherwise, a waiver, suspension, or exemption from any
 8 provision of such title which is under the regulatory au-
 9 thority of such Secretary, or from regulations issued under
 10 any such provision, that such Secretary determines appro-
 11 priate to facilitate the distribution or loan of assets from
 12 such plan to participants and beneficiaries of such plan.

13 (b) EXEMPTION FROM LIABILITY FOR ACTS OR
 14 OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EX-
 15 EMPTION.—No person shall be liable for any violation of
 16 title I of the Employee Retirement Income Security Act
 17 of 1974, or of any regulations issued under such title,
 18 based upon any act or omission covered by a waiver, sus-
 19 pension, or exemption issued under subsection (a) if such
 20 act or omission is in compliance with the terms of the
 21 waiver, suspension, or exemption.

22 (c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION,
 23 OR EXEMPTION.—Notwithstanding any provision of the
 24 plan to the contrary and to the extent provided in any
 25 waiver, suspension, or exemption issued by the Secretary

1 of Labor pursuant to subsection (a), no plan shall be
 2 treated as failing to be operated in accordance with its
 3 terms solely as a result of acts or omissions which are
 4 consistent with such waiver, suspension, or exemption.

5 (d) EXPIRATION OF AUTHORITY.—This section shall
 6 apply only with respect to waivers, suspensions, or exemp-
 7 tions issued by the Secretary of Labor during the 1-year
 8 period following the date of the enactment of this Act.

9 (e) DEFINITIONS.—Terms used in this section shall
 10 have the meanings provided such terms in section 3 of
 11 the Employee Retirement Income Security Act of 1974
 12 (29 U.S.C. 1002).

13 **SEC. 4. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DE-**
 14 **CLARED DISASTER OR TERRORISTIC OR**
 15 **MILITARY ACTIONS.**

16 Section 518 of the Employee Retirement Income Se-
 17 curity Act of 1974 (29 U.S.C. 1148) is amended by insert-
 18 ing “, under any regulation issued thereunder, or under
 19 any plan provision” after “under this Act”.

Calendar No. 233

109TH CONGRESS
1ST Session
S. 1802

A BILL

To provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

SEPTEMBER 30, 2005

Read the second time and placed on the calendar