During 2018, Senator Elizabeth Warren (D-MA), together with Senator Steven Daines (R-MT) introduced, in the 115th Congress, the Retirement Savings Lost and Found Act (S.2474).

The proposed legislation would include a number of provisions that are designed to facilitate connecting individual participants with benefits they may have earned in plans sponsored by former employers.

The key provisions are described below.

1. **Establishment of a Registry**

The proposed legislation would create a registry for retirement benefits. This registry would be established in cooperation by the Commissioner of Social Security and the Secretary of the Treasury. The registry would be managed by the Director of the Retirement Savings Lost and Found. The Registry would include the following features:

   A. An individual would be allowed to search for information that would enable the individual to locate the plan administrator of any plan in which the individual is (or had been) participant or is a beneficiary. The registry would provide the contact information of the plan administrator for plans in which the individual may be entitled to a benefit.

   B. The Director would be able to assist the individual in locating any plan in which the individual may be entitled to a benefit.

   C. The Director would be able to make changes in information related to plans based on changes to the plan that result from a merger or a consolidation of the plan, a separation of the plan into multiple plans, bankruptcy of the plan sponsor, a change in the name of the plan, or a change in the address of the plan administrator, as well as other reasons.

The Retirement Lost and Found will contain information obtained by the Commissioner of Social Security regarding vested benefits that is obtained under Section 6057 of the Code. Information regarding participants with deferred vested benefits is provided to the Commissioner of Social Security on an annual basis by the plan, through the plan’s filing of Form 8955-SSA. The registry will be available for plans subject to the vesting requirements of Title I of ERISA. The information will be and will be obtained from plan sponsors through their annual Form 8955-SSA filings (discussed below).
2. Changes in the Reporting of Deferred Vested Benefits on Form 8955-SSA

The proposed legislation would make certain changes to reporting required by Code Section 6057. Section 6057 generally requires reporting, by plans, of information related to benefits owed by plans to former participants. The information required to be reported under Section 6057 is reported on Form 8955-SSA filed by the plan administrator.

Under current law as well as the current version of Form 8955-SSA, detailed information about participants who are owed benefits is reported in Part III, line 9 of the form. Line 9 requires reporting of the participant’s name, Social Security Number, and the amount of benefit owed or paid to the participant, as well as whether the benefit is paid in the form of an annuity or a lump sum. Line 9 includes four distinct reporting Codes for each participant for whom reporting is required, depending on the participant’s circumstances:

The Codes are:

- Code A – used for participants who have separated and who are owed a benefit from the plan that has not been distributed or for which benefit distributions have not yet commenced.

- Code B – used for participants who have been reported previously, but for whom the information has changed

- Code C – used for participants who have been reported previously under a different plan but whose benefits will be paid from the current plan

- Code D – used for participants who have been reported previously and whose benefits are paid out during the current year, or whose benefits have commenced during the current year.

Existing regulations indicate that a participant who terminates with a vested benefit in the plan should be reported no later than the year following the year the individual had terminated. This would apply to individuals for whom reporting is required with Code A. It is permissible to report such an individual in the year of termination, rather than the following year. The regulations also provide that if an individual’s benefit has been distributed before reporting is required, no reporting is necessary.

Currently, the reporting is required for a previously-reported individual whose benefit is paid out, or for whom benefit payments have commenced, but no information is required to be reported other than the amount, type, and frequency of payment. The proposed legislation would require additional reporting. If the distribution is rolled over, the proposed legislation would require reporting of the IRA to which the rollover was made, including the account number and name and address of the IRA custodian.

For participants whose benefits are distributed in a direct rollover or by way of a deferred annuity contract, the plan administrator must identify the name and address of the trustee or issuer of the IRA as well as the account number. If the participant receives a deferred
annuity contract, the plan administrator must report the name and address of the issuer and the contract or certificate number.

In addition, the Bill would require the plan administrator to notify separating participants of the availability of the Retirement Lost and Found

### 3. Minimum Distribution Changes

The bill would provide limited relief from the minimum distribution requirements in the case of certain lost or missing participants. For purposes of this relief, a “lost or missing participant” is any employee or beneficiary of an employee for whom either the plan administrator of a responsible party has taken measures to contact. In order to qualify for relief, the plan administrator must have (I) reported the participant’s benefits in accordance with the requirements of Section 6057, (II) made at least one unsuccessful attempt to contact the individual at the individual’s last known physical address (by certified mail) or by email if only an email address is available; and (III) has taken at least one additional measure (two if the only record is an email address) to locate the individual.

The “additional measures” that can be taken include the following:

1. Checking with the administrator of a related plan or checking the plan sponsor’s records for an updated address.
2. Making at least one unsuccessful attempt to contact the individual’s designated beneficiary.
3. Performing at least one electronic search.
4. Attempting to locate the individual using a locator service

If these requirements have been met, the plan will not be considered in violation of the minimum distribution requirements as a result of the plan’s inability to locate the lost or missing participant.

### 4. Transfers of Benefits to Retirement Lost and Found

For participants who separate with benefits of $1000 or less, the plan sponsor may transfer the benefit to the Retirement Lost and Found. This can happen after the participant receives appropriate notification. The notification can take place as part of a 402(f) notice.

### 5. Increase in cashout limit

The bill would increase the cashout limit from $5000 to $6000. This will apply also to the definition of “mandatory distribution” subject to the automatic rollover requirements.