

116TH CONGRESS  
1ST SESSION

# H. R. 1007

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2019

Mr. KIND (for himself, Mr. KELLY of Pennsylvania, Mr. BLUMENAUER, Ms. SÁNCHEZ, Mr. BEYER, Ms. JUDY CHU of California, Mr. HIGGINS of New York, Mr. HOLDING, Mr. KILDEE, Mr. PASCRELL, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Retirement Enhancement and Savings Act of 2019”.

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

Sec. 1. Short title, etc.

#### TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

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

#### TITLE II—ADMINISTRATIVE IMPROVEMENTS

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

#### TITLE III—BENEFITS RELATING TO UNITED STATES TAX COURT

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

#### TITLE IV—OTHER BENEFITS

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

#### TITLE V—REVENUE PROVISIONS

Sec. 501. Modifications of required distribution rules for pension plans.

Sec. 502. Increase in penalty for failure to file.

Sec. 503. Increased penalties for failure to file retirement plan returns.

Sec. 504. Increase information sharing to administer excise taxes.

Sec. 505. Pension variable rate premium payment acceleration.

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

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

5 (a) QUALIFICATION REQUIREMENTS.—

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

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

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

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

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

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

7 “(2) LIMITATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(4) GUIDANCE.—

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(43) POOLED EMPLOYER PLAN.—

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

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

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

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

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

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

3 “(B) REQUIREMENTS FOR PLAN TERMS.—  
4 The requirements of this subparagraph are met  
5 with respect to any plan if the terms of the  
6 plan—

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

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

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

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

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

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

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

21 “(v) require—

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

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

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

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

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

10 “(i) a multiemployer plan; or

11 “(ii) a plan established before the  
12 date of the enactment of the Retirement  
13 Enhancement and Savings Act of 2019,  
14 unless the plan administrator elects that  
15 the plan will be treated as a pooled em-  
16 ployer plan and the plan meets the require-  
17 ments of this title applicable to a pooled  
18 employer plan established on or after such  
19 date.

20 “(44) POOLED PLAN PROVIDER.—

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

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

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

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

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

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



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

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

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

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

18 “(C) GUIDANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (A) in paragraph (16)(B)—

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

10 (ii) by striking the period at the end  
11 and inserting “, or (iv) in the case of a  
12 pooled employer plan, the pooled plan pro-  
13 vider.”; and

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

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by  
17 this section shall apply to years beginning after De-  
18 cember 31, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

19 **401(k) STATUS.**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4                   “(A) \$500, or

5                   “(B) the lesser of—

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) CREDIT TO BE PART OF GENERAL BUSINESS  
5 CREDIT.—Subsection (b) of section 38 of the Internal  
6 Revenue Code of 1986 is amended by striking “plus” at  
7 the end of paragraph (31), by striking the period at the  
8 end of paragraph (32) and inserting “, plus”, and by add-  
9 ing at the end the following new paragraph:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(38) PORTABILITY OF LIFETIME INCOME.—

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

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

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

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

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

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

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

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

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

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

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

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

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

16               (b) CASH OR DEFERRED ARRANGEMENT.—

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

23                               “(VI) except as may be otherwise  
24                               provided by regulations, with respect  
25                               to amounts invested in a lifetime in-

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

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

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

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

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



1 paragraph (C) and inserting “, or”, and by inserting  
2 after subparagraph (C) the following new subpara-  
3 graph:

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

8 “(i) on or after the date that is 90  
9 days prior to the date that such lifetime  
10 income investment may no longer be held  
11 as an investment option under the con-  
12 tract, and

13 “(ii) in the form of a qualified dis-  
14 tribution (as defined in section  
15 401(a)(38)(B)(i)) or a qualified plan dis-  
16 tribution annuity contract (as defined in  
17 section 401(a)(38)(B)(iv)).”.

18 (2) CUSTODIAL ACCOUNTS.—Subparagraph (A)  
19 of section 403(b)(7) of such Code is amended by  
20 striking “if—” and all that follows and inserting “if  
21 the amounts are to be invested in regulated invest-  
22 ment company stock to be held in that custodial ac-  
23 count, and under the custodial account—

24 “(i) no such amounts may be paid or  
25 made available to any distributee (unless

1 such amount is a distribution to which sec-  
2 tion 72(t)(2)(G) applies) before—

3 “(I) the employee dies,

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

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

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

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

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

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

8           (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

9           (1) IN GENERAL.—Subparagraph (A) of section  
10          457(d)(1) of the Internal Revenue Code of 1986 is  
11          amended by striking “or” at the end of clause (ii),  
12          by inserting “or” at the end of clause (iii), and by  
13          adding after clause (iii) the following:

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

24           (2) DISTRIBUTION REQUIREMENT.—Paragraph  
25          (1) of section 457(d) of such Code is amended by

1 striking “and” at the end of subparagraph (B), by  
2 striking the period at the end of subparagraph (C)  
3 and inserting “, and”, and by inserting after sub-  
4 paragraph (C) the following new subparagraph:

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

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

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

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

21 “(D) TREATMENT OF CUSTODIAL AC-  
22 COUNT UPON PLAN TERMINATION.—

23 “(i) IN GENERAL.—If—

24 “(I) an employer terminates the  
25 plan under which amounts are con-

1                   tributed to a custodial account under  
2                   subparagraph (A), and

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

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

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

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

21                  **SEC. 113. CLARIFICATION OF RETIREMENT INCOME AC-**  
22                  **COUNT RULES RELATING TO CHURCH-CON-**  
23                  **TROLLED ORGANIZATIONS.**

24                  **(a) IN GENERAL.**—Subparagraph (B) of section  
25                  403(b)(9) of the Internal Revenue Code of 1986 is amend-

1 ed by inserting “(including an employee described in sec-  
 2 tion 414(e)(3)(B))” after “employee described in para-  
 3 graph (1)”.

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

## 7 **TITLE II—ADMINISTRATIVE** 8 **IMPROVEMENTS**

### 9 **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR** 10 **MAY BE TREATED AS IN EFFECT AS OF CLOSE** 11 **OF YEAR.**

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

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

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

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

21 “(2) ADOPTION OF PLAN.—If an employer  
 22 adopts a stock bonus, pension, profit-sharing, or an-  
 23 nuity plan after the close of a taxable year but be-  
 24 fore the time prescribed by law for filing the return  
 25 of the employer for the taxable year (including ex-

1 tensions thereof), the employer may elect to treat  
2 the plan as having been adopted as of the last day  
3 of the taxable year.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by  
5 this section shall apply to plans adopted for taxable years  
6 beginning after December 31, 2018.

7 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**  
8 **PLANS.**

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

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

1 Code of 1986 and the Employee Retirement Income Secu-  
2 rity Act of 1974.

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

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

10 (2) have—

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

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

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

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

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



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

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

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

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

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

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

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

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

- 9 (1) in clause (i), by striking “and” at the end;  
10 (2) in clause (ii), by striking “diversification.”  
11 and inserting “diversification, and”; and  
12 (3) by inserting at the end the following:

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

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

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

25 “(D) LIFETIME INCOME DISCLOSURE.—

1 “(i) IN GENERAL.—

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

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

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

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

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

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

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

1                   stantially from the lifetime income  
2                   stream equivalent in the disclosures;

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

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

9                   “(iii) ASSUMPTIONS AND RULES.—  
10                  Not later than 1 year after the date of the  
11                  enactment of the Retirement Enhancement  
12                  and Savings Act of 2019, the Secretary  
13                  shall—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

9           “(4) TIME OF SELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

22               (2) by inserting after subsection (n) the fol-  
23               lowing new subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15                   “(ii) who became participants by rea-  
16                   son of a merger of the plan with another  
17                   plan which had been in effect for at least  
18                   5 years as of the date of the merger,

19           shall be disregarded, except that clause (ii)  
20           shall apply for purposes of subparagraph (D)  
21           only if, under the merger, the benefits, rights,  
22           or features under 1 plan are conformed to the  
23           benefits, rights, or features of the other plan  
24           prospectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(ii) subparagraph (A)(ii) or  
5 (B)(iii)(III), whichever is applicable,

6 the treatment under subparagraph (A) or (B)  
7 of the spun-off plan shall continue with respect  
8 to such other employer.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

21 “(C) SPECIAL RULES FOR TESTING DE-  
22 FINED CONTRIBUTION PLAN FEATURES PRO-  
23 VIDING MATCHING CONTRIBUTIONS TO CERTAIN  
24 OLDER, LONGER SERVICE PARTICIPANTS.—In  
25 the case of a defined contribution plan which

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

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

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

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

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

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

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

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

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

13                 “(I) PROTECTED PARTICIPANTS.—

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

17                                 “(I) the plan is amended—

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

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

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

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

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

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

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

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

1 (c) EFFECTIVE DATE.—

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

8 (2) SPECIAL RULES.—

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

24 “(II) \$19.”.

25 (b) **VARIABLE RATE PREMIUM.**—

26 (1) **UNFUNDED VESTED BENEFITS.**—

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

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

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

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

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

1 (2) APPLICABLE DOLLAR AMOUNT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(h) **ENTITLEMENT TO ANNUITY.**—

8 “(1) **IN GENERAL.**—

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

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

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

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

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

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

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

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

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

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

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

20           “(3) TERMINATION OF ANNUITY.—

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

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

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

5                   “(ii) the child’s marriage, or

6                   “(iii) the child’s death,

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

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

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



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

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

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

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

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

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

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

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

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

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

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

25 “(1) IN GENERAL.—The annuity”;

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

3                     “(A) 1.5 percent”;

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

6                     “(B) three-fourths of 1 percent”;

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

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

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

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

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

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

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

11 **ANNUITY WITH THE FEDERAL EMPLOYEES**

12 **RETIREMENT SYSTEM.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “(2) REMOVAL.—

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

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

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

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

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

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

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

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

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

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

5           “(2) TREATMENT OF UNUSED LEAVE.—

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

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



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

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

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

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

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

8 (f) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12          “(5) in any other civilian service within the pur-  
13          view of section 8332 of title 5, United States Code.

14 For purposes of paragraph (4), not more than 5 years of  
15 service shall be taken into account.”.

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

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

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

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

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

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

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

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

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

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

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

20 (g) EFFECTIVE DATE.—

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

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

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

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

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

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

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

3 “(a) RETIREMENT.—

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

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

14 “(A) By substituting—

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

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

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

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

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

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

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

15 “(vii) ‘from the date of appointment,  
16 for those individuals appointed pursuant to  
17 section 7443A of the Internal Revenue  
18 Code of 1986 prior to, and in active service  
19 on, the date of enactment of the Retire-  
20 ment Enhancement and Savings Act of  
21 2019’ for ‘on or after October 1, 1979’ in  
22 subsection (h).

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



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

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

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

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

25           “(3) UNFUNDED LIABILITY.—

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

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

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

14                   “(ii) the sum of—

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

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

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

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

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

3 “(2) APPLICABILITY OF TITLE 5 PROVISIONS.—

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

9 “(3) SPECIAL RULES.—

10 “(A) AMOUNT CONTRIBUTED.—The

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

17 “(B) CONTRIBUTIONS FOR BENEFIT OF

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

24 “(C) APPLICABILITY OF RULES RELATING

25 TO ANNUITY OF A CHILD.—Section 8433(b) of

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

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

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

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

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

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

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

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

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

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

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

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

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

13       (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

## 16       **TITLE IV—OTHER BENEFITS**

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

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

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

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

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

5 “(2) after December 31, 2019.”.

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

## 9 **TITLE V—REVENUE PROVISIONS**

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

#### 11 **RULES FOR PENSION PLANS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

9 (3) CONFORMING AMENDMENTS.—

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

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

20 (4) EFFECTIVE DATES.—

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

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

10 (i) the later of—

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

17 (II) December 31, 2018; or

18 (ii) December 31, 2020.

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

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

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

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

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

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

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

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

10 (iii) with respect to which—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11                   (i) during the period—

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

○