H. R. 4637

To amend the Internal Revenue Code of 1986 to encourage retirement savings by modifying requirements with respect to employer-established IRAs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2017

Mr. KIND (for himself and Mr. REICHERT) 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 encourage retirement savings by modifying requirements with respect to employer-established IRAs, and for other purposes.

1 Be it enacted by the Senate and House of Representatives 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 “Small businesses Add Value for Employees Act of 2017” or the “SAVE Act of 2017”.
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Elimination of restriction on SIMPLE IRA rollovers.
Sec. 3. Allowing mid-year SIMPLE IRA plan termination.
Sec. 4. Elimination of higher penalty on early SIMPLE IRA distributions.
Sec. 5. Increase in contributions allowed for SIMPLE IRA.
Sec. 6. SIMPLE 401(k) parity for additional nonelective employer contributions.
Sec. 7. Automatic deferral IRAs.
Sec. 8. Modification of automatic enrollment safe harbor.
Sec. 9. Secure deferral arrangements.
Sec. 10. Credit for employers with respect to modified safe harbor requirements.
Sec. 11. Modification of regulations.
Sec. 12. Limited transfer of unused balance in flexible spending arrangement.
Sec. 13. Prior years compensation taken into account in determining maximum retirement savings deduction.
Sec. 14. Expanding small employer pension plan startup cost credit.
Sec. 15. Financial education.
Sec. 16. Small employer plans.
Sec. 17. Modification of ERISA rules relating to multiple employer defined contribution plans.
Sec. 18. Clarification of treatment of individual retirement plans with payroll deduction.
Sec. 19. Disclosure regarding lifetime income.
Sec. 20. Lifetime income safe harbor.

SEC. 2. ELIMINATION OF RESTRICTION ON SIMPLE IRA

ROLOVERS.

(a) IN GENERAL.—Section 408(d)(3) of the Internal Revenue Code of 1986 is amended by striking subparagraph (G).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.
SEC. 3. ALLOWING MID-YEAR SIMPLE IRA PLAN TERMINATION.

(a) In General.—Section 408(p) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(11) Special rules relating to mid-year termination.—

“(A) In general.—An employer may elect to terminate (in such form and manner as the Secretary may provide) the qualified salary reduction arrangement of the employer at any time during the year.

“(B) Proration and application of qualified plan limitation.—In the case of a year during which an employer terminates a qualified salary reduction arrangement before the end of such year—

“(i) the applicable dollar amount determined under paragraph (2)(E) for such year and the applicable dollar amount determined under section 414(v)(2)(B)(ii) for such year shall both be prorated to the date of such termination,

“(ii) for purposes of determining the compensation of an employee for such arrangement for such year, the year of such
termination shall be treated as ending on
the date of such termination, and

“(iii) subparagraph (D) of paragraph
(2) shall not apply with respect to a quali-
fied plan maintained in such year only
after the date of such termination.

“(C) Matching Contribution.—Termi-
nation of an arrangement under subparagraph
(A) shall not be construed to modify the re-
quirement of subparagraph (A)(iii) (with re-
spect to any elective employer contributions) or
(B) (with respect to nonelective contributions)
of paragraph (2) made by the employer on be-
half of an employee during the portion of such
year the qualified salary reduction arrangement
is in effect.”.

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

SEC. 4. ELIMINATION OF HIGHER PENALTY ON EARLY SIM-
PLE IRA DISTRIBUTIONS.

(a) In General.—Section 72(t) of the Internal Rev-
ene Code of 1986 is amended by striking paragraph (6).
(b) **Effective Date.**—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 5. **INCREASE IN CONTRIBUTIONS ALLOWED FOR SIMPLE IRA.**

(a) **Additional Nonelective Employer Contributions Allowed.**—

(1) **In General.**—Section 408(p)(2)(A) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) the employer may make, in addition to any other contribution under this paragraph, nonelective contributions which meet the requirements of subparagraph (F), and”.

(2) **Requirements relating to additional nonelective contributions.**—Section 408(p)(2) of such Code is amended by adding at the end the following new subparagraph:

“(F) **Requirements relating to additional nonelective contributions under subparagraph (A)(iv).**—
“(i) IN GENERAL.—Nonelective contributions meet the requirements of this subparagraph if—

“(I) such contributions do not exceed more than 10 percent of compensation (subject to the limitation described in subparagraph (B)(ii)) for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year, and

“(II) such contributions are made either as a uniform percentage of compensation or a uniform dollar amount for all participants.

“(ii) PERMITTED DISPARITY RULES NOT APPLICABLE.—Section 401(l) shall not apply for purposes of determining whether the requirements of clause (i) are met.”.

(3) CONFORMING AMENDMENT.—Section 408(p)(2)(A)(v) of such Code, as redesignated by this section, is amended by striking “clause (i) or (iii)” and inserting “clause (i), (iii), or (iv)”.
(b) INCREASE IN ELECTIVE CONTRIBUTION LIMITATION.—Section 408(p)(2)(E) is amended to read as follows:

“(E) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A)(ii), the applicable dollar amount shall be the applicable dollar amount in effect under section 402(g)(1).”.

(c) SIMPLE IRA SUBJECT TO DEFINED CONTRIBUTION PLAN LIMITATION.—Section 408(p) of such Code, as amended by section 3, is amended by adding at the end the following new paragraph:

“(12) SUBJECT TO DEFINED CONTRIBUTION PLAN LIMITATION.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if contributions with respect to any employee for the year exceed the limitation of paragraph (1) of section 415(c) (relating to limitation for defined contribution plans).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2017.
SEC. 6. SIMPLE 401(k) PARITY FOR ADDITIONAL NONELECTIVE
EMPLOYER CONTRIBUTIONS.

(a) In General.—Section 401(k)(11)(B) of such Code is amended by adding at the end the following new clause:

“(iv) Special rule for additional nonelective employer contributions.—An arrangement shall not be treated as failing to meet the requirements of this subparagraph merely because under such arrangement the employer makes, in addition to any other contribution under this subparagraph, nonelective contributions of not more than 10 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year.”.

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

SEC. 7. AUTOMATIC DEFERRAL IRAS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 408A the following new section:
“SEC. 408B. AUTOMATIC DEFERRAL IRAS.

“(a) IN GENERAL.—An automatic deferral IRA shall be treated for purposes of this title in the same manner as an individual retirement plan. An automatic deferral IRA may also be treated as a Roth IRA for purposes of this title if it meets the requirements of section 408A.

“(b) AUTOMATIC DEFERRAL IRA.—For purposes of this section, the term ‘automatic deferral IRA’ means an individual retirement plan (as defined in section 7701(a)(37)) with respect to which contributions are made under an arrangement which satisfies the requirements of paragraphs (1) through (4) of subsection (c).

“(c) AUTOMATIC DEFERRAL IRA ARRANGEMENTS.—

“(1) ENROLLMENT.—

“(A) IN GENERAL.—The requirements of this paragraph are met if each employee eligible to participate in the arrangement is treated as having elected to have the employer make payments as elective contributions to an automatic deferral IRA on behalf of such employee (which would have otherwise been made to the employee directly in cash) in an amount equal to so much of a qualified percentage of compensation of such employee as does not exceed the deductible amount for such year (within the meaning of section 219(b)).
“(B) Eligibility.—For purposes of subparagraph (A), an employee is eligible to participate if such employee has at least $5,000 of compensation from the employer for the preceding year.

“(C) Election Out.—The election treated as having been made under subparagraph (A) shall cease to apply with respect to any employee who makes an affirmative election—

“(i) to not have such elective contributions made, or

“(ii) not later than the close of the 30-day period beginning on the date of the first contribution with respect to such employee, to make elective contributions at a level specified in such affirmative election.

“(D) Qualified Percentage.—For purposes of this paragraph, the term ‘qualified percentage’ means, with respect to any employee, any percentage determined under the arrangement if such percentage is applied uniformly, does not exceed 15 percent, and is at least—

“(i) 3 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 sub-
paragraph (A) is made with respect to
such employee, and

“(ii) during any subsequent plan year,
a percentage equal to—

“(I) 3 percent, plus

“(II) 1 percent multiplied by the
number of plan years (but not more
than 12) beginning after the plan year
described in clause (i).

“(2) NOTICE.—

“(A) IN GENERAL.—The requirements of
this paragraph are met if, within a reasonable
period before the first day an employee is eligi-
ble to participate in the arrangement, the em-
ployee receives written notice of the employee’s
rights and obligations under the arrangement
which—

“(i) is sufficiently accurate and com-
prehensive to apprise the employee of such
rights, and

“(ii) is written in a manner calculated
to be understood by the average employee
to whom the arrangement applies.
“(B) Timing and Content.—A notice shall not be treated as meeting the require-
ments of subparagraph (A) with respect to an employee unless—

“(i) the notice explains the employee’s right to elect not to have elective contribu-
tions made on the employee’s behalf (or to elect to have such contributions made at a different percentage),

“(ii) the notice explains how contribu-
tions made under the arrangement will be invested in the absence of any investment election by the employee, and

“(iii) the employee has a reasonable period of time after receipt of the notice described in clauses (i) and (ii) and before the first elective contribution is made to make either such election.

“(3) Default Investment Arrangement.—The requirements of this paragraph are met if—

“(A) in the absence of an investment election by the employee with respect to the employee’s interest in the trust, such interest is invested as provided in regulations prescribed pursuant to subparagraph (A) of section
404(c)(5) of the Employee Retirement Income Security Act of 1974, and

“(B) the employer provides each employee who has an interest in the trust, notice which meets the requirements of subparagraph (B) of such section.

“(4) Administrative Requirements.—The requirements of this paragraph are met if—

“(A) an employer must make—

“(i) the elective contributions under paragraph (1)(A) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

“(ii) a payment of interest at the overpayment rate (as determined under section 6621(a)) on any such elective contribution made after the end of the period specified in clause (i),

“(B) an employee may elect to terminate participation in the arrangement at any time during the year, except that if the employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and
“(C) each employee eligible to participate may elect, during the 30-day period before the beginning of any year, or to modify the amount subject to such arrangement, for such year.”.

(b) Failure To Make Timely Contributions.—

Chapter 43 of such Code is amended by adding at the end the following:

“SEC. 4980J. FAILURE TO MAKE TIMELY CONTRIBUTIONS UNDER AUTOMATIC DEFERRAL IRAS.

“(a) Initial Tax.—If at any time during any taxable year an employer maintains an automatic deferral IRA which is part of a plan to which section 408B applies, there is hereby imposed on the employer for the taxable year a tax equal to 10 percent of the aggregate required contributions to such automatic deferral IRA for all plan years that are not paid by the date specified in section 408B(c)(4)(A)(i) and that remain unpaid as of the end of any plan year ending with or within the taxable year.

“(b) Additional Tax.—If a tax is imposed under subsection (a) on any unpaid required contribution and such amount remains unpaid as of the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the unpaid required contribution to the extent not so paid or corrected.

“(c) Limitations on Amount of Tax.—
“(1) Tax not to apply where failure not discovered exercising reasonable diligence.—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 the employer did not know, and exercising reasonable diligence would not have known, that such failure existed.

“(2) Tax not to apply to failures corrected within 30 days.—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 30-day period beginning on the 1st date the employer knew, or exercising reasonable diligence would have known, that such failure existed.

“(3) 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 relative to the failure involved.”.
(c) **Preemption of Conflicting State Laws.**—Any law of a State shall be superseded if it would directly or indirectly prohibit or restrict an employer from creating or maintaining an automatic deferral IRA (as defined in section 408B of the Internal Revenue Code of 1986).

(d) **Clerical Amendment.**—

(1) The table of sections for subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to 408A the following new item:

“Sec. 408B. Automatic deferral IRAs.”.

(2) The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

“Sec. 4980J. Failure to make timely contributions under automatic deferral IRAs.”.

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

SEC. 8. **Modification of Automatic Enrollment Safe Harbor.**

(a) **In General.**—

(1) **Removal of 10 percent cap.**—Section 401(k)(13)(C)(iii) of the Internal Revenue Code of 1986 is amended by striking “, does not exceed 10 percent, and is at least” and inserting “and is”. 
(2) CONFORMING AMENDMENTS.—

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

(B) Section 401(k)(13)(C)(iii)(II) of such Code is amended by striking “4 percent” and inserting “at least 4 percent, but not greater than 15 percent,”.

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

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

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

SEC. 9. SECURE DEFERRAL ARRANGEMENTS.

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

“(14) ALTERNATIVE METHOD FOR SECURE DEFERRAL ARRANGEMENTS TO MEET NONDISCRIMINATION REQUIREMENTS.—
“(A) IN GENERAL.—A secure deferral arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

“(B) SECURE DEFERRAL ARRANGEMENT.—For purposes of this paragraph, the term ‘secure deferral arrangement’ means any cash or deferred arrangement which meets the requirements of subparagraphs (C), (D), and (E) of paragraph (13), except as modified by this paragraph.

“(C) QUALIFIED PERCENTAGE.—For purposes of this paragraph, 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 paragraph (13)(C)(i) is made with respect to such employee,
“(ii) at least 8 percent during the first plan year following the plan year described in clause (i), and

“(iii) at least 10 percent during any subsequent plan year.

“(D) MATCHING CONTRIBUTIONS.—

“(i) IN GENERAL.—For purposes of this paragraph, an arrangement shall be treated as having met the requirements of paragraph (13)(D)(i) if and only if the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to the sum of—

“(I) 100 percent of the elective contributions of the employee to the extent that such contributions do not exceed 1 percent of compensation,

“(II) 50 percent of so much of such contributions as exceed 1 percent but do not exceed 6 percent of compensation, plus

“(III) 25 percent of so much of such contributions as exceed 6 percent
but do not exceed 10 percent of compensation.

“(ii) Application of rules for matching contributions.—The rules of clause (ii) of paragraph (12)(B) and clauses (iii) and (iv) of paragraph (13)(D) shall apply for purposes of clause (i) but the rule of clause (iii) of paragraph (12)(B) shall not apply for such purposes. The rate of matching contribution for each incremental deferral must be at least as high as the rate specified in clause (i), and may be higher, so long as such rate does not increase as an employee’s rate of elective contributions increases.”.

(b) Matching Contributions and Employee Contributions.—Section 401(m) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following new paragraph:

“(13) Alternative method for secure deferral arrangements.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions and employee contributions if the plan—
“(A) is a secure deferral arrangement (as defined in subsection (k)(14)),

“(B) meets the requirements of clauses (ii) and (iii) of paragraph (11)(B), and

“(C) provides that matching contributions on behalf of any employee may not be made with respect to an employee’s contributions or elective deferrals in excess of 10 percent of the employee’s compensation.”.

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

SEC. 10. CREDIT FOR EMPLOYERS WITH RESPECT TO MODIFIED SAFE HARBOR REQUIREMENTS.

(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. CREDIT FOR SMALL EMPLOYERS WITH RESPECT TO MODIFIED SAFE HARBOR REQUIREMENTS FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.

“(a) General Rule.—For purposes of section 38, in the case of a small employer, the safe harbor adoption credit determined under this section for any taxable year
is the amount equal to the total of the employer’s matching contributions under section 401(k)(14)(D) during the taxable year on behalf of employees who are not highly compensated employees, subject to the limitations of subsection (b).

“(b) LIMITATIONS.—

“(1) LIMITATION WITH RESPECT TO COMPENSATION.—The credit determined under subsection (a) with respect to contributions made on behalf of an employee who is not a highly compensated employee shall not exceed 2 percent of the compensation of such employee for the taxable year.

“(2) LIMITATION WITH RESPECT TO YEARS OF PARTICIPATION.—Credit shall be determined under subsection (a) with respect to contributions made on behalf of an employee who is not a highly compensated employee only during the first 5 years such employee participates in the qualified automatic contribution arrangement.

“(c) DEFINITIONS.—

“(1) IN GENERAL.—Any term used in this section which is also used in section 401(k)(14) shall have the same meaning as when used in such section.
“(2) SMALL EMPLOYER.—The term ‘small employer’ means an eligible employer (as defined in section 408(p)(2)(C)(i)).

“(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowable under this title for any contribution with respect to which a credit is allowed under this section.”.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking “plus” at the end of paragraph (35);

(2) by striking the period at the end of paragraph (36) and inserting “, plus”; and

(3) by adding at the end the following new paragraph:

“(37) the safe harbor adoption credit determined under section 45S.”.

(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 adding after the item relating to section 45R the following new item:

“Sec. 45S. Credit for small employers with respect to modified safe harbor requirements for automatic contribution arrangements.”.
(d) Effective Date.—The amendments made by this section shall apply to taxable years that include any portion of a plan year beginning after December 31, 2017.

SEC. 11. MODIFICATION OF REGULATIONS.

The Secretary of the Treasury shall promulgate regulations or other guidance that—

(1) simplify and clarify the rules regarding the timing of participant notices required under section 401(k)(13)(E) of the Internal Revenue Code of 1986, with specific application to—

(A) plans that allow employees to be eligible for participation immediately upon beginning employment; and

(B) employers with multiple payroll and administrative systems; and

(2) simplify and clarify the automatic escalation rules under sections 401(k)(13)(C)(iii) and 401(k)(14)(C) of the Internal Revenue Code of 1986 in the context of employers with multiple payroll and administrative systems.

Such regulations or guidance shall address the particular case of employees within the same plan who are subject to different notice timing and different percentage requirements, and provide assistance for plan sponsors in managing such cases.
SEC. 12. LIMITED TRANSFER OF UNUSED BALANCE IN FLEXIBLE SPENDING ARRANGEMENT.

(a) In General.—Section 125 of the Internal Revenue Code of 1986 is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (h) the following new subsection:

“(k) Special Rule for Unused Benefits in Flexible Spending Arrangements.—

“(1) In General.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan or flexible spending arrangement merely because such arrangement provides for qualified retirement distributions.

“(2) Qualified Retirement Distribution.—

“(A) In General.—For purposes of this section, the term ‘qualified retirement distribution’ means any distribution to an individual of all or a portion of the employee’s account under such arrangement, but only to the extent—

“(i) the amount does not exceed the lesser of—

“(I) $250, or

“(II) the unused benefits with respect to the arrangement, and
“(ii) the amount received is paid in the form of a direct trustee-to-trustee transfer to a qualified retirement plan (as defined in section 4974(e)), or an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), maintained by the same employer as the employer maintaining the cafeteria plan or flexible spending arrangement of the individual.

“(B) Unused benefits.—For purposes of this paragraph, the term ‘unused benefits’ means, with respect to an employee, the excess of—

“(i) the maximum amount of reimbursement allowable to the employee during a plan year under a flexible spending arrangement, over

“(ii) the actual amount of reimbursement during such year under such arrangement.

“(C) Special rules for treatment of contributions to retirement plans.—For purposes of this title, qualified retirement distributions—
“(i) shall be treated as elective deferrals (as defined in section 402(g)(3)) under an annuity contract described in section 403(b),

“(ii) shall be treated as elective deferrals (as so defined) in the case of contributions to a qualified cash or deferred arrangement (as defined in section 401(k)) under a plan which is described in section 401(a) which includes a trust which is exempt from tax under section 501(a),

“(iii) shall be treated as deferred compensation in the case of contributions to an eligible deferred compensation plan (as defined in section 457(b)) maintained by an employer described in section 457(e)(1)(A), and

“(iv) shall be treated in the manner designated for purposes of section 408 or 408A in the case of contributions to an individual retirement plan.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.
SEC. 13. PRIOR YEARS COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING MAXIMUM RETIREMENT SAVINGS DEDUCTION.

(a) In General.—Section 219(b)(1)(B) of the Internal Revenue Code of 1986 is amended by inserting “or the preceding taxable year” after “such taxable year”.

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

SEC. 14. EXPANDING SMALL EMPLOYER PENSION PLAN STARTUP COST CREDIT.

(a) In General.—

(1) Including startup costs for employer-established IRAs.—Section 45E(d)(2) of the Internal Revenue Code of 1986 is amended by striking “means a qualified employer plan” and all that follows and inserting: “means—

“(A) a qualified employer plan within the meaning of section 4972(d), and

“(B) a plan of which an automatic deferral IRA described in section 408B is a part.”.

(2) Additional credit amount.—

(A) In general.—Section 45E(a) of such Code is amended by striking “50 percent of” and all that follows and inserting “the sum of—
“(1) the applicable percentage of the qualified startup costs paid or incurred by the taxpayer during the taxable year, plus

“(2) $25 multiplied by the number of employees of the employer who participate in any eligible employer plan of the employer for the first time in such taxable year.”.

(B) APPLICABLE PERCENTAGE.—Section 45E(d) of such Code is amended by adding at the end the following new paragraph:

“(4) APPLICABLE PERCENTAGE.—The applicable percentage is—

“(A) in the case of a plan described in subsection (d)(2)(A), 75 percent, or

“(B) in the case of a plan described in subsection (d)(2)(B), 50 percent.”.

(C) CONFORMING AMENDMENT.—Section 45E(c)(2) of such Code is amended—

(i) by striking “qualified employer plan” in each place it appears and inserting “eligible employer plan”; and

(ii) by striking “QUALIFIED” in the heading thereof and inserting “ELIGIBLE”.

(3) INCREASED LIMITATION.—Section 45E(b)(1) of such Code is amended by striking
“$500” and inserting “$750 ($2,000 in the case of qualified startup costs attributable to a plan described in subsection (d)(2)(A))”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 15. FINANCIAL EDUCATION.

(a) RETIREMENT PLAN EDUCATION FOR SMALL BUSINESSES.—Not later than 6 months after the date of the enactment of this Act—

(1) the Department of the Treasury Office of Financial Education, in consultation with the Department of Labor, shall develop and implement an outreach plan to educate small businesses on the types of retirement plans available and the benefits and requirements of such plans; and

(2) the Secretary of the Treasury and the Secretary of Labor shall develop recommendations for small businesses in order to improve retirement outcomes. Such recommendations shall take into account established behavioral trends of employee investment and the effect of default design features such as auto escalation, expansion of auto rollovers,
auto diversification for near retirees, and automatic forms of distribution.

(b) Financial Literacy.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Education, shall develop sample age-appropriate curricula to be made available for financial literacy education in elementary and secondary schools.

(2) Content of curricula.—Such curricula shall include the following:

(A) How to balance a checkbook, read a credit card statement, and calculate interest rates.

(B) What a pay stub is and why Federal and State income taxes and Social Security and Medicare taxes are withheld from wages.

(C) The differences between various types of bank accounts.

(D) The significance of a credit score and how to read credit reports.

(E) The marketing techniques frequently used by individuals and businesses to attract patrons.
(F) The importance of saving for college and retirement, including the various methods for saving such as traditional pensions, 401(k)s, and IRAs.

SEC. 16. SMALL EMPLOYER PLANS.

(a) IN GENERAL.—Section 401(k)(11) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(E) DEFERRAL ONLY SMALL EMPLOYER PLAN.—

“(i) IN GENERAL.—In the case of a plan described in clause (ii)—

“(I) the amount described in subparagraph (B)(i)(I) shall be $10,000, in lieu of the amount in effect under section 408(p)(2)(A)(ii),

“(II) such $10,000 amount shall, in the case years beginning after December 31, 2018, be adjusted as described in section 408(p)(2)(E)(ii) except that the base period taken into account shall be the calendar quarter beginning July 1, 2017,
“(III) subclause (II) of subparagraph (B)(i) and clause (ii) of subparagraph (B) shall not apply, and

“(IV) section 414(v) shall not apply.

“(ii) PLAN DESCRIBED.—A plan is described in this clause if the plan satisfies the following requirements:

“(I) Such plan satisfies the requirements of this paragraph, as modified by clause (i).

“(II) The plan includes a qualified automatic contribution arrangement, as defined in paragraph (13), except that subparagraph (D) of paragraph (13) shall not apply and the qualified percentage shall be determined by reference to subclauses (I), (II), (III), and (IV) of paragraph (13)(C)(iii).

“(III) The plan does not permit any participant or beneficiary to receive or maintain a loan from the plan.
“(IV) The plan does not permit hardship distributions described in paragraph (2)(B)(i)(IV) except to the extent any such distribution is deemed, under regulations prescribed by the Secretary, to be on account of an immediate and heavy financial need of the employee and necessary to satisfy an immediate and heavy financial need of the employee.

“(V) The plan is maintained pursuant to a model plan document published by the Secretary.”.

(b) SIMPLIFICATION.—

(1) MODEL PLAN.—Within one year after the date of the enactment of this Act, the Secretary of the Treasury shall publish a model plan that may be used to satisfy the requirement of section 401(k)(11)(E)(ii)(V) of the Internal Revenue Code of 1986.

(2) PROTECTION AGAINST LOSS.—Within 120 days after the date of the enactment of this Act, the Secretary of Labor shall amend Department of Labor Regulation section 2550.404c–5(e)(4)(iv)(B) so that, in the case of a plan described in section
401(k)(11)(E) of such Code, “four years” shall be substituted for “120 days”.

(3) **Clarifying duties and reducing burdens for multiple employer plans.**—Within one year after the date of the enactment of this Act, the Secretary of Labor shall—

(A) publish rules clarifying the extent to which the fiduciary duties, if any, of a participating employer fiduciary with respect to a plan that consists of individual retirement accounts described in section 413(c) of employees covered by the plan fail to take such Code are limited to—

(i) the selection and monitoring of such employers for the named fiduciary; and

(ii) the investment and management of the portion of employers failing to take the plan’s assets of the plan attributable to employees of the employer will be transferred to a plan maintained only by the extent not otherwise delegated to another fiduciary; and

(B) prescribe interim final regulations providing simplified means by which plans de-
scribed in section 413(c) of such Code may sat-
sify the requirements of sections 102, 103, and
105 of the Employee Retirement Income Secu-


For purposes of this paragraph, the term “partici-
pating employer fiduciary” means the participating
employer, any employee of such participating em-
ployer that serves as fiduciary, any committee of
such employees, and any other person whose fidu-
ciaries duties with respect to the plan relate solely
to the participating employer and not to the oper-
ation of the plan with respect to all participating
employers.

(4) Elimination of disincentive to pool-
ing.—Not later than one year after the date of the
enactment of this Act, the Secretary of the Treasury
shall prescribe final regulations under which a plan
or to allow a plan to meet requirements described in
section 413(c) of such Code may be treated as satis-
fying the qualification requirements of section
401(a) of such Code despite the violation of such re-
quirements with respect to one or more participating
employers without regard to whether such violation
continues. Solely for this purpose, a plan shall be
treated as violating the qualification requirements of
section 401(a) of such Code with respect to a participating employer if such employer has failed to provide the plan sponsor with the information needed to comply with such requirements and such failure has continued over a period of time that clearly demonstrates a lack of commitment to compliance. Such rules may require that the portion of the plan attributable to such participating employers be spun off to plans maintained by such employers.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 2017.

(2) Exception.—Subsection (b) shall apply as of the date of the enactment of this Act.

SEC. 17. MODIFICATION OF ERISA RULES RELATING TO MULTIPLE EMPLOYER DEFINED CONTRIBUTION PLANS.

(a) In General.—

(1) Requirement of common interest.—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)(i) A qualified multiple employer plan shall not fail to be treated as an employee pension benefit plan or pension plan solely because the employers maintaining the plan share no common interest.

“(ii) For purposes of this subparagraph, the term ‘qualified multiple employer plan’ means a plan described in section 413(c) of the Internal Revenue Code of 1986 which—

“(I) is an individual account plan with respect to which the requirements of clauses (iii), (iv), and (v) are met, and

“(II) includes in its annual report required to be filed under section 104(a) the name and identifying information of each employer maintaining the plan.

“(iii) The requirements of this clause are met if, under the plan, each employer maintaining the plan retains fiduciary responsibility for—

“(I) the selection and monitoring of the named fiduciary, and

“(II) the investment and management of the portion of the plan’s assets attributable to the employees of the employer to the extent not otherwise delegated to another fiduciary.
“(iv) The requirements of this clause are met if, under the plan, an employer maintaining the plan is not subject to unreasonable restrictions, fees, or penalties by reason of ceasing to maintain, or otherwise transferring assets from, the plan.

“(v) The requirements of this clause are met if each employer maintaining the plan is an eligible employer as defined in section 408(p)(2)(C)(i) of the Internal Revenue Code of 1986, applied—

“(I) by substituting ‘500’ for ‘100’ in subclause (I) thereof,

“(II) by substituting ‘5’ for ‘2’ each place it appears in subclause (II) thereof, and

“(III) without regard to the last sentence of subclause (II) thereof.”.

(2) SIMPLIFIED REPORTING FOR SMALL MULTIPLE EMPLOYER PLANS.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following:

“(7)(A) In the case of any eligible small multiple employer plan, the Secretary may by regulation waive the requirement under section 103(a)(3) to engage an independent qualified public accountant in cases where the Secretary determines it appropriate.
“(B) For purposes of this paragraph, the term ‘eligible small multiple employer plan’ means, with respect to any plan year—

“(i) a qualified multiple employer plan, as defined in section 3(2)(C)(ii), or

“(ii) any other plan described in section 413(c) of the Internal Revenue Code of 1986 that satisfies the requirements of clause (v) of section 3(2)(C).”.

(b) CONFORMING AMENDMENT.—Section 3(2)(A) of such Act (29 U.S.C. 1002(2)(A)) is amended by striking “Except as provided in subparagraph (B)” and inserting “Except as provided in subparagraphs (B) and (C)”.

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

SEC. 18. CLARIFICATION OF TREATMENT OF INDIVIDUAL RETIREMENT PLANS WITH PAYROLL DEDUCTION.

(a) IN GENERAL.—Section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)), as amended by this Act, is amended by adding at the end the following new subparagraph:

“(E) Neither an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) nor an automatic deferral IRA arrangement (as
described in section 408B of such Code) maintained in connection with any such individual retirement plan shall be considered a single employee pension benefit plan merely because an employer establishes a payroll deduction program for the purpose of enabling employees to make voluntary contributions to such account or annuity.”.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 19. DISCLOSURE REGARDING LIFETIME INCOME.

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

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

(2) in clause (ii), by striking “diversification.” and inserting “diversification, and”; and

(3) by inserting at the end the following:

“(iii) the lifetime income disclosure described in subparagraph (D)(i).

In the case of pension benefit statements described in clause (i) of paragraph (1)(A), a lifetime income disclosure under clause (iii) of this subparagraph shall only be required to be included in one pension benefit statement during any one 12-month period.”.

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(b) LIFETIME INCOME.—Section 105(a)(2) of such Act (29 U.S.C. 1025(a)) is amended by adding at the end the following new subparagraph:

“(D) LIFETIME INCOME DISCLOSURE.—

“(i) IN GENERAL.—

“(I) DISCLOSURE.—A lifetime income disclosure shall set forth the lifetime income stream equivalent of the total benefits accrued with respect to the participant or beneficiary.

“(II) LIFETIME INCOME STREAM EQUIVALENT OF THE TOTAL BENEFITS ACCRUED.—For purposes of this subparagraph, the term ‘lifetime income stream equivalent of the total benefits accrued’ means the amount of monthly payments the participant or beneficiary would receive if the total accrued benefits of such participant or beneficiary were used to provide lifetime income streams described in subclause (III), based on assumptions specified in rules prescribed by the Secretary.
“(III) LIFETIME INCOME STREAMS.—The lifetime income streams described in this subclause are a qualified joint and survivor annuity (as defined in section 205(d)), based on assumptions specified in rules prescribed by the Secretary, including the assumption that the participant or beneficiary has a spouse of equal age, and a single life annuity. Such lifetime income streams may have a term certain or other features to the extent permitted under rules prescribed by the Secretary.

“(ii) MODEL DISCLOSURE.—Not later than 1 year after the date of the enactment of the Lifetime Income Disclosure Act, the Secretary shall issue a model lifetime income disclosure, written in a manner so as to be understood by the average plan participant, that—

“(I) explains that the lifetime income stream equivalent is only provided as an illustration;
“(II) explains that the actual payments under the lifetime income stream described in clause (i)(III) that may be purchased with the total benefits accrued will depend on numerous factors and may vary substantially from the lifetime income stream equivalent in the disclosures;

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

“(IV) provides such other similar explanations as the Secretary considers appropriate.

“(iii) Assumptions and Rules.— Not later than 1 year after the date of the enactment of the Lifetime Income Disclosure Act, the Secretary shall—

“(I) prescribe assumptions that administrators of individual account plans may use in converting total accrued benefits into lifetime income stream equivalents for purposes of this subparagraph; and
“(II) issue interim final rules under clause (i).

In prescribing assumptions under subclause (I), the Secretary may prescribe a single set of specific assumptions (in which case the Secretary may issue tables or factors that facilitate such conversions), or ranges of permissible assumptions. To the extent that an accrued benefit is or may be invested in a lifetime income stream described in clause (i)(III), the assumptions prescribed under subclause (I) shall, to the extent appropriate, permit administrators of individual account plans to use the amounts payable under such lifetime income stream as a lifetime income stream equivalent.

“(iv) LIMITATION ON LIABILITY.—No plan fiduciary, plan sponsor, or other person shall have any liability under this title solely by reason of the provision of lifetime income stream equivalents which are derived in accordance with the assumptions and rules described in clause (iii) and which include the explanations contained in
the model lifetime income disclosure described in clause (ii). This clause shall apply without regard to whether the provision of such lifetime income stream equivalent is required by subparagraph (B)(iii).

“(v) EFFECTIVE DATE.—The requirement in subparagraph (B)(iii) shall apply to pension benefit statements furnished more than 12 months after the latest of the issuance by the Secretary of—

“(I) interim final rules under clause (i);

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

“(III) the assumptions under clause (iii).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 20. LIFETIME INCOME SAFE HARBOR.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following:

“(e) SAFE HARBOR FOR ANNUITY SELECTION.—
“(1) IN GENERAL.—With respect to the selection of an insurer and a guaranteed retirement income contract, the requirements of subsection (a)(1)(B) will be deemed to be satisfied if a fiduciary—

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

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

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

“(ii) considers the cost (including fees and commissions) of the guaranteed retirement income contract offered by the insurer in relation to the benefits and product features of the contract and administrative services to be provided under such contract; and

“(C) on the basis of such consideration, concludes that—
“(i) at the time of the selection, the
insurer is financially capable of satisfying
its obligations under the guaranteed retire-
ment income contract; and
“(ii) the relative cost of the selected
guaranteed retirement income contract as
described in subparagraph (B)(ii) is rea-
sonable.
“(2) Financial capability of the insurer.—A fiduciary will be deemed to satisfy the
requirements of paragraphs (1)(B)(i) and (1)(C)(i)
if—
“(A) the fiduciary obtains written rep-
resentations from the insurer that—
“(i) the insurer is licensed to offer
guaranteed retirement income contracts;
“(ii) the insurer, at the time of selec-
tion and for each of the immediately pre-
ceding 7 plan years—
“(I) operates under a certificate
of authority from the insurance com-
missioner of its domiciliary State
which has not been revoked or sus-
pended;
“(II) has filed audited financial statements in accordance with the laws of its domiciliary State under applicable statutory accounting principles;

“(III) maintains (and has maintained) reserves which satisfies all the statutory requirements of all States where the insurer does business; and

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

“(iii) the insurer undergoes, at least every 5 years, a financial examination (within the meaning of the law of its domiciliary State) by the insurance commissioner of the domiciliary State (or representative, designee, or other party approved by such commissioner); and

“(iv) the insurer will notify the fiduciary of any change in circumstances occurring after the provision of the representations in clauses (i), (ii), and (iii) which would preclude the insurer from making such representations at the time of
issuance of the guaranteed retirement income contract, the insurer shall notify the fiduciary, in advance of the issuance of any guaranteed retirement income contract; and

“(B) after receiving such representations and as of the time of selection, the fiduciary has not received any notice described in subparagraph (A)(iv) and is in possession of no other information which would cause the fiduciary to question the representations provided.

“(3) NO REQUIREMENT TO SELECT LOWEST COST.—Nothing in this subsection shall be construed to require a fiduciary to select the lowest cost contract. A fiduciary may consider the value of a contract, including features and benefits of the contract and attributes of the insurer (including, without limitation, the issuer’s financial strength) in conjunction with the cost of the contract.

“(4) TIME OF SELECTION.—

“(A) IN GENERAL.—For purposes of this subsection, the ‘time of selection’ is—

“(i) the time that the insurer and the contract are selected for distribution of
benefits to a specific participant or beneficiary; or

“(ii) if the fiduciary periodically reviews the continuing appropriateness of the conclusion described in paragraph (1)(C) with respect to a selected insurer, taking into account the considerations described in such paragraph, the time that the insurer and the contract are selected to provide benefits at future dates to participants or beneficiaries under the plan.

Nothing in the preceding sentence shall be construed to require the fiduciary to review the appropriateness of a selection after the purchase of a contract for a participant or beneficiary.

“(B) Periodic review.—A fiduciary will be deemed to have conducted the periodic review described in subparagraph (A)(ii) if the fiduciary obtains the written representations described in clauses (i), (ii), and (iii) of paragraph (2)(A) from the insurer on an annual basis, unless the fiduciary receives any notice described in paragraph (2)(A)(iv) or otherwise becomes aware of facts that would cause the fiduciary to question such representations.
“(5) LIMITED LIABILITY.—A fiduciary which satisfies the requirements of this subsection shall not be liable following the distribution of any benefit or the investment by or on behalf of a participant or beneficiary pursuant to the selected guaranteed retirement income contract for any losses that may result to the participant or beneficiary due to an insurer’s inability to satisfy its financial obligations under the terms of such contract.

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

“(A) INSURER.—The term ‘insurer’ means an insurance company, insurance service, or insurance organization, including affiliates of such companies.

“(B) GUARANTEED RETIREMENT INCOME CONTRACT.—The term ‘guaranteed retirement income contract’ means an annuity contract for a fixed term or a contract (or provision or feature thereof) which provides guaranteed benefits annually (or more frequently) for at least the remainder of the life of the participant or the joint lives of the participant and the partici-
pant’s designated beneficiary as part of an individual account plan.”.