UNITED STATES SPECIAL COMMITTEE ON AGING
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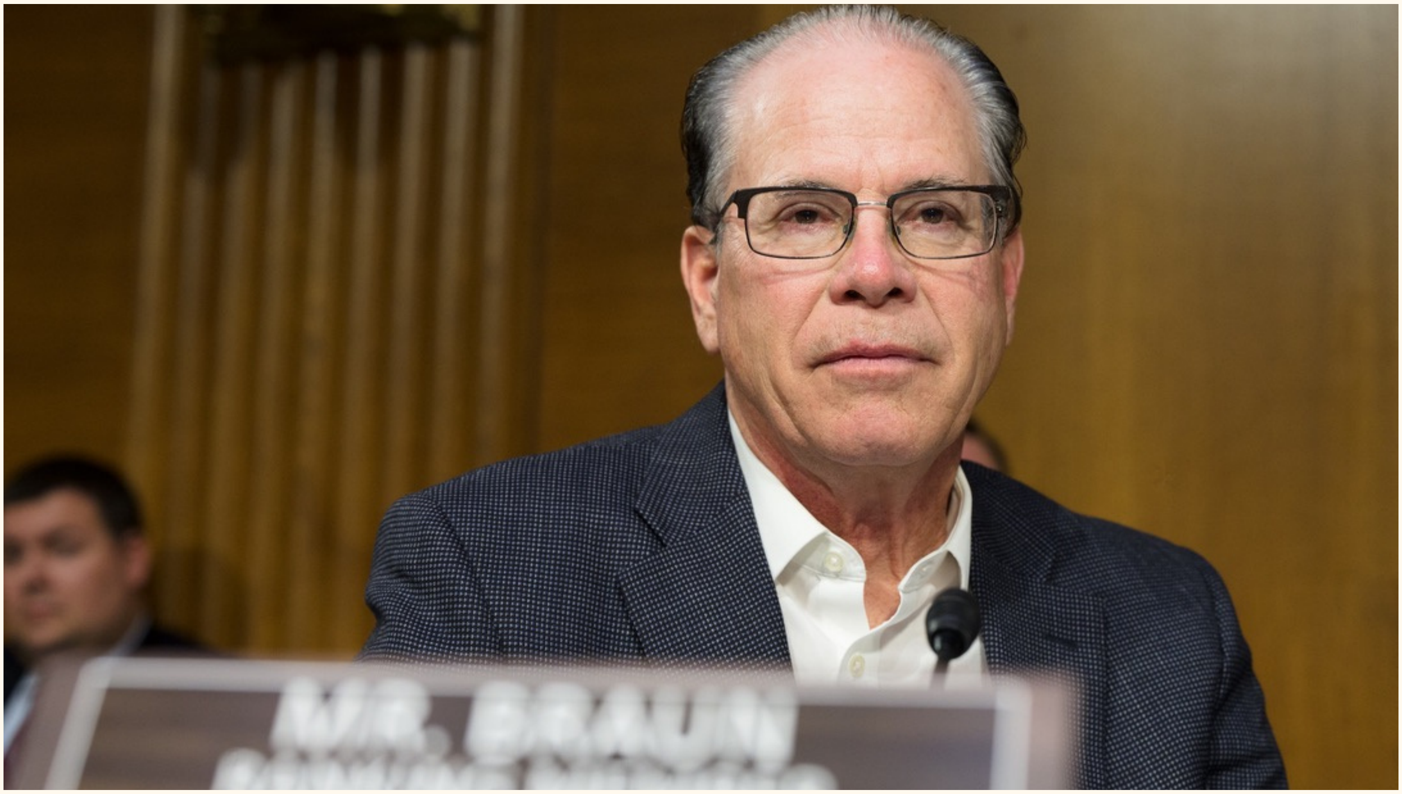

WHAT'S WORKING FOR OLDER WORKERS

Aging Workforce Report | May 2023

HIGHLIGHTS

- Over the last two decades, the share of the workforce aged 55 or older almost **doubled**. By 2028, **over a quarter** of the workforce will be aged 55 or older.
- Yet labor force participation for workers 55 and older hasn't recovered to pre-pandemic levels (40.2 percent in January 2020; 38.4 percent in April 2023).
- Inflation has pushed some older Americans back to work: **43 percent of those considering returning to work are doing so because of inflation**.
- 17 percent of older workers have decreased retirement account contributions because of inflation.
- Senator Braun's Fight Inflation Through Balanced Budgets Act (S. 575) would block Congress from adopting budgets that aren't balanced, reining in excess spending and helping to stabilize the economy for older Americans.
- Older workers are almost **40 percent of all independent contractors**.
- Senator Braun led a letter to the Department of Labor (DOL) urging it to ditch a rule that would restrict independent work opportunities.
- Between 58 and 87 percent of independent jobs could be eliminated by this rule.
- DOL also issued a rule allowing retirement plan managers to consider environmental, social, and governance (ESG) factors in investment decisions.
- ESG funds have 43 percent higher fees and average a **6.3 percent return, compared to 8.9 percent returns** in the broader market.
- **Senator Braun led** a resolution (S.J.Res. 8) to block this dangerous rule and protect older Americans' retirements. Despite bipartisan support, **President Biden used his first veto** to reject Senator Braun's measure.

What's Working for Older Workers

Older Americans have been hit hard by the weak and slowing economy, record levels of inflation, and troubling workforce developments. As Ranking Member of the U.S. Senate Special Committee on Aging, Senator Mike Braun is fighting back against big government policies that make these trends worse and working on solutions to help older Hoosiers best support themselves and their families.

Troubling Workforce Trends: "Great Resignation" and "Unretirements"

Over the last two decades, the share of the workforce aged 55 or older almost doubled. By 2028, over a quarter of the workforce will be aged 55 or older.[1] These changes will provide more economic opportunities and challenges for the country. But right now, older workers are facing a volatile economy.

The "great resignation," the idea that large numbers of workers have stopped working after the pandemic, is primarily about the older workforce. Older Americans' labor force participation rate, which measures how many people are working or looking for work, has still not recovered to pre-pandemic levels.[2] The participation rate for workers between the ages of 25 and 54 was 83.1 percent in January of 2020 and 83.3 percent in April 2023.[3] Workers 55 and over had a participation rate of 40.2 percent in January 2020 and 38.4 percent in April 2023.[4] Some decline is natural as older workers transition to retirement. But for many older Americans, remaining in the workforce increases incomes, boosts savings, and supports economic growth, especially when employers are confronting labor shortages.

Economists hoped that older Americans' falling participation was a temporary response to COVID that would fade in a later wave of "unretirements," yet it's been stubbornly persistent.[5] While some older Americans may continue to exercise caution about health risks in the workforce, others have likely struggled to rediscover or readjust their employment connections and social networks after lockdowns. More recent research points to the housing market as a key cause of lower participation. Remote work increased demand for housing, and house prices rose. Older homeowners took advantage of high home equity by retiring earlier.[6]

Inflation and Recession

At the same time, inflation is forcing some older Americans back to work. Among older Americans considering a return to the workforce, 43 percent say it's because of inflation.[7] These retirees, including many hardworking Hoosiers, looked forward to a happy and secure retirement. But they've been finding that their savings aren't enough to keep up with rising prices, and they can't stretch their Social Security checks. Inflation is also painful for older workers:

- 17 percent have decreased retirement account contributions because of inflation, and 5 percent can't afford any contributions.[8]

- Almost half have spent down emergency savings. 40 percent are delaying retirement.[9]

To cope with persistently higher prices, some older Americans have skipped meals, visited food pantries for the first time, and devoted Social Security checks to covering basic household necessities.[10] Older workers and employers are now struggling with higher interest rates. In April 2023, the Federal Reserve announced that it expects an upcoming recession.[11]

Older workers need Congress to stop the cycle of reckless spending fueling inflation and destabilizing the economy. Senator Braun's Fight Inflation Through Balanced Budgets Act (S. 575) would block Congress from adopting budgets that aren't balanced and preventing spending above amounts authorized by Congress. In the 117th Congress, Senator Braun released a budget balancing in ten years and extending the fiscal health of essential programs like Social Security and Medicare. These commonsense steps would rein in excess spending, cut inflation, and help stabilize the economy for older Americans.

Older workers also need a reduction in heavy-handed regulations limiting opportunities for the jobs that appeal to them most.

Independent Work Opportunities

More and more employers are recognizing the benefits of hiring and keeping older workers, who bring unmatched experience and work ethic while reducing labor shortages.[12] Meanwhile, older Americans are increasingly turning to the "gig economy," working as independent contractors to supplement their incomes and savings.[13] As electricians, seasonal workers, truck drivers, consultants, and in a wide variety of other jobs, older workers are seeking and finding flexibility and work that meets their needs.

Older workers make up almost 40 percent of independent contractors.[14]

Older workers experience psychological and social benefits from independent work while creating their own schedules.[15] Independent work has continued to grow after the pandemic, and older Americans are leading the trend.[16] COVID-related health concerns and job losses from pandemic lockdowns likely make independent work a more attractive option for older Americans. In recessions, the unemployed are up to 17 percent more likely to find independent jobs as landing spots, so the appeal of the gig economy to older Americans could expand even more in future months.[17]

Independent Contractor Rule

In October 2022, the Department of Labor (DOL) proposed an independent contractor (IC) rule that would jeopardize millions of individuals' independent contractor status under the Fair Labor Standards Act (FLSA). The rule proposes a test for determining independent contractor classification that is unclear, overly restrictive, and unsuitable for older workers seeking flexibility as they pursue opportunities as independent contractors.

Between 58 and 87 percent of independent jobs could be eliminated by the IC rule, disproportionately impacting older workers.[18] California enacted a similarly restrictive law targeting independent workers, destroying jobs for writers, financial advisors, artists and actors, court transcript editors, truck drivers, and for a host of other occupations.[19]

Independent contractors prefer to remain independent by huge margins: =less than one out of every 10 independent contractors would prefer traditional employment status.[20] 77 percent of app-based workers prefer to remain independent contractors and 80 percent work using app-based platforms for 20 or less hours per week.[21] The vast majority of independent workers say they are happier and healthier as independent contractors.[22] 70 percent of freelancers say that “being my own boss” is a top draw, and 73 percent cite “schedule flexibility” as a key reason for freelancing.[23]

In the last Congress, Senator Braun led a letter with 46 of his colleagues in the Senate and House urging DOL to scrap the IC rule and focus on standards fit for the modern economy.[24] Canceling this proposed rule would protect millions of older workers who value their independence and would otherwise lack opportunities to grow their incomes and savings.

Senator Braun is also a strong supporter of the Employee Rights Act (S. 1201), which would update and modernize FLSA to protect independent workers, franchisees, entrepreneurs, and anyone seeking flexible working options. In the 117th Congress, Senator Braun supported the Modern Worker Empowerment Act, which would update FLSA by creating consistent and clear rules across federal agencies on the definition of independent status.

In April 2023, Senator Braun held an Aging Committee hearing, “Beyond the 9 to 5: Dismantling Barriers and Building Economic Resilience for Older Workers.” With nearly 40 years of experience running a Main Street business, Senator Braun understands the crucial role that older workers play in the economy. He highlighted older workers' rising participation in the independent workforce and his efforts to protect older independent workers from aggressive regulations and steep job losses.

Retirement Savings. Environmental, Social, and Governance Losses

In November 2022, DOL finalized a rule, "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights," to explicitly permit retirement plan managers to consider environmental, social, and corporate governance (ESG) factors when selecting investments and exercising shareholder rights. This rule rescinds an existing rule that focused solely on financial factors. It will impact 152 million workers covered by the Employee Retirement Income Security Act (ERISA). By putting political objectives over financial ones, President Biden is jeopardizing the retirement security of tens of millions of Americans.

Under this rule, plan participants could unknowingly be enrolled in ESG funds, which may not align with their political views and have been found to underperform and have higher fees. Over the past five years, global ESG funds underperformed the broader market, averaging a 6.3 percent return compared to 8.9 percent return.[25] ESG funds carry 43 percent higher fees on average versus non-ESG funds.[26] While it is imperative that people are able use their own money as they see fit, this ESG rule allows money managers to circumvent retirees' needs and interests and push their own political agendas.

DOL's rule ignores the law, evidence, and common sense, jeopardizing older Americans' retirement by politicizing investment decisions. When 401(k)s have already been struggling with inflation and a volatile economy, ideology is the last thing Americans need in their retirement savings. Senator Braun led a bipartisan resolution under the Congressional Review Act (S.J.Res. 8/H.J.Res. 30), with support from the House and Senate, to block this dangerous ESG rule and protect older Americans' retirements. Unfortunately, President Biden used his first veto to reject the measure.

Senator Braun introduced the Maximize Americans' Retirement Security Act (S. 1563), which would amend ERISA to require that fiduciaries' prioritize returns above all else. These steps would protect older Americans by ensuring that fiduciaries focus on their best financial interests and stop DOL engaging in risky, ideological interference with retirement savings.

Fighting for Older Workers: Freedom and Effective Programs

Hoosiers often focus on workforce shortages when thinking about how to grow the economy, and older Americans' labor force participation continues to suffer. There is no shortage of workforce development programs to help address gaps in the workforce and get Americans back to work. But it isn't always clear how effective these programs are. In fact, some older adults in workforce development programs have been trapped in them by inflation, lost out on opportunities because of lockdowns, and dealt with discrimination based on vaccination status. Some organizations that partner with workforce development programs refuse to work with older Americans who choose not to get vaccinated for COVID.

Senator Braun led a resolution under the Congressional Review Act (S.J.Res. 29) to block DOL's vaccine mandate for private employees. The Senate passed this bipartisan resolution in December 2021. In January 2022, the Supreme Court overturned the mandate, which DOL then withdrew. Senator Braun's leadership responded to Main Street job creators and workers whose livelihoods suffered from unconstitutional overreach. They want their liberties respected and for governors to efficiently meet their needs.

Senator Braun's Prioritizing Evidence for Workforce Development Act (S. 550) would also improve efficiency for job creators and older workers. It would require state plans under the Workforce Innovation and Opportunity Act (WIOA) to prioritize funding evidence-based workforce programs. Supporting education and workforce training that actually works will help connect older Americans to well-paying jobs, increase their labor force participation, and grow the economy.

Conclusion

Though current economic conditions are too painful for too many older Americans, there are opportunities for improvement. As the nation continues to struggle with an inflation crisis ignited by overspending in D.C., and as Democrats refuse to negotiate on the debt ceiling, Senator Braun has called on President Biden to make a deal and meaningfully reduce federal spending. Negotiating a responsible budget, stopping counterproductive regulations, and passing commonsense legislation would expand opportunities and security for millions of older workers and retirees.

RECOMMENDATIONS

To support older workers, increase their labor force participation, cut their costs, protect their retirement security, and defend their rights, Congress should pass:

- The Fight Inflation Through Balanced Budgets Act (S. 575), which would require Congress to follow balanced-budget rules.
- The Braun Budget, which would protect Social Security and Medicare while balancing the budget in ten years and reducing inflation.
- The Employee Rights Act (S. 1201), which would protect independent workers, franchisees, and small businesses from costly big bureaucratic regulations.
- The Modern Worker Empowerment Act, which would create clear federal rules to reduce confusion and protect the independent workforce.
- The Maximize Americans' Retirement Security Act (S. 1563), which would require fiduciaries to prioritize returns, not partisan political agendas.
- The Prioritizing Evidence for Workforce Development Act (S. 550), which would require states to prioritize funding evidence-based workforce programs.

The Administration should:

- Negotiate a deal to meaningfully cut spending and inflation.
- Cancel a radical DOL rule restricting opportunities for independent workers.
- Cancel a dangerous DOL rule pushing low-return ESG investments on retirement savings.
- Ensure that federal agencies and programs follow the law and stop discriminating based on vaccination status.

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