S. HRG. 117–678

BUILDING ON BIPARTISAN RETIREMENT LEGISLATION: HOW CAN CONGRESS HELP?

HEARING

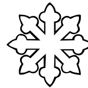
BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

JULY 28, 2021



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BUILDING ON BIPARTISAN RETIREMENT LEGISLATION: HOW CAN CONGRESS HELP?

WEDNESDAY, JULY 28, 2021

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:13 a.m., via Webex, in Room SD–215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Cantwell, Cardin, Brown, Bennet, Hassan, Cortez Masto, Crapo, Grassley, Thune, Toomey, Cassidy, Lankford, Daines, Young, Sasse, and Barrasso.

Also present: Democratic staff: Drew Crouch, Senior Tax and ERISA Counsel; Grace Enda, Tax Policy Analyst; Joshua Sheinkman, Staff Director; and Tiffany Smith, Chief Tax Counsel. Republican staff: Brandon Beall, Senior Policy Advisor; Jamie Cummins, Tax Counsel; Gregg Richard, Staff Director; and Jeffrey Wrase, Deputy Staff Director and Chief Economist.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee will come to order.

Before there was much knowledge of COVID–19, it was already far too difficult for Americans to save for a dignified retirement. According to the National Institute on Retirement Security, as of 2018 more than 100 million working-age Americans had no pension and no retirement assets.

The pandemic economic crash made saving even harder. A recent survey of the impact of the pandemic conducted by AARP found that, among those fortunate enough to have retirement accounts, nearly a quarter had to dip into their savings or quit contributing altogether just to pay the bills. Taken together, that means a sizeable majority of American workers fall into one of two camps. Either they cannot afford to save at all, or they have hardly any financial cushion when times get tough.

Now more recently, Americans were reminded about long-running retirement rip-offs by ultra-wealthy individuals advised by the priciest accountants and lawyers. This really was not new in a literal sense because, at our request, the Government Accountability Office years and years ago put together an extensive report outlining the abuses. Now one of these reports that Americans learned about included details on a multi-billion-dollar IRA. And certainly, if you are somebody who was scrimping and trying to save during the pandemic—say you are a teacher or a restaurant

manager who did not have a rainy-day fund—then you did not have anything. And then you read about these well-fed retirement accounts.

What it signaled, just in the last few months, is another case of double-standard economics. The system does not do nearly enough to help working people of modest means get ahead, but individuals at the very top—at the very, very top—are able to game the rules to get ahead and basically abuse taxpayer-subsidized accounts with pricey accountants and lawyers.

So this increases the already-existing inequality between retirement haves and have-nots to an extreme level. I want to make it clear—and Senator Crapo has probably heard this more times than he would wish—I want economic policy that gives everybody in America the chance to get ahead, not one that promotes, as we are going to see, retirement haves and have-nots.

The Finance Committee—Senator Crapo and I were talking about this—has a bipartisan tradition when it comes to helping Americans save, and we are going to continue that tradition in the months ahead. This has been, certainly, a polarized Congress, but make no mistake about it: this committee is going to come together as it relates to promoting savings.

So let me kick off a few proposals that I think will help. First, last week with Senator Bennet, Senator Casey, and Senator Menendez, I introduced the Encouraging Americans to Save Act, to get more help to the working folks who need it so badly. Under that proposal, the credit would be opened up to millions of Americans with modest incomes who never had access before. It would become a matching contribution that would go directly into a retirement account. It has the potential to be a game changer for folks in Oregon and all across the country who do not have the ability, as I said, to save much or anything at all.

Second, our tax code ought to help young people get started saving earlier in their careers. Too many Americans are unable to save at work because they are paying off mountains of student loan debt. Let me drop a picture of the person I am concerned about. Say you have a young person from a community of color where nobody has had a chance to go to college, and they are the first generation that did. They go out and they get that exciting new job, say with a tech company or manufacturer, and the company has a terrific retirement package, but the worker has to match what the employer puts in. But they are up to their eyeballs in student debt, and so they cannot take advantage of it.

So our Retirement Parity for Student Loans legislation—workers who make student loan payments would qualify to get a matching payment from their employer into a retirement savings plan like a 401(k). Their student loans shrink, and their nest egg grows under what we are talking about. That is my view of a savings win-win, and it is long overdue.

Third, the committee ought to make it easier for them to move their retirement accounts and continue saving when they change jobs. This is another area Senator Crapo and I have talked about because, if you look at the number of people who change their jobs by the time they are 40, they care enormously about portability.

And in 2021, it is fair to say very few people stay with an employer for their whole career.

The fact is, given that, it should not be such a pain in the neck to move your retirement savings. Many Americans just give up, faced with all the complexity and hassle, and cash out their savings, losing out on a whole lot of earnings that would build up over time. These rules essentially penalize Americans for routine job changes in a modern economy.

So the system ought to change. Even on this committee, back when we were having a debate in 2009, we also said we wanted to make health coverage more portable. But we've still got more to do on that, but this committee has a chance to make retirement savings more portable, and I am going to work closely with Senator Crapo to do it.

Finally, it is long past time to crack down on the mega-IRAs, which, as I held up in this very long GAO report, was documented years ago. The fact is, from the beginning IRAs—and you go back and read the documents—Republicans and Democrats said IRAs were to promote retirement security for the typical American family. They were not meant to become another tax dodge for billionaires. And the GAO, as I indicated, in their landmark study that we requested, essentially looked at it a number of years back.

GAO found then that nearly 8,000 taxpayers had aggregate IRA account balances in excess of $5 million. These massive IRAs have only gotten bigger and more prevalent. Yesterday, the Joint Committee on Taxation gave me data—and everybody should know this: it was lawfully obtained, okay, lawfully obtained. And it just basically showed GAO was right when we asked them to do it in 2014, and the problem is even greater now.

In 2019, almost 25,000 taxpayers had aggregate IRA account balances of over $5 million; 497 of those taxpayers had aggregate IRA accounts of over $25 million, with an average aggregate account balance of over $150 million each. It is clearly a tax loophole that ought to be closed. Hopefully we will have bipartisan support for that.

So we have a lot to talk about. I expect—and Senator Crapo and I have talked about this—we will have a lot of ideas coming in from both sides of the aisle. That is what public service is supposed to be about, to have big, important issues like retirement savings—which I started caring about years ago when I was director of the Gray Panthers at home in Oregon and had a full head of hair and rugged good looks.

My friend Tobias, who will get introduced in a minute, remembers some of those pictures. He belonged to the Tall Guys Caucus. So I have a longstanding interest in this, and it is not about Democrats and Republicans. This is about good policy, helping people, and giving everybody in America the chance to get ahead.

So we feel strongly about it, and I will look forward to remarks from my friend from Idaho.

[The prepared statement of Chairman Wyden appears in the appendix.]

OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR FROM IDAHO

Senator CRAPO. Thank you, Mr. Chairman, and I deeply appreciate your holding this important bipartisan hearing. Private retirement savings and retirement security are issues in the Finance Committee's jurisdiction that have a history of bipartisan cooperation, and I expect this time will be no different.

The purpose of this hearing is to hear testimony on how we can build on that bipartisan track record. In 2015 under then-Chairman Hatch, I co-chaired the Finance Committee's Savings and Investment Tax Working Group with Senator Brown. That working group examined a host of proposals to increase access to retirement plans, to increase participation in plans, and to preserve retirement savings.

Many of the findings from the working group—including open multiple-employer plans and provisions to help long-term part-time workers—were precursors to RESA and ultimately the SECURE Act, which became law in December 2019. At the same time, retirement savings were growing, and the economy was booming following the pro-growth, pro-worker policies enacted as part of the 2017 tax reform law. However, the pandemic put a great deal of stress on workers and retirees, and some had no choice but to withdraw money from their retirement accounts to make ends meet.

As the economy continues to bounce back, we have a chance to build on the success of the SECURE Act in a bipartisan way. House Ways and Means Committee Chairman Neal and Ranking Member Brady have already started the process. In the Senate, we are also making significant progress on this issue, thanks to the leadership of Senator Portman and Senator Cardin.

Other members, both those who sit on this committee and those who do not, have been working in a bipartisan way on retirement proposals which, as Senator Wyden has indicated, we expect we will hear more about today and will be coming to us as we put together the legislation that we expect to put together.

The range of ideas put forth to improve the retirement system are all important, but my focus is on three points that are the most pressing for Idahoans and Americans across the country. First and foremost, Congress should enact policies to encourage workers to save, so that they can enjoy a retirement. One survey conducted by the Department of Labor found that, while 71 percent of civilian workers had access to retirement benefits, the participation rate for that same group was only 55 percent.

This survey was conducted only months after the SECURE Act was enacted, so I will be interested to see updated studies and surveys in the future. But concerns remain about whether enough workers are saving for retirement.

Second, I frequently hear from small business owners in Idaho who tell me how expensive and cumbersome the rules are to offer their employees a retirement plan. These employers want to provide retirement benefits, but it is just not economically feasible. I am interested in hearing about what Congress can do to make it easier and cheaper for the smallest businesses to offer retirement plans for their employees.

Third, our economy is constantly evolving. People are working longer. Workers are changing jobs more often, and the number of gig workers is on the rise. Our retirement system must adapt with this changing landscape, so that every worker has a chance to save for a secure retirement. There is no better time for the Finance Committee to consider further retirement legislation that will meet these needs.

Mr. Chairman, I look forward to working with you, and all the members of this committee as well, to consider a so-called SECURE 2.0 package. To our panel of witnesses, I appreciate your willingness to share your expertise with us this morning, and I look forward to hearing from all of you.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. I thank my colleague.

We have two Senators on our side with a longstanding interest in retirement security. As I was speaking, Senator Cardin came in, and he has been working in these savings precincts for decades, and he deserves an enormous amount of credit for saying years ago this was an area where Congress ought to get out beyond the partisan back-and-forth, and he has teamed up with Republicans repeatedly, and we appreciate it.

The four witnesses are going to be Aliya Robinson, senior vice president for retirement and compensation policy for the ERISA Industry Committee. They focus on employee benefit issues for employers. She previously handled these issues for the Chamber of Commerce. We are glad you are here, ma'am.

The second witness will be Mr. Brian Graff, the chief executive officer of the American Retirement Association. It is an organization that represents a wide range of retirement professionals. If I listed them all, we would be here until breakfast. But I would like to note that we have a number of members from Oregon, so we are very glad you are here.

The third witness, David Certner, is with the American Association of Retired Persons. The Gray Panthers teamed up with them a long, long time ago. They do advocacy work for Americans aged 50 and older, and we are glad you are here.

Our fourth witness is a long-time friend and professional colleague, the Honorable Tobias Read. He is the State Treasurer of Oregon. His office is responsible for several savings programs for Oregonians, and he has really been a pioneer in this field.

We are very proud of our State. We have a program called OregonSaves, college savings plans established under the Federal tax code, and a savings account established under the Federal tax code for individuals with disabilities. So, Mr. Read, we welcome you. For all of you, we will make your prepared remarks a part of the record.

If you would like to take maybe 5 minutes or so to summarize your comments. It is going to be a hectic day here in the Senate, as you might imagine with the bipartisan efforts, and what we are working on in our committee. So members will be coming in and out, and we welcome you, Ms. Robinson. Please go ahead.

STATEMENT OF ALIYA ROBINSON, SENIOR VICE PRESIDENT, RETIREMENT AND COMPENSATION POLICY, THE ERISA INDUSTRY COMMITTEE, WASHINGTON, DC

Ms. ROBINSON. Thank you and good morning. Chairman Wyden, Ranking Member Crapo, members of the Senate Finance Committee, and others in attendance, I am pleased to testify on behalf of the ERISA Industry Committee, otherwise known as ERIC, on how Congress can continue to build bipartisan legislation to help American workers save for retirement.

I am Aliya Robinson, senior vice president for retirement and compensation policy at ERIC. ERIC has a unique voice as the only national association that advocates exclusively for large employers on health, retirement, and compensation policies at the Federal, State, and local levels.

Why do we offer a unique voice? Because we speak exclusively for large companies in their role as benefit plan sponsors. Our smallest member company has over 10,000 employees, and each operates in multiple States. As a matter of fact, most of our member companies operate in every State.

This can create compliance and logistical challenges that are not faced by other employers. More importantly, our member companies are at the forefront of benefit policies. They are driving innovative benefit designs and initiatives that often provide the blueprint for future legislative policies. We are pleased you want to help, and we have specific recommendations for action.

ERIC appreciates the efforts of Congress and this committee in particular, as was noted, to provide much-needed updates to retirement plan design and operation in the SECURE Act, and to address COVID–19-related concerns in the CARES Act and, most recently, in the American Rescue Plan Act.

As our economy continues to rebuild, we appreciate efforts to increase retirement security, particularly after the financial strain suffered by many workers and participants. Since all ERIC member companies offer retirement benefits to their employees, our focus is not on coverage but on increasing savings opportunities for plan participants and maximizing resources by decreasing administrative burdens.

This morning I will highlight a few of our recommendations, but many more are detailed in my written testimony. So let us start with student loan assistance. ERIC supports treating student loan payments as elected deferrals for the purpose of employer matching contributions, as originally proposed by Chairman Wyden and included in the bipartisan Retirement Security and Savings Act introduced by——

The CHAIRMAN. Ms. Robinson, can I just freeze that? And we are not going to do this except on this point. But student parity is so important to help all these students digging out from the debt. What this means is the hundreds of employers that you all represent are going to be supportive of this concept?

Ms. ROBINSON. Yes.

The CHAIRMAN. Great. Excuse me for interrupting.

Ms. ROBINSON. Not at all. And to that point, employers do not want their workers to miss out on matching contributions because they are repaying their student loan debt. So we support these ef-

forts to treat student loan payments as salary reduction contributions.

Our next recommendation is also meant to address comprehensive financial strains that workers face. ERIC believes that allowing for emergency savings accounts as part of retirement savings plans is critical to strengthening the connection between short-term financial concerns and adequate savings for retirement.

As such, ERIC supports the bipartisan Enhancing Emergency and Retirement Savings Act of 2021, introduced by Senators Lankford and Bennet. As I mentioned, ERIC member companies are in the forefront of benefit and plan design. One area where our member companies would like to see innovation is in the definition of a highly compensated employee.

The purpose of the non-discrimination rules is to ensure that highly compensated employees who are in decision-making positions are incentivized to provide proportional benefits for non-highly compensated employees. I should note the definition of a highly compensated employee statutorily is about $130,000 per year. So we are not talking about billionaires or millionaires.

Many industries have highly paid new hires, and flat payment structures are offered in locations where the cost of living is high. So, many employees are inappropriately treated as highly compensated employees, even though they do not have decision-making authority. This limits their ability to save, especially at the crucial early stages of their careers. Therefore, ERIC proposes that an employer be permitted to limit the employees considered highly compensated employees to the top 10 percent group of employees by compensation.

In addition to increasing savings opportunities, ERIC believes it is equally important to reduce administrative burdens. Due to the size of ERIC member companies, logistical issues can be significant and costly, such as the need to prepare and send required notices. ERIC greatly supports the provision in the Retirement Security and Savings Act that would consolidate and simplify existing ERISA and tax reports, notices, and disclosures.

However, simplifying and consolidating the notice requirements addresses only one part of the burden. A crucial factor is the distribution of notices and disclosures. Therefore, we are very supportive of the changes made by the Department of Labor to allow plan sponsors to use electronic delivery as the default option for providing retirement plan notices, and we encourage Congress to continue this flexibility for plan sponsors.

My final point is to urge you to avoid unnecessary and harmful increases in single-employer PBGC premiums, and we look forward to working with you on the bipartisan Pension and Budget Integrity Act, which has been introduced in previous Congresses.

ERIC applauds the leadership of this committee in recognizing the continued need to focus on retirement security, and we look forward to continuing to work with you to advance these and other measures to further promote retirement security for Americans.

Thank you.

The CHAIRMAN. Thank you, Ms. Robinson, and I am sure we are going to talk to you and ERIC often.

Okay, Mr. Graff next.

[The prepared statement of Ms. Robinson appears in the appendix.]

STATEMENT OF BRIAN H. GRAFF, CHIEF EXECUTIVE OFFICER, AMERICAN RETIREMENT ASSOCIATION, ARLINGTON, VA

Mr. GRAFF. Thank you, Chairman Wyden, Ranking Member Crapo, and the other members of the committee, for holding this hearing on improving our Nation's retirement plan system. My name is Brian Graff. I am the CEO of the American Retirement Association.

The ARA's 30,000 members and the organizations they are affiliated with support 95 percent of all the defined contribution plans like 401(k)s in the U.S. The workplace retirement plan system has been a success for those who have access. With almost $10 trillion in assets, these plans provide long-term economic growth and build financial security for the middle class.

Nearly two-thirds of participants in 401(k)s earn less than $100,000 a year. One-third make less than $50,000. For moderate income workers, the gateway to a comfortable retirement is being covered by a workplace retirement program. Data shows moderate-income workers are 12 times more likely to save for retirement if they have access to some type of workplace retirement savings program.

Despite these results, far too many Americans still lack access to a retirement plan at work. This lack of retirement plan coverage and the resulting lack of retirement savings is particularly pronounced in the Black and Latinx communities. Fifty-two percent of Black Americans and 58 percent of Latinx Americans do not currently have access to a workplace retirement plan. By contrast, only 40 percent of White Americans lack access.

As a result, 56 percent of Black families and two-thirds of Latinx families have zero retirement savings compared to 35 percent of White families. Expanding coverage with auto-enrollment is the key to solving this problem. Data shows that when moderate-income workers are auto-enrolled in a workplace plan, there is no, let me repeat, no racial disparity in retirement savings participation, with Black, Latinx, and White Americans all at about 80 percent.

In recent years, State governments have taken steps to close the retirement plan coverage gap with the enactment of automatic IRA programs. The key policy feature of these programs is a requirement that businesses over a certain size provide access to some type of retirement plan to their employees. To date, 10 States have enacted such programs, with Oregon being the first.

ARA applauds the success of these programs but believes a Federal policy would better assure the retirement plan coverage gap would be addressed consistently throughout the entire country. Senator Whitehouse has introduced the Automatic IRA Act, which would create a national requirement for businesses with 10 or more employees to adopt a retirement plan.

Similar legislation has been introduced by House Ways and Means Chairman Neal, with a tax credit to fully cover any employer costs. We believe these proposals would significantly close

the retirement plan coverage gap by leveraging existing retirement plan systems, while imposing practically no burden on employers.

ARA also supports Chairman Wyden's Encouraging Americans to Save Act, which is also a key provision in Senator Cardin's and Senator Portman's bipartisan Retirement Security and Savings Act. The bill incentivizes and supplements the retirement savings of moderate-income workers by expanding and enhancing the existing Saver's Credit, turning it into a government matching contribution of up to $1,000 a year for workers who save in a retirement account.

The bill also expands eligibility for the new Saver's Match, making the full 50-percent match available to families earning up to $65,000. With these increased income thresholds, over 120 million American workers would now be eligible for the new Saver's Match incentive for retirement savings. This includes millions of new gig workers in this country, as well as government workers like public school teachers, who currently are not eligible for matching contributions. Closing the retirement plan coverage gap and directly contributing to and incentivizing the retirement savings of moderate-income workers would have an amazing impact.

Estimates show the enactment of the combination of the Automatic IRA Act and the Encouraging Americans to Save Act would create 51 million new retirement savers and over $6 trillion in new savings over the next 10 years. Nearly all 98 percent of these new savers earn less than $100,000 a year. These two proposals would also greatly benefit the Black and Latinx communities, creating over 14 million new Black and Latinx retirement savers.

Retirement savings is accumulated wealth which leads to generational wealth and is an essential piece to closing the racial wealth gap. Besides these two important policies, as discussed in more detail in my written testimony, ARA supports several other legislative proposals that would strengthen and expand the workplace retirement plan system.

I encourage the Finance Committee and ultimately Congress to enact the Automatic IRA Act, the Encouraging Americans to Save Act, and other proposals designed to expand access to workplace retirement plans. The 401(k) plan has been a success story. Now you can make it a story of diversity as well.

Thank you, and I am happy to take any questions.

[The prepared statement of Mr. Graff appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Graff.

And I am glad to have Mr. Certner here. He has been someone who has given this committee a lot of counsel over the years. We welcome you, sir.

STATEMENT OF DAVID CERTNER, LEGISLATIVE COUNSEL AND POLICY DIRECTOR, AARP, WASHINGTON, DC

Mr. CERTNER. Thank you, Mr. Chairman, members of the committee. My name is David Certner, and we thank you for the opportunity to testify today on behalf of AARP on improving our retirement system.

A secure retirement traditionally centered on the three-legged stool of employer-provided pensions, personal savings, and Social Security. Unfortunately, diminishing pensions and inadequate sav-

ings, plus longer life expectancies and higher health costs, have put a secure retirement out of reach for too many, requiring Social Security to play an even greater role in retirement.

Social Security is already the principal source of income for over half of older households. Roughly one-quarter, about 10 million people, depend on Social Security for nearly all, 90 percent or more, of their income. Social Security keeps approximately 15 million older Americans out of poverty and allows millions more to live without fear about losing their income.

While Social Security is the base of income in retirement, more is needed. The dramatic switch from defined benefit plans to defined contribution plans over the past 40 years has had important implications for retirement security. Employees are now responsible for whether and how much to save, and must manage their retirement funds, even though most have little investment experience.

Unfortunately, most workers are not saving enough. Of course, access to a plan is better than none at all, and only about half of all workers have access to a retirement plan at work. Congress has taken numerous steps to make retirement saving easier, including features such as automatic enrollment and default investments, that have helped workers and increased savings.

However, automatic features only help workers who have a retirement plan. Expanding coverage to the tens of millions of workers without coverage remains a high priority. At the State level, AARP is focused on passing what are called Work and Save programs, which provide employer-facilitated access to payroll deduction savings for workers who do not have a way to save for retirement at work.

Such access helps address the coverage gap, because workers are 15 times more likely to save for retirement simply through payroll deduction at work. State programs, as you will soon hear from my colleague in Oregon, have already shown much promise in increasing coverage and savings.

In addition to State programs, Federal policy should also further encourage automatic payroll deduction savings. AARP has been a long-time supporter of Federal automatic IRA legislation such as that proposed by Senator Whitehouse.

AARP also supports legislation recently approved by the Ways and Means Committee, also introduced by Senators Cardin and Portman, known as SECURE 2, which includes many important changes. The bill would improve coverage for the 27 million part-time workers who generally are not covered by retirement savings plans.

This is especially important for older workers and caregivers, who often shift to part-time work. This bill would automatically enroll workers in new retirement plans as well. Of particular importance, the House version of SECURE 2 includes a requirement for an annual paper benefits statement, which AARP strongly supports. Plan participants, who generally prefer paper copies of important financial documents, should be provided statements in paper form unless they choose electronic delivery.

Congress needs to ensure workers receive and can review their annual benefit statements, similar to Social Security and the Fed-

eral employee statement of earned benefits, to help employees better understand and better manage their plans. Ensuring workers receive an annual paper statement can be complemented by added electronic measures.

SECURE 2 would also establish a national lost and found office, also proposed by Senators Warren and Daines, to help workers locate retirement accounts of previous employers. This has become increasingly important as more workers change jobs several times over their careers.

SECURE 2 also makes improvements to the required minimum distribution rules, including exempting a threshold amount that will both simplify the rules and help preserve savings. AARP also supports separate efforts to improve the saver's tax credit, which again acts as a matching contribution for low- and moderate-income taxpayers who contribute to a retirement plan. Improvements to the credit, such as those recently proposed by Chairman Wyden and others, can encourage and increase retirement savings for those least able to save.

We also must do more to protect retirement nest eggs. All tax-deferred retirement savings should be prudently invested with reasonable fees and without conflicts of interest. A uniform fiduciary standard should ensure that all financial professionals act in the sole interest of their customers in providing investment advice.

AARP also urges Congress to discourage pre-retirement cash-outs of retirement funds, and instead encourage portability and stable lifetime income streams. We should work together to encourage asset preservation and to provide low-cost distribution and spend-down options that meet workers and retirees' needs.

Finally, AARP commends the Congress for enacting important legislation earlier this year to protect the earned benefits of millions of workers and retirees counting on multiemployer pensions. The legislative support was critical to protecting the benefits of at-risk workers and retirees who had worked hard, earned their benefits, and were put at risk through no fault of their own.

Again, AARP would like to thank the committee for considering the challenges and needs for a secure retirement, and for the opportunity to share our policy views.

[The prepared statement of Mr. Certner appears in the appendix.]

The CHAIRMAN. Batting clean-up, as is fitting for Oregonians, is Tobias Read, and I want to again commend him for the terrific leadership that he has shown on these issues for a long, long time.

Treasurer Read?

STATEMENT OF HON. TOBIAS READ, OREGON STATE TREASURER, SALEM, OR

Mr. READ. Thank you, Mr. Chairman, Ranking Member Crapo. It is good to see two Senators from States that played an important role in my life, my home State and the State where I was raised, and thank you for giving us the opportunity to talk about this important topic today.

My name is Tobias Read, and I have the honor of serving as State Treasurer in Oregon. As State Treasurer, I am focused on promoting the financial security of all Oregonians. In 2015, when

I was a State Representative, I sponsored the legislation that ultimately created the Oregon Retirement Savings Program, which is now known as OregonSaves.

The State Treasury is tasked with implementing that program, and I am here to give you an update on our progress. Oregon created this first-in-the-Nation State-based automatic IRA program in response to the growing retirement savings crisis. When we launched it in 2017, we saw that approximately 1 million private-sector workers in Oregon did not have access to a retirement savings plan at work.

I am happy to report to you today that more than 110,000 Oregonians have funded IRAs with OregonSaves, and that collectively they have saved over $123 million. We know from the research conducted by AARP that people are more than 15 times more likely to save for retirement if there is an option to do so at work. OregonSaves is proving that out.

As you already heard and are likely already aware, this retirement savings crisis is particularly acute for people at the lower rungs of the economic ladder, and especially for women and people of color. This is one of the reasons that we are especially excited: in the past year, OregonSaves added home care workers and personal support workers who provide home-based help and services to adults and children experiencing disabilities across Oregon.

These workers are obviously doing critical jobs, and we are trying to help them prepare for retirement. The inclusion of these workers in OregonSaves will not only make this a viable career for many more people, but it will reduce turnover and thereby improve care for seniors and people living with disabilities. It is a win for these important workers, a win for the people they serve, and a win for Oregon.

As we were developing and rolling out OregonSaves, we knew that it would be important to build a strong collaborative relationship with employers. We constructed the program to limit the responsibilities of the employer as much as possible, and we are always on the lookout for ways to further reduce the time that employers spend facilitating the program. The goal, of course, is to ensure that all Oregonians have access to the program without placing an undue burden on the small employers around the State.

In fact, in testimony before the Oregon legislature, one employer group said, “The Treasurer’s Office has been incredible in the implementation of this program. They have tirelessly worked with us throughout the rules process to ensure that this is easy to implement. Clients are excited about it, and employees are excited about it.” That, by the way, is a credit to our team and our staff.

In the beginning, these accounts were designed to provide workers with a continuity of savings that they otherwise would not have. Their account moves with them from employer to employer. The Roth IRA structure also provides flexibility to the savers, managing the contributions, enabling workers to leave their money in to grow, to move it elsewhere to another IRA, or even to withdraw it any time without fear of penalty, a feature that we know has been especially important to people as they have faced some real challenges over the last year and a half.

For instance, in the early days of the pandemic as businesses were suddenly closing and people still had bills to pay and groceries to buy, we saw anecdotal evidence that people were able to use their accounts to provide much-needed financial stability. Many of these savers did tap their accounts, but we have seen many of them intentionally leave their accounts in place so that, as their circumstances change, they will be able to continue saving.

Obviously, our roots are around retirement, but OregonSaves has given us a way to engage with Oregonians about the range of savings needs that they confront, including saving for future educational needs through 529s, and health-care needs from the ABLE account.

Looking forward, we are going to continue focusing on ways to make it easier for people to save for retirement and find ways to further reduce what we hope is an already minimal administrative burden for employers. But we are also especially supportive of your efforts to incentivize savings.

The Encouraging Americans to Save Act, which was introduced by you, Chairman Wyden, would be a significant boost to OregonSaves and other programs like it by offering the matching credit you have already heard about. Anything we can do to encourage people to save for their future will ultimately take pressure off of local, State, and Federal budgets.

We are also very excited about discussions here that point to a possible expansion of who is eligible to participate in the ABLE savings program led by Senator Casey and others. The success of OregonSaves will have long-term positive implications for savers and for Oregon. Fewer Oregonians will enter into retirement in poverty, being less reliant on the social safety net, and people will have more dignity and choice as they age. OregonSaves was designed to improve our business climate and meet the needs of workers from a variety of circumstances, ultimately increasing the financial stability of Oregonians.

This is something we are very proud of as we get started, and we are also happy to say that this is just the start. I appreciate this hearing, and I look forward very much to the discussion we are having today.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Read appears in the appendix.]

The CHAIRMAN. Thank you all. I am going to try and see if we can cover a fair amount of ground pretty quickly.

Let me start with you, Mr. Graff. You gave everybody really a jaw-dropping statistic early on. I just want to make sure we get this right. You said combining our savings credit reforms with a national program like the one Mr. Read is talking about, OregonSaves, would result in over 50 million additional retirement savers, and would add $6.2 trillion in retirement savings over a decade.

So, if I am getting this right—I want to make sure that we are—what you are saying is, if you encourage non-savers to save and those with limited savings to save more, that can really be a head start for America's future with respect to retirement savings; is that right?

Mr. GRAFF. Thank you. Absolutely, Mr. Chairman. It would have a tremendous impact on, frankly, the potential for a comfortable retirement for tens of millions of Americans who currently do not have access. We know that getting access at the workplace as well as auto-enrollment, which is part of these proposals, works. The data is absolutely, positively clear.

As I indicated in my oral testimony, the active participation rate for folks, regardless of color, is around 80 percent. So these ideas have been proven to work. We just want to scale them at a national level. And what we are excited about with respect to your proposal, the Encouraging Americans to Save Act, is that we think it will bring even more savers who are currently not employed in a typical way, like gig workers, into the system, as well as a lot of public employees, like schoolteachers, who currently do not get matching contributions.

We are trying to deploy, basically, the success of how 401(k)s in the private workplace have succeeded and apply it much more universally. The data is very clear on this. This will work.

The CHAIRMAN. Good. And for the record, I want to make clear that this is the kind of principal Tobias Read has been employing for Oregon. We appreciate it.

The next question I want to pose to Ms. Robinson and Mr. Graff is on this issue of portability. And the fact is that, when the worker takes a devastating financial hit when they cash out their retirement too early, the statistics are really pretty ugly.

Research estimates $92 billion leaves the U.S. retirement system every year as a result of these early cash-outs. Could you two just briefly offer up your thoughts? I want to get to one other area before we wrap up, because we are going to work with you on this for the long term. In fact, why don't we just start with you, Ms. Robinson?

Ms. ROBINSON. We absolutely agree. Anything that helps participants keep track of their retirement accounts, keeps them in their qualified plan systems, we absolutely support.

In addition to the leakage problem you mentioned, we think it will also help with the missing participant problem, where participants either have a small account balance or spend a short amount of time with an employer, and the employer loses track of that participant.

If there is an auto-portability, then they are able to keep track of their accounts, and we think this will be helpful in a number of different areas.

The CHAIRMAN. All right.

Let us turn to this: our question of these abusively large IRAs. And I want to get your thoughts on this in particular, because it looks to me, as we unpack this—you look at the GAO report years ago, reinforced by the new data that when you have private equity and hedge fund traders and investment managers using these kinds of vehicles—it sure looks again like the double standard, because they have access to something that the typical American, this person who is not able to save at all or cannot save enough, does not have access to.

So my question to you, Mr. Graff, is, do you think these massive accumulations are possible largely as a result of the annual con-

tribution limit to IRAs, whether Roth or traditional accounts? And what are your thoughts with respect to this, because it sure looks to me like they are getting access to something that can explode in value, and the typical American does not have access to?

Mr. GRAFF. Thank you, Mr. Chairman. I think it is important in this regard to distinguish between what are called rollover IRAs versus contributory IRAs. Rollover IRAs, which most Americans are familiar with, come from 401(k) plans, other defined contribution plans, and they were already subject to very strict limits and non-discrimination rules.

What you are really referring to is more typically described as a contributory IRA, and I think the concern that you have usually stems from where venture capitalists contribute start-up company stock into a contributory IRA. These are hard-to-value assets that typically are valued at zero or next to zero. You know, I can give you an example where you have a venture capitalist go do ten start-ups in a year. They will put start-up stock in ten of these contributory IRAs, and one of them hits in a big way like you are talking about with the data.

You could have hundreds of millions, sometimes billions of dollars in this IRA. The problem in these hard-to-value assets is that, one, they are hard to value, and two, the IRS really has practically no ability to enforce how to value them because there is typically no appraisal associated with them.

So I think if you are concerned about this type of usage—this idea of putting the start-up stock into an IRA really is not a retirement tool. It is more of a tax-planning tool.

The CHAIRMAN. Just so we are clear, what I am talking about is not something that regularly the middle-class American has access to, in terms of being able to find these kinds of investments that just explode in value.

Mr. GRAFF. You have to be a registered securities investor, and yes, you are absolutely right.

The CHAIRMAN. That is the point.

Mr. GRAFF. Right. That is the point.

The CHAIRMAN. Great; thank you very much.

Senator Crapo?

Senator CRAPO. Thank you, Chairman Wyden.

I would like to go back to you, Ms. Robinson, and bring up a topic that has not really been focused on yet. I have long been a supporter of employee stock ownership plans, ESOPs.

I have talked with middle-income workers in Idaho whose opportunity for saving for their retirement essentially has just been phenomenally successful through the ability to participate in an employee stock ownership plan, and the employers themselves are very, very interested in this.

Do you believe that we should encourage the use of ESOPs and, if you do agree with that, could you comment on the role ESOPs play in the overall retirement system?

Ms. ROBINSON. Yes, thank you. We are supportive of ESOPs generally, but also employee stock ownership generally, and it has been shown that they are a benefit both to the business and to the participants themselves. There is greater employment stability.

People are less likely to leave those jobs. There is less likely to be layoffs when there is employee ownership. They are more likely to offer secondary retirement plans so that there is more opportunity for retirement savings.

Participants in these plans often save more than they would in a 401(k) plan, and they have higher rates of return and less volatility than 401(k) plans. So they also cover the under-paid employees and lower-paid employees more so than 401(k) plans.

So we think these are a really good opportunity for companies that offer this kind of choice in their retirement savings.

Senator CRAPO. Well, thank you. I agree with that perspective. I hope we will not lose sight of that as we move forward in this important arena.

Mr. Certner, according to a 2019 survey conducted by your organization and the Ad Council of moderate-income adults in their 40s and 50s, roughly 47 percent of the respondents identified retirement as being in their top three savings priorities. While this was just one survey, we can probably all agree that we want that statistic to be higher.

And setting aside for a moment the proposed changes to the Saver's Credit, can you speak about other policies that would incentivize and encourage workers to save for retirement?

Mr. CERTNER. I think first of all, we are talking about a large percentage who do not have access to a plan. So certainly, having access to a plan such as, for example the automatic IRA or programs like the one in Oregon, will help get more people covered.

Because—to put in context what was talked about earlier—we have a coverage rate in this country of about 50 percent. But that coverage rate has not changed in 4 decades. We have changed what type of plans people have, but we have not really changed the overall number. So doing more to establish more plans would be helpful.

Also, we have seen that automatic enrollment has been incredibly helpful. When plans have automatic enrollment, we get significantly more people who basically, through inertia, are going to end up doing the right thing—being in a plan—and not the wrong thing—being out of a plan. And so we think that can be very helpful as well.

So giving people access to a plan and having automatic enrollment are probably two of the most helpful things that we can do to improve coverage.

Senator CRAPO. All right; thank you.

And, Treasurer Read, I understand you were raised in Idaho?

Mr. READ. That is true.

Senator CRAPO. Well, I am proud to hear that today; thank you. I appreciated hearing about your experience with the OregonSaves program. It certainly is an interesting program, and I would be interested to hear more about how the interaction has been with employer-provided retirement plans.

How have the employers reacted to this program now that it has been in effect for a few years?

Mr. READ. Mr. Chair, Senator, thank you for the question. I would say there was, you know, some degree of skepticism as we got started. There is always some danger in being the first to try

something. But in the years that we have proceeded, we have addressed a lot of those concerns.

I think there is a range of opinions, of course. But what has really been striking to me is the number of small employers—we heard this echoed through your opening comments and some of the other testimony—who have wanted to provide retirement options for their employees but have struggled to do so, either because of their other obligations, the cost, time, and those sorts of things.

There is a restaurateur in the community where I live—Beaverton always comes to mind—who summarized this really well. He said, "I would love to do this for my employees, but I do not have an HR department. I have sandwiches to make."

I think we have addressed a lot of the anxiety that people felt, as evidenced by the testimony that was offered in the Oregon legislature as we were doing some clean-up. There is a relentless focus on our part to make it as easy as possible, as light a touch as we can possibly muster for employers; and it is easy for individual savers to participate.

Our point here is to introduce something that is otherwise complicated and intimidating for a lot of people in a way that makes it easy for them to get on a good path.

Senator CRAPO. Thank you very much.

The CHAIRMAN. Thank you, Senator Crapo.

Senator Grassley is next, and he is in person.

Senator GRASSLEY. Thank you. Before I ask a couple of questions, I would like to say that I appreciate, Mr. Chairman, your holding this hearing to examine proposals to enhance and expand access to retirement savings vehicles. It was a pleasure working with you in the last Congress to enact a bipartisan retirement plan that this committee had worked on, I think, over a course of three Congresses.

That legislation, known as the SECURE Act, made a number of important reforms to expand access and increase participation of employer-sponsored retirement plans. Chief among those reforms was to make it easier for employers to pull together to sponsor a group retirement plan for their workers. By harnessing economies of scale and reducing administrative costs, these reforms are making it easier for small businesses to offer retirement plans.

As a result, these reforms have the potential to expand retirement plan coverage for millions of American workers. The SECURE Act represents an important step forward in improving Americans' retirement security. But because we have a dynamic economy, that is why we are here now, to see what we can do to further the successes of the past.

My first question will be to Mr. Graff. I, along with Senators Hassan and Lankford, introduced the Improving Access to Retirement Savings Act, which will make pooled employer plans accessible to more employees.

Our bill clarifies that the small business retirement plan start-up credit applies to businesses doing pooled plans, and also would allow non-profit employers to just join pool plans. So can you expand upon how these provisions could help more workers gain access to workplace retirement plans?

Mr. GRAFF. Thank you, Senator Grassley. And absolutely, I think these are very important changes that we fully support. You particularly mentioned your proposal that would expand pooled employer plans to cover 403(b) plans, which is a particular type of plan like a 401(k) that is utilized by non-profit organizations.

As I know you are aware, in Iowa as well as throughout the country, there are literally hundreds of thousands of these smaller non-profit organizations that do really important work throughout the country. They want to be able to provide lower-cost retirement savings options to their employees, and this proposal, by allowing them to pool just like private-sector employers, would go a long way towards increasing access for those employees to a retirement savings program at work.

The tax credit is also important to clarify, so that if a non-profit organization or any organization joins a pooled employer plan that might be in existence for a number of years, they can still get the start-up tax credit even though the pooled employer plan has been around for a while, because they have not had a plan before. So these are important changes we support.

Senator GRASSLEY. A third provision in our bill would allow employers to make retroactive plan amendments to increase benefit accruals for employees up until the due date of the employer's tax return. Can you elaborate on how this provision could be used by small employers to increase the retirement savings of their employees?

Mr. GRAFF. Absolutely; thank you again, Senator Grassley. A lot of small businesses, as you know, really do not know what their financial situation is until after the end of the year. Prior to this proposal, under current law a small business, a mid-size business, could not do a profit-sharing contribution, because they did not know whether or not they had any profit until after they had had a chance to do the books and figure out where they stood.

This would allow them more time, up until the due date of the tax return, to assess how their prior year's performance was and hopefully benefit their employees by providing a bonus profit-sharing contribution that would be retroactively applied to the prior year.

Senator GRASSLEY. My last question will be to Ms. Robinson. In today's economy it has become increasingly rare for employees to spend their entire career working for one employer. The Bureau of Labor says the average worker switches jobs about every 4 years.

With such frequent turnover, employees may lose track of employer-based retirement accounts they contributed to early on in their career. Can you comment on ways we could make sure workers are not leaving retirement savings behind when they switch jobs?

Ms. ROBINSON. Thank you, Senator. Yes, and this is a concern for our member companies as well. So one we discussed earlier was the auto-portability, to make sure that, as participants leave one job, they are automatically tracking that retirement account moving to their next job.

Another is the lost and found registry, which was also mentioned, which would give participants a database where they could look for accounts that they may have left at a previous employer,

where maybe a merger or acquisition has happened, and they no longer know the name of that employer.

So those are two things that could really help, in terms of making sure that there are not accounts left behind.

The CHAIRMAN. Thank you, Senator Grassley.

Next is Senator Carper on the web.

Senator CARPER. Thanks, Mr. Chairman. Good morning, colleagues. Good morning to each of our witnesses, and many thanks for joining us today.

Research shows that—part of my background, I used to be Treasurer of the State of Delaware for about 6 years, and I focused a whole lot on a pension system, but focused a lot on a deferred compensation program to encourage folks to save, and in some cases for the State to match that.

I also worked here in the Senate with Rob Portman, Senator Portman from Ohio, to make some changes in the Thrift Savings Plan to encourage greater participation, and I think to good success. So these are issues I care about, and they are really important. You all outlined and highlighted that, and I could not agree more.

Research shows that access to a retirement account is critical to helping workers save for their future, and workers, I am told, are some 15 times more likely to save if there is an option to do so through their employer—15 times. Now nearly one-half of private-sector employees do not have access to employer-sponsored plans, and many of these individuals work for small businesses, which face heightened costs to establish these plans.

In recent years, I am told, a number of States have established automatic IRA programs that help extend coverage to these workers. States like Oregon have had real success in expanding access to retirement savings vehicles, including under the leadership of one of our witnesses, Mr. Read. I am glad to have you back before us.

I am encouraged that leaders in my own State of Delaware are considering implementing a similar program under the leadership of our State Treasurer.

I have a question for Mr. Read and Mr. Certner. How can the Federal Government better help facilitate the broader adoption and success of auto IRA plans? What features of the Oregon auto IRA program should be replicated, could be replicated by similar programs——

Mr. READ. Senator Carper, I am sorry to interrupt. If you are finished, I think it is a great question. I think there is a huge opportunity for Congress to provide leadership here. I would hope that whatever legislation you might consider would preserve the pioneering role that States like Oregon and Delaware and others are providing in establishing and designing and implementing programs like this.

I hope that it would allow States to continue that experimentation, that innovation, to adapt to changing circumstances and needs of our various States, potentially even collaborating among States that have seen significant potential benefits there as well.

I think there is real benefit to preserving what Louie Brandeis said, which is States' roles as laboratories of democracy. Those

commonalities amongst the different States, the experiences that we have had, I think, are already leading to better outcomes for individual savers and ultimately for the entire country.

Senator CARPER. Thank you for that.

Mr. Certner, your comments, please?

Mr. CERTNER. Yes, Senator Carper, I think I would agree with much of what was just said. You know we had previously and have proposals now to do a Federal auto IRA, to make sure that every State can have this access and automatic enrollment. That would really help move people into the retirement system that we do not have today.

But I think it is important that States which have really taken the lead on this now be allowed to continue to do what they are doing across the country. We have at least 10 States that have done this. We have another 15 or so that are in process of either moving towards it or looking at it.

We want to make sure we continue to encourage that, while we also look at the Federal level to see if we can bring this up nationally, because we do need to make a change like this that brings access and automatic enrollment to the rest of the population, if we want to really bump up the numbers of people who are actually beginning to contribute to accounts for retirement.

Senator CARPER. All right; thank you. Thank you, Mr. Chairman.

I have one more question I would like to ask you—just really short answers from each of our witnesses, please. The question for each of you is, in addition to automatic enrollment and auto-escalation of contributions, what are the most effective behavioral incentives or educational tools Congress could consider, should consider for promoting increased savings?

Mr. READ. Mr. Chair, Senator Carper, I think you nailed it. I think it is automatic enrollment. I think it is auto-escalation. And I think the additional credits and matching mechanisms in the proposal that Chairman Wyden has offered are very good starts.

Senator CARPER. Okay; thank you.

Other witnesses, please? Mr. Certner?

Mr. CERTNER. I would agree with that. Having matching contributions would be very helpful, because we know that incentives like a saver's tax credit, which are like an employer matching contribution, will also greatly increase, not just what one may be contributing but obviously will be adding to the savings with the match.

Senator CARPER. Great, thank you.

Mr. Graff?

Mr. GRAFF. Thank you, Senator. Coverage and auto enrollment are absolutely the key. The data consistently shows that. And then, once we get workers to save, we want to do everything we can to encourage and incentivize them to keep the money in the plan or in the IRA. That is also important: preventing leakage.

Senator CARPER. And lastly, Ms. Robinson, please.

Ms. ROBINSON. Thank you, Senator. I agree with what my colleagues have said, but I do want to highlight that, for those participants who already are auto-enrolled, auto-escalated, let us keep moving forward and thinking of new ways to continue to incent-

ivize employers to offer these plans, but also incentivize employees to increase their savings as well.

Senator CARPER. Here's to you, Mrs. Robinson, and to all of our other witnesses. Timely testimony, important testimony.

Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Senator Carper.

Here is our plan, colleagues, for the morning. We are going to have a vote at 11:30. Senator Crapo and I are going to keep this moving. I thank my colleagues for doing it. We have a lot of Senators because of the great interest in this. We are just going to keep moving.

Now, Senator Cardin—and many have invoked his name because of his good work.

Senator CARDIN. Well, Senator Wyden, Senator Crapo, thank you both for your leadership on this issue, and thank you for conducting this hearing. Just an observation. When I first started on retirement security issues with Congressman Portman when we were both in the House of Representatives many years ago, it was kind of lonely. We did not have a lot of people interested.

I must tell you, this is such an encouraging hearing, to see how many initiatives have been made by members of our committee, how many members of this committee are so interested in expanding opportunity for savings for retirement.

I want to just give a shout-out to the tragic loss this week of Mike Enzi, a member of this committee. I joined him on sponsoring the National Retirement Security Month issues, and we miss his common sense in this committee, and his loss was a tragic loss this week. It just was—I want to acknowledge that.

Senator Portman and I have introduced legislation—and I think almost all of the bills that we have talked about are trying to focus on how we can get lower-income workers and more people involved in savings for retirement. I think what we are all trying to do is at the entry level.

There is the leakage issue, that if we were designing retirement plans today from scratch, we would not make it as easy for people to be able to divert retirement funds for other purposes. But we are where we are, and we now need to work with the current system, and I think our focus is to help lower-income workers to save for their retirement.

The auto IRAs and the auto issues are fine, but the issue for a lot of lower-wage workers is, can they afford to put money into retirement? That is why an employer-sponsored plan with this employer match where the employer puts money on the table—it is hard to leave money on the table, so employees are likely to participate, and we know that in the Thrift Savings Plan here as Federal workers.

If you do not have that, the Saver's Credit fills the gap, and that is why the expansion of the Saver's Credit is such an important part of any effort to try to expand opportunities, and it is included in our legislation.

I also want to mention Senator Wyden's initiative in regard to student loan payment, because students, young workers, have to pay their student loan debt. That could be—if the employers match, that solves the problem, and we get more people engaged.

I also support expansion to part-time workers, because part-time workers are low-wage workers, and any way that we can get part-time workers engaged in the plans, I think is also an important part. Enhanced catch-up contributions are important because, particularly women leave the workplace during parts of the years. This gives them a chance of equality.

We have already talked about the automatic enrollment. That is critically important, because too many people make their decisions by inaction. Access for small companies to get plans is also important. All these issues are incorporated in a lot of the bills that have been brought forward.

So I guess my question—I will start with Mr. Graff—is that, if you had to pick the priorities on trying to enhance lower-wage workers being able to participate in retirement savings, which of these tools do you think are most important? Or do we have to have a menu opportunity here, that one will not be sufficient without reinforcing other areas?

Mr. GRAFF. So we have done a lot of economic modeling with a lot of these proposals, and thank you, Senator Cardin, for your decades of leadership on these issues. It really is telling what will move the needle in terms of getting millions of more people into the system, and really boosting savings at a macro level.

The two things that are clear are coverage, getting people access to a plan, and auto-enrolling them as much as possible. I think right behind that would be, as in your proposal, some type of booster incentive for folks. There are a lot of folks, particularly in small businesses, a lot of government workers in smaller municipalities, who do not have that match incentive that private-sector workers do. So those, that combination.

What we have found—and this is work that was done by the nonpartisan Employee Benefits Research Institute—is that that would increase savings over the next 10 years by over $6 trillion.

Senator CARDIN. My time is running short. If I could just emphasize one point and get your response to that, with the chairman's indulgence: the tax deferral is an important point for people putting money away for retirement. We find with younger workers, it unfortunately, in and of itself, does not motivate them to set up an IRA.

I agree automatic enrollment helps. An employer's match definitely helps. The Saver's Credit helps, am I correct?

Mr. GRAFF. Absolutely, and making it into a match, a true match like you are proposing that would be contributed to the 401(k) and the IRA account of the worker, is also a key part of that.

Senator CARDIN. Thank you.

The CHAIRMAN. Thank you, Senator Cardin.

Next will be Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. Thank you for just a succession of really important hearings that we are doing, and this is an amazing committee and the jurisdiction we have, and everything that you have done in this committee and these hearings is so helpful.

I want to start with Ms. Robinson. I would—I said March 6th, the day that the Senate passed the American Rescue Plan—we had been voting all night for 13 hours. It was Saturday about noon. I

turned to Senator Casey, also a member of this committee, and said, “This is the best day of my political career.”

I said it for two reasons. One, that the Senate passed the Child Tax Credit, which a number of people on this committee, particularly Senator Bennet and Senator Wyden, had worked on with us, that we passed that, which will have a huge impact on this country for years, we hope.

The other was the multiemployer pension bill, and that that was included in it. So I want to talk to you for a moment, Ms. Robinson, about that. The PBGC was tasked with writing regulations earlier this month. It released an interim final rule. It is a momentous program. It is going to protect workers across, especially the industrial heartland and elsewhere, but especially there. I am proud of the great work the PBGC has done in a short period of time to get these regulations written.

I am concerned, however, about whether the regulations as written will provide enough funding to keep them solvent for the 30 years, as required by statute. One of my main concerns is that PGBC is determining the amount of financial assistance by assuming the plan will earn 5.5 percent annually for 30 years.

At the same time, they require plans to invest the special financial assistance in investment-grade bonds, which typically yield about 2 percent. It seems it could encourage the plans in the worse shape to take undue risk with their plan assets in order to earn the amount required to keep them solvent.

Have you heard this concern, Ms. Robinson, from your members? And tell me what they are saying about this.

Ms. ROBINSON. Yes. Thank you, Senator, for the question and for your incredible work on the multiemployer pension crisis and the work done in the American Rescue Plan. Because of the size of ERIC member companies, we would be the last man standing. So it was crucial that these reforms happen, and we were very pleased to see that legislation passed.

And we are working with the PBGC. We are looking at the guidance that they just put out, and your point is correct. There have been concerns raised that if there is not enough flexibility for plans to be able to use the special funds in the same investments or different investments as they use for their regular assets, then these funds might not last the way Congress intended and really be used to help the system. And not just the multiemployer system itself, but the businesses and the economy, which tend to also save as well.

Senator BROWN. Thank you for that.

Mr. Graff, on a different issue, I want to ask about section 402(l) of the tax code. This provision allows retired public safety officers to exclude up to $3,000 from their income when they use it to pay for health care, for long-term care insurance, as long as the premiums are paid directly by the retirement system to the insurance provider.

This does not work for retired Ohio police and firefighters. It also does not work in Oklahoma, in Iowa and Texas and Maryland, Virginia and Colorado and Nebraska. Would you support repealing the direct-pay requirement and increasing the exclusion from $3,000 to $6,000? Give me your thoughts on that, Mr. Graff.

Mr. GRAFF. Thank you, Senator Brown. I think the issue with respect to the exclusion for retired public safety officers—it is a very important issue. Obviously, these are people that we all care about and very much appreciate the amazing work that they do protecting us.

My understanding is that the problem is the fact that a lot of these programs, like the one in Ohio, have converted from a direct payment to passing these subsidies through health reimbursement accounts. It certainly, from my standpoint, makes sense to also treat them as direct payments, regardless of whether they are being directly sent to a health insurance company or being paid through that health insurance company through a health reimbursement account. There should be really no distinction.

As for the amount, you know, I think that is something that ought to be looked at. I have not seen any specific data as to where the costs are. Certainly, we all know health-care costs are rising. One of the things to also think about might be indexing that amount. So that is certainly something we obviously have to take a look at.

But as to the fundamental issue as to whether it should be treated as a direct payment, we certainly agree with you.

Senator BROWN. Well indexing—if we can raise first then index. But okay, I appreciate that, Mr. Graff. Thank you, and, Mr. Chairman, again thanks for holding this hearing.

The CHAIRMAN. Thank you, Senator Brown. I know this has been part of your efforts to help working families, and it is great to work with you. Another friend of those workers, Senator Cortez Masto, will be next, and then I will recognize our friend from Wyoming and tell him a little bit about what happened yesterday in this room.

Okay, Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. Thank you so much. Thank you to the panelists. It has been such an important conversation this morning, and we so appreciate all of your input.

Mr. Certner, let me start with you. In the most recent legislative session in Nevada, the Nevada legislature considered a measure to establish an auto IRA program, much like OregonSaves.

The bill was met, however, with stiff opposition from some in the retirement industry, who characterized State-based plans as a low-yield burden on taxpayers and suggested that new pooled employer plan rules that worked under the SECURE Act would be a preferable alternative for employers in Nevada.

I was hoping that you could respond to some of these criticisms and talk about the features of the State-based option, and whether it is population served or specific benefits that lead State legislators to get involved despite the opposition.

Mr. CERTNER. Senator Cortez Masto, I do not understand that argument at all. Anyone who is actually interested in coverage should understand that these are different options. We supported pooled employer plans, and those are targeted actually at small employers who want to take advantage of economies of scale in setting up pension plans and taking on fiduciary duties.

The auto IRA mechanisms really reach almost a different kind of employer, who is not interested in setting up an ERISA-covered

plan, and it is much simpler and easier for them. They have less tasks. They do not have fiduciary responsibilities. And you can get a lot more people covered, particularly individuals who are not even associated with an employer, such as gig workers.

So these options should work in a complementary manner. It is not a choice of one or the other. And in terms of your comment about this being bad for taxpayers, I think just the opposite. To the extent that we can get more people to accumulate savings and have savings in retirement, that is going to be less people who are going to have to fall back on State or Federal support systems for needed money because they will have their own savings that they can rely on.

So I think actually, it will help taxpayers. So I think the argument is just completely off-base.

Senator CORTEZ MASTO. Yes, and I appreciate that. In listening to the conversations this morning in all of your opening statements and your responses to questions, there is nothing wrong with more choices for individuals to decide how they want to participate in a retirement plan.

But I do also appreciate the comments around financial literacy. I know just listening this morning, the concerns about the racial retirement savings gap and how it contributes to the racial wealth gap—that creates intergenerational challenges for families working to get ahead.

Nevada has a large Latino population. They are a Spanish-speaking population, and we found that the language barrier can create access challenges for communities seeking access to the services and supports that can improve financial stability.

So I would like to just open it up to the panel. I am curious. Can any of you talk about efforts that the retirement industry has engaged in to enhance financial literacy among our diverse communities? Anybody want to take that on?

Mr. GRAFF. Thanks, Senator. I think the retirement plan industry is very much aware of the challenges facing all communities of color, and language barriers have been an issue. I am happy to say that efforts recently, particularly in the area of financial wellness, have really been quite successful in trying to improve that for people who have access to a plan.

And so, more and more of the advisors and firms that work with employers helping to set up and maintain plans, have been providing these type of programs—financial wellness programs, participant education—and doing so on a multilingual basis.

Obviously, we need to do more. Probably the biggest thing, as I think a lot of us have emphasized, is the importance of getting more working Americans, particularly in communities of color, covered by these programs so they have a fair chance at getting a comfortable retirement, because it is really the only way we have gotten them effectively to save.

Senator CORTEZ MASTO. Yes, and I could not agree more. Just the statistics that you talked about earlier, the panelists talked about in our Latinx communities and our Black communities. We need to do more. There needs to be more financial literacy. There needs to be more outreach. If it is auto-enrollment, whatever it is, I think it is worth making the effort to do so.

This is a great discussion. I have more questions. I will submit those for the record. I just so appreciate Mr. Chairman and the Ranking Member and so many members of this committee really focused on this issue, and how we ensure that so many across this country have access and opportunity for retirement savings. So, thanks again.

The CHAIRMAN. Thank you for your good work.

Before I recognize our colleague from Wyoming for his remarks, I just wanted to pass on briefly what happened in this hearing room yesterday: the grief welling up from both sides, with colleague after colleague talking about Mike and what we remembered so fondly.

I read a text where he invited me to Gillette, and he was worried my wife would not eat steak and beef. Mike was worried about it. Well, she happens to love steak. But that was vintage Mike Enzi. He was always caring about other people.

So I just wanted you to know so you can tell Diana, John. Just please tell her about this outpouring of grief, because that is not what is supposed to happen when you retire. When you retire, you are supposed to have a lot of years, a lot of years with family.

So please tell Diana that everybody here is thinking about her, and we recognize you for 5 minutes.

Senator BARRASSO. Well, I will most certainly do that, Mr. Chairman. I am so very grateful for yours and other's comments, and we have heard from so many members. The entire Senate Prayer Breakfast today had big pictures of Mike up there in various parts of the world in some of the missionary work he had done overseas in Africa.

Every member, Republican and Democrat, had the kindest things to say about the kindest man you would ever know. He was a long-term member of this committee, did an amazing job in the Senate. Twenty-four years, and he always won with big, big numbers, and it is because people really—they respected him because he respected them. They understood him because he understood them and their problems. They believed in Mike because they knew he believed in them, and it was a model for all of us.

So I am very grateful for the kind comments of you, other Senators on this committee, and the entire body of the United States Senate. Yesterday on the floor, Senator Leahy, as president pro tempore, started and then the majority leader and the minority leader both spoke about Mike. Very kind, as you can imagine, and Cynthia Lummis and I gave presentations as well and big pictures of Mike with a smile.

Last night we met with his staff, former staff members—some of them are still on the Hill, others from the community, and we had a big gathering in Senator Lummis's office, just to share some of the great stories that we all have of the memory of a remarkable man. So, thank you very much, Mr. Chairman. I am very grateful.

I also want to thank you and Senator Crapo for holding this important hearing. A secure retirement is important for all of our constituents, and the Federal policy should reflect that importance.

So, for Mr. Graff, we have data here on employee access and participation rates, and for employees working at small businesses—fewer than 50 employees—only half of them have access to a work-

place retirement plan, it looks like. At all of these businesses, all of these small businesses, it seems like only about a third of the employees actually participate in the plans.

So we have seen various proposals to improve participation in the plans. What can Congress do to help small employers use these proposals to encourage participation in plans?

Mr. GRAFF. Thank you, Senator. One of the things that is critical in terms of getting workers to actually participate—and the data is very clear on this—is auto-enrollment. We talked about that a little bit before. But to the extent we could encourage smaller employers, frankly all employers, to auto-enroll their workers into these plans, what we see from a behavioral, economic standpoint is that they stick with it. They continue to participate.

So the two critical elements—having access in the workplace and getting small businesses to adopt a plan, and making it easier for them—we did one amazingly important step in the SECURE Act with pooled employer plans, and thank you for that.

But I think there are some other things that we can do to make the smallest of businesses—to make it easier for them to offer these programs. One is a tax credit, as some have been proposing, that would be 100-percent of the cost for the smallest of businesses.

There is something to be said for being able to tell a small business owner that this is effectively free; it is not going to cost you anything. The marketing value of that is very meaningful. And then there are some things that we could do for the smallest of businesses around safe harbors, to make the rules even simpler for them so that it is cost-free and worry-free.

If we can do those things and do automatic enrollment, we can make it a long way towards getting the employees that you are talking about part of the system.

Senator BARRASSO. So, in terms of the auto-enrollment, it is kind of like for organ donors, opt-in versus opt-out, and making the decision there, where two countries' organ donation numbers, big or small, relate to whether people have to choose a decision.

Mr. GRAFF. Exactly; precisely.

Senator BARRASSO. So, in your testimony, you mentioned the importance of—you just worked in the word "cost" there. So, what costs do small businesses face today when setting up and running a retirement plan for their employees? Because, as you said, if we can get it to zero, there is much more of an incentive.

Mr. GRAFF. Absolutely. So the two chief costs are the administrative costs associated with implementing a plan, and there are requirements and laws and rules and regulations, and there is a cost associated with that. And then for some employers, there is a cost associated with having to make employer contributions to the plan, even if they really cannot afford it, to satisfy certain nondiscrimination rules.

So I think a combination of encouraging auto-enrollment, but also, for the smallest of businesses, maybe doing a safe harbor for smaller businesses that would streamline those regulations, make it easier for them to put a plan in first without having to deal with both the admin costs and the employer contribution costs. That would go a long way towards expanding coverage in the small business sector.

Senator BARRASSO. Sir, in your opinion do the proposals that we are discussing here today, do they make it easier for small businesses to establish retirement plans for their employees, and is there more we can do?

Mr. GRAFF. I think that a lot of these proposals do move in that direction, but I also think there are additional things we could do to make it easier.

Senator BARRASSO. What might those be?

Mr. GRAFF. Well, for example, you could have for the smallest of businesses, it is called a safe harbor design with lower limits, because a lot of small businesses do not need to save a lot. It is really just to start saving a few thousand dollars for many of these business owners. It goes a long way towards the ultimate goal.

If we could create a plan that was a safe harbor plan—perhaps with lower limits—and all of the testing and administrative and regulatory requirements could be eliminated for those smaller business plans, that would have a tremendous effect in terms of making it easier for them.

Senator BARRASSO. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Barrasso.

I believe next we will have Senator Thune, who I am told is on the web.

Senator THUNE. Yes, sir. Thank you, Mr. Chairman. And I want to thank the witnesses for being here today as well, as the Finance Committee reviews the state of retirement savings in our Nation and a variety of proposals intended to further encourage Americans to save for retirement.

This question is for Ms. Robinson. In your testimony, you outline a number of proposals that have been introduced this Congress to encourage retirement savings, one of which would allow employers to make matching 401(k) contributions for employees paying down student loan debt.

Do you believe companies, both large and small, would choose to make these matching contributions? And in addition, for employers choosing to make these matching contributions, in your view, what degree of confidence would they have in knowing their employees are in fact making their monthly student loan payments in full to the loan servicer?

Ms. ROBINSON. Thank you, Senator, for the question. First, yes, we are very supportive of this provision. And this is something that—a lot of times, as a policy person, you bring ideas to your member companies and ask them if they are okay with them. But this is one that they came to us with.

They were definitely seeing from their employees—people were leaving positions for what they call low-dollar amounts, because every dollar was needed to repay their student loan benefits. And so, something like this, any benefit they could see where they could help people with their student loan repayment and also help them contribute to their retirement, would be very beneficial and critical.

In terms of making sure that people are actually making their student loan repayments, they are already in place: employer-provided student loan payment assistance programs. So there are payroll providers and other third-party administrators who are

helping employers verify this information, and to do this in conjunction with the 401(k) plan would be something that could easily be done and verified.

Senator THUNE. Thank you.

And this is a question, frankly, for any of the witnesses. As you know, the SECURE Act increased the required minimum distribution age from 70½ to 72. Proposals under consideration this year would further increase the RMD age to 75 over the next decade. Could any of you share your views on proposals to further increase the RMD age and to what extent 75 is the most appropriate age for it to be increased further?

In addition, since Congress increased the RMD age to 72 through the SECURE Act in 2019, can any of you speak to what extent we have already seen the effects of that increase, or if it is too soon to tell?

Mr. CERTNER. Senator, I think it may be too soon to tell from the previous change. But what is clear is that, to the extent that you can raise the age, you are going to do a couple of things. One, you are going to simplify the rules because, obviously, people are not going to have to deal with the issue for a number of years, and that will help simplify it. It will also ensure that people can keep money in the plans longer. Remember, these distribution rules are based on lifetime estimates, and they were set, I think, almost 50 years ago now. So, if you updated those ages, 75 is probably about the right age.

And also, we want to make sure that we are not asking people on average to take their money out too fast because, obviously, half the folks are going to be living longer than average. So we want to be able to make sure that people can keep money in their plans.

A similar proposal that is on the table is to have an income threshold below which the minimum distribution rules would not apply. Again, that would be very much of a simplification rule, because anybody below that level just would not have to deal with those rules at all and get caught up in the potential penalties and so forth for not obeying the rules.

Senator THUNE. Anybody else?

Mr. GRAFF. I would like to just echo what David said about the idea of having an amount, a safe harbor amount of contributions in an IRA or a plan that would be exempt from the required minimum distribution rules. For a lot of folks in retirement, for elderly folks, it is very complicated.

If they have $20,000, $30,000 in an IRA, trying to figure out that amount is extremely complicated. A lot of them do not have access to professionals to help them figure it out. So, if we could come up with some amount—I have seen proposals, I think, for like $100,000, where folks, seniors would be able to avoid having to deal with this altogether. It would be a huge simplification for a lot of folks.

Senator THUNE. Okay; thank you.

I have another question, Mr. Chairman. My time is running out, so maybe I can submit it for the record. But I do want to get, Mr. Graff, you on the record with respect to the issue of the gig economy. This workforce increased 50 percent between 2001 and 2016, and I would like to ask whether existing retirement plans like

pooled employer plans, for example, adequately accommodate contractors in their ability to save for retirement. So I will put that one to you for the record, and I would be interested in getting your response to that.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. I am very interested as well in this issue that Senator Thune is talking about, so I thank my colleague for asking that.

We have a vote on. Let us see if we can get Senator Lankford and Senator Daines in and still somehow make the vote. Senator Crapo is trying to get back, so, Senator Lankford.

Senator LANKFORD. Great. Mr. Chairman, thank you. Thanks for the bipartisan conversation on retirement savings. This should not be a partisan issue. This is an issue we should be able to work together on, so I appreciate that.

Senator Grassley and Senator Hassan and I are partnering together to reintroduce the Improving Access to Retirement Savings Act, which some of you have mentioned already—I appreciate that—trying to deal with multiple-employer plans. Then last month, Senator Bennet and I introduced the Enhancing Emergency and Retirement Savings Act of 2021, which a couple of you have mentioned already today, so I appreciate that.

I want to be able to drill down a little bit more. This is a result of conversations I have had with multiple folks in my State who want to be able to set aside for retirement but are also worried about not having enough in their savings. So they think, "How can I save for retirement when I do not even have enough in my emergency account?" So they just do not do retirement savings and stop setting anything aside on this.

The concern is, how do we actually incentivize that when the most recent survey from a couple of years ago said that 4 in 10 Americans could not even come up with $400 if they had to at the last minute?

So the goal of the legislation that Senator Bennet and I have together is to try to figure out, how can we create flexibility in the plans so that, if you have retirement savings plans, you could one time a year take out $1,000 as an emergency without penalty? It would give you the opportunity to be able to pay that back. When you had actually paid that back, you could do it again. But you would be limited in the number of times.

We do not want this to be a bank account. We want it to be a retirement savings account. But we do want people to have access to those retirement savings when they have an emergency.

Ms. Robinson, you mentioned that earlier in your oral testimony. You mention it in your written testimony as well. Is that the right kind of flexibility, to be able to give the individuals the right amount and the right way to be able to take this on?

Ms. ROBINSON. Thank you. Thank you for both your work on this and for the question. We believe that flexibility is appropriate both ways, for the participant, so that they have this money in their retirement savings, and when we do come to them and say, "Hey, let us put this money away," and the response sometimes is, "I do not have enough, or I might need this for an emergency later down the road," you can say, "You can take this out for an emergency."

It is also flexible for the plan sponsor, in terms of not having to set up a separate account or maintain different account information for the participant. The amount, $1,000, we think is appropriate. We got responses back from our membership that were anywhere from $1,000 to $3,000, so I think there is still room for conversation in that.

But I think the consensus was definitely on the smaller side. You do not want it to be too large to encourage, as you said, people taking it out for things other than emergencies. But you do want to make it large enough that they can cover an emergency that comes up.

Senator LANKFORD. Mr. Graff, you work with a lot of different employers. How would this flexibility work? Is this the kind of thing that employers are looking for as well, because we are trying to design this in such a way that it is simple for employers, simple for the plans themselves to be able to manage, and simple for individuals to be able to get access to funds in case of emergency. Would this work in this kind of structure from what you see?

Mr. GRAFF. Definitely, Senator Lankford. And I also want to say, thank you for your leadership on this important issue. The issue of emergency savings, particularly over the last year and a half, has become a particularly obvious and acute problem, as you mentioned, given the fact that so many Americans could not come up with $400 in the case of emergency.

This would go a long way to solving that problem and do so in a way that is not too much of a burden on employers, because it does not require them to maintain two different types of savings systems, and would also do so in a way that does not undermine the existing retirement saving system, because employers are not forced with a choice between one account versus another account.

So we think this is the absolute right way to go, and it will make a huge difference in terms of making people not only able to deal with unfortunate situations, but frankly it will make it more comfortable for them to save in the first place, because they will know that, in the case of emergency, they would have access to this money.

Senator LANKFORD. Ms. Robinson, you, in your written testimony and then you just mentioned it in your oral testimony—I do not know if everybody caught it; I caught it when you said it. You brought up an incredibly wonky budget issue, the issue of single-employer pension plan premiums being considered on budget, and so they are used as a pay-for and used for spending elsewhere.

My friend and all of our friend, Mike Enzi, who passed away this week, that was his bill that actually our office is carrying now. We have through this year—not just since his passing obviously this week, but we started earlier this year—we are working together, with bipartisan support as he had bipartisan support for that in the past.

I was surprised when you mentioned that, because a lot of people do not dig down into that. But we think it is a really important issue. Why is that important to you?

Ms. ROBINSON. Thank you. Thank you for your work on this. Thank you for allowing me to be even more wonky and talking about it even more. So single-employer PGBC premiums for em-

ployers that offer defined benefit plans—increasing unnecessarily the premiums has led them to make negative decisions about their plans, whether it is to freeze the plan, to not allow new workers in in an effort to get that number down. The best way to get the number down is to have fewer people who are subject to that premium, which is unfortunate because the PBGC single-employer fund is adequately funded and has been for the last 10 years.

So it has not been necessary to have an increase, and neither the PBGC nor the administration has called for an increase in these premiums. They have been done simply to raise money on the budgetary side, and it is a little bit of a gimmick because the money goes to the PBGC in a lockbox. It can only be used for people who are in defined benefit plans, but it shows up in the budget numbers as going to general treasuries and can be used for other things.

So we have been working very hard, and we appreciate your efforts on this, both in educating the Congress about this, because it is a budgetary gimmick that has a negative impact on retirement plans, and moving forward to make sure that this does not happen anymore. So, thank you.

Senator LANKFORD. Well, thank you.

Thank you, Mr. Chairman.

Senator CRAPO [presiding]. Thank you.

Senator Daines?

Senator DAINES. Thanks, Mr. Chairman. I am glad to be here today to talk about the importance of retirement security and some of the ways that Congress could help Montanans and all Americans better prepare for retirement.

One very easy thing Congress could do to help current and future retirees is to pass the bipartisan bill that I introduced with Senator Warren, which is the Retirement Savings Lost and Found Act. I am happy this legislation has actually been included in House Ways and Means Chairman Neal's and Ranking Member Brady's Securing a Strong Retirement Act, as well as in Senator Cardin's and Senator Portman's Security and Savings Act.

Our bill recognizes that Montanans and Americans are switching jobs at higher rates than ever before, and are often unknowingly leaving behind their 401(k)s. In fact, these numbers are staggering. According to the analysis released just in May of this year, there will be 25 million forgotten 401(k) accounts.

I am not sure I would have forgotten one, but I guess that happens now. That is about $1.35 trillion in assets, representing 20 percent of the $6.7 trillion in total assets in 401(k) plans. Our bill would solve this problem by creating a national lost and found registry for retirement accounts.

Using this registry, employees will be able to find all of their former employer-sponsored retirement accounts in one easy location online. This bipartisan bill will be a huge help for employers as well, who often spend countless hours trying to reunite employees with their lost accounts. It is a win for our workers and families and businesses, and I hope we can get this passed into law.

A question for the panel. We will start with you, Ms. Robinson, and we will just go down the line since you have been wonking out here and geeking out on policy. Do you agree that creating some

kind of retirement lost and found registry would help reunite workers and retirees with their missing retirement accounts?

Ms. ROBINSON. Absolutely. So, thank you for the legislation and for your work. We fully support it. The missing participant problem has been something that ERIC has been working on with the Department of Labor for quite some time.

Employers spend a lot of time and effort voluntarily setting up benefit plans, with the ultimate goal of getting participants a retirement benefit. So finding these participants is a large part of what they consider important, and it is critical.

To your point, not only are people changing jobs more, but companies are merging, acquiring other companies. Their names are changing, and one of the things we found is that when employers try to connect with the participant, since the company name is now different from the company that they worked for, they are hesitant to give personal information about a retirement plan.

So we think the registry would be very helpful, not only in addressing that issue but really just raising the profile, that there is this money out there that people may have forgotten about, and that they should really be looking at it and trying to get that money back to them.

Senator DAINES. I think we all remember those calculations that were shown, where the earlier you get in, the greater effect that has, certainly in terms of compounding effect on a retirement account, and just to help oftentimes younger employees to consolidate that, find it. It will help prepare them for retirement.

Ms. ROBINSON. Exactly.

Senator DAINES. Yes.

Mr. Graff?

Mr. GRAFF. Thank you, Senator Daines, and we also fully support your effort in this area. We have heard from our thousands of plan sponsor members, and they are, as was just stated, very concerned about having to deal with these missing participants. This would go a long way to helping solve that problem.

In fact, we would even like to talk to you about perhaps expanding it a little bit more than its current levels. For right now, there is a part of your proposal that would allow a plan sponsor to send money over to the PBGC as a sort of way to collect these accounts, the actual assets of the account.

We would like to at least discuss with you the idea of maybe expanding that a little bit, so that amounts, somewhat higher amounts that are in accounts of missing participants, can also be sent to the PBGC, because they are in a much better position to help find these lost individuals as opposed to a small business owner, who really is in no position to figure out where these folks potentially are. And so, we would like to—we happily will work with you about doing more.

Senator DAINES. Thanks, Mr. Graff. Happy to have that conversation as well. Thank you.

Mr. Certner?

Mr. CERTNER. Yes, and to be short and quick about it, we have supported your bill, as you know. We support its inclusion in the House Ways and Means package. We certainly support the Senate acting on this as well. I think, as you know, it is really hard

enough for people to save these days, so the least we can do is reunite people with their own money.

Senator DAINES. Great; thanks.

Mr. Read?

Mr. READ. Sure, Senator Daines. I think it is a good idea. Anything we can do to reunite money with its rightful owners is good. Another thing Congress could do is help the U.S. Treasury send the billions of dollars of unclaimed savings bonds to State Treasurers, so that they can reunite them with their rightful owners as well.

Senator DAINES. There is the voice of a State Treasurer right there. Thank you.

Senator Crapo, thank you.

Senator CRAPO. Thank you, and I believe we have Senator Cantwell with us remotely. Is Senator Cantwell with us?

How about Senator Young? Senator Young, are you with us?

Senator YOUNG. Thank you, Mr. Chairman.

Senator CRAPO. Go ahead.

Senator YOUNG. I want to thank our witnesses for spending the morning with this committee to discuss retirement security. This has been an issue of particular importance to me since I came into the U.S. House of Representatives back in 2011, and now as ranking member of the Subcommittee on Social Security, Pensions, and Family Policy.

I will continue to focus on meaningful ways we can help Americans prepare for their retirement. In Indiana, only 40 percent of the State's workforce participates in an employer-provided retirement plan. In fact, just half of our Hoosier workers are offered such a plan at all. I will soon be reintroducing my Retirement Security Flexibility Act, to help more Americans save for retirement by expanding access to and participation in well-designed workplace retirement plans.

There are really two features to this legislation. First, my bill would enable more small businesses to offer retirement plans by providing flexibility on the employer contribution requirements for safe harbor eligibility. Second, the bill encourages those workplace plans to include automatic enrollment and automatic escalation provisions, to make it easier for workers to participate and more quickly escalate their savings.

Mr. Graff, could you please speak for a moment on the barriers that currently prevent small business owners from offering a retirement plan for their employees?

Mr. GRAFF. Thank you, Senator Young. I think the two key issues that a lot of small businesses face on a daily basis is they are, frankly, struggling through the challenges of the pandemic and other things that a small business owner has to deal with in terms of keeping their business going, revolving around administrative costs associated with plans as well as—as you alluded to, and I think is an important part of your proposal—the idea of trying to have some flexibility around the costs associated with employer contributions.

And so, I think if we could do some things to address both of those points, either through tax credits or making the rules easier, it would go a long way to making it easier for small businesses in Indiana to offer plans for their employees. We would be happy to

work with you on some other ideas around even simpler safe harbors for the smallest of businesses that would make it, for those very small businesses, easier for them as well.

Senator YOUNG. I will look forward to that opportunity to work together. How specifically would easing safe harbor eligibility rules for these smaller enterprises fit in with other incentives such as the start-up credit?

Mr. GRAFF. So the start-up credit particularly gets to the administrative costs, and these are plans that are subject to lots of different rules and regulations, as I know you are aware.

So there is a certain cost associated with operating a plan that has to be met, and there are tax credits that were in the SECURE Act, and there are proposals to actually expand those credits to 100 percent to cover those out-of-pocket costs for the first 2 years of a small business. So we can tell those small business owners that, hey, this is essentially free from an administrative standpoint.

And then on the contribution side, there is an idea to have even a simpler safe harbor for small businesses with say 25, 50 employees or less, where they would not have to make any employer contributions necessarily if they cannot afford it, as long as they have limits that are a little bit lower than a typical 401(k) plan.

And so this super-simple safe harbor, if you will, would be a lot easier on those microbusinesses because, one, there would be a tax credit to fully cover the entire cost, and they would not have to worry about the testing requirements that sometimes require them to make contributions they cannot afford.

So really you could tell that small business owner, hey, there is no reason not to do this because this is practically free.

Senator YOUNG. Okay. Thank you for that response.

My time is expiring, so I think I will end with maybe what I hope is a "yes" or "no" response from you. As I shift to the employee side, data from 2020 indicates that, on average, around 87 percent of employees participated in retirement plans when those plans had an auto-enrollment feature. Without auto-enrollment, that number drops to 52 percent. The data also shows that 91 percent of employees who are auto-enrolled do not drop out.

So, in your opening testimony, you shared that auto-enrollment is the key to addressing racial inequalities in retirement plans. My proposal would further incentivize auto-enrollment and auto-escalation. Do you think that proposals like mine could help bridge racial inequality as it relates to retirement security?

Mr. GRAFF. Very much so, Senator. It is very clear from the data that if we can get workers access to plans and get them auto-enrolled, we can effectively, with respect to retirement savings, eliminate a large portion of the racial disparity that we have seen to date in a lot of the data.

We have data that shows when you do both those things, you can pretty much eliminate that, and regardless of color, people are saving at the same rates.

Senator YOUNG. Thanks so much.

Mr. GRAFF. Thank you.

The CHAIRMAN. Thank you, Senator Young.

I believe Senator Cantwell is next, and then Senator Hassan, and I just would say to colleagues on both sides, we are getting close to wrapping up.

Senator Cantwell?

[No response.]

The CHAIRMAN. Senator Hassan?

[No response.]

The CHAIRMAN. All right. She is on her way. And do we have reports on Senator Cantwell? Was she planning to come in person?

Okay. No reports on how long it might take Senator Hassan?

Senator CANTWELL. Hi, Mr. Chairman.

The CHAIRMAN. There is Senator Cantwell.

Senator CANTWELL. Thank you so much for this important hearing.

One continuing challenge we face on retirement plans and the gap coverages, particularly for employees of small businesses and gig workers and those who are self-employed—the Bureau of Labor Statistics estimates that 53 percent of businesses with less than 50 people have access to workplace retirement. By comparison, 69 percent of those firms with more than 50 workers and 83 percent of those firms with more than 100 workers have retirement plans.

So, Mr. Graff, you also noted this in your testimony, that the gap is most pronounced between African Americans and Latino workers.

Thankfully though, States are leading the way to expand retirement savings options through innovative solutions. In our State, we created a small business retirement marketplace in 2015, which makes it easier and less expensive for businesses to offer retirement savings options to employees. Washington employers with fewer than 100 employees are able to voluntarily participate in this marketplace, shop for lower-cost, portable retirement saving plans for employees.

Mr. Certner and Mr. Graff, what has been the impact of these kind of marketplaces on small business participation and making retirement plans supportable? What is the impact to saving rates to those employees?

Mr. CERTNER. I think that you are rightly talking about targeting the small business sector, because we know that those with the least coverage are either those who are working for small business or those who are gig workers or independent contractors who may not be covered at all.

And so providing—we have been for years trying to provide incentives for small employers. The recent credit for employers to make it simpler and easier and less costly to put in plans is very helpful. Having automatic enrollment is very helpful, anything we can do to expand access.

The work that States are doing now basically fills in the gaps for small employers that do not want to put in a plan, do not want to take on any of the fiduciary responsibility or any of the other cost or bothers because they are running a small business. They also do not want to run a plan. Having State-run plans step in and facilitate programs and use payroll deduction to enable more people to save has really been, I think, the biggest jump and change that we

have had in the last few years, and something I think more States should consider.

We are basically working at AARP and across the country to encourage more States to adopt these employer-facilitated payroll deduction programs.

Senator CANTWELL. So I know in the chairman's State in Oregon, they have an auto IRA model which allows workers to save through their employers' retirement saving plan. So what would we need to do at the Federal level to aid in the implementation of these State-based auto IRA programs?

Mr. CERTNER. I think one big help is, obviously, a signal at the Federal level. One, we could do it federally for the States that are not engaged. Second would be to make sure, at the Federal level, that we signal to States that what they are doing is good, that they can go ahead and keep experimenting and working on what they are doing at the State level.

A third piece is also improving the Saver's Credit so that small employers in particular will have a type of matching contribution, the individuals can have a matching contribution for contributions that they make, either for a small employer plan or that they make through some of these State-run programs.

We know what incentives work: payroll deduction, automatic enrollment, matching contributions. So being able to get those to a more universal group of employees is what is going to really bump up the coverage numbers.

The CHAIRMAN. Thank you.

Senator CANTWELL. Thank you.

Well, Mr. Chairman, I know you and I are both in the State innovation camp, but I think again it shows you why allowing innovation to happen at a less bureaucratic level gets us answers that we need. So I hope we can pursue avenues to making small business retirement more of an option and more of a saver for so many Americans. So I thank you for the hearing, and I thank the witnesses.

The CHAIRMAN. Thank you, Senator Cantwell. And the fact is that the Pacific Northwest is again out in front in the innovation derby, and we are very proud of that. And what has been striking is—Mr. Graff has really touched on it today, and we are going to wrap up here in a moment and talk about the bipartisan path forward.

But what it really also allows us to say is, when Oregon and Washington are doing this phenomenal work and leading the way, you partner with what we are talking about now, for example, at the Federal level, and you get what Mr. Graff told us was this jaw-dropping number.

Senator Hassan, I know you have had a lot of hearings this morning. But I mean, what Mr. Graff told us is that the combination of these State efforts and these Federal efforts is really helpful for two groups of people: people who cannot save at all and people who cannot save enough.

If you mobilize innovative approaches at the State and Federal level, Mr. Graff tells you in the next decade, you are going to make an enormous amount of difference for our families in New Hampshire and the like. We are going to talk about it when we wrap up.

But I think it is great to see Oregon and Washington pave the way at the State level, and what we are going to try to do—and Senator Crapo and I have been talking about it—is matching at the Federal level.

Senator Hassan?

Senator HASSAN. Well, thank you, Mr. Chair and Ranking Member Crapo, and I never like to cede innovation chops to any other part of the country. We are pretty innovative in New England and New Hampshire too. But boy, it is good to see the witnesses, and it is really good to be having this hearing, because we want every American to be able to save for a dignified retirement, and that is really what this is all about, and I really look forward to continuing to work with all of my colleagues to do that.

I have a couple of questions. I will start with you, Ms. Robinson, because one of the things I have been focused on is military spouses and their capacity to save, because they often face a wide gap in terms of retirement because they move locations more frequently. So they do not always stay long enough in one job to become eligible for employer-sponsored retirement plans, and that obviously means they have less employer matches for retirement savings. So Senator Collins and I have a bill to help address this issue by incentivizing employers to make military spouses immediately eligible for retirement plan participation, including employer contributions.

So, Ms. Robinson, do you believe that providing employer incentives would help military spouses save more for retirement?

Ms. ROBINSON. Of course, all incentives help employees save for retirement, so we actually support that, and thank you for your work. We have not taken a position on this. I would have to take it back to our membership. But obviously our member companies are at the forefront of offering retirement plans. We believe it is an important thing.

So I am very happy to work with you to make sure administratively it is feasible, and that whatever we do put in place is actually helpful to the spouses as they are moving from job to job.

Senator HASSAN. Yes; I appreciate that very much. It is something that we have seen a lot of action on in a variety of different ways, because military spouses, you know, face such unique situations. So, thank you for being willing to take it back to your membership.

I also wanted to talk generally to all of you about the issue of retirement savings for women, because women often struggle to save enough for retirement. They lag behind men due to a number of factors, including lower earnings and more time away from the workplace because they are primarily caregivers in a lot of circumstances.

So the pandemic exacerbated many of these issues, with nearly 1.8 million women leaving the workforce. So, to each of you, how can Congress help address the retirement gap for women, especially as the country recovers from COVID–19? We will start with Treasurer Read and just move right down.

Mr. READ. Mr. Chair, Senator Hassan, I think it is an excellent observation. The work that we are doing in our State continues to

be about making it easier for people to get started at an earlier age and establish that habit.

The power, I think, of our example is not going to become fully realized until someone who starts, maybe without realizing it, early in their career gets to the point that that has become a habit and moves on. I think that is especially true for women and people of color, who do not tend to have that access through their employers.

So auto-enrollment, escalation, the credit that Senator Wyden and others have offered, I think those are all really important elements.

Senator HASSAN. Thank you.

Mr. Certner?

Mr. CERTNER. I think you make a good observation about women lagging behind, obviously, for a number of reasons, including lower wages and less access to retirement plans, more part-timers. We are very strongly supportive of improving coverage for part-time workers. We know that it is particularly helpful to women who are caregivers.

We are generally very supportive of trying to improve access in general, because women tend to be in workplaces that do not have any coverage. So, if you cannot get employer-provided coverage, that is where we need those State kinds of programs that we are doing in Oregon that will help people get access to a plan, a payroll deduction plan they do not have now.

Again, we are talking about people who are generally lower-income. So you need to have additional, I think, incentives for them to also contribute. So improving on the Saver's Credit, which is really a matching contribution at the Federal level, will help both encourage people to contribute to a plan, but not only that, will obviously increase the size of the contribution amounts going to the plan.

So I think a combination of those things could all help improve coverage and adequacy.

Senator HASSAN. Thank you.

Mr. Graff?

Mr. GRAFF. Thank you, Senator Hassan. The issue that you raise is extremely important, and in particular what the data shows is that the coverage gap and the savings gap is particularly acute for single women. There are very similar challenges with communities of color that we have been discussing today.

What we found—I am happy to share this data with you—is that when you overlay proposals like the Automatic IRA Act, the Encouraging Americans to Save Act, and steps to both get people covered, single women covered, as well as incentivize them to save, then you see really great boosts in savings rates among single females. I can show you. It is very promising.

Senator HASSAN. Well, great. And if it is all right with the chair, Ms. Robinson, can you quickly comment?

Ms. ROBINSON. Representing plan sponsors who have already tackled the coverage issue, I will talk about increasing retirement savings, that increasing catch-up contributions is enormously helpful for women who may not have had the money earlier in their careers to, later in their careers, put more of that into retirement.

We would actually encourage even expanding that for other opportunities such as being able to do make-up, catch-up contributions if you had to take time off during your career, in addition to the other things that have been mentioned, such as the student loan matching and the emergency savings provisions that, obviously, impact more than just women, but probably women in particular.

Senator HASSAN. Well, thank you very much.

And, Mr. Chair, as we celebrate the 31st anniversary of the Americans with Disabilities Act this week, I also just want to recognize how important ABLE accounts have been to people with disabilities, and I look forward—I know Treasurer Read has been particularly involved in administering those accounts. So I would look forward to continuing to strengthen them as well.

The CHAIRMAN. Well, thank you, Senator Hassan. And the fact that for years you have been such a strong voice for these families—I guess there is something about the water. And New Hampshire and Oregon are always teaming up on these kinds of approaches to empower families that are having some real challenges and just want a shot.

That is what you and Treasurer Read have been all about. So we really look forward to working with you on these kinds of issues, and thank you for being a champion for empowering folks who are vulnerable to be able to save and participate in our society.

Senator HASSAN. Thanks so much, and thanks again to all the witnesses.

The CHAIRMAN. Thank you.

So Senator Crapo and I, I would say to our guests, have lengthy closing statements, and when a chair says that is going to happen, everybody slouches in their seat and says, "Oh my God, this is going to be a ghastly affair."

Now both of us will be very brief, but you have been terrific, and this has really helped us build on our bipartisan tradition of working on these issues, and we will recognize Senator Crapo, and my lengthy statement will take about 2 minutes.

Okay, Senator Crapo.

Senator CRAPO. Thank you very much, Mr. Chairman, and I will be brief. As I said at the outset in my opening statement, this is a bipartisan issue where retirement security is something that we all agree on, and the solutions you have heard discussed today, I believe, are a broad set of solutions.

We will be adding some more to this list as we continue to work. The message is that Senator Wyden and I have agreed that, not only is this going to be done on a bipartisan basis, but it is going to be done on a priority basis. We are moving this to the very top part of the agenda for our committee and for our efforts here, because it is so critical.

I want to again thank the witnesses for your testimony today, and I expect you will get to help us some more as we reach out to you as we put this legislation together.

Senator Wyden?

The CHAIRMAN. Thank you, Senator Crapo. And my colleague is speaking for me.

Let me just mention four quick takeaways from today. First, we learned that our Saver's Credit proposal, combined with a national program like OregonSaves, could lead to a staggering number of new savers, 50 million new savers, $6.2 trillion in additional savings, over the next decade. That is a big takeaway to leave the room with.

Second, we learned from Mr. Graff of the Retirement Association that mega-IRAs owned by mega-millionaires and billionaires are largely the result of their access to investments like private equity that are not generally available to the middle class and other savers of moderate means, because these investments are limited under securities law to wealth investors.

And so, I want everybody in America the chance to get ahead and to save, and the abusive use of tax incentives meant to help middle-class savers creates an economic double standard. It creates a system of saving haves and have-nots. We can do better than that. We can make sure that everybody has a chance to get ahead.

We learned about the importance of auto-enrolling workers in workplace savings plans. I think that was something that was touched on by a number of our experts, and we also learned that this will reduce racial disparities in retirement plan savings rates, which is especially important.

Finally, we learned, because of the important questions of Senator Cortez Masto, about the importance of multilingual retirement savings education materials. We have another opportunity to reduce racial disparities in saving.

We will take those and the other important thoughts that you all have given us, use them, as Senator Crapo mentioned, on our efforts, and make sure we continue our tradition of working on these issues in a bipartisan way.

Members will have 7 days to submit questions for the record for the witnesses. That means Wednesday, August 4th by close of business.

With that, the Senate Finance Committee is closing a very productive hearing.

[Whereupon, at 12:19 p.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of David Certner, Legislative Counsel and Policy Director, AARP

INTRODUCTION

On behalf of our nearly 38 million members, and all Americans age 50 and over, AARP thanks Chairman Wyden and Ranking Member Crapo for holding a hearing to consider needed improvements to the U.S. retirement system for American workers, retirees, and their families. AARP is committed to expanding retirement savings so that all Americans have adequate income for retirement through Social Security, pensions and private savings, and we have worked throughout our history to develop and improve America's retirement system.

We greatly appreciate the committee's leadership on U.S. retirement system development and improvements. AARP has worked closely with the committee over decades, from the development of tax favored retirement accounts to the most recent legislative solutions for the millions of workers and retirees covered by multiemployer pension plans that face imminent and long-term funding shortfalls. We look forward to continuing to work together to expand coverage and adequacy for all workers and retirees.

IMPACT OF COVID–19 ON CURRENT WORKERS AND THEIR RETIREMENT

Millions of families continue to face dire financial circumstances as a result of the pandemic and related workplace closures. In a matter of months, the national unemployment rate climbed from 3.5 percent in February 2020 to an historic high of 14.7 percent in April. And while the unemployment rate has since declined to 5.9 percent,[1] the percentage of job seekers who are long-term unemployed (*i.e.,* those who have been looking for work for 27 weeks or more) remains a serious concern, with older workers being especially hard hit. In June 2021, 36.0 percent of job seekers ages 16 to 54, and 55.3 percent of job seekers ages 55 and older, were long-term unemployed.[2]

As a result, many workers continue to have little choice but to take actions that reduce their long-term retirement security in order to make ends meet. Some individuals have been forced to retire earlier than planned because they were unable to return to work due to legitimate health concerns or because their jobs simply no longer exist. According to a June 2020 survey, nearly a quarter (23 percent) of respondents age 55 to 73 have retired early, or considered retiring early, because of the pandemic.[3] Nearly one in four adults ages 25 and older surveyed by AARP dipped into their retirement savings or stopped contributing to their retirement accounts during the height of the pandemic.[4] Earlier retirements and emergency withdrawals from retirement accounts will likely prevent these workers from accumulating additional years of wages and savings, resulting in reduced pensions and

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[1] Bureau of Labor Statistics, Economic News Release, The Employment Situation, June 2021, *https://www.bls.gov/news.release/pdf/empsit.pdf.*

[2] AARP Public Policy Institute's Employment Data Digest, June 2021, *https://www.aarp.org/ppi/info-2020/employment-data-digest.html.*

[3] TD Ameritrade, "COVID–19 and Retirement Survey," June 2020, *https://s2.q4cdn.com/437609071/files/doc_news/research/2020/covid-19-and-retirement-survey.pdf.*

[4] Brown, S. Kathi. *How Financial Experiences During the Pandemic Shape Future Outlook,* Washington, DC: AARP Research, April 2021. *https://doi.org/10.26419/res.00450.001.*

lower monthly Social Security benefits for life, as well as the need to spend down their retirement savings earlier than anticipated.

Americans of any age who are fortunate enough to have a retirement savings vehicle like a 401(k) plan or an individual retirement account (IRA) may now be unable to contribute to these accounts, or worse, have a need to tap them to pay for essentials. According to one survey, 37 and 40 percent of Millennials, 26 and 32 percent of Gen X, and 13 and 18 percent of Boomers have withdrawn, or considered withdrawing, from an individual retirement account or a 401(k) plan.[5] Doing so, however, forces them to reduce what are likely already inadequate savings, sacrificing future amounts necessary for a secure retirement. Many who have lost jobs have also lost health insurance and have faced increased costs for both health-care coverage and treatment.

These COVID-related pressures only add to other challenges that have accelerated in recent decades, including diminishing employer-sponsored pensions, higher health-care costs, and inadequate retirement savings. Consequently, the prospects of a secure retirement for millions of workers will be even more precarious following the pandemic, and more Americans of all ages will need to rely even more on Social Security's modest benefits for an even greater portion of their retirement security.

IMPORTANCE OF SOCIAL SECURITY

According to the Social Security Administration (SSA), an estimated 180 million Americans paid into Social Security in 2020,[6] and in June 2021, Social Security provided critical retirement, disability and survivor benefits to almost 65 million individuals.[7] Social Security is already the principal source of income for over half of older American households receiving benefits and roughly one quarter of those households, or about 10 million people aged 65 and older, depend on Social Security for nearly all (90 percent or more) of their income.[8] The reliance in minority communities is even more pronounced; over 36 percent of African American women in families receiving benefits rely on Social Security for almost all of their income, and 34 percent of older Hispanic women do the same.[9]

Despite its critical importance, Social Security's earned benefits are modest and in June 2021, average only $1,555 per month for all retired workers. Disability benefits are even more modest, averaging only $1,280 per month.[10] Nonetheless, Social Security keeps approximately 15 million older Americans out of poverty[11] and allows millions more to live their retirement years independently and without fear of outliving their income.

For most Americans, Social Security is their only inflation-protected, guaranteed source of retirement income they have or will have. AARP believes we must therefore work together—and sooner rather than later—to ensure Social Security remains strong, not only for those who are at or near retirement, but also for younger generations who will likely rely on Social Security benefits as much or even more due to the effects of COVID–19 and other retirement trends.

In addition, and on behalf of multiple generations of American workers, AARP would like to thank Chairman Wyden and Senator Cassidy for recently introducing the Know Your Social Security Act. This legislation would once again place vital, paper Social Security statements in the hands of millions of Americans to help them more effectively plan for retirement, ensure correct earnings records, and better understand their stake in Social Security.

The Social Security statement is an essential financial planning tool that provides key information on an individual's earnings and payroll tax contributions record, as

[5] TD Ameritrade, "COVID–19 and Retirement Survey," June 2020, *https://s2.q4cdn.com/437609071/files/doc_news/research/2020/covid-19-and-retirement-survey.pdf.*

[6] Social Security Administration, "The 2020 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds," April 2020; *www.sss.gov/news/press/factsheets/basicfact-alt.pdf.*

[7] Social Security Administration, Monthly Statistical Snapshot, June 2021, *https://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/index.html?qs.*

[8] Reliance estimates available at AARP Public Policy Institute Data Explorer, *https://dataexplorer.aarp.org.*

[9] *Ibid.*

[10] Social Security Administration, Monthly Statistical Snapshot, June 2021, *https://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/index.html?qs.*

[11] Kathleen Romig, Center on Budget and Policy Priorities analysis of data from the U.S. Census Bureau's March 2019 Current Population Survey, February 2020, *https://www.cbpp.org/research/social-security/social-security-lifts-more-americans-above-poverty-than-any-other-program.*

well as an estimate of their earned monthly benefits. When Social Security sends this statement through the mail, more Americans are able to better plan for their future, not only due to an increased understanding of their Social Security benefits, but also any gaps in their current retirement plan. Having a hard copy of your Social Security statement also allows an individual to spot and correct errors or even to detect outright fraud. Finding and correcting these errors in a timely manner will save workers and the Social Security Administration frustration, time, and money. Moreover, when Americans receive an annual statement in the mail, it helps them better understand the importance of Social Security as part of their overall retirement plan.

Paper statements are annual reminders, especially to younger workers, that they have contributed to Social Security and have earned a stake in the program. AARP believes strongly that all Americans, unless they choose otherwise, should have access to their Social Security statements via mail and we once again thank Chairman Wyden and Senator Cassidy for introducing the Know Your Social Security Act and urge its enactment.

THE RETIREMENT INCOME GAP

For more than half a century, a secure retirement in the United States centered on reliable income from three sources, the so-called "three-legged stool" of retirement—employer-provided defined benefit pension plans, personal savings, and Social Security. Together, these sources of income offered a stable financial future. Unfortunately, diminishing pensions and inadequate retirement savings—coupled with longer life expectancies and higher health costs—has endangered the dream of a secure retirement for millions of Americans, and without significant action, will likely require Social Security to play an even greater role in the lives of older Americans.

Defined Benefit (DB) pension plans once dominated the employment landscape. In 1983, roughly 60 percent of workers with an employer-sponsored retirement plan had a DB pension plan; by 2020, however, just 18 percent of full time, private sector workers had access to a DB pension.[12] At the same time that fewer workers have been offered a pension with guaranteed lifetime income, more workers have been offered defined contribution (DC) plans—such as 401(k) plans—to save for their retirement. In 1983, only 12 percent of workers offered a workplace retirement plan were exclusively offered a DC plan, but by 2020, 73 percent of workers offered a workplace retirement plan were only offered a DC plan.

The switch from DB to DC plans has important implications for retirement security. First, employees now must take responsibility for determining if and how much to save, and must manage their retirement funds, even though most have little or no investment experience. As discussed below, automatic enrollment and similar features help with these decisions, but not all DC plans include these mechanisms. Second, retirees run the risk that they may either outlive the savings in a DC plan because account balances run out, or they fail to spend them for fear that the money will be needed for some future emergency, resulting in a lower retirement standard of living than possible.[13] Third, despite the increased use of DC plans, financial experts generally agree individual savings and earnings may not fully compensate for the loss of employer provided DB pensions.[14]

Most workers who only have access to a workplace savings plan are not saving enough to adequately fund a secure retirement. For middle-income households ages 55–64 with a DC plan or IRA, the median balance is roughly $144,000, not nearly enough to ensure a secure retirement, especially given that the average number of retirement years has increased markedly from 12 in the 1960s to almost 20 today.[15] It is no wonder that surveys persistently show that Americans do not feel financially prepared to retire. A Financial Health Network poll, funded in part by AARP, found

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[12] *https://fas.org/sgp/crs/misc/R43439.pdf* (from CRS quoting National Compensation Survey of March 2020).

[13] Chris Browning, Tao Guo, and Yuanshan Chen, SSRN, The Retirement Consumption Gap: Evidence from the HRS, November 2014, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2479021.*

[14] Center for Retirement Research (2015), "Investment Returns: Defined Benefit vs. Defined Contribution Plans, " *https://crr.bc.edu/wpcontent/uploads/2015/12/IB_15-211.pdf.*

[15] Center for Retirement Research (2019), "401(k)/IRA Balances for Median Working Household with a 401(k)/IRA, Age 55–64, By Income Quintile, 2019," *http://crr.bc.edu/wp-content/uploads/2019/10/Table-17.pdf;* Center for Retirement Research (2019), "Average Years in Retirement, 1962–2050," *http://crr.bc.edu/wpcontent/uploads/2015/10/figure-10.pdf.*

that only 18 percent of respondents felt very confident they could meet their long-term financial goals, including retirement.[16]

Of course, access to a workplace retirement plan is better than none at all. Remarkably, just over half of all workers in the United States do not have access to a retirement plan at work,[17] a percentage that has remained largely unchanged for 3 decades. The coverage gap in communities of color is even greater; 66 percent of Latino workers, 52 percent of Asian American workers, and 50 percent of Black workers work for an employer that does not offer a retirement savings plan.[18] Workers without a plan are more likely to work part-time or work in a small business, tend to have less formal education, and are more likely to be lower paid.[19] Many middle and higher-income earners also lack access to a workplace retirement plan; people earning more than $40,000 represent about 23 percent of the 55 million employees without a plan.[20]

THE FUTURE OF RETIREMENT SAVINGS

For decades, Congress has enacted laws with the aim of making retirement saving easier. Congress has created many different types of plans for employers to offer their workers, including IRAs, SIMPLEs, Simplified Employee Pensions (SEPs), and Multiple and Pooled Employer Plans (MEPs/PEPs). Congress has also authorized a number of automatic features—including automatic enrollment, automatic deferral amounts, automatic escalation, and automatic default investments—to help workers who do not make affirmative decisions to begin saving for their retirement. Such automatic features and payroll deductions have resulted in significant higher savings. Among new hires, participation rates nearly double to 93 percent under automatic enrollment, compared with 47 percent under voluntary enrollment. Over time, 8 in 10 participants increase their contribution rates, either automatically or on their own, while three quarters of participants remain exclusively invested in the default investment fund.[21] Furthermore, plans with automatic enrollment had an 87 percent participation rate as of the end of the second quarter, whereas plans without automatic enrollment had a participation rate of 52 percent. Since 2008, the average savings rate among employees automatically enrolled has risen from 4 percent to 6.7 percent, and 63 percent of automatically enrolled participants in the past 10 years have increased their savings rate.[22]

However, these automatic savings features can only help workers whose employers offer a workplace retirement plan, and as noted earlier, over 50 percent of the workforce lacks any workplace retirement coverage. Expanding coverage for the tens of millions of workers without coverage continues to be a high priority, and AARP supports several approaches to extend retirement coverage in the workplace at both the Federal and State levels.

[16] Thea Garon, Andrew Dunn, Katy Golvala, and Eric Wilson (2018), "U.S. Financial Health Pulse: 2018 Baseline Survey Results," Center for Financial Services Innovation, *https://s3.amazonaws.com/cfsi-innovation-files-2018/wpcontent/uploads/2019/02/25191008/Pulse-2018-Baseline-Survey-Results.pdf.*

[17] When comparing coverage and participation statistics, it is important to look at which populations are being considered. Most studies cover private-sector workers only but differ on including only full-time employees or both full- and part-time. Similarly, studies focusing just on employees don't include the millions of contingent workers of differing types, who may be paid by an employer, but who are not considered as employees and thus are not eligible to participate in a retirement plan.

[18] *https://www.aarp.org/content/dam/aarp/ppi/2017-01/Retirement%20Access%20Race%20Ethnicity.pdf.*

[19] Center for Retirement Research (n.d.), "Pension Participation of All Workers, By Type of Plan, 1989–2016," *http://crr.bc.edu/wp-content/uploads/2015/10/Pension-coverage.pdf;* Craig Copeland (2014), "Employment-Based Retirement Plan Participation: Geographic Differences and Trends, 2013," Employee Benefit Research Institute (EBRI), Issue Brief 405, p. 27, Washington, DC.

[20] *https://www.aarp.org/content/dam/aarp/ppi/2014-10/aarp-workplace-retirement-plans-build-economic-security.pdf.*

[21] *https://nam05.safelinks.protection.outlook.com/?url=https%3A%2F%2Finstitutional.vanguard.com%2Fiam%2Fpdf%2FCIRAE.pdf&data=02%7C01%7C%7C34dd87bd990145d2669c08d6d3fd5585%7Ca395e38b4b754e4493499a37de460a33%7C0%7C0%7C636929482340429841&sdata=SuhVz6d8Xc9OYzTEKINqQe817YWi0gH8zpEYW3XgEZM%3D&reserved=0* (February 2018).

[22] Fidelity data—August 2018, *https://nam05.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.planadviser.com%2Fautomatic-enrollment-helping-participants-increase-retirement-savings%2F&data=02%7C01%7C%7C34dd87bd990145d2669c08d6d3fd5585%7Ca395e38b4b754e4493499a37de460a33%7C0%7C0%7C636929482340429841&sdata=FQXZs0ELy8txGgDLlfREGecvdvjKIpmFighaFYer8rA%3D&reserved=0.*

STATE WORK AND SAVE PROGRAMS

To complement our work at the Federal level to help address the coverage gap, AARP has focused on passing what are called State-level Work and Save programs, which are intended to provide employer facilitated access to payroll deduction retirement savings options for workers who don't otherwise have a way to save for retirement at work. State-facilitated Work and Save programs, such as Oregon Saves, CalSavers, and Illinois Secure Choice, are providing critical access to large, currently underserved populations, such as women, workers of color, and much of the contingent workforce, including gig workers. Such access is essential to addressing the retirement income gap because workers are 15 times more likely to save for retirement simply by having access to payroll deduction at work. While participation rates in traditional retirement plans have not budged in decades, Work and Save programs are leading a change for the better.

Nationwide, the majority of States have considered laws to address the retirement gap in their States through program legislation or studying the issue.[23] Oregon was the first State to launch a Work and Save program, followed by California and Illinois. These programs have had tremendous success. As of April 30, 2021, assets under management between these three States exceeded $250 million, with more than 346,000 funded accounts and more than 34,000 employers registered.[24] The momentum is not slowing down, and other States continue to pursue enactment and implementation of programs. Last year, even during the pandemic, Colorado and New Mexico passed full program legislation. This year, Virginia and Maine passed new program legislation, New York and Illinois passed significant program improvement bills dramatically increasing future participation rates, and California successfully defeated a lawsuit. States with program legislation like Vermont, Maryland, and Connecticut continue to work towards implementing a full and comprehensive program. Meanwhile, efforts are underway in a number of additional States, including, North Carolina, Pennsylvania, Wisconsin, and Delaware.

These retirement savings programs generally operate much like 529 college savings plans and are operated through public-private partnerships. Notably, while employers facilitate payroll deductions, the retirement programs are not operated or overseen by employers and are not employer-sponsored retirement plans. Rather, employers are afforded the ability to offer access to a simple, plug-and-play retirement program to their workers, which only requires employers to disseminate information packets to their workers and facilitate payroll deductions, similar to what they must already do to remit taxes. Worker participation is easy and contributions are typically automatic; however, worker participation remains voluntary, as they always retain the option to opt-out of the program at any time. How much a worker saves, if at all, is entirely up to them, as are investment decisions. Workers choose if they want to participate, how much they want to contribute, and the way in which they invest their money. When a worker changes jobs, their accounts are portable and can be taken with them.

Work and Save programs are designed to be self-sustaining and participant-funded—what an individual contributes to their account is what they get out of it, plus or minus investment gains and losses. These are not employer pension programs—States play the role of aggregating smaller employers who otherwise would have to sponsor, pay for, and manage a retirement plan, including choosing the investments and providers and incurring fiduciary responsibility. Work and Save programs can ultimately help U.S. taxpayers as well. By affording workers access to a simple way to save for retirement, fewer households will need to rely on social services, ultimately foregoing additional expenditures by the government. The U.S. could save an estimated $33 billion on public assistance programs between 2018 and 2032 if lower-income retirees save enough to increase their retirement income by just $1,000 more per year.[25]

POLICIES TO INCREASE RETIREMENT SAVINGS

In addition to our State work, Federal policies that further encourage automatic payroll deduction savings for workers who lack retirement coverage should be enacted. AARP has supported various efforts—at both the Federal and State levels—to ensure individuals nationwide are covered by an automatic retirement savings

[23] *https://www.aarp.org/ppi/state-retirement-plans/savings-plans/.*

[24] *https://cri.georgetown.edu/wp-content/uploads/2020/05/Infographic-20-05.pdf.*

[25] *https://mcspolicycenter.umaine.edu/wp-content/uploads/sites/122/2017/03/final-aarp-report.pdf.*

system. AARP has been a long-time supporter of Federal Automatic IRA legislation, most recently proposed in the Senate by Senator Whitehouse. We believe State programs should work in tandem with Federal legislation to be most effective at offering enhanced coverage and more appropriate retirement investments. AARP has emphasized that Federal legislation and regulations regarding retirement security should continue to encourage and allow for State enactment and implementation of these programs.

AARP also is supportive of the legislative efforts initiated by Senators Cardin and Portman and Chairman Neal and Ranking Member Brady, known as SECURE 2, and looks forward to working with the Congress to harmonize and update any final bill (the Retirement Security and Savings Act, S. 1770, and the Securing a Strong Retirement Act, H.R. 2954). Among other changes, the bills would extend greater coverage to more part-time workers and automatically enroll workers in new employer retirement savings plans once they have been in business for 3 years and employ more than 10 employees. As previously noted, automatic payroll deduction is a proven method of increasing coverage and participation.

AARP urges Congress to improve coverage for the 27 million part-time workers who generally are not covered by retirement savings plans. This is especially important for older workers and caregivers who often shift from full-time to part-time work or return to the workforce less than full-time due to caregiving responsibilities. Moreover, women are far more likely to work part- time than men—two-thirds of part-time workers are women.[26] AARP supports Senator Murray's and Rep. Underwood's Women's Pension Protection Act, Reps. Neal and Brady's Securing a Strong Retirement Act and Senators Cardin and Portman's Retirement Security and Savings Act, all of which would offer coverage to part-time workers after 2 years of employment.

In addition to extending coverage to more workers, Congress should also act to encourage greater savings for those who participate in workplace retirement plans. While defined benefit plans are generally designed to provide more adequate retirement benefits to longer service employees, defined contribution plans—like 401(k) plans—do not always lead to adequate retirement savings. The 2006 Pension Protection Act permitted employers to enroll employees automatically at a three percent contribution level, but this has proven to be too low to fund a secure retirement.[27] AARP supports increasing the default contribution level to five or six percent, provided individuals always have the ability to select a different level. Retirement plan sponsors should also offer automatic escalation of employee contributions.

AARP supports improvements to the Saver's Tax Credit, and we appreciate Chairman Wyden's initiative to improve the credit. Created in 2001, the Saver's Credit is available to low- and moderate-income taxpayers who contribute to a retirement savings plan. Unfortunately, the Saver's Credit is woefully underutilized. From 2006 through 2014, between 3.25 percent and 5.33 percent of eligible filers claimed the credit, and the average value of the credit ranged from $156 to $174 over this time period. A series of changes—some small and others more substantial—would enable more of the tax credit's target population to benefit from the Saver's Credit to help build significant retirement resources. One beneficial change for low- and moderate-income savers would be to make the Saver's Credit refundable. This reform would especially reward saving among Latinos, who are least likely to be covered by a workplace retirement plan and are more likely to earn low incomes.[28] Other ways to strengthen the Saver's Credit are to raise the income thresholds and reduce the phase-out of the credit to create more value and reach more moderate-income filers.

AARP would also like to firmly address the issue of retirement plan disclosures. Along with fiduciary duty, retirement plan disclosure is a fundamental consumer protection of ERISA. Workers not only need current plan information, but often need past records 30–40 years into the future when benefits are due. ERISA and the tax code require information to be disclosed to workers about the actions they need to take and the benefits they are earning. We agree with many critics of current disclosure documents that they should be shorter, simpler and more timely. We support efforts to streamline and improve retirement plan documents and disclo-

[26] Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey, Household Data Annual Averages, Table 8: Employed and unemployed full- and part-time workers by age, sex, race, and Hispanic or Latino ethnicity (January 18, 2019), available at *https://www.bls.gov/cps/cpsaat08.htm.*

[27] *https://www.cnbc.com/2017/08/02/the-problem-with-too-low-401k-contribution-rates.html.*

[28] *http://publications.unidosus.org/bitstream/handle/123456789/888/32551_file_Retirement_security_brookings_Fact_Sheet_Final.pdf.*

sures. We also understand that changes in technology allow for more electronic disclosure.

However, we strongly oppose efforts to primarily provide all required disclosures electronically through generally time-limited website postings. Employers already may automatically provide electronic disclosures to workers who typically work with computers, but most plan participants prefer paper delivery of retirement information. A 2016 FINRA study showed that only 31 percent of respondents preferred receiving disclosures by email or through Internet access; the remainder preferred physical mail (49 percent) or in person meetings (14 percent). Older respondents preferred paper documents, while younger respondents preferred in person meetings. There was no age differential between those who preferred to receive disclosures by email.[29] Moreover, the Pew Research Center found that a third of individuals aged 65 and older do not use the Internet, only half have broadband at home, and only approximately 40 percent own a smartphone. Among all adults, a third do not have high-speed Internet at home and 13 percent only own a smartphone. Disadvantaged populations have even less access—approximately only half of rural Americans, African Americans, and Americans with a high school degree or less have broadband Internet at home.

With such discrepancies in access, and a generally greater consumer preference for paper copies of important financial documents, it is crucial that important material be distributed in paper form and that electronic disclosure not become the default method of delivery. Full and meaningful disclosure is critical to retirement security and pension law, and Congress needs to ensure workers will receive and can review important retirement plan documents. A paper annual benefit statement, similar to the Social Security and Federal Employee statement of earned benefits, is essential to help employees better understand and successfully manage their plans and determine if they are on track for retirement. We applauded Chairman Wyden and Senator Cassidy for taking the lead on retaining paper Social Security statements, and an annual paper statement for both public and private retirement benefits is potentially a more important consumer protection, as workers must manage their own retirement plans. AARP supports default paper delivery of annual benefit disclosures and supports the availability of electronic disclosures when a participant chooses an electronic option.

The bipartisan committee-passed House version of SECURE 2 includes an important requirement for an annual paper retirement earnings benefit statement, which AARP strongly supports, and which we urge the Senate bill to include as well. We are willing to work with interested Senators to address employee preferences and any other issues of concern.

We also note the need to establish a national retirement Lost and Found office to help workers locate retirement accounts with previous employers. This has become increasingly important as more and more workers change jobs several times over the course of their careers. There are at least 21.3 million inactive 401(k) plan accounts as of 2018, the latest year of full data from the Department of Labor Form 5500.[30] Senators Warren and Daines, and Reps. Bonamici, Messer, Banks, Neal, and Brady have introduced bipartisan bills to help workers find "lost" accounts. A Lost and Found office could help savers reclaim their investments and combine accounts to more appropriately invest their assets and lower their fees and expenses.[31] The Pension Benefit Guaranty Corporation (PBGC) is starting a preliminary effort matching individuals with former retirement accounts. Several other countries with similar types of retirement systems also are setting up such low-cost matching programs.

AARP is also continuing to examine provisions related to multiple/pooled retirement plans for employers, which were established in SECURE 1, including a new proposed expansion to 403(b) non-profit plans. AARP supported pooled plans in large part because the SECURE Act required the Department of Labor to issue rules for the operation of these plans, including a model plan. However, while DOL several times solicited public comments, it has not yet issued any rules. As a result, some firms have registered to sell pooled plans, but without rules, neither the plans, nor employers or consumers know how they should operate or if they are operating

[29] FINRA, Investors in the United States 2016 at 14 (December 2016), *https://www.usfinancialcapability.org/.downloads/NFCS_2015_Inv_Survey_Full_Report.pdf.*
[30] *https://hicapitalize.com/resources/the-true-cost-of-forgotten-401ks/.*
[31] *https://www.brookings.edu/wp-content/uploads/2020/10/Retirement-Security-Project-Dashboards-Oct-2020.pdf.*

fairly. Congress should ensure adequate guidance for pooled plans, including for non-profit 403(b) retirement providers, who are interested in adopting pooled plans. Relatedly, any legislation should consider the U.S. Supreme Court's review of 403(b) plan fiduciary compliance with ERISA, which is under review this term *(Hughes v. Northwestern University)*. AARP urges the committee to strengthen the requirements for pooled plans and ensure that any covered plans are governed by clear fiduciary standards for all plan providers.

AARP also looks forward to working with the committee and interested members on a wide range of promising and needed additional retirement improvement ideas. As retirement savings has become more individualized and technology improved, new ways to create and maintain accounts over a lifetime are emerging. Retirement experts are just starting to understand the many ways in which economic and racial disparities affect retirement savings. A larger role for participants in retirement system design is likely to improve coverage of marginalized groups and improve benefits. From the ERISA Advisory Council to individual plan retirement committees, a greater role for covered employees and retirees would be beneficial to the system. Regular agency reporting on what works and better interagency coordination also should be considered. The committee also should ensure that spouses are always protected and fully apprised of their benefit rights. Additionally, workers should always have full legal protections to their benefits, including de novo legal review.

ENSURE FIDUCIARY AND ACCOUNT RETENTION PROTECTIONS

For the millions of Americans who have access to a workplace savings plan and started to save for their retirement, Congress can do more to protect their hard-earned nest eggs. All tax-preferred retirement savings should be prudently invested, with reasonable fees and without conflicts of interest. While ERISA is clear that any person who exercises discretion over employee benefit plan assets must do so in a fiduciary capacity, efforts have been made to lower the important standards that protect retirement investors. Recently, the Securities and Exchange Commission (SEC) weakened financial adviser investment advice standards, and the Department of Labor adopted similar proposals. AARP strongly opposed those efforts and urges both agencies and Congress to restore ERISA's longstanding protections. A strong fiduciary standard should include the core principle that when providing personalized investment advice to customers, financial professionals must always act in the sole interests of those customers—whether they be employers acting on behalf of workers or the workers themselves. That fiduciary standard should be uniform for all financial professionals and should apply to all types of accounts to rectify the existing confusion among investors in the marketplace because of standards that are not uniform. These rules are especially important when workers terminate employment and help protect workers who may be considering rollovers from their ERISA protected savings to often less protected individual retirement investments.

Congress should also discourage pre-retirement cash-outs of retirement funds and instead encourage account portability and stable lifetime income streams, such as periodic withdrawal options and fixed lifetime annuities at retirement age. Too many workers cash out their savings when they change jobs or experience financial emergencies. While this may provide short-term relief, cash-outs create significant risk for diminished financial security for retirees and their spouses in the future. Cash-outs related to emergencies could be reduced if individuals could save in more liquid accounts or have greater access to accounts that have been created through regular payroll deduction.[32] Research shows that individuals with emergency savings accounts are 2.5 times more likely to be confident in their long-term financial goals.[33] Employer-facilitated emergency savings programs—some of which leverage existing retirement savings vehicles—are growing in popularity.[34] In a recent AARP survey, 87 percent of working adults said they support "laws that make it easier for employers to offer a safe and simple way for employers to save for emergencies."[35]

In addition, most defined contribution plans do not accept former account rollovers or permit contributions to be made to portable accounts to help workers con-

[32] *https://www.nber.org/system/files/working_papers/w26498/w26498.pdf.*

[33] Harvey, Catherine S. *Unlocking the Potential of Emergency Savings Accounts.* Washington, DC: AARP Public Policy Institute, October 2019, *https://doi.org/10.26419/ppi.00084.001.*

[34] *https://www.ebri.org/content/emergency-fund-focused-employers-goals-motivations-and-challenges.*

[35] Brown, S. Kathi. *How Financial Experiences During the Pandemic Shape Future Outlook,* Washington, DC: AARP Research, April 2021, *https://doi.org/10.26419/res.00450.001.*

solidate savings. Most DC plans also do not offer fixed annuities or periodic payment options to help ensure that retirees have more adequate distribution options and do not outlive their money. AARP looks forward to working with the committee and other groups to encourage asset preservation, portability, and to provide low-cost distribution and spend-down options that meet workers' needs.

Finally, AARP commends the Congress for earlier this year enacting important legislation to protect the earned benefits of millions of workers and retirees counting on multiemployer pensions for their retirement security. We commend Chairman Wyden and the many committee members who focused their attention on this issue. While most multiemployer pension plans are well funded, over 100 plans—due to industry changes and market downturns, among other reasons—do not have enough assets and contributing employers to pay out full, earned pensions. Many retirees have already been devastated by significant reductions to their earned benefits, and over 1 million retirees and their families were at substantial risk of losing needed retirement income. While this was a difficult problem with no easy solution, the legislative support was critical to protecting the benefits of workers and retirees who had worked hard, earned their benefits, and were put at risk through no fault of their own.

AARP would again like to thank the committee for considering the challenges and needs for a secure retirement and for the opportunity to share our policy priorities to improve the retirement savings of Americans and their families. We stand ready to work with the committee to improve Americans' retirement security.

QUESTIONS SUBMITTED FOR THE RECORD TO DAVID CERTNER

QUESTION SUBMITTED BY HON. MIKE CRAPO

Question. The CARES Act and other legislation has allowed workers and retirees to withdraw money from their retirement accounts at times they need it the most.

How do we balance the need to prevent leakage with the reality that retirement accounts are sometimes the only place some people may believe they can turn to in order to meet short-term liquidity needs?

Answer. Tax-preferred retirement plans were established to ensure workers accumulate additional retirement income to supplement Social Security in retirement. For most workers, there are always competing current needs, making it all the more difficult to set aside savings for the future. That is why AARP generally supports policies to discourage "cash-outs" or "leakage" or other premature access to retirement funds. Most workers are already falling short of the savings they will need to maintain their standard of living in retirement—allowing early access to retirement funds simply trades off problems of today for greater problems in the future.

Having said that, we recognize that there are critical needs that do arise. The pandemic was hopefully a once-in-a-generation event that created a broad emergency need for many. However, for most emergencies, AARP prefers workers use tools currently available—such as plan loan provisions which provide the ability to borrow from your plan with the opportunity to pay yourself back. In addition, workers should be encouraged to set aside additional funds for emergencies with the understanding that retirement money is for the future—easy access to retirement funds undermines the long-term need to save for the future and the need to both plan for today as well as save for tomorrow.

QUESTIONS SUBMITTED BY HON. STEVE DAINES

Question. I am an original cosponsor of the Legacy IRA Act, introduced by Senators Cramer and Stabenow, that would expand the IRA charitable rollover to further incentivize charitable giving by seniors.

From AARP's perspective, can you speak to the value of private philanthropy to the nonprofit sector, and the benefits of an option that provides senior donors, especially middle-income seniors, with retirement income?

Does AARP support this legislation?

Answer. AARP supports efforts to encourage private philanthropy, including efforts to appropriately encourage charitable giving through the tax code, to help address many of the unmet needs in our society. While we have not yet taken a formal

position on expanding the IRA charitable rollover, it appears to be generally consistent with AARP views on charitable giving and improving retirement income for seniors. We would be happy to look into this legislation in more detail.

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Thank you, Mr. Chairman, and thank you for holding this important bipartisan hearing.

Private retirement saving and retirement security are issues in the Finance Committee's jurisdiction that have a history of bipartisan cooperation, and I expect this time will be no different. The purpose of this hearing is to hear testimony on how we can build on that bipartisan track record.

In 2015, under then-Chairman Hatch, I co-chaired the Finance Committee's Savings and Investment Tax Working Group with Senator Brown. That working group examined a host of proposals to increase access to retirement plans, increase participation in plans, and preserve retirement savings. Many of the findings from the working group—including open multiple-employer plans and provisions to help long-term, part-time workers—were the precursor to RESA and ultimately the SECURE Act, which became law in December 2019.

At the same time, retirement savings were growing and the economy was booming following the pro-growth, pro-worker policies enacted as part of the 2017 tax reform law. However, the pandemic put a great deal of economic stress on workers and retirees, and some had no choice but to withdraw money from their retirement accounts to make ends meet.

As the economy continues to bounce back, we have a chance to build on the success of the SECURE Act in a bipartisan way. House Ways and Means Committee Chairman Neal and Ranking Member Brady have already started the process. In the Senate, we are also making significant progress on this issue thanks to the leadership of Senator Portman and Senator Cardin.

Other members—both those who sit on this committee and those who do not—have been working in a bipartisan way on retirement proposals, which I expect we will hear more about today. The range of ideas put forth to improve the retirement system are all important, but my focus today is on three points that are the most pressing for Idahoans and Americans across the country.

First and foremost, Congress should enact policies that encourage workers to save so they can enjoy a secure retirement. One survey conducted by the Department of Labor found that while 71 percent of civilian workers had access to retirement benefits, the participation rate for that same group was only 55 percent. This survey was conducted only months after the SECURE Act was enacted, so I will be interested to see updated studies and surveys in the future, but the concern remains about whether enough workers are saving for retirement.

Second, I frequently hear from small business owners in Idaho who tell me how expensive and cumbersome the rules are to offer their employees a retirement plan. These employers want to provide retirement benefits, but it is just not economically feasible. I am interested in hearing about what Congress can do to make it easier and cheaper for the smallest businesses to offer retirement plans for their employees.

Third, our economy is constantly evolving. People are working longer, workers are changing jobs more often, and the number of "gig workers" is on the rise. Our retirement system must adapt with this changing landscape so every worker has a chance to save for a secure retirement. There is no better time for the Finance Committee to consider further retirement legislation that will meet these needs.

Mr. Chairman, I look forward to working with you and all the members of the committee as we consider a so-called "SECURE 2.0" package.

To our panel of witnesses, I appreciate your willingness to share your expertise with us this morning, and I look forward to hearing from all of you.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF BRIAN H. GRAFF,
CHIEF EXECUTIVE OFFICER, AMERICAN RETIREMENT ASSOCIATION

Thank you, Chairman Wyden, Ranking Member Crapo, and the other members of the Senate Finance Committee, for holding a hearing to examine our workplace retirement savings plan system and for the opportunity to discuss with you how we can improve that system. My name is Brian Graff, and I am the chief executive officer of the American Retirement Association (ARA).

The ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system—the American Society of Enrolled Actuaries (ASEA), the American Society of Pension Professionals and Actuaries (ASPPA), the National Association of Plan Advisors (NAPA), the National Tax-Deferred Savings Association (NTSA), and the Plan Sponsor Council of America (PSCA). Combined, the ARA represents over 30,000 retirement plan professionals. The ARA's members and the organizations they are affiliated with support 95 percent of all the defined contribution plans, such as 401(k) plans, in the United States. The ARA and its underlying affiliate organizations are diverse in the roles they play, but united in their dedication to the success of America's private retirement system.

ARA's mission is to help American workers bolster their retirement security by facilitating well-designed workplace retirement savings plans. We do that by both educating and informing retirement benefits professionals, and by advocating for policies that give every working American the opportunity to achieve a comfortable retirement.

WORKPLACE PLANS ARE THE FOUNDATION FOR A SECURE RETIREMENT

The workplace retirement savings plan has been a success for those that have access to them. These plans provide long-term economic growth and build financial security for the middle class. Nearly 60 percent of American households—some 74.5 million had access to a workplace plan in 2020. At the end of the first quarter in 2021, defined contribution retirement plans—the most common being the 401(k) plan—had $9.9 trillion in assets.[1] Household retirement savings—including assets accumulated through those retirement plans plus all other types of retirement plans represents 59 percent of the non-bank financial capital provided to the equity and bond markets.[2]

The middle class is the primary beneficiary of these plans. Nearly two-thirds (64 percent) of active participants in 401(k) plans have an adjusted gross income of less than $100,000 per year.[3] One-third (33 percent) of participants have an income less than $50,000.[4] The critical factor that determines whether these moderate-income workers save for their retirement is whether they have access to a retirement savings plan at work. Data shows that more than 70 percent of workers earning $30,000 to $50,000 will save in a plan when given the opportunity at work, but fewer than 7 percent save on their own through an IRA.[5] In other words, moderate income workers are 12 times more likely to save for their retirement if they have access to some type of payroll deduction retirement savings program through their work.

The Senate Finance Committee's continued support of expanding retirement plan coverage and simplifying retirement plan rules will increase retirement savings and build even further on the success of the workplace retirement plan system. An analysis by Oxford Economics in 2014, projected that increasing retirement savings one to five percentage points, including increasing the number of working Americans saving, was projected to increase the Nation's long-term economic growth by a full 3 percent—$3,500 per person—over the next 25 years.[6] In other words, an increase in access, and the resulting increase in retirement savings, produces not only individual wealth, but ultimately benefits the greater economy.

[1] Investment Company Institute, Quarterly Retirement Market Data, June 16, 2021, available at: *https://www.ici.org/statistical-report/ret_21_q1.*

[2] Oxford Economics, *Another Penny Saved: The Economic Benefits of Higher US Household Savings,* June 2014, available at: *http://www.oxfordeconomics.com/anotherpennysaved.*

[3] Judy Xanthopoulos, Ph.D. of Quantria Strategies, analysis of Internal Revenue Service, Statistics of Income, Individual Income Tax, and IRA Studies, 2017 Tax Year.

[4] *Ibid.*

[5] IRS tabulations and Vanguard, *How America Saves,* 2018.

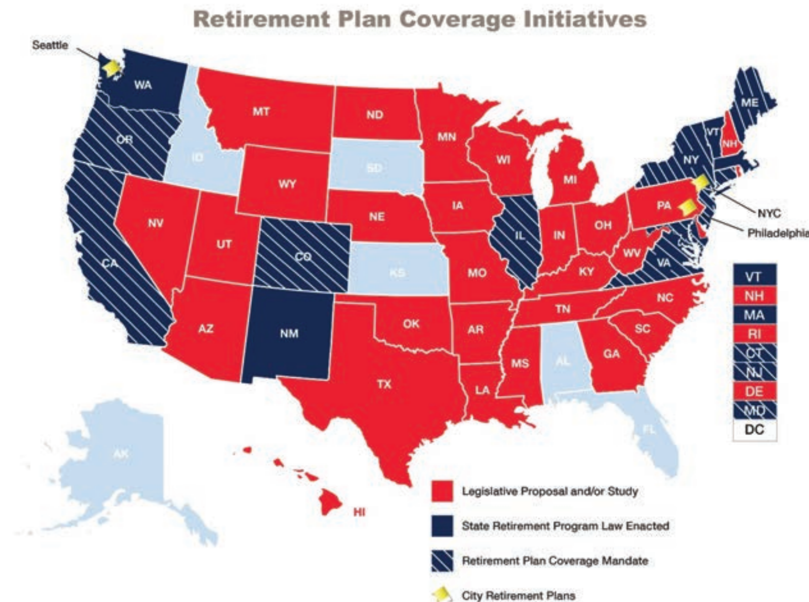
[6] Oxford Economics, *Another Penny Saved: The Economic Benefits of Higher U.S. Household Savings,* June 2014, available at: *http://www.oxfordeconomics.com/anotherpennysaved.*

WHO IS LEFT BEHIND?

Despite these positive results, far too many Americans still lack access to a retirement plan at work and thus lack an equitable opportunity to achieve a comfortable retirement. This retirement plan coverage gap, and the corresponding lack of retirement savings, is particularly pronounced in the Black and Latinx communities. In fact, according to a recent research report, 52 percent of Black Americans and 68 percent of Latinx Americans **do not** currently have access to a workplace retirement plan.[7] By contrast, only 40 percent of White Americans lack access to a retirement plan at work.[8]

Since so many Black and Latinx workers do not have access to a retirement plan, it should be no surprise that a majority of Black and Latinx families do not have **any** retirement account savings. Fifty-six percent of Black families and 67 percent of Latinx families have **zero** retirement savings assets compared with 35 percent of White families.[9]

Some of this gap can be attributed to the size of the organizations for which these communities tend to work. According to the Department of Labor's Bureau of Labor Statistics, only 53 percent of employees at smaller businesses (firms with less than 50 workers) have access to a workplace retirement plan, compared to 69 percent of those at firms with more than 50 workers and 83 percent of those at firms with more than 100 workers.[10]



WHAT CAN BE DONE?

Expanding coverage with auto-enrollment is the key to addressing racial inequities in retirement savings. Data shows that when moderate income workers are auto-enrolled in a workplace retirement plan there is no racial disparity in retire-

[7] Richard W. Johnson, Urban Institute Fellow, *How Can Policymakers Close the Racial Gap in Retirement Security?,* October 2020, available at: *https://www.urban.org/research/publication/how-can-policymakers-close-racial-gap-retirement-security/view/full_report.*

[8] *Ibid.*

[9] Monique Morrissey, Economic Policy Institute, *The State of American Retirement Savings,* December 2019, available at: *https://www.epi.org/publication/the-state-of-american-retirement-savings/.*

[10] Department of Labor, Bureau of Labor Statistics, *Employee Benefits in the United States News Release,* September 2020, available at: *https://www.bls.gov/news.release/archives/ebs2_09242020.htm.*

ment savings participation with Black, Latinx, and White Americans all at about 80 percent.[11]

In recent years, State and local governments have taken steps to close the retirement plan coverage gap in their jurisdictions with the enactment of laws that have created government facilitated automatic IRA programs. Chairman Wyden's home State of Oregon was a trailblazer here, becoming the first State in the Nation to formally launch such a program when OregonSaves came online on July 1, 2017.

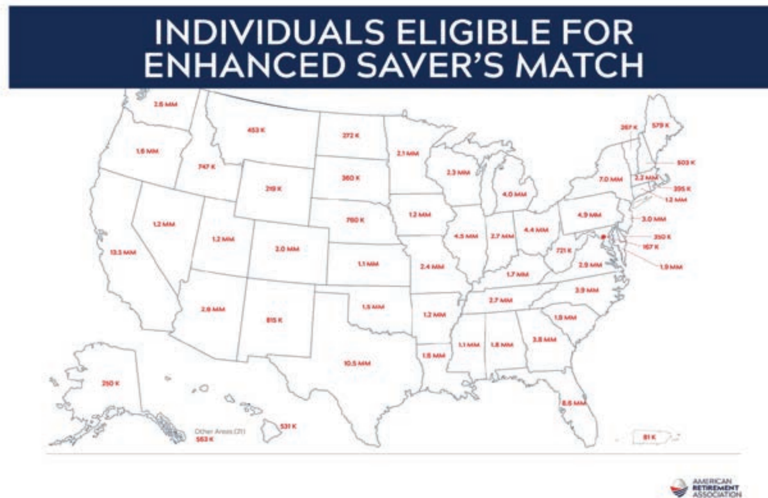
A key policy feature of most of these automatic IRA programs is a requirement that businesses over a certain size provide access to some type of retirement plan to their employees. If employers do not already offer a workplace retirement plan, or do not want to adopt one available to them in the private marketplace, they can enroll their employees in the State or local program. To date, 10 states—including Oregon—have enacted such programs.[12]

The ARA applauds the work and success of these State and local programs but believes a Federal policy would better assure the retirement plan coverage gap can be addressed consistently throughout the entire country. In this regard, it is not our intent to displace the great work of State and local governments that have already enacted a program. Senator Whitehouse has introduced the Automatic IRA Act (S. 2370, 116th Congress) that would create a national requirement for businesses with 10 or more employees to adopt at minimum an automatic IRA plan. Similar legislation has been introduced in the past by Congressman Neal, Chairman of the House Ways and Means Committee. We believe the approach in both pieces of legislation could significantly close the current retirement plan coverage gap while imposing practically no burden on employers. This approach leverages existing private sector solutions in the marketplace instead of causing a massive disruption by replacing the entire existing retirement plan system with a government run program.

The ARA enthusiastically supports Chairman Wyden's legislation, the Encouraging Americans to Save Act (S. 2452, 117th Congress), which shares a key provision in Senator Cardin's and Senator Portman's bipartisan Retirement Security and Savings Act (S. 1770, 117th Congress), specifically designed to incentivize and supplement the retirement savings of moderate-income workers. The bill, recently reintroduced in this Congress, expands and enhances the existing Saver's Credit by turning it from a tax credit of which only some can take advantage into a government matching contribution of up to $1,000 a year for workers who save in a retirement account. The bill also enhances and simplifies the new Saver's Match to make the full 50 percent match available to individuals earning up to $32,500 and families earning up to $65,000.

[11] 401(k) Plans in Living Color, A Study of 401(k) Savings Disparities Across Racial and Ethnic Groups, The Ariel/Aon Hewitt Study, 2012.

[12] *See* the Center for Retirement Initiatives at Georgetown University for a complete list of these programs found at: *https://cri.georgetown.edu/*.



Source: Estimates prepared by Judy Xanthopoulos, PhD of Quantria Strategies, based on IRS, SOI W-2 Data

With the increased income thresholds under this legislation, over 120 million American workers would now be eligible for the new Saver's Match incentive for retirement savings.[13] This includes millions of new gig workers in this country as well as government workers, like public school teachers, many of whom are not eligible for matching contributions. This expanded Saver's Match would both encourage saving and help moderate income earners build assets by providing an immediate, meaningful return on personal retirement contributions.

The potential results of Congress tackling the two biggest challenges in the retirement savings policy space—closing the retirement coverage gap and directly contributing to and incentivizing the retirement savings of moderate-income workers—are extraordinary. Estimates show that enactment of the combination of the Automatic IRA Act and the Encouraging Americans to Save Act would create **51 million** new individuals now saving for retirement[14] and would add an additional **$6.2 trillion** in retirement savings over a 10-year period.[15] Nearly all—98 percent—of these 51 million new savers earn less than $100,000 per year.[16]

CLOSING THE RACIAL WEALTH GAP THROUGH RETIREMENT SAVINGS

Moreover, these two vital retirement savings proposals would greatly benefit the Black and Latinx communities, creating 5.8 million new Black retirement savers and 8.4 million new Latinx savers that earn less than $100,000 per year.[17] For Black and Latinx Americans earning under $30,000, this includes a 74 percent and a 76 percent increase in retirement plan participation rates, respectively. For those Black and Latinx Americans earning between $30,000 and $50,000, the increases are 56 percent and 60 percent, respectively.[18]

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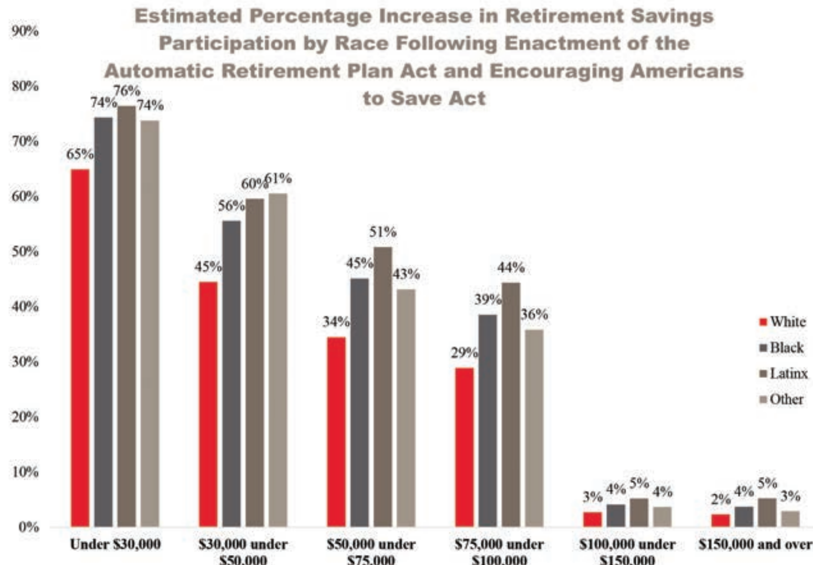
[13] Estimates prepared by Judy Xanthopoulos, Ph.D. of Quantria Strategies, based on IRS, SOI W–2 Data.
[14] *Ibid.*
[15] Employee Benefit Research Institute's Retirement Security Projection Model—version 3671.
[16] Estimates prepared by Judy Xanthopoulos, Ph.D. of Quantria Strategies, based on IRS, SOI W–2 Data.
[17] *Ibid.*
[18] *Ibid.*



Why is retirement savings important? Retirement savings allows for a cushion against unexpected financial shocks. Retirement savings opens doors for small business creation. Retirement savings is accumulated wealth which leads to generational wealth. Ultimately, retirement savings is an essential piece to closing the racial wealth gap.

I encourage the Senate Finance Committee, and, ultimately, Congress, to implement into law the Automatic IRA Act and the Encouraging Americans to Save Act. Besides these two important policies, other legislative items have been introduced that would support and expand the workplace retirement savings system.

STUDENT LOAN RETIREMENT MATCHING PROGRAM

The ARA strongly supports Chairman Wyden's Retirement Parity for Student Loans Act (S. 1443, 117th Congress) which allows plan sponsors to make an employer contribution to the retirement plan account that matches a percentage of an employee's student loan payments. The latest version of this legislation addresses a concern that the ARA identified regarding how this new retirement plan design feature could negatively impact the average deferral percentage (ADP) test that 401(k) plans must satisfy. Since that problem has been addressed, small and medium-sized businesses will now not have to worry that this new and innovative retirement benefit puts their retirement plan testing at risk.

EMERGENCY SAVINGS IN RETIREMENT PLANS

The Federal Reserve found that nearly 4 in 10 adults in 2019 would have difficulty covering a $400 unexpected expense using cash or its equivalent,[19] a situation that has likely grown worse for significant portions of the population due to the economic impact of the COVID–19 pandemic.

The ARA supports proposals—like Senator Lankford's and Senator Bennet's Enhancing Emergency and Retirement Savings Act (S. 1870, 117th Congress)—to create a new category of retirement plan distribution that would allow workers who have a balance in these accounts to readily access their money in the case of a personal financial emergency without tax penalty and a minimal amount of paperwork.

[19] Board of Governors of the Federal Reserve System, Report of the Economic Well-Being of U.S. Households in 2019: May 2020.

This proposal leverages the existing workplace defined contribution retirement plan system to address emergency savings shortfalls. This would encourage increased participation in retirement plans especially among moderate income workers since those workers will know that they can access a portion of their savings in the case of a financial emergency.

This approach is simple (no new or separate accounts), includes a tax benefit to encourage saving, and does not undermine long-term retirement savings. Employers are already familiar with processing such requests since 401(k) plans have built in rules allowing access to savings on account of hardships—and these funds are protected through the Employee Retirement Income Security Act (ERISA).

The legislation would allow for one emergency distribution per calendar year of up to $1,000 from the individual's account balance in the plan and requires that the withdrawn funds be paid back to the plan before an additional emergency distribution from that same plan is allowed. The amount can be recontributed within a 3-year period to any eligible plan to which a rollover contribution can be made.

The ARA and its members have concerns with other approaches that push for employers to create and automatically enroll employees into an entirely new and separate emergency savings account program. The ARA believes that this sidecar approach would not only undermine retirement savings, but create an unnecessary administrative burden for employers, and would potentially expose the employer to more liability.

SMALL EMPLOYER RETIREMENT PLAN TAX CREDIT ENHANCEMENTS

The 2019 SECURE Act significantly increased the small business pension plan startup tax credit to a maximum annual cap of $5,000, but still limited it to 50 percent of any administrative expenses incurred in the first 3 tax years of a new retirement plan.

Section 102 of House Ways and Means Committee Chairman Neal's and Ranking Member Brady's Securing a Strong Retirement Act (H.R. 2954) (a.k.a. SECURE 2.0) increases the existing small employer pension plan start-up credit for employers with 50 or fewer employees to 100 percent of administrative retirement plan expenses for the first 3 tax years of a new retirement plan. The dollar cap would continue to apply.

Section 102 also adds a new tax credit to subsidize employer contributions made to a new retirement plan (other than a defined benefit plan). The Employer Contribution Credit is equal to the applicable percentage of the amount contributed by the employer up to a per-employee cap of $1,000. The applicable percentage is equal to 100 percent in the first tax year for a new plan, 75 percent in the second year, 50 percent in the third year, 25 percent in the fourth year. The full additional Employer Contribution Credit is limited to employers with 50 or fewer employees and phased out for employers with between 51 and 100 employees.

The ARA supports these commonsense incentives that will encourage small businesses to adopt a robust retirement benefit for their workers.

POOLED EMPLOYER PLANS

Another key provision in the 2019 SECURE Act allows two or more unrelated employers to join a multiple or pooled employer plan. The provision includes important consumer protection safeguards requiring the service provider of such an arrangement to take responsibility for the proper operation of the pooled plan. Allowing unrelated employers to pool their assets into one plan creates economies of scale that can reduce administrative burdens and lower both employer and plan participant cost, making this type of arrangement attractive for small business owners who might otherwise not consider offering a program.

Senator Grassley's, Senator Hassan's, and Senator Lankford's Improving Access to Retirement Savings Act (S. 1703, 117th Congress) has thoughtfully included two provisions that address technical issues with respect to these so-called "open" pooled employer plans, building upon the improvements made to these arrangements in the 2019 SECURE Act. The first provision would allow 403(b) plans that are generally sponsored by charities and public educational organizations, to participate in open multiple employer plans as corporate plans can currently. This provision includes important language requiring the Department of Treasury and the Department of Labor to educate non-profit plan sponsors on their fiduciary obligations. The second provision would allow employers who wish to join an existing multiple employer plan to receive the small employer pension plan startup credit. These provisions

would improve access to high-quality low-cost retirement plans for the benefit of small business rank-and-file workers.

OTHER USEFUL RETIREMENT PLAN TOOLS AND RULE FIXES

New Required Beginning Dates for Required Minimum Distributions

The 2019 SECURE Act provided greater flexibility in retirement planning by moving back the age that individuals are required to begin taking distributions from their tax-favored retirement accounts from age 70½ to age 72. The 2021 SECURE 2.0 Act moves back those ages even further to age 73 starting on January 1, 2022, to age 74 starting on January 1, 2029, and to age 75 starting on January 1, 2032. A similar provision is also included in Senator Cardin's and Senator Portman's Retirement Security and Savings Act (S. 1770, 117th Congress). These new required beginning dates will allow individuals to hold on to their retirement assets longer should they wish to account for a longer expected lifespan in retirement.

Family Attribution Rule Fixes

The ARA strongly supports Congressman Panetta's and Congressman Arrington's Family Attribution Modernization Act (H.R. 2796, 117th Congress) that is also included in the 2021 SECURE 2.0 Act. This critical modification updates old tax rules to not only reflect the modern economy, but it removes needless barriers to small business retirement plan formation, particularly for women business owners. Specifically, the legislation addresses two inequities in the stock attribution rules that impact certain tests a retirement plan must complete each year to remain qualified: (1) it removes attribution for spouses with separate and unrelated businesses who reside in community property States, and (2) it removes attribution between parents with separate and unrelated business who have minor children.

Discretionary Amendments

Senator Grassley's, Senator Hassan's, and Senator Lankford's Improving Access to Retirement Savings Act (S. 1703, 117th Congress) includes an important provision—also contained in the 2021 SECURE 2.0 Act—that gives employers more time to adopt beneficial discretionary retirement plan amendments—specifically up until the due date of the employer's tax return. This new deadline to adopt a beneficial discretionary amendment is consistent with the deadline to adopt a new retirement plan that was provided for in the 2019 SECURE Act and gives employers with existing retirement plans the flexibility to make their retirement plans more generous to rank and files workers after the end of the year.

Financial Factors in Selecting Retirement Plan Investments

The ARA has long believed that retirement plan participants and beneficiaries are best served when the Employee Retirement Income Security Act (ERISA) principles governing the selection of retirement plan investments by plan fiduciaries are clear. ERISA fiduciaries' obligations of prudence and exclusive purpose are at the heart of ERISA's protections of retirement plans and participants, including plan investment selection. The ARA believes that ERISA requirements for fiduciaries selecting plan investments should neither promote the sacrifice of investment returns or assumption of greater investment risks as a means of promoting collateral social policy goals—nor should they preclude consideration of benefits other than investment return.

To that end, the ARA supports Senator Smith's Financial Factors in Selecting Retirement Plan Investments Act (S. 1762, 117th Congress). This legislation clarifies ERISA fiduciary obligations to make it clear that a plan fiduciary may consider environmental, social, and governance (ESG) factors in the selection of retirement plan investments and provides that ESG investments are permitted as qualified default investment alternatives in ERISA-covered retirement plans. It establishes the principle in ERISA that ESG investments should not be discouraged or treated differently than other retirement plan investment options.

Federally Declared Disaster Distributions

Every year tens of thousands of Americans are victims of disasters from floods, tornadoes, hurricanes, forest fires, or more recently a global health pandemic. But because there are not permanent rules on the use of retirement funds by individuals impacted by these situations, victims are dependent upon congressional action after the occurrence of each disaster. The ARA strongly supports permanent retirement plan tax relief measures that would automatically apply once a Presidential disaster declaration is issued. ARA applauds and supports Senators Menendez and Cassidy's legislation that would make eligibility for these distributions in these circumstances permanent.

Electronic Disclosure

The ARA strongly believes that electronic disclosure be the default method of communication with retirement plan participants and beneficiaries. Electronic delivery encourages participants to engage with their investments, which results in better outcomes, including higher deferral rates and improved retirement preparedness. According to the Investment Company Institute's survey of a cross section of 401(k) recordkeepers conducted in the winter of 2017–2018, the average contribution rate of participants who interacts with their plan website averaged 7.8 percent of salary versus just 5.8 percent of salary for those who did not interact with the plan's website. However, we are aware of legislation in the House of Representatives developed in response to a Department of Labor regulation released in 2020. The legislation is counter to the DOL regulation and would only serve to further complicate plan sponsors' ability to efficiently operate a retirement plan. We propose a compromise that would streamline all existing regulatory rules on the mechanics behind who receives disclosures and how an individual receives disclosures, but the default would be electronic except for one paper benefit statement provided annually. We would like to work with Congress and other stakeholder groups on this proposal in order to provide plan sponsors and participants certainty on how disclosures are distributed in the future.

CONCLUSION

The ARA appreciates the Senate Finance Committee's focus on the ongoing challenges that American families face in achieving a secure retirement. We thank Congress for taking a major step forward to improve the workplace retirement system with the enactment of the SECURE Act at the end of 2019. We look forward to working with Congress as it moves forward with further improvements to the system in this Congress.

QUESTIONS SUBMITTED FOR THE RECORD TO BRIAN H. GRAFF

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. Small business owners in Idaho tell me how expensive it is to offer their employees a retirement plan. The smallest businesses, which may only have 5–10 employees, some of whom may work part-time, can really benefit from tax incentives like the startup credit. I hear that ongoing compliance with complex ERISA and tax code rules drive much of the cost.

Would streamlining these rules make it easier—and therefore cheaper—for small employers to comply?

Answer. Yes. The good news is that former Senate Finance Committee Chairman Orrin Hatch included such a proposal in his retirement bill, the SAFE Retirement Act of 2013 (S. 1270, 113th Congress, *https://www.congress.gov/bill/113th-congress/senate-bill/1270*). Section 201 of that bill creates a "Starter 401(k)" wage deferral-only super simple safe harbor 401(k) plan. This proposal was also incorporated into House Ways and Means Committee Chairman Richard Neal's Automatic Retirement Plan Act (H.R. 4523, 115th Congress, *https://www.congress.gov/bill/115th-congress/house-bill/4523*).

The plan allows employees to save up to $8,000 per year in a tax-preferred account—more than in an IRA—but does not involve the administrative burden or expense of a traditional 401(k) plan. For example, this plan does not require any employer contributions or complicated nondiscrimination testing and employees are automatically enrolled. In other words, the "Starter 401(k)" is perfect for a small or start-up business that is not in a position to contribute to a plan but wants to help its employees save for retirement.

Question. How should Congress approach this challenge?

Answer. Congress should immediately enact this new plan design into law. The American Retirement Association strongly supports passage of the Automatic Retirement Plan Act, but, in addition, would support a stand-alone measure, such as section 201 of the SAFE Retirement Act of 2013.

Question. In your testimony, you mentioned the importance of making it easier to help small employers offer retirement plans. I agree with you that making it easier for small employers is essential to closing the coverage cap.

Do the proposals discussed in the July 28th hearing accomplish that goal? If yes, which provisions or proposals are the most important? If not, what else could be done?

Answer. The most effective way to close the coverage gap is to require businesses to offer the opportunity for their employees to save for retirement through payroll deduction. Senator Whitehouse's Automatic IRA Act (S. 2370, 116th Congress, *https://www.congress.gov/bill/116th-congress/senate-bill/2370*) creates such a national requirement for businesses with 10 or more employees. Covered businesses would be required to at minimum automatically enroll employees into a payroll deduction IRA arrangement. House Ways and Means Committee Chairman Richard Neal has introduced similar legislation. Implementing these proposals will significantly close the current retirement plan coverage gap while imposing practically no burden on employers.

Enhancing the small employer retirement plan tax credit is also critical. The 2019 SECURE Act significantly increased the small business pension plan startup tax credit to a maximum annual cap of $5,000, but still limited it to 50 percent of any administrative expenses incurred in the first 3 tax years of a new retirement plan.

The bipartisan Securing a Strong Retirement Act (H.R. 2954, 117th Congress, *https://www.congress.gov/bill/117th-congress/house-bill/2954*) (a.k.a. SECURE 2.0) increases the existing small employer pension plan start-up credit for employers with 50 or fewer employees to 100 percent of administrative retirement plan expenses for the first 3 tax years of a new retirement plan. The dollar cap would continue to apply. SECURE 2.0 also adds a new tax credit to subsidize employer contributions made to a new retirement plan. These common-sense incentives will encourage small businesses to adopt a robust retirement benefit for their workers.

Expanding and enhancing the existing Saver's Credit will encourage workers to participate in these retirement plans. Chairman Wyden's Encouraging Americans to Save Act (S. 2452, 117th Congress, *https://www.congress.gov/bill/117th-congress/senate-bill/2452*), which shares a key provision in Senator Cardin's and Senator Portman's bipartisan Retirement Security and Savings Act (S. 1770, 117th Congress, *https://www.congress.gov/bill/117th-congress/senate-bill/1770*), is specifically designed to incentivize and supplement the retirement savings of moderate-income workers. These proposals transform the Saver's Credit from a tax credit of which only some can take advantage into a government matching contribution of up to $1,000 a year for workers who save in a retirement account. The bill also enhances and simplifies the new Saver's Match to make the full 50 percent match available to individuals earning up to $32,500 and families earning up to $65,000.

Estimates show that enactment of the combination of the Automatic IRA Act and the Encouraging Americans to Save Act would create **51 million** new individuals now saving for retirement and would add an additional **$6.2 trillion** in retirement savings over a 10-year period. Nearly all—98 percent—of these 51 million new savers earn less than $100,000 per year.

Question. The bipartisan SECURE Act in 2019 expanded retirement plan coverage for long-term, part-time workers. The U.S. workforce has changed and will continue to change over time, and the pandemic is just the most recent demonstration of changing dynamics.

What impact would the proposal to further expand retirement plan coverage for long-term, part-time employees have on employers and employees?

Answer. The American Retirement Association supports the expansion of retirement plan coverage to long-term, part-time employees. Provisions in both the bipartisan 2021 SECURE 2.0 bill and the Retirement Security and Savings Act would reduce the period of service requirement for long-term part-time employees from 3 to 2 years.

The 2019 SECURE Act excludes the counting of periods of service prior to 2021 for purpose of determining the eligibility of long-term part-time employees to contribute to the plan. However, it does not explicitly exclude the counting of prior periods of service for vesting purposes. Recent IRS guidance (Notice 2020–68, *https://www.irs.gov/pub/irs-drop/n-20-68.pdf*) to implement the SECURE Act stated that because of this statutory language omission, all prior service of long-term part-time employees must be considered for vesting. Although employers are not required to provide long-term part-time employees with employer contributions, some employers may want to be more generous so as to not treat them differently that full-time em-

ployees. This IRS interpretation unfairly and negatively impacts those employers wanting to be more generous.

The American Retirement Association supports a statutory clarification to the 2019 SECURE Act so that the exclusion of periods of service before the 2021 plan year also applies for purpose of counting vesting service. This way, periods of service for both eligibility and vesting will be counted the same way. Before the 2019 SECURE Act was enacted, there was no need to maintain the service and hour records of employees not eligible to participate in the plan, so many more generous employers will have trouble complying with the recent IRS guidance.

Question. Automatic escalation features would clearly increase retirement savings, but for some small employers, it may not be feasible to offer such a feature.

Can you comment on the role automatic escalation features play in retirement savings and how small employers can use these features?

Answer. Since 1998, employers have been permitted to automatically enroll newly hired employees into a 401(k). In 2000, automatic enrollment was extended to current workers. The 2006 Pension Protection Act (PPA) created clear automatic enrollment and automatic escalation safe harbors for employers.

According to the Plan Sponsor Council of America's 2019 Annual Survey of Profit Sharing and 401(k) Plans, 60.2 percent of plans had automatic enrollment, but that percentage drops to 34.8 percent for employers with less than 50 plan participants. From the same survey, 32.7 percent of plans had an automatic escalation feature that automatically increases the default deferral rates over time (typically at 1 percent of pay per year) including 34.2 percent of employers with less than 50 plan participants. So, if small employers have an automatic enrollment feature in their plan, they also typically have an automatic escalation feature as well.

While these automatic features are effective, the bigger problem is that, according to the DOL's Bureau of Labor Statistics, only 53 percent of workers at businesses with less than 50 workers have access to a workplace retirement plan, compared to 69 percent of workers at businesses with 50–100 workers, and 83 percent of workers at businesses with more than 100 workers. We need to focus on getting small businesses to adopt retirement plans first.

Question. In your written statement, you mentioned pooled employer plans—or "PEPs"— which were enacted as part of the SECURE Act. I hear a lot of enthusiasm about these plans, and I understand that as of January 1st, pooled plan providers can begin to offer PEPs.

Can you comment on how PEP implementation is going?

Answer. Many retirement plan service providers have unveiled various pooled employer plan (PEP) products this year. In a PEP, the plan sponsor role is outsourced to a professional third party known as the Pooled Plan Provider (PPP). Because the PPP is the plan sponsor, the PPP is also the designated plan administrator and named fiduciary, two very important legal roles in determining who has fiduciary responsibility for the plan. The PPP role is likely to be filled by third-party administrators (TPAs), recordkeepers, registered investment advisors (RIAs) or some other financial services firm. The PPP must acknowledge their fiduciary responsibilities in writing and ensure all participating employers are complying with their obligations and that the plan is properly bonded. All of these requirements are further monitored by registration requirements with the U.S. Department of Labor (DOL).

The SECURE Act laid a solid foundation upon which to build PEPs, but there remains a need for regulatory guidance. Most important will be the need for the DOL to address potential conflicts of interest when a service provider takes on the PPP role and then hires themselves to take on other roles in the plan for compensation. This scenario is likely to occur in many PEPs where a recordkeeper serves as a PPP and hires themselves as the plan administrator or an RIA serves as the PPP and hires themselves as the discretionary investment manager. Conflicts could also arise if the PPP includes proprietary investment products in the PEP. These scenarios could be addressed with DOL guidance on reasonable arrangements and proper disclosures, but that exemption does not currently exist.

Question. What else needs to be done for these plans to become more widespread?

Answer. Senator Grassley's, Senator Hassan's, and Senator Lankford's Improving Access to Retirement Savings Act (S. 1703, 117th Congress, *https://www.congress.gov/bill/117th-congress/senate-bill/1703*) has thoughtfully included two provisions that address technical issues with respect to pooled employer plans,

building upon the improvements made to these arrangements in the 2019 SECURE Act. The first provision would allow 403(b) plans that are generally sponsored by charities and public educational organizations, to participate in open multiple employer plans as corporate plans can currently. This provision includes important language requiring the Department of Treasury and the Department of Labor to educate non-profit plan sponsors on their fiduciary obligations. The second provision would allow employers who wish to join an existing multiple employer plan to receive the small employer pension plan startup credit. Besides this important legislation, the market needs time to develop the products and for plan sponsors to become aware of the products that are available.

Question. In your written statement, you mentioned the family attribution rules that affect retirement plans in community property States. As you know, Idaho is a community property State, so I am interested to hear more.

Please elaborate on how these rules affect small business owners in Idaho.

Answer. Under the tax code, certain related businesses must be aggregated when performing the coverage and nondiscrimination tests. The aggregation rules are generally based on the degree of common ownership of the businesses. For example, if an individual owns 100 percent of two separate businesses, they must be aggregated for purposes of the tests.

In determining the level of ownership in a business the tax laws have certain attribution rules whereby an individual is deemed to own stock held by other individuals or entities.

As a general rule, an individual is attributed any ownership interest held by his or her spouse. There is an exception to this rule. A spouse is not deemed to own the stock of his or her spouse if: (1) the individual does not have direct ownership in the spouse's business; (2) the individual is not a director or employee, and does not participate in the management of the spouse's business; (3) no more than 50 percent of the spouse's business's gross income for a taxable year is derived from passive investments (*e.g.,* royalties and rents); and (4) the spouse's ownership interest is not subject to disposition restrictions running in favor of the individual or the minor children of the individual and the spouse (*e.g.,* the business owner cannot be required to offer a right of first refusal to his or her spouse or their children before selling the business to a third party).

In a community property State, spouses are automatically considered to own half of the property acquired during the marriage, except under certain limited circumstances. The result is that the first criteria (no direct ownership in each other's business) is not satisfied and there would be stock attribution among the spouses.

The application of this rule can create situations where a business owner is not able to establish a plan for her employees solely because she resides in a community property State.

The ARA strongly supports Congressman Panetta's and Congressman Arrington's Family Attribution Modernization Act (H.R. 2796, 117th Congress, *https://www.congress.gov/bill/117th-congress/house-bill/2796*) that is also included in the 2021 SECURE 2.0 bill. The Family Attribution Modernization Act updates old tax rules to reflect the modern economy and removes needless barriers to small business retirement plan formation, particularly for women business owners. Specifically, the legislation addresses two inequities in the stock attribution rules: (1) it removes attribution for spouses with separate and unrelated businesses who reside in community property States, and (2) it removes attribution between parents with separate and unrelated business who have minor children.

QUESTION SUBMITTED BY HON. JOHN THUNE

Question. An IRS report from 2019 indicated that the independent contractor workforce increased nearly 50 percent between 2001 and 2016.

As the number of individuals choosing to participate in the gig economy increases, either as a full-time job or a way to supplement income, do you believe existing retirement plans, like pooled employer plans for example, adequately accommodate independent contractors in their ability to save for retirement?

Answer. It is unclear whether gig workers are eligible to join a pooled employer plan (PEP), so this is another area for DOL to provide further PEP clarification and guidance.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. As I mentioned during my opening statement, only 40 percent of Indiana's workforce participates in an employer-provided retirement plan. In fact, just half of all Hoosier workers are offered such a plan in the first place.

During our conversation, you mentioned that two of the major hurdles small businesses face in offering employer-provided retirement plans are (1) administrative costs and (2) the limited flexibility around costs involved with employer contributions. I was proud to support the bipartisan SECURE Act last Congress which eased some of the costs related to setting up such plans, especially for small businesses.

The second hurdle you had mentioned—giving small businesses more flexibility—is an area in which I have taken great interest, as we discussed. In particular, my Retirement Security Flexibility Act would address shortcomings in current contribution safe harbor provisions by empowering employers to auto-enroll employees in plans and auto-escalate employee contributions to help employees accumulate savings more quickly, while also easing burdensome contribution matching requirements for small employers.

During the hearing you had shared ideas similar to those present in this legislation. Would you agree that relaxing the minimum contribution limits for the smallest employers would encourage such employers to offer retirement plans to their employees and ultimately increase retirement savings among its workers?

Answer. Yes. The American Retirement Association support's your Retirement Security Flexibility Act (S. 2602, 117th Congress, *https://www.congress.gov/bill/117th-congress/senate-bill/2602*) to create an additional automatic contribution 401(k) plan safe harbor for small employers. This additional safe harbor would give small employers more flexibility for employer contributions than is provided in the existing 401(k) plan safe harbor arrangements.

And as I mentioned to you during the hearing, an even simpler approach is the "Starter 401(k)" proposal in former Chairman Orrin Hatch's SAFE Retirement Act. The "Starter 401(k)" allows employees to save up to $8,000 per year in a tax-preferred account—more than in an IRA—but does not involve the administrative burden or expense of a traditional 401(k) plan. For example, this plan does not require any employer contributions or complicated nondiscrimination testing and employees are also automatically enrolled.

Question. Many Americans are vulnerable to sudden and unexpected expenses. The annual Federal Reserve Report on the Economic Well-being of U.S. Households revealed that roughly 40 percent of Americans are unable to cover a $400 expense. While the COVID–19 Economic Impact Payments temporarily alleviated this problem, it appears that increased consumer spending has largely eliminated short-term gains made in savings. I am working with Senator Booker to reintroduce a number of bills that would help incentivize emergency savings, including by setting aside a portion of one's tax refund into a rainy day fund and enabling workers to set up short-term savings accounts through their employers.

How important is it that emergency savings issues are addressed alongside broader retirement savings reform?

Answer. It is very important that emergency savings issues get addressed, since the lack of emergency savings is a significant barrier preventing Americans from setting aside long-term savings for a more comfortable retirement.

To give American workers a peace of mind that they can access funds set aside in a retirement account for an unexpected financial emergency, the American Retirement Association supports Senator Lankford's and Senator Bennet's Enhancing Emergency and Retirement Savings Act (S. 1870, 117th Congress, *https://www.congress.gov/bill/117th-congress/senate-bill/1870*). This bill creates a new category of retirement plan distribution that would allow workers who have a balance in these accounts to readily access their money in the case of a personal financial emergency without tax penalty and a minimal amount of paperwork.

This proposal leverages the existing workplace defined contribution retirement plan system to address emergency savings shortfalls. This would encourage increased participation in retirement plans especially among moderate income workers since those workers will know that they can access a portion of their savings in the case of a financial emergency.

This approach is simple (no new or separate accounts), includes a tax benefit to encourage saving, and does not undermine long-term retirement savings. Employers

are already familiar with processing such requests since 401(k) plans have built-in rules allowing access to savings on account of hardships—and these funds are protected through the Employee Retirement Income Security Act (ERISA).

The ARA and its members have concerns with other approaches that push for employers to create and automatically enroll employees into an entirely new and separate emergency savings account program. The ARA believes that this sidecar approach would not only undermine retirement savings, but create an unnecessary administrative burden for employers, and would potentially expose the employer to more liability.

Question. What are the trade-offs of allowing emergency savings to be drawn from retirement accounts, as many did during the pandemic?

Answer. The obvious trade-off is that workers who draw down their retirement accounts for emergency or other eligible hardship distributions will have less money saved for their retirement. The Coronavirus Aid, Relief, and Economic Security (CARES) Act allowed eligible retirement savers to take a coronavirus-related distribution (CRD). Individuals affected by the coronavirus were able to withdraw up to $100,000 from their retirement plan penalty free until December 30, 2020. This is the first time these emergency distribution provisions were put into place on a national scale.

At the time of its passage, some were concerned that this bill would open the floodgates to a large percentage of workers cashing out years of retirement savings. Fortunately, this did not happen. According to an analysis of Vanguard 401(k) plan recordkeeping data, more than 94 percent of plan participants did not access their retirement savings, and instead stayed the course. Less than 6 percent of participants have withdrawn assets, with the typical participant accessing about $13,300. Recovery from such an early distribution can be achieved with marginal increases to savings and sufficient time to retirement.

Question. How do we ensure Americans have the freedom of using their savings to cover immediate needs while preserving the integrity of their long-term retirement accounts?

Answer. This a critical balance. The Enhancing Emergency and Retirement Savings Act only allows for one emergency distribution per calendar year of up to $1,000 from the individual's account balance in the plan and requires that the withdrawn funds be paid back to the plan before an additional emergency distribution from that same plan is allowed. The amount can be recontributed within a three-year period to any eligible plan to which a rollover contribution can be made.

These reasonable restrictions also highlight the importance of automated features in retirement plans. In addition to the savings benefits of automatic enrollment, automated plan design will provide many employees with an additional source of emergency money.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. Northern Nevada communities are facing the effects of devastating wildfires—a threat that has grown in intensity over the years. Though Nevada has been spared the major structural damage that other Western communities have seen recently, Nevadans must be equipped with the tools they need to keep their families safe during disasters such as access to emergency savings. Chairman Wyden has supported legislation that would enable families affected by catastrophic wildfires and other disasters to withdraw funds from their retirement accounts without penalty for disaster-related expenses. Congress has regularly relaxed penalties for folks impacted by major disasters on an ad hoc basis, just as we did during the pandemic, yet families shouldn't have to come to Congress in the darkest hour of their lives asking for tax relief.

Can you elaborate on the importance of allowing families to access these funds as emergency savings under extraordinary circumstances?

Answer. It is critically important. I absolutely agree with your assessment. Every year tens of thousands of Americans are victims of major disasters, and Congress on occasion has allowed these victims to use their own retirement funds through special distribution and loan rules to help them cope and recover from the disaster. But because there are not permanent rules in the tax code for these situations, vic-

tims are dependent upon ad hoc congressional action to get increased access to their retirement funds **after** the occurrence of each disaster.

For example, in 2005, Congress created these special retirement plan rules for Hurricane Katrina victims. However, Congress provided no such relief for Hurricane Sandy victims. This disparate treatment is unfair and even if Congress eventually provides the relief in many cases the special rules are put in place too late to be useful. Without permanent relief, the general recovery process in the aftermath of a disaster is slowed.

Fortunately, Senator Cassidy and Senator Menendez recently introduced the Disaster Retirement Savings Act (S. 2583, 117th Congress, *https://www.congress.gov/bill/117th-congress/senate-bill/2583*) that would make these sensible disaster relief rules permanent. The ARA strongly supports permanent retirement plan tax relief measures that would automatically apply once a Presidential disaster declaration is issued. ARA applauds and supports Senators Cassidy and Menendez's legislation that would make eligibility for these distributions in these circumstances permanent and urges Congress to promptly enact this bill into law.

Question. How does that ability impact workers' decision to save for retirement in the first place?

Answer. If American workers fear that they will be unable to or unfairly penalized for accessing their savings, they will be less likely to save in these types of retirement accounts in the first place. Proposals like the Enhancing Emergency and Retirement Savings Act and the Disaster Retirement Savings Act strike the proper balance to ensure Americans have the ability to use their savings to cover emergency needs while preserving their long-term retirement savings.

Question. Nevada follows community property rules, which suggest that families have joint ownership of an enterprise run by one spouse. I understand this has created challenges for small business owners looking to start a retirement plan.

Can you explain why this is occurs? How do we fix it?

Answer. Under the tax code, certain related businesses must be aggregated when performing the coverage and nondiscrimination tests. The aggregation rules are generally based on the degree of common ownership of the businesses. For example, if an individual owns 100 percent of two separate businesses, they must be aggregated for purposes of the tests.

In determining the level of ownership in a business the tax laws have certain attribution rules whereby an individual is deemed to own stock held by other individuals or entities.

As a general rule, an individual is attributed any ownership interest held by his or her spouse. There is an exception to this rule. A spouse is not deemed to own the stock of his or her spouse if: (1) the individual does not have direct ownership in the spouse's business; (2) the individual is not a director or employee, and does not participate in the management of the spouse's business; (3) no more than 50 percent of the spouse's business's gross income for a taxable year is derived from passive investments (*e.g.,* royalties and rents); and (4) the spouse's ownership interest is not subject to disposition restrictions running in favor of the individual or the minor children of the individual and the spouse (*e.g.,* the business owner cannot be required to offer a right of first refusal to his or her spouse or their children before selling the business to a third party).

In a community property State, spouses are automatically considered to own half of the property acquired during the marriage, except under certain limited circumstances. The result is that the first criteria (no direct ownership in each other's business) is not satisfied and there would be stock attribution among the spouses.

The application of this rule can create situations where a business owner is not able to establish a plan for her employees solely because she resides in a community property State.

The ARA strongly supports Congressman Panetta's and Congressman Arrington's Family Attribution Modernization Act (H.R. 2796, 117th Congress, *https://www.congress.gov/bill/117th-congress/house-bill/2796*) that is also included in the 2021 SECURE 2.0 bill. The Family Attribution Modernization Act updates old tax rules to reflect the modern economy and removes needless barriers to small business retirement plan formation, particularly for women business owners. Specifically, the legislation addresses two inequities in the stock attribution rules: (1) it removes attribution for spouses with separate and unrelated businesses who reside in commu-

nity property States, and (2) it removes attribution between parents with separate and unrelated business who have minor children.

PREPARED STATEMENT OF HON. TOBIAS READ, OREGON STATE TREASURER

INTRODUCTION

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to address the committee on the topic of retirement security.

My name is Tobias Read, and I have the honor of serving as Oregon's State Treasurer. At the Oregon State Treasury, we focus on promoting the financial security of all Oregonians. We manage a roughly $100 billion investment portfolio, issue the State's bonds, serve as the central bank for State agencies and local governments, and administer savings programs for individuals and families.

Before I was elected State Treasurer, I served in the State legislature. In 2015, I co-sponsored the legislation that led to the creation of the Oregon Retirement Savings Program, also known as OregonSaves. The Oregon State Treasury is tasked with implementing OregonSaves, and my experience with OregonSaves is why I am here to testify before you today.

We created the first-in-the-Nation OregonSaves program in response to our Nation's retirement savings crisis. According to the World Economic Forum, the retirement savings gap in America is estimated to be at least $28 trillion.[1] At the same time, more than half of the private sector workforce in the United States lacks access to an employer-sponsored retirement savings plan at work. In Oregon alone, with a working age population of 1.8 million, there were an estimated 1 million private-sector workers without such access. And that matters, because research by the AARP shows that workers are 15-times more likely to save if there is an option to do so at work.[2]

That's why everyone should be happy to see the efforts of Oregon and other States to expand savings options to more people. Empowering more people to invest in their own futures is vital to the financial well-being of individuals and families alike.

The program is working. I am pleased to report that OregonSaves is a success, and it is still just getting started. Tens of thousands of people are already participating and most of these Oregonians had never saved before. Over 100,000 Oregonians have accounts with OregonSaves and participants have collectively saved over $123 million dollars for their retirement.

WHAT IS OREGONSAVES?

OregonSaves is an easy, automatic way for Oregonians to save for retirement at work. Workers at an employer that does not offer a qualified retirement plan can automatically enroll and start saving into their own personal Roth IRA. OregonSaves is also a public-private partnership. The program is overseen by the State and managed by a private program administrator with extensive experience in the financial services industry, similar to how 529 plans are structured.

Oregon employers that do not offer a retirement savings option are required to offer OregonSaves to their workers. Participating workers contribute to their IRA with every paycheck, and those IRAs are tied to the worker and not the job, ensuring that what a worker saves is portable and will always be their money and under their control. Workers can opt out if they want, but most are staying in—about 3 of every 4 eligible workers.

Based on early demographic data, two-thirds of workers age 35–44 choose to participate in OregonSaves when they work at a facilitating employer.[3] This means OregonSaves is laying a foundation for a long-term culture shift, in which saving early and throughout your career becomes the norm.

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[1] *https://www.nirsonline.org/wp-content/uploads/2017/06/retirementsavingscrisis_final.pdf.*
[2] *https://www.aarp.org/content/dam/aarp/ppi/2017-01/Retirement%20Access%20Race%20Ethnicity.pdf.*
[3] *http://crr.bc.edu/wp-content/uploads/2018/12/IB_18-22.pdf.*

HOW DOES IT WORK?

The program fills an important gap by expanding access to workers who have traditionally been unable to contribute to workplace retirement accounts. Workers, such as hair stylists or those in construction, generally work for themselves or for small businesses that lack employer-sponsored plans. For these workers, making long-term financial plans—including for retirement—often takes a back seat.

The program is currently registering employers with 5 or more workers. The State-wide rollout will continue in waves through 2022, which is the timeline for small businesses with four or fewer workers. However, many employers see the benefits of OregonSaves and aren't waiting to register. Employers of any size can enroll at any time ahead of their registration date, with thousands having already chosen to do so.

The program is also open for voluntary enrollment by individuals, including the self-employed, gig economy workers, and those whose employers do not facilitate OregonSaves.

The participation rate of eligible workers has remained steady at around 72 percent since we launched, consistent with the market research analysis completed in 2016,[4] which estimated opt-out rates of 20 to 30 percent. Workers automatically enrolled in OregonSaves utilize a standard set of options designed to reduce the stress and decision paralysis often ascribed to individuals enrolling in retirement savings plans. The standard savings rate and account type for OregonSaves is 5 percent of gross pay into a Roth IRA. Other states (CA, IL) initially set their standard savings rate at 3 percent, for fear that a higher initial percentage would reduce participation in the program. Our results show the higher percentage has not affected participation. The average savings rate is currently around 5.5 percent, and workers are contributing an average of $140 per month.

We chose a Roth IRA as the standard account type because workers can withdraw their contributions at any time without penalty. This is an important design feature for new savers, many of whom lack emergency savings to weather financial shocks such as car repairs or medical bills.

In fact, at the beginning of the pandemic when many of our participants were laid off when workplaces were required to close, their OregonSaves accounts were able to provide some financial stability some savers.

Additional standard design features include depositing the first $1,000 saved into a capital preservation fund. This serves a dual purpose: first, it keeps our participants away from market volatility in the early months when they are new to the program. Second, it ensures that if a worker is automatically enrolled and decides soon thereafter to withdraw from the program, they can quickly access all contributed funds. Contributions above $1,000 automatically flow into a target date fund based on the participant's estimated retirement age. The Board has recently made some changes in how the capital preservation feature operates that will occur later this year.

Finally, the standard design includes an automatic escalation of 1 percent on January 1st of each year until the contribution rate reaches 10 percent. We're happy to report that 94.6 percent of savers that experienced an auto-escalation in 2021 took no action, allowing that increase in their contribution rate. In fact, 102 participants used the reminder as an opportunity to increase their savings rate even further. What this means in numbers—more than 32,000 OregonSaves participants had their savings rate auto-escalated this year, and of those, more than 10,000 were auto-escalated for the second time and almost 4,000 for the third time.

EMPLOYER FACILITATION

From the beginning, Treasury was aware that the success of OregonSaves relied heavily on our relationship with employers. We constructed the program to limit the requirements on employers as much as possible and are constantly considering ways to decrease the time employers spend facilitating the program. Employer interaction with the program includes the steps outlined below.

First, registration or exemption. All Oregon employers receive notices from the OregonSaves program in the months leading up to their registration date. For employers that already offer a qualified retirement plan, these notices simply prompt

[4] *https://www.oregon.gov/retire/SiteAssets/Pages/Newsroom/ORSP%20Market%20Analysis%2013JULY2016.pdf.*

them to go online and certify themselves as exempt. In practice, we have seen a small number of employers use these program notices as a prompt to set up their own qualified retirement plan instead of facilitating OregonSaves. We see this as an exciting development, both for workers, who will have access to better benefits, and for private industry.

In addition to the self-exemption process, we have determined two other ways to certify that an employer is exempt. If an employer files a Federal form 5500 and our staff is able to positively match the business on the form 5500 with the Oregon business, we will send a notice of presumed exemption from the program.

PUBLIC SUPPORT

The public overwhelmingly supports OregonSaves. Employers say it is easy to sign up workers, and based on a recent public survey by DHM,[5] the level of support has actually increased in the first year. That poll found an astounding 82 percent of people support OregonSaves.

They know it is the right approach, and that it will improve savings, making Oregon stronger, today and in the long run. Or as John, an employee at Provoking Hope in McMinnville told us, "I'm 30 and now just thinking about my future. For the first time in my life, I'm thinking ahead. Where I'm at today is a 180 [degree] turn—I never even had a bank account before. I'm grateful these types of programs are available to get people on the right track."

FEDERAL LAW AND INTERACTION WITH STATE PROGRAMS

OregonSaves and the other State-based auto IRA programs are constantly seeking better ways to serve employers and program participants. We believe the following changes at the Federal level would help achieve our program goals of reduced burden on employers and a better product for our participants:

Passage of the Encouraging Americans to Save Act (EASA): EASA creates a Federal matching credit for contributions to an IRA, and as written will allow participants in OregonSaves to qualify for the matching credit. This is an extremely important step in addressing the retirement savings crisis. Additionally, because savings in ABLE accounts would also be eligible for the match, we see this as an important incentive that will help broaden Oregonians' participation in saving for future disability related costs.

Creating a robust 5500 database. As previously mentioned, we currently use Form 5500 data to presume employers exempt from the program. While helpful, that data is not as robust as we originally anticipated. Our match rate was approximately 11.5 percent when comparing our data with the Form 5500 filings. Upon further research, we believe part of the issue is that subsidiary companies are not listed in a way that can be easily searched and retrieved. If a more robust database existed, OregonSaves and the other State programs could more easily exempt employers that offer a qualified retirement plan, meaning we can reduce the administrative burden on exempt employers and focus our efforts and resources on those businesses who need to facilitate.

Allowing minors to use OregonSaves. Under the age of majority (18 or 21, depending on the State) an IRA is a custodial account that a custodian (typically a parent) holds on behalf of a minor child. The account is transitioned into the child's name at the age of majority. We recommend changing this requirement and allowing minors as young as 16 to open their own accounts and hold the money in their own names. This would allow State-based programs to auto-enroll minors working at facilitating employers and get young workers in the habit of saving early in their working lives.

Exemption from future Federal legislation. When considering Federal legislation that would overlap or create national-level retirement savings programs, we would ask for an exemption to allow State-based programs to continue where they already exist.

[5] *https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2018/oregon-retirement-savings-oregonsaves.doi.10.26419-2Fres.00248.001.pdf.*

CONCLUSION

OregonSaves is already succeeding and achieving the goal of improved access to retirement savings. Workers and businesses across Oregon express strong support and agree about the need for the program.

The success of OregonSaves will have long-term positive implications for the savers and for Oregon. Thousands of Oregonians have already set aside significant amounts in the hope of greater retirement security. Every person is different and their retirement needs will vary, but OregonSaves and the ability to save is already improving our business climate, and is already increasing the long-term financial stability of thousands of Oregonians.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. TOBIAS READ

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. As you know, ERISA provides Federal protection for workers participating in most retirement plans sponsored by private businesses. The law assigns a fiduciary duty to sponsoring employers to ensure that plan decisions are made solely in the interest of participants. ERISA also provides a grievance procedure for workers to claim benefits and participant rights to take legal action and to receive damages. The prevalent State-facilitated model of payroll deduction IRAs means that most of these programs do not have ERISA protections.

Does it concern you that these programs do not have ERISA protections?

Answer. Workers participating in OregonSaves are protected by robust fiduciary safeguards comparable to, and sometimes exceeding, those of ERISA plans. Our program is supervised by a State-appointed board which, as State Treasurer, I chair. The Board is a fiduciary with a statutory duty to manage OregonSaves for the exclusive benefit of participants under a strict "prudent expert" standard. The Board's duties include selecting investments and service providers and keeping fees low. In addition, participants enjoy the transparency mandated by the Oregon Public Meetings Law and the Oregon Public Records Law, a protection that ERISA plan participants do not have. It is my understanding that the other State auto IRA programs provide similar levels of strong fiduciary protection and governance as OregonSaves.

Question. For private-sector retirement plans, the employer has a fiduciary responsibility to oversee the expenses associated with investments and any fees charged to the plan or participants.

Who bears the responsibility in a State-run retirement program to select, monitor, and understand the fees?

Answer. As mentioned in my previous response, the OregonSaves Board is a fiduciary, owing participants an ERISA-like duty of care in selecting and monitoring a prudent array of investments and keeping investment and administration fees low. ORS 178.205(2)(c); ORS 178.210(1)(q). The Board has retained a third-party investment expert (Sellwood Consultants) which, in addition to the State Treasury staff, assists the Board in fulfilling its duties.

PREPARED STATEMENT OF ALIYA ROBINSON, SENIOR VICE PRESIDENT, RETIREMENT AND COMPENSATION POLICY, THE ERISA INDUSTRY COMMITTEE

Chairman Wyden, Ranking Member Crapo, and members of the Senate Finance Committee, thank you for the opportunity to testify before the committee on behalf of The ERISA Industry Committee (ERIC) on how to Congress can help to continue building bipartisan legislation to help American workers save for retirement. ERIC's voice is unique as the only national association that advocates exclusively for large employers on health, retirement, and compensation public policies at the Federal, State, and local levels. ERIC's member companies are leaders in every industry sector and provide comprehensive retirement and health benefits to tens of millions of active and retired workers and their families across the country. As such, ERIC has a strong interest in policies that impact employers' ability to provide cost-effective retirement programs and the ability of employees to receive such benefits and enjoy a secure retirement.

ERIC member companies are working hard to keep their businesses viable, protect workers and their jobs, and tailor employee benefits to the needs of their workforce, even enhancing them to address needs during the pandemic, as allowed by law. Each member company has different workforce needs, but changes in The Employee Retirement Income Security Act of 1974, as amended (ERISA) would help all of them support their workers and their workers' retirement security. ERIC appreciates the efforts of this committee to provide much-needed aid to retirement plan participants and plan sponsors in the SECURE Act in 2019 and to address COVID–19 pandemic-related concerns in the Coronavirus Aid, Relief, and Economic Security (CARES) Act and in the American Rescue Plan Act of 2021.

ERIC member companies want to expand saving opportunities for workers and optimize resources for retirement savings. We look forward to working with this committee as the country recovers from the pandemic and focuses on these longer-term needs.

An essential part of the recovery from the pandemic is to increase retirement security. Providing opportunities for greater savings into retirement plans play a significant role in increasing retirement security for workers—particularly those who have suffered recent financial stress. To expand retirement savings for workers, ERIC recommends the enactment of the following provisions:

- **Increase the age for required minimum distributions** to age 75.
- Treat **student loan payments** as elective deferrals for the purpose of employer matching contributions.
- Provide a safe harbor for the recovery **of retirement plan overpayments.**
- Allow for **emergency savings accounts** as part of retirement savings plans.
- **Provide additional savings opportunities for those close to retirement** by increasing catch-up limits in plans.
- **Modify the definition of a Highly Compensated Employee (HCE)** to encourage the inclusion of employees who meet the definition but are not on an executive or management level.
- **Expand cafeteria plans** to allow participants additional pre-tax benefit options such as student loan repayment, disability insurance, long-term care insurance, longevity insurance, and retirement planning services.
- **Strengthen Retiree Health Care** by extending Internal Revenue Code section 420.

Employers voluntarily offer retirement plans for their workers, expending significant resources to provide retirement benefits. As such, ERIC urges Congress to pass legislation that will allow these employers to optimize resources by eliminating unnecessary administrative burdens.Specifically, we recommend the enactment of the following provisions:

- **Simplify reporting and disclosure requirements** by eliminating redundant and unnecessary disclosures.
- **Maintain electronic disclosure as a default distribution.**
- **Establish an Office of Retirement Savings Lost and Found** within the Pension Benefit Guaranty Corporation (PBGC) that would serve as a repository for information about all lost retirement accounts accessible through a searchable online database.
- **Prevent raising single-employer PBGC premiums** to pay for non-retirement legislation.
- **Protect ERISA preemption** in efforts to increase retirement coverage.

Below, we provide further details on our recommended provisions to increase retirement security and reduce administrative burdens on plan sponsors. We note when the recommendations have previously been introduced.

Increase the age for required minimum distributions to age 75.[1] The required minimum distribution (RMD) rules are aimed at preventing individuals from using their qualified plans and IRAs to accumulate significant assets for future generations. However, the current RMD rules too rigidly affect smaller account balances and the flexibility needed to provide effective annuity-like income distribution options that support more successful retirement outcomes. Therefore, we support increasing the required beginning date from 70½ to age 75.

[1] Retirement Security and Savings Act—Section 108, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 105, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text*—increases the required beginning date to either age 73, 74, or 75 depending on the individuals age at the time of distributions.

Treat student loan payments as elective deferrals for the purpose of employer matching contributions. Many Americans are interested in obtaining higher education and are burdened with the cost of attending school. Nearly 44 million people owe $1.7 trillion in Federal student debt, making it difficult for some to save for retirement.[2] Employers are interested in helping these employees save for their futures by establishing student loan matching programs. In 2018, the IRS issued a Private Letter Ruling (PLR–131066–17) allowing a 401(k) plan sponsor to contribute to a 401(k) plan on behalf of plan participants who pay down student loan debt but do not necessarily contribute to the employer's 401(k) plan.[3] Since the PLR applies only to the employer who receives the letter, congressional action is necessary to allow other employers to support their workers in this way. To solve this matter through legislative action, Congress should pass the Securing a Strong Retirement Act, which includes Chairman Wyden's Retirement Parity for Student Loans Act (S. 1443).[4] The legislation would permit 401(k), 403(b), SIMPLE and governmental 457(b) retirement plans to make matching contributions to workers as if their student loan payments were salary reduction contributions. As such, recent graduates who cannot afford to save money beyond their student loan repayments would no longer have to forego the employer match and can start to build retirement savings while paying down their student loan debt.

Provide a safe harbor for the recovery of retirement plan overpayments. Plan sponsors have a fiduciary obligation to ensure that retirement plans are adequately funded and that every participant receives the benefits that have been promised. Overpaying benefits to certain plan participants can undermine these efforts. On the other hand, plan sponsors do not want to burden retirees with paying back amounts that were mistakenly overpaid, especially de minimis amounts. However, it is unclear whether plan sponsors can forego the recoupment of benefit overpayments without violating their fiduciary duties. As such, ERIC supports legislation that would provide a safe harbor to allow well-funded plans to forego recoupment of overpayments that were not the fault of the retiree.[5]

Allow for emergency savings accounts as part of retirement savings plans. Short-term financial needs and risks create significant financial stress for employees, undermine their productivity, and interfere with their retirement savings. According to a report by *Bankrate.com,* 26 percent of all Americans have no emergency savings, and people between 30 and 49 are more likely than any other age group to have no emergency savings.[6] On top of this, the Urban Institute computes that the value of Americans' retirement accounts has shrunk from over $18 trillion in 2019 to roughly $14 trillion in 2020.[7] Clearly, there is a need to encourage both emergency and retirement savings. ERIC believes that it is crucial to recognize the holistic and lifetime nature of financial well-being (including retirement) and strengthen the connections between short-term financial concerns and adequate savings for retirement.

As such, ERIC supports The Enhancing Emergency and Retirement Savings Act of 2021, which would provide up to $1,000 from a retirement savings account to be used for personal emergencies.[8] Allowing participants access to savings for emergencies will encourage participation in retirement programs—particularly for those who may be hesitant to "lock away" money in case they will need it later. Plan sponsors and service providers have been actively developing tools to educate workers

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[2] "Consumer Credit—G–19," Federal Reserve, *https://www.federalreserve.gov/releases/g19/current/default.htm.*

[3] "Private Letter Ruling (PLR–131066–17)," Internal Revenue Service, *https://www.irs.gov/pub/irs-wd/201833012.*

[4] Retirement Security and Savings Act; Securing a Strong Retirement Act of 2020.

[5] Retirement Security and Savings Act—Section 322, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 301, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.* We note that the IRS has recently issued guidance in this area as well in Revenue Procedure 2021–30. While we appreciate this effort, we believe that providing a legislative solution will avoid potential changes in different administrations.

[6] Carlozo, Lou, "How Does Your Emergency Fund Compare? New Stats Reveal Americans' Rainy Day Savings Habits," *Money Under 30,* December 18, 2019, *https://www.moneyunder30.com/compare-average-emergency-fund-savings.*

[7] Farrell, Chris, "Analysis: The Pandemic Is Making America's Reitrement Cirsis Worse. Here's What You Can Do, PBS News Hour, April 30, 2020, *https://www.pbs.org/newshour/economy/analysis-the-pandemic-is-making-americas-retirement-crisis-worse-heres-what-you-can-do.*

[8] Enhancing Emergency and Retirement Savings Act of 2021, *https://www.congress.gov/bill/117th-congress/senate-bill/1870/text?q=%7B%22search%22%3A%5B%221870%22%5D%7D&r=2&s=1.*

on the importance of saving and retirement readiness through financial wellness programs and other measures. We believe this legislation complements the private sector efforts by providing additional ways for employees to handle their financial responsibilities.

Provide additional savings opportunities for those close to retirement by the increasing catch-up limits in plans. In balancing short-term and long-term financial needs, it is important to give workers greater flexibility about exactly which year they make elective deferrals. For example, older workers should have the opportunity to make higher elective deferrals to 401(k) plans than is possible under current law in recognition that: (i) in some earlier years, they and their families may have had important financial needs they reasonably prioritized ahead of elective deferrals, and (ii) a dollar contributed at a younger age will generate a larger retirement benefit at retirement age than a dollar contributed at a later age.

Therefore, we support legislation that increases the catch-up amount for those who are close to retirement.[9]

In addition, we believe that workers of all ages should be provided with some flexibility in making elective deferrals to 401(k) plans during times of unpaid leave. The catch-up contributions would be in the amount that would have been allowed if payments were continued during that time. Furthermore, upon making the catch-up contribution, the participant should receive all matching contributions that would have been otherwise made.

Modify the definition of a Highly Compensated Employee to encourage the inclusion of employees who meet the definition but are not on an executive or management level. A vital component of these nondiscrimination rules is the definition of an employer's HCEs. This definition must achieve an appropriate policy balance—enough of the employer's leadership/management employees should be HCEs so that the employer will have a strong incentive to maintain a qualified plan that also benefits significant Non-Highly Compensated too many of them will be inappropriately limited in the contributions they can make or receive under the plan, particularly in a 401(k) plan.

Not surprisingly, employers' workforces reflect the economic, business, geographic, and labor contexts within which they operate. The current coverage and nondiscrimination rules were initially developed based primarily on what is perhaps the most common, straightforward employer and workforce structure—a single organization operating in a single business line with a workforce characterized from a compensation distribution perspective by a pyramid image (*i.e.,* small group of employees at the "high-paid top" of the pyramid with increasingly larger groups of employees as compensation decreases from the "high-paid top" toward the "lowest-paid base" of the pyramid). However, many companies have moved away from this pyramid model. Instead, the workforce structure is flatter, with a significant number of highly paid employees at the base with only another layer or two of decision-makers above the base. In 1996, Congress adopted a modification to the HCE definition to better recognize employers with a high proportion of highly paid employees without undercutting the critical coverage and nondiscrimination policies. The change allows an employer to limit the employees treated as HCEs because they had compensation above the statutory compensation threshold ($125,000 for 2019) compared to those employees who were also in the top-paid 20 percent of all the employer's employees by compensation.[10] While this change is helpful, it requires another update to keep pace with changing workforce structures. For some employers with certain workforce structures, in certain high-compensation industries (*e.g.,* technology or financial services), and in certain high cost-of-living locations, even the top-paid 20 percent HCE option will result in a larger HCE group than is appropriate. To further improve the HCE definition to address these situations, we propose that an employer be permitted to limit the employees earning over the annual compensation HCE threshold who are treated as HCEs for the current year to the top-paid ten percent group of employees by compensation.

Expand cafeteria plans to allow participants additional pre-tax benefit options such as student loan repayment, disability insurance, long-term care insurance, longevity insurance, and retirement planning services. Caf-

[9] Retirement Security and Savings Act—Section 120, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 107, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[10] The Small Business Job Protection Act of 1996, Pub. Law 104–188, section 1431, *https://www.congress.gov/bill/104th-congress/house-bill/3448.*

eteria plans can be effective vehicles for employers to offer and employees to address key short-term financial needs and risks. They are also used to purchase key insurance benefits such as disability insurance, long-term care insurance, longevity insurance, and retirement planning services. These benefits and coverages could be bought under the cafeteria plan on a pre-tax basis. As such, ERIC supports making these benefits qualified benefit options for cafeteria plans.

Strengthen retiree health care by extending Internal Revenue Code section 420. We urge Congress to extend section 420 of the Internal Revenue Code (the "Code"), which will continue bipartisan legislation that encourages continued funding and vesting of employer-provided retiree welfare benefits.[11] section 420 allows employers with generously overfunded pension benefits and group life insurance coverage) for the plans' retirees without jeopardizing the security of the underlying pension promise. These retiree welfare transfers benefit both employers and retirees. They provide a funding source for retiree welfare benefits (which, unlike pensions, are not subject to funding requirements) and also effectively require the employer to continue to provide the underlying retiree welfare benefits for a stated number of years after the transfer, making section 420 the only provision in ERISA or the Code that statutorily vests retiree welfare benefits. section 420 was originally enacted in 1990 on a temporary basis and is currently set to expire at the end of 2025. It has been subject to numerous extensions, on a bipartisan basis, in advance of its then-scheduled expiration.[12] These transfers are good retirement policy and good fiscal policy and should be extended.[13]

Simplify reporting and disclosure requirements by eliminating redundant and unnecessary disclosures. The tax code and ERISA include many rules requiring and governing the reports, disclosures, and notices that employers and qualified plans must provide to employees and participants. We believe that these communications are complex, burdensome, and costly and are less informative or effective for employees and participants than they should be. ERIC agrees with proposals that direct the DOL, Treasury, and the PBGC to issue regulations to consolidate and simplify the existing ERISA and tax reports, notices, disclosures, and other information relating to deferred compensation, pension, profit-sharing, and other retirement plans.[14] In developing these regulations, the agencies should consult with the appropriate stakeholders and organizations (including sponsors, plans, administrators, recordkeepers, communication experts, and others) to identify problems, areas of possible improvement, and approaches to improvement. The agencies should review the efficacy and ability to combine summary plan descriptions, summary annual reports, summary of material modifications, single employer annual funding notices, fee disclosures, QDIA/safe harbor notices, section 402(f) rollover notices, participant account statements, securities-related disclosures, distribution options (including lifetime annuity estimate disclosures, choices around risk transfer transactions), and other communications to employees and participants.

Maintain electronic disclosure as a default distribution. ERIC's member companies invest considerable time and expense providing and improving communications to participants, beneficiaries, and others and have found that electronic communications offer significant advantages to plan sponsors, administrators, participants, and beneficiaries. Therefore, we were very supportive of the changes made by the DOL that allow plan sponsors to provide electronic delivery as the default option for providing retirement plan notices. This regulation significantly delivery systems and move into the 21st century, and importantly allowed them to target delivery more appropriately offer notices and information more quickly, and provide beneficiaries an opportunity to act on information provided with embedded links,

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[11] Section 405(a) of S. 1770, the Retirement Security and Savings Act of 2021, as introduced by Senators Cardin (D–MD) and Portman (R–OH) and co-sponsored by Senators Hassan (D–NH) and Collins (R–ME), would extend section 420 for 6 years, from the end of 2025 to the end of 2031.

[12] Most recently, section 420 was extended in the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "2015 Act"), Pub. L. No. 114–41, Sec. 2007 (2015). At that time, section 420 was scheduled to expire at the end of 2021 but was extended to the end of 2025. The 2015 act had overwhelming bipartisan support (it received votes of 91–4 in the Senate and 385–34 in the House) and was signed into law by President Obama.

[13] Notably, extending section 420 also raises revenue (transfers for retiree welfare benefits replace deductible corporate payments for these same benefits), allowing funding of a variety of spending and other priorities. The 2015 act, which extended section 420 for 4 years, raised $172 million over the 10-year budget window.

[14] Retirement Security and Savings Act—Section 301, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 304, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

website access, etc. Consequently, one point of concern in recent legislation is the attempt to roll back recent advances in electronic delivery flexibility.[15] We encourage Congress to allow plan sponsors to provide retirement notices in the same manner as other notices and information, including those provided by the government. At the very least, if Congress decides that an annual disclosure is necessary, it should be a short and generic notice—*i.e.,* a "postcard notice"—which can be provided more easily and quickly than an annual benefit statement.

Establish an Office of Retirement Savings Lost and Found within the Pension Benefit Guaranty Corporation (PBGC). ERIC's member companies care significantly about the participants and beneficiaries in their employer-sponsored plans. They put tremendous resources and funds into these retirement plans and want each participant to benefit fully from these plans. As such, plan sponsors want all participants to be found and receive their hard-earned retirement benefits. ERIC member companies work hard to find all participants but there are still missing retirement plan participants and recalcitrant participants who remain out of contact or stubbornly refuse to commence their benefits (or cash checks once received). This challenge has been compounded by the termination of the IRS and Social Security Letter Forwarding Program. This challenge is also expected to grow, given that today's workers tend to switch jobs more frequently.[16] Although plans of all sizes deal with missing participant issues, ERIC's large employer members are especially likely to face these challenges because their plans tend to be larger and more complex with more significant acquisition histories (including acquisitions where a plan has inherited incomplete records).

ERIC's members are, therefore, incredibly supportive of solutions that address this issue. An Office of Retirement Savings Lost and Found would serve as a repository for all "lost" retirement accounts accessible through a searchable online database,[17] that participants could utilize to find former employers and determine whether they have retirement accounts from which they could receive distributions. Such a database would be beneficial in ensuring that participants receive the benefits that they have earned and, thereby, decrease the number of missing participants.

Stop unnecessary and harmful PBGC premium increases that are implemented as part of a budget gimmick and outside of established policy procedures. Congress mandated that PBGC's mission is "to encourage the continuation and maintenance of voluntary private pension plans," but increased premiums drive employers away from the defined benefit system. In rapid succession, and without input from the committees of jurisdiction or a policy justification for the $86/person in 2021—an increase of $55/participant over 14 years, compared to an increase of only $30 over the previous 32 years. In addition, Congress subjected these rates to annual increase by indexing them to inflation. Congress raised PBGC premiums even though neither PBGC nor the administration called for an increase, and the single-employer program was already adequately funded. As a result of these needless increases made in the dead of night, many plan sponsors are deciding to exit the system by dropping or freezing their defined benefit plans, or disallowing benefits for new workers. In 2018, there were 5.5 million fewer participants in the single-employer system than in 2014. And the ever-increasing PBGC premiums are one of the reasons employers are terminating these plans.[18] For those employers that are not completely terminating, others have decided to de-risk either by offering lump sums or purchasing annuities for select groups, which lowers their PBGC premiums but deprives these individuals of ERISA's protections.[19] By the PBGC's own estimates, the PBGC's trust fund for the single-employer system does not pose any immediate or long-term threat of default. In fact, the PBGC's 2020 Annual Re-

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[15] Securing a Strong Retirement Act of 2020—Section 313(b)(2), *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[16] Also, auto-enrollment usage has increased due to the 2006 Pension Protection Act and successfully brought many more participants into the employer-provided system. However, the increased number of plan participants also increases the challenges associated with missing and unresponsive participants.

[17] Retirement Security and Savings Act—Section 323, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 306, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[18] *See* "PBGC Single-Employer Premiums and Their Impact on Plan Sponsorship," American Academy of Actuaries, October 2020, available at *https://www.actuary.org/sites/default/files/2020-10/PBGCPremiumsIB.pdf.*

[19] *See* the 2018 Annual Report of the Participant and Plan Sponsor Advocate citing Mercer's study on de-risking, available at *https://www.pbgc.gov/sites/default/files/pbgc_advocate_report_2018.pdf.*

port shows that the single-employer program is overfunded by $15.5 billion and is projected to have a $46.3 billion surplus by 2029. Any increase in PBGC premiums at this point would be entirely unrelated to PBGC's or participant needs.[20] Therefore, we urge Congress to pass legislation that prevents increasing single-employer PBGC premiums without a full and fair review.[21]

Expand the ability of plans to self-correct plan errors. Plan sponsors and administrators should be permitted to play a more significant role in identifying and correcting plan errors, including excess, insufficient, and missed contributions, compensation and service, accrued benefit, and other determinations and calculations. In particular, employers should be allowed greater opportunities to self-correct routine, common operational, and plan document mistakes without the need for the incurrence of fees and Federal agency oversight and approval. To this end, expanding the Employee Plans Compliance Resolution System (EPCRS) and the Voluntary Fiduciary Correction Program (VFCP) would increase compliance and reduce the cost of plan administration without adversely affecting participants' benefits.[22]

Protect ERISA preemption in efforts to increase retirement coverage. The ability of large employers to follow a single set of Federal rules is critical to their ability to provide benefits to their workers, families, and retirees across the country. As different States have set up retirement programs for their private citizens, ERIC has been vigilant in protecting ERISA preemption and ensuring that employers who voluntarily provide retirement benefits can do so on a uniform basis.[23] ERIC does not oppose State efforts to provide retirement plan options to for workers without access to an employer-provided retirement plan but opposes any attempt to mandate reporting or other obligations on companies that offer a federally regulated retirement plan. ERIC has successfully worked with all State retirement programs to ensure that our member companies are not burdened by reporting requirements that infringe upon ERISA's preemption laws. We will continue advocating on the Federal, State, and local levels to protect large employers' ability to design and administer retirement plans unique to their workforces without mandates that violate Federal law.

You will note that many of these provisions that ERIC supports and recommends were included in the Retirement Security and Savings Act by Senators Cardin and Portman.[24] ERIC applauds the leadership of these members of Congress in recognizing the continued need to focus on retirement security. Some newer measures and modifications are needed to ensure that workers in all industries and in all workplaces can fully achieve retirement security.

ERIC and our large employer plan sponsors look forward to continuing to work with you and other interested parties to advance these measures and explore additional provisions that can be included to further promote retirement security for working Americans. Thank you for the opportunity to share our ideas. If you have any questions, do not hesitate to contact meat arobinson@eric.org or by calling 202–789–1400.

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[20] PBGC's 2020 Annual Report at *https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2020.pdf.* In fact, decrease in such premiums is very much needed to prevent a downward spiral in which healthy companies are effectively forced out of the system, leaving PBGC with less-healthy companies to support it, which are the very companies that are at risk for needing the PBGC's support.

[21] *See* The Pension and Budget Integrity Act of 2019 which creates a budget point of order for any provision that increases single-employer pension program premiums payable to the PBGC.

[22] Retirement Security and Savings Act—Section 115, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 307, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[23] In 2017, ERIC filed a lawsuit requesting that the Oregon Retirement Savings Board halt the reporting requirement because it violates ERISA preemption, *https://www.eric.org/uploads/doc/legal/ERIC%20v%20Oregon%20Retirement%20Savings%20Board.pdf.* ERIC and OregonSaves reached a settlement agreement by which ERIC members are automatically exempt from the reporting requirements of the OregonSaves employer exemption process.

[24] Many of these provisions are also included in the Securing a Strong Retirement Act of 2021 (SSRA) which was introduced by Ways and Means Committee Chairman Neal and Ranking Member Brady in the House.

QUESTIONS SUBMITTED FOR THE RECORD TO ALIYA ROBINSON

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. An essential part of the recovery from the pandemic is to increase retirement security. Providing opportunities for greater savings into retirement plans play a significant role in increasing retirement security for workers—particularly those who have suffered recent financial stress.

Of the proposals discussed in the hearing on July 28th, which of them are most important for simplifying or clarifying the rules governing retirement plans from an employer perspective?

Answer. *Simplify notices and disclosures.* The tax code and ERISA include many rules requiring and governing the reports, disclosures, and notices that employers and qualified plans must and may provide to employees and participants. We believe that these communications are complex, burdensome and costly and, therefore, are less informative or effective for employees and participants than they should be. ERIC agrees with proposals that direct the DOL, Treasury, and the PBGC to issue regulations to consolidate and simplify the existing ERISA and tax reports, notices, disclosures, and other information relating to deferred compensation, pension, profit sharing, and other retirement plans.[1] In developing these regulations, the agencies should consult with the appropriate stakeholders and organizations (including sponsors, plans, administrators, recordkeepers, communication experts, and others) to identify problems, areas of possible improvement, and approaches to improvement. The agencies should review the efficacy and ability to combine summary plan descriptions, summary annual reports, summary of material modifications, single employer annual funding notices, fee disclosures, QDIA/safe harbor notices, section 402(f) rollover notices, participant account statements, securities-related disclosures, distribution options (including lifetime annuity estimate disclosures, choices around risk transfer transactions), and other communications to employees and participants.

Provide a safe harbor for the recovery of retirement plan overpayments. Plan sponsors have a fiduciary obligation to ensure that retirement plans are adequately funded and that every participant receives the benefits that have been promised. Overpaying benefits to certain plan participants can undermine these efforts. On the other hand, plan sponsors do not want to burden retirees with paying back amounts that were mistakenly overpaid, especially de minimis amounts. However, it is unclear whether plan sponsors can forego the recoupment of benefit overpayments without violating their fiduciary duties. As such, ERIC supports legislation that would provide a safe harbor to allow well-funded plans to forego recoupment of overpayments that were not the fault of the retiree.[2]

Establish an Office of Retirement Savings Lost and Found within the Pension Benefit Guaranty Corporation (PBGC). Another area of needed clarifications pertains to missing participants.

ERIC's member companies care significantly about the participants and beneficiaries in their employer-sponsored plans. They put tremendous resources and funds into these retirement plans and want each participant to benefit fully from these plans. As such, plan sponsors want all participants to be found and receive their hard-earned retirement benefits.

ERIC member companies work hard to find all participants, but there are still missing retirement plan participants and recalcitrant participants who remain out of contact or stubbornly refuse to commence their benefits (or cash checks once received). This challenge has been compounded by the termination of the IRS and Social Security Letter Forwarding Program. This challenge is also expected to grow,

[1] Retirement Security and Savings Act—Section 301, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 304, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[2] Retirement Security and Savings Act—Section 322, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 301, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.* We note that the IRS has recently issued guidance in this area in Revenue Procedure 2021–30. While we appreciate this effort, we believe that providing a legislative solution will avoid potential changes in different administrations.

given that today's workers tend to switch jobs more frequently.[3] Although plans of all sizes deal with missing participant issues, ERIC's large employer members are especially likely to face these challenges because their plans tend to be larger and more complex with more significant acquisition histories (including acquisitions where a plan has inherited incomplete records).

ERIC's members are, therefore, incredibly supportive of solutions that address this issue. An Office of Retirement Savings Lost & Found would serve as a repository for all "lost" retirement accounts accessible through a searchable online database,[4] that participants could utilize to find former employers and determine whether they have retirement accounts from which they could receive distributions. Such a database would be beneficial in ensuring that participants receive the benefits that they have earned and, thereby, decrease the number of missing participants.

Maintain electronic disclosure as a default distribution. ERIC's member companies invest considerable time and expense providing and improving communications to participants, beneficiaries, and others and have found that electronic communications offer significant advantages to plan sponsors, administrators, participants, and beneficiaries. Therefore, we were very supportive of the changes made by the DOL that allow plan sponsors to provide electronic delivery as the default option for providing retirement plan notices. This regulation significantly eased administrative burdens for plan sponsors by allowing them to modernize their notice delivery systems and move into the 21st century, and importantly allowed them to target delivery more appropriately, offer notices and information more quickly, and provide beneficiaries an opportunity to act on information provided with embedded links, website access, etc. Consequently, one point of concern in recent legislation is the attempt to roll back recent advances in electronic delivery flexibility.[5] We encourage Congress to allow plan sponsors to provide retirement notices in the same manner as other notices and information, including those provided by the government. At the very least, if Congress decides that an annual disclosure is necessary, it should be a short and generic notice—*i.e.,* a "postcard notice"—which can be provided more easily and quickly than an annual benefit statement.

Expand the ability of plans to self-correct plan errors. Plan sponsors and administrators should be permitted to play a more significant role in identifying and correcting plan errors, including excess, insufficient, and missed contributions, compensation and service, accrued benefit, and other determinations and calculations. In particular, employers should be allowed greater opportunities to self-correct routine, common operational, and plan document mistakes without the need for the incurrence of fees and Federal agency oversight and approval. To this end, expanding the Employee Plans Compliance Resolution System (EPCRS) and the Voluntary Fiduciary Correction Program (VFCP) would increase compliance and reduce the cost of plan administration without adversely affecting participants' benefits.[6]

Question. People may be reluctant to tie their money up in retirement plans in case they will need that money to cope with a future emergency. Emergencies like the COVID pandemic and wildfires have highlighted that concern.

How can Congress help balance providing flexibility while encouraging savings and guarding against too much leakage out of retirement savings?

Answer. Employers and employees report that short-term financial needs and risks create significant financial stress for employees, undermine their productivity, and interfere with their retirement savings. ERIC believes that it is important to recognize the holistic and lifetime nature of financial well-being (*i.e.,* including retirement) and thus to strengthen the connections between short-term financial concerns and adequate savings for retirement. Allowing defined contribution plans to permit participants to withdraw or use limited, pre-tax elective deferrals for critical

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[3] Also, auto-enrollment usage has increased due to the 2006 Pension Protection Act and successfully brought many more participants into the employer-provided system. However, the increased number of plan participants also increases the challenges associated with missing and unresponsive participants.

[4] Retirement Security and Savings Act—Section 323, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 306, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[5] Securing a Strong Retirement Act of 2020—Section 313(b)(2), *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[6] Retirement Security and Savings Act—Section 115, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 307, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

short-term financial needs, such as emergency savings funds, without imposing an early distribution tax penalty can promote retirement security.

Consequently, we support the Enhancing Emergency and Retirement Savings Act of 2021 introduced by Senators Jim Lankford and Michael Bennet. This legislation would allow employees in employer-sponsored retirement accounts to withdraw up to $1,000 a year to pay for necessary personal or family emergency expenses. ERIC supports this legislation as a way to further promote emergency savings and retirement security for Americans.

Question. Studies show and testimony at last week's hearing reinforced the idea that when workers are enrolled in their employer's retirement plan by default, participation and retention in those plans increase. Your organization represents large employers, which undoubtedly have a lot of experience with this feature.

Would you share your thoughts and experience on how important automatic enrollment is to your members' plans?

Answer. Automatic enrollment is beneficial for ERIC member companies in preparing their workforce for retirement and is a valuable tool in their retirement plan designs. According to Vanguard's 2021 report, workers that are automatically enrolled in retirement plans have 57 percent higher savings rates. ERIC supports incentives for employers to offer a more generous automatic enrollment plan and receive a safe harbor from certain retirement plan rules.[7]

Question. Do you think there are lessons that smaller employers can learn from this experience?

Answer. Large employers often pave the way for new benefit designs—including the use of automatic enrollment. Small employers can also benefit from utilizing automatic enrollment and can learn from America's largest employers. As demonstrated above, large employers have shown that the use of automatic enrollment can significantly increase retirement enrollment and retirement savings.

Question. Treasury's recent Revenue Procedure 2021–30 modifies its Employee Plans Compliance Resolution System, or "EPCRS." For example, the Revenue Procedure provides guidance on the recoupment of overpayments; it eliminates the anonymous submission procedure under the Voluntary Correction Program and adds a free and anonymous pre-submission conference procedure; it extends the correction period for significant failures under the Self-Correction Program and expands the ability to correct errors by plan amendment; and it extends the availability of the safe harbor correction method for certain elective deferral failures related to automatic contribution features.

Can you comment on the importance of the EPCRS?

What else should be improved, if anything?

Answer. As stated above, we believe that providing plan sponsors and administrators with a greater role in identifying and correcting plan errors can significantly ease administrative burdens and simplify plan administration. In particular, employers should be allowed greater opportunities to self-correct routine, common operational and plan document mistakes without the need for the incurrence of fees and Federal agency oversight and approval. We appreciate that Revenue Procedure 2021–30 expands EPCRS in this manner.

In addition, we are very pleased that in Revenue Procedure 2021–30 the IRS encourages employers "to avoid seeking recoupment of benefit overpayments made to participants and beneficiaries" and adds two new retirement correction methods for employers to utilize: the funding exception correction method and the contribution credit correction method. The clarification of plan sponsors' duties with respect to the recoupment of pension overpayments is an important step. We encourage Congress to make this step permanent by including similar provisions in legislation. Consequently, we support the inclusion of provisions for the recoupment of pension overpayments in the Retirement Security and Savings Act.[8]

Question. In some cases, workers are not able to save as much for retirement when they are younger. That is why catch-up contributions are so important—so that workers close to retirement can contribute more to their retirement accounts to make up for earlier years when their contributions may have been lower. Your

[7] Retirement Security and Savings Act—Section 102, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text.*

[8] Section 322, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text.*

written statement mentioned your organization's support for expanding catch-up contributions to include time of unpaid leave.

Would you please elaborate on how this could help workers in Idaho?

Answer. Approximately 20 percent of all workers take unpaid leave during a year.[9] If this 20 percent is applied to Idaho's 9 million employees,[10] there are approximately 1.8 million employees in Idaho who take unpaid leave in a year. Each year, these employees must forfeit making contributions to their retirement plans. If catch-up contributions are permitted for these periods of unpaid leave, then almost 2 million employees in Idaho will be able to increase their retirement security.

These catch-up contributions would be in the amount that would have been allowed if payments were continued during that time. Furthermore, upon making the catch-up contribution, the participant should be able to receive all matching contributions that would have been otherwise made. This flexibility will allow for more parents and family members who take unpaid leave to not be at a disadvantage in their retirement savings.

QUESTIONS SUBMITTED BY HON. TIM SCOTT

Question. One of the best ways to improve retirement security for working families is to make it easier for people who change jobs to move their savings to their new employer's 401(k).

Right now, it can be hard to move your savings and many people end up just cashing out. The difficulty of moving accounts and the lure of viewing a cash out as a windfall, leads people to just cash out their retirement accounts rather than preparing for the future.

Under the previous administration, I led an effort, with strong bipartisan support, to promote retirement plan auto-portability as a means of reducing plan leakage and bolstering retirement security, particularly for Americans who change jobs relatively often, Americans with low-account balances, and Americans from underserved communities and communities of color.

Unfortunately, this cash out problem hits African Americans particularly hard because they are 62 percent more likely to cash out over time.

In response to our efforts during the last administration, the Department of Labor took the regulatory actions needed to facilitate auto-portability.

I hope to build on this legacy of success in the coming years, increasing access to auto-portability in order to open the door to opportunity and long-term prosperity for more working Americans.

Fortunately, we're making progress toward universal portability. Many members of this committee have been very supportive of auto portability, so as we consider legislation, I hope, Mr. Chairman, that we will prioritize creating incentives to ensure that every plan is plugged into the auto portability network.

Please answer the following with specificity: I know your members are committed to helping reduce the number of cash-outs, and they want to help people keep track of their savings and consolidate their accounts. Can you talk a little bit about the obstacles and experiences of small accounts?

Answer. ERIC appreciates your work to create universal portability and agrees that the loss of small accounts negatively impacts overall retirement security. Small account balances can cause employees to leave the accounts dormant, which requires plan sponsors to use significant time and effort in locating missing participants. Some large plan sponsors use multiple resources in trying to locate participants and even hire additional staff to aid in their search. Various service providers and financial institutions currently help plans to find missing participants or hold the assets of missing participants in IRAs. However, many terminating plans have difficulty finding IRA providers that will accept small accounts, particularly those valued at less than $1,000. Therefore, universal portability can aggregate small accounts into larger amounts that can be accepted by IRA providers.

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[9] U.S. Bureau of Labor Statistics, Workers' Access to and Use of Leave from Their Jobs in 2017–18, p. 9, *https://www.bls.gov/spotlight/2020/workers-access-to-and-use-of-leave/home.htm.*

[10] U.S. Bureau of Labor Statistics, *https://www.bls.gov/eag/eag.id.htm#eag_id.f.1.*

In addition, ERIC supports the creation of a pension lost and found database to track qualified plan accounts.[11] Giving participants the ability to find their missing accounts, which often tend to be small balances, will go a long way in solving the missing participant problem and increasing retirement security.

QUESTIONS SUBMITTED BY HON TODD YOUNG

Question. Senator Booker and I will soon reintroduce legislation that would create a Federal commission on retirement security to study, and advise Congress on, the most pressing issues related to the private retirement system. Of course, many of the longstanding and well-understood issues Americans face with respect to retirement security were exacerbated by the pandemic as workers were displaced from their jobs and had to draw from their retirement savings to cover immediate expenses. As we work toward economic recovery, it is vital that our private retirement system is sustainable and ready to support future generations of American retirees.

What kinds of new challenges does the private retirement system face as we emerge from the pandemic?

Answer. ERIC member companies are working hard to keep their businesses viable, to keep workers employed, and to tailor their benefits to the needs of their workforce, often enhancing them to address needs during the pandemic, as allowed by law. Each member company has a different situation, but changes in ERISA would help all of them support their workers and their workers' retirement security. To further support the financial and retirement security of workers and retirees emerging from the pandemic, ERIC encourages Congress to implement the following proposals.

Allow for emergency savings accounts as part of retirement savings plans. The COVID pandemic created financial stress for many people and left them unable to set aside enough savings for unplanned expenses. While we are encouraged that the pandemic will end, many Americans will continue to struggle to save for the future and an emergency savings fund will help. ERIC believes that it is crucial to recognize the holistic and lifetime nature of financial well-being (including retirement) and strengthen the connections between short-term financial concerns and adequate savings for retirement.

As such, ERIC supports the Enhancing Emergency and Retirement Savings Act of 2021, which would provide up to $1,000 from a retirement savings account to be used for personal emergencies.[12] Allowing participants access to savings for emergencies will encourage participation in retirement programs—particularly for those who may be hesitant to "lock away" money in case they will need it later. We believe this legislation complements the private sector efforts by providing additional ways for employees to handle their financial responsibilities.

Treat student loan payments as elective deferrals for the purpose of employer matching contributions. Many Americans are interested in obtaining higher education and are burdened with the cost of attending school. Nearly 44 million people owe $1.7 trillion in Federal student debt, making it difficult for some to save for retirement.[13] Employers are interested in helping these employees save for their futures by establishing student loan matching programs. In 2018, the IRS issued a Private Letter Ruling (PLR–131066–17) allowing a 401(k) plan sponsor to contribute to a 401(k) plan on behalf of plan participants who pay down student loan debt but do not necessarily contribute to the employer's 401(k) plan.[14] Since the PLR applies only to the employer who receives the letter, congressional action is necessary to allow other employers to support their workers in this way. To solve this matter through legislative action, Congress should pass the Securing a Strong Retirement Act, which includes Chairman Wyden's Retirement Parity for Student Loans Act (S.

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[11] A pension registry proposal was introduced by Senators Elizabeth Warren and Steve Daines in the Retirement Savings Lost and Found Act of 2020 and included in the Retirement Security and Savings Act of 2021—Section 323.

[12] Enhancing Emergency and Retirement Savings Act of 2021, *https://www.congress.gov/bill/117th-congress/senate-bill/1870/text?q=%7B%22search%22%3A%5B%221870%22%5D%7D&r=2&s=1.*

[13] "Consumer Credit—G–19," Federal Reserve, *https://www.federalreserve.gov/releases/g19/current/default.htm.*

[14] "Private Letter Ruling (PLR–131066–17)," Internal Revenue Service, *https://www.irs.gov/pub/irs-wd/201833012.*

1443).[15] The legislation would permit 401(k), 403(b), SIMPLE and governmental 457(b) retirement plans to make matching contributions to workers as if their student loan payments were salary reduction contributions. As such, recent graduates who cannot afford to save money beyond their student loan repayments would no longer have to forego the employer match and can start to build retirement savings while paying down their student loan debt.

Provide additional savings opportunities for those close to retirement by the increasing catch-up limits in plans. Increasing catch-up contributions will also help plan participants in recovering from the pandemic. In general, it is important to give workers greater flexibility about exactly which year they make elective deferrals. For example, older workers should have the opportunity to make higher elective deferrals to 401(k) plans than is possible under current law in recognition that in some earlier years, they and their families may have had important financial needs they reasonably prioritized ahead of elective deferrals. This need is exacerbated for those that have had financial struggles during the pandemic. Allowing them to provide additional contributions at a later time when their finances are more secure will be critical to retirement security. Therefore, we support legislation that increases the catch-up amount for those who are close to retirement.[16]

Question. Do you believe that a bipartisan Federal commission studying pressing issues related to the private retirement system could assist Congress in developing solutions?

Answer. The creation of a retirement security commission will certainly benefit Congress in highlighting new policy solutions from various experts. Because members of the commission will include former and current members of Congress appointed by both House and Senate leadership, the commission's report will provide a bipartisan analysis that is important to address all private retirement issues. ERIC looks forward to working with the Commission to create recommendations on how to best build upon the success of the current private retirement plan system.

Question. Establishing an employer-sponsored retirement plan is costly and burdensome, particularly for small businesses, but the ongoing management of those plans is equally onerous. Taken together, the time and money requisite to provide a plan is simply too much for some businesses that would otherwise be happy to offer it for their employees.

What can Congress do to streamline compliance requirements for employer-sponsored retirement plans?

Answer. *Simplify reporting and disclosure requirements by eliminating redundant and unnecessary disclosures.* The tax code and ERISA include many rules requiring and governing the reports, disclosures, and notices that employers and qualified plans must provide to employees and participants. We believe that these communications are complex, burdensome, and costly and are less informative or effective for employees and participants than they should be. ERIC agrees with proposals that direct the DOL, Treasury, and the PBGC to issue regulations to consolidate and simplify the existing ERISA and tax reports, notices, disclosures, and other information relating to deferred compensation, pension, profit sharing, and other retirement plans.[17] In developing these regulations, the agencies should consult with the appropriate stakeholders and organizations (including sponsors, plans, administrators, recordkeepers, communication experts, and others) to identify problems, areas of possible improvement, and approaches to improvement. The agencies should review the efficacy and ability to combine summary plan descriptions, summary annual reports, summary of material modifications, single employer annual funding notices, fee disclosures, QDIA/safe harbor notices, section 402(f) rollover notices, participant account statements, securities-related disclosures, distribution options (including lifetime annuity estimate disclosures, choices around risk transfer transactions), and other communications to employees and participants.

Maintain electronic disclosure as a default distribution. ERIC's member companies invest considerable time and expense providing and improving communications to participants, beneficiaries, and others, and have found that electronic communica-

[15] Retirement Security and Savings Act; Securing a Strong Retirement Act of 2020.

[16] Retirement Security and Savings Act—Section 120, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 107, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[17] Retirement Security and Savings Act—Section 301, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 304, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

tions offer significant advantages to plan sponsors, administrators, participants, and beneficiaries. Therefore, we were very supportive of the changes made by the DOL that allow plan sponsors to provide electronic delivery as the default option for providing retirement plan notices. This regulation significantly eased administrative burdens for plan sponsors by allowing them to modernize their notice delivery systems, move into the 21st century, and offer significant advantages to plan sponsors, administrators, participants, and beneficiaries including:

- *Time efficiency.* Electronic communications get to recipients faster than paper communications. The time difference ranges from a few days to more than two weeks.
- *Interactive capability.* Interactive features make many electronic communications more user-friendly than paper communications. For example, most electronic documents have search features and can include hyperlinks to relevant background information.
- *Privacy.* A secure electronic system offers more privacy protection than paper communications. For example, when a document is delivered by mail, there is no way to control who reads it. Usernames and passwords protect against unauthorized access.
- *Keeping track of updates.* A well-managed website can alleviate the burden of saving paper documents and keeping personal files up to date. A website can provide immediate access to the most up-to-date relevant documents.
- *Cost efficiency.* Providing communications electronically reduces the cost of preparation and distribution.
- *Environment.* Use of electronic media saves paper.

Consequently, one point of concern in recent legislation is the attempt to roll back recent advances in electronic delivery flexibility.[18] We encourage Congress to allow plan sponsors to provide retirement notices in the same manner as other notices and information, including those provided by the government. At the very least, if Congress decides that an annual disclosure is necessary, it should be a short and generic notice—*i.e.,* a "postcard notice"—which can be provided more easily and quickly than an annual benefit statement.

Expand the ability of plans to self-correct plan errors. Plan sponsors and administrators should be permitted to play a more significant role in identifying and correcting plan errors, including excess, insufficient, and missed contributions, compensation and service, accrued benefit, and other determinations and calculations. In particular, employers should be allowed greater opportunities to self-correct routine, common operational, and plan document mistakes without the need for the incurrence of fees and Federal agency oversight and approval. To this end, expanding the Employee Plans Compliance Resolution System (EPCRS) and the Voluntary Fiduciary Correction Program (VFCP) would increase compliance and reduce the cost of plan administration without adversely affecting participants' benefits.[19]

Question. Do you believe that proposals like my Retirement Security Flexibility Act would help incentivize more employers to offer plans, and more employees to participate in such plans?

Answer. ERIC does believe that the changes included in the Retirement Security Flexibility Act will encourage the increased creation of and participant in retirement plans. The purpose of the safe harbor design is to achieve the desired non-discrimination goals without the administrative burden and compliance risks associated with the statutory actual deferral percentage (ADP) and actual contribution percentage (ACP) tests. Removing the testing requirements provides an incentive for employers to implement safe harbor features. Given the success of the safe harbor model, it makes sense to expand the availability of the safe harbor to provide for increased retirement savings.

[18] Securing a Strong Retirement Act of 2020—Section 313(b)(2), *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

[19] Retirement Security and Savings Act—Section 115, *https://www.congress.gov/bill/117th-congress/senate-bill/1770/text;* Securing a Strong Retirement Act of 2020—Section 307, *https://www.congress.gov/bill/117th-congress/house-bill/2954/text.*

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

Before anybody ever heard of COVID–19, it was already far too difficult for Americans to save for a dignified retirement. According to the National Institute on Retirement Security, as of 2018, more than 100 million working-age Americans had no pension or any retirement assets.

The pandemic economic crash made saving even harder. A recent survey on the impact of the pandemic conducted by AARP found that among those fortunate enough to have retirement accounts, nearly a quarter had to dip into those savings or quit contributing altogether just to pay the bills.

Taken together, that means a sizable majority of American workers fall into one of two camps—either they can't afford to save at all, or they've got hardly any financial cushion when times get tough.

More recently, those Americans were reminded about long-running retirement rip-offs by ultra-wealthy individuals advised by the priciest accountants and lawyers. One report included details on a multi-billion-dollar IRA. It's enough to make your head explode if you're a teacher or a restaurant manager without a rainy-day fund, much less a well-fed retirement account.

It's clear to me that this is another case of double-standard economics. The system doesn't do nearly enough to help working people of modest means get ahead, but individuals at the top are able to game the rules to abuse taxpayer-subsidized accounts with their pricey accountants and lawyers. This is increasing the already existing inequality between retirement haves and have-nots to an extreme level.

The Finance Committee—which has a history of bipartisan progress when it comes to helping Americans save—ought to look at ways to address these issues in the months ahead. I want to tick through a few proposals I believe will help.

First, last week, along with Senator Bennet, Senator Casey, and Senator Menendez, I introduced the Encouraging Americans to Save Act to get more help to the working people who need it so badly. Under that proposal, the credit would be opened up to millions of Americans with modest incomes who never had access before. It would become a matching contribution that would go directly into a retirement account. It has the potential to be a game changer for people in Oregon and all across the country who do not have the ability to save much or anything at all today.

Second, our tax code ought to help young people get started saving earlier in their careers. Too many Americans are unable to save at work because they're paying off mountains of student loan debt. That's why in April I reintroduced the Retirement Parity for Student Loans Act. Under my proposal, workers who make student loan payments would qualify to get a "matching" payment from their employer into a retirement savings plan like a 401(k). Their student loans shrink and their nest egg grows—that's a win-win.

Third, this committee ought to make it easier for people to move their retirement accounts and continue saving when they change jobs. In 2021, hardly anybody in America stays with one employer for their entire career. However, it is a pain in the neck to move your retirement savings. Many Americans just give up and cash out their savings, losing out on a whole lot of earnings that would build up over time. The rules essentially penalize Americans for routine job changes in the modern economy, so the system ought to change.

Finally, it's long past time to crack down on mega-IRAs, which the GAO documented as a problem years and years ago. The fact is, from the beginning, IRAs were about retirement security for typical families. They were never meant to become another tax dodge for billionaires, but this abuse is not new. The GAO conducted a landmark study on this issue at my request back in 2014 using information lawfully available to it from 2011 taxpayer returns. GAO found then that nearly 8,000 taxpayers had aggregate IRA account balances in excess of $5 million. These massive IRAs have only gotten bigger and more prevalent since then. JCT gave me data lawfully available to it yesterday that shows in 2019 almost 25,000 taxpayers had aggregate IRA account balances of over $5 million; 497 of those taxpayers have aggregate IRA account balances over $25 million, with an average aggregate account balance of over $150 million each. It's clearly an unfair loophole that must be closed, and there ought to be bipartisan agreement on this.

So there's a lot for the committee to discuss. Members on both sides will have a lot of strong ideas of their own to discuss today. As I said at the outset, this is a subject on which the Finance Committee has a long track record of bipartisan progress, including a bill made up of dozens of ideas from both sides in 2016. After a lot of work, that bill became law a few years later. I hope today's hearing is a launching pad for the committee to develop another bipartisan retirement package in the months ahead.

COMMUNICATIONS

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May 18, 2021

The Honorable Ben Cardin
509 Hart Senate Office Building
Washington, DC 20510–2002

The Honorable Rob Portman
448 Russell Senate Office Building
Washington, DC 20510–3506

Dear Senator Cardin and Senator Portman:

We are writing on behalf of the American Benefits Council to thank you for your historic leadership with respect to retirement policy over many years. The retirement years of millions of Americans have been made more secure by your work.

We support the reintroduction of the Retirement Security and Savings Act. Your longstanding commitment to bipartisan retirement policy has set a pattern which has endured and produced much helpful legislation that built on a tremendously successful system making it stronger and broadening its availability to and use by more Americans. Your successful leadership and efforts to pass the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 are but one example of this commitment.

The American Benefits Council is a Washington, DC-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and families. Council members include over 220 of the world's largest corporations and collectively either directly sponsor or support sponsors of health and retirement benefits for virtually all Americans covered by employer-provided plans.

As the country responds to the challenges it faces, it is important to continue our work on enhancing retirement security. Retirement savings plays a critical role in helping workers and their families achieve financial security and supports economic and job growth. As we build our economy back from the pandemic, part of that effort needs to include even greater attention to the role of retirement programs that have been jeopardized by that crisis and were at risk for many Americans even before the pandemic.

We commend you on the introduction of this bipartisan bill, which includes many priorities for the retirement community and the Council, including:

- The ability to self-correct inadvertent plan errors without a submission to the IRS.
- An increase in the age at which required minimum distributions must commence to 75.
- Permitting employers to match student loan repayments.
- Eliminating unnecessary disclosure burdens with respect to employees who are not participating in a plan.
- Enhanced catch-up contributions.
- Critical pension plan reforms, including correction of funding mortality tables and fixing a burdensome glitch in the PBGC premium regime.

We so much appreciate the thoughtfulness that underlies the provisions of this bill and we know how much they would enhance Americans' retirement security. We look forward to continued discussions on retirement policy issues, including the challenges in reuniting employees with their benefits as this process moves forward.

Thanks to your leadership, millions more Americans will be able to retire with dignity.

Sincerely,

Lynn D. Dudley
Senior Vice President
Global Retirement and Compensation Policy

The American Benefits Council (the "Council") thanks Chair Wyden and Ranking Member Crapo and all members of the committee for holding the hearing, "Building on Bipartisan Retirement Legislation: How Can Congress Help?" Your work and that of the committee has been instrumental in the great bipartisan strides we have made in this area. We appreciate your leadership in further improving retirement outcomes for American workers and their families.

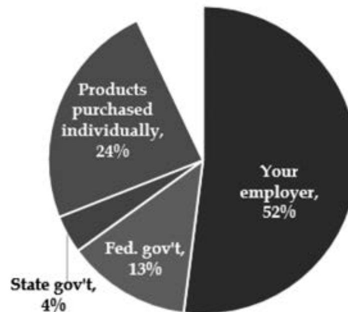
The private retirement system has helped millions of Americans achieve retirement security. According to a post-election poll conducted by Public Opinion Strategies in the 2020 presidential election, a majority of voters trust employers the most in helping them achieve a secure retirement and a majority of voters believe that the standards for employer-provided benefits should be established at the federal level. The Setting Every Community Up for Retirement Enhancement (SECURE) Act enacted in 2019 was a major step forward in meeting the challenges faced by Americans in achieving a secure retirement. In addition, the American Rescue Plan Act enacted earlier this year included vital funding reform that provided much needed stabilization to single-employer pension plans. Even with those changes being enacted, the system can be further improved and strengthened and there are numerous existing bipartisan legislative proposals—several of which are discussed below—that we believe can help achieve that result.

A majority of voters trust employers the most to help them achieve a secure retirement.

Voters were asked:

Which ONE of the following sources do you trust the most to help you achieve a secure retirement?

- *Plans provided by employers, through a pension or 401(k)-type plan*
- *Financial products purchased by you individually*
- *Plans provided by the federal government*
- *Plans provided by your state government*



Source: Public Opinion Strategies 2020 Post-Election National Survey Results

The American Benefits Council is a Washington, DC-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and their families. Council members include over 220 of the world's largest corporations as well as organizations serving employers of all sizes. Collectively our members directly sponsor or administer health and retirement benefits for virtually all Americans covered by employer-sponsored plans.

Key Bipartisan Proposals for Improving Retirement Security

There are many retirement policy proposals that are worthy of discussion. We are highlighting several that Council members have identified as important reforms that build on the SECURE Act and significantly help American workers better prepare for retirement. Many of the proposals below are included in both the Retirement Security and Savings Act of 2021 (S. 1770, the "Cardin/Portman" bill) and the Securing a Strong Retirement Act of 2021 (H.R. 2954, the "Neal/Brady" bill, as approved by the House Ways and Means Committee). Some proposals not included in the bills should be considered as well. Some of the proposals are additionally found in other legislation, such as the Retirement Parity for Student Loans Act (S. 1443, the "Wyden student loan" bill) and the Retirement Savings Lost and Found Act (S. 1730, the "Warren/Daines missing participants" bill).

Self-Correction Procedures

Plan sponsors should generally be permitted to self-correct inadvertent plan violations under the IRS' Employee Plans Compliance Resolution System (EPCRS) without a submission to the IRS or a fee payable to the IRS. This will help employees because errors can be corrected more quickly and more efficiently. Under a proposal included in the Cardin/Portman bill and the Neal/Brady bill, all inadvertent plan violations could be self-corrected under EPCRS without a submission or fee to the IRS, provided that this rule would not apply if the IRS discovers the violation on audit and the employer has not at that point taken actions that demonstrate a commitment to correct the violation. These bills, which we strongly support, would also make improvements to the self-correction process that would make self-correction a more reliable and effective process.

Recent IRS guidance expands the inadvertent errors that may be self-corrected without a submission to the IRS but does not achieve the full goals of the bills, which would allow substantially all inadvertent errors to be self-corrected. We highly recommend Congress take this additional step to make self-correction as broadly available as possible.

Reducing Barriers to Saving Through Student Loan Repayment Programs

The burden of student loan debt serves as an unfortunate barrier to saving for retirement. Given the benefit of compound interest, putting money away early in one's career—especially through an employer-provided plan with matching contributions and low fees—can have a powerful effect on one's retirement savings account balance at retirement age. But student debt prevents many individuals, especially in their 20s and 30s, from saving optimally for retirement.

Many employers are interested in helping employees save for retirement despite student tuition or debt obligations and are considering a variety of innovative approaches to do so. We urge Congress to support these programs with policies that embrace innovation.

For example, the Council supports proposals that would make it easier for employers to provide matching contributions to 401(k) retirement plans based on an employee's student loan payments. Such a provision is included in the Wyden student loan bill. The Wyden student loan proposal is also included in Cardin/Portman, Neal/Brady and the Retirement Parity for Student Loans Act of 2021 (H.R. 2917). Measures like these that would leverage the tax laws and behavioral economics would go a long way toward reducing barriers to retirement savings particularly for younger workers. Just like saving early, enacting supportive policy as soon as possible will have a positive effect on retirement outcomes.

We are supportive of other proposals to give employers greater flexibility in helping their employees with student loan debt including making permanent provisions that make it easier for employers to pay down student loans for their employees without triggering taxable income for their employees, up to an annual limit of $5,250 on the total of such repayments as well as other educational assistance.

PEP and "Group of Plan" Reforms

Policymakers are constantly searching for ways to improve retirement plan coverage and Council members believe that the best way to do so is to build on the employer-based system. Open multiple employer plans (called "pooled employer plans," or PEPs) present a significant opportunity to do so. Much was accomplished in the enactment of the SECURE Act but additional reforms can make PEPs even more effective in expanding coverage, reducing costs, ensuring consistent participation and providing a solid retirement. We note the following proposals:

- **Provide the same PEP advantages to charities, churches and public educational institutions:** Currently, the PEP provisions in the SECURE Act do not cover 403(b) plans, which are widely used by charities, churches and public educational organizations (the only entities permitted to maintain such plans). We support the expansion in Neal/Brady and the Improving Access to Retirement Savings Act (S. 1703) of the PEP provisions to cover 403(b) plans, so that these entities can enjoy the same new economies of scale being made available to taxable employers.
- **Service Crediting:** Under a MEP that is not a PEP (a "closed MEP"), if an employee works for one employer in the MEP and then moves to another employer in the MEP, the employee's service with the first employer counts with the second employer and vice versa.
    - **PEPs:** The service crediting rule makes sense in the context of a closed MEP where employees are moving among closely related employers. But in the context of a PEP, it does not make sense. For example, why should a hardware store in Maine have to make a new employee immediately eligible and immediately vested based on prior service by the same employee for a barber shop in Nevada, just because the two employers participate in the same PEP?
    - **Statute and policy:** The statute is not clear on whether the MEP rule applies to PEPs. In our view, it should not. From a policy perspective, the growth of PEPs and the expansion of coverage would be inhibited if the MEP rule applied to PEPs.
        - If small employers know that, for example, they may need to treat new hires as immediately eligible and immediately vested that could mean fewer small employers join PEPs, undermining the extent of the coverage expansion. This is because the potential additional expenses of applying the service crediting rules across the entire PEP could erase cost savings obtained elsewhere for the PEP through economies of scale and tracking service crediting based on an employee's previous employers does little to advance administrative simplicity and cost savings.
        - Similarly, many employers would likely be concerned to learn that, under a PEP, a short-term employee who left after a couple of years could become 100% vested later by reason of working for an unrelated employer. Again, this has cost implications.
- **Trustee duties:** SECURE requires the trustee of a PEP "to be responsible for collecting contributions" to the PEP.
    - **Different business models:** Based on the input we have received, there are different business models that may be used with respect to the collection of contributions to the PEP. Under one business model, the trustee would be responsible for collecting contributions. Under a second business model, the PEP would use a directed trustee, which would not have any fiduciary expertise or any administrative system that could be used to enforce or oversee the collection of contributions. If the trustee in this second business model were forced to take on this responsibility, it would have to establish new systems to perform a new function, which would trigger unnecessary costs and delays in implementing PEPs.
    - **Flexibility would expand coverage:** We believe that it is important to accommodate both business models, so that PEP coverage can be expanded to the greatest extent. Accordingly, we ask that that Congress treat PEPs in the same way as all other types of plans. PEPs should be permitted to assign contribution collection responsibility to the entity best suited to this task, which will often be the pooled plan provider. This legislative solution would simply permit the collection process to be assigned to other fiduciaries, which would facilitate the use of the fiduciary with the most experience and expertise in this regard.
- **Groups of plans that are permitted to file a single Form 5500 under Section 202 of the SECURE Act:** Under current law, generally, a Form 5500 for a defined contribution plan must contain an opinion from an independent qualified public accountant as to whether the plan's financial statements and schedules are fairly presented (referred to below as the "audit re-

quirement”). However, generally, no such opinion is required with respect to a plan covering fewer than 100 participants.

- ◦ A group of plans that fits within the SECURE provision may contain some plans that are subject to the audit requirement and some that are not. Under the proposed change, plans which are subject to the audit requirement may elect to jointly file a single audit as if they were part of the same plan, but the audit requirement and expense would not be imposed on the small plans. As an alternative, to further simplify the administration of the group of plans and to enhance security, the plan administrator may elect to treat all the plans in the group as one plan for purposes of the audit requirement—including the small plans upon which the requirement would otherwise not be imposed. The latter election would simplify plan administration by accommodating a wider variety of coverage solutions being developed in the marketplace.

Improving Required Retirement Plan Reports and Disclosures

Under current law, employer-sponsored retirement plans and IRAs are required to provide a variety of reports and disclosures to participants at various times or upon the occurrence of specified events. The Council believes there is a significant opportunity to improve both the content and the timing of required disclosures in a manner that provides for more effective and meaningful communications to participants and account owners, while also decreasing administrative costs for plans and IRAs.

We support bipartisan proposals to take such steps, such as a proposal included in both the Cardin/Portman bill and the Neal/Brady bill. That proposal would direct the U.S. Treasury Department, the U.S. Department of Labor (DOL) and the Pension Benefit Guaranty Corporation (PBGC) to review the reporting and disclosure requirements and make recommendations to Congress to consolidate, simplify, standardize and improve these participant communications.

A related issue that we urge the committee to consider is one that affects those plan participants who are *not enrolled in the plan* but who nevertheless are considered participants because they are *eligible* to enroll in the plan. Under current law, even non-enrolled participants are required to receive the same reports and disclosures as participants who are enrolled in the plan. Because these non-enrolled participants are receiving plan communications that do not relate to them, the Council strongly supports the proposal in both the Cardin/Portman bill and the Neal/Brady bill under which non-enrolled participants would not be required to receive the unnecessary notices that they receive under current law. Instead, such participants would receive an annual reminder of their eligibility to participate in the plan.

Stop Indexing the PBGC Variable Rate Premium for Single-Employer Plans

A bipartisan proposal aimed at addressing concerns over PBGC premiums, which are a factor in causing employers to fully or partially terminate their plan, is included in the Cardin/Portman bill. Today, single-employer defined benefit plans pay both a per-participant flat-rate premium and a variable-rate premium to the PBGC each plan year. Both types of premiums are currently indexed. But indexing the variable-rate premium does not make sense because the variable-rate premium is calculated based on the plan’s unfunded vested benefits, an amount that is inherently indexed. As a result, indexing the variable-rate premium will eventually lead to companies owing 100%, 200% or even more of their underfunding to the PBGC. The Cardin/Portman bill would address this by eliminating the indexing of the variable-rate premium and freezing such rate at the 2018 premium level ($38 per $1,000 of unfunded vested benefits).

Permitting Higher Catch-Up Contributions for Older Americans

Even though most Americans understand the benefit of saving for retirement throughout their working years, younger workers, in particular, often face competing financial priorities, such as buying a home, paying off student loans and raising a family. These expenses can make it challenging for many workers to prioritize saving for retirement until their 40s, 50s or even 60s. In 2020, most employees are generally limited to making elective deferrals of $19,500 to a 401(k), 403(b), or governmental 457(b) plan ($13,500 with respect to SIMPLE IRAs and SIMPLE 401(k)s). But individuals age 50 and older may make a “catch-up” contribution of an additional $6,500 ($3,000 for SIMPLEs). To give workers nearing retirement age an even greater ability to better prepare for retirement, the Council supports the provisions in the Cardin/Portman and Neal/Brady bills that would increase the catch-up contributions for certain older workers.

Increasing the Age at Which RMDs Must Begin

The Council believes it is important that retirees be allowed to retain their savings in retirement accounts as long as possible to help protect against the risk of retirees depleting their retirement savings during their lifetime. We therefore urge the committee to support bipartisan proposals such as those in the Cardin/Portman and Neal/Brady bills that would further increase the age at which participants and IRA account owners must begin taking RMDs to age 75.

Reforming the Rules Regarding Inadvertent Overpayments to Participants

The complexity of administering a retirement plan can result in a plan incorrectly calculating benefit payments for a participant, especially in a defined benefit plan. Sometimes these errors result in an overpayment being made to a participant. IRS correction procedures in some cases require plans to seek to recoup from participants a discovered overpayment, sometimes months or even years after the overpayment was made to the participant. This often causes significant distress for participants—many of whom were retirees—who had no idea that the plan incorrectly calculated their benefits. Further complicating matters, in many cases an overpayment was rolled over to an IRA or another plan because the participant believed that such amount was eligible for rollover treatment when, in reality, it was not.

In some circumstances under EPCRS a plan sponsor may correct for an overpayment without seeking recoupment from the participant. Recent guidance improves the rules governing overpayments but does not resolve major challenges, such as the ability to roll over an inadvertent overpayment and does not provide important participant protections. The Council's members believe that additional steps to protect retirees should be taken and therefore the Council strongly supports provisions in the Neal/Brady and Cardin/Portman bills that would permit employers not to seek recoupment from the participant and would permit rollovers of inadvertent overpayments.

Expansion of Electronic Disclosure of Plan Communications

DOL regulations give plan sponsors the option to provide required notices and statements in an electronic format while providing participants with appropriate protections and the right to receive paper copies of notices at no charge. The Council strongly supported updating the means by which plan sponsors can fulfill their disclosure requirements. We believe that electronic communication can improve employee engagement and help them take more effective and timely action. Bipartisan proposals that restrict this option should be carefully measured against these goals and should be designed to resolve a specific problem so as not to undermine the goals.

Similarly, we support retirement plan proposals to allow remote notarization with strong safeguards to protect participants and spouses. This was acutely necessary during the pandemic and has been allowed on a temporary basis and recently extended for one year. The success of this system—in terms of efficiency, protections and flexibility—on a temporary basis and its recent extension provide a solid basis for making this rule permanent.

Missing Participants

Our members devote a great deal of effort and financial resources to sponsoring retirement plans and to searching for those who have unclaimed benefits. We wholeheartedly share the goal of reuniting plan participants with their retirement benefits.

In this regard, we welcomed the introduction of missing participant legislation in Neal/Brady, Cardin/Portman and Warren/Daines, which addressed the missing participant issue. The Department of Labor has issued guidance, in the nature of best practices, but more is needed because the guidance does not help employers know what should be done to find a missing participant. The Council believes strongly in the need for comprehensive guidance on plan fiduciary responsibilities with respect to unresponsive and missing participants.

The bills also include a provision that would use data that employers are already required to report to Treasury to create a national, online lost and found for Americans' retirement accounts. In addition, the Department of Labor would be directed to develop standards for determining if an employer has satisfied their fiduciary responsibilities with respect to missing participants; in our view, all agencies involved should develop the standards jointly, including Treasury and PBGC.

We also believe that the bills would require transfers to a new government program of benefits that are currently being transferred to automatic rollover IRAs—

a private sector solution that is working well. We recommend modifying the government program to supplement private sector solutions, rather than taking them over. And it should be clear that once a plan does not contain any benefits on behalf of a participant, the plan fiduciaries should have no further duty to search for that participant.

We look forward to continuing to work with Congress on these issues. Our members' extensive experience with missing and lost participants provides a valuable resource for policymakers, including input with respect to strategies to improve consistency among agencies with regulatory authority for missing and unresponsive participants.

New "Secure Deferral Arrangement" Automatic Enrollment Safe Harbor

A significant retirement policy success in recent years has been encouraging plan sponsors to automatically enroll their employees in a retirement plan at a default contribution rate and then to periodically increase that rate over time. But as successful as these automatic enrollment and automatic escalation features have been to date, policymakers are now looking at options to continue building on their success.

Under the existing automatic enrollment safe harbor, plans are generally deemed as meeting certain nondiscrimination testing rules if certain criteria are met, including that employees are automatically enrolled at a contribution rate of at least 3% of compensation in the first year and such rate must increase by at least 1% a year until the contribution rate is at least 6% (but not greater than 15%) by the fourth year.

The Council encourages the committee to consider proposals that would build upon the existing safe harbor by adding a new automatic enrollment safe harbor for "secure deferral arrangements." A secure deferral arrangement would, among other features, provide for a higher default contribution rate in the first year (*i.e.,* at least 6 but not greater than 10%) and would remove that 10% cap on default deferrals after the first year. Such proposals have been included in the Cardin/Portman bill, S. 1703 and the 2017 Neal bill.

Emergency Savings

The pandemic has highlighted the longstanding need for Americans to save for emergencies. We believe that this can be done in a way that protects and enhances retirement security. In that regard, we were very pleased by the introduction of the Enhancing Emergency and Retirement Savings Act of 2021 (S. 1870).

The bill allows a retirement plan, such as a 401(k) plan, or IRA to be accessed for a small amount in the case of emergency without any penalty. As a result of knowing they have access to a modest amount in case of an emergency, individuals will be more likely to contribute to the plan or IRA and often will end up not having to make emergency withdrawals, thus enhancing their overall retirement security while improving their financial resilience.

There are a number of ways to improve emergency savings that the Council supports, including programs outside of the retirement plan and we look forward to a continued dialogue about how to further improve emergency savings and strengthen personal financial security. However, this bill is an important step towards addressing the critical problem faced by many Americans by offering a solution that harnesses the successful 401(k) or similar plan structure that utilizes payroll deduction and allows for recontribution.

Remove Limitations on Subsidies Resulting From Accumulation of Retirement Assets

Effective retirement saving can improve overall health and financial well-being. Individuals and families should not be penalized for preparing for retirement. The Council urges the committee to support legislation that would exclude current retirement plan assets and future retirement plan benefits from eligibility calculations for state and federal housing and food subsidies.

ABLE Programs

The Council also supports provisions that address the needs of eligible ABLE individuals. A bipartisan House bill (H.R. 4672) introduced by Representatives Suozzi and Wenstrup would allow such individuals to elect to have employer retirement contributions made to their ABLE program instead, which is designed to suit their unique needs more effectively than a retirement account.

Parity for Cooperative and Small Employer Charity (CSEC) Organizations

The SECURE Act, Neal/Brady and Cardin/Portman together include numerous very helpful tax credits as incentives for taxable companies to start a plan or to adopt certain pro-participant features. For example, the following very beneficial proposals are either in the law or being considered:

- The SECURE Act increased the cap on the small business start-up credit from $500 to $5,000.
- The SECURE Act provided a three-year $500 small business tax credit for adopting automatic enrollment.
- Neal/Brady would increase the start-up credit in two very material ways:
    - Increase the credit from 50% to 100% of start-up costs for companies with up to 50 employees.
    - Provide a contribution-based credit that could be worth over $100,000 over five years, depending on the size of the business.
- Cardin/Portman would provide a five-year tax credit for small businesses that adopt a new type of safe harbor automatic enrollment 401(k) plan.
- Similar to Neal/Brady, Cardin/Portman would enhance the small business start-up credit by increasing it from a credit equal to 50% of start-up costs to a 75% credit for the smallest employers.
- Cardin/Portman would provide a three-year $500 small business credit for adopting automatic re-enrollment.

Unfortunately, tax-exempt organizations do not receive any of these credits, so the significant help—well over $100,000 in total in some cases—that the credits provide is not available to tax-exempt employers. Moreover, tax-exempt organizations do not pay any less to set up a plan.

We strongly believe that something needs to be done to level the playing field to treat tax-exempt organizations more fairly. We also recognize that addressing this issue in a comprehensive way for all tax-exempt organizations is a broad project that will require further work and consideration. But we believe that it is appropriate to start the legislative process with a small but important step and therefore support a proposal that would provide tax credits to employees in CSEC plans.

A Consistent Federal Framework

We have one key point in conclusion. The fundamental basis for an effective private retirement system is the ability to rely on the single set of national rules applicable to designing and operating retirement plans, especially for companies that operate in more than one state. These rules can be found in Section 514 of the Employee Retirement Income Security Act of 1974 (ERISA). There is no greater threat to the health of the private retirement system than a possible erosion of this principle of current law. We urge Congress to work with us to support and enforce the federal nature of the rules governing qualified retirement plans.

* * * * *

The ability to save for retirement is a critically important part of Americans' sense of economic security. Employer-provided retirement plans are a uniquely positive influence on one's financial well-being in retirement. Public policy should therefore encourage participation and adequate savings in these plans whenever possible.

We thank the committee for holding this hearing and for a long history of dedicated bipartisan work on protecting and enhancing the private retirement system. We look forward to continuing to work with the committee on this critical endeavor.

AMERICAN COUNCIL OF LIFE INSURERS
101 Constitution Avenue, NW
Washington, DC 20001

Statement of Susan K. Neely, President and CEO

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the record on "Building on Bipartisan Retirement Legislation: How Can Congress Help?" ACLI thanks Chairman Ron Wyden (D–OR) and Ranking Member Mike Crapo (R–ID) for holding this important hearing. This statement will highlight

the successes of the current retirement system, the challenges many workers and retirees face, especially in light of the COVID–19 global pandemic, and public policy proposals supported by ACLI that would enhance and build upon the successes of our nation's retirement system.

THE AMERICAN COUNCIL OF LIFE INSURERS

The American Council of Life Insurers (ACLI) advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Financial security is our core business, and retirement security for all Americans is a critical mission. We protect 90 million American families with financial products that reduce risk and increase financial security, including life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, dental and vision benefits, and other supplemental benefits. As society and work changes, we are committed to financial security solutions that protect all Americans, regardless of where and how they work, their stage in life, or the economic status of their household. Americans are living longer, and financial security into retirement is a big challenge facing our country. Life insurers help people retire with financial security, through products that are available, accessible, and affordable to all.

ACLI members represent 95 percent of industry assets in the United States. Through a well-crafted partnership of the private solutions ACLI members provide, and public solutions that are necessary, we believe the benefits of financial security can be made available to all Americans. Accordingly, ACLI member companies offer insurance contracts and investment products and services to employment-based retirement plans (including defined benefit pension plans, 401(k), SIMPLE, SEP, 403(b), and 457(b) plans) and to individuals (through IRAs and annuities). Three out of five small employers (those with 99 or fewer employees) rely on life insurer products and services in their employment-based retirement plan. ACLI members are also employer sponsors of retirement plans for their employees. And there are more than 15 million annuity-based IRAs held by individuals. As product and service providers, as well as plan sponsors, life insurers know that, coupled with Social Security, adequately and consistently saving for retirement, effectively managing assets throughout retirement and utilizing appropriate financial protection products ensure Americans' retirement and financial security.

Americans are faced with significant financial security challenges, and the insurance industry is a vitally important part of how Americans are able to plan, save and guarantee themselves a secure retirement.[1] In 2020, American families received $392.3 billion in payments from annuities, $130 billion in payments from life insurance, $20 billion in disability income insurance benefits and $11.4 billion in long-term care insurance benefits. No other industry provides Americans with the level of financial guarantees provided by the life insurance industry.

THE RETIREMENT SYSTEM IN AMERICA

The retirement system for private-sector workers in America builds upon the contributions made to Social Security and is enhanced by employment-based retirement plans, individual retirement accounts, annuities, and other investments. Private sector savings play a vital role in retirement security for millions of Americans. Current tax incentives for pensions and retirement savings encourage employers to provide and maintain work-based plans and have enabled millions of American families to accumulate savings, thereby improving their retirement security. According to the Bureau of Labor Statistics, more than 80 percent of full-time civilian workers have access to a retirement plan through their employer, and of these workers, 82 percent participate in a workplace plan.[2] Yet, there remain workers, mostly those who are working part-time and those at small businesses, without such access. More can and should be done to ensure that everyone who can afford to save for retirement is saving for retirement.

CHALLENGES FACING RETIREMENT SAVERS

While the current combination of Social Security and employment-based and individual retirement arrangements has successfully demonstrated that workers can attain retirement security, the global pandemic has brought into sharp focus challenges Americans face with ensuring they have both short-term and long-term savings—both key components to financial health. In 2019 for example, almost 50 per-

[1] ACLI analysis of *preliminary* 2020 NAIC Annual Statement data.

[2] Bureau of Labor Statistics, National Compensation Survey: Employee Benefits in the United States, March 2020, *https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf.*

cent of all U.S. households had less than $5,300 in liquid savings that can be used for an emergency.[3] This was exacerbated in 2020 as families faced financial crises with the economic downturn related to COVID–19. Some retirement savers, having little to no emergency savings, tapped their retirement savings through plan loans and distributions features made available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act. According to Fidelity Investments, the median amount of coronavirus distribution was $4,800, indicating an amount of emergency savings deficiency for many families.

While workplace retirement plans with payroll-deducted contributions are incredibly effective at helping people save, impediments still exist that prevent many Americans from maximizing this important savings tool. Certain segments of the population have greater barriers to savings. Despite 80 percent of full-time civilian workers having access to a retirement plan in the workplace, only 40 percent of part-time workers enjoy access to workplace savings, in particular, gig economy workers and people who work for small employers.[4] Additionally, Federal Reserve data shows that Black and Hispanic savers have savings rates that lag significantly behind their white counterparts. These deficiencies are magnified in women. Millennials also tend to be less prepared for retirement than earlier generations at the same stage in life with 45 percent having no dedicated retirement savings. Almost 41 percent are burdened with student loan debt and may delay saving for retirement.[5] This segment may also face challenges related to access to a retirement savings plan in the workplace. Adult caregivers are also in a challenging situation. Many financially assist their children, while an estimated 9.7 million adult children over the age of 50 care for their parents as well.[6]

BOLD SOLUTIONS TO ADDRESS RETIREMENT CHALLENGES

The passage of the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, the most comprehensive retirement legislation passed since the Pension Protection Act in 2006, is expected to prove instrumental in increasing access to retirement plans. The provisions within the SECURE Act built upon the current successful private sector system, making important enhancements to improve American's financial retirement security. For example, the SECURE Act includes provisions making it easier for employers to sponsor a retirement plan, encouraging employees to save, and helping them prepare for a secure retirement through lifetime income solutions, have real-world positive benefits. Increasing access for employees of small employers alone is anticipated to result in more than 700,000 new retirement savings accounts.

To build upon the success of the SECURE Act, other effective public policy proposals, in addition to action by plan sponsors and providers, can help to address savings challenges and help Americans ensure a secure retirement. Policymakers should continue to seek to increase access to workplace retirement savings, strive for financial equality, and encourage essential financial protections offered by guaranteed retirement income products. The focus should continue to be on ways to help more people achieve a financially secure retirement—increasing savings rates, workplace access and lifetime income security for all Americans, all key to financial security.

The following are policy proposals that seek to increase retirement security and savings that ACLI supports include:

1. Increased Access to and Participation in Retirement Plans

A sizable majority of full-time workers have access to a retirement plan in the workplace. Still, more could be done to expand access and coverage. While access is high for workers at larger employers, roughly 50 percent of all workers employed by small businesses—those with fewer than 50 workers—have access to a workplace retirement plan.[7] Of those workers, only 39 percent take advantage of the plan in the workplace.[8] While small businesses have access to a robust marketplace of prod-

[3] ACLI analysis of the Federal Reserve, Survey of Consumer Finances, 2019.

[4] Bureau of Labor Statistics, National Compensation Survey: Employee Benefits in the United States, March 2020, *https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf.*

[5] ACLI analysis of the Federal Reserve, Survey of Consumer Finances, 2019.

[6] MetLife, Mature Market Institute, The MetLife Study of Caregiving Costs to Working Caregivers, *https://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf.*

[7] Bureau of Labor Statistics, National Compensation Survey 2020, *https://www.bls.gov/news.release/ebs2.t01.htm.*

[8] *Id.*

uct offerings, the uncertainty of revenue is the leading reason given by small businesses for not offering a plan, followed by cost, regulatory and administrative burdens and lack of employee demand. Congress should build upon the current employer-provided system and advance policy that seeks to increase access to workplace savings. Measures that accomplish these goals include:

- **Retirement Savings Option for All Employees:** Requiring a universal approach for employers without a retirement plan to provide workers with access to payroll deducted savings through an IRA, 401(k), or other qualified retirement savings plan, is key to fundamentally expanding access to the power of workplace, payroll deducted savings. Employers should have the flexibility to choose to use IRAs or set up a 401(k), or other qualified retirement savings plan. Employers should not be overly burdened by administrative costs in order to comply and workers must have the right to opt out of participation. When offered a retirement plan by their employer, four out of five full-time private-sector workers participate. Additionally, nearly 73 percent of employers now automatically enroll new participants into their plan.[9] While employees have the option to opt out, most do not. In fact, with new employees, participation rates nearly double to 93 percent when automatically enrolled, compared with 47 percent under voluntary enrollment.[10] ACLI strongly supports a universal approach in which all employers with more than 10 employees offer a plan in the workplace. This would provide an estimated 27.7 million workers with access to an employment-based retirement plan with 20.8 million additional workers participating in those plans.[11]
- **Increased Default Contribution Levels:** Currently, employers typically automatically enroll employees into their retirement plans at three percent of their employees' salary. While automatic enrollment is an excellent tool to help workers contribute to their retirement plan, increasing the contribution percentage each year, similar to a provision included in the Retirement Security and Savings Act (RSSA) of 2021, introduced in the 117th Congress by Senators Portman (R–OH) and Cardin (D–MD), would result in more meaningful savings levels.[12]
- **Automatic Enrollment Incentive for Small Businesses:** Similar to automatic escalation tools, automatic enrollment has proven to be extremely effective in increasing participation rates, and ultimately, savings balances. Pending legislation would provide small businesses with a tax credit of $500 per year for 3 years for automatic enrollment.[13] Not only would this mitigate the cost for these businesses, but it would ensure more workers are saving at work.
- **Credit for Small Employers Providing Retirement Plans for Military Spouses:** It is critical to address savings shortages prevalent among military spouses. Military spouses support their service members and families through relocations and deployments, frequently sacrificing their own career aspirations—and often their ability to save for their own retirement.[14] Congress should provide a tax credit for small employers that: make military spouses eligible for their retirement plan within two months of hire; provide a matching or non-elective contribution to the plan; and ensure these spouses are 100 percent vested in all employer contributions within the same time frame.

2. Incentivizing Savings for Vulnerable and At-Risk Populations

Special consideration should be given to individuals who face unique challenges when it comes to retirement savings. These groups, many times, can benefit greatly

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[9] Willis Towers Watson, 2017 Defined Contribution Plan Survey, *https://globenewswire.com/news-release/2018/02/26/1387421/0/en/U-S-employers-enhancing-defined-contribution-retirement-plans-to-help-improve-workers-financial-security.html.*

[10] Jeffrey W. Clark, Jean A. Young, Vanguard, Automatic Enrollment: The Power of Default, *https://institutional.vanguard.com/iam/pdf/CIRAE.pdf.*

[11] ACLI estimates based on the National Compensation Survey: Employee Benefits in the United States, March 2020, National Compensation Survey: Employee Benefits in the United States, March 2020.

[12] *Id.*

[13] S. 1770, The Retirement Security and Savings Act of 2021, introduced in the 117th Congress by Senators Portman (R–OH) and Cardin (D–MD). H.R. 2954, The Securing a Strong Retirement Act of 2021, introduced in the 117th Congress by Chairman Richard Neal (D–MA) and Ranking Member Kevin Brady (R–TX).

[14] S. 1770, The Retirement Security and Savings Act of 2021, introduced in the 117th Congress by Senators Portman (R–OH) and Cardin (D–MD), S. 1273, the Military Spouses Retirement Security Act, introduced in the 117th Congress by Senators Susan Collins (R–ME), Maggie Hassan (D–NH), James Lankford (R–OK), Mike Bennet (D–CO), Angus King (I–ME) and Steve Daines (R–MT).

from focused public policy initiatives to make their path to saving for retirement easier. These include:

- **Institutionally Disadvantaged Savers:** For too long, racial injustice and systemic inequity have excluded communities of color from traditional pathways to financial security and created fewer opportunities for financial peace of mind. Everyone, no matter their age, job, income level, gender or race, deserves the chance to build financial certainty and Congress should look for ways to collaborate with critical industries in order to drive solutions that address systemic inequities by investing in underserved communities, advancing financial education, and removing barriers to access.
- **Low-Income Earners:** While the current Saver's Credit allows low- and middle-income earners a tax credit, RSSA would significantly improve the incentive by expanding those eligible for the credit, making the credit refundable, and contributing it directly to a retirement plan or Roth IRA.[15]
- **Part-time Workers:** Part-time workers have historically had less access to and lower participation in retirement plans. Currently, only 39 percent of part-time workers have access to a retirement plan at work.[16] With the enactment of the SECURE Act, current law now requires employers to allow long-term, part-time workers with at least 500 hours of service in 3 consecutive years to participate in their 401(k) plans. RSSA expands eligibility to those with at least 500 hours of service in two consecutive years.
- **Student Loan Borrowers:** Innovative policy approaches that would assist employees in saving for retirement should be a top priority for legislators. One legislative approach ACLI supports would enable employers to contribute a "match" to an employee's 401(k), 403(b) or SIMPLE plan account based on the employee's student loan repayments.[17]
- **Those Closest to or in Retirement:** The way we live and work has been impacted by the global pandemic. Those closest to retirement need even more flexibility regarding how they continue to accumulate assets, but also, when they are obligated to begin tacking distributions. More and more savers are opting to stay in the workforce and public policy should accommodate them by increasing the required minimum distribution (RMD) age from 72 to 75 and allowing those 62–64 to save even more.[18] Savers that are close to or in retirement may want to take steps to ensure they do not outlive their savings. Only one vehicle can guarantee this, an annuity. Removing barriers to annuities provides savers with the option to ensure they have income for life. Qualified longevity annuity contracts (QLAC) help retirees ensure retirement solvency. Public policy should modernize the QLAC rules, by repealing the 25-percent account balance limit, increasing the eligible QLAC amount to $200,000 and making important changes to ensure spousal survivor rights.[19]

3. Additional Plan Innovations

While the SECURE Act certainly made a large impact on the retirement savings landscape, small changes can build upon and improve the current retirement system. These include:

- Expansion of the Open Multiple Employer Plans (Open MEPs) provision to include 403(b) plans sponsored by certain tax-exempt employers and public educational institutions.
- Clarification of the rules applicable to stable financial planning tools that can meet savers' financial needs. Currently there is ambiguity surrounding fiduciary liability as it relates to general account funds. Insurance companies offer

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[15] S. 1770, The Retirement Security and Savings Act of 2021, introduced in the 117th Congress by Senators Portman (R–OH) and Cardin (D–MD). H.R. 2954, The Securing a Strong Retirement Act of 2021, introduced in the 117th Congress by Chairman Richard Neal (D–MA) and Ranking Member Kevin Brady (R–TX).

[16] Bureau of Labor Statistics, National Compensation Survey 2020, *https://www.bls.gov/news.release/ebs2.t01.htm.*

[17] S. 1443, the Retirement Parity for Student Loans Act of 2021, introduced in the 117th Congress by Senators Wyden (D–OR), Cantwell (D–WA), Cardin (D–MD), Whitehouse (D–RI) and Brown (D–OH). S. 1770, The Retirement Security and Savings Act of 2021. H.R. 2954, The Securing a Strong Retirement Act of 2021.

[18] S. 1770, The Retirement Security and Savings Act of 2021. H.R. 2954, The Securing a Strong Retirement Act of 2021.

[19] S. 1770, The Retirement Security and Savings Act of 2021. H.R. 2954, The Securing a Strong Retirement Act of 2021.

guaranteed principal and interest through these conservative, insured instruments. Backed by the insurer's general assets, general account products often provide higher rates of return than other fixed return and stable value investment vehicles. Many employers include them among the investment options available to their retirement plan participants. Large sums of 401(k) assets are invested in these products. It is critical that Congress provide clarity to permit these stable, safe arrangements to continue.

- Support for legislative efforts, like the Lifetime Income for Employees Act, bipartisan legislation introduced in the 116th Congress by Representatives Don Norcross (D–NJ) and Tim Walberg (R–MI). This bill would remove a barrier that prohibits annuities from being offered as a default investment option in workplace retirement plans.[20]
- Facilitate emergency saving to ensure Americans have funds to cover unexpected financial challenges while protecting critical long-term retirement savings. Several proposals have been introduced in the Senate.[21]
- Reinforcement of the value and benefits associated with modern, electronic delivery of retirement plan documents and notices, while ensuring an opt-out option for plan participants. COVID–19 has demonstrated that access to important documents electronically is a critical need of Americans.

CONCLUSION

Providing Americans, especially vulnerable populations, with greater access to retirement savings tools will help them better prepare for retirement. Many retirees can expect to live more than 30 years or longer in retirement. Facilitating lifetime income solutions and increasing financial education empowers and educates Americans to make better decisions. By taking action now, Congress has an opportunity to help more people retire with peace of mind. ACLI urges policymakers to support and enhance the current retirement system. We and our members stand ready to assist the Congress in this worthwhile endeavor.

AMERICAN HEART ASSOCIATION
National Center
7272 Greenville Avenue
Dallas, TX 75231

**Statement of Larry D. Cannon,
Chief Administrative Officer and Corporate Secretary**

July 26, 2021

The Honorable Ron Wyden
Chair
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

The American Heart Association is proud to lead a coalition of more than 55 national charities and faith-based organizations who support the bipartisan Legacy IRA Act (S. 243), sponsored by Senators Cramer and Stabenow. In conjunction with the retirement hearing scheduled for July 28th, this coalition urges you to include the Legacy IRA Act in future legislation, such as the "Securing a Strong Retirement Act of 2021." A full list of coalition members is attached.

First, thank you for your leadership to support relief for charities impacted by COVID–19. Nonprofits responded quickly on the frontlines and continue to respond. The American Heart Association developed the first COVID-focused registry to aggregate data and aid research on COVID–19, treatment protocols, and risk factors tied to adverse cardiovascular outcomes. In addition, the Association committed $2.5

[20] H.R. 8990, The Lifetime Income for Employees Act, introduced in the 116th Congress by Representatives Don Norcross (D–NJ) and Tim Walberg (R–MI).

[21] S. 1870, The Enhancing Emergency and Retirement Savings Act of 2021, introduced in the 117th Congress by Senators James Lankford (R–OK) and Michael Bennet (D–CO). S. 1019—Strengthening Financial Security Through Short-Term Savings Accounts Act of 2019, introduced in the 116th Congress by Senators Doug Jones (D–AL), Tom Cotton (R–AR), Cory Booker (D–NJ) and Todd Young (R–IN).

million in rapid response research awards to better understand the virus and its interaction with heart and brain systems. These initiatives, and others like them, would not be possible without public support and charitable giving.

The Legacy IRA Act will encourage more charitable giving by enabling seniors to make contributions from their individual retirement accounts (IRA) to charities through life-income plans. Seniors are a key demographic as they typically make up more than 40% of the donor base for charities. This is an expansion of the existing IRA Charitable Rollover provision, which is the fastest growing area of philanthropy.

Many nonprofits are dependent on private philanthropy, including gift planning. The Legacy IRA Act offers seniors another philanthropic option and would incentivize more giving to help charities while helping middle-income seniors who need a lifetime income.

American Heart Association was pleased that a modified version of the Legacy IRA Act was already included in the House Ways and Means Committee passed "Securing a Strong Retirement Act of 2021" (Sec. 310) in May. We strongly support the inclusion of the Legacy IRA Act in this or other legislative packages. America is stronger when everyone has the opportunity to give, to get involved, and to strengthen their communities.

Sincerely,

Larry D. Cannon
Chief Administrative Officer and Corporate Secretary

Help Seniors Increase Charitable Giving Legacy IRA Act of 2021

The Issue

The undersigned nonprofit organizations support legislation allowing middle-income seniors more flexibility to make gifts to charities through their individual retirement accounts (IRAs). This expansion of current law would increase critical charitable giving, now more important than ever as nonprofits lost nearly one million jobs due to the pandemic. Given trends over the last six months, it will take nearly 18 months for nonprofits to regain all of the jobs lost since COVID hit.

Despite the financial and operational challenges due to COVID–19, our nonprofit coalition partners have continued to provide critical services such as health research and patient education, food assistance, domestic violence services, childcare, youth homeless shelters, and virtual cultural and arts programming.

The Legislation

In 2015, Congress passed the PATH Act, which included the IRA Charitable Rollover provision allowing individuals to make direct tax-free charitable gifts up to $100,000 annually from their IRA starting at age 70½. Since its enactment, the IRA Charitable Rollover has generated millions of dollars in new or increased contributions to local and national charities. The Legacy IRA Act builds on that success to expand the existing IRA Charitable Rollover, allowing seniors starting at age 65 to make tax-free IRA rollovers to charities through life-income plans (charitable gift annuity or charitable remainder trust).

The Legacy IRA Act offers an opportunity for Congress to support middle-income seniors who have a charitable intent but need retirement income. Charitable donors have been setting up charitable gift annuities for more than 100 years, which have long been regulated by state insurance departments. The donor receives lifetime payments, and the charity receives any remainder when the donor passes away.

The Legacy IRA Act provides seniors who have planned well for retirement with another giving option by allowing them to use their IRAs to fund a gift annuity. It is estimated that seniors have up to $5 trillion in IRA assets. This offers a way for middle-income donors to combine charitable gifts with retirement income. It helps existing charities, as seniors typically make up more than half of their donors.

The undersigned coalition of nearly 60 national nonprofits support the bipartisan Legacy IRA Act. In the 117th Congress, Senators Cramer and Stabenow introduced The Legacy IRA Act (S. 243). A modified version of the Legacy IRA Act (H.R. 2909) was introduced by Representatives Beyer and Kelly. This modified proposal allows for a one-time funding of life income gifts up to $50,000 and indexes for inflation the original IRA Rollover provision. H.R. 2909 was included in the bipartisan Securing a Strong Retirement Act of 2021 (H.R. 2954) introduced by House Ways and Means Committee Chairman Neal and Ranking Member Brady. The Securing a

Strong Retirement Act of 2021 was unanimously approved by the committee in May 2021. This coalition strongly supports the bipartisan Legacy IRA Act and urges Congress to pass the legislation on its own or as part of a broader retirement package.

Supporters

- Arab Community Center for Economic and Social Services (ACCESS)
- Alliance for Strong Families and Communities
- ALS Association
- Alternate ROOTS
- Alzheimer's Association and the Alzheimer's Impact Movement
- American Alliance of Museums
- American Cancer Society Cancer Action Network
- American Council for Gift Annuities
- American Heart Association
- American Lung Association
- American Red Cross
- Americans for the Arts
- Asian Pacific Community Fund
- Association of Art Museum Directors
- Association of Fundraising Professionals
- Boys & Girls Clubs of America
- Catholic Charities USA
- Council for Advancement and Support of Education
- Council for Christian Colleges and Universities
- Council on Foundations
- Covenant House International
- DANCE/USA
- The Evangelical Lutheran Good Samaritan Society
- Girl Scouts of the USA
- Girls Inc.
- Goodwill USA
- Habitat for Humanity International
- Hemophilia Federation of America
- Immune Deficiency Foundation
- Independent Sector
- JDRF
- Jewish Federations of North America
- League of American Orchestras
- Lutheran Services in America
- March of Dimes
- Mental Health America
- National Alliance on Mental Illness
- National Association of Charitable Gift Planners
- National Association of College and University Business Officers
- National Community Action Partnership
- National Council of Nonprofits
- National Health Council
- National Multiple Sclerosis Society
- The Nonprofit Alliance
- OPERA America
- Performing Arts Alliance
- Providence St. Joseph Health
- The Salvation Army USA
- ServiceSource, Inc.
- Theatre Communications Group
- UNICEF USA
- United Philanthropy Forum
- United Way Worldwide
- Volunteers of America
- YMCA of the USA
- YWCA USA

We urge Members of Congress to support the Legacy IRA Act. For more information about the bill, please contact Emily Horowitz, American Heart Association Government Relations Manager, at Emily.horowitz@heart.org.

ASSOCIATION OF MATURE AMERICAN CITIZENS (AMAC)
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August 10, 2021

The Honorable Ron Wyden
Chairman

The Honorable Mike Crapo
Ranking Member

U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo,

On behalf of the Association of Mature American Citizens (AMAC) and their over 2.3 million members, I am submitting this statement for the record for the hearing entitled: "Building on Bipartisan Retirement Legislation: How Can Congress Help?"

AMAC is a member benefits organization supporting all Americans, especially those 50 plus in age. AMAC is centered on American values: freedom of the individual, free speech, exercise of religion, equality of opportunity, sanctity of life, rule of law, and love of family. AMAC Action, a 501(c)(4), advocates for issues important to AMAC's 2 million plus members on Capitol Hill, in state capitals, and local government. AMAC Action ensures our members' voices are heard through grassroots activism. The AMAC Foundation serves as a source of guidance for older Americans about Social Security and Medicare, completely free of charge. The AMAC Foundation has a staff of certified National Social Security Advisors to counsel retiree and pre-retirees on questions and issues relating Social Security and provides an array of educational opportunities on other issues.

As an organization supporting Americans aged 50-plus, AMAC strongly believes more can be done to help Americans to save for retirement. The complexity of the American retirement system has made it difficult for mature adults to reap the full benefits of retirement savings. The SECURE Act was a good first step in simplifying retirement savings for millions of Americans, but more can and should be done to simplify the system.

Just looking at JCT's analysis [1] for this hearing, which spans more than 60 pages, shows the need for a simpler system. Currently private sector and governmental employees have access to nearly a dozen different retirement savings systems depending on the type of employment, defined contribution or defined benefit, single employer or multi-employer, and existence of collective bargaining agreements. Even with all these various types of qualified retirement plans, 33 percent of private sector workers do not have access to an employer sponsored plan and only 76 percent of those with access choose to use it. A study by the Federal Reserve found that 26 percent of non-retirees had no retirement savings in 2020.[2] This high number of non-savers can be distilled down to two reasons:

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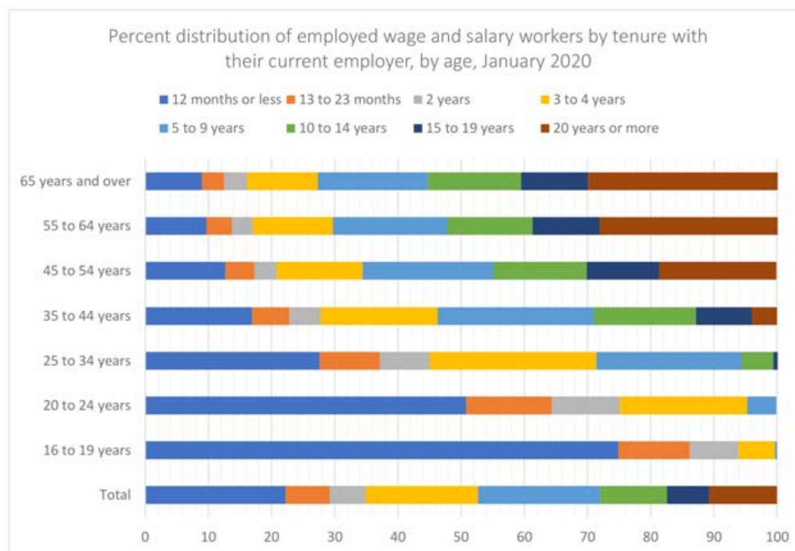
[1] Joint Committee on Taxation. *Present Law and Background Relating to Retirement Plans* (JCX–32–21), July 26, 2021.

[2] Federal Reserve. "Report on the Economic Well-Being of U.S. Households in 2020." May 2021.

1. The complexity of the retirement savings systems leads many to skip saving for retirement.[3]
2. The voluntary nature of employers offering access to retirement plans leaves some employees without easy access to retirement savings.[4]

Since 2013[5] the number of respondents to the Federal Reserve survey with no retirement savings has decreased marginally, however the high number still leads AMAC to believe a retirement savings crisis exists.

In addition to the current system's inability to deal with this crisis of non-savers, changes in employee preferences will also be impacted by the complexity of the retirement savings system. According to data from the Bureau of Labor Statistics, more than 70 percent of workers aged 25- to 34-years-old have less than four years of tenure with their current employer whereas the inverse is true, over 70 percent of 55- to 64-year-old workers have worked more than 4 years with the same employer and over half have tenure of more than 10 years.[6] The preference for younger employees to move jobs more often will have an impact on retirement savings. Employees with multiple former employers are often left with multiple retirement savings accounts, some of different types. While many employees consolidate retirement accounts, consolidation can have major tax implications or impact fees paid to the retirement plan provider.



Another concerning action being taken is the number of employees either borrowing from or cashing out retirement savings. According to the Federal Reserve's 2020 data, 24 percent of non-retirees surveyed had removed money from self-directed retirement savings in the previous 12 months.[7] While tax penalties[8] are designed to reduce permanent withdrawal of funds from retirement accounts, a significant portion of employees still viewed retirement savings as a source of extra funds instead of as a nest egg necessary for the future. These reductions in savings are likely part

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[3] *Washington Post.* "Why it's so hard for Americans to save for retirement." September 15, 2017.

[4] Pew Charitable Trusts. "Employer Barriers to and Motivations for Offering Retirement Benefits." June 2017.

[5] Federal Reserve. "Report on Economic Well-Being of U.S. Households" 2013–2020. 2014–2021.

[6] Bureau of Labor Statistics. "Median tenure with current employer was 4.1 years in January 2020." September 29, 2020.

[7] *Ibid.*

[8] 26 U.S.C. 72(t)(1).

of the reason 45 percent of employees believe their retirement savings is not on track to reach their goals.[9]

Reductions in retirement savings will have a greater impact on future retirees due to the shortfall of future Social Security revenue used to pay benefits. According to the 2020 Social Security Trustees Report, the Old-Age and Survivors Insurance Trust Fund, commonly called the Social Security Trust Fund, will move to a cash basis in 2034 and is expected to only be able to meet 76 percent of scheduled benefits.[10] Because of the pandemic caused recession in 2020 and resulting high unemployment, it is likely this date will be sooner than the most recent report suggests.

Without adequate retirement savings, or Congressional action to stop or delay the shortfall, many retirees will face economic hardship. This economic hardship could be made worse by rising inflation that makes many of the products retirees need more expensive while living on fixed incomes if adequate savings that provide increasing income do not exist. While not an issue covered by this hearing, AMAC strongly encourages Congress to make improvements to the Social Security program that will hold off insolvency and improve benefits for those without retirement savings to minimize the impact of increasing costs.

AMAC has created to the Social Security Guarantee[11] to help deal with these issues and can serve as a blueprint for Congress to pass real Social Security improvements without the need to make unnecessary tax increases or cut benefits for those that need them most. To help ensure retirees can afford retirement, especially those with little to no savings, AMAC suggests changing the way the annual cost of living adjustment is made:

Implement a tiered approach to the calculation of Cost-of-Living Adjustments (COLA) as follows:

1. For beneficiaries with a household income (Modified Adjusted Gross Income) level less than 150 percent of the federal poverty threshold (FPT, 150% FPT limit would be $25,860 for 2020), set an annual COLA range of 3 percent minimum—4 percent maximum.
2. For beneficiaries with a household income (MAGI) between 150 percent and 300 percent of FPT ($25,860–$51,720 for two-person households in the continental U.S.) set an annual COLA range of 1.5 percent minimum and 3 percent maximum.
3. For beneficiaries with a household income (MAGI) exceeding 300 percent of federal poverty threshold ($51,720 for two-person households in the continental U.S.), set an annual COLA range of .5 percent minimum and 1.5 percent maximum.

Additional changes to the program are also necessary to avoid insolvency and more details about the Social Security Guarantee are available at the end of these comments.

One of the most important parts of the Social Security Guarantee is helping to increase retirement savings for non-retirees. To accomplish this AMAC recommends the creation of a new "Social Security Plus" ("SSP") account to be a supplemental voluntary companion benefit retirement account to provide access to additional funds for all workers at age 62.[12]

According to a February 2018 Pew Research report:[13]

> "[M]ore than one-third of all private sector workers lack access to a workplace plan. Moreover, 31 percent of those whose employers offer retirement benefits do not participate. Some may decide they are unable to afford regular contributions, while others may be ineligible because of plan rules, such as requirements for a minimum number of hours worked each year."

In sum, tens of millions of Americans have no retirement plan, and the average person receiving retirement benefits collects slightly more than $16,000 per year. Ac-

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[9] *Ibid.*

[10] Social Security Administration. "The 2020 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds." April 22, 2020.

[11] Association of Mature American Citizens. "The Combined Social Security Guarantee and Social Security Plus Initiative." August 2020.

[12] *Ibid.*

[13] Pew Charitable Trusts. "Workplace Retirement Plans Tend to Sharpen Focus on Financial Futures Survey." February 2018.

cordingly, the majority of retired workers rely on Social Security as the largest portion of their retirement income. For many Americans, Social Security is their only source of income. There is an urgent need to help workers save more for retirement.

AMAC recommends the creation of a simple voluntary employer-offered companion retirement savings option that can be easily and inexpensively implemented by small employers—a Social Security Plus (SSP) account. SSP employee accounts would be managed for the employee(s) by established financial services firms and accountable to an industry board functioning under the auspices of the Social Security Administration.

Recommended core elements of the SSP:

- It must be offered by the employer to all employees (full and part-time), but participation will be a voluntary account for both employee and employer.
- When new employees are hired, they must opt out of the SSP account, or they will be enrolled at $10/week.
- The individual is the owner of this supplemental retirement savings account.
- Tax deduction for employer contributions, after-tax contribution for employee with income sheltered.
- Employee not taxed on receiving funds (similar to a Roth IRA).
- Paid via payroll deduction, employer provides the contribution slot to employee.
- The weekly minimum is $5, the weekly maximum is $100 or $5,200/year.
- Employer may elect to contribute to employees' SSP accounts in any amount or percentage of pay they choose up to $50 per week ($2,600 per year).
- The employer may start or stop their contribution at any time.
- Portability, if wage earner changes jobs, new employer must add payroll access for the SSP.
- Funds only available to wage earner at age 62 unless death or total disability occurs.
- Wage earner may elect to start receiving payouts at any age between 62 and 70½.
- Death benefit is the accrued value of account at time of death.
- SSP account benefits, including earnings, are tax-free.
- Contribution should be indexed for inflation at 4%.

Investment options for the Social Security Plus retirement savings account:

- 80% of the funds must invested in stock funds and bonds and the other 20% may be invested in any approved conservative investment (*i.e.,* S&P 500 index).
- A volunteer board of investment experts creates lists of approved investments to assure quality.
- Investment choices would be similar to those used in 401(k) plans and IRAs and the cost of administration would be borne by the same providers who offer those plans, not the federal government.

A program such as the Social Security Plus account or other automatic IRA approach would ensure more Americans are able to save for retirement. Under this proposal, a 23-year-old employee contributing only $25/week in the first year and an employer contributing $15/week, with both adding 4 percent annually thereafter, in a mix of 80 percent stock funds and 20 percent conservative investments, would accumulate over $1 million by age 65. Having an extra $1 million in retirement savings would greatly reduce reliance on Social Security income for many retirees.

Ensuring our members have a smooth transition into retirement is a top priority for AMAC. Previous legislation to improve retirement security have been valuable, but continued bipartisan improvements are needed to increase retirement savings with a less complicated system. We appreciate the bipartisan efforts in working towards a solution to help preserve retirement savings for seniors.

Sincerely,

Bob Carlstrom
President

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Statement of Michael G. Bindner

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to submit these comments for the record to the Committee on this topic.

The title is a bit ironic. Only Congress can build on retirement legislation. Whether Congress is helping or not is the open question. Gridlock is not helping, although sometimes doing nothing is better than faux bipartisanship that makes things worse.

The current structure of Social Security found its genesis in the 1983 Greenspan Commission, which resulted in a Social Security Trust Fund, which raised taxes on workers for their future retirements while avoiding the repeal of President Reagan's signature tax cuts.

Many think tanks of a certain ideology hint that we cannot afford the burden of retirement spending as repaying trust is a budget buster. It is not. Certain people simply must pay what they owe. Whatever the future of Social Security, for the present, the burden of repaying the Trust Fund is on the wealthy, not current or future retirees. The bill is now coming due and those families who received the benefit of this plan owe the rest of us some money.

Truth is more important than bipartisanship.

The 1990s found us in a pension crisis. Actuaries sold the nation on the belief that pay-as-you-go pensions were not adequate. Investments must be fully funded. This led many companies to stop funding their plans altogether, shifting funds to defined contribution programs. As fortune would have it, the financial sector had many ideas (and products to sell) to fill this need. It is almost as if the actuaries had been talking to those who created the new regime.

Bipartisan reforms of late have been an effort to strengthen this regime. They have been good for many retirees. Most retirees, however, were not able to afford to make the required savings because their incomes were not adequate to do so. By most, I mean the vast majority. Few workers have the economic clout to insist on wages high enough to adequately save. Those who do are bedeviled by the need to "hit their number." Job one in doing this is to control the income and benefits of the non-professional class.

The only thing that saves most retirees and the disabled is Social Security. It is not currently adequate. Before the Reagan Revolution, the National Commission on Social Security did its work, releasing its recommendations in 1981, which were rejected out of hand. The report is available at *https://www.ssa.gov/history/reports/80commission.html.* The Commission found that the best way to assure retirement security is to build it around, not away from, Social Security.

The Commission noted that savings would not have increased were it not for the program. Like now, the economy was a concern for solvency. The Pandemic may be duplicating those economic conditions, especially if the Fed starts to fight inflation. The declining birth rate was a concern then. It still is. One thing that is different is that productivity was stagnant the decade before. It is not stagnant now (although the gains have not been shared.

They proposed a higher retirement age (eventually passed), general funding (which is now programmed in as the trust fund is paid down), independent funding of Medicare, Medicaid, Disability and SSI under a separate agency (trust funds have met with limited success) and other recommendations for 88 in total. Their OASDI trust fund was only for a year. More than a few of their recommendations deserve a second look, particularly with regard to healthcare and disability insurance.

We cannot turn the clock back to 1981 (or November 1980). This does not mean that we are without options. Committee members and staff are likely familiar with our proposed solutions. *The tax reform plan to enact them can be found in our first attachment.* We will refer to it in the text.

Our first task must be to increase incomes for workers and retirees.

The President's Budget features a permanent increase in the Child Tax Credit, retaining the refundability added as part of the *American Rescue Plan Act.* The CTC is the ultimate in bipartisan legislation. Both Republicans and Democrats have

added to it, although only now has it become refundable for smaller families. It is still not adequate.

Making these reforms permanent and increasing benefit levels further should be seen as bipartisan as well. As we have pointed out (because our Center has a religious bent), higher incomes for families are one of the most effective ways to reduce the number of abortions. We call upon the U.S. Conference of Catholic Bishops and the National Right to Life Committee to make doing so a required vote to maintain a perfect pro-life voting record.

If we want people to save for retirement, we must make sure that they can also eat and have adequate housing and medical care. Higher incomes achieve both of those goals (while the latter is outside the scope of these comments).

Our tax reform plan, specifically the Subtraction Value-Added Tax, details how the Child Tax Credit can be paid out without turning the Internal Revenue Service to society's pay master. Payments through the IRS are a temporary expedient, but this is likely too much government for Republican members to support on a permanent basis. Distributing benefits through other government payments, such as Social Security, Unemployment Insurance and TANF training stipends and through wages (as an offset to either the subtraction VAT or quarterly payments to the IRS) is more likely to stand the test of time.

Our second attachment addresses how to raise the minimum wage and why this is essential for retirees. Enacting these changes must be a required vote for ratings by the American Association of Retired Persons and other retiree coalitions.

Our second task is to reform how Social Security taxes are collected.

Disability Insurance, the Employer Contribution to FICA and Supplemental Security Insurance should be decoupled from wages and credited on an equal dollar basis. Our first attachment explains how this can be done through tax reform. Doing so could be funded by consumption taxes in three ways.

Our (Credit) Invoice VAT will increase the competitiveness of our exports and protect worker jobs while decreasing employer costs. Our Subtraction (Net Business Receipts) VAT is useful if options include personal accounts holding employer voting and preferred stock (but in no cases should it be invested in the stock market). Our Asset VAT is appropriate for funding the repayment of the Social Security Trust Fund.

Each of these proposals (all of which can be used) burden the entire economy, as well as investors, who have had the benefit of worker productivity, especially that part of productivity which featured the destruction of unions and limiting pay and benefits for all but the top 10% of households. There are no caps to increase with these taxes and they can be adjusted more easily than payroll taxes (which are regressive).

Our third task is to move toward employee ownership, which allows a return to defined benefit compensation.

Our Asset VAT can be enacted as a replacement for estate (death) taxes and capital gains and income taxes (including dividends, interest, rent and pass-throughs) through personal income tax filing. Corporate income taxes and business taxes collected through individual income taxes and all but the highest taxes on salaries would be shifted to our subtraction VAT. The Asset and Invoice VATs are superior to Wealth Taxes because they are impossible to dodge. This also makes them superior to the Estate Tax. This is described in detail in our first attachment.

The key feature of the Asset VAT would be an easier path for shareholders to avoid taxation on sales to qualified Employee Stock Ownership Plans. This benefit is available to only a small number of business owners. It should be available to every investor and heir. It would not be paid by inheritors until they sell the family business, farm or share holdings. ESOP sales allow them to avoid taxation altogether (except when purchasing new shares or spending the gains).

Employee-ownership is real liberty for workers. Capitalist ownership fosters an authoritarian workplace, not a libertarian one. Being paid to obey is not freedom. Any libertarian worthy of the name must recognize this.

The 2017 tax reform brought capital gain and profit taxes into a small range. They should be set to a single rate rather than being debated with each change of administration. When net interest payments on the debt become less workable, this is one

of the taxes that would be increased, along with a high salary surtax (which could be collected through tax prepayment bonds for a quick buy-back).

We must put our fiscal house in order. It is the most important thing we can do for retirees.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

Attachment One—Tax Reform, Center for Fiscal Equity, March 5, 2021

Individual payroll taxes. These are optional taxes for Old-Age and Survivors Insurance after age 60 for widows or 62 for retirees. We say optional because the collection of these taxes occurs if an income sensitive retirement income is deemed necessary for program acceptance. Higher incomes for most seniors would result if an employer contribution funded by the Subtraction VAT described below were credited on an equal dollar basis to all workers. If employee taxes are retained, the ceiling should be lowered to $85,000 to reduce benefits paid to wealthier individuals and a $16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages.

Wage Surtaxes. Individual income taxes on salaries, which exclude business taxes, above an individual standard deduction of $85,000 per year, will range from 6.5% to 26%. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction. Transferring OASDI employer funding from existing payroll taxes would increase the rate but would allow it to decline over time. So would peace.

Asset Value-Added Tax (A–VAT). A replacement for capital gains taxes, dividend taxes, and the estate tax. It will apply to asset sales, dividend distributions, exercised options, rental income, inherited and gifted assets and the profits from short sales. Tax payments for option exercises and inherited assets will be reset, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as income or S–VAT surtaxes.

This tax will end Tax Gap issues owed by high income individuals. A 26% rate is between the GOP 24% rate (including ACA–SM and Pease surtaxes) and the Democratic 28% rate. It's time to quit playing football with tax rates to attract side bets. A single rate also stops gaming forms of ownership. Lower rates are not as regressive as they seem. Only the wealthy have capital gains in any significant amount. The de facto rate for everyone else is zero.

Subtraction Value-Added Tax (S–VAT). These are employer paid Net Business Receipts Taxes. S–VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S–VAT will not be border adjustable.

The S–VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee-ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S–VAT funded retirement accounts will be equal-dollar credited for every

worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S–VAT could replace income surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits. Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I–VAT). Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S–VAT, then they would be funded by the I–VAT to take advantage of border adjustability. I–VAT also forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. Enactment of both the A–VAT and I–VAT ends the need for capital gains and inheritance taxes (apart from any initial payout). This tax would take care of the low-income Tax Gap.

I–VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I–VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.5% to 13%).

As part of enactment, gross wages will be reduced to take into account the shift to S–VAT and I–VAT, however net income will be increased by the same percentage as the I–VAT. Adoption of S–VAT and I–VAT will replace pass-through and proprietary business and corporate income taxes.

Carbon Value-Added Tax (C–VAT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C–VAT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels (including fusion). This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Tax Reform Summary

This plan can be summarized as a list of specific actions:

1. Increase the standard deduction to workers making salaried income of $425,001 and over, shifting business filing to a separate tax on employers and eliminating all credits and deductions—starting at 6.5%, going up to 26%, in $85,000 brackets.
2. Shift special rate taxes on capital income and gains from the income tax to an asset VAT. Expand the exclusion for sales to an ESOP to cooperatives and include sales of common and preferred stock. Mark option exercise and the first sale after inheritance, gift or donation to market.
3. End personal filing for incomes under $425,000.
4. Employers distribute the child tax credit with wages as an offset to their quarterly tax filing (ending annual filings).
5. Employers collect and pay lower tier income taxes, starting at $85,000 at 6.5%, with an increase to 13% for all salary payments over $170,000 going up 6.5% for every $85,000—up to $340,000.
6. Shift payment of HI, DI, SM (ACA) payroll taxes employee taxes to employers, remove caps on employer payroll taxes and credit them to workers on an equal dollar basis.
7. Employer paid taxes could as easily be called a subtraction VAT, abolishing corporate income taxes. These should not be zero rated at the border.
8. Expand current state/federal intergovernmental subtraction VAT to a full GST with limited exclusions (food would be taxed) and add a federal portion, which would also be collected by the states. Make these taxes zero rated at the border. Rate should be 19.5% and replace employer OASI contributions. Credit workers on an equal dollar basis.
9. Change employee OASI of 6.5% from $18,000 to $85,000 income.

Attachment Two—Raising the Minimum Wage to Raise Retirement Income

An increased minimum wage is an essential part of increasing income. Earlier this year, Senate Republicans countered the proposal for a $15 per hour wage with a $10 wage. This would return the current wage to the purchasing power it had at the last increase. Let us join hands and make this change now and with no phase-in period. From this point forward, the wage must be automatically indexed for inflation.

When this is done, the benefits of current retirees should be adjusted accordingly. An additional Cost of Living Adjustment is necessary as well. Food prices have gone through the roof and current retirees are suffering. We cannot wait for an end of the year price adjustment.

Over and above inflation, the minimum wage should reflect increased labor productivity. To get to parity with where wages and productivity diverged, a $12 per hour wage is necessary. Another way to reward workers (and retirees) for productivity gains is to shorten the workweek to 32 hours (with 26 hours being considered full time for the purpose of benefits). In this case, the wage could be set to $11 per hour.

Would these changes cost jobs? Hardly. Low wage workers are sent home when workload is low and required to stay (or not call in) when workload is high. Their work is supplemented by work by higher wage workers in high demand situations, regardless of how much more these workers are paid. Unlike salaried workers, low wage workers are never allowed to sit or stand around doing nothing. Lower wages would not change this.

A statutory wage increase means that employers who do the right thing and pay a higher wage are not put at a competitive disadvantage to those without scruples. This is the logic behind increasing the child tax credit. Without such a credit, workers with children would either not be welcome or would, as now, suffer hunger while working.

Higher wages, ideally $18 an hour ($15 was so 2000s), would be accompanied by alternative educational opportunities (with pay) so that workers who are less productive would be paid the same wage to increase both literacy and job skills.

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July 28, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

The Church Alliance is pleased to submit the following statement for the record ahead of the Senate Committee on Finance's July 28, 2021 hearing on *Building on Bipartisan Retirement Legislation: How Can Congress Help?* We greatly appreciate the Committee's work over many years on bipartisan retirement reform. Building on passage of the Setting Every Community Up for Retirement Enhancement (SECURE) Act, we are looking forward to consideration and passage of the next iteration of retirement reform legislation. As the Committee considers retirement reform, the Church Alliance is pleased to serve as a resource on issues impacting the church benefits community.

ABOUT THE CHURCH ALLIANCE

The Church Alliance is an organization composed of thirty-seven church benefit boards, covering mainline and evangelical Protestant denominations, several Jewish entities, and Catholic schools and institutions. The boards provide employee benefit plans, including retirement and/or health coverage, to approximately one million participants (clergy and lay workers) serving over 155,000 churches, parishes, synagogues and church-associated organizations. The Church Alliance is dedicated to ensuring that clergy and lay church workers can enjoy retirement security following

years of dedicated service and appreciate your ongoing efforts to strengthen our country's retirement system.

RETIREMENT SECURITY & SAVINGS ACT (S. 1770)

As the Committee considers different approaches to retirement reform, the Church Alliance would like to express our appreciation for the introduction of the Retirement Security & Savings Act (S. 1770) by Senators Ben Cardin and Rob Portman. This legislation, which builds upon the important reforms included in the SECURE Act, touches on two issues of particular importance to the Church Alliance.

The Church Alliance appreciates inclusion of Section 502, a provision to expand the IRA charitable distribution provision to include distributions from certain qualified retirement plans. During this time of increased need, allowing individuals to make charitable distributions from qualified retirement plans would enable them to continue to build on a lifetime of service by making charitable distributions to organizations playing a critical role in our communities.

Additionally, the Church Alliance supports the inclusion of Section 503, which would allow surviving spouses to use the same methodology for calculating their required minimum distributions (RMDs) if they elect to remain in their deceased spouses' employer plans than if they had rolled over those plan assets to an IRA. Allowing a surviving spouse to remain in his or her spouse's retirement plan, with the Uniform Table being applied to calculate his or her RMD, would equalize RMD calculations between employer plans and traditional IRAs. This would create flexibility for the surviving spouse, eliminating the burden now imposed when he or she remains in the deceased spouse's employer plan. In the church plan context, allowing employer defined contribution plans to use the same methodology for calculating RMDs as is allowed for IRAs would level the playing field. This would result in surviving spouses having the freedom to stay in a retirement plan aligned with their needs, values, and culture. Church retirement plans often provide strong, customized customer support and low fees. Church plans also often provide a bundled suite of benefits, including health coverage with robust mental health benefits, which can provide important support and comfort during a challenging time. This provision helps ensure that a grieving spouse continues to have access to the robust benefits they enjoy in their church plan without having to make a sudden change during this difficult time.

It is worth noting that these two provisions were not included in the Securing a Strong Retirement Act (H.R. 2954). We would greatly appreciate inclusion of these provisions in any potential compromise retirement reform legislation.

The Church Alliance also appreciates inclusion of provisions to allow nonspousal beneficiaries to roll assets into retirement plans (in particular 403(b) plans), and allow employers to provide matching contributions to retirement plans for employees making student loan payments. The streamlined language included in Section 108 with respect to increasing the RMD age is also beneficial—numerous changes to the RMD can create administrative burdens on plans and potentially confuse plan participants; this streamlined approach will be much simpler and clearer to implement. We also appreciate changes previously made to language providing an exemption from RMDs for individuals with less than $100,000 in aggregate retirement savings, which help relieve potential administrative burdens (Section 316). All of these provisions contribute to improving the financial security of our retirees and, importantly, encourage them to save for retirement.

Finally, the Church Alliance appreciates efforts to make improvements to and strengthen the Saver's Credit. We applaud Chairman Wyden's work on this important tax credit, as well as the inclusion of improvements to the Saver's Credit in S. 1770.

CONCLUSION

On behalf of the Church Alliance, thank you for your ongoing leadership on these important issues. We applaud your bipartisan efforts on retirement reform, and are happy to serve as a resource for the Committee on these and other issues impacting church benefits plans.

Sincerely,

James F. Sanft
Chair

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Mr. Mitchell J. Smilowitz *
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Rev. Ric Stanghelle
Evangelical Free Church of America

Rev. Bernard E. Tanis
Converge/Baptist General Conference

Mr. James P. Thomas
Churches of God, General Conference

Ms. Mary Kate Wold *
Church Pension Group/Episcopal Church

* Steering Committee Members.

STATEMENT SUBMITTED BY JAMES WEBSTER COATES

I am a citizen of the United States of America, duly registered to vote in the 3rd Congressional District of Pennsylvania. I live in Japan, where I moved in May 2001, immediately after graduating from college. I have lived and worked in Japan for my entire adult life, and am married to a Japanese citizen, with whom I have two young sons.

While I am proud to be an American and enjoy visiting the United States once a year to see family and friends, I have made my life in Japan and this is my permanent home. Since my employment income is generated in Japan and denominated in Yen, as are all of my living expenses, I need to organize my financial and retirement planning in Japan. I am, of course, a tax resident in Japan, where I am subject to full taxation at rates of up to 55% on my worldwide income.

The problem I have is that the U.S. tax laws make it very difficult for me to live the same kind of life that my friends and neighbors live. You see, they are subject only to the Japanese tax system and can organize their finances appropriately. As a U.S. citizen, I am subject to the tax system here in Japan and the U.S. tax system. Those systems are not compatible. Most attempts at responsible financial/retirement planning here in Japan are frustrated by the need to comply with U.S. tax laws.

The issues resulting from the U.S. system of citizenship-based taxation are particularly problematic when saving and planning for retirement. Congress should address issues such as the following in order to eliminate double taxation and unnecessary reporting complexity, and to facilitate effective retirement planning by U.S. citizens who reside overseas:

- Many investment products in our home countries are categorized as a "Passive Foreign Investment Company" (PFIC), which results in punitive taxation on "excess distributions," which does not apply to the equivalent U.S.-based financial product. As a result of this highly discriminatory rule, U.S. citizens residing outside the United States are effectively prohibited from investing in common investment vehicles such as mutual funds, ETFs, and certain types of pension or annuity products. Meanwhile, we cannot open accounts or purchase investment products in the United States since we do not have a U.S. address. **Congress should provide an exception to PFIC treatment for non-resident U.S. citizens so that we can responsibly invest for our future.**
- Furthermore, there are complex disclosures required for all types of non-U.S. financial products. These things aren't "foreign" to me. They are necessities to protect my family and responsibly prepare for retirement. Again, the equivalent financial products in the U.S. are not subject to these requirements. U.S. domestic investment products are easy to report to the IRS. Those of us living abroad are punished by tax rules which don't fit our financial lives. **All IRS reporting requirements including Form 3520 ("Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts"), Form 3520A ("Annual Information Return of Foreign Trust with a U.S. Owner"), Form 8621 ("Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund"), Form 8938 ("Statement of Foreign Financial Assets"), and Financial Crimes Enforcement Network Form 114 ("Report of Foreign Bank and Financial Accounts") should be modified to eliminate reporting requirements for accounts held by individuals in their country of residence.**
- Bilateral tax treaties are intended to prevent double taxation. Indeed, the full name of the U.S.—Japan treaty is the "Convention between the Government of the United States of America and the Government of Japan for the Avoidance of Double Taxation." However, this is unbelievable, but the United States inserted a provision in Article 4 Paragraph 3 of the treaty (the so-called "savings clause"), which reserves the right of the United States to tax its citizens based on citizenship, effectively overriding the other provisions of the treaty which would otherwise provide some margin of relief for U.S. citizens. For example, Articles 17 and 18 of the U.S.—Japan treaty state that pension distributions are to be taxed based on residency, but that does not apply to U.S. citizens, so I will pay double tax once I retire and begin to draw a pension. **All bilateral tax treaties should be updated with the latest provisions related to foreign pension plans of U.S. participants, which are included in the 2016 United States Model Income Tax Convention.**

- **The Foreign Earned Income Exclusion should be redefined to include already-taxed retirement income, and foreign government social welfare payments such as indigent pension, aged pension, unemployment, disability pension, child care, parental leave, pandemic support, etc.**
- **The Windfall Elimination Provision should be repealed so that people who have worked in both the United States and another country can receive the pension benefits which would otherwise be due to them.**

I do not live "offshore." I do live in Japan, where I am responsible for paying tax on my worldwide income at rates of up to 55%. Yet, because I am a U.S. citizen, I am subject to the U.S. extraterritorial tax regime, which means the United States imposes taxation on my non-U.S. income even though I am already fully taxed on that income in my country of residence, and I do not live in the United States. There is no other advanced country in the world that imposes such extraterritorial taxation.

The U.S. extraterritorial tax regime makes it difficult for me to save, invest, participate in pension plans and generally behave in a financially responsible way. This is because all of these essential activities are taking place in my country of residence and not in the United States. My retirement investments are foreign to the United States, but local to me. As a tax resident of both the United States and my country of residence, I get the worst of both tax systems.

This is extremely unjust. For many years, Americans abroad have been attempting to get both Treasury and Congress to address these issues.

It is time for the United States to stop extraterritorial taxation of non-resident citizens. The best solution to this problem is for the US to come into alignment with every other developed nation on the planet and move to a residence-based taxation system for individuals. **The definition of "individual" in Treasury Regulation, 26 Section 1.1–1 should be modified to include only "residents." U.S. citizens who are tax residents of other countries would continue to be liable to pay U.S. Federal Income Tax on any income which is effectively connected with the United States, as all non-resident aliens do, by using Form 1040–NR instead of Form 1040.**

Thank you for reading my entire statement.

James Webster Coates
Tokyo, Japan

COMMITTEE OF ANNUITY INSURERS
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May 19, 2021

The Honorable Ben Cardin	The Honorable Rob Portman
509 Hart Senate Office Building	448 Russell Senate Office Building
Washington, DC 20510	Washington, DC 20510

Re: The Committee of Annuity Insurers Supports the Retirement Security and Savings Act of 2021

Dear Senator Cardin and Senator Portman:

On behalf of the Committee of Annuity Insurers (CAI), we want to express our strong endorsement of The Retirement Security and Savings Act of 2021 (RSSA). The CAI greatly appreciates your leadership on modernizing and improving retirement plans, especially your focus on increasing access to guaranteed lifetime income solutions for middle-class Americans.

The CAI is a coalition of life insurance companies formed in 1981 to participate in the development of federal policy with respect to annuities. The CAI's 31 member companies represent approximately 80% of the annuity business in the United States and are among the largest issuers of annuity contracts to employer-sponsored retirement plans. A list of member companies is attached.

The RSSA has great potential to significantly improve retirement security for middle-class Americans, particularly by increasing their access to guaranteed lifetime income. From the CAI's perspective, the provisions of the bill that would re-

move barriers for life annuities under the required minimum distribution rules, enact important reforms for qualifying longevity annuity contracts, and clarify the substantially equal periodic payment rules for annuities are particularly important. These changes have been long sought by the CAI, and we truly appreciate your great work in bringing them one step closer.

We greatly appreciate your continued focus on retirement security and look forward to working together to ensure that all Americans have access to lifetime income solutions through their retirement plans and IRAs.

Counsel to the Committee of Annuity Insurers

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The Committee of Annuity Insurers

AIG Life and Retirement, Los Angeles, CA
Allianz Life Insurance Company, Minneapolis, MN
Allstate Financial, Northbrook, IL
Ameriprise Financial, Minneapolis, MN
Athene USA, Des Moines, IA
Brighthouse Financial, Inc., Charlotte, NC
Equitable, New York, NY
Fidelity Investments Life Insurance Company, Boston, MA
Genworth Financial, Richmond, VA
Global Atlantic Financial Group, Southborough, MA
Great American Life Insurance Co., Cincinnati, OH
Guardian Insurance & Annuity Co., Inc., New York, NY
Jackson National Life Insurance Company, Lansing, MI
John Hancock Life Insurance Company, Boston, MA
Lincoln Financial Group, Fort Wayne, IN
Massachusetts Mutual Life Insurance Company, Springfield, MA
Metropolitan Life Insurance Company, New York, NY
Nationwide Life Insurance Companies, Columbus, OH
New York Life Insurance Company, New York, NY
Northwestern Mutual Life Insurance Company, Milwaukee, WI
Ohio National Financial Services, Cincinnati, OH
Pacific Life Insurance Company, Newport Beach, CA
Protective Life Insurance Company, Birmingham, AL
Prudential Insurance Company of America, Newark, NJ
Sammons Financial Group, Chicago, IL
Security Benefit Life Insurance Company, Topeka, KS
Symetra Financial, Bellevue, WA
Talcott Resolution, Windsor, CT
Thrivent, Minneapolis, MN
TIAA, New York, NY
USAA Life Insurance Company, San Antonio, TX

The Committee of Annuity Insurers was formed in 1981 to participate in the development of federal policies with respect to annuities. The member companies of the Committee represent approximately 80% of the annuity business in the United States.

EMPLOYEE-OWNED S CORPORATIONS OF AMERICA (ESCA)
1341 G Street, NW, Suite 600
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Statement of Noelle Montano, Executive Director

Thank you, Chairman Wyden, Ranking Member Crapo, and members of the Committee, for holding this hearing to continue your consideration of legislative solutions to address ongoing challenges to American retirement security. The Employee-Owned S Corporations of America (ESCA) applauds your longstanding leadership in promoting bipartisan policies to encourage retirement savings. ESCA appreciates the opportunity to submit comments about the important role that private employee ownership plays in providing retirement security for hundreds of thousands of American workers.

ESCA is the national voice for employee-owned S corporations, and its exclusive mission is to preserve and protect employee-owned S corporations and the benefits provided to their employee-owners. Most S corporation ESOPS are 100-percent owned by their employees. Our S ESOP companies engage in a broad spectrum of business activities, many of which were on the front lines of the response to the pandemic from health care to manufacturing tubing for ventilators to playing critical supporting roles such as retail grocery stores and other essential functions to America's infrastructure. There are almost 3,000 S ESOPs in the U.S. which account for $92 billion in direct output to the nation's economy. (Economic Growth Through Employee Ownership Study)

It was 25 years ago that Congress passed legislation creating S ESOPs with the goal of encouraging employee ownership of private industry, enabling workers to benefit from their labor, and creating a path for building meaningful retirement savings. We have appreciated your comments over the years that private ESOPs are a successful model for growing jobs and providing workers with retirement savings and that we should do more to grow this model, and know that you are well aware that a large bipartisan majority of the Members of the Senate Finance Committee are strong supporters of private employee ownership.

Your enthusiasm and others' for S corporation ESOPs, we believe, is attributable to the fact that the evidence is compelling that expanding the availability of S corporation ESOPs for more companies and their workers would not only boost the retirement savings of countless working Americans, but would also create more jobs, generate more economic activity, and encourage the formation of businesses that are more stable and successful because they provide their employees with the kind of built- in incentives conducive to loyalty and productivity.

That is why your Finance Committee colleagues **Senators Cardin and Portman (along with the following original sponsors from the Senate Finance Committee: Crapo, Stabenow, Cantwell, Daines, Brown, Whitehouse, Hassan, and Casey)** again introduced legislation at the start of the 117th Congress, the Promotion and Expansion of Private Employee Ownership Act (S. 1300) that will:

- **Encourage owners of S corporations to sell their stock to an ESOP**
- **Provide additional technical assistance for companies that may be interested in forming an S corporation ESOP**
- **Ensure small businesses that become ESOPs retain their SBA certification**
- **Acknowledge the importance of preserving the S corporation ESOP structure in the Internal Revenue Code**

This measure was mentioned in the 2015 submission of the Committee's Savings and Investment Working Group, chaired by Senators Brown and Crapo, for its bipartisan support and the benefits it offers to encourage more employee ownership.

The bill currently has 30 bipartisan cosponsors and would provide incentives to owners of S corporations to sell their stock to an ESOP, an incentive that currently exists only for owners of C corporations. Section 1042 of the Tax Code allows a C corporation owner to defer the recognition of gains when the owner sells shares to an ESOP. Extending parity to S corporation owners is the most significant legislative action that Congress could take to encourage S corporation owners to choose an ESOP when they consider how to transition their business from their current ownership.

This provision was also included in the Retirement Security and Savings Act (S. 1770) introduced by Senators Cardin and Portman in May. ESCA appreciates this incentive for employee ownership being included in this comprehensive bipartisan approach to retirement security. While you have seen firsthand from your visits to employee-owned companies in Oregon and Idaho, many studies, by renowned economists from across the ideological spectrum, illustrate how S ESOPs are powerful for workers as a retirement savings and economic security tool, and how they have contributed to communities and the national economy. A few key points from the most recent studies:

New Survey by John Zogby Strategies

A new John Zogby Strategies survey—in partnership with ESCA—of mid- and lower-level employees at employee-owned private companies tells an encouraging story about the financial stability of S ESOP employees during the COVID–19 pandemic. Survey results found that employee owners reported significantly less financial adversity, more stable jobs, better housing security and consistent retirement savings than non-ESOP employees.

In the midst of a public health emergency that triggered a massive unemployment event, non-ESOP employees reported experiencing:

- Six times the rate of job losses or downsizing of employee owners;
- Financial insecurity at more than three times the rate of employee owners;
- Inability to pay down debt at more than twice the rate of employee owners.

Despite the pandemic economic downturn, twice as many ESOP workers as employees at non-ESOP companies expect to retire by the age of 60.

These findings confirm what employee owners have known to be true for decades, building on research that shows working for a private ESOP company better equips American workers to weather periods of economic uncertainty. Zogby Strategies notes in their findings that this data should compel policymakers to make the ESOP structure an option "for as many working Americans as possible," giving more workers the opportunity to gain financial independence and build retirement savings through future public health and economic crises.

New Jared Bernstein Study

In January, ESCA released a study by Jared Bernstein—now serving on President Biden's White House Council of Economic Advisors—that looks at **why there are not more ESOPs and considers how to address potential barriers to entry.** His analysis found that education and awareness about private ESOP structures are the most frequent hurdles to ESOP creation and that private and governmental approaches could "help more retiring business owners access the resources and information they need to fully consider an ESOP for their company," especially as those owners are considering retiring.

This work follows a 2016 Jared Bernstein study showing that by increasing capital ownership, **ESOPs reduce wealth inequality and do not have the effect of trading employee ownership for wages. In fact, the study finds that if S ESOP plans were to proliferate, the impact could be far more significant.** Bernstein's report also found that ESOP companies provide more stable employment than other businesses, were better able to weather the Great Recession, and provide capital ownership, pay better wages, and, in the majority of cases, provide employees with an additional 401(k) or similar plan.

Additionally, we believe that when we have data from the pandemic-induced recession that S ESOP companies will again prove to be a bright spot with their resilience and commitment to job preservation and creation. In a 2010 Georgetown University/McDonough School of Business study, two leading tax economists reviewed the performance of a cross-section of S corporation ESOP companies during the 2008–2009 recession and found that these companies performed better than other companies in job creation, revenue growth, and providing for workers' retirement security. Specifically, the study found that:

- **Companies that are S corporation ESOPs are proven job creators, even during tough times.** While overall U.S. private employment in 2008 fell by 2.8%, employment in surveyed S ESOP companies rose by 1.9%. Meanwhile, 2008 wages per worker in surveyed S ESOP companies rose by 5.9%, while overall U.S. earnings per worker grew only half that much.
- **S corporation ESOP companies provided substantial and diversified retirement savings for their employee-owners at a time when most other, comparable companies did not.** Despite the difficult economic climate, surveyed S–ESOP companies increased contributions to retirement benefits for employees by 18.6%, while other U.S. companies increased their contributions to employee retirement accounts by only 2.8%, or one-sixth that amount.

Quite simply, more S ESOPs means more worker savings, wealth and wage equality, job stability and national economic benefit. We look forward to continuing to work with Finance Committee members to advance policies to encourage more private, employee ownership so that more workers can benefit from the American Dream at Work. Thank you for your continued consideration and your support for S ESOPs and the employees who own them.

FINANCIAL SERVICES INSTITUTE
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The Financial Services Institute (FSI) represents independent broker-dealers (IBD) and the independent financial advisors affiliated with them. We are pleased that the Committee is holding this hearing to explore the issues facing Main Street Americans saving for retirement, particularly given that the COVID–19 pandemic has only worsened the country's existing retirement savings crisis. We support Congressional efforts to help more Americans save for a secure and dignified retirement, particularly those that provide private sector solutions to ensure that retirement savers have access to personalized investment advice.

Specifically, we wish to register our support for several pieces of legislation: the Securing a Strong Retirement Act (H.R. 2954), the Retirement Security and Savings Act (S. 1770), the Encouraging Americans to Save Act (S. 2452), and the Improving Access to Retirement Savings Act (S. 1703). The changes contained in these bills would not only make retirement saving more streamlined and accessible for investors, they would also increase the flexibility that financial professionals have to help their clients save for a financially secure retirement. We are encouraged that Congress has taken a bipartisan approach to moving these crucial pieces of legislation forward.

While these bills differ in some respects, they all seek address areas that are key to improving the retirement system. In particular, FSI believes that Congress should include the following in retirement security legislation: expanding access to retirement savings plans; encouraging workers to begin saving for retirement earlier through automatic enrollment; helping small businesses offer retirement plans to their employees; and allowing individuals to save for retirement longer.

Further, FSI Members believe that all investors should have access to competent and affordable financial advice, products, and services. Sadly, too many Americans do not have access to such advice to help them save for a dignified retirement. Research shows that investors who work with a financial advisor are better prepared for their retirement, better understand the costs that may arise in retirement and how to save for them and feel more confident in their ability to be successful in retirement.[1] S. 1770 would provide a tax deduction for financial advice by allowing employees to use pre-tax dollars through employer-based retirement programs to pay for retirement related financial planning services. This provision will encourage retirement savers to seek advice from financial professionals, which is even more important in these turbulent economic times. Many investors, including those nearing retirement, are watching their hard-earned savings fluctuate with the turbulent stock market. Financial advisors can help investors avoid common errors in response—such as buying high and selling low or losing sight of their long-term financial plan—to ensure that their retirement savings are secure.

We urge Congress to build on the success of 2019's SECURE Act to further strengthen Americans' access to retirement savings vehicles and planning services. We thank the Committee for holding this hearing and for the work it is doing to address these issues. We are ready to serve as a resource in your efforts to help Main Street Americans save for their retirement. Should you have any questions or would like more information on FSI and our position on this important issue, please contact our Director of Legislative Affairs, Hanna Laver, at (202) 499–7224.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the U.S., there are more than 160,000 independent financial advisors, which account for approximately 52.7 percent of all producing registered representatives.[2] These financial ad-

[1] The Insured Retirement Institute, The State of Retirement Security in America Today—2019 Boomer Expectations for Retirement Study, available at: *https://www.myirionline.org/docs/default-source/default-document-library/iri_babyboomers_whitepaper_2019_final.pdf?sfvrsn=0;* Claude Montmarquette, Nathalie Viennot-Briot, Centre for Interuniversity Research and Analysis on Organizations (CIRANO), The Gamma Factor and the Value of Advice of a Financial Advisor, available at *https://www.cirano.qc.ca/files/publications/2016s-35.pdf.*

[2] Cerulli Associates, Advisor Headcount 2016, on file with author.

visors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).[3]

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners and job creators with strong ties to their communities. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the affordable financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate $48.3 billion of economic activity. This activity, in turn, supports 482,100 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly $6.8 billion annually to federal, state, and local government taxes. FSI members account for approximately 8.4% of the total financial services industry contribution to U.S. economic activity.[4]

STATEMENT SUBMITTED BY ERIK C. GOULD

As Congress considers what additional improvements that can be made to retirement programs (in effect, a SECURE Act II), I would urge it to be fair to existing IRA participants, and to not further disadvantage them like it did with the original SECURE Act.

Pre-SECURE Act ROTH IRA holders accelerated the payment of taxes on ROTH contribution/conversion IRA dollars, (risking a result in which they will have already paid taxes on gains that might be later lost, with no tax deduction for such losses), precisely in exchange for having their IRA investment be able to grow tax-free (without a cap), to avoid being subject to minimum distributions, and to have the ability to confer those benefits to chosen beneficiaries who could "stretch" those tax benefits over their statistical life expectancies.

Congress, to help "pay for" the SECURE Act, chose to remove this bargained-for benefit of the "stretch" from the IRA rules and existing IRA holders. Taking away this benefit from existing ROTH IRA account holders amounted to a classic "bait and switch" by Congress, first inducing taxpayers to pay taxes earlier than they would have had to with a traditional IRA, calculated on gains they might not even later realize, in exchange for a benefit that was later taken away. This unconscionable result could have been easily avoided by grandfathering the retirement rules, if not for all IRAs, then at least for existing ROTH IRAs.

Fundamental principles of fairness dictate that no current IRA account holders (and particularly, no ROTH account holders who have already early-paid taxes in consideration for a set of benefits), regardless of how well their investments may have performed, should have the rules of the game changed in mid-stream. This is inarguably the case regardless of one's notions about the "legislative intent" behind the original IRA legislation or the desirability of further enhancing the benefits of retirement legislation for some parties.

Any tinkering with existing retirement laws should have as its first principle to "do no harm" to the incentive to invest for one's retirement or to existing IRA investors who have relied on existing retirement rules. The ProPublica release of the information about Peter Thiel's $5 billion ROTH has reignited discussion about capping amounts that can be held in an IRA or in what type of investment that an IRA may invest. Instead of viewing statistical outliers (the relatively few very large IRAs) as a defect or failure of the current IRA rules, successful IRA investors should be held

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[3] The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a dually registered representative of a broker-dealer and an investment adviser representative of a registered investment adviser firm. The use of the term "investment adviser" or "adviser" in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

[4] Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2016).

out to taxpayers as an incentive and model for what is possible (and this in no way prevents an IRS investigation of whether Peter Thiel's original IRA purchases were properly valued in accordance with existing IRA regulations and/or an investigation of how Peter Thiel's information could have been released by the IRS to ProPublica in the first place).

Much has been made about the "well-heeled elite" and their access to investments that the average investor supposedly can't access. While it is true that it takes considerably more effort, regardless of tax bracket, to ferret out and to participate in exceptional early-stage and/or non-publicly traded opportunities, it is far from impossible for an industrious individual of relatively average investing acumen to participate in these sometimes very attractive investments. I know this because I have helped sponsor multi-family real estate investments with individual investor participation the past 14 years with an overall annual portfolio return of better than 20%. Many of our individual investors would, by their own estimation, likely place themselves outside the "exceptionally positioned/gifted" investor category. The truth of the matter is that most anyone with a middle-class income has the possibility of ending up with a seven figure IRA provided they begin investing early in their life, are willing to spend the time doing diligent investment research and have a bit of luck along the way during a long-term investment program. There was absolutely nothing preventing anyone from purchasing the stock of Microsoft, Netflix, Facebook, Google or any of the many other phenomenally successful companies listed on the various public stock exchanges after their initial public offerings, holding those stocks in a long-term portfolio and having a very comfortable retirement.

And do we really want to be telling the founder of a start-up company, who is making a big bet with their own resources despite long odds against them, but who might be the needle in the haystack that ends up employing thousands of people, that they aren't entitled to have their IRA benefit from the success of their own start-up company?

Congress should neither reduce the incentive for people to invest for their retirement nor punish those diligent investors who have relied on and followed the existing IRA rules and diligently and successfully invested for their retirement, regardless of the degree of their success. Congress should also heed the lesson of the Alternative Minimum Tax which was originally passed to address the perceived abuses of a few fat cats but mostly ended up hurting many more modestly situated taxpayers instead.

Placing new caps on the amount an IRA can grow to or adding new rules about the type of investments in which an IRA can invest will simply reduce the incentives for all to participate and would be particularly unfair to existing ROTH IRA holders who have already paid their taxes in reliance on the existing rules. Please don't again rob Peter (existing IRA investors) to service Paul (those who may benefit from any subsequent retirement legislation).

DANIEL HEMEL,* PROFESSOR OF LAW, UNIVERSITY OF CHICAGO LAW SCHOOL; AND STEVEN ROSENTHAL,* SENIOR FELLOW, URBAN-BROOKINGS TAX POLICY CENTER

The Senate Finance Committee's July 28 hearing spotlighted "mega-IRAs": individual retirement accounts with balances of $5 million or more. An analysis by the Joint Committee on Taxation (JCT) in advance of the July 28 hearing found that the number of taxpayers with mega-IRAs now exceeds 28,000.[1] The hearing followed a June 2021 report by the nonprofit investigative journalism organization ProPublica, which revealed—based on leaked IRS files—that a handful of high-networth individuals had accumulated massive IRA balances.[2]

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*The views presented here are the authors' own and should not be attributed to the University of Chicago, the Tax Policy Center, the Urban Institute, the Brookings Institution, or those organizations' trustees or funders.

[1] Memorandum from Thomas A. Barthold to Kara Getz, Tiffany Smith, and Drew Couch (July 27, 2021), *https://www.finance.senate.gov/imo/media/doc/7.28.21%20JCT%20Mega%20IRA%20Data1.pdf*. The JCT analysis was based on 2019 data. The number of mega-IRAs has likely increased since then.

[2] *See* Justin Elliott, Patricia Callahan and James Bandler, Lord of the Roths: How Tech Mogul Peter Thiel Turned a Retirement Account for the Middle Class Into a $5 Billion Tax-Free Piggy Bank, ProPublica (June 24, 2021), *https://www.propublica.org/article/lord-of-the-roths-how-tech-mogul-peter-thiel-turned-a-retirement-account-for-the-middle-class-into-a-5-billion-dollar-tax-free-piggy-bank*.

The Senate Finance Committee hearing and the ProPublica report emphasized one way that taxpayers amass mega-IRAs: by "stuffing" an account with undervalued assets such as pre-IPO stock and investment-fund carried interests. "Stuffing" no doubt occurs in some instances, and Congress could take steps to stop it (*e.g.,* by prohibiting IRAs from holding non-publicly traded assets). However, it is unlikely that most mega-IRAs result from abusive stuffing tactics. Individuals engaged in stuffing would generally want to convert their IRAs from traditional to Roth accounts quickly. Yet JCT's analysis found that 85 percent of mega-IRA owners hold only traditional accounts.

How, then, have tens of thousands of high-income individuals created mega-IRAs? As our submission shows, **existing rules allow high-income taxpayers to amass mega-IRAs straightforwardly—and legally—by "maxing out" 401(k) defined contribution plans, potentially combining defined contribution plans with defined benefit plans, and investing in S&P 500 index funds or other publicly traded assets.** Mega-IRAs are indeed a problem, but they are a problem primarily caused by laws that lavish excessive tax benefits on high-income individuals.

We begin by illustrating how high-income individuals can create mega-IRAs through entirely legal means. Next, we review the choices that Congress has made over the last quarter-century that opened a wide door to mega-IRAs. We then explain why the JCT data and other sources strongly suggest that most mega-IRAs do not reflect stuffing. We conclude with concrete policy recommendations to stem the tide of mega-IRAs and other mega-retirement arrangements, which undermine the progressivity and revenue-raising potential of the federal income tax system.

I. How To Create a Mega-IRA: An Illustration

We begin with an example of a high-income professional (*e.g.,* a law-firm partner) born in 1950 who contributes the maximum amount to a 401(k) defined contribution plan starting in 1990. In addition, the individual's employer establishes a cash balance defined benefit plan sometime after the 1996 legislative change that lifted limits on combined defined contribution and defined benefit plans maintained by the same employer.[3] Beginning in 2010, the individual makes "backdoor" contributions to a Roth IRA. The individual retires in 2015 at the age of 65 and receives the maximum lump-sum distribution from the cash balance plan (approximately $2.5 million in 2015).[4] She rolls over her 401(k) and deposits her cash balance plan distribution into an IRA. She invests exclusively in a portfolio tracking the S&P 500 index total return.

Table 1 shows how the individual's retirement savings contributions would have evolved over her career. The gray shading of pre-2010 IRA contribution amounts reflects our assumption that a high-income individual would not have made any IRA contributions until backdoor contributions to a Roth IRA became possible in 2010.[5] The bold type of post-2015 amounts reflects our assumption that the individual would not have made any contributions after retirement.

Table 1. Tax-Favored Retirement Savings Limits, 1990–2021

Year	401(k) Plan		IRA [b]		Notes
	All Ages [a]	Age ≥50 Catchup	All Ages	Age ≥50 Catchup	
1990	$30,000		**$2,000**		

[3] Small Business Job Protection Act of 1996, Pub. L. No. 104–188, § 1452, 110 Stat. 1755, 1816 (repealing I.R.C. § 415(e) for years beginning after December 31, 1999).

[4] The maximum lump-sum distribution from a cash balance plan is determined actuarially based on interest-rate and mortality assumptions. We use an amount ($2,452,050 for a 65-year-old in 2015) based on materials posted by the American Society of Pension Professionals and Actuaries. *See* Richard A. Block, § 415 and Multiple Annuity Starting Dates (MASD) and Effects of Different Crediting Rates on § 415 in Cash Balance Account Plans (2020), *https://www.asppa.org/sites/asppa.org/files/DOCs/LA_Pension/WS19-%20MASD%20%26%20Effects.pdf.*

[5] A high-income individual who participates in a defined benefit or defined contribution plan would be precluded from making nondeductible contributions to a traditional IRA or direct contributions to a Roth IRA. I.R.C. §§ 219(g), 408A(c)(3). Starting in 2010, an individual at any income level could make nondeductible contributions to a traditional IRA and then immediately convert the traditional IRA to a Roth IRA. *See* Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. No. 109–222, § 512, 120 Stat. 345, 365–66 (2006) (amending I.R.C. § 408A for taxable years beginning after December 31, 2009).

Table 1. Tax-Favored Retirement Savings Limits, 1990–2021—Continued

Year	401(k) Plan		IRA [b]		Notes
	All Ages [a]	Age ≥50 Catchup	All Ages	Age ≥50 Catchup	
1991	$30,000		**$2,000**		
1992	$30,000		**$2,000**		
1993	$30,000		**$2,000**		
1994	$30,000		**$2,000**		
1995	$30,000		**$2,000**		
1996	$30,000		**$2,000**		Section 415(e) limit repealed (effective 2000)
1997	$30,000		**$2,000**		Roth IRAs established (effective 1998)
1998	$30,000		**$2,000**		
1999	$30,000		**$2,000**		
2000	$30,000		**$2,000**		Effective start of defined benefit/defined contribution combos [c]
2001	$35,000		**$2,000**		Roth 401(k) plans established (effective 2002)
2002	$40,000	$1,000	**$3,000**	**$500**	
2003	$40,000	$2,000	**$3,000**	**$500**	
2004	$41,000	$3,000	**$3,000**	**$500**	
2005	$42,000	$4,000	**$4,000**	**$500**	
2006	$44,000	$5,000	**$4,000**	**$1,000**	Income limits on Roth conversions lifted (effective 2010)
2007	$45,000	$5,000	**$4,000**	**$1,000**	
2008	$46,000	$5,000	**$5,000**	**$1,000**	
2009	$49,000	$5,500	**$5,000**	**$1,000**	
2010	$49,000	$5,500	$5,000	$1,000	"Backdoor" Roth IRAs open to high-income individuals
2011	$49,000	$5,500	$5,000	$1,000	
2012	$50,000		$5,000	$1,000	
2013	$51,000		$5,500	$1,000	
2014	$52,000		$5,500	$1,000	
2015	$53,000	$6,000	$5,500	$1,000	$2.5 million distribution from cash balance defined benefit plan
2016 [d]	**$53,000**	**$6,000**	**$5,500**	**$1,000**	
2017 [d]	**$54,000**	**$6,000**	**$5,500**	**$1,000**	

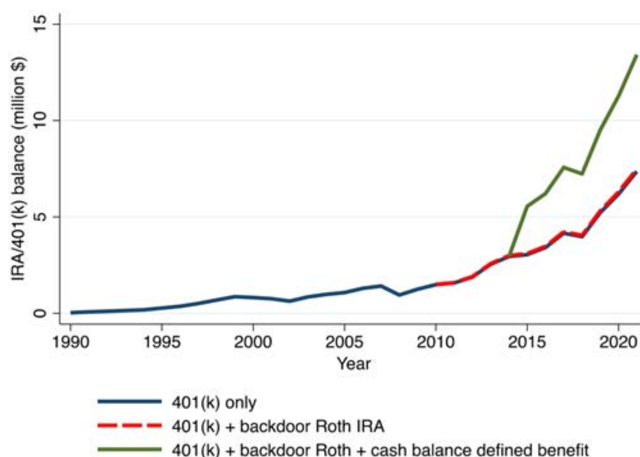
Table 1. Tax-Favored Retirement Savings Limits, 1990–2021—Continued

Year	401(k) Plan		IRA [b]		Notes
	All Ages [a]	Age ≥50 Catchup	All Ages	Age ≥50 Catchup	
2018 [d]	**$55,000**	**$6,000**	**$5,500**	**$1,000**	
2019 [d]	**$56,000**	**$6,000**	**$6,000**	**$1,000**	RMD age raised from 70½ to 72 (effective 2020)
2020 [d]	**$57,000**	**$6,500**	**$6,000**	**$1,000**	
2021 [d]	**$58,000**	**$6,500**	**$6,000**	**$1,000**	

[a] Figures are for elective deferrals plus employer contributions.
[b] High-income individuals generally precluded from making tax-advantaged contributions to IRAs until 2010.
[c] Prior to the effective date of section 415(e) repeal, defined benefit/defined contribution combinations were technically permitted but subject to strict limits on benefits and contributions.
[d] Illustration assumes no 401(k) or IRA contributions after 2015 retirement.

Figure 1 illustrates how the individual's combined IRA and 401(k) would have grown over the 1990–2021 period, assuming investments appreciate at the S&P 500 index total return rate. We show how the individual's balance (including investment returns) would have grown based on (a) 401(k) contributions alone, (b) 401(k) contributions plus backdoor Roth IRA contributions starting in 2010, and (c) both of the above plus a cash balance defined benefit plan distribution in 2015. We provide an online data file showing our calculations at bit.ly/megaira.

Figure 1. Illustration of IRA/401(k) Balance for Individual Born in 1950 and Retiring in 2015



Notes: Investment growth rate equal to S&P 500 index total return (with new contributions added at end of year).
401(k) only: Maximum employer-plus-employee contributions to 401(k) plan from 1990 through 2015.
401(k) + backdoor Roth IRA: 401(k) only + maximum backdoor Roth IRA contribution from 2010 through 2015.
401(k) + backdoor Roth + cash balance defined benefit: Both of the above + lump-sum distribution from cash balance defined benefit plan of $2,452,050 at end of 2015. Amounts calculated through August 9, 2021. For further details, see bit.ly/megaira.

In our illustration, the individual ends up with a mega-IRA balance of $13.4 million as of August 2021. If she had made 401(k) contributions and backdoor Roth IRA contributions (without a cash balance defined benefit plan), the value of her IRA would be $7.5 million. If she had made 401(k) contributions only and rolled over to an IRA, her IRA balance would be $7.4 million.

Our illustration *understates* the amount that an individual could accumulate in an IRA through legal means. A higher balance would be feasible with the following modifications:

- **More years of contributions.** If our individual started contributing to her 401(k) in 1985 at age 35, her IRA balance as of 2021 (including the effect of backdoor Roth contributions and a cash balance payout) would be $18.7 million (see online data file). If she had made 401(k) contributions only, the balance would be $12.7 million.
- **Multiple 401(k) or cash balance plans.** We assumed the individual contributed to only one 401(k) plan and received only one lump-sum distribution from a cash balance plan. An individual with income from employment and self-employment could potentially contribute a combined total of $122,500 in 2021 to an employer-sponsored 401(k) and a solo 401(k). An individual who switches employers could potentially receive a lump-sum payout from the first employer's cash balance plan and participate in the second employer's cash balance plan.
- **Inheritances.** We assumed the individual did not merge her IRA with anyone else's. Someone who inherited an IRA, such as a surviving spouse, could have a total balance much larger than the amount illustrated.[6]
- **Higher rate of return on investments.** Although the S&P 500 generated an impressive 10.6 percent annualized return from 1990 to August 2021 (assuming reinvestment of dividends), some 401(k) plan participants and IRA owners have likely outperformed the index without stuffing nonpublic assets into their accounts. For example, Berkshire Hathaway executive Ted Weschler—who reportedly had $264.4 million in his IRA at the end of 2018[7]—states that he has "invested the account in only publicly-traded securities."[8]

II. How We Got Here

If pre-1996 laws had remained in effect, the individual in our illustration could have contributed the $30,000 maximum to her 401(k) plan each year until retirement in 2015. She could not have taken advantage of a backdoor Roth IRA, and she could not have participated in a cash balance defined benefit plan without running into the former section 415(e) limits. Her IRA balance in August 2021 would be approximately $6.1 million (see online data file), and she would need to begin taking RMDs this year.

More than half of the $13.4 million balance in our illustration ($7.3 million, or 54 percent) is attributable to legislative changes starting in 1996. We summarize the most significant changes in Table 2. We include, with gray shading in the last row, the Securing a Strong Retirement Act of 2021, or "SECURE Act 2.0," which was reported out of the House Ways and Means Committee on May 5, 2021.[9] If the SECURE Act 2.0 becomes law, high-income individuals will be able to make *even larger* contributions to 401(k) plans before age 65, and owners of mega-traditional IRAs would be able to delay RMDs *for even longer.*

Table 2. Legislative Changes Since 1996 That Have Facilitated the Rise of Mega-IRAs

Year	Legislation	Effects
1996	Small Business Jobs Protection Act of 1996	Repealed section 415(e), which had limited the amount that individuals could save through defined contribution and defined benefit plans with the same employer
1997	Taxpayer Relief Act	Established Roth IRAs with no required minimum distributions (RMDs)

[6] An individual who inherits an IRA from a spouse can add the inherited IRA to her own IRA. Under the SECURE Act of 2019, IRAs inherited from someone other than a spouse generally must be distributed over 10 years, but IRAs inherited before 2020 are exempt from the SECURE Act's 10-year rule. *See* Setting Every Community Up for Retirement Enhancement Act of 2019, Pub. L. No. 116–94, § 401, 133 Stat. 2534, 3176.

[7] *See* Elliott, Callahan and Bandler, *supra* note 2.

[8] Statement from Ted Weschler to ProPublica (June 2021), *https://www.documentcloud.org/documents/20971124-ted-weschler-statement.*

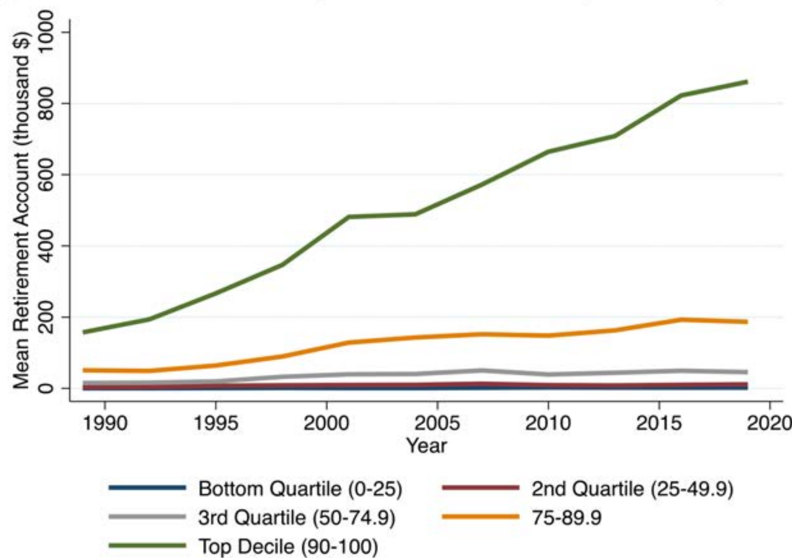
[9] Securing a Strong Retirement Act of 2021, H.R. 2954, 117th Cong., 1st Sess. (2021).

Table 2. Legislative Changes Since 1996 That Have Facilitated the Rise of Mega-IRAs—Continued

Year	Legislation	Effects
2001	Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)	Raised IRA and 401(k) contribution limits; added catchup contributions; raised maximum allowable benefit under defined benefit plans; established Roth 401(k)s *Note:* Changes scheduled to sunset after 2010
2006	Tax Increase Prevention and Reconciliation Act of 2005	Lifted income limits on traditional-to-Roth conversions; opened the door to backdoor Roth IRA contributions
2006	Pension Protection Act of 2006	Made key provisions of EGTRRA permanent; removed several remaining barriers to cash balance defined benefit plans
2019	SECURE Act of 2019	Raised RMD age for traditional accounts and Roth 401(k) plans from 70½ to 72; repealed age cap on contributions to traditional IRAs (thereby allowing high-income individuals ≥ age 70½ to use backdoor Roths)
2021?	SECURE Act 2.0 **Reported out of House Ways & Means Committee on May 5**	Would raise RMD age to 75; increase catchup contributions to $10,000 for 401(k) participants ages 62–64; and allow employees to elect Roth treatment for employer contributions to 401(k) plans

These changes primarily benefited the rich. As Figure 2 illustrates, households in the top decile by net worth have increased their average retirement account balances by vastly more than the rest of the population over the past three decades.

Figure 2. Retirement Accounts by Percentile of Net Worth (1989—2019)



Notes: Authors' calculations based on Federal Reserve Survey of Consumer Finance, 1989—2019.

Stuffing. Importantly, "stuffing" plays no part in our illustration. "Stuffing" occurs when an individual uses an IRA to acquire non-publicly traded assets at prices below fair market value. The ProPublica report indicates that tech entrepreneur

Peter Thiel started on the path to his mega-IRA by purchasing pre-IPO shares of PayPal at a very low price. An October 2014 report by the Government Accountability Office suggested that private equity funds and hedge funds were allowing key employees to use their Roth IRAs to purchase profits interests (commonly known as "carried interests") at potentially abusive valuations.[10] The GAO report concluded that strategies involving non-publicly traded assets are "likely" the cause of mega-IRAs.[11]

Stuffing is primarily a problem with respect to Roth IRAs. Stuffing a traditional IRA with pre-IPO stock or private equity fund carried interests is generally a questionable tax-avoidance strategy because it converts what would often be long-term capital gains (taxed at a top rate of 23.8 percent) into ordinary income (taxed at a top rate of 37 percent).[12] As Table 3 illustrates, most of the mega-IRAs identified by JCT are traditional IRAs. According to the JCT data, 85 percent of all mega-IRAs are traditional IRAs, and at least 79 percent of the aggregate balance of mega-IRAs lies in traditional accounts.

Table 3. Mega-IRAs by Account Balance Ranges and Type (2019)

	≥$5m to $10m	≥$10m to $15m	≥$15m to $25m	≥$25m	All Mega-IRAs (≥5m)
# of Taxpayers	**24,990**	**2,275**	**853**	**497**	**28,615**
Traditional only	21,682	1,709	557	303	24,251
Roth only	2,175	425	237	156	2,993
Both	1,133	141	59	38	1,371
Aggregate Balance	**$160,111**	**$26,917**	**$15,926**	**$76,612**	**$279,566**
Traditional only	$137,725	$20,144	$10,370	$53,111	$221,350
Roth only	$14,719	$5,602	$4,512	$15,624	$40,457
Both	$7,667	$1,171	$1,044	$7,877	$17,759

Source: Memorandum from Thomas Barthold to Kara Getz, Tiffany Smith and Drew Crouch (July 27, 2021).
Notes: "Both" reflects taxpayers with traditional and Roth IRAs whose aggregate balance ≥$5 million.

Stuffing an IRA—even a Roth IRA—provides only a modest benefit to start-up founders and early-stage investors who have access to other legal tax-avoidance strategies. For example, individuals who hold shares of stock or other property until death can qualify for tax-free stepped-up basis. Since 2010, start-up founders and early-stage investors who acquire pre-IPO stock and hold it for at least five years can—in many circumstances—exclude $10 million or more of capital gains on the sale of the stock under section 1202. These strategies allow individuals to replicate (roughly) the benefits of Roth IRA stuffing without legal risk.

III. Takeaways

We see at least three takeaways from our illustration and analysis:

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[10] U.S. Government Accountability Office, GAO–15–16, Individual Retirement Accounts: IRS Could Bolster Enforcement on Multimillion Dollar Accounts, but More Direction from Congress Is Needed, 32–36 (October 2014).

[11] *Id.* at 26. The GAO report said that it was "improbable" that an individual could accumulate an account balance above $5 million through contributions to a 401(k) plan, and it added that "an accumulation of more than $5 million looks large in comparison to . . . the maximum lump sum payable to a 65-year-old DB participant" (which GAO calculated to be $2.3 million to $2.6 million in 2011). *See id.* at 25. However, the GAO report failed to consider the possibility that an individual could combine a 401(k) defined contribution plan with a cash balance defined benefit plan. The GAO data also is 10 years old now and does not factor in the intervening decade of stock market growth.

[12] Stuffing a traditional IRA still may yield modest benefits if the deferral advantage outweighs the negative rate arbitrage, or larger benefits if assets otherwise would have generated income taxed at ordinary rates (*e.g.,* carried interests in some hedge funds). However, any taxpayer who stuffed an IRA in 2010 or afterwards could convert to a Roth. The fact that most mega-IRAs are traditional IRAs is evidence that they do not reflect stuffing.

1. High-income individuals can create mega-IRAs by maximizing their tax-favored savings across multiple plans and then consolidating their balances into IRAs—all of which Congress expressly permits. We are encouraged that members of Congress are focusing attention on the mega-IRA problem. However, rather than revealing mega-IRAs to be an "abuse," our review demonstrates that mega-IRAs are a product of choices that Congress has made over the last quarter century—choices that foreseeably allowed high-income individuals to shift eight-figure sums into tax-favored accounts.[13]

2. Cash balance defined benefit plans—especially when combined with defined contribution plans—put many high-income professionals within close reach of mega-IRAs even before accounting for investment growth. The number of cash balance plans has grown dramatically over the last two decades, from 1,477 in 2001 to an estimated 25,040 in 2019.[14] These plans are especially concentrated in the medical and financial sectors and among professional practices such as law firms. The largest law-firm cash balance plan is now approaching $1 billion in assets, and cash balance plans in total hold more than $1 trillion.[15] An estimated 97 percent of cash balance plans are add-ons to existing 401(k) plans.[16] Mega-IRAs will become increasingly common as long as Congress allows high-income individuals to pair defined contribution and defined benefit plans.

3. The mega-IRA problem is not limited to Roths—and not even limited to IRAs. A mega-traditional IRA is simply a mega-IRA that the owner has not (yet) chosen to convert to a Roth. The owner of a mega-traditional IRA may delay conversion for any number of reasons. For example, she may anticipate that top tax rates will go down (as indeed they did at the end of 2017). She may be planning to change her tax domicile from a high-tax state (*e.g.,* New York) to a low-tax state (*e.g.,* Florida). Or she may be planning to stretch a conversion over several years so that more of her income can be taxed at lower marginal rates. From a policy perspective, the fact that a mega-IRA owner has not yet chosen to Rothify her account does not make the existence of the mega-IRA any less problematic.

Indeed, it is not clear why—from a policy perspective—we should care whether a mega-retirement account balance is in an IRA or any other tax-favored vehicle. The individual in our illustration could have reaped similar tax benefits if she had left her 401(k) balance in her employer-sponsored plan rather than rolling over to a mega-IRA. Any solution that seeks to tackle the mega-IRA problem also must address mega-401(k)s and other tax-favored mega-accounts.

IV. Policy Implications

1. Mega-IRAs and other mega-retirement accounts are a serious problem, even when they do not result from abusive stuffing tactics. Mega-retirement accounts allow high-income individuals to reduce tax either on the front end (by excluding traditional 401(k) contributions and defined benefit accruals from income) or on the back end (by excluding Roth withdrawals), all the while avoiding year-to-year tax on accumulations.[17] Whether traditional or Roth, these tax-favored vehicles deliver a windfall to individuals at the very top of the income distribution, exacerbating already wide inequalities. Furthermore, if Congress fails to address the problem of mega-IRAs and other mega-retirement accounts, revenue losses are likely to grow as more and more employers offer supersized defined benefit/defined contribution combinations.

2. Congress could address the mega-retirement plan problem by establishing a lifetime limit on all tax-favored retirement benefits—as proposed by the Obama-Biden administration. Under the Obama-Biden proposal, the cap would be set such that an individual could retire at age 62 and purchase a lifetime annuity for herself and her spouse paying the maximum annual benefit for a de-

[13] Congress's choice to lift income limits on traditional-to-Roth IRA conversions (effective 2010) was particularly cynical: lawmakers characterized the move as a revenue-raiser, even though independent analysis showed that the change would reduce net long-term federal revenues by at least $14 billion in present value terms. *See* Leonard E. Burman, Roth Conversions as Revenue Raisers: Smoke and Mirrors, Tax Notes, May 22, 2006, at 953.

[14] FuturePlan Cash Balance Center of Excellence, 2020 National Cash Balance Research Report 3 (11th ed. 2021).

[15] *Id.* at 7–8.

[16] Chuck Epstein, Q&A: Dan Kravitz on Cash Balance Plans, BenefitsPro (July 2, 2014), *https://www.benefitspro.com/2014/07/02/qa-dan-kravitz-on-cash-balance-plans.*

[17] For an explanation of the theoretical equivalence between traditional and Roth IRA benefits (an application of the "Cary Brown theorem"), *see* Christopher H. Hanna, Tax Theories and Tax Reform, 59 SMU L. Rev. 435 (2006).

fined benefit plan. In 2016, that amount would have been $210,000 per year, corresponding to a maximum balance of approximately $3.4 million for a 62-year-old. Once an individual reached the cap, she could no longer make additional contributions or receive additional defined benefit accruals, though her balance could continue to grow with investment earnings.[18]

The Obama-Biden proposal, if implemented, would constitute an important step toward stopping the growth of mega-retirement accounts. Under the proposal, an individual still could use tax-favored retirement savings arrangements to ensure a comfortable retirement for herself and her spouse. But IRAs, defined contribution plans, and defined benefit plans would no longer be tools for preserving dynastic wealth. Moreover, the Obama-Biden plan rightly recognized that mega-IRAs are just one type of mega-retirement plan. Capping only IRAs (or only Roth IRAs) would arbitrarily penalize individuals who decided to take rollovers rather than leaving their balances in an employer-sponsored plan (or who decided to pay tax on a traditional-to-Roth conversion rather than delaying conversion until a more opportune time). Worse yet, an IRA-specific or Roth-specific reform would simply shift the problem to other accounts that currently feed into mega-IRAs.

3. Supplemental steps. We know of no adequate substitute for the cross-plan cap proposed by the Obama-Biden administration. However, Congress could supplement that legislative change with additional measures:

- **Mandating RMDs starting at age 72 from all accounts, including Roth IRAs.** Congress created tax-favored retirement plans to support individuals in their later years. Without RMDs, these plans can quickly become intergenerational wealth-transmission devices. The SECURE Act 2.0 proposal to raise the RMD age to 75 would exacerbate the mega-retirement plan problem.
- **Ending backdoor Roths.** Congress created Roth IRAs as savings vehicles for low- and middle-income Americans—not as mechanisms for high-income individuals to add onto their other savings. Congress could shut the Roth "backdoor" by barring high-income individuals from making nondeductible IRA contributions—the first step of the backdoor two-step.
- **Prohibiting IRAs and defined contribution plans from holding non-publicly traded assets.** While we do not think that a majority of mega-IRAs arise from "stuffing" strategies, there is no reason for Congress to allow "stuffing" in the first place. A ban on non-publicly traded assets in IRAs, 401(k)s, and other defined contribution plans would limit both stuffing and self-dealing (*i.e.,* improper transactions between an IRA and its owner).

V. Conclusion

We are troubled by mega-IRAs, which undermine the progressivity and revenue-raising potential of the federal income tax. However, mega-IRAs are a symptom of an even more serious disease: a retirement savings system that disproportionately favors the rich. Instead of simply treating the symptom, Congress could cure the disease—a disease largely caused by Congress's own choices.

ICMA RETIREMENT CORPORATION (ICMA–RC)
777 North Capitol Street, NE, Suite 600
Washington, DC 20002

May 4, 2021

Senator Ben Cardin	Senator Rob Portman
U.S. Senate	U.S. Senate
509 Hart Senate Office Building	448 Russell Senate Office Building
Washington DC 20510	Washington DC 20510

Re: ICMA–RC Supports the Retirement Security and Savings Act

Dear Senator Cardin and Senator Portman:

On behalf of ICMA Retirement Corporation ("ICMA–RC"), I am writing to express our strong support for the Retirement Security and Savings Act and congratulate you on its recent reintroduction.

ICMA–RC's mission is to help public sector employees build retirement security. Founded in 1972, ICMA–RC is a non-profit independent financial services corpora-

[18] U.S. Department of the Treasury, General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals, 166–68 (February 2016).

tion based in Washington, DC, focused on providing retirement plans and related services for more than one million public sector participant accounts and more than 9,000 retirement plans. We are dedicated every day to our mission and serving those who serve our communities.

Enactment of the Retirement Security and Savings Act would significantly benefit millions of Americans, including public sector employees, who work hard every day to prepare for their retirement. ICMA–RC appreciates your longstanding efforts to make it easier for more Americans to save for retirement and for working to advance the bipartisan ideas in the Retirement Security and Savings Act.

ICMA–RC strongly supports your provision that would permit 403(b) plan participants to access lower-cost collective investment funds. We have long utilized collective investment trusts and have found them to be effective in reducing the costs for the public sector retirement savers we support. Additionally, we are very supportive of your provision to streamline contribution requirements for government workers in 457(b) plans. Under your bill, public sector employees would have additional flexibly when making decisions about how much they would like to save each month by conforming the deferral rules for 457(b) plans with other existing retirement savings vehicles.

We look forward to working with you on our shared goal of enhancing retirement security for all workers.

Sincerely,

Angela Montez
ICMA–RC
Senior Vice President and General Counsel

INSURED RETIREMENT INSTITUTE
1100 Vermont Avenue, NW, 10th Floor
Washington, DC 20005

Statement of Wayne Chopus, President and CEO

Chairman Wyden, Ranking Member Crapo, and Members of the Senate Committee on Finance, my name is Wayne Chopus. As the President and CEO of the Insured Retirement Institute (IRI), I am pleased to provide you with our perspective on the importance of this Congress enacting common-sense, bipartisan solutions that will help America's workers, retirees, and their families build economic equity, strengthen financial security, and protect income in a manner that can sustain them throughout their retirement years.

I commend you for holding this hearing, and I welcome the opportunity to provide this statement for the record to the Committee recommending several proposals for building bipartisan retirement legislation. The public policy proposals IRI offers in this statement for the record for the Committee's consideration will help to shape a stronger and more inclusive private-sector retirement system by increasing access to workplace retirement plans, facilitating greater use of lifetime income options, and making information about past and possibly forgotten retirement accounts more readily available.

Summary of Testimony

Consistent with our consumer-focused mission, my statement for the record will address two key points:

1. America's workers and retirees were already facing a looming retirement income crisis before the onset of the COVID–19 pandemic, and the economic disruption it has caused further exacerbated already existing retirement income anxiety.
2. Legislation like the public policy measures contained in IRI's 2021 Federal Retirement Security Blueprint,[1] eleven of which are included in recently introduced legislation in the Senate, offer a solid foundation of common-sense, bipartisan solutions that will help more of our nation's workers and retirees strengthen and enhance their retirement security.

[1] The "2021 IRI Federal Retirement Security Blueprint," Insured Retirement Institute, March 2021.

About IRI

For three decades, IRI has vigorously promoted consumer confidence in the value and viability of insured retirement strategies, bringing together the interests of the industry, financial advisors, and consumers under one umbrella. Our mission is to pursue the following goals:

- Promote a better understanding of the insured retirement value proposition.
- Modernize standards and practices to improve value delivery and the customer experience within this industry.
- Advocate before public policymakers on critical issues affecting consumers who rely on insured retirement strategies to sustain them during their retirement years.

IRI is the only national trade association representing the entire supply chain for the insured retirement strategies industry. Our member companies include major life insurance companies like Prudential, Equitable, Pacific Life, Nationwide, Transamerica, Principal Financial Group, and Jackson National; broker-dealers like Morgan Stanley, Raymond James, and Edward Jones; and asset management companies like PIMCO, T. Rowe Price, and BlackRock. Our member companies represent more than 90 percent of annuity assets and include the top 10 distributors ranked by assets under management. Our member base also includes financial professionals serving millions of people across the country. Therefore, we bring a perspective to this discussion that encompasses both the full supply chain of insured retirement strategies as well as Main Street America.

America's Growing Retirement Anxiety and Savings Crisis

According to a survey by the Economic Innovation Group,[2] 82 percent of voters believe retirement security is a significant problem for our nation. Workers, retirees, and their families are concerned about their ability to accumulate sufficient savings to provide sustainable income to last during their retirement years. This anxiety has significantly grown in the past year with the COVID–19 pandemic's impact on retirees' and workers' physical and financial health.

A survey conducted by the National Institute of Retirement Security[3] provides insights into the depth of this anxiety. The survey found that more than two-thirds—67 percent—say the nation faces a retirement crisis, and more than half—56 percent—are concerned that they will not achieve a financially secure retirement. The research also found that 51 percent say their concerns about their ability to achieve financial security in retirement has increased, 67 percent say that COVID–19 has changed or is causing them to consider changing their plans about when they will retire, and 65 percent of current workers say it is likely they will have to work past retirement age to have enough money to retire.

Fidelity Investments recently released its "2021 State of Retirement Planning Study"[4] which further demonstrates the harm inflicted on workers' and retirees' plans for retirement due to the events of the past year. The study found that 80 percent of America's workers said their retirement plans were disrupted in the past year due to actions such as job loss or retirement account withdrawals. The survey also found that one in three people estimate that they will need two to three years to recover financially from the events of the past year.

Furthermore, a study by Transamerica[5] found that nearly one in five workers has reported contributing less to their retirement account now than before the pandemic, 18 percent have reduced retirement contributions since the coronavirus crisis started, and 31 percent of those who are recently unemployed reported they are contributing less to their retirement. Those who reported contributing less to their retirement savings can be further broken down generationally, with about 16 percent being Baby Boomers, 18 percent being Generation Xers, around 15 percent being Millennials, and about 27 percent identified as Generation Z.

As this research demonstrates, retirement security remains an area of significant concern for America's workers, retirees, and their families. Additionally, this research confirms what IRI's members hear from the millions of workers and retirees

[2] The "Retirement Security and Wealth Attitudes: National Voter Survey," Economic Innovation Group, June 2021.

[3] "Retirement Insecurity 2021—American Views of Retirement," National Institute of Retirement Security, February 2021.

[4] "2021 State of Retirement Planning Study," Fidelity Investments, March 2021.

[5] "Retirement Security Amid COVID–19: The Outlook of Three Generations," 20th Annual Transamerica Retirement Survey of Workers, May 2020.

they work with each day: workers and retirees are shouldering the burden of accumulating savings to sustain them during their retirement years. This has caused enormous pressure for the individual consumer, particularly if they are lower- and middle-income workers.

Further adding to this anxiety is a lack of access to workplace retirement savings plans. According to Transamerica's "Navigating the Pandemic: A Survey of U.S. Employers,"[6] 48 percent of employers do not offer a 401(k) or similar retirement plan, and 63 percent of those employers said they are not too likely or not likely at all to start a plan within the next two years. Even though 65 percent of employers feel a sense of responsibility in trying to help their employees achieve a financially secure retirement and nearly three-quarters believe that offering retirement benefits is essential for attracting and retaining employees, concerns about plan costs remain a top reason why employers do not offer a plan.

IRI respectfully submits for your consideration the measures outlined below to strengthen and enhance retirement security for America's workers and retirees as the Committee examines how Congress can help to build upon bipartisan retirement legislation.

Bipartisan, Common-Sense Solutions

Earlier this year, IRI published its 2021 Federal Retirement Security Blueprint. The Blueprint offers several measures which, if enacted into law, would do the following:

- Measure 1: Expand opportunities for more of our nation's workers to save in a workplace retirement plan.
- Measure 2: Facilitate the use of lifetime income products to better insure against the risk of outliving savings.
- Measure 3: Preserve and promote access that enables retirement savers to obtain information about their retirement accounts.

Measure 1: Expanding Opportunities for More Workers to Save for Retirement

To expand opportunities for more of America's workers to save for retirement, IRI's 2021 Federal Retirement Security Blueprint put forth several measures that have attracted bipartisan support and have been introduced in bills during the 117th session of Congress. These include further increasing the age at which required minimum distributions (RMDs) must be taken, enhancing automatic enrollment and escalation features, authorizing the formation of 403(b) pooled employer plans (PEPs), and clarifying the start up credit available to small businesses starting a retirement plan. Bills offering additional opportunities for military spouses to save, help for workers to save while paying back student loans, increased age requirements and amount of catch-up contributions allowed for Baby Boomers as they near retirement, and an enhancement of the current Savers Credit have also been introduced.

Further Increase the RMD Age and Modernize RMD Rules

Workers and retirees today face an increased risk of outliving retirement assets because of longer lifespans. Under current law, workers and retirees must take a required minimum distribution (RMD) when they reach the age of 72. The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) contains a provision which would increase the RMD age to 75, allowing workers and retirees to have additional time to keep their savings in tax-deferred retirement accounts. The bill would also modify RMD rules to exempt certain annuity benefits and payments from the minimum income threshold test (MITT) to reflect more current circumstances regarding individuals' working years and longevity. The proposed changes contained in the bill would allow more workers to accumulate and grow savings and, thereby, improve their retirement security.

Increase Automatic Enrollment Contribution Rates and Enhance Automatic Plan Features

Automatic enrollment in an employer-provided retirement plan has proven to be an extremely effective tool for encouraging Americans to save for retirement. Research shows a plan with automatic enrollment features increases participation rates at least 10 percentage points. When there is an employer matching contribution, the likelihood an employee will participate goes up to 50 percent. A June 2021 study

[6] "Navigating the Pandemic: A Survey of U.S. Employers," Transamerica Institute, June 2021.

by Principal Financial Group [7] found that 84 percent of employees automatically enrolled in a workplace plan say they started saving for retirement sooner because they were automatically enrolled than if they had to make that decision independently. The same survey found that 87 percent of plan sponsors increased plan participation through the use of automatic enrollment. The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) would direct the Secretary of the Treasury to develop regulations to simplify and clarify the rules governing the timing of participant notifications, specifically for employees who are enrolled immediately upon hiring and for employers who utilize multiple payroll and administrative systems. This measure will help workers save more for their retirement by ensuring they are informed in an effective manner when automatically enrolled in a workplace retirement plan unless they opt not to participate.

Authorize the Formation of 403(b) PEPs

The SECURE Act contained provisions that will make workplace retirement plans more available to small business employees and reduce barriers that have discouraged small business employers from offering their employees a workplace retirement plan. It amended the law governing multiple employer plans (MEPs) and established pooled employer plans (PEPs). The changes made by the SECURE Act will enable small employers to band together and delegate responsibility to a professional fiduciary while reducing the individual cost of offering a retirement plan.

A recent study conducted by Transamerica [8] demonstrates that the changes made by the SECURE Act will encourage more small business employers to offer their employees a retirement plan. The study found that of the employers not anticipating offering a plan within the next two years, nearly one-third would consider joining a multiple employer plan MEP or PEP because of their reasonable cost.

Unfortunately, the benefits of a workplace retirement plan that could be offered by a small business employer through a MEP or PEP in accordance with the changes made by the SECURE Act is not available to 501(c)(3) nonprofits, public educational organizations, and religious institutions. The SECURE Act did not authorize employers who offer their employees a 403(b) retirement plan, which is typically utilized by nonprofit, public educational organizations, and religious institutions, to use MEPs or PEPs. Those employers offering a 403(b) retirement plan still have the barriers in place that the SECURE Act reduced for employers who offer other types of retirement plans. As a result of not including 403(b) plans in the SECURE Act, organizations eligible to offer a 403(b) plan must still assume the financial and administrative challenges and legal risks when offering a plan. Therefore, many do not offer a retirement plan to their employees.

The SECURE Act should be amended to encourage employers who would typically use a 403(b) plan to offer a retirement plan to their employees by authorizing these organizations to form and use 403(b) PEPs in the same manner as other small businesses are permitted to do so under the SECURE Act. This change would relieve nonprofit, public educational and religious institution employers of the burdensome administration challenges that now discourage them from offering their employees a workplace retirement plan and give them access to the same economies of scale now available to other small businesses. This measure was included in the *Improving Access to Retirement Savings Act* (S.1703—117th Congress).

Clarifying the Start-Up Credit for Small Businesses Joining a PEP

While the improvements made in the SECURE Act to enhance the tax credit available to small businesses offering their employees a retirement savings plan by joining a MEP or PEP, the start-up credit is not available to a small business joining a MEP or PEP after the plan's first 3 years of operation. The *Improving Access to Retirement Savings* (S. 1703—117th Congress) will clarify that the 3-year start-up credit will apply to small businesses for three years from the time the small business joins the MEP or PEP and not from the time the MEP or PEP begins operations. This clarification will encourage more small businesses to offer a retirement plan and facilitate greater use of MEPs and PEPs as the means to provide employees a workplace retirement plan.

[7] "Principal Retirement Security Survey: Consumer and plan sponsor results," Principal Financial Group, June 2021.
[8] "Navigating the Pandemic: A Survey of U.S. Employers," Transamerica Institute, June 2021.

Enhance the Start-Up Tax Credit to Encourage Small Business to Establish Plans

Current law allows small employers to receive a tax credit equal to half of the cost associated with starting a workplace retirement plan. Although the SECURE Act increased the annual cap allowed for this tax credit, the increased percentage has not had its desired effect of encouraging more small employers to offer their employees the opportunity to save for their retirement at their workplace. The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) will further increase the tax credit to 75 percent of startup costs for small businesses with 25 or fewer employees. The increase to 75 percent of qualified start-up costs will serve to encourage more small business employers to establish workplace plans to benefit their workers.

Establish Tax Incentives for Offering Retirement Savings to Military Spouses

Due to frequency of moves made due to their partners' assignments to new billets, military spouses often change jobs. Further compounding the problems associated with frequent changes in duty stations and retirement preparedness of military spouses is the fact that 92 percent of military spouses are women,[9] who due to a confluence of factors—wage disparity, time out of the workforce, and competing priorities—have retirement account balances which are on the aggregate more than 50 percent smaller than their male counterparts.[10] The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) will offer a tax credit to an employer who enrolls a military spouse in a retirement plan within 2 months of their hiring. This new tax credit would encourage small business employers to provide military spouses with an opportunity to participate in a workplace retirement plan and would also increase military spouses' savings rate by requiring that they be made eligible for any matching or non-elective contributions like those available to employees with two or more years of employment.

Help Employees Save for Retirement While Repaying Student Debt

Student loan debt is a major challenge for America's workers who are trying to manage competing financial priorities. Individuals who have student loan debt have lower workplace retirement balances than those who do not. In fact, IRI's own research found that of 46 percent of Millennials are not saving for retirement, and nearly 10 percent specifically cite wanting to pay off debts as their reason for not contributing to a retirement account.[11] The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) will better position America's workers who have incurred student loan debt to start building their retirement nest eggs by permitting employers to make matching contributions into employees' retirement accounts based on the amount of workers' student loan payments.

Increase Catch-Up Contributions Limits for Baby Boomers

Current law allows workers who reach age 50 to make additional catch-up contributions to retirement plans up to an amount set by the Internal Revenue Service each calendar year. Current research demonstrates dramatic retirement anxiety among Baby Boomers. A study conducted by the Center for a Secure Retirement[12] found that 52 percent of non-retired Baby Boomers are worried that the impact the COVID–19 pandemic had on their financial lives has been so severe they will never be able to retire. More than half (53 percent) report having to tap into savings to pay for daily expenses during the pandemic, and 41 percent have been financially supporting family members. This has led to 75 percent not being able to save as much for their retirement as needed. It is not surprising then that 61 percent of non-retired Baby Boomers came to the realization that they will need more savings to be secure in retirement. This is further compounded by IRI's own research that found that 45 percent of Baby Boomers have zero retirement savings.[13] The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) increases the catch-up contribution limits to $10,000 for retirement savers who have attained the age of 60 by the close of a tax year. With a third of employed Baby Boomers saying

[9] "Women Versus Men in DC Plans," Vanguard, January 2019.

[10] "Women's Perspectives on Savings, Investing, and Retirement Planning," Insured Retirement Institute, November 2015.

[11] "Millennials and Retirement 2020—Understanding, Saving, and Planning," Insured Retirement Institute, January 2020.

[12] "Pandemic Forces Boomers to Financially Support Family, Greatly Impacting Their Own Retirement Plans," Center for a Secure Retirement, July 2022.

[13] "Boomer Expectations for Retirement 2019, Ninth Annual Update on the Retirement Preparedness of the Boomer Generation," Insured Retirement Institute, April 2019.

they will be postponing retirement,[14] this measure will give them a chance to enhance their nest eggs and achieve greater financial security for their retirement years.

Increase the Amount Allowable Under the Saver's Credit

Under current law, certain lower-income retirement savers are eligible for a non-refundable tax credit for contributions made to IRAs and workplace retirement plans up to $2,000. Section 102 of the *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) would make this credit refundable and would contribute the credit into a Roth account as part of a retirement plan or into a Roth IRA. The provision would increase the number of savers eligible for the 20 percent credit. The bill also directs the Department of the Treasury to promote the Saver's Credit to increase public awareness to help more workers utilize the credit.

Measure 2: Facilitate the Use of Protected Lifetime Income Solutions

IRI's 2021 Federal Retirement Security Blueprint includes several measures to facilitate the use of protected lifetime income solutions to insure consumers against the risk of outliving one's savings during their retirement years. Several of these proposals have been introduced in bills during the 117th session of Congress. We offer these policy solutions for the Committee's consideration as it conducts its examination of how Congress can help to build upon bipartisan retirement legislation.

Allow for the Broader Use of QLACs

Qualifying Longevity Annuity Contracts (QLACs) are valuable tools in retirement income planning because they are an investment vehicle that can be used as longevity insurance to help address the fear of growing older and outliving the funds an individual has accumulated to use during their retirement years. Current Treasury Department regulations have created a barrier that limits the amount a retirement saver can save when purchasing a QLAC. This regulation reduces their ability to insure against outliving their savings throughout their retirement years. The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) amends the current law to allow for more than 25 percent of a retirement plan or IRA to be rolled over into a QLAC and increases the dollar limitation on premiums from $135,000 to $200,000. Additionally, the provision would authorize a diverse slate of indexed and variable annuity contracts with guaranteed benefits to be offered as QLACs. Increasing the dollar limitation on premiums and authorizing QLACs to be offered through a diverse slate of indexed and variable annuity contracts with guaranteed benefits are critical reforms needed to make QLACs more available to workers and retirees. Increased access to QLACs benefits consumers who are seeking the opportunity to insure against the risk of outliving their accumulated retirement savings by keeping more of their tax-deferred savings longer with a protected, guaranteed monthly income throughout their lifetime.

Facilitate the Use of Low-Cost ETF Investments in Variable Annuities

Currently, exchange-traded funds (ETFs) are widely available through retirement plans, IRAs, and taxable investment accounts but generally are not available within variable insurance products. The reason why they are not available is that Treasury Department regulations, which pre-date ETFs, have created a technical gap that prevents ETFs from being included on the menu of investment options offered in variable insurance products. The *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) directs the Treasury Department to amend its regulations to allow ETFs to be offered within variable insurance products. This would allow for ETF structured annuity offerings which would provide consumers with lower-cost investment options and allow for more consumers primarily in the fee-based advisory market to utilize and benefit from variable insurance products by obtaining protected lifetime income for their retirement years.

Measure 3: Promote Greater and Easier Access to Information About Retirement Plans

To promote greater and easier access to information that can help guide retirement savers as they plan for retirement, IRI's 2021 Federal Retirement Security Blueprint included several measures that have attracted bipartisan support and have been introduced as bills in previous sessions of Congress. One of the measures included in the *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) would aid individuals in planning for their retirement by providing them with an opportunity to obtain information more readily about past and possibly forgotten accounts.

[14] *Ibid.*

Establish a National, Online Lost and Found for Americans' Retirement Accounts

Today, workers in America change jobs more frequently, and they often leave retirement savings in plans maintained by their previous employers. Over the past decade, 25 million workplace retirement plan participants changed jobs and left behind a retirement savings plan. Millions more have left two or more accounts resulting in roughly $8.5 billion in "lost" retirement savings. To facilitate workers planning for their retirement, Congress should provide the tools and resources necessary for retirement savers to locate employer-sponsored retirement accounts. A national, digital database utilizing information already provided to the Department of Treasury should be established. This database would enable retirement savers to search and locate their former employer-sponsored retirement savings accounts to ensure they are not leaving retirement savings behind.

The creation of this one-stop-shop database will help workers—especially Generation Xers, Millennials, and future generations—to track their past and possibly forgotten workplace retirement accounts. By making it easier to track past or forgotten retirement savings accounts, workers will have additional opportunities to roll over their found savings into a new account of into their current retirement savings account, thereby increasing their retirement savings. Creating a national, online lost and found database will also allow workers to keep better track of their employer-sponsored retirement savings and not leave thousands of dollars on the table. This measure was included in the *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress).

Conclusions

IRI appreciates the opportunity to submit this statement for the record to the Committee. The enactment of the SECURE Act in late 2019 was a big step forward that has put workers and retirees on a path towards relieving some of the anxiety they are feeling about how they will be able to have a secure and dignified retirement.

However, there is still much more that needs to be done. IRI is respectfully submitting this statement for the record in which we are expressing our support for several measures included in the *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) and the Improving Access to Retirement Savings Act (S. 1703—117th Congress). These bills will help to strengthen and enhance our nation's private-sector retirement system. The bills will also offer help to those individuals whose long and short-term retirement security has been impacted by the economic consequences stemming from the pandemic and those who are affected by America's long-standing, looming retirement savings crisis.

The proposals we expressed support for included in the *Retirement Security and Savings Act of 2021* (S. 1770—117th Congress) and the Improving Access to Retirement Savings Act (S.1703-117th Congress) will all help to enhance retirement savings opportunities, increase access to lifetime income solutions, and increase plan participants access to information to reconnect them with "lost" savings. IRI believes these solutions will provide workers and retirees with the opportunity to build economic equity, strengthen their financial security, and protect their income in a way that can sustain them throughout their retirement years.

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July 28, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
239 Dirksen Senate Office Building

Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

On behalf of NAFA, the National Association for Fixed Annuities, I want to thank you for your ongoing leadership to achieve critical retirement policy reforms for Americans and for holding this important hearing today. NAFA appreciates the opportunity to submit this letter in support of S. 1770, the Retirement Security and Savings Act, offered by Senators Ben Cardin and Rob Portman.

In 2019 Congress took a significant step forward for retirement savers by passing into law the Setting Every Community Up for Retirement Enhancement Act (SECURE Act). This overwhelmingly bipartisan measure is helping create new savings opportunities for millions of Americans. While NAFA lauded the enactment of the SECURE Act, now more than ever, especially as Americans work to recover from the adversities of the COVID–19 pandemic, additional robust retirement options are needed.

NAFA supports the many positive policy changes contained in S. 1770, including facilitating catch-up contributions, providing for expanded auto enrollment, and helping small businesses provide savings plans for workers. Additionally, NAFA is pleased that there are provisions to address longevity risk. In particular, we strongly support increasing the requirement minimum distribution (RMD) age to 75 and expanding opportunities for greater savings in qualified longevity annuity contracts (QLACs). Regarding QLACs, the Retirement Security and Savings Act would allow for greater contribution levels and provides for expanded annuity product choices.

We hope the Finance Committee will pass this legislation this fall and that the Senate and House will work together to present a comprehensive retirement package to the President for signature later this year.

Sincerely,

Chuck DiVencenzo
President and CEO

NATIONAL ASSOCIATION OF GOVERNMENT DEFINED CONTRIBUTION ADMINISTRATORS

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July 28, 2021

The Honorable Ron Wyden	The Honorable Mike Crapo
Chairman	Ranking Member
U.S. Senate	U.S. Senate
Committee on Finance	Committee on Finance
Washington, DC 20510	Washington, DC 20510

Re: Building on Bipartisan Retirement Legislation: How Can Congress Help?

Dear Chairman Wyden and Ranking Member Crapo:

The National Association of Government Defined Contribution Administrators (NAGDCA) thanks you for your leadership on retirement issues affecting the public and private sectors. We appreciate today's hearing and look forward to future legislation arising out of it.

NAGDCA governmental members oversee plans for participants from 60 state and territorial government entities and 146 local government entities, including counties, cities, public safety agencies, school districts, and utilities. NAGDCA's members administer governmental deferred compensation and defined contribution plans, including Section 457(b), 401(k), 401(a), and 403(b) plans. The association provides a forum for working together to improve defined contribution plan operations and outcomes by sharing information on investments, marketing, administration, and the federal laws and regulations governing these plans.

With as many plans as NAGDCA represents, our legislative priorities are manifold. We outline some of our key priorities below.

Allow 403(b) Plans to Invest in Collective Investment Trusts

Under current law, private sector 401(k) plans are permitted to invest in collective investment trusts ("CITs"), an innovative investment option that utilizes unique asset classes and lifetime income options. CITs often have lower costs than the mutual funds and annuity contracts that many governmental 403(b) plans are currently restricted to investing in. Governmental plans serve the workers who are the backbone of our society: teachers, firefighters, police, and otherpublic servants. Allowing 403(b) plans to invest in CITs would correct the inequitable treatment of governmental employees and allow these public servants to access the innovative solutions and potentially lower costs that CITs offer to their private sector counterparts.

Eliminate the "First Day of the Month" Requirement in 457(b) Plans

Under current law, deferral election changes in 457(b) plans must be made prior to the first day of the month in which the change is to begin. This provision was enacted as an administrative convenience prior to the advent of modern record keeping technology, but now it is an administrative inconvenience that delays requested changes and creates an unnecessary impediment to participants' ability to manage their retirement assets. This restriction is not imposed on other retirement savings plans and should no longer apply to 457(b) plans.

Allow Roth IRA Assets to Roll into 401(k), 457(b), and 403(b) Roth Plans

If a plan permits it, participants may roll Roth account assets from an employer-sponsored plan into a Roth account in another employer-sponsored plan, but current law does not allow them to roll Roth IRA assets into Roth accounts in employer-sponsored plans. Allowing Roth IRA rollovers to Roth accounts in employer-sponsored governmental DC plans would help participants achieve consolidation, enhanced portability, and administrative simplicity.

Maintain the Special Catch-Up Provision in 457(b) Plans

Under current law, a governmental 457(b) plan may include a special catch-up contribution provision allowing a participant to make additional contributions to their plan in the last three years before retirement. This provision is widely used because government employees often are not in a financial position to save extensively in their early years in public service, so employees nearing retirement often make every effort to save extra contributions. The provision is also frequently used by retiring governmental employees to defer significant payments made to them upon their severance for accumulated vacation, sick leave and compensation time benefits. Without the special catch-up, these employees would have to recognize the additional income in the year of payment and assume a significant tax burden. We request that this special catch-up for 457(b) plans be retained to allow public servants to continue to save for retirement.

Preserve Unique Plan Features, Generally

NAGDCA believes that the existing unique plan features of the different types of governmental DC plans should not be changed merely for the sake of creating consistency with other plan types (*e.g.,* merely for streamlining or consolidation). Changes to the existing plan structure are likely to be confusing to participants, creating risks of lower participation and savings. In addition, changes could introduce potentially significant costs for modifying recordkeeping systems, and those costs would likely then fall on plan participants. In addition, plan providers may need to maintain the existing infrastructure for any grandfathered assets, resulting in more administrative complexity and participant communications challenges.

Preserve Both Pre-Tax and Roth Savings Options

NAGDCA supports maintaining both pre-tax and after-tax savings options. Mandating a shift in retirement incentives toward after-tax savings could have adverse unintended consequences that have not been studied and could result in reduced retirement savings and decreased retirement security overall. NAGDCA's 2018 Benchmarking Survey found that while 62 percent of plans offered a Roth option, only .3 percent of reported assets were Roth assets. Roth contributions are an option that are not fully understood or fully utilized by governmental defined contribution plan participants. Furthermore, Roth contributions appeal to some but not all of our participants. The immediate tax advantage created by pre-tax saving is an effective incentive for employees to enroll and to save. Losing or reducing that incentive would be detrimental to the goal of early enrollment and future retirement security. Therefore, retaining both pre-tax and Roth savings options provides the flexibility to be supportive of and responsive to the diverse needs of our participants and support their retirement readiness.

We appreciate your longstanding attention to retirement policy and are happy to be a resource to you in any way. Please call David Levine (202–861–5436), Brigen Winters (202–861–6618), or Matt Petersen, NAGDCA Executive Director (859–469–5789) if you have any questions.

Sincerely,

Joshua Luskin
Board President

PEW CHARITABLE TRUSTS

My name is John Scott, and I direct the Retirement Savings Project *(https://www.pewtrusts.org/en/projects/retirement-savings)* at the Pew Charitable Trusts. Pew is a nonpartisan, nonprofit research organization dedicated to applying evidence-based solutions to today's pressing public policy problems. I want to thank Chairman Wyden and Ranking Member Crapo for holding this hearing and considering how Congress, building on its long history of bipartisanship on retirement policy, can help improve retirement security for older Americans.

Pew's involvement with retirement security extends back to 2004 when it funded the retirement security project at the Brookings Institution, which among other activities generated key proposals on automatic enrollment that has significantly boosted participation in employer-sponsored retirement savings plans as well as provided the foundation for today's state-facilitated auto-IRA programs. In 2014, Pew initiated the retirement savings project to understand the barriers that workers face in trying to save for retirement; the challenges to small business in offering retirement benefits to workers; and feasible solutions to these issues. In the course of our work, we focused on state auto-IRA programs as a feasible solution that would boost participation and savings among groups of workers that have historically not had access to retirement savings plans.

I'd like to focus this statement on three areas: the Chairman's proposed expansion of the Saver's Credit that could significantly improve retirement security; the development of state facilitated auto-IRA programs, especially the positive effects on employers and the private market for retirement plans; and a need to develop a coherent national retirement security policy.

Expanding the Saver's Credit

There are many proposed legislative initiatives that have been introduced in this Congress, but in the interests of brevity, I would like to limit this statement to the proposed expansion of the Saver's Credit that, based on Pew's work, could significantly improve retirement security for many low to moderate income workers.

I am especially appreciative of Chairman Wyden's leadership in proposing an expansion of the Saver's Credit in the Encouraging Americans to Save Act *(https://www.congress.gov/bill/116th-congress/senate-bill/5035?s=1&r=9)*, an idea that has bipartisan appeal as evidenced by a similar proposal from your colleagues Senators Ben Cardin (D–MD) and Rob Portman (R–OH). As you know, the Saver's Credit currently provides a nonrefundable tax credit of 50%, 20%, or 10% of the first $2,000 of contributions to a retirement account during the year (up to a maximum of credit of $1,000), depending on a household's adjusted gross income. As currently structured, the Saver's Credit does not have a direct impact on retirement accounts. The credit is nonrefundable so it can reduce any required tax repayment to zero but not below. Moreover, the Saver's Credit is also reduced for households with children because it is applied after the nonrefundable Child Tax Credit.[1]

Chairman Wyden's proposal would revise the Saver's Credit in three ways. First, the proposal expands eligibility for the credit by increasing the income maximum to $32,500 for individuals and to $65,000 for couples, with the maximums indexed for inflation. This increase in income limits would increase the pool of savers eligible for the credit.

Second, the Chairman would also make the credit refundable so low to moderate income workers, who often do not have an income tax liability to offset with a credit,

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[1] The Center for Retirement Research at Boston College has an excellent issue brief that provides helpful illustrations of the Saver's Credit and its shortcomings: Alicia Munnell and Anqi Chen, "Could the Saver's Credit Enhance State Coverage Initiatives?", Issue Brief Number 16–7, April 2016.

could receive a direct benefit. Third, and most critically, the credit would be deposited directly into the retirement account, including an individual retirement account (IRA), of the saver.

The Chairman's legislation also provides for a coronavirus recovery bonus credit. The bonus credit is an additional 50% credit on the first $10,000 in retirement savings made during a five-year period beginning in 2023—for a maximum additional credit of up to $5,000

Participation boost: The proposal could boost retirement security in two ways. First, the revamped Saver's Credit could act as a quasi-matching contribution that would encourage greater participation by working Americans who need to save for retirement. Like many other research organizations, Pew has found that the presence of a matching or employer contribution increases participation by workers. In our 2016 national survey of workers *(https://www.pewtrusts.org/en/research-and-analysis/reports/2017/09/survey-highlights-worker-perspectives-on-barriers-to-retirement-saving)* at small to mid-sized firms, for example, fulltime employees were more than twice as likely to participate when employers contribute to their retirement accounts than workers whose employers do not contribute. When we asked workers their reactions to a hypothetical auto-IRA program, the least favorable reaction was to the lack of an employer contribution. And according to Pew's analysis *(https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/09/employer-sponsored-retirement-plan-access-uptake-and-savings)* of the Survey of Income and Program Participation (SIPP), take-up rates rise by 18 percentage points when employers match worker contributions.

Today, approximately 68% of eligible workers, almost 400,000, are saving in the three operational state auto-IRA programs, but if a contribution in the form of a refundable tax credit has the same effect as found in the SIPP, that participation rate could jump to nearly 86% with more than 100,000 additional savers in just those three states. Beyond just the jump in overall participation, a refundable tax credit acting as a matching contribution could induce younger workers to start saving earlier in their careers, which would be an especially impactful benefit as their savings would have more time to grow through investment returns.

Increase in retirement savings: The other benefit of an expanded Saver's Credit is the increase in savings. If a saver put away $2,000 a year over a 30-year career and earned a real rate of return of 5% per year, that person would have $139,522. If that saver qualifies for the full $1,000 Saver's Credit each year by saving under the same assumptions, they would have $209,282 by year 30. In other words, an expanded Saver's Credit could increase retirement savings by nearly $70,000.

Given that the median private sector retirement account balance for households in their late 50s and early 60s is less than $100,000,[2] the proposed expansion of the Saver's Credit would lift many older households out of a situation of financial vulnerability. The additional funds would enable retiring workers to delay claiming of Social Security *(https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/03/how-auto-iras-help-retirees-delay-claiming-social-security),* boosting their benefits by 7 to 8% for each year that claiming is delayed. The additional savings would also provide a critical buffer for unexpected financial shocks in retirement, not least of which are medical bills that are not covered by Medicare or private insurance and that are a leading cause of debt in old age. The expanded Saver's Credit might also make annuities, whether life or delayed/longevity insurance, more meaningful and thereby provide an additional income stream to supplement Social Security.

Streamlining the process: Depositing a tax credit directly into a saver's retirement account will involve some technical work, and I would encourage the Congress to work with the administration in making this process even more efficient. Currently and under the proposals for expansion, the saver must file a tax return to claim the Saver's Credit. The problem with this requirement is that some citizens do not file a return and even for those that do file, they may not know about the Saver's Credit. The Earned Income Tax Credit is often given as an example of a benefit that is not claimed by as many as 20 percent of eligible taxpayers *(https://www.eitc.irs.gov/eitc-central/participation-rate/eitc-participation-rate-by-states).* But it might be possible to streamline the process for depositing the Saver's Credit given that financial institutions managing and holding retirement savings track and re-

[2] Vanguard, *How America Saves,* 2021, *https://institutional.vanguard.com/content/dam/inst/vanguard-has/insights-pdfs/21_CIR_HAS21_HAS_FSreport.pdf,* Figure 52: The median account balance for participants between the ages of 55 and 64 is $84,714.

port contributions and that the Social Security Administration as well as the IRS have data on wages and salaries. At the direction of Congress, for example, the Treasury Department and the Social Security Administration could explore ways to make the depositing of the Saver's Credit as efficient as possible.

State-facilitated Auto-IRA Programs (Auto-IRAs)

As a precursor to the discussion on a national retirement policy, I'd like to summarize what we know about the biggest innovation today, state-facilitated automatic enrollment programs also known as auto-IRAs. As discussed above, auto-IRAs are extending coverage to a new class of workers who largely have not saved for retirement. Auto-IRAs were intentionally designed with automatic enrollment, a feature of some private sector plans that increases employee participation and savings.

The idea of an automatic enrollment, payroll deduction IRA program took hold at the state level with California passing legislation for a market study in 2012 and eventually program enactment in 2016. Today, 9 states in total have enacted auto-IRAs. Three states—California, Illinois, and Oregon—are active and enrolling savers.

The metrics so far are impressive. According to the consulting firm Massena Associates *(https://myemail.constantcontact.com/Retirement-Security-Matters---July-15--2021.html?soid=1133778904165&aid=swvPsJGI6cI),* combined assets are now over $275 million—a quarter of a billion dollars saved across the three programs. Program assets are up almost 60% since the start of the year. Funded accounts are over 346,000—up 31% year to date double where they were at the end of September 2020. Average account balances are at $770, which includes many new accounts. Average contributions in each of the programs are running at or over $115 a month. As noted above, participation is approximately 68%.

Effects on employers: An important aspect of the discussion about auto-IRAs is the effect on employers, an issue that Ranking Member Crapo raised during the hearing. Across the three programs in operation, more than 34,000 employers have now registered, and over 14,000 have started payroll deductions for their employees.

In Oregon, Pew surveyed participating employers *(https://www.pewtrusts.org/en/research-and-analysis/articles/2020/07/30/employers-express-satisfaction-with-new-oregon-retirement-savings-program)* in 2019 and 2020 to assess how they experienced the initial registration and ongoing payroll contribution processes. Nearly 3 in 4 (73%) said they were either satisfied or neutral about the program.

OregonSaves does not charge businesses any participation fees, and 79 percent said that they have not experienced any related out-of-pocket costs. Those that have faced additional costs said office supplies and payroll processing time were the most common. Eighty percent also said that they are hearing only "a little" or "no questions at all" from their employees about OregonSaves. One reason for that may be that workers are helped directly from the program's client service team.

This positive reaction among employers to a no-cost retirement benefit can also be seen in California. As of August 31, 2020, before any enrollment deadline, 2,249 firms employing nearly 100,000 workers had enrolled. More than 700 companies had started processing payroll contributions, and the program had amassed over $8.7 million in assets.

Why the positive response? According to Pew's 2017 survey *(https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/06/employer-barriers-to-and-motivations-for-offering-retirement-benefits),* many employers want to offer retirement benefits to their workers but say they cannot because of high startup costs and limited administrative capacity. Some said they see offering retirement benefits to attract and retain workers, but 67% of those who supported auto-IRAs said they felt such a program simply "would help my employees."

In the more recent survey in Oregon, responses to an open-ended question reflect similar sentiments about OregonSaves. Among the answers were:

- "It has been an easy and transparent method for our employees to begin saving for their future. As a very small business it has been so appreciated as other options seemed out of reach for us."
- "It is great having a free option for savings for our employees. We eventually want to offer our own program, but this is nice for the time being."
- "I do appreciate the program overall. It helps younger staff start saving early. From a small business that can't afford to have a retirement plan it is a nice option for our team."

The work of Pew and others show that there is significant small business support for a public-private partnership that can help employers facilitate a benefit at no cost that helps workers build a secure retirement.

State auto-IRA effects on private sector market: As more states enact auto-IRAs for private sector workers who can't save through their jobs, policymakers and analysts have speculated about the potential impact on employers: Would these state programs "crowd out" the private market for plans such that businesses would not adopt their own 401(k)s or comparable alternatives? Would some employers decide to no longer offer their own plans? Or, alternatively, could these programs encourage new plan growth?

These questions are rooted in earlier surveys. In 2017, Pew published the results of national survey of small-business owners *(https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/01/small-business-views-on-retirement-savings-plans)* and benefits managers that detailed their views of hypothetical auto-IRA programs. Among those with retirement plans and five to 250 workers, only 13% said they would drop theirs and enroll in such a program if launched in their state.

Among small and midsize employers without plans, 52% said that they would start their own plan rather than enroll workers in the state-sponsored program. That survey also suggested one reason that these employers might be prompted to adopt their own plans: Most of them won't offer retirement benefits until they are financially stable and already offering other benefits. The availability of a statewide auto-IRA might encourage those employers that have the means but have not decided to sponsor their own plans.

Preliminary data from annual filings to the U.S. Department of Labor by employer-sponsored plans suggests that in states that have created auto-IRAs, employers with plans continue to offer them and businesses without plans are still adopting new ones at similar or higher rates than before the state options were available.

Since 2013, before the first state auto-IRA programs were introduced, the percentage of new plans as a share of all employer-sponsored plans increased nationwide from roughly 6% to nearly 8% by 2019.

The three states implementing state auto-IRA programs show a similar trend—with the proportion of new plans holding steady or increasing in each. In 2019, for example, Oregon and California had some of the highest proportions of new plan adoption, with Illinois' proportion just slightly lower than the national average (Figure 1).

During the same period, the proportion of employer sponsors terminating or ending their plans was consistently about 4% of all plans, both nationwide and in the states implementing auto-IRA programs (Figure 2). The share of plans that were ended began to trend down slightly toward the end of the period: The U.S. average and the proportion of plans terminated in California, Oregon, and Illinois fell to just 3% in 2019.

This early evidence from California, Oregon, and Illinois indicates that auto-IRAs appear to complement the private sector market for retirement plans such as 401(k)s. Some employers may be moving toward plan sponsorship in response to the state auto-IRA programs. Meanwhile, those that cannot afford their own plans can take advantage of a no-cost, basic savings program for their workers.

Steps Toward a Comprehensive National Retirement Policy

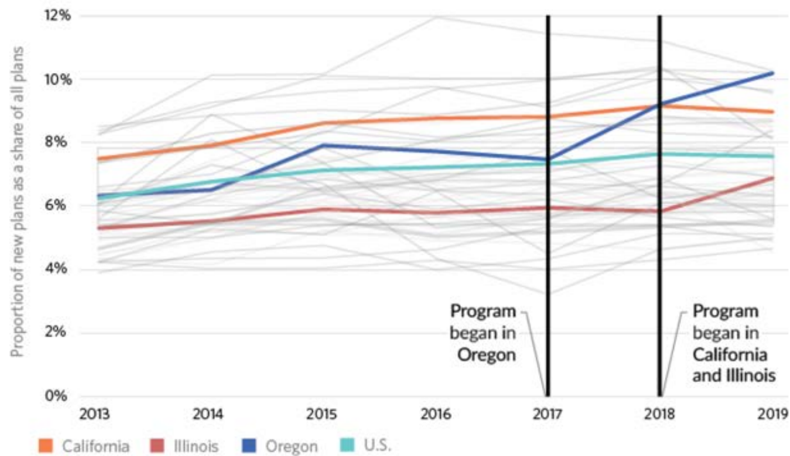
The interaction between auto-IRA programs and the private market for retirement plans just discussed provides a segue to the topic of national retirement policy. In just 3 years, we will reach the 50th anniversary of the passage of the Employee Retirement Income Security Act (ERISA). While enormous progress has been made in retirement policy since 1974, much more needs to be accomplished, and in some areas we may have slid backwards in terms of ensuring employee retirement income security.

Employees amass the bulk of their retirement savings through workplace plans. After the IRS released regulations implementing the 401(k) plan in 1981, we have seen a large increase in the number of savers because of employers adopting these plans. However, that progress was offset by the decrease in the number of defined benefit (DB) plans.

Figure 1

Employers Continue to Launch Retirement Plans in Auto-IRA States

Data shows share of new plans steady or up after state-sponsored savings options enacted



Source: The Pew Charitable Trusts' calculations from Form 5500 data filed by employers with the U.S. Department of Labor

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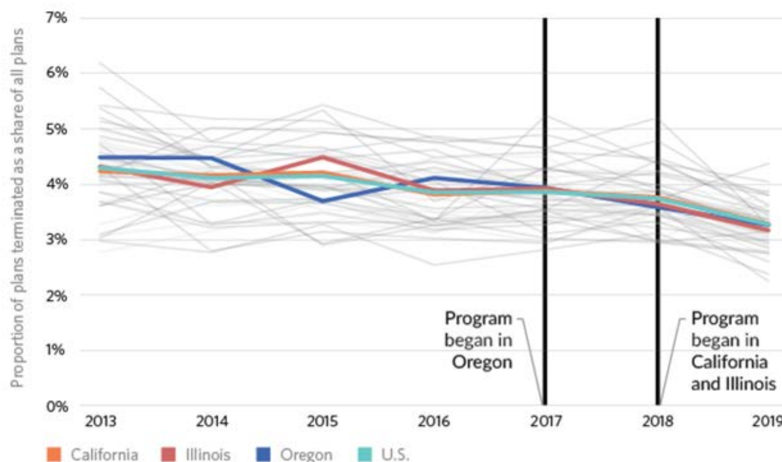
Figure 2

Proportion of Retirement Plans Terminated by Private Sector Employers, 2013 to 2019

Little change nationwide or in states that enacted auto-IRA plans



Source: The Pew Charitable Trusts' calculations from Form 5500 data filed by employers with the U.S. Department of Labor

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Moreover, this shift from DB to defined contribution (DC) plans like 401(k)s has meant more decision-making burdens for workers, who are not up to performing so many complicated tasks such as deciding how much to save, how to invest savings, and how to spend down savings in retirement. For example, our own research *(https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/11/many-workers-have-limited-understanding-of-retirement-plan-fees)* has shown that many plan participants do not read fee disclosures or even when they do, they do not understand them, potentially exposing their savings to high fee investments. The shift of burdens from employers and the government too workers has meant that workers are not as well prepared for retirement as they could be even with behavioral-based tools like automatic enrollment and automatic escalation of contributions.

While the auto-IRA programs exhibit innovation and an increase in coverage in a way that complements the voluntary, employer-based system, they suffer from the same shortcoming as employer plans: the burden is on workers to achieve their retirement security. Moreover, the development of auto-IRA programs has been haphazard across the states, and while programs are similar from state to state, there are differences in terms of coverage and scope.

Social Security also is showing signs of aging as it faces a funding shortfall. Without action by Congress, retirees face a significant benefit cut. We all assume that Congress will act in time, but continued inaction erodes the faith in the system and narrows options for a long-term solution.

All these forces taken together suggest that we need to revisit national retirement policy as we approach ERISA's 50th anniversary. ERISA promised to create a coherent policy that would support a decent standard of living in retirement. As I discussed above, the state auto-IRA programs appear to complement the private employer-sponsored retirement system, but despite these and other innovations, retirement policy is developing in a piecemeal and halting fashion with a consequent and ongoing erosion in retirement security except for a privileged minority. The goals of access to retirement plans, high participation, and credible income security in old age should be revisited and reformulated as a shared responsibility among workers, employers, and the government.

Congress might consider a national commission on retirement security for private sector workers as a step towards a national savings program. Any commission should address the whole scope of retirement preparation, the tax structure supporting retirement security, the role of the key stakeholders, and the need for legislative action including revisiting the key assumptions underpinning ERISA.

* * *

Thank you for holding this hearing and providing an opportunity to submit our views. I would be happy to supplement this statement with additional information.

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July 28, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

Re: Building on Bipartisan Retirement Legislation: How Can Congress Help?

Dear Chairman Wyden and Ranking Member Crapo:

Retirement Clearinghouse ("RCH") thanks you for your leadership on retirement issues and your commitment to helping Americans retire with dignity. Today's hear-

ing is critically necessary to highlight the importance of access to retirement vehicles for all citizens.

RCH is a financial technology services organization uniquely focused on the issues that arise because of the proliferation of small retirement accounts. We work every day with plan sponsors and service providers to deal with those issues and have pioneered solutions, like Auto Portability, that are proven to deliver unprecedented benefits to America's defined contribution system.

Auto Portability is the routine, standardized, and automated movement of a retirement plan participant's 40l(k) savings from their former employer's plan to an active account in their current employer's plan. Cashing out is one of the most detrimental choices a person can make when it comes to retirement readiness. A hypothetical 30-year-old worker who cashes out a $5,000 401(k) savings account today will forfeit the $30,000 that the balance would have accrued by age 65.

Fortunately, RCH has developed Auto Portability to specifically reduce the risk of people cashing out their retirement savings when they are involuntarily moved from an employer's plan into an IRA. Using new technology, RCH searches the databases of retirement account record keepers and looks for duplicate accounts. When RCH finds a match, we contact the account holder and ask if they would like to roll over their old account into their new account. The account is then automatically transferred unless the participant opts out. Extensive privacy safeguards are in place to ensure personal data is never compromised.

We are proud to have recently partnered with Alight Solutions to make Auto Portability available to their 5 million plan participants by the end of 2021, and we look forward to bringing Auto Portability to more Americans in the future. Expanding Auto Portability is good policy: under a scenario where Auto Portability is implemented over the course of 10 years and stays in effect for a generation, we estimate that more than 125 million workers would avoid cashing out their small-balance accounts and, instead, preserve their savings in their current-employer plans. Furthermore, $1.5 trillion would be added to Americans' retirement savings (measured in today's dollars).

Auto Portability is just one piece of the retirement puzzle. We appreciate your commitment to improving retirement security for all Americans and your attention to this critical issue. Should you have any questions or require additional information, please do not hesitate to let us know.

Sincerely,

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What's the Best Way to Address Our Nation's Retirement Shortfall?

There is no doubt this nation is confronting a retirement crisis. According to the Government Accountability Office's 2015 report, "Most Households Approaching Retirement Have No Savings," about 55 percent of households age 55–64 have less than $25,000 in retirement savings, including 41 percent who have zero.[1]

Nearly three-quarters of Americans surveyed by SimplyWise, a financial technology firm, in their July 2020 Retirement Confidence Index said they were worried about retirement and another 20% said they intend to delay their Social Security benefits.[2]

[1] Government Accountability Office's 2015 report, "Most Households Approaching Retirement Have No Savings."

[2] "More Americans are worried about retirement now and their plans have changed," Allessandro Malito, *MarketWatch,* July 14, 2020.

Ghilarducci's Proposals Have Ranged from Including Hedge Funds and Private Equity in the Plans to Making Them Closer to A Low-Cost, Less Risky Index Fund

Teresa Ghilarducci, an economics professor at the New School for Social Research has proposed that the Thrift Savings Plan *(https://www.tsp.gov/),* or TSP, which is available to federal employees and members of the military *(https://www.militaryonesource.mil/military-life-cycle/new-to-the-military/getting-connected/thrift-savings-plan-options-making-your-retirement-dollars-work-for-you/#:~:text=The%20best%20way%20to%20get,to%20sock%20away%20some%20cash.&text=Any%20contributions%20you%20make%20are,or%20stay%20in%20until%20retirement.),* should be offered to low-income workers who aren't covered by a plan.[3] Employees and employers would each contribute 5% of the employee's salary to the account. However, there are no proposals to cover middle and upper-class workers with no plan—according to the GAO's 2015 report about half of ALL workers over 55 have no retirement savings.[4]

However, while the TSP is admired by many for offering low-cost index funds to its members, it wasn't until 2014 when most of the default assets owned by federal workers switched from G Funds, which invest in low-performing government securities, to the age-appropriate, lifecycle "L Fund" (also known as a target-date fund) with higher returns due to investments in stocks. That switch was the result of the passage of the Smart Savings Act, which was introduced by Senators Elizabeth Warren (D–MA) and Rob Portman (R–OH).[5]

While her proposal is a good start to getting 401(k) plans on track to deliver a solid retirement, there should be concerns about Ghilarducci's collaborator on the current proposal, Kevin Hassett, a visiting fellow at the Hoover Institution. When Hassett was working for the Trump administration on health matters his response to the COVID–19 panic was to downplay the danger of it and push the administration to re-open the economy amid lockdowns and social distancing.[6] Hassett built a model that indicated that COVID–19 deaths would drop off to near zero, contradicting assessments by public health experts, and was widely panned by academics and commentators; the predictions of his model failed.[7,8] What's more, as chairman of the White House Council of Economic Advisors, Hassett released analysis in 2018 indicating that real wage growth under Trump was higher than reported, despite figures indicating that wage growth had not picked up.[9]

It's a relief that Ghilarducci has seen the light when it comes to investment strategy because her previous proposal called for a riskier investment strategy and a lower employer contribution rate. In 2018 as President Biden's pension adviser she teamed up in with Tony James of the Blackstone Group to propose The Retirement Savings Plan, which would require workers and their employers to contribute at least 3 percent of the employee's salary each year into a "Guaranteed Retirement Account" that "could be invested in opportunities typically reserved for institutional investors—less liquid, higher return asset classes. These include high-yielding and risk-reducing alternative asset classes like real estate, hedge funds, managed futures and commodities."[10]

Two problems with the proposal: First, the 3% employer-employee contribution rate is LOWER than the current typical combined employee contribution of 5 percent of pay and employer contribution equal to 3 percent of pay. And by including hedge funds along with private equity as investments the proposal would have moved the retirement funds into riskier investments than those typically featured in 401(k)

[3] "Everyone should have the retirement plans federal employees enjoy," Teresa Ghilarducci and Kevin Hassett, *Washington Post,* March 29, 2020.

[4] GAO Report. *Ibid.*

[5] "Congress passes 'Smart Savings Act' to Strengthen Retirement Savings for Federal Employees," Congressional Documents and Publication, December 15, 2014.

[6] "34 Days of Pandemic: Inside Trump's Desperate Attempts to Reopen America," By Philip Rucker, Josh Dawsey, Yasmeen Abutaleb, Robert Costa and Lena H. Sun, *Washington Post,* May 2, 2020.

[7] "No Virus Deaths by Mid-May? White House Economists Say They Didn't Forecast Early End to Fatalities," Jim Tankersley, *New York Times,* May 4, 2020.

[8] "The Trump Administration's 'Cubic Model' of Coronavirus Death, Explained," Mathew Yglesias, *Vox,* May 8, 2020.

[9] "White House Says Wages Are Growing When Measured Differently," Jim Tankersley, *New York Times,* September 15, 2018.

[10] The Retirement Savings Plan by Tony James and Teresa Ghilarducci, October 21, 2015, *http://teresaghilarducci.org/blog/333-the-retirement-savings-plan-by-tony-james-and-teresa-ghilarducci.*

plans, which are low-cost passive index mutual funds that typically outperform managed funds—the same funds that are featured in the Thrift Savings Plan—contrary to Ghilarducci's assertion that most 401(k) investments are in "pretty crappy products."[11]

In fact many mutual funds managed by Vanguard are ranked at the top of the list of U.S. mutual funds by assets under management *(https://en.wikipedia.org/wiki/List_of_US_mutual_funds_by_assets_under_management).* Along with BlackRock *(https://en.wikipedia.org/wiki/BlackRock)* and State Street *(https://en.wikipedia.org/wiki/State_Street_Corporation),* Vanguard is considered one of the Big Three index funds that dominate corporate America. What's even more puzzling is her switch to supporting the TSP investment model since most, if not all of its investments are in index funds.

Ghilarducci's previous approval of private equity is concerning, given that many consumer advocates have denounced it. Ghilarducci told *Investment News* in June of 2020 "Most 401(k)s are not well-managed and are often used for short term purposes. Private equity in 401(k)s is a half-step towards solving the fatal flaws in the voluntary, individual directed, for profit 401(k) system."[12]

Consumer advocates couldn't disagree more. When Eugene Scalia was the Secretary of Labor in the Trump administration and said private equity investments will help Americans "gain access to alternative investments that often provide strong returns" Dennis Kelleher, chief executive of Better Markets, rebutted him: "The last thing the DOL and the SEC should be doing is directing more investment money from transparent public markets to high-risk dark private markets."

Barbara Roper, director of investor protection for the Consumer Federation of America, wrote a letter to Scalia denouncing the idea. "Far from providing the benefits touted without any supporting evidence by the private equity industry, these investments are likely to saddle middle-class retirement savers with high costs and lock them into unnecessarily complex investments that under perform publicly available alternatives." Roper's letter was co-signed by 14 advocacy groups and five labor unions, including the AFL–CIO, the United Steelworkers and the National Education Association.[13]

A Blueprint for Retirement Reform

Do we need 401(k) reform? Absolutely.

Compare the nest eggs of Americans nearing retirement with those of their counterparts in Australia. According to the GAO's report about 29% of households 55 or older have no retirement savings from a defined benefit plan OR a 401(k) plan. Among those with some savings the median amount saved is about $104,000 for those aged 55 to 64 and $148,000 for those aged 65 to 74. Given that the formula for retirement adequacy is to have accumulated 10 to 14 times your salary nearing retirement and the median income for that age group is around $76,000 attention must be paid.[14]

On the other hand, Australians are scheduled to retire with nest eggs of $500,000 to $700,000—more than four times that of their American counterparts. The reason why Australians' nest eggs are fuller than those of their American counterparts? Very simply: Australian employers are REQUIRED to contribute to their version of a 401(k) account—the current contribution rate is equal to 9.5% of salary, increasing to 12% in 2027, compared to the measly 3% matching contribution rate typically offered by American employers.[15]

What's more, the Ozzie employer contribution is made regardless of whether the employee contributes—it's not simply a "matching contribution." Thirty nine percent of the Vanguard Group's client's workers don't participate in their employer's plan and end up with nothing, according to their 2020 How America Saves report.[16]

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[11] "She wants to kill your 401(k)," Emily Cadei, *USA Today,* March 16, 2015.

[12] "DOL encourages use of private equity funds in retirement plans," *Investment News,* Mark Schoeff, June 3, 2020.

[13] Group sign on letter urging withdrawal of DOL–PE Guidance, Consumer Federation of America, June 2020.

[14] GAO Report. *Ibid.*

[15] Superannuation in Australia, *https://en.wikipedia.org/wiki/Superannuation_in_Australia.*

[16] Vanguard Group, How America Saves 2020.

The Problems: Our Economy Isn't Trickling Down to the Average Joe and Jane

The kind of 401(k) reform the country desperately needs involves including benefit-deprived part-timers in the plan—whether they are part-time college professors or "Task-Rabbiters"—mandating more generous contributions along with ensuring that employees "own" the employer contributions as soon as they are made so that they don't lose out once they change jobs.

Most of the job growth in the 21st century has been in low-wage jobs without benefits—including workers with a college degree AND student loan debt. When it comes to measuring economic health, most economists are "econ-nitwits" because they only measure unemployment and not under-employment. In the decade between 2005 and 2015, literally all of the net U.S. job growth was in nonstandard, contingent—AKA part-time—work, according to economists Lawrence Katz and Alan Krueger, as Robert Kuttner observed in his book, "Can Democracy Survive Global Capitalism." While total US employment during that decade increased by 9.1 million jobs nonstandard employment grew by 9.4 million. In other words, during a decade that included a steep recession followed by what appeared to be a strong recovery, all of the net job growth—and more—was in jobs that most people would take only as a last resort.

CEO Pay Is Through the Roof in the U.S.— More Than 9 Times What It Was In 1980

In the not-so-old days U.S. companies valued their workers over their shareholders and compensated them well—the ratio of CEO-to-worker pay in the S&P 500 was 42 to one in 1980 compared to 380 to one in 2011, according to "The CEO File," in the June 2012 issue of *Reuters Magazine.* This is the highest ratio *(https://usatoday30.usatoday.com/money/companies/management/2008-06-29-europe-ceo-pay_N.htm)* in the world; the CEO/worker ratio in France is 23 to one, 20 to one in Germany and 26 to one in Italy.[17]

Some of the Wealthiest Companies With Plans Are Short-Changing Their Employees

401(k) plans essentially replaced defined benefit pensions, even though their creation in 1978 by retirement consultant Ted Benna was meant to IMPROVE DB plans rather than replace them. In 2014 Bloomberg's ranking *(https://www.bloomberg.com/news/articles/2014-07-22/conocophillips-best-among-401-k-plans-with-facebook-last)* of 401(k) plans at the 250 biggest companies found that some of the least generous companies are among the richest: Facebook, Amazon and Whole Foods Market, which was subsequently acquired by Amazon. The natural-foods grocer offered a measly employer *annual* maximum 401(k) contribution of $152, when it was a stand-alone company.[18]

Not only does Amazon, founded by the world's richest man, Jeff Bezos, require employees to wait three years after they join the company to be eligible for a matching contribution but they only match up to 2 percent of employees' salaries if they contribute 4 percent compared to the typical employer match of 50 cents on the dollar for up to 6% of pay. To make matters worse, the match is made entirely in company stock, which is surprising given that many other companies who used to offer a stock match switched to the more-liquid and less-volatile cash match after Enron's collapse.[19]

Facebook, worth a whopping $97 billion-plus in 2018, finished last in the Bloomberg rankings, which were based on 2012 data, the latest available for all companies. Founded in 2004, Facebook offered NO matching contribution until 10 years later in 2014. It currently matches 50% up to 7 percent of pay. Anyone who thinks that Facebook's employees can afford to fund their own retirement is in denial; most of Facebook CEO Mark Zuckerberg's generation can barely make ends meet. A recent Wells Fargo study of millennials between the ages of 22 and 32 indicated that 87 percent didn't have enough money to save for retirement—81 percent were paying off other debts, most likely college loans. Because of these loans, fewer of them can

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[17] "As CEO pay in Europe rises, so does talk of curbing it," Jeffrey Stinson, *USA Today.*

[18] "ConocoPhillips Proves Best Among 401(k) Plans, With Facebook Last," Margaret Collins and Carol Hymowitz, *Bloomberg,* July 22, 2014.

[19] "Amazon's 401(k) plan is pretty brutal, too," Suzanne Woolley, Margaret Collins, Spencer Soper, *Benefits Selling,* August 25, 2015.

qualify for mortgages—which isn't just bad for the mortgage industry but bad for millennials since home equity is a major retirement asset.[20]

Part-time Workers Who Must Have Multiple Jobs—Whether They Are Uber Drivers or Adjunct Professors—Deserve a Retirement Plan

Task Rabbit's company website calls it "a marketplace dedicated to empowering people to do what they love." It's hard to believe that lovable jobs include cleaning garages, painting apartments, or assembling Ikea products. There are a whopping 75 million gig workers in America according to the Federal Reserve.[21] What economists call "contingent" workers—or casual labor—generally don't get unemployment insurance, workers' comp, or fringe benefits; they fully fund their Social Security benefits and can't organize unions. As Robert Kuttner observes in his article in The American Prospect, "The Task Rabbit Economy," employers should at least be required to provide the same benefits to temps and part-timers that full-time workers receive, to discourage the strategy of redefining normal jobs as contingent ones. The Dutch version of "flexicurity" accords part-timers the same labor rights as full-timers, with the result that most part-time jobs in the Netherlands are considered good jobs.

The good news is that thanks to President Biden's labor secretary, Marty Walsh, Uber and Lyft drivers may get unionized. "In a lot of cases gig workers should be classified as employees," Walsh told Reuters in an interview *(https://www.reuters.com/world/us/exclusive-us-labor-secretary-says-most-gig-workers-should-be-classified-2021-04-29/).* "These companies are making profits and revenue and I'm not (going to) begrudge anyone for that because that's what we are about in America but we also want to make sure that success trickles down to the worker."

Cherri Murphy, an organizer with Bay Area-based Gig Workers Rising, said "It's refreshing to have a Department of Labor that does not turn a blind eye to the plight of gig workers. Misclassification of gig workers is rampant and the pandemic has exacerbated inequality for app-based workers." She called employee classification an "important first step to critical reform we need."[22]

The Majority of College-Degreed Professors Are Struggling

And it's not just part-time working-class folks who would be helped by an improved system but part-time professors—the folks who are stuck with the burden of making payments on the student loans that were supposed to prepare them for a well-paying jobs.

Elite private colleges have saved money by increasing the number of adjunct professors. Incredibly, the majority of professors in the U.S. are benefit-deprived. According to the American Association of University Professors, 70 percent *(https://www.chronicle.com/article/adjuncts-build-strength-in-numbers/)* of college faculty work outside the tenure track.[23] What's more, nearly 25 percent of adjunct faculty members rely on public assistance, and 40 percent struggle to cover basic household expenses, according to a 2020 report, "An Army of Temps," from the American Federation of Teachers. Nearly a third of the 3,000 adjuncts surveyed for the report earn less than $25,000 a year, putting them below the federal poverty guideline for a family of four.[24]

Many professors are taking matters in their own hands and forming unions.[25] Overall, about a fourth of the nation's full-time faculty members and about a fifth of its part-time faculty are now represented *(https://www.chronicle.com/article/part-time-faculty-are-catching-up-to-full-timers-in-union-representation/)* by collective-bargaining units.

[20] "A Paradox: Optimistic Millennials Burdened by Debt," *Houston Style Magazine,* Jim Chapman, July 23, 2013.
[21] "Number of gig workers from Contingent Workers Could be Eligible for Social Security Disability Benefits," Selig Law Group, May 16, 2019.
[22] "U.S. Labor Secretary supports classifying gig workers as employees," Nandita Bost, Reuters, April 28, 2021.
[23] "Adjuncts Build Strength in Numbers," Audrey Williams June, *Chronicle of Higher Education,* November 5, 2012.
[24] "An Army of Temps," American Federation of Teachers, 2020.
[25] "Part-time Faculty Are Catching Up to Full-Timers in Union Representation," Peter Schmidt, *Chronicle of Higher Education,* November 18, 2011.

It was Anne McLeer's own experience as an adjunct professor at George Washington University that inspired her to not only start a union but help lead one: SEIU's Local 500's Higher Education Work.[26] "Before I started teaching I was a grad student with a 20-hour a week job as an administrative assistant to one of my dissertation advisers. I was considered "permanent part-time staff" and had access to a retirement plan and health plan. The day I gave up that job and I started teaching, which you would think is closer to the mission of the university, I became a 'temporary part-time person' with absolutely nothing."

McLeer's Local 500 now represents part-time faculty at George Washington University, American University, Montgomery College and Georgetown University. At GWU and American they've achieved much higher rates of pay and created more job security by making it more difficult for management to dismiss adjuncts for no reason.

The Solution: Require Employers to Provide Benefits ALL the Workers Deserve

Step One: Mandate Portable Benefits for Gig Workers: All workers, from Uber drivers to adjunct professors, must be covered by a retirement plan, along with other benefits.

A plan for these gig workers, The Shared Security System, was created by entrepreneur Nick Hanauer, who co-formed the Seattle-based venture capital company, Second Avenue Partners and David Rolf, the founder and President Emeritus of SEIU 775 and a former Vice President of SEIU International. Under their Shared Security System workers would earn portable benefits, with every worker having a retirement account along with having vacation time, sick time and health insurance.[27]

As the authors point out, strong economies are completely compatible with high wages and labor standards—fast-food workers make a minimum of $20 an hour in Denmark, and the average autoworker in Germany made more than $67 per hour including salary and benefits—compared to the $34 average in the United States. Compare the $20 minimum wage hour in Denmark to ours, which is a measly $7.25 an hour—with fast-food workers earning a paltry $8 to $10 an hour.[28]

Step Two: Require Companies to Provide ADEQUATE Nest Eggs for Their Employees.

1. **Replicate Australia's Superannuation system by mandating employer contributions to 401(k) accounts equaling 9% of pay for Fortune 500 companies such as Facebook and Amazon.**
2. **Non-Fortune 500 companies with 10 or more employees that have been in business for 5 years or more must contribute the equivalent of 6% of pay—twice the typical current contribution.** And that includes gig companies like Uber and Lyft, who are laughing all the way to the bank. Those employers who contend that a 6% contribution rate is too burdensome should consider that the U.S. has one of the least generous pension systems in the advanced world. According to the OECD's 2019 Pensions at a Glance report, six of the eight OECD countries that have a mandatory 401(k) style system feature employer contribution rates that are more generous than ours. Chile's is 10%, Denmark's is 12%, Israel's is 12.5%, Norway's is more than 18%, Sweden's is more than 14% and Poland's is 19.5%.[29]
3. **Employees working in companies with fewer than ten employees that have been in business less than five years would be enrolled in a Universal 401(k) featuring a government matching contribution equivalent to 6% of pay, similar to what Ghilarducci proposed.** A clearinghouse akin to the TSP would receive all deposits.
4. **All new employees must be automatically enrolled in a company plan, as is the case when a company offers a pension (although they will likely forfeit those benefits if they change jobs less than 5 years later.)**

[26] "Ann McLeer's Experience Is From Rich Colleges, Poor Professors," Jane White, *Huffington Post,* May 4, 2013.
[27] "Portable Benefits for an Insecure Workforce," Nick Hanauer, David Rolf, *The American Prospect,* Winter 2017.
[28] Minimum wage from *https://www.dol.gov/agencies/whd/minimum-wage.*
[29] "Pensions at a Glance 2019," OECD.

Vanguard Group's 2020 How America Saves report notes that half of employers don't offer automatic enrollment.[30]

5. **What's more, employer matching contributions must start when the employee is hired, not after one year AND they must be "owned" immediately.** As of 2020 22% of employers surveyed by the Vanguard Group required employees to have one year of service before the match starts in order to "minimize compensation costs."[31] However, this practice results in "minimizing nest eggs" since it could deprive someone who changed jobs every 4 years of a total of 11 years of employer contributions and investment returns. What's even worse, many 401(k) plans require workers to wait up to six years before they can "own" these contributions, according to a 2017 report from the Government Accountability Office.[32]
6. **Employees need to be told what percentage of their salaries to contribute based on their years to retirement.** Even if workers are lucky enough to work for an employer who offers a 6% matching contribution they still have to kick in 7% of pay at age 25, 10% if they wait to start saving at age 30, 14.25% at age 35, 20.25% at age 40 and 45% at age 50. What's mind-boggling is that the vast majority of mutual fund providers offer a vague contribution rate of 10 to 15 percent of pay regardless of the worker's age when they start saving, even though those who postpone saving need to cough up more, which is why the concept of "catch-up" contributions was created. Unfortunately, according to Vanguard's findings, the median employee deferral rate is 6%; only 21% of workers contribute more than 10%.[33]
7. **Get rid of the low ceiling on contributions.** The limits are $19,500 for those under age 50 and $6,500 for those over age 50,[34] indexed to inflation. Allegedly these limits are in place to prohibit wealthy employees from contributing too much but the vast majority of middle- AND upper-class workers are falling behind. And if a middle-class worker gets a decent inheritance or wins the lottery why can't he or she sock away that money for retirement? Baby Boomer Australians can sell a home and add the proceeds to their accounts: those over age 60 can make after-tax contributions of $150,000 a year or $450,000 over three years.[35]

Step Three: Make Sure that Workers Keep Their Eggs in No More Than Two Baskets by Encouraging Rollover to an IRA When They Change Jobs.

8. **All employees should be encouraged to open an IRA for two reasons: it's highly likely they'll change jobs frequently and will not be able to move their old 401(k) balances to their new employer because they won't be able to join the plan right away and unlike 401(k) plans there are no "ceilings" on the amount that can be contributed by the rollover.**

Why Rollovers Matter: The Average Joe or Jane Works for 10 or More Employers During a Career. The average person changes jobs[36] *(https://www.thebalancecareers.com/how-often-do-people-change-jobs-2060467)* 10 to 15 times (with an average of 12 job changes) during his or her career. The Bureau of Labor Statistics *(https://www.thebalancecareers.com/bureau-of-labor-statistics-bls-2059767)* reports that people born between 1957 and 1964 held an average of 11.7 jobs from ages 18 to 48.[37] Among jobs started by workers age 25 to 29, 87 percent had an average length of employment of fewer than five years as compared to 83 percent of workers age 30 to 34. What's more, almost 15 million Americans with 401(k) accounts change jobs ANNUALLY, according to Retirement Clearinghouse LLC, a

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[30] Vanguard Group. *Ibid.*
[31] Vanguard Group. *Ibid.*
[32] "Most Households Approaching Retirement Have Low Savings," U.S. Government Accountability Office, 2015.
[33] Vanguard Group. *Ibid.*
[34] *https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-401k-and-profit-sharing-plan-contribution-limits.*
[35] Narrative on Australians is from "Individuals' Super Contributions Beat Those of Employers," *The Australian*, September 28, 2007.
[36] Bureau of Labor Statistics Career Information, Alison Doyle, *Thebalancecareers.com,* October 15, 2019.
[37] How Often Do People Change Jobs During a Lifetime, Alison Doyle, *Thebalancecareers.com,* June 15, 2020.

company that assists *(https://www.wsj.com/articles/labor-department-clears-path-for-automatic-401-k-transfers-1542045512)* in transferring old balances to new plans.

Problem with Brokers: Why You Should ALWAYS Do a Rollover to an IRA and Not the New Employer's Plan

Unfortunately, even if a worker were immediately able to transfer money from an old 401(k) account to one at a new employer, there's a chance that a broker will steer them to an annuity—because the costs may be lower to the employer but "hidden costs" are higher to the employee.

Former President Obama took on the brokerage industry[38] in 2015 by supporting a Labor Department proposed regulation that would subject those advising 401(k) participants to a fiduciary standard that makes them liable for putting client money into a mutual fund that pays the broker a commission whose annual returns are lower than a fund that pays no commission. The conservative cost of broker conflicts is $8 billion to $17 billion a year, according to Obama's Council of Economic Advisers.

The Rollover Solution: Employees Should Select Their Rollover Preference as Soon As they Start Working to Keep All Their Eggs in No More Than Two Baskets

9. Workers should choose to have their balances rolled over to an IRA rather than a new employer plan for three reasons: their new employer will probably not allow them to move their balances to an account at the new job because they won't be eligible to join the plan as soon as they start the job. And there is a strong possibility that if their next job is at a small business the new employer will either offer no plan *(https://www.transamericacenter.org/docs/default-source/retirees-survey/tcrs2018_sr_retirees_survey_financially_faring.pdf)* —21% of companies offer no plans—according to the Transamerica Center for Retirement Studies,[39] or the company will only offer a plan that features brokers pushing high-fee annuities that are hard to understand. What's more, the worker will have a better sense of his or her retirement assets if most of them are in one mutual fund than if the balances are left at multiple employers. The only challenge may be that many mutual funds require a minimum balance before the account can be opened—for the Vanguard Group it's $3,000—so some workers may not have the option to roll lower balances over.

Conclusion: Does retirement reform pose a challenge? Absolutely. But President Biden has an ambitious agenda to rebuild America's middle class.

President Biden has an impressive track record after his first 100 says in office. He signed into law the American Rescue Plan Act of 2021 *(https://en.wikipedia.org/wiki/American_Rescue_Plan_Act_of_2021)* to help speed up the United States' recovery from the economic *(https://en.wikipedia.org/wiki/Economic_impact_of_the_COVID-19_pandemic_in_the_United_States)* and health effects of the COVID–19 pandemic *(https://en.wikipedia.org/wiki/COVID-19_pandemic_in_the_United_States)*. Biden's orders also reversed several Trump administration policies, including rejoining the Paris Agreement *(https://en.wikipedia.org/wiki/Paris_Agreement)* on climate change *(https://en.wikipedia.org/wiki/Climate_change)*, reaffirming protections for Deferred Action for Childhood Arrivals *(https://en.wikipedia.org/wiki/Deferred_Action_for_Childhood_Arrivals)* recipients, halting construction of the Trump border wall *(https://en.wikipedia.org/wiki/Trump_wall)* and ending the Trump travel ban *(https://en.wikipedia.org/wiki/Trump_travel_ban)* imposed on predominantly Muslim countries.[40]

What's more, President Biden plans to sign an executive order to create a task force that would aim to make it easier for workers to unionize. The task force will facilitate collective bargaining by the federal workforce; wielding federal policies to pave the way for other workers to organize; aiding workers in jurisdictions with restric-

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[38] "Obama Could Make Broker Kickbacks Disappear," Paula Dwyer, *Bloomberg.com,* January 26, 2015 *(https://www.bloomberg.com/opinion/articles/2015-01-26/obama-wants-broker-kickbacks-to-disappear-from-wall-street)*.

[39] "A Precarious Existence: How Today's Retirees Are Financially Faring in Retirement," Transamerica Center for Retirement Studies, December 2018.

[40] *https://en.wikipedia.org/wiki/Joe_Biden.*

tive labor laws, along with marginalized workers such as women and people of color.[41]

"One thing that I will say is that I do think that the Biden administration and President Biden have exceeded expectations that progressives had," Representative Alexandria Ocasio-Cortez said during a virtual town hall. "I'll be frank, I think a lot of us expected a lot more conservative administration. Biden announced that he plans to cut emissions by half by 2030. I don't think it's an exaggeration to say that two years ago it was almost unthinkable to think that Joe Biden would be making an announcement like that."[42]

I think we can be confident he'll be willing and able to take the first step at addressing our retirement crisis.

401(k) Reform: A Secure Retirement Plan for Life for "The 99%"

Introduction: How We Became So Pension Poor

Mention the word Australia and the images that come to mind are "shrimps on the barbie," Koala bears and kangaroos. We'd like to add another image: people who can actually afford to retire. Australians between the ages of 30 and 34 are projected to have more than $540,000 in today's dollars in their version of our 401(k) accounts, known as Superannuation, by the time they are ready to retire; those between 20 and 24 will have nearly $700,000.[1]

How do those six-digit projected nest eggs for the typical Australian compared with of a typical American approaching retirement?

> Australians are scheduled to retire with nest eggs of $500,000 to $700,000—more than five times that of their American counterparts. The reason? Employers are required to contribute three times as much to Australian retirement accounts.

Here's the bad news: according to the Federal Reserve Board's Survey of Consumer Finances, the median amount saved in account and rollover balance forthose age 55 to 64 was around a measly $86,600 in 2009 when the median wage for that age group is about $65,000. But even before the market slump in 2007 when the median balance was $103,600, that low six-figure number is less than twice the median Boomer salary when it needs to be 10–13 times that amount.[2] In other words, if you're 65 and earning $65,000 $650,000 in retirement savings isn't a windfall—it's the goal.

Here are our findings—corroborated by leading pension actuaries—about 34 million people who can't retire. Unless they work in the public sector or are the tiny percentage of the private sector workforce that has long job tenure at a company that still offers an old-fashioned pension or in academia, most of those 38 million Boomers born between 1946 and 1956 who are scheduled to turn 65 between 2011 and 2020 will have to stay on the job another eight to 10 years to achieve adequate 401(k) savings. **And that's if reform takes place.** This means that a big chunk of nearly 40 million young adults born between 1989 and 1998—a larger Baby Boom—who are graduating during that period will very likely not be able to find jobs. If reform DOESN'T place those nearing retirement age will have to work another 20 years. To make matters worse, 53% of the population in the private sector isn't covered by any plan.

The reason why Australians' nest eggs are fuller than those of their American counterparts? Very simply: Australian employers are REQUIRED to contribute to their version of a 401(k) account—the current contribution rate is 9% of salary up to a salary ceiling of $137,880 up to age 75.[3] In addition, the employer contribution is made regardless of whether the employee contributes—it's not simply a "matching

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[41] "Biden to launch pro-union task force," Eleanor Mueller, *Politico,* April 26, 2021.

[42] "AOC praises Biden Administration, says it has surpassed progressives' expectation," Sarah Elbeshibishi, *USA Today,* April 24, 2021.

[1] Australians between narrative is from "The AMP Superannuation Adequacy Index Report," Access Economics Pty Limited, 2008.

[2] Survey of Consumer Finance, Federal Reserve Board, 2007 and 2009 is from conversation with Ken McDonnell of EBRI, October 14, 2011.

[3] Australian employers are required narrative is from "A Super Guide," National Information Centre on Retirement Investments Inc., 2007.

contribution." One in four Americans whose employers offer a plan don't contribute to a 401(k) account and therefore ends up with nothing. While the Obama Administration has supported "automatic enrollment" to get non-participants saving in these plans, the typical "default" employee contribution is only 3%, less than one-third of what is needed. The reform that's needed is not to get non-savers to participate in their employer's plan at an insufficient savings rate but rather to require employers to contribute more generously to employee accounts.

> Baby Boomers are also faced with greater financial burdens than their parents in the Greatest Generation—from mortgages to college costs for their kids.

While some retirement reformers might instead want to consider requiring all employers to offer conventional pensions, a more generous 401(k) plan is the right plan for a mobile 21st century workforce because portability is crucial. Employees reap absolutely no benefit from a generous defined benefit plan if they don't work at a company long enough to be vested in it.

My prediction is that most Boomers will run out of money in less than 5 years. Why? They have more expenses than their parents, the post-World War II "Greatest Generation." Whether it's because they postponed buying their first home or because they "traded up" to McMansions, more than 50% of Boomers between the ages of 55 and 65 were still making mortgage payments in 2007—on average owing more than $140,000, according to the Federal Reserve Board's Survey of Consumer Finances. That amount is nearly three times what was owed by that age group in 1989, when only 34% were still making mortgage payments.[4] Boomers are also likely to be paying off college loans for their kids. According to a 2007 Ameriprise survey of 1,000 affluent boomers, 74% said they were helping adult children with college loans.[5] Again, this financial burden was not as great a generation ago. While federal grants subsidized 70% of the cost of a degree 30 years ago, loans are now needed to cover 64% of the cost.[6]

What follows are proposed reforms that would increase benefits, improve coverage and portability and lower fees and "leakage," or tapping into savings for retirement.

Action Plan: The 401k Security Act: Retirement Plan for Life

Part I: Boost Employer Contributions to Accounts

1. **Mandate employer contributions to 401(k) accounts equaling 9% of pay for Fortune 500 companies.** While some may claim this mandate would be too burdensome in these recessionary times, America's largest corporations are doing just fine. In 2011 the Fortune 500 saw an 81% jump in profits—the third largest gain in the group's history; Apple boasted a 145% jump in profits and moved up 21 places to number 35.[7] The nation's high unemployment rate is driven by the fact that rich companies are offshoring or outsourcing jobs. Take Apple, which is sitting on $80 billion in cash: for every Apple worker in America there are 10 in China.[8]

> Only six member nations of the Organization for Economic Cooperation and Development have lower pension wealth than the U.S.

2. **Non Fortune 500 companies with 10 or more employees that have been in business for 5 years or more must contribute the equivalent of 6% of pay.** Those employers who contend that a 6% contribution rate is too burdensome should consider that the U.S. has one of the least generous pension systems in the advanced world; only six member countries of the OECD have lower pension wealth. What's more, seven of the eight OECD countries that have a mandatory 401(k) style system feature employer contribution rates that are more generous than ours. Den-

[4] Boomers with a mortgage narrative is from *http://www.money-zine.com/Financial-Planning/Retirement/Retiring-With-a-Mortgage/.*

[5] Helping adult children with college loans narrative is from The Ameriprise "Financial Money Across Generations Study," Ameriprise Financial, September, 2007.

[6] The 70% of a cost of degree narrative is from "Going Broke by Degree/Why College Costs So Much," The AEI Press, Washington, DC, 2004, p. 8.

[7] 81% jump in profits, Apple narrative is from "Fortune 500," by John Berman, Nightline, May 4, 2011.

[8] For every worker narrative is from "Make it in America" by Andrew Liveris, Kindle Edition, Location 468.

mark's is 11.8%, Hungary's is 8%, Mexico's is 6.5%, Poland's is 7.3% and the Slovak Republic's is 9%.[9]

3. **Any company that currently offers only a regular pension—known as a defined benefit plan—must convert to a generous 401(k) plan by first freezing the pension and using any assets to contribute more generously to an existing or new 401(k) plan.** Why? While defined benefit plans have traditionally been more generous than 401(k) plans, their vesting rules—typically requiring that employees work for the employer for at least 5 years to be eligible for a benefit—make it impossible for the majority of American job-hoppers to end up with a sufficient retirement assets. (Employers are free to offer a supplementary defined benefit plan in conjunction with a 401(k) plan if they wish.)

A more generous 401(k) plan is better than a regular pension because it usually takes 5 years to "own" benefits in a pension.

4. **Employees working in companies with fewer than ten employees in business less than 5 years would be enrolled in a Universal 401(k) featuring a government matching contribution equivalent to 6% of pay.** A new entity, a clearinghouse akin to the Federal Thrift Savings Plan (TSP), which manages very low-cost 401(k)-style accounts invested in index funds for three million federal military and civilian personnel, would receive all deposits.

Part II: Turn 401(k) Plans Into One-Stop Retirement Plans for Life

1. **Retirement Plans for Life: Along with requiring more generous employer contributions to 401(k) accounts, we want to improve investment performance and lower costs AND "leakage" by pooling the assets of multiple employees at a mutual fund company. This will also make it possible to keep track of retirement assets—and therefore adequacy—throughout an individual's career, which is currently impossible for most Americans.**

Employees should be able to choose a "mutual fund for life" that employers are required to contribute to—lowering the risk of constantly having to replacean underperforming fund.

Pick a fund for your entire life that outperforms the others: While employers can continue to offer a "menu" of options in their plans, typically resulting in employees selecting three or more funds—employees must be given the option of choosing a "mutual fund for life," so that they don't have to select new investments each time they change jobs, which will lower the risk of making bad investment decisions.

Not only will a high-performing plan-for-life help frequent job-changers, it will help the minority of Americans who stay at the same employer throughout their careers because their employers often select inferior funds that they wind up replacing—forcing employees to sell their shares and invest in new funds—which likely will be replaced again. According to Deloitte's 2009 401(k) Benchmarking Survey, 62% of employers replaced an underperforming fund within the previous 2 years and 39% did so within the previous year.

More than likely this Plan for Life will be an index fund, because years of research have demonstrated that actively managed funds underperform benchmark index funds. For the 20-year period ending in December 2010, 72% of managed funds underperformed index funds.[10] What's more, this Plan for Life fund must include international stocks as a reflection of the fact that "the world is flat" when it comes to investing. Not only are two thirds of the world's largest publicly held companies based overseas but that's been the case since *Fortune* magazine launched its Global 500 ranking 22 years ago. My preference is to choose an index fund that replicates *Fortune* magazine's Global 500—the closest match would be the Vanguard Global Equity Fund (VGEF), comprised of 854 securities from 22 countries; 40% of them U.S.-based. While Americans who only invested in the S&P 500 during the last decade—also known as the "lost decade"—saw near-inflation-rate returns of 2.71%, the 10-year return for the VGEF fund was 6.89%. Unfortunately, while most of Van-

[9] Narrative on U.S. pension generosity versus other countries is from "Pensions at a Glance: Public Policies Across OECD Countries," Paris, France, OECD, 2007.

[10] 72% of managed funds is from "Why 401(k)'s Should Offer Index Funds," by Ron Lieber, *New York Times,* May 13, 2011.

guard's clients offer international funds, only 30% of participants invest in them.[11] What's more, international investing is typically viewed as a currency hedge, as opposed to an investment strategy that reflects the 21st century economy.

Offering employees a one-stop-savings vehicle isn't a radical change from recent investing trends in 401(k) plans; in the last few years virtually all mutual fund companies have started to offer one- stop investing funds known as target date funds, which automatically decrease exposure to equities as participants approach retirement age. However, the pooled asset approach would outperform target-date funds because such a shift away from stocks wouldn't be necessary (although the funds would need to keep 5–10% of assets in cash to meet redemptions, which for the most part would only occur when individuals retire.)

By continuing to receive employer contributions at the same fund (unless they choose a different one), it will also make it easier for workers to keep track of retirement assets and to see if they are on track to a secure retirement, which very few Americans have the tools to figure out and most of them desperately need. Why is this necessary? Americans are job-changers; the average American born in the latter years of the baby boom worked for more than 10 employers between the ages of 23 and 44 alone, according to the Bureau of Labor Statistics.[12]

Unfortunately, when I asked selected mutual fund companies whether they offer software that enables participants to "aggregate" 401(k) assets at rollover accounts and at previous employers spokespeople for Vanguard Group and Principal Financial said they did not. And while Fidelity Investments, the industry leader, does offer this software, only about 6% of its participants use it and based on my own experience it's very likely that users frequently encounter error messages when they attempt to enter account data.

> Americans are job-changers; the average American born in the latter years of the baby boom worked for more than 10 employers between the age of 23 and 44 alone, according to the Bureau of Labor Statistics.

2. **Even those employees who choose not to select a fund-for-life would be encouraged to roll over existing account balances either to the new employer or to single rollover account at a mutual fund rather than having multiple rollover accounts, making it difficult to keep track of their assets.**

Part III: Employer Contributions Must Be Immediate, Consistent and in Cash

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> More than half of employers make employees wait up to 6 years until they "own employer contributions," depriving the majority of Americans—who are job changers—of retirement benefits.

1. **Employer matching contributions must start when the employee is hired, not after 1 year.** As of 2010 25% of employers surveyed by the Vanguard Group require employees to have 1 year of service before the match starts in order to "minimize compensation costs."[13] However, this practice results in "minimizing nest eggs" since it could deprive someone who changed jobs every 4 years of a total of 11 years of employer contributions and investment returns.

2. **Employee "ownership" of employer contributions—otherwise known as "vesting"—must be immediate.** According to How America Saves 2011, 54% of Vanguard's clients make their employees wait between 1 to 6 years before they are completely vested in employer contributions.[14]

3. **Employers would not be permitted to "suspend" contributions during economic downturns as many of them did in 2002–3 and 2008–9.** This practice both deprives employees of retirement assets but frequently results in not being fully invested in the stock market once it rebounds, so employers wind up buying fewer shares of stock once they resume contributing.

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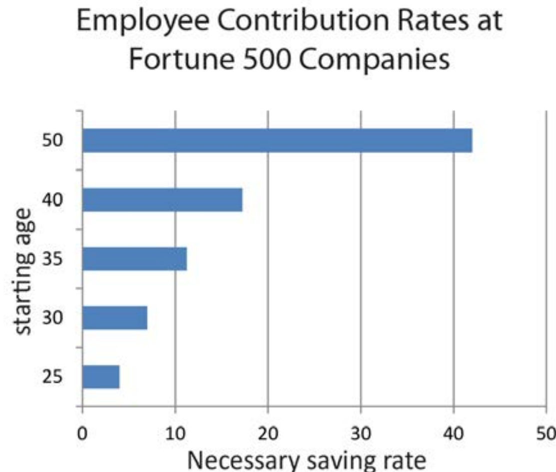
[11] Only 30% of participants invest is from "How America Saves 2011," Vanguard Group.
[12] Americans Are Job Changers is from "Number of Jobs Held, Labor Market Activity, and Earnings Growth Among the Youngest Baby Boomers: Results From a Longitudinal Survey," Bureau of Labor Statistics, September 10, 2010.
[13] Vanguard narrative on employer matching contributions is from "How America Saves 2011," page 8.
[14] Vesting practices are from *Ibid.,* page 13.

4. **All employer contributions must be in cash, not company stock.** As was the case with Enron employees, a stock match carries the risk that the contribution will be worthless if the company goes out of business. While the Pension Protection Act has resulted in employees being able to divest out of employer stock, 11 million of the nation's more than 52 million 401(k) participants have more than 20% of their balances in company stock, revealing a lack of understanding of the risks of not diversifying[15] (Either that or employees figure that a stock match is better than no match.) Unlike a traditional defined benefit plan, or pension, in which no more than 10% of plan assets can be in company stock the Pension Protection Act doesn't place any restrictions on company stock in 401(k) plans. The law only requires that employers send employees a warning that their savings "may not be diversified" once more than 20% of their assets are in company stock.[16]

> Despite the destruction of Enron employee's 401(k) savings, which were exclusively in company stock, it's still "legal" for employers to match in company stock—more than one in five Americans have more than 20% of their 401(k) assets in it.

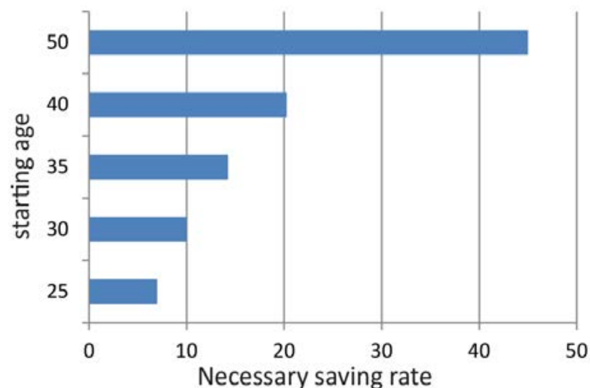
Part IV: Boost Retirement Savings By Defining the Contribution Rate, Removing Contribution Limits, etc.

1. **Mutual fund managers must communicate the necessary employee contribution, or "co-pay," depending on participant's investment time horizon, to achieve at least "10 times final" in their accounts.** Based on calculations by pension actuary James Turpin, even with the implementation of the contribution equivalent to 9% of salary by Fortune 500 employers, 401(k) participants need to sock away 4% of pay if they start contributing to their accounts at age 25, 7% of pay if they wait until age 30, 11.25% at age 35, 17.25% at age 40, and 42% at age 50 to achieve a minimum next egg of 10 times their final pay. Employees at smaller companies with the less generous 6% employer contribution rate would have to cough up even more: 7% if starting at age 25, 10% at age 30, 14.25% at age 35, 20.25% at age 40 and 45% at age 50.



[15] Percentage of participants with company stock is from "Remove exemption for company stock, 4 academics urge," by Phyllis Feinberg, *Pensions and Investments,* February 21, 2005.

[16] Invest more than 20% of their assets narrative is from "Some plans company-stock heavy," by Robert Steyer, *Ibid.,* July 12, 2010.



Employees must be given the most important investment advice they're currently not getting—how much to save in their accounts based on when they started participating in the plan.

2. **Unfortunately the necessary employee contribution rates aren't "legal" under the current system because of counterintuitive "ceilings." We need to remove the low ceiling on employee contributions along with the ceiling on "catch-up" contributions for those over 50, which currently don't enable a single American to catch up—a fact that apparently hasn't registered with any of the companies advising these plans.** The limits in 2011 were $16,500 for those under 50 and $22,000 for those over 50 and they only increase by a measly $500 in 2012—as a result, most employees aren't allowed to contribute enough to afford to retire. On the other hand, baby boomer Australians can sell a home or another asset and add the proceeds to their accounts; workers over age 60 can make after-tax superannuation contributions of $150,000 a year, or $450,000 over 3 years.[17]

All employees must be offered the Roth option—because otherwise they're paying income taxes when they can least afford them, at retirement.

3. **Get rid of "non-discrimination testing."** If highly paid people have waited too long to start saving, they should have the opportunity to save. (What's more, testing would no longer be necessary because employer contributions would no longer be voluntary.)

4. **Remove the tax deductibility feature from the plans—or at least give every employee the option of investing in a Roth, which forces you to "get taxes over with." Otherwise, people don't have an accurate picture of how much they've accumulated.** Rather than "incentivizing" participants to participate, the ability to deduct contributions from taxes results in deferring tax obligations to retirement, when people can least afford to pay them. While a 30-year old who contributes $5,200 a year to a Roth 401(k) could accumulate $870,000 by age 67, all tax free, in a "deductible" account that person would owe more than $261,000 to Uncle Sam at retirement, assuming a 25% tax rate and a 5% state income tax. What's more, tax deductions are an overrated tactic to "incentivize" Americans to save, as opposed to doing so to avoid pension poverty; fewer than 5% of Americans contribute to a deductible IRA. Finally, switching to a "get taxes over with" approach would also put a dent in our federal deficit.

[17] Baby Boomer Australians is from "A Super Guide," *Ibid.,* page 16.

5. **There should be no loans, hardship withdrawals, or ability to "cash out" of account balances when changing jobs.** (The temptation to do so will also be lowered because the money will likely stay at the same mutual fund when changing jobs.) Currently nearly half of job changers surveyed by Hewitt Associates cashed out of at least part of their account balances rather than leaving money in the plan or "rolling it over" to an IRA or new plan. Not only is it self-destructive to spend your nest egg, but half of the proceeds could be owed to Uncle Sam; someone in the 25% tax bracket living in a state with a 5% income tax who cashes out a $20,000 account balance is left with $12,000.

Part V: Ensure That Workers Don't Retire too Early, Help Protect Their Nest Eggs

1. **Fund managers must communicate to workers that unless they have other sources of retirement savings they most likely cannot afford to retire unless they have accumulated AT LEAST 10 times their salary—13 times for those with six-figure salaries—because they should only spend 4% of their assets each year in retirement.**

2. **Workers who have accumulated enough that they can afford to retire—at most 10% of the private sector population—should be encouraged to invest in a managed payout account or an annuity. However, while annuities offered at the workplace are likely to be fixed-rate commission-free products, buyers should be warned that once they leave the workplace they should avoid retirement seminars in which they may be convinced to buy a new (most likely variable) annuity, an example of "churning," in which a broker attempts to sell annuity holders a new product in order to generate commissions.**

> All employees must be advised that they cannot afford to retire until they've accumulated AT LEAST "10 times final pay" in their accounts and rollover accounts.

Here are just a few of the examples of questionable practices by annuity sellers. A federal judge ruled in 2009 that Allianz Life Insurance used deceptive practices in selling an equity-indexed annuity to about 340,000 people nationwide. In 2008 Allianz Life paid $10 million to settle charges it had sold unsuitable annuities in California.[18] In Texas AARP criticized then-Governor Rick Perry for vetoing a bill that would establish new safeguards for buying annuities.[19]

In 2008, Florida Governor Charlie Crist signed a law increasing penalties on annuity salespeople who pressure clients to buy annuities. In 2006, then-New York Attorney General Eliot Spitzer announced an agreement in which the Hartford Financial Services Group would pay $20 million in fines for improper annuity sales. In 2005, New Jersey enacted a law that limits how long annuity sellers can impose surrender charges in the event the annuity owner wants to sell the product.[20] Finally, the fact that the Dodd-Frank financial reform legislation did not include language that permitted the SEC to have oversight over annuities was regarded as one of the "battles that we lost" by Barbara Roper, director of investor protection for the Consumer Federation of America.[21]

3. **The Department of Labor should include tips on its website that guide workers on issues they should consider while contemplating retirement.** These might include: how much do people need to save if they have a working spouse versus a non-working spouse or what is the impact of divorce, disability, etc. The website also should include information about annuities.

> Employees must be warned of the risks of buying an annuity—that they will likely be sold a new one in order to generate commissions for a broker.

[18] Allianz narrative re federal jury and California example is from "A split decision in Allianz Life annuity lawsuit," by Chris Serres, *Star Tribune,* October 14, 2009.

[19] Texas annuity narrative is from "AARP blasts Texas Gov. Rick Perry's veto," by Terrence Stutz, *Dallas Morning News,* June 24, 2009.

[20] Narrative on reforms in Florida, New York and New Jersey is from, "America, Welcome to the Poorhouse" (FT Press 2009), pages 29, 30.

[21] Barbara Roper quote re financial services reform is from "For consumers, federal protection with some teeth," by Tomoeh Tse, *Washington Post,* June 26, 2010.

About Retirement Solutions

Retirement Solutions LLC is an advocacy and educational organization dedicated to the retirement adequacy of 401(k) participants. Retirement Solutions president and founder Jane White is a regular blogger on retirement and other personal finance issue for the *Huffington Post* and has appeared on Fox Business News, CNN and CNBC, and is the author of "America, Welcome to the Poorhouse," (FT Press, 2009), which has been favorably reviewed by the *New York Times, Newsday* and other publications.

With the input of pension actuary James E. Turpin of the Turpin Consulting Group, White developed formulas for contribution rates required based on the current typical employer match of 3%. At the invitation of the U.S. Department of Labor's (DOL) ERISA Advisory Council White offered recommended contribution rates based on participant starting ages to the in the fall of 2007. As a result, the Working Group recommended to the DOL that employers communicate to employees how much 401(k) participants need to contribute to achieve a multiple of their salary nearing retirement.

A Congressionally appointed delegate to the 2002 National Summit on Retirement Savings, White first observed the 401(k) crisis in 1993 as the associate editor of Standard and Poor's "Your Financial Future," distributed to half a million 401(k) participants at Fortune 500 firms. Previously she was a syndicated personal finance columnist for *Gannett News Service* and her articles have appeared in *The New York Times, Barron's, Working Woman, Newsday, Employee Benefit News, Contingencies* and *The ASPPA Journal.*

Acknowledgements: I could not have completed this research without the vital input of James Turpin and Ken Steiner, EA, FSA, MAAA, retired resource actuary for Watson Wyatt Worldwide (now Towers Watson). Steiner has testified before the House Committee on Education and the Workforce regarding pension security and defined benefit plans and has served on several committees at the American Academy of Actuaries. He is the creator of a vital website that enables users to figure out how much money they can spend from their nest egg: *http://howmuchcaniaffordtospendinretirement.webs.com/*.

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The Small Business Council of America (SBCA) appreciates the opportunity to submit this statement. The SBCA is a national nonprofit organization which has represented the interests of privately-held and family-owned businesses on federal tax, health care and employee benefit matters since 1979. The SBCA, through its members, represents well over 100,000 small business enterprises in retail, manufacturing and service industries, virtually all of which provide health insurance and retirement plans. The positions and priorities expressed in this statement were developed through a survey of SBCA members conducted the week prior to this submission.

The SBCA applauds this Committee's commitment to pursuing bipartisan solutions to help American workers more easily and effectively save for retirement.

First and foremost, the SBCA believes that, while there is certainly room for improvement, the present qualified retirement plan system has been very successful in providing retirement security.

Unfortunately, most of the data used to measure the success of retirement plans makes it hard to get a clear picture of how the small business retirement plan system is performing for a few reasons. First, traditional analysis fails to distinguish between new and established small businesses. Approximately half of all new small businesses fail in their first 5 years—before most small business owners have even considered sponsoring a qualified retirement plan or other employee benefits.[1] The inclusion of these infant-stage, and typically smaller, businesses depresses the data. Moreover, most analyses ignore the fact that not all employees meet the retirement plan eligibility requirements. Part-time employees, employees under age 21 and

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[1] *See* U.S. Small Business Administration, Office of Advocacy, Frequently Asked Questions About Small Business, August 2018, available at *https://www.sba.gov/sites/default/files/advocacy/Frequently-Asked-Questions-Small-Business-2018.pdf.*

transient employees are generally ineligible to participate in a retirement plan. The statistics cited for the low retirement plan coverage, however, most often include the entire workforce and do not differentiate between the entire workforce and that percentage of the workforce that is actually eligible to participate in a retirement plan based upon current law. When these ineligible employees are excluded, the coverage numbers improve significantly.

A 2015 study,[2] which used actual data from employees' W–2 forms, found that 80% of all employees who work in companies with 10 or more employees are offered a retirement plan and that of these employees, 65% made 401(k) contributions.[3] The predecessor study to the 2015 study which was conducted in 2011,[4] revealed that, when asked, only 49% of employees who worked for companies with 10 or more employees thought they were participating in a retirement plan, whereas the W–2 data indicated that 62% of employees were actually participating in a plan. This means that 13% of all employees making 401(k) contributions through payroll deduction did not even realize that they were making 401(k) contributions.

The foregoing numbers reflect that while there is room for improvement the small business retirement plan system is far more successful in delivering benefits for small business employees than the data most often cited reflects. This success has been largely dependent on federal tax laws.

A qualified retirement plan, whether small or large, creates significant rights for the plan participants and generates significant costs for the sponsoring entity. Funds in a retirement plan are not tax sheltered, rather they are tax deferred until the participants receive them, at which time they are brought into the participant's gross income. Retirement plan assets are not subject to favorable capital gains treatment, nor do they receive a step up in basis at the owner's death. Most small business plans are adopted to provide a tax-advantaged way for the owners to save for their and the other key employees' retirement. The rules of retirement plans force the owners to make significant contributions for the non-highly compensated employees and it is important to note that this is *not* the result of the top-heavy rules. Thus, in the small business qualified retirement plan world, it is not unusual for the company (in addition to contributions made by the employee) to make contributions for its employees in the 3% to 8.5% of compensation range.

Tax Incentives in the Retirement Plan System Are the Primary Motivation for Small Business Owners to Sponsor Retirement Plans and Must be Maintained

Despite common misperceptions, considered as a whole, the tax treatment of retirement plans is not particularly attractive since all retirement plan funds are eventually subject to ordinary income. Retirement plan assets do not receive a step up in basis upon the death of the owner. Further reducing the tax advantage of sponsoring a retirement plan will incentivize small business owners to freeze or terminate their plans while, conversely, reducing burdens and increasing contributions will encourage the maintenance and formation of small business retirement plans. Because of this, it is important that all existing tax incentives for retirement plans be preserved and administrative burdens be reduced. This includes, but is not limited to:

– Maintaining or increasing existing contribution levels—The SBCA members strongly supported the 2020 version of the SECURE Act 2.0 which would have allowed additional catch-up contributions for older employees. However, the SBCA and its members believe that the provision contained in the 2021 version of the SECURE Act 2.0 is too restrictive. The SBCA suggests reducing the additional $10,000 limit to say $5,000 or $7,500 and increasing the

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[2] Dushi, Iams and Lichtenstein, Social Security Bulletin, Vol. 75 No. 2, 2015, Retirement Plan Coverage by Firm Size: An Update.

[3] The size of the company makes a significant difference. W–2 data, which is accurate only to 401(k) plans and 401(k) contributions, reflects that 51% of small businesses with more than 10 employees but less than 25 offer a retirement plan. The same data reflects that 63% of small businesses which employ 25 employees but less than 50 offer a retirement plan. 73% of small businesses which employ 50 employees but less than 100 offer a retirement plan. 87% of businesses with more than 100 employees offer a retirement plan. There is no further breakdown given for over 100 employees so we do not know how many small to mid-size businesses—often defined as up to 500 employees—offer plans compared to the large businesses.

[4] Dushi, Iams and Lichtenstein, Social Security Bulletin, Vol. 71 No. 2, 2011, Assessment of Retirement Plan Coverage by Firm Size, Using W–2 Tax Records.

age corridor from ages 60 to 70 or the Required Beginning Date, rather than just 3 years from ages 62, 63 and 64. These changes would significantly improve the ability of older employees to "catch up" for earlier years when they could not afford to make significant contributions for themselves. This would be an important change for small businesses and their employees. However, the provision as written would be of little help for the vast majority of employees of small businesses since it is so narrowly drafted.

– Allowing for pre-tax catch-up contributions—Requiring all catch-up contributions to be Roth contributions would be a very negative change for small businesses. First, there are so many provisions of the SECURE Act 2.0 which, while somewhat helpful, are not worth the cost of this single provision. Unfortunately, this provision was not considered in light of how many small business retirement plans operate. Many small businesses have deliberately chosen not to include a Roth option because of the extra in-house administrative work it generates. Thus, this type of provision will force some of these plans to choose not to include catch-ups and others to increase the amount of burdens imposed upon them in order to add the Roth provision. It is also likely that employees who might have made the catch-up contributions while pretax will decide against it when forced to make them after tax. The SBCA suggests that this provision should be changed so that at most only the additional contributions after age 60 would be subject to the new Roth provision. As a general comment, the SBCA finds the 2020 version of the SECURE Act 2.0 to be far more preferable to small business retirement plans than the 2021 version.

The Laws Governing Retirement Plans Can Be Simplified

There is still much room for simplification with the goal of reducing or eliminating complexities that are unnecessary or that result in burdens that outweigh the desired policy objectives. This is often best achieved by providing plan administrators with the opportunity to take advantage of *optional* simplification such as the 401(k) safe harbor provisions. This allows companies to weigh the advantage of reducing complexity with the costs of possible plan amendments, required contributions, redoing employee communications and software and educating plan participants, if necessary.

The SBCA suggests that the following proposals would encourage small and midsize employers (and assist larger plans as well) to establish qualified plans by simplifying the rules and reducing unnecessary administrative burdens:

Eliminate Top-Heavy Rules for Defined Contribution Plans

The SBCA was disappointed to see that repealing the top-heavy rules for defined contribution plans was not included in the latest version of SECURE Act 2.0. When first enacted, the top-heavy rules imposed additional minimum contributions and accelerated vesting on small and mid-size retirement plans, which were virtually always top-heavy due to the mathematical tests used to determine such status. Over the years, the contribution rules and the discrimination tests have changed so significantly that the top-heavy rules are now an archaic appendage similar to that of the appendix in the human body—they do nothing but cause problems. Nevertheless, those who are not immersed in the technicalities of retirement plan law insist that the top-heavy rules in the defined contribution world still operate so as to benefit non-highly compensated employees. This outdated view has resulted in inertia on the Hill when it comes to repealing these unnecessary and complicated rules.

Simplify the 401(k) Discrimination Testing Referred to as the "ADP" Tests

The anti-discrimination rules for 401(k) plans (the ADP tests) are more complicated than needed. For instance, the tests set forth in the proposal referred to as the "ERSA" (Employer Retirement Savings Accounts—see below) would satisfy the policy goals of the ADP while reducing some of the complexity currently inherent in these tests. This could be an optional ADP test so that companies who are able to deal with the current ADP tests are not required to change retirement plan documents, software and procedures.

The ERSA proposal called for the contribution percentage for eligible highly compensated employees (HCEs) for the plan year not to exceed 200% of such percentage for the non-highly compensated employees (NHCEs) if the contribution percentage of the NHCEs does not exceed 6%. If the contribution

percentage of the NHCEs exceeds 6%, then no testing would be required. The proposal also has two safe harbors to avoid the simplified nondiscrimination test which are similar to the current 401(k) safe harbors.

Eliminate Yearly Safe Harbor Notices for 401(k) Safe Harbor Match

This notice required by statute is costly and burdensome. The match safe harbor notice does serve a policy purpose in that it can affect the amount of 401(k) deferrals an employee may choose to make in order to receive the match. However, rather than yearly notices, the notice could stay in effect unless and until revoked. The notice could be part of the Summary Plan Description.

Reduce Extensive, Burdensome and Unnecessary Reporting to Participants and Employers

The SBCA would recommend that the retirement plan system be rid of unnecessary notices that are not conveying timely or worthwhile information as follows:

– Amend ERISA to eliminate summary annual reports.

– Eliminate the requirement for quarterly investment statements (and make an annual notice) if participants have Internet access to their investment account information.

– Reduce the number of required notices by consolidating and simplifying existing notices. The SBCA welcomes the provision to simplify and reduce redundant and unnecessary disclosures in the SECURE Act 2.0.

Change the Law so that All or a Portion of a Retirement Plan Distribution Is Subject to Capital Gains Tax

In order to induce employers to provide qualified retirement plans that are inherently costly to administer and administratively burdensome, the final tax consequences should be as advantageous as possible. Today, some owners either balk at putting in a plan because they believe that it is easier and just as cost-effective to take an after-tax bonus and invest it in the market where it will ultimately receive favorable capital gains treatment or they are told by advisors that it is better to invest in insurance or other assets. Retirement plans are not tax shelters; rather, they are trusts that simply defer taxation for a time. If a portion of the distribution from a retirement plan was subject to capital gains rather than income tax, it is likely that contributions going into small business retirement plans would significantly increase.

Additional Changes Will Further Help Promote Retirement Security

Modify the Required Minimum Distribution Rules (RMD)

The SBCA supports the concept of extending the Required Beginning Date but suggests that the transition to age 75 in the current version of SECURE 2.0 is phased in too slowly. For individuals, particularly small business owners who are still working, being forced to take out money from the retirement plan or IRA before it is needed, can often reduce the amount of retirement income available in later years when it is essential for these senior citizens. Presently, the law requires small business owners (and only small business owners) to start receiving RMDs *while they are working.* The demographics of the group comprised of small business owners are such that money saved in a plan or an IRA will be crucial to their retirement security. The SBCA suggests that this provision be changed so that the age 75 is made effective within a few years. The SBCA also suggests that the 2020 version of the SECURE Act 2.0, which exempted retirement plan accumulations of $150,000 or less from the required minimum distribution rules, be brought into the final 2021 version of the SECURE Act 2.0. This again would be a welcome change by reducing administrative burdens while at the same time allowing these individuals with these relatively smaller accumulations to remove the money from the retirement plan or IRA when most needed.

Auto Enrollment and Auto Escalation Provisions

While forcing new plans to adopt auto enrollment and auto escalation is definitely more burdensome to small business retirement plans, the data clearly reflects that these provisions increase participation in retirement plans. Thus, the additional burdens that will be imposed are outweighed by the increased participation that will result. The SBCA applauds the SECURE Act 2.0 for including provisions for helping small businesses with the inevitable mistakes that occur with these provisions.

Maintaining and Strengthening ERISA Preemption

ERISA preemption is essential to the proper working of the entire qualified retirement plan system. This is particularly true where a small business is operating in different jurisdictions which have imposed new rules regarding retirement plan coverage.

Expanding Cafeteria Plans Will Help Individuals Obtain the Benefits Necessary to Be Cared for During Their Retirement and Make Their Savings Last

The SBCA supports the recommendation made to this Committee by The ERISA Industry Committee (ERIC) that cafeteria plans be expanded to allow for additional pre-tax benefits—such as long-term care insurance and disability insurance. The SBCA would add a critical missing element to this which is to allow small business owners of pass-through entities to participate in the cafeteria plans that they sponsor.

While employees of large businesses, mid-size employers, non-profits, schools, universities and the federal, state, and local governments can take advantage of the valuable benefits provided by cafeteria plans, *only* small business owners are *not allowed* to participate in a cafeteria plan. Under current law, cafeteria plans can be utilized by common-law employees, but not by sole proprietors, partners in a partnership, S-corporation shareholders holding an interest of 2% or greater (and by attribution, their family members) and members in a limited liability company which has elected to be taxed as an S Corporation or as a partnership.

As a result, because most small business owners are not able to participate in cafeteria plans, employees of small businesses are often not offered this valuable employee benefit at all or are only offered the health premium option. This is true discrimination against small business owners, which additionally harms the employees employed by that business. This rule is bizarre in that small business owners are, of course, allowed to participate in qualified retirement plans. It should be noted that there are many more employees of small businesses in qualified retirement plans than in cafeteria plans, indicating that by disallowing most small business owners from participating in a cafeteria plan, their rank-and-file employees are at a significant disadvantage.

Because IRC Section 125 does not specifically include self-employed individuals in its definition of "employee," the Internal Revenue Service decided that Congress had intended to prohibit small business owners as "employees" for purposes of IRC Section 125. We doubt that Congress intended any such result since at the time Section 125 was enacted, small business owners, regardless of whether they were working in a pass-through entity or not, were deemed employees for purposes of qualified retirement plans (IRC Section 401(c)). There is no good reason to think they should be treated otherwise for a similar type of employee benefit—the cafeteria plan and their underlying plans (IRC Sections 79, 105, 106, 125, 129, and 132), particularly given that everybody else can be covered by a cafeteria plan. As a result of IRS' interpretation of Section 125, as mentioned above sole proprietors, partners, shareholders owning 2% or more in S-corporations, and members of most limited liability companies are all unable to participate in cafeteria plans. This creates a significant disincentive for small business owners to provide cafeteria plans which can offer a variety of qualified benefits from which their employees can choose those most needed.

Since IRS has been unwilling to change its interpretation, the SBCA urges Congress to pass a law which specifically calls for small business owners of pass-through entities to be deemed "employees" for Section 125 and the relevant underlying Code Sections (79, 105, 106, 129, and 132). We also agree with ERIC that this is an appropriate time to expand the list of qualified benefits, particularly benefits such as long term care and supplemental insurance benefits which will become increasingly important to our more senior citizens to help them live comfortably in their retirement years.

Other Provisions Which Would be Helpful Include:

- Changing the family attribution rules
- Increasing the time to adopt beneficial discretionary retirement plan amendments
- Adding a new tax credit for employers encouraging contributions by small businesses with up to 50 employees
- Expanding the ability of plans to self-correct plan errors by expanding EPCRS and VFCP

- Allowing self-certification for deemed hardship distributions
- Increasing the small business plan start-up credit
- Treating student loan payments as elective deferrals for the purpose of matching contributions.

The SBCA appreciates the Committee's consideration of these important issues and stands ready to lend its expertise and assistance to the members of the Committee and their staff members.

SOUTH CAROLINA SMALL BUSINESS CHAMBER OF COMMERCE
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Statement of Frank Knapp Jr., President and CEO, National Coordinator, "Reform the SBA: BIGGER Mission, Authority and Resources"

On behalf of the of the national, state, and local business organizations listed at the bottom of this statement, I want to thank you for your attention to this issue. We support the federal government's efforts to encourage Americans to save for retirement.

This hearing, "How Can Congress Help?" is of particular interest to our national campaign that addresses the country's 40-year low in new business startups, a small business and economic crisis that has received bipartisan recognition.

Our recommendations are for reforms at the federal level that will serve to break down the barriers to entrepreneurs starting businesses.

We believe that one of those barriers to entrepreneurs making the decision to leave their existing jobs is the issue of retirement. If the entrepreneur's current job offers a retirement program, how will they affordably replace such a program for themselves and offer the same to future employees. The latter is especially problematic as offering employee benefits can be critical to competing with bigger businesses for talent.

While legislation such at the Encouraging Americans to Save Act seek to encourage retirement savings by providing government matching contributions for low- and middle-income workers, it does not address the most important reason for Americans not saving for retirement—a convenient, portable, and automatic retirement program through their employers.

AARP has long promoted their Workplace Retirement Plans at the state level. Their research clearly shows that employees are far more likely to participate in a retirement plan if it is offered through payroll deduction. AARP's state efforts seek to address the cost and administrative efforts of small businesses implementing a 401(k) type plan or IRA, barriers that cause most small businesses to not offer retirement programs even if doing so would enable them to better attract employees.

Unfortunately, even the concerted professional efforts of AARP to gain the cooperation of state legislatures have met with very limited success over the years. Millions of small businesses and their employees can no longer wait for their individual states to address this issue.

The federal government should create a universal, portable retirement program that every small business can opt into. A defined contribution plan administered at the national level would encourage employees to save via payroll deduction. Employers would also be eligible to participate in the plan and have the option of contributing to their employees' plans.

In 1986 Congress passed the Federal Employees' Retirement System Act which has provided Federal employees and members of the uniformed services an easy payroll deduction method of saving for retirement. The Federal Retirement Thrift Investment Board has shown how to effectively manage a national retirement savings program.

Saving for retirement should be everybody's responsibility. We can make it easier with a universal, payroll deduction retirement program. In this way we also promote entrepreneurship and a more level playing field for small businesses to compete with larger businesses for employees.

Thank you for your consideration of our recommendation. Please let me know if there are any questions. We would be happy to further discuss this issue.

American Independent Business Alliance
American Sustainable Business Council
Gullah Geechee Chamber of Commerce
Latin American Chamber of Commerce—Charlotte (LACCC)
Latino Communications Community Development Corporation
Local First Arizona
North Carolina Business Council
Sumter Black Chamber of Commerce
South Carolina Hispanic Chamber of Commerce
South Carolina Small Business Chamber of Commerce
Triad Local First
U.S. Green Chamber of Commerce

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July 28, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

Re: Senate Committee on Finance Hearing "Building on Bipartisan Retirement Legislation: How Can Congress Help?"

Dear Chairman Wyden and Ranking Member Crapo,

On behalf of the SPARK Institute, I would like thank you for holding today's hearing on the critical issues involved in improving retirement security for millions of Americans. Our members deeply value your leadership and look forward to working with you and the Committee to advance solutions that improve, simplify, and modernize retirement savings.

The SPARK Institute believes that retirement security is the shared responsibly of individuals, employers, government, and the providers, consultants, and advisors who serve them. We represent the interests of a broad-based cross section of retirement plan service providers and investment managers, including banks, mutual fund companies, insurance companies, third-party administrators, trade clearing firms and benefits consultants. Collectively, our members serve approximately 100 million employer-sponsored plan participants.

Today's hearing underscores that the work to enhance retirement security is not finished. As Congress reflects on recent enactment of the Setting Every Community Up for Retirement Enhancement (SECURE) Act, we are excited to share with you a number of suggestions for additional improvements and enhancements. Attached you will find the SPARK Institute's Legislative and Regulatory Agenda which was the product of extensive input from our members. We are pleased that a number of these proposals have been included in various introduced bills.

In the Senate, SPARK has endorsed the Retirement Security and Savings Act of 2021 introduced earlier this year by Senator Ben Cardin and Senator Rob Portman. SPARK is especially supportive of a number of provisions in Retirement Security and Savings Act that have been identified by our members as key improvements such as expansion of the small business start-up credit, increasing the required beginning date to 75 and additional catch-up contributions for certain older employees. SPARK noted our support for a provision to integrate student loan repayment solutions into workplace savings plans. SPARK also commended the provisions in Retirement Security and Savings Act that will streamline and simplify retirement plan operations, including expanding self-correction, limiting notices for unenrolled participants, and permitting 403(b) plans to invest in collective investment trusts (CITs).

SPARK is committed to working with Congress to continue advance the many improvements contained in the Retirement Security and Savings Act of 2021 and to incorporate additional improvements and simplifications as the Finance Committee

develops its comprehensive retirement savings legislation. For example, SPARK has long championed the expanded use of default electronic delivery for retirement plan documents because it simplifies plan administration, reduces costs, and provides retirement savers access to online tools and real-time information on their retirement benefits. SPARK believes the 2020 Department of Labor E-Delivery Rule struck an appropriate balance between expanding default e-delivery and protecting the rights of retirement savers who prefer paper documents. We strongly encourage Congress to advance legislation that would harmonize e-delivery rules across the federal agencies, including at the Treasury Department and IRS.

We greatly appreciate your interest in and commitment to these important retirement security issues. As retirement savings reforms and enhancements advance through the legislative process, we look forward to working with the Committee to ensure the retirement reforms are as effective as possible to help all Americans achieve a financially secure retirement.

Sincerely,

Tim Rouse
Executive Director

Legislative and Regulatory Agenda 2021

The SPARK Institute represents the interests of a broad-based cross section of retirement plan service providers and investment managers, including banks, mutual fund companies, and insurance companies. Collectively, our members serve approximately 95 million participants in 401(k) and other defined contribution plans. We focus on promoting the important benefits of employer-sponsored retirement plans, which are critical to the financial security of Americans saving for retirement.

The SPARK Institute believes that *retirement security is a shared responsibility* of individuals, employers, government, and the providers, consultants, and advisors that serve them. Building on the successful enactment of the Setting Every Community Up for Retirement Enhancement (SECURE) Act in 2019, the SPARK Institute is committed to working with Congress and federal regulators to advance solutions that implement the five pillars of the SPARK Institute's Legislative and Regulatory Agenda detailed below.

☑ PRESERVE AND EXPAND INCENTIVES FOR RETIREMENT SAVINGS

*The SPARK Institute seeks to **preserve the current tax incentives** for retirement savings and **opposes financial transaction taxes** that would harm retirement savers. The SPARK Institute supports efforts to **increase coverage through expanded tax incentives** so that more workers have access to, and utilize, employer-sponsored savings vehicles, like 401(k), 403(b), and 457(b) plans.*

☑ ELECTRONIC DELIVERY & ADMINISTRATION: MODERNIZING RETIREMENT PLAN COMMUNICATIONS

The electronic delivery of retirement plan documents empowers employees by providing them access to real-time information on their retirement benefits and online tools to assist them with retirement planning. The 2020 Department of Labor E-Delivery Rule struck an appropriate balance between expanding default e-delivery and consumer protections. Additionally, the ongoing pandemic has highlighted the value of electronic delivery and the need for other modernizations to facilitate the greater use of technology for notarizations and other plan operations.

*The SPARK Institute supports the **expansion of default e-delivery.** We will continue to work for the **harmonization of e-delivery rules** across the federal agencies, including at the Treasury Department/IRS. The SPARK Institute will advance a **nationwide remote notarization standard.***

☑ FINANCIAL WELLNESS & LITERACY: MEETING THE HOLISTIC FINANCIAL NEEDS OF RETIREMENT SAVERS

Retirement savings are part of the holistic financial needs and challenges that plan participants face. With sensible changes to federal rules, employers and service providers can do more to help improve the financial wellness of all employees and im-

plement policies that support an employee's participation in retirement savings plans while meeting their existing obligations, such as student loans.

*The SPARK Institute supports legislative and regulatory solutions to **integrate student loan repayment solutions** into workplace savings plans. The SPARK Institute encourages efforts to **expand access to financial wellness programs** inside and outside of retirement savings plans and the growth of **financial literacy programs.** The SPARK Institute will **advance emergency savings solutions** to address the economic needs and concerns of employees and supports the **expansion of workplace savings programs** to include other non-retirement savings priorities.*

☑ SIMPLIFICATION: ADVANCING REFORMS TO MAKE RETIREMENT SAVING EASIER AND ENHANCE OUTCOMES

Simplifying and modernizing the rules and regulations that govern retirement plans will make it easier and less expensive for employers to offer retirement plans so all Americans can enjoy a financially secure retirement.

*The SPARK Institute supports efforts to streamline retirement plan operations, including **plan design simplification, notice consolidation, testing relief, and streamlined reporting requirements.** The SPARK Institute also supports changes that would **permit 403(b) plans to invest in collective investment trusts (CITs).** The SPARK Institute will work to **advance missing participant solutions and expand access to self-correction for plan errors.***

☑ LIFETIME INCOME: ENCOURAGING INNOVATIVE WAYS TO GENERATE INCOME IN RETIREMENT

To ensure that retirees have the lifetime income they need to enjoy a comfortable retirement, more should be done to ensure that retirement savers have access to lifetime income options in their retirement plans. This means offering lifetime income investments during the accumulation phase and offering lifetime distribution options at retirement. We believe not in supporting one product, but rather in supporting a robust market where plan fiduciaries can choose what best meets the needs of participants. We need rules that support, not impede, innovative solutions.

*The SPARK Institute supports legislative and regulatory changes that would facilitate the **inclusion of annuities and other lifetime guarantees** during the accumulation phase and through retirement.*

STATE STREET GLOBAL ADVISORS

The Honorable Benjamin Cardin 509 Hart Senate Office Building Washington, DC 20510	The Honorable Rob Portman 448 Russell Senate Office Building Washington, DC 20510

May 18, 2021

Dear Senators Cardin and Portman:

I am writing to thank you for your leadership on retirement policy and in particular for your bipartisan efforts to ensure that Americans are able to retire with dignity. State Street Global Advisors (State Street) is one of the largest asset managers working with U.S. Defined Contribution (DC) plans today. With nearly 40 years of experience in the DC market, we manage more than $650 billion in DC assets around the world, of which over $496 billion belong to participants in the U.S.[1] Given our industry depth, we have a unique appreciation for the opportunity the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 holds for employers and participants and the foundation it affords subsequent measures, namely the newly introduced Retirement Security and Savings Act of 2021 (RSSA). We applaud this policy progress as being requisite for Americans' retirement security.

The last year has seen tremendous upheaval in our country and its impact on Americans' employment and financial situation has been significant. Weathering this crisis has been of paramount importance; however, we must also consider the long-term impact this crisis has had on retirement savings. As such, your legislation would significantly improve the financial standing of many workers.

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[1] As of March 31, 2021.

We believe there are four main areas that need to be addressed in order to ensure that working Americans can retire when and how they would like: (1) having access to an employer-sponsored retirement plan; (2) saving sufficiently in that plan; (3) having mechanisms in place that ensure that retirement savings will last throughout retirement; and (4) ensuring financial wellness through vehicles that address other critical financial needs. The SECURE Act contained many provisions addressing all four of these areas and we are already seeing progress being made to implement those provisions. The RSSA takes more critical steps to address these issues and we strongly support those efforts.

While backing the bill as a whole, we have identified six priority provisions that represent meaningful avenues for retirement industry progress:

- Enhanced catch-up contributions for workers over age 60;
- The changes to the qualified longevity annuity (QLAC) rules that will enhance lifetime income opportunities;
- An increase in the age at which required minimum distributions must commence from 72 to 75;
- Permitting employers to match student loan repayments;
- Allowing 403(b) plans to invest in collective investment trusts which, in many cases, are a more cost-effective investment vehicle; and
- Allowing 403(b) plan sponsors to participate in multiple employer plans.

By extending employer options and broadening individual horizons, we believe that together we can ensure Americans retire with dignity. We look forward to and are committed to working with you as you move this legislation forward.

Sincerely,

David Ireland
Global Head of Defined Contribution
State Street Global Advisors

XY PLANNING NETWORK
24 E. Main Street
Bozeman, MT 59715

Statement of Michael Kitces, Co-Founder and Executive Chairman; and Alan Moore, Co-Founder and CEO

Introduction

On behalf of our 1,500 independent financial advisors, XY Planning Network thanks Chairman Wyden, Ranking Member Crapo, and members of the Senate Committee on Finance for holding this important hearing.

XY Planning Network ("XYPN" or the "Network") is a national network of fee-for-service financial advisors that provides them with technology, compliance, and business consulting services. XYPN represents state-registered investment advisers in all 50 states. Network members serve primarily working-age Generation X and Generation Y consumers, providing financial advice for which they receive fee-only compensation for their services, without asset minimums or product sales. Our professional advisors take a fiduciary oath as a condition of membership, which includes an agreement not to sell products for commissions or engage in other, more opaque compensation arrangements in the financial services industry. The majority of our members hold the CFP® certification, an intensive program covering all aspects of financial planning, including a special focus on retirement planning.

General Statement in Support

For many of the same reasons that you heard from witnesses in the July 28, 2021, hearing on retirement legislation, XYPN is supportive of bipartisan initiatives such as legislation introduced recently by Senators Cardin and Portman,[1] and referred on May 20, 2021 to this Committee. XYPN is also supportive of other related legislative efforts to enhance the current U.S. retirement system by encouraging additional worker participation, increased savings, as well as tax credits that encourage the creation of new qualified plans by small businesses.

One of the primary areas of advice that is sought by the approximately 75,000 clients of XYPN members is retirement planning advice. Inasmuch as XYPN members

[1] *See* S. 1770, Retirement Security and Savings Act ("RESA").

typically are compensated by hourly, project, or retainer fees, and not for the amount of the client assets under professional management, the Network's client base is generally comprised of lower-to-moderate income workers, couples, and family households, not high-net worth clients.

As such, XYPN in particular supports expanding coverage to the part- and full-time workers without access to retirement plans, whether it is the state-sponsored automatic IRA programs that fill an important gap in this effort, and similar legislative initiatives at the federal level. Moreover, since numerous studies[2] confirm that competent and ethical financial planning advice can boost savings and expected returns by investors in the securities markets, we strongly urge this Committee to add a tax credit (as opposed to a tax deduction) which would more likely be used by the lower- and moderate-income workers who most need professional assistance to "stay the course" in meeting their long-term retirement goals.

Statement in Opposition to Sec. 112 of RESA

While sec. 112 of RESA ostensibly supports increased savings and investment returns by allowing workers in a private sector, defined contribution plan to be able to receive individualized retirement planning advice (on both their employer retirement plan, and investments held in outside accounts) as an employer-paid fringe benefit, XYPN believes this benefit is highly discriminatory by: (1) only being available to those who work for companies that choose to offer the benefit (rather than empowering workers to make their own decision to seek financial advice); (2) being unavailable to those who are unemployed, part-time employed, or partially retired, and who may still need access to retirement advice; and (3) limiting the ability of employees to only choose financial advisors associated with their employee benefits provider or other specific firms their employers select, rather than allowing employees to choose their own advisor.

In essence, the issue is that by attaching a tax deduction for retirement advice solely to the benefits programs offered by employers, then employees themselves would be unable to work with independent financial advisors who are not connected to the employer's payroll/benefits systems administering workers' fringe benefits. Nor would there be an administratively feasible way for employers sponsoring a plan—particularly in the large "mega-plans" with thousands of participants and beneficiaries—to have the flexibility to allow them to connect with any advisor of their preference. Instead, most plan sponsors would be compelled to rely on their recordkeepers ("RKs") to furnish this advisory service, given that the employer would need to negotiate the engagement en masse for all employees when structured as an employee benefit and route payments through their existing benefits systems to ensure proper tax reporting. In fact, many RKs already offer their own in-house advice solutions to plan sponsors using their recordkeeping services, leading to both a limitation on advice choice for workers, and conflicted advice to those workers as the RK is a party in interest (thereby necessitating an additional safe harbor under ERISA).

In other words, while sec. 112 can be read in one way as suggesting a 401(k) plan sponsor can retain "any" registered investment adviser offering retirement planning advice (which is technically correct), in practice not any advisory firm will have access to provide that advice and be compensated for its services due to the aforementioned system constraints. Recordkeepers with dominant market-share would not only serve as de facto gatekeepers controlling access to advice-givers, but also have a direct and conflicted interest to only or primarily offer their own advisors in lieu of any other the worker might have independently selected.

This structure is also concerning because ERISA imposes exacting duties on the fiduciaries of retirement plans by requiring the principal fiduciary (namely the plan sponsor) to prudently select and monitor its service providers, and to discharge this duty "solely in the interest of the participants and beneficiaries" of the plan.[3] In practice, tying financial advisors at the hip to the recordkeeper, by providing a tax incentive only to such arrangements that are structured as an employee benefit, will make it that much more difficult for the plan sponsor to make a prudent selection,

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[2] *See, e.g.,* David Van Knapp, "What Is the Value of An Advisor?", *Seeking Alpha,* February 13, 2017, reviewing research published by Vanguard estimating that investors gain about 3 percent per year in value for their investments by working with an advisor compared to self-directed investing. Another research paper, "Alpha, Beta, and Now . . . Gamma," by David Blanchett and Paul Kaplan of Morningstar evaluated the financial outcomes of retirees that indicated good financial planning decisions increase retirement income by 29 percent, or the equivalent of an additional 1.82 percent per year of higher returns.

[3] 29 U.S.C. § 1104(a)(1)(A).

and for the individual advisor to provide objective advice in assisting workers in meeting their retirement goals.

As such, XYPN recommends that this advice-gap issue can be resolved by eliminating the fringe benefit approach to expanding retirement advice, which both limits consumer choice, favors more conflicted advice channels, and provides potentially outsized deductions to the most highly-compensated employees (where fees for retirement advice services can reach $100,000/year [4] and would become fully deductible under the current proposal). Instead, the Committee should consider more inclusive approaches to broaden access to professional, unbiased financial planning advice, which might include either: (a) reinstating the IRC Section 212 expense deduction for investment advice as an itemized deduction for individual consumers who select and pay for financial advice (where both workers covered by an employer retirement plan, and anyone else seeking retirement advice, can obtain the deduction with the advisor of their choosing on an equal footing); or (b) expanding the Saver's Tax Credit—intended for use by low-and-moderate-income taxpayers—by adding an Advice Tax Credit for the same demographic (which again would not necessitate obtaining an advice-provider through an employer's recordkeeper).

To ensure that the advice is provided by a competent and unbiased financial intermediary, and minimizes the risk of conflicted advice, the criteria could require advice-givers to hold a nationally recognized professional certification like the CERTIFIED FINANCIAL PLANNER ("CFP") designation, and to sign a fiduciary oath to ensure loyalty of the advisor to the client's best interests.

Conclusion

In summary, the XY Planning Network supports the bipartisan efforts of this Committee to enhance the efforts of workers nationwide to work toward financial independence in retirement. One way to help retirement savers reach this goal is to amend and broaden the tax incentives available to all workers by making competent and unbiased investment advice more accessible to all workers.

Thank you again for this opportunity to share our perspective on ways to "level the playing field" for financial advice in the U.S. workplace. If you have any questions, please do not hesitate to contact me at michael@xyplanningnetwork.com.

[4] *See, e.g.,* Bill Dillhoefer, "Equity Compensation Planning as a Niche: Market Opportunity and Differentiated Value," referencing the types and range of compensation paid to advice-providers offering retirement planning services in the employer channel, available at *https://www.kitces.com/blog/equity-compensation-planning-executives-stockopter-option-grants-share-grants-valuation-analysis-modeling/*.