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.

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

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

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

TITLE II—PRESERVATION OF INCOME

Sec. 201. Remove required minimum distribution barriers for life annuities.
Sec. 202. Qualifying longevity annuity contracts.
Sec. 203. Insurance-dedicated exchange-traded funds.
TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

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

TITLE IV—TECHNICAL AMENDMENTS


TITLE V—ADMINISTRATIVE PROVISIONS


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.
TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS

SEC. 101. EXPANDING AUTOMATIC ENROLLMENT IN RETIREMENT PLANS.

(a) In General.—Subpart B of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 414 the following new section:

“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC ENROLLMENT.

“(a) In General.—Except as otherwise provided in this section—

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

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

“(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—
“(1) IN GENERAL.—An arrangement or agreement meets the requirements of this subsection if such arrangement or agreement is an eligible automatic contribution arrangement (as defined in section 414(w)(3)) which meets the requirements of paragraphs (2) through (4).

“(2) ALLOWANCE OF PERMISSIBLE WITHDRAWALS.—An eligible automatic contribution arrangement meets the requirements of this paragraph if such arrangement allows employees to make permissible withdrawals (as defined in section 414(w)(2)).

“(3) MINIMUM CONTRIBUTION PERCENTAGE.—

“(A) IN GENERAL.—An eligible automatic contribution arrangement meets the requirements of this paragraph if—

“(i) the uniform percentage of compensation contributed by the participant under such arrangement during the first year of participation is not less than 3 percent and not more than 10 percent (unless the participant specifically elects not to have such contributions made or to have such contributions made at a different percentage), and
“(ii) effective for the first day of each
plan year starting after each completed
year of participation under such arrange-
ment such uniform percentage is increased
by 1 percentage point (to at least 10 per-
cent, but not more than 15 percent) unless
the participant specifically elects not to
have such contributions made or to have
such contributions made at a different per-
centage.

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

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

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

“(1) SIMPLE PLANS.—Subsection (a) shall not apply to any simple plan (within the meaning of section 401(k)(11)).

“(2) EXCEPTION FOR PLANS OR ARRANGEMENTS ESTABLISHED BEFORE ENACTMENT OF SECTION.—

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

“(i) any qualified cash or deferred arrangement established before the date of the enactment of this section, or

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

“(B) POST-ENACTMENT ADOPTION OF MULTIPLE EMPLOYER PLAN.—Subparagraph (A) shall not apply in the case of an employer adopting after such date of enactment a plan maintained by more than one employer, and subsection (a) shall apply with respect to such employer as if such plan were a single plan.
“(3) Exception for Governmental and Church Plans.—Subsection (a) shall not apply to any governmental plan (within the meaning of section 414(d)) or any church plan (within the meaning of section 414(e)).

“(4) Exception for New and Small Businesses.—

“(A) New Business.—Subsection (a) shall not apply to any qualified cash or deferred arrangement, or any annuity contract purchased under a plan, while the employer maintaining such plan (and any predecessor employer) has been in existence for less than 3 years.

“(B) Small Businesses.—Subsection (a) shall not apply to any qualified cash or deferred arrangement, any annuity contract purchased under a plan, earlier than the date that is 1 year after the close of the first taxable year with respect to which the employer maintaining the plan normally employed more than 10 employees.

“(C) Treatment of Multiple Employer Plans.—In the case of a plan maintained by more than 1 employer, subparagraphs
(A) and (B) shall be applied separately with respect to each such employer, and all such employers to which subsection (a) applies (after the application of this paragraph) shall be treated as maintaining a separate plan for purposes of this section.”.

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

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

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

SEC. 102. MODIFICATION OF CREDIT FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(a) INCREASE IN CREDIT PERCENTAGE FOR SMALLER EMPLOYERS.—Section 45E(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

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

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

“(f) ADDITIONAL CREDIT FOR EMPLOYER CONTRIBUTIONS BY CERTAIN ELIGIBLE EMPLOYERS.—

“(1) IN GENERAL.—In the case of an eligible employer, the credit allowed for the taxable year under subsection (a) (determined without regard to this subsection) shall be increased by an amount equal to the applicable percentage of employer contributions (other than any elective deferrals (as defined in section 402(g)(3)) by the employer to an eligible employer plan (other than a defined benefit plan (as defined in section 414(j))).

“(2) LIMITATIONS.—

“(A) DOLLAR LIMITATION.—The amount determined under paragraph (1) (before the application of subparagraph (B)) with respect to any employee of the employer shall not exceed $1,000.

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

“(i) the amount otherwise so determined under paragraph (1), multiplied by

“(ii) a percentage equal to 2 percentage points for each employee of the employer for the preceding taxable year in excess of 50 employees.

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

<table>
<thead>
<tr>
<th>Taxable Year Beginning After the Taxable Year During Which Plan is Established With Respect to the Eligible Employer</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>100%</td>
</tr>
<tr>
<td>2nd</td>
<td>75%</td>
</tr>
<tr>
<td>3rd</td>
<td>50%</td>
</tr>
<tr>
<td>4th</td>
<td>25%</td>
</tr>
<tr>
<td>Any taxable year thereafter</td>
<td>0%</td>
</tr>
</tbody>
</table>

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

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

“(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed—

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.
SEC. 103. PROMOTION OF SAVER'S CREDIT.

(a) IN GENERAL.—The Secretary of the Treasury shall take such steps as the Secretary determines are necessary and appropriate to increase public awareness of the credit provided under section 25B of the Internal Revenue Code of 1986.

(b) REPORT TO CONGRESS.—

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

(2) CONTENTS.—Such report shall include—

(A) a description of plans for—

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

(ii) the translation of such materials into the 10 most commonly spoken languages in the United States after English (as determined by reference to the most recent American Community Survey of the Bureau of the Census), and
(B) such other information as the Secretary determines is necessary

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

(a) IN GENERAL.—

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

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

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

(b) AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(11)) is amended to read as follows:
“(11) Any—

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

“(B) custodial account meeting the requirements of section 403(b)(7) of such Code;

“(C) governmental plan described in section 3(a)(2)(C) of the Securities Act of 1933;

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

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

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

“(iii) church plans, companies, or accounts that are excluded from the definition of an investment company under paragraph (14) of this subsection; or

“(iv) plans which meet the requirements of section 403(b) of the Internal Revenue Code of 1986 if—

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

“(II) any employer making such plan available agrees to serve as a fiduciary for the plan with respect to the selection of the plan’s investments among which participants can choose; or

“(III) such plan is a governmental plan (as defined in section 414(d) of such Code); or

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

“(i) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1986 or the requirements for deduction of the employer’s contribution under section 404(a)(2) of such Code;

“(ii) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act;
“(iii) advances made by an insurance company in connection with the operation of such separate account; and

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

(c) Amendments to the Securities Act of 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77e(a)(2)) is amended—

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

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

(3) by striking “(iii) which is a plan funded” and inserting “(iii) in the case of a plan not described in subparagraph (D), which is a plan funded”.

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

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

(3) by striking “(II) is a plan funded” and inserting “(II) in the case of a plan not described in clause (iv), is a plan funded”.

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

(a) In general.—Section 401(a)(9)(C)(i)(I) of the Internal Revenue Code of 1986 is amended by striking “age 72” and inserting “the applicable age”.
(b) **Spouse Beneficiaries; Special Rule for Owners.**—Subparagraphs (B)(iv)(I) and (C)(ii)(I) of section 401(a)(9) of such Code are each amended by striking “age 72” and inserting “the applicable age”.

(c) **Applicable Age.**—Section 401(a)(9)(C) of such Code is amended by adding at the end the following new clause:

“(v) Applicable Age.—

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

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

“(III) In the case of an individual who attains age 74 after December 31, 2031, the applicable age is 75.”.

(d) **Conforming Amendments.**—The last sentence of section 408(b) of such Code is amended by striking “age 72” and inserting “the applicable age (determined under section 401(a)(9)(C)(v) for the calendar year in which such taxable year begins)”.
(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions required to be made after December 31, 2021, with respect to individuals who attain age 72 after such date.

SEC. 106. INDEXING IRA CATCH-UP LIMIT.

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

“(iii) INDEXING OF CATCH-UP LIMITATION.—In the case of any taxable year beginning in a calendar year after 2022, the $1,000 amount under subparagraph (B)(ii) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2021’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

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

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

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

(a) IN GENERAL.—

(1) PLANS OTHER THAN SIMPLE PLANS.—Section 414(v)(2)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting the following before the period: “($10,000, in the case of an eligible participant who has attained age 62, but not age 65, before the close of the taxable year)”.

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

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

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

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

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

“(15) MULTIPLE EMPLOYER PLANS.—

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

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

“(i) IN GENERAL.—In the case of a plan maintained by more than 1 employer, this subsection shall not be treated as failing to apply to an annuity contract held under such plan merely because of one or
more employers failing to meet the requirements of this subsection if such plan satisfies rules similar to the rules of section 413(e)(2) with respect to any such employer failure.

“(ii) ADDITIONAL REQUIREMENTS IN CASE OF NON-GOVERNMENTAL PLANS.—A plan shall not be treated as meeting the requirements of this subparagraph unless the plan meets the requirements of subparagraph (A) or (B) of section 413(e)(1), except in the case of a multiple employer plan maintained solely by any of the following: A State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing.”.

(b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE EMPLOYER PLAN.—Section 6057 of such Code is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

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

(e) **Annual Information Returns for 403(b) Multiple Employer Plan.**—Section 6058 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **403(b) Multiple Employer Plans Treated as One Plan.**—In the case of annuity contracts to which this section applies and to which section 403(b) applies by reason of the plan under which such contracts are pur-
chased meeting the requirements of paragraph (15) there-
of, such plan shall be treated as a single plan for purposes
of this section.”.

(d) **Amendments to Employee Retirement Income Security Act of 1974.**—

(1) **Treated as Pooled Employer Plan.**—

(A) **In General.**—Section 3(43)(A) of the Employee Retirement Income Security Act of 1974 is amended—

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

(ii) in the flush text at the end, by striking “the plan.” and inserting “the plan, but such term shall include any program (other than a governmental plan) maintained for the benefit of the employees of more than 1 employer that consists of contracts described in section 403(b) of such Code and that meets the requirements of subparagraph (A) or (B) of section 413(e)(1) of such Code.”.

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

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

(A) by striking “trustees meeting the requirements of section 408(a)(2) of the Internal Revenue Code of 1986” and inserting “trustees (or other fiduciaries in the case of a plan that consists of contracts described in section 403(b)
of the Internal Revenue Code of 1986) meeting
the requirements of section 408(a)(2) of such
Code”, and
(B) by striking “holding” and inserting
“holding (or causing to be held under the terms
of a plan consisting of such contracts)”.

(e) Regulations Relating to Plan Termination.—The Secretary of the Treasury (or the Sec-
retary’s designee) shall prescribe such regulations as may
be necessary to clarify the treatment of a plan termination
by an employer in the case of plans to which section
403(b)(15) of such Code applies.

(f) Modification of Model Plan Language.

etc.—

(1) Plan Notifications.—The Secretary of
the Treasury (or the Secretary’s designee) shall
modify the model plan language published under sec-
tion 413(e)(5) of the Internal Revenue Code of 1986
to include language which notifies participating em-
ployers described in section 501(e)(3), and which are
exempt from tax under section 501(a), that the plan
is subject to the Employee Retirement Income Secu-
rity Act of 1974 and that such employer is a plan
sponsor with respect to its employees participating
in the multiple employer plan and, as such, has cer-
tain fiduciary duties with respect to the plan and to its employees.

(2) Model Plans for Multiple Employer 403(b) Non-Governmental Plans.—For plans to which section 403(b)(15)(A) of the Internal Revenue Code of 1986 applies (other than a plan maintained for its employees by a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing) the Secretary shall publish model plan language similar to model plan language published under section 413(e)(5) of such Code.

(3) Educational Outreach to Employers Exempt from Tax.—The Secretary shall provide education and outreach to increase awareness to employers described in section 501(e)(3), and which are exempt from tax under section 501(a), that multiple employer plans are subject to the Employee Retirement Income Security Act of 1974 and that such employer is a plan sponsor with respect to its employees participating in the multiple employer plan and, as such, has certain fiduciary duties with respect to the plan and to its employees.

(g) No Inference With Respect to Church Plans.—Regarding any application of section 403(b) of
the Internal Revenue Code of 1986 to an annuity contract purchased under a church plan (as defined in section 414(e) of such Code) maintained by more than 1 employer, or to any application of rules similar to section 413(e) of such Code to such a plan, no inference shall be made from section 403(b)(15)(A) of such Code (as added by this Act) not applying to such plans.

(h) EFFECTIVE DATE.—

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

(2) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as limiting the authority of the Secretary of the Treasury or the Secretary’s delegate (determined without regard to such amendment) to provide for the proper treatment of a failure to meet any requirement applicable under such Code with respect to one employer (and its employees) in the case of a plan to which section 403(b)(15) applies.

SEC. 109. TREATMENT OF STUDENT LOAN PAYMENTS AS ELECTIVE DEFERRALS FOR PURPOSES OF MATCHING CONTRIBUTIONS.

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

“(iii) subject to the requirements of
paragraph (13), any employer contribution
made to a defined contribution plan on be-
half of an employee on account of a qual-
ified student loan payment.”.

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

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

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

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

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

“(ii) if the employee certifies to the employer making the matching contribution under this paragraph that such payment has been made on such loan.

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

(c) Matching Contributions for Qualified Student Loan Payments.—Section 401(m) of such Code is amended by redesignating paragraph (13) as paragraph (14), and by inserting after paragraph (12) the following new paragraph:

“(13) Matching contributions for qualified student loan payments.—

“(A) In general.—For purposes of paragraph (4)(A)(iii), an employer contribution
made to a defined contribution plan on account of a qualified student loan payment shall be treated as a matching contribution for purposes of this title if—

“(i) the plan provides matching contributions on account of elective deferrals at the same rate as contributions on account of qualified student loan payments,

“(ii) the plan provides matching contributions on account of qualified student loan payments only on behalf of employees otherwise eligible to receive matching contributions on account of elective deferrals,

“(iii) under the plan, all employees eligible to receive matching contributions on account of elective deferrals are eligible to receive matching contributions on account of qualified student loan payments, and

“(iv) the plan provides that matching contributions on account of qualified student loan payments vest in the same manner as matching contributions on account of elective deferrals.

“(B) TREATMENT FOR PURPOSES OF NON-DISCRIMINATION RULES, ETC.—
“(i) Nondiscrimination Rules.—
For purposes of subparagraph (A)(iii), subsection (a)(4), and section 410(b), matching contributions described in paragraph (4)(A)(iii) shall not fail to be treated as available to an employee solely because such employee does not have debt incurred under a qualified education loan (as defined in section 221(d)(1)).

“(ii) Student Loan Payments Not Treated as Plan Contribution.—Except as provided in clause (iii), a qualified student loan payment shall not be treated as a contribution to a plan under this title.

“(iii) Matching Contribution Rules.—Solely for purposes of meeting the requirements of paragraph (11)(B) or (12) of this subsection, or paragraph (11)(B)(i)(II), (12)(B), or (13)(D) of subsection (k), a plan may treat a qualified student loan payment as an elective deferral or an elective contribution, whichever is applicable.

“(iv) Actual Deferral Percentage Testing.—In determining whether a
plan meets the requirements of subsection (k)(3)(A)(ii) for a plan year, the plan may apply the requirements of such subsection separately with respect to all employees who receive matching contributions described in paragraph (4)(A)(iii) for the plan year.

“(C) EMPLOYER MAY RELY ON EMPLOYEE CERTIFICATION.—The employer may rely on an employee certification of payment under paragraph (4)(D)(ii).”.

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

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

“(i) IN GENERAL.—Subject to the rules of clause (iii), an arrangement shall not fail to be treated as meeting the requirements of subparagraph (A)(iii) solely because under the arrangement, solely for purposes of such subparagraph, qualified student loan payments are treated as amounts elected by the employee under
subparagraph (A)(i)(I) to the extent such payments do not exceed—

“(I) the applicable dollar amount under subparagraph (E) (after application of section 414(v)) for the year (or, if lesser, the employee’s compensation (as defined in section 415(e)(3)) for the year), reduced by 

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

“(ii) QUALIFIED STUDENT LOAN PAYMENT.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘qualified student loan payment’ means a payment made by an employee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred by the employee to pay qualified higher education expenses, but only if the employee certifies to the employer making the matching contribution that such payment has been made on such a loan.
“(II) QUALIFIED HIGHER EDUCATION EXPENSES.—The term ‘qualified higher education expenses’ has the same meaning as when used in section 401(m)(4)(D).

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

“(I) matching contributions on account of qualified student loan payments are provided only on behalf of employees otherwise eligible to elect contributions under subparagraph (A)(i)(I), and

“(II) all employees otherwise eligible to participate in the arrangement are eligible to receive matching contributions on account of qualified student loan payments.”.

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

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

(g) Regulatory Authority.—The Secretary shall
prescribe regulations for purposes of implementing the
amendments made by this section, including regulations—

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

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

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

(h) **Effective Date.**—The amendments made by this section shall apply to contributions made for plan years beginning after December 31, 2021.

**SEC. 110. APPLICATION OF CREDIT FOR SMALL EMPLOYER PENSION PLAN STARTUP COSTS TO EMPLOYERS WHICH JOIN AN EXISTING PLAN.**

(a) In General.—Section 45E(d)(3)(A) of the Internal Revenue Code of 1986 is amended by striking “effective” and inserting “effective with respect to the eligible employer”.

(b) **Effective Date.**—The amendment made by this section shall apply to eligible employer plans which become effective with respect to the eligible employer after the date of the enactment of this Act.
SEC. 111. MILITARY SPOUSE RETIREMENT PLAN ELIGIBILITY CREDIT FOR SMALL EMPLOYERS.

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

“SEC. 45U. MILITARY SPOUSE RETIREMENT PLAN ELIGIBILITY CREDIT FOR SMALL EMPLOYERS.

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

“(1) $250 with respect to each military spouse who is an employee of such employer and who is eligible to participate in an eligible defined contribution plan of such employer at any time during such taxable year, plus

“(2) so much of the contributions made by such employer to all such plans with respect to such employee during such taxable year as do not exceed $250.

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

“(c) Eligible Small Employer.—For purposes of this section—

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

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

“(d) Military Spouse.—For purposes of this section—

“(1) IN GENERAL.—The term ‘military spouse’ means, with respect to any employer, any individual who is married (within the meaning of section 7703 as of the first date that the employee is employed by the employer) to an individual who is a member of the uniformed services (as defined section 101(a)(5) of title 10, United States Code). For purposes of this section, an employer may rely on an employee’s certification that such employee’s spouse is a member of the uniformed services if such certification provides the name, rank, and service branch of such spouse.
“(2) EXCLUSION OF HIGHLY COMPENSATED EMPLOYEES.—With respect to any employer, the term ‘military spouse’ shall not include any individual if such individual is a highly compensated employee of such employer (within the meaning of section 414(q)).

“(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—For purposes of this section, the term ‘eligible defined contribution plan’ means, with respect to any eligible small employer, any defined contribution plan (as defined in section 414(i)) of such employer if, under the terms of such plan—

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

“(2) military spouses who are eligible to participate in such plan—

“(A) are immediately eligible to receive an amount of employer contributions under such plan which is not less the amount of such contributions that a similarly situated participant who is not a military spouse would be eligible
to receive under such plan after 2 years of service, and

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

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

(b) Credit Allowed as Part of General Business Credit.—Section 38(b) of such Code is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus”, and by adding at the end the following new paragraph:

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

(c) Specified Credit for Purposes of Certified Professional Organizations.—Section 3511(d)(2) of such Code is amended by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively, and by inserting after subparagraph (E) the following new subparagraph:

""
“(F) section 45U (military spouse retirement plan eligibility credit),”.

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

“Sec. 45U. Military spouse retirement plan eligibility credit for small employers.”.

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

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

(a) IN GENERAL.—Subparagraph (A) of section 401(k)(4) of the Internal Revenue Code of 1986 is amended by inserting “(other than a de minimis financial incentive)” after “any other benefit”.

(b) SECTION 403(b) PLANS.—Subparagraph (A) of section 403(b)(12) of such Code, as amended by the preceding provisions of this Act, is further amended by adding at the end the following: “A plan shall not fail to satisfy clause (ii) solely by reason of offering a de minimis financial incentive to employees to elect to have the employer make contributions pursuant to a salary reduction agreement.”.
(c) **Exemption From Prohibited Transaction Rules.**—Subsection (d) of section 4975 of such Code is amended by striking “or” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “, or”, and by adding at the end the following new paragraph:

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

(d) **Amendment of Employee Retirement Income Security Act of 1974.**—Subsection (b) of section 408 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

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

(e) **Effective Date.**—The amendments made by this section shall apply with respect to plan years beginning after the date of enactment of this Act.
SEC. 113. SAFE HARBOR FOR CORRECTIONS OF EMPLOYEE ELECTIVE DEFERRAL FAILURES.

(a) In General.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(aa) Correcting Automatic Contribution Errors.—

“(1) In general.—Any plan or arrangement shall not fail to be treated as a plan described in sections 401(a), 403(b), 408, or 457(b), as applicable, solely by reason of a corrected error.

“(2) Corrected error defined.—For purposes of this subsection, the term ‘corrected error’ means a reasonable administrative error in implementing an automatic enrollment or automatic escalation feature in accordance with the terms of an eligible automatic contribution arrangement (as defined under subsection (w)(3)), provided that such implementation error—

“(A) is corrected by the date that is 9 1/2 months after the end of the plan year during which the failure occurred,

“(B) is corrected in a manner that is favorable to the participant, and
“(C) is of a type which is so corrected for all similarly situated participants in a non-discriminatory manner.

Such correction may occur before or after the participant has terminated employment and may occur without regard to whether the error is identified by the Secretary.

“(3) Regulations and guidance for favorable correction methods.—The Secretary shall, by regulations or other guidance of general applicability, specify the correction methods that are in a manner favorable to the participant for purposes of paragraph (2)(B).”.

(b) Effective Date.—The amendment made by this section shall apply with respect to any errors with respect to which the date referred to in section 414(aa) (as added by this section) is after the date of enactment of this Act.

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

(a) In General.—Section 401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 is amended by striking “3” and inserting “2”.
(b) Clarification of Prior Service for Purposes of Vesting Rules.—Section 112(b) of the Setting Every Community Up for Retirement Enhancement Act of 2019 is amended by striking “section 401(k)(2)(D)(ii)” and inserting “paragraphs (2)(D)(ii) and (15)(B)(iii) of section 401(k)”.

(e) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of section 112 of the Setting Every Community Up for Retirement Enhancement Act of 2019.

SEC. 115. FINDINGS RELATING TO S CORPORATION ESOPs.

Congress finds the following:

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

(2) With the passage of the Taxpayer Relief Act of 1997 (Public Law 105–34), Congress designed incentives to encourage businesses to become ESOP-owned S corporations.
(3) Since that time, several thousand companies have become ESOP-owned S corporations, creating an ownership interest for several million Americans in companies in every State in the country, in industries ranging from heavy manufacturing to construction and contracting to services.

(4) Every United States worker who is an employee-owner of an S corporation company through an ESOP has a valuable qualified retirement savings account.

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

(6) Studies also show that employee-owners of S corporation ESOP companies have amassed meaningful retirement savings through their ESOP accounts that will give them the means to retire with dignity.

(7) It is the goal of Congress to preserve and foster employee ownership of S corporations through ESOPs.
TITLE II—PRESERVATION OF INCOME

SEC. 201. REMOVE REQUIRED MINIMUM DISTRIBUTION BARRIERS FOR LIFE ANNUITIES.

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

“(J) CERTAIN INCREASES IN PAYMENTS UNDER A COMMERCIAL ANNUITY.—Nothing in this section shall prohibit a commercial annuity (within the meaning of section 3405(c)(6)) that is issued in connection with any eligible retirement plan (within the meaning of section 402(c)(8)(B), other than a defined benefit plan) from providing one or more of the following types of payments on or after the annuity starting date:

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

“(ii) a lump sum payment that—

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

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

“(iii) an amount which is in the na-
ture of a dividend or similar distribution,
provided that the issuer of the contract de-
determines such amount based on a reason-
able comparison of the actuarial factors as-
sumed when calculating the initial annuity
payments and the issuer’s experience with
respect to those factors, or
“(iv) a final payment upon death that does not exceed the excess of the total amount of the consideration paid for the annuity payments, less the aggregate amount of prior distributions or payments from or under the contract.”.

(b) REGULATIONS AND ENFORCEMENT.—

(1) REGULATIONS.—By the date that is one year after the date of enactment of this Act, the Secretary of the Treasury shall amend the regulation issued by the Department of the Treasury relating to “Required Distributions from Retirement Plans,” 69 Fed. Reg. 33288 (June 15, 2004), and make any corresponding amendments to other regulations, in order to—

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

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

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

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

(c) EFFECTIVE DATE.—This section shall take effect
on the date of the enactment of this Act.
SEC. 202. QUALIFYING LONGEVITY ANNUITY CONTRACTS.

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

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

(2) FACILITATE JOINT AND SURVIVOR BENEFITS.—The Secretary shall amend Q&A–17(c) of Treasury Regulation section 1.401(a)(9)–6, and make such corresponding changes to the regulations and related forms as are necessary, to provide that, in the case of a qualifying longevity annuity contract which was purchased with joint and survivor annuity benefits for the individual and the individual’s
spouse which were permissible under the regulations at the time the contract was originally purchased, a divorce occurring after the original purchase and before the annuity payments commence under the contract will not affect the permissibility of the joint and survivor annuity benefits or other benefits under the contract, or require any adjustment to the amount or duration of benefits payable under the contract, provided that any qualified domestic relations order (within the meaning of section 414(p) of the Internal Revenue Code of 1986) or any divorce or separation instrument (as defined in subsection (b))—

(A) provides that the former spouse is entitled to the survivor benefits under the contract;

(B) does not modify the treatment of the former spouse as the beneficiary under the contract who is entitled to the survivor benefits; or

(C) does not modify the treatment of the former spouse as the measuring life for the survivor benefits under the contract.

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

(b) Divorce or Separation Instrument.—For purposes of subsection (a)(2), the term “divorce or separation instrument” means—

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

(2) a written separation agreement, or

(3) a decree (not described in paragraph (1)) requiring a spouse to make payments for the support or maintenance of the other spouse.

(c) Effective Dates, Enforcement, and Interpretations.—

(1) Effective dates.—

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

(B) Paragraphs (2) and (3) of subsection (a) shall be effective with respect to contracts purchased or received in an exchange on or after July 2, 2014.
Prior to the date on which the Secretary issues final regulations pursuant to subsection (a)—

(A) the Secretary (or delegate) shall administer and enforce the law in accordance with subsection (a) and the effective dates in paragraph (1) of this subsection; and

(B) taxpayers may rely upon their reasonable good faith interpretations of subsection (a).

SEC. 203. INSURANCE-DEDICATED EXCHANGE-TRADED FUNDS.

(a) In General.—Not later than the date which is 7 years after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary’s delegate) shall amend the regulation issued by the Department of the Treasury relating to “Income Tax; Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts”, 54 Fed. Reg. 8728 (March 2, 1989), and make any necessary corresponding amendments to other regulations, in order to facilitate the use of exchange-traded funds as investment options under variable contracts within the meaning of section 817(d) of the Internal Revenue Code of 1986, in accordance with subsections (b) and (c) of this section.
(b) Designate Certain Authorized Participants and Market Makers as Eligible Investors.—

The Secretary of the Treasury (or the Secretary’s delegate) shall amend Treas. Reg. section 1.817–5(f)(3) to provide that satisfaction of the requirements in Treas. Reg. section 1.817–5(f)(2)(i) with respect to an exchange-traded fund shall not be prevented by reason of beneficial interests in such a fund being held by 1 or more authorized participants or market makers.

(c) Define Relevant Terms.—In amending Treas. Reg. section 1.817–5(f)(3) in accordance with subsections (b) of this section, the Secretary of the Treasury (or the Secretary’s delegate) shall provide definitions consistent with the following:

(1) Exchange-Traded Fund.—The term “exchange-traded fund” means a regulated investment company, partnership, or trust—

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

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

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

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

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

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

(3) MARKET MAKER.—The term “market
maker” means a financial institution that is a reg-
istered broker or dealer under section 15(b) of the
Securities Exchange Act of 1934 that maintains li-
quidity for an exchange-traded fund on a national stock exchange by being always ready to buy and sell shares of such fund on the market, but only if the financial institution is contractually or legally precluded from selling or buying such shares to or from persons who are not authorized participants or otherwise described in Treas. Reg. section 1.817–5(f) (2) and (3).

(d) EFFECTIVE DATE.—Subsections (b) and (e) shall apply to segregated asset account investments made on or after the date that is 7 years after the date of the enactment of this Act.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

SEC. 301. RECOVERY OF RETIREMENT PLAN OVERPAYMENTS.

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

(1) QUALIFICATION REQUIREMENTS.—Section 414 of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:
“(bb) SPECIAL RULES APPLICABLE TO BENEFIT OVERPAYMENTS.—

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

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

“(B) the plan sponsor amends the plan to increase past or future benefit payments to affected participants and beneficiaries in order to adjust for prior inadvertent benefit overpayments.

“(2) REDUCTION IN FUTURE BENEFIT PAYMENTS AND RECOVERY FROM RESPONSIBLE PARTY.—Paragraph (1) shall not fail to apply to a plan merely because, after discovering a benefit overpayment, such plan—

“(A) reduces future benefit payments to the correct amount provided for under the terms of the plan, or
“(B) seeks recovery from the person or persons responsible for such overpayment.

“(3) **Employer Funding Obligations.**—Nothing in this subsection shall relieve an employer of any obligation imposed on it to make contributions to a plan to meet the minimum funding standards under sections 412 and 430 or to prevent or restore an impermissible forfeiture in accordance with section 411.

“(4) **Observance of Benefit Limitations.**—Notwithstanding paragraph (1), a plan to which paragraph (1) applies shall observe any limitations imposed on it by section 401(a)(17) or 415. The plan may enforce such limitations using any method approved by the Secretary for recouping benefits previously paid or allocations previously made in excess of such limitations.

“(5) **Coordination with Other Qualification Requirements.**—The Secretary may issue regulations or other guidance of general applicability specifying how benefit overpayments and their recoupment or non-recoupment from a participant or beneficiary shall be taken into account for purposes of satisfying any requirement applicable to a plan to which paragraph (1) applies.”.
(2) ROLLOVERS.—Section 402(c) of such Code is amended by adding at the end the following new paragraph:

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

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

“(B) the portion of such overpayment with respect to which recoupment is sought on behalf of the plan shall be permitted to be returned to such plan and in such case shall be treated as an eligible rollover distribution transferred to such plan by the participant or beneficiary who received such overpayment (and the plans making and receiving such transfer shall be treated as permitting such transfer).
In any case in which recoupment is sought on behalf of the plan but is disputed by the participant or beneficiary who received such overpayment, such dispute shall be subject to the claims and appeals procedures of the plan that made such overpayment, such plan shall notify the plan receiving the rollover of such dispute, and the plan receiving the rollover shall retain such overpayment on behalf of the participant or beneficiary (and shall be entitled to treat such overpayment as plan assets) pending the outcome of such procedures.”

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

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

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

“(A) any participant or beneficiary,
“(B) any plan sponsor of, or contributing employer to—

“(i) an individual account plan, provided that the amount needed to prevent or restore any impermissible forfeiture from any participant’s or beneficiary’s account arising in connection with the overpayment is, separately from and independently of the overpayment, allocated to such account pursuant to the nonforfeitability requirements of section 203 (for example, out of the plan’s forfeiture account, additional employer contributions, or recoveries from those responsible for the overpayment), or

“(ii) a defined benefit pension plan subject to the funding rules in part 3 of this subtitle B, unless the responsible plan fiduciary determines, in the exercise of its fiduciary discretion, that failure to recover all or part of the overpayment faster than required under such funding rules would materially affect the plan’s ability to pay benefits due to other participants and beneficiaries, or
“(C) any fiduciary of the plan, other than
a fiduciary (including a plan sponsor or contrib-
uting employer acting in a fiduciary capacity)
whose breach of its fiduciary duties resulted in
such overpayment, provided that if the plan has
established prudent procedures to prevent and
minimize overpayment of benefits and the rel-
evant plan fiduciaries have followed such proce-
dures, an inadvertent benefit overpayment will
not give rise to a breach of fiduciary duty.

“(2) Reduction in future benefit pay-
ments and recovery from responsible
party.—Paragraph (1) shall not fail to apply with
respect to any inadvertent benefit overpayment
merely because, after discovering such overpayment,
the responsible plan fiduciary—

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

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

“(3) Employer funding obligations.—
Nothing in this subsection shall relieve an employer
of any obligation imposed on it to make contribu-
tions to a plan to meet the minimum funding stand-
ards under part 3 of this subtitle B or to prevent
or restore an impermissible forfeiture in accordance
with section 203.

“(4) Recoupment from participants and
beneficiaries.—If the responsible plan fiduciary,
in the exercise of its fiduciary discretion, decides to
seek recoupment from a participant or beneficiary of
all or part of an inadvertent benefit overpayment
made by the plan to such participant or beneficiary,
it may do so, subject to the following conditions:

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

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

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

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

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

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

“(C) If the plan seeks to recoup past overpayments of a benefit other than a non-decreasing periodic benefit, the plan satisfies requirements developed by the Secretary of the Treasury for purposes of this subparagraph.

“(D) Efforts to recoup overpayments are not made through a collection agency or similar third party and such efforts are not accompanied by threats of litigation, unless the responsible plan fiduciary reasonably believes it could prevail in a civil action brought in Federal or State court to recoup the overpayments.

“(E) Recoupment of past overpayments to a participant is not sought from any beneficiary of the participant, including a spouse, surviving spouse, former spouse, or other beneficiary.
“(F) Recoupment may not be sought if the first overpayment occurred more than 3 years before the participant or beneficiary is first notified in writing of the error.

“(G) A participant or beneficiary from whom recoupment is sought is entitled to contest all or part of the recoupment pursuant to the plan’s claims and appeals procedures.

“(H) In determining the amount of recoupment to seek, the responsible plan fiduciary may take into account the hardship that recoupment likely would impose on the participant or beneficiary.

“(5) EFFECT OF CULPABILITY.—Subparagraphs (A) through (F) of paragraph (4) shall not apply to protect a participant or beneficiary who is culpable. For purposes of this paragraph, a participant or beneficiary is culpable if the individual bears responsibility for the overpayment (such as through misrepresentations or omissions that led to the overpayment), or if the individual knew, or had good reason to know under the circumstances, that the benefit payment or payments were materially in excess of the correct amount. Notwithstanding the preceding sentence, an individual is not culpable merely
because the individual believed the benefit payment or payments were or might be in excess of the correct amount, if the individual raised that question with an authorized plan representative and was told the payment or payments were not in excess of the correct amount. With respect to a culpable participant or beneficiary, efforts to recoup overpayments shall not be made through threats of litigation, unless a lawyer for the plan could make the representations required under Rule 11 of the Federal Rules of Civil Procedure if the litigation were brought in Federal court.”.

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

(d) CERTAIN ACTIONS BEFORE DATE OF ENACTMENT.—Plans, fiduciaries, employers, and plan sponsors are entitled to rely on—

(1) a good faith interpretation of then existing administrative guidance for inadvertent benefit overpayment recoupments and recoveries that commenced before the date of enactment of this Act, and

(2) determinations made before such date of enactment by the responsible plan fiduciary, in the ex-
exercise of its fiduciary discretion, not to seek recoupment or recovery of all or part of an inadvertent benefit overpayment. In the case of a benefit overpayment that occurred prior to the date of enactment of this Act, any installment payments by the participant or beneficiary to the plan or any reduction in periodic benefit payments to the participant or beneficiary, which were made in recoupment of such overpayment and which commenced prior to such date, may continue after such date. Nothing in this subsection shall relieve a fiduciary from responsibility for an overpayment that resulted from a breach of its fiduciary duties.

SEC. 302. REDUCTION IN EXCISE TAX ON CERTAIN ACCUMULATIONS IN QUALIFIED RETIREMENT PLANS.

(a) In General.—Section 4974(a) of the Internal Revenue Code of 1986 is amended by striking “50 percent” and inserting “25 percent”.

(b) Reduction in Excise Tax on Failures to Take Required Minimum Distributions.—Section 4974 of such Code is amended by adding at the end the following new subsection:

“(e) Reduction of Tax in Certain Cases.—

“(1) Reduction.—In the case of a taxpayer who—
“(A) corrects, during the correction window, a shortfall of distributions from an individual retirement plan which resulted in imposition of a tax under subsection (a), and

“(B) submits a return, during the correction window, reflecting such tax (as modified by this subsection),

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

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

“(A) the date on which the Secretary initiates an audit, or otherwise demands payment, with respect to the shortfall of distributions, or

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

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.
SEC. 303. PERFORMANCE BENCHMARKS FOR ASSET ALLOCATION FUNDS.

(a) In General.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Labor (or the Secretary’s delegate) shall modify the regulations under section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) to provide that, in the case of a designated investment alternative which contains a mix of asset classes, a plan administrator may, but is not required to, use a benchmark which is a blend of different broad-based securities market indices if—

(1) the blend is reasonably representative of the asset class holdings of the designated investment alternative;

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

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

(4) each securities market index which is used for an associated asset class would separately satisfy
the requirements of such regulations for such asset
class.

(b) STUDY.—Not later than December 31, 2022, the
Secretary of Labor (or the Secretary’s delegate) shall de-
deliver a report to the Committees on Ways and Means and
Education and Labor of the House of Representatives and
the Committees on Finance and Health, Education,
Labor, and Pensions of the Senate regarding the effective-
ness of the benchmarking requirements under section

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

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

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

(2) the Internal Revenue Code of 1986 applica-
able to qualified retirement plans (as defined in sec-
tion 4974(c) of such Code without regard to para-
graphs (4) and (5) thereof).
(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation, jointly, and after consultation with a balanced group of participant and employer representatives, shall with respect to plans referenced in subsection (a) report on the effectiveness of the applicable reporting and disclosure requirements and make such recommendations as may be appropriate to the appropriate committees of the Congress to consolidate, simplify, standardize, and improve such requirements so as to simplify reporting for such plans and ensure that plans can simply furnish and participants and beneficiaries timely receive and better understand the information they need to monitor their plans, plan for retirement, and obtain the benefits they have earned. Such report shall assess the extent to which retirement plans are retaining disclosures, work records, and plan documents that are needed to ensure accurate calculation of future benefits. To assess the effectiveness of the applicable reporting and disclosure requirements, the report shall include an analysis, based on plan data, of how participants and beneficiaries are providing preferred contact information, the methods by which plan sponsors and plans are furnishing disclosures, and the rate at which participants and beneficiaries (grouped by key demo-
graphics) are receiving, accessing, and retaining disclosures. The agencies shall conduct appropriate surveys and data collection to obtain any needed information.

SEC. 305. ELIMINATING UNNECESSARY PLAN REQUIREMENTS RELATED TO UNENROLLED PARTICIPANTS.

(a) Amendment of Internal Revenue Code of 1986.—Section 414 of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(cc) ELIMINATING UNNECESSARY PLAN REQUIREMENTS RELATED TO UNENROLLED PARTICIPANTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, with respect to any defined contribution plan, no disclosure, notice, or other plan document (other than the notices and documents described in subparagraphs (A) and (B)) shall be required to be furnished under this title to any unenrolled participant if the unenrolled participant receives—

“(A) an annual reminder notice (in paper format, or in any electronic format consented to by the participant) of such participant’s eligi-
ability to participate in such plan and any applicable election deadlines under the plan, and

“(B) any document requested by such participant which the participant would be entitled to receive without regard to this subsection.

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

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

“(B) has received all required notices, disclosures, and other plan documents required to be furnished under this title and the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 in connection with such participant’s initial eligibility to participate in such plan,

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

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

For purposes of this subsection, any eligibility to participate in the plan following any period for which such employee was not eligible to participate shall be treated as initial eligibility.
“(3) ANNUAL REMINDER NOTICE.—For purposes of this subsection, the term ‘annual reminder notice’ means the notice described in section 111(c) of the Employee Retirement Income Security Act of 1974.”.

(b) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Part 1 of subtitle B of subchapter I of the Employee Retirement Income Security Act of 1974 is amended by redesignating section 111 as section 112 and by inserting after section 110 the following new section:

“SEC. 111. ELIMINATING UNNECESSARY PLAN REQUIREMENTS RELATED TO UNENROLLED PARTICIPANTS.

“(a) IN GENERAL.—Notwithstanding any other provision of this title, with respect to any individual account plan, no disclosure, notice, or other plan document (other than the notices and documents described in paragraphs (1) and (2)) shall be required to be furnished under this title to any unenrolled participant if the unenrolled participant receives—

“(1) an annual reminder notice of such participant’s eligibility to participate in such plan and any applicable election deadlines under the plan; and
“(2) any document requested by such participant which the participant would be entitled to receive without regard to this section.

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

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

“(2) has received all required notices, disclosures, and other plan documents, including the summary plan description, required to be furnished under this title in connection with such participant’s initial eligibility to participate in such plan;

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

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

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

“(c) ANNUAL REMINDER NOTICE.—For purposes of this section, the term ‘annual reminder notice’ means a notice provided in accordance with section 2520.104b–1 of title 29, Code of Federal Regulations (or any successor regulation), which—
“(1) is furnished in connection with the annual open season election period with respect to the plan or, if there is no such period, is furnished within a reasonable period prior to the beginning of each plan year;

“(2) notifies the unenrolled participant of—

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

“(B) the key benefits under the plan and the key rights and features under the plan affecting such benefits; and

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

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the item relating to section 111 and by inserting after the item relating to section 110 the following new items:

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2021.
SEC. 306. RETIREMENT SAVINGS LOST AND FOUND.

(a) Retirement Savings Lost and Found.—

(1) Establishment.—

(A) In general.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Labor, the Secretary of the Treasury, and the Secretary of Commerce, in cooperation, shall establish an online searchable database (to be managed by the Pension Benefit Guaranty Corporation in accordance with section 4051 of the Employee Retirement Income Security Act of 1974) to be known as the “Retirement Savings Lost and Found”. The Retirement Savings Lost and Found shall—

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

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

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(iii) allow the corporation to make any necessary changes to contact information on record for the plan administrator based on any changes to the plan due to merger or consolidation of the plan with any other plan, division of the plan into two or more plans, bankruptcy, termination, change in name of the plan, change in name or address of the plan administrator, or other causes.

The Retirement Savings Lost and Found established under this paragraph shall include information reported under section 4051 of the Employee Retirement Income Security Act of 1974 and other relevant information obtained by the Pension Benefit Guaranty Corporation.

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

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

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

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

(1) IN GENERAL.—Subtitle C of title IV of the 
Employee Retirement Income Security Act of 1974 
(29 U.S.C. 1341 et seq.) is amended by adding at 
the end the following:
“SEC. 4051. OFFICE OF THE RETIREMENT SAVINGS LOST AND FOUND.

“(a) Establishment; Responsibilities of Office.—

“(1) In general.—Not later than 2 years after the date of the enactment of this section, the Secretary of Labor, the Secretary of Treasury, and the Secretary of Commerce shall establish within the corporation an Office of the Retirement Savings Lost and Found (in this section referred to as the ‘Office’).

“(2) Responsibilities of office.—

“(A) In general.—The Office shall—

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

“(ii) maintain the Retirement Savings Lost and Found established under section 306(a) of the Securing a Strong Retirement Act of 2021; and

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

“(B) Option to contract.—

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

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

“(b) CERTAIN NON-RESPONSIVE PARTICIPANTS EN-
titled to Small Benefits.—

“(1) GENERAL RULE.—

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

“(B) INFORMATION AND PAYMENT TO THE OFFICE.—Upon making a transfer under subparagraph (A), the plan administrator shall provide such information and certifications as the Office shall specify, including with respect to the transferred amount and the non-responsive participant.

“(C) INFORMATION REQUIREMENTS AFTER TRANSFER.—In the event that, after a transfer is made under subparagraph (A), the relevant non-responsive participant contacts the plan administrator or the plan administrator discovers information that may assist the Office in locating the non-responsive participant, the plan administrator shall notify and provide such information as the Office shall specify to the Office.

“(D) SEARCH AND PAYMENT BY THE OFFICE FOLLOWING TRANSFER.—The Office shall periodically, and upon receiving information described in subparagraph (C), conduct a search for the non-responsive participant for whom the Office has received a transfer under subparagraph (A). Upon location of a non-responsive
participant who claims benefits, the Office shall
make a single payment to the non-responsive
participant in an amount equal to the sum of—
“(i) the amount transferred to the Of-
fice under subparagraph (A) for such par-
ticipant; and
“(ii) the return on the investment at-
tributable to such amount under section
4005(j)(3).
“(2) DEFINITION.—For purposes of this sub-
section, the term ‘non-responsive participant’ means
a participant or beneficiary of a plan described in
paragraph (1)(A)—
“(A) who is entitled to a benefit subject to
a mandatory transfer under section
401(a)(31)(B)(iii) of the Internal Revenue Code
of 1986; and
“(B) for whom the plan has satisfied the
conditions in section 401(a)(31)(B)(iv) of such
Code.
“(3) REGULATORY AUTHORITY.—The Office
shall prescribe such regulations as are necessary to
carry out the purposes of this section, including
rules relating to the amount payable to the Office
and the amount to be paid by the Office.
“(c) INFORMATION COLLECTION.—Within such period after the end of a plan year as the Office may by regulations prescribe, the administrator of a plan to which the vesting standards of section 203 apply shall submit the following information, and such other information as the corporation may require, to the corporation in such form as the corporation may require:

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

“(2) The information described in subparagraphs (A), (B), (E), and (F) of section 6057(a)(2) of the Internal Revenue Code of 1986.

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

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

(2) ESTABLISHMENT OF FUND FOR TRANSFERRED ASSETS.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended by adding at the end the following:
“(j)(1) A ninth fund shall be established for the payment of benefits under section 4051(b)(1)(D).

“(2) Such fund shall be credited with the appropriate—

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

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

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

(3) CONFORMING AMENDMENT.—The table of contents for the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by inserting after the matter relating to section 4050 the following:

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

(e) MANDATORY TRANSFERS OF ROLLOVER DISTRIBUTIONS.—

(1) INVESTMENT OPTIONS.—

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

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

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

“(iii) the Office of the Retirement Savings Lost and Found in accordance with section 401(a)(31)(B)(iv) of the Internal Revenue Code of 1986 and section 306(c)(2)(A)(ii) of the Securing a Strong Retirement Act of 2020; or

“(iv) such other option as the Secretary may so provide.”.

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

(2) EXPANSION OF CAP; AUTHORITY TO TRANSFER LESSER AMOUNTS.—

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

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

"(iii) Treatment of Lesser Amounts.—In the case of a trust which is part of an eligible plan, such trust shall not be a qualified trust under this section unless such plan provides that, if a participant in the plan separates from the service covered by the plan and the nonforfeitable accrued benefit described in clause (ii) is not in excess of $1,000, the plan administrator shall (either separately or as part of the notice under section 402(f)) notify the participant that the participant is entitled to such benefit or attempt to pay the benefit directly to the participant.

"(iv) Transfers to Retirement Savings Lost and Found.—If, after a plan administrator takes the action required under clause (iii), the participant does not—

“(I) within 6 months of the notification under such clause, make an election under subparagraph (A) or
elect to receive a distribution of the benefit directly, or

“(II) accept any direct payment made under such clause within 6 months of the attempted payment,

the plan administrator shall transfer the amount of such benefit to the Office of the Retirement Savings Lost and Found in accordance with section 4051(b) of the Employee Retirement Income Security Act of 1974.

“(v) INCOME TAX TREATMENT OF TRANSFERS TO RETIREMENT SAVINGS LOST AND FOUND.—For purposes of determining the income tax treatment of transfers to the Office of the Retirement Savings Lost and Found under clause (iv)—

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

“(II) the distribution of such amounts by the Office of the Retirement Savings Lost and Found shall be treated as a distribution from an individual retirement plan.”.
(D) **Effective Date.**—The amendments made by this paragraph shall apply to vested benefits with respect to participants who separate from service connected to the plan in plan years beginning after the second December 31 occurring after the date of the enactment of this Act.

(d) **Better Reporting for Mandatory Transfers.**—

(1) **In General.**—Paragraph (2) of section 6057(a) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (C)—

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

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

(iii) by striking clause (iii);

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

(C) by striking “and” at the end of subparagraph (D); and
(D) by inserting after subparagraph (D) the following new subparagraphs:

“(E) the name and taxpayer identifying number of each participant or former participant in the plan—

“(i) who, during the current plan year or any previous plan year, was reported under subparagraph (C), and with respect to whom the benefits described in subparagraph (C)(ii) were fully paid during the plan year,

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

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

“(F) in the case of a participant or former participant to whom subparagraph (E) applies—

“(i) in the case of a participant described in clause (ii) thereof, the name and address of the designated trustee or issuer described in section 401(a)(31)(B)(i) and the account number of the individual re-
(ii) in the case of a participant described in clause (iii) thereof, the name and address of the issuer of such annuity contract and the contract or certificate number, and”.

(2) **Rules relating to direct trustee-to-trustee transfers.**—

(A) **In general.**—Paragraph (6) of section 402(e) of such Code is amended—

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

“(A) **In general.**—Any”; and

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

“(B) **Notification of Trustee.**—In the case of a distribution under section 401(a)(31)(B), the plan administrator shall notify the designated trustee or issuer described in clause (i) thereof that the transfer is a mandatory distribution required by such section.”.

(B) **Penalty.**—Subsection (i) of section 6652 of such Code is amended—
(i) by striking “TO RECIPIENTS” in the heading and inserting “OR NOTIFICATION”; 

(ii) by striking “402(f),” and inserting “402(f) or a notification as required by section 402(e)(6)(B),”; and 

(iii) by striking “such written explanation” and inserting “such written explanation or notification”.

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

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

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

(iii) by striking “as the Secretary prescribes” in subparagraph (B)(ii), as so redesignated, and all that follows through “a simple retirement account” and inserting “as the Secretary prescribes.”
“(3) SIMPLE RETIREMENT ACCOUNTS.—In the case of a simple retirement account;

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

“(1) IN GENERAL.—The trustee of”;

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

(vi) by inserting after paragraph (1)(B)(ii), as redesignated by the preceding clauses, the following new paragraph:

“(2) MANDATORY DISTRIBUTIONS.—In the case of an account, contract, or annuity to which a transfer under section 401(a)(31)(B) is made (including a transfer from the individual retirement plan to which the original transfer under such section was made to another individual retirement plan), the report required by this subsection for the year of the transfer and any year in which the information previously reported in subparagraph (B) changes shall—

“(A) identify such transfer as a mandatory distribution required by such section,
“(B) include the name, address, and taxpayer identifying number of the trustee or issuer of the individual retirement plan to which the amount is transferred, and

“(C) be filed with the Pension Benefit Guaranty Corporation as well as with the Secretary.”.

(3) Notification of Participants Upon Separation.—Subsection (e) of section 6057 of such Code is amended by inserting “, and, with respect to any benefit of the individual subject to section 401(a)(31)(B), a notice of availability of, and the contact information for, the Retirement Savings Lost and Found established under section 306(a)(1) of the Securing a Strong Retirement Act of 2021” before the period at the end of the second sentence.

(4) Effective Date.—The amendments made by this paragraph shall apply to distributions made in, and returns and reports relating to, years beginning after the second December 31 occurring after the date of the enactment of this Act.

(e) Requirement of Electronic Filing.—

(1) In General.—Paragraph (2) of section 6011(e) of the Internal Revenue Code of 1986 is amended—
(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by moving such clauses 2 ems to the right;

(B) by striking “REGULATIONS.—In prescribing” and inserting “REGULATIONS.—

“(A) IN GENERAL.—In prescribing”; and

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

“(C) EXCEPTIONS.—Notwithstanding subparagraph (A), the Secretary shall require returns or reports required under—

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

“(ii) sections 408(i), 6041, and 6047 to the extent such return or report relates to the tax treatment of a distribution from a plan, account, contract, or annuity, to be filed on magnetic media, but only with respect to persons who are required to file at least 50 returns during the calendar year which includes the first day of the plan year to which such returns or reports relate.”.

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

(f) RULEMAKING TO CLARIFY FIDUCIARY DUTIES.—

(1) REQUEST FOR INFORMATION.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall issue a request for information relating to the rulemaking described in paragraph (2).

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

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

(B) The ongoing practices and procedures a plan sponsor must institute in order to meet such fiduciary duty with respect to maintaining up-to-date contact information on deferred vested participants.
SEC. 307. EXPANSION OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

(a) In General.—Except as otherwise provided in the Internal Revenue Code of 1986 or regulations prescribed by the Secretary of the Treasury or the Secretary’s delegate (referred to in this section as the “Secretary”), any eligible inadvertent failure to comply with the rules applicable under section 401(a), 403(a), 403(b), 408(p), or 408(k) of such Code may be self-corrected under the Employee Plans Compliance Resolution System (as described in Revenue Procedure 2019–19 or any successor guidance and hereafter in this section referred to as the “EPCRS”), except to the extent that such failure was identified by the Secretary prior to any actions which demonstrate a commitment to implement a self-correction. Revenue Procedure 2019–19 is deemed amended as of the date of the enactment of this Act to provide that the correction period under section 9.02 of such Revenue Procedure (or any successor guidance) for an eligible inadvertent failure, except as otherwise provided under such Code or in regulations prescribed by the Secretary, is indefinite and has no last day, other than with respect to failures identified by the Secretary prior to any self-correction as described in the preceding sentence.
(b) LOAN ERRORS.—In the case of an eligible inadvertent failure relating to a loan from a plan to a participant—

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

(2) the Secretary of Labor shall treat any such failure which is so self-corrected under subsection (a) as meeting the requirements of the Voluntary Fiduciary Correction Program of the Department of Labor if, with respect to the violation of the fiduciary standards of the Employee Retirement Income Security Act of 1974, there is a similar loan error eligible for correction under EPCRS and the loan error is corrected in such manner.

(c) EPCRS FOR IRAS.—The Secretary shall expand the EPCRS to allow custodians of individual retirement plans (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) to address eligible inadvertent failures with respect to an individual retirement plan (as so defined), including (but not limited to)—
(1) waivers of the excise tax which would otherwise apply under section 4974 of the Internal Revenue Code of 1986,

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

(3) rules permitting a nonspouse beneficiary to return distributions to an inherited individual retirement plan described in section 408(d)(3)(C) of the Internal Revenue Code of 1986 in a case where, due to an inadvertent error by a service provider, the beneficiary had reason to believe that the distribution could be rolled over without inclusion in income of any part of the distributed amount.

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

(e) ELIGIBLE INADVERTENT FAILURE.—For purposes of this section—
(1) IN GENERAL.—Except as provided in paragraph (2), the term “eligible inadvertent failure” means a failure that occurs despite the existence of practices and procedures which—

(A) satisfy the standards set forth in section 4.04 of Revenue Procedure 2019–19 (or any successor guidance), or

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

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

(f) APPLICATION OF CERTAIN REQUIREMENTS FOR CORRECTING ERRORS.—This section shall not apply to any failure unless the correction of such failure under this section is made in conformity with the general principles that apply to corrections of such failures under the Internal Revenue Code of 1986, including regulations or other guidance issued thereunder and including those principles and corrections set forth in Revenue Procedure 2019–19 (or any successor guidance).”
SEC. 308. ELIMINATE THE “FIRST DAY OF THE MONTH” REQUIREMENT FOR GOVERNMENTAL SECTION 457(B) PLANS.

(a) In General.—Paragraph (4) of section 457(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(4) which provides that compensation—

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

“(B) in any other case, will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,”.

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

SEC. 309. ONE-TIME ELECTION FOR QUALIFIED CHARITABLE DISTRIBUTION TO SPLIT-INTEREST ENTITY; INCREASE IN QUALIFIED CHARITABLE DISTRIBUTION LIMITATION.

(a) One-Time Election for Qualified Charitable Distribution to Split-Interest Entity.—Sec-
tion 408(d)(8) of such Code is amended by adding at the end the following new subparagraph:

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

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

“(I) an election is not in effect under this subparagraph for a preceding taxable year,

“(II) the aggregate amount of distributions of the taxpayer with respect to which an election under this subparagraph is made does not exceed $50,000, and

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

“(ii) SPLIT-INTEREST ENTITY.—For purposes of this subparagraph, the term ‘split-interest entity’ means—
“(I) a charitable remainder annuity trust (as defined in section 664(d)(1)), but only if such trust is funded exclusively by qualified charitable distributions,

“(II) a charitable remainder unitrust (as defined in section 664(d)(2)), but only if such unitrust is funded exclusively by qualified charitable distributions, or

“(III) a charitable gift annuity (as defined in section 501(m)(5)), but only if such annuity is funded exclusively by qualified charitable distributions and commences fixed payments of 5 percent or greater not later than 1 year from the date of funding.

“(iii) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—A distribution meets the requirement of this clause only if—

“(I) in the case of a distribution to a charitable remainder annuity trust or a charitable remainder unitrust, a deduction for the entire value
of the remainder interest in the distribution for the benefit of a specified charitable organization would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph), and

“(II) in the case of a charitable gift annuity, a deduction in an amount equal to the amount of the distribution reduced by the value of the annuity described in section 501(m)(5)(B) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(iv) LIMITATION ON INCOME INTERESTS.—A distribution meets the requirements of this clause only if—

“(I) no person holds an income interest in the split-interest entity other than the individual for whose benefit such account is maintained, the spouse of such individual, or both, and
“(II) the income interest in the split-interest entity is nonassignable.

“(v) Special rules.—

“(I) Charitable remainder trusts.—Notwithstanding section 664(b), distributions made from a trust described in subclause (I) or (II) of clause (ii) shall be treated as ordinary income in the hands of the beneficiary to whom the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A) is paid.

“(II) Charitable gift annuities.—Qualified charitable distributions made to fund a charitable gift annuity shall not be treated as an investment in the contract for purposes of section 72(c)’.

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

“(G) Inflation adjustment.—

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

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2020’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

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

(c) Effective Date.—The amendment made by this section shall apply to distributions made in taxable years ending after the date of the enactment of this Act.

SEC. 310. DISTRIBUTIONS TO FIREFIGHTERS.

(a) In General.—Subparagraph (A) of section 72(t)(10) of the Internal Revenue Code of 1986 is amended by striking “414(d))” and inserting “414(d) or a distribution from a plan described in clause (iii), (iv), or (vi)
of section 402(c)(8)(B) to an employee who provides fire-
fighting services”.

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

(1) by striking “QUALIFIED”, and

(2) by striking “IN GOVERNMENTAL PLANS”.

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

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

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

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

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

“(b) QUALIFIED FIRST RESPONDER RETIREMENT
PAYMENTS.—For purposes of this section, the term ‘quali-
fied first responder retirement payments’ means, with re-
spect to any taxable year, any pension or annuity which
but for this section would be includible in gross income
for such taxable year and which is received—
“(1) from a plan described in clause (iii), (iv),
(v), or (vi) of section 402(c)(8)(B), and
“(2) in connection with such individual’s qualified first responder service.
“(c) Annualized Excludable Disability Amount.—For purposes of this section—
“(1) In General.—The term ‘annualized excludable disability amount’ means, with respect to
any individual, the service-connected excludable disability amounts which are properly attributable to
the 12-month period immediately preceding the date
on which such individual attains retirement age.
“(2) Service-connected Excludable Disability Amount.—The term ‘service-connected excludable disability amount’ means periodic payments
received by an individual which—
“(A) are not includible in such individual’s
gross income under section 104(a)(1),
“(B) are received in connection with such
individual’s qualified first responder service,
and
“(C) terminate when such individual attains retirement age.

“(3) **SPECIAL RULE FOR PARTIAL-YEAR PAYMENTS.**—In the case of an individual who only receives service-connected excludable disability amounts properly attributable to a portion of the 12-month period described in paragraph (1), such paragraph shall be applied by multiplying such amounts by the ratio of 365 to the number of days in such period to which such amounts were properly attributable.

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

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

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

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts received with respect to taxable years beginning after December 31, 2026.
Section 6501(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) INDIVIDUAL RETIREMENT PLANS.—

“(A) In general.—For purposes of any tax imposed by section 4973 or 4974 in connection with an individual retirement plan, the return referred to in this section shall be the income tax return filed by the person on whom the tax under such section is imposed for the year in which the act (or failure to act) giving rise to the liability for such tax occurred.

“(B) Rule in case of individuals not required to file return.—In the case of a person who is not required to file an income tax return for such year—

“(i) the return referred to in this section shall be the income tax return that such person would have been required to file but for the fact that such person was not required to file such return, and

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

SEC. 313. REQUIREMENT TO PROVIDE PAPER STATEMENTS
IN CERTAIN CASES.

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

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

(2) by adding at the end the following:

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

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

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

(b) Implementation.—

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

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

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

(2) OTHER GUIDANCE.—In implementing the amendment made by subsection (a) with respect to a plan that discloses required documents or statements electronically, in accordance with applicable guidance governing electronic disclosure by the Department of Labor (with the exception of section 2520.104b-1(c) of title 29, Code of Federal Regulations), the Secretary of Labor shall, not later than December 31, 2021, update such guidance to the extent necessary to ensure that—

(A) a participant or beneficiary under such a plan is permitted the opportunity to request that any disclosure required to be delivered on paper under applicable guidance by the Department of Labor shall be furnished by electronic delivery;
(B) each paper statement furnished under such a plan pursuant to the amendment shall include—

(i) an explanation of how to request that all such statements, and any other document required to be disclosed under title I of the Employee Retirement Income Security Act of 1974, be furnished by electronic delivery; and

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

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

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

(E) each document required to be disclosed that is furnished by electronic delivery under such a plan shall include an explanation of how to request that all such documents be furnished on paper in written form; and
(F) a plan is permitted to furnish a duplicate electronic statement in any case in which the plan furnishes a paper pension benefit statement.

(c) **Effective Date.**—The amendment made by subsection (a) shall apply with respect to plan years beginning after December 31, 2022.

**SEC. 314. SEPARATE APPLICATION OF TOP HEAVY RULES TO DEFINED CONTRIBUTION PLANS COVERING EXCLUDIBLE EMPLOYEES.**

(a) **In General.**—Section 416(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

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“(C) SEPARATE APPLICATION TO EMPLOYEES NOT MEETING AGE AND SERVICE REQUIREMENTS.—If employees not meeting the age or service requirements of section 410(a)(1) (without regard to subparagraph (B) thereof) are covered under a plan of the employer which meets the requirements of subparagraphs (A) and (B) separately with respect to such employees, such employees may be excluded from consideration in determining whether any plan of the employer meets the requirements of subparagraphs (A) and (B).”.
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(b) **Effective Date.**—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

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

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

(b) **Effective Date.**—The amendment made by this section shall take effect as if included in the enactment of section 113 of the Setting Every Community Up for Retirement Enhancement Act of 2019.

**SEC. 316. EMPLOYER MAY RELY ON EMPLOYEE CERTIFYING THAT DEEMED HARDSHIP DISTRIBUTION CONDITIONS ARE MET.**

(a) **Cash or Deferred Arrangements.**—Section 401(k)(14) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) **Employee Certification.**—In determining whether a distribution is upon the hardship of an employee, the administrator of the plan may rely on a certification by the em-
ployee that the distribution is on account of a financial need of a type that is deemed in regulations prescribed by the Secretary to be an immediate and heavy financial need and that such distribution is not in excess of the amount required to satisfy such financial need.”.

(b) 403(b) Plans.—

(1) Custodial Accounts.—Section 403(b)(7) of such Code is amended by adding at the end the following new subparagraph:

“(D) Employee Certification.—In determining whether a distribution is upon the financial hardship of an employee, the administrator of the plan may rely on a certification by the employee that the distribution is on account of a financial need of a type that is deemed in regulations prescribed by the Secretary to be an immediate and heavy financial need and that such distribution is not in excess of the amount required to satisfy such financial need.”.

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

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

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

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to plan years beginning after De-
cember 31, 2021.
SEC. 317. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS IN CASE OF DOMESTIC ABUSE.

(a) In General.—Section 72(t)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

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

“(i) In general.—Any eligible distribution to a domestic abuse victim.

“(ii) Limitation.—The aggregate amount which may be treated as an eligible distribution to a domestic abuse victim by any individual shall not exceed an amount equal to the lesser of—

“(I) $10,000, or

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

“(iii) Eligible distribution to a domestic abuse victim.—For purposes of this subparagraph—

“(I) In general.—A distribution shall be treated as an eligible distribution to a domestic abuse victim if
such distribution is from an applicable eligible retirement plan to an individual and made during the 1-year period beginning on any date on which the individual is a victim of domestic abuse by a spouse or domestic partner.

“(II) DOMESTIC ABUSE.—The term ‘domestic abuse’ means physical, psychological, sexual, emotional, or economic abuse, including efforts to control, isolate, humiliate, or intimidate the victim, or to undermine the victim’s ability to reason independently, including by means of abuse of the victim’s child or another family member living in the household.

“(iv) TREATMENT OF PLAN DISTRIBUTIONS.—

“(I) IN GENERAL.—If a distribution to an individual would (without regard to clause (ii)) be an eligible distribution to a domestic abuse victim, a plan shall not be treated as failing to meet any requirement of
this title merely because the plan treats the distribution as an eligible distribution to a domestic abuse victim, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds the limitation under clause (ii).

“(II) CONTROLLED GROUP.—For purposes of subclause (I), the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

“(v) AMOUNT DISTRIBUTED MAY BE REPAYED.—

“(I) IN GENERAL.—Any individual who receives a distribution described in clause (i) may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate
amount not to exceed the amount of such distribution to an applicable eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

“(II) LIMITATION ON CONTRIBUTIONS TO APPLICABLE ELIGIBLE RETIREMENT PLANS OTHER THAN IRAs.—The aggregate amount of contributions made by an individual under subclause (I) to any applicable eligible retirement plan which is not an individual retirement plan shall not exceed the aggregate amount of eligible distributions to a domestic abuse victim which are made from such plan to such individual. Subclause (I) shall not apply to contributions to any applicable eligible retirement plan which is not an individual retirement plan unless the individual is eligible to
make contributions (other than those described in subclause (I)) to such applicable eligible retirement plan.

“(III) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM APPLICABLE ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—If a contribution is made under subclause (I) with respect to an eligible distribution to a domestic abuse victim from an applicable eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received such distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the applicable eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(IV) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—If a contribution is made
under subclause (I) with respect to an eligible distribution to a domestic abuse victim from an individual retirement plan, then, to the extent of the amount of the contribution, such distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the applicable eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(vi) DEFINITION AND SPECIAL RULES.—For purposes of this subparagraph:

“(I) APPLICABLE ELIGIBLE RETIREMENT PLAN.—The term ‘applicable eligible retirement plan’ means an eligible retirement plan (as defined in section 402(c)(8)(B)) other than a defined benefit plan.

“(II) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections
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401(a)(31), 402(f), and 3405, an eligible distribution to a domestic abuse victim shall not be treated as an eligible rollover distribution.

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

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

SEC. 318. REFORM OF FAMILY ATTRIBUTION RULE.

(a) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b)—

(A) by striking “For purposes of” and inserting the following:

“(1) IN GENERAL.—For purposes of”, and
(B) by adding at the end the following new paragraphs:

“(2) SPECIAL RULES FOR APPLYING FAMILY ATTRIBUTION.—For purposes of applying the attribution rules under section 1563 with respect to paragraph (1), the following rules apply:

“(A) Community property laws shall be disregarded for purposes of determining ownership.

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

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

“(3) PLAN SHALL NOT FAIL TO BE TREATED AS SATISFYING THIS SECTION.—If application of paragraph (2) causes two or more entities to be a con-
trolled group, or an affiliated service group, or to no longer be in a controlled group or an affiliated service group, such change shall be treated as a transaction to which section 410(b)(6)(C) applies.”

(2) in subsection (m)(6)(B), by striking “apply” and inserting “apply, except that community property laws shall be disregarded for purposes of determining ownership”.

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

SEC. 319. AMENDMENTS TO INCREASE BENEFIT ACCRUALS UNDER PLAN FOR PREVIOUS PLAN YEAR ALLOWED UNTIL EMPLOYER TAX RETURN DUE DATE.

(a) In General.—Section 401(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) Retroactive plan amendments that increase benefit accruals.—If—

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

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

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

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

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

SEC. 320. RETROACTIVE FIRST YEAR ELECTIVE DEFER-
RALS FOR SOLE PROPRIETORS.

(a) IN GENERAL.—Section 401(b)(2) of the Internal
Revenue Code of 1986 is amended by adding at the end
the following: “In the case of an individual who owns the
entire interest in an unincorporated trade or business, and
who is the only employee of such trade or business, any
elective deferrals (as defined in section 402(g)(3)) under
a qualified cash or deferred arrangement to which the pre-
ceeding sentence applies, which are made by such individual
before the time for filing the return of such individual for
the taxable year (determined without regard to any exten-
sions) ending after or with the end of the plan’s first year,
shall be treated as having been made before the end of
such first plan year.”.

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

SEC. 321. LIMITING CESSATION OF IRA TREATMENT TO
PORTION OF ACCOUNT INVOLVED IN A PROHIBITED TRANSACTION.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

(2) Section 4975(c)(3) of such Code is amended by striking “the account ceases” and all that follows and inserting the following: “the portion of the account used in the transaction is treated as distributed under paragraph (2)(A) or (4) of section 408(e).”.

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

TITLE IV—TECHNICAL AMENDMENTS

SEC. 401. AMENDMENTS RELATING TO SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT ACT OF 2019.

(a) TECHNICAL AMENDMENTS.—

(1) AMENDMENT RELATING TO SECTION 114.—

Section 401(a)(9)(C)(iii) of the Internal Revenue Code of 1986 is amended by striking “employee to whom clause (i)(II) applies” and inserting “em-
ployee (other than an employee to whom clause (i)(II) does not apply by reason of clause (ii))”.

(2) Amendment relating to section 116.—Section 4973(b) of the Internal Revenue Code of 1986 is amended by adding at the end of the flush matter the following: “Such term shall not include any designated nondeductible contribution (as defined in subparagraph (C) of section 408(o)(2)) which does not exceed the nondeductible limit under subparagraph (B) thereof by reason of an election under section 408(o)(5).”.

(3) Effective date.—The amendments made by this section shall take effect as if included in section of the Setting Every Community Up for Retirement Enhancement Act of 2019 to which the amendment relates.

(b) Clerical Amendment.—Section 72(t)(2)(H)(vi)(IV) of the Internal Revenue Code of 1986 is amended by striking “403(b)(7)(A)(ii)” and inserting “403(b)(7)(A)(i)”.

TITLE V—ADMINISTRATIVE PROVISIONS

SEC. 501. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) In general.—If this section applies to any retirement plan or contract amendment—
(1) such retirement plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A); and

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

(b) Amendments to Which Section Applies.—

(1) In general.—This section shall apply to any amendment to any retirement plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor (or a delegate of either such Secretary) under this Act; and

(B) on or before the last day of the first plan year beginning on or after January 1, 2023, or such later date as the Secretary of the Treasury may prescribe.
In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting “2025” for “2023”.

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

(A) during the period—

   (i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan); and

   (ii) ending on the date described in paragraph (1)(B) (as modified by the second sentence of paragraph (1)) (or, if earlier, the date the plan or contract amendment is adopted),

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

(B) such plan or contract amendment applies retroactively for such period.

(c) COORDINATION WITH OTHER PROVISIONS RELATING TO PLAN AMENDMENTS.—
(1) SECURE ACT.—Section 601(b)(1) of the Setting Every Community Up for Retirement Enhancement Act of 2019 is amended—

(A) by striking “January 1, 2022” in subparagraph (B) and inserting “January 1, 2023”, and

(B) by striking “substituting ‘2024’ for ‘2022’.” in the flush matter at the end and inserting “substituting ‘2025’ for ‘2023’.”.

(2) CARES ACT.—

(A) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 2202(c)(2)(A) of the CARES Act is amended by striking “January 1, 2022” in clause (ii) and inserting “January 1, 2023”.

(B) TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTIONS RULES FOR CERTAIN RETIREMENT PLANS AND ACCOUNTS.—Section 2203(c)(2)(B)(i) of the CARES Act is amended—

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

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

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

TITLE VI—REVENUE PROVISIONS

SEC. 601. SIMPLE AND SEP ROTH IRAS.

(a) IN GENERAL.—Section 408A of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(b) RULES RELATING TO SIMPLIFIED EMPLOYEE PENSIONS.—

(1) CONTRIBUTIONS.—Section 402(h)(1) of such Code is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

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

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

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

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

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

(1) ELECTION REQUIRED.—Section 408(p) of
such Code is amended by adding at the end the fol-
lowing new paragraph:
“(11) Roth contribution election.—An individual retirement plan which is designated as a Roth IRA shall not be treated as a simple retirement account under this subsection unless the employee elects for such plan to be so treated (at such time and in such manner as the Secretary may provide).”.

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

“(3) Simple retirement accounts.—In the case of any payment or distribution out of a simple retirement account (as defined in section 408(p)) with respect to which an election has been made under section 408(p)(11) and to which 72(t)(6) applies, the term ‘qualified rollover contribution’ shall not include any payment or distribution paid into an account other than another simple retirement account (as so defined).”.

(d) Coordination with Roth contribution limitation.—Section 408A(c) of such Code is amended by adding at the end the following new paragraph:

“(7) Coordination with limitation for simple retirement plans and SEPs.—In the case of an individual on whose behalf contributions
are made to a simple retirement account or a simpli-
ified employee pension, the amount described in
paragraph (2)(A) shall be increased by an amount
equal to the contributions made on the individual’s
behalf to such account or pension for the taxable
year, but only to the extent such contributions—

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

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

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

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

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

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

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

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

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

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

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

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

“(iii) Qualified matching contributions
described in section 401(k)(3)(D)(ii)(I).
“(iv) Earnings on any contributions described in clause (i), (ii), or (iii).

“(B) NO REQUIREMENT TO TAKE AVAILABLE LOAN.—A distribution shall not be treated as failing to be made upon the hardship of an employee solely because the employee does not take any available loan under the plan.”.

(b) CONFORMING AMENDMENTS.—

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

(2) Paragraph (11) of section 403(b) is amended—

(A) by striking “in” in subparagraph (B) and inserting “subject to the provisions of paragraph (15), in”, and

(B) by striking the last sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2021.
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SEC. 603. ELECTIVE DEFERRALS GENERALLY LIMITED TO REGULAR CONTRIBUTION LIMIT.

(a) APPLICABLE EMPLOYER PLANS.—Section 414(v)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Except in the case of an applicable employer plan described in paragraph (6)(iv), the preceding sentence shall only apply if contributions are designated Roth contributions (as defined in section 402A(e)(1)).”.

(b) CONFORMING AMENDMENTS.—

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

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

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

SEC. 604. OPTIONAL TREATMENT OF EMPLOYER MATCHING CONTRIBUTIONS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(a) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (2) as paragraph (3), by striking “and” at the end of paragraph (1), and by inserting after paragraph (1) the following new paragraph:
“(2) any designated Roth contribution which is
made by the employer to the program on the em-
ployee’s behalf, and on account of the employee’s
contribution or elective deferral, shall be treated as
a matching contribution for purposes of this chapter,
except that such contribution shall not be excludable
from gross income, and”.

(b) Matching Included in Qualified Roth Con-
tribution Program.—Section 402A(b)(1) of such Code
is amended—

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

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

(c) Designated Roth Matching Contributions.—Section 402A(c)(1) of such Code is amended by
inserting “or matching contribution” after “elective deferr-
al”.

(d) Matching Contribution Defined.—Section
402A(e) of such Code is amended by adding at the end
the following:

“(3) Matching contribution.—The term
‘matching contribution’ means—
“(A) any matching contribution described in section 401(m)(4)(A), and

“(B) any contribution to an eligible deferred compensation plan (as defined in section 457(b)) by an eligible employer described in section 457(e)(1)(A) on behalf of an employee and on account of such employee’s elective deferral under such plan.”.

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