

117TH CONGRESS
1ST SESSION

S. 2446

To amend the Employee Retirement Income Security Act of 1974 to provide for greater spousal protection under defined contribution plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2021

Mrs. MURRAY (for herself, Mr. BLUMENTHAL, Ms. HIRONO, Ms. KLOBUCHAR, Mrs. FEINSTEIN, Ms. SMITH, Ms. WARREN, Ms. CANTWELL, Mr. WYDEN, Mr. SANDERS, Ms. BALDWIN, Mr. BENNET, Mr. MENENDEZ, Ms. CORTEZ MASTO, Mr. KAINE, Mr. PADILLA, Ms. ROSEN, Mr. BROWN, Mrs. GILLIBRAND, Ms. STABENOW, Mr. DURBIN, Mr. MERKLEY, Ms. DUCKWORTH, Mrs. SHAHEEN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement Income Security Act of 1974 to provide for greater spousal protection under defined contribution plans, 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 “Women’s Retirement
5 Protection Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Approximately 25 percent of non-retired
4 adults have no defined benefit plan or retirement
5 savings, according to 2020 data from the Board of
6 Governors of the Federal Reserve System.

7 (2) In 2020, one-third of the private sector
8 workforce did not have access to a retirement plan
9 at the workplace, and only half of the workforce ac-
10 tually participated in a retirement plan.

11 (3) Women's retirement preparedness often lags
12 significantly behind their male counterparts, result-
13 ing in the median income for women aged 65 and
14 older in 2020 being just 83 percent of the median
15 income of men aged 65 and older, including income
16 from Social Security, pension plans, investments,
17 and earnings.

18 (4) Among people aged 75 and older, 13.2 per-
19 cent of women live in poverty, while 8.8 percent of
20 men live in poverty.

21 (5) Women make up two-thirds of low-wage
22 workers, even though they comprise less than half of
23 all workers, and low-wage workers are less likely
24 than other workers to participate in a retirement
25 plan at work.

1 (6) Because of the pay gap, women working
2 full-time, year-round typically lose \$406,280 over a
3 40-year career thereby requiring the average woman
4 to work almost a decade longer than her male coun-
5 terpart to make up that career wage gap. For Black
6 and Latina women, the career wage gap is even larg-
7 er at \$964,400 and \$1,163,920, respectively.

8 (7) Due to the lower lifetime wages stemming
9 from unequal pay and caregiving duties, the average
10 Social Security benefit in 2019 for a woman age 65
11 or older was \$13,505 a year, while for men such av-
12 erage benefit was \$17,374 a year.

13 (8) The COVID–19 pandemic has exacerbated
14 the existing gender gap in retirement savings as
15 women have been more likely to leave the workforce
16 for caregiving. Women, especially women of color,
17 have also been more likely to lose their jobs during
18 the pandemic due to overrepresentation in industries
19 severely hit by the pandemic.

20 (9) Just 1 in 5 part-time workers who work a
21 full year are eligible for a retirement plan, and
22 women are almost twice as likely as men to work
23 part-time.

24 (10) While traditional defined benefit retire-
25 ment plans have spousal protections, defined con-

1 tribution retirement plans, which have become in-
 2 creasingly common, currently provide no similar
 3 spousal protections.

4 (11) Every year, more than 1,200,000 couples
 5 get divorced in the United States. After the family
 6 home, retirement savings tends to be the largest
 7 asset to be divided in a divorce.

8 (12) While fees and expenses associated with
 9 retirement plans have been in decline, participants
 10 have seen direct charges for processing qualified do-
 11 mestic relations orders increase significantly.

12 **SEC. 3. INCREASING SPOUSAL PROTECTION UNDER DE-**
 13 **FINED CONTRIBUTION PLANS.**

14 (a) AMENDMENT OF EMPLOYEE RETIREMENT IN-
 15 COME SECURITY ACT OF 1974.—

16 (1) IN GENERAL.—Part 2 of subtitle B of title
 17 I of the Employee Retirement Income Security Act
 18 of 1974 (29 U.S.C. 1051 et seq.), is amended by in-
 19 serting after section 205 the following new section:

20 **“SEC. 205A. ADDITIONAL SPOUSAL CONSENT REQUIRE-**
 21 **MENTS.**

22 “(a) IN GENERAL.—Each individual account plan to
 23 which section 205 does not apply shall provide that, except
 24 as provided in subsections (c) and (d), no distribution may

1 be made under the plan unless the spousal consent re-
 2 quirements of subsection (e) are met.

3 “(b) COORDINATION WITH SECTION 205.—Nothing
 4 in this section shall be construed to exempt an individual
 5 account plan from the requirements of paragraph (1)(B),
 6 (1)(C), or (2) of section 205(b) with respect to any partici-
 7 pant.

8 “(c) EXCEPTIONS FOR CERTAIN DISTRIBUTIONS.—
 9 Subsection (a) shall not apply to—

10 “(1) any distribution that is—

11 “(A) a minimum required distribution de-
 12 scribed in section 4974(b) of the Internal Rev-
 13 enue Code of 1986; or

14 “(B) permitted under section 203(e)(1) to
 15 be made without the consent of the participant;

16 “(2) any distribution in the form of a qualified
 17 joint and survivor annuity (as defined in section
 18 205(d)(1)), a qualified optional survivor annuity (as
 19 defined in section 205(d)(2)), a qualified preretire-
 20 ment survivor annuity (as defined in section 205(e)),
 21 or a series of substantially equal periodic payments
 22 (not less frequently than annually) made for the
 23 joint lives (or life expectancies) of the participant
 24 and the participant’s spouse; or

1 “(3) in the case of a participant who does not
 2 elect a form of benefit described in paragraph (2)
 3 under the plan or who is participating in a plan that
 4 does not provide such a form of benefit, any dis-
 5 tribution of the participant’s entire nonforfeitable
 6 accrued benefit if 50 percent of such accrued benefit
 7 is transferred to an individual retirement plan (as
 8 defined in section 7701(a)(37) of the Internal Rev-
 9 enue Code of 1986) of the spouse of the participant.
 10 A transfer described in paragraph (3) to an individual re-
 11 tirement plan shall be treated in the same manner as a
 12 transfer under section 408(d)(6) of the Internal Revenue
 13 Code of 1986.

14 “(d) EXCEPTIONS FOR CERTAIN ROLLOVER CON-
 15 TRIBUTIONS.—Subsection (a) shall not apply to any dis-
 16 tribution that is an eligible rollover distribution (as de-
 17 fined in section 402(f)(2)(A) of the Internal Revenue Code
 18 of 1986) made in the form of a direct trustee-to-trustee
 19 transfer within the meaning of section 401(a)(31) of the
 20 Internal Revenue Code of 1986—

21 “(1) to a plan to which this section or section
 22 205 applies; or
 23 “(2) to an individual retirement plan (as de-
 24 fined in section 7701(a)(37) of the Internal Revenue
 25 Code of 1986) if—

1 “(A) the beneficiary of such plan is the
 2 spouse of the participant, or the spousal con-
 3 sent requirements of subsection (e) are met
 4 with respect to any designation of 1 or more
 5 other beneficiaries; and

6 “(B) under the terms of the individual re-
 7 tirement plan, the beneficiary of such plan
 8 (whether the spouse or other beneficiary des-
 9 ignated under paragraph (1)) may not be
 10 changed unless—

11 “(i) the spousal consent requirements
 12 of subsection (e) are met with respect to
 13 any such change, or

14 “(ii) the spousal consent under sub-
 15 paragraph (A) to the designation of a ben-
 16 eficiary other than the spouse expressly
 17 permits such designation to be changed
 18 without the further consent of the spouse.

19 “(e) SPOUSAL CONSENT REQUIREMENTS.—

20 “(1) IN GENERAL.—For purposes of this sec-
 21 tion, except as provided in paragraph (2), the spous-
 22 al consent requirements of this subsection are met
 23 with respect to any distribution or any designation
 24 or change of beneficiary if—

1 “(A) the plan provides to each participant,
2 within a reasonable period of time before such
3 distribution or designation or change of bene-
4 ficiary is made and consistent with such regula-
5 tions as the Secretary of the Treasury may pre-
6 scribe, a written explanation of the rights of the
7 participant and the participant’s spouse under
8 this section;

9 “(B) the spouse of the participant consents
10 in writing to the distribution or designation or
11 change of beneficiary;

12 “(C) in the case of a distribution, the writ-
13 ten consent under subparagraph (B) is made
14 during the consent period; and

15 “(D) the written consent under subpara-
16 graph (B)—

17 “(i) acknowledges the effect of such
18 distribution or designation or change of
19 beneficiary; and

20 “(ii) is witnessed by a plan represent-
21 ative or a notary public.

22 “(2) EXCEPTIONS.—The requirements of para-
23 graph (1) (other than subparagraph (A) thereof)
24 shall not apply with respect to any distribution or
25 designation or change of beneficiary if a participant

1 establishes to the satisfaction of the plan adminis-
 2 trator that—

3 “(A) there is no spouse;

4 “(B) the participant and the participant’s
 5 spouse have not been married for at least 1
 6 year as of the date of the distribution or des-
 7 ignation or change of beneficiary; or

8 “(C) such consent cannot be obtained be-
 9 cause—

10 “(i) the spouse cannot be located;

11 “(ii) due to exceptional circumstances,
 12 requiring the participant to seek the
 13 spouse’s consent would be inappropriate;
 14 or

15 “(iii) of such other circumstances as
 16 the Secretary of the Treasury, in consulta-
 17 tion with the Secretary of Labor, may by
 18 regulations prescribe.

19 “(3) CONSENT LIMITED TO SPOUSE AND
 20 EVENT.—Any written consent by a spouse under
 21 paragraph (1), or the establishment by a participant
 22 that an exception under paragraph (2) applies with
 23 respect to a spouse, shall be effective only with re-
 24 spect to that spouse and to the distribution or des-
 25 ignation or change of beneficiary to which it relates.

1 “(4) CONSENT PERIOD.—For purposes of this
2 subsection, the term ‘consent period’ means, with re-
3 spect to any distribution—

4 “(A) the 90-day period immediately pre-
5 ceding the date of such distribution; or

6 “(B) such other period as the Secretary of
7 the Treasury may provide.

8 “(f) DISCHARGE OF PLAN FROM LIABILITY.—Rules
9 similar to the rules of section 205(c)(6) shall apply for
10 purposes of this section.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tions of part 2 of subtitle B of title I of the Em-
13 ployee Retirement Income Security Act of 1974 is
14 amended by inserting after the item relating to sec-
15 tion 205 the following new item:

“Sec. 205A. Additional spousal consent requirements.”.

16 (3) RIGHT OF ACTION.—Section 502(a) of the
17 Employee Retirement Income Security Act of 1974
18 (29 U.S.C. 1132), is amended—

19 (A) by striking “or” at the end of para-
20 graph (10);

21 (B) by striking the period at the end of
22 paragraph (11) and inserting “; or”; and

23 (C) by adding at the end the following new
24 paragraph:

1 “(12) by an individual for appropriate relief in
 2 the case of a violation of the individual’s rights
 3 under section 205A.”.

4 (4) PARALLEL AMENDMENT TO SECTION 205.—
 5 Section 205(c)(2)(B) of the Employee Retirement
 6 Income Security Act of 1974 (29 U.S.C.
 7 1055(c)(2)(B)), is amended by inserting “, because
 8 due to exceptional circumstances, requiring the par-
 9 ticipant to seek the spouse’s consent would be inap-
 10 propriate” after “located”.

11 (b) CONFORMING AMENDMENT TO INTERNAL REV-
 12 ENUE CODE OF 1986.—Section 401(a) of the Internal
 13 Revenue Code of 1986 is amended by inserting after para-
 14 graph (17) the following new paragraph:

15 “(18) ADDITIONAL SPOUSAL CONSENT RE-
 16 QUIREMENTS.—

17 “(A) IN GENERAL.—In the case of a de-
 18 fined contribution plan to which paragraph (11)
 19 does not apply, except as provided in sub-
 20 sections (c) and (d), a trust forming part of
 21 such plan shall not constitute a qualified trust
 22 under this section unless no distribution may be
 23 made under the plan unless the spousal consent
 24 requirements of subparagraph (E) are met.

1 “(B) COORDINATION WITH PARAGRAPH
 2 (11).—Nothing in this paragraph shall be con-
 3 strued to exempt a defined contribution plan
 4 from the requirements of subparagraph (B)(ii),
 5 (B)(iii), or (C) of paragraph (11) with respect
 6 to any participant.

7 “(C) EXCEPTIONS FOR CERTAIN DISTRIBUTIONS.—Subparagraph (A) shall not apply to—

9 “(i) any distribution that is—

10 “(I) a minimum required dis-
 11 tribution described in section 4974(b),
 12 or

13 “(II) permitted under section
 14 411(a)(11) to be made without the
 15 consent of the participant,

16 “(ii) any distribution in the form of a
 17 qualified joint and survivor annuity (as de-
 18 fined in section 417(b)), a qualified op-
 19 tional survivor annuity (as defined in sec-
 20 tion 417(g)), a qualified preretirement sur-
 21 vivor annuity (as defined in section
 22 417(c)), or a series of substantially equal
 23 periodic payments (not less frequently than
 24 annually) made for the joint lives (or life

expectancies) of the participant and the participant's spouse, or

“(iii) in the case of a participant who does not elect a form of benefit described in clause (ii) under the plan or who is participating in a plan that does not provide such a form of benefit, any distribution of the participant's entire nonforfeitable accrued benefit if 50 percent of such accrued benefit is transferred to an individual retirement plan of the spouse of the participant.

A transfer described in clause (iii) to an individual retirement plan shall be treated in the same manner as a transfer under section 408(d)(6).

“(D) EXCEPTIONS FOR CERTAIN ROLLOVER CONTRIBUTIONS.—Subparagraph (A) shall not apply to any distribution, involving a participant who has a spouse, that is an eligible rollover distribution (as defined in section 402(f)(2)(A)) made in the form of a direct trustee-to-trustee transfer within the meaning of paragraph (31)—

1 “(i) to a plan to which this paragraph
2 or paragraph (11) applies; or

3 “(ii) to an individual retirement plan
4 if—

5 “(I) the beneficiary of such plan
6 is the spouse of the participant, or the
7 spousal consent requirements of sub-
8 paragraph (E) are met with respect to
9 any designation of 1 or more other
10 beneficiaries; and

11 “(II) under the terms of the indi-
12 vidual retirement plan, the beneficiary
13 of such plan (whether the spouse or
14 other beneficiary designated under
15 clause (i)) may not be changed un-
16 less—

17 “(aa) the spousal consent
18 requirements of subparagraph
19 (E) are met with respect to any
20 such change, or

21 “(bb) the spousal consent
22 under subclause (I) to the des-
23 ignation of a beneficiary other
24 than the spouse expressly permits
25 such designation to be changed

1 without the further consent of
2 the spouse.

3 “(E) SPOUSAL CONSENT REQUIRE-
4 MENTS.—

5 “(i) IN GENERAL.—For purposes of
6 this paragraph, except as provided in
7 clause (ii), the spousal consent require-
8 ments of this subparagraph are met with
9 respect to any distribution or any designa-
10 tion or change of beneficiary if—

11 “(I) the plan provides to each
12 participant, within a reasonable period
13 of time before such distribution or
14 designation or change of beneficiary is
15 made and consistent with such regula-
16 tions as the Secretary may prescribe,
17 a written explanation of the rights of
18 the participant and the participant’s
19 spouse under this paragraph,

20 “(II) the spouse of the partici-
21 pant consents in writing to the dis-
22 tribution or designation or change of
23 beneficiary,

24 “(III) in the case of a distribu-
25 tion, the written consent under sub-

1 clause (II) is made during the consent
2 period, and

3 “(IV) the written consent under
4 subclause (ii)—

5 “(aa) acknowledges the ef-
6 fect of such distribution or des-
7 ignation or change of beneficiary,
8 and

9 “(bb) is witnessed by a plan
10 representative or a notary public.

11 “(ii) EXCEPTIONS UNDER SECTION
12 417(A)(2)(B) TO APPLY.—The requirements
13 of clause (i) (other than subclause (I)
14 thereof) shall not apply with respect to any
15 distribution or designation or change of
16 beneficiary if a participant establishes to
17 the satisfaction of the plan administrator
18 that—

19 “(I) there is no spouse,

20 “(II) the participant and the par-
21 ticipant’s spouse have not been mar-
22 ried for at least 1 year as of the date
23 of the distribution or designation or
24 change of beneficiary, or

1 “(III) such consent cannot be ob-
2 tained because—

3 “(aa) the spouse cannot be
4 located, or

5 “(bb) of such other cir-
6 cumstances as the Secretary, in
7 consultation with the Secretary
8 of Labor, may by regulations pre-
9 scribe.

10 “(iii) CONSENT LIMITED TO SPOUSE
11 AND EVENT.—Any written consent by a
12 spouse under clause (i), or the establish-
13 ment by a participant that an exception
14 under clause (ii) applies with respect to a
15 spouse, shall be effective only with respect
16 to that spouse and to the distribution or
17 designation or change of beneficiary to
18 which it relates.

19 “(iv) CONSENT PERIOD.—For pur-
20 poses of this subparagraph, the term ‘con-
21 sent period’ means, with respect to any
22 distribution—

23 “(I) the 90-day period imme-
24 diately preceding the date of such dis-
25 tribution, or

1 “(II) such other period as the
2 Secretary may provide.”.

3 **SEC. 4. IMPROVING COVERAGE FOR PART-TIME WORKERS.**

4 (a) AMENDMENT OF EMPLOYEE RETIREMENT IN-
5 COME SECURITY ACT OF 1974.—

6 (1) IN GENERAL.—Section 202 of the Employee
7 Retirement Income Security Act of 1974 (29 U.S.C.
8 1052) is amended by adding at the end the following
9 new subsection:

10 “(c) SPECIAL RULE FOR CERTAIN PART-TIME EM-
11 PLOYEES.—

12 “(1) IN GENERAL.—A pension plan that in-
13 cludes either a qualified cash or deferred arrange-
14 ment (as defined in section 401(k) of the Internal
15 Revenue Code of 1986) or a salary reduction agree-
16 ment (as described in section 403(b) of such Code)
17 shall not require, as a condition of participation in
18 the arrangement or agreement, that an employee
19 complete a period of service with the employer (or
20 employers) maintaining the plan extending beyond
21 the close of the earlier of—

22 “(A) the period permitted under subsection
23 (a)(1) (determined without regard to subpara-
24 graph (B)(i) thereof); or

25 “(B) the first 24-month period—

1 “(i) consisting of 2 consecutive 12-
 2 month periods during each of which the
 3 employee has at least 500 hours of service;
 4 and

5 “(ii) by the close of which the em-
 6 ployee has attained the age of 21.

7 “(2) EXCEPTION.—Paragraph (1)(B) shall not
 8 apply to employees who are included in a unit of em-
 9 ployees covered by an agreement which the Secretary
 10 finds to be a collective bargaining agreement be-
 11 tween employee representatives and 1 or more em-
 12 ployers, if there is evidence that retirement benefits
 13 were the subject of good faith bargaining between
 14 such employee representatives and such employer or
 15 employers.

16 “(3) COORDINATION WITH OTHER RULES.—

17 “(A) IN GENERAL.—In the case of employ-
 18 ees who are eligible to participate in the ar-
 19 rangement or agreement solely by reason of
 20 paragraph (1)(B):

21 “(i) EXCLUSIONS.—An employer may
 22 elect to exclude such employees from the
 23 application of subsections (a)(4), (k)(3),
 24 (k)(12), (k)(13), (k)(15)(B)(iv),
 25 (k)(15)(B)(i)(I), and (m)(2) of section 401

1 of such Code and section 410(b) of such
2 Code.

3 “(ii) TIME OF PARTICIPATION.—The
4 rules of subsection (a)(4) shall apply to
5 such employees.

6 “(B) TOP-HEAVY RULES.—An employer
7 may elect to exclude all employees who are eligi-
8 ble to participate in a plan maintained by the
9 employer solely by reason of paragraph (1)(B)
10 from the application of the vesting and benefit
11 requirements under subsections (b) and (c) of
12 section 416 of such Code.

13 “(4) 12-MONTH PERIOD.—For purposes of this
14 subsection, 12-month periods shall be determined in
15 the same manner as under the last sentence of sub-
16 section (a)(3)(A), except that 12-month periods be-
17 ginning before January 1, 2021, shall not be taken
18 into account.”.

19 (2) VESTING.—Section 203(b) of the Employee
20 Retirement Income Security Act of 1974 (29 U.S.C.
21 1053(a)) is amended by redesignating paragraph (4)
22 as paragraph (5) and by inserting after paragraph
23 (3) the following new paragraph:

24 “(4) PART-TIME EMPLOYEES.—For purposes of de-
25 termining whether an employee who is eligible to partici-

1 pate in a qualified cash or deferred arrangement or a sal-
 2 ary reduction agreement under a plan solely by reason of
 3 section 202(c)(1)(B) has a nonforfeitable right to em-
 4 ployer contributions—

5 “(A) except as provided in subparagraph (B),
 6 each 12-month period for which the employee has at
 7 least 500 hours of service shall be treated as a year
 8 of service;

9 “(B) paragraph (3) shall be applied by sub-
 10 stituting ‘at least 500 hours of service’ for ‘more
 11 than 500 hours of service’ in subparagraph (A)
 12 thereof; and

13 “(C) 12-month periods occurring before the 24-
 14 month period described in section 202(c)(1)(B) shall
 15 not be treated as years of service.

16 For purposes of this paragraph, 12-month periods shall
 17 be determined in the same manner as under the last sen-
 18 tence of section 202(a)(3)(A), except that 12-month peri-
 19 ods beginning before January 1, 2021, shall not be taken
 20 into account.”.

21 (3) PENALTY.—Section 502 of the Employee
 22 Retirement Income Security Act of 1974 (29 U.S.C.
 23 1132), is amended by adding at the end the fol-
 24 lowing new subsection:

1 “(n) REQUIREMENTS RELATING TO PART-TIME EM-
 2 PLOYEES.—In the case of a plan that fails to permit par-
 3 ticipation as required by section 202(c), the Secretary may
 4 assess a civil penalty against the plan sponsor in an
 5 amount equal to \$10,000 per year per employee to whom
 6 such failure relates. The Secretary may, in the Secretary’s
 7 sole discretion, waive or reduce the penalty under this sub-
 8 section if the Secretary determines that the plan sponsor
 9 acted reasonably and in good faith.”.

10 (b) CONFORMING AMENDMENTS TO INTERNAL REV-
 11 ENUE CODE OF 1986.—

12 (1) IN GENERAL.—Section 410(a) of the Inter-
 13 nal Revenue Code of 1986 is amended by adding at
 14 the end the following new paragraphs:

15 “(6) SPECIAL RULE FOR CERTAIN PART-TIME
 16 EMPLOYEES.—

17 “(A) IN GENERAL.—In the case of a plan
 18 that includes either a qualified cash or deferred
 19 arrangement (as defined in section 401(k)) or a
 20 salary reduction agreement (as described in sec-
 21 tion 403(b)), a trust of which such plan is a
 22 part shall not constitute a qualified trust under
 23 section 401(a) if the plan requires, as a condi-
 24 tion of participation in the plan or arrange-
 25 ment, that an employee complete a period of

1 service with the employer (or employers) main-
2 taining the plan extending beyond the close of
3 the earlier of—

4 “(i) the period permitted under para-
5 graph (1) (determined without regard to
6 subparagraph (B)(i) thereof), or

7 “(ii) the first 24-month period—

8 “(I) consisting of 2 consecutive
9 12-month periods during each of
10 which the employee has at least 500
11 hours of service, and

12 “(II) by the close of which the
13 employee has attained the age of 21.

14 “(B) EXCEPTION.—Subparagraph (A)(ii)
15 shall not apply to employees who are included
16 in a unit of employees covered by an agreement
17 which the Secretary of Labor finds to be a col-
18 lective bargaining agreement between employee
19 representatives and 1 or more employers, if
20 there is evidence that retirement benefits were
21 the subject of good faith bargaining between
22 such employee representatives and such em-
23 ployer or employers.

24 “(C) COORDINATION WITH OTHER
25 RULES.—

1 “(i) IN GENERAL.—In the case of em-
 2 ployees who are eligible to participate in
 3 the arrangement or agreement solely by
 4 reason of subparagraph (A)(ii)—

5 “(I) EXCLUSIONS.—An employer
 6 may elect to exclude such employees
 7 from the application of subsection (b)
 8 and of subsections (a)(4), (k)(3),
 9 (k)(12), (k)(13), (k)(15)(B)(iv),
 10 (k)(15)(B)(i)(I), and (m)(2) of section
 11 401.

12 “(II) TIME OF PARTICIPATION.—
 13 The rules of paragraph (4) shall apply
 14 to such employees.

15 “(ii) TOP-HEAVY RULES.—An em-
 16 ployer may elect to exclude all employees
 17 who are eligible to participate in a plan
 18 maintained by the employer solely by rea-
 19 son of subparagraph (A)(ii) from the appli-
 20 cation of the vesting and benefit require-
 21 ments under subsections (b) and (c) of sec-
 22 tion 416.

23 “(D) 12-MONTH PERIOD.—For purposes of
 24 this paragraph, 12-month periods shall be de-
 25 termined in the same manner as under the last

1 sentence of paragraph (3)(A), except that 12-
2 month periods beginning before January 1,
3 2021, shall not be taken into account.

4 “(7) PART-TIME EMPLOYEES.—For purposes of
5 determining whether an employee who is eligible to
6 participate in a qualified cash or deferred arrange-
7 ment or a salary reduction agreement under a plan
8 solely by reason of paragraph (6)(A)(ii) has a non-
9 forfeitable right to employer contributions—

10 “(A) except as provided in subparagraph
11 (B), each 12-month period for which the em-
12 ployee has at least 500 hours of service shall be
13 treated as a year of service,

14 “(B) section 411(a)(6) shall be applied by
15 substituting ‘at least 500 hours of service’ for
16 ‘more than 500 hours of service’ in subpara-
17 graph (A) thereof, and

18 “(C) 12-month periods occurring before
19 the 24-month period described in paragraph
20 (6)(A)(ii) shall not be treated as years of serv-
21 ice.

22 For purposes of this paragraph, 12-month periods
23 shall be determined in the same manner as under
24 paragraph (6)(D).”.

1 **SEC. 5. EFFECTIVE DATES.**

2 (a) INCREASING SPOUSAL PROTECTION UNDER DE-
 3 FINED CONTRIBUTION PLANS.—Except as provided in
 4 subsections (c) and (d), the amendments made by section
 5 3 shall apply to distributions and rollover contributions
 6 made in plan years beginning after the date that is 1 year
 7 after the date of the enactment of this Act.

8 (b) ENSURING COVERAGE FOR LONG-TERM PART-
 9 TIME WORKERS.—Except as provided in subsections (c)
 10 and (d), the amendments made by section 4 shall apply
 11 to plan years beginning after December 31, 2021.

12 (c) COLLECTIVE BARGAINING AGREEMENTS.—In the
 13 case of a plan maintained pursuant to one or more collec-
 14 tive bargaining agreements between employee representa-
 15 tives and one or more employers ratified before the date
 16 of the enactment of this Act, the amendments made by
 17 sections 3 and 4 shall not apply to distributions or rollover
 18 contributions on behalf of employees covered by any such
 19 agreement for plan years beginning before the earlier of—

20 (1) the later of—

21 (A) the date on which the last of such col-
 22 lective bargaining agreements terminates (de-
 23 termined without regard to any extension there-
 24 of on or after such date of the enactment); or

25 (B) the day after the date specified in sub-
 26 section (a) or (b), whichever is applicable; or

1 (2) the date that is 3 years after the applicable
2 day described in paragraph (1)(B).

3 (d) PROVISIONS RELATING TO PLAN AMEND-
4 MENTS.—

5 (1) IN GENERAL.—If this paragraph applies to
6 any plan or contract amendment, such plan or con-
7 tract shall be treated as being operated in accord-
8 ance with the terms of the plan during the period
9 described in paragraph (2)(C).

10 (2) AMENDMENTS TO WHICH PARAGRAPH (1)
11 APPLIES.—

12 (A) IN GENERAL.—Paragraph (1) shall
13 apply to any amendment to any plan or annuity
14 contract which is made—

15 (i) pursuant to the amendments made
16 by section 3 or 4 or pursuant to any regu-
17 lation issued under either such section; and

18 (ii) on or before the last day of the
19 first plan year beginning on or after the
20 date that is 3 years after the applicable
21 day described in subsection (c)(1)(B).

22 In the case of a governmental plan (as defined
23 in section 414(d) of the Internal Revenue Code
24 of 1986), this subparagraph shall be applied by

1 substituting “5 years” for “3 years” in clause
 2 (ii).

3 (B) CONDITIONS.—Subparagraph (A) shall
 4 not apply to any amendment unless—

5 (i) the plan or contract is operated as
 6 if such plan or contract amendment were
 7 in effect for the period described in sub-
 8 paragraph (C); and

9 (ii) such plan or contract amendment
 10 applies retroactively for such period.

11 (C) PERIOD DESCRIBED.—The period de-
 12 scribed in this subparagraph is the period—

13 (i) beginning on the effective date
 14 specified by the plan; and

15 (ii) ending on the date described in
 16 subparagraph (A)(ii) (or, if earlier, the
 17 date the plan or contract amendment is
 18 adopted).

19 **SEC. 6. ACCESS TO INDEPENDENT CONSUMER INFORMA-**
 20 **TION AND UNDERSTANDING.**

21 (a) DEFINITIONS.—In this section—

22 (1) the term “consumer” means any person
 23 who purchases or acquires any goods, products, serv-
 24 ices, or credit related to the retirement or later life
 25 economic security of the consumer; and

1 (2) the term “financial product or service pro-
2 vider” means any person who engages in the busi-
3 ness of providing any retirement financial product or
4 service to any consumer.

5 (b) REQUIRED LINK TO CONSUMER AWARENESS IN-
6 FORMATION.—In any offer for the sale, exchange, or other
7 transfer of a retirement financial product or service to a
8 consumer carried out by a financial product or service pro-
9 vider, such provider shall provide, in a manner consistent
10 with subsection (c), an easily accessible link to the website
11 of the Bureau of Consumer Financial Protection (referred
12 to in this section as the “CFPB”) at which the consumer
13 may access information, literature, guides, programs,
14 tools, strategies, or any other resource produced by the
15 CFPB or other Federal agency relating to retirement
16 planning or later life economic security.

17 (c) DETERMINATION.—In order to ensure that the re-
18 quirement under subsection (b) is effectively carried out,
19 the Financial Literacy and Education Commission shall
20 determine and publish on its website the appropriate link
21 to the CFPB’s website for access to the CFPB’s and other
22 Federal agencies’ consumer education materials, the pre-
23 ferred format of such link, and any accompanying descrip-
24 tion of the CFPB and the consumer education materials
25 associated with such link.

1 **SEC. 7. GRANTS TO PROMOTE FINANCIAL LITERACY FOR**
2 **WOMEN.**

3 (a) **AUTHORIZATION OF GRANT AWARDS.**—The Sec-
4 retary of Labor, acting through the Director of the Wom-
5 en’s Bureau, shall award grants on a competitive basis to
6 eligible entities to enable such entities to improve the fi-
7 nancial literacy of women who are working age or in re-
8 tirement, to increase the likelihood of the women realizing
9 a secure and stable retirement.

10 (b) **DEFINITION OF ELIGIBLE ENTITY.**—In this sec-
11 tion, the term “eligible entity” means a community-based
12 organization with proven experience and expertise in serv-
13 ing working-age or retired women.

14 (c) **APPLICATION.**—An eligible entity that desires to
15 receive a grant under this section shall submit an applica-
16 tion to the Secretary of Labor at such time, in such man-
17 ner, and accompanied by such information as such Sec-
18 retary may require.

19 (d) **MINIMUM GRANT AMOUNT.**—The Secretary of
20 Labor shall award grants under this section in amounts
21 of not less than \$250,000.

22 (e) **USE OF FUNDS.**—An eligible entity that receives
23 a grant under this section shall use the grant funds to
24 develop and implement financial literacy education, and
25 related activities including outreach, awareness building,
26 and counseling to increase women’s knowledge of retire-

1 ment planning and consumer, economic, and personal fi-
 2 nancial concepts.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
 4 authorized to be appropriated to carry out this section
 5 \$100,000,000 for fiscal year 2022 and each succeeding
 6 fiscal year.

7 **SEC. 8. GRANTS TO ASSIST LOW-INCOME WOMEN AND SUR-**
 8 **VIVORS OF DOMESTIC VIOLENCE IN OBTAIN-**
 9 **ING QUALIFIED DOMESTIC RELATIONS OR-**
 10 **DERS.**

11 (a) AUTHORIZATION OF GRANT AWARDS.—The Sec-
 12 retary of Labor, acting through the Director of the Wom-
 13 en’s Bureau and in conjunction with the Assistant Sec-
 14 retary of the Employee Benefits Security Administration,
 15 shall award grants, on a competitive basis, to eligible enti-
 16 ties to enable such entities to assist low-income women
 17 and survivors of domestic violence in obtaining qualified
 18 domestic relations orders (as defined in section
 19 206(d)(3)(B)(i) of the Employee Retirement Income Secu-
 20 rity Act of 1974 (29 U.S.C. 1056(d)(3)(B)(i))), and en-
 21 suring that those women actually obtain the benefits to
 22 which they are entitled through those orders.

23 (b) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
 24 tion, the term “eligible entity” means a community-based
 25 organization with proven experience and expertise in serv-

1 ing women and the financial and retirement needs of
2 women.

3 (c) APPLICATION.—An eligible entity that desires to
4 receive a grant under this section shall submit an applica-
5 tion to the Secretary of Labor at such time, in such man-
6 ner, and accompanied by such information as the Sec-
7 retary of Labor may require.

8 (d) MINIMUM GRANT AMOUNT.—The Secretary of
9 Labor shall award grants under this section in amounts
10 of not less than \$250,000.

11 (e) USE OF FUNDS.—An eligible entity that receives
12 a grant under this section shall use the grant funds to
13 develop programs to offer help to low-income women or
14 survivors of domestic violence who need assistance in pre-
15 paring, obtaining, and effectuating a qualified domestic re-
16 lations order.

17 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out this section
19 \$100,000,000 for fiscal year 2022 and each succeeding
20 fiscal year.

