



Federal Legislative & Regulatory Report

February 2019

Inside this issue

House and Senate hold hearings on retirement security.....	Page 1
Lawmakers ask GAO to assess cybersecurity issues of DC plans.....	Page 2
Senators introduce bills to help students reduce debt, save for retirement.....	Page 2
Bills to expand Social Security introduced.....	Page 3
Treasury issues final pass-through income rules.....	Page 3
States continue to explore modifying standard of care for broker-dealers.....	Page 3
References and source material used in this publication.....	Page 5

RESA reintroduced in the House

On February 6, Reps. Ron Kind (D-WI) and Mike Kelly (R-PA) reintroduced [H.R. 1007](#), the Retirement Enhancement and Savings Act (RESA), a collection of retirement security improvements including open MEPs, lifetime income disclosure, and an annuity provider selection safe harbor.

Despite strong bipartisan support, RESA failed to advance in 2018 but is well-positioned to move in the new Congress. Most recently, RESA was part of congressional negotiations over the boarder wall to avert another government shutdown on Feb 15. While not ultimately included in the agreement, its consideration is a positive sign that Congress is committed to enacting the legislation as soon as possible.

Relatedly, other retirement packages that include parts of RESA were also reintroduced, including the [Retirement Security Act](#) and [SIMPLE Plan Modernization Act](#). Similarly, the previously House-passed [Family Savings Act](#), an amended version of RESA, is expected to be reintroduced shortly.

House and Senate hold hearings on retirement security

On February 6, the House Ways and Means Committee and Senate Select Committee on Aging held separate hearings to discuss retirement security issues and possible solutions. Both suggested a consensus around acknowledging the retirement savings problem and it being made worse by the looming insolvency of Social Security. Suggested solutions to the problem varied, but there was a focus on expanding access to workplace plans.

The House hearing, titled “[Improving Retirement Security For America’s Workers](#),” is expected to be the first of a number of hearings focused on retirement this year. The discussion focused on four legislative solutions — the Retirement Enhancement and Savings Act (RESA), the Automatic Retirement Plan Act (AutoIRA), Social Security 2100, and the Family Savings Act.

The Senate hearing titled, “[Financial Security in Retirement: Innovations and Best Practices to Promote Savings](#),” focused on the inadequacy of Social Security, the gender disparities in retirement savings, and the financial insecurity that comes with people serving as caregivers for spouses and parents.

Lawmakers ask GAO to assess cybersecurity issues of DC plans

On February 12, Sen. Patty Murray (D-WA) and Rep. Bobby Scott (D-VA) sent a [letter](#) requesting the Government Accountability Office (GAO) assess the cybersecurity of the private retirement system. The letter states in part that the “cybersecurity safeguards, risks and liabilities for plan sponsors and participants remain ill-defined, especially with regard to major data breaches or advanced persistent threats...”

The lawmakers explain that the large amount of assets and increasingly digital nature of the retirement system make it a particularly enticing target for criminals.

Senators introduce bills to help students reduce debt, save for retirement

On February 12, Sens. Mark Warner (D-VA) and John Thune (R-SD) introduced [S.460](#), the Employer Participation in Repayment Act, to allow companies to contribute up to \$5,250 per year tax-free to their employees to reduce student loan balances. Currently, federal law only allows firms to help finance educational costs for workers who are taking undergraduate or graduate courses.

A companion bill, [H.R.1043](#), was introduced in the House by Reps. Scott Peters (D-CA) and Rodney Davis (R-IL). Sens. Warner and Thune believe the change could be a helpful recruitment and retention tool for younger employees who are typically not large consumers of health care, retirement, and insurance benefits.

On February 12, Sens. Elizabeth Warren (D-MA), Tim Scott (R-SC), Ron Wyden (D-OR), and Mike Lee (R-UT) reintroduced [S.448](#), the Graduate Student Savings Act, to help graduate students start saving for their retirement by allowing funds from a graduate student’s stipend or fellowship to be deposited into an Individual Retirement Account (IRA). While fellowship or stipend funding currently is taxed as income by federal and state governments, it does not qualify as “compensation” and cannot be saved in an IRA.

A companion bill, [H.R.1194](#), was introduced in the House by Rep. Joseph Kennedy (D-MA).

Bills to expand Social Security introduced

On January 30, Rep. John Larson (D-CT) reintroduced [H.R.860](#), the Social Security 2100 Act. The Bill would expand Social Security benefits and increase how much workers contribute to the social insurance program. Specifically, the bill increases benefits by about 2%, along with a cost-of-living adjustment. The bill also sets a higher minimum benefit, putting it at 25% above the poverty line, and cuts taxes by lifting the income thresholds for when recipients must pay taxes on benefits.

Sen. Richard Blumenthal (D-CT), who sponsored a companion version of the bill in the 115th Congress, reintroduced it on January 30 as [S.269](#).

On February 13, Sen. Bernie Sanders (I-VT) introduced [S.478](#), the Social Security Expansion Act. This bill includes an across-the-board benefit increase, cost-of-living increases, and an increase in the minimum benefit for lifetime low earners based on years in the workforce. It also would extend benefit eligibility for children who are full-time students.

Treasury issues final pass-through income rules

On January 18, Treasury issued final [regulations and related guidance](#) implementing the new qualified business income deduction (section 199A deduction). The deduction, a 20% tax break applied to pass-through business income that was created as part of the 2017 tax reform. Notably, the regulations clarify that tax deductions business owners get for retirement plan contributions, self-employment tax, and self-employed health insurance dilute the overall pass-through deduction because those deductions count against business income.

States continue to explore modifying standard of care for broker-dealers

In **Maryland**, State Senator James Rosapepe introduced S. 786, an omnibus financial services bill that would impose a fiduciary rule on broker-dealers, broker-dealer agents, insurance producers, investment advisors, federal covered advisors, and investment advisor representatives. A person subject to the provision “is a fiduciary and has a duty to act in the best interest of the customer without regard to the financial or other interest of the person or firm providing the advice.”

The provision allows the commissioner to adopt regulations to carry out the fiduciary requirement. Interestingly, the provision also states that nothing therein imposes on a broker-dealer any books and records requirement that is not imposed under federal law – likely an attempt to comply with National Securities Market Improvement Act (NSMIA) preemption.

A bill introduced in **North Dakota** (HB 1144) could modify the standard of care owed to consumers by producers providing advice when selling life and annuities. The bill would permit certain insurance producers to charge fees and to receive fees as well as commissions in connection with the sale, solicitation, or servicing of insurance contracts. As currently written, the bill provides that an “insurance producer charging a fee for services rendered for risk management services ... owes

the person to be charged a higher standard of care than the ordinary standard of care ...” The bill excludes life insurance but does not appear to exclude annuities.

In 2017 **Nevada** law (SB 383) was amended to create a fiduciary obligation for broker dealers providing advice to Nevada residents, including advice related to the purchase of insurance products such as life insurance and annuities. The law allowed the Nevada Securities division to develop regulations. Comments are due March 1, 2019.

[\(Back to the Table of Contents\)](#)

References and source material used in this publication

Page 1

Summary and Text of H.R.1007, Retirement Enhancement and Savings Act of 2019
<https://www.congress.gov/116/bills/hr1007/BILLS-116hr1007ih.pdf>

Summary and Text of S.321, Retirement Security Act of 2019
<https://www.congress.gov/116/bills/s321/BILLS-116s321is.pdf>

Summary and Text of S.322, SIMPLE Plan Modernization Act of 2019
<https://www.congress.gov/116/bills/s322/BILLS-116s322is.pdf>

Summary and Text of H.R.1084, Family Savings Act of 2019
<https://www.congress.gov/116/bills/hr1084/BILLS-116hr1084ih.pdf>

Page 2

House Webpage for Improving Retirement Security For America's Workers Hearing
<https://waysandmeans.house.gov/legislation/hearings/improving-retirement-security-america-s-workers>

Senate Webpage for Financial Security in Retirement: Innovations and Best Practices to Promote Savings Hearing
<https://www.aging.senate.gov/hearings/financial-security-in-retirement-innovations-and-best-practices-to-promote-savings>

Text of Lawmakers Letter Asking GAO to Assess Cybersecurity Issues of DC Plans
https://www.help.senate.gov/imo/media/doc/190212_GAO_Retirement_Cybersecurity_Request.pdf

Summary and Text of S.460 and H.R.1043, Employer Participation in Repayment Act of 2019
<https://www.congress.gov/116/bills/s460/BILLS-116s460is.pdf>
<https://www.congress.gov/116/bills/hr1043/BILLS-116hr1043ih.pdf>

Summary and Text of H.R.1194, Graduate Student Savings Act of 2019*
<https://www.congress.gov/116/bills/hr1194/BILLS-116hr1194ih.pdf>

* The text of S.448 had not been published at Congress.gov as of February 28, 2019.

Page 3

Summary and Text of S.269 and H.R.860, Social Security 2100 Act
<https://www.congress.gov/116/bills/s269/BILLS-116s269is.pdf>
<https://www.congress.gov/116/bills/hr860/BILLS-116hr860ih.pdf>

Summary and Text of S.478, Social Security Expansion Act
<https://www.congress.gov/116/bills/s478/BILLS-116s478is.pdf>

IRS Regulations and Guidance Implementing the New Qualified Business Income Deduction
<https://www.irs.gov/pub/irs-drop/td-reg-107892-18.pdf>

[\(Back to the Table of Contents\)](#)

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants in the Employer page of our plan website, NRSforu.com. In addition, we report guidance on legislative and regulatory activity relevant to government sector plans through:

- *Federal Legislative and Regulatory Report* – distributed monthly and posted in the Plan Sponsor section of NRSforu.com; it's available online and for download
- *Plan Sponsor Alerts* – published as needed to announce breaking news
- *Governmental 457(b) Guidebook*

About this report

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

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

Nationwide, the Nationwide N and Eagle, and Nationwide is on your side are service marks of Nationwide Mutual Insurance Company.
© 2019 Nationwide
NRM-17286AO (03/19)

