

Retirement Savings for Americans Act

Senators Hickenlooper (D-CO) and Tillis (R-NC) and Representatives Smucker (R-PA-11) and Sewell (D-AL-7)

Section-by-Section Summary

This proposal is designed to strengthen retirement security and financial well-being for tens of millions of workers who lack access to an employer-sponsored retirement account. It would establish a new program modeled after the federal Thrift Savings Plan (TSP) that provides eligible workers with access to portable, tax-advantaged retirement savings accounts. It would also create a new refundable tax credit that delivers matching contributions for low- and middle-income workers.

Section 1: Short Title

The title of the bill is the Retirement Savings for Americans Act.

Section 2: Definitions

This section details the definitions used in the bill.

Section 3: Relationship to Social Security

The retirement plans established in this bill would be complementary to, and not serve as a replacement for, Social Security benefits.

Section 4: Government Benefits

The funds owned by participants in the Account would not be taken into consideration when determining eligibility for government public assistance benefits.

Title I: The American Worker Retirement Plan

Section 101: The American Workers Retirement Fund

This section would establish a fund in the U.S. Treasury Department called the American Worker Retirement Fund (or "Fund"), which would include: the total retirement contributions from participants; the total federal matching and automatic contributions; and the total earnings or losses from the Fund's investments net of fees. As with the Thrift Savings Plan, administrative expenses would be paid by the Fund's resources, not out of taxpayer funds.

Each participant would have an individual account at the Fund and would have ownership over their contributions, any federal contributions made on their behalf, and any earnings on their investments.

Section 102: Investment of the American Worker Retirement Fund

This section prescribes the types of investment options that would be offered by the Fund, including:

- Government Securities Investment Fund;
- Fixed-Income Investment Fund;
- Common Stock Index Investment Fund;
- Small Cap Stock Index Investment Fund;
- International Stock Index Investment;
- Life-Cycle Investment Fund.

Participants who do not actively make a selection(s) would be automatically enrolled into the appropriate Life-Cycle Investment Fund.

Section 103: Eligibility

This section outlines eligibility to participate in the program. Qualifying workers must be: a) employed by a business that has not established an eligible retirement plan with an automatic payroll deduction or otherwise ineligible to participate in their employer's plan, or b) independent contractors who are self-employed and have not established an eligible retirement plan (including gig workers).

Workers could opt out of withholding at any time. Workers who later become ineligible would still retain ownership over the resources in the account but could no longer make new contributions.

Section 104: Enrollment

This section outlines the enrollment process for qualifying workers, which would be integrated into the existing federal tax withholding process for employers. Qualifying workers would be automatically enrolled at 3 percent of their income and would have the opportunity to opt out at any time. The Secretary of Treasury and Executive Director of the Fund would establish processes for creating accounts for workers who elect not to withhold so that they can make allowable contributions outside of withholding and receive any eligible credit.

Participating employers will have one year to enroll all qualifying workers into the program. Employers who fail to enroll qualifying workers or who fail to deposit contributions would be subject to a penalty equal to a percentage of the forgone deposit. This penalty would increase based on the number of days that they have failed to make the deposit.

Enrolling qualifying independent contractors into this program will not affect the classification of that worker as an independent contractor under Federal, state or local laws.

Section 105: Contributions

Participants would be able to make contributions into their account at any time. Contributions would be made using after-tax dollars (Roth-style) and would be subject to the same limits as Individual Retirement Accounts (IRAs). Participants are allowed to contribute any tax refunds into their account.

Section 106: Distributions

This section outlines how former participants could withdraw funds from their account through a single payment, an annuity, multiple recurring annual payments, or a combination of these methods. Withdrawals could be taken as a direct payment or transferred to an eligible retirement plan. Participants could change how funds are to be withdrawn at any time except after choosing an annuity if the annuity contract has been purchased. Once paid, withdrawals could not be returned.

If a current or former participant dies before electing a withdrawal method, control over withdrawals from their account would be transferred to their spouse or designated beneficiary. Accounts inherited from a former participant would be paid out at the death of the beneficiary.

Additionally, a current participant ineligible to begin withdrawing from their account could apply to receive a loan from their account no greater than the amount they have contributed so far. Before receiving the loan, a participant would be provided information on the costs and impact of this loan on their final account balance. Current participants could also apply to withdraw the portion they have contributed to their account once they are 59 and a half years old or if they are experiencing financial hardship.

Finally, participants who meet the income criteria of the IRS's definition of a "highly-compensated employee" (\$135,000 annually for 2022) would be subject to a mandatory distribution. Specifically, any contributions made in the year in which a participant qualifies as a highly-compensated employee would be distributed as cash unless the participant elects a rollover into an IRA.

Section 107: Accounts

The Executive Director of the Fund would provide bookkeeping for each account, the balance of which would be the difference between all the contributions made by or on behalf of the participant minus any amount paid out to them from the Fund. Each account would receive a pro rata share of the net earnings or losses from a Fund's investments minus administrative expenses determined by the Executive Director.

Section 108: Tax Treatment

Rules similar to the rules that apply to the Thrift Savings Plan would apply to the Fund. Specifically, the Fund would be treated as a trust exempt from taxation under section 501(a) of the Code. The Fund would be exempt from nondiscrimination requirements under section 401(k). Additionally, the Fund's resources would not be included as wages counted under Social Security.

Section 109: Spousal Protections; Survivor Rights

This section would require that the Executive Director allow a participant's spouse to access their account and ensure that payments are made to any Court ordered beneficiaries of the participant. This is modeled directly after a provision in the Thrift Savings Plan.

Title II: Investment Management System

Section 201: The American Worker Retirement Investment Board

This section would establish the American Worker Retirement Investment Board (or "Board") under the executive branch. The Board would be composed of five members: three members appointed by the President (to include the chair), one member recommended by the Speaker in consultation with the minority leader of the House, and one member recommended by the majority leader in consultation with the minority leader in the Senate. All board members would have substantial experience managing financial investments and pension benefit plans and would be confirmed by the Senate. Board members would be appointed for 4-year, staggered terms.

The Board would be responsible for establishing policies around the management of the Fund and administration of the program, reviewing the investment performance of the Fund, developing financial literacy interventions for participants, and approving the Fund's budget. The Board would have the power to remove the Executive Director with good cause if four of the five Board members agree. The Board could also submit legislative recommendations to the President and Congress.

Section 202: The American Worker Retirement Advisory Council

This section would establish an Advisory Council to advise the Board and Executive Director on matters relating to the investment policies and administration of the Fund. The Council would consist of seven members appointed by the Chair of the Board, including a Head of the Council, and members with experience operating small businesses, asset management experience, and experience providing investment advice to small businesses and retail investors. Council members would serve a 4-year term. Majority approval would be required for the Council to issue resolutions.

Section 203: Executive Director

Under this section, the Board would vote to appoint an Executive Director with substantial experience in the management of financial investments and pension benefit plans. The Executive Director would invest and manage the Fund in accordance with the investment policies set by the Board, appoint personnel and prescribe regulation necessary to carry out this Act, manage the day-to-day activities of the fund, and meet with the Council upon their request.

Section 204: Investment Policies and Selection of Investment Managers

The Board would develop investment policies and select investment managers to act as asset managers for the fund. No asset manager would be responsible for managing the greater of \$500 billion or 10 percent of the Fund's assets. Each asset manager would be contracted for a maximum of five years.

Section 205: Administrative Provisions

The Board would meet monthly and whenever called by the Chair. Only three members would need to be present for the Board to have a quorum. Board members would receive payment on a daily basis when performing duties and be reimbursed for travel and other expenses. Board members could not be government employees.

Section 206: Fiduciary Responsibilities; Liability and Penalties

The members of the Board and the Board's Executive Director would serve as fiduciaries of the Fund, and are directed to act with the exclusive purpose of providing benefits to participants and beneficiaries, and defraying reasonable expenses of administering the Fund.

Section 207: Bonding

This section would require custodians of fund assets, like banks that hold the securities purchased with contributed funds, to be bonded to protect from misappropriation of assets. It would not apply to some types of companies, namely federally regulated banks, which would be the likely custodians of fund assets.

Section 208: Investigative Authority

This section would grant the Secretary of Labor the same investigative powers over this Fund that the office has under the Employee Retirement Income Security Act of 1974.

Section 209: Exculpatory Provisions; Insurance.

This is standard corporate governance practice to provide litigation defense and director and officer liability insurance for actions taken in the fiduciary capacity. It would prohibit any provisions limiting fiduciary duties.

Section 210: Subpoena Authority.

This section would allow the Executive Director to issue subpoenas related to the Fund's activities.

Title III: Matching Tax Credit

Section 301: Government Match Tax Credit

This section would create a refundable tax credit to function as a federal matching and automatic contribution for participants in the retirement plan established in this bill. The tax credit would be paid directly into the retirement accounts of eligible participants; workers not enrolled in the plan would be ineligible for the credit. Workers' contributions would need to remain in the account for at least six months in order for them to qualify for the matching contribution.

Eligibility for the tax credit would be tied to work and retirement contributions. In total, workers earning below median income would be eligible for a maximum matching benefit equivalent to 5 percent of their gross income. Specifically, eligible workers would receive an automatic contribution equal to 1 percent of their gross income as long as they remained employed. Additionally, eligible workers would receive a dollar-for-dollar match on contributions up to 3 percent of their gross income. Each dollar of contributions above 3 percent of a worker's gross income would be matched at 50 cents on the dollar, up to a total of 5 percent of income.

The match and auto-contribution would phase out among higher-income workers; the phaseout would begin at median income for individuals. For joint filers, the phaseout would begin at 200 percent of median individual income. For head-of-household filers, the phaseout would begin at 150 percent of median individual income. The federal benefit would decrease by \$75 for every \$1,000 in income above the median.

Participants are not allowed to receive both the match and the Saver's Credit established in SECURE 2.0.