

115TH CONGRESS
2D SESSION

S. 3781

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2018

Mr. PORTMAN (for himself and Mr. CARDIN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

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

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

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

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

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

Sec. 101. Secure deferral arrangements.

Sec. 102. Facilitating automatic enrollment.

Sec. 103. Credit for employers with respect to modified safe harbor require-
 ments.

Sec. 104. Expansion of saver's credit.

Sec. 105. Qualified cash or deferred arrangements must allow long-term em-
 ployees 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. 60-day rollover to inherited individual retirement plan of nonspouse
 beneficiary.

Sec. 109. Increase in age for required beginning date for mandatory distribu-
 tions.

Sec. 110. Updating of mortality tables for minimum required distributions.

Sec. 111. Increase in credit limitation for small employer pension plan startup
 costs of certain employers.

Sec. 112. Credit for re-enrollment.

Sec. 113. Treatment of student loan payments as elective deferrals for purposes
 of matching contributions.

Sec. 114. Treatment of qualified retirement planning services.

Sec. 115. Allow additional nonelective contributions to simple plans.

Sec. 116. Reform of the minimum participation rule.

Sec. 117. Expansion of Employee Plans Compliance Resolution System.

Sec. 118. Enhancement of 403(b) plans.

Sec. 119. Eligibility for participation in retirement plans.

Sec. 120. Small immediate financial incentives for contributing to a plan.

Sec. 121. Indexing IRA catch-up limit.

Sec. 122. Higher catch-up limit to apply at age 60.

TITLE II—PRESERVATION OF INCOME

Sec. 201. Qualifying longevity annuity contracts.

Sec. 202. Remove required minimum distribution barriers for life annuities.

Sec. 203. Eliminating a penalty on partial annuitization.

Sec. 204. Insurance-dedicated exchange-traded funds.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

Sec. 301. Review and report to the Congress relating to reporting and disclo-
 sure requirements.

- Sec. 302. Consolidation of defined contribution plan notices.
- Sec. 303. Performance benchmarks for asset allocation funds.
- Sec. 304. Permit nonspousal beneficiaries to roll assets to plans.
- Sec. 305. Deferral agreements.
- Sec. 306. Simplifying 402(f) notices.
- Sec. 307. Guidance related to certain overpayment recoupment practices.
- Sec. 308. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 309. Permit plans to use base pay or rate of pay calculation.
- Sec. 310. Roth SIMPLE IRAs.
- Sec. 311. Reduction in excise tax on certain accumulations in qualified retirement plans.
- Sec. 312. Clarification of catch-up contributions with respect to separate lines of business.
- Sec. 313. Clarification of substantially equal periodic payment rule.
- Sec. 314. Clarification of treatment of distributions of annuity contracts.
- Sec. 315. Clarification regarding elective deferrals.
- Sec. 316. Tax treatment of certain nontrade or business SEP contributions.
- Sec. 317. Allow certain plan transfers and mergers.
- Sec. 318. Exception from required distributions where aggregate retirement savings do not exceed \$100,000.
- Sec. 319. Hardship rules for 403(b) plans.
- Sec. 320. IRA preservation.
- Sec. 321. Elimination of additional tax on certain distributions.

TITLE IV—DEFINED BENEFIT PLAN REFORMS

- Sec. 401. Cash balance.
- Sec. 402. Aligning use of lookback months to determine interest rates.
- Sec. 403. Corrections of mortality tables.
- Sec. 404. Cease double-indexing the variable rate premium.

TITLE V—REFORMING PLAN RULES TO HARMONIZE WITH IRA RULES

- Sec. 501. Roth plan distribution rules.
- Sec. 502. Distributions for charitable purposes.
- Sec. 503. Surviving spouse election to be treated as employee.
- Sec. 504. Rollovers from Roth IRAs to plans.

TITLE VI—ADMINISTRATIVE PROVISIONS

- Sec. 601. Provisions relating to plan amendments.

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

4 **SEC. 101. SECURE DEFERRAL ARRANGEMENTS.**

5 (a) IN GENERAL.—Subsection (k) of section 401, as
 6 amended by Public Law 115–123, is further amended by
 7 adding at the end the following new paragraph:

8 “(15) ALTERNATIVE METHOD FOR SECURE DE-
 9 FERRAL ARRANGEMENTS TO MEET NONDISCRIMINA-
 10 TION REQUIREMENTS.—

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

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

21 “(C) QUALIFIED PERCENTAGE.—For pur-
 22 poses of this paragraph, with respect to any
 23 employee, the term ‘qualified percentage’
 24 means, in lieu of the meaning given such term
 25 in paragraph (13)(C)(iii), any percentage deter-

1 mined under the arrangement if such percent-
2 age is applied uniformly and is—

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

10 “(ii) at least 7 percent during the
11 first plan year following the plan year de-
12 scribed in clause (i),

13 “(iii) at least 8 percent during the
14 second plan year following the plan year
15 described in clause (i),

16 “(iv) at least 9 percent during the
17 third plan year following the plan year de-
18 scribed in clause (i), and

19 “(v) at least 10 percent during any
20 subsequent plan year.

21 “(D) MATCHING CONTRIBUTIONS.—

22 “(i) IN GENERAL.—For purposes of
23 this paragraph, an arrangement shall be
24 treated as having met the requirements of
25 paragraph (13)(D)(i) if and only if the em-

1 ployer makes matching contributions on
2 behalf of each employee who is not a highly
3 compensated employee in an amount equal
4 to the sum of—

5 “(I) 100 percent of the elective
6 contributions of the employee to the
7 extent such contributions do not ex-
8 ceed 2 percent of compensation,

9 “(II) 50 percent of so much of
10 such contributions as exceed 2 percent
11 but do not exceed 6 percent of com-
12 pensation, plus

13 “(III) 20 percent of so much of
14 such contributions as exceed 6 percent
15 but do not exceed 10 percent of com-
16 pensation.

17 “(ii) APPLICATION OF RULES FOR
18 MATCHING CONTRIBUTIONS.—The rules of
19 clause (ii) of paragraph (12)(B) and
20 clauses (iii) and (iv) of paragraph (13)(D)
21 shall apply for purposes of clause (i), but
22 the rule of clause (iii) of paragraph
23 (12)(B) shall not apply for such purposes.
24 The rate of matching contribution for each
25 incremental deferral must be at least as

1 high as the rate specified in clause (i), and
2 may be higher, so long as such rate does
3 not increase as an employee's rate of elec-
4 tive contributions increases.”.

5 (b) MATCHING CONTRIBUTIONS AND EMPLOYEE
6 CONTRIBUTIONS.—Subsection (m) of section 401 is
7 amended by redesignating paragraph (13) as paragraph
8 (14) and by inserting after paragraph (12) the following
9 new paragraph:

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

15 “(A) is a secure deferral arrangement (as
16 defined in subsection (k)(15)),

17 “(B) meets the requirements of clauses (ii)
18 and (iii) of paragraph (11)(B), and

19 “(C) provides that matching contributions
20 on behalf of any employee may not be made
21 with respect to an employee's contributions or
22 elective deferrals in excess of 10 percent of the
23 employee's compensation.”.

24 (c) CONFORMING AMENDMENTS.—Subparagraph
25 (H) of section 416(g)(4) is amended—

1 (1) in clause (i), by striking “section
2 401(k)(12) or 401(k)(13)” and inserting “paragraph
3 (12), (13), or (15) of section 401(k)”, and

4 (2) in clause (ii), by striking “section
5 401(m)(11) or 401(m)(12)” and inserting “para-
6 graph (11), (12), or (13) of section 401(m)”.

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

10 **SEC. 102. FACILITATING AUTOMATIC ENROLLMENT.**

11 The Secretary of the Treasury shall promulgate regu-
12 lations or other guidance which—

13 (1) simplifies and clarifies the rules regarding
14 the timing of participant notices required under the
15 Internal Revenue Code of 1986 with respect to an
16 eligible automatic enrollment contribution arrange-
17 ment (within the meaning of section 414(w)(3) of
18 the Internal Revenue Code of 1986) or required
19 under section 336(e)(3) of the Consolidated Appro-
20 priations Act, 2016 with respect to an automatic
21 contribution arrangement (within the meaning of
22 section 336(e)(2) of such Act), with specific applica-
23 tion to—

1 (A) plans which allow employees to be eli-
2 gible for participation immediately upon begin-
3 ning employment; and

4 (B) employers with multiple payroll and
5 administrative systems; and

6 (2) simplifies and clarifies the application of
7 automatic escalation features under arrangements
8 described in paragraph (1) in the context of employ-
9 ers with multiple payroll and administrative systems.

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

15 **SEC. 103. CREDIT FOR EMPLOYERS WITH RESPECT TO**
16 **MODIFIED SAFE HARBOR REQUIREMENTS.**

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

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

24 “(a) GENERAL RULE.—For purposes of section 38,
25 in the case of a small employer, the safe harbor adoption

1 credit determined under this section for any taxable year
2 is the amount equal to the total of the employer's match-
3 ing contributions under section 401(k)(15)(D) during the
4 taxable year on behalf of employees who are not highly
5 compensated employees.

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 any employee shall not exceed 2 percent of
11 the compensation of such employee for the taxable
12 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 any employee only during the first 5 years
17 such employee participates in the qualified automatic
18 contribution arrangement.

19 “(c) DEFINITIONS.—

20 “(1) IN GENERAL.—Any term used in this sec-
21 tion which is also used in section 401(k)(15) shall
22 have the same meaning as when used in such sec-
23 tion.

1 “(2) SMALL EMPLOYER.—The term ‘small em-
 2 ployer’ means an eligible employer (as defined in
 3 section 408(p)(2)(C)(i)).

4 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
 5 shall be allowable under this title for any contribution with
 6 respect to which a credit is allowed under this section.”.

7 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 8 CREDIT.—Subsection (b) of section 38 is amended by
 9 striking “plus” at the end of paragraph (31), by striking
 10 the period at the end of paragraph (32) and inserting “,
 11 plus”, and by adding at the end the following new para-
 12 graph:

13 “(33) the safe harbor adoption credit deter-
 14 mined under section 45T.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
 16 for subpart D of part IV of subchapter A of chapter 1
 17 is amended by adding after the item relating to section
 18 45S the following new item:

 “Sec. 45T. Credit for small employers with respect to modified safe harbor re-
 quirements for automatic contribution arrangements.”.

19 (d) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to taxable years which include any
 21 portion of a plan year beginning after December 31, 2018.

22 **SEC. 104. EXPANSION OF SAVER’S CREDIT.**

23 (a) EXPANSION.—Paragraph (1) of section 25B(b) is
 24 amended by striking “\$32,500” both places it appears in

1 subparagraphs (B) and (C) of paragraph (1) and inserting
2 “\$40,000”.

3 (b) TESTING PERIOD.—Subparagraph (B) of section
4 25B(d)(2) is amended to read as follows:

5 “(B) TESTING PERIOD.—For purposes of
6 subparagraph (A), the testing period, with re-
7 spect to a taxable year, is the period which in-
8 cludes—

9 “(i) such taxable year, and

10 “(ii) the 3 preceding taxable years.”.

11 (c) TREATMENT AS REFUNDABLE.—

12 (1) CREDIT MOVED TO SUBPART RELATING TO
13 REFUNDABLE CREDITS.—

14 (A) IN GENERAL.—The Internal Revenue
15 Code of 1986 is amended—

16 (i) by redesignating section 25B, as
17 amended by this Act, as section 36C; and

18 (ii) by moving such section, as so re-
19 designated, from subpart A of part IV of
20 subchapter A of chapter 1 to the location
21 immediately before section 37 in subpart C
22 of part IV of subchapter A of chapter 1.

23 (B) TECHNICAL AMENDMENTS.—

24 (i) The table of sections for subpart A
25 of part IV of subchapter A of chapter 1 is

1 amended by striking the item relating to
2 section 25B.

3 (ii) The table of sections for subpart
4 C of part IV of subchapter A of chapter 1
5 is amended by inserting after the item re-
6 lating to section 36B the following new
7 item:

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

8 (2) MANDATORY DEPOSIT INTO QUALIFIED AC-
9 COUNT.—

10 (A) NO REDUCTION OF TAX.—Subsection
11 (a) of section 36C, as moved and redesignated
12 by paragraph (1), is amended by striking
13 “against the tax imposed by this subtitle”.

14 (B) DEPOSIT INTO QUALIFIED AC-
15 COUNT.—Section 36C, as so moved and redesign-
16 ated, is amended by adding at the end the fol-
17 lowing new subsection:

18 “(g) DEPOSIT INTO QUALIFIED ACCOUNT.—

19 “(1) IN GENERAL.—Any amount allowed as a
20 credit under subsection (a) shall not be allowed as
21 a credit against any tax imposed by this subtitle but
22 instead shall be treated as an overpayment under
23 section 6401(b) and—

24 “(A) shall be paid on behalf of the indi-
25 vidual taxpayer to a Roth IRA or a designated

1 Roth account (within the meaning of section
2 402A) under an applicable retirement plan des-
3 ignated by the individual to be invested in a
4 manner designated by the individual, except
5 that in the case of a joint return each spouse
6 shall be entitled to designate an applicable re-
7 tirement plan and investments with respect to
8 payments attributable to such spouse, or

9 “(B) in the case of a taxpayer who does
10 not properly designate an applicable retirement
11 plan in a timely manner or who designates an
12 applicable retirement plan which does not ac-
13 cept such amount in a timely manner, shall be
14 paid or credited on behalf of the individual tax-
15 payer in a manner determined under rules pre-
16 scribed by the Secretary which provides treat-
17 ment comparable to the treatment under sub-
18 paragraph (A).

19 “(2) APPLICABLE RETIREMENT PLAN.—For
20 purposes of this subsection, the term ‘applicable re-
21 tirement plan’ means a plan which elects to accept
22 deposits under this subsection and which is de-
23 scribed in clause (iii), (iv), (v), or (vi) of section
24 402(c)(8)(B) or in section 408A(b).

1 “(3) TREATMENT OF PAYMENTS.—In the case
2 of any payment under this subsection—

3 “(A) except as otherwise provided in this
4 section or by the Secretary under regulations,
5 such payment shall be treated in the same man-
6 ner as a payment made by the individual on
7 whose behalf such payment was made,

8 “(B) such payment shall not be treated as
9 income to the taxpayer, and

10 “(C) such payment shall not be taken into
11 account with respect to any applicable limita-
12 tion under sections 402(g)(1), 403(b),
13 408(a)(1), 408(b)(2)(B), 408A(c)(2), 414(v)(2),
14 415(c), or 457(b)(2).

15 “(4) TREATMENT OF QUALIFIED PLANS, ETC.—
16 A plan or arrangement to which a payment is made
17 under this subsection shall not be treated as vio-
18 lating any requirement under section 401, 403, 408,
19 or 457 solely by reason of accepting such payment.

20 “(5) ERRONEOUS CREDITS.—If any payment is
21 erroneously paid under this subsection, the amount
22 of such erroneous payment shall be treated as an
23 underpayment of tax.”.

24 (d) REGULATION AND PROMOTION.—The Secretary
25 of the Treasury (or the Secretary’s delegate) shall take

1 such steps as the Secretary (or delegate) determines are
2 necessary and appropriate to increase public awareness of
3 the credit provided under section 36C of the Internal Rev-
4 enue Code of 1986 (as amended and redesignated by this
5 section).

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

9 **SEC. 105. QUALIFIED CASH OR DEFERRED ARRANGEMENTS**
10 **MUST ALLOW LONG-TERM EMPLOYEES**
11 **WORKING MORE THAN 500 BUT LESS THAN**
12 **1,000 HOURS PER YEAR TO PARTICIPATE.**

13 (a) PARTICIPATION REQUIREMENT.—

14 (1) IN GENERAL.—Subparagraph (D) of section
15 401(k)(2) is amended to read as follows:

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

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

1 “(ii) subject to the provisions of para-
2 graph (16), the first period of 2 consecu-
3 tive 12-month periods during each of which
4 the employee has at least 500 hours of
5 service.”.

6 (2) SPECIAL RULES.—Section 401(k), as
7 amended by this Act, is further amended by adding
8 at the end the following new paragraph:

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

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

18 “(B) NONDISCRIMINATION AND TOP-
19 HEAVY RULES NOT TO APPLY.—

20 “(i) NONDISCRIMINATION RULES.—In
21 the case of employees who are eligible to
22 participate in the arrangement solely by
23 reason of paragraph (2)(D)(ii)—

24 “(I) notwithstanding subsection
25 (a)(4), an employer shall not be re-

1 quired to make nonelective or match-
2 ing contributions on behalf of such
3 employees even if such contributions
4 are made on behalf of other employees
5 eligible to participate in the arrange-
6 ment, and

7 “(II) an employer may elect to
8 exclude such employees from the ap-
9 plication of subsection (a)(4), para-
10 graph (3), subsection (m)(2), and sec-
11 tion 410(b).

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

20 “(iii) VESTING.—For purposes of de-
21 termining whether an employee described
22 in clause (i) has a nonforfeitable right to
23 employer contributions (other than con-
24 tributions described in paragraph
25 (3)(D)(i)) under the arrangement, each

1 12-month period for which the employee
2 has at least 500 hours of service shall be
3 treated as a year of service.

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

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

16 “(D) SPECIAL RULES.—

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

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

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2018, except that, for purposes of section
4 401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 (as
5 added by such amendments), 12-month periods beginning
6 before January 1, 2019, shall not be taken into account.

7 **SEC. 106. SEPARATE APPLICATION OF TOP HEAVY RULES**
8 **TO DEFINED CONTRIBUTION PLANS COV-**
9 **ERING PART-TIME EMPLOYEES.**

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

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

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

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

6 The Secretary of the Treasury shall modify the forms
 7 for the return of tax of individuals in order to allow indi-
 8 viduals claiming the credit under section 36C of the Inter-
 9 nal Revenue Code of 1986 (as moved and redesignated
 10 by this Act) to file (and claim such credit on) Form
 11 1040EZ.

12 **SEC. 108. 60-DAY ROLLOVER TO INHERITED INDIVIDUAL**
 13 **RETIREMENT PLAN OF NONSPOUSE BENE-**
 14 **FICIARY.**

15 (a) IN GENERAL.—Section 402(c)(11) is amended by
 16 redesignating subparagraph (B) as subparagraph (C) and
 17 by striking subparagraph (A) and inserting the following:

18 “(A) IN GENERAL.—If—

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

1 “(ii) such portion is transferred or
2 paid to an individual retirement plan in a
3 transfer or payment meeting the require-
4 ments of subparagraph (B),

5 the preceding provisions of this subsection shall
6 apply to such distribution in the same manner
7 as if the designated beneficiary were the em-
8 ployee.

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

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

19 “(ii) such individual retirement plan is
20 established as an inherited individual re-
21 tirement account or individual retirement
22 annuity (within the meaning of section
23 408(d)(3)(C)), whichever is applicable, and

24 “(iii) notice is provided to the trustee,
25 insurance company, or other provider of

1 the individual retirement plan that such in-
2 dividual retirement plan is being estab-
3 lished as an inherited individual retirement
4 account or individual retirement annuity.

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

8 (b) ROLLOVER TREATMENT FOR INHERITED AC-
9 COUNTS.—Section 408(d)(3)(C) is amended by adding at
10 the end the following:

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

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to distributions made after Decem-
25 ber 31, 2018.

1 **SEC. 109. 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) is amended to read as follows:

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

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

15 (b) MANDATORY DISTRIBUTION AGE.—Paragraph
 16 (9) of section 401(a) is amended by inserting at the end
 17 the following new subparagraph:

18 “(H) APPLICABLE AGE.—For purposes of
 19 this paragraph—

20 “(i) IN GENERAL.—The applicable age
 21 is—

22 “(I) for calendar years before
 23 2023, age 70½,

24 “(II) for calendar years 2023,
 25 2024, 2025, 2026, 2027, 2028, and
 26 2029, age 72, and

1 “(III) for calendar years after
2 2029, age 75.

3 “(ii) TRANSITION RULE.—If, as of a
4 calendar year, an employee has not at-
5 tained the applicable age with respect to
6 such year, such employee shall be treated
7 as not having attained the applicable age
8 under this paragraph for such year without
9 regard to whether, in a previous calendar
10 year, the employee had attained the appli-
11 cable age with respect to such previous cal-
12 endar year.”.

13 (c) SPOUSE BENEFICIARIES.—Subclause (I) of sec-
14 tion 401(a)(9)(B)(iv) is amended by striking “age 70½”
15 and inserting “the applicable age”.

16 (d) CONFORMING AMENDMENT.—Subsection (b) of
17 section 408 is amended by striking “age 70½” and insert-
18 ing “the applicable age determined under section
19 401(a)(9)(H) with respect to such individual”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to calendar years beginning after
22 December 31, 2018.

1 **SEC. 110. UPDATING OF MORTALITY TABLES FOR MINIMUM**
2 **REQUIRED DISTRIBUTIONS.**

3 Section 401(a)(9), as amended by this Act, is further
4 amended by adding at the end the following new subpara-
5 graph:

6 “(I) MORTALITY TABLES.—

7 “(i) INITIAL UPDATE.—Not later than
8 1 year after the date of the enactment of
9 this subparagraph, the Secretary shall ei-
10 ther update, or provide new tables to re-
11 place, the mortality tables used as of such
12 date for purposes of this paragraph.

13 “(ii) PERIODIC REVISION.—The Sec-
14 retary shall (at least every 10 years) make
15 revisions in, or provide new tables to re-
16 place, any table in effect under this sub-
17 paragraph to reflect the actual experience
18 of pension plans and projected trends in
19 such experience.

20 “(iii) EFFECTIVE DATE.—Any table
21 prescribed under this subparagraph shall
22 apply to plan years beginning after the
23 date which is 1 year after publication of
24 the final table.”.

1 **SEC. 111. INCREASE IN CREDIT LIMITATION FOR SMALL**
2 **EMPLOYER PENSION PLAN STARTUP COSTS**
3 **OF CERTAIN EMPLOYERS.**

4 (a) **IN GENERAL.**—Subsection (a) of section 45E is
5 amended by inserting before the period at the end the fol-
6 lowing: “(75 percent of such costs in the case of an eligible
7 employer, as determined by substituting ‘25’ for ‘100’ in
8 section 408(p)(2)(C)(i))”.

9 (b) **INCREASE.**—Paragraph (1) of section 45E(b) is
10 amended to read as follows:

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

14 “(A) \$500, or

15 “(B) the lesser of—

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

22 “(ii) \$5,000, and”.

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

1 **SEC. 112. CREDIT FOR RE-ENROLLMENT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1, as amended by this Act, is further
4 amended by adding at the end the following new section:

5 **“SEC. 45U. CREDIT FOR RE-ENROLLMENT PROVISIONS IN**
6 **PLANS PROVIDED BY SMALL EMPLOYERS.**

7 “(a) IN GENERAL.—For purposes of section 38, in
8 the case of an eligible employer, the retirement re-enroll-
9 ment credit determined under this section for any taxable
10 year is an amount equal to—

11 “(1) \$500 for any taxable year occurring during
12 the credit period, and

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

14 “(b) CREDIT PERIOD.—For purposes of subsection
15 (a)—

16 “(1) IN GENERAL.—The credit period with re-
17 spect to any eligible employer is the 3-taxable-year
18 period beginning with the first taxable year for
19 which the employer includes a re-enrollment provi-
20 sion in an eligible automatic contribution arrange-
21 ment (as defined in section 414(w)(3)) in a qualified
22 employer plan (as defined in section 4972(d)) spon-
23 sored by the employer.

24 “(2) MAINTENANCE OF ARRANGEMENT.—No
25 taxable year with respect to an employer shall be
26 treated as occurring within the credit period unless

1 the provision described in paragraph (1) is included
2 in the plan for such year.

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

6 “(d) RE-ENROLLMENT PROVISION.—For purposes of
7 this section, the term ‘re-enrollment provision’ means a
8 provision of an eligible automatic contribution arrange-
9 ment under which—

10 “(1) IN GENERAL.—Each employee eligible to
11 participate in the arrangement who is not contrib-
12 uting or is contributing less than the percentage ap-
13 plicable to an eligible employee in the first year of
14 eligibility is treated as being in such first year of eli-
15 gibility in each applicable year with respect to the
16 employee.

17 “(2) ELECTION OUT.—The election treated as
18 having been made under paragraph (1) shall cease
19 to apply with respect to any employee if such em-
20 ployee makes an affirmative election—

21 “(A) to not have such contributions made,

22 or

23 “(B) to make elective contributions at a
24 level specified in such affirmative election.

25 “(3) APPLICABLE YEAR EVERY THIRD YEAR.—

1 “(A) IN GENERAL.—For purposes of this
 2 section, the term ‘applicable year’ means, with
 3 respect to an employee, such employee’s first
 4 plan year of eligibility under the arrangement,
 5 and all subsequent plan years of eligibility.

6 “(B) EXCEPTION.—Following any applica-
 7 ble year of an employee (determined after the
 8 application of this subparagraph), the plan may
 9 elect to treat the next 1 or 2 plan years as not
 10 being applicable years with respect to such em-
 11 ployee.”.

12 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 13 CREDIT.—Subsection (b) of section 38, as amended by
 14 this Act, is further amended by striking “plus” at the end
 15 of paragraph (32), by striking the period at the end of
 16 paragraph (33) and inserting “, plus”, and by adding at
 17 the end the following new paragraph:

18 “(34) in the case of an eligible employer (as de-
 19 fined in section 45U(c)), the retirement re-enroll-
 20 ment credit determined under section 45U(a).”.

21 (c) CLERICAL AMENDMENT.—The table of sections
 22 for subpart D of part IV of subchapter A of chapter 1
 23 is amended by inserting after the item relating to section
 24 45T the following new item:

“Sec. 45U. Credit for re-enrollment provisions in plans provided by small em-
 ployers.”.

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

4 **SEC. 113. TREATMENT OF STUDENT LOAN PAYMENTS AS**
5 **ELECTIVE DEFERRALS FOR PURPOSES OF**
6 **MATCHING CONTRIBUTIONS.**

7 (a) IN GENERAL.—Subparagraph (A) of section
8 401(m)(4) is amended by striking “and” at the end of
9 clause (i), by striking the period at the end of clause (ii)
10 and inserting “, and”, and by adding at the end the fol-
11 lowing new clause:

12 “(iii) subject to the requirements of
13 paragraph (14), any employer contribution
14 made to a defined contribution plan on be-
15 half of an employee on account of a quali-
16 fied student loan payment.”.

17 (b) QUALIFIED STUDENT LOAN PAYMENT.—Para-
18 graph (4) of section 401(m) is amended by adding at the
19 end the following new subparagraph:

20 “(D) QUALIFIED STUDENT LOAN PAY-
21 MENT.—The term ‘qualified student loan pay-
22 ment’ means a payment made by an employee
23 in repayment of a qualified education loan (as
24 defined in section 221(d)(1)) incurred to pay

1 qualified higher education expenses of the em-
2 ployee, but only—

3 “(i) to the extent such payments in
4 the aggregate for the year do not exceed
5 an amount equal to—

6 “(I) the limitation applicable
7 under section 402(g) for the year (or,
8 if lesser, the employee’s compensation
9 (as defined in section 415(c)(3)) for
10 the year), reduced by

11 “(II) the elective deferrals made
12 by the employee for such year, and

13 “(ii) if the employee provides evidence
14 of such loan and such payments to the em-
15 ployer making the matching contribution
16 under this paragraph.

17 For purposes of this subparagraph, the term
18 ‘qualified higher education expenses’ means the
19 cost of attendance (as defined in section 472 of
20 the Higher Education Act of 1965, as in effect
21 on the day before the date of the enactment of
22 the Taxpayer Relief Act of 1997) at an eligible
23 educational institution (as defined in section
24 221(d)(2)).”.

1 (c) MATCHING CONTRIBUTIONS FOR QUALIFIED
2 STUDENT LOAN PAYMENTS.—Subsection (m) of section
3 401, as amended by this Act, is further amended by redesh-
4 ignating paragraph (14) as paragraph (15), and by insert-
5 ing after paragraph (13) the following new paragraph:

6 “(14) MATCHING CONTRIBUTIONS FOR QUALI-
7 FIED STUDENT LOAN PAYMENTS.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (4)(A)(iii), an employer contribution
10 made to a defined contribution plan on account
11 of a qualified student loan payment shall be
12 treated as a matching contribution for purposes
13 of this title if—

14 “(i) the plan provides matching con-
15 tributions on account of elective deferrals
16 at the same rate as contributions on ac-
17 count of qualified student loan payments,

18 “(ii) the plan provides matching con-
19 tributions on account of qualified student
20 loan payments only on behalf of employees
21 otherwise eligible to make elective defer-
22 rals, and

23 “(iii) under the plan, all employees el-
24 igible to receive matching contributions on
25 account of elective deferrals are eligible to

1 receive matching contributions on account
2 of qualified student loan payments.

3 “(B) TREATMENT FOR PURPOSES OF NON-
4 DISCRIMINATION RULES, ETC.—

5 “(i) NONDISCRIMINATION RULES.—
6 For purposes of subparagraph (A)(iii),
7 subsection (a)(4), and section 410(b),
8 matching contributions described in para-
9 graph (4)(A)(iii) shall not fail to be treated
10 as available to an employee solely because
11 such employee does not have debt incurred
12 under a qualified education loan (as de-
13 fined in section 221(d)(1)).

14 “(ii) STUDENT LOAN PAYMENTS NOT
15 TREATED AS PLAN CONTRIBUTION.—Ex-
16 cept as provided in clause (iii), a qualified
17 student loan payment shall not be treated
18 as a contribution to a plan under this title.

19 “(iii) MATCHING CONTRIBUTION
20 RULES.—Solely for purposes of meeting
21 the requirements of paragraph (11)(B),
22 (12), or (13) of this subsection, or para-
23 graph (11)(B)(i)(II), (12)(B), (13)(D), or
24 (15)(D) of subsection (k), a plan may treat
25 a qualified student loan payment as an

1 elective deferral or an elective contribution,
2 whichever is applicable.

3 “(C) REGULATORY AUTHORITY.—The Sec-
4 retary shall prescribe regulations—

5 “(i) setting forth the conditions under
6 which a plan administrator may rely upon
7 evidence submitted by an employee of
8 qualified student loan payments, and

9 “(ii) permitting a plan to make
10 matching contributions for qualified stu-
11 dent loan repayments at a different fre-
12 quency than matching contributions are
13 otherwise made under the plan, provided
14 that the frequency is not less than annu-
15 ally.”.

16 (d) SIMPLE RETIREMENT ACCOUNTS.—Paragraph
17 (2) of section 408(p) is amended by adding at the end
18 the following new subparagraph:

19 “(F) MATCHING CONTRIBUTIONS FOR
20 QUALIFIED STUDENT LOAN PAYMENTS.—

21 “(i) IN GENERAL.—Subject to the
22 rules of clause (iii), an arrangement shall
23 not fail to be treated as meeting the re-
24 quirements of subparagraph (A)(iii) solely
25 because under the arrangement, solely for

1 purposes of such subparagraph, qualified
2 student loan payments are treated as
3 amounts elected by the employee under
4 subparagraph (A)(i)(I) to the extent such
5 payments do not exceed—

6 “(I) the applicable dollar amount
7 under subparagraph (E) (after appli-
8 cation of section 414(v)) for the year
9 (or, if lesser, the employee’s com-
10 pensation (as defined in section
11 415(c)(3)) for the year), reduced by

12 “(II) any other amounts elected
13 by the employee under subparagraph
14 (A)(i)(I) for the year.

15 “(ii) QUALIFIED STUDENT LOAN PAY-
16 MENT.—For purposes of this subpara-
17 graph—

18 “(I) IN GENERAL.—The term
19 ‘qualified student loan payment’
20 means a payment made by an em-
21 ployee in repayment of a qualified
22 education loan (as defined in section
23 221(d)(1)) incurred to pay qualified
24 higher education expenses of the em-
25 ployee, but only if the employee pro-

1 vides evidence of such loan and such
2 payments to the employer making the
3 matching contribution.

4 “(II) QUALIFIED HIGHER EDU-
5 CATION EXPENSES.—The term ‘quali-
6 fied higher education expenses’ has
7 the same meaning as when used in
8 section 401(m)(4)(D).

9 “(iii) APPLICABLE RULES.—Clause (i)
10 shall apply to an arrangement only if,
11 under the arrangement—

12 “(I) matching contributions on
13 account of qualified student loan pay-
14 ments are provided only on behalf of
15 employees otherwise eligible to elect
16 contributions under subparagraph
17 (A)(i)(I), and

18 “(II) all employees otherwise eli-
19 gible to participate in the arrange-
20 ment are eligible to receive matching
21 contributions on account of qualified
22 student loan payments.”.

23 (e) 403(b) PLANS.—Subparagraph (A) of section
24 403(b)(12) is amended by adding at the end the following:
25 “The fact that the employer offers matching contributions

1 on account of qualified student loan payments as described
2 in section 401(m)(14) shall not be taken into account in
3 determining whether the arrangement satisfies the re-
4 quirements of clause (ii) (and any regulation there-
5 under).”.

6 (f) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to contributions made for years
8 beginning after December 31, 2019.

9 **SEC. 114. TREATMENT OF QUALIFIED RETIREMENT PLAN-**
10 **NING SERVICES.**

11 (a) IN GENERAL.—Subsection (m) of section 132 is
12 amended by adding at the end the following new para-
13 graph:

14 “(4) NO CONSTRUCTIVE RECEIPT.—No amount
15 shall be included in the gross income of any em-
16 ployee solely because the employee may choose be-
17 tween any qualified retirement planning services and
18 compensation which would otherwise be includible in
19 the gross income of such employee. The preceding
20 sentence shall apply to highly compensated employ-
21 ees only if the choice described in such sentence is
22 available on substantially the same terms to each
23 member of the group of employees normally provided
24 education and information regarding the employer’s
25 qualified employer plan.”.

1 (b) DEFINITION.—Paragraph (1) of section 132(m)
 2 is amended by inserting before the period the following:
 3 “, including—

4 “(A) advice regarding investments in any
 5 arrangement described in section 219(g)(5)
 6 (without regard to the last sentence thereof),
 7 and

8 “(B) retirement advice regarding invest-
 9 ments held outside such an arrangement.”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Section 403(b)(3)(B) is amended by insert-
 12 ing “132(m)(4),” after “132(f)(4),”.

13 (2) Section 414(s)(2) is amended by inserting
 14 “132(m)(4),” after “132(f)(4),”.

15 (3) Section 415(c)(3)(D)(ii) is amended by in-
 16 serting “132(m)(4),” after “132(f)(4),”.

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

20 **SEC. 115. ALLOW ADDITIONAL NONELECTIVE CONTRIBU-**
 21 **TIONS TO SIMPLE PLANS.**

22 (a) IN GENERAL.—

23 (1) MODIFICATION TO DEFINITION.—Subpara-
 24 graph (A) of section 408(p)(2) is amended by strik-
 25 ing “and” at the end of clause (iii), by redesignating

1 clause (iv) as clause (v), and by inserting after
2 clause (iii) the following new clause:

3 “(iv) the employer may make nonelec-
4 tive contributions of a uniform percentage
5 (up to 10 percent) of compensation for
6 each employee who is eligible to participate
7 in the arrangement and who has at least
8 \$5,000 of compensation from the employer
9 for the year, and”.

10 (2) LIMITATION.—Subparagraph (A) of section
11 408(p)(2) is amended by adding at the end the fol-
12 lowing: “The compensation taken into account under
13 clause (iv) for any year shall not exceed the limita-
14 tion in effect for such year under section
15 401(a)(17).”.

16 (3) OVERALL DOLLAR LIMIT ON CONTRIBU-
17 TIONS.—Paragraph (8) of section 408(p) is amended
18 to read as follows:

19 “(8) COORDINATION WITH MAXIMUM LIMITA-
20 TION UNDER SUBSECTION (A).—In the case of any
21 simple retirement account, subsections (a)(1) and
22 (b)(2) shall be applied by substituting for ‘the dollar
23 amount in effect under section 219(b)(1)(A)’ the fol-
24 lowing: ‘the sum (but not to exceed 50 percent of
25 the amount in effect under section 415(c)(1)(A) (ex-

1 cept as provided in section 414(v)) of the dollar
2 amount in effect under paragraph (2)(A)(ii) of this
3 subsection; the employer contribution required under
4 paragraph (2)(A)(iii) or (2)(B)(i) of this subsection,
5 whichever is applicable; and the employer contribu-
6 tion made on behalf of the employee under para-
7 graph (2)(A)(iv) of this subsection’.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 408(p)(2)(A)(v), as redesignated by
10 subsection (a), is amended by striking “or (iii)” and
11 inserting “, (iii), or (iv)”.

12 (2) Paragraph (8) of section 408(p) is amended
13 by inserting “, the employer contribution actually
14 made under paragraph (2)(A)(iv) of this sub-
15 section,” after “paragraph (2)(A)(ii) of this sub-
16 section”.

17 (3) Section 401(k)(11)(B)(i) is amended by
18 striking “and” at the end of subclause (II), by re-
19 designating subclause (III) as subclause (V), and by
20 inserting after subclause (II) the following new sub-
21 clauses:

22 “(III) the employer may make
23 nonelective contributions of a uniform
24 percentage (up to 10 percent) of com-
25 pensation for each employee who is el-

1 igible to participate in the arrange-
2 ment and who has at least \$5,000 of
3 compensation from the employer for
4 the year,

5 “(IV) contributions on behalf of
6 any employee for any year may not
7 exceed 50 percent of the amount in
8 effect under section 415(c)(1)(A) (ex-
9 cept as provided in section 414(v)),
10 and”.

11 (4) Section 401(k)(11)(B)(i)(V), as redesign-
12 nated by paragraph (3), is amended by striking “or
13 (II)” and inserting “, (II), or (III)”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to years beginning after December
16 31, 2018.

17 **SEC. 116. REFORM OF THE MINIMUM PARTICIPATION RULE.**

18 (a) IN GENERAL.—Subparagraph (H) of section
19 401(a)(26) is amended by adding at the end the following:
20 “Not later than December 31, 2019, the Secretary shall
21 issue final regulations under which this paragraph may
22 be applied separately to bona fide separate subsidiaries or
23 divisions.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on the date of enactment
3 of this Act.

4 **SEC. 117. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**

5 **RESOLUTION SYSTEM.**

6 (a) IN GENERAL.—Except as otherwise provided in
7 regulations prescribed by the Secretary of the Treasury
8 or the Secretary’s delegate (referred to in this section as
9 the “Secretary”), any inadvertent failure to comply with
10 the rules applicable under section 401(a), 403(a), 403(b),
11 408(p), or 408(k) of the Internal Revenue Code of 1986
12 may be self-corrected under the Employee Plans Compli-
13 ance Resolution System (as described in Revenue Proce-
14 dure 2018–52 or any successor guidance), except to the
15 extent that such failure was identified by the Secretary
16 prior to any actions which demonstrate a commitment to
17 implement a self-correction. Revenue Procedure 2018–52
18 is deemed amended as of the date of the enactment of
19 this Act to provide that the correction period under section
20 9.02 of such Revenue Procedure (or any successor provi-
21 sion) for an inadvertent failure is indefinite and has no
22 last day, other than with respect to failures identified by
23 the Secretary prior to any self-correction as described in
24 the preceding sentence.

1 (b) LOAN ERROR.—The Secretary of Labor shall
2 treat any loan error corrected pursuant to subsection (a)
3 as meeting the requirements of the Voluntary Fiduciary
4 Correction Program of the Department of Labor.

5 (c) EPCRS FOR IRAS.—The Secretary shall expand
6 the Employee Plans Compliance Resolution System to
7 allow custodians of individual retirement plans to address
8 inadvertent failures for which the owner of an individual
9 retirement plan was not at fault, including (but not limited
10 to)—

11 (1) waivers of the excise tax which would other-
12 wise apply under section 4974 of the Internal Rev-
13 enue Code of 1986;

14 (2) under the self-correction component of the
15 Employee Plans Compliance Resolution System,
16 waivers of the 60-day deadline for a rollover where
17 the deadline is missed for reasons beyond the rea-
18 sonable control of the account owner; and

19 (3) rules permitting a nonspouse beneficiary to
20 return distributions to an inherited individual retire-
21 ment plan described in section 408(d)(3)(C) of the
22 Internal Revenue Code of 1986 in a case where, due
23 to an inadvertent error by a service provider, the
24 beneficiary had reason to believe that the distribu-

1 tion could be rolled over without inclusion in income
2 of any part of the distributed amount.

3 (d) REQUIRED MINIMUM DISTRIBUTION CORREC-
4 TIONS.—The Secretary shall expand the Employee Plans
5 Compliance Resolution System to allow plans to which
6 such system applies and custodians and owners of indi-
7 vidual retirement plans to self-correct, without an excise
8 tax, any inadvertent failures pursuant to which a distribu-
9 tion is made no more than 180 days after it was required
10 to be made.

11 (e) ADDITIONAL SAFE HARBORS.—The Secretary
12 shall expand the Employee Plans Compliance Resolution
13 System (as described in Revenue Procedure 2018–52 or
14 any successor guidance) to provide additional safe harbor
15 means of correcting inadvertent failures described in sub-
16 section (a), including safe harbor means of calculating the
17 earnings which must be restored to a plan in cases where
18 plan assets have been depleted by reason of an inadvertent
19 failure.

20 (f) DEFINITIONS AND SPECIAL RULES.—

21 (1) INADVERTENT FAILURE.—For purposes of
22 this section—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), the term “inadvertent fail-

1 ure” means a failure that occurs despite the ex-
2 istence of practices and procedures which—

3 (i) satisfy the standards set forth in
4 section 4.04 of Revenue Procedure 2018–
5 52 (or any successor provision); or

6 (ii) satisfy similar standards in the
7 case of an individual retirement plan.

8 (B) CORRECTION BY OWNER OF INDI-
9 VIDUAL RETIREMENT PLAN.—In the case of a
10 correction by an owner of an individual retire-
11 ment plan under subsection (d), the term “in-
12 advertent failure” means a failure due to rea-
13 sonable cause.

14 (2) PLAN LOAN CORRECTIONS.—In the case of
15 an inadvertent failure relating to a loan to a partici-
16 pant from a plan, such failure may be self-corrected
17 under subsection (a) according to the rules of sec-
18 tion 6.07 of Revenue Procedure 2018–52 (or any
19 successor provision), including the provisions related
20 to whether a deemed distribution must be reported
21 on Form 1099–R.

22 **SEC. 118. ENHANCEMENT OF 403(b) PLANS.**

23 (a) IN GENERAL.—

24 (1) PERMITTED INVESTMENTS.—Clause (i) of
25 section 403(b)(7)(A) is amended to read as follows:

1 “(i) the amounts to be held in that
2 custodial account are invested in regulated
3 investment company stock or a group trust
4 intended to satisfy the requirements of In-
5 ternal Revenue Service Revenue Ruling
6 81–100 (or any successor guidance), and”.

7 (2) CONFORMING AMENDMENT.—The heading
8 of paragraph (7) of section 403(b) is amended by
9 striking “FOR REGULATED INVESTMENT COMPANY
10 STOCK”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall apply to amounts invested
13 after December 31, 2018.

14 (b) AMENDMENTS TO THE INVESTMENT COMPANY
15 ACT OF 1940.—Section 3(c)(11) of the Investment Com-
16 pany Act of 1940 (15 U.S.C. 80a–3(c)(11)) is amended—

17 (1) by striking “section 401 of the Internal
18 Revenue Code of 1986; or” and inserting “section
19 401 of the Internal Revenue Code of 1986; or any
20 custodial account meeting the requirements of sec-
21 tion 403(b)(7) of the Internal Revenue Code of 1986
22 if (i) the arrangement is subject to title I of the Em-
23 ployee Retirement Income Security Act of 1974 (29
24 U.S.C. 1001 et seq.), or (ii) any employer making
25 such arrangement available agrees to serve as a fi-

1 duciary for the arrangement with respect to the se-
2 lection of the arrangement’s investments; or”;

3 (2) by striking “one or more of such trusts”
4 and inserting “one or more of such trusts or ac-
5 counts”;

6 (3) by striking “of such Act, and” and inserting
7 “of such Act,”; and

8 (4) by adding before the period at the end the
9 following: “, and (D) contributions to a custodial ac-
10 count meeting the requirements of section 403(b)(7)
11 of the Internal Revenue Code of 1986 if: (i) the ar-
12 rangement is subject to title I of the Employee Re-
13 tirement Income Security Act of 1974 (29 U.S.C.
14 1001 et seq.), or (ii) any employer making such ar-
15 rangement available agrees to serve as a fiduciary
16 for the arrangement with respect to the selection of
17 the arrangement’s investments”.

18 (c) AMENDMENTS TO THE SECURITIES ACT OF
19 1933.—Section 3(a)(2) of the Securities Act of 1933 (15
20 U.S.C. 77c(a)(2)) is amended—

21 (1) by striking “other than a retirement income
22 account” in clause (iii) and inserting “other than a
23 custodial account described in section 403(b)(7) of
24 such Code or a retirement income account”;

1 (2) by striking the semicolon at the end and in-
2 serting a period; and

3 (3) by adding at the end the following: “Not-
4 withstanding anything to the contrary in this para-
5 graph, the provisions of this title shall not apply to
6 any interest or participation in a single trust fund,
7 or in a collective trust fund maintained by a bank,
8 which interest or participation is issued in connec-
9 tion with a custodial account meeting the require-
10 ments of section 403(b)(7) of the Internal Revenue
11 Code of 1986 if: (i) the arrangement is subject to
12 title I of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1001 et seq.), or (ii) any
14 employer making such arrangement available agrees
15 to serve as a fiduciary for the arrangement with re-
16 spect to the selection of the arrangement’s invest-
17 ments;”.

18 (d) AMENDMENTS TO THE SECURITIES EXCHANGE
19 ACT OF 1934.—Section 3(a)(12) of the Securities Ex-
20 change Act of 1934 (15 U.S.C. 78c(a)(12)) is amended—

21 (1) in subparagraph (C), by adding before the
22 period at the end the following: “(other than a cus-
23 todial account described in section 403(b)(7) of the
24 Internal Revenue Code of 1986)”; and

25 (2) by adding at the end the following:

1 “(D) Notwithstanding anything to the contrary
2 in subparagraph (C), the term ‘qualified plan’ shall
3 also include a custodial account meeting the require-
4 ments of section 403(b)(7) of the Internal Revenue
5 Code of 1986 if: (i) the arrangement is subject to
6 title I of the Employee Retirement Income Security
7 Act of 1974 (29 U.S.C. 1001 et seq.), or (ii) any
8 employer making such arrangement available agrees
9 in writing to serve as a fiduciary for the arrange-
10 ment with respect to the selection of the arrange-
11 ment’s investments.”.

12 **SEC. 119. ELIGIBILITY FOR PARTICIPATION IN RETIRE-**
13 **MENT PLANS.**

14 An individual shall not be precluded from partici-
15 pating in an eligible deferred compensation plan by reason
16 of having received a distribution under section 457(e)(9)
17 of the Internal Revenue Code of 1986, as in effect prior
18 to the enactment of the Small Business Job Protection
19 Act of 1996.

20 **SEC. 120. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**
21 **CONTRIBUTING TO A PLAN.**

22 (a) **IN GENERAL.**—Subparagraph (A) of section
23 401(k)(4) is amended by inserting “(other than a de mini-
24 mis financial incentive)” after “any other benefit”.

1 (b) SECTION 403(b) PLANS.—Subparagraph (A) of
2 section 403(b)(12), as amended by this Act, is further
3 amended by adding at the end the following: “A plan shall
4 not fail to satisfy clause (ii) solely by reason of the offering
5 of a de minimis financial incentive for employees to elect
6 to have the employer make contributions pursuant to a
7 salary reduction agreement.”.

8 (c) EXEMPTION FROM PROHIBITED TRANSACTION
9 RULES.—Subsection (d) of section 4975 is amended by
10 striking “or” at the end of paragraph (22), by striking
11 the period at the end of paragraph (23) and inserting “,
12 or”, and by adding at the end the following new para-
13 graph:

14 “(24) the provision of a de minimis financial in-
15 centive described in section 401(k)(4)(A) or
16 403(b)(12)(A).”.

17 (d) AMENDMENT OF EMPLOYEE RETIREMENT IN-
18 COME SECURITY ACT OF 1974.—Subsection (b) of section
19 408 of the Employee Retirement Income Security Act of
20 1974 (29 U.S.C. 1108(b)) is amended by adding at the
21 end the following new paragraph:

22 “(21) The provision of a de minimis financial
23 incentive described in section 401(k)(4)(A) or
24 403(b)(12)(A) of the Internal Revenue Code of
25 1986.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to plan years begin-
3 ning after the date of enactment of this Act.

4 **SEC. 121. INDEXING IRA CATCH-UP LIMIT.**

5 (a) IN GENERAL.—Subparagraph (C) of section
6 219(b)(5) is amended by adding at the end the following
7 new clause:

8 “(iii) INDEXING OF CATCH-UP LIMITA-
9 TION.—In the case of any taxable year be-
10 ginning in a calendar year after 2019, the
11 \$1,000 amount under subparagraph (B)(ii)
12 shall be increased by an amount equal to—

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

15 “(II) the cost-of-living adjust-
16 ment determined under section 1(f)(3)
17 for the calendar year in which the tax-
18 able year begins, determined by sub-
19 stituting ‘calendar year 2018’ for ‘cal-
20 endar year 2016’ in subparagraph
21 (A)(ii) thereof.

22 If any amount after adjustment under the
23 preceding sentence is not a multiple of
24 \$200, such amount shall be rounded to the
25 next lower multiple of \$200.”.

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

4 **SEC. 122. HIGHER CATCH-UP LIMIT TO APPLY AT AGE 60.**

5 (a) IN GENERAL.—

6 (1) PLANS OTHER THAN SIMPLE PLANS.—Sec-
7 tion 414(v)(2)(B)(i) is amended by inserting the fol-
8 lowing before the period: “(\$10,000, in the case of
9 an eligible participant who has attained age 60 be-
10 fore the close of the taxable year)”.

11 (2) SIMPLE PLANS.—Section 414(v)(2)(B)(ii) is
12 amended by inserting the following before the pe-
13 riod: “(\$5,000, in the case of an eligible participant
14 who has attained age 60 before the close of the tax-
15 able year)”.

16 (b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph
17 (C) of section 414(v)(2) is amended by adding at the end
18 the following: “In the case of a year beginning after De-
19 cember 31, 2019, the Secretary shall adjust annually the
20 \$10,000 amount in subparagraph (B)(i) and the \$5,000
21 amount in subparagraph (B)(ii) for increases in the cost-
22 of-living at the same time and in the same manner as ad-
23 justments under the preceding sentence; except that the
24 base period taken into account shall be the calendar quar-
25 ter beginning July 1, 2018.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to years beginning after December
3 31, 2018.

4 **TITLE II—PRESERVATION OF**
5 **INCOME**

6 **SEC. 201. QUALIFYING LONGEVITY ANNUITY CONTRACTS.**

7 (a) IN GENERAL.—Not later than the date which is
8 1 year after the date of the enactment of this Act, the
9 Secretary of the Treasury shall amend the regulation
10 issued by the Department of the Treasury relating to
11 “Longevity Annuity Contracts” (79 Fed. Reg. 37633
12 (July 2, 2014)), as follows:

13 (1) REPEAL 25-PERCENT PREMIUM LIMIT.—The
14 Secretary shall amend Q&A–17(b)(3) of Treas. Reg.
15 section 1.401(a)(9)–6 and Q&A–12(b)(3) of Treas.
16 Reg. section 1.408–8 to eliminate the requirement
17 that premiums for qualifying longevity annuity con-
18 tracts be limited to 25 percent of an individual’s ac-
19 count balance, and to make such corresponding
20 changes to the regulations and related forms as are
21 necessary to reflect the elimination of this require-
22 ment.

23 (2) INCREASE DOLLAR LIMITATION.—

24 (A) IN GENERAL.—The Secretary shall
25 amend Q&A–17(b)(2)(i) of Treas. Reg. section

1 1.401(a)(9)–6 and Q&A–12(b)(2)(i) of Treas.
2 Reg. section 1.408–8 to increase the dollar limi-
3 tation on premiums for qualifying longevity an-
4 nuity contracts from \$125,000 to \$200,000,
5 and to make such corresponding changes to the
6 regulations and related forms as are necessary
7 to reflect this increase in the dollar limitation.

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

24 (3) FACILITATE JOINT AND SURVIVOR BENE-
25 FITS.—The Secretary shall amend Q&A–17(c) of

1 Treas. Reg. section 1.401(a)(9)–6, and make such
2 corresponding changes to the regulations and related
3 forms as are necessary, to provide that, in the case
4 of a qualifying longevity annuity contract which was
5 purchased with joint and survivor annuity benefits
6 for the individual and the individual’s spouse which
7 were permissible under the regulations at the time
8 the contract was originally purchased, a divorce oc-
9 curring after the original purchase and before the
10 annuity payments commence under the contract will
11 not affect the permissibility of the joint and survivor
12 annuity benefits or other benefits under the con-
13 tract, or require any adjustment to the amount or
14 duration of benefits payable under the contract, pro-
15 vided that any qualified domestic relations order
16 (within the meaning of section 414(p) of the Inter-
17 nal Revenue Code of 1986) or any divorce or separa-
18 tion instrument (within the meaning of section
19 71(b)(2) of the Internal Revenue Code of 1986)—

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

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

1 (C) does not modify the treatment of the
2 former spouse as the measuring life for the sur-
3 vivor benefits under the contract.

4 (4) PERMIT SHORT FREE LOOK PERIOD.—The
5 Secretary shall amend Q&A–17(a)(4) of Treas. Reg.
6 section 1.401(a)(9)–6 to ensure that such Q&A does
7 not preclude a contract from including a provision
8 under which an employee may rescind the purchase
9 of the contract within a period not exceeding 90
10 days from the date of purchase.

11 (5) FACILITATE INDEXED AND VARIABLE CON-
12 TRACTS WITH GUARANTEED BENEFITS.—The Sec-
13 retary shall amend Q&A–17(d)(4) of Treas. Reg.
14 section 1.401(a)(9)–6, and make such corresponding
15 changes to the regulations and related forms as are
16 necessary, to provide that an annuity contract is not
17 treated as a contract described in such Q&A–
18 17(a)(7) to the extent that the contract—

19 (A) either—

20 (i) is a variable contract under section
21 817(d) of the Internal Revenue Code of
22 1986; or

23 (ii) is an indexed contract;

24 (B) provides for the possibility of annuity
25 payment increases (but not decreases) based on

1 the investment return and market value of 1 or
2 more segregated asset accounts (in the case of
3 a variable contract) or based on the perform-
4 ance of 1 or more specified indexes (in the case
5 of an indexed contract);

6 (C) provides for a guaranteed minimum
7 level of annuity payments irrespective of such
8 investment return, market value, or perform-
9 ance; and

10 (D) in the event of death before the annu-
11 ity starting date, provides that any death ben-
12 efit that is payable in a lump sum is equal to
13 the premiums paid, without reduction for in-
14 vestment return, market value, index perform-
15 ance, surrender charges, market value adjust-
16 ments, or any other amounts.

17 For purposes of the preceding sentence, a downward
18 adjustment to the dollar amount of annuity pay-
19 ments shall not be treated as an impermissible re-
20 duction in such payments, provided that the adjust-
21 ment is made to reflect a change in annuitant that
22 is required or permitted under the Internal Revenue
23 Code of 1986 or regulations and the adjustment is
24 based on reasonable actuarial assumptions.

1 (b) EFFECTIVE DATES, ENFORCEMENT, AND INTER-
2 PRETATIONS.—

3 (1) EFFECTIVE DATES.—

4 (A) Paragraphs (1), (2), and (5) of sub-
5 section (a) shall be effective with respect to con-
6 tracts purchased or received in an exchange on
7 or after the date of the enactment of this Act.

8 (B) Paragraphs (3) and (4) of subsection
9 (a) shall be effective with respect to contracts
10 purchased or received in an exchange on or
11 after July 2, 2014.

12 (2) ENFORCEMENT AND INTERPRETATIONS.—
13 Prior to the date on which the Secretary of the
14 Treasury issues final regulations pursuant to sub-
15 section (a)—

16 (A) the Secretary shall administer and en-
17 force the law in accordance with subsection (a)
18 and the effective dates in paragraph (1) of this
19 subsection; and

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

1 **SEC. 202. REMOVE REQUIRED MINIMUM DISTRIBUTION**
2 **BARRIERS FOR LIFE ANNUITIES.**

3 (a) IN GENERAL.—Paragraph (9) of section 401(a),
4 as amended by this Act, is further amended by adding
5 at the end the following new subparagraph:

6 “(J) CERTAIN INCREASES IN PAYMENTS
7 UNDER A COMMERCIAL ANNUITY.—Nothing in
8 this section shall prohibit a commercial annuity
9 (within the meaning of section 3405(e)(6))
10 which is issued in connection with any eligible
11 retirement plan (within the meaning of section
12 402(c)(8)(B)) from providing 1 or more of the
13 following types of payments on or after the an-
14 nuity starting date:

15 “(i) Annuity payments which increase
16 by a constant percentage, applied not less
17 frequently than annually, at a rate which
18 is less than 5 percent per year.

19 “(ii) A lump sum payment which—
20 “(I) results in a shortening of the
21 payment period with respect to an an-
22 nuity or a full or partial commutation
23 of the future annuity payments, pro-
24 vided that such lump sum is deter-
25 mined using reasonable actuarial
26 methods and assumptions, as deter-

1 mined in good faith by the issuer of
2 the contract, or

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

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

21 “(iv) A final payment upon death
22 which does not exceed the excess of—

23 “(I) the total amount of the con-
24 sideration paid for the annuity pay-
25 ments, over

1 “(II) the aggregate amount of
2 prior distributions or payments from
3 or under the contract.”.

4 (b) REGULATIONS AND ENFORCEMENT.—

5 (1) REGULATIONS.—Not later than the date
6 which is 1 year after the date of the enactment of
7 this Act, the Secretary of the Treasury shall amend
8 the regulation issued by the Department of the
9 Treasury relating to “Required Distributions from
10 Retirement Plans” (69 Fed. Reg. 33288 (June 15,
11 2004)), and make any necessary corresponding
12 amendments to other regulations, in order to—

13 (A) conform such regulations to the
14 amendments made by subsection (a), including
15 by eliminating the types of payments described
16 in section 401(a)(9)(J) of the Internal Revenue
17 Code of 1986, as added by subsection (a), from
18 the scope of the requirement in Q&A–14(c) of
19 Treas. Reg. section 1.401(a)(9)–6 that the total
20 future expected payments must exceed the total
21 value being annuitized;

22 (B) amend Q&A–14(c) of such section
23 1.401(a)(9)–6 to provide that a commercial an-
24 nuity which provides an initial payment which
25 is at least equal to the initial payment which

1 would be required from an individual account
2 pursuant to Treas. Reg. section 1.401(a)(9)–5
3 will be deemed to satisfy the requirement in
4 Q&A–14(e) of such section 1.401(a)(9)–6 that
5 the total future expected payments must exceed
6 the total value being annuitized; and

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

16 (2) EFFECTIVE DATE.—The modifications and
17 amendments required under paragraph (1) shall be
18 deemed to have been made as of the date of the en-
19 actment of this Act, and as of such date the Sec-
20 retary of the Treasury shall administer and enforce
21 the law with respect to plan years beginning before,
22 on, or after the date of the enactment of this Act
23 in accordance with the amendments made by sub-
24 section (a) and as though the actions which the Sec-

1 retary is required to take under paragraph (1) had
2 been taken.

3 **SEC. 203. ELIMINATING A PENALTY ON PARTIAL**
4 **ANNUITIZATION.**

5 (a) **ELIMINATING A PENALTY ON PARTIAL**
6 **ANNUITIZATION.**—The Secretary of the Treasury shall
7 amend the regulations under section 401(a)(9) of the In-
8 ternal Revenue Code of 1986 to provide that if an employ-
9 ee’s benefit is in the form of an individual account under
10 a defined contribution plan, the plan may allow the em-
11 ployee to elect to have the amount required to be distrib-
12 uted from such account under such section for a year to
13 be calculated as the excess of the total required amount
14 for such year over the annuity amount for such year.

15 (b) **DEFINITIONS.**—For purposes of this section—

16 (1) **TOTAL REQUIRED AMOUNT.**—The term
17 “total required amount”, with respect to a year,
18 means the amount which would be required to be
19 distributed under Treas. Reg. section 1.401(a)(9)–5
20 for the year, determined by treating the account bal-
21 ance as of the last valuation date in the immediately
22 preceding calendar year as including the value on
23 that date of all annuity contracts which were pur-
24 chased with a portion of the account and from which

1 payments are made in accordance with Treas. Reg.
2 section 1.401(a)(9)–6.

3 (2) ANNUITY AMOUNT.—The term “annuity
4 amount”, with respect to a year, is the total amount
5 distributed in the year from all annuity contracts de-
6 scribed in paragraph (1).

7 (c) CONFORMING REGULATORY AMENDMENTS.—The
8 Secretary of the Treasury shall amend the regulations
9 under sections 403(b)(10), 408(a)(6), 408(b)(3), and
10 457(d)(2) of the Internal Revenue Code of 1986 to con-
11 form to the amendments described in subsection (a). Such
12 conforming amendments shall treat all individual retire-
13 ment plans (as defined in section 7701(a)(37) of such
14 Code) which an individual holds as the owner, or which
15 an individual holds as a beneficiary of the same decedent,
16 as one such plan for purposes of the amendments de-
17 scribed in subsection (a). Such conforming amendments
18 shall also treat all contracts described in section 403(b)
19 of such Code which an individual holds as an employee,
20 or which an individual holds as a beneficiary of the same
21 decedent, as one such contract for such purposes.

22 (d) EFFECTIVE DATE.—The modifications and
23 amendments required under subsections (a) and (c) shall
24 be deemed to have been made as of the date of the enact-
25 ment of this Act, and as of such date all applicable laws

1 shall be applied in all respects as though the actions which
2 the Secretary of the Treasury is required to take under
3 such subsections had been taken.

4 **SEC. 204. INSURANCE-DEDICATED EXCHANGE-TRADED**
5 **FUNDS.**

6 (a) IN GENERAL.—Not later than the date which is
7 1 year after the date of the enactment of this Act, the
8 Secretary of the Treasury shall amend the regulation
9 issued by the Department of the Treasury relating to “In-
10 come Tax; Diversification Requirements for Variable An-
11 nuity, Endowment, and Life Insurance Contracts,” 54
12 Fed. Reg. 8728 (March 2, 1989), and make any necessary
13 corresponding amendments to other regulations, in order
14 to facilitate the use of exchange-traded funds as invest-
15 ment options under variable contracts within the meaning
16 of section 817(d) of the Internal Revenue Code of 1986,
17 in accordance with subsections (b) and (c) of this section.

18 (b) DESIGNATE CERTAIN AUTHORIZED PARTICI-
19 PANTS AND MARKET MAKERS AS ELIGIBLE INVESTORS.—
20 The Secretary of the Treasury shall amend Treas. Reg.
21 section 1.817–5(f)(3) to provide that satisfaction of the
22 requirements in Treas. Reg. section 1.817–5(f)(2)(i) with
23 respect to an exchange-traded fund shall not be prevented
24 by reason of beneficial interests in such a fund being held
25 by 1 or more authorized participants or market makers.

1 (c) CONFIRM THAT SIMILARITIES TO OTHER FUNDS
2 ARE IRRELEVANT.—The Secretary of the Treasury shall
3 amend Treas. Reg. section 1.817–5(f) to confirm that, for
4 Federal income tax purposes, a regulated investment com-
5 pany, partnership, or trust (including an exchange-traded
6 fund) that satisfies the requirements of Treas. Reg. sec-
7 tion 1.817–5(f) (2) and (3) shall not be treated as owned
8 by the holder of a variable contract pursuant to the prin-
9 ciples of Rev. Rul. 81–225, 1981–2 C.B. 12, merely be-
10 cause another regulated investment company, partnership,
11 trust, or similar investment vehicle follows the same in-
12 vestment strategy, has the same investment manager, or
13 holds the same investments.

14 (d) DEFINE RELEVANT TERMS.—In amending
15 Treas. Reg. section 1.817–5(f)(3) in accordance with sub-
16 sections (b) and (c) of this section, the Secretary of the
17 Treasury shall provide definitions consistent with the fol-
18 lowing—

19 (1) EXCHANGE-TRADED FUND.—The term “ex-
20 change-traded fund” means a regulated investment
21 company, partnership, or trust—

22 (A) that is registered with the Securities
23 and Exchange Commission as an open-end in-
24 vestment company or a unit investment trust;

1 (B) the shares of which can be purchased
2 or redeemed directly from the fund only by an
3 authorized participant; and

4 (C) the shares of which are traded
5 throughout the day on a national stock ex-
6 change at market prices that may or may not
7 be the same as the net asset value of the
8 shares.

9 (2) AUTHORIZED PARTICIPANT.—The term
10 “authorized participant” means a financial institu-
11 tion that is a member or participant of a clearing
12 agency registered under section 17A(b) of the Secu-
13 rities Exchange Act of 1934 that enters into a con-
14 tractual relationship with an exchange-traded fund
15 pursuant to which the financial institution is per-
16 mitted to purchase and redeem shares directly from
17 the fund and to sell such shares to third parties, but
18 only if the contractual arrangement or applicable law
19 precludes the financial institution from—

20 (A) purchasing the shares for its own in-
21 vestment purposes rather than for the exclusive
22 purpose of creating and redeeming such shares
23 on behalf of third parties; and

1 (B) selling the shares to third parties who
2 are not market makers or otherwise described
3 in Treas. Reg. section 1.817-5(f) (1) and (3).

4 (3) MARKET MAKER.—The term “market
5 maker” means a financial institution that is a reg-
6 istered broker or dealer under section 15(b) of the
7 Securities Exchange Act of 1934 that maintains li-
8 quidity for an exchange-traded fund on a national
9 stock exchange by being always ready to buy and sell
10 shares of such fund on the market, but only if the
11 financial institution is contractually or legally pre-
12 cluded from selling or buying such shares to or from
13 persons who are not authorized participants or oth-
14 erwise described in Treas. Reg. section 1.817-5(f)
15 (2) and (3).

16 (e) EFFECTIVE DATES, ENFORCEMENT, AND INTER-
17 PRETATIONS.—

18 (1) EFFECTIVE DATES.—

19 (A) Subsection (b), and the definitions
20 under subsection (d), shall apply to segregated
21 asset account investments made on or after the
22 date of enactment of this Act.

23 (B) Subsection (c) shall apply to taxable
24 years beginning after December 31, 1983.

1 (2) ENFORCEMENT AND INTERPRETATIONS.—
2 Prior to the date that the Secretary of the Treasury
3 issues final regulations pursuant to this section—

4 (A) the Secretary shall administer and en-
5 force the law in accordance with this section
6 and the effective dates in paragraph (1) of this
7 subsection; and

8 (B) taxpayers may rely upon their reason-
9 able good faith interpretations of the preceding
10 subsections of this section.

11 **TITLE III—SIMPLIFICATION AND**
12 **CLARIFICATION OF RETIRE-**
13 **MENT PLAN RULES**

14 **SEC. 301. REVIEW AND REPORT TO THE CONGRESS RELAT-**
15 **ING TO REPORTING AND DISCLOSURE RE-**
16 **QUIREMENTS.**

17 (a) STUDY.—As soon as practicable after the date of
18 the enactment of this Act, the Secretary of Labor, the Sec-
19 retary of the Treasury, and the Director of the Pension
20 Benefit Guaranty Corporation shall review the reporting
21 and disclosure requirements of—

22 (1) title I of the Employee Retirement Income
23 Security Act of 1974, as applicable to pension plans
24 (as defined in section 3(2) of such Act); and

1 (2) the Internal Revenue Code of 1986, as ap-
2 plicable to qualified retirement plans (as defined in
3 section 4974(c) of such Code, without regard to
4 paragraphs (4) and (5) thereof).

5 (b) REPORT.—Not later than 18 months after the
6 date of the enactment of this Act, the Secretary of Labor,
7 the Secretary of the Treasury, and the Director of the
8 Pension Benefit Guaranty Corporation, jointly, shall make
9 such recommendations as may be appropriate to the ap-
10 propriate committees of the Congress to consolidate, sim-
11 plify, standardize, and improve the applicable reporting
12 and disclosure requirements so as to simplify reporting for
13 plans described in subsection (a) and ensure that nec-
14 essary, comprehensible information is provided to partici-
15 pants and beneficiaries of such plans.

16 **SEC. 302. CONSOLIDATION OF DEFINED CONTRIBUTION**
17 **PLAN NOTICES.**

18 (a) IN GENERAL.—Not later than 18 months after
19 the date of the enactment of this Act, the Secretary of
20 Labor and the Secretary of the Treasury shall adopt final
21 regulations providing that a plan may, but is not required
22 to, consolidate 2 or more of the notices required under
23 sections 404(c)(5)(B) and 514(e)(3) of the Employee Re-
24 tirement Income Security Act of 1974 (29 U.S.C.
25 1104(c)(5)(B) and 29 U.S.C. 1144(e)(3)) and sections

1 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) of the In-
2 ternal Revenue Code of 1986 into a single notice or, to
3 the extent provided by such regulations, consolidate such
4 notices with the summary plan description or summary of
5 material modifications described in section 104(b) of the
6 Employee Retirement Income Security Act of 1974 (29
7 U.S.C. 1024(b)), so long as the combined notice, summary
8 plan description, or summary of material modifications in-
9 cludes the required content, clearly identifies the issues
10 addressed therein, is provided at the time and with the
11 frequency required for each such notice, and is presented
12 in a manner that is understandable and does not obscure
13 or fail to highlight important points for participants and
14 beneficiaries.

15 (b) CONSOLIDATION WITH SUMMARY PLAN DE-
16 SCRIPTION OR SUMMARY OF MATERIAL MODIFICA-
17 TIONS.—The Secretary of Labor and the Secretary of the
18 Treasury may include in the regulations under subsection
19 (a) rules to ensure that, to the extent such notices are
20 consolidated with the summary plan description or sum-
21 mary of material modifications, the presentation, place-
22 ment, or prominence of the information in such notices
23 shall not have the effect of failing to inform participants
24 and beneficiaries regarding the information in such no-
25 tices.

1 **SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**
2 **CATION FUNDS.**

3 (a) IN GENERAL.—Not later than 6 months after the
4 date of the enactment of this Act, the Secretary of Labor
5 shall modify the regulations under section 404 of the Em-
6 ployee Retirement Income Security Act of 1974 (29
7 U.S.C. 1104) to provide that, in the case of a designated
8 investment alternative which contains a mix of asset class-
9 es, a plan administrator may, but is not required to, use
10 a benchmark which is a blend of different broad-based se-
11 curities market indices if—

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

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

21 (3) the blend is presented to participants and
22 beneficiaries in a manner that is reasonably designed
23 to be understandable and helpful; and

24 (4) each securities market index which is used
25 for an associated asset class would separately satisfy

1 the requirements of such regulations for such asset
2 class.

3 (b) STUDY.—Not later than December 31, 2019, the
4 Secretary of Labor shall deliver a report to the Commit-
5 tees on Ways and Means and Education and the Work-
6 force of the House of Representatives and the Committees
7 on Finance and Health, Education, Labor, and Pensions
8 of the Senate regarding the effectiveness of the
9 benchmarking requirements under section 2550.404a–5 of
10 title 29, Code of Federal Regulations.

11 **SEC. 304. PERMIT NONSPOUSAL BENEFICIARIES TO ROLL**
12 **ASSETS TO PLANS.**

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

15 “(12) DISTRIBUTIONS TO QUALIFIED PLAN OF
16 NONSPOUSE BENEFICIARY.—If, with respect to any
17 portion of a distribution from an eligible retirement
18 plan described in paragraph (8)(B)(iii) of a deceased
19 employee, a direct trustee-to-trustee transfer is made
20 to a plan or annuity described in clause (iii), (iv),
21 (v), or (vi) of paragraph (8)(B) of an individual who
22 is a designated beneficiary (as defined by section
23 401(a)(9)(E)) of the employee and who is not the
24 surviving spouse of the employee—

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

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

5 (b) CONFORMING AMENDMENTS.—

6 (1) 403(a) PLANS.—Subparagraph (B) of sec-
7 tion 403(a)(4) is amended by striking “and (11) and
8 (9)” and inserting “, (9), (11), and (12)”.

9 (2) 403(b) PLANS.—Subparagraph (B) of sec-
10 tion 403(b)(8) is amended by striking “ and (11)”
11 and inserting “(11), and (12)”.

12 (3) 457 PLANS.—Subparagraph (B) of section
13 457(e)(16) is amended by striking “ and (11)” and
14 inserting “(11), and (12)”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions made after the
17 date of the enactment of this Act.

18 **SEC. 305. DEFERRAL AGREEMENTS.**

19 (a) IN GENERAL.—Paragraph (4) of section 457(b)
20 of the Internal Revenue Code of 1986 is amended by in-
21 serting “, or, in the case of a plan of an eligible employer
22 described in subsection (e)(1)(A), before the date on which
23 the compensation is (but for the deferral) available” before
24 the comma at the end.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to years beginning after December
3 31, 2018.

4 **SEC. 306. SIMPLIFYING 402(f) NOTICES.**

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

14 **SEC. 307. GUIDANCE RELATED TO CERTAIN OVERPAYMENT**
15 **RECOUPMENT PRACTICES.**

16 (a) OVERPAYMENTS UNDER INTERNAL REVENUE
17 CODE OF 1986.—Not later than December 31, 2018, the
18 Secretary of the Treasury shall further modify the Em-
19 ployee Plans Compliance Resolution System (as described
20 in Revenue Procedure 2018–52 or any successor guidance,
21 and modified by section 118 of this Act)—

22 (1) to clarify that in no case shall any person
23 be required to seek recoupment of an inadvertent
24 overpayment (as defined in such System) from a
25 participant or beneficiary; and

1 (2) except as otherwise provided by such Sec-
2 retary based on the size of the overpayment, to treat
3 a contribution of an inadvertent overpayment which
4 would qualify as a rollover under section 402(c),
5 403(a)(4), 403(b)(8), or 457(e)(16) of the Internal
6 Revenue Code of 1986 but for the fact that it is an
7 overpayment as a rollover contribution for all pur-
8 poses under such Code.

9 No inference is intended regarding the existence in any
10 particular situation of an obligation for any person to pay
11 a plan for an overpayment.

12 (b) OVERPAYMENTS UNDER ERISA.—Not later than
13 December 31, 2018, the Secretary of Labor shall prescribe
14 rules under which no fiduciary of a plan shall have a duty
15 under part 4 of title I of the Employee Retirement Income
16 Security Act of 1974 to seek recoupment from a partici-
17 pant or beneficiary of an inadvertent overpayment (within
18 the meaning of such term as used in subsection (a)), pro-
19 vided that, if a repayment is required, such overpayment
20 is paid back by the plan sponsor or other person.

21 (c) OVERPAYMENTS BY PBGC.—Effective for over-
22 payments made to a participant or beneficiary after De-
23 cember 31, 2018, the Pension Benefit Guaranty Corpora-
24 tion shall not reduce future payments with respect to the

1 same participant or beneficiary by more than 10 percent
2 in recouping such overpayment.

3 **SEC. 308. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
4 **MINATION OF SECTION 403(b) PLANS.**

5 (a) IN GENERAL.—Not later than 6 months after the
6 date of the enactment of this Act, the Secretary of the
7 Treasury shall issue guidance to provide that, if an em-
8 ployer terminates the plan under which amounts are con-
9 tributed to a custodial account under subparagraph (A)
10 of section 403(b)(7) of the Internal Revenue Code of
11 1986—

12 (1) the plan administrator or custodian may
13 distribute an individual custodial account in kind to
14 a participant or beneficiary of the plan, and

15 (2) the distributed custodial account shall be
16 maintained by the custodian on the same basis as a
17 custodial account to which section 403(b)(7) of such
18 Code applies, similar to the treatment of fully-paid
19 individual annuity contracts under Revenue Ruling
20 2011–7, until amounts are actually paid to the par-
21 ticipant or beneficiary.

22 (b) TREATMENT OF ACCOUNTS.—The guidance
23 issued under subsection (a) shall also provide that—

24 (1) the status of the distributed custodial ac-
25 count under section 403(b)(7) of the Internal Rev-

1 enue Code of 1986 is generally maintained if the
2 custodial account thereafter adheres to the require-
3 ments of section 403(b) of such Code which are in
4 effect at the time of the distribution of the account,
5 and

6 (2) a custodial account will not be considered
7 distributed to the participant or beneficiary if the
8 employer has any material retained rights under the
9 account.

10 For purposes of paragraph (2), an employer shall not be
11 treated as retaining material rights over a custodial ac-
12 count solely because the custodial account was originally
13 opened under a group contract.

14 (c) DISTRIBUTION UPON TERMINATION.—

15 (1) IN GENERAL.—Paragraph (11) of section
16 403(b) is amended by striking “or” at the end of
17 subparagraph (B), by striking the period at the end
18 of subparagraph (C) and inserting “, or”, and by in-
19 sserting after subparagraph (C) the following new
20 subparagraph:

21 “(D) in the case of a termination of the
22 plan under which contributions were made,
23 without the establishment or maintenance of
24 another plan under this subsection.”.

1 (2) CUSTODIAL ACCOUNTS.—Section
2 403(b)(7)(A)(ii) is amended by striking “before the
3 employee dies” and inserting “before the termination
4 of the plan under which contributions were made to
5 the custodial account (without the establishment or
6 maintenance of another plan under this subsection),
7 or before the employee dies”.

8 (d) EFFECTIVE DATE.—The guidance issued under
9 subsections (a) and (b), and the amendments made by
10 subsection (c), shall apply to taxable years beginning after
11 December 31, 2008.

12 **SEC. 309. PERMIT PLANS TO USE BASE PAY OR RATE OF**
13 **PAY CALCULATION.**

14 (a) IN GENERAL.—Not later than December 31,
15 2019, the Secretary of the Treasury shall modify Treasury
16 Regulation section 1.414(s)–1(d)(3) to facilitate the use
17 of the safe harbors in sections 401(k)(12), 401(k)(13),
18 401(k)(15), 401(m)(11), 401(m)(12), and 401(m)(13) of
19 the Internal Revenue Code of 1986, and in Treasury Reg-
20 ulation section 1.401(a)(4)–3(b), by plans which use base
21 pay or rate of pay in determining contributions or benefits.
22 Such facilitation shall include increased flexibility in meet-
23 ing the definition in section 414(s) of such Code in situa-
24 tions where the amount of overtime compensation payable
25 in a year can vary significantly.

1 (b) EXCEPTION.—The Secretary of the Treasury may
2 make any modification under subsection (a) inapplicable
3 to plans with respect to which, on a consistent basis, over-
4 time is a major component of a substantial portion of the
5 employees eligible to participate in the plan who are not
6 highly compensated employees (as defined in section
7 414(q) of the Internal Revenue Code of 1986).

8 **SEC. 310. ROTH SIMPLE IRAS.**

9 (a) IN GENERAL.—Section 408A(f) is amended—

10 (1) by striking “or a simple retirement ac-
11 count” in paragraph (1); and

12 (2) by striking “or account” in paragraph (2).

13 (b) CONFORMING AMENDMENTS.—Section
14 408A(c)(2) is amended by adding at the end the following
15 flush sentence:

16 “In applying this paragraph to an individual on
17 whose behalf elective employer contributions are
18 made to a simple retirement account, the amount
19 described in subparagraph (A) shall be increased by
20 the amount of elective employer contributions made
21 on behalf of the individual to such account, except
22 to the extent that such contributions exceed the ap-
23 plicable dollar amount (as defined in subsection
24 (p)(2)(E)) or cause the elective deferrals (as defined
25 in section 402(g)(3)) on behalf of such individual to

1 exceed the limitation under section 402(g)(1) (tak-
2 ing into account subparagraph (C) thereof).”.

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

6 **SEC. 311. REDUCTION IN EXCISE TAX ON CERTAIN ACCU-**
7 **MULATIONS IN QUALIFIED RETIREMENT**
8 **PLANS.**

9 (a) IN GENERAL.—Subsection (a) of section 4974 is
10 amended by striking “50 percent” and inserting “25 per-
11 cent”.

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

15 **SEC. 312. CLARIFICATION OF CATCH-UP CONTRIBUTIONS**
16 **WITH RESPECT TO SEPARATE LINES OF BUSI-**
17 **NESS.**

18 (a) IN GENERAL.—Subparagraph (B) of section
19 414(v)(4) is amended—

20 (1) by striking “except that a plan” and insert-
21 ing “except that—

22 “(i) a plan”;

23 (2) by striking the period at the end and insert-
24 ing “, and”; and

1 (3) by adding at the end the following new
2 clause:

3 “(ii) for any year in which an em-
4 ployer complies with section 410(b) on the
5 basis of separate lines of business pursuant
6 to section 410(b)(5), the employer may
7 apply subparagraph (A) for such year sep-
8 arately with respect to employees in each
9 separate line of business.”.

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

13 **SEC. 313. CLARIFICATION OF SUBSTANTIALLY EQUAL PERI-**
14 **ODIC PAYMENT RULE.**

15 (a) IN GENERAL.—Paragraph (4) of section 72(t) is
16 amended by inserting at the end the following new sub-
17 paragraph:

18 “(C) ROLLOVERS TO SUBSEQUENT
19 PLAN.—If—

20 “(i) payments described in paragraph
21 (2)(A)(iv) are being made from a qualified
22 retirement plan,

23 “(ii) a transfer or a rollover from such
24 qualified retirement plan of all or a portion
25 of the taxpayer’s benefit under the plan is

1 made to another qualified retirement plan,
2 and
3 “(iii) distributions from the transferor
4 and transferee plans would in combination
5 continue to satisfy the requirements of
6 paragraph (2)(A)(iv) if they had been
7 made only from the transferor plan,
8 such transfer or rollover shall not be treated as
9 a modification under subparagraph (A)(ii), and
10 compliance with paragraph (2)(A)(iv) shall be
11 determined on the basis of the combined dis-
12 tributions described in clause (iii).”.

13 (b) NONQUALIFIED ANNUITY CONTRACTS.—Para-
14 graph (3) of section 72(q) is amended—

15 (1) by redesignating clauses (i) and (ii) of sub-
16 paragraph (B) as subclauses (I) and (II), and by
17 moving such subclauses 2 ems to the right;

18 (2) by redesignating subparagraphs (A) and
19 (B) as clauses (i) and (ii), by moving such clauses
20 2 ems to the right, and by adjusting the flush lan-
21 guage at the end accordingly;

22 (3) by striking “PAYMENTS.—If” and inserting
23 “PAYMENTS.—
24 “(A) IN GENERAL.—If—”; and

1 (4) by adding at the end the following new sub-
2 paragraph:

3 “(B) EXCHANGES TO SUBSEQUENT CON-
4 TRACTS.—If—

5 “(i) payments described in paragraph
6 (2)(D) are being made from an annuity
7 contract,

8 “(ii) an exchange of all or a portion of
9 such contract for another contract is made
10 under section 1035, and

11 “(iii) the aggregate distributions from
12 the contracts involved in the exchange con-
13 tinue to satisfy the requirements of para-
14 graph (2)(D) as if the exchange had not
15 taken place,

16 such exchange shall not be treated as a modi-
17 fication under subparagraph (A)(ii), and com-
18 pliance with paragraph (2)(D) shall be deter-
19 mined on the basis of the combined distribu-
20 tions described in clause (iii).”.

21 (c) INFORMATION REPORTING.—Section 6724 is
22 amended by inserting at the end the following new sub-
23 section:

1 “(g) SPECIAL RULE FOR REPORTING CERTAIN ADDI-
2 TIONAL TAXES.—No penalty shall be imposed under sec-
3 tion 6721 or 6722 if—

4 “(1) a person makes a return or report under
5 section 6047(d) or 408(i) with respect to any dis-
6 tribution,

7 “(2) such distribution is made following a roll-
8 over, transfer, or exchange described in section
9 72(t)(4)(C) or section 72(q)(3)(C),

10 “(3) in making such return or report the person
11 relies upon a certification provided by the taxpayer
12 that the distributions satisfy the requirements of
13 section 72(t)(4)(C)(iii) or section 72(q)(3)(B)(iii), as
14 applicable, and

15 “(4) such person does not have actual knowl-
16 edge that the distributions do not satisfy such re-
17 quirements.”.

18 (d) SAFE HARBOR FOR ANNUITY PAYMENTS.—

19 (1) QUALIFIED RETIREMENT PLANS.—Subpara-
20 graph (A) of section 72(t)(2) is amended by adding
21 at the end the following flush sentence:

22 “For purposes of clause (iv), periodic payments
23 shall not fail to be treated as substantially
24 equal merely because they are amounts received
25 as an annuity, and such periodic payments shall

1 be deemed to be substantially equal if they are
2 payable over a period described in clause (iv)
3 and satisfy the requirements applicable to an-
4 nuity payments under section 401(a)(9).”.

5 (2) OTHER ANNUITY CONTRACTS.—Paragraph
6 (2) of section 72(q) is amended by adding at the end
7 the following flush sentence:

8 “For purposes of subparagraph (D), periodic pay-
9 ments shall not fail to be treated as substantially
10 equal merely because they are amounts received as
11 an annuity, and such periodic payments shall be
12 deemed to be substantially equal if they are payable
13 over a period described in subparagraph (D) and
14 would satisfy the requirements applicable to annuity
15 payments under section 401(a)(9) if such require-
16 ments applied.”.

17 (e) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendments made by
19 subsections (a), (b), and (c) shall apply to transfers,
20 rollovers, and exchanges occurring on or after the
21 date of the enactment of this Act.

22 (2) ANNUITY PAYMENTS.—The amendment
23 made by subsection (d) shall apply to distributions
24 commencing on or after the date of the enactment
25 of this Act.

1 (3) NO INFERENCE.—Nothing in the amend-
2 ments made by this section shall be construed to
3 create an inference with respect to the law in effect
4 prior to the effective date of such amendments.

5 **SEC. 314. CLARIFICATION OF TREATMENT OF DISTRIBUTIONS OF ANNUITY CONTRACTS.**
6

7 (a) IN GENERAL.—Clause (i) of section 402(e)(4)(D)
8 is amended by inserting after “section 401(c)(1).” at the
9 end of the second sentence the following: “A distribution
10 of an annuity contract from a trust or annuity plan re-
11 ferred to in the first sentence of this clause may be treated
12 as a part of a lump sum distribution.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall take effect as if included in section
15 1401(b)(1) of the Small Business Job Protection Act of
16 1996.

17 **SEC. 315. CLARIFICATION REGARDING ELECTIVE DEFERRALS.**
18

19 (a) IN GENERAL.—Not later than 6 months after the
20 date of the enactment of this Act, the Secretary of the
21 Treasury shall issue rules clarifying that employees who
22 have had a severance from employment may make—

23 (1) elective deferrals described in subparagraph
24 (A), (B), or (C) of section 402(g)(3) of the Internal

1 Revenue Code of 1986 (other than elective deferrals
2 under section 401(k)(11) of such Code);

3 (2) elective contributions under an eligible de-
4 ferred compensation plan described in section 457(b)
5 of such Code; and

6 (3) to the extent provided by the Secretary,
7 elective deferrals described in section 402(g)(3)(D)
8 or 401(k)(11) of such Code.

9 Such rules shall only permit such contributions or defer-
10 rals with respect to payments of bona fide accumulated
11 sick leave, accumulated vacation pay, severance, or back
12 pay. The Secretary may apply such other conditions on
13 such contributions or deferrals as are necessary or appro-
14 priate to carry out the purposes of this section.

15 (b) TREATMENT OF DEFERRALS.—Except as other-
16 wise determined by the Secretary to be necessary to carry
17 out the purposes of this section, the rules described in sub-
18 section (a) shall provide that the contributions or deferrals
19 shall, for purposes of section 457 and subchapter D of
20 chapter 1 of subtitle A of the Internal Revenue Code of
21 1986, be treated as contributions or deferrals made on be-
22 half of active employees, not on behalf of former employ-
23 ees.

1 **SEC. 316. TAX TREATMENT OF CERTAIN NONTRADE OR**
2 **BUSINESS SEP CONTRIBUTIONS.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 4972(c)(6) is amended—

5 (1) by striking “408(p) or” and inserting
6 “408(p),”; and

7 (2) by inserting “, or a simplified employee pen-
8 sion (within the meaning of section 408(k))” after
9 “401(k)(11))”.

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

13 **SEC. 317. ALLOW CERTAIN PLAN TRANSFERS AND MERG-**
14 **ERS.**

15 (a) AMENDMENTS TO THE INTERNAL REVENUE
16 CODE OF 1986.—

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

19 “(aa) CERTAIN PLAN TRANSFERS AND MERGERS.—

20 “(1) IN GENERAL.—Under rules prescribed by
21 the Secretary, no amount shall be includible in gross
22 income by reason of—

23 “(A) a transfer of all or a portion of the
24 account balance of a participant or beneficiary,
25 whether or not vested, from a defined contribu-
26 tion plan described in section 401(a) or section

1 403(a) of an employer to an annuity contract
2 described in section 403(b) of the same em-
3 ployer,

4 “(B) a transfer of all or a portion of the
5 account balance of a participant or beneficiary,
6 whether or not vested, from an annuity contract
7 described in section 403(b) of an employer to a
8 defined contribution plan described in section
9 401(a) or section 403(a) of the same employer,
10 or

11 “(C) a merger of a defined contribution
12 plan described in section 401(a) or section
13 403(a) of an employer with an annuity contract
14 described in section 403(b) of the same em-
15 ployer,

16 so long as the transfer or merger does not cause a
17 reduction in the vested benefit or total benefit (in-
18 cluding non-vested benefit) of any participant or
19 beneficiary. A plan or contract shall not fail to be
20 considered to be described in sections 401(a),
21 403(a), or 403(b) (as applicable) merely because
22 such plan or contract engages in a transfer or merg-
23 er described in this paragraph.

24 “(2) DISTRIBUTIONS.—Amounts transferred or
25 merged pursuant to paragraph (1) shall be subject

1 to the requirements of paragraphs (3) and (4) and
2 to the distribution requirements under sections
3 401(a), 403(a), or 403(b) applicable to the trans-
4 feree or merged plan.

5 “(3) SPOUSAL CONSENT AND ANTI-CUTBACK
6 PROTECTION.—In the case of a transfer or merger
7 described in paragraph (1), amounts in the trans-
8 feree or merged plan that are attributable to the
9 transferor or predecessor plan shall—

10 “(A)(i) be subject to section 401(a)(11)
11 and section 205 of the Employee Retirement
12 Income Security Act of 1974 to the extent that
13 such sections applied to such amounts in the
14 transferor or predecessor plan, or

15 “(ii) be required to satisfy the require-
16 ments of section 401(a)(11)(B)(iii)(I) and sec-
17 tion 205(b)(1)(C)(i) of the Employee Retire-
18 ment Income Security Act of 1974 to the extent
19 that such sections applied to such amounts in
20 the transferor or predecessor plan, and

21 “(B) be treated as subject to section
22 411(d)(6) and section 204(g) of the Employee
23 Retirement Income Security Act of 1974 to the
24 extent that such amounts were subject to such
25 sections in the transferor or predecessor plan.

1 “(4) SPECIAL RULES.—Under rules prescribed
2 by the Secretary, to the extent amounts transferred
3 or merged pursuant to paragraph (1) were otherwise
4 entitled to grandfather treatment under the trans-
5 feror or predecessor plan, such amounts (and income
6 or loss attributable thereto) shall remain entitled to
7 such treatment under the transferee or merged plan.
8 The rules prescribed by the Secretary shall require
9 that such amounts be separately accounted for by
10 the transferee or merged plan. For purposes of this
11 paragraph, the term ‘grandfather treatment’ means
12 any special treatment under this title that is pro-
13 vided for prior benefits, prior periods of time, or cer-
14 tain individuals in connection with a change in the
15 applicable law.

16 “(5) CONSENT.—In the case of a qualified trust
17 described in section 401(a) or 403(a) and an annu-
18 ity contract described in section 403(b) with respect
19 to which transfers may be made only with the con-
20 sent of a participant or beneficiary pursuant to the
21 terms of such trust or contract or pursuant to appli-
22 cable law, such consent requirement shall apply
23 without regard to this subsection. Nothing in this
24 subsection shall affect the application of contract or

1 plan terms otherwise applicable in the case of a
2 withdrawal from the contract or plan.”.

3 (2) AGGREGATION.—Paragraph (2) of section
4 414(t) is amended by inserting “414(aa),” after
5 “274(j),”.

6 (3) TECHNICAL AMENDMENT.—The heading of
7 subsection (z) of section 414 is amended by striking
8 “PLAN” and inserting “CHURCH PLAN”.

9 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
10 INCOME SECURITY ACT OF 1974.—Section 4 of the Em-
11 ployee Retirement Income Security Act of 1974 (29
12 U.S.C. 1003) is amended by adding at the end the fol-
13 lowing new subsection:

14 “(d) This title shall apply to any plan or contract de-
15 scribed in section 414(bb) of the Internal Revenue Code
16 of 1986 to the extent necessary to comply with the re-
17 quirements of such section.”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to transfers or mergers in
21 years beginning after the Secretary of the Treasury
22 prescribes rules under section 414(aa) of the Inter-
23 nal Revenue Code of 1986, as added by this section.

24 (2) RULES.—The Secretary of the Treasury
25 shall issue rules under section 414(aa) of the Inter-

1 nal Code of 1986, as so added, within 1 year after
2 the date of the enactment of this Act.

3 **SEC. 318. EXCEPTION FROM REQUIRED DISTRIBUTIONS**
4 **WHERE AGGREGATE RETIREMENT SAVINGS**
5 **DO NOT EXCEED \$100,000.**

6 (a) IN GENERAL.—Section 401(a)(9), as amended by
7 this Act, is further amended by adding at the end the fol-
8 lowing new subparagraph:

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

13 “(i) IN GENERAL.—If, as of a meas-
14 urement date, the aggregate value of the
15 entire interest of an employee under all ap-
16 plicable eligible retirement plans does not
17 exceed \$100,000, then, with respect to any
18 applicable eligible retirement plan of the
19 employee, during any succeeding calendar
20 year beginning before the next measure-
21 ment date—

22 “(I) the requirements of subpara-
23 graph (A) shall not apply to the em-
24 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, but does not include any
15 defined benefit plan.

16 “(iii) MEASUREMENT DATE.—

17 “(I) INITIAL MEASUREMENT
18 DATES.—The initial measurement
19 date for an employee is the last day of
20 the calendar year preceding the earlier
21 of—

22 “(aa) the calendar year in
23 which the employee attains the
24 applicable age, or

1 “(bb) the calendar year in
2 which the employee dies.

3 “(II) SUBSEQUENT MEASURE-
4 MENT DATES.—If, in a calendar year,
5 an employee to whom subparagraph
6 (A) or (B) does not apply by reason
7 of clause (i) receives contributions,
8 rollovers, or transfers of amounts
9 which were not previously taken into
10 account in applying this subpara-
11 graph, then the last day of that cal-
12 endar year shall be a new measure-
13 ment date and a new determination
14 shall be made as to whether clause (i)
15 applies to such employee.

16 “(III) SPECIAL RULE.—In the
17 case of an employee who receives ac-
18 count statements at least annually
19 with respect to a plan, the value of
20 the employee’s interest in such plan
21 as shown on the last account state-
22 ment provided to such employee for
23 such calendar year may (at the elec-
24 tion of the employee) be treated as the
25 value of the employee’s interest in

1 such plan on the measurement date.
2 If such last account statement does
3 not include all amounts described in
4 subclause (II) for such calendar year,
5 the last day of the next calendar year
6 shall be a new measurement date in
7 accordance with subclause (II) and a
8 new determination shall be made as to
9 whether clause (i) applies to such em-
10 ployee.

11 “(iv) DETERMINATION OF VALUE.—
12 For purposes of this subparagraph, the
13 value of an employee’s interest in a plan is
14 the account balance of such plan.

15 “(v) 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 “(vi) COST OF LIVING ADJUST-
8 MENTS.—The Secretary shall adjust annu-
9 ally the \$100,000 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, 2018, 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 “(vii) PLAN RELIANCE.—The plan ad-
19 ministrator of an applicable eligible retire-
20 ment plan may rely on a certification pro-
21 vided by an employee that such employee’s
22 interest in other applicable eligible retire-
23 ment plans does not prevent such employee
24 from being described in clause (i). Any
25 such certification shall apply to all future

1 years in the absence of a contrary certifi-
2 cation from the employee, and shall apply
3 to the current year if made not later than
4 March 15 of such current year.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to initial measurement dates occur-
7 ring on or after December 31, 2018.

8 **SEC. 319. HARDSHIP RULES FOR 403(b) PLANS.**

9 (a) IN GENERAL.—Section 403(b) is amended by
10 adding at the end the following new paragraph:

11 “(15) SPECIAL RULES RELATING TO HARDSHIP
12 WITHDRAWALS.—For purposes of paragraphs (7)
13 and (11)—

14 “(A) AMOUNTS WHICH MAY BE WITH-
15 DRAWN.—The following amounts may be dis-
16 tributed upon hardship of the employee:

17 “(i) Contributions made pursuant to a
18 salary reduction agreement (within the
19 meaning of section 3121(a)(5)(D)).

20 “(ii) Qualified nonelective contribu-
21 tions (as defined in section 401(m)(4)(C)).

22 “(iii) Qualified matching contributions
23 described in section 401(k)(3)(D)(ii)(I).

24 “(iv) Earnings on any contributions
25 described in clause (i), (ii), or (iii).

1 “(B) NO REQUIREMENT TO TAKE AVAIL-
2 ABLE LOAN.—A distribution shall not be treat-
3 ed as failing to be made upon the hardship of
4 an employee solely because the employee does
5 not take any available loan under the plan.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 403(b)(7)(A)(ii) is amended by
8 striking “in the case of contributions made pursuant
9 to a salary reduction agreement (within the meaning
10 of section 3121(a)(5)(D))” and inserting “subject to
11 the provisions of paragraph (15)”.

12 (2) Paragraph (11) of section 403(b), as
13 amended by this Act, is further amended—

14 (A) by striking “in” in subparagraph (B)
15 and inserting “subject to the provisions of para-
16 graph (15), in”; and

17 (B) by striking the last sentence.

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

21 **SEC. 320. IRA PRESERVATION.**

22 (a) INFORMATION MADE AVAILABLE.—The Sec-
23 retary of the Treasury shall make available to the public
24 the following information:

1 (1) An overview of the laws and regulations re-
2 lated to individual retirement plans (as defined in
3 section 7701(a)(37) of the Internal Revenue Code of
4 1986), including—

5 (A) limits on contributions;

6 (B) limits on deductions for contributions;

7 (C) rollovers;

8 (D) minimum required distributions;

9 (E) non-exempt prohibited transactions;

10 and

11 (F) tax consequences for early distribu-
12 tions.

13 (2) Examples of common errors by taxpayers
14 with respect to the laws and regulations described in
15 paragraph (1) and instructions on how to avoid such
16 errors.

17 (b) REDUCTION IN EXCISE TAX ON EXCESS CON-
18 TRIBUTIONS.—Section 4973 is amended by adding at the
19 end the following new subsection:

20 “(i) REDUCTION OF TAX IN CERTAIN CASES.—

21 “(1) REDUCTION.—In the case of a taxpayer
22 who—

23 “(A) corrects, during the correction win-
24 dow, an excess contribution which was made to
25 an individual retirement plan and which re-

1 sulted in imposition of a tax under paragraph
2 (1) or (3) of subsection (a), and

3 “(B) submits a return, during the correc-
4 tion window, reflecting such tax (as modified by
5 this subsection),

6 the first and second sentences of subsection (a) shall
7 be applied by substituting ‘3 percent’ for ‘6 percent’
8 each place it appears.

9 “(2) CORRECTION WINDOW.—For purposes of
10 this subsection, the term ‘correction window’ means
11 the period beginning on the date on which the tax
12 under subsection (a) is imposed with respect to an
13 excess contribution, and ending on the earlier of—

14 “(A) the date on which the Secretary initi-
15 ates an audit, or otherwise demands payment,
16 with respect to the excess contribution, or

17 “(B) the last day of the second taxable
18 year that begins after the end of the taxable
19 year in which the tax under subsection (a) is
20 imposed.”.

21 (c) REDUCTION IN EXCISE TAX ON FAILURES TO
22 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section
23 4974, as amended by this Act, is further amended by add-
24 ing at the end the following new subsection:

25 “(e) REDUCTION OF TAX IN CERTAIN CASES.—

1 “(1) REDUCTION.—In the case of a taxpayer
2 who—

3 “(A) corrects, during the correction win-
4 dow, a shortfall of distributions from an indi-
5 vidual retirement plan which resulted in imposi-
6 tion of a tax under subsection (a), and

7 “(B) submits a return, during the correc-
8 tion window, reflecting such tax (as modified by
9 this subsection),

10 the first sentence of subsection (a) shall be applied
11 by substituting ‘10 percent’ for ‘25 percent’.

12 “(2) CORRECTION WINDOW.—For purposes of
13 this subsection, the term ‘correction window’ means
14 the period of time beginning on the date on which
15 the tax under subsection (a) is imposed with respect
16 to a shortfall of distributions from an individual re-
17 tirement plan, and ending on the earlier of—

18 “(A) the date on which the Secretary initi-
19 ates an audit, or otherwise demands payment,
20 with respect to the shortfall of distributions, or

21 “(B) the last day of the second taxable
22 year that begins after the end of the taxable
23 year in which the tax under subsection (a) is
24 imposed.”.

25 (d) REPEAL OF TAX DISQUALIFICATION PENALTY.—

1 (1) IN GENERAL.—Paragraph (2) of subsection
2 (e) of section 408 is repealed.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 408(e)(1) is amended by strik-
5 ing “(2) or”.

6 (B) Sections 220(e)(2), 223(e)(2), and
7 530(e) are each amended by striking “para-
8 graphs (2) and (4) of section 408(e)” and in-
9 serting “section 408(e)(4)”.

10 (C) Section 4975(c)(3) is amended by
11 striking “the account ceases to be an individual
12 retirement account by reason of the application
13 of section 408(e)(2)(A) or if”.

14 (e) STATUTE OF LIMITATIONS.—Subsection (l) of
15 section 6501 of the Internal Revenue Code of 1986 is
16 amended—

17 (1) in paragraph (1), by inserting “(other than
18 with respect to an individual retirement plan)” after
19 “section 4975”; and

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

22 “(4) INDIVIDUAL RETIREMENT PLANS.—For
23 purposes of any tax imposed by section 4973, 4974,
24 or 4975 in connection with an individual retirement
25 plan, the return referred to in this section shall be

1 the income tax return filed by the person on whom
2 the tax under such section is imposed for the year
3 in which the act (or failure to act) giving rise to the
4 liability for such tax occurred. In the case of a per-
5 son who is not required to file an income tax return
6 for such year—

7 “(A) the return referred to in this section
8 shall be the income tax return that such person
9 would have been required to file but for the fact
10 that such person was not required to file such
11 return, and

12 “(B) the 3-year period referred to in sub-
13 section (a) with respect to the return shall be
14 deemed to begin on the date by which the re-
15 turn would have been required to be filed (ex-
16 cluding any extension thereof).”.

17 (f) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Subject to paragraphs (2)
19 and (3), this section and the amendments made by
20 this section shall take effect on the date of the en-
21 actment of this Act.

22 (2) TRANSITION PROVISIONS.—

23 (A) IN GENERAL.—The amendments made
24 by this section shall apply to any determination
25 of or affecting liability for taxes, interest, or

1 penalties which is made on or after the date of
2 the enactment of this Act, without regard to
3 whether the conduct upon which the determina-
4 tion is based occurred before such date of en-
5 actment.

6 (B) CALCULATION OF CORRECTION WIN-
7 DOW IN CERTAIN CASES.—In the case of an
8 error that would have been eligible for correc-
9 tion under section 4973(i) or 4974(e) of the In-
10 ternal Revenue Code of 1986 if tax had not
11 been imposed under 4973(a) or 4974(a), as the
12 case may be, of such Code before the date of
13 the enactment of this Act, the correction win-
14 dow referred to in sections 4973(i) and 4974(e)
15 of such Code (as added by this section) shall be
16 the period beginning on the date on which such
17 tax was imposed and ending on the earlier of—

18 (i) the date on which the Secretary of
19 the Treasury initiates an audit or other-
20 wise demands payment with respect to the
21 conduct described in section 4973(a) or
22 4974(a), as the case may be, of such Code;
23 or

24 (ii) the last day of the second taxable
25 year that begins after the taxable year in

1 which the date of the enactment of this
2 Act occurs.

3 (3) IMPLEMENTATION.—Subsection (a) shall be
4 implemented as soon as reasonably practicable after
5 the enactment of this Act but in no case later than
6 the date that is 1 year after such date of enactment.

7 **SEC. 321. ELIMINATION OF ADDITIONAL TAX ON CERTAIN**
8 **DISTRIBUTIONS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
10 72(t)(2), as amended by this Act, is further amended—

11 (1) by striking “or” at the end of clause (vii);

12 (2) by striking the period at the end of clause
13 (viii) and inserting “, or”; and

14 (3) by inserting after clause (viii) the following
15 new clause:

16 “(ix) attributable to withdrawal of in-
17 terest or other income earned on excess
18 contributions (as defined in section
19 4973(b) (without regard to the second to
20 last sentence thereof)) to an individual re-
21 tirement plan.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to any determination of, or affect-
24 ing, liability for taxes, interest, or penalties which is made
25 on or after the date of the enactment of this Act, without

1 regard to whether the act (or failure to act) upon which
 2 the determination is based occurred before such date of
 3 enactment. Notwithstanding the preceding sentence, noth-
 4 ing in the amendments made by this section shall be con-
 5 strued to create an inference with respect to the law in
 6 effect prior to the effective date of such amendments.

7 **TITLE IV—DEFINED BENEFIT**
 8 **PLAN REFORMS**

9 **SEC. 401. CASH BALANCE.**

10 (a) IN GENERAL.—Section 414, as amended by this
 11 Act, is further amended by adding at the end the following
 12 new subsection:

13 “(bb) PROJECTED INTEREST CREDITING RATE.—
 14 For purposes of this part, in the case of an applicable de-
 15 fined benefit plan which provides variable interest cred-
 16 iting rates, the interest crediting rate which is treated as
 17 in effect and as the projected interest crediting rate shall
 18 be a reasonable projection of such variable interest cred-
 19 iting rate, not to exceed 6 percent.”.

20 (b) AMENDMENT OF EMPLOYEE RETIREMENT IN-
 21 COME SECURITY ACT OF 1974.—Section 210 of the Em-
 22 ployee Retirement Income Security Act of 1974 (29
 23 U.S.C. 1060) is amended by adding at the end the fol-
 24 lowing new subsection:

1 “(g) PROJECTED INTEREST CREDITING RATE.—For
 2 purposes of this title, in the case of an applicable defined
 3 benefit plan (within the meaning of section 203(f)(3))
 4 which provides variable interest crediting rates, the inter-
 5 est crediting rate which is treated as in effect and as the
 6 projected interest crediting rate shall be a reasonable pro-
 7 jection of such variable interest crediting rate, not to ex-
 8 ceed 6 percent.”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply with respect to years beginning
 11 after the date of the enactment of this Act.

12 **SEC. 402. ALIGNING USE OF LOOKBACK MONTHS TO DE-**
 13 **TERMINE INTEREST RATES.**

14 (a) IN GENERAL.—The Secretary of the Treasury
 15 shall modify Treasury Regulation section 1.417(e)-
 16 1(d)(10)(ii) (or any successor provision) to provide that
 17 the same rule applicable to modifications of the time for
 18 determining the applicable interest rate shall apply to
 19 modifications of the time for determining any interest rate
 20 used by a plan to the extent that the use of such interest
 21 rate is permissible under section 417(e)(3) of the Internal
 22 Revenue Code of 1986. Such modified regulations shall
 23 require that after any such modification of such time
 24 under a plan pursuant to this section, no further modifica-
 25 tions of such time are to be permitted for 5 years with

1 respect to such plan without the consent of the Secretary
2 of the Treasury.

3 (b) EFFECTIVE DATE.—The modifications and
4 amendments required under subsection (a) shall be
5 deemed to have been made as of the date of the enactment
6 of this Act, and as of such date all applicable laws shall
7 be applied in all respects as though the actions which the
8 Secretary of the Treasury is required to take under such
9 subsection had been taken.

10 **SEC. 403. CORRECTIONS OF MORTALITY TABLES.**

11 (a) IN GENERAL.—Not later than 6 months after the
12 date of the enactment of this Act, the Secretary of the
13 Treasury shall amend the regulation relating to “Mortality
14 Tables for Determining Present Value Under Defined
15 Benefit Pension Plans” (82 Fed. Reg. 46388 (October 5,
16 2017)). Under such amendment—

17 (1) except as provided in paragraphs (2) and
18 (3), the mortality improvement rates for valuation
19 dates occurring during 2018 shall be based on the
20 mortality improvement rates in the Mortality Im-
21 provement Scale MP–2017 Report issued by the Re-
22 tirement Plans Experience Committee of the Society
23 of Actuaries;

24 (2) for valuation dates occurring during or after
25 2018, such mortality improvement rates shall not as-

1 sume future mortality improvements at any age
2 which are greater than .78 percent, and

3 (3) plan sponsors shall be permitted to elect for
4 the modifications under paragraphs (1) and (2) not
5 to apply to a plan for valuation dates occurring dur-
6 ing 2018.

7 The Secretary shall by regulation modify the .78 percent
8 figure in paragraph (2) as necessary to reflect material
9 changes in the overall rate of improvement projected by
10 the Social Security Administration.

11 (b) PRESERVATION OF CURRENT LAW OPTION.—

12 Notwithstanding the modifications made under subsection
13 (a), with respect to a plan for which substitute mortality
14 tables are not used pursuant to Treas. Reg. section
15 1.430(h)(3)–2 for a plan year beginning during 2018,
16 mortality tables determined in accordance with Treas.
17 Reg. section 1.430(h)(3)–1 as in effect on December 31,
18 2017, may be used for purposes of applying the rules of
19 section 430 of the Internal Revenue Code of 1986 for a
20 valuation date occurring during 2018 if the plan spon-
21 sor—

22 (1) concludes that the use of mortality tables
23 determined in accordance with Treas. Reg. section
24 1.430(h)(3)–1 (without regard to any modification
25 under this section) for the plan year would be ad-

1 ministratively impracticable or would result in an
2 adverse business impact that is greater than de
3 minimis; and

4 (2) informs the plan actuary of the intent to
5 apply the option under this subsection.

6 (c) **EFFECTIVE DATE.**—The modifications and
7 amendments required under subsections (a) and (b) shall
8 be deemed to have been made as of the date of the enact-
9 ment of this Act, and as of such date all applicable laws
10 shall be applied in all respects as though the actions which
11 the Secretary of the Treasury is required to take under
12 such subsections had been taken.

13 **SEC. 404. CEASE DOUBLE-INDEXING THE VARIABLE RATE**
14 **PREMIUM.**

15 (a) **IN GENERAL.**—Clause (ii) of section
16 4006(a)(3)(E) of the Employee Retirement Income Secu-
17 rity Act of 1974 (29 U.S.C. 1306(a)(3)(E)(ii)) is amended
18 by striking “the applicable dollar amount under paragraph
19 (8)” and inserting “\$38”.

20 (b) **CONFORMING AMENDMENT.**—Subsection (a) of
21 section 4006 of the Employee Retirement Income Security
22 Act of 1974 (29 U.S.C. 1306(a)) is amended by striking
23 paragraph (8).

24 (c) **TECHNICAL AMENDMENT.**—Clause (i) of section
25 4006(a)(3)(E) of the Employee Retirement Income Secu-

1 rity Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended
 2 by striking “subparagraph (H)” and inserting “subpara-
 3 graph (I)”.

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

7 **TITLE V—REFORMING PLAN**
 8 **RULES TO HARMONIZE WITH**
 9 **IRA RULES**

10 **SEC. 501. ROTH PLAN DISTRIBUTION RULES.**

11 (a) IN GENERAL.—Subsection (d) of section 402A is
 12 amended by adding at the end the following new para-
 13 graph:

14 “(5) MANDATORY DISTRIBUTION RULES NOT
 15 TO APPLY BEFORE DEATH.—Notwithstanding sec-
 16 tions 403(b)(10) and 457(d)(2), the following provi-
 17 sions shall not apply to any designated Roth ac-
 18 count:

19 “(A) Section 401(a)(9)(A).

20 “(B) The incidental death benefit require-
 21 ments of section 401(a).”.

22 (b) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-
 24 graph (2), the amendment made by this section shall

1 apply to taxable years beginning after December 31,
2 2018.

3 (2) SPECIAL RULE.—The amendment made by
4 this section shall not apply to distributions which are
5 required with respect to years beginning before Jan-
6 uary 1, 2019, but are permitted to be paid on or
7 after such date.

8 **SEC. 502. DISTRIBUTIONS FOR CHARITABLE PURPOSES.**

9 (a) IN GENERAL.—Section 402 is amended by adding
10 at the end the following new subsection:

11 “(m) DISTRIBUTIONS FOR CHARITABLE PUR-
12 POSES.—

13 “(1) IN GENERAL.—Gross income for any tax-
14 able year shall not include so much of the aggregate
15 amount of qualified charitable distributions made
16 with respect to a taxpayer during such taxable year
17 which does not exceed the applicable amount.

18 “(2) QUALIFIED CHARITABLE DISTRIBUTION.—
19 For purposes of this subsection, the term ‘qualified
20 charitable distribution’ means any distribution from
21 an eligible retirement plan described in clause (iii),
22 (iv), (v), or (vi) of section 402(c)(8)(B)—

23 “(A) which is made directly by the plan to
24 an organization described in section
25 170(b)(1)(A) (other than any organization de-

1 scribed in section 509(a)(3) or any fund or ac-
2 count described in section 4966(d)(2)), and

3 “(B) which is made on or after the date
4 that the individual on whose behalf the distribu-
5 tion is made has attained age 70½.

6 A distribution shall be treated as a qualified chari-
7 table distribution only to the extent that the dis-
8 tribution would be includible in gross income without
9 regard to paragraph (1).

10 “(3) SPECIAL RULES.—

11 “(A) IN GENERAL.—Rules similar to the
12 rules of paragraphs (C) and (E) of section
13 408(d)(8) shall apply for purposes of this sub-
14 section.

15 “(B) APPLICATION OF 72.—Rules similar
16 to the rules of section 408(d)(8)(D) shall apply
17 for purposes of this subsection, by taking into
18 account all amounts in the eligible retirement
19 plan to which the taxpayer has a nonforfeitable
20 right in lieu of all amounts in all individual re-
21 tirement plans of the individual.

22 “(4) APPLICABLE AMOUNT.—For purposes of
23 this subsection, the term ‘applicable amount’ means
24 the excess of—

25 “(A) \$100,000, over

1 “(B) the total amount of any distributions
2 not includible in gross income of the taxpayer
3 for the taxable year by reason of sections
4 403(b)(16), 408(d)(8), and 457(e)(19).”.

5 (b) SEPS AND SIMPLES.—Subparagraph (B) of
6 section 408(d)(8) is amended by striking “(other than a
7 plan described in subsection (k) or (p))”.

8 (c) 403(b) PLANS.—Section 403(b), as amended by
9 this Act, is further amended by adding at the end the fol-
10 lowing new paragraph:

11 “(16) DISTRIBUTIONS FOR CHARITABLE PUR-
12 POSES.—The rules of section 402(m) shall apply to
13 distributions under an annuity contract described in
14 this subsection.”.

15 (d) 457(b) PLANS.—Subsection (e) of section 457 is
16 amended by adding at the end the following new para-
17 graph:

18 “(19) DISTRIBUTIONS FOR CHARITABLE PUR-
19 POSES.—The rules of section 402(m) shall apply to
20 distributions under an eligible deferred compensation
21 plan established and maintained by an employer de-
22 scribed in subsection (e)(1)(A).”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to distributions made after Decem-
25 ber 31, 2018.

1 **SEC. 503. SURVIVING SPOUSE ELECTION TO BE TREATED**
2 **AS EMPLOYEE.**

3 (a) IN GENERAL.—Clause (iv) of section
4 401(a)(9)(B) is amended—

5 (1) by inserting “or at the election of the sur-
6 viving spouse,” after “begin,” in subclause (II); and

7 (2) by adding at the end the following flush
8 sentence:

9 “An election described in subclause (II)
10 shall be made at such time and in such
11 manner as prescribed by the Secretary,
12 shall include a timely notice to the plan ad-
13 ministrator, and once made may not be re-
14 voked except with the consent of the Sec-
15 retary.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to distributions with respect to em-
18 ployees who die after December 31, 2018.

19 **SEC. 504. ROLLOVERS FROM ROTH IRAS TO PLANS.**

20 (a) IN GENERAL.—Subparagraph (B) of section
21 402A(c)(3) is amended by striking “shall not” and insert-
22 ing “or, in the case of a rollover from a Roth IRA, under
23 section 408 shall not”.

24 (b) REGULATIONS.—The Secretary of the Treasury
25 shall amend the regulations with respect to rollovers from
26 Roth IRAs to permit such rollovers to be made to an appli-

1 cable retirement plan (as defined in section 402A(e)(1) of
 2 the Internal Revenue Code of 1986) in accordance with
 3 the amendment made by subsection (a).

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendment made by
 6 subsection (a) shall apply to distributions made after
 7 December 31, 2018.

8 (2) EFFECTIVE DATE.—The modifications and
 9 amendments required under subsection (b) shall be
 10 deemed to have been made as of January 1, 2019,
 11 and as of such date all applicable laws shall be ap-
 12 plied in all respects as though the actions which the
 13 Secretary of the Treasury is required to take under
 14 such subsection had been taken.

15 **TITLE VI—ADMINISTRATIVE** 16 **PROVISIONS**

17 **SEC. 601. PROVISIONS RELATING TO PLAN AMENDMENTS.**

18 (a) IN GENERAL.—If this section applies to any re-
 19 tirement plan or contract amendment—

20 (1) such retirement plan or contract shall be
 21 treated as being operated in accordance with the
 22 terms of the plan during the period described in sub-
 23 section (b)(2)(A); and

24 (2) except as provided by the Secretary of the
 25 Treasury, such retirement plan shall not fail to meet

1 the requirements of section 411(d)(6) of the Internal
2 Revenue Code of 1986 and section 204(g) of the
3 Employee Retirement Income Security Act of 1974
4 by reason of such amendment.

5 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

6 (1) IN GENERAL.—This section shall apply to
7 any amendment to any retirement plan or annuity
8 contract which is made—

9 (A) pursuant to any amendment made by
10 this Act or pursuant to any regulation issued by
11 the Secretary of the Treasury or the Secretary
12 of Labor under this Act; and

13 (B) on or before the last day of the first
14 plan year beginning on or after January 1,
15 2021.

16 In the case of a governmental plan (as defined in
17 section 414(d) of the Internal Revenue Code of
18 1986), this paragraph shall be applied by sub-
19 stituting “2023” for “2021”.

20 (2) CONDITIONS.—This section shall not apply
21 to any amendment unless—

22 (A) during the period—

23 (i) beginning on the date the legisla-
24 tive or regulatory amendment described in
25 paragraph (1)(A) takes effect (or in the

1 case of a plan or contract amendment not
2 required by such legislative or regulatory
3 amendment, the effective date specified by
4 the plan); and

5 (ii) ending on the date described in
6 paragraph (1)(B) (as modified by the sec-
7 ond sentence of paragraph (1)) (or, if ear-
8 lier, the date the plan or contract amend-
9 ment is adopted),

10 the plan or contract is operated as if such plan
11 or contract amendment were in effect; and

12 (B) such plan or contract amendment ap-
13 plies retroactively for such period.

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