



AMERICAN BENEFITS

COUNCIL

Legislative and Regulatory Policy Update

Capital Chapter ISCEBS

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Political Landscape

- ◉ **Complex political/legislative environment**
 - Government shutdown
 - House of Representatives investigations
- ◉ **Several weeks before committees are fully organized, staff is hired and hearings scheduled**
- ◉ **Despite gridlock, two area of possible collaboration**
 - Prescription drugs
 - Infrastructure (and role of pension funds as a source of financing)

Overcoming Legislative Gridlock

- ◉ **Regulatory agency activity**
- ◉ **Devolving more authority to states is attractive to both parties for different reasons**
- ◉ **Center on State Initiatives**





Health Policy

Legislative Outlook for a Divided Congress

◉ House of Representatives

- Democrats focus on health care
- Protect the ACA
 - Intervene in *Texas v. United States* lawsuit
 - Shore up the ACA consumer protections and individual market
- Medicare-for-All/Medicare expansion
- PAYGO

Legislative Outlook for a Divided Congress

• Senate

- Republicans play defense on health care
- Brake on House-passed legislation
- HELP Committee focus on costs
- “Surprise” medical billing

Legislative Outlook for a Divided Congress

- Cadillac tax



- New vulnerability for employee tax exclusion

- Employer innovations



Regulatory Outlook

- ◉ **HRA rulemaking**
- ◉ **HSA regulatory reforms**
- ◉ **Executive action on transparency and drug pricing**
- ◉ **ACA employer mandate penalties**

State Action

- ④ **Individual mandates**
- ④ **Reinsurance fees**
- ④ **State Innovation Waivers**
- ④ **Testing ground for single-payer efforts**

Paid Leave

- ◉ **Democrats to push federal mandate**
 - Healthy Families Act
 - Family And Medical Insurance Leave Act
- ◉ **Return of Workflex for the 21st Century Act?**
 - Voluntary minimum
 - Pre-empt state and local mandates
- ◉ **Continued state and local activity**

NATIONAL PAID SICK LEAVE ATLAS

The proliferation of state and local ordinances mandating paid sick leave for private sector employees poses significant challenges, particularly for large, multi-state employers. More awareness and understanding of the many laws and their requirements constitutes an imposing burden.

The Council, in partnership with Sutherland Shaw LLP, has developed an easy-to-use online tool that allows American Benefits Council members to obtain vital information and resources on these laws. Using the map below, you can click on the state to determine whether there are applicable state laws or local laws within the state. Those individual pages will provide links to ordinances, regulations and official guidance; information on effective dates, accrual and cap requirements; and resources such as model posters.



Most Recent Alerts

- 01/16/2018 (Maryland)
If Paid, Yes Gains—Plan B.2 Maryland Becomes Ninth State to Enact Paid Sick Leave Law
- 12/28/2017 (Prince George's County, MD)
If Paid, Yes Gains—Plan B.2 Prince George's County, MD

Frequently Asked Questions

Q1: What are mandatory paid sick leave laws?

Q2: Is there a federal law mandating that employers provide paid sick leave to their employees?

Retirement Policy

Legislative Outlook for a Divided Congress

- ◉ **Multiemployer plan funding crisis, bipartisan special House/Senate committee missed November 30, 2018 deadline**
 - Changes to actuarial assumptions
 - Loans from federal government
- ◉ **Interest in curtailing plan leakage and reform of PBGC premiums**
- ◉ **Awareness of increased state and local activity**

Legislative Outlook for a Divided Congress

- **Senator Ben Cardin (D-MD) and Rob Portman (R-OH)**
- **House Ways & Means Chairman Richard Neal (D-MA)**
- **Savings Opportunities: Remove barriers and create greater access**
- **Plan Administration: Consolidate notices and ease correction and overpayment rules**
- **Preservation of Income: Facilitate lifetime income distribution (e.g. qualifying longevity annuity contracts, change minimum distribution rules)**
- **Defined Benefit pension plan reforms: Eliminate indexing of variable rate premiums**

Portman/Cardin (P/C) and Neal Legislation

- **Enhanced auto enrollment safe harbor (starting at 6%, and escalating to 10%)**
- **Saver's Credit – change from a tax credit to a government contribution**
- **Satisfy service eligibility requirement (500+ hours per year for two years)**
- **Increase Required Minimum Distribution age from 70-1/2**
- **Salary reduction to pay for retirement planning services (P/C only)**

Portman/Cardin (P/C) and Neal Legislation

- ◉ **Allow in-service distributions from Defined Benefit and 457 plans at 59-1/2 (P/C only)**
- ◉ **Consolidate employee notices**
- ◉ **Economically targeted investing (Neal only)**
- ◉ **Permit self-correction of virtually all inadvertent plan errors**
- ◉ **Matching contributions permitted on student loan repayments (P/C only; but separate legislation in House)**

Auto Defined Contribution Plan Legislation (Neal)

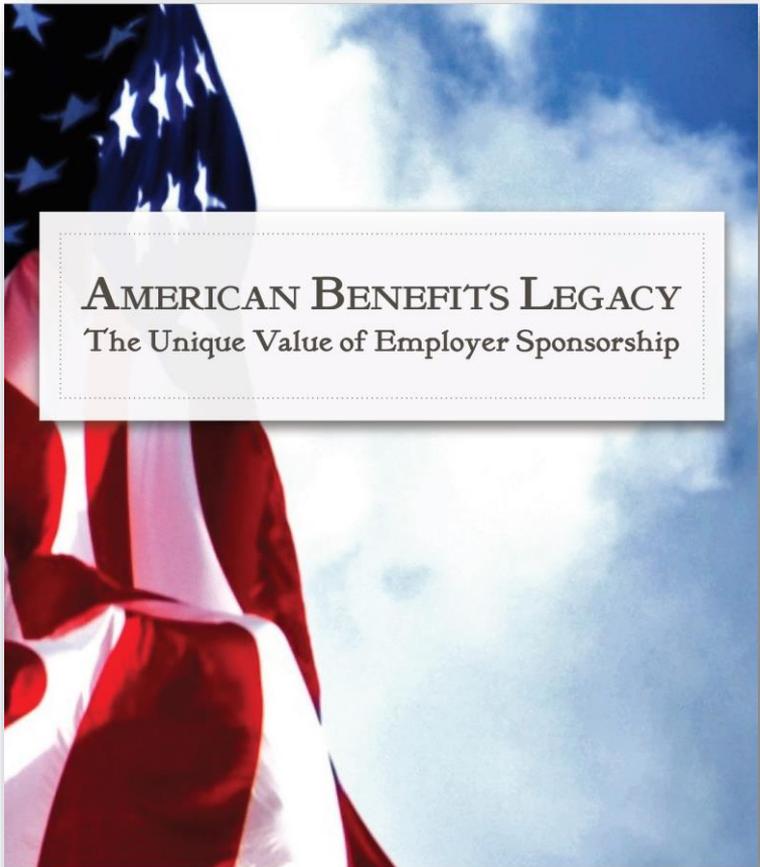
- ◉ **Virtually all employers must sponsor a defined contribution plan (exceptions for < 10 employees, religious institutions, < 3 years in business)**
- ◉ **Cover all employees meeting age and service requirements**
- ◉ **Auto enrollment and escalation**
- ◉ **At least half of employees account must be in a guaranteed product**
- ◉ **Choice among default investments**

Auto Defined Contribution Plan Legislation (Neal)

- ◉ **Option to avoid non-discrimination testing if limit contributions to \$8,000/year**
- ◉ **“Reasonable” fees**
- ◉ **Grandfathered plans only would need to change eligibility requirement (e.g. 500 hours/year)**
- ◉ **Small employers allowed to outsource fiduciary duties to a Multiple Employer Plan (MEP)**
- ◉ **Meeting federal plan requirements deemed to satisfy any new state-sponsored auto IRA mandates**

Regulatory Action

- ◉ **Electronic disclosure**
- ◉ **Missing and unresponsive participants, DOL audits**
- ◉ **Student loans and 401(k) plans, Treasury and IRS could issue Revenue Ruling or other guidance**



AMERICAN BENEFITS LEGACY
The Unique Value of Employer Sponsorship

Findings on Health Security

Applying behavior derived from pre-ACA individual mandate health insurance market to attributes of current workforce can simulate what coverage might be without employer sponsorship of benefits.

This is particularly relevant now that the mandate has been repealed.

- As many as 113 million workers who now receive valuable health benefits through their employer would otherwise not be able to afford or would choose not to purchase health insurance

Source: EBRI simulations

Findings on Retirement Security

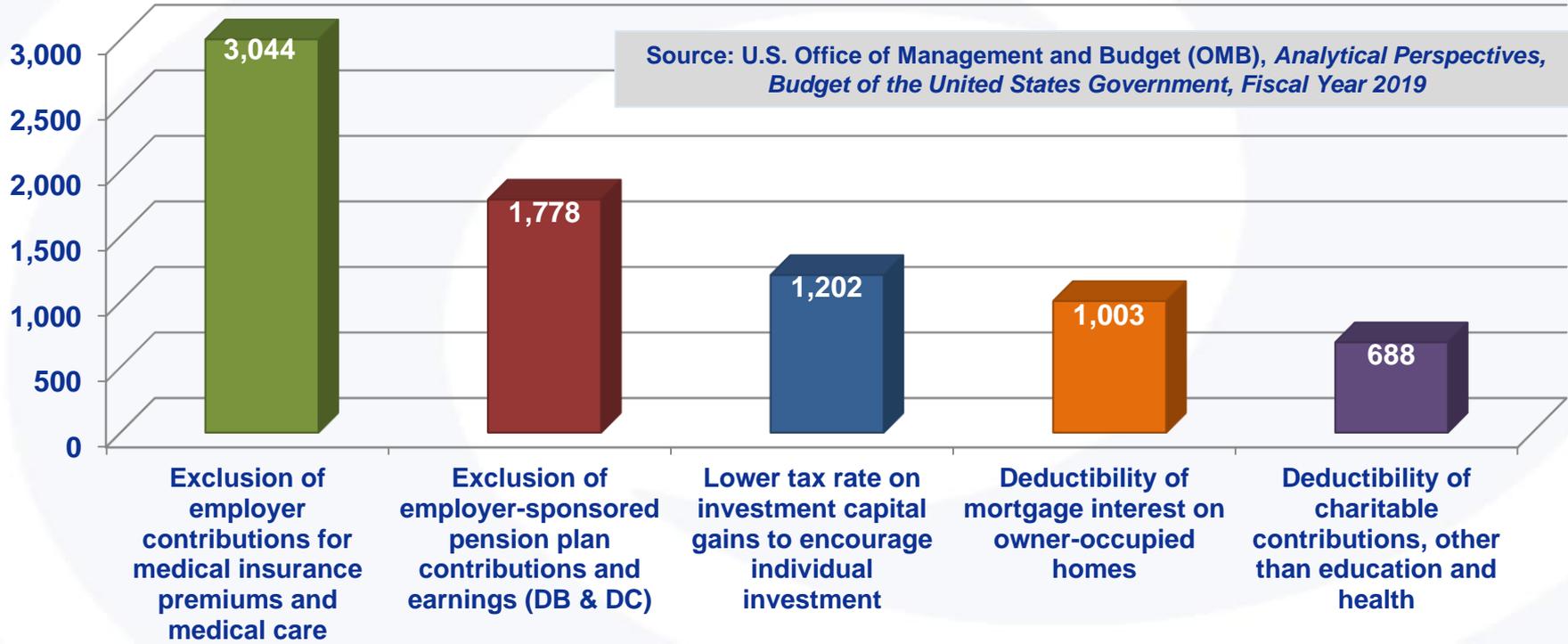
EBRI model can be used to analyze how individuals can be expected to change retirement savings behavior in response to available options. The model provides summary Retirement Readiness Ratings (RRR) that simulate the proportion of households projected to have adequate retirement resources.

- The aggregate retirement savings shortfall in America could jump 71 percent to \$7.05 trillion.

Source: EBRI simulations

Tax Expenditures, 2018-2027

Projected Dollars in Billions



Source: U.S. Office of Management and Budget (OMB), *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2019*

Employer plans provide several times the value of benefits each year in relation to the value of the tax expenditures

	Tax Expenditure	Benefits Paid	Ratio
Health Benefits (2016)	\$155.3 billion	\$691.3 billion	4.45
Retirement Benefits (2012)	\$138 billion	\$991 billion	7.15

See *Benefits Bargain: Health* beginning on page 28 and *Benefits Bargain: Retirement* beginning on page 32 of the *American Benefits Legacy* report.

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