

117TH CONGRESS  
1ST SESSION

# H. R. 2954

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2021

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

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## A BILL

To increase retirement savings, simplify and clarify  
retirement plan rules, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Securing a Strong Retirement Act of 2021”.

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

- Sec. 101. Expanding automatic enrollment in retirement plans.
- Sec. 102. Modification of credit for small employer pension plan startup costs.
- Sec. 103. Promotion of Saver’s Credit.
- Sec. 104. Enhancement of 403(b) plans.
- Sec. 105. Increase in age for required beginning date for mandatory distributions.
- Sec. 106. Indexing IRA catch-up limit.
- Sec. 107. Higher catch-up limit to apply at age 62, 63, and 64.
- Sec. 108. Multiple employer 403(b) plans.
- Sec. 109. Treatment of student loan payments as elective deferrals for purposes of matching contributions.
- Sec. 110. Application of credit for small employer pension plan startup costs to employers which join an existing plan.
- Sec. 111. Military spouse retirement plan eligibility credit for small employers.
- Sec. 112. Small immediate financial incentives for contributing to a plan.
- Sec. 113. Safe harbor for corrections of employee elective deferral failures.
- Sec. 114. One-year reduction in period of service requirement for long-term, part-time workers.
- Sec. 115. Findings relating to S corporation ESOPs.

TITLE II—PRESERVATION OF INCOME

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

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

- Sec. 301. Recovery of retirement plan overpayments.
- Sec. 302. Reduction in excise tax on certain accumulations in qualified retirement plans.
- Sec. 303. Performance benchmarks for asset allocation funds.
- Sec. 304. Review and report to the Congress relating to reporting and disclosure requirements.
- Sec. 305. Eliminating unnecessary plan requirements related to unenrolled participants.
- Sec. 306. Retirement savings lost and found.
- Sec. 307. Expansion of Employee Plans Compliance Resolution System.
- Sec. 308. Eliminate the “first day of the month” requirement for governmental section 457(b) plans.
- Sec. 309. One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.
- Sec. 310. Distributions to firefighters.
- Sec. 311. Exclusion of certain disability-related first responder retirement payments.
- Sec. 312. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.
- Sec. 313. Requirement to provide paper statements in certain cases.
- Sec. 314. Separate application of top heavy rules to defined contribution plans covering excludible employees.
- Sec. 315. Repayment of qualified birth or adoption distribution limited to 3 years.

- Sec. 316. Employer may rely on employee certifying that deemed hardship distribution conditions are met.
- Sec. 317. Penalty-free withdrawals from retirement plans for individuals in case of domestic abuse.
- Sec. 318. Reform of family attribution rule.
- Sec. 319. Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.
- Sec. 320. Retroactive first year elective deferrals for sole proprietors.
- Sec. 321. Limiting cessation of IRA treatment to portion of account involved in a prohibited transaction.

#### TITLE IV—TECHNICAL AMENDMENTS

- Sec. 401. Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019.

#### TITLE V—ADMINISTRATIVE PROVISIONS

- Sec. 501. Provisions relating to plan amendments.

#### TITLE VI—REVENUE PROVISIONS

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

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

### 4 **SEC. 101. EXPANDING AUTOMATIC ENROLLMENT IN RE-** 5 **TIREMENT PLANS.**

6 (a) IN GENERAL.—Subpart B of part I of subchapter  
 7 D of chapter 1 of the Internal Revenue Code of 1986 is  
 8 amended by inserting after section 414 the following new  
 9 section:

#### 10 **“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC EN-** 11 **ROLLMENT.**

12 “(a) IN GENERAL.—Except as otherwise provided in  
 13 this section—

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

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

12          “(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—

13                 “(1) IN GENERAL.—An arrangement or agree-  
14                 ment meets the requirements of this subsection if  
15                 such arrangement or agreement is an eligible auto-  
16                 matic contribution arrangement (as defined in sec-  
17                 tion 414(w)(3)) which meets the requirements of  
18                 paragraphs (2) through (4).

19                 “(2) ALLOWANCE OF PERMISSIBLE WITH-  
20                 DRAWALS.—An eligible automatic contribution ar-  
21                 rangement meets the requirements of this paragraph  
22                 if such arrangement allows employees to make per-  
23                 missible withdrawals (as defined in section  
24                 414(w)(2)).

25                 “(3) MINIMUM CONTRIBUTION PERCENTAGE.—

1           “(A) IN GENERAL.—An eligible automatic  
2 contribution arrangement meets the require-  
3 ments of this paragraph if—

4           “(i) the uniform percentage of com-  
5 pensation contributed by the participant  
6 under such arrangement during the first  
7 year of participation is not less than 3 per-  
8 cent and not more than 10 percent (unless  
9 the participant specifically elects not to  
10 have such contributions made or to have  
11 such contributions made at a different per-  
12 centage), and

13           “(ii) effective for the first day of each  
14 plan year starting after each completed  
15 year of participation under such arrange-  
16 ment such uniform percentage is increased  
17 by 1 percentage point (to at least 10 per-  
18 cent, but not more than 15 percent) unless  
19 the participant specifically elects not to  
20 have such contributions made or to have  
21 such contributions made at a different per-  
22 centage.

23           “(B) INITIAL REDUCED CEILING FOR CER-  
24 TAIN PLANS.—In the case of any arrangement  
25 to which this section applies (other than an ar-

1            arrangement that meets the requirements of para-  
2            graph (12) or (13) of section 401(k)), for plan  
3            years ending before January 1, 2025, subpara-  
4            graph (A)(ii) shall be applied by substituting  
5            ‘10 percent’ for ‘15 percent’.

6            “(4) INVESTMENT REQUIREMENTS.—An eligible  
7            automatic contribution arrangement meets the re-  
8            quirements of this paragraph if amounts contributed  
9            pursuant to such arrangement, and for which no in-  
10          vestment is elected by the participant, are invested  
11          consistent with the requirements of section  
12          2550.404c-5 of title 29, Code of Federal Regula-  
13          tions (or any successor regulations).

14          “(c) EXCEPTIONS.—For purposes of this section—

15                  “(1) SIMPLE PLANS.—Subsection (a) shall not  
16                  apply to any simple plan (within the meaning of sec-  
17                  tion 401(k)(11)).

18                  “(2) EXCEPTION FOR PLANS OR ARRANGE-  
19                  MENTS ESTABLISHED BEFORE ENACTMENT OF SEC-  
20                  TION.—

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

23                                  “(i) any qualified cash or deferred ar-  
24                                  rangement established before the date of  
25                                  the enactment of this section, or

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

4           “(B) POST-ENACTMENT ADOPTION OF  
5           MULTIPLE EMPLOYER PLAN.—Subparagraph  
6           (A) shall not apply in the case of an employer  
7           adopting after such date of enactment a plan  
8           maintained by more than one employer, and  
9           subsection (a) shall apply with respect to such  
10          employer as if such plan were a single plan.

11          “(3) EXCEPTION FOR GOVERNMENTAL AND  
12          CHURCH PLANS.—Subsection (a) shall not apply to  
13          any governmental plan (within the meaning of sec-  
14          tion 414(d)) or any church plan (within the meaning  
15          of section 414(e)).

16          “(4) EXCEPTION FOR NEW AND SMALL BUSI-  
17          NESSES.—

18                 “(A) NEW BUSINESS.—Subsection (a)  
19                 shall not apply to any qualified cash or deferred  
20                 arrangement, or any annuity contract pur-  
21                 chased under a plan, while the employer main-  
22                 taining such plan (and any predecessor em-  
23                 ployer) has been in existence for less than 3  
24                 years.

1           “(B) SMALL BUSINESSES.—Subsection (a)  
2           shall not apply to any qualified cash or deferred  
3           arrangement, any annuity contract purchased  
4           under a plan, earlier than the date that is 1  
5           year after the close of the first taxable year  
6           with respect to which the employer maintaining  
7           the plan normally employed more than 10 em-  
8           ployees.

9           “(C) TREATMENT OF MULTIPLE EM-  
10          PLOYER PLANS.—In the case of a plan main-  
11          tained by more than 1 employer, subparagraphs  
12          (A) and (B) shall be applied separately with re-  
13          spect to each such employer, and all such em-  
14          ployers to which subsection (a) applies (after  
15          the application of this paragraph) shall be  
16          treated as maintaining a separate plan for pur-  
17          poses of this section.”.

18          (b) CLERICAL AMENDMENT.—The table of sections  
19          for subpart B of part I of subchapter D of chapter 1 of  
20          the Internal Revenue Code of 1986 is amended by insert-  
21          ing after the item relating to section 414 the following  
22          new item:

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

23          (c) EFFECTIVE DATE.—The amendments made by  
24          this section shall apply to plan years beginning after De-  
25          cember 31, 2022.



1 **SEC. 102. MODIFICATION OF CREDIT FOR SMALL EM-**  
2 **PLOYER PENSION PLAN STARTUP COSTS.**

3 (a) INCREASE IN CREDIT PERCENTAGE FOR SMALL-  
4 ER EMPLOYERS.—Section 45E(e) of the Internal Revenue  
5 Code of 1986 is amended by adding at the end the fol-  
6 lowing new paragraph:

7 “(4) INCREASED CREDIT FOR CERTAIN SMALL  
8 EMPLOYERS.—In the case of an employer which  
9 would be an eligible employer under subsection (c) if  
10 section 408(p)(2)(C)(i) was applied by substituting  
11 ‘50 employees’ for ‘100 employees’, subsection (a)  
12 shall be applied by substituting ‘100 percent’ for ‘50  
13 percent’.”.

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

18 “(f) ADDITIONAL CREDIT FOR EMPLOYER CON-  
19 TRIBUTIONS BY CERTAIN ELIGIBLE EMPLOYERS.—

20 “(1) IN GENERAL.—In the case of an eligible  
21 employer, the credit allowed for the taxable year  
22 under subsection (a) (determined without regard to  
23 this subsection) shall be increased by an amount  
24 equal to the applicable percentage of employer con-  
25 tributions (other than any elective deferrals (as de-  
26 fined in section 402(g)(3))) by the employer to an

1 eligible employer plan (other than a defined benefit  
2 plan (as defined in section 414(j))).

3 “(2) LIMITATIONS.—

4 “(A) DOLLAR LIMITATION.—The amount  
5 determined under paragraph (1) (before the ap-  
6 plication of subparagraph (B)) with respect to  
7 any employee of the employer shall not exceed  
8 \$1,000.

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

16 “(i) the amount otherwise so deter-  
17 mined under paragraph (1), multiplied by

18 “(ii) a percentage equal to 2 percent-  
19 age points for each employee of the em-  
20 ployer for the preceding taxable year in ex-  
21 cess of 50 employees.

22 “(3) APPLICABLE PERCENTAGE.—For purposes  
23 of this section, the applicable percentage for the tax-  
24 able year during which the eligible employer plan is  
25 established with respect to the eligible employer shall

1 be 100 percent, and for taxable years thereafter

2 shall be determined under the following table:

**“In the case of the following taxable year beginning after the taxable year during which plan is established with respect to the eligible employer: The applicable percentage shall be:**

1st .....	100%
2nd .....	75%
3rd .....	50%
4th .....	25%
Any taxable year thereafter .....	0%

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

12 (c) DISALLOWANCE OF DEDUCTION.—Section  
13 45E(e)(2) of such Code is amended to read as follows:

14 “(2) DISALLOWANCE OF DEDUCTION.—No de-  
15 duction shall be allowed—

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

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

6           (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2021.

9 **SEC. 103. PROMOTION OF SAVER’S CREDIT.**

10          (a) IN GENERAL.—The Secretary of the Treasury  
11 shall take such steps as the Secretary determines are nec-  
12 essary and appropriate to increase public awareness of the  
13 credit provided under section 25B of the Internal Revenue  
14 Code of 1986.

15          (b) REPORT TO CONGRESS.—

16               (1) IN GENERAL.—Not later than 90 days after  
17 the date of the enactment of this Act, the Secretary  
18 shall provide a report to Congress to summarize the  
19 anticipated promotion efforts of the Treasury under  
20 subsection (a).

21               (2) CONTENTS.—Such report shall include—

22                       (A) a description of plans for—

23                               (i) the development and distribution  
24                               of digital and print materials, including the  
25                               distribution of such materials to States for

1 participants in State facilitated retirement  
2 savings programs, and

3 (ii) the translation of such materials  
4 into the 10 most commonly spoken lan-  
5 guages in the United States after English  
6 (as determined by reference to the most re-  
7 cent American Community Survey of the  
8 Bureau of the Census), and

9 (B) such other information as the Sec-  
10 retary determines is necessary.

11 **SEC. 104. ENHANCEMENT OF 403(b) PLANS.**

12 (a) IN GENERAL.—

13 (1) PERMITTED INVESTMENTS.—Section  
14 403(b)(7)(A) of the Internal Revenue Code of 1986  
15 is amended by striking “if the amounts are to be in-  
16 vested in regulated investment company stock to be  
17 held in that custodial account” and inserting “if the  
18 amounts are to be held in that custodial account and  
19 invested in regulated investment company stock or a  
20 group trust intended to satisfy the requirements of  
21 Internal Revenue Service Revenue Ruling 81–100  
22 (or any successor guidance)”.

23 (2) CONFORMING AMENDMENT.—The heading  
24 of paragraph (7) of section 403(b) of such Code is

1 amended by striking “FOR REGULATED INVESTMENT  
2 COMPANY STOCK”.

3 (3) EFFECTIVE DATE.—The amendments made  
4 by this subsection shall apply to amounts invested  
5 after December 31, 2021.

6 (b) AMENDMENTS TO THE INVESTMENT COMPANY  
7 ACT OF 1940.—Section 3(c)(11) of the Investment Com-  
8 pany Act of 1940 (15 U.S.C. 80a–3(c)(11)) is amended  
9 to read as follows:

10 “(11) Any—

11 “(A) employee’s stock bonus, pension, or  
12 profit-sharing trust which meets the require-  
13 ments for qualification under section 401 of the  
14 Internal Revenue Code of 1986;

15 “(B) custodial account meeting the re-  
16 quirements of section 403(b)(7) of such Code;

17 “(C) governmental plan described in sec-  
18 tion 3(a)(2)(C) of the Securities Act of 1933;

19 “(D) collective trust fund maintained by a  
20 bank consisting solely of assets of one or  
21 more—

22 “(i) trusts described in subparagraph  
23 (A);

24 “(ii) government plans described in  
25 subparagraph (C);

1 “(iii) church plans, companies, or ac-  
2 counts that are excluded from the defini-  
3 tion of an investment company under para-  
4 graph (14) of this subsection; or

5 “(iv) plans which meet the require-  
6 ments of section 403(b) of the Internal  
7 Revenue Code of 1986 if—

8 “(I) such plan is subject to title  
9 I of the Employee Retirement Income  
10 Security Act of 1974 (29 U.S.C. 1001  
11 et seq.);

12 “(II) any employer making such  
13 plan available agrees to serve as a fi-  
14 duciary for the plan with respect to  
15 the selection of the plan’s investments  
16 among which participants can choose;  
17 or

18 “(III) such plan is a govern-  
19 mental plan (as defined in section  
20 414(d) of such Code); or

21 “(E) separate account the assets of which  
22 are derived solely from—

23 “(i) contributions under pension or  
24 profit-sharing plans which meet the re-  
25 quirements of section 401 of the Internal

1 Revenue Code of 1986 or the requirements  
2 for deduction of the employer's contribu-  
3 tion under section 404(a)(2) of such Code;

4 “(ii) contributions under govern-  
5 mental plans in connection with which in-  
6 terests, participations, or securities are ex-  
7 empted from the registration provisions of  
8 section 5 of the Securities Act of 1933 by  
9 section 3(a)(2)(C) of such Act;

10 “(iii) advances made by an insurance  
11 company in connection with the operation  
12 of such separate account; and

13 “(iv) contributions to a plan described  
14 in subparagraph (D)(iv).”.

15 (c) AMENDMENTS TO THE SECURITIES ACT OF  
16 1933.—Section 3(a)(2) of the Securities Act of 1933 (15  
17 U.S.C. 77c(a)(2)) is amended—

18 (1) by striking “or (D)” and inserting “(D) a  
19 plan which meets the requirements of section 403(b)  
20 of such Code if (i) such plan is subject to title I of  
21 the Employee Retirement Income Security Act of  
22 1974 (29 U.S.C. 1001 et seq.), (ii) any employer  
23 making such plan available agrees to serve as a fidu-  
24 ciary for the plan with respect to the selection of the  
25 plan's investments among which participants can



1 choose, or (iii) such plan is a governmental plan (as  
2 defined in section 414(d) of such Code); or (E)”;

3 (2) by striking “(C), or (D)” and inserting  
4 “(C), (D), or (E)”; and

5 (3) by striking “(iii) which is a plan funded”  
6 and inserting “(iii) in the case of a plan not de-  
7 scribed in subparagraph (D), which is a plan fund-  
8 ed”.

9 (d) AMENDMENTS TO THE SECURITIES EXCHANGE  
10 ACT OF 1934.—Section 3(a)(12)(C) of the Securities Ex-  
11 change Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amend-  
12 ed—

13 (1) by striking “or (iv)” and inserting “(iv) a  
14 plan which meets the requirements of section 403(b)  
15 of such Code if (I) such plan is subject to title I of  
16 the Employee Retirement Income Security Act of  
17 1974 (29 U.S.C. 1001 et seq.), (II) any employer  
18 making such plan available agrees to serve as a fidu-  
19 ciary for the plan with respect to the selection of the  
20 plan’s investments among which participants can  
21 choose, or (III) such plan is a governmental plan (as  
22 defined in section 414(d) of such Code), or (v)”;

23 (2) by striking “(ii), or (iii)” and inserting  
24 “(ii), (iii), or (iv)”; and



1                   “(III) In the case of an indi-  
2                   vidual who attains age 74 after De-  
3                   cember 31, 2031, the applicable age is  
4                   75.”.

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

10          (e) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to distributions required to be  
12 made after December 31, 2021, with respect to individuals  
13 who attain age 72 after such date.

14 **SEC. 106. INDEXING IRA CATCH-UP LIMIT.**

15          (a) IN GENERAL.—Subparagraph (C) of section  
16 219(b)(5) of the Internal Revenue Code of 1986 is amend-  
17 ed by adding at the end the following new clause:

18                   “(iii) INDEXING OF CATCH-UP LIMITA-  
19                   TION.—In the case of any taxable year be-  
20                   ginning in a calendar year after 2022, the  
21                   \$1,000 amount under subparagraph (B)(ii)  
22                   shall be increased by an amount equal to—  
23                   “(I) such dollar amount, multi-  
24                   plied by

1                   “(II) the cost-of-living adjust-  
2                   ment determined under section 1(f)(3)  
3                   for the calendar year in which the tax-  
4                   able year begins, determined by sub-  
5                   stituting ‘calendar year 2021’ for ‘cal-  
6                   endar year 2016’ in subparagraph  
7                   (A)(ii) thereof.

8                   If any amount after adjustment under the  
9                   preceding sentence is not a multiple of  
10                  \$100, such amount shall be rounded to the  
11                  next lower multiple of \$100.”.

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

15 **SEC. 107. HIGHER CATCH-UP LIMIT TO APPLY AT AGE 62, 63,**  
16 **AND 64.**

17               (a) IN GENERAL.—

18                   (1) PLANS OTHER THAN SIMPLE PLANS.—Sec-  
19                   tion 414(v)(2)(B)(i) of the Internal Revenue Code of  
20                   1986 is amended by inserting the following before  
21                   the period: “(\$10,000, in the case of an eligible par-  
22                   ticipant who has attained age 62, but not age 65,  
23                   before the close of the taxable year)”.

24                   (2) SIMPLE PLANS.—Section 414(v)(2)(B)(ii) of  
25                   such Code is amended by inserting the following be-

1 fore the period: “(\$5,000, in the case of an eligible  
2 participant who has attained age 62, but not age 65,  
3 before the close of the taxable year)”.

4 (b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph  
5 (C) of section 414(v)(2) of such Code is amended by add-  
6 ing at the end the following: “In the case of a year begin-  
7 ning after December 31, 2022, the Secretary shall adjust  
8 annually the \$10,000 amount in subparagraph (B)(i) and  
9 the \$5,000 amount in subparagraph (B)(ii) for increases  
10 in the cost-of-living at the same time and in the same  
11 manner as adjustments under the preceding sentence; ex-  
12 cept that the base period taken into account shall be the  
13 calendar quarter beginning July 1, 2021.”.

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

17 **SEC. 108. MULTIPLE EMPLOYER 403(b) PLANS.**

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

21 “(15) MULTIPLE EMPLOYER PLANS.—

22 “(A) IN GENERAL.—Except in the case of  
23 a church plan, this subsection shall not be  
24 treated as failing to apply to an annuity con-  
25 tract solely by reason of such contract being

1 purchased under a plan maintained by more  
2 than 1 employer.

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

5 “(i) IN GENERAL.—In the case of a  
6 plan maintained by more than 1 employer,  
7 this subsection shall not be treated as fail-  
8 ing to apply to an annuity contract held  
9 under such plan merely because of one or  
10 more employers failing to meet the require-  
11 ments of this subsection if such plan satis-  
12 fies rules similar to the rules of section  
13 413(e)(2) with respect to any such em-  
14 ployer failure.

15 “(ii) ADDITIONAL REQUIREMENTS IN  
16 CASE OF NON-GOVERNMENTAL PLANS.—A  
17 plan shall not be treated as meeting the re-  
18 quirements of this subparagraph unless the  
19 plan meets the requirements of subpara-  
20 graph (A) or (B) of section 413(e)(1), ex-  
21 cept in the case of a multiple employer  
22 plan maintained solely by any of the fol-  
23 lowing: A State, a political subdivision of a  
24 State, or an agency or instrumentality of  
25 any one or more of the foregoing.”.

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

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

13           (c) ANNUAL INFORMATION RETURNS FOR 403(b)  
14 MULTIPLE EMPLOYER PLAN.—Section 6058 of the Inter-  
15 nal Revenue Code of 1986 is amended by redesignating  
16 subsection (f) as subsection (g) and by inserting after sub-  
17 section (e) the following new subsection:

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

1 (d) AMENDMENTS TO EMPLOYEE RETIREMENT IN-  
2 COME SECURITY ACT OF 1974.—

3 (1) TREATED AS POOLED EMPLOYER PLAN.—

4 (A) IN GENERAL.—Section 3(43)(A) of the  
5 Employee Retirement Income Security Act of  
6 1974 is amended—

7 (i) in clause (ii), by striking “section  
8 501(a) of such Code or” and inserting  
9 “501(a) of such Code, a plan that consists  
10 of contracts described in section 403(b) of  
11 such Code, or”; and

12 (ii) in the flush text at the end, by  
13 striking “the plan.” and inserting “the  
14 plan, but such term shall include any pro-  
15 gram (other than a governmental plan)  
16 maintained for the benefit of the employees  
17 of more than 1 employer that consists of  
18 contracts described in section 403(b) of  
19 such Code and that meets the require-  
20 ments of subparagraph (A) or (B) of sec-  
21 tion 413(e)(1) of such Code.”.

22 (B) CONFORMING AMENDMENTS.—Sec-  
23 tions 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of such  
24 Act are each amended by striking “section  
25 401(a) of such Code or” and inserting “401(a)



1 of such Code, a plan that consists of contracts  
2 described in section 403(b) of such Code, or”.

3 (2) FIDUCIARIES.—Section 3(43)(B)(ii) of such  
4 Act is amended—

5 (A) by striking “trustees meeting the re-  
6 quirements of section 408(a)(2) of the Internal  
7 Revenue Code of 1986” and inserting “trustees  
8 (or other fiduciaries in the case of a plan that  
9 consists of contracts described in section 403(b)  
10 of the Internal Revenue Code of 1986) meeting  
11 the requirements of section 408(a)(2) of such  
12 Code”, and

13 (B) by striking “holding” and inserting  
14 “holding (or causing to be held under the terms  
15 of a plan consisting of such contracts)”.

16 (e) REGULATIONS RELATING TO PLAN TERMI-  
17 NATION.—The Secretary of the Treasury (or the Sec-  
18 retary’s designee) shall prescribe such regulations as may  
19 be necessary to clarify the treatment of a plan termination  
20 by an employer in the case of plans to which section  
21 403(b)(15) of such Code applies.

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

24 (1) PLAN NOTIFICATIONS.—The Secretary of  
25 the Treasury (or the Secretary’s designee) shall

1 modify the model plan language published under sec-  
2 tion 413(e)(5) of the Internal Revenue Code of 1986  
3 to include language which notifies participating em-  
4 ployers described in section 501(e)(3), and which are  
5 exempt from tax under section 501(a), that the plan  
6 is subject to the Employee Retirement Income Secu-  
7 rity Act of 1974 and that such employer is a plan  
8 sponsor with respect to its employees participating  
9 in the multiple employer plan and, as such, has cer-  
10 tain fiduciary duties with respect to the plan and to  
11 its employees.

12 (2) MODEL PLANS FOR MULTIPLE EMPLOYER  
13 403(b) NON-GOVERNMENTAL PLANS.—For plans to  
14 which section 403(b)(15)(A) of the Internal Revenue  
15 Code of 1986 applies (other than a plan maintained  
16 for its employees by a State, a political subdivision  
17 of a State, or an agency or instrumentality of any  
18 one or more of the foregoing) the Secretary shall  
19 publish model plan language similar to model plan  
20 language published under section 413(e)(5) of such  
21 Code.

22 (3) EDUCATIONAL OUTREACH TO EMPLOYERS  
23 EXEMPT FROM TAX.—The Secretary shall provide  
24 education and outreach to increase awareness to em-  
25 ployers described in section 501(e)(3), and which are

1 exempt from tax under section 501(a), that multiple  
2 employer plans are subject to the Employee Retirement  
3 Income Security Act of 1974 and that such  
4 employer is a plan sponsor with respect to its em-  
5 ployees participating in the multiple employer plan  
6 and, as such, has certain fiduciary duties with re-  
7 spect to the plan and to its employees.

8 (g) NO INFERENCE WITH RESPECT TO CHURCH  
9 PLANS.—Regarding any application of section 403(b) of  
10 the Internal Revenue Code of 1986 to an annuity contract  
11 purchased under a church plan (as defined in section  
12 414(e) of such Code) maintained by more than 1 em-  
13 ployer, or to any application of rules similar to section  
14 413(e) of such Code to such a plan, no inference shall  
15 be made from section 403(b)(15)(A) of such Code (as  
16 added by this Act) not applying to such plans.

17 (h) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by  
19 this section shall apply to plan years beginning after  
20 December 31, 2021.

21 (2) RULE OF CONSTRUCTION.—Nothing in the  
22 amendments made by subsection (a) shall be con-  
23 strued as limiting the authority of the Secretary of  
24 the Treasury or the Secretary's delegate (determined  
25 without regard to such amendment) to provide for

1 the proper treatment of a failure to meet any re-  
2 quirement applicable under such Code with respect  
3 to one employer (and its employees) in the case of  
4 a plan to which section 403(b)(15) applies.

5 **SEC. 109. TREATMENT OF STUDENT LOAN PAYMENTS AS**  
6 **ELECTIVE DEFERRALS FOR PURPOSES OF**  
7 **MATCHING CONTRIBUTIONS.**

8 (a) IN GENERAL.—Section 401(m)(4)(A) of the In-  
9 ternal Revenue Code of 1986 is amended by striking  
10 “and” at the end of clause (i), by striking the period at  
11 the end of clause (ii) and inserting “, and”, and by adding  
12 at the end the following new clause:

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

18 (b) QUALIFIED STUDENT LOAN PAYMENT.—Section  
19 401(m)(4) of such Code is amended by adding at the end  
20 the following new subparagraph:

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

1            ployee to pay qualified higher education ex-  
2            penses, but only—

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

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

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

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

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

1           (c) MATCHING CONTRIBUTIONS FOR QUALIFIED  
2 STUDENT LOAN PAYMENTS.—Section 401(m) of such  
3 Code is amended by redesignating paragraph (13) as para-  
4 graph (14), and by inserting after paragraph (12) the fol-  
5 lowing new paragraph:

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

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

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

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

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

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

3 “(iv) the plan provides that matching  
4 contributions on account of qualified stu-  
5 dent loan payments vest in the same man-  
6 ner as matching contributions on account  
7 of elective deferrals.

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

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

19 “(ii) STUDENT LOAN PAYMENTS NOT  
20 TREATED AS PLAN CONTRIBUTION.—Ex-  
21 cept as provided in clause (iii), a qualified  
22 student loan payment shall not be treated  
23 as a contribution to a plan under this title.

24 “(iii) MATCHING CONTRIBUTION  
25 RULES.—Solely for purposes of meeting

1 the requirements of paragraph (11)(B) or  
2 (12) of this subsection, or paragraph  
3 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-  
4 section (k), a plan may treat a qualified  
5 student loan payment as an elective defer-  
6 ral or an elective contribution, whichever is  
7 applicable.

8 “(iv) ACTUAL DEFERRAL PERCENT-  
9 AGE TESTING.—In determining whether a  
10 plan meets the requirements of subsection  
11 (k)(3)(A)(ii) for a plan year, the plan may  
12 apply the requirements of such subsection  
13 separately with respect to all employees  
14 who receive matching contributions de-  
15 scribed in paragraph (4)(A)(iii) for the  
16 plan year.

17 “(C) EMPLOYER MAY RELY ON EMPLOYEE  
18 CERTIFICATION.—The employer may rely on an  
19 employee certification of payment under para-  
20 graph (4)(D)(ii).”.

21 (d) SIMPLE RETIREMENT ACCOUNTS.—Section  
22 408(p)(2) of such Code is amended by adding at the end  
23 the following new subparagraph:

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



1           “(i) IN GENERAL.—Subject to the  
2 rules of clause (iii), an arrangement shall  
3 not fail to be treated as meeting the re-  
4 quirements of subparagraph (A)(iii) solely  
5 because under the arrangement, solely for  
6 purposes of such subparagraph, qualified  
7 student loan payments are treated as  
8 amounts elected by the employee under  
9 subparagraph (A)(i)(I) to the extent such  
10 payments do not exceed—

11                   “(I) the applicable dollar amount  
12 under subparagraph (E) (after appli-  
13 cation of section 414(v)) for the year  
14 (or, if lesser, the employee’s com-  
15 pensation (as defined in section  
16 415(c)(3)) for the year), reduced by

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

20           “(ii) QUALIFIED STUDENT LOAN PAY-  
21 MENT.—For purposes of this subpara-  
22 graph—

23                   “(I) IN GENERAL.—The term  
24 ‘qualified student loan payment’  
25 means a payment made by an em-

1            ployee in repayment of a qualified  
2            education loan (as defined in section  
3            221(d)(1)) incurred by the employee  
4            to pay qualified higher education ex-  
5            penses, but only if the employee cer-  
6            tifies to the employer making the  
7            matching contribution that such pay-  
8            ment has been made on such a loan.

9            “(II) QUALIFIED HIGHER EDU-  
10            CATION EXPENSES.—The term ‘quali-  
11            fied higher education expenses’ has  
12            the same meaning as when used in  
13            section 401(m)(4)(D).

14            “(iii) APPLICABLE RULES.—Clause (i)  
15            shall apply to an arrangement only if,  
16            under the arrangement—

17            “(I) matching contributions on  
18            account of qualified student loan pay-  
19            ments are provided only on behalf of  
20            employees otherwise eligible to elect  
21            contributions under subparagraph  
22            (A)(i)(I), and

23            “(II) all employees otherwise eli-  
24            gible to participate in the arrange-  
25            ment are eligible to receive matching

1 contributions on account of qualified  
2 student loan payments.”.

3 (e) 403(b) PLANS.—Section 403(b)(12)(A) of such  
4 Code is amended by adding at the end the following: “The  
5 fact that the employer offers matching contributions on  
6 account of qualified student loan payments as described  
7 in section 401(m)(13) shall not be taken into account in  
8 determining whether the arrangement satisfies the re-  
9 quirements of clause (ii) (and any regulation there-  
10 under).”.

11 (f) 457(b) PLANS.—Section 457(b) of such Code is  
12 amended by adding at the end the following: “A plan  
13 which is established and maintained by an employer which  
14 is described in subsection (e)(1)(A) shall not be treated  
15 as failing to meet the requirements of this subsection sole-  
16 ly because the plan, or another plan maintained by the  
17 employer which meets the requirements of section 401(a)  
18 or 403(b), provides for matching contributions on account  
19 of qualified student loan payments as described in section  
20 401(m)(13).”.

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

24 (1) permitting a plan to make matching con-  
25 tributions for qualified student loan payments, as

1 defined in sections 401(m)(4)(D) and 408(p)(2)(F)  
2 of the Internal Revenue Code of 1986, as added by  
3 this section, at a different frequency than matching  
4 contributions are otherwise made under the plan,  
5 provided that the frequency is not less than annu-  
6 ally;

7 (2) permitting employers to establish reasonable  
8 procedures to claim matching contributions for such  
9 qualified student loan payments under the plan, in-  
10 cluding an annual deadline (not earlier than 3  
11 months after the close of each plan year) by which  
12 a claim must be made; and

13 (3) promulgating model amendments which  
14 plans may adopt to implement matching contribu-  
15 tions on such qualified student loan payments for  
16 purposes of sections 401(m), 408(p), 403(b), and  
17 457(b) of the Internal Revenue Code of 1986.

18 (h) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to contributions made for plan  
20 years beginning after December 31, 2021.

21 **SEC. 110. APPLICATION OF CREDIT FOR SMALL EMPLOYER**  
22 **PENSION PLAN STARTUP COSTS TO EMPLOY-**  
23 **ERS WHICH JOIN AN EXISTING PLAN.**

24 (a) IN GENERAL.—Section 45E(d)(3)(A) of the In-  
25 ternal Revenue Code of 1986 is amended by striking “ef-

1 fective” and inserting “effective with respect to the eligible  
2 employer”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to eligible employer plans which  
5 become effective with respect to the eligible employer after  
6 the date of the enactment of this Act.

7 **SEC. 111. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**  
8 **BILITY CREDIT FOR SMALL EMPLOYERS.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-  
10 chapter A of chapter 1 of the Internal Revenue Code of  
11 1986 is amended by adding at the end the following new  
12 section:

13 **“SEC. 45U. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**  
14 **BILITY CREDIT FOR SMALL EMPLOYERS.**

15 “(a) IN GENERAL.—For purposes of section 38, in  
16 the case of any eligible small employer, the military spouse  
17 retirement plan eligibility credit determined under this  
18 section for any taxable year is an amount equal to the  
19 sum of—

20 “(1) \$250 with respect to each military spouse  
21 who is an employee of such employer and who is eli-  
22 gible to participate in an eligible defined contribu-  
23 tion plan of such employer at any time during such  
24 taxable year, plus

1           “(2) so much of the contributions made by such  
2           employer to all such plans with respect to such em-  
3           ployee during such taxable year as do not exceed  
4           \$250.

5           “(b) LIMITATION.—An individual shall only be taken  
6           into account as a military spouse under subsection (a) for  
7           the taxable year which includes the date on which such  
8           individual began participating in the eligible defined con-  
9           tribution plan of the employer and the 2 succeeding tax-  
10          able years.

11          “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of  
12          this section—

13                 “(1) IN GENERAL.—The term ‘eligible small  
14                 employer’ means an eligible employer (as defined in  
15                 section 408(p)(2)(C)(i)(I)).

16                 “(2) APPLICATION OF 2-YEAR GRACE PERIOD.—  
17                 A rule similar to the rule of section  
18                 408(p)(2)(C)(i)(II) shall apply for purposes of this  
19                 section.

20          “(d) MILITARY SPOUSE.—For purposes of this sec-  
21          tion—

22                 “(1) IN GENERAL.—The term ‘military spouse’  
23                 means, with respect to any employer, any individual  
24                 who is married (within the meaning of section 7703  
25                 as of the first date that the employee is employed by

1 the employer) to an individual who is a member of  
2 the uniformed services (as defined section 101(a)(5)  
3 of title 10, United States Code). For purposes of  
4 this section, an employer may rely on an employee's  
5 certification that such employee's spouse is a mem-  
6 ber of the uniformed services if such certification  
7 provides the name, rank, and service branch of such  
8 spouse.

9 “(2) EXCLUSION OF HIGHLY COMPENSATED  
10 EMPLOYEES.—With respect to any employer, the  
11 term ‘military spouse’ shall not include any indi-  
12 vidual if such individual is a highly compensated em-  
13 ployee of such employer (within the meaning of sec-  
14 tion 414(q)).

15 “(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—  
16 For purposes of this section, the term ‘eligible defined con-  
17 tribution plan’ means, with respect to any eligible small  
18 employer, any defined contribution plan (as defined in sec-  
19 tion 414(i)) of such employer if, under the terms of such  
20 plan—

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

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

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

10                   “(B) immediately have a nonforfeitable  
11                   right to the employee’s accrued benefit derived  
12                   from employer contributions under such plan.

13           “(f) AGGREGATION RULE.—All persons treated as a  
14           single employer under subsection (b), (c), (m), or (o) of  
15           section 414 shall be treated as one employer for purposes  
16           of this section.”.

17           (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
18           NESS CREDIT.—Section 38(b) of such Code is amended  
19           by striking “plus” at the end of paragraph (32), by strik-  
20           ing the period at the end of paragraph (33) and inserting  
21           “, plus”, and by adding at the end the following new para-  
22           graph:

23                   “(34) in the case of an eligible small employer  
24                   (as defined in section 45U(c)), the military spouse



1 retirement plan eligibility credit determined under  
2 section 45U(a).”.

3 (c) SPECIFIED CREDIT FOR PURPOSES OF CER-  
4 TIFIED PROFESSIONAL ORGANIZATIONS.—Section  
5 3511(d)(2) of such Code is amended by redesignating sub-  
6 paragraphs (F), (G), and (H) as subparagraphs (G), (H),  
7 and (I), respectively, and by inserting after subparagraph  
8 (E) the following new subparagraph:

9 “(F) section 45U (military spouse retire-  
10 ment plan eligibility credit),”.

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

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

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

18 **SEC. 112. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**  
19 **CONTRIBUTING TO A PLAN.**

20 (a) IN GENERAL.—Subparagraph (A) of section  
21 401(k)(4) of the Internal Revenue Code of 1986 is amend-  
22 ed by inserting “(other than a de minimis financial incen-  
23 tive)” after “any other benefit”.

1           (b) SECTION 403(b) PLANS.—Subparagraph (A) of  
2 section 403(b)(12) of such Code, as amended by the pre-  
3 ceding provisions of this Act, is further amended by add-  
4 ing at the end the following: “A plan shall not fail to sat-  
5 isfy clause (ii) solely by reason of offering a de minimis  
6 financial incentive to employees to elect to have the em-  
7 ployer make contributions pursuant to a salary reduction  
8 agreement.”.

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

15                   “(24) the provision of a de minimis financial in-  
16 centive described in section 401(k)(4)(A) or  
17 403(b)(12)(A).”.

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

23                   “(21) The provision of a de minimis financial  
24 incentive described in section 401(k)(4)(A) or



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

4           “(B) is corrected in a manner that is fa-  
5           vorable to the participant, and

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

9           Such correction may occur before or after the partic-  
10          ipant has terminated employment and may occur  
11          without regard to whether the error is identified by  
12          the Secretary.

13           “(3) REGULATIONS AND GUIDANCE FOR FAVOR-  
14          ABLE CORRECTION METHODS.—The Secretary shall,  
15          by regulations or other guidance of general applica-  
16          bility, specify the correction methods that are in a  
17          manner favorable to the participant for purposes of  
18          paragraph (2)(B).”.

19          (b) EFFECTIVE DATE.—The amendment made by  
20          this section shall apply with respect to any errors with  
21          respect to which the date referred to in section 414(aa)  
22          (as added by this section) is after the date of enactment  
23          of this Act.

1 **SEC. 114. ONE-YEAR REDUCTION IN PERIOD OF SERVICE**  
2 **REQUIREMENT FOR LONG-TERM, PART-TIME**  
3 **WORKERS.**

4 (a) IN GENERAL.—Section 401(k)(2)(D)(ii) of the  
5 Internal Revenue Code of 1986 is amended by striking  
6 “3” and inserting “2”.

7 (b) CLARIFICATION OF PRIOR SERVICE FOR PUR-  
8 POSES OF VESTING RULES.—Section 112(b) of the Set-  
9 ting Every Community Up for Retirement Enhancement  
10 Act of 2019 is amended by striking “section  
11 401(k)(2)(D)(ii)” and inserting “paragraphs (2)(D)(ii)  
12 and (15)(B)(iii) of section 401(k)”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall take effect as if included in the enact-  
15 ment of section 112 of the Setting Every Community Up  
16 for Retirement Enhancement Act of 2019.

17 **SEC. 115. FINDINGS RELATING TO S CORPORATION ESOPs.**

18 Congress finds the following:

19 (1) On January 1, 1998, nearly 25 years after  
20 the Employee Retirement Income Security Act of  
21 1974 was enacted and the employee stock ownership  
22 plan (hereafter in this section referred to as an  
23 “ESOP”) was created, employees were first per-  
24 mitted to be owners of subchapter S corporations  
25 pursuant to the Small Business Job Protection Act  
26 of 1996 (Public Law 104–188).

1           (2) With the passage of the Taxpayer Relief  
2 Act of 1997 (Public Law 105–34), Congress de-  
3 signed incentives to encourage businesses to become  
4 ESOP-owned S corporations.

5           (3) Since that time, several thousand companies  
6 have become ESOP-owned S corporations, creating  
7 an ownership interest for several million Americans  
8 in companies in every State in the country, in indus-  
9 tries ranging from heavy manufacturing to construc-  
10 tion and contracting to services.

11           (4) Every United States worker who is an em-  
12 ployee-owner of an S corporation company through  
13 an ESOP has a valuable qualified retirement savings  
14 account.

15           (5) Recent studies have shown that employees  
16 of ESOP-owned S corporations enjoy greater job  
17 stability, wages and benefits than employees of com-  
18 parable companies; and ESOP companies are better  
19 able to weather economic downturns.

20           (6) Studies also show that employee-owners of  
21 S corporation ESOP companies have amassed mean-  
22 ingful retirement savings through their ESOP ac-  
23 counts that will give them the means to retire with  
24 dignity.

1           (7) It is the goal of Congress to preserve and  
2           foster employee ownership of S corporations through  
3           ESOPs.

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

6           **SEC. 201. REMOVE REQUIRED MINIMUM DISTRIBUTION**  
7           **BARRIERS FOR LIFE ANNUITIES.**

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

11                   “(J) CERTAIN INCREASES IN PAYMENTS  
12                   UNDER A COMMERCIAL ANNUITY.—Nothing in  
13                   this section shall prohibit a commercial annuity  
14                   (within the meaning of section 3405(e)(6)) that  
15                   is issued in connection with any eligible retire-  
16                   ment plan (within the meaning of section  
17                   402(c)(8)(B), other than a defined benefit plan)  
18                   from providing one or more of the following  
19                   types of payments on or after the annuity start-  
20                   ing date:

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

25                           “(ii) a lump sum payment that—

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

10           “(II) accelerates the receipt of  
11           annuity payments that are scheduled  
12           to be received within the ensuing 12  
13           months, regardless of whether such  
14           acceleration shortens the payment pe-  
15           riod with respect to the annuity, re-  
16           duces the dollar amount of benefits to  
17           be paid under the contract, or results  
18           in a suspension of annuity payments  
19           during the period being accelerated,

20           “(iii) an amount which is in the na-  
21           ture of a dividend or similar distribution,  
22           provided that the issuer of the contract de-  
23           termines such amount based on a reason-  
24           able comparison of the actuarial factors as-  
25           sumed when calculating the initial annuity



1 payments and the issuer's experience with  
2 respect to those factors, or

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

9 (b) REGULATIONS AND ENFORCEMENT.—

10 (1) REGULATIONS.—By the date that is one  
11 year after the date of enactment of this Act, the  
12 Secretary of the Treasury shall amend the regula-  
13 tion issued by the Department of the Treasury relat-  
14 ing to “Required Distributions from Retirement  
15 Plans,” 69 Fed. Reg. 33288 (June 15, 2004), and  
16 make any corresponding amendments to other regu-  
17 lations, in order to—

18 (A) conform such regulations to subsection  
19 (a), including by eliminating the types of pay-  
20 ments described in subsection (a) from the  
21 scope of the requirement in Q&A-14(c) of  
22 Treasury Regulation section 1.401(a)(9)-6 that  
23 the total future expected payments must exceed  
24 the total value being annuitized;

1           (B) amend Q&A-14(c) of Treasury Regu-  
2           lation section 1.401(a)(9)-6 to provide that a  
3           commercial annuity that provides an initial pay-  
4           ment that is at least equal to the initial pay-  
5           ment that would be required from an individual  
6           account pursuant to Treasury Regulation sec-  
7           tion 1.401(a)(9)-5 will be deemed to satisfy the  
8           requirement in Q&A-14(c) of Treasury Regula-  
9           tion section 1.401(a)(9)-6 that the total future  
10          expected payments must exceed the total value  
11          being annuitized; and

12          (C) amend Q&A-14(e)(3) of Treasury Reg-  
13          ulation section 1.401(a)(9)-6 to provide that  
14          the total future expected payments under a  
15          commercial annuity are determined using the  
16          tables or other actuarial assumptions that the  
17          issuer of the contract actually uses in pricing  
18          the premiums and benefits with respect to the  
19          contract, provided that such tables or other ac-  
20          tuarial assumptions are reasonable.

21          (2) ENFORCEMENT.—As of the date of enact-  
22          ment of this Act, the Secretary of the Treasury shall  
23          administer and enforce the law in accordance with  
24          subsections (a) and (b).

1 (c) EFFECTIVE DATE.—This section shall take effect  
2 on the date of the enactment of this Act.

3 **SEC. 202. QUALIFYING LONGEVITY ANNUITY CONTRACTS.**

4 (a) IN GENERAL.—Not later than the date which is  
5 1 year after the date of the enactment of this Act, the  
6 Secretary of the Treasury or the Secretary’s delegate  
7 (hereafter in this section referred to as the “Secretary”)  
8 shall amend the regulation issued by the Department of  
9 the Treasury relating to “Longevity Annuity Contracts”  
10 (79 Fed. Reg. 37633 (July 2, 2014)), as follows:

11 (1) REPEAL 25-PERCENT PREMIUM LIMIT.—The  
12 Secretary shall amend Q&A–17(b)(3) of Treasury  
13 Regulation section 1.401(a)(9)–6 and Q&A–12(b)(3)  
14 of Treasury Regulation section 1.408–8 to eliminate  
15 the requirement that premiums for qualifying lon-  
16 gevity annuity contracts be limited to a percentage  
17 of an individual’s account balance, and to make such  
18 corresponding changes to the regulations and related  
19 forms as are necessary to reflect the elimination of  
20 this requirement.

21 (2) FACILITATE JOINT AND SURVIVOR BENE-  
22 FITS.—The Secretary shall amend Q&A–17(c) of  
23 Treasury Regulation section 1.401(a)(9)–6, and  
24 make such corresponding changes to the regulations  
25 and related forms as are necessary, to provide that,

1 in the case of a qualifying longevity annuity contract  
2 which was purchased with joint and survivor annuity  
3 benefits for the individual and the individual's  
4 spouse which were permissible under the regulations  
5 at the time the contract was originally purchased, a  
6 divorce occurring after the original purchase and be-  
7 fore the annuity payments commence under the con-  
8 tract will not affect the permissibility of the joint  
9 and survivor annuity benefits or other benefits under  
10 the contract, or require any adjustment to the  
11 amount or duration of benefits payable under the  
12 contract, provided that any qualified domestic rela-  
13 tions order (within the meaning of section 414(p) of  
14 the Internal Revenue Code of 1986) or any divorce  
15 or separation instrument (as defined in subsection  
16 (b))—

17 (A) provides that the former spouse is en-  
18 titled to the survivor benefits under the con-  
19 tract;

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

23 (C) does not modify the treatment of the  
24 former spouse as the measuring life for the sur-  
25 vivor benefits under the contract.

1           (3) PERMIT SHORT FREE LOOK PERIOD.—The  
2           Secretary shall amend Q&A–17(a)(4) of Treasury  
3           Regulation section 1.401(a)(9)–6 to ensure that  
4           such Q&A does not preclude a contract from includ-  
5           ing a provision under which an employee may re-  
6           scind the purchase of the contract within a period  
7           not exceeding 90 days from the date of purchase.

8           (b) DIVORCE OR SEPARATION INSTRUMENT.—For  
9           purposes of subsection (a)(2), the term “divorce or separa-  
10          tion instrument” means—

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

13           (2) a written separation agreement, or

14           (3) a decree (not described in paragraph (1))  
15           requiring a spouse to make payments for the sup-  
16           port or maintenance of the other spouse.

17          (c) EFFECTIVE DATES, ENFORCEMENT, AND INTER-  
18          PRETATIONS.—

19           (1) EFFECTIVE DATES.—

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

24           (B) Paragraphs (2) and (3) of subsection  
25           (a) shall be effective with respect to contracts

1 purchased or received in an exchange on or  
2 after July 2, 2014.

3 (2) ENFORCEMENT AND INTERPRETATIONS.—

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

6 (A) the Secretary (or delegate) shall ad-  
7 minister and enforce the law in accordance with  
8 subsection (a) and the effective dates in para-  
9 graph (1) of this subsection; and

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

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

14 (a) IN GENERAL.—Not later than the date which is  
15 7 years after the date of the enactment of this Act, the  
16 Secretary of the Treasury (or the Secretary’s delegate)  
17 shall amend the regulation issued by the Department of  
18 the Treasury relating to “Income Tax; Diversification Re-  
19 quirements for Variable Annuity, Endowment, and Life  
20 Insurance Contracts”, 54 Fed. Reg. 8728 (March 2,  
21 1989), and make any necessary corresponding amend-  
22 ments to other regulations, in order to facilitate the use  
23 of exchange-traded funds as investment options under  
24 variable contracts within the meaning of section 817(d)

1 of the Internal Revenue Code of 1986, in accordance with  
2 subsections (b) and (c) of this section.

3 (b) DESIGNATE CERTAIN AUTHORIZED PARTICI-  
4 PANTS AND MARKET MAKERS AS ELIGIBLE INVESTORS.—  
5 The Secretary of the Treasury (or the Secretary’s dele-  
6 gate) shall amend Treas. Reg. section 1.817–5(f)(3) to  
7 provide that satisfaction of the requirements in Treas.  
8 Reg. section 1.817–5(f)(2)(i) with respect to an exchange-  
9 traded fund shall not be prevented by reason of beneficial  
10 interests in such a fund being held by 1 or more author-  
11 ized participants or market makers.

12 (c) DEFINE RELEVANT TERMS.—In amending Treas.  
13 Reg. section 1.817–5(f)(3) in accordance with subsections  
14 (b) of this section, the Secretary of the Treasury (or the  
15 Secretary’s delegate) shall provide definitions consistent  
16 with the following:

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

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

23 (B) the shares of which can be purchased  
24 or redeemed directly from the fund only by an  
25 authorized participant; and

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

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

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

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

24           (3) MARKET MAKER.—The term “market  
25 maker” means a financial institution that is a reg-



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

11      (d) EFFECTIVE DATE.—Subsections (b) and (c) shall  
12      apply to segregated asset account investments made on  
13      or after the date that is 7 years after the date of the enact-  
14      ment of this Act.

15      **TITLE III—SIMPLIFICATION AND**  
16              **CLARIFICATION OF RETIRE-**  
17              **MENT PLAN RULES**

18      **SEC. 301. RECOVERY OF RETIREMENT PLAN OVERPAY-**  
19              **MENTS.**

20      (a) OVERPAYMENTS UNDER INTERNAL REVENUE  
21      CODE OF 1986.—

22              (1) QUALIFICATION REQUIREMENTS.—Section  
23              414 of the Internal Revenue Code of 1986, as  
24              amended by the preceding provisions of this Act, is

1 further amended by adding at the end the following  
2 new subsection:

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

5 “(1) IN GENERAL.—A plan shall not fail to be  
6 treated as described in clause (i), (ii), (iii), or (iv)  
7 of section 219(g)(5)(A) (and shall not fail to be  
8 treated as satisfying the requirements of section  
9 401(a) or 403) merely because—

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

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

20 “(2) REDUCTION IN FUTURE BENEFIT PAY-  
21 MENTS AND RECOVERY FROM RESPONSIBLE  
22 PARTY.—Paragraph (1) shall not fail to apply to a  
23 plan merely because, after discovering a benefit over-  
24 payment, such plan—

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

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

6           “(3) EMPLOYER FUNDING OBLIGATIONS.—  
7           Nothing in this subsection shall relieve an employer  
8           of any obligation imposed on it to make contribu-  
9           tions to a plan to meet the minimum funding stand-  
10          ards under sections 412 and 430 or to prevent or re-  
11          store an impermissible forfeiture in accordance with  
12          section 411.

13          “(4) OBSERVANCE OF BENEFIT LIMITATIONS.—  
14          Notwithstanding paragraph (1), a plan to which  
15          paragraph (1) applies shall observe any limitations  
16          imposed on it by section 401(a)(17) or 415. The  
17          plan may enforce such limitations using any method  
18          approved by the Secretary for recouping benefits  
19          previously paid or allocations previously made in ex-  
20          cess of such limitations.

21          “(5) COORDINATION WITH OTHER QUALIFICA-  
22          TION REQUIREMENTS.—The Secretary may issue  
23          regulations or other guidance of general applicability  
24          specifying how benefit overpayments and their  
25          recoupment or non-recoupment from a participant or

1 beneficiary shall be taken into account for purposes  
2 of satisfying any requirement applicable to a plan to  
3 which paragraph (1) applies.”.

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

7 “(12) In the case of an inadvertent benefit  
8 overpayment from a plan to which section  
9 414(bb)(1) applies which is transferred to an eligible  
10 retirement plan by or on behalf of a participant or  
11 beneficiary—

12 “(A) the portion of such overpayment with  
13 respect to which recoupment is not sought on  
14 behalf of the plan shall be treated as having  
15 been paid in an eligible rollover distribution if  
16 the payment would have been an eligible roll-  
17 over distribution but for being an overpayment,  
18 and

19 “(B) the portion of such overpayment with  
20 respect to which recoupment is sought on behalf  
21 of the plan shall be permitted to be returned to  
22 such plan and in such case shall be treated as  
23 an eligible rollover distribution transferred to  
24 such plan by the participant or beneficiary who  
25 received such overpayment (and the plans mak-

1           ing and receiving such transfer shall be treated  
2           as permitting such transfer).

3           In any case in which recoupment is sought on behalf  
4           of the plan but is disputed by the participant or ben-  
5           eficiary who received such overpayment, such dispute  
6           shall be subject to the claims and appeals procedures  
7           of the plan that made such overpayment, such plan  
8           shall notify the plan receiving the rollover of such  
9           dispute, and the plan receiving the rollover shall re-  
10          tain such overpayment on behalf of the participant  
11          or beneficiary (and shall be entitled to treat such  
12          overpayment as plan assets) pending the outcome of  
13          such procedures.”.

14          (b) OVERPAYMENTS UNDER ERISA.—Section 206 of  
15          the Employee Retirement Income Security Act of 1974  
16          (29 U.S.C. 1056) is amended by adding at the end the  
17          following new subsection:

18          “(h) SPECIAL RULES APPLICABLE TO BENEFIT  
19          OVERPAYMENTS.—

20                  “(1) GENERAL RULE.—In the case of an inad-  
21          vertent benefit overpayment by any pension plan, the  
22          responsible plan fiduciary shall not be considered to  
23          have failed to comply with the requirements of this  
24          title merely because such fiduciary determines, in

1 the exercise of its fiduciary discretion, not to seek  
2 recovery of all or part of such overpayment from—

3 “(A) any participant or beneficiary,

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

6 “(i) an individual account plan, pro-  
7 vided that the amount needed to prevent or  
8 restore any impermissible forfeiture from  
9 any participant’s or beneficiary’s account  
10 arising in connection with the overpayment  
11 is, separately from and independently of  
12 the overpayment, allocated to such account  
13 pursuant to the nonforfeitability require-  
14 ments of section 203 (for example, out of  
15 the plan’s forfeiture account, additional  
16 employer contributions, or recoveries from  
17 those responsible for the overpayment), or

18 “(ii) a defined benefit pension plan  
19 subject to the funding rules in part 3 of  
20 this subtitle B, unless the responsible plan  
21 fiduciary determines, in the exercise of its  
22 fiduciary discretion, that failure to recover  
23 all or part of the overpayment faster than  
24 required under such funding rules would  
25 materially affect the plan’s ability to pay

1           benefits due to other participants and  
2           beneficiaries, or

3           “(C) any fiduciary of the plan, other than  
4           a fiduciary (including a plan sponsor or contrib-  
5           uting employer acting in a fiduciary capacity)  
6           whose breach of its fiduciary duties resulted in  
7           such overpayment, provided that if the plan has  
8           established prudent procedures to prevent and  
9           minimize overpayment of benefits and the rel-  
10          evant plan fiduciaries have followed such proce-  
11          dures, an inadvertent benefit overpayment will  
12          not give rise to a breach of fiduciary duty.

13          “(2) REDUCTION IN FUTURE BENEFIT PAY-  
14          MENTS AND RECOVERY FROM RESPONSIBLE  
15          PARTY.—Paragraph (1) shall not fail to apply with  
16          respect to any inadvertent benefit overpayment  
17          merely because, after discovering such overpayment,  
18          the responsible plan fiduciary—

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

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

24          “(3) EMPLOYER FUNDING OBLIGATIONS.—  
25          Nothing in this subsection shall relieve an employer

1 of any obligation imposed on it to make contribu-  
2 tions to a plan to meet the minimum funding stand-  
3 ards under part 3 of this subtitle B or to prevent  
4 or restore an impermissible forfeiture in accordance  
5 with section 203.

6 “(4) RECOUPMENT FROM PARTICIPANTS AND  
7 BENEFICIARIES.—If the responsible plan fiduciary,  
8 in the exercise of its fiduciary discretion, decides to  
9 seek recoupment from a participant or beneficiary of  
10 all or part of an inadvertent benefit overpayment  
11 made by the plan to such participant or beneficiary,  
12 it may do so, subject to the following conditions:

13 “(A) No interest or other additional  
14 amounts (such as collection costs or fees) are  
15 sought on overpaid amounts.

16 “(B) If the plan seeks to recoup past over-  
17 payments of a non-decreasing periodic benefit  
18 by reducing future benefit payments—

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

22 “(ii) the amount recouped each cal-  
23 endar year does not exceed 10 percent of  
24 the full dollar amount of the overpayment,  
25 and



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

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

12                  “(C) If the plan seeks to recoup past over-  
13                  payments of a benefit other than a non-decreas-  
14                  ing periodic benefit, the plan satisfies require-  
15                  ments developed by the Secretary of the Treas-  
16                  ury for purposes of this subparagraph.

17                  “(D) Efforts to recoup overpayments are  
18                  not made through a collection agency or similar  
19                  third party and such efforts are not accom-  
20                  panied by threats of litigation, unless the re-  
21                  sponsible plan fiduciary reasonably believes it  
22                  could prevail in a civil action brought in Fed-  
23                  eral or State court to recoup the overpayments.

24                  “(E) Recoupment of past overpayments to  
25                  a participant is not sought from any beneficiary

1 of the participant, including a spouse, surviving  
2 spouse, former spouse, or other beneficiary.

3 “(F) Recoupment may not be sought if the  
4 first overpayment occurred more than 3 years  
5 before the participant or beneficiary is first no-  
6 tified in writing of the error.

7 “(G) A participant or beneficiary from  
8 whom recoupment is sought is entitled to con-  
9 test all or part of the recoupment pursuant to  
10 the plan’s claims and appeals procedures.

11 “(H) In determining the amount of  
12 recoupment to seek, the responsible plan fidu-  
13 ciary may take into account the hardship that  
14 recoupment likely would impose on the partici-  
15 pant or beneficiary.

16 “(5) EFFECT OF CULPABILITY.—Subpara-  
17 graphs (A) through (F) of paragraph (4) shall not  
18 apply to protect a participant or beneficiary who is  
19 culpable. For purposes of this paragraph, a partici-  
20 pant or beneficiary is culpable if the individual bears  
21 responsibility for the overpayment (such as through  
22 misrepresentations or omissions that led to the over-  
23 payment), or if the individual knew, or had good  
24 reason to know under the circumstances, that the  
25 benefit payment or payments were materially in ex-

1       cess of the correct amount. Notwithstanding the pre-  
2       ceding sentence, an individual is not culpable merely  
3       because the individual believed the benefit payment  
4       or payments were or might be in excess of the cor-  
5       rect amount, if the individual raised that question  
6       with an authorized plan representative and was told  
7       the payment or payments were not in excess of the  
8       correct amount. With respect to a culpable partici-  
9       pant or beneficiary, efforts to recoup overpayments  
10      shall not be made through threats of litigation, un-  
11      less a lawyer for the plan could make the representa-  
12      tions required under Rule 11 of the Federal Rules  
13      of Civil Procedure if the litigation were brought in  
14      Federal court.”.

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

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

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

1           (2) determinations made before such date of en-  
2           actment by the responsible plan fiduciary, in the ex-  
3           ercise of its fiduciary discretion, not to seek  
4           recoupment or recovery of all or part of an inad-  
5           vertent benefit overpayment.

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

15 **SEC. 302. REDUCTION IN EXCISE TAX ON CERTAIN ACCU-**  
16 **MULATIONS IN QUALIFIED RETIREMENT**  
17 **PLANS.**

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

21           (b) REDUCTION IN EXCISE TAX ON FAILURES TO  
22 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section  
23 4974 of such Code is amended by adding at the end the  
24 following new subsection:

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

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

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

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

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

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2021.

4 **SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**  
5 **CATION FUNDS.**

6 (a) IN GENERAL.—Not later than 6 months after the  
7 date of the enactment of this Act, the Secretary of Labor  
8 (or the Secretary’s delegate) shall modify the regulations  
9 under section 404 of the Employee Retirement Income Se-  
10 curity Act of 1974 (29 U.S.C. 1104) to provide that, in  
11 the case of a designated investment alternative which con-  
12 tains a mix of asset classes, a plan administrator may,  
13 but is not required to, use a benchmark which is a blend  
14 of different broad-based securities market indices if—

15 (1) the blend is reasonably representative of the  
16 asset class holdings of the designated investment al-  
17 ternative;

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



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

4           (2) the Internal Revenue Code of 1986 applica-  
5           ble to qualified retirement plans (as defined in sec-  
6           tion 4974(c) of such Code without regard to para-  
7           graphs (4) and (5) thereof).

8           (b) REPORT.—Not later than 18 months after the  
9           date of the enactment of this Act, the Secretary of Labor,  
10          the Secretary of the Treasury, and the Pension Benefit  
11          Guaranty Corporation, jointly, and after consultation with  
12          a balanced group of participant and employer representa-  
13          tives, shall with respect to plans referenced in subsection  
14          (a) report on the effectiveness of the applicable reporting  
15          and disclosure requirements and make such recommenda-  
16          tions as may be appropriate to the appropriate committees  
17          of the Congress to consolidate, simplify, standardize, and  
18          improve such requirements so as to simplify reporting for  
19          such plans and ensure that plans can simply furnish and  
20          participants and beneficiaries timely receive and better un-  
21          derstand the information they need to monitor their plans,  
22          plan for retirement, and obtain the benefits they have  
23          earned. Such report shall assess the extent to which retire-  
24          ment plans are retaining disclosures, work records, and  
25          plan documents that are needed to ensure accurate cal-



1 culation of future benefits. To assess the effectiveness of  
2 the applicable reporting and disclosure requirements, the  
3 report shall include an analysis, based on plan data, of  
4 how participants and beneficiaries are providing preferred  
5 contact information, the methods by which plan sponsors  
6 and plans are furnishing disclosures, and the rate at which  
7 participants and beneficiaries (grouped by key demo-  
8 graphics) are receiving, accessing, and retaining disclo-  
9 sures. The agencies shall conduct appropriate surveys and  
10 data collection to obtain any needed information.

11 **SEC. 305. ELIMINATING UNNECESSARY PLAN REQUIRE-**  
12 **MENTS RELATED TO UNENROLLED PARTICI-**  
13 **PANTS.**

14 (a) AMENDMENT OF INTERNAL REVENUE CODE OF  
15 1986.—Section 414 of the Internal Revenue Code of  
16 1986, as amended by the preceding provisions of this Act,  
17 is further amended by adding at the end the following new  
18 subsection:

19 “(cc) ELIMINATING UNNECESSARY PLAN REQUIRE-  
20 MENTS RELATED TO UNENROLLED PARTICIPANTS.—

21 “(1) IN GENERAL.—Notwithstanding any other  
22 provision of this title, with respect to any defined  
23 contribution plan, no disclosure, notice, or other plan  
24 document (other than the notices and documents de-  
25 scribed in subparagraphs (A) and (B)) shall be re-

1       quired to be furnished under this title to any  
2       unenrolled participant if the unenrolled participant  
3       receives—

4               “(A) an annual reminder notice (in paper  
5               format, or in any electronic format consented to  
6               by the participant) of such participant’s eligi-  
7               bility to participate in such plan and any appli-  
8               cable election deadlines under the plan, and

9               “(B) any document requested by such par-  
10              ticipant which the participant would be entitled  
11              to receive without regard to this subsection.

12             “(2) UNENROLLED PARTICIPANT.—For pur-  
13             poses of this subsection, the term ‘unenrolled partici-  
14             pant’ means an employee who—

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

17               “(B) has received all required notices, dis-  
18               closures, and other plan documents required to  
19               be furnished under this title and the summary  
20               plan description as provided in section 104(b)  
21               of the Employee Retirement Income Security  
22               Act of 1974 in connection with such partici-  
23               pant’s initial eligibility to participate in such  
24               plan,

25               “(C) is not participating in such plan, and



1 title to any unenrolled participant if the unenrolled partici-  
2 pant receives—

3 “(1) an annual reminder notice of such partici-  
4 pant’s eligibility to participate in such plan and any  
5 applicable election deadlines under the plan; and

6 “(2) any document requested by such partici-  
7 pant which the participant would be entitled to re-  
8 ceive without regard to this section.

9 “(b) UNENROLLED PARTICIPANT.—For purposes of  
10 this section, the term ‘unenrolled participant’ means an  
11 employee who—

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

14 “(2) has received all required notices, disclo-  
15 sures, and other plan documents, including the sum-  
16 mary plan description, required to be furnished  
17 under this title in connection with such participant’s  
18 initial eligibility to participate in such plan;

19 “(3) is not participating in such plan; and

20 “(4) does not have a balance in the plan.

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

1       “(c) ANNUAL REMINDER NOTICE.—For purposes of  
2 this section, the term ‘annual reminder notice’ means a  
3 notice provided in accordance with section 2520.104b-1  
4 of title 29, Code of Federal Regulations (or any successor  
5 regulation), which—

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

11               “(2) notifies the unenrolled participant of—

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

14                       “(B) the key benefits under the plan and  
15 the key rights and features under the plan af-  
16 fecting such benefits; and

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

20               (2) CLERICAL AMENDMENT.—The table of con-  
21 tents in section 1 of the Employee Retirement In-  
22 come Security Act of 1974 is amended by striking  
23 the item relating to section 111 and by inserting  
24 after the item relating to section 110 the following  
25 new items:

“Sec. 111. Eliminating unnecessary plan requirements related to unenrolled participants.

“Sec. 112. Repeal and effective date.”.

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to plan years beginning after De-  
3 cember 31, 2021.

4 **SEC. 306. RETIREMENT SAVINGS LOST AND FOUND.**

5           (a) RETIREMENT SAVINGS LOST AND FOUND.—

6                   (1) ESTABLISHMENT.—

7                           (A) IN GENERAL.—Not later than 3 years  
8 after the date of the enactment of this Act, the  
9 Secretary of Labor, the Secretary of the Treas-  
10 ury, and the Secretary of Commerce, in co-  
11 operation, shall establish an online searchable  
12 database (to be managed by the Pension Ben-  
13 efit Guaranty Corporation in accordance with  
14 section 4051 of the Employee Retirement In-  
15 come Security Act of 1974) to be known as the  
16 “Retirement Savings Lost and Found”. The  
17 Retirement Savings Lost and Found shall—

18                                   (i) allow an individual to search for  
19 information that enables the individual to  
20 locate the plan administrator of any plans  
21 with respect to which the individual is or  
22 was a participant or beneficiary, and to  
23 provide contact information for the plan

1 administrator of any plan described in sub-  
2 paragraph (B);

3 (ii) allow the corporation to assist  
4 such an individual in locating any plan of  
5 the individual; and

6 (iii) allow the corporation to make any  
7 necessary changes to contact information  
8 on record for the plan administrator based  
9 on any changes to the plan due to merger  
10 or consolidation of the plan with any other  
11 plan, division of the plan into two or more  
12 plans, bankruptcy, termination, change in  
13 name of the plan, change in name or ad-  
14 dress of the plan administrator, or other  
15 causes.

16 The Retirement Savings Lost and Found estab-  
17 lished under this paragraph shall include infor-  
18 mation reported under section 4051 of the Em-  
19 ployee Retirement Income Security Act of 1974  
20 and other relevant information obtained by the  
21 Pension Benefit Guaranty Corporation.

22 (B) PLANS DESCRIBED.—A plan described  
23 in this subparagraph is a plan to which the  
24 vesting standards of section 203 of part 2 of

1 subtitle B of title I of the Employee Retirement  
2 Income Security Act of 1974 apply.

3 (2) ADMINISTRATION.—The Retirement Sav-  
4 ings Lost and Found established under paragraph  
5 (1) shall provide individuals described in paragraph  
6 (1)(A) only with the ability to view contact informa-  
7 tion for the plan administrator of any plan with re-  
8 spect to which the individual is or was a participant  
9 or beneficiary, sufficient to allow the individual to lo-  
10 cate the individual’s plan in order to recover any  
11 benefit owing to the individual under the plan.

12 (3) SAFEGUARDING PARTICIPANT PRIVACY AND  
13 SECURITY.—In establishing the Retirement Savings  
14 Lost and Found under paragraph (1), the Pension  
15 Benefit Guaranty Corporation, in consultation with  
16 the Secretary of Labor, the Secretary of the Treas-  
17 ury, and the Secretary of Commerce, shall take all  
18 necessary and proper precautions to ensure that in-  
19 dividuals’ plan information maintained by the Re-  
20 tirement Savings Lost and Found is protected and  
21 that persons other than the individual cannot fraud-  
22 ulently claim the benefits to which any individual is  
23 entitled, and to allow any individual to opt out of in-  
24 clusion in the Retirement Savings Lost and Found  
25 at the election of the individual.



1 (b) OFFICE OF THE RETIREMENT SAVINGS LOST  
2 AND FOUND.—

3 (1) IN GENERAL.—Subtitle C of title IV of the  
4 Employee Retirement Income Security Act of 1974  
5 (29 U.S.C. 1341 et seq.) is amended by adding at  
6 the end the following:

7 **“SEC. 4051. OFFICE OF THE RETIREMENT SAVINGS LOST**  
8 **AND FOUND.**

9 “(a) ESTABLISHMENT; RESPONSIBILITIES OF OF-  
10 FICE.—

11 “(1) IN GENERAL.—Not later than 2 years  
12 after the date of the enactment of this section, the  
13 Secretary of Labor, the Secretary of the Treasury,  
14 and the Secretary of Commerce shall establish with-  
15 in the corporation an Office of the Retirement Sav-  
16 ings Lost and Found (in this section referred to as  
17 the ‘Office’).

18 “(2) RESPONSIBILITIES OF OFFICE.—

19 “(A) IN GENERAL.—The Office shall—

20 “(i) carry out subsection (b) of this  
21 section;

22 “(ii) maintain the Retirement Savings  
23 Lost and Found established under section  
24 306(a) of the ‘Securing a Strong Retire-  
25 ment Act of 2021’; and

1           “(iii) perform an annual audit of plan  
2 information contained in the Retirement  
3 Savings Lost and Found and ensure that  
4 such information is current and accurate.

5           “(B) OPTION TO CONTRACT.—

6           “(i) IN GENERAL.—Not later than 2  
7 years after the date of enactment of this  
8 section, the corporation shall conduct an  
9 analysis of the cost effectiveness of con-  
10 tracting with a third party to carry out the  
11 responsibilities under subparagraph (A)(iii)  
12 and, upon a determination that such con-  
13 tracting would be more cost effective than  
14 carrying out such responsibilities within  
15 the Office, the corporation may enter into  
16 such contracts as merited by such analysis.

17           “(ii) REPORT.—The corporation shall  
18 report on the results of the analysis under  
19 clause (i) to the Committees on Finance  
20 and Health, Education, Labor, and Pen-  
21 sions of the Senate and the Committees on  
22 Ways and Means and Education and  
23 Labor of the House of Representatives.

24           “(b) CERTAIN NON-RESPONSIVE PARTICIPANTS EN-  
25 TITLED TO SMALL BENEFITS.—

1 “(1) GENERAL RULE.—

2 “(A) TRANSFER TO THE OFFICE OF THE  
3 RETIREMENT SAVINGS LOST AND FOUND.—The  
4 administrator of a plan that is not terminated  
5 and to which section 401(a)(31)(B) of the In-  
6 ternal Revenue Code of 1986 applies shall  
7 transfer to the Office the amount required to be  
8 transferred under section 401(a)(31)(B)(iv) of  
9 such Code for a non-responsive participant.

10 “(B) INFORMATION AND PAYMENT TO THE  
11 OFFICE.—Upon making a transfer under sub-  
12 paragraph (A), the plan administrator shall  
13 provide such information and certifications as  
14 the Office shall specify, including with respect  
15 to the transferred amount and the non-respon-  
16 sive participant.

17 “(C) INFORMATION REQUIREMENTS AFTER  
18 TRANSFER.—In the event that, after a transfer  
19 is made under subparagraph (A), the relevant  
20 non-responsive participant contacts the plan ad-  
21 ministrator or the plan administrator discovers  
22 information that may assist the Office in locat-  
23 ing the non-responsive participant, the plan ad-  
24 ministrator shall notify and provide such infor-  
25 mation as the Office shall specify to the Office.

1           “(D) SEARCH AND PAYMENT BY THE OF-  
2           FICE FOLLOWING TRANSFER.—The Office shall  
3           periodically, and upon receiving information de-  
4           scribed in subparagraph (C), conduct a search  
5           for the non-responsive participant for whom the  
6           Office has received a transfer under subpara-  
7           graph (A). Upon location of a non-responsive  
8           participant who claims benefits, the Office shall  
9           make a single payment to the non-responsive  
10          participant in an amount equal to the sum of—

11                   “(i) the amount transferred to the Of-  
12                   fice under subparagraph (A) for such par-  
13                   ticipant; and

14                   “(ii) the return on the investment at-  
15                   tributable to such amount under section  
16                   4005(j)(3).

17          “(2) DEFINITION.—For purposes of this sub-  
18          section, the term ‘non-responsive participant’ means  
19          a participant or beneficiary of a plan described in  
20          paragraph (1)(A)—

21                   “(A) who is entitled to a benefit subject to  
22                   a mandatory transfer under section  
23                   401(a)(31)(B)(iii) of the Internal Revenue Code  
24                   of 1986; and

1           “(B) for whom the plan has satisfied the  
2           conditions in section 401(a)(31)(B)(iv) of such  
3           Code.

4           “(3) REGULATORY AUTHORITY.—The Office  
5           shall prescribe such regulations as are necessary to  
6           carry out the purposes of this section, including  
7           rules relating to the amount payable to the Office  
8           and the amount to be paid by the Office.

9           “(c) INFORMATION COLLECTION.—Within such pe-  
10          riod after the end of a plan year as the Office may by  
11          regulations prescribe, the administrator of a plan to which  
12          the vesting standards of section 203 apply shall submit  
13          the following information, and such other information as  
14          the corporation may require, to the corporation in such  
15          form as the corporation may require:

16               “(1) The information described in paragraphs  
17               (1) through (4) of section 6057(b) of the Internal  
18               Revenue Code of 1986.

19               “(2) The information described in subpara-  
20               graphs (A), (B), (E), and (F) of section 6057(a)(2)  
21               of the Internal Revenue Code of 1986.

22           “(d) EFFECTIVE DATE.—The requirements of sub-  
23          sections (b) and (c) shall apply with respect to plan years  
24          beginning after the second December 31 occurring after  
25          the date of the enactment of this section.

1       “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as may be  
3 necessary to carry out this section.”.

4           (2) ESTABLISHMENT OF FUND FOR TRANS-  
5 FERRED ASSETS.—Section 4005 of the Employee  
6 Retirement Income Security Act of 1974 (29 U.S.C.  
7 1305) is amended by adding at the end the fol-  
8 lowing:

9       “(j)(1) A ninth fund shall be established for the pay-  
10 ment of benefits under section 4051(b)(1)(D).

11       “(2) Such fund shall be credited with the appro-  
12 priate—

13           “(A) amounts transferred to the Office of the  
14 Retirement Savings Lost and Found under section  
15 4051(b)(1)(A); and

16           “(B) earnings on investments of the fund or on  
17 assets credited to the fund.

18       “(3) Whenever the corporation determines that the  
19 moneys of any fund are in excess of current needs, it may  
20 request the investment of such amounts as it determines  
21 advisable by the Secretary of the Treasury in obligations  
22 issued or guaranteed by the United States.”.

23           (3) CONFORMING AMENDMENT.—The table of  
24 contents for the Employee Retirement Income Secu-  
25 rity Act of 1974 (29 U.S.C. 1001 et seq.) is amend-

1 ed by inserting after the matter relating to section  
2 4050 the following:

“Sec. 4051. Certain non-responsive participants entitled to small benefits.”.

3 (c) MANDATORY TRANSFERS OF ROLLOVER DIS-  
4 TRIBUTIONS.—

5 (1) INVESTMENT OPTIONS.—

6 (A) IN GENERAL.—Subparagraph (B) of  
7 section 404(c)(3) of the Employee Retirement  
8 Income Security Act of 1974 (29 U.S.C.  
9 1104(c)(3)) is amended by striking the period  
10 at the end and inserting “, and, to the extent  
11 the Secretary provides in guidance or regula-  
12 tions issued after the enactment of the Securing  
13 a Strong Retirement Act of 2021, is made to—

14 “(i) a target date or life cycle fund  
15 held under such account;

16 “(ii) as described in section  
17 2550.404a–2 of title 29, Code of Federal  
18 Regulations, an investment product held  
19 under such account designed to preserve  
20 principal and provide a reasonable rate of  
21 return;

22 “(iii) the Office of the Retirement  
23 Savings Lost and Found in accordance  
24 with section 401(a)(31)(B)(iv) of the In-  
25 ternal Revenue Code of 1986 and section

1           306(c)(2)(A)(ii) of the Securing a Strong  
2           Retirement Act of 2020; or

3           “ (iv) such other option as the Sec-  
4           retary may so provide.”.

5           (B) REGULATIONS.—Not later than 270  
6           days after the date of the enactment of this  
7           Act, the Secretary of Labor shall promulgate  
8           regulations identifying the target date or life  
9           cycle funds, or specifying the characteristics of  
10          such a fund, that will be deemed to meet the re-  
11          quirements of section 404(c)(3)(B)(i) of the  
12          Employee Retirement Income Security Act of  
13          1974 (29 U.S.C. 1104(c)(3)(B)), as amended  
14          by subparagraph (A).

15          (2) EXPANSION OF CAP; AUTHORITY TO TRANS-  
16          FER LESSER AMOUNTS.—

17                (A) CAP.—Sections 401(a)(31)(B)(ii) and  
18                411(a)(11)(A) of the Internal Revenue Code of  
19                1986 and section 203(e)(1) of the Employee  
20                Retirement Income Security Act of 1974 are  
21                each amended by striking “\$5,000” and insert-  
22                ing “\$6,000”.

23                (B) DISTRIBUTION OF LARGER AMOUNTS  
24                TO INDIVIDUAL RETIREMENT PLANS ONLY.—  
25                Section 401(a)(31)(B)(i) of such Code is



1 amended by adding at the end the following:  
2 “The Office of the Retirement Savings Lost  
3 and Found established by Section 306 of the  
4 Securing a Strong Retirement Act shall not be  
5 treated as a trustee or issuer that is eligible to  
6 receive such distributions.”.

7 (C) LESSER AMOUNTS.—Section  
8 401(a)(31)(B) of such Code is amended by add-  
9 ing at the end the following new clauses:

10 “(iii) TREATMENT OF LESSER  
11 AMOUNTS.—In the case of a trust which is  
12 part of an eligible plan, such trust shall  
13 not be a qualified trust under this section  
14 unless such plan provides that, if a partici-  
15 pant in the plan separates from the service  
16 covered by the plan and the nonforfeitable  
17 accrued benefit described in clause (ii) is  
18 not in excess of \$1,000, the plan adminis-  
19 trator shall (either separately or as part of  
20 the notice under section 402(f)) notify the  
21 participant that the participant is entitled  
22 to such benefit or attempt to pay the ben-  
23 efit directly to the participant.

24 “(iv) TRANSFERS TO RETIREMENT  
25 SAVINGS LOST AND FOUND.—If, after a

1 plan administrator takes the action re-  
2 quired under clause (iii), the participant  
3 does not—

4 “(I) within 6 months of the noti-  
5 fication under such clause, make an  
6 election under subparagraph (A) or  
7 elect to receive a distribution of the  
8 benefit directly, or

9 “(II) accept any direct payment  
10 made under such clause within 6  
11 months of the attempted payment,  
12 the plan administrator shall transfer the  
13 amount of such benefit to the Office of the  
14 Retirement Savings Lost and Found in ac-  
15 cordance with section 4051(b) of the Em-  
16 ployee Retirement Income Security Act of  
17 1974.

18 “(v) INCOME TAX TREATMENT OF  
19 TRANSFERS TO RETIREMENT SAVINGS  
20 LOST AND FOUND.—For purposes of deter-  
21 mining the income tax treatment of trans-  
22 fers to the Office of the Retirement Sav-  
23 ings Lost and Found under clause (iv)—

1                   “(I) such a transfer shall be  
2                   treated as a transfer to an individual  
3                   retirement plan under clause (i), and

4                   “(II) the distribution of such  
5                   amounts by the Office of the Retirement  
6                   Savings Lost and Found shall  
7                   be treated as a distribution from an  
8                   individual retirement plan.”.

9                   (D) EFFECTIVE DATE.—The amendments  
10                  made by this paragraph shall apply to vested  
11                  benefits with respect to participants who separate  
12                  from service connected to the plan in plan  
13                  years beginning after the second December 31  
14                  occurring after the date of the enactment of  
15                  this Act.

16                  (d) BETTER REPORTING FOR MANDATORY TRANS-  
17                  FERS.—

18                   (1) IN GENERAL.—Paragraph (2) of section  
19                   6057(a) of the Internal Revenue Code of 1986 is  
20                   amended—

21                   (A) in subparagraph (C)—

22                   (i) by striking “during such plan  
23                   year” in clause (i) and inserting “during  
24                   the plan year immediately preceding such  
25                   plan year”;

1 (ii) by adding “and” at the end of  
2 clause (i); and

3 (iii) by striking clause (iii);

4 (B) by redesignating subparagraph (E) as  
5 subparagraph (G);

6 (C) by striking “and” at the end of sub-  
7 paragraph (D); and

8 (D) by inserting after subparagraph (D)  
9 the following new subparagraphs:

10 “(E) the name and taxpayer identifying  
11 number of each participant or former partici-  
12 pant in the plan—

13 “(i) who, during the current plan year  
14 or any previous plan year, was reported  
15 under subparagraph (C), and with respect  
16 to whom the benefits described in subpara-  
17 graph (C)(ii) were fully paid during the  
18 plan year,

19 “(ii) with respect to whom any  
20 amount was distributed under section  
21 401(a)(31)(B) during the plan year, or

22 “(iii) with respect to whom a deferred  
23 annuity contract was distributed during  
24 the plan year,

1           “(F) in the case of a participant or former  
2 participant to whom subparagraph (E) ap-  
3 plies—

4           “(i) in the case of a participant de-  
5 scribed in clause (ii) thereof, the name and  
6 address of the designated trustee or issuer  
7 described in section 401(a)(31)(B)(i) and  
8 the account number of the individual re-  
9 tirement plan to which the amount was  
10 distributed, and

11           “(ii) in the case of a participant de-  
12 scribed in clause (iii) thereof, the name  
13 and address of the issuer of such annuity  
14 contract and the contract or certificate  
15 number, and”.

16           (2) RULES RELATING TO DIRECT TRUSTEE-TO-  
17 TRUSTEE TRANSFERS.—

18           (A) IN GENERAL.—Paragraph (6) of sec-  
19 tion 402(e) of such Code is amended—

20           (i) by striking “TRANSFERS.—Any”  
21 and inserting “TRANSFERS.—

22 “(A) IN GENERAL.—Any”; and

23           (ii) by adding at the end the following  
24 new subparagraph:

1           “(B) NOTIFICATION OF TRUSTEE.—In the  
2 case of a distribution under section  
3 401(a)(31)(B), the plan administrator shall no-  
4 tify the designated trustee or issuer described  
5 in clause (i) thereof that the transfer is a man-  
6 datory distribution required by such section.”.

7           (B) PENALTY.—Subsection (i) of section  
8 6652 of such Code is amended—

9           (i) by striking “TO RECIPIENTS” in  
10 the heading and inserting “OR NOTIFICA-  
11 TION”;

12           (ii) by striking “402(f),” and insert-  
13 ing “402(f) or a notification as required by  
14 section 402(e)(6)(B),”; and

15           (iii) by striking “such written expla-  
16 nation” and inserting “such written expla-  
17 nation or notification”.

18           (C) REPORTS.—Subsection (i) of section  
19 408 of such Code is amended—

20           (i) by redesignating subparagraphs  
21 (A) and (B) of paragraph (2) as clauses (i)  
22 and (ii), respectively, and by moving such  
23 clauses 2 ems to the right;

24           (ii) by redesignating paragraphs (1)  
25 and (2) as subparagraphs (A) and (B), re-

1                   spectively, and by moving such subpara-  
2                   graphs 2 ems to the right; and

3                   (iii) by striking “as the Secretary pre-  
4                   scribes” in subparagraph (B)(ii), as so re-  
5                   designated, and all that follows through “a  
6                   simple retirement account” and inserting  
7                   “as the Secretary prescribes.

8                   “(3) SIMPLE RETIREMENT ACCOUNTS.—In the  
9                   case of a simple retirement account”;

10                  (iv) by striking “REPORTS.—The  
11                  trustee of” and inserting “REPORTS.—

12                  “(1) IN GENERAL.—The trustee of”;

13                  (v) by striking “under paragraph (2)”  
14                  in paragraph (3), as redesignated by clause  
15                  (iii), and inserting “under paragraph  
16                  (1)(B)”;

17                  (vi) by inserting after paragraph  
18                  (1)(B)(ii), as redesignated by the pre-  
19                  ceding clauses, the following new para-  
20                  graph:

21                  “(2) MANDATORY DISTRIBUTIONS.—In the case  
22                  of an account, contract, or annuity to which a trans-  
23                  fer under section 401(a)(31)(B) is made (including  
24                  a transfer from the individual retirement plan to  
25                  which the original transfer under such section was

1 made to another individual retirement plan), the re-  
2 port required by this subsection for the year of the  
3 transfer and any year in which the information pre-  
4 viously reported in subparagraph (B) changes  
5 shall—

6 “(A) identify such transfer as a mandatory  
7 distribution required by such section,

8 “(B) include the name, address, and tax-  
9 payer identifying number of the trustee or  
10 issuer of the individual retirement plan to which  
11 the amount is transferred, and

12 “(C) be filed with the Pension Benefit  
13 Guaranty Corporation as well as with the Sec-  
14 retary.”.

15 (3) NOTIFICATION OF PARTICIPANTS UPON SEP-  
16 ARATION.—Subsection (e) of section 6057 of such  
17 Code is amended by inserting “, and, with respect  
18 to any benefit of the individual subject to section  
19 401(a)(31)(B), a notice of availability of, and the  
20 contact information for, the Retirement Savings  
21 Lost and Found established under section 306(a)(1)  
22 of the Securing a Strong Retirement Act of 2021”  
23 before the period at the end of the second sentence.

24 (4) EFFECTIVE DATE.—The amendments made  
25 by this paragraph shall apply to distributions made



1 in, and returns and reports relating to, years begin-  
2 ning after the second December 31 occurring after  
3 the date of the enactment of this Act.

4 (e) REQUIREMENT OF ELECTRONIC FILING.—

5 (1) IN GENERAL.—Paragraph (2) of section  
6 6011(e) of the Internal Revenue Code of 1986 is  
7 amended—

8 (A) by redesignating subparagraphs (A)  
9 and (B) as clauses (i) and (ii), respectively, and  
10 by moving such clauses 2 ems to the right;

11 (B) by striking “REGULATIONS.—In pre-  
12 scribing” and inserting “REGULATIONS.—

13 “(A) IN GENERAL.—In prescribing”; and

14 (C) by adding at the end the following new  
15 subparagraph:

16 “(C) EXCEPTIONS.—Notwithstanding sub-  
17 paragraph (A), the Secretary shall require re-  
18 turns or reports required under—

19 “(i) sections 6057, 6058, and 6059,

20 and

21 “(ii) sections 408(i), 6041, and 6047

22 to the extent such return or report relates  
23 to the tax treatment of a distribution from  
24 a plan, account, contract, or annuity,

1 to be filed on magnetic media, but only with re-  
2 spect to persons who are required to file at  
3 least 50 returns during the calendar year which  
4 includes the first day of the plan year to which  
5 such returns or reports relate.”.

6 (2) EFFECTIVE DATE.—The amendments made  
7 by this paragraph shall apply to returns and reports  
8 relating to years beginning after the second Decem-  
9 ber 31 occurring after the date of the enactment of  
10 this Act.

11 (f) RULEMAKING TO CLARIFY FIDUCIARY DUTIES.—

12 (1) REQUEST FOR INFORMATION.—Not later  
13 than 1 year after the date of enactment of this Act,  
14 the Secretary of Labor, in consultation with the Sec-  
15 retary of the Treasury, shall issue a request for in-  
16 formation relating to the rulemaking described in  
17 paragraph (2).

18 (2) ISSUANCE OF FINAL RULE.—Not later than  
19 3 years after such date, the Secretary of Labor, in  
20 consultation with the Secretary of the Treasury,  
21 shall issue a final rule that defines the following:

22 (A) The steps a plan sponsor must take to  
23 locate a deferred vested participant in order to  
24 meet its fiduciary duty under section 404 of the

1 Employee Retirement Income Security Act of  
2 1974 with respect to locating that participant.

3 (B) The ongoing practices and procedures  
4 a plan sponsor must institute in order to meet  
5 such fiduciary duty with respect to maintaining  
6 up-to-date contact information on deferred vest-  
7 ed participants.

8 **SEC. 307. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**  
9 **RESOLUTION SYSTEM.**

10 (a) IN GENERAL.—Except as otherwise provided in  
11 the Internal Revenue Code of 1986 or regulations pre-  
12 scribed by the Secretary of the Treasury or the Secretary’s  
13 delegate (referred to in this section as the “Secretary”),  
14 any eligible inadvertent failure to comply with the rules  
15 applicable under section 401(a), 403(a), 403(b), 408(p),  
16 or 408(k) of such Code may be self-corrected under the  
17 Employee Plans Compliance Resolution System (as de-  
18 scribed in Revenue Procedure 2019–19 or any successor  
19 guidance and hereafter in this section referred to as the  
20 “EPCRS”), except to the extent that such failure was  
21 identified by the Secretary prior to any actions which dem-  
22 onstrate a commitment to implement a self-correction.  
23 Revenue Procedure 2019–19 is deemed amended as of the  
24 date of the enactment of this Act to provide that the cor-  
25 rection period under section 9.02 of such Revenue Proce-

1 dure (or any successor guidance) for an eligible inad-  
2 vertent failure, except as otherwise provided under such  
3 Code or in regulations prescribed by the Secretary, is in-  
4 definite and has no last day, other than with respect to  
5 failures identified by the Secretary prior to any self-correc-  
6 tion as described in the preceding sentence.

7 (b) LOAN ERRORS.—In the case of an eligible inad-  
8 vertent failure relating to a loan from a plan to a partici-  
9 pant—

10 (1) such failure may be self-corrected under  
11 subsection (a) according to the rules of section 6.07  
12 of Revenue Procedure 2019–19 (or any successor  
13 guidance), including the provisions related to wheth-  
14 er a deemed distribution must be reported on Form  
15 1099–R, and

16 (2) the Secretary of Labor shall treat any such  
17 failure which is so self-corrected under subsection  
18 (a) as meeting the requirements of the Voluntary Fi-  
19 duciary Correction Program of the Department of  
20 Labor if, with respect to the violation of the fidu-  
21 ciary standards of the Employee Retirement Income  
22 Security Act of 1974, there is a similar loan error  
23 eligible for correction under EPCRS and the loan  
24 error is corrected in such manner.

1 (c) EPCRS FOR IRAS.—The Secretary shall expand  
2 the EPCRS to allow custodians of individual retirement  
3 plans (as defined in section 7701(a)(37) of the Internal  
4 Revenue Code of 1986) to address eligible inadvertent fail-  
5 ures with respect to an individual retirement plan (as so  
6 defined), including (but not limited to)—

7 (1) waivers of the excise tax which would other-  
8 wise apply under section 4974 of the Internal Rev-  
9 enue Code of 1986,

10 (2) under the self-correction component of the  
11 EPCRS, waivers of the 60-day deadline for a roll-  
12 over where the deadline is missed for reasons beyond  
13 the reasonable control of the account owner, and

14 (3) rules permitting a nonspouse beneficiary to  
15 return distributions to an inherited individual retire-  
16 ment plan described in section 408(d)(3)(C) of the  
17 Internal Revenue Code of 1986 in a case where, due  
18 to an inadvertent error by a service provider, the  
19 beneficiary had reason to believe that the distribu-  
20 tion could be rolled over without inclusion in income  
21 of any part of the distributed amount.

22 (d) ADDITIONAL SAFE HARBORS.—The Secretary  
23 shall expand the EPCRS to provide additional safe harbor  
24 means of correcting eligible inadvertent failures described  
25 in subsection (a), including safe harbor means of calcu-

1 lating the earnings which must be restored to a plan in  
2 cases where plan assets have been depleted by reason of  
3 an eligible inadvertent failure.

4 (e) ELIGIBLE INADVERTENT FAILURE.—For pur-  
5 poses of this section—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), the term “eligible inadvertent failure”  
8 means a failure that occurs despite the existence of  
9 practices and procedures which—

10 (A) satisfy the standards set forth in sec-  
11 tion 4.04 of Revenue Procedure 2019–19 (or  
12 any successor guidance), or

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

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

20 (f) APPLICATION OF CERTAIN REQUIREMENTS FOR  
21 CORRECTING ERRORS.—This section shall not apply to  
22 any failure unless the correction of such failure under this  
23 section is made in conformity with the general principles  
24 that apply to corrections of such failures under the Inter-  
25 nal Revenue Code of 1986, including regulations or other

1 guidance issued thereunder and including those principles  
2 and corrections set forth in Revenue Procedure 2019–19  
3 (or any successor guidance).”

4 **SEC. 308. ELIMINATE THE “FIRST DAY OF THE MONTH” RE-**  
5 **QUIREMENT FOR GOVERNMENTAL SECTION**  
6 **457(B) PLANS.**

7 (a) IN GENERAL.—Paragraph (4) of section 457(b)  
8 of the Internal Revenue Code of 1986 is amended to read  
9 as follows:

10 “(4) which provides that compensation—

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

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

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to taxable years beginning after  
22 the date of the enactment of this Act.

1 **SEC. 309. ONE-TIME ELECTION FOR QUALIFIED CHARITABLE**  
2 **TABLE DISTRIBUTION TO SPLIT-INTEREST**  
3 **ENTITY; INCREASE IN QUALIFIED CHARITABLE**  
4 **TABLE DISTRIBUTION LIMITATION.**

5 (a) ONE-TIME ELECTION FOR QUALIFIED CHARITABLE  
6 TABLE DISTRIBUTION TO SPLIT-INTEREST ENTITY.—  
7 Section 408(d)(8) of such Code is amended by adding at  
8 the end the following new subparagraph:

9 “(F) ONE-TIME ELECTION FOR QUALIFIED  
10 CHARITABLE DISTRIBUTION TO SPLIT-INTEREST  
11 ENTITY.—

12 “(i) IN GENERAL.—A taxpayer may  
13 for a taxable year elect under this subpara-  
14 graph to treat as meeting the requirement  
15 of subparagraph (B)(i) any distribution  
16 from an individual retirement account  
17 which is made directly by the trustee to a  
18 split-interest entity, but only if—

19 “(I) an election is not in effect  
20 under this subparagraph for a pre-  
21 ceding taxable year,

22 “(II) the aggregate amount of  
23 distributions of the taxpayer with re-  
24 spect to which an election under this  
25 subparagraph is made does not exceed  
26 \$50,000, and



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

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

6                   “(I) a charitable remainder annu-  
7 ity trust (as defined in section  
8 664(d)(1)), but only if such trust is  
9 funded exclusively by qualified chari-  
10 table distributions,

11                   “(II) a charitable remainder  
12 unitrust (as defined in section  
13 664(d)(2)), but only if such unitrust  
14 is funded exclusively by qualified char-  
15 itable distributions, or

16                   “(III) a charitable gift annuity  
17 (as defined in section 501(m)(5)), but  
18 only if such annuity is funded exclu-  
19 sively by qualified charitable distribu-  
20 tions and commences fixed payments  
21 of 5 percent or greater not later than  
22 1 year from the date of funding.

23                   “(iii) CONTRIBUTIONS MUST BE OTH-  
24 ERWISE DEDUCTIBLE.—A distribution

1 meets the requirement of this clause only  
2 if—

3 “(I) in the case of a distribution  
4 to a charitable remainder annuity  
5 trust or a charitable remainder uni-  
6 trust, a deduction for the entire value  
7 of the remainder interest in the dis-  
8 tribution for the benefit of a specified  
9 charitable organization would be al-  
10 lowable under section 170 (determined  
11 without regard to subsection (b)  
12 thereof and this paragraph), and

13 “(II) in the case of a charitable  
14 gift annuity, a deduction in an  
15 amount equal to the amount of the  
16 distribution reduced by the value of  
17 the annuity described in section  
18 501(m)(5)(B) would be allowable  
19 under section 170 (determined with-  
20 out regard to subsection (b) thereof  
21 and this paragraph).

22 “(iv) LIMITATION ON INCOME INTER-  
23 ESTS.—A distribution meets the require-  
24 ments of this clause only if—

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

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

9           “(v) SPECIAL RULES.—

10           “(I) CHARITABLE REMAINDER  
11 TRUSTS.—Notwithstanding section  
12 664(b), distributions made from a  
13 trust described in subclause (I) or (II)  
14 of clause (ii) shall be treated as ordi-  
15 nary income in the hands of the bene-  
16 ficiary to whom the annuity described  
17 in section 664(d)(1)(A) or the pay-  
18 ment described in section  
19 664(d)(2)(A) is paid.

20           “(II) CHARITABLE GIFT ANNU-  
21 ITIES.—Qualified charitable distribu-  
22 tions made to fund a charitable gift  
23 annuity shall not be treated as an in-  
24 vestment in the contract for purposes  
25 of section 72(c).”.

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

4 “(G) INFLATION ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of any  
6 taxable year beginning after 2021, each of  
7 the dollar amounts in subparagraphs (A)  
8 and (F) shall be increased by an amount  
9 equal to—

10 “(I) such dollar amount, multi-  
11 plied by

12 “(II) the cost-of-living adjust-  
13 ment determined under section 1(f)(3)  
14 for the calendar year in which the tax-  
15 able year begins, determined by sub-  
16 stituting ‘calendar year 2020’ for ‘cal-  
17 endar year 2016’ in subparagraph  
18 (A)(ii) thereof.

19 “(ii) ROUNDING.—If any dollar  
20 amount increased under clause (i) is not a  
21 multiple of \$1,000, such dollar amount  
22 shall be rounded to the nearest multiple of  
23 \$1,000.”.

1 (c) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to distributions made in taxable  
3 years ending after the date of the enactment of this Act.

4 **SEC. 310. DISTRIBUTIONS TO FIREFIGHTERS.**

5 (a) IN GENERAL.—Subparagraph (A) of section  
6 72(t)(10) of the Internal Revenue Code of 1986 is amend-  
7 ed by striking “414(d))” and inserting “414(d) or a dis-  
8 tribution from a plan described in clause (iii), (iv), or (vi)  
9 of section 402(c)(8)(B) to an employee who provides fire-  
10 fighting services”.

11 (b) CONFORMING AMENDMENT.—The heading of  
12 paragraph (10) of section 72(t) of such Code is amend-  
13 ed—

14 (1) by striking “QUALIFIED”, and

15 (2) by striking “IN GOVERNMENTAL PLANS”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to distributions made after Decem-  
18 ber 31, 2021.

19 **SEC. 311. EXCLUSION OF CERTAIN DISABILITY-RELATED**  
20 **FIRST RESPONDER RETIREMENT PAYMENTS.**

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

1 **“SEC. 139C. CERTAIN DISABILITY-RELATED FIRST RE-**  
2 **SPONDER RETIREMENT PAYMENTS.**

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

8 “(b) QUALIFIED FIRST RESPONDER RETIREMENT  
9 PAYMENTS.—For purposes of this section, the term ‘quali-  
10 fied first responder retirement payments’ means, with re-  
11 spect to any taxable year, any pension or annuity which  
12 but for this section would be includible in gross income  
13 for such taxable year and which is received—

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

16 “(2) in connection with such individual’s quali-  
17 fied first responder service.

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

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

1           “(2) SERVICE-CONNECTED EXCLUDABLE DIS-  
2 ABILITY AMOUNT.—The term ‘service-connected ex-  
3 cludable disability amount’ means periodic payments  
4 received by an individual which—

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

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

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

12           “(3) SPECIAL RULE FOR PARTIAL-YEAR PAY-  
13 MENTS.—In the case of an individual who only re-  
14 ceives service-connected excludable disability  
15 amounts properly attributable to a portion of the 12-  
16 month period described in paragraph (1), such para-  
17 graph shall be applied by multiplying such amounts  
18 by the ratio of 365 to the number of days in such  
19 period to which such amounts were properly attrib-  
20 utable.

21           “(d) QUALIFIED FIRST RESPONDER SERVICE.—For  
22 purposes of this section, the term ‘qualified first responder  
23 service’ means service as a law enforcement officer, fire-  
24 fighter, paramedic, or emergency medical technician.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 for part III of subchapter B of chapter 1 of such Code  
3 is amended by inserting after the item relating to section  
4 139B the following new item:

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

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to amounts received with respect  
7 to taxable years beginning after December 31, 2026.

8 **SEC. 312. INDIVIDUAL RETIREMENT PLAN STATUTE OF LIM-**  
9 **ITATIONS FOR EXCISE TAX ON EXCESS CON-**  
10 **TRIBUTIONS AND CERTAIN ACCUMULATIONS.**

11 Section 6501(l) of the Internal Revenue Code of 1986  
12 is amended by adding at the end the following new para-  
13 graph:

14 “(4) INDIVIDUAL RETIREMENT PLANS.—

15 “(A) IN GENERAL.—For purposes of any  
16 tax imposed by section 4973 or 4974 in connec-  
17 tion with an individual retirement plan, the re-  
18 turn referred to in this section shall be the in-  
19 come tax return filed by the person on whom  
20 the tax under such section is imposed for the  
21 year in which the act (or failure to act) giving  
22 rise to the liability for such tax occurred.

23 “(B) RULE IN CASE OF INDIVIDUALS NOT  
24 REQUIRED TO FILE RETURN.—In the case of a



1 person who is not required to file an income tax  
2 return for such year—

3 “(i) the return referred to in this sec-  
4 tion shall be the income tax return that  
5 such person would have been required to  
6 file but for the fact that such person was  
7 not required to file such return, and

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

14 **SEC. 313. REQUIREMENT TO PROVIDE PAPER STATEMENTS**  
15 **IN CERTAIN CASES.**

16 (a) IN GENERAL.—Section 105(a)(2) of the Em-  
17 ployee Retirement Income Security Act of 1974 (29  
18 U.S.C. 1025(a)(2)) is amended—

19 (1) in subparagraph (A)(iv), by inserting “sub-  
20 ject to subparagraph (E),” before “may be deliv-  
21 ered”; and

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

23 “(E) PROVISION OF PAPER STATE-  
24 MENTS.—With respect to at least 1 pension  
25 benefit statement furnished for a calendar year

1 with respect to an individual account plan  
2 under paragraph (1)(A), and with respect to at  
3 least 1 pension benefit statement furnished  
4 every 3 calendar years with respect to a defined  
5 benefit plan under paragraph (1)(B), such  
6 statement shall be furnished on paper in writ-  
7 ten form except—

8 “(i) in the case of a plan that fur-  
9 nishes such statement in accordance with  
10 section 2520.104b–1(c) of title 29, Code of  
11 Federal Regulations; or

12 “(ii) in the case of a plan that permits  
13 a participant or beneficiary to request that  
14 the statements referred to in the matter  
15 preceding clause (i) be furnished by elec-  
16 tronic delivery, if the participant or bene-  
17 ficiary requests that such statements be  
18 delivered electronically and the statements  
19 are so delivered.”.

20 (b) IMPLEMENTATION.—

21 (1) IN GENERAL.—The Secretary of Labor  
22 shall, not later than December 31, 2021, update sec-  
23 tion 2520.104b–1(c) of title 29, Code of Federal  
24 Regulations, to provide that a plan may furnish the  
25 statements referred to in subparagraph (E) of sec-

1       tion 105(a)(2) by electronic delivery only if, in addi-  
2       tion to meeting the other requirements under the  
3       regulations—

4               (A) such plan furnishes each participant or  
5       beneficiary, including participants described in  
6       subparagraph (B), a one-time initial notice on  
7       paper in written form, prior to the electronic  
8       delivery of any pension benefit statement, of  
9       their right to request that all documents re-  
10      quired to be disclosed under title I of the Em-  
11      ployee Retirement Income Security Act of 1974  
12      be furnished on paper in written form; and

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

19              (2) OTHER GUIDANCE.—In implementing the  
20      amendment made by subsection (a) with respect to  
21      a plan that discloses required documents or state-  
22      ments electronically, in accordance with applicable  
23      guidance governing electronic disclosure by the De-  
24      partment of Labor (with the exception of section  
25      2520.104b–1(c) of title 29, Code of Federal Regula-

1 tions), the Secretary of Labor shall, not later than  
2 December 31, 2021, update such guidance to the ex-  
3 tent necessary to ensure that—

4 (A) a participant or beneficiary under such  
5 a plan is permitted the opportunity to request  
6 that any disclosure required to be delivered on  
7 paper under applicable guidance by the Depart-  
8 ment of Labor shall be furnished by electronic  
9 delivery;

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

13 (i) an explanation of how to request  
14 that all such statements, and any other  
15 document required to be disclosed under  
16 title I of the Employee Retirement Income  
17 Security Act of 1974, be furnished by elec-  
18 tronic delivery; and

19 (ii) contact information for the plan  
20 sponsor, including a telephone number;

21 (C) the plan may not charge any fee to a  
22 participant or beneficiary for the delivery of any  
23 paper statements;

24 (D) each paper pension benefit statement  
25 shall identify each plan document required to be

1 disclosed and shall include information about  
2 how a participant or beneficiary may access  
3 each such document;

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

9 (F) a plan is permitted to furnish a dupli-  
10 cate electronic statement in any case in which  
11 the plan furnishes a paper pension benefit  
12 statement.

13 (c) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) shall apply with respect to plan years begin-  
15 ning after December 31, 2022.

16 **SEC. 314. SEPARATE APPLICATION OF TOP HEAVY RULES**  
17 **TO DEFINED CONTRIBUTION PLANS COV-**  
18 **ERING EXCLUDIBLE EMPLOYEES.**

19 (a) IN GENERAL.—Section 416(c)(2) of the Internal  
20 Revenue Code of 1986 is amended by adding at the end  
21 the following:

22 “(C) SEPARATE APPLICATION TO EMPLOY-  
23 EES NOT MEETING AGE AND SERVICE REQUIRE-  
24 MENTS.—If employees not meeting the age or  
25 service requirements of section 410(a)(1) (with-

1 out regard to subparagraph (B) thereof) are  
2 covered under a plan of the employer which  
3 meets the requirements of subparagraphs (A)  
4 and (B) separately with respect to such employ-  
5 ees, such employees may be excluded from con-  
6 sideration in determining whether any plan of  
7 the employer meets the requirements of sub-  
8 paragraphs (A) and (B).”.

9 (b) **EFFECTIVE DATE.**—The amendment made by  
10 subsection (a) shall apply to plan years beginning after  
11 the date of the enactment of this Act.

12 **SEC. 315. REPAYMENT OF QUALIFIED BIRTH OR ADOPTION**  
13 **DISTRIBUTION LIMITED TO 3 YEARS.**

14 (a) **IN GENERAL.**—Section 72(t)(2)(H)(v)(I) of the  
15 Internal Revenue Code of 1986 is amended by striking  
16 “may make” and inserting “may, at any time during the  
17 3-year period beginning on the day after the date on which  
18 such distribution was received, make”.

19 (b) **EFFECTIVE DATE.**—The amendment made by  
20 this section shall take effect as if included in the enact-  
21 ment of section 113 of the Setting Every Community Up  
22 for Retirement Enhancement Act of 2019.

1 **SEC. 316. EMPLOYER MAY RELY ON EMPLOYEE CERTI-**  
2 **FYING THAT DEEMED HARDSHIP DISTRIBUTU-**  
3 **TION CONDITIONS ARE MET.**

4 (a) CASH OR DEFERRED ARRANGEMENTS.—Section  
5 401(k)(14) of the Internal Revenue Code of 1986 is  
6 amended by adding at the end the following new subpara-  
7 graph:

8 “(C) EMPLOYEE CERTIFICATION.—In de-  
9 termining whether a distribution is upon the  
10 hardship of an employee, the administrator of  
11 the plan may rely on a certification by the em-  
12 ployee that the distribution is on account of a  
13 financial need of a type that is deemed in regu-  
14 lations prescribed by the Secretary to be an im-  
15 mediate and heavy financial need and that such  
16 distribution is not in excess of the amount re-  
17 quired to satisfy such financial need.”.

18 (b) 403(b) PLANS.—

19 (1) CUSTODIAL ACCOUNTS.—Section 403(b)(7)  
20 of such Code is amended by adding at the end the  
21 following new subparagraph:

22 “(D) EMPLOYEE CERTIFICATION.—In de-  
23 termining whether a distribution is upon the fi-  
24 nancial hardship of an employee, the adminis-  
25 trator of the plan may rely on a certification by  
26 the employee that the distribution is on account

1 of a financial need of a type that is deemed in  
2 regulations prescribed by the Secretary to be an  
3 immediate and heavy financial need and that  
4 such distribution is not in excess of the amount  
5 required to satisfy such financial need.”.

6 (2) ANNUITY CONTRACTS.—Section 403(b)(11)  
7 is amended by adding at the end the following: “In  
8 determining whether a distribution is upon hardship  
9 of an employee, the administrator of the plan may  
10 rely on a certification by the employee that the dis-  
11 tribution is on account of a financial need of a type  
12 that is deemed in regulations prescribed by the Sec-  
13 retary to be an immediate and heavy financial need  
14 and that such distribution is not in excess of the  
15 amount required to satisfy such financial need.”.

16 (c) 457(b) PLAN.—Section 457(d) of such Code is  
17 amended by adding at the end the following new para-  
18 graph:

19 “(4) PARTICIPANT CERTIFICATION.—In deter-  
20 mining whether a distribution of a participant is  
21 made when the participant is faced with an unfore-  
22 seeable emergency, the administrator of a plan  
23 maintained by an eligible employer described in sub-  
24 section (e)(1)(A) may rely on a certification by the  
25 participant that the distribution is made when the



1 participant is faced with unforeseeable emergency of  
2 a type that is specifically described in regulations  
3 prescribed by the Secretary as an unforeseeable  
4 emergency and that the distribution is not in excess  
5 of the amount reasonably necessary to satisfy the  
6 emergency need.”.

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to plan years beginning after De-  
9 cember 31, 2021.

10 **SEC. 317. PENALTY-FREE WITHDRAWALS FROM RETIRE-**  
11 **MENT PLANS FOR INDIVIDUALS IN CASE OF**  
12 **DOMESTIC ABUSE.**

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

16 “(I) DISTRIBUTIONS FROM RETIREMENT  
17 PLAN IN CASE OF DOMESTIC ABUSE.—

18 “(i) IN GENERAL.—Any eligible dis-  
19 tribution to a domestic abuse victim.

20 “(ii) LIMITATION.—The aggregate  
21 amount which may be treated as an eligi-  
22 ble distribution to a domestic abuse victim  
23 by any individual shall not exceed an  
24 amount equal to the lesser of—

25 “(I) \$10,000, or

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

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

8                   “(I) IN GENERAL.—A distribu-  
9 tion shall be treated as an eligible dis-  
10 tribution to a domestic abuse victim if  
11 such distribution is from an applicable  
12 eligible retirement plan to an indi-  
13 vidual and made during the 1-year pe-  
14 riod beginning on any date on which  
15 the individual is a victim of domestic  
16 abuse by a spouse or domestic part-  
17 ner.

18                   “(II) DOMESTIC ABUSE.—The  
19 term ‘domestic abuse’ means physical,  
20 psychological, sexual, emotional, or  
21 economic abuse, including efforts to  
22 control, isolate, humiliate, or intimi-  
23 date the victim, or to undermine the  
24 victim’s ability to reason independ-  
25 ently, including by means of abuse of

1 the victim's child or another family  
2 member living in the household.

3 “(iv) TREATMENT OF PLAN DISTRIBUTIONS.—  
4

5 “(I) IN GENERAL.—If a distribu-  
6 tion to an individual would (without  
7 regard to clause (ii)) be an eligible  
8 distribution to a domestic abuse vic-  
9 tim, a plan shall not be treated as  
10 failing to meet any requirement of  
11 this title merely because the plan  
12 treats the distribution as an eligible  
13 distribution to a domestic abuse vic-  
14 tim, unless the aggregate amount of  
15 such distributions from all plans  
16 maintained by the employer (and any  
17 member of any controlled group which  
18 includes the employer) to such indi-  
19 vidual exceeds the limitation under  
20 clause (ii).

21 “(II) CONTROLLED GROUP.—For  
22 purposes of subclause (I), the term  
23 ‘controlled group’ means any group  
24 treated as a single employer under

1 subsection (b), (c), (m), or (o) of sec-  
2 tion 414.

3 “(v) AMOUNT DISTRIBUTED MAY BE  
4 REPAID.—

5 “(I) IN GENERAL.—Any indi-  
6 vidual who receives a distribution de-  
7 scribed in clause (i) may, at any time  
8 during the 3-year period beginning on  
9 the day after the date on which such  
10 distribution was received, make one or  
11 more contributions in an aggregate  
12 amount not to exceed the amount of  
13 such distribution to an applicable eli-  
14 gible retirement plan of which such  
15 individual is a beneficiary and to  
16 which a rollover contribution of such  
17 distribution could be made under sec-  
18 tion 402(c), 403(a)(4), 403(b)(8),  
19 408(d)(3), or 457(e)(16), as the case  
20 may be.

21 “(II) LIMITATION ON CONTRIBU-  
22 TIONS TO APPLICABLE ELIGIBLE RE-  
23 TIREMENT PLANS OTHER THAN  
24 IRAs.—The aggregate amount of con-  
25 tributions made by an individual

1 under subclause (I) to any applicable  
2 eligible retirement plan which is not  
3 an individual retirement plan shall not  
4 exceed the aggregate amount of eligi-  
5 ble distributions to a domestic abuse  
6 victim which are made from such plan  
7 to such individual. Subclause (I) shall  
8 not apply to contributions to any ap-  
9 plicable eligible retirement plan which  
10 is not an individual retirement plan  
11 unless the individual is eligible to  
12 make contributions (other than those  
13 described in subclause (I)) to such ap-  
14 plicable eligible retirement plan.

15 “(III) TREATMENT OF REPAY-  
16 MENTS OF DISTRIBUTIONS FROM AP-  
17 PPLICABLE ELIGIBLE RETIREMENT  
18 PLANS OTHER THAN IRAS.—If a con-  
19 tribution is made under subclause (I)  
20 with respect to an eligible distribution  
21 to a domestic abuse victim from an  
22 applicable eligible retirement plan  
23 other than an individual retirement  
24 plan, then the taxpayer shall, to the  
25 extent of the amount of the contribu-

1           tion, be treated as having received  
2           such distribution in an eligible rollover  
3           distribution (as defined in section  
4           402(c)(4)) and as having transferred  
5           the amount to the applicable eligible  
6           retirement plan in a direct trustee to  
7           trustee transfer within 60 days of the  
8           distribution.

9                   “(IV) TREATMENT OF REPAY-  
10                   MENTS FOR DISTRIBUTIONS FROM  
11                   IRAS.—If a contribution is made  
12                   under subclause (I) with respect to an  
13                   eligible distribution to a domestic  
14                   abuse victim from an individual retire-  
15                   ment plan, then, to the extent of the  
16                   amount of the contribution, such dis-  
17                   tribution shall be treated as a dis-  
18                   tribution described in section  
19                   408(d)(3) and as having been trans-  
20                   ferred to the applicable eligible retire-  
21                   ment plan in a direct trustee to trust-  
22                   ee transfer within 60 days of the dis-  
23                   tribution.

1           “(vi) DEFINITION AND SPECIAL  
2 RULES.—For purposes of this subpara-  
3 graph:

4           “(I) APPLICABLE ELIGIBLE RE-  
5 TIREMENT PLAN.—The term ‘applica-  
6 ble eligible retirement plan’ means an  
7 eligible retirement plan (as defined in  
8 section 402(c)(8)(B)) other than a de-  
9 fined benefit plan.

10           “(II) EXEMPTION OF DISTRIBU-  
11 TIONS FROM TRUSTEE TO TRUSTEE  
12 TRANSFER AND WITHHOLDING  
13 RULES.—For purposes of sections  
14 401(a)(31), 402(f), and 3405, an eli-  
15 gible distribution to a domestic abuse  
16 victim shall not be treated as an eligi-  
17 ble rollover distribution.

18           “(III) DISTRIBUTIONS TREATED  
19 AS MEETING PLAN DISTRIBUTION RE-  
20 QUIREMENTS; SELF-CERTIFICATION.—  
21 Any distribution which the employee  
22 or participant certifies as being an eli-  
23 gible distribution to a domestic abuse  
24 victim shall be treated as meeting the  
25 requirements of sections

1                   401(k)(2)(B)(i),           403(b)(7)(A)(i),  
2                   403(b)(11), and 457(d)(1)(A).”.

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

6 **SEC. 318. REFORM OF FAMILY ATTRIBUTION RULE.**

7           (a) **IN GENERAL.**—Section 414 of the Internal Rev-  
8 enue Code of 1986 is amended—

9                   (1) in subsection (b)—

10                           (A) by striking “For purposes of” and in-  
11                           serting the following:

12                           “(1) **IN GENERAL.**—For purposes of”, and

13                           (B) by adding at the end the following new  
14                           paragraphs:

15                           “(2) **SPECIAL RULES FOR APPLYING FAMILY**  
16                           **ATTRIBUTION.**—For purposes of applying the attri-  
17                           bution rules under section 1563 with respect to  
18                           paragraph (1), the following rules apply:

19                                   “(A) Community property laws shall be  
20                                   disregarded for purposes of determining owner-  
21                                   ship.

22                                   “(B) Except as provided by the Secretary,  
23                                   stock of an individual not attributed under sec-  
24                                   tion 1563(e)(5) to such individual’s spouse shall



1 not be attributed to such spouse by reason of  
2 1563(e)(6)(A).

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

11 “(3) PLAN SHALL NOT FAIL TO BE TREATED AS  
12 SATISFYING THIS SECTION.—If application of para-  
13 graph (2) causes two or more entities to be a con-  
14 trolled group, or an affiliated service group, or to no  
15 longer be in a controlled group or an affiliated serv-  
16 ice group, such change shall be treated as a trans-  
17 action to which section 410(b)(6)(C) applies.”, and

18 (2) in subsection (m)(6)(B), by striking “apply”  
19 and inserting “apply, except that community prop-  
20 erty laws shall be disregarded for purposes of deter-  
21 mining ownership”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to plan years beginning on or after  
24 the date of the enactment of this section.

1 **SEC. 319. AMENDMENTS TO INCREASE BENEFIT ACCRUALS**  
2 **UNDER PLAN FOR PREVIOUS PLAN YEAR AL-**  
3 **LOWED UNTIL EMPLOYER TAX RETURN DUE**  
4 **DATE.**

5 (a) IN GENERAL.—Section 401(b) of the Internal  
6 Revenue Code of 1986 is amended by adding at the end  
7 the following new paragraph:

8 “(3) RETROACTIVE PLAN AMENDMENTS THAT  
9 INCREASE BENEFIT ACCRUALS.—If—

10 “(A) an employer amends a stock bonus,  
11 pension, profit-sharing, or annuity plan to in-  
12 crease benefits accrued under the plan effective  
13 for the preceding plan year (other than increas-  
14 ing the amount of matching contributions (as  
15 defined in subsection (m)(4)(A))),

16 “(B) such amendment would not otherwise  
17 cause the plan to fail to meet any of the re-  
18 quirements of this subchapter, and

19 “(C) such amendment is adopted before  
20 the time prescribed by law for filing the return  
21 of the employer for a taxable year (including  
22 extensions thereof) during which such amend-  
23 ment is effective,

24 the employer may elect to treat such amendment as  
25 having been adopted as of the last day of the plan  
26 year in which the amendment is effective.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to plan years beginning after De-  
3 cember 31, 2022.

4 **SEC. 320. RETROACTIVE FIRST YEAR ELECTIVE DEFER-**  
5 **ALS FOR SOLE PROPRIETORS.**

6 (a) IN GENERAL.—Section 401(b) of the Internal  
7 Revenue Code of 1986 is amended by adding at the end  
8 the following: “In the case of an individual who owns the  
9 entire interest in an unincorporated trade or business, and  
10 who is the only employee of such trade or business, any  
11 elective deferral (as defined in section 402(g)(3)) under  
12 a qualified cash or deferred arrangement to which the pre-  
13 ceding sentence applies which is made by such individual  
14 before the time for filing the return of such individual for  
15 the taxable year (determined without regard to any exten-  
16 sions) shall be treated as having been made before the end  
17 of the plan’s first plan year.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to plan years beginning after the  
20 date of the enactment of this Act.

21 **SEC. 321. LIMITING CESSATION OF IRA TREATMENT TO**  
22 **PORTION OF ACCOUNT INVOLVED IN A PRO-**  
23 **HIBITED TRANSACTION.**

24 (a) IN GENERAL.—Section 408(e)(2)(A) of the Inter-  
25 nal Revenue Code of 1986 is amended by striking “such

1 account ceases to be an individual retirement account”  
2 and inserting the following: “the portion of such account  
3 which is used in such transaction shall be treated as dis-  
4 tributed to the individual”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 408(e)(2)(B) of such Code is  
7 amended—

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

16 (B) by striking “all the assets in the ac-  
17 count” and inserting “such portion”.

18 (2) Section 4975(c)(3) of such Code is amended  
19 by striking “the account ceases” and all that follows  
20 and inserting the following: “the portion of the ac-  
21 count used in the transaction is treated as distrib-  
22 uted under paragraph (2)(A) or (4) of section  
23 408(e).”.

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

## 4 **TITLE IV—TECHNICAL** 5 **AMENDMENTS**

6 **SEC. 401. AMENDMENTS RELATING TO SETTING EVERY**  
7 **COMMUNITY UP FOR RETIREMENT ENHANCE-**  
8 **MENT ACT OF 2019.**

9 (a) TECHNICAL AMENDMENTS.—

10 (1) AMENDMENT RELATING TO SECTION 114.—  
11 Section 401(a)(9)(C)(iii) of the Internal Revenue  
12 Code of 1986 is amended by striking “employee to  
13 whom clause (i)(II) applies” and inserting “em-  
14 ployee (other than an employee to whom clause  
15 (i)(II) does not apply by reason of clause (ii))”.

16 (2) AMENDMENT RELATING TO SECTION 116.—  
17 Section 4973(b) of the Internal Revenue Code of  
18 1986 is amended by adding at the end of the flush  
19 matter the following: “Such term shall not include  
20 any designated nondeductible contribution (as de-  
21 fined in subparagraph (C) of section 408(o)(2))  
22 which does not exceed the nondeductible limit under  
23 subparagraph (B) thereof by reason of an election  
24 under section 408(o)(5).”.

1           (3) **EFFECTIVE DATE.**—The amendments made  
2           by this section shall take effect as if included in sec-  
3           tion of the Setting Every Community Up for Retirement  
4           Enhancement Act of 2019 to which the  
5           amendment relates.

6           (b)           **CLERICAL            AMENDMENT.**—Section  
7           72(t)(2)(H)(vi)(IV) of the Internal Revenue Code of 1986  
8           is amended by striking “403(b)(7)(A)(ii)” and inserting  
9           “ 403(b)(7)(A)(i)”.

## 10           **TITLE V—ADMINISTRATIVE** 11           **PROVISIONS**

### 12           **SEC. 501. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

15                   (1) such retirement plan or contract shall be  
16                   treated as being operated in accordance with the  
17                   terms of the plan during the period described in sub-  
18                   section (b)(2)(A); and

19                   (2) except as provided by the Secretary of the  
20                   Treasury (or the Secretary’s delegate), such retire-  
21                   ment plan shall not fail to meet the requirements of  
22                   section 411(d)(6) of the Internal Revenue Code of  
23                   1986 and section 204(g) of the Employee Retirement  
24                   Income Security Act of 1974 by reason of such  
25                   amendment.

1 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

2 (1) IN GENERAL.—This section shall apply to  
3 any amendment to any retirement plan or annuity  
4 contract which is made—

5 (A) pursuant to any amendment made by  
6 this Act or pursuant to any regulation issued by  
7 the Secretary of the Treasury or the Secretary  
8 of Labor (or a delegate of either such Sec-  
9 retary) under this Act; and

10 (B) on or before the last day of the first  
11 plan year beginning on or after January 1,  
12 2023, or such later date as the Secretary of the  
13 Treasury may prescribe.

14 In the case of a governmental plan (as defined in  
15 section 414(d) of the Internal Revenue Code of  
16 1986), this paragraph shall be applied by sub-  
17 stituting “2025” for “2023”.

18 (2) CONDITIONS.—This section shall not apply  
19 to any amendment unless—

20 (A) during the period—

21 (i) beginning on the date the legisla-  
22 tive or regulatory amendment described in  
23 paragraph (1)(A) takes effect (or in the  
24 case of a plan or contract amendment not  
25 required by such legislative or regulatory

1 amendment, the effective date specified by  
2 the plan); and

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

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

10 (B) such plan or contract amendment ap-  
11 plies retroactively for such period.

12 (c) COORDINATION WITH OTHER PROVISIONS RE-  
13 LATING TO PLAN AMENDMENTS.—

14 (1) SECURE ACT.—Section 601(b)(1) of the  
15 Setting Every Community Up for Retirement En-  
16 hancement Act of 2019 is amended—

17 (A) by striking “January 1, 2022” in sub-  
18 paragraph (B) and inserting “January 1,  
19 2023”, and

20 (B) by striking “substituting ‘2024’ for  
21 ‘2022’.” in the flush matter at the end and in-  
22 serting “substituting ‘2025’ for ‘2023’.”.

23 (2) CARES ACT.—

24 (A) SPECIAL RULES FOR USE OF RETIRE-  
25 MENT FUNDS.—Section 2202(c)(2)(A) of the



1 CARES Act is amended by striking “January  
2 1, 2022” in clause (ii) and inserting “January  
3 1, 2023”.

4 (B) TEMPORARY WAIVER OF REQUIRED  
5 MINIMUM DISTRIBUTIONS RULES FOR CERTAIN  
6 RETIREMENT PLANS AND ACCOUNTS.—Section  
7 2203(c)(2)(B)(i) of the CARES Act is amend-  
8 ed—

9 (i) by striking “January 1, 2022” in  
10 subclause (II) and inserting “January 1,  
11 2023”, and

12 (ii) by striking “substituting ‘2024’  
13 for ‘2022’.” in the flush matter at the end  
14 and inserting “substituting ‘2025’ for  
15 ‘2023’.”.

16 (C) TAXPAYER CERTAINTY AND DISASTER  
17 TAX RELIEF ACT OF 2020.—Section  
18 302(d)(2)(A) of the Taxpayer Certainty and  
19 Disaster Tax Relief Act of 2020 is amended by  
20 striking “January 1, 2022” in clause (ii) and  
21 inserting “January 1, 2023”.

1                   **TITLE VI—REVENUE**  
2                   **PROVISIONS**

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

4           (a) **IN GENERAL.**—Section 408A of the Internal Rev-  
5 enue Code of 1986 is amended by striking subsection (f).

6           (b) **RULES RELATING TO SIMPLIFIED EMPLOYEE**  
7 **PENSIONS.**—

8               (1) **CONTRIBUTIONS.**—Section 402(h)(1) of  
9 such Code is amended by striking “and” at the end  
10 of subparagraph (A), by striking the period at the  
11 end of subparagraph (B) and inserting “, and”, and  
12 by adding at the end the following new subpara-  
13 graph:

14                       “(C) in the case of any contributions pur-  
15 suant to a simplified employer pension which  
16 are made to an individual retirement plan des-  
17 ignated as a Roth IRA, such contribution shall  
18 not be excludable from gross income.”.

19               (2) **DISTRIBUTIONS.**—Section 402(h)(3) of such  
20 Code is amended by inserting “, or section 408A(d)  
21 in the case of an individual retirement plan des-  
22 ignated as a Roth IRA” before the period at the  
23 end.

24               (3) **ELECTION REQUIRED.**—Section 408(k) of  
25 such Code is amended by redesignating paragraphs

1 (7), (8), and (9) as paragraphs (8), (9), and (10),  
2 respectively, and by inserting the after paragraph  
3 (6) the following new paragraph:

4 “(7) ROTH CONTRIBUTION ELECTION.—An in-  
5 dividual retirement plan which is designated as a  
6 Roth IRA shall not be treated as a simplified em-  
7 ployee pension under this subsection unless the em-  
8 ployee elects for such plan to be so treated (at such  
9 time and in such manner as the Secretary may pro-  
10 vide).”.

11 (c) RULES RELATING TO SIMPLE RETIREMENT AC-  
12 COUNTS.—

13 (1) ELECTION REQUIRED.—Section 408(p) of  
14 such Code is amended by adding at the end the fol-  
15 lowing new paragraph:

16 “(11) ROTH CONTRIBUTION ELECTION.—An in-  
17 dividual retirement plan which is designated as a  
18 Roth IRA shall not be treated as a simple retirement  
19 account under this subsection unless the employee  
20 elects for such plan to be so treated (at such time  
21 and in such manner as the Secretary may pro-  
22 vide).”.

23 (2) ROLLOVERS.—Section 408A(e) of such  
24 Code is amended by adding at the end the following  
25 new paragraph:

1           “(3) SIMPLE RETIREMENT ACCOUNTS.—In the  
2 case of any payment or distribution out of a simple  
3 retirement account (as defined in section 408(p))  
4 with respect to which an election has been made  
5 under section 408(p)(11) and to which 72(t)(6) ap-  
6 plies, the term ‘qualified rollover contribution’ shall  
7 not include any payment or distribution paid into an  
8 account other than another simple retirement ac-  
9 count (as so defined).”.

10       (d) COORDINATION WITH ROTH CONTRIBUTION LIM-  
11 ITATION.—Section 408A(c) of such Code is amended by  
12 adding at the end the following new paragraph:

13           “(7) COORDINATION WITH LIMITATION FOR  
14 SIMPLE RETIREMENT PLANS AND SEPs.—In the  
15 case of an individual on whose behalf contributions  
16 are made to a simple retirement account or a sim-  
17 plified employee pension, the amount described in  
18 paragraph (2)(A) shall be increased by an amount  
19 equal to the contributions made on the individual’s  
20 behalf to such account or pension for the taxable  
21 year, but only to the extent such contributions—

22                   “(A) in the case of a simplified retirement  
23 account—

24                           “(i) do not exceed the sum of the dol-  
25 lar amount in effect for the taxable year

1 under section 408(p)(2)(A)(ii) and the em-  
2 ployer contribution required under sub-  
3 paragraph (A)(iii) or (B)(i), as the case  
4 may be, of section 408(p)(2), and

5 “(ii) do not cause the elective defer-  
6 rals (as defined in section 402(g)(3)) on  
7 behalf of such individual to exceed the lim-  
8 itation under section 402(g)(1) (taking  
9 into account any additional elective defer-  
10 rals permitted under section 414(v)), or

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

14 (e) CONFORMING AMENDMENT.—Section  
15 408A(d)(2)(B) of such Code is amended by inserting “,  
16 or employer in the case of a simple retirement account  
17 (as defined in section 408(p)) or simplified employee pen-  
18 sion (as defined in section 408(k)),” after “individual’s  
19 spouse”.

20 (f) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2021.

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

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

6 “(15) **SPECIAL RULES RELATING TO HARDSHIP**  
7 **WITHDRAWALS.**—For purposes of paragraphs (7)  
8 and (11)—

9 “(A) **AMOUNTS WHICH MAY BE WITH-**  
10 **DRAWN.**—The following amounts may be dis-  
11 tributed upon hardship of the employee:

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

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

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

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

21 “(B) **NO REQUIREMENT TO TAKE AVAIL-**  
22 **ABLE LOAN.**—A distribution shall not be treat-  
23 ed as failing to be made upon the hardship of  
24 an employee solely because the employee does  
25 not take any available loan under the plan.”.

26 (b) **CONFORMING AMENDMENTS.**—

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

6           (2) Paragraph (11) of section 403(b) is amend-  
7 ed—

8                   (A) by striking “in” in subparagraph (B)  
9 and inserting “subject to the provisions of para-  
10 graph (15), in”, and

11                   (B) by striking the last sentence.

12           (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to plan years beginning after De-  
14 cember 31, 2021.

15 **SEC. 603. ELECTIVE DEFERRALS GENERALLY LIMITED TO**  
16 **REGULAR CONTRIBUTION LIMIT.**

17           (a) APPLICABLE EMPLOYER PLANS.—Section  
18 414(v)(1) of the Internal Revenue Code of 1986 is amend-  
19 ed by adding at the end the following: “Except in the case  
20 of an applicable employer plan described in paragraph  
21 (6)(iv), the preceding sentence shall only apply if contribu-  
22 tions are designated Roth contributions (as defined in sec-  
23 tion 402A(e)(1)).”.

24           (b) CONFORMING AMENDMENTS.—

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

3           (2) Section 457(e)(18)(A)(ii) is amended by in-  
4           serting “the lesser of any designated Roth contribu-  
5           tions made by the participant to the plan or” before  
6           “the applicable dollar amount”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to taxable years beginning after  
9           December 31, 2021.

10 **SEC. 604. OPTIONAL TREATMENT OF EMPLOYER MATCHING**  
11 **CONTRIBUTIONS AS ROTH CONTRIBUTIONS.**

12           (a) IN GENERAL.—Section 402A(a) of the Internal  
13           Revenue Code of 1986 is amended by redesignating para-  
14           graph (2) as paragraph (3), by striking “and” at the end  
15           of paragraph (1), and by inserting after paragraph (1) the  
16           following new paragraph:

17           “(2) any designated Roth contribution which is  
18           made by the employer to the program on the em-  
19           ployee’s behalf, and on account of the employee’s  
20           contribution or elective deferral, shall be treated as  
21           a matching contribution for purposes of this chapter,  
22           except that such contribution shall not be excludable  
23           from gross income, and”.



1 (b) MATCHING INCLUDED IN QUALIFIED ROTH CON-  
2 TRIBUTION PROGRAM.—Section 402A(b)(1) of such Code  
3 is amended—

4 (1) by inserting “, or to have made on the em-  
5 ployee’s behalf,” after “elect to make”, and

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

9 (c) DESIGNATED ROTH MATCHING CONTRIBU-  
10 TIONS.—Section 402A(c)(1) of such Code is amended by  
11 inserting “or matching contribution” after “elective defer-  
12 ral”.

13 (d) MATCHING CONTRIBUTION DEFINED.—Section  
14 402A(e) of such Code is amended by adding at the end  
15 the following:

16 “(3) MATCHING CONTRIBUTION.—The term  
17 ‘matching contribution’ means—

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

20 “(B) any contribution to an eligible de-  
21 ferred compensation plan (as defined in section  
22 457(b)) by an eligible employer described in  
23 section 457(e)(1)(A) on behalf of an employee  
24 and on account of such employee’s elective de-  
25 ferral under such plan.”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this subsection shall apply to contributions made after the  
3 date of the enactment of this Act.

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