

**DESCRIPTION OF THE CHAIRMAN'S MODIFICATION  
TO THE "PRESERVING AMERICA'S TRANSIT  
AND HIGHWAYS ACT OF 2014"**

Scheduled for Markup  
Before the  
SENATE COMMITTEE ON FINANCE  
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Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



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## INTRODUCTION

The Senate Committee on Finance has scheduled a markup of the “Preserving America’s Transit and Highways Act of 2014.”<sup>1</sup> This document,<sup>2</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman’s modification to the Chairman’s mark.

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<sup>1</sup> Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended.

<sup>2</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman’s Modification to the “Preserving America’s Transit and Highways Act of 2014”* (JCX-77-14), June 25, 2014. This document may also be found on our website at [www.jct.gov](http://www.jct.gov).

## **I. MODIFICATION TO THE CHAIRMAN'S MARK**

### **A. Modification to Item II.A of the Chairman's Mark Regarding the Modification of the Heavy Vehicle Tax**

The Chairman's modification removes Item II.A.

### **B. Modification to Item II.E of the Chairman's Mark Regarding Required Distribution Rules for Pension Plans**

The Chairman's modification makes two changes to the proposal that modifies the required distribution rules for pension plans. First, the Chairman's modification eliminates the proposal to change the definition of required beginning date for employees who become five-percent owners after age 70½. Second, the Chairman's modification eliminates the rules in the proposal relating to rollovers of distributions from employer-sponsored plans with a delayed effective date (that is, governmental plans and collectively bargained plans).

## II. ADDITIONAL PROVISIONS

### A. Transferring Funds from the Leaking Underground Storage Tank Trust Fund to the Highway Trust Fund

#### **Present Law**

##### **Leaking Underground Storage Tank Trust Fund financing rate**

Fuels of a type subject to other trust fund excise taxes generally are subject to an add-on excise tax of 0.1-cent-per-gallon to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund.<sup>3</sup> For example, the LUST excise tax applies to gasoline, diesel fuel, kerosene, and most alternative fuels subject to highway and aviation fuels excise taxes, and to fuels subject to the inland waterways fuel excise tax. This excise tax is imposed on both uses and parties subject to the other taxes, and to situations (other than export) in which the fuel otherwise is tax-exempt. For example, off-highway business use of gasoline and off-highway use of diesel fuel and kerosene generally are exempt from highway motor fuels excise tax. Similarly, States and local governments and certain other parties are exempt from such tax. Nonetheless, all such uses and parties are subject to the 0.1-cent-per-gallon LUST excise tax.

Liquefied natural gas, compressed natural gas, and liquefied petroleum gas are exempt from the LUST excise tax. Additionally, methanol and ethanol fuels produced from coal (including peat) are taxed at a reduced rate of 0.05 cents per gallon.

The LUST excise tax is scheduled to expire after September 30, 2016.<sup>4</sup>

##### **Overview of Leaking Underground Storage Tank Trust Fund expenditure provisions**

Amounts in the LUST Trust Fund are available, as provided in appropriations Acts, for purposes of making expenditures to carry out sections 9003(h)-(j), 9004(f), 9005(c), and 9010-9013 of the Solid Waste Disposal Act as in effect on the date of enactment of Public Law 109-168. Any claim filed against the LUST Trust Fund may be paid only out of such fund, and the liability of the United States for claims is limited to the amount in the fund.

The monies in the LUST Trust Fund are used to pay expenses incurred by the Environmental Protection Agency (the “EPA”) and the States for preventing, detecting, and cleaning up leaks from petroleum underground storage tanks, as well as programs to evaluate the compatibility of fuel storage tanks with alternative fuels, MTBE additives, and ethanol and biodiesel blends.

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<sup>3</sup> Secs. 4041, 4042, and 4081.

<sup>4</sup> For Federal budget scorekeeping purposes, the LUST Trust Fund tax, like other excise taxes dedicated to trust funds, is assumed to be permanent.

The EPA makes grants to States to implement the program, and States use cleanup funds primarily to oversee and enforce corrective actions by responsible parties. States and the EPA also use cleanup funds to conduct corrective actions where no responsible party has been identified, where a responsible party fails to comply with a cleanup order, in the event of an emergency, and to take cost recovery actions against parties. In addition, the EPA and States are authorized to use trust fund monies for non-cleanup purposes as well, specifically for administration and enforcement of the leak prevention requirements of the underground storage tank program.<sup>5</sup>

MAP-21 transferred \$2.4 billion from the LUST Trust Fund to the Highway Trust Fund.<sup>6</sup>

### **Description of Proposal**

The proposal transfers \$750 million from the LUST Trust Fund to the Highway Trust Fund.

### **Effective Date**

The proposal is effective on the date of enactment.

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<sup>5</sup> Pub. L. No. 109-58.

<sup>6</sup> Moving Ahead for Progress in the 21st Century Act (“MAP-21”), Pub. L. No. 112-14, sec. 40201(a)(2); sec. 9508(c)(2) of the Code.

## B. Liquefied Natural Gas Equalization

### Present Law

The Code imposes an excise tax on gasoline, diesel fuel, kerosene, and certain alternative fuels at the following rates:<sup>7</sup>

Gasoline	18.3 cents per gallon
Diesel fuel and kerosene	24.3 cents per gallon <sup>8</sup>
Alternative fuels	24.3 and 18.3 cents per gallon <sup>9</sup>

The Code imposes tax on gasoline, diesel fuel, and kerosene upon removal from a refinery or on importation, unless the fuel is transferred in bulk by registered pipeline or barge to a registered terminal facility.<sup>10</sup> The imposition of tax on alternative fuels generally occurs at retail when the fuel is sold to an owner, lessee or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat.

One such alternative fuel is liquefied natural gas (“LNG”). LNG is taxed at the same per gallon rate as diesel, 24.3 cents per gallon.

According to the Department of Energy Alternative Fuels Data Center, diesel fuel has an energy content of 128,450 Btu per gallon (lower heating value). LNG has an energy content of 74,720 Btu per gallon (lower heating value). Therefore, a gallon of LNG produces approximately 58 percent of the energy produced by a gallon of diesel fuel.

### Description of Proposal

The proposal changes the tax rate of LNG to a rate based on its energy equivalent of a gallon of diesel (14.1 cents per gallon).

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<sup>7</sup> These fuels are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank (“LUST”) Trust Fund (secs. 4041(d) and 4081(a)(2)(B)). That tax is imposed as an “add-on” to other existing taxes.

<sup>8</sup> Diesel-water emulsions are taxed at 19.7 cents per gallon (sec. 4081(a)(2)(D)).

<sup>9</sup> The rate of tax is 24.3 cents per gallon in the case of liquefied natural gas, any liquid fuel (other than ethanol or methanol) derived from coal, and liquid hydrocarbons derived from biomass. Other alternative fuels sold or used as motor fuel are generally taxed at 18.3 cents per gallon. “Alternative fuel” also includes compressed natural gas. The rate for compressed natural gas is 18.3 cents per energy equivalent of a gallon of gasoline. See sec. 4041(a)(2) and (3).

<sup>10</sup> Sec. 4081(a)(1).

**Effective Date**

The proposal is effective for fuel sold or used after September 30, 2014.

## C. Require Paid Tax Return Preparers to Meet Due Diligence Requirements for the American Opportunity Tax Credit

### Present Law

#### The Hope credit and the American Opportunity tax credit

##### Hope credit

For taxable years beginning before 2009 and after 2017, an individual may claim a tax credit, the Hope credit, for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree or certificate program.<sup>11</sup> Although temporarily superseded by the American Opportunity tax credit (described below), the Hope credit in 2014, if it were in effect, would be 100 percent on the first \$1,300 of qualified tuition and related expenses, and 50 percent on the next \$1,300 of qualified tuition and related expenses, for up to \$1,950 per eligible student per year.<sup>12</sup> These dollar amounts are indexed for inflation, with the amount rounded down to the next lowest multiple of \$100.<sup>13</sup> Thus, for example, the Hope credit for a taxpayer who incurs \$1,300 of qualified tuition and related expenses for an eligible student (subject to the modified adjusted gross income ("MAGI") phaseout described below) would be \$1,300. If a taxpayer incurs \$2,600 of qualified tuition and related expenses for an eligible student, then the Hope credit would be \$1,950.

The Hope credit that a taxpayer may otherwise claim is phased out ratably for taxpayers with MAGI between \$55,000 and \$65,000 (\$110,000 and \$130,000 for married taxpayers filing a joint return) for 2014.<sup>14</sup> MAGI includes certain otherwise excludable income earned by U.S. citizens or residents living abroad or in certain U.S. territories.<sup>15</sup> The beginning points of the MAGI phaseout ranges are indexed for inflation, with the amount rounded down to the next lowest multiple of \$1,000. The size of the phaseout ranges for single and married taxpayers are always \$10,000 and \$20,000 respectively.<sup>16</sup>

The credit is allowable against both the regular tax and the alternative minimum tax ("AMT").

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<sup>11</sup> Sec. 25A(a)(1).

<sup>12</sup> Sec. 25A(b)(1). The \$1,300 amount, determined by the staff of the Joint Committee on Taxation, is the statutory amount of \$1,000, indexed for inflation from 2001.

<sup>13</sup> Sec. 25A(h).

<sup>14</sup> Based on inflation adjustments determined by the staff of the Joint Committee on Taxation.

<sup>15</sup> Sec. 25A(d)(3).

<sup>16</sup> Sec. 25A(d)(2)((B).

## American Opportunity tax credit<sup>17</sup>

For taxable years beginning after December 31, 2008, and before January 1, 2018, an individual may claim the American Opportunity tax credit (“AOTC”), which is a modified version of the Hope credit.<sup>18</sup> The maximum allowable AOTC is \$2,500 per eligible student per year for qualified tuition and related expenses paid for each of the first four years of the student’s post-secondary education in a degree or certificate program. The AOTC rate is 100 percent on the first \$2,000 of qualified tuition and related expenses, and 25 percent on the next \$2,000 of qualified tuition and related expenses.<sup>19</sup> For purposes of the AOTC, the definition of qualified tuition and related expenses is expanded to include course materials. Forty percent of a taxpayer’s otherwise allowable AOTC is refundable. The AOTC that a taxpayer may otherwise claim is phased out ratably for taxpayers with MAGI between \$80,000 and \$90,000 (\$160,000 and \$180,000 for married taxpayers filing a joint return).<sup>20</sup> Neither the credit rate nor the phaseout thresholds are indexed for inflation.

The qualified tuition and related expenses must be incurred on behalf of the taxpayer, the taxpayer’s spouse, or a dependent of the taxpayer. The AOTC is available with respect to an individual student for four taxable years.<sup>21</sup> Additionally, a taxpayer may not claim the AOTC if the student on whose behalf the credit is claimed has completed, before the beginning of the taxable year, the first four years of postsecondary education at an eligible educational institution.<sup>22</sup>

The AOTC is available in the taxable year the expenses are paid, subject to the requirement that the education is furnished to the student during that year or during an academic period beginning during the first three months of the next taxable year. Qualified tuition and related expenses paid with the proceeds of a loan generally are eligible for the AOTC.

A taxpayer may claim the AOTC with respect to an eligible student who is not the taxpayer or the taxpayer’s spouse (*e.g.*, in cases in which the student is the taxpayer’s child) only if the taxpayer claims the student as a dependent for the taxable year for which the credit is claimed. If a student is claimed as a dependent, the student is not entitled to claim the AOTC for that taxable year on the student’s own tax return. If a parent (or other taxpayer) claims a student as a dependent, any qualified tuition and related expenses paid by the student are treated as paid by the parent (or other taxpayer) for purposes of determining the amount of qualified tuition and

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<sup>17</sup> Generally the rules described below are also applicable to the Hope credit. Any variation is noted.

<sup>18</sup> Sec. 25A(i).

<sup>19</sup> Sec. 25A(i)(1).

<sup>20</sup> Sec. 25A(i)(5).

<sup>21</sup> Secs. 25A(b)(2)(A) and 25A(i)(2). In the case of the Hope credit, two taxable years.

<sup>22</sup> Secs. 25A(b)(2)(C) and 25A(i)(2). In the case of the Hope credit, the first two years of postsecondary education.

related expenses paid by such parent (or other taxpayer) under the provision. In addition, for each taxable year, a taxpayer may elect either the AOTC, the Lifetime Learning credit<sup>23</sup>, or an above-the-line deduction for qualified tuition and related expenses with respect to an eligible student.<sup>24</sup>

#### Qualified tuition and related expenses

The AOTC is available for “qualified tuition and related expenses,” which include tuition and fees (excluding nonacademic fees) and required to be paid to an eligible educational institution as a condition of enrollment or attendance of an eligible student at the institution. Course materials are also taken into account for purposes of the AOTC.<sup>25</sup> Charges and fees associated with meals, lodging, insurance, transportation, and similar personal, living, or family expenses are not eligible for the credit.<sup>26</sup> The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.<sup>27</sup>

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of either the student or the taxpayer claiming the credit. Thus, total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excludable from gross income under section 117 and any other tax-free educational benefits received by the student (or the taxpayer claiming the credit) during the taxable year. The AOTC is not allowed with respect to any education expense for which a deduction is claimed under section 162 or any other section of the Code.

#### Eligible student

An eligible student for purposes of the AOTC is an individual who is enrolled in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible educational institution.<sup>28</sup> The student must pursue a course of study on at least a half-time basis. A student is considered to pursue a course of study on at least a half-time basis if the

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<sup>23</sup> Sec. 25A(a)(2).

<sup>24</sup> Sec. 222. The above-the-line deduction for qualified tuition and related expenses is not available for taxable years beginning after December 31, 2013.

<sup>25</sup> Sec. 25A(i)(3). This is not the case for taxable years beginning before 2009 and after 2017, when the Hope credit is applicable.

<sup>26</sup> Sec. 25A(f)(1)(C).

<sup>27</sup> Sec. 25A(f)(1)(B).

<sup>28</sup> Sec. 25A(b)(3).

student carries at least one half the normal full-time work load for the course of study the student is pursuing for at least one academic period that begins during the taxable year. To be eligible for the AOTC, a student must not have been convicted of a Federal or State felony consisting of the possession or distribution of a controlled substance.<sup>29</sup>

#### Eligible educational institutions

Eligible educational institutions generally are accredited post-secondary educational institutions offering credit toward a bachelor's degree, an associate's degree, or another recognized post-secondary credential. Certain proprietary institutions and post-secondary vocational institutions also are eligible educational institutions. To qualify as an eligible educational institution, an institution must be eligible to participate in Department of Education student aid programs.

#### Other rules

In order to claim the AOTC, a taxpayer must include the name and taxpayer identification number of the student on whose behalf the qualified tuition and related expenses were paid in order to be eligible for the credit.<sup>30</sup> Additionally, a taxpayer may not claim the AOTC if the taxpayer is a married individual filing a separate return.<sup>31</sup> For a taxpayer who is a nonresident alien individual for any portion of the tax year, the AOTC is allowed only if that individual is treated as a resident alien of the U.S. for the entire year by reason of an election to file a joint return under either a) section 6013(g) (allowing nonresident alien individuals married to U.S. citizens or residents to elect to be treated as U.S. residents) or b) section 6013(h) (allowing nonresident alien individuals who become U.S. residents during the tax year and who are married to U.S. citizens or residents to elect to be treated as residents for the entire tax year).<sup>32</sup>

#### **Diligence required by return preparers for certain refundable credits**

Under section 6695(g), a penalty of \$500 may be imposed on a person who, as a tax return preparer,<sup>33</sup> prepares a tax return for a taxpayer claiming the earned income credit ("EIC"),<sup>34</sup> unless the tax return preparer exercises due diligence with respect to that claim. The due diligence requirements extend to both the determination of eligibility for the credit and the

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<sup>29</sup> Sec. 25A(b)(2)(D).

<sup>30</sup> Sec. 25A(g)(1).

<sup>31</sup> Sec. 25A(g)(6).

<sup>32</sup> Sec. 25A(g)(7).

<sup>33</sup> Sec. 7701(a)(36) provides a general definition of tax return preparer to include persons who are compensated to prepare all or a substantial portion of a return or claim for refund, with certain exceptions.

<sup>34</sup> Sec. 32.

amount of the credit, as prescribed by regulations, which also detail how to document one's compliance with those requirements.<sup>35</sup> The position taken with respect to the EIC must be based on current and reasonable information that the paid preparer develops, either directly from the taxpayer or by other reasonable means. The preparer may not ignore implications of information provided by taxpayers, and is expected to make reasonable inquiries about incorrect, inconsistent or incomplete information.

The conclusions about eligibility and computation, as well as the steps taken to develop those conclusions, must be documented, using Form 8867, "Paid Preparer's Earned Income Credit Checklist," which is filed with the return.<sup>36</sup> The basis for the computation of the credit must also be documented, either on a Computation Worksheet, or in an alternative record containing the requisite information. The preparer is required to maintain that documentation for three years.

The penalty may be waived with respect to a particular return or claim for refund on the basis of all facts and circumstances. The preparer must establish that he routinely follows reasonable office procedures to ensure compliance. The failure to comply with the requirements must be isolated and inadvertent.<sup>37</sup> The enhanced duties of due diligence required with respect to the EIC do not extend to other refundable credits.

### **Description of Proposal**

The proposal requires paid tax return preparers who prepare federal income tax returns on which an AOTC is claimed to meet due diligence requirements similar to those applicable to returns claiming an earned income tax credit. The proposal anticipates that the checklist currently required by regulations will be adapted by the Internal Revenue Service ("IRS") to address both the AOTC and the EIC and to highlight differences between the two credits. In adapting the checklist, the IRS is to ensure that it imposes minimal additional burden on taxpayers and paid preparers.

### **Effective Date**

The proposal is effective for taxable years beginning after December 31, 2014.

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<sup>35</sup> Treas. Reg. sec. 1.6695-2(b).

<sup>36</sup> If the return preparer electronically files the return or claim for refund for the taxpayer, the Form 8867 is filed electronically with the return. If the prepared return or claim for refund is given to the taxpayer to file, the Form 8867 is provided to the taxpayer at the same time, to submit with the return or claim for refund.

<sup>37</sup> Treas. Reg. sec. 1.6695-2(d).

## **D. Continuation of Normal Retirement Age with Service Component**

### **Present Law**

#### **Rules relating to normal retirement age**

Normal retirement age is relevant for various purposes under the requirements relating to qualified defined benefit plans.<sup>38</sup> Normal retirement age is generally the age specified for normal retirement under the plan, but may not be not later than age 65 or, if later, the fifth anniversary of the time a participant commences participation in the plan.<sup>39</sup>

Under the vesting rules, a participant's right to employer-provided benefits he or she has earned or "accrued" under a plan ("accrued benefit") generally must become nonforfeitable after a specified period of service and at attainment of normal retirement age. In the case of a defined benefit plan, a participant's accrued benefit at any given time is the portion of the annuity payable at normal retirement age under the plan's benefit formula (the "normal retirement benefit") that the participant has earned as of that time. That is, if a participant terminates employment before reaching normal retirement age, the benefit to which the participant is entitled to receive on reaching normal retirement age is the accrued benefit.

Under the accrual rules (also referred to as the "anti-backloading" rules), the pattern in which a participant's normal retirement benefit is earned over his or her period of service to normal retirement age must meet one of three options ("accrual methods").<sup>40</sup> This serves as a backstop to the vesting rules by requiring a participant's normal retirement benefit to be earned relatively smoothly over his or her service, rather than having a disproportionate amount earned only at a later age or completion of longer service (that is, "backloaded").

A defined benefit plan is permitted to provide a wide variety of optional forms of distribution with respect to the accrued benefit, but each form must be at least the actuarial equivalent of the accrued benefit.<sup>41</sup> A defined benefit plan may provide for a subsidized early retirement benefit or other retirement-type subsidies, the right to which is not required to vest or accrue in accordance with the vesting and accrual requirements. For example, a plan with a normal retirement age of 65 might provide for payment of a participant's accrued benefit on

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<sup>38</sup> See, for example, the vesting and accrual requirements under sections 401(a)(7) and 411. Similar requirements apply under the Employee Retirement Income Security Act of 1974 ("ERISA"). These requirements (and ERISA) generally do not apply to governmental plans or church plans.

<sup>39</sup> Sec. 411(a)(8).

<sup>40</sup> Sec. 411(b).

<sup>41</sup> The assumptions for determining actuarial equivalence (interest rate and mortality) must be specified in the plan in a manner that precludes employer discretion. In the case of certain forms of benefit, including lump sums, specific actuarial assumptions must be used.

retirement at age 55 without actuarial reduction for early commencement, but conditioned on the participant having at least 30 years of service.

Defined benefit plans generally may not provide for distributions to a participant during employment (referred to as “in-service” distributions) unless the participant has attained normal retirement age (or age 62, if earlier) or in the case of plan termination.<sup>42</sup> Under final Treasury regulations issued in 2007, the normal retirement age under a plan must be an age that is not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.<sup>43</sup> Under the regulations, a normal retirement age of age 62 or later is deemed not to be earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.

### **Normal retirement ages with a service component**

Some defined benefit plans have defined normal retirement age as the earlier of a fixed age (such as age 62) or the completion of a specified period of service (for example, 30 years) and have permitted participants to receive in-service distributions of their full normal retirement benefits (that is, without an actuarial reduction for early commencement) after completion of the period of service.

The IRS has indicated that a plan under which a participant's normal retirement age changes to an earlier date upon completion of a stated number of years of service typically will not satisfy the vesting and accrual rules.<sup>44</sup> An unreduced early retirement benefit is permitted to be conditioned on completion of a stated number of years of service (such as 30 years of service); however, an early retirement benefit is generally permitted to be paid only after termination of employment.

### **Nondiscrimination requirements**

Qualified retirement plans may not discriminate in favor of highly compensated employees with respect to contributions or benefits.<sup>45</sup> In the case of a defined benefit plan, whether benefits are discriminatory is generally based on the benefits provided at a uniform normal retirement age.<sup>46</sup>

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<sup>42</sup> Sec. 401(a)(36); Treas. Reg. secs. 1.401-1(b)(1)(i) and 1.401(a)-1(b)(1)(i).

<sup>43</sup> Treas. Reg. sec. 1.401(a)-1(b)(2). These regulations apply to all qualified defined benefit plans, including governmental plans and church plans.

<sup>44</sup> Notice 2007-69, 2007-2 C.B. 468.

<sup>45</sup> Sec. 401(a)(4). For this purpose, highly compensated employees are generally five-percent owners and employees with compensation above a certain level for the preceding year. For 2014, the compensation level is \$115,000.

<sup>46</sup> Treas. Reg. secs. 1.401(a)(4)-3 and -12.

### **Description of Proposal**

Under the proposal, a defined benefit plan meeting certain requirements (an “applicable” plan) is not treated as failing any qualification requirement, or as failing to have a uniform normal retirement age, solely because the plan provides a normal retirement age of the earlier of (1) an age otherwise permitted under the definition of normal retirement age in the Code, or (2) the age at which a participant completes the number of years (not less than 30) of service specified by the plan.<sup>47</sup> An applicable plan is a defined benefit plan that currently provides such a normal retirement age. A plan is generally an applicable plan only with respect to an individual who (1) is a participant in the plan on or before January 1, 2017, or (2) is an employee at any time on or before January 1, 2017, of any participating employer and who becomes a participant in the plan after January 1, 2017.

A plan does not fail to be an applicable plan solely because the normal retirement age described above currently applies only to certain plan participants or certain employers participating in the plan. In addition, subject to the limitation described above relating to participation or employment on or before January 1, 2017, if application of this normal retirement age is expanded to additional participants or participating employers, the plan will be treated as an applicable plan with respect to those participants and participating employers.

### **Effective Date**

The proposal applies to all periods before, on, and after the date of enactment.

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<sup>47</sup> The proposal applies also with respect to requirements under ERISA.

## **E. Sense of the Senate of the Need to Pass a Long-Term Transportation Funding Bill**

The legislation before the Committee would extend on a short-term basis funding for the Highway Trust Fund. The Committee's intention is also to proceed promptly to consider a long-term solution and expresses the following:

### **Findings**

1. The Highway Trust Fund is projected to become insolvent before the end of the fiscal year.
2. The user-fee principle upon which the Highway Trust Fund was established is eroding. Since 2008, Congress has transferred \$54 billion from the general fund to the Highway Trust Fund.
3. The gas tax and diesel tax, which are the primary funding mechanisms for the Highway Trust Fund have not been increased since 1993 and are not indexed for inflation.
4. Highway Trust Fund revenues have not kept pace with the needs of U.S. infrastructure, in significant part, due to a decline in miles driven, a decline in the purchasing power of highway excise taxes, and increased fuel efficiency.
5. In 2013, according to the World Economic Forum Report on Global Competitiveness, the U.S. was ranked 25th globally in overall infrastructure quality.
6. Short term surface transportation extensions increase costs of transportation projects, limit the ability of state and local governments to plan infrastructure improvement, and ultimately have resulted in the degradation of U.S. infrastructure.

It is hereby the sense of the Senate that

1. Any long-term transportation reauthorization bill should at a minimum fund infrastructure spending at levels established in Senate authorizing legislation through Fiscal Year 2020.
2. The Senate Finance Committee and other committees of jurisdiction should work diligently to produce long-term surface transportation reauthorization legislation expeditiously.