

113TH CONGRESS
1ST SESSION

H. R. 2117

To simplify and enhance qualified retirement plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2013

Mr. NEAL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Armed Services, Oversight and Government Reform, and Transportation and Infrastructure, 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 simplify and enhance qualified retirement plans, 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; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Retirement Plan Simplification and Enhancement Act of
7 2013”.

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

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

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

Sec. 1. Short title; reference; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

Sec. 101. Modification of automatic enrollment safe harbor.

Sec. 102. Secure deferral arrangements.

Sec. 103. Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate.

Sec. 104. Separate application of top heavy rules to defined contribution plans covering part-time employees.

Sec. 105. Modification of saver's credit.

Sec. 106. Retirement handbook and retirement readiness checklist.

Sec. 107. Additional time to adopt a qualified plan.

TITLE II—ENCOURAGING SMALL BUSINESSES TO ENTER AND REMAIN IN THE EMPLOYER RETIREMENT PLAN SYSTEM

Sec. 201. Increase in credit limitation for small employer pension plan startup costs.

Sec. 202. Eliminating barriers to use of multiple employer plans.

TITLE III—PRESERVATION OF INCOME

Sec. 301. Study of application of spousal consent rules to defined contribution plans.

Sec. 302. Administration of joint and survivor annuity requirements.

Sec. 303. Availability of distribution options.

Sec. 304. Rollover of insurance contracts to IRAs.

Sec. 305. Portability of lifetime income options.

Sec. 306. Lost Pension Plan Registry.

TITLE IV—SIMPLIFICATION AND CLARIFICATION OF QUALIFIED RETIREMENT PLAN RULES

Sec. 401. Exception from required distributions where aggregate retirement savings do not exceed \$100,000.

Sec. 402. Expansion of Employee Plans Compliance Resolution System.

Sec. 403. Use of forfeitures to fund safe harbor contributions.

Sec. 404. Substantial cessation of operations.

Sec. 405. Church plan clarification.

Sec. 406. Protecting older, longer service participants.

- Sec. 407. Review and report to the Congress relating to reporting and disclosure requirements.
- Sec. 408. Consolidation of defined contribution plan notices.
- Sec. 409. Performance benchmarks for asset allocation funds.
- Sec. 410. Permit nonspousal beneficiaries to roll assets to plans.
- Sec. 411. Eliminate the “first day of the month” requirement.

TITLE V—PROVISIONS ENSURING EQUITY IN DIVORCE

- Sec. 501. Special rules relating to treatment of qualified domestic relations orders.
- Sec. 502. Elimination of current connection requirement under Railroad Retirement Act for certain survivors.
- Sec. 503. Permitting divorced spouses and widows and widowers to remarry after turning 60 without a penalty under Railroad Retirement Act.
- Sec. 504. Repeal of jurisdictional requirement for court to treat military retirement pay as property of the military member and spouse.
- Sec. 505. Modification of reductions in disposable retired pay for payments in compliance with court orders.
- Sec. 506. Survivor annuities for widows, widowers, and former spouses of federal employees who die before attaining age for deferred annuity under civil service retirement system.
- Sec. 507. Court orders relating to Federal retirement benefits for former spouses of federal employees.

TITLE VI—OFFICE OF PARTICIPANT AND PLAN SPONSOR ADVOCATE

- Sec. 601. Office of Participant and Plan Sponsor Advocate.

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

4 **SEC. 101. MODIFICATION OF AUTOMATIC ENROLLMENT** 5 **SAFE HARBOR.**

6 (a) IN GENERAL.—

- 7 (1) REMOVAL OF 10 PERCENT CAP.—Clause
- 8 (iii) of section 401(k)(13)(C) is amended by striking
- 9 “, does not exceed 10 percent, and is at least” and
- 10 inserting “and is”.

11 (2) CONFORMING AMENDMENTS.—

1 (A) Subclause (I) of section
 2 401(k)(13)(C)(iii) is amended by striking “3
 3 percent” and inserting “at least 3 percent, but
 4 not greater than 10 percent,”.

5 (B) Subclause (II) of section
 6 401(k)(13)(C)(iii) is amended by striking “4
 7 percent” and inserting “at least 4 percent”.

8 (C) Subclause (III) of section
 9 401(k)(13)(C)(iii) is amended by striking “5
 10 percent” and inserting “at least 5 percent”.

11 (D) Subclause (IV) of section
 12 401(k)(13)(C)(iii) is amended by striking “6
 13 percent” and inserting “at least 6 percent”.

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

17 **SEC. 102. SECURE DEFERRAL ARRANGEMENTS.**

18 (a) IN GENERAL.—Subsection (k) of section 401 of
 19 the Internal Revenue Code of 1986 is amended by adding
 20 at the end the following new paragraph:

21 “(14) ALTERNATIVE METHOD FOR SECURE DE-
 22 FERRAL ARRANGEMENTS TO MEET NONDISCRIMINA-
 23 TION REQUIREMENTS.—

1 “(A) IN GENERAL.—A secure deferral ar-
2 rangement shall be treated as meeting the re-
3 quirements of paragraph (3)(A)(ii).

4 “(B) SECURE DEFERRAL ARRANGE-
5 MENT.—For purposes of this paragraph, the
6 term ‘secure deferral arrangement’ means any
7 cash or deferred arrangement which meets the
8 requirements of subparagraphs (C), (D), and
9 (E) of paragraph (13), except as modified by
10 this paragraph.

11 “(C) QUALIFIED PERCENTAGE.—For pur-
12 poses of this paragraph, with respect to any
13 employee, the term ‘qualified percentage’
14 means, in lieu of the meaning given such term
15 in paragraph (13)(C)(iii), any percentage deter-
16 mined under the arrangement if such percent-
17 age is applied uniformly and is—

18 “(i) at least 6 percent, but not greater
19 than 10 percent, during the period ending
20 on the last day of the first plan year which
21 begins after the date on which the first
22 elective contribution described in para-
23 graph (13)(C)(i) is made with respect to
24 such employee,

1 “(ii) at least 8 percent during the
2 first plan year following the plan year de-
3 scribed in clause (i), and

4 “(iii) at least 10 percent during any
5 subsequent plan year.

6 “(D) MATCHING CONTRIBUTIONS.—

7 “(i) IN GENERAL.—For purposes of
8 this paragraph, an arrangement shall be
9 treated as having met the requirements of
10 paragraph (13)(D)(i) if and only if the em-
11 ployer makes matching contributions on
12 behalf of each employee who is not a highly
13 compensated employee in an amount equal
14 to the sum of 50 percent of the elective
15 contributions of the employee to the extent
16 that such contributions do not exceed 2
17 percent of compensation plus 30 percent of
18 so much of such contributions as exceed 2
19 percent but do not exceed 10 percent of
20 compensation.

21 “(ii) APPLICATION OF RULES FOR
22 MATCHING CONTRIBUTIONS.—The rules of
23 clause (ii) of paragraph (12)(B) and
24 clauses (iii) and (iv) of paragraph (13)(D)
25 shall apply for purposes of clause (i) but

1 the rule of clause (iii) of paragraph
 2 (12)(B) shall not apply for such purposes.
 3 The rate of matching contribution for each
 4 incremental deferral must be at least as
 5 high as the rate specified in clause (i), and
 6 may be higher, so long as such rate does
 7 not increase as an employee's rate of elec-
 8 tive contributions increases.”.

9 (b) MATCHING CONTRIBUTIONS AND EMPLOYEE
 10 CONTRIBUTIONS.—Subsection (m) of section 401 of such
 11 Code is amended by redesignating paragraph (13) as para-
 12 graph (14) and by adding after paragraph (12) the fol-
 13 lowing new paragraph:

14 “(13) ALTERNATIVE METHOD FOR SECURE DE-
 15 FERRAL ARRAIGNMENTS.—A defined contribution
 16 plan shall be treated as meeting the requirements of
 17 paragraph (2) with respect to matching contribu-
 18 tions and employee contributions if the plan—

19 “(A) is a secure deferral arrangement (as
 20 defined in subsection (k)(14)),

21 “(B) meets the requirements of clauses (ii)
 22 and (iii) of paragraph (11)(B), and

23 “(C) provides that matching contributions
 24 on behalf of any employee may not be made
 25 with respect to an employee's contributions or

1 elective deferrals in excess of 10 percent of the
2 employee's compensation.”.

3 (c) TAX CREDIT.—

4 (1) IN GENERAL.—Subpart (D) of part IV of
5 subchapter A of Chapter 1 of subtitle A of such
6 Code is amended by adding at the end thereof the
7 following new section:

8 **“SEC. 45S. SECURE DEFERRAL ARRANGEMENTS.**

9 “(a) IN GENERAL.—For purposes of section 38, in
10 the case of an eligible employer maintaining a qualified
11 employer plan (as defined in clauses (i) and (ii) of section
12 4972(d)(1)(A)), the secure deferral arrangement credit
13 determined under this section for any taxable year is an
14 amount equal to 10 percent of all contributions under a
15 secure deferral arrangement (as defined in section
16 401(k)(14)) made during the plan year ending with or
17 within the taxable year of the eligible employer by or on
18 behalf of employees other than highly compensated em-
19 ployees (as defined in section 414(q)).

20 “(b) DOLLAR LIMITATION.—The amount of the cred-
21 it determined under this section for any taxable year shall
22 not exceed—

23 “(1) \$10,000 for the first credit year and each
24 of the 2 taxable years immediately following the first
25 credit year, and

1 “(2) zero for any other taxable year.

2 “(c) FIRST CREDIT YEAR.—The term ‘first credit
3 year’ means—

4 “(1) the taxable year of the eligible employer
5 with which or within which ends the first plan year
6 during which the secure deferral arrangement was in
7 effect for the entire year, or

8 “(2) at the election of the eligible employer, the
9 taxable year preceding the taxable year referred to
10 in paragraph (1).

11 “(d) DEFINITION AND SPECIAL RULES.—

12 “(1) ELIGIBLE EMPLOYER.—The term ‘eligible
13 employer’ has the meaning given such term by sec-
14 tion 408(p)(2)(C)(i).

15 “(2) AGGREGATION.—All persons treated as a
16 single employer under subsection (a) or (b) of sec-
17 tion 52, or subsection (m) or (o) of section 414,
18 shall be treated as one person. All qualified employer
19 plans of an eligible employer shall be treated as 1
20 qualified employer plan.

21 “(3) DISALLOWANCE OF DEDUCTION.—No de-
22 duction shall be allowed for that portion of the con-
23 tribution for the taxable year which is equal to the
24 credit determined under subsection (a).

1 “(4) ELECTION NOT TO CLAIM CREDIT.—This
 2 section shall not apply to a taxpayer for any taxable
 3 year if such taxpayer elects to have this section not
 4 apply for such taxable year. Any such taxable year
 5 shall not be taken into account under subsection
 6 (b).”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) GENERAL BUSINESS CREDIT.—Sub-
 9 section (b) of section 38 of such Code is amend-
 10 ed by striking “plus” at the end of paragraph
 11 (35), by striking the period at the end of para-
 12 graph (36) and inserting “, plus”, and by add-
 13 ing at the end the following:

14 “(37) the secure deferral arrangement credit
 15 determined under section 45S.”.

16 (B) CREDIT CROSS-REFERENCES.—

17 (i) Subsection (k) of section 401 of
 18 such Code, as amended by subsection (a),
 19 is amended at the end thereof to add the
 20 following new paragraph:

21 “(15) SECURE DEFERRAL ARRANGEMENT
 22 CREDIT.—For a general business credit with respect
 23 to secure deferral arrangements, see section 45S.”.

24 (ii) Subsection (m) of section 401 of
 25 such Code, as amended by subsection (b),

1 is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(15) SECURE DEFERRAL ARRANGEMENT
4 CREDIT.—For a general business credit with respect
5 to secure deferral arrangements, see section 45S.”.

6 (d) FACILITATING QUALIFIED AUTOMATIC CON-
7 TRIBUTION ARRANGEMENTS AND SECURE DEFERRAL AR-
8 RAIGNMENTS.—By no later than the date that is twelve
9 months after the date of enactment of this Act, the Sec-
10 retary of the Treasury shall prescribe rules that facilitate
11 the administration of qualified automatic contribution ar-
12 rangements (as defined in section 401(k)(13) of the Inter-
13 nal Revenue Code of 1986) and secure deferral arrange-
14 ments (as defined in section 401(k)(14) of such Code).
15 Such rules shall—

16 (1) Clarify, simplify, and provide safe harbors
17 with respect to the application of the notice require-
18 ments described in section 401(k)(13)(E) of such
19 Code, especially in cases where—

20 (A) employees become eligible under such
21 arrangements upon becoming employed or
22 shortly thereafter, or

23 (B) the employer has employees subject to
24 different payroll and administrative systems.

(2) Clarify, simplify and provide safe harbors with respect to the timing of the increases in the qualified percentage described in subclauses (II), (III), and (IV) of section 401(k)(13)(C)(iii) of such Code and in clauses (ii) and (iii) of section 401(k)(14)(C) of such Code, especially in cases where the employer has employees subject to different payroll and administrative systems.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to plan years beginning after December 31, 2013.

(2) TAX CREDIT.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2013.

SEC. 103. QUALIFIED CASH OR DEFERRED ARRANGEMENTS

MUST ALLOW LONG-TERM EMPLOYEES

WORKING MORE THAN 500 BUT LESS THAN

1,000 HOURS PER YEAR TO PARTICIPATE.

(a) PARTICIPATION REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (D) of section 401(k)(2) (defining qualified cash or deferred arrangement) is amended to read as follows:

“(D) which does not require, as a condition of participation in the arrangement, that

1 an employee complete a period of service with
 2 the employer (or employers) maintaining the
 3 plan extending beyond the close of the earlier
 4 of—

5 “(i) the period permitted under sec-
 6 tion 410(a)(1) (determined without regard
 7 to subparagraph (B)(i) thereof), or

8 “(ii) subject to the provisions of para-
 9 graph (14), the first period of 3 consecu-
 10 tive 12-month periods during each of which
 11 the employee has at least 500 hours of
 12 service.”.

13 (2) SPECIAL RULES.—Section 401(k) (relating
 14 to cash or deferred arrangements) (as amended by
 15 section 102) is amended by adding at the end the
 16 following new paragraph:

17 “(16) SPECIAL RULES FOR PARTICIPATION RE-
 18 QUIREMENT FOR LONG-TERM, PART-TIME WORK-
 19 ERS.—For purposes of paragraph (2)(D)(ii)—

20 “(A) AGE REQUIREMENT MUST BE MET.—

21 Paragraph (2)(D)(ii) shall not apply to an em-
 22 ployee unless the employee has met the require-
 23 ment of section 410(a)(1)(A)(i) by the close of
 24 the last of the 12-month periods described in
 25 such paragraph.

1 “(B) NONDISCRIMINATION AND TOP-
2 HEAVY RULES NOT TO APPLY.—

3 “(i) NONDISCRIMINATION RULES.—In
4 the case of employees who are eligible to
5 participate in the arrangement solely by
6 reason of paragraph (2)(D)(ii)—

7 “(I) notwithstanding subsection
8 (a)(4), an employer shall not be re-
9 quired to make nonelective or match-
10 ing contributions on behalf of such
11 employees even if such contributions
12 are made on behalf of other employees
13 eligible to participate in the arrange-
14 ment, and

15 “(II) an employer may elect to
16 exclude such employees from the ap-
17 plication of subsection (a)(4), para-
18 graph (3), subsection (m)(2), and sec-
19 tion 410(b).

20 “(ii) TOP-HEAVY RULES.—An em-
21 ployer may elect to exclude all employees
22 who are eligible to participate in a plan
23 maintained by the employer solely by rea-
24 son of paragraph (2)(D)(ii) from the appli-
25 cation of the vesting and benefit require-

1 ments under subsections (b) and (c) of sec-
2 tion 416.

3 “(iii) VESTING.—For purposes of de-
4 termining whether an employee described
5 in clause (i) has a nonforfeitable right to
6 employer contributions (other than con-
7 tributions described in paragraph
8 (3)(D)(i)) under the arrangement, each
9 12-month period for which the employee
10 has at least 500 hours of service shall be
11 treated as a year of service.

12 “(iv) EMPLOYEES WHO BECOME
13 FULL-TIME EMPLOYEES.—This subpara-
14 graph shall cease to apply to any employee
15 as of the first plan year beginning after
16 the plan year in which the employee meets
17 the requirements of section
18 410(a)(1)(A)(ii) without regard to para-
19 graph (2)(D)(ii).

20 “(C) EXCEPTION FOR EMPLOYEES UNDER
21 COLLECTIVELY BARGAINED PLANS, ETC.—Para-
22 graph (2)(D)(ii) shall not apply to employees
23 described in section 410(b)(3).

24 “(D) SPECIAL RULES.—

1 “(i) TIME OF PARTICIPATION.—The
 2 rules of section 410(a)(4) shall apply to an
 3 employee eligible to participate in an ar-
 4 rangement solely by reason of paragraph
 5 (2)(D)(ii).

6 “(ii) 12-MONTH PERIODS.—12-month
 7 periods shall be determined in the same
 8 manner as under the last sentence of sec-
 9 tion 410(a)(3)(A).”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to plan years beginning after De-
 12 cember 31, 2013, except that, for purposes of section
 13 401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 (as
 14 added by such amendments), 12-month periods beginning
 15 before January 1, 2014, shall not be taken into account.

16 **SEC. 104. SEPARATE APPLICATION OF TOP HEAVY RULES**
 17 **TO DEFINED CONTRIBUTION PLANS COV-**
 18 **ERING PART-TIME EMPLOYEES.**

19 (a) IN GENERAL.—Paragraph (2) of section 416(c)
 20 is amended by adding at the end the following:

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

1 covered under a plan of the employer which
 2 meets the requirements of paragraphs (A) and
 3 (B) separately with respect to such employees,
 4 such employees may be excluded from consider-
 5 ation in determining whether any plan of the
 6 employer meets the requirements of subpara-
 7 graphs (A) and (B).”.

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

11 **SEC. 105. MODIFICATION OF SAVER’S CREDIT.**

12 (a) 50 PERCENT CREDIT FOR ALL TAXPAYERS: EX-
 13 PANSION OF PHASEOUT RANGES.—Subsection (b) of sec-
 14 tion 25B is amended to read as follows:

15 “(b) APPLICABLE PERCENTAGE.—For purposes of
 16 this section—

17 “(1) IN GENERAL.—Except as provided in para-
 18 graph (2), the applicable percentage is 50 percent.

19 “(2) PHASEOUT.—The percentage under para-
 20 graph (1) shall be reduced (but not below zero) by
 21 the number of percentage points which bears the
 22 same ratio to 50 percentage points as—

23 “(A) the excess of—

24 “(i) the taxpayer’s adjusted gross in-
 25 come for such taxable year, over

1 “(ii) the applicable dollar amount,
2 bears to

3 “(B) the phaseout range.

4 If any reduction determined under this paragraph is
5 not a whole percentage point, such reduction shall be
6 rounded to the nearest whole percentage point.

7 “(3) APPLICABLE DOLLAR AMOUNT; PHASEOUT
8 RANGE.—

9 “(A) JOINT RETURNS.—Except as pro-
10 vided in subparagraph (B)—

11 “(i) the applicable dollar amount is
12 \$65,000, and

13 “(ii) the phaseout range is \$20,000.

14 “(B) OTHER RETURNS.—In the case of—

15 “(i) a head of a household (as defined
16 in section 2(b)), the applicable dollar
17 amount and the phaseout range shall be $\frac{3}{4}$
18 of the amounts applicable under subpara-
19 graph (A) (as adjusted under paragraph
20 (4)), and

21 “(ii) any taxpayer who is not filing a
22 joint return and who is not a head of a
23 household (as so defined), the applicable
24 dollar amount and the phaseout range

1 shall be $\frac{1}{2}$ of the amounts applicable
 2 under subparagraph (A) (as so adjusted).

3 “(4) INFLATION ADJUSTMENT OF APPLICABLE
 4 DOLLAR AMOUNT.—In the case of any taxable year
 5 beginning in a calendar year after 2014, the dollar
 6 amount in paragraph (3)(A)(i) shall be increased by
 7 an amount equal to—

8 “(A) such dollar amount, multiplied by

9 “(B) the cost-of-living adjustment deter-
 10 mined under section 1(f)(3) for the calendar
 11 year in which the taxable year begins, deter-
 12 mined by substituting ‘calendar year 2013’ for
 13 ‘calendar year 1992’ in subparagraph (B)
 14 thereof.

15 Any increase determined under the preceding sen-
 16 tence shall be rounded to the nearest multiple of
 17 \$500.”.

18 (b) CREDIT MADE REFUNDABLE; MATCHING CON-
 19 TRIBUTIONS.—

20 (1) CREDIT MADE REFUNDABLE.—The Internal
 21 Revenue Code of 1986 is amended by moving section
 22 25B to subpart C of part IV of subchapter A of
 23 chapter 1 of such Code (relating to refundable cred-
 24 its), by inserting section 25B after section 36B, and
 25 by redesignating section 25B as section 36C.

1 (2) MATCHING CONTRIBUTIONS.—Section 36C,
 2 as redesignated by paragraph (1), is amended by
 3 adding at the end the following:

4 “(g) MATCHING CONTRIBUTIONS.—

5 “(1) IN GENERAL.—The credit allowed to an el-
 6 igible individual under this section for any taxable
 7 year shall be twice the credit which would (but for
 8 this subsection) be allowed if—

9 “(A) the individual consents to the applica-
 10 tion of paragraph (2), and

11 “(B) a designation by such individual is in
 12 effect for such year under paragraph (3).

13 “(2) CREDIT PAID INTO DESIGNATED RETIRE-
 14 MENT ACCOUNT.—Any credit under this section for
 15 any taxable year shall be paid by the Secretary into
 16 the designated retirement account of the individual
 17 for such year. The amount payable under the pre-
 18 ceding sentence shall be subject to the reductions
 19 under section 6402 in the same manner as if such
 20 amount were an overpayment. The amount so paid
 21 shall be treated as refunded to such individual.

22 “(3) DESIGNATED RETIREMENT ACCOUNT.—
 23 For purposes of this subsection, the term ‘des-
 24 ignated retirement account’ means any account or
 25 plan—

1 “(A) of a type to which qualified retire-
2 ment savings contributions may be made,

3 “(B) which is for such individual’s benefit,
4 and

5 “(C) which is designated by such indi-
6 vidual (in such form and manner as the Sec-
7 retary may provide) on the return of tax for the
8 taxable year.

9 “(4) TREATMENT OF MATCHING CONTRIBU-
10 TIONS.—In the case of an amount paid under para-
11 graph (2) into a designated retirement account—

12 “(A) any dollar limitation otherwise appli-
13 cable to the amount of contributions or defer-
14 rals to such account shall be increased by the
15 amount so paid,

16 “(B) the individual’s basis in such account
17 shall not be increased by reason of the amount
18 so paid, and

19 “(C) such amount shall be treated as an
20 employer contribution for the plan year in
21 which such amount is paid for purposes of—

22 “(i) section 401(k)(3), and

23 “(ii) section 408(k)(6)(A)(iii).

24 “(5) REGULATIONS.—The Secretary shall pre-
25 scribe such regulations or other guidance as may be

1 necessary to address situations under which the Sec-
 2 retary is not able to make a payment to a designated
 3 retirement account of an individual, including a plan
 4 of an employer for which the individual no longer
 5 works and to an account that does not exist.”.

6 (3) CONFORMING AMENDMENTS.—

7 (A) Section 6211(b)(4)(A) is amended by
 8 inserting “36C,” after “36B,”.

9 (B) The table of sections for subpart A of
 10 part IV of subchapter A of chapter 1 is amend-
 11 ed by striking the item relating to section 25B.

12 (C) The table of sections for subpart C of
 13 such part is amended by adding at the end the
 14 following new item:

“Sec. 36C. Elective deferrals and IRA contributions by certain individuals.”.

15 (D) Section 1324(b)(2) of title 31, United
 16 States Code, is amended by inserting “36C,”
 17 after “36B,”.

18 (c) MAXIMUM CONTRIBUTIONS.—Subsection (a) of
 19 section 36C, as redesignated by subsection (b), is amended
 20 to read as follows:

21 “(a) ALLOWANCE OF CREDIT.—

22 “(1) IN GENERAL.—In the case of an eligible
 23 individual, there shall be allowed as a credit against
 24 the tax imposed by this subtitle for the taxable year
 25 an amount equal to the applicable percentage of so

1 much of the qualified retirement savings contribu-
2 tions of the eligible individual for the taxable year as
3 do not exceed the contribution limit.

4 “(2) CONTRIBUTION LIMIT.—For purposes of
5 paragraph (1)—

6 “(A) IN GENERAL.—Except as otherwise
7 provided in this paragraph, the contribution
8 limit is \$500 (\$1,500 for taxable years begin-
9 ning after 2023).

10 “(B) ANNUAL INCREASES TO REACH
11 \$1,500.—In the case of taxable years beginning
12 in a calendar year after 2013 and before 2024,
13 the contribution limit shall be the sum of—

14 “(i) the contribution limit for taxable
15 years beginning in the preceding calendar
16 year (as increased under this subpara-
17 graph), and

18 “(ii) \$100.

19 “(C) INFLATION ADJUSTMENT.—In the
20 case of any taxable year beginning in a calendar
21 year after 2023, the \$1,500 amount in subpara-
22 graph (A) shall be increased by an amount
23 equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
 2 termined under section 1(f)(3) for the cal-
 3 endar year in which the taxable year be-
 4 gins, determined by substituting ‘calendar
 5 year 2022’ for ‘calendar year 1992’ in sub-
 6 paragraph (B) thereof.

7 Any increase determined under the preceding
 8 sentence shall be rounded to the nearest mul-
 9 tiple of \$50.”.

10 (d) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 2013.

13 **SEC. 106. RETIREMENT HANDBOOK AND RETIREMENT**
 14 **READINESS CHECKLIST.**

15 (a) IN GENERAL.—Section 704 of the Social Security
 16 Act is amended by adding at the end the following new
 17 subsection:

18 “(f) RETIREMENT INFORMATION.—

19 “(1) IN GENERAL.—The Commissioner, in con-
 20 sultation with the Social Security Advisory Board,
 21 shall prepare—

22 “(A) the financial reference handbook de-
 23 scribed in paragraph (2), and

24 “(B) the retirement readiness checklist de-
 25 scribed in paragraph (3).

1 “(2) FINANCIAL REFERENCE HANDBOOK.—The
2 handbook described in this paragraph is a pamphlet
3 which—

4 “(A) includes definitions of basic financial
5 terms,

6 “(B) contains a listing of financial issues
7 and problems facing individuals who are retir-
8 ing and explanations of methods of dealing with
9 the issues and problems, and

10 “(C) is in a form readily understandable
11 by the average retiree.

12 “(3) READINESS CHECKLIST.—The checklist
13 described in this paragraph is a list of questions that
14 individuals need to consider in preparation for re-
15 tirement, including the following:

16 “(A) What annual income will the indi-
17 vidual need in retirement?

18 “(B) How many years will the individual
19 live in retirement?

20 “(C) What will be the cost of Medicare
21 premiums?

22 “(D) What will be the cost of insurance
23 necessary to supplement Medicare?

24 “(E) How will savings be invested in re-
25 tirement?

1 “(F) How will taxes affect your retirement
2 income?

3 The checklist will include answers to the questions
4 or directions as to where information is available to
5 answer the questions. All information shall be in a
6 form readily understandable to the average recipient
7 of the checklist.

8 “(4) REVISIONS.—The Commissioner shall peri-
9 odically revise and update the handbook and check-
10 list prepared under this subsection.

11 “(5) DISTRIBUTION OF MATERIALS.—

12 “(A) HANDBOOK.—The financial reference
13 handbook described in paragraph (2) shall be
14 included with materials provided to an indi-
15 vidual when the individual first applies for ben-
16 efits under title II and such other times as the
17 Commissioner determines appropriate.

18 “(B) CHECKLIST.—The retirement readi-
19 ness checklist described in paragraph (3) shall
20 be included with an individual’s annual social
21 security account statement provided under sec-
22 tion 1143.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall take effect on the date of the enactment
25 of this Act, but the handbooks and checklists required to

1 be provided by such amendment shall be provided on or
2 after January 1, 2014 (or such earlier date as the Com-
3 missioner of Social Security may provide).

4 **SEC. 107. ADDITIONAL TIME TO ADOPT A QUALIFIED PLAN.**

5 (a) IN GENERAL.—Subsection (a) of section 401 is
6 amended by inserting after paragraph (37) the following
7 new paragraph:

8 “(38) The adoption of a plan by the applicable
9 date shall not cause a plan to fail to meet the re-
10 quirements of this section for a plan year. For pur-
11 poses of the preceding sentence, the term ‘applicable
12 date’ means the due date (including extensions) for
13 filing the Federal income tax return for the employ-
14 er’s taxable year in which ends the plan year for
15 which the plan is effective. A plan adopted in ac-
16 cordance with this paragraph will be treated as es-
17 tablished by the end of the employer’s taxable year
18 for purposes of applying section 404(a).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to years beginning after Decem-
21 ber 31, 2013.

1 **TITLE II—ENCOURAGING SMALL**
 2 **BUSINESSES TO ENTER AND**
 3 **REMAIN IN THE EMPLOYER**
 4 **RETIREMENT PLAN SYSTEM**

5 **SEC. 201. INCREASE IN CREDIT LIMITATION FOR SMALL**
 6 **EMPLOYER PENSION PLAN STARTUP COSTS.**

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

9 “(1) for the first credit year and each of the 2
 10 taxable years immediately following the first credit
 11 year, the greater of—

12 “(A) \$500, or

13 “(B) the lesser of—

14 “(i) \$250 for each employee of the eli-
 15 gible employer who is not a highly com-
 16 pensated employee (as defined in section
 17 415(q)) and who is eligible to participate
 18 in the eligible employer plan maintained by
 19 the eligible employer, or

20 “(ii) \$5,000, and”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section shall apply to taxable years beginning after
 23 December 31, 2013.

1 **SEC. 202. ELIMINATING BARRIERS TO USE OF MULTIPLE**
2 **EMPLOYER PLANS.**

3 By December 31, 2013, the Secretaries of the Treas-
4 ury and Labor shall—

5 (1) prescribe administrative guidance estab-
6 lishing conditions under which an employer partici-
7 pating in a plan described in section 413(c) of the
8 Internal Revenue Code of 1986 shall not have any
9 liability under title I of the Employee Retirement In-
10 come Security Act of 1974 with respect to the acts
11 or omissions of one or more other participating em-
12 ployers, which regulations may require that the por-
13 tion of the plan attributable to such participating
14 employers be spun off to plans maintained by such
15 employers,

16 (2) prescribe administrative guidance estab-
17 lishing conditions under which a plan described in
18 section 413(c) of such Code may be treated as satis-
19 fying the qualification requirements of sections
20 401(a) and 413(c) of such Code despite the violation
21 of such requirements by one or more participating
22 employers, including requiring, if appropriate, that
23 the portion of the plan attributable to such partici-
24 pating employers be spun off to plans maintained by
25 such employers, and

1 (3) prescribe administrative guidance providing
2 simplified means by which plans described in section
3 413(c) of such Code may satisfy the requirements of
4 section 103 of the Employee Retirement Income Se-
5 curity Act of 1974.

6 **TITLE III—PRESERVATION OF**
7 **INCOME**

8 **SEC. 301. STUDY OF APPLICATION OF SPOUSAL CONSENT**
9 **RULES TO DEFINED CONTRIBUTION PLANS.**

10 (a) STUDY.—The Government Accountability Office
11 shall conduct a study of the feasibility and desirability of
12 extending the application of the requirements of section
13 205 of the Employee Retirement Income Security Act of
14 1974 and sections 401(a)(11) and 417 of the Internal
15 Revenue Code of 1986 (relating to spousal consent re-
16 quirements) to defined contribution plans to which such
17 requirements do not apply. Such study shall include con-
18 sideration of any modifications of such requirements that
19 are necessary to apply such requirements to such plans.

20 (b) REPORT.—Not later than 1 year after the date
21 of the enactment of this Act, the Government Account-
22 ability Office shall report the results of the study, together
23 with any recommendations for legislative changes, to the
24 Committees on Finance and Health, Education, Labor,
25 and Pensions of the Senate and the Committees on Ways

1 and Means and Education and the Workforce of the
2 House of Representatives.

3 **SEC. 302. ADMINISTRATION OF JOINT AND SURVIVOR AN-**
4 **NUITY REQUIREMENTS.**

5 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
6 INCOME SECURITY ACT OF 1974.—

7 (1) IN GENERAL.—Section 402(c) of the Em-
8 ployee Retirement Income Security Act of 1974 (29
9 U.S.C. 1102(c)) is amended—

10 (A) in paragraph (2) by striking “or” at
11 the end,

12 (B) in paragraph (3) by striking the period
13 at the end and inserting “; or”, and

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

16 “(4) that a named fiduciary, or a fiduciary des-
17 ignated by a named fiduciary pursuant to a plan
18 procedure described in section 405(e), may appoint
19 an annuity administrator or administrators with re-
20 sponsibility for administration of an individual ac-
21 count plan in accordance with the requirements of
22 section 205 and payment of any annuity required
23 thereunder.”.

1 (2) Section 405 of such Act (29 U.S.C. 1105)
2 is amended by adding at the end the following new
3 subsection:

4 “(e) ANNUITY ADMINISTRATOR.—If an annuity ad-
5 ministrator or administrators have been appointed under
6 section 402(c)(4) and such entity acknowledges in writing
7 that they are the annuity administrator and a fiduciary
8 under the plan with respect to their appointed duties, then
9 neither the named fiduciary nor any appointing fiduciary
10 shall be liable for any act or omission of the annuity ad-
11 ministrator except to the extent that—

12 “(1) the named fiduciary or appointing fidu-
13 ciary violated section 404(a)(1)—

14 “(A) with respect to such allocation or des-
15 ignation, or

16 “(B) in continuing the allocation or des-
17 ignation,

18 “(2) the named fiduciary or appointing fidu-
19 ciary would otherwise be liable in accordance with
20 subsection (a), or

21 “(3) the entity appointed to be the annuity ad-
22 ministrator is neither an insurance company nor ap-
23 proved to be an annuity administrator by the Sec-
24 retary.”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 subsection (a) shall apply as of the date of enactment of
 3 this Act.

4 **SEC. 303. AVAILABILITY OF DISTRIBUTION OPTIONS.**

5 (a) LIFETIME INCOME INVESTMENTS.—By the date
 6 that is one year after the date of enactment of this Act,
 7 the Secretary of the Treasury shall issue final regulations
 8 under which it is clarified that any specified age or service
 9 condition (or combination of age and service conditions)
 10 with respect to a lifetime income investment (as defined
 11 in section 401(a)(38)(B)(ii)) under a defined contribution
 12 plan shall be disregarded in determining whether such life-
 13 time income investment is currently available to an em-
 14 ployee for purposes of Treasury Regulation section
 15 1.401(a)(4)–4(b) (or any successor provision).

16 (b) ENFORCEMENT.—As of the date of enactment of
 17 this Act, the Secretary of the Treasury shall administer
 18 and enforce the law in accordance with subsection (a) with
 19 respect to plan years beginning before, on, or after the
 20 date of enactment of this Act.

21 (c) EFFECTIVE DATE.—This section shall take effect
 22 as of the date of enactment of this Act.

23 **SEC. 304. ROLLOVER OF INSURANCE CONTRACTS TO IRAS.**

24 (a) IN GENERAL.—Section 408(a)(3) is amended by
 25 inserting “other than insurance contracts that were rolled

1 over to an IRA from a qualified retirement plan described
 2 in clause (iii), (iv), or (vi) of section 402(c)(8)(B) provided
 3 that such contracts provide only incidental death benefits
 4 taking into account both the IRA and the qualified retire-
 5 ment plan” after “contract”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall apply to years beginning after Decem-
 8 ber 31, 2013.

9 **SEC. 305. PORTABILITY OF LIFETIME INCOME OPTIONS.**

10 (a) IN GENERAL.—Subsection (a) of section 401 is
 11 amended by inserting after paragraph (37) the following
 12 new paragraph:

13 “(38) PORTABILITY OF LIFETIME INCOME.—

14 “(A) IN GENERAL.—A trust forming part
 15 of a defined contribution plan shall not be
 16 treated as failing to constitute a qualified trust
 17 under this section solely by reason of allowing—

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

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

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

1 ment option under the plan except as may oth-
2 erwise be provided by regulations.

3 “(B) DEFINITIONS.—For purposes of this
4 subsection—

5 “(i) the term ‘qualified distribution’
6 means a direct trustee-to-trustee transfer
7 to an eligible retirement plan (as defined
8 in section 402(c)(8)(B)), as described in
9 section 401(a)(31)(A),

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

14 “(I) that are not uniformly avail-
15 able with respect to other investment
16 options under the plan, and

17 “(II) that are to a lifetime in-
18 come feature available through a con-
19 tract or other arrangement offered
20 under the plan or under another eligi-
21 ble retirement plan (as defined in sec-
22 tion 402(c)(8)(B)) through a direct
23 trustee-to-trustee transfer to such
24 other eligible retirement plan under
25 section 401(a)(31)(A),

1 “(iii) the term ‘lifetime income fea-
2 ture’ means—

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

9 “(II) an annuity payable on be-
10 half of the employee under which pay-
11 ments are made in substantially equal
12 periodic payments (not less frequently
13 than annually) over the life of the em-
14 ployee or the joint lives of the em-
15 ployee and the employee’s designated
16 beneficiary, taking into account the
17 rules of clause (iii) of section
18 401(a)(9)(I), and

19 “(iv) the term ‘qualified plan distribu-
20 tion annuity contract’ means an annuity
21 contract purchased for a participant and
22 distributed to the participant by a plan de-
23 scribed in subparagraph (B) of section
24 402(c)(8) (without regard to clauses (i)
25 and (ii) thereof).”.

1 (b) CASH OR DEFERRED ARRANGEMENT.—Clause (i)
 2 of section 401(k)(2)(B) is amended by striking “or” at
 3 the end of subclause (IV), by striking “and” at the end
 4 of subclause (V) and inserting “or”, and by adding at the
 5 end of clause (i) the following:

6 “(VI) with respect to amounts in-
 7 vested in a lifetime income investment
 8 (as defined in section
 9 401(a)(38)(B)(ii)), the date that is 90
 10 days prior to the date that such life-
 11 time income investment may no longer
 12 be held as an investment option under
 13 the plan, provided that any distribu-
 14 tion under this subclause must be in
 15 the form of a qualified distribution (as
 16 defined in section 401(a)(38)(B)(i))
 17 or a qualified plan distribution annu-
 18 ity contract (as defined in section
 19 401(a)(38)(B)(iv)), and”.

20 (c) SECTION 403(b) PLANS.—

21 (1) ANNUITY CONTRACTS.—Paragraph (11) of
 22 section 403(b) is amended by striking “or” at the
 23 end of subparagraph (B), by striking the period at
 24 the end of subparagraph (C), and by inserting “,
 25 or”, and by adding at the end the following:

1 “(D) with respect to amounts invested in a
2 lifetime income investment (as defined in sec-
3 tion 401(a)(38)(B)(ii)), the date that is 90 days
4 prior to the date that such lifetime income in-
5 vestment may no longer be held as an invest-
6 ment option under the plan, provided that any
7 distribution under this subparagraph must be
8 in the form of a qualified distribution (as de-
9 fined in section 401(a)(38)(B)(i)) or a qualified
10 plan distribution annuity contract (as defined in
11 section 401(a)(38)(B)(iv)).”.

12 (2) CUSTODIAL ACCOUNTS.—Clause (ii) of sec-
13 tion 403(b)(7)(A) is amended to read as follows:

14 “(ii) under the custodial account, no
15 such amounts may be paid or made avail-
16 able to any distributee (unless such
17 amount is a distribution to which section
18 72(t)(2)(G) applies) before—

19 “(I) the employee dies,

20 “(II) the employee attains age
21 59½,

22 “(III) the employee has a sever-
23 ance from employment,

1 “(IV) the employee becomes dis-
 2 abled (within the meaning of section
 3 72(m)(7)),

4 “(V) in the case of contributions
 5 made pursuant to a salary reduction
 6 agreement (within the meaning of sec-
 7 tion 3121(a)(5)(D)), the employee en-
 8 counters financial hardship, or

9 “(VI) with respect to amounts in-
 10 vested in a lifetime income investment
 11 (as defined in section
 12 401(a)(38)(B)(ii)), the date that is 90
 13 days prior to the date that such life-
 14 time income investment may no longer
 15 be held as an investment option under
 16 the plan, provided that any distribu-
 17 tion under this subparagraph must be
 18 in the form of a qualified distribution
 19 (as defined in section
 20 401(a)(38)(B)(i)) or a qualified plan
 21 distribution annuity contract (as de-
 22 fined in section 401(a)(38)(B)(iv)).”.

23 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—
 24 Subparagraph (A) of section 457(d)(1) is amended by
 25 striking “or” at the end of clause (ii), by inserting “or”

1 at the end of clause (iii), and by adding after clause (iii)
2 the following:

3 “(iv) with respect to amounts invested
4 in a lifetime income investment (as defined
5 in section 401(a)(38)(B)(ii)), the date that
6 is 90 days prior to the date that such life-
7 time income investment may no longer be
8 held as an investment option under the
9 plan, provided that any distribution under
10 this subparagraph must be in the form of
11 a qualified distribution (as defined in sec-
12 tion 401(a)(38)(B)(i)) or a qualified plan
13 distribution annuity contract (as defined in
14 section 401(a)(38)(B)(iv)),”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 2013.

18 **SEC. 306. LOST PENSION PLAN REGISTRY.**

19 (a) IN GENERAL.—Subtitle C of title IV of the Em-
20 ployee Retirement Income Security Act of 1974 (29
21 U.S.C. 1341 et seq.) is amended by adding at the end
22 the following:

1 **“SEC. 4051. LOST PENSION PLAN REGISTRY.**

2 “No later than December 31, 2014, the corporation
3 shall establish a database to be known as the Lost Pension
4 Plan Registry. The corporation shall—

5 “(1) ensure that the database contains a record
6 of the information described in section 6057(b) of
7 the Internal Revenue Code of 1986 that is trans-
8 mitted by the Secretary of the Treasury to the cor-
9 poration pursuant to section 6057(d) of such Code,
10 and

11 “(2) post such record on the corporation’s
12 website in a manner calculated to inform partici-
13 pants and beneficiaries of the name, location, and
14 contact information for any plan that has changed
15 its identity or status.”.

16 (b) AMENDMENT TO THE INTERNAL REVENUE
17 CODE.—Section 6057(d) of the Internal Revenue Code of
18 1986 is amended by inserting “and to the Pension Benefit
19 Guaranty Corporation” before the period at the end.

1 **TITLE IV—SIMPLIFICATION AND**
2 **CLARIFICATION OF QUALI-**
3 **FIED RETIREMENT PLAN**
4 **RULES**

5 **SEC. 401. EXCEPTION FROM REQUIRED DISTRIBUTIONS**
6 **WHERE AGGREGATE RETIREMENT SAVINGS**
7 **DO NOT EXCEED \$100,000.**

8 (a) IN GENERAL.—Section 401(a)(9) (relating to re-
9 quired distributions) is amended by adding at the end the
10 following new subparagraph:

11 “(I) EXCEPTION FROM REQUIRED MIN-
12 IMUM DISTRIBUTIONS DURING LIFE OF EM-
13 PLOYEE OR BENEFICIARY WHERE ASSETS DO
14 NOT EXCEED \$100,000.—

15 “(i) IN GENERAL.—If, as of a meas-
16 urement date, the aggregate balance to the
17 credit of an employee under all applicable
18 eligible retirement plans does not exceed
19 \$100,000, then the requirements of sub-
20 paragraph (A) shall not apply to the em-
21 ployee during any succeeding calendar
22 year. In addition, if, as of a measurement
23 date, the aggregate balance to the credit of
24 an employee under all applicable eligible
25 retirement plans does not exceed \$100,000,

1 then the requirements of subparagraph (B)
2 shall not apply during any succeeding cal-
3 endar year to the employee's designated
4 beneficiary with respect to the designated
5 beneficiary's interest in the balance to the
6 credit of the deceased employee.

7 “(ii) APPLICABLE ELIGIBLE RETIRE-
8 MENT PLAN.—For purposes of this sub-
9 paragraph, the term ‘applicable eligible re-
10 tirement plan’ means an eligible retirement
11 plan (as defined in section 402(c)(8)(B))
12 and any other plan, contract, or arrange-
13 ment to which the requirements of this
14 paragraph apply.

15 “(iii) SPECIAL RULE FOR BENEFITS
16 PAID AS A LIFE ANNUITY FROM DEFINED
17 BENEFIT PLAN.—In determining the ag-
18 gregate balance under clause (i), there
19 shall not be taken into account the value of
20 any benefits under a defined benefit plan
21 that, on the measurement date, are being
22 paid as a life annuity.

23 “(iv) MEASUREMENT DATE.—

24 “(I) INITIAL MEASUREMENT
25 DATES.—The initial measurement

1 date for an individual is the last day
2 of the calendar year preceding the
3 earlier of—

4 “(aa) the calendar year in
5 which the employee attains age
6 70½, or

7 “(bb) the calendar year in
8 which the employee dies.

9 “(II) SUBSEQUENT MEASURE-
10 MENT DATES.—If, in a calendar year,
11 an individual who is exempted from
12 the requirements of this paragraph
13 pursuant to clause (i) receives con-
14 tributions, rollovers, or transfers of
15 amounts, or accrues additional bene-
16 fits under a defined benefit plan, that
17 were not previously taken into account
18 in applying this subparagraph, then
19 the last day of that calendar year
20 shall be a new measurement date and
21 a new determination shall be made as
22 to whether clause (i) applies.

23 “(v) DETERMINING VALUE OF DE-
24 FINED BENEFIT PLAN BENEFITS.—The
25 value of defined benefit plan benefits is de-

1 terminated in accordance with the applicable
2 interest rate and applicable mortality rate
3 assumptions under section 417(e), except
4 that the value shall be equal to the amount
5 of the single sum payment payable to the
6 extent available under the plan.

7 “(vi) PHASE-IN OF MINIMUM DIS-
8 TRIBUTION REQUIREMENTS.—For an indi-
9 vidual whose aggregate balance exceeds the
10 exemption level in clause (i) by less than
11 \$10,000, required minimum distribution
12 requirements will phase in based on the
13 ratio of—

14 “(I) the amount by which the ag-
15 gregate balance exceeds the exemption
16 level, to

17 “(II) \$10,000.

18 “(vii) COST OF LIVING ADJUST-
19 MENTS.—The Secretary shall adjust annu-
20 ally the \$100,000 amount specified in
21 clause (i) for increases in the cost-of-living
22 at the same time and in the same manner
23 as adjustments under section 415(d); ex-
24 cept that the base period shall be the cal-
25 endar quarter beginning July 1, 2013, and

1 any increase which is not a multiple of
2 \$5,000 shall be rounded to the next lowest
3 multiple of \$5,000.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to initial measurement dates occur-
6 ring on or after December 31, 2013.

7 **SEC. 402. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**
8 **RESOLUTION SYSTEM.**

9 (a) IN GENERAL.—Not later than one year after the
10 date of the enactment of this Act, the Secretary of the
11 Treasury shall modify the Employee Plans Compliance
12 Resolution System (as described in Revenue Procedure
13 2013–12) to achieve the results specified in the succeeding
14 subsections of this section and to further facilitate correc-
15 tions and compliance in such other means as the Secretary
16 deems appropriate.

17 (b) LOAN ERROR.—

18 (1) In the case of plan loan errors for which
19 corrections are specified under the voluntary compli-
20 ance program, self-correction shall be made available
21 by methods applicable to such loans through the vol-
22 untary compliance program.

23 (2) The Secretary of Labor shall treat any loan
24 error corrected pursuant to paragraph (1) as meet-

1 ing the requirements of the Voluntary Fiduciary
2 Correction Program of the Department of Labor.

3 (c) 457(b) PLAN CORRECTION.—The Secretary of
4 the Treasury shall update the Employee Plans Compliance
5 Resolution System to provide the same type of comprehen-
6 sive correction program that is available under such sys-
7 tem to retirement plans qualified under section 401(a) of
8 the Internal Revenue Code of 1986 to plans maintained
9 pursuant to section 457(b) of such Code by an employer
10 described in section 457(e)(1)(A) of such Code.

11 (d) EPCRS FOR IRAS.—The Secretary of the Treas-
12 ury shall expand the Employee Plans Compliance Resolu-
13 tion System to allow custodians of individual retirement
14 plans to address inadvertent errors for which the owner
15 of an individual retirement plan was not at fault, including
16 (but not limited to)—

17 (1) waivers of the excise tax that would other-
18 wise apply under section 4974 of the Internal Rev-
19 enue Code of 1986,

20 (2) under the self-correction component of the
21 Employee Plans Compliance Resolution System,
22 waivers of the 60-day deadline for a rollover where
23 the deadline is missed for reasons beyond the rea-
24 sonable control of the account owner, and

1 (3) rules permitting a nonspouse beneficiary to
2 return distributions to an inherited individual retire-
3 ment plan described in section 408(d)(3)(C) of the
4 Internal Revenue Code of 1986 in a case where, due
5 to an inadvertent error by a service provider, the
6 beneficiary had reason to believe that the distribu-
7 tion could be rolled over without inclusion in income
8 of any part of the distributed amount.

9 (e) REQUIRED MINIMUM DISTRIBUTION CORREC-
10 TIONS.—The Secretary of the Treasury shall expand the
11 Employee Plans Compliance Resolution System to allow
12 plans to which such system applies and custodians of indi-
13 vidual retirement plans to self-correct, without an excise
14 tax, any inadvertent errors pursuant to which a distribu-
15 tion is made no more than 180 days after it was required
16 to be made.

17 (f) AUTOMATIC FEATURE ERROR CORRECTION.—In
18 order to promote the adoption of automatic enrollment
19 and automatic escalation, the Secretary of the Treasury
20 shall modify the Employee Plans Compliance Resolution
21 System to establish specific correction methods for errors
22 in implementing automatic enrollment and automatic es-
23 calation features.

1 **SEC. 403. USE OF FORFEITURES TO FUND SAFE HARBOR**
 2 **CONTRIBUTIONS.**

3 (a) IN GENERAL.—Section 401(k) (as amended by
 4 this Act) is amended by adding at the end the following
 5 new paragraph:

6 “(17) A matching contribution or nonelective
 7 contribution described in paragraph (3)(D)(ii), sub-
 8 paragraph (B) or (C) of paragraph (12), or para-
 9 graph (13)(D) shall not fail to satisfy the definition
 10 under such paragraph merely because the contribu-
 11 tion is funded in whole or in part by forfeitures.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall apply to forfeitures allocated in ac-
 14 cordance with section 401(k)(14) of the Internal Revenue
 15 Code of 1986 (as amended by subsection (a)) before, on
 16 or after the date of enactment of this Act.

17 **SEC. 404. SUBSTANTIAL CESSATION OF OPERATIONS.**

18 (a) IN GENERAL.—Subsection (e) of section 4062 of
 19 the Employee Retirement Income Security Act of 1974 is
 20 amended by striking “If an employer” and inserting “(1)
 21 IN GENERAL.—If an employer”, and by adding at the end
 22 thereof the following new paragraph:

23 “(2) SUBSTANTIAL CESSATION OF OPER-
 24 ATIONS.—An employer shall not be treated as hav-
 25 ing a cessation described in paragraph (1) unless—

1 “(A) all operations at a facility in a loca-
2 tion are ceased and—

3 “(i) such cessation is reasonably ex-
4 pected to be permanent,

5 “(ii) no portion of such operations is
6 moved to another facility at a different lo-
7 cation,

8 “(iii) no portion of such operations is
9 assumed or otherwise transferred to an-
10 other employer, and

11 “(iv) no other operations are reason-
12 ably expected to be maintained at such fa-
13 cility, and

14 “(B) as a result of the cessation described
15 in subparagraph (A), more than 20 percent of
16 the employees of the employer have a termi-
17 nation of employment that is reasonably ex-
18 pected to be permanent. For purposes of this
19 subparagraph, employees of the employer shall
20 include all employees treated as employed by a
21 single employer under sections 210(c) and
22 (d).”.

23 (b) DIRECTION TO THE CORPORATION.—The Pen-
24 sion Benefit Guaranty Corporation shall not take any en-
25 forcement, administrative, or other actions pursuant to

1 section 4062(e) of such Act that are inconsistent with sub-
 2 paragraph (A) of section 4062(e)(2) of such Act, as
 3 amended, without regard to whether such actions relate
 4 to a cessation or other event that occurs before or after
 5 the date of enactment of this Act.

6 (c) EFFECTIVE DATE.—Subsection (b) and the
 7 amendment made by subsection (a) shall apply as of the
 8 date of enactment of this Act.

9 **SEC. 405. CHURCH PLAN CLARIFICATION.**

10 (a) APPLICATION OF CONTROLLED GROUP RULES TO
 11 CHURCH PLANS.—

12 (1) IN GENERAL.—Section 414(c) is amended—

13 (A) by striking “For purposes” and insert-
 14 ing the following:

15 “(1) IN GENERAL.—For purposes”, and

16 (B) by adding at the end the following new
 17 paragraph:

18 “(2) CHURCH PLANS.—

19 “(A) GENERAL RULE.—Except as provided
 20 in subparagraphs (B) and (C), for purposes of
 21 this subsection and subsection (m), an organi-
 22 zation that is otherwise eligible to participate in
 23 a church plan as defined in subsection (e) shall
 24 not be aggregated with another such organiza-

tion and treated as a single employer with such other organization unless—

“(i) one such organization provides directly or indirectly at least 80 percent of the operating funds for the other organization during the preceding tax year of the recipient organization, and

“(ii) there is a degree of common management or supervision between the organizations.

For purposes of this subparagraph, a degree of common management or supervision exists only if the organization providing the operating funds is directly involved in the day-to-day operations of the other organization.

“(B) NONQUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—Notwithstanding the provisions of subparagraph (A), for purposes of this subsection and subsection (m), an organization that is a nonqualified church-controlled organization shall be aggregated with one or more other nonqualified church-controlled organizations, or with an organization that is not exempt from tax under section 501, and treated as a single employer with such

1 other organizations, if at least 80 percent of the
2 directors or trustees of such organizations are
3 either representatives of, or directly or indi-
4 rectly controlled by, the first organization. For
5 purposes of this subparagraph, a ‘nonqualified
6 church controlled organization’ shall mean a
7 church-controlled organization described in sec-
8 tion 501(c)(3) that is not a qualified church-
9 controlled organization described in section
10 3121(w)(3)(B).

11 “(C) PERMISSIVE AGGREGATION AMONG
12 CHURCH-RELATED ORGANIZATIONS.—Organiza-
13 tions described in subparagraph (A) may elect
14 to be treated as under common control for pur-
15 poses of this subsection. Such election shall be
16 made by the church or convention or association
17 of churches with which such organizations are
18 associated within the meaning of section
19 414(e)(3)(D), or by an organization determined
20 by such church or convention or association of
21 churches to be the appropriate organization for
22 making such election.

23 “(D) PERMISSIVE DISAGGREGATION OF
24 CHURCH-RELATED ORGANIZATIONS.—For pur-
25 poses of subparagraph (A) above, in the case of

1 a church plan (as defined in section 414(e)),
 2 any employer may permissively disaggregate
 3 those entities that are not churches (as defined
 4 in section 403(b)(12)(B)) separately from those
 5 entities that are churches, even if such entities
 6 maintain separate church plans.

7 “(E) ANTI-ABUSE RULE.—For purposes of
 8 subparagraphs (A) and (B), the anti-abuse rule
 9 in Treasury Regulation section 1.414(c)–5(f)
 10 shall apply.”.

11 (2) EFFECTIVE DATE.—The amendments made
 12 by this subsection shall apply to taxable years begin-
 13 ning before, on, or after the date of the enactment
 14 of this Act.

15 (b) APPLICATION OF CONTRIBUTION AND FUNDING
 16 LIMITATIONS TO 403(b) GRANDFATHERED DEFINED
 17 BENEFIT PLANS.—

18 (1) IN GENERAL.—Section 251(e)(5) of the Tax
 19 Equity and Fiscal Responsibility Act of 1982 (Public
 20 Law 97–248), is amended—

21 (A) by striking “403(b)(2)” and inserting
 22 “403(b)”, and

23 (B) by inserting before the period at the
 24 end the following: “, and shall be subject to the
 25 applicable limitations of section 415(b) of such

1 Code as if it were a defined benefit plan under
 2 section 401(a) of such Code and not the limita-
 3 tions of section 415(c) of such Code (relating to
 4 limitation for defined contribution plans).”.

5 (2) EFFECTIVE DATE.—The amendments made
 6 by this subsection shall apply as if included in the
 7 enactment of the Tax Equity and Fiscal Responsi-
 8 bility Act of 1982.

9 (c) AUTOMATIC ENROLLMENT BY CHURCH PLANS.—

10 (1) IN GENERAL.—This subsection shall super-
 11 sede any law of a State that relates to wage, salary,
 12 or payroll payment, collection, deduction, garnish-
 13 ment, assignment or withholding which would di-
 14 rectly or indirectly prohibit or restrict the inclusion
 15 in any church plan (as defined in this subsection) of
 16 an automatic contribution arrangement.

17 (2) DEFINITION OF AUTOMATIC CONTRIBUTION
 18 ARRANGEMENT.—For purposes of this subsection,
 19 the term “automatic contribution arrangement”
 20 means an arrangement—

21 (A) under which a participant may elect to
 22 have the plan sponsor make payments as con-
 23 tributions under the plan on behalf of the par-
 24 ticipant, or to the participant directly in cash,
 25 and

1 (B) under which a participant is treated as
2 having elected to have the plan sponsor make
3 such contributions in an amount equal to a uni-
4 form percentage of compensation provided
5 under the plan until the participant specifically
6 elects not to have such contributions made (or
7 specifically elects to have such contributions
8 made at a different percentage).

9 (3) NOTICE REQUIREMENTS.—

10 (A) The plan administrator of an auto-
11 matic contribution arrangement shall, within a
12 reasonable period before such plan year, provide
13 to each participant to whom the arrangement
14 applies for such plan year notice of the partici-
15 pant's rights and obligations under the arrange-
16 ment which—

17 (i) is sufficiently accurate and com-
18 prehensive to apprise the participant of
19 such rights and obligations, and

20 (ii) is written in a manner calculated
21 to be understood by the average partici-
22 pant to whom the arrangement applies.

23 (B) A notice shall not be treated as meet-
24 ing the requirements of subparagraph (A) with
25 respect to a participant unless—

1 (i) the notice includes an explanation
 2 of the participant's right under the ar-
 3 rangement not to have elective contribu-
 4 tions made on the participant's behalf (or
 5 to elect to have such contributions made at
 6 a different percentage),

7 (ii) the participant has a reasonable
 8 period of time, after receipt of the notice
 9 described in subparagraph (A) and before
 10 the first elective contribution is made, to
 11 make such election, and

12 (iii) the notice explains how contribu-
 13 tions made under the arrangement will be
 14 invested in the absence of any investment
 15 election by the participant.

16 (4) EFFECTIVE DATE.—This subsection shall
 17 take effect on the date of the enactment of this Act.

18 (d) ALLOW CERTAIN PLAN TRANSFERS AND MERG-
 19 ERS.—

20 (1) IN GENERAL.—Section 414 is amended by
 21 adding at the end the following new subsection:

22 “(y) CERTAIN PLAN TRANSFERS AND MERGERS.—

23 “(1) IN GENERAL.—Under rules prescribed by
 24 the Secretary, except as provided in paragraph (2),

1 no amount shall be includible in gross income by
2 reason of—

3 “(A) a transfer of all or a portion of the
4 account balance of a participant or beneficiary,
5 whether or not vested, from a plan described in
6 section 401(a) or an annuity contract described
7 in section 403(b), which is a church plan de-
8 scribed in section 414(e) to an annuity contract
9 described in section 403(b), if such plan and
10 annuity contract are both maintained by the
11 same church or convention or association of
12 churches,

13 “(B) a transfer of all or a portion of the
14 account balance of a participant or beneficiary,
15 whether or not vested, from an annuity contract
16 described in section 403(b) to a plan described
17 in section 401(a) or an annuity contract de-
18 scribed in section 403(b), which is a church
19 plan described in section 414(e), if such plan
20 and annuity contract are both maintained by
21 the same church or convention or association of
22 churches, or

23 “(C) a merger of a plan described in sec-
24 tion 401(a), or an annuity contract described in
25 section 403(b), which is a church plan described

1 in section 414(e) with an annuity contract de-
2 scribed in section 403(b), if such plan and an-
3 nuity contract are both maintained by the same
4 church or convention or association of churches.

5 “(2) LIMITATION.—Paragraph (1) shall not
6 apply to a transfer or merger unless the partici-
7 pant’s or beneficiary’s benefit immediately after the
8 transfer or merger is equal to or greater than the
9 participant’s or beneficiary’s benefit immediately be-
10 fore the transfer or merger.

11 “(3) QUALIFICATION.—A plan or annuity con-
12 tract shall not fail to be considered to be described
13 in sections 401(a) or 403(b) merely because such
14 plan or account engages in a transfer or merger de-
15 scribed in this subsection.

16 “(4) DEFINITIONS.—For purposes of this sub-
17 section:

18 “(A) CHURCH.—The term ‘church’ in-
19 cludes an organization described in subpara-
20 graph (A) or (B)(ii) of subsection (e)(3).

21 “(B) ANNUITY CONTRACT.—The term ‘an-
22 nuity contract’ includes a custodial account de-
23 scribed in section 403(b)(7) and a retirement
24 income account described in section
25 403(b)(9).”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to transfers or merg-
3 ers occurring after the date of the enactment of this
4 Act.

5 (e) INVESTMENTS BY CHURCH PLANS IN COLLEC-
6 TIVE TRUSTS.—

7 (1) IN GENERAL.—In the case of—

8 (A) a church plan (as defined in section
9 414(e) of the Internal Revenue Code 1986), in-
10 cluding a plan described in section 401(a) of
11 such Code and a retirement income account de-
12 scribed in section 403(b)(9) of such Code, and

13 (B) an organization described in section
14 414(e)(3)(A) of such Code the principal pur-
15 pose or function of which is the administration
16 of such a plan or account,

17 the assets of such plan, account, or organization (in-
18 cluding any assets otherwise permitted to be com-
19 mingled for investment purposes with the assets of
20 such a plan, account, or organization) may be in-
21 vested in a group trust otherwise described in Inter-
22 nal Revenue Service Revenue Ruling 81–100 (as
23 modified by Internal Revenue Service Revenue Rul-
24 ings 2004–67 and 2011–1), or any subsequent rev-
25 enue ruling that supersedes or modifies such revenue

1 ruling, without adversely affecting the tax status of
 2 the group trust, such plan, account, or organization,
 3 or any other plan or trust that invests in the group
 4 trust.

5 (2) EFFECTIVE DATE.—This subsection shall
 6 apply to investments made after the date of the en-
 7 actment of this Act.

8 **SEC. 406. PROTECTING OLDER, LONGER SERVICE PARTICI-**
 9 **PANTS.**

10 (a) IN GENERAL.—Paragraph (4) of section 401(a)
 11 of the Internal Revenue Code of 1986 is amended to read
 12 as follows:

13 “(4) NONDISCRIMINATION.—

14 “(A) IN GENERAL.—A trust shall not con-
 15 stitute a qualified trust under this section un-
 16 less the contributions or benefits provided under
 17 the plan do not discriminate in favor of highly
 18 compensated employees (within the meaning of
 19 section 414(q)). For purposes of this para-
 20 graph, there shall be excluded from consider-
 21 ation employees described in section 410(b)(3)
 22 (A) and (C).

23 “(B) PROTECTION OF OLDER, LONGER
 24 SERVICE PARTICIPANTS.—

1 “(i)(I) A defined benefit plan de-
2 scribed in subclause (II) shall not fail to
3 satisfy this paragraph with respect to plan
4 benefits, rights, or features by reason of—

5 “(aa) the composition of the
6 closed class of participants described
7 in subclause (II), or

8 “(bb) the benefits, rights, or fea-
9 tures provided to such closed class.

10 “(II) A plan is described in this sub-
11 clause if—

12 “(aa) the plan provides benefits,
13 rights, or features to a closed class of
14 participants,

15 “(bb) such closed class and such
16 benefits, rights, and features satisfy
17 the requirements of subparagraph (A)
18 (without regard to this clause) as of
19 the date that the class was closed, and

20 “(cc) after the date as of which
21 the class was closed, any plan amend-
22 ments that modify the closed class or
23 the benefits, rights, and features pro-
24 vided to such closed class satisfy sub-

1 paragraph (A) (without regard to this
2 clause).

3 If a plan amendment causes a plan to
4 cease to be described in this subclause (II)
5 by reason of subclause (II)(cc), the plan is
6 nevertheless described in this subclause
7 (II) if such plan satisfies this subclause
8 (II) (without regard to subclause (II)(cc))
9 as of the effective date of such amend-
10 ment. In such cases, subclauses (II)(bb)
11 and (cc) shall subsequently be applied by
12 reference to the effective date of the plan
13 amendment, rather than by reference to
14 the original date that the class was closed.

15 “(ii)(I) A defined contribution plan
16 described in subclause (II) shall permitted
17 to be tested on a benefits basis.

18 “(II) A defined contribution plan is
19 described in this subclause if—

20 “(aa) the plan provides make-
21 whole contributions to a closed class
22 of participants whose defined benefit
23 plan accruals have been reduced or
24 eliminated,

1 “(bb) such closed class of partici-
2 pants satisfies section 410(b)(2)(A)(i)
3 as of the date that the class of partici-
4 pants was closed, and

5 “(cc) after the date as of which
6 the class was closed, any plan amend-
7 ments that modify the closed class or
8 the allocations, benefits, rights, and
9 features provided to such closed class
10 satisfy subparagraph (A) (without re-
11 gard to this clause).

12 If a plan amendment causes a plan to
13 cease to be described in this subclause (II)
14 by reason of subclause (II)(cc), the plan is
15 nevertheless described in this subclause
16 (II) if such plan satisfies this subclause
17 (II) (without regard to subclause (II)(cc))
18 as of the effective date of such amend-
19 ment. In such cases, subclause (II)(bb)
20 and (cc) shall subsequently be applied by
21 reference to the effective date of the plan
22 amendment, rather than by reference to
23 the original date that the class was closed.

24 “(III) In addition to other testing
25 methodologies otherwise applicable, for

1 purposes of determining compliance with
2 this paragraph and with section 410(b) of
3 the portion of one or more defined con-
4 tribution plans described in subclause (II)
5 that provide make-whole contributions,
6 such portion of such plans may be aggre-
7 gated and tested on a benefits basis with
8 the portion of one or more defined con-
9 tribution plans that—

10 “(aa) provides matching con-
11 tributions (as defined in subsection
12 (m)(4)(A)), or

13 “(bb) consists of an employee
14 stock ownership plan within the mean-
15 ing of section 4975(e)(7) or a tax
16 credit employee stock ownership plan
17 within the meaning of section 409(a).

18 For such purposes, matching contributions
19 shall be treated in the same manner as em-
20 ployer contributions that are made without
21 regard to whether an employee makes an
22 elective contribution or employee contribu-
23 tion, including for purposes of applying the
24 rules of subsection (l).

1 “(C) DEFINITIONS.—For purposes of this
2 paragraph—

3 “(i) MAKE-WHOLE CONTRIBUTIONS.—

4 The term ‘make-whole contributions’
5 means allocations for each employee in the
6 class that are reasonably calculated, in a
7 consistent manner, to replace some or all
8 of the retirement benefits that the em-
9 ployee would have received under the de-
10 fined benefit plan and any other plan or
11 arrangement if the employee had continued
12 to benefit at the same level under such de-
13 fined benefit plan and such other plan or
14 arrangement.

15 “(ii) REFERENCES TO CLOSED CLASS
16 OF PARTICIPANTS.—References to a closed
17 class of participants and similar references
18 to a closed class shall include arrange-
19 ments under which one or more classes of
20 participants are closed.

21 “(D) PROTECTING GRANDFATHERED PAR-
22 TICIPANTS IN DEFINED BENEFIT PLANS.—

23 “(i) One or more defined benefit plans
24 described in clause (ii) shall be permitted

1 to be tested on a benefits basis with one or
2 more defined contribution plans.

3 “(ii) A defined benefit plan is de-
4 scribed in this clause if—

5 “(I) the plan provides benefits to
6 a closed class of participants,

7 “(II) the plan and such benefits
8 satisfy the requirements of subpara-
9 graph (A) (without regard to this sub-
10 paragraph) as of the date the class
11 was closed, and

12 “(III) after the date as of which
13 the class was closed, any plan amend-
14 ments that modify the closed class or
15 the benefits provided to such closed
16 class satisfy subparagraph (A) (with-
17 out regard to this subparagraph).

18 If a plan amendment causes a plan to
19 cease to be described in this clause (ii) by
20 reason of subclause (III), the plan is never-
21 theless described in this clause (ii) if such
22 plan satisfies this clause (ii) (without re-
23 gard to subclause (III)) as of the effective
24 date of such amendment. In such cases,
25 subclauses (II) and (III) shall subsequently

1 be applied by reference to the effective
2 date of the plan amendment, rather than
3 by reference to the original date that the
4 class was closed.

5 “(iii) In addition to other testing
6 methodologies otherwise applicable, for
7 purposes of determining compliance with
8 this paragraph and with section 410(b) of
9 one or more defined benefit plans described
10 in clause (ii), such plans may be aggre-
11 gated and tested on a benefits basis with
12 the portion of one or more defined con-
13 tribution plans that—

14 “(I) provides matching contribu-
15 tions (as defined in subsection
16 (m)(4)(A)), or

17 “(II) consists of an employee
18 stock ownership plan within the mean-
19 ing of section 4975(e)(7) or a tax
20 credit employee stock ownership plan
21 within the meaning of section 409(a).

22 For such purposes, matching contributions
23 shall be treated in the same manner as em-
24 ployer contributions that are made without
25 regard to whether an employee makes an

1 elective contribution or employee contribu-
2 tion, including for purposes of applying the
3 rules of subsection (l).

4 “(E) RULES.—The Secretary may pre-
5 scribe rules designed to prevent abuse of the
6 plan designs otherwise permitted by reason of
7 subparagraphs (B) and (D). Such rules shall be
8 directed towards abuses under which the de-
9 fined benefit plan was established within a spec-
10 ified period prior to the date that—

11 “(i) the class of participants described
12 in subparagraphs (B)(i)(II)(aa),
13 (B)(ii)(II)(aa), and (D)(ii)(I) is closed, or

14 “(ii) the defined benefit plan accruals
15 have been reduced or eliminated, in the
16 case of the make-whole contributions de-
17 scribed in subparagraph (C).

18 “(F) TRANSITION RULES.—Within one
19 year after the date of enactment of the Retire-
20 ment Plan Simplification and Enhancement Act
21 of 2013, the Secretary shall prescribe rules that
22 facilitate the use of the provisions of subpara-
23 graph (B) and (D) without regard to—

24 “(i) whether the closing of the class of
25 participants referred to in such subpara-

1 graphs occurred before or after such date
2 of enactment, or

3 “(ii) plan amendments that were
4 adopted or effective before such date of en-
5 actment and that would not have been nec-
6 essary if subparagraphs (B) and (D) had
7 been in effect.”.

8 (b) PARTICIPATION REQUIREMENTS.—Paragraph
9 (26) of section 401(a) of the Internal Revenue Code of
10 1986 is amended by adding at the end the following new
11 subparagraph:

12 “(I) PROTECTED PARTICIPANTS.—A plan
13 described in this subparagraph shall be deemed
14 to satisfy the requirements of subparagraph
15 (A). A plan is described in this paragraph if—

16 “(i) the plan is amended to—

17 “(I) cease all benefit accruals, or

18 “(II) provide future benefit ac-
19 cruals only to a closed class of partici-
20 pants, and

21 “(ii) the plan satisfies subparagraph
22 (A) (without regard to this subparagraph)
23 as of the effective date of the amendment.

24 The Secretary may prescribe such rules as are
25 necessary or appropriate to fulfill the purposes

1 of this subparagraph, including prevention of
2 abuse of this subparagraph in the case of plans
3 established within a specific period prior to the
4 effective date of the amendment.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act, without regard to whether any plan modifica-
8 tions referenced in such amendments are adopted or effec-
9 tive before, on, or after such date of enactment.

10 **SEC. 407. REVIEW AND REPORT TO THE CONGRESS RELAT-**
11 **ING TO REPORTING AND DISCLOSURE RE-**
12 **QUIREMENTS.**

13 (a) STUDY.—As soon as practicable after the date of
14 the enactment of this Act, the Secretary of Labor, the Sec-
15 retary of the Treasury, and the Pension Benefit Guaranty
16 Corporation shall review the reporting and disclosure re-
17 quirements of—

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

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

1 (b) REPORT.—Not later than 18 months after the
 2 date of the enactment of this Act, the Secretary of Labor,
 3 the Secretary of the Treasury, and the Pension Benefit
 4 Guaranty Corporation, jointly, shall make such rec-
 5 ommendations as may be appropriate to the appropriate
 6 committees of the Congress to consolidate, simplify, stand-
 7 ardize, and improve the applicable reporting and disclo-
 8 sure requirements so as to simplify reporting for plans ref-
 9 erenced to in subsection (a) and ensure that needed under-
 10 standable information is provided to participants and
 11 beneficiaries of such plans.

12 **SEC. 408. CONSOLIDATION OF DEFINED CONTRIBUTION**
 13 **PLAN NOTICES.**

14 (a) IN GENERAL.—

15 (1) Not later than 18 months after the date of
 16 the enactment of this Act, the Secretary of Labor
 17 and the Secretary of the Treasury shall adopt final
 18 regulations providing that a plan may, but is not re-
 19 quired to, consolidate two or more of the notices re-
 20 quired under sections 404(c)(5)(B) and 514(e)(3) of
 21 the Employee Retirement Income Security Act of
 22 1974 (29 U.S.C. 1144(e)(3)), sections
 23 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) of the
 24 Internal Revenue Code of 1986, and section
 25 2550.404a–5 of title 29, Code of Federal Regula-

1 tions (29 C.F.R. 2550.404a–5) into a single notice
2 or, to the extent provided by such regulations, con-
3 solidate such notices with the summary plan descrip-
4 tion or summary of material modifications described
5 in section 104(b) of the Employee Retirement In-
6 come Security Act of 1974 (29 U.S.C. 1024(b)), so
7 long as the combined notice, summary plan descrip-
8 tion or summary of material modifications includes
9 the required content, clearly identifies the issues ad-
10 dressed therein, and is provided at the time and with
11 the frequency required for each such notice.

12 (2) The Secretary of Labor and the Secretary
13 of the Treasury may include in such regulations
14 rules to ensure that, to the extent such notices are
15 consolidated with the summary plan description or
16 summary of material modifications, the presentation,
17 placement, or prominence of the information in such
18 notices shall not have the effect of failing to inform
19 participants and beneficiaries regarding the informa-
20 tion in such notices.

21 (b) PROVISION OF ANNUAL NOTICES WITHOUT RE-
22 GARD TO PLAN YEAR.—

23 (1) Clause (i) of section 404(c)(5)(B) of the
24 Employee Retirement Income Security Act of 1974
25 (29 U.S.C. 1104(c)(5)(B)) is amended—

1 (A) in subclause (I) by striking “within a
2 reasonable period of time before each plan
3 year,” and inserting “within a reasonable pe-
4 riod before the arrangement described in sub-
5 paragraph (A) applies to such participant or
6 beneficiary, and thereafter at least once within
7 any 12-month period (without regard to the
8 plan year) during which such arrangement ap-
9 plies,” and

10 (B) in subclause (II) by striking “and be-
11 fore the beginning of the plan year”.

12 (2) Subparagraph (A) of section 514(e)(3) of
13 the Employee Retirement Income Security Act of
14 1974 (29 U.S.C. 1144(e)(3)(A)) is amended by
15 striking “, within a reasonable period before such
16 plan year, provide to each participant to whom the
17 arrangement applies for such plan year” and insert-
18 ing “, within a reasonable period before the arrange-
19 ment applies to a participant or beneficiary, and
20 thereafter at least once within any 12-month period
21 (without regard to the plan year) during which such
22 arrangement applies, provide”.

23 (3) Clause (i) of section 401(k)(13)(E) of the
24 Internal Revenue Code of 1986 is amended by strik-
25 ing “, within a reasonable period before each plan

1 year, each employee eligible to participate in the ar-
2 rangement for such year receives” and inserting
3 “each employee eligible to participate in the arrange-
4 ment receives, within a reasonable period before the
5 employee becomes eligible, and thereafter within a
6 reasonable period before each plan year during
7 which such arrangement applies,”.

8 (4) Subparagraph (D) of section 401(k)(12) of
9 the Internal Revenue Code of 1986 is amended by
10 striking “, within a reasonable period before any
11 year, given written notice” and inserting “given
12 written notice, within a reasonable period before the
13 employee becomes eligible, and thereafter within a
14 reasonable period before each plan year during
15 which such arrangement applies,”.

16 (5) Subparagraph (A) of section 414(w)(4) of
17 the Internal Revenue Code of 1986 is amended by
18 striking “, within a reasonable period before each
19 plan year, give to each employee to whom an ar-
20 rangement described in paragraph (3) applies for
21 such plan year” and inserting “, within a reasonable
22 period before an arrangement described in para-
23 graph (3) applies to an employee, and thereafter at
24 least once within any 12-month period (without re-

1 gard to the plan year) during which such arrange-
2 ment applies, give to each such employee”.

3 **SEC. 409. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**
4 **CATION FUNDS.**

5 Not later than six months after the date of enactment
6 of this Act, the Secretary of Labor shall modify the regula-
7 tions under section 404 of the Employee Retirement In-
8 come Security Act of 1974 to provide that, in the case
9 of a designated investment alternative that contains a mix
10 of asset classes, a plan administrator may, but is not re-
11 quired to, use a benchmark that is a blend of different
12 broad-based securities market indices if—

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

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

22 (3) each securities market index that is used for
23 an associated asset class would separately satisfy the
24 requirements of such regulations for such asset
25 class.

1 **SEC. 410. PERMIT NONSPOUSAL BENEFICIARIES TO ROLL**
2 **ASSETS TO PLANS.**

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

5 “(12) DISTRIBUTIONS TO QUALIFIED PLAN OF
6 NONSPOUSE BENEFICIARY.—If, with respect to any
7 portion of a distribution from an eligible retirement
8 plan described in paragraph (8)(B)(iii) of a deceased
9 employee, a direct trustee-to-trustee transfer is made
10 to a plan or annuity described in clause (iii), (iv),
11 (v), or (vi) of paragraph (8)(B) of an individual who
12 is a designated beneficiary (as defined by section
13 401(a)(9)(E)) of the employee and who is not the
14 surviving spouse of the employee—

15 “(A) the transfer shall be treated as an eli-
16 gible rollover distribution, and

17 “(B) section 401(a)(9)(B) (other than
18 clause (iv) thereof) shall apply to such plan.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to distributions made after the
21 date of the enactment of this Act.

22 **SEC. 411. ELIMINATE THE “FIRST DAY OF THE MONTH” RE-**
23 **QUIREMENT.**

24 (a) IN GENERAL.—Paragraph (4) of section 457(b)
25 is amended to read as follows:

1 “(4) which provides that compensation will be
 2 deferred only if an agreement providing for such de-
 3 ferral has been entered into before the compensation
 4 is currently available to the individual,”.

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

8 **TITLE V—PROVISIONS**

9 **ENSURING EQUITY IN DIVORCE**

10 **SEC. 501. SPECIAL RULES RELATING TO TREATMENT OF**

11 **QUALIFIED DOMESTIC RELATIONS ORDERS.**

12 (a) PRESERVATION OF ASSETS.—

13 (1) AMENDMENT OF 1986 CODE.—Section
 14 414(p) is amended by redesignating paragraph (13)
 15 as paragraph (14) and by inserting after paragraph
 16 (12) the following new paragraph:

17 “(13) PRESERVATION OF ASSETS.—

18 “(A) IN GENERAL.—If a spouse or former
 19 spouse of a participant notifies a plan in writ-
 20 ing that—

21 “(i) an action is pending pursuant to
 22 a State domestic relations law (including a
 23 community property law), and

24 “(ii) all or a portion of the benefits
 25 payable with respect to the participant

1 under the plan are a subject of such ac-
2 tion,
3 and includes with the notice evidence of the
4 pendency of the action, the plan administrator
5 shall, during the segregation period, separately
6 account for 50 percent of such benefits. Any
7 amounts so separately accounted for may not
8 be distributed by the plan during the segrega-
9 tion period.

10 “(B) SEGREGATION PERIOD.—For pur-
11 poses of subparagraph (A), the term ‘segrega-
12 tion period’ means the period—

13 “(i) beginning on the date of the re-
14 ceipt of the notice, and

15 “(ii) ending as of the close of the 90-
16 day period beginning on such date (or, if
17 earlier, the date of receipt of a domestic
18 relations order with respect to the partici-
19 pant and the spouse or former spouse or
20 the date the action is no longer pending).

21 The segregation period shall be extended for 1
22 or more additional periods described in the pre-
23 ceding sentence upon notice by the spouse or
24 former spouse that the action described in sub-

1 paragraph (A) is still pending as of the close of
2 any prior segregation period.”.

3 (2) AMENDMENT OF EMPLOYEE RETIREMENT
4 INCOME SECURITY ACT OF 1974.—Section 206(d)(3)
5 of the Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1056(d)(3)) is amended by redesign-
7 nating subparagraph (N) as subparagraph (O) and
8 by inserting after subparagraph (M) the following
9 new subparagraph:

10 “(N) PRESERVATION OF ASSETS.—

11 “(i) IN GENERAL.—If a spouse or
12 former spouse of a participant notifies a
13 plan in writing that—

14 “(I) an action is pending pursu-
15 ant to a State domestic relations law
16 (including a community property law),
17 and

18 “(II) all or a portion of the bene-
19 fits payable with respect to the partic-
20 ipant under the plan are a subject of
21 such action,

22 and includes with the notice evidence of
23 the pendency of the action, the plan ad-
24 ministrator shall, during the segregation
25 period, separately account for 50 percent

1 of such benefits. Any amounts so sepa-
2 rately accounted for may not be distributed
3 by the plan during the segregation period.

4 “(ii) SEGREGATION PERIOD.—For
5 purposes of clause (i), the term ‘segrega-
6 tion period’ means the period—

7 “(I) beginning on the date of the
8 receipt of the notice, and

9 “(II) ending as of the close of the
10 90-day period beginning on such date
11 (or, if earlier, the date of receipt of a
12 domestic relations order with respect
13 to the participant and the spouse or
14 former spouse or the date the action
15 is no longer pending).

16 The segregation period shall be extended
17 for 1 or more additional periods described
18 in the preceding sentence upon notice by
19 the spouse or former spouse that the ac-
20 tion described in clause (i) is still pending
21 as of the close of any prior segregation pe-
22 riod.”.

23 (b) PENALTY FOR FAILURE TO PROVIDE INFORMA-
24 TION REGARDING ALTERNATE PAYEES.—Section 502(c)
25 of the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1132(c)) is amended by redesignating para-
 2 graphs (8) and (9) as paragraphs (9) and (10), respec-
 3 tively, and by inserting after paragraph (7) the following
 4 new paragraph:

5 “(8) FAILURE TO PROVIDE INFORMATION RE-
 6 GARDING ALTERNATE PAYEES.—The Secretary may
 7 assess a civil penalty against any plan administrator
 8 of up to \$100 a day from the date of the plan ad-
 9 ministrator’s failure or refusal to provide the infor-
 10 mation the plan administrator is required to provide
 11 under regulations under this Act to prospective al-
 12 ternative payees under a domestic relations order
 13 under section 206(d)(3) or to the Secretary or any
 14 representative of a prospective alternative payee in
 15 connection with such an order.”.

16 (c) ALLOCATION OF PLAN EXPENSES IN COMPLYING
 17 WITH DOMESTIC RELATIONS ORDERS.—

18 (1) AMENDMENT OF 1986 CODE.—Section
 19 414(p), as amended by subsection (a), is amended
 20 by redesignating paragraph (14) as paragraph (15)
 21 and by inserting after paragraph (13) the following
 22 new paragraph:

23 “(14) ALLOCATION OF EXPENSES.—Any ex-
 24 penses incurred by a plan with respect to compliance
 25 with the requirements of this subsection shall not be

1 allocated to an individual participant but rather
2 shall be allocated among all participants on the basis
3 of the relative value of each participant's share of
4 the assets of the plan, on the basis of a flat amount
5 per participant, or on any other reasonable basis
6 provided for under the plan.”.

7 (2) AMENDMENT OF EMPLOYEE RETIREMENT
8 INCOME SECURITY ACT OF 1974.—Section 206(d)(3)
9 of the Employee Retirement Income Security Act of
10 1974 (29 U.S.C. 1056(d)(3)), as amended by sub-
11 section (a), is amended by redesignating subpara-
12 graph (O) as subparagraph (P) and by inserting
13 after subparagraph (N) the following new subpara-
14 graph:

15 “(O) ALLOCATION OF EXPENSES.—Any
16 expenses incurred by a plan with respect to
17 compliance with the requirements of this para-
18 graph shall not be allocated to an individual
19 participant but rather shall be allocated among
20 all participants on the basis of the relative value
21 of each participant's share of the assets of the
22 plan, on the basis of a flat amount per partici-
23 pant, or on any other reasonable basis provided
24 for under the plan.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to plan years beginning after De-
 3 cember 31, 2013.

4 **SEC. 502. ELIMINATION OF CURRENT CONNECTION RE-**
 5 **QUIREMENT UNDER RAILROAD RETIREMENT**
 6 **ACT FOR CERTAIN SURVIVORS.**

7 (a) IN GENERAL.—Section 2(d)(1) of the Railroad
 8 Retirement Act of 1974 (45 U.S.C. 231a(d)(1)), in the
 9 matter preceding paragraph (i), is amended by inserting
 10 “, except with respect to survivors described in paragraph
 11 (i), (ii), or (v),” after “December 31, 1995) and”.

12 (b) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendment made by
 14 subsection (a) shall take effect on the date of enact-
 15 ment of this Act.

16 (2) RETROACTIVE APPLICATION TO CERTAIN
 17 SURVIVORS.—If a survivor of a deceased employee
 18 would be entitled to an annuity by reason of the
 19 amendment made by subsection (a) but for the fact
 20 that the employee died before the date of the enact-
 21 ment of this Act, the survivor shall be entitled to
 22 such an annuity but only with respect to annuity
 23 payments for months beginning on or after such
 24 date. Appropriate adjustments shall be made in an-

1 nuity payments of other individuals to reflect any
2 annuity payable by reason of this paragraph.

3 **SEC. 503. PERMITTING DIVORCED SPOUSES AND WIDOWS**
4 **AND WIDOWERS TO REMARRY AFTER TURN-**
5 **ING 60 WITHOUT A PENALTY UNDER RAIL-**
6 **ROAD RETIREMENT ACT.**

7 (a) IN GENERAL.—

8 (1) DIVORCED SPOUSE.—Section 2(c)(4) of the
9 Railroad Retirement Act of 1974 (45 U.S.C.
10 231a(c)(4)) is amended by adding at the end the fol-
11 lowing new sentence: “For purposes of paragraph
12 (ii)(B), if a divorced wife marries after attaining age
13 60, such marriage shall be deemed not to have oc-
14 curred.”.

15 (2) WIDOWS AND WIDOWERS.—Section
16 2(d)(1)(v) of the Railroad Retirement Act of 1974
17 (45 U.S.C. 231a(d)(1)(v)) is amended by adding at
18 the end the following new sentence: “For purposes
19 of this paragraph, if a widow marries after attaining
20 age 60, such marriage shall be deemed not to have
21 occurred.”.

22 (b) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall take effect on the date of enact-
25 ment of this Act.

1 (2) RETROACTIVE APPLICATION.—If a divorced
2 wife, widow, or widower would be entitled to an an-
3 nuity by reason of the amendments made by this
4 section but for the fact the individual was married
5 before the date of the enactment of this Act, the in-
6 dividual shall be entitled to such an annuity but only
7 with respect to annuity payments for months begin-
8 ning on or after such date. Appropriate adjustments
9 shall be made in annuity payments of other individ-
10 uals to reflect any annuity payable by reason of this
11 paragraph.

12 **SEC. 504. REPEAL OF JURISDICTIONAL REQUIREMENT FOR**
13 **COURT TO TREAT MILITARY RETIREMENT**
14 **PAY AS PROPERTY OF THE MILITARY MEM-**
15 **BER AND SPOUSE.**

16 (a) IN GENERAL.—Section 1408(c) of title 10,
17 United States Code, is amended by striking paragraph (4).

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to final decrees issued on or after
20 the date of the enactment of this Act.

1 **SEC. 505. MODIFICATION OF REDUCTIONS IN DISPOSABLE**
2 **RETIRED PAY FOR PAYMENTS IN COMPLI-**
3 **ANCE WITH COURT ORDERS.**

4 (a) IN GENERAL.—Section 1408(d) of title 10,
5 United States Code, is amended by adding at the end the
6 following new paragraph:

7 “(8) Notwithstanding subsection (a)(4) or
8 (e)(1), if the disposable retired pay of a member is
9 reduced under subparagraph (B) of subsection
10 (a)(4) as a result of a waiver required to receive
11 compensation under title 38, or is reduced under
12 subparagraph (C) of subsection (a)(4), the Secretary
13 concerned shall pay (subject to any other limitation
14 under this section) to the spouse or former spouse
15 the lesser of—

16 “(A) the amount payable under the final
17 court order from the disposable retired pay (de-
18 termined without regard to such reductions), or

19 “(B) 100 percent of the disposable retired
20 pay (determined after such reductions).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to payments of disposable retired
23 pay attributable to periods beginning on or after the date
24 of the enactment of this Act with respect to final court
25 orders issued on, before, or after such date.

1 **SEC. 506. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
2 **AND FORMER SPOUSES OF FEDERAL EM-**
3 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
4 **FOR DEFERRED ANNUITY UNDER CIVIL**
5 **SERVICE RETIREMENT SYSTEM.**

6 (a) DEFINITION.—Section 8341(a) of title 5, United
7 States Code, is amended—

8 (1) in paragraph (1), by striking “employee or
9 Member” and inserting “employee, Member, or an-
10 nuitant, or of a former employee or Member,”; and

11 (2) in paragraph (2), by striking “employee or
12 Member” and inserting “employee, Member, or an-
13 nuitant, or of a former employee or Member,”.

14 (b) BENEFITS FOR WIDOW, WIDOWER, OR FORMER
15 SPOUSE.—

16 (1) IN GENERAL.—Section 8341 of title 5,
17 United States Code, is amended by adding at the
18 end the following:

19 “(1) If a former employee heretofore or hereafter sep-
20 arated from the service with title to deferred annuity from
21 the Fund hereafter dies before having established a valid
22 claim for annuity and is survived by a widow or widower
23 to whom married at the date of separation, the widow or
24 widower—

25 “(1) is entitled to an annuity equal to 55 per-
26 cent of the deferred annuity of the former employee

1 commencing on the day after the former employee
2 dies and terminating on the last day of the month
3 before the widow or widower dies or remarries before
4 becoming 55 years of age; or

5 “(2) may elect to receive the lump-sum credit
6 instead of annuity if the widow or widower is the in-
7 dividual who would be entitled to the lump-sum
8 credit and files application therefor with the Office
9 before the award of the annuity.

10 Notwithstanding the preceding sentence, an annuity
11 payable under this subsection to the widow or wid-
12 ower of a former employee may not exceed the dif-
13 ference between—

14 “(A) the annuity which would otherwise be
15 payable to such widow or widower under this
16 subsection, and

17 “(B) the amount of the survivor annuity
18 payable to any former spouse of such former
19 employee under subsection (h) of this section.”.

20 (2) TECHNICAL AND CONFORMING AMEND-
21 MENTS.—Section 8339(j) of title 5, United States
22 Code, is amended—

23 (A) in paragraph (3)(A)(ii), by striking
24 “and (h)” and inserting “(h), and (l)”; and

1 (B) in paragraph (4), by striking “and
2 (h)” and inserting “(h), and (l)”.

3 (c) BENEFITS FOR FORMER SPOUSE.—Section
4 8341(h) of title 5, United States Code, is amended—

5 (1) in paragraph (1), by adding after the first
6 sentence “Subject to paragraphs (2) through (5) of
7 this subsection, a former spouse of a former em-
8 ployee who dies after having separated from the
9 service with title to a deferred annuity under section
10 8338(a) but before having established a valid claim
11 for annuity is entitled to a survivor annuity under
12 this subsection, if and to the extent expressly pro-
13 vided for in an election under section 8339(j)(3) of
14 this title, or in the terms of any decree of divorce
15 or annulment or any court order or court-approved
16 property settlement agreement incident to such de-
17 cree.”; and

18 (2) in paragraph (2)—

19 (A) in subparagraph (A)(ii), by striking
20 “or annuitant,” and inserting “annuitant, or
21 former employee”; and

22 (B) in subparagraph (B)—

23 (i) in clause (ii), by striking “or” at
24 the end;

1 (ii) in clause (iii), by striking the pe-
2 riod and inserting “; or”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(iv) under subparagraph (A) of sub-
6 section (l) of this section in the case of a
7 widow or widower, if the deceased was a
8 former employee described in the first sen-
9 tence of such subsection.”.

10 (d) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—
11 Section 8339(j)(3) of title 5, United States Code, is
12 amended by inserting at the end the following: “The Office
13 shall provide by regulation for the application of this sub-
14 section to the widow, widower, or surviving former spouse
15 of a former employee who dies after having separated from
16 the service with title to a deferred annuity under section
17 8338(a) but before having established a valid claim for
18 annuity.”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act and shall apply only in the case of a former
22 employee who dies on or after such date.

1 **SEC. 507. COURT ORDERS RELATING TO FEDERAL RETIRE-**
2 **MENT BENEFITS FOR FORMER SPOUSES OF**
3 **FEDERAL EMPLOYEES.**

4 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section
5 8345(j) of title 5, United States Code, is amended—

6 (1) by redesignating paragraph (3) as para-
7 graph (4); and

8 (2) by inserting after paragraph (2) the fol-
9 lowing:

10 “(3)(A) A court decree, court order, property
11 settlement, or similar process referred to under
12 paragraph (1)(A) shall be treated as meeting the re-
13 quirements of that paragraph if it requires that pay-
14 ment of benefits be made to the former spouse of
15 the employee, Member, or annuitant—

16 “(i) in the case of any payment before the
17 employee, Member, or annuitant has separated
18 from service, on or after the date on which the
19 employee, Member, or annuitant attains (or
20 would have attained) the earliest retirement
21 age,

22 “(ii) as if the employee, Member, or annu-
23 itant had retired on the date on which such
24 payment is to begin under such order (but tak-
25 ing into account only the present value of the
26 benefits actually accrued and not taking into

1 account the present value of any employer sub-
2 sidy for early retirement), and

3 “(iii) in any form in which such benefits
4 may be paid under this chapter to the em-
5 ployee, Member, or annuitant (other than in the
6 form of a joint and survivor annuity with re-
7 spect to the former spouse and his or her subse-
8 quent spouse).

9 For purposes of clause (ii), the interest rate assump-
10 tion used in determining the present value shall be
11 the interest rate specified under this subchapter or,
12 if no rate is specified, 5 percent.

13 “(B) In this paragraph, the term ‘earliest re-
14 tirement age’ means the earlier of—

15 “(i) the date on which the employee, Mem-
16 ber, or annuitant is entitled to a distribution
17 under this subchapter, or

18 “(ii) the later of—

19 “(I) the date the employee, Member,
20 or annuitant attains age 50, or

21 “(II) the earliest date on which the
22 employee, Member, or annuitant could
23 begin receiving benefits under this chapter
24 if the employee, Member, or annuitant sep-
25 arated from service.”.

1 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

2 Section 8467 of title 5, United States Code, is amended—

3 (1) by redesignating subsection (c) as sub-
4 section (d); and

5 (2) by inserting after subsection (b) the fol-
6 lowing:

7 “(c)(1) A court decree, court order, property settle-
8 ment, or similar process referred to under subsection
9 (a)(1) shall be treated as meeting the requirements of that
10 subsection if it requires that payment of benefits be made
11 to the former spouse of the employee, Member, or annu-
12 itant—

13 “(A) in the case of any payment before the em-
14 ployee, Member, or annuitant has separated from
15 service, on or after the date on which the employee,
16 Member, or annuitant attains (or would have at-
17 tained) the earliest retirement age,

18 “(B) as if the employee, Member, or annuitant
19 had retired on the date on which such payment is
20 to begin under such order (but taking into account
21 only the present value of the benefits actually ac-
22 crued and not taking into account the present value
23 of any employer subsidy for early retirement), and

24 “(C) in any form in which such benefits may be
25 paid under this chapter to the employee, Member, or

1 annuitant (other than in the form of a joint and sur-
 2 vivor annuity with respect to the alternate payee and
 3 his or her subsequent spouse).

4 For purposes of subparagraph (B), the interest rate as-
 5 sumption used in determining the present value shall be
 6 the interest rate specified under this chapter or, if no rate
 7 is specified, 5 percent.

8 “(2) In this subsection, the term ‘earliest retirement
 9 age’ means the earlier of—

10 “(A) the date on which the employee, Member,
 11 or annuitant is entitled to a distribution under this
 12 chapter, or

13 “(B) the later of—

14 “(i) the date the employee, Member, or an-
 15 nuitant attains age 50, or

16 “(ii) the earliest date on which the em-
 17 ployee, Member, or annuitant could begin re-
 18 ceiving benefits under this chapter if the em-
 19 ployee, Member, or annuitant separated from
 20 service.”.

21 (c) EFFECTIVE DATE AND APPLICATION.—The
 22 amendments made by this section shall take effect on the
 23 date of the enactment of this Act and apply to any court
 24 decree, court order, property settlement, or similar process
 25 issued or approved before, on, or after that date.

1 **TITLE VI—OFFICE OF PARTICI-**
2 **PANT AND PLAN SPONSOR**
3 **ADVOCATE**

4 **SEC. 601. OFFICE OF PARTICIPANT AND PLAN SPONSOR AD-**
5 **VOCATE.**

6 (a) IN GENERAL.—Section 7803 is amended by add-
7 ing at the end the following:

8 “(e) PARTICIPANT AND PLAN SPONSOR ADVO-
9 CATE.—

10 “(1) IN GENERAL.—There is established in the
11 Internal Revenue Service an office to be known as
12 the ‘Office of the Participant and Plan Sponsor Ad-
13 vocate’.

14 “(2) PARTICIPANT AND PLAN SPONSOR ADVO-
15 CATE.—

16 “(A) IN GENERAL.—The Office of the Par-
17 ticipant and Plan Sponsor Advocate shall be
18 under the supervision and direction of an offi-
19 cial to be known as the ‘Participant and Plan
20 Sponsor Advocate’. The Commissioner shall se-
21 lect the Participant and Plan Sponsor Advocate
22 without regard to the provisions of title 5,
23 United States Code, relating to appointments in
24 the competitive service or Senior Executive
25 Service.

1 “(B) DUTIES.—The Participant and Plan
2 Sponsor Advocate shall—

3 “(i) act as a liaison between the Inter-
4 nal Revenue Service, sponsors of sponsors
5 of qualified retirement plans (as defined in
6 section 4974(c)), and participants in such
7 plans;

8 “(ii) advocate for the full attainment
9 of the rights of such plan sponsors and
10 participants;

11 “(iii) assist pension plan sponsors and
12 participants in resolving disputes with the
13 Internal Revenue Service;

14 “(iv) identify areas in which partici-
15 pants and plan sponsors have persistent
16 problems in dealings with the Internal Rev-
17 enue Service;

18 “(v) to the extent possible, propose
19 changes in the administrative practices of
20 the Internal Revenue Service to mitigate
21 problems;

22 “(vi) identify potential legislative
23 changes which may be appropriate to miti-
24 gate problems; and

1 “(vii) refer instances of fraud, waste,
2 and abuse, and violations of law to the Of-
3 fice of the Treasury Inspector General for
4 Tax Administration.

5 “(C) REMOVAL.—If the Participant and
6 Plan Sponsor Advocate is removed from office
7 or is transferred to another position or location
8 within the Internal Revenue Service, the Com-
9 missioner shall communicate in writing the rea-
10 sons for any such removal or transfer to Con-
11 gress not less than 30 days before the removal
12 or transfer. Nothing in this paragraph shall
13 prohibit a personnel action otherwise authorized
14 by law, other than transfer or removal.

15 “(D) COMPENSATION.—The annual rate of
16 basic pay for the Participant and Plan Sponsor
17 Advocate shall be the same rate as the highest
18 rate of basic pay established for the Senior Ex-
19 ecutive Service under section 5382 of title 5,
20 United States Code, or, if the Commissioner so
21 determines, at a rate fixed under section 9503
22 of such title.

23 “(3) ANNUAL REPORT.—

24 “(A) IN GENERAL.—Not later than De-
25 cember 31 of each calendar year, the Partici-

1 pant and Plan Sponsor Advocate shall report to
2 the Health, Education, Labor, and Pensions
3 Committee of the Senate, the Committee on Fi-
4 nance of the Senate, the Committee on Edu-
5 cation and the Workforce of the House of Rep-
6 resentatives, and the Committee on Ways and
7 Means of the House of Representatives on the
8 activities of the Office of the Participant and
9 Plan Sponsor Advocate during the fiscal year
10 ending during such calendar year.

11 “(B) CONTENT.—Each report submitted
12 under subparagraph (A) shall—

13 “(i) summarize the assistance re-
14 quests received from participants and plan
15 sponsors and describe the activities, and
16 evaluate the effectiveness, of the Partici-
17 pant and Plan Sponsor Advocate during
18 the preceding year;

19 “(ii) identify significant problems the
20 Participant and Plan Sponsor Advocate
21 has identified;

22 “(iii) include specific legislative and
23 regulatory changes to address the prob-
24 lems; and

1 “(iv) identify any actions taken to cor-
2 rect problems identified in any previous re-
3 port.

4 “(C) CONCURRENT SUBMISSION.—The
5 Participant and Plan Sponsor Advocate shall
6 submit a copy of each report to the Secretary
7 of the Treasury, the Commissioner of Internal
8 Revenue, and any other appropriate official at
9 the same time such report is submitted to the
10 committees of Congress under subparagraph
11 (A).”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall take effect on January 1, 2014.

○