

116TH CONGRESS
1ST SESSION

S. 2962

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 SENATE OF THE UNITED STATES

DECEMBER 2, 2019

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on Finance

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 “Higher Education
5 Loan Payment and Enhanced Retirement Act of 2019”
6 or the “HELPER Act of 2019”.

1 **SEC. 2. WITHDRAWALS FOR HIGHER EDUCATION EX-**
 2 **PENSES.**

3 (a) 401(k) PLANS.—Paragraph (14) of section
 4 401(k) of the Internal Revenue Code of 1986 is amended
 5 by adding at the end the following new subparagraph:

6 “(C) DISTRIBUTIONS FOR QUALIFIED
 7 HIGHER EDUCATION EXPENSES.—

8 “(i) IN GENERAL.—A distribution
 9 shall be treated as made upon hardship of
 10 the employee to the extent that the aggre-
 11 gate amount of such distributions during
 12 the taxable year does not exceed the lesser
 13 of—

14 “(I) the amount paid by the tax-
 15 payer for qualified higher education
 16 expenses during such taxable year, or

17 “(II) \$5,250.

18 “(ii) DISTRIBUTION MUST BE OTHER-
 19 WISE DISALLOWED.—Clause (i) shall not
 20 apply to any distribution which is permis-
 21 sible under paragraph (2)(B)(i) (including
 22 distributions which would be treated as
 23 made upon hardship of the employee with-
 24 out regard to this subparagraph).

25 “(iii) NO REQUIREMENT TO DEM-
 26 ONSTRATE HARDSHIP.—Clause (i) shall

1 apply without regard to any requirement to
2 demonstrate financial need or hardship, or
3 to demonstrate that other assets are not
4 available to pay the qualified higher edu-
5 cation expenses.

6 “(iv) ADDITIONAL TAX UNDER SEC-
7 TION 72(t) NOT TO APPLY.—No tax shall
8 be imposed under section 72(t) on any
9 amount treated as a hardship distribution
10 by reason of clause (i).

11 “(v) QUALIFIED HIGHER EDUCATION
12 EXPENSES.—For purposes of this subpara-
13 graph, the term ‘qualified higher education
14 expenses’ has the meaning given such term
15 by section 72(t)(7).”.

16 (b) 403(b) PLANS.—Paragraph (11) of section
17 403(b) of the Internal Revenue Code of 1986 is amended
18 by adding at the end the following: “Under rules similar
19 to the rules of section 401(k)(14)(C), a distribution shall
20 be treated as made upon hardship of the employee to the
21 extent that the aggregate amount of such distributions
22 during the taxable year does not exceed the lesser of the
23 amount paid by the taxpayer for qualified higher edu-
24 cation expenses during such taxable year, or \$5,250.”.

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

11 (d) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to distributions made after Decem-
13 ber 31, 2019.

14 **SEC. 3. PENALTY-FREE WITHDRAWALS FROM IRAS FOR**
15 **STUDENT LOAN EXPENSES.**

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

19 “(C) STUDENT LOANS.—Such term shall
20 include amounts paid in repayment of any loan
21 made to an individual described in subpara-
22 graph (A) to assist the individual in attending
23 an educational organization described in section
24 170(b)(1)(A)(ii).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to distributions made after Decem-
3 ber 31, 2019.

4 **SEC. 4. EXCLUSION OF DISTRIBUTIONS FOR EDUCATIONAL**
5 **EXPENSES.**

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

9 “(m) DISTRIBUTIONS FOR QUALIFIED HIGHER EDU-
10 CATION EXPENSES.—

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

13 “(A) any distribution from a qualified cash
14 or deferred arrangement (as defined in section
15 401(k)(2)), an annuity contract described in
16 section 403(b), or an eligible deferred com-
17 pensation plan described in section 457(b)
18 which is maintained by an eligible employer de-
19 scribed in section 457(e)(1)(A), which is treated
20 as made upon hardship of the employee by rea-
21 son of section 401(k)(14)(C), the last sentence
22 of section 403(b)(11), or the last sentence of
23 section 457(d)(1), or

1 “(B) any distribution from an individual
2 retirement account (as defined in section
3 408(a)) to which section 72(t)(2)(E) applies.

4 “(2) DISTRIBUTIONS MUST OTHERWISE BE IN-
5 CLUDIBLE.—

6 “(A) IN GENERAL.—An amount shall be
7 treated as described in paragraph (1) only to
8 the extent that such amount would be includible
9 in gross income without regard to such para-
10 graph.

11 “(B) APPLICATION OF SECTION 72.—In de-
12 termining whether a distribution would be in-
13 cludible in gross income but for this subsection,
14 rules similar to the rules of subsection (l)(3)(B)
15 shall apply (by taking into account all retire-
16 ment plans in which the taxpayer is a partici-
17 pant).”.

18 (b) COORDINATION WITH DEDUCTIONS AND CRED-
19 ITS.—

20 (1) COORDINATION WITH AMERICAN OPPOR-
21 TUNITY AND LIFETIME LEARNING CREDITS.—

22 (A) IN GENERAL.—Paragraph (2) of sec-
23 tion 25A(g) of the Internal Revenue Code of
24 1986 is amended by redesignating subpara-
25 graph (C) as subparagraph (D), by striking

1 “and” at the end of subparagraph (B), and by
2 inserting after subparagraph (B) the following
3 new subparagraph:

4 “(C) a distribution from a qualified cash
5 or deferred arrangement (as defined in section
6 401(k)(2)), an annuity contract described in
7 section 403(b), an eligible deferred compensa-
8 tion plan described in section 457(b) which is
9 maintained by an eligible employer described in
10 section 457(e)(1)(A), or an individual retire-
11 ment account (as defined in section 408(a))
12 which is excluded from gross income of the dis-
13 tributee under section 402(m) (other than any
14 portion of such a distribution which is attrib-
15 utable to the repayment of a loan described in
16 section 72(t)(7)(C)), and”.

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

21 (2) DEDUCTION FOR INTEREST ON EDUCATION
22 LOANS.—Paragraph (1) of section 221(e) of such
23 Code is amended by inserting before the period at
24 the end the following: “, or for any amount paid

1 with a distribution which is excluded from gross in-
2 come under section 402(m)”.

3 (c) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to distributions made after Decem-
5 ber 31, 2019.

6 **SEC. 5. INCLUSION OF EMPLOYER STUDENT LOAN PAY-**
7 **MENTS IN EDUCATIONAL ASSISTANCE PRO-**
8 **GRAMS.**

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

11 (1) by striking “and” at the end of subpara-
12 graph (A);

13 (2) by adding “and” at the end of subpara-
14 graph (B); and

15 (3) by inserting after subparagraph (B) the fol-
16 lowing new subparagraph:

17 “(C) the payment, by an employer, of
18 amounts in repayment of any loan made to the
19 employee to assist the employee in attending an
20 educational organization described in section
21 170(b)(1)(A)(ii),”.

22 (b) DENIAL OF DOUBLE BENEFIT.—Paragraph (1)
23 of section 221(e) of the Internal Revenue Code of 1986,
24 as amended by section 4, is further amended by inserting

1 “which is excluded from gross income under section 127
2 or is” after “or for any amount”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2019.

6 **SEC. 6. REPEAL OF CAP ON DEDUCTION FOR INTEREST ON**
7 **EDUCATION LOANS.**

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

11 (b) CARRYOVER OF EXCESS INTEREST.—Section 221
12 of the Internal Revenue Code of 1986, as so amended,
13 is amended by inserting after subsection (a) the following
14 new subsection:

15 “(b) CARRYOVER.—If the amount of the deduction
16 allowable under subsection (a) exceeds the taxable income
17 of the taxpayer for the taxable year (determined without
18 regard to this section), then an amount equal to such ex-
19 cess shall be treated as interest paid by the taxpayer in
20 the succeeding taxable year on a qualified education
21 loan.”.

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

1 **SEC. 7. EMPLOYER ROTH CONTRIBUTIONS.**

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

4 (1) by striking “and” at the end of paragraph
5 (1);

6 (2) by redesignating paragraph (2) as para-
7 graph (3); and

8 (3) by inserting after paragraph (1) the fol-
9 lowing new paragraph:

10 “(2) in the case of a qualified cash or deferred
11 arrangement (as defined in section 401(k)(2)), any
12 designated Roth employer contribution made pursu-
13 ant to the arrangement shall be treated for purposes
14 of this chapter in the same manner as contributions
15 described in section 401(k)(3)(D)(ii), except that
16 such contribution shall not be excludable from gross
17 income, and”.

18 (b) CONFORMING AMENDMENTS.—

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

21 (A) by striking “may elect to make” and
22 inserting “may elect—

23 “(A) to make”;

24 (B) by striking the period at the end and
25 inserting “, and”; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(B) in the case of a qualified cash or de-
4 ferred arrangement (as defined in section
5 401(k)(2)), to have the employee’s employer
6 make designated Roth employer contributions
7 in lieu of all or a portion of the matching or
8 nonelective contributions the employee is other-
9 wise eligible to receive under the arrange-
10 ment.”.

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

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

20 (c) DESIGNATED ROTH EMPLOYER CONTRIBU-
21 TION.—Subsection (c) of section 402A of the Internal
22 Revenue Code of 1986 is amended—

23 (1) by inserting “AND DESIGNATED ROTH EM-
24 PLOYER CONTRIBUTIONS” after “DESIGNATED
25 ROTH CONTRIBUTIONS” in the heading; and

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

3 “(5) DESIGNATED ROTH EMPLOYER CONTRIBU-
4 TION.—

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

10 “(i) is excludable from gross income
11 of an employee without regard to this sec-
12 tion, and

13 “(ii) the employee designates (at such
14 time and in such manner as the Secretary
15 may prescribe) as not being so excludable.

16 “(B) CONTRIBUTIONS DESCRIBED.—The
17 contributions described in this subparagraph
18 are—

19 “(i) matching contributions (as de-
20 fined in section 401(m)(4)(A)) which meet
21 the requirements of subparagraphs (B)
22 and (C) of section 401(k)(2), and

23 “(ii) qualified nonelective contribu-
24 tions (within the meaning of section
25 401(m)(4)(C)).

1 “(C) DESIGNATION LIMITS.—The amount
2 of matching contributions and qualified nonelec-
3 tive contributions which an employee may des-
4 ignate under subparagraph (A) shall not exceed
5 the excess (if any) of—

6 “(i) the maximum amount of such
7 contributions excludable from gross income
8 of the employee for the taxable year (with-
9 out regard to this section), over

10 “(ii) the aggregate amount of such
11 contributions with respect to the employee
12 for the taxable year which the employee
13 does not designate under subparagraph
14 (A).”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to contributions made in taxable
17 years beginning after December 31, 2019.

18 **SEC. 8. MAXIMUM CONTRIBUTIONS.**

19 (a) ELECTIVE DEFERRALS.—

20 (1) IN GENERAL.—Subparagraph (B) of section
21 402(g)(1) of the Internal Revenue Code of 1986 is
22 amended by striking “\$15,000” and inserting
23 “\$25,000”.

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

1 (A) by striking “\$15,000” and inserting
2 “\$25,000”;

3 (B) by striking “December 31, 2006” and
4 inserting “December 31, 2020”; and

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

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

10 (b) 457 PLANS.—

11 (1) IN GENERAL.—Subparagraph (A) of section
12 457(e)(15) of the Internal Revenue Code of 1986 is
13 amended by striking “\$15,000” and inserting
14 “\$25,000”.

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

18 (A) by striking “\$15,000” and inserting
19 “\$25,000”;

20 (B) by striking “December 31, 2006” and
21 inserting “December 31, 2020”; and

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

24 (c) EMPLOYED INDIVIDUAL 401(k)S.—Subsection (k)
25 of section 401 of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new para-
2 graph:

3 “(15) EMPLOYED INDIVIDUAL ARRANGE-
4 MENT.—

5 “(A) IN GENERAL.—A cash or deferred ar-
6 rangement shall not be treated as failing to
7 meet any requirement of this subsection solely
8 because, under the arrangement, an employee
9 may elect to make additional elective deferrals
10 which are not subject to, and are not taken into
11 account under, paragraph (3) to a separate ac-
12 count from other contributions made on behalf
13 of the employee under the arrangement, if—

14 “(i) all employees eligible to partici-
15 pate in the arrangement are eligible to
16 make such election,

17 “(ii) the aggregate of all elective de-
18 ferrals made by the employee under the ar-
19 rangement does not exceed the limitation
20 of section 402(g), and

21 “(iii) no matching or nonelective con-
22 tributions may be made to such account or
23 with respect to elective deferrals contrib-
24 uted to such account.

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

5 “(C) ELECTIVE DEFERRAL.—For purposes
6 of this paragraph, the term ‘elective deferral’
7 means any employer contribution under a quali-
8 fied cash or deferred arrangement to the extent
9 not includible in gross income for the taxable
10 year under section 402(e)(3) (determined with-
11 out regard to section 402(g)).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to contributions made in taxable
14 years beginning after December 31, 2019.

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