December 7, 2022

The Honorable Charles Schumer
Majority Leader
United States Senate
S-221, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Republican Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

Dear Leader Schumer, Leader McConnell, Speaker Pelosi and Leader McCarthy:

On behalf of the Pension Committee and the Retirement Policy and Design Evaluation Committee ("the Committees") of the American Academy of Actuaries,[1] we offer some comments in support of the proposed retirement legislation commonly referred to as "SECURE 2.0" (comprised of the Securing a Strong Retirement Act of 2022 [H.R. 2954, or "SECURE 2.0"] and two Senate bills [the EARN Act, S. 4808, approved by the Finance Committee and the RISE & SHINE Act, S. 4353, approved by the Health, Education, Labor & Pensions Committee]). The Pension Practice Council has produced a series of issue briefs ("IBs") laying out guiding principles that could be used to establish a comprehensive national retirement policy. This series of IBs can be found on the Academy's website. The goal of these IBs is to highlight those areas that, if addressed, could help Americans in securing an adequate and reliable retirement income.

We appreciate the opportunity to comment on some specific provisions of the proposed legislation. We support the efforts of lawmakers to address the challenges that many Americans face in retiring securely while addressing the accompanying longevity risk due to increasing life expectancies and changes in the way that employers provide retirement benefits. We have included proposed provisions that were addressed in our National Retirement Income Policy series and other published IBs.

1 The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

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1. Automatic Enrollment in New 401(k) and 403(b) Plans

- SECURE 2.0 would require new 401(k) and 403(b) plans to automatically enroll eligible employees, with a default employee contribution rate of between 3% and 10%, as well as automatic escalation of 1% per year up to a maximum of at least 10% but no more than 15%. Automatic enrollment (with the ability for workers to opt out) has been shown to increase plan participation and automatic escalation can increase the size of employee contributions. The advantages of default contributions, including automatic enrollment and escalation, are discussed in the IB *Retirement Policy: Aligning Plan Design with Effective Employee Engagement*.

2. 403(b) Plan Enhancements

- Two sections of SECURE 2.0 and related Senate bills have provisions that would be beneficial to 403(b) plan participants.
    - Section 110 of SECURE 2.0 would provide that 403(b) plans can be multiple employer plans (MEPs) established and maintained under rules similar to those for 401(k) pooled employer plans (PEPs). PEPs which were authorized in The SECURE Act of 2019 have already become popular, increasing coverage especially among small employers that didn't previously offer qualified retirement plans. The advantages of PEPs are discussed in two IBs: *Retirement Policy: Potential for Changing Roles of Employers in Retirement Programs* and *Pooled Employer Plans—Employer Considerations*.
    - Section 105 of SECURE 2.0 would enhance the investment options under 403(b) plans by allowing plans with custodial accounts to invest in collective investment trusts as well as annuity contracts and mutual funds. This enhancement would be beneficial to participants because it could lower investment fees, thereby increasing account balances and, ultimately, retirement income. Easy access to low-cost investments is discussed in the IB *Retirement Security and Challenges: Portability and Retirement Income*.

3. Employer Matching Contribution Options

- SECURE 2.0 would allow employers to make matching contributions on behalf of employees for "qualified student loan payments," subject to certain requirements. This provision applies to 401(k), 403(b), SIMPLE IRAs, and 457(b) plans. Many employees are repaying student loans and may not be able to start saving for retirement while they are paying off the loans. The Retirement System Assessment and Policy Committee (predecessor to the Retirement Policy and Design Evaluation Committee) recommended this matching contribution approach in the IB *Retirement Policy: Aligning Plan Design With Effective Employee Engagement*.

4. Plan Eligibility Changes for Part-Time Employees

- SECURE 2.0 would modify the service requirements for long-term, part-time workers by reducing, from three to two, the required years of service before these workers are eligible to contribute to a 401(k) plan. Easing the eligibility rules for part-time workers should facilitate and increase participation among these workers, many of whom have low incomes, are women, or are members of disadvantaged groups. This could improve accessibility and positive outcomes as discussed in the IB *National Retirement Policy & Principles*.

5. Qualified Longevity Annuity Contracts

- SECURE 2.0 would allow participants to purchase larger qualifying longevity annuity contracts ("QLACs") by removing the limit of 25% of the individual's account balance. QLACs are deferred annuities that could potentially help retirees who have insufficient assets to provide lifetime income many years into retirement. Other ideas as to how QLACs might be improved are discussed in the IB *A Review of Qualifying Longevity Contracts*.

6. Benefit Portability

- SECURE 2.0 and the EARN Act would create an online searchable "Lost and Found" database to help terminated participants keep track of their vested benefits in qualified retirement plans. In today's mobile workforce, individuals who have multiple jobs during their careers often lose track of benefits they earned many years prior to retirement. The IB *Retirement Security Challenges: Portability and Retirement Income* addresses these problems and information on a centralized registry for all qualified retirement funds associated with a given Social Security number.

7. Emergency Fund

- All three bills contain provisions relating to the need for more emergency savings and the ability to withdraw funds from a retirement account in the event of an emergency.
    - Most Americans, especially those in disadvantaged groups, lack adequate savings to cover an emergency and, as a result, cannot focus on long-term retirement savings or may have to resort to the use of retirement savings prematurely to deal with financial emergencies. Linking an emergency savings account with a retirement plan could produce better outcomes for both emergency and retirement savings. This is discussed in the IB *Retirement Policy: Aligning Plan Design With Effective Employee Engagement*.

We understand the advantage of participation in defined benefit plans for those employees covered by these plans and support the following changes, which will clarify certain provisions for plan sponsors as well as facilitating the ability of plan sponsors to retain these plans. While we have previously written on the specific two provisions noted below, other suggested changes that also encourage ongoing plan sponsorship—such as the extension of Internal Revenue Code (IRC) Section 420 that allows overfunded pension plans to use assets for retiree health benefits—could benefit participants. The ability of plan sponsors to execute pension risk transfers by purchasing annuities is one tool that some plan sponsors use to manage risk while retaining plan sponsorship and securing benefits for participants. We hope that if the provision to have the Department of Labor (DOL) review Interpretive Bulletin 95-1 is included, undue hurdles will not be built into the process and that the DOL will allow a comment period to hear from all constituencies on this issue.

1. Cash Balance Plan Interest Crediting Rates

- The RISE & SHINE ACT would clarify how to convert cash balance accounts with variable interest crediting rates to accrued benefits for various plan qualification tests (e.g., 411(b) accrual rule testing, calculation of 415 limits, etc.). Specifically, the proposal would call for projecting accounts using a reasonable projection of the interest crediting rate, not to exceed 6%. The issue needs clarification because the Internal Revenue Service (IRS) hasn't yet provided regulations. This clarification would be most beneficial for company plan sponsors exploring cash balance plans with market-based interest crediting rates. Market-based designs appeal to plan sponsors because they allow sharing of investment risk with participants, and participants benefit from being in a plan where longevity risk is assumed by the employer as participants receive lifetime income. The Academy's 2017 comment letter to the Department of the Treasury and IRS about this issue can be found here.

2. Termination of Variable Rate Premium Indexing

- The RISE & SHINE Act includes a provision that would end the indexing of variable rate premiums, reducing the amount of premiums paid by plan sponsors. The current level and structure of Pension Benefit Guaranty Corporation (PBGC) premiums provides a strong incentive for plan sponsors to take actions to reduce premiums such as lump-sum buyouts or annuity purchases from an insurer. The Pension Committee discusses these actions and their impact on the PBGC in its *PBGC Single-Employer Premiums and Their Impact on Plan Sponsorship* IB.

Thank you for the opportunity to provide these comments. If you have any questions or would like to discuss with us, please contact Philip Maguire, the Academy's pension policy analyst (maguire@actuary.org; 202-223-7868).

Sincerely,

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Chairperson, Pension Committee
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cc: Sen. Ron Wyden
Sen. Mike Crapo
Sen. Patty Murray
Sen. Richard Burr
Rep. Richard Neal
Rep. Kevin Brady
Rep. Bobbie Scott
Rep. Virginia Foxx