

116TH CONGRESS
1ST SESSION

H. R. 1994

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2019

Mr. NEAL (for himself, Mr. BRADY, Mr. KIND, and Mr. KELLY of Pennsylvania) 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

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 “Setting Every Community Up for Retirement Enhance-
6 ment Act of 2019”.

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

Sec. 1. Short title, etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

- Sec. 101. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.
- Sec. 102. Rules relating to election of safe harbor 401(k) status.
- Sec. 103. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 104. Small employer automatic enrollment credit.
- Sec. 105. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
- Sec. 106. Repeal of maximum age for traditional IRA contributions.
- Sec. 107. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 108. Portability of lifetime income options.
- Sec. 109. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 110. Clarification of retirement income account rules relating to church-controlled organizations.
- Sec. 111. Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate.
- Sec. 112. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.
- Sec. 113. Increase in age for required beginning date for mandatory distributions.
- Sec. 114. Special rules for minimum funding standards for community newspaper plans.
- Sec. 115. Treating excluded difficulty of care payments as compensation for determining retirement contribution limitations.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

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

TITLE III—OTHER BENEFITS

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

TITLE IV—REVENUE PROVISIONS

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

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

4 **SEC. 101. INCREASE IN 10 PERCENT CAP FOR AUTOMATIC**
 5 **ENROLLMENT SAFE HARBOR AFTER 1ST**
 6 **PLAN YEAR.**

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

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

15 **SEC. 102. RULES RELATING TO ELECTION OF SAFE HARBOR**
 16 **401(k) STATUS.**

17 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE
 18 TO MATCHING CONTRIBUTION PLANS.—

19 (1) IN GENERAL.—Subparagraph (A) of section
 20 401(k)(12) of the Internal Revenue Code of 1986 is
 21 amended by striking “if such arrangement” and all
 22 that follows and inserting “if such arrangement—

23 “(i) meets the contribution require-
 24 ments of subparagraph (B) and the notice
 25 requirements of subparagraph (D), or

1 “(ii) meets the contribution require-
 2 ments of subparagraph (C).”.

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

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

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

14 (b) NONELECTIVE CONTRIBUTIONS.—Section
 15 401(k)(12) of the Internal Revenue Code of 1986 is
 16 amended by redesignating subparagraph (F) as subpara-
 17 graph (G), and by inserting after subparagraph (E) the
 18 following new subparagraph:

19 “(F) TIMING OF PLAN AMENDMENT FOR
 20 EMPLOYER MAKING NONELECTIVE CONTRIBU-
 21 TIONS.—

22 “(i) IN GENERAL.—Except as pro-
 23 vided in clause (ii), a plan may be amend-
 24 ed after the beginning of a plan year to
 25 provide that the requirements of subpara-

graph (C) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

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

“(II) at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year.

“(ii) EXCEPTION WHERE PLAN PROVIDED FOR MATCHING CONTRIBUTIONS.—Clause (i) shall not apply to any plan year if the plan provided at any time during the plan year that the requirements of subparagraph (B) or paragraph (13)(D)(i)(I) applied to the plan year.

“(iii) 4-PERCENT CONTRIBUTION REQUIREMENT.—Clause (i)(II) shall not apply to an arrangement unless the amount of the contributions described in subparagraph (C) which the employer is required to make under the arrangement for the plan year with respect to any em-

1 ployee is an amount equal to at least 4
 2 percent of the employee's compensation.”.

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

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

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

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

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

23 “(ii) EXCEPTION WHERE PLAN PRO-
 24 VIDED FOR MATCHING CONTRIBUTIONS.—
 25 Clause (i) shall not apply to any plan year

1 if the plan provided at any time during the
 2 plan year that the requirements of sub-
 3 paragraph (D)(i)(I) or paragraph (12)(B)
 4 applied to the plan year.

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

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

18 **SEC. 103. INCREASE IN CREDIT LIMITATION FOR SMALL**
 19 **EMPLOYER PENSION PLAN STARTUP COSTS.**

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

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

1 “(A) \$500, or

2 “(B) the lesser of—

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

9 “(ii) \$5,000, and”.

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

13 **SEC. 104. SMALL EMPLOYER AUTOMATIC ENROLLMENT**
 14 **CREDIT.**

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

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

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

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

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

4 “(b) CREDIT PERIOD.—For purposes of subsection
5 (a)—

6 “(1) IN GENERAL.—The credit period with re-
7 spect to any eligible employer is the 3-taxable-year
8 period beginning with the first taxable year for
9 which the employer includes an eligible automatic
10 contribution arrangement (as defined in section
11 414(w)(3)) in a qualified employer plan (as defined
12 in section 4972(d)) sponsored by the employer.

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

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

21 (b) CREDIT TO BE PART OF GENERAL BUSINESS
22 CREDIT.—Subsection (b) of section 38 of the Internal
23 Revenue Code of 1986 is amended by striking “plus” at
24 the end of paragraph (31), by striking the period at the

1 end of paragraph (32) and inserting “, plus”, and by add-
 2 ing at the end the following new paragraph:

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

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

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

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

14 **SEC. 105. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**
 15 **AND STIPEND PAYMENTS TREATED AS COM-**
 16 **PENSATION FOR IRA PURPOSES.**

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

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

4 **SEC. 106. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**
 5 **CONTRIBUTIONS.**

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

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

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

16 **SEC. 107. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
 17 **MAKING LOANS THROUGH CREDIT CARDS**
 18 **AND OTHER SIMILAR ARRANGEMENTS.**

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

24 “(D) PROHIBITION OF LOANS THROUGH
 25 CREDIT CARDS AND OTHER SIMILAR ARRANGE-

1 MENTS.—Subparagraph (A) shall not apply to
 2 any loan which is made through the use of any
 3 credit card or any other similar arrangement.”.

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

7 **SEC. 108. PORTABILITY OF LIFETIME INCOME OPTIONS.**

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

11 “(38) PORTABILITY OF LIFETIME INCOME.—

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

17 “(i) qualified distributions of a life-
 18 time income investment, or

19 “(ii) distributions of a lifetime income
 20 investment in the form of a qualified plan
 21 distribution annuity contract,

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

1 “(B) DEFINITIONS.—For purposes of this
2 subsection—

3 “(i) the term ‘qualified distribution’
4 means a direct trustee-to-trustee transfer
5 described in paragraph (31)(A) to an eligi-
6 ble retirement plan (as defined in section
7 402(c)(8)(B)),

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

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

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

24 “(iii) the term ‘lifetime income fea-
25 ture’ means—

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

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

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

22 (b) CASH OR DEFERRED ARRANGEMENT.—

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

1 (IV), by striking “and” at the end of subclause (V)
2 and inserting “or”, and by adding at the end the fol-
3 lowing new subclause:

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

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

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

1 tion annuity contract (as defined in sub-
2 section (a)(38)(B)(iv)),”.

3 (c) SECTION 403(b) PLANS.—

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

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

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

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

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

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

11 “(I) the employee dies,

12 “(II) the employee attains age
13 59½,

14 “(III) the employee has a sever-
15 ance from employment,

16 “(IV) the employee becomes dis-
17 abled (within the meaning of section
18 72(m)(7)),

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

24 “(VI) except as may be otherwise
25 provided by regulations, with respect

1 to amounts invested in a lifetime in-
 2 come investment (as defined in section
 3 401(a)(38)(B)(ii)), the date that is 90
 4 days prior to the date that such life-
 5 time income investment may no longer
 6 be held as an investment option under
 7 the contract, and

8 “(ii) in the case of amounts described
 9 in clause (i)(VI), such amounts will be dis-
 10 tributed only in the form of a qualified dis-
 11 tribution (as defined in section
 12 401(a)(38)(B)(i)) or a qualified plan dis-
 13 tribution annuity contract (as defined in
 14 section 401(a)(38)(B)(iv)).”.

15 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

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

21 “(iv) except as may be otherwise pro-
 22 vided by regulations, in the case of a plan
 23 maintained by an employer described in
 24 subsection (e)(1)(A), with respect to
 25 amounts invested in a lifetime income in-

1 vestment (as defined in section
 2 401(a)(38)(B)(ii)), the date that is 90
 3 days prior to the date that such lifetime
 4 income investment may no longer be held
 5 as an investment option under the plan,”.

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

12 “(D) except as may be otherwise provided
 13 by regulations, in the case of amounts described
 14 in subparagraph (A)(iv), such amounts will be
 15 distributed only in the form of a qualified dis-
 16 tribution (as defined in section
 17 401(a)(38)(B)(i)) or a qualified plan distribu-
 18 tion annuity contract (as defined in section
 19 401(a)(38)(B)(iv)).”.

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

1 **SEC. 109. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
2 **MINATION OF SECTION 403(b) PLANS.**

3 Not later than six months after the date of enactment
4 of this Act, the Secretary of the Treasury shall issue guid-
5 ance to provide that, if an employer terminates the plan
6 under which amounts are contributed to a custodial ac-
7 count under subparagraph (A) of section 403(b)(7), the
8 plan administrator or custodian may distribute an indi-
9 vidual custodial account in kind to a participant or bene-
10 ficiary of the plan and the distributed custodial account
11 shall be maintained by the custodian on a tax-deferred
12 basis as a section 403(b)(7) custodial account, similar to
13 the treatment of fully-paid individual annuity contracts
14 under Revenue Ruling 2011–7, until amounts are actually
15 paid to the participant or beneficiary. The guidance shall
16 provide further (i) that the section 403(b)(7) status of the
17 distributed custodial account is generally maintained if the
18 custodial account thereafter adheres to the requirements
19 of section 403(b) that are in effect at the time of the dis-
20 tribution of the account and (ii) that a custodial account
21 would not be considered distributed to the participant or
22 beneficiary if the employer has any material retained
23 rights under the account (but the employer would not be
24 treated as retaining material rights simply because the
25 custodial account was originally opened under a group

1 contract). Such guidance shall be retroactively effective for
 2 taxable years beginning after December 31, 2008.

3 **SEC. 110. CLARIFICATION OF RETIREMENT INCOME AC-**
 4 **COUNT RULES RELATING TO CHURCH-CON-**
 5 **TROLLED ORGANIZATIONS.**

6 (a) IN GENERAL.—Subparagraph (B) of section
 7 403(b)(9) of the Internal Revenue Code of 1986 is amend-
 8 ed by inserting “(including an employee described in sec-
 9 tion 414(e)(3)(B))” after “employee described in para-
 10 graph (1)”.

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

14 **SEC. 111. QUALIFIED CASH OR DEFERRED ARRANGEMENTS**
 15 **MUST ALLOW LONG-TERM EMPLOYEES**
 16 **WORKING MORE THAN 500 BUT LESS THAN**
 17 **1,000 HOURS PER YEAR TO PARTICIPATE.**

18 (a) PARTICIPATION REQUIREMENT.—

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

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

1 plan extending beyond the close of the earlier
2 of—

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

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

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

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

17 “(A) AGE REQUIREMENT MUST BE MET.—

18 Paragraph (2)(D)(ii) shall not apply to an em-
19 ployee unless the employee has met the require-
20 ment of section 410(a)(1)(A)(i) by the close of
21 the last of the 12-month periods described in
22 such paragraph.

23 “(B) NONDISCRIMINATION AND TOP-

24 HEAVY RULES NOT TO APPLY.—

1 “(i) NONDISCRIMINATION RULES.—In
2 the case of employees who are eligible to
3 participate in the arrangement solely by
4 reason of paragraph (2)(D)(ii)—

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

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

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

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

10 “(iv) EMPLOYEES WHO BECOME
11 FULL-TIME EMPLOYEES.—This subpara-
12 graph shall cease to apply to any employee
13 as of the first plan year beginning after
14 the plan year in which the employee meets
15 the requirements of section
16 410(a)(1)(A)(ii) without regard to para-
17 graph (2)(D)(ii).

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

22 “(D) SPECIAL RULES.—

23 “(i) TIME OF PARTICIPATION.—The
24 rules of section 410(a)(4) shall apply to an
25 employee eligible to participate in an ar-

1 rangement solely by reason of paragraph
 2 (2)(D)(ii).

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

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

13 **SEC. 112. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
 14 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
 15 **BIRTH OF CHILD OR ADOPTION.**

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

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

22 “(i) IN GENERAL.—Any qualified
 23 birth or adoption distribution.

24 “(ii) LIMITATION.—The aggregate
 25 amount which may be treated as qualified

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

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

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

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

23 “(iv) TREATMENT OF PLAN DISTRIBUTIONS.—
24

1 “(I) IN GENERAL.—If a distribu-
2 tion to an individual would (without
3 regard to clause (ii)) be a qualified
4 birth or adoption distribution, a plan
5 shall not be treated as failing to meet
6 any requirement of this title merely
7 because the plan treats the distribu-
8 tion as a qualified birth or adoption
9 distribution, unless the aggregate
10 amount of such distributions from all
11 plans maintained by the employer
12 (and any member of any controlled
13 group which includes the employer) to
14 such individual exceeds \$5,000.

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

21 “(v) AMOUNT DISTRIBUTED MAY BE
22 REPAID.—

23 “(I) IN GENERAL.—Any indi-
24 vidual who receives a qualified birth
25 or adoption distribution may make

1 one or more contributions in an ag-
2 gregate amount not to exceed the
3 amount of such distribution to an ap-
4 plicable eligible retirement plan of
5 which such individual is a beneficiary
6 and to which a rollover contribution of
7 such distribution could be made under
8 section 402(c), 403(a)(4), 403(b)(8),
9 408(d)(3), or 457(e)(16), as the case
10 may be.

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

1 unless the individual is eligible to
2 make contributions (other than those
3 described in subclause (I)) to such ap-
4 plicable eligible retirement plan.

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

23 “(IV) TREATMENT OF REPAY-
24 MENTS FOR DISTRIBUTIONS FROM
25 IRAS.—If a contribution is made

1 under subclause (I) with respect to a
2 qualified birth or adoption distribution
3 from an individual retirement plan,
4 then, to the extent of the amount of
5 the contribution, such distribution
6 shall be treated as a distribution de-
7 scribed in section 408(d)(3) and as
8 having been transferred to the appli-
9 cable eligible retirement plan in a di-
10 rect trustee to trustee transfer within
11 60 days of the distribution.

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

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

21 “(II) EXEMPTION OF DISTRIBU-
22 TIONS FROM TRUSTEE TO TRUSTEE
23 TRANSFER AND WITHHOLDING
24 RULES.—For purposes of sections
25 401(a)(31), 402(f), and 3405, a quali-

1 fied birth or adoption distribution
2 shall not be treated as an eligible roll-
3 over distribution.

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

13 “(IV) DISTRIBUTIONS TREATED
14 AS MEETING PLAN DISTRIBUTION RE-
15 QUIREMENTS.—Any qualified birth or
16 adoption distribution shall be treated
17 as meeting the requirements of sec-
18 tions 401(k)(2)(B)(i),
19 403(b)(7)(A)(ii), 403(b)(11), and
20 457(d)(1)(A).”.

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

1 **SEC. 113. INCREASE IN AGE FOR REQUIRED BEGINNING**
2 **DATE FOR MANDATORY DISTRIBUTIONS.**

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

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

10 (c) ACTUARIAL ADJUSTMENT.—Section
11 401(a)(9)(C)(iii) of such Code is amended by striking
12 “age 70½” each place it appears and inserting “age 72”.

13 (d) CONFORMING AMENDMENTS.—

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

17 (2) Section 457(d)(1)(A)(i) of such Code is
18 amended by striking “age 70½” and inserting “age
19 72”.

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

1 **SEC. 114. SPECIAL RULES FOR MINIMUM FUNDING STAND-**
 2 **ARDS FOR COMMUNITY NEWSPAPER PLANS.**

3 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
 4 1986.—Section 430 of the Internal Revenue Code of 1986
 5 is amended by adding at the end the following new sub-
 6 section:

7 “(m) SPECIAL RULES FOR COMMUNITY NEWSPAPER
 8 PLANS.—

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

17 “(2) ELECTION.—An election under paragraph
 18 (1) shall be made at such time and in such manner
 19 as prescribed by the Secretary. Such election, once
 20 made with respect to a plan year, shall apply to all
 21 subsequent plan years unless revoked with the con-
 22 sent of the Secretary.

23 “(3) ALTERNATIVE MINIMUM FUNDING STAND-
 24 ARDS.—The alternative standards described in this
 25 paragraph are the following:

26 “(A) INTEREST RATES.—

1 “(i) IN GENERAL.—Notwithstanding
2 subsection (h)(2)(C) and except as pro-
3 vided in clause (ii), the first, second, and
4 third segment rates in effect for any
5 month for purposes of this section shall be
6 8 percent.

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

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

1 “(B) SHORTFALL AMORTIZATION BASE.—

2 “(i) PREVIOUS SHORTFALL AMORTIZA-
 3 TION BASES.—The shortfall amortization
 4 bases determined under subsection (c)(3)
 5 for all plan years preceding the first plan
 6 year to which the election under paragraph
 7 (1) applies (and all shortfall amortization
 8 installments determined with respect to
 9 such bases) shall be reduced to zero under
 10 rules similar to the rules of subsection
 11 (c)(6).

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

20 “(C) DETERMINATION OF SHORTFALL AM-
 21 ORTIZATION INSTALLMENTS.—

22 “(i) 30-YEAR PERIOD.—Subpara-
 23 graphs (A) and (B) of subsection (c)(2)
 24 shall be applied by substituting ‘30-plan-

1 year’ for ‘7-plan-year’ each place it ap-
2 pears.

3 “(ii) NO SPECIAL ELECTION.—The
4 election under subparagraph (D) of sub-
5 section (c)(2) shall not apply to any plan
6 year to which the election under paragraph
7 (1) applies.

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

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

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

16 “(i) publishes and distributes daily, ei-
17 ther electronically or in printed form, 1 or
18 more community newspapers in a single
19 State,

20 “(ii) is not a company the stock of
21 which is publicly traded (on a stock ex-
22 change or in an over-the-counter market),
23 and is not controlled, directly or indirectly,
24 by such a company,

1 “(iii) is controlled, directly or indi-
2 rectly—

3 “(I) by 1 or more persons resid-
4 ing primarily in the State in which
5 the community newspaper is pub-
6 lished,

7 “(II) for not less than 30 years
8 by individuals who are members of the
9 same family,

10 “(III) by a trust created or orga-
11 nized in the State in which the com-
12 munity newspaper is published, the
13 sole trustees of which are persons de-
14 scribed in subclause (I) or (II),

15 “(IV) by an entity which is de-
16 scribed in section 501(c)(3) and ex-
17 empt from taxation under section
18 501(a), which is organized and oper-
19 ated in the State in which the commu-
20 nity newspaper is published, and the
21 primary purpose of which is to benefit
22 communities in such State, or

23 “(V) by a combination of persons
24 described in subclause (I), (III), or
25 (IV), and

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

3 “(B) COMMUNITY NEWSPAPER.—The term
 4 ‘community newspaper’ means a newspaper
 5 which primarily serves a metropolitan statistical
 6 area, as determined by the Office of Manage-
 7 ment and Budget, with a population of not less
 8 than 100,000.

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

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

22 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
 23 COME SECURITY ACT OF 1974.—Section 303 of the Em-
 24 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1083) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(m) SPECIAL RULES FOR COMMUNITY NEWSPAPER
4 PLANS.—

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

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

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

22 “(A) INTEREST RATES.—

23 “(i) IN GENERAL.—Notwithstanding
24 subsection (h)(2)(C) and except as pro-
25 vided in clause (ii), the first, second, and

1 third segment rates in effect for any
2 month for purposes of this section shall be
3 8 percent.

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

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

24 “(B) SHORTFALL AMORTIZATION BASE.—

1 “(i) PREVIOUS SHORTFALL AMORTIZA-
 2 TION BASES.—The shortfall amortization
 3 bases determined under subsection (c)(3)
 4 for all plan years preceding the first plan
 5 year to which the election under paragraph
 6 (1) applies (and all shortfall amortization
 7 installments determined with respect to
 8 such bases) shall be reduced to zero under
 9 rules similar to the rules of subsection
 10 (c)(6).

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

19 “(C) DETERMINATION OF SHORTFALL AM-
 20 ORTIZATION INSTALLMENTS.—

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

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

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

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

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

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

16 “(I) a community newspaper, or

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

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

24 “(iii) is controlled, directly or indi-
 25 rectly—

1 “(I) by 1 or more persons resid-
2 ing primarily in the State in which
3 the community newspaper is pub-
4 lished,

5 “(II) for not less than 30 years
6 by individuals who are members of the
7 same family,

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

13 “(IV) by an entity which is de-
14 scribed in section 501(c)(3) of the In-
15 ternal Revenue Code of 1986 and ex-
16 empt from taxation under section
17 501(a) of such Code, which is orga-
18 nized and operated in the State in
19 which the community newspaper is
20 published, and the primary purpose of
21 which is to benefit communities in
22 such State, or

23 “(V) by a combination of persons
24 described in subclause (I), (III), or
25 (IV), and

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

3 “(B) COMMUNITY NEWSPAPER.—The term
4 ‘community newspaper’ means a newspaper
5 which primarily serves a metropolitan statistical
6 area, as determined by the Office of Manage-
7 ment and Budget, with a population of not less
8 than 100,000.

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

17 “(5) CONTROLLED GROUP.—For purposes of
18 this subsection, the term ‘controlled group’ means all
19 persons treated as a single employer under sub-
20 section (b), (c), (m), or (o) of section 414 of the In-
21 ternal Revenue Code of 1986 as of the date of the
22 enactment of this subsection.

23 “(6) EFFECT ON PREMIUM RATE CALCULA-
24 TION.—Notwithstanding any other provision of law
25 or any regulation issued by the Pension Benefit

1 Guaranty Corporation, in the case of a community
 2 newspaper plan which elects the application of the
 3 alternative standards described in paragraph (3), the
 4 additional premium under section 4006(a)(3)(E)
 5 shall be determined as if such election had not been
 6 made.”.

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

10 **SEC. 115. TREATING EXCLUDED DIFFICULTY OF CARE PAY-**
 11 **MENTS AS COMPENSATION FOR DETER-**
 12 **MINING RETIREMENT CONTRIBUTION LIM-**
 13 **TATIONS.**

14 (a) INDIVIDUAL RETIREMENT ACCOUNTS.—

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

18 “(5) SPECIAL RULE FOR DIFFICULTY OF CARE
 19 PAYMENTS EXCLUDED FROM GROSS INCOME.—In
 20 the case of an individual who for a taxable year ex-
 21 cludes from gross income under section 131 a quali-
 22 fied foster care payment which is a difficulty of care
 23 payment, if—

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

1 “(B) the amount of compensation includ-
2 ible in the individual’s gross income for the tax-
3 able year,
4 the individual may elect to increase the nondeduct-
5 ible limit under paragraph (2) for the taxable year
6 by an amount equal to the lesser of such excess or
7 the amount so excluded.”.

8 (2) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to contributions after
10 the date of the enactment of this Act.

11 (b) DEFINED CONTRIBUTION PLANS.—

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

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

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

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

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

7 “(ii) shall not cause a plan (and any
 8 arrangement which is part of such plan) to
 9 be treated as failing to meet any require-
 10 ments of this chapter solely by reason of
 11 allowing any such contributions.”.

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

15 **TITLE II—ADMINISTRATIVE** 16 **IMPROVEMENTS**

17 **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR**
 18 **MAY BE TREATED AS IN EFFECT AS OF CLOSE**
 19 **OF YEAR.**

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

22 (1) by striking “RETROACTIVE CHANGES IN
 23 PLAN.—A stock bonus” and inserting “PLAN
 24 AMENDMENTS.—

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

3 (2) by adding at the end the following new
4 paragraph:

5 “(2) ADOPTION OF PLAN.—If an employer
6 adopts a stock bonus, pension, profit-sharing, or an-
7 nuity plan after the close of a taxable year but be-
8 fore the time prescribed by law for filing the return
9 of the employer for the taxable year (including ex-
10 tensions thereof), the employer may elect to treat
11 the plan as having been adopted as of the last day
12 of the taxable year.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to plans adopted for taxable years
15 beginning after December 31, 2019.

16 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**
17 **PLANS.**

18 (a) IN GENERAL.—The Secretary of the Treasury
19 and the Secretary of Labor shall, in cooperation, modify
20 the returns required under section 6058 of the Internal
21 Revenue Code of 1986 and the reports required by section
22 104 of the Employee Retirement Income Security Act of
23 1974 (29 U.S.C. 1024) so that all members of a group
24 of plans described in subsection (c) may file a single aggre-

1 gated annual return or report satisfying the requirements
2 of both such sections.

3 (b) ADMINISTRATIVE REQUIREMENTS.—In devel-
4 oping the consolidated return or report under subsection
5 (a), the Secretary of the Treasury and the Secretary of
6 Labor may require such return or report to include any
7 information regarding each plan in the group as such Sec-
8 retaries determine is necessary or appropriate for the en-
9 forcement and administration of the Internal Revenue
10 Code of 1986 and the Employee Retirement Income Secu-
11 rity Act of 1974.

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

14 (1) are individual account plans or defined con-
15 tribution plans (as defined in section 3(34) of the
16 Employee Retirement Income Security Act of 1974
17 (29 U.S.C. 1002(34)) or in section 414(i) of the In-
18 ternal Revenue Code of 1986);

19 (2) have—

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

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

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

6 (D) plan years beginning on the same
 7 date; and

8 (3) provide the same investments or investment
 9 options to participants and beneficiaries.

10 A plan not subject to title I of the Employee Retirement
 11 Income Security Act of 1974 shall be treated as meeting
 12 the requirements of paragraph (2) as part of a group of
 13 plans if the same person that performs each of the func-
 14 tions described in such paragraph, as applicable, for all
 15 other plans in such group performs each of such functions
 16 for such plan.

17 (d) CLARIFICATION RELATING TO ELECTRONIC FIL-
 18 ING OF RETURNS FOR DEFERRED COMPENSATION
 19 PLANS.—

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

23 “(6) APPLICATION OF NUMERICAL LIMITATION
 24 TO RETURNS RELATING TO DEFERRED COMPENSA-
 25 TION PLANS.—For purposes of applying the numer-

1 ical limitation under paragraph (2)(A) to any return
 2 required under section 6058, information regarding
 3 each plan for which information is provided on such
 4 return shall be treated as a separate return.”.

5 (2) EFFECTIVE DATE.—The amendment made
 6 by paragraph (1) shall apply to returns required to
 7 be filed with respect to plan years beginning after
 8 December 31, 2019.

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

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

14 (a) IN GENERAL.—Subparagraph (B) of section
 15 105(a)(2) of the Employee Retirement Income Security
 16 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

19 and inserting “diversification, and”; and

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

21 “(iii) the lifetime income disclosure

22 described in subparagraph (D)(i).

23 In the case of pension benefit statements de-
 24 scribed in clause (i) of paragraph (1)(A), a life-
 25 time income disclosure under clause (iii) of this

1 subparagraph shall be required to be included
 2 in only one pension benefit statement during
 3 any one 12-month period.”.

4 (b) LIFETIME INCOME.—Paragraph (2) of section
 5 105(a) of the Employee Retirement Income Security Act
 6 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the
 7 end the following new subparagraph:

8 “(D) LIFETIME INCOME DISCLOSURE.—

9 “(i) IN GENERAL.—

10 “(I) DISCLOSURE.—A lifetime in-
 11 come disclosure shall set forth the life-
 12 time income stream equivalent of the
 13 total benefits accrued with respect to
 14 the participant or beneficiary.

15 “(II) LIFETIME INCOME STREAM
 16 EQUIVALENT OF THE TOTAL BENE-
 17 FITS ACCRUED.—For purposes of this
 18 subparagraph, the term ‘lifetime in-
 19 come stream equivalent of the total
 20 benefits accrued’ means the amount of
 21 monthly payments the participant or
 22 beneficiary would receive if the total
 23 accrued benefits of such participant or
 24 beneficiary were used to provide life-
 25 time income streams described in sub-

1 clause (III), based on assumptions
2 specified in rules prescribed by the
3 Secretary.

4 “(III) LIFETIME INCOME
5 STREAMS.—The lifetime income
6 streams described in this subclause
7 are a qualified joint and survivor an-
8 nuity (as defined in section 205(d)),
9 based on assumptions specified in
10 rules prescribed by the Secretary, in-
11 cluding the assumption that the par-
12 ticipant or beneficiary has a spouse of
13 equal age, and a single life annuity.
14 Such lifetime income streams may
15 have a term certain or other features
16 to the extent permitted under rules
17 prescribed by the Secretary.

18 “(ii) MODEL DISCLOSURE.—Not later
19 than 1 year after the date of the enact-
20 ment of the Setting Every Community Up
21 for Retirement Enhancement Act of 2019,
22 the Secretary shall issue a model lifetime
23 income disclosure, written in a manner so
24 as to be understood by the average plan
25 participant, which—

1 “(I) explains that the lifetime in-
2 come stream equivalent is only pro-
3 vided as an illustration;

4 “(II) explains that the actual
5 payments under the lifetime income
6 stream described in clause (i)(III)
7 which may be purchased with the
8 total benefits accrued will depend on
9 numerous factors and may vary sub-
10 stantially from the lifetime income
11 stream equivalent in the disclosures;

12 “(III) explains the assumptions
13 upon which the lifetime income stream
14 equivalent was determined; and

15 “(IV) provides such other similar
16 explanations as the Secretary con-
17 siders appropriate.

18 “(iii) ASSUMPTIONS AND RULES.—
19 Not later than 1 year after the date of the
20 enactment of the Setting Every Commu-
21 nity Up for Retirement Enhancement Act
22 of 2019, the Secretary shall—

23 “(I) prescribe assumptions which
24 administrators of individual account
25 plans may use in converting total ac-

1 accrued benefits into lifetime income
2 stream equivalents for purposes of
3 this subparagraph; and

4 “(II) issue interim final rules
5 under clause (i).

6 In prescribing assumptions under sub-
7 clause (I), the Secretary may prescribe a
8 single set of specific assumptions (in which
9 case the Secretary may issue tables or fac-
10 tors which facilitate such conversions), or
11 ranges of permissible assumptions. To the
12 extent that an accrued benefit is or may be
13 invested in a lifetime income stream de-
14 scribed in clause (i)(III), the assumptions
15 prescribed under subclause (I) shall, to the
16 extent appropriate, permit administrators
17 of individual account plans to use the
18 amounts payable under such lifetime in-
19 come stream as a lifetime income stream
20 equivalent.

21 “(iv) LIMITATION ON LIABILITY.—No
22 plan fiduciary, plan sponsor, or other per-
23 son shall have any liability under this title
24 solely by reason of the provision of lifetime
25 income stream equivalents which are de-

1 rived in accordance with the assumptions
 2 and rules described in clause (iii) and
 3 which include the explanations contained in
 4 the model lifetime income disclosure de-
 5 scribed in clause (ii). This clause shall
 6 apply without regard to whether the provi-
 7 sion of such lifetime income stream equiva-
 8 lent is required by subparagraph (B)(iii).

9 “(v) EFFECTIVE DATE.—The require-
 10 ment in subparagraph (B)(iii) shall apply
 11 to pension benefit statements furnished
 12 more than 12 months after the latest of
 13 the issuance by the Secretary of—

14 “(I) interim final rules under
 15 clause (i);

16 “(II) the model disclosure under
 17 clause (ii); or

18 “(III) the assumptions under
 19 clause (iii).”.

20 **SEC. 204. FIDUCIARY SAFE HARBOR FOR SELECTION OF**
 21 **LIFETIME INCOME PROVIDER.**

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

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

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

6 “(A) engages in an objective, thorough,
7 and analytical search for the purpose of identi-
8 fying insurers from which to purchase such con-
9 tracts;

10 “(B) with respect to each insurer identified
11 under subparagraph (A)—

12 “(i) considers the financial capability
13 of such insurer to satisfy its obligations
14 under the guaranteed retirement income
15 contract; and

16 “(ii) considers the cost (including fees
17 and commissions) of the guaranteed retire-
18 ment income contract offered by the in-
19 surer in relation to the benefits and prod-
20 uct features of the contract and adminis-
21 trative services to be provided under such
22 contract; and

23 “(C) on the basis of such consideration,
24 concludes that—

1 “(i) at the time of the selection, the
 2 insurer is financially capable of satisfying
 3 its obligations under the guaranteed retire-
 4 ment income contract; and

5 “(ii) the relative cost of the selected
 6 guaranteed retirement income contract as
 7 described in subparagraph (B)(ii) is rea-
 8 sonable.

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

13 “(A) the fiduciary obtains written rep-
 14 resentations from the insurer that—

15 “(i) the insurer is licensed to offer
 16 guaranteed retirement income contracts;

17 “(ii) the insurer, at the time of selec-
 18 tion and for each of the immediately pre-
 19 ceding 7 plan years—

20 “(I) operates under a certificate
 21 of authority from the insurance com-
 22 missioner of its domiciliary State
 23 which has not been revoked or sus-
 24 pended;

1 “(II) has filed audited financial
2 statements in accordance with the
3 laws of its domiciliary State under ap-
4 plicable statutory accounting prin-
5 ciples;

6 “(III) maintains (and has main-
7 tained) reserves which satisfies all the
8 statutory requirements of all States
9 where the insurer does business; and

10 “(IV) is not operating under an
11 order of supervision, rehabilitation, or
12 liquidation;

13 “(iii) the insurer undergoes, at least
14 every 5 years, a financial examination
15 (within the meaning of the law of its domi-
16 ciliary State) by the insurance commis-
17 sioner of the domiciliary State (or rep-
18 resentative, designee, or other party ap-
19 proved by such commissioner); and

20 “(iv) the insurer will notify the fidu-
21 ciary of any change in circumstances oc-
22 curring after the provision of the represen-
23 tations in clauses (i), (ii), and (iii) which
24 would preclude the insurer from making
25 such representations at the time of

1 issuance of the guaranteed retirement in-
2 come contract; and

3 “(B) after receiving such representations
4 and as of the time of selection, the fiduciary
5 has not received any notice described in sub-
6 paragraph (A)(iv) and is in possession of no
7 other information which would cause the fidu-
8 ciary to question the representations provided.

9 “(3) NO REQUIREMENT TO SELECT LOWEST
10 COST.—Nothing in this subsection shall be construed
11 to require a fiduciary to select the lowest cost con-
12 tract. A fiduciary may consider the value of a con-
13 tract, including features and benefits of the contract
14 and attributes of the insurer (including, without lim-
15 itation, the insurer’s financial strength) in conjunc-
16 tion with the cost of the contract.

17 “(4) TIME OF SELECTION.—

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

20 “(i) the time that the insurer and the
21 contract are selected for distribution of
22 benefits to a specific participant or bene-
23 ficiary; or

24 “(ii) if the fiduciary periodically re-
25 views the continuing appropriateness of the

1 conclusion described in paragraph (1)(C)
2 with respect to a selected insurer, taking
3 into account the considerations described
4 in such paragraph, the time that the in-
5 surer and the contract are selected to pro-
6 vide benefits at future dates to participants
7 or beneficiaries under the plan.

8 Nothing in the preceding sentence shall be con-
9 strued to require the fiduciary to review the ap-
10 propriateness of a selection after the purchase
11 of a contract for a participant or beneficiary.

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

22 “(5) LIMITED LIABILITY.—A fiduciary which
23 satisfies the requirements of this subsection shall not
24 be liable following the distribution of any benefit, or
25 the investment by or on behalf of a participant or

1 beneficiary pursuant to the selected guaranteed re-
2 tirement income contract, for any losses that may
3 result to the participant or beneficiary due to an in-
4 surer's inability to satisfy its financial obligations
5 under the terms of such contract.

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

8 “(A) INSURER.—The term ‘insurer’ means
9 an insurance company, insurance service, or in-
10 surance organization, including affiliates of
11 such companies.

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

1 **SEC. 205. MODIFICATION OF NONDISCRIMINATION RULES**
2 **TO PROTECT OLDER, LONGER SERVICE PAR-**
3 **TICIPANTS.**

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

6 (1) by redesignating subsection (o) as sub-
7 section (p); and

8 (2) by inserting after subsection (n) the fol-
9 lowing new subsection:

10 “(o) SPECIAL RULES FOR APPLYING NON-
11 DISCRIMINATION RULES TO PROTECT OLDER, LONGER
12 SERVICE AND GRANDFATHERED PARTICIPANTS.—

13 “(1) TESTING OF DEFINED BENEFIT PLANS
14 WITH CLOSED CLASSES OF PARTICIPANTS.—

15 “(A) BENEFITS, RIGHTS, OR FEATURES
16 PROVIDED TO CLOSED CLASSES.—A defined
17 benefit plan which provides benefits, rights, or
18 features to a closed class of participants shall
19 not fail to satisfy the requirements of sub-
20 section (a)(4) by reason of the composition of
21 such closed class or the benefits, rights, or fea-
22 tures provided to such closed class, if—

23 “(i) for the plan year as of which the
24 class closes and the 2 succeeding plan
25 years, such benefits, rights, and features
26 satisfy the requirements of subsection

1 (a)(4) (without regard to this subpara-
2 graph but taking into account the rules of
3 subparagraph (I)),

4 “(ii) after the date as of which the
5 class was closed, any plan amendment
6 which modifies the closed class or the 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 “(iii) the class was closed before April
12 5, 2017, or the plan is described in sub-
13 paragraph (C).

14 “(B) AGGREGATE TESTING WITH DEFINED
15 CONTRIBUTION PLANS PERMITTED ON A BENE-
16 FITS BASIS.—

17 “(i) IN GENERAL.—For purposes of
18 determining compliance with subsection
19 (a)(4) and section 410(b), a defined benefit
20 plan described in clause (iii) may be aggre-
21 gated and tested on a benefits basis with
22 1 or more defined contribution plans, in-
23 cluding with the portion of 1 or more de-
24 fined contribution plans which—

1 “(I) provides matching contribu-
2 tions (as defined in subsection
3 (m)(4)(A)),

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

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

14 “(ii) SPECIAL RULES FOR MATCHING
15 CONTRIBUTIONS.—For purposes of clause
16 (i), if a defined benefit plan is aggregated
17 with a portion of a defined contribution
18 plan providing matching contributions—

19 “(I) such defined benefit plan
20 must also be aggregated with any por-
21 tion of such defined contribution plan
22 which provides elective deferrals de-
23 scribed in subparagraph (A) or (C) of
24 section 402(g)(3), and

1 “(II) such matching contribu-
2 tions shall be treated in the same
3 manner as nonelective contributions,
4 including for purposes of applying the
5 rules of subsection (l).

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

8 “(I) the plan provides benefits to
9 a closed class of participants,

10 “(II) for the plan year as of
11 which the class closes and the 2 suc-
12 ceeding plan years, the plan satisfies
13 the requirements of section 410(b)
14 and subsection (a)(4) (without regard
15 to this subparagraph but taking into
16 account the rules of subparagraph
17 (I)),

18 “(III) after the date as of which
19 the class was closed, any plan amend-
20 ment which modifies the closed class
21 or the benefits provided to such closed
22 class does not discriminate signifi-
23 cantly in favor of highly compensated
24 employees, and

1 “(IV) the class was closed before
2 April 5, 2017, or the plan is described
3 in subparagraph (C).

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

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

10 “(ii) during the 5-year period pre-
11 ceding the date the class is closed, there
12 has not been a substantial increase in the
13 coverage or value of the benefits, rights, or
14 features described in subparagraph (A) or
15 in the coverage or benefits under the plan
16 described in subparagraph (B)(iii) (which-
17 ever is applicable).

18 “(D) DETERMINATION OF SUBSTANTIAL
19 INCREASE FOR BENEFITS, RIGHTS, AND FEA-
20 TURES.—In applying subparagraph (C)(ii) for
21 purposes of subparagraph (A)(iii), a plan shall
22 be treated as having had a substantial increase
23 in coverage or value of the benefits, rights, or
24 features described in subparagraph (A) during

1 the applicable 5-year period only if, during such
2 period—

3 “(i) the number of participants cov-
4 ered by such benefits, rights, or features
5 on the date such period ends is more than
6 50 percent greater than the number of
7 such participants on the first day of the
8 plan year in which such period began, or

9 “(ii) such benefits, rights, and fea-
10 tures have been modified by 1 or more
11 plan amendments in such a way that, as of
12 the date the class is closed, the value of
13 such benefits, rights, and features to the
14 closed class as a whole is substantially
15 greater than the value as of the first day
16 of such 5-year period, solely as a result of
17 such amendments.

18 “(E) DETERMINATION OF SUBSTANTIAL
19 INCREASE FOR AGGREGATE TESTING ON BENE-
20 FITS BASIS.—In applying subparagraph (C)(ii)
21 for purposes of subparagraph (B)(iii)(IV), a
22 plan shall be treated as having had a substan-
23 tial increase in coverage or benefits during the
24 applicable 5-year period only if, during such pe-
25 riod—

1 “(i) the number of participants bene-
2 fitting under the plan on the date such pe-
3 riod ends is more than 50 percent greater
4 than the number of such participants on
5 the first day of the plan year in which such
6 period began, or

7 “(ii) the average benefit provided to
8 such participants on the date such period
9 ends is more than 50 percent greater than
10 the average benefit provided on the first
11 day of the plan year in which such period
12 began.

13 “(F) CERTAIN EMPLOYEES DIS-
14 REGARDED.—For purposes of subparagraphs
15 (D) and (E), any increase in coverage or value
16 or in coverage or benefits, whichever is applica-
17 ble, which is attributable to such coverage and
18 value or coverage and benefits provided to em-
19 ployees—

20 “(i) who became participants as a re-
21 sult of a merger, acquisition, or similar
22 event which occurred during the 7-year pe-
23 riod preceding the date the class is closed,
24 or

1 “(ii) who became participants by rea-
2 son of a merger of the plan with another
3 plan which had been in effect for at least
4 5 years as of the date of the merger,
5 shall be disregarded, except that clause (ii)
6 shall apply for purposes of subparagraph (D)
7 only if, under the merger, the benefits, rights,
8 or features under 1 plan are conformed to the
9 benefits, rights, or features of the other plan
10 prospectively.

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

13 “(i) the average benefit provided to
14 participants under the plan will be treated
15 as having remained the same between the
16 2 dates described in subparagraph (E)(ii)
17 if the benefit formula applicable to such
18 participants has not changed between such
19 dates, and

20 “(ii) if the benefit formula applicable
21 to 1 or more participants under the plan
22 has changed between such 2 dates, then
23 the average benefit under the plan shall be
24 considered to have increased by more than
25 50 percent only if—

1 “(I) the total amount determined
2 under section 430(b)(1)(A)(i) for all
3 participants benefitting under the
4 plan for the plan year in which the 5-
5 year period described in subparagraph
6 (E) ends, exceeds

7 “(II) the total amount deter-
8 mined under section 430(b)(1)(A)(i)
9 for all such participants for such plan
10 year, by using the benefit formula in
11 effect for each such participant for
12 the first plan year in such 5-year pe-
13 riod,

14 by more than 50 percent. In the case of a
15 CSEC plan (as defined in section 414(y)),
16 the normal cost of the plan (as determined
17 under section 433(j)(1)(B)) shall be used
18 in lieu of the amount determined under
19 section 430(b)(1)(A)(i).

20 “(H) TREATMENT AS SINGLE PLAN.—For
21 purposes of subparagraphs (E) and (G), a plan
22 described in section 413(c) shall be treated as
23 a single plan rather than as separate plans
24 maintained by each employer in the plan.

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

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

8 “(ii) Two or more plans shall not fail
9 to be eligible to be aggregated and treated
10 as a single plan solely by reason of having
11 different plan years.

12 “(iii) Changes in the employee popu-
13 lation shall be disregarded to the extent at-
14 tributable to individuals who become em-
15 ployees or cease to be employees, after the
16 date the class is closed, by reason of a
17 merger, acquisition, divestiture, or similar
18 event.

19 “(iv) Aggregation and all other testing
20 methodologies otherwise applicable under
21 subsection (a)(4) and section 410(b) may
22 be taken into account.

23 The rule of clause (ii) shall also apply for pur-
24 poses of determining whether plans to which
25 subparagraph (B)(i) applies may be aggregated

and treated as 1 plan for purposes of determining whether such plans meet the requirements of subsection (a)(4) and section 410(b).

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

“(i) subparagraph (A)(i) or (B)(iii)(II), whichever is applicable, if the original plan was still within the 3-year period described in such subparagraph at the time of the spin off, and

“(ii) subparagraph (A)(ii) or (B)(iii)(III), whichever is applicable, the treatment under subparagraph (A) or (B) of the spun-off plan shall continue with respect to such other employer.

“(2) TESTING OF DEFINED CONTRIBUTION PLANS.—

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

1 “(i) such defined contribution plan
2 provides make-whole contributions to a
3 closed class of participants whose accruals
4 under a defined benefit plan have been re-
5 duced or eliminated,

6 “(ii) for the plan year of the defined
7 contribution plan as of which the class eli-
8 gible to receive such make-whole contribu-
9 tions closes and the 2 succeeding plan
10 years, such closed class of participants sat-
11 isfies the requirements of section
12 410(b)(2)(A)(i) (determined by applying
13 the rules of paragraph (1)(I)),

14 “(iii) after the date as of which the
15 class was closed, any plan amendment to
16 the defined contribution plan which modi-
17 fies the closed class or the allocations, ben-
18 efits, rights, and features provided to such
19 closed class does not discriminate signifi-
20 cantly in favor of highly compensated em-
21 ployees, and

22 “(iv) the class was closed before April
23 5, 2017, or the defined benefit plan under
24 clause (i) is described in paragraph (1)(C)

1 (as applied for purposes of paragraph
2 (1)(B)(iii)(IV)).

3 “(B) AGGREGATION WITH PLANS INCLUD-
4 ING MATCHING CONTRIBUTIONS.—

5 “(i) IN GENERAL.—With respect to 1
6 or more defined contribution plans de-
7 scribed in subparagraph (A), for purposes
8 of determining compliance with subsection
9 (a)(4) and section 410(b), the portion of
10 such plans which provides make-whole con-
11 tributions or other nonelective contribu-
12 tions may be aggregated and tested on a
13 benefits basis with the portion of 1 or
14 more other defined contribution plans
15 which—

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

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

23 “(III) consists of an employee
24 stock ownership plan (within the
25 meaning of section 4975(e)(7)) or a

1 tax credit employee stock ownership
2 plan (within the meaning of section
3 409(a)).

4 “(ii) SPECIAL RULES FOR MATCHING
5 CONTRIBUTIONS.—Rules similar to the
6 rules of paragraph (1)(B)(ii) shall apply
7 for purposes of clause (i).

8 “(C) SPECIAL RULES FOR TESTING DE-
9 FINED CONTRIBUTION PLAN FEATURES PRO-
10 VIDING MATCHING CONTRIBUTIONS TO CERTAIN
11 OLDER, LONGER SERVICE PARTICIPANTS.—In
12 the case of a defined contribution plan which
13 provides benefits, rights, or features to a closed
14 class of participants whose accruals under a de-
15 fined benefit plan have been reduced or elimi-
16 nated, the plan shall not fail to satisfy the re-
17 quirements of subsection (a)(4) solely by reason
18 of the composition of the closed class or the
19 benefits, rights, or features provided to such
20 closed class if the defined contribution plan and
21 defined benefit plan otherwise meet the require-
22 ments of subparagraph (A) but for the fact that
23 the make-whole contributions under the defined
24 contribution plan are made in whole or in part
25 through matching contributions.

1 “(D) SPUN-OFF PLANS.—For purposes of
2 this paragraph, if a portion of a defined con-
3 tribution plan described in subparagraph (A) or
4 (C) is spun off to another employer, the treat-
5 ment under subparagraph (A) or (C) of the
6 spun-off plan shall continue with respect to the
7 other employer if such plan continues to comply
8 with the requirements of clauses (ii) (if the
9 original plan was still within the 3-year period
10 described in such clause at the time of the spin
11 off) and (iii) of subparagraph (A), as deter-
12 mined for purposes of subparagraph (A) or (C),
13 whichever is applicable.

14 “(3) DEFINITIONS AND SPECIAL RULE.—For
15 purposes of this subsection—

16 “(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-
17 cept as otherwise provided in paragraph (2)(C),
18 the term ‘make-whole contributions’ means non-
19 elective allocations for each employee in the
20 class which are reasonably calculated, in a con-
21 sistent manner, to replace some or all of the re-
22 tirement benefits which the employee would
23 have received under the defined benefit plan
24 and any other plan or qualified cash or deferred
25 arrangement under subsection (k)(2) if no

1 change had been made to such defined benefit
2 plan and such other plan or arrangement. For
3 purposes of the preceding sentence, consistency
4 shall not be required with respect to employees
5 who were subject to different benefit formulas
6 under the defined benefit plan.

7 “(B) REFERENCES TO CLOSED CLASS OF
8 PARTICIPANTS.—References to a closed class of
9 participants and similar references to a closed
10 class shall include arrangements under which 1
11 or more classes of participants are closed, ex-
12 cept that 1 or more classes of participants
13 closed on different dates shall not be aggre-
14 gated for purposes of determining the date any
15 such class was closed.

16 “(C) HIGHLY COMPENSATED EMPLOYEE.—
17 The term ‘highly compensated employee’ has
18 the meaning given such term in section
19 414(q).”.

20 (b) PARTICIPATION REQUIREMENTS.—Paragraph
21 (26) of section 401(a) of the Internal Revenue Code of
22 1986 is amended by adding at the end the following new
23 subparagraph:

24 “(I) PROTECTED PARTICIPANTS.—

1 “(i) IN GENERAL.—A plan shall be
2 deemed to satisfy the requirements of sub-
3 paragraph (A) if—

4 “(I) the plan is amended—

5 “(aa) to cease all benefit ac-
6 cruals, or

7 “(bb) to provide future ben-
8 efit accruals only to a closed
9 class of participants,

10 “(II) the plan satisfies subpara-
11 graph (A) (without regard to this sub-
12 paragraph) as of the effective date of
13 the amendment, and

14 “(III) the amendment was adopt-
15 ed before April 5, 2017, or the plan is
16 described in clause (ii).

17 “(ii) PLANS DESCRIBED.—A plan is
18 described in this clause if the plan would
19 be described in subsection (o)(1)(C), as ap-
20 plied for purposes of subsection
21 (o)(1)(B)(iii)(IV) and by treating the effec-
22 tive date of the amendment as the date the
23 class was closed for purposes of subsection
24 (o)(1)(C).

1 “(iii) SPECIAL RULES.—For purposes
 2 of clause (i)(II), in applying section
 3 410(b)(6)(C), the amendments described in
 4 clause (i) shall not be treated as a signifi-
 5 cant change in coverage under section
 6 410(b)(6)(C)(i)(II).

7 “(iv) SPUN-OFF PLANS.—For pur-
 8 poses of this subparagraph, if a portion of
 9 a plan described in clause (i) is spun off to
 10 another employer, the treatment under
 11 clause (i) of the spun-off plan shall con-
 12 tinue with respect to the other employer.”.

13 (c) EFFECTIVE DATE.—

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

20 (2) SPECIAL RULES.—

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

(B) CLOSED CLASSES OF PARTICIPANTS.—

For purposes of paragraphs (1)(A)(iii), (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o) of the Internal Revenue Code of 1986 (as added by this section), a closed class of participants shall be treated as being closed before April 5, 2017, if the plan sponsor's intention to create such closed class is reflected in formal written documents and communicated to participants before such date.

(C) CERTAIN POST-ENACTMENT PLAN

AMENDMENTS.—A plan shall not be treated as failing to be eligible for the application of section 401(o)(1)(A), 401(o)(1)(B)(iii), or 401(a)(26) of such Code (as added by this section) to such plan solely because in the case of—

(i) such section 401(o)(1)(A), the plan was amended before the date of the enactment of this Act to eliminate 1 or more benefits, rights, or features, and is further amended after such date of enactment to provide such previously eliminated benefits, rights, or features to a closed class of participants, or

1 (ii) such section 401(o)(1)(B)(iii) or
 2 section 401(a)(26), the plan was amended
 3 before the date of the enactment of this
 4 Act to cease all benefit accruals, and is
 5 further amended after such date of enact-
 6 ment to provide benefit accruals to a closed
 7 class of participants.

8 Any such section shall only apply if the plan
 9 otherwise meets the requirements of such sec-
 10 tion and in applying such section, the date the
 11 class of participants is closed shall be the effec-
 12 tive date of the later amendment.

13 **TITLE III—OTHER BENEFITS**

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

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

21 (b) EXTENSION.—Section 139B(d) of the Internal
 22 Revenue Code of 1986 is amended by striking “beginning
 23 after December 31, 2010.” and inserting “beginning—
 24 “(1) after December 31, 2010, and before Jan-
 25 uary 1, 2020, or

1 “(2) after December 31, 2020.”.

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

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

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

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

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

“(A) expenses for tuition in connection with enrollment or attendance of a designated beneficiary at an elementary or secondary public, private, or religious school, and

“(B) expenses, with respect to a designated beneficiary, for—

“(i) curriculum and curricular materials,

“(ii) books or other instructional materials,

“(iii) online educational materials,

“(iv) tuition for tutoring or educational classes outside of the home (but only if the tutor or class instructor is not related (within the meaning of section 152(d)(2)) to the student),

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

“(vi) educational therapies for students with disabilities,

in connection with a homeschool (whether treated as a homeschool or a private school for purposes of applicable State law).”.

(c) DISTRIBUTIONS FOR QUALIFIED EDUCATION

LOAN REPAYMENTS.—

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

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

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

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

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

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

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

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

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

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

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

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to distributions made after December 31, 2018.

TITLE IV—REVENUE PROVISIONS

SEC. 401. MODIFICATIONS OF REQUIRED DISTRIBUTION RULES FOR DESIGNATED BENEFICIARIES.

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

(1) IN GENERAL.—Section 401(a)(9) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(H) SPECIAL RULES FOR CERTAIN DEFINED CONTRIBUTION PLANS.—In the case of a defined contribution plan, if an employee dies before the distribution of the employee’s entire interest—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 paragraph (H)(ii) applies shall be distrib-
2 uted within 10 years after such date.

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

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

9 (3) EFFECTIVE DATES.—

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

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

24 (i) the later of—

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

7 (II) December 31, 2019, or
 8 (ii) December 31, 2021.

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

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

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

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

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

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

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

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

25 (iii) with respect to which—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (i) during the period—

1 (I) beginning on the date the leg-
 2 islative or regulatory amendment de-
 3 scribed in paragraph (1)(A) takes ef-
 4 fect (or in the case of a plan amend-
 5 ment not required by such legislative
 6 or regulatory amendment, the effec-
 7 tive date specified by the plan); and

8 (II) ending on the date described
 9 in subparagraph (A)(ii) (or, if earlier,
 10 the date the plan amendment is
 11 adopted),

12 the plan is operated as if such plan amend-
 13 ment were in effect; and

14 (ii) such plan amendment applies
 15 retroactively for such period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (d) EFFECTIVE DATE.—The amendments made by
26 this subsection shall apply to returns, statements, and no-

1 tifications required to be filed, and notices required to be
 2 provided, after December 31, 2019.

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

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

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

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

○