



Senate bill boosts PEPs, eases fixes for plans with automatic features

*By Geoff Manville and Margaret Berger
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New bipartisan Senate legislation aims to encourage more small-business retirement plans by expanding the availability of pooled employer plans (PEPs) to 403(b) plans and extending the small-employer start-up tax credit for new plans to employers that join an existing PEP or multiple-employer plan (MEP), regardless of when they join. The bill also provides a penalty-free grace period to correct reasonable errors in administering automatic enrollment and automatic escalation features and allows certain retroactive plan amendments to boost benefits.

Bill revives prior proposals

The [Improving Access to Retirement Savings Act](#), introduced on May 19 by Sens. Chuck Grassley, R-IA, Maggie Hassan, D-NH, and James Lankford, R-OK, will “build off the successful implementation of the SECURE Act,” the lawmakers said in a [press release](#) announcing the legislation, which they first offered in the prior Congress. The Senate bill’s provisions are also included in a much larger bipartisan House package of retirement reforms — the [Securing a Strong Retirement Act of 2021](#) (HR 2954) — that unanimously passed the Ways and Means Committee earlier this month.

The three senators sit on the Senate Finance Committee, which is expected to consider a similarly broad retirement package this year — the Retirement Security and Savings Act (RSSA), introduced on May 21. Although unlikely to move forward in a stand-alone measure, the reforms in the smaller bill have an excellent chance of getting folded into RSSA and included in any final legislation Congress might pass.

Provisions encourage pooled employer plans

Two provisions in the bill aim to encourage PEPs:

- **MEP reforms expanded.** The SECURE Act’s PEP provisions would expand to cover nongovernmental 403(b) plans.
- **Start-up credits extended to MEPs, PEPs.** Small employers that join a MEP or PEP could claim the current retirement plan start-up tax credit for their first three years in the MEP or PEP, regardless of how long the MEP or PEP has existed.

Easier fixes for automatic features, retroactive amendments allowed

The bill's other provisions would ease plan administration in two ways for employers of all sizes:

- **Safe harbor corrections for elective deferral failures.** The bill would give plans 9-1/2 months after the end of the plan year to correct — without penalty — reasonable errors in administering automatic enrollment and automatic escalation features.
- **Retroactive benefit-accrual amendments allowed.** Retroactive amendments to increase benefits (except for matching contributions) for a plan year could be made by the due date of the employer's tax return for the tax year that includes the plan year. This would give existing plans the same flexibility to retroactively enhance benefits as the SECURE Act provides for employers to retroactively sponsor new plans.

Related resources

Non-Mercer resources

- [Improving Access to Retirement Savings Act](#) (Sen. Grassley, May 19, 2021)
- [Press release](#) (Sen. Grassley, May 19, 2021)

Mercer Law & Policy resources

- [Major bipartisan retirement reform bill gets House committee approval](#) (May 6, 2021)
- [Senate reintroduces expansive retirement bill](#) (May 20, 2019)

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