

116TH CONGRESS
2D SESSION

H. R. 8787

To amend the Internal Revenue Code of 1986 to permit withdrawals from certain retirement plans for repayment of student loan debt, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2020

Mrs. LESKO introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to permit withdrawals from certain retirement plans for repayment of student loan debt, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student Aid and Tax
5 Advantaged Accounts Reform Act of 2020” or the “STAR
6 Act of 2020”.

1 **SEC. 2. TREATMENT OF CERTAIN QUALIFIED EDUCATION**
2 **BENEFITS FOR FINANCIAL AID PURPOSES.**

3 Section 480(f) of the Higher Education Act of 1965
4 (20 U.S.C. 1087vv(f)) is amended—

5 (1) by amending subparagraph (B) of para-
6 graph (3) to read as follows:

7 “(B) the parent if the student is a depend-
8 ent student, regardless of whether the owner of
9 the account is the student or the parent, except
10 that the value of a qualified education benefit
11 with a designated beneficiary other than the de-
12 pendent student applying for aid under this
13 title shall not be considered an asset of the par-
14 ent.”; and

15 (2) in paragraph (4)—

16 (A) in subparagraph (A), by striking
17 “and” at the end; and

18 (B) by striking subparagraph (B) inserting
19 the following:

20 “(B) in the case of a program in which
21 contributions are made to an account that is es-
22 tablished for the purpose of meeting the quali-
23 fied higher education expenses of an inde-
24 pendent student who is the designated bene-
25 ficiary of the account, the current balance of
26 such account; and

1 “(C) in the case of a program in which
2 contributions are made to an account that is es-
3 tablished for the purpose of meeting the quali-
4 fied higher education expenses of a dependent
5 student who is the designated beneficiary of the
6 account, the highest monthly balance of such
7 account in the period of four years preceding
8 the date of application for aid under this title.”.

9 **SEC. 3. WITHDRAWALS FOR HIGHER EDUCATION EX-**
10 **PENSES.**

11 (a) 401(k) PLANS.—Paragraph (14) of section
12 401(k) of the Internal Revenue Code of 1986 is amended
13 by adding at the end the following new subparagraph:

14 “(C) DISTRIBUTIONS FOR QUALIFIED
15 HIGHER EDUCATION EXPENSES.—

16 “(i) IN GENERAL.—A distribution
17 shall be treated as made upon hardship of
18 the employee to the extent that the aggre-
19 gate amount of such distributions during
20 the taxable year does not exceed the lesser
21 of—

22 “(I) the amount paid by the tax-
23 payer for qualified higher education
24 expenses during such taxable year, or

25 “(II) \$5,250.

1 “(ii) DISTRIBUTION MUST BE OTHER-
2 WISE DISALLOWED.—Clause (i) shall not
3 apply to any distribution which is permis-
4 sible under paragraph (2)(B)(i) (including
5 distributions which would be treated as
6 made upon hardship of the employee with-
7 out regard to this subparagraph).

8 “(iii) NO REQUIREMENT TO DEM-
9 ONSTRATE HARDSHIP.—Clause (i) shall
10 apply without regard to any requirement to
11 demonstrate financial need or hardship, or
12 to demonstrate that other assets are not
13 available to pay the qualified higher edu-
14 cation expenses.

15 “(iv) ADDITIONAL TAX UNDER SEC-
16 TION 72(t) NOT TO APPLY.—No tax shall
17 be imposed under section 72(t) on any
18 amount treated as a hardship distribution
19 by reason of clause (i).

20 “(v) QUALIFIED HIGHER EDUCATION
21 EXPENSES.—For purposes of this subpara-
22 graph, the term ‘qualified higher education
23 expenses’ has the meaning given such term
24 by section 72(t)(7).”.

1 (b) 403(b) PLANS.—Paragraph (11) of section
2 403(b) of the Internal Revenue Code of 1986 is amended
3 by adding at the end the following: “Under rules similar
4 to the rules of section 401(k)(14)(C), a distribution shall
5 be treated as made upon hardship of the employee to the
6 extent that the aggregate amount of such distributions
7 during the taxable year does not exceed the lesser of the
8 amount paid by the taxpayer for qualified higher edu-
9 cation expenses during such taxable year, or \$5,250.”.

10 (c) 457 PLANS.—Paragraph (1) of section 457(d) of
11 the Internal Revenue Code of 1986 is amended by adding
12 at the end the following: “Under rules similar to the rules
13 of section 401(k)(14)(C) (and without regard to whether
14 the expenses are unforeseen), a distribution shall be treat-
15 ed as made by reason of unforeseen emergency to the ex-
16 tent that the aggregate amount of such distributions dur-
17 ing the taxable year does not exceed the lesser of the
18 amount paid by the taxpayer for qualified higher edu-
19 cation expenses during such taxable year, or \$5,250.”.

20 (d) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to distributions made after the
22 date of the enactment of this Act.

1 **SEC. 4. PENALTY-FREE WITHDRAWALS FROM IRAS FOR**
2 **STUDENT LOAN EXPENSES OF TAXPAYERS,**
3 **SPOUSES, CHILDREN, AND GRANDCHILDREN.**

4 (a) IN GENERAL.—Paragraph (7) of section 72(t) of
5 the Internal Revenue Code of 1986 is amended by adding
6 at the end the following new subparagraph:

7 “(C) STUDENT LOANS.—Such term shall
8 include amounts paid in repayment of any loan
9 made to an individual described in subpara-
10 graph (A) to assist the individual in attending
11 an educational organization described in section
12 170(b)(1)(A)(ii).”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to distributions made after the
15 date of the enactment of this Act.

16 **SEC. 5. EXCLUSION OF DISTRIBUTIONS FOR EDUCATIONAL**
17 **EXPENSES.**

18 (a) IN GENERAL.—Section 402 of the Internal Rev-
19 enue Code of 1986 is amended by adding at the end the
20 following new subsection:

21 “(m) DISTRIBUTIONS FOR QUALIFIED HIGHER EDU-
22 CATION EXPENSES.—

23 “(1) IN GENERAL.—Gross income for the tax-
24 able year does not include—

25 “(A) any distribution from a qualified cash
26 or deferred arrangement (as defined in section

1 401(k)(2)), an annuity contract described in
2 section 403(b), or an eligible deferred com-
3 pensation plan described in section 457(b)
4 which is maintained by an eligible employer de-
5 scribed in section 457(e)(1)(A), which is treated
6 as made upon hardship of the employee by rea-
7 son of section 401(k)(14)(C), the last sentence
8 of section 403(b)(11), or the last sentence of
9 section 457(d)(1), or

10 “(B) any distribution from an individual
11 retirement account (as defined in section
12 408(a)) to which section 72(t)(2)(E) applies.

13 “(2) DISTRIBUTIONS MUST OTHERWISE BE IN-
14 CLUDIBLE.—

15 “(A) IN GENERAL.—An amount shall be
16 treated as described in paragraph (1) only to
17 the extent that such amount would be includible
18 in gross income without regard to such para-
19 graph.

20 “(B) APPLICATION OF SECTION 72.—In de-
21 termining whether a distribution would be in-
22 cludible in gross income but for this subsection,
23 rules similar to the rules of subsection (l)(3)(B)
24 shall apply (by taking into account all retire-

1 ment plans in which the taxpayer is a partici-
2 pant).”.

3 (b) COORDINATION WITH DEDUCTIONS AND CRED-
4 ITS.—

5 (1) COORDINATION WITH AMERICAN OPPOR-
6 TUNITY AND LIFETIME LEARNING CREDITS.—

7 (A) IN GENERAL.—Paragraph (2) of sec-
8 tion 25A(g) of the Internal Revenue Code of
9 1986 is amended by redesignating subpara-
10 graph (C) as subparagraph (D), by striking
11 “and” at the end of subparagraph (B), and by
12 inserting after subparagraph (B) the following
13 new subparagraph:

14 “(C) a distribution from a qualified cash
15 or deferred arrangement (as defined in section
16 401(k)(2)), an annuity contract described in
17 section 403(b), an eligible deferred compensa-
18 tion plan described in section 457(b) which is
19 maintained by an eligible employer described in
20 section 457(e)(1)(A), or an individual retire-
21 ment account (as defined in section 408(a))
22 which is excluded from gross income of the dis-
23 tributee under section 402(m) (other than any
24 portion of such a distribution which is attrib-

1 utable to the repayment of a loan described in
2 section 72(t)(7)(C)), and”.

3 (B) COORDINATION WITH WAIVER OF PEN-
4 ALTY.—Subparagraph (B) of section 72(t)(7) is
5 amended by inserting “(without regard to sub-
6 paragraph (C) thereof)” before the period.

7 (2) DEDUCTION FOR INTEREST ON EDUCATION
8 LOANS.—Paragraph (1) of section 221(e) of such
9 Code is amended by inserting before the period at
10 the end the following: “, or for any amount paid
11 with a distribution which is excluded from gross in-
12 come under section 402(m)”.

13 (c) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to distributions made after the
15 date of the enactment of this Act.

16 **SEC. 6. INCLUSION OF EMPLOYER STUDENT LOAN PAY-**
17 **MENTS IN EDUCATIONAL ASSISTANCE PRO-**
18 **GRAMS.**

19 (a) IN GENERAL.—Paragraph (1) of section 127(c)
20 of the Internal Revenue Code of 1986 is amended—

21 (1) by striking “and” at the end of subpara-
22 graph (A),

23 (2) by adding “and” at the end of subpara-
24 graph (B), and

1 (3) by inserting after subparagraph (B) the fol-
2 lowing new subparagraph:

3 “(C) the payment, by an employer, of
4 amounts in repayment of any loan made to the
5 employee to assist the employee in attending an
6 educational organization described in section
7 170(b)(1)(A)(ii).”.

8 (b) DENIAL OF DOUBLE BENEFIT.—Paragraph (1)
9 of section 221(e) of the Internal Revenue Code of 1986,
10 as amended by section 4, is further amended by inserting
11 “which is excluded from gross income under section 127
12 or is” after “or for any amount”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

16 **SEC. 7. REPEAL OF CAP ON DEDUCTION FOR INTEREST ON**
17 **EDUCATION LOANS.**

18 (a) IN GENERAL.—Section 221 of the Internal Rev-
19 enue Code of 1986 is amended by striking subsections (b)
20 and (f).

21 (b) CARRYOVER OF EXCESS INTEREST.—Section 221
22 of the Internal Revenue Code of 1986, as so amended,
23 is amended by inserting after subsection (a) the following
24 new subsection:

1 “(b) CARRYOVER.—If the amount of the deduction
2 allowable under subsection (a) exceeds the taxable income
3 of the taxpayer for the taxable year (determined without
4 regard to this section), then an amount equal to such ex-
5 cess shall be treated as interest paid by the taxpayer in
6 the succeeding taxable year on a qualified education
7 loan.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 the date of the enactment of this Act.

11 **SEC. 8. EMPLOYER ROTH CONTRIBUTIONS.**

12 (a) IN GENERAL.—Subsection (a) of section 402A of
13 the Internal Revenue Code of 1986 is amended—

14 (1) by striking “and” at the end of paragraph

15 (1),

16 (2) by redesignating paragraph (2) as para-
17 graph (3), and

18 (3) by inserting after paragraph (1) the fol-
19 lowing new paragraph:

20 “(2) in the case of a qualified cash or deferred
21 arrangement (as defined in section 401(k)(2)), any
22 designated Roth employer contribution made pursu-
23 ant to the arrangement shall be treated for purposes
24 of this chapter in the same manner as contributions
25 described in section 401(k)(3)(D)(ii), except that

1 such contribution shall not be excludable from gross
2 income, and”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraph (1) of section 402A(b) of the In-
5 ternal Revenue Code of 1986 is amended—

6 (A) by striking “may elect to make” and
7 inserting “may elect—

8 “(A) to make”,

9 (B) by striking the period at the end and
10 inserting “, and”, and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(B) in the case of a qualified cash or de-
14 ferred arrangement (as defined in section
15 401(k)(2)), to have the employee’s employer
16 make designated Roth employer contributions
17 in lieu of all or a portion of the matching or
18 nonelective contributions the employee is other-
19 wise eligible to receive under the arrange-
20 ment.”.

21 (2) Paragraph (2)(A) of section 402A(b) of
22 such Code is amended by striking “of each em-
23 ployee” and inserting “and designated Roth em-
24 ployer contributions with respect to each employee”.

1 (3) Subparagraph (B) of section 402A(d)(2) of
2 such Code is amended by inserting “, or elected to
3 have made a designated Roth employer contribu-
4 tion,” after “designated Roth contribution” both
5 places it appears in clauses (i) and (ii).

6 (c) DESIGNATED ROTH EMPLOYER CONTRIBU-
7 TION.—Subsection (c) of section 402A of the Internal
8 Revenue Code of 1986 is amended—

9 (1) by inserting “AND DESIGNATED ROTH EM-
10 PLOYER CONTRIBUTIONS” after “DESIGNATED
11 ROTH CONTRIBUTIONS” in the heading, and

12 (2) by adding at the end the following new
13 paragraph:

14 “(5) DESIGNATED ROTH EMPLOYER CONTRIBU-
15 TION.—

16 “(A) IN GENERAL.—The term ‘designated
17 Roth employer contribution’ means any con-
18 tribution described in subparagraph (B) made
19 under a qualified cash or deferred arrangement
20 (as defined in section 401(k)(2)) which—

21 “(i) is excludable from gross income
22 of an employee without regard to this sec-
23 tion, and

1 “(ii) the employee designates (at such
2 time and in such manner as the Secretary
3 may prescribe) as not being so excludable.

4 “(B) CONTRIBUTIONS DESCRIBED.—The
5 contributions described in this subparagraph
6 are—

7 “(i) matching contributions (as de-
8 fined in section 401(m)(4)(A)) which meet
9 the requirements of subparagraphs (B)
10 and (C) of section 401(k)(2), and

11 “(ii) qualified nonelective contribu-
12 tions (within the meaning of section
13 401(m)(4)(C)).

14 “(C) DESIGNATION LIMITS.—The amount
15 of matching contributions and qualified nonelec-
16 tive contributions which an employee may des-
17 ignate under subparagraph (A) shall not exceed
18 the excess (if any) of—

19 “(i) the maximum amount of such
20 contributions excludable from gross income
21 of the employee for the taxable year (with-
22 out regard to this section), over

23 “(ii) the aggregate amount of such
24 contributions with respect to the employee
25 for the taxable year which the employee

1 does not designate under subparagraph
2 (A).”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to contributions made in taxable
5 years beginning after the date of the enactment of this
6 Act.

7 **SEC. 9. MAXIMUM CONTRIBUTIONS.**

8 (a) ELECTIVE DEFERRALS.—

9 (1) IN GENERAL.—Subparagraph (B) of section
10 402(g)(1) of the Internal Revenue Code of 1986 is
11 amended by striking “\$15,000” and inserting
12 “\$25,000”.

13 (2) COST-OF-LIVING ADJUSTMENT.—Paragraph
14 (4) of section 402(g) of such Code is amended—

15 (A) by striking “\$15,000” and inserting
16 “\$25,000”,

17 (B) by striking “December 31, 2006” and
18 inserting “December 31, 2020”, and

19 (C) by striking “July 1, 2005” and insert-
20 ing “July 1, 2019”.

21 (3) CONFORMING AMENDMENT.—Clause (ii) of
22 section 402(g)(7)(A) of such Code is amended by
23 striking “\$15,000” and inserting “\$25,000”.

24 (b) 457 PLANS.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 457(e)(15) of the Internal Revenue Code of 1986 is
3 amended by striking “\$15,000” and inserting
4 “\$25,000”.

5 (2) COST-OF-LIVING ADJUSTMENT.—Subpara-
6 graph (B) of section 457(e)(15) of such Code is
7 amended—

8 (A) by striking “\$15,000” and inserting
9 “\$25,000”,

10 (B) by striking “December 31, 2006” and
11 inserting “December 31, 2020”, and

12 (C) by striking “July 1, 2005” and insert-
13 ing “July 1, 2019”.

14 (c) EMPLOYED INDIVIDUAL 401(k)S.—Subsection (k)
15 of section 401 of the Internal Revenue Code of 1986 is
16 amended by adding at the end the following new para-
17 graph:

18 “(15) EMPLOYED INDIVIDUAL ARRANGE-
19 MENT.—

20 “(A) IN GENERAL.—A cash or deferred ar-
21 rangement shall not be treated as failing to
22 meet any requirement of this subsection solely
23 because, under the arrangement, an employee
24 may elect to make additional elective deferrals
25 which are not subject to, and are not taken into

1 account under, paragraph (3) to a separate ac-
2 count from other contributions made on behalf
3 of the employee under the arrangement, if—

4 “(i) all employees eligible to partici-
5 pate in the arrangement are eligible to
6 make such election,

7 “(ii) the aggregate of all elective de-
8 ferrals made by the employee under the ar-
9 rangement does not exceed the limitation
10 of section 402(g), and

11 “(iii) no matching or nonelective con-
12 tributions may be made to such account or
13 with respect to elective deferrals contrib-
14 uted to such account.

15 “(B) DISTRIBUTION, ETC. RULES TO
16 APPLY.—The rules of this subsection, other
17 than paragraph (3), shall apply to any account
18 established under subparagraph (A).

19 “(C) ELECTIVE DEFERRAL.—For purposes
20 of this paragraph, the term ‘elective deferral’
21 means any employer contribution under a quali-
22 fied cash or deferred arrangement to the extent
23 not includible in gross income for the taxable
24 year under section 402(e)(3) (determined with-
25 out regard to section 402(g)).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made in taxable
3 years beginning after the date of the enactment of this
4 Act.

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