114TH CONGRESS
2D Session

S. 3078

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

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2016

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Retirement Savings
Lost and Found Act of 2016”.

SEC. 2. RETIREMENT SAVINGS LOST AND FOUND.

(a) Establishment.—

(1) In general.—Not later than 2 years after
the date of the enactment of this Act, the Commis-
sioner of Social Security and the Secretary of the
Treasury in cooperation shall establish an online mechanism to be known as the “Retirement Savings Lost and Found”, to be managed by the Director of the Retirement Savings Lost and Found established under section 3(c) of this Act—

(A) to allow an individual to search for information that enables the individual to locate the plan administrator of any plans with respect to which the individual is a participant or beneficiary, and to provide contact information for the plan administrator of any plan described in paragraph (2) with respect to which the individual may be entitled to a benefit,

(B) to allow such Director to assist such an individual in locating any plan of the individual, and

(C) to allow such Director to make any necessary changes to contact information on record for the plan administrator based on any changes to the plan due to merger or consolidation of the plan with any other plan, division of the plan into 2 or more plans, bankruptcy, termination, change in name of the plan, change in name or address of the plan administrator, or other causes.
(2) Plans described.—A plan described in this paragraph is a plan to which the vesting standards of section 203 of part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 apply with respect to any plan year to which the amendments made by subsection (c)(2)(C) apply.

(b) Administration.—The Retirement Savings Lost and Found established under subsection (a) shall provide individuals described in subsection (a)(1) only with the ability to view contact information for the plan administrator of any plan with respect to which the individual is a participant or beneficiary, sufficient to allow the individual to locate the individual’s plan.

(e) Current Information.—

(1) In general.—Paragraph (2) of section 6057(a) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraph (E) as subparagraph (G),

(B) by striking “and” at the end of subparagraph (D), and

(C) by inserting after subparagraph (D) the following new subparagraphs:
“(E) the name and taxpayer identifying number of each participant or former participant in the plan—

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

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

“(iii) with respect to whom an annuity contract was distributed during the plan year,

“(F) in the case of a participant or former participant to whom subparagraph (E) applies—

“(i) the amount distributed,

“(ii) in the case of a participant described in clause (ii) thereof, the name and address of the designated trustee or issuer described in section 401(a)(31)(B)(i) and the account number of the individual retirement plan to which the amount was distributed, and
“(iii) in the case of a participant described in clause (iii) thereof, the name and address of the issuer of such annuity contract and the contract or certificate number, and”.

(2) Rules relating to direct trustee-to-trustee transfers.—

(A) In general.—Paragraph (6) of section 402(e) of such Code is amended—

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

“(A) IN GENERAL.—Any”, and

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

“(B) Notification of Trustee.—In the case of a distribution under section 401(a)(31)(B), the plan administrator shall notify the designated trustee or issuer described in clause (i) thereof that the transfer is a mandatory distribution required by such section.”.

(B) Penalty.—Subsection (i) of section 6652 of such Code is amended—

(i) by striking “TO RECIPIENTS” in the heading and inserting “OR NOTIFICATION”,

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(ii) by striking “402(f),” and inserting “402(f) or a notification as required by section 402(e)(6)(B),”, and

(iii) by striking “such written explanation” and inserting “such written explanation or notification”.

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

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

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

(iii) by striking “as the Secretary prescribes” in subparagraph (B)(ii), as so redesignated, and all that follows through “a simple retirement account” and inserting “as the Secretary prescribes.

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

(iv) by striking “REPORTS.—The trustee of” and inserting “REPORTS.—
“(1) IN GENERAL.—The trustee of",

(v) by striking “under paragraph (2)”

in paragraph (3), as redesignated by clause

(iii), and inserting “under paragraph

(1)(B)”, and

(vi) by inserting after paragraph

(1)(B)(ii), as redesignated by the pre-eceding clauses, the following new para-

graph:

“(2) MANDATORY DISTRIBUTIONS.—In the case

of an account, contract, or annuity to which a trans-

fer of a distribution under section 401(a)(31)(B) is

made (including a transfer of such an amount from

the individual retirement plan to which the amount

was originally transferred to another individual re-

tirement plan), the report required by this sub-

section shall—

“(A) identify the distribution of such

amount as a mandatory distribution required by

such section,

“(B) include the name, address, and tax-

payer identifying number of the trustee or

issuer of the individual retirement plan to which

the amount is transferred, and
“(C) be filed with the Director of the Retirement Savings Lost and Found established under section 2(a) of the Retirement Savings Lost and Found Act of 2016 as well as with the Secretary.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions made, and returns and reports the due date for which is, after the date that is one year after the date of the enactment of this Act.

(d) REQUIREMENT OF ELECTRONIC FILING.—

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

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

(B) by striking “the requirements of such regulations” and all that follows through “the Secretary shall require” and inserting “the requirements of such regulations.

“(B) CERTAIN PARTNERSHIPS.—Notwithstanding subparagraph (A), the Secretary shall require”,

•S 3078 IS
(C) by striking “REGULATIONS.—In prescribing” and inserting “REGULATIONS.—
“(A) IN GENERAL.—In prescribing”, and
(D) by adding at the end the following new subparagraph:
“(C) EXCEPTIONS.—Notwithstanding subparagraph (A), the Secretary shall require returns or reports required under—
“(i) sections 6057, 6058, and 6059,
and
“(ii) sections 408(i), 6041, and 6047 to the extent such return or report relates to the tax treatment of a distribution from a plan, account, contract, or annuity, to be filed on magnetic media, but only with respect to persons who are required to file at least 50 returns during the calendar year that includes the first day of the plan year to which such returns or reports relate.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns and reports the due date for which is after the date of the enactment of this Act.

e) SAFEGUARDING PARTICIPANT PRIVACY AND SECURITY.—In establishing the Retirement Savings Lost
and Found under subsection (a), the Commissioner of Social Security and the Secretary of the Treasury shall take all necessary and proper precautions, including consulting with the Secretary of Health and Human Services, to ensure that participants’ plan information maintained by the Retirement Savings Lost and Found is protected and that persons other than the participant cannot fraudulently claim the benefits to which any participant is entitled, and to allow any participant to opt out of inclusion in the Lost and Found at the election of the participant.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 3. MANDATORY TRANSFERS OF ROLLOVER DISTRIBUTIONS.

(a) Investment Options.—

(1) In general.—Subparagraph (B) of section 404(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(3)) is amended by inserting “, and, to the extent the Secretary provides in guidance or regulations issued after the enactment of the Retirement Savings Lost and Found Act of 2016, is made to a target date or lifecycle fund or to such other option as the Secretary may so provide” before the period.
(2) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall promulgate regulations identifying the target date or lifecycle funds, or specifying the characteristics of a target date or lifecycle fund, that will be deemed to meet the requirements of section 404(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(3)(B)), as amended by paragraph (1).

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

(1) IN GENERAL.—Clause (ii) of section 401(a)(31)(B) of the Internal Revenue Code of 1986 is amended by striking “$5,000” and inserting “$6,000”.

(2) LESSER AMOUNTS.—Subparagraph (B) of section 401(a)(31) of such Code is amended by adding at the end the following new clauses:

“(iii) TRANSFERS OF LESSER AMOUNTS TO RETIREMENT SAVINGS LOST AND FOUND OR TREASURY.—In the case of a trust which is part of an eligible plan, such trust shall not be a qualified trust under this section unless such plan provides that if—
“(I) a participant in the plan separates from the service covered by the plan and the deferred vested benefit to which such participant is entitled is not in excess of $1,000, and “(II) the participant does not make an election under subparagraph (A) and does not elect to receive the distribution directly,

the plan administrator shall, after notifying the participant that the participant is entitled to such benefit, transfer the amount of such benefit to the Director of the Retirement Savings Lost and Found in accordance with section 3(c)(2) of the Retirement Savings Lost and Found Act of 2016, or to an individual retirement account (as defined in section 408(a)) established by the Secretary. Such transfer shall not be made before the later of the date that is 6 months after the date on which the participant receives the notification required under the preceding sentence, or, if the plan administrator attempts to pay the distribution to the participant directly but
the participant has not claimed the distribution, the date that is 6 months after the date on which the attempted payment was sent to the participant.

“(iv) INCOME TAX TREATMENT OF TRANSFERS TO RETIREMENT SAVINGS LOST AND FOUND.—For purposes of determining the income tax treatment of transfers to the Director of the Retirement Savings Lost and Found under clause (iii)—

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

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

“(v) NOTIFICATION TO RETIREMENT SAVINGS LOST AND FOUND.—In the case of a trust which is part of an eligible plan, if a participant in the plan separates from the service covered by the plan, the plan administrator shall report—
“(I) the total amount of the deferred vested benefit to which the participant is entitled, and

“(II) the amount of any distribution of such benefit made to and claimed by the participant,

to the Director of the Retirement Savings Lost and Found for purposes of the Retirement Savings Lost and Found established under section 2(a) of the Retirement Savings Lost and Found Act of 2016.”.

(c) Office of the Retirement Savings Lost and Found.—

(1) In general.—Not later than one year after the date of the enactment of this Act, the Commissioner of Social Security and the Secretary of the Treasury shall establish within the appropriate agency or subdivision thereof an Office of the Retirement Savings Lost and Found, to be administered by a Director of the Retirement Savings Lost and Found who (without regard to the agency or subdivision where such Office is established) shall report to both such Commissioner and such Secretary.

(2) Responsibilities of director.—
(A) IN GENERAL.—In addition to administering the Retirement Savings Lost and Found under section 2, the Director of the Retirement Savings Lost and Found established under this subsection shall—

(i) invest any amount transferred under section 401(a)(31)(B)(iii) of the Internal Revenue Code of 1986 in United States Treasury securities;

(ii) upon application filed by the participant or beneficiary in such form and manner as may be prescribed in regulations, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

(I) in a single sum (plus interest); or

(II) in such other form as is specified in regulations; and

(iii) identify such amount as eligible to be paid into an eligible retirement plan described in section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(B) OPTION TO CONTRACT.—The Director of the Retirement Savings Lost and Found may
contract with a third party to carry out the responsibilities under subparagraph (A).

(d) **Effective Dates.**—

(1) **In General.**—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions made after the date that is 2 years after the date of the enactment of this Act.

(2) **Mandatory Transfer of Vested Benefits.**—The amendments made by subsection (b) shall apply to vested benefits with respect to participants who separate from service connected to the plan before, on, or after the date that is 2 years after the date of the enactment of this Act.