SAFER Act - Fact Check

Myth: Living investors will typically be active– checking balances, or buying and selling assets.

Fact: By definition, passive investors depend on buy-and-hold investment strategies. Such investors do not seek a "quick buck," but rather seek to have their nest egg grow from the historic accrual of value of the stock market or the safe returns of bonds. One Michigan study of a dataset of 1.2 million 401(k) account holders found that nearly 80% did not conduct a single trade in a two-year period. Another 11% conducted only one trade in that duration. At the end of 2024, households held 80 percent of mutual fund total net assets, reflecting a long-term investment focus.

Myth: Death confirmation is unworkable, leaving assets in limbo.

Fact: The bill includes straightforward checks and procedures to confirm death, such as a death certificate or other documentation, such as the Social Security Administration's death master files. The bill also mandates that once an individual reaches the required minimum distribution (RMD) age, the financial institution must routinely check every five years for confirmation of death. Many individuals begin divesting around the RMD age to pay for retirement, which would show activity on the account and therefore that the owner of those assets is alive. If an individual remains inactive, then the Financial Institutions have a duty to ensure the state acquires access to any unclaimed assets.

Myth: The bill effectively eliminates states' timely holder outreach requirements that protect individual investors.

Fact: The legislation has no preemptive impact over existing outreach requirements of the states. Rather, it explicitly clarifies within the "Sense of Congress" that Congress has no intention to prevent the states and holders of accounts from due diligence and contact requirements mandated by the states' escheatment laws. The bill supports and reinforces the states' responsibilities to reunite owners with lost property, but ensures that states only take property when they have confirmed it as "lost".

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Myth: The bill allows financial institutions to charge fees ad nauseam without the checks and balances that the account is active.

Rebuttal: Most of the largest brokerage firms do not charge fees for simply holding assets. To the extent that such fees exist, required disclosures operate to provide awareness to investors.

Myth: The bill invites a securities crisis similar to the 401(k) problem, as ERISA preempts states from escheating 401 (k) assets.

Rebuttal: ERISA preemption operates very differently than this bill; this legislation ensures that a state can reunite lost property as soon as it confirms its lost status. The authors of this bill support current legislation to fix the ERISA oversight to allow states to perform their duty of reunifying account holders with lost accounts.

Myth: This is a solution chasing a problem, because there is no problem to solve here.

Rebuttal: Some state legislatures have come to understand that by implementing a more rigorous inactivity standard, they can force the escheatment of more assets. For example, Florida amended its statute to eliminate the recognition of returned mail as an escheatment trigger; instead, it imposed solely a 3-yr “no-contact” trigger for determining when property would become subject to escheatment. After that change, Florida dramatically boosted its escheatment haul from $804,000 to more than $14 million in a single year. The escheatments disproportionately harmed elderly investors, who lost $10.9 million in 2025 alone. The resulting outrage now has Florida walking back its new standard.