

116TH CONGRESS
2D SESSION

S. 4192

To increase portability of and access to retirement savings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

Ms. WARREN (for herself and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To increase portability of and access to retirement savings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retirement Savings
5 Lost and Found Act of 2020”.

6 **SEC. 2. RETIREMENT SAVINGS LOST AND FOUND.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—Not later than 2 years after
9 the date of the enactment of this Act, the Commis-
10 sioner of Social Security and the Secretary of the

1 Treasury in cooperation shall establish an online
2 mechanism to be known as the “Retirement Savings
3 Lost and Found”, to be managed by the Director of
4 the Retirement Savings Lost and Found established
5 under section 4 of this Act—

6 (A) to allow an individual to search for in-
7 formation that enables the individual to locate
8 the plan administrator of any plans with re-
9 spect to which the individual is a participant or
10 beneficiary, and to provide contact information
11 for the plan administrator of any plan described
12 in paragraph (2) with respect to which the indi-
13 vidual may be entitled to a benefit;

14 (B) to allow such Director to assist such
15 an individual in locating any plan of the indi-
16 vidual; and

17 (C) to allow such Director to make any
18 necessary changes to contact information on
19 record for the plan administrator based on any
20 changes to the plan due to merger or consolida-
21 tion of the plan with any other plan, division of
22 the plan into two or more plans, bankruptcy,
23 termination, change in name of the plan,
24 change in name or address of the plan adminis-
25 trator, or other causes.

1 The Retirement Savings Lost and Found established
2 under this paragraph shall contain the information
3 obtained by the Commissioner of Social Security re-
4 garding deferred vested benefits under section 6057
5 of the Internal Revenue Code of 1986 (including in-
6 formation so obtained before the date of the enact-
7 ment of this Act). Such information shall be re-
8 tained in the Retirement Savings Lost and Found in
9 perpetuity.

10 (2) PLANS DESCRIBED.—A plan described in
11 this paragraph is a plan to which the vesting stand-
12 ards of section 203 of part 2 of subtitle B of title
13 I of the Employee Retirement Income Security Act
14 of 1974 apply.

15 (b) ADMINISTRATION.—The Retirement Savings Lost
16 and Found established under subsection (a) shall provide
17 individuals described in subsection (a)(1) only with the
18 ability to view contact information for the plan adminis-
19 trator of any plan with respect to which the individual is
20 a participant or beneficiary, sufficient to allow the indi-
21 vidual to locate the individual’s plan.

22 (c) CURRENT INFORMATION.—

23 (1) IN GENERAL.—Paragraph (2) of section
24 6057(a) of the Internal Revenue Code of 1986 is
25 amended—

1 (A) in subparagraph (C)—

2 (i) by striking “during such plan
3 year” in clause (i) and inserting “during
4 the plan year immediately preceding such
5 plan year”;

6 (ii) by adding “and” at the end of
7 clause (i); and

8 (iii) by striking clause (iii);

9 (B) by redesignating subparagraph (E) as
10 subparagraph (G);

11 (C) by striking “and” at the end of sub-
12 paragraph (D); and

13 (D) by inserting after subparagraph (D)
14 the following new subparagraphs:

15 “(E) the name and taxpayer identifying
16 number of each participant or former partici-
17 pant in the plan—

18 “(i) who, during any previous plan
19 year, was reported under subparagraph
20 (C), and with respect to whom the benefits
21 described in subparagraph (C)(ii) were
22 fully paid during the plan year,

23 “(ii) with respect to whom any
24 amount was distributed under section
25 401(a)(31)(B) during the plan year, or

1 “(iii) with respect to whom a deferred
 2 annuity contract was distributed during
 3 the plan year,

4 “(F) in the case of a participant or former
 5 participant to whom subparagraph (E) ap-
 6 plies—

7 “(i) in the case of a participant de-
 8 scribed in clause (ii) thereof, the name and
 9 address of the designated trustee or issuer
 10 described in section 401(a)(31)(B)(i) and
 11 the account number of the individual re-
 12 tirement plan to which the amount was
 13 distributed, and

14 “(ii) in the case of a participant de-
 15 scribed in clause (iii) thereof, the name
 16 and address of the issuer of such annuity
 17 contract and the contract or certificate
 18 number, and”.

19 (2) RULES RELATING TO DIRECT TRUSTEE-TO-
 20 TRUSTEE TRANSFERS.—

21 (A) IN GENERAL.—Paragraph (6) of sec-
 22 tion 402(e) of such Code is amended—

23 (i) by striking “TRANSFERS.—Any”
 24 and inserting “TRANSFERS.—

25 “(A) IN GENERAL.—Any”; and

1 (ii) by adding at the end the following
 2 new subparagraph:

3 “(B) NOTIFICATION OF TRUSTEE.—In the
 4 case of a distribution under section
 5 401(a)(31)(B), the plan administrator shall no-
 6 tify the designated trustee or issuer described
 7 in clause (i) thereof that the transfer is a man-
 8 datory distribution required by such section.”.

9 (B) PENALTY.—Subsection (i) of section
 10 6652 of such Code is amended—

11 (i) by striking “TO RECIPIENTS” in
 12 the heading and inserting “OR NOTIFICA-
 13 TION”;

14 (ii) by striking “402(f),” and insert-
 15 ing “402(f) or a notification as required by
 16 section 402(e)(6)(B),”; and

17 (iii) by striking “such written expla-
 18 nation” and inserting “such written expla-
 19 nation or notification”.

20 (C) REPORTS.—Subsection (i) of section
 21 408 of such Code is amended—

22 (i) by redesignating subparagraphs
 23 (A) and (B) of paragraph (2) as clauses (i)
 24 and (ii), respectively, and by moving such
 25 clauses 2 ems to the right;

1 (ii) by redesignating paragraphs (1)
 2 and (2) as subparagraphs (A) and (B), re-
 3 spectively, and by moving such subpara-
 4 graphs 2 ems to the right;

5 (iii) by striking “as the Secretary pre-
 6 scribes” in subparagraph (B)(ii), as so re-
 7 designated, and all that follows through “a
 8 simple retirement account” and inserting
 9 “as the Secretary prescribes.

10 “(3) SIMPLE RETIREMENT ACCOUNTS.—In the
 11 case of a simple retirement account”;

12 (iv) by striking “REPORTS.—The
 13 trustee of” and inserting “REPORTS.—

14 “(1) IN GENERAL.—The trustee of”;

15 (v) by striking “under paragraph (2)”
 16 in paragraph (3), as redesignated by clause
 17 (iii), and inserting “under paragraph
 18 (1)(B)”;

19 (vi) by inserting after paragraph
 20 (1)(B)(ii), as redesignated by the pre-
 21 ceding clauses, the following new para-
 22 graph:

23 “(2) MANDATORY DISTRIBUTIONS.—In the case
 24 of an account, contract, or annuity to which a trans-
 25 fer under section 401(a)(31)(B) is made (including

1 a transfer from the individual retirement plan to
 2 which the original transfer under such section was
 3 made to another individual retirement plan), the re-
 4 port required by this subsection for the year of the
 5 transfer shall—

6 “(A) identify such transfer as a mandatory
 7 distribution required by such section,

8 “(B) include the name, address, and tax-
 9 payer identifying number of the trustee or
 10 issuer of the individual retirement plan to which
 11 the amount is transferred, and

12 “(C) be filed with the Director of the Re-
 13 tirement Savings Lost and Found established
 14 under section 2(a) of the Retirement Savings
 15 Lost and Found Act of 2020 as well as with the
 16 Secretary.”.

17 (3) NOTIFICATION OF PARTICIPANTS UPON SEP-
 18 ARATION.—Subsection (e) of section 6057 of such
 19 Code is amended by inserting “, and a notice of the
 20 availability of the Retirement Savings Lost and
 21 Found established under section 2(a) of the Retire-
 22 ment Savings Lost and Found Act of 2020” before
 23 the period at the end of the second sentence.

24 (4) EFFECTIVE DATE.—The amendments made
 25 by this subsection shall apply to distributions made

1 in, and returns and reports relating to, years begin-
 2 ning after the second December 31 occurring after
 3 the date of the enactment of this Act.

4 (d) COORDINATION WITH DISTRIBUTION REQUIRE-
 5 MENTS, FIDUCIARY DUTIES, ETC.—

6 (1) AMENDMENT OF INTERNAL REVENUE CODE
 7 OF 1986.—Paragraph (9) of section 401(a) of the In-
 8 ternal Revenue Code of 1986 is amended by adding
 9 at the end the following new subparagraph:

10 “(I) COORDINATION WITH RETIREMENT
 11 SAVINGS LOST AND FOUND.—

12 “(i) IN GENERAL.—With respect to
 13 any lost or missing participant of a plan,
 14 the plan shall not be treated as failing to
 15 satisfy the requirements of this paragraph
 16 or any other requirement of this title which
 17 cannot be satisfied due to the plan’s inabil-
 18 ity to locate the participant.

19 “(ii) LOST OR MISSING PARTICI-
 20 PANT.—Not later than 1 year after the
 21 date of the enactment of this subpara-
 22 graph, the Secretary (in consultation with
 23 the Commissioner of Internal Revenue),
 24 the Secretary of Labor (in consultation
 25 with the Assistant Secretary of Labor for

1 the Employee Benefits Security Adminis-
 2 tration), and the Pension Benefit Guaranty
 3 Corporation shall issue joint guidance de-
 4 fining the term ‘lost or missing partici-
 5 pant’ for purposes of this subparagraph.”.

6 (2) AMENDMENT OF EMPLOYEE RETIREMENT
 7 INCOME SECURITY ACT OF 1974.—

8 (A) IN GENERAL.—Section 404 of the Em-
 9 ployee Retirement Income Security Act of 1974
 10 (29 U.S.C. 1104) is amended by adding at the
 11 end the following new subsection:

12 “(f) COORDINATION WITH RETIREMENT SAVINGS
 13 LOST AND FOUND.—

14 “(1) IN GENERAL.—With respect to any lost or
 15 missing participant of a plan, a fiduciary of the plan
 16 shall not be treated as failing to satisfy any require-
 17 ment to search for or attempt to locate, or to pro-
 18 vide any document or information to, such indi-
 19 vidual, or any other requirement of this title which
 20 cannot be satisfied due to the plan’s inability to lo-
 21 cate the participant.

22 “(2) LOST OR MISSING PARTICIPANT.—Not
 23 later than 1 year after the date of the enactment of
 24 this subparagraph, the Secretary (in consultation
 25 with the Assistant Secretary of Labor for the Em-

1 ployee Benefits Security Administration), the Sec-
 2 retary of the Treasury (in consultation with the
 3 Commissioner of Internal Revenue), and the Pension
 4 Benefit Guaranty Corporation shall issue joint guid-
 5 ance defining the term ‘lost or missing participant’
 6 for purposes of this subsection.”.

7 (B) CONFORMING AMENDMENTS.—Section
 8 4050(a)(1)(B) of the Employee Retirement In-
 9 come Security Act of 1974 (29 U.S.C.
 10 1350(a)(1)) is amended—

11 (C) in subparagraph (B)—

12 (i) by striking “provides” and insert-
 13 ing “either—

14 “(i) provides”;

15 (ii) by striking the period at the end
 16 and inserting “; or”; and

17 (iii) by adding at the end the fol-
 18 lowing new clause:

19 “(ii) satisfies the requirements of sec-
 20 tion 6057(a) of the Internal Revenue Code
 21 of 1986.”.

22 (e) REQUIREMENT OF ELECTRONIC FILING.—

23 (1) IN GENERAL.—Paragraph (2) of section
 24 6011(e) of the Internal Revenue Code of 1986 is
 25 amended—

1 (A) by redesignating subparagraphs (A)
 2 and (B) as clauses (i) and (ii), respectively, and
 3 by moving such clauses 2 ems to the right;

4 (B) by striking “REGULATIONS.—In pre-
 5 scribing” and inserting “REGULATIONS.—

6 “(A) IN GENERAL.—In prescribing”; and

7 (C) by adding at the end the following new
 8 subparagraph:

9 “(B) EXCEPTIONS.—Notwithstanding sub-
 10 paragraph (A), the Secretary shall require re-
 11 turns or reports required under—

12 “(i) sections 6057, 6058, and 6059,
 13 and

14 “(ii) sections 408(i), 6041, and 6047
 15 to the extent such return or report relates
 16 to the tax treatment of a distribution from
 17 a plan, account, contract, or annuity,
 18 to be filed on magnetic media, but only with re-
 19 spect to persons who are required to file at
 20 least 50 returns during the calendar year which
 21 includes the first day of the plan year to which
 22 such returns or reports relate.”.

23 (2) EFFECTIVE DATE.—The amendments made
 24 by this subsection shall apply to returns and reports
 25 relating to years beginning after the second Decem-

1 ber 31 occurring after the date of the enactment of
2 this Act.

3 (f) SAFEGUARDING PARTICIPANT PRIVACY AND SE-
4 CURITY.—In establishing the Retirement Savings Lost
5 and Found under subsection (a), the Commissioner of So-
6 cial Security and the Secretary of the Treasury shall take
7 all necessary and proper precautions, including consulting
8 with the Secretary of Health and Human Services, to en-
9 sure that individuals’ plan information maintained by the
10 Retirement Savings Lost and Found is protected and that
11 persons other than the individual cannot fraudulently
12 claim the benefits to which any individual is entitled, and
13 to allow any individual to opt out of inclusion in the Lost
14 and Found at the election of the individual.

15 (g) CONFORMING AMENDMENT.—Subparagraph (B)
16 of section 6103(l)(1) of the Internal Revenue Code of
17 1986 is amended by striking “responsibility under section
18 1131 of the Social Security Act” and inserting “respon-
19 sibilities under section 1131 of the Social Security Act and
20 section 2(a)(1) of the Retirement Savings Lost and Found
21 Act of 2020”.

22 (h) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as may be
24 necessary to carry out the purposes of this section.

1 **SEC. 3. MANDATORY TRANSFERS OF ROLLOVER DISTRIBUTIONS.**
2

3 (a) INVESTMENT OPTIONS.—

4 (1) IN GENERAL.—Subparagraph (B) of section
5 404(c)(3) of the Employee Retirement Income Security
6 Act of 1974 (29 U.S.C. 1104(c)(3)) is amended
7 by striking the period at the end and inserting “,
8 and, to the extent the Secretary provides in guidance
9 or regulations issued after the enactment of the Retirement
10 Savings Lost and Found Act of 2020, is
11 made to—

12 “(i) a target date or life cycle fund
13 held under such account;

14 “(ii) as described in section
15 2550.404a–2 of title 29, Code of Federal
16 Regulations, an investment product held
17 under such account designed to preserve
18 principal and provide a reasonable rate of
19 return;

20 “(iii) the Director of the Retirement
21 Savings Lost and Found for investment in
22 accordance with section 4(b)(1)(B) of the
23 Retirement Savings Lost and Found Act of
24 2020, or an individual retirement account
25 (as defined in section 408(a) of such Code)
26 established by the Secretary of the Treas-

1 ury on behalf of the participant or bene-
 2 ficiary, but only if all applicable reporting
 3 requirements are met with respect to such
 4 transfer; or

5 “(iv) such other option as the Sec-
 6 retary may so provide.”.

7 (2) REGULATIONS.—Not later than 270 days
 8 after the date of the enactment of this Act, the Sec-
 9 retary of Labor shall promulgate regulations identi-
 10 fying the target date or life cycle funds, or speci-
 11 fying the characteristics of such a fund, that will be
 12 deemed to meet the requirements of section
 13 404(c)(3)(B)(i) of the Employee Retirement Income
 14 Security Act of 1974 (29 U.S.C. 1104(c)(3)(B)), as
 15 amended by paragraph (1).

16 (b) EXPANSION OF CAP; AUTHORITY TO TRANSFER
 17 LESSER AMOUNTS.—

18 (1) CAP.—Sections 401(a)(31)(B)(ii) and
 19 411(a)(11)(A) of the Internal Revenue Code of 1986
 20 and section 203(e)(1) of the Employee Retirement
 21 Income Security Act of 1974 are each amended by
 22 striking “\$5,000” and inserting “\$6,000”.

23 (2) LESSER AMOUNTS.—Subparagraph (B) of
 24 section 401(a)(31) of such Code is amended by add-
 25 ing at the end the following new clauses:

1 “(iii) TREATMENT OF LESSER
2 AMOUNTS.—In the case of a trust which is
3 part of an eligible plan, such trust shall
4 not be a qualified trust under this section
5 unless such plan provides that, if a partici-
6 pant in the plan separates from the service
7 covered by the plan and the nonforfeitable
8 accrued benefit described in clause (ii) is
9 not in excess of \$1,000, the plan adminis-
10 trator shall (either separately or as part of
11 the notice under section 402(f)) notify the
12 participant that the participant is entitled
13 to such benefit or attempt to pay the ben-
14 efit directly to the participant.

15 “(iv) TRANSFERS TO RETIREMENT
16 SAVINGS LOST AND FOUND OR TREAS-
17 URY.—If, after a plan administrator takes
18 the action required under clause (iii), the
19 participant does not—

20 “(I) within 6 months of the noti-
21 fication under such clause, make an
22 election under subparagraph (A) or
23 elect to receive a distribution of the
24 benefit directly, or

1 “(II) accept any direct payment
2 made under such clause within 6
3 months of the attempted payment,
4 the plan administrator shall transfer the
5 amount of such benefit to the Director of
6 the Retirement Savings Lost and Found
7 established under section 4 of the Retirement Savings Lost and Found Act of 2020
8 or to an individual retirement account (as
9 defined in section 408(a)) established by
10 the Secretary on behalf of the individual.
11

12 “(v) INCOME TAX TREATMENT OF
13 TRANSFERS TO RETIREMENT SAVINGS
14 LOST AND FOUND.—For purposes of deter-
15 mining the income tax treatment of trans-
16 fers to the Director of the Retirement Sav-
17 ings Lost and Found under clause (iv)—

18 “(I) such a transfer shall be
19 treated as a transfer to an individual
20 retirement plan under clause (i), and

21 “(II) the distribution of such
22 amounts by the Director of the Retirement Savings Lost and Found
23 shall be treated as a distribution from
24 an individual retirement plan.”.
25

1 (3) EFFECTIVE DATE.—The amendments made
 2 by this subsection shall apply to vested benefits with
 3 respect to participants who separate from service
 4 connected to the plan in plan years beginning after
 5 the second December 31 occurring after the date of
 6 the enactment of this Act.

7 (4) RULE OF CONSTRUCTION.—Nothing in this
 8 Act shall be interpreted to prohibit a plan adminis-
 9 trator from transferring the accounts of missing par-
 10 ticipants to the Pension Benefit Guaranty Corpora-
 11 tion pursuant to section 4050 of the Employee Re-
 12 tirement Income Security Act of 1974.

13 **SEC. 4. OFFICE OF THE RETIREMENT SAVINGS LOST AND**
 14 **FOUND.**

15 (a) IN GENERAL.—Not later than one year after the
 16 date of the enactment of this Act, the Commissioner of
 17 Social Security and the Secretary of the Treasury shall
 18 establish within the appropriate agency or subdivision
 19 thereof an Office of the Retirement Savings Lost and
 20 Found, to be administered by a Director of the Retirement
 21 Savings Lost and Found who (without regard to the agen-
 22 cy or subdivision where such Office is established) shall
 23 report to both such Commissioner and such Secretary.

24 (b) RESPONSIBILITIES OF DIRECTOR.—

1 (1) IN GENERAL.—In addition to administering
2 the Retirement Savings Lost and Found under sec-
3 tion 2 and carrying out the duties described in sub-
4 paragraphs (B) and (C) of section 2(a)(1), the Di-
5 rector of the Retirement Savings Lost and Found
6 established under this section shall—

7 (A) perform an annual audit of plan infor-
8 mation contained in the Retirement Savings
9 Lost and Found and ensure that such informa-
10 tion is current and accurate;

11 (B) invest any amount transferred under
12 section 401(a)(31)(B)(iv) of the Internal Rev-
13 enue Code of 1986 in United States Treasury
14 securities; and

15 (C) upon application filed by the partici-
16 pant or beneficiary in such form and manner as
17 may be prescribed in regulations, pay to the
18 participant or beneficiary the amount trans-
19 ferred (or the appropriate survivor benefit) ei-
20 ther—

21 (i) in a single sum (plus interest); or

22 (ii) in such other form as is specified
23 in regulations; and

24 (D) identify such amount as eligible to be
25 paid into an eligible retirement plan described

1 in section 402(c)(8)(B) of the Internal Revenue
2 Code of 1986.

3 (2) OPTION TO CONTRACT.—The Director of
4 the Retirement Savings Lost and Found shall con-
5 duct an analysis of the cost effectiveness of con-
6 tracting with a third party to carry out the respon-
7 sibilities under paragraph (1) and, if the Director
8 determines that it would be more cost effective to do
9 so than to carry out such responsibilities within the
10 Office of the Retirement Savings Lost and Found,
11 the Director shall report to the Committees on Fi-
12 nance and Health, Education, Labor, and Pensions
13 of the Senate and the Committees on Ways and
14 Means and Education and Labor of the House of
15 Representatives the intention to so contract.

16 (3) OPTION TO PRESCRIBE PROTOCOLS.—The
17 Director of the Retirement Savings Lost and Found
18 may establish protocols to assist participants origi-
19 nally treated as lost or missing in claiming their
20 benefits under a plan.

21 (4) COORDINATION.—The Director of the Re-
22 tirement Savings Lost and Found shall coordinate
23 with the Pension Benefit Guaranty Corporation and
24 other applicable agencies to integrate information

- 1 and databases on lost, missing, and inactive partici-
- 2 pants.

