

Suspend the Rules and Pass the Bill, H.R. 2954, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

117TH CONGRESS
1ST SESSION

H. R. 2954

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

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

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 2022”.

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

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

TITLE II—PRESERVATION OF INCOME

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

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

- Sec. 301. Recovery of retirement plan overpayments.
- Sec. 302. Reduction in excise tax on certain accumulations in qualified retirement plans.
- Sec. 303. Performance benchmarks for asset allocation funds.
- Sec. 304. Review and report to congress relating to reporting and disclosure requirements.
- Sec. 305. Eliminating unnecessary plan requirements related to unenrolled participants.
- Sec. 306. Retirement savings lost and found.
- Sec. 307. Updating dollar limit for mandatory distributions.
- Sec. 308. Expansion of Employee Plans Compliance Resolution System.
- Sec. 309. Eliminate the “first day of the month” requirement for governmental section 457(b) plans.

- Sec. 310. One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.
- Sec. 311. Distributions to firefighters.
- Sec. 312. Exclusion of certain disability-related first responder retirement payments.
- Sec. 313. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.
- Sec. 314. Requirement to provide paper statements in certain cases.
- Sec. 315. Separate application of top heavy rules to defined contribution plans covering excludible employees.
- Sec. 316. Repayment of qualified birth or adoption distribution limited to 3 years.
- Sec. 317. Employer may rely on employee certifying that deemed hardship distribution conditions are met.
- Sec. 318. Penalty-free withdrawals from retirement plans for individuals in case of domestic abuse.
- Sec. 319. Reform of family attribution rules.
- Sec. 320. Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.
- Sec. 321. Retroactive first year elective deferrals for sole proprietors.
- Sec. 322. Limiting cessation of IRA treatment to portion of account involved in a prohibited transaction.
- Sec. 323. Review of pension risk transfer interpretive bulletin.

TITLE IV—TECHNICAL AMENDMENTS

- 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

1 amended by inserting after section 414 the following new
2 section:

3 **“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC EN-**
4 **ROLLMENT.**

5 “(a) IN GENERAL.—Except as otherwise provided in
6 this section—

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

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

18 “(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—

19 “(1) IN GENERAL.—An arrangement or agree-
20 ment meets the requirements of this subsection if
21 such arrangement or agreement is an eligible auto-
22 matic contribution arrangement (as defined in sec-
23 tion 414(w)(3)) which meets the requirements of
24 paragraphs (2) through (4).

1 “(2) ALLOWANCE OF PERMISSIBLE WITH-
2 DRAWALS.—An eligible automatic contribution ar-
3 rangement meets the requirements of this paragraph
4 if such arrangement allows employees to make per-
5 missible withdrawals (as defined in section
6 414(w)(2)).

7 “(3) MINIMUM CONTRIBUTION PERCENTAGE.—

8 “(A) IN GENERAL.—An eligible automatic
9 contribution arrangement meets the require-
10 ments of this paragraph if—

11 “(i) the uniform percentage of com-
12 pensation contributed by the participant
13 under such arrangement during the first
14 year of participation is not less than 3 per-
15 cent and not more than 10 percent (unless
16 the participant specifically elects not to
17 have such contributions made or to have
18 such contributions made at a different per-
19 centage), and

20 “(ii) effective for the first day of each
21 plan year starting after each completed
22 year of participation under such arrange-
23 ment such uniform percentage is increased
24 by 1 percentage point (to at least 10 per-
25 cent, but not more than 15 percent) unless

1 the participant specifically elects not to
2 have such contributions made or to have
3 such contributions made at a different per-
4 centage.

5 “(B) INITIAL REDUCED CEILING FOR CER-
6 TAIN PLANS.—In the case of any eligible auto-
7 matic contribution arrangement (other than an
8 arrangement that meets the requirements of
9 paragraph (12) or (13) of section 401(k)), for
10 plan years ending before January 1, 2025, sub-
11 paragraph (A)(ii) shall be applied by sub-
12 stituting ‘10 percent’ for ‘15 percent’.

13 “(4) INVESTMENT REQUIREMENTS.—An eligible
14 automatic contribution arrangement meets the re-
15 quirements of this paragraph if amounts contributed
16 pursuant to such arrangement, and for which no in-
17 vestment is elected by the participant, are invested
18 in accordance with the requirements of section
19 2550.404c-5 of title 29, Code of Federal Regulations
20 (or any successor regulations).

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

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

1 “(2) EXCEPTION FOR PLANS OR ARRANGE-
2 MENTS ESTABLISHED BEFORE ENACTMENT OF SEC-
3 TION.—

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

6 “(i) any qualified cash or deferred ar-
7 rangement established before the date of
8 the enactment of this section, or

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

12 “(B) POST-ENACTMENT ADOPTION OF
13 MULTIPLE EMPLOYER PLAN.—Subparagraph
14 (A) shall not apply in the case of an employer
15 adopting after such date of enactment a plan
16 maintained by more than one employer, and
17 subsection (a) shall apply with respect to such
18 employer as if such plan were a single plan.

19 “(3) EXCEPTION FOR GOVERNMENTAL AND
20 CHURCH PLANS.—Subsection (a) shall not apply to
21 any governmental plan (within the meaning of sec-
22 tion 414(d)) or any church plan (within the meaning
23 of section 414(e)).

24 “(4) EXCEPTION FOR NEW AND SMALL BUSI-
25 NESSES.—

1 “(A) NEW BUSINESS.—Subsection (a)
2 shall not apply to any qualified cash or deferred
3 arrangement, or any annuity contract pur-
4 chased under a plan, while the employer main-
5 taining such plan (and any predecessor em-
6 ployer) has been in existence for less than 3
7 years.

8 “(B) SMALL BUSINESSES.—Subsection (a)
9 shall not apply to any qualified cash or deferred
10 arrangement, or any annuity contract pur-
11 chased under a plan, earlier than the date that
12 is 1 year after the close of the first taxable year
13 with respect to which the employer maintaining
14 the plan normally employed more than 10 em-
15 ployees.

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

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

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

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to plan years beginning after De-
7 cember 31, 2023.

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

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

14 “(4) INCREASED CREDIT FOR CERTAIN SMALL
15 EMPLOYERS.—In the case of an employer which
16 would be an eligible employer under subsection (c) if
17 section 408(p)(2)(C)(i) was applied by substituting
18 ‘50 employees’ for ‘100 employees’, subsection (a)
19 shall be applied by substituting ‘100 percent’ for ‘50
20 percent’.”.

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

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

3 “(1) IN GENERAL.—In the case of an eligible
4 employer, the credit allowed for the taxable year
5 under subsection (a) (determined without regard to
6 this subsection) shall be increased by an amount
7 equal to the applicable percentage of employer con-
8 tributions (other than any elective deferrals (as de-
9 fined in section 402(g)(3)) by the employer to an eli-
10 gible employer plan (other than a defined benefit
11 plan (as defined in section 414(j))).

12 “(2) LIMITATIONS.—

13 “(A) DOLLAR LIMITATION.—The amount
14 determined under paragraph (1) (before the ap-
15 plication of subparagraph (B)) with respect to
16 any employee of the employer shall not exceed
17 \$1,000.

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

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

3 “(ii) a percentage equal to 2 percent-
 4 age points for each employee of the em-
 5 ployer for the preceding taxable year in ex-
 6 cess of 50 employees.

7 “(3) APPLICABLE PERCENTAGE.—For purposes
 8 of this section, the applicable percentage for the tax-
 9 able year during which the eligible employer plan is
 10 established with respect to the eligible employer shall
 11 be 100 percent, and for taxable years thereafter
 12 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%

13 “(4) DETERMINATION OF ELIGIBLE EMPLOYER;
 14 NUMBER OF EMPLOYEES.—For purposes of this sub-
 15 section, whether an employer is an eligible employer
 16 and the number of employees of an employer shall
 17 be determined under the rules of subsection (c), ex-
 18 cept that paragraph (2) thereof shall only apply to
 19 the taxable year during which the eligible employer

1 plan to which this section applies is established with
2 respect to the eligible employer.”.

3 (c) **DISALLOWANCE OF DEDUCTION.**—Section
4 45E(e)(2) of such Code is amended to read as follows:

5 “(2) **DISALLOWANCE OF DEDUCTION.**—No de-
6 duction shall be allowed—

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

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

17 (d) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2022.

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

21 (a) **IN GENERAL.**—The Secretary of the Treasury
22 shall take such steps as the Secretary determines are nec-
23 essary and appropriate to increase public awareness of the
24 credit provided under section 25B of the Internal Revenue
25 Code of 1986.

1 (b) REPORT TO CONGRESS.—

2 (1) IN GENERAL.—Not later than 90 days after
3 the date of the enactment of this Act, the Secretary
4 shall provide a report to Congress to summarize the
5 anticipated promotion efforts of the Treasury under
6 subsection (a).

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

8 (A) a description of plans for—

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

14 (ii) the translation of such materials
15 into the 10 most commonly spoken lan-
16 guages in the United States after English
17 (as determined by reference to the most re-
18 cent American Community Survey of the
19 Bureau of the Census), and

20 (B) such other information as the Sec-
21 retary determines is necessary

22 **SEC. 104. ENHANCEMENT OF SAVER'S CREDIT.**

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

1 (b) ADJUSTED GROSS INCOME PHASEOUTS.—Section
2 25B(b) of such Code is amended to read as follows:

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

4 “(1) IN GENERAL.—The amount of credit al-
5 lowable under subsection (a) (determined without re-
6 gard to this subsection) shall be reduced (but not
7 below zero) by an amount which bears the same
8 ratio to the credit otherwise so allowable as—

9 “(A) the excess (if any) of—

10 “(i) adjusted gross income of the tax-
11 payer, over

12 “(ii) the threshold amount, bears to

13 “(B) the phaseout amount.

14 “(2) THRESHOLD AMOUNT.—The term ‘thresh-
15 old amount’ means—

16 “(A) in the case of a joint return or a sur-
17 viving spouse (as defined in section 2(a)),
18 \$48,000,

19 “(B) in the case of a head of household, 75
20 percent of the amount in effect for the taxable
21 year under subparagraph (A), and

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

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

3 “(A) in the case of a joint return or a sur-
4 viving spouse (as defined in 2(a)), \$35,000,

5 “(B) in the case of a head of household (as
6 defined in section 2(b)), 75 percent of the
7 amount in effect for the taxable year under sub-
8 paragraph (A), and

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

12 “(4) INFLATION ADJUSTMENT.—

13 “(A) IN GENERAL.—In the case of any
14 taxable year beginning in a calendar year after
15 2026, the \$48,000 dollar amount in paragraph
16 (2) and the \$35,000 in paragraph (3) shall
17 each be increased by an amount equal to—

18 “(i) such dollar amount, multiplied by

19 “(ii) the cost-of-living adjustment de-
20 termined under section 1(f)(3) for the cal-
21 endar year in which the taxable year be-
22 gins, determined by substituting ‘calendar
23 year 2022’ for ‘calendar year 2016’ in sub-
24 paragraph (A)(ii) thereof.

1 “(B) ROUNDING.—Any increase deter-
2 mined under subparagraph (A) that is not a
3 multiple of \$500 shall be rounded to the near-
4 est multiple of \$500.”.

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

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

9 (a) IN GENERAL.—Section 403(b)(7)(A) of the Inter-
10 nal Revenue Code of 1986 is amended by striking “if the
11 amounts are to be invested in regulated investment com-
12 pany stock to be held in that custodial account” and in-
13 serting “if the amounts are to be held in that custodial
14 account and invested in regulated investment company
15 stock or a group trust intended to satisfy the requirements
16 of Internal Revenue Service Revenue Ruling 81–100 (or
17 any successor guidance)”.

18 (b) CONFORMING AMENDMENT.—The heading of
19 paragraph (7) of section 403(b) of such Code is amended
20 by striking “FOR REGULATED INVESTMENT COMPANY
21 STOCK”.

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

1 **SEC. 106. INCREASE IN AGE FOR REQUIRED BEGINNING**
2 **DATE FOR MANDATORY DISTRIBUTIONS.**

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

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

10 (c) APPLICABLE AGE.—Section 401(a)(9)(C) of such
11 Code is amended by adding at the end the following new
12 clause:

13 “(v) APPLICABLE AGE.—

14 “(I) In the case of an individual
15 who attains age 72 after December
16 31, 2022, and age 73 before January
17 1, 2030, the applicable age is 73.

18 “(II) In the case of an individual
19 who attains age 73 after December
20 31, 2029, and age 74 before January
21 1, 2033, the applicable age is 74.

22 “(III) In the case of an indi-
23 vidual who attains age 74 after De-
24 cember 31, 2032, the applicable age is
25 75.”.

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

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

10 **SEC. 107. INDEXING IRA CATCH-UP LIMIT.**

11 (a) IN GENERAL.—Subparagraph (C) of section
12 219(b)(5) of the Internal Revenue Code of 1986 is amend-
13 ed by adding at the end the following new clause:

14 “(iii) INDEXING OF CATCH-UP LIMITA-
15 TION.—In the case of any taxable year be-
16 ginning in a calendar year after 2023, the
17 \$1,000 amount under subparagraph (B)(ii)
18 shall be increased by an amount equal to—

19 “(I) such dollar amount, multi-
20 plied by

21 “(II) the cost-of-living adjust-
22 ment determined under section 1(f)(3)
23 for the calendar year in which the tax-
24 able year begins, determined by sub-
25 stituting ‘calendar year 2022’ for ‘cal-

1 endar year 2016’ in subparagraph
2 (A)(ii) thereof.

3 If any amount after adjustment under the
4 preceding sentence is not a multiple of
5 \$100, such amount shall be rounded to the
6 next lower multiple of \$100.”.

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

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

12 (a) IN GENERAL.—

13 (1) PLANS OTHER THAN SIMPLE PLANS.—Sec-
14 tion 414(v)(2)(B)(i) of the Internal Revenue Code of
15 1986 is amended by inserting the following before
16 the period: “(\$10,000, in the case of an eligible par-
17 ticipant who would attain age 62, but not age 65,
18 before the close of the taxable year)”.

19 (2) SIMPLE PLANS.—Section 414(v)(2)(B)(ii) of
20 such Code is amended by inserting the following be-
21 fore the period: “(\$5,000, in the case of an eligible
22 participant who would attain age 62, but not age 65,
23 before the close of the taxable year)”.

24 (b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph
25 (C) of section 414(v)(2) of such Code is amended by add-

1 ing at the end the following: “In the case of a year begin-
2 ning after December 31, 2023, the Secretary shall adjust
3 annually the \$10,000 amount in subparagraph (B)(i) and
4 the \$5,000 amount in subparagraph (B)(ii) for increases
5 in the cost-of-living at the same time and in the same
6 manner as adjustments under the preceding sentence; ex-
7 cept that the base period taken into account shall be the
8 calendar quarter beginning July 1, 2022.”.

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

12 **SEC. 109. POOLED EMPLOYER PLANS MODIFICATION.**

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

16 “(ii) designate a named fiduciary
17 (other than an employer in the plan) to be
18 responsible for collecting contributions to
19 the plan and require such fiduciary to im-
20 plement written contribution collection pro-
21 cedures that are reasonable, diligent, and
22 systematic;”.

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

1 **SEC. 110. MULTIPLE EMPLOYER 403(b) PLANS.**

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

5 “(15) MULTIPLE EMPLOYER PLANS.—

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

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

14 “(i) IN GENERAL.—In the case of a
15 plan maintained by more than 1 employer,
16 this subsection shall not be treated as fail-
17 ing to apply to an annuity contract held
18 under such plan merely because of one or
19 more employers failing to meet the require-
20 ments of this subsection if such plan satis-
21 fies rules similar to the rules of section
22 413(e)(2) with respect to any such em-
23 ployer failure.

24 “(ii) ADDITIONAL REQUIREMENTS IN
25 CASE OF NON-GOVERNMENTAL PLANS.—A
26 plan shall not be treated as meeting the re-

1 requirements of this subparagraph unless the
2 plan satisfies rules similar to the rules of
3 subparagraph (A) or (B) of section
4 413(e)(1), except in the case of a multiple
5 employer plan maintained solely by any of
6 the following: A State, a political subdivi-
7 sion of a State, or an agency or instrumen-
8 tality of any one or more of the fore-
9 going.”.

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

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

22 (c) ANNUAL INFORMATION RETURNS FOR 403(b)
23 MULTIPLE EMPLOYER PLAN.—Section 6058 of such Code
24 is amended by redesignating subsection (f) as subsection

1 (g) and by inserting after subsection (e) the following new
2 subsection:

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

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

12 (1) IN GENERAL.—Section 3(43)(A) of the Em-
13 ployee Retirement Income Security Act of 1974 is
14 amended—

15 (A) in clause (ii), by striking “section
16 501(a) of such Code or” and inserting “section
17 501(a) of such Code, a plan that consists of
18 contracts described in section 403(b) of such
19 Code, or”; and

20 (B) in the flush text at the end, by striking
21 “the plan.” and inserting “the plan, but such
22 term shall include any program (other than a
23 governmental plan) maintained for the benefit
24 of the employees of more than 1 employer that
25 consists of contracts described in section 403(b)

1 of such Code and that meets the requirements
2 of subparagraph (A) or (B) of section 413(e)(1)
3 of such Code.”.

4 (2) CONFORMING AMENDMENTS.—Sections
5 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of the Employee
6 Retirement Income Security Act of 1974 are each
7 amended by striking “section 401(a) of such Code
8 or” and inserting “section 401(a) of such Code, a
9 plan that consists of contracts described in section
10 403(b) of such Code, or”.

11 (e) REGULATIONS RELATING TO EMPLOYER FAIL-
12 URE TO MEET MULTIPLE EMPLOYER PLAN REQUIRE-
13 MENTS.—The Secretary of the Treasury (or the Sec-
14 retary’s delegate) shall prescribe such regulations as may
15 be necessary to clarify, in the case of plans to which sec-
16 tion 403(b)(15) of the Internal Revenue Code of 1986 ap-
17 plies, the treatment of an employer departing such plan
18 in connection with such employer’s failure to meet mul-
19 tiple employer plan requirements.

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

22 (1) PLAN NOTIFICATIONS.—The Secretary of
23 the Treasury (or the Secretary’s delegate) shall mod-
24 ify the model plan language published under section
25 413(e)(5) of the Internal Revenue Code of 1986 to

1 include language that notifies participating employ-
2 ers described in section 501(c)(3), and which are ex-
3 empt from tax under section 501(a), that the plan
4 is subject to the Employee Retirement Income Secu-
5 rity Act of 1974 and that such employer is a plan
6 sponsor with respect to its employees participating
7 in the multiple employer plan and, as such, has cer-
8 tain fiduciary duties with respect to the plan and to
9 its employees.

10 (2) MODEL PLANS FOR MULTIPLE EMPLOYER
11 403(b) NON-GOVERNMENTAL PLANS.—For plans to
12 which section 403(b)(15)(A) of the Internal Revenue
13 Code of 1986 applies (other than a plan maintained
14 for its employees by a State, a political subdivision
15 of a State, or an agency or instrumentality of any
16 one or more of the foregoing), the Secretary of the
17 Treasury shall publish model plan language similar
18 to model plan language published under section
19 413(e)(5) of such Code.

20 (3) EDUCATIONAL OUTREACH TO EMPLOYERS
21 EXEMPT FROM TAX.—The Secretary of the Treasury
22 (or the Secretary's delegate) shall provide education
23 and outreach to increase awareness to employers de-
24 scribed in section 501(c)(3) of the Internal Revenue
25 Code of 1986, and which are exempt from tax under

1 section 501(a) of such Code, that multiple employer
2 plans are subject to the Employee Retirement In-
3 come Security Act of 1974 and that such employer
4 is a plan sponsor with respect to its employees par-
5 ticipating in the multiple employer plan and, as
6 such, has certain fiduciary duties with respect to the
7 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, 2022.

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 the Internal Revenue
3 Code of 1986 with respect to one employer (and its
4 employees) in the case of a plan to which section
5 403(b)(15) of the Internal Revenue Code of 1986
6 applies.

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

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

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

20 (b) QUALIFIED STUDENT LOAN PAYMENT.—Section
21 401(m)(4) of such Code is amended by adding at the end
22 the following new subparagraph:

23 “(D) QUALIFIED STUDENT LOAN PAY-
24 MENT.—The term ‘qualified student loan pay-
25 ment’ means a payment made by an employee

1 in repayment of a qualified education loan (as
2 defined section 221(d)(1)) incurred by the em-
3 ployee to pay qualified higher education ex-
4 penses, but only—

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

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

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

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

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

1 educational institution (as defined in section
2 221(d)(2)).”.

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

8 “(13) MATCHING CONTRIBUTIONS FOR QUALI-
9 FIED STUDENT LOAN PAYMENTS.—

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

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

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

1 “(iii) under the plan, all employees el-
2 igible to receive matching contributions on
3 account of elective deferrals are eligible to
4 receive matching contributions on account
5 of qualified student loan payments, and

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

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

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

22 “(ii) STUDENT LOAN PAYMENTS NOT
23 TREATED AS PLAN CONTRIBUTION.—Ex-
24 cept as provided in clause (iii), a qualified

1 student loan payment shall not be treated
2 as a contribution to a plan under this title.

3 “(iii) MATCHING CONTRIBUTION
4 RULES.—Solely for purposes of meeting
5 the requirements of paragraph (11)(B) or
6 (12) of this subsection, or paragraph
7 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-
8 section (k), a plan may treat a qualified
9 student loan payment as an elective defer-
10 ral or an elective contribution, whichever is
11 applicable.

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

21 “(C) EMPLOYER MAY RELY ON EMPLOYEE
22 CERTIFICATION.—The employer may rely on an
23 employee certification of payment under para-
24 graph (4)(D)(ii).”.

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

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

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

16 “(I) the applicable dollar amount
17 under subparagraph (E) (after appli-
18 cation of section 414(v)) for the year
19 (or, if lesser, the employee’s com-
20 pensation (as defined in section
21 415(c)(3)) for the year), reduced by

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

1 “(ii) QUALIFIED STUDENT LOAN PAY-
2 MENT.—For purposes of this subpara-
3 graph—

4 “(I) IN GENERAL.—The term
5 ‘qualified student loan payment’
6 means a payment made by an em-
7 ployee in repayment of a qualified
8 education loan (as defined in section
9 221(d)(1)) incurred by the employee
10 to pay qualified higher education ex-
11 penses, but only if the employee cer-
12 tifies to the employer making the
13 matching contribution that such pay-
14 ment has been made on such a loan.

15 “(II) QUALIFIED HIGHER EDU-
16 CATION EXPENSES.—The term ‘quali-
17 fied higher education expenses’ has
18 the same meaning as when used in
19 section 401(m)(4)(D).

20 “(iii) APPLICABLE RULES.—Clause (i)
21 shall apply to an arrangement only if,
22 under the arrangement—

23 “(I) matching contributions on
24 account of qualified student loan pay-
25 ments are provided only on behalf of

1 employees otherwise eligible to elect
2 contributions under subparagraph
3 (A)(i)(I), and

4 “(II) all employees otherwise eli-
5 gible to participate in the arrange-
6 ment are eligible to receive matching
7 contributions on account of qualified
8 student loan payments.”.

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

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

1 of qualified student loan payments as described in section
2 401(m)(13).”.

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

6 (1) permitting a plan to make matching con-
7 tributions for qualified student loan payments, as
8 defined in sections 401(m)(4)(D) and 408(p)(2)(F)
9 of the Internal Revenue Code of 1986, as added by
10 this section, at a different frequency than matching
11 contributions are otherwise made under the plan,
12 provided that the frequency is not less than annu-
13 ally;

14 (2) permitting employers to establish reasonable
15 procedures to claim matching contributions for such
16 qualified student loan payments under the plan, in-
17 cluding an annual deadline (not earlier than 3
18 months after the close of each plan year) by which
19 a claim must be made; and

20 (3) promulgating model amendments which
21 plans may adopt to implement matching contribu-
22 tions on such qualified student loan payments for
23 purposes of sections 401(m), 408(p), 403(b), and
24 457(b) of the Internal Revenue Code of 1986.

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

4 **SEC. 112. APPLICATION OF CREDIT FOR SMALL EMPLOYER**
5 **PENSION PLAN STARTUP COSTS TO EMPLOY-**
6 **ERS WHICH JOIN AN EXISTING PLAN.**

7 (a) IN GENERAL.—Section 45E(d)(3)(A) of the In-
8 ternal Revenue Code of 1986 is amended by striking “ef-
9 fective” and inserting “effective with respect to the eligible
10 employer”.

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

15 **SEC. 113. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
16 **BILITY CREDIT FOR SMALL EMPLOYERS.**

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

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

23 “(a) IN GENERAL.—For purposes of section 38, in
24 the case of any eligible small employer, the military spouse
25 retirement plan eligibility credit determined under this

1 section for any taxable year is an amount equal to the
2 sum of—

3 “(1) \$250 with respect to each military spouse
4 who is an employee of such employer and who is eli-
5 gible to participate in an eligible defined contribu-
6 tion plan of such employer at any time during such
7 taxable year, plus

8 “(2) so much of the contributions made by such
9 employer to all such plans with respect to such em-
10 ployee during such taxable year as do not exceed
11 \$250.

12 “(b) LIMITATION.—An individual shall only be taken
13 into account as a military spouse under subsection (a) for
14 the taxable year which includes the date on which such
15 individual began participating in the eligible defined con-
16 tribution plan of the employer and the 2 succeeding tax-
17 able years.

18 “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of
19 this section—

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

23 “(2) APPLICATION OF 2-YEAR GRACE PERIOD.—
24 A rule similar to the rule of section

1 408(p)(2)(C)(i)(II) shall apply for purposes of this
2 section.

3 “(d) MILITARY SPOUSE.—For purposes of this sec-
4 tion—

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

17 “(2) EXCLUSION OF HIGHLY COMPENSATED
18 EMPLOYEES.—With respect to any employer, the
19 term ‘military spouse’ shall not include any indi-
20 vidual if such individual is a highly compensated em-
21 ployee of such employer (within the meaning of sec-
22 tion 414(q)).

23 “(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—
24 For purposes of this section, the term ‘eligible defined con-
25 tribution plan’ means, with respect to any eligible small

1 employer, any defined contribution plan (as defined in sec-
2 tion 414(i)) of such employer if, under the terms of such
3 plan—

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

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

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

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

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

1 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
2 NESS CREDIT.—Section 38(b) of such Code is amended
3 by striking “plus” at the end of paragraph (32), by strik-
4 ing the period at the end of paragraph (33) and inserting
5 “, plus”, and by adding at the end the following new para-
6 graph:

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

11 (c) SPECIFIED CREDIT FOR PURPOSES OF CER-
12 TIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—
13 Section 3511(d)(2) of such Code is amended by redesignig-
14 nating subparagraphs (F), (G), and (H) as subparagraphs
15 (G), (H), and (I), respectively, and by inserting after sub-
16 paragraph (E) the following new subparagraph:

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

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

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

1 (e) 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 **SEC. 114. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**
5 **CONTRIBUTING TO A PLAN.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 401(k)(4) of the Internal Revenue Code of 1986 is amend-
8 ed by inserting “(other than a de minimis financial incen-
9 tive)” after “any other benefit”.

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

17 (c) EXEMPTION FROM PROHIBITED TRANSACTION
18 RULES.—Subsection (d) of section 4975 of such Code is
19 amended by striking “or” at the end of paragraph (22),
20 by striking the period at the end of paragraph (23) and
21 inserting “, or”, and by adding at the end the following
22 new paragraph:

23 “(24) the provision of a de minimis financial in-
24 centive described in section 401(k)(4)(A).”.

1 (d) AMENDMENT OF EMPLOYEE RETIREMENT IN-
2 COME SECURITY ACT OF 1974.—Subsection (b) of section
3 408 of the Employee Retirement Income Security Act of
4 1974 (29 U.S.C. 1108(b)) is amended by adding at the
5 end the following new paragraph:

6 “(21) The provision of a de minimis financial
7 incentive described in section 401(k)(4)(A) or sec-
8 tion 403(b)(12)(A) of the Internal Revenue Code of
9 1986.”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to plan years begin-
12 ning after the date of enactment of this Act.

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

15 (a) IN GENERAL.—Section 414 of the Internal Rev-
16 enue Code of 1986 is amended by adding at the end the
17 following new subsection:

18 “(aa) CORRECTING AUTOMATIC CONTRIBUTION ER-
19 RORS.—

20 “(1) IN GENERAL.—Any plan or arrangement
21 shall not fail to be treated as a plan described in
22 sections 401(a), 403(b), 408, or 457(b), as applica-
23 ble, solely by reason of a corrected error.

24 “(2) CORRECTED ERROR DEFINED.—For pur-
25 poses of this subsection, the term ‘corrected error’

1 means a reasonable administrative error in imple-
2 menting an automatic enrollment or automatic esca-
3 lation feature in accordance with the terms of an eli-
4 gible automatic contribution arrangement (as de-
5 fined under subsection (w)(3)), provided that such
6 implementation error—

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

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

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

15 Such correction may occur before or after the partic-
16 ipant has terminated employment and may occur
17 without regard to whether the error is identified by
18 the Secretary.

19 “(3) REGULATIONS AND GUIDANCE FOR FAVOR-
20 ABLE CORRECTION METHODS.—The Secretary shall,
21 by regulations or other guidance of general applica-
22 bility, specify the correction methods that are in a
23 manner favorable to the participant for purposes of
24 paragraph (2)(B).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply with respect to any errors with
3 respect to which the date referred to in section 414(aa)
4 (as added by this section) is after the date of enactment
5 of this Act.

6 **SEC. 116. IMPROVING COVERAGE FOR PART-TIME WORK-**
7 **ERS.**

8 (a) IN GENERAL.—Section 202 of the Employee Re-
9 tirement Income Security Act of 1974 (29 U.S.C. 1052)
10 is amended by adding at the end the following new sub-
11 section:

12 “(c) SPECIAL RULE FOR CERTAIN PART-TIME EM-
13 PLOYEES.—

14 “(1) IN GENERAL.—A pension plan that in-
15 cludes either a qualified cash or deferred arrange-
16 ment (as defined in section 401(k) of the Internal
17 Revenue Code of 1986) or a salary reduction agree-
18 ment (as described in section 403(b) of such Code)
19 shall not require, as a condition of participation in
20 the arrangement or agreement, that an employee
21 complete a period of service with the employer (or
22 employers) maintaining the plan extending beyond
23 the close of the earlier of—

1 “(A) the period permitted under subsection
2 (a)(1) (determined without regard to subpara-
3 graph (B)(i) thereof); or

4 “(B) the first 24-month period—

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

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

11 “(2) EXCEPTION.—Paragraph (1)(B) shall not
12 apply to any employee described in section 410(b)(3)
13 of the Internal Revenue Code of 1986.

14 “(3) COORDINATION WITH OTHER RULES.—

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

19 “(i) EXCLUSIONS.—An employer may
20 elect to exclude such employees from the
21 application of subsections (a)(4), (k)(3),
22 (k)(12), (k)(13), and (m)(2) of section 401
23 of the Internal Revenue Code of 1986 and
24 section 410(b) of such Code.

1 “(ii) NONDISCRIMINATION RULES.—
2 Notwithstanding paragraph (1), section
3 401(k)(15)(B)(i)(I) of such Code shall
4 apply.

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

8 “(B) TOP-HEAVY RULES.—An employer
9 may elect to exclude all employees who are eligi-
10 ble to participate in a plan maintained by the
11 employer solely by reason of paragraph (1)(B)
12 from the application of the vesting and benefit
13 requirements under subsections (b) and (c) of
14 section 416 of the Internal Revenue Code of
15 1986.

16 “(4) 12-MONTH PERIOD.—For purposes of this
17 subsection, 12-month periods shall be determined in
18 the same manner as under the last sentence of sub-
19 section (a)(3)(A), except that 12-month periods be-
20 ginning before January 1, 2021, shall not be taken
21 into account.”

22 (b) VESTING.—Section 203(b) of the Employee Re-
23 tirement Income Security Act of 1974 (29 U.S.C.
24 1053(a)) is amended by redesignating paragraph (4) as

1 paragraph (5) and by inserting after paragraph (3) the
2 following new paragraph:

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

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

13 “(B) paragraph (3) shall be applied by
14 substituting ‘at least 500 hours of service’ for
15 ‘more than 500 hours of service’ in subpara-
16 graph (A) thereof.

17 For purposes of this paragraph, 12-month periods
18 shall be determined in the same manner as under
19 the last sentence of section 202(a)(3)(A), except that
20 12-month periods beginning before January 1, 2021,
21 shall not be taken into account.”.

22 (c) REDUCTION IN PERIOD SERVICE REQUIREMENT
23 FOR QUALIFIED CASH AND DEFERRED ARRANGE-
24 MENTS.—Section 401(k)(2)(D)(ii) of the Internal Revenue

1 Code of 1986 is amended by striking “3” and inserting
2 “2”.

3 (d) PRE-2021 SERVICE.—Section 112(b) of the Set-
4 ting Every Community Up for Retirement Enhancement
5 Act of 2019 (26 U.S.C. 401 note) is amended by striking
6 “section 401(k)(2)(D)(ii)” and inserting “paragraphs
7 (2)(D)(ii) and (15)(B)(iii) of section 401(k)”.

8 (e) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall apply to plan years beginning after December
12 31, 2022.

13 (2) SUBSECTION (d).—The amendment made
14 by subsection (d) shall take effect as if included in
15 the enactment of section 112 of the Setting Every
16 Community Up for Retirement Enhancement Act of
17 2019.

18 **SEC. 117. DEFERRAL OF TAX FOR CERTAIN SALES OF EM-**
19 **PLOYER STOCK TO EMPLOYEE STOCK OWN-**
20 **ERSHIP PLAN SPONSORED BY S CORPORA-**
21 **TION.**

22 (a) IN GENERAL.—Section 1042(c)(1)(A) of the In-
23 ternal Revenue Code of 1986 is amended by striking “do-
24 mestic C corporation” and inserting “domestic corpora-
25 tion”.

1 (b) 10 PERCENT LIMITATION ON APPLICATION OF
2 GAIN ON SALE OF S CORPORATION STOCK.—Section
3 1042 of such Code is amended by adding at the end the
4 following new subsection:

5 “(h) APPLICATION OF SECTION TO SALE OF STOCK
6 IN S CORPORATION.—In the case of the sale of qualified
7 securities of an S corporation, the election under sub-
8 section (a) may be made with respect to not more than
9 10 percent of the amount realized on such sale for pur-
10 poses of determining the amount of gain not recognized
11 and the extent to which (if at all) the amount realized
12 on such sale exceeds the cost of qualified replacement
13 property. The portion of adjusted basis that is properly
14 allocable to the portion of the amount realized with respect
15 to which the election is made under this subsection shall
16 be taken into account for purposes of the preceding sen-
17 tence.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to sales after December 31, 2027.

20 **SEC. 118. CERTAIN SECURITIES TREATED AS PUBLICLY**
21 **TRADED IN CASE OF EMPLOYEE STOCK OWN-**
22 **ERSHIP PLANS.**

23 (a) IN GENERAL.—Section 401(a)(35) of the Internal
24 Revenue Code of 1986 is amended by adding at the end
25 the following new subparagraph:

1 “(I) ESOP RULES RELATING TO PUBLICLY
2 TRADED SECURITIES.—In the case of an appli-
3 cable defined contribution plan which is an em-
4 ployee stock ownership plan, an employer secu-
5 rity shall be treated as described in subpara-
6 graph (G)(v) if—

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

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

19 “(iii) the security is issued by a cor-
20 poration which is not a shell company (as
21 such term is used in section 4(d)(6) of the
22 Securities Act of 1933), a blank check
23 company (as defined in section 7(b)(3) of
24 such Act), or subject to bankruptcy pro-
25 ceedings,

1 “(iv) the security has a public float
2 (as such term is used in section 240.12b-
3 2 of title 17, Code of Federal Regulations)
4 which has a fair market value of at least
5 \$1,000,000 and constitutes at least 10 per-
6 cent of the total shares issued and out-
7 standing.

8 “(v) in the case of a security issued
9 by a domestic corporation, the issuer pub-
10 lishes, not less frequently than annually, fi-
11 nancial statements audited by an inde-
12 pendent auditor registered with the Public
13 Company Accounting Oversight Board es-
14 tablished under the Sarbanes-Oxley Act of
15 2002, and

16 “(vi) in the case of a security issued
17 by a foreign corporation, the security is
18 represented by a depositary share (as de-
19 fined under section 240.12b-2 of title 17,
20 Code of Federal Regulations), or is issued
21 by a foreign corporation incorporated in
22 Canada and readily tradeable on an estab-
23 lished securities market in Canada, and
24 the issuer—

1 “(I) is subject to, and in compli-
2 ance with, the reporting requirements
3 of section 13 or 15(d) of the Securi-
4 ties Exchange Act of 1934 (15 U.S.C.
5 78m or 78o(d)),

6 “(II) is subject to, and in compli-
7 ance with, the reporting requirements
8 of section 230.257 of title 17, Code of
9 Federal Regulations, or

10 “(III) is exempt from such re-
11 quirements under section 240.12g3-
12 2(b) of title 17, Code of Federal Reg-
13 ulations.”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to plan years beginning after De-
16 cember 31, 2027.

17 **TITLE II—PRESERVATION OF**
18 **INCOME**

19 **SEC. 201. REMOVE REQUIRED MINIMUM DISTRIBUTION**
20 **BARRIERS FOR LIFE ANNUITIES.**

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

24 “(J) **CERTAIN INCREASES IN PAYMENTS**
25 **UNDER A COMMERCIAL ANNUITY.**—Nothing in

1 this section shall prohibit a commercial annuity
2 (within the meaning of section 3405(e)(6)) that
3 is issued in connection with any eligible retire-
4 ment plan (within the meaning of section
5 402(c)(8)(B), other than a defined benefit plan)
6 from providing one or more of the following
7 types of payments on or after the annuity start-
8 ing date:

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

13 “(ii) a lump sum payment that—

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

23 “(II) accelerates the receipt of
24 annuity payments that are scheduled
25 to be received within the ensuing 12

1 months, regardless of whether such
2 acceleration shortens the payment pe-
3 riod with respect to the annuity, re-
4 duces the dollar amount of benefits to
5 be paid under the contract, or results
6 in a suspension of annuity payments
7 during the period being accelerated,

8 “(iii) an amount which is in the na-
9 ture of a dividend or similar distribution,
10 provided that the issuer of the contract de-
11 termines such amount based on a reason-
12 able comparison of the actuarial factors as-
13 sumed when calculating the initial annuity
14 payments and the issuer’s experience with
15 respect to those factors, or

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

22 (b) EFFECTIVE DATE.—This section shall apply to
23 calendar years ending after the date of the enactment of
24 this Act.

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

2 (a) IN GENERAL.—Not later than the date which is
3 1 year after the date of the enactment of this Act, the
4 Secretary of the Treasury or the Secretary’s delegate
5 (hereafter in this section referred to as the “Secretary”)
6 shall amend the regulation issued by the Department of
7 the Treasury relating to “Longevity Annuity Contracts”
8 (79 Fed. Reg. 37633 (July 2, 2014)), as follows:

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

19 (2) FACILITATE JOINT AND SURVIVOR BENE-
20 FITS.—The Secretary shall amend Q&A–17(c) of
21 Treasury Regulation section 1.401(a)(9)–6, and
22 make such corresponding changes to the regulations
23 and related forms as are necessary, to provide that,
24 in the case of a qualifying longevity annuity contract
25 which was purchased with joint and survivor annuity
26 benefits for the individual and the individual’s

1 spouse which were permissible under the regulations
2 at the time the contract was originally purchased, a
3 divorce occurring after the original purchase and be-
4 fore the annuity payments commence under the con-
5 tract will not affect the permissibility of the joint
6 and survivor annuity benefits or other benefits under
7 the contract, or require any adjustment to the
8 amount or duration of benefits payable under the
9 contract, provided that any qualified domestic rela-
10 tions order (within the meaning of section 414(p) of
11 the Internal Revenue Code of 1986) or, in the case
12 of an arrangement not subject to section 414(p) of
13 such Code or section 206(d) of the Employee Retire-
14 ment Income Security Act of 1974 (29 U.S.C.
15 1056(d)), any divorce or separation instrument (as
16 defined in subsection (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 (d) REGULATORY SUCCESSOR PROVISION.—Any ref-
13 erence to a regulation under this section shall be treated
14 as including a reference to any successor regulation there-
15 to.

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

18 (a) IN GENERAL.—Not later than the date which is
19 7 years after the date of the enactment of this Act, the
20 Secretary of the Treasury (or the Secretary's delegate)
21 shall amend the regulation issued by the Department of
22 the Treasury relating to “Income Tax; Diversification Re-
23 quirements for Variable Annuity, Endowment, and Life
24 Insurance Contracts”, 54 Fed. Reg. 8728 (March 2,
25 1989), and make any necessary corresponding amend-

1 ments to other regulations, in order to facilitate the use
2 of exchange-traded funds as investment options under
3 variable contracts within the meaning of section 817(d)
4 of the Internal Revenue Code of 1986, in accordance with
5 subsections (b) and (c) of this section.

6 (b) DESIGNATE CERTAIN AUTHORIZED PARTICI-
7 PANTS AND MARKET MAKERS AS ELIGIBLE INVESTORS.—
8 The Secretary of the Treasury (or the Secretary’s dele-
9 gate) shall amend Treasury Regulation section 1.817-
10 5(f)(3) to provide that satisfaction of the requirements in
11 Treasury Regulation section 1.817-5(f)(2)(i) with respect
12 to an exchange-traded fund shall not be prevented by rea-
13 son of beneficial interests in such a fund being held by
14 1 or more authorized participants or market makers.

15 (c) DEFINE RELEVANT TERMS.—In amending
16 Treasury Regulation section 1.817-5(f)(3) in accordance
17 with subsections (b) of this section, the Secretary of the
18 Treasury (or the Secretary’s delegate) shall provide defini-
19 tions consistent with the following:

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

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

1 (B) the shares of which can be purchased
2 or redeemed directly from the fund only by an
3 authorized participant; and

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

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

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

24 (B) selling the shares to third parties who
25 are not market makers or otherwise described

1 in paragraphs (2) and (3) of Treasury Regula-
2 tion section 1.817-5(f).

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

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

19 **TITLE III—SIMPLIFICATION AND**
20 **CLARIFICATION OF RETIRE-**
21 **MENT PLAN RULES**

22 **SEC. 301. RECOVERY OF RETIREMENT PLAN OVERPAY-**
23 **MENTS.**

24 (a) OVERPAYMENTS UNDER ERISA.—Section 206 of
25 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1056) is amended by adding at the end the
2 following new subsection:

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

5 “(1) GENERAL RULE.—In the case of an inad-
6 vertent benefit overpayment by any pension plan, the
7 responsible plan fiduciary shall not be considered to
8 have failed to comply with the requirements of this
9 title merely because such fiduciary determines, in
10 the exercise of its fiduciary discretion, not to seek
11 recovery of all or part of such overpayment from—

12 “(A) any participant or beneficiary,

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

15 “(i) an individual account plan, pro-
16 vided that the amount needed to prevent or
17 restore any impermissible forfeiture from
18 any participant’s or beneficiary’s account
19 arising in connection with the overpayment
20 is, separately from and independently of
21 the overpayment, allocated to such account
22 pursuant to the nonforfeitability require-
23 ments of section 203 (for example, out of
24 the plan’s forfeiture account, additional

1 employer contributions, or recoveries from
2 those responsible for the overpayment), or
3 “(ii) a defined benefit pension plan
4 subject to the funding rules in part 3 of
5 this subtitle B, unless the responsible plan
6 fiduciary determines, in the exercise of its
7 fiduciary discretion, that failure to recover
8 all or part of the overpayment faster than
9 required under such funding rules would
10 materially affect the plan’s ability to pay
11 benefits due to other participants and
12 beneficiaries, or

13 “(C) any fiduciary of the plan, other than
14 a fiduciary (including a plan sponsor or contrib-
15 uting employer acting in a fiduciary capacity)
16 whose breach of its fiduciary duties resulted in
17 such overpayment, provided that if the plan has
18 established prudent procedures to prevent and
19 minimize overpayment of benefits and the rel-
20 evant plan fiduciaries have followed such proce-
21 dures, an inadvertent benefit overpayment will
22 not give rise to a breach of fiduciary duty.

23 “(2) REDUCTION IN FUTURE BENEFIT PAY-
24 MENTS AND RECOVERY FROM RESPONSIBLE
25 PARTY.—Paragraph (1) shall not fail to apply with

1 respect to any inadvertent benefit overpayment
2 merely because, after discovering such overpayment,
3 the responsible plan fiduciary—

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

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

9 “(3) EMPLOYER FUNDING OBLIGATIONS.—
10 Nothing in this subsection shall relieve an employer
11 of any obligation imposed on it to make contribu-
12 tions to a plan to meet the minimum funding stand-
13 ards under part 3 of this subtitle B or to prevent
14 or restore an impermissible forfeiture in accordance
15 with section 203.

16 “(4) RECOUPMENT FROM PARTICIPANTS AND
17 BENEFICIARIES.—If the responsible plan fiduciary,
18 in the exercise of its fiduciary discretion, decides to
19 seek recoupment from a participant or beneficiary of
20 all or part of an inadvertent benefit overpayment
21 made by the plan to such participant or beneficiary,
22 it may do so, subject to the following conditions:

23 “(A) No interest or other additional
24 amounts (such as collection costs or fees) are
25 sought on overpaid amounts for any period.

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

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

7 “(ii) the amount recouped each cal-
8 endar year does not exceed 10 percent of
9 the full dollar amount of the overpayment,
10 and

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

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

22 “(C) If the plan seeks to recoup past over-
23 payments of a benefit other than a non-decreas-
24 ing periodic benefit, the plan satisfies require-

1 ments developed by the Secretary for purposes
2 of this subparagraph.

3 “(D) Efforts to recoup overpayments are—

4 “(i) not accompanied by threats of
5 litigation, unless the responsible plan fidu-
6 ciary reasonably believes it could prevail in
7 a civil action brought in Federal or State
8 court to recoup the overpayments, and

9 “(ii) not made through a collection
10 agency or similar third party, unless the
11 participant or beneficiary ignores or rejects
12 efforts to recoup the overpayment following
13 either a final judgment in Federal or State
14 court or a settlement between the partici-
15 pant or beneficiary and the plan, in either
16 case authorizing such recoupment.

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

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

1 “(G) A participant or beneficiary from
2 whom recoupment is sought is entitled to con-
3 test all or part of the recoupment pursuant to
4 the plan’s claims procedures.

5 “(H) In determining the amount of
6 recoupment to seek, the responsible plan fidu-
7 ciary may take into account the hardship that
8 recoupment likely would impose on the partici-
9 pant or beneficiary.

10 “(5) EFFECT OF CULPABILITY.—Subpara-
11 graphs (A) through (F) of paragraph (4) shall not
12 apply to protect a participant or beneficiary who is
13 culpable. For purposes of this paragraph, a partici-
14 pant or beneficiary is culpable if the individual bears
15 responsibility for the overpayment (such as through
16 misrepresentations or omissions that led to the over-
17 payment), or if the individual knew, or had good
18 reason to know under the circumstances, that the
19 benefit payment or payments were materially in ex-
20 cess of the correct amount. Notwithstanding the pre-
21 ceding sentence, an individual is not culpable merely
22 because the individual believed the benefit payment
23 or payments were or might be in excess of the cor-
24 rect amount, if the individual raised that question
25 with an authorized plan representative and was told

1 the payment or payments were not in excess of the
2 correct amount. With respect to a culpable partici-
3 pant or beneficiary, efforts to recoup overpayments
4 shall not be made through threats of litigation, un-
5 less a lawyer for the plan could make the representa-
6 tions required under Rule 11 of the Federal Rules
7 of Civil Procedure if the litigation were brought in
8 Federal court.”.

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

11 (1) QUALIFICATION REQUIREMENTS.—Section
12 414 of the Internal Revenue Code of 1986, as
13 amended by this preceding provisions of this Act, is
14 amended by adding at the end the following new
15 subsection:

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

18 “(1) IN GENERAL.—A plan shall not fail to be
19 treated as described in clause (i), (ii), (iii), or (iv)
20 of section 219(g)(5)(A) (and shall not fail to be
21 treated as satisfying the requirements of section
22 401(a) or 403) merely because—

23 “(A) the plan fails to obtain payment from
24 any participant, beneficiary, employer, plan
25 sponsor, fiduciary, or other party on account of

1 any inadvertent benefit overpayment made by
2 the plan, or

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

8 “(2) REDUCTION IN FUTURE BENEFIT PAY-
9 MENTS AND RECOVERY FROM RESPONSIBLE
10 PARTY.—Paragraph (1) shall not fail to apply to a
11 plan merely because, after discovering a benefit over-
12 payment, such plan—

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

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

18 “(3) EMPLOYER FUNDING OBLIGATIONS.—
19 Nothing in this subsection shall relieve an employer
20 of any obligation imposed on it to make contribu-
21 tions to a plan to meet the minimum funding stand-
22 ards under sections 412 and 430 or to prevent or re-
23 store an impermissible forfeiture in accordance with
24 section 411.

1 “(4) OBSERVANCE OF BENEFIT LIMITATIONS.—
2 Notwithstanding paragraph (1), a plan to which
3 paragraph (1) applies shall observe any limitations
4 imposed on it by section 401(a)(17) or 415. The
5 plan may enforce such limitations using any method
6 approved by the Secretary of the Treasury for re-
7 couping benefits previously paid or allocations pre-
8 viously made in excess of such limitations.

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

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

21 “(12) In the case of an inadvertent benefit
22 overpayment from a plan to which section
23 414(bb)(1) applies that is transferred to an eligible
24 retirement plan by or on behalf of a participant or
25 beneficiary—

1 “(A) the portion of such overpayment with
2 respect to which recoupment is not sought on
3 behalf of the plan shall be treated as having
4 been paid in an eligible rollover distribution if
5 the payment would have been an eligible roll-
6 over distribution but for being an overpayment,
7 and

8 “(B) the portion of such overpayment with
9 respect to which recoupment is sought on behalf
10 of the plan shall be permitted to be returned to
11 such plan and in such case shall be treated as
12 an eligible rollover distribution transferred to
13 such plan by the participant or beneficiary who
14 received such overpayment (and the plans mak-
15 ing and receiving such transfer shall be treated
16 as permitting such transfer).

17 In any case in which recoupment is sought on behalf
18 of the plan but is disputed by the participant or ben-
19 eficiary who received such overpayment, such dispute
20 shall be subject to the claims procedures of the plan
21 that made such overpayment, such plan shall notify
22 the plan receiving the rollover of such dispute, and
23 the plan receiving the rollover shall retain such over-
24 payment on behalf of the participant or beneficiary
25 (and shall be entitled to treat such overpayment as

1 plan assets) pending the outcome of such proce-
2 dures.”.

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

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

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

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

19 In the case of a benefit overpayment that occurred prior
20 to the date of enactment of this Act, any installment pay-
21 ments by the participant or beneficiary to the plan or any
22 reduction in periodic benefit payments to the participant
23 or beneficiary, which were made in recoupment of such
24 overpayment and which commenced prior to such date,
25 may continue after such date. Nothing in this subsection

1 shall relieve a fiduciary from responsibility for an overpay-
2 ment that resulted from a breach of its fiduciary duties.

3 **SEC. 302. REDUCTION IN EXCISE TAX ON CERTAIN ACCU-**
4 **MULATIONS IN QUALIFIED RETIREMENT**
5 **PLANS.**

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

9 (b) REDUCTION IN EXCISE TAX ON FAILURES TO
10 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section
11 4974 of such Code is amended by adding at the end the
12 following new subsection:

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

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

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

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

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

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

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

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

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

17 **SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**
18 **CATION FUNDS.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, the Secretary of Labor shall
21 provide that, in the case of a designated investment alter-
22 native that contains a mix of asset classes, the adminis-
23 trator of a plan may, but is not required to, use a bench-
24 mark that is a blend of different broad-based securities
25 market indices if—

1 (1) the blend is reasonably representative of the
2 asset class holdings of the designated investment al-
3 ternative;

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

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

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

16 (b) **STUDY.**—Not later than 3 years after the date
17 of enactment of this Act, the Secretary of Labor shall de-
18 liver a report to the Committees on Finance and Health,
19 Education, Labor, and Pensions of the Senate and the
20 Committees on Ways and Means and Education and
21 Labor of the House of Representatives regarding the utili-
22 zation, effectiveness, and participants' understanding of
23 the benchmarking requirements under this section.

1 **SEC. 304. REVIEW AND REPORT TO CONGRESS RELATING**
2 **TO REPORTING AND DISCLOSURE REQUIRE-**
3 **MENTS.**

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

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

13 (2) the Internal Revenue Code of 1986 applica-
14 ble to qualified retirement plans (as defined in sec-
15 tion 4974(c) of such Code, without regard to para-
16 graphs (4) and (5) of such section).

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 2 years after
19 the date of enactment of this Act, the Secretary of
20 Labor, the Secretary of the Treasury, and the Direc-
21 tor of the Pension Benefit Guaranty Corporation,
22 jointly, and after consultation with a balanced group
23 of participant and employer representatives, shall
24 with respect to plans referenced in subsection (a) re-
25 port on the effectiveness of the applicable reporting
26 and disclosure requirements and make such rec-

1 ommendations as may be appropriate to the Com-
2 mittee on Education and Labor and the Committee
3 on Ways and Means of the House of Representatives
4 and the Committee on Health, Education, Labor,
5 and Pensions and the Committee on Finance of the
6 Senate to consolidate, simplify, standardize, and im-
7 prove such requirements so as to simplify reporting
8 for such plans and ensure that plans can furnish
9 and participants and beneficiaries timely receive and
10 better understand the information they need to mon-
11 itor their plans, plan for retirement, and obtain the
12 benefits they have earned.

13 (2) ANALYSIS OF EFFECTIVENESS.—To assess
14 the effectiveness of the applicable reporting and dis-
15 closure requirements, the report shall include an
16 analysis, based on plan data, of how participants
17 and beneficiaries are providing preferred contact in-
18 formation, the methods by which plan sponsors and
19 plans are furnishing disclosures, and the rate at
20 which participants and beneficiaries (grouped by key
21 demographics) are receiving, accessing, under-
22 standing, and retaining disclosures.

23 (3) COLLECTION OF INFORMATION.—The agen-
24 cies shall conduct appropriate surveys and data col-
25 lection to obtain any needed information.

1 **SEC. 305. ELIMINATING UNNECESSARY PLAN REQUIRE-**
2 **MENTS RELATED TO UNENROLLED PARTICI-**
3 **PANTS.**

4 (a) AMENDMENT OF EMPLOYEE RETIREMENT IN-
5 COME SECURITY ACT OF 1974.—

6 (1) IN GENERAL.—Part 1 of subtitle B of sub-
7 chapter I of the Employee Retirement Income Secu-
8 rity Act of 1974 is amended by redesignating section
9 111 as section 112 and by inserting after section
10 110 the following new section:

11 **“SEC. 111. ELIMINATING UNNECESSARY PLAN REQUIRE-**
12 **MENTS RELATED TO UNENROLLED PARTICI-**
13 **PANTS.**

14 “(a) IN GENERAL.—Notwithstanding any other pro-
15 vision of this title, with respect to any individual account
16 plan, no disclosure, notice, or other plan document (other
17 than the notices and documents described in paragraphs
18 (1) and (2)) shall be required to be furnished under this
19 title to any unenrolled participant if the unenrolled partici-
20 pant receives—

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

24 “(2) any document requested by such partici-
25 pant that the participant would be entitled to receive
26 notwithstanding this section.

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

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

6 “(2) has received—

7 “(A) the summary plan description pursu-
8 ant to section 104(b), and

9 “(B) any other notices related to eligibility
10 under the plan required to be furnished under
11 this title, or the Internal Revenue Code of
12 1986, in connection with such participant’s ini-
13 tial eligibility to participate in such plan;

14 “(3) is not participating in such plan;

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

17 “(5) satisfies such other criteria as the Sec-
18 retary of Labor may determine appropriate, as pre-
19 scribed in guidance issued in consultation with the
20 Secretary of Treasury.

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 and rights under the
15 plan, with a focus on employer contributions
16 and vesting provisions; 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 (b) AMENDMENT OF INTERNAL REVENUE CODE OF
2 1986.—Section 414 of the Internal Revenue Code of
3 1986, as amended by the preceding provisions of this Act,
4 is amended by adding at the end the following new sub-
5 section:

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

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of this title, with respect to any defined
10 contribution plan, no disclosure, notice, or other plan
11 document (other than the notices and documents de-
12 scribed in subparagraphs (A) and (B)) shall be re-
13 quired to be furnished under this title to any
14 unenrolled participant if the unenrolled participant
15 receives—

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

20 “(B) any document requested by such par-
21 ticipant that the participant would be entitled
22 to receive notwithstanding this subsection.

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

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

6 “(B) has received—

7 “(i) the summary plan description
8 pursuant to section 104(b) of the Em-
9 ployee Retirement Income Security Act of
10 1974, and

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

17 “(C) is not participating in such plan,

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

20 “(E) satisfies such other criteria as the
21 Secretary of the Treasury may determine ap-
22 propriate, as prescribed in guidance issued in
23 consultation with the Secretary of Labor.

24 For purposes of this subsection, any eligibility to
25 participate in the plan following any period for

1 which such employee was not eligible to participate
2 shall be treated as initial eligibility.

3 “(3) ANNUAL REMINDER NOTICE.—For pur-
4 poses of this subsection, the term ‘annual reminder
5 notice’ means the notice described in section 111(c)
6 of the Employee Retirement Income Security Act of
7 1974.”.

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

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

12 (a) IN GENERAL.—

13 (1) ESTABLISHMENT OF RETIREMENT SAVINGS
14 LOST AND FOUND.—Part 5 of title I of the Em-
15 ployee Retirement Income Security Act of 1974 (29
16 U.S.C. 1341 et seq.) is amended by adding at the
17 end the following:

18 **“SEC. 523. RETIREMENT SAVINGS LOST AND FOUND.**

19 “(a) ESTABLISHMENT.—

20 “(1) IN GENERAL.—Not later than 2 years
21 after the date of the enactment of this section, the
22 Secretary of Labor, in consultation with the Sec-
23 retary of the Treasury, shall establish an online
24 searchable database (to be managed by the Depart-
25 ment of Labor in accordance with this section) to be

1 known as the ‘Retirement Savings Lost and Found’.

2 The Retirement Savings Lost and Found shall—

3 “(A) allow an individual to search for in-
4 formation that enables the individual to locate
5 the administrator of any plan described in para-
6 graph (2) with respect to which the individual
7 is or was a participant or beneficiary, and pro-
8 vide contact information for the administrator
9 of any such plan;

10 “(B) allow the Department of Labor to as-
11 sist such an individual in locating any such plan
12 of the individual; and

13 “(C) allow the Department of Labor to
14 make any necessary changes to contact infor-
15 mation on record for the administrator based
16 on any changes to the plan due to merger or
17 consolidation of the plan with any other plan,
18 division of the plan into two or more plans,
19 bankruptcy, termination, change in name of the
20 plan, change in name or address of the admin-
21 istrator, or other causes.

22 The Retirement Savings Lost and Found established
23 under this paragraph shall include information re-
24 ported under this section and other relevant infor-
25 mation obtained by the Department of Labor.

1 “(2) PLANS DESCRIBED.—A plan described in
2 this paragraph is a plan to which the vesting stand-
3 ards of section 203 apply.

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

14 “(c) SAFEGUARDING PARTICIPANT PRIVACY AND SE-
15 CURITY.—In establishing the Retirement Savings Lost
16 and Found under subsection (a), the Department of Labor
17 shall take all necessary and proper precautions to ensure
18 that individuals’ plan information maintained by the Re-
19 tirement Savings Lost and Found is protected.

20 “(d) DEFINITION OF ADMINISTRATOR.—For pur-
21 poses of this section, the term ‘administrator’ has the
22 meaning given such term in section 3(16)(A).

23 “(e) INFORMATION COLLECTION FROM PLANS.—Ef-
24 fective with respect to plan years beginning after the sec-
25 ond December 31 occurring after the date of the enact-

1 ment of this subsection, the administrator of a plan to
2 which the vesting standards of section 203 apply shall sub-
3 mit to the Department of Labor, at such time and in such
4 form and manner as is prescribed in regulations—

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

8 “(2) the information described in subpara-
9 graphs (A) and (B) of section 6057(a)(2) of such
10 Code;

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

14 “(A) who, during the current plan year or
15 any previous plan year, was reported under sec-
16 tion 6057(a)(2)(C) of such Code, and with re-
17 spect to whom the benefits described in clause
18 (ii) thereof were fully paid during the plan year;

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

22 “(C) with respect to whom a deferred an-
23 nuity contract was distributed during the plan
24 year;

1 “(4) in the case of a participant or former par-
2 ticipant to whom paragraph (3) applies—

3 “(A) in the case of a participant described
4 in subparagraph (B) thereof, the name and ad-
5 dress of the designated trustee or issuer de-
6 scribed in section 401(a)(31)(B)(i) of such
7 Code and the account number of the individual
8 retirement plan to which the amount was dis-
9 tributed; and

10 “(B) in the case of a participant described
11 in subparagraph (C) thereof, the name and ad-
12 dress of the issuer of such annuity contract and
13 the contract or certificate number; and

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

16 “(f) INFORMATION COLLECTION FROM FEDERAL
17 AGENCIES.—On request, the Secretary of Labor may ac-
18 cess and receive such information collected by other Fed-
19 eral agencies as may be necessary and appropriate to per-
20 form work related to the Retirement Savings Lost and
21 Found.

22 “(g) PROGRAM INTEGRITY AUDIT.—On an annual
23 basis for each of the first 5 years beginning one year after
24 the establishment of the database in subsection (a)(1) and
25 every 5 years thereafter, the Inspector General of the De-

1 partment of Labor shall conduct an audit of the adminis-
2 tration of the Retirement Savings Lost and Found.”.

3 (3) CONFORMING AMENDMENT.—The table of
4 contents for the Employee Retirement Income Secu-
5 rity Act of 1974 (29 U.S.C. 1001 et seq.) is amend-
6 ed by inserting after the item relating to section 522
7 the following:

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

8 **SEC. 307. UPDATING DOLLAR LIMIT FOR MANDATORY DIS-**
9 **TRIBUTIONS.**

10 (a) IN GENERAL.—Section 203(e)(1) of the Em-
11 ployee Retirement Income Security Act of 1974 and sec-
12 tions 401(a)(31)(B)(ii) and 411(a)(11)(A) of the Internal
13 Revenue Code of 1986 are each amended by striking
14 “\$5,000” and inserting “\$7,000”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions made after Decem-
17 ber 31, 2022.

18 **SEC. 308. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**
19 **RESOLUTION SYSTEM.**

20 (a) IN GENERAL.—Except as otherwise provided in
21 the Internal Revenue Code of 1986 or regulations pre-
22 scribed by the Secretary of the Treasury or the Secretary’s
23 delegate (referred to in this section as the “Secretary”),
24 any eligible inadvertent failure to comply with the rules
25 applicable under section 401(a), 403(a), 403(b), 408(p),

1 or 408(k) of such Code may be self-corrected under the
2 Employee Plans Compliance Resolution System (as de-
3 scribed in Revenue Procedure 2021–30, or any successor
4 guidance, and hereafter in this section referred to as the
5 “EPCRS”), except to the extent that such failure was
6 identified by the Secretary prior to any actions which dem-
7 onstrate a commitment to implement a self-correction.
8 Revenue Procedure 2021–30 is deemed amended as of the
9 date of the enactment of this Act to provide that the cor-
10 rection period under section 9.02 of such Revenue Proce-
11 dure (or any successor guidance) for an eligible inad-
12 vertent failure, except as otherwise provided under such
13 Code or in regulations prescribed by the Secretary, is in-
14 definite and has no last day, other than with respect to
15 failures identified by the Secretary prior to any self-correc-
16 tion as described in the preceding sentence.

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

20 (1) such failure may be self-corrected under
21 subsection (a) according to the rules of section 6.07
22 of Revenue Procedure 2021–30 (or any successor
23 guidance), including the provisions related to wheth-
24 er a deemed distribution must be reported on Form
25 1099–R, and

1 (2) the Secretary of Labor shall treat any such
2 failure which is so self-corrected under subsection
3 (a) as meeting the requirements of the Voluntary Fi-
4 duciary Correction Program of the Department of
5 Labor if, with respect to the violation of the fidu-
6 ciary standards of the Employee Retirement Income
7 Security Act of 1974, there is a similar loan error
8 eligible for correction under EPCRS and the loan
9 error is corrected in such manner.

10 (c) EPCRS FOR IRAS.—The Secretary shall expand
11 the EPCRS to allow custodians of individual retirement
12 plans (as defined in section 7701(a)(37) of the Internal
13 Revenue Code of 1986) to address eligible inadvertent fail-
14 ures with respect to an individual retirement plan (as so
15 defined), including (but not limited to)—

16 (1) waivers of the excise tax which would other-
17 wise apply under section 4974 of the Internal Rev-
18 enue Code of 1986,

19 (2) under the self-correction component of the
20 EPCRS, waivers of the 60-day deadline for a roll-
21 over where the deadline is missed for reasons beyond
22 the reasonable control of the account owner, and

23 (3) rules permitting a nonspouse beneficiary to
24 return distributions to an inherited individual retire-
25 ment plan described in section 408(d)(3)(C) of the

1 Internal Revenue Code of 1986 in a case where, due
2 to an inadvertent error by a service provider, the
3 beneficiary had reason to believe that the distribu-
4 tion could be rolled over without inclusion in income
5 of any part of the distributed amount.

6 (d) ADDITIONAL SAFE HARBORS.—The Secretary
7 shall expand the EPCRS to provide additional safe harbor
8 means of correcting eligible inadvertent failures described
9 in subsection (a), including safe harbor means of calcu-
10 lating the earnings which must be restored to a plan in
11 cases where plan assets have been depleted by reason of
12 an eligible inadvertent failure.

13 (e) ELIGIBLE INADVERTENT FAILURE.—For pur-
14 poses of this section—

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

19 (A) satisfy the standards set forth in sec-
20 tion 4.04 of Revenue Procedure 2021–30 (or
21 any successor guidance), or

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

24 (2) EXCEPTION.—The term “eligible inad-
25 vertent failure” shall not include any failure which

1 is egregious, relates to the diversion or misuse of
2 plan assets, or is directly or indirectly related to an
3 abusive tax avoidance transaction.

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

13 **SEC. 309. ELIMINATE THE “FIRST DAY OF THE MONTH” RE-**
14 **QUIREMENT FOR GOVERNMENTAL SECTION**
15 **457(b) PLANS.**

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

18 “(4) which provides that compensation—

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

24 “(B) in any other case, will be deferred for
25 any calendar month only if an agreement pro-

1 viding for such deferral has been entered into
2 before the beginning of such month,”.

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

6 **SEC. 310. ONE-TIME ELECTION FOR QUALIFIED CHARITABLE**
7 **TABLE DISTRIBUTION TO SPLIT-INTEREST**
8 **ENTITY; INCREASE IN QUALIFIED CHARITABLE**
9 **TABLE DISTRIBUTION LIMITATION.**

10 (a) **ONE-TIME ELECTION FOR QUALIFIED CHARITABLE**
11 **TABLE DISTRIBUTION TO SPLIT-INTEREST ENTITY.**—Sec-
12 tion 408(d)(8) of the Internal Revenue Code of 1986 is
13 amended by adding at the end the following new subpara-
14 graph:

15 “(F) **ONE-TIME ELECTION FOR QUALIFIED**
16 **CHARITABLE DISTRIBUTION TO SPLIT-INTEREST**
17 **ENTITY.**—

18 “(i) **IN GENERAL.**—A taxpayer may
19 for a taxable year elect under this subpara-
20 graph to treat as meeting the requirement
21 of subparagraph (B)(i) any distribution
22 from an individual retirement account
23 which is made directly by the trustee to a
24 split-interest entity, but only if—

1 “(I) an election is not in effect
2 under this subparagraph for a pre-
3 ceding taxable year,

4 “(II) the aggregate amount of
5 distributions of the taxpayer with re-
6 spect to which an election under this
7 subparagraph is made does not exceed
8 \$50,000, and

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

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

14 “(I) a charitable remainder annu-
15 ity trust (as defined in section
16 664(d)(1)), but only if such trust is
17 funded exclusively by qualified chari-
18 table distributions,

19 “(II) a charitable remainder
20 unitrust (as defined in section
21 664(d)(2)), but only if such unitrust
22 is funded exclusively by qualified char-
23 itable distributions, or

24 “(III) a charitable gift annuity
25 (as defined in section 501(m)(5)), but

1 only if such annuity is funded exclu-
2 sively by qualified charitable distribu-
3 tions and commences fixed payments
4 of 5 percent or greater not later than
5 1 year from the date of funding.

6 “(iii) CONTRIBUTIONS MUST BE OTH-
7 ERWISE DEDUCTIBLE.—A distribution
8 meets the requirement of this clause only
9 if—

10 “(I) in the case of a distribution
11 to a charitable remainder annuity
12 trust or a charitable remainder uni-
13 trust, a deduction for the entire value
14 of the remainder interest in the dis-
15 tribution for the benefit of a specified
16 charitable organization would be al-
17 lowable under section 170 (determined
18 without regard to subsection (b)
19 thereof and this paragraph), and

20 “(II) in the case of a charitable
21 gift annuity, a deduction in an
22 amount equal to the amount of the
23 distribution reduced by the value of
24 the annuity described in section
25 501(m)(5)(B) would be allowable

1 under section 170 (determined with-
2 out regard to subsection (b) thereof
3 and this paragraph).

4 “(iv) LIMITATION ON INCOME INTER-
5 ESTS.—A distribution meets the require-
6 ments of this clause only if—

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

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

15 “(v) SPECIAL RULES.—

16 “(I) CHARITABLE REMAINDER
17 TRUSTS.—Notwithstanding section
18 664(b), distributions made from a
19 trust described in subclause (I) or (II)
20 of clause (ii) shall be treated as ordi-
21 nary income in the hands of the bene-
22 ficiary to whom the annuity described
23 in section 664(d)(1)(A) or the pay-
24 ment described in section
25 664(d)(2)(A) is paid.

1 “(II) CHARITABLE GIFT ANNU-
2 ITIES.—Qualified charitable distribu-
3 tions made to fund a charitable gift
4 annuity shall not be treated as an in-
5 vestment in the contract for purposes
6 of section 72(c).”.

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

10 “(G) INFLATION ADJUSTMENT.—

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

16 “(I) such dollar amount, multi-
17 plied by

18 “(II) the cost-of-living adjust-
19 ment determined under section 1(f)(3)
20 for the calendar year in which the tax-
21 able year begins, determined by sub-
22 stituting ‘calendar year 2021’ for ‘cal-
23 endar year 2016’ in subparagraph
24 (A)(ii) thereof.

1 “(ii) ROUNDING.—If any dollar
2 amount increased under clause (i) is not a
3 multiple of \$1,000, such dollar amount
4 shall be rounded to the nearest multiple of
5 \$1,000.”.

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

9 **SEC. 311. DISTRIBUTIONS TO FIREFIGHTERS.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 72(t)(10) of the Internal Revenue Code of 1986 is amend-
12 ed by striking “414(d))” and inserting “414(d) or a dis-
13 tribution from a plan described in clause (iii), (iv), or (vi)
14 of section 402(c)(8)(B) to an employee who provides fire-
15 fighting services”.

16 (b) CONFORMING AMENDMENT.—The heading of
17 paragraph (10) of section 72(t) of such Code is amended
18 by striking “IN GOVERNMENTAL PLANS” and inserting
19 “AND PRIVATE SECTOR FIREFIGHTERS”

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to distributions made after Decem-
22 ber 31, 2022.

1 **SEC. 312. EXCLUSION OF CERTAIN DISABILITY-RELATED**
2 **FIRST RESPONDER RETIREMENT PAYMENTS.**

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

6 **“SEC. 139C. CERTAIN DISABILITY-RELATED FIRST RE-**
7 **SPONDER RETIREMENT PAYMENTS.**

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

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

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

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

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

25 “(1) IN GENERAL.—The term ‘annualized ex-
26 cludable disability amount’ means, with respect to

1 any individual, the service-connected excludable dis-
2 ability amounts which are properly attributable to
3 the 12-month period immediately preceding the date
4 on which such individual attains retirement age.

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

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

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

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

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

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

5 (b) **CLERICAL AMENDMENT.**—The table of sections
6 for part III of subchapter B of chapter 1 of such Code
7 is amended by inserting after the item relating to section
8 139B the following new item:

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

9 (c) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to amounts received with respect
11 to taxable years beginning after December 31, 2027.

12 **SEC. 313. INDIVIDUAL RETIREMENT PLAN STATUTE OF LIM-**
13 **ITATIONS FOR EXCISE TAX ON EXCESS CON-**
14 **TRIBUTIONS AND CERTAIN ACCUMULATIONS.**

15 Section 6501(l) of the Internal Revenue Code of 1986
16 is amended by adding at the end the following new para-
17 graph:

18 “(4) **INDIVIDUAL RETIREMENT PLANS.**—

19 “(A) **IN GENERAL.**—For purposes of any
20 tax imposed by section 4973 or 4974 in connec-
21 tion with an individual retirement plan, the re-
22 turn referred to in this section shall be the in-
23 come tax return filed by the person on whom
24 the tax under such section is imposed for the

1 year in which the act (or failure to act) giving
2 rise to the liability for such tax occurred.

3 “(B) RULE IN CASE OF INDIVIDUALS NOT
4 REQUIRED TO FILE RETURN.—In the case of a
5 person who is not required to file an income tax
6 return for such year—

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

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

18 **SEC. 314. REQUIREMENT TO PROVIDE PAPER STATEMENTS**

19 **IN CERTAIN CASES.**

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

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

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

2 “(E) PROVISION OF PAPER STATE-
3 MENTS.—With respect to at least 1 pension
4 benefit statement furnished for a calendar year
5 with respect to an individual account plan
6 under paragraph (1)(A), and with respect to at
7 least 1 pension benefit statement furnished
8 every 3 calendar years with respect to a defined
9 benefit plan under paragraph (1)(B), such
10 statement shall be furnished on paper in writ-
11 ten form except—

12 “(i) in the case of a plan that fur-
13 nishes such statement in accordance with
14 section 2520.104b-1(c) of title 29, Code of
15 Federal Regulations; or

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

24 (b) IMPLEMENTATION.—

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

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

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

24 (2) OTHER GUIDANCE.—In implementing the
25 amendment made by subsection (a) with respect to

1 a plan that discloses required documents or state-
2 ments electronically, in accordance with applicable
3 guidance governing electronic disclosure by the De-
4 partment of Labor (with the exception of section
5 2520.104b-1(c) of title 29, Code of Federal Regula-
6 tions), the Secretary of Labor shall, not later than
7 December 31, 2022, update such guidance to the ex-
8 tent necessary to ensure that—

9 (A) a participant or beneficiary under such
10 a plan is permitted the opportunity to request
11 that any disclosure required to be delivered on
12 paper under applicable guidance by the Depart-
13 ment of Labor shall be furnished by electronic
14 delivery;

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

18 (i) an explanation of how to request
19 that all such statements, and any other
20 document required to be disclosed under
21 title I of the Employee Retirement Income
22 Security Act of 1974, be furnished by elec-
23 tronic delivery; and

24 (ii) contact information for the plan
25 sponsor, including a telephone number;

1 (C) the plan may not charge any fee to a
2 participant or beneficiary for the delivery of any
3 paper statements;

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

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

14 (F) a plan is permitted to furnish a dupli-
15 cate electronic statement in any case in which
16 the plan furnishes a paper pension benefit
17 statement.

18 (c) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply with respect to plan years begin-
20 ning after December 31, 2023.

1 **SEC. 315. SEPARATE APPLICATION OF TOP HEAVY RULES**
2 **TO DEFINED CONTRIBUTION PLANS COV-**
3 **ERING EXCLUDIBLE EMPLOYEES.**

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

7 “(C) SEPARATE APPLICATION TO EMPLOY-
8 EES NOT MEETING AGE AND SERVICE REQUIRE-
9 MENTS.—If employees not meeting the age or
10 service requirements of section 410(a)(1) (with-
11 out regard to subparagraph (B) thereof) are
12 covered under a plan of the employer which
13 meets the requirements of subparagraphs (A)
14 and (B) separately with respect to such employ-
15 ees, such employees may be excluded from con-
16 sideration in determining whether any plan of
17 the employer meets the requirements of sub-
18 paragraphs (A) and (B).”.

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

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

24 (a) IN GENERAL.—Section 72(t)(2)(H)(v)(I) of the
25 Internal Revenue Code of 1986 is amended by striking
26 “may make” and inserting “may, at any time during the

1 3-year period beginning on the day after the date on which
2 such distribution was received, make”.

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

7 **SEC. 317. EMPLOYER MAY RELY ON EMPLOYEE CERTI-**
8 **FYING THAT DEEMED HARDSHIP DISTRIBUTI-**
9 **ON CONDITIONS ARE MET.**

10 (a) **CASH OR DEFERRED ARRANGEMENTS.**—Section
11 401(k)(14) of the Internal Revenue Code of 1986 is
12 amended by adding at the end the following new subpara-
13 graph:

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

24 (b) **403(b) PLANS.**—

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

4 “(D) EMPLOYEE CERTIFICATION.—In de-
5 termining whether a distribution is upon the fi-
6 nancial hardship of an employee, the adminis-
7 trator of the plan may rely on a certification by
8 the employee that the distribution is on account
9 of a financial need of a type that is deemed in
10 regulations prescribed by the Secretary to be an
11 immediate and heavy financial need and that
12 such distribution is not in excess of the amount
13 required to satisfy such financial need.”.

14 (2) ANNUITY CONTRACTS.—Section 403(b)(11)
15 of such Code is amended by adding at the end the
16 following: “In determining whether a distribution is
17 upon hardship of an employee, the administrator of
18 the plan may rely on a certification by the employee
19 that the distribution is on account of a financial
20 need of a type that is deemed in regulations pre-
21 scribed by the Secretary to be an immediate and
22 heavy financial need and that such distribution is
23 not in excess of the amount required to satisfy such
24 financial need.”.

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

4 “(4) PARTICIPANT CERTIFICATION.—In deter-
5 mining whether a distribution to a participant is
6 made when the participant is faced with an unfore-
7 seeable emergency, the administrator of a plan
8 maintained by an eligible employer described in sub-
9 section (e)(1)(A) may rely on a certification by the
10 participant that the distribution is made when the
11 participant is faced with unforeseeable emergency of
12 a type that is described in regulations prescribed by
13 the Secretary as an unforeseeable emergency and
14 that the distribution is not in excess of the amount
15 reasonably necessary to satisfy the emergency
16 need.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to plan years beginning after De-
19 cember 31, 2022.

20 **SEC. 318. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
21 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
22 **DOMESTIC ABUSE.**

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

1 “(I) DISTRIBUTIONS FROM RETIREMENT
2 PLANS IN CASE OF DOMESTIC ABUSE.—

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

5 “(ii) LIMITATION.—The aggregate
6 amount which may be treated as an eligi-
7 ble distribution to a domestic abuse victim
8 by any individual shall not exceed an
9 amount equal to the lesser of—

10 “(I) \$10,000, or

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

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

18 “(I) IN GENERAL.—A distribu-
19 tion shall be treated as an eligible dis-
20 tribution to a domestic abuse victim if
21 such distribution is from an applicable
22 eligible retirement plan to an indi-
23 vidual and made during the 1-year pe-
24 riod beginning on any date on which
25 the individual is a victim of domestic

1 abuse by a spouse or domestic part-
2 ner.

3 “(II) DOMESTIC ABUSE.—The
4 term ‘domestic abuse’ means physical,
5 psychological, sexual, emotional, or
6 economic abuse, including efforts to
7 control, isolate, humiliate, or intimi-
8 date the victim, or to undermine the
9 victim’s ability to reason independ-
10 ently, including by means of abuse of
11 the victim’s child or another family
12 member living in the household.

13 “(iv) TREATMENT OF PLAN DISTRIBUTI-
14 TIONS.—

15 “(I) IN GENERAL.—If a distribu-
16 tion to an individual would (without
17 regard to clause (ii)) be an eligible
18 distribution to a domestic abuse vic-
19 tim , a plan shall not be treated as
20 failing to meet any requirement of
21 this title merely because the plan
22 treats the distribution as an eligible
23 distribution to a domestic abuse vic-
24 tim, unless the aggregate amount of
25 such distributions from all plans

1 maintained by the employer (and any
2 member of any controlled group which
3 includes the employer) to such indi-
4 vidual exceeds the limitation under
5 clause (ii).

6 “(II) CONTROLLED GROUP.—For
7 purposes of subclause (I), the term
8 ‘controlled group’ means any group
9 treated as a single employer under
10 subsection (b), (c), (m), or (o) of sec-
11 tion 414.

12 “(V) AMOUNT DISTRIBUTED MAY BE
13 REPAID.—

14 “(I) IN GENERAL.—Any indi-
15 vidual who receives a distribution de-
16 scribed in clause (i) may, at any time
17 during the 3-year period beginning on
18 the day after the date on which such
19 distribution was received, make one or
20 more contributions in an aggregate
21 amount not to exceed the amount of
22 such distribution to an applicable eli-
23 gible retirement plan of which such
24 individual is a beneficiary and to
25 which a rollover contribution of such

1 distribution could be made under sec-
2 tion 402(c), 403(a)(4), 403(b)(8),
3 408(d)(3), or 457(e)(16), as the case
4 may be.

5 “(II) LIMITATION ON CONTRIBU-
6 TIONS TO APPLICABLE ELIGIBLE RE-
7 TIREMENT PLANS OTHER THAN
8 IRAs.—The aggregate amount of con-
9 tributions made by an individual
10 under subclause (I) to any applicable
11 eligible retirement plan which is not
12 an individual retirement plan shall not
13 exceed the aggregate amount of eligi-
14 ble distributions to a domestic abuse
15 victim which are made from such plan
16 to such individual. Subclause (I) shall
17 not apply to contributions to any ap-
18 plicable eligible retirement plan which
19 is not an individual retirement plan
20 unless the individual is eligible to
21 make contributions (other than those
22 described in subclause (I)) to such ap-
23 plicable eligible retirement plan.

24 “(III) TREATMENT OF REPAY-
25 MENTS OF DISTRIBUTIONS FROM AP-

1 PLICABLE ELIGIBLE RETIREMENT
2 PLANS OTHER THAN IRAS.—If a con-
3 tribution is made under subclause (I)
4 with respect to an eligible distribution
5 to a domestic abuse victim from an
6 applicable eligible retirement plan
7 other than an individual retirement
8 plan, then the taxpayer shall, to the
9 extent of the amount of the contribu-
10 tion, be treated as having received
11 such distribution in an eligible rollover
12 distribution (as defined in section
13 402(c)(4)) and as having transferred
14 the amount to the applicable eligible
15 retirement plan in a direct trustee to
16 trustee transfer within 60 days of the
17 distribution.

18 “(IV) TREATMENT OF REPAY-
19 MENTS FOR DISTRIBUTIONS FROM
20 IRAS.—If a contribution is made
21 under subclause (I) with respect to an
22 eligible distribution to a domestic
23 abuse victim from an individual retire-
24 ment plan, then, to the extent of the
25 amount of the contribution, such dis-

1 tribution shall be treated as a dis-
2 tribution described in section
3 408(d)(3) and as having been trans-
4 ferred to the applicable eligible retire-
5 ment plan in a direct trustee to trust-
6 ee transfer within 60 days of the dis-
7 tribution.

8 “(vi) DEFINITION AND SPECIAL
9 RULES.—For purposes of this subpara-
10 graph:

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

17 “(II) EXEMPTION OF DISTRIBU-
18 TIONS FROM TRUSTEE TO TRUSTEE
19 TRANSFER AND WITHHOLDING
20 RULES.—For purposes of sections
21 401(a)(31), 402(f), and 3405, an eli-
22 gible distribution to a domestic abuse
23 victim shall not be treated as an eligi-
24 ble rollover distribution.

1 “(III) DISTRIBUTIONS TREATED
2 AS MEETING PLAN DISTRIBUTION RE-
3 QUIREMENTS; SELF-CERTIFICATION.—
4 Any distribution which the employee
5 or participant certifies as being an eli-
6 gible distribution to a domestic abuse
7 victim shall be treated as meeting the
8 requirements of sections
9 401(k)(2)(B)(i), 403(b)(7)(A)(i),
10 403(b)(11), and 457(d)(1)(A).”.

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

14 **SEC. 319. REFORM OF FAMILY ATTRIBUTION RULES.**

15 (a) CONTROLLED GROUPS.—Section 414(b) of the
16 Internal Revenue Code of 1986 is amended—

17 (1) by striking “For purposes of” and inserting
18 the following:

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

20 (2) by adding at the end the following new
21 paragraphs:

22 “(2) SPECIAL RULES FOR APPLYING FAMILY
23 ATTRIBUTION.—For purposes of applying the attri-
24 bution rules under section 1563 with respect to
25 paragraph (1), the following rules apply:

1 “(A) Community property laws shall be
2 disregarded for purposes of determining owner-
3 ship.

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

9 “(C) Except as provided by the Secretary,
10 in the case of stock in different corporations
11 that is attributed to a child under section
12 1563(e)(6)(A) from each parent, and is not at-
13 tributed to such parents as spouses under sec-
14 tion 1563(e)(5), such attribution to the child
15 shall not by itself result in such corporations
16 being members of the same controlled group.

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

23 (b) AFFILIATED SERVICE GROUPS.—Section
24 414(m)(6)(B) of such Code is amended—

1 (1) by striking “OWNERSHIP.—In determining”
2 and inserting the following: “OWNERSHIP.—

3 “(i) IN GENERAL.—In determining”,
4 and

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

7 “(ii) SPECIAL RULES FOR APPLYING
8 FAMILY CONTRIBUTION.—For purposes of
9 applying the attribution rules under section
10 318 with respect to clause (i), the following
11 rules apply:

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

15 “(II) Except as provided by the
16 Secretary, stock of an individual not
17 attributed under section
18 318(a)(1)(A)(i) to such individual’s
19 spouse shall not be attributed by rea-
20 son of section 318(a)(1)(A)(ii) to such
21 spouse from a child who has not at-
22 tained the age of 21 years.

23 “(III) Except as provided by the
24 Secretary, in the case of stock in dif-
25 ferent corporations that is attributed

1 under section 318(a)(1)(A)(ii) to a
2 child who has not attained the age of
3 21 years from each parent, and is not
4 attributed to such parents as spouses
5 under section 318(a)(1)(A)(i), such
6 attribution to the child shall not by
7 itself result in such corporations being
8 members of the same affiliated service
9 group.

10 “(iii) PLAN SHALL NOT FAIL TO BE
11 TREATED AS SATISFYING THIS SECTION.—
12 If the application of clause (ii) causes two
13 or more entities to be an affiliated service
14 group, or to no longer be in an affiliated
15 service group, such change shall be treated
16 as a transaction to which section
17 410(b)(6)(C) applies.”.

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

1 **SEC. 320. 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, 2023.

4 **SEC. 321. RETROACTIVE FIRST YEAR ELECTIVE DEFER-**
5 **RALS FOR SOLE PROPRIETORS.**

6 (a) IN GENERAL.—Section 401(b)(2) 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 deferrals (as defined in section 402(g)(3)) under
12 a qualified cash or deferred arrangement to which the pre-
13 ceding sentence applies, which are 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) ending after or with the end of the plan’s first plan
17 year, shall be treated as having been made before the end
18 of such first plan year.”.

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

1 **SEC. 322. LIMITING CESSATION OF IRA TREATMENT TO**
2 **PORTION OF ACCOUNT INVOLVED IN A PRO-**
3 **HIBITED TRANSACTION.**

4 (a) IN GENERAL.—Section 408(e)(2)(A) of the Inter-
5 nal Revenue Code of 1986 is amended by striking “such
6 account ceases to be an individual retirement account”
7 and inserting the following: “the amount involved (as de-
8 fined in section 4975(f)(4)) in such transaction shall be
9 treated as distributed to the individual”.

10 (b) CONFORMING AMENDMENTS.—

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

13 “(B) ACCOUNT TREATED AS DISTRIBUTING
14 PORTION OF ASSETS USED IN PROHIBITED
15 TRANSACTION.—In any case in which a portion
16 of an individual retirement account is treated as
17 distributed under subparagraph (A) as of the
18 first day of any taxable year, paragraph (1) of
19 subsection (d) applies as if there were a dis-
20 tribution on such first day in an amount equal
21 to the fair market value of such portion, deter-
22 mined as of the date on which the transaction
23 prohibited by section 4975 occurs.”.

24 (A) by striking “ALL ITS ASSETS.—In any
25 case” and all that follows through “by reason
26 of subparagraph (A)” and inserting the fol-

1 lowing: “PORTION OF ASSETS USED IN PROHIB-
2 ITED TRANSACTION.—In any case in which a
3 portion of an individual retirement account is
4 treated as distributed under subparagraph
5 (A)”, and

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

8 (2) Section 4975(c)(3) of such Code is amended
9 by striking “the account ceases” and all that follows
10 and inserting the following: “the portion of the ac-
11 count used in the transaction is treated as distrib-
12 uted under paragraph (2)(A) or (4) of section
13 408(e).”.

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

17 **SEC. 323. REVIEW OF PENSION RISK TRANSFER INTERPRE-**
18 **TIVE BULLETIN.**

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

21 (1) review section 2509.95–1 of title 29, Code
22 of Federal Regulations (relating to the fiduciary
23 standards under the Employee Retirement Income
24 Security Act of 1974 when selecting an annuity pro-
25 vider for a defined benefit pension plan) to deter-

1 mine whether amendments to such section are war-
2 ranted; and

3 (2) report to Congress on the findings of such
4 review, including an assessment of any risk to par-
5 ticipants.

6 **TITLE IV—TECHNICAL** 7 **AMENDMENTS**

8 **SEC. 401. AMENDMENTS RELATING TO SETTING EVERY** 9 **COMMUNITY UP FOR RETIREMENT ENHANCE-** 10 **MENT ACT OF 2019.**

11 (a) TECHNICAL AMENDMENTS.—

12 (1) AMENDMENTS RELATING TO SECTION
13 103.—

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

19 (B) Section 401(k)(13)(D)(iv) of such
20 Code is amended by striking “and (F)” and in-
21 sserting “and (G)”.

22 (C) Section 401(m)(12) of such Code is
23 amended by striking “and” at the end of sub-
24 paragraph (A), by redesignating subparagraph
25 (B) as subparagraph (C), and by inserting after

1 subparagraph (A) (as so amended) the fol-
2 lowing new subparagraph:

3 “(B) meets the notice requirements of sub-
4 section (k)(13)(E), and”.

5 (2) AMENDMENT RELATING TO SECTION 112.—

6 Section 401(k)(15)(B)(i)(II) of such Code is amend-
7 ed by striking “subsection (m)(2)” and inserting
8 “paragraphs (2), (11), and (12) of subsection (m)”.

9 (3) AMENDMENT RELATING TO SECTION 114.—

10 Section 401(a)(9)(C)(iii) of such Code is amended
11 by striking “employee to whom clause (i)(II) ap-
12 plies” and inserting “employee (other than an em-
13 ployee to whom clause (i)(II) does not apply by rea-
14 son of clause (ii))”.

15 (4) AMENDMENT RELATING TO SECTION 116.—

16 Section 4973(b) of such Code is amended by adding
17 at the end of the flush matter the following: “Such
18 term shall not include any designated nondeductible
19 contribution (as defined in subparagraph (C) of sec-
20 tion 408(o)(2)) which does not exceed the non-
21 deductible limit under subparagraph (B) thereof by
22 reason of an election under section 408(o)(5).”.

23 (5) EFFECTIVE DATE.—The amendments made
24 by this subsection shall take effect as if included in
25 the section of the Setting Every Community Up for

1 Retirement Enhancement Act of 2019 to which the
2 amendment relates.

3 (b) CLERICAL AMENDMENTS.—

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

7 (2) Section 72(t)(2)(H)(vi)(IV) of such Code is
8 amended by striking “403(b)(7)(A)(ii)” and insert-
9 ing “ 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 2024, 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), or an applicable collectively bargained plan,
17 this paragraph shall be applied by substituting
18 “2026” for “2024”. For purposes of the preceding
19 sentence, the term “applicable collectively bargained
20 plan” means a plan maintained pursuant to 1 or
21 more collective bargaining agreements between em-
22 ployee representatives and 1 or more employers rati-
23 fied before the date of enactment of this Act.

24 (2) CONDITIONS.—This section shall not apply
25 to any amendment unless—

1 (A) during the period—

2 (i) beginning on the date the legisla-
3 tive or regulatory amendment described in
4 paragraph (1)(A) takes effect (or in the
5 case of a plan or contract amendment not
6 required by such legislative or regulatory
7 amendment, the effective date specified by
8 the plan); and

9 (ii) ending on the date described in
10 paragraph (1)(B) (as modified by the sec-
11 ond sentence of paragraph (1)) (or, if ear-
12 lier, the date the plan or contract amend-
13 ment is adopted),

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

16 (B) such plan or contract amendment ap-
17 plies retroactively for such period.

18 (c) COORDINATION WITH OTHER PROVISIONS RE-
19 LATING TO PLAN AMENDMENTS.—

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

23 (A) by striking “January 1, 2022” in sub-
24 paragraph (B) and inserting “January 1,
25 2024”, and

1 (B) by striking “substituting ‘2024’ for
2 ‘2022’.” in the flush matter at the end and in-
3 serting “substituting ‘2026’ for ‘2024’.”.

4 (2) CARES ACT.—

5 (A) SPECIAL RULES FOR USE OF RETIRE-
6 MENT FUNDS.—Section 2202(c)(2)(A) of the
7 CARES Act is amended by striking “January
8 1, 2022” in clause (ii) and inserting “January
9 1, 2024”.

10 (B) TEMPORARY WAIVER OF REQUIRED
11 MINIMUM DISTRIBUTIONS RULES FOR CERTAIN
12 RETIREMENT PLANS AND ACCOUNTS.—Section
13 2203(c)(2)(B)(i) of the CARES Act is amend-
14 ed—

15 (i) by striking “January 1, 2022” in
16 subclause (II) and inserting “January 1,
17 2024”, and

18 (ii) by striking “substituting ‘2024’
19 for ‘2022’.” in the flush matter at the end
20 and inserting “substituting ‘2026’ for
21 ‘2024’.”.

22 (C) TAXPAYER CERTAINTY AND DISASTER
23 TAX RELIEF ACT OF 2020.—Section
24 302(d)(2)(A) of the Taxpayer Certainty and
25 Disaster Tax Relief Act of 2020 is amended by

1 striking “January 1, 2022” in clause (ii) and
2 inserting “January 1, 2024”.

3 **TITLE VI—REVENUE**
4 **PROVISIONS**

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

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

8 (b) RULES RELATING TO SIMPLIFIED EMPLOYEE
9 PENSIONS.—

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

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

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

1 (3) ELECTION REQUIRED.—Section 408(k) of
2 such Code is amended by redesignating paragraphs
3 (7), (8), and (9) as paragraphs (8), (9), and (10),
4 respectively, and by inserting the after paragraph
5 (6) the following new paragraph:

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

13 (c) RULES RELATING TO SIMPLE RETIREMENT AC-
14 COUNTS.—

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

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

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

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

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

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

1 “(A) in the case of a simplified retirement
2 account—

3 “(i) do not exceed the sum of the dol-
4 lar amount in effect for the taxable year
5 under section 408(p)(2)(A)(ii) and the em-
6 ployer contribution required under sub-
7 paragraph (A)(iii) or (B)(i), as the case
8 may be, of section 408(p)(2), and

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

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

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

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

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

6 (a) IN GENERAL.—Section 403(b) of the Internal
7 Revenue Code of 1986, as amended by the preceding pro-
8 visions of this Act, is amended by adding at the end the
9 following new paragraph:

10 “(16) SPECIAL RULES RELATING TO HARDSHIP
11 WITHDRAWALS.—For purposes of paragraphs (7)
12 and (11)—

13 “(A) AMOUNTS WHICH MAY BE WITH-
14 DRAWN.—The following amounts may be dis-
15 tributed upon hardship of the employee:

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

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

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

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

1 “(B) NO REQUIREMENT TO TAKE AVAIL-
2 ABLE LOAN.—A distribution shall not be treat-
3 ed as failing to be made upon the hardship of
4 an employee solely because the employee does
5 not take any available loan under the plan.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 403(b)(7)(A)(i)(V) of such Code is
8 amended by striking “in the case of contributions
9 made pursuant to a salary reduction agreement
10 (within the meaning of section 3121(a)(5)(D))” and
11 inserting “subject to the provisions of paragraph
12 (16)”.

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

16 (A) by striking “in” in subparagraph (B)
17 and inserting “subject to the provisions of para-
18 graph (16), in”, and

19 (B) by striking the penultimate sentence.

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

1 **SEC. 603. ELECTIVE DEFERRALS GENERALLY LIMITED TO**
2 **REGULAR CONTRIBUTION LIMIT.**

3 (a) APPLICABLE EMPLOYER PLANS.—Section
4 414(v)(1) of the Internal Revenue Code of 1986 is amend-
5 ed by adding at the end the following: “Except in the case
6 of an applicable employer plan described in paragraph
7 (6)(A)(iv), the preceding sentence shall only apply if con-
8 tributions are designated Roth contributions (as defined
9 in section 402A(c)(1)).”.

10 (b) CONFORMING AMENDMENTS.—

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

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

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

20 **SEC. 604. OPTIONAL TREATMENT OF EMPLOYER MATCHING**
21 **CONTRIBUTIONS AS ROTH CONTRIBUTIONS.**

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

1 “(2) any designated Roth contribution which is
2 made by the employer to the program on the em-
3 ployee’s behalf, and on account of the employee’s
4 contribution, elective deferral, or (subject to the re-
5 quirements of section 401(m)(13)) qualified student
6 loan payment, shall be treated as a matching con-
7 tribution for purposes of this chapter, except that
8 such contribution shall not be excludable from gross
9 income, and”.

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

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

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

18 (c) DESIGNATED ROTH MATCHING CONTRIBU-
19 TIONS.—Section 402A(c)(1) of such Code is amended by
20 inserting “or matching contribution” after “elective defer-
21 ral”.

22 (d) MATCHING CONTRIBUTION DEFINED.—Section
23 402A(e) of such Code is amended by adding at the end
24 the following:

1 “(3) MATCHING CONTRIBUTION.—The term
2 ‘matching contribution’ means—

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

5 “(B) any contribution to an eligible de-
6 ferred compensation plan (as defined in section
7 457(b)) by an eligible employer described in
8 section 457(e)(1)(A) on behalf of an employee
9 and on account of such employee’s elective de-
10 ferral under such plan.”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to contributions made after the
13 date of the enactment of this Act.