STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Ms. CANTWELL, Mr. CARDIN, Mr. WHITEHOUSE, Mr. BROWN, and Ms. HASSAN):

S. 1428. A bill to amend the Internal Revenue Code of 1986 to permit treatment of student loan payments as elective deferrals for purposes of employer matching contributions, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, today I have introduced the Retirement Parity for Student Loans Act. This legislation would permit employers to make matching contributions to workers under 401(k) and similar types of retirement plans as if worker student loan payments were salary reduction contributions to the retirement plan. This legislation will help workers who cannot afford to both save for retirement and pay off their student loan debt by providing them with employer contributions to build their retirement savings. This legislation is a common sense fix to our nation's laws that govern employer-sponsored retirement plans and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Retirement Parity for Student Loans Act''.

SEC. 2. TREATMENT OF STUDENT LOAN PAYMENTS AS ELECTIVE DEFERRALS FOR PURPOSES OF MATCHING CONTRIBUTIONS.

(a) IN GENERAL.—Subparagraph (A) of section 401(m)(4) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) subject to the requirements of paragraph (13), any employer contribution made to a defined contribution plan on behalf of an employee on account of a qualified student loan payment.''.

(b) QUALIFIED STUDENT LOAN PAYMENT.—Paragraph (4) of section 401(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) QUALIFIED STUDENT LOAN PAYMENT.—The term 'qualified student loan payment' means a payment made by an employee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred to pay qualified higher education expenses of the employee, but only—

''(i) to the extent such payments in the aggregate for the year do not exceed an amount equal to—

''(I) the limitation applicable under section 402(g) for the year (or, if lesser, the employee's compensation (as defined in section 415(c)(3)) for the year), reduced by

''(II) the elective deferrals made by the employee for such year, and

''(ii) if the employee certifies to the employer making the matching contribution under this paragraph that such payment has been made on such loan.

For purposes of this subparagraph, the term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) at an eligible educational institution (as defined in section 221(d)(2)).''.

(c) MATCHING CONTRIBUTIONS FOR QUALIFIED STUDENT LOAN PAYMENTS.—Subsection (m) of section 401 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (13) as paragraph (14), and by inserting after paragraph (12) the following new paragraph:

''(13) MATCHING CONTRIBUTIONS FOR QUALIFIED STUDENT LOAN PAYMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (4)(A)(iii), an employer contribution made to a defined contribution plan on account of a qualified student loan payment shall be treated as a matching contribution for purposes of this title if—

''(i) the plan provides matching contributions on account of elective deferrals at the same rate as contributions on account of qualified student loan payments,

''(ii) the plan provides matching contributions on account of qualified student loan payments only on behalf of employees otherwise eligible to make elective deferrals, and

''(iii) under the plan, all employees eligible to receive matching contributions on account of elective deferrals are eligible to receive matching contributions on account of qualified student loan payments.

''(B) TREATMENT FOR PURPOSES OF NONDISCRIMINATION RULES, ETC.—

''(i) NONDISCRIMINATION RULES.—For purposes of subparagraph (A)(iii), subsection (a)(4), and section 410(b), matching contributions described in paragraph (4)(A)(iii) shall not fail to be treated as available to an employee solely because such employee does not have debt incurred under a qualified education loan (as defined in section 221(d)(1)).

''(ii) STUDENT LOAN PAYMENTS NOT TREATED AS PLAN CONTRIBUTION.—Except as provided in clause (iii), a qualified student loan payment shall not be treated as a contribution to a plan under this title.

''(iii) MATCHING CONTRIBUTION RULES.—Solely for purposes of meeting the requirements of paragraph (11)(B) or (12) of this subsection, or paragraph (11)(B)(i)(II), (12)(B), or (13)(D) of subsection (k), a plan may treat a qualified student loan payment as an elective deferral or an elective contribution, whichever is applicable.''.

(d) SIMPLE RETIREMENT ACCOUNTS.—Paragraph (2) of section 408(p) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(F) MATCHING CONTRIBUTIONS FOR QUALIFIED STUDENT LOAN PAYMENTS.—

''(i) IN GENERAL.—Subject to the rules of clause (iii), an arrangement shall not fail to be treated as meeting the requirements of subparagraph (A)(iii) solely because under the arrangement, solely for purposes of such subparagraph, qualified student loan payments are treated as amounts elected by the employee under subparagraph (A)(i)(I) to the extent such payments do not exceed—

''(I) the applicable dollar amount under subparagraph (E) (after application of section 414(v)) for the year (or, if lesser, the employee's compensation (as defined in section 415(c)(3)) for the year), reduced by

''(II) any other amounts elected by the employee under subparagraph (A)(i)(I) for the year.

''(ii) QUALIFIED STUDENT LOAN PAYMENT.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'qualified student loan payment' means a payment made by an employee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred to pay qualified higher education expenses of the employee, but only if the employee certifies to the employer making the matching contribution that such payment has been made on such a loan.

''(II) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' has the same meaning as when used in section 401(m)(4)(D).

''(iii) APPLICABLE RULES.—Clause (i) shall apply to an arrangement only if, under the arrangement—

''(I) matching contributions on account of qualified student loan payments are provided only on behalf of employees otherwise eligible to elect contributions under subparagraph (A)(i)(I), and

''(II) all employees otherwise eligible to participate in the arrangement are eligible to receive matching contributions on account of qualified student loan payments.''.

(e) 403(b) PLANS.—Subparagraph (A) of section 403(b)(12) of the Internal Revenue Code of 1986 is amended by adding at the end the following: ''The fact that the employer offers matching contributions on account of qualified student loan payments as described in section 401(m)(13) shall not be taken into account in determining whether the arrangement satisfies the requirements of clause (ii) (and any regulation thereunder).''.

(f) 457(B) PLANS.—Subsection (b) of section 457 of the Internal Revenue Code of 1986 is amended by adding at the end the following: ''A plan which is established and maintained by an employer which is described in subsection (e)(1)(A) shall not be treated as failing to meet the requirements of this subsection solely because the plan, or another plan maintained by the employer which meets the requirements of section 401(a), provides for matching contributions on account of qualified student loan payments as described in section 401(m)(13).''.

(g) REGULATORY AUTHORITY.—The Secretary shall prescribe regulations for purposes of implementing the amendments made by this section, including regulations—

(1) permitting a plan to make matching contributions for qualified student loan payments, as defined in sections 401(m)(4)(D) and 408(p)(2)(F) of the Internal Revenue Code of 1986, as added by this section, at a different frequency than matching contributions are otherwise made under the plan, provided that the frequency is not less than annually,

(2) permitting employers to establish reasonable procedures to claim matching contributions for such qualified student loan payments under the plan, including an annual deadline (not earlier than 3 months after the close of each plan year) by which a claim must be made, and

(3) promulgating model amendments which plans may adopt to implement matching contributions on such qualified student loan payments for purposes of sections 401(m), 408(p), 403(b), and 457(b) of the Internal Revenue Code of 1986.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made for years beginning after December 31, 2019.

By Mr. SCHUMER (for Mr. BROWN (for himself, Ms. KLOBUCHAR, and Mr. BLUNT)):

S. 1436. A bill to make technical corrections to the computation of average pay under Public Law 110–279; considered and passed.

S. 1436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS TO COMPUTATION OF AVERAGE PAY UNDER PUBLIC LAW 110–279.

(a) IN GENERAL.—Section 1(c)(2)(A) of Public Law 110–279 (2 U.S.C. 2051(c)(2)(A)) is amended—

(1) by striking ''For purposes of'' and all that follows through ''(i) any period'' and inserting the following:

''(i) TREATMENT OF SERVICE.—For purposes of chapters 83, 84, and 87 of title 5, United States Code, any period'';

(2) in clause (i), by striking ''; and'' and inserting a period; and

(3) in clause (ii)—

(A) by inserting ''TREATMENT OF PAY.—For purposes of chapter 87 of title 5, United States Code,'' before ''the rate of basic pay''; and

(B) by striking ''the covered'' and inserting ''a covered''.

(b) REGULATIONS.—

(1) IN GENERAL.—The Director of the Office of Personnel Management shall promulgate regulations to carry out this section.

(2) EFFECTIVE DATE.—The regulations promulgated under paragraph (1) shall take effect not later than 180 days after the date of enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS.—

(1) DEFINITIONS.—In this subsection, the terms ''contractor'', ''covered individual'', and ''food services contract'' have the meanings given those terms in section 1(a) of Public Law 110–279 (2 U.S.C. 2051(a)).

(2) APPLICABILITY.—The amendments made by this section shall apply with respect to—

(A) a covered individual who separates from service as an employee of a contractor performing services under the food services contract before, on, or after the date of enactment of this Act; and

(B) each payment to a covered individual under chapter 83 or 84 of title 5, United States Code, made on or after the effective date of the regulations promulgated under subsection (b).

By Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. KING, and Mr. ALEXANDER):

S. 1437. A bill to amend title XI of the Social Security Act to require that direct-to-consumer advertisements for prescription drugs and biological products include truthful and non-misleading pricing information; to the Committee on Finance.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Drug-price Transparency in Communications (DTC) Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Direct-to-consumer advertising of prescription pharmaceuticals is legally permitted in only 2 developed countries, the United States and New Zealand.

(2) In 2018, pharmaceutical ad spending exceeded $6,046,000,000, a 4.8-percent increase over 2017, resulting in the average American seeing 9 drug advertisements per day.

(3) In 2015, pharmaceutical companies spent more than $100,000,000 on advertising with respect to each of the 16 most advertised brand-name drugs and biological products, primarily new and relatively high-cost medications.

(4) The 10 most commonly advertised drugs have list prices ranging from $535 to $11,000 per 30-day supply or usual course of therapy.

(5) According to a 2011 Congressional Budget Office report, direct-to-consumer advertising is used to promote only a small set of specific drugs, typically the expensive, brand-name medications. And the top-selling drugs in any given year are frequently among the drugs with the largest expenditures for direct-to-consumer advertising.

(6) According to a 2011 Congressional Budget Office report, pharmaceutical manufacturers advertise their products directly to consumers in an attempt to boost demand for their products and thereby raise the price that consumers are willing to pay, increase the quantity of drugs sold, or achieve some combination of the two.

(7) Studies show that patients are more likely to ask their doctor for a specific medication and for the doctor to write a prescription for it, if a patient has seen an advertisement for such medication, regardless of whether the medication is clinically appropriate for the patient or whether a lower-cost generic may be available.

(8) According to a 2011 Congressional Budget Office report, the average number of prescriptions written for newly approved brand-name drugs with direct-to-consumer advertising was 9 times greater than the average number of prescriptions written for newly approved brand-name drugs without direct-to-consumer advertising.

(9) Approximately half of Americans have high-deductible health plans, under which they often pay the list price of a drug until their insurance deductible is met. All of the top Medicare prescription drug plans use coinsurance rather than fixed-dollar copayments for medications on nonpreferred drug tiers.

(10) The Centers for Medicare & Medicaid Services is the single largest drug payer in the Nation. Drug price inflation accounts for a significant portion of the 22-percent, 32-percent, and 42-percent growth in Medicare parts D and B and Medicaid expenditures, respectively, on a per beneficiary basis between 2013 and 2016.

(11) The 20 most advertised drugs on television cost Medicare and Medicaid a combined $24,000,000,000 in 2017.

(12) Price shopping is the mark of rational economic behavior, and markets operate more efficiently when consumers have relevant information about a product, including its price, before making an informed decision about whether to buy that product.

(13) The American Medical Association has passed resolutions supporting the requirement for price transparency in any direct-to-consumer advertising.

(14) The Kaiser Family Foundation found that 88 percent of the public favors the Federal Government requiring prescription drug advertisements to include a statement on how much the drug costs.

(15) Pursuant to its existing authority under sections 1102 and 1871 of the Social Security Act, on May 10, 2019, the Centers for Medicare & Medicaid Services published regulations (subpart L of part 403 of title 42, Code of Federal Regulations) to require direct-to-consumer television advertisements of prescription drugs and biological products for which payment is available through or under Medicare or Medicaid to include the wholesale acquisition cost of that drug or biological product.

(16) To support the permanence and clarity of this policy, and to facilitate future planning, Congress finds a benefit to codifying such regulation.

SEC. 3. REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR PRESCRIPTION DRUGS AND BIOLOGICAL PRODUCTS INCLUDE TRUTHFUL AND NON-MISLEADING PRICING INFORMATION.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

''REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR PRESCRIPTION DRUGS AND BIOLOGICAL PRODUCTS INCLUDE TRUTHFUL AND NON-MISLEADING PRICING INFORMATION

''SEC. 1150C. (a) IN GENERAL..—The Secretary shall require that each direct-to-consumer advertisement for a prescription drug or biological product for which payment is available under title XVIII or XIX includes an appropriate disclosure of truthful and non-misleading pricing information with respect to the drug or product.

''(b) DETERMINATION BY CMS.—The Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall determine the components of the requirement under subsection (a), such as the forms of advertising, the manner of disclosure, the price point listing, and the price information for disclosure.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 201—HONORING THE 65TH ANNIVERSARY ON MAY 17, 2019, OF THE LANDMARK DECISION OF THE SUPREME COURT IN BROWN V. BOARD OF EDUCATION, 347 U.S. 483 (1954)

Mr. ROBERTS (for himself and Mr. MORAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 201

Whereas in 1950, 9-year-old Linda Brown, the daughter of Oliver L. Brown, was denied entry into the all-white Sumner Elementary School in Topeka, Kansas, and forced to attend the all-black Monroe Elementary School in Topeka, Kansas;

Whereas on February 28, 1951, the complaint in Brown v. Board of Education was filed with the United States District Court for the District of Kansas, with Oliver L. Brown as the lead plaintiff;

Whereas the plaintiffs in Brown v. Board of Education appealed the ruling of the district court to the Supreme Court;

Whereas, at the Supreme Court, the case of Brown v. Board of Education was combined with other cases from South Carolina, Delaware, Virginia, and the District of Columbia regarding segregation in public schools;

Whereas Thurgood Marshall argued the case of Brown v. Board of Education before the Supreme Court as lead counsel for the appellants;

Whereas on May 17, 1954, the Supreme Court delivered a unanimous opinion holding that—

(1) separate educational facilities are inherently unequal; and

(2) the ''separate but equal'' doctrine violated the 14th Amendment to the Constitution of the United States, which states that no citizen may be denied equal protection under the law;

Whereas Brown v. Board of Education, 347 U.S. 483 (1954)—