

105TH CONGRESS  
1ST SESSION

# S. 620

To amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 17, 1997

Mr. GREGG (for himself, Mr. ROTH, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. BOND, Ms. COLLINS, Mr. DEWINE, Mr. ROBERTS, Mr. CRAIG, Mr. NICKLES, Mr. McCONNELL, Mr. KYL, Ms. SNOWE, Mr. MACK, Mr. HAGEL, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, 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 Investment  
5       and Savings Equity Act of 1997”.

1 **SEC. 2. INDIVIDUAL'S ELIGIBILITY FOR DEDUCTIBLE IRA**  
 2 **NOT DETERMINED BY REFERENCE TO**  
 3 **SPOUSE'S PARTICIPATION IN PENSION PLAN.**

4 (a) IN GENERAL.—Section 219(g)(1) of the Internal  
 5 Revenue Code of 1986 (relating to limitation on deduction  
 6 for active participants in certain pension plans) is amend-  
 7 ed by striking “or the individual’s spouse”.

8 (b) EFFECTIVE DATE.—The amendment made by  
 9 this section shall apply to taxable years beginning after  
 10 December 31, 1996.

11 **SEC. 3. INDIVIDUALS MAY MAKE CONTRIBUTIONS FOR PE-**  
 12 **RIODS OF MATERNITY OR PATERNITY LEAVE.**

13 (a) IN GENERAL.—Section 414 of the Internal Reve-  
 14 nue Code of 1986 (relating to definitions and special  
 15 rules) is amended by adding at the end the following:

16 “(v) RIGHT TO MAKE CONTRIBUTIONS WITH RE-  
 17 SPECT TO PERIODS OF MATERNITY AND PATERNITY  
 18 LEAVE.—

19 “(1) IN GENERAL.—For purposes of this title—

20 “(A) a trust which forms part of a plan  
 21 shall not constitute a qualified trust under sec-  
 22 tion 401(a),

23 “(B) a plan shall not be treated as de-  
 24 scribed in section 403(b),

1           “(C) a plan shall not be treated as an eligi-  
 2           ble deferred compensation plan under section  
 3           457, and

4           “(D) an arrangement shall not be treated  
 5           as meeting the requirements of section 408 (k)  
 6           or (p),  
 7           unless such plan or arrangement permits partici-  
 8           pants who were on eligible maternity or paternity  
 9           leave to make additional elective deferrals under the  
 10          plan or arrangement with respect to periods of such  
 11          leave.

12          “(2) TREATMENT OF CONTRIBUTIONS.—

13           “(A) IN GENERAL.—In the case of any  
 14           contribution to a plan under paragraph (1)  
 15           (and any employer matching contribution with  
 16           respect thereto)—

17           “(i) such contribution shall not, with  
 18           respect to the year in which the contribu-  
 19           tion is made—

20           “(I) be subject to any otherwise  
 21           applicable limitation contained in sec-  
 22           tion 402(g), 402(h), 403(b), 404(a),  
 23           404(h), 408, 415, or 457, or

24           “(II) be taken into account in ap-  
 25           plying such limitations to other con-

1                    contributions or benefits under such plan  
 2                    or any other such plan,

3                    “(ii) such contribution shall be subject  
 4                    to the limitations referred to in clause (i)  
 5                    with respect to the year to which the con-  
 6                    tribution relates (in accordance with rules  
 7                    prescribed by the Secretary), and

8                    “(iii) except as provided in subpara-  
 9                    graph (B)(i), such plan shall not be treated  
 10                    as failing to meet the requirements of sec-  
 11                    tion 401(a)(4), 401(a)(26), 401(k)(3),  
 12                    401(k)(11), 401(k)(12), 401(m),  
 13                    403(b)(12), 408(k), 408(p), 410(b), or 416  
 14                    by reason of the making of (or the right to  
 15                    make) such contribution.

16                    “(B) MATCHING CONTRIBUTIONS.—Noth-  
 17                    ing in subparagraph (A) shall require an em-  
 18                    ployer to make any matching contribution with  
 19                    respect to any additional elective deferrals  
 20                    under paragraph (1), but if the employer elects  
 21                    to make any such matching contribution—

22                    “(i) the requirements of section  
 23                    401(a)(4) shall be applied separately to all  
 24                    such matching contributions made during  
 25                    a year, and

1 “(ii) the amount of any such match-  
 2 ing contribution may not exceed the maxi-  
 3 mum amount which could have been made  
 4 under the plan had the elective deferral ac-  
 5 tually been made during the period of eligi-  
 6 ble maternity and paternity leave.

7 “(3) AMOUNT AND TIMING OF ELECTIVE DE-  
 8 FERRALS.—A plan shall not be treated as meeting  
 9 the requirements of paragraph (1) unless the plan  
 10 provides the following:

11 “(A) AMOUNT.—The amount of any elec-  
 12 tive deferral under paragraph (1) which any  
 13 employee is permitted to make with respect to  
 14 any period of eligible maternity and paternity  
 15 leave shall not exceed the maximum amount of  
 16 the elective deferrals that the employee would  
 17 have been permitted to make during such pe-  
 18 riod in accordance with the limitation referred  
 19 to in paragraph (2)(A)(i) if the individual—

20 “(i) had not been on eligible maternity  
 21 and paternity leave during such period,  
 22 and

23 “(ii) had received compensation in an  
 24 amount determined under rules similar to  
 25 the rules under subsection (u)(7).

1 Proper adjustment shall be made to the amount  
 2 determined under the preceding sentence for  
 3 any elective deferrals actually made during such  
 4 period.

5 “(B) TIMING.—An employee may make an  
 6 elective deferral to which paragraph (1) applies  
 7 at any time during the 3-year period beginning  
 8 on the date on which the eligible maternity or  
 9 paternity leave ends. Any matching contribution  
 10 with respect to any such elective deferral shall  
 11 be made not later than the due date (including  
 12 extensions) for the filing of the employer’s re-  
 13 turn for the taxable year in which such elective  
 14 deferral is made.

15 “(4) ELIGIBLE MATERNITY AND PATERNITY  
 16 LEAVE.—For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘eligible ma-  
 18 ternity or paternity leave’ means any absence of  
 19 an individual from work for any period—

20 “(i) by reason of the pregnancy of the  
 21 individual,

22 “(ii) by reason of the birth of a child  
 23 of the individual,

24 “(iii) by reason of the placement of a  
 25 child with the individual in connection with

1           the adoption of the child by the individual,  
2           or

3           “(iv) for purposes of caring for such  
4           child for a period beginning immediately  
5           following such birth or placement.

6           “(B) LIMITATION.—Such period may not  
7           exceed 12 months with respect to any child.

8           “(5) OTHER DEFINITIONS AND RULES.—For  
9           purposes of this subsection—

10           “(A) ELECTIVE DEFERRAL.—The term  
11           ‘elective deferral’ has the meaning given such  
12           term by subsection (u)(2)(C). Such term shall  
13           also include any after-tax employee contribu-  
14           tions described in subsection (u)(2)(D).

15           “(B) PLAN.—The term ‘plan’ includes any  
16           arrangement under section 408 (k) or (p).

17           “(C) CERTAIN RETROACTIVE ADJUST-  
18           MENTS NOT REQUIRED.—For purposes of this  
19           subchapter and subchapter E, the rules of sub-  
20           section (u)(3) shall apply.

21           “(D) LOAN REPAYMENT SUSPENSIONS  
22           PERMITTED.—In the case of any plan or ar-  
23           rangement to which paragraph (1) applies, the  
24           rules of subsection (u)(4) shall apply to any

1           loan repayment suspension during any period of  
2           eligible maternity and paternity leave.”

3           (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to periods of eligible maternity and  
5 paternity leave beginning after December 31, 1997.

6 **SEC. 4. CATCHUP CONTRIBUTIONS FOR FAMILIES WITH**  
7 **CHILDREN NOT COVERED BY A PENSION**  
8 **PLAN.**

9           (a) **IN GENERAL.**—Section 414 of the Internal Reve-  
10 nue Code of 1986 (relating to definitions and special  
11 rules), as amended by section 3, is amended by adding  
12 at the end the following:

13           “(w) **CATCHUP CONTRIBUTIONS FOR FAMILIES**  
14 **WITH CHILDREN NOT COVERED BY A PENSION PLAN.**—

15           “(1) **IN GENERAL.**—For purposes of this title—

16                   “(A) a trust which forms part of a plan  
17 shall not constitute a qualified trust under sec-  
18 tion 401(a),

19                   “(B) a plan shall not be treated as de-  
20 scribed in section 403(b),

21                   “(C) a plan shall not be treated as an eligi-  
22 ble deferred compensation plan under section  
23 457, and



1           “(D) an arrangement shall not be treated  
 2           as meeting requirements of section 408 (k) or  
 3           (p),  
 4           unless such plan or arrangement permits eligible  
 5           participants to make additional elective deferrals  
 6           under the plan or arrangement in accordance with  
 7           paragraph (2).

8           “(2) CATCHUP CONTRIBUTIONS.—

9           “(A) IN GENERAL.—A plan shall permit an  
 10          eligible participant to make the additional elec-  
 11          tive deferrals under paragraph (1) in any year  
 12          which is certified as a catchup year by the par-  
 13          ticipant under subparagraph (E).

14          “(B) LIMITATION ON AMOUNT OF ADDI-  
 15          TIONAL DEFERRALS.—A plan shall not permit  
 16          additional elective deferrals under paragraph  
 17          (1) for any year in an amount greater than the  
 18          lesser of—

19                 “(i) the amount of the elective defer-  
 20                 rals the participant may otherwise make  
 21                 under the plan for such year (determined  
 22                 without regard to this subsection, sub-  
 23                 section (u), or any limitation described in  
 24                 subparagraph (C)(i)), or

25                 “(ii) the excess (if any) of—

1           “(I) 120 percent of the dollar  
2           limitation in effect under section  
3           402(g), 408(p), or 457(b)(2)(A),  
4           whichever is applicable, for taxable  
5           years beginning in the calendar year  
6           in which the plan year begins, over

7           “(II) any other elective deferrals  
8           of the participant for such year which  
9           are made without regard to this sub-  
10          section.

11          “(C) TREATMENT OF CONTRIBUTIONS.—In  
12          the case of any contribution to a plan under  
13          paragraph (1) (and any employer matching con-  
14          tribution with respect thereto)—

15          “(i) such contribution shall not, with  
16          respect to the year in which the contribu-  
17          tion is made—

18                 “(I) be subject to any otherwise  
19                 applicable limitation contained in sec-  
20                 tion 402(g), 402(h), 403(b), 404(a),  
21                 404(h), 408, 415, or 457, or

22                 “(II) be taken into account in ap-  
23                 plying such limitations to other con-  
24                 tributions or benefits under such plan  
25                 or any other such plan, and

“(ii) except as provided in subparagraph (D)(i), such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

“(D) MATCHING CONTRIBUTIONS.—Nothing in subparagraph (A) shall require an employer to make any matching contribution with respect to any additional elective deferrals under paragraph (1) for any year, but if the employer elects to make any such matching contribution—

“(i) the requirements of section 401(a)(4) shall be applied separately to all such matching contributions made during a year, and

“(ii) the amount of any such matching contribution may not exceed the maximum amount which could have been made under the terms of the plan in effect for elective deferrals made for such year without regard to this subsection.

1                   “(E)    CERTIFICATION    OF    CATCHUP  
2                   YEARS.—

3                   “(i)    IN    GENERAL.—A    participant  
4                   making additional elective deferrals under  
5                   paragraph (1) for any year shall certify to  
6                   the plan administrator that—

7                               “(I) the participant is an eligible  
8                               participant, and

9                               “(II) the year is a catchup year.

10                   “(ii)   CATCHUP   YEAR.—An   eligible  
11                   participant may certify 1 or more years as  
12                   catchup years, except that the total num-  
13                   ber of years which may be certified shall  
14                   not exceed the excess (if any) of—

15                               “(I) the number of years (not in  
16                               excess of 18) described in paragraph  
17                               (3) occurring before the year in ques-  
18                               tion, over

19                               “(II) the number of years pre-  
20                               viously certified by the participant  
21                               under this subsection.

22                   “(iii)   PLANS NOT RESPONSIBLE FOR  
23                   CERTIFICATION FAILURES.—A   plan shall  
24                   not be treated as failing to meet the re-  
25                   quirements of this subsection by reason of

1 reliance on an incorrect certification under  
 2 this subparagraph unless the plan adminis-  
 3 trator knew, or reasonably should have  
 4 known, that the certification was incorrect.

5 “(3) ELIGIBLE PARTICIPANT.—For purposes of  
 6 this subsection, the term ‘eligible participant’ means,  
 7 with respect to any year, a participant in a plan  
 8 who, for any calendar year before the calendar year  
 9 in which the year begins—

10 “(A) was not an active participant (within  
 11 the meaning of section 219(g)(5)) for any plan  
 12 year beginning in the calendar year, and

13 “(B) had a child or stepchild who had not  
 14 attained age 18 with respect to whom a deduc-  
 15 tion was allowed under section 151 to the par-  
 16 ticipant (or the participant’s spouse) for a tax-  
 17 able year beginning in the calendar year.

18 “(4) OTHER DEFINITIONS AND RULES.—For  
 19 purposes of this subsection—

20 “(A) ELECTIVE DEFERRAL.—The term  
 21 ‘elective deferral’ has the meaning given such  
 22 term by subsection (u)(2)(C). Such term shall  
 23 also include after-tax employee contributions  
 24 described in subsection (u)(2)(D).

1                   “(B) PLAN.—The term ‘plan’ includes any  
2                   arrangement under section 408 (k) or (p).

3                   “(C) CERTAIN RETROACTIVE ADJUST-  
4                   MENTS NOT REQUIRED.—For purposes of this  
5                   subchapter and subchapter E, the rules of sub-  
6                   section (u)(3) shall apply.”

7           (b) EFFECTIVE DATE.—The amendment made by  
8           this section shall apply to contributions in taxable years  
9           beginning after December 31, 1997.

○