



# Federal Legislative & Regulatory Report

## June 2021

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### Senators introduce emergency savings proposal

On June 1, Sens. James Lankford (R-OK) and Michael Bennet (D-CO) [introduced](#) S. 1870, the “Enhancing Emergency and Retirement Savings Act of 2021.”

The legislation is modeled on the CARES Act’s successful coronavirus-related distributions (CRDs), which allowed participants to access a portion of their retirement account for emergency purposes without employer approval or tax penalty. Like CRDs, the option is a voluntary offering for employers. Unlike CRDs, this new legislation would apply much more stringent limits on withdrawals — one emergency distribution would be permitted per calendar year, and that distribution would be limited to vested amounts over \$1,000, with an annual maximum withdrawal of \$1,000. Additionally, the legislation requires that the individual replenish the withdrawn amount back into the plan before an additional emergency distribution from that same plan is allowed.

The goal of the legislation is to provide individuals with the flexibility to meet unexpected financial stresses while simultaneously encouraging participation in workplace retirement plans inasmuch as workers – particularly low-wage workers — will feel confident that they can access their savings in the event of an emergency.

Sen. Lankford’s news release discussing the bill features quotes from several industry leaders who support the bill, including Eric Stevenson, President of Nationwide Retirement Solutions. [Stevenson wrote](#): “We believe this excellent legislation will give savers comfort that they’ll have access to their money in the event of an emergency and will remove a significant barrier for low- and middle-income workers to save for retirement in the first place. Most critically, the ability to access a small

amount of retirement savings without a tax penalty will help prevent many people from digging themselves into a financial hole due to an unplanned emergency expense.”

## **Biden administration releases regulatory agenda, DOL confirms fiduciary rulemaking**

On June 11, the White House Office of Management and Budget’s Office of Information and Regulatory Affairs (OIRA) [released](#) its Spring 2021 regulatory agenda, which lists the current status of agency rulemaking activities. This is the first Agenda released under the Biden administration, and it reflects a shift in priorities from the previous administration.

The published timelines are subject to change and often do. Still, the agenda is a good indication of where agencies plan to focus their attention.

Notable regulatory activities include:

- DOL
  - Fiduciary Rule -- December 2021
  - Lifetime Income Disclosure -- July 2021
  - ESG/Proxy Voting -- September 2021
  - PTE -- December 2021
- Treasury
  - RMD -- September 2021
  - PEP One Bad Apple -- September 2021
  - Various other SECURE changes -- December 2021
- SEC
  - ESG Disclosures -- October 2021, more in 2022
  - Proxy Advice -- April 2022

## **IRS releases final SECURE Act disaster-related deadline extension regulations**

On June 10, the Treasury and the IRS [issued final regulations](#) interpreting the mandatory deadline extension added to the Internal Revenue Code (Code) as part of the SECURE Act.

According to the 2019 amendments, certain taxpayers affected by federally declared disasters are eligible for a mandatory postponement of the deadlines for performing certain time-sensitive acts required by the Code. This mandatory postponement period, when applicable, will generally extend the deadlines for performing those time-sensitive acts until the date that is 60 days after the latest incident date specified in the relevant disaster declaration.

The final regulations are nearly identical to the proposed regulations, without any notable changes. Thus, the “mandatory” extension will not apply unless the Treasury Secretary (currently Janet Yellen) first exercises her discretion to extend deadlines for a relevant disaster.

## IRS extends remote notarization for spousal consent

On June 24, the IRS issued [Notice 2021-40](#). This Notice provides a 12-month extension through June 30, 2022, of the temporary relief in [Notice 2021-03](#) from what is known as the “physical presence” requirement for spousal consent relating to certain qualified plan distributions.

Pursuant to the relief, such spousal consent may be obtained either by remote notarization consistent with state law that applies to the notary, or through use of audio-video technology in the case of a plan representative witness.

This relief was due to expire on June 30, 2021.

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## References and source material used in this publication

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Lankford, Bennet Encourage Retirement Savings and Leave Room for Family Emergencies  
<https://www.lankford.senate.gov/news/press-releases/lankford-bennet-encourage-retirement-savings-and-leave-room-for-family-emergencies>

Text of S. 1770, the Retirement Security and Savings Act (RSSA/Cardin-Portman)  
<https://www.congress.gov/117/bills/s1870/BILLS-117s1870is.pdf>

Text of Eric Stevenson's letter in support of S. 1770  
<https://www.lankford.senate.gov/imo/media/doc/Nationwide%20-%20Enhancing%20Emergency%20and%20Retirement%20Savings%20Act.pdf>

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Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions  
<https://www.reginfo.gov/public/do/eAgendaMain>

IRS rule concerning the mandatory 60-day postponement of certain tax-related deadlines  
<https://www.federalregister.gov/documents/2021/06/11/2021-12311/mandatory-60-day-postponement-of-certain-tax-related-deadlines-by-reason-of-a-federally-declared>

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IRS Notice 2021-40 — Extension of Temporary Relief from the Physical Presence Requirement  
<https://www.irs.gov/pub/irs-drop/n-21-40.pdf>

IRS Notice 2021-03 — Extension of Temporary Relief from the Physical Presence Requirement for Spousal Consents Under Qualified Retirement Plans  
<https://www.irs.gov/pub/irs-drop/n-21-03.pdf>

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## Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, [NRSforu.com/plansponsor](https://NRSforu.com/plansponsor).

## About this report

**BOB BEASLEY**, CRC, Communications Consultant, edits this report. Beasley brings more than 30 years of financial services communications experience to your plan. He has contributed to past editions of the *Governmental 457(b) Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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