To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to make technical corrections relating to the SECURE 2.0 Act of 2022, and for other purposes.

IN THE

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to make technical corrections relating to the SECURE 2.0 Act of 2022, 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; ETC.

(a) Short Title.—This Act may be cited as the “SECURE 2.0 Technical Corrections Act of 2023”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment
to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—TECHNICAL CORRECTIONS

Sec. 101. Technical amendments relating to SECURE 2.0 Act of 2022.

TITLE II—CLERICAL CORRECTIONS

Sec. 201. Clerical amendments relating to SECURE 2.0 Act of 2022.

TITLE III—OTHER CLARIFICATIONS RELATING TO SECURE 2.0 ACT OF 2022

Sec. 301. Amendment relating to section 301.
Sec. 302. Amendment relating to section 303.
Sec. 303. Amendment relating to section 326.

TITLE I—TECHNICAL CORRECTIONS

SEC. 101. TECHNICAL AMENDMENTS RELATING TO SECURE 2.0 ACT OF 2022.

(a) Amendments Relating to Section 101.—

(1) Initial reduced ceiling.—Subparagraph (B) of section 414A(b)(3) is amended by striking “January 1, 2025” and inserting “January 1, 2026”.

(2) Treatment of multiemployer plans.—Subparagraph (B) of section 414A(c)(2) is amended by striking “a plan maintained by more than one
employer” and inserting “a plan described in section 413(e)”.

(b) Amendment Relating to Section 102.— Paragraph (2) of section 45E(f) is amended by adding at the end the following new subparagraph:

“(D) Coordination with credit limitation.—Subsection (b) shall not apply to the amount of any increase under this subsection.”.

(e) Amendment Relating to Section 103.— Paragraph (2) of section 26(b) is amended by striking “and” at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting “, and”, and by adding at the end the following new subparagraph:

“(AA) section 6433(f)(6) (relating to saver’s match recovery payments).”.

(d) Amendments Relating to Section 107.— Clause (v) of section 401(a)(9)(C) is amended—

(1) by striking “age 72 after December 31, 2022, and” in subclause (I), and

(2) by striking “age 74” in subclause (II) and inserting “age 73”.

(e) Amendment Relating to Section 109.—Subparagraph (E) of section 414(v)(2) is amended by striking “2024” in clause (i)(II) and inserting “2025”.
(f) Amendments Relating to Section 110.—

(1) Inclusion of catch-up contributions.—Subclause (I) of section 401(m)(4)(D)(i) is amended by striking “402(g)” and inserting “402(g) (after the application of section 414(v))”.

(2) Annual certification.—Subclause (I) of section 408(p)(2)(F)(ii) is amended by striking “the employee certifies” and inserting “the employee certifies annually”.

(g) Amendments Relating to Section 121.—

(1) Contribution limitation.—

(A) Subparagraph (D) of section 401(k)(16) is amended—

(i) by striking “$6,000” in clause (i)(II) and inserting “the amount in effect under section 219(b)(1)(A) for the taxable year in which the calendar year begins”, and

(ii) by striking clause (ii) and redesignating clause (iii) as clause (ii).

(B) Subparagraph (D) of section 403(b)(16) is amended—

(i) by striking “$6,000” in clause (i)(II) and inserting “the amount in effect under section 219(b)(1)(A) for the taxable
year in which the calendar year begins”,
and

(ii) by striking clause (ii) and redesignating clause (iii) as clause (ii).

(2) TREATMENT OF 403(B) PLANS.—Subparagraph (H) of section 416(g)(4) is amended—

(A) by striking “OR PLANS” in the heading, and

(B) by striking “or a safe harbor deferral-only plan described in section 403(b)(16)” in clause (ii).

(h) AMENDMENT RELATING TO SECTION 125.—Section 203(b)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(b)(4)) is amended by striking “12-month periods shall be determined in the same manner as under the last sentence of section 202(a)(3)(A), except that”.

(i) AMENDMENT RELATING TO SECTION 126.—Subclause (I) of section 529(c)(3)(E)(ii) is amended by striking “all individual retirement plans” and inserting “all Roth IRAs, other than a simplified employee pension or a simple retirement account,”.

(j) AMENDMENTS RELATING TO SECTION 303.—Section 523 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1153) is amended—
(1) in subsection (a)(2)—

(A) by striking “is a plan” and inserting “is—

“(A) a plan”,

(B) by striking the period at the end and inserting a semicolon, and

(C) by adding at the end the following:

“(B) an individual retirement account described in section 408(a) of the Internal Revenue Code of 1986 or an individual retirement annuity described in section 408(b) of such Code to which a distribution to which subsection (e)(3)(B) applies is made, and

“(C) a deferred annuity contract that was distributed in a distribution to which subsection (e)(3)(C) applies.”,

(2) in subsection (d), by inserting “, except that such term shall also include a designated trustee or issuer of a plan, or an issuer of an annuity contract, referred to in subsection (a)(2)(B)” before the period,

(3) in subsection (e)(3), by striking “former participant” and inserting “former participant and each beneficiary or former beneficiary”, and
(4) in subsection (c)(4), by striking “former participant” and inserting “former participant and a beneficiary or former beneficiary”.

(k) Amendments Relating to Section 601.—

(1) Elective Deferrals.—Subparagraph (B) of section 402(g)(3) is amended to read as follows:

“(B) any employer contribution described in subsection (h)(1)(B),”.

(2) Roth IRA Limitation.—Paragraph (2) of section 408A(c) is amended by adding at the end the following new flush language:

“For purposes of the preceding sentence, contributions to a simplified employee pension or a simple retirement account shall not be treated as contributions to a Roth IRA or another individual retirement plan.”.

(l) Amendments Relating to Section 603.—

(1) In General.—Section 457(e)(18)(A)(ii) is amended—

(A) by striking “the lesser of any designated Roth contributions made by the participant to the plan or”, and

(B) by inserting “, or in the case of a participant to whom section 414(v)(7)(A) applies, the lesser of any designated Roth contributions
made by such participant to the plan or such applicable amount” after “414(v)(2)(B)(i)”.

(2) CATCH-UP CONTRIBUTIONS.—Paragraph (1) of section 402(g) is amended by adding at the end the following new subparagraph:

“(C) CATCH-UP CONTRIBUTIONS.—In addition to subparagraph (A), in the case of an eligible participant (as defined in section 414(v)), gross income shall not include elective deferrals in excess of the applicable dollar amount under subparagraph (B) to the extent that the amount of such elective deferrals does not exceed the applicable dollar amount under section 414(v)(2)(B)(i) for the taxable year (without regard to the treatment of the elective deferrals by an applicable employer plan under section 414(v)).”.

(m) AMENDMENTS RELATING TO SECTION 606.—

(1) DE MINIMIS TRANSFERS.—Subparagraph (A) of section 420(e)(7) is amended by inserting “, at the election of the employer” after “subparagraph (B)”.

(2) EXCESS PENSION ASSETS.—Clause (i) of section 420(f)(2)(B) is amended to read as follows:
“(i) IN GENERAL.—In determining excess pension assets for purposes of this subsection—

“(I) except as provided in sub-
clause (II), subsection (e)(2)(B) shall be applied by substituting ‘120 per-
cent’ for ‘125 percent’,

“(II) for purposes of a qualified future transfer, if subsection (e)(7) applies to the plan and the transfer amount, subclause (I) shall not apply, and

“(III) for purposes of a collectively bargained transfer, subsection (e)(7) shall not apply.”.

(n) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of the SECURE 2.0 Act of 2022.

TITLE II—CLERICAL CORRECTIONS

SEC. 201. CLERICAL AMENDMENTS RELATING TO SECURE 2.0 ACT OF 2022.

(a) AMENDMENTS RELATING TO SECTION 102.—
(1) Paragraph (4) of section 45E(e) is amended by striking “was applied” and inserting “were applied”.

(2) Paragraph (1) of section 45E(f) is amended by striking “by the employer” and inserting “made by the employer”.

(b) Amendments Relating to Section 103.—

(1) Subparagraph (A) of section 6433(f)(6) is amended by striking “at the end of the such” and inserting “at the end of such”.

(2) Clauses (iii) and (iv) of section 6433(f)(6)(C) are each amended by striking “savings retirement vehicle” each place it appears and inserting “retirement savings vehicle”.

(3) Subsection (g) of section 6433 is amended by striking “section 102(c)(2)” and inserting “section 103(c)(2)”.

(c) Amendment Relating to Section 104.—

Clause (iii) of section 104(b)(2)(A) of the SECURE 2.0 Act of 2022 is amended by striking “6333(a)(2)” and inserting “6433(a)(2)”.

(d) Amendment Relating to Section 109.—Subparagraph (E) of section 414(v)(2) is amended by striking “equal to equal to” in clause (ii)(II) and inserting “equal to”.
(e) Amendment Relating to Section 110.—
Clause (iii) of section 401(m)(4)(A) is amended by striking “paragraph (14)” and inserting “paragraph (13)”.

(f) Amendment Relating to Section 113.—The last sentence of section 403(b)(12)(A) is amended by striking “to employees to elect to have” and inserting “to employees who elect to have”.

(g) Amendment Relating to Section 116.—Subparagraph (G) of section 408(p)(2) is amended by striking “subparagraph (A)(iv)(II)” and inserting “subparagraph (A)(iv)”.

(h) Amendments Relating to Section 117.—Subclauses (I) and (II) of section 408(p)(2)(E)(i) are each amended by striking “clause (iii)” and inserting “clause (iv)”.

(i) Amendments Relating to Section 125.—
(1) Subclause (II) of section 403(b)(12)(D)(i) is amended by striking “(k)(3), (k)(12), (k)(13), and (m)(2)” and inserting “(m)(2), (m)(11), and (m)(12)”.

(2) Subparagraph (D) of section 403(b)(12), as amended by paragraph (1), is further amended—
(A) by striking “EMPLOYEES.—” in the heading and all that follows through “In the
case” and inserting “EMPLOYEES.—In the case”, and

(B) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and by moving such clauses 2 ems to the left.

(3) TREATMENT OF CERTAIN LONG-TERM PART-TIME EMPLOYEES.—

(A) Paragraph (15) of section 401(k) is amended—

(i) by striking “(2)(D)(ii)” in sub-paragraph (B)(ii) and inserting “(2)(D)(i), or by reason of such paragraph and section 202(c)(1)(B) of the Employee Retirement Income Security Act of 1974,”, and

(ii) by striking “(2)(D)(ii)” in sub-

paragraph (D)(i) and inserting “(2)(D)(ii),
or by reason of such paragraph and section

202(c)(1)(B) of the Employee Retirement

Income Security Act of 1974”.

(B) The fifth sentence of section 403(b)(12)(A) is amended by inserting “and section 202(e) of the Employee Retirement Income Security Act of 1974” after “under sec-

tion 410(b)(4)”.
(j) Amendments Relating to Section 126.—

(1) Clause (i) of section 529(c)(3)(E) is amended by striking “so much the portion” and inserting “so much of the portion”.

(2) Paragraph (2) of section 529(d) is amended by striking “the date of the distribution described in subsection (e)(3)(A)” and inserting “the date of the distribution described in subsection (e)(3)(E)”.

(k) Amendments Relating to Section 127.—

(1) Subparagraph (A) of section 402A(e)(7) is amended by striking “the date on which the participant elects” and inserting “the participant elects”.

(2) Clause (ii) of section 402A(e)(8)(A) is amended by striking “paragraph (1)” and inserting “clause (i)”.

(3) Section 801(e)(1)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1193(e)(1)(A)(ii)) is amended by striking “from the date on which the participant elects” and inserting “after the participant elects”.

(l) Amendments Relating to Section 332.—

(1) Subparagraph (B) of section 72(t)(6) is amended—
(A) by striking “a qualified trust under section 401(k)” and inserting “a qualified trust under section 401(a)”, and

(B) by striking “403(b)(12)” and inserting “403(b)(11)”.

(2) Subparagraph (D) of section 408(p)(11) is amended by striking “(13), or (16)” and inserting “or (13)”.

(m) Amendment Relating to Section 334.—Clause (ii) of section 401(a)(39)(B) is amended by striking “clause (i)(II)” and inserting “clause (i)(III)”.

(n) Amendment Relating to Section 342.—Subsection (d) of section 342 of the SECURE 2.0 Act of 2022 is amended by striking “subsection (b)” and inserting “subsection (a)”.

(o) Amendments Relating to Section 350.—

(1) Paragraph (2) of section 414(cc) is amended—

(A) by striking “plan]” in subparagraph (A)(ii) and inserting “plan”, and

(B) by striking “paragraph (3)” in subparagraph (B)(ii) and inserting “paragraph (4)”.


(2) Subsection (b) of section 350 of the SECURE 2.0 Act of 2022 is amended by striking “paragraph (3)” and inserting “paragraph (4)”.

(p) Amendment Relating to Section 601.—Subparagraph (C) of section 402(h)(1) is amended by striking “simplified employer pension” and inserting “simplified employee pension”.

(q) Amendment Relating to Section 701.—Clause (ii) of section 7448(m)(1)(A) is amended by striking “, multiplied by the sum of”.

(r) Effective Date.—The amendments made by this section shall apply as if included in the enactment of the SECURE 2.0 Act of 2022.

TITLE III—OTHER CLARIFICATIONS RELATING TO SECURE 2.0 ACT OF 2022

SEC. 301. AMENDMENT RELATING TO SECTION 301.

(a) Limitation.—Section 206(h)(4)(F) of the Employee Retirement Income Security Act of 1974 is amended by striking “, except in the case of fraud or misrepresentation by the participant”.

(b) Effective Date.—The amendment made by this section shall apply as of the date of the enactment of this Act.
SEC. 302. AMENDMENT RELATING TO SECTION 303.

(a) In General.—Section 523(e)(3)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1153(e)(3)(C)) is amended by striking “a deferred” and inserting “an”.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 303. AMENDMENT RELATING TO SECTION 326.

(a) In General.—Subparagraph (L) of section 72(t)(2) is amended by adding at the end the following new clause:

“(v) Coordination with Plan Rules.—Rules similar to the rules of subparagraphs (II) and (III) of subparagraph (K)(vi) shall apply to a distribution to which clause (i) applies.”.

(b) Effective Date.—

(1) In General.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act.

(2) No Inference.—The amendment made by this section shall not be construed to create any inference with respect to distributions made before the date of the enactment of this Act.