

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. NEAL OF MASSACHUSETTS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE, ETC.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Setting Every Community Up for Retirement Enhance-
4 ment Act of 2019”.

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

Sec. 1. Short title, etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

Sec. 101. Multiple employer plans; pooled employer plans.

Sec. 102. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.

Sec. 103. Rules relating to election of safe harbor 401(k) status.

Sec. 104. Increase in credit limitation for small employer pension plan startup costs.

Sec. 105. Small employer automatic enrollment credit.

Sec. 106. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.

Sec. 107. Repeal of maximum age for traditional IRA contributions.

Sec. 108. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.

Sec. 109. Portability of lifetime income options.

Sec. 110. Treatment of custodial accounts on termination of section 403(b) plans.

Sec. 111. Clarification of retirement income account rules relating to church-controlled organizations.

Sec. 112. Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate.

Sec. 113. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.

Sec. 114. Increase in age for required beginning date for mandatory distributions.

- Sec. 115. Special rules for minimum funding standards for community newspaper plans.
- Sec. 116. Treating excluded difficulty of care payments as compensation for determining retirement contribution limitations.

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—OTHER BENEFITS

- Sec. 301. Benefits provided to volunteer firefighters and emergency medical responders.
- Sec. 302. Expansion of section 529 plans.

TITLE IV—REVENUE PROVISIONS

- Sec. 401. Modification of required distribution rules for designated beneficiaries.
- Sec. 402. Increase in penalty for failure to file.
- Sec. 403. Increased penalties for failure to file retirement plan returns.
- Sec. 404. Increase information sharing to administer excise taxes.

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

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

6 (a) QUALIFICATION REQUIREMENTS.—

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

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

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

4 “(A) is maintained by employers which
5 have a common interest other than having
6 adopted the plan, or

7 “(B) in the case of a plan not described in
8 subparagraph (A), has a pooled plan provider,
9 then the plan shall not be treated as failing to meet
10 the requirements under this title applicable to a plan
11 described in section 401(a) or to a plan that consists
12 of individual retirement accounts described in sec-
13 tion 408 (including by reason of subsection (c)
14 thereof), whichever is applicable, merely because one
15 or more employers of employees covered by the plan
16 fail to take such actions as are required of such em-
17 ployers for the plan to meet such requirements.

18 “(2) LIMITATIONS.—

19 “(A) IN GENERAL.—Paragraph (1) shall
20 not apply to any plan unless the terms of the
21 plan provide that in the case of any employer
22 in the plan failing to take the actions described
23 in paragraph (1)—

24 “(i) the assets of the plan attributable
25 to employees of such employer (or bene-

1 ficiaries of such employees) will be trans-
2 ferred to a plan maintained only by such
3 employer (or its successor), to an eligible
4 retirement plan as defined in section
5 402(c)(8)(B) for each individual whose ac-
6 count is transferred, or to any other ar-
7 rangement that the Secretary determines is
8 appropriate, unless the Secretary deter-
9 mines it is in the best interests of the em-
10 ployees of such employer (and the bene-
11 ficiaries of such employees) to retain the
12 assets in the plan, and

13 “(ii) such employer (and not the plan
14 with respect to which the failure occurred
15 or any other employer in such plan) shall,
16 except to the extent provided by the Sec-
17 retary, be liable for any liabilities with re-
18 spect to such plan attributable to employ-
19 ees of such employer (or beneficiaries of
20 such employees).

21 “(B) FAILURES BY POOLED PLAN PRO-
22 VIDERS.—If the pooled plan provider of a plan
23 described in paragraph (1)(B) does not perform
24 substantially all of the administrative duties
25 which are required of the provider under para-

1 graph (3)(A)(i) for any plan year, the Secretary
2 may provide that the determination as to
3 whether the plan meets the requirements under
4 this title applicable to a plan described in sec-
5 tion 401(a) or to a plan that consists of indi-
6 vidual retirement accounts described in section
7 408 (including by reason of subsection (c)
8 thereof), whichever is applicable, shall be made
9 in the same manner as would be made without
10 regard to paragraph (1).

11 “(3) POOLED PLAN PROVIDER.—

12 “(A) IN GENERAL.—For purposes of this
13 subsection, the term ‘pooled plan provider’
14 means, with respect to any plan, a person
15 who—

16 “(i) is designated by the terms of the
17 plan as a named fiduciary (within the
18 meaning of section 402(a)(2) of the Em-
19 ployee Retirement Income Security Act of
20 1974), as the plan administrator, and as
21 the person responsible to perform all ad-
22 ministrative duties (including conducting
23 proper testing with respect to the plan and
24 the employees of each employer in the

1 plan) which are reasonably necessary to
2 ensure that—

3 “(I) the plan meets any require-
4 ment applicable under the Employee
5 Retirement Income Security Act of
6 1974 or this title to a plan described
7 in section 401(a) or to a plan that
8 consists of individual retirement ac-
9 counts described in section 408 (in-
10 cluding by reason of subsection (c)
11 thereof), whichever is applicable, and

12 “(II) each employer in the plan
13 takes such actions as the Secretary or
14 such person determines are necessary
15 for the plan to meet the requirements
16 described in subclause (I), including
17 providing to such person any disclo-
18 sures or other information which the
19 Secretary may require or which such
20 person otherwise determines are nec-
21 essary to administer the plan or to
22 allow the plan to meet such require-
23 ments,

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

1 other information to the Secretary as the
2 Secretary may require, before beginning
3 operations as a pooled plan provider,

4 “(iii) acknowledges in writing that
5 such person is a named fiduciary (within
6 the meaning of section 402(a)(2) of the
7 Employee Retirement Income Security Act
8 of 1974), and the plan administrator, with
9 respect to the plan, and

10 “(iv) is responsible for ensuring that
11 all persons who handle assets of, or who
12 are fiduciaries of, the plan are bonded in
13 accordance with section 412 of the Em-
14 ployee Retirement Income Security Act of
15 1974.

16 “(B) AUDITS, EXAMINATIONS AND INVES-
17 TIGATIONS.—The Secretary may perform au-
18 dits, examinations, and investigations of pooled
19 plan providers as may be necessary to enforce
20 and carry out the purposes of this subsection.

21 “(C) AGGREGATION RULES.—For purposes
22 of this paragraph, in determining whether a
23 person meets the requirements of this para-
24 graph to be a pooled plan provider with respect
25 to any plan, all persons who perform services

1 for the plan and who are treated as a single
2 employer under subsection (b), (c), (m), or (o)
3 of section 414 shall be treated as one person.

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

13 “(4) GUIDANCE.—

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

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

22 “(ii) which describes the procedures to
23 be taken to terminate a plan which fails to
24 meet the requirements to be a plan de-
25 scribed in paragraph (1), including the

1 proper treatment of, and actions needed to
2 be taken by, any employer in the plan and
3 the assets and liabilities of the plan attrib-
4 utable to employees of such employer (or
5 beneficiaries of such employees), and

6 “(iii) identifying appropriate cases to
7 which the rules of paragraph (2)(A) will
8 apply to employers in the plan failing to
9 take the actions described in paragraph
10 (1).

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

21 “(B) GOOD FAITH COMPLIANCE WITH LAW
22 BEFORE GUIDANCE.—An employer or pooled
23 plan provider shall not be treated as failing to
24 meet a requirement of guidance issued by the
25 Secretary under this paragraph if, before the

1 issuance of such guidance, the employer or
2 pooled plan provider complies in good faith with
3 a reasonable interpretation of the provisions of
4 this subsection to which such guidance relates.

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

12 (2) CONFORMING AMENDMENT.—Section
13 413(c)(2) of such Code is amended by striking “sec-
14 tion 401(a)” and inserting “sections 401(a) and
15 408(c)”.

16 (3) TECHNICAL AMENDMENT.—Section 408(c)
17 of such Code is amended by inserting after para-
18 graph (2) the following new paragraph:

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

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

1 “(C) A pooled employer plan shall be treat-
2 ed as—

3 “(i) a single employee pension benefit
4 plan or single pension plan; and

5 “(ii) a plan to which section 210(a)
6 applies.”.

7 (c) POOLED EMPLOYER PLAN AND PROVIDER DE-
8 FINED.—

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

13 “(43) POOLED EMPLOYER PLAN.—

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

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

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

1 408 of such Code (including by reason of
2 subsection (c) thereof); and

3 “(iii) the terms of which meet the re-
4 quirements of subparagraph (B).

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

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

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

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

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

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

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

20 “(iv) provide that employers in the
21 plan, and participants and beneficiaries,
22 are not subject to unreasonable restric-
23 tions, fees, or penalties with regard to
24 ceasing participation, receipt of distribu-
25 tions, or otherwise transferring assets of

1 the plan in accordance with section 208 or
2 paragraph (44)(C)(i)(II);

3 “(v) require—

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

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

1 other information which the Secretary
2 may require or which the pooled plan
3 provider otherwise determines are nec-
4 essary to administer the plan or to
5 allow the plan to meet such require-
6 ments; and

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

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

16 “(i) a multiemployer plan; or

17 “(ii) a plan established before the
18 date of the enactment of the Setting Every
19 Community Up for Retirement Enhance-
20 ment Act of 2019 unless the plan adminis-
21 trator elects that the plan will be treated
22 as a pooled employer plan and the plan
23 meets the requirements of this title appli-
24 cable to a pooled employer plan established
25 on or after such date.

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

9 “(44) POOLED PLAN PROVIDER.—

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

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

21 “(I) the plan meets any require-
22 ment applicable under this Act or the
23 Internal Revenue Code of 1986 to a
24 plan described in section 401(a) of
25 such Code or to a plan that consists

1 of individual retirement accounts de-
2 scribed in section 408 of such Code
3 (including by reason of subsection (c)
4 thereof), whichever is applicable; and

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

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

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

22 “(iv) is responsible for ensuring that
23 all persons who handle assets of, or who
24 are fiduciaries of, the pooled employer plan
25 are bonded in accordance with section 412.

1 “(B) AUDITS, EXAMINATIONS AND INVESTIGATIONS.—The Secretary may perform audits, examinations, and investigations of pooled plan providers as may be necessary to enforce and carry out the purposes of this paragraph and paragraph (43).

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

3 “(i) to identify the administrative duties and other actions required to be performed by a pooled plan provider under either such paragraph; and

4 “(ii) which requires in appropriate cases that if an employer in the plan fails to take the actions required under subparagraph (A)(i)(II)—

5 “(I) the assets of the plan attributable to employees of such employer (or beneficiaries of such employees) are transferred to a plan maintained only by such employer (or its successor), to an eligible retirement plan as defined in section 402(c)(8)(B) of

1 the Internal Revenue Code of 1986
2 for each individual whose account is
3 transferred, or to any other arrange-
4 ment that the Secretary determines is
5 appropriate in such guidance; and

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

15 The Secretary shall take into account
16 under clause (ii) whether the failure of an
17 employer or pooled plan provider to provide
18 any disclosures or other information, or to
19 take any other action, necessary to admin-
20 ister a plan or to allow a plan to meet re-
21 quirements described in subparagraph
22 (A)(i)(II) has continued over a period of
23 time that demonstrates a lack of commit-
24 ment to compliance. The Secretary may
25 waive the requirements of subclause (ii)(I)

1 in appropriate circumstances if the Sec-
2 retary determines it is in the best interests
3 of the employees of the employer referred
4 to in such clause (and the beneficiaries of
5 such employees) to retain the assets in the
6 plan with respect to which the employer's
7 failure occurred.

8 “(D) GOOD FAITH COMPLIANCE WITH LAW
9 BEFORE GUIDANCE.—An employer or pooled
10 plan provider shall not be treated as failing to
11 meet a requirement of guidance issued by the
12 Secretary under subparagraph (C) if, before the
13 issuance of such guidance, the employer or
14 pooled plan provider complies in good faith with
15 a reasonable interpretation of the provisions of
16 this paragraph, or paragraph (43), to which
17 such guidance relates.

18 “(E) AGGREGATION RULES.—For purposes
19 of this paragraph, in determining whether a
20 person meets the requirements of this para-
21 graph to be a pooled plan provider with respect
22 to any plan, all persons who perform services
23 for the plan and who are treated as a single
24 employer under subsection (b), (c), (m), or (o)

1 of section 414 of the Internal Revenue Code of
2 1986 shall be treated as one person.”.

3 (2) BONDING REQUIREMENTS FOR POOLED EM-
4 PLOYER PLANS.—The last sentence of section 412(a)
5 of the Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1112(a)) is amended by inserting
7 “or in the case of a pooled employer plan (as defined
8 in section 3(43))” after “section 407(d)(1))”.

9 (3) CONFORMING AND TECHNICAL AMEND-
10 MENTS.—Section 3 of the Employee Retirement In-
11 come Security Act of 1974 (29 U.S.C. 1002) is
12 amended—

13 (A) in paragraph (16)(B)—

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

16 (ii) by striking the period at the end
17 and inserting “, or (iv) in the case of a
18 pooled employer plan, the pooled plan pro-
19 vider.”; and

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

21 (d) POOLED EMPLOYER AND MULTIPLE EMPLOYER
22 PLAN REPORTING.—

23 (1) ADDITIONAL INFORMATION.—Section 103
24 of the Employee Retirement Income Security Act of
25 1974 (29 U.S.C. 1023) is amended—

1 (A) in subsection (a)(1)(B), by striking
2 “applicable subsections (d), (e), and (f)” and
3 inserting “applicable subsections (d), (e), (f),
4 and (g)”; and

5 (B) by amending subsection (g) to read as
6 follows:

7 “(g) ADDITIONAL INFORMATION WITH RESPECT TO
8 POOLED EMPLOYER AND MULTIPLE EMPLOYER
9 PLANS.—An annual report under this section for a plan
10 year shall include—

11 “(1) with respect to any plan to which section
12 210(a) applies (including a pooled employer plan), a
13 list of employers in the plan and a good faith esti-
14 mate of the percentage of total contributions made
15 by such employers during the plan year and the ag-
16 gregate account balances attributable to each em-
17 ployer in the plan (determined as the sum of the ac-
18 count balances of the employees of such employer
19 (and the beneficiaries of such employees)); and

20 “(2) with respect to a pooled employer plan, the
21 identifying information for the person designated
22 under the terms of the plan as the pooled plan pro-
23 vider.”.

24 (2) SIMPLIFIED ANNUAL REPORTS.—Section
25 104(a) of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1024(a)) is amended by
2 striking paragraph (2)(A) and inserting the fol-
3 lowing:

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

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

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

13 (e) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to plan years beginning after
16 December 31, 2020.

17 (2) RULE OF CONSTRUCTION.—Nothing in the
18 amendments made by subsection (a) shall be con-
19 strued as limiting the authority of the Secretary of
20 the Treasury or the Secretary’s delegate (determined
21 without regard to such amendment) to provide for
22 the proper treatment of a failure to meet any re-
23 quirement applicable under the Internal Revenue
24 Code of 1986 with respect to one employer (and its
25 employees) in a multiple employer plan.

1 **SEC. 102. INCREASE IN 10 PERCENT CAP FOR AUTOMATIC**
2 **ENROLLMENT SAFE HARBOR AFTER 1ST**
3 **PLAN YEAR.**

4 (a) IN GENERAL.—Section 401(k)(13)(C)(iii) of the
5 Internal Revenue Code of 1986 is amended by striking
6 “does not exceed 10 percent” and inserting “does not ex-
7 ceed 15 percent (10 percent during the period described
8 in subclause (I))”.

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

12 **SEC. 103. RULES RELATING TO ELECTION OF SAFE HARBOR**
13 **401(k) STATUS.**

14 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE
15 TO MATCHING CONTRIBUTION PLANS.—

16 (1) IN GENERAL.—Subparagraph (A) of section
17 401(k)(12) of the Internal Revenue Code of 1986 is
18 amended by striking “if such arrangement” and all
19 that follows and inserting “if such arrangement—

20 “(i) meets the contribution require-
21 ments of subparagraph (B) and the notice
22 requirements of subparagraph (D), or

23 “(ii) meets the contribution require-
24 ments of subparagraph (C).”.

25 (2) AUTOMATIC CONTRIBUTION ARRANGE-
26 MENTS.—Subparagraph (B) of section 401(k)(13) of

1 such Code is amended by striking “means” and all
2 that follows and inserting “means a cash or deferred
3 arrangement—

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

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

10 (b) NONELECTIVE CONTRIBUTIONS.—Section
11 401(k)(12) of the Internal Revenue Code of 1986 is
12 amended by redesignating subparagraph (F) as subpara-
13 graph (G), and by inserting after subparagraph (E) the
14 following new subparagraph:

15 “(F) TIMING OF PLAN AMENDMENT FOR
16 EMPLOYER MAKING NONELECTIVE CONTRIBU-
17 TIONS.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii), a plan may be amend-
20 ed after the beginning of a plan year to
21 provide that the requirements of subpara-
22 graph (C) shall apply to the arrangement
23 for the plan year, but only if the amend-
24 ment is adopted—

1 “(I) at any time before the 30th
2 day before the close of the plan year,
3 or

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

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

15 “(iii) 4-PERCENT CONTRIBUTION RE-
16 QUIREMENT.—Clause (i)(II) shall not
17 apply to an arrangement unless the
18 amount of the contributions described in
19 subparagraph (C) which the employer is
20 required to make under the arrangement
21 for the plan year with respect to any em-
22 ployee is an amount equal to at least 4
23 percent of the employee’s compensation.”.

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

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

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

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

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

21 “(ii) EXCEPTION WHERE PLAN PRO-
22 VIDED FOR MATCHING CONTRIBUTIONS.—
23 Clause (i) shall not apply to any plan year
24 if the plan provided at any time during the
25 plan year that the requirements of sub-

1 paragraph (D)(i)(I) or paragraph (12)(B)
2 applied to the plan year.

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

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

16 **SEC. 104. INCREASE IN CREDIT LIMITATION FOR SMALL**
17 **EMPLOYER PENSION PLAN STARTUP COSTS.**

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

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

24 “(A) \$500, or

25 “(B) the lesser of—

1 “(i) \$250 for each employee of the eli-
2 gible employer who is not a highly com-
3 pensated employee (as defined in section
4 414(q)) and who is eligible to participate
5 in the eligible employer plan maintained by
6 the eligible employer, or

7 “(ii) \$5,000, and”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2019.

11 **SEC. 105. SMALL EMPLOYER AUTOMATIC ENROLLMENT**
12 **CREDIT.**

13 (a) **IN GENERAL.**—Subpart D of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 is amended by adding at the end the following new
16 section:

17 **“SEC. 45T. AUTO-ENROLLMENT OPTION FOR RETIREMENT**
18 **SAVINGS OPTIONS PROVIDED BY SMALL EM-**
19 **PLOYERS.**

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

24 “(1) \$500 for any taxable year occurring during
25 the credit period, and

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

2 “(b) CREDIT PERIOD.—For purposes of subsection
3 (a)—

4 “(1) IN GENERAL.—The credit period with re-
5 spect to any eligible employer is the 3-taxable-year
6 period beginning with the first taxable year for
7 which the employer includes an eligible automatic
8 contribution arrangement (as defined in section
9 414(w)(3)) in a qualified employer plan (as defined
10 in section 4972(d)) sponsored by the employer.

11 “(2) MAINTENANCE OF ARRANGEMENT.—No
12 taxable year with respect to an employer shall be
13 treated as occurring within the credit period unless
14 the arrangement described in paragraph (1) is in-
15 cluded in the plan for such year.

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

19 (b) CREDIT TO BE PART OF GENERAL BUSINESS
20 CREDIT.—Subsection (b) of section 38 of the Internal
21 Revenue Code of 1986 is amended by striking “plus” at
22 the end of paragraph (31), by striking the period at the
23 end of paragraph (32) and inserting “, plus”, and by add-
24 ing at the end the following new paragraph:

1 “(33) in the case of an eligible employer (as de-
2 fined in section 45T(c)), the retirement auto-enroll-
3 ment credit determined under section 45T(a).”.

4 (c) CLERICAL AMENDMENT.—The table of sections
5 for subpart D of part IV of subchapter A of chapter 1
6 of the Internal Revenue Code of 1986 is amended by in-
7 serting after the item relating to section 45S the following
8 new item:

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

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2019.

12 **SEC. 106. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**
13 **AND STIPEND PAYMENTS TREATED AS COM-**
14 **PENSATION FOR IRA PURPOSES.**

15 (a) IN GENERAL.—Paragraph (1) of section 219(f)
16 of the Internal Revenue Code of 1986 is amended by add-
17 ing at the end the following: “The term ‘compensation’
18 shall include any amount which is included in the individ-
19 ual’s gross income and paid to the individual to aid the
20 individual in the pursuit of graduate or postdoctoral
21 study.”.

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

1 **SEC. 107. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**
2 **CONTRIBUTIONS.**

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

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

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

13 **SEC. 108. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
14 **MAKING LOANS THROUGH CREDIT CARDS**
15 **AND OTHER SIMILAR ARRANGEMENTS.**

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

21 “(D) PROHIBITION OF LOANS THROUGH
22 CREDIT CARDS AND OTHER SIMILAR ARRANGE-
23 MENTS.—Subparagraph (A) shall not apply to
24 any loan which is made through the use of any
25 credit card or any other similar arrangement.”.

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

4 **SEC. 109. PORTABILITY OF LIFETIME INCOME OPTIONS.**

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

8 “(38) PORTABILITY OF LIFETIME INCOME.—

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

14 “(i) qualified distributions of a life-
15 time income investment, or

16 “(ii) distributions of a lifetime income
17 investment in the form of a qualified plan
18 distribution annuity contract,

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

23 “(B) DEFINITIONS.—For purposes of this
24 subsection—

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

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

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

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

22 “(iii) the term ‘lifetime income fea-
23 ture’ means—

24 “(I) a feature which guarantees a
25 minimum level of income annually (or

1 more frequently) for at least the re-
2 mainder of the life of the employee or
3 the joint lives of the employee and the
4 employee's designated beneficiary, or

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

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

20 (b) CASH OR DEFERRED ARRANGEMENT.—

21 (1) IN GENERAL.—Clause (i) of section
22 401(k)(2)(B) of the Internal Revenue Code of 1986
23 is amended by striking “or” at the end of subclause
24 (IV), by striking “and” at the end of subclause (V)

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

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

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

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

1 (c) SECTION 403(b) PLANS.—

2 (1) ANNUITY CONTRACTS.—Paragraph (11) of
3 section 403(b) of the Internal Revenue Code of 1986
4 is amended by striking “or” at the end of subpara-
5 graph (B), by striking the period at the end of sub-
6 paragraph (C) and inserting “, or”, and by inserting
7 after subparagraph (C) the following new subpara-
8 graph:

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

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

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

23 (2) CUSTODIAL ACCOUNTS.—Subparagraph (A)
24 of section 403(b)(7) of such Code is amended by
25 striking “if—” and all that follows and inserting “if

1 the amounts are to be invested in regulated invest-
2 ment company stock to be held in that custodial ac-
3 count, and under the custodial account—

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

8 “(I) the employee dies,

9 “(II) the employee attains age
10 59½,

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

13 “(IV) the employee becomes dis-
14 abled (within the meaning of section
15 72(m)(7)),

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

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

1 days prior to the date that such life-
2 time income investment may no longer
3 be held as an investment option under
4 the contract, and

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

12 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

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

18 “(iv) except as may be otherwise pro-
19 vided by regulations, in the case of a plan
20 maintained by an employer described in
21 subsection (e)(1)(A), with respect to
22 amounts invested in a lifetime income in-
23 vestment (as defined in section
24 401(a)(38)(B)(ii)), the date that is 90
25 days prior to the date that such lifetime

1 income investment may no longer be held
2 as an investment option under the plan.”.

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

9 “(D) except as may be otherwise provided
10 by regulations, in the case of amounts described
11 in subparagraph (A)(iv), such amounts will be
12 distributed only in the form of a qualified dis-
13 tribution (as defined in section
14 401(a)(38)(B)(i)) or a qualified plan distribu-
15 tion annuity contract (as defined in section
16 401(a)(38)(B)(iv)).”.

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

20 **SEC. 110. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
21 **MINATION OF SECTION 403(b) PLANS.**

22 Not later than six months after the date of enactment
23 of this Act, the Secretary of the Treasury shall issue guid-
24 ance to provide that, if an employer terminates the plan
25 under which amounts are contributed to a custodial ac-

1 count under subparagraph (A) of section 403(b)(7), the
2 plan administrator or custodian may distribute an indi-
3 vidual custodial account in kind to a participant or bene-
4 ficiary of the plan and the distributed custodial account
5 shall be maintained by the custodian on a tax-deferred
6 basis as a section 403(b)(7) custodial account, similar to
7 the treatment of fully-paid individual annuity contracts
8 under Revenue Ruling 2011-7, until amounts are actually
9 paid to the participant or beneficiary. The guidance shall
10 provide further (i) that the section 403(b)(7) status of the
11 distributed custodial account is generally maintained if the
12 custodial account thereafter adheres to the requirements
13 of section 403(b) that are in effect at the time of the dis-
14 tribution of the account and (ii) that a custodial account
15 would not be considered distributed to the participant or
16 beneficiary if the employer has any material retained
17 rights under the account (but the employer would not be
18 treated as retaining material rights simply because the
19 custodial account was originally opened under a group
20 contract). Such guidance shall be retroactively effective for
21 taxable years beginning after December 31, 2008.

1 **SEC. 111. 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 **SEC. 112. QUALIFIED CASH OR DEFERRED ARRANGEMENTS**
13 **MUST ALLOW LONG-TERM EMPLOYEES**
14 **WORKING MORE THAN 500 BUT LESS THAN**
15 **1,000 HOURS PER YEAR TO PARTICIPATE.**

16 (a) PARTICIPATION REQUIREMENT.—

17 (1) IN GENERAL.—Section 401(k)(2)(D) of the
18 Internal Revenue Code of 1986 is amended to read
19 as follows:

20 “(D) which does not require, as a condi-
21 tion of participation in the arrangement, that
22 an employee complete a period of service with
23 the employer (or employers) maintaining the
24 plan extending beyond the close of the earlier
25 of—

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

4 “(ii) subject to the provisions of para-
5 graph (15), the first period of 3 consecu-
6 tive 12-month periods during each of which
7 the employee has at least 500 hours of
8 service.”.

9 (2) SPECIAL RULES.—Section 401(k) of such
10 Code is amended by adding at the end the following
11 new paragraph:

12 “(15) SPECIAL RULES FOR PARTICIPATION RE-
13 QUIREMENT FOR LONG-TERM, PART-TIME WORK-
14 ERS.—For purposes of paragraph (2)(D)(ii)—

15 “(A) AGE REQUIREMENT MUST BE MET.—
16 Paragraph (2)(D)(ii) shall not apply to an em-
17 ployee unless the employee has met the require-
18 ment of section 410(a)(1)(A)(i) by the close of
19 the last of the 12-month periods described in
20 such paragraph.

21 “(B) NONDISCRIMINATION AND TOP-
22 HEAVY RULES NOT TO APPLY.—

23 “(i) NONDISCRIMINATION RULES.—In
24 the case of employees who are eligible to

1 participate in the arrangement solely by
2 reason of paragraph (2)(D)(ii)—

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

11 “(II) an employer may elect to
12 exclude such employees from the ap-
13 plication of subsection (a)(4), para-
14 graphs (3), (12), and (13), subsection
15 (m)(2), and section 410(b).

16 “(ii) TOP-HEAVY RULES.—An em-
17 ployer may elect to exclude all employees
18 who are eligible to participate in a plan
19 maintained by the employer solely by rea-
20 son of paragraph (2)(D)(ii) from the appli-
21 cation of the vesting and benefit require-
22 ments under subsections (b) and (c) of sec-
23 tion 416.

24 “(iii) VESTING.—For purposes of de-
25 termining whether an employee described

1 in clause (i) has a nonforfeitable right to
2 employer contributions (other than con-
3 tributions described in paragraph
4 (3)(D)(i)) under the arrangement, each
5 12-month period for which the employee
6 has at least 500 hours of service shall be
7 treated as a year of service.

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

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

20 “(D) SPECIAL RULES.—

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

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

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to plan years beginning after De-
7 cember 31, 2020, except that, for purposes of section
8 401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 (as
9 added by such amendments), 12-month periods beginning
10 before January 1, 2021, shall not be taken into account.

11 **SEC. 113. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
12 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
13 **BIRTH OF CHILD OR ADOPTION.**

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

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

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

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

1 vidual with respect to any birth or adop-
2 tion shall not exceed \$5,000.

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

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

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

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

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

1 regard to clause (ii)) be a qualified
2 birth or adoption distribution, a plan
3 shall not be treated as failing to meet
4 any requirement of this title merely
5 because the plan treats the distribu-
6 tion as a qualified birth or adoption
7 distribution, unless the aggregate
8 amount of such distributions from all
9 plans maintained by the employer
10 (and any member of any controlled
11 group which includes the employer) to
12 such individual exceeds \$5,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 114. INCREASE IN AGE FOR REQUIRED BEGINNING**
2 **DATE FOR MANDATORY DISTRIBUTIONS.**

3 (a) IN GENERAL.—Section 401(a)(9)(C)(i)(I) of the
4 Internal Revenue Code of 1986 is amended by striking
5 “age 70½” and inserting “age 72”.

6 (b) SPOUSE BENEFICIARIES; SPECIAL RULE FOR
7 OWNERS.—Subparagraphs (B)(iv)(I) and (C)(ii)(I) of sec-
8 tion 401(a)(9) of such Code are each amended by striking
9 “age 70½” and inserting “age 72”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) The last sentence of section 408(b) of such
12 Code is amended by striking “age 70½” and insert-
13 ing “age 72”.

14 (2) Section 457(d)(1)(A)(i) of such Code is
15 amended by striking “age 70½” and inserting “age
16 72”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to distributions required to be
19 made after December 31, 2019, with respect to individuals
20 who attain age 70½ after such date.

21 **SEC. 115. SPECIAL RULES FOR MINIMUM FUNDING STAND-**
22 **ARDS FOR COMMUNITY NEWSPAPER PLANS.**

23 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
24 1986.—Section 430 of the Internal Revenue Code of 1986
25 is amended by adding at the end the following new sub-
26 section:

1 “(m) SPECIAL RULES FOR COMMUNITY NEWSPAPER
2 PLANS.—

3 “(1) IN GENERAL.—The plan sponsor of a com-
4 munity newspaper plan under which no participant
5 has had the participant’s accrued benefit increased
6 (whether because of service or compensation) after
7 December 31, 2017, may elect to have the alter-
8 native standards described in paragraph (3) apply to
9 such plan, and any plan sponsored by any member
10 of the same controlled group.

11 “(2) ELECTION.—An election under paragraph
12 (1) shall be made at such time and in such manner
13 as prescribed by the Secretary. Such election, once
14 made with respect to a plan year, shall apply to all
15 subsequent plan years unless revoked with the con-
16 sent of the Secretary.

17 “(3) ALTERNATIVE MINIMUM FUNDING STAND-
18 ARDS.—The alternative standards described in this
19 paragraph are the following:

20 “(A) INTEREST RATES.—

21 “(i) IN GENERAL.—Notwithstanding
22 subsection (h)(2)(C) and except as pro-
23 vided in clause (ii), the first, second, and
24 third segment rates in effect for any

1 month for purposes of this section shall be
2 8 percent.

3 “(ii) NEW BENEFIT ACCRUALS.—Not-
4 withstanding subsection (h)(2), for pur-
5 poses of determining the funding target
6 and normal cost of a plan for any plan
7 year, the present value of any benefits ac-
8 crued or earned under the plan for a plan
9 year with respect to which an election
10 under paragraph (1) is in effect shall be
11 determined on the basis of the U.S. Treas-
12 ury obligation yield curve for the day that
13 is the valuation date of such plan for such
14 plan year.

15 “(iii) U.S. TREASURY OBLIGATION
16 YIELD CURVE.—For purposes of this sub-
17 section, the term ‘U.S. Treasury obligation
18 yield curve’ means, with respect to any
19 day, a yield curve which shall be prescribed
20 by the Secretary for such day on interest-
21 bearing obligations of the United States.

22 “(B) SHORTFALL AMORTIZATION BASE.—

23 “(i) PREVIOUS SHORTFALL AMORTIZA-
24 TION BASES.—The shortfall amortization
25 bases determined under subsection (c)(3)

1 for all plan years preceding the first plan
2 year to which the election under paragraph
3 (1) applies (and all shortfall amortization
4 installments determined with respect to
5 such bases) shall be reduced to zero under
6 rules similar to the rules of subsection
7 (c)(6).

8 “(ii) NEW SHORTFALL AMORTIZATION
9 BASE.—Notwithstanding subsection (c)(3),
10 the shortfall amortization base for the first
11 plan year to which the election under para-
12 graph (1) applies shall be the funding
13 shortfall of such plan for such plan year
14 (determined using the interest rates as
15 modified under subparagraph (A)).

16 “(C) DETERMINATION OF SHORTFALL AM-
17 ORTIZATION INSTALLMENTS.—

18 “(i) 30-YEAR PERIOD.—Subpara-
19 graphs (A) and (B) of subsection (c)(2)
20 shall be applied by substituting ‘30-plan-
21 year’ for ‘7-plan-year’ each place it ap-
22 pears.

23 “(ii) NO SPECIAL ELECTION.—The
24 election under subparagraph (D) of sub-
25 section (c)(2) shall not apply to any plan

1 year to which the election under paragraph
2 (1) applies.

3 “(D) EXEMPTION FROM AT-RISK TREAT-
4 MENT.—Subsection (i) shall not apply.

5 “(4) COMMUNITY NEWSPAPER PLAN.—For pur-
6 poses of this subsection—

7 “(A) IN GENERAL.—The term ‘community
8 newspaper plan’ means a plan to which this sec-
9 tion applies maintained by an employer which,
10 as of December 31, 2017—

11 “(i) publishes and distributes daily, ei-
12 ther electronically or in printed form, 1 or
13 more community newspapers in a single
14 State,

15 “(ii) is not a company the stock of
16 which is publicly traded (on a stock ex-
17 change or in an over-the-counter market),
18 and is not controlled, directly or indirectly,
19 by such a company,

20 “(iii) is controlled, directly or indi-
21 rectly—

22 “(I) by 1 or more persons resid-
23 ing primarily in the State in which
24 the community newspaper is pub-
25 lished,

1 “(II) for not less than 30 years
2 by individuals who are members of the
3 same family,

4 “(III) by a trust created or orga-
5 nized in the State in which the com-
6 munity newspaper is published, the
7 sole trustees of which are persons de-
8 scribed in subclause (I) or (II),

9 “(IV) by an entity which is de-
10 scribed in section 501(c)(3) and ex-
11 empt from taxation under section
12 501(a), which is organized and oper-
13 ated in the State in which the commu-
14 nity newspaper is published, and the
15 primary purpose of which is to benefit
16 communities in such State, or

17 “(V) by a combination of persons
18 described in subclause (I), (III), or
19 (IV), and

20 “(iv) does not control, directly or indi-
21 rectly, any newspaper in any other State.

22 “(B) COMMUNITY NEWSPAPER.—The term
23 ‘community newspaper’ means a newspaper
24 which primarily serves a metropolitan statistical
25 area, as determined by the Office of Manage-

1 ment and Budget, with a population of not less
2 than 100,000.

3 “(C) CONTROL.—A person shall be treated
4 as controlled by another person if such other
5 person possesses, directly or indirectly, the
6 power to direct or cause the direction and man-
7 agement of such person (including the power to
8 elect a majority of the members of the board of
9 directors of such person) through the ownership
10 of voting securities.

11 “(5) CONTROLLED GROUP.—For purposes of
12 this subsection, the term ‘controlled group’ means all
13 persons treated as a single employer under sub-
14 section (b), (c), (m), or (o) of section 414 as of the
15 date of the enactment of this subsection.”.

16 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
17 COME SECURITY ACT OF 1974.—Section 303 of the Em-
18 ployee Retirement Income Security Act of 1974 (29
19 U.S.C. 1083) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(m) SPECIAL RULES FOR COMMUNITY NEWSPAPER
22 PLANS.—

23 “(1) IN GENERAL.—The plan sponsor of a com-
24 munity newspaper plan under which no participant
25 has had the participant’s accrued benefit increased

1 (whether because of service or compensation) after
2 December 31, 2017, may elect to have the alter-
3 native standards described in paragraph (3) apply to
4 such plan, and any plan sponsored by any member
5 of the same controlled group.

6 “(2) ELECTION.—An election under paragraph
7 (1) shall be made at such time and in such manner
8 as prescribed by the Secretary of the Treasury. Such
9 election, once made with respect to a plan year, shall
10 apply to all subsequent plan years unless revoked
11 with the consent of the Secretary of the Treasury.

12 “(3) ALTERNATIVE MINIMUM FUNDING STAND-
13 ARDS.—The alternative standards described in this
14 paragraph are the following:

15 “(A) INTEREST RATES.—

16 “(i) IN GENERAL.—Notwithstanding
17 subsection (h)(2)(C) and except as pro-
18 vided in clause (ii), the first, second, and
19 third segment rates in effect for any
20 month for purposes of this section shall be
21 8 percent.

22 “(ii) NEW BENEFIT ACCRUALS.—Not-
23 withstanding subsection (h)(2), for pur-
24 poses of determining the funding target
25 and normal cost of a plan for any plan

1 year, the present value of any benefits ac-
2 crued or earned under the plan for a plan
3 year with respect to which an election
4 under paragraph (1) is in effect shall be
5 determined on the basis of the U.S. Treas-
6 ury obligation yield curve for the day that
7 is the valuation date of such plan for such
8 plan year.

9 “(iii) U.S. TREASURY OBLIGATION
10 YIELD CURVE.—For purposes of this sub-
11 section, the term ‘U.S. Treasury obligation
12 yield curve’ means, with respect to any
13 day, a yield curve which shall be prescribed
14 by the Secretary of the Treasury for such
15 day on interest-bearing obligations of the
16 United States.

17 “(B) SHORTFALL AMORTIZATION BASE.—

18 “(i) PREVIOUS SHORTFALL AMORTIZA-
19 TION BASES.—The shortfall amortization
20 bases determined under subsection (c)(3)
21 for all plan years preceding the first plan
22 year to which the election under paragraph
23 (1) applies (and all shortfall amortization
24 installments determined with respect to
25 such bases) shall be reduced to zero under

1 rules similar to the rules of subsection
2 (c)(6).

3 “(ii) NEW SHORTFALL AMORTIZATION
4 BASE.—Notwithstanding subsection (c)(3),
5 the shortfall amortization base for the first
6 plan year to which the election under para-
7 graph (1) applies shall be the funding
8 shortfall of such plan for such plan year
9 (determined using the interest rates as
10 modified under subparagraph (A)).

11 “(C) DETERMINATION OF SHORTFALL AM-
12 ORTIZATION INSTALLMENTS.—

13 “(i) 30-YEAR PERIOD.—Subpara-
14 graphs (A) and (B) of subsection (c)(2)
15 shall be applied by substituting ‘30-plan-
16 year’ for ‘7-plan-year’ each place it ap-
17 pears.

18 “(ii) NO SPECIAL ELECTION.—The
19 election under subparagraph (D) of sub-
20 section (c)(2) shall not apply to any plan
21 year to which the election under paragraph
22 (1) applies.

23 “(D) EXEMPTION FROM AT-RISK TREAT-
24 MENT.—Subsection (i) shall not apply.

1 “(4) COMMUNITY NEWSPAPER PLAN.—For pur-
2 poses of this subsection—

3 “(A) IN GENERAL.—The term ‘community
4 newspaper plan’ means a plan to which this sec-
5 tion applies maintained by an employer which,
6 as of December 31, 2017—

7 “(i) publishes and distributes daily, ei-
8 ther electronically or in printed form—

9 “(I) a community newspaper, or

10 “(II) 1 or more community news-
11 papers in the same State,

12 “(ii) is not a company the stock of
13 which is publicly traded (on a stock ex-
14 change or in an over-the-counter market),
15 and is not controlled, directly or indirectly,
16 by such a company,

17 “(iii) is controlled, directly or indi-
18 rectly—

19 “(I) by 1 or more persons resid-
20 ing primarily in the State in which
21 the community newspaper is pub-
22 lished,

23 “(II) for not less than 30 years
24 by individuals who are members of the
25 same family,

1 “(III) by a trust created or orga-
2 nized in the State in which the com-
3 munity newspaper is published, the
4 sole trustees of which are persons de-
5 scribed in subclause (I) or (II),

6 “(IV) by an entity which is de-
7 scribed in section 501(c)(3) of the In-
8 ternal Revenue Code of 1986 and ex-
9 empt from taxation under section
10 501(a) of such Code, which is orga-
11 nized and operated in the State in
12 which the community newspaper is
13 published, and the primary purpose of
14 which is to benefit communities in
15 such State, or

16 “(V) by a combination of persons
17 described in subclause (I), (III), or
18 (IV), and

19 “(iv) does not control, directly or indi-
20 rectly, any newspaper in any other State.

21 “(B) COMMUNITY NEWSPAPER.—The term
22 ‘community newspaper’ means a newspaper
23 which primarily serves a metropolitan statistical
24 area, as determined by the Office of Manage-

1 ment and Budget, with a population of not less
2 than 100,000.

3 “(C) CONTROL.—A person shall be treated
4 as controlled by another person if such other
5 person possesses, directly or indirectly, the
6 power to direct or cause the direction and man-
7 agement of such person (including the power to
8 elect a majority of the members of the board of
9 directors of such person) through the ownership
10 of voting securities.

11 “(5) CONTROLLED GROUP.—For purposes of
12 this subsection, the term ‘controlled group’ means all
13 persons treated as a single employer under sub-
14 section (b), (c), (m), or (o) of section 414 of the In-
15 ternal Revenue Code of 1986 as of the date of the
16 enactment of this subsection.

17 “(6) EFFECT ON PREMIUM RATE CALCULA-
18 TION.—Notwithstanding any other provision of law
19 or any regulation issued by the Pension Benefit
20 Guaranty Corporation, in the case of a community
21 newspaper plan which elects the application of the
22 alternative standards described in paragraph (3), the
23 additional premium under section 4006(a)(3)(E)
24 shall be determined as if such election had not been
25 made.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years ending after Decem-
3 ber 31, 2017.

4 **SEC. 116. TREATING EXCLUDED DIFFICULTY OF CARE PAY-**
5 **MENTS AS COMPENSATION FOR DETER-**
6 **MINING RETIREMENT CONTRIBUTION LIMI-**
7 **TATIONS.**

8 (a) INDIVIDUAL RETIREMENT ACCOUNTS.—

9 (1) IN GENERAL.—Section 408(o) of the Inter-
10 nal Revenue Code of 1986 is amended by adding at
11 the end the following new paragraph:

12 “(5) SPECIAL RULE FOR DIFFICULTY OF CARE
13 PAYMENTS EXCLUDED FROM GROSS INCOME.—In
14 the case of an individual who for a taxable year ex-
15 cludes from gross income under section 131 a quali-
16 fied foster care payment which is a difficulty of care
17 payment, if—

18 “(A) the deductible amount in effect for
19 the taxable year under subsection (b), exceeds

20 “(B) the amount of compensation includ-
21 ible in the individual’s gross income for the tax-
22 able year,

23 the individual may elect to increase the nondeduct-
24 ible limit under paragraph (2) for the taxable year

1 by an amount equal to the lesser of such excess or
2 the amount so excluded.”.

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

6 (b) DEFINED CONTRIBUTION PLANS.—

7 (1) IN GENERAL.—Section 415(c) of such Code
8 is amended by adding at the end the following new
9 paragraph:

10 “(8) SPECIAL RULE FOR DIFFICULTY OF CARE
11 PAYMENTS EXCLUDED FROM GROSS INCOME.—

12 “(A) IN GENERAL.—For purposes of para-
13 graph (1)(B), in the case of an individual who
14 for a taxable year excludes from gross income
15 under section 131 a qualified foster care pay-
16 ment which is a difficulty of care payment, the
17 participant’s compensation, or earned income,
18 as the case may be, shall be increased by the
19 amount so excluded.

20 “(B) CONTRIBUTIONS ALLOCABLE TO DIF-
21 FICULTY OF CARE PAYMENTS TREATED AS
22 AFTER-TAX.—Any contribution by the partici-
23 pant which is allowable due to such increase—

24 “(i) shall be treated for purposes of
25 this title as investment in the contract, and

1 “(ii) shall not cause a plan (and any
2 arrangement which is part of such plan) to
3 be treated as failing to meet any require-
4 ments of this chapter solely by reason of
5 allowing any such contributions.”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by this subsection shall apply to plan years begin-
8 ning after December 31, 2015.

9 **TITLE II—ADMINISTRATIVE**
10 **IMPROVEMENTS**

11 **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR**
12 **MAY BE TREATED AS IN EFFECT AS OF CLOSE**
13 **OF YEAR.**

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

16 (1) by striking “RETROACTIVE CHANGES IN
17 PLAN.—A stock bonus” and inserting “PLAN
18 AMENDMENTS.—

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

21 (2) by adding at the end the following new
22 paragraph:

23 “(2) ADOPTION OF PLAN.—If an employer
24 adopts a stock bonus, pension, profit-sharing, or an-
25 nuity plan after the close of a taxable year but be-

1 fore the time prescribed by law for filing the return
2 of the employer for the taxable year (including ex-
3 tensions thereof), the employer may elect to treat
4 the plan as having been adopted as of the last day
5 of the taxable year.”.

6 (b) **EFFECTIVE DATE.**—The amendments made by
7 this section shall apply to plans adopted for taxable years
8 beginning after December 31, 2019.

9 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**
10 **PLANS.**

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

20 (b) **ADMINISTRATIVE REQUIREMENTS.**—In devel-
21 oping the consolidated return or report under subsection
22 (a), the Secretary of the Treasury and the Secretary of
23 Labor may require such return or report to include any
24 information regarding each plan in the group as such Sec-
25 retaries determine is necessary or appropriate for the en-

1 enforcement and administration of the Internal Revenue
2 Code of 1986 and the Employee Retirement Income Secu-
3 rity Act of 1974.

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

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

11 (2) have—

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

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

17 (C) the same administrator (as defined in
18 section 3(16)(A) of such Act (29 U.S.C.
19 1002(16)(A))) and plan administrator (as de-
20 fined in section 414(g) of the Internal Revenue
21 Code of 1986); and

22 (D) plan years beginning on the same
23 date; and

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

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

8 (d) CLARIFICATION RELATING TO ELECTRONIC FIL-
9 ING OF RETURNS FOR DEFERRED COMPENSATION
10 PLANS.—

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

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

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall apply to returns required to
23 be filed with respect to plan years beginning after
24 December 31, 2019.

1 (e) **EFFECTIVE DATE.**—The modification required by
2 subsection (a) shall be implemented not later than Janu-
3 ary 1, 2022, and shall apply to returns and reports for
4 plan years beginning after December 31, 2021.

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

6 (a) **IN GENERAL.**—Subparagraph (B) of section
7 105(a)(2) of the Employee Retirement Income Security
8 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

11 and inserting “diversification, and”; and

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

13 “(iii) the lifetime income disclosure
14 described in subparagraph (D)(i).

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

21 (b) **LIFETIME INCOME.**—Paragraph (2) of section
22 105(a) of the Employee Retirement Income Security Act
23 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the
24 end the following new subparagraph:

25 “(D) **LIFETIME INCOME DISCLOSURE.**—

1 “(i) IN GENERAL.—

2 “(I) DISCLOSURE.—A lifetime in-
3 come disclosure shall set forth the life-
4 time income stream equivalent of the
5 total benefits accrued with respect to
6 the participant or beneficiary.

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

21 “(III) LIFETIME INCOME
22 STREAMS.—The lifetime income
23 streams described in this subclause
24 are a qualified joint and survivor an-
25 nuity (as defined in section 205(d)),

1 based on assumptions specified in
2 rules prescribed by the Secretary, in-
3 cluding the assumption that the par-
4 ticipant or beneficiary has a spouse of
5 equal age, and a single life annuity.
6 Such lifetime income streams may
7 have a term certain or other features
8 to the extent permitted under rules
9 prescribed by the Secretary.

10 “(ii) MODEL DISCLOSURE.—Not later
11 than 1 year after the date of the enact-
12 ment of the Setting Every Community Up
13 for Retirement Enhancement Act of 2019,
14 the Secretary shall issue a model lifetime
15 income disclosure, written in a manner so
16 as to be understood by the average plan
17 participant, which—

18 “(I) explains that the lifetime in-
19 come stream equivalent is only pro-
20 vided as an illustration;

21 “(II) explains that the actual
22 payments under the lifetime income
23 stream described in clause (i)(III)
24 which may be purchased with the
25 total benefits accrued will depend on

1 numerous factors and may vary sub-
2 stantially from the lifetime income
3 stream equivalent in the disclosures;

4 “(III) explains the assumptions
5 upon which the lifetime income stream
6 equivalent was determined; and

7 “(IV) provides such other similar
8 explanations as the Secretary con-
9 siders appropriate.

10 “(iii) ASSUMPTIONS AND RULES.—
11 Not later than 1 year after the date of the
12 enactment of the Setting Every Commu-
13 nity Up for Retirement Enhancement Act
14 of 2019, the Secretary shall—

15 “(I) prescribe assumptions which
16 administrators of individual account
17 plans may use in converting total ac-
18 crued benefits into lifetime income
19 stream equivalents for purposes of
20 this subparagraph; and

21 “(II) issue interim final rules
22 under clause (i).

23 In prescribing assumptions under sub-
24 clause (I), the Secretary may prescribe a
25 single set of specific assumptions (in which

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

13 “(iv) LIMITATION ON LIABILITY.—No
14 plan fiduciary, plan sponsor, or other per-
15 son shall have any liability under this title
16 solely by reason of the provision of lifetime
17 income stream equivalents which are de-
18 rived in accordance with the assumptions
19 and rules described in clause (iii) and
20 which include the explanations contained in
21 the model lifetime income disclosure de-
22 scribed in clause (ii). This clause shall
23 apply without regard to whether the provi-
24 sion of such lifetime income stream equiva-
25 lent is required by subparagraph (B)(iii).

1 “(v) EFFECTIVE DATE.—The require-
2 ment in subparagraph (B)(iii) shall apply
3 to pension benefit statements furnished
4 more than 12 months after the latest of
5 the issuance by the Secretary of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(4) TIME OF SELECTION.—

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

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

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

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

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

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

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

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

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

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

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

20 (1) by redesignating subsection (o) as sub-
21 section (p); and

22 (2) by inserting after subsection (n) the fol-
23 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 April
4 5, 2017, or the plan is described in sub-
5 paragraph (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 April 5, 2017, or the plan is described
18 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 benefitting under the
19 plan for the plan year in which the 5-
20 year period described in subparagraph
21 (E) 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 employer in the plan.

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) 2 or more plans shall not fail to
23 be eligible to be aggregated and treated as
24 a single plan solely by reason of having dif-
25 ferent 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 April
12 5, 2017, or the defined benefit plan under
13 clause (i) is described in paragraph (1)(C)
14 (as applied for purposes of paragraph
15 (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

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

4 “(I) provides matching contribu-
5 tions (as defined in subsection
6 (m)(4)(A)),

7 “(II) provides annuity contracts
8 described in section 403(b) which are
9 purchased with matching contribu-
10 tions or nonelective contributions, or

11 “(III) consists of an employee
12 stock ownership plan (within the
13 meaning of section 4975(e)(7)) or a
14 tax credit employee stock ownership
15 plan (within the meaning of section
16 409(a)).

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

21 “(C) SPECIAL RULES FOR TESTING DE-
22 FINED CONTRIBUTION PLAN FEATURES PRO-
23 VIDING MATCHING CONTRIBUTIONS TO CERTAIN
24 OLDER, LONGER SERVICE PARTICIPANTS.—In
25 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 AND SPECIAL RULE.—For
4 purposes of this subsection—

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 April 5, 2017, or the plan is
5 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 April 5,
19 2017, if the plan sponsor's intention to create
20 such closed class is reflected in formal written
21 documents and communicated to participants
22 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-

1 tion 401(o)(1)(A), 401(o)(1)(B)(iii), or
2 401(a)(26) of such Code (as added by this sec-
3 tion) to such plan solely because in the case
4 of—

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

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

20 Any such section shall only apply if the plan
21 otherwise meets the requirements of such sec-
22 tion and in applying such section, the date the
23 class of participants is closed shall be the effec-
24 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, 2018,
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, 2018, 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—OTHER BENEFITS**

14 **SEC. 301. BENEFITS PROVIDED TO VOLUNTEER FIRE-** 15 **FIGHTERS AND EMERGENCY MEDICAL RE-** 16 **SPONDERS.**

17 (a) INCREASE IN DOLLAR LIMITATION ON QUALI-
18 FIED PAYMENTS.—Subparagraph (B) of section
19 139B(c)(2) of the Internal Revenue Code of 1986 is
20 amended by striking “\$30” and inserting “\$50”.

21 (b) EXTENSION.—Section 139B(d) of the Internal
22 Revenue Code of 1986 is amended by striking “beginning
23 after December 31, 2010.” and inserting “beginning—

24 “(1) after December 31, 2010, and before Jan-
25 uary 1, 2020, or

1 “(2) after December 31, 2020.”.

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

5 **SEC. 302. EXPANSION OF SECTION 529 PLANS.**

6 (a) DISTRIBUTIONS FOR CERTAIN EXPENSES ASSO-
7 CIATED WITH REGISTERED APPRENTICESHIP PRO-
8 GRAMS.—Section 529(c) of the Internal Revenue Code of
9 1986 is amended by adding at the end the following new
10 paragraph:

11 “(8) TREATMENT OF CERTAIN EXPENSES ASSO-
12 CIATED WITH REGISTERED APPRENTICESHIP PRO-
13 GRAMS.—Any reference in this subsection to the
14 term ‘qualified higher education expense’ shall in-
15 clude a reference to expenses for fees, books, sup-
16 plies, and equipment required for the participation
17 of a designated beneficiary in an apprenticeship pro-
18 gram registered and certified with the Secretary of
19 Labor under section 1 of the National Apprentice-
20 ship Act (29 U.S.C. 50).”

21 (b) DISTRIBUTIONS FOR CERTAIN HOMESCHOOLING
22 EXPENSES.—Section 529(c)(7) of such Code is amended
23 by striking “include a reference to” and all that follows
24 and inserting: “include a reference to—

1 “(A) expenses for tuition in connection
2 with enrollment or attendance of a designated
3 beneficiary at an elementary or secondary pub-
4 lic, private, or religious school, and

5 “(B) expenses, with respect to a des-
6 ignated beneficiary, for—

7 “(i) curriculum and curricular mate-
8 rials,

9 “(ii) books or other instructional ma-
10 terials,

11 “(iii) online educational materials,

12 “(iv) tuition for tutoring or edu-
13 cational classes outside of the home (but
14 only if the tutor or class instructor is not
15 related (within the meaning of section
16 152(d)(2)) to the student),

17 “(v) dual enrollment in an institution
18 of higher education, and

19 “(vi) educational therapies for stu-
20 dents with disabilities,

21 in connection with a homeschool (whether treat-
22 ed as a homeschool or a private school for pur-
23 poses of applicable State law).”.

24 (c) DISTRIBUTIONS FOR QUALIFIED EDUCATION

25 LOAN REPAYMENTS.—

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

4 “(9) TREATMENT OF QUALIFIED EDUCATION
5 LOAN REPAYMENTS.—

6 “(A) IN GENERAL.—Any reference in this
7 subsection to the term ‘qualified higher edu-
8 cation expense’ shall include a reference to
9 amounts paid as principal or interest on any
10 qualified education loan (as defined in section
11 221(d)) of the designated beneficiary or a sib-
12 ling of the designated beneficiary.

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

19 “(C) SPECIAL RULES FOR SIBLINGS OF
20 THE DESIGNATED BENEFICIARY.—

21 “(i) SEPARATE ACCOUNTING.—For
22 purposes of subparagraph (B) and sub-
23 section (d), amounts treated as a qualified
24 higher education expense with respect to
25 the loans of a sibling of the designated

1 beneficiary shall be taken into account
2 with respect to such sibling and not with
3 respect to such designated beneficiary.

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

9 (2) COORDINATION WITH DEDUCTION FOR STU-
10 DENT LOAN INTEREST.—Section 221(e)(1) of such
11 Code is amended by adding at the end the following:
12 “The deduction otherwise allowable under subsection
13 (a) (prior to the application of subsection (b)) to the
14 taxpayer for any taxable year shall be reduced (but
15 not below zero) by so much of the distributions
16 treated as a qualified higher education expense
17 under section 529(c)(9) with respect to loans of the
18 taxpayer as would be includible in gross income
19 under section 529(c)(3)(A) for such taxable year but
20 for such treatment.”.

21 (d) DISTRIBUTIONS FOR CERTAIN ELEMENTARY AND
22 SECONDARY SCHOOL EXPENSES IN ADDITION TO TUI-
23 TION.—Section 529(c)(7)(A) of such Code, as amended by
24 subsection (b), is amended to read as follows:

1 “(A) expenses described in section
2 530(b)(3)(A)(i) in connection with enrollment
3 or attendance of a designated beneficiary at an
4 elementary or secondary public, private, or reli-
5 gious school, and”.

6 (e) EFFECTIVE DATES.—The amendments made by
7 this section shall apply to distributions made after Decem-
8 ber 31, 2018.

9 **TITLE IV—REVENUE** 10 **PROVISIONS**

11 **SEC. 401. MODIFICATION OF REQUIRED DISTRIBUTION** 12 **RULES FOR DESIGNATED BENEFICIARIES.**

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

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

18 “(H) SPECIAL RULES FOR CERTAIN DE-
19 FINED CONTRIBUTION PLANS.—In the case of a
20 defined contribution plan, if an employee dies
21 before the distribution of the employee’s entire
22 interest—

23 “(i) IN GENERAL.—Except in the case
24 of a beneficiary who is not a designated
25 beneficiary, subparagraph (B)(ii)—

1 “(I) shall be applied by sub-
2 stituting ‘10 years’ for ‘5 years’, and

3 “(II) shall apply whether or not
4 distributions of the employee’s inter-
5 ests have begun in accordance with
6 subparagraph (A).

7 “(ii) EXCEPTION ONLY FOR ELIGIBLE
8 DESIGNATED BENEFICIARIES.—Subpara-
9 graph (B)(iii) shall apply only in the case
10 of an eligible designated beneficiary.

11 “(iii) RULES UPON DEATH OF ELIGI-
12 BLE DESIGNATED BENEFICIARY.—If an el-
13 igible designated beneficiary dies before the
14 portion of the employee’s interest to which
15 this subparagraph applies is entirely dis-
16 tributed, the exception under clause (iii)
17 shall not apply to any beneficiary of such
18 eligible designated beneficiary and the re-
19 mainder of such portion shall be distrib-
20 uted within 10 years after the death of
21 such eligible designated beneficiary.

22 “(iv) APPLICATION TO ELIGIBLE RE-
23 TIREMENT PLANS.—For purposes of apply-
24 ing the provisions of this subparagraph in
25 determining the amounts required to be

1 distributed pursuant to this paragraph, all
2 eligible retirement plans (as defined in sec-
3 tion 402(c)(8)(B)) other than a defined
4 benefit plan shall be treated as a defined
5 contribution plan.”.

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

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

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

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

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

22 “(II) subject to clause (iii), a
23 child of the employee who has not
24 reached majority (within the meaning
25 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 individual’s interest to which sub-

1 paragraph (H)(ii) applies shall be distrib-
2 uted within 10 years 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) EFFECTIVE DATES.—

10 (A) IN GENERAL.—Except as provided in
11 this paragraph and paragraphs (4) and (5), the
12 amendments made by this subsection shall
13 apply to distributions with respect to employees
14 who die after December 31, 2019.

15 (B) COLLECTIVE BARGAINING EXCEP-
16 TION.—In the case of a plan maintained pursu-
17 ant to 1 or more collective bargaining agree-
18 ments between employee representatives and 1
19 or more employers ratified before the date of
20 enactment of this Act, the amendments made
21 by this subsection shall apply to distributions
22 with respect to employees who die in calendar
23 years beginning after the earlier of—

24 (i) the later of—

1 (I) the date on which the last of
2 such collective bargaining agreements
3 terminates (determined without re-
4 gard to any extension thereof agreed
5 to on or after the date of the enact-
6 ment of this Act), or

7 (II) December 31, 2019, or

8 (ii) December 31, 2021.

9 For purposes of clause (i)(I), any plan amend-
10 ment made pursuant to a collective bargaining
11 agreement relating to the plan which amends
12 the plan solely to conform to any requirement
13 added by this section shall not be treated as a
14 termination of such collective bargaining agree-
15 ment.

16 (C) GOVERNMENTAL PLANS.—In the case
17 of a governmental plan (as defined in section
18 414(d) of the Internal Revenue Code of 1986),
19 subparagraph (A) shall be applied by sub-
20 stituting “December 31, 2021” for “December
21 31, 2019”.

22 (4) EXCEPTION FOR CERTAIN EXISTING ANNU-
23 ITY CONTRACTS.—

24 (A) IN GENERAL.—The amendments made
25 by this subsection shall not apply to a qualified

1 annuity which is a binding annuity contract in
2 effect on the date of enactment of this Act and
3 at all times thereafter.

4 (B) QUALIFIED ANNUITY.—For purposes
5 of this paragraph, the term “qualified annuity”
6 means, with respect to an employee, an annu-
7 ity—

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

11 (ii) under which the annuity payments
12 are made over the life of the employee or
13 over the joint lives of such employee and a
14 designated beneficiary (or over a period
15 not extending beyond the life expectancy of
16 such employee or the joint life expectancy
17 of such employee and a designated bene-
18 ficiary) in accordance with the regulations
19 described in section 401(a)(9)(A)(ii) of
20 such Code (as in effect before such amend-
21 ments) and which meets the other require-
22 ments of section 401(a)(9) of such Code
23 (as so in effect) with respect to such pay-
24 ments; and

25 (iii) with respect to which—

1 (I) annuity payments to the em-
2 ployee have begun before the date of
3 enactment of this Act, and the em-
4 ployee has made an irrevocable elec-
5 tion before such date as to the method
6 and amount of the annuity payments
7 to the employee or any designated
8 beneficiaries; or

9 (II) if subclause (I) does not
10 apply, the employee has made an ir-
11 revocable election before the date of
12 enactment of this Act as to the meth-
13 od and amount of the annuity pay-
14 ments to the employee or any des-
15 ignated beneficiaries.

16 (5) EXCEPTION FOR CERTAIN BENE-
17 FICIARIES.—

18 (A) IN GENERAL.—If an employee dies be-
19 fore the effective date, then, in applying the
20 amendments made by this subsection to such
21 employee's designated beneficiary who dies after
22 such date—

23 (i) such amendments shall apply to
24 any beneficiary of such designated bene-
25 ficiary; and

1 (ii) the designated beneficiary shall be
2 treated as an eligible designated bene-
3 ficiary for purposes of applying section
4 401(a)(9)(H)(ii) of the Internal Revenue
5 Code of 1986 (as in effect after such
6 amendments).

7 (B) EFFECTIVE DATE.—For purposes of
8 this paragraph, the term “effective date” means
9 the first day of the first calendar year to which
10 the amendments made by this subsection apply
11 to a plan with respect to employees dying on or
12 after such date.

13 (b) PROVISIONS RELATING TO PLAN AMEND-
14 MENTS.—

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

17 (A) such plan shall be treated as being op-
18 erated in accordance with the terms of the plan
19 during the period described in paragraph
20 (2)(B)(i); and

21 (B) except as provided by the Secretary of
22 the Treasury, such plan shall not fail to meet
23 the requirements of section 411(d)(6) of the In-
24 ternal Revenue Code of 1986 and section
25 204(g) of the Employee Retirement Income Se-

1 curity Act of 1974 by reason of such amend-
2 ment.

3 (2) AMENDMENTS TO WHICH SUBSECTION AP-
4 PLIES.—

5 (A) IN GENERAL.—This subsection shall
6 apply to any amendment to any plan or which
7 is made—

8 (i) pursuant to any amendment made
9 by this section or pursuant to any regula-
10 tion issued by the Secretary of the Treas-
11 ury under this section or such amend-
12 ments; and

13 (ii) on or before the last day of the
14 first plan year beginning after December
15 31, 2021, or such later date as the Sec-
16 retary of the Treasury may prescribe.

17 In the case of a governmental or collectively
18 bargained plan to which subparagraph (B) or
19 (C) of subsection (a)(4) applies, clause (ii) shall
20 be applied by substituting the date which is 2
21 years after the date otherwise applied under
22 such clause.

23 (B) CONDITIONS.—This subsection shall
24 not apply to any amendment unless—

25 (i) during the period—

1 (I) beginning on the date the leg-
2 islative or regulatory amendment de-
3 scribed in paragraph (1)(A) takes ef-
4 fect (or in the case of a plan amend-
5 ment not required by such legislative
6 or regulatory amendment, the effec-
7 tive date specified by the plan); and
8 (II) ending on the date described
9 in subparagraph (A)(ii) (or, if earlier,
10 the date the plan amendment is
11 adopted),
12 the plan is operated as if such plan amend-
13 ment were in effect; and
14 (ii) such plan amendment applies
15 retroactively for such period.

16 **SEC. 402. INCREASE IN PENALTY FOR FAILURE TO FILE.**

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

20 (b) **INFLATION ADJUSTMENT.**—Section 6651(j)(1) of
21 such Code is amended by striking “\$205” and inserting
22 “\$400”.

23 (b) **EFFECTIVE DATE.**—The amendments made by
24 this section shall apply to returns the due date for which
25 (including extensions) is after December 31, 2019.

1 **SEC. 403. INCREASED PENALTIES FOR FAILURE TO FILE**
2 **RETIREMENT PLAN RETURNS.**

3 (a) **IN GENERAL.**—Subsection (e) of section 6652 of
4 the Internal Revenue Code of 1986 is amended—

5 (1) by striking “\$25” and inserting “\$105”;

6 and

7 (2) by striking “\$15,000” and inserting
8 “\$50,000”.

9 (b) **ANNUAL REGISTRATION STATEMENT AND NOTI-**
10 **FICATION OF CHANGES.**—Subsection (d) of section 6652
11 of the Internal Revenue Code of 1986 is amended—

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

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

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

18 (c) **FAILURE TO PROVIDE NOTICE.**—Subsection (h)
19 of section 6652 of the Internal Revenue Code of 1986 is
20 amended—

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

22 and

23 (2) by striking “\$5,000” and inserting
24 “\$50,000”.

25 (d) **EFFECTIVE DATE.**—The amendments made by
26 this section shall apply to returns, statements, and notifi-

1 cations required to be filed, and notices required to be pro-
2 vided, after December 31, 2019.

3 **SEC. 404. INCREASE INFORMATION SHARING TO ADMIN-**
4 **ISTER EXCISE TAXES.**

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

8 “(3) TAXES IMPOSED BY SECTION 4481.—Re-
9 turns and return information with respect to taxes
10 imposed by section 4481 shall be open to inspection
11 by or disclosure to officers and employees of United
12 States Customs and Border Protection of the De-
13 partment of Homeland Security whose official duties
14 require such inspection or disclosure for purposes of
15 administering such section.”.

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

