



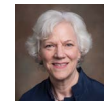
# Will Congress Finally Enact Comprehensive Retirement Legislation?

Congress appears poised to move retirement legislation through both houses.

April 8, 2019

## HIGHLIGHTS

- Two recently introduced bills—the SECURE Act in the House and RESA in the Senate—enjoy bipartisan support and a commitment from leadership for prompt passage.
- The proposals are similar and offer several potential enhancements, but adjustments will be required in the reconciliation process.
- Both proposals would require defined contribution plan statements to include lifetime income estimates based solely on current balances (which could be discouraging, especially for young savers) using an annuitization rate established by the Department of Labor that does not reflect actual annuity pricing (which is potentially misleading).
- Although many features from prior proposals are included in these bills, neither the SECURE Act nor RESA would expand availability of collective investment trusts within 403(b) plans or streamline disclosure and notice requirements.



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After years of discussion, Congress may be poised to move retirement legislation through both houses that incorporates many retirement provisions that failed to pass in prior sessions of Congress. Both House and Senate leaders have signaled their commitment and willingness to work toward prompt passage of retirement legislation.

To that end, House Ways & Means Committee chair, Rep. Richard Neal (D-MA), joined with ranking member Rep. Kevin Brady (R-TX) to introduce the Setting Every Community Up for Retirement Enhancement Act (SECURE Act) on March 29, and Senate Finance Committee chair, Sen. Charles Grassley (R-IA), joined by ranking member Sen. Ron Wyden (D-OR), formally reintroduced the Retirement Enhancement and Savings Act (RESA) in the Senate on April 2.

## What May Final Legislation Look Like?

The House's SECURE Act and the Senate's RESA are similar—a point that may simplify reconciliation of final legislation. However, some adjustments will be required to reach consensus. The chart below provides more detail on similarities and differences between the two proposals.

**IF YOU'D LIKE TO KNOW MORE, VISIT THESE LINKS BELOW:**

[SECURE Act](#)

[RESA](#)

[Portman-Cardin](#)

	SECURE Act	RESA
Open Multiple Employer Plans (MEPs) and Pooled Employer Plans (PEPs)	✓	✓
Fiduciary Safe Harbor for Annuity Selection	✓	✓
Special Portability for Participants With Annuities	✓	✓
Mandatory Lifetime Income Disclosure	✓	✓
Increasing Automatic Contribution Safe Harbor Escalation Limit	✓	✓
403b Termination Clarity	✓	✓
Closed Defined Benefit Plan Relief	✓	✓
Increased Start-Up Credit for Small Employers	✓	✓
Automatic Enrollment Credit for Small Employers	✓	✓
Flexibility on Timing of Safe Harbor Amendment	✓	✓
Common Form 5500 for Similarly Serviced Plans	✓	✓
Post-Age 70½ Contributions to IRA	✓	✓
Limits on "Stretch IRA"	✓	✓
Increased Penalties for Filing Failures	✓	✓
Coverage of Long-Term Part-Time Employees	✓	
Penalty-Free Birth/Adoption Withdrawal	✓	
Required Minimum Distribution (RMD) Beginning Age Increase to 72	✓	
Expanded 529 Account Uses	✓	
Community Newspaper Defined Benefit Plan Relief	✓	

## Highlight of Provisions Common to the SECURE Act and RESA

- Open MEPs and PEPs.** In the interest of expanding retirement plan adoption and reducing plan expenses, both RESA and the SECURE Act would expand the type of employers that can band together to form multiple employer plans (MEPs) and would also allow third-party, non-employer entities to sponsor pooled employer plans (PEPs) and serve as the named fiduciary that will assume all administrative and disclosure obligations of the plan. MEPs and PEPs may allow small employers to obtain better plan pricing advantages that are typically available to larger employer plans but, in the long term, may result in diminishing the role of private employers in the U.S. retirement system.
- Increase of Safe Harbor Automatic Escalation Limit.** To enhance the existing automatic enrollment safe harbor, both bills increase the automatic escalation cap from 10% to 15%. This change will enable more plans to help participants reach the savings target of 15%, which T. Rowe Price and other firms promote as a common goal for helping participants better prepare for retirement.
- Closed Defined Benefit (DB) Plan Relief.** Both bills would help closed defined benefit plans more easily meet nondiscrimination testing rules in situations where longer-tenured employees (who may also be more highly compensated) are eligible to accrue benefits in DB plans that are closed to new employees. This could prolong the existence of certain DB plans that might otherwise seek to terminate because of nondiscrimination testing concerns.
- Lifetime Income Disclosure Requirements.** These provisions would require a once-per-year translation of a participant's *current* balance into a lifetime income illustration using an annuitization rate established by the Department of Labor or

the annuitization rate applicable under the plan's annuity option, if one exists. We believe that illustrations using *current* account balances could be discouraging—especially for younger participants or new hires who have accumulated less in the plan—and the use of an annuity rate that does not reflect actual annuity pricing is potentially misleading.

## Provisions Unique to SECURE Act

The additional provisions in the SECURE Act that are not included in RESA appear designed to meet the needs of specific constituencies whose support is needed for passage of retirement legislation. For example, coverage of long-term part-time employees has been a special focus of Sen. Patty Murray (D-WA) in her Women's Pension Protection Act proposal in the prior Congress, as well as Senators Rob Portman (R-OH) and Ben Cardin (D-MD), longtime retirement champions in Congress. Similarly, penalty-free birth and adoption withdrawals are likely to appeal to supporters of the administration's paid family leave proposals.

## Will Any Other Provisions Be Added to SECURE Act/RESA?

In December 2018, near the end of the 115th Congress, Senators Rob Portman (R-OH) and Ben Cardin (D-MD) introduced retirement legislation (Retirement Security and Savings Act; "Portman-Cardin") with over 50 provisions directed at enhancing retirement security. For example, the Portman-Cardin bill would have allowed ERISA 403(b) plans to offer common/collective investment trusts (CITs) as plan investment options and streamlined disclosure and notice requirements—provisions that are absent from both of the current legislative proposals. It is unclear that any Portman-Cardin provisions not already included in the SECURE Act/RESA will be added, and it is too early to predict whether a second retirement bill with these provisions could make it through Congress at a later date.

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