

117TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

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 2021”.

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

7 (a) RETIREMENT SAVINGS LOST AND FOUND.—

8 (1) ESTABLISHMENT.—

9 (A) IN GENERAL.—Not later than 3 years
10 after the date of the enactment of this Act, the

1 Secretary of Labor, the Secretary of the Treas-
2 ury, and the Secretary of Commerce, in co-
3 operation, shall establish an online searchable
4 database (to be managed by the Pension Ben-
5 efit Guaranty Corporation in accordance with
6 section 4051 of the Employee Retirement In-
7 come Security Act of 1974) to be known as the
8 “Retirement Savings Lost and Found”. The
9 Retirement Savings Lost and Found shall—

10 (i) allow an individual to search for
11 information that enables the individual to
12 locate the plan administrator of any plans
13 with respect to which the individual is or
14 was a participant or beneficiary, and to
15 provide contact information for the plan
16 administrator of any plan described in sub-
17 paragraph (B);

18 (ii) allow the corporation to assist
19 such an individual in locating any plan of
20 the individual; and

21 (iii) allow the corporation to make any
22 necessary changes to contact information
23 on record for the plan administrator based
24 on any changes to the plan due to merger
25 or consolidation of the plan with any other

1 plan, division of the plan into two or more
2 plans, bankruptcy, termination, change in
3 name of the plan, change in name or ad-
4 dress of the plan administrator, or other
5 causes.

6 The Retirement Savings Lost and Found estab-
7 lished under this subparagraph shall include in-
8 formation reported under section 4051 of the
9 Employee Retirement Income Security Act of
10 1974 and other relevant information obtained
11 by the Pension Benefit Guaranty Corporation.

12 (B) PLANS DESCRIBED.—A plan described
13 in this subparagraph is a plan to which the
14 vesting standards of section 203 of part 2 of
15 subtitle B of title I of the Employee Retirement
16 Income Security Act of 1974 apply.

17 (2) ADMINISTRATION.—The Retirement Sav-
18 ings Lost and Found established under paragraph
19 (1) shall provide individuals described in paragraph
20 (1)(A) only with the ability to view contact informa-
21 tion for the plan administrator of any plan with re-
22 spect to which the individual is or was a participant
23 or beneficiary, sufficient to allow the individual to lo-
24 cate the individual's plan in order to recover any
25 benefit owing to the individual under the plan.

1 (3) SAFEGUARDING PARTICIPANT PRIVACY AND
2 SECURITY.—In establishing the Retirement Savings
3 Lost and Found under paragraph (1), the Pension
4 Benefit Guaranty Corporation, in consultation with
5 the Secretary of Labor, the Secretary of the Treas-
6 ury, and the Secretary of Commerce, shall take all
7 necessary and proper precautions to ensure that in-
8 dividuals’ plan information maintained by the Re-
9 tirement Savings Lost and Found is protected and
10 that persons other than the individual cannot fraud-
11 ulently claim the benefits to which any individual is
12 entitled, and to allow any individual to opt out of in-
13 clusion in the Retirement Savings Lost and Found
14 at the election of the individual.

15 (b) OFFICE OF THE RETIREMENT SAVINGS LOST
16 AND FOUND.—

17 (1) IN GENERAL.—Subtitle C of title IV of the
18 Employee Retirement Income Security Act of 1974
19 (29 U.S.C. 1341 et seq.) is amended by adding at
20 the end the following:

21 **“SEC. 4051. OFFICE OF THE RETIREMENT SAVINGS LOST**
22 **AND FOUND.**

23 “(a) ESTABLISHMENT; RESPONSIBILITIES OF OF-
24 FICE.—

1 “(1) IN GENERAL.—Not later than 2 years
2 after the date of the enactment of this section, the
3 Secretary of Labor, the Secretary of the Treasury,
4 and the Secretary of Commerce shall establish with-
5 in the corporation an Office of the Retirement Sav-
6 ings Lost and Found (in this section referred to as
7 the ‘Office’).

8 “(2) RESPONSIBILITIES OF OFFICE.—

9 “(A) IN GENERAL.—The Office shall—

10 “(i) carry out subsection (b) of this
11 section;

12 “(ii) maintain the Retirement Savings
13 Lost and Found established under section
14 2(a) of the Retirement Savings Lost and
15 Found Act of 2021; and

16 “(iii) perform an annual audit of plan
17 information contained in the Retirement
18 Savings Lost and Found and ensure that
19 such information is current and accurate.

20 “(B) OPTION TO CONTRACT.—

21 “(i) IN GENERAL.—Not later than 2
22 years after the date of enactment of this
23 section, the corporation shall conduct an
24 analysis of the cost effectiveness of con-
25 tracting with a third party to carry out the

1 responsibilities under subparagraph (A)(iii)
2 and, upon a determination that such con-
3 tracting would be more cost effective than
4 carrying out such responsibilities within
5 the Office, the corporation may enter into
6 such contracts as merited by such analysis.

7 “(ii) REPORT.—The corporation shall
8 report on the results of the analysis under
9 clause (i) to the Committees on Finance
10 and Health, Education, Labor, and Pen-
11 sions of the Senate and the Committees on
12 Ways and Means and Education and
13 Labor of the House of Representatives.

14 “(b) CERTAIN NON-RESPONSIVE PARTICIPANTS EN-
15 TITLED TO SMALL BENEFITS.—

16 “(1) GENERAL RULE.—

17 “(A) TRANSFER TO THE OFFICE OF THE
18 RETIREMENT SAVINGS LOST AND FOUND.—The
19 administrator of a plan that is not terminated
20 and to which section 401(a)(31)(B) of the In-
21 ternal Revenue Code of 1986 applies shall
22 transfer to the Office the amount required to be
23 transferred under section 401(a)(31)(B)(iv) of
24 such Code for a non-responsive participant.

1 “(B) INFORMATION AND PAYMENT TO THE
2 OFFICE.—Upon making a transfer under sub-
3 paragraph (A), the plan administrator shall
4 provide such information and certifications as
5 the Office shall specify, including with respect
6 to the transferred amount and the non-respon-
7 sive participant.

8 “(C) INFORMATION REQUIREMENTS AFTER
9 TRANSFER.—In the event that, after a transfer
10 is made under subparagraph (A), the relevant
11 non-responsive participant contacts the plan ad-
12 ministrator or the plan administrator discovers
13 information that may assist the Office in locat-
14 ing the non-responsive participant, the plan ad-
15 ministrator shall notify and provide such infor-
16 mation as the Office shall specify to the Office.

17 “(D) SEARCH AND PAYMENT BY THE OF-
18 FICE FOLLOWING TRANSFER.—The Office shall
19 periodically, and upon receiving information de-
20 scribed in subparagraph (C), conduct a search
21 for the non-responsive participant for whom the
22 Office has received a transfer under subpara-
23 graph (A). Upon location of a non-responsive
24 participant who claims benefits, the Office shall

1 make a single payment to the non-responsive
2 participant in an amount equal to the sum of—

3 “(i) the amount transferred to the Of-
4 fice under subparagraph (A) for such par-
5 ticipant; and

6 “(ii) the return on the investment at-
7 tributable to such amount under section
8 4005(j)(3).

9 “(2) DEFINITION.—For purposes of this sub-
10 section, the term ‘non-responsive participant’ means
11 a participant or beneficiary of a plan described in
12 paragraph (1)(A)—

13 “(A) who is entitled to a benefit subject to
14 a mandatory transfer under section
15 401(a)(31)(B)(iii) of the Internal Revenue Code
16 of 1986; and

17 “(B) for whom the plan has satisfied the
18 conditions in section 401(a)(31)(B)(iv) of such
19 Code.

20 “(3) REGULATORY AUTHORITY.—The Office
21 shall prescribe such regulations as are necessary to
22 carry out the purposes of this section, including
23 rules relating to the amount payable to the Office
24 and the amount to be paid by the Office.

1 “(c) INFORMATION COLLECTION.—Within such pe-
2 riod after the end of a plan year as the Office may by
3 regulations prescribe, the administrator of a plan to which
4 the vesting standards of section 203 apply shall submit
5 the following information, and such other information as
6 the corporation may require, to the corporation in such
7 form as the corporation may require:

8 “(1) The information described in paragraphs
9 (1) through (4) of section 6057(b) of the Internal
10 Revenue Code of 1986.

11 “(2) The information described in subpara-
12 graphs (A), (B), (E), and (F) of section 6057(a)(2)
13 of the Internal Revenue Code of 1986.

14 “(d) EFFECTIVE DATE.—The requirements of sub-
15 sections (b) and (c) shall apply with respect to plan years
16 beginning after the second December 31 occurring after
17 the date of the enactment of this section.

18 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated such sums as may be
20 necessary to carry out this section.”.

21 (2) ESTABLISHMENT OF FUND FOR TRANS-
22 FERRED ASSETS.—Section 4005 of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C.
24 1305) is amended by adding at the end the fol-
25 lowing:

1 “(j)(1) A ninth fund shall be established for the pay-
2 ment of benefits under section 4051(b)(1)(D).

3 “(2) Such fund shall be credited with the appro-
4 priate—

5 “(A) amounts transferred to the Office of the
6 Retirement Savings Lost and Found under section
7 4051(b)(1)(A); and

8 “(B) earnings on investments of the fund or on
9 assets credited to the fund.

10 “(3) Whenever the corporation determines that the
11 moneys of any fund are in excess of current needs, it may
12 request the investment of such amounts as it determines
13 advisable by the Secretary of the Treasury in obligations
14 issued or guaranteed by the United States.”.

15 (3) CONFORMING AMENDMENT.—The table of
16 contents for the Employee Retirement Income Secu-
17 rity Act of 1974 (29 U.S.C. 1001 et seq.) is amend-
18 ed by inserting after the matter relating to section
19 4050 the following:

“Sec. 4051. Certain non-responsive participants entitled to small benefits.”.

20 (c) MANDATORY TRANSFERS OF ROLLOVER DIS-
21 TRIBUTIONS.—

22 (1) INVESTMENT OPTIONS.—

23 (A) IN GENERAL.—Subparagraph (B) of
24 section 404(c)(3) of the Employee Retirement
25 Income Security Act of 1974 (29 U.S.C.

1 1104(c)(3)) is amended by striking the period
2 at the end and inserting “, and, to the extent
3 the Secretary provides in guidance or regula-
4 tions issued after the enactment of the Retirement
5 Savings Lost and Found Act of 2021, is
6 made to—

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

9 “(ii) as described in section
10 2550.404a–2 of title 29, Code of Federal
11 Regulations, an investment product held
12 under such account designed to preserve
13 principal and provide a reasonable rate of
14 return;

15 “(iii) the Office of the Retirement
16 Savings Lost and Found in accordance
17 with section 401(a)(31)(B)(iv) of the In-
18 ternal Revenue Code of 1986 and section
19 2(c)(2)(A)(ii) of the Retirement Savings
20 Lost and Found Act of 2021; or

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

23 (B) REGULATIONS.—Not later than 270
24 days after the date of the enactment of this
25 Act, the Secretary of Labor shall promulgate

1 regulations identifying the target date or life
2 cycle funds, or specifying the characteristics of
3 such a fund, that will be deemed to meet the re-
4 quirements of section 404(c)(3)(B)(i) of the
5 Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1104(c)(3)(B)), as amended
7 by subparagraph (A).

8 (2) EXPANSION OF CAP; AUTHORITY TO TRANS-
9 FER LESSER AMOUNTS.—

10 (A) CAP.—Sections 401(a)(31)(B)(ii) and
11 411(a)(11)(A) of the Internal Revenue Code of
12 1986 and section 203(e)(1) of the Employee
13 Retirement Income Security Act of 1974 are
14 each amended by striking “\$5,000” and insert-
15 ing “\$6,000”.

16 (B) DISTRIBUTION OF LARGER AMOUNTS
17 TO INDIVIDUAL RETIREMENT PLANS ONLY.—
18 Section 401(a)(31)(B)(i) of such Code is
19 amended by adding at the end the following:
20 “The Office of the Retirement Savings Lost
21 and Found established by section 2 of the Re-
22 tirement Savings Lost and Found Act of 2021
23 shall not be treated as a trustee or issuer which
24 is eligible to receive such distributions.”.

1 (C) LESSER AMOUNTS.—Section
2 401(a)(31)(B) of such Code is amended by add-
3 ing at the end the following new clauses:

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

18 “(iv) TRANSFERS TO RETIREMENT
19 SAVINGS LOST AND FOUND.—If, after a
20 plan administrator takes the action re-
21 quired under clause (iii), the participant
22 does not—

23 “(I) within 6 months of the noti-
24 fication under such clause, make an
25 election under subparagraph (A) or

1 elect to receive a distribution of the
2 benefit directly, or

3 “(II) accept any direct payment
4 made under such clause within 6
5 months of the attempted payment,
6 the plan administrator shall transfer the
7 amount of such benefit to the Office of the
8 Retirement Savings Lost and Found in ac-
9 cordance with section 4051(b) of the Em-
10 ployee Retirement Income Security Act of
11 1974.

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 Office 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 Office of the Retire-
23 ment Savings Lost and Found shall
24 be treated as a distribution from an
25 individual retirement plan.”.

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

8 (d) BETTER REPORTING FOR MANDATORY TRANS-
9 FERS.—

10 (1) IN GENERAL.—Paragraph (2) of section
11 6057(a) of the Internal Revenue Code of 1986 is
12 amended—

13 (A) in subparagraph (C)—

14 (i) by striking “during such plan
15 year” in clause (i) and inserting “during
16 the plan year immediately preceding such
17 plan year”;

18 (ii) by adding “and” at the end of
19 clause (i); and

20 (iii) by striking clause (iii);

21 (B) by redesignating subparagraph (E) as
22 subparagraph (G);

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

1 (D) by inserting after subparagraph (D)
2 the following new subparagraphs:

3 “(E) the name and taxpayer identifying
4 number of each participant or former partici-
5 pant in the plan—

6 “(i) who, during the current plan year
7 or any previous plan year, was reported
8 under subparagraph (C), and with respect
9 to whom the benefits described in subpara-
10 graph (C)(ii) were fully paid during the
11 plan year,

12 “(ii) with respect to whom any
13 amount was distributed under section
14 401(a)(31)(B) during the plan year, or

15 “(iii) with respect to whom a deferred
16 annuity contract was distributed during
17 the plan year,

18 “(F) in the case of a participant or former
19 participant to whom subparagraph (E) ap-
20 plies—

21 “(i) in the case of a participant de-
22 scribed in clause (ii) thereof, the name and
23 address of the designated trustee or issuer
24 described in section 401(a)(31)(B)(i) and
25 the account number of the individual re-

1 tirement plan to which the amount was
2 distributed, and

3 “(ii) in the case of a participant de-
4 scribed in clause (iii) thereof, the name
5 and address of the issuer of such annuity
6 contract and the contract or certificate
7 number, and”.

8 (2) RULES RELATING TO DIRECT TRUSTEE-TO-
9 TRUSTEE TRANSFERS.—

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

12 (i) by striking “TRANSFERS.—Any”
13 and inserting “TRANSFERS.—

14 “(A) IN GENERAL.—Any”; and

15 (ii) by adding at the end the following
16 new subparagraph:

17 “(B) NOTIFICATION OF TRUSTEE.—In the
18 case of a distribution under section
19 401(a)(31)(B), the plan administrator shall no-
20 tify the designated trustee or issuer described
21 in clause (i) thereof that the transfer is a man-
22 datory distribution required by such section.”.

23 (B) PENALTY.—Subsection (i) of section
24 6652 of such Code is amended—

1 (i) by striking “TO RECIPIENTS” in
2 the heading and inserting “OR NOTIFICA-
3 TION”;

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

7 (iii) by striking “such written expla-
8 nation” and inserting “such written expla-
9 nation or notification”.

10 (C) REPORTS.—Subsection (i) of section
11 408 of such Code is amended—

12 (i) by redesignating subparagraphs
13 (A) and (B) of paragraph (2) as clauses (i)
14 and (ii), respectively, and by moving such
15 clauses 2 ems to the right;

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

20 (iii) by striking “as the Secretary pre-
21 scribes” in subparagraph (B)(ii), as so re-
22 designated, and all that follows through “a
23 simple retirement account” and inserting
24 “as the Secretary prescribes.

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

3 (iv) by striking “REPORTS.—The
4 trustee of” and inserting “REPORTS.—

5 “(1) IN GENERAL.—The trustee of”;

6 (v) by striking “under paragraph (2)”
7 in paragraph (3), as added by clause (iii),
8 and inserting “under paragraph (1)(B)”;
9 and

10 (vi) by inserting after paragraph
11 (1)(B)(ii), as redesignated by the pre-
12 ceding clauses, the following new para-
13 graph:

14 “(2) MANDATORY DISTRIBUTIONS.—In the case
15 of an account, contract, or annuity to which a trans-
16 fer under section 401(a)(31)(B) is made (including
17 a transfer from the individual retirement plan to
18 which the original transfer under such section was
19 made to another individual retirement plan), the re-
20 port required by this subsection for the year of the
21 transfer and any year in which the information pre-
22 viously reported in subparagraph (B) changes
23 shall—

24 “(A) identify such transfer as a mandatory
25 distribution required by such section,

1 “(B) include the name, address, and tax-
2 payer identifying number of the trustee or
3 issuer of the individual retirement plan to which
4 the amount is transferred, and

5 “(C) be filed with the Pension Benefit
6 Guaranty Corporation as well as with the Sec-
7 retary.”.

8 (3) NOTIFICATION OF PARTICIPANTS UPON SEP-
9 ARATION.—Subsection (e) of section 6057 of such
10 Code is amended by inserting “, and, with respect
11 to any benefit of the individual subject to section
12 401(a)(31)(B), a notice of availability of, and the
13 contact information for, the Retirement Savings
14 Lost and Found established under section 2(a)(1) of
15 the Retirement Savings Lost and Found Act of
16 2021” before the period at the end of the second
17 sentence.

18 (4) EFFECTIVE DATE.—The amendments made
19 by this paragraph shall apply to distributions made
20 in, and returns and reports relating to, years begin-
21 ning after the second December 31 occurring after
22 the date of the enactment of this Act.

23 (e) REQUIREMENT OF ELECTRONIC FILING.—

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

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

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

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

10 (C) by adding at the end the following new
11 subparagraph:

12 “(C) EXCEPTIONS.—Notwithstanding sub-
13 paragraph (A), the Secretary shall require re-
14 turns or reports required under—

15 “(i) sections 6057, 6058, and 6059,
16 and

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

1 (2) EFFECTIVE DATE.—The amendments made
2 by this paragraph shall apply to returns and reports
3 relating to years beginning after the second Decem-
4 ber 31 occurring after the date of the enactment of
5 this Act.

6 (f) RULEMAKING TO CLARIFY FIDUCIARY DUTIES.—

7 (1) REQUEST FOR INFORMATION.—Not later
8 than 1 year after the date of enactment of this Act,
9 the Secretary of Labor, in consultation with the Sec-
10 retary of the Treasury, shall issue a request for in-
11 formation relating to the rulemaking described in
12 paragraph (2).

13 (2) ISSUANCE OF FINAL RULE.—Not later than
14 3 years after such date, the Secretary of Labor, in
15 consultation with the Secretary of the Treasury,
16 shall issue a final rule that defines the following:

17 (A) The steps a plan sponsor must take to
18 locate a deferred vested participant in order to
19 meet its fiduciary duty under section 404 of the
20 Employee Retirement Income Security Act of
21 1974 with respect to locating that participant.

22 (B) The ongoing practices and procedures
23 a plan sponsor must institute in order to meet
24 such fiduciary duty with respect to maintaining

- 1 up-to-date contact information on deferred vest-
- 2 ed participants.