H. R. 8083

To establish a temporary tax credit for maintaining retirement benefits during the COVID-19 pandemic.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 21, 2020

Mr. SCHNEIDER (for himself and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To establish a temporary tax credit for maintaining retirement benefits during the COVID-19 pandemic.

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Preserving Employee Retirement Savings Act of 2020”.

SEC. 2. TEMPORARY CREDIT FOR MAINTAINING RETIREMENT BENEFITS DURING PANDEMIC.

(a) IN GENERAL.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of
1986 an amount equal to 20 percent of the qualified retirement contributions by the employer for the taxable year.

(b) LIMITATION.—The amount of credit allowed to the taxpayer under subsection (a) for any taxable year shall not exceed $100,000.

(c) QUALIFIED RETIREMENT CONTRIBUTIONS.—For purposes of this section—

(1) IN GENERAL.—The term “qualified retirement contribution” means, with respect to any taxable year, any employer contribution (other than an elective deferral (as defined in section 402(g)(3) of such Code) to an applicable retirement plan on behalf of an employee other than a highly compensated employee (as defined in section 414(q) of such Code)).

(2) DETERMINING CONTRIBUTION TO DEFINED BENEFIT PLAN.—In the case of a defined benefit plan (as defined in section 414(j) of such Code), the amount treated as an employer contribution under paragraph (1) shall be the amount described with respect to the plan in section 430(b)(1)(A)(i), 431(b)(2)(A), or 433(b)(2)(A) of such Code, as the case may be, or in the case of a CSEC plan that uses a spread gain funding method (as defined in
section 433(j)(5)(D)) of such Code), the amount de-
scribed in 433(j)(1)(B) of such Code.

(3) **COORDINATION WITH OTHER ASSIST-
ANCE.**—Such term shall not include any amount
taken into account in determining any loan amount
forgiven under section 1106 or 1109(d)(1)(D) of the
Coronavirus Aid, Relief, and Economic Security Act.

(4) **APPLICABLE RETIREMENT PLAN.**—

(A) **IN GENERAL.**—For purposes of this
section, the term “applicable retirement plan”
means any plan, annuity contract, pension, or
account described in clause (i), (ii), (iv), (v), or
(vi) of section 219(g)(5)(A) of such Code (other
than a governmental plan (within the meaning
of section 414(d))).

(B) **PLANS WITH CONTRIBUTION LEVEL
REDUCTION NOT ELIGIBLE.**—Such term shall
not include any plan, annuity contract, pension,
or account which for any plan year which in-
cludes the taxable year—

(i) is amended after December 31,
2019, to reduce allocations or benefit ac-
cruals; or

(ii) in any case in which the employer
has discretion over allocations, has a rate
of contribution for any class of employees that includes an employee who is not a highly compensated employee which is less than the greater of—

(I) the rate of contribution for such class for the last plan year ending before January 1, 2019; or

(II) the rate of contribution for such class for the last plan year ending before January 1, 2020.

For purposes of the preceding sentence, the rate of contribution shall be expressed as a percentage of compensation (as defined for the plan year for which such rate is being determined).

(d) Other Definitions and Special Rules.—For purposes of this section—

(1) Eligible Employer.—

(A) In general.—The term “eligible employer” means any employer—

(i) that has a temporary substantial business hardship (within the meaning of section 412(c)(2) of such Code) for the taxable year; and
(ii) in the case of employer that is not a tax-exempt or cooperative organization, the gross receipts (within the meaning of section 448(c) of the Internal Revenue Code of 1986) of which during the preceding taxable year were not more than $41,500,000.

(B) Pre-guidance Determination of Hardship.—In the case of any determination of the credit under subsection (a) prior to the issuance of guidance by the Secretary of the Treasury as to what constitutes a temporary substantial business hardship under subparagraph (A), the taxpayer may rely on a reasonable good faith determination of whether such a hardship exists.

(2) Tax-exempt or Cooperative Organization.—The term “tax-exempt or cooperative organization” means—

(A) any organization exempt from tax under chapter 1 of the Internal Revenue Code of 1986;

(B) any organization to which subchapter T of chapter 1 of such Code applies; or
(C) any organization described in section 1381(a)(2)(C) of such Code.

(3) Recapture.—In the case of an employer allowed a credit under this section for a taxable year with respect to an applicable retirement plan, if such plan fails to meet the requirements of subsection (e)(4)(B) for the following taxable year, then the tax of the taxpayer under chapter 1 of such Code for such following taxable year shall be increased by an amount equal to the amount of the credit so allowed.

(4) Aggregation Rules.—All employees who are treated as employed by a single employer under subsections (b), (c), (m), and (o) of section 414 of such Code shall be treated as employed by a single employer for purposes of this section. In the case of a plan maintained by more than one employer, each such employer shall be treated separately for purposes of this section.

(5) Third-Party Payers.—Any credit allowed under this section shall be treated as a credit described in section 3511(d)(2) of such Code.

(e) Credit Refundable for Tax-Exempt and Cooperative Employers.—In the case of an employer that is a tax exempt or cooperative organization, the credit allowed under this section shall be treated as a credit al-
lowed under subpart C of part IV of subchapter A of chapter 1 of such Code. Section 512(e)(12)(A) of such Code shall be applied without taking into account any such credit as income.

(f) APPLICATION OF SECTION.—This section shall apply to the taxable year of any taxpayer that includes June 30, 2020, and such taxpayer’s first succeeding taxable year.