117TH CONGRESS  
1ST SESSION  

S.  

To amend the Internal Revenue Code of 1986 to increase retirement savings, to improve retirement plan administration, and for other purposes.  

IN THE SENATE OF THE UNITED STATES  

Mr. GRASSLEY (for himself, Ms. HASSAN, and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on  

A BILL  

To amend the Internal Revenue Code of 1986 to increase retirement savings, to improve retirement plan administration, and for other purposes.  

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

SECTION 1. SHORT TITLE.  

This Act may be cited as the “Improving Access to  
Retirement Savings Act”.  

SEC. 2. MULTIPLE EMPLOYER 403(b) PLANS.  

(a) In General.—Section 403(b) of the Internal  
Revenue Code of 1986 is amended by adding at the end  
the following new paragraph:
“(15) MULTIPLE EMPLOYER PLANS.—

“(A) IN GENERAL.—Except in the case of a church plan, this subsection shall not be treated as failing to apply to an annuity contract solely by reason of such contract being purchased under a plan maintained by more than 1 employer.

“(B) TREATMENT OF EMPLOYERS FAILING TO MEET REQUIREMENTS OF PLAN.—

“(i) IN GENERAL.—In the case of a plan maintained by more than 1 employer, this subsection shall not be treated as failing to apply to an annuity contract held under such plan merely because of 1 or more employers failing to meet the requirements of this subsection, if such plan satisfies rules similar to the rules of section 413(e)(2) with respect to any such employer failure.

“(ii) ADDITIONAL REQUIREMENTS IN CASE OF NON-GOVERNMENTAL PLANS.—A plan shall not be treated as meeting the requirements of this subsection unless the plan meets the requirements of subparagraph (A) or (B) of section 413(e)(1), ex-
cept in the case of a multiple employer
plan maintained solely by a State, a polit-
ical subdivision of a State, or an agency or
instrumentality thereof.”.

(b) Annual Registration for 403(b) Multiple
Employer Plan.—Section 6057 of the Internal Revenue
Code of 1986 is amended by redesignating subsection (g)
as subsection (h) and by inserting after subsection (f) the
following new subsection:

“(g) 403(b) Multiple Employer Plans Treated
as 1 Plan.—In the case of annuity contracts to which
this section applies and to which section 403(b) applies
by reason of the plan under which such contracts are pur-
chased meeting the requirements of paragraph (15) there-
of, such plan shall be treated as a single plan for purposes
of this section.”.

(c) Annual Information Returns for 403(b)
Multiple Employer Plan.—Section 6058 of the Inter-
nal Revenue Code of 1986 is amended by redesignating
subsection (f) as subsection (g) and by inserting after sub-
section (e) the following new subsection:

“(f) 403(b) Multiple Employer Plans Treated
as 1 Plan.—In the case of annuity contracts to which
this section applies and to which section 403(b) applies
by reason of the plan under which such contracts are pur-
(d) Amendments to Employee Retirement Income Security Act of 1974.—

(1) Treated as pooled employer plan.—

(A) In general.—Section 3(43)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(43)(A)) is amended—

(i) in clause (ii), by striking “section 501(a) of such Code or” and inserting “501(a) of such Code, a plan that consists of contracts described in section 403(b) of such Code, or”; and

(ii) in the flush text at the end, by striking “the plan.” and inserting “the plan, but such term shall include any program (other than a governmental plan) maintained for the benefit of the employees of more than 1 employer that consists of contracts described in section 403(b) of such Code and that meets the requirements of subparagraph (A) or (B) of section 413(e)(1) of such Code.”.
(B) Conforming Amendments.—Paragraphs (43)(B)(v)(II) and (44)(A)(i)(I) of section 3 of such Act (29 U.S.C. 1002) are each amended by striking "section 401(a) of such Code or" and inserting "401(a) of such Code, a plan that consists of contracts described in section 403(b) of such Code, or".

(2) Fiduciaries.—Section 3(43)(B)(ii) of such Act (29 U.S.C. 1002(43)(B)(ii)) is amended—

(A) by striking "trustees meeting the requirements of section 408(a)(2) of the Internal Revenue Code of 1986" and inserting "trustees (or other fiduciaries in the case of a plan that consists of contracts described in section 403(b) of the Internal Revenue Code of 1986) meeting the requirements of section 408(a)(2) of such Code"; and

(B) by striking "holding" and inserting "holding (or causing to be held under the terms of a plan consisting of such contracts)".

(e) Regulations.—

(1) Plan Termination.—The Secretary of the Treasury (or the Secretary’s designee) shall prescribe such regulations as may be necessary to clarify the treatment of a plan termination by an em-
ployer in the case of plans to which section 403(b)(15) of the Internal Revenue Code of 1986 applies.

(2) EDUCATIONAL OUTREACH TO EMPLOYERS EXEMPT FROM TAX.—The Secretary of the Treasury (or the Secretary’s designee), in consultation with the Secretary of Labor, shall provide education and outreach to increase awareness among employers which are exempt from tax under section 501(a) of such Code that—

(A) multiple employer plans are subject to the Employee Retirement Income Security Act of 1974, and

(B) each employer is a plan sponsor with respect to its employees participating in the multiple employer plan and, as such, has certain fiduciary duties with respect to the plan and to its employees.

(f) MODIFICATION OF MODEL PLAN LANGUAGE.—

(1) PLAN NOTIFICATIONS.—The Secretary of the Treasury (or the Secretary’s designee) shall modify the model plan language published under section 413(e)(5) of the Internal Revenue Code of 1986 to include language which notifies participating employers which are exempt from tax under section
501(a) of such Code that the plan is subject to the
Employee Retirement Income Security Act of 1974
and that such employer is a plan sponsor with re-
spect to its employees participating in the multiple
employer plan and, as such, has certain fiduciary
duties with respect to the plan and to its employees.

(2) Model plans for multiple employer
403(b) non-governmental plans.—For plans to
which section 403(b)(15)(A) of the Internal Revenue
Code of 1986 applies (other than a plan maintained
for its employees by a State, a political subdivision
of a State, or an agency or instrumentality thereof)
the Secretary shall publish model plan language
similar to model plan language published under sec-
tion 413(e)(5) of such Code.

(g) No inference with respect to church
plans.—Regarding any application of section 403(b) of
the Internal Revenue Code of 1986 to an annuity contract
purchased under a church plan (as defined in section
414(e) of such Code) maintained by more than 1 em-
ployer, or to any application of rules similar to section
413(e) of such Code to such a plan, no inference shall
be drawn solely because section 403(b)(15)(A) of such
Code (as added by this Act) does not apply to such plans.

(h) Effective date.—
(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2022.

(2) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as limiting the authority of the Secretary of the Treasury or the Secretary’s delegate (determined without regard to such amendment) to provide for the proper treatment of a failure to meet any requirement applicable under the Internal Revenue Code of 1986 with respect to one employer (and its employees) in the case of a plan to which section 403(b)(15) applies.

SEC. 3. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE ELECTIVE DEFERRAL FAILURES.

(a) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(aa) CORRECTING AUTOMATIC CONTRIBUTION ERRORS.—

“(1) IN GENERAL.—Any plan or arrangement shall not fail to be treated as a plan described in section 401(a), 403(b), 408, or 457(b), as applicable, solely by reason of a corrected error.
“(2) Corrected error.—For purposes of this subsection, the term ‘corrected error’ means a reasonable administrative error in implementing an automatic enrollment or automatic escalation feature in accordance with the terms of an eligible automatic contribution arrangement (as defined under subsection (w)(3)), provided that such implementation error—

“(A) is corrected by the date which is 9½ months after the end of the plan year during which the failure occurred,

“(B) is corrected in a manner which is favorable to the participant, and

“(C) is of a type which is so corrected for all similarly situated participants in a non-discriminatory manner.

Such correction may occur before or after the participant has terminated employment and may occur without regard to whether the error is identified by the Secretary.

“(3) Regulations and guidance for favorable correction methods.—The Secretary shall, by regulations or other guidance of general applicability, specify the correction methods which are in a
manner favorable to the participant for purposes of paragraph (2)(B).”.

(b) Effective Date.—The amendment made by this section shall apply to the correction of any error with respect to which the date described in section 414(aa)(2)(A) of the Internal Revenue Code of 1986 (as added by this section) is after the date of enactment of this Act.

SEC. 4. APPLICATION OF CREDIT FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS TO EMPLOYERS WHICH JOIN AN EXISTING PLAN.

(a) In General.—Section 45E(d)(3)(A) of the Internal Revenue Code of 1986 is amended by striking “effective” and inserting “effective with respect to the eligible employer”.

(b) Effective Date.—The amendment made by this section shall apply to eligible employer plans which become effective with respect to the eligible employer after the date of the enactment of this Act.
SEC. 5. AMENDMENTS TO INCREASE BENEFIT ACCRUALS UNDER PLAN FOR PREVIOUS PLAN YEAR ALLOWED UNTIL EMPLOYER TAX RETURN DUE DATE.

(a) IN GENERAL.—Section 401(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) RETROACTIVE PLAN AMENDMENTS THAT INCREASE BENEFIT ACCRUALS.—If—

“(A) an employer amends a stock bonus, pension, profit-sharing, or annuity plan to increase benefits accrued under the plan effective for the preceding plan year (other than increasing the amount of matching contributions (as defined in subsection (m)(4)(A))),

“(B) such amendment would not otherwise cause the plan to fail to meet any of the requirements of this subchapter, and

“(C) such amendment is adopted before the time prescribed by law for filing the return of the employer for a taxable year (including extensions thereof) during which such amendment is effective,

the employer may elect to treat such amendment as having been adopted as of the last day of the plan year in which the amendment is effective.”.
(b) **Effective Date.**—The amendments made by this section shall apply to plan years beginning after December 31, 2022.