H. R. 3561

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to reduce administrative burdens and encourage retirement plan formation and retention.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2011

Mr. Kind (for himself, Mr. Gerlach, and Mr. Neal) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to reduce administrative burdens and encourage retirement plan formation and retention.

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 “Small Business Pen-
5 sion Promotion Act of 2011”.

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SEC. 2. ALTERNATIVE VALUATION DATE FOR REQUIRED MINIMUM DISTRIBUTIONS.

If the Secretary of the Treasury determines there has been a significant and broadly applicable decrease in the value of investment assets held by defined contribution plans and individual retirement accounts for any calendar year, the Secretary may—

(1) allow taxpayers to use a later valuation date than would otherwise be required under Treasury Regulations to determine the required minimum distribution for such year from individual accounts under section 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2) of the Internal Revenue Code of 1986,

(2) allow additional time for making any such distributions, and

(3) provide such other relief as may be appropriate in light of such a decrease in investment asset values.

SEC. 3. DEDUCTION FOR PENSION AND IRA CONTRIBUTIONS ALLOWED IN COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Subsection (a) of section 1402 of the Internal Revenue Code of 1986 is amended by striking “and” at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting “, and”, and

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by inserting after paragraph (17) the following new paragraph:

“(18) any deduction allowed under section 404 by reason of section 404(a)(8)(C) (other than any deduction allowed for elective deferrals (as defined in section 402(g)(3)) shall be allowed, except that the amount of such deduction shall be determined without regard to this paragraph.”.

(b) CONFORMING AMENDMENT.—Clause (v) of section 401(c)(2)(A) of such Code is amended by inserting “for elective deferrals (as defined in section 402(g)(3))” after “to the taxpayer”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 4. ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGE DETERMINED WITHOUT REGARD TO REDUCTION FOR CREDIT BALANCES FOR FUNDING-BASED LIMITS UNDER SINGLE EMPLOYER PLANS.

(a) AMENDMENT OF 1986 CODE.—Paragraph (2) of section 436(j) of the Internal Revenue Code of 1986 is amended—

(1) by striking the period at the end and inserting “, and”,
(2) by striking “under paragraph (1) by increasing” and inserting the following: “under paragraph (1)—

“(A) by increasing”, and

(3) by adding at the end the following new subparagraph:

“(B) without regard to the reduction under section 430(f)(4)(B).”.

(b) Amendment of ERISA.—Section 206(g)(9)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(g)(9)(B)) is amended—

(1) by striking the period at the end and inserting “, and”,

(2) by striking “under subparagraph (A) by increasing” and inserting the following: “under subparagraph (A)—

“(i) by increasing”, and

(3) by adding at the end the following new clause:

“(ii) without regard to the reduction under section 303(f)(4)(B).”.

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2011.
SEC. 5. REPEAL OF TAX ON NONDEDUCTIBLE CONTRIBUTIONS TO QUALIFIED EMPLOYER PLANS.

Effective for taxable years beginning after December 31, 2011, section 4972 is repealed.

SEC. 6. INTERIM AMENDMENTS TO QUALIFIED PLANS.

The Secretary of the Treasury shall, not later than 2 years after the date of the enactment of this Act, revise the administrative rules governing interim amendments of qualified plans to provide greater flexibility and reduce plan sponsor burden, while taking into account the need for plan terms to reflect the benefits to which participants are entitled.

SEC. 7. GRANDFATHERING OF PLANS WITH NORMAL RETIREMENT AGE BASED ON EARLIER OF ATTAINMENT OF SPECIFIC AGE OR COMPLETION OF 30 OR MORE YEARS OF BENEFIT ACQUIRED SERVICE.

(a) Amendment of 1986 Code.—

(1) In general.—Section 411 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) SPECIAL RULE FOR DETERMINING NORMAL RETIREMENT AGE FOR CERTAIN EXISTING DEFINED BENEFIT PLANS.—

“(1) In general.—An applicable trust shall not fail to be treated as a qualified trust under sec-
tion 401(a) of the Internal Revenue Code of 1986, and shall not be treated as failing to have a uniform normal retirement age for purposes of this subchapter, solely because the plan of which it is a part has a normal retirement age described in paragraph (2)(A).

“(2) APPLICABLE TRUST.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘applicable trust’ means a trust forming a part of a plan that on December 5, 2011, has a normal retirement age which is the earlier of—

“(i) the attainment of an age which is not earlier than age 60 but not later than 65, or

“(ii) the completion of 30 or more years of benefit accrual service.

“(B) LIMITED APPLICATION OF SPECIFIED NORMAL RETIREMENT AGE PERMITTED.—A trust shall not fail to be treated as an applicable trust solely because, as of such date, a normal retirement age described in subparagraph (A) only applies to certain participants or certain employers participating in the plan of which such trust is a part.
“(C) Expanded application permitted.—If, after such date, the plan of which an applicable trust is a part expands the application of a normal retirement age described in subparagraph (A) to additional participants or employers, such trust shall be treated as an applicable trust with respect to any such participants and employers.”.

(2) Service-based retirements in governmental plans.—

(A) In general.—Subsection (e) of section 411 of such Code is amended by adding at the end the following new paragraph:

“(3) A plan described in paragraph (1)(A) shall not be treated as failing to meet any requirement of this subchapter or any regulation issued under this subchapter, or as failing to have a permissible normal retirement age for the purposes of this subchapter or any regulation issued under this subchapter, solely because—

“(A) the plan expresses its normal retirement age (whether stated in, or implied through, the terms of the plan) based on years of service or a combination of years of service...
and the chronological age of the plan participant, or

“(B) the plan expresses a normal retirement benefit as a benefit payable without actuarial reduction for age upon attainment of an age, years of service, or a combination of age and years of service.”.

(B) Rules.—Not later than 180 after the date of the enactment of this Act, the Secretary of the Treasury shall modify the rules for determining normal retirement age under sections 401(a) and 411 of the Internal Revenue Code of 1986, including Treasury Regulation § 1.401(a)–1, to be consistent with the amendment made by this paragraph.

(b) Amendments of ERISA.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) Special Rule for Determining Normal Retirement Age for Certain Existing Defined Benefit Plans.—

“(1) In general.—An applicable trust shall not fail to meet any of the requirements of this title,
and shall not be treated as failing to have a uniform normal retirement age for purposes of this title, solely because the plan of which it is a part has a normal retirement age described in paragraph (2)(A).

“(2) APPLICABLE TRUST.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘applicable trust’ means a trust forming a part of a plan that on December 5, 2011, has a normal retirement age which is the earlier of—

“(i) the attainment of an age which is not earlier than age 60 but not later than 65, or

“(ii) the completion of 30 or more years of benefit accrual service.

“(B) LIMITED APPLICATION OF SPECIFIED NORMAL RETIREMENT AGE PERMITTED.—A trust shall not fail to be treated as an applicable trust solely because, as of such date, the normal retirement age described in subparagraph (A) only applies to certain participants or certain employers participating in the plan of which such trust is a part.

“(C) EXPANDED APPLICATION PERMITTED.—If, after such date, the plan of which
an applicable trust is a part expands the application of the normal retirement age described in subparagraph (A) to additional participants or employers, such trust shall be treated as an applicable trust with respect to any such participants and employers.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after the date of the enactment of this Act.