

116TH CONGRESS
1ST SESSION

H. R. 1084

To amend the Internal Revenue Code of 1986 to encourage retirement and family savings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2019

Mr. KELLY of Pennsylvania (for himself, Mr. WENSTRUP, Mr. ARRINGTON, Mr. LAHOOD, Mr. SMITH of Missouri, Mr. FERGUSON, Mr. SCHWEIKERT, Mr. ESTES, Mr. REED, and Mr. MARCHANT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to encourage retirement and family savings, 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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family Savings Act of 2019”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

- Sec. 101. Multiple employer plans; pooled employer plans.
- Sec. 102. Rules relating to election of safe harbor 401(k) status.
- Sec. 103. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
- Sec. 104. Repeal of maximum age for traditional IRA contributions.
- Sec. 105. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 106. Portability of lifetime income investments.
- Sec. 107. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 108. Clarification of retirement income account rules relating to church-controlled organizations.
- Sec. 109. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.
- Sec. 110. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 111. Small employer automatic enrollment credit.
- Sec. 112. Exemption from required minimum distribution rules for individuals with certain account balances.
- Sec. 113. Elective deferrals by members of the Ready Reserve of a reserve component of the Armed Forces.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

- Sec. 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.
- Sec. 202. Modification of nondiscrimination rules to protect older, longer service participants.
- Sec. 203. Fiduciary safe harbor for selection of lifetime income provider.
- Sec. 204. Disclosure regarding lifetime income.
- Sec. 205. Modification of PBGC premiums for CSEC plans.

TITLE III—OTHER SAVINGS PROVISIONS

- Sec. 301. Expansion of section 529 plans.
- Sec. 302. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Budgetary effects.

1 **TITLE I—EXPANDING AND PRE-**
2 **SERVING RETIREMENT SAV-**
3 **INGS**

4 **SEC. 101. MULTIPLE EMPLOYER PLANS; POOLED EM-**
5 **PLOYER PLANS.**

6 (a) QUALIFICATION REQUIREMENTS.—

7 (1) IN GENERAL.—Section 413 is amended by
8 adding at the end the following new subsection:

9 “(e) APPLICATION OF QUALIFICATION REQUIRE-
10 MENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH
11 POOLED PLAN PROVIDERS.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), if a defined contribution plan to which
14 subsection (c) applies—

15 “(A) is maintained by employers which
16 have a common interest other than having
17 adopted the plan, or

18 “(B) in the case of a plan not described in
19 subparagraph (A), has a pooled plan provider,
20 then the plan shall not be treated as failing to meet
21 the requirements under this title applicable to a plan
22 described in section 401(a) or to a plan that consists
23 of individual retirement accounts described in sec-
24 tion 408 (including by reason of subsection (c)

1 thereof), whichever is applicable, merely because one
2 or more employers of employees covered by the plan
3 fail to take such actions as are required of such em-
4 ployers for the plan to meet such requirements.

5 “(2) LIMITATIONS.—

6 “(A) IN GENERAL.—Paragraph (1) shall
7 not apply to any plan unless the terms of the
8 plan provide that in the case of any employer
9 in the plan failing to take the actions described
10 in paragraph (1)—

11 “(i) the assets of the plan attributable
12 to employees of such employer (or bene-
13 ficiaries of such employees) will be trans-
14 ferred to a plan maintained only by such
15 employer (or its successor), to an eligible
16 retirement plan as defined in section
17 402(c)(8)(B) for each individual whose ac-
18 count is transferred, or to any other ar-
19 rangement that the Secretary determines is
20 appropriate, unless the Secretary deter-
21 mines it is in the best interests of the em-
22 ployees of such employer (and the bene-
23 ficiaries of such employees) to retain the
24 assets in the plan, and

1 “(ii) such employer (and not the plan
2 with respect to which the failure occurred
3 or any other employer in such plan) shall,
4 except to the extent provided by the Sec-
5 retary, be liable for any liabilities with re-
6 spect to such plan attributable to employ-
7 ees of such employer (or beneficiaries of
8 such employees).

9 “(B) FAILURES BY POOLED PLAN PRO-
10 VIDERS.—If the pooled plan provider of a plan
11 described in paragraph (1)(B) does not perform
12 substantially all of the administrative duties
13 which are required of the provider under para-
14 graph (3)(A)(i) for any plan year, the Secretary
15 may provide that the determination as to
16 whether the plan meets the requirements under
17 this title applicable to a plan described in sec-
18 tion 401(a) or to a plan that consists of indi-
19 vidual retirement accounts described in section
20 408 (including by reason of subsection (c)
21 thereof), whichever is applicable, shall be made
22 in the same manner as would be made without
23 regard to paragraph (1).

24 “(3) POOLED PLAN PROVIDER.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the term ‘pooled plan provider’
3 means, with respect to any plan, a person
4 who—

5 “(i) is designated by the terms of the
6 plan as a named fiduciary (within the
7 meaning of section 402(a)(2) of the Em-
8 ployee Retirement Income Security Act of
9 1974), as the plan administrator, and as
10 the person responsible to perform all ad-
11 ministrative duties (including conducting
12 proper testing with respect to the plan and
13 the employees of each employer in the
14 plan) which are reasonably necessary to
15 ensure that—

16 “(I) the plan meets any require-
17 ment applicable under the Employee
18 Retirement Income Security Act of
19 1974 or this title to a plan described
20 in section 401(a) or to a plan that
21 consists of individual retirement ac-
22 counts described in section 408 (in-
23 cluding by reason of subsection (c)
24 thereof), whichever is applicable, and

1 “(II) each employer in the plan
2 takes such actions as the Secretary or
3 such person determines are necessary
4 for the plan to meet the requirements
5 described in subclause (I), including
6 providing to such person any disclo-
7 sures or other information which the
8 Secretary may require or which such
9 person otherwise determines are nec-
10 essary to administer the plan or to
11 allow the plan to meet such require-
12 ments,

13 “(ii) registers as a pooled plan pro-
14 vider with the Secretary, and provides such
15 other information to the Secretary as the
16 Secretary may require, before beginning
17 operations as a pooled plan provider,

18 “(iii) acknowledges in writing that
19 such person is a named fiduciary (within
20 the meaning of section 402(a)(2) of the
21 Employee Retirement Income Security Act
22 of 1974), and the plan administrator, with
23 respect to the plan, and

24 “(iv) is responsible for ensuring that
25 all persons who handle assets of, or who

1 are fiduciaries of, the plan are bonded in
2 accordance with section 412 of the Em-
3 ployee Retirement Income Security Act of
4 1974.

5 “(B) AUDITS, EXAMINATIONS AND INVES-
6 TIGATIONS.—The Secretary may perform au-
7 dits, examinations, and investigations of pooled
8 plan providers as may be necessary to enforce
9 and carry out the purposes of this subsection.

10 “(C) AGGREGATION RULES.—For purposes
11 of this paragraph, in determining whether a
12 person meets the requirements of this para-
13 graph to be a pooled plan provider with respect
14 to any plan, all persons who perform services
15 for the plan and who are treated as a single
16 employer under subsection (b), (c), (m), or (o)
17 of section 414 shall be treated as one person.

18 “(D) TREATMENT OF EMPLOYERS AS PLAN
19 SPONSORS.—Except with respect to the admin-
20 istrative duties of the pooled plan provider de-
21 scribed in subparagraph (A)(i), each employer
22 in a plan which has a pooled plan provider shall
23 be treated as the plan sponsor with respect to
24 the portion of the plan attributable to employ-

1 ees of such employer (or beneficiaries of such
2 employees).

3 “(4) GUIDANCE.—The Secretary shall issue
4 such guidance as the Secretary determines appro-
5 priate to carry out this subsection, including guid-
6 ance—

7 “(A) to identify the administrative duties
8 and other actions required to be performed by
9 a pooled plan provider under this subsection,

10 “(B) which describes the procedures to be
11 taken to terminate a plan which fails to meet
12 the requirements to be a plan described in para-
13 graph (1), including the proper treatment of,
14 and actions needed to be taken by, any em-
15 ployer in the plan and the assets and liabilities
16 of the plan attributable to employees of such
17 employer (or beneficiaries of such employees),
18 and

19 “(C) identifying appropriate cases to which
20 the rules of paragraph (2)(A) will apply to em-
21 ployers in the plan failing to take the actions
22 described in paragraph (1).

23 The Secretary shall take into account under sub-
24 paragraph (C) whether the failure of an employer or
25 pooled plan provider to provide any disclosures or

1 other information, or to take any other action, nec-
2 essary to administer a plan or to allow a plan to
3 meet requirements applicable to the plan under sec-
4 tion 401(a) or 408, whichever is applicable, has con-
5 tinued over a period of time that demonstrates a
6 lack of commitment to compliance.

7 “(5) MODEL PLAN.—The Secretary shall pub-
8 lish model plan language which meets the require-
9 ments of this subsection and of paragraphs (43) and
10 (44) of section 3 of the Employee Retirement In-
11 come Security Act of 1974 and which may be adopt-
12 ed in order for a plan to be treated as a plan de-
13 scribed in paragraph (1)(B).”.

14 (2) CONFORMING AMENDMENT.—Section
15 413(c)(2) is amended by striking “section 401(a)”
16 and inserting “sections 401(a) and 408(c)”.

17 (3) TECHNICAL AMENDMENT.—Section 408(c)
18 is amended by inserting after paragraph (2) the fol-
19 lowing new paragraph:

20 “(3) There is a separate accounting for any in-
21 terest of an employee or member (or spouse of an
22 employee or member) in a Roth IRA.”.

23 (b) NO COMMON INTEREST REQUIRED FOR POOLED
24 EMPLOYER PLANS.—Section 3(2) of the Employee Retire-

1 ment Income Security Act of 1974 (29 U.S.C. 1002(2))
2 is amended by adding at the end the following:

3 “(C) A pooled employer plan shall be treat-
4 ed as—

5 “(i) a single employee pension benefit
6 plan or single pension plan; and

7 “(ii) a plan to which section 210(a)
8 applies.”.

9 (c) POOLED EMPLOYER PLAN AND PROVIDER DE-
10 FINED.—

11 (1) IN GENERAL.—Section 3 of the Employee
12 Retirement Income Security Act of 1974 (29 U.S.C.
13 1002) is amended by adding at the end the fol-
14 lowing:

15 “(43) POOLED EMPLOYER PLAN.—

16 “(A) IN GENERAL.—The term ‘pooled em-
17 ployer plan’ means a plan—

18 “(i) which is an individual account
19 plan established or maintained for the pur-
20 pose of providing benefits to the employees
21 of 2 or more employers;

22 “(ii) which is a plan described in sec-
23 tion 401(a) of the Internal Revenue Code
24 of 1986 which includes a trust exempt
25 from tax under section 501(a) of such

1 Code or a plan that consists of individual
2 retirement accounts described in section
3 408 of such Code (including by reason of
4 subsection (c) thereof); and

5 “(iii) the terms of which meet the re-
6 quirements of subparagraph (B).

7 Such term shall not include a plan maintained
8 by employers which have a common interest
9 other than having adopted the plan.

10 “(B) REQUIREMENTS FOR PLAN TERMS.—
11 The requirements of this subparagraph are met
12 with respect to any plan if the terms of the
13 plan—

14 “(i) designate a pooled plan provider
15 and provide that the pooled plan provider
16 is a named fiduciary of the plan;

17 “(ii) designate one or more trustees
18 meeting the requirements of section
19 408(a)(2) of the Internal Revenue Code of
20 1986 (other than an employer in the plan)
21 to be responsible for collecting contribu-
22 tions to, and holding the assets of, the
23 plan and require such trustees to imple-
24 ment written contribution collection proce-

1 dures that are reasonable, diligent, and
2 systematic;

3 “(iii) provide that each employer in
4 the plan retains fiduciary responsibility
5 for—

6 “(I) the selection and monitoring
7 in accordance with section 404(a) of
8 the person designated as the pooled
9 plan provider and any other person
10 who, in addition to the pooled plan
11 provider, is designated as a named fi-
12 duciary of the plan; and

13 “(II) to the extent not otherwise
14 delegated to another fiduciary by the
15 pooled plan provider and subject to
16 the provisions of section 404(c), the
17 investment and management of the
18 portion of the plan’s assets attrib-
19 utable to the employees of the em-
20 ployer (or beneficiaries of such em-
21 ployees);

22 “(iv) provide that employers in the
23 plan, and participants and beneficiaries,
24 are not subject to unreasonable restric-
25 tions, fees, or penalties with regard to

1 ceasing participation, receipt of distribu-
2 tions, or otherwise transferring assets of
3 the plan in accordance with section 208 or
4 paragraph (44)(C)(i)(II);

5 “(v) require—

6 “(I) the pooled plan provider to
7 provide to employers in the plan any
8 disclosures or other information which
9 the Secretary may require, including
10 any disclosures or other information
11 to facilitate the selection or any moni-
12 toring of the pooled plan provider by
13 employers in the plan; and

14 “(II) each employer in the plan
15 to take such actions as the Secretary
16 or the pooled plan provider determines
17 are necessary to administer the plan
18 or for the plan to meet any require-
19 ment applicable under this Act or the
20 Internal Revenue Code of 1986 to a
21 plan described in section 401(a) of
22 such Code or to a plan that consists
23 of individual retirement accounts de-
24 scribed in section 408 of such Code
25 (including by reason of subsection (c)

1 thereof), whichever is applicable, in-
2 cluding providing any disclosures or
3 other information which the Secretary
4 may require or which the pooled plan
5 provider otherwise determines are nec-
6 essary to administer the plan or to
7 allow the plan to meet such require-
8 ments; and

9 “(vi) provide that any disclosure or
10 other information required to be provided
11 under clause (v) may be provided in elec-
12 tronic form and will be designed to ensure
13 only reasonable costs are imposed on
14 pooled plan providers and employers in the
15 plan.

16 “(C) EXCEPTIONS.—The term ‘pooled em-
17 ployer plan’ does not include—

18 “(i) a multiemployer plan; or

19 “(ii) a plan established before the
20 date of the enactment of the Family Sav-
21 ings Act of 2019 unless the plan adminis-
22 trator elects that the plan will be treated
23 as a pooled employer plan and the plan
24 meets the requirements of this title appli-

1 cable to a pooled employer plan established
2 on or after such date.

3 “(D) TREATMENT OF EMPLOYERS AS PLAN
4 SPONSORS.—Except with respect to the admin-
5 istrative duties of the pooled plan provider de-
6 scribed in paragraph (44)(A)(i), each employer
7 in a pooled employer plan shall be treated as
8 the plan sponsor with respect to the portion of
9 the plan attributable to employees of such em-
10 ployer (or beneficiaries of such employees).

11 “(44) POOLED PLAN PROVIDER.—

12 “(A) IN GENERAL.—The term ‘pooled plan
13 provider’ means a person who—

14 “(i) is designated by the terms of a
15 pooled employer plan as a named fiduciary,
16 as the plan administrator, and as the per-
17 son responsible for the performance of all
18 administrative duties (including conducting
19 proper testing with respect to the plan and
20 the employees of each employer in the
21 plan) which are reasonably necessary to
22 ensure that—

23 “(I) the plan meets any require-
24 ment applicable under this Act or the
25 Internal Revenue Code of 1986 to a

1 plan described in section 401(a) of
2 such Code or to a plan that consists
3 of individual retirement accounts de-
4 scribed in section 408 of such Code
5 (including by reason of subsection (c)
6 thereof), whichever is applicable; and

7 “(II) each employer in the plan
8 takes such actions as the Secretary or
9 pooled plan provider determines are
10 necessary for the plan to meet the re-
11 quirements described in subclause (I),
12 including providing the disclosures
13 and information described in para-
14 graph (43)(B)(v)(II);

15 “(ii) registers as a pooled plan pro-
16 vider with the Secretary, and provides to
17 the Secretary such other information as
18 the Secretary may require, before begin-
19 ning operations as a pooled plan provider;

20 “(iii) acknowledges in writing that
21 such person is a named fiduciary, and the
22 plan administrator, with respect to the
23 pooled employer plan; and

24 “(iv) is responsible for ensuring that
25 all persons who handle assets of, or who

1 are fiduciaries of, the pooled employer plan
2 are bonded in accordance with section 412.

3 “(B) AUDITS, EXAMINATIONS AND INVESTIGATIONS.—The Secretary may perform au-
4 dits, examinations, and investigations of pooled
5 plan providers as may be necessary to enforce
6 and carry out the purposes of this paragraph
7 and paragraph (43).

8 “(C) GUIDANCE.—The Secretary shall
9 issue such guidance as the Secretary determines
10 appropriate to carry out this paragraph and
11 paragraph (43), including guidance—

12 “(i) to identify the administrative du-
13 ties and other actions required to be per-
14 formed by a pooled plan provider under ei-
15 ther such paragraph; and
16 “(ii) which requires in appropriate

17 cases that if an employer in the plan fails
18 to take the actions required under sub-
19 paragraph (A)(i)(II)—

20 “(I) the assets of the plan attrib-
21 utable to employees of such employer
22 (or beneficiaries of such employees)
23 are transferred to a plan maintained
24 only by such employer (or its suc-
25

1 cessor), to an eligible retirement plan
2 as defined in section 402(c)(8)(B) of
3 the Internal Revenue Code of 1986
4 for each individual whose account is
5 transferred, or to any other arrange-
6 ment that the Secretary determines is
7 appropriate in such guidance; and

8 “(II) such employer (and not the
9 plan with respect to which the failure
10 occurred or any other employer in
11 such plan) shall, except to the extent
12 provided in such guidance, be liable
13 for any liabilities with respect to such
14 plan attributable to employees of such
15 employer (or beneficiaries of such em-
16 ployees).

17 The Secretary shall take into account under
18 clause (ii) whether the failure of an employer or
19 pooled plan provider to provide any disclosures
20 or other information, or to take any other ac-
21 tion, necessary to administer a plan or to allow
22 a plan to meet requirements described in sub-
23 paragraph (A)(i)(II) has continued over a pe-
24 riod of time that demonstrates a lack of com-
25 mitment to compliance. The Secretary may

1 waive the requirements of subclause (ii)(I) in
2 appropriate circumstances if the Secretary de-
3 termines it is in the best interests of the em-
4 ployees of the employer referred to in such
5 clause (and the beneficiaries of such employees)
6 to retain the assets in the plan with respect to
7 which the employer’s failure occurred.

8 “(D) AGGREGATION RULES.—For purposes
9 of this paragraph, in determining whether a
10 person meets the requirements of this para-
11 graph to be a pooled plan provider with respect
12 to any plan, all persons who perform services
13 for the plan and who are treated as a single
14 employer under subsection (b), (c), (m), or (o)
15 of section 414 of the Internal Revenue Code of
16 1986 shall be treated as one person.”.

17 (2) BONDING REQUIREMENTS FOR POOLED EM-
18 PLOYER PLANS.—The last sentence of section 412(a)
19 of the Employee Retirement Income Security Act of
20 1974 (29 U.S.C. 1112(a)) is amended by inserting
21 “or in the case of a pooled employer plan (as defined
22 in section 3(43))” after “section 407(d)(1)”.

23 (3) CONFORMING AND TECHNICAL AMEND-
24 MENTS.—Section 3 of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1002) is
2 amended—

3 (A) in paragraph (16)(B)—

4 (i) by striking “or” at the end of
5 clause (ii); and

6 (ii) by striking the period at the end
7 and inserting “, or (iv) in the case of a
8 pooled employer plan, the pooled plan pro-
9 vider.”; and

10 (B) by striking the second paragraph (41).

11 (d) POOLED EMPLOYER AND MULTIPLE EMPLOYER
12 PLAN REPORTING.—

13 (1) ADDITIONAL INFORMATION.—Section 103
14 of the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1023) is amended—

16 (A) in subsection (a)(1)(B), by striking
17 “applicable subsections (d), (e), and (f)” and
18 inserting “applicable subsections (d), (e), (f),
19 and (g)”; and

20 (B) by amending subsection (g) to read as
21 follows:

22 “(g) ADDITIONAL INFORMATION WITH RESPECT TO
23 POOLED EMPLOYER AND MULTIPLE EMPLOYER
24 PLANS.—An annual report under this section for a plan
25 year shall include—

1 “(1) with respect to any plan to which section
2 210(a) applies (including a pooled employer plan), a
3 list of employers in the plan, a good faith estimate
4 of the percentage of total contributions made by
5 such employers during the plan year, and the aggregate
6 account balances attributable to each employer
7 in the plan (determined as the sum of the account
8 balances of the employees of such employer (and the
9 beneficiaries of such employees)); and

10 “(2) with respect to a pooled employer plan, the
11 identifying information for the person designated
12 under the terms of the plan as the pooled plan pro-
13 vider.”.

14 (2) SIMPLIFIED ANNUAL REPORTS.—Section
15 104(a) of the Employee Retirement Income Security
16 Act of 1974 (29 U.S.C. 1024(a)) is amended by
17 striking paragraph (2)(A) and inserting the fol-
18 lowing:

19 “(2)(A) With respect to annual reports required
20 to be filed with the Secretary under this part, the
21 Secretary may by regulation prescribe simplified an-
22 nual reports for any pension plan that—

23 “(i) covers fewer than 100 participants; or

24 “(ii) is a plan described in section 210(a)

25 that covers fewer than 1,000 participants, but

1 only if no single employer in the plan has 100
2 or more participants covered by the plan.”.

3 (e) EFFECTIVE DATE.—

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

7 (2) RULE OF CONSTRUCTION.—Nothing in the
8 amendments made by subsection (a) shall be con-
9 strued as limiting the authority of the Secretary of
10 the Treasury or the Secretary’s delegate (determined
11 without regard to such amendments) to provide for
12 the proper treatment of a failure to meet any re-
13 quirement applicable under the Internal Revenue
14 Code of 1986 with respect to one employer (and its
15 employees) in a multiple employer plan.

16 **SEC. 102. RULES RELATING TO ELECTION OF SAFE HARBOR**
17 **401(k) STATUS.**

18 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE
19 TO MATCHING CONTRIBUTION PLANS.—

20 (1) IN GENERAL.—Section 401(k)(12)(A) is
21 amended by striking “if such arrangement” and all
22 that follows and inserting “if such arrangement—
23 “(i) meets the contribution require-
24 ments of subparagraph (B) and the notice
25 requirements of subparagraph (D), or

1 “(ii) meets the contribution require-
2 ments of subparagraph (C).”.

3 (2) AUTOMATIC CONTRIBUTION ARRANGE-
4 MENTS.—Section 401(k)(13)(B) is amended by
5 striking “means” and all that follows and inserting
6 “means a cash or deferred arrangement—

7 “(i) which is described in subpara-
8 graph (D)(i)(I) and meets the applicable
9 requirements of subparagraphs (C)
10 through (E), or

11 “(ii) which is described in subpara-
12 graph (D)(i)(II) and meets the applicable
13 requirements of subparagraphs (C) and
14 (D).”.

15 (b) NONELECTIVE CONTRIBUTIONS.—Section
16 401(k)(12) is amended by redesignating subparagraph (F)
17 as subparagraph (G), and by inserting after subparagraph
18 (E) the following new subparagraph:

19 “(F) TIMING OF PLAN AMENDMENT FOR
20 EMPLOYER MAKING NONELECTIVE CONTRIBU-
21 TIONS.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), a plan may be amend-
24 ed after the beginning of a plan year to
25 provide that the requirements of subpara-

1 graph (C) shall apply to the arrangement
2 for the plan year, but only if the amend-
3 ment is adopted—

4 “(I) at any time before the 30th
5 day before the close of the plan year,
6 or

7 “(II) at any time before the last
8 day under paragraph (8)(A) for dis-
9 tributing excess contributions for the
10 plan year.

11 “(ii) EXCEPTION WHERE PLAN PRO-
12 VIDED FOR MATCHING CONTRIBUTIONS.—
13 Clause (i) shall not apply to any plan year
14 if the plan provided at any time during the
15 plan year that the requirements of sub-
16 paragraph (B) or paragraph (13)(D)(i)(I)
17 applied to the plan year.

18 “(iii) 4-PERCENT CONTRIBUTION RE-
19 QUIREMENT.—Clause (i)(II) shall not
20 apply to an arrangement unless the
21 amount of the contributions described in
22 subparagraph (C) which the employer is
23 required to make under the arrangement
24 for the plan year with respect to any em-

1 ployee is an amount equal to at least 4
2 percent of the employee’s compensation.”.

3 (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

4 Section 401(k)(13) is amended by adding at the end the
5 following:

6 “(F) TIMING OF PLAN AMENDMENT FOR
7 EMPLOYER MAKING NONELECTIVE CONTRIBU-
8 TIONS.—

9 “(i) IN GENERAL.—Except as pro-
10 vided in clause (ii), a plan may be amend-
11 ed after the beginning of a plan year to
12 provide that the requirements of subpara-
13 graph (D)(i)(II) shall apply to the arrange-
14 ment for the plan year, but only if the
15 amendment is adopted—

16 “(I) at any time before the 30th
17 day before the close of the plan year,
18 or

19 “(II) at any time before the last
20 day under paragraph (8)(A) for dis-
21 tributing excess contributions for the
22 plan year.

23 “(ii) EXCEPTION WHERE PLAN PRO-
24 VIDED FOR MATCHING CONTRIBUTIONS.—

25 Clause (i) shall not apply to any plan year

1 if the plan provided at any time during the
2 plan year that the requirements of sub-
3 paragraph (D)(i)(I) or paragraph (12)(B)
4 applied to the plan year.

5 “(iii) 4-PERCENT CONTRIBUTION RE-
6 QUIREMENT.—Clause (i)(II) shall not
7 apply to an arrangement unless the
8 amount of the contributions described in
9 subparagraph (D)(i)(II) which the em-
10 ployer is required to make under the ar-
11 rangement for the plan year with respect
12 to any employee is an amount equal to at
13 least 4 percent of the employee’s com-
14 pensation.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 2019.

18 **SEC. 103. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**
19 **AND STIPEND PAYMENTS TREATED AS COM-**
20 **PENSATION FOR IRA PURPOSES.**

21 (a) IN GENERAL.—Section 219(f)(1) is amended by
22 adding at the end the following: “The term ‘compensation’
23 shall include any amount included in gross income and
24 paid to an individual to aid the individual in the pursuit
25 of graduate or postdoctoral study.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2019.

4 **SEC. 104. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**
5 **CONTRIBUTIONS.**

6 (a) IN GENERAL.—Section 219(d) is amended by
7 striking paragraph (1).

8 (b) CONFORMING AMENDMENT.—Section 408A(c) is
9 amended by striking paragraph (4) and by redesignating
10 paragraphs (5), (6), and (7) as paragraphs (4), (5), and
11 (6), respectively.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to contributions made for taxable
14 years beginning after December 31, 2019.

15 **SEC. 105. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
16 **MAKING LOANS THROUGH CREDIT CARDS**
17 **AND OTHER SIMILAR ARRANGEMENTS.**

18 (a) IN GENERAL.—Section 72(p)(2) is amended by
19 redesignating subparagraph (D) as subparagraph (E) and
20 by inserting after subparagraph (C) the following new sub-
21 paragraph:

22 “(D) PROHIBITION OF LOANS THROUGH
23 CREDIT CARDS AND OTHER SIMILAR ARRANGE-
24 MENTS.—Notwithstanding subparagraph (A),
25 paragraph (1) shall apply to any loan which is

1 made through the use of any credit card or any
2 other similar arrangement.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall apply to loans made after the date
5 of the enactment of this Act.

6 **SEC. 106. PORTABILITY OF LIFETIME INCOME INVEST-**
7 **MENTS.**

8 (a) **IN GENERAL.**—Section 401(a) is amended by in-
9 serting after paragraph (37) the following new paragraph:

10 “(38) **PORTABILITY OF LIFETIME INCOME IN-**
11 **VESTMENTS.**—

12 “(A) **IN GENERAL.**—Except as may be oth-
13 erwise provided by regulations, a trust forming
14 part of a defined contribution plan shall not be
15 treated as failing to constitute a qualified trust
16 under this section solely by reason of allowing—

17 “(i) qualified distributions of a life-
18 time income investment, or

19 “(ii) distributions of a lifetime income
20 investment in the form of a qualified plan
21 distribution annuity contract,

22 on or after the date that is 90 days prior to the
23 date on which such lifetime income investment
24 is no longer authorized to be held as an invest-
25 ment option under the plan.

1 “(B) DEFINITIONS.—For purposes of this
2 subsection—

3 “(i) the term ‘qualified distribution’
4 means a direct trustee-to-trustee transfer
5 described in paragraph (31)(A) to an eligi-
6 ble retirement plan (as defined in section
7 402(c)(8)(B)),

8 “(ii) the term ‘lifetime income invest-
9 ment’ means an investment option which is
10 designed to provide an employee with elec-
11 tion rights—

12 “(I) which are not uniformly
13 available with respect to other invest-
14 ment options under the plan, and

15 “(II) which are to a lifetime in-
16 come feature available through a con-
17 tract or other arrangement offered
18 under the plan (or under another eli-
19 gible retirement plan (as so defined),
20 if paid by means of a direct trustee-
21 to-trustee transfer described in para-
22 graph (31)(A) to such other eligible
23 retirement plan),

24 “(iii) the term ‘lifetime income fea-
25 ture’ means—

1 “(I) a feature which guarantees a
2 minimum level of income annually (or
3 more frequently) for at least the re-
4 mainder of the life of the employee or
5 the joint lives of the employee and the
6 employee’s designated beneficiary, or

7 “(II) an annuity payable on be-
8 half of the employee under which pay-
9 ments are made in substantially equal
10 periodic payments (not less frequently
11 than annually) over the life of the em-
12 ployee or the joint lives of the em-
13 ployee and the employee’s designated
14 beneficiary, and

15 “(iv) the term ‘qualified plan distribu-
16 tion annuity contract’ means an annuity
17 contract purchased for a participant and
18 distributed to the participant by a plan or
19 contract described in subparagraph (B) of
20 section 402(c)(8) (without regard to
21 clauses (i) and (ii) thereof).”.

22 (b) CASH OR DEFERRED ARRANGEMENT.—

23 (1) IN GENERAL.—Section 401(k)(2)(B)(i) is
24 amended by striking “or” at the end of subclause
25 (IV), by striking “and” at the end of subclause (V)

1 and inserting “or”, and by adding at the end the fol-
2 lowing new subclause:

3 “(VI) except as may be otherwise
4 provided by regulations, with respect
5 to amounts invested in a lifetime in-
6 come investment (as defined in sub-
7 section (a)(38)(B)(ii)), the date that
8 is 90 days prior to the date that such
9 lifetime income investment may no
10 longer be held as an investment option
11 under the arrangement, and”.

12 (2) DISTRIBUTION REQUIREMENT.—Section
13 401(k)(2)(B), as amended by paragraph (1), is
14 amended by striking “and” at the end of clause (i),
15 by striking the semicolon at the end of clause (ii)
16 and inserting “, and”, and by adding at the end the
17 following new clause:

18 “(iii) except as may be otherwise pro-
19 vided by regulations, in the case of
20 amounts described in clause (i)(VI), will be
21 distributed only in the form of a qualified
22 distribution (as defined in subsection
23 (a)(38)(B)(i)) or a qualified plan distribu-
24 tion annuity contract (as defined in sub-
25 section (a)(38)(B)(iv)).”.

1 (c) SECTION 403(b) PLANS.—

2 (1) ANNUITY CONTRACTS.—Section 403(b)(11)
3 is amended by striking “or” at the end of subpara-
4 graph (B), by striking the period at the end of sub-
5 paragraph (C) and inserting “, or”, and by inserting
6 after subparagraph (C) the following new subpara-
7 graph:

8 “(D) except as may be otherwise provided
9 by regulations, with respect to amounts invested
10 in a lifetime income investment (as defined in
11 section 401(a)(38)(B)(ii))—

12 “(i) on or after the date that is 90
13 days prior to the date that such lifetime
14 income investment may no longer be held
15 as an investment option under the con-
16 tract, and

17 “(ii) in the form of a qualified dis-
18 tribution (as defined in section
19 401(a)(38)(B)(i)) or a qualified plan dis-
20 tribution annuity contract (as defined in
21 section 401(a)(38)(B)(iv)).”.

22 (2) CUSTODIAL ACCOUNTS.—Section
23 403(b)(7)(A) is amended by striking “if—” and all
24 that follows and inserting “if the amounts are to be
25 invested in regulated investment company stock to

1 be held in that custodial account, and under the cus-
2 todial account—

3 “(i) no such amounts may be paid or
4 made available to any distributee (unless
5 such amount is a distribution to which sec-
6 tion 72(t)(2)(G) applies) before—

7 “(I) the employee dies,

8 “(II) the employee attains age
9 59½,

10 “(III) the employee has a sever-
11 ance from employment,

12 “(IV) the employee becomes dis-
13 abled (within the meaning of section
14 72(m)(7)),

15 “(V) in the case of contributions
16 made pursuant to a salary reduction
17 agreement (within the meaning of sec-
18 tion 3121(a)(5)(D)), the employee en-
19 counters financial hardship, or

20 “(VI) except as may be otherwise
21 provided by regulations, with respect
22 to amounts invested in a lifetime in-
23 come investment (as defined in section
24 401(a)(38)(B)(ii)), the date that is 90
25 days prior to the date that such life-

1 time income investment may no longer
2 be held as an investment option under
3 the contract, and

4 “(ii) in the case of amounts described
5 in clause (i)(VI), such amounts will be dis-
6 tributed only in the form of a qualified dis-
7 tribution (as defined in section
8 401(a)(38)(B)(i)) or a qualified plan dis-
9 tribution annuity contract (as defined in
10 section 401(a)(38)(B)(iv)).”.

11 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

12 (1) IN GENERAL.—Section 457(d)(1)(A) is
13 amended by striking “or” at the end of clause (ii),
14 by inserting “or” at the end of clause (iii), and by
15 adding after clause (iii) the following:

16 “(iv) except as may be otherwise pro-
17 vided by regulations, in the case of a plan
18 maintained by an employer described in
19 subsection (e)(1)(A), with respect to
20 amounts invested in a lifetime income in-
21 vestment (as defined in section
22 401(a)(38)(B)(ii)), the date that is 90
23 days prior to the date that such lifetime
24 income investment may no longer be held
25 as an investment option under the plan,”.

1 (2) DISTRIBUTION REQUIREMENT.—Section
2 457(d)(1) is amended by striking “and” at the end
3 of subparagraph (B), by striking the period at the
4 end of subparagraph (C) and inserting “, and”, and
5 by inserting after subparagraph (C) the following
6 new subparagraph:

7 “(D) except as may be otherwise provided
8 by regulations, in the case of amounts described
9 in subparagraph (A)(iv), such amounts will be
10 distributed only in the form of a qualified dis-
11 tribution (as defined in section
12 401(a)(38)(B)(i)) or a qualified plan distribu-
13 tion annuity contract (as defined in section
14 401(a)(38)(B)(iv)).”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 2019.

18 **SEC. 107. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
19 **MINATION OF SECTION 403(b) PLANS.**

20 Not later than six months after the date of enactment
21 of this Act, the Secretary of the Treasury shall issue guid-
22 ance to provide that, if an employer terminates the plan
23 under which amounts are contributed to a custodial ac-
24 count under subparagraph (A) of section 403(b)(7), the
25 plan administrator or custodian may distribute an indi-

1 vidual custodial account in kind to a participant or bene-
2 ficiary of the plan and the distributed custodial account
3 shall be maintained by the custodian on a tax-deferred
4 basis as a section 403(b)(7) custodial account, similar to
5 the treatment of fully-paid individual annuity contracts
6 under Revenue Ruling 2011–7, until amounts are actually
7 paid to the participant or beneficiary. The guidance shall
8 provide further (i) that the section 403(b)(7) status of the
9 distributed custodial account is generally maintained if the
10 custodial account thereafter adheres to the requirements
11 of section 403(b) that are in effect at the time of the dis-
12 tribution of the account and (ii) that a custodial account
13 would not be considered distributed to the participant or
14 beneficiary if the employer has any material retained
15 rights under the account (but the employer would not be
16 treated as retaining material rights simply because the
17 custodial account was originally opened under a group
18 contract).

19 **SEC. 108. CLARIFICATION OF RETIREMENT INCOME AC-**
20 **COUNT RULES RELATING TO CHURCH-CON-**
21 **TROLLED ORGANIZATIONS.**

22 (a) IN GENERAL.—Section 403(b)(9)(B) is amended
23 by inserting “(including an employee described in section
24 414(e)(3)(B))” after “employee described in paragraph
25 (1)”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to years beginning before, on, or
 3 after the date of the enactment of this Act.

4 **SEC. 109. INCREASE IN 10 PERCENT CAP FOR AUTOMATIC**
 5 **ENROLLMENT SAFE HARBOR AFTER 1ST**
 6 **PLAN YEAR.**

7 (a) IN GENERAL.—Section 401(k)(13)(C)(iii) is
 8 amended by striking “does not exceed 10 percent” and
 9 inserting “does not exceed 15 percent (10 percent during
 10 the period described in subclause (I))”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to plan years beginning after De-
 13 cember 31, 2019.

14 **SEC. 110. INCREASE IN CREDIT LIMITATION FOR SMALL**
 15 **EMPLOYER PENSION PLAN STARTUP COSTS.**

16 (a) IN GENERAL.—Paragraph (1) of section 45E(b)
 17 is amended to read as follows:

18 “(1) for the first credit year and each of the 2
 19 taxable years immediately following the first credit
 20 year, the greater of—

21 “(A) \$500, or

22 “(B) the lesser of—

23 “(i) \$250 for each employee of the eli-
 24 gible employer who is not a highly com-
 25 pensated employee (as defined in section

1 414(q)) and who is eligible to participate
2 in the eligible employer plan maintained by
3 the eligible employer, or

4 “(ii) \$1,500, and”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 December 31, 2019.

8 **SEC. 111. SMALL EMPLOYER AUTOMATIC ENROLLMENT**
9 **CREDIT.**

10 (a) IN GENERAL.—Section 45E is amended by add-
11 ing at the end the following new subsection:

12 “(f) CREDIT FOR AUTO-ENROLLMENT OPTION FOR
13 RETIREMENT SAVINGS OPTIONS.—

14 “(1) IN GENERAL.—The credit allowed under
15 subsection (a) for any taxable year during an eligible
16 employer’s retirement auto-enrollment credit period
17 shall be increased (without regard to subsection (b))
18 by \$500.

19 “(2) RETIREMENT AUTO-ENROLLMENT CREDIT
20 PERIOD.—

21 “(A) IN GENERAL.—The retirement auto-
22 enrollment credit period with respect to any eli-
23 gible employer is the 3-taxable-year period be-
24 ginning with the first taxable year for which the
25 employer includes an eligible automatic con-

1 “(i) IN GENERAL.—If on the last day
2 of any calendar year the aggregate value of
3 an employee’s entire interest under all ap-
4 plicable eligible retirement plans does not
5 exceed \$50,000, then the requirements of
6 subparagraph (A) with respect to any dis-
7 tribution relating to such year shall not
8 apply with respect to such employee.

9 “(ii) APPLICABLE ELIGIBLE RETIRE-
10 MENT PLAN.—For purposes of this sub-
11 paragraph, the term ‘applicable eligible re-
12 tirement plan’ means an eligible retirement
13 plan (as defined in section 402(c)(8)(B))
14 other than a defined benefit plan.

15 “(iii) LIMIT ON REQUIRED MINIMUM
16 DISTRIBUTION.—The required minimum
17 distribution determined under subpara-
18 graph (A) for an employee under all appli-
19 cable eligible retirement plans shall not ex-
20 ceed an amount equal to the excess of—

21 “(I) the aggregate value of an
22 employee’s entire interest under such
23 plans on the last day of the calendar
24 year to which such distribution re-
25 lates, over

1 “(II) the dollar amount in effect
2 under clause (i) for such calendar
3 year.

4 The Secretary in regulations or other guid-
5 ance may provide how such amount shall
6 be distributed in the case of an individual
7 with more than one applicable eligible re-
8 tirement plan.

9 “(iv) INFLATION ADJUSTMENT.—In
10 the case of any calendar year beginning
11 after 2020, the \$50,000 amount in clause
12 (i) shall be increased by an amount equal
13 to—

14 “(I) such dollar amount, multi-
15 plied by

16 “(II) the cost of living adjust-
17 ment determined under section 1(f)(3)
18 for the calendar year, determined by
19 substituting ‘calendar year 2019’ for
20 ‘calendar year 2016’ in subparagraph
21 (A)(ii) thereof.

22 Any increase determined under this clause
23 shall be rounded to the next lowest mul-
24 tiple of \$5,000.

1 “(v) PLAN ADMINISTRATOR RELIANCE
2 ON EMPLOYEE CERTIFICATION.—An appli-
3 cable eligible retirement plan described in
4 clause (iii), (iv), (v), or (vi) of section
5 402(c)(8)(B) shall not be treated as failing
6 to meet the requirements of this paragraph
7 in the case of any failure to make a re-
8 quired minimum distribution for a cal-
9 endar year if—

10 “(I) the aggregate value of an
11 employee’s entire interest under all
12 applicable eligible retirement plans of
13 the employer on the last day of the
14 calendar year to which such distribu-
15 tion relates does not exceed the dollar
16 amount in effect for such year under
17 clause (i), and

18 “(II) the employee certifies that
19 the aggregate value of the employee’s
20 entire interest under all applicable eli-
21 gible retirement plans on the last day
22 of the calendar year to which such
23 distribution relates did not exceed the
24 dollar amount in effect for such year
25 under clause (i).

1 “(vi) AGGREGATION RULE.—All em-
2 ployers treated as a single employer under
3 subsection (b), (c), (m), or (o) of section
4 414 shall be treated as a single employer
5 for purposes of clause (v).”.

6 (b) PLAN ADMINISTRATOR REPORTING.—Section
7 6047 is amended by redesignating subsection (h) as sub-
8 section (i) and by inserting after subsection (g) the fol-
9 lowing new subsection:

10 “(h) ACCOUNT BALANCE FOR PARTICIPANTS WHO
11 HAVE ATTAINED AGE 69.—

12 “(1) IN GENERAL.—Not later than January 31
13 of each year, the plan administrator (as defined in
14 section 414(g)) of each applicable eligible retirement
15 plan (as defined in section 401(a)(9)(H)) shall make
16 a return to the Secretary with respect to each par-
17 ticipant of such plan who has attained age 69 as of
18 the end of the preceding calendar year which
19 states—

20 “(A) the name and plan number of the
21 plan,

22 “(B) the name and address of the plan ad-
23 ministrator,

24 “(C) the name, address, and taxpayer
25 identification number of the participant, and

1 “(D) the account balance of such partici-
2 pant as of the end of the preceding calendar
3 year.

4 “(2) STATEMENT FURNISHED TO PARTICI-
5 PANT.—Every person required to make a return
6 under paragraph (1) with respect to a participant
7 shall furnish a copy of such return to such partici-
8 pant.

9 “(3) APPLICATION TO INDIVIDUAL RETIREMENT
10 PLANS AND ANNUITIES.—In the case of an applica-
11 ble eligible retirement plan described in clause (i) or
12 (ii) of section 402(c)(8)(B)—

13 “(A) any reference in this subsection to
14 the plan administrator shall be treated as a ref-
15 erence to the trustee or issuer, as the case may
16 be, and

17 “(B) any reference in this subsection to
18 the participant shall be treated as a reference
19 to the individual for whom such account or an-
20 nuity is maintained.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to distributions required to be
23 made in calendar years beginning more than 120 days
24 after the date of the enactment of this Act.

1 **SEC. 113. ELECTIVE DEFERRALS BY MEMBERS OF THE**
2 **READY RESERVE OF A RESERVE COMPONENT**
3 **OF THE ARMED FORCES.**

4 (a) IN GENERAL.—Section 402(g) is amended by
5 adding at the end the following new paragraph:

6 “(9) ELECTIVE DEFERRALS BY MEMBERS OF
7 READY RESERVE.—

8 “(A) IN GENERAL.—In the case of a quali-
9 fied ready reservist for any taxable year, the
10 limitations of subparagraphs (A) and (C) of
11 paragraph (1) shall be applied separately with
12 respect to—

13 “(i) elective deferrals of such qualified
14 ready reservist with respect to compensa-
15 tion described in subparagraph (B), and

16 “(ii) all other elective deferrals of
17 such qualified ready reservist.

18 “(B) QUALIFIED READY RESERVIST.—For
19 purposes of this paragraph, the term ‘qualified
20 ready reservist’ means any individual for any
21 taxable year if such individual received com-
22 pensation for service as a member of the Ready
23 Reserve of a reserve component (as defined in
24 section 101 of title 37, United States Code)
25 during such taxable year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2019.

4 **TITLE II—ADMINISTRATIVE**
5 **IMPROVEMENTS**

6 **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR**
7 **MAY BE TREATED AS IN EFFECT AS OF CLOSE**
8 **OF YEAR.**

9 (a) IN GENERAL.—Section 401(b) is amended—

10 (1) by striking “RETROACTIVE CHANGES IN
11 PLAN.—A stock bonus” and inserting “PLAN
12 AMENDMENTS.—

13 “(1) CERTAIN RETROACTIVE CHANGES IN
14 PLAN.—A stock bonus”, and

15 (2) by adding at the end the following new
16 paragraph:

17 “(2) ADOPTION OF PLAN.—If an employer
18 adopts a stock bonus, pension, profit-sharing, or an-
19 nuity plan after the close of a taxable year but be-
20 fore the time prescribed by law for filing the employ-
21 er’s return of tax for the taxable year (including ex-
22 tensions thereof), the employer may elect to treat
23 the plan as having been adopted as of the last day
24 of the taxable year.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plans adopted for taxable years
3 beginning after December 31, 2019.

4 **SEC. 202. MODIFICATION OF NONDISCRIMINATION RULES**
5 **TO PROTECT OLDER, LONGER SERVICE PAR-**
6 **TICIPANTS.**

7 (a) IN GENERAL.—Section 401 is amended—

8 (1) by redesignating subsection (o) as sub-
9 section (p), and

10 (2) by inserting after subsection (n) the fol-
11 lowing new subsection:

12 “(o) SPECIAL RULES FOR APPLYING NON-
13 DISCRIMINATION RULES TO PROTECT OLDER, LONGER
14 SERVICE AND GRANDFATHERED PARTICIPANTS.—

15 “(1) TESTING OF DEFINED BENEFIT PLANS
16 WITH CLOSED CLASSES OF PARTICIPANTS.—

17 “(A) BENEFITS, RIGHTS, OR FEATURES
18 PROVIDED TO CLOSED CLASSES.—A defined
19 benefit plan which provides benefits, rights, or
20 features to a closed class of participants shall
21 not fail to satisfy the requirements of sub-
22 section (a)(4) by reason of the composition of
23 such closed class or the benefits, rights, or fea-
24 tures provided to such closed class, if—

1 “(i) for the plan year as of which the
2 class closes and the 2 succeeding plan
3 years, such benefits, rights, and features
4 satisfy the requirements of subsection
5 (a)(4) (without regard to this subpara-
6 graph but taking into account the rules of
7 subparagraph (I)),

8 “(ii) after the date as of which the
9 class was closed, any plan amendment
10 which modifies the closed class or the ben-
11 efits, rights, and features provided to such
12 closed class does not discriminate signifi-
13 cantly in favor of highly compensated em-
14 ployees, and

15 “(iii) the class was closed before April
16 5, 2017, or the plan is described in sub-
17 paragraph (C).

18 “(B) AGGREGATE TESTING WITH DEFINED
19 CONTRIBUTION PLANS PERMITTED ON A BENE-
20 FITS BASIS.—

21 “(i) IN GENERAL.—For purposes of
22 determining compliance with subsection
23 (a)(4) and section 410(b), a defined benefit
24 plan described in clause (iii) may be aggre-
25 gated and tested on a benefits basis with

1 or more defined contribution plans, including with the portion of 1 or more defined contribution plans which—

“(I) provides matching contributions (as defined in subsection (m)(4)(A)),

“(II) provides annuity contracts described in section 403(b) which are purchased with matching contributions or nonelective contributions, or

“(III) consists of an employee stock ownership plan (within the meaning of section 4975(e)(7)) or a tax credit employee stock ownership plan (within the meaning of section 409(a)).

“(ii) SPECIAL RULES FOR MATCHING CONTRIBUTIONS.—For purposes of clause (i), if a defined benefit plan is aggregated with a portion of a defined contribution plan providing matching contributions—

“(I) such defined benefit plan must also be aggregated with any portion of such defined contribution plan which provides elective deferrals de-

1 scribed in subparagraph (A) or (C) of
2 section 402(g)(3), and

3 “(II) such matching contribu-
4 tions shall be treated in the same
5 manner as nonelective contributions,
6 including for purposes of applying the
7 rules of subsection (l).

8 “(iii) PLANS DESCRIBED.—A defined
9 benefit plan is described in this clause if—

10 “(I) the plan provides benefits to
11 a closed class of participants,

12 “(II) for the plan year as of
13 which the class closes and the 2 suc-
14 ceeding plan years, the plan satisfies
15 the requirements of section 410(b)
16 and subsection (a)(4) (without regard
17 to this subparagraph but taking into
18 account the rules of subparagraph
19 (I)),

20 “(III) after the date as of which
21 the class was closed, any plan amend-
22 ment which modifies the closed class
23 or the benefits provided to such closed
24 class does not discriminate signifi-

1 cantly in favor of highly compensated
2 employees, and

3 “(IV) the class was closed before
4 April 5, 2017, or the plan is described
5 in subparagraph (C).

6 “(C) PLANS DESCRIBED.—A plan is de-
7 scribed in this subparagraph if, taking into ac-
8 count any predecessor plan—

9 “(i) such plan has been in effect for
10 at least 5 years as of the date the class is
11 closed, and

12 “(ii) during the 5-year period pre-
13 ceding the date the class is closed, there
14 has not been a substantial increase in the
15 coverage or value of the benefits, rights, or
16 features described in subparagraph (A) or
17 in the coverage or benefits under the plan
18 described in subparagraph (B)(iii) (which-
19 ever is applicable).

20 “(D) DETERMINATION OF SUBSTANTIAL
21 INCREASE FOR BENEFITS, RIGHTS, AND FEA-
22 TURES.—In applying subparagraph (C)(ii) for
23 purposes of subparagraph (A)(iii), a plan shall
24 be treated as having had a substantial increase
25 in coverage or value of the benefits, rights, or

1 features described in subparagraph (A) during
2 the applicable 5-year period only if, during such
3 period—

4 “(i) the number of participants cov-
5 ered by such benefits, rights, or features
6 on the date such period ends is more than
7 50 percent greater than the number of
8 such participants on the first day of the
9 plan year in which such period began, or

10 “(ii) such benefits, rights, and fea-
11 tures have been modified by 1 or more
12 plan amendments in such a way that, as of
13 the date the class is closed, the value of
14 such benefits, rights, and features to the
15 closed class as a whole is substantially
16 greater than the value as of the first day
17 of such 5-year period, solely as a result of
18 such amendments.

19 “(E) DETERMINATION OF SUBSTANTIAL
20 INCREASE FOR AGGREGATE TESTING ON BENE-
21 FITS BASIS.—In applying subparagraph (C)(ii)
22 for purposes of subparagraph (B)(iii)(IV), a
23 plan shall be treated as having had a substan-
24 tial increase in coverage or benefits during the

1 applicable 5-year period only if, during such pe-
2 riod—

3 “(i) the number of participants bene-
4 fitting under the plan on the date such pe-
5 riod ends is more than 50 percent greater
6 than the number of such participants on
7 the first day of the plan year in which such
8 period began, or

9 “(ii) the average benefit provided to
10 such participants on the date such period
11 ends is more than 50 percent greater than
12 the average benefit provided on the first
13 day of the plan year in which such period
14 began.

15 “(F) CERTAIN EMPLOYEES DIS-
16 REGARDED.—For purposes of subparagraphs
17 (D) and (E), any increase in coverage or value
18 or in coverage or benefits, whichever is applica-
19 ble, which is attributable to such coverage and
20 value or coverage and benefits provided to em-
21 ployees—

22 “(i) who became participants as a re-
23 sult of a merger, acquisition, or similar
24 event which occurred during the 7-year pe-

1 riod preceding the date the class is closed,
2 or

3 “(ii) who became participants by rea-
4 son of a merger of the plan with another
5 plan which had been in effect for at least
6 5 years as of the date of the merger,

7 shall be disregarded, except that clause (ii)
8 shall apply for purposes of subparagraph (D)
9 only if, under the merger, the benefits, rights,
10 or features under 1 plan are conformed to the
11 benefits, rights, or features of the other plan
12 prospectively.

13 “(G) RULES RELATING TO AVERAGE BEN-
14 EFIT.—For purposes of subparagraph (E)—

15 “(i) the average benefit provided to
16 participants under the plan will be treated
17 as having remained the same between the
18 2 dates described in subparagraph (E)(ii)
19 if the benefit formula applicable to such
20 participants has not changed between such
21 dates, and

22 “(ii) if the benefit formula applicable
23 to 1 or more participants under the plan
24 has changed between such 2 dates, then
25 the average benefit under the plan shall be

1 considered to have increased by more than
2 50 percent only if—

3 “(I) the total amount determined
4 under section 430(b)(1)(A)(i) for all
5 participants benefitting under the
6 plan for the plan year in which the 5-
7 year period described in subparagraph
8 (E) ends, exceeds

9 “(II) the total amount deter-
10 mined under section 430(b)(1)(A)(i)
11 for all such participants for such plan
12 year, by using the benefit formula in
13 effect for each such participant for
14 the first plan year in such 5-year pe-
15 riod, by more than 50 percent.

16 In the case of a CSEC plan (as defined in
17 section 414(y)), the normal cost of the
18 plan (as determined under section
19 433(j)(1)(B)) shall be used in lieu of the
20 amount determined under section
21 430(b)(1)(A)(i).

22 “(H) TREATMENT AS SINGLE PLAN.—For
23 purposes of subparagraphs (E) and (G), a plan
24 described in section 413(c) shall be treated as

1 a single plan rather than as separate plans
2 maintained by each employer in the plan.

3 “(I) SPECIAL RULES.—For purposes of
4 subparagraphs (A)(i) and (B)(iii)(II), the fol-
5 lowing rules shall apply:

6 “(i) In applying section 410(b)(6)(C),
7 the closing of the class of participants shall
8 not be treated as a significant change in
9 coverage under section 410(b)(6)(C)(i)(II).

10 “(ii) Two or more plans shall not fail
11 to be eligible to be aggregated and treated
12 as a single plan solely by reason of having
13 different plan years.

14 “(iii) Changes in the employee popu-
15 lation shall be disregarded to the extent at-
16 tributable to individuals who become em-
17 ployees or cease to be employees, after the
18 date the class is closed, by reason of a
19 merger, acquisition, divestiture, or similar
20 event.

21 “(iv) Aggregation and all other testing
22 methodologies otherwise applicable under
23 subsection (a)(4) and section 410(b) may
24 be taken into account.

1 The rule of clause (ii) shall also apply for pur-
2 poses of determining whether plans to which
3 subparagraph (B)(i) applies may be aggregated
4 and treated as 1 plan for purposes of deter-
5 mining whether such plans meet the require-
6 ments of subsection (a)(4) and section 410(b).

7 “(J) SPUN-OFF PLANS.—For purposes of
8 this paragraph, if a portion of a defined benefit
9 plan described in subparagraph (A) or (B)(iii)
10 is spun off to another employer and the spun-
11 off plan continues to satisfy the requirements
12 of—

13 “(i) subparagraph (A)(i) or
14 (B)(iii)(II), whichever is applicable, if the
15 original plan was still within the 3-year pe-
16 riod described in such subparagraph at the
17 time of the spin off, and

18 “(ii) subparagraph (A)(ii) or
19 (B)(iii)(III), whichever is applicable,

20 the treatment under subparagraph (A) or (B)
21 of the spun-off plan shall continue with respect
22 to such other employer.

23 “(2) TESTING OF DEFINED CONTRIBUTION
24 PLANS.—

1 “(A) TESTING ON A BENEFITS BASIS.—A
2 defined contribution plan shall be permitted to
3 be tested on a benefits basis if—

4 “(i) such defined contribution plan
5 provides make-whole contributions to a
6 closed class of participants whose accruals
7 under a defined benefit plan have been re-
8 duced or eliminated,

9 “(ii) for the plan year of the defined
10 contribution plan as of which the class eli-
11 gible to receive such make-whole contribu-
12 tions closes and the 2 succeeding plan
13 years, such closed class of participants sat-
14 isfies the requirements of section
15 410(b)(2)(A)(i) (determined by applying
16 the rules of paragraph (1)(I)),

17 “(iii) after the date as of which the
18 class was closed, any plan amendment to
19 the defined contribution plan which modi-
20 fies the closed class or the allocations, ben-
21 efits, rights, and features provided to such
22 closed class does not discriminate signifi-
23 cantly in favor of highly compensated em-
24 ployees, and

1 “(iv) the class was closed before April
2 5, 2017, or the defined benefit plan under
3 clause (i) is described in paragraph (1)(C)
4 (as applied for purposes of paragraph
5 (1)(B)(iii)(IV)).

6 “(B) AGGREGATION WITH PLANS INCLUD-
7 ING MATCHING CONTRIBUTIONS.—

8 “(i) IN GENERAL.—With respect to 1
9 or more defined contribution plans de-
10 scribed in subparagraph (A), for purposes
11 of determining compliance with subsection
12 (a)(4) and section 410(b), the portion of
13 such plans which provides make-whole con-
14 tributions or other nonelective contribu-
15 tions may be aggregated and tested on a
16 benefits basis with the portion of 1 or
17 more other defined contribution plans
18 which—

19 “(I) provides matching contribu-
20 tions (as defined in subsection
21 (m)(4)(A)),

22 “(II) provides annuity contracts
23 described in section 403(b) which are
24 purchased with matching contribu-
25 tions or nonelective contributions, or

1 “(III) consists of an employee
2 stock ownership plan (within the
3 meaning of section 4975(e)(7)) or a
4 tax credit employee stock ownership
5 plan (within the meaning of section
6 409(a)).

7 “(ii) SPECIAL RULES FOR MATCHING
8 CONTRIBUTIONS.—Rules similar to the
9 rules of paragraph (1)(B)(ii) shall apply
10 for purposes of clause (i).

11 “(C) SPECIAL RULES FOR TESTING DE-
12 FINED CONTRIBUTION PLAN FEATURES PRO-
13 VIDING MATCHING CONTRIBUTIONS TO CERTAIN
14 OLDER, LONGER SERVICE PARTICIPANTS.—In
15 the case of a defined contribution plan which
16 provides benefits, rights, or features to a closed
17 class of participants whose accruals under a de-
18 fined benefit plan have been reduced or elimi-
19 nated, the plan shall not fail to satisfy the re-
20 quirements of subsection (a)(4) solely by reason
21 of the composition of the closed class or the
22 benefits, rights, or features provided to such
23 closed class if the defined contribution plan and
24 defined benefit plan otherwise meet the require-
25 ments of subparagraph (A) but for the fact that

1 the make-whole contributions under the defined
2 contribution plan are made in whole or in part
3 through matching contributions.

4 “(D) SPUN-OFF PLANS.—For purposes of
5 this paragraph, if a portion of a defined con-
6 tribution plan described in subparagraph (A) or
7 (C) is spun off to another employer, the treat-
8 ment under subparagraph (A) or (C) of the
9 spun-off plan shall continue with respect to the
10 other employer if such plan continues to comply
11 with the requirements of clauses (ii) (if the
12 original plan was still within the 3-year period
13 described in such clause at the time of the spin
14 off) and (iii) of subparagraph (A), as deter-
15 mined for purposes of subparagraph (A) or (C),
16 whichever is applicable.

17 “(3) DEFINITIONS.—For purposes of this sub-
18 section—

19 “(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-
20 cept as otherwise provided in paragraph (2)(C),
21 the term ‘make-whole contributions’ means non-
22 elective allocations for each employee in the
23 class which are reasonably calculated, in a con-
24 sistent manner, to replace some or all of the re-
25 tirement benefits which the employee would

1 have received under the defined benefit plan
2 and any other plan or qualified cash or deferred
3 arrangement under subsection (k)(2) if no
4 change had been made to such defined benefit
5 plan and such other plan or arrangement. For
6 purposes of the preceding sentence, consistency
7 shall not be required with respect to employees
8 who were subject to different benefit formulas
9 under the defined benefit plan.

10 “(B) REFERENCES TO CLOSED CLASS OF
11 PARTICIPANTS.—References to a closed class of
12 participants and similar references to a closed
13 class shall include arrangements under which 1
14 or more classes of participants are closed, ex-
15 cept that 1 or more classes of participants
16 closed on different dates shall not be aggre-
17 gated for purposes of determining the date any
18 such class was closed.

19 “(C) HIGHLY COMPENSATED EMPLOYEE.—
20 The term ‘highly compensated employee’ has
21 the meaning given such term in section
22 414(q).”.

23 (b) PARTICIPATION REQUIREMENTS.—Section
24 401(a)(26) is amended by adding at the end the following
25 new subparagraph:

1 “(I) PROTECTED PARTICIPANTS.—

2 “(i) IN GENERAL.—A plan shall be
3 deemed to satisfy the requirements of sub-
4 paragraph (A) if—

5 “(I) the plan is amended—

6 “(aa) to cease all benefit ac-
7 cruals, or

8 “(bb) to provide future ben-
9 efit accruals only to a closed
10 class of participants,

11 “(II) the plan satisfies subpara-
12 graph (A) (without regard to this sub-
13 paragraph) as of the effective date of
14 the amendment, and

15 “(III) the amendment was adopt-
16 ed before April 5, 2017, or the plan is
17 described in clause (ii).

18 “(ii) PLANS DESCRIBED.—A plan is
19 described in this clause if the plan would
20 be described in subsection (o)(1)(C), as ap-
21 plied for purposes of subsection
22 (o)(1)(B)(iii)(IV) and by treating the effec-
23 tive date of the amendment as the date the
24 class was closed for purposes of subsection
25 (o)(1)(C).

1 “(iii) SPECIAL RULES.—For purposes
2 of clause (i)(II), in applying section
3 410(b)(6)(C), the amendments described in
4 clause (i) shall not be treated as a signifi-
5 cant change in coverage under section
6 410(b)(6)(C)(i)(II).

7 “(iv) SPUN-OFF PLANS.—For pur-
8 poses of this subparagraph, if a portion of
9 a plan described in clause (i) is spun off to
10 another employer, the treatment under
11 clause (i) of the spun-off plan shall con-
12 tinue with respect to the other employer.”.

13 (c) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall take effect on the date of the enactment of this
17 Act, without regard to whether any plan modifica-
18 tions referred to in such amendments are adopted or
19 effective before, on, or after such date of enactment.

20 (2) SPECIAL RULES.—

21 (A) ELECTION OF EARLIER APPLICA-
22 TION.—At the election of the plan sponsor, the
23 amendments made by this section shall apply to
24 plan years beginning after December 31, 2013.

1 (B) CLOSED CLASSES OF PARTICIPANTS.—

2 For purposes of paragraphs (1)(A)(iii),
3 (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)
4 of the Internal Revenue Code of 1986 (as added
5 by this section), a closed class of participants
6 shall be treated as being closed before April 5,
7 2017, if the plan sponsor's intention to create
8 such closed class is reflected in formal written
9 documents and communicated to participants
10 before such date.

11 (C) CERTAIN POST-ENACTMENT PLAN
12 AMENDMENTS.—A plan shall not be treated as
13 failing to be eligible for the application of sec-
14 tion 401(o)(1)(A), 401(o)(1)(B)(iii), or
15 401(a)(26) of such Code (as added by this sec-
16 tion) to such plan solely because in the case
17 of—

18 (i) such section 401(o)(1)(A), the plan
19 was amended before the date of the enact-
20 ment of this Act to eliminate 1 or more
21 benefits, rights, or features, and is further
22 amended after such date of enactment to
23 provide such previously eliminated benefits,
24 rights, or features to a closed class of par-
25 ticipants, or

1 (ii) such section 401(o)(1)(B)(iii) or
2 section 401(a)(26), the plan was amended
3 before the date of the enactment of this
4 Act to cease all benefit accruals, and is
5 further amended after such date of enact-
6 ment to provide benefit accruals to a closed
7 class of participants. Any such section
8 shall only apply if the plan otherwise meets
9 the requirements of such section and in ap-
10 plying such section, the date the class of
11 participants is closed shall be the effective
12 date of the later amendment.

13 **SEC. 203. FIDUCIARY SAFE HARBOR FOR SELECTION OF**
14 **LIFETIME INCOME PROVIDER.**

15 Section 404 of the Employee Retirement Income Se-
16 curity Act of 1974 (29 U.S.C. 1104) is amended by adding
17 at the end the following:

18 “(e) SAFE HARBOR FOR ANNUITY SELECTION.—

19 “(1) IN GENERAL.—With respect to the selec-
20 tion of an insurer for a guaranteed retirement in-
21 come contract, the requirements of subsection
22 (a)(1)(B) will be deemed to be satisfied if a fidu-
23 ciary—

24 “(A) engages in an objective, thorough,
25 and analytical search for the purpose of identi-

1 fying insurers from which to purchase such con-
2 tracts;

3 “(B) with respect to each insurer identified
4 under subparagraph (A)—

5 “(i) considers the financial capability
6 of such insurer to satisfy its obligations
7 under the guaranteed retirement income
8 contract; and

9 “(ii) considers the cost (including fees
10 and commissions) of the guaranteed retire-
11 ment income contract offered by the in-
12 surer in relation to the benefits and prod-
13 uct features of the contract and adminis-
14 trative services to be provided under such
15 contract; and

16 “(C) on the basis of such consideration,
17 concludes that—

18 “(i) at the time of the selection, the
19 insurer is financially capable of satisfying
20 its obligations under the guaranteed retire-
21 ment income contract; and

22 “(ii) the relative cost of the selected
23 guaranteed retirement income contract as
24 described in subparagraph (B)(ii) is rea-
25 sonable.

1 “(2) FINANCIAL CAPABILITY OF THE IN-
2 SURER.—A fiduciary will be deemed to satisfy the
3 requirements of paragraphs (1)(B)(i) and (1)(C)(i)
4 if—

5 “(A) the fiduciary obtains written rep-
6 resentations from the insurer that—

7 “(i) the insurer is licensed to offer
8 guaranteed retirement income contracts;

9 “(ii) the insurer, at the time of selec-
10 tion and for each of the immediately pre-
11 ceding 7 plan years—

12 “(I) operates under a certificate
13 of authority from the insurance com-
14 missioner of its domiciliary State
15 which has not been revoked or sus-
16 pended;

17 “(II) has filed audited financial
18 statements in accordance with the
19 laws of its domiciliary State under ap-
20 plicable statutory accounting prin-
21 ciples;

22 “(III) maintains (and has main-
23 tained) reserves which satisfies all the
24 statutory requirements of all States
25 where the insurer does business; and

1 “(IV) is not operating under an
2 order of supervision, rehabilitation, or
3 liquidation;

4 “(iii) the insurer undergoes, at least
5 every 5 years, a financial examination
6 (within the meaning of the law of its domi-
7 ciliary State) by the insurance commis-
8 sioner of the domiciliary State (or rep-
9 resentative, designee, or other party ap-
10 proved by such commissioner); and

11 “(iv) the insurer will notify the fidu-
12 ciary of any change in circumstances oc-
13 curring after the provision of the represen-
14 tations in clauses (i), (ii), and (iii) which
15 would preclude the insurer from making
16 such representations at the time of
17 issuance of the guaranteed retirement in-
18 come contract; and

19 “(B) after receiving such representations
20 and as of the time of selection, the fiduciary
21 has not received any notice described in sub-
22 paragraph (A)(iv) and is in possession of no
23 other information which would cause the fidu-
24 ciary to question the representations provided.

1 “(3) NO REQUIREMENT TO SELECT LOWEST
2 COST.—Nothing in this subsection shall be construed
3 to require a fiduciary to select the lowest cost con-
4 tract. A fiduciary may consider the value of a con-
5 tract, including features and benefits of the contract
6 and attributes of the insurer (including, without lim-
7 itation, the insurer’s financial strength) in conjunc-
8 tion with the cost of the contract.

9 “(4) TIME OF SELECTION.—

10 “(A) IN GENERAL.—For purposes of this
11 subsection, the time of selection is—

12 “(i) the time that the insurer and the
13 contract are selected for distribution of
14 benefits to a specific participant or bene-
15 ficiary; or

16 “(ii) if the fiduciary periodically re-
17 views the continuing appropriateness of the
18 conclusion described in paragraph (1)(C)
19 with respect to a selected insurer, taking
20 into account the considerations described
21 in such paragraph, the time that the in-
22 surer and the contract are selected to pro-
23 vide benefits at future dates to participants
24 or beneficiaries under the plan.

1 Nothing in the preceding sentence shall be con-
2 strued to require the fiduciary to review the ap-
3 propriateness of a selection after the purchase
4 of a contract for a participant or beneficiary.

5 “(B) PERIODIC REVIEW.—A fiduciary will
6 be deemed to have conducted the periodic re-
7 view described in subparagraph (A)(ii) if the fi-
8 diciary obtains the written representations de-
9 scribed in clauses (i), (ii), and (iii) of paragraph
10 (2)(A) from the insurer on an annual basis, un-
11 less the fiduciary receives any notice described
12 in paragraph (2)(A)(iv) or otherwise becomes
13 aware of facts that would cause the fiduciary to
14 question such representations.

15 “(5) LIMITED LIABILITY.—A fiduciary which
16 satisfies the requirements of this subsection shall not
17 be liable following the distribution of any benefit, or
18 the investment by or on behalf of a participant or
19 beneficiary pursuant to the selected guaranteed re-
20 tirement income contract, for any losses that may
21 result to the participant or beneficiary due to an in-
22 surer’s inability to satisfy its financial obligations
23 under the terms of such contract.

24 “(6) DEFINITIONS.—For purposes of this sub-
25 section—

1 “(A) INSURER.—The term ‘insurer’ means
2 an insurance company, insurance service, or in-
3 surance organization, including affiliates of
4 such companies.

5 “(B) GUARANTEED RETIREMENT INCOME
6 CONTRACT.—The term ‘guaranteed retirement
7 income contract’ means an annuity contract for
8 a fixed term or a contract (or provision or fea-
9 ture thereof) which provides guaranteed bene-
10 fits annually (or more frequently) for at least
11 the remainder of the life of the participant or
12 the joint lives of the participant and the partici-
13 pant’s designated beneficiary as part of an indi-
14 vidual account plan.”.

15 **SEC. 204. DISCLOSURE REGARDING LIFETIME INCOME.**

16 (a) IN GENERAL.—Subparagraph (B) of section
17 105(a)(2) of the Employee Retirement Income Security
18 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

19 (1) in clause (i), by striking “and” at the end;

20 (2) in clause (ii), by striking “diversification.”

21 and inserting “diversification, and”; and

22 (3) by inserting at the end the following:

23 “(iii) the lifetime income disclosure
24 described in subparagraph (D)(i).

1 In the case of pension benefit statements de-
2 scribed in clause (i) of paragraph (1)(A), a life-
3 time income disclosure under clause (iii) of this
4 subparagraph shall be required to be included
5 in only one pension benefit statement during
6 any one 12-month period.”.

7 (b) LIFETIME INCOME.—Paragraph (2) of section
8 105(a) of the Employee Retirement Income Security Act
9 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the
10 end the following new subparagraph:

11 “(D) LIFETIME INCOME DISCLOSURE.—

12 “(i) IN GENERAL.—

13 “(I) DISCLOSURE.—A lifetime in-
14 come disclosure shall set forth the life-
15 time income stream equivalent of the
16 total benefits accrued with respect to
17 the participant or beneficiary.

18 “(II) LIFETIME INCOME STREAM
19 EQUIVALENT OF THE TOTAL BENE-
20 FITS ACCRUED.—For purposes of this
21 subparagraph, the term ‘lifetime in-
22 come stream equivalent of the total
23 benefits accrued’ means the amount of
24 monthly payments the participant or
25 beneficiary would receive if the total

1 accrued benefits of such participant or
2 beneficiary were used to provide life-
3 time income streams described in sub-
4 clause (III), based on assumptions
5 specified in rules prescribed by the
6 Secretary.

7 “(III) LIFETIME INCOME
8 STREAMS.—The lifetime income
9 streams described in this subclause
10 are a qualified joint and survivor an-
11 nuity (as defined in section 205(d)),
12 based on assumptions specified in
13 rules prescribed by the Secretary, in-
14 cluding the assumption that the par-
15 ticipant or beneficiary has a spouse of
16 equal age, and a single life annuity.
17 Such lifetime income streams may
18 have a term certain or other features
19 to the extent permitted under rules
20 prescribed by the Secretary.

21 “(ii) MODEL DISCLOSURE.—Not later
22 than 1 year after the date of the enact-
23 ment of the Family Savings Act of 2019,
24 the Secretary shall issue a model lifetime
25 income disclosure, written in a manner so

1 as to be understood by the average plan
2 participant, which—

3 “(I) explains that the lifetime in-
4 come stream equivalent is only pro-
5 vided as an illustration;

6 “(II) explains that the actual
7 payments under the lifetime income
8 stream described in clause (i)(III)
9 which may be purchased with the
10 total benefits accrued will depend on
11 numerous factors and may vary sub-
12 stantially from the lifetime income
13 stream equivalent in the disclosures;

14 “(III) explains the assumptions
15 upon which the lifetime income stream
16 equivalent was determined; and

17 “(IV) provides such other similar
18 explanations as the Secretary con-
19 siders appropriate.

20 “(iii) ASSUMPTIONS AND RULES.—
21 Not later than 1 year after the date of the
22 enactment of the Family Savings Act of
23 2019, the Secretary shall—

24 “(I) prescribe assumptions which
25 administrators of individual account

1 plans may use in converting total ac-
2 crued benefits into lifetime income
3 stream equivalents for purposes of
4 this subparagraph; and

5 “(II) issue interim final rules
6 under clause (i).

7 In prescribing assumptions under sub-
8 clause (I), the Secretary may prescribe a
9 single set of specific assumptions (in which
10 case the Secretary may issue tables or fac-
11 tors which facilitate such conversions), or
12 ranges of permissible assumptions. To the
13 extent that an accrued benefit is or may be
14 invested in a lifetime income stream de-
15 scribed in clause (i)(III), the assumptions
16 prescribed under subclause (I) shall, to the
17 extent appropriate, permit administrators
18 of individual account plans to use the
19 amounts payable under such lifetime in-
20 come stream as a lifetime income stream
21 equivalent.

22 “(iv) LIMITATION ON LIABILITY.—No
23 plan fiduciary, plan sponsor, or other per-
24 son shall have any liability under this title
25 solely by reason of the provision of lifetime

1 income stream equivalents which are de-
2 rived in accordance with the assumptions
3 and rules described in clause (iii) and
4 which include the explanations contained in
5 the model lifetime income disclosure de-
6 scribed in clause (ii). This clause shall
7 apply without regard to whether the provi-
8 sion of such lifetime income stream equiva-
9 lent is required by subparagraph (B)(iii).

10 “(v) EFFECTIVE DATE.—The require-
11 ment in subparagraph (B)(iii) shall apply
12 to pension benefit statements furnished
13 more than 12 months after the latest of
14 the issuance by the Secretary of—

15 “(I) interim final rules under
16 clause (i);

17 “(II) the model disclosure under
18 clause (ii); or

19 “(III) the assumptions under
20 clause (iii).”.

21 **SEC. 205. MODIFICATION OF PBGC PREMIUMS FOR CSEC**
22 **PLANS.**

23 (a) FLAT RATE PREMIUM.—Subparagraph (A) of
24 section 4006(a)(3) of the Employee Retirement Income

1 Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amend-
2 ed—

3 (1) in clause (i), by striking “plan,” and insert-
4 ing “plan other than a CSEC plan (as defined in
5 section 210(f)(1))”;

6 (2) in clause (v), by striking “or” at the end;

7 (3) in clause (vi), by striking the period at the
8 end and inserting “, or”; and

9 (4) by adding at the end the following new
10 clause:

11 “(vii) in the case of a CSEC plan (as
12 defined in section 210(f)(1)), for plan
13 years beginning after December 31, 2018,
14 for each individual who is a participant in
15 such plan during the plan year an amount
16 equal to the sum of—

17 “(I) the additional premium (if
18 any) determined under subparagraph
19 (E), and

20 “(II) \$19.”.

21 (b) VARIABLE RATE PREMIUM.—

22 (1) UNFUNDED VESTED BENEFITS.—

23 (A) IN GENERAL.—Subparagraph (E) of
24 section 4006(a)(3) of the Employee Retirement
25 Income Security Act of 1974 (29 U.S.C.

1 1306(a)(3)) is amended by adding at the end
2 the following new clause:

3 “(v) For purposes of clause (ii), in the
4 case of a CSEC plan (as defined in section
5 210(f)(1)), the term ‘unfunded vested ben-
6 efits’ means, for plan years beginning after
7 December 31, 2018, the excess (if any)
8 of—

9 “(I) the funding liability of the
10 plan as determined under section
11 306(j)(5)(C) for the plan year by only
12 taking into account vested benefits,
13 over

14 “(II) the fair market value of
15 plan assets for the plan year which
16 are held by the plan on the valuation
17 date.”.

18 (B) CONFORMING AMENDMENT.—Clause
19 (iii) of section 4006(a)(3)(E) of such Act (29
20 U.S.C. 1306(a)(3)(E)) is amended by striking
21 “For purposes” and inserting “Except as pro-
22 vided in clause (v), for purposes”.

23 (2) APPLICABLE DOLLAR AMOUNT.—

24 (A) IN GENERAL.—Paragraph (8) of sec-
25 tion 4006(a) of such Act (29 U.S.C. 1306(a))

1 is amended by adding at the end the following
2 new subparagraph:

3 “(E) CSEC PLANS.—In the case of a
4 CSEC plan (as defined in section 210(f)(1)),
5 the applicable dollar amount shall be \$9.”.

6 (B) CONFORMING AMENDMENT.—Subpara-
7 graph (A) of section 4006(a)(8) of such Act (29
8 U.S.C. 1306(a)(8)) is amended by striking “(B)
9 and (C)” and inserting “(B), (C), and (E)”.

10 **TITLE III—OTHER SAVINGS** 11 **PROVISIONS**

12 **SEC. 301. EXPANSION OF SECTION 529 PLANS.**

13 (a) DISTRIBUTIONS FOR CERTAIN EXPENSES ASSO-
14 CIATED WITH REGISTERED APPRENTICESHIP PRO-
15 GRAMS.—Section 529(c) of the Internal Revenue Code of
16 1986 is amended by adding at the end the following new
17 paragraph:

18 “(8) TREATMENT OF CERTAIN EXPENSES ASSO-
19 CIATED WITH REGISTERED APPRENTICESHIP PRO-
20 GRAMS.—Any reference in this subsection to the
21 term ‘qualified higher education expense’ shall in-
22 clude a reference to expenses for fees, books, sup-
23 plies, and equipment required for the participation
24 of a designated beneficiary in an apprenticeship pro-
25 gram registered and certified with the Secretary of

1 Labor under section 1 of the National Apprenticeship Act (29 U.S.C. 50).”.

3 (b) DISTRIBUTIONS FOR CERTAIN HOMESCHOOLING
4 EXPENSES.—Section 529(c)(7) of such Code is amended
5 by striking “include a reference to” and all that follows
6 and inserting “include a reference to—

7 “(A) expenses for tuition in connection
8 with enrollment or attendance of a designated
9 beneficiary at an elementary or secondary public,
10 private, or religious school, and

11 “(B) expenses, with respect to a designated
12 beneficiary, for—

13 “(i) curriculum and curricular materials,
14

15 “(ii) books or other instructional materials,
16

17 “(iii) online educational materials,

18 “(iv) tuition for tutoring or educational classes outside of the home (but
19 only if the tutor or class instructor is not
20 related (within the meaning of section
21 152(d)(2)) to the student),
22

23 “(v) dual enrollment in an institution
24 of higher education, and

1 “(vi) educational therapies for stu-
2 dents with disabilities,
3 in connection with a homeschool (whether treat-
4 ed as a homeschool or a private school for pur-
5 poses of applicable State law).”.

6 (c) DISTRIBUTIONS FOR QUALIFIED EDUCATION
7 LOAN REPAYMENTS.—

8 (1) IN GENERAL.—Section 529(e) of such Code,
9 as amended by subsection (a), is amended by adding
10 at the end the following new paragraph:

11 “(9) TREATMENT OF QUALIFIED EDUCATION
12 LOAN REPAYMENTS.—

13 “(A) IN GENERAL.—Any reference in this
14 subsection to the term ‘qualified higher edu-
15 cation expense’ shall include a reference to
16 amounts paid as principal or interest on any
17 qualified education loan (as defined in section
18 221(d)) of the designated beneficiary or a sib-
19 ling of the designated beneficiary.

20 “(B) LIMITATION.—The amount of dis-
21 tributions treated as a qualified higher edu-
22 cation expense under this paragraph with re-
23 spect to the loans of any individual shall not ex-
24 ceed \$10,000 (reduced by the amount of dis-
25 tributions so treated for all prior taxable years).

1 “(C) SPECIAL RULES FOR SIBLINGS OF
2 THE DESIGNATED BENEFICIARY.—

3 “(i) SEPARATE ACCOUNTING.—For
4 purposes of subparagraph (B) and sub-
5 section (d), amounts treated as a qualified
6 higher education expense with respect to
7 the loans of a sibling of the designated
8 beneficiary shall be taken into account
9 with respect to such sibling and not with
10 respect to such designated beneficiary.

11 “(ii) SIBLING DEFINED.—For pur-
12 poses of this paragraph, the term ‘sibling’
13 means an individual who bears a relation-
14 ship to the designated beneficiary which is
15 described in section 152(d)(2)(B).”.

16 (2) COORDINATION WITH DEDUCTION FOR STU-
17 DENT LOAN INTEREST.—Section 221(e)(1) of such
18 Code is amended by adding at the end the following:
19 “The deduction otherwise allowable under subsection
20 (a) (prior to the application of subsection (b)) to the
21 taxpayer for any taxable year shall be reduced (but
22 not below zero) by so much of the distributions
23 treated as a qualified higher education expense
24 under section 529(c)(9) with respect to loans of the
25 taxpayer as would be includible in gross income

1 under section 529(c)(3)(A) for such taxable year but
2 for such treatment.”.

3 (d) DISTRIBUTIONS FOR CERTAIN ELEMENTARY AND
4 SECONDARY SCHOOL EXPENSES IN ADDITION TO TUI-
5 TION.—Section 529(c)(7)(A), as amended by subsection
6 (b), is amended to read as follows:

7 “(A) expenses described in section
8 530(b)(3)(A)(i) in connection with enrollment
9 or attendance of a designated beneficiary at an
10 elementary or secondary public, private, or reli-
11 gious school, and”.

12 (e) UNBORN CHILDREN ALLOWED AS ACCOUNT
13 BENEFICIARIES.—Section 529(e) is amended by adding at
14 the end the following new paragraph:

15 “(6) TREATMENT OF UNBORN CHILDREN.—

16 “(A) IN GENERAL.—Nothing shall prevent
17 an unborn child from being treated as a des-
18 ignated beneficiary or an individual under this
19 section.

20 “(B) UNBORN CHILD.—For purposes of
21 this paragraph—

22 “(i) IN GENERAL.—The term ‘unborn
23 child’ means a child in utero.

24 “(ii) CHILD IN UTERO.—The term
25 ‘child in utero’ means a member of the

1 species homo sapiens, at any stage of de-
 2 velopment, who is carried in the womb.”.

3 (f) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as otherwise pro-
 5 vided in this subsection, the amendments made by
 6 this section shall apply to distributions made after
 7 December 31, 2019.

8 (2) UNBORN CHILDREN ALLOWED AS ACCOUNT
 9 BENEFICIARIES.—The amendment made by sub-
 10 section (e) shall apply to contributions made after
 11 December 31, 2019.

12 **SEC. 302. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
 13 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
 14 **BIRTH OF CHILD OR ADOPTION.**

15 (a) IN GENERAL.—Section 72(t)(2) is amended by
 16 adding at the end the following new subparagraph:

17 “(H) DISTRIBUTIONS FROM RETIREMENT
 18 PLANS IN CASE OF BIRTH OF CHILD OR ADOP-
 19 TION.—

20 “(i) IN GENERAL.—Any qualified
 21 birth or adoption distribution.

22 “(ii) LIMITATION.—The aggregate
 23 amount which may be treated as qualified
 24 birth or adoption distributions by any indi-

1 vidual with respect to any birth or adop-
2 tion shall not exceed \$7,500.

3 “(iii) QUALIFIED BIRTH OR ADOPTION
4 DISTRIBUTION.—For purposes of this sub-
5 paragraph—

6 “(I) IN GENERAL.—The term
7 ‘qualified birth or adoption distribu-
8 tion’ means any distribution from an
9 applicable eligible retirement plan to
10 an individual if made during the 1-
11 year period beginning on the date on
12 which a child of the individual is born
13 or on which the legal adoption by the
14 individual of an eligible child is final-
15 ized.

16 “(II) ELIGIBLE CHILD.—The
17 term ‘eligible child’ means any indi-
18 vidual (other than a child of the tax-
19 payer’s spouse) who has not attained
20 age 18 or is physically or mentally in-
21 capable of self-support.

22 “(iv) TREATMENT OF PLAN DISTRIBUTIONS.—
23

24 “(I) IN GENERAL.—If a distribu-
25 tion to an individual would (without

1 regard to clause (ii)) be a qualified
2 birth or adoption distribution, a plan
3 shall not be treated as failing to meet
4 any requirement of this title merely
5 because the plan treats the distribu-
6 tion as a qualified birth or adoption
7 distribution, unless the aggregate
8 amount of such distributions from all
9 plans maintained by the employer
10 (and any member of any controlled
11 group which includes the employer) to
12 such individual exceeds \$7,500.

13 “(II) CONTROLLED GROUP.—For
14 purposes of subclause (I), the term
15 ‘controlled group’ means any group
16 treated as a single employer under
17 subsection (b), (c), (m), or (o) of sec-
18 tion 414.

19 “(v) AMOUNT DISTRIBUTED MAY BE
20 REPAID.—

21 “(I) IN GENERAL.—Any indi-
22 vidual who receives a qualified birth
23 or adoption distribution may make
24 one or more contributions in an ag-
25 gregate amount not to exceed the

1 amount of such distribution to an ap-
2 plicable eligible retirement plan of
3 which such individual is a beneficiary
4 and to which a rollover contribution of
5 such distribution could be made under
6 section 402(c), 403(a)(4), 403(b)(8),
7 408(d)(3), or 457(e)(16), as the case
8 may be.

9 “(II) LIMITATION ON CONTRIBU-
10 TIONS TO APPLICABLE ELIGIBLE RE-
11 TIREMENT PLANS OTHER THAN
12 IRAS.—The aggregate amount of con-
13 tributions made by an individual
14 under subclause (I) to any applicable
15 eligible retirement plan which is not
16 an individual retirement plan shall not
17 exceed the aggregate amount of quali-
18 fied birth or adoption distributions
19 which are made from such plan to
20 such individual. Subclause (I) shall
21 not apply to contributions to any ap-
22 plicable eligible retirement plan which
23 is not an individual retirement plan
24 unless the individual is eligible to
25 make contributions (other than those

1 described in subclause (I)) to such ap-
2 plicable eligible retirement plan.

3 “(III) TREATMENT OF REPAY-
4 MENTS OF DISTRIBUTIONS FROM AP-
5 PPLICABLE ELIGIBLE RETIREMENT
6 PLANS OTHER THAN IRAS.—If a con-
7 tribution is made under subclause (I)
8 with respect to a qualified birth or
9 adoption distribution from an applica-
10 ble eligible retirement plan other than
11 an individual retirement plan, then
12 the taxpayer shall, to the extent of the
13 amount of the contribution, be treated
14 as having received such distribution in
15 an eligible rollover distribution (as de-
16 fined in section 402(c)(4)) and as
17 having transferred the amount to the
18 applicable eligible retirement plan in a
19 direct trustee to trustee transfer with-
20 in 60 days of the distribution.

21 “(IV) TREATMENT OF REPAY-
22 MENTS FOR DISTRIBUTIONS FROM
23 IRAS.—If a contribution is made
24 under subclause (I) with respect to a
25 qualified birth or adoption distribution

1 from an individual retirement plan,
2 then, to the extent of the amount of
3 the contribution, such distribution
4 shall be treated as a distribution de-
5 scribed in section 408(d)(3) and as
6 having been transferred to the appli-
7 cable eligible retirement plan in a di-
8 rect trustee to trustee transfer within
9 60 days of the distribution.

10 “(vi) DEFINITION AND SPECIAL
11 RULES.—For purposes of this subpara-
12 graph—

13 “(I) APPLICABLE ELIGIBLE RE-
14 TIREMENT PLAN.—The term ‘applica-
15 ble eligible retirement plan’ means an
16 eligible retirement plan (as defined in
17 section 402(c)(8)(B)) other than a de-
18 fined benefit plan.

19 “(II) EXEMPTION OF DISTRIBU-
20 TIONS FROM TRUSTEE TO TRUSTEE
21 TRANSFER AND WITHHOLDING
22 RULES.—For purposes of sections
23 401(a)(31), 402(f), and 3405, a quali-
24 fied birth or adoption distribution

1 shall not be treated as an eligible roll-
2 over distribution.

3 “(III) TAXPAYER MUST INCLUDE
4 TIN.—A distribution shall not be
5 treated as a qualified birth or adop-
6 tion distribution with respect to any
7 child or eligible child unless the tax-
8 payer includes the name, age, and
9 TIN of such child or eligible child on
10 the taxpayer’s return of tax for the
11 taxable year.

12 “(IV) DISTRIBUTIONS TREATED
13 AS MEETING PLAN DISTRIBUTION RE-
14 QUIREMENTS.—Any qualified birth or
15 adoption distribution shall be treated
16 as meeting the requirements of sec-
17 tions 401(k)(2)(B)(i),
18 403(b)(7)(A)(ii), 403(b)(11), and
19 457(d)(1)(A).”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to distributions made after Decem-
22 ber 31, 2019.

1 TITLE IV—BUDGETARY EFFECTS**2 SEC. 401. BUDGETARY EFFECTS.**

3 (a) STATUTORY PAYGO SCORECARDS.—The budg-
4 etary effects of this Act shall not be entered on either
5 PAYGO scorecard maintained pursuant to section 4(d) of
6 the Statutory Pay-As-You-Go Act of 2010.

7 (b) SENATE PAYGO SCORECARDS.—The budgetary
8 effects of this Act shall not be entered on any PAYGO
9 scorecard maintained for purposes of section 4106 of H.
10 Con. Res. 71 (115th Congress).

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