



Q3 2025 Legislative Update

Overview

After several fits and starts, the One Big, Beautiful Bill Act (OBBBA) was enacted on July 4, 2025. Although this legislation contains very little in the way of retirement provisions, it clears the way for additional freestanding retirement plan bills that may gain traction. Having this reconciliation bill in the rearview mirror may also refocus attention on other executive branch directives that could affect long-term retirement savings.





Q3 2025 Legislative Update

Legislative Update



Trump Accounts

The OBBBA contains a significant IRA-related provision. Existing IRAs are not directly affected. Rather, a new type of account—called a “Trump account”—is patterned after Traditional IRAs. This account is available to individuals under age 18 and is designed to give U.S. citizens an early start on saving for retirement. Here are some of the details on this new savings mechanism.

- No contributions will be accepted until at least 12 months after the enactment date.
- No distributions are permitted until the year the account owner turns 18 (except for excess contribution removals). Net income attributable to excess contributions is taxed at 100%.
- Assets must be invested in an index fund with low annual fees.
- Normal after-tax contributions are limited to \$5,000 per year (indexed starting in 2028).
- Additional contributions may be made by certain organizations (e.g., tax-exempt organizations).
- Contributions of up to \$2,500 (indexed starting in 2028) may be made by employers (to an employee’s dependent who qualifies for such an account), and this amount will not be included in the employee’s gross income.
- Children born in 2025 through 2028 (born as U.S. citizens with a Social Security number) are eligible for a one-time \$1,000 contribution paid through the Treasury Department.
- Regular contributions are not deductible, so distributions of these amounts are not taxed upon distribution. Other contributions that are not included in gross income (e.g., contributions from employers or from the government) will be included in income upon distribution.
- Reporting requirements are more rigorous than those for Traditional IRAs, and they include reporting information on all those who make more than a \$25 contribution to the account.



Q3 2025 Legislative Update

As with many provisions in the OBBBA, details on Trump accounts will have to be sorted out. It is clear, however, that these accounts will become Traditional IRAs as of the first day of the year in which the account holder turns age 18. In addition, Trump accounts may have a near-term effect on most financial organizations because existing Trump accounts may be rolled over directly from one account to another one for the same child. At this early stage in the process, it seems that only a few financial organizations will be chosen to accept contributions made with federal funds. For those selected institutions, Trump accounts could represent an important opportunity to establish a banking relationship with a whole new generation of savers.





Q3 2025 Legislative Update

Auto Reenroll Act of 2025

Senator Bill Cassidy (R-LA), chair of the Senate Committee on Health, Education, Labor, and Pensions (HELP), and Senator Tim Kaine (D-VA), committee member, have introduced the Auto Reenroll Act of 2025. This bill revises Internal Revenue Code Section 401(k)(13) to allow plan sponsors to automatically reenroll employees who have previously opted out of making salary deferrals into the plan. Under this provision, reenrollment could happen as often as every year. Of course, employees could once again opt out of this default election to defer.

Automatic enrollment has proven to be an effective mechanism in nudging employees toward retirement savings. Credible studies suggest that workplace plans with auto enrollment and auto increases have significantly higher savings rates than those plans without this feature. As with many pension reform bills, this bill seems to enjoy broad bipartisan support. In a statement supporting the bill, Senator Kaine stressed that making it easier for more workers to take advantage of savings opportunities can lead to their long-term financial security.





Q3 2025 Legislative Update

Retirement Investment in Small Employers (RISE) Act

Two other members of the Senate HELP Committee—Senator Maggie Hasson (D-NH) and Senator Ted Budd (R-NC)—have reintroduced the Retirement Investment in Small Employers (RISE) Act. This bill would raise the minimum tax credit for small businesses (those with fewer than 10 employees) who establish a workplace defined contribution plan. Eligible plan sponsors could receive up to \$2,500 for start-up costs for three years, and these costs would not be linked to the number of employees, as the existing law requires. An additional \$500 credit applies for including an automatic enrollment feature. Small employers may currently find that they are not eligible for their actual start-up expenses because the formula limits the credit based on the number of non-highly compensated employees. This bill also garners broad support, with a similar bill introduced in the House of Representatives during the last Congress.





Q3 2025 Legislative Update

Small Nonprofit Retirement Security Act

Tax credits for not-for-profit organizations have historically not applied because these entities do not have any income tax liability. This could all change with the Small Nonprofit Retirement Security Act, which has been introduced in both houses of Congress. This bill would allow the credits for start-up costs, for implementing an auto enrollment provision, and for certain employer contributions—all to be used against the employer's payroll tax liability.



The American Retirement Association (ARA) strongly supports this bill, noting that one in 10 U.S. workers are employed by a nonprofit organization. Many such organizations operate on tight budgets, so this relief could enable them to establish and fund retirement plans and to gain more equal footing with for-profit entities.



Q3 2025 Legislative Update

Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act

The GENIUS Act was enacted on July 18, 2025, and passed both houses of Congress with relatively broad support. This bill creates strict standards for U.S. issuers of stablecoins, which are digital tokens that are pegged to the U.S. dollar. Although this is not in any way a retirement plan bill, it could have a downstream effect. Various large players in the retirement plan space have been advocating for a relaxation of the Department of Labor's (DOL's) strict stance on cryptocurrency within retirement plans. And the DOL, in a recent pronouncement (see below), has done just that.





Q3 2025 Legislative Update

Legislative Package of Bills to Promote Independent Workers' Access to Benefits

Three U.S. senators, led by HELP Committee chair Bill Cassidy (R-LA), have introduced a package of bills designed to help gig workers and other independent contractors gain access to workplace benefits even if they are not considered eligible employees.



- Cassidy's Unlocking Benefits for Independent Workers Act allows companies to provide benefits voluntarily to non-employees without creating an employer–employee relationship.
- Senator Tim Scott (R-SC) has introduced the Modern Worker Empowerment Act, which aims to give workers a clear, consistent definition of “employee” based on the federal common law instead of an ever-changing list of factors determined by the Department of Labor.
- Cassidy's second bill in the package, the Independent Retirement Fairness Act, permits independent workers, among other things, to participate in pooled employer plans (PEPs) and SIMPLE IRA plans if a company chooses to treat the worker as if they are employees.



Q3 2025 Legislative Update

Pensions for All Act

During a July 17, 2025 HELP Committee hearing in which Senator Cassidy's legislative package was being discussed, ranking committee member Senator Bernie Sanders announced that he had introduced the Pensions for All Act. This competing bill would require companies to either provide a generous traditional pension plan or pay into the federal retirement system an amount that ensures a high level of benefits. Senator Sanders criticized the Cassidy package, noting that it would "make it easier for large corporations to misclassify workers as independent contractors in order to avoid paying them decent wages and decent benefits." Bringing back defined benefit plans for a large portion of the working population, as Sen. Sanders suggests, would seem unlikely given the cost for employers.





Q3 2025 Legislative Update

Protecting Prudent Investment of Retirement Savings Act

Environmental, social, and governance (ESG) investments have been a hot topic for several years, especially in the retirement plan industry. At issue is whether plan fiduciaries may consider ESG factors in addition to purely “pecuniary factors.” Simply stated, the first Trump administration adopted stringent regulations that curtailed ESG considerations when selecting plan investments. The Biden administration amended those rules to allow such factors while still emphasizing the need to elevate participants’ interests over fiduciaries’ interests. Now, the Protecting Prudent Investment of Retirement Savings Act would revert to a more stringent standard that would eliminate most ESG considerations.



- Fiduciaries must consider solely pecuniary factors when making investment decisions for the plan.
- If a fiduciary is unable to distinguish between or among investment alternatives or investment courses of action on the basis of pecuniary factors alone, only then may the fiduciary use non-pecuniary factors as the deciding factor.
- The bill would also prohibit fiduciaries from using prospective service providers’ “race, color, religion, sex or national origin” in the hiring or evaluation process.

Although this bill could pass along party lines in the House, it would seem to face a tougher path in clearing the 60-vote hurdle in the Senate.



Q3 2025 Regulatory Update

Regulatory Update

Department of Labor Weighs in on Forfeitures Cases with Amicus Brief

Since the early 2023 release of proposed regulations on the use of plan forfeitures, scores of plaintiffs have filed lawsuits against plan sponsors alleging the misuse of such plan assets. IRS-approved plan documents allow for three options, in any combination, for using plan forfeitures.

- Pay plan administrative expenses
- Reduce employer contributions under the plan
- Allocate forfeitures to participants' accounts

Plaintiffs have asserted that when plan sponsors decide to reduce their own contributions by using forfeited assets, they benefit by saving company assets that would otherwise have to be used to fund the plan. The argument is that the plan sponsor is subordinating the interests of participants to its own, thus violating a principal tenet of the Employee Retirement Income Security Act (ERISA).

Given the steady stream of forfeiture cases filed in recent years, the Department of Labor (DOL) decided to provide its view by submitting an amicus (friend of the court) brief to the U.S. Court of Appeals for the Ninth Circuit in *Hutchins v. HP Inc.* Normally, the DOL or Treasury Department would not take such an approach. They would instead make their position known by issuing regulations. This process, which typically includes releasing proposed rules followed by a comment and review period, can take many months (or even years). So, to expedite disseminating its viewpoint—and possibly helping courts to resolve the many outstanding suits—the DOL acted.





Q3 2025 Regulatory Update

The amicus brief itself takes a plan sponsor-friendly stance, noting that the practice of reducing employer contributions has been an established practice for decades. On its face, this practice would not violate ERISA, according to the DOL. The DOL states that plan design and funding decisions are “settlor functions” versus discretionary fiduciary ones. Therefore, the argument goes, using forfeited plan assets to reduce employer contributions cannot be a breach of ERISA’s fiduciary duties.



Although the DOL’s brief may help guide courts as they consider the spate of recent plan forfeiture cases, the results are not guaranteed. More forfeiture cases continue to be filed. While a majority of them are now being resolved in favor of plan sponsors, others are being settled or continue to be litigated. And one important factor may diminish the DOL’s influence: in 2024, the Supreme Court overturned the 1984 decision in the Chevron case. This means that courts are no longer required to give regulatory agencies the same high standard of deference when interpreting their regulations or other guidance.



Q3 2025 Regulatory Update

Administration Rescinds Earlier Guidance that Cautioned Against Cryptocurrencies

In 2022, the DOL released guidance on the prudence of cryptocurrency investments within a retirement plan, warning plan fiduciaries to exercise “extreme care” when considering offering these options. This approach created some concern because the DOL had departed from its historical standard of investment neutrality and had introduced a heightened standard of care not found anywhere in ERISA’s provisions.



In late May, the DOL rescinded this earlier guidance, returning to its historical investment neutrality standard. While this latest guidance is in no way an endorsement of cryptocurrency offerings within a retirement plan, it does reflect the current administration’s view that such investments may play an important role moving forward. The rescission merely removes guidance that the current administration viewed as bureaucratic overreach, which may have dampened legitimate inquiries into the prudence of cryptocurrency investments.



Q3 2025 Regulatory Update

As of November 2024, the federal Government Accountability Office reported that 401(k) cryptocurrency investments accounted for much less than one percent of the 401(k) plan market. Those that have access to this option normally do so through a self-directed brokerage window. As various alternative investments—including cryptocurrency—become more readily available, more plan sponsors may consider adding them to their investment lineup. But ERISA's prudent expert standard for fiduciaries will continue to apply. So, plan sponsors must carefully weigh which investment options for their participants meet this high standard.





Q3 2025 Regulatory Update

President Signs Executive Order to Enable Private Market Investments in Plans

On August 7, 2025, President Trump signed an executive order that could open alternative investments to workplace retirement plans. This order directs the DOL and the Securities and Exchange Commission (SEC) to issue guidance to plan sponsors about providing access to investments that are not normally available to participants. Although the order may have no immediate effect on plans' investment policies, it reflects the current administration's position on opening up private equity and debt options (and other alternative investments) to the \$12 trillion defined contribution market. No matter what guidance comes from regulatory agencies, plan fiduciaries will still have to meet ERISA's strict requirements that govern investment selection.





Q3 2025 Regulatory Update

Trends to Watch

Recent Social Security Report Causing Some Reactions

In June, the Congressional Research Service (CRS) released [a report](#) on Social Security's projected shortfall by 2035. (The CRS is a public policy research institute of the U.S. Congress and works with members of Congress on a nonpartisan basis.) This report focuses on the role of demographic factors (e.g., fertility, mortality, and immigration) in creating this financial imbalance. Especially considering the recent attention that U.S. immigration policy and enforcement have gotten, this report—and the shortfall generally—has generated a fair amount of attention.



The concern about the long-term solvency of Social Security is nothing new. But the recent actions by certain quarters in the federal administration have heightened anxiety. For example, representatives of the Department of Government Efficiency (DOGE) have claimed—without, according to reports, credible proof—massive fraud within the Social Security Administration (SSA), and DOGE has made deep cuts to frontline staff and SSA field offices. The SSA reports an unprecedented increase in claims for retirement benefits in the current fiscal year: five times the average increase over the past 12 years.

There may be multiple plausible reasons for this increase, but anxiety about accessing benefits, now and in the future, may be playing an important role. Alicia Munnell, senior advisor of the Center for Retirement Research at Boston College, has addressed the effect of fear on claiming Social Security benefits in this [recent article](#). Claiming benefits early can have profound consequences, not only in terms of reducing monthly benefits but also by increasing the likelihood of stopping work sooner and saving less. As more individuals contemplate claiming Social Security benefits before full retirement age, other savings—particularly retirement savings—may become even more important.



Q3 2025 Regulatory Update

Looking Ahead

The pending insolvency of Social Security is just one topic that is causing concern among retirement industry observers. Other areas of concern include outliving retirement savings and how to address this through longevity contracts (e.g., annuities); providing savings opportunities for those without access to workplace retirement plans; and addressing the disconnect between how employers and workers perceive their financial preparedness in retirement. Pentegra plans to cover these and other issues in upcoming updates.



The information, analyses and opinions set out herein are for general information only and are not intended to provide specific advice or recommendations for any individual or entity. Nothing herein constitutes or should be construed as a legal opinion or advice. You should consult your own attorney, accountant, financial or tax advisor or other planner or consultant with regard to your own situation or that of any entity which you represent or advise.