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

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2018

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

A BILL

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

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

SECTION 1. SHORT TITLE, ETC.

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

(b) TABLE OF CONTENTS.—The table of contents of 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.
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. 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. Increase information sharing to administer excise taxes.
Sec. 505. Pension variable rate premium payment acceleration.
TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

SEC. 101. MULTIPLE EMPLOYER PLANS.

(a) QUALIFICATION REQUIREMENTS.—

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

“(e) APPLICATION OF QUALIFICATION REQUIREMENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH POOLED PLAN PROVIDERS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if a defined contribution plan to which subsection (c) applies—

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

“(B) in the case of a plan not described in subparagraph (A), has a pooled plan provider, then the plan shall not be treated as failing to meet the requirements under this title applicable to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c)
thereof), whichever is applicable, merely because one
or more employers of employees covered by the plan
fail to take such actions as are required of such em-
ployers for the plan to meet such requirements.

“(2) LIMITATIONS.—

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

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

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

“(B) Failures by pooled plan providers.—If the pooled plan provider of a plan
described in paragraph (1)(B) does not perform
substantially all of the administrative duties
which are required of the provider under para-
graph (3)(A)(i) for any plan year, the Sec-
retary, in the Secretary’s own discretion, may
provide that the determination as to whether
the plan meets the requirements under this title
applicable to a plan described in section 401(a)
or to a plan that consists of individual retire-
ment accounts described in section 408 (includ-
ing by reason of subsection (c) thereof), which-
ever is applicable, shall be made in the same
manner as would be made without regard to
paragraph (1).

“(3) Pooled plan provider.—For purposes

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

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

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

“(II) each participating employer takes such actions as the Secretary or
such person determines are necessary
for the plan to meet the requirements
described in subclause (I), including
providing to such person any disclo-
sures or other information which the
Secretary may require or which such
person otherwise determines is nec-
essary to administer the plan or to
allow the plan to meet such require-
ments,

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

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

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

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

“(4) GUIDANCE.—

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

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

“(ii) which describes the procedures to be taken to terminate a plan which fails to meet the requirements to be a plan described in paragraph (1), including the proper treatment of, and actions needed to be taken by, any participating employer of the plan and the assets and liabilities of the plan with respect to employees of that employer, and
“(iii) identifying appropriate cases to which the rules of paragraph (2)(A) will apply to employers failing to take the actions described in paragraph (1).

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

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

“(5) Model Plan.—The Secretary shall, in consultation with the Secretary of Labor when appropriate, publish model plan language which meets the requirements of this subsection and of paragraphs (43) and (44) of section 3 of the Employee Retirement Income Security Act of 1974 and which
may be adopted in order for a plan to be treated as a plan described in paragraph (1)(B).”.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 413(b) of such Code is amended by striking “section 401(a)” and inserting “sections 401(a) and 408(c)”.

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

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

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

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

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

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

(e) POOLED EMPLOYER PLAN AND PROVIDER DEFINED.—
(1) IN GENERAL.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following:

“(43) POOLED EMPLOYER PLAN.—

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

“(i) which is an individual account plan established or maintained for the purpose of providing benefits to the employees of two or more employers;

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

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

Such term shall not include a plan with respect to which all of the participating employers have both a common interest other than having adopted the plan and control of the plan.
“(B) Requirements for plan terms.—

The requirements of this subparagraph are met with respect to any plan if the terms of the plan—

“(i) designate a pooled plan provider and provide that the pooled plan provider is a named fiduciary of the plan;

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

“(iii) provide that each participating employer retains fiduciary responsibility for—

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

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

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

“(v) require—

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

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

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

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

“(i) a multiemployer plan; or
“(ii) a plan established before the
date of the enactment of the Retirement
Enhancement and Savings Act of 2018,
unless the plan administrator elects that
the plan will be treated as a pooled em-
ployer plan and the plan meets the require-
ments of this title applicable to a pooled
employer plan established on or after such
date.

“(44) POOLED PLAN PROVIDER.—

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

“(i) is designated by the terms of a
pooled employer plan as a named fiduciary,
as the plan administrator, and as the per-
son responsible for the performance of all
administrative duties (including conducting
proper testing with respect to the plan and
employees of each participating employer) which are reasonably necessary to ensure that—

“(I) the plan meets any requirement applicable under this Act or the Internal Revenue Code of 1986 to a plan described in section 401(a) of such Code or to a plan that consists of individual retirement accounts described in section 408 of such Code (including by reason of subsection (c) thereof), whichever is applicable; and

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

“(ii) registers as a pooled plan provider with the Secretary, and provides to the Secretary such other information as the Secretary may require, before beginning operations as a pooled plan provider;
“(iii) acknowledges in writing that such person is a named fiduciary, and the plan administrator, with respect to the pooled employer plan; and

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

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

“(C) GUIDANCE.—

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

“(I) to identify the administrative duties and other actions required to be performed by a pooled plan provider under either such paragraph; and
“(II) which requires in appropriate cases that if a participating employer fails to take the actions required under subparagraph (A)(i)(II)—

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

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

The Secretary shall take into account under subclause (II) whether the failure of an employer or pooled plan provider to provide any disclosures or other information, or to take any other action, necessary to administer a plan or to allow a plan to meet requirements described in subparagraph (A)(i)(II) has continued over a period of time that clearly demonstrates a lack of commitment to compliance. The Secretary may waive the requirements of subclause (II)(aa) in appropriate circumstances if the Secretary determines it is in the best interests of the employees of the participating employer described in such clause to retain the assets in the plan with respect to which the employer’s failure occurred.

“(ii) PROSPECTIVE APPLICATION.—

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

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

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

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

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

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

(A) in paragraph (16)(B)—

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

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

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

(d) EFFECTIVE DATE.—

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

(2) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as limiting the authority of the Secretary of the Treasury or the Secretary’s delegate (determined without regard to such amendment) to provide for the proper treatment of a failure to meet any requirement applicable under the Internal Revenue Code of 1986 with respect to one employer (and its employees) in a multiple employer plan.
SEC. 102. POOLED EMPLOYER AND MULTIPLE EMPLOYER PLAN REPORTING.

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

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

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

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

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

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

(b) SIMPLIFIED ANNUAL REPORTS.—Section 104(a) of the Employee Retirement Income Security Act of 1974
(29 U.S.C. 1024(a)) is amended by striking paragraph (2)(A) and inserting the following:

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

“(i) covers fewer than 100 participants; or

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

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

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

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

(b) CONFORMING AMENDMENTS.—

(1) Subclause (I) of section 401(k)(13)(C)(iii) of the Internal Revenue Code of 1986 is amended by
striking “3 percent” and inserting “at least 3 percent, but not greater than 10 percent,”.

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2018.

SEC. 104. RULES RELATING TO ELECTION OF SAFE HARBOR 401(k) STATUS.

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

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

“(i) meets the contribution requirements of subparagraph (B) and the notice requirements of subparagraph (D), or
“(ii) meets the contribution requirements of subparagraph (C).”.

(2) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subparagraph (B) of section 401(k)(13) of such Code is amended by striking “means” and all that follows and inserting “means a cash or deferred arrangement—

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

“(B) which is described in subparagraph (D)(i)(II) and meets the applicable requirements of subparagraphs (C) and (D).”.

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

“(F) TIMING OF PLAN AMENDMENT FOR EMPLOYER MAKING NONELECTIVE CONTRIBUTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a plan may be amended after the beginning of a plan year to provide that the requirements of subpara-
graph (C) shall apply to the arrangement
for the plan year, but only if the amend-
ment is adopted—

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

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

“(ii) Exception where plan pro-
vided for matching contributions.—
Clause (i) shall not apply to any plan year
if the plan provided at any time during the
plan year that the requirements of sub-
paragraph (B) or paragraph (13)(D)(i)(I)
applied to the plan year.

“(iii) 4-percent contribution re-
quirement.—Clause (i)(II) shall not
apply to an arrangement unless the
amount of the contributions described in
subparagraph (C) which the employer is
required to make under the arrangement
for the plan year with respect to any em-
ployee is an amount equal to at least 4 percent of the employee’s compensation.”.

(c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Section 401(k)(13) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(F) TIMING OF PLAN AMENDMENT FOR EMPLOYER MAKING NONELECTIVE CONTRIBUTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a plan may be amended after the beginning of a plan year to provide that the requirements of subparagraph (D)(i)(II) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

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

“(II) at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year,

“(ii) EXCEPTION WHERE PLAN PROVIDED FOR MATCHING CONTRIBUTIONS.—Clause (i) shall not apply to any plan year
if the plan provided at any time during the plan year that the requirements of subparagraph (D)(i)(I) or paragraph (12)(B) applied to the plan year.

“(iii) 4-PERCENT CONTRIBUTION REQUIREMENT.—Clause (i)(II) shall not apply to an arrangement unless the amount of the contributions described in subparagraph (D)(i)(II) which the employer is required to make under the arrangement for the plan year with respect to any employee is an amount equal to at least 4 percent of the employee’s compensation.”.

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

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

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

“(1) for the first credit year and each of the 2 taxable years immediately following the first credit year, the greater of—
“(A) $500, or
“(B) the lesser of—
“(i) $250 for each employee of the eligible employer who is not a highly compensated employee (as defined in section 414(q)) and who is eligible to participate in the eligible employer plan maintained by the eligible employer, or
“(ii) $5,000, and”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2018.

SEC. 106. SMALL EMPLOYER AUTOMATIC ENROLLMENT CREDIT.

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

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

“(a) In General.—For purposes of section 38, in the case of an eligible employer, the retirement auto-enrollment credit determined under this section for any taxable year is an amount equal to—
“(1) $500 for any taxable year occurring during
the credit period, and
“(2) zero for any other taxable year.
“(b) CREDIT PERIOD.—For purposes of subsection
(a)—
“(1) IN GENERAL.—The credit period with re-
spect to any eligible employer is the 3-taxable-year
period beginning with the first taxable year for
which the employer includes an eligible automatic
contribution arrangement (as defined in section
414(w)(3)) in a qualified employer plan (as defined
in section 4972(d)) sponsored by the employer.
“(2) MAINTENANCE OF ARRANGEMENT.—No
taxable year with respect to an employer shall be
treated as occurring within the credit period unless
the arrangement described in paragraph (1) is in-
cluded in the plan for such year.
“(c) ELIGIBLE EMPLOYER.—For purposes of this
section, the term ‘eligible employer’ has the meaning given
such term in section 408(p)(2)(C)(i).”.
(b) CREDIT TO BE PART OF GENERAL BUSINESS
CREDIT.—Subsection (b) of section 38 of the Internal
Revenue Code of 1986 is amended by striking “plus” at
the end of paragraph (35), by striking the period at the
end of paragraph (36) and inserting “, plus”, and by adding at the end the following new paragraph:

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

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

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

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2018.

SEC. 107. CERTAIN TAXABLE NON-TUITION FELLOWSHIP AND STIPEND PAYMENTS TREATED AS COMPENSATION FOR IRA PURPOSES.

(a) In General.—Paragraph (1) of section 219(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “The term ‘compensation’ shall include any amount paid to an individual to aid the individual in the pursuit of graduate or postdoctoral study.”.
SEC. 108. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA CONTRIBUTIONS.

(a) In General.—Paragraph (1) of section 219(d) of the Internal Revenue Code of 1986 is repealed.

(b) Conforming Amendment.—Subsection (c) of section 408A of the Internal Revenue Code of 1986 is amended by striking paragraph (4) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) Effective Date.—The amendments made by this section shall apply to contributions made for taxable years beginning after December 31, 2018.

SEC. 109. EXPANSION OF IRA OWNERSHIP OF S CORPORATION BANK STOCK.

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

(b) Sale of Stock in IRA Relating to S Corporation Election Exempt From Prohibited Transaction Rules.—Section 4975(d)(16) of the Internal Revenue Code of 1986 is amended by striking the last sentence and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) Effective Date.—The amendments made by this section shall apply to sales of stock in an IRA relating to an S corporation election made for taxable years beginning after December 31, 2018.
nal Revenue Code of 1986 is amended by striking sub-
paragraph (B) and by redesignating subparagraphs (C),
(D), (E), and (F) as subparagraphs (B), (C), (D) and (E),
respectively.
(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect on January 1, 2018.
SEC. 110. QUALIFIED EMPLOYER PLANS PROHIBITED FROM
MAKING LOANS THROUGH CREDIT CARDS
AND OTHER SIMILAR ARRANGEMENTS.
(a) IN GENERAL.—Paragraph (2) of section 72(p) of
the Internal Revenue Code of 1986 is amended by redesig-
nating subparagraph (D) as subparagraph (E) and by in-
serting after subparagraph (C) the following new subpara-
graph:
“(D) PROHIBITION OF LOANS THROUGH
CREDIT CARDS AND OTHER SIMILAR ARRANGE-
MENTS.—
“(i) IN GENERAL.—Except as pro-
vided in clause (ii), subparagraph (A) shall
not apply to any loan which is made
through the use of any credit card or any
other similar arrangement.
“(ii) EXCEPTION FOR EXISTING CRED-
IT CARD SYSTEMS.—Clause (i) shall not
apply to any loan to the extent such loan
is provided through an electronic card system which, as of September 21, 2016, was available for use to provide loans under qualified employer plans.

“(iii) Disallowed transactions.— If any card through which a loan is provided under the exception of clause (ii) is used for any transaction—

“(I) in an amount equal to or less than $1,000, or
“(II) with or on the premises of any establishment described in clause (i), (ii), or (iii) of section 408(a)(12)(A) of the Social Security Act,

the amount of such transaction shall be treated as having been received by the individual as a distribution in accordance with subparagraph (A) of paragraph (1).

“(iv) Cost-of-living adjustment.—In the case of any loan made during a plan year beginning after December 31, 2019, the $1,000 amount under clause (iii)(I) shall be increased by an amount equal to—
“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the plan year begins, determined by substituting ‘calendar year 2018’ for ‘calendar year 1992’ in subparagraph (B) thereof. Any increase determined under the preceding sentence shall be rounded to the next lowest multiple of $50.”.

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

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

(1) study the impact of loans from qualified employer plans (as defined in section 72(p)(4)(A) of the Internal Revenue Code of 1986) provided through credit cards and similar arrangements on the use of retirement savings for purposes other than funding retirement; and
(2) report the results of such study to the Committee on Finance of the Senate and the Committee on the Ways and Means of the House of Representatives.

If the study under paragraph (1) determines that such loans, after implementation of the restrictions imposed by the amendment made by subsection (a), result in greater usage of retirement savings for purposes other than funding retirement than loans made by other means, the report under paragraph (2) shall include recommendations to reduce such result.

SEC. 111. PORTABILITY OF LIFETIME INCOME OPTIONS.

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

“(38) Portability of lifetime income.—

“(A) In General.—Except as may be otherwise provided by regulations, a trust forming part of a defined contribution plan shall not be treated as failing to constitute a qualified trust under this section solely by reason of allowing—

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

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

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

“(ii) the term ‘lifetime income investment’ means an investment option which is designed to provide an employee with election rights—

“(I) which are not uniformly available with respect to other investment options under the plan, and

“(II) which are to a lifetime income feature available through a contract or other arrangement offered under the plan (or under another eli-
gible retirement plan (as so defined),
if paid by means of a direct trustee-
to-trustee transfer described in para-
graph (31)(A) to such other eligible
retirement plan),
“(iii) the term ‘lifetime income fea-
ture’ means—
“(I) a feature which guarantees a
minimum level of income annually (or
more frequently) for at least the re-
mainder of the life of the employee or
the joint lives of the employee and the
employee’s designated beneficiary, or
“(II) an annuity payable on be-
half of the employee under which pay-
ments are made in substantially equal
periodic payments (not less frequently
than annually) over the life of the em-
ployee or the joint lives of the em-
ployee and the employee’s designated
beneficiary, and
“(iv) the term ‘qualified plan distribu-
tion annuity contract’ means an annuity
contract purchased for a participant and
distributed to the participant by a plan or
contract described in subparagraph (B) of section 402(c)(8) (without regard to clauses (i) and (ii) thereof).”.

(b) CASH OR DEFERRED ARRANGEMENT.—

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

“(VI) except as may be otherwise provided by regulations, with respect to amounts invested in a lifetime income investment (as defined in subsection (a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the arrangement, and”.

(2) DISTRIBUTION REQUIREMENT.—Subparagraph (B) of section 401(k)(2) of such Code, as amended by paragraph (1), is amended by striking “and” at the end of clause (i), by striking the semi-
colon at the end of clause (ii) and inserting “, and”;
and by adding at the end the following new clause:

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

(c) Section 403(b) Plans.—

(1) Annuity Contracts.—Paragraph (11) of
section 403(b) of the Internal Revenue Code of 1986
is amended by striking “or” at the end of subpara-
graph (B), by striking the period at the end of sub-
paragraph (C) and inserting “, or”, and by inserting
after subparagraph (C) the following new subpara-
graph:

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

“(i) on or after the date that is 90
days prior to the date that such lifetime
income investment may no longer be held
as an investment option under the contract, and

“(ii) in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(2) CUSTODIAL ACCOUNTS.—Subparagraph (A) of section 403(b)(7) of such Code is amended by striking “if—” and all that follows and inserting “if the amounts are to be invested in regulated investment company stock to be held in that custodial account, and under the custodial account—

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

“(I) the employee dies,

“(II) the employee attains age 59 1/2,

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

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

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“(V) in the case of contributions made pursuant to a salary reduction agreement (within the meaning of section 3121(a)(5)(D)), the employee encounters financial hardship, or “(VI) except as may be otherwise provided by regulations, with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the contract, and “(ii) in the case of amounts described in clause (i)(VI), such amounts will be distributed only in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 457(d)(1) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of clause (ii),
by inserting “or” at the end of clause (iii), and by adding after clause (iii) the following:

“(iv) except as may be otherwise provided by regulations, in the case of a plan maintained by an employer described in subsection (c)(1)(A), with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)), the date that is 90 days prior to the date that such lifetime income investment may no longer be held as an investment option under the plan,”.

(2) DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 457(d) of such Code is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) except as may be otherwise provided by regulations, in the case of amounts described in subparagraph (A)(iv), such amounts will be distributed only in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribu-
tion annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2018.

SEC. 112. TREATMENT OF CUSTODIAL ACCOUNTS ON TERMINATION OF SECTION 403(b) PLANS.

(a) In General.—Section 403(b)(7) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(D) Treatment of custodial account upon plan termination.—

“(i) In general.—If—

“(I) an employer terminates the plan under which amounts are contributed to a custodial account under subparagraph (A), and

“(II) the person holding the assets of the account has demonstrated to the satisfaction of the Secretary under section 408(a)(2) that the person is qualified to be a trustee of an individual retirement plan,

then, as of the date of the termination, the custodial account shall be deemed to be an
individual retirement plan for purposes of this title.

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

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

SEC. 113. CLARIFICATION OF RETIREMENT INCOME ACCOUNT RULES RELATING TO CHURCH-CONTROLLED ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 403(b)(9) of the Internal Revenue Code of 1986 is amended by inserting “(including an employee described in section 414(e)(3)(B))” after “employee described in paragraph (1)”.

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

(a) In General.—Subsection (b) of section 401 of the Internal Revenue Code of 1986 is amended—

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

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

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

“(2) ADOPTION OF PLAN.—If an employer adopts a stock bonus, pension, profit-sharing, or annuity plan after the close of a taxable year but before the time prescribed by law for filing the return of the employer for the taxable year (including extensions thereof), the employer may elect to treat the plan as having been adopted as of the last day of the taxable year.”.

(b) Effective Date.—The amendments made by this section shall apply to plans adopted for taxable years beginning after December 31, 2018.
SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF PLANS.

(a) In General.—The Secretary of the Treasury and the Secretary of Labor shall, in cooperation, modify the returns required under section 6058 of the Internal Revenue Code of 1986 and the reports required by section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) so that all members of a group of plans described in subsection (c) may file a single aggregated annual return or report satisfying the requirements of both such sections.

(b) Administrative Requirements.—In developing the consolidated return or report under subsection (a), the Secretary of the Treasury and the Secretary of Labor may require such return or report to include any information regarding each plan in the group as such Secretaries determine is necessary or appropriate for the enforcement and administration of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974.

(c) Plans Described.—A group of plans is described in this subsection if all plans in the group—

(1) are individual account plans or defined contribution plans (as defined in section 3(34) of the Employee Retirement Income Security Act of 1974

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(29 U.S.C. 1002(34)) or in section 414(i) of the Internal Revenue Code of 1986);

(2) have—

(A) the same trustee (as described in section 403(a) of such Act (29 U.S.C. 1103(a)));

(B) the same one or more named fiduciaries (as described in section 402(a) of such Act (29 U.S.C. 1102(a)));

(C) the same administrator (as defined in section 3(16)(A) of such Act (29 U.S.C. 1002(16)(A))) and plan administrator (as defined in section 414(g) of the Internal Revenue Code of 1986); and

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

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

A plan not subject to title I of the Employee Retirement Income Security Act of 1974 shall be treated as meeting the requirements of paragraph (2) as part of a group of plans if the same person that performs each of the functions described in such paragraph, as applicable, for all other plans in such group performs each of such functions for such plan.
Clarification Relating to Electronic Filing of Returns for Deferred Compensation Plans.—

(1) In general.—Section 6011(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(5) Application of numerical limitation to returns relating to deferred compensation plans.—For purposes of applying the numerical limitation under paragraph (2)(A) to any return required under section 6058, information regarding each plan for which information is provided on such return shall be treated as a separate return.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply to returns required to be filed with respect to plan years beginning after December 31, 2018.

SEC. 203. DISCLOSURE REGARDING LIFETIME INCOME.

(a) In general.—Subparagraph (B) of section 105(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—
(1) in clause (i), by striking “and” at the end;
(2) in clause (ii), by striking “diversification.”
and inserting “diversification, and”; and
(3) by inserting at the end the following:

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

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

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

“(D) LIFETIME INCOME DISCLOSURE.—
“(i) IN GENERAL.—
“(I) DISCLOSURE.—A lifetime income disclosure shall set forth the lifetime income stream equivalent of the total benefits accrued with respect to the participant or beneficiary.
“(II) LIFETIME INCOME STREAM EQUIVALENT OF THE TOTAL BENEFIT—
For purposes of this subparagraph, the term ‘lifetime income stream equivalent of the total benefits accrued’ means the amount of monthly payments the participant or beneficiary would receive if the total accrued benefits of such participant or beneficiary were used to provide lifetime income streams described in subclause (III), based on assumptions specified in rules prescribed by the Secretary.

“(III) LIFETIME INCOME STREAMS.—The lifetime income streams described in this subclause are a qualified joint and survivor annuity (as defined in section 205(d)), based on assumptions specified in rules prescribed by the Secretary, including the assumption that the participant or beneficiary has a spouse of equal age, and a single life annuity. Such lifetime income streams may have a term certain or other features
to the extent permitted under rules prescribed by the Secretary.

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

“(I) explains that the lifetime income stream equivalent is only provided as an illustration;

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

“(III) explains the assumptions upon which the lifetime income stream equivalent was determined; and
“(IV) provides such other similar explanations as the Secretary considers appropriate.

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

“(I) prescribe assumptions which administrators of individual account plans may use in converting total accrued benefits into lifetime income stream equivalents for purposes of this subparagraph; and

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

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

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

“(v) EFFECTIVE DATE.—The requirement in subparagraph (B)(iii) shall apply to pension benefit statements furnished more than 12 months after the latest of the issuance by the Secretary of—
“(I) interim final rules under clause (i);
“(II) the model disclosure under clause (ii); or
“(III) the assumptions under clause (iii).”.

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

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

“(e) SAFE HARBOR FOR ANNUITY SELECTION.—
“(1) IN GENERAL.—With respect to the selection of an insurer for a guaranteed retirement income contract, the requirements of subsection (a)(1)(B) will be deemed to be satisfied if a fiduciary—
“(A) engages in an objective, thorough, and analytical search for the purpose of identifying insurers from which to purchase such contracts;
“(B) with respect to each insurer identified under subparagraph (A)—
“(i) considers the financial capability of such insurer to satisfy its obligations
under the guaranteed retirement income contract; and

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

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

“(i) at the time of the selection, the insurer is financially capable of satisfying its obligations under the guaranteed retirement income contract; and

“(ii) the relative cost of the selected guaranteed retirement income contract as described in subparagraph (B)(ii) is reasonable.

“(2) Financial capability of the insurer.—A fiduciary will be deemed to satisfy the requirements of paragraphs (1)(B)(i) and (1)(C)(i) if—

“(A) the fiduciary obtains written representations from the insurer that—
“(i) the insurer is licensed to offer guaranteed retirement income contracts;

“(ii) the insurer, at the time of selection and for each of the immediately preceding 7 plan years—

“(I) operates under a certificate of authority from the insurance commissioner of its domiciliary State which has not been revoked or suspended;

“(II) has filed audited financial statements in accordance with the laws of its domiciliary State under applicable statutory accounting principles;

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

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

“(iii) the insurer undergoes, at least every 5 years, a financial examination (within the meaning of the law of its domi-
ciliary State) by the insurance commis-

erioner of the domiciliary State (or rep-

resentative, designee, or other party ap-

proved by such commissioner); and

“(iv) the insurer will notify the fidu-

ciary of any change in circumstances oc-

curring after the provision of the represen-

tations in clauses (i), (ii), and (iii) which

would preclude the insurer from making

such representations at the time of

issuance of the guaranteed retirement in-

come contract; and

“(B) after receiving such representations

and as of the time of selection, the fiduciary

has not received any notice described in sub-

paragraph (A)(iv) and is in possession of no

other information which would cause the fidu-

ciary to question the representations provided.

“(3) NO REQUIREMENT TO SELECT LOWEST

cost.—Nothing in this subsection shall be construed
to require a fiduciary to select the lowest cost con-

tract. A fiduciary may consider the value of a con-

tract, including features and benefits of the contract

and attributes of the insurer (including, without lim-
itation, the insurer’s financial strength) in conjunc-
tion with the cost of the contract.

“(4) TIME OF SELECTION.—

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

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

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

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

“(B) PERIODIC REVIEW.—A fiduciary will
be deemed to have conducted the periodic re-
view described in subparagraph (A)(ii) if the fi-
duciary obtains the written representations described in clauses (i), (ii), and (iii) of paragraph (2)(A) from the insurer on an annual basis, unless the fiduciary receives any notice described in paragraph (2)(A)(iv) or otherwise becomes aware of facts that would cause the fiduciary to question such representations.

“(5) LIMITED LIABILITY.—A fiduciary which satisfies the requirements of this subsection shall not be liable following the distribution of any benefit, or the investment by or on behalf of a participant or beneficiary pursuant to the selected guaranteed retirement income contract, for any losses that may result to the participant or beneficiary due to an insurer’s inability to satisfy its financial obligations under the terms of such contract.

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

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

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

SEC. 205. MODIFICATION OF NONDISCRIMINATION RULES TO PROTECT OLDER, LONGER SERVICE PARTICIPANTS.

(a) IN GENERAL.—Section 401 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following new subsection:

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

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

“(A) BENEFITS, RIGHTS, OR FEATURES PROVIDED TO CLOSED CLASSES.—A defined benefit plan which provides benefits, rights, or features to a closed class of participants shall
not fail to satisfy the requirements of subsection (a)(4) by reason of the composition of such closed class or the benefits, rights, or features provided to such closed class, if—

“(i) for the plan year as of which the class closes and the 2 succeeding plan years, such benefits, rights, and features satisfy the requirements of subsection (a)(4) (without regard to this subparagraph but taking into account the rules of subparagraph (I)),

“(ii) after the date as of which the class was closed, any plan amendment which modifies the closed class or the benefits, rights, and features provided to such closed class does not discriminate significantly in favor of highly compensated employees, and

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

“(B) AGGREGATE TESTING WITH DEFINED CONTRIBUTION PLANS PERMITTED ON A BENEFITS BASIS.—
“(i) IN GENERAL.—For purposes of determining compliance with subsection (a)(4) and section 410(b), a defined benefit plan described in clause (iii) may be aggregated and tested on a benefits basis with 1 or more defined contribution plans, including with the portion of 1 or more defined contribution plans which—

“(I) provides matching contributions (as defined in subsection (m)(4)(A)),

“(II) provides annuity contracts described in section 403(b) which are purchased with matching contributions or nonelective contributions, or

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

“(ii) SPECIAL RULES FOR MATCHING CONTRIBUTIONS.—For purposes of clause (i), if a defined benefit plan is aggregated
with a portion of a defined contribution plan providing matching contributions—

“(I) such defined benefit plan must also be aggregated with any portion of such defined contribution plan which provides elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), and

“(II) such matching contributions shall be treated in the same manner as nonelective contributions, including for purposes of applying the rules of subsection (l).

“(iii) Plans described.—A defined benefit plan is described in this clause if—

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

“(II) for the plan year as of which the class closes and the 2 succeeding plan years, the plan satisfies the requirements of section 410(b) and subsection (a)(4) (without regard to this subparagraph but taking into account the rules of subparagraph (I)),

“(III) the plan is a qualified plan as defined in section 401(a) and section 401(g)(1), and

“(IV) the plan is not described in clause (i)(I) or clause (i)(II) of paragraph (5) of section 410(b).
“(III) after the date as of which
the class was closed, any plan amend-
ment which modifies the closed class
or the benefits provided to such closed
class does not discriminate signifi-
cantly in favor of highly compensated
employees, and

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

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

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

“(ii) during the 5-year period pre-
ceeding the date the class is closed, there
has not been a substantial increase in the
coverage or value of the benefits, rights, or
features described in subparagraph (A) or
in the coverage or benefits under the plan
described in subparagraph (B)(iii) (which-
ever is applicable).
“(D) Determination of substantial increase for benefits, rights, and features.—In applying subparagraph (C)(ii) for purposes of subparagraph (A)(iii), a plan shall be treated as having had a substantial increase in coverage or value of the benefits, rights, or features described in subparagraph (A) during the applicable 5-year period only if, during such period—

“(i) the number of participants covered by such benefits, rights, or features on the date such period ends is more than 50 percent greater than the number of such participants on the first day of the plan year in which such period began, or

“(ii) such benefits, rights, and features have been modified by 1 or more plan amendments in such a way that, as of the date the class is closed, the value of such benefits, rights, and features to the closed class as a whole is substantially greater than the value as of the first day of such 5-year period, solely as a result of such amendments.
“(E) Determination of substantial increase for aggregate testing on benefits basis.—In applying subparagraph (C)(ii) for purposes of subparagraph (B)(iii)(IV), a plan shall be treated as having had a substantial increase in coverage or benefits during the applicable 5-year period only if, during such period—

“(i) the number of participants benefiting under the plan on the date such period ends is more than 50 percent greater than the number of such participants on the first day of the plan year in which such period began, or

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

“(F) Certain employees disregarded.—For purposes of subparagraphs (D) and (E), any increase in coverage or value or in coverage or benefits, whichever is applicable, which is attributable to such coverage and
value or coverage and benefits provided to employees—

“(i) who became participants as a result of a merger, acquisition, or similar event which occurred during the 7-year period preceding the date the class is closed, or

“(ii) who became participants by reason of a merger of the plan with another plan which had been in effect for at least 5 years as of the date of the merger, shall be disregarded, except that clause (ii) shall apply for purposes of subparagraph (D) only if, under the merger, the benefits, rights, or features under 1 plan are conformed to the benefits, rights, or features of the other plan prospectively.

“(G) Rules relating to average benefit.—For purposes of subparagraph (E)—

“(i) the average benefit provided to participants under the plan will be treated as having remained the same between the 2 dates described in subparagraph (E)(ii) if the benefit formula applicable to such
participants has not changed between such
dates, and

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

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

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

by more than 50 percent. In the case of a
CSEC plan (as defined in section 414(y)),
the normal cost of the plan (as determined
under section 433(j)(1)(B)) shall be used
in lieu of the amount determined under section 430(b)(1)(A)(i).

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

“(I) SPECIAL RULES.—For purposes of subparagraphs (A)(i) and (B)(iii)(II), the following rules shall apply:

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

“(ii) 2 or more plans shall not fail to be eligible to be aggregated and treated as a single plan solely by reason of having different plan years.

“(iii) Changes in the employee population shall be disregarded to the extent attributable to individuals who become employees or cease to be employees, after the date the class is closed, by reason of a merger, acquisition, divestiture, or similar event.
“(iv) Aggregation and all other testing methodologies otherwise applicable under subsection (a)(4) and section 410(b) may be taken into account.

The rule of clause (ii) shall also apply for purposes of determining whether plans to which subparagraph (B)(i) applies may be aggregated and treated as 1 plan for purposes of determining whether such plans meet the requirements of subsection (a)(4) and section 410(b).

“(J) SPUN-OFF PLANS.—For purposes of this paragraph, if a portion of a defined benefit plan described in subparagraph (A) or (B)(iii) is spun off to another employer and the spun-off plan continues to satisfy the requirements of—

“(i) subparagraph (A)(i) or (B)(iii)(II), whichever is applicable, if the original plan was still within the 3-year period described in such subparagraph at the time of the spin off, and

“(ii) subparagraph (A)(ii) or (B)(iii)(III), whichever is applicable,
the treatment under subparagraph (A) or (B) of the spun-off plan shall continue with respect to such other employer.

“(2) Testing of defined contribution plans.—

“(A) Testing on a benefits basis.—A defined contribution plan shall be permitted to be tested on a benefits basis if—

“(i) such defined contribution plan provides make-whole contributions to a closed class of participants whose accruals under a defined benefit plan have been reduced or eliminated,

“(ii) for the plan year of the defined contribution plan as of which the class eligible to receive such make-whole contributions closes and the 2 succeeding plan years, such closed class of participants satisfies the requirements of section 410(b)(2)(A)(i) (determined by applying the rules of paragraph (1)(I)),

“(iii) after the date as of which the class was closed, any plan amendment to the defined contribution plan which modifies the closed class or the allocations, ben-
efits, rights, and features provided to such closed class does not discriminate significantly in favor of highly compensated employees, and

“(iv) the class was closed before September 21, 2016, or the defined benefit plan under clause (i) is described in paragraph (1)(C) (as applied for purposes of paragraph (1)(B)(iii)(IV)).

“(B) AGGREGATION WITH PLANS INCLUDING MATCHING CONTRIBUTIONS.—

“(i) IN GENERAL.—With respect to 1 or more defined contribution plans described in subparagraph (A), for purposes of determining compliance with subsection (a)(4) and section 410(b), the portion of such plans which provides make-whole contributions or other nonelective contributions may be aggregated and tested on a benefits basis with the portion of 1 or more other defined contribution plans which—

“(I) provides matching contributions (as defined in subsection (m)(4)(A)),

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“(II) provides annuity contracts described in section 403(b) which are purchased with matching contributions or nonelective contributions, or

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

“(ii) **Special rules for matching contributions.**—Rules similar to the rules of paragraph (1)(B)(ii) shall apply for purposes of clause (i).

“(C) **Special rules for testing defined contribution plan features providing matching contributions to certain older, longer service participants.**—In the case of a defined contribution plan which provides benefits, rights, or features to a closed class of participants whose accruals under a defined benefit plan have been reduced or eliminated, the plan shall not fail to satisfy the requirements of subsection (a)(4) solely by reason of the composition of the closed class or the
benefits, rights, or features provided to such
closed class if the defined contribution plan and
defined benefit plan otherwise meet the require-
ments of subparagraph (A) but for the fact that
the make-whole contributions under the defined
collection plan are made in whole or in part
through matching contributions.

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

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

“(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-
cept as otherwise provided in paragraph (2)(C),
the term ‘make-whole contributions’ means non-
elective allocations for each employee in the
class which are reasonably calculated, in a con-
sistent manner, to replace some or all of the re-
tirement benefits which the employee would
have received under the defined benefit plan
and any other plan or qualified cash or deferred
arrangement under subsection (k)(2) if no
change had been made to such defined benefit
plan and such other plan or arrangement. For
purposes of the preceding sentence, consistency
shall not be required with respect to employees
who were subject to different benefit formulas
under the defined benefit plan.

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

“(C) HIGHLY COMPENSATED EMPLOYEE.—
The term ‘highly compensated employee’ has
the meaning given such term in section 414(q)."

(b) Participation Requirements.—Paragraph (26) of section 401(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(I) Protected participants.—

"(i) In general.—A plan shall be deemed to satisfy the requirements of subparagraph (A) if—

"(I) the plan is amended—

"(aa) to cease all benefit accruals, or

"(bb) to provide future benefit accruals only to a closed class of participants,

"(II) the plan satisfies subparagraph (A) (without regard to this subparagraph) as of the effective date of the amendment, and

"(III) the amendment was adopted before September 21, 2016, or the plan is described in clause (ii).

"(ii) Plans described.—A plan is described in this clause if the plan would
be described in subsection (o)(1)(C), as applied for purposes of subsection (o)(1)(B)(iii)(IV) and by treating the effective date of the amendment as the date the class was closed for purposes of subsection (o)(1)(C).

“(iii) **Special rules.**—For purposes of clause (i)(II), in applying section 410(b)(6)(C), the amendments described in clause (i) shall not be treated as a significant change in coverage under section 410(b)(6)(C)(i)(II).

“(iv) **Spun-off plans.**—For purposes of this subparagraph, if a portion of a plan described in clause (i) is spun off to another employer, the treatment under clause (i) of the spun-off plan shall continue with respect to the other employer.”

(c) **Effective date.**—

(1) **In general.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether any plan modifications referred to in such amendments are adopted or effective before, on, or after such date of enactment.
(2) Special rules.—

(A) Election of earlier application.—At the election of the plan sponsor, the amendments made by this section shall apply to plan years beginning after December 31, 2013.

(B) Closed classes of participants.—For purposes of paragraphs (1)(A)(iii), (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o) of the Internal Revenue Code of 1986 (as added by this section), a closed class of participants shall be treated as being closed before September 21, 2016, if the plan sponsor’s intention to create such closed class is reflected in formal written documents and communicated to participants before such date.

(C) Certain post-enactment plan amendments.—A plan shall not be treated as failing to be eligible for the application of section 401(o)(1)(A), 401(o)(1)(B)(iii), or 401(a)(26) of such Code (as added by this section) to such plan solely because in the case of—

(i) such section 401(o)(1)(A), the plan was amended before the date of the enactment of this Act to eliminate 1 or more
benefits, rights, or features, and is further amended after such date of enactment to provide such previously eliminated benefits, rights, or features to a closed class of participants, or

(ii) such section 401(o)(1)(B)(iii) or section 401(a)(26), the plan was amended before the date of the enactment of this Act to cease all benefit accruals, and is further amended after such date of enactment to provide benefit accruals to a closed class of participants.

Any such section shall only apply if the plan otherwise meets the requirements of such section and in applying such section, the date the class of participants is closed shall be the effective date of the later amendment.

SEC. 206. MODIFICATION OF PBGC PREMIUMS FOR CSEC PLANS.

(a) FLAT RATE PREMIUM.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—
(1) in clause (i), by striking “plan,” and inserting “plan other than a CSEC plan (as defined in section 210(f)(1))”;

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

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

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

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

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

“(II) $19.”.

(b) VARIABLE RATE PREMIUM.—

(1) UNFUNDED VESTED BENEFITS.—

(A) IN GENERAL.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new clause:
“(v) For purposes of clause (ii), in the case of a CSEC plan (as defined in section 210(f)(1)), the term ‘unfunded vested benefits’ means, for plan years beginning after December 31, 2017, the excess (if any) of—

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

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

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

(2) APPLICABLE DOLLAR AMOUNT.—

(A) IN GENERAL.—Paragraph (8) of section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following new subparagraph:
“(E) CSEC PLANS.—In the case of a CSEC plan (as defined in section 210(f)(1)), the applicable dollar amount shall be $9.”.

(B) CONFORMING AMENDMENT.—Subparagraph (A) of section 4006(a)(8) of such Act (29 U.S.C. 1306(a)(8)) is amended by striking “(B) and (C)” and inserting “(B), (C), and (E)”.

TITLE III—BENEFITS RELATING TO UNITED STATES TAX COURT

SEC. 301. THRIFT SAVINGS PLAN CONTRIBUTIONS FOR JUDGES IN THE FEDERAL EMPLOYEES RETIREMENT SYSTEM.

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

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

(b) OFFSET.—Paragraph (3) of section 7447(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:
“(F) OFFSET.—In the case of a judge who receives a distribution from the Thrift Savings Plan and who later receives retired pay under subsection (d), the retired pay shall be offset by an amount equal to the amount of the distribution which represents the Government’s contribution to the individual’s Thrift Savings Account during years of service as a full-time judicial officer under the Federal Employees Retirement System, without regard to earnings attributable to such amount. Where such an offset would exceed 50 percent of the retired pay to be received in the first year, the offset may be divided equally over the first 2 years in which the individual receives the annuity.”.

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

SEC. 302. CHANGE IN VESTING PERIOD FOR SURVIVOR ANNUITIES AND WAIVER OF VESTING PERIOD IN THE EVENT OF ASSASSINATION.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 of the Internal Revenue Code of 1986 is amended to read as follows:
“(h) Entitlement to Annuity.—

“(1) In general.—

“(A) Annuity to surviving spouse.—If a judge or magistrate judge of the Tax Court described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or magistrate judge of the Tax Court or following the surviving spouse’s attainment of age 50, whichever is the later, in an amount computed as provided in subsection (m).

“(B) Annuity to surviving spouse and child.—If a judge or magistrate judge of the Tax Court described in paragraph (2) is survived by a surviving spouse and dependent child or children, there shall be paid to such surviving spouse an annuity, beginning on the day of the death of the judge or magistrate judge of the Tax Court, in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

“(i) 10 percent of the average annual salary of such judge or magistrate judge of
the Tax Court (determined in accordance
with subsection (m)), or

“(ii) 20 percent of such average an-
annual salary, divided by the number of such
children.

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

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

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

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

“(A) who dies while a judge or magistrate
judge of the Tax Court after having rendered at
least 18 months of civilian service computed as
prescribed in subsection (n), for the last 18 months of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

“(B) who dies by assassination after having rendered less than 18 months of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

“(3) TERMINATION OF ANNUITY.—

“(A) SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse’s death or such surviving spouse’s remarriage before attaining age 55.

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

“(i) the child attainment of age 18,

“(ii) the child’s marriage, or

“(iii) the child’s death,
except that if such child is incapable of self-support by reason of mental or physical disability the child’s annuity shall be terminable only upon death, marriage, or recovery from such disability.

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

“(D) RECOMPUTATION WITH RESPECT TO OTHER DEPENDENT CHILDREN.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children based upon the service of the same judge or magistrate judge of the Tax Court shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.
“(E) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor of a judge or magistrate judge of the Tax Court described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months prior to the death of the judge or magistrate judge of the Tax Court.”.

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

“(10) The terms ‘assassinated’ and ‘assassination’ mean the killing of a judge or magistrate judge of the Tax Court that is motivated by the performance by the judge or magistrate judge of the Tax Court of his or her official duties.”.

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 of the Internal Revenue Code of 1986 is amended—

(1) by striking “OF DEPENDENCY AND DISABILITY.—Questions” and inserting “BY CHIEF JUDGE.—
“(1) DEPENDENCY AND DISABILITY.—Questions”; and

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

“(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge or magistrate judge of the Tax Court was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge or magistrate judge of the Tax Court shall provide to the chief judge any information that would assist the chief judge in making such a determination.”.

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 of the Internal Revenue Code of 1986 is amended—

(1) by striking “ANNUITIES.—The annuity” and inserting “ANNUITIES.—

“(1) IN GENERAL.—The annuity”; 

(2) by striking “the sum of (1) 1.5 percent” and inserting “the sum of—

“(A) 1.5 percent”; 

(3) by striking “and (2) three-fourths of 1 percent” and inserting “and

“(B) three-fourths of 1 percent”;}
(4) by striking “prior allowable service, except that” and inserting “prior allowable service, “except that”; and

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

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

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

“(u) OTHER BENEFITS IN CASE OF ASSASSINATION.—In the case of a judge or magistrate judge of the Tax Court who is assassinated, an annuity shall be paid under this section notwithstanding a survivor’s eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this
section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge or magistrate judge of the Tax Court.”.

SEC. 303. COORDINATION OF RETIREMENT AND SURVIVOR ANNUITY WITH THE FEDERAL EMPLOYEES RETIREMENT SYSTEM.

(a) RETIREMENT.—Section 7447 of the Internal Revenue Code of 1986 is amended—

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

and

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

(b) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN.—Section 7448 of the Internal Revenue Code of 1986 is amended—

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

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

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SEC. 304. LIMIT ON TEACHING COMPENSATION OF RETIRED JUDGES.

(a) In General.—Section 7447 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(k) Teaching Compensation of Retired Judges.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the United States Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge.”.

(b) Effective Date.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 305. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) Title of Special Trial Judge Changed to Magistrate Judge of the Tax Court.—The heading of section 7443A of the Internal Revenue Code of 1986 is amended by striking “SPECIAL TRIAL JUDGES” and
inserting “MAGISTRATE JUDGES OF THE TAX COURT”.

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

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

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

“(2) REMOVAL.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), removal of a magistrate judge of the Tax Court during the term for which such magistrate judge is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and such magistrate judge shall
be accorded by the judges of the Tax Court an
opportunity to be heard on the charges.

“(B) TERMINATION OF OFFICE.—The of-

fice of a magistrate judge of the Tax Court
shall be terminated if the judges of the Tax
Court determine that the services performed by
such magistrate judge of the Tax Court are no

longer needed.”.

(e) SALARY.—Subsection (d) of section 7443A of the
Internal Revenue Code of 1986 is amended to read as fol-

lows:

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

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

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

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

“(f) EXEMPTION FROM FEDERAL LEAVE PROVI-
sions.—

“(1) IN GENERAL.—A magistrate judge of the
Tax Court shall be exempt from the provisions of
subchapter I of chapter 63 of title 5, United States Code.

“(2) Treatment of unused leave.—

“(A) After service as magistrate judge of the Tax Court.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual’s service as a magistrate judge of the Tax Court, the unused annual leave and sick leave standing to the individual’s credit at the time such individual became a magistrate judge of the Tax Court is deemed to have remained to the individual’s credit.

“(B) Computation of annuity.—In computing an annuity under section 8339 or 8415 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of section 8339 of such title 5, the days of unused sick
leave standing to the individual’s credit at the
time such individual became a magistrate judge
of the Tax Court, except that such days will not
be counted in determining average pay or annu-
ity eligibility.

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

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

“(g) INCIDENTAL POWERS.—A magistrate judge of
the Tax Court appointed under this section shall have the
power to punish for contempt of the authority of the Tax
Court as provided in section 7456(c), except the sentence
imposed by such a magistrate judge of the Tax Court for
any contempt shall not exceed the penalties for a Class
C misdemeanor as set forth in sections 3571(b)(6) and
3581(b)(8) of title 18, United States Code. This subsection shall not be construed to limit the authority of a magistrate judge of the Tax Court to order sanctions under any other statute or any rule of the Tax Court prescribed pursuant to section 7453.”.

(f) CONFORMING AMENDMENTS.—

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

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

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

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

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

“Sec. 7443A. Magistrate judges of the Tax Court.”.
(6) The heading of section 7448 of such Code is amended by striking “SPECIAL TRIAL JUDGES” and inserting “MAGISTRATE JUDGES OF THE TAX COURT”.

(7) Section 7448 of such Code is amended—

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

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

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

“(n) INCLUDIBLE SERVICE.—Subject to the provisions of subsection (d), the years of service of a judge or magistrate judge of the Tax Court which are allowable as the basis for calculating the amount of the annuity of such judge or magistrate judge’s surviving spouse shall include the judge or magistrate judge’s years of service—

“(1) as a judge or magistrate judge of the Tax Court, a special trial judge of the Tax Court, or a judge of the Tax Court of the United States,
“(2) pursuant to any appointment under section 7443A,

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

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

“(5) in any other civilian service within the purview of section 8332 of title 5, United States Code.

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

(9) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 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.”.

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

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

(B) by striking “(or by the clerk)” and inserting “of the Tax Court (or by the clerk)”. 
(11) Subsection (a) of section 7466 of such Code is amended by striking “special trial judge” and inserting “magistrate judge”.

(12) Section 7470A of such Code is amended by striking “special trial judges” both places it appears in subsections (a) and (b) and inserting “magistrate judges”.

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

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

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

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

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to individuals serving as special trial judges of the United States Tax Court on or after the day before the date of enactment of this Act.

(2) APPOINTMENT SAVINGS PROVISION.—Any individual serving as a special trial judge of the
United States Tax Court as of the day before the date of the enactment of this Act shall be considered to have been appointed as a magistrate judge of the Tax Court under section 7443A of the Internal Revenue Code of 1986 on such date of enactment, and service as a special trial judge of the Tax Court before such date of enactment shall be considered to be service as a magistrate judge of the Tax Court for purposes of any provision of law relating to length of service.

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

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

SEC. 307. RETIREMENT AND ANNUITY PROGRAM.

(a) Retirement and Annuity Program.—Part I of subchapter C of chapter 76 of the Internal Revenue Code of 1986 is amended by inserting after section 7443A the following new section:

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

“(a) Retirement.—
“(1) IN GENERAL.—Each magistrate judge of the Tax Court who makes an election under this section shall receive an annuity at the same rate and in the same manner as magistrate judges of the district courts of the United States pursuant to section 377 of title 28, United States Code.

“(2) RULES OF APPLICATION.—For purposes of subsection (a), section 377 of title 28, United States Code, shall be applied with the following modifications:

“(A) By substituting—

“(i) ‘magistrate judge of the Tax Court’ for ‘judicial official’, ‘judicial officer’, and ‘magistrate judge’ each place such terms appear,

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

“(iii) ‘chief judge of the Tax Court’ for ‘Administrative Office of the United States Courts’, ‘Director of the Administrative Office of the United States Courts’, ‘Director’, and ‘chief judge of the district court’ each place such terms appear,
“(iv) ‘Tax Court Judicial Officers’ Retirement Fund’ for ‘Judicial Officers’ Retirement Fund’ each place it appears,

“(v) ‘under section 7443A of the Internal Revenue Code of 1986’ for ‘under section 631 of this title’ in subsection (h)(2),

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

“(vii) ‘from the date of appointment, for those individuals appointed pursuant to section 7443A of the Internal Revenue Code of 1986 prior to, and in active service on, the date of enactment of the Retirement Enhancement and Savings Act of 2018’ for ‘on or after October 1, 1979’ in subsection (h).

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

“(b) 1-Year Forfeiture for Failure to Perform Judicial Duties.—Subject to subparagraph (B) of section 377(m)(1) of title 28, United States Code, any
magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

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

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

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

“(3) UNFUNDED LIABILITY.—

“(A) IN GENERAL.—Not later than the close of each fiscal year, there shall be deposited in the Tax Court Judicial Officers’ Retire-
ment Fund amounts required to reduce to zero
the unfunded liability, if any, of such Fund.

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

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

“(ii) the sum of—

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

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

“(d) PARTICIPATION IN THRIFT SAVINGS PLAN.—

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

“(2) APPLICABILITY OF TITLE 5 PROVISIONS.—
Except as otherwise provided in this subsection, the
provisions of subchapters III and VII of chapter 84 of such title 5 shall apply with respect to a magistrate judge of the Tax Court who makes an election under paragraph (1).

“(3) Special rules.—

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

“(B) Contributions for benefit of magistrate judge of the Tax Court.—No contributions under section 8432(c) of such title 5 shall be made for the benefit of a magistrate judge of the Tax Court who has filed an election to receive an annuity under this section.

“(C) Applicability of rules relating to annuity of a child.—Section 8433(b) of such title 5 applies with respect to a magistrate judge of the Tax Court who makes an election under paragraph (1) and who—
“(i) retires entitled to an immediate annuity under this section (including a disability annuity under this section),

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

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

“(D) RETIREMENT AS SEPARATION FROM SERVICE.—With respect to a magistrate judge of the Tax Court to whom this subsection applies, retirement under this section is a separation from service for purposes of subchapters III and VII of chapter 84 of such title 5.

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

“(5) OFFSET.—In the case of a magistrate judge of the Tax Court who receives a distribution from the Thrift Savings Plan and who later receives an annuity under this section, the annuity shall be offset by an amount equal to the amount which represents the Government’s contribution to the individ-
ual's Thrift Savings Account during years of service
as a full-time judicial officer under the Federal Em-
ployees Retirement System, without regard to earn-
ings attributable to such amount. Where such an
offset would exceed 50 percent of the annuity to be
received in the first year, the offset may be divided
equally over the first 2 years in which the individual
receives the annuity.

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

“(e) COORDINATION WITH TITLE 5.—A magistrate
judge of the Tax Court who elects to receive an annuity
under this section—
“(1) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5 United States Code,

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

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

(b) CONFORMING AMENDMENTS.—

(1) Section 3121(b)(5)(E) of the Internal Revenue Code of 1986 is amended by inserting “or magistrate judge” before “of the United States Tax Court”.

(2) Section 210(a)(5)(E) of the Social Security Act (42 U.S.C. 410(a)(5)(E)) is amended by inserting “or a magistrate judge of the Tax Court who files an election under section 7443B(a) of the Internal Revenue Code of 1986” after “of the United States Tax Court”.

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

“(2) MAGISTRATE JUDGES OF THE TAX COURT.—Any magistrate judge of the Tax Court may by written election filed with the chief judge
bring himself or herself within the purview of this section. Such election shall be filed while such individual is a magistrate judge of the Tax Court.”.

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

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

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

SEC. 308. PROVISIONS FOR RECALL.

(a) In General.—Part I of subchapter C of chapter 76 of the Internal Revenue Code of 1986, as amended by section 307, is amended by inserting after section 7443B the following new section:

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

“(a) Recalling of Retired Magistrate Judges of the Tax Court.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5 or 28, United States Code, upon reaching the age and service requirements established under such titles 5 and 28, may be called upon by the chief judge to perform such judicial duties with the Tax Court as may be requested of such individual for a period or periods specified
by the chief judge, except that in the case of any such
individual—

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

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

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

“(b) COMPENSATION.—For the year in which a pe-
riod of recall occurs, the magistrate judge of the Tax
Court shall receive, in addition to the annuity provided
under the provisions of section 7443B, an amount equal
to the difference between that annuity and the current sal-
ary of the office to which the magistrate judge of the Tax
Court is recalled (and allowances for travel and other ex-
penses of the magistrate judge of the Tax Court). The
annuity for years after the year in which a period of recall
occurs of the magistrate judge of the Tax Court who com-
pletes such a period of service, who is not recalled in a
subsequent year, and who retired under section 7443B,
shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such magistrate judge of the Tax Court retired.

“(c) Rulemaking Authority.—The provisions of this section shall be implemented under such rules and regulations as may be promulgated by the Tax Court.”.

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

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

**TITLE IV—OTHER BENEFITS**

**SEC. 401. BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.**

(a) Increase in Dollar Limitation on Qualified Payments.—Subparagraph (B) of section 139B(c)(2) of the Internal Revenue Code of 1986 is amended by striking “$30” and inserting “$50”.

(b) Extension.—Subsection (d) of section 139B of the Internal Revenue Code of 1986 is amended by striking “beginning after December 31, 2010.” and inserting “beginning—
“(1) after December 31, 2010, and before January 1, 2019, or
“(2) after December 31, 2019.”.

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

TITLE V—REVENUE PROVISIONS

SEC. 501. MODIFICATIONS OF REQUIRED DISTRIBUTION RULES FOR PENSION PLANS.

(a) MODIFICATION OF RULES WHERE EMPLOYEE DIES BEFORE ENTIRE DISTRIBUTION.—

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

“(H) SPECIAL RULES FOR CERTAIN DEFINED CONTRIBUTION PLANS.—

“(i) IN GENERAL.—In the case of distributions from a defined contribution plan, a trust forming part of such plan shall not constitute a qualified trust under this section unless the plan provides that, if—

“(I) an employee dies before the distribution of the employee’s interest (whether or not such distribution has
begun in accordance with subparagraph (A), and

“(II) the aggregate account balances to the credit of the employee under all defined contribution plans, determined as of the date of the employee’s death, exceeds $450,000, so much of the entire interest of the employee as exceeds the dollar amount in subclause (II) will be distributed within 5 years after the death of such employee.

“(ii) ALLOCATION OF LIMITATION.—If an employee has an account under more than 1 defined contribution plan, the $450,000 amount under clause (i)(II) shall be allocated among all such plans, as provided in regulations prescribed by the Secretary, for purposes of applying clause (i).

“(iii) TREATMENT OF REMAINING AMOUNT.—The portion of the employee’s interest distributed under clause (i) shall not be taken into account for purposes of determining the rapidity or the method of distribution of any portion of the interest
of the employee to which clause (i) does not apply.

“(iv) **Multiple Beneficiaries.**—In the case of an employee who has more than 1 beneficiary, the amount of the portion required to be distributed under clause (i) which shall be treated as payable to (or for the benefit of) such beneficiary is the amount which bears the same ratio to the total amount of such portion as—

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

“(II) the amount of the employee’s entire interest (so determined).

“(v) **Exception for Eligible Designated Beneficiaries.**—If—

“(I) any portion of the employee’s interest is payable to (or for the benefit of) an eligible designated beneficiary,

“(II) such portion will be distributed (in accordance with regulations)
over the life of such eligible designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

“(III) such distributions begin not later than 1 year after the date of the employee’s death or such later date as the Secretary may by regulations prescribe,

for purposes of clause (i), the portion referred to in subclause (I) shall be treated as distributed on the date on which such distributions begin.

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

“(I) the date on which the distributions are required to begin under clause (v)(III) shall not be earlier than the date on which the employee would have attained age 70½, and

“(II) if the surviving spouse dies before the distributions to such spouse begin, this subparagraph shall be ap-
plied as if the surviving spouse were
the employee.

“(vii) Rules upon death of eligible
designated beneficiary.—If an el-
ligible designated beneficiary dies before the
portion of the employee’s interest to which
clause (i) applies which is payable to (or
for the benefit of) such eligible designated
beneficiary is entirely distributed, the ex-
ception under clause (v) shall not apply to
any beneficiary of such eligible designated
beneficiary and the remainder of such por-
tion shall be distributed within 5 years
after the death of such beneficiary.

“(viii) Coordination with indi-
vidual retirement plans.—For pur-
poses of applying the provisions of this
subparagraph and subsections (a)(6) and
(b)(3) of section 408, individual retirement
plans shall be treated as defined contribu-
tion plans in determining the aggregate ac-
count balances to the credit of the em-
ployee under all defined contribution plans
and the amount required to be distributed
to each beneficiary under such provi-
sions.”.

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

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

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

“(ii) **ELIGIBLE DESIGNATED BENEFICIARY.**—The term ‘eligible designated
beneficiary’ means, with respect to any em-
pLOYEE, any designated beneficiary who is—

“(I) the surviving spouse of the
employee,

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

“(III) disabled (within the mean-
ing of section 72(m)(7)),”
“(IV) a chronically ill individual
(within the meaning of section 7702B(c)(2), except that the require-
ments of subparagraph (A)(i) thereof shall only be treated as met if there is
a certification that, as of such date, the period of inability described in
such subparagraph with respect to the individual is an indefinite one which is
reasonably expected to be lengthy in nature), or

“(V) an individual not described in any of the preceding subelauses
who is not more than 10 years younger than the employee.

“(iii) SPECIAL RULE FOR CHIL-
DREN.—Subject to subparagraph (F), an individual described in clause (ii)(II) shall cease to be an eligible designated beneficiar
y as of the date the individual reaches majority and any remainder of the portion of the interest described in subparagraph (H)(v) shall be distributed within 5 years after such date.
“(iv) Time for determination of eligible designated beneficiary.—

The determination of whether a designated beneficiary is an eligible designated beneficiary shall be made as of the date of death of the employee.”.

(3) Conforming amendments.—

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

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

(4) Effective dates.—

(A) In general.—Except as provided in this paragraph and paragraphs (5) and (6), the amendments made by this subsection shall apply to distributions with respect to employees who die after December 31, 2018.

(B) Collective bargaining exception.—In the case of a plan maintained pursu-
ant to 1 or more collective bargaining agree-
ments between employee representatives and 1
or more employers ratified before the date of
enactment of this Act, the amendments made
by this subsection shall apply to distributions
with respect to employees who die in calendar
years beginning after the earlier of—

(i) the later of—

(I) the date on which the last of
such collective bargaining agreements
terminates (determined without re-
gard to any extension thereof agreed
to on or after the date of the enact-
ment of this Act); or

(II) December 31, 2018; or


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

(C) GOVERNMENTAL PLANS.—In the case
of a governmental plan (as defined in section
414(d) of the Internal Revenue Code of 1986), subparagraph (A) shall be applied by substituting “December 31, 2020” for “December 31, 2018”.

(5) EXCEPTION FOR CERTAIN EXISTING ANNUITY CONTRACTS.—

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

(B) QUALIFIED ANNUITY.—For purposes of this paragraph, the term “qualified annuity” means, with respect to an employee, an annuity—

(i) which is a commercial annuity (as defined in section 3405(e)(6) of the Internal Revenue Code of 1986);

(ii) under which the annuity payments are made over the life of the employee or over the joint lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the joint life expectancy of such employee and a designated bene-
ficiary) in accordance with the regulations described in section 401(a)(9)(A)(ii) of such Code (as in effect before such amendments) and which meets the other requirements of section 401(a)(9) of such Code (as so in effect) with respect to such payments; and

(iii) with respect to which—

(I) annuity payments to the employee have begun before the date of enactment of this Act, and the employee has made an irrevocable election before such date as to the method and amount of the annuity payments to the employee or any designated beneficiaries; or

(II) if subclause (I) does not apply, the employee has made an irrevocable election before the date of enactment of this Act as to the method and amount of the annuity payments to the employee or any designated beneficiaries.

(6) Exception for certain beneficiaries.—
(A) IN GENERAL.—If an employee dies before the effective date, then, in applying the amendments made by this subsection to such employee’s designated beneficiary who dies after such date—

(i) such amendments shall apply to any beneficiary of such designated beneficiary; and

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

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

(b) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan amendment—
(A) such plan shall be treated as being op-
erated in accordance with the terms of the plan
during the period described in paragraph
(2)(B)(i); and

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

(2) Amendments to which subsection ap-
plies.—

(A) In general.—This subsection shall
apply to any amendment to any plan or which
is made—

(i) pursuant to any amendment made
by this section or pursuant to any regula-
tion issued by the Secretary of the Treas-
ury under this section or such amend-
ments; and

(ii) on or before the last day of the
first plan year beginning after December
31, 2020, or such later date as the Sec-
retary of the Treasury may prescribe.
In the case of a governmental or collectively bargained plan to which subparagraph (B) or (C) of subsection (a)(4) applies, clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under such clause.

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

(i) during the period—

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

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

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

(ii) such plan amendment applies retroactively for such period.
SEC. 502. INCREASE IN PENALTY FOR FAILURE TO FILE.

(a) In General.—The second sentence of subsection (a) of section 6651 of the Internal Revenue Code of 1986 is amended by striking “$205” and inserting “$400”.

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

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

(a) In General.—Subsection (e) of section 6652 of the Internal Revenue Code of 1986 is amended—

(1) by striking “$25” and inserting “$100”;

and

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

(b) Annual Registration Statement and Notification of Changes.—Subsection (d) of section 6652 of the Internal Revenue Code of 1986 is amended—

(1) by striking “$1” both places it appears in paragraphs (1) and (2) and inserting “$2”;  

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

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

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(c) Failure To Provide Notice.—Subsection (h) of section 6652 of the Internal Revenue Code of 1986 is amended—

(1) by striking “$10” and inserting “$100”; and

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

(d) Effective Date.—The amendments made by this section shall apply to returns, statements, and notifications required to be filed, and notices required to be provided, after December 31, 2018.

SEC. 504. INCREASE INFORMATION SHARING TO ADMINISTER EXCISE TAXES.

(a) In General.—Section 6103(o) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) Taxes imposed by section 4481.—Returns and return information with respect to taxes imposed by section 4481 shall be open to inspection by or disclosure to officers and employees of United States Customs and Border Protection of the Department of Homeland Security whose official duties require such inspection or disclosure for purposes of administering such section.”.
(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986 is amended by striking “or (o)(1)(A)” each place it appears and inserting “, (o)(1)(A), or (o)(3)”.

SEC. 505. PENSION VARIABLE RATE PREMIUM PAYMENT ACCELERATION.

Notwithstanding section 4007(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307(a)) and section 4007.11 of title 29, Code of Federal Regulations, any additional premium determined under subparagraph (E) of section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) the due date for which is (but for this section) after September 30, 2027, and before June 1, 2028, shall be due not later than September 30, 2027.