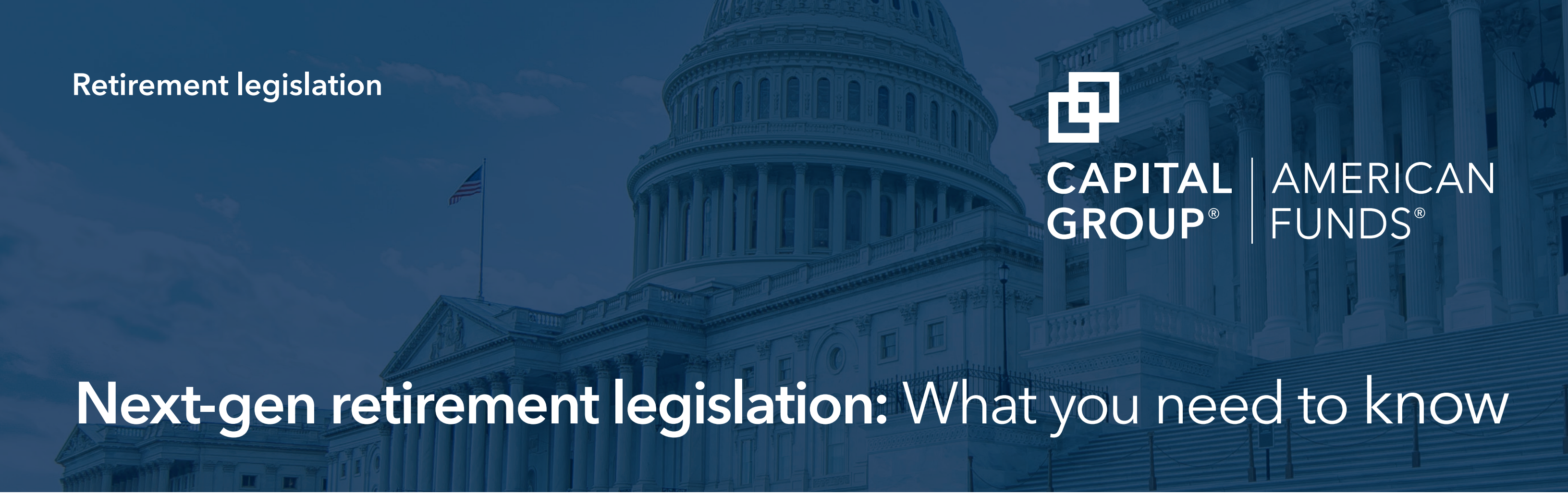

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Next-gen retirement legislation: What you need to know

The SECURE Act of 2019 started a push to help more Americans better save for retirement. The following bills are currently active in Congress:

- **The Securing a Strong Retirement Act (SSRA),** sometimes referred to as SECURE 2.0, has been passed in the House of Representatives.
- **The Enhancing American Retirement Now Act (EARN)** has gained approval by the Senate Finance Committee.
- **The Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg Act (RISE & SHINE)** has been approved by the Senate Health, Education, Labor and Pensions (HELP) Committee.

The retirement bills share many similar provisions, and it's widely expected that they'll be consolidated before enactment. The following table highlights the most impactful provisions for defined contribution plans.

Proposed provision*	**Summary** (for defined-contribution plans unless otherwise indicated)
Increased automatic enrollment (SSRA, EARN, RISE & SHINE)	Proposals range from incentivizing employers to offer auto-enrollment with tax credits to requiring all new plans (with certain exemptions) to include auto-enrollment. There's also a proposal to require plans that adopt auto-enrollment in the future to re-enroll nonparticipants every three years. **There's a wide range of possible outcomes, but, with a mention in all three bills, some form of auto-enrollment enhancement may be likely.**
403(b) plans allowed CITs (SSRA, EARN)	403(b) plans may be allowed to invest in collective investment trusts (CITs), rather than limited in their investment choices to annuities and mutual funds. **This change is somewhat controversial because it also requires a change to the securities laws.**
Required Roth treatment for catch-up contributions (SSRA, EARN)	Catch-up contributions may be required to be Roth contributions, even if regular contributions are pretax. **This proposal may likely be included in any final bill because the revenue it raises would pay for most of the other changes that are being considered.**
Relaxed RMD rules (SSRA, EARN)	The age at which required minimum distributions must begin may increase, in stages, from 72 to 75. Also, the penalty for not taking an RMD may be lowered from 50% of the required amount not taken to 25%.
Emergency savings accounts (RISE & SHINE)	Employers may have the option to add an emergency savings account to their plan to provide participants easy, penalty-free access to emergency funds. Employee contributions would be after-tax (not Roth) and subject to matching. Employers may be able to choose the account limit, up to $2,500, and whether to utilize auto-enrollment up to 3%. Emergency savings amounts would have to be held as cash or in an interest-bearing deposit account, or invested in capital preservation investments, such as money market funds.
Emergency withdrawals (EARN)	In addition to current hardship distribution allowances, in-service withdrawals up to $1,000 may be allowed for certain unforeseen or immediate emergency expenses without paying an early withdrawal penalty. Also, employers may be allowed to rely on participant certification that hardship or emergency withdrawal requirements are satisfied. **Given Congressional concern about the lack of access to emergency savings, it may be likely that any final legislation will include an in-plan emergency savings account provision as well as an emergency withdrawal provision.**
Retirement savings lost and found (SSRA, EARN)	To help individuals find information about previous employers to claim earned benefits, a searchable retirement savings database may be created.

* Each bill listed includes the provision in some form, in whole or in part.

Continued on next page.

Proposed provision*	Summary (for defined-contribution plans unless otherwise indicated)
Enhanced saver's tax credit (SSRA, EARN)	The saver's tax credit rate for taxpayers below an income threshold may be increased to an across-the-board 50% of contributions, eliminating the current tiered range of 10–50%. The EARN bill would make the saver's credit refundable and required to be paid to an IRA or retirement plan and not be taken in cash or as an offset to taxes due.
Employer Roth contribution option (SSRA, EARN)	Employers may have the option of permitting employees to designate employer contributions – matching and, possibly, nonelective – as Roth after-tax contributions rather than pretax. Currently, employer contributions can only be pretax.
Wider plan eligibility for part-time workers (SSRA, EARN, RISE & SHINE)	The number of consecutive years in which employees need at least 500 hours of service to become plan eligible may decrease from three years to two years.
Increased catch-up contributions (SSRA, EARN)	Subject to variations between the bills, participants age 60–64 may be allowed to contribute an additional $10,000 a year ($5,000 for SIMPLE IRAs).
Student loan payment match (SSRA, EARN)	Employers may have the option to make matching contributions on workers' qualified student loan payments.
Automatic IRA portability (EARN)	Certain small retirement plan account balances for terminated employees can be automatically rolled into a default IRA. Employer plans may have the option of automatically transferring default IRA assets into a participant's current employer plan. Also, a $500 tax credit may be provided to employers with 100 or fewer employees that adopt an automatic portability arrangement.
New safe harbor designs (EARN)	A "starter" deferral-only 401(k) or 403(b) plan design may be approved to appeal to small businesses who don't offer a plan and might not pass nondiscrimination testing. Starter plans would be required to automatically enroll all eligible workers at 3–15%, with elective employee contributions only (no employer contributions) subject to IRA contribution limits. Also, if included in the final legislation, a new, alternate method of satisfying nondiscrimination testing would be allowed. The safe harbor would require automatic enrollment of at least 6% in year one, increase 1% a year until year five, thereafter maintaining a rate of at least 10%; matching contributions must be 100% of the first 2% of deferral compensation, 50% of the next 4% deferred and 20% of the next 4% deferred. This design is sometimes referred to as a "stretch match" because it involves matching contributions as high as 10% of pay without materially increasing the employer's overall cost.
Enhanced small-plan startup tax credit (SSRA, EARN)	A new tax credit for small-business defined contribution plans may be created, covering the amount of employer matching contributions up to $1,000 per employee. The amount of the employer contributions allowed as a credit would be 100% of contributions in years one and two, 75% in year three, 50% in year four and 25% in year five. The tax credit for employers with 51–100 employees may be reduced by 2% for every employee more than 50. **This new tax credit is only in the SSRA, so whether it will be in any final legislation is an open question.** Also, the SECURE Act's small-plan startup tax credit that covers 50% of employer plan costs for the plan's first three years may be increased up to 100% for plans with up to 50 employees.
SIMPLE IRA enhancements (SSRA, EARN)	The EARN bill proposes to increase the SIMPLE IRA contribution limit from $14,000 to $16,500 with comparable increases for catch-up contributions. Employers with SIMPLE IRAs would also have the option of making nonelective contributions above the currently required contributions (nonelective or matching) to all employees in a uniform manner, up to the lesser of $5,000 or 10% of compensation. Also, employees would be able to choose whether employer contributions are pretax or Roth after-tax. In addition, SIMPLE IRA and SEP plan sponsors may have the option to accept Roth elective employee contributions.

* Each bill listed includes the provision in some form, in whole or in part.