

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. NEAL OF MASSACHUSETTS**

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT
SAVINGS**

Sec. 101. Expanding automatic enrollment in retirement plans.

Sec. 102. Modification of credit for small employer pension plan startup costs.

Sec. 103. Promotion of Saver’s Credit.

Sec. 104. Enhancement of 403(b) plans.

Sec. 105. Increase in age for required beginning date for mandatory distribu-
tions.

Sec. 106. Indexing IRA catch-up limit.

Sec. 107. Higher catch-up limit to apply at age 62, 63, and 64.

Sec. 108. Multiple employer 403(b) plans.

Sec. 109. Treatment of student loan payments as elective deferrals for purposes
of matching contributions.

Sec. 110. Application of credit for small employer pension plan startup costs to
employers which join an existing plan.

Sec. 111. Military spouse retirement plan eligibility credit for small employers.

Sec. 112. Small immediate financial incentives for contributing to a plan.

Sec. 113. Safe harbor for corrections of employee elective deferral failures.

Sec. 114. One-year reduction in period of service requirement for long-term,
part-time workers.

Sec. 115. Findings relating to S corporation ESOPs.

TITLE II—PRESERVATION OF INCOME

Sec. 201. Remove required minimum distribution barriers for life annuities.

Sec. 202. Qualifying longevity annuity contracts.

Sec. 203. Insurance-dedicated exchange-traded funds.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF
RETIREMENT PLAN RULES

- Sec. 301. Recovery of retirement plan overpayments.
- Sec. 302. Reduction in excise tax on certain accumulations in qualified retirement plans.
- Sec. 303. Performance benchmarks for asset allocation funds.
- Sec. 304. Review and report to the Congress relating to reporting and disclosure requirements.
- Sec. 305. Eliminating unnecessary plan requirements related to unenrolled participants.
- Sec. 306. Retirement savings lost and found.
- Sec. 307. Expansion of Employee Plans Compliance Resolution System.
- Sec. 308. Eliminate the “first day of the month” requirement for governmental section 457(b) plans.
- Sec. 309. One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.
- Sec. 310. Distributions to firefighters.
- Sec. 311. Exclusion of certain disability-related first responder retirement payments.
- Sec. 312. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.
- Sec. 313. Requirement to provide paper statements in certain cases.
- Sec. 314. Separate application of top heavy rules to defined contribution plans covering excludible employees.
- Sec. 315. Repayment of qualified birth or adoption distribution limited to 3 years.
- Sec. 316. Employer may rely on employee certifying that deemed hardship distribution conditions are met.
- Sec. 317. Penalty-free withdrawals from retirement plans for individuals in case of domestic abuse.
- Sec. 318. Reform of family attribution rule.
- Sec. 319. Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.
- Sec. 320. Retroactive first year elective deferrals for sole proprietors.
- Sec. 321. Limiting cessation of IRA treatment to portion of account involved in a prohibited transaction.

TITLE IV—TECHNICAL AMENDMENTS

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

TITLE V—ADMINISTRATIVE PROVISIONS

- Sec. 501. Provisions relating to plan amendments.

TITLE VI—REVENUE PROVISIONS

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

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

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

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

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

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

14 “(1) an arrangement shall not be treated as a
15 qualified cash or deferred arrangement described in
16 section 401(k) unless such arrangement meets the
17 automatic enrollment requirements of subsection (b),
18 and

19 “(2) an annuity contract otherwise described in
20 section 403(b)(1) which is purchased under a salary
21 reduction agreement shall not be treated as de-
22 scribed in such section unless such agreement meets
23 the automatic enrollment requirements of subsection
24 (b).

25 “(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—

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

7 “(2) ALLOWANCE OF PERMISSIBLE WITH-
8 DRAWALS.—An eligible automatic contribution ar-
9 rangement meets the requirements of this paragraph
10 if such arrangement allows employees to make per-
11 missible withdrawals (as defined in section
12 414(w)(2)).

13 “(3) MINIMUM CONTRIBUTION PERCENTAGE.—

14 “(A) IN GENERAL.—An eligible automatic
15 contribution arrangement meets the require-
16 ments of this paragraph if—

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

1 “(ii) effective for the first day of each
2 plan year starting after each completed
3 year of participation under such arrange-
4 ment such uniform percentage is increased
5 by 1 percentage point (to at least 10 per-
6 cent, but not more than 15 percent) unless
7 the participant specifically elects not to
8 have such contributions made or to have
9 such contributions made at a different per-
10 centage.

11 “(B) INITIAL REDUCED CEILING FOR CER-
12 TAIN PLANS.—In the case of any arrangement
13 to which this section applies (other than an ar-
14 rangement that meets the requirements of para-
15 graph (12) or (13) of section 401(k)), for plan
16 years ending before January 1, 2025, subpara-
17 graph (A)(ii) shall be applied by substituting
18 ‘10 percent’ for ‘15 percent’.

19 “(4) INVESTMENT REQUIREMENTS.—An eligible
20 automatic contribution arrangement meets the re-
21 quirements of this paragraph if amounts contributed
22 pursuant to such arrangement, and for which no in-
23 vestment is elected by the participant, are invested
24 consistent with the requirements of section

1 2550.404c-5 of title 29, Code of Federal Regulations
2 (or any successor regulations).

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

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

7 “(2) EXCEPTION FOR PLANS OR ARRANGE-
8 MENTS ESTABLISHED BEFORE ENACTMENT OF SEC-
9 TION.—

10 “(A) IN GENERAL.—Subsection (a) shall
11 not apply to—

12 “(i) any qualified cash or deferred ar-
13 rangement established before the date of
14 the enactment of this section, or

15 “(ii) any annuity contract purchased
16 under a plan established before the date of
17 the enactment of this section.

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

1 “(3) EXCEPTION FOR GOVERNMENTAL AND
2 CHURCH PLANS.—Subsection (a) shall not apply to
3 any governmental plan (within the meaning of sec-
4 tion 414(d)) or any church plan (within the meaning
5 of section 414(e)).

6 “(4) EXCEPTION FOR NEW AND SMALL BUSI-
7 NESSES.—

8 “(A) NEW BUSINESS.—Subsection (a)
9 shall not apply to any qualified cash or deferred
10 arrangement, or any annuity contract pur-
11 chased under a plan, while the employer main-
12 taining such plan (and any predecessor em-
13 ployer) has been in existence for less than 3
14 years.

15 “(B) SMALL BUSINESSES.—Subsection (a)
16 shall not apply to any qualified cash or deferred
17 arrangement, any annuity contract purchased
18 under a plan, earlier than the date that is 1
19 year after the close of the first taxable year
20 with respect to which the employer maintaining
21 the plan normally employed more than 10 em-
22 ployees.

23 “(C) TREATMENT OF MULTIPLE EM-
24 PLOYER PLANS.—In the case of a plan main-
25 tained by more than 1 employer, subparagraphs

1 (A) and (B) shall be applied separately with re-
2 spect to each such employer, and all such em-
3 ployers to which subsection (a) applies (after
4 the application of this paragraph) shall be
5 treated as maintaining a separate plan for pur-
6 poses of this section.”.

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

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

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

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

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

21 “(4) INCREASED CREDIT FOR CERTAIN SMALL
22 EMPLOYERS.—In the case of an employer which
23 would be an eligible employer under subsection (c) if
24 section 408(p)(2)(C)(i) was applied by substituting
25 ‘50 employees’ for ‘100 employees’, subsection (a)

1 shall be applied by substituting ‘100 percent’ for ‘50
2 percent’.”.

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

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

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

18 “(2) LIMITATIONS.—

19 “(A) DOLLAR LIMITATION.—The amount
20 determined under paragraph (1) (before the ap-
21 plication of subparagraph (B)) with respect to
22 any employee of the employer shall not exceed
23 \$1,000.

24 “(B) CREDIT PHASE-IN.—In the case of
25 any eligible employer which had for the pre-

1 ceding taxable year more than 50 employees,
 2 the amount determined under paragraph (1)
 3 (without regard to this subparagraph) shall be
 4 reduced by an amount equal to the product
 5 of—

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

8 “(ii) a percentage equal to 2 percent-
 9 age points for each employee of the em-
 10 ployer for the preceding taxable year in ex-
 11 cess of 50 employees.

12 “(3) APPLICABLE PERCENTAGE.—For purposes
 13 of this section, the applicable percentage for the tax-
 14 able year during which the eligible employer plan is
 15 established with respect to the eligible employer shall
 16 be 100 percent, and for taxable years thereafter
 17 shall be determined under the following table:

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

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

18 “(4) DETERMINATION OF ELIGIBLE EMPLOYER;
 19 NUMBER OF EMPLOYEES.—For purposes of this sub-
 20 section, whether an employer is an eligible employer

1 and the number of employees of an employer shall
2 be determined under the rules of subsection (c), ex-
3 cept that paragraph (2) thereof shall only apply to
4 the taxable year during which the eligible employer
5 plan to which this section applies is established with
6 respect to the eligible employer.”.

7 (c) DISALLOWANCE OF DEDUCTION.—Section
8 45E(e)(2) of such Code is amended to read as follows:

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

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

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

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

1 **SEC. 103. PROMOTION OF SAVER'S CREDIT.**

2 (a) IN GENERAL.—The Secretary of the Treasury
3 shall take such steps as the Secretary determines are nec-
4 essary and appropriate to increase public awareness of the
5 credit provided under section 25B of the Internal Revenue
6 Code of 1986.

7 (b) REPORT TO CONGRESS.—

8 (1) IN GENERAL.—Not later than 90 days after
9 the date of the enactment of this Act, the Secretary
10 shall provide a report to Congress to summarize the
11 anticipated promotion efforts of the Treasury under
12 subsection (a).

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

14 (A) a description of plans for—

15 (i) the development and distribution
16 of digital and print materials, including the
17 distribution of such materials to States for
18 participants in State facilitated retirement
19 savings programs, and

20 (ii) the translation of such materials
21 into the 10 most commonly spoken lan-
22 guages in the United States after English
23 (as determined by reference to the most re-
24 cent American Community Survey of the
25 Bureau of the Census), and

1 (B) such other information as the Sec-
2 retary determines is necessary

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

4 (a) IN GENERAL.—

5 (1) PERMITTED INVESTMENTS.—Section
6 403(b)(7)(A) of the Internal Revenue Code of 1986
7 is amended by striking “if the amounts are to be in-
8 vested in regulated investment company stock to be
9 held in that custodial account” and inserting “if the
10 amounts are to be held in that custodial account and
11 invested in regulated investment company stock or a
12 group trust intended to satisfy the requirements of
13 Internal Revenue Service Revenue Ruling 81–100
14 (or any successor guidance)”.

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

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

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

1 “(11) Any—

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

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

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

10 “(D) collective trust fund maintained by a
11 bank consisting solely of assets of one or
12 more—

13 “(i) trusts described in subparagraph
14 (A);

15 “(ii) government plans described in
16 subparagraph (C);

17 “(iii) church plans, companies, or ac-
18 counts that are excluded from the defini-
19 tion of an investment company under para-
20 graph (14) of this subsection; or

21 “(iv) plans which meet the require-
22 ments of section 403(b) of the Internal
23 Revenue Code of 1986 if—

24 “(I) such plan is subject to title
25 I of the Employee Retirement Income

1 Security Act of 1974 (29 U.S.C. 1001
2 et seq.);

3 “(II) any employer making such
4 plan available agrees to serve as a fi-
5 duciary for the plan with respect to
6 the selection of the plan’s investments
7 among which participants can choose;
8 or

9 “(III) such plan is a govern-
10 mental plan (as defined in section
11 414(d) of such Code); or

12 “(E) separate account the assets of which
13 are derived solely from—

14 “(i) contributions under pension or
15 profit-sharing plans which meet the re-
16 quirements of section 401 of the Internal
17 Revenue Code of 1986 or the requirements
18 for deduction of the employer’s contribu-
19 tion under section 404(a)(2) of such Code;

20 “(ii) contributions under govern-
21 mental plans in connection with which in-
22 terests, participations, or securities are ex-
23 empted from the registration provisions of
24 section 5 of the Securities Act of 1933 by
25 section 3(a)(2)(C) of such Act;

1 “(iii) advances made by an insurance
2 company in connection with the operation
3 of such separate account; and

4 “(iv) contributions to a plan described
5 in subparagraph (D)(iv).”.

6 (c) AMENDMENTS TO THE SECURITIES ACT OF
7 1933.—Section 3(a)(2) of the Securities Act of 1933 (15
8 U.S.C. 77c(a)(2)) is amended—

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

19 (2) by striking “(C), or (D)” and inserting
20 “(C), (D), or (E)”;

21 (3) by striking “(iii) which is a plan funded”
22 and inserting “(iii) in the case of a plan not de-
23 scribed in subparagraph (D), which is a plan fund-
24 ed”.

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

5 (1) by striking “or (iv)” and inserting “(iv) a
6 plan which meets the requirements of section 403(b)
7 of such Code if (I) such plan is subject to title I of
8 the Employee Retirement Income Security Act of
9 1974 (29 U.S.C. 1001 et seq.), (II) any employer
10 making such plan available agrees to serve as a fidu-
11 ciary for the plan with respect to the selection of the
12 plan’s investments among which participants can
13 choose, or (III) such plan is a governmental plan (as
14 defined in section 414(d) of such Code), or (v)”;

15 (2) by striking “(ii), or (iii)” and inserting
16 “(ii), (iii), or (iv)”;

17 (3) by striking “(II) is a plan funded” and in-
18 serting “(II) in the case of a plan not described in
19 clause (iv), is a plan funded”.

20 **SEC. 105. INCREASE IN AGE FOR REQUIRED BEGINNING**
21 **DATE FOR MANDATORY DISTRIBUTIONS.**

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

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

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

8 “(v) APPLICABLE AGE.—

9 “(I) In the case of an individual
10 who attains age 72 after December
11 31, 2021, and age 73 before January
12 1, 2029, the applicable age is 73.

13 “(II) In the case of an individual
14 who attains age 73 after December
15 31, 2028, and age 74 before January
16 1, 2032, the applicable age is 74.

17 “(III) In the case of an indi-
18 vidual who attains age 74 after De-
19 cember 31, 2031, the applicable age is
20 75.”.

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

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

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

6 (a) IN GENERAL.—Subparagraph (C) of section
7 219(b)(5) of the Internal Revenue Code of 1986 is amend-
8 ed by adding at the end the following new clause:

9 “(iii) INDEXING OF CATCH-UP LIMITA-
10 TION.—In the case of any taxable year be-
11 ginning in a calendar year after 2022, the
12 \$1,000 amount under subparagraph (B)(ii)
13 shall be increased by an amount equal to—

14 “(I) such dollar amount, multi-
15 plied by

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

23 If any amount after adjustment under the
24 preceding sentence is not a multiple of

1 \$100, such amount shall be rounded to the
2 next lower multiple of \$100.”.

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

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

8 (a) IN GENERAL.—

9 (1) PLANS OTHER THAN SIMPLE PLANS.—Sec-
10 tion 414(v)(2)(B)(i) of the Internal Revenue Code of
11 1986 is amended by inserting the following before
12 the period: “(\$10,000, in the case of an eligible par-
13 ticipant who has attained age 62, but not age 65,
14 before the close of the taxable year)”.

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

20 (b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph
21 (C) of section 414(v)(2) of such Code is amended by add-
22 ing at the end the following: “In the case of a year begin-
23 ning after December 31, 2022, the Secretary shall adjust
24 annually the \$10,000 amount in subparagraph (B)(i) and
25 the \$5,000 amount in subparagraph (B)(ii) for increases

1 in the cost-of-living at the same time and in the same
2 manner as adjustments under the preceding sentence; ex-
3 cept that the base period taken into account shall be the
4 calendar quarter beginning July 1, 2021.”.

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

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

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

12 “(15) MULTIPLE EMPLOYER PLANS.—

13 “(A) IN GENERAL.—Except in the case of
14 a church plan, this subsection shall not be
15 treated as failing to apply to an annuity con-
16 tract solely by reason of such contract being
17 purchased under a plan maintained by more
18 than 1 employer.

19 “(B) TREATMENT OF EMPLOYERS FAILING
20 TO MEET REQUIREMENTS OF PLAN.—

21 “(i) IN GENERAL.—In the case of a
22 plan maintained by more than 1 employer,
23 this subsection shall not be treated as fail-
24 ing to apply to an annuity contract held
25 under such plan merely because of one or

1 more employers failing to meet the require-
2 ments of this subsection if such plan satis-
3 fies rules similar to the rules of section
4 413(e)(2) with respect to any such em-
5 ployer failure.

6 “(ii) ADDITIONAL REQUIREMENTS IN
7 CASE OF NON-GOVERNMENTAL PLANS.—A
8 plan shall not be treated as meeting the re-
9 quirements of this subparagraph unless the
10 plan meets the requirements of subpara-
11 graph (A) or (B) of section 413(e)(1), ex-
12 cept in the case of a multiple employer
13 plan maintained solely by any of the fol-
14 lowing: A State, a political subdivision of a
15 State, or an agency or instrumentality of
16 any one or more of the foregoing.”

17 (b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE
18 EMPLOYER PLAN.—Section 6057 of such Code is amend-
19 ed by redesignating subsection (g) as subsection (h) and
20 by inserting after subsection (f) the following new sub-
21 section:

22 “(g) 403(b) MULTIPLE EMPLOYER PLANS TREATED
23 AS ONE PLAN.—In the case of annuity contracts to which
24 this section applies and to which section 403(b) applies
25 by reason of the plan under which such contracts are pur-

1 chased meeting the requirements of paragraph (15) there-
2 of, such plan shall be treated as a single plan for purposes
3 of this section.”.

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

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

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

18 (1) TREATED AS POOLED EMPLOYER PLAN.—

19 (A) IN GENERAL.—Section 3(43)(A) of the
20 Employee Retirement Income Security Act of
21 1974 is amended—

22 (i) in clause (ii), by striking “section
23 501(a) of such Code or” and inserting
24 “501(a) of such Code, a plan that consists

1 of contracts described in section 403(b) of
2 such Code, or”; and

3 (ii) in the flush text at the end, by
4 striking “the plan.” and inserting “the
5 plan, but such term shall include any pro-
6 gram (other than a governmental plan)
7 maintained for the benefit of the employees
8 of more than 1 employer that consists of
9 contracts described in section 403(b) of
10 such Code and that meets the require-
11 ments of subparagraph (A) or (B) of sec-
12 tion 413(e)(1) of such Code.”.

13 (B) CONFORMING AMENDMENTS.—Sec-
14 tions 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of such
15 Act are each amended by striking “section
16 401(a) of such Code or” and inserting “401(a)
17 of such Code, a plan that consists of contracts
18 described in section 403(b) of such Code, or”.

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

21 (A) by striking “trustees meeting the re-
22 quirements of section 408(a)(2) of the Internal
23 Revenue Code of 1986” and inserting “trustees
24 (or other fiduciaries in the case of a plan that
25 consists of contracts described in section 403(b)

1 of the Internal Revenue Code of 1986) meeting
2 the requirements of section 408(a)(2) of such
3 Code”, and

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

7 (e) REGULATIONS RELATING TO PLAN TERMI-
8 NATION.—The Secretary of the Treasury (or the Sec-
9 retary’s designee) shall prescribe such regulations as may
10 be necessary to clarify the treatment of a plan termination
11 by an employer in the case of plans to which section
12 403(b)(15) of such Code applies.

13 (f) MODIFICATION OF MODEL PLAN LANGUAGE.
14 ETC.—

15 (1) PLAN NOTIFICATIONS.—The Secretary of
16 the Treasury (or the Secretary’s designee) shall
17 modify the model plan language published under sec-
18 tion 413(e)(5) of the Internal Revenue Code of 1986
19 to include language which notifies participating em-
20 ployers described in section 501(e)(3), and which are
21 exempt from tax under section 501(a), that the plan
22 is subject to the Employee Retirement Income Secu-
23 rity Act of 1974 and that such employer is a plan
24 sponsor with respect to its employees participating
25 in the multiple employer plan and, as such, has cer-

1 tain fiduciary duties with respect to the plan and to
2 its employees.

3 (2) MODEL PLANS FOR MULTIPLE EMPLOYER
4 403(b) NON-GOVERNMENTAL PLANS.—For plans to
5 which section 403(b)(15)(A) of the Internal Revenue
6 Code of 1986 applies (other than a plan maintained
7 for its employees by a State, a political subdivision
8 of a State, or an agency or instrumentality of any
9 one or more of the foregoing) the Secretary shall
10 publish model plan language similar to model plan
11 language published under section 413(e)(5) of such
12 Code.

13 (3) EDUCATIONAL OUTREACH TO EMPLOYERS
14 EXEMPT FROM TAX.—The Secretary shall provide
15 education and outreach to increase awareness to em-
16 ployers described in section 501(c)(3), and which are
17 exempt from tax under section 501(a), that multiple
18 employer plans are subject to the Employee Retire-
19 ment Income Security Act of 1974 and that such
20 employer is a plan sponsor with respect to its em-
21 ployees participating in the multiple employer plan
22 and, as such, has certain fiduciary duties with re-
23 spect to the plan and to its employees.

24 (g) NO INFERENCE WITH RESPECT TO CHURCH
25 PLANS.—Regarding any application of section 403(b) of

1 the Internal Revenue Code of 1986 to an annuity contract
2 purchased under a church plan (as defined in section
3 414(e) of such Code) maintained by more than 1 em-
4 ployer, or to any application of rules similar to section
5 413(e) of such Code to such a plan, no inference shall
6 be made from section 403(b)(15)(A) of such Code (as
7 added by this Act) not applying to such plans.

8 (h) EFFECTIVE DATE.—

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

12 (2) RULE OF CONSTRUCTION.—Nothing in the
13 amendments made by subsection (a) shall be con-
14 strued as limiting the authority of the Secretary of
15 the Treasury or the Secretary's delegate (determined
16 without regard to such amendment) to provide for
17 the proper treatment of a failure to meet any re-
18 quirement applicable under such Code with respect
19 to one employer (and its employees) in the case of
20 a plan to which section 403(b)(15) applies.

21 **SEC. 109. TREATMENT OF STUDENT LOAN PAYMENTS AS**
22 **ELECTIVE DEFERRALS FOR PURPOSES OF**
23 **MATCHING CONTRIBUTIONS.**

24 (a) IN GENERAL.—Section 401(m)(4)(A) of the In-
25 ternal Revenue Code of 1986 is amended by striking

1 “and” at the end of clause (i), by striking the period at
2 the end of clause (ii) and inserting “, and”, and by adding
3 at the end the following new clause:

4 “(iii) subject to the requirements of
5 paragraph (13), any employer contribution
6 made to a defined contribution plan on be-
7 half of an employee on account of a quali-
8 fied student loan payment.”.

9 (b) QUALIFIED STUDENT LOAN PAYMENT.—Section
10 401(m)(4) of such Code is amended by adding at the end
11 the following new subparagraph:

12 “(D) QUALIFIED STUDENT LOAN PAY-
13 MENT.—The term ‘qualified student loan pay-
14 ment’ means a payment made by an employee
15 in repayment of a qualified education loan (as
16 defined section 221(d)(1)) incurred by the em-
17 ployee to pay qualified higher education ex-
18 penses, but only—

19 “(i) to the extent such payments in
20 the aggregate for the year do not exceed
21 an amount equal to—

22 “(I) the limitation applicable
23 under section 402(g) for the year (or,
24 if lesser, the employee’s compensation

1 (as defined in section 415(c)(3)) for
2 the year), reduced by

3 “(II) the elective deferrals made
4 by the employee for such year, and

5 “(ii) if the employee certifies to the
6 employer making the matching contribu-
7 tion under this paragraph that such pay-
8 ment has been made on such loan.

9 For purposes of this subparagraph, the term
10 ‘qualified higher education expenses’ means the
11 cost of attendance (as defined in section 472 of
12 the Higher Education Act of 1965, as in effect
13 on the day before the date of the enactment of
14 the Taxpayer Relief Act of 1997) at an eligible
15 educational institution (as defined in section
16 221(d)(2)).”.

17 (c) MATCHING CONTRIBUTIONS FOR QUALIFIED
18 STUDENT LOAN PAYMENTS.—Section 401(m) of such
19 Code is amended by redesignating paragraph (13) as para-
20 graph (14), and by inserting after paragraph (12) the fol-
21 lowing new paragraph:

22 “(13) MATCHING CONTRIBUTIONS FOR QUALI-
23 FIED STUDENT LOAN PAYMENTS.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (4)(A)(iii), an employer contribution

1 made to a defined contribution plan on account
2 of a qualified student loan payment shall be
3 treated as a matching contribution for purposes
4 of this title if—

5 “(i) the plan provides matching con-
6 tributions on account of elective deferrals
7 at the same rate as contributions on ac-
8 count of qualified student loan payments,

9 “(ii) the plan provides matching con-
10 tributions on account of qualified student
11 loan payments only on behalf of employees
12 otherwise eligible to receive matching con-
13 tributions on account of elective deferrals,

14 “(iii) under the plan, all employees el-
15 ible to receive matching contributions on
16 account of elective deferrals are eligible to
17 receive matching contributions on account
18 of qualified student loan payments, and

19 “(iv) the plan provides that matching
20 contributions on account of qualified stu-
21 dent loan payments vest in the same man-
22 ner as matching contributions on account
23 of elective deferrals.

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

1 “(i) NONDISCRIMINATION RULES.—
2 For purposes of subparagraph (A)(iii),
3 subsection (a)(4), and section 410(b),
4 matching contributions described in para-
5 graph (4)(A)(iii) shall not fail to be treated
6 as available to an employee solely because
7 such employee does not have debt incurred
8 under a qualified education loan (as de-
9 fined in section 221(d)(1)).

10 “(ii) STUDENT LOAN PAYMENTS NOT
11 TREATED AS PLAN CONTRIBUTION.—Ex-
12 cept as provided in clause (iii), a qualified
13 student loan payment shall not be treated
14 as a contribution to a plan under this title.

15 “(iii) MATCHING CONTRIBUTION
16 RULES.—Solely for purposes of meeting
17 the requirements of paragraph (11)(B) or
18 (12) of this subsection, or paragraph
19 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-
20 section (k), a plan may treat a qualified
21 student loan payment as an elective defer-
22 ral or an elective contribution, whichever is
23 applicable.

24 “(iv) ACTUAL DEFERRAL PERCENT-
25 AGE TESTING.—In determining whether a

1 plan meets the requirements of subsection
2 (k)(3)(A)(ii) for a plan year, the plan may
3 apply the requirements of such subsection
4 separately with respect to all employees
5 who receive matching contributions de-
6 scribed in paragraph (4)(A)(iii) for the
7 plan year.

8 “(C) EMPLOYER MAY RELY ON EMPLOYEE
9 CERTIFICATION.—The employer may rely on an
10 employee certification of payment under para-
11 graph (4)(D)(ii).”

12 (d) SIMPLE RETIREMENT ACCOUNTS.—Section
13 408(p)(2) of such Code is amended by adding at the end
14 the following new subparagraph:

15 “(F) MATCHING CONTRIBUTIONS FOR
16 QUALIFIED STUDENT LOAN PAYMENTS.—

17 “(i) IN GENERAL.—Subject to the
18 rules of clause (iii), an arrangement shall
19 not fail to be treated as meeting the re-
20 quirements of subparagraph (A)(iii) solely
21 because under the arrangement, solely for
22 purposes of such subparagraph, qualified
23 student loan payments are treated as
24 amounts elected by the employee under

1 subparagraph (A)(i)(I) to the extent such
2 payments do not exceed—

3 “**(I)** the applicable dollar amount
4 under subparagraph (E) (after appli-
5 cation of section 414(v)) for the year
6 (or, if lesser, the employee’s com-
7 pensation (as defined in section
8 415(c)(3)) for the year), reduced by

9 “**(II)** any other amounts elected
10 by the employee under subparagraph
11 (A)(i)(I) for the year.

12 “**(ii)** **QUALIFIED STUDENT LOAN PAY-**
13 **MENT.**—For purposes of this subpara-
14 graph—

15 “**(I)** **IN GENERAL.**—The term
16 ‘qualified student loan payment’
17 means a payment made by an em-
18 ployee in repayment of a qualified
19 education loan (as defined in section
20 221(d)(1)) incurred by the employee
21 to pay qualified higher education ex-
22 penses, but only if the employee cer-
23 tifies to the employer making the
24 matching contribution that such pay-
25 ment has been made on such a loan.

1 “(II) QUALIFIED HIGHER EDU-
2 CATION EXPENSES.—The term ‘quali-
3 fied higher education expenses’ has
4 the same meaning as when used in
5 section 401(m)(4)(D).

6 “(iii) APPLICABLE RULES.—Clause (i)
7 shall apply to an arrangement only if,
8 under the arrangement—

9 “(I) matching contributions on
10 account of qualified student loan pay-
11 ments are provided only on behalf of
12 employees otherwise eligible to elect
13 contributions under subparagraph
14 (A)(i)(I), and

15 “(II) all employees otherwise eli-
16 gible to participate in the arrange-
17 ment are eligible to receive matching
18 contributions on account of qualified
19 student loan payments.”.

20 (e) 403(b) PLANS.—Section 403(b)(12)(A) of such
21 Code is amended by adding at the end the following: “The
22 fact that the employer offers matching contributions on
23 account of qualified student loan payments as described
24 in section 401(m)(13) shall not be taken into account in
25 determining whether the arrangement satisfies the re-

1 requirements of clause (ii) (and any regulation there-
2 under).”.

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

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

16 (1) permitting a plan to make matching con-
17 tributions for qualified student loan payments, as
18 defined in sections 401(m)(4)(D) and 408(p)(2)(F)
19 of the Internal Revenue Code of 1986, as added by
20 this section, at a different frequency than matching
21 contributions are otherwise made under the plan,
22 provided that the frequency is not less than annu-
23 ally;

24 (2) permitting employers to establish reasonable
25 procedures to claim matching contributions for such

1 qualified student loan payments under the plan, in-
2 cluding an annual deadline (not earlier than 3
3 months after the close of each plan year) by which
4 a claim must be made; and

5 (3) promulgating model amendments which
6 plans may adopt to implement matching contribu-
7 tions on such qualified student loan payments for
8 purposes of sections 401(m), 408(p), 403(b), and
9 457(b) of the Internal Revenue Code of 1986.

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

13 **SEC. 110. APPLICATION OF CREDIT FOR SMALL EMPLOYER**
14 **PENSION PLAN STARTUP COSTS TO EMPLOY-**
15 **ERS WHICH JOIN AN EXISTING PLAN.**

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

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to eligible employer plans which
22 become effective with respect to the eligible employer after
23 the date of the enactment of this Act.

1 **SEC. 111. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
2 **BILITY CREDIT FOR SMALL EMPLOYERS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 section:

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

9 “(a) IN GENERAL.—For purposes of section 38, in
10 the case of any eligible small employer, the military spouse
11 retirement plan eligibility credit determined under this
12 section for any taxable year is an amount equal to the
13 sum of—

14 “(1) \$250 with respect to each military spouse
15 who is an employee of such employer and who is eli-
16 gible to participate in an eligible defined contribu-
17 tion plan of such employer at any time during such
18 taxable year, plus

19 “(2) so much of the contributions made by such
20 employer to all such plans with respect to such em-
21 ployee during such taxable year as do not exceed
22 \$250.

23 “(b) LIMITATION.—An individual shall only be taken
24 into account as a military spouse under subsection (a) for
25 the taxable year which includes the date on which such
26 individual began participating in the eligible defined con-

1 tribution plan of the employer and the 2 succeeding tax-
2 able years.

3 “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of
4 this section—

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

8 “(2) APPLICATION OF 2-YEAR GRACE PERIOD.—
9 A rule similar to the rule of section
10 408(p)(2)(C)(i)(II) shall apply for purposes of this
11 section.

12 “(d) MILITARY SPOUSE.—For purposes of this sec-
13 tion—

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

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

7 “(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—
8 For purposes of this section, the term ‘eligible defined con-
9 tribution plan’ means, with respect to any eligible small
10 employer, any defined contribution plan (as defined in sec-
11 tion 414(i)) of such employer if, under the terms of such
12 plan—

13 “(1) military spouses employed by such em-
14 ployer are eligible to participate in such plan not
15 later than the date which is 2 months after the date
16 on which such individual begins employment with
17 such employer, and

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

20 “(A) are immediately eligible to receive an
21 amount of employer contributions under such
22 plan which is not less the amount of such con-
23 tributions that a similarly situated participant
24 who is not a military spouse would be eligible

1 to receive under such plan after 2 years of serv-
2 ice, and

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

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

10 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
11 NESS CREDIT.—Section 38(b) of such Code is amended
12 by striking “plus” at the end of paragraph (32), by strik-
13 ing the period at the end of paragraph (33) and inserting
14 “, plus”, and by adding at the end the following new para-
15 graph:

16 “(34) in the case of an eligible small employer
17 (as defined in section 45U(c)), the military spouse
18 retirement plan eligibility credit determined under
19 section 45U(a).”.

20 (c) SPECIFIED CREDIT FOR PURPOSES OF CER-
21 TIFIED PROFESSIONAL ORGANIZATIONS.—Section
22 3511(d)(2) of such Code is amended by redesignating sub-
23 paragraphs (F), (G), and (H) as subparagraphs (G), (H),
24 and (I), respectively, and by inserting after subparagraph
25 (E) the following new subparagraph:

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

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

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

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

10 **SEC. 112. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**
11 **CONTRIBUTING TO A PLAN.**

12 (a) IN GENERAL.—Subparagraph (A) of section
13 401(k)(4) of the Internal Revenue Code of 1986 is amend-
14 ed by inserting “(other than a de minimis financial incen-
15 tive)” after “any other benefit”.

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

1 (c) EXEMPTION FROM PROHIBITED TRANSACTION
2 RULES.—Subsection (d) of section 4975 of such Code is
3 amended by striking “or” at the end of paragraph (22),
4 by striking the period at the end of paragraph (23) and
5 inserting “, or”, and by adding at the end the following
6 new paragraph:

7 “(24) the provision of a de minimis financial in-
8 centive described in section 401(k)(4)(A) or
9 403(b)(12)(A).”.

10 (d) AMENDMENT OF EMPLOYEE RETIREMENT IN-
11 COME SECURITY ACT OF 1974.—Subsection (b) of section
12 408 of the Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1108(b)) is amended by adding at the
14 end the following new paragraph:

15 “(21) The provision of a de minimis financial
16 incentive described in section 401(k)(4)(A) or
17 403(b)(12)(A) of the Internal Revenue Code of
18 1986.”.

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

1 **SEC. 113. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE**
2 **ELECTIVE DEFERRAL FAILURES.**

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

6 “(aa) CORRECTING AUTOMATIC CONTRIBUTION ER-
7 RORS.—

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

12 “(2) CORRECTED ERROR DEFINED.—For pur-
13 poses of this subsection, the term ‘corrected error’
14 means a reasonable administrative error in imple-
15 menting an automatic enrollment or automatic esca-
16 lation feature in accordance with the terms of an eli-
17 gible automatic contribution arrangement (as de-
18 fined under subsection (w)(3)), provided that such
19 implementation error—

20 “(A) is corrected by the date that is 9½
21 months after the end of the plan year during
22 which the failure occurred,

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

1 “(C) is of a type which is so corrected for
2 all similarly situated participants in a non-
3 discriminatory manner.

4 Such correction may occur before or after the partic-
5 ipant has terminated employment and may occur
6 without regard to whether the error is identified by
7 the Secretary.

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

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply with respect to any errors with
16 respect to which the date referred to in section 414(aa)
17 (as added by this section) is after the date of enactment
18 of this Act.

19 **SEC. 114. ONE-YEAR REDUCTION IN PERIOD OF SERVICE**
20 **REQUIREMENT FOR LONG-TERM, PART-TIME**
21 **WORKERS.**

22 (a) IN GENERAL.—Section 401(k)(2)(D)(ii) of the
23 Internal Revenue Code of 1986 is amended by striking
24 “3” and inserting “2”.

1 (b) CLARIFICATION OF PRIOR SERVICE FOR PUR-
2 POSES OF VESTING RULES.—Section 112(b) of the Set-
3 ting Every Community Up for Retirement Enhancement
4 Act of 2019 is amended by striking “section
5 401(k)(2)(D)(ii)” and inserting “paragraphs (2)(D)(ii)
6 and (15)(B)(iii) of section 401(k)”.

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

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

12 Congress finds the following:

13 (1) On January 1, 1998, nearly 25 years after
14 the Employee Retirement Income Security Act of
15 1974 was enacted and the employee stock ownership
16 plan (hereafter in this section referred to as an
17 “ESOP”) was created, employees were first per-
18 mitted to be owners of subchapter S corporations
19 pursuant to the Small Business Job Protection Act
20 of 1996 (Public Law 104–188).

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

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

7 (4) Every United States worker who is an em-
8 ployee-owner of an S corporation company through
9 an ESOP has a valuable qualified retirement savings
10 account.

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

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

21 (7) It is the goal of Congress to preserve and
22 foster employee ownership of S corporations through
23 ESOPs.

1 **TITLE II—PRESERVATION OF**
2 **INCOME**

3 **SEC. 201. REMOVE REQUIRED MINIMUM DISTRIBUTION**
4 **BARRIERS FOR LIFE ANNUITIES.**

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

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

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

22 “(ii) a lump sum payment that—

23 “(I) results in a shortening of the
24 payment period with respect to an an-
25 nuity or a full or partial commutation

1 of the future annuity payments, pro-
2 vided that such lump sum is deter-
3 mined using reasonable actuarial
4 methods and assumptions, as deter-
5 mined in good faith by the issuer of
6 the contract, or

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

17 “(iii) an amount which is in the na-
18 ture of a dividend or similar distribution,
19 provided that the issuer of the contract de-
20 termines such amount based on a reason-
21 able comparison of the actuarial factors as-
22 sumed when calculating the initial annuity
23 payments and the issuer’s experience with
24 respect to those factors, or

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

7 (b) REGULATIONS AND ENFORCEMENT.—

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

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

23 (B) amend Q&A–14(c) of Treasury Regu-
24 lation section 1.401(a)(9)–6 to provide that a
25 commercial annuity that provides an initial pay-

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

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

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

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

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

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

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

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

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

14 (A) provides that the former spouse is en-
15 titled to the survivor benefits under the con-
16 tract;

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

20 (C) does not modify the treatment of the
21 former spouse as the measuring life for the sur-
22 vivor benefits under the contract.

23 (3) PERMIT SHORT FREE LOOK PERIOD.—The
24 Secretary shall amend Q&A–17(a)(4) of Treasury
25 Regulation section 1.401(a)(9)–6 to ensure that

1 such Q&A does not preclude a contract from includ-
2 ing a provision under which an employee may re-
3 scind the purchase of the contract within a period
4 not exceeding 90 days from the date of purchase.

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

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

10 (2) a written separation agreement, or

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

14 (c) EFFECTIVE DATES, ENFORCEMENT, AND INTER-
15 PRETATIONS.—

16 (1) EFFECTIVE DATES.—

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

21 (B) Paragraphs (2) and (3) of subsection
22 (a) shall be effective with respect to contracts
23 purchased or received in an exchange on or
24 after July 2, 2014.

1 (2) ENFORCEMENT AND INTERPRETATIONS.—
2 Prior to the date on which the Secretary issues final
3 regulations pursuant to subsection (a)—

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

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

10 **SEC. 203. INSURANCE-DEDICATED EXCHANGE-TRADED**
11 **FUNDS.**

12 (a) IN GENERAL.—Not later than the date which is
13 7 years after the date of the enactment of this Act, the
14 Secretary of the Treasury (or the Secretary’s delegate)
15 shall amend the regulation issued by the Department of
16 the Treasury relating to “Income Tax; Diversification Re-
17 quirements for Variable Annuity, Endowment, and Life
18 Insurance Contracts”, 54 Fed. Reg. 8728 (March 2,
19 1989), and make any necessary corresponding amend-
20 ments to other regulations, in order to facilitate the use
21 of exchange-traded funds as investment options under
22 variable contracts within the meaning of section 817(d)
23 of the Internal Revenue Code of 1986, in accordance with
24 subsections (b) and (c) of this section.

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

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

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

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

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

24 (C) the shares of which are traded
25 throughout the day on a national stock ex-

1 change at market prices that may or may not
2 be the same as the net asset value of the
3 shares.

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

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

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

22 (3) MARKET MAKER.—The term “market
23 maker” means a financial institution that is a reg-
24 istered broker or dealer under section 15(b) of the
25 Securities Exchange Act of 1934 that maintains li-

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

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

13 **TITLE III—SIMPLIFICATION AND**
14 **CLARIFICATION OF RETIRE-**
15 **MENT PLAN RULES**

16 **SEC. 301. RECOVERY OF RETIREMENT PLAN OVERPAY-**
17 **MENTS.**

18 (a) OVERPAYMENTS UNDER INTERNAL REVENUE
19 CODE OF 1986.—

20 (1) QUALIFICATION REQUIREMENTS.—Section
21 414 of the Internal Revenue Code of 1986, as
22 amended by the preceding provisions of this Act, is
23 further amended by adding at the end the following
24 new subsection:

1 “(bb) SPECIAL RULES APPLICABLE TO BENEFIT
2 OVERPAYMENTS.—

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

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

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

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

23 “(A) reduces future benefit payments to
24 the correct amount provided for under the
25 terms of the plan, or

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

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

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

18 “(5) COORDINATION WITH OTHER QUALIFICA-
19 TION REQUIREMENTS.—The Secretary may issue
20 regulations or other guidance of general applicability
21 specifying how benefit overpayments and their
22 recoupment or non-recoupment from a participant or
23 beneficiary shall be taken into account for purposes
24 of satisfying any requirement applicable to a plan to
25 which paragraph (1) applies.”.

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

4 “(12) In the case of an inadvertent benefit
5 overpayment from a plan to which section
6 414(bb)(1) applies which is transferred to an eligible
7 retirement plan by or on behalf of a participant or
8 beneficiary—

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

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

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

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

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

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

25 “(A) any participant or beneficiary,

1 “(B) any plan sponsor of, or contributing
2 employer to—

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

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

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

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

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

20 “(B) seeks recovery from the person or
21 persons responsible for the overpayment.

22 “(3) EMPLOYER FUNDING OBLIGATIONS.—
23 Nothing in this subsection shall relieve an employer
24 of any obligation imposed on it to make contribu-
25 tions to a plan to meet the minimum funding stand-

1 ards under part 3 of this subtitle B or to prevent
2 or restore an impermissible forfeiture in accordance
3 with section 203.

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

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

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

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

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

24 “(iii) future benefit payments are not
25 reduced to below 90 percent of the periodic

1 amount otherwise payable under the terms
2 of the plan.

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

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

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

22 “(E) Recoupment of past overpayments to
23 a participant is not sought from any beneficiary
24 of the participant, including a spouse, surviving
25 spouse, former spouse, or other beneficiary.

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

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

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

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

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

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

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

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

24 (2) determinations made before such date of en-
25 actment by the responsible plan fiduciary, in the ex-

1 exercise of its fiduciary discretion, not to seek
2 recoupment or recovery of all or part of an inad-
3 vertent benefit overpayment.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLO-**
2 **CATION FUNDS.**

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

12 (1) the blend is reasonably representative of the
13 asset class holdings of the designated investment al-
14 ternative;

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

21 (3) the blend is furnished to participants and
22 beneficiaries in a manner that is reasonably designed
23 to be understandable and helpful; and

24 (4) each securities market index which is used
25 for an associated asset class would separately satisfy

1 the requirements of such regulations for such asset
2 class.

3 (b) STUDY.—Not later than December 31, 2022, the
4 Secretary of Labor (or the Secretary’s delegate) shall de-
5 liver a report to the Committees on Ways and Means and
6 Education and Labor of the House of Representatives and
7 the Committees on Finance and Health, Education,
8 Labor, and Pensions of the Senate regarding the effective-
9 ness of the benchmarking requirements under section
10 2550.404a–5 of title 29, Code of Federal Regulations.

11 **SEC. 304. REVIEW AND REPORT TO THE CONGRESS RELAT-**
12 **ING TO REPORTING AND DISCLOSURE RE-**
13 **QUIREMENTS.**

14 (a) STUDY.—As soon as practicable after the date of
15 the enactment of this Act, the Secretary of Labor, the Sec-
16 retary of the Treasury, and the Pension Benefit Guaranty
17 Corporation shall review the reporting and disclosure re-
18 quirements of—

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

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

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

1 graphics) are receiving, accessing, and retaining dislo-
2 sures. The agencies shall conduct appropriate surveys and
3 data collection to obtain any needed information.

4 **SEC. 305. ELIMINATING UNNECESSARY PLAN REQUIRE-**
5 **MENTS RELATED TO UNENROLLED PARTICI-**
6 **PANTS.**

7 (a) AMENDMENT OF INTERNAL REVENUE CODE OF
8 1986.—Section 414 of the Internal Revenue Code of
9 1986, as amended by the preceding provisions of this Act,
10 is further amended by adding at the end the following new
11 subsection:

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

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

22 “(A) an annual reminder notice (in paper
23 format, or in any electronic format consented to
24 by the participant) of such participant’s eligi-

1 bility to participate in such plan and any appli-
2 cable election deadlines under the plan, and

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

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

9 “(A) is eligible to participate in a defined
10 contribution plan,

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

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

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

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

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

6 (b) AMENDMENT OF EMPLOYEE RETIREMENT IN-
7 COME SECURITY ACT OF 1974.—

8 (1) IN GENERAL.—Part 1 of subtitle B of sub-
9 chapter I of the Employee Retirement Income Secu-
10 rity Act of 1974 is amended by redesignating section
11 111 as section 112 and by inserting after section
12 110 the following new section:

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

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

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

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

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

7 “(1) is eligible to participate in an individual
8 account plan;

9 “(2) has received all required notices, dislo-
10 sures, and other plan documents, including the sum-
11 mary plan description, required to be furnished
12 under this title in connection with such participant’s
13 initial eligibility to participate in such plan;

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

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

16 For purposes of this section, any eligibility to participate
17 in the plan following any period for which such employee
18 was not eligible to participate shall be treated as initial
19 eligibility.

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

1 “(1) is furnished in connection with the annual
2 open season election period with respect to the plan
3 or, if there is no such period, is furnished within a
4 reasonable period prior to the beginning of each plan
5 year;

6 “(2) notifies the unenrolled participant of—

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

9 “(B) the key benefits under the plan and
10 the key rights and features under the plan af-
11 fecting such benefits; and

12 “(3) provides such information in a prominent
13 manner calculated to be understood by the average
14 participant.”.

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

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

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

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

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

2 (a) RETIREMENT SAVINGS LOST AND FOUND.—

3 (1) ESTABLISHMENT.—

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

15 (i) allow an individual to search for
16 information that enables the individual to
17 locate the plan administrator of any plans
18 with respect to which the individual is or
19 was a participant or beneficiary, and to
20 provide contact information for the plan
21 administrator of any plan described in sub-
22 paragraph (B);

23 (ii) allow the corporation to assist
24 such an individual in locating any plan of
25 the individual; and

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

11 The Retirement Savings Lost and Found estab-
12 lished under this paragraph shall include infor-
13 mation reported under section 4051 of the Em-
14 ployee Retirement Income Security Act of 1974
15 and other relevant information obtained by the
16 Pension Benefit Guaranty Corporation.

17 (B) PLANS DESCRIBED.—A plan described
18 in this subparagraph is a plan to which the
19 vesting standards of section 203 of part 2 of
20 subtitle B of title I of the Employee Retirement
21 Income Security Act of 1974 apply.

22 (2) ADMINISTRATION.—The Retirement Sav-
23 ings Lost and Found established under paragraph
24 (1) shall provide individuals described in paragraph
25 (1)(A) only with the ability to view contact informa-

1 tion for the plan administrator of any plan with re-
2 spect to which the individual is or was a participant
3 or beneficiary, sufficient to allow the individual to lo-
4 cate the individual's plan in order to recover any
5 benefit owing to the individual under the plan.

6 (3) SAFEGUARDING PARTICIPANT PRIVACY AND
7 SECURITY.—In establishing the Retirement Savings
8 Lost and Found under paragraph (1), the Pension
9 Benefit Guaranty Corporation, in consultation with
10 the Secretary of Labor, the Secretary of Treasury,
11 and the Secretary of Commerce, shall take all nec-
12 essary and proper precautions to ensure that individ-
13 uals' plan information maintained by the Retirement
14 Savings Lost and Found is protected and that per-
15 sons other than the individual cannot fraudulently
16 claim the benefits to which any individual is entitled,
17 and to allow any individual to opt out of inclusion
18 in the Retirement Savings Lost and Found at the
19 election of the individual.

20 (b) OFFICE OF THE RETIREMENT SAVINGS LOST
21 AND FOUND.—

22 (1) IN GENERAL.—Subtitle C of title IV of the
23 Employee Retirement Income Security Act of 1974
24 (29 U.S.C. 1341 et seq.) is amended by adding at
25 the end the following:

1 **“SEC. 4051. OFFICE OF THE RETIREMENT SAVINGS LOST**
2 **AND FOUND.**

3 “(a) ESTABLISHMENT; RESPONSIBILITIES OF OF-
4 FICE.—

5 “(1) IN GENERAL.—Not later than 2 years
6 after the date of the enactment of this section, the
7 Secretary of Labor, the Secretary of Treasury, and
8 the Secretary of Commerce shall establish within the
9 corporation an Office of the Retirement Savings
10 Lost and Found (in this section referred to as the
11 ‘Office’).

12 “(2) RESPONSIBILITIES OF OFFICE.—

13 “(A) IN GENERAL.—The Office shall—

14 “(i) carry out subsection (b) of this
15 section;

16 “(ii) maintain the Retirement Savings
17 Lost and Found established under section
18 306(a) of the Securing a Strong Retire-
19 ment Act of 2021; and

20 “(iii) perform an annual audit of plan
21 information contained in the Retirement
22 Savings Lost and Found and ensure that
23 such information is current and accurate.

24 “(B) OPTION TO CONTRACT.—

25 “(i) IN GENERAL.—Not later than 2
26 years after the date of enactment of this

1 section, the corporation shall conduct an
2 analysis of the cost effectiveness of con-
3 tracting with a third party to carry out the
4 responsibilities under subparagraph (A)(iii)
5 and, upon a determination that such con-
6 tracting would be more cost effective than
7 carrying out such responsibilities within
8 the Office, the corporation may enter into
9 such contracts as merited by such analysis.

10 “(ii) REPORT.—The corporation shall
11 report on the results of the analysis under
12 clause (i) to the Committees on Finance
13 and Health, Education, Labor, and Pen-
14 sions of the Senate and the Committees on
15 Ways and Means and Education and
16 Labor of the House of Representatives.

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

19 “(1) GENERAL RULE.—

20 “(A) TRANSFER TO THE OFFICE OF THE
21 RETIREMENT SAVINGS LOST AND FOUND.—The
22 administrator of a plan that is not terminated
23 and to which section 401(a)(31)(B) of the In-
24 ternal Revenue Code of 1986 applies shall
25 transfer to the Office the amount required to be

1 transferred under section 401(a)(31)(B)(iv) of
2 such Code for a non-responsive participant.

3 “(B) INFORMATION AND PAYMENT TO THE
4 OFFICE.—Upon making a transfer under sub-
5 paragraph (A), the plan administrator shall
6 provide such information and certifications as
7 the Office shall specify, including with respect
8 to the transferred amount and the non-respon-
9 sive participant.

10 “(C) INFORMATION REQUIREMENTS AFTER
11 TRANSFER.—In the event that, after a transfer
12 is made under subparagraph (A), the relevant
13 non-responsive participant contacts the plan ad-
14 ministrator or the plan administrator discovers
15 information that may assist the Office in locat-
16 ing the non-responsive participant, the plan ad-
17 ministrator shall notify and provide such infor-
18 mation as the Office shall specify to the Office.

19 “(D) SEARCH AND PAYMENT BY THE OF-
20 FICE FOLLOWING TRANSFER.—The Office shall
21 periodically, and upon receiving information de-
22 scribed in subparagraph (C), conduct a search
23 for the non-responsive participant for whom the
24 Office has received a transfer under subpara-
25 graph (A). Upon location of a non-responsive

1 participant who claims benefits, the Office shall
2 make a single payment to the non-responsive
3 participant in an amount equal to the sum of—

4 “(i) the amount transferred to the Of-
5 fice under subparagraph (A) for such par-
6 ticipant; and

7 “(ii) the return on the investment at-
8 tributable to such amount under section
9 4005(j)(3).

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

14 “(A) who is entitled to a benefit subject to
15 a mandatory transfer under section
16 401(a)(31)(B)(iii) of the Internal Revenue Code
17 of 1986; and

18 “(B) for whom the plan has satisfied the
19 conditions in section 401(a)(31)(B)(iv) of such
20 Code.

21 “(3) REGULATORY AUTHORITY.—The Office
22 shall prescribe such regulations as are necessary to
23 carry out the purposes of this section, including
24 rules relating to the amount payable to the Office
25 and the amount to be paid by the Office.

1 “(c) INFORMATION COLLECTION.—Within such pe-
2 riod after the end of a plan year as the Office may by
3 regulations prescribe, the administrator of a plan to which
4 the vesting standards of section 203 apply shall submit
5 the following information, and such other information as
6 the corporation may require, to the corporation in such
7 form as the corporation may require:

8 “(1) The information described in paragraphs
9 (1) through (4) of section 6057(b) of the Internal
10 Revenue Code of 1986.

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

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

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

21 “(2) ESTABLISHMENT OF FUND FOR TRANS-
22 FERRED ASSETS.—Section 4005 of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C.
24 1305) is amended by adding at the end the fol-
25 lowing:

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

3 “(2) Such fund shall be credited with the appro-
4 priate—

5 “(A) amounts transferred to the Office of the
6 Retirement Savings Lost and Found under section
7 4051(b)(1)(A); and

8 “(B) earnings on investments of the fund or on
9 assets credited to the fund.

10 “(3) Whenever the corporation determines that the
11 moneys of any fund are in excess of current needs, it may
12 request the investment of such amounts as it determines
13 advisable by the Secretary of the Treasury in obligations
14 issued or guaranteed by the United States.”.

15 (3) CONFORMING AMENDMENT.—The table of
16 contents for the Employee Retirement Income Secu-
17 rity Act of 1974 (29 U.S.C. 1001 et seq.) is amend-
18 ed by inserting after the matter relating to section
19 4050 the following:

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

20 (c) MANDATORY TRANSFERS OF ROLLOVER DIS-
21 TRIBUTIONS.—

22 (1) INVESTMENT OPTIONS.—

23 (A) IN GENERAL.—Subparagraph (B) of
24 section 404(c)(3) of the Employee Retirement
25 Income Security Act of 1974 (29 U.S.C.

1 1104(c)(3)) is amended by striking the period
2 at the end and inserting “, and, to the extent
3 the Secretary provides in guidance or regula-
4 tions issued after the enactment of the Securing
5 a Strong Retirement Act of 2021, is made to—

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

8 “(ii) as described in section
9 2550.404a–2 of title 29, Code of Federal
10 Regulations, an investment product held
11 under such account designed to preserve
12 principal and provide a reasonable rate of
13 return;

14 “(iii) the Office of the Retirement
15 Savings Lost and Found in accordance
16 with section 401(a)(31)(B)(iv) of the In-
17 ternal Revenue Code of 1986 and section
18 306(e)(2)(A)(ii) of the Securing a Strong
19 Retirement Act of 2020; or

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

22 (B) REGULATIONS.—Not later than 270
23 days after the date of the enactment of this
24 Act, the Secretary of Labor shall promulgate
25 regulations identifying the target date or life

1 cycle funds, or specifying the characteristics of
2 such a fund, that will be deemed to meet the re-
3 quirements of section 404(c)(3)(B)(i) of the
4 Employee Retirement Income Security Act of
5 1974 (29 U.S.C. 1104(c)(3)(B)), as amended
6 by subparagraph (A).

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

9 (A) CAP.—Sections 401(a)(31)(B)(ii) and
10 411(a)(11)(A) of the Internal Revenue Code of
11 1986 and section 203(e)(1) of the Employee
12 Retirement Income Security Act of 1974 are
13 each amended by striking “\$5,000” and insert-
14 ing “\$6,000”.

15 (B) DISTRIBUTION OF LARGER AMOUNTS
16 TO INDIVIDUAL RETIREMENT PLANS ONLY.—
17 Section 401(a)(31)(B)(i) of such Code is
18 amended by adding at the end the following:
19 “The Office of the Retirement Savings Lost
20 and Found established by Section 306 of the
21 Securing a Strong Retirement Act shall not be
22 treated as a trustee or issuer that is eligible to
23 receive such distributions.”.

1 (C) LESSER AMOUNTS.—Section
2 401(a)(31)(B) of such Code is amended by add-
3 ing at the end the following new clauses:

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

18 “(iv) TRANSFERS TO RETIREMENT
19 SAVINGS LOST AND FOUND.—If, after a
20 plan administrator takes the action re-
21 quired under clause (iii), the participant
22 does not—

23 “(I) within 6 months of the noti-
24 fication under such clause, make an
25 election under subparagraph (A) or

1 elect to receive a distribution of the
2 benefit directly, or

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

12 “(v) INCOME TAX TREATMENT OF
13 TRANSFERS TO RETIREMENT SAVINGS
14 LOST AND FOUND.—For purposes of deter-
15 mining the income tax treatment of trans-
16 fers to the Office of the Retirement Sav-
17 ings Lost and Found under clause (iv)—

18 “(I) such a transfer shall be
19 treated as a transfer to an individual
20 retirement plan under clause (i), and

21 “(II) the distribution of such
22 amounts by the Office of the Retire-
23 ment Savings Lost and Found shall
24 be treated as a distribution from an
25 individual retirement plan.”

1 (D) EFFECTIVE DATE.—The amendments
2 made by this paragraph shall apply to vested
3 benefits with respect to participants who sepa-
4 rate from service connected to the plan in plan
5 years beginning after the second December 31
6 occurring after the date of the enactment of
7 this Act.

8 (d) BETTER REPORTING FOR MANDATORY TRANS-
9 FERS.—

10 (1) IN GENERAL.—Paragraph (2) of section
11 6057(a) of the Internal Revenue Code of 1986 is
12 amended—

13 (A) in subparagraph (C)—

14 (i) by striking “during such plan
15 year” in clause (i) and inserting “during
16 the plan year immediately preceding such
17 plan year”;

18 (ii) by adding “and” at the end of
19 clause (i); and

20 (iii) by striking clause (iii);

21 (B) by redesignating subparagraph (E) as
22 subparagraph (G);

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

1 (D) by inserting after subparagraph (D)
2 the following new subparagraphs:

3 “(E) the name and taxpayer identifying
4 number of each participant or former partici-
5 pant in the plan—

6 “(i) who, during the current plan year
7 or any previous plan year, was reported
8 under subparagraph (C), and with respect
9 to whom the benefits described in subpara-
10 graph (C)(ii) were fully paid during the
11 plan year,

12 “(ii) with respect to whom any
13 amount was distributed under section
14 401(a)(31)(B) during the plan year, or

15 “(iii) with respect to whom a deferred
16 annuity contract was distributed during
17 the plan year,

18 “(F) in the case of a participant or former
19 participant to whom subparagraph (E) ap-
20 plies—

21 “(i) in the case of a participant de-
22 scribed in clause (ii) thereof, the name and
23 address of the designated trustee or issuer
24 described in section 401(a)(31)(B)(i) and
25 the account number of the individual re-

1 tirement plan to which the amount was
2 distributed, and

3 “(ii) in the case of a participant de-
4 scribed in clause (iii) thereof, the name
5 and address of the issuer of such annuity
6 contract and the contract or certificate
7 number, and”.

8 (2) RULES RELATING TO DIRECT TRUSTEE-TO-
9 TRUSTEE TRANSFERS.—

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

12 (i) by striking “TRANSFERS.—Any”
13 and inserting “TRANSFERS.—

14 “(A) IN GENERAL.—Any”; and

15 (ii) by adding at the end the following
16 new subparagraph:

17 “(B) NOTIFICATION OF TRUSTEE.—In the
18 case of a distribution under section
19 401(a)(31)(B), the plan administrator shall no-
20 tify the designated trustee or issuer described
21 in clause (i) thereof that the transfer is a man-
22 datory distribution required by such section.”.

23 (B) PENALTY.—Subsection (i) of section
24 6652 of such Code is amended—

1 (i) by striking “TO RECIPIENTS” in
2 the heading and inserting “OR NOTIFICA-
3 TION”;

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

7 (iii) by striking “such written expla-
8 nation” and inserting “such written expla-
9 nation or notification”.

10 (C) REPORTS.—Subsection (i) of section
11 408 of such Code is amended—

12 (i) by redesignating subparagraphs
13 (A) and (B) of paragraph (2) as clauses (i)
14 and (ii), respectively, and by moving such
15 clauses 2 ems to the right;

16 (ii) by redesignating paragraphs (1)
17 and (2) as subparagraphs (A) and (B), re-
18 spectively, and by moving such subpara-
19 graphs 2 ems to the right;

20 (iii) by striking “as the Secretary pre-
21 scribes” in subparagraph (B)(ii), as so re-
22 designated, and all that follows through “a
23 simple retirement account” and inserting
24 “as the Secretary prescribes.

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

3 (iv) by striking “REPORTS.—The
4 trustee of” and inserting “REPORTS.—

5 “(1) IN GENERAL.—The trustee of”;

6 (v) by striking “under paragraph (2)”
7 in paragraph (3), as redesignated by clause
8 (iii), and inserting “under paragraph
9 (1)(B)”;

10 (vi) by inserting after paragraph
11 (1)(B)(ii), as redesignated by the pre-
12 ceding clauses, the following new para-
13 graph:

14 “(2) MANDATORY DISTRIBUTIONS.—In the case
15 of an account, contract, or annuity to which a trans-
16 fer under section 401(a)(31)(B) is made (including
17 a transfer from the individual retirement plan to
18 which the original transfer under such section was
19 made to another individual retirement plan), the re-
20 port required by this subsection for the year of the
21 transfer and any year in which the information pre-
22 viously reported in subparagraph (B) changes
23 shall—

24 “(A) identify such transfer as a mandatory
25 distribution required by such section,

1 “(B) include the name, address, and tax-
2 payer identifying number of the trustee or
3 issuer of the individual retirement plan to which
4 the amount is transferred, and

5 “(C) be filed with the Pension Benefit
6 Guaranty Corporation as well as with the Sec-
7 retary.”.

8 (3) NOTIFICATION OF PARTICIPANTS UPON SEP-
9 ARATION.—Subsection (e) of section 6057 of such
10 Code is amended by inserting “, and, with respect
11 to any benefit of the individual subject to section
12 401(a)(31)(B), a notice of availability of, and the
13 contact information for, the Retirement Savings
14 Lost and Found established under section 306(a)(1)
15 of the Securing a Strong Retirement Act of 2021”
16 before the period at the end of the second sentence.

17 (4) EFFECTIVE DATE.—The amendments made
18 by this paragraph shall apply to distributions made
19 in, and returns and reports relating to, years begin-
20 ning after the second December 31 occurring after
21 the date of the enactment of this Act.

22 (e) REQUIREMENT OF ELECTRONIC FILING.—

23 (1) IN GENERAL.—Paragraph (2) of section
24 6011(e) of the Internal Revenue Code of 1986 is
25 amended—

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

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

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

7 (C) by adding at the end the following new
8 subparagraph:

9 “(C) EXCEPTIONS.—Notwithstanding sub-
10 paragraph (A), the Secretary shall require re-
11 turns or reports required under—

12 “(i) sections 6057, 6058, and 6059,
13 and

14 “(ii) sections 408(i), 6041, and 6047
15 to the extent such return or report relates
16 to the tax treatment of a distribution from
17 a plan, account, contract, or annuity,

18 to be filed on magnetic media, but only with re-
19 spect to persons who are required to file at
20 least 50 returns during the calendar year which
21 includes the first day of the plan year to which
22 such returns or reports relate.”.

23 (2) EFFECTIVE DATE.—The amendments made
24 by this paragraph shall apply to returns and reports
25 relating to years beginning after the second Decem-

1 ber 31 occurring after the date of the enactment of
2 this Act.

3 (f) RULEMAKING TO CLARIFY FIDUCIARY DUTIES.—

4 (1) REQUEST FOR INFORMATION.—Not later
5 than 1 year after the date of enactment of this Act,
6 the Secretary of Labor, in consultation with the Sec-
7 retary of the Treasury, shall issue a request for in-
8 formation relating to the rulemaking described in
9 paragraph (2).

10 (2) ISSUANCE OF FINAL RULE.—Not later than
11 3 years after such date, the Secretary of Labor, in
12 consultation with the Secretary of the Treasury,
13 shall issue a final rule that defines the following:

14 (A) The steps a plan sponsor must take to
15 locate a deferred vested participant in order to
16 meet its fiduciary duty under section 404 of the
17 Employee Retirement Income Security Act of
18 1974 with respect to locating that participant.

19 (B) The ongoing practices and procedures
20 a plan sponsor must institute in order to meet
21 such fiduciary duty with respect to maintaining
22 up-to-date contact information on deferred vest-
23 ed participants.

1 **SEC. 307. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**
2 **RESOLUTION SYSTEM.**

3 (a) IN GENERAL.—Except as otherwise provided in
4 the Internal Revenue Code of 1986 or regulations pre-
5 scribed by the Secretary of the Treasury or the Secretary’s
6 delegate (referred to in this section as the “Secretary”),
7 any eligible inadvertent failure to comply with the rules
8 applicable under section 401(a), 403(a), 403(b), 408(p),
9 or 408(k) of such Code may be self-corrected under the
10 Employee Plans Compliance Resolution System (as de-
11 scribed in Revenue Procedure 2019–19 or any successor
12 guidance and hereafter in this section referred to as the
13 “EPCRS”), except to the extent that such failure was
14 identified by the Secretary prior to any actions which dem-
15 onstrate a commitment to implement a self-correction.
16 Revenue Procedure 2019–19 is deemed amended as of the
17 date of the enactment of this Act to provide that the cor-
18 rection period under section 9.02 of such Revenue Proce-
19 dure (or any successor guidance) for an eligible inad-
20 vertent failure, except as otherwise provided under such
21 Code or in regulations prescribed by the Secretary, is in-
22 definite and has no last day, other than with respect to
23 failures identified by the Secretary prior to any self-correc-
24 tion as described in the preceding sentence.

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

4 (1) such failure may be self-corrected under
5 subsection (a) according to the rules of section 6.07
6 of Revenue Procedure 2019–19 (or any successor
7 guidance), including the provisions related to wheth-
8 er a deemed distribution must be reported on Form
9 1099–R, and

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

19 (c) EPCRS FOR IRAS.—The Secretary shall expand
20 the EPCRS to allow custodians of individual retirement
21 plans (as defined in section 7701(a)(37) of the Internal
22 Revenue Code of 1986) to address eligible inadvertent fail-
23 ures with respect to an individual retirement plan (as so
24 defined), including (but not limited to)—

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

4 (2) under the self-correction component of the
5 EPCRS, waivers of the 60-day deadline for a roll-
6 over where the deadline is missed for reasons beyond
7 the reasonable control of the account owner, and

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

16 (d) **ADDITIONAL SAFE HARBORS.**—The Secretary
17 shall expand the EPCRS to provide additional safe harbor
18 means of correcting eligible inadvertent failures described
19 in subsection (a), including safe harbor means of calcu-
20 lating the earnings which must be restored to a plan in
21 cases where plan assets have been depleted by reason of
22 an eligible inadvertent failure.

23 (e) **ELIGIBLE INADVERTENT FAILURE.**—For pur-
24 poses of this section—

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

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

8 (B) satisfy similar standards in the case of
9 an individual retirement plan.

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

15 (f) APPLICATION OF CERTAIN REQUIREMENTS FOR
16 CORRECTING ERRORS.—This section shall not apply to
17 any failure unless the correction of such failure under this
18 section is made in conformity with the general principles
19 that apply to corrections of such failures under the Inter-
20 nal Revenue Code of 1986, including regulations or other
21 guidance issued thereunder and including those principles
22 and corrections set forth in Revenue Procedure 2019–19
23 (or any successor guidance).”

1 **SEC. 308. ELIMINATE THE “FIRST DAY OF THE MONTH” RE-**
2 **QUIREMENT FOR GOVERNMENTAL SECTION**
3 **457(B) PLANS.**

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

7 “(4) which provides that compensation—

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

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

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

20 **SEC. 309. ONE-TIME ELECTION FOR QUALIFIED CHARI-**
21 **TABLE DISTRIBUTION TO SPLIT-INTEREST**
22 **ENTITY; INCREASE IN QUALIFIED CHARI-**
23 **TABLE DISTRIBUTION LIMITATION.**

24 (a) ONE-TIME ELECTION FOR QUALIFIED CHARI-
25 TABLE DISTRIBUTION TO SPLIT-INTEREST ENTITY.—Sec-

1 tion 408(d)(8) of such Code is amended by adding at the
2 end the following new subparagraph:

3 “(F) ONE-TIME ELECTION FOR QUALIFIED
4 CHARITABLE DISTRIBUTION TO SPLIT-INTEREST
5 ENTITY.—

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

13 “(I) an election is not in effect
14 under this subparagraph for a pre-
15 ceding taxable year,

16 “(II) the aggregate amount of
17 distributions of the taxpayer with re-
18 spect to which an election under this
19 subparagraph is made does not exceed
20 \$50,000, and

21 “(III) such distribution meets the
22 requirements of clauses (iii) and (iv).

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

1 “(I) a charitable remainder annu-
2 ity trust (as defined in section
3 664(d)(1)), but only if such trust is
4 funded exclusively by qualified chari-
5 table distributions,

6 “(II) a charitable remainder
7 unitrust (as defined in section
8 664(d)(2)), but only if such unitrust
9 is funded exclusively by qualified char-
10 itable distributions, or

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

18 “(iii) CONTRIBUTIONS MUST BE OTH-
19 ERWISE DEDUCTIBLE.—A distribution
20 meets the requirement of this clause only
21 if—

22 “(I) in the case of a distribution
23 to a charitable remainder annuity
24 trust or a charitable remainder uni-
25 trust, a deduction for the entire value

1 of the remainder interest in the dis-
2 tribution for the benefit of a specified
3 charitable organization would be al-
4 lowable under section 170 (determined
5 without regard to subsection (b)
6 thereof and this paragraph), and

7 “(II) in the case of a charitable
8 gift annuity, a deduction in an
9 amount equal to the amount of the
10 distribution reduced by the value of
11 the annuity described in section
12 501(m)(5)(B) would be allowable
13 under section 170 (determined with-
14 out regard to subsection (b) thereof
15 and this paragraph).

16 “(iv) LIMITATION ON INCOME INTER-
17 ESTS.—A distribution meets the require-
18 ments of this clause only if—

19 “(I) no person holds an income
20 interest in the split-interest entity
21 other than the individual for whose
22 benefit such account is maintained,
23 the spouse of such individual, or both,
24 and

1 “(II) the income interest in the
2 split-interest entity is nonassignable.

3 “(v) SPECIAL RULES.—

4 “(I) CHARITABLE REMAINDER
5 TRUSTS.—Notwithstanding section
6 664(b), distributions made from a
7 trust described in subclause (I) or (II)
8 of clause (ii) shall be treated as ordi-
9 nary income in the hands of the bene-
10 ficiary to whom the annuity described
11 in section 664(d)(1)(A) or the pay-
12 ment described in section
13 664(d)(2)(A) is paid.

14 “(II) CHARITABLE GIFT ANNU-
15 ITIES.—Qualified charitable distribu-
16 tions made to fund a charitable gift
17 annuity shall not be treated as an in-
18 vestment in the contract for purposes
19 of section 72(c).”.

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

23 “(G) INFLATION ADJUSTMENT.—

24 “(i) IN GENERAL.—In the case of any
25 taxable year beginning after 2021, each of

1 the dollar amounts in subparagraphs (A)
2 and (F) shall be increased by an amount
3 equal to—

4 “(I) such dollar amount, multi-
5 plied by

6 “(II) the cost-of-living adjust-
7 ment determined under section 1(f)(3)
8 for the calendar year in which the tax-
9 able year begins, determined by sub-
10 stituting ‘calendar year 2020’ for ‘cal-
11 endar year 2016’ in subparagraph
12 (A)(ii) thereof.

13 “(ii) ROUNDING.—If any dollar
14 amount increased under clause (i) is not a
15 multiple of \$1,000, such dollar amount
16 shall be rounded to the nearest multiple of
17 \$1,000.”.

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

21 **SEC. 310. DISTRIBUTIONS TO FIREFIGHTERS.**

22 (a) IN GENERAL.—Subparagraph (A) of section
23 72(t)(10) of the Internal Revenue Code of 1986 is amend-
24 ed by striking “414(d))” and inserting “414(d)) or a dis-
25 tribution from a plan described in clause (iii), (iv), or (vi)

1 of section 402(c)(8)(B) to an employee who provides fire-
2 fighting services”.

3 (b) CONFORMING AMENDMENT.—The heading of
4 paragraph (10) of section 72(t) of such Code is amend-
5 ed—

6 (1) by striking “QUALIFIED”, and

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

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

11 **SEC. 311. EXCLUSION OF CERTAIN DISABILITY-RELATED**
12 **FIRST RESPONDER RETIREMENT PAYMENTS.**

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

16 **“SEC. 139C. CERTAIN DISABILITY-RELATED FIRST RE-**
17 **SPONDER RETIREMENT PAYMENTS.**

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

23 “(b) QUALIFIED FIRST RESPONDER RETIREMENT
24 PAYMENTS.—For purposes of this section, the term ‘quali-
25 fied first responder retirement payments’ means, with re-

1 spect to any taxable year, any pension or annuity which
2 but for this section would be includible in gross income
3 for such taxable year and which is received—

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

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

8 “(c) ANNUALIZED EXCLUDABLE DISABILITY
9 AMOUNT.—For purposes of this section—

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

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

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

22 “(B) are received in connection with such
23 individual’s qualified first responder service,
24 and

1 “(C) terminate when such individual at-
2 tains retirement age.

3 “(3) SPECIAL RULE FOR PARTIAL-YEAR PAY-
4 MENTS.—In the case of an individual who only re-
5 ceives service-connected excludable disability
6 amounts properly attributable to a portion of the 12-
7 month period described in paragraph (1), such para-
8 graph shall be applied by multiplying such amounts
9 by the ratio of 365 to the number of days in such
10 period to which such amounts were properly attrib-
11 utable.

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

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for part III of subchapter B of chapter 1 of such Code
18 is amended by inserting after the item relating to section
19 139B the following new item:

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

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

1 **SEC. 312. INDIVIDUAL RETIREMENT PLAN STATUTE OF LIM-**
2 **ITATIONS FOR EXCISE TAX ON EXCESS CON-**
3 **TRIBUTIONS AND CERTAIN ACCUMULATIONS.**

4 Section 6501(l) of the Internal Revenue Code of 1986
5 is amended by adding at the end the following new para-
6 graph:

7 “(4) INDIVIDUAL RETIREMENT PLANS.—

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

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

20 “(i) the return referred to in this sec-
21 tion shall be the income tax return that
22 such person would have been required to
23 file but for the fact that such person was
24 not required to file such return, and

25 “(ii) the 3-year period referred to in
26 subsection (a) with respect to the return

1 shall be deemed to begin on the date by
2 which the return would have been required
3 to be filed (excluding any extension there-
4 of).”.

5 **SEC. 313. REQUIREMENT TO PROVIDE PAPER STATEMENTS**
6 **IN CERTAIN CASES.**

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

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

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

14 “(E) PROVISION OF PAPER STATE-
15 MENTS.—With respect to at least 1 pension
16 benefit statement furnished for a calendar year
17 with respect to an individual account plan
18 under paragraph (1)(A), and with respect to at
19 least 1 pension benefit statement furnished
20 every 3 calendar years with respect to a defined
21 benefit plan under paragraph (1)(B), such
22 statement shall be furnished on paper in writ-
23 ten form except—

24 “(i) in the case of a plan that fur-
25 nishes such statement in accordance with

1 section 2520.104b-1(c) of title 29, Code of
2 Federal Regulations; or

3 “(ii) in the case of a plan that permits
4 a participant or beneficiary to request that
5 the statements referred to in the matter
6 preceding clause (i) be furnished by elec-
7 tronic delivery, if the participant or bene-
8 ficiary requests that such statements be
9 delivered electronically and the statements
10 are so delivered.”.

11 (b) IMPLEMENTATION.—

12 (1) IN GENERAL.—The Secretary of Labor
13 shall, not later than December 31, 2021, update sec-
14 tion 2520.104b-1(c) of title 29, Code of Federal
15 Regulations, to provide that a plan may furnish the
16 statements referred to in subparagraph (E) of sec-
17 tion 105(a)(2) by electronic delivery only if, in addi-
18 tion to meeting the other requirements under the
19 regulations—

20 (A) such plan furnishes each participant or
21 beneficiary, including participants described in
22 subparagraph (B), a one-time initial notice on
23 paper in written form, prior to the electronic
24 delivery of any pension benefit statement, of
25 their right to request that all documents re-

1 required to be disclosed under title I of the Em-
2 ployee Retirement Income Security Act of 1974
3 be furnished on paper in written form; and

4 (B) such plan furnishes each participant
5 who is separated from service with at least 1
6 pension benefit statement on paper in written
7 form for each calendar year, unless, on election
8 of the participant, the participant receives such
9 statements electronically.

10 (2) OTHER GUIDANCE.—In implementing the
11 amendment made by subsection (a) with respect to
12 a plan that discloses required documents or state-
13 ments electronically, in accordance with applicable
14 guidance governing electronic disclosure by the De-
15 partment of Labor (with the exception of section
16 2520.104b-1(c) of title 29, Code of Federal Regula-
17 tions), the Secretary of Labor shall, not later than
18 December 31, 2021, update such guidance to the ex-
19 tent necessary to ensure that—

20 (A) a participant or beneficiary under such
21 a plan is permitted the opportunity to request
22 that any disclosure required to be delivered on
23 paper under applicable guidance by the Depart-
24 ment of Labor shall be furnished by electronic
25 delivery;

1 (B) each paper statement furnished under
2 such a plan pursuant to the amendment shall
3 include—

4 (i) an explanation of how to request
5 that all such statements, and any other
6 document required to be disclosed under
7 title I of the Employee Retirement Income
8 Security Act of 1974, be furnished by elec-
9 tronic delivery; and

10 (ii) contact information for the plan
11 sponsor, including a telephone number;

12 (C) the plan may not charge any fee to a
13 participant or beneficiary for the delivery of any
14 paper statements;

15 (D) each paper pension benefit statement
16 shall identify each plan document required to be
17 disclosed and shall include information about
18 how a participant or beneficiary may access
19 each such document;

20 (E) each document required to be disclosed
21 that is furnished by electronic delivery under
22 such a plan shall include an explanation of how
23 to request that all such documents be furnished
24 on paper in written form; and

1 (F) a plan is permitted to furnish a dupli-
2 cate electronic statement in any case in which
3 the plan furnishes a paper pension benefit
4 statement.

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

8 **SEC. 314. SEPARATE APPLICATION OF TOP HEAVY RULES**
9 **TO DEFINED CONTRIBUTION PLANS COV-**
10 **ERING EXCLUDIBLE EMPLOYEES.**

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

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

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

4 **SEC. 315. REPAYMENT OF QUALIFIED BIRTH OR ADOPTION**
5 **DISTRIBUTION LIMITED TO 3 YEARS.**

6 (a) IN GENERAL.—Section 72(t)(2)(H)(v)(I) of the
7 Internal Revenue Code of 1986 is amended by striking
8 “may make” and inserting “may, at any time during the
9 3-year period beginning on the day after the date on which
10 such distribution was received, make”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect as if included in the enact-
13 ment of section 113 of the Setting Every Community Up
14 for Retirement Enhancement Act of 2019.

15 **SEC. 316. EMPLOYER MAY RELY ON EMPLOYEE CERTI-**
16 **FYING THAT DEEMED HARDSHIP DISTRIBUTION CONDI-**
17 **TION CONDITIONS ARE MET.**

18 (a) CASH OR DEFERRED ARRANGEMENTS.—Section
19 401(k)(14) of the Internal Revenue Code of 1986 is
20 amended by adding at the end the following new subpara-
21 graph:

22 “(C) EMPLOYEE CERTIFICATION.—In de-
23 termining whether a distribution is upon the
24 hardship of an employee, the administrator of
25 the plan may rely on a certification by the em-

1 ployee that the distribution is on account of a
2 financial need of a type that is deemed in regu-
3 lations prescribed by the Secretary to be an im-
4 mediate and heavy financial need and that such
5 distribution is not in excess of the amount re-
6 quired to satisfy such financial need.”.

7 (b) 403(b) PLANS.—

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

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

21 (2) ANNUITY CONTRACTS.—Section 403(b)(11)
22 is amended by adding at the end the following: “In
23 determining whether a distribution is upon hardship
24 of an employee, the administrator of the plan may
25 rely on a certification by the employee that the dis-

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

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

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

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

1 **SEC. 317. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
2 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
3 **DOMESTIC ABUSE.**

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

7 “(I) DISTRIBUTIONS FROM RETIREMENT
8 PLAN IN CASE OF DOMESTIC ABUSE.—

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

11 “(ii) LIMITATION.—The aggregate
12 amount which may be treated as an eligi-
13 ble distribution to a domestic abuse victim
14 by any individual shall not exceed an
15 amount equal to the lesser of—

16 “(I) \$10,000, or

17 “(II) 50 percent of the present
18 value of the nonforfeitable accrued
19 benefit of the employee under the
20 plan.

21 “(iii) ELIGIBLE DISTRIBUTION TO A
22 DOMESTIC ABUSE VICTIM.—For purposes
23 of this subparagraph—

24 “(I) IN GENERAL.—A distribu-
25 tion shall be treated as an eligible dis-
26 tribution to a domestic abuse victim if

1 such distribution is from an applicable
2 eligible retirement plan to an indi-
3 vidual and made during the 1-year pe-
4 riod beginning on any date on which
5 the individual is a victim of domestic
6 abuse by a spouse or domestic part-
7 ner.

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

18 “(iv) TREATMENT OF PLAN DISTRIBUTIONS.—
19

20 “(I) IN GENERAL.—If a distribu-
21 tion to an individual would (without
22 regard to clause (ii)) be an eligible
23 distribution to a domestic abuse vic-
24 tim , a plan shall not be treated as
25 failing to meet any requirement of

1 this title merely because the plan
2 treats the distribution as an eligible
3 distribution to a domestic abuse vic-
4 tim, unless the aggregate amount of
5 such distributions from all plans
6 maintained by the employer (and any
7 member of any controlled group which
8 includes the employer) to such indi-
9 vidual exceeds the limitation under
10 clause (ii).

11 “(II) CONTROLLED GROUP.—For
12 purposes of subclause (I), the term
13 ‘controlled group’ means any group
14 treated as a single employer under
15 subsection (b), (c), (m), or (o) of sec-
16 tion 414.

17 “(v) AMOUNT DISTRIBUTED MAY BE
18 REPAID.—

19 “(I) IN GENERAL.—Any indi-
20 vidual who receives a distribution de-
21 scribed in clause (i) may, at any time
22 during the 3-year period beginning on
23 the day after the date on which such
24 distribution was received, make one or
25 more contributions in an aggregate

1 amount not to exceed the amount of
2 such distribution to an applicable eli-
3 gible retirement plan of which such
4 individual is a beneficiary and to
5 which a rollover contribution of such
6 distribution could be made under sec-
7 tion 402(c), 403(a)(4), 403(b)(8),
8 408(d)(3), or 457(e)(16), as the case
9 may be.

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

1 make contributions (other than those
2 described in subclause (I)) to such ap-
3 plicable eligible retirement plan.

4 “(III) TREATMENT OF REPAY-
5 MENTS OF DISTRIBUTIONS FROM AP-
6 PPLICABLE ELIGIBLE RETIREMENT
7 PLANS OTHER THAN IRAS.—If a con-
8 tribution is made under subclause (I)
9 with respect to an eligible distribution
10 to a domestic abuse victim from an
11 applicable eligible retirement plan
12 other than an individual retirement
13 plan, then the taxpayer shall, to the
14 extent of the amount of the contribu-
15 tion, be treated as having received
16 such distribution in an eligible rollover
17 distribution (as defined in section
18 402(c)(4)) and as having transferred
19 the amount to the applicable eligible
20 retirement plan in a direct trustee to
21 trustee transfer within 60 days of the
22 distribution.

23 “(IV) TREATMENT OF REPAY-
24 MENTS FOR DISTRIBUTIONS FROM
25 IRAS.—If a contribution is made

1 under subclause (I) with respect to an
2 eligible distribution to a domestic
3 abuse victim from an individual retire-
4 ment plan, then, to the extent of the
5 amount of the contribution, such dis-
6 tribution shall be treated as a dis-
7 tribution described in section
8 408(d)(3) and as having been trans-
9 ferred to the applicable eligible retire-
10 ment plan in a direct trustee to trust-
11 ee transfer within 60 days of the dis-
12 tribution.

13 “(vi) DEFINITION AND SPECIAL
14 RULES.—For purposes of this subpara-
15 graph:

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

22 “(II) EXEMPTION OF DISTRIBU-
23 TIONS FROM TRUSTEE TO TRUSTEE
24 TRANSFER AND WITHHOLDING
25 RULES.—For purposes of sections

1 401(a)(31), 402(f), and 3405, an eli-
2 gible distribution to a domestic abuse
3 victim shall not be treated as an eligi-
4 ble rollover distribution.

5 “(III) DISTRIBUTIONS TREATED
6 AS MEETING PLAN DISTRIBUTION RE-
7 QUIREMENTS; SELF-CERTIFICATION.—
8 Any distribution which the employee
9 or participant certifies as being an eli-
10 gible distribution to a domestic abuse
11 victim shall be treated as meeting the
12 requirements of sections
13 401(k)(2)(B)(i), 403(b)(7)(A)(i),
14 403(b)(11), and 457(d)(1)(A).”.

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

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

19 (a) IN GENERAL.—Section 414 of the Internal Rev-
20 enue Code of 1986 is amended—

21 (1) in subsection (b)—

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

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

1 (B) by adding at the end the following new
2 paragraphs:

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

7 “(A) Community property laws shall be
8 disregarded for purposes of determining owner-
9 ship.

10 “(B) Except as provided by the Secretary,
11 stock of an individual not attributed under sec-
12 tion 1563(e)(5) to such individual’s spouse shall
13 not be attributed to such spouse by reason of
14 1563(e)(6)(A).

15 “(C) Except as provided by the Secretary,
16 in the case of stock in different corporations
17 that is attributed to a child under section
18 1563(e)(6)(A) from each parent, and is not at-
19 tributed to such parents as spouses under sec-
20 tion 1563(e)(5), such attribution to the child
21 shall not by itself result in such corporations
22 being members of the same controlled group.

23 “(3) PLAN SHALL NOT FAIL TO BE TREATED AS
24 SATISFYING THIS SECTION.—If application of para-
25 graph (2) causes two or more entities to be a con-

1 trolled group, or an affiliated service group, or to no
2 longer be in a controlled group or an affiliated serv-
3 ice group, such change shall be treated as a trans-
4 action to which section 410(b)(6)(C) applies.”, and
5 (2) in subsection (m)(6)(B), by striking “apply”
6 and inserting “apply, except that community prop-
7 erty laws shall be disregarded for purposes of deter-
8 mining ownership”.

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

12 **SEC. 319. AMENDMENTS TO INCREASE BENEFIT ACCRUALS**
13 **UNDER PLAN FOR PREVIOUS PLAN YEAR AL-**
14 **LOWED UNTIL EMPLOYER TAX RETURN DUE**
15 **DATE.**

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

19 “(3) RETROACTIVE PLAN AMENDMENTS THAT
20 INCREASE BENEFIT ACCRUALS.—If—

21 “(A) an employer amends a stock bonus,
22 pension, profit-sharing, or annuity plan to in-
23 crease benefits accrued under the plan effective
24 for the preceding plan year (other than increas-

1 ing the amount of matching contributions (as
2 defined in subsection (m)(4)(A)),

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

6 “(C) such amendment is adopted before
7 the time prescribed by law for filing the return
8 of the employer for a taxable year (including
9 extensions thereof) during which such amend-
10 ment is effective,

11 the employer may elect to treat such amendment as
12 having been adopted as of the last day of the plan
13 year in which the amendment is effective.”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to plan years beginning after De-
16 cember 31, 2022.

17 **SEC. 320. RETROACTIVE FIRST YEAR ELECTIVE DEFER-**
18 **RLS FOR SOLE PROPRIETORS.**

19 (a) **IN GENERAL.**—Section 401(b)(2) of the Internal
20 Revenue Code of 1986 is amended by adding at the end
21 the following: “In the case of an individual who owns the
22 entire interest in an unincorporated trade or business, and
23 who is the only employee of such trade or business, any
24 elective deferrals (as defined in section 402(g)(3)) under
25 a qualified cash or deferred arrangement to which the pre-

1 ceding sentence applies, which are made by such individual
2 before the time for filing the return of such individual for
3 the taxable year (determined without regard to any exten-
4 sions) ending after or with the end of the plan's first year,
5 shall be treated as having been made before the end of
6 such first plan year.”.

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

10 **SEC. 321. LIMITING CESSATION OF IRA TREATMENT TO**
11 **PORTION OF ACCOUNT INVOLVED IN A PRO-**
12 **HIBITED TRANSACTION.**

13 (a) IN GENERAL.—Section 408(e)(2)(A) of the Inter-
14 nal Revenue Code of 1986 is amended by striking “such
15 account ceases to be an individual retirement account”
16 and inserting the following: “the portion of such account
17 which is used in such transaction shall be treated as dis-
18 tributed to the individual”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 408(e)(2)(B) of such Code is
21 amended—

22 (A) by striking “ALL ITS ASSETS.—In any
23 case” and all that follows through “by reason
24 of subparagraph (A)” and inserting the fol-
25 lowing: “PORTION OF ASSETS USED IN PROHIB-

1 ITED TRANSACTION.—In any case in which a
2 portion of an individual retirement account is
3 treated as distributed under subparagraph
4 (A)”, and

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

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

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

16 **TITLE IV—TECHNICAL** 17 **AMENDMENTS**

18 **SEC. 401. AMENDMENTS RELATING TO SETTING EVERY** 19 **COMMUNITY UP FOR RETIREMENT ENHANCE-** 20 **MENT ACT OF 2019.**

21 (a) TECHNICAL AMENDMENTS.—

22 (1) AMENDMENT RELATING TO SECTION 114.—
23 Section 401(a)(9)(C)(iii) of the Internal Revenue
24 Code of 1986 is amended by striking “employee to
25 whom clause (i)(II) applies” and inserting “em-

1 ployee (other than an employee to whom clause
2 (i)(II) does not apply by reason of clause (ii))”.

3 (2) AMENDMENT RELATING TO SECTION 116.—
4 Section 4973(b) of the Internal Revenue Code of
5 1986 is amended by adding at the end of the flush
6 matter the following: “Such term shall not include
7 any designated nondeductible contribution (as de-
8 fined in subparagraph (C) of section 408(o)(2))
9 which does not exceed the nondeductible limit under
10 subparagraph (B) thereof by reason of an election
11 under section 408(o)(5).”.

12 (3) EFFECTIVE DATE.—The amendments made
13 by this section shall take effect as if included in sec-
14 tion of the Setting Every Community Up for Retirement
15 Enhancement Act of 2019 to which the
16 amendment relates.

17 (b) CLERICAL AMENDMENT.—Section
18 72(t)(2)(H)(vi)(IV) of the Internal Revenue Code of 1986
19 is amended by striking “403(b)(7)(A)(ii)” and inserting
20 “ 403(b)(7)(A)(i)”.

21 **TITLE V—ADMINISTRATIVE** 22 **PROVISIONS**

23 **SEC. 501. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

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

5 (2) except as provided by the Secretary of the
6 Treasury (or the Secretary's delegate), such retire-
7 ment plan shall not fail to meet the requirements of
8 section 411(d)(6) of the Internal Revenue Code of
9 1986 and section 204(g) of the Employee Retire-
10 ment Income Security Act of 1974 by reason of such
11 amendment.

12 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

13 (1) IN GENERAL.—This section shall apply to
14 any amendment to any retirement plan or annuity
15 contract which is made—

16 (A) pursuant to any amendment made by
17 this Act or pursuant to any regulation issued by
18 the Secretary of the Treasury or the Secretary
19 of Labor (or a delegate of either such Sec-
20 retary) under this Act; and

21 (B) on or before the last day of the first
22 plan year beginning on or after January 1,
23 2023, or such later date as the Secretary of the
24 Treasury may prescribe.

1 In the case of a governmental plan (as defined in
2 section 414(d) of the Internal Revenue Code of
3 1986), this paragraph shall be applied by sub-
4 stituting “2025” for “2023”.

5 (2) CONDITIONS.—This section shall not apply
6 to any amendment unless—

7 (A) during the period—

8 (i) beginning on the date the legisla-
9 tive or regulatory amendment described in
10 paragraph (1)(A) takes effect (or in the
11 case of a plan or contract amendment not
12 required by such legislative or regulatory
13 amendment, the effective date specified by
14 the plan); and

15 (ii) ending on the date described in
16 paragraph (1)(B) (as modified by the sec-
17 ond sentence of paragraph (1)) (or, if ear-
18 lier, the date the plan or contract amend-
19 ment is adopted),

20 the plan or contract is operated as if such plan
21 or contract amendment were in effect; and

22 (B) such plan or contract amendment ap-
23 plies retroactively for such period.

24 (c) COORDINATION WITH OTHER PROVISIONS RE-
25 LATING TO PLAN AMENDMENTS.—

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

4 (A) by striking “January 1, 2022” in sub-
5 paragraph (B) and inserting “January 1,
6 2023”, and

7 (B) by striking “substituting ‘2024’ for
8 ‘2022’.” in the flush matter at the end and in-
9 serting “substituting ‘2025’ for ‘2023’.”.

10 (2) CARES ACT.—

11 (A) SPECIAL RULES FOR USE OF RETIRE-
12 MENT FUNDS.—Section 2202(c)(2)(A) of the
13 CARES Act is amended by striking “January
14 1, 2022” in clause (ii) and inserting “January
15 1, 2023”.

16 (B) TEMPORARY WAIVER OF REQUIRED
17 MINIMUM DISTRIBUTIONS RULES FOR CERTAIN
18 RETIREMENT PLANS AND ACCOUNTS.—Section
19 2203(c)(2)(B)(i) of the CARES Act is amend-
20 ed—

21 (i) by striking “January 1, 2022” in
22 subclause (II) and inserting “January 1,
23 2023”, and

24 (ii) by striking “substituting ‘2024’
25 for ‘2022’.” in the flush matter at the end

1 and inserting “substituting ‘2025’ for
2 ‘2023’.”.

3 (C) TAXPAYER CERTAINTY AND DISASTER
4 TAX RELIEF ACT OF 2020.—Section
5 302(d)(2)(A) of the Taxpayer Certainty and
6 Disaster Tax Relief Act of 2020 is amended by
7 striking “January 1, 2022” in clause (ii) and
8 inserting “January 1, 2023”.

9 **TITLE VI—REVENUE**
10 **PROVISIONS**

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

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

14 (b) RULES RELATING TO SIMPLIFIED EMPLOYEE
15 PENSIONS.—

16 (1) CONTRIBUTIONS.—Section 402(h)(1) of
17 such Code is amended by striking “and” at the end
18 of subparagraph (A), by striking the period at the
19 end of subparagraph (B) and inserting “, and”, and
20 by adding at the end the following new subpara-
21 graph:

22 “(C) in the case of any contributions pur-
23 suant to a simplified employer pension which
24 are made to an individual retirement plan des-

1 ignated as a Roth IRA, such contribution shall
2 not be excludable from gross income.”.

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

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

13 “(7) ROTH CONTRIBUTION ELECTION.—An in-
14 dividual retirement plan which is designated as a
15 Roth IRA shall not be treated as a simplified em-
16 ployee pension under this subsection unless the em-
17 ployee elects for such plan to be so treated (at such
18 time and in such manner as the Secretary may pro-
19 vide).”.

20 (c) RULES RELATING TO SIMPLE RETIREMENT AC-
21 COUNTS.—

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

1 “(11) ROTH CONTRIBUTION ELECTION.—An in-
2 dividual retirement plan which is designated as a
3 Roth IRA shall not be treated as a simple retirement
4 account under this subsection unless the employee
5 elects for such plan to be so treated (at such time
6 and in such manner as the Secretary may pro-
7 vide).”.

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

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

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

23 “(7) COORDINATION WITH LIMITATION FOR
24 SIMPLE RETIREMENT PLANS AND SEPs.—In the
25 case of an individual on whose behalf contributions

1 are made to a simple retirement account or a sim-
2 plified employee pension, the amount described in
3 paragraph (2)(A) shall be increased by an amount
4 equal to the contributions made on the individual's
5 behalf to such account or pension for the taxable
6 year, but only to the extent such contributions—

7 “(A) in the case of a simplified retirement
8 account—

9 “(i) do not exceed the sum of the dol-
10 lar amount in effect for the taxable year
11 under section 408(p)(2)(A)(ii) and the em-
12 ployer contribution required under sub-
13 paragraph (A)(iii) or (B)(i), as the case
14 may be, of section 408(p)(2), and

15 “(ii) do not cause the elective defer-
16 rals (as defined in section 402(g)(3)) on
17 behalf of such individual to exceed the lim-
18 itation under section 402(g)(1) (taking
19 into account any additional elective defer-
20 rals permitted under section 414(v)), or

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

24 (e) CONFORMING AMENDMENT.—Section
25 408A(d)(2)(B) of such Code is amended by inserting “,

1 or employer in the case of a simple retirement account
2 (as defined in section 408(p)) or simplified employee pen-
3 sion (as defined in section 408(k)),” after “individual’s
4 spouse”.

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

8 **SEC. 602. HARDSHIP WITHDRAWAL RULES FOR 403(b)**
9 **PLANS.**

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

13 “(15) SPECIAL RULES RELATING TO HARDSHIP
14 WITHDRAWALS.—For purposes of paragraphs (7)
15 and (11)—

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

19 “(i) Contributions made pursuant to a
20 salary reduction agreement (within the
21 meaning of section 3121(a)(5)(D)).

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

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

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

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

8 (b) CONFORMING AMENDMENTS.—

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

14 (2) Paragraph (11) of section 403(b) is amend-
15 ed—

16 (A) by striking “in” in subparagraph (B)
17 and inserting “subject to the provisions of para-
18 graph (15), in”, and

19 (B) by striking the last sentence.

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

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

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

10 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

1 “(2) any designated Roth contribution which is
2 made by the employer to the program on the em-
3 ployee’s behalf, and on account of the employee’s
4 contribution or elective deferral, shall be treated as
5 a matching contribution for purposes of this chapter,
6 except that such contribution shall not be excludable
7 from gross income, and”.

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

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

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

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

20 (d) MATCHING CONTRIBUTION DEFINED.—Section
21 402A(e) of such Code is amended by adding at the end
22 the following:

23 “(3) MATCHING CONTRIBUTION.—The term
24 ‘matching contribution’ means—

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

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

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

