

## Union Calendar No. 42

116TH CONGRESS  
1ST SESSION

# H. R. 1994

[Report No. 116–65, Part I]

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

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2019

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

MAY 16, 2019

Additional sponsors: Mr. LUETKEMEYER, Mr. COURTNEY, Mrs. WAGNER, Mr. EVANS, Mr. BUDD, Mr. SCHNEIDER, Mr. PASCRELL, Mr. PANETTA, Mr. STAUBER, Mrs. AXNE, Mrs. TRAHAN, Mrs. MURPHY, Mr. BEYER, Mr. LARSON of Connecticut, Ms. SÁNCHEZ, Mr. BLUMENAUER, Mr. THOMPSON of California, Mr. FITZPATRICK, Mrs. WALORSKI, Mr. HARDER of California, Mr. HORSFORD, Mr. HUDSON, Mr. VELA, Mr. SUOZZI, Mr. GROTHMAN, Mrs. FLETCHER, Mr. COLE, Mr. KING of New York, Mr. RESCHENTHALER, Mr. KENNEDY, Mr. BISHOP of Georgia, Mr. AMODEI, Ms. TORRES SMALL of New Mexico, Mr. KILDEE, Mr. BILIRAKIS, Mr. VAN DREW, Mr. GOODEN, Mr. LOEBSACK, Ms. GABBARD, Mr. KILMER, Mr. PERLMUTTER, Mr. ESTES, Mr. KIM, Mr. JOHN W. ROSE of Tennessee, Mr. SOTO, Mr. GOTTHEIMER, Ms. KENDRA S. HORN of Oklahoma, Mr. WATKINS, Ms. SPANBERGER, Mr. PERRY, Ms. FINKENAUER, Ms. SCHRIER, Mr. CLEAVER, Mr. MCCAUL, and Mr. MARSHALL

MAY 16, 2019

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

MAY 16, 2019

Committee on Education and Labor discharged; committed to the Committee  
of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 29, 2019]

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# **A BILL**

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

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

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

4        (a) *SHORT TITLE.*—*This Act may be cited as the “Set-*  
 5        *ting Every Community Up for Retirement Enhancement*  
 6        *Act of 2019”.*

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

*Sec. 1. Short title, etc.*

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

*Sec. 101. Multiple employer plans; pooled employer plans.*

*Sec. 102. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.*

*Sec. 103. Rules relating to election of safe harbor 401(k) status.*

*Sec. 104. Increase in credit limitation for small employer pension plan startup costs.*

*Sec. 105. Small employer automatic enrollment credit.*

*Sec. 106. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.*

*Sec. 107. Repeal of maximum age for traditional IRA contributions.*

*Sec. 108. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.*

*Sec. 109. Portability of lifetime income options.*

*Sec. 110. Treatment of custodial accounts on termination of section 403(b) plans.*

*Sec. 111. Clarification of retirement income account rules relating to church-controlled organizations.*

*Sec. 112. Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate.*

*Sec. 113. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.*

*Sec. 114. Increase in age for required beginning date for mandatory distributions.*

*Sec. 115. Special rules for minimum funding standards for community newspaper plans.*

*Sec. 116. Treating excluded difficulty of care payments as compensation for determining retirement contribution limitations.*

**TITLE II—ADMINISTRATIVE IMPROVEMENTS**

*Sec. 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.*

*Sec. 202. Combined annual report for group of plans.*

*Sec. 203. Disclosure regarding lifetime income.*

*Sec. 204. Fiduciary safe harbor for selection of lifetime income provider.*

*Sec. 205. Modification of nondiscrimination rules to protect older, longer service participants.*

*Sec. 206. Modification of PBGC premiums for CSEC plans.*

#### **TITLE III—OTHER BENEFITS**

*Sec. 301. Benefits provided to volunteer firefighters and emergency medical responders.*

*Sec. 302. Expansion of section 529 plans.*

#### **TITLE IV—REVENUE PROVISIONS**

*Sec. 401. Modification of required distribution rules for designated beneficiaries.*

*Sec. 402. Increase in penalty for failure to file.*

*Sec. 403. Increased penalties for failure to file retirement plan returns.*

*Sec. 404. Increase information sharing to administer excise taxes.*

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

### **4 SEC. 101. MULTIPLE EMPLOYER PLANS; POOLED EMPLOYER 5 PLANS.**

#### **6 (a) QUALIFICATION REQUIREMENTS.—**

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

**10 “(e) APPLICATION OF QUALIFICATION REQUIREMENTS  
11 FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH POOLED  
12 PLAN PROVIDERS.—**

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

**16 “(A) is maintained by employers which  
17 have a common interest other than having adopt-  
18 ed the plan, or**

1           “(B) in the case of a plan not described in  
 2           subparagraph (A), has a pooled plan provider,  
 3           then the plan shall not be treated as failing to meet  
 4           the requirements under this title applicable to a plan  
 5           described in section 401(a) or to a plan that consists  
 6           of individual retirement accounts described in section  
 7           408 (including by reason of subsection (c) thereof),  
 8           whichever is applicable, merely because one or more  
 9           employers of employees covered by the plan fail to  
 10          take such actions as are required of such employers  
 11          for the plan to meet such requirements.

12           “(2) LIMITATIONS.—

13           “(A) IN GENERAL.—Paragraph (1) shall  
 14           not apply to any plan unless the terms of the  
 15           plan provide that in the case of any employer in  
 16           the plan failing to take the actions described in  
 17           paragraph (1)—

18           “(i) the assets of the plan attributable  
 19           to employees of such employer (or bene-  
 20           ficiaries of such employees) will be trans-  
 21           ferred to a plan maintained only by such  
 22           employer (or its successor), to an eligible re-  
 23           tirement plan as defined in section  
 24           402(c)(8)(B) for each individual whose ac-  
 25           count is transferred, or to any other ar-

1            *rangement that the Secretary determines is*  
 2            *appropriate, unless the Secretary deter-*  
 3            *mines it is in the best interests of the em-*  
 4            *ployees of such employer (and the bene-*  
 5            *ficiaries of such employees) to retain the as-*  
 6            *sets in the plan, and*

7            *“(ii) such employer (and not the plan*  
 8            *with respect to which the failure occurred or*  
 9            *any other employer in such plan) shall, ex-*  
 10           *cept to the extent provided by the Secretary,*  
 11           *be liable for any liabilities with respect to*  
 12           *such plan attributable to employees of such*  
 13           *employer (or beneficiaries of such employ-*  
 14           *ees).*

15           *“(B) FAILURES BY POOLED PLAN PRO-*  
 16           *VIDERS.—If the pooled plan provider of a plan*  
 17           *described in paragraph (1)(B) does not perform*  
 18           *substantially all of the administrative duties*  
 19           *which are required of the provider under para-*  
 20           *graph (3)(A)(i) for any plan year, the Secretary*  
 21           *may provide that the determination as to wheth-*  
 22           *er the plan meets the requirements under this*  
 23           *title applicable to a plan described in section*  
 24           *401(a) or to a plan that consists of individual*  
 25           *retirement accounts described in section 408 (in-*

cluding by reason of subsection (c) thereof),  
 whichever is applicable, shall be made in the  
 same manner as would be made without regard  
 to paragraph (1).

“(3) POOLED PLAN PROVIDER.—

“(A) IN GENERAL.—For purposes of this  
 subsection, the term ‘pooled plan provider’  
 means, with respect to any plan, a person who—

“(i) is designated by the terms of the  
 plan as a named fiduciary (within the  
 meaning of section 402(a)(2) of the Em-  
 ployee Retirement Income Security Act of  
 1974), as the plan administrator, and as  
 the person responsible to perform all admin-  
 istrative duties (including conducting prop-  
 er testing with respect to the plan and the  
 employees of each employer in the plan)  
 which are reasonably necessary to ensure  
 that—

“(I) the plan meets any require-  
 ment applicable under the Employee  
 Retirement Income Security Act of  
 1974 or this title to a plan described in  
 section 401(a) or to a plan that con-  
 sists of individual retirement accounts

1           *described in section 408 (including by*  
2           *reason of subsection (c) thereof), which-*  
3           *ever is applicable, and*

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

16          “(ii) *registers as a pooled plan pro-*  
17          *vider with the Secretary, and provides such*  
18          *other information to the Secretary as the*  
19          *Secretary may require, before beginning op-*  
20          *erations as a pooled plan provider,*

21          “(iii) *acknowledges in writing that*  
22          *such person is a named fiduciary (within*  
23          *the meaning of section 402(a)(2) of the Em-*  
24          *ployee Retirement Income Security Act of*



1           1974), and the plan administrator, with re-  
2           spect to the plan, and

3           “(iv) is responsible for ensuring that  
4           all persons who handle assets of, or who are  
5           fiduciaries of, the plan are bonded in ac-  
6           cordance with section 412 of the Employee  
7           Retirement Income Security Act of 1974.

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

13          “(C) AGGREGATION RULES.—For purposes  
14          of this paragraph, in determining whether a per-  
15          son meets the requirements of this paragraph to  
16          be a pooled plan provider with respect to any  
17          plan, all persons who perform services for the  
18          plan and who are treated as a single employer  
19          under subsection (b), (c), (m), or (o) of section  
20          414 shall be treated as one person.

21          “(D) TREATMENT OF EMPLOYERS AS PLAN  
22          SPONSORS.—Except with respect to the adminis-  
23          trative duties of the pooled plan provider de-  
24          scribed in subparagraph (A)(i), each employer in  
25          a plan which has a pooled plan provider shall

1       *be treated as the plan sponsor with respect to the*  
2       *portion of the plan attributable to employees of*  
3       *such employer (or beneficiaries of such employ-*  
4       *ees).*

5       “(4) *GUIDANCE.—*

6               “(A) *IN GENERAL.—The Secretary shall*  
7       *issue such guidance as the Secretary determines*  
8       *appropriate to carry out this subsection, includ-*  
9       *ing guidance—*

10               “(i) *to identify the administrative du-*  
11       *ties and other actions required to be per-*  
12       *formed by a pooled plan provider under this*  
13       *subsection,*

14               “(ii) *which describes the procedures to*  
15       *be taken to terminate a plan which fails to*  
16       *meet the requirements to be a plan described*  
17       *in paragraph (1), including the proper*  
18       *treatment of, and actions needed to be taken*  
19       *by, any employer in the plan and the assets*  
20       *and liabilities of the plan attributable to*  
21       *employees of such employer (or beneficiaries*  
22       *of such employees), and*

23               “(iii) *identifying appropriate cases to*  
24       *which the rules of paragraph (2)(A) will*

1           *apply to employers in the plan failing to*  
2           *take the actions described in paragraph (1).*  
3       *The Secretary shall take into account under*  
4       *clause (iii) whether the failure of an employer or*  
5       *pooled plan provider to provide any disclosures*  
6       *or other information, or to take any other action,*  
7       *necessary to administer a plan or to allow a*  
8       *plan to meet requirements applicable to the plan*  
9       *under section 401(a) or 408, whichever is appli-*  
10       *cable, has continued over a period of time that*  
11       *demonstrates a lack of commitment to compli-*  
12       *ance.*

13           “(B) *GOOD FAITH COMPLIANCE WITH LAW*  
14       *BEFORE GUIDANCE.—An employer or pooled*  
15       *plan provider shall not be treated as failing to*  
16       *meet a requirement of guidance issued by the*  
17       *Secretary under this paragraph if, before the*  
18       *issuance of such guidance, the employer or pooled*  
19       *plan provider complies in good faith with a rea-*  
20       *sonable interpretation of the provisions of this*  
21       *subsection to which such guidance relates.*

22           “(5) *MODEL PLAN.—The Secretary shall publish*  
23       *model plan language which meets the requirements of*  
24       *this subsection and of paragraphs (43) and (44) of*  
25       *section 3 of the Employee Retirement Income Security*

1     *Act of 1974 and which may be adopted in order for*  
 2     *a plan to be treated as a plan described in paragraph*  
 3     *(1)(B).”.*

4             (2)     *CONFORMING     AMENDMENT.—Section*  
 5     *413(c)(2) of such Code is amended by striking “sec-*  
 6     *tion 401(a)” and inserting “sections 401(a) and*  
 7     *408(c).”.*

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

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

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

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

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

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

24             (c) *POOLED EMPLOYER PLAN AND PROVIDER DE-*  
 25    *FINED.—*

1           (1) *IN GENERAL.*—Section 3 of the Employee Re-  
 2           *irement Income Security Act of 1974 (29 U.S.C.*  
 3           *1002) is amended by adding at the end the following:*

4           “(43) *POOLED EMPLOYER PLAN.*—

5           “(A) *IN GENERAL.*—The term ‘pooled em-  
 6           ployer plan’ means a plan—

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

11           “(ii) *which is a plan described in sec-*  
 12           *tion 401(a) of the Internal Revenue Code of*  
 13           *1986 which includes a trust exempt from*  
 14           *tax under section 501(a) of such Code or a*  
 15           *plan that consists of individual retirement*  
 16           *accounts described in section 408 of such*  
 17           *Code (including by reason of subsection (c)*  
 18           *thereof); and*

19           “(iii) *the terms of which meet the re-*  
 20           *quirements of subparagraph (B).*

21           *Such term shall not include a plan maintained*  
 22           *by employers which have a common interest*  
 23           *other than having adopted the plan.*

24           “(B) *REQUIREMENTS FOR PLAN TERMS.*—

25           *The requirements of this subparagraph are met*

1       *with respect to any plan if the terms of the*  
2       *plan—*

3               “(i) *designate a pooled plan provider*  
4               *and provide that the pooled plan provider is*  
5               *a named fiduciary of the plan;*

6               “(ii) *designate one or more trustees*  
7               *meeting the requirements of section*  
8               *408(a)(2) of the Internal Revenue Code of*  
9               *1986 (other than an employer in the plan)*  
10              *to be responsible for collecting contributions*  
11              *to, and holding the assets of, the plan and*  
12              *require such trustees to implement written*  
13              *contribution collection procedures that are*  
14              *reasonable, diligent, and systematic;*

15              “(iii) *provide that each employer in*  
16              *the plan retains fiduciary responsibility*  
17              *for—*

18                      “(I) *the selection and monitoring*  
19                      *in accordance with section 404(a) of*  
20                      *the person designated as the pooled*  
21                      *plan provider and any other person*  
22                      *who, in addition to the pooled plan*  
23                      *provider, is designated as a named fi-*  
24                      *duciary of the plan; and*

1           “(II) to the extent not otherwise  
2           delegated to another fiduciary by the  
3           pooled plan provider and subject to the  
4           provisions of section 404(c), the invest-  
5           ment and management of the portion  
6           of the plan’s assets attributable to the  
7           employees of the employer (or bene-  
8           ficiaries of such employees);

9           “(iv) provide that employers in the  
10          plan, and participants and beneficiaries,  
11          are not subject to unreasonable restrictions,  
12          fees, or penalties with regard to ceasing  
13          participation, receipt of distributions, or  
14          otherwise transferring assets of the plan in  
15          accordance with section 208 or paragraph  
16          (44)(C)(i)(II);

17          “(v) require—

18                 “(I) the pooled plan provider to  
19                 provide to employers in the plan any  
20                 disclosures or other information which  
21                 the Secretary may require, including  
22                 any disclosures or other information to  
23                 facilitate the selection or any moni-  
24                 toring of the pooled plan provider by  
25                 employers in the plan; and

1                   “(II) each employer in the plan to  
2                   take such actions as the Secretary or  
3                   the pooled plan provider determines  
4                   are necessary to administer the plan or  
5                   for the plan to meet any requirement  
6                   applicable under this Act or the Inter-  
7                   nal Revenue Code of 1986 to a plan de-  
8                   scribed in section 401(a) of such Code  
9                   or to a plan that consists of individual  
10                  retirement accounts described in sec-  
11                  tion 408 of such Code (including by  
12                  reason of subsection (c) thereof), which-  
13                  ever is applicable, including providing  
14                  any disclosures or other information  
15                  which the Secretary may require or  
16                  which the pooled plan provider other-  
17                  wise determines are necessary to ad-  
18                  minister the plan or to allow the plan  
19                  to meet such requirements; and

20                  “(vi) provide that any disclosure or  
21                  other information required to be provided  
22                  under clause (v) may be provided in elec-  
23                  tronic form and will be designed to ensure  
24                  only reasonable costs are imposed on pooled  
25                  plan providers and employers in the plan.



1           “(C) *EXCEPTIONS.*—*The term ‘pooled em-*  
 2           *ployer plan’ does not include—*

3                     “(i) *a multiemployer plan; or*

4                     “(ii) *a plan established before the date*  
 5                     *of the enactment of the Setting Every Com-*  
 6                     *munity Up for Retirement Enhancement*  
 7                     *Act of 2019 unless the plan administrator*  
 8                     *elects that the plan will be treated as a*  
 9                     *pooled employer plan and the plan meets*  
 10                    *the requirements of this title applicable to a*  
 11                    *pooled employer plan established on or after*  
 12                    *such date.*

13           “(D) *TREATMENT OF EMPLOYERS AS PLAN*  
 14           *SPONSORS.*—*Except with respect to the adminis-*  
 15           *trative duties of the pooled plan provider de-*  
 16           *scribed in paragraph (44)(A)(i), each employer*  
 17           *in a pooled employer plan shall be treated as the*  
 18           *plan sponsor with respect to the portion of the*  
 19           *plan attributable to employees of such employer*  
 20           *(or beneficiaries of such employees).*

21           “(44) *POOLED PLAN PROVIDER.*—

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

24                     “(i) *is designated by the terms of a*  
 25                     *pooled employer plan as a named fiduciary,*

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

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

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

1           “(ii) registers as a pooled plan pro-  
 2           vider with the Secretary, and provides to  
 3           the Secretary such other information as the  
 4           Secretary may require, before beginning op-  
 5           erations as a pooled plan provider;

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

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

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

20          “(C) GUIDANCE.—The Secretary shall issue  
 21          such guidance as the Secretary determines ap-  
 22          propriate to carry out this paragraph and para-  
 23          graph (43), including guidance—

24               “(i) to identify the administrative du-  
 25               ties and other actions required to be per-

1           *formed by a pooled plan provider under ei-*  
2           *ther such paragraph; and*

3           *“(ii) which requires in appropriate*  
4           *cases that if an employer in the plan fails*  
5           *to take the actions required under subpara-*  
6           *graph (A)(i)(II)—*

7           *“(I) the assets of the plan attrib-*  
8           *utable to employees of such employer*  
9           *(or beneficiaries of such employees) are*  
10          *transferred to a plan maintained only*  
11          *by such employer (or its successor), to*  
12          *an eligible retirement plan as defined*  
13          *in section 402(c)(8)(B) of the Internal*  
14          *Revenue Code of 1986 for each indi-*  
15          *vidual whose account is transferred, or*  
16          *to any other arrangement that the Sec-*  
17          *retary determines is appropriate in*  
18          *such guidance; and*

19          *“(II) such employer (and not the*  
20          *plan with respect to which the failure*  
21          *occurred or any other employer in such*  
22          *plan) shall, except to the extent pro-*  
23          *vided in such guidance, be liable for*  
24          *any liabilities with respect to such*  
25          *plan attributable to employees of such*

1            *employer (or beneficiaries of such em-*  
2            *ployees).*

3            *The Secretary shall take into account under*  
4            *clause (ii) whether the failure of an em-*  
5            *ployer or pooled plan provider to provide*  
6            *any disclosures or other information, or to*  
7            *take any other action, necessary to admin-*  
8            *ister a plan or to allow a plan to meet re-*  
9            *quirements described in subparagraph*  
10           *(A)(i)(II) has continued over a period of*  
11           *time that demonstrates a lack of commit-*  
12           *ment to compliance. The Secretary may*  
13           *waive the requirements of subclause (ii)(I)*  
14           *in appropriate circumstances if the Sec-*  
15           *retary determines it is in the best interests*  
16           *of the employees of the employer referred to*  
17           *in such clause (and the beneficiaries of such*  
18           *employees) to retain the assets in the plan*  
19           *with respect to which the employer's failure*  
20           *occurred.*

21           *“(D) GOOD FAITH COMPLIANCE WITH LAW*  
22           *BEFORE GUIDANCE.—An employer or pooled*  
23           *plan provider shall not be treated as failing to*  
24           *meet a requirement of guidance issued by the*  
25           *Secretary under subparagraph (C) if, before the*

issuance of such guidance, the employer or pooled plan provider complies in good faith with a reasonable interpretation of the provisions of this paragraph, or paragraph (43), to which such guidance relates.

“(E) *AGGREGATION RULES.*—For purposes of this paragraph, in determining whether a person meets the requirements of this paragraph to be a pooled plan provider with respect to any plan, all persons who perform services for the plan and who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as one person.”.

(2) *BONDING REQUIREMENTS FOR POOLED EMPLOYER PLANS.*—The last sentence of section 412(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112(a)) is amended by inserting “or in the case of a pooled employer plan (as defined in section 3(43))” after “section 407(d)(1))”.

(3) *CONFORMING AND TECHNICAL AMENDMENTS.*—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended—

(A) in paragraph (16)(B)—

1                   (i) by striking “or” at the end of clause

2                   (ii); and

3                   (ii) by striking the period at the end

4                   and inserting “, or (iv) in the case of a

5                   pooled employer plan, the pooled plan pro-

6                   vider.”; and

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

8           (d) *POOLED EMPLOYER AND MULTIPLE EMPLOYER*

9 *PLAN REPORTING.*—

10           (1) *ADDITIONAL INFORMATION.*—Section 103 of

11           the *Employee Retirement Income Security Act of*

12           1974 (29 U.S.C. 1023) is amended—

13                   (A) in subsection (a)(1)(B), by striking

14                   “applicable subsections (d), (e), and (f)” and in-

15                   serting “applicable subsections (d), (e), (f), and

16                   (g)”; and

17                   (B) by amending subsection (g) to read as

18                   follows:

19           “(g) *ADDITIONAL INFORMATION WITH RESPECT TO*

20 *POOLED EMPLOYER AND MULTIPLE EMPLOYER PLANS.*—

21 *An annual report under this section for a plan year shall*

22 *include—*

23                   “(1) with respect to any plan to which section

24                   210(a) applies (including a pooled employer plan), a

25                   list of employers in the plan and a good faith esti-

1        *mate of the percentage of total contributions made by*  
 2        *such employers during the plan year and the aggre-*  
 3        *gate account balances attributable to each employer in*  
 4        *the plan (determined as the sum of the account bal-*  
 5        *ances of the employees of such employer (and the*  
 6        *beneficiaries of such employees)); and*

7                *“(2) with respect to a pooled employer plan, the*  
 8        *identifying information for the person designated*  
 9        *under the terms of the plan as the pooled plan pro-*  
 10       *vider.”.*

11                *(2) SIMPLIFIED ANNUAL REPORTS.—Section*  
 12        *104(a) of the Employee Retirement Income Security*  
 13        *Act of 1974 (29 U.S.C. 1024(a)) is amended by strik-*  
 14        *ing paragraph (2)(A) and inserting the following:*

15                *“(2)(A) With respect to annual reports required to be*  
 16        *filed with the Secretary under this part, the Secretary may*  
 17        *by regulation prescribe simplified annual reports for any*  
 18        *pension plan that—*

19                *“(i) covers fewer than 100 participants; or*

20                *“(ii) is a plan described in section 210(a) that*  
 21        *covers fewer than 1,000 participants, but only if no*  
 22        *single employer in the plan has 100 or more partici-*  
 23        *pants covered by the plan.”.*

24                *(e) EFFECTIVE DATE.—*



1           (1) *IN GENERAL.*—*The amendments made by*  
 2           *this section shall apply to plan years beginning after*  
 3           *December 31, 2020.*

4           (2) *RULE OF CONSTRUCTION.*—*Nothing in the*  
 5           *amendments made by subsection (a) shall be con-*  
 6           *strued as limiting the authority of the Secretary of*  
 7           *the Treasury or the Secretary’s delegate (determined*  
 8           *without regard to such amendment) to provide for the*  
 9           *proper treatment of a failure to meet any requirement*  
 10           *applicable under the Internal Revenue Code of 1986*  
 11           *with respect to one employer (and its employees) in*  
 12           *a multiple employer plan.*

13   **SEC. 102. INCREASE IN 10 PERCENT CAP FOR AUTOMATIC**  
 14                   **ENROLLMENT SAFE HARBOR AFTER 1ST PLAN**  
 15                   **YEAR.**

16           (a) *IN GENERAL.*—*Section 401(k)(13)(C)(iii) of the*  
 17           *Internal Revenue Code of 1986 is amended by striking “does*  
 18           *not exceed 10 percent” and inserting “does not exceed 15*  
 19           *percent (10 percent during the period described in subclause*  
 20           *(I))”.*

21           (b) *EFFECTIVE DATE.*—*The amendments made by this*  
 22           *section shall apply to plan years beginning after December*  
 23           *31, 2019.*

1 **SEC. 103. RULES RELATING TO ELECTION OF SAFE HARBOR**

2 **401(k) STATUS.**

3 *(a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE TO*  
 4 *MATCHING CONTRIBUTION PLANS.—*

5 *(1) IN GENERAL.—Subparagraph (A) of section*  
 6 *401(k)(12) of the Internal Revenue Code of 1986 is*  
 7 *amended by striking “if such arrangement” and all*  
 8 *that follows and inserting “if such arrangement—*

9 *“(i) meets the contribution require-*  
 10 *ments of subparagraph (B) and the notice*  
 11 *requirements of subparagraph (D), or*

12 *“(ii) meets the contribution require-*  
 13 *ments of subparagraph (C).”.*

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

19 *“(i) which is described in subpara-*  
 20 *graph (D)(i)(I) and meets the applicable re-*  
 21 *quirements of subparagraphs (C) through*  
 22 *(E), or*

23 *“(ii) which is described in subpara-*  
 24 *graph (D)(i)(II) and meets the applicable*  
 25 *requirements of subparagraphs (C) and*  
 26 *(D).”.*

1       (b)       NONELECTIVE       CONTRIBUTIONS.—Section  
 2   401(k)(12) of the Internal Revenue Code of 1986 is amended  
 3   by redesignating subparagraph (F) as subparagraph (G),  
 4   and by inserting after subparagraph (E) the following new  
 5   subparagraph:

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

9                       “(i) IN GENERAL.—Except as provided  
 10       in clause (ii), a plan may be amended after  
 11       the beginning of a plan year to provide that  
 12       the requirements of subparagraph (C) shall  
 13       apply to the arrangement for the plan year,  
 14       but only if the amendment is adopted—

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

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

21                      “(ii) EXCEPTION WHERE PLAN PRO-  
 22       VIDED FOR MATCHING CONTRIBUTIONS.—  
 23       Clause (i) shall not apply to any plan year  
 24       if the plan provided at any time during the  
 25       plan year that the requirements of subpara-

graph (B) or paragraph (13)(D)(i)(I) applied to the plan year.

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

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

“(F) TIMING OF PLAN AMENDMENT FOR EMPLOYER MAKING NONELECTIVE CONTRIBUTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a plan may be amended after the beginning of a plan year to provide that the requirements of subparagraph (D)(i)(II) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

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

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

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

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

23                  “(d) *EFFECTIVE DATE.—The amendments made by this*  
24                  *section shall apply to plan years beginning after December*  
25                  *31, 2019.*

1 **SEC. 104. INCREASE IN CREDIT LIMITATION FOR SMALL EM-**  
 2 **PLOYER PENSION PLAN STARTUP COSTS.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 45E(b) of  
 4 the Internal Revenue Code of 1986 is amended to read as  
 5 follows:

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

9 “(A) \$500, or

10 “(B) the lesser of—

11 “(i) \$250 for each employee of the eli-  
 12 gible employer who is not a highly com-  
 13 pensated employee (as defined in section  
 14 414(q)) and who is eligible to participate in  
 15 the eligible employer plan maintained by  
 16 the eligible employer, or

17 “(ii) \$5,000, and”.

18 (b) *EFFECTIVE DATE.*—The amendment made by this  
 19 section shall apply to taxable years beginning after Decem-  
 20 ber 31, 2019.

21 **SEC. 105. SMALL EMPLOYER AUTOMATIC ENROLLMENT**  
 22 **CREDIT.**

23 (a) *IN GENERAL.*—Subpart D of part IV of subchapter  
 24 A of chapter 1 of the Internal Revenue Code of 1986 is  
 25 amended by adding at the end the following new section:

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

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

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

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

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

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

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

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

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

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1 **SEC. 106. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**  
 2 **AND STIPEND PAYMENTS TREATED AS COM-**  
 3 **PENSATION FOR IRA PURPOSES.**

4 (a) *IN GENERAL.*—Paragraph (1) of section 219(f) of  
 5 the Internal Revenue Code of 1986 is amended by adding  
 6 at the end the following: “The term ‘compensation’ shall in-  
 7 clude any amount which is included in the individual’s  
 8 gross income and paid to the individual to aid the indi-  
 9 vidual in the pursuit of graduate or postdoctoral study.”.

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

13 **SEC. 107. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**  
 14 **CONTRIBUTIONS.**

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

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

22 (c) *EFFECTIVE DATE.*—The amendments made by this  
 23 section shall apply to contributions made for taxable years  
 24 beginning after December 31, 2019.

1 **SEC. 108. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**  
 2 **MAKING LOANS THROUGH CREDIT CARDS**  
 3 **AND OTHER SIMILAR ARRANGEMENTS.**

4 (a) *IN GENERAL.*—Paragraph (2) of section 72(p) of  
 5 the Internal Revenue Code of 1986 is amended by redesignig-  
 6 nating subparagraph (D) as subparagraph (E) and by in-  
 7 serting after subparagraph (C) the following new subpara-  
 8 graph:

9 “(D) *PROHIBITION OF LOANS THROUGH*  
 10 *CREDIT CARDS AND OTHER SIMILAR ARRANGE-*  
 11 *MENTS.*—Subparagraph (A) shall not apply to  
 12 any loan which is made through the use of any  
 13 credit card or any other similar arrangement.”.

14 (b) *EFFECTIVE DATE.*—The amendments made by sub-  
 15 section (a) shall apply to loans made after the date of the  
 16 enactment of this Act.

17 **SEC. 109. PORTABILITY OF LIFETIME INCOME OPTIONS.**

18 (a) *IN GENERAL.*—Subsection (a) of section 401 of the  
 19 Internal Revenue Code of 1986 is amended by inserting  
 20 after paragraph (37) the following new paragraph:

21 “(38) *PORTABILITY OF LIFETIME INCOME.*—  
 22 “(A) *IN GENERAL.*—Except as may be oth-  
 23 erwise provided by regulations, a trust forming  
 24 part of a defined contribution plan shall not be  
 25 treated as failing to constitute a qualified trust  
 26 under this section solely by reason of allowing—

1                   “(i) *qualified distributions of a life-*  
2                   *time income investment, or*

3                   “(ii) *distributions of a lifetime income*  
4                   *investment in the form of a qualified plan*  
5                   *distribution annuity contract,*

6                   *on or after the date that is 90 days prior to the*  
7                   *date on which such lifetime income investment is*  
8                   *no longer authorized to be held as an investment*  
9                   *option under the plan.*

10                  “(B) *DEFINITIONS.—For purposes of this*  
11                  *subsection—*

12                   “(i) *the term ‘qualified distribution’*  
13                   *means a direct trustee-to-trustee transfer de-*  
14                   *scribed in paragraph (31)(A) to an eligible*  
15                   *retirement plan (as defined in section*  
16                   *402(c)(8)(B)),*

17                   “(ii) *the term ‘lifetime income invest-*  
18                   *ment’ means an investment option which is*  
19                   *designed to provide an employee with elec-*  
20                   *tion rights—*

21                   “(I) *which are not uniformly*  
22                   *available with respect to other invest-*  
23                   *ment options under the plan, and*

24                   “(II) *which are to a lifetime in-*  
25                   *come feature available through a con-*

1 *tract or other arrangement offered*  
2 *under the plan (or under another eligi-*  
3 *ble retirement plan (as so defined), if*  
4 *paid by means of a direct trustee-to-*  
5 *trustee transfer described in paragraph*  
6 *(31)(A) to such other eligible retire-*  
7 *ment plan),*

8 “(iii) the term ‘lifetime income feature’  
9 *means—*

10 “(I) a feature which guarantees a  
11 *minimum level of income annually (or*  
12 *more frequently) for at least the re-*  
13 *mainder of the life of the employee or*  
14 *the joint lives of the employee and the*  
15 *employee’s designated beneficiary, or*

16 “(II) an annuity payable on be-  
17 *half of the employee under which pay-*  
18 *ments are made in substantially equal*  
19 *periodic payments (not less frequently*  
20 *than annually) over the life of the em-*  
21 *ployee or the joint lives of the employee*  
22 *and the employee’s designated bene-*  
23 *ficiary, and*

24 “(iv) the term ‘qualified plan distribu-  
25 *tion annuity contract’ means an annuity*

1           *contract purchased for a participant and*  
 2           *distributed to the participant by a plan or*  
 3           *contract described in subparagraph (B) of*  
 4           *section 402(c)(8) (without regard to clauses*  
 5           *(i) and (ii) thereof).”.*

6           ***(b) CASH OR DEFERRED ARRANGEMENT.—***

7           ***(1) IN GENERAL.—****Clause (i) of section*  
 8           *401(k)(2)(B) of the Internal Revenue Code of 1986 is*  
 9           *amended by striking “or” at the end of subclause*  
 10          *(IV), by striking “and” at the end of subclause (V)*  
 11          *and inserting “or”, and by adding at the end the fol-*  
 12          *lowing new subclause:*

13                   *“(VI) except as may be otherwise*  
 14                   *provided by regulations, with respect to*  
 15                   *amounts invested in a lifetime income*  
 16                   *investment (as defined in subsection*  
 17                   *(a)(38)(B)(ii)), the date that is 90*  
 18                   *days prior to the date that such life-*  
 19                   *time income investment may no longer*  
 20                   *be held as an investment option under*  
 21                   *the arrangement, and”.*

22          ***(2) DISTRIBUTION REQUIREMENT.—****Subpara-*  
 23          *graph (B) of section 401(k)(2) of such Code, as*  
 24          *amended by paragraph (1), is amended by striking*  
 25          *“and” at the end of clause (i), by striking the semi-*

colon at the end of clause (ii) and inserting “, and”,  
and by adding at the end the following new clause:

“(iii) except as may be otherwise provided by regulations, in the case of amounts described in clause (i)(VI), will be distributed only in the form of a qualified distribution (as defined in subsection (a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in subsection (a)(38)(B)(iv)),”.

(c) *SECTION 403(b) PLANS.*—

(1) *ANNUITY CONTRACTS.*—Paragraph (11) of section 403(b) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or”, and by inserting after subparagraph (C) the following new subparagraph:

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

“(i) on or after the date that is 90 days prior to the date that such lifetime income investment may no longer be held as

1           *an investment option under the contract,*  
 2           *and*

3           *“(ii) in the form of a qualified dis-*  
 4           *tribution (as defined in section*  
 5           *401(a)(38)(B)(i)) or a qualified plan dis-*  
 6           *tribution annuity contract (as defined in*  
 7           *section 401(a)(38)(B)(iv)).”.*

8           (2) *CUSTODIAL ACCOUNTS.*—*Subparagraph (A)*  
 9           *of section 403(b)(7) of such Code is amended by strik-*  
 10          *ing “if—” and all that follows and inserting “if the*  
 11          *amounts are to be invested in regulated investment*  
 12          *company stock to be held in that custodial account,*  
 13          *and under the custodial account—*

14           *“(i) no such amounts may be paid or*  
 15           *made available to any distributee (unless*  
 16           *such amount is a distribution to which sec-*  
 17           *tion 72(t)(2)(G) applies) before—*

18           *“(I) the employee dies,*

19           *“(II) the employee attains age*  
 20           *59½,*

21           *“(III) the employee has a sever-*  
 22           *ance from employment,*

23           *“(IV) the employee becomes dis-*  
 24           *abled (within the meaning of section*  
 25           *72(m)(7)),*

1 “(V) in the case of contributions  
 2 made pursuant to a salary reduction  
 3 agreement (within the meaning of sec-  
 4 tion 3121(a)(5)(D)), the employee en-  
 5 counters financial hardship, or

6 “(VI) except as may be otherwise  
 7 provided by regulations, with respect to  
 8 amounts invested in a lifetime income  
 9 investment (as defined in section  
 10 401(a)(38)(B)(ii)), the date that is 90  
 11 days prior to the date that such life-  
 12 time income investment may no longer  
 13 be held as an investment option under  
 14 the contract, and

15 “(ii) in the case of amounts described  
 16 in clause (i)(VI), such amounts will be dis-  
 17 tributed only in the form of a qualified dis-  
 18 tribution (as defined in section  
 19 401(a)(38)(B)(i)) or a qualified plan dis-  
 20 tribution annuity contract (as defined in  
 21 section 401(a)(38)(B)(iv)).”.

22 (d) *ELIGIBLE DEFERRED COMPENSATION PLANS.*—

23 (1) *IN GENERAL.*—Subparagraph (A) of section  
 24 457(d)(1) of the Internal Revenue Code of 1986 is  
 25 amended by striking “or” at the end of clause (ii), by



1       inserting “or” at the end of clause (iii), and by add-  
 2       ing after clause (iii) the following:

3               “(iv) except as may be otherwise pro-  
 4               vided by regulations, in the case of a plan  
 5               maintained by an employer described in  
 6               subsection (e)(1)(A), with respect to  
 7               amounts invested in a lifetime income in-  
 8               vestment (as defined in section  
 9               401(a)(38)(B)(ii)), the date that is 90 days  
 10              prior to the date that such lifetime income  
 11              investment may no longer be held as an in-  
 12              vestment option under the plan,”.

13       (2) *DISTRIBUTION REQUIREMENT.*—Paragraph  
 14       (1) of section 457(d) of such Code is amended by  
 15       striking “and” at the end of subparagraph (B), by  
 16       striking the period at the end of subparagraph (C)  
 17       and inserting “, and”, and by inserting after sub-  
 18       paragraph (C) the following new subparagraph:

19              “(D) except as may be otherwise provided  
 20              by regulations, in the case of amounts described  
 21              in subparagraph (A)(iv), such amounts will be  
 22              distributed only in the form of a qualified dis-  
 23              tribution (as defined in section 401(a)(38)(B)(i))  
 24              or a qualified plan distribution annuity contract  
 25              (as defined in section 401(a)(38)(B)(iv)).”.

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

4       **SEC. 110. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**  
 5                               **MINATION OF SECTION 403(b) PLANS.**

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

1 *account (but the employer would not be treated as retaining*  
 2 *material rights simply because the custodial account was*  
 3 *originally opened under a group contract). Such guidance*  
 4 *shall be retroactively effective for taxable years beginning*  
 5 *after December 31, 2008.*

6 **SEC. 111. CLARIFICATION OF RETIREMENT INCOME AC-**  
 7 **COUNT RULES RELATING TO CHURCH-CON-**  
 8 **TROLLED ORGANIZATIONS.**

9 (a) *IN GENERAL.*—Subparagraph (B) of section  
 10 403(b)(9) of the Internal Revenue Code of 1986 is amended  
 11 by inserting “(including an employee described in section  
 12 414(e)(3)(B))” after “employee described in paragraph  
 13 (1)”.

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

17 **SEC. 112. QUALIFIED CASH OR DEFERRED ARRANGEMENTS**  
 18 **MUST ALLOW LONG-TERM EMPLOYEES WORK-**  
 19 **ING MORE THAN 500 BUT LESS THAN 1,000**  
 20 **HOURS PER YEAR TO PARTICIPATE.**

21 (a) *PARTICIPATION REQUIREMENT.*—

22 (1) *IN GENERAL.*—Section 401(k)(2)(D) of the  
 23 Internal Revenue Code of 1986 is amended to read as  
 24 follows:

1           “(D) which does not require, as a condition  
 2           of participation in the arrangement, that an em-  
 3           ployee complete a period of service with the em-  
 4           ployer (or employers) maintaining the plan ex-  
 5           tending beyond the close of the earlier of—

6                   “(i) the period permitted under section  
 7                   410(a)(1) (determined without regard to  
 8                   subparagraph (B)(i) thereof), or

9                   “(ii) subject to the provisions of para-  
 10                  graph (15), the first period of 3 consecutive  
 11                  12-month periods during each of which the  
 12                  employee has at least 500 hours of service.”.

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

16                   “(15) *SPECIAL RULES FOR PARTICIPATION RE-*  
 17                   *QUIREMENT FOR LONG-TERM, PART-TIME WORKERS.*—  
 18                   *For purposes of paragraph (2)(D)(ii)—*

19                           “(A) *AGE REQUIREMENT MUST BE MET.*—  
 20                   *Paragraph (2)(D)(ii) shall not apply to an em-*  
 21                   *ployee unless the employee has met the require-*  
 22                   *ment of section 410(a)(1)(A)(i) by the close of the*  
 23                   *last of the 12-month periods described in such*  
 24                   *paragraph.*

1                   “(B) *NONDISCRIMINATION AND TOP-HEAVY*  
 2                   *RULES NOT TO APPLY.*—

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

7                   “(I) *notwithstanding subsection*  
 8                   *(a)(4), an employer shall not be re-*  
 9                   *quired to make nonelective or matching*  
 10                   *contributions on behalf of such employ-*  
 11                   *ees even if such contributions are made*  
 12                   *on behalf of other employees eligible to*  
 13                   *participate in the arrangement, and*

14                   “(II) *an employer may elect to ex-*  
 15                   *clude such employees from the applica-*  
 16                   *tion of subsection (a)(4), paragraphs*  
 17                   *(3), (12), and (13), subsection (m)(2),*  
 18                   *and section 410(b).*

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

ments under subsections (b) and (c) of section 416.

“(iii) *VESTING*.—For purposes of determining whether an employee described in clause (i) has a nonforfeitable right to employer contributions (other than contributions described in paragraph (3)(D)(i)) under the arrangement, each 12-month period for which the employee has at least 500 hours of service shall be treated as a year of service.

“(iv) *EMPLOYEES WHO BECOME FULL-TIME EMPLOYEES*.—This subparagraph shall cease to apply to any employee as of the first plan year beginning after the plan year in which the employee meets the requirements of section 410(a)(1)(A)(ii) without regard to paragraph (2)(D)(ii).

“(C) *EXCEPTION FOR EMPLOYEES UNDER COLLECTIVELY BARGAINED PLANS, ETC*.—Paragraph (2)(D)(ii) shall not apply to employees described in section 410(b)(3).

“(D) *SPECIAL RULES*.—

“(i) *TIME OF PARTICIPATION*.—The rules of section 410(a)(4) shall apply to an

1           employee eligible to participate in an ar-  
 2           rangement solely by reason of paragraph  
 3           (2)(D)(ii).

4           “(ii) 12-MONTH PERIODS.—12-month  
 5           periods shall be determined in the same  
 6           manner as under the last sentence of section  
 7           410(a)(3)(A).”.

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

14       **SEC. 113. PENALTY-FREE WITHDRAWALS FROM RETIRE-**  
 15                               **MENT PLANS FOR INDIVIDUALS IN CASE OF**  
 16                               **BIRTH OF CHILD OR ADOPTION.**

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

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

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

1           “(ii) *LIMITATION.*—*The aggregate*  
 2           *amount which may be treated as qualified*  
 3           *birth or adoption distributions by any indi-*  
 4           *vidual with respect to any birth or adoption*  
 5           *shall not exceed \$5,000.*

6           “(iii) *QUALIFIED BIRTH OR ADOPTION*  
 7           *DISTRIBUTION.*—*For purposes of this sub-*  
 8           *paragraph—*

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

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



1 “(iv) *TREATMENT OF PLAN DISTRIBUTIONS.*—  
2

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

17 “(II) *CONTROLLED GROUP.*—For  
18 purposes of subclause (I), the term  
19 ‘controlled group’ means any group  
20 treated as a single employer under sub-  
21 section (b), (c), (m), or (o) of section  
22 414.

23 “(v) *AMOUNT DISTRIBUTED MAY BE*  
24 *REPAID.*—

1           “(I) *IN GENERAL.*—Any indi-  
2           vidual who receives a qualified birth or  
3           adoption distribution may make one or  
4           more contributions in an aggregate  
5           amount not to exceed the amount of  
6           such distribution to an applicable eli-  
7           gible retirement plan of which such in-  
8           dividual is a beneficiary and to which  
9           a rollover contribution of such dis-  
10          tribution could be made under section  
11          402(c), 403(a)(4), 403(b)(8), 408(d)(3),  
12          or 457(e)(16), as the case may be.

13           “(II) *LIMITATION ON CONTRIBU-*  
14          *TIONS TO APPLICABLE ELIGIBLE RE-*  
15          *TIREMENT PLANS OTHER THAN IRAS.*—  
16          The aggregate amount of contributions  
17          made by an individual under sub-  
18          clause (I) to any applicable eligible re-  
19          tirement plan which is not an indi-  
20          vidual retirement plan shall not exceed  
21          the aggregate amount of qualified birth  
22          or adoption distributions which are  
23          made from such plan to such indi-  
24          vidual. Subclause (I) shall not apply  
25          to contributions to any applicable eli-

1            *gible retirement plan which is not an*  
2            *individual retirement plan unless the*  
3            *individual is eligible to make contribu-*  
4            *tions (other than those described in*  
5            *subclause (I)) to such applicable eligi-*  
6            *ble retirement plan.*

7            “(III) *TREATMENT OF REPAY-*  
8            *MENTS OF DISTRIBUTIONS FROM AP-*  
9            *PLICABLE ELIGIBLE RETIREMENT*  
10           *PLANS OTHER THAN IRAs.—If a con-*  
11           *tribution is made under subclause (I)*  
12           *with respect to a qualified birth or*  
13           *adoption distribution from an applica-*  
14           *ble eligible retirement plan other than*  
15           *an individual retirement plan, then*  
16           *the taxpayer shall, to the extent of the*  
17           *amount of the contribution, be treated*  
18           *as having received such distribution in*  
19           *an eligible rollover distribution (as de-*  
20           *finied in section 402(c)(4)) and as hav-*  
21           *ing transferred the amount to the ap-*  
22           *plicable eligible retirement plan in a*  
23           *direct trustee to trustee transfer within*  
24           *60 days of the distribution.*

1                   “(IV) *TREATMENT OF REPAY-*  
2                   *MENTS FOR DISTRIBUTIONS FROM*  
3                   *IRAS.—If a contribution is made under*  
4                   *subclause (I) with respect to a quali-*  
5                   *fied birth or adoption distribution*  
6                   *from an individual retirement plan,*  
7                   *then, to the extent of the amount of the*  
8                   *contribution, such distribution shall be*  
9                   *treated as a distribution described in*  
10                  *section 408(d)(3) and as having been*  
11                  *transferred to the applicable eligible re-*  
12                  *irement plan in a direct trustee to*  
13                  *trustee transfer within 60 days of the*  
14                  *distribution.*

15                  “(vi) *DEFINITION AND SPECIAL*  
16                  *RULES.—For purposes of this subpara-*  
17                  *graph—*

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

24                         “(II) *EXEMPTION OF DISTRIBUTI-*  
25                         *ONS FROM TRUSTEE TO TRUSTEE*

1                    *TRANSFER            AND            WITHHOLDING*  
 2                    *RULES.—For purposes of sections*  
 3                    *401(a)(31), 402(f), and 3405, a quali-*  
 4                    *fied birth or adoption distribution*  
 5                    *shall not be treated as an eligible roll-*  
 6                    *over distribution.*

7                    *“(III) TAXPAYER MUST INCLUDE*  
 8                    *TIN.—A distribution shall not be treat-*  
 9                    *ed as a qualified birth or adoption dis-*  
 10                    *tribution with respect to any child or*  
 11                    *eligible adoptee unless the taxpayer in-*  
 12                    *cludes the name, age, and TIN of such*  
 13                    *child or eligible adoptee on the tax-*  
 14                    *payer’s return of tax for the taxable*  
 15                    *year.*

16                    *“(IV) DISTRIBUTIONS TREATED*  
 17                    *AS MEETING PLAN DISTRIBUTION RE-*  
 18                    *QUIREMENTS.—Any qualified birth or*  
 19                    *adoption distribution shall be treated*  
 20                    *as meeting the requirements of sections*  
 21                    *401(k)(2)(B)(i),            403(b)(7)(A)(ii),*  
 22                    *403(b)(11), and 457(d)(1)(A).”.*

23                    *(b) EFFECTIVE DATE.—The amendments made by this*  
 24                    *section shall apply to distributions made after December 31,*  
 25                    *2019.*

1 **SEC. 114. INCREASE IN AGE FOR REQUIRED BEGINNING**  
 2 **DATE FOR MANDATORY DISTRIBUTIONS.**

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

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

10 (c) *CONFORMING AMENDMENTS.*—

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

14 (2) Section 457(d)(1)(A)(i) of such Code is  
 15 amended by striking “age 70½” and inserting “age  
 16 72”.

17 (d) *EFFECTIVE DATE.*—The amendments made by this  
 18 section shall apply to distributions required to be made  
 19 after December 31, 2019, with respect to individuals who  
 20 attain age 70½ after such date.

21 **SEC. 115. SPECIAL RULES FOR MINIMUM FUNDING STAND-**  
 22 **ARDS FOR COMMUNITY NEWSPAPER PLANS.**

23 (a) *AMENDMENT TO INTERNAL REVENUE CODE OF*  
 24 *1986.*—Section 430 of the Internal Revenue Code of 1986  
 25 is amended by adding at the end the following new sub-  
 26 section:

1       “(m) *SPECIAL RULES FOR COMMUNITY NEWSPAPER*  
 2 *PLANS.*—

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

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

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

20                   “(A) *INTEREST RATES.*—

21                           “(i) *IN GENERAL.*—*Notwithstanding*  
 22 *subsection (h)(2)(C) and except as provided*  
 23 *in clause (ii), the first, second, and third*  
 24 *segment rates in effect for any month for*  
 25 *purposes of this section shall be 8 percent.*

1           “(ii) *NEW BENEFIT ACCRUALS.*—Not-  
 2           withstanding subsection (h)(2), for purposes  
 3           of determining the funding target and nor-  
 4           mal cost of a plan for any plan year, the  
 5           present value of any benefits accrued or  
 6           earned under the plan for a plan year with  
 7           respect to which an election under para-  
 8           graph (1) is in effect shall be determined on  
 9           the basis of the U.S. Treasury obligation  
 10          yield curve for the day that is the valuation  
 11          date of such plan for such plan year.

12          “(iii) *U.S. TREASURY OBLIGATION*  
 13          *YIELD CURVE.*—For purposes of this sub-  
 14          section, the term ‘U.S. Treasury obligation  
 15          yield curve’ means, with respect to any day,  
 16          a yield curve which shall be prescribed by  
 17          the Secretary for such day on interest-bear-  
 18          ing obligations of the United States.

19          “(B) *SHORTFALL AMORTIZATION BASE.*—

20               “(i) *PREVIOUS SHORTFALL AMORTIZA-*  
 21               *TION BASES.*—The shortfall amortization  
 22               bases determined under subsection (c)(3) for  
 23               all plan years preceding the first plan year  
 24               to which the election under paragraph (1)  
 25               applies (and all shortfall amortization in-



1 *stallments determined with respect to such*  
 2 *bases) shall be reduced to zero under rules*  
 3 *similar to the rules of subsection (c)(6).*

4 “(ii) *NEW SHORTFALL AMORTIZATION*  
 5 *BASE.—Notwithstanding subsection (c)(3),*  
 6 *the shortfall amortization base for the first*  
 7 *plan year to which the election under para-*  
 8 *graph (1) applies shall be the funding short-*  
 9 *fall of such plan for such plan year (deter-*  
 10 *mined using the interest rates as modified*  
 11 *under subparagraph (A)).*

12 “(C) *DETERMINATION OF SHORTFALL AM-*  
 13 *ORTIZATION INSTALLMENTS.—*

14 “(i) *30-YEAR PERIOD.—Subparagraphs*  
 15 *(A) and (B) of subsection (c)(2) shall be ap-*  
 16 *plied by substituting ‘30-plan-year’ for ‘7-*  
 17 *plan-year’ each place it appears.*

18 “(ii) *NO SPECIAL ELECTION.—The*  
 19 *election under subparagraph (D) of sub-*  
 20 *section (c)(2) shall not apply to any plan*  
 21 *year to which the election under paragraph*  
 22 *(1) applies.*

23 “(D) *EXEMPTION FROM AT-RISK TREAT-*  
 24 *MENT.—Subsection (i) shall not apply.*

1           “(4) *COMMUNITY NEWSPAPER PLAN.*—*For pur-*  
2           *poses of this subsection—*

3           “(A) *IN GENERAL.*—*The term ‘community*  
4           *newspaper plan’ means a plan to which this sec-*  
5           *tion applies maintained by an employer which,*  
6           *as of December 31, 2017—*

7           “(i) *publishes and distributes daily, ei-*  
8           *ther electronically or in printed form, 1 or*  
9           *more community newspapers in a single*  
10          *State,*

11          “(ii) *is not a company the stock of*  
12          *which is publicly traded (on a stock ex-*  
13          *change or in an over-the-counter market),*  
14          *and is not controlled, directly or indirectly,*  
15          *by such a company,*

16          “(iii) *is controlled, directly or indi-*  
17          *rectly—*

18               “(I) *by 1 or more persons residing*  
19               *primarily in the State in which the*  
20               *community newspaper is published,*

21               “(II) *for not less than 30 years by*  
22               *individuals who are members of the*  
23               *same family,*

24               “(III) *by a trust created or orga-*  
25               *nized in the State in which the com-*

1            *munity newspaper is published, the*  
 2            *sole trustees of which are persons de-*  
 3            *scribed in subclause (I) or (II),*

4            *“(IV) by an entity which is de-*  
 5            *scribed in section 501(c)(3) and exempt*  
 6            *from taxation under section 501(a),*  
 7            *which is organized and operated in the*  
 8            *State in which the community news-*  
 9            *paper is published, and the primary*  
 10           *purpose of which is to benefit commu-*  
 11           *nities in such State, or*

12           *“(V) by a combination of persons*  
 13           *described in subclause (I), (III), or*  
 14           *(IV), and*

15           *“(iv) does not control, directly or indi-*  
 16           *rectly, any newspaper in any other State.*

17           *“(B) COMMUNITY NEWSPAPER.—The term*  
 18           *‘community newspaper’ means a newspaper*  
 19           *which primarily serves a metropolitan statistical*  
 20           *area, as determined by the Office of Management*  
 21           *and Budget, with a population of not less than*  
 22           *100,000.*

23           *“(C) CONTROL.—A person shall be treated*  
 24           *as controlled by another person if such other per-*  
 25           *son possesses, directly or indirectly, the power to*

1           *direct or cause the direction and management of*  
2           *such person (including the power to elect a ma-*  
3           *jority of the members of the board of directors of*  
4           *such person) through the ownership of voting se-*  
5           *curities.*

6           “(5) *CONTROLLED GROUP.*—*For purposes of this*  
7           *subsection, the term ‘controlled group’ means all per-*  
8           *sons treated as a single employer under subsection*  
9           *(b), (c), (m), or (o) of section 414 as of the date of*  
10          *the enactment of this subsection.”.*

11          ***(b) AMENDMENT TO EMPLOYEE RETIREMENT INCOME***  
12          ***SECURITY ACT OF 1974.***—*Section 303 of the Employee Re-*  
13          *tirement Income Security Act of 1974 (29 U.S.C. 1083) is*  
14          *amended by adding at the end the following new subsection:*

15          ***“(m) SPECIAL RULES FOR COMMUNITY NEWSPAPER***  
16          ***PLANS.***—

17                “(1) *IN GENERAL.*—*The plan sponsor of a com-*  
18                *munity newspaper plan under which no participant*  
19                *has had the participant’s accrued benefit increased*  
20                *(whether because of service or compensation) after De-*  
21                *cember 31, 2017, may elect to have the alternative*  
22                *standards described in paragraph (3) apply to such*  
23                *plan, and any plan sponsored by any member of the*  
24                *same controlled group.*

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

7           “(3) *ALTERNATIVE MINIMUM FUNDING STAND-*  
8           *ARDS*.—The alternative standards described in this  
9           paragraph are the following:

10           “(A) *INTEREST RATES*.—

11           “(i) *IN GENERAL*.—Notwithstanding  
12           subsection (h)(2)(C) and except as provided  
13           in clause (ii), the first, second, and third  
14           segment rates in effect for any month for  
15           purposes of this section shall be 8 percent.

16           “(ii) *NEW BENEFIT ACCRUALS*.—Not-  
17           withstanding subsection (h)(2), for purposes  
18           of determining the funding target and nor-  
19           mal cost of a plan for any plan year, the  
20           present value of any benefits accrued or  
21           earned under the plan for a plan year with  
22           respect to which an election under para-  
23           graph (1) is in effect shall be determined on  
24           the basis of the U.S. Treasury obligation

1            *yield curve for the day that is the valuation*  
 2            *date of such plan for such plan year.*

3            “(iii) U.S. TREASURY OBLIGATION  
 4            YIELD CURVE.—For purposes of this sub-  
 5            section, the term ‘U.S. Treasury obligation  
 6            yield curve’ means, with respect to any day,  
 7            a yield curve which shall be prescribed by  
 8            the Secretary of the Treasury for such day  
 9            on interest-bearing obligations of the United  
 10           States.

11           “(B) SHORTFALL AMORTIZATION BASE.—

12           “(i) PREVIOUS SHORTFALL AMORTIZA-  
 13           TION BASES.—The shortfall amortization  
 14           bases determined under subsection (c)(3) for  
 15           all plan years preceding the first plan year  
 16           to which the election under paragraph (1)  
 17           applies (and all shortfall amortization in-  
 18           stallments determined with respect to such  
 19           bases) shall be reduced to zero under rules  
 20           similar to the rules of subsection (c)(6).

21           “(ii) NEW SHORTFALL AMORTIZATION  
 22           BASE.—Notwithstanding subsection (c)(3),  
 23           the shortfall amortization base for the first  
 24           plan year to which the election under para-  
 25           graph (1) applies shall be the funding short-

1           *fall of such plan for such plan year (deter-*  
 2           *mined using the interest rates as modified*  
 3           *under subparagraph (A)).*

4           “(C) *DETERMINATION OF SHORTFALL AM-*  
 5           *ORTIZATION INSTALLMENTS.—*

6                   “(i) *30-YEAR PERIOD.—Subparagraphs*  
 7           *(A) and (B) of subsection (c)(2) shall be ap-*  
 8           *plied by substituting ‘30-plan-year’ for ‘7-*  
 9           *plan-year’ each place it appears.*

10                   “(ii) *NO SPECIAL ELECTION.—The*  
 11           *election under subparagraph (D) of sub-*  
 12           *section (c)(2) shall not apply to any plan*  
 13           *year to which the election under paragraph*  
 14           *(1) applies.*

15           “(D) *EXEMPTION FROM AT-RISK TREAT-*  
 16           *MENT.—Subsection (i) shall not apply.*

17           “(4) *COMMUNITY NEWSPAPER PLAN.—For pur-*  
 18           *poses of this subsection—*

19                   “(A) *IN GENERAL.—The term ‘community*  
 20           *newspaper plan’ means a plan to which this sec-*  
 21           *tion applies maintained by an employer which,*  
 22           *as of December 31, 2017—*

23                           “(i) *publishes and distributes daily, ei-*  
 24           *ther electronically or in printed form—*

25                                   “(I) *a community newspaper, or*

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

3                   “(ii) is not a company the stock of  
4                   which is publicly traded (on a stock ex-  
5                   change or in an over-the-counter market),  
6                   and is not controlled, directly or indirectly,  
7                   by such a company,

8                   “(iii) is controlled, directly or indi-  
9                   rectly—

10                  “(I) by 1 or more persons residing  
11                  primarily in the State in which the  
12                  community newspaper is published,

13                  “(II) for not less than 30 years by  
14                  individuals who are members of the  
15                  same family,

16                  “(III) by a trust created or orga-  
17                  nized in the State in which the com-  
18                  munity newspaper is published, the  
19                  sole trustees of which are persons de-  
20                  scribed in subclause (I) or (II),

21                  “(IV) by an entity which is de-  
22                  scribed in section 501(c)(3) of the In-  
23                  ternal Revenue Code of 1986 and ex-  
24                  empt from taxation under section  
25                  501(a) of such Code, which is orga-



1           nized and operated in the State in  
2           which the community newspaper is  
3           published, and the primary purpose of  
4           which is to benefit communities in  
5           such State, or

6           “(V) by a combination of persons  
7           described in subclause (I), (III), or  
8           (IV), and

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

11          “(B) COMMUNITY NEWSPAPER.—The term  
12          ‘community newspaper’ means a newspaper  
13          which primarily serves a metropolitan statistical  
14          area, as determined by the Office of Management  
15          and Budget, with a population of not less than  
16          100,000.

17          “(C) CONTROL.—A person shall be treated  
18          as controlled by another person if such other per-  
19          son possesses, directly or indirectly, the power to  
20          direct or cause the direction and management of  
21          such person (including the power to elect a ma-  
22          jority of the members of the board of directors of  
23          such person) through the ownership of voting se-  
24          curities.

1           “(5) *CONTROLLED GROUP*.—For purposes of this  
 2           subsection, the term ‘controlled group’ means all per-  
 3           sons treated as a single employer under subsection  
 4           (b), (c), (m), or (o) of section 414 of the Internal Rev-  
 5           enue Code of 1986 as of the date of the enactment of  
 6           this subsection.

7           “(6) *EFFECT ON PREMIUM RATE CALCULA-*  
 8           *TION*.—Notwithstanding any other provision of law  
 9           or any regulation issued by the Pension Benefit  
 10          Guaranty Corporation, in the case of a community  
 11          newspaper plan which elects the application of the al-  
 12          ternative standards described in paragraph (3), the  
 13          additional premium under section 4006(a)(3)(E)  
 14          shall be determined as if such election had not been  
 15          made.”.

16          (c) *EFFECTIVE DATE*.—The amendments made by this  
 17          section shall apply to plan years ending after December 31,  
 18          2017.

19   **SEC. 116. TREATING EXCLUDED DIFFICULTY OF CARE PAY-**  
 20                   **MENTS AS COMPENSATION FOR DETER-**  
 21                   **MINING RETIREMENT CONTRIBUTION LIM-**  
 22                   **TATIONS.**

23          (a) *INDIVIDUAL RETIREMENT ACCOUNTS*.—

1           (1) *IN GENERAL.*—Section 408(o) of the Internal  
 2           Revenue Code of 1986 is amended by adding at the  
 3           end the following new paragraph:

4           “(5) *SPECIAL RULE FOR DIFFICULTY OF CARE*  
 5           *PAYMENTS EXCLUDED FROM GROSS INCOME.*—In the  
 6           case of an individual who for a taxable year excludes  
 7           from gross income under section 131 a qualified foster  
 8           care payment which is a difficulty of care payment,  
 9           if—

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

12                   “(B) the amount of compensation includible  
 13                   in the individual’s gross income for the taxable  
 14                   year,

15           the individual may elect to increase the nondeductible  
 16           limit under paragraph (2) for the taxable year by an  
 17           amount equal to the lesser of such excess or the  
 18           amount so excluded.”.

19           (2) *EFFECTIVE DATE.*—The amendments made  
 20           by this subsection shall apply to contributions after  
 21           the date of the enactment of this Act.

22           (b) *DEFINED CONTRIBUTION PLANS.*—

23           (1) *IN GENERAL.*—Section 415(c) of such Code is  
 24           amended by adding at the end the following new  
 25           paragraph:

1           “(8) *SPECIAL RULE FOR DIFFICULTY OF CARE*  
 2           *PAYMENTS EXCLUDED FROM GROSS INCOME.*—

3           “(A) *IN GENERAL.*—*For purposes of para-*  
 4           *graph (1)(B), in the case of an individual who*  
 5           *for a taxable year excludes from gross income*  
 6           *under section 131 a qualified foster care pay-*  
 7           *ment which is a difficulty of care payment, the*  
 8           *participant’s compensation, or earned income, as*  
 9           *the case may be, shall be increased by the*  
 10           *amount so excluded.*

11           “(B) *CONTRIBUTIONS ALLOCABLE TO DIF-*  
 12           *FICULTY OF CARE PAYMENTS TREATED AS*  
 13           *AFTER-TAX.*—*Any contribution by the partici-*  
 14           *pant which is allowable due to such increase—*

15           “(i) *shall be treated for purposes of this*  
 16           *title as investment in the contract, and*

17           “(ii) *shall not cause a plan (and any*  
 18           *arrangement which is part of such plan) to*  
 19           *be treated as failing to meet any require-*  
 20           *ments of this chapter solely by reason of al-*  
 21           *lowing any such contributions.”.*

22           “(2) *EFFECTIVE DATE.*—*The amendment made by*  
 23           *this subsection shall apply to plan years beginning*  
 24           *after December 31, 2015.*

***TITLE II—ADMINISTRATIVE  
IMPROVEMENTS***

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

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

*(1) by striking “RETROACTIVE CHANGES IN  
PLAN.—A stock bonus” and inserting “PLAN AMEND-  
MENTS.—*

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

*(2) by adding at the end the following new para-  
graph:*

*“(2) ADOPTION OF PLAN.—If an employer adopts  
a stock bonus, pension, profit-sharing, or annuity  
plan after the close of a taxable year but before the  
time prescribed by law for filing the return of the em-  
ployer for the taxable year (including extensions  
thereof), the employer may elect to treat the plan as  
having been adopted as of the last day of the taxable  
year.”.*

*(b) EFFECTIVE DATE.—The amendments made by this  
section shall apply to plans adopted for taxable years begin-  
ning after December 31, 2019.*

1 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**  
2 **PLANS.**

3 (a) *IN GENERAL.*—*The Secretary of the Treasury and*  
4 *the Secretary of Labor shall, in cooperation, modify the re-*  
5 *turns required under section 6058 of the Internal Revenue*  
6 *Code of 1986 and the reports required by section 104 of*  
7 *the Employee Retirement Income Security Act of 1974 (29*  
8 *U.S.C. 1024) so that all members of a group of plans de-*  
9 *scribed in subsection (c) may file a single aggregated an-*  
10 *nual return or report satisfying the requirements of both*  
11 *such sections.*

12 (b) *ADMINISTRATIVE REQUIREMENTS.*—*In developing*  
13 *the consolidated return or report under subsection (a), the*  
14 *Secretary of the Treasury and the Secretary of Labor may*  
15 *require such return or report to include any information*  
16 *regarding each plan in the group as such Secretaries deter-*  
17 *mine is necessary or appropriate for the enforcement and*  
18 *administration of the Internal Revenue Code of 1986 and*  
19 *the Employee Retirement Income Security Act of 1974.*

20 (c) *PLANS DESCRIBED.*—*A group of plans is described*  
21 *in this subsection if all plans in the group—*

22 (1) *are individual account plans or defined con-*  
23 *tribution plans (as defined in section 3(34) of the*  
24 *Employee Retirement Income Security Act of 1974*  
25 *(29 U.S.C. 1002(34)) or in section 414(i) of the Inter-*  
26 *nal Revenue Code of 1986);*

1           (2) *have—*

2                   (A) *the same trustee (as described in section*  
3 *403(a) of such Act (29 U.S.C. 1103(a))*);

4                   (B) *the same one or more named fiduciaries*  
5 *(as described in section 402(a) of such Act (29*  
6 *U.S.C. 1102(a))*);

7                   (C) *the same administrator (as defined in*  
8 *section 3(16)(A) of such Act (29 U.S.C.*  
9 *1002(16)(A))*) and plan administrator (as de-  
10 *defined in section 414(g) of the Internal Revenue*  
11 *Code of 1986)*; and

12                   (D) *plan years beginning on the same date;*  
13 *and*

14           (3) *provide the same investments or investment*  
15 *options to participants and beneficiaries.*

16 *A plan not subject to title I of the Employee Retirement*  
17 *Income Security Act of 1974 shall be treated as meeting*  
18 *the requirements of paragraph (2) as part of a group of*  
19 *plans if the same person that performs each of the functions*  
20 *described in such paragraph, as applicable, for all other*  
21 *plans in such group performs each of such functions for such*  
22 *plan.*

23           (d) *CLARIFICATION RELATING TO ELECTRONIC FILING*  
24 *OF RETURNS FOR DEFERRED COMPENSATION PLANS.—*

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

4           “(6) *APPLICATION OF NUMERICAL LIMITATION TO*  
 5           *RETURNS RELATING TO DEFERRED COMPENSATION*  
 6           *PLANS.*—For purposes of applying the numerical lim-  
 7           itation under paragraph (2)(A) to any return re-  
 8           quired under section 6058, information regarding  
 9           each plan for which information is provided on such  
 10          return shall be treated as a separate return.”.

11          (2) *EFFECTIVE DATE.*—The amendment made by  
 12          paragraph (1) shall apply to returns required to be  
 13          filed with respect to plan years beginning after De-  
 14          cember 31, 2019.

15          (e) *EFFECTIVE DATE.*—The modification required by  
 16          subsection (a) shall be implemented not later than January  
 17          1, 2022, and shall apply to returns and reports for plan  
 18          years beginning after December 31, 2021.

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

20          (a) *IN GENERAL.*—Subparagraph (B) of section  
 21          105(a)(2) of the Employee Retirement Income Security Act  
 22          of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

25          and inserting “diversification, and”; and



1           (3) *by inserting at the end the following:*

2                       “(iii) *the lifetime income disclosure de-*  
3                       *scribed in subparagraph (D)(i).*

4           *In the case of pension benefit statements de-*  
5           *scribed in clause (i) of paragraph (1)(A), a life-*  
6           *time income disclosure under clause (iii) of this*  
7           *subparagraph shall be required to be included in*  
8           *only one pension benefit statement during any*  
9           *one 12-month period.”.*

10       (b) *LIFETIME INCOME.*—Paragraph (2) of section  
11 *105(a) of the Employee Retirement Income Security Act of*  
12 *1974 (29 U.S.C. 1025(a)) is amended by adding at the end*  
13 *the following new subparagraph:*

14                       “(D) *LIFETIME INCOME DISCLOSURE.*—

15                       “(i) *IN GENERAL.*—

16                       “(I) *DISCLOSURE.*—*A lifetime in-*  
17                       *come disclosure shall set forth the life-*  
18                       *time income stream equivalent of the*  
19                       *total benefits accrued with respect to*  
20                       *the participant or beneficiary.*

21                       “(II) *LIFETIME INCOME STREAM*  
22                       *EQUIVALENT OF THE TOTAL BENEFITS*  
23                       *ACCRUED.*—*For purposes of this sub-*  
24                       *paragraph, the term ‘lifetime income*  
25                       *stream equivalent of the total benefits*

1           *accrued’ means the amount of monthly*  
 2           *payments the participant or bene-*  
 3           *ficiary would receive if the total ac-*  
 4           *crued benefits of such participant or*  
 5           *beneficiary were used to provide life-*  
 6           *time income streams described in sub-*  
 7           *clause (III), based on assumptions*  
 8           *specified in rules prescribed by the Sec-*  
 9           *retary.*

10                   “(III)       *LIFETIME       INCOME*  
 11           *STREAMS.—The       lifetime       income*  
 12           *streams described in this subclause are*  
 13           *a qualified joint and survivor annuity*  
 14           *(as defined in section 205(d)), based on*  
 15           *assumptions specified in rules pre-*  
 16           *scribed by the Secretary, including the*  
 17           *assumption that the participant or*  
 18           *beneficiary has a spouse of equal age,*  
 19           *and a single life annuity. Such lifetime*  
 20           *income streams may have a term cer-*  
 21           *tain or other features to the extent per-*  
 22           *mitted under rules prescribed by the*  
 23           *Secretary.*

24                   “(ii) *MODEL DISCLOSURE.—Not later*  
 25           *than 1 year after the date of the enactment*

1           *of the Setting Every Community Up for Re-*  
2           *irement Enhancement Act of 2019, the Sec-*  
3           *retary shall issue a model lifetime income*  
4           *disclosure, written in a manner so as to be*  
5           *understood by the average plan participant,*  
6           *which—*

7                     *“(I) explains that the lifetime in-*  
8                     *come stream equivalent is only pro-*  
9                     *vided as an illustration;*

10                    *“(II) explains that the actual*  
11                    *payments under the lifetime income*  
12                    *stream described in clause (i)(III)*  
13                    *which may be purchased with the total*  
14                    *benefits accrued will depend on numer-*  
15                    *ous factors and may vary substantially*  
16                    *from the lifetime income stream equiv-*  
17                    *alent in the disclosures;*

18                    *“(III) explains the assumptions*  
19                    *upon which the lifetime income stream*  
20                    *equivalent was determined; and*

21                    *“(IV) provides such other similar*  
22                    *explanations as the Secretary considers*  
23                    *appropriate.*

24                    *“(iii) ASSUMPTIONS AND RULES.—Not*  
25                    *later than 1 year after the date of the enact-*

1           *ment of the Setting Every Community Up*  
2           *for Retirement Enhancement Act of 2019,*  
3           *the Secretary shall—*

4                     “(I) prescribe assumptions which  
5                     administrators of individual account  
6                     plans may use in converting total ac-  
7                     crued benefits into lifetime income  
8                     stream equivalents for purposes of this  
9                     subparagraph; and

10                    “(II) issue interim final rules  
11                    under clause (i).

12           *In prescribing assumptions under subclause*  
13           *(I), the Secretary may prescribe a single set*  
14           *of specific assumptions (in which case the*  
15           *Secretary may issue tables or factors which*  
16           *facilitate such conversions), or ranges of*  
17           *permissible assumptions. To the extent that*  
18           *an accrued benefit is or may be invested in*  
19           *a lifetime income stream described in clause*  
20           *(i)(III), the assumptions prescribed under*  
21           *subclause (I) shall, to the extent appro-*  
22           *priate, permit administrators of individual*  
23           *account plans to use the amounts payable*  
24           *under such lifetime income stream as a life-*  
25           *time income stream equivalent.*

1           “(iv) *LIMITATION ON LIABILITY.*—No  
2           *plan fiduciary, plan sponsor, or other per-*  
3           *son shall have any liability under this title*  
4           *solely by reason of the provision of lifetime*  
5           *income stream equivalents which are de-*  
6           *rived in accordance with the assumptions*  
7           *and rules described in clause (iii) and*  
8           *which include the explanations contained in*  
9           *the model lifetime income disclosure de-*  
10          *scribed in clause (ii). This clause shall*  
11          *apply without regard to whether the provi-*  
12          *sion of such lifetime income stream equiva-*  
13          *lent is required by subparagraph (B)(iii).*

14          “(v) *EFFECTIVE DATE.*—The require-  
15          *ment in subparagraph (B)(iii) shall apply*  
16          *to pension benefit statements furnished more*  
17          *than 12 months after the latest of the*  
18          *issuance by the Secretary of—*

19                 “(I) *interim final rules under*  
20                 *clause (i);*

21                 “(II) *the model disclosure under*  
22                 *clause (ii); or*

23                 “(III) *the assumptions under*  
24                 *clause (iii).”.*

1 **SEC. 204. FIDUCIARY SAFE HARBOR FOR SELECTION OF**  
 2 **LIFETIME INCOME PROVIDER.**

3 *Section 404 of the Employee Retirement Income Secu-*  
 4 *rity Act of 1974 (29 U.S.C. 1104) is amended by adding*  
 5 *at the end the following:*

6 “(e) *SAFE HARBOR FOR ANNUITY SELECTION.*—

7 “(1) *IN GENERAL.*—*With respect to the selection*  
 8 *of an insurer for a guaranteed retirement income con-*  
 9 *tract, the requirements of subsection (a)(1)(B) will be*  
 10 *deemed to be satisfied if a fiduciary—*

11 “(A) *engages in an objective, thorough, and*  
 12 *analytical search for the purpose of identifying*  
 13 *insurers from which to purchase such contracts;*

14 “(B) *with respect to each insurer identified*  
 15 *under subparagraph (A)—*

16 “(i) *considers the financial capability*  
 17 *of such insurer to satisfy its obligations*  
 18 *under the guaranteed retirement income*  
 19 *contract; and*

20 “(ii) *considers the cost (including fees*  
 21 *and commissions) of the guaranteed retire-*  
 22 *ment income contract offered by the insurer*  
 23 *in relation to the benefits and product fea-*  
 24 *tures of the contract and administrative*  
 25 *services to be provided under such contract;*  
 26 *and*

1           “(C) on the basis of such consideration, con-  
2           cludes that—

3                   “(i) at the time of the selection, the in-  
4                   surer is financially capable of satisfying its  
5                   obligations under the guaranteed retirement  
6                   income contract; and

7                   “(ii) the relative cost of the selected  
8                   guaranteed retirement income contract as  
9                   described in subparagraph (B)(ii) is reason-  
10                  able.

11           “(2) *FINANCIAL CAPABILITY OF THE INSURER.*—  
12           *A fiduciary will be deemed to satisfy the requirements*  
13           *of paragraphs (1)(B)(i) and (1)(C)(i) if—*

14                   “(A) the fiduciary obtains written represen-  
15                   tations from the insurer that—

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

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

21                   “(I) operates under a certificate of  
22                   authority from the insurance commis-  
23                   sioner of its domiciliary State which  
24                   has not been revoked or suspended;

1                   “(II) has filed audited financial  
2                   statements in accordance with the laws  
3                   of its domiciliary State under applica-  
4                   ble statutory accounting principles;

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

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

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

19                  “(iv) the insurer will notify the fidu-  
20                  ciary of any change in circumstances occur-  
21                  ring after the provision of the representa-  
22                  tions in clauses (i), (ii), and (iii) which  
23                  would preclude the insurer from making  
24                  such representations at the time of issuance



1           *of the guaranteed retirement income con-*  
 2           *tract; and*

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

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

17          *“(4) TIME OF SELECTION.—*

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

20                         *“(i) the time that the insurer and the*  
 21                         *contract are selected for distribution of ben-*  
 22                         *efits to a specific participant or beneficiary;*  
 23                         *or*

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

1           *conclusion described in paragraph (1)(C)*  
2           *with respect to a selected insurer, taking*  
3           *into account the considerations described in*  
4           *such paragraph, the time that the insurer*  
5           *and the contract are selected to provide ben-*  
6           *efits at future dates to participants or bene-*  
7           *ficiaries under the plan.*

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

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

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

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

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

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

12                “(B) *GUARANTEED RETIREMENT INCOME*  
 13        *CONTRACT.—The term ‘guaranteed retirement in-*  
 14        *come contract’ means an annuity contract for a*  
 15        *fixed term or a contract (or provision or feature*  
 16        *thereof) which provides guaranteed benefits an-*  
 17        *nually (or more frequently) for at least the re-*  
 18        *mainder of the life of the participant or the joint*  
 19        *lives of the participant and the participant's*  
 20        *designated beneficiary as part of an individual*  
 21        *account plan.”.*

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

4 (a) *IN GENERAL.*—Section 401 of the Internal Revenue  
 5 Code of 1986 is amended—

6 (1) *by redesignating subsection (o) as subsection*  
 7 *(p); and*

8 (2) *by inserting after subsection (n) the following*  
 9 *new subsection:*

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

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

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

23 “(i) *for the plan year as of which the*  
 24 *class closes and the 2 succeeding plan years,*  
 25 *such benefits, rights, and features satisfy the*  
 26 *requirements of subsection (a)(4) (without*

1           *regard to this subparagraph but taking into*  
 2           *account the rules of subparagraph (I)),*

3           *“(ii) after the date as of which the*  
 4           *class was closed, any plan amendment*  
 5           *which modifies the closed class or the bene-*  
 6           *fits, rights, and features provided to such*  
 7           *closed class does not discriminate signifi-*  
 8           *cantly in favor of highly compensated em-*  
 9           *ployees, and*

10           *“(iii) the class was closed before April*  
 11           *5, 2017, or the plan is described in sub-*  
 12           *paragraph (C).*

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

16           *“(i) IN GENERAL.—For purposes of de-*  
 17           *termining compliance with subsection (a)(4)*  
 18           *and section 410(b), a defined benefit plan*  
 19           *described in clause (iii) may be aggregated*  
 20           *and tested on a benefits basis with 1 or*  
 21           *more defined contribution plans, including*  
 22           *with the portion of 1 or more defined con-*  
 23           *tribution plans which—*

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

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

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

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

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

24               “(II) such matching contributions  
25               shall be treated in the same manner as

1           *nonelective contributions, including for*  
2           *purposes of applying the rules of sub-*  
3           *section (l).*

4           “(iii) *PLANS DESCRIBED.—A defined*  
5           *benefit plan is described in this clause if—*

6                     “(I) *the plan provides benefits to*  
7                     *a closed class of participants,*

8                     “(II) *for the plan year as of which*  
9                     *the class closes and the 2 succeeding*  
10                    *plan years, the plan satisfies the re-*  
11                    *quirements of section 410(b) and sub-*  
12                    *section (a)(4) (without regard to this*  
13                    *subparagraph but taking into account*  
14                    *the rules of subparagraph (I)),*

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

22                    “(IV) *the class was closed before*  
23                    *April 5, 2017, or the plan is described*  
24                    *in subparagraph (C).*

1           “(C) *PLANS DESCRIBED.*—A plan is de-  
 2           scribed in this subparagraph if, taking into ac-  
 3           count any predecessor plan—

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

7                   “(ii) during the 5-year period pre-  
 8                   ceding the date the class is closed, there has  
 9                   not been a substantial increase in the cov-  
 10                  erage or value of the benefits, rights, or fea-  
 11                  tures described in subparagraph (A) or in  
 12                  the coverage or benefits under the plan de-  
 13                  scribed in subparagraph (B)(iii) (whichever  
 14                  is applicable).

15           “(D) *DETERMINATION OF SUBSTANTIAL IN-*  
 16           *CREASE FOR BENEFITS, RIGHTS, AND FEA-*  
 17           *TURES.*—In applying subparagraph (C)(ii) for  
 18           purposes of subparagraph (A)(iii), a plan shall  
 19           be treated as having had a substantial increase  
 20           in coverage or value of the benefits, rights, or fea-  
 21           tures described in subparagraph (A) during the  
 22           applicable 5-year period only if, during such pe-  
 23           riod—

24                   “(i) the number of participants covered  
 25                   by such benefits, rights, or features on the



1           *date such period ends is more than 50 per-*  
2           *cent greater than the number of such par-*  
3           *ticipants on the first day of the plan year*  
4           *in which such period began, or*

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

14          “(E) *DETERMINATION OF SUBSTANTIAL IN-*  
15          *CREASE FOR AGGREGATE TESTING ON BENEFITS*  
16          *BASIS.—In applying subparagraph (C)(ii) for*  
17          *purposes of subparagraph (B)(iii)(IV), a plan*  
18          *shall be treated as having had a substantial in-*  
19          *crease in coverage or benefits during the applica-*  
20          *ble 5-year period only if, during such period—*

21               “(i) *the number of participants benefit-*  
22               *ing under the plan on the date such period*  
23               *ends is more than 50 percent greater than*  
24               *the number of such participants on the first*

1           *day of the plan year in which such period*  
 2           *began, or*

3           “(ii) *the average benefit provided to*  
 4           *such participants on the date such period*  
 5           *ends is more than 50 percent greater than*  
 6           *the average benefit provided on the first day*  
 7           *of the plan year in which such period*  
 8           *began.*

9           “(F)       *CERTAIN       EMPLOYEES       DIS-*  
 10          *REGARDED.—For purposes of subparagraphs (D)*  
 11          *and (E), any increase in coverage or value or in*  
 12          *coverage or benefits, whichever is applicable,*  
 13          *which is attributable to such coverage and value*  
 14          *or coverage and benefits provided to employees—*

15               “(i) *who became participants as a re-*  
 16               *sult of a merger, acquisition, or similar*  
 17               *event which occurred during the 7-year pe-*  
 18               *riod preceding the date the class is closed, or*

19               “(ii) *who became participants by rea-*  
 20               *son of a merger of the plan with another*  
 21               *plan which had been in effect for at least 5*  
 22               *years as of the date of the merger,*

23           *shall be disregarded, except that clause (ii) shall*  
 24           *apply for purposes of subparagraph (D) only if,*  
 25           *under the merger, the benefits, rights, or features*

under 1 plan are conformed to the benefits,  
rights, or features of the other plan prospectively.

“(G) *RULES RELATING TO AVERAGE BENEFIT.*—For purposes of subparagraph (E)—

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

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

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

“(II) the total amount determined under section 430(b)(1)(A)(i) for all

1                    *such participants for such plan year,*  
 2                    *by using the benefit formula in effect*  
 3                    *for each such participant for the first*  
 4                    *plan year in such 5-year period,*  
 5                    *by more than 50 percent. In the case of a*  
 6                    *CSEC plan (as defined in section 414(y)),*  
 7                    *the normal cost of the plan (as determined*  
 8                    *under section 433(j)(1)(B)) shall be used in*  
 9                    *lieu of the amount determined under section*  
 10                   *430(b)(1)(A)(i).*

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

16                   “(I) *SPECIAL RULES.*—*For purposes of sub-*  
 17                   *paragraphs (A)(i) and (B)(iii)(II), the following*  
 18                   *rules shall apply:*

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

23                         “(ii) *2 or more plans shall not fail to*  
 24                         *be eligible to be aggregated and treated as*

1           *a single plan solely by reason of having dif-*  
 2           *ferent plan years.*

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

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

13          *The rule of clause (ii) shall also apply for pur-*  
 14          *poses of determining whether plans to which sub-*  
 15          *paragraph (B)(i) applies may be aggregated and*  
 16          *treated as 1 plan for purposes of determining*  
 17          *whether such plans meet the requirements of sub-*  
 18          *section (a)(4) and section 410(b).*

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

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

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

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

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

“(2) TESTING OF DEFINED CONTRIBUTION PLANS.—

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

“(i) such defined contribution plan provides make-whole contributions to a closed class of participants whose accruals under a defined benefit plan have been reduced or eliminated,

“(ii) for the plan year of the defined contribution plan as of which the class eligible to receive such make-whole contributions closes and the 2 succeeding plan years, such closed class of participants satisfies the requirements of section 410(b)(2)(A)(i) (de-

1           *terminated by applying the rules of para-*  
 2           *graph (1)(I)),*

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

11           *“(iv) the class was closed before April*  
 12           *5, 2017, or the defined benefit plan under*  
 13           *clause (i) is described in paragraph (1)(C)*  
 14           *(as applied for purposes of paragraph*  
 15           *(1)(B)(iii)(IV)).*

16           *“(B) AGGREGATION WITH PLANS INCLUDING*  
 17           *MATCHING CONTRIBUTIONS.—*

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

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

“(I) provides matching contributions (as defined in subsection (m)(4)(A)),

“(II) provides annuity contracts described in section 403(b) which are purchased with matching contributions or nonelective contributions, or

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

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

“(C) SPECIAL RULES FOR TESTING DEFINED CONTRIBUTION PLAN FEATURES PROVIDING MATCHING CONTRIBUTIONS TO CERTAIN OLDER, LONGER SERVICE PARTICIPANTS.—In the case of a defined contribution plan which provides benefits, rights, or features to a closed class of participants whose accruals under a defined



1       *benefit plan have been reduced or eliminated, the*  
2       *plan shall not fail to satisfy the requirements of*  
3       *subsection (a)(4) solely by reason of the composi-*  
4       *tion of the closed class or the benefits, rights, or*  
5       *features provided to such closed class if the de-*  
6       *defined contribution plan and defined benefit plan*  
7       *otherwise meet the requirements of subparagraph*  
8       *(A) but for the fact that the make-whole con-*  
9       *tributions under the defined contribution plan*  
10      *are made in whole or in part through matching*  
11      *contributions.*

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

1           “(3) *DEFINITIONS AND SPECIAL RULE.—For*  
2           *purposes of this subsection—*

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

19                  “(B) *REFERENCES TO CLOSED CLASS OF*  
20                  *PARTICIPANTS.—References to a closed class of*  
21                  *participants and similar references to a closed*  
22                  *class shall include arrangements under which 1*  
23                  *or more classes of participants are closed, except*  
24                  *that 1 or more classes of participants closed on*  
25                  *different dates shall not be aggregated for pur-*

1           poses of determining the date any such class was  
2           closed.

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

6           (b) *PARTICIPATION REQUIREMENTS*.—Paragraph (26)  
7   of section 401(a) of the Internal Revenue Code of 1986 is  
8   amended by adding at the end the following new subpara-  
9   graph:

10                   “(I) *PROTECTED PARTICIPANTS*.—

11                           “(i) *IN GENERAL*.—A plan shall be  
12                   deemed to satisfy the requirements of sub-  
13                   paragraph (A) if—

14                                   “(I) the plan is amended—

15   “(aa) to cease all benefit ac-  
16                                   cruals, or

17   “(bb) to provide future ben-  
18                                   efit accruals only to a closed class  
19                                   of participants,

20                                   “(II) the plan satisfies subpara-  
21                                   graph (A) (without regard to this sub-  
22                                   paragraph) as of the effective date of  
23                                   the amendment, and

1                   “(III) the amendment was adopt-  
2                   ed before April 5, 2017, or the plan is  
3                   described in clause (ii).

4                   “(ii) *PLANS DESCRIBED.*—A plan is  
5                   described in this clause if the plan would be  
6                   described in subsection (o)(1)(C), as applied  
7                   for purposes of subsection (o)(1)(B)(iii)(IV)  
8                   and by treating the effective date of the  
9                   amendment as the date the class was closed  
10                  for purposes of subsection (o)(1)(C).

11                  “(iii) *SPECIAL RULES.*—For purposes  
12                  of clause (i)(II), in applying section  
13                  410(b)(6)(C), the amendments described in  
14                  clause (i) shall not be treated as a signifi-  
15                  cant change in coverage under section  
16                  410(b)(6)(C)(i)(II).

17                  “(iv) *SPUN-OFF PLANS.*—For purposes  
18                  of this subparagraph, if a portion of a plan  
19                  described in clause (i) is spun off to another  
20                  employer, the treatment under clause (i) of  
21                  the spun-off plan shall continue with respect  
22                  to the other employer.”.

23                  (c) *EFFECTIVE DATE.*—

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

1        *take effect on the date of the enactment of this Act,*  
 2        *without regard to whether any plan modifications re-*  
 3        *ferred to in such amendments are adopted or effective*  
 4        *before, on, or after such date of enactment.*

5            (2) *SPECIAL RULES.—*

6            (A) *ELECTION OF EARLIER APPLICATION.—*

7        *At the election of the plan sponsor, the amend-*  
 8        *ments made by this section shall apply to plan*  
 9        *years beginning after December 31, 2013.*

10          (B) *CLOSED CLASSES OF PARTICIPANTS.—*

11        *For purposes of paragraphs (1)(A)(iii),*  
 12        *(1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)*  
 13        *of the Internal Revenue Code of 1986 (as added*  
 14        *by this section), a closed class of participants*  
 15        *shall be treated as being closed before April 5,*  
 16        *2017, if the plan sponsor's intention to create*  
 17        *such closed class is reflected in formal written*  
 18        *documents and communicated to participants be-*  
 19        *fore such date.*

20          (C) *CERTAIN POST-ENACTMENT PLAN*

21        *AMENDMENTS.—A plan shall not be treated as*  
 22        *failing to be eligible for the application of section*  
 23        *401(o)(1)(A), 401(o)(1)(B)(iii), or 401(a)(26) of*  
 24        *such Code (as added by this section) to such plan*  
 25        *solely because in the case of—*

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

9           (ii) *such section 401(o)(1)(B)(iii) or*  
 10          *section 401(a)(26), the plan was amended*  
 11          *before the date of the enactment of this Act*  
 12          *to cease all benefit accruals, and is further*  
 13          *amended after such date of enactment to*  
 14          *provide benefit accruals to a closed class of*  
 15          *participants.*

16          *Any such section shall only apply if the plan*  
 17          *otherwise meets the requirements of such section*  
 18          *and in applying such section, the date the class*  
 19          *of participants is closed shall be the effective date*  
 20          *of the later amendment.*

21 **SEC. 206. MODIFICATION OF PBGC PREMIUMS FOR CSEC**  
 22 **PLANS.**

23          (a) *FLAT RATE PREMIUM.*—Subparagraph (A) of sec-  
 24          tion 4006(a)(3) of the Employee Retirement Income Secu-  
 25          rity Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

1           (1) in clause (i), by striking “plan,” and insert-  
 2           ing “plan other than a CSEC plan (as defined in sec-  
 3           tion 210(f)(1))”;

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

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

7           (4) by adding at the end the following new  
 8           clause:

9                       “(vii) in the case of a CSEC plan (as  
 10                      defined in section 210(f)(1)), for plan years  
 11                      beginning after December 31, 2018, for each  
 12                      individual who is a participant in such  
 13                      plan during the plan year an amount equal  
 14                      to the sum of—

15                      “(I) the additional premium (if  
 16                      any) determined under subparagraph  
 17                      (E), and

18                      “(II) \$19.”.

19           (b) *VARIABLE RATE PREMIUM.*—

20                      (1) *UNFUNDED VESTED BENEFITS.*—

21                      (A) *IN GENERAL.*—Subparagraph (E) of  
 22                      section 4006(a)(3) of the Employee Retirement  
 23                      Income Security Act of 1974 (29 U.S.C.  
 24                      1306(a)(3)) is amended by adding at the end the  
 25                      following new clause:

1           “(v) For purposes of clause (ii), in the case  
 2           of a CSEC plan (as defined in section 210(f)(1)),  
 3           the term ‘unfunded vested benefits’ means, for  
 4           plan years beginning after December 31, 2018,  
 5           the excess (if any) of—

6                     “(I) the funding liability of the plan as  
 7                     determined under section 306(j)(5)(C) for  
 8                     the plan year by only taking into account  
 9                     vested benefits, over

10                    “(II) the fair market value of plan as-  
 11                    sets for the plan year which are held by the  
 12                    plan on the valuation date.”.

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

18           (2) APPLICABLE DOLLAR AMOUNT.—

19                    (A) IN GENERAL.—Paragraph (8) of section  
 20                    4006(a) of such Act (29 U.S.C. 1306(a)) is  
 21                    amended by adding at the end the following new  
 22                    subparagraph:

23                    “(E) CSEC PLANS.—In the case of a CSEC  
 24                    plan (as defined in section 210(f)(1)), the appli-  
 25                    cable dollar amount shall be \$9.”.



1                   (B) *CONFORMING AMENDMENT.*—Subpara-  
 2                   graph (A) of section 4006(a)(8) of such Act (29  
 3                   U.S.C. 1306(a)(8)) is amended by striking “(B)  
 4                   and (C)” and inserting “(B), (C), and (E)”.

5                   ***TITLE III—OTHER BENEFITS***

6                   ***SEC. 301. BENEFITS PROVIDED TO VOLUNTEER FIRE-***  
 7                   ***FIGHTERS AND EMERGENCY MEDICAL RE-***  
 8                   ***SPONDERS.***

9                   (a) *INCREASE IN DOLLAR LIMITATION ON QUALIFIED*  
 10                  *PAYMENTS.*—Subparagraph (B) of section 139B(c)(2) of the  
 11                  Internal Revenue Code of 1986 is amended by striking  
 12                  “\$30” and inserting “\$50”.

13                  (b) *EXTENSION.*—Section 139B(d) of the Internal Rev-  
 14                  enue Code of 1986 is amended by striking “beginning after  
 15                  December 31, 2010.” and inserting “beginning—

16                         “(1) after December 31, 2010, and before Janu-  
 17                  ary 1, 2020, or

18                         “(2) after December 31, 2020.”.

19                  (c) *EFFECTIVE DATE.*—The amendments made by this  
 20                  section shall apply to taxable years beginning after Decem-  
 21                  ber 31, 2019.

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

23                  (a) *DISTRIBUTIONS FOR CERTAIN EXPENSES ASSOCI-*  
 24                  *ATED WITH REGISTERED APPRENTICESHIP PROGRAMS.*—

1 *Section 529(c) of the Internal Revenue Code of 1986 is*  
 2 *amended by adding at the end the following new paragraph:*

3           “(8) *TREATMENT OF CERTAIN EXPENSES ASSOCI-*  
 4           *ATED WITH REGISTERED APPRENTICESHIP PRO-*  
 5           *GRAMS.—Any reference in this subsection to the term*  
 6           *‘qualified higher education expense’ shall include a*  
 7           *reference to expenses for fees, books, supplies, and*  
 8           *equipment required for the participation of a des-*  
 9           *ignated beneficiary in an apprenticeship program*  
 10           *registered and certified with the Secretary of Labor*  
 11           *under section 1 of the National Apprenticeship Act*  
 12           *(29 U.S.C. 50).”*

13           *(b) DISTRIBUTIONS FOR CERTAIN HOMESCHOOLING*  
 14           *EXPENSES.—Section 529(c)(7) of such Code is amended by*  
 15           *striking “include a reference to” and all that follows and*  
 16           *inserting: “include a reference to—*

17                       *“(A) expenses for tuition in connection with*  
 18                       *enrollment or attendance of a designated bene-*  
 19                       *ficiary at an elementary or secondary public,*  
 20                       *private, or religious school, and*

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

23                               *“(i) curriculum and curricular mate-*  
 24                               *rials,*

1                   “(ii) books or other instructional mate-  
2                   rials,

3                   “(iii) online educational materials,

4                   “(iv) tuition for tutoring or edu-  
5                   cational classes outside of the home (but  
6                   only if the tutor or class instructor is not  
7                   related (within the meaning of section  
8                   152(d)(2)) to the student),

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

11                  “(vi) educational therapies for students  
12                  with disabilities,

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

16                  (c) *DISTRIBUTIONS FOR QUALIFIED EDUCATION LOAN*  
17                  *REPAYMENTS.*—

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

21                   “(9) *TREATMENT OF QUALIFIED EDUCATION*  
22                   *LOAN REPAYMENTS.*—

23                   “(A) *IN GENERAL.*—Any reference in this  
24                   subsection to the term ‘qualified higher education  
25                   expense’ shall include a reference to amounts

1        *paid as principal or interest on any qualified*  
 2        *education loan (as defined in section 221(d)) of*  
 3        *the designated beneficiary or a sibling of the des-*  
 4        *ignated beneficiary.*

5                “(B) *LIMITATION.*—*The amount of distribu-*  
 6        *tions treated as a qualified higher education ex-*  
 7        *pense under this paragraph with respect to the*  
 8        *loans of any individual shall not exceed \$10,000*  
 9        *(reduced by the amount of distributions so treat-*  
 10       *ed for all prior taxable years).*

11               “(C) *SPECIAL RULES FOR SIBLINGS OF THE*  
 12        *DESIGNATED BENEFICIARY.*—

13               “(i)    *SEPARATE    ACCOUNTING.*—*For*  
 14        *purposes of subparagraph (B) and sub-*  
 15        *section (d), amounts treated as a qualified*  
 16        *higher education expense with respect to the*  
 17        *loans of a sibling of the designated bene-*  
 18        *ficiary shall be taken into account with re-*  
 19        *spect to such sibling and not with respect to*  
 20        *such designated beneficiary.*

21               “(ii) *SIBLING DEFINED.*—*For purposes*  
 22        *of this paragraph, the term ‘sibling’ means*  
 23        *an individual who bears a relationship to*  
 24        *the designated beneficiary which is de-*  
 25        *scribed in section 152(d)(2)(B).’.*

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

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

17                   “(A) expenses described in section  
 18                   530(b)(3)(A)(i) in connection with enrollment or  
 19                   attendance of a designated beneficiary at an ele-  
 20                   mentary or secondary public, private, or reli-  
 21                   gious school, and”.

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

# **TITLE IV—REVENUE PROVISIONS**

## **SEC. 401. MODIFICATION OF REQUIRED DISTRIBUTION RULES FOR DESIGNATED BENEFICIARIES.**

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

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

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

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

“(I) shall be applied by substituting ‘10 years’ for ‘5 years’, and

“(II) shall apply whether or not distributions of the employee’s interests have begun in accordance with subparagraph (A).

“(ii) **EXCEPTION ONLY FOR ELIGIBLE DESIGNATED BENEFICIARIES.**—Subpara-

graph (B)(iii) shall apply only in the case of an eligible designated beneficiary.

“(iii) *RULES UPON DEATH OF ELIGIBLE DESIGNATED BENEFICIARY.*—If an eligible designated beneficiary dies before the portion of the employee’s interest to which this subparagraph applies is entirely distributed, the exception under clause (iii) shall not apply to any beneficiary of such eligible designated beneficiary and the remainder of such portion shall be distributed within 10 years after the death of such eligible designated beneficiary.

“(iv) *APPLICATION TO ELIGIBLE RETIREMENT PLANS.*—For purposes of applying the provisions of this subparagraph in determining the amounts required to be distributed pursuant to this paragraph, all eligible retirement plans (as defined in section 402(c)(8)(B)) other than a defined benefit plan shall be treated as a defined contribution plan.”.

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

1                   “(E) *DEFINITIONS AND RULES RELATING*  
 2                   *TO DESIGNATED BENEFICIARY.*—*For purposes of*  
 3                   *this paragraph—*

4                   “(i) *DESIGNATED BENEFICIARY.*—*The*  
 5                   *term ‘designated beneficiary’ means any in-*  
 6                   *dividual designated as a beneficiary by the*  
 7                   *employee.*

8                   “(ii) *ELIGIBLE DESIGNATED BENE-*  
 9                   *FICIARY.*—*The term ‘eligible designated ben-*  
 10                   *eficiary’ means, with respect to any em-*  
 11                   *ployee, any designated beneficiary who is—*

12                   “(I) *the surviving spouse of the*  
 13                   *employee,*

14                   “(II) *subject to clause (iii), a*  
 15                   *child of the employee who has not*  
 16                   *reached majority (within the meaning*  
 17                   *of subparagraph (F)),*

18                   “(III) *disabled (within the mean-*  
 19                   *ing of section 72(m)(7)),*

20                   “(IV) *a chronically ill individual*  
 21                   *(within the meaning of section*  
 22                   *7702B(c)(2), except that the require-*  
 23                   *ments of subparagraph (A)(i) thereof*  
 24                   *shall only be treated as met if there is*  
 25                   *a certification that, as of such date, the*



1           *period of inability described in such*  
 2           *subparagraph with respect to the indi-*  
 3           *vidual is an indefinite one which is*  
 4           *reasonably expected to be lengthy in*  
 5           *nature), or*

6           “(V) *an individual not described*  
 7           *in any of the preceding subclauses who*  
 8           *is not more than 10 years younger*  
 9           *than the employee.*

10          “(iii) *SPECIAL RULE FOR CHIL-*  
 11          *DREN.—Subject to subparagraph (F), an*  
 12          *individual described in clause (ii)(II) shall*  
 13          *cease to be an eligible designated beneficiary*  
 14          *as of the date the individual reaches major-*  
 15          *ity and any remainder of the portion of the*  
 16          *individual’s interest to which subparagraph*  
 17          *(H)(ii) applies shall be distributed within*  
 18          *10 years after such date.*

19          “(iv) *TIME FOR DETERMINATION OF*  
 20          *ELIGIBLE DESIGNATED BENEFICIARY.—The*  
 21          *determination of whether a designated bene-*  
 22          *ficiary is an eligible designated beneficiary*  
 23          *shall be made as of the date of death of the*  
 24          *employee.”.*

25          (3) *EFFECTIVE DATES.—*

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

6           (B) *COLLECTIVE BARGAINING EXCEPTION.*—  
7           *In the case of a plan maintained pursuant to 1*  
8           *or more collective bargaining agreements between*  
9           *employee representatives and 1 or more employ-*  
10          *ers ratified before the date of enactment of this*  
11          *Act, the amendments made by this subsection*  
12          *shall apply to distributions with respect to em-*  
13          *ployees who die in calendar years beginning*  
14          *after the earlier of—*

15               (i) *the later of—*

16                       (I) *the date on which the last of*  
17                       *such collective bargaining agreements*  
18                       *terminates (determined without regard*  
19                       *to any extension thereof agreed to on or*  
20                       *after the date of the enactment of this*  
21                       *Act), or*

22                       (II) *December 31, 2019, or*

23                       (ii) *December 31, 2021.*

24           *For purposes of clause (i)(I), any plan amend-*  
25           *ment made pursuant to a collective bargaining*

1       *agreement relating to the plan which amends the*  
 2       *plan solely to conform to any requirement added*  
 3       *by this section shall not be treated as a termi-*  
 4       *nation of such collective bargaining agreement.*

5               (C) *GOVERNMENTAL PLANS.*—*In the case of*  
 6       *a governmental plan (as defined in section*  
 7       *414(d) of the Internal Revenue Code of 1986),*  
 8       *subparagraph (A) shall be applied by sub-*  
 9       *stituting “December 31, 2021” for “December 31,*  
 10       *2019”.*

11              (4) *EXCEPTION FOR CERTAIN EXISTING ANNUITY*  
 12       *CONTRACTS.*—

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

18               (B) *QUALIFIED ANNUITY.*—*For purposes of*  
 19       *this paragraph, the term “qualified annuity”*  
 20       *means, with respect to an employee, an annu-*  
 21       *ity—*

22                       (i) *which is a commercial annuity (as*  
 23                       *defined in section 3405(e)(6) of the Internal*  
 24                       *Revenue Code of 1986);*

1           (ii) under which the annuity payments  
2           are made over the life of the employee or  
3           over the joint lives of such employee and a  
4           designated beneficiary (or over a period not  
5           extending beyond the life expectancy of such  
6           employee or the joint life expectancy of such  
7           employee and a designated beneficiary) in  
8           accordance with the regulations described in  
9           section 401(a)(9)(A)(ii) of such Code (as in  
10          effect before such amendments) and which  
11          meets the other requirements of section  
12          401(a)(9) of such Code (as so in effect) with  
13          respect to such payments; and

14          (iii) with respect to which—

15               (I) annuity payments to the em-  
16               ployee have begun before the date of en-  
17               actment of this Act, and the employee  
18               has made an irrevocable election before  
19               such date as to the method and amount  
20               of the annuity payments to the em-  
21               ployee or any designated beneficiaries;  
22               or

23               (II) if subclause (I) does not  
24               apply, the employee has made an ir-  
25               revocable election before the date of en-

1                    *actment of this Act as to the method*  
 2                    *and amount of the annuity payments*  
 3                    *to the employee or any designated*  
 4                    *beneficiaries.*

5                    (5) *EXCEPTION FOR CERTAIN BENEFICIARIES.—*

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

11                    (i) *such amendments shall apply to*  
 12                    *any beneficiary of such designated bene-*  
 13                    *ficiary; and*

14                    (ii) *the designated beneficiary shall be*  
 15                    *treated as an eligible designated beneficiary*  
 16                    *for purposes of applying section*  
 17                    *401(a)(9)(H)(ii) of the Internal Revenue*  
 18                    *Code of 1986 (as in effect after such amend-*  
 19                    *ments).*

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

1       (b) *PROVISIONS RELATING TO PLAN AMENDMENTS.*—

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

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

8                       (B) *except as provided by the Secretary of*  
 9               *the Treasury, such plan shall not fail to meet the*  
 10              *requirements of section 411(d)(6) of the Internal*  
 11              *Revenue Code of 1986 and section 204(g) of the*  
 12              *Employee Retirement Income Security Act of*  
 13              *1974 by reason of such amendment.*

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

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

19                              (i) *pursuant to any amendment made*  
 20                      *by this section or pursuant to any regula-*  
 21                      *tion issued by the Secretary of the Treasury*  
 22                      *under this section or such amendments; and*

23                              (ii) *on or before the last day of the first*  
 24                      *plan year beginning after December 31,*

1                   2021, or such later date as the Secretary of  
2                   the Treasury may prescribe.

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

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

11                   (i) during the period—

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

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

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

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

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

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

7           (b) *INFLATION ADJUSTMENT.*—Section 6651(j)(1) of  
8 such Code is amended by striking “\$205” and inserting  
9 “\$400”.

10          (b) *EFFECTIVE DATE.*—The amendments made by this  
11 section shall apply to returns the due date for which (in-  
12 cluding extensions) is after December 31, 2019.

13 **SEC. 403. INCREASED PENALTIES FOR FAILURE TO FILE RE-**  
14 **TIREMENT PLAN RETURNS.**

15          (a) *IN GENERAL.*—Subsection (e) of section 6652 of  
16 the Internal Revenue Code of 1986 is amended—

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

18                   (2) by striking “\$15,000” and inserting  
19 “\$50,000”.

20          (b) *ANNUAL REGISTRATION STATEMENT AND NOTIFI-*  
21 *CATION OF CHANGES.*—Subsection (d) of section 6652 of the  
22 Internal Revenue Code of 1986 is amended—

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



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

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

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

8           (1) *by striking “\$10” and inserting “\$100”; and*

9           (2) *by striking “\$5,000” and inserting*  
 10          *“\$50,000”.*

11          (d) *EFFECTIVE DATE.*—The amendments made by this  
 12 *section shall apply to returns, statements, and notifications*  
 13 *required to be filed, and notices required to be provided,*  
 14 *after December 31, 2019.*

15 **SEC. 404. INCREASE INFORMATION SHARING TO ADMIN-**  
 16 **ISTER EXCISE TAXES.**

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

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

1        *quire such inspection or disclosure for purposes of ad-*  
2        *ministering such section.”.*

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



**Union Calendar No. 42**

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1994**

**[Report No. 116–65, Part I]**

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**A BILL**

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

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MAY 16, 2019

Reported from the Committee on Ways and Means with  
an amendment

MAY 16, 2019

Committee on Education and Labor discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed