

117TH CONGRESS
1ST SESSION

H. R. 2954

To increase retirement savings, simplify and clarify retirement plan rules,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2021

Mr. NEAL (for himself and Mr. BRADY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Education and Labor, 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 increase retirement savings, simplify and clarify
retirement plan rules, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Securing a Strong Retirement Act of 2021”.

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

- Sec. 101. Expanding automatic enrollment in retirement plans.
- Sec. 102. Modification of credit for small employer pension plan startup costs.
- Sec. 103. Promotion of Saver’s Credit.
- Sec. 104. Enhancement of 403(b) plans.
- Sec. 105. Increase in age for required beginning date for mandatory distributions.
- Sec. 106. Indexing IRA catch-up limit.
- Sec. 107. Higher catch-up limit to apply at age 62, 63, and 64.
- Sec. 108. Multiple employer 403(b) plans.
- Sec. 109. Treatment of student loan payments as elective deferrals for purposes of matching contributions.
- Sec. 110. Application of credit for small employer pension plan startup costs to employers which join an existing plan.
- Sec. 111. Military spouse retirement plan eligibility credit for small employers.
- Sec. 112. Small immediate financial incentives for contributing to a plan.
- Sec. 113. Safe harbor for corrections of employee elective deferral failures.
- Sec. 114. One-year reduction in period of service requirement for long-term, part-time workers.
- Sec. 115. Findings relating to S corporation ESOPs.

TITLE II—PRESERVATION OF INCOME

- Sec. 201. Remove required minimum distribution barriers for life annuities.
- Sec. 202. Qualifying longevity annuity contracts.
- Sec. 203. Insurance-dedicated exchange-traded funds.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

- Sec. 301. Recovery of retirement plan overpayments.
- Sec. 302. Reduction in excise tax on certain accumulations in qualified retirement plans.
- Sec. 303. Performance benchmarks for asset allocation funds.
- Sec. 304. Review and report to the Congress relating to reporting and disclosure requirements.
- Sec. 305. Eliminating unnecessary plan requirements related to unenrolled participants.
- Sec. 306. Retirement savings lost and found.
- Sec. 307. Expansion of Employee Plans Compliance Resolution System.
- Sec. 308. Eliminate the “first day of the month” requirement for governmental section 457(b) plans.
- Sec. 309. One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.
- Sec. 310. Distributions to firefighters.
- Sec. 311. Exclusion of certain disability-related first responder retirement payments.
- Sec. 312. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.
- Sec. 313. Requirement to provide paper statements in certain cases.
- Sec. 314. Separate application of top heavy rules to defined contribution plans covering excludible employees.
- Sec. 315. Repayment of qualified birth or adoption distribution limited to 3 years.

- Sec. 316. Employer may rely on employee certifying that deemed hardship distribution conditions are met.
- Sec. 317. Penalty-free withdrawals from retirement plans for individuals in case of domestic abuse.
- Sec. 318. Reform of family attribution rule.
- Sec. 319. Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.
- Sec. 320. Retroactive first year elective deferrals for sole proprietors.
- Sec. 321. Limiting cessation of IRA treatment to portion of account involved in a prohibited transaction.

TITLE IV—TECHNICAL AMENDMENTS

- Sec. 401. Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019.

TITLE V—ADMINISTRATIVE PROVISIONS

- Sec. 501. Provisions relating to plan amendments.

TITLE VI—REVENUE PROVISIONS

- Sec. 601. Simple and SEP Roth IRAs.
- Sec. 602. Hardship withdrawal rules for 403(b) plans.
- Sec. 603. Elective deferrals generally limited to regular contribution limit.
- Sec. 604. Optional treatment of employer matching contributions as Roth contributions.

1 **TITLE I—EXPANDING COVERAGE** 2 **AND INCREASING RETIRE-** 3 **MENT SAVINGS**

4 **SEC. 101. EXPANDING AUTOMATIC ENROLLMENT IN RE-** 5 **TIREMENT PLANS.**

6 (a) IN GENERAL.—Subpart B of part I of subchapter
7 D of chapter 1 of the Internal Revenue Code of 1986 is
8 amended by inserting after section 414 the following new
9 section:

10 **“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC EN-** 11 **ROLLMENT.**

12 “(a) IN GENERAL.—Except as otherwise provided in
13 this section—

1 “(1) an arrangement shall not be treated as a
2 qualified cash or deferred arrangement described in
3 section 401(k) unless such arrangement meets the
4 automatic enrollment requirements of subsection (b),
5 and

6 “(2) an annuity contract otherwise described in
7 section 403(b)(1) which is purchased under a salary
8 reduction agreement shall not be treated as de-
9 scribed in such section unless such agreement meets
10 the automatic enrollment requirements of subsection
11 (b).

12 “(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—

13 “(1) IN GENERAL.—An arrangement or agree-
14 ment meets the requirements of this subsection if
15 such arrangement or agreement is an eligible auto-
16 matic contribution arrangement (as defined in sec-
17 tion 414(w)(3)) which meets the requirements of
18 paragraphs (2) through (4).

19 “(2) ALLOWANCE OF PERMISSIBLE WITH-
20 DRAWALS.—An eligible automatic contribution ar-
21 rangement meets the requirements of this paragraph
22 if such arrangement allows employees to make per-
23 missible withdrawals (as defined in section
24 414(w)(2)).

25 “(3) MINIMUM CONTRIBUTION PERCENTAGE.—

1 “(A) IN GENERAL.—An eligible automatic
2 contribution arrangement meets the require-
3 ments of this paragraph if—

4 “(i) the uniform percentage of com-
5 pensation contributed by the participant
6 under such arrangement during the first
7 year of participation is not less than 3 per-
8 cent and not more than 10 percent (unless
9 the participant specifically elects not to
10 have such contributions made or to have
11 such contributions made at a different per-
12 centage), and

13 “(ii) effective for the first day of each
14 plan year starting after each completed
15 year of participation under such arrange-
16 ment such uniform percentage is increased
17 by 1 percentage point (to at least 10 per-
18 cent, but not more than 15 percent) unless
19 the participant specifically elects not to
20 have such contributions made or to have
21 such contributions made at a different per-
22 centage.

23 “(B) INITIAL REDUCED CEILING FOR CER-
24 TAIN PLANS.—In the case of any arrangement
25 to which this section applies (other than an ar-

1 arrangement that meets the requirements of para-
2 graph (12) or (13) of section 401(k)), for plan
3 years ending before January 1, 2025, subpara-
4 graph (A)(ii) shall be applied by substituting
5 ‘10 percent’ for ‘15 percent’.

6 “(4) INVESTMENT REQUIREMENTS.—An eligible
7 automatic contribution arrangement meets the re-
8 quirements of this paragraph if amounts contributed
9 pursuant to such arrangement, and for which no in-
10 vestment is elected by the participant, are invested
11 consistent with the requirements of section
12 2550.404c-5 of title 29, Code of Federal Regula-
13 tions (or any successor regulations).

14 “(c) EXCEPTIONS.—For purposes of this section—

15 “(1) SIMPLE PLANS.—Subsection (a) shall not
16 apply to any simple plan (within the meaning of sec-
17 tion 401(k)(11)).

18 “(2) EXCEPTION FOR PLANS OR ARRANGE-
19 MENTS ESTABLISHED BEFORE ENACTMENT OF SEC-
20 TION.—

21 “(A) IN GENERAL.—Subsection (a) shall
22 not apply to—

23 “(i) any qualified cash or deferred ar-
24 rangement established before the date of
25 the enactment of this section, or

1 “(ii) any annuity contract purchased
2 under a plan established before the date of
3 the enactment of this section.

4 “(B) POST-ENACTMENT ADOPTION OF
5 MULTIPLE EMPLOYER PLAN.—Subparagraph
6 (A) shall not apply in the case of an employer
7 adopting after such date of enactment a plan
8 maintained by more than one employer, and
9 subsection (a) shall apply with respect to such
10 employer as if such plan were a single plan.

11 “(3) EXCEPTION FOR GOVERNMENTAL AND
12 CHURCH PLANS.—Subsection (a) shall not apply to
13 any governmental plan (within the meaning of sec-
14 tion 414(d)) or any church plan (within the meaning
15 of section 414(e)).

16 “(4) EXCEPTION FOR NEW AND SMALL BUSI-
17 NESSES.—

18 “(A) NEW BUSINESS.—Subsection (a)
19 shall not apply to any qualified cash or deferred
20 arrangement, or any annuity contract pur-
21 chased under a plan, while the employer main-
22 taining such plan (and any predecessor em-
23 ployer) has been in existence for less than 3
24 years.

1 “(B) SMALL BUSINESSES.—Subsection (a)
2 shall not apply to any qualified cash or deferred
3 arrangement, any annuity contract purchased
4 under a plan, earlier than the date that is 1
5 year after the close of the first taxable year
6 with respect to which the employer maintaining
7 the plan normally employed more than 10 em-
8 ployees.

9 “(C) TREATMENT OF MULTIPLE EM-
10 PLOYER PLANS.—In the case of a plan main-
11 tained by more than 1 employer, subparagraphs
12 (A) and (B) shall be applied separately with re-
13 spect to each such employer, and all such em-
14 ployers to which subsection (a) applies (after
15 the application of this paragraph) shall be
16 treated as maintaining a separate plan for pur-
17 poses of this section.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for subpart B of part I of subchapter D of chapter 1 of
20 the Internal Revenue Code of 1986 is amended by insert-
21 ing after the item relating to section 414 the following
22 new item:

 “Sec. 414A. Requirements related to automatic enrollment.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to plan years beginning after De-
25 cember 31, 2022.

1 **SEC. 102. MODIFICATION OF CREDIT FOR SMALL EM-**
2 **PLOYER PENSION PLAN STARTUP COSTS.**

3 (a) INCREASE IN CREDIT PERCENTAGE FOR SMALL-
4 ER EMPLOYERS.—Section 45E(e) of the Internal Revenue
5 Code of 1986 is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(4) INCREASED CREDIT FOR CERTAIN SMALL
8 EMPLOYERS.—In the case of an employer which
9 would be an eligible employer under subsection (c) if
10 section 408(p)(2)(C)(i) was applied by substituting
11 ‘50 employees’ for ‘100 employees’, subsection (a)
12 shall be applied by substituting ‘100 percent’ for ‘50
13 percent’.”.

14 (b) ADDITIONAL CREDIT FOR EMPLOYER CONTRIBU-
15 TIONS BY CERTAIN SMALL EMPLOYERS.—Section 45E of
16 such Code, as amended by subsection (a), is amended by
17 adding at the end the following new subsection:

18 “(f) ADDITIONAL CREDIT FOR EMPLOYER CON-
19 TRIBUTIONS BY CERTAIN ELIGIBLE EMPLOYERS.—

20 “(1) IN GENERAL.—In the case of an eligible
21 employer, the credit allowed for the taxable year
22 under subsection (a) (determined without regard to
23 this subsection) shall be increased by an amount
24 equal to the applicable percentage of employer con-
25 tributions (other than any elective deferrals (as de-
26 fined in section 402(g)(3))) by the employer to an

1 eligible employer plan (other than a defined benefit
2 plan (as defined in section 414(j))).

3 “(2) LIMITATIONS.—

4 “(A) DOLLAR LIMITATION.—The amount
5 determined under paragraph (1) (before the ap-
6 plication of subparagraph (B)) with respect to
7 any employee of the employer shall not exceed
8 \$1,000.

9 “(B) CREDIT PHASE-IN.—In the case of
10 any eligible employer which had for the pre-
11 ceding taxable year more than 50 employees,
12 the amount determined under paragraph (1)
13 (without regard to this subparagraph) shall be
14 reduced by an amount equal to the product
15 of—

16 “(i) the amount otherwise so deter-
17 mined under paragraph (1), multiplied by

18 “(ii) a percentage equal to 2 percent-
19 age points for each employee of the em-
20 ployer for the preceding taxable year in ex-
21 cess of 50 employees.

22 “(3) APPLICABLE PERCENTAGE.—For purposes
23 of this section, the applicable percentage for the tax-
24 able year during which the eligible employer plan is
25 established with respect to the eligible employer shall

1 be 100 percent, and for taxable years thereafter

2 shall be determined under the following table:

“In the case of the following taxable year beginning after the taxable year during which plan is established with respect to the eligible employer: The applicable percentage shall be:

1st	100%
2nd	75%
3rd	50%
4th	25%
Any taxable year thereafter	0%

3 “(4) DETERMINATION OF ELIGIBLE EMPLOYER;
4 NUMBER OF EMPLOYEES.—For purposes of this sub-
5 section, whether an employer is an eligible employer
6 and the number of employees of an employer shall
7 be determined under the rules of subsection (c), ex-
8 cept that paragraph (2) thereof shall only apply to
9 the taxable year during which the eligible employer
10 plan to which this section applies is established with
11 respect to the eligible employer.”.

12 (c) DISALLOWANCE OF DEDUCTION.—Section
13 45E(e)(2) of such Code is amended to read as follows:

14 “(2) DISALLOWANCE OF DEDUCTION.—No de-
15 duction shall be allowed—

16 “(A) for that portion of the qualified start-
17 up costs paid or incurred for the taxable year
18 which is equal to so much of the portion of the
19 credit determined under subsection (a) as is
20 properly allocable to such costs, and

1 “(B) for that portion of the employer con-
2 tributions by the employer for the taxable year
3 which is equal to so much of the credit increase
4 determined under subsection (f) as is properly
5 allocable to such contributions.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2021.

9 **SEC. 103. PROMOTION OF SAVER’S CREDIT.**

10 (a) IN GENERAL.—The Secretary of the Treasury
11 shall take such steps as the Secretary determines are nec-
12 essary and appropriate to increase public awareness of the
13 credit provided under section 25B of the Internal Revenue
14 Code of 1986.

15 (b) REPORT TO CONGRESS.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of the enactment of this Act, the Secretary
18 shall provide a report to Congress to summarize the
19 anticipated promotion efforts of the Treasury under
20 subsection (a).

21 (2) CONTENTS.—Such report shall include—

22 (A) a description of plans for—

23 (i) the development and distribution
24 of digital and print materials, including the
25 distribution of such materials to States for

1 participants in State facilitated retirement
2 savings programs, and

3 (ii) the translation of such materials
4 into the 10 most commonly spoken lan-
5 guages in the United States after English
6 (as determined by reference to the most re-
7 cent American Community Survey of the
8 Bureau of the Census), and

9 (B) such other information as the Sec-
10 retary determines is necessary.

11 **SEC. 104. ENHANCEMENT OF 403(b) PLANS.**

12 (a) IN GENERAL.—

13 (1) PERMITTED INVESTMENTS.—Section
14 403(b)(7)(A) of the Internal Revenue Code of 1986
15 is amended by striking “if the amounts are to be in-
16 vested in regulated investment company stock to be
17 held in that custodial account” and inserting “if the
18 amounts are to be held in that custodial account and
19 invested in regulated investment company stock or a
20 group trust intended to satisfy the requirements of
21 Internal Revenue Service Revenue Ruling 81–100
22 (or any successor guidance)”.

23 (2) CONFORMING AMENDMENT.—The heading
24 of paragraph (7) of section 403(b) of such Code is

1 amended by striking “FOR REGULATED INVESTMENT
2 COMPANY STOCK”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to amounts invested
5 after December 31, 2021.

6 (b) AMENDMENTS TO THE INVESTMENT COMPANY
7 ACT OF 1940.—Section 3(c)(11) of the Investment Com-
8 pany Act of 1940 (15 U.S.C. 80a–3(c)(11)) is amended
9 to read as follows:

10 “(11) Any—

11 “(A) employee’s stock bonus, pension, or
12 profit-sharing trust which meets the require-
13 ments for qualification under section 401 of the
14 Internal Revenue Code of 1986;

15 “(B) custodial account meeting the re-
16 quirements of section 403(b)(7) of such Code;

17 “(C) governmental plan described in sec-
18 tion 3(a)(2)(C) of the Securities Act of 1933;

19 “(D) collective trust fund maintained by a
20 bank consisting solely of assets of one or
21 more—

22 “(i) trusts described in subparagraph
23 (A);

24 “(ii) government plans described in
25 subparagraph (C);

1 “(iii) church plans, companies, or ac-
2 counts that are excluded from the defini-
3 tion of an investment company under para-
4 graph (14) of this subsection; or

5 “(iv) plans which meet the require-
6 ments of section 403(b) of the Internal
7 Revenue Code of 1986 if—

8 “(I) such plan is subject to title
9 I of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1001
11 et seq.);

12 “(II) any employer making such
13 plan available agrees to serve as a fi-
14 duciary for the plan with respect to
15 the selection of the plan’s investments
16 among which participants can choose;
17 or

18 “(III) such plan is a govern-
19 mental plan (as defined in section
20 414(d) of such Code); or

21 “(E) separate account the assets of which
22 are derived solely from—

23 “(i) contributions under pension or
24 profit-sharing plans which meet the re-
25 quirements of section 401 of the Internal

1 Revenue Code of 1986 or the requirements
2 for deduction of the employer's contribu-
3 tion under section 404(a)(2) of such Code;

4 “(ii) contributions under govern-
5 mental plans in connection with which in-
6 terests, participations, or securities are ex-
7 empted from the registration provisions of
8 section 5 of the Securities Act of 1933 by
9 section 3(a)(2)(C) of such Act;

10 “(iii) advances made by an insurance
11 company in connection with the operation
12 of such separate account; and

13 “(iv) contributions to a plan described
14 in subparagraph (D)(iv).”.

15 (c) AMENDMENTS TO THE SECURITIES ACT OF
16 1933.—Section 3(a)(2) of the Securities Act of 1933 (15
17 U.S.C. 77c(a)(2)) is amended—

18 (1) by striking “or (D)” and inserting “(D) a
19 plan which meets the requirements of section 403(b)
20 of such Code if (i) such plan is subject to title I of
21 the Employee Retirement Income Security Act of
22 1974 (29 U.S.C. 1001 et seq.), (ii) any employer
23 making such plan available agrees to serve as a fidu-
24 ciary for the plan with respect to the selection of the
25 plan's investments among which participants can

1 choose, or (iii) such plan is a governmental plan (as
2 defined in section 414(d) of such Code); or (E)”;

3 (2) by striking “(C), or (D)” and inserting
4 “(C), (D), or (E)”; and

5 (3) by striking “(iii) which is a plan funded”
6 and inserting “(iii) in the case of a plan not de-
7 scribed in subparagraph (D), which is a plan fund-
8 ed”.

9 (d) AMENDMENTS TO THE SECURITIES EXCHANGE
10 ACT OF 1934.—Section 3(a)(12)(C) of the Securities Ex-
11 change Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amend-
12 ed—

13 (1) by striking “or (iv)” and inserting “(iv) a
14 plan which meets the requirements of section 403(b)
15 of such Code if (I) such plan is subject to title I of
16 the Employee Retirement Income Security Act of
17 1974 (29 U.S.C. 1001 et seq.), (II) any employer
18 making such plan available agrees to serve as a fidu-
19 ciary for the plan with respect to the selection of the
20 plan’s investments among which participants can
21 choose, or (III) such plan is a governmental plan (as
22 defined in section 414(d) of such Code), or (v)”;

23 (2) by striking “(ii), or (iii)” and inserting
24 “(ii), (iii), or (iv)”; and

1 “(III) In the case of an indi-
2 vidual who attains age 74 after De-
3 cember 31, 2031, the applicable age is
4 75.”.

5 (d) CONFORMING AMENDMENTS.—The last sentence
6 of section 408(b) of such Code is amended by striking
7 “age 72” and inserting “the applicable age (determined
8 under section 401(a)(9)(C)(v) for the calendar year in
9 which such taxable year begins)”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to distributions required to be
12 made after December 31, 2021, with respect to individuals
13 who attain age 72 after such date.

14 **SEC. 106. INDEXING IRA CATCH-UP LIMIT.**

15 (a) IN GENERAL.—Subparagraph (C) of section
16 219(b)(5) of the Internal Revenue Code of 1986 is amend-
17 ed by adding at the end the following new clause:

18 “(iii) INDEXING OF CATCH-UP LIMITA-
19 TION.—In the case of any taxable year be-
20 ginning in a calendar year after 2022, the
21 \$1,000 amount under subparagraph (B)(ii)
22 shall be increased by an amount equal to—
23 “(I) such dollar amount, multi-
24 plied by

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for the calendar year in which the tax-
4 able year begins, determined by sub-
5 stituting ‘calendar year 2021’ for ‘cal-
6 endar year 2016’ in subparagraph
7 (A)(ii) thereof.

8 If any amount after adjustment under the
9 preceding sentence is not a multiple of
10 \$100, such amount shall be rounded to the
11 next lower multiple of \$100.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2022.

15 **SEC. 107. HIGHER CATCH-UP LIMIT TO APPLY AT AGE 62, 63,**
16 **AND 64.**

17 (a) IN GENERAL.—

18 (1) PLANS OTHER THAN SIMPLE PLANS.—Sec-
19 tion 414(v)(2)(B)(i) of the Internal Revenue Code of
20 1986 is amended by inserting the following before
21 the period: “(\$10,000, in the case of an eligible par-
22 ticipant who has attained age 62, but not age 65,
23 before the close of the taxable year)”.

24 (2) SIMPLE PLANS.—Section 414(v)(2)(B)(ii) of
25 such Code is amended by inserting the following be-

1 fore the period: “(\$5,000, in the case of an eligible
2 participant who has attained age 62, but not age 65,
3 before the close of the taxable year)”.

4 (b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph
5 (C) of section 414(v)(2) of such Code is amended by add-
6 ing at the end the following: “In the case of a year begin-
7 ning after December 31, 2022, the Secretary shall adjust
8 annually the \$10,000 amount in subparagraph (B)(i) and
9 the \$5,000 amount in subparagraph (B)(ii) for increases
10 in the cost-of-living at the same time and in the same
11 manner as adjustments under the preceding sentence; ex-
12 cept that the base period taken into account shall be the
13 calendar quarter beginning July 1, 2021.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2022.

17 **SEC. 108. MULTIPLE EMPLOYER 403(b) PLANS.**

18 (a) IN GENERAL.—Section 403(b) of the Internal
19 Revenue Code of 1986 is amended by adding at the end
20 the following new paragraph:

21 “(15) MULTIPLE EMPLOYER PLANS.—

22 “(A) IN GENERAL.—Except in the case of
23 a church plan, this subsection shall not be
24 treated as failing to apply to an annuity con-
25 tract solely by reason of such contract being

1 purchased under a plan maintained by more
2 than 1 employer.

3 “(B) TREATMENT OF EMPLOYERS FAILING
4 TO MEET REQUIREMENTS OF PLAN.—

5 “(i) IN GENERAL.—In the case of a
6 plan maintained by more than 1 employer,
7 this subsection shall not be treated as fail-
8 ing to apply to an annuity contract held
9 under such plan merely because of one or
10 more employers failing to meet the require-
11 ments of this subsection if such plan satis-
12 fies rules similar to the rules of section
13 413(e)(2) with respect to any such em-
14 ployer failure.

15 “(ii) ADDITIONAL REQUIREMENTS IN
16 CASE OF NON-GOVERNMENTAL PLANS.—A
17 plan shall not be treated as meeting the re-
18 quirements of this subparagraph unless the
19 plan meets the requirements of subpara-
20 graph (A) or (B) of section 413(e)(1), ex-
21 cept in the case of a multiple employer
22 plan maintained solely by any of the fol-
23 lowing: A State, a political subdivision of a
24 State, or an agency or instrumentality of
25 any one or more of the foregoing.”.

1 (b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE
2 EMPLOYER PLAN.—Section 6057 of such Code is amend-
3 ed by redesignating subsection (g) as subsection (h) and
4 by inserting after subsection (f) the following new sub-
5 section:

6 “(g) 403(b) MULTIPLE EMPLOYER PLANS TREATED
7 AS ONE PLAN.—In the case of annuity contracts to which
8 this section applies and to which section 403(b) applies
9 by reason of the plan under which such contracts are pur-
10 chased meeting the requirements of paragraph (15) there-
11 of, such plan shall be treated as a single plan for purposes
12 of this section.”.

13 (c) ANNUAL INFORMATION RETURNS FOR 403(b)
14 MULTIPLE EMPLOYER PLAN.—Section 6058 of the Inter-
15 nal Revenue Code of 1986 is amended by redesignating
16 subsection (f) as subsection (g) and by inserting after sub-
17 section (e) the following new subsection:

18 “(f) 403(b) MULTIPLE EMPLOYER PLANS TREATED
19 AS ONE PLAN.—In the case of annuity contracts to which
20 this section applies and to which section 403(b) applies
21 by reason of the plan under which such contracts are pur-
22 chased meeting the requirements of paragraph (15) there-
23 of, such plan shall be treated as a single plan for purposes
24 of this section.”.

1 (d) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
2 COME SECURITY ACT OF 1974.—

3 (1) TREATED AS POOLED EMPLOYER PLAN.—

4 (A) IN GENERAL.—Section 3(43)(A) of the
5 Employee Retirement Income Security Act of
6 1974 is amended—

7 (i) in clause (ii), by striking “section
8 501(a) of such Code or” and inserting
9 “501(a) of such Code, a plan that consists
10 of contracts described in section 403(b) of
11 such Code, or”; and

12 (ii) in the flush text at the end, by
13 striking “the plan.” and inserting “the
14 plan, but such term shall include any pro-
15 gram (other than a governmental plan)
16 maintained for the benefit of the employees
17 of more than 1 employer that consists of
18 contracts described in section 403(b) of
19 such Code and that meets the require-
20 ments of subparagraph (A) or (B) of sec-
21 tion 413(e)(1) of such Code.”.

22 (B) CONFORMING AMENDMENTS.—Sec-
23 tions 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of such
24 Act are each amended by striking “section
25 401(a) of such Code or” and inserting “401(a)

1 of such Code, a plan that consists of contracts
2 described in section 403(b) of such Code, or”.

3 (2) FIDUCIARIES.—Section 3(43)(B)(ii) of such
4 Act is amended—

5 (A) by striking “trustees meeting the re-
6 quirements of section 408(a)(2) of the Internal
7 Revenue Code of 1986” and inserting “trustees
8 (or other fiduciaries in the case of a plan that
9 consists of contracts described in section 403(b)
10 of the Internal Revenue Code of 1986) meeting
11 the requirements of section 408(a)(2) of such
12 Code”, and

13 (B) by striking “holding” and inserting
14 “holding (or causing to be held under the terms
15 of a plan consisting of such contracts)”.

16 (e) REGULATIONS RELATING TO PLAN TERMI-
17 NATION.—The Secretary of the Treasury (or the Sec-
18 retary’s designee) shall prescribe such regulations as may
19 be necessary to clarify the treatment of a plan termination
20 by an employer in the case of plans to which section
21 403(b)(15) of such Code applies.

22 (f) MODIFICATION OF MODEL PLAN LANGUAGE,
23 ETC.—

24 (1) PLAN NOTIFICATIONS.—The Secretary of
25 the Treasury (or the Secretary’s designee) shall

1 modify the model plan language published under sec-
2 tion 413(e)(5) of the Internal Revenue Code of 1986
3 to include language which notifies participating em-
4 ployers described in section 501(e)(3), and which are
5 exempt from tax under section 501(a), that the plan
6 is subject to the Employee Retirement Income Secu-
7 rity Act of 1974 and that such employer is a plan
8 sponsor with respect to its employees participating
9 in the multiple employer plan and, as such, has cer-
10 tain fiduciary duties with respect to the plan and to
11 its employees.

12 (2) MODEL PLANS FOR MULTIPLE EMPLOYER
13 403(b) NON-GOVERNMENTAL PLANS.—For plans to
14 which section 403(b)(15)(A) of the Internal Revenue
15 Code of 1986 applies (other than a plan maintained
16 for its employees by a State, a political subdivision
17 of a State, or an agency or instrumentality of any
18 one or more of the foregoing) the Secretary shall
19 publish model plan language similar to model plan
20 language published under section 413(e)(5) of such
21 Code.

22 (3) EDUCATIONAL OUTREACH TO EMPLOYERS
23 EXEMPT FROM TAX.—The Secretary shall provide
24 education and outreach to increase awareness to em-
25 ployers described in section 501(e)(3), and which are

1 exempt from tax under section 501(a), that multiple
2 employer plans are subject to the Employee Retirement
3 Income Security Act of 1974 and that such
4 employer is a plan sponsor with respect to its em-
5 ployees participating in the multiple employer plan
6 and, as such, has certain fiduciary duties with re-
7 spect to the plan and to its employees.

8 (g) NO INFERENCE WITH RESPECT TO CHURCH
9 PLANS.—Regarding any application of section 403(b) of
10 the Internal Revenue Code of 1986 to an annuity contract
11 purchased under a church plan (as defined in section
12 414(e) of such Code) maintained by more than 1 em-
13 ployer, or to any application of rules similar to section
14 413(e) of such Code to such a plan, no inference shall
15 be made from section 403(b)(15)(A) of such Code (as
16 added by this Act) not applying to such plans.

17 (h) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to plan years beginning after
20 December 31, 2021.

21 (2) RULE OF CONSTRUCTION.—Nothing in the
22 amendments made by subsection (a) shall be con-
23 strued as limiting the authority of the Secretary of
24 the Treasury or the Secretary's delegate (determined
25 without regard to such amendment) to provide for

1 the proper treatment of a failure to meet any re-
2 quirement applicable under such Code with respect
3 to one employer (and its employees) in the case of
4 a plan to which section 403(b)(15) applies.

5 **SEC. 109. TREATMENT OF STUDENT LOAN PAYMENTS AS**
6 **ELECTIVE DEFERRALS FOR PURPOSES OF**
7 **MATCHING CONTRIBUTIONS.**

8 (a) IN GENERAL.—Section 401(m)(4)(A) of the In-
9 ternal Revenue Code of 1986 is amended by striking
10 “and” at the end of clause (i), by striking the period at
11 the end of clause (ii) and inserting “, and”, and by adding
12 at the end the following new clause:

13 “(iii) subject to the requirements of
14 paragraph (13), any employer contribution
15 made to a defined contribution plan on be-
16 half of an employee on account of a quali-
17 fied student loan payment.”.

18 (b) QUALIFIED STUDENT LOAN PAYMENT.—Section
19 401(m)(4) of such Code is amended by adding at the end
20 the following new subparagraph:

21 “(D) QUALIFIED STUDENT LOAN PAY-
22 MENT.—The term ‘qualified student loan pay-
23 ment’ means a payment made by an employee
24 in repayment of a qualified education loan (as
25 defined section 221(d)(1)) incurred by the em-

1 ployee to pay qualified higher education ex-
2 penses, but only—

3 “(i) to the extent such payments in
4 the aggregate for the year do not exceed
5 an amount equal to—

6 “(I) the limitation applicable
7 under section 402(g) for the year (or,
8 if lesser, the employee’s compensation
9 (as defined in section 415(c)(3)) for
10 the year), reduced by

11 “(II) the elective deferrals made
12 by the employee for such year, and

13 “(ii) if the employee certifies to the
14 employer making the matching contribu-
15 tion under this paragraph that such pay-
16 ment has been made on such loan.

17 For purposes of this subparagraph, the term
18 ‘qualified higher education expenses’ means the
19 cost of attendance (as defined in section 472 of
20 the Higher Education Act of 1965, as in effect
21 on the day before the date of the enactment of
22 the Taxpayer Relief Act of 1997) at an eligible
23 educational institution (as defined in section
24 221(d)(2)).”.

1 (c) MATCHING CONTRIBUTIONS FOR QUALIFIED
2 STUDENT LOAN PAYMENTS.—Section 401(m) of such
3 Code is amended by redesignating paragraph (13) as para-
4 graph (14), and by inserting after paragraph (12) the fol-
5 lowing new paragraph:

6 “(13) MATCHING CONTRIBUTIONS FOR QUALI-
7 FIED STUDENT LOAN PAYMENTS.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (4)(A)(iii), an employer contribution
10 made to a defined contribution plan on account
11 of a qualified student loan payment shall be
12 treated as a matching contribution for purposes
13 of this title if—

14 “(i) the plan provides matching con-
15 tributions on account of elective deferrals
16 at the same rate as contributions on ac-
17 count of qualified student loan payments,

18 “(ii) the plan provides matching con-
19 tributions on account of qualified student
20 loan payments only on behalf of employees
21 otherwise eligible to receive matching con-
22 tributions on account of elective deferrals,

23 “(iii) under the plan, all employees el-
24 igible to receive matching contributions on
25 account of elective deferrals are eligible to

1 receive matching contributions on account
2 of qualified student loan payments, and

3 “(iv) the plan provides that matching
4 contributions on account of qualified stu-
5 dent loan payments vest in the same man-
6 ner as matching contributions on account
7 of elective deferrals.

8 “(B) TREATMENT FOR PURPOSES OF NON-
9 DISCRIMINATION RULES, ETC.—

10 “(i) NONDISCRIMINATION RULES.—
11 For purposes of subparagraph (A)(iii),
12 subsection (a)(4), and section 410(b),
13 matching contributions described in para-
14 graph (4)(A)(iii) shall not fail to be treated
15 as available to an employee solely because
16 such employee does not have debt incurred
17 under a qualified education loan (as de-
18 fined in section 221(d)(1)).

19 “(ii) STUDENT LOAN PAYMENTS NOT
20 TREATED AS PLAN CONTRIBUTION.—Ex-
21 cept as provided in clause (iii), a qualified
22 student loan payment shall not be treated
23 as a contribution to a plan under this title.

24 “(iii) MATCHING CONTRIBUTION
25 RULES.—Solely for purposes of meeting

1 the requirements of paragraph (11)(B) or
2 (12) of this subsection, or paragraph
3 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-
4 section (k), a plan may treat a qualified
5 student loan payment as an elective deferral
6 or an elective contribution, whichever is
7 applicable.

8 “(iv) ACTUAL DEFERRAL PERCENT-
9 AGE TESTING.—In determining whether a
10 plan meets the requirements of subsection
11 (k)(3)(A)(ii) for a plan year, the plan may
12 apply the requirements of such subsection
13 separately with respect to all employees
14 who receive matching contributions de-
15 scribed in paragraph (4)(A)(iii) for the
16 plan year.

17 “(C) EMPLOYER MAY RELY ON EMPLOYEE
18 CERTIFICATION.—The employer may rely on an
19 employee certification of payment under para-
20 graph (4)(D)(ii).”.

21 (d) SIMPLE RETIREMENT ACCOUNTS.—Section
22 408(p)(2) of such Code is amended by adding at the end
23 the following new subparagraph:

24 “(F) MATCHING CONTRIBUTIONS FOR
25 QUALIFIED STUDENT LOAN PAYMENTS.—

1 “(i) IN GENERAL.—Subject to the
2 rules of clause (iii), an arrangement shall
3 not fail to be treated as meeting the re-
4 quirements of subparagraph (A)(iii) solely
5 because under the arrangement, solely for
6 purposes of such subparagraph, qualified
7 student loan payments are treated as
8 amounts elected by the employee under
9 subparagraph (A)(i)(I) to the extent such
10 payments do not exceed—

11 “(I) the applicable dollar amount
12 under subparagraph (E) (after appli-
13 cation of section 414(v)) for the year
14 (or, if lesser, the employee’s com-
15 pensation (as defined in section
16 415(c)(3)) for the year), reduced by

17 “(II) any other amounts elected
18 by the employee under subparagraph
19 (A)(i)(I) for the year.

20 “(ii) QUALIFIED STUDENT LOAN PAY-
21 MENT.—For purposes of this subpara-
22 graph—

23 “(I) IN GENERAL.—The term
24 ‘qualified student loan payment’
25 means a payment made by an em-

1 ployee in repayment of a qualified
2 education loan (as defined in section
3 221(d)(1)) incurred by the employee
4 to pay qualified higher education ex-
5 penses, but only if the employee cer-
6 tifies to the employer making the
7 matching contribution that such pay-
8 ment has been made on such a loan.

9 “(II) QUALIFIED HIGHER EDU-
10 CATION EXPENSES.—The term ‘quali-
11 fied higher education expenses’ has
12 the same meaning as when used in
13 section 401(m)(4)(D).

14 “(iii) APPLICABLE RULES.—Clause (i)
15 shall apply to an arrangement only if,
16 under the arrangement—

17 “(I) matching contributions on
18 account of qualified student loan pay-
19 ments are provided only on behalf of
20 employees otherwise eligible to elect
21 contributions under subparagraph
22 (A)(i)(I), and

23 “(II) all employees otherwise eli-
24 gible to participate in the arrange-
25 ment are eligible to receive matching

1 contributions on account of qualified
2 student loan payments.”.

3 (e) 403(b) PLANS.—Section 403(b)(12)(A) of such
4 Code is amended by adding at the end the following: “The
5 fact that the employer offers matching contributions on
6 account of qualified student loan payments as described
7 in section 401(m)(13) shall not be taken into account in
8 determining whether the arrangement satisfies the re-
9 quirements of clause (ii) (and any regulation there-
10 under).”.

11 (f) 457(b) PLANS.—Section 457(b) of such Code is
12 amended by adding at the end the following: “A plan
13 which is established and maintained by an employer which
14 is described in subsection (e)(1)(A) shall not be treated
15 as failing to meet the requirements of this subsection sole-
16 ly because the plan, or another plan maintained by the
17 employer which meets the requirements of section 401(a)
18 or 403(b), provides for matching contributions on account
19 of qualified student loan payments as described in section
20 401(m)(13).”.

21 (g) REGULATORY AUTHORITY.—The Secretary shall
22 prescribe regulations for purposes of implementing the
23 amendments made by this section, including regulations—

24 (1) permitting a plan to make matching con-
25 tributions for qualified student loan payments, as

1 defined in sections 401(m)(4)(D) and 408(p)(2)(F)
2 of the Internal Revenue Code of 1986, as added by
3 this section, at a different frequency than matching
4 contributions are otherwise made under the plan,
5 provided that the frequency is not less than annu-
6 ally;

7 (2) permitting employers to establish reasonable
8 procedures to claim matching contributions for such
9 qualified student loan payments under the plan, in-
10 cluding an annual deadline (not earlier than 3
11 months after the close of each plan year) by which
12 a claim must be made; and

13 (3) promulgating model amendments which
14 plans may adopt to implement matching contribu-
15 tions on such qualified student loan payments for
16 purposes of sections 401(m), 408(p), 403(b), and
17 457(b) of the Internal Revenue Code of 1986.

18 (h) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to contributions made for plan
20 years beginning after December 31, 2021.

21 **SEC. 110. APPLICATION OF CREDIT FOR SMALL EMPLOYER**
22 **PENSION PLAN STARTUP COSTS TO EMPLOY-**
23 **ERS WHICH JOIN AN EXISTING PLAN.**

24 (a) IN GENERAL.—Section 45E(d)(3)(A) of the In-
25 ternal Revenue Code of 1986 is amended by striking “ef-

1 fective” and inserting “effective with respect to the eligible
2 employer”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to eligible employer plans which
5 become effective with respect to the eligible employer after
6 the date of the enactment of this Act.

7 **SEC. 111. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
8 **BILITY CREDIT FOR SMALL EMPLOYERS.**

9 (a) **IN GENERAL.**—Subpart D of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of
11 1986 is amended by adding at the end the following new
12 section:

13 **“SEC. 45U. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
14 **BILITY CREDIT FOR SMALL EMPLOYERS.**

15 “(a) **IN GENERAL.**—For purposes of section 38, in
16 the case of any eligible small employer, the military spouse
17 retirement plan eligibility credit determined under this
18 section for any taxable year is an amount equal to the
19 sum of—

20 “(1) \$250 with respect to each military spouse
21 who is an employee of such employer and who is eli-
22 gible to participate in an eligible defined contribu-
23 tion plan of such employer at any time during such
24 taxable year, plus

1 “(2) so much of the contributions made by such
2 employer to all such plans with respect to such em-
3 ployee during such taxable year as do not exceed
4 \$250.

5 “(b) LIMITATION.—An individual shall only be taken
6 into account as a military spouse under subsection (a) for
7 the taxable year which includes the date on which such
8 individual began participating in the eligible defined con-
9 tribution plan of the employer and the 2 succeeding tax-
10 able years.

11 “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of
12 this section—

13 “(1) IN GENERAL.—The term ‘eligible small
14 employer’ means an eligible employer (as defined in
15 section 408(p)(2)(C)(i)(I)).

16 “(2) APPLICATION OF 2-YEAR GRACE PERIOD.—
17 A rule similar to the rule of section
18 408(p)(2)(C)(i)(II) shall apply for purposes of this
19 section.

20 “(d) MILITARY SPOUSE.—For purposes of this sec-
21 tion—

22 “(1) IN GENERAL.—The term ‘military spouse’
23 means, with respect to any employer, any individual
24 who is married (within the meaning of section 7703
25 as of the first date that the employee is employed by

1 the employer) to an individual who is a member of
2 the uniformed services (as defined section 101(a)(5)
3 of title 10, United States Code). For purposes of
4 this section, an employer may rely on an employee's
5 certification that such employee's spouse is a mem-
6 ber of the uniformed services if such certification
7 provides the name, rank, and service branch of such
8 spouse.

9 “(2) EXCLUSION OF HIGHLY COMPENSATED
10 EMPLOYEES.—With respect to any employer, the
11 term ‘military spouse’ shall not include any indi-
12 vidual if such individual is a highly compensated em-
13 ployee of such employer (within the meaning of sec-
14 tion 414(q)).

15 “(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—
16 For purposes of this section, the term ‘eligible defined con-
17 tribution plan’ means, with respect to any eligible small
18 employer, any defined contribution plan (as defined in sec-
19 tion 414(i)) of such employer if, under the terms of such
20 plan—

21 “(1) military spouses employed by such em-
22 ployer are eligible to participate in such plan not
23 later than the date which is 2 months after the date
24 on which such individual begins employment with
25 such employer, and

1 “(2) military spouses who are eligible to partici-
2 pate in such plan—

3 “(A) are immediately eligible to receive an
4 amount of employer contributions under such
5 plan which is not less the amount of such con-
6 tributions that a similarly situated participant
7 who is not a military spouse would be eligible
8 to receive under such plan after 2 years of serv-
9 ice, and

10 “(B) immediately have a nonforfeitable
11 right to the employee’s accrued benefit derived
12 from employer contributions under such plan.

13 “(f) AGGREGATION RULE.—All persons treated as a
14 single employer under subsection (b), (c), (m), or (o) of
15 section 414 shall be treated as one employer for purposes
16 of this section.”.

17 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
18 NESS CREDIT.—Section 38(b) of such Code is amended
19 by striking “plus” at the end of paragraph (32), by strik-
20 ing the period at the end of paragraph (33) and inserting
21 “, plus”, and by adding at the end the following new para-
22 graph:

23 “(34) in the case of an eligible small employer
24 (as defined in section 45U(c)), the military spouse

1 retirement plan eligibility credit determined under
2 section 45U(a).”.

3 (c) SPECIFIED CREDIT FOR PURPOSES OF CER-
4 TIFIED PROFESSIONAL ORGANIZATIONS.—Section
5 3511(d)(2) of such Code is amended by redesignating sub-
6 paragraphs (F), (G), and (H) as subparagraphs (G), (H),
7 and (I), respectively, and by inserting after subparagraph
8 (E) the following new subparagraph:

9 “(F) section 45U (military spouse retire-
10 ment plan eligibility credit),”.

11 (d) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 of such Code is amended by adding at the end the fol-
14 lowing new item:

“Sec. 45U. Military spouse retirement plan eligibility credit for small employ-
ers.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 the date of the enactment of this Act.

18 **SEC. 112. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**
19 **CONTRIBUTING TO A PLAN.**

20 (a) IN GENERAL.—Subparagraph (A) of section
21 401(k)(4) of the Internal Revenue Code of 1986 is amend-
22 ed by inserting “(other than a de minimis financial incen-
23 tive)” after “any other benefit”.

1 (b) SECTION 403(b) PLANS.—Subparagraph (A) of
2 section 403(b)(12) of such Code, as amended by the pre-
3 ceding provisions of this Act, is further amended by add-
4 ing at the end the following: “A plan shall not fail to sat-
5 isfy clause (ii) solely by reason of offering a de minimis
6 financial incentive to employees to elect to have the em-
7 ployer make contributions pursuant to a salary reduction
8 agreement.”.

9 (c) EXEMPTION FROM PROHIBITED TRANSACTION
10 RULES.—Subsection (d) of section 4975 of such Code is
11 amended by striking “or” at the end of paragraph (22),
12 by striking the period at the end of paragraph (23) and
13 inserting “, or”, and by adding at the end the following
14 new paragraph:

15 “(24) the provision of a de minimis financial in-
16 centive described in section 401(k)(4)(A) or
17 403(b)(12)(A).”.

18 (d) AMENDMENT OF EMPLOYEE RETIREMENT IN-
19 COME SECURITY ACT OF 1974.—Subsection (b) of section
20 408 of the Employee Retirement Income Security Act of
21 1974 (29 U.S.C. 1108(b)) is amended by adding at the
22 end the following new paragraph:

23 “(21) The provision of a de minimis financial
24 incentive described in section 401(k)(4)(A) or

1 403(b)(12)(A) of the Internal Revenue Code of
2 1986.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to plan years begin-
5 ning after the date of enactment of this Act.

6 **SEC. 113. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE**
7 **ELECTIVE DEFERRAL FAILURES.**

8 (a) IN GENERAL.—Section 414 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

11 “(aa) CORRECTING AUTOMATIC CONTRIBUTION ER-
12 RORS.—

13 “(1) IN GENERAL.—Any plan or arrangement
14 shall not fail to be treated as a plan described in
15 sections 401(a), 403(b), 408, or 457(b), as applica-
16 ble, solely by reason of a corrected error.

17 “(2) CORRECTED ERROR DEFINED.—For pur-
18 poses of this subsection, the term ‘corrected error’
19 means a reasonable administrative error in imple-
20 menting an automatic enrollment or automatic esca-
21 lation feature in accordance with the terms of an eli-
22 gible automatic contribution arrangement (as de-
23 fined under subsection (w)(3)), provided that such
24 implementation error—

1 “(A) is corrected by the date that is 9½
2 months after the end of the plan year during
3 which the failure occurred,

4 “(B) is corrected in a manner that is fa-
5 vorable to the participant, and

6 “(C) is of a type which is so corrected for
7 all similarly situated participants in a non-
8 discriminatory manner.

9 Such correction may occur before or after the partic-
10 ipant has terminated employment and may occur
11 without regard to whether the error is identified by
12 the Secretary.

13 “(3) REGULATIONS AND GUIDANCE FOR FAVOR-
14 ABLE CORRECTION METHODS.—The Secretary shall,
15 by regulations or other guidance of general applica-
16 bility, specify the correction methods that are in a
17 manner favorable to the participant for purposes of
18 paragraph (2)(B).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply with respect to any errors with
21 respect to which the date referred to in section 414(aa)
22 (as added by this section) is after the date of enactment
23 of this Act.

1 **SEC. 114. ONE-YEAR REDUCTION IN PERIOD OF SERVICE**
2 **REQUIREMENT FOR LONG-TERM, PART-TIME**
3 **WORKERS.**

4 (a) IN GENERAL.—Section 401(k)(2)(D)(ii) of the
5 Internal Revenue Code of 1986 is amended by striking
6 “3” and inserting “2”.

7 (b) CLARIFICATION OF PRIOR SERVICE FOR PUR-
8 POSES OF VESTING RULES.—Section 112(b) of the Set-
9 ting Every Community Up for Retirement Enhancement
10 Act of 2019 is amended by striking “section
11 401(k)(2)(D)(ii)” and inserting “paragraphs (2)(D)(ii)
12 and (15)(B)(iii) of section 401(k)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect as if included in the enact-
15 ment of section 112 of the Setting Every Community Up
16 for Retirement Enhancement Act of 2019.

17 **SEC. 115. FINDINGS RELATING TO S CORPORATION ESOPs.**

18 Congress finds the following:

19 (1) On January 1, 1998, nearly 25 years after
20 the Employee Retirement Income Security Act of
21 1974 was enacted and the employee stock ownership
22 plan (hereafter in this section referred to as an
23 “ESOP”) was created, employees were first per-
24 mitted to be owners of subchapter S corporations
25 pursuant to the Small Business Job Protection Act
26 of 1996 (Public Law 104–188).

1 (2) With the passage of the Taxpayer Relief
2 Act of 1997 (Public Law 105–34), Congress de-
3 signed incentives to encourage businesses to become
4 ESOP-owned S corporations.

5 (3) Since that time, several thousand companies
6 have become ESOP-owned S corporations, creating
7 an ownership interest for several million Americans
8 in companies in every State in the country, in indus-
9 tries ranging from heavy manufacturing to construc-
10 tion and contracting to services.

11 (4) Every United States worker who is an em-
12 ployee-owner of an S corporation company through
13 an ESOP has a valuable qualified retirement savings
14 account.

15 (5) Recent studies have shown that employees
16 of ESOP-owned S corporations enjoy greater job
17 stability, wages and benefits than employees of com-
18 parable companies; and ESOP companies are better
19 able to weather economic downturns.

20 (6) Studies also show that employee-owners of
21 S corporation ESOP companies have amassed mean-
22 ingful retirement savings through their ESOP ac-
23 counts that will give them the means to retire with
24 dignity.

1 (7) It is the goal of Congress to preserve and
2 foster employee ownership of S corporations through
3 ESOPs.

4 **TITLE II—PRESERVATION OF**
5 **INCOME**

6 **SEC. 201. REMOVE REQUIRED MINIMUM DISTRIBUTION**
7 **BARRIERS FOR LIFE ANNUITIES.**

8 (a) IN GENERAL.—Section 401(a)(9) of the Internal
9 Revenue Code of 1986 is amended by adding at the end
10 the following new subparagraph:

11 “(J) CERTAIN INCREASES IN PAYMENTS
12 UNDER A COMMERCIAL ANNUITY.—Nothing in
13 this section shall prohibit a commercial annuity
14 (within the meaning of section 3405(e)(6)) that
15 is issued in connection with any eligible retire-
16 ment plan (within the meaning of section
17 402(c)(8)(B), other than a defined benefit plan)
18 from providing one or more of the following
19 types of payments on or after the annuity start-
20 ing date:

21 “(i) annuity payments that increase
22 by a constant percentage, applied not less
23 frequently than annually, at a rate that is
24 less than 5 percent per year,

25 “(ii) a lump sum payment that—

1 “(I) results in a shortening of the
2 payment period with respect to an an-
3 nuity or a full or partial commutation
4 of the future annuity payments, pro-
5 vided that such lump sum is deter-
6 mined using reasonable actuarial
7 methods and assumptions, as deter-
8 mined in good faith by the issuer of
9 the contract, or

10 “(II) accelerates the receipt of
11 annuity payments that are scheduled
12 to be received within the ensuing 12
13 months, regardless of whether such
14 acceleration shortens the payment pe-
15 riod with respect to the annuity, re-
16 duces the dollar amount of benefits to
17 be paid under the contract, or results
18 in a suspension of annuity payments
19 during the period being accelerated,

20 “(iii) an amount which is in the na-
21 ture of a dividend or similar distribution,
22 provided that the issuer of the contract de-
23 termines such amount based on a reason-
24 able comparison of the actuarial factors as-
25 sumed when calculating the initial annuity

1 payments and the issuer's experience with
2 respect to those factors, or

3 “(iv) a final payment upon death that
4 does not exceed the excess of the total
5 amount of the consideration paid for the
6 annuity payments, less the aggregate
7 amount of prior distributions or payments
8 from or under the contract.”.

9 (b) REGULATIONS AND ENFORCEMENT.—

10 (1) REGULATIONS.—By the date that is one
11 year after the date of enactment of this Act, the
12 Secretary of the Treasury shall amend the regula-
13 tion issued by the Department of the Treasury relat-
14 ing to “Required Distributions from Retirement
15 Plans,” 69 Fed. Reg. 33288 (June 15, 2004), and
16 make any corresponding amendments to other regu-
17 lations, in order to—

18 (A) conform such regulations to subsection
19 (a), including by eliminating the types of pay-
20 ments described in subsection (a) from the
21 scope of the requirement in Q&A-14(c) of
22 Treasury Regulation section 1.401(a)(9)-6 that
23 the total future expected payments must exceed
24 the total value being annuitized;

1 (B) amend Q&A-14(c) of Treasury Regu-
2 lation section 1.401(a)(9)-6 to provide that a
3 commercial annuity that provides an initial pay-
4 ment that is at least equal to the initial pay-
5 ment that would be required from an individual
6 account pursuant to Treasury Regulation sec-
7 tion 1.401(a)(9)-5 will be deemed to satisfy the
8 requirement in Q&A-14(c) of Treasury Regula-
9 tion section 1.401(a)(9)-6 that the total future
10 expected payments must exceed the total value
11 being annuitized; and

12 (C) amend Q&A-14(e)(3) of Treasury Reg-
13 ulation section 1.401(a)(9)-6 to provide that
14 the total future expected payments under a
15 commercial annuity are determined using the
16 tables or other actuarial assumptions that the
17 issuer of the contract actually uses in pricing
18 the premiums and benefits with respect to the
19 contract, provided that such tables or other ac-
20 tuarial assumptions are reasonable.

21 (2) ENFORCEMENT.—As of the date of enact-
22 ment of this Act, the Secretary of the Treasury shall
23 administer and enforce the law in accordance with
24 subsections (a) and (b).

1 (c) EFFECTIVE DATE.—This section shall take effect
2 on the date of the enactment of this Act.

3 **SEC. 202. QUALIFYING LONGEVITY ANNUITY CONTRACTS.**

4 (a) IN GENERAL.—Not later than the date which is
5 1 year after the date of the enactment of this Act, the
6 Secretary of the Treasury or the Secretary’s delegate
7 (hereafter in this section referred to as the “Secretary”)
8 shall amend the regulation issued by the Department of
9 the Treasury relating to “Longevity Annuity Contracts”
10 (79 Fed. Reg. 37633 (July 2, 2014)), as follows:

11 (1) REPEAL 25-PERCENT PREMIUM LIMIT.—The
12 Secretary shall amend Q&A–17(b)(3) of Treasury
13 Regulation section 1.401(a)(9)–6 and Q&A–12(b)(3)
14 of Treasury Regulation section 1.408–8 to eliminate
15 the requirement that premiums for qualifying lon-
16 gevity annuity contracts be limited to a percentage
17 of an individual’s account balance, and to make such
18 corresponding changes to the regulations and related
19 forms as are necessary to reflect the elimination of
20 this requirement.

21 (2) FACILITATE JOINT AND SURVIVOR BENE-
22 FITS.—The Secretary shall amend Q&A–17(c) of
23 Treasury Regulation section 1.401(a)(9)–6, and
24 make such corresponding changes to the regulations
25 and related forms as are necessary, to provide that,

1 in the case of a qualifying longevity annuity contract
2 which was purchased with joint and survivor annuity
3 benefits for the individual and the individual's
4 spouse which were permissible under the regulations
5 at the time the contract was originally purchased, a
6 divorce occurring after the original purchase and be-
7 fore the annuity payments commence under the con-
8 tract will not affect the permissibility of the joint
9 and survivor annuity benefits or other benefits under
10 the contract, or require any adjustment to the
11 amount or duration of benefits payable under the
12 contract, provided that any qualified domestic rela-
13 tions order (within the meaning of section 414(p) of
14 the Internal Revenue Code of 1986) or any divorce
15 or separation instrument (as defined in subsection
16 (b))—

17 (A) provides that the former spouse is en-
18 titled to the survivor benefits under the con-
19 tract;

20 (B) does not modify the treatment of the
21 former spouse as the beneficiary under the con-
22 tract who is entitled to the survivor benefits; or

23 (C) does not modify the treatment of the
24 former spouse as the measuring life for the sur-
25 vivor benefits under the contract.

1 (3) PERMIT SHORT FREE LOOK PERIOD.—The
2 Secretary shall amend Q&A–17(a)(4) of Treasury
3 Regulation section 1.401(a)(9)–6 to ensure that
4 such Q&A does not preclude a contract from includ-
5 ing a provision under which an employee may re-
6 scind the purchase of the contract within a period
7 not exceeding 90 days from the date of purchase.

8 (b) DIVORCE OR SEPARATION INSTRUMENT.—For
9 purposes of subsection (a)(2), the term “divorce or separa-
10 tion instrument” means—

11 (1) a decree of divorce or separate maintenance
12 or a written instrument incident to such a decree,

13 (2) a written separation agreement, or

14 (3) a decree (not described in paragraph (1))
15 requiring a spouse to make payments for the sup-
16 port or maintenance of the other spouse.

17 (c) EFFECTIVE DATES, ENFORCEMENT, AND INTER-
18 PRETATIONS.—

19 (1) EFFECTIVE DATES.—

20 (A) Paragraph (1) of subsection (a) shall
21 be effective with respect to contracts purchased
22 or received in an exchange on or after the date
23 of the enactment of this Act.

24 (B) Paragraphs (2) and (3) of subsection
25 (a) shall be effective with respect to contracts

1 purchased or received in an exchange on or
2 after July 2, 2014.

3 (2) ENFORCEMENT AND INTERPRETATIONS.—

4 Prior to the date on which the Secretary issues final
5 regulations pursuant to subsection (a)—

6 (A) the Secretary (or delegate) shall ad-
7 minister and enforce the law in accordance with
8 subsection (a) and the effective dates in para-
9 graph (1) of this subsection; and

10 (B) taxpayers may rely upon their reason-
11 able good faith interpretations of subsection (a).

12 **SEC. 203. INSURANCE-DEDICATED EXCHANGE-TRADED**
13 **FUNDS.**

14 (a) IN GENERAL.—Not later than the date which is
15 7 years after the date of the enactment of this Act, the
16 Secretary of the Treasury (or the Secretary’s delegate)
17 shall amend the regulation issued by the Department of
18 the Treasury relating to “Income Tax; Diversification Re-
19 quirements for Variable Annuity, Endowment, and Life
20 Insurance Contracts”, 54 Fed. Reg. 8728 (March 2,
21 1989), and make any necessary corresponding amend-
22 ments to other regulations, in order to facilitate the use
23 of exchange-traded funds as investment options under
24 variable contracts within the meaning of section 817(d)

1 of the Internal Revenue Code of 1986, in accordance with
2 subsections (b) and (c) of this section.

3 (b) DESIGNATE CERTAIN AUTHORIZED PARTICI-
4 PANTS AND MARKET MAKERS AS ELIGIBLE INVESTORS.—
5 The Secretary of the Treasury (or the Secretary’s dele-
6 gate) shall amend Treas. Reg. section 1.817–5(f)(3) to
7 provide that satisfaction of the requirements in Treas.
8 Reg. section 1.817–5(f)(2)(i) with respect to an exchange-
9 traded fund shall not be prevented by reason of beneficial
10 interests in such a fund being held by 1 or more author-
11 ized participants or market makers.

12 (c) DEFINE RELEVANT TERMS.—In amending Treas.
13 Reg. section 1.817–5(f)(3) in accordance with subsections
14 (b) of this section, the Secretary of the Treasury (or the
15 Secretary’s delegate) shall provide definitions consistent
16 with the following:

17 (1) EXCHANGE-TRADED FUND.—The term “ex-
18 change-traded fund” means a regulated investment
19 company, partnership, or trust—

20 (A) that is registered with the Securities
21 and Exchange Commission as an open-end in-
22 vestment company or a unit investment trust;

23 (B) the shares of which can be purchased
24 or redeemed directly from the fund only by an
25 authorized participant; and

1 (C) the shares of which are traded
2 throughout the day on a national stock ex-
3 change at market prices that may or may not
4 be the same as the net asset value of the
5 shares.

6 (2) AUTHORIZED PARTICIPANT.—The term
7 “authorized participant” means a financial institu-
8 tion that is a member or participant of a clearing
9 agency registered under section 17A(b) of the Secu-
10 rities Exchange Act of 1934 that enters into a con-
11 tractual relationship with an exchange-traded fund
12 pursuant to which the financial institution is per-
13 mitted to purchase and redeem shares directly from
14 the fund and to sell such shares to third parties, but
15 only if the contractual arrangement or applicable law
16 precludes the financial institution from—

17 (A) purchasing the shares for its own in-
18 vestment purposes rather than for the exclusive
19 purpose of creating and redeeming such shares
20 on behalf of third parties; and

21 (B) selling the shares to third parties who
22 are not market makers or otherwise described
23 in Treas. Reg. section 1.817-5(f) (1) and (3).

24 (3) MARKET MAKER.—The term “market
25 maker” means a financial institution that is a reg-

1 istered broker or dealer under section 15(b) of the
2 Securities Exchange Act of 1934 that maintains li-
3 quidity for an exchange-traded fund on a national
4 stock exchange by being always ready to buy and sell
5 shares of such fund on the market, but only if the
6 financial institution is contractually or legally pre-
7 cluded from selling or buying such shares to or from
8 persons who are not authorized participants or oth-
9 erwise described in Treas. Reg. section 1.817-5(f)
10 (2) and (3).

11 (d) EFFECTIVE DATE.—Subsections (b) and (c) shall
12 apply to segregated asset account investments made on
13 or after the date that is 7 years after the date of the enact-
14 ment of this Act.

15 **TITLE III—SIMPLIFICATION AND**
16 **CLARIFICATION OF RETIRE-**
17 **MENT PLAN RULES**

18 **SEC. 301. RECOVERY OF RETIREMENT PLAN OVERPAY-**
19 **MENTS.**

20 (a) OVERPAYMENTS UNDER INTERNAL REVENUE
21 CODE OF 1986.—

22 (1) QUALIFICATION REQUIREMENTS.—Section
23 414 of the Internal Revenue Code of 1986, as
24 amended by the preceding provisions of this Act, is

1 further amended by adding at the end the following
2 new subsection:

3 “(bb) SPECIAL RULES APPLICABLE TO BENEFIT
4 OVERPAYMENTS.—

5 “(1) IN GENERAL.—A plan shall not fail to be
6 treated as described in clause (i), (ii), (iii), or (iv)
7 of section 219(g)(5)(A) (and shall not fail to be
8 treated as satisfying the requirements of section
9 401(a) or 403) merely because—

10 “(A) the plan fails to obtain payment from
11 any participant, beneficiary, employer, plan
12 sponsor, fiduciary, or other party on account of
13 any inadvertent benefit overpayment made by
14 the plan, or

15 “(B) the plan sponsor amends the plan to
16 increase past or future benefit payments to af-
17 fected participants and beneficiaries in order to
18 adjust for prior inadvertent benefit overpay-
19 ments.

20 “(2) REDUCTION IN FUTURE BENEFIT PAY-
21 MENTS AND RECOVERY FROM RESPONSIBLE
22 PARTY.—Paragraph (1) shall not fail to apply to a
23 plan merely because, after discovering a benefit over-
24 payment, such plan—

1 “(A) reduces future benefit payments to
2 the correct amount provided for under the
3 terms of the plan, or

4 “(B) seeks recovery from the person or
5 persons responsible for such overpayment.

6 “(3) EMPLOYER FUNDING OBLIGATIONS.—
7 Nothing in this subsection shall relieve an employer
8 of any obligation imposed on it to make contribu-
9 tions to a plan to meet the minimum funding stand-
10 ards under sections 412 and 430 or to prevent or re-
11 store an impermissible forfeiture in accordance with
12 section 411.

13 “(4) OBSERVANCE OF BENEFIT LIMITATIONS.—
14 Notwithstanding paragraph (1), a plan to which
15 paragraph (1) applies shall observe any limitations
16 imposed on it by section 401(a)(17) or 415. The
17 plan may enforce such limitations using any method
18 approved by the Secretary for recouping benefits
19 previously paid or allocations previously made in ex-
20 cess of such limitations.

21 “(5) COORDINATION WITH OTHER QUALIFICA-
22 TION REQUIREMENTS.—The Secretary may issue
23 regulations or other guidance of general applicability
24 specifying how benefit overpayments and their
25 recoupment or non-recoupment from a participant or

1 beneficiary shall be taken into account for purposes
2 of satisfying any requirement applicable to a plan to
3 which paragraph (1) applies.”.

4 (2) ROLLOVERS.—Section 402(c) of such Code
5 is amended by adding at the end the following new
6 paragraph:

7 “(12) In the case of an inadvertent benefit
8 overpayment from a plan to which section
9 414(bb)(1) applies which is transferred to an eligible
10 retirement plan by or on behalf of a participant or
11 beneficiary—

12 “(A) the portion of such overpayment with
13 respect to which recoupment is not sought on
14 behalf of the plan shall be treated as having
15 been paid in an eligible rollover distribution if
16 the payment would have been an eligible roll-
17 over distribution but for being an overpayment,
18 and

19 “(B) the portion of such overpayment with
20 respect to which recoupment is sought on behalf
21 of the plan shall be permitted to be returned to
22 such plan and in such case shall be treated as
23 an eligible rollover distribution transferred to
24 such plan by the participant or beneficiary who
25 received such overpayment (and the plans mak-

1 ing and receiving such transfer shall be treated
2 as permitting such transfer).

3 In any case in which recoupment is sought on behalf
4 of the plan but is disputed by the participant or ben-
5 eficiary who received such overpayment, such dispute
6 shall be subject to the claims and appeals procedures
7 of the plan that made such overpayment, such plan
8 shall notify the plan receiving the rollover of such
9 dispute, and the plan receiving the rollover shall re-
10 tain such overpayment on behalf of the participant
11 or beneficiary (and shall be entitled to treat such
12 overpayment as plan assets) pending the outcome of
13 such procedures.”.

14 (b) OVERPAYMENTS UNDER ERISA.—Section 206 of
15 the Employee Retirement Income Security Act of 1974
16 (29 U.S.C. 1056) is amended by adding at the end the
17 following new subsection:

18 “(h) SPECIAL RULES APPLICABLE TO BENEFIT
19 OVERPAYMENTS.—

20 “(1) GENERAL RULE.—In the case of an inad-
21 vertent benefit overpayment by any pension plan, the
22 responsible plan fiduciary shall not be considered to
23 have failed to comply with the requirements of this
24 title merely because such fiduciary determines, in

1 the exercise of its fiduciary discretion, not to seek
2 recovery of all or part of such overpayment from—

3 “(A) any participant or beneficiary,

4 “(B) any plan sponsor of, or contributing
5 employer to—

6 “(i) an individual account plan, pro-
7 vided that the amount needed to prevent or
8 restore any impermissible forfeiture from
9 any participant’s or beneficiary’s account
10 arising in connection with the overpayment
11 is, separately from and independently of
12 the overpayment, allocated to such account
13 pursuant to the nonforfeitability require-
14 ments of section 203 (for example, out of
15 the plan’s forfeiture account, additional
16 employer contributions, or recoveries from
17 those responsible for the overpayment), or

18 “(ii) a defined benefit pension plan
19 subject to the funding rules in part 3 of
20 this subtitle B, unless the responsible plan
21 fiduciary determines, in the exercise of its
22 fiduciary discretion, that failure to recover
23 all or part of the overpayment faster than
24 required under such funding rules would
25 materially affect the plan’s ability to pay

1 benefits due to other participants and
2 beneficiaries, or

3 “(C) any fiduciary of the plan, other than
4 a fiduciary (including a plan sponsor or contrib-
5 uting employer acting in a fiduciary capacity)
6 whose breach of its fiduciary duties resulted in
7 such overpayment, provided that if the plan has
8 established prudent procedures to prevent and
9 minimize overpayment of benefits and the rel-
10 evant plan fiduciaries have followed such proce-
11 dures, an inadvertent benefit overpayment will
12 not give rise to a breach of fiduciary duty.

13 “(2) REDUCTION IN FUTURE BENEFIT PAY-
14 MENTS AND RECOVERY FROM RESPONSIBLE
15 PARTY.—Paragraph (1) shall not fail to apply with
16 respect to any inadvertent benefit overpayment
17 merely because, after discovering such overpayment,
18 the responsible plan fiduciary—

19 “(A) reduces future benefit payments to
20 the correct amount provided for under the
21 terms of the plan, or

22 “(B) seeks recovery from the person or
23 persons responsible for the overpayment.

24 “(3) EMPLOYER FUNDING OBLIGATIONS.—
25 Nothing in this subsection shall relieve an employer

1 of any obligation imposed on it to make contribu-
2 tions to a plan to meet the minimum funding stand-
3 ards under part 3 of this subtitle B or to prevent
4 or restore an impermissible forfeiture in accordance
5 with section 203.

6 “(4) RECOUPMENT FROM PARTICIPANTS AND
7 BENEFICIARIES.—If the responsible plan fiduciary,
8 in the exercise of its fiduciary discretion, decides to
9 seek recoupment from a participant or beneficiary of
10 all or part of an inadvertent benefit overpayment
11 made by the plan to such participant or beneficiary,
12 it may do so, subject to the following conditions:

13 “(A) No interest or other additional
14 amounts (such as collection costs or fees) are
15 sought on overpaid amounts.

16 “(B) If the plan seeks to recoup past over-
17 payments of a non-decreasing periodic benefit
18 by reducing future benefit payments—

19 “(i) the reduction ceases after the
20 plan has recovered the full dollar amount
21 of the overpayment,

22 “(ii) the amount recouped each cal-
23 endar year does not exceed 10 percent of
24 the full dollar amount of the overpayment,
25 and

1 “(iii) future benefit payments are not
2 reduced to below 90 percent of the periodic
3 amount otherwise payable under the terms
4 of the plan.

5 Alternatively, if the plan seeks to recoup past
6 overpayments of a non-decreasing periodic ben-
7 efit through one or more installment payments,
8 the sum of such installment payments in any
9 calendar year does not exceed the sum of the
10 reductions that would be permitted in such year
11 under the preceding sentence.

12 “(C) If the plan seeks to recoup past over-
13 payments of a benefit other than a non-decreas-
14 ing periodic benefit, the plan satisfies require-
15 ments developed by the Secretary of the Treas-
16 ury for purposes of this subparagraph.

17 “(D) Efforts to recoup overpayments are
18 not made through a collection agency or similar
19 third party and such efforts are not accom-
20 panied by threats of litigation, unless the re-
21 sponsible plan fiduciary reasonably believes it
22 could prevail in a civil action brought in Fed-
23 eral or State court to recoup the overpayments.

24 “(E) Recoupment of past overpayments to
25 a participant is not sought from any beneficiary

1 of the participant, including a spouse, surviving
2 spouse, former spouse, or other beneficiary.

3 “(F) Recoupment may not be sought if the
4 first overpayment occurred more than 3 years
5 before the participant or beneficiary is first no-
6 tified in writing of the error.

7 “(G) A participant or beneficiary from
8 whom recoupment is sought is entitled to con-
9 test all or part of the recoupment pursuant to
10 the plan’s claims and appeals procedures.

11 “(H) In determining the amount of
12 recoupment to seek, the responsible plan fidu-
13 ciary may take into account the hardship that
14 recoupment likely would impose on the partici-
15 pant or beneficiary.

16 “(5) EFFECT OF CULPABILITY.—Subpara-
17 graphs (A) through (F) of paragraph (4) shall not
18 apply to protect a participant or beneficiary who is
19 culpable. For purposes of this paragraph, a partici-
20 pant or beneficiary is culpable if the individual bears
21 responsibility for the overpayment (such as through
22 misrepresentations or omissions that led to the over-
23 payment), or if the individual knew, or had good
24 reason to know under the circumstances, that the
25 benefit payment or payments were materially in ex-

1 cess of the correct amount. Notwithstanding the pre-
2 ceding sentence, an individual is not culpable merely
3 because the individual believed the benefit payment
4 or payments were or might be in excess of the cor-
5 rect amount, if the individual raised that question
6 with an authorized plan representative and was told
7 the payment or payments were not in excess of the
8 correct amount. With respect to a culpable partici-
9 pant or beneficiary, efforts to recoup overpayments
10 shall not be made through threats of litigation, un-
11 less a lawyer for the plan could make the representa-
12 tions required under Rule 11 of the Federal Rules
13 of Civil Procedure if the litigation were brought in
14 Federal court.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply as of the date of the enactment
17 of this Act.

18 (d) CERTAIN ACTIONS BEFORE DATE OF ENACT-
19 MENT.—Plans, fiduciaries, employers, and plan sponsors
20 are entitled to rely on—

21 (1) a good faith interpretation of then existing
22 administrative guidance for inadvertent benefit over-
23 payment recoupments and recoveries that com-
24 menced before the date of enactment of this Act,
25 and

1 (2) determinations made before such date of en-
2 actment by the responsible plan fiduciary, in the ex-
3 ercise of its fiduciary discretion, not to seek
4 recoupment or recovery of all or part of an inad-
5 vertent benefit overpayment.

6 In the case of a benefit overpayment that occurred prior
7 to the date of enactment of this Act, any installment pay-
8 ments by the participant or beneficiary to the plan or any
9 reduction in periodic benefit payments to the participant
10 or beneficiary, which were made in recoupment of such
11 overpayment and which commenced prior to such date,
12 may continue after such date. Nothing in this subsection
13 shall relieve a fiduciary from responsibility for an overpay-
14 ment that resulted from a breach of its fiduciary duties.

15 **SEC. 302. REDUCTION IN EXCISE TAX ON CERTAIN ACCU-**
16 **MULATIONS IN QUALIFIED RETIREMENT**
17 **PLANS.**

18 (a) IN GENERAL.—Section 4974(a) of the Internal
19 Revenue Code of 1986 is amended by striking “50 per-
20 cent” and inserting “25 percent”.

21 (b) REDUCTION IN EXCISE TAX ON FAILURES TO
22 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section
23 4974 of such Code is amended by adding at the end the
24 following new subsection:

25 “(e) REDUCTION OF TAX IN CERTAIN CASES.—

1 “(1) REDUCTION.—In the case of a taxpayer
2 who—

3 “(A) corrects, during the correction win-
4 dow, a shortfall of distributions from an indi-
5 vidual retirement plan which resulted in imposi-
6 tion of a tax under subsection (a), and

7 “(B) submits a return, during the correc-
8 tion window, reflecting such tax (as modified by
9 this subsection),

10 the first sentence of subsection (a) shall be applied
11 by substituting ‘10 percent’ for ‘25 percent’.

12 “(2) CORRECTION WINDOW.—For purposes of
13 this subsection, the term ‘correction window’ means
14 the period of time beginning on the date on which
15 the tax under subsection (a) is imposed with respect
16 to a shortfall of distributions from an individual re-
17 tirement plan, and ending on the earlier of—

18 “(A) the date on which the Secretary initi-
19 ates an audit, or otherwise demands payment,
20 with respect to the shortfall of distributions, or

21 “(B) the last day of the second taxable
22 year that begins after the end of the taxable
23 year in which the tax under subsection (a) is
24 imposed.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**
5 **CATION FUNDS.**

6 (a) IN GENERAL.—Not later than 6 months after the
7 date of the enactment of this Act, the Secretary of Labor
8 (or the Secretary’s delegate) shall modify the regulations
9 under section 404 of the Employee Retirement Income Se-
10 curity Act of 1974 (29 U.S.C. 1104) to provide that, in
11 the case of a designated investment alternative which con-
12 tains a mix of asset classes, a plan administrator may,
13 but is not required to, use a benchmark which is a blend
14 of different broad-based securities market indices if—

15 (1) the blend is reasonably representative of the
16 asset class holdings of the designated investment al-
17 ternative;

18 (2) for purposes of determining the blend’s re-
19 turns for 1-, 5-, and 10-calendar-year periods (or for
20 the life of the alternative, if shorter), the blend is
21 modified at least once per year to reflect changes in
22 the asset class holdings of the designated investment
23 alternative;

1 (3) the blend is furnished to participants and
2 beneficiaries in a manner that is reasonably designed
3 to be understandable and helpful; and

4 (4) each securities market index which is used
5 for an associated asset class would separately satisfy
6 the requirements of such regulations for such asset
7 class.

8 (b) STUDY.—Not later than December 31, 2022, the
9 Secretary of Labor (or the Secretary’s delegate) shall de-
10 liver a report to the Committees on Ways and Means and
11 Education and Labor of the House of Representatives and
12 the Committees on Finance and Health, Education,
13 Labor, and Pensions of the Senate regarding the effective-
14 ness of the benchmarking requirements under section
15 2550.404a–5 of title 29, Code of Federal Regulations.

16 **SEC. 304. REVIEW AND REPORT TO THE CONGRESS RELAT-**
17 **ING TO REPORTING AND DISCLOSURE RE-**
18 **QUIREMENTS.**

19 (a) STUDY.—As soon as practicable after the date of
20 the enactment of this Act, the Secretary of Labor, the Sec-
21 retary of the Treasury, and the Pension Benefit Guaranty
22 Corporation shall review the reporting and disclosure re-
23 quirements of—

1 (1) title I of the Employee Retirement Income
2 Security Act of 1974 applicable to pension plans (as
3 defined in section 3(2) of such Act); and

4 (2) the Internal Revenue Code of 1986 applica-
5 ble to qualified retirement plans (as defined in sec-
6 tion 4974(c) of such Code without regard to para-
7 graphs (4) and (5) thereof).

8 (b) REPORT.—Not later than 18 months after the
9 date of the enactment of this Act, the Secretary of Labor,
10 the Secretary of the Treasury, and the Pension Benefit
11 Guaranty Corporation, jointly, and after consultation with
12 a balanced group of participant and employer representa-
13 tives, shall with respect to plans referenced in subsection
14 (a) report on the effectiveness of the applicable reporting
15 and disclosure requirements and make such recommenda-
16 tions as may be appropriate to the appropriate committees
17 of the Congress to consolidate, simplify, standardize, and
18 improve such requirements so as to simplify reporting for
19 such plans and ensure that plans can simply furnish and
20 participants and beneficiaries timely receive and better un-
21 derstand the information they need to monitor their plans,
22 plan for retirement, and obtain the benefits they have
23 earned. Such report shall assess the extent to which retire-
24 ment plans are retaining disclosures, work records, and
25 plan documents that are needed to ensure accurate cal-

1 culation of future benefits. To assess the effectiveness of
2 the applicable reporting and disclosure requirements, the
3 report shall include an analysis, based on plan data, of
4 how participants and beneficiaries are providing preferred
5 contact information, the methods by which plan sponsors
6 and plans are furnishing disclosures, and the rate at which
7 participants and beneficiaries (grouped by key demo-
8 graphics) are receiving, accessing, and retaining disclo-
9 sures. The agencies shall conduct appropriate surveys and
10 data collection to obtain any needed information.

11 **SEC. 305. ELIMINATING UNNECESSARY PLAN REQUIRE-**
12 **MENTS RELATED TO UNENROLLED PARTICI-**
13 **PANTS.**

14 (a) AMENDMENT OF INTERNAL REVENUE CODE OF
15 1986.—Section 414 of the Internal Revenue Code of
16 1986, as amended by the preceding provisions of this Act,
17 is further amended by adding at the end the following new
18 subsection:

19 “(cc) ELIMINATING UNNECESSARY PLAN REQUIRE-
20 MENTS RELATED TO UNENROLLED PARTICIPANTS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of this title, with respect to any defined
23 contribution plan, no disclosure, notice, or other plan
24 document (other than the notices and documents de-
25 scribed in subparagraphs (A) and (B)) shall be re-

1 quired to be furnished under this title to any
2 unenrolled participant if the unenrolled participant
3 receives—

4 “(A) an annual reminder notice (in paper
5 format, or in any electronic format consented to
6 by the participant) of such participant’s eligi-
7 bility to participate in such plan and any appli-
8 cable election deadlines under the plan, and

9 “(B) any document requested by such par-
10 ticipant which the participant would be entitled
11 to receive without regard to this subsection.

12 “(2) UNENROLLED PARTICIPANT.—For pur-
13 poses of this subsection, the term ‘unenrolled partici-
14 pant’ means an employee who—

15 “(A) is eligible to participate in a defined
16 contribution plan,

17 “(B) has received all required notices, dis-
18 closures, and other plan documents required to
19 be furnished under this title and the summary
20 plan description as provided in section 104(b)
21 of the Employee Retirement Income Security
22 Act of 1974 in connection with such partici-
23 pant’s initial eligibility to participate in such
24 plan,

25 “(C) is not participating in such plan, and

1 title to any unenrolled participant if the unenrolled partici-
2 pant receives—

3 “(1) an annual reminder notice of such partici-
4 pant’s eligibility to participate in such plan and any
5 applicable election deadlines under the plan; and

6 “(2) any document requested by such partici-
7 pant which the participant would be entitled to re-
8 ceive without regard to this section.

9 “(b) UNENROLLED PARTICIPANT.—For purposes of
10 this section, the term ‘unenrolled participant’ means an
11 employee who—

12 “(1) is eligible to participate in an individual
13 account plan;

14 “(2) has received all required notices, disclo-
15 sures, and other plan documents, including the sum-
16 mary plan description, required to be furnished
17 under this title in connection with such participant’s
18 initial eligibility to participate in such plan;

19 “(3) is not participating in such plan; and

20 “(4) does not have a balance in the plan.

21 For purposes of this section, any eligibility to participate
22 in the plan following any period for which such employee
23 was not eligible to participate shall be treated as initial
24 eligibility.

1 “(c) ANNUAL REMINDER NOTICE.—For purposes of
2 this section, the term ‘annual reminder notice’ means a
3 notice provided in accordance with section 2520.104b-1
4 of title 29, Code of Federal Regulations (or any successor
5 regulation), which—

6 “(1) is furnished in connection with the annual
7 open season election period with respect to the plan
8 or, if there is no such period, is furnished within a
9 reasonable period prior to the beginning of each plan
10 year;

11 “(2) notifies the unenrolled participant of—

12 “(A) the unenrolled participant’s eligibility
13 to participate in the plan; and

14 “(B) the key benefits under the plan and
15 the key rights and features under the plan af-
16 fecting such benefits; and

17 “(3) provides such information in a prominent
18 manner calculated to be understood by the average
19 participant.”.

20 (2) CLERICAL AMENDMENT.—The table of con-
21 tents in section 1 of the Employee Retirement In-
22 come Security Act of 1974 is amended by striking
23 the item relating to section 111 and by inserting
24 after the item relating to section 110 the following
25 new items:

“Sec. 111. Eliminating unnecessary plan requirements related to unenrolled participants.

“Sec. 112. Repeal and effective date.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2021.

4 **SEC. 306. RETIREMENT SAVINGS LOST AND FOUND.**

5 (a) RETIREMENT SAVINGS LOST AND FOUND.—

6 (1) ESTABLISHMENT.—

7 (A) IN GENERAL.—Not later than 3 years
8 after the date of the enactment of this Act, the
9 Secretary of Labor, the Secretary of the Treas-
10 ury, and the Secretary of Commerce, in co-
11 operation, shall establish an online searchable
12 database (to be managed by the Pension Ben-
13 efit Guaranty Corporation in accordance with
14 section 4051 of the Employee Retirement In-
15 come Security Act of 1974) to be known as the
16 “Retirement Savings Lost and Found”. The
17 Retirement Savings Lost and Found shall—

18 (i) allow an individual to search for
19 information that enables the individual to
20 locate the plan administrator of any plans
21 with respect to which the individual is or
22 was a participant or beneficiary, and to
23 provide contact information for the plan

1 administrator of any plan described in sub-
2 paragraph (B);

3 (ii) allow the corporation to assist
4 such an individual in locating any plan of
5 the individual; and

6 (iii) allow the corporation to make any
7 necessary changes to contact information
8 on record for the plan administrator based
9 on any changes to the plan due to merger
10 or consolidation of the plan with any other
11 plan, division of the plan into two or more
12 plans, bankruptcy, termination, change in
13 name of the plan, change in name or ad-
14 dress of the plan administrator, or other
15 causes.

16 The Retirement Savings Lost and Found estab-
17 lished under this paragraph shall include infor-
18 mation reported under section 4051 of the Em-
19 ployee Retirement Income Security Act of 1974
20 and other relevant information obtained by the
21 Pension Benefit Guaranty Corporation.

22 (B) PLANS DESCRIBED.—A plan described
23 in this subparagraph is a plan to which the
24 vesting standards of section 203 of part 2 of

1 subtitle B of title I of the Employee Retirement
2 Income Security Act of 1974 apply.

3 (2) ADMINISTRATION.—The Retirement Sav-
4 ings Lost and Found established under paragraph
5 (1) shall provide individuals described in paragraph
6 (1)(A) only with the ability to view contact informa-
7 tion for the plan administrator of any plan with re-
8 spect to which the individual is or was a participant
9 or beneficiary, sufficient to allow the individual to lo-
10 cate the individual’s plan in order to recover any
11 benefit owing to the individual under the plan.

12 (3) SAFEGUARDING PARTICIPANT PRIVACY AND
13 SECURITY.—In establishing the Retirement Savings
14 Lost and Found under paragraph (1), the Pension
15 Benefit Guaranty Corporation, in consultation with
16 the Secretary of Labor, the Secretary of the Treas-
17 ury, and the Secretary of Commerce, shall take all
18 necessary and proper precautions to ensure that in-
19 dividuals’ plan information maintained by the Re-
20 tirement Savings Lost and Found is protected and
21 that persons other than the individual cannot fraud-
22 ulently claim the benefits to which any individual is
23 entitled, and to allow any individual to opt out of in-
24 clusion in the Retirement Savings Lost and Found
25 at the election of the individual.

1 (b) OFFICE OF THE RETIREMENT SAVINGS LOST
2 AND FOUND.—

3 (1) IN GENERAL.—Subtitle C of title IV of the
4 Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1341 et seq.) is amended by adding at
6 the end the following:

7 **“SEC. 4051. OFFICE OF THE RETIREMENT SAVINGS LOST**
8 **AND FOUND.**

9 “(a) ESTABLISHMENT; RESPONSIBILITIES OF OF-
10 FICE.—

11 “(1) IN GENERAL.—Not later than 2 years
12 after the date of the enactment of this section, the
13 Secretary of Labor, the Secretary of the Treasury,
14 and the Secretary of Commerce shall establish with-
15 in the corporation an Office of the Retirement Sav-
16 ings Lost and Found (in this section referred to as
17 the ‘Office’).

18 “(2) RESPONSIBILITIES OF OFFICE.—

19 “(A) IN GENERAL.—The Office shall—

20 “(i) carry out subsection (b) of this
21 section;

22 “(ii) maintain the Retirement Savings
23 Lost and Found established under section
24 306(a) of the ‘Securing a Strong Retire-
25 ment Act of 2021’; and

1 “(iii) perform an annual audit of plan
2 information contained in the Retirement
3 Savings Lost and Found and ensure that
4 such information is current and accurate.

5 “(B) OPTION TO CONTRACT.—

6 “(i) IN GENERAL.—Not later than 2
7 years after the date of enactment of this
8 section, the corporation shall conduct an
9 analysis of the cost effectiveness of con-
10 tracting with a third party to carry out the
11 responsibilities under subparagraph (A)(iii)
12 and, upon a determination that such con-
13 tracting would be more cost effective than
14 carrying out such responsibilities within
15 the Office, the corporation may enter into
16 such contracts as merited by such analysis.

17 “(ii) REPORT.—The corporation shall
18 report on the results of the analysis under
19 clause (i) to the Committees on Finance
20 and Health, Education, Labor, and Pen-
21 sions of the Senate and the Committees on
22 Ways and Means and Education and
23 Labor of the House of Representatives.

24 “(b) CERTAIN NON-RESPONSIVE PARTICIPANTS EN-
25 TITLED TO SMALL BENEFITS.—

1 “(1) GENERAL RULE.—

2 “(A) TRANSFER TO THE OFFICE OF THE
3 RETIREMENT SAVINGS LOST AND FOUND.—The
4 administrator of a plan that is not terminated
5 and to which section 401(a)(31)(B) of the In-
6 ternal Revenue Code of 1986 applies shall
7 transfer to the Office the amount required to be
8 transferred under section 401(a)(31)(B)(iv) of
9 such Code for a non-responsive participant.

10 “(B) INFORMATION AND PAYMENT TO THE
11 OFFICE.—Upon making a transfer under sub-
12 paragraph (A), the plan administrator shall
13 provide such information and certifications as
14 the Office shall specify, including with respect
15 to the transferred amount and the non-respon-
16 sive participant.

17 “(C) INFORMATION REQUIREMENTS AFTER
18 TRANSFER.—In the event that, after a transfer
19 is made under subparagraph (A), the relevant
20 non-responsive participant contacts the plan ad-
21 ministrator or the plan administrator discovers
22 information that may assist the Office in locat-
23 ing the non-responsive participant, the plan ad-
24 ministrator shall notify and provide such infor-
25 mation as the Office shall specify to the Office.

1 “(D) SEARCH AND PAYMENT BY THE OF-
2 FICE FOLLOWING TRANSFER.—The Office shall
3 periodically, and upon receiving information de-
4 scribed in subparagraph (C), conduct a search
5 for the non-responsive participant for whom the
6 Office has received a transfer under subpara-
7 graph (A). Upon location of a non-responsive
8 participant who claims benefits, the Office shall
9 make a single payment to the non-responsive
10 participant in an amount equal to the sum of—

11 “(i) the amount transferred to the Of-
12 fice under subparagraph (A) for such par-
13 ticipant; and

14 “(ii) the return on the investment at-
15 tributable to such amount under section
16 4005(j)(3).

17 “(2) DEFINITION.—For purposes of this sub-
18 section, the term ‘non-responsive participant’ means
19 a participant or beneficiary of a plan described in
20 paragraph (1)(A)—

21 “(A) who is entitled to a benefit subject to
22 a mandatory transfer under section
23 401(a)(31)(B)(iii) of the Internal Revenue Code
24 of 1986; and

1 “(B) for whom the plan has satisfied the
2 conditions in section 401(a)(31)(B)(iv) of such
3 Code.

4 “(3) REGULATORY AUTHORITY.—The Office
5 shall prescribe such regulations as are necessary to
6 carry out the purposes of this section, including
7 rules relating to the amount payable to the Office
8 and the amount to be paid by the Office.

9 “(c) INFORMATION COLLECTION.—Within such pe-
10 riod after the end of a plan year as the Office may by
11 regulations prescribe, the administrator of a plan to which
12 the vesting standards of section 203 apply shall submit
13 the following information, and such other information as
14 the corporation may require, to the corporation in such
15 form as the corporation may require:

16 “(1) The information described in paragraphs
17 (1) through (4) of section 6057(b) of the Internal
18 Revenue Code of 1986.

19 “(2) The information described in subpara-
20 graphs (A), (B), (E), and (F) of section 6057(a)(2)
21 of the Internal Revenue Code of 1986.

22 “(d) EFFECTIVE DATE.—The requirements of sub-
23 sections (b) and (c) shall apply with respect to plan years
24 beginning after the second December 31 occurring after
25 the date of the enactment of this section.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.”.

4 (2) ESTABLISHMENT OF FUND FOR TRANS-
5 FERRED ASSETS.—Section 4005 of the Employee
6 Retirement Income Security Act of 1974 (29 U.S.C.
7 1305) is amended by adding at the end the fol-
8 lowing:

9 “(j)(1) A ninth fund shall be established for the pay-
10 ment of benefits under section 4051(b)(1)(D).

11 “(2) Such fund shall be credited with the appro-
12 priate—

13 “(A) amounts transferred to the Office of the
14 Retirement Savings Lost and Found under section
15 4051(b)(1)(A); and

16 “(B) earnings on investments of the fund or on
17 assets credited to the fund.

18 “(3) Whenever the corporation determines that the
19 moneys of any fund are in excess of current needs, it may
20 request the investment of such amounts as it determines
21 advisable by the Secretary of the Treasury in obligations
22 issued or guaranteed by the United States.”.

23 (3) CONFORMING AMENDMENT.—The table of
24 contents for the Employee Retirement Income Secu-
25 rity Act of 1974 (29 U.S.C. 1001 et seq.) is amend-

1 ed by inserting after the matter relating to section
2 4050 the following:

“Sec. 4051. Certain non-responsive participants entitled to small benefits.”.

3 (c) MANDATORY TRANSFERS OF ROLLOVER DIS-
4 TRIBUTIONS.—

5 (1) INVESTMENT OPTIONS.—

6 (A) IN GENERAL.—Subparagraph (B) of
7 section 404(c)(3) of the Employee Retirement
8 Income Security Act of 1974 (29 U.S.C.
9 1104(c)(3)) is amended by striking the period
10 at the end and inserting “, and, to the extent
11 the Secretary provides in guidance or regula-
12 tions issued after the enactment of the Securing
13 a Strong Retirement Act of 2021, is made to—

14 “(i) a target date or life cycle fund
15 held under such account;

16 “(ii) as described in section
17 2550.404a–2 of title 29, Code of Federal
18 Regulations, an investment product held
19 under such account designed to preserve
20 principal and provide a reasonable rate of
21 return;

22 “(iii) the Office of the Retirement
23 Savings Lost and Found in accordance
24 with section 401(a)(31)(B)(iv) of the In-
25 ternal Revenue Code of 1986 and section

1 306(c)(2)(A)(ii) of the Securing a Strong
2 Retirement Act of 2020; or

3 “ (iv) such other option as the Sec-
4 retary may so provide.”.

5 (B) REGULATIONS.—Not later than 270
6 days after the date of the enactment of this
7 Act, the Secretary of Labor shall promulgate
8 regulations identifying the target date or life
9 cycle funds, or specifying the characteristics of
10 such a fund, that will be deemed to meet the re-
11 quirements of section 404(c)(3)(B)(i) of the
12 Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1104(c)(3)(B)), as amended
14 by subparagraph (A).

15 (2) EXPANSION OF CAP; AUTHORITY TO TRANS-
16 FER LESSER AMOUNTS.—

17 (A) CAP.—Sections 401(a)(31)(B)(ii) and
18 411(a)(11)(A) of the Internal Revenue Code of
19 1986 and section 203(e)(1) of the Employee
20 Retirement Income Security Act of 1974 are
21 each amended by striking “\$5,000” and insert-
22 ing “\$6,000”.

23 (B) DISTRIBUTION OF LARGER AMOUNTS
24 TO INDIVIDUAL RETIREMENT PLANS ONLY.—
25 Section 401(a)(31)(B)(i) of such Code is

1 amended by adding at the end the following:
2 “The Office of the Retirement Savings Lost
3 and Found established by Section 306 of the
4 Securing a Strong Retirement Act shall not be
5 treated as a trustee or issuer that is eligible to
6 receive such distributions.”.

7 (C) LESSER AMOUNTS.—Section
8 401(a)(31)(B) of such Code is amended by add-
9 ing at the end the following new clauses:

10 “(iii) TREATMENT OF LESSER
11 AMOUNTS.—In the case of a trust which is
12 part of an eligible plan, such trust shall
13 not be a qualified trust under this section
14 unless such plan provides that, if a partici-
15 pant in the plan separates from the service
16 covered by the plan and the nonforfeitable
17 accrued benefit described in clause (ii) is
18 not in excess of \$1,000, the plan adminis-
19 trator shall (either separately or as part of
20 the notice under section 402(f)) notify the
21 participant that the participant is entitled
22 to such benefit or attempt to pay the ben-
23 efit directly to the participant.

24 “(iv) TRANSFERS TO RETIREMENT
25 SAVINGS LOST AND FOUND.—If, after a

1 plan administrator takes the action re-
2 quired under clause (iii), the participant
3 does not—

4 “(I) within 6 months of the noti-
5 fication under such clause, make an
6 election under subparagraph (A) or
7 elect to receive a distribution of the
8 benefit directly, or

9 “(II) accept any direct payment
10 made under such clause within 6
11 months of the attempted payment,
12 the plan administrator shall transfer the
13 amount of such benefit to the Office of the
14 Retirement Savings Lost and Found in ac-
15 cordance with section 4051(b) of the Em-
16 ployee Retirement Income Security Act of
17 1974.

18 “(v) INCOME TAX TREATMENT OF
19 TRANSFERS TO RETIREMENT SAVINGS
20 LOST AND FOUND.—For purposes of deter-
21 mining the income tax treatment of trans-
22 fers to the Office of the Retirement Sav-
23 ings Lost and Found under clause (iv)—

1 “(I) such a transfer shall be
2 treated as a transfer to an individual
3 retirement plan under clause (i), and

4 “(II) the distribution of such
5 amounts by the Office of the Retirement
6 Savings Lost and Found shall
7 be treated as a distribution from an
8 individual retirement plan.”.

9 (D) EFFECTIVE DATE.—The amendments
10 made by this paragraph shall apply to vested
11 benefits with respect to participants who separate
12 from service connected to the plan in plan
13 years beginning after the second December 31
14 occurring after the date of the enactment of
15 this Act.

16 (d) BETTER REPORTING FOR MANDATORY TRANS-
17 FERS.—

18 (1) IN GENERAL.—Paragraph (2) of section
19 6057(a) of the Internal Revenue Code of 1986 is
20 amended—

21 (A) in subparagraph (C)—

22 (i) by striking “during such plan
23 year” in clause (i) and inserting “during
24 the plan year immediately preceding such
25 plan year”;

1 (ii) by adding “and” at the end of
2 clause (i); and

3 (iii) by striking clause (iii);

4 (B) by redesignating subparagraph (E) as
5 subparagraph (G);

6 (C) by striking “and” at the end of sub-
7 paragraph (D); and

8 (D) by inserting after subparagraph (D)
9 the following new subparagraphs:

10 “(E) the name and taxpayer identifying
11 number of each participant or former partici-
12 pant in the plan—

13 “(i) who, during the current plan year
14 or any previous plan year, was reported
15 under subparagraph (C), and with respect
16 to whom the benefits described in subpara-
17 graph (C)(ii) were fully paid during the
18 plan year,

19 “(ii) with respect to whom any
20 amount was distributed under section
21 401(a)(31)(B) during the plan year, or

22 “(iii) with respect to whom a deferred
23 annuity contract was distributed during
24 the plan year,

1 “(F) in the case of a participant or former
2 participant to whom subparagraph (E) ap-
3 plies—

4 “(i) in the case of a participant de-
5 scribed in clause (ii) thereof, the name and
6 address of the designated trustee or issuer
7 described in section 401(a)(31)(B)(i) and
8 the account number of the individual re-
9 tirement plan to which the amount was
10 distributed, and

11 “(ii) in the case of a participant de-
12 scribed in clause (iii) thereof, the name
13 and address of the issuer of such annuity
14 contract and the contract or certificate
15 number, and”.

16 (2) RULES RELATING TO DIRECT TRUSTEE-TO-
17 TRUSTEE TRANSFERS.—

18 (A) IN GENERAL.—Paragraph (6) of sec-
19 tion 402(e) of such Code is amended—

20 (i) by striking “TRANSFERS.—Any”
21 and inserting “TRANSFERS.—

22 “(A) IN GENERAL.—Any”; and

23 (ii) by adding at the end the following
24 new subparagraph:

1 “(B) NOTIFICATION OF TRUSTEE.—In the
2 case of a distribution under section
3 401(a)(31)(B), the plan administrator shall no-
4 tify the designated trustee or issuer described
5 in clause (i) thereof that the transfer is a man-
6 datory distribution required by such section.”.

7 (B) PENALTY.—Subsection (i) of section
8 6652 of such Code is amended—

9 (i) by striking “TO RECIPIENTS” in
10 the heading and inserting “OR NOTIFICA-
11 TION”;

12 (ii) by striking “402(f),” and insert-
13 ing “402(f) or a notification as required by
14 section 402(e)(6)(B),”; and

15 (iii) by striking “such written expla-
16 nation” and inserting “such written expla-
17 nation or notification”.

18 (C) REPORTS.—Subsection (i) of section
19 408 of such Code is amended—

20 (i) by redesignating subparagraphs
21 (A) and (B) of paragraph (2) as clauses (i)
22 and (ii), respectively, and by moving such
23 clauses 2 ems to the right;

24 (ii) by redesignating paragraphs (1)
25 and (2) as subparagraphs (A) and (B), re-

1 spectively, and by moving such subpara-
2 graphs 2 ems to the right; and

3 (iii) by striking “as the Secretary pre-
4 scribes” in subparagraph (B)(ii), as so re-
5 designated, and all that follows through “a
6 simple retirement account” and inserting
7 “as the Secretary prescribes.

8 “(3) SIMPLE RETIREMENT ACCOUNTS.—In the
9 case of a simple retirement account”;

10 (iv) by striking “REPORTS.—The
11 trustee of” and inserting “REPORTS.—

12 “(1) IN GENERAL.—The trustee of”;

13 (v) by striking “under paragraph (2)”
14 in paragraph (3), as redesignated by clause
15 (iii), and inserting “under paragraph
16 (1)(B)”;

17 (vi) by inserting after paragraph
18 (1)(B)(ii), as redesignated by the pre-
19 ceding clauses, the following new para-
20 graph:

21 “(2) MANDATORY DISTRIBUTIONS.—In the case
22 of an account, contract, or annuity to which a trans-
23 fer under section 401(a)(31)(B) is made (including
24 a transfer from the individual retirement plan to
25 which the original transfer under such section was

1 made to another individual retirement plan), the re-
2 port required by this subsection for the year of the
3 transfer and any year in which the information pre-
4 viously reported in subparagraph (B) changes
5 shall—

6 “(A) identify such transfer as a mandatory
7 distribution required by such section,

8 “(B) include the name, address, and tax-
9 payer identifying number of the trustee or
10 issuer of the individual retirement plan to which
11 the amount is transferred, and

12 “(C) be filed with the Pension Benefit
13 Guaranty Corporation as well as with the Sec-
14 retary.”.

15 (3) NOTIFICATION OF PARTICIPANTS UPON SEP-
16 ARATION.—Subsection (e) of section 6057 of such
17 Code is amended by inserting “, and, with respect
18 to any benefit of the individual subject to section
19 401(a)(31)(B), a notice of availability of, and the
20 contact information for, the Retirement Savings
21 Lost and Found established under section 306(a)(1)
22 of the Securing a Strong Retirement Act of 2021”
23 before the period at the end of the second sentence.

24 (4) EFFECTIVE DATE.—The amendments made
25 by this paragraph shall apply to distributions made

1 in, and returns and reports relating to, years begin-
2 ning after the second December 31 occurring after
3 the date of the enactment of this Act.

4 (e) REQUIREMENT OF ELECTRONIC FILING.—

5 (1) IN GENERAL.—Paragraph (2) of section
6 6011(e) of the Internal Revenue Code of 1986 is
7 amended—

8 (A) by redesignating subparagraphs (A)
9 and (B) as clauses (i) and (ii), respectively, and
10 by moving such clauses 2 ems to the right;

11 (B) by striking “REGULATIONS.—In pre-
12 scribing” and inserting “REGULATIONS.—

13 “(A) IN GENERAL.—In prescribing”; and

14 (C) by adding at the end the following new
15 subparagraph:

16 “(C) EXCEPTIONS.—Notwithstanding sub-
17 paragraph (A), the Secretary shall require re-
18 turns or reports required under—

19 “(i) sections 6057, 6058, and 6059,

20 and

21 “(ii) sections 408(i), 6041, and 6047

22 to the extent such return or report relates
23 to the tax treatment of a distribution from
24 a plan, account, contract, or annuity,

1 to be filed on magnetic media, but only with re-
2 spect to persons who are required to file at
3 least 50 returns during the calendar year which
4 includes the first day of the plan year to which
5 such returns or reports relate.”.

6 (2) EFFECTIVE DATE.—The amendments made
7 by this paragraph shall apply to returns and reports
8 relating to years beginning after the second Decem-
9 ber 31 occurring after the date of the enactment of
10 this Act.

11 (f) RULEMAKING TO CLARIFY FIDUCIARY DUTIES.—

12 (1) REQUEST FOR INFORMATION.—Not later
13 than 1 year after the date of enactment of this Act,
14 the Secretary of Labor, in consultation with the Sec-
15 retary of the Treasury, shall issue a request for in-
16 formation relating to the rulemaking described in
17 paragraph (2).

18 (2) ISSUANCE OF FINAL RULE.—Not later than
19 3 years after such date, the Secretary of Labor, in
20 consultation with the Secretary of the Treasury,
21 shall issue a final rule that defines the following:

22 (A) The steps a plan sponsor must take to
23 locate a deferred vested participant in order to
24 meet its fiduciary duty under section 404 of the

1 Employee Retirement Income Security Act of
2 1974 with respect to locating that participant.

3 (B) The ongoing practices and procedures
4 a plan sponsor must institute in order to meet
5 such fiduciary duty with respect to maintaining
6 up-to-date contact information on deferred vest-
7 ed participants.

8 **SEC. 307. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**
9 **RESOLUTION SYSTEM.**

10 (a) IN GENERAL.—Except as otherwise provided in
11 the Internal Revenue Code of 1986 or regulations pre-
12 scribed by the Secretary of the Treasury or the Secretary’s
13 delegate (referred to in this section as the “Secretary”),
14 any eligible inadvertent failure to comply with the rules
15 applicable under section 401(a), 403(a), 403(b), 408(p),
16 or 408(k) of such Code may be self-corrected under the
17 Employee Plans Compliance Resolution System (as de-
18 scribed in Revenue Procedure 2019–19 or any successor
19 guidance and hereafter in this section referred to as the
20 “EPCRS”), except to the extent that such failure was
21 identified by the Secretary prior to any actions which dem-
22 onstrate a commitment to implement a self-correction.
23 Revenue Procedure 2019–19 is deemed amended as of the
24 date of the enactment of this Act to provide that the cor-
25 rection period under section 9.02 of such Revenue Proce-

1 dure (or any successor guidance) for an eligible inad-
2 vertent failure, except as otherwise provided under such
3 Code or in regulations prescribed by the Secretary, is in-
4 definite and has no last day, other than with respect to
5 failures identified by the Secretary prior to any self-correc-
6 tion as described in the preceding sentence.

7 (b) LOAN ERRORS.—In the case of an eligible inad-
8 vertent failure relating to a loan from a plan to a partici-
9 pant—

10 (1) such failure may be self-corrected under
11 subsection (a) according to the rules of section 6.07
12 of Revenue Procedure 2019–19 (or any successor
13 guidance), including the provisions related to wheth-
14 er a deemed distribution must be reported on Form
15 1099–R, and

16 (2) the Secretary of Labor shall treat any such
17 failure which is so self-corrected under subsection
18 (a) as meeting the requirements of the Voluntary Fi-
19 duciary Correction Program of the Department of
20 Labor if, with respect to the violation of the fidu-
21 ciary standards of the Employee Retirement Income
22 Security Act of 1974, there is a similar loan error
23 eligible for correction under EPCRS and the loan
24 error is corrected in such manner.

1 (c) EPCRS FOR IRAS.—The Secretary shall expand
2 the EPCRS to allow custodians of individual retirement
3 plans (as defined in section 7701(a)(37) of the Internal
4 Revenue Code of 1986) to address eligible inadvertent fail-
5 ures with respect to an individual retirement plan (as so
6 defined), including (but not limited to)—

7 (1) waivers of the excise tax which would other-
8 wise apply under section 4974 of the Internal Rev-
9 enue Code of 1986,

10 (2) under the self-correction component of the
11 EPCRS, waivers of the 60-day deadline for a roll-
12 over where the deadline is missed for reasons beyond
13 the reasonable control of the account owner, and

14 (3) rules permitting a nonspouse beneficiary to
15 return distributions to an inherited individual retire-
16 ment plan described in section 408(d)(3)(C) of the
17 Internal Revenue Code of 1986 in a case where, due
18 to an inadvertent error by a service provider, the
19 beneficiary had reason to believe that the distribu-
20 tion could be rolled over without inclusion in income
21 of any part of the distributed amount.

22 (d) ADDITIONAL SAFE HARBORS.—The Secretary
23 shall expand the EPCRS to provide additional safe harbor
24 means of correcting eligible inadvertent failures described
25 in subsection (a), including safe harbor means of calcu-

1 lating the earnings which must be restored to a plan in
2 cases where plan assets have been depleted by reason of
3 an eligible inadvertent failure.

4 (e) ELIGIBLE INADVERTENT FAILURE.—For pur-
5 poses of this section—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the term “eligible inadvertent failure”
8 means a failure that occurs despite the existence of
9 practices and procedures which—

10 (A) satisfy the standards set forth in sec-
11 tion 4.04 of Revenue Procedure 2019–19 (or
12 any successor guidance), or

13 (B) satisfy similar standards in the case of
14 an individual retirement plan.

15 (2) EXCEPTION.—The term “eligible inad-
16 vertent failure” shall not include any failure which
17 is egregious, relates to the diversion or misuse of
18 plan assets, or is directly or indirectly related to an
19 abusive tax avoidance transaction.

20 (f) APPLICATION OF CERTAIN REQUIREMENTS FOR
21 CORRECTING ERRORS.—This section shall not apply to
22 any failure unless the correction of such failure under this
23 section is made in conformity with the general principles
24 that apply to corrections of such failures under the Inter-
25 nal Revenue Code of 1986, including regulations or other

1 guidance issued thereunder and including those principles
2 and corrections set forth in Revenue Procedure 2019–19
3 (or any successor guidance).”

4 **SEC. 308. ELIMINATE THE “FIRST DAY OF THE MONTH” RE-**
5 **QUIREMENT FOR GOVERNMENTAL SECTION**
6 **457(B) PLANS.**

7 (a) IN GENERAL.—Paragraph (4) of section 457(b)
8 of the Internal Revenue Code of 1986 is amended to read
9 as follows:

10 “(4) which provides that compensation—

11 “(A) in the case of an eligible employer de-
12 scribed in subsection (e)(1)(A), will be deferred
13 only if an agreement providing for such deferral
14 has been entered into before the compensation
15 is currently available to the individual, and

16 “(B) in any other case, will be deferred for
17 any calendar month only if an agreement pro-
18 viding for such deferral has been entered into
19 before the beginning of such month.”.

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

1 **SEC. 309. ONE-TIME ELECTION FOR QUALIFIED CHARITABLE**
2 **DISTRIBUTION TO SPLIT-INTEREST**
3 **ENTITY; INCREASE IN QUALIFIED CHARITABLE**
4 **DISTRIBUTION LIMITATION.**

5 (a) ONE-TIME ELECTION FOR QUALIFIED CHARITABLE
6 DISTRIBUTION TO SPLIT-INTEREST ENTITY.—
7 Section 408(d)(8) of such Code is amended by adding at
8 the end the following new subparagraph:

9 “(F) ONE-TIME ELECTION FOR QUALIFIED
10 CHARITABLE DISTRIBUTION TO SPLIT-INTEREST
11 ENTITY.—

12 “(i) IN GENERAL.—A taxpayer may
13 for a taxable year elect under this subpara-
14 graph to treat as meeting the requirement
15 of subparagraph (B)(i) any distribution
16 from an individual retirement account
17 which is made directly by the trustee to a
18 split-interest entity, but only if—

19 “(I) an election is not in effect
20 under this subparagraph for a pre-
21 ceding taxable year,

22 “(II) the aggregate amount of
23 distributions of the taxpayer with re-
24 spect to which an election under this
25 subparagraph is made does not exceed
26 \$50,000, and

1 “(III) such distribution meets the
2 requirements of clauses (iii) and (iv).

3 “(ii) SPLIT-INTEREST ENTITY.—For
4 purposes of this subparagraph, the term
5 ‘split-interest entity’ means—

6 “(I) a charitable remainder annu-
7 ity trust (as defined in section
8 664(d)(1)), but only if such trust is
9 funded exclusively by qualified chari-
10 table distributions,

11 “(II) a charitable remainder
12 unitrust (as defined in section
13 664(d)(2)), but only if such unitrust
14 is funded exclusively by qualified char-
15 itable distributions, or

16 “(III) a charitable gift annuity
17 (as defined in section 501(m)(5)), but
18 only if such annuity is funded exclu-
19 sively by qualified charitable distribu-
20 tions and commences fixed payments
21 of 5 percent or greater not later than
22 1 year from the date of funding.

23 “(iii) CONTRIBUTIONS MUST BE OTH-
24 ERWISE DEDUCTIBLE.—A distribution

1 meets the requirement of this clause only
2 if—

3 “(I) in the case of a distribution
4 to a charitable remainder annuity
5 trust or a charitable remainder uni-
6 trust, a deduction for the entire value
7 of the remainder interest in the dis-
8 tribution for the benefit of a specified
9 charitable organization would be al-
10 lowable under section 170 (determined
11 without regard to subsection (b)
12 thereof and this paragraph), and

13 “(II) in the case of a charitable
14 gift annuity, a deduction in an
15 amount equal to the amount of the
16 distribution reduced by the value of
17 the annuity described in section
18 501(m)(5)(B) would be allowable
19 under section 170 (determined with-
20 out regard to subsection (b) thereof
21 and this paragraph).

22 “(iv) LIMITATION ON INCOME INTER-
23 ESTS.—A distribution meets the require-
24 ments of this clause only if—

1 “(I) no person holds an income
2 interest in the split-interest entity
3 other than the individual for whose
4 benefit such account is maintained,
5 the spouse of such individual, or both,
6 and

7 “(II) the income interest in the
8 split-interest entity is nonassignable.

9 “(v) SPECIAL RULES.—

10 “(I) CHARITABLE REMAINDER
11 TRUSTS.—Notwithstanding section
12 664(b), distributions made from a
13 trust described in subclause (I) or (II)
14 of clause (ii) shall be treated as ordi-
15 nary income in the hands of the bene-
16 ficiary to whom the annuity described
17 in section 664(d)(1)(A) or the pay-
18 ment described in section
19 664(d)(2)(A) is paid.

20 “(II) CHARITABLE GIFT ANNU-
21 ITIES.—Qualified charitable distribu-
22 tions made to fund a charitable gift
23 annuity shall not be treated as an in-
24 vestment in the contract for purposes
25 of section 72(c).”.

1 (b) INFLATION ADJUSTMENT.—Section 408(d)(8) of
2 such Code, as amended by subsection (a), is amended by
3 adding at the end the following new subparagraph:

4 “(G) INFLATION ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of any
6 taxable year beginning after 2021, each of
7 the dollar amounts in subparagraphs (A)
8 and (F) shall be increased by an amount
9 equal to—

10 “(I) such dollar amount, multi-
11 plied by

12 “(II) the cost-of-living adjust-
13 ment determined under section 1(f)(3)
14 for the calendar year in which the tax-
15 able year begins, determined by sub-
16 stituting ‘calendar year 2020’ for ‘cal-
17 endar year 2016’ in subparagraph
18 (A)(ii) thereof.

19 “(ii) ROUNDING.—If any dollar
20 amount increased under clause (i) is not a
21 multiple of \$1,000, such dollar amount
22 shall be rounded to the nearest multiple of
23 \$1,000.”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to distributions made in taxable
3 years ending after the date of the enactment of this Act.

4 **SEC. 310. DISTRIBUTIONS TO FIREFIGHTERS.**

5 (a) IN GENERAL.—Subparagraph (A) of section
6 72(t)(10) of the Internal Revenue Code of 1986 is amend-
7 ed by striking “414(d))” and inserting “414(d) or a dis-
8 tribution from a plan described in clause (iii), (iv), or (vi)
9 of section 402(c)(8)(B) to an employee who provides fire-
10 fighting services”.

11 (b) CONFORMING AMENDMENT.—The heading of
12 paragraph (10) of section 72(t) of such Code is amend-
13 ed—

14 (1) by striking “QUALIFIED”, and

15 (2) by striking “IN GOVERNMENTAL PLANS”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to distributions made after Decem-
18 ber 31, 2021.

19 **SEC. 311. EXCLUSION OF CERTAIN DISABILITY-RELATED**
20 **FIRST RESPONDER RETIREMENT PAYMENTS.**

21 (a) IN GENERAL.—Part III of subchapter B of chap-
22 ter 1 of the Internal Revenue Code of 1986 is amended
23 by inserting after section 139B the following new section:

1 **“SEC. 139C. CERTAIN DISABILITY-RELATED FIRST RE-**
2 **SPONDER RETIREMENT PAYMENTS.**

3 “(a) IN GENERAL.—In the case of an individual who
4 receives qualified first responder retirement payments for
5 any taxable year, gross income shall not include so much
6 of such payments as do not exceed the annualized exclud-
7 able disability amount with respect to such individual.

8 “(b) QUALIFIED FIRST RESPONDER RETIREMENT
9 PAYMENTS.—For purposes of this section, the term ‘quali-
10 fied first responder retirement payments’ means, with re-
11 spect to any taxable year, any pension or annuity which
12 but for this section would be includible in gross income
13 for such taxable year and which is received—

14 “(1) from a plan described in clause (iii), (iv),
15 (v), or (vi) of section 402(c)(8)(B), and

16 “(2) in connection with such individual’s quali-
17 fied first responder service.

18 “(c) ANNUALIZED EXCLUDABLE DISABILITY
19 AMOUNT.—For purposes of this section—

20 “(1) IN GENERAL.—The term ‘annualized ex-
21 cludable disability amount’ means, with respect to
22 any individual, the service-connected excludable dis-
23 ability amounts which are properly attributable to
24 the 12-month period immediately preceding the date
25 on which such individual attains retirement age.

1 “(2) SERVICE-CONNECTED EXCLUDABLE DIS-
2 ABILITY AMOUNT.—The term ‘service-connected ex-
3 cludable disability amount’ means periodic payments
4 received by an individual which—

5 “(A) are not includible in such individual’s
6 gross income under section 104(a)(1),

7 “(B) are received in connection with such
8 individual’s qualified first responder service,
9 and

10 “(C) terminate when such individual at-
11 tains retirement age.

12 “(3) SPECIAL RULE FOR PARTIAL-YEAR PAY-
13 MENTS.—In the case of an individual who only re-
14 ceives service-connected excludable disability
15 amounts properly attributable to a portion of the 12-
16 month period described in paragraph (1), such para-
17 graph shall be applied by multiplying such amounts
18 by the ratio of 365 to the number of days in such
19 period to which such amounts were properly attrib-
20 utable.

21 “(d) QUALIFIED FIRST RESPONDER SERVICE.—For
22 purposes of this section, the term ‘qualified first responder
23 service’ means service as a law enforcement officer, fire-
24 fighter, paramedic, or emergency medical technician.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for part III of subchapter B of chapter 1 of such Code
3 is amended by inserting after the item relating to section
4 139B the following new item:

“Sec. 139C. Certain disability-related first responder retirement payments.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to amounts received with respect
7 to taxable years beginning after December 31, 2026.

8 **SEC. 312. INDIVIDUAL RETIREMENT PLAN STATUTE OF LIM-**
9 **ITATIONS FOR EXCISE TAX ON EXCESS CON-**
10 **TRIBUTIONS AND CERTAIN ACCUMULATIONS.**

11 Section 6501(l) of the Internal Revenue Code of 1986
12 is amended by adding at the end the following new para-
13 graph:

14 “(4) INDIVIDUAL RETIREMENT PLANS.—

15 “(A) IN GENERAL.—For purposes of any
16 tax imposed by section 4973 or 4974 in connec-
17 tion with an individual retirement plan, the re-
18 turn referred to in this section shall be the in-
19 come tax return filed by the person on whom
20 the tax under such section is imposed for the
21 year in which the act (or failure to act) giving
22 rise to the liability for such tax occurred.

23 “(B) RULE IN CASE OF INDIVIDUALS NOT
24 REQUIRED TO FILE RETURN.—In the case of a

1 person who is not required to file an income tax
2 return for such year—

3 “(i) the return referred to in this sec-
4 tion shall be the income tax return that
5 such person would have been required to
6 file but for the fact that such person was
7 not required to file such return, and

8 “(ii) the 3-year period referred to in
9 subsection (a) with respect to the return
10 shall be deemed to begin on the date by
11 which the return would have been required
12 to be filed (excluding any extension there-
13 of).”.

14 **SEC. 313. REQUIREMENT TO PROVIDE PAPER STATEMENTS**
15 **IN CERTAIN CASES.**

16 (a) IN GENERAL.—Section 105(a)(2) of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1025(a)(2)) is amended—

19 (1) in subparagraph (A)(iv), by inserting “sub-
20 ject to subparagraph (E),” before “may be deliv-
21 ered”; and

22 (2) by adding at the end the following:

23 “(E) PROVISION OF PAPER STATE-
24 MENTS.—With respect to at least 1 pension
25 benefit statement furnished for a calendar year

1 with respect to an individual account plan
2 under paragraph (1)(A), and with respect to at
3 least 1 pension benefit statement furnished
4 every 3 calendar years with respect to a defined
5 benefit plan under paragraph (1)(B), such
6 statement shall be furnished on paper in writ-
7 ten form except—

8 “(i) in the case of a plan that fur-
9 nishes such statement in accordance with
10 section 2520.104b–1(c) of title 29, Code of
11 Federal Regulations; or

12 “(ii) in the case of a plan that permits
13 a participant or beneficiary to request that
14 the statements referred to in the matter
15 preceding clause (i) be furnished by elec-
16 tronic delivery, if the participant or bene-
17 ficiary requests that such statements be
18 delivered electronically and the statements
19 are so delivered.”.

20 (b) IMPLEMENTATION.—

21 (1) IN GENERAL.—The Secretary of Labor
22 shall, not later than December 31, 2021, update sec-
23 tion 2520.104b–1(c) of title 29, Code of Federal
24 Regulations, to provide that a plan may furnish the
25 statements referred to in subparagraph (E) of sec-

1 tion 105(a)(2) by electronic delivery only if, in addi-
2 tion to meeting the other requirements under the
3 regulations—

4 (A) such plan furnishes each participant or
5 beneficiary, including participants described in
6 subparagraph (B), a one-time initial notice on
7 paper in written form, prior to the electronic
8 delivery of any pension benefit statement, of
9 their right to request that all documents re-
10 quired to be disclosed under title I of the Em-
11 ployee Retirement Income Security Act of 1974
12 be furnished on paper in written form; and

13 (B) such plan furnishes each participant
14 who is separated from service with at least 1
15 pension benefit statement on paper in written
16 form for each calendar year, unless, on election
17 of the participant, the participant receives such
18 statements electronically.

19 (2) OTHER GUIDANCE.—In implementing the
20 amendment made by subsection (a) with respect to
21 a plan that discloses required documents or state-
22 ments electronically, in accordance with applicable
23 guidance governing electronic disclosure by the De-
24 partment of Labor (with the exception of section
25 2520.104b–1(c) of title 29, Code of Federal Regula-

1 tions), the Secretary of Labor shall, not later than
2 December 31, 2021, update such guidance to the ex-
3 tent necessary to ensure that—

4 (A) a participant or beneficiary under such
5 a plan is permitted the opportunity to request
6 that any disclosure required to be delivered on
7 paper under applicable guidance by the Depart-
8 ment of Labor shall be furnished by electronic
9 delivery;

10 (B) each paper statement furnished under
11 such a plan pursuant to the amendment shall
12 include—

13 (i) an explanation of how to request
14 that all such statements, and any other
15 document required to be disclosed under
16 title I of the Employee Retirement Income
17 Security Act of 1974, be furnished by elec-
18 tronic delivery; and

19 (ii) contact information for the plan
20 sponsor, including a telephone number;

21 (C) the plan may not charge any fee to a
22 participant or beneficiary for the delivery of any
23 paper statements;

24 (D) each paper pension benefit statement
25 shall identify each plan document required to be

1 disclosed and shall include information about
2 how a participant or beneficiary may access
3 each such document;

4 (E) each document required to be disclosed
5 that is furnished by electronic delivery under
6 such a plan shall include an explanation of how
7 to request that all such documents be furnished
8 on paper in written form; and

9 (F) a plan is permitted to furnish a dupli-
10 cate electronic statement in any case in which
11 the plan furnishes a paper pension benefit
12 statement.

13 (c) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply with respect to plan years begin-
15 ning after December 31, 2022.

16 **SEC. 314. SEPARATE APPLICATION OF TOP HEAVY RULES**
17 **TO DEFINED CONTRIBUTION PLANS COV-**
18 **ERING EXCLUDIBLE EMPLOYEES.**

19 (a) IN GENERAL.—Section 416(c)(2) of the Internal
20 Revenue Code of 1986 is amended by adding at the end
21 the following:

22 “(C) SEPARATE APPLICATION TO EMPLOY-
23 EES NOT MEETING AGE AND SERVICE REQUIRE-
24 MENTS.—If employees not meeting the age or
25 service requirements of section 410(a)(1) (with-

1 out regard to subparagraph (B) thereof) are
2 covered under a plan of the employer which
3 meets the requirements of subparagraphs (A)
4 and (B) separately with respect to such employ-
5 ees, such employees may be excluded from con-
6 sideration in determining whether any plan of
7 the employer meets the requirements of sub-
8 paragraphs (A) and (B).”.

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

12 **SEC. 315. REPAYMENT OF QUALIFIED BIRTH OR ADOPTION**
13 **DISTRIBUTION LIMITED TO 3 YEARS.**

14 (a) **IN GENERAL.**—Section 72(t)(2)(H)(v)(I) of the
15 Internal Revenue Code of 1986 is amended by striking
16 “may make” and inserting “may, at any time during the
17 3-year period beginning on the day after the date on which
18 such distribution was received, make”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 this section shall take effect as if included in the enact-
21 ment of section 113 of the Setting Every Community Up
22 for Retirement Enhancement Act of 2019.

1 **SEC. 316. EMPLOYER MAY RELY ON EMPLOYEE CERTI-**
2 **FYING THAT DEEMED HARDSHIP DISTRIBUTU-**
3 **TION CONDITIONS ARE MET.**

4 (a) CASH OR DEFERRED ARRANGEMENTS.—Section
5 401(k)(14) of the Internal Revenue Code of 1986 is
6 amended by adding at the end the following new subpara-
7 graph:

8 “(C) EMPLOYEE CERTIFICATION.—In de-
9 termining whether a distribution is upon the
10 hardship of an employee, the administrator of
11 the plan may rely on a certification by the em-
12 ployee that the distribution is on account of a
13 financial need of a type that is deemed in regu-
14 lations prescribed by the Secretary to be an im-
15 mediate and heavy financial need and that such
16 distribution is not in excess of the amount re-
17 quired to satisfy such financial need.”.

18 (b) 403(b) PLANS.—

19 (1) CUSTODIAL ACCOUNTS.—Section 403(b)(7)
20 of such Code is amended by adding at the end the
21 following new subparagraph:

22 “(D) EMPLOYEE CERTIFICATION.—In de-
23 termining whether a distribution is upon the fi-
24 nancial hardship of an employee, the adminis-
25 trator of the plan may rely on a certification by
26 the employee that the distribution is on account

1 of a financial need of a type that is deemed in
2 regulations prescribed by the Secretary to be an
3 immediate and heavy financial need and that
4 such distribution is not in excess of the amount
5 required to satisfy such financial need.”.

6 (2) ANNUITY CONTRACTS.—Section 403(b)(11)
7 is amended by adding at the end the following: “In
8 determining whether a distribution is upon hardship
9 of an employee, the administrator of the plan may
10 rely on a certification by the employee that the dis-
11 tribution is on account of a financial need of a type
12 that is deemed in regulations prescribed by the Sec-
13 retary to be an immediate and heavy financial need
14 and that such distribution is not in excess of the
15 amount required to satisfy such financial need.”.

16 (c) 457(b) PLAN.—Section 457(d) of such Code is
17 amended by adding at the end the following new para-
18 graph:

19 “(4) PARTICIPANT CERTIFICATION.—In deter-
20 mining whether a distribution of a participant is
21 made when the participant is faced with an unfore-
22 seeable emergency, the administrator of a plan
23 maintained by an eligible employer described in sub-
24 section (e)(1)(A) may rely on a certification by the
25 participant that the distribution is made when the

1 participant is faced with unforeseeable emergency of
2 a type that is specifically described in regulations
3 prescribed by the Secretary as an unforeseeable
4 emergency and that the distribution is not in excess
5 of the amount reasonably necessary to satisfy the
6 emergency need.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan years beginning after De-
9 cember 31, 2021.

10 **SEC. 317. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
11 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
12 **DOMESTIC ABUSE.**

13 (a) IN GENERAL.—Section 72(t)(2) of the Internal
14 Revenue Code of 1986 is amended by adding at the end
15 the following new subparagraph:

16 “(I) DISTRIBUTIONS FROM RETIREMENT
17 PLAN IN CASE OF DOMESTIC ABUSE.—

18 “(i) IN GENERAL.—Any eligible dis-
19 tribution to a domestic abuse victim.

20 “(ii) LIMITATION.—The aggregate
21 amount which may be treated as an eligi-
22 ble distribution to a domestic abuse victim
23 by any individual shall not exceed an
24 amount equal to the lesser of—

25 “(I) \$10,000, or

1 “(II) 50 percent of the present
2 value of the nonforfeitable accrued
3 benefit of the employee under the
4 plan.

5 “(iii) ELIGIBLE DISTRIBUTION TO A
6 DOMESTIC ABUSE VICTIM.—For purposes
7 of this subparagraph—

8 “(I) IN GENERAL.—A distribu-
9 tion shall be treated as an eligible dis-
10 tribution to a domestic abuse victim if
11 such distribution is from an applicable
12 eligible retirement plan to an indi-
13 vidual and made during the 1-year pe-
14 riod beginning on any date on which
15 the individual is a victim of domestic
16 abuse by a spouse or domestic part-
17 ner.

18 “(II) DOMESTIC ABUSE.—The
19 term ‘domestic abuse’ means physical,
20 psychological, sexual, emotional, or
21 economic abuse, including efforts to
22 control, isolate, humiliate, or intimi-
23 date the victim, or to undermine the
24 victim’s ability to reason independ-
25 ently, including by means of abuse of

1 the victim's child or another family
2 member living in the household.

3 “(iv) TREATMENT OF PLAN DISTRIBUTIONS.—
4

5 “(I) IN GENERAL.—If a distribu-
6 tion to an individual would (without
7 regard to clause (ii)) be an eligible
8 distribution to a domestic abuse vic-
9 tim, a plan shall not be treated as
10 failing to meet any requirement of
11 this title merely because the plan
12 treats the distribution as an eligible
13 distribution to a domestic abuse vic-
14 tim, unless the aggregate amount of
15 such distributions from all plans
16 maintained by the employer (and any
17 member of any controlled group which
18 includes the employer) to such indi-
19 vidual exceeds the limitation under
20 clause (ii).

21 “(II) CONTROLLED GROUP.—For
22 purposes of subclause (I), the term
23 ‘controlled group’ means any group
24 treated as a single employer under

1 subsection (b), (c), (m), or (o) of sec-
2 tion 414.

3 “(v) AMOUNT DISTRIBUTED MAY BE
4 REPAID.—

5 “(I) IN GENERAL.—Any indi-
6 vidual who receives a distribution de-
7 scribed in clause (i) may, at any time
8 during the 3-year period beginning on
9 the day after the date on which such
10 distribution was received, make one or
11 more contributions in an aggregate
12 amount not to exceed the amount of
13 such distribution to an applicable eli-
14 gible retirement plan of which such
15 individual is a beneficiary and to
16 which a rollover contribution of such
17 distribution could be made under sec-
18 tion 402(c), 403(a)(4), 403(b)(8),
19 408(d)(3), or 457(e)(16), as the case
20 may be.

21 “(II) LIMITATION ON CONTRIBU-
22 TIONS TO APPLICABLE ELIGIBLE RE-
23 TIREMENT PLANS OTHER THAN
24 IRAs.—The aggregate amount of con-
25 tributions made by an individual

1 under subclause (I) to any applicable
2 eligible retirement plan which is not
3 an individual retirement plan shall not
4 exceed the aggregate amount of eligi-
5 ble distributions to a domestic abuse
6 victim which are made from such plan
7 to such individual. Subclause (I) shall
8 not apply to contributions to any ap-
9 plicable eligible retirement plan which
10 is not an individual retirement plan
11 unless the individual is eligible to
12 make contributions (other than those
13 described in subclause (I)) to such ap-
14 plicable eligible retirement plan.

15 “(III) TREATMENT OF REPAY-
16 MENTS OF DISTRIBUTIONS FROM AP-
17 PPLICABLE ELIGIBLE RETIREMENT
18 PLANS OTHER THAN IRAS.—If a con-
19 tribution is made under subclause (I)
20 with respect to an eligible distribution
21 to a domestic abuse victim from an
22 applicable eligible retirement plan
23 other than an individual retirement
24 plan, then the taxpayer shall, to the
25 extent of the amount of the contribu-

1 tion, be treated as having received
2 such distribution in an eligible rollover
3 distribution (as defined in section
4 402(c)(4)) and as having transferred
5 the amount to the applicable eligible
6 retirement plan in a direct trustee to
7 trustee transfer within 60 days of the
8 distribution.

9 “(IV) TREATMENT OF REPAY-
10 MENTS FOR DISTRIBUTIONS FROM
11 IRAS.—If a contribution is made
12 under subclause (I) with respect to an
13 eligible distribution to a domestic
14 abuse victim from an individual retire-
15 ment plan, then, to the extent of the
16 amount of the contribution, such dis-
17 tribution shall be treated as a dis-
18 tribution described in section
19 408(d)(3) and as having been trans-
20 ferred to the applicable eligible retire-
21 ment plan in a direct trustee to trust-
22 ee transfer within 60 days of the dis-
23 tribution.

1 “(vi) DEFINITION AND SPECIAL
2 RULES.—For purposes of this subpara-
3 graph:

4 “(I) APPLICABLE ELIGIBLE RE-
5 TIREMENT PLAN.—The term ‘applica-
6 ble eligible retirement plan’ means an
7 eligible retirement plan (as defined in
8 section 402(c)(8)(B)) other than a de-
9 fined benefit plan.

10 “(II) EXEMPTION OF DISTRIBU-
11 TIONS FROM TRUSTEE TO TRUSTEE
12 TRANSFER AND WITHHOLDING
13 RULES.—For purposes of sections
14 401(a)(31), 402(f), and 3405, an eli-
15 gible distribution to a domestic abuse
16 victim shall not be treated as an eligi-
17 ble rollover distribution.

18 “(III) DISTRIBUTIONS TREATED
19 AS MEETING PLAN DISTRIBUTION RE-
20 QUIREMENTS; SELF-CERTIFICATION.—
21 Any distribution which the employee
22 or participant certifies as being an eli-
23 gible distribution to a domestic abuse
24 victim shall be treated as meeting the
25 requirements of sections

1 401(k)(2)(B)(i), 403(b)(7)(A)(i),
2 403(b)(11), and 457(d)(1)(A).”.

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

6 **SEC. 318. REFORM OF FAMILY ATTRIBUTION RULE.**

7 (a) **IN GENERAL.**—Section 414 of the Internal Rev-
8 enue Code of 1986 is amended—

9 (1) in subsection (b)—

10 (A) by striking “For purposes of” and in-
11 serting the following:

12 “(1) **IN GENERAL.**—For purposes of”, and

13 (B) by adding at the end the following new
14 paragraphs:

15 “(2) **SPECIAL RULES FOR APPLYING FAMILY**
16 **ATTRIBUTION.**—For purposes of applying the attri-
17 bution rules under section 1563 with respect to
18 paragraph (1), the following rules apply:

19 “(A) Community property laws shall be
20 disregarded for purposes of determining owner-
21 ship.

22 “(B) Except as provided by the Secretary,
23 stock of an individual not attributed under sec-
24 tion 1563(e)(5) to such individual’s spouse shall

1 not be attributed to such spouse by reason of
2 1563(e)(6)(A).

3 “(C) Except as provided by the Secretary,
4 in the case of stock in different corporations
5 that is attributed to a child under section
6 1563(e)(6)(A) from each parent, and is not at-
7 tributed to such parents as spouses under sec-
8 tion 1563(e)(5), such attribution to the child
9 shall not by itself result in such corporations
10 being members of the same controlled group.

11 “(3) PLAN SHALL NOT FAIL TO BE TREATED AS
12 SATISFYING THIS SECTION.—If application of para-
13 graph (2) causes two or more entities to be a con-
14 trolled group, or an affiliated service group, or to no
15 longer be in a controlled group or an affiliated serv-
16 ice group, such change shall be treated as a trans-
17 action to which section 410(b)(6)(C) applies.”, and

18 (2) in subsection (m)(6)(B), by striking “apply”
19 and inserting “apply, except that community prop-
20 erty laws shall be disregarded for purposes of deter-
21 mining ownership”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to plan years beginning on or after
24 the date of the enactment of this section.

1 **SEC. 319. AMENDMENTS TO INCREASE BENEFIT ACCRUALS**
2 **UNDER PLAN FOR PREVIOUS PLAN YEAR AL-**
3 **LOWED UNTIL EMPLOYER TAX RETURN DUE**
4 **DATE.**

5 (a) IN GENERAL.—Section 401(b) of the Internal
6 Revenue Code of 1986 is amended by adding at the end
7 the following new paragraph:

8 “(3) RETROACTIVE PLAN AMENDMENTS THAT
9 INCREASE BENEFIT ACCRUALS.—If—

10 “(A) an employer amends a stock bonus,
11 pension, profit-sharing, or annuity plan to in-
12 crease benefits accrued under the plan effective
13 for the preceding plan year (other than increas-
14 ing the amount of matching contributions (as
15 defined in subsection (m)(4)(A))),

16 “(B) such amendment would not otherwise
17 cause the plan to fail to meet any of the re-
18 quirements of this subchapter, and

19 “(C) such amendment is adopted before
20 the time prescribed by law for filing the return
21 of the employer for a taxable year (including
22 extensions thereof) during which such amend-
23 ment is effective,

24 the employer may elect to treat such amendment as
25 having been adopted as of the last day of the plan
26 year in which the amendment is effective.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2022.

4 **SEC. 320. RETROACTIVE FIRST YEAR ELECTIVE DEFER-**
5 **ALS FOR SOLE PROPRIETORS.**

6 (a) IN GENERAL.—Section 401(b) of the Internal
7 Revenue Code of 1986 is amended by adding at the end
8 the following: “In the case of an individual who owns the
9 entire interest in an unincorporated trade or business, and
10 who is the only employee of such trade or business, any
11 elective deferral (as defined in section 402(g)(3)) under
12 a qualified cash or deferred arrangement to which the pre-
13 ceding sentence applies which is made by such individual
14 before the time for filing the return of such individual for
15 the taxable year (determined without regard to any exten-
16 sions) shall be treated as having been made before the end
17 of the plan’s first plan year.”.

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

21 **SEC. 321. LIMITING CESSATION OF IRA TREATMENT TO**
22 **PORTION OF ACCOUNT INVOLVED IN A PRO-**
23 **HIBITED TRANSACTION.**

24 (a) IN GENERAL.—Section 408(e)(2)(A) of the Inter-
25 nal Revenue Code of 1986 is amended by striking “such

1 account ceases to be an individual retirement account”
2 and inserting the following: “the portion of such account
3 which is used in such transaction shall be treated as dis-
4 tributed to the individual”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 408(e)(2)(B) of such Code is
7 amended—

8 (A) by striking “ALL ITS ASSETS.—In any
9 case” and all that follows through “by reason
10 of subparagraph (A)” and inserting the fol-
11 lowing: “PORTION OF ASSETS USED IN PROHIB-
12 ITED TRANSACTION.—In any case in which a
13 portion of an individual retirement account is
14 treated as distributed under subparagraph
15 (A)”, and

16 (B) by striking “all the assets in the ac-
17 count” and inserting “such portion”.

18 (2) Section 4975(c)(3) of such Code is amended
19 by striking “the account ceases” and all that follows
20 and inserting the following: “the portion of the ac-
21 count used in the transaction is treated as distrib-
22 uted under paragraph (2)(A) or (4) of section
23 408(e).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **TITLE IV—TECHNICAL** 5 **AMENDMENTS**

6 **SEC. 401. AMENDMENTS RELATING TO SETTING EVERY**
7 **COMMUNITY UP FOR RETIREMENT ENHANCE-**
8 **MENT ACT OF 2019.**

9 (a) TECHNICAL AMENDMENTS.—

10 (1) AMENDMENT RELATING TO SECTION 114.—
11 Section 401(a)(9)(C)(iii) of the Internal Revenue
12 Code of 1986 is amended by striking “employee to
13 whom clause (i)(II) applies” and inserting “em-
14 ployee (other than an employee to whom clause
15 (i)(II) does not apply by reason of clause (ii))”.

16 (2) AMENDMENT RELATING TO SECTION 116.—
17 Section 4973(b) of the Internal Revenue Code of
18 1986 is amended by adding at the end of the flush
19 matter the following: “Such term shall not include
20 any designated nondeductible contribution (as de-
21 fined in subparagraph (C) of section 408(o)(2))
22 which does not exceed the nondeductible limit under
23 subparagraph (B) thereof by reason of an election
24 under section 408(o)(5).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this section shall take effect as if included in sec-
3 tion of the Setting Every Community Up for Retirement
4 Enhancement Act of 2019 to which the
5 amendment relates.

6 (b) CLERICAL AMENDMENT.—Section
7 72(t)(2)(H)(vi)(IV) of the Internal Revenue Code of 1986
8 is amended by striking “403(b)(7)(A)(ii)” and inserting
9 “ 403(b)(7)(A)(i)”.

10 **TITLE V—ADMINISTRATIVE** 11 **PROVISIONS**

12 **SEC. 501. PROVISIONS RELATING TO PLAN AMENDMENTS.**

13 (a) IN GENERAL.—If this section applies to any re-
14 tirement plan or contract amendment—

15 (1) such retirement plan or contract shall be
16 treated as being operated in accordance with the
17 terms of the plan during the period described in sub-
18 section (b)(2)(A); and

19 (2) except as provided by the Secretary of the
20 Treasury (or the Secretary’s delegate), such retire-
21 ment plan shall not fail to meet the requirements of
22 section 411(d)(6) of the Internal Revenue Code of
23 1986 and section 204(g) of the Employee Retirement
24 Income Security Act of 1974 by reason of such
25 amendment.

1 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

2 (1) IN GENERAL.—This section shall apply to
3 any amendment to any retirement plan or annuity
4 contract which is made—

5 (A) pursuant to any amendment made by
6 this Act or pursuant to any regulation issued by
7 the Secretary of the Treasury or the Secretary
8 of Labor (or a delegate of either such Sec-
9 retary) under this Act; and

10 (B) on or before the last day of the first
11 plan year beginning on or after January 1,
12 2023, or such later date as the Secretary of the
13 Treasury may prescribe.

14 In the case of a governmental plan (as defined in
15 section 414(d) of the Internal Revenue Code of
16 1986), this paragraph shall be applied by sub-
17 stituting “2025” for “2023”.

18 (2) CONDITIONS.—This section shall not apply
19 to any amendment unless—

20 (A) during the period—

21 (i) beginning on the date the legisla-
22 tive or regulatory amendment described in
23 paragraph (1)(A) takes effect (or in the
24 case of a plan or contract amendment not
25 required by such legislative or regulatory

1 amendment, the effective date specified by
2 the plan); and

3 (ii) ending on the date described in
4 paragraph (1)(B) (as modified by the sec-
5 ond sentence of paragraph (1)) (or, if ear-
6 lier, the date the plan or contract amend-
7 ment is adopted),

8 the plan or contract is operated as if such plan
9 or contract amendment were in effect; and

10 (B) such plan or contract amendment ap-
11 plies retroactively for such period.

12 (c) COORDINATION WITH OTHER PROVISIONS RE-
13 LATING TO PLAN AMENDMENTS.—

14 (1) SECURE ACT.—Section 601(b)(1) of the
15 Setting Every Community Up for Retirement En-
16 hancement Act of 2019 is amended—

17 (A) by striking “January 1, 2022” in sub-
18 paragraph (B) and inserting “January 1,
19 2023”, and

20 (B) by striking “substituting ‘2024’ for
21 ‘2022’.” in the flush matter at the end and in-
22 serting “substituting ‘2025’ for ‘2023’.”.

23 (2) CARES ACT.—

24 (A) SPECIAL RULES FOR USE OF RETIRE-
25 MENT FUNDS.—Section 2202(c)(2)(A) of the

1 CARES Act is amended by striking “January
2 1, 2022” in clause (ii) and inserting “January
3 1, 2023”.

4 (B) TEMPORARY WAIVER OF REQUIRED
5 MINIMUM DISTRIBUTIONS RULES FOR CERTAIN
6 RETIREMENT PLANS AND ACCOUNTS.—Section
7 2203(c)(2)(B)(i) of the CARES Act is amend-
8 ed—

9 (i) by striking “January 1, 2022” in
10 subclause (II) and inserting “January 1,
11 2023”, and

12 (ii) by striking “substituting ‘2024’
13 for ‘2022’.” in the flush matter at the end
14 and inserting “substituting ‘2025’ for
15 ‘2023’.”.

16 (C) TAXPAYER CERTAINTY AND DISASTER
17 TAX RELIEF ACT OF 2020.—Section
18 302(d)(2)(A) of the Taxpayer Certainty and
19 Disaster Tax Relief Act of 2020 is amended by
20 striking “January 1, 2022” in clause (ii) and
21 inserting “January 1, 2023”.

1 **TITLE VI—REVENUE**
2 **PROVISIONS**

3 **SEC. 601. SIMPLE AND SEP ROTH IRAS.**

4 (a) **IN GENERAL.**—Section 408A of the Internal Rev-
5 enue Code of 1986 is amended by striking subsection (f).

6 (b) **RULES RELATING TO SIMPLIFIED EMPLOYEE**
7 **PENSIONS.**—

8 (1) **CONTRIBUTIONS.**—Section 402(h)(1) of
9 such Code is amended by striking “and” at the end
10 of subparagraph (A), by striking the period at the
11 end of subparagraph (B) and inserting “, and”, and
12 by adding at the end the following new subpara-
13 graph:

14 “(C) in the case of any contributions pur-
15 suant to a simplified employer pension which
16 are made to an individual retirement plan des-
17 igned as a Roth IRA, such contribution shall
18 not be excludable from gross income.”.

19 (2) **DISTRIBUTIONS.**—Section 402(h)(3) of such
20 Code is amended by inserting “, or section 408A(d)
21 in the case of an individual retirement plan des-
22 igned as a Roth IRA” before the period at the
23 end.

24 (3) **ELECTION REQUIRED.**—Section 408(k) of
25 such Code is amended by redesignating paragraphs

1 (7), (8), and (9) as paragraphs (8), (9), and (10),
2 respectively, and by inserting the after paragraph
3 (6) the following new paragraph:

4 “(7) ROTH CONTRIBUTION ELECTION.—An in-
5 dividual retirement plan which is designated as a
6 Roth IRA shall not be treated as a simplified em-
7 ployee pension under this subsection unless the em-
8 ployee elects for such plan to be so treated (at such
9 time and in such manner as the Secretary may pro-
10 vide).”.

11 (c) RULES RELATING TO SIMPLE RETIREMENT AC-
12 COUNTS.—

13 (1) ELECTION REQUIRED.—Section 408(p) of
14 such Code is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(11) ROTH CONTRIBUTION ELECTION.—An in-
17 dividual retirement plan which is designated as a
18 Roth IRA shall not be treated as a simple retirement
19 account under this subsection unless the employee
20 elects for such plan to be so treated (at such time
21 and in such manner as the Secretary may pro-
22 vide).”.

23 (2) ROLLOVERS.—Section 408A(e) of such
24 Code is amended by adding at the end the following
25 new paragraph:

1 “(3) SIMPLE RETIREMENT ACCOUNTS.—In the
2 case of any payment or distribution out of a simple
3 retirement account (as defined in section 408(p))
4 with respect to which an election has been made
5 under section 408(p)(11) and to which 72(t)(6) ap-
6 plies, the term ‘qualified rollover contribution’ shall
7 not include any payment or distribution paid into an
8 account other than another simple retirement ac-
9 count (as so defined).”.

10 (d) COORDINATION WITH ROTH CONTRIBUTION LIM-
11 ITATION.—Section 408A(c) of such Code is amended by
12 adding at the end the following new paragraph:

13 “(7) COORDINATION WITH LIMITATION FOR
14 SIMPLE RETIREMENT PLANS AND SEPs.—In the
15 case of an individual on whose behalf contributions
16 are made to a simple retirement account or a sim-
17 plified employee pension, the amount described in
18 paragraph (2)(A) shall be increased by an amount
19 equal to the contributions made on the individual’s
20 behalf to such account or pension for the taxable
21 year, but only to the extent such contributions—

22 “(A) in the case of a simplified retirement
23 account—

24 “(i) do not exceed the sum of the dol-
25 lar amount in effect for the taxable year

1 under section 408(p)(2)(A)(ii) and the em-
2 ployer contribution required under sub-
3 paragraph (A)(iii) or (B)(i), as the case
4 may be, of section 408(p)(2), and

5 “(ii) do not cause the elective defer-
6 rals (as defined in section 402(g)(3)) on
7 behalf of such individual to exceed the lim-
8 itation under section 402(g)(1) (taking
9 into account any additional elective defer-
10 rals permitted under section 414(v)), or

11 “(B) in the case of a simplified employee
12 pension, do not exceed the limitation in effect
13 under section 408(j).”.

14 (e) CONFORMING AMENDMENT.—Section
15 408A(d)(2)(B) of such Code is amended by inserting “,
16 or employer in the case of a simple retirement account
17 (as defined in section 408(p)) or simplified employee pen-
18 sion (as defined in section 408(k)),” after “individual’s
19 spouse”.

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2021.

1 **SEC. 602. HARDSHIP WITHDRAWAL RULES FOR 403(b)**
2 **PLANS.**

3 (a) IN GENERAL.—Section 403(b) of the Internal
4 Revenue Code of 1986 is amended by adding at the end
5 the following new paragraph:

6 “(15) SPECIAL RULES RELATING TO HARDSHIP
7 WITHDRAWALS.—For purposes of paragraphs (7)
8 and (11)—

9 “(A) AMOUNTS WHICH MAY BE WITH-
10 DRAWN.—The following amounts may be dis-
11 tributed upon hardship of the employee:

12 “(i) Contributions made pursuant to a
13 salary reduction agreement (within the
14 meaning of section 3121(a)(5)(D)).

15 “(ii) Qualified nonelective contribu-
16 tions (as defined in section 401(m)(4)(C)).

17 “(iii) Qualified matching contributions
18 described in section 401(k)(3)(D)(ii)(I).

19 “(iv) Earnings on any contributions
20 described in clause (i), (ii), or (iii).

21 “(B) NO REQUIREMENT TO TAKE AVAIL-
22 ABLE LOAN.—A distribution shall not be treat-
23 ed as failing to be made upon the hardship of
24 an employee solely because the employee does
25 not take any available loan under the plan.”.

26 (b) CONFORMING AMENDMENTS.—

1 (1) Section 403(b)(7)(A)(ii) is amended by
2 striking “in the case of contributions made pursuant
3 to a salary reduction agreement (within the meaning
4 of section 3121(a)(5)(D))” and inserting “subject to
5 the provisions of paragraph (15)”.

6 (2) Paragraph (11) of section 403(b) is amend-
7 ed—

8 (A) by striking “in” in subparagraph (B)
9 and inserting “subject to the provisions of para-
10 graph (15), in”, and

11 (B) by striking the last sentence.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to plan years beginning after De-
14 cember 31, 2021.

15 **SEC. 603. ELECTIVE DEFERRALS GENERALLY LIMITED TO**
16 **REGULAR CONTRIBUTION LIMIT.**

17 (a) APPLICABLE EMPLOYER PLANS.—Section
18 414(v)(1) of the Internal Revenue Code of 1986 is amend-
19 ed by adding at the end the following: “Except in the case
20 of an applicable employer plan described in paragraph
21 (6)(iv), the preceding sentence shall only apply if contribu-
22 tions are designated Roth contributions (as defined in sec-
23 tion 402A(e)(1)).”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 402(g)(1) of such Code is amended
2 by striking subparagraph (C).

3 (2) Section 457(e)(18)(A)(ii) is amended by in-
4 serting “the lesser of any designated Roth contribu-
5 tions made by the participant to the plan or” before
6 “the applicable dollar amount”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2021.

10 **SEC. 604. OPTIONAL TREATMENT OF EMPLOYER MATCHING**

11 **CONTRIBUTIONS AS ROTH CONTRIBUTIONS.**

12 (a) IN GENERAL.—Section 402A(a) of the Internal
13 Revenue Code of 1986 is amended by redesignating para-
14 graph (2) as paragraph (3), by striking “and” at the end
15 of paragraph (1), and by inserting after paragraph (1) the
16 following new paragraph:

17 “(2) any designated Roth contribution which is
18 made by the employer to the program on the em-
19 ployee’s behalf, and on account of the employee’s
20 contribution or elective deferral, shall be treated as
21 a matching contribution for purposes of this chapter,
22 except that such contribution shall not be excludable
23 from gross income, and”.

1 (b) MATCHING INCLUDED IN QUALIFIED ROTH CON-
2 TRIBUTION PROGRAM.—Section 402A(b)(1) of such Code
3 is amended—

4 (1) by inserting “, or to have made on the em-
5 ployee’s behalf,” after “elect to make”, and

6 (2) by inserting “, or of matching contributions
7 which may otherwise be made on the employee’s be-
8 half,” after “otherwise eligible to make”.

9 (c) DESIGNATED ROTH MATCHING CONTRIBU-
10 TIONS.—Section 402A(c)(1) of such Code is amended by
11 inserting “or matching contribution” after “elective defer-
12 ral”.

13 (d) MATCHING CONTRIBUTION DEFINED.—Section
14 402A(e) of such Code is amended by adding at the end
15 the following:

16 “(3) MATCHING CONTRIBUTION.—The term
17 ‘matching contribution’ means—

18 “(A) any matching contribution described
19 in section 401(m)(4)(A), and

20 “(B) any contribution to an eligible de-
21 ferred compensation plan (as defined in section
22 457(b)) by an eligible employer described in
23 section 457(e)(1)(A) on behalf of an employee
24 and on account of such employee’s elective de-
25 ferral under such plan.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this subsection shall apply to contributions made after the
3 date of the enactment of this Act.

○