SUMMARY OF THE
SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT (SECURE) ACT (H.R. 1994)

As passed by the House of Representatives by a vote of 417-3 on May 23, 2019.

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
OPEN MEPS / POOLED EMPLOYER PLANS **§ 101**	**ERISA:** A multiple employer plan (MEP) is a plan (other than a Taft-Hartley plan) maintained by two or more unrelated employers. MEPs are treated as a "single plan" for ERISA purposes. If an arrangement involves different employers, but is not a MEP, each employer is treated as operating a separate plan for ERISA purposes. Under ERISA, an employee pension benefit plan must be established or maintained by an employer, an employee organization, or both. For purposes of ERISA, an "employer" means "any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity." ERISA §§ 3(2) and 3(5). Under current Department of Labor (DOL) guidance, MEPs may be established or maintained by a cognizable, bona fide group or association of employers, acting in the interests of its employer members to provide benefits to their employees. To be such an association, however, DOL guidance requires the employer members to share a common economic or representational interest or genuine organizational relationship unrelated to the provision of benefits. This is known as the	**Open MEPs:** Unrelated employers would be allowed to participate in a MEP, called a "pooled employer plan," that would be treated as a single plan for ERISA purposes. A pooled employer plan must be a defined contribution plan qualified under Code § 401(a) or a plan that consists of individual retirement accounts. Treatment as a pooled employer plan would be conditioned on the plan using a "pooled plan provider" (PPP). PPPs would be responsible for performing all administrative duties necessary to ensure that the plan complies with ERISA and the Code. PPPs would be a named fiduciary, plan administrator, and subject to registration, audit, examination, and investigation by Treasury and DOL. A pooled employer plan must have terms that: • Designate a PPP and provide that the PPP is a named fiduciary of the plan; • Designate one or more trustees to be responsible for collecting contributions to, and holding assets of, the plan, and require such trustees to implement written contribution collection procedures; • Provide that each participating employer retains fiduciary responsibility for (1) the selection and monitoring of the PPP and any other named fiduciary, and (2) to the extent not otherwise delegated to another fiduciary by the PPP, the investment and management of those plan assets that are attributable to employees of that participating employer;	RESA's open MEP provisions are very similar to the SECURE Act's open MEP provisions. RESA contains a few technical changes, including a change to ensure that small employers participating in an open MEP can receive the Startup Credit. *Unlike the SECURE Act, RESA would apply to plan years beginning after December 31, 2022 – i.e., two years later than the SECURE Act's effective date.*

[1] References to "RESA" in this chart are to the Retirement Enhancement and Savings Act of 2019 (S. 972) introduced on April 1, 2019 by Senate Finance Committee Chairman Charles Grassley (R-IA) and Ranking Member Ron Wyden (D-OR).

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	"common interest" requirement, and it is not satisfied by "unrelated employers merely execut[ing] identically worded trust agreements or similar documents as a means to fund or provide benefits." The common interest requirement, as well as a related control requirement, present significant obstacles for unrelated employers that wish to join a MEP. On October 23, 2018, DOL proposed regulations that would expand the types of employer associations that can sponsor a retirement plan on behalf of multiple employers. As proposed, those regulations would still require a certain "commonality of interest" among participating employers and prohibit the sponsoring association from being a financial services firm. DOL's proposal also would not address the "one bad apple" rule discussed below. A March 28, 2019 court decision interpreting DOL's final regulations for association health plans could have implications for whether DOL can proceed with its proposed rules for retirement plans. **Internal Revenue Code:** Under the Code, if just one employer participating in a MEP runs afoul of the plan qualification rules, the entire MEP may be disqualified. This is often referred to as the "one bad apple" rule. Treas. Reg. §§ 1.413-2(a)(3)(iv) and 1.416-1, G-2.	• Provide that a participating employer, participant, or beneficiary is not subject to unreasonable restrictions, fees, or penalties with regard to (1) ceasing participation, (2) receipt of distributions, or (3) otherwise transferring assets of the plan in accordance with applicable rules for plan mergers and transfers; • Require the PPP to provide to participating employers any disclosures or other information that DOL may require, including any such items to facilitate the selection or monitoring of the PPP by participating employers; • Require each participating employer to take any actions that DOL or the PPP determines are necessary to administer the plan or for the plan to meet applicable ERISA and Code requirements, including providing any disclosures or other information that DOL requires or that the PPP determines is necessary to administer the plan; and • Provide that any of the disclosures or other information required to be provided as described above may be provided in electronic form and will be designed to ensure only reasonable costs are imposed on PPPs and participating employers. Except with respect to the administrative duties of the PPP, each employer in a pooled employer plan would be treated as the plan sponsor with respect to the portion of the plan attributable to the employees of such employer. There is a provision offering "good faith" relief to employers and PPPs for periods before guidance is issued. **One Bad Apple Relief:** The proposal would generally eliminate the "one bad apple" rule for MEPs maintained by employers that either (1) have a "common interest other than having adopted the plan," or (2) use a PPP. As a condition for relief, assets attributable to "bad apple employers" would generally need to be "spun off" from the MEP to a separate	

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		plan or IRA. Additionally, the bad apple employer must be liable for any liabilities with respect to such plan attributable to the employees of such employer. **Form 5500 Reporting:** MEPs, including pooled employer plans, would be required to include the following on Form 5500: • A list of participating employers; • A good faith estimate of the percentage of total contributions made by participating employers during the plan year; • The aggregate account balances attributable to each employer in the plan; and • Identifying information for the pooled plan provider, if the plan is a pooled employer plan. DOL would have authority to provide for simplified Form 5500 reporting for MEPs that cover fewer than 1,000 participants, as long as each participating employer has fewer than 100 participants covered by the plan. The description included in the Ways and Means Committee's Report for the SECURE Act makes clear that, other than providing relief from the "one bad apple" rule and adding certain reporting requirements, the proposal generally does not change present law and related guidance applicable under the Code or ERISA to MEPs maintained by employers with a common interest other than having adopted the plan. *These changes would apply to plan years beginning after December 31, 2020.* *Revenue effect: These changes would reduce revenues by $3.421 billion over ten years.*	

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SAFE HARBOR CAP ON AUTOMATIC ENROLLMENT AND ESCALATION **§ 102**	Under the nondiscrimination safe harbor rules for automatic enrollment and automatic escalation, a qualified automatic contribution arrangement (QACA) may not automatically enroll an employee or automatically escalate employee contributions such that the employee makes contributions to the plan in excess of 10% of compensation. I.R.C. § 401(k)(13)(C)(iii).	This provision would raise the 10% limit to 15% for years after the first plan year in which the employee is automatically enrolled. In the first plan year, the default contribution rate still could not exceed 10%. *These changes would apply to plan years beginning after December 31, 2019.* *Revenue effect: negligible.*	RESA includes a provision that would eliminate the 10% cap altogether after the first plan year in which the employee is automatically enrolled.
SAFE HARBOR 401(k) PLANS **§ 103**	401(k) plans have two main nondiscrimination safe harbors, which allow the plan to avoid testing. I.R.C. §§ 401(k)(12)-(13) and (m)(12). Generally, the safe harbors are satisfied when an employer makes a specified level of matching contributions or, alternatively, a specified level of nonelective contributions. Both safe harbors require employees to receive a notice of their rights and obligations under the plan within a reasonable period prior to the beginning of the plan year. Plan provisions providing for either nonelective or matching safe harbor contributions must generally be adopted prior to the plan year and must remain in effect for the entire 12-month plan year. However, in the case of a *nonelective* 401(k) safe harbor plan, the plan may be amended after the first day of the plan year to provide for the 3% safe harbor nonelective contribution as long as the plan is amended no later than 30 days before the end of the plan year and certain other conditions are satisfied. Treas. Reg. § 1.401(k)-3(e) and (f).	The safe harbor notice requirement would be eliminated for plans seeking to satisfy the safe harbors by using *nonelective* contributions. The proposal would also permit a plan to be amended to become a *nonelective* safe harbor plan for a plan year (1) any time before the 30th day before the close of the plan year (without being required to satisfy the additional conditions as currently provided for under regulation) or (2) on or after the 30th day before the end of the year, as long as the amendment is made by the close of the following plan year, and the nonelective contribution is at least 4%. *These changes would apply to plan years beginning after December 31, 2019.* *Revenue effect: negligible.*	RESA is the same as the SECURE Act.

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STARTUP CREDIT FOR SMALL EMPLOYER PLANS **§ 104**	Employers with generally up to 100 employees are eligible for an annual tax credit for three years equal to 50% of certain costs paid or incurred in connection with starting a retirement plan, up to a cap on the annual credit of $500. I.R.C. § 45E.	The $500 annual cap would be increased to the greater of (1) $500 or (2) the lesser of (a) $250 for each non-highly compensated employee who is eligible to participate in the plan or (b) $5,000. *These changes would apply to taxable years beginning after December 31, 2019.* *Revenue effect: This change would reduce revenues by $29 million over ten years.*	RESA is the same as the SECURE Act.
NEW CREDIT FOR SMALL EMPLOYER PLANS ADOPTING AUTOMATIC ENROLLMENT **§ 105**	No provision.	Employers with generally up to 100 employees would be eligible for a credit of $500 per year for up to three years, beginning with the first taxable year for which the employer includes automatic enrollment in a qualified employer plan. The new credit for adding automatic enrollment would be available in addition to the startup credit allowed under § 45E. *This change would apply to taxable years beginning after December 31, 2019.* *Revenue effect: This change would reduce revenues by $5 million over ten years.*	RESA is the same as the SECURE Act.
IRA CONTRIBUTIONS BASED ON NON-TUITION FELLOWSHIP AND STIPEND PAYMENTS **§ 106**	An individual's IRA contributions for a taxable year may not exceed the amount of his or her compensation that is includible in gross income for such year. I.R.C. § 219(b)(1)(B). Subject to special rules for spouses, individuals who have no compensation are generally ineligible to make IRA contributions, even if the individual has other income includible in gross income, such as non-tuition fellowship payments or stipend payments.	The definition of "compensation" on which IRA contributions may be based would be amended to include "any amount which is included in the individual's gross income and paid to the individual to aid the individual in the pursuit of graduate or postdoctoral study." *This change would apply to taxable years beginning after December 31, 2019.* *Revenue effect: This change would reduce revenues by $3 million over ten years.*	RESA includes a very similar provision.

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POST-70½ IRA CONTRIBUTIONS **§ 107**	An individual who has attained age 70½ by the end of the year may not make a non-rollover contribution to a traditional IRA. I.R.C. § 219(d)(1). IRA owners who have attained age 70½ may direct tax-free distributions of up to $100,000 per year from an IRA to a qualified charity or charities. These distributions are called "qualified charitable distributions."	The limit prohibiting individuals who have attained age 70½ from making non-rollover contributions to traditional IRAs would be repealed. (The individual would otherwise need to be eligible to make IRA contributions, including having earned compensation.) The exclusion for qualified charitable distributions would be reduced (but not below zero) by an amount equal to the excess of: (1) all IRA deductions allowed to a taxpayer for all taxable years ending on or after the date the taxpayer attains age 70½; over (2) all reductions to the exclusion based on post-70½ IRA deductions for all taxable years preceding the current taxable year. *This change would apply to contributions made for taxable years beginning after December 31, 2019.* *Revenue effect: This change would reduce revenues by $130 million over ten years.*	RESA is the same as the SECURE Act, except that RESA does not include a provision to reduce the exclusion for qualified charitable distributions made after age 70½.
PROHIBITION ON QUALIFIED PLAN CREDIT CARD LOANS **§ 108**	Employer-sponsored retirement plans may provide loans to participants, subject to certain requirements. I.R.C. § 72(p). Although the Code imposes limits on the total amount of outstanding loans that may be provided, neither the Code nor the implementing regulations require a plan to impose a limit on the number or minimum size of loans that may be made from a plan. Therefore, under current law, there is no prohibition on a plan making multiple small plan loans through a credit card or similar arrangement.	Plan loans made through the use of any credit card or any other similar arrangement would be treated as a distribution. *This change would apply to loans made after the date of enactment.* *Revenue effect: negligible.*	RESA is similar to the SECURE Act, except that RESA would apply to plan years beginning after, 2019 and would exempt loans provided through an electronic card system available to provide plan loans as of September 21, 2016, if certain conditions are

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			met. RESA would also require the Comptroller General to study the impact of plan loans provided through credit cards and similar arrangements.
PORTABILITY OF LIFETIME INCOME INVESTMENTS **§ 109**	The Code imposes various withdrawal restrictions on employer-sponsored retirement plans. For example, qualified plans are prohibited from making in-service distributions of elective deferrals to participants unless an exception applies, such as hardship or reaching age 59½. Failure to comply with any of these withdrawal restrictions creates a disqualifying event. At times, retirement plan investment options, including those that include lifetime income features, might change. If an employee must liquidate a plan investment because of a change in, or limit on, the plan's investment options, the employee may not be able to preserve the investment through a rollover. This is particularly a problem if the employee must give up valuable lifetime income protection that is built into the product.	Participants in qualified defined contribution plans, 403(b) plans, and governmental 457(b) plans would be allowed to take a distribution of a lifetime income investment without regard to any of the Code's withdrawal restrictions if the lifetime income investment is no longer authorized to be held under the plan. The distribution must be made via a direct rollover to an IRA or other retirement plan or, in the case of an annuity contract, through direct distribution to the individual. *These changes would apply to plan years beginning after December 31, 2019.* *Revenue effect: negligible.*	RESA is the same as the SECURE Act.
TERMINATION OF 403(b) CUSTODIAL ACCOUNTS **§ 110**	403(b) plans generally must be invested either in annuity contracts or mutual funds held in custodial accounts. When a 403(b) plan terminates (e.g., because the employer goes out of business or otherwise wants to discontinue the plan), the assets of the plan must be distributed to	The Act would direct the Secretary of the Treasury to issue guidance, not later than six months after the date of enactment, under which if an employer terminates a 403(b) custodial account, the distribution needed to effectuate the plan termination may be the distribution of an individual custodial account in kind to a participant or beneficiary. The individual	RESA contains a provision that is very similar to the SECURE Act, except that RESA would not apply

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	participants. If the employee owns an annuity contract, IRS rules provide that the plan may "distribute" the contract to the individual, and the annuity continues to be tax-deferred. If a 403(b) plan that allows for investment in mutual fund custodial accounts is terminated, the IRS takes the position that the custodial account may not be "distributed" to the individual. This causes a problem if the participant is missing or unresponsive.	custodial account shall be maintained on a tax-deferred basis as a 403(b) custodial account until paid out, subject to the 403(b) rules in effect at the time that the individual custodial account is distributed. The Treasury guidance shall be retroactively effective for taxable years beginning after December 31, 2008. *Revenue effect: negligible.*	retroactively. A prior version of RESA structured this provision differently.
SECTION 403(b)(9) RETIREMENT INCOME ACCOUNTS FOR CHURCH EMPLOYEES **§ 111**	Under § 403(b)(9), a retirement income account for employees of certain church-related organizations is treated as an annuity contract under § 403(b). However, it is unclear whether certain employees of church-related organizations may be covered by such a retirement income account.	The provision would clarify that the following individuals or employees of certain church-related organizations may participate in 403(b)(9) retirement income accounts: • Duly ordained, commissioned, or licensed ministers, regardless of the source of his or her compensation; • Employees of a tax-exempt organization, whether a civil law corporation or otherwise, which is controlled by or associated with a church or a convention or association of churches; and • Employees who are included in the church plan who then separate from the service of a church or a convention or association of churches, or an organization described in the bullet above. *This change would apply to years beginning before, on, or after the date of enactment.* *Revenue effect: negligible.*	RESA is the same as the SECURE Act.
LONG-TERM PART-TIME EMPLOYEES **§ 112**	Under ERISA and the Code, a retirement plan may require that an employee earn a year of service (and/or attain age 21) before becoming eligible for a plan. A plan may require two years of service, but only if employer contributions are immediately vested. A plan may not impose any service condition that is longer than these rules.	Except in the case of collectively bargained plans, the Act would require employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either: (a) one year of service (with the 1,000-hour rule); or (b) three consecutive years of service where the employee completes at least 500 hours of service.	This provision is **not** in RESA.

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	A plan can provide that an employee is not credited with a year of service unless the employee completes 1,000 hours of service during a 12-month period. ERISA and the Code also impose requirements on vesting, generally requiring that employer contributions be vested after a certain number of years of service. In determining the participant's nonforfeitable right to employer contributions under the plan, a year of service is generally only required after the participant has completed 1,000 hours of service. For vesting purposes, a plan may disregard certain periods of service under the break in service rules. Under those rules, a 1-year break in service is a year during which a participant has not completed more than 500 hours of service.	In the case of employees who are eligible solely by reason of the latter new rule, the employer may elect to exclude such employees from testing under the nondiscrimination and coverage rules, and from the application of the top-heavy vesting and benefit rules. An employer would also not be required to make matching or nonelective contributions on behalf of such employees, and could continue to impose a requirement that the employee attain age 21 before participating in the plan. In the case of employees who are eligible solely by reason of the latter new rule, each 12-month period for which the employee has at least 500 hours of service shall be treated as a year of service for vesting purposes and shall not be treated as a 1-year break in service. *These changes would apply to plan years beginning after December 31, 2020, except that, for purposes of the new eligibility criteria, 12-month periods beginning before January 1, 2021 shall not be taken into account.* *Revenue effect: This change would reduce revenues by $769 million over ten years.*	
PLAN WITHDRAWALS FOR BIRTH OR ADOPTION **§ 113**	Distributions from a qualified retirement plan, 403(b) plan, 457(b) plan, or IRA are generally included in income for the year in which the distribution is made. I.R.C. §§ 402(a), 403(b), 457(a), and 408(d). Unless an exception applies, distributions taken from a qualified retirement plan, 403(b) plan, or IRA before age 59½ are subject to a 10% early distribution tax penalty. I.R.C. § 72(t). If eligible, a distribution from a qualified retirement plan, 403(b) plan, 457(b) plan, or IRA	Under this provision, "qualified birth or adoption distributions" from a retirement plan or IRA: (a) could be distributed regardless of whether an in-service distribution is otherwise permitted; (b) would be exempt from the 10% early distribution tax penalty; (c) would be exempt from the mandatory 20% withholding and 402(f) notice otherwise required when distributed from a retirement plan; and (d) could be repaid to certain retirement plans and IRAs without regard to the usual 60-day time limit for rollovers. Any distribution from an IRA, qualified defined contribution plan, 403(b) plan, 403(a) plan, or governmental 457(b) plan that is taken within 1 year of a birth or adoption would be treated as	This provision is **not** in RESA.

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	may be rolled over tax-free to another eligible retirement plan within 60 days. I.R.C. §§ 402(c)(3), 403(b)(8), 457(e)(16), and 408(d)(3). In-service distributions of elective deferrals from a qualified retirement plan, 403(b) plan, or 457(b) plan are generally not permitted, unless a specific exception applies. Qualified retirement plans and 403(b) plans may distribute elective deferrals upon hardship, and the regulations provide a safe harbor list of events that are treated as constituting a hardship. The birth or adoption of a child is not on the safe harbor list. Similarly, the regulations governing unforeseeable emergency withdrawals from 457(b) plans do not explicitly permit distributions in connection with a birth or adoption.	a "qualified birth or adoption distribution," subject to the following conditions: • Qualified birth or adoption distributions would be limited to $5,000 (not indexed) per birth or adoption; • Qualified birth or adoption distributions would not include the adoption of a child of the taxpayer's spouse; and • Qualified birth or adoption distributions would be limited to the adoption of children who are either under age 18 or physically or mentally incapable of self-support. The $5,000 limit applies on an individual basis, meaning spouses could each receive a distribution of up to $5,000 per qualifying birth or adoption. The individual would need to provide certain information regarding the eligible child on the individual's tax return. An amount equal to the qualified birth or adoption distribution could be repaid, without regard to the usual 60-day time limit for rollovers, to an IRA, qualified defined contribution plan, 403(b) plan, 403(a) plan, or governmental 457(b). It appears that, if a plan offers qualified birth or adoption distributions, it must also allow repayments. If the individual is making a repayment to an employer-sponsored retirement plan, the repayment amount may not exceed the amount of qualified birth or adoption distributions made from such plan. Any repayment of a qualified birth or adoption distribution would generally be treated as a direct trustee-to-trustee transfer within 60 days of the distribution. The language does not explain how this will be accomplished in the case of a repayment made after the individual has filed the return for the year in which the distribution was made.	

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		This change would apply to distributions made after December 31, 2019. *Revenue effect: This change would reduce revenues by $1.171 billion over ten years.*	
INCREASED REQUIRED BEGINNING DATE **§ 114**	Required minimum distributions (RMDs) generally must begin by April 1 of the calendar year following the calendar year in which the individual (employee or IRA owner) reaches age 70½, subject to an exception for certain plan participants. This deadline is called the "required beginning date."	The Act would increase the age triggering the required beginning date for plans and IRAs to 72. *This change would apply to distributions required to be made after December 31, 2019, with respect to individuals who attain age 70½ after such date.* *Revenue effect: This change would reduce revenues by $8.859 billion over ten years.*	This provision is **not** in RESA.
COMMUNITY NEWSPAPERS **§ 115**	Defined benefit plans are subject to minimum funding requirements under the Code and ERISA.	The Act provides funding relief for plan sponsors of community newspaper plans under which no participant's benefit increased after 2017. For this purpose, a community newspaper is an entity that publishes one or more community newspapers serving a population of not less than 100,000 in a single state, is not a public company, and meets certain other requirements. Corresponding changes are made to both the Code and ERISA. *These changes would apply to plan years ending after December 31, 2017.* *Revenue effect: The provision would increase revenues by $9 million over ten years.*	This provision is **not** in RESA.
FOSTER CARE DIFFICULTY OF CARE PAYMENTS **§ 116**	Under Code section 131, an individual may exclude from income "qualified foster care payments," which include "difficulty of care payments." Difficulty of care payments are provided to foster care providers as additional compensation because the individual has a physical, mental, or emotional handicap.	The Act provides that in the case of an individual who receives difficulty of care payments and whose compensation is less than the IRA contribution limit, the IRA contribution limit is increased by the lesser of: (1) the amount by which the IRA contribution limit exceeds compensation; and (2) the amount of any difficulty of care payments otherwise excluded from income.	This provision is **not** in RESA.

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	Because these payments are excluded from income, they are not treated as compensation for purposes of the IRA and qualified plan contribution limits.	The Act also provides that for purposes of the limit in Code section 415(c) for defined contribution plans, the participant's compensation (or earned income) is increased by any difficulty of care payments otherwise excluded from income. Further, any contributions of difficulty of care payments made to the plan are considered after-tax contributions. A plan is not treated as failing any Code requirements if it allows difficulty of care payments to be contributed. *These changes would apply to plan years beginning after December 31, 2015.* *Revenue effect: This change would reduce revenues by $249 million over ten years.*	
PLAN ADOPTION DEADLINE **§ 201**	A plan must be adopted by the last day of the taxable year of the employer in order to be in effect for such year. Rev. Rul. 76-28, 1976-1 C.B. 106. Although the plan need not be funded by that date, the employer must formally adopt the plan and trust documents by the end of its taxable year. Thus, by the time a small employer files its tax return, it is too late to adopt a plan to provide additional deductions to the employer or it owner(s) in the case of a pass-through entity.	An employer would be allowed to adopt a plan for a taxable year as long as the plan is adopted by the due date for the employer's tax return for that year (including extensions). *This change would apply to plans adopted for taxable years beginning after December 31, 2019.* *Revenue effect: This change would reduce revenues by $113 million over ten years.*	RESA is the same as the SECURE Act.
CONSOLIDATED FORM 5500 REPORTING FOR SIMILAR PLANS **§ 202**	Administrators of pension benefit plans are generally required to file an annual return that contains information relating to the qualification, financial condition, and operation of the plan. ERISA § 104 and I.R.C. § 6058. This requirement is satisfied by filing Form 5500, which is used by DOL, the IRS, and PBGC. Plans that cover fewer than 100 participants and meet other conditions may file the simplified Form 5500-SF instead.	Under the Act, a group of similar plans would be permitted to file a single consolidated Form 5500 if all plans in the group: • Are individual account plans or defined contribution plans; • Have the same trustee, named fiduciary(ies), and administrator; • Use the same plan year; and • Provide the same investments or investment options. DOL and Treasury would be authorized to require such consolidated Forms 5500 to include any information regarding	RESA is very similar to the SECURE Act.

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	A MEP files a single Form 5500, but employers that participate in plans that are virtually identical must file separate Forms 5500.	each plan in the group that is necessary or appropriate for the enforcement and administration of the Code and ERISA. Also, DOL and Treasury shall require information that would enable participants in a plan to identify any consolidated Form 5500 filed with respect to their plan. Information regarding each plan for which information is provided on a consolidated Form 5500 would be treated as a separate return for purposes of determining whether the IRS may require electronic filing based on the number of returns a person files. I.R.C. § 6011(e)(2)(A). (This modification would apply to returns required to be filed with respect to plan years beginning after 2019.) *The ability to file consolidated Forms 5500 shall be implemented no later than January 1, 2022, and shall apply to returns for plan years beginning after December 31, 2021.* *Revenue effect: negligible.*	
LIFETIME INCOME DISCLOSURES **§ 203**	Plan administrators must provide defined contribution plan participants with benefit statements that include the participant's account balance, the vested portion of his or her account balance, and the value of each investment to which assets in the account are allocated. Such benefit statements must be provided (1) at least once each calendar quarter, if the participant has the right to direct the investment of assets in his or her account, and (2) at least once each calendar year, if the participant does not have such right. ERISA § 105. DOL has a project on its long-term agenda to require a lifetime income disclosure on pension benefit statements. An Advance Notice of Proposed Rulemaking was released in 2013, but	Defined contribution plan benefit statements would also be required to include a lifetime income disclosure. For such benefit statements that are required to be provided at least quarterly, the lifetime income disclosure must be included in one benefit statement during any one 12-month period. The lifetime income disclosure would illustrate the amount of monthly payments the participant would receive if the participant's total accrued benefits under the plan were used to provide lifetime income through (1) a qualified joint and survivor annuity and (2) a single life annuity. Plan sponsors, plan fiduciaries, and other persons would have no ERISA liability solely by reason of the provision of a lifetime income disclosure that meets the applicable rules and assumptions and include certain explanations. Within one year of the date of enactment, DOL would be	RESA is the same as the SECURE Act.

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	DOL has taken no action since then.	required to (1) prescribe permissible assumptions for purposes of the illustrations, (2) issue a model lifetime income disclosure, and (3) issue interim final rules. *The requirement to provide lifetime income disclosures would apply to benefit statements furnished more than 12 months after the latest of DOL's issuance of (1) interim final rules, (2) a model disclosure, or (3) permissible assumptions.* *This provision has no budget effect.*	
FIDUCIARY SAFE HARBOR FOR SELECTING ANNUITY PROVIDERS **§ 204**	Under ERISA, a fiduciary is required to discharge its duties with respect to a plan solely in the interest of participants and beneficiaries. Fiduciaries must act with the care, skill, prudence, and diligence under the circumstances that a reasonable prudent person acting under similar circumstances would use. This is called the prudent person requirement. ERISA § 404. DOL regulations provide a safe harbor for a fiduciary to satisfy the prudent person requirement when selecting an annuity provider and a contract for benefit distributions from a defined contribution plan. 29 C.F.R. § 2550.404a-4.	A statutory safe harbor would be added to ERISA that is similar to the existing regulatory safe harbor for the selection of annuity providers, except that the statutory safe harbor would also: • Allow defined contribution plan fiduciaries to rely on written representations from insurers regarding their status under state insurance law for purposes of considering the insurers' financial capabilities; • Specify that a fiduciary is not required to select the lowest-cost contract but may also consider the value provided by other features and benefits and attributes of the insurer; • Clarify that fiduciaries are not required to review the appropriateness of a selection *after* the purchase of a contract for a participant or beneficiary; and • In general, would deem fiduciaries to have conducted a periodic review if the fiduciary obtains certain written representations from the insurer on an annual basis. *This change would take effect on the date of enactment.* *This provision has no budget effect.*	RESA is the same as the SECURE Act.
CLOSED DEFINED BENEFIT PLANS **§ 205**	Defined benefit plans must meet a variety of rules designed to prevent discrimination in favor of highly compensated employees. These rules continue to apply after a plan has been closed	To prevent such unnecessary plan freezes, closed defined benefit plans that meet certain requirements may be aggregated and tested on a benefits basis with one or more defined contribution plans. This relief would apply as long as the plan	RESA is very similar to the SECURE Act, except that RESA

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	(that is, a plan in which new employees do not participate but current participants continue to accrue benefits). Many defined benefit plans that were closed to new hires have been forced to freeze completely because the grandfathered group of employees still accruing benefits under the defined benefit plan became too small or disproportionately highly paid. Similar issues arise in other situations, including: • Closing a benefit, right, or feature in a defined benefit plan, such as retaining an early retirement subsidy only for existing employees; • Freezing a defined benefit plan, and providing make-up contributions and/or benefits, rights, or features under a defined contribution plan for employees who were covered by the defined benefit plan; and • Closing or freezing a defined benefit plan, triggering an eventual violation of the minimum participation rules under Code § 401(a)(26).	meets certain requirements, such as not modifying the grandfathered group in a discriminatory manner after the plan is closed to new hires. Relief would also be conditioned on the plan having (1) closed the class before April 5, 2017, or (2) been in effect for at least five years as of the closure date and, during the five years prior to closure, not substantially increased the coverage or value of benefits with respect to the closed class. Nondiscrimination relief with respect to the benefits, rights, and features for a closed class of participants under a defined benefit plan would also be provided, subject to very similar conditions. Similar relief, subject to similar conditions, would apply to: • Freezing a defined benefit plan, and providing make-up contributions and/or benefits, rights, or features under a defined contribution plan for existing employees; and • Closing or freezing a defined benefit plan, that would otherwise trigger an eventual violation of the minimum participation rules under Code section 401(a)(26). *These changes would generally take effect on the date of enactment, without regard to whether any plan modifications referred to in the amendments are adopted or effective before, on, or after such date of enactment. Certain exceptions to the preceding sentence, including for plan sponsors who elect for the changes to apply to plan years beginning after December 31, 2013, are provided.* *Revenue effect: negligible.*	would condition relief on a plan having closed a class before September 21, 2016, instead of April 5, 2017.
PBGC PREMIUMS FOR "CSEC" PLANS **§ 206**	Under Title IV of ERISA, the Pension Benefit Guaranty Corporation (PBGC) has an insurance program that covers private defined benefit plans. These plans must pay annual premiums to the PBGC. Cooperative and small employer charity	PBGC premiums for CSEC plans would generally be based on pre-2006 rules. The flat-rate premium would be reduced to $19 per participant, and the variable-rate premiums would be reduced to $9 per $1,000 of unfunded vested benefits.	RESA is the same as the SECURE Act.

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
	(CSEC) plans are subject to the same insurance premiums as single employer plans and other MEPs. For 2019, this is a flat-rate premium of $80 per participant and a variable-rate premium of $43 for each $1,000 of unfunded vested benefits.	In addition, for CSEC plans only, the definition of "unfunded vested benefits" for purposes of determining variable-rate premiums would be the excess, if any, of (1) the plan's funding liability (determined using the definition of "funding liability" for purposes of funding restoration status under ERISA § 306(j)) for the plan year by only taking into account vested benefits, over (2) the fair market value of plan assets. *These changes would apply for plan years beginning after December 31, 2018.* *Revenue effect: This change would reduce revenues by $1.318 billion over ten years.*	
VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL PROVIDERS **§ 301**	Individuals who volunteer as firefighters or emergency responders must generally include in gross income (1) any reduction or rebate in property or income tax that a state or local government provides on account of their services (a "qualified state and local tax benefit"), and (2) any reimbursement or other payment that a state or local government provides for the performance of such services (a "qualified payment"). For taxable years beginning after December 31, 2007, and before January 1, 2011, an exclusion applied for any qualified state and local tax benefit and any qualified payment provided to members of a qualified volunteer emergency response organization. The exclusion for qualified payments for any taxable year was limited to $30 for each month during such year that the taxpayer performed such services. I.R.C. § 139B.	The exclusions for qualified state and local tax benefits and qualified payments would be reinstated for one year (2020). The maximum exclusion available for qualified payments would be increased from $30 to $50 for each month in 2020 that the taxpayer performed such services. *These changes would apply to taxable years beginning after December 31, 2019.* *Revenue effect: This change would reduce revenues by $32 million over ten years.*	RESA is the same as the SECURE Act.
529 PLAN WITHDRAWALS USED FOR	In order for any 529 plan earnings to be withdrawn tax-free, amounts distributed must be used to pay for "qualified higher education	The definition of 529 plan qualified higher education expenses would be expanded to include expenses for fees, books, supplies, and equipment required for the participation of a	This provision is **not** in RESA.

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
APPRENTICESHIP PROGRAMS **§ 302**	expenses." The earnings portion of any distribution used for any other purpose will generally be includable in income and subject to a 10% penalty tax. Apprenticeship program expenses are not directly addressed with respect to 529 plans.	designated beneficiary in an apprenticeship program registered and certified with the Secretary of Labor under section 1 of the National Apprenticeship Act. Under the National Apprenticeship Act, the Department of Labor works in conjunction with State Apprenticeship Agencies to administer a registered apprenticeship program nationally. After completing a registered apprenticeship program, participants earn a certificate of completion, which is an industry-issued credential of occupational proficiency. *This change would apply to distributions made after December 31, 2018.* *Revenue effect: The 529 changes would collectively reduce revenues by $215 million over ten years.*	
529 PLAN WITHDRAWALS USED TO PAY STUDENT LOANS **§ 302**	529 plan withdrawals that are used to repay student loans are not 529 plan "qualified higher education expenses."	The definition of qualified higher education expenses for 529 plans would be expanded to include amounts paid as principal or interest on any qualified education loan of a 529 plan designated beneficiary or a sibling of the designated beneficiary (i.e., those amounts would be withdrawn tax-free). The amount treated as a qualified expense "with respect to the loans of any individual" is subject to a lifetime limit of $10,000. A designated beneficiary and a sibling would each appear to be allowed up to $10,000 of qualified education loan repayments as 529 plan qualified distributions. A qualified education loan is defined by cross-reference to Code § 221(d) (i.e., the definition that is used for deducting interest on qualified student loans). Eligibility for the Code § 221 deduction for interest paid on student loans would be reduced by the pro-rata earnings portion of the 529 plan distribution that was used to pay the student loan principal and interest.	This provision is **not** in RESA.

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
		The provision does not appear to directly encompass the repayment of student loan debt incurred by parents on behalf of the designated beneficiary. *This change would apply to distributions made after December 31, 2018.* *Revenue effect: The 529 changes would collectively reduce revenues by $215 million over ten years.*	
"STRETCH" RMD **§ 401**	Required minimum distribution (RMD) rules generally require plan participants to begin taking distributions shortly after the participant reaches age 70½ (subject to certain exceptions). I.R.C. § 401(a)(9). Under current law, the after-death RMD rules permit a designated beneficiary to draw down the remaining plan benefits over the beneficiary's life expectancy. (The rules differ slightly based on whether the participant dies before or after the required beginning date, but very generally, in both cases if there is a designated beneficiary, current regulations allow distributions to be stretched over that designated beneficiary's life expectancy.) Similar rules apply to IRAs. I.R.C. § 408(a)(6).	Upon death of an IRA owner or defined contribution plan participant, the individual beneficiary would be required to draw down his or her entire inherited interest within ten years. This rule would apply regardless of whether RMDs had begun prior to the owner/participant's death. The new rules would not apply to defined benefit plans, but would apply to IRA annuities. Significantly, the ten-year rule would not apply to any portion payable to an "eligible designated beneficiary" if such portion will be (1) distributed over the beneficiary's life or a period not exceeding his or her life expectancy and (2) such distributions begin within one year of the death. (If the eligible designated beneficiary is the surviving spouse, then such distributions would not be required to begin earlier than the date on which the participant/IRA owner would have attained age 70½, which is changed to 72 by another provision of the bill.) An eligible designated beneficiary is any designated beneficiary who is: • the surviving spouse; • a child under the age of majority; • disabled or chronically ill; or • any other person who is not more than 10 years younger than the participant/IRA owner. In the case of a child who has not attained the age of majority,	RESA includes a modified stretch provision. The RESA version requires distributions to occur within five years of death, except in the case of an "eligible designated beneficiary." However, RESA would exempt from this requirement up to $400,000 (indexed) per designated beneficiary. So, for example, if a decedent leaves $450,000 to Beneficiary B (who is not an eligible beneficiary), B

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
		the ten-year rule would apply as of the date the child attains the age of majority. The 10-year rule also would apply upon the death of any eligible beneficiary. Finally, current law would be retained for non-individual beneficiaries, such as estates and charities, which are subject to a five-year rule and cannot "stretch" the payouts over a longer period. *These changes would apply generally with respect to deaths after 2019. There are delayed effective dates for collectively bargained plans and for governmental plans and for making plan amendments. The new rules do not apply to a qualified annuity which is a binding contract as of the date of enactment of the bill and for which payments have begun or the owner has made an irrevocable election as to the method and amount of annuity payments.* *Revenue effect: These changes would increase revenues by $15.749 billion over ten years.*	can take the $400,000 over her life expectancy and the remaining $50,000 would have to be distributed over five years. (Prior versions of RESA contained an exemption that applied at the decedent level, not the beneficiary level.)
INCREASED FILING PENALTIES **§ 402**	A failure to file a tax return is subject to penalty, which is generally five percent of the net amount of tax due for each month, up to a maximum of 25% of the net amount due. If the return is filed more than 60 days after the due date, the failure to file penalty generally may not be less than the lesser of $250 or 100 percent of the amount required to be shown as tax on the return.	The minimum penalty would be increased to the lesser of $400 or 100 percent of the amount required to be shown as tax on the return. As under current law, the $400 amount is indexed in future years. *These changes would apply to returns the due date for which (including extensions) is after December 31, 2019.* *Revenue effect: The provision would increase revenues by $257 million over ten years.*	RESA is very similar to the SECURE Act, with a slight modification to the indexing provision.
INCREASED FORM 5500 & OTHER FILING PENALTIES **§ 403**	**Form 5500:** Failure to file Form 5500 generally results in a penalty of $25 for each day during which the failure continues. The total amount imposed on any person for failure to file Form 5500 and certain other returns shall not exceed $15,000. I.R.C. § 6652(e).	**Form 5500:** The penalty for failure to file Form 5500 would be increased from $25 to $250 for each day during which the failure continues, and the maximum penalty that may be imposed would be increased from $15,000 to $150,000.	RESA is very similar to the SECURE Act, except that the penalty increases would be smaller

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
	Annual registration statement: Failure to file a registration statement regarding separated, deferred vested participants generally results in a penalty of $1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which the failure continues. The maximum penalty that may be imposed on any person for any such failure to file with respect to a plan year is $5,000. I.R.C. § 6652(d)(1). **Notification of change of status:** Failure to file a required notification of certain changes in a plan's registration information generally results in a penalty of $1 for each day during which the failure continues. The maximum penalty that may be imposed on any person for the failure to file any notification is $1,000. I.R.C. § 6652(d)(2). **Withholding notices:** Failure to provide a required withholding notice generally results in a penalty of $10 for each failure, subject to a maximum penalty of $5,000 for all such failures during any calendar year. I.R.C. § 6652(h).	**Annual registration statement:** The penalty for failure to file a registration statement regarding separated, deferred vested participants would be increased from $1 to $10 for each participant with respect to whom the failure applies, and the maximum penalty that may be imposed would be increased from $5,000 to $50,000. **Notification of change of status:** The penalty for failure to file a required notification of certain changes in a plan's registration information would be increased from $1 to $10 for each day during which the failure continues, and the maximum penalty that may be imposed would be increased from $1,000 to $10,000. **Withholding notices:** The penalty for failure to provide a required withholding notice would be increased from $10 to $100 for each failure, and the maximum penalty that may be imposed would be increased from $5,000 to $50,000. *These changes would apply to returns, statements, and notifications that are required to be filed, and to notices that are required to be provided, after December 31, 2019.* *Revenue effect: The provision would increase revenues by $260 million over ten years.*	under RESA.
INFORMATION SHARING FOR TAX RETURNS **§ 404**	Generally, tax returns are confidential, but subject to a variety of exceptions. For example, Treasury officials may inspect returns if their official duties require the inspection for tax administration. In	Tax returns and return information with respect to the excise taxes imposed by Code section 4481 (which relates to the heavy vehicle use tax), would be open to inspection by or disclosure to U.S. Customs and Border Protection officers and employees	RESA is the same as the SECURE Act.

PROVISION	CURRENT LAW	SUMMARY	RESA[1]
	2003, U.S. Customs and Border Protection was moved out of Treasury and into the Department of Homeland Security.	whose official duties require such inspection or disclosure for administering the excise tax. *These changes would apply upon enactment.* *Revenue effect: These changes would increase revenues by $162 million over ten years.*	
KIDDIE TAX **§ 501**	Special rules (generally referred to as the "kiddie tax") apply to the net unearned income of certain children. Unearned income for this purpose is income other than wages, salaries, professional fees, other amounts received as compensation for personal services actually rendered, and distributions from qualified disability trusts. Unearned income includes certain military survivor benefits. The 2017 Tax Cuts and Jobs Act changed the "kiddie tax" rules for taxable years beginning after December 31, 2017 and before January 1, 2026 to effectively apply the income tax rates applicable to trusts and estates to the net unearned income of a child subject to the kiddie tax. Previously, a child's net unearned income had been taxed at the parents' tax rates if those rates were higher than the child's rates. This change unintentionally raised the income tax rates applicable to certain military survivor benefits and other payments.	For purposes of the "kiddie tax," the Act would newly treat the following amounts as earned income: • Certain military survivor benefits; • Certain Indian tribal payments; • Certain scholarships or fellowship grants; and • Alaska permanent fund dividends. Accordingly, those amounts would be taxed according to an unmarried taxpayer's brackets and rates. *These changes would apply to taxable years beginning after December 31, 2017.* *Revenue effect: These changes would reduce revenues by $512 million over ten years.*	This provision is **not** in RESA. The Senate passed a similar stand-alone bill on May 21, 2019. The Senate bill (S. 1370) only addresses the tax treatment of certain military survivor benefits.

RESA Provisions Not Contained in the SECURE Act

- **S Corporations.** RESA would allow traditional and Roth IRAs to hold stock in an S corporation that is a bank without regard to whether the IRA held the bank stock on October 22, 2004.

- **Tax Court Benefits.** RESA would make a series of changes affecting U.S. Tax Court benefits.