

115TH CONGRESS  
1ST SESSION

# H. R. 4524

To expand retirement coverage, preserve retirement income, simplify rules related to retirement plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2017

Mr. NEAL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To expand retirement coverage, preserve retirement income, simplify rules related to retirement plans, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Retirement Plan Simplification and Enhancement Act of  
6 2017”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

- Sec. 101. Modification of automatic enrollment safe harbor.
- Sec. 102. Secure deferral arrangements.
- Sec. 103. Facilitating automatic enrollment.
- Sec. 104. Credit for employers with respect to modified safe harbor requirements.
- Sec. 105. 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. 106. Separate application of top heavy rules to defined contribution plans covering part-time employees.
- Sec. 107. Opportunity to claim the saver's credit on form 1040EZ.
- Sec. 108. Additional time to adopt a qualified plan.
- Sec. 109. Repeal of maximum age for traditional IRA contributions.
- Sec. 110. 60-day rollover to inherited individual retirement plan of nonspouse beneficiary.
- Sec. 111. Increase in age for required beginning date for mandatory distributions.
- Sec. 112. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 113. Safe harbor for corrections of employee elective deferral failures.
- Sec. 114. Economically targeted investments.
- Sec. 115. Small immediate financial incentives for contributing to a plan.

#### TITLE II—PRESERVATION OF INCOME

- Sec. 201. Availability of distribution options.
- Sec. 202. Portability of lifetime income and managed account options.
- Sec. 203. Qualifying longevity annuity contracts.
- Sec. 204. Remove required minimum distribution barriers for life annuities.

#### TITLE III—SIMPLIFICATION AND CLARIFICATION OF QUALIFIED RETIREMENT PLAN RULES

- Sec. 301. Exception from required distributions where aggregate retirement savings do not exceed \$250,000.
- Sec. 302. Expansion of employee plans compliance resolution system.
- Sec. 303. Review and report to the congress relating to reporting and disclosure requirements.
- Sec. 304. Consolidation of defined contribution plan notices.
- Sec. 305. Performance benchmarks for asset allocation funds.
- Sec. 306. Permit nonspousal beneficiaries to roll assets to plans.
- Sec. 307. Eliminate the “first day of the month” requirement.
- Sec. 308. Office of participant and plan sponsor advocate.
- Sec. 309. Simplifying 402(f) notices.
- Sec. 310. Guidance related to certain overpayment recoupment practices.
- Sec. 311. Rules relating to election of safe harbor 401(k) status.
- Sec. 312. Use of forfeitures to fund safe harbor contributions.
- Sec. 313. Treatment of custodial accounts on termination of section 403(b) plans.

#### TITLE IV—DEFINED BENEFIT PLAN REFORMS

Sec. 401. Cash balance.

Sec. 402. Aligning use of lookback months to determine interest rates.

Sec. 403. Aligning employer pension contribution due date with corporate return due date.

Sec. 404. Clarification of the role of the Participant and Plan Sponsor Advocate.

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

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

6 (a) IN GENERAL.—

7 (1) REMOVAL OF 10-PERCENT CAP.—Clause  
 8 (iii) of section 401(k)(13)(C) of the Internal Rev-  
 9 enue Code of 1986 is amended by striking “, does  
 10 not exceed 10 percent, and is at least” and inserting  
 11 “and is”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subclause (I) of section  
 14 401(k)(13)(C)(iii) is amended by striking “3  
 15 percent” and inserting “at least 3 percent, but  
 16 not greater than 10 percent,”.

17 (B) Subclause (II) of section  
 18 401(k)(13)(C)(iii) is amended by striking “4  
 19 percent” and inserting “at least 4 percent”.

20 (C) Subclause (III) of section  
 21 401(k)(13)(C)(iii) is amended by striking “5  
 22 percent” and inserting “at least 5 percent”.

1           (D)     Subclause     (IV)     of     section  
2           401(k)(13)(C)(iii) is amended by striking “6  
3           percent” and inserting “at least 6 percent”.

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

7 **SEC. 102. SECURE DEFERRAL ARRANGEMENTS.**

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

11                   “(14) ALTERNATIVE METHOD FOR SECURE DE-  
12           FERRAL ARRANGEMENTS TO MEET NONDISCRIMINA-  
13           TION REQUIREMENTS.—

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

17                   “(B) SECURE DEFERRAL ARRANGE-  
18           MENT.—For purposes of this paragraph, the  
19           term ‘secure deferral arrangement’ means any  
20           cash or deferred arrangement which meets the  
21           requirements of subparagraphs (C), (D), and  
22           (E) of paragraph (13), except as modified by  
23           this paragraph.

24                   “(C) QUALIFIED PERCENTAGE.—For pur-  
25           poses of this paragraph, with respect to any

1 employee, the term ‘qualified percentage’  
2 means, in lieu of the meaning given such term  
3 in paragraph (13)(C)(iii), any percentage deter-  
4 mined under the arrangement if such percent-  
5 age is applied uniformly and is—

6 “(i) at least 6 percent, but not greater  
7 than 10 percent, during the period ending  
8 on the last day of the first plan year which  
9 begins after the date on which the first  
10 elective contribution described in para-  
11 graph (13)(C)(i) is made with respect to  
12 such employee,

13 “(ii) at least 7 percent during the  
14 first plan year following the plan year de-  
15 scribed in clause (i),

16 “(iii) at least 8 percent during the  
17 second plan year following the plan year  
18 described in clause (i),

19 “(iv) at least 9 percent during the  
20 thirds plan year following the plan year de-  
21 scribed in clause (i), and

22 “(v) at least 10 percent during any  
23 subsequent plan year.

24 “(D) MATCHING CONTRIBUTIONS.—

1           “(i) IN GENERAL.—For purposes of  
2 this paragraph, an arrangement shall be  
3 treated as having met the requirements of  
4 paragraph (13)(D)(i) if and only if the em-  
5 ployer makes matching contributions on  
6 behalf of each employee who is not a highly  
7 compensated employee in an amount equal  
8 to the sum of—

9                   “(I) 100 percent of the elective  
10 contributions of the employee to the  
11 extent that such contributions do not  
12 exceed 1 percent of compensation,

13                   “(II) 50 percent of so much of  
14 such contributions as exceed 1 percent  
15 but do not exceed 6 percent of com-  
16 pensation, plus

17                   “(III) 25 percent of so much of  
18 such contributions as exceed 6 percent  
19 but do not exceed 10 percent of com-  
20 pensation.

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

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

9 (b) MATCHING CONTRIBUTIONS AND EMPLOYEE  
10 CONTRIBUTIONS.—Subsection (m) of section 401 of the  
11 Internal Revenue Code of 1986 is amended by redesignig-  
12 nating paragraph (13) as paragraph (14) and by inserting  
13 after paragraph (12) the following new paragraph:

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

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

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

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

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

3 (c) CONFORMING AMENDMENT.—Subparagraph (H)  
4 of section 416(g)(4) of the Internal Revenue Code of 1986  
5 is amended—

6 (1) in clause (i), by striking “section  
7 401(k)(12) or 401(k)(13)” and inserting “paragraph  
8 (12), (13), or (14) of section 401(k)”, and

9 (2) in clause (ii), by striking “section  
10 401(m)(11) or 401(m)(12)” and inserting “para-  
11 graph (11), (12), or (13) of section 401(m)”.

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to plan years beginning after De-  
14 cember 31, 2017.

15 **SEC. 103. FACILITATING AUTOMATIC ENROLLMENT.**

16 The Secretary of the Treasury shall promulgate regu-  
17 lations or other guidance that—

18 (1) simplify and clarify the rules regarding the  
19 timing of participant notices required under section  
20 401(k)(13)(E) of the Internal Revenue Code of  
21 1986, with specific application to—

22 (A) plans that allow employees to be eligi-  
23 ble for participation immediately upon begin-  
24 ning employment; and

1 (B) employers with multiple payroll and  
2 administrative systems; and

3 (2) simplify and clarify the automatic escalation  
4 rules under sections 401(k)(13)(C)(iii) and  
5 401(k)(14)(C) of the Internal Revenue Code of 1986  
6 in the context of employers with multiple payroll and  
7 administrative systems.

8 Such regulations or guidance shall address the particular  
9 case of employees within the same plan who are subject  
10 to different notice timing and different percentage require-  
11 ments, and provide assistance for plan sponsors in man-  
12 aging such cases.

13 **SEC. 104. CREDIT FOR EMPLOYERS WITH RESPECT TO**  
14 **MODIFIED SAFE HARBOR REQUIREMENTS.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-  
16 chapter A of chapter 1 of the Internal Revenue Code of  
17 1986 is amended by adding at the end the following new  
18 section:

19 **“SEC. 45S. CREDIT FOR SMALL EMPLOYERS WITH RESPECT**  
20 **TO MODIFIED SAFE HARBOR REQUIREMENTS**  
21 **FOR AUTOMATIC CONTRIBUTION ARRANGE-**  
22 **MENTS.**

23 “(a) GENERAL RULE.—For purposes of section 38,  
24 in the case of a small employer, the safe harbor adoption  
25 credit determined under this section for any taxable year

1 is the amount equal to the total of the employer's match-  
2 ing contributions under section 401(k)(14)(D) during the  
3 taxable year on behalf of employees who are not highly  
4 compensated employees, subject to the limitations of sub-  
5 section (b).

6 “(b) LIMITATIONS.—

7 “(1) LIMITATION WITH RESPECT TO COM-  
8 PENSATION.—The credit determined under sub-  
9 section (a) with respect to contributions made on be-  
10 half of an employee who is not a highly compensated  
11 employee shall not exceed 2 percent of the com-  
12 pensation of such employee for the taxable year.

13 “(2) LIMITATION WITH RESPECT TO YEARS OF  
14 PARTICIPATION.—Credit shall be determined under  
15 subsection (a) with respect to contributions made on  
16 behalf of an employee who is not a highly com-  
17 pensated employee only during the first 5 years such  
18 employee participates in the qualified automatic con-  
19 tribution arrangement.

20 “(c) DEFINITIONS.—

21 “(1) IN GENERAL.—Any term used in this sec-  
22 tion which is also used in section 401(k)(14) shall  
23 have the same meaning as when used in such sec-  
24 tion.



1 **SEC. 105. QUALIFIED CASH OR DEFERRED ARRANGEMENTS**  
2 **MUST ALLOW LONG-TERM EMPLOYEES**  
3 **WORKING MORE THAN 500 BUT LESS THAN**  
4 **1,000 HOURS PER YEAR TO PARTICIPATE.**

5 (a) PARTICIPATION REQUIREMENT.—

6 (1) IN GENERAL.—Subparagraph (D) of section  
7 401(k)(2) of the Internal Revenue Code of 1986 is  
8 amended to read as follows:

9 “(D) which does not require, as a condi-  
10 tion of participation in the arrangement, that  
11 an employee complete a period of service with  
12 the employer (or employers) maintaining the  
13 plan extending beyond the close of the earlier  
14 of—

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

18 “(ii) subject to the provisions of para-  
19 graph (14), the first period of 3 consecu-  
20 tive 12-month periods during each of which  
21 the employee has at least 500 hours of  
22 service.”.

23 (2) SPECIAL RULES.—Section 401(k) of the In-  
24 ternal Revenue Code of 1986 is amended by adding  
25 at the end the following new paragraph:

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

4                   “(A) AGE REQUIREMENT MUST BE MET.—

5           Paragraph (2)(D)(ii) shall not apply to an em-  
6           ployee unless the employee has met the require-  
7           ment of section 410(a)(1)(A)(i) by the close of  
8           the last of the 12-month periods described in  
9           such paragraph.

10                   “(B) NONDISCRIMINATION AND TOP-  
11           HEAVY RULES NOT TO APPLY.—

12                   “(i) NONDISCRIMINATION RULES.—In  
13           the case of employees who are eligible to  
14           participate in the arrangement solely by  
15           reason of paragraph (2)(D)(ii)—

16                           “(I) notwithstanding subsection  
17                           (a)(4), an employer shall not be re-  
18                           quired to make nonelective or match-  
19                           ing contributions on behalf of such  
20                           employees even if such contributions  
21                           are made on behalf of other employees  
22                           eligible to participate in the arrange-  
23                           ment, and

24                           “(II) an employer may elect to  
25                           exclude such employees from the ap-

1                   plication of subsection (a)(4), para-  
2                   graph (3), subsection (m)(2), and sec-  
3                   tion 410(b).

4                   “(ii) TOP-HEAVY RULES.—An em-  
5                   ployer may elect to exclude all employees  
6                   who are eligible to participate in a plan  
7                   maintained by the employer solely by rea-  
8                   son of paragraph (2)(D)(ii) from the appli-  
9                   cation of the vesting and benefit require-  
10                  ments under subsections (b) and (c) of sec-  
11                  tion 416.

12                  “(iii) VESTING.—For purposes of de-  
13                  termining whether an employee described  
14                  in clause (i) has a nonforfeitable right to  
15                  employer contributions (other than con-  
16                  tributions described in paragraph  
17                  (3)(D)(i)) under the arrangement, each  
18                  12-month period for which the employee  
19                  has at least 500 hours of service shall be  
20                  treated as a year of service.

21                  “(iv) EMPLOYEES WHO BECOME  
22                  FULL-TIME EMPLOYEES.—This subpara-  
23                  graph shall cease to apply to any employee  
24                  as of the first plan year beginning after  
25                  the plan year in which the employee meets

1           the requirements of section  
2           410(a)(1)(A)(ii) without regard to para-  
3           graph (2)(D)(ii).

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

8           “(D) SPECIAL RULES.—

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

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

18           (b) EFFECTIVE DATE.—The amendments made by  
19           this section shall apply to plan years beginning after De-  
20           cember 31, 2017, except that, for purposes of section  
21           401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 (as  
22           added by such amendments), 12-month periods beginning  
23           before January 1, 2018, shall not be taken into account.

1 **SEC. 106. SEPARATE APPLICATION OF TOP HEAVY RULES**  
2 **TO DEFINED CONTRIBUTION PLANS COV-**  
3 **ERING PART-TIME EMPLOYEES.**

4 (a) IN GENERAL.—Paragraph (2) of section 416(c)  
5 of the Internal Revenue Code of 1986 is amended by add-  
6 ing at the end the following:

7 “(C) SEPARATE APPLICATION TO EMPLOY-  
8 EES NOT MEETING AGE AND SERVICE REQUIRE-  
9 MENTS.—If employees not meeting the age or  
10 service requirements of section 410(a)(1) (with-  
11 out regard to subparagraph (B) thereof) are  
12 covered under a plan of the employer which  
13 meets the requirements of paragraphs (A) and  
14 (B) separately with respect to such employees,  
15 such employees may be excluded from consider-  
16 ation in determining whether any plan of the  
17 employer meets the requirements of subpara-  
18 graphs (A) and (B).”.

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

22 **SEC. 107. OPPORTUNITY TO CLAIM THE SAVER’S CREDIT**  
23 **ON FORM 1040EZ.**

24 The Secretary of the Treasury shall modify the forms  
25 for the return of tax of individuals in order to allow indi-  
26 viduals claiming the credit under section 25B of the Inter-

1 nal Revenue Code of 1986 to file (and claim such credit  
2 on) Form 1040EZ.

3 **SEC. 108. ADDITIONAL TIME TO ADOPT A QUALIFIED PLAN.**

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

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

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall apply to years beginning after Decem-  
21 ber 31, 2017.

22 **SEC. 109. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**  
23 **CONTRIBUTIONS.**

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

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

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to contributions made for taxable  
8 years beginning after December 31, 2017.

9 **SEC. 110. 60-DAY ROLLOVER TO INHERITED INDIVIDUAL**  
10 **RETIREMENT PLAN OF NONSPOUSE BENE-**  
11 **FICIARY.**

12 (a) IN GENERAL.—Section 402(c)(11) of the Internal  
13 Revenue Code of 1986 is amended by redesignating sub-  
14 paragraph (B) as subparagraph (C) and by striking sub-  
15 paragraph (A) and inserting the following:

16 “(A) IN GENERAL.—If—

17 “(i) any portion of a distribution at-  
18 tributable to an employee is paid after the  
19 death of the employee to an individual who  
20 is a designated beneficiary (as defined by  
21 section 401(a)(9)(E)) of the employee and  
22 who is not the surviving spouse of the em-  
23 ployee, and

24 “(ii) such portion is transferred or  
25 paid to an individual retirement plan in a

1 transfer or payment meeting the require-  
2 ments of subparagraph (B),  
3 the preceding provisions of this subsection shall  
4 apply to such distribution in the same manner  
5 as if the designated beneficiary were the em-  
6 ployee.

7 “(B) REQUIREMENTS FOR TRANSFER OF  
8 DISTRIBUTION.—The requirements of this sub-  
9 paragraph are met with respect to the portion  
10 of any distribution if—

11 “(i) such portion is transferred or  
12 paid to an individual retirement plan de-  
13 scribed in clause (i) or (ii) of paragraph  
14 (8)(B) established for the purposes of re-  
15 ceiving the distribution on behalf of the  
16 designated beneficiary,

17 “(ii) such individual retirement plan is  
18 established as an inherited individual re-  
19 tirement account or individual retirement  
20 annuity (within the meaning of section  
21 408(d)(3)(C)), whichever is applicable, and

22 “(iii) notice is provided to the trustee,  
23 insurance company, or other provider of  
24 the individual retirement plan that such in-  
25 dividual retirement plan is being estab-

1           lished as an inherited individual retirement  
2           account or individual retirement annuity.

3           Section 401(a)(9)(B) (other than clause (iv)  
4           thereof) shall apply to such individual retire-  
5           ment plan.”.

6           (b) ROLLOVER TREATMENT FOR INHERITED AC-  
7           COUNTS.—Section 408(d)(3)(C) of the Internal Revenue  
8           Code of 1986 is amended by adding at the end the fol-  
9           lowing:

10                   “(iii) EXCEPTION FOR QUALIFIED  
11                   TRANSFERS TO ANOTHER INHERITED AC-  
12                   COUNT.—Clause (i) shall not apply to any  
13                   portion of a distribution out of an inher-  
14                   ited individual retirement account or inher-  
15                   ited individual retirement annuity if such  
16                   portion is paid to another such individual  
17                   retirement plan or annuity but only if the  
18                   requirements of subparagraphs (A), (B),  
19                   and (E) of this paragraph, and the re-  
20                   quirements of section 402(c)(11)(B), are  
21                   met with respect to such transfer or pay-  
22                   ment.”.

23           (c) EFFECTIVE DATE.—The amendments made by  
24           this section shall apply to distributions made after Decem-  
25           ber 31, 2017.

1 **SEC. 111. INCREASE IN AGE FOR REQUIRED BEGINNING**  
2 **DATE FOR MANDATORY DISTRIBUTIONS.**

3 (a) INCREASE IN AGE FOR REQUIRED BEGINNING  
4 DATE.—

5 (1) IN GENERAL.—Subclause (I) of section  
6 401(a)(9)(C)(i) of the Internal Revenue Code of  
7 1986 is amended to read as follows:

8 “(I) the first calendar year in  
9 which the employee attains the appli-  
10 cable age for such calendar year, or”.

11 (2) SPECIAL RULE FOR OWNERS.—Subclause  
12 (I) of section 401(a)(9)(C)(ii) of such Code is  
13 amended by striking “in which the employee attains  
14 age 70½” and inserting “described in clause (i)(I)  
15 with respect to the employee”.

16 (b) MANDATORY DISTRIBUTION AGE.—Paragraph  
17 (9) of section 401(a) of the Internal Revenue Code of  
18 1986 is amended by inserting at the end the following new  
19 subparagraph:

20 “(H) APPLICABLE AGE.—For purposes of  
21 this paragraph—

22 “(i) IN GENERAL.—The applicable age  
23 is—

24 “(I) for calendar years before  
25 2019, age 70½,

1                   “(II) for calendar years 2019,  
2                   2020, 2021, 2022, and 2023, age 71,

3                   “(III) for calendar years 2024,  
4                   2025, 2026, 2027, and 2028, age 72,

5                   “(IV) for calendar year 2029,  
6                   age 73, and

7                   “(V) for calendar years after  
8                   2029, the age as adjusted under  
9                   clause (ii).

10                  “(ii) ADJUSTMENT.—The Secretary  
11                  shall adjust the age under clause (i)(IV)  
12                  for calendar year 2030 and each suc-  
13                  ceeding calendar year in a manner propor-  
14                  tional to increases in the life expectancy of  
15                  an individual who attained age 73 in the  
16                  calendar year preceding the calendar year  
17                  for which the adjustment is being made as  
18                  compared to the life expectancy of an indi-  
19                  vidual who attained age 73 in 2028. The  
20                  applicable age for any calendar year as ad-  
21                  justed under this clause—

22                               “(I) shall be applicable only with  
23                               respect to employees whose required  
24                               beginning date has not occurred as of

1 December 31 of the year preceding  
2 such year, and

3 “(II) shall be rounded to the next  
4 lowest whole number.

5 “(iii) LIFE EXPECTANCIES.—The life  
6 expectancies under clause (ii) shall be de-  
7 termined on a unisex basis in accordance  
8 with life expectancies underlying the tables  
9 described in section 430(h)(3)(A).”.

10 (c) SPOUSE BENEFICIARIES.—Subclause (I) of sec-  
11 tion 401(a)(9)(B)(iv) of the Internal Revenue Code of  
12 1986 is amended by striking “age 70½” and inserting  
13 “the applicable age”.

14 (d) CONFORMING AMENDMENT.—Subsection (b) of  
15 section 408 of such Code is amended by striking “age  
16 70½” and inserting “the applicable age determined under  
17 section 401(a)(9)(H) with respect to such individual”.

18 (e) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to calendar years beginning after  
20 December 31, 2017.

21 **SEC. 112. INCREASE IN CREDIT LIMITATION FOR SMALL**  
22 **EMPLOYER PENSION PLAN STARTUP COSTS.**

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

1           “(1) for the first credit year and each of the 4  
2 taxable years immediately following the first credit  
3 year, the greater of—

4                   “(A) \$500, or

5                   “(B) the lesser of—

6                           “(i) \$250 for each employee of the eli-  
7 gible employer who is not a highly com-  
8 pensated employee (as defined in section  
9 415(q)) and who is eligible to participate  
10 in the eligible employer plan maintained by  
11 the eligible employer, or

12                           “(ii) \$5,000, and”.

13           (b) SPECIAL RULE FOR EMPLOYERS WITH 25 OR  
14 FEWER EMPLOYEES.—Subsection (a) of section 45E of  
15 such Code is amended by inserting before the period at  
16 the end the following: “(100 percent of such costs in the  
17 case of an eligible employer with 25 or fewer employees,  
18 as determined by substituting ‘25’ for ‘100’ in section  
19 408(p)(2)(C)(i))”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2017.

1 **SEC. 113. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE**  
2 **ELECTIVE DEFERRAL FAILURES.**

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

6 “(aa) CORRECTING AUTOMATIC CONTRIBUTION ER-  
7 RORS.—

8 “(1) IN GENERAL.—Any plan or arrangement  
9 shall not fail to satisfy any requirement of this sub-  
10 chapter or section 457 solely by reason of a cor-  
11 rected error.

12 “(2) CORRECTED ERROR DEFINED.—For pur-  
13 poses of this subsection, the term ‘corrected error’  
14 means a reasonable administrative error in imple-  
15 menting an automatic enrollment or automatic esca-  
16 lation feature in accordance with the terms of an eli-  
17 gible automatic contribution arrangement (as de-  
18 fined under subsection (w)(3)), provided that the im-  
19 plementation failure is corrected by the date that is  
20 9½ months after the end of the plan year during  
21 which the failure occurred. Such correction may  
22 occur before or after the participant has terminated  
23 employment and may occur without regard to wheth-  
24 er the error is identified by the Secretary.”.

25 (b) EFFECTIVE DATE.—The amendment made by  
26 this Act shall apply with respect to any errors with respect

1 to which the date referred to in section 414(aa) (as added  
2 by this section) is after the date of enactment of this Act.

3 **SEC. 114. ECONOMICALLY TARGETED INVESTMENTS.**

4 Subsection (a) of section 404 of the Employee Retirement  
5 Income Security Act of 1974 (29 U.S.C. 1104) is  
6 amended by adding at the end the following new para-  
7 graph:

8 “(3) A fiduciary shall not fail to satisfy the require-  
9 ments of this subsection solely by reason of taking into  
10 account economic, social, and governance factors in con-  
11 nection with an investment or investment strategy, but  
12 only if the fiduciary prudently determines the investment  
13 is appropriate based solely on economic considerations, in-  
14 cluding those derived from such factors.”.

15 **SEC. 115. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**  
16 **CONTRIBUTING TO A PLAN.**

17 (a) **IN GENERAL.**—Subparagraph (A) of section  
18 401(k)(4) of the Internal Revenue Code of 1986 is amend-  
19 ed by inserting “(other than a de minimus financial incen-  
20 tive)” after “any other benefit”.

21 (b) **EFFECTIVE DATE.**—The amendments made by  
22 this section shall apply with respect to taxable years begin-  
23 ning after the date of enactment of this Act.

1       **TITLE II—PRESERVATION OF**  
2                                   **INCOME**

3   **SEC. 201. AVAILABILITY OF DISTRIBUTION OPTIONS.**

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

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

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

1 **SEC. 202. PORTABILITY OF LIFETIME INCOME AND MAN-**  
2 **AGED ACCOUNT OPTIONS.**

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

6 “(38) PORTABILITY OF LIFETIME INCOME AND  
7 MANAGED ACCOUNT OPTIONS.—

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

12 “(i) qualified distributions of a life-  
13 time income investment or a managed ac-  
14 count investment, or

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

18 on or after the date that is 90 days prior to the  
19 date on which such lifetime income investment  
20 or such managed account investment is no  
21 longer authorized to be held as an investment  
22 option under the plan except as may otherwise  
23 be provided by regulations.

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

1           “(i) the term ‘qualified distribution’  
2           means a direct trustee-to-trustee transfer  
3           to an eligible retirement plan (as defined  
4           in section 402(c)(8)(B)), as described in  
5           section 401(a)(31)(A), and in the case of a  
6           managed account investment, the eligible  
7           retirement plan must be maintained by the  
8           account manager of such managed account  
9           investment,

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

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

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

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

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

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

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

24                  “(v) the term ‘managed account in-  
25                  vestment’ means an investment option

1 under which the assets of the employee’s  
2 individual account are managed by an ac-  
3 count manager, applying generally accept-  
4 ed investment theories, to achieve varying  
5 degrees of long-term appreciation and cap-  
6 ital preservation based on the employee’s  
7 age, target retirement date or life expect-  
8 ancy,

9 “(vi) the term ‘account manager’  
10 means an investment manager (within the  
11 meaning of section 3(38) of the Employee  
12 Retirement Income Security Act), and

13 “(vii) a lifetime income investment or  
14 managed account investment is treated as  
15 no longer authorized to be held as an in-  
16 vestment under the plan if such treatment  
17 applies to all plan participants or to a class  
18 of such participants, as determined in any  
19 reasonable manner.”.

20 (b) CASH OR DEFERRED ARRANGEMENT.—Clause (i)  
21 of section 401(k)(2)(B) of such Code is amended by strik-  
22 ing “or” at the end of subclause (IV), by striking “and”  
23 at the end of subclause (V) and inserting “or”, and by  
24 adding at the end of clause (i) the following:

1                   “(VI) with respect to amounts in-  
2                   vested in a lifetime income investment  
3                   (as defined in section  
4                   401(a)(38)(B)(ii)) or a managed ac-  
5                   count investment (as defined in sec-  
6                   tion 401(a)(38)(B)(v)), the date that  
7                   is 90 days prior to the date that such  
8                   lifetime income investment or such  
9                   managed account investment may no  
10                  longer be held as an investment option  
11                  under the plan (within the meaning of  
12                  section 401(a)(38)(B)(vii)), provided  
13                  that any distribution under this sub-  
14                  clause must be in the form of a quali-  
15                  fied distribution (as defined in section  
16                  401(a)(38)(B)(i)) or, in the case of a  
17                  lifetime income investment, a qualified  
18                  plan distribution annuity contract (as  
19                  defined in section 401(a)(38)(B)(iv)),  
20                  and”.

21                  (c) SECTION 403(b) PLANS.—

22                   (1) ANNUITY CONTRACTS.—Paragraph (11) of  
23                   section 403(b) of such Code is amended by striking  
24                   “or” at the end of subparagraph (B), by striking the  
25                   period at the end of subparagraph (C), and by in-

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

3               “(D) with respect to amounts invested in a  
4       lifetime income investment (as defined in sec-  
5       tion 401(a)(38)(B)(ii)) or a managed account  
6       investment (as defined in section  
7       401(a)(38)(B)(v)), the date that is 90 days  
8       prior to the date that such lifetime income in-  
9       vestment or such managed account investment  
10      may no longer be held as an investment option  
11      under the plan (within the meaning of section  
12      401(a)(38)(B)(vii)), provided that any distribu-  
13      tion under this subparagraph must be in the  
14      form of a qualified distribution (as defined in  
15      section 401(a)(38)(B)(i)) or, in the case of a  
16      lifetime income investment, a qualified plan dis-  
17      tribution annuity contract (as defined in section  
18      401(a)(38)(B)(iv)).”.

19           (2) CUSTODIAL ACCOUNTS.—Clause (ii) of sec-  
20      tion 403(b)(7)(A) of such Code is amended to read  
21      as follows:

22               “(ii) under the custodial account, no  
23               such amounts may be paid or made avail-  
24               able to any distributee (unless such

1 amount is a distribution to which section  
2 72(t)(2)(G) applies) before—

3 “(I) the employee dies,

4 “(II) the employee attains age  
5 59½,

6 “(III) the employee has a sever-  
7 ance from employment,

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

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

16 “(VI) with respect to amounts in-  
17 vested in a lifetime income investment  
18 (as defined in section  
19 401(a)(38)(B)(ii)) or a managed ac-  
20 count investment (as defined in sec-  
21 tion 401(a)(38)(B)(v)), the date that  
22 is 90 days prior to the date that such  
23 lifetime income investment or such  
24 managed account investment may no  
25 longer be held as an investment option

1 under the plan (within the meaning of  
2 section 401(a)(38)(B)(vii)), provided  
3 that any distribution under this sub-  
4 paragraph must be in the form of a  
5 qualified distribution (as defined in  
6 section 401(a)(38)(B)(i)) or, in the  
7 case of a lifetime income investment,  
8 a qualified plan distribution annuity  
9 contract (as defined in section  
10 401(a)(38)(B)(iv)).”.

11 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—  
12 Subparagraph (A) of section 457(d)(1) of such Code is  
13 amended by striking “or” at the end of clause (ii), by in-  
14 serting “or” at the end of clause (iii), and by adding after  
15 clause (iii) the following:

16 “(iv) with respect to amounts invested  
17 in a lifetime income investment (as defined  
18 in section 401(a)(38)(B)(ii)) or a managed  
19 account investment (as defined in section  
20 401(a)(38)(B)(v)), the date that is 90 days  
21 prior to the date that such lifetime income  
22 investment or such managed account in-  
23 vestment may no longer be held as an in-  
24 vestment option under the plan (within the  
25 meaning of section 401(a)(38)(B)(vii)),

1 provided that any distribution under this  
2 subparagraph must be in the form of a  
3 qualified distribution (as defined in section  
4 401(a)(38)(B)(i)) or, in the case of a life-  
5 time income investment, a qualified plan  
6 distribution annuity contract (as defined in  
7 section 401(a)(38)(B)(iv)),”.

8 (e) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to plan years beginning after De-  
10 cember 31, 2017.

11 **SEC. 203. QUALIFYING LONGEVITY ANNUITY CONTRACTS.**

12 (a) IN GENERAL.—By the date that is one year after  
13 the date of enactment of this Act, the Secretary of the  
14 Treasury shall amend the regulation issued by the Depart-  
15 ment of the Treasury relating to “Longevity Annuity Con-  
16 tracts” 79 Fed. Reg. 37633 (July 2, 2014), as follows:

17 (1) REPEAL 25-PERCENT PREMIUM LIMIT.—The  
18 Secretary shall amend Q&A–17(b)(3) of 26 C.F.R.  
19 section 1.401(a)(9)–6 and Q&A–12(b)(3) of 26  
20 C.F.R. section 1.408–8 to eliminate the requirement  
21 that premiums for qualifying longevity annuity con-  
22 tracts be limited to 25 percent of an individual’s ac-  
23 count balance, and to make such corresponding  
24 changes to the regulations and related forms as nec-  
25 essary to reflect the elimination of this requirement.

1 (2) INCREASE DOLLAR LIMITATION.—

2 (A) The Secretary shall amend Q&A–  
3 17(b)(2)(i) of 26 C.F.R. section 1.401(a)(9)–6  
4 and Q&A–12(b)(2)(i) of 26 C.F.R. section  
5 1.408–8 to increase the dollar limitation on pre-  
6 miums for qualifying longevity annuity con-  
7 tracts from \$125,000 to \$200,000, and to make  
8 such corresponding changes to the regulations  
9 and related forms as necessary to reflect this  
10 increase in the dollar limitation.

11 (B) The Secretary shall amend Q&A–  
12 17(d)(2)(i) of 26 C.F.R. section 1.401(a)(9)–6  
13 to provide that, in the case of calendar years  
14 beginning on or after January 1 of the second  
15 year following the year of enactment of this  
16 Act, the \$200,000 dollar limitation (as in-  
17 creased by subparagraph (A)) will be adjusted  
18 at the same time and in the same manner as  
19 the limits are adjusted under section 415(d) of  
20 the Internal Revenue Code of 1986, except that  
21 the base period shall be the calendar quarter  
22 beginning July 1 of the year of enactment of  
23 this Act, and any increase to such dollar limita-  
24 tion that is not a multiple of \$10,000 will be  
25 rounded to the next lowest multiple of \$10,000.

1           (3) FACILITATE JOINT AND SURVIVOR BENE-  
2           FITS.—The Secretary shall amend Q&A–17(c) of 26  
3           C.F.R. section 1.401(a)(9)–6, and make such cor-  
4           responding changes to the regulations and related  
5           forms as necessary, to provide that in the case of a  
6           qualifying longevity annuity contract that was pur-  
7           chased with joint and survivor annuity benefits for  
8           the individual and his or her spouse that were per-  
9           missible under the regulations at the time the con-  
10          tract was originally purchased, a divorce occurring  
11          after the original purchase and before the annuity  
12          payments commence under the contract will not af-  
13          fect the permissibility of the joint and survivor an-  
14          nuity benefits or other benefits under the contract,  
15          or require any adjustment to the amount or duration  
16          of benefits payable under the contract, provided that  
17          a qualified domestic relations order (within the  
18          meaning of section 414(p) of the Internal Revenue  
19          Code of 1986) or a divorce or separation instrument  
20          (within the meaning of section 71(b)(2) of the Inter-  
21          nal Revenue Code of 1986)—

22                   (A) provides that the former spouse is en-  
23                   titled to the survivor benefits under the con-  
24                   tract;

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

4 (C) does not modify the treatment of the  
5 former spouse as the measuring life for the sur-  
6 vivor benefits under the contract.

7 (b) EFFECTIVE DATES, ENFORCEMENT, AND INTER-  
8 PRETATIONS.—

9 (1) EFFECTIVE DATES.—

10 (A) Paragraphs (1) and (2) of subsection  
11 (a) shall be effective with respect to contracts  
12 purchased or received in an exchange on or  
13 after the date of enactment of this Act.

14 (B) Paragraph (3) of subsection (a) shall  
15 be effective with respect to contracts purchased  
16 or received in an exchange on or after July 2,  
17 2014.

18 (2) ENFORCEMENT AND INTERPRETATIONS.—

19 Prior to the date that the Secretary of the Treasury  
20 issues final regulations pursuant to subsection (a)—

21 (A) the Secretary shall administer and en-  
22 force the law in accordance with subsection (a)  
23 and the effective dates in paragraph (1) of this  
24 subsection; and

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

3 **SEC. 204. REMOVE REQUIRED MINIMUM DISTRIBUTION**  
4 **BARRIERS FOR LIFE ANNUITIES.**

5 (a) IN GENERAL.—Paragraph (9) of section 401(a)  
6 of the Internal Revenue Code of 1986, as amended by sec-  
7 tion 111 of this Act, is further amended by adding at the  
8 end the following new subparagraph:

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

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

22 “(ii) a lump sum payment that—

23 “(I) results in a shortening of the  
24 payment period with respect to an an-  
25 nuity or a full or partial commutation

1 of the future annuity payments, pro-  
2 vided that such lump sum is deter-  
3 mined using reasonable actuarial  
4 methods and assumptions, as deter-  
5 mined in good faith by the issuer of  
6 the contract, or

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

17 “(iii) an amount which is in the na-  
18 ture of a dividend or similar distribution,  
19 provided that the issuer of the contract de-  
20 termines such amount based on a reason-  
21 able comparison of the actuarial factors as-  
22 sumed when calculating the initial annuity  
23 payments and the issuer’s experience with  
24 respect to those factors, or

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

7           (b) REGULATIONS AND ENFORCEMENT.—

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

16                (A) conform such regulations to subsection  
17                (a), including by eliminating the types of pay-  
18                ments described in subsection (a) from the  
19                scope of the requirement in Q&A–14(c) of 26  
20                C.F.R. section 1.401(a)(9)–6 that the total fu-  
21                ture expected payments must exceed the total  
22                value being annuitized;

23                (B) amend Q&A–14(c) of 26 C.F.R. sec-  
24                tion 1.401(a)(9)–6 to provide that a commercial  
25                annuity that provides an initial payment that is

1 at least equal to the initial payment that would  
2 be required from an individual account pursu-  
3 ant to 26 C.F.R. section 1.401(a)(9)-5 will be  
4 deemed to satisfy the requirement in Q&A-  
5 14(c) of 26 C.F.R. section 1.401(a)(9)-6 that  
6 the total future expected payments must exceed  
7 the total value being annuitized; and

8 (C) amend Q&A-14(e)(3) of 26 C.F.R.  
9 section 1.401(a)(9)-6 to provide that the total  
10 future expected payments under a commercial  
11 annuity are determined using the tables or  
12 other actuarial assumptions that the issuer of  
13 the contract actually uses in pricing the pre-  
14 miums and benefits with respect to the con-  
15 tract, provided that such tables or other actu-  
16 arial assumptions are reasonable.

17 (2) ENFORCEMENT.—As of the date of enact-  
18 ment of this Act, the Secretary of the Treasury shall  
19 administer and enforce the law in accordance with  
20 subsections (a) and (b) with respect to taxable years  
21 beginning before, on, or after the date of enactment  
22 of this Act.

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

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

5 **SEC. 301. EXCEPTION FROM REQUIRED DISTRIBUTIONS**  
6 **WHERE AGGREGATE RETIREMENT SAVINGS**  
7 **DO NOT EXCEED \$250,000.**

8 (a) IN GENERAL.—Section 401(a)(9) of the Internal  
9 Revenue Code of 1986, as amended by sections 111 and  
10 204, is further amended by adding at the end the following  
11 new subparagraph:

12 “(J) EXCEPTION FROM REQUIRED MIN-  
13 IMUM DISTRIBUTIONS DURING LIFE OF EM-  
14 PLOYEE OR BENEFICIARY WHERE ASSETS DO  
15 NOT EXCEED \$250,000.—

16 “(i) IN GENERAL.—If, as of a meas-  
17 urement date, the aggregate value of the  
18 entire interest of an employee under all ap-  
19 plicable eligible retirement plans does not  
20 exceed \$250,000, then, during any suc-  
21 ceeding calendar year beginning before the  
22 next measurement date—

23 “(I) the requirements of subpara-  
24 graph (A) shall not apply to the em-  
25 ployee, and

1                   “(II) the requirements of sub-  
2                   paragraph (B) shall not apply to the  
3                   employee’s designated beneficiary with  
4                   respect to the designated beneficiary’s  
5                   interest in the interest of the deceased  
6                   employee.

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

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

23                  “(iv) MEASUREMENT DATE.—

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

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

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

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

9 “(II) SUBSEQUENT MEASURE-  
10 MENT DATES.—If, in a calendar year,  
11 an employee to whom subparagraph  
12 (A) or (B) does not apply by reason  
13 of clause (i) receives contributions,  
14 rollovers, or transfers of amounts, or  
15 accrues additional benefits under a  
16 defined benefit plan, that were not  
17 previously taken into account in ap-  
18 plying this subparagraph, then the  
19 last day of that calendar year shall be  
20 a new measurement date and a new  
21 determination shall be made as to  
22 whether clause (i) applies to such em-  
23 ployee.

24 “(v) DETERMINATION OF VALUE.—

25 For purposes of this subparagraph—

1           “(I) IN GENERAL.—Except as  
2           provided in subclause (II), the value  
3           of an employee’s interest in a plan is  
4           the account balance of such plan.

5           “(II) DEFINED BENEFIT  
6           PLANS.—The value of defined benefit  
7           plan benefits shall be determined in  
8           accordance with the applicable inter-  
9           est rate and applicable mortality rate  
10          assumptions under section 417(e), ex-  
11          cept that the value shall be equal to  
12          the amount of the single sum payment  
13          payable to the extent available under  
14          the plan.

15          “(vi) PHASE-OUT OF EXCEPTION.—In  
16          the case of an employee whose aggregate  
17          balance described in clause (i) as of a  
18          measurement date exceeds the dollar  
19          amount in effect under such clause by less  
20          than \$10,000, the required distributions  
21          under this paragraph for calendar years  
22          beginning after such measurement date  
23          and before the next measurement date  
24          shall be equal to the amount which bears  
25          the same ratio to the required distributions

1 otherwise determined under this paragraph  
2 as—

3 “(I) the amount by which such  
4 aggregate balance exceeds such dollar  
5 amount so in effect, bears to

6 “(II) \$10,000.

7 “(vii) COST OF LIVING ADJUST-  
8 MENTS.—The Secretary shall adjust annu-  
9 ally the \$250,000 amount specified in  
10 clause (i) for increases in the cost-of-living  
11 at the same time and in the same manner  
12 as adjustments under section 415(d); ex-  
13 cept that the base period shall be the cal-  
14 endar quarter beginning July 1, 2017, and  
15 any increase which is not a multiple of  
16 \$5,000 shall be rounded to the next lowest  
17 multiple of \$5,000.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to initial measurement dates occur-  
20 ring on or after December 31, 2017.

21 **SEC. 302. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**  
22 **RESOLUTION SYSTEM.**

23 (a) IN GENERAL.—Not later than one year after the  
24 date of the enactment of this Act, the Secretary of the  
25 Treasury shall modify the Employee Plans Compliance

1 Resolution System (as described in Revenue Procedure  
2 2016–51 or any successor guidance) to achieve the results  
3 specified in the succeeding subsections of this section and  
4 to further facilitate corrections and compliance in such  
5 other means as the Secretary deems appropriate.

6 (b) LOAN ERROR.—

7 (1) In the case of plan loan errors for which  
8 corrections are specified under the voluntary compli-  
9 ance program, self-correction shall be made available  
10 by methods applicable to such loans through the vol-  
11 untary compliance program.

12 (2) The Secretary of Labor shall treat any loan  
13 error corrected pursuant to paragraph (1) as meet-  
14 ing the requirements of the Voluntary Fiduciary  
15 Correction Program of the Department of Labor.

16 (c) EPCRS FOR IRAS.—The Secretary of the Treas-  
17 ury shall expand the Employee Plans Compliance Resolu-  
18 tion System to allow custodians of individual retirement  
19 plans to address inadvertent errors for which the owner  
20 of an individual retirement plan was not at fault, including  
21 (but not limited to)—

22 (1) waivers of the excise tax that would other-  
23 wise apply under section 4974 of the Internal Rev-  
24 enue Code of 1986;

1           (2) under the self-correction component of the  
2       Employee Plans Compliance Resolution System,  
3       waivers of the 60-day deadline for a rollover where  
4       the deadline is missed for reasons beyond the rea-  
5       sonable control of the account owner; and

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

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

1 **SEC. 303. REVIEW AND REPORT TO THE CONGRESS RELAT-**  
2 **ING TO REPORTING AND DISCLOSURE RE-**  
3 **QUIREMENTS.**

4 (a) STUDY.—As soon as practicable after the date of  
5 the enactment of this Act, the Secretary of Labor, the Sec-  
6 retary of the Treasury, and the Pension Benefit Guaranty  
7 Corporation shall review the reporting and disclosure re-  
8 quirements of—

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

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

16 (b) REPORT.—Not later than 18 months after the  
17 date of the enactment of this Act, the Secretary of Labor,  
18 the Secretary of the Treasury, and the Pension Benefit  
19 Guaranty Corporation, jointly, shall make such rec-  
20 ommendations as may be appropriate to the appropriate  
21 committees of the Congress to consolidate, simplify, stand-  
22 ardize, and improve the applicable reporting and disclo-  
23 sure requirements so as to simplify reporting for plans ref-  
24 erenced to in subsection (a) and ensure that needed under-  
25 standable information is provided to participants and  
26 beneficiaries of such plans.

1 **SEC. 304. CONSOLIDATION OF DEFINED CONTRIBUTION**  
2 **PLAN NOTICES.**

3 (a) IN GENERAL.—

4 (1) Not later than 18 months after the date of  
5 the enactment of this Act, the Secretary of Labor  
6 and the Secretary of the Treasury shall adopt final  
7 regulations providing that a plan may, but is not re-  
8 quired to, consolidate two or more of the notices re-  
9 quired under sections 404(c)(5)(B) and 514(e)(3) of  
10 the Employee Retirement Income Security Act of  
11 1974 (29 U.S.C. 1144(e)(3)), sections  
12 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) of the  
13 Internal Revenue Code of 1986, and section  
14 2550.404a-5 of title 29, Code of Federal Regula-  
15 tions (29 C.F.R. 2550.404a-5) into a single notice  
16 or, to the extent provided by such regulations, con-  
17 solidate such notices with the summary plan descrip-  
18 tion or summary of material modifications described  
19 in section 104(b) of the Employee Retirement In-  
20 come Security Act of 1974 (29 U.S.C. 1024(b)), so  
21 long as the combined notice, summary plan descrip-  
22 tion or summary of material modifications includes  
23 the required content, clearly identifies the issues ad-  
24 dressed therein, and is provided at the time and with  
25 the frequency required for each such notice.

1           (2) The Secretary of Labor and the Secretary  
2 of the Treasury may include in such regulations  
3 rules to ensure that, to the extent such notices are  
4 consolidated with the summary plan description or  
5 summary of material modifications, the presentation,  
6 placement, or prominence of the information in such  
7 notices shall not have the effect of failing to inform  
8 participants and beneficiaries regarding the informa-  
9 tion in such notices.

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

12           (1) Clause (i) of section 404(c)(5)(B) of the  
13 Employee Retirement Income Security Act of 1974  
14 (29 U.S.C. 1104(c)(5)(B)) is amended—

15                   (A) in subclause (I) by striking “within a  
16 reasonable period of time before each plan  
17 year,” and inserting “within a reasonable pe-  
18 riod before the arrangement described in sub-  
19 paragraph (A) applies to such participant or  
20 beneficiary, and thereafter at least once within  
21 any 12-month period (without regard to the  
22 plan year) during which such arrangement ap-  
23 plies,”; and

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

1           (2) Subparagraph (A) of section 514(e)(3) of  
2 the Employee Retirement Income Security Act of  
3 1974 (29 U.S.C. 1144(e)(3)(A)) is amended by  
4 striking “, within a reasonable period before such  
5 plan year, provide to each participant to whom the  
6 arrangement applies for such plan year” and insert-  
7 ing “, within a reasonable period before the arrange-  
8 ment applies to a participant or beneficiary, and  
9 thereafter at least once within any 12-month period  
10 (without regard to the plan year) during which such  
11 arrangement applies, provide”.

12           (3) Clause (i) of section 401(k)(13)(E) of the  
13 Internal Revenue Code of 1986 is amended by strik-  
14 ing “, within a reasonable period before each plan  
15 year, each employee eligible to participate in the ar-  
16 rangement for such year receives” and inserting  
17 “each employee eligible to participate in the arrange-  
18 ment receives, within a reasonable period before the  
19 employee becomes eligible, and thereafter within a  
20 reasonable period before each plan year during  
21 which such arrangement applies,”.

22           (4) Subparagraph (D) of section 401(k)(12) of  
23 the Internal Revenue Code of 1986 is amended by  
24 striking “, within a reasonable period before any  
25 year, given written notice” and inserting “given

1 written notice, within a reasonable period before the  
2 employee becomes eligible, and thereafter within a  
3 reasonable period before each plan year during  
4 which such arrangement applies.”.

5 (5) Subparagraph (A) of section 414(w)(4) of  
6 the Internal Revenue Code of 1986 is amended by  
7 striking “, within a reasonable period before each  
8 plan year, give to each employee to whom an ar-  
9 rangement described in paragraph (3) applies for  
10 such plan year” and inserting “, within a reasonable  
11 period before an arrangement described in para-  
12 graph (3) applies to an employee, and thereafter at  
13 least once within any 12-month period (without re-  
14 gard to the plan year) during which such arrange-  
15 ment applies, give to each such employee”.

16 **SEC. 305. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**  
17 **CATION FUNDS.**

18 (a) IN GENERAL.—Not later than six months after  
19 the date of enactment of this Act, the Secretary of Labor  
20 shall modify the regulations under section 404 of the Em-  
21 ployee Retirement Income Security Act of 1974 to provide  
22 that, in the case of a designated investment alternative  
23 that contains a mix of asset classes, a plan administrator  
24 may, but is not required to, use a benchmark that is a

1 blend of different broad-based securities market indices  
2 if—

3           (1) the blend is reasonably representative of the  
4           asset class holdings of the designated investment al-  
5           ternative;

6           (2) for purposes of determining the blend’s re-  
7           turns for 1-, 5-, and 10-calendar year periods (or for  
8           the life of the alternative, if shorter), the blend is  
9           modified at least once per year to reflect changes in  
10          the asset class holdings of the designated investment  
11          alternative; and

12          (3) each securities market index that is used for  
13          an associated asset class would separately satisfy the  
14          requirements of such regulations for such asset  
15          class.

16          (b) STUDY.—Not later than December 31, 2018, the  
17          Secretary of Labor shall deliver a report to the House  
18          Committee on Ways and Means, the House Committee on  
19          Education and the Workforce, the Senate Committee on  
20          Finance, and the Senate Committee on Health, Education,  
21          Labor and Pensions regarding the effectiveness of the  
22          benchmarking requirements under 29 C.F.R. section  
23          2550.404a–5.

1 **SEC. 306. PERMIT NONSPOUSAL BENEFICIARIES TO ROLL**  
2 **ASSETS TO PLANS.**

3 (a) **IN GENERAL.**—Section 402(c) of the Internal  
4 Revenue Code of 1986 is amended by adding at the end  
5 the following new paragraph:

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

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

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

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

1 **SEC. 307. ELIMINATE THE “FIRST DAY OF THE MONTH” RE-**  
2 **QUIREMENT.**

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

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

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

13 **SEC. 308. OFFICE OF PARTICIPANT AND PLAN SPONSOR AD-**  
14 **VOCATE.**

15 (a) IN GENERAL.—Section 7803 of the Internal Rev-  
16 enue Code of 1986 is amended by adding at the end the  
17 following:

18 “(e) PARTICIPANT AND PLAN SPONSOR ADVO-  
19 CATE.—

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

24 “(2) PARTICIPANT AND PLAN SPONSOR ADVO-  
25 CATE.—

1           “(A) IN GENERAL.—The Office of the Par-  
2           ticipant and Plan Sponsor Advocate shall be  
3           under the supervision and direction of an offi-  
4           cial to be known as the ‘Participant and Plan  
5           Sponsor Advocate’. The Commissioner shall se-  
6           lect the Participant and Plan Sponsor Advocate  
7           without regard to the provisions of title 5,  
8           United States Code, relating to appointments in  
9           the competitive service or Senior Executive  
10          Service.

11          “(B) DUTIES.—The Participant and Plan  
12          Sponsor Advocate shall—

13                 “(i) act as a liaison between the Inter-  
14                 nal Revenue Service, sponsors of qualified  
15                 retirement plans (as defined in section  
16                 4974(c)), and participants in such plans,

17                 “(ii) advocate for the full attainment  
18                 of the rights of such plan sponsors and  
19                 participants,

20                 “(iii) assist pension plan sponsors and  
21                 participants in resolving disputes with the  
22                 Internal Revenue Service,

23                 “(iv) identify areas in which partici-  
24                 pants and plan sponsors have persistent

1 problems in dealings with the Internal Rev-  
2 enue Service,

3 “(v) to the extent possible, propose  
4 changes in the administrative practices of  
5 the Internal Revenue Service to mitigate  
6 problems,

7 “(vi) identify potential legislative  
8 changes which may be appropriate to miti-  
9 gate problems, and

10 “(vii) refer instances of fraud, waste,  
11 and abuse, and violations of law to the Of-  
12 fice of the Treasury Inspector General for  
13 Tax Administration.

14 “(C) REMOVAL.—The Participant and  
15 Plan Sponsor Advocate can only be removed  
16 from office or transferred to another position or  
17 location within the Internal Revenue Service by  
18 the Secretary of the Treasury. If the Partici-  
19 pant and Plan Sponsor Advocate is removed  
20 from office or is transferred to another position  
21 or location within the Internal Revenue Service,  
22 the Secretary shall communicate in writing the  
23 reasons for any such removal or transfer to  
24 Congress not less than 30 days before the re-  
25 moval or transfer. Nothing in this paragraph

1 shall prohibit a personnel action otherwise au-  
2 thorized by law, other than transfer or removal.

3 “(D) COMPENSATION.—The annual rate of  
4 basic pay for the Participant and Plan Sponsor  
5 Advocate shall be the same rate as the highest  
6 rate of basic pay established for the Senior Ex-  
7 ecutive Service under section 5382 of title 5,  
8 United States Code, or, if the Commissioner so  
9 determines, at a rate fixed under section 9503  
10 of such title.

11 “(3) ANNUAL REPORT.—

12 “(A) IN GENERAL.—Not later than De-  
13 cember 31 of each calendar year, the Partici-  
14 pant and Plan Sponsor Advocate shall report to  
15 the Health, Education, Labor, and Pensions  
16 Committee of the Senate, the Committee on Fi-  
17 nance of the Senate, the Committee on Edu-  
18 cation and the Workforce of the House of Rep-  
19 resentatives, and the Committee on Ways and  
20 Means of the House of Representatives on the  
21 activities of the Office of the Participant and  
22 Plan Sponsor Advocate during the fiscal year  
23 ending during such calendar year.

24 “(B) CONTENT.—Each report submitted  
25 under subparagraph (A) shall—

1           “(i) summarize the assistance re-  
2           quests received from participants and plan  
3           sponsors and describe the activities, and  
4           evaluate the effectiveness, of the Partici-  
5           pant and Plan Sponsor Advocate during  
6           the preceding year,

7           “(ii) identify significant problems the  
8           Participant and Plan Sponsor Advocate  
9           has identified,

10           “(iii) include specific legislative and  
11           regulatory changes to address the prob-  
12           lems, and

13           “(iv) identify any actions taken to cor-  
14           rect problems identified in any previous re-  
15           port.

16           “(C) CONCURRENT SUBMISSION.—The  
17           Participant and Plan Sponsor Advocate shall  
18           submit a copy of each report to the Secretary  
19           of the Treasury, the Commissioner of Internal  
20           Revenue, and any other appropriate official at  
21           the same time such report is submitted to the  
22           committees of Congress under subparagraph  
23           (A).”.

24           (b) EFFECTIVE DATE.—The amendment made by  
25           this section shall take effect on January 1, 2018.

1 **SEC. 309. SIMPLIFYING 402(f) NOTICES.**

2 Not later than December 31, 2018, the Secretary of  
3 the Treasury, in consultation with the Secretary of Labor  
4 and the Director of the Pension Benefit Guaranty Cor-  
5 poration, shall simplify the model notices issued under sec-  
6 tion 402(f) of the Internal Revenue Code of 1986 so as  
7 to facilitate better understanding by recipients of different  
8 distribution options and corresponding tax consequences.  
9 Such model notices shall include an explanation of the ef-  
10 fect of elections on spousal rights.

11 **SEC. 310. GUIDANCE RELATED TO CERTAIN OVERPAYMENT**  
12 **RECOUPMENT PRACTICES.**

13 (a) OVERPAYMENTS UNDER INTERNAL REVENUE  
14 CODE.—Not later than December 31, 2018, the Secretary  
15 of the Treasury shall modify the Employee Plans Compli-  
16 ance Resolution System (as described in Revenue Proce-  
17 dure 2016–51 or any successor guidance)—

18 (1) to clarify that in no case shall any person  
19 be required to seek recoupment of an inadvertent  
20 overpayment (as defined in such System) from a  
21 participant or beneficiary; and

22 (2) in the case of an inadvertent overpayment,  
23 except as otherwise provided by such Secretary  
24 based on the size of the overpayment, a contribution  
25 of such overpayment that would qualify as a rollover  
26 under section 402(c), 403(a)(4), 403(b)(8), or



1           (1) IN GENERAL.—Subparagraph (A) of section  
2           401(k)(12) of the Internal Revenue Code of 1986 is  
3           amended by striking “if such arrangement” and all  
4           that follows and inserting “if such arrangement—

5                       “(i) meets the contribution require-  
6                       ments of subparagraph (B) and the notice  
7                       requirements of subparagraph (D), or

8                       “(ii) meets the contribution require-  
9                       ments of subparagraph (C).”.

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

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

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

21           (b) NONELECTIVE CONTRIBUTIONS.—Section  
22           401(k)(12) of the Internal Revenue Code of 1986 is  
23           amended by redesignating subparagraph (F) as subpara-  
24           graph (G), and by inserting after subparagraph (E) the  
25           following new subparagraph:

1           “(F) TIMING OF PLAN AMENDMENT FOR  
2 EMPLOYER MAKING NONELECTIVE CONTRIBU-  
3 TIONS.—

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

11           “(I) at any time before the 30th  
12 day before the close of the plan year,  
13 or

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

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

1                   “(iii) 4-PERCENT CONTRIBUTION RE-  
2                   QUIREMENT.—Clause (i)(II) shall not  
3                   apply to an arrangement unless the  
4                   amount of the contributions described in  
5                   subparagraph (C) which the employer is  
6                   required to make under the arrangement  
7                   for the plan year with respect to any em-  
8                   ployee is an amount equal to at least 4  
9                   percent of the employee’s compensation.”.

10           (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

11 Section 401(k)(13) of the Internal Revenue Code of 1986  
12 is amended by adding at the end the following :

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

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

23                   “(I) at any time before the 30th  
24                   day before the close of the plan year,  
25                   or

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

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

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

22                  (d) EFFECTIVE DATE.—The amendments made by  
23                  this section shall apply to plan years beginning after De-  
24                  cember 31, 2017.

1 **SEC. 312. USE OF FORFEITURES TO FUND SAFE HARBOR**  
2 **CONTRIBUTIONS.**

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

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

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

17 **SEC. 313. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**  
18 **MINATION OF SECTION 403(B) PLANS.**

19 Not later than six months after the date of enactment  
20 of this Act, the Secretary of the Treasury shall issue guid-  
21 ance to provide that, if an employer terminates the plan  
22 under which amounts are contributed to a custodial ac-  
23 count under subparagraph (A) of section 403(b)(7), the  
24 plan administrator or custodian may distribute an indi-  
25 vidual custodial account in kind to a participant or bene-  
26 ficiary of the plan and the distributed custodial account

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

## 18 **TITLE IV—DEFINED BENEFIT** 19 **PLAN REFORMS**

### 20 **SEC. 401. CASH BALANCE.**

21 (a) IN GENERAL.—Section 414 of the Internal Rev-  
22 enue Code of 1986, as amended by this Act, is amended  
23 by adding at the end the following new subsection:

24 “(bb) PROJECTED INTEREST CREDITING RATE.—

25 For purposes of this part, in the case of an applicable de-

1 fined benefit plan that provides variable interest crediting  
2 rates, the interest crediting rate that is treated as in effect  
3 and as the projected interest crediting rate shall be a rea-  
4 sonable projection of such variable interest crediting rate,  
5 subject to a maximum of 6 percent.”.

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

9 **SEC. 402. ALIGNING USE OF LOOKBACK MONTHS TO DE-**  
10 **TERMINE INTEREST RATES.**

11 The Secretary of the Treasury shall modify Treasury  
12 Regulation section 1.417(e)–1(d)(10)(ii) (or any successor  
13 provision) to provide that the same rule applicable to  
14 modifications of the time for determining the applicable  
15 interest rate shall apply to modifications of the time for  
16 determining any interest rate used by a plan to the extent  
17 that the use of such interest rate is permissible under sec-  
18 tion 417(e)(3) of the Internal Revenue Code of 1986, pro-  
19 vided that the regulations shall require that after any such  
20 modification of such time under a plan pursuant to this  
21 section, no further modifications of such time are to be  
22 permitted for five years with respect to such plan without  
23 the consent of the Secretary of the Treasury. As of the  
24 date of enactment of this Act, such regulation (or any suc-  
25 cessor provision) shall be deemed to be amended in such

1 manner, so that this change in the regulations is deemed  
2 to have occurred.

3 **SEC. 403. ALIGNING EMPLOYER PENSION CONTRIBUTION**  
4 **DUE DATE WITH CORPORATE RETURN DUE**  
5 **DATE.**

6 (a) **IN GENERAL.**—Paragraph (1) of section 430(j)  
7 of the Internal Revenue Code of 1986 is amended by strik-  
8 ing “8 1/2” and inserting “9 1/2”.

9 (b) **EFFECTIVE DATE.**—The amendment made by  
10 this section shall apply to payments made after the date  
11 of enactment of this Act.

12 **SEC. 404. CLARIFICATION OF THE ROLE OF THE PARTICI-**  
13 **PANT AND PLAN SPONSOR ADVOCATE.**

14 Section 4004 of the Employee Retirement Income Se-  
15 curity Act of 1974 (29 U.S.C. 1304) is amended—

16 (1) in subsection (b)—

17 (A) in paragraph (1), by striking “a liai-  
18 son” and inserting “an independent liaison”;

19 and

20 (B) in paragraph (3), by striking “assist”  
21 and inserting “advocate for”;

22 (2) by redesignating subsections (c) through (e)  
23 as subsections (d) through (f), respectively; and

24 (3) by inserting after subsection (b) the fol-  
25 lowing:

1       “(c) REQUESTS FOR INFORMATION.—The corpora-  
2       tion shall, upon request, provide information to the Partic-  
3       ipant and Plan Sponsor Advocate to the extent necessary  
4       to enable the Participant and Plan Sponsor Advocate to  
5       perform the responsibilities described under this section.”.

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