

115TH CONGRESS
2D SESSION

H. R. 5282

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2018

Mr. KELLY of Pennsylvania (for himself, Mr. KIND, Mr. BISHOP of Michigan, Mr. LARSON of Connecticut, Mr. MEEHAN, Mr. PASCRELL, Mr. HOLDING, Ms. SÁNCHEZ, Mr. RICE of South Carolina, Ms. BLUNT ROCH-ESTER, Mrs. WALORSKI, Mr. POCAN, Mr. SESSIONS, Ms. ADAMS, Mr. GIBBS, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Retirement Enhancement and Savings Act of 2018”.

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

Sec. 1. Short title, etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

- Sec. 101. Multiple employer plans.
- Sec. 102. Pooled employer and multiple employer plan reporting.
- Sec. 103. Removal of 10 percent cap from automatic enrollment safe harbor after 1st plan year.
- Sec. 104. Rules relating to election of safe harbor 401(k) status.
- Sec. 105. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 106. Small employer automatic enrollment credit.
- Sec. 107. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
- Sec. 108. Repeal of maximum age for traditional IRA contributions.
- Sec. 109. Expansion of IRA ownership of S corporation bank stock.
- Sec. 110. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 111. Portability of lifetime income options.
- Sec. 112. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 113. Clarification of retirement income account rules relating to church-controlled organizations.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

- Sec. 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.
- Sec. 202. Combined annual report for group of plans.
- Sec. 203. Disclosure regarding lifetime income.
- Sec. 204. Fiduciary safe harbor for selection of lifetime income provider.
- Sec. 205. Modification of nondiscrimination rules to protect older, longer service participants.
- Sec. 206. Modification of PBGC premiums for CSEC plans.

TITLE III—BENEFITS RELATING TO UNITED STATES TAX COURT

- Sec. 301. Thrift Savings Plan contributions for judges in the Federal Employees Retirement System.
- Sec. 302. Change in vesting period for survivor annuities and waiver of vesting period in the event of assassination.
- Sec. 303. Coordination of retirement and survivor annuity with the Federal Employees Retirement System.
- Sec. 304. Limit on teaching compensation of retired judges.
- Sec. 305. General provisions relating to magistrate judges of the Tax Court.
- Sec. 306. Life insurance for magistrate judges of the Tax Court age 65 or older.
- Sec. 307. Retirement and annuity program.
- Sec. 308. Provisions for recall.

TITLE IV—OTHER BENEFITS

- Sec. 401. Benefits provided to volunteer firefighters and emergency medical responders.

TITLE V—REVENUE PROVISIONS

Sec. 501. Modifications of required distribution rules for pension plans.
 Sec. 502. Increase in penalty for failure to file.
 Sec. 503. Increased penalties for failure to file retirement plan returns.
 Sec. 504. Increase information sharing to administer excise taxes.
 Sec. 505. Pension variable rate premium payment acceleration.

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

4 **SEC. 101. MULTIPLE EMPLOYER PLANS.**

5 (a) QUALIFICATION REQUIREMENTS.—

6 (1) IN GENERAL.—Section 413 of the Internal
 7 Revenue Code of 1986 is amended by adding at the
 8 end the following new subsection:

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

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

15 “(A) is sponsored by employers all of
 16 which have both a common interest other than
 17 having adopted the plan and control of the
 18 plan, or

19 “(B) in the case of a plan not described in
 20 subparagraph (A), has a pooled plan provider,
 21 then the plan shall not be treated as failing to meet
 22 the requirements under this title applicable to a plan
 23 described in section 401(a) or to a plan that consists

1 of individual retirement accounts described in sec-
2 tion 408 (including by reason of subsection (c)
3 thereof), whichever is applicable, merely because one
4 or more employers of employees covered by the plan
5 fail to take such actions as are required of such em-
6 ployers for the plan to meet such requirements.

7 “(2) LIMITATIONS.—

8 “(A) IN GENERAL.—Paragraph (1) shall
9 not apply to any plan unless the terms of the
10 plan provide that in cases of employers failing
11 to take the actions described in paragraph
12 (1)—

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

1 “(ii) the employer described in clause
2 (i) (and not the plan with respect to which
3 the failure occurred or any other partici-
4 pating employer in such plan) shall, except
5 to the extent provided by the Secretary, be
6 liable for any liabilities with respect to
7 such plan attributable to employees of the
8 employer.

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

1 “(3) POOLED PLAN PROVIDER.—For purposes
2 of this subsection—

3 “(A) IN GENERAL.—The term ‘pooled plan
4 provider’ means, with respect to any plan, a
5 person who—

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

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

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

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

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

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

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

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

10 “(4) GUIDANCE.—

11 “(A) IN GENERAL.—The Secretary shall
12 issue such guidance as the Secretary determines
13 appropriate to carry out this subsection, includ-
14 ing guidance—

15 “(i) to identify the administrative du-
16 ties and other actions required to be per-
17 formed by a pooled plan provider under
18 this subsection,

19 “(ii) which describes the procedures to
20 be taken to terminate a plan which fails to
21 meet the requirements to be a plan de-
22 scribed in paragraph (1), including the
23 proper treatment of, and actions needed to
24 be taken by, any participating employer of
25 the plan and the assets and liabilities of

1 the plan with respect to employees of that
2 employer, and

3 “(iii) identifying appropriate cases to
4 which the rules of paragraph (2)(A) will
5 apply to employers failing to take the ac-
6 tions described in paragraph (1).

7 The Secretary shall take into account under
8 clause (iii) whether the failure of an employer
9 or pooled plan provider to provide any disclo-
10 sures or other information, or to take any other
11 action, necessary to administer a plan or to
12 allow a plan to meet requirements applicable to
13 the plan under section 401(a) or 408, whichever
14 is applicable, has continued over a period of
15 time that clearly demonstrates a lack of com-
16 mitment to compliance.

17 “(B) PROSPECTIVE APPLICATION.—Any
18 guidance issued by the Secretary under this
19 paragraph shall not apply to any action or fail-
20 ure occurring before the issuance of such guid-
21 ance.

22 “(5) MODEL PLAN.—The Secretary shall, in
23 consultation with the Secretary of Labor when ap-
24 propriate, publish model plan language which meets
25 the requirements of this subsection and of para-

1 graphs (43) and (44) of section 3 of the Employee
2 Retirement Income Security Act of 1974 and which
3 may be adopted in order for a plan to be treated as
4 a plan described in paragraph (1)(B).”.

5 (2) CONFORMING AMENDMENT.—Paragraph (3)
6 of section 413(b) of such Code is amended by strik-
7 ing “section 401(a)” and inserting “sections 401(a)
8 and 408(c)”.

9 (3) TECHNICAL AMENDMENT.—Subsection (c)
10 of section 408 of such Code is amended by inserting
11 after paragraph (2) the following new paragraph:

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

15 (b) NO COMMON INTEREST REQUIRED FOR POOLED
16 EMPLOYER PLANS.—Section 3(2) of the Employee Retire-
17 ment Income Security Act of 1974 (29 U.S.C. 1002(2))
18 is amended by adding at the end the following:

19 “(C) A pooled employer plan shall be treat-
20 ed as—

21 “(i) a single employee pension benefit
22 plan or single pension plan; and

23 “(ii) a plan to which section 210(a)
24 applies.”.

1 (c) POOLED EMPLOYER PLAN AND PROVIDER DE-
2 FINED.—

3 (1) IN GENERAL.—Section 3 of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1002) is amended by adding at the end the fol-
6 lowing:

7 “(43) POOLED EMPLOYER PLAN.—

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

10 “(i) which is an individual account
11 plan established or maintained for the pur-
12 pose of providing benefits to the employees
13 of 2 or more employers;

14 “(ii) which is a plan described in sec-
15 tion 401(a) of the Internal Revenue Code
16 of 1986 which includes a trust exempt
17 from tax under section 501(a) of such
18 Code or a plan that consists of individual
19 retirement accounts described in section
20 408 of such Code (including by reason of
21 subsection (c) thereof); and

22 “(iii) the terms of which meet the re-
23 quirements of subparagraph (B).

24 Such term shall not include a plan with respect
25 to which all of the participating employers have

1 both a common interest other than having
2 adopted the plan and control of the plan.

3 “(B) REQUIREMENTS FOR PLAN TERMS.—

4 The requirements of this subparagraph are met
5 with respect to any plan if the terms of the
6 plan—

7 “(i) designate a pooled plan provider
8 and provide that the pooled plan provider
9 is a named fiduciary of the plan;

10 “(ii) designate one or more trustees
11 meeting the requirements of section
12 408(a)(2) of the Internal Revenue Code of
13 1986 (other than a participating employer)
14 to be responsible for collecting contribu-
15 tions to, and holding the assets of, the
16 plan and require such trustees to imple-
17 ment written contribution collection proce-
18 dures that are reasonable, diligent, and
19 systematic;

20 “(iii) provide that each participating
21 employer retains fiduciary responsibility
22 for—

23 “(I) the selection and monitoring
24 in accordance with section 404(a) of
25 the person designated as the pooled

1 plan provider and any other person
2 who, in addition to the pooled plan
3 provider, is designated as a named fi-
4 duciary of the plan; and

5 “(II) to the extent not otherwise
6 delegated to another fiduciary by the
7 pooled plan provider and subject to
8 the provisions of section 404(c), the
9 investment and management of that
10 portion of the plan’s assets attrib-
11 utable to the employees of that par-
12 ticipating employer;

13 “(iv) provide that a participating em-
14 ployer, or a participant or beneficiary, is
15 not subject to unreasonable restrictions,
16 fees, or penalties with regard to ceasing
17 participation, receipt of distributions, or
18 otherwise transferring assets of the plan in
19 accordance with section 208 or paragraph
20 (44)(C)(i)(II);

21 “(v) require—

22 “(I) the pooled plan provider to
23 provide to participating employers any
24 disclosures or other information which
25 the Secretary may require, including

1 any disclosures or other information
2 to facilitate the selection or any moni-
3 toring of the pooled plan provider by
4 participating employers; and

5 “(II) each participating employer
6 to take such actions as the Secretary
7 or the pooled plan provider determines
8 are necessary to administer the plan
9 or for the plan to meet any require-
10 ment applicable under this Act or the
11 Internal Revenue Code of 1986 to a
12 plan described in section 401(a) of
13 such Code or to a plan that consists
14 of individual retirement accounts de-
15 scribed in section 408 of such Code
16 (including by reason of subsection (c)
17 thereof), whichever is applicable, in-
18 cluding providing any disclosures or
19 other information which the Secretary
20 may require or which the pooled plan
21 provider otherwise determines is nec-
22 essary to administer the plan or to
23 allow the plan to meet such require-
24 ments; and

1 “(vi) provide that any disclosure or
2 other information required to be provided
3 under clause (v) may be provided in elec-
4 tronic form and will be designed to ensure
5 only reasonable costs are imposed on
6 pooled plan providers and participating
7 employers.

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

10 “(i) a multiemployer plan; or

11 “(ii) a plan established before the
12 date of the enactment of the Retirement
13 Enhancement and Savings Act of 2018,
14 unless the plan administrator elects that
15 the plan will be treated as a pooled em-
16 ployer plan and the plan meets the require-
17 ments of this title applicable to a pooled
18 employer plan established on or after such
19 date.

20 “(44) POOLED PLAN PROVIDER.—

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

23 “(i) is designated by the terms of a
24 pooled employer plan as a named fiduciary,
25 as the plan administrator, and as the per-

1 son responsible for the performance of all
2 administrative duties (including conducting
3 proper testing with respect to the plan and
4 employees of each participating employer)
5 which are reasonably necessary to ensure
6 that—

7 “(I) the plan meets any require-
8 ment applicable under this Act or the
9 Internal Revenue Code of 1986 to a
10 plan described in section 401(a) of
11 such Code or to a plan that consists
12 of individual retirement accounts de-
13 scribed in section 408 of such Code
14 (including by reason of subsection (c)
15 thereof), whichever is applicable; and

16 “(II) each participating employer
17 takes such actions as the Secretary or
18 pooled plan provider determines are
19 necessary for the plan to meet the re-
20 quirements described in subclause (I),
21 including providing the disclosures
22 and information described in para-
23 graph (43)(B)(v)(II);

24 “(ii) registers as a pooled plan pro-
25 vider with the Secretary, and provides to

1 the Secretary such other information as
2 the Secretary may require, before begin-
3 ning operations as a pooled plan provider;

4 “(iii) acknowledges in writing that
5 such person is a named fiduciary, and the
6 plan administrator, with respect to the
7 pooled employer plan; and

8 “(iv) is responsible for ensuring that
9 all persons who handle assets of, or who
10 are fiduciaries of, the pooled employer plan
11 are bonded in accordance with section 412.

12 “(B) AUDITS, EXAMINATIONS AND INVES-
13 TIGATIONS.—The Secretary may perform au-
14 dits, examinations, and investigations of pooled
15 plan providers as may be necessary to enforce
16 and carry out the purposes of this paragraph
17 and paragraph (43).

18 “(C) GUIDANCE.—

19 “(i) IN GENERAL.—The Secretary
20 shall issue such guidance as the Secretary
21 determines appropriate to carry out this
22 paragraph and paragraph (43), including
23 guidance—

24 “(I) to identify the administra-
25 tive duties and other actions required

1 to be performed by a pooled plan pro-
2 vider under either such paragraph;
3 and

4 “(II) which requires in appro-
5 priate cases that if a participating
6 employer fails to take the actions re-
7 quired under subparagraph
8 (A)(i)(II)—

9 “(aa) the assets of the plan
10 attributable to employees of the
11 participating employer are trans-
12 ferred to a plan maintained only
13 by the participating employer (or
14 its successor), to an eligible re-
15 tirement plan as defined in sec-
16 tion 402(c)(8)(B) of the Internal
17 Revenue Code of 1986 for each
18 individual whose account is
19 transferred, or to any other ar-
20 rangement that the Secretary de-
21 termines is appropriate in such
22 guidance; and

23 “(bb) the participating em-
24 ployer described in item (aa)
25 (and not the plan with respect to

1 which the failure occurred or any
2 other participating employer in
3 such plan) shall, except to the ex-
4 tent provided in such guidance,
5 be liable for any liabilities with
6 respect to such plan attributable
7 to employees of the participating
8 employer.

9 The Secretary shall take into account
10 under subclause (II) whether the failure of
11 an employer or pooled plan provider to
12 provide any disclosures or other informa-
13 tion, or to take any other action, necessary
14 to administer a plan or to allow a plan to
15 meet requirements described in subpara-
16 graph (A)(i)(II) has continued over a pe-
17 riod of time that clearly demonstrates a
18 lack of commitment to compliance. The
19 Secretary may waive the requirements of
20 subclause (II)(aa) in appropriate cir-
21 cumstances if the Secretary determines it
22 is in the best interests of the employees of
23 the participating employer described in
24 such clause to retain the assets in the plan

1 with respect to which the employer's fail-
2 ure occurred.

3 “(ii) PROSPECTIVE APPLICATION.—
4 Any guidance issued by the Secretary
5 under this subparagraph shall not apply to
6 any action or failure occurring before the
7 issuance of such guidance.

8 “(D) AGGREGATION RULES.—For purposes
9 of this paragraph—

10 “(i) IN GENERAL.—In determining
11 whether a person meets the requirements
12 of this paragraph to be a pooled plan pro-
13 vider with respect to any plan, all persons
14 who are members of the same controlled
15 group and who perform services for the
16 plan shall be treated as one person.

17 “(ii) MEMBERS OF COMMON GROUP.—
18 Persons shall be treated as members of the
19 same controlled group if such persons are
20 treated as a single employer under sub-
21 section (c) or (d) of section 210.”.

22 (2) BONDING REQUIREMENTS FOR POOLED EM-
23 PLOYER PLANS.—The last sentence of section 412(a)
24 of the Employee Retirement Income Security Act of
25 1974 (29 U.S.C. 1112(a)) is amended by inserting

“or in the case of a pooled employer plan (as defined in section 3(43))” after “section 407(d)(1))”.

(3) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended—

(A) in paragraph (16)(B)—

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

(ii) by striking the period at the end and inserting “, or (iv) in the case of a pooled employer plan, the pooled plan provider.”; and

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

(d) EFFECTIVE DATE.—

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

(2) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as limiting the authority of the Secretary of the Treasury or the Secretary’s delegate (determined without regard to such amendment) to provide for the proper treatment of a failure to meet any requirement applicable under the Internal Revenue

1 Code of 1986 with respect to one employer (and its
2 employees) in a multiple employer plan.

3 **SEC. 102. POOLED EMPLOYER AND MULTIPLE EMPLOYER**
4 **PLAN REPORTING.**

5 (a) ADDITIONAL INFORMATION.—Section 103 of the
6 Employee Retirement Income Security Act of 1974 (29
7 U.S.C. 1023) is amended—

8 (1) in subsection (a)(1)(B), by striking “appli-
9 cable subsections (d), (e), and (f)” and inserting
10 “applicable subsections (d), (e), (f), and (g)”; and

11 (2) by amending subsection (g) to read as fol-
12 lows:

13 “(g) ADDITIONAL INFORMATION WITH RESPECT TO
14 POOLED EMPLOYER AND MULTIPLE EMPLOYER
15 PLANS.—An annual report under this section for a plan
16 year shall include—

17 “(1) with respect to any plan to which section
18 210(a) applies (including a pooled employer plan), a
19 list of participating employers and a good faith esti-
20 mate of the percentage of total contributions made
21 by such participating employers during the plan
22 year; and

23 “(2) with respect to a pooled employer plan, the
24 identifying information for the person designated

1 under the terms of the plan as the pooled plan pro-
 2 vider.”.

3 (b) SIMPLIFIED ANNUAL REPORTS.—Section 104(a)
 4 of the Employee Retirement Income Security Act of 1974
 5 (29 U.S.C. 1024(a)) is amended by striking paragraph
 6 (2)(A) and inserting the following:

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

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

12 “(ii) is a plan described in section 210(a)
 13 that covers fewer than 1,000 participants, but
 14 only if no single participating employer has 100
 15 or more participants covered by the plan.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to annual reports for plan years
 18 beginning after December 31, 2021.

19 **SEC. 103. REMOVAL OF 10 PERCENT CAP FROM AUTOMATIC**
 20 **ENROLLMENT SAFE HARBOR AFTER 1ST**
 21 **PLAN YEAR.**

22 (a) IN GENERAL.—Clause (iii) of section
 23 401(k)(13)(C) of the Internal Revenue Code of 1986 is
 24 amended by striking “, does not exceed 10 percent, and
 25 is at least” and inserting “and is”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Subclause (I) of section 401(k)(13)(C)(iii)
3 of the Internal Revenue Code of 1986 is amended by
4 striking “3 percent” and inserting “at least 3 per-
5 cent, but not greater than 10 percent,”.

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

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

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

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 2018.

18 **SEC. 104. RULES RELATING TO ELECTION OF SAFE HARBOR**

19 **401(k) STATUS.**

20 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE
21 TO MATCHING CONTRIBUTION PLANS.—

22 (1) IN GENERAL.—Subparagraph (A) of section
23 401(k)(12) of the Internal Revenue Code of 1986 is
24 amended by striking “if such arrangement” and all
25 that follows and inserting “if such arrangement—

1 “(i) meets the contribution require-
 2 ments of subparagraph (B) and the notice
 3 requirements of subparagraph (D), or

4 “(ii) meets the contribution require-
 5 ments of subparagraph (C).”.

6 (2) AUTOMATIC CONTRIBUTION ARRANGE-
 7 MENTS.—Subparagraph (B) of section 401(k)(13) of
 8 such Code is amended by striking “means” and all
 9 that follows and inserting “means a cash or deferred
 10 arrangement—

11 “(A) which is described in subparagraph
 12 (D)(i)(I) and meets the applicable requirements
 13 of subparagraphs (C) through (E), or

14 “(B) which is described in subparagraph
 15 (D)(i)(II) and meets the applicable require-
 16 ments of subparagraphs (C) and (D).”.

17 (b) NONELECTIVE CONTRIBUTIONS.—Section
 18 401(k)(12) of the Internal Revenue Code of 1986 is
 19 amended by redesignating subparagraph (F) as subpara-
 20 graph (G), and by inserting after subparagraph (E) the
 21 following new subparagraph:

22 “(F) TIMING OF PLAN AMENDMENT FOR
 23 EMPLOYER MAKING NONELECTIVE CONTRIBU-
 24 TIONS.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), a plan may be amend-
3 ed after the beginning of a plan year to
4 provide that the requirements of subpara-
5 graph (C) shall apply to the arrangement
6 for the plan year, but only if the amend-
7 ment is adopted—

8 “(I) at any time before the 30th
9 day before the close of the plan year,
10 or

11 “(II) at any time before the last
12 day under paragraph (8)(A) for dis-
13 tributing excess contributions for the
14 plan year.

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

22 “(iii) 4-PERCENT CONTRIBUTION RE-
23 QUIREMENT.—Clause (i)(II) shall not
24 apply to an arrangement unless the
25 amount of the contributions described in

1 subparagraph (C) which the employer is
 2 required to make under the arrangement
 3 for the plan year with respect to any em-
 4 ployee is an amount equal to at least 4
 5 percent of the employee’s compensation.”.

6 (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—
 7 Section 401(k)(13) of the Internal Revenue Code of 1986
 8 is amended by adding at the end the following:

9 “(F) TIMING OF PLAN AMENDMENT FOR
 10 EMPLOYER MAKING NONELECTIVE CONTRIBU-
 11 TIONS.—

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

19 “(I) at any time before the 30th
 20 day before the close of the plan year,
 21 or

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

1 “(ii) EXCEPTION WHERE PLAN PRO-
 2 VIDED FOR MATCHING CONTRIBUTIONS.—
 3 Clause (i) shall not apply to any plan year
 4 if the plan provided at any time during the
 5 plan year that the requirements of sub-
 6 paragraph (D)(i)(I) or paragraph (12)(B)
 7 applied to the plan year.

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

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to plan years beginning after De-
 20 cember 31, 2018.

21 **SEC. 105. INCREASE IN CREDIT LIMITATION FOR SMALL**
 22 **EMPLOYER PENSION PLAN STARTUP COSTS.**

23 (a) IN GENERAL.—Paragraph (1) of section 45E(b)
 24 of the Internal Revenue Code of 1986 is amended to read
 25 as follows:

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

4 “(A) \$500, or

5 “(B) the lesser of—

6 “(i) \$250 for each employee of the eli-
7 gible employer who is not a highly com-
8 pensated employee (as defined in section
9 414(q)) and who is eligible to participate
10 in the eligible employer plan maintained by
11 the eligible employer, or

12 “(ii) \$5,000, and”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2018.

16 **SEC. 106. SMALL EMPLOYER AUTOMATIC ENROLLMENT**
17 **CREDIT.**

18 (a) IN GENERAL.—Subpart D of part IV of sub-
19 chapter A of chapter 1 of the Internal Revenue Code of
20 1986 is amended by adding at the end the following new
21 section:

1 **“SEC. 45S. AUTO-ENROLLMENT OPTION FOR RETIREMENT**
2 **SAVINGS OPTIONS PROVIDED BY SMALL EM-**
3 **PLOYERS.**

4 “(a) IN GENERAL.—For purposes of section 38, in
5 the case of an eligible employer, the retirement auto-en-
6 rollment credit determined under this section for any tax-
7 able year is an amount equal to—

8 “(1) \$500 for any taxable year occurring during
9 the credit period, and

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

11 “(b) CREDIT PERIOD.—For purposes of subsection
12 (a)—

13 “(1) IN GENERAL.—The credit period with re-
14 spect to any eligible employer is the 3-taxable-year
15 period beginning with the first taxable year for
16 which the employer includes an eligible automatic
17 contribution arrangement (as defined in section
18 414(w)(3)) in a qualified employer plan (as defined
19 in section 4972(d)) sponsored by the employer.

20 “(2) MAINTENANCE OF ARRANGEMENT.—No
21 taxable year with respect to an employer shall be
22 treated as occurring within the credit period unless
23 the arrangement described in paragraph (1) is in-
24 cluded in the plan for such year.

1 “(c) ELIGIBLE EMPLOYER.—For purposes of this
 2 section, the term ‘eligible employer’ has the meaning given
 3 such term in section 408(p)(2)(C)(i).”.

4 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 5 CREDIT.—Subsection (b) of section 38 of the Internal
 6 Revenue Code of 1986 is amended by striking “plus” at
 7 the end of paragraph (35), by striking the period at the
 8 end of paragraph (36) and inserting “, plus”, and by add-
 9 ing at the end the following new paragraph:

10 “(37) in the case of an eligible employer (as de-
 11 fined in section 45S(c)), the retirement auto-enroll-
 12 ment credit determined under section 45S(a).”.

13 (c) CLERICAL AMENDMENT.—The table of sections
 14 for subpart D of part IV of subchapter A of chapter 1
 15 of the Internal Revenue Code of 1986 is amended by in-
 16 serting after the item relating to section 45R the following
 17 new item:

“Sec. 45S. Auto-enrollment option for retirement savings options provided by
 small employers.”.

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 2018.

1 **SEC. 107. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**
2 **AND STIPEND PAYMENTS TREATED AS COM-**
3 **PENSATION FOR IRA PURPOSES.**

4 (a) IN GENERAL.—Paragraph (1) of section 219(f)
5 of the Internal Revenue Code of 1986 is amended by add-
6 ing at the end the following: “The term ‘compensation’
7 shall include any amount paid to an individual to aid the
8 individual in the pursuit of graduate or postdoctoral
9 study.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2018.

13 **SEC. 108. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**
14 **CONTRIBUTIONS.**

15 (a) IN GENERAL.—Paragraph (1) of section 219(d)
16 of the Internal Revenue Code of 1986 is repealed.

17 (b) CONFORMING AMENDMENT.—Subsection (c) of
18 section 408A of the Internal Revenue Code of 1986 is
19 amended by striking paragraph (4) and by redesignating
20 paragraphs (5), (6), and (7) as paragraphs (4), (5), and
21 (6), respectively.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to contributions made for taxable
24 years beginning after December 31, 2018.

1 **SEC. 109. EXPANSION OF IRA OWNERSHIP OF S CORPORA-**
 2 **TION BANK STOCK.**

3 (a) IN GENERAL.—Section 1361(c)(2)(A)(vi) of the
 4 Internal Revenue Code of 1986 is amended by striking “,
 5 but only to the extent of the stock held by such trust in
 6 such bank or company as of the date of the enactment
 7 of this clause”.

8 (b) SALE OF STOCK IN IRA RELATING TO S COR-
 9 PORATION ELECTION EXEMPT FROM PROHIBITED
 10 TRANSACTION RULES.—Section 4975(d)(16) of the Inter-
 11 nal Revenue Code of 1986 is amended by striking sub-
 12 paragraph (B) and by redesignating subparagraphs (C),
 13 (D), (E), and (F) as subparagraphs (B), (C), (D) and (E),
 14 respectively.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall take effect on January 1, 2018.

17 **SEC. 110. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
 18 **MAKING LOANS THROUGH CREDIT CARDS**
 19 **AND OTHER SIMILAR ARRANGEMENTS.**

20 (a) IN GENERAL.—Paragraph (2) of section 72(p) of
 21 the Internal Revenue Code of 1986 is amended by redesi-
 22 gnating subparagraph (D) as subparagraph (E) and by in-
 23 serting after subparagraph (C) the following new subpara-
 24 graph:

1 “(D) PROHIBITION OF LOANS THROUGH
2 CREDIT CARDS AND OTHER SIMILAR ARRANGE-
3 MENTS.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), subparagraph (A) shall
6 not apply to any loan which is made
7 through the use of any credit card or any
8 other similar arrangement.

9 “(ii) EXCEPTION FOR EXISTING CRED-
10 IT CARD SYSTEMS.—Clause (i) shall not
11 apply to any loan to the extent such loan
12 is provided through an electronic card sys-
13 tem which, as of September 21, 2016, was
14 available for use to provide loans under
15 qualified employer plans.

16 “(iii) DISALLOWED TRANSACTIONS.—
17 If any card through which a loan is pro-
18 vided under the exception of clause (ii) is
19 used for any transaction—

20 “(I) in an amount equal to or
21 less than \$1,000, or

22 “(II) with or on the premises of
23 any establishment described in clause
24 (i), (ii), or (iii) of section

1 408(a)(12)(A) of the Social Security
2 Act,
3 the amount of such transaction shall be
4 treated as having been received by the in-
5 dividual as a distribution in accordance
6 with subparagraph (A) of paragraph (1).

7 “(iv) COST-OF-LIVING ADJUST-
8 MENT.—In the case of any loan made dur-
9 ing a plan year beginning after December
10 31, 2019, the \$1,000 amount under clause
11 (iii)(I) shall be increased by an amount
12 equal to—

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

15 “(II) the cost-of-living adjust-
16 ment determined under section 1(f)(3)
17 for the calendar year in which the
18 plan year begins, determined by sub-
19 stituting ‘calendar year 2018’ for ‘cal-
20 endar year 1992’ in subparagraph (B)
21 thereof. Any increase determined
22 under the preceding sentence shall be
23 rounded to the next lowest multiple of
24 \$50.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to plan years beginning after
3 December 31, 2018.

4 (c) STUDY.—The Comptroller General of the United
5 States shall, not later than the date which is 1 year after
6 the date of the enactment of this Act—

7 (1) study the impact of loans from qualified
8 employer plans (as defined in section 72(p)(4)(A) of
9 the Internal Revenue Code of 1986) provided
10 through credit cards and similar arrangements on
11 the use of retirement savings for purposes other
12 than funding retirement; and

13 (2) report the results of such study to the Com-
14 mittee on Finance of the Senate and the Committee
15 on the Ways and Means of the House of Representa-
16 tives.

17 If the study under paragraph (1) determines that such
18 loans, after implementation of the restrictions imposed by
19 the amendment made by subsection (a), result in greater
20 usage of retirement savings for purposes other than fund-
21 ing retirement than loans made by other means, the report
22 under paragraph (2) shall include recommendations to re-
23 duce such result.

1 **SEC. 111. PORTABILITY OF LIFETIME INCOME OPTIONS.**

2 (a) IN GENERAL.—Subsection (a) of section 401 of
3 the Internal Revenue Code of 1986 is amended by insert-
4 ing after paragraph (37) the following new paragraph:

5 “(38) PORTABILITY OF LIFETIME INCOME.—

6 “(A) IN GENERAL.—Except as may be oth-
7 erwise provided by regulations, a trust forming
8 part of a defined contribution plan shall not be
9 treated as failing to constitute a qualified trust
10 under this section solely by reason of allowing—

11 “(i) qualified distributions of a life-
12 time income investment, or

13 “(ii) distributions of a lifetime income
14 investment in the form of a qualified plan
15 distribution annuity contract,

16 on or after the date that is 90 days prior to the
17 date on which such lifetime income investment
18 is no longer authorized to be held as an invest-
19 ment option under the plan.

20 “(B) DEFINITIONS.—For purposes of this
21 subsection—

22 “(i) the term ‘qualified distribution’
23 means a direct trustee-to-trustee transfer
24 described in paragraph (31)(A) to an eligi-
25 ble retirement plan (as defined in section
26 402(c)(8)(B)),

1 “(ii) the term ‘lifetime income invest-
2 ment’ means an investment option which is
3 designed to provide an employee with elec-
4 tion rights—

5 “(I) which are not uniformly
6 available with respect to other invest-
7 ment options under the plan, and

8 “(II) which are to a lifetime in-
9 come feature available through a con-
10 tract or other arrangement offered
11 under the plan (or under another eli-
12 gible retirement plan (as so defined),
13 if paid by means of a direct trustee-
14 to-trustee transfer described in para-
15 graph (31)(A) to such other eligible
16 retirement plan),

17 “(iii) the term ‘lifetime income fea-
18 ture’ means—

19 “(I) a feature which guarantees a
20 minimum level of income annually (or
21 more frequently) for at least the re-
22 mainder of the life of the employee or
23 the joint lives of the employee and the
24 employee’s designated beneficiary, or

1 “(II) an annuity payable on be-
 2 half of the employee under which pay-
 3 ments are made in substantially equal
 4 periodic payments (not less frequently
 5 than annually) over the life of the em-
 6 ployee or the joint lives of the em-
 7 ployee and the employee’s designated
 8 beneficiary, and

9 “(iv) the term ‘qualified plan distribu-
 10 tion annuity contract’ means an annuity
 11 contract purchased for a participant and
 12 distributed to the participant by a plan or
 13 contract described in subparagraph (B) of
 14 section 402(c)(8) (without regard to
 15 clauses (i) and (ii) thereof).”.

16 (b) CASH OR DEFERRED ARRANGEMENT.—

17 (1) IN GENERAL.—Clause (i) of section
 18 401(k)(2)(B) of the Internal Revenue Code of 1986,
 19 as amended by section 110(a), is amended by strik-
 20 ing “or” at the end of subclause (IV), by striking
 21 “and” at the end of subclause (V) and inserting
 22 “or”, and by adding at the end the following new
 23 subclause:

24 “(VI) except as may be otherwise
 25 provided by regulations, with respect

1 to amounts invested in a lifetime in-
 2 come investment (as defined in sub-
 3 section (a)(38)(B)(ii)), the date that
 4 is 90 days prior to the date that such
 5 lifetime income investment may no
 6 longer be held as an investment option
 7 under the arrangement, and”.

8 (2) DISTRIBUTION REQUIREMENT.—Subpara-
 9 graph (B) of section 401(k)(2) of such Code, as
 10 amended by paragraph (1), is amended by striking
 11 “and” at the end of clause (i), by striking the semi-
 12 colon at the end of clause (ii) and inserting “, and”,
 13 and by adding at the end the following new clause:

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

22 (c) SECTION 403(b) PLANS.—

23 (1) ANNUITY CONTRACTS.—Paragraph (11) of
 24 section 403(b) of the Internal Revenue Code of 1986
 25 is amended by striking “or” at the end of subpara-

graph (B), by striking the period at the end of subparagraph (C) and inserting “, or”, and by inserting after subparagraph (C) the following new subparagraph:

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

“(i) on or after the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the contract, and

“(ii) in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(2) CUSTODIAL ACCOUNTS.—Subparagraph (A) of section 403(b)(7) of such Code is amended by striking “if—” and all that follows and inserting “if the amounts are to be invested in regulated investment company stock to be held in that custodial account, and under the custodial account—

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

5 “(I) the employee dies,

6 “(II) the employee attains age
7 59½,

8 “(III) the employee has a sever-
9 ance from employment,

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

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

18 “(VI) except as may be otherwise
19 provided by regulations, with respect
20 to amounts invested in a lifetime in-
21 come investment (as defined in section
22 401(a)(38)(B)(ii)), the date that is 90
23 days prior to the date that such life-
24 time income investment may no longer

1 be held as an investment option under
 2 the contract, and

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

10 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

11 (1) IN GENERAL.—Subparagraph (A) of section
 12 457(d)(1) of the Internal Revenue Code of 1986 is
 13 amended by striking “or” at the end of clause (ii),
 14 by inserting “or” at the end of clause (iii), and by
 15 adding after clause (iii) the following:

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

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

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

15 (e) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to plan years beginning after De-
 17 cember 31, 2018.

18 **SEC. 112. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
 19 **MINATION OF SECTION 403(b) PLANS.**

20 (a) IN GENERAL.—Section 403(b)(7) of the Internal
 21 Revenue Code of 1986 is amended by adding at the end
 22 the following:

23 “(D) TREATMENT OF CUSTODIAL AC-
 24 COUNT UPON PLAN TERMINATION.—

25 “(i) IN GENERAL.—If—

1 “(I) an employer terminates the
2 plan under which amounts are con-
3 tributed to a custodial account under
4 subparagraph (A), and

5 “(II) the person holding the as-
6 sets of the account has demonstrated
7 to the satisfaction of the Secretary
8 under section 408(a)(2) that the per-
9 son is qualified to be a trustee of an
10 individual retirement plan,

11 then, as of the date of the termination, the
12 custodial account shall be deemed to be an
13 individual retirement plan for purposes of
14 this title.

15 “(ii) TREATMENT AS ROTH IRA.—Any
16 custodial account treated as an individual
17 retirement plan under clause (i) shall be
18 treated as a Roth IRA only if the custodial
19 account was a designated Roth account.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to plan terminations occurring
22 after December 31, 2018.

1 **SEC. 113. CLARIFICATION OF RETIREMENT INCOME AC-**
2 **COUNT RULES RELATING TO CHURCH-CON-**
3 **TROLLED ORGANIZATIONS.**

4 (a) IN GENERAL.—Subparagraph (B) of section
5 403(b)(9) of the Internal Revenue Code of 1986 is amend-
6 ed by inserting “(including an employee described in sec-
7 tion 414(e)(3)(B))” after “employee described in para-
8 graph (1)”.

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

12 **TITLE II—ADMINISTRATIVE**
13 **IMPROVEMENTS**

14 **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR**
15 **MAY BE TREATED AS IN EFFECT AS OF CLOSE**
16 **OF YEAR.**

17 (a) IN GENERAL.—Subsection (b) of section 401 of
18 the Internal Revenue Code of 1986 is amended—

19 (1) by striking “RETROACTIVE CHANGES IN
20 PLAN.—A stock bonus” and inserting “PLAN
21 AMENDMENTS.—

22 “(1) CERTAIN RETROACTIVE CHANGES IN
23 PLAN.—A stock bonus”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(2) ADOPTION OF PLAN.—If an employer
 2 adopts a stock bonus, pension, profit-sharing, or an-
 3 nuity plan after the close of a taxable year but be-
 4 fore the time prescribed by law for filing the return
 5 of the employer for the taxable year (including ex-
 6 tensions thereof), the employer may elect to treat
 7 the plan as having been adopted as of the last day
 8 of the taxable year.”.

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to plans adopted for taxable years
 11 beginning after December 31, 2018.

12 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**
 13 **PLANS.**

14 (a) IN GENERAL.—The Secretary of the Treasury
 15 and the Secretary of Labor shall, in cooperation, modify
 16 the returns required under section 6058 of the Internal
 17 Revenue Code of 1986 and the reports required by section
 18 104 of the Employee Retirement Income Security Act of
 19 1974 (29 U.S.C. 1024) so that all members of a group
 20 of plans described in subsection (c) may file a single aggre-
 21 gated annual return or report satisfying the requirements
 22 of both such sections.

23 (b) ADMINISTRATIVE REQUIREMENTS.—In devel-
 24 oping the consolidated return or report under subsection
 25 (a), the Secretary of the Treasury and the Secretary of

1 Labor may require such return or report to include any
 2 information regarding each plan in the group as such Sec-
 3 retaries determine is necessary or appropriate for the en-
 4 forcement and administration of the Internal Revenue
 5 Code of 1986 and the Employee Retirement Income Secu-
 6 rity Act of 1974.

7 (c) PLANS DESCRIBED.—A group of plans is de-
 8 scribed in this subsection if all plans in the group—

9 (1) are individual account plans or defined con-
 10 tribution plans (as defined in section 3(34) of the
 11 Employee Retirement Income Security Act of 1974
 12 (29 U.S.C. 1002(34)) or in section 414(i) of the In-
 13 ternal Revenue Code of 1986);

14 (2) have—

15 (A) the same trustee (as described in sec-
 16 tion 403(a) of such Act (29 U.S.C. 1103(a)));

17 (B) the same one or more named fidu-
 18 ciaries (as described in section 402(a) of such
 19 Act (29 U.S.C. 1102(a)));

20 (C) the same administrator (as defined in
 21 section 3(16)(A) of such Act (29 U.S.C.
 22 1002(16)(A))) and plan administrator (as de-
 23 fined in section 414(g) of the Internal Revenue
 24 Code of 1986); and

1 (D) plan years beginning on the same
2 date; and

3 (3) provide the same investments or investment
4 options to participants and beneficiaries.

5 A plan not subject to title I of the Employee Retirement
6 Income Security Act of 1974 shall be treated as meeting
7 the requirements of paragraph (2) as part of a group of
8 plans if the same person that performs each of the func-
9 tions described in such paragraph, as applicable, for all
10 other plans in such group performs each of such functions
11 for such plan.

12 (d) CLARIFICATION RELATING TO ELECTRONIC FIL-
13 ING OF RETURNS FOR DEFERRED COMPENSATION
14 PLANS.—

15 (1) IN GENERAL.—Section 6011(e) of the Inter-
16 nal Revenue Code of 1986 is amended by adding at
17 the end the following new paragraph:

18 “(5) APPLICATION OF NUMERICAL LIMITATION
19 TO RETURNS RELATING TO DEFERRED COMPENSA-
20 TION PLANS.—For purposes of applying the numer-
21 ical limitation under paragraph (2)(A) to any return
22 required under section 6058, information regarding
23 each plan for which information is provided on such
24 return shall be treated as a separate return.”.

1 (2) EFFECTIVE DATE.—The amendment made
 2 by paragraph (1) shall apply to returns required to
 3 be filed with respect to plan years beginning after
 4 December 31, 2018.

5 (e) EFFECTIVE DATE.—The modification required by
 6 subsection (a) shall be implemented not later than Janu-
 7 ary 1, 2021, and shall apply to returns and reports for
 8 plan years beginning after December 31, 2020.

9 **SEC. 203. DISCLOSURE REGARDING LIFETIME INCOME.**

10 (a) IN GENERAL.—Subparagraph (B) of section
 11 105(a)(2) of the Employee Retirement Income Security
 12 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

15 and inserting “diversification, and”; and

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

17 “(iii) the lifetime income disclosure

18 described in subparagraph (D)(i).

19 In the case of pension benefit statements de-
 20 scribed in clause (i) of paragraph (1)(A), a life-
 21 time income disclosure under clause (iii) of this
 22 subparagraph shall be required to be included
 23 in only one pension benefit statement during
 24 any one 12-month period.”.

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

5 “(D) LIFETIME INCOME DISCLOSURE.—

6 “(i) IN GENERAL.—

7 “(I) DISCLOSURE.—A lifetime in-
8 come disclosure shall set forth the life-
9 time income stream equivalent of the
10 total benefits accrued with respect to
11 the participant or beneficiary.

12 “(II) LIFETIME INCOME STREAM
13 EQUIVALENT OF THE TOTAL BENE-
14 FITS ACCRUED.—For purposes of this
15 subparagraph, the term ‘lifetime in-
16 come stream equivalent of the total
17 benefits accrued’ means the amount of
18 monthly payments the participant or
19 beneficiary would receive if the total
20 accrued benefits of such participant or
21 beneficiary were used to provide life-
22 time income streams described in sub-
23 clause (III), based on assumptions
24 specified in rules prescribed by the
25 Secretary.

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

15 “(ii) MODEL DISCLOSURE.—Not later
16 than 1 year after the date of the enact-
17 ment of the Retirement Enhancement and
18 Savings Act of 2018, the Secretary shall
19 issue a model lifetime income disclosure,
20 written in a manner so as to be understood
21 by the average plan participant, which—

22 “(I) explains that the lifetime in-
23 come stream equivalent is only pro-
24 vided as an illustration;

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

9 “(III) explains the assumptions
10 upon which the lifetime income stream
11 equivalent was determined; and

12 “(IV) provides such other similar
13 explanations as the Secretary con-
14 siders appropriate.

15 “(iii) ASSUMPTIONS AND RULES.—
16 Not later than 1 year after the date of the
17 enactment of the Retirement Enhancement
18 and Savings Act of 2018, the Secretary
19 shall—

20 “(I) prescribe assumptions which
21 administrators of individual account
22 plans may use in converting total ac-
23 crued benefits into lifetime income
24 stream equivalents for purposes of
25 this subparagraph; and

1 “(II) issue interim final rules
2 under clause (i).

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

18 “(iv) LIMITATION ON LIABILITY.—No
19 plan fiduciary, plan sponsor, or other per-
20 son shall have any liability under this title
21 solely by reason of the provision of lifetime
22 income stream equivalents which are de-
23 rived in accordance with the assumptions
24 and rules described in clause (iii) and
25 which include the explanations contained in

the model lifetime income disclosure described in clause (ii). This clause shall apply without regard to whether the provision of such lifetime income stream equivalent is required by subparagraph (B)(iii).

“(v) EFFECTIVE DATE.—The requirement in subparagraph (B)(iii) shall apply to pension benefit statements furnished more than 12 months after the latest of the issuance by the Secretary of—

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

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

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

SEC. 204. FIDUCIARY SAFE HARBOR FOR SELECTION OF LIFETIME INCOME PROVIDER.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following:

“(e) SAFE HARBOR FOR ANNUITY SELECTION.—

“(1) IN GENERAL.—With respect to the selection of an insurer for a guaranteed retirement income contract, the requirements of subsection

1 (a)(1)(B) will be deemed to be satisfied if a fidu-
2 ciary—

3 “(A) engages in an objective, thorough,
4 and analytical search for the purpose of identi-
5 fying insurers from which to purchase such con-
6 tracts;

7 “(B) with respect to each insurer identified
8 under subparagraph (A)—

9 “(i) considers the financial capability
10 of such insurer to satisfy its obligations
11 under the guaranteed retirement income
12 contract; and

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

20 “(C) on the basis of such consideration,
21 concludes that—

22 “(i) at the time of the selection, the
23 insurer is financially capable of satisfying
24 its obligations under the guaranteed retire-
25 ment income contract; and

1 “(ii) the relative cost of the selected
2 guaranteed retirement income contract as
3 described in subparagraph (B)(ii) is rea-
4 sonable.

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

9 “(A) the fiduciary obtains written rep-
10 resentations from the insurer that—

11 “(i) the insurer is licensed to offer
12 guaranteed retirement income contracts;

13 “(ii) the insurer, at the time of selec-
14 tion and for each of the immediately pre-
15 ceding 7 plan years—

16 “(I) operates under a certificate
17 of authority from the insurance com-
18 missioner of its domiciliary State
19 which has not been revoked or sus-
20 pended;

21 “(II) has filed audited financial
22 statements in accordance with the
23 laws of its domiciliary State under ap-
24 plicable statutory accounting prin-
25 ciples;

1 “(III) maintains (and has main-
2 tained) reserves which satisfies all the
3 statutory requirements of all States
4 where the insurer does business; and

5 “(IV) is not operating under an
6 order of supervision, rehabilitation, or
7 liquidation;

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

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

23 “(B) after receiving such representations
24 and as of the time of selection, the fiduciary
25 has not received any notice described in sub-

1 paragraph (A)(iv) and is in possession of no
2 other information which would cause the fidu-
3 ciary to question the representations provided.

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

12 “(4) TIME OF SELECTION.—

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

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

19 “(ii) if the fiduciary periodically re-
20 views the continuing appropriateness of the
21 conclusion described in paragraph (1)(C)
22 with respect to a selected insurer, taking
23 into account the considerations described
24 in such paragraph, the time that the in-
25 surer and the contract are selected to pro-

1 vide benefits at future dates to participants
2 or beneficiaries under the plan.

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

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

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

1 “(6) DEFINITIONS.—For purposes of this sub-
2 section—

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

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

17 **SEC. 205. MODIFICATION OF NONDISCRIMINATION RULES**
18 **TO PROTECT OLDER, LONGER SERVICE PAR-**
19 **TICIPANTS.**

20 (a) IN GENERAL.—Section 401 of the Internal Rev-
21 enue Code of 1986 is amended—

22 (1) by redesignating subsection (o) as sub-
23 section (p); and

24 (2) by inserting after subsection (n) the fol-
25 lowing new subsection:

1 “(o) SPECIAL RULES FOR APPLYING NON-
2 DISCRIMINATION RULES TO PROTECT OLDER, LONGER
3 SERVICE AND GRANDFATHERED PARTICIPANTS.—

4 “(1) TESTING OF DEFINED BENEFIT PLANS
5 WITH CLOSED CLASSES OF PARTICIPANTS.—

6 “(A) BENEFITS, RIGHTS, OR FEATURES
7 PROVIDED TO CLOSED CLASSES.—A defined
8 benefit plan which provides benefits, rights, or
9 features to a closed class of participants shall
10 not fail to satisfy the requirements of sub-
11 section (a)(4) by reason of the composition of
12 such closed class or the benefits, rights, or fea-
13 tures provided to such closed class, if—

14 “(i) for the plan year as of which the
15 class closes and the 2 succeeding plan
16 years, such benefits, rights, and features
17 satisfy the requirements of subsection
18 (a)(4) (without regard to this subpara-
19 graph but taking into account the rules of
20 subparagraph (I)),

21 “(ii) after the date as of which the
22 class was closed, any plan amendment
23 which modifies the closed class or the ben-
24 efits, rights, and features provided to such
25 closed class does not discriminate signifi-

1 cantly in favor of highly compensated em-
2 ployees, and

3 “(iii) the class was closed before Sep-
4 tember 21, 2016, or the plan is described
5 in subparagraph (C).

6 “(B) AGGREGATE TESTING WITH DEFINED
7 CONTRIBUTION PLANS PERMITTED ON A BENE-
8 FITS BASIS.—

9 “(i) IN GENERAL.—For purposes of
10 determining compliance with subsection
11 (a)(4) and section 410(b), a defined benefit
12 plan described in clause (iii) may be aggre-
13 gated and tested on a benefits basis with
14 1 or more defined contribution plans, in-
15 cluding with the portion of 1 or more de-
16 fined contribution plans which—

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

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

24 “(III) consists of an employee
25 stock ownership plan (within the

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

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

10 “(I) such defined benefit plan
11 must also be aggregated with any por-
12 tion of such defined contribution plan
13 which provides elective deferrals de-
14 scribed in subparagraph (A) or (C) of
15 section 402(g)(3), and

16 “(II) such matching contribu-
17 tions shall be treated in the same
18 manner as nonelective contributions,
19 including for purposes of applying the
20 rules of subsection (l).

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

23 “(I) the plan provides benefits to
24 a closed class of participants,

1 “(II) for the plan year as of
2 which the class closes and the 2 suc-
3 ceeding plan years, the plan satisfies
4 the requirements of section 410(b)
5 and subsection (a)(4) (without regard
6 to this subparagraph but taking into
7 account the rules of subparagraph
8 (I)),

9 “(III) after the date as of which
10 the class was closed, any plan amend-
11 ment which modifies the closed class
12 or the benefits provided to such closed
13 class does not discriminate signifi-
14 cantly in favor of highly compensated
15 employees, and

16 “(IV) the class was closed before
17 September 21, 2016, or the plan is
18 described in subparagraph (C).

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

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

1 “(ii) during the 5-year period pre-
2 ceding the date the class is closed, there
3 has not been a substantial increase in the
4 coverage or value of the benefits, rights, or
5 features described in subparagraph (A) or
6 in the coverage or benefits under the plan
7 described in subparagraph (B)(iii) (which-
8 ever is applicable).

9 “(D) DETERMINATION OF SUBSTANTIAL
10 INCREASE FOR BENEFITS, RIGHTS, AND FEA-
11 TURES.—In applying subparagraph (C)(ii) for
12 purposes of subparagraph (A)(iii), a plan shall
13 be treated as having had a substantial increase
14 in coverage or value of the benefits, rights, or
15 features described in subparagraph (A) during
16 the applicable 5-year period only if, during such
17 period—

18 “(i) the number of participants cov-
19 ered by such benefits, rights, or features
20 on the date such period ends is more than
21 50 percent greater than the number of
22 such participants on the first day of the
23 plan year in which such period began, or

24 “(ii) such benefits, rights, and fea-
25 tures have been modified by 1 or more

1 plan amendments in such a way that, as of
2 the date the class is closed, the value of
3 such benefits, rights, and features to the
4 closed class as a whole is substantially
5 greater than the value as of the first day
6 of such 5-year period, solely as a result of
7 such amendments.

8 “(E) DETERMINATION OF SUBSTANTIAL
9 INCREASE FOR AGGREGATE TESTING ON BENE-
10 FITS BASIS.—In applying subparagraph (C)(ii)
11 for purposes of subparagraph (B)(iii)(IV), a
12 plan shall be treated as having had a substan-
13 tial increase in coverage or benefits during the
14 applicable 5-year period only if, during such pe-
15 riod—

16 “(i) the number of participants bene-
17 fitting under the plan on the date such pe-
18 riod ends is more than 50 percent greater
19 than the number of such participants on
20 the first day of the plan year in which such
21 period began, or

22 “(ii) the average benefit provided to
23 such participants on the date such period
24 ends is more than 50 percent greater than
25 the average benefit provided on the first

1 day of the plan year in which such period
2 began.

3 “(F) CERTAIN EMPLOYEES DIS-
4 REGARDED.—For purposes of subparagraphs
5 (D) and (E), any increase in coverage or value
6 or in coverage or benefits, whichever is applica-
7 ble, which is attributable to such coverage and
8 value or coverage and benefits provided to em-
9 ployees—

10 “(i) who became participants as a re-
11 sult of a merger, acquisition, or similar
12 event which occurred during the 7-year pe-
13 riod preceding the date the class is closed,
14 or

15 “(ii) who became participants by rea-
16 son of a merger of the plan with another
17 plan which had been in effect for at least
18 5 years as of the date of the merger,
19 shall be disregarded, except that clause (ii)
20 shall apply for purposes of subparagraph (D)
21 only if, under the merger, the benefits, rights,
22 or features under 1 plan are conformed to the
23 benefits, rights, or features of the other plan
24 prospectively.

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

3 “(i) the average benefit provided to
4 participants under the plan will be treated
5 as having remained the same between the
6 2 dates described in subparagraph (E)(ii)
7 if the benefit formula applicable to such
8 participants has not changed between such
9 dates, and

10 “(ii) if the benefit formula applicable
11 to 1 or more participants under the plan
12 has changed between such 2 dates, then
13 the average benefit under the plan shall be
14 considered to have increased by more than
15 50 percent only if—

16 “(I) the total amount determined
17 under section 430(b)(1)(A)(i) for all
18 participants benefiting under the plan
19 for the plan year in which the 5-year
20 period described in subparagraph (E)
21 ends, exceeds

22 “(II) the total amount deter-
23 mined under section 430(b)(1)(A)(i)
24 for all such participants for such plan
25 year, by using the benefit formula in

1 effect for each such participant for
2 the first plan year in such 5-year pe-
3 riod,

4 by more than 50 percent. In the case of a
5 CSEC plan (as defined in section 414(y)),
6 the normal cost of the plan (as determined
7 under section 433(j)(1)(B)) shall be used
8 in lieu of the amount determined under
9 section 430(b)(1)(A)(i).

10 “(H) TREATMENT AS SINGLE PLAN.—For
11 purposes of subparagraphs (E) and (G), a plan
12 described in section 413(c) shall be treated as
13 a single plan rather than as separate plans
14 maintained by each participating employer.

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

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

22 “(ii) Two or more plans shall not fail
23 to be eligible to be aggregated and treated
24 as a single plan solely by reason of having
25 different plan years.

1 “(iii) Changes in the employee popu-
2 lation shall be disregarded to the extent at-
3 tributable to individuals who become em-
4 ployees or cease to be employees, after the
5 date the class is closed, by reason of a
6 merger, acquisition, divestiture, or similar
7 event.

8 “(iv) Aggregation and all other testing
9 methodologies otherwise applicable under
10 subsection (a)(4) and section 410(b) may
11 be taken into account.

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

18 “(J) SPUN-OFF PLANS.—For purposes of
19 this paragraph, if a portion of a defined benefit
20 plan described in subparagraph (A) or (B)(iii)
21 is spun off to another employer and the spun-
22 off plan continues to satisfy the requirements
23 of—

24 “(i) subparagraph (A)(i) or
25 (B)(iii)(II), whichever is applicable, if the

1 original plan was still within the 3-year pe-
 2 riod described in such subparagraph at the
 3 time of the spin off, and

4 “(ii) subparagraph (A)(ii) or
 5 (B)(iii)(III), whichever is applicable,
 6 the treatment under subparagraph (A) or (B)
 7 of the spun-off plan shall continue with respect
 8 to such other employer.

9 “(2) TESTING OF DEFINED CONTRIBUTION
 10 PLANS.—

11 “(A) TESTING ON A BENEFITS BASIS.—A
 12 defined contribution plan shall be permitted to
 13 be tested on a benefits basis if—

14 “(i) such defined contribution plan
 15 provides make-whole contributions to a
 16 closed class of participants whose accruals
 17 under a defined benefit plan have been re-
 18 duced or eliminated,

19 “(ii) for the plan year of the defined
 20 contribution plan as of which the class eli-
 21 gible to receive such make-whole contribu-
 22 tions closes and the 2 succeeding plan
 23 years, such closed class of participants sat-
 24 isfies the requirements of section

1 410(b)(2)(A)(i) (determined by applying
2 the rules of paragraph (1)(I)),

3 “(iii) after the date as of which the
4 class was closed, any plan amendment to
5 the defined contribution plan which modi-
6 fies the closed class or the allocations, ben-
7 efits, rights, and features provided to such
8 closed class does not discriminate signifi-
9 cantly in favor of highly compensated em-
10 ployees, and

11 “(iv) the class was closed before Sep-
12 tember 21, 2016, or the defined benefit
13 plan under clause (i) is described in para-
14 graph (1)(C) (as applied for purposes of
15 paragraph (1)(B)(iii)(IV)).

16 “(B) AGGREGATION WITH PLANS INCLUD-
17 ING MATCHING CONTRIBUTIONS.—

18 “(i) IN GENERAL.—With respect to 1
19 or more defined contribution plans de-
20 scribed in subparagraph (A), for purposes
21 of determining compliance with subsection
22 (a)(4) and section 410(b), the portion of
23 such plans which provides make-whole con-
24 tributions or other nonelective contribu-
25 tions may be aggregated and tested on a

benefits basis with the portion of 1 or more other defined contribution plans which—

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

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

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

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

“(C) SPECIAL RULES FOR TESTING DEFINED CONTRIBUTION PLAN FEATURES PROVIDING MATCHING CONTRIBUTIONS TO CERTAIN OLDER, LONGER SERVICE PARTICIPANTS.—In the case of a defined contribution plan which

1 provides benefits, rights, or features to a closed
2 class of participants whose accruals under a de-
3 fined benefit plan have been reduced or elimi-
4 nated, the plan shall not fail to satisfy the re-
5 quirements of subsection (a)(4) solely by reason
6 of the composition of the closed class or the
7 benefits, rights, or features provided to such
8 closed class if the defined contribution plan and
9 defined benefit plan otherwise meet the require-
10 ments of subparagraph (A) but for the fact that
11 the make-whole contributions under the defined
12 contribution plan are made in whole or in part
13 through matching contributions.

14 “(D) SPUN-OFF PLANS.—For purposes of
15 this paragraph, if a portion of a defined con-
16 tribution plan described in subparagraph (A) or
17 (C) is spun off to another employer, the treat-
18 ment under subparagraph (A) or (C) of the
19 spun-off plan shall continue with respect to the
20 other employer if such plan continues to comply
21 with the requirements of clauses (ii) (if the
22 original plan was still within the 3-year period
23 described in such clause at the time of the spin
24 off) and (iii) of subparagraph (A), as deter-

1 mined for purposes of subparagraph (A) or (C),
2 whichever is applicable.

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

5 “(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-
6 cept as otherwise provided in paragraph (2)(C),
7 the term ‘make-whole contributions’ means non-
8 elective allocations for each employee in the
9 class which are reasonably calculated, in a con-
10 sistent manner, to replace some or all of the re-
11 tirement benefits which the employee would
12 have received under the defined benefit plan
13 and any other plan or qualified cash or deferred
14 arrangement under subsection (k)(2) if no
15 change had been made to such defined benefit
16 plan and such other plan or arrangement. For
17 purposes of the preceding sentence, consistency
18 shall not be required with respect to employees
19 who were subject to different benefit formulas
20 under the defined benefit plan.

21 “(B) REFERENCES TO CLOSED CLASS OF
22 PARTICIPANTS.—References to a closed class of
23 participants and similar references to a closed
24 class shall include arrangements under which 1
25 or more classes of participants are closed, ex-

1 cept that 1 or more classes of participants
 2 closed on different dates shall not be aggre-
 3 gated for purposes of determining the date any
 4 such class was closed.

5 “(C) HIGHLY COMPENSATED EMPLOYEE.—
 6 The term ‘highly compensated employee’ has
 7 the meaning given such term in section
 8 414(q).”.

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

13 “(I) PROTECTED PARTICIPANTS.—

14 “(i) IN GENERAL.—A plan shall be
 15 deemed to satisfy the requirements of sub-
 16 paragraph (A) if—

17 “(I) the plan is amended—

18 “(aa) to cease all benefit ac-
 19 cruals, or

20 “(bb) to provide future ben-
 21 efit accruals only to a closed
 22 class of participants,

23 “(II) the plan satisfies subpara-
 24 graph (A) (without regard to this sub-

1 paragraph) as of the effective date of
2 the amendment, and

3 “(III) the amendment was adopt-
4 ed before September 21, 2016, or the
5 plan is described in clause (ii).

6 “(ii) PLANS DESCRIBED.—A plan is
7 described in this clause if the plan would
8 be described in subsection (o)(1)(C), as ap-
9 plied for purposes of subsection
10 (o)(1)(B)(iii)(IV) and by treating the effec-
11 tive date of the amendment as the date the
12 class was closed for purposes of subsection
13 (o)(1)(C).

14 “(iii) SPECIAL RULES.—For purposes
15 of clause (i)(II), in applying section
16 410(b)(6)(C), the amendments described in
17 clause (i) shall not be treated as a signifi-
18 cant change in coverage under section
19 410(b)(6)(C)(i)(II).

20 “(iv) SPUN-OFF PLANS.—For pur-
21 poses of this subparagraph, if a portion of
22 a plan described in clause (i) is spun off to
23 another employer, the treatment under
24 clause (i) of the spun-off plan shall con-
25 tinue with respect to the other employer.”.

1 (c) EFFECTIVE DATE.—

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

8 (2) SPECIAL RULES.—

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

13 (B) CLOSED CLASSES OF PARTICIPANTS.—
14 For purposes of paragraphs (1)(A)(iii),
15 (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)
16 of the Internal Revenue Code of 1986 (as added
17 by this section), a closed class of participants
18 shall be treated as being closed before Sep-
19 tember 21, 2016, if the plan sponsor's intention
20 to create such closed class is reflected in formal
21 written documents and communicated to par-
22 ticipants before such date.

23 (C) CERTAIN POST-ENACTMENT PLAN
24 AMENDMENTS.—A plan shall not be treated as
25 failing to be eligible for the application of sec-

tion 401(o)(1)(A), 401(o)(1)(B)(iii), or
401(a)(26) of such Code (as added by this sec-
tion) to such plan solely because in the case
of—

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

(ii) such section 401(o)(1)(B)(iii) or
section 401(a)(26), the plan was amended
before the date of the enactment of this
Act to cease all benefit accruals, and is
further amended after such date of enact-
ment to provide benefit accruals to a closed
class of participants.

Any such section shall only apply if the plan
otherwise meets the requirements of such sec-
tion and in applying such section, the date the
class of participants is closed shall be the effec-
tive date of the later amendment.

1 **SEC. 206. MODIFICATION OF PBGC PREMIUMS FOR CSEC**
 2 **PLANS.**

3 (a) **FLAT RATE PREMIUM.**—Subparagraph (A) of
 4 section 4006(a)(3) of the Employee Retirement Income
 5 Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amend-
 6 ed—

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

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

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

13 (4) by adding at the end the following new
 14 clause:

15 “(vii) in the case of a CSEC plan (as
 16 defined in section 210(f)(1)), for plan
 17 years beginning after December 31, 2017,
 18 for each individual who is a participant in
 19 such plan during the plan year an amount
 20 equal to the sum of—

21 “(I) the additional premium (if
 22 any) determined under subparagraph
 23 (E), and

24 “(II) \$19.”.

25 (b) **VARIABLE RATE PREMIUM.**—

26 (1) **UNFUNDED VESTED BENEFITS.**—

1 (A) IN GENERAL.—Subparagraph (E) of
2 section 4006(a)(3) of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C.
4 1306(a)(3)) is amended by adding at the end
5 the following new clause:

6 “(v) For purposes of clause (ii), in the
7 case of a CSEC plan (as defined in section
8 210(f)(1)), the term ‘unfunded vested ben-
9 efits’ means, for plan years beginning after
10 December 31, 2017, the excess (if any)
11 of—

12 “(I) the funding liability of the
13 plan as determined under section
14 306(j)(5)(C) for the plan year by only
15 taking into account vested benefits,
16 over

17 “(II) the fair market value of
18 plan assets for the plan year which
19 are held by the plan on the valuation
20 date.”.

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

1 (2) APPLICABLE DOLLAR AMOUNT.—

2 (A) IN GENERAL.—Paragraph (8) of sec-
 3 tion 4006(a) of such Act (29 U.S.C. 1306(a))
 4 is amended by adding at the end the following
 5 new subparagraph:

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

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

13 **TITLE III—BENEFITS RELATING**
 14 **TO UNITED STATES TAX COURT**

15 **SEC. 301. THRIFT SAVINGS PLAN CONTRIBUTIONS FOR**
 16 **JUDGES IN THE FEDERAL EMPLOYEES RE-**
 17 **TIREMENT SYSTEM.**

18 (a) IN GENERAL.—Subsection (j)(3)(B) of section
 19 7447 of the Internal Revenue Code of 1986 is amended
 20 to read as follows:

21 “(B) CONTRIBUTIONS FOR BENEFIT OF
 22 JUDGE.—No contributions under section
 23 8432(c) of title 5, United States Code, shall be
 24 made for the benefit of a judge who has filed

1 an election to receive retired pay under sub-
2 section (e).”.

3 (b) OFFSET.—Paragraph (3) of section 7447(j) of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new subparagraph:

6 “(F) OFFSET.—In the case of a judge who
7 receives a distribution from the Thrift Savings
8 Plan and who later receives retired pay under
9 subsection (d), the retired pay shall be offset by
10 an amount equal to the amount of the distribu-
11 tion which represents the Government’s con-
12 tribution to the individual’s Thrift Savings Ac-
13 count during years of service as a full-time judi-
14 cial officer under the Federal Employees Retire-
15 ment System, without regard to earnings attrib-
16 utable to such amount. Where such an offset
17 would exceed 50 percent of the retired pay to
18 be received in the first year, the offset may be
19 divided equally over the first 2 years in which
20 the individual receives the annuity.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to basic pay earned while serving
23 as a judge of the United States Tax Court on or after
24 the date of the enactment of this Act.

1 **SEC. 302. CHANGE IN VESTING PERIOD FOR SURVIVOR AN-**
2 **NUITIES AND WAIVER OF VESTING PERIOD IN**
3 **THE EVENT OF ASSASSINATION.**

4 (a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINA-
5 TION.—Subsection (h) of section 7448 of the Internal Rev-
6 enue Code of 1986 is amended to read as follows:

7 “(h) ENTITLEMENT TO ANNUITY.—

8 “(1) IN GENERAL.—

9 “(A) ANNUITY TO SURVIVING SPOUSE.—If
10 a judge or magistrate judge of the Tax Court
11 described in paragraph (2) is survived by a sur-
12 viving spouse but not by a dependent child,
13 there shall be paid to such surviving spouse an
14 annuity beginning with the day of the death of
15 the judge or magistrate judge of the Tax Court
16 or following the surviving spouse’s attainment
17 of age 50, whichever is the later, in an amount
18 computed as provided in subsection (m).

19 “(B) ANNUITY TO SURVIVING SPOUSE AND
20 CHILD.—If a judge or magistrate judge of the
21 Tax Court described in paragraph (2) is sur-
22 vived by a surviving spouse and dependent child
23 or children, there shall be paid to such sur-
24 viving spouse an annuity, beginning on the day
25 of the death of the judge or magistrate judge
26 of the Tax Court, in an amount computed as

1 provided in subsection (m), and there shall also
2 be paid to or on behalf of each such child an
3 immediate annuity equal to the lesser of—

4 “(i) 10 percent of the average annual
5 salary of such judge or magistrate judge of
6 the Tax Court (determined in accordance
7 with subsection (m)), or

8 “(ii) 20 percent of such average an-
9 nual salary, divided by the number of such
10 children.

11 “(C) ANNUITY TO SURVIVING DEPENDENT
12 CHILDREN.—If a judge or magistrate judge of
13 the Tax Court described in paragraph (2)
14 leaves no surviving spouse but leaves a sur-
15 viving dependent child or children, there shall
16 be paid to or on behalf of each such child an
17 immediate annuity equal to the lesser of—

18 “(i) 20 percent of the average annual
19 salary of such judge or magistrate judge of
20 the Tax Court (determined in accordance
21 with subsection (m)), or

22 “(ii) 40 percent of such average an-
23 nual salary divided by the number of such
24 children.

1 “(2) COVERED JUDGES.—Paragraph (1) applies
2 to any judge or magistrate judge of the Tax Court
3 electing under subsection (b)—

4 “(A) who dies while a judge or magistrate
5 judge of the Tax Court after having rendered at
6 least 18 months of civilian service computed as
7 prescribed in subsection (n), for the last 18
8 months of which the salary deductions provided
9 for by subsection (c)(1) or the deposits required
10 by subsection (d) have actually been made or
11 the salary deductions required by the civil serv-
12 ice retirement laws have actually been made, or

13 “(B) who dies by assassination after hav-
14 ing rendered less than 18 months of civilian
15 service computed as prescribed in subsection (n)
16 if, for the period of such service, the salary de-
17 ductions provided for by subsection (c)(1) or
18 the deposits required by subsection (d) have ac-
19 tually been made.

20 “(3) TERMINATION OF ANNUITY.—

21 “(A) SURVIVING SPOUSE.—The annuity
22 payable to a surviving spouse under this sub-
23 section shall be terminable upon such surviving
24 spouse’s death or such surviving spouse’s re-
25 marriage before attaining age 55.

1 “(B) SURVIVING CHILD.—Any annuity
2 payable to a child under this subsection shall be
3 terminable upon the earliest of—

4 “(i) the child attainment of age 18,

5 “(ii) the child’s marriage, or

6 “(iii) the child’s death,

7 except that if such child is incapable of self-sup-
8 port by reason of mental or physical disability
9 the child’s annuity shall be terminable only
10 upon death, marriage, or recovery from such
11 disability.

12 “(C) DEPENDENT CHILD AFTER DEATH
13 OF SURVIVING SPOUSE.—In case of the death of
14 a surviving spouse of a judge or magistrate
15 judge of the Tax Court leaving a dependent
16 child or children of the judge or magistrate
17 judge of the Tax Court surviving such spouse,
18 the annuity of such child or children shall be
19 recomputed and paid as provided in paragraph
20 (1)(C).

21 “(D) RECOMPUTATION WITH RESPECT TO
22 OTHER DEPENDENT CHILDREN.—In any case
23 in which the annuity of a dependent child is
24 terminated under this subsection, the annuities
25 of any remaining dependent child or children

1 based upon the service of the same judge or
2 magistrate judge of the Tax Court shall be re-
3 computed and paid as though the child whose
4 annuity was so terminated had not survived
5 such judge.

6 “(E) SPECIAL RULE FOR ASSASSINATED
7 JUDGES.—In the case of a survivor of a judge
8 or magistrate judge of the Tax Court described
9 in paragraph (2)(B), there shall be deducted
10 from the annuities otherwise payable under this
11 section an amount equal to the amount of sal-
12 ary deductions that would have been made if
13 such deductions had been made for 18 months
14 prior to the death of the judge or magistrate
15 judge of the Tax Court.”.

16 (b) DEFINITION OF ASSASSINATION.—Section
17 7448(a) of the Internal Revenue Code of 1986 is amended
18 by adding at the end the following new paragraph:

19 “(10) The terms ‘assassinated’ and ‘assassina-
20 tion’ mean the killing of a judge or magistrate judge
21 of the Tax Court that is motivated by the perform-
22 ance by the judge or magistrate judge of the Tax
23 Court of his or her official duties.”.

1 (c) DETERMINATION OF ASSASSINATION.—Sub-
 2 section (i) of section 7448 of the Internal Revenue Code
 3 of 1986 is amended—

4 (1) by striking “OF DEPENDENCY AND DIS-
 5 ABILITY.—Questions” and inserting “BY CHIEF
 6 JUDGE.—

7 “(1) DEPENDENCY AND DISABILITY.—Ques-
 8 tions”; and

9 (2) by adding at the end the following new
 10 paragraph:

11 “(2) ASSASSINATION.—The chief judge shall
 12 determine whether the killing of a judge or mag-
 13 istrate judge of the Tax Court was an assassination,
 14 subject to review only by the Tax Court. The head
 15 of any Federal agency that investigates the killing of
 16 a judge or magistrate judge of the Tax Court shall
 17 provide to the chief judge any information that
 18 would assist the chief judge in making such a deter-
 19 mination.”.

20 (d) COMPUTATION OF ANNUITIES.—Subsection (m)
 21 of section 7448 of the Internal Revenue Code of 1986 is
 22 amended—

23 (1) by striking “ANNUITIES.—The annuity”
 24 and inserting “ANNUITIES.—

25 “(1) IN GENERAL.—The annuity”;

1 (2) by striking “the sum of (1) 1.5 percent”
2 and inserting “the sum of—

3 “(A) 1.5 percent”;

4 (3) by striking “and (2) three-fourths of 1 per-
5 cent” and inserting “and

6 “(B) three-fourths of 1 percent”;

7 (4) by striking “prior allowable service, except
8 that” and inserting “prior allowable service,
9 “except that”; and

10 (5) by adding at the end the following new
11 paragraph:

12 “(2) ASSASSINATED JUDGES AND MAGISTRATE
13 JUDGES OF THE TAX COURT.—In the case of a
14 judge or magistrate judge of the Tax Court who is
15 assassinated and who has served less than 18
16 months, the annuity of the surviving spouse of such
17 judge or magistrate judge of the Tax Court shall be
18 based upon the average annual salary received by
19 such judge or magistrate judge of the Tax Court for
20 judicial service.”.

21 (e) OTHER BENEFITS.—Section 7448 of the Internal
22 Revenue Code of 1986 is amended by adding at the end
23 the following new subsection:

24 “(u) OTHER BENEFITS IN CASE OF ASSASSINA-
25 TION.—In the case of a judge or magistrate judge of the

1 Tax Court who is assassinated, an annuity shall be paid
 2 under this section notwithstanding a survivor's eligibility
 3 for or receipt of benefits under chapter 81 of title 5,
 4 United States Code, except that the annuity for which a
 5 surviving spouse is eligible under this section shall be re-
 6 duced to the extent that the total benefits paid under this
 7 section and chapter 81 of that title for any year would
 8 exceed the current salary for that year of the office of the
 9 judge or magistrate judge of the Tax Court.”.

10 **SEC. 303. COORDINATION OF RETIREMENT AND SURVIVOR**

11 **ANNUITY WITH THE FEDERAL EMPLOYEES**

12 **RETIREMENT SYSTEM.**

13 (a) RETIREMENT.—Section 7447 of the Internal Rev-
 14 enue Code of 1986 is amended—

15 (1) by striking “section 8331(8)” in subsection
 16 (g)(2)(C) and inserting “sections 8331(8) and
 17 8401(19)”; and

18 (2) by striking “Civil Service Commission” both
 19 places it appears in subsection (i)(2) and inserting
 20 “Office of Personnel Management”.

21 (b) ANNUITIES TO SURVIVING SPOUSES AND DE-
 22 PENDENT CHILDREN.—Section 7448 of the Internal Rev-
 23 enue Code of 1986 is amended—

24 (1) by striking “section 8332” in subsection (d)
 25 and inserting “sections 8332 and 8411”; and

1 (2) by striking “section 8332” in subsection (n)
2 and inserting “sections 8332 and 8411”.

3 **SEC. 304. LIMIT ON TEACHING COMPENSATION OF RE-**
4 **TIRED JUDGES.**

5 (a) IN GENERAL.—Section 7447 of the Internal Rev-
6 enue Code of 1986 is amended by adding at the end the
7 following new subsection:

8 “(k) TEACHING COMPENSATION OF RETIRED
9 JUDGES.—For purposes of the limitation under section
10 501(a) of the Ethics in Government Act of 1978 (5 U.S.C.
11 App.), any compensation for teaching approved under sec-
12 tion 502(a)(5) of such Act shall not be treated as outside
13 earned income when received by a judge of the United
14 States Tax Court who has retired under subsection (b)
15 for teaching performed during any calendar year for which
16 such a judge has met the requirements of subsection (c),
17 as certified by the chief judge.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to any individual serving as a re-
20 tired judge of the United States Tax Court on or after
21 the date of the enactment of this Act.

22 **SEC. 305. GENERAL PROVISIONS RELATING TO MAG-**
23 **ISTRATE JUDGES OF THE TAX COURT.**

24 (a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO
25 MAGISTRATE JUDGE OF THE TAX COURT.—The heading

1 of section 7443A of the Internal Revenue Code of 1986
2 is amended by striking “**SPECIAL TRIAL JUDGES**” and
3 inserting “**MAGISTRATE JUDGES OF THE TAX**
4 **COURT**”.

5 (b) APPOINTMENT, TENURE, AND REMOVAL.—Sub-
6 section (a) of section 7443A of the Internal Revenue Code
7 of 1986 is amended to read as follows:

8 “(a) APPOINTMENT, TENURE, AND REMOVAL.—

9 “(1) APPOINTMENT.—The chief judge may,
10 from time to time, appoint and reappoint magistrate
11 judges of the Tax Court for a term of 8 years. The
12 magistrate judges of the Tax Court shall proceed
13 under such rules as may be promulgated by the Tax
14 Court.

15 “(2) REMOVAL.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), removal of a magistrate
18 judge of the Tax Court during the term for
19 which such magistrate judge is appointed shall
20 be only for incompetency, misconduct, neglect
21 of duty, or physical or mental disability. Re-
22 moval shall not occur unless a majority of all
23 the judges of the Tax Court concur in the order
24 of removal. Before any order of removal shall
25 be entered, a full specification of the charges

1 shall be furnished to the magistrate judge of
2 the Tax Court, and such magistrate judge shall
3 be accorded by the judges of the Tax Court an
4 opportunity to be heard on the charges.

5 “(B) TERMINATION OF OFFICE.—The of-
6 fice of a magistrate judge of the Tax Court
7 shall be terminated if the judges of the Tax
8 Court determine that the services performed by
9 such magistrate judge of the Tax Court are no
10 longer needed.”.

11 (c) SALARY.—Subsection (d) of section 7443A of the
12 Internal Revenue Code of 1986 is amended to read as fol-
13 lows:

14 “(d) SALARY.—Each magistrate judge of the Tax
15 Court shall receive salary—

16 “(1) at a rate equal to 92 percent of the rate
17 for judges of the Tax Court, and

18 “(2) in the same installments as such judges.”.

19 (d) EXEMPTION FROM FEDERAL LEAVE PROVI-
20 SIONS.—Section 7443A of the Internal Revenue Code of
21 1986 is amended by adding at the end the following new
22 subsection:

23 “(f) EXEMPTION FROM FEDERAL LEAVE PROVI-
24 SIONS.—

1 “(1) IN GENERAL.—A magistrate judge of the
2 Tax Court shall be exempt from the provisions of
3 subchapter I of chapter 63 of title 5, United States
4 Code.

5 “(2) TREATMENT OF UNUSED LEAVE.—

6 “(A) AFTER SERVICE AS MAGISTRATE
7 JUDGE OF THE TAX COURT.—If an individual
8 who is exempted under paragraph (1) from the
9 subchapter referred to in such paragraph was
10 previously subject to such subchapter and, with-
11 out a break in service, again becomes subject to
12 such subchapter on completion of the individ-
13 ual’s service as a magistrate judge of the Tax
14 Court, the unused annual leave and sick leave
15 standing to the individual’s credit at the time
16 such individual became a magistrate judge of
17 the Tax Court is deemed to have remained to
18 the individual’s credit.

19 “(B) COMPUTATION OF ANNUITY.—In
20 computing an annuity under section 8339 or
21 8415 of title 5, United States Code, the total
22 service of an individual specified in subpara-
23 graph (A) who retires on an immediate annuity
24 or dies leaving a survivor or survivors entitled
25 to an annuity includes, without regard to the

1 limitations imposed by subsection (f) of section
2 8339 of such title 5, the days of unused sick
3 leave standing to the individual's credit at the
4 time such individual became a magistrate judge
5 of the Tax Court, except that such days will not
6 be counted in determining average pay or annu-
7 ity eligibility.

8 “(C) LUMP SUM PAYMENT.—Any accumu-
9 lated and current accrued annual leave or vaca-
10 tion balances credited to a magistrate judge of
11 the Tax Court as of the date of the enactment
12 of this subsection shall be paid in a lump sum
13 at the time of separation from service pursuant
14 to the provisions and restrictions set forth in
15 section 5551 of such title 5 and related provi-
16 sions referred to in such section.”.

17 (e) CONTEMPT AUTHORITY.—Section 7443A of the
18 Internal Revenue Code of 1986, as amended by this sec-
19 tion, is amended by adding at the end the following new
20 subsection:

21 “(g) INCIDENTAL POWERS.—A magistrate judge of
22 the Tax Court appointed under this section shall have the
23 power to punish for contempt of the authority of the Tax
24 Court as provided in section 7456(c), except the sentence
25 imposed by such a magistrate judge of the Tax Court for

1 any contempt shall not exceed the penalties for a Class
2 C misdemeanor as set forth in sections 3571(b)(6) and
3 3581(b)(8) of title 18, United States Code. This sub-
4 section shall not be construed to limit the authority of a
5 magistrate judge of the Tax Court to order sanctions
6 under any other statute or any rule of the Tax Court pre-
7 scribed pursuant to section 7453.”.

8 (f) CONFORMING AMENDMENTS.—

9 (1) The heading of subsection (b) of section
10 7443A of the Internal Revenue Code of 1986 is
11 amended by striking “SPECIAL TRIAL JUDGES” and
12 inserting “MAGISTRATE JUDGES OF THE TAX
13 COURT”.

14 (2) Subsection (b) of section 7443A of such
15 Code is amended by striking “special trial judges of
16 the court” and inserting “magistrate judges of the
17 Tax Court”.

18 (3) Subsection (c) of section 7443A of such
19 Code is amended by striking “special trial judge”
20 and inserting “magistrate judge of the Tax Court”.

21 (4) Subsection (e) of section 7443A of such
22 Code is amended by striking “special trial judges”
23 and inserting “magistrate judges of the Tax Court”.

1 (5) The item relating to section 7443A in the
2 table of sections for part I of subchapter C of chap-
3 ter 76 of such Code is amended to read as follows:

“Sec. 7443A. Magistrate judges of the Tax Court.”.

4 (6) The heading of section 7448 of such Code
5 is amended by striking “**SPECIAL TRIAL JUDGES**”
6 and inserting “**MAGISTRATE JUDGES OF THE**
7 **TAX COURT**”.

8 (7) Section 7448 of such Code is amended—

9 (A) by striking “special trial judge’s” each
10 place it appears in subsections (a)(6), (c)(1),
11 (d), and (m)(1) and inserting “magistrate judge
12 of the Tax Court’s”; and

13 (B) by striking “special trial judge” each
14 place it appears other than in subsection (n)
15 and inserting “magistrate judge of the Tax
16 Court”.

17 (8) Subsection (n) of section 7448 of such Code
18 is amended to read as follows:

19 “(n) INCLUDIBLE SERVICE.—Subject to the provi-
20 sions of subsection (d), the years of service of a judge or
21 magistrate judge of the Tax Court which are allowable as
22 the basis for calculating the amount of the annuity of such
23 judge or magistrate judge’s surviving spouse shall include
24 the judge or magistrate judge’s years of service—

1 “(1) as a judge or magistrate judge of the Tax
2 Court, a special trial judge of the Tax Court, or a
3 judge of the Tax Court of the United States,

4 “(2) pursuant to any appointment under sec-
5 tion 7443A,

6 “(3) as a Senator, Representative, Delegate, or
7 Resident Commissioner in Congress,

8 “(4) as a member of the Armed Forces of the
9 United States (not including any service for which
10 credit is allowed for purposes of retirement or re-
11 tired pay under any other provision of law), and

12 “(5) in any other civilian service within the pur-
13 view of section 8332 of title 5, United States Code.
14 For purposes of paragraph (4), not more than 5 years of
15 service shall be taken into account.”.

16 (9) The item relating to section 7448 in the
17 table of sections for part I of subchapter C of chap-
18 ter 76 of such Code is amended to read as follows:

“Sec. 7448. Annuities to surviving spouses and dependent children of judges
and magistrate judges of the Tax Court.”.

19 (10) Subsection (a) of section 7456 of such
20 Code is amended—

21 (A) by striking “special trial judge” each
22 place it appears and inserting “magistrate
23 judge”; and

1 (B) by striking “(or by the clerk” and in-
2 serting “of the Tax Court (or by the clerk”.

3 (11) Subsection (a) of section 7466 of such
4 Code is amended by striking “special trial judge”
5 and inserting “magistrate judge”.

6 (12) Section 7470A of such Code is amended
7 by striking “special trial judges” both places it ap-
8 pears in subsections (a) and (b) and inserting “mag-
9 istrate judges”.

10 (13) Subparagraph (A) of section 7471(a)(2) of
11 such Code is amended by striking “special trial
12 judges” and inserting “magistrate judges”.

13 (14) Subsection (c) of section 7471 of such
14 Code is amended—

15 (A) by striking “SPECIAL TRIAL JUDGES”
16 in the heading and inserting “MAGISTRATE
17 JUDGES OF THE TAX COURT”; and

18 (B) by striking “special trial judges” and
19 inserting “magistrate judges”.

20 (g) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to individuals serving as spe-
23 cial trial judges of the United States Tax Court on
24 or after the day before the date of enactment of this
25 Act.

1 (2) APPOINTMENT SAVINGS PROVISION.—Any
2 individual serving as a special trial judge of the
3 United States Tax Court as of the day before the
4 date of the enactment of this Act shall be considered
5 to have been appointed as a magistrate judge of the
6 Tax Court under section 7443A of the Internal Rev-
7 enue Code of 1986 on such date of enactment, and
8 service as a special trial judge of the Tax Court be-
9 fore such date of enactment shall be considered to
10 be service as a magistrate judge of the Tax Court
11 for purposes of any provision of law relating to
12 length of service.

13 **SEC. 306. LIFE INSURANCE FOR MAGISTRATE JUDGES OF**
14 **THE TAX COURT AGE 65 OR OLDER.**

15 Section 7472 of the Internal Revenue Code of 1986
16 is amended by striking “its judges” in the second sentence
17 and inserting “the judges and magistrate judges of the
18 Tax Court”.

19 **SEC. 307. RETIREMENT AND ANNUITY PROGRAM.**

20 (a) RETIREMENT AND ANNUITY PROGRAM.—Part I
21 of subchapter C of chapter 76 of the Internal Revenue
22 Code of 1986 is amended by inserting after section 7443A
23 the following new section:

1 **“SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF**
2 **THE TAX COURT.**

3 “(a) RETIREMENT.—

4 “(1) IN GENERAL.—Each magistrate judge of
5 the Tax Court who makes an election under this sec-
6 tion shall receive an annuity at the same rate and
7 in the same manner as magistrate judges of the dis-
8 trict courts of the United States pursuant to section
9 377 of title 28, United States Code.

10 “(2) RULES OF APPLICATION.—For purposes of
11 subsection (a), section 377 of title 28, United States
12 Code, shall be applied with the following modifica-
13 tions:

14 “(A) By substituting—

15 “(i) ‘magistrate judge of the Tax
16 Court’ for ‘judicial official’, ‘judicial offi-
17 cer’, and ‘magistrate judge’ each place
18 such terms appear,

19 “(ii) ‘magistrate judge of the Tax
20 Court’s’ for ‘magistrate judge’s’ each place
21 it appears,

22 “(iii) ‘chief judge of the Tax Court’
23 for ‘Administrative Office of the United
24 States Courts’, ‘Director of the Adminis-
25 trative Office of the United States Courts’,

1 ‘Director’, and ‘chief judge of the district
2 court’ each place such terms appear,

3 “(iv) ‘Tax Court Judicial Officers’ Re-
4 tirement Fund’ for ‘Judicial Officers’ Re-
5 tirement Fund’ each place it appears,

6 “(v) ‘under section 7443A of the In-
7 ternal Revenue Code of 1986’ for ‘under
8 section 631 of this title’ in subsection
9 (h)(2),

10 “(vi) ‘under section 7443C of the In-
11 ternal Revenue Code of 1986’ for ‘under
12 section 155(b), 375, or 636(h) of this title’
13 each place it appears in paragraphs (2)
14 and (3) of subsection (m), and

15 “(vii) ‘from the date of appointment,
16 for those individuals appointed pursuant to
17 section 7443A of the Internal Revenue
18 Code of 1986 prior to, and in active service
19 on, the date of enactment of the Retire-
20 ment Enhancement and Savings Act of
21 2018’ for ‘on or after October 1, 1979’ in
22 subsection (h).

23 “(B) By disregarding subsection (m)(2)
24 and subsection (o).

1 “(b) 1-YEAR FORFEITURE FOR FAILURE TO PER-
2 FORM JUDICIAL DUTIES.—Subject to subparagraph (B)
3 of section 377(m)(1) of title 28, United States Code, any
4 magistrate judge of the Tax Court who retires under this
5 section and who fails to perform judicial duties required
6 of such individual by section 7443C shall forfeit all rights
7 to an annuity under this section for a 1-year period which
8 begins on the 1st day on which such individual fails to
9 perform such duties.

10 “(c) TAX COURT JUDICIAL OFFICERS’ RETIREMENT
11 FUND.—

12 “(1) ESTABLISHMENT.—There is established in
13 the Treasury of the United States a fund which
14 shall be known as the ‘Tax Court Judicial Officers’
15 Retirement Fund’. The Fund is appropriated for the
16 payment of annuities, refunds, and other payments
17 under this section.

18 “(2) INVESTMENT OF FUND.—The Secretary
19 shall invest, in interest-bearing securities of the
20 United States, such currently available portions of
21 the Tax Court Judicial Officers’ Retirement Fund as
22 are not immediately required for payments from the
23 Fund. The income derived from these investments
24 constitutes a part of the Fund.

25 “(3) UNFUNDED LIABILITY.—

1 “(A) IN GENERAL.—Not later than the
 2 close of each fiscal year, there shall be depos-
 3 ited in the Tax Court Judicial Officers’ Retirement
 4 Fund amounts required to reduce to zero
 5 the unfunded liability, if any, of such Fund.

6 “(B) UNFUNDED LIABILITY.—For pur-
 7 poses of subparagraph (A), the term ‘unfunded
 8 liability’ means the amount estimated by the
 9 Secretary to be equal to the excess (as of the
 10 close of the fiscal year involved) of—

11 “(i) the present value of all benefits
 12 payable from the Tax Court Judicial Offi-
 13 cers’ Retirement Fund, over

14 “(ii) the sum of—

15 “(I) the present value of future
 16 deductions to be withheld under this
 17 section from the basic pay of mag-
 18 istrate judges of the Tax Court, plus

19 “(II) the balance in such Fund
 20 as of the close of such fiscal year.

21 “(d) PARTICIPATION IN THRIFT SAVINGS PLAN.—

22 “(1) ELECTION TO CONTRIBUTE.—A mag-
 23 istrate judge of the Tax Court may elect to con-
 24 tribute out of such individual’s basic pay to the

1 Thrift Savings Fund established by section 8437 of
2 title 5, United States Code.

3 “(2) APPLICABILITY OF TITLE 5 PROVISIONS.—
4 Except as otherwise provided in this subsection, the
5 provisions of subchapters III and VII of chapter 84
6 of such title 5 shall apply with respect to a mag-
7 istrate judge of the Tax Court who makes an elec-
8 tion under paragraph (1).

9 “(3) SPECIAL RULES.—

10 “(A) AMOUNT CONTRIBUTED.—The
11 amount contributed by a magistrate judge of
12 the Tax Court to the Thrift Savings Plan in
13 any pay period shall not exceed the maximum
14 percentage of such magistrate judge’s basic pay
15 for such period as allowable under section
16 8440f of such title 5.

17 “(B) CONTRIBUTIONS FOR BENEFIT OF
18 MAGISTRATE JUDGE OF THE TAX COURT.—No
19 contributions under section 8432(c) of such
20 title 5 shall be made for the benefit of a mag-
21 istrate judge of the Tax Court who has filed an
22 election to receive an annuity under this sec-
23 tion.

24 “(C) APPLICABILITY OF RULES RELATING
25 TO ANNUITY OF A CHILD.—Section 8433(b) of

1 such title 5 applies with respect to a magistrate
2 judge of the Tax Court who makes an election
3 under paragraph (1) and who—

4 “(i) retires entitled to an immediate
5 annuity under this section (including a dis-
6 ability annuity under this section),

7 “(ii) retires before attaining age 65
8 but is entitled, upon attaining age 65, to
9 an annuity under this section, or

10 “(iii) retires before becoming entitled
11 to an immediate annuity, or an annuity
12 upon attaining age 65, under this section.

13 “(D) RETIREMENT AS SEPARATION FROM
14 SERVICE.—With respect to a magistrate judge
15 of the Tax Court to whom this subsection ap-
16 plies, retirement under this section is a separa-
17 tion from service for purposes of subchapters
18 III and VII of chapter 84 of such title 5.

19 “(4) DEFINITIONS.—For purposes of this sub-
20 section, the terms ‘retirement’ and ‘retire’ include
21 removal from office under section 7443A(a)(2) on
22 the sole ground of mental or physical disability.

23 “(5) OFFSET.—In the case of a magistrate
24 judge of the Tax Court who receives a distribution
25 from the Thrift Savings Plan and who later receives

1 an annuity under this section, the annuity shall be
2 offset by an amount equal to the amount which rep-
3 resents the Government's contribution to the individ-
4 ual's Thrift Savings Account during years of service
5 as a full-time judicial officer under the Federal Em-
6 ployees Retirement System, without regard to earn-
7 ings attributable to such amount. Where such an
8 offset would exceed 50 percent of the annuity to be
9 received in the first year, the offset may be divided
10 equally over the first 2 years in which the individual
11 receives the annuity.

12 “(6) EXCEPTION.—Notwithstanding clauses (i)
13 and (ii) of paragraph (3)(C), if any magistrate judge
14 of the Tax Court retires under circumstances mak-
15 ing such magistrate judge of the Tax Court eligible
16 to make an election under subsection (b) of section
17 8433 of such title 5, and the nonforfeitable account
18 balance of such magistrate judge of the Tax Court
19 is less than an amount which the Executive Director
20 of the Office of Personnel Management prescribes by
21 regulation, the Executive Director shall pay the non-
22 forfeitable account balance to the participant in a
23 single payment.

1 “(e) COORDINATION WITH TITLE 5.—A magistrate
2 judge of the Tax Court who elects to receive an annuity
3 under this section—

4 “(1) shall not be subject to deductions and con-
5 tributions otherwise required by section 8334(a) of
6 title 5 United States Code,

7 “(2) shall be excluded from the application of
8 chapter 84 (other than subchapters III and VII) of
9 such title 5, and

10 “(3) is entitled to a lump-sum credit under sec-
11 tion 8342(a) or 8424 of such title 5, as the case
12 may be.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 3121(b)(5)(E) of the Internal Rev-
15 enue Code of 1986 is amended by inserting “or
16 magistrate judge” before “of the United States Tax
17 Court”.

18 (2) Section 210(a)(5)(E) of the Social Security
19 Act (42 U.S.C. 410(a)(5)(E)) is amended by insert-
20 ing “or a magistrate judge of the Tax Court who
21 files an election under section 7443B(a) of the Inter-
22 nal Revenue Code of 1986” after “of the United
23 States Tax Court”.

24 (3) Section 7448(b)(2) of the Internal Revenue
25 Code of 1986 is amended to read as follows:

1 “(2) MAGISTRATE JUDGES OF THE TAX
2 COURT.—Any magistrate judge of the Tax Court
3 may by written election filed with the chief judge
4 bring himself or herself within the purview of this
5 section. Such election shall be filed while such indi-
6 vidual is a magistrate judge of the Tax Court.”.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for part I of subchapter C of chapter 76 of the Internal
9 Revenue Code of 1986 is amended by inserting after the
10 item relating to section 7443A the following new item:

“Sec. 7443B. Retirement for magistrate judges of the Tax Court.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of the enactment
13 of this Act.

14 **SEC. 308. PROVISIONS FOR RECALL.**

15 (a) IN GENERAL.—Part I of subchapter C of chapter
16 76 of the Internal Revenue Code of 1986, as amended by
17 section 307, is amended by inserting after section 7443B
18 the following new section:

19 **“SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX**
20 **COURT.**

21 “(a) RECALLING OF RETIRED MAGISTRATE JUDGES
22 OF THE TAX COURT.—Any individual who has retired
23 pursuant to section 7443B or the applicable provisions of
24 title 5 or 28, United States Code, upon reaching the age
25 and service requirements established under such titles 5

1 and 28, may be called upon by the chief judge to perform
2 such judicial duties with the Tax Court as may be re-
3 quested of such individual for a period or periods specified
4 by the chief judge, except that in the case of any such
5 individual—

6 “(1) the aggregate of such periods in any 1 cal-
7 endar year shall not (without the consent of such in-
8 dividual) exceed 90 calendar days, and

9 “(2) such individual shall be relieved of per-
10 forming such duties during any period in which ill-
11 ness or disability precludes the performance of such
12 duties.

13 Any act, or failure to act, by an individual performing ju-
14 dicial duties pursuant to this subsection shall have the
15 same force and effect as if it were the act (or failure to
16 act) of a magistrate judge of the Tax Court.

17 “(b) COMPENSATION.—For the year in which a pe-
18 riod of recall occurs, the magistrate judge of the Tax
19 Court shall receive, in addition to the annuity provided
20 under the provisions of section 7443B, an amount equal
21 to the difference between that annuity and the current sal-
22 ary of the office to which the magistrate judge of the Tax
23 Court is recalled (and allowances for travel and other ex-
24 penses of the magistrate judge of the Tax Court). The
25 annuity for years after the year in which a period of recall

1 occurs of the magistrate judge of the Tax Court who com-
 2 pletes such a period of service, who is not recalled in a
 3 subsequent year, and who retired under section 7443B,
 4 shall be equal to the salary in effect at the end of the
 5 year in which the period of recall occurred for the office
 6 from which such magistrate judge of the Tax Court re-
 7 tired.

8 “(c) RULEMAKING AUTHORITY.—The provisions of
 9 this section shall be implemented under such rules and
 10 regulations as may be promulgated by the Tax Court.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 for part I of subchapter C of chapter 76 of the Internal
 13 Revenue Code of 1986, as amended by section 307, is
 14 amended by inserting after the item relating to section
 15 7443B the following new item:

“Sec. 7443C. Recall of magistrate judges of the Tax Court.”.

16 **TITLE IV—OTHER BENEFITS**

17 **SEC. 401. BENEFITS PROVIDED TO VOLUNTEER FIRE-** 18 **FIGHTERS AND EMERGENCY MEDICAL RE-** 19 **SPONDERS.**

20 (a) INCREASE IN DOLLAR LIMITATION ON QUALI-
 21 FIED PAYMENTS.—Subparagraph (B) of section
 22 139B(c)(2) of the Internal Revenue Code of 1986 is
 23 amended by striking “\$30” and inserting “\$50”.

24 (b) EXTENSION.—Subsection (d) of section 139B of
 25 the Internal Revenue Code of 1986 is amended by striking

1 “beginning after December 31, 2010.” and inserting “be-
 2 ginning—

3 “(1) after December 31, 2010, and before Jan-
 4 uary 1, 2019, or

5 “(2) after December 31, 2019.”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to taxable years beginning after
 8 December 31, 2018.

9 **TITLE V—REVENUE PROVISIONS**

10 **SEC. 501. MODIFICATIONS OF REQUIRED DISTRIBUTION**

11 **RULES FOR PENSION PLANS.**

12 (a) MODIFICATION OF RULES WHERE EMPLOYEE
 13 DIES BEFORE ENTIRE DISTRIBUTION.—

14 (1) IN GENERAL.—Section 401(a)(9) of the In-
 15 ternal Revenue Code of 1986 is amended by adding
 16 at the end the following new subparagraph:

17 “(H) SPECIAL RULES FOR CERTAIN DE-
 18 FINED CONTRIBUTION PLANS.—

19 “(i) IN GENERAL.—In the case of dis-
 20 tributions from a defined contribution
 21 plan, a trust forming part of such plan
 22 shall not constitute a qualified trust under
 23 this section unless the plan provides that,
 24 if—

1 “(I) an employee dies before the
2 distribution of the employee’s interest
3 (whether or not such distribution has
4 begun in accordance with subpara-
5 graph (A)), and

6 “(II) the aggregate account bal-
7 ances to the credit of the employee
8 under all defined contribution plans,
9 determined as of the date of the em-
10 ployee’s death, exceeds \$450,000,
11 so much of the entire interest of the em-
12 ployee as exceeds the dollar amount in sub-
13 clause (II) will be distributed within 5
14 years after the death of such employee.

15 “(ii) ALLOCATION OF LIMITATION.—If
16 an employee has an account under more
17 than 1 defined contribution plan, the
18 \$450,000 amount under clause (i)(II) shall
19 be allocated among all such plans, as pro-
20 vided in regulations prescribed by the Sec-
21 retary, for purposes of applying clause (i).

22 “(iii) TREATMENT OF REMAINING
23 AMOUNT.—The portion of the employee’s
24 interest distributed under clause (i) shall
25 not be taken into account for purposes of

1 determining the rapidity or the method of
2 distribution of any portion of the interest
3 of the employee to which clause (i) does
4 not apply.

5 “(iv) MULTIPLE BENEFICIARIES.—In
6 the case of an employee who has more
7 than 1 beneficiary, the amount of the por-
8 tion required to be distributed under clause
9 (i) which shall be treated as payable to (or
10 for the benefit of) such beneficiary is the
11 amount which bears the same ratio to the
12 total amount of such portion as—

13 “(I) the portion of the employee’s
14 entire interest (determined as of the
15 date of the employee’s death) which is
16 payable to (or for the benefit of) such
17 beneficiary, bears to

18 “(II) the amount of the employ-
19 ee’s entire interest (so determined).

20 “(v) EXCEPTION FOR ELIGIBLE DES-
21 IGNATED BENEFICIARIES.—If—

22 “(I) any portion of the employ-
23 ee’s interest is payable to (or for the
24 benefit of) an eligible designated bene-
25 ficiary,

1 “(II) such portion will be distrib-
2 uted (in accordance with regulations)
3 over the life of such eligible des-
4 ignated beneficiary (or over a period
5 not extending beyond the life expect-
6 ancy of such beneficiary), and

7 “(III) such distributions begin
8 not later than 1 year after the date of
9 the employee’s death or such later
10 date as the Secretary may by regula-
11 tions prescribe,

12 for purposes of clause (i), the portion re-
13 ferred to in subclause (I) shall be treated
14 as distributed on the date on which such
15 distributions begin.

16 “(vi) SPECIAL RULE FOR SURVIVING
17 SPOUSE OF EMPLOYEE.—If the eligible
18 designated beneficiary is the surviving
19 spouse of the employee—

20 “(I) the date on which the dis-
21 tributions are required to begin under
22 clause (v)(III) shall not be earlier
23 than the date on which the employee
24 would have attained age 70½, and

1 “(II) if the surviving spouse dies
2 before the distributions to such spouse
3 begin, this subparagraph shall be ap-
4 plied as if the surviving spouse were
5 the employee.

6 “(vii) RULES UPON DEATH OF ELIGI-
7 BLE DESIGNATED BENEFICIARY.—If an el-
8 igible designated beneficiary dies before the
9 portion of the employee’s interest to which
10 clause (i) applies which is payable to (or
11 for the benefit of) such eligible designated
12 beneficiary is entirely distributed, the ex-
13 ception under clause (v) shall not apply to
14 any beneficiary of such eligible designated
15 beneficiary and the remainder of such por-
16 tion shall be distributed within 5 years
17 after the death of such beneficiary.

18 “(viii) COORDINATION WITH INDIVIDUAL RETIREMENT PLANS.—For pur-
19 poses of applying the provisions of this
20 subparagraph and subsections (a)(6) and
21 (b)(3) of section 408, individual retirement
22 plans shall be treated as defined contribu-
23 tion plans in determining the aggregate ac-
24 count balances to the credit of the em-
25

1 ployee under all defined contribution plans
2 and the amount required to be distributed
3 to each beneficiary under such provi-
4 sions.”.

5 (2) DEFINITION OF ELIGIBLE DESIGNATED
6 BENEFICIARY.—Section 401(a)(9)(E) of such Code
7 is amended to read as follows:

8 “(E) DEFINITIONS AND RULES RELATING
9 TO DESIGNATED BENEFICIARY.—For purposes
10 of this paragraph—

11 “(i) DESIGNATED BENEFICIARY.—The
12 term ‘designated beneficiary’ means any
13 individual designated as a beneficiary by
14 the employee.

15 “(ii) ELIGIBLE DESIGNATED BENE-
16 FICIARY.—The term ‘eligible designated
17 beneficiary’ means, with respect to any em-
18 ployee, any designated beneficiary who is—

19 “(I) the surviving spouse of the
20 employee,

21 “(II) subject to clause (iii), a
22 child of the employee who has not
23 reached majority (within the meaning
24 of subparagraph (F)),

1 “(III) disabled (within the mean-
2 ing of section 72(m)(7)),

3 “(IV) a chronically ill individual
4 (within the meaning of section
5 7702B(c)(2), except that the require-
6 ments of subparagraph (A)(i) thereof
7 shall only be treated as met if there is
8 a certification that, as of such date,
9 the period of inability described in
10 such subparagraph with respect to the
11 individual is an indefinite one which is
12 reasonably expected to be lengthy in
13 nature), or

14 “(V) an individual not described
15 in any of the preceding subclauses
16 who is not more than 10 years young-
17 er than the employee.

18 “(iii) SPECIAL RULE FOR CHIL-
19 DREN.—Subject to subparagraph (F), an
20 individual described in clause (ii)(II) shall
21 cease to be an eligible designated bene-
22 ficiary as of the date the individual reaches
23 majority and any remainder of the portion
24 of the interest described in subparagraph

1 (H)(v) shall be distributed within 5 years
 2 after such date.

3 “(iv) TIME FOR DETERMINATION OF
 4 ELIGIBLE DESIGNATED BENEFICIARY.—

5 The determination of whether a designated
 6 beneficiary is an eligible designated bene-
 7 ficiary shall be made as of the date of
 8 death of the employee.”.

9 (3) CONFORMING AMENDMENTS.—

10 (A) Clause (ii) of section 401(a)(9)(B) of
 11 the Internal Revenue Code of 1986 is amended
 12 by striking “A trust” and inserting “Except as
 13 provided in subparagraph (H), a trust”.

14 (B) Section 402(c)(11)(A)(iii) of such
 15 Code is amended by striking “section
 16 401(a)(9)(B) (other than clause (iv) thereof)”
 17 and inserting “subparagraphs (B) (other than
 18 clause (iv) thereof) and (H) (other than clause
 19 (vi) thereof) of section 401(a)(9)”.

20 (4) EFFECTIVE DATES.—

21 (A) IN GENERAL.—Except as provided in
 22 this paragraph and paragraphs (5) and (6), the
 23 amendments made by this subsection shall
 24 apply to distributions with respect to employees
 25 who die after December 31, 2018.

1 (B) COLLECTIVE BARGAINING EXCEP-
2 TION.—In the case of a plan maintained pursu-
3 ant to 1 or more collective bargaining agree-
4 ments between employee representatives and 1
5 or more employers ratified before the date of
6 enactment of this Act, the amendments made
7 by this subsection shall apply to distributions
8 with respect to employees who die in calendar
9 years beginning after the earlier of—

10 (i) the later of—

11 (I) the date on which the last of
12 such collective bargaining agreements
13 terminates (determined without re-
14 gard to any extension thereof agreed
15 to on or after the date of the enact-
16 ment of this Act); or

17 (II) December 31, 2018; or

18 (ii) December 31, 2020.

19 For purposes of clause (i)(I), any plan amend-
20 ment made pursuant to a collective bargaining
21 agreement relating to the plan which amends
22 the plan solely to conform to any requirement
23 added by this section shall not be treated as a
24 termination of such collective bargaining agree-
25 ment.

1 (C) GOVERNMENTAL PLANS.—In the case
2 of a governmental plan (as defined in section
3 414(d) of the Internal Revenue Code of 1986),
4 subparagraph (A) shall be applied by sub-
5 stituting “December 31, 2020” for “December
6 31, 2018”.

7 (5) EXCEPTION FOR CERTAIN EXISTING ANNU-
8 ITY CONTRACTS.—

9 (A) IN GENERAL.—The amendments made
10 by this subsection shall not apply to a qualified
11 annuity which is a binding annuity contract in
12 effect on the date of enactment of this Act and
13 at all times thereafter.

14 (B) QUALIFIED ANNUITY.—For purposes
15 of this paragraph, the term “qualified annuity”
16 means, with respect to an employee, an annu-
17 ity—

18 (i) which is a commercial annuity (as
19 defined in section 3405(e)(6) of the Inter-
20 nal Revenue Code of 1986);

21 (ii) under which the annuity payments
22 are made over the life of the employee or
23 over the joint lives of such employee and a
24 designated beneficiary (or over a period
25 not extending beyond the life expectancy of

1 such employee or the joint life expectancy
2 of such employee and a designated bene-
3 ficiary) in accordance with the regulations
4 described in section 401(a)(9)(A)(ii) of
5 such Code (as in effect before such amend-
6 ments) and which meets the other require-
7 ments of section 401(a)(9) of such Code
8 (as so in effect) with respect to such pay-
9 ments; and

10 (iii) with respect to which—

11 (I) annuity payments to the em-
12 ployee have begun before the date of
13 enactment of this Act, and the em-
14 ployee has made an irrevocable elec-
15 tion before such date as to the method
16 and amount of the annuity payments
17 to the employee or any designated
18 beneficiaries; or

19 (II) if subclause (I) does not
20 apply, the employee has made an ir-
21 revocable election before the date of
22 enactment of this Act as to the meth-
23 od and amount of the annuity pay-
24 ments to the employee or any des-
25 ignated beneficiaries.

1 (6) EXCEPTION FOR CERTAIN BENE-
2 FICIARIES.—

3 (A) IN GENERAL.—If an employee dies be-
4 fore the effective date, then, in applying the
5 amendments made by this subsection to such
6 employee’s designated beneficiary who dies after
7 such date—

8 (i) such amendments shall apply to
9 any beneficiary of such designated bene-
10 ficiary; and

11 (ii) the designated beneficiary shall be
12 treated as an eligible designated bene-
13 ficiary for purposes of applying section
14 401(a)(9)(H)(iv) of the Internal Revenue
15 Code of 1986 (as in effect after such
16 amendments).

17 (B) EFFECTIVE DATE.—For purposes of
18 this paragraph, the term “effective date” means
19 the first day of the first calendar year to which
20 the amendments made by this subsection apply
21 to a plan with respect to employees dying on or
22 after such date.

23 (b) PROVISIONS RELATING TO PLAN AMEND-
24 MENTS.—

1 (1) IN GENERAL.—If this subsection applies to
2 any plan amendment—

3 (A) such plan shall be treated as being op-
4 erated in accordance with the terms of the plan
5 during the period described in paragraph
6 (2)(B)(i); and

7 (B) except as provided by the Secretary of
8 the Treasury, such plan shall not fail to meet
9 the requirements of section 411(d)(6) of the In-
10 ternal Revenue Code of 1986 and section
11 204(g) of the Employee Retirement Income Se-
12 curity Act of 1974 by reason of such amend-
13 ment.

14 (2) AMENDMENTS TO WHICH SUBSECTION AP-
15 PLIES.—

16 (A) IN GENERAL.—This subsection shall
17 apply to any amendment to any plan or which
18 is made—

19 (i) pursuant to any amendment made
20 by this section or pursuant to any regula-
21 tion issued by the Secretary of the Treas-
22 ury under this section or such amend-
23 ments; and

24 (ii) on or before the last day of the
25 first plan year beginning after December

1 31, 2020, or such later date as the Sec-
2 retary of the Treasury may prescribe.

3 In the case of a governmental or collectively
4 bargained plan to which subparagraph (B) or
5 (C) of subsection (a)(4) applies, clause (ii) shall
6 be applied by substituting the date which is 2
7 years after the date otherwise applied under
8 such clause.

9 (B) CONDITIONS.—This subsection shall
10 not apply to any amendment unless—

11 (i) during the period—

12 (I) beginning on the date the leg-
13 islative or regulatory amendment de-
14 scribed in paragraph (1)(A) takes ef-
15 fect (or in the case of a plan amend-
16 ment not required by such legislative
17 or regulatory amendment, the effec-
18 tive date specified by the plan); and

19 (II) ending on the date described
20 in subparagraph (A)(ii) (or, if earlier,
21 the date the plan amendment is
22 adopted),

23 the plan is operated as if such plan amend-
24 ment were in effect; and

1 (ii) such plan amendment applies
2 retroactively for such period.

3 **SEC. 502. INCREASE IN PENALTY FOR FAILURE TO FILE.**

4 (a) IN GENERAL.—The second sentence of subsection
5 (a) of section 6651 of the Internal Revenue Code of 1986
6 is amended by striking “\$205” and inserting “\$400”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to returns the due date for which
9 (including extensions) is after December 31, 2018.

10 **SEC. 503. INCREASED PENALTIES FOR FAILURE TO FILE**
11 **RETIREMENT PLAN RETURNS.**

12 (a) IN GENERAL.—Subsection (e) of section 6652 of
13 the Internal Revenue Code of 1986 is amended—

14 (1) by striking “\$25” and inserting “\$100”;
15 and

16 (2) by striking “\$15,000” and inserting
17 “\$50,000”.

18 (b) ANNUAL REGISTRATION STATEMENT AND NOTI-
19 FICATION OF CHANGES.—Subsection (d) of section 6652
20 of the Internal Revenue Code of 1986 is amended—

21 (1) by striking “\$1” both places it appears in
22 paragraphs (1) and (2) and inserting “\$2”;

23 (2) by striking “\$5,000” in paragraph (1) and
24 inserting “\$10,000”; and

1 (3) by striking “\$1,000” in paragraph (2) and
2 inserting “\$5,000”.

3 (c) FAILURE TO PROVIDE NOTICE.—Subsection (h)
4 of section 6652 of the Internal Revenue Code of 1986 is
5 amended—

6 (1) by striking “\$10” and inserting “\$100”;
7 and

8 (2) by striking “\$5,000” and inserting
9 “\$50,000”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to returns, statements, and notifi-
12 cations required to be filed, and notices required to be pro-
13 vided, after December 31, 2018.

14 **SEC. 504. INCREASE INFORMATION SHARING TO ADMIN-**
15 **ISTER EXCISE TAXES.**

16 (a) IN GENERAL.—Section 6103(o) of the Internal
17 Revenue Code of 1986 is amended by adding at the end
18 the following new paragraph:

19 “(3) TAXES IMPOSED BY SECTION 4481.—Re-
20 turns and return information with respect to taxes
21 imposed by section 4481 shall be open to inspection
22 by or disclosure to officers and employees of United
23 States Customs and Border Protection of the De-
24 partment of Homeland Security whose official duties

1 require such inspection or disclosure for purposes of
2 administering such section.”.

3 (b) CONFORMING AMENDMENTS.—Paragraph (4) of
4 section 6103(p) of the Internal Revenue Code of 1986 is
5 amended by striking “or (o)(1)(A)” each place it appears
6 and inserting “, (o)(1)(A), or (o)(3)”.

7 **SEC. 505. PENSION VARIABLE RATE PREMIUM PAYMENT**
8 **ACCELERATION.**

9 Notwithstanding section 4007(a) of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1307(a)) and section 4007.11 of title 29, Code of Federal
12 Regulations, any additional premium determined under
13 subparagraph (E) of section 4006(a)(3) of such Act (29
14 U.S.C. 1306(a)(3)) the due date for which is (but for this
15 section) after September 30, 2027, and before June 1,
16 2028, shall be due not later than September 30, 2027.

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