



Federal Legislative & Regulatory Report

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House and Senate reintroduce SECURE 2.0

On May 5, the House Ways and Means Committee unanimously approved [H.R. 2954](#), the Securing a Strong Retirement Act of 2021 (SSRA). Introduced on May 3, the bill is a collection of 45 provisions intended to expand retirement plan coverage, increase savings opportunities, facilitate access to lifetime income, and improve plan administration. A section-by-section summary can be viewed [here](#).

On May 20, Sens. Ben Cardin (D-MD) and Rob Portman (R-OH) introduced [S. 1770](#), the Retirement Security & Savings Act (RSSA/Cardin-Portman). Together with the House’s SSRA, Cardin-Portman will be the foundation of the next large retirement security package expected to be approved by Congress, often collectively referred to as “SECURE 2.0.” The reintroduced Cardin-Portman bill is very similar to the 2019 version, containing over 50 provisions aimed at improving retirement security.

Provisions already enacted have been removed and a few new provisions have been added to further align with SSRA, with which Cardin-Portman already shared numerous provisions. Notable provisions in both bills include:

- Indexing Catch-Up Contributions to Inflation
- Allowing an Optional Roth Employer Match
- Enabling Insurance-Dedicated ETFs (vETF)

- [Increasing the RMD Age](#)
- [Allowing Student Loan Matching](#)
- [Expanding the Start-Up Tax Credit](#)
- [Permitting 403\(b\) to Invest in CITs](#)
- [Increasing Retirement Plan Access for Part-Time Workers](#)

While the House and Senate bills share many similar provisions, Congress will need to reconcile the differences and overcome other political obstacles before SECURE 2.0 can become law. Many observers seem hopeful that SECURE 2.0 can become law during this Congress ('21-'22), but readers should note that the original SECURE Act enjoyed strong bipartisan support for several years before ultimately being enacted in 2019.

[Senate committee holds retirement hearing](#)

On May 13, the Senate HELP Committee held a [hearing](#) entitled, “Retirement Security: Building a Better Future.” Members and witnesses discussed how to incentivize employers to offer retirement plans and encourage employees to participate in employer-sponsored plans. Both Democratic and Republican committee members highlighted the importance of increasing both retirement savings and emergency savings, particularly in light of the COVID-19 pandemic and its detrimental effect on Americans’ financial well-being.

Additionally, some members and witnesses underscored the importance of addressing Social Security, and a few Democratic members highlighted the racial and economic disparities in the retirement system. Overall, the hearing is another positive sign for the prospects of advancing a bipartisan retirement security package during this Congress.

[Committee chairs request GAO review of target date funds](#)

On May 6, the chairs of the House Committee on Education and Labor and the Senate Committee on Health, Education, Labor & Pensions (HELP) [requested that the Government Accountability Office](#) (GAO) conduct a review of target date funds (TDFs).

House Committee Chairman Bobby Scott (D-VA) and Senate Committee Chairwoman Patty Murray (D-WA) are concerned about certain aspects of TDFs, saying “TDFs are often billed as ‘set it and forget it’ investments, yet expenses and risk allocations vary considerably among funds. The millions of families who trust their financial futures to target date funds need to know these programs are working as advertised and providing the retirement security promised.”

The chairs also raise concerns about the potential for TDFs to include “alternative assets” such as private equity following [a Trump-era Department of Labor decision](#).

Senators consider ERISA cybersecurity bonding requirement

Sens. Patty Murray (D-WA) and Maggie Hassan (D-NH) are drafting legislation to impose a bonding obligation similar to ERISA's existing bonding rules on persons who handle personally identifiable information or plan asset data.

Additionally, the bill would direct the DOL to issue guidance on plan administrators and plan service providers with respect to cybersecurity risk mitigation efforts. The DOL recently proposed [cybersecurity guidance](#) on its own. The guidance includes a [best practices document](#).

Currently, the proposal doesn't appear to have bipartisan support, limiting its prospects for enactment.

Lawmakers seek to encourage ESG investing in retirement plans

On May 20, Sen. Tina Smith (D-MN), Sen. Patty Murray (D-WA) and Rep. Suzan DelBene (D-WA) introduced [S. 1762](#), the Financial Factors in Selecting Retirement Plan Investments Act, to provide the legal certainty needed to promote sustainable investments in retirement plans.

The bill would amend ERISA to make clear that plans can consider environmental, social and governance (ESG) factors in their investment decisions when those factors are expected to have an impact on investment outcomes — provided plans consider them in a prudent manner consistent with their fiduciary obligations.

Additionally, the bill would repeal the Trump-era DOL ESG rule.

President Biden issues executive order on climate-related financial risk

On May 20, as part of the administration's whole-of-government approach to addressing climate change, President Biden issued an [Executive Order on Climate-Related Financial Risk](#). The sweeping order directs various federal agencies to incorporate climate-related financial risk into various workstreams and rulemakings.

Among other things, the order directs the DOL to rescind the Trump-era ESG rule for which the department had already issued a non-enforcement policy. The order also directs the DOL to report on other measures that can be implemented to protect the life savings and pensions of U.S. workers and families from climate-related financial risk, and to assess how the Federal Retirement Thrift Investment Board has taken ESG factors into account. The White House also issued a [fact sheet](#) to accompany the President's executive order.

On May 12, the House Financial Services Committee advanced six bills out of committee, including [H.R. 2570](#), the Climate Risk Disclosure Act. The bill requires public companies to disclose in their annual report information relating to the financial and business risks associated with climate change. The bill would also require the Securities and Exchange Commission to establish, in consultation with other relevant federal agencies, climate-related risk disclosure metrics and guidance, which will be industry-specific and will require companies to make both quantitative and qualitative disclosures.

Senators introduce legislation to improve MEPs

On May 19, Sens. Chuck Grassley (R-IA), Maggie Hassan (D-NH) and James Lankford (R-OK) introduced S. 1703, the Improving Access to Retirement Savings Act of 2021.

Previously introduced in the 116th session of Congress as [S. 5064](#), the bill allows 403(b) plans to participate in multiple employer plans (MEPs) and clarifies that small employers that join a MEP may take the small employer pension plan start-up credit for their first three years in a MEP, regardless of how long the MEP has been in existence.

Additionally, the bill creates a grace period to correct reasonable errors in administering automatic enrollment and escalation features when groups are enrolling in a MEP.

Finally, it would provide employers additional time to make retroactive plan amendments that increase benefits for employees. These provisions are included in the Securing a Strong Retirement Act of 2021, which was approved by the House Ways and Means Committee earlier this month.

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References and source material used in this publication

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Text of H.R. 2954, the Securing a Strong Retirement Act of 2021 (SSRA)
<https://www.congress.gov/117/bills/hr2954/BILLS-117hr2954ih.pdf>

Section-by-section summary of H.R. 2954

<http://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/SECURE%202.0%20Section%20by%20section%205.3.21.pdf>

Text of S. 1770, the Retirement Security & Savings Act (RSSA/Cardin-Portman)

<https://www.cardin.senate.gov/imo/media/doc/Retirement%20Security%20&%20Savings%20Act%20of%202021.pdf>

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Video and PDF links of testimony before Senate HELP Committee “Retirement Security: Building a Better Future” hearing
<https://www.help.senate.gov/hearings/retirement-security-building-a-better-future>

Letter to Comptroller General of the U.S. requesting GAO review of target date funds

<https://edlabor.house.gov/download/scott-murray-ask-government-watchdog-to-review-funds-responsible-for-the-retirement-security-of-millions>

U.S. Department of Labor Issues Information Letter on Private Equity Investments

<https://www.dol.gov/newsroom/releases/ebsa/ebsa20200603-0>

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DOL Announces New Cybersecurity Guidance for Plan Sponsors, Plan Fiduciaries, Record-Keepers, Plan Participants
<https://www.dol.gov/newsroom/releases/ebsa/ebsa20210414>

DOL cybersecurity best practices document

<https://www.dol.gov/sites/dolgov/files/ebsa/key-topics/retirement-benefits/cybersecurity/best-practices.pdf>

Text of S. 1762, Financial Factors in Selecting Retirement Plan Investments Act

<https://smithsenate.app.box.com/s/j4qos4wd7spa5epdimsbct3kwejalb1s>

Summary of S. 1762, Financial Factors in Selecting Retirement Plan Investments Act

<https://smithsenate.app.box.com/s/1czvrybssc3foa6zk8ku2hm1ngkofpxi>

White House Executive Order on Climate-Related Financial Risk

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/20/executive-order-on-climate-related-financial-risk/>

White House Fact Sheet about Executive Order on Climate-Related Financial Risk

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/05/20/fact-sheet-president-biden-directs-agencies-to-analyze-and-mitigate-the-risk-climate-change-poses-to-homeowners-and-consumers-businesses-and-workers-and-the-financial-system-and-federal-government/>

Text of H.R. 2570, the Climate Risk Disclosure Act
<https://www.congress.gov/117/bills/hr2570/BILLS-117hr2570rh.pdf>

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Text of S. 5064, the Improving Access to Retirement Savings Act (reintroduced in 117th Congress as S. 1703)
<https://www.govinfo.gov/content/pkg/BILLS-116s5064is/pdf/BILLS-116s5064is.pdf>

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Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, NRSforu.com/plansponsor.

About this report

BOB BEASLEY, CRC, Communications Consultant, edits this report. Beasley brings more than 30 years of financial services communications experience to your plan. He has contributed to past editions of the *Governmental 457(b) Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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