H. R. 1

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

IN THE HOUSE OF REPRESENTATIVES

Ms. Pingree introduced the following bill; which was referred to the Committee on ________________

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 Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Accelerating Charitable Efforts Act” or the “ACE Act”.

(Original Signature of Member)
SEC. 2. ADDITIONAL RESTRICTIONS ON DEDUCTIONS FOR CONTRIBUTIONS TO DONOR ADVISED FUNDS.

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

“(19) TIME FOR DEDUCTION OF CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

“(A) NONQUALIFIED DONOR ADVISED FUNDS.—

“(i) IN GENERAL.—In the case of a contribution to a donor advised fund (as defined in section 4966(d)(2)) which is not a qualified donor advised fund or a qualified community foundation donor advised fund—

“(I) in the case of any contribution of property other than cash, no deduction shall be allowed under this section unless the sponsoring organization sells such property for cash,

“(II) no deduction shall be allowed under this section for any contribution before the taxable year that includes the date on which the sponsoring organization makes a qualifying distribution of such contribution.
(or the proceeds from the sale of such contribution), and

“(III) the amount of the deduction shall be equal to the amount of the qualifying distribution.

“(ii) QUALIFYING DISTRIBUTION.—
For purposes of this subparagraph, the term ‘qualifying distribution’ means any distribution which is not a taxable distribution (as defined in section 4966(c), determined without regard to paragraph (2)(C) thereof).

“(iii) ORDERING RULE.—For purposes of this subparagraph, distributions shall be treated as made from contributions (and any earnings attributable thereto) on a first-in, first-out basis.

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

“(i) IN GENERAL.—In the case of a contribution of a non-publicly traded asset to a qualified donor advised fund or a qualified community foundation donor advised fund—
“(I) no deduction shall be allowed under this section for any taxable year before the taxable year that includes the date on which the sponsoring organization sells the asset, and

“(II) the amount of the deduction allowed under subsection (a) shall not exceed the amount of gross proceeds received from such sale and credited to the account or fund identified with the taxpayer.

“(ii) Non-publicly traded asset.—For purposes of this subparagraph, the term ‘non-publicly traded asset’ means any asset for which (as of the date of the contribution) market quotations are not readily available on an established securities market.

“(C) Contemporaneous written acknowledgment.—

“(i) In general.—In the case of a contribution described in subparagraph (A) or (B), no deduction shall be allowed under subsection (a) for such contribution unless
the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the sponsoring organization that meets the requirements of clause (ii).

“(ii) CONTENT OF ACKNOWLEDGMENT.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

“(I) The name of the donor.

“(II) In the case of a contribution described in subparagraph (A)—

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

“(bb) a certification that a qualifying distribution has been made from such contribution (or the proceeds from the sale of such contribution), an identification of the amount of such qualifying distribution, and a state-
ment that the deductible amount
may not exceed the amount of
such qualifying distribution.

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

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

“(I) in the case of a contribution
described in subparagraph (A), the
date of the qualifying distribution,
“(II) in the case of a contribution described in subparagraph (B),
the date that the gross proceeds from
the sale of the asset are credited to
the account or fund of the taxpayer.

“(iv) INFORMATION TO SECRETARY.—

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

“(D) QUALIFIED DONOR ADVISED FUND.—

For purposes of this paragraph, the term
‘qualified donor advised fund’ means a donor
advised fund (as defined in section 4966(d)(2))
established under an agreement that requires,
for the duration of such fund, the termination
of any advisory privilege with respect to any
contribution (including any earnings thereon)
made by any donor (or any person appointed or
designated by a donor) before the last day of
the 14th taxable year beginning after the tax-
able year in which the contribution was made.
“(E) QUALIFIED COMMUNITY FOUNDATION DONOR ADVISED FUND.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualified community foundation donor advised fund’ means a donor advised fund (as defined in section 4966(d)(2)) which is owned or controlled by a qualified community foundation and which meets one or more of the requirements of clauses (ii) or (iii).

“(ii) MAXIMUM VALUE OF ADVISORY PRIVILEGES.—

“(I) IN GENERAL.—A donor advised fund meets the requirements of this clause if each individual who has advisory privileges with respect to such fund does not have advisory privileges with respect to 1 or more donor advised funds held by the qualified community foundation with an aggregate value at any time after the date of the enactment of this paragraph in excess of $1,000,000.
“(II) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2021, the $1,000,000 amount in subclause (I) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting in subparagraph (A)(ii) thereof ‘calendar year 2020’ for ‘calendar year 2016’. If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such dollar amount shall be rounded to the next lowest multiple of $10,000.

“(iii) MINIMUM PAYOUT.—A donor advised fund meets the requirements of this paragraph if the fund is established under an agreement that requires that the fund make qualifying distributions (as defined in subparagraph (A)(ii)) each calendar year in an amount not less than 5 percent of the value of the fund (deter-
mined as of the last day of the preceding calendar year).

“(iv) QUALIFIED COMMUNITY FOUNDATION.—The term ‘qualified community foundation’ means an organization—

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

“(II) which is organized and operated for the purpose of understanding and serving the needs of a particular geographic community that is no larger than 4 States by engaging donors and pooling donations to create charitable funds in direct furtherance of those needs, and

“(III) which holds substantial assets (but in no case less than 25 percent of the organization’s total assets) outside of donor advised funds.

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

(b) OTHER REQUIREMENTS FOR QUALIFIED DONOR ADVISED FUNDS.—Section 170(f)(18) of the Internal
Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (A)(ii), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

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

(c) Effective Date.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 3. FAILURE OF DONOR ADVISED FUNDS TO DISTRIBUTIBUTE CONTRIBUTIONS.

(a) In General.—Subchapter G of chapter 42 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:
“SEC. 4967A. FAILURE OF DONOR ADVISED FUNDS TO DIS-
TRIBUTE CONTRIBUTIONS.

“(a) In General.—In the case of a contribution
which is held in a donor advised fund (other than a quali-
fied community foundation donor advised fund), there is
hereby imposed a tax equal to 50 percent of so much of
the portion of such contribution (and any earnings attrib-
utable thereto) as has not been distributed by the spon-
soring organization in a qualifying distribution before the
last day of the sixth month following the last day of the
applicable taxable year with respect to such contribution.
The tax imposed by this subsection shall be paid by such
sponsoring organization.

“(b) Applicable Taxable Year.—For purposes of
this section, the term ‘applicable taxable year’ means—
“(1) in the case of a contribution to a qualified
donor advised fund, the 14th taxable year beginning
after the taxable year in which the contribution was
made, and

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

“(c) Definitions and Other Rules.—
“(1) QUALIFIED DONOR ADVISED FUND.—The term ‘qualified donor advised fund’ has the meaning given such term under section 170(f)(19)(D).

“(2) QUALIFIED COMMUNITY FOUNDATION DONOR ADVISED FUND.—The term ‘qualified community foundation donor advised fund’ has the meaning given such term under section 170(f)(19)(E).

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.
SEC. 4. TREATMENT OF PRIVATE FOUNDATION ADMINISTRATIVE EXPENSES PAID TO DISQUALIFIED PERSONS.

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

“(5) DISALLOWANCE OF ADMINISTRATIVE EXPENSES PAID TO DISQUALIFIED PERSONS.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A), administrative expenses paid to any person described in subparagraph (B) shall not be treated as a qualifying distribution.

“(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is a disqualified person (as defined in section 4946(a)(1)) with respect to the private foundation, other than a foundation manager (as defined in section 4946(b)(1)) of such private foundation who is not a member of the family (as defined in section 4946(d)) of any individual described in subparagraph (A) or (C) of section 4946(a)(1)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2021.
SEC. 5. TREATMENT OF DISTRIBUTIONS TO DONOR ADVISED FUNDS FROM PRIVATE FOUNDATIONS.

(a) Prohibition on Treatment as Qualifying Distributions.—

(1) In general.—Section 4942(g)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “paragraph (3), or” and inserting “paragraph (3), or (iii) a sponsoring organization (as defined in section 4966(d)(1)) if such contribution will be held in a donor advised fund (as defined in section 4966(d)(2)), except as provided in paragraph (3), or”.

(2) Conforming amendment.—Section 4942(g)(3) is amended by striking “(i) or (ii)” and inserting “(i), (ii), or (iii)”.

(b) Reporting.—Section 6033(c) of the Internal Revenue Code of 1986 is amended—

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

(2) by inserting before paragraph (2) (as redesignated) the following new paragraph:

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

“(A) the amount of any contribution to a sponsoring organization (as defined in section
4966(d)(1)) which will be held in a donor advised fund (as defined in section 4966(d)(2)),

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

“(C) the donation advice given to such organization (if any),”’, and

(3) in the matter following paragraph (3) (as redesignated) by striking “paragraph (1)” and inserting “paragraph (2)”.

(c) EFFECTIVE DATES.—

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

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

SEC. 6. TREATMENT OF CONTRIBUTIONS FROM DONOR ADVISED FUNDS FOR PURPOSES OF DETERMINING PUBLIC SUPPORT.

(a) PRIVATE FOUNDATIONS.—Section 509 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) SPECIAL RULES FOR SUPPORT FROM DONOR ADVISED FUNDS.—
“(1) IN GENERAL.—For purposes of subsection (a)(2), except as otherwise provided in this subsection, all amounts received from sponsoring organizations (as defined in section 4966(d)(1))—

“(A) shall not be treated as support received from an organization described in section 170(b)(1)(A), and

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

“(2) EXCEPTION WHERE DONOR IDENTIFIED.—

In the case of support from a sponsoring organization which is provided from funds which are identified with a donor to a donor advised fund (as defined in section 4966(d)(2)) and the sponsoring organization identifies such donor, such support shall be treated as provided by such donor.

“(3) EXCEPTION FOR AMOUNTS NOT CONTRIBUTED FROM DONOR ADVISED FUNDS.—Paragraph (1) shall not apply to any amount if the sponsoring organization specifies that—

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

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

(b) Determination of Contribution Limita-
tions.—Section 170(b)(1)(A) of such Code is amended by
adding at the end the following: “For purposes of clause
(vi), rules similar to the rules of section 509(g) shall
apply.”.

(c) Effective Date.—The amendments made by
this section shall apply to contributions made in taxable
years beginning after the date of the enactment of this
Act.

SEC. 7. Exemption from Tax on Investment Income
For Certain Private Foundations Making Significant Qualifying Distributions.

(a) In General.—Section 4940 of the Internal Rev-
enue Code of 1986 is amended by adding at the end the
following new subsection:

“(e) Exemption for Foundations Making Sig-
nificant Qualifying Distributions.—No tax shall be
imposed by this section for any taxable year on any private
foundation if such private foundation makes qualifying
distributions (as defined in section 4942(g)) during such
taxable year in an amount that is not less than 7 percent
of the excess of—
“(1) the aggregate fair market value of all assets of the foundation (other than those which are used (or held for use) directly in carrying out the foundation’s exempt purpose) determined as of the first date of the taxable year, over

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

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Sec. 8. Exemption from Tax on Investment Income of Limited-Duration Private Foundations.

(a) In General.—Section 4940 of the Internal Revenue Code of 1986, as amended by section 7, is amended by adding at the end the following new subsection:

“(f) Exemption for Limited-Duration Foundations.—

“(1) Exemption.—

“(A) In General.—No tax shall be imposed by subsection (a) on any private foundation if such private foundation meets the requirements of subparagraph (B).
“(B) REQUIREMENTS.—A private foundation meets the requirements of this subpara-
graph if, at the time of its establishment and at all times thereafter—

“(i) such private foundation has a dura-
ratio specified in its governing documents
of not more than 25 years, and

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

“(C) DISQUALIFIED PRIVATE FOUNDA-
tion.—For purposes of this subsection, the
term disqualified private foundation means,
with respect to the private foundation described
in subparagraph (B), another private founda-
tion with respect to which there is a disqualified
person who is also a disqualified person with re-
spect to such private foundation described in
subparagraph (B).

“(2) RECAPTURE TAX.—

“(A) IN GENERAL.—If—

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

“(ii) such private foundation—
“(I) fails to meet the requirements of paragraph (1)(B) in any subsequent taxable year,
“(II) has a duration of more than 25 years, or
“(III) makes a distribution to a disqualified private foundation,
a tax shall be imposed on such foundation in the amount determined under subparagraph (B) for the first taxable year in which such private foundation is described in clause (ii).
“(B) AMOUNT OF TAX.—The amount of tax determined under this subparagraph is the aggregate amount of taxes which would have been imposed on such private foundation for all taxable years before the first taxable year in which such foundation was described in subparagraph (A)(ii) if paragraph (1) had not applied.”.

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