

119TH CONGRESS
1ST SESSION

S. _____

To require every employee to provide to their employees a retirement program with benefits equivalent to the Federal Employees Retirement System or to elect for their employees to participate in the Federal Employees Retirement System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To require every employee to provide to their employees a retirement program with benefits equivalent to the Federal Employees Retirement System or to elect for their employees to participate in the Federal Employees Retirement System, 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 “Pensions for All Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

1 (1) COVERED RETIREMENT PROGRAM.—The
2 term “covered retirement program” means a retire-
3 ment program other than FERS that the Secretary
4 determines provides benefits that are comparable to
5 the benefits available under FERS to an employee
6 (as that term is defined under section 8401 of title
7 5, United States Code, on the day before the date
8 of enactment of this Act).

9 (2) EMPLOYEE; EMPLOYER.—The terms “em-
10 ployer” and “employee” have the meanings given
11 such terms in section 3 of the Employee Retirement
12 Income Security Act of 1974 (29 U.S.C. 1002).

13 (3) FERS.—The term “FERS” means the
14 Federal Employees Retirement System under chap-
15 ter 84 of title 5, United States Code.

16 (4) SECRETARY.—The term “Secretary” means
17 the Secretary of Labor.

18 **SEC. 3. REQUIREMENT TO PROVIDE A RETIREMENT PLAN**
19 **EQUIVALENT TO FERS OR TO PARTICIPATE**
20 **IN FERS.**

21 (a) INITIAL COVERAGE.—

22 (1) EMPLOYERS.—Each employer shall—

23 (A) make available to each employee em-
24 ployed by the employer a covered retirement
25 program; or

1 (B) notify the Secretary that the employ-
2 ees of the employer will participate in FERS.

3 (2) SELF-EMPLOYED ENROLLMENT.—Each self-
4 employed individual shall—

5 (A) be enrolled in a covered retirement
6 program; or

7 (B) notify the Secretary that the self-em-
8 ployed individual will participate in FERS.

9 (b) SUBSEQUENT COVERAGE ELECTION.—

10 (1) OPTIONS FOR EMPLOYERS.—At a frequency
11 determined by the Secretary, in coordination with
12 the Director of the Office of Personnel Management,
13 that is not less than annually, an employer that has
14 in effect a covered retirement program for the em-
15 ployees of the employer or with respect to whom the
16 employees of the employer are participating in
17 FERS may elect to—

18 (A) in the case of an employer that has in
19 effect a covered retirement program—

20 (i) cease making contributions to the
21 covered retirement program for such em-
22 ployees; and

23 (ii) have each employee employed by
24 the employer participate in FERS; or

1 (B) in the case of an employer with respect
2 to whom the employees of the employer are par-
3 ticipating in FERS—

4 (i) have the employees cease partici-
5 pating in FERS; and

6 (ii) make available to each employee
7 employed by the employer a covered retire-
8 ment program.

9 (2) OPTIONS FOR SELF-EMPLOYED INDIVID-
10 UALS.—At a frequency determined by the Secretary,
11 in coordination with the Director of the Office of
12 Personnel Management, that is not less than annu-
13 ally, a self-employed individual who is enrolled in a
14 covered retirement program or is participating in
15 FERS may elect to—

16 (A) in the case of a self-employed indi-
17 vidual who is enrolled in a covered retirement
18 program—

19 (i) cease making contributions to the
20 covered retirement program; and

21 (ii) participate in FERS; or

22 (B) in the case of a self-employed indi-
23 vidual who is participating in FERS—

24 (i) cease participating in FERS; and

1 (ii) enroll in a covered retirement pro-
2 gram.

3 **SEC. 4. PARTICIPATION OF NON-FEDERAL EMPLOYEES AND**
4 **SELF-EMPLOYED INDIVIDUALS IN FERS.**

5 (a) DEFINITIONS.—Section 8401 of title 5, United
6 States Code, is amended—

7 (1) by striking paragraph (2) and inserting the
8 following:

9 “(2) the term ‘basic pay’—

10 “(A) except as provided in subparagraph
11 (B), has the meaning given such term by sec-
12 tion 8331(3); and

13 “(B) with respect to a covered self-em-
14 ployed individual, means the annual income of
15 the covered self-employed individual that is at-
16 tributable to the activities of the individual as
17 a covered self-employed individual;”;

18 (2) in paragraph (11)—

19 (A) in subparagraph (B), by striking
20 “and” at the end;

21 (B) in subparagraph (C), by adding “and”
22 at the end;

23 (C) by inserting after subparagraph (C)
24 the following:

25 “(D) an individual who is—

1 “(i) an covered non-Federal employee;

2 or

3 “(ii) a covered self-employed indi-

4 vidual;”; and

5 (D) in the matter following subparagraph

6 (C), by striking “civilian service” and inserting

7 “service in a position described in subparagraph

8 (A), (B), (C), or (D)”;

9 (3) in paragraph (12), by striking “civilian”;

10 (4) in paragraph (31), in the matter following

11 subparagraph (C), by striking “civilian service” and

12 inserting “service as an employee or Member”;

13 (5) in paragraph (38)(B), by striking “and” at

14 the end;

15 (6) in paragraph (39), by striking the period at

16 the end and inserting a semicolon; and

17 (7) by adding at the end the following:

18 “(40) the term ‘covered non-Federal employer’

19 means an employer that is not a department, agen-

20 cy, or other instrumentality of the Federal Govern-

21 ment and does not have in effect for all employees

22 of the employer a retirement plan that the Secretary

23 of Labor has determined provides benefits that are

24 comparable to the benefits provided under the retire-

25 ment program under this chapter;

1 “(41) the term ‘covered non-Federal employee’
2 means an individual employed by a covered non-Fed-
3 eral employer; and

4 “(42) the term ‘covered self-employed indi-
5 vidual’ means a self-employed individual who is not
6 enrolled in a retirement plan other than the Federal
7 Employees Retirement System that the Secretary of
8 Labor has determined provides benefits that are
9 comparable to the benefits provided under the retire-
10 ment program under this chapter.”.

11 (b) ELIGIBILITY FOR ANNUITY.—Section 8410 of
12 title 5, United States Code, is amended by striking “civil-
13 ian service” and inserting “service as an employee or a
14 Member”.

15 (c) CREDITABLE SERVICE.—Section 8411(b) of title
16 5, United States Code, is amended—

17 (1) in paragraph (1), by inserting “subject to
18 paragraphs (7) and (8),” before “employment”;

19 (2) in paragraph (5), by striking “and” at the
20 end;

21 (3) in paragraph (6), by striking the period at
22 the end and inserting a semicolon; and

23 (4) by inserting after paragraph (6) the fol-
24 lowing:

1 “(7) a period of service as a covered non-Fed-
2 eral employee performed after the date of enactment
3 of this paragraph; and

4 “(8) a period during which an individual is a
5 covered self-employed individual that occurs after
6 the date of enactment of this paragraph.”;

7 (d) PHASED RETIREMENT.—Section 8412a(c)(5)(A)
8 of title 5, United States Code, is amended by striking
9 “creditable civilian service” and inserting “other service
10 that is creditable under this chapter”.

11 (e) EMPLOYEE CONTRIBUTIONS.—Section 8422 of
12 title 5, United States Code, is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1), by striking “The em-
15 ploying agency” and inserting “Subject to para-
16 graph (4), the employing agency”;

17 (B) in paragraph (3), by striking “civilian”
18 each place it appears; and

19 (C) by adding at the end the following:

20 “(4)(A) A covered non-Federal employer shall deduct
21 and withhold from the basic pay of each covered non-Fed-
22 eral employee of the covered non-Federal employer the
23 percentage of basic pay that would be deducted and with-
24 held from basic pay if the covered non-Federal employee

1 were an employee of the Federal Government, as deter-
2 mined in accordance with paragraphs (2) and (3).

3 “(B) For a covered self-employed individual, an
4 amount equal to the percentage of basic pay of the covered
5 self-employed individual that would be deducted and with-
6 held from basic pay if the covered non-Federal employee
7 were an employee of the Federal Government, as deter-
8 mined in accordance with paragraphs (2) and (3), shall
9 be deemed to be deducted and withheld from the basic pay
10 of the covered self-employed individual for purposes of
11 subsection (c), and the covered self-employed individual
12 shall deposit such amount in the Treasury of the United
13 States in accordance with such subsection.”; and

14 (2) in subsection (e)(1)(B), by striking “civil-
15 ian” each place it appears.

16 (f) EMPLOYER CONTRIBUTIONS.—Section 8423(a) of
17 title 5, United States Code, is amended—

18 (1) in paragraph (1), in the matter preceding
19 subparagraph (A), by inserting “, and, subject to
20 paragraph (4), each covered non-Federal employer
21 and each covered self-employed individual,” after
22 “section 8422(a)”;

23 (2) by redesignating paragraph (4) as para-
24 graph (5); and

1 (3) by inserting after paragraph (3) the fol-
2 lowing:

3 “(4)(A) In this paragraph—

4 “(i) the term ‘additional employer percentage’,
5 with respect to a covered non-Federal employer,
6 means 50 percent of the percentage obtained by di-
7 viding—

8 “(I) the amount of the annual revenue of
9 the covered non-Federal employer that is in ex-
10 cess of \$25,000,000; by

11 “(II) \$75,000,000; and

12 “(ii) the term ‘additional self-employed percent-
13 age’, with respect to a covered self-employed indi-
14 vidual, means 50 percent of the percentage obtained
15 by dividing—

16 “(I) the amount of the basic pay of the
17 covered self-employed individual that is in ex-
18 cess of \$75,000; by

19 “(II) \$50,000.

20 “(B) Subject to subparagraphs (D) and (E), the
21 amount contributed to the Fund under paragraph (1) by
22 a covered non-Federal employer shall be reduced as fol-
23 lows:

24 “(i) For a covered non-Federal employer with
25 annual revenue of not more than \$25,000,000, the

1 amount required to be contributed shall be the
2 amount equal to 50 percent of the otherwise applica-
3 ble amount.

4 “(ii) For a covered non-Federal employer with
5 annual revenue of more than \$25,000,000 and not
6 more than \$100,000,000, the amount required to be
7 contributed shall be the sum of—

8 “(I) the amount equal to 50 percent of the
9 otherwise applicable amount; and

10 “(II) the amount equal to the additional
11 employer percentage of the otherwise applicable
12 amount.

13 “(C) Subject to subparagraph (E), the amount con-
14 tributed to the Fund under paragraph (1) by a covered
15 self-employed individual shall be reduced as follows:

16 “(i) For a covered self-employed individual with
17 basic pay of not more than \$75,000, the amount re-
18 quired to be contributed shall be the amount equal
19 to 50 percent of the otherwise applicable amount.

20 “(ii) For a covered self-employed individual
21 with basic pay of more than \$75,000 and not more
22 than \$125,000, the amount required to be contrib-
23 uted shall be the sum of—

24 “(I) the amount equal to 50 percent of the
25 otherwise applicable amount; and

1 “(II) the amount equal to the additional
2 self-employed percentage of the otherwise appli-
3 cable amount.

4 “(D) The amount of the reduction under subpara-
5 graph (B) with respect to a covered non-Federal employer
6 shall be reduced or eliminated based on the proportion of
7 highly compensated employees of the covered non-Federal
8 employer, in accordance with regulations promulgated by
9 the Secretary of Labor.

10 “(E)(i) A covered non-Federal employer may elect to
11 have both the reduction under subparagraph (B) of this
12 paragraph and the reduction under section 8432(c)(2)(B)
13 not apply for any year.

14 “(ii) A covered self-employed individual may elect to
15 have the reduction under subparagraph (C) of this para-
16 graph and the reduction under section 8432(c)(2)(C) not
17 apply for any year.”.

18 (g) THRIFT SAVINGS PLAN.—

19 (1) TRANSFERS TREATED AS A SEPARATION.—

20 Section 8431(a) of title 5, United States Code, is
21 amended by inserting “or employment at a covered
22 non-Federal employer” after “Government employ-
23 ment”.

24 (2) CONTRIBUTIONS.—Section 8432 of title 5,
25 United States Code, is amended—

1 (A) in subsection (a)—

2 (i) in paragraph (1), by striking “An
3 employee or Member” and inserting “Sub-
4 ject to paragraph (4), an employee or
5 Member”; and

6 (ii) by adding at the end the fol-
7 lowing:

8 “(4) For a covered self-employed individual, the cov-
9 ered self-employed individual may contribute to the Thrift
10 Savings Fund in such manner, and at such frequency, as
11 the Secretary of Labor shall establish.”;

12 (B) in subsection (c)—

13 (i) in paragraph (1)—

14 (I) in subparagraph (A), by in-
15 serting “and each covered non-Fed-
16 eral employer” after “the employing
17 agency”;

18 (II) in subparagraph (C)(iii), by
19 striking “civilian”; and

20 (III) by adding at the end the
21 following:

22 “(D)(i) A covered self-employed individual shall make
23 contributions to the Thrift Savings Fund for the benefit
24 of the self-employed individual in the same amount as
25 would be contributed by a covered non-Federal employer

1 if the self-employed individual were an employee of the
2 covered non-Federal employer.

3 “(ii) The Secretary of Labor shall establish the man-
4 ner and frequency with which a covered self-employed indi-
5 vidual shall make contributions to the Thrift Savings
6 Fund under this subparagraph.”;

7 (ii) in paragraph (2)—

8 (I) in subparagraph (A)—

9 (aa) by inserting “, and,
10 subject to paragraph (4), each
11 covered non-Federal employer
12 and covered self-employed indi-
13 vidual,” after “the employing
14 agency”; and

15 (bb) by striking “employing
16 agency’s contribution” and in-
17 serting “contribution of the em-
18 ploying agency, covered non-Fed-
19 eral employer”; and

20 (II) in subparagraph (B), in the
21 matter preceding clause (i), by insert-
22 ing “or, subject to paragraph (4), cov-
23 ered non-Federal employer, or covered
24 self-employed individual” after “em-
25 ploying agency”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(4)(A) In this paragraph—

4 “(i) the term ‘additional employer percentage’,
5 with respect to a covered non-Federal employer,
6 means 50 percent of the percentage obtained by di-
7 viding—

8 “(I) the amount of the annual revenue of
9 the covered non-Federal employer that is in ex-
10 cess of \$25,000,000; by

11 “(II) \$75,000,000; and

12 “(ii) the term ‘additional self-employed percent-
13 age’, with respect to a covered self-employed indi-
14 vidual, means 50 percent of the percentage obtained
15 by dividing—

16 “(I) the amount of the basic pay of the
17 covered self-employed individual that is in ex-
18 cess of \$75,000; by

19 “(II) \$50,000.

20 “(B) Subject to subparagraphs (D) and (E), the
21 amount contributed to the Thrift Savings Fund under
22 paragraphs (1) and (2) by a covered non-Federal employer
23 shall be reduced as follows:

24 “(i) For a covered non-Federal employer with
25 annual revenue of not more than \$25,000,000, the

1 amount required to be contributed shall be the
2 amount equal to 50 percent of the otherwise applica-
3 ble amount.

4 “(ii) For a covered non-Federal employer with
5 annual revenue of more than \$25,000,000 and not
6 more than \$100,000,000, the amount required to be
7 contributed shall be the sum of—

8 “(I) the amount equal to 50 percent of the
9 otherwise applicable amount; and

10 “(II) the amount equal to the additional
11 employer percentage of the otherwise applicable
12 amount.

13 “(C) Subject to subparagraph (E), the amount con-
14 tributed to the Thrift Savings Fund under paragraphs (1)
15 and (2) by a covered self-employed individual shall be re-
16 duced as follows:

17 “(i) For a covered self-employed individual with
18 basic pay of not more than \$75,000, the amount re-
19 quired to be contributed shall be the amount equal
20 to 50 percent of the otherwise applicable amount.

21 “(ii) For a covered self-employed individual
22 with basic pay of more than \$75,000 and not more
23 than \$125,000, the amount required to be contrib-
24 uted shall be the sum of—

1 “(I) the amount equal to 50 percent of the
2 otherwise applicable amount; and

3 “(II) the amount equal to the additional
4 self-employed percentage of the otherwise appli-
5 cable amount.

6 “(D) The amount of the reduction under subpara-
7 graph (B) with respect to a covered non-Federal employer
8 shall be reduced or eliminated based on the proportion of
9 highly compensated employees of the covered non-Federal
10 employer, in accordance with regulations promulgated by
11 the Secretary of Labor.

12 “(E)(i) A covered non-Federal employer may elect to
13 have both the reduction under subparagraph (B) of this
14 paragraph and the reduction under section 8423(a)(4)(B)
15 not apply for any year.

16 “(ii) A covered self-employed individual may elect to
17 have the reduction under subparagraph (C) of this sub-
18 paragraph and the reduction under section 8423(a)(4)(C)
19 not apply for any year.”.

20 “(5)(A) The Secretary of Labor shall, at the fre-
21 quency determined appropriate by the Secretary, compute
22 the amount of the reduction in contributions by—

23 “(i) a covered non-Federal employer under
24 paragraph (4) with respect to each covered non-Fed-

1 eral employee of the covered non-Federal employer;
2 and

3 “(ii) a covered self-employed individual under
4 paragraph (4) with respect to the covered self-em-
5 ployed individual.

6 “(B) The Secretary of the Treasury shall, in such in-
7 stallments as the Secretary determines appropriate, credit
8 to the Thrift Savings Fund—

9 “(i) for the benefit of each covered non-Federal
10 employee for whom the contributions by the covered
11 non-Federal employer employing the covered non-
12 Federal employee are reduced under paragraph (4)
13 an amount equal to the amount of the reduction;
14 and

15 “(ii) for the benefit of each covered self-em-
16 ployed individual for whom the contributions by the
17 covered self-employed individual are reduced under
18 paragraph (4) an amount equal to the amount of the
19 reduction.”;

20 (C) in subsection (e)—

21 (i) by inserting “(1)” before “The
22 sums required”; and

23 (ii) by adding at the end the fol-
24 lowing:

1 “(2) The sums required to be contributed to the
2 Thrift Savings Fund by a covered non-Federal employer
3 or covered self-employed individual under subsection (c)
4 for the benefit of a covered non-Federal employee or cov-
5 ered self-employed individual, respectively, shall be paid
6 by the covered non-Federal employer or covered self-em-
7 ployed individual, respectively, in accordance with such
8 procedures as the Secretary of the Treasury may, in con-
9 sultation with the Executive Director, prescribe in regula-
10 tions.”;

11 (D) in subsection (g)—

12 (i) by inserting “or employment at a
13 covered non-Federal employer” after “Gov-
14 ernment employment” each place it ap-
15 pears;

16 (ii) by striking “civilian service” each
17 place it appears and inserting “creditable
18 service as an employee or Member”; and

19 (iii) in paragraph (5), by inserting “or
20 by a covered non-Federal employer” after
21 “the Government”; and

22 (E) in subsection (i)(1)(B), by striking “ci-
23 vilian service” and inserting “service as an em-
24 ployee”.

1 (3) PAYMENT OF LOST EARNINGS.—Section
2 8432a of title 5, United States Code, is amended—

3 (A) by inserting “or covered non-Federal
4 employer” after “employing agency” each place
5 it appears, except the second place it appears in
6 subsection (c);

7 (B) in subsection (a)—

8 (i) in paragraph (1), by inserting “or
9 covered non-Federal employer” after “such
10 agency”; and

11 (ii) in paragraph (2)—

12 (I) in the matter preceding sub-
13 paragraph (A), by striking “an em-
14 ploying agency’s failure” and insert-
15 ing “a failure by an employing agency
16 or covered non-Federal employer”;
17 and

18 (II) in subparagraph (A), by in-
19 serting “or covered non-Federal em-
20 ployer” after “the agency”;

21 (C) in subsection (b)(3), by inserting “, re-
22 spectively,” before “errors”; and

23 (D) in subsection (c), in the first sentence,
24 by inserting “or paid by the covered non-Fed-
25 eral employer in accordance with such proce-

1 dures as the Secretary of the Treasury may, in
2 consultation with the Executive Director, pre-
3 scribe in regulations” after “establishment”.

4 (4) CONTRIBUTIONS OF PERSONS WHO PER-
5 FORM MILITARY SERVICE.—Section 8432b of title 5,
6 United States Code, is amended—

7 (A) by inserting “or covered non-Federal
8 employer” after “employing agency” each place
9 it appears;

10 (B) in subsection (g)(1), by inserting “or
11 covered non-Federal employer” after “the agen-
12 cy”; and

13 (C) in subsection (h)(1), by striking “civil-
14 ian service” each place it appears and inserting
15 “service as an employee”.

16 (5) CONTRIBUTIONS OF CERTAIN PERSONS RE-
17 EMPLOYED AFTER SERVICE WITH INTERNATIONAL
18 ORGANIZATIONS.—Section 8432c of title 5, United
19 States Code, is amended—

20 (A) in subsection (c), by inserting “or cov-
21 ered non-Federal employer” after “the agency”;
22 and

23 (B) in subsection (e), by striking “civil-
24 ian”.

1 (6) BENEFITS AND ELECTION OF BENEFITS.—

2 Section 8433 of title 5, United States Code, is
3 amended—

4 (A) by striking “Government employment”
5 each place it appears and inserting “service
6 that is creditable under this chapter”; and

7 (B) in subsection (c)(1), by striking “Gov-
8 ernment service” and inserting “service that is
9 creditable under this chapter”.

10 (h) RIGHTS OF A WIDOW OR WIDOWER.—Section
11 8442(b)(1) of title 5, United States Code, is amended, in
12 the matter preceding subparagraph (A), by striking “civil-
13 ian service” and inserting “service as an employee”.

14 (i) RIGHTS OF A CHILD.—Section 8443(a)(1) of title
15 5, United States Code, is amended, in the matter pre-
16 ceding subparagraph (A), by striking “civilian service”
17 and inserting “service as an employee”.

18 (j) DISABILITY RETIREMENT.—Section 8451(a) of
19 title 5, United States Code, is amended—

20 (1) by striking “employee’s agency” each place
21 it appears and inserting “agency or covered non-
22 Federal employer employing the employee”; and

23 (2) in paragraph (1)(A), by striking “civilian
24 service” and inserting “service as an employee”.

1 (k) RECOVERY; RESTORATION OF EARNING CAPAC-
2 ITY.—Section 8455(a)(1) of title 5, United States Code,
3 is amended by inserting “or a covered non-Federal em-
4 ployer or on becoming a covered self-employed individual”
5 after “reemployment by the Government”.

6 (l) AUTHORITY OF THE OFFICE OF PERSONNEL
7 MANAGEMENT.—Section 8461(h)(1) of title 5, United
8 States Code, is amended by inserting “, covered non-Fed-
9 eral employer, and covered self-employed individual” after
10 “Each Government agency”.

11 (m) ANNUITIES AND PAY ON REEMPLOYMENT.—Sec-
12 tion 8468 of title 5, United States Code, is amended by
13 adding at the end the following:

14 “(k) This section shall not apply to an individual
15 serving in a position as a covered non-Federal employee
16 or who is a covered self-employed individual.”.

17 **SEC. 5. CREDIT FOR SMALL EMPLOYER AND SELF-EM-**
18 **PLOYED PENSION CONTRIBUTIONS.**

19 (a) IN GENERAL.—Subpart C of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code of
21 1986 is amended by inserting after section 36 the fol-
22 lowing new section:

1 **“SEC. 36A. CREDIT FOR SMALL EMPLOYER AND SELF-EM-**
2 **PLOYED PENSION CONTRIBUTIONS.**

3 “(a) IN GENERAL.—In the case of an eligible tax-
4 payer, there shall be allowed as a credit against the tax
5 imposed by subtitle A an amount equal to the contribution
6 assistance amount with respect to such taxpayer for the
7 taxable year.

8 “(b) CONTRIBUTION ASSISTANCE AMOUNT.—In the
9 case of an eligible taxpayer, for purposes of this section—

10 “(1) IN GENERAL.—The contribution assistance
11 amount is an amount equal to the applicable per-
12 centage of the qualified pension contributions paid
13 by the eligible taxpayer during the taxable year.

14 “(2) APPLICABLE PERCENTAGE.—For purposes
15 of paragraph (1), the applicable percentage is 50
16 percent, reduced (but not below zero) by the number
17 of percentage points which—

18 “(A) in the case of an employer, bears the
19 same ratio to 50 as the excess of—

20 “(i) the gross receipts of the employer
21 for the taxable year, over

22 “(ii) \$25,000,000, bears to
23 \$75,000,000, and

24 “(B) in the case of a self-employed indi-
25 vidual, bears the same ratio to 50 as the excess
26 of—

1 “(i) the income of the individual for
2 the taxable year, over

3 “(ii) \$75,000, bears to
4 \$50,000.

5 “(3) QUALIFIED PENSION CONTRIBUTIONS.—

6 The term ‘qualified pension contributions’ means—

7 “(A) in the case of a covered non-Federal
8 employer or covered self-employed individual,
9 the contributions made by such employer or in-
10 dividual under sections 8423(a) and 8432(c) of
11 title 5, United States Code,

12 “(B) in the case of any other employer, the
13 nonelective contributions made by such em-
14 ployer to a covered retirement program (as de-
15 fined in section 2 of the Pensions for All Act)
16 on behalf of the employees of the employer, and

17 “(C) in the case of any other self-employed
18 individual, the contributions made by such indi-
19 vidual to a covered retirement program (as so
20 defined) of the individual.

21 “(c) ELIGIBLE TAXPAYERS, ETC.—For purposes of
22 this section—

23 “(1) IN GENERAL.—The term ‘eligible taxpayer’
24 means—

1 “(A) any covered non-Federal employer
2 making an election under both sections
3 8423(a)(4)(E)(i) and 8432(c)(4)(E)(i) of title
4 5, United States Code not to receive a reduc-
5 tion in employer contributions,

6 “(B) any employer which is not a covered
7 non-Federal employer,

8 “(C) any covered self-employed individual
9 making an election under both sections
10 8423(a)(4)(E)(ii) and 8432(c)(4)(E)(ii) of title
11 5, United States Code not to receive a reduc-
12 tion in contributions, and

13 “(D) any self-employed individual who is
14 not a covered self-employed individual.

15 “(2) COVERED NON-FEDERAL EMPLOYER; COV-
16 ERED SELF-EMPLOYED INDIVIDUAL.—The terms
17 ‘covered non-Federal employer’ and ‘covered self-em-
18 ployed individual’ have the respective meanings given
19 such terms by section 8401 of title 5, United States
20 Code.

21 “(d) COORDINATION WITH OTHER CREDITS.—

22 “(1) BUSINESS CREDIT TREATED AS PART OF
23 GENERAL BUSINESS CREDIT.—In the case of an em-
24 ployer, the credit which (but for this paragraph)
25 would otherwise be allowed under subsection (a) for

1 any taxable year shall be treated as a credit listed
2 in section 38(b) for such taxable year (and not al-
3 lowed under subsection (a)).

4 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
5 tion or credit shall be allowed under any other sec-
6 tion of this title with respect to contributions to a
7 plan (including the Federal Employees Retirement
8 System under chapter 84 of title 5, United States
9 Code) if credit is allowable with respect to such con-
10 tributions under subsection (a) (determined without
11 regard to this subsection).”.

12 (b) EMPLOYER CREDIT TO BE PART OF GENERAL
13 BUSINESS CREDIT.—Subsection (b) of section 38 of the
14 Internal Revenue Code of 1986 is amended by striking
15 “plus” at the end of paragraph (40), by striking the period
16 at the end of paragraph (41) and inserting “, plus”, and
17 by adding at the end the following new paragraph:

18 “(42) in the case of an eligible taxpayer (as de-
19 fined in section 36A(c)), the portion of the credit for
20 small employer and self-employed pension contribu-
21 tions to which section 36A(d)(1) applies.”.

22 (c) CONFORMING AMENDMENT.—Section
23 6211(b)(4)(A) of the Internal Revenue Code of 1986 is
24 amended by inserting “, 36A” after “36”.

1 (d) CLERICAL AMENDMENT.—The table of sections
2 for subpart C of part IV of subchapter A of chapter 1
3 of the Internal Revenue Code of 1986 is amended by in-
4 serting after the item relating to section 36 the following
5 new item:

“Sec. 36A. Credit for small employer and self-employed pension contributions.”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to contributions made after the
8 date of the enactment of this Act.

9 **SEC. 6. FAILURE TO PROVIDE COVERED RETIREMENT PRO-**
10 **GRAM.**

11 (a) IN GENERAL.—Chapter 43 of the Internal Rev-
12 enue Code of 1986 is amended by adding at the end the
13 following new section:

14 **“SEC. 4980J. FAILURE TO MAINTAIN REQUIRED RETIRE-**
15 **MENT PROGRAM.**

16 “(a) GENERAL RULE.—

17 “(1) EMPLOYERS.—There is hereby imposed a
18 tax on the failure of an employer either—

19 “(A) to make available a covered retire-
20 ment program to all employees of the employer,
21 or

22 “(B) in the case of a covered employer, to
23 make required contributions under sections
24 8423(a) and 8432(c) of title 5, United States

1 Code with respect to the employees of the em-
2 ployer.

3 “(2) SELF-EMPLOYED INDIVIDUALS.—There is
4 hereby imposed a tax on the failure of a self-em-
5 ployed individual either—

6 “(A) to participate in a covered retirement
7 program, or

8 “(B) in the case of a covered self-employed
9 individual, to make required contributions
10 under sections 8423(a) and 8432(c) of title 5,
11 United States Code with respect to the indi-
12 vidual.

13 “(b) AMOUNT OF TAX.—

14 “(1) IN GENERAL.—The amount of the tax im-
15 posed by subsection (a) on any failure with respect
16 to an employee or self-employed individual shall be
17 \$10 for each day in the noncompliance period with
18 respect to such failure.

19 “(2) NONCOMPLIANCE PERIOD.—For purposes
20 of this section, the term ‘noncompliance period’
21 means, with respect to any failure, the period—

22 “(A) beginning on the date such failure
23 first occurs, and

24 “(B) ending on the earlier of—

1 “(i) the date such failure is corrected,
2 or

3 “(ii) with respect to any employer, the
4 date that is 3 months after the last date
5 on which the employee is employed by the
6 employer.

7 “(3) ADJUSTMENT FOR INFLATION.—

8 “(A) IN GENERAL.—In the case of any
9 failure occurring in a calendar year beginning
10 after 2026, the \$10 amount under paragraph
11 (1) shall be increased by an amount equal to
12 such dollar amount multiplied by the cost-of-liv-
13 ing adjustment determined under section
14 1(f)(3) for the calendar year determined by
15 substituting ‘calendar year 2025’ for ‘calendar
16 year 2016’ in subparagraph (A)(ii) thereof.

17 “(B) ROUNDING.—If any amount adjusted
18 under subparagraph (A) is not a whole dollar
19 amount, such amount shall be rounded to the
20 nearest whole dollar amount.

21 “(c) LIMITATIONS ON AMOUNT OF TAX.—

22 “(1) TAX NOT TO APPLY WHERE FAILURE NOT
23 DISCOVERED EXERCISING REASONABLE DILI-
24 GENCE.—No tax shall be imposed by subsection (a)
25 on any failure during any period for which it is es-

1 tablished to the satisfaction of the Secretary that
2 none of the persons referred to in subsection (d)
3 knew, nor exercising reasonable diligence would have
4 known, that such failure existed.

5 “(2) OVERALL LIMITATION FOR UNINTEN-
6 TIONAL FAILURES.—In the case of failures which
7 are due to reasonable cause and not to willful ne-
8 glect—

9 “(A) GENERAL RULE.—The tax imposed
10 by subsection (a) for failures during the taxable
11 year of the employer or self-employed individual
12 shall not exceed \$500,000.

13 “(B) TAXABLE YEARS IN THE CASE OF
14 CERTAIN CONTROLLED GROUPS.—For purposes
15 of this subparagraph, if not all persons who are
16 treated as a single employer for purposes of this
17 section have the same taxable year, the taxable
18 years taken into account shall be determined
19 under principles similar to the principles of sec-
20 tion 1561.

21 “(3) WAIVER BY SECRETARY.—In the case of a
22 failure which is due to reasonable cause and not to
23 willful neglect, the Secretary may waive part or all
24 of the tax imposed by subsection (a) to the extent

1 that the payment of such tax would be excessive rel-
2 ative to the failure involved.

3 “(d) EMPLOYER LIABILITY FOR TAX.—The employer
4 shall be liable for the tax imposed by subsection (a)(1)
5 on a failure. All employers, determined without regard to
6 subsection (e)(2), shall be jointly and severally liable for
7 the liability of any other employer with which they are ag-
8 gregated under subsection (e)(2).

9 “(e) DEFINITIONS.—For purposes of this section—
10 “(1) TERMS RELATING TO COVERED RETIRE-
11 MENT PROGRAMS, ETC.—Any term used in this sec-
12 tion which is defined in section 2 of the Pensions for
13 All Act has the meaning given such term by such
14 section.

15 “ (2) EMPLOYER.—All employers treated as a
16 single employer under subsection (b), (c), (m), or (o)
17 of section 414 shall be treated as 1 employer.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 43 of the Internal Revenue Code of 1986 is
20 amended by adding at the end the following new item:

“Sec. 4980J. Failure to maintain required retirement program.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to plan years beginning after De-
23 cember 31, 2025.

1 **SEC. 7. PROHIBITION ON THE REDUCTION OF COMPENSA-**
2 **TION.**

3 An employer that employs an employee on or before
4 the date of enactment of this Act may not reduce any form
5 of compensation provided to the employee due to the re-
6 quirement imposed by this Act that the employee be en-
7 rolled in a covered retirement program or FERS.