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Three troubling provisions in the Senate EARN Act

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Several retirement savings bills are currently moving through the House and Senate. Among them is the Enhancing American Retirement Now Act , which was introduced earlier in September by Senate Finance Committee Chairman Ron Wyden (D-OR) and ranking member Mike Crapo (R-ID). The bill offers a mixed bag of policies to amend the private retirement savings system. Among them are three troubling provisions. The bill would:

- Expand the welfare state by increasing eligibility for accounts that circumvent asset tests.
- Make the saver's credit a refundable, matching contribution.
- Allow employers to make 401(k) matching contributions based on student loan repayments.

The Senate EARN Act is moving alongside related bills, including the (don't hold your breath) Senate Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg Act, the RISE and SHINE Act, and the House Securing a Strong Retirement Act of 2021.

These bills are a product of a deliberate lobbying process, gently shepherded along by a well-organized group of financial service firms and antipoverty advocates. This combination of moral and financial advocacy makes this a textbook-perfect case of the Bootleggers-and-Baptists-theory in action. No surprise then that there's chatter on Capitol Hill and in the news media that some combination of these bills has a high chance of passing Congress during this fall's lame-duck session.

Among the range of policies in the Senate EARN Act, to both improve and further complicate the private retirement savings system, there are three outlier provisions that deserve to be called out. The bill would:

Expand the welfare state by increasing eligibility for accounts that circumvent asset tests. I recently wrote on how an amendment in the Senate EARN Act would expand the welfare state by significantly increasing the eligibility age for so-called ABLE accounts from 26 to 46. Funds in ABLE accounts do not count against Medicaid eligibility, ever, and account owners may accumulate up to $100,000 in assets while still maintaining eligibility for supplemental security income cash benefits. By undermining asset tests, intended to ensure that government welfare benefits go toward those with the greatest need, the ABLE Age Adjustment Act amendment will increase means-tested welfare spending and incentivize more people to apply for benefits.

Make the saver's credit a refundable, matching contribution. Another troubling provision in the Senate EARN Act would turn the current saver's credit, which subsidizes retirement account contributions for those with low or moderate incomes, into a refundable savings match. The Senate EARN Act would provide a 50% government match for savers, who have no offsetting tax liability, for up to $2,000 per year. Someone who contributed $2,000 to a retirement savings account would receive an additional $1,000 match from federal taxpayers directly into their retirement account. Welfare advocates would much rather see this new cash benefit doled out directly via savers' tax returns. This way, the money could be spent without any strings attached. To address this concern, the EARN Act allows retirement account holders to withdraw $1,000 every three years without repayment to pay for a wide range of qualifying emergencies. It's a taxpayer handout for putting money into a retirement account.

Allows employers to make 401(k) matching contributions based on student loan repayments. Perhaps you've heard about the unprecedented and sweeping student loan forgiveness by executive order being carried out by the Biden administration (likely) this fall. My Cato colleague Neal McCluskey has written on how "[college financial] aid almost certainly enable[es] colleges to raise their prices at rates far exceeding normal inflation." The Senate EARN Act would further subsidize college financial aid by allowing employers to match student loan repayments as if they were 401(k) contributions. When an employee makes a student loan repayment, they would be able to earn the same 401(k) match from their employer as if they had made a 401(k) contribution. On the surface, this provision will benefit private employers trying to compete with nonprofit groups and the government for talent. Working in public service makes students eligible for public service loan forgiveness . If this provision passes, employers would be able to offer candidates, who carry student loans, a boost toward their retirement savings while the employee pays down their student loan debt. By creating an indirect higher education subsidy , this provision could further drive up tuition costs.

Private savings are a crucial component of financial security in retirement. The federal government allows for a variety of complex retirement and healthcare savings vehicles that are exempt from the double taxation on regular savings to encourage people to set aside funds for their own future needs. Making private retirement savings easier, especially for lower- and middle-income households, is important to reduce future strain on Social Security. This federal old-age income support program is already on shaky footing .

Instead of the morass of different retirement savings vehicles with complex rules and regulations, it would be far easier if the federal government allowed for a universal savings account . My Cato colleague Chris Edwards has written favorably about these simple savings-friendly accounts.

Complexity creates jobs for lawyers and consultants, however. So they can help people and their employers navigate the maze of government rules and regulations. Nobody wants to run afoul of the IRS's ire: "I am from the government, and I am here to penalize you for a mistake" is just about anyone’s worst nightmare. So many employers resort to hiring lawyers and benefit consults a la “please take my money and help me avoid IRS agents knocking down my door.”

Alas, the private retirement system is likely about to get more complicated as the welfare state expands and college tuition receives another cost-inflating subsidy. Bootleggers and Baptists rejoice as taxpayers pay the price.

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