

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to modify rules relating to donor advised funds, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. KING (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to modify rules relating to donor advised funds, 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 “Accelerating Chari-  
5 table Efforts Act” or the “ACE Act”.

6 **SEC. 2. ADDITIONAL RESTRICTIONS ON DEDUCTIONS FOR**  
7 **CONTRIBUTIONS TO DONOR ADVISED FUNDS.**

8 (a) **LIMITATION ON DEDUCTION.**—Section 170(f) of  
9 the Internal Revenue Code of 1986 is amended by adding  
10 at the end the following new paragraph:



1                   “(III) the amount of the deduc-  
2                   tion shall be equal to the amount of  
3                   the qualifying distribution.

4                   “(ii) QUALIFYING DISTRIBUTION.—  
5                   For purposes of this subparagraph, the  
6                   term ‘qualifying distribution’ means any  
7                   distribution which is not a taxable distribu-  
8                   tion (as defined in section 4966(c), deter-  
9                   mined without regard to paragraph (2)(C)  
10                  thereof).

11                  “(iii) ORDERING RULE.—For pur-  
12                  poses of this subparagraph, distributions  
13                  shall be treated as made from contribu-  
14                  tions (and any earnings attributable there-  
15                  to) on a first-in, first-out basis.

16                  “(B) NONPUBLICLY TRADED ASSETS OF  
17                  QUALIFIED DONOR ADVISED FUNDS.—

18                  “(i) IN GENERAL.—In the case of a  
19                  contribution of a non-publicly traded asset  
20                  to a qualified donor advised fund or a  
21                  qualified community foundation donor ad-  
22                  vised fund—

23                  “(I) no deduction shall be al-  
24                  lowed under this section for any tax-  
25                  able year before the taxable year that

1 includes the date on which the spon-  
2 soring organization sells the asset,  
3 and

4 “(II) the amount of the deduc-  
5 tion allowed under subsection (a) shall  
6 not exceed the amount of gross pro-  
7 ceeds received from such sale and  
8 credited to the account or fund identi-  
9 fied with the taxpayer.

10 “(ii) NON-PUBLICLY TRADED  
11 ASSET.—For purposes of this subpara-  
12 graph, the term ‘non-publicly traded asset’  
13 means any asset for which (as of the date  
14 of the contribution) market quotations are  
15 not readily available on an established se-  
16 curities market.

17 “(C) CONTEMPORANEOUS WRITTEN AC-  
18 KNOWLEDGEMENT.—

19 “(i) IN GENERAL.—In the case of a  
20 contribution described in subparagraph (A)  
21 or (B), no deduction shall be allowed under  
22 subsection (a) for such contribution unless  
23 the taxpayer substantiates the contribution  
24 by a contemporaneous written acknowl-  
25 edgement of the contribution by the spon-

1 soring organization that meets the require-  
2 ments of clause (ii).

3 “(ii). CONTENT OF ACKNOWLEDGE-  
4 MENT.—An acknowledgement meets the  
5 requirements of this subparagraph if it in-  
6 cludes the following information:

7 “(I) The name of the donor.

8 “(II) In the case of a contribu-  
9 tion described in subparagraph (A)—

10 “(aa) if such contribution is  
11 described in subparagraph  
12 (A)(i)(I), a certification that the  
13 asset was sold for cash and the  
14 amount of cash received in such  
15 sale, and

16 “(bb) a certification that a  
17 qualifying distribution has been  
18 made from such contribution (or  
19 the proceeds from the sale of  
20 such contribution), an identifica-  
21 tion of the amount of such quali-  
22 fying distribution, and a state-  
23 ment that the deductible amount  
24 may not exceed the amount of  
25 such qualifying distribution.

1                   “(III) In the case of a contribu-  
2                   tion described in subparagraph (B), a  
3                   certification that the asset was sold  
4                   and the amount of the gross proceeds  
5                   received from such sale and credited  
6                   to the account or fund of the tax-  
7                   payer, together with a statement that  
8                   the deductible amount may not exceed  
9                   the amount of the gross proceeds re-  
10                  ceived from the sale of the asset and  
11                  credited to the account or fund of the  
12                  taxpayer.

13                  “(iii) CONTEMPORANEOUS.—For pur-  
14                  poses of clause (i), an acknowledgement  
15                  shall be considered to be contemporaneous  
16                  if the sponsoring organization provides it  
17                  within 30 days of—

18                  “(I) in the case of a contribution  
19                  described in subparagraph (A), the  
20                  date of the qualifying distribution,  
21                  and

22                  “(II) in the case of a contribu-  
23                  tion described in subparagraph (B),  
24                  the date that the gross proceeds from

1                   the sale of the asset are credited to  
2                   the account or fund of the taxpayer.

3                   “(iv) INFORMATION TO SECRETARY.—

4                   A sponsoring organization required to pro-  
5                   vide an acknowledgement under this para-  
6                   graph shall provide to the Secretary the in-  
7                   formation contained in the acknowledge-  
8                   ment. Such information shall be provided  
9                   at such time and in such manner as the  
10                  Secretary may prescribe.

11                  “(D) QUALIFIED DONOR ADVISED FUND.—

12                  For purposes of this paragraph, the term  
13                  ‘qualified donor advised fund’ means a donor  
14                  advised fund (as defined in section 4966(d)(2))  
15                  established under an agreement that requires,  
16                  for the duration of such fund, the termination  
17                  of any advisory privilege with respect to any  
18                  contribution (including any earnings thereon)  
19                  made by any donor (or any person appointed or  
20                  designated by a donor) before the last day of  
21                  the 14th taxable year beginning after the tax-  
22                  able year in which the contribution was made.

23                  “(E) QUALIFIED COMMUNITY FOUNDATION  
24                  DONOR ADVISED FUND.—For purposes of this  
25                  paragraph—

1           “(i) IN GENERAL.—The term ‘quali-  
2           fied community foundation donor advised  
3           fund’ means a donor advised fund (as de-  
4           fined in section 4966(d)(2)) which is  
5           owned or controlled by a qualified commu-  
6           nity foundation and which meets one or  
7           more of the requirements of clauses (ii) or  
8           (iii).

9           “(ii) MAXIMUM VALUE OF ADVISORY  
10          PRIVILEGES.—

11           “(I) IN GENERAL.—A donor ad-  
12          vised fund meets the requirements of  
13          this clause if each individual who has  
14          advisory privileges with respect to  
15          such fund does not have advisory  
16          privileges with respect to 1 or more  
17          donor advised funds held by the quali-  
18          fied community foundation with an  
19          aggregate value at any time after the  
20          date of the enactment of this para-  
21          graph in excess of \$1,000,000.

22           “(II) INFLATION ADJUST-  
23          MENT.—In the case of any taxable  
24          year beginning after 2021, the  
25          \$1,000,000 amount in subclause (I)



1 shall be increased by an amount equal  
2 to such dollar amount multiplied by  
3 the cost-of-living adjustment deter-  
4 mined under section 1(f)(3) for the  
5 calendar year in which the taxable  
6 year begins, determined by sub-  
7 stituting in subparagraph (A)(ii)  
8 thereof 'calendar year 2020' for 'cal-  
9 endar year 2016'. If any amount as  
10 adjusted under the preceding sentence  
11 is not a multiple of \$10,000, such dol-  
12 lar amount shall be rounded to the  
13 next lowest multiple of \$10,000.

14 "(iii) MINIMUM PAYOUT.—A donor  
15 advised fund meets the requirements of  
16 this paragraph if the fund is established  
17 under an agreement that requires that the  
18 fund make qualifying distributions (as de-  
19 fined in subparagraph (A)(ii)) each cal-  
20 endar year in an amount not less than 5  
21 percent of the value of the fund (deter-  
22 mined as of the last day of the preceding  
23 calendar year).

1                   “(iv) QUALIFIED COMMUNITY FOUN-  
2                   DATION.—The term ‘qualified community  
3                   foundation’ means an organization—

4                   “(I) which is described in section  
5                   501(c)(3),

6                   “(II) which is organized and op-  
7                   erated for the purpose of under-  
8                   standing and serving the needs of a  
9                   particular geographic community that  
10                  is no larger than 4 States by engaging  
11                  donors and pooling donations to ere-  
12                  ate charitable funds in direct further-  
13                  ance of those needs, and

14                  “(III) which holds substantial as-  
15                  sets (but in no case less than 25 per-  
16                  cent of the organization’s total assets)  
17                  outside of donor advised funds.

18                  “(v) SPONSORING ORGANIZATION.—  
19                  The term ‘sponsoring organization’ has the  
20                  meaning given such term under section  
21                  4966(d)(1).”.

22                  (b) OTHER REQUIREMENTS FOR QUALIFIED DONOR  
23                  ADVISED FUNDS.—Section 170(f)(18) of the Internal  
24                  Revenue Code of 1986 is amended by striking “and” at  
25                  the end of subparagraph (A)(ii), by striking the period at

1 the end of subparagraph (B) and inserting “, and”, and  
2 by adding at the end the following new subparagraph:

3           “(C) in the case of a contribution to a  
4           qualified donor advised fund (as defined in  
5           paragraph (19)(D)), the taxpayer identifies for  
6           the sponsoring organization a preferred organi-  
7           zation for the purposes of making distributions  
8           of so much of the amount contributed (and any  
9           earnings attributable thereto) as has not been  
10          distributed before the end of the last day of the  
11          14th taxable year beginning after the taxable  
12          year in which the contribution was made.”.

13          (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to contributions made after the  
15 date of the enactment of this Act.

16 **SEC. 3. FAILURE OF DONOR ADVISED FUNDS TO DIS-**  
17 **TRIBUTE CONTRIBUTIONS.**

18          (a) IN GENERAL.—Subchapter G of chapter 42 of the  
19 Internal Revenue Code of 1986 is amended by adding at  
20 the end the following new section:

21 **“SEC. 4967A. FAILURE OF DONOR ADVISED FUNDS TO DIS-**  
22 **TRIBUTE CONTRIBUTIONS.**

23          “(a) IN GENERAL.—In the case of a contribution  
24 which is held in a donor advised fund (other than a quali-  
25 fied community foundation donor advised fund), there is

1 hereby imposed a tax equal to 50 percent of so much of  
2 the portion of such contribution (and any earnings attrib-  
3 utable thereto) as has not been distributed by the spon-  
4 soring organization in a qualifying distribution before the  
5 last day of the sixth month following the last day of the  
6 applicable taxable year with respect to such contribution.  
7 The tax imposed by this subsection shall be paid by such  
8 sponsoring organization.

9       “(b) APPLICABLE TAXABLE YEAR.—For purposes of  
10 this section, the term ‘applicable taxable year’ means—

11               “(1) in the case of a contribution to a qualified  
12 donor advised fund, the 14th taxable year beginning  
13 after the taxable year in which the contribution was  
14 made, and

15               “(2) in the case of a contribution to any other  
16 donor advised fund (other than a qualified commu-  
17 nity foundation donor advised fund), the 49th tax-  
18 able year beginning after the taxable year in which  
19 the contribution was made.

20       “(e) DEFINITIONS AND OTHER RULES.—

21               “(1) QUALIFIED DONOR ADVISED FUND.—The  
22 term ‘qualified donor advised fund’ has the meaning  
23 given such term under section 170(f)(19)(D).

24               “(2) QUALIFIED COMMUNITY FOUNDATION  
25 DONOR ADVISED FUND.—The term ‘qualified com-

1 munity foundation donor advised fund' has the  
 2 meaning given such term under section  
 3 170(f)(19)(E).

4 “(3) QUALIFYING DISTRIBUTION.—The term  
 5 ‘qualifying distribution’ has the meaning given such  
 6 term under section 170(f)(19)(A)(ii).

7 “(4) ORDERING RULE.—Rules similar to the  
 8 rules of section 170(f)(19)(A)(iii) shall apply for  
 9 purposes of this section.”.

10 (b) CONFORMING AMENDMENT.—The table of sec-  
 11 tions for subchapter G of chapter 42 of such Code is  
 12 amended by adding at the end the following new item:

“Sec. 4967A. Failure of donor advised funds to distribute contributions.”.

13 (c) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to contributions made after the  
 15 date of the enactment of this Act.

16 **SEC. 4. TREATMENT OF PRIVATE FOUNDATION ADMINIS-**  
 17 **TRATIVE EXPENSES PAID TO DISQUALIFIED**  
 18 **PERSONS.**

19 (a) IN GENERAL.—Section 4942(g) of the Internal  
 20 Revenue Code of 1986 is amended by adding at the end  
 21 the following new paragraph:

22 “(5) DISALLOWANCE OF ADMINISTRATIVE EX-  
 23 PENSES PAID TO DISQUALIFIED PERSONS.—

24 “(A) IN GENERAL.—For purposes of para-  
 25 graph (1)(A), administrative expenses paid to

1 any person described in subparagraph (B) shall  
2 not be treated as a qualifying distribution.

3 “(B) PERSON DESCRIBED.—A person is  
4 described in this subparagraph if such person is  
5 a disqualified person (as defined in section  
6 4946(a)(1)) with respect to the private founda-  
7 tion, other than a foundation manager (as de-  
8 fined in section 4946(b)(1)) of such private  
9 foundation who is not a member of the family  
10 (as defined in section 4946(d)) of any indi-  
11 vidual described in subparagraph (A) or (C) of  
12 section 4946(a)(1).”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2021.

16 **SEC. 5. TREATMENT OF DISTRIBUTIONS TO DONOR AD-**  
17 **ADVISED FUNDS FROM PRIVATE FOUNDATIONS.**

18 (a) PROHIBITION ON TREATMENT AS QUALIFYING  
19 DISTRIBUTIONS.—

20 (1) IN GENERAL.—Section 4942(g)(1)(A) of the  
21 Internal Revenue Code of 1986 is amended by strik-  
22 ing “paragraph (3), or” and inserting “paragraph  
23 (3), or (iii) a sponsoring organization (as defined in  
24 section 4966(d)(1)) if such contribution will be held  
25 in a donor advised fund (as defined in section

1 4966(d)(2)), except as provided in paragraph (3),  
2 or”.

3 (2) CONFORMING AMENDMENT.—Section  
4 4942(g)(3) is amended by striking “(i) or (ii)” and  
5 inserting “(i), (ii), or (iii)”.

6 (b) REPORTING.—Section 6033(e) of the Internal  
7 Revenue Code of 1986 is amended—

8 (1) by redesignating paragraphs (1) and (2) as  
9 paragraphs (2) and (3), respectively, and

10 (2) by inserting before paragraph (2) (as redese-  
11 gnated) the following new paragraph:

12 “(1) the private foundation shall include in its  
13 annual return under this section information on—

14 “(A) the amount of any contribution to a  
15 sponsoring organization (as defined in section  
16 4966(d)(1)) which will be held in a donor ad-  
17 vised fund (as defined in section 4966(d)(2)),

18 “(B) the sponsoring organization to which  
19 such contribution was made, and

20 “(C) the donation advice given to such or-  
21 ganization (if any),” and

22 (3) in the matter following paragraph (3) (as  
23 redesignated) by striking “paragraph (1)” and in-  
24 serting “paragraph (2)”.

25 (c) EFFECTIVE DATES.—

1           (1) PROHIBITION.—The amendment made by  
2 subsection (a) shall apply to distributions made after  
3 December 31, 2021.

4           (2) REPORTING.—The amendments made by  
5 subsection (b) shall apply to returns required to be  
6 filed after December 31, 2021.

7 **SEC. 6. TREATMENT OF CONTRIBUTIONS FROM DONOR AD-**  
8 **ADVISED FUNDS FOR PURPOSES OF DETER-**  
9 **MINING PUBLIC SUPPORT.**

10          (a) PRIVATE FOUNDATIONS.—Section 509 of the In-  
11 ternal Revenue Code of 1986 is amended by adding at the  
12 end the following new subsection:

13          “(g) SPECIAL RULES FOR SUPPORT FROM DONOR  
14 ADVISED FUNDS.—

15               “(1) IN GENERAL.—For purposes of subsection  
16 (a)(2), except as otherwise provided in this sub-  
17 section, all amounts received from sponsoring orga-  
18 nizations (as defined in section 4966(d)(1))—

19                       “(A) shall not be treated as support re-  
20 ceived from an organization described in section  
21 170(b)(1)(A), and

22                       “(B) shall be treated as support received  
23 from one person.

24          “(2) EXCEPTION WHERE DONOR IDENTIFIED.—  
25 In the case of support from a sponsoring organiza-



1       tion which is provided from funds which are identi-  
2       fied with a donor to a donor advised fund (as de-  
3       fined in section 4966(d)(2)) and the sponsoring or-  
4       ganization identifies such donor, such support shall  
5       be treated as provided by such donor.

6           “(3) EXCEPTION FOR AMOUNTS NOT CONTRIB-  
7       UTED FROM DONOR ADVISED FUNDS.—Paragraph  
8       (1) shall not apply to any amount if the sponsoring  
9       organization specifies that—

10           “(A) the amount is not a distribution from  
11       a donor advised fund (as so defined), and

12           “(B) no donor (or any person appointed or  
13       designated by such donor) had advisory privi-  
14       leges with respect to the provision of the sup-  
15       port.”.

16       (b) DETERMINATION OF CONTRIBUTION LIMITA-  
17       TIONS.—Section 170(b)(1)(A) of such Code is amended by  
18       adding at the end the following: “For purposes of clause  
19       (vi), rules similar to the rules of section 509(g) shall  
20       apply.”.

21       (c) EFFECTIVE DATE.—The amendments made by  
22       this section shall apply to contributions made in taxable  
23       years beginning after the date of the enactment of this  
24       Act.

1 **SEC. 7. EXEMPTION FROM TAX ON INVESTMENT INCOME**  
2 **FOR CERTAIN PRIVATE FOUNDATIONS MAK-**  
3 **ING SIGNIFICANT QUALIFYING DISTRIBUTU-**  
4 **TIONS.**

5 (a) **IN GENERAL.**—Section 4940 of the Internal Rev-  
6 enue Code of 1986 is amended by adding at the end the  
7 following new subsection:

8 “(e) **EXEMPTION FOR FOUNDATIONS MAKING SIG-**  
9 **NIFICANT QUALIFYING DISTRIBUTIONS.**—No tax shall be  
10 imposed by this section for any taxable year on any private  
11 foundation if such private foundation makes qualifying  
12 distributions (as defined in section 4942(g)) during such  
13 taxable year in an amount that is not less than 7 percent  
14 of the excess of—

15 “(1) the aggregate fair market value of all as-  
16 sets of the foundation (other than those which are  
17 used (or held for use) directly in carrying out the  
18 foundation’s exempt purpose) determined as of the  
19 first date of the taxable year, over

20 “(2) the acquisition indebtedness with respect  
21 to such assets (determined under section  
22 514(c)(1)).”.

23 (b) **EFFECTIVE DATE.**—The amendment made by  
24 this section shall apply to taxable years beginning after  
25 the date of the enactment of this Act.

1 **SEC. 8. EXEMPTION FROM TAX ON INVESTMENT INCOME**  
2 **OF LIMITED-DURATION PRIVATE FOUNDA-**  
3 **TIONS.**

4 (a) **IN GENERAL.**—Section 4940 of the Internal Rev-  
5 enue Code of 1986, as amended by section 7, is amended  
6 by adding at the end the following new subsection:

7 “(f) **EXEMPTION FOR LIMITED-DURATION FOUNDA-**  
8 **TIONS.**—

9 “(1) **EXEMPTION.**—

10 “(A) **IN GENERAL.**—No tax shall be im-  
11 posed by subsection (a) on any private founda-  
12 tion if such private foundation meets the re-  
13 quirements of subparagraph (B).

14 “(B) **REQUIREMENTS.**—A private founda-  
15 tion meets the requirements of this subpara-  
16 graph if, at the time of its establishment and  
17 at all times thereafter—

18 “(i) such private foundation has a du-  
19 ration specified in its governing documents  
20 of not more than 25 years, and

21 “(ii) such private foundation makes  
22 no distributions to disqualified private  
23 foundations.

24 “(C) **DISQUALIFIED PRIVATE FOUNDA-**  
25 **TION.**—For purposes of this subsection, the  
26 term disqualified private foundation means,

1 with respect to the private foundation described  
2 in subparagraph (B), another private founda-  
3 tion with respect to which there is a disqualified  
4 person who is also a disqualified person with re-  
5 spect to such private foundation described in  
6 subparagraph (B).

7 “(2) RECAPTURE TAX.—

8 “(A) IN GENERAL.—If—

9 “(i) no tax is imposed under sub-  
10 section (a) on a private foundation by rea-  
11 son of paragraph (1), and

12 “(ii) such private foundation—

13 “(I) fails to meet the require-  
14 ments of paragraph (1)(B) in any  
15 subsequent taxable year,

16 “(II) has a duration of more  
17 than 25 years, or

18 “(III) makes a distribution to a  
19 disqualified private foundation,

20 a tax shall be imposed on such foundation  
21 in the amount determined under subpara-  
22 graph (B) for the first taxable year in  
23 which such private foundation is described  
24 in clause (ii).

1           “(B) AMOUNT OF TAX.—The amount of  
2           tax determined under this subparagraph is the  
3           aggregate amount of taxes which would have  
4           been imposed on such private foundation for all  
5           taxable years before the first taxable year in  
6           which such foundation was described in sub-  
7           paragraph (A)(ii) if paragraph (1) had not ap-  
8           plied.”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10          this section shall apply to taxable years beginning after  
11          the date of the enactment of this Act.