IN THE SENATE OF THE UNITED STATES

Mr. JONES (for himself, Mr. GARDNER, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to establish qualified down payment savings programs.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Dream Down Payment Act of 2020”.

SEC. 2. QUALIFIED DOWN PAYMENT SAVINGS PROGRAMS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 529A the following new section:


"SEC. 529B. QUALIFIED DOWN PAYMENT SAVINGS PROGRAMS.

(a) IN GENERAL.—A qualified down payment savings program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) QUALIFIED DOWN PAYMENT SAVINGS PROGRAM.—For purposes of this section—

(1) IN GENERAL.—The term ‘qualified down payment savings program’ means a program established and maintained by a State or agency or instrumentality thereof—

(A) under which a person may make contributions to a qualified down payment savings account which is established for the purpose of meeting qualified down payment expenses of the designated beneficiary of the account, and

(B) which meets the other requirements of this subsection.

(2) CASH CONTRIBUTIONS.—

(A) IN GENERAL.—A program shall not be treated as a qualified down payment savings program unless it provides that no contribution will be accepted—
“(i) unless it is in cash, and

“(ii) except in the case of contributions under subsection (c)(3)(C), if such contribution to a qualified down payment savings account would result in the balance of such account exceeding $102,080.

“(B) INFLATION ADJUSTMENT.—

“(i) IN GENERAL.—In the case of any calendar year beginning after 2020, the $102,080 amount in subparagraph (A)(ii) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under clause (ii).

“(ii) COST-OF-LIVING ADJUSTMENT.—

For purposes of clause (i), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

“(I) the CPI for the preceding calendar year, exceeds

“(II) the CPI for calendar year 2019.

For purposes of this clause, the CPI for any calendar year shall be determined in
the same manner as it is determined under section 1(f)(4).

“(iii) Rounding.—If any increase determined under clause (i) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

“(3) Separate Accounting.—A program shall not be treated as a qualified down payment savings program unless it provides separate accounting for each designated beneficiary.

“(4) Investment Direction.—A program shall not be treated as a qualified down payment savings program unless it provides that—

“(A) except as provided in subparagraph (B), any contributor to, or designated beneficiary under, such program may, directly or indirectly, direct the investment of any contributions to the program (or any earnings thereon) no more than 2 times in any calendar year and subject to the regulations established pursuant to this section, and

“(B) in the event that an account’s holdings meet the value established under paragraph (2)(B), the account funds will be trans-
ferred to investments in United States Treasury securities.

“(5) NO PLEDGING OF INTEREST AS A SECURITY.—A program shall not be treated as a qualified down payment savings program if it allows any interest in the program or any portion thereof to be used as security for a loan.

“(6) COMPLIANCE WITH REGULATIONS.—A program shall not be treated as a qualified down payment savings program unless it complies with all regulations issued pursuant to subsection (f).

“(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

“(A) a designated beneficiary under a qualified down payment savings program, or

“(B) a contributor to such program on behalf of a designated beneficiary, with respect to any distribution or earnings under such program.

“(2) GIFT TAX TREATMENT OF CONTRIBUTIONS.—For purposes of chapters 12 and 13—
“(A) IN GENERAL.—Any contribution to a qualified down payment savings program on behalf of any designated beneficiary shall be treated as a completed gift to such beneficiary which is not a future interest in property.

“(B) TREATMENT OF EXCESS CONTRIBUTIONS.—If the aggregate amount of contributions described in subparagraph (A) during the calendar year by a donor exceeds the limitation for such year under section 2503(b), such aggregate amount shall, at the election of the donor, be taken into account for purposes of such section ratably over the 5-year period beginning with such calendar year.

“(3) DISTRIBUTIONS.—

“(A) IN GENERAL.—Any distribution under a qualified down payment savings program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

“(B) DISTRIBUTIONS FOR QUALIFIED DOWN PAYMENT EXPENSES.—For purposes of
this paragraph, if distributions from a qualified down payment savings program—

“(i) do not exceed the qualified down payment expenses, no amount shall be includible in gross income, and

“(ii) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

“(C) Rollovers.—

“(i) In general.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to another qualified down payment savings account for the benefit of the designated beneficiary.

“(ii) Limitation on certain rollovers.—Clause (i) shall not apply to any transfer if such transfer occurs within 12 months from the date of a previous transfer to any qualified down payment savings account for the benefit of the designated beneficiary.
“(4) ESTATE TAX TREATMENT.—

“(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified down payment savings program.

“(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.

“(C) AMOUNTS INCLUDIBLE IN ESTATE OF DONOR MAKING EXCESS CONTRIBUTIONS.—In the case of a donor who makes the election described in paragraph (2)(B) and who dies before the close of the 5-year period referred to in such paragraph, notwithstanding subparagraph (A), the gross estate of the donor shall include the portion of such contributions properly allocable to periods after the date of death of the donor.

“(5) OTHER GIFT TAX RULES.—For purposes of chapters 12 and 13, in no event shall a distribution from a qualified down payment savings account be treated as a taxable gift.
“(6) Additional tax.—

“(A) In general.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a distribution from a qualified down payment savings program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

“(B) Exceptions.—Subparagraph (A) shall not apply if the payment or distribution is—

“(i) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary, or

“(ii) attributable to the designated beneficiary’s being disabled (within the meaning of section 72(m)(7)).

“(C) Contributions returned before certain date.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

“(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such des-
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ignated beneficiary’s return for such taxable year, and

“(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

“(d) REPORTS.—Each officer or employee having control of the qualified down payment savings program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.— For purposes of this section—

“(1) DESIGNATED BENEFICIARY.—The term ‘designated beneficiary’ means the individual designated at the commencement of participation in the qualified down payment savings program as the beneficiary of amounts paid (or to be paid) to the program.

“(2) QUALIFIED DOWN PAYMENT EXPENSES.— The term ‘qualified down payment expenses’ means
amounts (including closing costs) paid or incurred to purchase a principal residence (within the meaning of section 121).

“(3) Qualified down payment savings account.—The term ‘qualified down payment savings account’ means an account maintained under a qualified down payment savings program.

“(f) Regulations.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Chairman of the Securities and Exchange Commission, shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and to prevent abuse of such purposes. Such regulations shall include—

“(1) impermissible investments for qualified down payment savings programs;

“(2) permissible fees, including the maximum amount of overall fees and commissions, that may be charged in association with a qualified down payment savings program account; and

“(3) minimum required disclosures to account beneficiaries, including disclosures related to any possible losses that could be incurred in a qualified down payment savings account.”.

(b) Tax on excess contributions.—
(1) In general.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (5), by inserting “or” at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph:

“(7) a qualified down payment savings account (within the meaning of section 529B),”.

(2) Excess contribution.—Section 4973 of such Code is amended by adding at the end the following new subsection:

“(i) Excess Contributions to Qualified Down Payment Savings Accounts.—For purposes of this section—

“(1) In general.—In the case of a qualified down payment savings account (within the meaning of section 529B), the term ‘excess contributions’ means the amount by which the amount contributed for the taxable year to such account (other than contributions under section 529B(c)(3)(C)) exceeds the contribution limit under section 529B(b)(2)(B).

“(2) Special rule.—For purposes of this subsection, any contribution which is distributed out of the qualified down payment savings account in a dis-
tribution to which section 529B(c)(6)(C) applies shall be treated as an amount not contributed.”

(c) Penalty for Failure to File Reports.—
Section 6693(a)(2) is amended by striking “and” at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following:

“(E) section 529B(d) (relating to qualified down payment savings programs), and”.

(d) Other Conforming Amendments.—

(1) Section 26(b)(2) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (X), by striking the period at the end of subparagraph (Y) and inserting “, and”, and by inserting after subparagraph (Y) the following:

“(Z) section 529B(c)(6) (relating to additional tax on qualified down payment savings program distributions not used for qualified down payment expenses).”.

(2) Section 877A of such Code is amended—

(A) in subsection (e)(2) by inserting “a qualified down payment savings program (as defined in section 529B),” after “a qualified
ABLE program (as defined in section 529A),”

and

(B) in subsection (g)(6) by inserting

“529B(c)(6),” after “529A(e)(3),”.

(3) Section 4965(c) of such Code is amended by
striking “or” at the end of paragraph (7), by strik-
ing the period at the end of paragraph (8) and in-
serting “, or”, and by inserting after paragraph (8)
the following new paragraph:

“(9) a program described in section 529B.”.

(4) The table of sections for part VIII of sub-
chapter F of chapter 1 of such Code is amended by
inserting after the item relating to section 529A the
following new item:

“Sec. 529B. Qualified down payment savings programs.”.

(c) REPORTS ON DOWN PAYMENT SAVINGS PRO-
GRAMS.—Beginning on that date that is 12 months after
the regulations established pursuant to section 529B(f)
are finalized, and every two years thereafter, the Secretary
of the Treasury (or the Secretary’s delegate), in coordina-
tion with the Chairman of the Securities and Exchange
Commission and the States offering qualified down pay-
ment savings programs, shall issue a public report detail-
ing the following:

(1) The number of states that have established
qualified down payment savings programs.
(2) The number of down payment savings program accounts in existence during the time specified in the report and the number of such accounts that have been established over the life of the program.

(3) The age distribution of down payment savings account beneficiaries.

(4) The percentage of qualified down payment savings account beneficiaries that would be first-time homebuyers.

(5) A summary of the account balances held in qualified down payment savings program accounts.

(6) The race and gender distribution of qualified down payment savings program account designated beneficiaries.

(7) The income distribution of the designated beneficiaries of qualified down payment savings program accounts.

(8) The number of down payment savings program distributions that have been made since the previous report.

(9) Such other information as the Secretary (or the Secretary’s designee) shall determine is required to assess whether qualified down payment savings accounts have contributed to facilitating access to affordable homeownership, including first-time
homeownership, particularly among young people, low- and moderate-income people, and people from communities with historically low rates of homeownership.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2019.

(2) REGULATIONS.—The Secretary of the Treasury (or the Secretary’s designee) shall promulgate the regulations or other guidance required under section 529B(f) of the Internal Revenue Code of 1986, as added by subsection (a), not later than 6 months after the date of the enactment of this Act.