To amend the Internal Revenue Code of 1986 to expand retirement plan coverage, increase retirement security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2017

Mr. Neal introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to expand retirement plan coverage, increase retirement security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Automatic Retirement Plan Act of 2017”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Employers required to maintain automatic contribution plan.
SEC. 2. EMPLOYERS REQUIRED TO MAINTAIN AUTOMATIC CONTRIBUTION PLAN.

(a) AUTOMATIC CONTRIBUTION PLAN.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(aa) AUTOMATIC CONTRIBUTION PLAN.—For purposes of this title—

“(1) IN GENERAL.—The term ‘automatic contribution plan’ means a defined contribution plan that—

“(A) is described in clause (i), (ii), or (iv) of section 219(g)(5)(A),

“(B) is described in paragraph (2), and

“(C) meets the eligibility, investment, lifetime income, and fee requirements described in paragraphs (3), (4), (5), and (6), respectively, of this subsection.

“(2) PLAN DESCRIBED.—A plan is described in this paragraph if the plan is one of the following:
“(A) DEFERRAL ONLY.—A deferral only arrangement that meets the requirements of section 401(k)(14).

“(B) 403(b) PLAN.—A 403(b) plan that—

“(i) meets the requirements of section 401(k)(14), or

“(ii) would be described in subparagraph (C) without regard to the references to section 416.

“(C) TESTING AUTOMATIC CONTRIBUTION PLAN.—A plan that—

“(i) would qualify as a plan described in subparagraph (A), except that such plan allows employer contributions, and

“(ii) satisfies sections 401(k)(3)(A)(ii), 401(m)(2), and 416 taking into account all applicable rules, including—

“(I) paragraphs (11), (12), and (13) of section 401(k),

“(II) paragraphs (10), (11), and (12) of section 401(m), and

“(III) section 416(g)(4)(H).

“(D) GRANDFATHERED AUTOMATIC CONTRIBUTION PLAN.—A plan described in clause
(i), (ii), (iv), (v), or (vi) of section 219(g)(5)(A) that—

“(i) is maintained by an employer as of the date of enactment of the Automatic Retirement Plan Act of 2017,

“(ii) has been maintained by such employer (or a predecessor employer) for at least 1 year before such date of enactment, and

“(iii) except as provided by the Secretary, has not had its coverage or benefits substantially decreased for any plan year beginning after such date of enactment.

“(3) ELIGIBILITY REQUIREMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the eligibility requirements described in this paragraph are that all employees of the employer are eligible to participate in an automatic contribution plan maintained by the employer.

“(B) CERTAIN EXCLUSIONS.—Subparagraph (A) shall not apply to the following:

“(i) INDIVIDUALS LESS THAN 21 YEARS OLD.—The employer may, but need not, include an employee who has not at-
tained age 21 in an automatic contribution plan maintained by the employer.

“(ii) CERTAIN OTHER EMPLOYEES.—
The employer may, but need not, include an employee described in section 410(b)(3) in an automatic contribution plan maintained by the employer.

“(iii) PART TIME EMPLOYEES, ETC.—
No employee may be treated as ineligible in an automatic contribution plan maintained by the employer solely by reason of working on a part-time, temporary, or seasonal basis, except as otherwise provided in this subparagraph.

“(iv) NEW EMPLOYEE.—The employer may, but need not, exclude an employee from an automatic contribution plan maintained by the employer until the first day of the second calendar month beginning on or after the day the individual begins work for the employer.

“(v) SEASONAL OR TEMPORARY EMPLOYEES.—The employer may, but need not, exclude an employee from an automatic contribution plan maintained by the
employer to the extent that such employee
is not expected to work during more than
three months during the 12-month period
starting when such employee would other-
wise be required to be eligible under such
plan.

“(C) Special rules for controlled
groups.—Eligible employees within an em-
ployer need not be eligible to participate in the
same automatic contribution plan. For purposes
of this subsection, the term ‘employer’ shall in-
clude all employers treated as a single employer
under subsection (b), (c), (m), or (o) of section
414.

“(D) Special rules for grand-
fathered plans.—This paragraph shall not
apply to a plan described in paragraph (2)(D)
until the sixth plan year beginning on or after
the date of enactment of the Automatic Retire-
ment Plan Act of 2017. In the case of an eligi-
ble employer (as defined in section
408(p)(2)(C)(i)), ‘eighth’ shall be substituted
for ‘sixth’ in the preceding sentence.

“(4) Investment requirements.—Except in
the case of a plan that is an automatic contribution
plan by reason of paragraph (2)(D), any investment made in the absence of an investment election by a participant or beneficiary shall be invested in accordance with regulations prescribed by the Secretary of Labor under section 404(c)(5) of the Employee Retirement Income Security Act of 1974.

“(5) Lifetime income requirements.—Except in the case of a plan that is an automatic contribution plan by reason of paragraph (2)(D), the lifetime income requirements described in this paragraph are—

“(A) Guaranteed income for life available.—A plan shall not be treated as an automatic contribution plan unless the plan permits participants to elect to receive at least 50 percent of their vested account balance in a form of distribution described in section 401(a)(38)(B)(iii).

“(B) Exceptions.—This paragraph shall not apply with respect to any participant whosevested account balance is $5,000 or less at the time of distribution.

“(6) Fee requirements.—Under the fee requirements of this paragraph, no participant may be charged unreasonable fees solely on the basis that
the participant’s balance in an automatic contribu-
tion plan is small or solely on the basis that adop-
tion of such a plan by the employee’s employer is
mandatory.”.

(b) **Excise Tax for Failure To Maintain Automatic Contribution Plan.**—Chapter 43 of such Code
is amended by adding at the end the following new section:

“**SEC. 4980J. FAILURE TO MAINTAIN AUTOMATIC CONTRIBU-
TION PLAN.**

“(a) **General Rule.**—

“(1) In general.—There is hereby imposed a
tax on the failure of an employer to make eligible to
participate in an automatic contribution plan main-
tained by the employer any employee of the employer
who, under the terms of section 414(aa), would be
required to be eligible to participate in an automatic
contribution plan maintained by the employer.

“(2) **Exceptions.**—

“(A) Paragraph (1) shall not apply to an
employer to the extent such employer partici-
pates in an arrangement under a qualified
State law under section 514(f)(2) of the Em-

“(B) Paragraph (1) shall not apply to an
employer with respect to any employee who is
eligible to participate in a different automatic
contribution plan than one or more other em-
ployees of the employer.

“(b) AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of the tax im-
posed by subsection (a) on any failure with respect
to an employee shall be $10 for each day in the non-
compliance period with respect to such failure.

“(2) NONCOMPLIANCE PERIOD.—For purposes
of this section, the term ‘noncompliance period’
means, with respect to any failure, the period—

“(A) beginning on the date such failure
first occurs, and

“(B) ending on the earlier of—

“(i) the date such failure is corrected,
or

“(ii) with respect to any employer, the
date that is 3 months after the last date
on which the employee is required to be eli-
gible to participate in an automatic con-
tribution plan maintained by such em-
ployer.

“(c) LIMITATIONS ON AMOUNT OF TAX.—

“(1) TAX NOT TO APPLY WHERE FAILURE NOT
DISCOVERED EXERCISING REASONABLE DILI-
GENESE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew that such failure existed.

“(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 9½ MONTHS.—No tax shall be imposed by subsection (a) on any failure if—

“(A) such failure was due to reasonable cause and not to willful neglect, and

“(B) such failure is corrected during the 9½-month period beginning on the first date any of the persons referred to in subsection (e) knew that such failure existed.

“(3) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

“(A) GENERAL RULE.—The tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed $500,000.

“(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this
section have the same taxable year, the taxable
years taken into account shall be determined
under principles similar to the principles of sec-
tion 1561.

“(4) WAIVER BY SECRETARY.—In the case of a
failure which is due to reasonable cause and not to
willful neglect, the Secretary may waive part or all
of the tax imposed by subsection (a) to the extent
that the payment of such tax would be excessive rel-
ative to the failure involved.

“(d) TAX NOT TO APPLY IN CERTAIN CASES.—This
section shall not apply in the case of—

“(1) any failure of an employer to meet the re-
quirements of subsection (a) with respect to any em-
ployee if the failure with respect to such employee
occurred during the calendar year immediately fol-
lowing a calendar year during which all employers
maintaining such plan normally employed 10 or
fewer employees on a typical business day,

“(2) any governmental plan (within the mean-
ing of section 414(d)),

“(3) any church plan (within the meaning of
section 414(e)), or
“(4) employers that have not been in existence for three years, taking into account all predecessor employers.

“(e) LIABILITY FOR TAX.—The employer shall be liable for the tax imposed by subsection (a) on a failure. All employers, determined without regard to subsection (f)(2), shall be jointly and severally liable for the liability of any other employer with which they are aggregated under subsection (f)(2).

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘automatic contribution plan’ has the meaning given such term under section 414(aa), and

“(2) the term ‘employer’ includes all employers treated as a single employer under subsection (b), (e), (m), or (o) of section 414.”.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 4980J. Failure to maintain automatic contribution plan.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to years beginning after December 31, 2017.

(2) DELAYED EFFECTIVE DATE.—
(A) LARGE EMPLOYERS.—Except as provided in subparagraph (B), the amendments made by subsections (b) and (c) shall apply to years beginning after December 31, 2019.

(B) SMALL EMPLOYERS.—In the case of an eligible employer (as defined in section 408(p)(2)(C)(i) of the Internal Revenue Code of 1986), the amendments made by subsections (b) and (c) shall apply to years beginning after December 31, 2021.

SEC. 3. DEFERRAL-ONLY ARRANGEMENTS.

(a) IN GENERAL.—Subsection (k) of section 401 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(14) DEFERRAL-ONLY ARRANGEMENT.—

“(A) IN GENERAL.—A deferral-only arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

“(B) DEFERRAL-ONLY ARRANGEMENT.—For purposes of this paragraph, the term ‘deferral-only arrangement’ means any cash or deferred arrangement which meets—

“(i) the automatic deferral requirements of subparagraph (C),
“(ii) the elective contribution requirement of subparagraph (D), and

“(iii) the requirements of subparagraph (E) of paragraph (13).

“(C) AUTOMATIC DEFERRAL.—

“(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, each employee eligible to participate in the arrangement who is not contributing or is contributing less than the qualified percentage applicable to an eligible employee in the first year of eligibility is treated as having elected in applicable years to have the employer make elective contributions in an amount equal to the qualified percentage of compensation applicable under clause (iii). In the absence of an election out as described in clause (ii), such election shall, as adjusted under clause (iii), remain in effect for all subsequent years, regardless of whether such years are applicable years.

“(ii) ELECTION OUT.—The election treated as having been made under clause (i) shall cease to apply with respect to any
employee if such employee makes an affirmative election—

“(I) to not have such contributions made, or

“(II) to make elective contributions at a level specified in such affirmative election.

“(iii) QUALIFIED PERCENTAGE.—For purposes of this subparagraph, with respect to any employee, the term ‘qualified percentage’ means, in lieu of the meaning given such term in paragraph (13)(C)(iii), any percentage determined under the arrangement if such percentage is applied uniformly and is—

“(I) at least 6 percent, but not greater than 10 percent, during the period ending on the last day of the first plan year which begins after the date on which the first elective contribution described in clause (i) is made with respect to such employee (disregarding any elective contribution made for any preceding year that preceded a year in which the employee
made an affirmative election described in clause (ii)),

“(II) at least 7 percent during the first plan year following the plan year described in subclause (I),

“(III) at least 8 percent during the first plan year following the plan year described in subclause (II),

“(IV) at least 9 percent during the first plan year following the plan year described in subclause (III), and

“(V) At least 10 percent during any subsequent plan year.

“(iv) APPLICABLE YEAR EVERY THIRD YEAR.—

“(I) IN GENERAL.—For purposes of this subparagraph, the term ‘applicable year’ means, with respect to an employee, such employee’s first plan year of eligibility under the arrangement, and all subsequent plan years of eligibility.

“(II) EXCEPTION.—Following any applicable year of the employee (determined after the application of
this subclause), the plan may elect to treat the next one or two plan years as not being applicable years with respect to such employee.

“(D) ELECTIVE CONTRIBUTIONS.—

“(i) IN GENERAL.—The requirements of this subparagraph are met if under the plan containing the arrangement—

“(I) the only contributions which may be made are elective contributions of employees who are eligible to participate in the arrangement, and

“(II) the aggregate amount of such elective contributions which may be made with respect to any employee for any calendar year shall not exceed $8,000.

“(ii) COST OF LIVING ADJUSTMENT.—In the case of any calendar year beginning after December 31, 2018, the $8,000 amount under clause (i) shall be adjusted in the same manner as cost of living adjustments are made under section 402(g)(4), except that ‘2017’ shall be substituted for ‘2005’.
“(iii) Cross reference.—For catch-up contributions for individuals age 50 or over, see section 414(v).”.

(b) Catch-Up Contributions for Individuals Age 50 and Over.—

(1) Clause (i) of section 414(v)(2)(B) of such Code is amended by inserting “, 401(k)(14),” after “401(k)(11)”.

(2) Section 414(v)(2)(B) of such Code is amended by adding at the end thereof the following clause:

“(iii) in the case of an applicable employer plan described in section 401(k)(14), the applicable dollar amount is $1,000.”.

(3) Section 414(v)(2)(C) of such Code is amended by—

(A) by striking “(B)(i) and” and inserting “(B)(i),” and by inserting after “subparagraph (B)(ii)” the following: “, and the $1,000 amount described in subparagraph (B)(iii),”

and

(B) inserting after “2005” the following:

“(the calendar quarter beginning July 1, 2017,
in the case of the $1,000 amount described in

subparagraph (B)(iii)’’.

(c) **Simplified Reporting.**—Section 104(a)(2)(A)
of the Employee Retirement Income Security Act of 1974
(29 U.S.C. 1024(a)(2)) is amended by inserting “or for
any pension plan which is a deferral-only arrangement de-
scribed in section 401(k)(14)(B) of the Internal Revenue
Code of 1986” before the period at the end.

(d) **Plans Not Treated as Top-Heavy Plans.**—
Clause (i) of section 416(g)(4)(H) of such Code is amend-
ed by striking “or 401(k)(13)” and inserting “401(k)(13),
or 401(k)(14)”.

(e) **Effective Date.**—The amendments made by
this section shall apply to plan years beginning after De-

**SEC. 4. NONDISCRIMINATION TESTING CHANGES TO FA-
CILITATE HIGHER CONTRIBUTIONS.**

(a) **In General.**—Clause (iii) of section
401(k)(13)(C) of the Internal Revenue Code of 1986 is
amended by striking “, does not exceed 10 percent, and
is at least” and inserting “and is”.

(b) **Conforming Amendments.**—

(1) Subclause (I) of section 401(k)(13)(C)(iii)
of such Code is amended by striking “3 percent”
and inserting “at least 3 percent, but not greater than 10 percent.”.

(2) Subclause (II) of section 401(k)(13)(C)(iii) of such Code is amended by striking “4 percent” and inserting “at least 4 percent”.

(3) Subclause (III) of section 401(k)(13)(C)(iii) of such Code is amended by striking “5 percent” and inserting “at least 5 percent”.

(4) Subclause (IV) of section 401(k)(13)(C)(iii) of such Code is amended by striking “6 percent” and inserting “at least 6 percent”.

(c) Matching Contributions.—Clause (i) of section 401(m)(11)(B) of such Code is amended by striking “6” and inserting “10”.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2017.

SEC. 5. MULTIPLE EMPLOYER PLANS.

(a) Qualification Requirements.—

(1) In general.—Section 413 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new subsection:
“(g) Application of Qualification Requirements for Certain Multiple Employer Plans With Pooled Plan Providers.—

“(1) In general.—Except as provided in paragraph (2), a defined contribution plan to which subsection (c) applies shall not be treated as failing to meet the requirements under this title applicable to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c) thereof), whichever is applicable, merely because one or more employers of employees covered by the plan fail to take such actions as are required of such employers for the plan to meet such requirements if the plan—

“(A) is sponsored by employers all of which have both a common interest other than having adopted the plan and control of the plan, or

“(B) in the case of a plan not described in subparagraph (A), has a pooled plan provider.

“(2) Limitations.—

“(A) In general.—Paragraph (1) shall not apply to any plan unless the terms of the plan provide that in cases of employers failing
to take the actions described in paragraph (1)—

“(i) the assets of the plan attributable to employees of the employer will be transferred to a plan maintained only by the employer (or its successor), to an eligible retirement plan as defined in section 402(c)(8)(B) for each individual whose account is transferred, or to any other arrangement that the Secretary determines is appropriate, unless the Secretary determines it is in the best interests of such employees to retain the assets in the plan, and

“(ii) the employer described in clause (i) (and not the plan with respect to which the failure occurred or any other participating employer in such plan) shall, except to the extent provided by the Secretary, be liable for any liabilities with respect to such plan attributable to employees of the employer.

“(B) FAILURES BY POOLED PLAN PROVIDERS.—If the pooled plan provider of a plan described in paragraph (1)(B) does not perform
substantially all of the administrative duties which are required of the provider under paragraph (3)(A)(i) for any plan year, the Secretary, in the Secretary’s own discretion, may provide that the determination as to whether the plan meets the requirements under this title applicable to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c) thereof), whichever is applicable, shall be made in the same manner as would be made without regard to paragraph (1).

“(3) POOLED PLAN PROVIDER.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘pooled plan provider’ means, with respect to any plan, a person who—

“(i) is designated by the terms of the plan as a named fiduciary (as defined in section 402(a)(2) of the Employee Retirement Income Security Act of 1974), as the plan administrator, and as the person responsible to perform all administrative duties (including conducting proper testing
with respect to the plan and employees of each participating employer) which are reasonably necessary to ensure that—

“(I) the plan meets any requirement applicable under the Employee Retirement Income Security Act of 1974 or this title to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c) thereof), whichever is applicable, and

“(II) each participating employer takes such actions as the Secretary or such person determines are necessary for the plan to meet the requirements described in subclause (I), including providing to such person any disclosures or other information which the Secretary may require or which such person otherwise determines is necessary to administer the plan or to allow the plan to meet such requirements,
“(ii) registers as a pooled plan provider with the Secretary, and provides such other information to the Secretary as the Secretary may require, before beginning operations as a pooled plan provider,

“(iii) acknowledges in writing that such person is a named fiduciary (within the meaning of section 402(a)(2) of the Employee Retirement Income Security Act of 1974), and the plan administrator, with respect to the plan, and

“(iv) is responsible for ensuring that all persons who handle assets of, or who are fiduciaries of, the plan are bonded in accordance with section 412 of the Employee Retirement Income Security Act of 1974.

“(B) AUDITS, EXAMINATIONS, AND INVESTIGATIONS.—The Secretary may perform audits, examinations, and investigations of pooled plan providers as may be necessary to enforce and carry out the purposes of this subsection.

“(4) GUIDANCE.—

“(A) IN GENERAL.—The Secretary shall issue such guidance as the Secretary determines
appropriate to carry out this subsection, including guidance—

“(i) to identify the administrative duties and other actions required to be performed by a pooled plan provider under this subsection,

“(ii) which describes the procedures to be taken to terminate a plan which fails to meet the requirements to be a plan described in paragraph (1), including the proper treatment of, and actions needed to be taken by, any participating employer of the plan and the assets and liabilities of the plan with respect to employees of that employer, and

“(iii) identifying appropriate cases to which the rules of paragraph (2)(A) will apply to employers failing to take the actions described in paragraph (1).

The Secretary shall take into account under clause (iii) whether the failure of an employer or pooled plan provider to provide any disclosures or other information, or to take any other action, necessary to administer a plan or to allow a plan to meet requirements applicable to
the plan under section 401(a) or 408, whichever is applicable, has continued over a period of time that clearly demonstrates a lack of commitment to compliance.

“(B) Prospective Application.—Any guidance issued by the Secretary under this paragraph shall not apply to any action or failure occurring before the issuance of such guidance.

“(5) Model Plan.—No later than June 30, 2018, the Secretary shall, in consultation with the Secretary of Labor when appropriate, publish model plan language which meets the requirements of this subsection and of paragraphs (43) and (44) of section 3 of the Employee Retirement Income Security Act of 1974 and which may be adopted in order for a plan to be treated as a plan described in paragraph (1)(B). Such model plans shall also include options under which they can be used by plans that are not pooled employer plans.”.

(2) Conforming Amendment.—Paragraph (3) of section 413(b) of such Code is amended by striking “section 401(a)” and inserting “sections 401(a) and 408(c)”. 
(3) **Technical Amendment.**—Subsection (c) of section 408 of such Code is amended by inserting after paragraph (2) the following new paragraph:

“(3) There is a separate accounting for any interest of an employee or member (or spouse of an employee or member) in a Roth IRA.”.

(b) **No Common Interest Required for Pooled Employer Plans.**—Section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) is amended by adding at the end the following:

“(C) A pooled employer plan shall be treated as—

“(i) a single employee pension benefit plan or single pension plan, and

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

(c) **Pooled Employer Plan and Provider Defined.**—

(1) **In General.**—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following:

“(43) POOLED EMPLOYER PLAN.—

“(A) IN GENERAL.—The term ‘pooled employer plan’ means a plan—
“(i) which is an individual account plan established or maintained for the purpose of providing benefits to the employees of two or more employers;

“(ii) which is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code or a plan that consists of individual retirement accounts described in section 408 of such Code (including by reason of subsection (c) thereof); and

“(iii) the terms of which meet the requirements of subparagraph (B).

Such term shall not include a plan with respect to which all of the participating employers have both a common interest other than having adopted the plan and control of the plan.

“(B) REQUIREMENTS FOR PLAN TERMS.—The requirements of this subparagraph are met with respect to any plan if the terms of the plan—

“(i) designate a pooled plan provider and provide that the pooled plan provider is a named fiduciary of the plan;
“(ii) designate one or more trustees meeting the requirements of section 408(a)(2) of the Internal Revenue Code of 1986 (other than a participating employer) to be responsible for collecting contributions to, and holding the assets of, the plan and require such trustees to implement written contribution collection procedures that are reasonable, diligent, and systematic;

“(iii) except as provided in section 404(e), provide that each participating employer retains fiduciary responsibility for—

“(I) the selection and monitoring in accordance with section 404(a) of the person designated as the pooled plan provider and any other person who, in addition to the pooled plan provider, is designated as a named fiduciary of the plan; and

“(II) to the extent not otherwise delegated to another fiduciary by the pooled plan provider and subject to the provisions of section 404(c), the investment and management of that
portion of the plan’s assets attributable to the employees of that participating employer;

“(iv) provide that a participating employer, or a participant or beneficiary, is not subject to unreasonable restrictions, fees, or penalties with regard to ceasing participation, receipt of distributions, or otherwise transferring assets of the plan in accordance with section 208 or paragraph (44)(C)(i)(II);

“(v) require—

“(I) the pooled plan provider to provide to participating employers any disclosures or other information which the Secretary may require, including, as applicable, any disclosures or other information to facilitate the selection or any monitoring of the pooled plan provider by participating employers; and

“(II) each participating employer to take such actions as the Secretary or the pooled plan provider determines are necessary to administer the plan
or for the plan to meet any requirement applicable under this Act or the Internal Revenue Code of 1986 to a plan described in section 401(a) of such Code or to a plan that consists of individual retirement accounts described in section 408 of such Code (including by reason of subsection (c) thereof), whichever is applicable, including providing any disclosures or other information which the Secretary may require or which the pooled plan provider otherwise determines is necessary to administer the plan or to allow the plan to meet such requirements; and

“(vi) provide that any disclosure or other information required to be provided under clause (v) may be provided in electronic form and will be designed to ensure only reasonable costs are imposed on pooled plan providers and participating employers.

“(C) EXCEPTIONS.—The term ‘pooled employer plan’ does not include—
“(i) a multiemployer plan;

“(ii) a plan established before January 1, 2016, unless the plan administrator elects that the plan will be treated as a pooled employer plan and the plan meets the requirements of this title applicable to a pooled employer plan established on or after such date; and

“(iii) a plan with respect to which all of the participating employers have both a common interest other than having adopted the plan and control of the plan.

“(44) POOLED PLAN PROVIDER.—

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

“(i) is designated by the terms of a pooled employer plan as a named fiduciary, as the plan administrator, and as the person responsible for the performance of all administrative duties (including conducting proper testing with respect to the plan and employees of each participating employer) which are reasonably necessary to ensure that—
“(I) the plan meets any requirement applicable under this Act or the Internal Revenue Code of 1986 to a plan described in section 401(a) of such Code or to a plan that consists of individual retirement accounts described in section 408 of such Code (including by reason of subsection (c) thereof), whichever is applicable; and

“(II) each participating employer takes such actions as the Secretary or pooled plan provider determines are necessary for the plan to meet the requirements described in subclause (I), including providing the disclosures and information described in paragraph (43)(B)(v)(II);

“(ii) registers as a pooled plan provider with the Secretary, and provides to the Secretary such other information as the Secretary may require, before beginning operations as a pooled plan provider;

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

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

“(B) AUDITS, EXAMINATIONS, AND INVESTI-
GATIONS.—The Secretary may perform au-
dits, examinations, and investigations of pooled
plan providers as may be necessary to enforce
and carry out the purposes of this paragraph
and paragraph (43).

“(C) GUIDANCE.—

“(i) IN GENERAL.—The Secretary
shall issue such guidance as the Secretary
determines appropriate to carry out this
paragraph and paragraph (43), including
guidance—

“(I) to identify the administra-
tive duties and other actions required
to be performed by a pooled plan pro-
vider under either such paragraph;
and

“(II) which requires in appro-
priate cases that if a participating
employer fails to take the actions required under subparagraph (A)(i)(II)—

“(aa) the assets of the plan attributable to employees of the participating employer are transferred to a plan maintained only by the participating employer (or its successor), to an eligible retirement plan as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986 for each individual whose account is transferred, or to any other arrangement that the Secretary determines is appropriate in such guidance; and

“(bb) the participating employer described in item (aa) (and not the plan with respect to which the failure occurred or any other participating employer in such plan) shall, except to the extent provided in such guidance, be liable for any liabilities with
respect to such plan attributable
to employees of the participating
employer.

The Secretary shall take into account
under subclause (II) whether the fail-
ure of an employer or pooled plan pro-
vider to provide any disclosures or
other information, or to take any
other action, necessary to administer
a plan or to allow a plan to meet re-
quirements described in subparagraph
(A)(i)(II) has continued over a period
of time that clearly demonstrates a
lack of commitment to compliance.

The Secretary may waive the require-
ments of subclause (II)(aa) in appro-
priate circumstances if the Secretary
determines it is in the best interests
of the employees of the participating
employer described in such clause to
retain the assets in the plan with re-
spect to which the employer’s failure
occurred.

“(ii) PROSPECTIVE APPLICATION.—

Any guidance issued by the Secretary
under this subparagraph shall not apply to
any action or failure occurring before the
issuance of such guidance.

“(D) AGGREGATION RULES.—For purposes
of this paragraph—

“(i) IN GENERAL.—In determining
whether a person meets the requirements
of this paragraph to be a pooled plan pro-
vider with respect to any plan, all persons
who are members of the same controlled
group and who perform services for the
plan shall be treated as one person.

“(ii) MEMBERS OF COMMON GROUP.—
Persons shall be treated as members of the
same controlled group if such persons are
treated as a single employer under sub-
section (c) or (d) of section 210.”.

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

(3) CONFORMING AND TECHNICAL AMEND-
MENTS.—Section 3 of the Employee Retirement In-
come Security Act of 1974 (29 U.S.C. 1002) is amended—

(A) in paragraph (16)(B)—

(i) by striking “or” at the end of clause (ii); and

(ii) by striking the period at the end and inserting “, or (iv) in the case of a pooled employer plan, the pooled plan provider.”; and

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

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 2019.

(2) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as limiting the authority of the Secretary of the Treasury or the Secretary’s delegate (determined without regard to such amendment) to provide for the proper treatment of a failure to meet any requirement applicable under the Internal Revenue Code of 1986 with respect to one employer (and its employees) in a multiple employer plan.
SEC. 6. LIMITATION ON EMPLOYER LIABILITY.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021 et seq.) is amended by adding at the end the following:

“(e)(1) An eligible employer (as defined in section 408(p)(2)(C)(i) of the Internal Revenue Code of 1986) shall not be a fiduciary in any respect with respect to a pooled employer plan, including with respect to the selection or monitoring of any plan service provider or any investment under the plan, if the pooled plan provider—

“(A) receives no more than reasonable compensation for its services, as agreed to by the eligible employer, and

“(B) agrees in the plan document to—

“(i) comply with all requirements applicable to a pooled plan provider under this title, and

“(ii) assume, with respect to such eligible employer as agreed to by the eligible employer, all fiduciary responsibility with respect to the plan not retained by the eligible employer, and

“(C) notifies the eligible employer of its obligations under the pooled employer plan.

“(2) Notwithstanding paragraph (1), eligible employers participating in such a pooled employer plan shall be responsible for—
“(A) meeting the enrollment requirements applicable to such employer under the plan,

“(B) transmitting contributions to the plan in accordance with the terms of the plan,

“(C) providing such information and assistance as is within the sole control of the eligible employer and is needed by the plan to operate in accordance with the plan document, and

“(D) providing such other information or assistance in accordance with regulations prescribed by the Secretary.”.

SEC. 7. PORTABILITY OF LIFETIME INCOME OPTIONS.

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

“(38) Portability of lifetime income and managed account options.—

“(A) In general.—A trust forming part of a defined contribution plan shall not be treated as failing to constitute a qualified trust under this section solely by reason of allowing—

“(i) qualified distributions of a lifetime income investment or a managed account investment, or
“(ii) distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract, on or after the date that is 90 days prior to the date on which such lifetime income investment or such managed account investment is no longer authorized to be held as an investment option under the plan except as may otherwise be provided by regulations.

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

“(i) the term ‘qualified distribution’ means a direct trustee-to-trustee transfer to an eligible retirement plan (as defined in section 402(c)(8)(B)), as described in section 401(a)(31)(A), and in the case of a managed account investment, the eligible retirement plan must be maintained by the account manager of such managed account investment,

“(ii) the term ‘lifetime income investment’ means an investment option that is designed to provide an employee with election rights—
“(I) that are not uniformly available with respect to other investment options under the plan, and

“(II) that are to a lifetime income feature available through a contract or other arrangement offered under the plan or under another eligible retirement plan (as defined in section 402(c)(8)(B)) through a direct trustee-to-trustee transfer to such other eligible retirement plan under section 401(a)(31)(A),

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

“(I) a feature that guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or the joint lives of the employee and the employee’s designated beneficiary, or

“(II) an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the em-
ployee or the joint lives of the employee and the employee’s designated beneficiary,

“(iv) the term ‘qualified plan distribution annuity contract’ means an annuity contract purchased for a participant and distributed to the participant by a plan described in subparagraph (B) of section 402(c)(8) (without regard to clauses (i) and (ii) thereof),

“(v) the term ‘managed account investment’ means an investment option under which the assets of the employee’s individual account are managed by an account manager, applying generally accepted investment theories, to achieve varying degrees of long-term appreciation and capital preservation based on the employee’s age, target retirement date or life expectancy,

“(vi) the term ‘account manager’ means an investment manager (within the meaning of section 3(38) of the Employee Retirement Income Security Act), and
“(vii) a lifetime income investment or managed account investment is treated as no longer authorized to be held as an investment under the plan if such treatment applies to all plan participants or to a class of such participants, as determined in any reasonable manner.”.

(b) CASH OR DEFERRED ARRANGEMENT.—Clause (i) of section 401(k)(2)(B) of such Code is amended by striking “or” at the end of subclause (IV), by striking “and” at the end of subclause (V) and inserting “or”, and by adding at the end of clause (i) the following:

“(VI) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this sub-
clause must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)), and”.

(c) Section 403(b) Plans.—

(1) Annuity Contracts.—Paragraph (11) of section 403(b) of such Code is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C), and by inserting “, or”, and by adding at the end the following:

“(D) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subparagraph must be in the
form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(2) Custodial accounts.—Clause (ii) of section 403(b)(7)(A) of such Code is amended to read as follows:

“(ii) under the custodial account, no such amounts may be paid or made available to any distributee (unless such amount is a distribution to which section 72(t)(2)(G) applies) before—

“(I) the employee dies, 

“(II) the employee attains age 59½, 

“(III) the employee has a severance from employment, 

“(IV) the employee becomes disabled (within the meaning of section 72(m)(7)), 

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

“(VI) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(d) ELIGIBLE DEFERRED COMPENSATION PLANS.—Subparagraph (A) of section 457(d)(1) of such Code is amended by striking “or” at the end of clause (ii), by in-
serting “or” at the end of clause (iii), and by adding after clause (iii) the following:

“(iv) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2017.
SEC. 8. INCREASE IN CREDIT LIMITATION FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(a) In General.—Paragraph (1) of section 45E(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) for the first credit year and each of the 4 taxable years immediately following the first credit year, the greater of—

“(A) $500, or

“(B) the lesser of—

“(i) $250 for each employee of the eligible employer who is not a highly compensated employee (as defined in section 414(q)) and who is eligible to participate in the eligible employer plan maintained by the eligible employer, or

“(ii) $5,000, and”.

(b) Special Rule for Employers With 25 or Fewer Employees.—Subsection (a) of section 45E of such Code is amended by inserting before the period at the end the following: “(100 percent of such costs in the case of an eligible employer with 25 or fewer employees, as determined by substituting ‘25’ for ‘100’ in section 408(p)(2)(C)(i))”.

(c) Automatic Contribution Plan.—Paragraph (2) of section 45E(d) of such Code is amended by striking
“a qualified employer plan within the meaning of section 4972(d)” and inserting “an automatic contribution plan within the meaning of section 414(aa)”.

(d) CONFORMING CHANGE.—Paragraph (2) of section 45E(d) of such Code is amended by adding at the end thereof the following: “For purposes of this section, the term ‘qualified employer plan’ has the meaning given such term under section 4972(d).”.

(e) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2017.

SEC. 9. SMALL EMPLOYER AUTOMATIC ENROLLMENT CREDIT.

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

“SEC. 45S. AUTO-ENROLLMENT CREDIT FOR RETIREMENT SAVINGS OPTIONS PROVIDED BY SMALL EMPLOYERS.

“(a) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the retirement auto-enrollment credit determined under this section for any taxable year is an amount equal to—
“(1) $500 for any taxable year occurring during
the credit period, and
“(2) zero for any other taxable year.
“(b) CREDIT PERIOD.—For purposes of subsection
(a)—
“(1) IN GENERAL.—The credit period with re-
spect to any eligible employer is the 5-taxable-year
period beginning with the first taxable year for
which the employer adopts an automatic contribu-
tion plan (as defined in section 414(aa)), determined
without regard to a plan described in section
414(aa)(2)(D) (relating to a grandfathered auto-
matic contribution plan).
“(2) MAINTENANCE OF ARRANGEMENT.—No
taxable year with respect to an employer shall be
treated as occurring within the credit period unless
the arrangement described in section 401(k)(14)(C)
is included in the plan for such year.
“(c) ELIGIBLE EMPLOYER.—For purposes of this
section, the term ‘eligible employer’ has the meaning given
such term in section 408(p)(2)(C)(i).”.
(b) CREDIT TO BE PART OF GENERAL BUSINESS
CREDIT.—Subsection (b) of section 38 of the Internal
Revenue Code of 1986 is amended by striking “plus” at
the end of paragraph (35), by striking the period at the
end of paragraph (36) and inserting “, plus”, and by add-
ing at the end the following new paragraph:

“(37) in the case of an eligible employer (as de-
defined in section 45S(c)), the retirement auto-enroll-
ment credit determined under section 45S(a).”.

(c) Clerical Amendment.—The table of sections
for subpart D of part IV of subchapter A of chapter 1
of the Internal Revenue Code of 1986 is amended by in-
serting after the item relating to section 45R the following
new item:

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

(d) Effective Date.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2017.

SEC. 10. TREATMENT OF AUTOMATIC CONTRIBUTION

PLANS UNDER STATE LAW.

(a) In General.—Section 514 of the Employee Re-
is amended by adding at the end the following:

“(f) Automatic Contribution Plans.—

“(1) In general.—If an employer maintains
an automatic contribution plan (as defined in section
414(aa) of the Internal Revenue Code of 1986) that
satisfies the requirements of section 414(aa)(3)
(without regard to subparagraph (D) thereof), the employer—

“(A) shall not be subject to any requirement imposed by a State or political subdivision thereof to contribute to an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established and maintained pursuant to a payroll deduction savings program of a State or political subdivision thereof, and

“(B) shall not be required to participate in any manner in such a payroll deduction savings program.

“(2) QUALIFIED STATE LAW EXCEPTION.—This subsection shall not apply with respect to any employer to the extent that such employer participates in an arrangement under a qualified State law.

“(3) QUALIFIED STATE LAW.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified State law’ means a State law that—

“(i) was enacted before the date of enactment of the Automatic Retirement Plan Act of 2017,
“(ii)(I) requires certain employers to contribute to, or participate in, an individual retirement plan (as defined in section 7701(a)(37) of such Code) established and maintained pursuant to a payroll deduction savings program of the State, or

“(II) allows certain employers to contribute to, or participate in, a plan described in section 413(c) of such Code established and maintained by the State, and

“(iii) is not superseded by this title (determined without regard to this subsection).

“(B) Exception.—If a State law described in subparagraph (A)(ii) is amended after the date of enactment of the Automatic Retirement Plan Act of 2017 to materially expand the scope of the requirement described in subparagraph (A)(ii)(I) or the availability of a plan described in subparagraph (A)(ii)(II), the State law shall, as of the effective date of such amendment, cease to treated as a qualified State law.”.
(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2017.

SEC. 11. MATCHING PAYMENTS FOR ELECTIVE DEFERRAL AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

(a) In General.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 6433. MATCHING PAYMENTS FOR ELECTIVE DEFERRAL AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

“(a) In General.—

“(1) Allowance of Credit.—Any eligible individual who makes qualified retirement savings contributions for the taxable year shall be allowed a credit for such taxable year in an amount equal to the applicable percentage of so much of the qualified retirement savings contributions made by such eligible individual for the taxable year as does not exceed $1,000.

“(2) Payment of Credit.—The credit under this section shall be paid by the Secretary as a contribution (as soon as practicable after the eligible individual has filed a tax return for the taxable year)
to the applicable retirement vehicle of the eligible individual.

“(b) APPLICABLE PERCENTAGE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage is 50 percent.

“(2) PHASEOUT.—The percentage under paragraph (1) shall be reduced (but not below zero) by the number of percentage points which bears the same ratio to 50 percentage points as—

“(A) the excess of—

“(i) the taxpayer’s modified adjusted gross income for such taxable year, over

“(ii) the applicable dollar amount,

bears to

“(B) the phaseout range.

If any reduction determined under this paragraph is not a whole percentage point, such reduction shall be rounded to the next lowest whole percentage point.

“(3) APPLICABLE DOLLAR AMOUNT; PHASEOUT RANGE.—

“(A) JOINT RETURNS.—Except as provided in subparagraph (B)—

“(i) the applicable dollar amount is $65,000, and
“(ii) the phaseout range is $20,000.

“(B) OTHER RETURNS.—In the case of—

“(i) a head of a household (as defined in section 2(b)), the applicable dollar amount and the phaseout range shall be 3/4 of the amounts applicable under subparagraph (A) (as adjusted under subsection (g)), and

“(ii) any taxpayer who is not filing a joint return and who is not a head of a household (as so defined), the applicable dollar amount and the phaseout range shall be 1/2 of the amounts applicable under subparagraph (A) (as so adjusted).

“(c) ELIGIBLE INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible individual’ means any individual if such individual has attained the age of 18 as of the close of the taxable year.

“(2) DEPENDENTS AND FULL-TIME STUDENTS NOT ELIGIBLE.—The term ‘eligible individual’ shall not include—

“(A) any individual with respect to whom a deduction under section 151 is allowed to an-
other taxpayer for a taxable year beginning in
the calendar year in which such individual’s
taxable year begins, and

“(B) any individual who is a student (as
defined in section 152(f)(2)).

“(d) QUALIFIED RETIREMENT SAVINGS CONTRIBUTIONS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified retirement savings contributions’ means, with respect to
any taxable year, the sum of—

“(A) the amount of the qualified retirement contributions (as defined in section
219(e)) made by the eligible individual,

“(B) the amount of—

“(i) any elective deferrals (as defined
in section 402(g)(3)) of such individual,

and

“(ii) any elective deferral of comp-
ensation by such individual under an eli-
gible deferred compensation plan (as de-
fined in section 457(b)) of an eligible em-
ployer described in section 457(e)(1)(A),

and
“(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)). Such term shall not include any amount attributable to a payment under subsection (a).

“(2) REDUCTION FOR CERTAIN DISTRIBUTIONS.—

“(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) for a taxable year shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made.

“(B) TESTING PERIOD.—For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

“(i) such taxable year,

“(ii) the 2 preceding taxable years, and

“(iii) the period after such taxable year and before the due date (including ex-
tensions) for filing the return of tax for such taxable year.

“(C) EXCEPTIONED DISTRIBUTIONS.—There shall not be taken into account under subparagraph (A)—

“(i) any distribution referred to in section 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4),

“(ii) any distribution to which section 408(d)(3) or 408A(d)(3) applies, and

“(iii) any portion of a distribution if such portion is transferred or paid in a rollover contribution (as defined in section 402(c), 403(a)(4), 403(b)(8), 408A(e), or 457(e)(16)) to an account or plan to which qualified retirement contributions can be made.

“(D) TREATMENT OF DISTRIBUTIONS RECEIVED BY SPOUSE OF INDIVIDUAL.—For purposes of determining distributions received by an individual under subparagraph (A) for any taxable year, any distribution received by the spouse of such individual shall be treated as received by such individual if such individual and spouse file a joint return for such taxable year.
and for the taxable year during which the spouse receives the distribution.

“(e) APPLICABLE RETIREMENT SAVINGS VEHICLE.—

“(1) IN GENERAL.—The term ‘applicable retirement savings vehicle’ means—

“(A) an account or plan elected by the eligible individual under paragraph (2), or

“(B) if no such election is made, a retirement bond purchased by the Secretary for the benefit of the eligible individual.

“(2) OTHER RETIREMENT VEHICLES.—An eligible individual may elect to have the amount determined under subsection (a) contributed to an account or plan which—

“(A) is a Roth IRA (as defined in section 408A), or a designated Roth account (within the meaning of section 402A) of an applicable retirement plan (as defined in section 402A(e)(1)),

“(B) is for the benefit of the eligible individual,

“(C) accepts contributions made under this section, and
“(D) is designated by such individual (in such form and manner as the Secretary may provide) on the return of tax for the taxable year.

“(3) RETIREMENT BOND.—

“(A) IN GENERAL.—For purposes of this section, the term ‘retirement bond’ means a bond issued under chapter 31 of title 31, United States Code, which by its terms, or by regulations prescribed by the Secretary under such chapter—

“(i) provides for interest to be credited at rates that take into account the expected duration of the funds invested in retirement bonds and at rates determined or adjusted in a manner and with sufficient frequency to provide substantial protection from inflation,

“(ii) is not transferable, and

“(iii) is designed for investment for retirement.

“(B) ROTH IRA RULES APPLICABLE.—The provisions of this title applicable to a Roth IRA, including provisions relating to contributions, holding and distributions, shall apply to a re-
retirement bond, except as determined by the Secretary.

“(C) Regulations.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including—

“(i) establishment of procedures to communicate to individuals the importance of investment diversification and the transfer option described in clause (ii),

“(ii) simplified procedures under which holders of retirement bonds may periodically choose to have the bonds or their proceeds transferred to available Roth IRAs, and

“(iii) means by which individuals may elect (or be treated as electing) whether to have retirement bonds or their proceeds so transferred.

Any such transfer shall be treated as a rollover contribution for purposes of section 408(d)(3) (other than subparagraph (B) thereof).

“(f) Other Definitions and Special Rules.—

“(1) Modified adjusted gross income.— For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income—
“(A) determined without regard to sections 911, 931, and 933, and
“(B) determined without regard to any exclusion or deduction allowed for any qualified retirement savings contribution made during the taxable year.
“(2) TREATMENT OF CONTRIBUTIONS.—In the case of any contribution under subsection (a)(2)—
“(A) except as otherwise provided in this section or by the Secretary under regulations, such contribution shall be treated in the same manner as a contribution made by the individual on whose behalf such contribution was made,
“(B) such contribution shall not be treated as income to the taxpayer, and
“(C) such contribution shall not be taken into account with respect to any applicable limitation under sections 402(g)(1), 403(b), 408(a)(1), 408(b)(2)(B), 408A(e)(2), 414(v)(2), 415(c), or 457(b)(2).
“(3) TREATMENT OF QUALIFIED PLANS, ETC.—A plan or arrangement to which a contribution is made under this section shall not be treated as violating any requirement under section 401, 403, 408,
or 457 solely by reason of accepting such contribu-

tion.

“(4) ERRONEOUS CREDITS.—If any contribu-
tion is erroneously paid under subsection (a)(2), the
amount of such erroneous payment shall be treated
as an underpayment of tax.

“(g) INFLATION ADJUSTMENTS.—

“(1) IN GENERAL.—In the case of any taxable
year beginning in a calendar year after 2018, each
of the dollar amounts in subsections (a)(2) and
(b)(3)(A)(i) shall be increased by an amount equal
to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment deter-
mined under section 1(f)(3) for the calendar
year in which the taxable year begins, deter-
mined by substituting ‘calendar year 2017’ for
‘calendar year 1992’ in subparagraph (B)
thereof.

“(2) Rounding.—Any increase determined
under paragraph (1) shall be rounded to the nearest
multiple of—

“(A) $100 in the case of an adjustment of
the amount in subsection (a)(2), and
“(B) $1,000 in the case of an adjustment of the amount in subsection (b)(3)(A)(i).”.

(b) PROMOTION AND GUIDANCE.—

(1) PROMOTION.—The Secretary of the Treasury (or the Secretary’s delegate) shall educate taxpayers on the benefits provided under section 6433 of the Internal Revenue Code of 1986.

(2) GUIDANCE.—Not later than December 31, 2017, the Secretary of the Treasury (or the Secretary’s delegate) shall issue guidance on the implementation and administration of the amendments made by this section.

(e) PAYMENT AUTHORITY.—Section 1324(b)(2) of title 31, United States Code, is amended by striking “or 6431” and inserting “6431, or 6433”.

(d) DEFICIENCIES.—Section 6211(b)(4) is amended by striking “and 6431” and inserting “6431, and 6433”.

(e) CONFORMING AMENDMENTS.—

(1) Section 25B of the Internal Revenue Code of 1986 is amended by striking subsections (a) through (f) and inserting the following:

“For payment of credit related to qualified retirement savings contributions, see section 6433.”.
(2) The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

“Sec. 6433. Matching payments for elective deferral and IRA contributions by certain individuals.”.

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

SEC. 12. AUTHORITY TO REQUIRE REPORTING.

(a) Reporting Under Internal Revenue Code.—Subsection (a) of section 6058 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following: “The Secretary may by regulation require the inclusion in such annual return of such information as may be necessary or appropriate to determine the effects of the alternative methods of satisfying applicable nondiscrimination requirements, which are described in subsections (k)(13), (k)(14), (m)(11), and (m)(12) of section 401, on the contribution levels of employees who are not highly compensated employees (as defined in section 414(q)).”.

(b) Reporting Under Employee Retirement Income Security Act of 1974.—Section 104(a)(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1042(a)(2)), as amended by section 3(c), is further amended by inserting before the period at the end
thereof the following: “, except that in the case of such
a deferral-only arrangement contained in a pension plan
with at least 100 participants, the Secretary may require
such reporting as is necessary or appropriate with respect
to service providers, investment options, and fees, but not
in excess of any reporting applicable to other arrange-
ments.”.