

# Legislate<sup>®</sup>

## Key Legislative Developments Affecting Your Human Resources US

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### Benefits Legislation Omitted from Final Spending Agreement

Hopes that HSA and retirement plan bills would sail along with the omnibus spending bill ran aground last week. Another government shutdown was, however, averted. The likelihood of independent action on these bills is slim with mid-term elections and campaigning the primary concern for the next 5+ months.

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#### The Week that Wasn't

Congress sprinted to the finish line with an omnibus spending bill just in time to avert another government shutdown. This spending bill addresses appropriations for various government agencies and programs through the end of August (and will presumably set the spending limits into the next fiscal year through continuing resolutions for spending until the new mid-term Congress is seated). But, alas, retirement and healthcare priorities that plan sponsors hoped would find a place in the legislation were excluded: defined benefit closed plan relief, other savings plan enhancements, and various changes for Health Savings Accounts (HSAs).

#### Retirement Plans

Our [March 20, 2018](#) *Legislate* reviewed the Retirement Enhancement and Savings Act (RESA) recently introduced in both chambers with bipartisan support. The relief for closed plans would have addressed the ongoing problem of testing failures under minimum participation, coverage, and nondiscrimination rules merely because a plan closed to new participants (typically covered in a replacement defined contribution plan) tends to favor a growing highly compensated population (typically the older and more experienced due to tenure and promotion).

RESA would have also improved 401(k) and other defined contribution plan design options to allow auto-escalation of deferral rates beyond 10%, prohibit credit card loans, and permit limited stretch distributions for beneficiaries, among other changes.



## Marketplace Stabilization and HSAs

Our [March 14, 2018](#) *Legislate* reviewed the Bipartisan Health Care Stabilization Act; the Lower Premiums Through Reinsurance Act, and the Undo Sabotage And Expand Affordability of Health Insurance Act, legislation designed to stabilize the ACA marketplaces, as well as the Bipartisan HSA Improvement Act, legislation that would have expanded and enhanced HSAs. Initial spending bill negotiations had involved a bipartisan ACA market stabilization package — which would have included appropriations for cost-sharing reduction subsidies, state reinsurance programs, and additional state flexibility for ACA waivers (section 1332 waivers) — designed to curb rising costs in the ACA marketplace. Talks fell apart and the provision was not included. For information on marketplace stabilization and section 1332 waivers see our [September 18, 2017](#) *Legislate*. The Bipartisan HSA Improvements Act would have modified the rules governing HSAs and high-deductible health plans (HDHPs) to allow coverage for, among other things, certain pre-deductible healthcare coverage at employer-based onsite clinics and retail health clinics for managing chronic conditions. It's not clear whether any of this legislation will move forward anytime soon.

## The Week Ahead

Congress is on a two-week recess. When they return, there may be a limited number of opportunities for action on these and other bills of interest to the retirement and benefits community.

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