

115TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to encourage retirement savings, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. HATCH (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to encourage retirement savings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Retirement Enhancement and Savings Act of 2018”.

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

Sec. 1. Short title, etc.

**TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS**

Sec. 101. Multiple employer plans.

Sec. 102. Pooled employer and multiple employer plan reporting.

## 2

- Sec. 103. Removal of 10 percent cap from automatic enrollment safe harbor after 1st plan year.
- Sec. 104. Rules relating to election of safe harbor 401(k) status.
- Sec. 105. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 106. Small employer automatic enrollment credit.
- Sec. 107. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
- Sec. 108. Repeal of maximum age for traditional IRA contributions.
- Sec. 109. Expansion of IRA ownership of S corporation bank stock.
- Sec. 110. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 111. Portability of lifetime income options.
- Sec. 112. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 113. Clarification of retirement income account rules relating to church-controlled organizations.

## TITLE II—ADMINISTRATIVE IMPROVEMENTS

- Sec. 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.
- Sec. 202. Combined annual report for group of plans.
- Sec. 203. Disclosure regarding lifetime income.
- Sec. 204. Fiduciary safe harbor for selection of lifetime income provider.
- Sec. 205. Modification of nondiscrimination rules to protect older, longer service participants.
- Sec. 206. Modification of PBGC premiums for CSEC plans.

## TITLE III—BENEFITS RELATING TO UNITED STATES TAX COURT

- Sec. 301. Thrift Savings Plan contributions for judges in the Federal Employees Retirement System.
- Sec. 302. Change in vesting period for survivor annuities and waiver of vesting period in the event of assassination.
- Sec. 303. Coordination of retirement and survivor annuity with the Federal Employees Retirement System.
- Sec. 304. Limit on teaching compensation of retired judges.
- Sec. 305. General provisions relating to magistrate judges of the Tax Court.
- Sec. 306. Life insurance for magistrate judges of the tax court age 65 or older.
- Sec. 307. Retirement and annuity program.
- Sec. 308. Provisions for recall.

## TITLE IV—OTHER BENEFITS

- Sec. 401. Benefits provided to volunteer firefighters and emergency medical responders.

## TITLE V—REVENUE PROVISIONS

- Sec. 501. Modifications of required distribution rules for pension plans.
- Sec. 502. Increase in penalty for failure to file.
- Sec. 503. Increased penalties for failure to file retirement plan returns.
- Sec. 504. Modification of user fee requirements for installment agreements.
- Sec. 505. Increase information sharing to administer excise taxes.
- Sec. 506. Pension variable rate premium payment acceleration.

1 **TITLE I—EXPANDING AND PRE-**  
2 **SERVING RETIREMENT SAV-**  
3 **INGS**

4 **SEC. 101. MULTIPLE EMPLOYER PLANS.**

5 (a) QUALIFICATION REQUIREMENTS.—

6 (1) IN GENERAL.—Section 413 of the Internal  
7 Revenue Code of 1986 is amended by adding at the  
8 end the following new subsection:

9 “(e) APPLICATION OF QUALIFICATION REQUIRE-  
10 MENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH  
11 POOLED PLAN PROVIDERS.—

12 “(1) IN GENERAL.—Except as provided in para-  
13 graph (2), if a defined contribution plan to which  
14 subsection (c) applies—

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

19 “(B) in the case of a plan not described in  
20 subparagraph (A), has a pooled plan provider,  
21 then the plan shall not be treated as failing to meet  
22 the requirements under this title applicable to a plan  
23 described in section 401(a) or to a plan that consists  
24 of individual retirement accounts described in sec-  
25 tion 408 (including by reason of subsection (c)

1       thereof), whichever is applicable, merely because one  
2       or more employers of employees covered by the plan  
3       fail to take such actions as are required of such em-  
4       ployers for the plan to meet such requirements.

5           “(2) LIMITATIONS.—

6           “(A) IN GENERAL.—Paragraph (1) shall  
7       not apply to any plan unless the terms of the  
8       plan provide that in cases of employers failing  
9       to take the actions described in paragraph  
10      (1)—

11           “(i) the assets of the plan attributable  
12      to employees of the employer will be trans-  
13      ferred to a plan maintained only by the  
14      employer (or its successor), to an eligible  
15      retirement plan as defined in section  
16      402(c)(8)(B) for each individual whose ac-  
17      count is transferred, or to any other ar-  
18      rangement that the Secretary determines is  
19      appropriate, unless the Secretary deter-  
20      mines it is in the best interests of such em-  
21      ployees to retain the assets in the plan,  
22      and

23           “(ii) the employer described in clause  
24      (i) (and not the plan with respect to which  
25      the failure occurred or any other partici-

1           pating employer in such plan) shall, except  
2           to the extent provided by the Secretary, be  
3           liable for any liabilities with respect to  
4           such plan attributable to employees of the  
5           employer.

6           “(B) FAILURES BY POOLED PLAN PRO-  
7           VIDERS.—If the pooled plan provider of a plan  
8           described in paragraph (1)(B) does not perform  
9           substantially all of the administrative duties  
10          which are required of the provider under para-  
11          graph (3)(A)(i) for any plan year, the Sec-  
12          retary, in the Secretary’s own discretion, may  
13          provide that the determination as to whether  
14          the plan meets the requirements under this title  
15          applicable to a plan described in section 401(a)  
16          or to a plan that consists of individual retire-  
17          ment accounts described in section 408 (includ-  
18          ing by reason of subsection (c) thereof), which-  
19          ever is applicable, shall be made in the same  
20          manner as would be made without regard to  
21          paragraph (1).

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

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

4           “(i) is designated by the terms of the  
5 plan as a named fiduciary (within the  
6 meaning of section 402(a)(2) of the Em-  
7 ployee Retirement Income Security Act of  
8 1974), as the plan administrator, and as  
9 the person responsible to perform all ad-  
10 ministrative duties (including conducting  
11 proper testing with respect to the plan and  
12 employees of each participating employer)  
13 which are reasonably necessary to ensure  
14 that—

15           “(I) the plan meets any require-  
16 ment applicable under the Employee  
17 Retirement Income Security Act of  
18 1974 or this title to a plan described  
19 in section 401(a) or to a plan that  
20 consists of individual retirement ac-  
21 counts described in section 408 (in-  
22 cluding by reason of subsection (c)  
23 thereof), whichever is applicable, and

24           “(II) each participating employer  
25 takes such actions as the Secretary or

1 such person determines are necessary  
2 for the plan to meet the requirements  
3 described in subclause (I), including  
4 providing to such person any disclo-  
5 sures or other information which the  
6 Secretary may require or which such  
7 person otherwise determines is nec-  
8 essary to administer the plan or to  
9 allow the plan to meet such require-  
10 ments,

11 “(ii) registers as a pooled plan pro-  
12 vider with the Secretary, and provides such  
13 other information to the Secretary as the  
14 Secretary may require, before beginning  
15 operations as a pooled plan provider,

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

22 “(iv) is responsible for ensuring that  
23 all persons who handle assets of, or who  
24 are fiduciaries of, the plan are bonded in  
25 accordance with section 412 of the Em-

1                   ployee Retirement Income Security Act of  
2                   1974.

3                   “(B) AUDITS, EXAMINATIONS AND INVES-  
4                   TIGATIONS.—The Secretary may perform au-  
5                   dits, examinations, and investigations of pooled  
6                   plan providers as may be necessary to enforce  
7                   and carry out the purposes of this subsection.

8                   “(4) GUIDANCE.—

9                   “(A) IN GENERAL.—The Secretary shall  
10                  issue such guidance as the Secretary determines  
11                  appropriate to carry out this subsection, includ-  
12                  ing guidance—

13                  “(i) to identify the administrative du-  
14                  ties and other actions required to be per-  
15                  formed by a pooled plan provider under  
16                  this subsection,

17                  “(ii) which describes the procedures to  
18                  be taken to terminate a plan which fails to  
19                  meet the requirements to be a plan de-  
20                  scribed in paragraph (1), including the  
21                  proper treatment of, and actions needed to  
22                  be taken by, any participating employer of  
23                  the plan and the assets and liabilities of  
24                  the plan with respect to employees of that  
25                  employer, and



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

5                   The Secretary shall take into account under  
6                   clause (iii) whether the failure of an employer  
7                   or pooled plan provider to provide any disclo-  
8                   sures or other information, or to take any other  
9                   action, necessary to administer a plan or to  
10                  allow a plan to meet requirements applicable to  
11                  the plan under section 401(a) or 408, whichever  
12                  is applicable, has continued over a period of  
13                  time that clearly demonstrates a lack of com-  
14                  mitment to compliance.

15                  “(B) PROSPECTIVE APPLICATION.—Any  
16                  guidance issued by the Secretary under this  
17                  paragraph shall not apply to any action or fail-  
18                  ure occurring before the issuance of such guid-  
19                  ance.

20                  “(5) MODEL PLAN.—The Secretary shall, in  
21                  consultation with the Secretary of Labor when ap-  
22                  propriate, publish model plan language which meets  
23                  the requirements of this subsection and of para-  
24                  graphs (43) and (44) of section 3 of the Employee  
25                  Retirement Income Security Act of 1974 and which

1       may be adopted in order for a plan to be treated as  
2       a plan described in paragraph (1)(B).”.

3               (2) CONFORMING AMENDMENT.—Paragraph (3)  
4       of section 413(b) of such Code is amended by strik-  
5       ing “section 401(a)” and inserting “sections 401(a)  
6       and 408(c)”.

7               (3) TECHNICAL AMENDMENT.—Subsection (c)  
8       of section 408 of such Code is amended by inserting  
9       after paragraph (2) the following new paragraph:

10              “(3) There is a separate accounting for any in-  
11       terest of an employee or member (or spouse of an  
12       employee or member) in a Roth IRA.”.

13              (b) NO COMMON INTEREST REQUIRED FOR POOLED  
14       EMPLOYER PLANS.—Section 3(2) of the Employee Retire-  
15       ment Income Security Act of 1974 (29 U.S.C. 1002(2))  
16       is amended by adding at the end the following:

17              “(C) A pooled employer plan shall be treat-  
18       ed as—

19              “(i) a single employee pension benefit  
20       plan or single pension plan; and

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

23              (c) POOLED EMPLOYER PLAN AND PROVIDER DE-  
24       FINED.—

1           (1) IN GENERAL.—Section 3 of the Employee  
2 Retirement Income Security Act of 1974 (29 U.S.C.  
3 1002) is amended by adding at the end the fol-  
4 lowing:

5           “(43) POOLED EMPLOYER PLAN.—

6           “(A) IN GENERAL.—The term ‘pooled em-  
7 ployer plan’ means a plan—

8           “(i) which is an individual account  
9 plan established or maintained for the pur-  
10 pose of providing benefits to the employees  
11 of 2 or more employers;

12           “(ii) which is a plan described in sec-  
13 tion 401(a) of the Internal Revenue Code  
14 of 1986 which includes a trust exempt  
15 from tax under section 501(a) of such  
16 Code or a plan that consists of individual  
17 retirement accounts described in section  
18 408 of such Code (including by reason of  
19 subsection (c) thereof); and

20           “(iii) the terms of which meet the re-  
21 quirements of subparagraph (B).

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



1 provider, is designated as a named fi-  
2 duciary of the plan; and

3 “(II) to the extent not otherwise  
4 delegated to another fiduciary by the  
5 pooled plan provider and subject to  
6 the provisions of section 404(c), the  
7 investment and management of that  
8 portion of the plan’s assets attrib-  
9 utable to the employees of that par-  
10 ticipating employer;

11 “(iv) provide that a participating em-  
12 ployer, or a participant or beneficiary, is  
13 not subject to unreasonable restrictions,  
14 fees, or penalties with regard to ceasing  
15 participation, receipt of distributions, or  
16 otherwise transferring assets of the plan in  
17 accordance with section 208 or paragraph  
18 (44)(C)(i)(II);

19 “(v) require—

20 “(I) the pooled plan provider to  
21 provide to participating employers any  
22 disclosures or other information which  
23 the Secretary may require, including  
24 any disclosures or other information  
25 to facilitate the selection or any moni-

1 toring of the pooled plan provider by  
2 participating employers; and

3 “(II) each participating employer  
4 to take such actions as the Secretary  
5 or the pooled plan provider determines  
6 are necessary to administer the plan  
7 or for the plan to meet any require-  
8 ment applicable under this Act or the  
9 Internal Revenue Code of 1986 to a  
10 plan described in section 401(a) of  
11 such Code or to a plan that consists  
12 of individual retirement accounts de-  
13 scribed in section 408 of such Code  
14 (including by reason of subsection (c)  
15 thereof), whichever is applicable, in-  
16 cluding providing any disclosures or  
17 other information which the Secretary  
18 may require or which the pooled plan  
19 provider otherwise determines is nec-  
20 essary to administer the plan or to  
21 allow the plan to meet such require-  
22 ments; and

23 “(vi) provide that any disclosure or  
24 other information required to be provided  
25 under clause (v) may be provided in elec-

1           tronic form and will be designed to ensure  
2           only reasonable costs are imposed on  
3           pooled plan providers and participating  
4           employers.

5           “(C) EXCEPTIONS.—The term ‘pooled em-  
6           ployer plan’ does not include—

7                   “(i) a multiemployer plan; or

8                   “(ii) a plan established before the  
9                   date of the enactment of the Retirement  
10                  Enhancement and Savings Act of 2018,  
11                  unless the plan administrator elects that  
12                  the plan will be treated as a pooled em-  
13                  ployer plan and the plan meets the require-  
14                  ments of this title applicable to a pooled  
15                  employer plan established on or after such  
16                  date.

17          “(44) POOLED PLAN PROVIDER.—

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

20                   “(i) is designated by the terms of a  
21                   pooled employer plan as a named fiduciary,  
22                   as the plan administrator, and as the per-  
23                   son responsible for the performance of all  
24                   administrative duties (including conducting  
25                   proper testing with respect to the plan and

1 employees of each participating employer)  
2 which are reasonably necessary to ensure  
3 that—

4 “(I) the plan meets any require-  
5 ment applicable under this Act or the  
6 Internal Revenue Code of 1986 to a  
7 plan described in section 401(a) of  
8 such Code or to a plan that consists  
9 of individual retirement accounts de-  
10 scribed in section 408 of such Code  
11 (including by reason of subsection (c)  
12 thereof), whichever is applicable; and

13 “(II) each participating employer  
14 takes such actions as the Secretary or  
15 pooled plan provider determines are  
16 necessary for the plan to meet the re-  
17 quirements described in subclause (I),  
18 including providing the disclosures  
19 and information described in para-  
20 graph (43)(B)(v)(II);

21 “(ii) registers as a pooled plan pro-  
22 vider with the Secretary, and provides to  
23 the Secretary such other information as  
24 the Secretary may require, before begin-  
25 ning operations as a pooled plan provider;



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

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

9           “(B) AUDITS, EXAMINATIONS AND INVESTIGATIONS.—The Secretary may perform au-  
10          dits, examinations, and investigations of pooled  
11          plan providers as may be necessary to enforce  
12          and carry out the purposes of this paragraph  
13          and paragraph (43).  
14

15          “(C) GUIDANCE.—

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

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

1                   “(II) which requires in appro-  
2                   priate cases that if a participating  
3                   employer fails to take the actions re-  
4                   quired under subparagraph  
5                   (A)(i)(II)—

6                   “(aa) the assets of the plan  
7                   attributable to employees of the  
8                   participating employer are trans-  
9                   ferred to a plan maintained only  
10                  by the participating employer (or  
11                  its successor), to an eligible re-  
12                  tirement plan as defined in sec-  
13                  tion 402(c)(8)(B) of the Internal  
14                  Revenue Code of 1986 for each  
15                  individual whose account is  
16                  transferred, or to any other ar-  
17                  rangement that the Secretary de-  
18                  termines is appropriate in such  
19                  guidance; and

20                  “(bb) the participating em-  
21                  ployer described in item (aa)  
22                  (and not the plan with respect to  
23                  which the failure occurred or any  
24                  other participating employer in  
25                  such plan) shall, except to the ex-

1 tent provided in such guidance,  
2 be liable for any liabilities with  
3 respect to such plan attributable  
4 to employees of the participating  
5 employer.

6 The Secretary shall take into account  
7 under subclause (II) whether the failure of  
8 an employer or pooled plan provider to  
9 provide any disclosures or other informa-  
10 tion, or to take any other action, necessary  
11 to administer a plan or to allow a plan to  
12 meet requirements described in subpara-  
13 graph (A)(i)(II) has continued over a pe-  
14 riod of time that clearly demonstrates a  
15 lack of commitment to compliance. The  
16 Secretary may waive the requirements of  
17 subclause (II)(aa) in appropriate cir-  
18 cumstances if the Secretary determines it  
19 is in the best interests of the employees of  
20 the participating employer described in  
21 such clause to retain the assets in the plan  
22 with respect to which the employer's fail-  
23 ure occurred.

24 “(ii) PROSPECTIVE APPLICATION.—  
25 Any guidance issued by the Secretary

1 under this subparagraph shall not apply to  
2 any action or failure occurring before the  
3 issuance of such guidance.

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

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

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

18 (2) BONDING REQUIREMENTS FOR POOLED EM-  
19 PLOYER PLANS.—The last sentence of section 412(a)  
20 of the Employee Retirement Income Security Act of  
21 1974 (29 U.S.C. 1112(a)) is amended by inserting  
22 “or in the case of a pooled employer plan (as defined  
23 in section 3(43))” after “section 407(d)(1))”.

24 (3) CONFORMING AND TECHNICAL AMEND-  
25 MENTS.—Section 3 of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1002) is  
2 amended—

3 (A) in paragraph (16)(B)—

4 (i) by striking “or” at the end of  
5 clause (ii), and

6 (ii) by striking the period at the end  
7 and inserting “, or (iv) in the case of a  
8 pooled employer plan, the pooled plan pro-  
9 vider.”; and

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

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by  
13 this section shall apply to years beginning after De-  
14 cember 31, 2021.

15 (2) RULE OF CONSTRUCTION.—Nothing in the  
16 amendments made by subsection (a) shall be con-  
17 strued as limiting the authority of the Secretary of  
18 the Treasury or the Secretary’s delegate (determined  
19 without regard to such amendment) to provide for  
20 the proper treatment of a failure to meet any re-  
21 quirement applicable under the Internal Revenue  
22 Code of 1986 with respect to one employer (and its  
23 employees) in a multiple employer plan.

1 **SEC. 102. POOLED EMPLOYER AND MULTIPLE EMPLOYER**  
2 **PLAN REPORTING.**

3 (a) **ADDITIONAL INFORMATION.**—Section 103 of the  
4 Employee Retirement Income Security Act of 1974 (29  
5 U.S.C. 1023) is amended—

6 (1) in subsection (a)(1)(B), by striking “applicable  
7 subsections (d), (e), and (f)” and inserting  
8 “applicable subsections (d), (e), (f), and (g)”; and

9 (2) by amending subsection (g) to read as follows:  
10

11 “(g) **ADDITIONAL INFORMATION WITH RESPECT TO**  
12 **POOLED EMPLOYER AND MULTIPLE EMPLOYER**  
13 **PLANS.**—An annual report under this section for a plan  
14 year shall include—

15 “(1) with respect to any plan to which section  
16 210(a) applies (including a pooled employer plan), a  
17 list of participating employers and a good faith estimate  
18 of the percentage of total contributions made  
19 by such participating employers during the plan  
20 year; and

21 “(2) with respect to a pooled employer plan, the  
22 identifying information for the person designated  
23 under the terms of the plan as the pooled plan provider.”.

24  
25 (b) **SIMPLIFIED ANNUAL REPORTS.**—Section 104(a)  
26 of the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1024(a)) is amended by striking paragraph  
2 (2)(A) and inserting the following:

3 “(2)(A) With respect to annual reports required  
4 to be filed with the Secretary under this part, the  
5 Secretary may by regulation prescribe simplified an-  
6 nual reports for any pension plan that—

7 “(i) covers fewer than 100 participants; or

8 “(ii) is a plan described in section 210(a)  
9 that covers fewer than 1,000 participants, but  
10 only if no single participating employer has 100  
11 or more participants covered by the plan.”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to annual reports for plan years  
14 beginning after December 31, 2021.

15 **SEC. 103. REMOVAL OF 10 PERCENT CAP FROM AUTOMATIC**  
16 **ENROLLMENT SAFE HARBOR AFTER 1ST**  
17 **PLAN YEAR.**

18 (a) IN GENERAL.—Clause (iii) of section  
19 401(k)(13)(C) of the Internal Revenue Code of 1986 is  
20 amended by striking “, does not exceed 10 percent, and  
21 is at least” and inserting “and is”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subclause (I) of section 401(k)(13)(C)(iii)  
24 of the Internal Revenue Code of 1986 is amended by

1 striking “3 percent” and inserting “at least 3 per-  
2 cent, but not greater than 10 percent,”.

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

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

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

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to plan years beginning after De-  
14 cember 31, 2018.

15 **SEC. 104. RULES RELATING TO ELECTION OF SAFE HARBOR**

16 **401(k) STATUS.**

17 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE  
18 TO MATCHING CONTRIBUTION PLANS.—

19 (1) IN GENERAL.—Subparagraph (A) of section  
20 401(k)(12) of the Internal Revenue Code of 1986 is  
21 amended by striking “if such arrangement” and all  
22 that follows and inserting “if such arrangement—

23 “(i) meets the contribution require-  
24 ments of subparagraph (B) and the notice  
25 requirements of subparagraph (D), or



1                   “(ii) meets the contribution require-  
2                   ments of subparagraph (C).”.

3                   (2)   AUTOMATIC   CONTRIBUTION   ARRANGE-  
4                   MENTS.—Subparagraph (B) of section 401(k)(13) of  
5                   such Code is amended by striking “means” and all  
6                   that follows and inserting “means a cash or deferred  
7                   arrangement—

8                   “(A) which is described in subparagraph  
9                   (D)(i)(I) and meets the applicable requirements  
10                  of subparagraphs (C) through (E), or

11                  “(B) which is described in subparagraph  
12                  (D)(i)(II) and meets the applicable require-  
13                  ments of subparagraphs (C) and (D).”.

14                  (b)   NONELECTIVE   CONTRIBUTIONS.—Section  
15                  401(k)(12) of the Internal Revenue Code of 1986 is  
16                  amended by redesignating subparagraph (F) as subpara-  
17                  graph (G), and by inserting after subparagraph (E) the  
18                  following new subparagraph:

19                  “(F)   TIMING OF PLAN AMENDMENT FOR  
20                  EMPLOYER MAKING NONELECTIVE CONTRIBU-  
21                  TIONS.—

22                  “(i)   IN GENERAL.—Except as pro-  
23                  vided in clause (ii), a plan may be amend-  
24                  ed after the beginning of a plan year to  
25                  provide that the requirements of subpara-

1 graph (C) shall apply to the arrangement  
2 for the plan year, but only if the amend-  
3 ment is adopted—

4 “(I) at any time before the 30th  
5 day before the close of the plan year,  
6 or

7 “(II) at any time before the last  
8 day under paragraph (8)(A) for dis-  
9 tributing excess contributions for the  
10 plan year.

11 “(ii) EXCEPTION WHERE PLAN PRO-  
12 VIDED FOR MATCHING CONTRIBUTIONS.—  
13 Clause (i) shall not apply to any plan year  
14 if the plan provided at any time during the  
15 plan year that the requirements of sub-  
16 paragraph (B) or paragraph (13)(D)(i)(I)  
17 applied to the plan year.

18 “(iii) 4-PERCENT CONTRIBUTION RE-  
19 QUIREMENT.—Clause (i)(II) shall not  
20 apply to an arrangement unless the  
21 amount of the contributions described in  
22 subparagraph (C) which the employer is  
23 required to make under the arrangement  
24 for the plan year with respect to any em-

1                    ployee is an amount equal to at least 4  
2                    percent of the employee's compensation.”.

3            (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

4 Section 401(k)(13) of the Internal Revenue Code of 1986  
5 is amended by adding at the end the following :

6                    “(F) TIMING OF PLAN AMENDMENT FOR  
7                    EMPLOYER MAKING NONELECTIVE CONTRIBU-  
8                    TIONS.—

9                    “(i) IN GENERAL.—Except as pro-  
10                    vided in clause (ii), a plan may be amend-  
11                    ed after the beginning of a plan year to  
12                    provide that the requirements of subpara-  
13                    graph (D)(i)(II) shall apply to the arrange-  
14                    ment for the plan year, but only if the  
15                    amendment is adopted—

16                    “(I) at any time before the 30th  
17                    day before the close of the plan year,  
18                    or

19                    “(II) at any time before the last  
20                    day under paragraph (8)(A) for dis-  
21                    tributing excess contributions for the  
22                    plan year.

23                    “(ii) EXCEPTION WHERE PLAN PRO-  
24                    VIDED FOR MATCHING CONTRIBUTIONS.—

25                    Clause (i) shall not apply to any plan year

1 if the plan provided at any time during the  
2 plan year that the requirements of sub-  
3 paragraph (D)(i)(I) or paragraph (12)(B)  
4 applied to the plan year.

5 “(iii) 4-PERCENT CONTRIBUTION RE-  
6 QUIREMENT.—Clause (i)(II) shall not  
7 apply to an arrangement unless the  
8 amount of the contributions described in  
9 subparagraph (D)(i)(II) which the em-  
10 ployer is required to make under the ar-  
11 rangement for the plan year with respect  
12 to any employee is an amount equal to at  
13 least 4 percent of the employee’s com-  
14 pensation.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to plan years beginning after De-  
17 cember 31, 2018.

18 **SEC. 105. INCREASE IN CREDIT LIMITATION FOR SMALL**  
19 **EMPLOYER PENSION PLAN STARTUP COSTS.**

20 (a) IN GENERAL.—Paragraph (1) of section 45E(b)  
21 of the Internal Revenue Code of 1986 is amended to read  
22 as follows:

23 “(1) for the first credit year and each of the 2  
24 taxable years immediately following the first credit  
25 year, the greater of—

1 “(A) \$500, or

2 “(B) the lesser of—

3 “(i) \$250 for each employee of the eli-  
4 gible employer who is not a highly com-  
5 pensated employee (as defined in section  
6 414(q)) and who is eligible to participate  
7 in the eligible employer plan maintained by  
8 the eligible employer, or

9 “(ii) \$5,000, and”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2018.

13 **SEC. 106. SMALL EMPLOYER AUTOMATIC ENROLLMENT**  
14 **CREDIT.**

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

19 **“SEC. 45S. AUTO-ENROLLMENT OPTION FOR RETIREMENT**  
20 **SAVINGS OPTIONS PROVIDED BY SMALL EM-**  
21 **PLOYERS.**

22 “(a) IN GENERAL.—For purposes of section 38, in  
23 the case of an eligible employer, the retirement auto-en-  
24 rollment credit determined under this section for any tax-  
25 able year is an amount equal to—

1           “(1) \$500 for any taxable year occurring during  
2           the credit period, and

3           “(2) zero for any other taxable year.

4           “(b) CREDIT PERIOD.—For purposes of subsection  
5 (a)—

6           “(1) IN GENERAL.—The credit period with re-  
7           spect to any eligible employer is the 3-taxable-year  
8           period beginning with the first taxable year for  
9           which the employer includes an eligible automatic  
10          contribution arrangement (as defined in section  
11          414(w)(3)) in a qualified employer plan (as defined  
12          in section 4972(d)) sponsored by the employer.

13          “(2) MAINTENANCE OF ARRANGEMENT.—No  
14          taxable year with respect to an employer shall be  
15          treated as occurring within the credit period unless  
16          the arrangement described in paragraph (1) is in-  
17          cluded in the plan for such year.

18          “(c) ELIGIBLE EMPLOYER.—For purposes of this  
19          section, the term ‘eligible employer’ has the meaning given  
20          such term in section 408(p)(2)(C)(i).”.

21          (b) CREDIT TO BE PART OF GENERAL BUSINESS  
22          CREDIT.—Subsection (b) of section 38 of the Internal  
23          Revenue Code of 1986 is amended by striking “plus” at  
24          the end of paragraph (35), by striking the period at the

1 end of paragraph (36) and inserting “, plus”, and by add-  
2 ing at the end the following new paragraph:

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

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

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

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2018.

14 **SEC. 107. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**  
15 **AND STIPEND PAYMENTS TREATED AS COM-**  
16 **PENSATION FOR IRA PURPOSES.**

17 (a) IN GENERAL.—Paragraph (1) of section 219(f)  
18 of the Internal Revenue Code of 1986 is amended by add-  
19 ing at the end the following: “The term ‘compensation’  
20 shall include any amount paid to an individual to aid the  
21 individual in the pursuit of graduate or postdoctoral  
22 study.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2018.

4 **SEC. 108. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**  
5 **CONTRIBUTIONS.**

6 (a) IN GENERAL.—Paragraph (1) of section 219(d)  
7 of the Internal Revenue Code of 1986 is repealed.

8 (b) CONFORMING AMENDMENT.—Subsection (c) of  
9 section 408A of the Internal Revenue Code of 1986 is  
10 amended by striking paragraph (4) and by redesignating  
11 paragraphs (5), (6), and (7) as paragraphs (4), (5), and  
12 (6), respectively.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to contributions made for taxable  
15 years beginning after December 31, 2018.

16 **SEC. 109. EXPANSION OF IRA OWNERSHIP OF S CORPORA-**  
17 **TION BANK STOCK.**

18 (a) IN GENERAL.—Section 1361(c)(2)(A)(vi) of the  
19 Internal Revenue Code of 1986 is amended by striking “,  
20 but only to the extent of the stock held by such trust in  
21 such bank or company as of the date of the enactment  
22 of this clause”.

23 (b) SALE OF STOCK IN IRA RELATING TO S COR-  
24 PORATION ELECTION EXEMPT FROM PROHIBITED  
25 TRANSACTION RULES.—Section 4975(d)(16) of the Inter-



1 nal Revenue Code of 1986 is amended by striking sub-  
2 paragraph (B) and by redesignating subparagraphs (C),  
3 (D), (E), and (F) as subparagraphs (B), (C), (D) and (E),  
4 respectively.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall take effect on January 1, 2018.

7 **SEC. 110. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**  
8 **MAKING LOANS THROUGH CREDIT CARDS**  
9 **AND OTHER SIMILAR ARRANGEMENTS.**

10 (a) IN GENERAL.—Paragraph (2) of section 72(p) of  
11 the Internal Revenue Code of 1986 is amended by redesignig-  
12 nating subparagraph (D) as subparagraph (E) and by in-  
13 serting after subparagraph (C) the following new subpara-  
14 graph:

15 “(D) PROHIBITION OF LOANS THROUGH  
16 CREDIT CARDS AND OTHER SIMILAR ARRANGE-  
17 MENTS.—

18 “(i) IN GENERAL.—Except as pro-  
19 vided in clause (ii), subparagraph (A) shall  
20 not apply to any loan which is made  
21 through the use of any credit card or any  
22 other similar arrangement.

23 “(ii) EXCEPTION FOR EXISTING CRED-  
24 IT CARD SYSTEMS.—Clause (i) shall not  
25 apply to any loan to the extent such loan

1 is provided through an electronic card sys-  
2 tem which, as of September 21, 2016, was  
3 available for use to provide loans under  
4 qualified employer plans.

5 “(iii) DISALLOWED TRANSACTIONS.—

6 If any card through which a loan is pro-  
7 vided under the exception of clause (ii) is  
8 used for any transaction—

9 “(I) in an amount equal to or  
10 less than \$1,000, or

11 “(II) with or on the premises of  
12 any establishment described in clause  
13 (i), (ii), or (iii) of section  
14 408(a)(12)(A) of the Social Security  
15 Act,

16 the amount of such transaction shall be  
17 treated as having been received by the in-  
18 dividual as a distribution in accordance  
19 with subparagraph (A) of paragraph (1).

20 “(iv) COST-OF-LIVING ADJUST-  
21 MENT.—In the case of any loan made dur-  
22 ing a plan year beginning after December  
23 31, 2019, the \$1,000 amount under clause  
24 (iii)(I) shall be increased by an amount  
25 equal to—

1                   “(I) such dollar amount, multi-  
2                   plied by

3                   “(II) the cost-of-living adjust-  
4                   ment determined under section 1(f)(3)  
5                   for the calendar year in which the  
6                   plan year begins, determined by sub-  
7                   stituting ‘calendar year 2018’ for ‘cal-  
8                   endar year 1992’ in subparagraph (B)  
9                   thereof. Any increase determined  
10                  under the preceding sentence shall be  
11                  rounded to the next lowest multiple of  
12                  \$50.”.

13           (b) EFFECTIVE DATE.—The amendments made by  
14 subsection (a) shall apply to plan years beginning after  
15 December 31, 2018.

16           (c) STUDY.—The Comptroller General of the United  
17 States shall, not later than the date which is 1 year after  
18 the date of the enactment of this Act—

19           (1) study the impact of loans from qualified  
20 employer plans (as defined in section 72(p)(4)(A) of  
21 the Internal Revenue Code of 1986) provided  
22 through credit cards and similar arrangements on  
23 the use of retirement savings for purposes other  
24 than funding retirement; and

1           (2) report the results of such study to the Com-  
2           mittee on Finance of the Senate and the Committee  
3           on the Ways and Means of the House of Representa-  
4           tives.

5 If the study under paragraph (1) determines that such  
6 loans, after implementation of the restrictions imposed by  
7 the amendment made by subsection (a), result in greater  
8 usage of retirement savings for purposes other than fund-  
9 ing retirement than loans made by other means, the report  
10 under paragraph (2) shall include recommendations to re-  
11 duce such result.

12 **SEC. 111. PORTABILITY OF LIFETIME INCOME OPTIONS.**

13           (a) IN GENERAL.—Subsection (a) of section 401 of  
14 the Internal Revenue Code of 1986 is amended by insert-  
15 ing after paragraph (37) the following new paragraph:

16           “(38) PORTABILITY OF LIFETIME INCOME.—

17           “(A) IN GENERAL.—Except as may be oth-  
18           erwise provided by regulations, a trust forming  
19           part of a defined contribution plan shall not be  
20           treated as failing to constitute a qualified trust  
21           under this section solely by reason of allowing—

22           “(i) qualified distributions of a life-  
23           time income investment, or

1                   “(ii) distributions of a lifetime income  
2                   investment in the form of a qualified plan  
3                   distribution annuity contract,  
4                   on or after the date that is 90 days prior to the  
5                   date on which such lifetime income investment  
6                   is no longer authorized to be held as an invest-  
7                   ment option under the plan.

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

10                   “(i) the term ‘qualified distribution’  
11                   means a direct trustee-to-trustee transfer  
12                   described in paragraph (31)(A) to an eligi-  
13                   ble retirement plan (as defined in section  
14                   402(c)(8)(B)),

15                   “(ii) the term ‘lifetime income invest-  
16                   ment’ means an investment option which is  
17                   designed to provide an employee with elec-  
18                   tion rights—

19                   “(I) which are not uniformly  
20                   available with respect to other invest-  
21                   ment options under the plan, and

22                   “(II) which are to a lifetime in-  
23                   come feature available through a con-  
24                   tract or other arrangement offered  
25                   under the plan (or under another eli-

1                   gible retirement plan (as so defined),  
2                   if paid by means of a direct trustee-  
3                   to-trustee transfer described in para-  
4                   graph (31)(A) to such other eligible  
5                   retirement plan),

6                   “(iii) the term ‘lifetime income fea-  
7                   ture’ means—

8                                 “(I) a feature which guarantees a  
9                                 minimum level of income annually (or  
10                                more frequently) for at least the re-  
11                               mainder of the life of the employee or  
12                               the joint lives of the employee and the  
13                               employee’s designated beneficiary, or

14                               “(II) an annuity payable on be-  
15                               half of the employee under which pay-  
16                               ments are made in substantially equal  
17                               periodic payments (not less frequently  
18                               than annually) over the life of the em-  
19                               ployee or the joint lives of the em-  
20                               ployee and the employee’s designated  
21                               beneficiary, and

22                               “(iv) the term ‘qualified plan distribu-  
23                               tion annuity contract’ means an annuity  
24                               contract purchased for a participant and  
25                               distributed to the participant by a plan or

1 contract described in subparagraph (B) of  
2 section 402(c)(8) (without regard to  
3 clauses (i) and (ii) thereof).”.

4 (b) CASH OR DEFERRED ARRANGEMENT.—

5 (1) IN GENERAL.—Clause (i) of section  
6 401(k)(2)(B) of the Internal Revenue Code of 1986,  
7 as amended by section 110(a), is amended by strik-  
8 ing “or” at the end of subclause (IV), by striking  
9 “and” at the end of subclause (V) and inserting  
10 “or”, and by adding at the end the following new  
11 subclause:

12 “(VI) except as may be otherwise  
13 provided by regulations, with respect  
14 to amounts invested in a lifetime in-  
15 come investment (as defined in sub-  
16 section (a)(38)(B)(ii)), the date that  
17 is 90 days prior to the date that such  
18 lifetime income investment may no  
19 longer be held as an investment option  
20 under the arrangement, and”.

21 (2) DISTRIBUTION REQUIREMENT.—Subpara-  
22 graph (B) of section 401(k)(2) of such Code, as  
23 amended by paragraph (1), is amended by striking  
24 “and” at the end of clause (i), by striking the semi-

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

3 “(iii) except as may be otherwise pro-  
4 vided by regulations, in the case of  
5 amounts described in clause (i)(VI), will be  
6 distributed only in the form of a qualified  
7 distribution (as defined in subsection  
8 (a)(38)(B)(i)) or a qualified plan distribu-  
9 tion annuity contract (as defined in sub-  
10 section (a)(38)(B)(iv)).”

11 (c) SECTION 403(b) PLANS.—

12 (1) ANNUITY CONTRACTS.—Paragraph (11) of  
13 section 403(b) of the Internal Revenue Code of 1986  
14 is amended by striking “or” at the end of subpara-  
15 graph (B), by striking the period at the end of sub-  
16 paragraph (C) and inserting “, or”, and by inserting  
17 after subparagraph (C) the following new subpara-  
18 graph:

19 “(D) except as may be otherwise provided  
20 by regulations, with respect to amounts invested  
21 in a lifetime income investment (as defined in  
22 section 401(a)(38)(B)(ii))—

23 “(i) on or after the date that is 90  
24 days prior to the date that such lifetime  
25 income investment may no longer be held



1 as an investment option under the con-  
2 tract, and

3 “(ii) in the form of a qualified dis-  
4 tribution (as defined in section  
5 401(a)(38)(B)(i)) or a qualified plan dis-  
6 tribution annuity contract (as defined in  
7 section 401(a)(38)(B)(iv)).”.

8 (2) CUSTODIAL ACCOUNTS.—Subparagraph (A)  
9 of section 403(b)(7) of such Code is amended by  
10 striking “if—” and all that follows and inserting “if  
11 the amounts are to be invested in regulated invest-  
12 ment company stock to be held in that custodial ac-  
13 count, and under the custodial account—

14 “(i) no such amounts may be paid or  
15 made available to any distributee (unless  
16 such amount is a distribution to which sec-  
17 tion 72(t)(2)(G) applies) before—

18 “(I) the employee dies,

19 “(II) the employee attains age  
20 59½,

21 “(III) the employee has a sever-  
22 ance from employment,

23 “(IV) the employee becomes dis-  
24 abled (within the meaning of section  
25 72(m)(7)),

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

6                   “(VI) except as may be otherwise  
7                   provided by regulations, with respect  
8                   to amounts invested in a lifetime in-  
9                   come investment (as defined in section  
10                  401(a)(38)(B)(ii)), the date that is 90  
11                  days prior to the date that such life-  
12                  time income investment may no longer  
13                  be held as an investment option under  
14                  the contract, and

15                  “(ii) in the case of amounts described  
16                  in clause (i)(VI), such amounts will be dis-  
17                  tributed only in the form of a qualified dis-  
18                  tribution (as defined in section  
19                  401(a)(38)(B)(i)) or a qualified plan dis-  
20                  tribution annuity contract (as defined in  
21                  section 401(a)(38)(B)(iv)).”.

22                  (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

23                   (1) IN GENERAL.—Subparagraph (A) of section  
24                  457(d)(1) of the Internal Revenue Code of 1986 is  
25                  amended by striking “or” at the end of clause (ii),

1 by inserting “or” at the end of clause (iii), and by  
2 adding after clause (iii) the following:

3 “(iv) except as may be otherwise pro-  
4 vided by regulations, in the case of a plan  
5 maintained by an employer described in  
6 subsection (e)(1)(A), with respect to  
7 amounts invested in a lifetime income in-  
8 vestment (as defined in section  
9 401(a)(38)(B)(ii)), the date that is 90  
10 days prior to the date that such lifetime  
11 income investment may no longer be held  
12 as an investment option under the plan,”.

13 (2) DISTRIBUTION REQUIREMENT.—Paragraph  
14 (1) of section 457(d) of such Code is amended by  
15 striking “and” at the end of subparagraph (B), by  
16 striking the period at the end of subparagraph (C)  
17 and inserting “, and”, and by inserting after sub-  
18 paragraph (C) the following new subparagraph:

19 “(D) except as may be otherwise provided  
20 by regulations, in the case of amounts described  
21 in subparagraph (A)(iv), such amounts will be  
22 distributed only in the form of a qualified dis-  
23 tribution (as defined in section  
24 401(a)(38)(B)(i)) or a qualified plan distribu-

1           tion annuity contract (as defined in section  
2           401(a)(38)(B)(iv)).”.

3           (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to plan years beginning after De-  
5 cember 31, 2018.

6 **SEC. 112. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**  
7 **MINATION OF SECTION 403(b) PLANS.**

8           (a) IN GENERAL.—Section 403(b)(7) of the Internal  
9 Revenue Code of 1986 is amended by adding at the end  
10 the following:

11                   “(D) TREATMENT OF CUSTODIAL AC-  
12                   COUNT UPON PLAN TERMINATION.—

13                           “(i) IN GENERAL.—If—

14                                   “(I) an employer terminates the  
15                                   plan under which amounts are con-  
16                                   tributed to a custodial account under  
17                                   subparagraph (A), and

18   “(II) the person holding the as-  
19   sets of the account has demonstrated  
20   to the satisfaction of the Secretary  
21   under section 408(a)(2) that the per-  
22   son is qualified to be a trustee of an  
23   individual retirement plan,

24                                   then, as of the date of the termination, the  
25                                   custodial account shall be deemed to be an

1 individual retirement plan for purposes of  
2 this title.

3 “(ii) TREATMENT AS ROTH IRA.—Any  
4 custodial account treated as an individual  
5 retirement plan under clause (i) shall be  
6 treated as a Roth IRA only if the custodial  
7 account was a designated Roth account.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to plan terminations occurring  
10 after December 31, 2018.

11 **SEC. 113. CLARIFICATION OF RETIREMENT INCOME AC-**  
12 **COUNT RULES RELATING TO CHURCH-CON-**  
13 **TROLLED ORGANIZATIONS.**

14 (a) IN GENERAL.—Subparagraph (B) of section  
15 403(b)(9) of the Internal Revenue Code of 1986 is amend-  
16 ed by inserting “(including an employee described in sec-  
17 tion 414(e)(3)(B))” after “employee described in para-  
18 graph (1)”.

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

1           **TITLE II—ADMINISTRATIVE**  
2                           **IMPROVEMENTS**

3   **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR**  
4                           **MAY BE TREATED AS IN EFFECT AS OF CLOSE**  
5                           **OF YEAR.**

6           (a) IN GENERAL.—Subsection (b) of section 401 of  
7 the Internal Revenue Code of 1986 is amended—

8                   (1) by striking “RETROACTIVE CHANGES IN  
9           PLAN.—A stock bonus” and inserting “PLAN  
10           AMENDMENTS.—

11                   “(1) CERTAIN RETROACTIVE CHANGES IN  
12           PLAN.—A stock bonus”, and

13                   (2) by adding at the end the following new  
14           paragraph:

15                   “(2) ADOPTION OF PLAN.—If an employer  
16           adopts a stock bonus, pension, profit-sharing, or an-  
17           nuity plan after the close of a taxable year but be-  
18           fore the time prescribed by law for filing the return  
19           of the employer for the taxable year (including ex-  
20           tensions thereof), the employer may elect to treat  
21           the plan as having been adopted as of the last day  
22           of the taxable year.”.

23           (b) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to plans adopted for taxable years  
25 beginning after December 31, 2018.

1 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**  
2 **PLANS.**

3 (a) **IN GENERAL.**—The Secretary of the Treasury  
4 and the Secretary of Labor shall, in cooperation, modify  
5 the returns required under section 6058 of the Internal  
6 Revenue Code of 1986 and the reports required by section  
7 104 of the Employee Retirement Income Security Act of  
8 1974 (29 U.S.C. 1024) so that all members of a group  
9 of plans described in subsection (c) may file a single aggre-  
10 gated annual return or report satisfying the requirements  
11 of both such sections.

12 (b) **ADMINISTRATIVE REQUIREMENTS.**—In devel-  
13 oping the consolidated return or report under subsection  
14 (a), the Secretary of the Treasury and the Secretary of  
15 Labor may require such return or report to include any  
16 information regarding each plan in the group as such Sec-  
17 retaries determine is necessary or appropriate for the en-  
18 forcement and administration of the Internal Revenue  
19 Code of 1986 and the Employee Retirement Income Secu-  
20 rity Act of 1974.

21 (c) **PLANS DESCRIBED.**—A group of plans is de-  
22 scribed in this subsection if all plans in the group—

23 (1) are individual account plans or defined con-  
24 tribution plans (as defined in section 3(34) of the  
25 Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1002(34)) or in section 414(i) of the In-  
2 ternal Revenue Code of 1986);

3 (2) have—

4 (A) the same trustee (as described in sec-  
5 tion 403(a) of such Act (29 U.S.C. 1103(a)));

6 (B) the same one or more named fidu-  
7 ciaries (as described in section 402(a) of such  
8 Act (29 U.S.C. 1102(a)));

9 (C) the same administrator (as defined in  
10 section 3(16)(A) of such Act (29 U.S.C.  
11 1002(16)(A))) and plan administrator (as de-  
12 fined in section 414(g) of the Internal Revenue  
13 Code of 1986); and

14 (D) plan years beginning on the same  
15 date; and

16 (3) provide the same investments or investment  
17 options to participants and beneficiaries.

18 A plan not subject to title I of the Employee Retirement  
19 Income Security Act of 1974 shall be treated as meeting  
20 the requirements of paragraph (2) as part of a group of  
21 plans if the same person that performs each of the func-  
22 tions described in such paragraph, as applicable, for all  
23 other plans in such group performs each of such functions  
24 for such plan.



1 (d) CLARIFICATION RELATING TO ELECTRONIC FIL-  
2 ING OF RETURNS FOR DEFERRED COMPENSATION  
3 PLANS.—

4 (1) IN GENERAL.—Section 6011(e) of the Inter-  
5 nal Revenue Code of 1986 is amended by adding at  
6 the end the following new paragraph:

7 “(5) APPLICATION OF NUMERICAL LIMITATION  
8 TO RETURNS RELATING TO DEFERRED COMPENSA-  
9 TION PLANS.—For purposes of applying the numer-  
10 ical limitation under paragraph (2)(A) to any return  
11 required under section 6058, information regarding  
12 each plan for which information is provided on such  
13 return shall be treated as a separate return.”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) shall apply to returns required to  
16 be filed with respect to plan years beginning after  
17 December 31, 2018.

18 (e) EFFECTIVE DATE.—The modification required by  
19 subsection (a) shall be implemented not later than Janu-  
20 ary 1, 2021, and shall apply to returns and reports for  
21 plan years beginning after December 31, 2020.

22 **SEC. 203. DISCLOSURE REGARDING LIFETIME INCOME.**

23 (a) IN GENERAL.—Subparagraph (B) of section  
24 105(a)(2) of the Employee Retirement Income Security  
25 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

3 and inserting “diversification, and”; and

4 (3) by inserting at the end the following:

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

7 In the case of pension benefit statements de-  
8 scribed in clause (i) of paragraph (1)(A), a life-  
9 time income disclosure under clause (iii) of this  
10 subparagraph shall be required to be included  
11 in only one pension benefit statement during  
12 any one 12-month period.”.

13 (b) LIFETIME INCOME.—Paragraph (2) of section  
14 105(a) of the Employee Retirement Income Security Act  
15 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the  
16 end the following new subparagraph:

17 “(D) LIFETIME INCOME DISCLOSURE.—

18 “(i) IN GENERAL.—

19 “(I) DISCLOSURE.—A lifetime in-  
20 come disclosure shall set forth the life-  
21 time income stream equivalent of the  
22 total benefits accrued with respect to  
23 the participant or beneficiary.

24 “(II) LIFETIME INCOME STREAM  
25 EQUIVALENT OF THE TOTAL BENE-

1 FITS ACCRUED.—For purposes of this  
2 subparagraph, the term ‘lifetime in-  
3 come stream equivalent of the total  
4 benefits accrued’ means the amount of  
5 monthly payments the participant or  
6 beneficiary would receive if the total  
7 accrued benefits of such participant or  
8 beneficiary were used to provide life-  
9 time income streams described in sub-  
10 clause (III), based on assumptions  
11 specified in rules prescribed by the  
12 Secretary.

13 “(III) LIFETIME INCOME  
14 STREAMS.—The lifetime income  
15 streams described in this subclause  
16 are a qualified joint and survivor an-  
17 nuity (as defined in section 205(d)),  
18 based on assumptions specified in  
19 rules prescribed by the Secretary, in-  
20 cluding the assumption that the par-  
21 ticipant or beneficiary has a spouse of  
22 equal age, and a single life annuity.  
23 Such lifetime income streams may  
24 have a term certain or other features

1 to the extent permitted under rules  
2 prescribed by the Secretary.

3 “(ii) MODEL DISCLOSURE.—Not later  
4 than 1 year after the date of the enact-  
5 ment of the Retirement Enhancement and  
6 Savings Act of 2018, the Secretary shall  
7 issue a model lifetime income disclosure,  
8 written in a manner so as to be understood  
9 by the average plan participant, which—

10 “(I) explains that the lifetime in-  
11 come stream equivalent is only pro-  
12 vided as an illustration;

13 “(II) explains that the actual  
14 payments under the lifetime income  
15 stream described in clause (i)(III)  
16 which may be purchased with the  
17 total benefits accrued will depend on  
18 numerous factors and may vary sub-  
19 stantially from the lifetime income  
20 stream equivalent in the disclosures;

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

1                   “(IV) provides such other similar  
2                   explanations as the Secretary con-  
3                   siders appropriate.

4                   “(iii) ASSUMPTIONS AND RULES.—  
5                   Not later than 1 year after the date of the  
6                   enactment of the Retirement Enhancement  
7                   and Savings Act of 2018, the Secretary  
8                   shall—

9                   “(I) prescribe assumptions which  
10                  administrators of individual account  
11                  plans may use in converting total ac-  
12                  crued benefits into lifetime income  
13                  stream equivalents for purposes of  
14                  this subparagraph; and

15                  “(II) issue interim final rules  
16                  under clause (i).

17                  In prescribing assumptions under sub-  
18                  clause (I), the Secretary may prescribe a  
19                  single set of specific assumptions (in which  
20                  case the Secretary may issue tables or fac-  
21                  tors which facilitate such conversions), or  
22                  ranges of permissible assumptions. To the  
23                  extent that an accrued benefit is or may be  
24                  invested in a lifetime income stream de-  
25                  scribed in clause (i)(III), the assumptions

1 prescribed under subclause (I) shall, to the  
2 extent appropriate, permit administrators  
3 of individual account plans to use the  
4 amounts payable under such lifetime in-  
5 come stream as a lifetime income stream  
6 equivalent.

7 “(iv) LIMITATION ON LIABILITY.—No  
8 plan fiduciary, plan sponsor, or other per-  
9 son shall have any liability under this title  
10 solely by reason of the provision of lifetime  
11 income stream equivalents which are de-  
12 rived in accordance with the assumptions  
13 and rules described in clause (iii) and  
14 which include the explanations contained in  
15 the model lifetime income disclosure de-  
16 scribed in clause (ii). This clause shall  
17 apply without regard to whether the provi-  
18 sion of such lifetime income stream equiva-  
19 lent is required by subparagraph (B)(iii).

20 “(v) EFFECTIVE DATE.—The require-  
21 ment in subparagraph (B)(iii) shall apply  
22 to pension benefit statements furnished  
23 more than 12 months after the latest of  
24 the issuance by the Secretary of—

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

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

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

7 **SEC. 204. FIDUCIARY SAFE HARBOR FOR SELECTION OF**  
8 **LIFETIME INCOME PROVIDER.**

9 Section 404 of the Employee Retirement Income Se-  
10 curity Act of 1974 (29 U.S.C. 1104) is amended by adding  
11 at the end the following:

12 “(e) SAFE HARBOR FOR ANNUITY SELECTION.—

13 “(1) IN GENERAL.—With respect to the selec-  
14 tion of an insurer for a guaranteed retirement in-  
15 come contract, the requirements of subsection  
16 (a)(1)(B) will be deemed to be satisfied if a fidu-  
17 ciary—

18 “(A) engages in an objective, thorough,  
19 and analytical search for the purpose of identi-  
20 fying insurers from which to purchase such con-  
21 tracts;

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

24 “(i) considers the financial capability  
25 of such insurer to satisfy its obligations

1 under the guaranteed retirement income  
2 contract; and

3 “(ii) considers the cost (including fees  
4 and commissions) of the guaranteed retire-  
5 ment income contract offered by the in-  
6 surer in relation to the benefits and prod-  
7 uct features of the contract and adminis-  
8 trative services to be provided under such  
9 contract; and

10 “(C) on the basis of such consideration,  
11 concludes that—

12 “(i) at the time of the selection, the  
13 insurer is financially capable of satisfying  
14 its obligations under the guaranteed retire-  
15 ment income contract; and

16 “(ii) the relative cost of the selected  
17 guaranteed retirement income contract as  
18 described in subparagraph (B)(ii) is rea-  
19 sonable.

20 “(2) FINANCIAL CAPABILITY OF THE IN-  
21 SURER.—A fiduciary will be deemed to satisfy the  
22 requirements of paragraphs (1)(B)(i) and (1)(C)(i)  
23 if—

24 “(A) the fiduciary obtains written rep-  
25 resentations from the insurer that—



1                   “(i) the insurer is licensed to offer  
2                   guaranteed retirement income contracts;

3                   “(ii) the insurer, at the time of selec-  
4                   tion and for each of the immediately pre-  
5                   ceding 7 plan years—

6                   “(I) operates under a certificate  
7                   of authority from the insurance com-  
8                   missioner of its domiciliary State  
9                   which has not been revoked or sus-  
10                  pended;

11                  “(II) has filed audited financial  
12                  statements in accordance with the  
13                  laws of its domiciliary State under ap-  
14                  plicable statutory accounting prin-  
15                  ciples;

16                  “(III) maintains (and has main-  
17                  tained) reserves which satisfies all the  
18                  statutory requirements of all States  
19                  where the insurer does business; and

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

23                  “(iii) the insurer undergoes, at least  
24                  every 5 years, a financial examination  
25                  (within the meaning of the law of its domi-

1 ciliary State) by the insurance commis-  
2 sioner of the domiciliary State (or rep-  
3 resentative, designee, or other party ap-  
4 proved by such commissioner); and

5 “(iv) the insurer will notify the fidu-  
6 ciary of any change in circumstances oc-  
7 ccurring after the provision of the represen-  
8 tations in clauses (i), (ii), and (iii) which  
9 would preclude the insurer from making  
10 such representations at the time of  
11 issuance of the guaranteed retirement in-  
12 come contract; and

13 “(B) after receiving such representations  
14 and as of the time of selection, the fiduciary  
15 has not received any notice described in sub-  
16 paragraph (A)(iv) and is in possession of no  
17 other information which would cause the fidu-  
18 ciary to question the representations provided.

19 “(3) NO REQUIREMENT TO SELECT LOWEST  
20 COST.—Nothing in this subsection shall be construed  
21 to require a fiduciary to select the lowest cost con-  
22 tract. A fiduciary may consider the value of a con-  
23 tract, including features and benefits of the contract  
24 and attributes of the insurer (including, without lim-

1       itation, the insurer’s financial strength) in conjunc-  
2       tion with the cost of the contract.

3               “(4) TIME OF SELECTION.—

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

6                               “(i) the time that the insurer and the  
7       contract are selected for distribution of  
8       benefits to a specific participant or bene-  
9       ficiary; or

10                              “(ii) if the fiduciary periodically re-  
11       views the continuing appropriateness of the  
12       conclusion described in paragraph (1)(C)  
13       with respect to a selected insurer, taking  
14       into account the considerations described  
15       in such paragraph, the time that the in-  
16       surer and the contract are selected to pro-  
17       vide benefits at future dates to participants  
18       or beneficiaries under the plan.

19       Nothing in the preceding sentence shall be con-  
20       strued to require the fiduciary to review the ap-  
21       propriateness of a selection after the purchase  
22       of a contract for a participant or beneficiary.

23                       “(B) PERIODIC REVIEW.—A fiduciary will  
24       be deemed to have conducted the periodic re-  
25       view described in subparagraph (A)(ii) if the fi-

1           duciary obtains the written representations de-  
2           scribed in clauses (i), (ii), and (iii) of paragraph  
3           (2)(A) from the insurer on an annual basis, un-  
4           less the fiduciary receives any notice described  
5           in paragraph (2)(A)(iv) or otherwise becomes  
6           aware of facts that would cause the fiduciary to  
7           question such representations.

8           “(5) LIMITED LIABILITY.—A fiduciary which  
9           satisfies the requirements of this subsection shall not  
10          be liable following the distribution of any benefit, or  
11          the investment by or on behalf of a participant or  
12          beneficiary pursuant to the selected guaranteed re-  
13          tirement income contract, for any losses that may  
14          result to the participant or beneficiary due to an in-  
15          surer’s inability to satisfy its financial obligations  
16          under the terms of such contract.

17          “(6) DEFINITIONS.—For purposes of this sub-  
18          section—

19                 “(A) INSURER.—The term ‘insurer’ means  
20                 an insurance company, insurance service, or in-  
21                 surance organization, including affiliates of  
22                 such companies.

23                 “(B) GUARANTEED RETIREMENT INCOME  
24                 CONTRACT.—The term ‘guaranteed retirement  
25                 income contract’ means an annuity contract for

1 a fixed term or a contract (or provision or fea-  
2 ture thereof) which provides guaranteed bene-  
3 fits annually (or more frequently) for at least  
4 the remainder of the life of the participant or  
5 the joint lives of the participant and the partici-  
6 pant's designated beneficiary as part of an indi-  
7 vidual account plan.”.

8 **SEC. 205. MODIFICATION OF NONDISCRIMINATION RULES**  
9 **TO PROTECT OLDER, LONGER SERVICE PAR-**  
10 **TICIPANTS.**

11 (a) IN GENERAL.—Section 401 of the Internal Rev-  
12 enue Code of 1986 is amended—

13 (1) by redesignating subsection (o) as sub-  
14 section (p), and

15 (2) by inserting after subsection (n) the fol-  
16 lowing new subsection:

17 “(o) SPECIAL RULES FOR APPLYING NON-  
18 DISCRIMINATION RULES TO PROTECT OLDER, LONGER  
19 SERVICE AND GRANDFATHERED PARTICIPANTS.—

20 “(1) TESTING OF DEFINED BENEFIT PLANS  
21 WITH CLOSED CLASSES OF PARTICIPANTS.—

22 “(A) BENEFITS, RIGHTS, OR FEATURES  
23 PROVIDED TO CLOSED CLASSES.—A defined  
24 benefit plan which provides benefits, rights, or  
25 features to a closed class of participants shall

1 not fail to satisfy the requirements of sub-  
2 section (a)(4) by reason of the composition of  
3 such closed class or the benefits, rights, or fea-  
4 tures provided to such closed class, if—

5 “(i) for the plan year as of which the  
6 class closes and the 2 succeeding plan  
7 years, such benefits, rights, and features  
8 satisfy the requirements of subsection  
9 (a)(4) (without regard to this subpara-  
10 graph but taking into account the rules of  
11 subparagraph (I)),

12 “(ii) after the date as of which the  
13 class was closed, any plan amendment  
14 which modifies the closed class or the ben-  
15 efits, rights, and features provided to such  
16 closed class does not discriminate signifi-  
17 cantly in favor of highly compensated em-  
18 ployees, and

19 “(iii) the class was closed before Sep-  
20 tember 21, 2016, or the plan is described  
21 in subparagraph (C).

22 “(B) AGGREGATE TESTING WITH DEFINED  
23 CONTRIBUTION PLANS PERMITTED ON A BENE-  
24 FITS BASIS.—

1           “(i) IN GENERAL.—For purposes of  
2 determining compliance with subsection  
3 (a)(4) and section 410(b), a defined benefit  
4 plan described in clause (iii) may be aggre-  
5 gated and tested on a benefits basis with  
6 1 or more defined contribution plans, in-  
7 cluding with the portion of 1 or more de-  
8 fined contribution plans which—

9           “(I) provides matching contribu-  
10 tions (as defined in subsection  
11 (m)(4)(A)),

12           “(II) provides annuity contracts  
13 described in section 403(b) which are  
14 purchased with matching contribu-  
15 tions or nonelective contributions, or

16           “(III) consists of an employee  
17 stock ownership plan (within the  
18 meaning of section 4975(e)(7)) or a  
19 tax credit employee stock ownership  
20 plan (within the meaning of section  
21 409(a)).

22           “(ii) SPECIAL RULES FOR MATCHING  
23 CONTRIBUTIONS.—For purposes of clause  
24 (i), if a defined benefit plan is aggregated

1 with a portion of a defined contribution  
2 plan providing matching contributions—

3 “(I) such defined benefit plan  
4 must also be aggregated with any por-  
5 tion of such defined contribution plan  
6 which provides elective deferrals de-  
7 scribed in subparagraph (A) or (C) of  
8 section 402(g)(3), and

9 “(II) such matching contribu-  
10 tions shall be treated in the same  
11 manner as nonelective contributions,  
12 including for purposes of applying the  
13 rules of subsection (l).

14 “(iii) PLANS DESCRIBED.—A defined  
15 benefit plan is described in this clause if—

16 “(I) the plan provides benefits to  
17 a closed class of participants,

18 “(II) for the plan year as of  
19 which the class closes and the 2 suc-  
20 ceeding plan years, the plan satisfies  
21 the requirements of section 410(b)  
22 and subsection (a)(4) (without regard  
23 to this subparagraph but taking into  
24 account the rules of subparagraph  
25 (I)),



1                   “(III) after the date as of which  
2                   the class was closed, any plan amend-  
3                   ment which modifies the closed class  
4                   or the benefits provided to such closed  
5                   class does not discriminate signifi-  
6                   cantly in favor of highly compensated  
7                   employees, and

8                   “(IV) the class was closed before  
9                   September 21, 2016, or the plan is  
10                  described in subparagraph (C).

11                  “(C) PLANS DESCRIBED.—A plan is de-  
12                  scribed in this subparagraph if, taking into ac-  
13                  count any predecessor plan—

14                   “(i) such plan has been in effect for  
15                   at least 5 years as of the date the class is  
16                   closed, and

17                   “(ii) during the 5-year period pre-  
18                   ceding the date the class is closed, there  
19                   has not been a substantial increase in the  
20                   coverage or value of the benefits, rights, or  
21                   features described in subparagraph (A) or  
22                   in the coverage or benefits under the plan  
23                   described in subparagraph (B)(iii) (which-  
24                   ever is applicable).

1           “(D) DETERMINATION OF SUBSTANTIAL  
2 INCREASE FOR BENEFITS, RIGHTS, AND FEA-  
3 TURES.—In applying subparagraph (C)(ii) for  
4 purposes of subparagraph (A)(iii), a plan shall  
5 be treated as having had a substantial increase  
6 in coverage or value of the benefits, rights, or  
7 features described in subparagraph (A) during  
8 the applicable 5-year period only if, during such  
9 period—

10           “(i) the number of participants cov-  
11 ered by such benefits, rights, or features  
12 on the date such period ends is more than  
13 50 percent greater than the number of  
14 such participants on the first day of the  
15 plan year in which such period began, or

16           “(ii) such benefits, rights, and fea-  
17 tures have been modified by 1 or more  
18 plan amendments in such a way that, as of  
19 the date the class is closed, the value of  
20 such benefits, rights, and features to the  
21 closed class as a whole is substantially  
22 greater than the value as of the first day  
23 of such 5-year period, solely as a result of  
24 such amendments.

1           “(E) DETERMINATION OF SUBSTANTIAL  
2 INCREASE FOR AGGREGATE TESTING ON BENE-  
3 FITS BASIS.—In applying subparagraph (C)(ii)  
4 for purposes of subparagraph (B)(iii)(IV), a  
5 plan shall be treated as having had a substan-  
6 tial increase in coverage or benefits during the  
7 applicable 5-year period only if, during such pe-  
8 riod—

9           “(i) the number of participants bene-  
10 fitting under the plan on the date such pe-  
11 riod ends is more than 50 percent greater  
12 than the number of such participants on  
13 the first day of the plan year in which such  
14 period began, or

15           “(ii) the average benefit provided to  
16 such participants on the date such period  
17 ends is more than 50 percent greater than  
18 the average benefit provided on the first  
19 day of the plan year in which such period  
20 began.

21           “(F) CERTAIN EMPLOYEES DIS-  
22 REGARDED.—For purposes of subparagraphs  
23 (D) and (E), any increase in coverage or value  
24 or in coverage or benefits, whichever is applica-  
25 ble, which is attributable to such coverage and

1 value or coverage and benefits provided to em-  
2 ployees—

3 “(i) who became participants as a re-  
4 sult of a merger, acquisition, or similar  
5 event which occurred during the 7-year pe-  
6 riod preceding the date the class is closed,  
7 or

8 “(ii) who became participants by rea-  
9 son of a merger of the plan with another  
10 plan which had been in effect for at least  
11 5 years as of the date of the merger,

12 shall be disregarded, except that clause (ii)  
13 shall apply for purposes of subparagraph (D)  
14 only if, under the merger, the benefits, rights,  
15 or features under 1 plan are conformed to the  
16 benefits, rights, or features of the other plan  
17 prospectively.

18 “(G) RULES RELATING TO AVERAGE BEN-  
19 EFIT.—For purposes of subparagraph (E)—

20 “(i) the average benefit provided to  
21 participants under the plan will be treated  
22 as having remained the same between the  
23 2 dates described in subparagraph (E)(ii)  
24 if the benefit formula applicable to such

1 participants has not changed between such  
2 dates, and

3 “(ii) if the benefit formula applicable  
4 to 1 or more participants under the plan  
5 has changed between such 2 dates, then  
6 the average benefit under the plan shall be  
7 considered to have increased by more than  
8 50 percent only if—

9 “(I) the total amount determined  
10 under section 430(b)(1)(A)(i) for all  
11 participants benefiting under the plan  
12 for the plan year in which the 5-year  
13 period described in subparagraph (E)  
14 ends, exceeds

15 “(II) the total amount deter-  
16 mined under section 430(b)(1)(A)(i)  
17 for all such participants for such plan  
18 year, by using the benefit formula in  
19 effect for each such participant for  
20 the first plan year in such 5-year pe-  
21 riod,

22 by more than 50 percent. In the case of a  
23 CSEC plan (as defined in section 414(y)),  
24 the normal cost of the plan (as determined  
25 under section 433(j)(1)(B)) shall be used

1 in lieu of the amount determined under  
2 section 430(b)(1)(A)(i).

3 “(H) TREATMENT AS SINGLE PLAN.—For  
4 purposes of subparagraphs (E) and (G), a plan  
5 described in section 413(c) shall be treated as  
6 a single plan rather than as separate plans  
7 maintained by each participating employer.

8 “(I) SPECIAL RULES.—For purposes of  
9 subparagraphs (A)(i) and (B)(iii)(II), the fol-  
10 lowing rules shall apply:

11 “(i) In applying section 410(b)(6)(C),  
12 the closing of the class of participants shall  
13 not be treated as a significant change in  
14 coverage under section 410(b)(6)(C)(i)(II).

15 “(ii) 2 or more plans shall not fail to  
16 be eligible to be aggregated and treated as  
17 a single plan solely by reason of having dif-  
18 ferent plan years.

19 “(iii) Changes in the employee popu-  
20 lation shall be disregarded to the extent at-  
21 tributable to individuals who become em-  
22 ployees or cease to be employees, after the  
23 date the class is closed, by reason of a  
24 merger, acquisition, divestiture, or similar  
25 event.



1 the treatment under subparagraph (A) or (B)  
2 of the spun-off plan shall continue with respect  
3 to such other employer.

4 “(2) TESTING OF DEFINED CONTRIBUTION  
5 PLANS.—

6 “(A) TESTING ON A BENEFITS BASIS.—A  
7 defined contribution plan shall be permitted to  
8 be tested on a benefits basis if—

9 “(i) such defined contribution plan  
10 provides make-whole contributions to a  
11 closed class of participants whose accruals  
12 under a defined benefit plan have been re-  
13 duced or eliminated,

14 “(ii) for the plan year of the defined  
15 contribution plan as of which the class eli-  
16 gible to receive such make-whole contribu-  
17 tions closes and the 2 succeeding plan  
18 years, such closed class of participants sat-  
19 isfies the requirements of section  
20 410(b)(2)(A)(i) (determined by applying  
21 the rules of paragraph (1)(I)),

22 “(iii) after the date as of which the  
23 class was closed, any plan amendment to  
24 the defined contribution plan which modi-  
25 fies the closed class or the allocations, ben-



1           efits, rights, and features provided to such  
2           closed class does not discriminate signifi-  
3           cantly in favor of highly compensated em-  
4           ployees, and

5                   “(iv) the class was closed before Sep-  
6           tember 21, 2016, or the defined benefit  
7           plan under clause (i) is described in para-  
8           graph (1)(C) (as applied for purposes of  
9           paragraph (1)(B)(iii)(IV)).

10           “(B) AGGREGATION WITH PLANS INCLUD-  
11           ING MATCHING CONTRIBUTIONS.—

12                   “(i) IN GENERAL.—With respect to 1  
13           or more defined contribution plans de-  
14           scribed in subparagraph (A), for purposes  
15           of determining compliance with subsection  
16           (a)(4) and section 410(b), the portion of  
17           such plans which provides make-whole con-  
18           tributions or other nonelective contribu-  
19           tions may be aggregated and tested on a  
20           benefits basis with the portion of 1 or  
21           more other defined contribution plans  
22           which—

23                   “(I) provides matching contribu-  
24           tions (as defined in subsection  
25           (m)(4)(A)),

1                   “(II) provides annuity contracts  
2                   described in section 403(b) which are  
3                   purchased with matching contribu-  
4                   tions or nonelective contributions, or

5                   “(III) consists of an employee  
6                   stock ownership plan (within the  
7                   meaning of section 4975(e)(7)) or a  
8                   tax credit employee stock ownership  
9                   plan (within the meaning of section  
10                  409(a)).

11                  “(ii) SPECIAL RULES FOR MATCHING  
12                  CONTRIBUTIONS.—Rules similar to the  
13                  rules of paragraph (1)(B)(ii) shall apply  
14                  for purposes of clause (i).

15                  “(C) SPECIAL RULES FOR TESTING DE-  
16                  FINED CONTRIBUTION PLAN FEATURES PRO-  
17                  VIDING MATCHING CONTRIBUTIONS TO CERTAIN  
18                  OLDER, LONGER SERVICE PARTICIPANTS.—In  
19                  the case of a defined contribution plan which  
20                  provides benefits, rights, or features to a closed  
21                  class of participants whose accruals under a de-  
22                  fined benefit plan have been reduced or elimi-  
23                  nated, the plan shall not fail to satisfy the re-  
24                  quirements of subsection (a)(4) solely by reason  
25                  of the composition of the closed class or the

1 benefits, rights, or features provided to such  
2 closed class if the defined contribution plan and  
3 defined benefit plan otherwise meet the require-  
4 ments of subparagraph (A) but for the fact that  
5 the make-whole contributions under the defined  
6 contribution plan are made in whole or in part  
7 through matching contributions.

8 “(D) SPUN-OFF PLANS.—For purposes of  
9 this paragraph, if a portion of a defined con-  
10 tribution plan described in subparagraph (A) or  
11 (C) is spun off to another employer, the treat-  
12 ment under subparagraph (A) or (C) of the  
13 spun-off plan shall continue with respect to the  
14 other employer if such plan continues to comply  
15 with the requirements of clauses (ii) (if the  
16 original plan was still within the 3-year period  
17 described in such clause at the time of the spin  
18 off) and (iii) of subparagraph (A), as deter-  
19 mined for purposes of subparagraph (A) or (C),  
20 whichever is applicable.

21 “(3) DEFINITIONS.—For purposes of this sub-  
22 section—

23 “(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-  
24 cept as otherwise provided in paragraph (2)(C),  
25 the term ‘make-whole contributions’ means non-

1 elective allocations for each employee in the  
2 class which are reasonably calculated, in a con-  
3 sistent manner, to replace some or all of the re-  
4 tirement benefits which the employee would  
5 have received under the defined benefit plan  
6 and any other plan or qualified cash or deferred  
7 arrangement under subsection (k)(2) if no  
8 change had been made to such defined benefit  
9 plan and such other plan or arrangement. For  
10 purposes of the preceding sentence, consistency  
11 shall not be required with respect to employees  
12 who were subject to different benefit formulas  
13 under the defined benefit plan.

14 “(B) REFERENCES TO CLOSED CLASS OF  
15 PARTICIPANTS.—References to a closed class of  
16 participants and similar references to a closed  
17 class shall include arrangements under which 1  
18 or more classes of participants are closed, ex-  
19 cept that 1 or more classes of participants  
20 closed on different dates shall not be aggre-  
21 gated for purposes of determining the date any  
22 such class was closed.

23 “(C) HIGHLY COMPENSATED EMPLOYEE.—  
24 The term ‘highly compensated employee’ has

1           the meaning given such term in section  
2           414(q).”.

3           (b) PARTICIPATION REQUIREMENTS.—Paragraph  
4 (26) of section 401(a) of the Internal Revenue Code of  
5 1986 is amended by adding at the end the following new  
6 subparagraph:

7                   “(I) PROTECTED PARTICIPANTS.—

8                           “(i) IN GENERAL.—A plan shall be  
9                           deemed to satisfy the requirements of sub-  
10                           paragraph (A) if—

11                                   “(I) the plan is amended—

12   “(aa) to cease all benefit ac-  
13   cruals, or

14   “(bb) to provide future ben-  
15   efit accruals only to a closed  
16   class of participants,

17                                   “(II) the plan satisfies subpara-  
18                                   graph (A) (without regard to this sub-  
19                                   paragraph) as of the effective date of  
20                                   the amendment, and

21                                   “(III) the amendment was adopt-  
22                                   ed before September 21, 2016, or the  
23                                   plan is described in clause (ii).

24                                   “(ii) PLANS DESCRIBED.—A plan is  
25                                   described in this clause if the plan would

1 be described in subsection (o)(1)(C), as ap-  
2 plied for purposes of subsection  
3 (o)(1)(B)(iii)(IV) and by treating the effec-  
4 tive date of the amendment as the date the  
5 class was closed for purposes of subsection  
6 (o)(1)(C).

7 “(iii) SPECIAL RULES.—For purposes  
8 of clause (i)(II), in applying section  
9 410(b)(6)(C), the amendments described in  
10 clause (i) shall not be treated as a signifi-  
11 cant change in coverage under section  
12 410(b)(6)(C)(i)(II).

13 “(iv) SPUN-OFF PLANS.—For pur-  
14 poses of this subparagraph, if a portion of  
15 a plan described in clause (i) is spun off to  
16 another employer, the treatment under  
17 clause (i) of the spun-off plan shall con-  
18 tinue with respect to the other employer.”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-  
21 graph (2), the amendments made by this section  
22 shall take effect on the date of the enactment of this  
23 Act, without regard to whether any plan modifica-  
24 tions referred to in such amendments are adopted or  
25 effective before, on, or after such date of enactment.

1 (2) SPECIAL RULES.—

2 (A) ELECTION OF EARLIER APPLICA-  
3 TION.—At the election of the plan sponsor, the  
4 amendments made by this section shall apply to  
5 plan years beginning after December 31, 2013.

6 (B) CLOSED CLASSES OF PARTICIPANTS.—  
7 For purposes of paragraphs (1)(A)(iii),  
8 (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)  
9 of the Internal Revenue Code of 1986 (as added  
10 by this section), a closed class of participants  
11 shall be treated as being closed before Sep-  
12 tember 21, 2016, if the plan sponsor's intention  
13 to create such closed class is reflected in formal  
14 written documents and communicated to par-  
15 ticipants before such date.

16 (C) CERTAIN POST-ENACTMENT PLAN  
17 AMENDMENTS.—A plan shall not be treated as  
18 failing to be eligible for the application of sec-  
19 tion 401(o)(1)(A), 401(o)(1)(B)(iii), or  
20 401(a)(26) of such Code (as added by this sec-  
21 tion) to such plan solely because in the case  
22 of—

23 (i) such section 401(o)(1)(A), the plan  
24 was amended before the date of the enact-  
25 ment of this Act to eliminate 1 or more

1 benefits, rights, or features, and is further  
2 amended after such date of enactment to  
3 provide such previously eliminated benefits,  
4 rights, or features to a closed class of par-  
5 ticipants, or

6 (ii) such section 401(o)(1)(B)(iii) or  
7 section 401(a)(26), the plan was amended  
8 before the date of the enactment of this  
9 Act to cease all benefit accruals, and is  
10 further amended after such date of enact-  
11 ment to provide benefit accruals to a closed  
12 class of participants.

13 Any such section shall only apply if the plan  
14 otherwise meets the requirements of such sec-  
15 tion and in applying such section, the date the  
16 class of participants is closed shall be the effec-  
17 tive date of the later amendment.

18 **SEC. 206. MODIFICATION OF PBGC PREMIUMS FOR CSEC**  
19 **PLANS.**

20 (a) **FLAT RATE PREMIUM.**—Subparagraph (A) of  
21 section 4006(a)(3) of the Employee Retirement Income  
22 Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amend-  
23 ed—



1 (1) in clause (i), by striking “plan,” and insert-  
2 ing “plan other than a CSEC plan (as defined in  
3 section 210(f)(1))”;

4 (2) in clause (v), by striking “or” at the end;

5 (3) in clause (vi), by striking the period at the  
6 end and inserting “, or”; and

7 (4) by adding at the end the following new  
8 clause:

9 “(vii) in the case of a CSEC plan (as  
10 defined in section 210(f)(1)), for plan  
11 years beginning after December 31, 2017,  
12 for each individual who is a participant in  
13 such plan during the plan year an amount  
14 equal to the sum of—

15 “(I) the additional premium (if  
16 any) determined under subparagraph  
17 (E), and

18 “(II) \$19.”.

19 (b) VARIABLE RATE PREMIUM.—

20 (1) UNFUNDED VESTED BENEFITS.—

21 (A) IN GENERAL.—Subparagraph (E) of  
22 section 4006(a)(3) of the Employee Retirement  
23 Income Security Act of 1974 (29 U.S.C.  
24 1306(a)(3)) is amended by adding at the end  
25 the following new clause:

1                   “(v) For purposes of clause (ii), in the  
2                   case of a CSEC plan (as defined in section  
3                   210(f)(1)), the term ‘unfunded vested ben-  
4                   efits’ means, for plan years beginning after  
5                   December 31, 2017, the excess (if any)  
6                   of—

7                                 “(I) the funding liability of the  
8                                 plan as determined under section  
9                                 306(j)(5)(C) for the plan year by only  
10                                taking into account vested benefits,  
11                                over

12                               “(II) the fair market value of  
13                                plan assets for the plan year which  
14                                are held by the plan on the valuation  
15                                date.”.

16                   (B) CONFORMING AMENDMENT.—Clause  
17                   (iii) of section 4006(a)(3)(E) of such Act (29  
18                   U.S.C. 1306(a)(3)(E)) is amended by striking  
19                   “For purposes” and inserting “Except as pro-  
20                   vided in clause (v), for purposes”.

21                   (2) APPLICABLE DOLLAR AMOUNT.—

22                                (A) IN GENERAL.—Paragraph (8) of sec-  
23                                tion 4006(a) of such Act (29 U.S.C. 1306(a))  
24                                is amended by adding at the end the following  
25                                new subparagraph:

1           “(E) CSEC PLANS.—In the case of a  
2           CSEC plan (as defined in section 210(f)(1)),  
3           the applicable dollar amount shall be \$9.”.

4           (B) CONFORMING AMENDMENT.—Subpara-  
5           graph (A) of section 4006(a)(8) of such Act (29  
6           U.S.C. 1306(a)(8)) is amended by striking “(B)  
7           and (C)” and inserting “(B), (C), and (E)”.

8           **TITLE III—BENEFITS RELATING**  
9           **TO UNITED STATES TAX COURT**

10          **SEC. 301. THRIFT SAVINGS PLAN CONTRIBUTIONS FOR**  
11                               **JUDGES IN THE FEDERAL EMPLOYEES RE-**  
12                               **TIREMENT SYSTEM.**

13          (a) IN GENERAL.—Subsection (j)(3)(B) of section  
14          7447 of the Internal Revenue Code of 1986 is amended  
15          to read as follows:

16                               “(B) CONTRIBUTIONS FOR BENEFIT OF  
17                               JUDGE.—No contributions under section  
18                               8432(c) of title 5, United States Code, shall be  
19                               made for the benefit of a judge who has filed  
20                               an election to receive retired pay under sub-  
21                               section (e).”.

22          (b) OFFSET.—Paragraph (3) of section 7447(j) of  
23          the Internal Revenue Code of 1986 is amended by adding  
24          at the end the following new subparagraph:

1           “(F) OFFSET.—In the case of a judge who  
2           receives a distribution from the Thrift Savings  
3           Plan and who later receives retired pay under  
4           subsection (d), the retired pay shall be offset by  
5           an amount equal to the amount of the distribu-  
6           tion which represents the Government’s con-  
7           tribution to the individual’s Thrift Savings Ac-  
8           count during years of service as a full-time judi-  
9           cial officer under the Federal Employees Retire-  
10          ment System, without regard to earnings attrib-  
11          utable to such amount. Where such an offset  
12          would exceed 50 percent of the retired pay to  
13          be received in the first year, the offset may be  
14          divided equally over the first 2 years in which  
15          the individual receives the annuity.”.

16          (c) EFFECTIVE DATE.—The amendments made by  
17          this section shall apply to basic pay earned while serving  
18          as a judge of the United States Tax Court on or after  
19          the date of the enactment of this Act.

20      **SEC. 302. CHANGE IN VESTING PERIOD FOR SURVIVOR AN-**  
21                              **NUITIES AND WAIVER OF VESTING PERIOD IN**  
22                              **THE EVENT OF ASSASSINATION.**

23          (a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINA-  
24          TION.—Subsection (h) of section 7448 of the Internal Rev-  
25          enue Code of 1986 is amended to read as follows:

1 “(h) ENTITLEMENT TO ANNUITY.—

2 “(1) IN GENERAL.—

3 “(A) ANNUITY TO SURVIVING SPOUSE.—If  
4 a judge or magistrate judge of the Tax Court  
5 described in paragraph (2) is survived by a sur-  
6 viving spouse but not by a dependent child,  
7 there shall be paid to such surviving spouse an  
8 annuity beginning with the day of the death of  
9 the judge or magistrate judge of the Tax Court  
10 or following the surviving spouse’s attainment  
11 of age 50, whichever is the later, in an amount  
12 computed as provided in subsection (m).

13 “(B) ANNUITY TO SURVIVING SPOUSE AND  
14 CHILD.—If a judge or magistrate judge of the  
15 Tax Court described in paragraph (2) is sur-  
16 vived by a surviving spouse and dependent child  
17 or children, there shall be paid to such sur-  
18 viving spouse an annuity, beginning on the day  
19 of the death of the judge or magistrate judge  
20 of the Tax Court, in an amount computed as  
21 provided in subsection (m), and there shall also  
22 be paid to or on behalf of each such child an  
23 immediate annuity equal to the lesser of—

24 “(i) 10 percent of the average annual  
25 salary of such judge or magistrate judge of

1 the Tax Court (determined in accordance  
2 with subsection (m)), or

3 “(ii) 20 percent of such average an-  
4 nual salary, divided by the number of such  
5 children.

6 “(C) ANNUITY TO SURVIVING DEPENDENT  
7 CHILDREN.—If a judge or magistrate judge of  
8 the Tax Court described in paragraph (2)  
9 leaves no surviving spouse but leaves a sur-  
10 viving dependent child or children, there shall  
11 be paid to or on behalf of each such child an  
12 immediate annuity equal to the lesser of—

13 “(i) 20 percent of the average annual  
14 salary of such judge or magistrate judge of  
15 the Tax Court (determined in accordance  
16 with subsection (m)), or

17 “(ii) 40 percent of such average an-  
18 nual salary divided by the number of such  
19 children.

20 “(2) COVERED JUDGES.—Paragraph (1) applies  
21 to any judge or magistrate judge of the Tax Court  
22 electing under subsection (b)—

23 “(A) who dies while a judge or magistrate  
24 judge of the Tax Court after having rendered at  
25 least 18 months of civilian service computed as

1 prescribed in subsection (n), for the last 18  
2 months of which the salary deductions provided  
3 for by subsection (c)(1) or the deposits required  
4 by subsection (d) have actually been made or  
5 the salary deductions required by the civil serv-  
6 ice retirement laws have actually been made, or

7 “(B) who dies by assassination after hav-  
8 ing rendered less than 18 months of civilian  
9 service computed as prescribed in subsection (n)  
10 if, for the period of such service, the salary de-  
11 ductions provided for by subsection (c)(1) or  
12 the deposits required by subsection (d) have ac-  
13 tually been made.

14 “(3) TERMINATION OF ANNUITY.—

15 “(A) SURVIVING SPOUSE.—The annuity  
16 payable to a surviving spouse under this sub-  
17 section shall be terminable upon such surviving  
18 spouse’s death or such surviving spouse’s re-  
19 marriage before attaining age 55.

20 “(B) SURVIVING CHILD.—Any annuity  
21 payable to a child under this subsection shall be  
22 terminable upon the earliest of—

23 “(i) the child attainment of age 18,

24 “(ii) the child’s marriage, or

25 “(iii) the child’s death,

1           except that if such child is incapable of self-sup-  
2           port by reason of mental or physical disability  
3           the child's annuity shall be terminable only  
4           upon death, marriage, or recovery from such  
5           disability.

6           “(C) DEPENDENT CHILD AFTER DEATH  
7           OF SURVIVING SPOUSE.—In case of the death of  
8           a surviving spouse of a judge or magistrate  
9           judge of the Tax Court leaving a dependent  
10          child or children of the judge or magistrate  
11          judge of the Tax Court surviving such spouse,  
12          the annuity of such child or children shall be  
13          recomputed and paid as provided in paragraph  
14          (1)(C).

15          “(D) RECOMPUTATION WITH RESPECT TO  
16          OTHER DEPENDENT CHILDREN.—In any case  
17          in which the annuity of a dependent child is  
18          terminated under this subsection, the annuities  
19          of any remaining dependent child or children  
20          based upon the service of the same judge or  
21          magistrate judge of the Tax Court shall be re-  
22          computed and paid as though the child whose  
23          annuity was so terminated had not survived  
24          such judge.



1           “(E) SPECIAL RULE FOR ASSASSINATED  
2           JUDGES.—In the case of a survivor of a judge  
3           or magistrate judge of the Tax Court described  
4           in paragraph (2)(B), there shall be deducted  
5           from the annuities otherwise payable under this  
6           section an amount equal to the amount of sal-  
7           ary deductions that would have been made if  
8           such deductions had been made for 18 months  
9           prior to the death of the judge or magistrate  
10          judge of the Tax Court.”.

11          (b) DEFINITION OF ASSASSINATION.—Section  
12          7448(a) of the Internal Revenue Code of 1986 is amended  
13          by adding at the end the following new paragraph:

14                 “(10) The terms ‘assassinated’ and ‘assassina-  
15          tion’ mean the killing of a judge or magistrate judge  
16          of the Tax Court that is motivated by the perform-  
17          ance by the judge or magistrate judge of the Tax  
18          Court of his or her official duties.”.

19          (c) DETERMINATION OF ASSASSINATION.—Sub-  
20          section (i) of section 7448 of the Internal Revenue Code  
21          of 1986 is amended—

22                 (1) by striking “OF DEPENDENCY AND DIS-  
23          ABILITY.—Questions” and inserting “BY CHIEF  
24          JUDGE.—



1           (4) by striking “prior allowable service, except  
2           that” and inserting “prior allowable service,  
3           “except that”, and

4           (5) by adding at the end the following new  
5           paragraph:

6           “(2) ASSASSINATED JUDGES AND MAGISTRATE  
7           JUDGES OF THE TAX COURT.—In the case of a  
8           judge or magistrate judge of the Tax Court who is  
9           assassinated and who has served less than 18  
10          months, the annuity of the surviving spouse of such  
11          judge or magistrate judge of the Tax Court shall be  
12          based upon the average annual salary received by  
13          such judge or magistrate judge of the Tax Court for  
14          judicial service.”.

15          (e) OTHER BENEFITS.—Section 7448 of the Internal  
16          Revenue Code of 1986 is amended by adding at the end  
17          the following new subsection:

18          “(u) OTHER BENEFITS IN CASE OF ASSASSINA-  
19          TION.—In the case of a judge or magistrate judge of the  
20          Tax Court who is assassinated, an annuity shall be paid  
21          under this section notwithstanding a survivor’s eligibility  
22          for or receipt of benefits under chapter 81 of title 5,  
23          United States Code, except that the annuity for which a  
24          surviving spouse is eligible under this section shall be re-  
25          duced to the extent that the total benefits paid under this

1 section and chapter 81 of that title for any year would  
2 exceed the current salary for that year of the office of the  
3 judge or magistrate judge of the Tax Court.”.

4 **SEC. 303. COORDINATION OF RETIREMENT AND SURVIVOR**  
5 **ANNUITY WITH THE FEDERAL EMPLOYEES**  
6 **RETIREMENT SYSTEM.**

7 (a) RETIREMENT.—Section 7447 of the Internal Rev-  
8 enue Code of 1986 is amended—

9 (1) by striking “section 8331(8)” in subsection  
10 (g)(2)(C) and inserting “sections 8331(8) and  
11 8401(19)”, and

12 (2) by striking “Civil Service Commission” both  
13 places it appears in subsection (i)(2) and inserting  
14 “Office of Personnel Management”.

15 (b) ANNUITIES TO SURVIVING SPOUSES AND DE-  
16 PENDENT CHILDREN.—Section 7448 of the Internal Rev-  
17 enue Code of 1986 is amended—

18 (1) by striking “section 8332” in subsection (d)  
19 and inserting “sections 8332 and 8411”, and

20 (2) by striking “section 8332” in subsection (n)  
21 and inserting “sections 8332 and 8411”.

1 **SEC. 304. LIMIT ON TEACHING COMPENSATION OF RE-**  
2 **TIRED JUDGES.**

3 (a) IN GENERAL.—Section 7447 of the Internal Rev-  
4 enue Code of 1986 is amended by adding at the end the  
5 following new subsection:

6 “(k) TEACHING COMPENSATION OF RETIRED  
7 JUDGES.—For purposes of the limitation under section  
8 501(a) of the Ethics in Government Act of 1978 (5 U.S.C.  
9 App.), any compensation for teaching approved under sec-  
10 tion 502(a)(5) of such Act shall not be treated as outside  
11 earned income when received by a judge of the United  
12 States Tax Court who has retired under subsection (b)  
13 for teaching performed during any calendar year for which  
14 such a judge has met the requirements of subsection (c),  
15 as certified by the chief judge.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to any individual serving as a re-  
18 tired judge of the United States Tax Court on or after  
19 the date of the enactment of this Act.

20 **SEC. 305. GENERAL PROVISIONS RELATING TO MAG-**  
21 **ISTRATE JUDGES OF THE TAX COURT.**

22 (a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO  
23 MAGISTRATE JUDGE OF THE TAX COURT.—The heading  
24 of section 7443A of the Internal Revenue Code of 1986  
25 is amended by striking “**SPECIAL TRIAL JUDGES**” and

1 inserting “**MAGISTRATE JUDGES OF THE TAX**  
2 **COURT**”.

3 (b) APPOINTMENT, TENURE, AND REMOVAL.—Sub-  
4 section (a) of section 7443A of the Internal Revenue Code  
5 of 1986 is amended to read as follows:

6 “(a) APPOINTMENT, TENURE, AND REMOVAL.—

7 “(1) APPOINTMENT.—The chief judge may,  
8 from time to time, appoint and reappoint magistrate  
9 judges of the Tax Court for a term of 8 years. The  
10 magistrate judges of the Tax Court shall proceed  
11 under such rules as may be promulgated by the Tax  
12 Court.

13 “(2) REMOVAL.—

14 “(A) IN GENERAL.—Except as provided in  
15 subparagraph (B), removal of a magistrate  
16 judge of the Tax Court during the term for  
17 which such magistrate judge is appointed shall  
18 be only for incompetency, misconduct, neglect  
19 of duty, or physical or mental disability. Re-  
20 moval shall not occur unless a majority of all  
21 the judges of the Tax Court concur in the order  
22 of removal. Before any order of removal shall  
23 be entered, a full specification of the charges  
24 shall be furnished to the magistrate judge of  
25 the Tax Court, and such magistrate judge shall

1 be accorded by the judges of the Tax Court an  
2 opportunity to be heard on the charges.

3 “(B) TERMINATION OF OFFICE.—The of-  
4 fice of a magistrate judge of the Tax Court  
5 shall be terminated if the judges of the Tax  
6 Court determine that the services performed by  
7 such magistrate judge of the Tax Court are no  
8 longer needed.”.

9 (c) SALARY.—Subsection (d) of section 7443A of the  
10 Internal Revenue Code of 1986 is amended to read as fol-  
11 lows:

12 “(d) SALARY.—Each magistrate judge of the Tax  
13 Court shall receive salary—

14 “(1) at a rate equal to 92 percent of the rate  
15 for judges of the Tax Court, and

16 “(2) in the same installments as such judges.”.

17 (d) EXEMPTION FROM FEDERAL LEAVE PROVI-  
18 SIONS.—Section 7443A of the Internal Revenue Code of  
19 1986 is amended by adding at the end the following new  
20 subsection:

21 “(f) EXEMPTION FROM FEDERAL LEAVE PROVI-  
22 SIONS.—

23 “(1) IN GENERAL.—A magistrate judge of the  
24 Tax Court shall be exempt from the provisions of

1 subchapter I of chapter 63 of title 5, United States  
2 Code.

3 “(2) TREATMENT OF UNUSED LEAVE.—

4 “(A) AFTER SERVICE AS MAGISTRATE  
5 JUDGE OF THE TAX COURT.—If an individual  
6 who is exempted under paragraph (1) from the  
7 subchapter referred to in such paragraph was  
8 previously subject to such subchapter and, with-  
9 out a break in service, again becomes subject to  
10 such subchapter on completion of the individ-  
11 ual’s service as a magistrate judge of the Tax  
12 Court, the unused annual leave and sick leave  
13 standing to the individual’s credit at the time  
14 such individual became a magistrate judge of  
15 the Tax Court is deemed to have remained to  
16 the individual’s credit.

17 “(B) COMPUTATION OF ANNUITY.—In  
18 computing an annuity under section 8339 or  
19 8415 of title 5, United States Code, the total  
20 service of an individual specified in subpara-  
21 graph (A) who retires on an immediate annuity  
22 or dies leaving a survivor or survivors entitled  
23 to an annuity includes, without regard to the  
24 limitations imposed by subsection (f) of section  
25 8339 of such title 5, the days of unused sick



1 leave standing to the individual's credit at the  
2 time such individual became a magistrate judge  
3 of the Tax Court, except that such days will not  
4 be counted in determining average pay or annu-  
5 ity eligibility.

6 “(C) LUMP SUM PAYMENT.—Any accumu-  
7 lated and current accrued annual leave or vaca-  
8 tion balances credited to a magistrate judge of  
9 the Tax Court as of the date of the enactment  
10 of this subsection shall be paid in a lump sum  
11 at the time of separation from service pursuant  
12 to the provisions and restrictions set forth in  
13 section 5551 of such title 5 and related provi-  
14 sions referred to in such section.”.

15 (e) CONTEMPT AUTHORITY.—Section 7443A of the  
16 Internal Revenue Code of 1986, as amended by this sec-  
17 tion, is amended by adding at the end the following new  
18 subsection:

19 “(g) INCIDENTAL POWERS.—A magistrate judge of  
20 the Tax Court appointed under this section shall have the  
21 power to punish for contempt of the authority of the Tax  
22 Court as provided in section 7456(c), except the sentence  
23 imposed by such a magistrate judge of the Tax Court for  
24 any contempt shall not exceed the penalties for a Class  
25 C misdemeanor as set forth in sections 3571(b)(6) and

1 3581(b)(8) of title 18, United States Code. This sub-  
2 section shall not be construed to limit the authority of a  
3 magistrate judge of the Tax Court to order sanctions  
4 under any other statute or any rule of the Tax Court pre-  
5 scribed pursuant to section 7453.”.

6 (f) CONFORMING AMENDMENTS.—

7 (1) The heading of subsection (b) of section  
8 7443A of the Internal Revenue Code of 1986 is  
9 amended by striking “SPECIAL TRIAL JUDGES” and  
10 inserting “MAGISTRATE JUDGES OF THE TAX  
11 COURT”.

12 (2) Subsection (b) of section 7443A of such  
13 Code is amended by striking “special trial judges of  
14 the court” and inserting “magistrate judges of the  
15 Tax Court”.

16 (3) Subsection (c) of section 7443A of such  
17 Code is amended by striking “special trial judge”  
18 and inserting “magistrate judge of the Tax Court”.

19 (4) Subsection (e) of section 7443A of such  
20 Code is amended by striking “special trial judges”  
21 and inserting “magistrate judges of the Tax Court”.

22 (5) The item relating to section 7443A in the  
23 table of sections for part I of subchapter C of chap-  
24 ter 76 of such Code is amended to read as follows:

“Sec. 7443A. Magistrate judges of the Tax Court.”.

1           (6) The heading of section 7448 of such Code  
2 is amended by striking “**SPECIAL TRIAL**  
3 **JUDGES**” and inserting “**MAGISTRATE JUDGES**  
4 **OF THE TAX COURT**”.

5           (7) Section 7448 of such Code is amended—

6           (A) by striking “special trial judge’s” each  
7 place it appears in subsections (a)(6), (c)(1),  
8 (d), and (m)(1) and inserting “magistrate judge  
9 of the Tax Court’s”, and

10           (B) by striking “special trial judge” each  
11 place it appears other than in subsection (n)  
12 and inserting “magistrate judge of the Tax  
13 Court”.

14           (8) Subsection (n) of section 7448 of such Code  
15 is amended to read as follows:

16           “(n) INCLUDIBLE SERVICE.—Subject to the provi-  
17 sions of subsection (d), the years of service of a judge or  
18 magistrate judge of the Tax Court which are allowable as  
19 the basis for calculating the amount of the annuity of such  
20 judge or magistrate judge’s surviving spouse shall include  
21 the judge or magistrate judge’s years of service—

22           “(1) as a judge or magistrate judge of the Tax  
23 Court, a special trial judge of the Tax Court, or a  
24 judge of the Tax Court of the United States,

1           “(2) pursuant to any appointment under sec-  
2           tion 7443A,

3           “(3) as a Senator, Representative, Delegate, or  
4           Resident Commissioner in Congress,

5           “(4) as a member of the Armed Forces of the  
6           United States (not including any service for which  
7           credit is allowed for purposes of retirement or re-  
8           tired pay under any other provision of law), and

9           “(5) in any other civilian service within the pur-  
10          view of section 8332 of title 5, United States Code.

11 For purposes of paragraph (4), not more than 5 years of  
12 service shall be taken into account.”.

13           (9) The item relating to section 7448 in the  
14           table of sections for part I of subchapter C of chap-  
15           ter 76 of such Code is amended to read as follows:

“Sec. 7448. Annuities to surviving spouses and dependent children of judges  
and magistrate judges of the Tax Court.”.

16           (10) Subsection (a) of section 7456 of such  
17           Code is amended—

18                   (A) by striking “special trial judge” each  
19                   place it appears and inserting “magistrate  
20                   judge”, and

21                   (B) by striking “(or by the clerk” and in-  
22                   serting “of the Tax Court (or by the clerk”.

1           (11) Subsection (a) of section 7466 of such  
2 Code is amended by striking “special trial judge”  
3 and inserting “magistrate judge”.

4           (12) Section 7470A of such Code is amended  
5 by striking “special trial judges” both places it ap-  
6 pears in subsections (a) and (b) and inserting “mag-  
7 istrate judges”.

8           (13) Subparagraph (A) of section 7471(a)(2) of  
9 such Code is amended by striking “special trial  
10 judges” and inserting “magistrate judges”.

11           (14) Subsection (c) of section 7471 of such  
12 Code is amended—

13                   (A) by striking “SPECIAL TRIAL JUDGES”  
14 in the heading and inserting “MAGISTRATE  
15 JUDGES OF THE TAX COURT”, and

16                   (B) by striking “special trial judges” and  
17 inserting “magistrate judges”.

18 (g) EFFECTIVE DATE.—

19           (1) IN GENERAL.—The amendments made by  
20 this section shall apply to individuals serving as spe-  
21 cial trial judges of the United States Tax Court on  
22 or after the day before the date of enactment of this  
23 Act.

24           (2) APPOINTMENT SAVINGS PROVISION.—Any  
25 individual serving as a special trial judge of the

1 United States Tax Court as of the day before the  
2 date of the enactment of this Act shall be considered  
3 to have been appointed as a magistrate judge of the  
4 Tax Court under section 7443A of the Internal Rev-  
5 enue Code of 1986 on such date of enactment, and  
6 service as a special trial judge of the Tax Court be-  
7 fore such date of enactment shall be considered to  
8 be service as a magistrate judge of the Tax Court  
9 for purposes of any provision of law relating to  
10 length of service.

11 **SEC. 306. LIFE INSURANCE FOR MAGISTRATE JUDGES OF**  
12 **THE TAX COURT AGE 65 OR OLDER.**

13 Section 7472 of the Internal Revenue Code of 1986  
14 is amended by striking “its judges” in the second sentence  
15 and inserting “the judges and magistrate judges of the  
16 Tax Court”.

17 **SEC. 307. RETIREMENT AND ANNUITY PROGRAM.**

18 (a) RETIREMENT AND ANNUITY PROGRAM.—Part I  
19 of subchapter C of chapter 76 of the Internal Revenue  
20 Code of 1986 is amended by inserting after section 7443A  
21 the following new section:

22 **“SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF**  
23 **THE TAX COURT.**

24 “(a) RETIREMENT.—

1           “(1) IN GENERAL.—Each magistrate judge of  
2 the Tax Court who makes an election under this sec-  
3 tion shall receive an annuity at the same rate and  
4 in the same manner as magistrate judges of the dis-  
5 trict courts of the United States pursuant to section  
6 377 of title 28, United States Code.

7           “(2) RULES OF APPLICATION.—For purposes of  
8 subsection (a), section 377 of title 28, United States  
9 Code, shall be applied with the following modifica-  
10 tions:

11                   “(A) By substituting—

12                           “(i) ‘magistrate judge of the Tax  
13 Court’ for ‘judicial official’, ‘judicial offi-  
14 cer’, and ‘magistrate judge’ each place  
15 such terms appear,

16                           “(ii) ‘magistrate judge of the Tax  
17 Court’s’ for ‘magistrate judge’s’ each place  
18 it appears,

19                           “(iii) ‘chief judge of the Tax Court’  
20 for ‘Administrative Office of the United  
21 States Courts’, ‘Director of the Adminis-  
22 trative Office of the United States Courts’,  
23 ‘Director’, and ‘chief judge of the district  
24 court’ each place such terms appear,

1 “(iv) ‘Tax Court Judicial Officers’ Re-  
2 tirement Fund’ for ‘Judicial Officers’ Re-  
3 tirement Fund’ each place it appears,

4 “(v) ‘under section 7443A of the In-  
5 ternal Revenue Code of 1986’ for ‘under  
6 section 631 of this title’ in subsection  
7 (h)(2),

8 “(vi) ‘under section 7443C of the In-  
9 ternal Revenue Code of 1986’ for ‘under  
10 section 155(b), 375, or 636(h) of this title’  
11 each place it appears in paragraphs (2)  
12 and (3) of subsection (m), and

13 “(vii) ‘from the date of appointment,  
14 for those individuals appointed pursuant to  
15 section 7443A of the Internal Revenue  
16 Code of 1986 prior to, and in active service  
17 on, the date of enactment of the Retire-  
18 ment Enhancement and Savings Act of  
19 2018’ for ‘on or after October 1, 1979’ in  
20 subsection (h).

21 “(B) By disregarding subsection (m)(2)  
22 and subsection (o).

23 “(b) 1-YEAR FORFEITURE FOR FAILURE TO PER-  
24 FORM JUDICIAL DUTIES.—Subject to subparagraph (B)  
25 of section 377(m)(1) of title 28, United States Code, any



1 magistrate judge of the Tax Court who retires under this  
2 section and who fails to perform judicial duties required  
3 of such individual by section 7443C shall forfeit all rights  
4 to an annuity under this section for a 1-year period which  
5 begins on the 1st day on which such individual fails to  
6 perform such duties.

7 “(c) TAX COURT JUDICIAL OFFICERS’ RETIREMENT  
8 FUND.—

9 “(1) ESTABLISHMENT.—There is established in  
10 the Treasury of the United States a fund which  
11 shall be known as the ‘Tax Court Judicial Officers’  
12 Retirement Fund’. The Fund is appropriated for the  
13 payment of annuities, refunds, and other payments  
14 under this section.

15 “(2) INVESTMENT OF FUND.—The Secretary  
16 shall invest, in interest-bearing securities of the  
17 United States, such currently available portions of  
18 the Tax Court Judicial Officers’ Retirement Fund as  
19 are not immediately required for payments from the  
20 Fund. The income derived from these investments  
21 constitutes a part of the Fund.

22 “(3) UNFUNDED LIABILITY.—

23 “(A) IN GENERAL.—Not later than the  
24 close of each fiscal year, there shall be depos-  
25 ited in the Tax Court Judicial Officers’ Retire-

1           ment Fund amounts required to reduce to zero  
2           the unfunded liability, if any, of such Fund.

3           “(B) UNFUNDED LIABILITY.—For pur-  
4           poses of subparagraph (A), the term ‘unfunded  
5           liability’ means the amount estimated by the  
6           Secretary to be equal to the excess (as of the  
7           close of the fiscal year involved) of—

8                   “(i) the present value of all benefits  
9                   payable from the Tax Court Judicial Offi-  
10                  cers’ Retirement Fund, over

11                   “(ii) the sum of—

12                           “(I) the present value of future  
13                           deductions to be withheld under this  
14                           section from the basic pay of mag-  
15                           istrate judges of the Tax Court, plus

16                           “(II) the balance in such Fund  
17                           as of the close of such fiscal year.

18           “(d) PARTICIPATION IN THRIFT SAVINGS PLAN.—

19                   “(1) ELECTION TO CONTRIBUTE.—A mag-  
20                   istrate judge of the Tax Court may elect to con-  
21                   tribute out of such individual’s basic pay to the  
22                   Thrift Savings Fund established by section 8437 of  
23                   title 5, United States Code.

24                   “(2) APPLICABILITY OF TITLE 5 PROVISIONS.—

25           Except as otherwise provided in this subsection, the

1 provisions of subchapters III and VII of chapter 84  
2 of such title 5 shall apply with respect to a mag-  
3 istrate judge of the Tax Court who makes an elec-  
4 tion under paragraph (1).

5 “(3) SPECIAL RULES.—

6 “(A) AMOUNT CONTRIBUTED.—The  
7 amount contributed by a magistrate judge of  
8 the Tax Court to the Thrift Savings Plan in  
9 any pay period shall not exceed the maximum  
10 percentage of such magistrate judge’s basic pay  
11 for such period as allowable under section  
12 8440f of such title 5.

13 “(B) CONTRIBUTIONS FOR BENEFIT OF  
14 MAGISTRATE JUDGE OF THE TAX COURT.—No  
15 contributions under section 8432(c) of such  
16 title 5 shall be made for the benefit of a mag-  
17 istrate judge of the Tax Court who has filed an  
18 election to receive an annuity under this sec-  
19 tion.

20 “(C) APPLICABILITY OF RULES RELATING  
21 TO ANNUITY OF A CHILD.—Section 8433(b) of  
22 such title 5 applies with respect to a magistrate  
23 judge of the Tax Court who makes an election  
24 under paragraph (1) and who—

1                   “(i) retires entitled to an immediate  
2                   annuity under this section (including a dis-  
3                   ability annuity under this section),

4                   “(ii) retires before attaining age 65  
5                   but is entitled, upon attaining age 65, to  
6                   an annuity under this section, or

7                   “(iii) retires before becoming entitled  
8                   to an immediate annuity, or an annuity  
9                   upon attaining age 65, under this section.

10                  “(D) RETIREMENT AS SEPARATION FROM  
11                  SERVICE.—With respect to a magistrate judge  
12                  of the Tax Court to whom this subsection ap-  
13                  plies, retirement under this section is a separa-  
14                  tion from service for purposes of subchapters  
15                  III and VII of chapter 84 of such title 5.

16                  “(4) DEFINITIONS.—For purposes of this sub-  
17                  section, the terms ‘retirement’ and ‘retire’ include  
18                  removal from office under section 7443A(a)(2) on  
19                  the sole ground of mental or physical disability.

20                  “(5) OFFSET.—In the case of a magistrate  
21                  judge of the Tax Court who receives a distribution  
22                  from the Thrift Savings Plan and who later receives  
23                  an annuity under this section, the annuity shall be  
24                  offset by an amount equal to the amount which rep-  
25                  resents the Government’s contribution to the individ-

1       ual’s Thrift Savings Account during years of service  
2       as a full-time judicial officer under the Federal Em-  
3       ployees Retirement System, without regard to earn-  
4       ings attributable to such amount. Where such an  
5       offset would exceed 50 percent of the annuity to be  
6       received in the first year, the offset may be divided  
7       equally over the first 2 years in which the individual  
8       receives the annuity.

9               “(6) EXCEPTION.—Notwithstanding clauses (i)  
10       and (ii) of paragraph (3)(C), if any magistrate judge  
11       of the Tax Court retires under circumstances mak-  
12       ing such magistrate judge of the Tax Court eligible  
13       to make an election under subsection (b) of section  
14       8433 of such title 5, and the nonforfeitable account  
15       balance of such magistrate judge of the Tax Court  
16       is less than an amount which the Executive Director  
17       of the Office of Personnel Management prescribes by  
18       regulation, the Executive Director shall pay the non-  
19       forfeitable account balance to the participant in a  
20       single payment.

21               “(e) COORDINATION WITH TITLE 5.—A magistrate  
22       judge of the Tax Court who elects to receive an annuity  
23       under this section—

1           “(1) shall not be subject to deductions and con-  
2 tributions otherwise required by section 8334(a) of  
3 title 5 United States Code,

4           “(2) shall be excluded from the application of  
5 chapter 84 (other than subchapters III and VII) of  
6 such title 5, and

7           “(3) is entitled to a lump-sum credit under sec-  
8 tion 8342(a) or 8424 of such title 5, as the case  
9 may be.”.

10 (b) CONFORMING AMENDMENTS.—

11           (1) Section 3121(b)(5)(E) of the Internal Rev-  
12 enue Code of 1986 is amended by inserting “or  
13 magistrate judge” before “of the United States Tax  
14 Court”.

15           (2) Section 210(a)(5)(E) of the Social Security  
16 Act (42 U.S.C. 410(a)(5)(E)) is amended by insert-  
17 ing “or a magistrate judge of the Tax Court who  
18 files an election under section 7443B(a) of the Inter-  
19 nal Revenue Code of 1986” after “of the United  
20 States Tax Court”.

21           (3) Section 7448(b)(2) of the Internal Revenue  
22 Code of 1986 is amended to read as follows:

23           “(2) MAGISTRATE JUDGES OF THE TAX  
24 COURT.—Any magistrate judge of the Tax Court  
25 may by written election filed with the chief judge

1 bring himself or herself within the purview of this  
2 section. Such election shall be filed while such indi-  
3 vidual is a magistrate judge of the Tax Court.”.

4 (c) CLERICAL AMENDMENT.—The table of sections  
5 for part I of subchapter C of chapter 76 of the Internal  
6 Revenue Code of 1986 is amended by inserting after the  
7 item relating to section 7443A the following new item:

“Sec. 7443B. Retirement for magistrate judges of the Tax Court.”.

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

11 **SEC. 308. PROVISIONS FOR RECALL.**

12 (a) IN GENERAL.—Part I of subchapter C of chapter  
13 76 of the Internal Revenue Code of 1986, as amended by  
14 section 307, is amended by inserting after section 7443B  
15 the following new section:

16 **“SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX**  
17 **COURT.**

18 “(a) RECALLING OF RETIRED MAGISTRATE JUDGES  
19 OF THE TAX COURT.—Any individual who has retired  
20 pursuant to section 7443B or the applicable provisions of  
21 title 5 or 28, United States Code, upon reaching the age  
22 and service requirements established under such titles 5  
23 and 28, may be called upon by the chief judge to perform  
24 such judicial duties with the Tax Court as may be re-  
25 quested of such individual for a period or periods specified

1 by the chief judge, except that in the case of any such  
2 individual—

3           “(1) the aggregate of such periods in any 1 cal-  
4 endar year shall not (without the consent of such in-  
5 dividual) exceed 90 calendar days, and

6           “(2) such individual shall be relieved of per-  
7 forming such duties during any period in which ill-  
8 ness or disability precludes the performance of such  
9 duties.

10 Any act, or failure to act, by an individual performing ju-  
11 dicial duties pursuant to this subsection shall have the  
12 same force and effect as if it were the act (or failure to  
13 act) of a magistrate judge of the Tax Court.

14           “(b) COMPENSATION.—For the year in which a pe-  
15 riod of recall occurs, the magistrate judge of the Tax  
16 Court shall receive, in addition to the annuity provided  
17 under the provisions of section 7443B, an amount equal  
18 to the difference between that annuity and the current sal-  
19 ary of the office to which the magistrate judge of the Tax  
20 Court is recalled (and allowances for travel and other ex-  
21 penses of the magistrate judge of the Tax Court). The  
22 annuity for years after the year in which a period of recall  
23 occurs of the magistrate judge of the Tax Court who com-  
24 pletes such a period of service, who is not recalled in a  
25 subsequent year, and who retired under section 7443B,



1 shall be equal to the salary in effect at the end of the  
2 year in which the period of recall occurred for the office  
3 from which such magistrate judge of the Tax Court re-  
4 tired.

5 “(c) RULEMAKING AUTHORITY.—The provisions of  
6 this section shall be implemented under such rules and  
7 regulations as may be promulgated by the Tax Court.”.

8 (b) CLERICAL AMENDMENT.—The table of sections  
9 for part I of subchapter C of chapter 76 of the Internal  
10 Revenue Code of 1986, as amended by section 307, is  
11 amended by inserting after the item relating to section  
12 7443B the following new item:

“Sec. 7443C. Recall of magistrate judges of the Tax Court.”.

## 13 **TITLE IV—OTHER BENEFITS**

### 14 **SEC. 401. BENEFITS PROVIDED TO VOLUNTEER FIRE-** 15 **FIGHTERS AND EMERGENCY MEDICAL RE-** 16 **SPONDERS.**

17 (a) INCREASE IN DOLLAR LIMITATION ON QUALI-  
18 FIED PAYMENTS.—Subparagraph (B) of section  
19 139B(c)(2) of the Internal Revenue Code of 1986 is  
20 amended by striking “\$30” and inserting “\$50”.

21 (b) EXTENSION.—Subsection (d) of section 139B of  
22 the Internal Revenue Code of 1986 is amended by striking  
23 “beginning after December 31, 2010.” and inserting “be-  
24 ginning—



1           begun in accordance with subpara-  
2           graph (A)), and

3                   “(II) the aggregate account bal-  
4           ances to the credit of the employee  
5           under all defined contribution plans,  
6           determined as of the date of the em-  
7           ployee’s death, exceeds \$450,000,  
8           so much of the entire interest of the em-  
9           ployee as exceeds the dollar amount in sub-  
10          clause (II) will be distributed within 5  
11         years after the death of such employee.

12                   “(ii) ALLOCATION OF LIMITATION.—If  
13          an employee has an account under more  
14          than 1 defined contribution plan, the  
15          \$450,000 amount under clause (i)(II) shall  
16          be allocated among all such plans, as pro-  
17          vided in regulations prescribed by the Sec-  
18          retary, for purposes of applying clause (i).

19                   “(iii) TREATMENT OF REMAINING  
20          AMOUNT.—The portion of the employee’s  
21          interest distributed under clause (i) shall  
22          not be taken into account for purposes of  
23          determining the rapidity or the method of  
24          distribution of any portion of the interest

1 of the employee to which clause (i) does  
2 not apply.

3 “(iv) MULTIPLE BENEFICIARIES.—In  
4 the case of an employee who has more  
5 than 1 beneficiary, the amount of the por-  
6 tion required to be distributed under clause  
7 (i) which shall be treated as payable to (or  
8 for the benefit of) such beneficiary is the  
9 amount which bears the same ratio to the  
10 total amount of such portion as—

11 “(I) the portion of the employee’s  
12 entire interest (determined as of the  
13 date of the employee’s death) which is  
14 payable to (or for the benefit of) such  
15 beneficiary, bears to

16 “(II) the amount of the employ-  
17 ee’s entire interest (so determined).

18 “(v) EXCEPTION FOR ELIGIBLE DES-  
19 IGNATED BENEFICIARIES.—If—

20 “(I) any portion of the employ-  
21 ee’s interest is payable to (or for the  
22 benefit of) an eligible designated bene-  
23 ficiary,

24 “(II) such portion will be distrib-  
25 uted (in accordance with regulations)

1 over the life of such eligible des-  
2 ignated beneficiary (or over a period  
3 not extending beyond the life expect-  
4 ancy of such beneficiary), and

5 “(III) such distributions begin  
6 not later than 1 year after the date of  
7 the employee’s death or such later  
8 date as the Secretary may by regula-  
9 tions prescribe,

10 for purposes of clause (i), the portion re-  
11 ferred to in subclause (I) shall be treated  
12 as distributed on the date on which such  
13 distributions begin.

14 “(vi) SPECIAL RULE FOR SURVIVING  
15 SPOUSE OF EMPLOYEE.—If the eligible  
16 designated beneficiary is the surviving  
17 spouse of the employee—

18 “(I) the date on which the dis-  
19 tributions are required to begin under  
20 clause (v)(III) shall not be earlier  
21 than the date on which the employee  
22 would have attained age 70½, and

23 “(II) if the surviving spouse dies  
24 before the distributions to such spouse  
25 begin, this subparagraph shall be ap-

1                   plied as if the surviving spouse were  
2                   the employee.

3                   “(vii) RULES UPON DEATH OF ELIGI-  
4                   BLE DESIGNATED BENEFICIARY.—If an el-  
5                   igible designated beneficiary dies before the  
6                   portion of the employee’s interest to which  
7                   clause (i) applies which is payable to (or  
8                   for the benefit of) such eligible designated  
9                   beneficiary is entirely distributed, the ex-  
10                  ception under clause (v) shall not apply to  
11                  any beneficiary of such eligible designated  
12                  beneficiary and the remainder of such por-  
13                  tion shall be distributed within 5 years  
14                  after the death of such beneficiary.

15                  “(viii) COORDINATION WITH INDI-  
16                  VIDUAL RETIREMENT PLANS.—For pur-  
17                  poses of applying the provisions of this  
18                  subparagraph and subsections (a)(6) and  
19                  (b)(3) of section 408, individual retirement  
20                  plans shall be treated as defined contribu-  
21                  tion plans in determining the aggregate ac-  
22                  count balances to the credit of the em-  
23                  ployee under all defined contribution plans  
24                  and the amount required to be distributed

1 to each beneficiary under such provi-  
2 sions.”.

3 (2) DEFINITION OF ELIGIBLE DESIGNATED  
4 BENEFICIARY.—Section 401(a)(9)(E) of such Code  
5 is amended to read as follows:

6 “(E) DEFINITIONS AND RULES RELATING  
7 TO DESIGNATED BENEFICIARY.—For purposes  
8 of this paragraph—

9 “(i) DESIGNATED BENEFICIARY.—The  
10 term ‘designated beneficiary’ means any  
11 individual designated as a beneficiary by  
12 the employee.

13 “(ii) ELIGIBLE DESIGNATED BENE-  
14 FICIARY.—The term ‘eligible designated  
15 beneficiary’ means, with respect to any em-  
16 ployee, any designated beneficiary who is—

17 “(I) the surviving spouse of the  
18 employee,

19 “(II) subject to clause (iii), a  
20 child of the employee who has not  
21 reached majority (within the meaning  
22 of subparagraph (F)),

23 “(III) disabled (within the mean-  
24 ing of section 72(m)(7)),

1                   “(IV) a chronically ill individual  
2                   (within the meaning of section  
3                   7702B(c)(2), except that the require-  
4                   ments of subparagraph (A)(i) thereof  
5                   shall only be treated as met if there is  
6                   a certification that, as of such date,  
7                   the period of inability described in  
8                   such subparagraph with respect to the  
9                   individual is an indefinite one which is  
10                  reasonably expected to be lengthy in  
11                  nature), or

12                  “(V) an individual not described  
13                  in any of the preceding subclauses  
14                  who is not more than 10 years young-  
15                  er than the employee.

16                  “(iii) SPECIAL RULE FOR CHIL-  
17                  DREN.—Subject to subparagraph (F), an  
18                  individual described in clause (ii)(II) shall  
19                  cease to be an eligible designated bene-  
20                  ficiary as of the date the individual reaches  
21                  majority and any remainder of the portion  
22                  of the interest described in subparagraph  
23                  (H)(v) shall be distributed within 5 years  
24                  after such date.



1                   “(iv) TIME FOR DETERMINATION OF  
2                   ELIGIBLE DESIGNATED BENEFICIARY.—  
3                   The determination of whether a designated  
4                   beneficiary is an eligible designated bene-  
5                   ficiary shall be made as of the date of  
6                   death of the employee.”.

7                   (3) CONFORMING AMENDMENTS.—

8                   (A) Clause (ii) of section 401(a)(9)(B) of  
9                   the Internal Revenue Code of 1986 is amended  
10                  by striking “A trust” and inserting “Except as  
11                  provided in subparagraph (H), a trust”.

12                  (B) Section 402(c)(11)(A)(iii) of such  
13                  Code is amended by striking “section  
14                  401(a)(9)(B) (other than clause (iv) thereof)”  
15                  and inserting “subparagraphs (B) (other than  
16                  clause (iv) thereof) and (H) (other than clause  
17                  (vi) thereof) of section 401(a)(9)”.

18                  (4) EFFECTIVE DATES.—

19                  (A) IN GENERAL.—Except as provided in  
20                  this paragraph and paragraphs (5) and (6), the  
21                  amendments made by this subsection shall  
22                  apply to distributions with respect to employees  
23                  who die after December 31, 2018.

24                  (B) COLLECTIVE BARGAINING EXCEP-  
25                  TION.—In the case of a plan maintained pursu-

1 ant to 1 or more collective bargaining agree-  
2 ments between employee representatives and 1  
3 or more employers ratified before the date of  
4 enactment of this Act, the amendments made  
5 by this subsection shall apply to distributions  
6 with respect to employees who die in calendar  
7 years beginning after the earlier of—

8 (i) the later of—

9 (I) the date on which the last of  
10 such collective bargaining agreements  
11 terminates (determined without re-  
12 gard to any extension thereof agreed  
13 to on or after the date of the enact-  
14 ment of this Act), or

15 (II) December 31, 2018, or

16 (ii) December 31, 2020.

17 For purposes of clause (i)(I), any plan amend-  
18 ment made pursuant to a collective bargaining  
19 agreement relating to the plan which amends  
20 the plan solely to conform to any requirement  
21 added by this section shall not be treated as a  
22 termination of such collective bargaining agree-  
23 ment.

24 (C) GOVERNMENTAL PLANS.—In the case  
25 of a governmental plan (as defined in section

1 414(d) of the Internal Revenue Code of 1986),  
2 subparagraph (A) shall be applied by sub-  
3 stituting “December 31, 2020” for “December  
4 31, 2018”.

5 (5) EXCEPTION FOR CERTAIN EXISTING ANNU-  
6 ITY CONTRACTS.—

7 (A) IN GENERAL.—The amendments made  
8 by this subsection shall not apply to a qualified  
9 annuity which is a binding annuity contract in  
10 effect on the date of enactment of this Act and  
11 at all times thereafter.

12 (B) QUALIFIED ANNUITY.—For purposes  
13 of this paragraph, the term “qualified annuity”  
14 means, with respect to an employee, an annu-  
15 ity—

16 (i) which is a commercial annuity (as  
17 defined in section 3405(e)(6) of the Inter-  
18 nal Revenue Code of 1986),

19 (ii) under which the annuity payments  
20 are made over the life of the employee or  
21 over the joint lives of such employee and a  
22 designated beneficiary (or over a period  
23 not extending beyond the life expectancy of  
24 such employee or the joint life expectancy  
25 of such employee and a designated bene-

1            ficiary) in accordance with the regulations  
2            described in section 401(a)(9)(A)(ii) of  
3            such Code (as in effect before such amend-  
4            ments) and which meets the other require-  
5            ments of section 401(a)(9) of such Code  
6            (as so in effect) with respect to such pay-  
7            ments, and

8            (iii) with respect to which—

9            (I) annuity payments to the em-  
10            ployee have begun before the date of  
11            enactment of this Act, and the em-  
12            ployee has made an irrevocable elec-  
13            tion before such date as to the method  
14            and amount of the annuity payments  
15            to the employee or any designated  
16            beneficiaries, or

17            (II) if subclause (I) does not  
18            apply, the employee has made an ir-  
19            revocable election before the date of  
20            enactment of this Act as to the meth-  
21            od and amount of the annuity pay-  
22            ments to the employee or any des-  
23            ignated beneficiaries.

24            (6) EXCEPTION FOR CERTAIN BENE-  
25            FICIARIES.—

1 (A) IN GENERAL.—If an employee dies be-  
2 fore the effective date, then, in applying the  
3 amendments made by this subsection to such  
4 employee’s designated beneficiary who dies after  
5 such date—

6 (i) such amendments shall apply to  
7 any beneficiary of such designated bene-  
8 ficiary, and

9 (ii) the designated beneficiary shall be  
10 treated as an eligible designated bene-  
11 ficiary for purposes of applying section  
12 401(a)(9)(H)(iv) of the Internal Revenue  
13 Code of 1986 (as in effect after such  
14 amendments).

15 (B) EFFECTIVE DATE.—For purposes of  
16 this paragraph, the term “effective date” means  
17 the first day of the first calendar year to which  
18 the amendments made by this subsection apply  
19 to a plan with respect to employees dying on or  
20 after such date.

21 (b) PROVISIONS RELATING TO PLAN AMEND-  
22 MENTS.—

23 (1) IN GENERAL.—If this subsection applies to  
24 any plan amendment—

1 (A) such plan shall be treated as being op-  
2 erated in accordance with the terms of the plan  
3 during the period described in paragraph  
4 (2)(B)(i), and

5 (B) except as provided by the Secretary of  
6 the Treasury, such plan shall not fail to meet  
7 the requirements of section 411(d)(6) of the In-  
8 ternal Revenue Code of 1986 and section  
9 204(g) of the Employee Retirement Income Se-  
10 curity Act of 1974 by reason of such amend-  
11 ment.

12 (2) AMENDMENTS TO WHICH SUBSECTION AP-  
13 PLIES.—

14 (A) IN GENERAL.—This subsection shall  
15 apply to any amendment to any plan or which  
16 is made—

17 (i) pursuant to any amendment made  
18 by this section or pursuant to any regula-  
19 tion issued by the Secretary of the Treas-  
20 ury under this section or such amend-  
21 ments, and

22 (ii) on or before the last day of the  
23 first plan year beginning after December  
24 31, 2020, or such later date as the Sec-  
25 retary of the Treasury may prescribe.

1           In the case of a governmental or collectively  
2           bargained plan to which subparagraph (B) or  
3           (C) of subsection (a)(4) applies, clause (ii) shall  
4           be applied by substituting the date which is 2  
5           years after the date otherwise applied under  
6           such clause.

7           (B) CONDITIONS.—This subsection shall  
8           not apply to any amendment unless—

9                   (i) during the period—

10                           (I) beginning on the date the leg-  
11                           islative or regulatory amendment de-  
12                           scribed in paragraph (1)(A) takes ef-  
13                           fect (or in the case of a plan amend-  
14                           ment not required by such legislative  
15                           or regulatory amendment, the effec-  
16                           tive date specified by the plan), and

17                           (II) ending on the date described  
18                           in subparagraph (A)(ii) (or, if earlier,  
19                           the date the plan amendment is  
20                           adopted),

21           the plan is operated as if such plan amend-  
22           ment were in effect; and

23                   (ii) such plan amendment applies  
24           retroactively for such period.

1 **SEC. 502. INCREASE IN PENALTY FOR FAILURE TO FILE.**

2 (a) IN GENERAL.—The second sentence of subsection  
3 (a) of section 6651 of the Internal Revenue Code of 1986  
4 is amended by striking “\$205” and inserting “\$400”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to returns the due date for which  
7 (including extensions) is after December 31, 2018.

8 **SEC. 503. INCREASED PENALTIES FOR FAILURE TO FILE**  
9 **RETIREMENT PLAN RETURNS.**

10 (a) IN GENERAL.—Subsection (e) of section 6652 of  
11 the Internal Revenue Code of 1986 is amended—

12 (1) by striking “\$25” and inserting “\$100”,  
13 and

14 (2) by striking “\$15,000” and inserting  
15 “\$50,000”.

16 (b) ANNUAL REGISTRATION STATEMENT AND NOTI-  
17 FICATION OF CHANGES.—Subsection (d) of section 6652  
18 of the Internal Revenue Code of 1986 is amended—

19 (1) by striking “\$1” both places it appears in  
20 paragraphs (1) and (2) and inserting “\$2”,

21 (2) by striking “\$5,000” in paragraph (1) and  
22 inserting “\$10,000”, and

23 (3) by striking “\$1,000” in paragraph (2) and  
24 inserting “\$5,000”.



1 (c) FAILURE TO PROVIDE NOTICE.—Subsection (h)  
2 of section 6652 of the Internal Revenue Code of 1986 is  
3 amended—

4 (1) by striking “\$10” and inserting “\$100”,  
5 and

6 (2) by striking “\$5,000” and inserting  
7 “\$50,000”.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to returns, statements, and notifi-  
10 cations required to be filed, and notices required to be pro-  
11 vided, after December 31, 2018.

12 **SEC. 504. MODIFICATION OF USER FEE REQUIREMENTS**  
13 **FOR INSTALLMENT AGREEMENTS.**

14 (a) IN GENERAL.—Section 6159 of the Internal Rev-  
15 enue Code of 1986 is amended by redesignating subsection  
16 (f) as subsection (g) and by inserting after subsection (e)  
17 the following new subsection:

18 “(f) INSTALLMENT AGREEMENT FEES.—

19 “(1) LIMITATION ON FEE AMOUNT.—The  
20 amount of any fee imposed on an installment agree-  
21 ment under this section may not exceed the amount  
22 of such fee as in effect on the date of the enactment  
23 of this subsection.

24 “(2) WAIVER OR REIMBURSEMENT.—In the  
25 case of any taxpayer with an adjusted gross income,

1 as determined for the most recent year for which  
2 such information is available, which does not exceed  
3 250 percent of the applicable poverty level (as deter-  
4 mined by the Secretary)—

5 “(A) if the taxpayer has agreed to make  
6 payments under the installment agreement by  
7 electronic payment through a debit instrument,  
8 no fee shall be imposed on an installment agree-  
9 ment under this section, and

10 “(B) if the taxpayer is unable to make  
11 payments under the installment agreement by  
12 electronic payment through a debit instrument,  
13 the Secretary shall, upon completion of the in-  
14 stallment agreement, pay the taxpayer an  
15 amount equal to any such fees imposed.”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to agreements entered into on or  
18 after the date which is 60 days after the date of the enact-  
19 ment of this Act.

20 **SEC. 505. INCREASE INFORMATION SHARING TO ADMIN-**  
21 **ISTER EXCISE TAXES.**

22 (a) IN GENERAL.—Section 6103(o) of the Internal  
23 Revenue Code of 1986 is amended by adding at the end  
24 the following new paragraph:

