II

119TH CONGRESS
1ST SESSION

S. 2003

To amend the Internal Revenue Code of 1986 to permit certain excess plan assets to be used for benefits for active employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2025

Mr. SCOTT of South Carolina (for himself, Mr. CASSIDY, Mr. TILLIS, and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to permit certain excess plan assets to be used for benefits for active employees, and for other purposes.

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 "Strengthening Benefit Plans Act of 2025".

TITLE I—SUPPORTING ACTIVE EMPLOYEES WITH CURRENT BENEFIT PLAN EXPENSES

SEC. 101. TRANSFER OF EXCESS HEALTH ASSETS FOR FUNDING ACTIVE EMPLOYEE BENEFITS.

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(h) TRANSFER OF EXCESS HEALTH ASSETS FOR FUNDING ACTIVE EMPLOYEE BENEFITS.—

"(1) IN GENERAL.—In the case of a pension plan with excess health assets for a fiscal year—

"(A) an amount equal to such excess health assets may be transferred in accordance with paragraph (3) from a health benefits account established under section 401(h),

"(B) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this subsection),

"(C) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(D) such transfer shall not be treated—

"(i) as an employer reversion for purposes of section 4980, or

"(ii) as a prohibited transaction for purposes of section 4975, and

"(E) the limitations of paragraph (4) shall apply to the employer.

"(2) EXCESS HEALTH ASSETS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'excess health assets' means the amount by which the applicable assets with respect to a retiree health plan exceed an amount equal to 125 percent of the total liability of the employer for benefits for all participants under the retiree health plan, determined in accordance with applicable accounting standards.

"(B) LIMITATION.—In determining excess health assets, there shall not be taken into account—

"(i) amounts attributable to contributions (other than transfers under any other subsection of this section, or contributions made pursuant to a legally binding commitment entered into before January 1, 2024) made after December 31, 2023, to any health benefits account established under section 401(h) with respect to the retiree health plan, or

"(ii) any reduction in the liability of the employer described in subparagraph (A) due to a reduction in benefits pursuant to an amendment to the retiree health plan adopted after December 31, 2023.

"(C) TERMINATING PLANS.—In the case of a terminating pension plan which includes a health benefits account under section 401(h), all assets in such health benefits account shall be treated as excess health assets.

"(D) APPLICABLE ASSETS.—For purposes of subparagraph (A), the term 'applicable assets' means all assets with respect to a retiree health benefits plan of an employer—

"(i) in a health benefits account established under section 401(h), or

"(ii) held by a voluntary employees' beneficiary association (as defined in section 501(c)(9)).

"(3) TRANSFERS PERMITTED.—

"(A) IN GENERAL.—A transfer under this paragraph is a transfer—

“(i) of excess health assets, in the fiscal year immediately succeeding the fiscal year with respect to which such excess health assets are determined—

“(I) to the pension plan under which a health benefits account pursuant to section 401(h) was established, or

“(II) as provided in subparagraph (B)(ii), to a voluntary employees’ beneficiary association (as defined in section 501(c)(9)),

“(ii) which does not contravene any other provision of law,

“(iii) with respect to which the use requirements of subparagraphs (B) and (C) and the minimum cost and benefit requirements of paragraph (4)(B) are met, and

“(iv) with respect to which the vesting requirements of subsection (c)(2) are met (determined by treating such transfer as a qualified transfer).

“(B) USE FOR ACTIVE BENEFITS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a transfer of excess health assets for purposes of this subsection shall be used only to fund the pension plan.

"(ii) TRANSFER TO VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION.—A transfer described in subparagraph (A)(i)(II) may be made only—

"(I) in the case of a defined benefit plan, to the extent a transfer to such plan as provided in subparagraph (A)(i)(I) would cause the plan to have a funding excess or increase the funding excess of the plan or, if the transfer is made in connection with the termination of the defined benefit plan, to the extent a transfer to such plan would exceed the amount necessary to satisfy the pension liabilities of the terminating plan, or

"(II) in the case of a pension plan which is not a defined benefit plan.

Any transfer under the preceding sentence to a voluntary employees' benefit association (as defined in section 501(c)(9)) shall be used only to pay any benefits permitted to be paid by such association to any members of such association (other than key employees not taken into account under subsection (e)(1)(E)).

"(iii) FUNDING EXCESS.—For purposes of clause (ii), the term 'funding excess' with respect to a plan year means the excess, if any, of—

"(I) the fair market value of the assets of the defined benefit plan (other than applicable assets, as defined in paragraph (2)(D)), over

"(II) 110 percent of the present value of all pension benefits earned or accrued under the plan, as determined for purposes of determining the adjusted funding target attainment percentage pursuant to section 436(j).

"(C) ONLY 1 TRANSFER PER YEAR.—No more than 1 transfer with respect to any plan may be made under subparagraph (A) during a taxable year. For purposes of the preceding sentence, any transfer portions of which are described in both subclauses (I) and (II) of subparagraph (A)(i) shall be treated as 1 transfer.

"(4) LIMITATIONS ON EMPLOYER.—

"(A) DEDUCTION LIMITATIONS.—For purposes of this title, no deduction shall be allowed—

"(i) for the transfer of any amount under paragraph (3)(A),

"(ii) for benefits paid out of the assets (and income) so transferred, or

"(iii) for any amounts to which clause (ii) does not apply and which are paid for benefits described in paragraph (3)(B)(ii) for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(I) the amount determined under clause (i) (and income allocable thereto), over

"(II) the amount determined under clause (ii).

"(B) MINIMUM COST AND BENEFIT REQUIREMENTS.—Each plan or arrangement under which benefits funded as described in paragraph (3)(B)(ii) are provided shall provide that—

"(i) the applicable employer cost for each of the 5 taxable years beginning with the year of the transfer under paragraph (3)(A) shall not be materially less than the higher of the applicable employer costs for the year of the 2 taxable years immediately preceding the taxable year of such transfer, or

"(ii) benefits provided under the plan or arrangement shall not be materially reduced during the 5 year period described in clause (i).

For purposes of clause (i), the term 'applicable employer cost' shall be determined under rules similar to the rules of subparagraphs (B) and (C) of subsection (c)(3), as applicable to the benefit being provided under such plan or arrangement.

"(5) COORDINATION WITH SECTIONS 430 AND 433.—In the case of any assets transferred to a pension plan pursuant to paragraph (3), such assets shall, for purposes of this section and sections 430 and 433, be treated as assets in the plan.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (h) of section 401 of the Internal Revenue Code of 1986 is amended by adding at the end the following: "Nothing in this subsection or this section shall prevent a plan from transferring amounts from an account established under this subsection pursuant to the provisions of section 420(h).".

(2) Subparagraph (B) of section 420(c)(1) of such Code is amended by adding at the end the following new clause:

"(iii) COORDINATION WITH TRANSFERS OF EXCESS HEALTH ASSETS.—Clauses (i) and (ii) shall not apply to the amount of any excess health assets transferred from a health benefits account to the plan pursuant to subsection (h)(3)(A).".

(3) Subsection (e) of section 420 of such Code is amended by adding at the end the following new paragraph:

"(8) COORDINATION WITH TRANSFERS OF EXCESS HEALTH ASSETS.—

"(A) IN GENERAL.—A qualified transfer or portion thereof shall not be subject to the limitations of subsections (b)(3), (c)(1), (f)(2)(C), or (f)(2)(E) to the extent an amount equal to such transfer (or portion) is transferred during the same taxable year under subsection (h).

"(B) MINIMUM COST AND BENEFIT REQUIREMENTS.—The requirements of subsection (h)(4)(B) shall apply in lieu of subsections (c)(3) and (f)(2)(D) in the case of a transfer or portion thereof to which subparagraph (A) applies.".

(4) Subsection (l) of section 430 of such Code is amended by adding at the end the following: "Notwithstanding the preceding sentence, any assets transferred to the plan pursuant to section 420(h) shall be treated as assets in the plan.".

(5) Section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) is amended by adding at the end the following new subsection:

"(d) TRANSFERS OF EXCESS HEALTH ASSETS.—A pension plan shall not be treated as failing to meet the requirements of this subchapter solely by reason of any transfer made as permitted by section 420(h) of the Internal Revenue Code of 1986.".

(6) Section 303(l) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(l)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, any assets transferred to the plan pursuant to section 420(h) of such Code shall be treated as assets in the plan.".

(7) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking the period at the end and inserting ", or any transfer of excess health assets permitted under section 420(h) of such Code (as in effect on the date of the enactment of the Strengthening Benefit Plans Act of 2025).".

(c) NOTICE REQUIREMENTS.—Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended by adding at the end the following new paragraph:

"(4) TRANSFERS OF EXCESS HEALTH ASSETS.—

"(A) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a transfer by an employee pension benefit plan of excess health assets pursuant to section 420(h)(1) of the Internal Revenue Code of 1986, the administrator of the plan shall provide notice (in such manner as the Secretary may prescribe) of such transfer to each participant and beneficiary eligible to receive benefits paid from the health benefits account under section 401(h) of such Code from which the transfer is to be made. Such notice shall include information with respect to the amount of excess health assets to be transferred, the plan or voluntary employees' beneficiary association to which the transfer is to be made, and the amount of pension benefits of the participant which will be nonforfeitable immediately after the transfer.

"(B) NOTICE TO SECRETARIES, ETC.—Rules similar to the rules of paragraph (2) shall apply for purposes of this paragraph.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2024.

TITLE II—SUPPORTING ACTIVE EMPLOYEES WITH RETIREMENT CONTRIBUTIONS

SEC. 201. TRANSFER OF SURPLUS DEFINED BENEFIT PLAN ASSETS TO DEFINED CONTRIBUTION PLAN.

(a) IN GENERAL.—Section 401 of the Internal Revenue Code of 1986 is amended by redesignating subsection

(p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) TRANSFER OF SURPLUS DEFINED BENEFIT PLAN ASSETS TO DEFINED CONTRIBUTION PLAN.—

"(1) IN GENERAL.—

"(A) TRANSFER PERMITTED.—If an employer maintaining a defined benefit plan establishes or maintains a defined contribution plan which would be a qualified replacement plan (as defined in section 4980(d)(2)) with respect to the defined benefit plan but for the fact that the defined benefit plan is not terminated, subject to the requirements of paragraphs (3) and (4), any surplus assets of the defined benefit plan may be transferred to the defined contribution plan.

"(B) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under subparagraph (A)—

"(i) such amount shall not be includible in the gross income of the employer,

"(ii) no deduction shall be allowable with respect to such transfer, and "(iii) such transfer shall not be treated as an employer reversion for purposes of section 4980.

"(2) SURPLUS ASSETS.—For purposes of this subsection, the term 'surplus assets' means the excess of assets of the defined benefit plan over an amount equal to 110 percent of the value of plan liabilities used to determine premiums imposed under title IV of the Employee Retirement Income Security Act of 1974 for the plan year of the transfer.

"(3) VESTING OF BENEFITS.—The requirements of this paragraph are met if all benefits under the defined benefit plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(4) NO REDUCTION IN BENEFITS.—The requirements of this paragraph are met if, during the period beginning with the year of the transfer and ending 4 plan years after the last plan year during which the replacement plan is funded by the transfer, no benefits under the replacement plan are reduced.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003), as amended by section 101, is further amended by adding at the end the following new subsection:

"(e) TRANSFERS OF SURPLUS DEFINED BENEFIT PLAN ASSETS.—A pension plan shall not be treated as failing to meet the requirements of this subchapter solely by reason of any transfer made as permitted by section 401(p) of the Internal Revenue Code of 1986.".

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)), as amended by section 101, is further amended by inserting "or of surplus defined benefit plan assets permitted under section 401(p) of such Code (as so in effect)" before the period at the end.

(c) NOTICE REQUIREMENTS.—Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)), as amended by section 101, is further amended by adding at the end the following new paragraph:

"(5) TRANSFERS OF SURPLUS DEFINED BENEFIT PLAN ASSETS.—Rules similar to the rules of paragraph (4) shall apply in the case of any transfer by an employee pension benefit plan of surplus defined benefit plan assets pursuant to section 401(p) of the Internal Revenue Code of 1986.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2025.

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