

119TH CONGRESS
1ST SESSION

S. _____

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

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 _____

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.

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 “Strengthening Benefit
5 Plans Act of 2025”.

1 **TITLE I—SUPPORTING ACTIVE**
2 **EMPLOYEES WITH CURRENT**
3 **BENEFIT PLAN EXPENSES**

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

6 (a) IN GENERAL.—Section 420 of the Internal Rev-
7 enue Code of 1986 is amended by adding at the end the
8 following new subsection:

9 “(h) TRANSFER OF EXCESS HEALTH ASSETS FOR
10 FUNDING ACTIVE EMPLOYEE BENEFITS.—

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

13 “(A) an amount equal to such excess
14 health assets may be transferred in accordance
15 with paragraph (3) from a health benefits ac-
16 count established under section 401(h),

17 “(B) a trust which is part of such plan
18 shall not be treated as failing to meet the re-
19 quirements of subsection (a) or (h) of section
20 401 solely by reason of such transfer (or any
21 other action authorized under this subsection),

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

25 “(D) such transfer shall not be treated—

1 “(i) as an employer reversion for pur-
2 poses of section 4980, or

3 “(ii) as a prohibited transaction for
4 purposes of section 4975, and

5 “(E) the limitations of paragraph (4) shall
6 apply to the employer.

7 “(2) EXCESS HEALTH ASSETS.—For purposes
8 of this subsection—

9 “(A) IN GENERAL.—The term ‘excess
10 health assets’ means the amount by which the
11 applicable assets with respect to a retiree health
12 plan exceed an amount equal to 125 percent of
13 the total liability of the employer for benefits
14 for all participants under the retiree health
15 plan, determined in accordance with applicable
16 accounting standards.

17 “(B) LIMITATION.—In determining excess
18 health assets, there shall not be taken into ac-
19 count—

20 “(i) amounts attributable to contribu-
21 tions (other than transfers under any other
22 subsection of this section, or contributions
23 made pursuant to a legally binding com-
24 mitment entered into before January 1,
25 2024) made after December 31, 2023, to

1 any health benefits account established
2 under section 401(h) with respect to the
3 retiree health plan, or

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

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

14 “(D) APPLICABLE ASSETS.—For purposes
15 of subparagraph (A), the term ‘applicable as-
16 sets’ means all assets with respect to a retiree
17 health benefits plan of an employer—

18 “(i) in a health benefits account es-
19 tablished under section 401(h), or

20 “(ii) held by a voluntary employees’
21 beneficiary association (as defined in sec-
22 tion 501(c)(9)).

23 “(3) TRANSFERS PERMITTED.—

24 “(A) IN GENERAL.—A transfer under this
25 paragraph is a transfer—

1 “(i) of excess health assets, in the fis-
2 cal year immediately succeeding the fiscal
3 year with respect to which such excess
4 health assets are determined—

5 “(I) to the pension plan under
6 which a health benefits account pursu-
7 ant to section 401(h) was established,
8 or

9 “(II) as provided in subpara-
10 graph (B)(ii), to a voluntary employ-
11 ees’ beneficiary association (as defined
12 in section 501(c)(9)),

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

15 “(iii) with respect to which the use re-
16 quirements of subparagraphs (B) and (C)
17 and the minimum cost and benefit require-
18 ments of paragraph (4)(B) are met, and

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

23 “(B) USE FOR ACTIVE BENEFITS.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), a transfer of excess

1 health assets for purposes of this sub-
2 section shall be used only to fund the pen-
3 sion plan.

4 “(ii) TRANSFER TO VOLUNTARY EM-
5 PLOYEES’ BENEFICIARY ASSOCIATION.—A
6 transfer described in subparagraph
7 (A)(i)(II) may be made only—

8 “(I) in the case of a defined ben-
9 efit plan, to the extent a transfer to
10 such plan as provided in subpara-
11 graph (A)(i)(I) would cause the plan
12 to have a funding excess or increase
13 the funding excess of the plan or, if
14 the transfer is made in connection
15 with the termination of the defined
16 benefit plan, to the extent a transfer
17 to such plan would exceed the amount
18 necessary to satisfy the pension liabil-
19 ities of the terminating plan, or

20 “(II) in the case of a pension
21 plan which is not a defined benefit
22 plan.

23 Any transfer under the preceding sentence
24 to a voluntary employees’ benefit associa-
25 tion (as defined in section 501(c)(9)) shall

1 be used only to pay any benefits permitted
2 to be paid by such association to any mem-
3 bers of such association (other than key
4 employees not taken into account under
5 subsection (e)(1)(E)).

6 “(iii) FUNDING EXCESS.—For pur-
7 poses of clause (ii), the term ‘funding ex-
8 cess’ with respect to a plan year means the
9 excess, if any, of—

10 “(I) the fair market value of the
11 assets of the defined benefit plan
12 (other than applicable assets, as de-
13 fined in paragraph (2)(D)), over

14 “(II) 110 percent of the present
15 value of all pension benefits earned or
16 accrued under the plan, as determined
17 for purposes of determining the ad-
18 justed funding target attainment per-
19 centage pursuant to section 436(j).

20 “(C) ONLY 1 TRANSFER PER YEAR.—No
21 more than 1 transfer with respect to any plan
22 may be made under subparagraph (A) during a
23 taxable year. For purposes of the preceding
24 sentence, any transfer portions of which are de-

1 scribed in both subclauses (I) and (II) of sub-
2 paragraph (A)(i) shall be treated as 1 transfer.

3 “(4) LIMITATIONS ON EMPLOYER.—

4 “(A) DEDUCTION LIMITATIONS.—For pur-
5 poses of this title, no deduction shall be al-
6 lowed—

7 “(i) for the transfer of any amount
8 under paragraph (3)(A),

9 “(ii) for benefits paid out of the as-
10 sets (and income) so transferred, or

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

17 “(I) the amount determined
18 under clause (i) (and income allocable
19 thereto), over

20 “(II) the amount determined
21 under clause (ii).

22 “(B) MINIMUM COST AND BENEFIT RE-
23 QUIREMENTS.—Each plan or arrangement
24 under which benefits funded as described in

1 paragraph (3)(B)(ii) are provided shall provide
2 that—

3 “(i) the applicable employer cost for
4 each of the 5 taxable years beginning with
5 the year of the transfer under paragraph
6 (3)(A) shall not be materially less than the
7 higher of the applicable employer costs for
8 the year of the 2 taxable years immediately
9 preceding the taxable year of such trans-
10 fer, or

11 “(ii) benefits provided under the plan
12 or arrangement shall not be materially re-
13 duced during the 5 year period described
14 in clause (i).

15 For purposes of clause (i), the term ‘applicable
16 employer cost’ shall be determined under rules
17 similar to the rules of subparagraphs (B) and
18 (C) of subsection (c)(3), as applicable to the
19 benefit being provided under such plan or ar-
20 rangement.

21 “(5) COORDINATION WITH SECTIONS 430 AND
22 433.—In the case of any assets transferred to a pen-
23 sion plan pursuant to paragraph (3), such assets
24 shall, for purposes of this section and sections 430
25 and 433, be treated as assets in the plan.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Subsection (h) of section 401 of the Inter-
3 nal Revenue Code of 1986 is amended by adding at
4 the end the following: “Nothing in this subsection or
5 this section shall prevent a plan from transferring
6 amounts from an account established under this
7 subsection pursuant to the provisions of section
8 420(h).”.

9 (2) Subparagraph (B) of section 420(c)(1) of
10 such Code is amended by adding at the end the fol-
11 lowing new clause:

12 “(iii) COORDINATION WITH TRANS-
13 FERS OF EXCESS HEALTH ASSETS.—
14 Clauses (i) and (ii) shall not apply to the
15 amount of any excess health assets trans-
16 ferred from a health benefits account to
17 the plan pursuant to subsection
18 (h)(3)(A).”.

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

22 “(8) COORDINATION WITH TRANSFERS OF EX-
23 CESS HEALTH ASSETS.—

24 “(A) IN GENERAL.—A qualified transfer or
25 portion thereof shall not be subject to the limi-

1 tations of subsections (b)(3), (c)(1), (f)(2)(C),
2 or (f)(2)(E) to the extent an amount equal to
3 such transfer (or portion) is transferred during
4 the same taxable year under subsection (h).

5 “(B) MINIMUM COST AND BENEFIT RE-
6 QUIREMENTS.—The requirements of subsection
7 (h)(4)(B) shall apply in lieu of subsections
8 (c)(3) and (f)(2)(D) in the case of a transfer or
9 portion thereof to which subparagraph (A) ap-
10 plies.”.

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

16 (5) Section 4 of the Employee Retirement In-
17 come Security Act of 1974 (29 U.S.C. 1003) is
18 amended by adding at the end the following new
19 subsection:

20 “(d) TRANSFERS OF EXCESS HEALTH ASSETS.—A
21 pension plan shall not be treated as failing to meet the
22 requirements of this subchapter solely by reason of any
23 transfer made as permitted by section 420(h) of the Inter-
24 nal Revenue Code of 1986.”.

1 (6) Section 303(l) of the Employee Retirement
2 Income Security Act of 1974 (29 U.S.C. 1083(l)) is
3 amended by adding at the end the following: “Not-
4 withstanding the preceding sentence, any assets
5 transferred to the plan pursuant to section 420(h) of
6 such Code shall be treated as assets in the plan.”.

7 (7) Section 408(b)(13) of such Act (29 U.S.C.
8 1108(b)(13)) is amended by striking the period at
9 the end and inserting “, or any transfer of excess
10 health assets permitted under section 420(h) of such
11 Code (as in effect on the date of the enactment of
12 the Strengthening Benefit Plans Act of 2025).”.

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

17 “(4) TRANSFERS OF EXCESS HEALTH AS-
18 SETS.—

19 “(A) NOTICE TO PARTICIPANTS.—Not
20 later than 60 days before the date of a transfer
21 by an employee pension benefit plan of excess
22 health assets pursuant to section 420(h)(1) of
23 the Internal Revenue Code of 1986, the admin-
24 istrator of the plan shall provide notice (in such
25 manner as the Secretary may prescribe) of such

1 transfer to each participant and beneficiary eli-
2 gible to receive benefits paid from the health
3 benefits account under section 401(h) of such
4 Code from which the transfer is to be made.
5 Such notice shall include information with re-
6 spect to the amount of excess health assets to
7 be transferred, the plan or voluntary employees'
8 beneficiary association to which the transfer is
9 to be made, and the amount of pension benefits
10 of the participant which will be nonforfeitable
11 immediately after the transfer.

12 “(B) NOTICE TO SECRETARIES, ETC.—
13 Rules similar to the rules of paragraph (2) shall
14 apply for purposes of this paragraph.”.

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

18 **TITLE II—SUPPORTING ACTIVE**
19 **EMPLOYEES WITH RETIRE-**
20 **MENT CONTRIBUTIONS**

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

23 (a) IN GENERAL.—Section 401 of the Internal Rev-
24 enue Code of 1986 is amended by redesignating subsection

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

3 “(p) TRANSFER OF SURPLUS DEFINED BENEFIT
4 PLAN ASSETS TO DEFINED CONTRIBUTION PLAN.—

5 “(1) IN GENERAL.—

6 “(A) TRANSFER PERMITTED.—If an em-
7 ployer maintaining a defined benefit plan estab-
8 lishes or maintains a defined contribution plan
9 which would be a qualified replacement plan (as
10 defined in section 4980(d)(2)) with respect to
11 the defined benefit plan but for the fact that
12 the defined benefit plan is not terminated, sub-
13 ject to the requirements of paragraphs (3) and
14 (4), any surplus assets of the defined benefit
15 plan may be transferred to the defined con-
16 tribution plan.

17 “(B) TREATMENT OF AMOUNT TRANS-
18 FERRED.—In the case of the transfer of any
19 amount under subparagraph (A)—

20 “(i) such amount shall not be includ-
21 ible in the gross income of the employer,

22 “(ii) no deduction shall be allowable
23 with respect to such transfer, and

1 “(iii) such transfer shall not be treat-
2 ed as an employer reversion for purposes
3 of section 4980.

4 “(2) SURPLUS ASSETS.—For purposes of this
5 subsection, the term ‘surplus assets’ means the ex-
6 cess of assets of the defined benefit plan over an
7 amount equal to 110 percent of the value of plan li-
8 abilities used to determine premiums imposed under
9 title IV of the Employee Retirement Income Security
10 Act of 1974 for the plan year of the transfer.

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

19 “(4) NO REDUCTION IN BENEFITS.—The re-
20 quirements of this paragraph are met if, during the
21 period beginning with the year of the transfer and
22 ending 4 plan years after the last plan year during
23 which the replacement plan is funded by the trans-
24 fer, no benefits under the replacement plan are re-
25 duced.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 4 of the Employee Retirement In-
3 come Security Act of 1974 (29 U.S.C. 1003), as
4 amended by section 101, is further amended by add-
5 ing at the end the following new subsection:

6 “(e) TRANSFERS OF SURPLUS DEFINED BENEFIT
7 PLAN ASSETS.—A pension plan shall not be treated as
8 failing to meet the requirements of this subchapter solely
9 by reason of any transfer made as permitted by section
10 401(p) of the Internal Revenue Code of 1986.”.

11 (2) Section 408(b)(13) of such Act (29 U.S.C.
12 1108(b)(13)), as amended by section 101, is further
13 amended by inserting “or of surplus defined benefit
14 plan assets permitted under section 401(p) of such
15 Code (as so in effect)” before the period at the end.

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

21 “(5) TRANSFERS OF SURPLUS DEFINED BEN-
22 EFIT PLAN ASSETS.—Rules similar to the rules of
23 paragraph (4) shall apply in the case of any transfer
24 by an employee pension benefit plan of surplus de-

1 fined benefit plan assets pursuant to section 401(p)
2 of the Internal Revenue Code of 1986.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to plan years beginning after De-
5 cember 31, 2025.