

Executive Summary of the Report Prepared for the Church Alliance
Covering the Period Beginning November 28, 2023 and Ending July 31, 2024

The following chart highlights issues that are discussed more fully in the report. This Executive Summary contains a short description of a particular issue and the section of the report where the issue is more fully discussed.

Legislative or Regulatory Issue	Current Status Report
Commodity Pool Operator Fix (clarification needed that church benefit boards are not required to register as a commodity pool operator if they commingle plan and non-plan assets)	The Church Alliance is looking for a legislative vehicle to include this fix. See Section I.A.2.a.
403(b) Collective Investment Trust Legislation (would allow 403(b) plans to invest in collective investment trusts)	The Church Alliance has been monitoring this legislation to make sure it contains a desired clarification for church plan assets held in an insurance company separate account. See Section I.A.2.b.
Long-Term Part-Time Employee Proposed Regulations (provides guidance on when long-term part-time employees are eligible for deferrals under 401(k) and ERISA-covered 403(b) plans)	The Church Alliance filed a comment letter on the proposed regulations. See Section I.B.1.a.
Miscellaneous SECURE 2.0 Guidance (FAQ guidance on various provisions of SECURE 2.0)	The Church Alliance filed a comment letter on the SECURE 2.0 provision permitting employers to provide certain <i>de minimus</i> financial incentives for plan contributions. See Section I.B.1.b.
RMD Final Regulations (provides guidance on the changes that the SECURE Act and SECURE 2.0 made to the RMD rules)	The final regulations include certain provisions specific to church plans, in response to a comment letter filed by the Church Alliance, regarding a defined benefit plan actuarial increase requirement originally proposed to be applicable to employees of non-QCCOs. See Section I.B.1.d.
IRS Priority Guidance Plan (requests comments on items to be included in the 2024-2025 Priority Guidance Plan)	The Church Alliance sent a letter requesting that the IRS publish proposed regulations updating the church plan definition. See Section I.B.1.g.
Investment Advice Fiduciary Final Rule (provides guidance on when a person who provides investment advice is a “fiduciary” under ERISA; this rule has been issued and struck down or withdrawn several times)	The final rule has been stayed by two district courts. The Church Alliance submitted a comment letter on the proposed rule and some of its suggestions were included in the final rule. See Section I.B.2.a.
ESG Litigation (litigation on whether plan fiduciaries may consider environmental,	A Texas district court rejected the defendants’ motion to dismiss a case in which the plaintiffs’

social, and governance (“ESG”) objectives when selecting investments)	alleged breach of fiduciary duty for investing in ESG-focused funds. The Church Alliance is closely monitoring ESG issues. See Section I.C.1.
AME Church Plan Litigation (breach of fiduciary duty litigation for allowing a single individual to invest the assets of a church plan with no oversight where the individual made illegal and risky investments resulting in the loss of more than \$90 million)	The case is in the discovery phase and the parties have all sued each other. See Section I.C.2.a.
Diocese of Albany Litigation (breach of contract and fiduciary duty case involving an underfunded church plan)	The trial judge attempted to settle this case through mediation but was unsuccessful. It appears this case is headed to trial. See Section I.C.2.b.
U.S. Supreme Court Decision Overturning its 1984 <i>Chevron</i> decision (under <i>Chevron</i> , courts were required to defer to agency interpretations of ambiguous statutes as long as the interpretation is a permissible construction)	The Court held that courts may not defer to an agency’s interpretation of statutory ambiguities and must exercise their own independent judgment. See Sections I.C.4 and II.D.6.
State Laws Impacting Retirement Plans	The Church Alliance continues to monitor state legislation, including ESG legislative proposals and state auto-IRA laws. See Section I.D.
American Academy of Actuaries’ Brief on Church Plans	The Church Alliance is working with the American Academy of Actuaries so future reports and testimony by the Academy more accurately reflect church plan rules. See Section I.E.2.
Section 1557 Guidance (prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in certain health programs and activities)	Three district courts have issued preliminary injunctions prohibiting enforcement of the final rules. A district court also issued a permanent injunction blocking enforcement of certain agency interpretations of the rule against a Christian employer organization. See Sections II.B.3.a and II.D.2.
Final HIPAA Rule on Reproductive Health Care Privacy (limits the uses and disclosures of PHI about reproductive health care)	Covered entities must comply with the final rule by December 23, 2024 and update the required Notice of Privacy Practices by February 16, 2026. See Section II.B.3.b.
ACA Preventive Services Litigation (district court determined that it was unconstitutional to provide the United States Preventive Services Taskforce with authority to establish certain preventive services requirements and enjoined these requirements nationwide)	The Fifth Circuit affirmed but did not agree with enjoining the requirements nationwide and determined that the government could enforce the decision only as to the plaintiffs in the case. See Section II.D.3.

U.S. Supreme Court Decision on Abortion Drug (the Fifth Circuit reversed a district court decision blocking the FDA's approval of mifepristone (an abortion drug), allowing the drug to remain available but reinstating certain controls for obtaining the drug).	The U.S. Supreme Court determined that the plaintiffs did not have standing to sue and reversed the Fifth Court decision. See Section II.D.4.
Albany v. Vullo Litigation (case challenging a state regulation requiring employer health insurance policies to include coverage for medically necessary abortions)	The court determined that neither the abortion regulation nor the "religious employer" exemption violate the Free Exercise clause. See Section II.D.5.
State Laws Impacting Welfare Plans	The Church Alliance continues to monitor state legislation, including privacy legislation and legislation that would mandate health care benefits, regulate PBMs, and create or study a public option or other health care reform system. See Section II.E.
Clergy Act (would establish a one-time enrollment period during which members of the clergy who previously opted out of Social Security could opt back in)	The Clergy Act was introduced in both the House and Senate. See Section III.A.
State Unemployment Compensation Opt Out for Religious Employers (in Wisconsin, organizations "operated primarily for religious purposes" are exempt from making contributions to Wisconsin's unemployment insurance system)	The Wisconsin Supreme Court determined that the Catholic Charities Bureau and certain related organizations are not "operated primarily for religious purposes" because, while the organization have a religious motivation, their activities are primarily charitable and secular. See Section III.B.