

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2869
OFFERED BY MRS. MCCLAIN OF MICHIGAN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Employee Benefit Se-
3 curity Administration Investigations Transparency Act”
4 or the “EBSA Investigations Transparency Act”.

5 SEC. 2. ANNUAL REPORT ON INVESTIGATIONS.

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

9 “(f) REPORT ON INVESTIGATIONS.—

10 “(1) IN GENERAL.—Not later than December
11 31 of each year following the date of enactment of
12 this Act, the Secretary shall submit to Congress a
13 report on the status of cases in enforcement status,
14 including investigations that are active, or in rela-
15 tion to which the Secretary asserted investigative au-
16 thority or engaged in targeted compliance moni-
17 toring, under subsection (a), during the preceding
18 fiscal year.

1 “(2) CONTENTS.—

2 “(A) IN GENERAL.—The report required
3 under subsection (a) shall include the following
4 information in relation to each investigation
5 conducted under subsection (a):

6 “(i) The regional or district office, or
7 any other office, of the Employee Benefit
8 Security Administration that opened the
9 investigation.

10 “(ii) The date the investigation was
11 opened.

12 “(iii) The date on which the Secretary
13 first requested documents from the target
14 of the investigation.

15 “(iv) In relation to the date on which
16 the Secretary first requested documents
17 from the target of the investigation in rela-
18 tion to such investigation—

19 “(I) whether the investigation
20 was concluded within the 36-month
21 period beginning on the date of such
22 request; and

23 “(II) if such investigation has
24 not been concluded by the end of such
25 36-month period—

1 “(aa) information on why
2 such investigation has not been
3 concluded; and

4 “(bb) the estimated date of
5 conclusion.

6 “(B) EXCLUDED INFORMATION.—The re-
7 port shall not include information identifying
8 any private party to the investigation, including
9 any plan sponsor, fiduciary, service provider,
10 employee, or participant.

11 “(C) CONCLUSION OF INVESTIGATIONS.—
12 For the purposes of paragraph (A)(iv), an in-
13 vestigation shall not be considered concluded
14 until the later of—

15 “(i) the date on which the Secretary
16 ceases to assert investigative authority in
17 relation to such investigation; or

18 “(ii) if applicable, terminates any tar-
19 geted compliance monitoring,

20 in each case as memorialized in a closing letter
21 delivered to the target of the investigation or
22 the party subject to compliance monitoring. In
23 the event that the issues or topics under inves-
24 tigation change during the course of an inves-
25 tigation, the Secretary’s continuing assertion of

1 authority under this section shall be treated as
2 a continuing investigation and not as a separate
3 investigation.”.

