

109TH CONGRESS
1ST SESSION

H. R. 1322

To amend title I of the Employee Retirement Income Security Act of 1974 to provide emergency protection for retiree health benefits.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2005

Mr. TIERNEY introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide emergency protection for retiree health benefits.

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 “Emergency Retiree
5 Health Benefits Protection Act of 2005”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Retired participants of group health plans
9 regulated by the Employee Retirement Income Secu-
10 rity Act of 1974 (ERISA) have been severely

1 harmed by the virtually unchecked practices of spon-
2 sors of such plans involving the post-retirement can-
3 cellation or reduction of health benefits which retir-
4 ees counted on receiving for their lifetimes.

5 (2) Such widespread post-retirement reductions
6 in retiree health benefits has led to a crisis in retiree
7 health care in which retirees—

8 (A) have been unable to substitute indi-
9 vidual coverage for the group coverage they
10 lost, or, in order to obtain individual coverage,
11 have jeopardized their economic security in re-
12 tirement;

13 (B) because of preexisting medical condi-
14 tions cannot obtain substitute coverage that
15 they can afford without depleting their life sav-
16 ings or have been unable to obtain adequate
17 medical care or medical care they had relied on
18 to deal with serious illness;

19 (C) have sustained catastrophic illnesses or
20 injuries or otherwise experienced a marked de-
21 terioration in their medical conditions or health
22 as a result of post-retirement changes to their
23 medical benefits;

24 (D) have been transferred indiscriminately
25 into improperly or inadequately managed health

1 maintenance organizations or other managed
2 care entities, resulting in the worsening rather
3 than improvement of prior medical conditions;
4 and

5 (E) in many instances, have failed to ob-
6 tain adequate relief in the courts due to highly
7 restrictive judicial interpretations which are in-
8 consistent with ERISA's underlying protective
9 purposes.

10 (3) The crisis in retirees healthcare generated
11 by the plan sponsor practice of post-retirement can-
12 cellations or reductions of previously promised re-
13 tiree health benefits has led to a widespread loss of
14 confidence in the integrity of ERISA-regulated
15 group health plans and the ability of ERISA itself
16 to adequately protect retiree health benefits.

17 (4) A strong and dependable private sector re-
18 tiree health system is necessary to the essential
19 health of our Nation's senior citizens.

20 (b) PURPOSES.—The purposes of this Act are to en-
21 sure that the reasonable health benefit expectations of re-
22 tirees from ERISA-regulated group health plans are ful-
23 filled, to minimize the incidence of prolonged legal dis-
24 putes arising out of the post-retirement cancellation or re-
25 duction of retiree health benefits from such plans, and to

1 prevent further adverse effects on retiree health arising
2 from such post-retirement changes. To this end, the pur-
3 poses of this Act also include the following:

4 (1) to safeguard retired participants of group
5 health plans subject to the Employee Retirement In-
6 come Security Act of 1974 (29 U.S.C. 1001 et seq.)
7 from loss or reduction of their health benefits from
8 such plans by barring plan sponsors from canceling
9 or reducing such benefits after the dates such par-
10 ticipants retire and when they no longer are able to
11 absorb such losses or reductions without experi-
12 encing adverse effects on their health or finances;

13 (2) to establish an enforceable obligation on the
14 part of sponsors of such group health plans to re-
15 store health benefits previously taken away from re-
16 tired participants of such plans to the extent such
17 benefits were canceled or altered after the dates
18 such participants retired and the plan sponsor would
19 not sustain substantial business hardship by restor-
20 ing such benefits; and

21 (3) to establish an Emergency Retiree Health
22 Loan Guarantee Program to assist sponsors of
23 group health plans subject to the obligation to re-
24 store retiree health benefits under this Act to obtain
25 credit to assist them in discharging such obligations

1 by providing retiree health loan guarantees that
2 would encourage the availability of such credit.

3 **SEC. 3. AMENDMENT OF EMPLOYEE RETIREMENT INCOME**
4 **SECURITY ACT OF 1974 TO PROVIDE RETIREE**
5 **HEALTH BENEFIT PROTECTIONS IN GROUP**
6 **HEALTH PLANS.**

7 (a) IN GENERAL.—Subtitle B of title I of the Em-
8 ployee Retirement Income Security Act of 1974 is amend-
9 ed by adding at the end a new part 8 as follows:

10 **“PART 8—EMERGENCY RETIREE HEALTH**
11 **BENEFIT PROTECTIONS**

12 **“SEC. 801. PROHIBITION AGAINST POST-RETIREMENT RE-**
13 **DUCTIONS OF RETIREE HEALTH BENEFITS**
14 **BY GROUP HEALTH PLANS.**

15 “(a) IN GENERAL.—Notwithstanding that a group
16 health plan described in subsection (b) may contain a pro-
17 vision reserving the general power to amend or terminate
18 the plan or a provision specifically authorizing the plan
19 to make post-retirement reductions in retiree health bene-
20 fits, it shall be prohibited for any group health plan,
21 whether through amendment or otherwise, to reduce the
22 benefits provided to a retired participant or his or her ben-
23 efiary under the terms of the plan if such reduction of
24 benefits occurs after the date the participant retired for
25 purposes of the plan and reduces benefits that were pro-

1 vided to the participant, or his or her beneficiary, as of
2 the date the participant retired. Any group health plan
3 provision which purports to authorize the reduction of
4 benefits in a manner inconsistent with the foregoing prohi-
5 bition shall be void as against public policy.

6 “(b) GROUP HEALTH PLAN.—The term ‘group
7 health plan’ shall have the same meaning as in section
8 607(1).

9 “(c) PROHIBITED REDUCTION OF BENEFITS.—As
10 used in this section, references to a prohibited reduction
11 of benefits means any group health plan amendment or
12 other action which has the effect of—

13 “(1) canceling, decreasing or limiting the
14 amount, type, level, or form of any benefit or option
15 provided prior to the amendment or action;

16 “(2) imposing or increasing the out-of-pocket
17 costs a retired participant, or his or her beneficiary,
18 must pay in order to keep or obtain any benefits
19 that were provided to the participant or beneficiary
20 prior to the amendment or action; or

21 “(3) modifying the manner by which medical
22 services are delivered under the plan so that after
23 the amendment or action a retired participant, or
24 his or her beneficiary, has less ready access to the
25 delivery of any such medical services than the partic-

1 participant or beneficiary had prior to the amendment or
2 action.

3 “(d) TREATMENT OF PLAN TERMINATION.—

4 “(1) IN GENERAL.—Subject to paragraph (2), a
5 termination of a group health plan shall be treated
6 as violating the prohibition contained in this section
7 if, after the termination, the plan sponsor of the ter-
8 minated plan fails to continue to provide to the par-
9 ticipants who retired prior to the termination and to
10 their beneficiaries the same retiree health benefits
11 that were provided prior to the termination.

12 “(2) WAIVER.—Paragraph (1) shall not apply
13 in the case of the termination of a group health plan
14 if the Secretary issues a waiver under this para-
15 graph in connection with such termination. The Sec-
16 retary shall issue such a waiver if and only if the
17 plan sponsor demonstrates to the satisfaction of the
18 Secretary, in accordance with regulations prescribed
19 by the Secretary, that such plan sponsor will be un-
20 able to continue in business unless such a waiver is
21 issued.

22 “(e) CONSENT OR AUTHORIZATION BY PARTICI-
23 PANT.—A reduction of benefits shall not be treated as pro-
24 hibited by this section if such reduction is consented to
25 in writing by any retired participant or is authorized with

1 respect to the retired participant under the terms of one
2 or more agreements which the Secretary finds to be collec-
3 tive bargaining agreements between one or more employee
4 representatives who were representing such participant at
5 the time of the entry into such agreement and one or more
6 employers.

7 **“SEC. 802. ADOPTION BY GROUP HEALTH PLANS OF PROVI-**
8 **SION BARRING POST-RETIREMENT REDUC-**
9 **TIONS IN RETIREE HEALTH BENEFITS.**

10 “Every group health plan shall contain a provision
11 which expressly bars the plan, or any fiduciary of the plan,
12 from reducing the benefits provided under the plan to a
13 retired participant, or his or her beneficiary, if such reduc-
14 tion affects the benefits provided to the participant or ben-
15 eficiary as of the date the participant retired for purposes
16 of the plan and such reduction occurs after the partici-
17 pant’s retirement.

18 **“SEC. 803. RESTORATION BY GROUP HEALTH PLANS OF**
19 **BENEFITS REDUCED AFTER RETIREMENT.**

20 “(a) IN GENERAL.—The plan sponsor of each group
21 health plan shall provide, in accordance with this section,
22 the option of benefit restoration to each retired participant
23 that meets the following requirements:

24 “(1) The retired participant is entitled to ben-
25 efit coverage under the plan as of the date of enact-

1 ment of the Emergency Retiree Health Benefits Pro-
2 tection Act of 2005.

3 “(2) The amount, type, level, or form of any
4 benefits or option provided to the retired participant
5 under the plan as of the date the participant retired
6 was reduced after the participant’s date of retire-
7 ment. For purposes of the preceding sentence, the
8 term ‘reduced’ has the same meaning as in section
9 801(c).

10 “(3) The retired participant has elected to re-
11 store benefits under the plan within the restoration
12 period prescribed by subsection (c) and in accord-
13 ance with such procedures established by the plan
14 pursuant to regulations of the Secretary.

15 “(b) EXCEPTION FOR CERTAIN PLANS.—In accord-
16 ance with regulations prescribed by the Secretary, sub-
17 section (a) shall not apply to any group health plan with
18 less than 100 participants both on and after the date of
19 enactment of the Emergency Retiree Health Benefits Pro-
20 tection Act of 2005.

21 “(c) RESTORATION PERIOD.—The term ‘restoration
22 period’ means the period which—

23 “(1) begins not later than 1 year after the date
24 of enactment of the Emergency Retiree Health Ben-
25 efits Protection Act of 2005;

1 “(2) ends before 2 years from such date, unless
2 extended by the Secretary pursuant to section
3 804(g); and

4 “(3) is of no less than 60 days duration.

5 “(d) NOTICE REQUIREMENTS CONCERNING RES-
6 Toration of Benefits.—In accordance with regulations
7 prescribed by the Secretary, each group health plan sub-
8 ject to the requirements of subsection (a) shall, within no
9 less than 30 days prior to the commencement of the plan’s
10 restoration of benefits period, provide written notice to
11 each retired participant of the plan who meets the require-
12 ments of subsection (a) of the following:

13 “(1) A description of all benefits the retired
14 participant is entitled to have restored.

15 “(2) The administrative procedure established
16 under the plan which may be used to submit a claim
17 for the restoration of any benefits.

18 “(3) An itemization of the value of each benefit
19 the retired participant is entitled to have restored,
20 as determined in accordance with regulations of the
21 Secretary, and the total value of all such benefits.

22 “(4) A description of any post-retirement in-
23 creases in retiree health benefits the retired partici-
24 pant received which the plan sponsor could rescind

1 if the retired participant asserts a claim for the res-
2 toration of benefits.

3 “(5) An itemization of the value of each retiree
4 health benefit the plan sponsor could rescind, as de-
5 termined in accordance with regulations of the Sec-
6 retary, and the total value of all such benefits.

7 “(6) If the plan sponsor has filed an application
8 for a substantial business hardship exemption under
9 section 804, the date such application was filed, the
10 date notice of such application was given to retired
11 participants entitled to submit a claim for the res-
12 toration of benefits, and the status of such applica-
13 tion as of the date of the notice sent pursuant to
14 this subsection.

15 “(7) Such other information in such form and
16 detail as may be prescribed by the Secretary to carry
17 out the purposes of this part.

18 “(e) DEADLINE FOR RESTORATION OF BENEFITS.—
19 Regardless of any extension that may be granted by the
20 Secretary pursuant to section 804(g), all benefits required
21 to be restored under this section shall be restored within
22 no more than 3 years from the date of enactment of the
23 Emergency Retiree Health Benefits Protection Act of
24 2005, or the date the plan sponsor files an application for
25 an exemption under section 804, whichever comes last.

1 **“SEC. 804. EXEMPTION FROM RESTORATION OF BENEFITS**
2 **REQUIREMENTS.**

3 “(a) APPLICATION FOR EXEMPTION.—Any plan
4 sponsor of a group health plan that would sustain substan-
5 tial business hardship if required to fulfill, in whole or in
6 part, the restoration of benefits requirements contained in
7 section 803, may file an application for an exemption with
8 the Secretary from any or all of such requirements.

9 “(b) AUTHORITY FOR WAIVER OR VARIANCE.—In re-
10 sponse to an application filed by a plan sponsor pursuant
11 to subsection (a), the Secretary may waive or vary the re-
12 quirements of section 803 with respect to any or all of
13 such requirements, including postponing for reasonable
14 periods of time the obligation of the plan sponsor to re-
15 store reduced benefits, if the Secretary finds that compli-
16 ance by the plan sponsor with the requirements of section
17 803 would—

18 “(1) be adverse to the interests of plan partici-
19 pants in the aggregate;

20 “(2) not be administratively feasible; and

21 “(3) cause substantial business hardship to the
22 plan sponsor.

23 “(c) FACTORS TAKEN INTO ACCOUNT.—For pur-
24 poses of this section, the factors to be taken into account
25 in determining substantial business hardship shall include
26 (but shall not be limited to) whether—

1 “(1) the plan sponsor is operating at an eco-
2 nomic loss;

3 “(2) compliance with the restoration of benefits
4 requirements would necessitate substantial future re-
5 ductions in health benefits provided to participants
6 under the plan or cause a substantial decline in em-
7 ployment with the plan sponsor;

8 “(3) it is reasonable to expect that the plan will
9 be continued only if a waiver or appropriate variance
10 is granted; and

11 “(4) the provisions of the Retiree Health Loan
12 Guarantee Program established under section 805
13 are unavailable to the plan sponsor submitting the
14 application, or, if available, still would not provide a
15 sufficient basis for denying a waiver or variance.

16 “(d) REQUIREMENT OF SATISFACTORY EVIDENCE.—

17 “(1) IN GENERAL.—The Secretary shall, before
18 granting a waiver or variance under this section, re-
19 quire each applicant to provide evidence satisfactory
20 to the Secretary that the applicant has provided
21 timely written notice of the filing of an application
22 for such waiver or variance to each retired partici-
23 pant entitled to submit a claim for the restoration
24 of benefits under the applicant’s plan.

1 “(2) TIMELINESS.—For purposes of paragraph
2 (1), a written notice shall be considered timely if it
3 is provided not later than 60 days prior to the date
4 the plan sponsor files an application for a waiver or
5 variance under this section.

6 “(3) INFORMATION REQUIRED.—The notice re-
7 ferred to in paragraph (1) shall include information
8 with respect to the specific relief that will be sought
9 by the plan sponsor’s application, the period of time
10 for which relief is sought, and such other relevant
11 information as the Secretary may prescribe.

12 “(e) PARTICIPATION IN PROCEEDINGS BY RETIRED
13 PLAN PARTICIPANTS.—Each retired participant entitled
14 to submit a claim for the restoration of benefits within
15 the meaning of this section shall be provided a reasonable
16 opportunity to submit comments or otherwise participate
17 in any proceeding established by the Secretary to deter-
18 mine whether to grant or deny an application for a waiver
19 or variance filed by the retired participant’s plan sponsor.

20 “(f) EXCEPTION FOR CERTAIN APPLICATIONS.—The
21 Secretary shall not be authorized to grant any application
22 for a waiver or variance purporting to satisfy the require-
23 ments of subsection (b) if—

24 “(1) within the 5-year period preceding the date
25 of the plan sponsor’s application the plan sponsor

1 could have transferred excess pension assets to a
2 health benefits account within the meaning of sec-
3 tion 420 of the Internal Revenue Code of 1986 (as
4 in effect on the date of the enactment of the Tax
5 Relief Extension Act of 1999) but failed to do so,
6 and the plan sponsor is submitting an application on
7 behalf of such retiree health account; or

8 “(2) the plan sponsor submitting the applica-
9 tion also maintains a fully funded pension plan with
10 respect to which—

11 “(A) retired participants eligible to submit
12 a claim for the restoration of benefits under
13 section 803 are also eligible to receive ad hoc
14 cost-of-living adjustment benefits;

15 “(B) the assets of the fully funded pension
16 plan, over the past 5 years preceding the date
17 of application for a waiver or variance, on aver-
18 age have exceeded 120 percent of the plan’s li-
19 abilities;

20 “(C) the plan had no minimum funding re-
21 quirement to satisfy within the 5 years pre-
22 ceding the date of application for the waiver or
23 variance and the plan sponsor submitting the
24 application made no minimum funding con-

1 tribution to the fully funded pension plan dur-
2 ing such 5-year period; and

3 “(D) the plan sponsor submitting the ap-
4 plication for a waiver or variance failed to pro-
5 vide an ad hoc cost-of-living adjustment benefit
6 from the fully funded pension plan during the
7 5-year period preceding the date of application
8 for the waiver or variance.

9 “(g) **RUNNING OF RESTORATION PERIOD SUS-**
10 **PENDED.**—The submission of an application for a waiver
11 or variance pursuant to this section shall suspend the run-
12 ning of any relevant restoration period as specified in sub-
13 section (c). Where appropriate, the Secretary shall direct
14 the reopening of any relevant restoration period upon the
15 final conclusion of proceedings to determine whether an
16 application should be granted or denied.

17 **“SEC. 805. ESTABLISHMENT OF EMERGENCY RETIREE**
18 **HEALTH LOAN GUARANTEE PROGRAM.**

19 “(a) **DEFINITIONS.**—For purposes of this section—

20 “(1) **BOARD.**—The term ‘Board’ means the
21 Emergency Retiree Health Loan Guarantee Board
22 established under subsection (c).

23 “(2) **PROGRAM.**—The term ‘Program’ means
24 the Emergency Retiree Health Loan Guarantee Pro-
25 gram established under subsection (b).

1 “(3) ELIGIBLE PLAN SPONSOR.—The term ‘eli-
2 gible plan sponsor’ means any plan sponsor as de-
3 fined in section 3(16)(B) that maintains a group
4 health plan subject to the retiree health benefits res-
5 toration requirements of section 803.

6 “(b) ESTABLISHMENT OF EMERGENCY RETIREE
7 HEALTH LOAN GUARANTEE PROGRAM.—There is estab-
8 lished the Retiree Health Loan Guarantee Program, to be
9 administered by the Board, the purpose of which is to pro-
10 vide loan guarantees to eligible plan sponsors in accord-
11 ance with this section.

12 “(c) RETIREE HEALTH LOAN GUARANTEE BOARD
13 MEMBERSHIP.—There is established a Retiree Health
14 Loan Guarantee Board, which shall be composed of—

15 “(1) the Secretary of Labor, who shall serve as
16 Chairman of the Board;

17 “(2) the Secretary of Commerce;

18 “(3) the Secretary of the Treasury;

19 “(4) the Secretary of Health and Human Serv-
20 ices; and

21 “(5) the Chairman of the Council of Economic
22 Advisers.

23 “(d) Retiree Health Loan Guarantee Program—

24 “(1) AUTHORITY.—The Program may guar-
25 antee loans provided by private banking and invest-

1 ment institutions to eligible plan sponsors for pur-
2 poses of assisting such plan sponsors to meet their
3 obligations under section 803. Such loan guarantees
4 shall be provided to the extent provided in advance
5 in appropriation Acts pursuant to paragraph (4) and
6 only in accordance with the procedures, rules, and
7 regulations established by the Board.

8 “(2) TOTAL GUARANTEE LIMIT.—The aggre-
9 gate amount of loans guaranteed and outstanding at
10 any time under this section may not exceed
11 \$5,000,000,000.

12 “(3) INDIVIDUAL GUARANTEE LIMIT.—The ag-
13 gregate amount of loans guaranteed under this sec-
14 tion with respect to a single eligible plan sponsor
15 may not exceed \$5,000,000.

16 “(4) ADDITIONAL COSTS.—For the additional
17 cost of loans guaranteed under this subsection, in-
18 cluding the costs of modifying the loans, as defined
19 in section 502 of the Congressional Budget Act of
20 1974 (2 U.S.C. 661a), there is authorized to be ap-
21 propriated \$200,000,000, to remain available until
22 expended.

23 “(e) REQUIREMENTS FOR LOAN GUARANTEES.—A
24 loan guarantee may be issued under this section upon ap-
25 plication to the Board by an eligible plan sponsor pursuant

1 to an agreement to provide a loan to that eligible plan
2 sponsor by a private bank or investment company, if the
3 Board determines that—

4 “(1) credit is not otherwise available to that eli-
5 gible plan sponsor under reasonable terms and con-
6 ditions sufficient to meet its financing needs with re-
7 spect to the restoration of retiree health benefits, as
8 reflected in the financial and business plans of that
9 eligible plan sponsor;

10 “(2) the prospective earning power of that eligi-
11 ble plan sponsor, together with the character and
12 value of the security pledged, furnish reasonable as-
13 surance of repayment of the loan to be guaranteed
14 in accordance with its terms;

15 “(3) the loan to be guaranteed bears interest at
16 a rate determined by the Board to be reasonable,
17 taking into account the current average yield on out-
18 standing obligations of the United States with re-
19 maining periods of maturity comparable to the ma-
20 turity of such loan;

21 “(4) the loan to be guaranteed will materially
22 assist that eligible plan sponsor to discharge its obli-
23 gation to comply with the restoration of benefits re-
24 quirements contained in section 803; and

1 “(5) the eligible plan sponsor has agreed to an
2 audit by the Government Accountability Office prior
3 to the issuance of the loan guarantee and annually
4 while any such guaranteed loan is outstanding.

5 “(f) TERMS AND CONDITIONS OF LOAN GUAR-
6 ANTEE.—

7 “(1) LOAN DURATION.—All loans guaranteed
8 under this section shall be payable in full not later
9 than December 31, 2013, and the terms and condi-
10 tions of each such loan shall provide that the loan
11 may not be amended or any provision thereof waived
12 without the consent of the Board.

13 “(2) LOAN SECURITY.—Any commitment to
14 issue a loan guarantee under this section shall con-
15 tain such affirmative and negative covenants and
16 other protective provisions that the Board deter-
17 mines are appropriate.

18 “(3) FEES.—An eligible plan sponsor receiving
19 a guarantee under this section shall pay a fee in an
20 amount equal to 0.5 percent of the outstanding prin-
21 cipal balance of the guaranteed loan to the Depart-
22 ment of the Treasury.

23 “(g) REPORTS TO CONGRESS.—The Secretary of
24 Labor shall submit annually to each House of the Con-
25 gress a full report of the activities of the Board under

1 this section during 2006 and 2007, and annually there-
2 after during such period as any loan guaranteed under
3 this section is outstanding. Such report shall be submitted
4 not later than January 31, of each year (beginning in
5 2006).

6 “(h) SALARIES AND ADMINISTRATIVE EXPENSES.—
7 For necessary expenses to administer the Program, there
8 is authorized to be appropriated to the Department of
9 Labor (and to be transferred to the Office of the Assistant
10 Secretary for Pension and Welfare Benefits Administra-
11 tion) \$10,000,000, to remain available until expended.

12 “(i) TERMINATION OF GUARANTEE AUTHORITY.—
13 The authority of the Board to make commitments to guar-
14 antee any loan under this section shall terminate on De-
15 cember 31, 2009.

16 “(j) REGULATORY ACTION.—The Board shall issue
17 such final procedures, rules, and regulations as may be
18 necessary to carry out this section not later than 90 days
19 after the date of enactment of the Emergency Retiree
20 Health Benefits Protection Act of 2005. In no event shall
21 the Board issue a procedure, rule, or regulation which au-
22 thORIZES it to approve or deny any application for a loan
23 guarantee in more than 270 days after receipt of such ap-
24 plication.

1 “(k) EMERGENCY DESIGNATION.—The entire
2 amount made available to carry out this section—

3 “(1) is designated by Congress as an emergency
4 requirement pursuant to section 251(b)(2)(A) of the
5 Balanced Budget and Emergency Deficit Control
6 Act of 1985 (2 U.S.C. 901(b)(2)(A)); and

7 “(2) shall be available only to the extent that
8 an official budget request that includes designation
9 of the entire amount as an emergency requirement
10 (as defined in the Balanced Budget and Emergency
11 Deficit Control Act of 1985) is transmitted by the
12 President to the Congress.

13 **“SEC. 806. EFFECT ON OTHER CLAIMS.**

14 “(a) OTHER CLAIMS UNAFFECTED.—Nothing con-
15 tained in this part shall be construed to alter, impair, or
16 eliminate any claim for retiree health benefits based on
17 conduct alleged to violate the terms of a group health plan,
18 any provision of this Act (other than this part), or both,
19 regardless of whether such conduct occurred prior to, on,
20 or after, the effective date of this part.

21 “(b) OTHER CAUSES OF ACTION NOT AUTHOR-
22 IZED.—Unless the conduct giving rise to a claim for re-
23 tiree health benefits is alleged to violate the provisions of
24 this part, nothing contained in this part shall be construed

1 to authorize any other cause of action for the recovery of
2 retiree health benefits.

3 **“SEC. 807. REGULATIONS.**

4 “The Secretary may promulgate such regulations as
5 may be necessary to carry out the provisions of this part.
6 The Secretary may promulgate any interim final rules as
7 the Secretary deems are appropriate to carry out this part.

8 **“SEC. 808. ENFORCEMENT.**

9 “The enforcement provisions of sections 501 and 502
10 shall be applicable to this part.”.

11 (b) CIVIL PENALTY SECTION.—Section 502(c) of the
12 Employee Retirement Income Security Act of 1974 (29
13 U.S.C. 1132(e)) is amended—

14 (1) by redesignating paragraph (8) as para-
15 graph (9); and

16 (2) by inserting after paragraph (7) the fol-
17 lowing new paragraph:

18 “(8) The Secretary may assess a civil penalty of not
19 more than \$1,000 for each separate violation of section
20 801, 802, or 803 by any person individually with respect
21 to each participant or beneficiary aggrieved by such viola-
22 tion.”.

23 (c) CONFORMING AMENDMENT.—The table of con-
24 tents in section 1 of such Act is amended by inserting

1 after the item relating to section 734 the following new
 2 items:

“PART 8—EMERGENCY RETIREE HEALTH BENEFIT PROTECTIONS

- “801. Prohibition against post-retirement reductions of retiree health benefits
 by group health plans.
 “802. Adoption by group health plans of provision barring post-retirement re-
 ductions in retiree health benefits.
 “803. Restoration by group health plans of benefits reduced after retirement.
 “804. Exemption from restoration of benefits requirements.
 “805. Establishment of emergency retiree health loan guarantee program.
 “806. Effect on other claims.
 “807. Regulations.
 “808. Enforcement.”.

3 **SEC. 4. SEPARABILITY OF PROVISIONS.**

4 The provisions of section 509 of the Employee Retire-
 5 ment Income Security Act of 1974 (29 U.S.C. 1139) shall
 6 be applicable to this Act and the amendments made there-
 7 by.

8 **SEC. 5. EFFECTIVE DATE.**

9 The amendments made by this Act shall take effect
 10 on the date of the enactment of this Act.

○