117TH CONGRESS
2D Session

H. R. 2954

AN ACT

To increase retirement savings, simplify and clarify retirement plan rules, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Securing a Strong Retirement Act of 2022”.

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

Sec. 101. Expanding automatic enrollment in retirement plans.
Sec. 102. Modification of credit for small employer pension plan startup costs.
Sec. 103. Promotion of Saver’s Credit.
Sec. 104. Enhancement of Saver’s Credit.
Sec. 105. Enhancement of 403(b) plans.
Sec. 106. Increase in age for required beginning date for mandatory distributions.
Sec. 107. Indexing IRA catch-up limit.
Sec. 108. Higher catch-up limit to apply at age 62, 63, and 64.
Sec. 109. Pooled employer plans modification.
Sec. 110. Multiple employer 403(b) plans.
Sec. 111. Treatment of student loan payments as elective deferrals for purposes of matching contributions.
Sec. 112. Application of credit for small employer pension plan startup costs to employers which join an existing plan.
Sec. 113. Military spouse retirement plan eligibility credit for small employers.
Sec. 114. Small immediate financial incentives for contributing to a plan.
Sec. 115. Safe harbor for corrections of employee elective deferral failures.
Sec. 116. Improving coverage for part-time workers.
Sec. 117. Deferral of tax for certain sales of employer stock to employee stock ownership plan sponsored by S corporation.
Sec. 118. Certain securities treated as publicly traded in case of employee stock ownership plans.

TITLE II—PRESERVATION OF INCOME

Sec. 201. Remove required minimum distribution barriers for life annuities.
Sec. 202. Qualifying longevity annuity contracts.
Sec. 203. Insurance-dedicated exchange-traded funds.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

Sec. 301. Recovery of retirement plan overpayments.
Sec. 302. Reduction in excise tax on certain accumulations in qualified retirement plans.
Sec. 303. Performance benchmarks for asset allocation funds.
Sec. 304. Review and report to Congress relating to reporting and disclosure requirements.
Sec. 305. Eliminating unnecessary plan requirements related to unenrolled participants.
Sec. 306. Retirement savings lost and found.
Sec. 307. Updating dollar limit for mandatory distributions.
Sec. 308. Expansion of Employee Plans Compliance Resolution System.
Sec. 309. Eliminate the “first day of the month” requirement for governmental section 457(b) plans.
Sec. 310. One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.
Sec. 311. Distributions to firefighters.
Sec. 312. Exclusion of certain disability-related first responder retirement payments.
Sec. 313. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.
Sec. 314. Requirement to provide paper statements in certain cases.
Sec. 315. Separate application of top heavy rules to defined contribution plans covering excludable employees.
Sec. 316. Repayment of qualified birth or adoption distribution limited to 3 years.
Sec. 317. Employer may rely on employee certifying that deemed hardship distribution conditions are met.
Sec. 318. Penalty-free withdrawals from retirement plans for individuals in case of domestic abuse.
Sec. 319. Reform of family attribution rules.
Sec. 320. Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.
Sec. 321. Retroactive first year elective deferrals for sole proprietors.
Sec. 322. Limiting cessation of IRA treatment to portion of account involved in a prohibited transaction.
Sec. 323. Review of pension risk transfer interpretive bulletin.

TITLE IV—TECHNICAL AMENDMENTS


TITLE V—ADMINISTRATIVE PROVISIONS


TITLE VI—REVENUE PROVISIONS

Sec. 601. Simple and SEP Roth IRAs.
Sec. 602. Hardship withdrawal rules for 403(b) plans.
Sec. 603. Elective deferrals generally limited to regular contribution limit.
Sec. 604. Optional treatment of employer matching contributions as Roth contributions.

TITLE VII—BUDGETARY EFFECTS

Sec. 701. Determination of budgetary effects.
TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

SEC. 101. EXPANDING AUTOMATIC ENROLLMENT IN RETIREMENT PLANS.

(a) In General.—Subpart B of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 414 the following new section:

“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC ENROLLMENT.

“(a) In General.—Except as otherwise provided in this section—

“(1) an arrangement shall not be treated as a qualified cash or deferred arrangement described in section 401(k) unless such arrangement meets the automatic enrollment requirements of subsection (b), and

“(2) an annuity contract otherwise described in section 403(b)(1) which is purchased under a salary reduction agreement shall not be treated as described in such section unless such agreement meets the automatic enrollment requirements of subsection (b).

“(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—
“(1) IN GENERAL.—An arrangement or agreement meets the requirements of this subsection if such arrangement or agreement is an eligible automatic contribution arrangement (as defined in section 414(w)(3)) which meets the requirements of paragraphs (2) through (4).

“(2) ALLOWANCE OF PERMISSIBLE WITHDRAWALS.—An eligible automatic contribution arrangement meets the requirements of this paragraph if such arrangement allows employees to make permissible withdrawals (as defined in section 414(w)(2)).

“(3) MINIMUM CONTRIBUTION PERCENTAGE.—

“(A) IN GENERAL.—An eligible automatic contribution arrangement meets the requirements of this paragraph if—

“(i) the uniform percentage of compensation contributed by the participant under such arrangement during the first year of participation is not less than 3 percent and not more than 10 percent (unless the participant specifically elects not to have such contributions made or to have such contributions made at a different percentage), and
“(ii) effective for the first day of each plan year starting after each completed year of participation under such arrangement such uniform percentage is increased by 1 percentage point (to at least 10 percent, but not more than 15 percent) unless the participant specifically elects not to have such contributions made or to have such contributions made at a different percentage.

“(B) INITIAL REDUCED CEILING FOR CERTAIN PLANS.—In the case of any eligible automatic contribution arrangement (other than an arrangement that meets the requirements of paragraph (12) or (13) of section 401(k)), for plan years ending before January 1, 2025, subparagraph (A)(ii) shall be applied by substituting ‘10 percent’ for ‘15 percent’.

“(4) INVESTMENT REQUIREMENTS.—An eligible automatic contribution arrangement meets the requirements of this paragraph if amounts contributed pursuant to such arrangement, and for which no investment is elected by the participant, are invested in accordance with the requirements of section
“(c) EXCEPTIONS.—For purposes of this section—

“(1) SIMPLE PLANS.—Subsection (a) shall not apply to any simple plan (within the meaning of section 401(k)(11)).

“(2) EXCEPTION FOR PLANS OR ARRANGEMENTS ESTABLISHED BEFORE ENACTMENT OF SECTION.—

“(A) IN GENERAL.—Subsection (a) shall not apply to—

“(i) any qualified cash or deferred arrangement established before the date of the enactment of this section, or

“(ii) any annuity contract purchased under a plan established before the date of the enactment of this section.

“(B) POST-ENACTMENT ADOPTION OF MULTIPLE EMPLOYER PLAN.—Subparagraph (A) shall not apply in the case of an employer adopting after such date of enactment a plan maintained by more than one employer, and subsection (a) shall apply with respect to such employer as if such plan were a single plan.
“(3) Exception for Governmental and Church Plans.—Subsection (a) shall not apply to any governmental plan (within the meaning of section 414(d)) or any church plan (within the meaning of section 414(e)).

“(4) Exception for New and Small Businesses.—

“(A) New Business.—Subsection (a) shall not apply to any qualified cash or deferred arrangement, or any annuity contract purchased under a plan, while the employer maintaining such plan (and any predecessor employer) has been in existence for less than 3 years.

“(B) Small Businesses.—Subsection (a) shall not apply to any qualified cash or deferred arrangement, or any annuity contract purchased under a plan, earlier than the date that is 1 year after the close of the first taxable year with respect to which the employer maintaining the plan normally employed more than 10 employees.

“(C) Treatment of Multiple Employer Plans.—In the case of a plan maintained by more than 1 employer, subparagraphs
(A) and (B) shall be applied separately with respect to each such employer, and all such employers to which subsection (a) applies (after the application of this paragraph) shall be treated as maintaining a separate plan for purposes of this section.”.

(b) Clerical Amendment.—The table of sections for subpart B of part I of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 414 the following new item:

“Sec. 414A. Requirements related to automatic enrollment.”.

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2023.

SEC. 102. MODIFICATION OF CREDIT FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(a) Increase in Credit Percentage for Smaller Employers.—Section 45E(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) Increased credit for certain small employers.—In the case of an employer which would be an eligible employer under subsection (c) if section 408(p)(2)(C)(i) was applied by substituting ‘50 employees’ for ‘100 employees’, subsection (a)
shall be applied by substituting ‘100 percent’ for ‘50 percent’.”.

(b) ADDITIONAL CREDIT FOR EMPLOYER CONTRIBUTIONS BY CERTAIN SMALL EMPLOYERS.—Section 45E of such Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

“(f) ADDITIONAL CREDIT FOR EMPLOYER CONTRIBUTIONS BY CERTAIN ELIGIBLE EMPLOYERS.—

“(1) IN GENERAL.—In the case of an eligible employer, the credit allowed for the taxable year under subsection (a) (determined without regard to this subsection) shall be increased by an amount equal to the applicable percentage of employer contributions (other than any elective deferrals (as defined in section 402(g)(3)) by the employer to an eligible employer plan (other than a defined benefit plan (as defined in section 414(j))).

“(2) LIMITATIONS.—

“(A) DOLLAR LIMITATION.—The amount determined under paragraph (1) (before the application of subparagraph (B)) with respect to any employee of the employer shall not exceed $1,000.

“(B) CREDIT PHASE-IN.—In the case of any eligible employer which had for the pre-
ceding taxable year more than 50 employees, the amount determined under paragraph (1) (without regard to this subparagraph) shall be reduced by an amount equal to the product of—

“(i) the amount otherwise so determined under paragraph (1), multiplied by

“(ii) a percentage equal to 2 percentage points for each employee of the employer for the preceding taxable year in excess of 50 employees.

“(3) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage for the taxable year during which the eligible employer plan is established with respect to the eligible employer shall be 100 percent, and for taxable years thereafter shall be determined under the following table:

<table>
<thead>
<tr>
<th>Taxable Year Beginning After the Taxable Year During Which Plan is Established with Respect to the Eligible Employer</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st ................................................................................................ 100%</td>
<td></td>
</tr>
<tr>
<td>2nd ............................................................................................... 75%</td>
<td></td>
</tr>
<tr>
<td>3rd ............................................................................................... 50%</td>
<td></td>
</tr>
<tr>
<td>4th ................................................................................................ 25%</td>
<td></td>
</tr>
<tr>
<td>Any taxable year thereafter ......................................................... 0%</td>
<td></td>
</tr>
</tbody>
</table>

“(4) DETERMINATION OF ELIGIBLE EMPLOYER; NUMBER OF EMPLOYEES.—For purposes of this subsection, whether an employer is an eligible employer
and the number of employees of an employer shall be determined under the rules of subsection (c), except that paragraph (2) thereof shall only apply to the taxable year during which the eligible employer plan to which this section applies is established with respect to the eligible employer.”.

(e) **Disallowance of Deduction.**—Section 45E(e)(2) of such Code is amended to read as follows:

“(2) **Disallowance of Deduction.**—No deduction shall be allowed—

“(A) for that portion of the qualified start-up costs paid or incurred for the taxable year which is equal to so much of the portion of the credit determined under subsection (a) as is properly allocable to such costs, and

“(B) for that portion of the employer contributions by the employer for the taxable year which is equal to so much of the credit increase determined under subsection (f) as is properly allocable to such contributions.”.

(d) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.
SEC. 103. PROMOTION OF SAVER'S CREDIT.

(a) In general.—The Secretary of the Treasury shall take such steps as the Secretary determines are necessary and appropriate to increase public awareness of the credit provided under section 25B of the Internal Revenue Code of 1986.

(b) Report to Congress.—

(1) In general.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall provide a report to Congress to summarize the anticipated promotion efforts of the Treasury under subsection (a).

(2) Contents.—Such report shall include—

(A) a description of plans for—

(i) the development and distribution of digital and print materials, including the distribution of such materials to States for participants in State facilitated retirement savings programs, and

(ii) the translation of such materials into the 10 most commonly spoken languages in the United States after English (as determined by reference to the most recent American Community Survey of the Bureau of the Census), and
(B) such other information as the Secretary determines is necessary

SEC. 104. ENHANCEMENT OF SAVER’S CREDIT.

(a) 50 PERCENT CREDIT RATE.—Section 25B(a) of the Internal Revenue Code of 1986 is amended by striking “the applicable percentage” and inserting “50 percent”.

(b) ADJUSTED GROSS INCOME PHASEOUTS.—Section 25B(b) of such Code is amended to read as follows:

“(b) LIMITATION.—For purposes of this section—

“(1) IN GENERAL.—The amount of credit allowable under subsection (a) (determined without regard to this subsection) shall be reduced (but not below zero) by an amount which bears the same ratio to the credit otherwise so allowable as—

“(A) the excess (if any) of—

“(i) adjusted gross income of the taxpayer, over

“(ii) the threshold amount, bears to

“(B) the phaseout amount.

“(2) THRESHOLD AMOUNT.—The term ‘threshold amount’ means—

“(A) in the case of a joint return or a surviving spouse (as defined in section 2(a)), $48,000,
“(B) in the case of a head of household, 75 percent of the amount in effect for the taxable year under subparagraph (A), and

“(C) in the case of any other individual, 50 percent of the amount in effect for the taxable year under subparagraph (A).

“(3) PHASEOUT AMOUNT.—The term ‘phaseout amount’ means—

“(A) in the case of a joint return or a surviving spouse (as defined in 2(a)), $35,000,

“(B) in the case of a head of household (as defined in section 2(b)), 75 percent of the amount in effect for the taxable year under subparagraph (A), and

“(C) in the case of any other individual, 50 percent of the amount in effect for the taxable year under subparagraph (A).

“(4) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2026, the $48,000 dollar amount in paragraph (2) and the $35,000 in paragraph (3) shall each be increased by an amount equal to—

“(i) such dollar amount, multiplied by
“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2022’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(B) Rounding.—Any increase determined under subparagraph (A) that is not a multiple of $500 shall be rounded to the nearest multiple of $500.”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2026.

SEC. 105. ENHANCEMENT OF 403(b) PLANS.

(a) In General.—Section 403(b)(7)(A) of the Internal Revenue Code of 1986 is amended by striking “if the amounts are to be invested in regulated investment company stock to be held in that custodial account” and inserting “if the amounts are to be held in that custodial account and invested in regulated investment company stock or a group trust intended to satisfy the requirements of Internal Revenue Service Revenue Ruling 81–100 (or any successor guidance)”.

(b) Conforming Amendment.—The heading of paragraph (7) of section 403(b) of such Code is amended
by striking ‘‘FOR REGULATED INVESTMENT COMPANY

STOCK’’.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to amounts invested after Decem-
ber 31, 2022.

SEC. 106. INCREASE IN AGE FOR REQUIRED BEGINNING

DATE FOR MANDATORY DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C)(i)(I) of the

Internal Revenue Code of 1986 is amended by striking

‘‘age 72’’ and inserting ‘‘the applicable age’’.

(b) SPOUSE BENEFICIARIES; SPECIAL RULE FOR

OWNERS.—Subparagraphs (B)(iv)(I) and (C)(ii)(I) of sec-

tion 401(a)(9) of such Code are each amended by striking

‘‘age 72’’ and inserting ‘‘the applicable age’’.

(c) APPLICABLE AGE.—Section 401(a)(9)(C) of such

Code is amended by adding at the end the following new

clause:

“(v) APPLICABLE AGE.—

“(I) In the case of an individual

who attains age 72 after December

31, 2022, and age 73 before January

1, 2030, the applicable age is 73.

“(II) In the case of an individual

who attains age 73 after December
31, 2029, and age 74 before January 1, 2033, the applicable age is 74.

“(III) In the case of an individual who attains age 74 after December 31, 2032, the applicable age is 75.”.

(d) CONFORMING AMENDMENTS.—The last sentence of section 408(b) of such Code is amended by striking “age 72” and inserting “the applicable age (determined under section 401(a)(9)(C)(v) for the calendar year in which such taxable year begins)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions required to be made after December 31, 2022, with respect to individuals who attain age 72 after such date.

SEC. 107. INDEXING IRA CATCH-UP LIMIT.

(a) IN GENERAL.—Subparagraph (C) of section 219(b)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iii) INDEXING OF CATCH-UP LIMITATION.—In the case of any taxable year beginning in a calendar year after 2023, the $1,000 amount under subparagraph (B)(ii) shall be increased by an amount equal to—
“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2022’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

If any amount after adjustment under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lower multiple of $100.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2023.

SEC. 108. HIGHER CATCH-UP LIMIT TO APPLY AT AGE 62, 63, AND 64.

(a) IN GENERAL.—

(1) PLANS OTHER THAN SIMPLE PLANS.—Section 414(v)(2)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting the following before the period: “($10,000, in the case of an eligible participant who would attain age 62, but not age 65, before the close of the taxable year)”. 
(2) SIMPLE PLANS.—Section 414(v)(2)(B)(ii) of such Code is amended by inserting the following before the period: “($5,000, in the case of an eligible participant who would attain age 62, but not age 65, before the close of the taxable year)’’. 

(b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph (C) of section 414(v)(2) of such Code is amended by adding at the end the following: “In the case of a year beginning after December 31, 2023, the Secretary shall adjust annually the $10,000 amount in subparagraph (B)(i) and the $5,000 amount in subparagraph (B)(ii) for increases in the cost-of-living at the same time and in the same manner as adjustments under the preceding sentence; except that the base period taken into account shall be the calendar quarter beginning July 1, 2022.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2023.

SEC. 109. POOLED EMPLOYER PLANS MODIFICATION.

(a) IN GENERAL.—Section 3(43)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(43)(B)(ii)) is amended to read as follows:

“(ii) designate a named fiduciary (other than an employer in the plan) to be responsible for collecting contributions to
the plan and require such fiduciary to implement written contribution collection procedures that are reasonable, diligent, and systematic;”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2022.

8 SEC. 110. MULTIPLE EMPLOYER 403(b) PLANS.

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

“(15) MULTIPLE EMPLOYER PLANS.—

“(A) IN GENERAL.—Except in the case of a church plan, this subsection shall not be treated as failing to apply to an annuity contract solely by reason of such contract being purchased under a plan maintained by more than 1 employer.

“(B) TREATMENT OF EMPLOYERS FAILING TO MEET REQUIREMENTS OF PLAN.—

“(i) IN GENERAL.—In the case of a plan maintained by more than 1 employer, this subsection shall not be treated as failing to apply to an annuity contract held under such plan merely because of one or
more employers failing to meet the require-
ments of this subsection if such plan satis-
fies rules similar to the rules of section
413(e)(2) with respect to any such em-
ployer failure.

“(ii) ADDITIONAL REQUIREMENTS IN
CASE OF NON-GOVERNMENTAL PLANS.—A
plan shall not be treated as meeting the re-
quirements of this subparagraph unless the
plan satisfies rules similar to the rules of
subparagraph (A) or (B) of section
413(e)(1), except in the case of a multiple
employer plan maintained solely by any of
the following: A State, a political subdivi-
sion of a State, or an agency or instrument-
tality of any one or more of the fore-
going.”.

(b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE
EMPLOYER PLAN.—Section 6057 of such Code is amend-
ed by redesignating subsection (g) as subsection (h) and
by inserting after subsection (f) the following new sub-
section:

“(g) 403(b) MULTIPLE EMPLOYER PLANS TREATED
AS ONE PLAN.—In the case of annuity contracts to which
this section applies and to which section 403(b) applies
by reason of the plan under which such contracts are pur-
chased meeting the requirements of paragraph (15) there-
of, such plan shall be treated as a single plan for purposes
of this section.”.

(c) Annual Information Returns for 403(b) Multiple Employer Plan.—Section 6058 of such Code
is amended by redesignating subsection (f) as subsection
(g) and by inserting after subsection (e) the following new
subsection:

“(f) 403(b) Multiple Employer Plans Treated
as One Plan.—In the case of annuity contracts to which
this section applies and to which section 403(b) applies
by reason of the plan under which such contracts are pur-
chased meeting the requirements of paragraph (15) there-
of, such plan shall be treated as a single plan for purposes
of this section.”.

(d) Amendments to Employee Retirement In-
come Security Act of 1974.—

(1) In general.—Section 3(43)(A) of the Em-
ployee Retirement Income Security Act of 1974 is
amended—

(A) in clause (ii), by striking “section
501(a) of such Code or” and inserting “section
501(a) of such Code, a plan that consists of
contracts described in section 403(b) of such Code, or”'; and

    (B) in the flush text at the end, by striking “the plan.” and inserting “the plan, but such term shall include any program (other than a governmental plan) maintained for the benefit of the employees of more than 1 employer that consists of contracts described in section 403(b) of such Code and that meets the requirements of subparagraph (A) or (B) of section 413(e)(1) of such Code.”.

(2) Conforming Amendments.—Sections 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of the Employee Retirement Income Security Act of 1974 are each amended by striking “section 401(a) of such Code or” and inserting “section 401(a) of such Code, a plan that consists of contracts described in section 403(b) of such Code, or”.

(e) Regulations Relating to Employer Failure to Meet Multiple Employer Plan Requirements.—The Secretary of the Treasury (or the Secretary’s delegate) shall prescribe such regulations as may be necessary to clarify, in the case of plans to which section 403(b)(15) of the Internal Revenue Code of 1986 applies, the treatment of an employer departing such plan
in connection with such employer’s failure to meet multiple employer plan requirements.

(f) MODIFICATION OF MODEL PLAN LANGUAGE, ETC.—

(1) PLAN NOTIFICATIONS.—The Secretary of the Treasury (or the Secretary’s delegate) shall modify the model plan language published under section 413(e)(5) of the Internal Revenue Code of 1986 to include language that notifies participating employers described in section 501(c)(3), and which are exempt from tax under section 501(a), that the plan is subject to the Employee Retirement Income Security Act of 1974 and that such employer is a plan sponsor with respect to its employees participating in the multiple employer plan and, as such, has certain fiduciary duties with respect to the plan and to its employees.

(2) MODEL PLANS FOR MULTIPLE EMPLOYER 403(b) NON-GOVERNMENTAL PLANS.—For plans to which section 403(b)(15)(A) of the Internal Revenue Code of 1986 applies (other than a plan maintained for its employees by a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing), the Secretary of the Treasury shall publish model plan language similar
to model plan language published under section 413(e)(5) of such Code.

(3) Educational Outreach to Employers Exempt from Tax.—The Secretary of the Treasury (or the Secretary’s delegate) shall provide education and outreach to increase awareness to employers described in section 501(c)(3) of the Internal Revenue Code of 1986, and which are exempt from tax under section 501(a) of such Code, that multiple employer plans are subject to the Employee Retirement Income Security Act of 1974 and that such employer is a plan sponsor with respect to its employees participating in the multiple employer plan and, as such, has certain fiduciary duties with respect to the plan and to its employees.

(g) No Inference With Respect to Church Plans.—Regarding any application of section 403(b) of the Internal Revenue Code of 1986 to an annuity contract purchased under a church plan (as defined in section 414(e) of such Code) maintained by more than 1 employer, or to any application of rules similar to section 413(e) of such Code to such a plan, no inference shall be made from section 403(b)(15)(A) of such Code (as added by this Act) not applying to such plans. 

(h) Effective Date.—
(1) **IN GENERAL.**—The amendments made by this section shall apply to plan years beginning after December 31, 2022.

(2) **RULE OF CONSTRUCTION.**—Nothing in the amendments made by subsection (a) shall be construed as limiting the authority of the Secretary of the Treasury or the Secretary’s delegate (determined without regard to such amendment) to provide for the proper treatment of a failure to meet any requirement applicable under the Internal Revenue Code of 1986 with respect to one employer (and its employees) in the case of a plan to which section 403(b)(15) of the Internal Revenue Code of 1986 applies.

**SEC. 111. TREATMENT OF STUDENT LOAN PAYMENTS AS ELECTIVE DEFERRALS FOR PURPOSES OF MATCHING CONTRIBUTIONS.**

(a) **IN GENERAL.**—Section 401(m)(4)(A) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, and”, and by adding at the end the following new clause:

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

(b) QUALIFIED STUDENT LOAN PAYMENT.—Section 401(m)(4) of such Code is amended by adding at the end the following new subparagraph:

“(D) QUALIFIED STUDENT LOAN PAYMENT.—The term ‘qualified student loan payment’ means a payment made by an employee in repayment of a qualified education loan (as defined section 221(d)(1)) incurred by the employee to pay qualified higher education expenses, but only—

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

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

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

“(ii) if the employee certifies to the employer making the matching contribu-
tion under this paragraph that such pay-
ment has been made on such loan.

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

(c) Matching Contributions for Qualified
Student Loan Payments.—Section 401(m) of such
Code is amended by redesignating paragraph (13) as para-
graph (14), and by inserting after paragraph (12) the fol-
lowing new paragraph:

“(13) Matching Contributions for Quali-
fied Student Loan Payments.—

“(A) In general.—For purposes of para-
graph (4)(A)(iii), an employer contribution
made to a defined contribution plan on account
of a qualified student loan payment shall be
treated as a matching contribution for purposes
of this title if—

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

“(ii) the plan provides matching contributions on account of qualified student loan payments only on behalf of employees otherwise eligible to receive matching contributions on account of elective deferrals,

“(iii) under the plan, all employees eligible to receive matching contributions on account of elective deferrals are eligible to receive matching contributions on account of qualified student loan payments, and

“(iv) the plan provides that matching contributions on account of qualified student loan payments vest in the same manner as matching contributions on account of elective deferrals.

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

“(i) NONDISCRIMINATION RULES.—

For purposes of subparagraph (A)(iii), subsection (a)(4), and section 410(b), matching contributions described in paragraph (4)(A)(iii) shall not fail to be treated as available to an employee solely because
such employee does not have debt incurred
under a qualified education loan (as de-
defined in section 221(d)(1)).

“(ii) Student loan payments not

treated as plan contribution.—Ex-
cept as provided in clause (iii), a qualified
student loan payment shall not be treated
as a contribution to a plan under this title.

“(iii) Matching contribution
rules.—Solely for purposes of meeting
the requirements of paragraph (11)(B) or
(12) of this subsection, or paragraph
(11)(B)(i)(II), (12)(B), or (13)(D) of sub-
section (k), a plan may treat a qualified
student loan payment as an elective deferr-
al or an elective contribution, whichever is
applicable.

“(iv) Actual deferral percent-
age testing.—In determining whether a
plan meets the requirements of subsection
(k)(3)(A)(ii) for a plan year, the plan may
apply the requirements of such subsection
separately with respect to all employees
who receive matching contributions de-
scribed in paragraph (4)(A)(iii) for the plan year.

“(C) **EMPLOYER MAY RELY ON EMPLOYEE CERTIFICATION.**—The employer may rely on an employee certification of payment under paragraph (4)(D)(ii).”.

(d) **SIMPLE RETIREMENT ACCOUNTS.**—Section 408(p)(2) of such Code is amended by adding at the end the following new subparagraph:

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

“(i) **IN GENERAL.**—Subject to the rules of clause (iii), an arrangement shall not fail to be treated as meeting the requirements of subparagraph (A)(iii) solely because under the arrangement, solely for purposes of such subparagraph, qualified student loan payments are treated as amounts elected by the employee under subparagraph (A)(i)(I) to the extent such payments do not exceed—

“(I) the applicable dollar amount under subparagraph (E) (after application of section 414(v)) for the year (or, if lesser, the employee’s com-
pensation (as defined in section 415(e)(3)) for the year), reduced by

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

“(ii) QUALIFIED STUDENT LOAN PAYMENT.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘qualified student loan payment’ means a payment made by an employee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred by the employee to pay qualified higher education expenses, but only if the employee certifies to the employer making the matching contribution that such payment has been made on such a loan.

“(II) QUALIFIED HIGHER EDUCATION EXPENSES.—The term ‘qualified higher education expenses’ has the same meaning as when used in section 401(m)(4)(D).
“(iii) APPLICABLE RULES.—Clause (i) shall apply to an arrangement only if, under the arrangement—

“(I) matching contributions on account of qualified student loan payments are provided only on behalf of employees otherwise eligible to elect contributions under subparagraph (A)(i)(I), and

“(II) all employees otherwise eligible to participate in the arrangement are eligible to receive matching contributions on account of qualified student loan payments.”.

(e) 403(b) PLANS.—Section 403(b)(12)(A) of such Code is amended by adding at the end the following: “The fact that the employer offers matching contributions on account of qualified student loan payments as described in section 401(m)(13) shall not be taken into account in determining whether the arrangement satisfies the requirements of clause (ii) (and any regulation thereunder).”.

(f) 457(b) PLANS.—Section 457(b) of such Code is amended by adding at the end the following: “A plan which is established and maintained by an employer which
is described in subsection (c)(1)(A) shall not be treated as failing to meet the requirements of this subsection solely because the plan, or another plan maintained by the employer which meets the requirements of section 401(a) or 403(b), provides for matching contributions on account of qualified student loan payments as described in section 401(m)(13).”.

(g) REGULATORY AUTHORITY.—The Secretary shall prescribe regulations for purposes of implementing the amendments made by this section, including regulations—

(1) permitting a plan to make matching contributions for qualified student loan payments, as defined in sections 401(m)(4)(D) and 408(p)(2)(F) of the Internal Revenue Code of 1986, as added by this section, at a different frequency than matching contributions are otherwise made under the plan, provided that the frequency is not less than annually;

(2) permitting employers to establish reasonable procedures to claim matching contributions for such qualified student loan payments under the plan, including an annual deadline (not earlier than 3 months after the close of each plan year) by which a claim must be made; and
(3) promulgating model amendments which plans may adopt to implement matching contributions on such qualified student loan payments for purposes of sections 401(m), 408(p), 403(b), and 457(b) of the Internal Revenue Code of 1986.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made for plan years beginning after December 31, 2022.

SEC. 112. APPLICATION OF CREDIT FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS TO EMPLOYERS WHICH JOIN AN EXISTING PLAN.

(a) IN GENERAL.—Section 45E(d)(3)(A) of the Internal Revenue Code of 1986 is amended by striking “effective” and inserting “effective with respect to the eligible employer”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 104 of the Setting Every Community Up for Retirement Enhancement Act of 2019.

SEC. 113. MILITARY SPOUSE RETIREMENT PLAN ELIGIBILITY CREDIT FOR SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:
"SEC. 45U. MILITARY SPOUSE RETIREMENT PLAN ELIGIBILITY CREDIT FOR SMALL EMPLOYERS.

(a) In General.—For purposes of section 38, in the case of any eligible small employer, the military spouse retirement plan eligibility credit determined under this section for any taxable year is an amount equal to the sum of—

“(1) $250 with respect to each military spouse who is an employee of such employer and who is eligible to participate in an eligible defined contribution plan of such employer at any time during such taxable year, plus

“(2) so much of the contributions made by such employer to all such plans with respect to such employee during such taxable year as do not exceed $250.

(b) Limitation.—An individual shall only be taken into account as a military spouse under subsection (a) for the taxable year which includes the date on which such individual began participating in the eligible defined contribution plan of the employer and the 2 succeeding taxable years.

(c) Eligible Small Employer.—For purposes of this section—
“(1) IN GENERAL.—The term ‘eligible small employer’ means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)).

“(2) APPLICATION OF 2-YEAR GRACE PERIOD.—A rule similar to the rule of section 408(p)(2)(C)(i)(II) shall apply for purposes of this section.

“(d) MILITARY SPOUSE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘military spouse’ means, with respect to any employer, any individual who is married (within the meaning of section 7703 as of the first date that the employee is employed by the employer) to an individual who is a member of the uniformed services (as defined section 101(a)(5) of title 10, United States Code). For purposes of this section, an employer may rely on an employee’s certification that such employee’s spouse is a member of the uniformed services if such certification provides the name, rank, and service branch of such spouse.

“(2) EXCLUSION OF HIGHLY COMPENSATED EMPLOYEES.—With respect to any employer, the term ‘military spouse’ shall not include any individual if such individual is a highly compensated em-
ployee of such employer (within the meaning of section 414(q)).

“(e) Eligible Defined Contribution Plan.—
For purposes of this section, the term ‘eligible defined contribu-
tion plan’ means, with respect to any eligible small
employer, any defined contribution plan (as defined in sec-
tion 414(i)) of such employer if, under the terms of such
plan—

“(1) military spouses employed by such em-
ployer are eligible to participate in such plan not
later than the date which is 2 months after the date
on which such individual begins employment with
such employer, and

“(2) military spouses who are eligible to partici-
pate in such plan—

“(A) are immediately eligible to receive an
amount of employer contributions under such
plan which is not less the amount of such con-
tributions that a similarly situated participant
who is not a military spouse would be eligible
to receive under such plan after 2 years of serv-
ice, and

“(B) immediately have a nonforfeitable
right to the employee’s accrued benefit derived
from employer contributions under such plan.
“(f) AGGREGATION RULE.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one employer for purposes of this section.”.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus”, and by adding at the end the following new paragraph:

“(34) in the case of an eligible small employer (as defined in section 45U(e)), the military spouse retirement plan eligibility credit determined under section 45U(a).”.

(c) SPECIFIED CREDIT FOR PURPOSES OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—Section 3511(d)(2) of such Code is amended by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively, and by inserting after subparagraph (E) the following new subparagraph:

“(F) section 45U (military spouse retirement plan eligibility credit),”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1
1 of such Code is amended by adding at the end the fol-
2 lowing new item:

“Sec. 45U. Military spouse retirement plan eligibility credit for small employ-
ers.”.

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

6 SEC. 114. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR
7 CONTRIBUTING TO A PLAN.

8 (a) IN GENERAL.—Subparagraph (A) of section
9 401(k)(4) of the Internal Revenue Code of 1986 is amend-
10 ed by inserting “(other than a de minimis financial incen-
11 tive)” after “any other benefit”.

12 (b) SECTION 403(b) PLANS.—Subparagraph (A) of
13 section 403(b)(12) of such Code, as amended by the pre-
14 ceeding provisions of this Act, is amended by adding at the
15 end the following: “A plan shall not fail to satisfy clause
16 (ii) solely by reason of offering a de minimis financial in-
17 centive to employees to elect to have the employer make
18 contributions pursuant to a salary reduction agreement.”.

19 (c) EXEMPTION FROM PROHIBITED TRANSACTION
20 RULES.—Subsection (d) of section 4975 of such Code is
21 amended by striking “or” at the end of paragraph (22),
22 by striking the period at the end of paragraph (23) and
23 inserting “, or”, and by adding at the end the following
24 new paragraph:
“(24) the provision of a de minimis financial incentive described in section 401(k)(4)(A).”.

(d) Amendment of Employee Retirement Income Security Act of 1974.—Subsection (b) of section 408 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

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

(e) Effective Date.—The amendments made by this section shall apply with respect to plan years beginning after the date of enactment of this Act.

SEC. 115. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE ELECTIVE DEFERRAL FAILURES.

(a) In General.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(aa) Correcting Automatic Contribution Errors.—

“(1) In General.—Any plan or arrangement shall not fail to be treated as a plan described in sections 401(a), 403(b), 408, or 457(b), as applicable, solely by reason of a corrected error.
“(2) Corrected error defined.—For purposes of this subsection, the term ‘corrected error’ means a reasonable administrative error in implementing an automatic enrollment or automatic escalation feature in accordance with the terms of an eligible automatic contribution arrangement (as defined under subsection (w)(3)), provided that such implementation error—

“(A) is corrected by the date that is 9½ months after the end of the plan year during which the error occurred,

“(B) is corrected in a manner that is favorable to the participant, and

“(C) is of a type which is so corrected for all similarly situated participants in a non-discriminatory manner.

Such correction may occur before or after the participant has terminated employment and may occur without regard to whether the error is identified by the Secretary.

“(3) Regulations and guidance for favorable correction methods.—The Secretary shall, by regulations or other guidance of general applicability, specify the correction methods that are in a
manner favorable to the participant for purposes of paragraph (2)(B).”.

(b) Effective Date.—The amendment made by this section shall apply with respect to any errors with respect to which the date referred to in section 414(aa) (as added by this section) is after the date of enactment of this Act.

SEC. 116. IMPROVING COVERAGE FOR PART-TIME WORKERS.

(a) In General.—Section 202 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052) is amended by adding at the end the following new subsection:

“(c) Special Rule for Certain Part-time Employees.—

“(1) In General.—A pension plan that includes either a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1986) or a salary reduction agreement (as described in section 403(b) of such Code) shall not require, as a condition of participation in the arrangement or agreement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the close of the earlier of—
“(A) the period permitted under subsection (a)(1) (determined without regard to subpara-
graph (B)(i) thereof); or

“(B) the first 24-month period—

“(i) consisting of 2 consecutive 12-
month periods during each of which the
employee has at least 500 hours of service;
and

“(ii) by the close of which the em-
ployee has attained the age of 21.

“(2) EXCEPTION.—Paragraph (1)(B) shall not apply to any employee described in section 410(b)(3)

“(3) COORDINATION WITH OTHER RULES.—

“(A) IN GENERAL.—In the case of employ-
ees who are eligible to participate in the ar-
rangement or agreement solely by reason of
paragraph (1)(B):

“(i) EXCLUSIONS.—An employer may elect to exclude such employees from the
application of subsections (a)(4), (k)(3),
(k)(12), (k)(13), and (m)(2) of section 401
of the Internal Revenue Code of 1986 and
section 410(b) of such Code.
“(ii) NONDISCRIMINATION RULES.—
Notwithstanding paragraph (1), section 401(k)(15)(B)(i)(I) of such Code shall apply.

“(iii) TIME OF PARTICIPATION.—The rules of subsection (a)(4) shall apply to such employees.

“(B) TOP-HEAVY RULES.—An employer may elect to exclude all employees who are eligible to participate in a plan maintained by the employer solely by reason of paragraph (1)(B) from the application of the vesting and benefit requirements under subsections (b) and (c) of section 416 of the Internal Revenue Code of 1986.

“(4) 12-MONTH PERIOD.—For purposes of this subsection, 12-month periods shall be determined in the same manner as under the last sentence of subsection (a)(3)(A), except that 12-month periods beginning before January 1, 2021, shall not be taken into account.”

(b) VESTING.—Section 203(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended by redesignating paragraph (4) as
paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) **PART-TIME EMPLOYEES.**—For purposes of determining whether an employee who is eligible to participate in a qualified cash or deferred arrangement or a salary reduction agreement under a plan solely by reason of section 202(e)(1)(B) has a non-forfeitable right to employer contributions—

“(A) except as provided in subparagraph (B), each 12-month period for which the employee has at least 500 hours of service shall be treated as a year of service; and

“(B) paragraph (3) shall be applied by substituting ‘at least 500 hours of service’ for ‘more than 500 hours of service’ in subparagraph (A) thereof.

For purposes of this paragraph, 12-month periods shall be determined in the same manner as under the last sentence of section 202(a)(3)(A), except that 12-month periods beginning before January 1, 2021, shall not be taken into account.”.

(e) **REDUCTION IN PERIOD SERVICE REQUIREMENT FOR QUALIFIED CASH AND DEFERRED ARRANGEMENTS.**—Section 401(k)(2)(D)(ii) of the Internal Revenue
Code of 1986 is amended by striking “3” and inserting “2”.

(d) Pre-2021 Service.—Section 112(b) of the Setting Every Community Up for Retirement Enhancement Act of 2019 (26 U.S.C. 401 note) is amended by striking “section 401(k)(2)(D)(ii)” and inserting “paragraphs (2)(D)(ii) and (15)(B)(iii) of section 401(k)”.

(e) Effective Dates.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2022.

(2) Subsection (d).—The amendment made by subsection (d) shall take effect as if included in the enactment of section 112 of the Setting Every Community Up for Retirement Enhancement Act of 2019.

SEC. 117. DEFERRAL OF TAX FOR CERTAIN SALES OF EMPLOYER STOCK TO EMPLOYEE STOCK OWNERSHIP PLAN SPONSORED BY S CORPORATION.

(a) In General.—Section 1042(c)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “domestic C corporation” and inserting “domestic corporation”.

•HR 2954 EH
(b) 10 Percent Limitation on Application of Gain on Sale of S Corporation Stock.—Section 1042 of such Code is amended by adding at the end the following new subsection:

“(h) Application of Section to Sale of Stock in S Corporation.—In the case of the sale of qualified securities of an S corporation, the election under subsection (a) may be made with respect to not more than 10 percent of the amount realized on such sale for purposes of determining the amount of gain not recognized and the extent to which (if at all) the amount realized on such sale exceeds the cost of qualified replacement property. The portion of adjusted basis that is properly allocable to the portion of the amount realized with respect to which the election is made under this subsection shall be taken into account for purposes of the preceding sentence.”.

(c) Effective Date.—The amendments made by this section shall apply to sales after December 31, 2027.

SEC. 118. CERTAIN SECURITIES TREATED AS PUBLICLY TRADED IN CASE OF EMPLOYEE STOCK OWNERSHIP PLANS.

(a) In General.—Section 401(a)(35) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:
“(I) ESOP RULES RELATING TO PUBLICLY TRADED SECURITIES.—In the case of an applicable defined contribution plan which is an employee stock ownership plan, an employer security shall be treated as described in subparagraph (G)(v) if—

“(i) the security is the subject of priced quotations by at least 4 dealers, published and made continuously available on an interdealer quotation system (as such term is used in section 13 of the Securities Exchange Act of 1934) which has made the request described in section 6(j) of such Act to be treated as an alternative trading system,

“(ii) the security is not a penny stock (as defined by section 3(a)(51) of such Act),

“(iii) the security is issued by a corporation which is not a shell company (as such term is used in section 4(d)(6) of the Securities Act of 1933), a blank check company (as defined in section 7(b)(3) of such Act), or subject to bankruptcy proceedings,
“(iv) the security has a public float (as such term is used in section 240.12b-2 of title 17, Code of Federal Regulations) which has a fair market value of at least $1,000,000 and constitutes at least 10 percent of the total shares issued and outstanding.

“(v) in the case of a security issued by a domestic corporation, the issuer publishes, not less frequently than annually, financial statements audited by an independent auditor registered with the Public Company Accounting Oversight Board established under the Sarbanes-Oxley Act of 2002, and

“(vi) in the case of a security issued by a foreign corporation, the security is represented by a depositary share (as defined under section 240.12b-2 of title 17, Code of Federal Regulations), or is issued by a foreign corporation incorporated in Canada and readily tradeable on an established securities market in Canada, and the issuer—
“(I) is subject to, and in compliance with, the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)),

“(II) is subject to, and in compliance with, the reporting requirements of section 230.257 of title 17, Code of Federal Regulations, or

“(III) is exempt from such requirements under section 240.12g3–2(b) of title 17, Code of Federal Regulations.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2027.

TITLE II—PRESERVATION OF INCOME

SEC. 201. REMOVE REQUIRED MINIMUM DISTRIBUTION BARRIERS FOR LIFE ANNUITIES.

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

“(J) CERTAIN INCREASES IN PAYMENTS UNDER A COMMERCIAL ANNUITY.—Nothing in
this section shall prohibit a commercial annuity
(within the meaning of section 3405(e)(6)) that
is issued in connection with any eligible retire-
ment plan (within the meaning of section
402(c)(8)(B), other than a defined benefit plan)
from providing one or more of the following
types of payments on or after the annuity start-
ing date:

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

“(ii) a lump sum payment that—

“(I) results in a shortening of the
payment period with respect to an an-
nuity or a full or partial commutation
of the future annuity payments, pro-
vided that such lump sum is deter-
dined using reasonable actuarial
methods and assumptions, as deter-
dined in good faith by the issuer of
the contract, or

“(II) accelerates the receipt of
annuity payments that are scheduled
to be received within the ensuing 12
months, regardless of whether such acceleration shortens the payment period with respect to the annuity, reduces the dollar amount of benefits to be paid under the contract, or results in a suspension of annuity payments during the period being accelerated,

“(iii) an amount which is in the nature of a dividend or similar distribution, provided that the issuer of the contract determines such amount based on a reasonable comparison of the actuarial factors assumed when calculating the initial annuity payments and the issuer’s experience with respect to those factors, or

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

(b) EFFECTIVE DATE.—This section shall apply to calendar years ending after the date of the enactment of this Act.
SEC. 202. QUALIFYING LONGEVITY ANNUITY CONTRACTS.

(a) In General.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the “Secretary”) shall amend the regulation issued by the Department of the Treasury relating to “Longevity Annuity Contracts” (79 Fed. Reg. 37633 (July 2, 2014)), as follows:

(1) Repeal 25-Percent Premium Limit.—The Secretary shall amend Q&A–17(b)(3) of Treasury Regulation section 1.401(a)(9)–6 and Q&A–12(b)(3)
of Treasury Regulation section 1.408–8 to eliminate the requirement that premiums for qualifying longevity annuity contracts be limited to a percentage of an individual’s account balance, and to make such corresponding changes to the regulations and related forms as are necessary to reflect the elimination of this requirement.

(2) Facilitate Joint and Survivor Benefits.—The Secretary shall amend Q&A–17(c) of Treasury Regulation section 1.401(a)(9)–6, and make such corresponding changes to the regulations and related forms as are necessary, to provide that, in the case of a qualifying longevity annuity contract which was purchased with joint and survivor annuity benefits for the individual and the individual’s
spouse which were permissible under the regulations at the time the contract was originally purchased, a divorce occurring after the original purchase and before the annuity payments commence under the contract will not affect the permissibility of the joint and survivor annuity benefits or other benefits under the contract, or require any adjustment to the amount or duration of benefits payable under the contract, provided that any qualified domestic relations order (within the meaning of section 414(p) of the Internal Revenue Code of 1986) or, in the case of an arrangement not subject to section 414(p) of such Code or section 206(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)), any divorce or separation instrument (as defined in subsection (b))—

(A) provides that the former spouse is entitled to the survivor benefits under the contract;

(B) does not modify the treatment of the former spouse as the beneficiary under the contract who is entitled to the survivor benefits; or

(C) does not modify the treatment of the former spouse as the measuring life for the survivor benefits under the contract.
(3) Permit short free look period.—The Secretary shall amend Q&A–17(a)(4) of Treasury Regulation section 1.401(a)(9)–6 to ensure that such Q&A does not preclude a contract from including a provision under which an employee may rescind the purchase of the contract within a period not exceeding 90 days from the date of purchase.

(b) Divorce or Separation Instrument.—For purposes of subsection (a)(2), the term “divorce or separation instrument” means—

(1) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

(2) a written separation agreement, or

(3) a decree (not described in paragraph (1)) requiring a spouse to make payments for the support or maintenance of the other spouse.

(c) Effective Dates, Enforcement, and Interpretations.—

(1) Effective dates.—

(A) Paragraph (1) of subsection (a) shall be effective with respect to contracts purchased or received in an exchange on or after the date of the enactment of this Act.

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

(2) **Enforcement and Interpretations.**—

Prior to the date on which the Secretary issues final regulations pursuant to subsection (a)—

(A) the Secretary (or delegate) shall administer and enforce the law in accordance with subsection (a) and the effective dates in paragraph (1) of this subsection; and

(B) taxpayers may rely upon their reasonable good faith interpretations of subsection (a).

(d) **Regulatory Successor Provision.**—Any reference to a regulation under this section shall be treated as including a reference to any successor regulation there-to.

**SEC. 203. INSURANCE-DEDICATED EXCHANGE-TRADED FUNDS.**

(a) **In General.**—Not later than the date which is 7 years after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary’s delegate) shall amend the regulation issued by the Department of the Treasury relating to “Income Tax; Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts”, 54 Fed. Reg. 8728 (March 2, 1989), and make any necessary corresponding amend-
ments to other regulations, in order to facilitate the use of exchange-traded funds as investment options under variable contracts within the meaning of section 817(d) of the Internal Revenue Code of 1986, in accordance with subsections (b) and (c) of this section.

(b) Designate Certain Authorized Participants and Market Makers as Eligible Investors.—The Secretary of the Treasury (or the Secretary’s delegate) shall amend Treasury Regulation section 1.817–5(f)(3) to provide that satisfaction of the requirements in Treasury Regulation section 1.817–5(f)(2)(i) with respect to an exchange-traded fund shall not be prevented by reason of beneficial interests in such a fund being held by 1 or more authorized participants or market makers.

(c) Define Relevant Terms.—In amending Treasury Regulation section 1.817–5(f)(3) in accordance with subsections (b) of this section, the Secretary of the Treasury (or the Secretary’s delegate) shall provide definitions consistent with the following:

(1) Exchange-Traded Fund.—The term “exchange-traded fund” means a regulated investment company, partnership, or trust—

(A) that is registered with the Securities and Exchange Commission as an open-end investment company or a unit investment trust;
(B) the shares of which can be purchased or redeemed directly from the fund only by an authorized participant; and

(C) the shares of which are traded throughout the day on a national stock exchange at market prices that may or may not be the same as the net asset value of the shares.

(2) AUTHORIZED PARTICIPANT.—The term “authorized participant” means a financial institution that is a member or participant of a clearing agency registered under section 17A(b) of the Securities Exchange Act of 1934 that enters into a contractual relationship with an exchange-traded fund pursuant to which the financial institution is permitted to purchase and redeem shares directly from the fund and to sell such shares to third parties, but only if the contractual arrangement or applicable law precludes the financial institution from—

(A) purchasing the shares for its own investment purposes rather than for the exclusive purpose of creating and redeeming such shares on behalf of third parties; and

(B) selling the shares to third parties who are not market makers or otherwise described
in paragraphs (2) and (3) of Treasury Regulation section 1.817–5(f).

(3) **Market maker.**—The term “market maker” means a financial institution that is a registered broker or dealer under section 15(b) of the Securities Exchange Act of 1934 that maintains liquidity for an exchange-traded fund on a national stock exchange by being always ready to buy and sell shares of such fund on the market, but only if the financial institution is contractually or legally precluded from selling or buying such shares to or from persons who are not authorized participants or otherwise described in paragraphs (2) and (3) of Treasury Regulations section 1.817–5(f).

(d) **Effective Date.**—Subsections (b) and (c) shall apply to segregated asset account investments made on or after the date that is 7 years after the date of the enactment of this Act.

**Title III—Simplification and Clarification of Retirement Plan Rules**

**Sec. 301. Recovery of Retirement Plan Overpayments.**

(a) **Overpayments Under ERISA.**—Section 206 of the Employee Retirement Income Security Act of 1974
(29 U.S.C. 1056) is amended by adding at the end the following new subsection:

“(h) Special Rules Applicable to Benefit Overpayments.—

“(1) General rule.—In the case of an inadvertent benefit overpayment by any pension plan, the responsible plan fiduciary shall not be considered to have failed to comply with the requirements of this title merely because such fiduciary determines, in the exercise of its fiduciary discretion, not to seek recovery of all or part of such overpayment from—

“(A) any participant or beneficiary,

“(B) any plan sponsor of, or contributing employer to—

“(i) an individual account plan, provided that the amount needed to prevent or restore any impermissible forfeiture from any participant’s or beneficiary’s account arising in connection with the overpayment is, separately from and independently of the overpayment, allocated to such account pursuant to the nonforfeitability requirements of section 203 (for example, out of the plan’s forfeiture account, additional
employer contributions, or recoveries from those responsible for the overpayment), or

“(ii) a defined benefit pension plan subject to the funding rules in part 3 of this subtitle B, unless the responsible plan fiduciary determines, in the exercise of its fiduciary discretion, that failure to recover all or part of the overpayment faster than required under such funding rules would materially affect the plan’s ability to pay benefits due to other participants and beneficiaries, or

“(C) any fiduciary of the plan, other than a fiduciary (including a plan sponsor or contributing employer acting in a fiduciary capacity) whose breach of its fiduciary duties resulted in such overpayment, provided that if the plan has established prudent procedures to prevent and minimize overpayment of benefits and the relevant plan fiduciaries have followed such procedures, an inadvertent benefit overpayment will not give rise to a breach of fiduciary duty.

“(2) Reduction in future benefit payments and recovery from responsible party.—Paragraph (1) shall not fail to apply with
respect to any inadvertent benefit overpayment merely because, after discovering such overpayment, the responsible plan fiduciary—

“(A) reduces future benefit payments to the correct amount provided for under the terms of the plan, or

“(B) seeks recovery from the person or persons responsible for the overpayment.

“(3) Employer Funding Obligations.—Nothing in this subsection shall relieve an employer of any obligation imposed on it to make contributions to a plan to meet the minimum funding standards under part 3 of this subtitle B or to prevent or restore an impermissible forfeiture in accordance with section 203.

“(4) Recoupment from Participants and Beneficiaries.—If the responsible plan fiduciary, in the exercise of its fiduciary discretion, decides to seek recoupment from a participant or beneficiary of all or part of an inadvertent benefit overpayment made by the plan to such participant or beneficiary, it may do so, subject to the following conditions:

“(A) No interest or other additional amounts (such as collection costs or fees) are sought on overpaid amounts for any period.
“(B) If the plan seeks to recoup past overpayments of a non-decreasing periodic benefit by reducing future benefit payments—

“(i) the reduction ceases after the plan has recovered the full dollar amount of the overpayment,

“(ii) the amount recouped each calendar year does not exceed 10 percent of the full dollar amount of the overpayment, and

“(iii) future benefit payments are not reduced to below 90 percent of the periodic amount otherwise payable under the terms of the plan.

Alternatively, if the plan seeks to recoup past overpayments of a non-decreasing periodic benefit through one or more installment payments, the sum of such installment payments in any calendar year does not exceed the sum of the reductions that would be permitted in such year under the preceding sentence.

“(C) If the plan seeks to recoup past overpayments of a benefit other than a non-decreasing periodic benefit, the plan satisfies require-
ments developed by the Secretary for purposes of this subparagraph.

“(D) Efforts to recoup overpayments are—

“(i) not accompanied by threats of litigation, unless the responsible plan fiduciary reasonably believes it could prevail in a civil action brought in Federal or State court to recoup the overpayments, and

“(ii) not made through a collection agency or similar third party, unless the participant or beneficiary ignores or rejects efforts to recoup the overpayment following either a final judgment in Federal or State court or a settlement between the participant or beneficiary and the plan, in either case authorizing such recoupment.

“(E) Recoupment of past overpayments to a participant is not sought from any beneficiary of the participant, including a spouse, surviving spouse, former spouse, or other beneficiary.

“(F) Recoupment may not be sought if the first overpayment occurred more than 3 years before the participant or beneficiary is first notified in writing of the error.
“(G) A participant or beneficiary from whom recoupment is sought is entitled to contest all or part of the recoupment pursuant to the plan’s claims procedures.

“(H) In determining the amount of recoupment to seek, the responsible plan fiduciary may take into account the hardship that recoupment likely would impose on the participant or beneficiary.

“(5) EFFECT OF CULPABILITY.—Subparagraphs (A) through (F) of paragraph (4) shall not apply to protect a participant or beneficiary who is culpable. For purposes of this paragraph, a participant or beneficiary is culpable if the individual bears responsibility for the overpayment (such as through misrepresentations or omissions that led to the overpayment), or if the individual knew, or had good reason to know under the circumstances, that the benefit payment or payments were materially in excess of the correct amount. Notwithstanding the preceding sentence, an individual is not culpable merely because the individual believed the benefit payment or payments were or might be in excess of the correct amount, if the individual raised that question with an authorized plan representative and was told
the payment or payments were not in excess of the correct amount. With respect to a culpable participant or beneficiary, efforts to recoup overpayments shall not be made through threats of litigation, unless a lawyer for the plan could make the representations required under Rule 11 of the Federal Rules of Civil Procedure if the litigation were brought in Federal court.”.

(b) OVERPAYMENTS UNDER INTERNAL REVENUE CODE OF 1986.—

(1) QUALIFICATION REQUIREMENTS.—Section 414 of the Internal Revenue Code of 1986, as amended by this preceding provisions of this Act, is amended by adding at the end the following new subsection:

“(bb) SPECIAL RULES APPLICABLE TO BENEFIT OVERPAYMENTS.—

“(1) IN GENERAL.—A plan shall not fail to be treated as described in clause (i), (ii), (iii), or (iv) of section 219(g)(5)(A) (and shall not fail to be treated as satisfying the requirements of section 401(a) or 403) merely because—

“(A) the plan fails to obtain payment from any participant, beneficiary, employer, plan sponsor, fiduciary, or other party on account of
any inadvertent benefit overpayment made by
the plan, or

“(B) the plan sponsor amends the plan to
increase past or future benefit payments to af-
fected participants and beneficiaries in order to
adjust for prior inadvertent benefit overpay-
ments.

“(2) Reduction in Future Benefit Pay-
ments and Recovery from Responsible
Party.—Paragraph (1) shall not fail to apply to a
plan merely because, after discovering a benefit over-
payment, such plan—

“(A) reduces future benefit payments to
the correct amount provided for under the
terms of the plan, or

“(B) seeks recovery from the person or
persons responsible for such overpayment.

“(3) Employer Funding Obligations.—
Nothing in this subsection shall relieve an employer
of any obligation imposed on it to make contribu-
tions to a plan to meet the minimum funding stand-
ards under sections 412 and 430 or to prevent or re-
store an impermissible forfeiture in accordance with
section 411.
“(4) OBSERVANCE OF BENEFIT LIMITATIONS.—
Notwithstanding paragraph (1), a plan to which
paragraph (1) applies shall observe any limitations
imposed on it by section 401(a)(17) or 415. The
plan may enforce such limitations using any method
approved by the Secretary of the Treasury for re-
couping benefits previously paid or allocations pre-
viously made in excess of such limitations.

“(5) COORDINATION WITH OTHER QUALIFICA-
TION REQUIREMENTS.—The Secretary of the Treas-
ury may issue regulations or other guidance of gen-
eral applicability specifying how benefit overpay-
ments and their recoupment or non-recoupment
from a participant or beneficiary shall be taken into
account for purposes of satisfying any requirement
applicable to a plan to which paragraph (1) ap-
plies.”.

(2) ROLLOVERS.—Section 402(e) of such Code
is amended by adding at the end the following new
paragraph:

“(12) In the case of an inadvertent benefit
overpayment from a plan to which section
414(bb)(1) applies that is transferred to an eligible
retirement plan by or on behalf of a participant or
beneficiary—
“(A) the portion of such overpayment with respect to which recoupment is not sought on behalf of the plan shall be treated as having been paid in an eligible rollover distribution if the payment would have been an eligible rollover distribution but for being an overpayment, and

“(B) the portion of such overpayment with respect to which recoupment is sought on behalf of the plan shall be permitted to be returned to such plan and in such case shall be treated as an eligible rollover distribution transferred to such plan by the participant or beneficiary who received such overpayment (and the plans making and receiving such transfer shall be treated as permitting such transfer).

In any case in which recoupment is sought on behalf of the plan but is disputed by the participant or beneficiary who received such overpayment, such dispute shall be subject to the claims procedures of the plan that made such overpayment, such plan shall notify the plan receiving the rollover of such dispute, and the plan receiving the rollover shall retain such overpayment on behalf of the participant or beneficiary (and shall be entitled to treat such overpayment as
plan assets) pending the outcome of such proce-
dures.’’.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply as of the date of the enactment
of this Act.

(d) CERTAIN ACTIONS BEFORE DATE OF ENACT-
MENT.—Plans, fiduciaries, employers, and plan sponsors
are entitled to rely on—

(1) a good faith interpretation of then existing
administrative guidance for inadvertent benefit over-
payment recoupments and recoveries that com-
menced before the date of enactment of this Act,

and

(2) determinations made before the date of en-
actment of this Act by the responsible plan fidu-
ciary, in the exercise of its fiduciary discretion, not
to seek recoupment or recovery of all or part of an
inadvertent benefit overpayment.

In the case of a benefit overpayment that occurred prior
to the date of enactment of this Act, any installment pay-
ments by the participant or beneficiary to the plan or any
reduction in periodic benefit payments to the participant
or beneficiary, which were made in recoupment of such
overpayment and which commenced prior to such date,
may continue after such date. Nothing in this subsection
shall relieve a fiduciary from responsibility for an overpay-
ment that resulted from a breach of its fiduciary duties.

SEC. 302. REDUCTION IN EXCISE TAX ON CERTAIN ACCU-
MULATIONS IN QUALIFIED RETIREMENT
PLANS.

(a) IN GENERAL.—Section 4974(a) of the Internal
Revenue Code of 1986 is amended by striking “50 per-
cent” and inserting “25 percent”.

(b) REDUCTION IN EXCISE TAX ON FAILURES TO
TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section
4974 of such Code is amended by adding at the end the
following new subsection:

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

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

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

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

the first sentence of subsection (a) shall be applied
by substituting ‘10 percent’ for ‘25 percent’.
“(2) CORRECTION WINDOW.—For purposes of this subsection, the term ‘correction window’ means the period of time beginning on the date on which the tax under subsection (a) is imposed with respect to a shortfall of distributions from an individual retirement plan, and ending on the earlier of—

“(A) the date on which the Secretary initiates an audit, or otherwise demands payment, with respect to the shortfall of distributions, or

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

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLOCATION FUNDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor shall provide that, in the case of a designated investment alternative that contains a mix of asset classes, the administrator of a plan may, but is not required to, use a benchmark that is a blend of different broad-based securities market indices if—
(1) the blend is reasonably representative of the asset class holdings of the designated investment alternative;

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

(3) the blend is furnished to participants and beneficiaries in a manner that is reasonably designed to be understandable; and

(4) each securities market index that is used for an associated asset class would separately satisfy the requirements of such regulation for such asset class.

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Secretary of Labor shall deliver a report to the Committees on Finance and Health, Education, Labor, and Pensions of the Senate and the Committees on Ways and Means and Education and Labor of the House of Representatives regarding the utilization, effectiveness, and participants’ understanding of the benchmarking requirements under this section.
SEC. 304. REVIEW AND REPORT TO CONGRESS RELATING TO REPORTING AND DISCLOSURE REQUIREMENTS.

(a) STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary of Labor, the Secretary of the Treasury, and the Director of the Pension Benefit Guaranty Corporation shall review the reporting and disclosure requirements as applicable to each such agency head, of—

(1) the Employee Retirement Income Security Act of 1974 applicable to pension plans (as defined in section 3(2) of such Act (29 U.S.C. 1002(2)); and

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

(b) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Labor, the Secretary of the Treasury, and the Director of the Pension Benefit Guaranty Corporation, jointly, and after consultation with a balanced group of participant and employer representatives, shall with respect to plans referenced in subsection (a) report on the effectiveness of the applicable reporting and disclosure requirements and make such rec-
ommendations as may be appropriate to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate to consolidate, simplify, standardize, and improve such requirements so as to simplify reporting for such plans and ensure that plans can furnish and participants and beneficiaries timely receive and better understand the information they need to monitor their plans, plan for retirement, and obtain the benefits they have earned.

(2) Analysis of Effectiveness.—To assess the effectiveness of the applicable reporting and disclosure requirements, the report shall include an analysis, based on plan data, of how participants and beneficiaries are providing preferred contact information, the methods by which plan sponsors and plans are furnishing disclosures, and the rate at which participants and beneficiaries (grouped by key demographics) are receiving, accessing, understanding, and retaining disclosures.

(3) Collection of Information.—The agencies shall conduct appropriate surveys and data collection to obtain any needed information.
SEC. 305. ELIMINATING UNNECESSARY PLAN REQUIREMENTS RELATED TO UNENROLLED PARTICIPANTS.

(a) Amendment of Employee Retirement Income Security Act of 1974.—

(1) In general.—Part 1 of subtitle B of subchapter I of the Employee Retirement Income Security Act of 1974 is amended by redesignating section 111 as section 112 and by inserting after section 110 the following new section:

"SEC. 111. ELIMINATING UNNECESSARY PLAN REQUIREMENTS RELATED TO UNENROLLED PARTICIPANTS.

"(a) In General.—Notwithstanding any other provision of this title, with respect to any individual account plan, no disclosure, notice, or other plan document (other than the notices and documents described in paragraphs (1) and (2)) shall be required to be furnished under this title to any unenrolled participant if the unenrolled participant receives—

("1) an annual reminder notice of such participant’s eligibility to participate in such plan and any applicable election deadlines under the plan; and

("2) any document requested by such participant that the participant would be entitled to receive notwithstanding this section."
“(b) UNENROLLED PARTICIPANT.—For purposes of this section, the term ‘unenrolled participant’ means an employee who—

“(1) is eligible to participate in an individual account plan;

“(2) has received—

“(A) the summary plan description pursuant to section 104(b), and

“(B) any other notices related to eligibility under the plan required to be furnished under this title, or the Internal Revenue Code of 1986, in connection with such participant’s initial eligibility to participate in such plan;

“(3) is not participating in such plan;

“(4) does not have an account balance in the plan; and

“(5) satisfies such other criteria as the Secretary of Labor may determine appropriate, as prescribed in guidance issued in consultation with the Secretary of Treasury.

For purposes of this section, any eligibility to participate in the plan following any period for which such employee was not eligible to participate shall be treated as initial eligibility.
“(c) Annual Reminder Notice.—For purposes of this section, the term ‘annual reminder notice’ means a notice provided in accordance with section 2520.104b–1 of title 29, Code of Federal Regulations (or any successor regulation), which—

“(1) is furnished in connection with the annual open season election period with respect to the plan or, if there is no such period, is furnished within a reasonable period prior to the beginning of each plan year;

“(2) notifies the unenrolled participant of—

“(A) the unenrolled participant’s eligibility to participate in the plan; and

“(B) the key benefits and rights under the plan, with a focus on employer contributions and vesting provisions; and

“(3) provides such information in a prominent manner calculated to be understood by the average participant.”.

(2) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the item relating to section 111 and by inserting after the item relating to section 110 the following new items:
(b) Amendment of Internal Revenue Code of 1986.—Section 414 of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is amended by adding at the end the following new subsection:

“(cc) Eliminating unnecessary plan requirements related to unenrolled participants.—

“(1) In general.—Notwithstanding any other provision of this title, with respect to any defined contribution plan, no disclosure, notice, or other plan document (other than the notices and documents described in subparagraphs (A) and (B)) shall be required to be furnished under this title to any unenrolled participant if the unenrolled participant receives—

“(A) an annual reminder notice of such participant’s eligibility to participate in such plan and any applicable election deadlines under the plan, and

“(B) any document requested by such participant that the participant would be entitled to receive notwithstanding this subsection.
“(2) UNENROLLED PARTICIPANT.—For purposes of this subsection, the term ‘unenrolled participant’ means an employee who—

“(A) is eligible to participate in a defined contribution plan,

“(B) has received—

“(i) the summary plan description pursuant to section 104(b) of the Employee Retirement Income Security Act of 1974, and

“(ii) any other notices related to eligibility under the plan and required to be furnished under this title, or the Employee Retirement Income Security Act of 1974, in connection with such participant’s initial eligibility to participate in such plan,

“(C) is not participating in such plan,

“(D) does not have an account balance in the plan, and

“(E) satisfies such other criteria as the Secretary of the Treasury may determine appropriate, as prescribed in guidance issued in consultation with the Secretary of Labor.

For purposes of this subsection, any eligibility to participate in the plan following any period for
which such employee was not eligible to participate shall be treated as initial eligibility.

“(3) Annual reminder notice.—For purposes of this subsection, the term ‘annual reminder notice’ means the notice described in section 111(c) of the Employee Retirement Income Security Act of 1974.”.

(c) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 2022.

Sec. 306. Retirement savings lost and found.

(a) In General.—

(1) Establishment of retirement savings lost and found.—Part 5 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341 et seq.) is amended by adding at the end the following:

“Sec. 523. Retirement savings lost and found.

“(a) Establishment.—

“(1) In general.—Not later than 2 years after the date of the enactment of this section, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall establish an online searchable database (to be managed by the Department of Labor in accordance with this section) to be
known as the ‘Retirement Savings Lost and Found’. The Retirement Savings Lost and Found shall—

“(A) allow an individual to search for information that enables the individual to locate the administrator of any plan described in paragraph (2) with respect to which the individual is or was a participant or beneficiary, and provide contact information for the administrator of any such plan;

“(B) allow the Department of Labor to assist such an individual in locating any such plan of the individual; and

“(C) allow the Department of Labor to make any necessary changes to contact information on record for the administrator based on any changes to the plan due to merger or consolidation of the plan with any other plan, division of the plan into two or more plans, bankruptcy, termination, change in name of the plan, change in name or address of the administrator, or other causes.

The Retirement Savings Lost and Found established under this paragraph shall include information reported under this section and other relevant information obtained by the Department of Labor.
“(2) PLANS DESCRIBED.—A plan described in this paragraph is a plan to which the vesting standards of section 203 apply.

“(b) ADMINISTRATION.—The Retirement Savings Lost and Found established under subsection (a) shall provide individuals described in subsection (a)(1) only with the ability to search for information that enables the individual to locate the administrator and contact information for the administrator of any plan with respect to which the individual is or was a participant or beneficiary, sufficient to allow the individual to locate the individual’s plan in order to recover any benefit owing to the individual under the plan.

“(c) SAFEGUARDING PARTICIPANT PRIVACY AND SECURITY.—In establishing the Retirement Savings Lost and Found under subsection (a), the Department of Labor shall take all necessary and proper precautions to ensure that individuals’ plan information maintained by the Retirement Savings Lost and Found is protected.

“(d) DEFINITION OF ADMINISTRATOR.—For purposes of this section, the term ‘administrator’ has the meaning given such term in section 3(16)(A).

“(e) INFORMATION COLLECTION FROM PLANS.—Effective with respect to plan years beginning after the second December 31 occurring after the date of the enact-
ment of this subsection, the administrator of a plan to which the vesting standards of section 203 apply shall submit to the Department of Labor, at such time and in such form and manner as is prescribed in regulations—

“(1) the information described in paragraphs (1) through (4) of section 6057(b) of the Internal Revenue Code of 1986;

“(2) the information described in subparagraphs (A) and (B) of section 6057(a)(2) of such Code;

“(3) the name and taxpayer identifying number of each participant or former participant in the plan—

“(A) who, during the current plan year or any previous plan year, was reported under section 6057(a)(2)(C) of such Code, and with respect to whom the benefits described in clause (ii) thereof were fully paid during the plan year;

“(B) with respect to whom any amount was distributed under section 401(a)(31)(B) of such Code during the plan year; or

“(C) with respect to whom a deferred annuity contract was distributed during the plan year;
“(4) in the case of a participant or former participant to whom paragraph (3) applies—

“(A) in the case of a participant described in subparagraph (B) thereof, the name and address of the designated trustee or issuer described in section 401(a)(31)(B)(i) of such Code and the account number of the individual retirement plan to which the amount was distributed; and

“(B) in the case of a participant described in subparagraph (C) thereof, the name and address of the issuer of such annuity contract and the contract or certificate number; and

“(5) such other information as the Secretary of Labor may require.

“(f) INFORMATION COLLECTION FROM FEDERAL AGENCIES.—On request, the Secretary of Labor may access and receive such information collected by other Federal agencies as may be necessary and appropriate to perform work related to the Retirement Savings Lost and Found.

“(g) PROGRAM INTEGRITY AUDIT.—On an annual basis for each of the first 5 years beginning one year after the establishment of the database in subsection (a)(1) and every 5 years thereafter, the Inspector General of the De-
department of Labor shall conduct an audit of the administra-
tion of the Retirement Savings Lost and Found.”.

(3) CONFORMING AMENDMENT.—The table of contents for the Employee Retirement Income Secu-

rity Act of 1974 (29 U.S.C. 1001 et seq.) is amended by inserting after the item relating to section 522 the following:

“Sec. 523. Retirement Savings Lost and Found.”.

SEC. 307. UPDATING DOLLAR LIMIT FOR MANDATORY DIS-

TRIBUTIONS.

(a) IN GENERAL.—Section 203(e)(1) of the Em-

ployee Retirement Income Security Act of 1974 and sec-
tions 401(a)(31)(B)(ii) and 411(a)(11)(A) of the Internal Revenue Code of 1986 are each amended by striking “$5,000” and inserting “$7,000”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2022.

SEC. 308. EXPANSION OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

(a) IN GENERAL.—Except as otherwise provided in the Internal Revenue Code of 1986 or regulations pres-
scribed by the Secretary of the Treasury or the Secretary’s delegate (referred to in this section as the “Secretary”), any eligible inadvertent failure to comply with the rules applicable under section 401(a), 403(a), 403(b), 408(p),
or 408(k) of such Code may be self-corrected under the Employee Plans Compliance Resolution System (as described in Revenue Procedure 2021–30, or any successor guidance, and hereafter in this section referred to as the “EPCRS”), except to the extent that such failure was identified by the Secretary prior to any actions which demonstrate a commitment to implement a self-correction. Revenue Procedure 2021–30 is deemed amended as of the date of the enactment of this Act to provide that the correction period under section 9.02 of such Revenue Procedure (or any successor guidance) for an eligible inadvertent failure, except as otherwise provided under such Code or in regulations prescribed by the Secretary, is indefinite and has no last day, other than with respect to failures identified by the Secretary prior to any self-correction as described in the preceding sentence.

(b) Loan Errors.—In the case of an eligible inadvertent failure relating to a loan from a plan to a participant—

(1) such failure may be self-corrected under subsection (a) according to the rules of section 6.07 of Revenue Procedure 2021–30 (or any successor guidance), including the provisions related to whether a deemed distribution must be reported on Form 1099–R, and
(2) the Secretary of Labor shall treat any such failure which is so self-corrected under subsection (a) as meeting the requirements of the Voluntary Fiduciary Correction Program of the Department of Labor if, with respect to the violation of the fiduciary standards of the Employee Retirement Income Security Act of 1974, there is a similar loan error eligible for correction under EPCRS and the loan error is corrected in such manner.

(c) **EPCRS for IRAs.**—The Secretary shall expand the EPCRS to allow custodians of individual retirement plans (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) to address eligible inadvertent failures with respect to an individual retirement plan (as so defined), including (but not limited to)—

1. waivers of the excise tax which would otherwise apply under section 4974 of the Internal Revenue Code of 1986,
2. under the self-correction component of the EPCRS, waivers of the 60-day deadline for a rollover where the deadline is missed for reasons beyond the reasonable control of the account owner, and
3. rules permitting a nonspouse beneficiary to return distributions to an inherited individual retirement plan described in section 408(d)(3)(C) of the
Internal Revenue Code of 1986 in a case where, due to an inadvertent error by a service provider, the beneficiary had reason to believe that the distribution could be rolled over without inclusion in income of any part of the distributed amount.

(d) ADDITIONAL SAFE HARBOURS.—The Secretary shall expand the EPCRS to provide additional safe harbor means of correcting eligible inadvertent failures described in subsection (a), including safe harbor means of calculating the earnings which must be restored to a plan in cases where plan assets have been depleted by reason of an eligible inadvertent failure.

(e) ELIGIBLE INADVERTENT FAILURE.—For purposes of this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term “eligible inadvertent failure” means a failure that occurs despite the existence of practices and procedures which—

(A) satisfy the standards set forth in section 4.04 of Revenue Procedure 2021–30 (or any successor guidance), or

(B) satisfy similar standards in the case of an individual retirement plan.

(2) EXCEPTION.—The term “eligible inadvertent failure” shall not include any failure which
is egregious, relates to the diversion or misuse of plan assets, or is directly or indirectly related to an abusive tax avoidance transaction.

(f) APPLICATION OF CERTAIN REQUIREMENTS FOR CORRECTING ERRORS.—This section shall not apply to any failure unless the correction of such failure under this section is made in conformity with the general principles that apply to corrections of such failures under the Internal Revenue Code of 1986, including regulations or other guidance issued thereunder and including those principles and corrections set forth in Revenue Procedure 2021–30 (or any successor guidance).”

SEC. 309. ELIMINATE THE “FIRST DAY OF THE MONTH” REQUIREMENT FOR GOVERNMENTAL SECTION 457(b) PLANS.

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

“(4) which provides that compensation—

“(A) in the case of an eligible employer described in subsection (e)(1)(A), will be deferred only if an agreement providing for such deferral has been entered into before the compensation is currently available to the individual, and

“(B) in any other case, will be deferred for any calendar month only if an agreement pro-
viding for such deferral has been entered into
before the beginning of such month.”.

(b) Effective Date.—The amendment made by
this section shall apply to taxable years beginning after
the date of the enactment of this Act.

SEC. 310. ONE-TIME ELECTION FOR QUALIFIED CHARITY
TABLE DISTRIBUTION TO SPLIT-INTEREST
ENTITY; INCREASE IN QUALIFIED CHARITY
TABLE DISTRIBUTION LIMITATION.

(a) One-time Election for Qualified Charity
Table Distribution to Split-interest Entity.—Sec-
tion 408(d)(8) of the Internal Revenue Code of 1986 is
amended by adding at the end the following new subpara-
graph:

“(F) One-time election for qualified
charitable distribution to split-interest
entity.—

“(i) In general.—A taxpayer may
for a taxable year elect under this subpara-
graph to treat as meeting the requirement
of subparagraph (B)(i) any distribution
from an individual retirement account
which is made directly by the trustee to a
split-interest entity, but only if—
“(I) an election is not in effect under this subparagraph for a preceding taxable year,

“(II) the aggregate amount of distributions of the taxpayer with respect to which an election under this subparagraph is made does not exceed $50,000, and

“(III) such distribution meets the requirements of clauses (iii) and (iv).

“(ii) SPLIT-INTEREST ENTITY.—For purposes of this subparagraph, the term ‘split-interest entity’ means—

“(I) a charitable remainder annuity trust (as defined in section 664(d)(1)), but only if such trust is funded exclusively by qualified charitable distributions,

“(II) a charitable remainder unitrust (as defined in section 664(d)(2)), but only if such unitrust is funded exclusively by qualified charitable distributions, or

“(III) a charitable gift annuity (as defined in section 501(m)(5)), but
only if such annuity is funded exclusively by qualified charitable distributions and commences fixed payments of 5 percent or greater not later than 1 year from the date of funding.

“(iii) Contributions must be otherwise deductible.—A distribution meets the requirement of this clause only if—

“(I) in the case of a distribution to a charitable remainder annuity trust or a charitable remainder unitrust, a deduction for the entire value of the remainder interest in the distribution for the benefit of a specified charitable organization would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph), and

“(II) in the case of a charitable gift annuity, a deduction in an amount equal to the amount of the distribution reduced by the value of the annuity described in section 501(m)(5)(B) would be allowable
under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(iv) LIMITATION ON INCOME INTERESTS.—A distribution meets the requirements of this clause only if—

“(I) no person holds an income interest in the split-interest entity other than the individual for whose benefit such account is maintained, the spouse of such individual, or both, and

“(II) the income interest in the split-interest entity is nonassignable.

“(v) SPECIAL RULES.—

“(I) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subclause (I) or (II) of clause (ii) shall be treated as ordinary income in the hands of the beneficiary to whom the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A) is paid.
“(II) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made to fund a charitable gift annuity shall not be treated as an investment in the contract for purposes of section 72(e).”.

(b) INFLATION ADJUSTMENT.—Section 408(d)(8) of such Code, as amended by subsection (a), is amended by adding at the end the following new subparagraph:

“(G) INFLATION ADJUSTMENT.—

“(i) IN GENERAL.—In the case of any taxable year beginning after 2022, each of the dollar amounts in subparagraphs (A) and (F) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2021’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.
“(ii) Rounding.—If any dollar amount increased under clause (i) is not a multiple of $1,000, such dollar amount shall be rounded to the nearest multiple of $1,000.”.

(c) Effective Date.—The amendment made by this section shall apply to distributions made in taxable years ending after the date of the enactment of this Act.

SEC. 311. DISTRIBUTIONS TO FIREFIGHTERS.

(a) In General.—Subparagraph (A) of section 72(t)(10) of the Internal Revenue Code of 1986 is amended by striking “414(d))” and inserting “414(d)) or a distribution from a plan described in clause (iii), (iv), or (vi) of section 402(c)(8)(B) to an employee who provides firefighting services”.

(b) Conforming Amendment.—The heading of paragraph (10) of section 72(t) of such Code is amended by striking “IN GOVERNMENTAL PLANS” and inserting “AND PRIVATE SECTOR FIREFIGHTERS”

(c) Effective Date.—The amendments made by this section shall apply to distributions made after December 31, 2022.
SEC. 312. EXCLUSION OF CERTAIN DISABILITY-RELATED FIRST RESPONDER RETIREMENT PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139B the following new section:

“SEC. 139C. CERTAIN DISABILITY-RELATED FIRST RESPONDER RETIREMENT PAYMENTS.

“(a) IN GENERAL.—In the case of an individual who receives qualified first responder retirement payments for any taxable year, gross income shall not include so much of such payments as do not exceed the annualized excludable disability amount with respect to such individual.

“(b) QUALIFIED FIRST RESPONDER RETIREMENT PAYMENTS.—For purposes of this section, the term ‘qualified first responder retirement payments’ means, with respect to any taxable year, any pension or annuity which but for this section would be includible in gross income for such taxable year and which is received—

“(1) from a plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B), and

“(2) in connection with such individual’s qualified first responder service.

“(c) ANNUALIZED EXCLUDABLE DISABILITY AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘annualized excludable disability amount’ means, with respect to
any individual, the service-connected excludable dis-
ability amounts which are properly attributable to
the 12-month period immediately preceding the date
on which such individual attains retirement age.

“(2) Service-connected excludable dis-
ability amount.—The term ‘service-connected ex-
cludable disability amount’ means periodic payments
received by an individual which—

“(A) are not includible in such individual’s
gross income under section 104(a)(1),

“(B) are received in connection with such
individual’s qualified first responder service,
and

“(C) terminate when such individual at-
tains retirement age.

“(3) Special rule for partial-year pay-
ments.—In the case of an individual who only re-
ceives service-connected excludable disability
amounts properly attributable to a portion of the 12-
month period described in paragraph (1), such para-
graph shall be applied by multiplying such amounts
by the ratio of 365 to the number of days in such
period to which such amounts were properly attrib-
utable.
“(d) Qualified First Responder Service.—For purposes of this section, the term ‘qualified first responder service’ means service as a law enforcement officer, firefighter, paramedic, or emergency medical technician.”.

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

“Sec. 139C. Certain disability-related first responder retirement payments.”.

(e) Effective Date.—The amendments made by this section shall apply to amounts received with respect to taxable years beginning after December 31, 2027.

SEC. 313. INDIVIDUAL RETIREMENT PLAN STATUTE OF LIMITATIONS FOR EXCISE TAX ON EXCESS CONTRIBUTIONS AND CERTAIN ACCUMULATIONS.

Section 6501(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) Individual retirement plans.—

“(A) In general.—For purposes of any tax imposed by section 4973 or 4974 in connection with an individual retirement plan, the return referred to in this section shall be the income tax return filed by the person on whom the tax under such section is imposed for the
year in which the act (or failure to act) giving rise to the liability for such tax occurred.

“(B) Rule in case of individuals not required to file return.—In the case of a person who is not required to file an income tax return for such year—

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

“(ii) the 3-year period referred to in subsection (a) with respect to the return shall be deemed to begin on the date by which the return would have been required to be filed (excluding any extension there-oft).”.

SEC. 314. REQUIREMENT TO PROVIDE PAPER STATEMENTS IN CERTAIN CASES.

(a) In general.—Section 105(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

(1) in subparagraph (A)(iv), by inserting “subject to subparagraph (E),” before “may be deliv-
(2) by adding at the end the following:

“(E) Provision of paper statements.—With respect to at least 1 pension benefit statement furnished for a calendar year with respect to an individual account plan under paragraph (1)(A), and with respect to at least 1 pension benefit statement furnished every 3 calendar years with respect to a defined benefit plan under paragraph (1)(B), such statement shall be furnished on paper in written form except—

“(i) in the case of a plan that furnishes such statement in accordance with section 2520.104b-1(e) of title 29, Code of Federal Regulations; or

“(ii) in the case of a plan that permits a participant or beneficiary to request that the statements referred to in the matter preceding clause (i) be furnished by electronic delivery, if the participant or beneficiary requests that such statements be delivered electronically and the statements are so delivered.”.

(b) Implementation.—
1 (1) IN GENERAL.—The Secretary of Labor shall, not later than December 31, 2022, update section 2520.104b-1(c) of title 29, Code of Federal Regulations, to provide that a plan may furnish the statements referred to in subparagraph (E) of section 105(a)(2) by electronic delivery only if, in addition to meeting the other requirements under the regulations—

(A) such plan furnishes each participant or beneficiary, including participants described in subparagraph (B), a one-time initial notice on paper in written form, prior to the electronic delivery of any pension benefit statement, of their right to request that all documents required to be disclosed under title I of the Employee Retirement Income Security Act of 1974 be furnished on paper in written form; and

(B) such plan furnishes each participant who is separated from service with at least 1 pension benefit statement on paper in written form for each calendar year, unless, on election of the participant, the participant receives such statements electronically.

(2) OTHER GUIDANCE.—In implementing the amendment made by subsection (a) with respect to
a plan that discloses required documents or statements electronically, in accordance with applicable guidance governing electronic disclosure by the Department of Labor (with the exception of section 2520.104b-1(c) of title 29, Code of Federal Regulations), the Secretary of Labor shall, not later than December 31, 2022, update such guidance to the extent necessary to ensure that—

(A) a participant or beneficiary under such a plan is permitted the opportunity to request that any disclosure required to be delivered on paper under applicable guidance by the Department of Labor shall be furnished by electronic delivery;

(B) each paper statement furnished under such a plan pursuant to the amendment shall include—

(i) an explanation of how to request that all such statements, and any other document required to be disclosed under title I of the Employee Retirement Income Security Act of 1974, be furnished by electronic delivery; and

(ii) contact information for the plan sponsor, including a telephone number;
(C) the plan may not charge any fee to a participant or beneficiary for the delivery of any paper statements;

(D) each paper pension benefit statement shall identify each plan document required to be disclosed and shall include information about how a participant or beneficiary may access each such document;

(E) each document required to be disclosed that is furnished by electronic delivery under such a plan shall include an explanation of how to request that all such documents be furnished on paper in written form; and

(F) a plan is permitted to furnish a duplicate electronic statement in any case in which the plan furnishes a paper pension benefit statement.

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to plan years beginning after December 31, 2023.
SEC. 315. SEPARATE APPLICATION OF TOP HEAVY RULES TO DEFINED CONTRIBUTION PLANS COVERING EXCLUDIBLE EMPLOYEES.

(a) In General.—Section 416(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(C) Separate application to employees not meeting age and service requirements.—If employees not meeting the age or service requirements of section 410(a)(1) (without regard to subparagraph (B) thereof) are covered under a plan of the employer which meets the requirements of subparagraphs (A) and (B) separately with respect to such employees, such employees may be excluded from consideration in determining whether any plan of the employer meets the requirements of subparagraphs (A) and (B).”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 316. REPAYMENT OF QUALIFIED BIRTH OR ADOPTION DISTRIBUTION LIMITED TO 3 YEARS.

(a) In General.—Section 72(t)(2)(H)(v)(I) of the Internal Revenue Code of 1986 is amended by striking “may make” and inserting “may, at any time during the
3-year period beginning on the day after the date on which such distribution was received, make”.

(b) **Effective Date.**—The amendment made by this section shall take effect as if included in the enactment of section 113 of the Setting Every Community Up for Retirement Enhancement Act of 2019.

**SEC. 317. EMPLOYER MAY RELY ON EMPLOYEE CERTIFYING THAT DEEMED HARDSHIP DISTRIBUTION CONDITIONS ARE MET.**

(a) **Cash or Deferred Arrangements.**—Section 401(k)(14) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) Employee certification.—In determining whether a distribution is upon the hardship of an employee, the administrator of the plan may rely on a certification by the employee that the distribution is on account of a financial need of a type that is deemed in regulations prescribed by the Secretary to be an immediate and heavy financial need and that such distribution is not in excess of the amount required to satisfy such financial need.”.

(b) **403(b) Plans.**—
(1) Custodial accounts.—Section 403(b)(7) of such Code is amended by adding at the end the following new subparagraph:

“(D) Employee certification.—In determining whether a distribution is upon the financial hardship of an employee, the administrator of the plan may rely on a certification by the employee that the distribution is on account of a financial need of a type that is deemed in regulations prescribed by the Secretary to be an immediate and heavy financial need and that such distribution is not in excess of the amount required to satisfy such financial need.”.

(2) Annuity contracts.—Section 403(b)(11) of such Code is amended by adding at the end the following: “In determining whether a distribution is upon hardship of an employee, the administrator of the plan may rely on a certification by the employee that the distribution is on account of a financial need of a type that is deemed in regulations prescribed by the Secretary to be an immediate and heavy financial need and that such distribution is not in excess of the amount required to satisfy such financial need.”.
(c) 457(b) PLAN.—Section 457(d) of such Code is amended by adding at the end the following new paragraph:

“(4) PARTICIPANT CERTIFICATION.—In determining whether a distribution to a participant is made when the participant is faced with an unforeseeable emergency, the administrator of a plan maintained by an eligible employer described in subsection (e)(1)(A) may rely on a certification by the participant that the distribution is made when the participant is faced with unforeseeable emergency of a type that is described in regulations prescribed by the Secretary as an unforeseeable emergency and that the distribution is not in excess of the amount reasonably necessary to satisfy the emergency need.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2022.

SEC. 318. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS IN CASE OF DOMESTIC ABUSE.

(a) IN GENERAL.—Section 72(t)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:
“(I) DISTRIBUTIONS FROM RETIREMENT PLANS IN CASE OF DOMESTIC ABUSE.—

“(i) IN GENERAL.—Any eligible distribution to a domestic abuse victim.

“(ii) LIMITATION.—The aggregate amount which may be treated as an eligible distribution to a domestic abuse victim by any individual shall not exceed an amount equal to the lesser of—

“(I) $10,000, or

“(II) 50 percent of the present value of the nonforfeitable accrued benefit of the employee under the plan.

“(iii) ELIGIBLE DISTRIBUTION TO A DOMESTIC ABUSE VICTIM.—For purposes of this subparagraph—

“(I) IN GENERAL.—A distribution shall be treated as an eligible distribution to a domestic abuse victim if such distribution is from an applicable eligible retirement plan to an individual and made during the 1-year period beginning on any date on which the individual is a victim of domestic abuse.
abuse by a spouse or domestic partner.

“(II) DOMESTIC ABUSE.—The term ‘domestic abuse’ means physical, psychological, sexual, emotional, or economic abuse, including efforts to control, isolate, humiliate, or intimidate the victim, or to undermine the victim’s ability to reason independently, including by means of abuse of the victim’s child or another family member living in the household.

“(iv) TREATMENT OF PLAN DISTRIBUTIONS.—

“(I) IN GENERAL.—If a distribution to an individual would (without regard to clause (ii)) be an eligible distribution to a domestic abuse victim, a plan shall not be treated as failing to meet any requirement of this title merely because the plan treats the distribution as an eligible distribution to a domestic abuse victim, unless the aggregate amount of such distributions from all plans
maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds the limitation under clause (ii).

“(II) CONTROLLED GROUP.—For purposes of subclause (I), the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

“(v) AMOUNT DISTRIBUTED MAY BE REPAID.—

“(I) IN GENERAL.—Any individual who receives a distribution described in clause (i) may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an applicable eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such
distribution could be made under section 402(e), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

“(II) LIMITATION ON CONTRIBUTIONS TO APPLICABLE ELIGIBLE RETIREMENT PLANS OTHER THAN IRAs.—The aggregate amount of contributions made by an individual under subclause (I) to any applicable eligible retirement plan which is not an individual retirement plan shall not exceed the aggregate amount of eligible distributions to a domestic abuse victim which are made from such plan to such individual. Subclause (I) shall not apply to contributions to any applicable eligible retirement plan which is not an individual retirement plan unless the individual is eligible to make contributions (other than those described in subclause (I)) to such applicable eligible retirement plan.

“(III) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM AP-
PLICABLE ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—If a contribution is made under subclause (I) with respect to an eligible distribution to a domestic abuse victim from an applicable eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received such distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the applicable eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(IV) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—If a contribution is made under subclause (I) with respect to an eligible distribution to a domestic abuse victim from an individual retirement plan, then, to the extent of the amount of the contribution, such dis-
distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the applicable eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(vi) Definition and special rules.—For purposes of this subparagraph:

“(I) Applicable eligible retirement plan.—The term ‘applicable eligible retirement plan’ means an eligible retirement plan (as defined in section 402(c)(8)(B)) other than a defined benefit plan.

“(II) Exemption of distributions from trustee to trustee transfer and withholding rules.—For purposes of sections 401(a)(31), 402(f), and 3405, an eligible distribution to a domestic abuse victim shall not be treated as an eligible rollover distribution.
“(III) DISTRIBUTIONS TREATED
AS MEETING PLAN DISTRIBUTION RE-
QUIREMENTS; SELF-CERTIFICATION.—
Any distribution which the employee
or participant certifies as being an eli-
gible distribution to a domestic abuse
victim shall be treated as meeting the
requirements of sections
401(k)(2)(B)(i), 403(b)(7)(A)(i),
403(b)(11), and 457(d)(1)(A).”.

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

SEC. 319. REFORM OF FAMILY ATTRIBUTION RULES.

(a) CONTROLLED GROUPS.—Section 414(b) of the
Internal Revenue Code of 1986 is amended—
(1) by striking “For purposes of” and inserting
the following:
“(1) IN GENERAL.—For purposes of”, and
(2) by adding at the end the following new
paragraphs:
“(2) SPECIAL RULES FOR APPLYING FAMILY
ATTRIBUTION.—For purposes of applying the attri-
буtion rules under section 1563 with respect to
paragraph (1), the following rules apply:
“(A) Community property laws shall be disregarded for purposes of determining ownership.

“(B) Except as provided by the Secretary, stock of an individual not attributed under section 1563(e)(5) to such individual’s spouse shall not be attributed to such spouse by reason of section 1563(e)(6)(A).

“(C) Except as provided by the Secretary, in the case of stock in different corporations that is attributed to a child under section 1563(e)(6)(A) from each parent, and is not attributed to such parents as spouses under section 1563(e)(5), such attribution to the child shall not by itself result in such corporations being members of the same controlled group.

“(3) PLAN SHALL NOT FAIL TO BE TREATED AS SATISFYING THIS SECTION.—If the application of paragraph (2) causes two or more entities to be a controlled group, or to no longer be in a controlled group, such change shall be treated as a transaction to which section 410(b)(6)(C) applies.”.

(b) AFFILIATED SERVICE GROUPS.—Section 414(m)(6)(B) of such Code is amended—
(1) by striking “OWNERSHIP.—In determining” and inserting the following: “OWNERSHIP.—

“(i) IN GENERAL.—In determining”,

and

(2) by adding at the end the following new clauses:

“(ii) SPECIAL RULES FOR APPLYING FAMILY ATTRIBUTION.—For purposes of applying the attribution rules under section 318 with respect to clause (i), the following rules apply:

“(I) Community property laws shall be disregarded for purposes of determining ownership.

“(II) Except as provided by the Secretary, stock of an individual not attributed under section 318(a)(1)(A)(i) to such individual’s spouse shall not be attributed by reason of section 318(a)(1)(A)(ii) to such spouse from a child who has not attained the age of 21 years.

“(III) Except as provided by the Secretary, in the case of stock in different corporations that is attributed...
under section 318(a)(1)(A)(ii) to a child who has not attained the age of 21 years from each parent, and is not attributed to such parents as spouses under section 318(a)(1)(A)(i), such attribution to the child shall not by itself result in such corporations being members of the same affiliated service group.

“(iii) Plan shall not fail to be treated as satisfying this section.—

If the application of clause (ii) causes two or more entities to be an affiliated service group, or to no longer be in an affiliated service group, such change shall be treated as a transaction to which section 410(b)(6)(C) applies.”.

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning on or after the date of the enactment of this Act.
SEC. 320. AMENDMENTS TO INCREASE BENEFIT ACCRUALS UNDER PLAN FOR PREVIOUS PLAN YEAR ALLOWED UNTIL EMPLOYER TAX RETURN DUE DATE.

(a) In General.—Section 401(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) Retroactive plan amendments that increase benefit accruals.—If—

“(A) an employer amends a stock bonus, pension, profit-sharing, or annuity plan to increase benefits accrued under the plan effective for the preceding plan year (other than increasing the amount of matching contributions (as defined in subsection (m)(4)(A))),(B) such amendment would not otherwise cause the plan to fail to meet any of the requirements of this subchapter, and (C) such amendment is adopted before the time prescribed by law for filing the return of the employer for a taxable year (including extensions thereof) during which such amendment is effective, the employer may elect to treat such amendment as having been adopted as of the last day of the plan year in which the amendment is effective.”.
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2023.

SEC. 321. RETROACTIVE FIRST YEAR ELECTIVE DEFERRALS FOR SOLE PROPRIETORS.

(a) IN GENERAL.—Section 401(b)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “In the case of an individual who owns the entire interest in an unincorporated trade or business, and who is the only employee of such trade or business, any elective deferrals (as defined in section 402(g)(3)) under a qualified cash or deferred arrangement to which the preceding sentence applies, which are made by such individual before the time for filing the return of such individual for the taxable year (determined without regard to any extensions) ending after or with the end of the plan’s first plan year, shall be treated as having been made before the end of such first plan year.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of the enactment of this Act.
SEC. 322. LIMITING CESSION OF IRA TREATMENT TO PORTION OF ACCOUNT INVOLVED IN A PROHIBITED TRANSACTION.

(a) IN GENERAL.—Section 408(e)(2)(A) of the Internal Revenue Code of 1986 is amended by striking “such account ceases to be an individual retirement account” and inserting the following: “the amount involved (as defined in section 4975(f)(4)) in such transaction shall be treated as distributed to the individual”.

(b) CONFORMING AMENDMENTS.—

(1) Section 408(e)(2)(B) of such Code is amended to read as follows:

“(B) ACCOUNT TREATED AS DISTRIBUTING PORTION OF ASSETS USED IN PROHIBITED TRANSACTION.—In any case in which a portion of an individual retirement account is treated as distributed under subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value of such portion, determined as of the date on which the transaction prohibited by section 4975 occurs.”.

(A) by striking “ALL ITS ASSETS.—In any case” and all that follows through “by reason of subparagraph (A)” and inserting the fol-
lowing: “PORTION OF ASSETS USED IN PROHIBITED TRANSACTION.—In any case in which a portion of an individual retirement account is treated as distributed under subparagraph (A), and

(B) by striking “all assets in the account” and inserting “such portion”.

(2) Section 4975(c)(3) of such Code is amended by striking “the account ceases” and all that follows and inserting the following: “the portion of the account used in the transaction is treated as distributed under paragraph (2)(A) or (4) of section 408(e).”.

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

SEC. 323. REVIEW OF PENSION RISK TRANSFER INTERPRETIVE BULLETIN.

Not later than 1 year after the date of enactment of this Act, the Secretary of Labor shall—

(1) review section 2509.95–1 of title 29, Code of Federal Regulations (relating to the fiduciary standards under the Employee Retirement Income Security Act of 1974 when selecting an annuity provider for a defined benefit pension plan) to deter-
mine whether amendments to such section are warranted; and

(2) report to Congress on the findings of such review, including an assessment of any risk to participants.

**TITLE IV—TECHNICAL AMENDMENTS**

**SEC. 401. AMENDMENTS RELATING TO SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT ACT OF 2019.**

(a) Technical Amendments.—

(1) Amendments relating to section 103.—

(A) Section 401(k)(12)(G) of the Internal Revenue Code of 1986 is amended by striking “the requirements under subparagraph (A)(i)” and inserting “the contribution requirements under subparagraph (B) or (C)”.

(B) Section 401(k)(13)(D)(iv) of such Code is amended by striking “and (F)” and inserting “and (G)”.

(C) Section 401(m)(12) of such Code is amended by striking “and” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after
subparagraph (A) (as so amended) the following new subparagraph:

“(B) meets the notice requirements of subsection (k)(13)(E), and”.

(2) Amendment relating to section 112.—
Section 401(k)(15)(B)(i)(II) of such Code is amended by striking “subsection (m)(2)” and inserting “paragraphs (2), (11), and (12) of subsection (m)”.

(3) Amendment relating to section 114.—
Section 401(a)(9)(C)(iii) of such Code is amended by striking “employee to whom clause (i)(II) applies” and inserting “employee (other than an employee to whom clause (i)(II) does not apply by reason of clause (ii))”.

(4) Amendment relating to section 116.—
Section 4973(b) of such Code is amended by adding at the end of the flush matter the following: “Such term shall not include any designated nondeductible contribution (as defined in subparagraph (C) of section 408(o)(2)) which does not exceed the nondeductible limit under subparagraph (B) thereof by reason of an election under section 408(o)(5)”.

(5) Effective date.—The amendments made by this subsection shall take effect as if included in the section of the Setting Every Community Up for
Retirement Enhancement Act of 2019 to which the amendment relates.

(b) Clerical Amendments.—

(1) Section 408(o)(5)(A) of such Code is amended by striking “subsection (b)” and inserting “section 219(b)”.

(2) Section 72(t)(2)(H)(vi)(IV) of such Code is amended by striking “403(b)(7)(A)(ii)” and inserting “403(b)(7)(A)(i)”.

TITLE V—ADMINISTRATIVE PROVISIONS

SEC. 501. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) In General.—If this section applies to any retirement plan or contract amendment—

(1) such retirement plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A); and

(2) except as provided by the Secretary of the Treasury (or the Secretary’s delegate), such retirement plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.
(b) **Amendments to Which Section Applies.**—

   (1) **In general.**—This section shall apply to any amendment to any retirement plan or annuity contract which is made—

   (A) pursuant to any amendment made by this Act or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor (or a delegate of either such Secretary) under this Act; and

   (B) on or before the last day of the first plan year beginning on or after January 1, 2024, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), or an applicable collectively bargained plan, this paragraph shall be applied by substituting “2026” for “2024”. For purposes of the preceding sentence, the term “applicable collectively bargained plan” means a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act.

   (2) **Conditions.**—This section shall not apply to any amendment unless—
(A) during the period—

    (i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan); and

    (ii) ending on the date described in paragraph (1)(B) (as modified by the second sentence of paragraph (1)) (or, if earlier, the date the plan or contract amendment is adopted),

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

(B) such plan or contract amendment applies retroactively for such period.

(c) Coordination With Other Provisions Relating to Plan Amendments.—

    (1) SECURE Act.—Section 601(b)(1) of the Setting Every Community Up for Retirement Enhancement Act of 2019 is amended—

        (A) by striking “January 1, 2022” in subparagraph (B) and inserting “January 1, 2024”, and
(B) by striking “substituting ‘2024’ for ‘2022’.” in the flush matter at the end and inserting “substituting ‘2026’ for ‘2024’.”.

(2) CARES ACT.—

(A) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 2202(c)(2)(A) of the CARES Act is amended by striking “January 1, 2022” in clause (ii) and inserting “January 1, 2024”.

(B) TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTIONS RULES FOR CERTAIN RETIREMENT PLANS AND ACCOUNTS.—Section 2203(c)(2)(B)(i) of the CARES Act is amended—

(i) by striking “January 1, 2022” in subclause (II) and inserting “January 1, 2024”, and

(ii) by striking “substituting ‘2024’ for ‘2022’.” in the flush matter at the end and inserting “substituting ‘2026’ for ‘2024’.”.

(C) TAXPAYER CERTAINTY AND DISASTER TAX RELIEF ACT OF 2020.—Section 302(d)(2)(A) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 is amended by
striking “January 1, 2022” in clause (ii) and inserting “January 1, 2024”.

**TITLE VI—REVENUE PROVISIONS**

**SEC. 601. SIMPLE AND SEP ROTH IRAS.**

(a) **IN GENERAL.**—Section 408A of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(b) **RULES RELATING TO SIMPLIFIED EMPLOYER PENSIONS.**—

(1) **CONTRIBUTIONS.**—Section 402(h)(1) of such Code is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) in the case of any contributions pursuant to a simplified employer pension which are made to an individual retirement plan designated as a Roth IRA, such contribution shall not be excludable from gross income.”.

(2) **DISTRIBUTIONS.**—Section 402(h)(3) of such Code is amended by inserting “, or section 408A(d) in the case of an individual retirement plan designated as a Roth IRA” before the period at the end.
(3) Election required.—Section 408(k) of such Code is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting the after paragraph (6) the following new paragraph:

“(7) Roth contribution election.—An individual retirement plan which is designated as a Roth IRA shall not be treated as a simplified employee pension under this subsection unless the employee elects for such plan to be so treated (at such time and in such manner as the Secretary may provide).”.

(c) Rules relating to simple retirement accounts.—

(1) Election required.—Section 408(p) of such Code is amended by adding at the end the following new paragraph:

“(11) Roth contribution election.—An individual retirement plan which is designated as a Roth IRA shall not be treated as a simple retirement account under this subsection unless the employee elects for such plan to be so treated (at such time and in such manner as the Secretary may provide).”.
(2) Rollovers.—Section 408A(e) of such Code is amended by adding at the end the following new paragraph:

“(3) Simple retirement accounts.—In the case of any payment or distribution out of a simple retirement account (as defined in section 408(p)) with respect to which an election has been made under section 408(p)(11) and to which 72(t)(6) applies, the term ‘qualified rollover contribution’ shall not include any payment or distribution paid into an account other than another simple retirement account (as so defined).”.

(d) Coordination with Roth contribution limitation.—Section 408A(c) of such Code is amended by adding at the end the following new paragraph:

“(7) Coordination with limitation for simple retirement plans and SEPs.—In the case of an individual on whose behalf contributions are made to a simple retirement account or a simplified employee pension, the amount described in paragraph (2)(A) shall be increased by an amount equal to the contributions made on the individual’s behalf to such account or pension for the taxable year, but only to the extent such contributions—
“(A) in the case of a simplified retirement account—

“(i) do not exceed the sum of the dollar amount in effect for the taxable year under section 408(p)(2)(A)(ii) and the employer contribution required under subparagraph (A)(iii) or (B)(i), as the case may be, of section 408(p)(2), and

“(ii) do not cause the elective deferrals (as defined in section 402(g)(3)) on behalf of such individual to exceed the limitation under section 402(g)(1) (taking into account any additional elective deferrals permitted under section 414(v)), or

“(B) in the case of a simplified employee pension, do not exceed the limitation in effect under section 408(j).”.

(e) Conforming Amendment.—Section 408A(d)(2)(B) of such Code is amended by inserting “, or employer in the case of a simple retirement account (as defined in section 408(p)) or simplified employee pension (as defined in section 408(k)),” after “individual’s spouse”.
(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

SEC. 602. HARDSHIP WITHDRAWAL RULES FOR 403(b) PLANS.

(a) In General.—Section 403(b) of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

“(16) Special rules relating to hardship withdrawals.—For purposes of paragraphs (7) and (11)—

“(A) Amounts which may be withdrawn.—The following amounts may be distributed upon hardship of the employee:

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

“(ii) Qualified nonelective contributions (as defined in section 401(m)(4)(C)).

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

“(iv) Earnings on any contributions described in clause (i), (ii), or (iii).
“(B) NO REQUIREMENT TO TAKE AVAILABLE LOAN.—A distribution shall not be treated as failing to be made upon the hardship of an employee solely because the employee does not take any available loan under the plan.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 403(b)(7)(A)(i)(V) of such Code is amended by striking “in the case of contributions made pursuant to a salary reduction agreement (within the meaning of section 3121(a)(5)(D))” and inserting “subject to the provisions of paragraph (16)”.  

(2) Paragraph (11) of section 403(b) of such Code, as amended by the preceding provisions of this Act, is amended—

(A) by striking “in” in subparagraph (B) and inserting “subject to the provisions of paragraph (16), in”, and  

(B) by striking the penultimate sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2022.
SEC. 603. ELECTIVE DEFERRALS GENERALLY LIMITED TO REGULAR CONTRIBUTION LIMIT.

(a) APPLICABLE EMPLOYER PLANS.—Section 414(v)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Except in the case of an applicable employer plan described in paragraph (6)(A)(iv), the preceding sentence shall only apply if contributions are designated Roth contributions (as defined in section 402A(c)(1)).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 402(g)(1) of such Code is amended by striking subparagraph (C).

(2) Section 457(e)(18)(A)(ii) of such Code is amended by inserting “the lesser of any designated Roth contributions made by the participant to the plan or” before “the applicable dollar amount”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

SEC. 604. OPTIONAL TREATMENT OF EMPLOYER MATCHING CONTRIBUTIONS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(a) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (2) as paragraph (3), by striking “and” at the end of paragraph (1), and by inserting after paragraph (1) the following new paragraph:
“(2) any designated Roth contribution which is made by the employer to the program on the employee’s behalf, and on account of the employee’s contribution, elective deferral, or (subject to the requirements of section 401(m)(13)) qualified student loan payment, shall be treated as a matching contribution for purposes of this chapter, except that such contribution shall not be excludable from gross income, and”.

(b) Matching Included in Qualified Roth Contribution Program.—Section 402A(b)(1) of such Code is amended—

(1) by inserting “, or to have made on the employee’s behalf,” after “elect to make”, and

(2) by inserting “, or of matching contributions which may otherwise be made on the employee’s behalf,” after “otherwise eligible to make”.

(c) Designated Roth Matching Contributions.—Section 402A(c)(1) of such Code is amended by inserting “or matching contribution” after “elective deferral”.

(d) Matching Contribution Defined.—Section 402A(e) of such Code is amended by adding at the end the following:
“(3) Matching Contribution.—The term ‘matching contribution’ means—

“(A) any matching contribution described in section 401(m)(4)(A), and

“(B) any contribution to an eligible deferred compensation plan (as defined in section 457(b)) by an eligible employer described in section 457(e)(1)(A) on behalf of an employee and on account of such employee’s elective deferral under such plan.”.

(e) Effective Date.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

TITLE VII—BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, pro-
vided that such statement has been submitted prior to the vote on passage.

Passed the House of Representatives March 29, 2022.

Attest:

Clerk.
AN ACT

To increase retirement savings, simplify and clarify retirement plan rules, and for other purposes.