

Calendar No. 670

114TH CONGRESS
2^D SESSION

S. 3471

[Report No. 114–375]

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2016

Mr. HATCH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Retirement Enhancement and Savings Act of 2016”.

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

Sec. 1. Short title, etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

- Sec. 101. Multiple employer plans.
- Sec. 102. Pooled employer and multiple employer plan reporting.
- 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. Extended rollover period for plan loan offset amounts.
- Sec. 111. Modification of rules relating to hardship withdrawals from cash or deferred arrangements.
- Sec. 112. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 113. Portability of lifetime income options.
- Sec. 114. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 115. Clarification of retirement income account rules relating to church-controlled organizations.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

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

TITLE III—BENEFITS RELATING TO UNITED STATES TAX COURT

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

TITLE IV—OTHER BENEFITS

- Sec. 401. Benefits provided to volunteer firefighters and emergency medical responders.
- Sec. 402. Treatment of qualified equity grants.

TITLE V—REVENUE PROVISIONS

- Sec. 501. Modifications of required distribution rules for pension plans.
 Sec. 502. Increase in penalty for failure to file.
 Sec. 503. Increased penalties for failure to file retirement plan returns.
 Sec. 504. Modification of user fee requirements for installment agreements.
 Sec. 505. Increase information sharing to administer excise taxes.
 Sec. 506. Repeal of technical termination for partnerships.
 Sec. 507. Pension variable rate premium payment acceleration.

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

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

5 (a) QUALIFICATION REQUIREMENTS.—

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

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

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

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

19 “(B) in the case of a plan not described in
 20 subparagraph (A), has a pooled plan provider,
 21 then the plan shall not be treated as failing to meet
 22 the requirements under this title applicable to a plan

1 described in section 401(a) or to a plan that consists
2 of individual retirement accounts described in sec-
3 tion 408 (including by reason of subsection (c)
4 thereof), whichever is applicable, merely because one
5 or more employers of employees covered by the plan
6 fail to take such actions as are required of such em-
7 ployers for the plan to meet such requirements.

8 “(2) LIMITATIONS.—

9 “(A) IN GENERAL.—Paragraph (1) shall
10 not apply to any plan unless the terms of the
11 plan provide that in cases of employers failing
12 to take the actions described in paragraph
13 (1)—

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

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

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

1 “(3) POOLED PLAN PROVIDER.—For purposes
2 of this subsection—

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

6 “(i) is designated by the terms of the
7 plan as a named fiduciary (as defined in
8 section 402(a)(2) of the Employee Retirement
9 Income Security Act of 1974), as the
10 plan administrator, and as the person re-
11 sponsible to perform all administrative du-
12 ties (including conducting proper testing
13 with respect to the plan and employees of
14 each participating employer) which are
15 reasonably necessary to ensure that—

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

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

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

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

24 “(iv) is responsible for ensuring that
25 all persons who handle assets of, or who

1 are fiduciaries of, the plan are bonded in
2 accordance with section 412 of the Em-
3 ployee Retirement Income Security Act of
4 1974.

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

10 “(4) GUIDANCE.—

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

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

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

1 the plan with respect to employees of that
2 employer, and

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

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

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

22 “(5) MODEL PLAN.—The Secretary shall, in
23 consultation with the Secretary of Labor when ap-
24 propriate, publish model plan language which meets
25 the requirements of this subsection and of para-

1 graphs (43) and (44) of section 3 of the Employee
2 Retirement Income Security Act of 1974 and which
3 may be adopted in order for a plan to be treated as
4 a plan described in paragraph (1)(B).”.

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

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

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

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

19 “(C) A pooled employer plan shall be treat-
20 ed as—

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

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

1 (c) POOLED EMPLOYER PLAN AND PROVIDER DE-
2 FINED.—

3 (1) IN GENERAL.—Section 3 of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1002) is amended by adding at the end the fol-
6 lowing:

7 “(43) POOLED EMPLOYER PLAN.—

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

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

14 “(ii) which is a plan described in sec-
15 tion 401(a) of the Internal Revenue Code
16 of 1986 which includes a trust exempt
17 from tax under section 501(a) of such
18 Code or a plan that consists of individual
19 retirement accounts described in section
20 408 of such Code (including by reason of
21 subsection (c) thereof); and

22 “(iii) the terms of which meet the re-
23 quirements of subparagraph (B).

24 Such term shall not include a plan with respect
25 to which all of the participating employers have

1 both a common interest other than having
2 adopted the plan and control of the plan.

3 “(B) REQUIREMENTS FOR PLAN TERMS.—
4 The requirements of this subparagraph are met
5 with respect to any plan if the terms of the
6 plan—

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

10 “(ii) designate one or more trustees
11 meeting the requirements of section
12 408(a)(2) of the Internal Revenue Code of
13 1986 (other than a participating employer)
14 to be responsible for collecting contribu-
15 tions to, and holding the assets of, the
16 plan and require such trustees to imple-
17 ment written contribution collection proce-
18 dures that are reasonable, diligent, and
19 systematic;

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

23 “(I) the selection and monitoring
24 in accordance with section 404(a) of
25 the person designated as the pooled

1 plan provider and any other person
2 who, in addition to the pooled plan
3 provider, is designated as a named fi-
4 duciary of the plan; and

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

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

21 “(v) require—

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

1 any disclosures or other information
2 to facilitate the selection or any moni-
3 toring of the pooled plan provider by
4 participating employers; and

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

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

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

10 “(i) a multiemployer plan; or

11 “(ii) a plan established before Janu-
12 ary 1, 2016, unless the plan administrator
13 elects that the plan will be treated as a
14 pooled employer plan and the plan meets
15 the requirements of this title applicable to
16 a pooled employer plan established on or
17 after such date.

18 “(44) POOLED PLAN PROVIDER.—

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

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

1 proper testing with respect to the plan and
2 employees of each participating employer)
3 which are reasonably necessary to ensure
4 that—

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

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

22 “(ii) registers as a pooled plan pro-
23 vider with the Secretary, and provides to
24 the Secretary such other information as

1 the Secretary may require, before begin-
2 ning operations as a pooled plan provider;

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

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

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

17 “(C) GUIDANCE.—

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

23 “(I) to identify the administra-
24 tive duties and other actions required
25 to be performed by a pooled plan pro-

1 vider under either such paragraph;
2 and

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

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

22 “(bb) the participating em-
23 ployer described in item (aa)
24 (and not the plan with respect to
25 which the failure occurred or any

1 other participating employer in
2 such plan) shall, except to the ex-
3 tent provided in such guidance,
4 be liable for any liabilities with
5 respect to such plan attributable
6 to employees of the participating
7 employer.

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

1 “(ii) PROSPECTIVE APPLICATION.—
2 Any guidance issued by the Secretary
3 under this subparagraph shall not apply to
4 any action or failure occurring before the
5 issuance of such guidance.

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

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

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

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

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

5 (A) in paragraph (16)(B)—

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

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

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

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to years beginning after De-
16 cember 31, 2019.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to annual reports for plan years
14 beginning after December 31, 2019.

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

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

22 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to plan years beginning after De-
14 cember 31, 2016.

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

16 **401(k) STATUS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

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

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

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

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

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

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

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

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

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

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 2016.

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

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

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

1 “(A) \$500, or

2 “(B) the lesser of—

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

9 “(ii) \$5,000, and”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2016.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2016.

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

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

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2016.

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

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

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

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to contributions made for taxable
15 years beginning after December 31, 2016.

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

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

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

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

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on January 1, 2016.

7 **SEC. 110. EXTENDED ROLLOVER PERIOD FOR PLAN LOAN**
 8 **OFFSET AMOUNTS.**

9 (a) IN GENERAL.—Paragraph (3) of section 402(c)
 10 of the Internal Revenue Code of 1986 is amended by re-
 11 designating subparagraph (B) as subparagraph (C) and
 12 by inserting after subparagraph (A) the following new sub-
 13 paragraph:

14 “(B) ROLLOVER OF CERTAIN PLAN LOAN
 15 OFFSET AMOUNTS.—

16 “(i) IN GENERAL.—In the case of an
 17 eligible rollover distribution of a qualified
 18 plan loan offset amount, the requirements
 19 of subparagraph (A) shall be treated as
 20 met if such transfer occurs on or before
 21 the due date (including extensions) for fil-
 22 ing the return of tax for the taxable year
 23 in which such amount is treated as distrib-
 24 uted from a qualified employer plan.

1 “(ii) QUALIFIED PLAN LOAN OFFSET
2 AMOUNT.—For purposes of this subpara-
3 graph, the term ‘qualified plan loan offset
4 amount’ means a plan loan offset amount
5 which is treated as distributed from a
6 qualified employer plan to a participant or
7 beneficiary solely by reason of—

8 “(I) the termination of the quali-
9 fied employer plan, or

10 “(II) the failure to meet the re-
11 payment terms of the loan from such
12 plan because of the severance from
13 employment of the participant.

14 “(iii) PLAN LOAN OFFSET AMOUNT.—
15 For purposes of clause (ii), the term ‘plan
16 loan offset amount’ means the amount by
17 which the participant’s accrued benefit
18 under the plan is reduced in order to repay
19 a loan from the plan.

20 “(iv) LIMITATION.—This subpara-
21 graph shall not apply to any plan loan off-
22 set amount unless such plan loan offset
23 amount relates to a loan to which section
24 72(p)(1) does not apply by reason of sec-
25 tion 72(p)(2).

1 “(v) QUALIFIED EMPLOYER PLAN.—
 2 For purposes of this subsection, the term
 3 ‘qualified employer plan’ has the meaning
 4 given such term by section 72(p)(4).”.

5 (b) CONFORMING AMENDMENT.—Subparagraph (A)
 6 of section 402(c)(3) of the Internal Revenue Code of 1986
 7 is amended by striking “subparagraph (B)” and inserting
 8 “subparagraphs (B) and (C)”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to transfers made after December
 11 31, 2016.

12 **SEC. 111. MODIFICATION OF RULES RELATING TO HARD-**
 13 **SHIP WITHDRAWALS FROM CASH OR DE-**
 14 **FERRED ARRANGEMENTS.**

15 (a) RULES RELATING TO AMOUNTS WITHDRAWN
 16 AND AVAILABLE LOANS.—

17 (1) IN GENERAL.—Section 401(k) of the Inter-
 18 nal Revenue Code of 1986 is amended by adding at
 19 the end the following:

20 “(14) SPECIAL RULES RELATING TO HARDSHIP
 21 WITHDRAWALS.—For purposes of paragraph
 22 (2)(B)(i)(IV)—

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

1 “(i) Contributions to a profit-sharing
2 or stock bonus plan to which section
3 402(e)(3) applies.

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

6 “(iii) Qualified matching contributions
7 described in paragraph (3)(D)(ii)(I).

8 “(iv) Earnings on any contributions
9 described in clause (i), (ii), or (iii).

10 “(B) NO REQUIREMENT TO TAKE AVAIL-
11 ABLE LOAN.—A distribution shall not be treat-
12 ed as failing to be made upon the hardship of
13 an employee solely because the employee does
14 not take any available loan under the plan.”.

15 (2) CONFORMING AMENDMENT.—Subclause
16 (IV) of section 401(k)(2)(B)(i) of the Internal Rev-
17 enue Code of 1986 is amended to read as follows:

18 “(IV) subject to the provisions of
19 paragraph (14), upon hardship of the
20 employee, or”.

21 (b) MODIFICATION OF RULES GOVERNING CONDI-
22 TIONING PARTICIPATION IN AN ARRANGEMENT UPON
23 HARDSHIP DISTRIBUTIONS.—Not later than 1 year after
24 the date of the enactment of this Act, the Secretary of

1 the Treasury shall modify Treasury Regulation section
2 1.401(k)–1(d)(3)(iv)(E) to—

3 (1) delete the prohibition imposed by paragraph

4 (2) thereof, and

5 (2) to make any other modifications necessary

6 to carry out the purposes of section

7 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of

8 1986.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section, and the modifications under subsection (b),
11 shall apply to plan years beginning after December 31,
12 2016.

13 **SEC. 112. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
14 **MAKING LOANS THROUGH CREDIT CARDS**
15 **AND OTHER SIMILAR ARRANGEMENTS.**

16 (a) IN GENERAL.—Paragraph (2) of section 72(p) of
17 the Internal Revenue Code of 1986 is amended by redesignig-
18 nating subparagraph (D) as subparagraph (E) and by in-
19 serting after subparagraph (C) the following new subpara-
20 graph:

21 “(D) PROHIBITION OF LOANS THROUGH
22 CREDIT CARDS AND OTHER SIMILAR ARRANGE-
23 MENTS.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), subparagraph (A) shall

1 not apply to any loan which is made
2 through the use of any credit card or any
3 other similar arrangement.

4 “(ii) EXCEPTION FOR EXISTING CRED-
5 IT CARD SYSTEMS.—Clause (i) shall not
6 apply to any loan to the extent such loan
7 is provided through an electronic card sys-
8 tem which, as of September 21, 2016, was
9 available for use to provide loans under
10 qualified employer plans.

11 “(iii) DISALLOWED TRANSACTIONS.—
12 If any card through which a loan is pro-
13 vided under the exception of clause (ii) is
14 used for any transaction—

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

17 “(II) with or on the premises of
18 any establishment described in clause
19 (i), (ii), or (iii) of section
20 408(a)(12)(A) of the Social Security
21 Act,

22 the amount of such transaction shall be
23 treated as having been received by the in-
24 dividual as a distribution in accordance
25 with subparagraph (A) of paragraph (1).

1 “(iv) COST-OF-LIVING ADJUST-
2 MENT.—In the case of any loan made dur-
3 ing a plan year beginning after December
4 31, 2017, the \$1,000 amount under clause
5 (iii)(I) shall be increased by an amount
6 equal to—

7 “(I) such dollar amount, multi-
8 plied by

9 “(II) the cost-of-living adjust-
10 ment determined under section 1(f)(3)
11 for the calendar year in which the
12 plan year begins, determined by sub-
13 stituting ‘calendar year 2016’ for ‘cal-
14 endar year 1992’ in subparagraph (B)
15 thereof. Any increase determined
16 under the preceding sentence shall be
17 rounded to the next lowest multiple of
18 \$50.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to plan years beginning after
21 December 31, 2016.

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

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

7 (2) report the results of such study to the Com-
8 mittee on Finance of the Senate and the Committee
9 on the Ways and Means of the House of Representa-
10 tives.

11 If the study under paragraph (1) determines that such
12 loans, after implementation of the restrictions imposed by
13 the amendment made by subsection (a), result in greater
14 usage of retirement savings for purposes other than fund-
15 ing retirement than loans made by other means, the report
16 under paragraph (2) shall include recommendations to re-
17 duce such result.

18 **SEC. 113. PORTABILITY OF LIFETIME INCOME OPTIONS.**

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

22 “(38) PORTABILITY OF LIFETIME INCOME.—

23 “(A) IN GENERAL.—Except as may be oth-
24 erwise provided by regulations, a trust forming
25 part of a defined contribution plan shall not be

1 treated as failing to constitute a qualified trust
2 under this section solely by reason of allowing—

3 “(i) qualified distributions of a life-
4 time income investment, or

5 “(ii) distributions of a lifetime income
6 investment in the form of a qualified plan
7 distribution annuity contract,

8 on or after the date that is 90 days prior to the
9 date on which such lifetime income investment
10 is no longer authorized to be held as an invest-
11 ment option under the plan.

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

14 “(i) the term ‘qualified distribution’
15 means a direct trustee-to-trustee transfer
16 described in paragraph (31)(A) to an eligi-
17 ble retirement plan (as defined in section
18 402(c)(8)(B)),

19 “(ii) the term ‘lifetime income invest-
20 ment’ means an investment option which is
21 designed to provide an employee with elec-
22 tion rights—

23 “(I) which are not uniformly
24 available with respect to other invest-
25 ment options under the plan, and

1 “(II) which are to a lifetime in-
2 come feature available through a con-
3 tract or other arrangement offered
4 under the plan (or under another eli-
5 gible retirement plan (as so defined),
6 if paid by means of a direct trustee-
7 to-trustee transfer described in para-
8 graph (31)(A) to such other eligible
9 retirement plan),

10 “(iii) the term ‘lifetime income fea-
11 ture’ means—

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

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

1 “(iv) the term ‘qualified plan distribu-
2 tion annuity contract’ means an annuity
3 contract purchased for a participant and
4 distributed to the participant by a plan or
5 contract described in subparagraph (B) of
6 section 402(c)(8) (without regard to
7 clauses (i) and (ii) thereof).”.

8 (b) CASH OR DEFERRED ARRANGEMENT.—

9 (1) IN GENERAL.—Clause (i) of section
10 401(k)(2)(B) of the Internal Revenue Code of 1986,
11 as amended by section 111(b), is amended by strik-
12 ing “or” at the end of subclause (IV), by striking
13 “and” at the end of subclause (V) and inserting
14 “or”, and by adding at the end the following new
15 subclause:

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

1 (2) DISTRIBUTION REQUIREMENT.—Subpara-
2 graph (B) of section 401(k)(2) of such Code is
3 amended by striking “and” at the end of clause (i),
4 by striking the semicolon at the end of clause (ii)
5 and inserting “, and”, and by adding at the end the
6 following new clause:

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

15 (c) SECTION 403(b) PLANS.—

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

23 “(D) except as may be otherwise provided
24 by regulations, with respect to amounts invested

1 in a lifetime income investment (as defined in
2 section 401(a)(38)(B)(ii))—

3 “(i) on or after the date that is 90
4 days prior to the date that such lifetime
5 income investment may no longer be held
6 as an investment option under the con-
7 tract, and

8 “(ii) in the form of a qualified dis-
9 tribution (as defined in section
10 401(a)(38)(B)(i)) or a qualified plan dis-
11 tribution annuity contract (as defined in
12 section 401(a)(38)(B)(iv)).”.

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

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

23 “(I) the employee dies,

24 “(II) the employee attains age
25 59½,

1 “(III) the employee has a sever-
2 ance from employment,

3 “(IV) the employee becomes dis-
4 abled (within the meaning of section
5 72(m)(7)),

6 “(V) in the case of contributions
7 made pursuant to a salary reduction
8 agreement (within the meaning of sec-
9 tion 3121(a)(5)(D)), the employee en-
10 counters financial hardship, or

11 “(VI) except as may be otherwise
12 provided by regulations, with respect
13 to amounts invested in a lifetime in-
14 come investment (as defined in section
15 401(a)(38)(B)(ii)), the date that is 90
16 days prior to the date that such life-
17 time income investment may no longer
18 be held as an investment option under
19 the contract, and

20 “(ii) in the case of amounts described
21 in clause (i)(VI), such amounts will be dis-
22 tributed only in the form of a qualified dis-
23 tribution (as defined in section
24 401(a)(38)(B)(i)) or a qualified plan dis-

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

3 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

4 (1) IN GENERAL.—Subparagraph (A) of section
5 457(d)(1) of the Internal Revenue Code of 1986 is
6 amended by striking “or” at the end of clause (ii),
7 by inserting “or” at the end of clause (iii), and by
8 adding after clause (iii) the following:

9 “(iv) except as may be otherwise pro-
10 vided by regulations, in the case of a plan
11 maintained by an employer described in
12 subsection (e)(1)(A), with respect to
13 amounts invested in a lifetime income in-
14 vestment (as defined in section
15 401(a)(38)(B)(ii)), the date that is 90
16 days prior to the date that such lifetime
17 income investment may no longer be held
18 as an investment option under the plan,”.

19 (2) DISTRIBUTION REQUIREMENT.—Paragraph
20 (1) of section 457(d) of such Code is amended by
21 striking “and” at the end of subparagraph (B), by
22 striking the period at the end of subparagraph (C)
23 and inserting “, and”, and by inserting after sub-
24 paragraph (C) the following new subparagraph:

1 “(D) except as may be otherwise provided
 2 by regulations, in the case of amounts described
 3 in subparagraph (A)(iv), such amounts will be
 4 distributed only in the form of a qualified dis-
 5 tribution (as defined in section
 6 401(a)(38)(B)(i)) or a qualified plan distribu-
 7 tion annuity contract (as defined in section
 8 401(a)(38)(B)(iv)).”.

9 (e) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to plan years beginning after De-
 11 cember 31, 2016.

12 **SEC. 114. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
 13 **MINATION OF SECTION 403(b) PLANS.**

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

17 “(D) TREATMENT OF CUSTODIAL AC-
 18 COUNT UPON PLAN TERMINATION.—

19 “(i) IN GENERAL.—If—

20 “(I) an employer terminates the
 21 plan under which amounts are con-
 22 tributed to a custodial account under
 23 subparagraph (A), and

24 “(II) the person holding the as-
 25 sets of the account has demonstrated

1 to the satisfaction of the Secretary
2 under section 408(a)(2) that the per-
3 son is qualified to be a trustee of an
4 individual retirement plan,
5 then, as of the date of the termination, the
6 custodial account shall be deemed to be an
7 individual retirement plan for purposes of
8 this title.

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

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to plan terminations occurring
16 after December 31, 2016.

17 **SEC. 115. CLARIFICATION OF RETIREMENT INCOME AC-**
18 **COUNT RULES RELATING TO CHURCH-CON-**
19 **TROLLED ORGANIZATIONS.**

20 (a) IN GENERAL.—Subparagraph (B) of section
21 403(b)(9) of the Internal Revenue Code of 1986 is amend-
22 ed by inserting “(including an employee described in sec-
23 tion 414(e)(3)(B))” after “employee described in para-
24 graph (1)”.

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

4 **TITLE II—ADMINISTRATIVE**
 5 **IMPROVEMENTS**

6 **SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR**
 7 **MAY BE TREATED AS IN EFFECT AS OF CLOSE**
 8 **OF YEAR.**

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

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

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

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

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

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plans adopted for taxable years
3 beginning after December 31, 2016.

4 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**
5 **PLANS.**

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

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

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

1 (1) are individual account plans or defined con-
2 tribution plans (as defined in section 3(34) of the
3 Employee Retirement Income Security Act of 1974
4 (29 U.S.C. 1002(34)) or in section 414(i) of the In-
5 ternal Revenue Code of 1986);

6 (2) have—

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

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

12 (C) the same administrator (as defined in
13 section 3(16)(A) of such Act (29 U.S.C.
14 1002(16)(A))) and plan administrator (as de-
15 fined in section 414(g) of the Internal Revenue
16 Code of 1986); and

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

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

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

1 other plans in such group performs each of such functions
2 for such plan.

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

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

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

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply to returns required to
18 be filed with respect to plan years beginning after
19 December 31, 2016.

20 (e) EFFECTIVE DATE.—The modification required by
21 subsection (a) shall be implemented not later than Janu-
22 ary 1, 2020, and shall apply to returns and reports for
23 plan years beginning after December 31, 2019.

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

2 (a) IN GENERAL.—Subparagraph (B) of section
3 105(a)(2) of the Employee Retirement Income Security
4 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

7 and inserting “diversification, and”; and

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

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

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

17 (b) LIFETIME INCOME.—Paragraph (2) of section
18 105(a) of the Employee Retirement Income Security Act
19 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the
20 end the following new subparagraph:

21 “(D) LIFETIME INCOME DISCLOSURE.—

22 “(i) IN GENERAL.—

23 “(I) DISCLOSURE.—A lifetime in-
24 come disclosure shall set forth the life-
25 time income stream equivalent of the

1 total benefits accrued with respect to
2 the participant or beneficiary.

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

17 “(III) LIFETIME INCOME
18 STREAMS.—The lifetime income
19 streams described in this subclause
20 are a qualified joint and survivor an-
21 nuity (as defined in section 205(d)),
22 based on assumptions specified in
23 rules prescribed by the Secretary, in-
24 cluding the assumption that the par-
25 ticipant or beneficiary has a spouse of

1 equal age, and a single life annuity.
2 Such lifetime income streams may
3 have a term certain or other features
4 to the extent permitted under rules
5 prescribed by the Secretary.

6 “(ii) MODEL DISCLOSURE.—Not later
7 than 1 year after the date of the enact-
8 ment of the Retirement Enhancement and
9 Savings Act of 2016, the Secretary shall
10 issue a model lifetime income disclosure,
11 written in a manner so as to be understood
12 by the average plan participant, which—

13 “(I) explains that the lifetime in-
14 come stream equivalent is only pro-
15 vided as an illustration;

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

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

4 “(IV) provides such other similar
5 explanations as the Secretary con-
6 siders appropriate.

7 “(iii) ASSUMPTIONS AND RULES.—
8 Not later than 1 year after the date of the
9 enactment of the Retirement Enhancement
10 and Savings Act of 2016, the Secretary
11 shall—

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

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

20 In prescribing assumptions under sub-
21 clause (I), the Secretary may prescribe a
22 single set of specific assumptions (in which
23 case the Secretary may issue tables or fac-
24 tors which facilitate such conversions), or
25 ranges of permissible assumptions. To the

1 extent that an accrued benefit is or may be
2 invested in a lifetime income stream de-
3 scribed in clause (i)(III), the assumptions
4 prescribed under subclause (I) shall, to the
5 extent appropriate, permit administrators
6 of individual account plans to use the
7 amounts payable under such lifetime in-
8 come stream as a lifetime income stream
9 equivalent.

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

23 “(v) EFFECTIVE DATE.—The require-
24 ment in subparagraph (B)(iii) shall apply
25 to pension benefit statements furnished

1 more than 12 months after the latest of
 2 the issuance by the Secretary of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(A) the fiduciary obtains written rep-
2 resentations from the insurer that—

3 “(i) the insurer is licensed to offer
4 guaranteed retirement income contracts;

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

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

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

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

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

1 “(iii) the insurer undergoes, at least
2 every 5 years, a financial examination
3 (within the meaning of the law of its domi-
4 ciliary State) by the insurance commis-
5 sioner of the domiciliary State (or rep-
6 resentative, designee, or other party ap-
7 proved by such commissioner); and

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

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

22 “(3) NO REQUIREMENT TO SELECT LOWEST
23 COST.—Nothing in this subsection shall be construed
24 to require a fiduciary to select the lowest cost con-
25 tract. A fiduciary may consider the value of a con-

1 tract, including features and benefits of the contract
2 and attributes of the insurer (including, without lim-
3 itation, the insurer’s financial strength) in conjunc-
4 tion with the cost of the contract.

5 “(4) TIME OF SELECTION.—

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

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

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

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

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

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

20 “(6) DEFINITIONS.—For purposes of this sub-
21 section—

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

1 “(B) GUARANTEED RETIREMENT INCOME
 2 CONTRACT.—The term ‘guaranteed retirement
 3 income contract’ means an annuity contract for
 4 a fixed term or a contract (or provision or fea-
 5 ture thereof) which provides guaranteed bene-
 6 fits annually (or more frequently) for at least
 7 the remainder of the life of the participant or
 8 the joint lives of the participant and the partici-
 9 pant’s designated beneficiary as part of an indi-
 10 vidual account plan.”.

11 **SEC. 205. MODIFICATION OF NONDISCRIMINATION RULES**
 12 **TO PROTECT OLDER, LONGER SERVICE PAR-**
 13 **TICIPANTS.**

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

16 (1) by redesignating subsection (o) as sub-
 17 section (p), and

18 (2) by inserting after subsection (n) the fol-
 19 lowing new subsection:

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

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

1 “(A) BENEFITS, RIGHTS, OR FEATURES
2 PROVIDED TO CLOSED CLASSES.—A defined
3 benefit plan which provides benefits, rights, or
4 features to a closed class of participants shall
5 not fail to satisfy the requirements of sub-
6 section (a)(4) by reason of the composition of
7 such closed class or the benefits, rights, or fea-
8 tures provided to such closed class, if—

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

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

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

1 “(B) AGGREGATE TESTING WITH DEFINED
2 CONTRIBUTION PLANS PERMITTED ON A BENE-
3 FITS BASIS.—

4 “(i) IN GENERAL.—For purposes of
5 determining compliance with subsection
6 (a)(4) and section 410(b), a defined benefit
7 plan described in clause (iii) may be aggre-
8 gated and tested on a benefits basis with
9 1 or more defined contribution plans, in-
10 cluding with the portion of 1 or more de-
11 fined contribution plans which—

12 “(I) provides matching contribu-
13 tions (as defined in subsection
14 (m)(4)(A)),

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

19 “(III) consists of an employee
20 stock ownership plan (within the
21 meaning of section 4975(e)(7)) or a
22 tax credit employee stock ownership
23 plan (within the meaning of section
24 409(a)).

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

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

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

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

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

21 “(II) for the plan year as of
22 which the class closes and the 2 suc-
23 ceeding plan years, the plan satisfies
24 the requirements of section 410(b)
25 and subsection (a)(4) (without regard

1 to this subparagraph but taking into
2 account the rules of subparagraph
3 (I)),

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

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

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

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

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

1 described in subparagraph (B)(iii) (which-
2 ever is applicable).

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

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

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

1 of such 5-year period, solely as a result of
2 such amendments.

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

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

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

23 “(F) CERTAIN EMPLOYEES DIS-
24 REGARDED.—For purposes of subparagraphs
25 (D) and (E), any increase in coverage or value

1 or in coverage or benefits, whichever is applica-
2 ble, which is attributable to such coverage and
3 value or coverage and benefits provided to em-
4 ployees—

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

10 “(ii) who became participants by rea-
11 son of a merger of the plan with another
12 plan which had been in effect for at least
13 5 years as of the date of the merger,
14 shall be disregarded, except that clause (ii)
15 shall apply for purposes of subparagraph (D)
16 only if, under the merger, the benefits, rights,
17 or features under 1 plan are conformed to the
18 benefits, rights, or features of the other plan
19 prospectively.

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

22 “(i) the average benefit provided to
23 participants under the plan will be treated
24 as having remained the same between the
25 2 dates described in subparagraph (E)(ii)

1 if the benefit formula applicable to such
2 participants has not changed between such
3 dates, and

4 “(ii) if the benefit formula applicable
5 to 1 or more participants under the plan
6 has changed between such 2 dates, then
7 the average benefit under the plan shall be
8 considered to have increased by more than
9 50 percent only if—

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

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

23 by more than 50 percent. In the case of a
24 CSEC plan (as defined in section 414(y)),
25 the normal cost of the plan (as determined

1 under section 433(j)(1)(B)) shall be used
2 in lieu of the amount determined under
3 section 430(b)(1)(A)(i).

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

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

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

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

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

1 merger, acquisition, divestiture, or similar
2 event.

3 “(iv) Aggregation and all other testing
4 methodologies otherwise applicable under
5 subsection (a)(4) and section 410(b) may
6 be taken into account.

7 The rule of clause (ii) shall also apply for pur-
8 poses of determining whether plans to which
9 subparagraph (B)(i) applies may be aggregated
10 and treated as 1 plan for purposes of deter-
11 mining whether such plans meet the require-
12 ments of subsection (a)(4) and section 410(b).

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

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

24 “(ii) subparagraph (A)(ii) or
25 (B)(iii)(III), whichever is applicable,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(I) PROTECTED PARTICIPANTS.—

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

11 “(I) the plan is amended—

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

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

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

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

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

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

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

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

19 (c) EFFECTIVE DATE.—

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

1 (2) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(vii) in the case of a CSEC plan (as
10 defined in section 210(f)(1)), for plan
11 years beginning after December 31, 2015,
12 for each individual who is a participant in
13 such plan during the plan year an amount
14 equal to the sum of—

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

18 “(II) \$19.”.

19 (b) VARIABLE RATE PREMIUM.—

20 (1) UNFUNDED VESTED BENEFITS.—

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

1 “(v) For purposes of clause (ii), in the
2 case of a CSEC plan (as defined in section
3 210(f)(1)), the term ‘unfunded vested ben-
4 efits’ means, for plan years beginning after
5 December 31, 2015, the excess (if any)
6 of—

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

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

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

21 (2) APPLICABLE DOLLAR AMOUNT.—

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

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

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

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

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

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

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

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

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

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

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

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

1 “(h) ENTITLEMENT TO ANNUITY.—

2 “(1) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

14 “(3) TERMINATION OF ANNUITY.—

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

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

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

24 “(ii) the child’s marriage, or

25 “(iii) the child’s death,

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

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

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

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

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

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

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

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

1 “(1) DEPENDENCY AND DISABILITY.—Ques-
2 tions”, and

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

5 “(2) ASSASSINATION.—The chief judge shall
6 determine whether the killing of a judge or mag-
7 istrate judge of the Tax Court was an assassination,
8 subject to review only by the Tax Court. The head
9 of any Federal agency that investigates the killing of
10 a judge or magistrate judge of the Tax Court shall
11 provide to the chief judge any information that
12 would assist the chief judge in making such a deter-
13 mination.”.

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

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

19 “(1) IN GENERAL.—The annuity”,

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

22 “(A) 1.5 percent”,

23 (3) by striking “and (2) three-fourths of 1 per-
24 cent” and inserting “and

25 “(B) three-fourths of 1 percent”,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(2) REMOVAL.—

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

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

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

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

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

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

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

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

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

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

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

3 “(2) TREATMENT OF UNUSED LEAVE.—

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

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

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

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

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

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

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

6 (f) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

14 (8) Subsection (n) of section 7448 of such Code
15 is amended—

16 (A) by striking “special trial judge which
17 are allowable” and inserting “magistrate judge
18 of the Tax Court which are allowable”, and

19 (B) by striking “special trial judge of the
20 Tax Court” both places it appears and inserting
21 “magistrate judge of the Tax Court”.

22 (9) The heading of paragraph (2) of section
23 7448(b) of such Code is amended by striking “**SPE-**
24 **CIAL TRIAL JUDGES**” and inserting “**MAGISTRATE**
25 **JUDGES OF THE TAX COURT**”.

1 (10) The item relating to section 7448 in the
2 table of sections for part I of subchapter C of chap-
3 ter 76 of such Code is amended to read as follows:

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

4 (11) Subsection (a) of section 7456 of such
5 Code is amended—

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

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

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

14 (13) Section 7470A of such Code is amended
15 by striking “special trial judges” both places it ap-
16 pears in subsections (a) and (b) and inserting “mag-
17 istrate judges”.

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

21 (15) Subsection (c) of section 7471 of such
22 Code is amended—

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

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

6 (g) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to individuals serving as spe-
9 cial trial judges of the United States Tax Court on
10 or after the day before the date of enactment of this
11 Act.

12 (2) APPOINTMENT SAVINGS PROVISION.—Any
13 individual serving as a special trial judge of the
14 United States Tax Court as of the day before the
15 date of the enactment of this Act shall be considered
16 to have been appointed as a magistrate judge of the
17 Tax Court under section 7443A of the Internal Rev-
18 enue Code of 1986 on such date of enactment, and
19 service as a special trial judge of the Tax Court be-
20 fore such date of enactment shall be considered to
21 be service as a magistrate judge of the Tax Court
22 for purposes of any provision of law relating to
23 length of service.

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

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

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

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

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

14 “(a) RETIREMENT.—

15 “(1) IN GENERAL.—Each magistrate judge of
 16 the Tax Court who makes an election under this sec-
 17 tion shall receive an annuity at the same rate and
 18 in the same manner as magistrate judges of the dis-
 19 trict courts of the United States pursuant to section
 20 377 of title 28, United States Code.

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

25 “(A) By substituting—

1 “(i) ‘magistrate judge of the Tax
2 Court’ for ‘judicial official’, ‘judicial offi-
3 cer’, and ‘magistrate judge’ each place
4 such terms appear,

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

8 “(iii) ‘chief judge of the Tax Court’
9 for ‘Administrative Office of the United
10 States Courts’, ‘Director of the Adminis-
11 trative Office of the United States Courts’,
12 ‘Director’, and ‘chief judge of the district
13 court’ each place such terms appear,

14 “(iv) ‘Tax Court Judicial Officers’ Re-
15 tirement Fund’ for ‘Judicial Officers’ Re-
16 tirement Fund’ each place it appears,

17 “(v) ‘under section 7443A of the In-
18 ternal Revenue Code of 1986’ for ‘under
19 section 631 of this title’ in subsection
20 (h)(2),

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

1 “(vii) ‘from the date of appointment,
2 for those individuals appointed pursuant to
3 section 7443A of the Internal Revenue
4 Code of 1986 prior to, and in active service
5 on, the date of enactment of the Retirement
6 Enhancement and Savings Act of
7 2016’ for ‘on or after October 1, 1979’ in
8 subsection (h).

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

11 “(b) 1-YEAR FORFEITURE FOR FAILURE TO PER-
12 FORM JUDICIAL DUTIES.—Subject to subparagraph (B)
13 of section 377(m)(1) of title 28, United States Code, any
14 magistrate judge of the Tax Court who retires under this
15 section and who fails to perform judicial duties required
16 of such individual by section 7443C shall forfeit all rights
17 to an annuity under this section for a 1-year period which
18 begins on the 1st day on which such individual fails to
19 perform such duties.

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

22 “(1) ESTABLISHMENT.—There is established in
23 the Treasury of the United States a fund which
24 shall be known as the ‘Tax Court Judicial Officers’
25 Retirement Fund’. The Fund is appropriated for the

1 payment of annuities, refunds, and other payments
2 under this section.

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

10 “(3) UNFUNDED LIABILITY.—

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

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

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

24 “(ii) the sum of—

1 “(I) the present value of future
2 deductions to be withheld under this
3 section from the basic pay of mag-
4 istrate judges of the Tax Court, plus
5 “(II) the balance in such Fund
6 as of the close of such fiscal year.

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

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

13 “(2) APPLICABILITY OF TITLE 5 PROVISIONS.—
14 Except as otherwise provided in this subsection, the
15 provisions of subchapters III and VII of chapter 84
16 of such title 5 shall apply with respect to a mag-
17 istrate judge of the Tax Court who makes an elec-
18 tion under paragraph (1).

19 “(3) SPECIAL RULES.—

20 “(A) AMOUNT CONTRIBUTED.—The
21 amount contributed by a magistrate judge of
22 the Tax Court to the Thrift Savings Plan in
23 any pay period shall not exceed the maximum
24 percentage of such magistrate judge’s basic pay

1 for such period as allowable under section
2 8440f of such title 5.

3 “(B) CONTRIBUTIONS FOR BENEFIT OF
4 MAGISTRATE JUDGE OF THE TAX COURT.—No
5 contributions under section 8432(c) of such
6 title 5 shall be made for the benefit of a mag-
7 istrate judge of the Tax Court who has filed an
8 election to receive an annuity under this sec-
9 tion.

10 “(C) APPLICABILITY OF SECTION 8433(B)
11 OF TITLE 5.—Section 8433(b) of such title 5
12 applies with respect to a magistrate judge of
13 the Tax Court who makes an election under
14 paragraph (1) and who—

15 “(i) retires entitled to an immediate
16 annuity under this section (including a dis-
17 ability annuity under this section),

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

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

24 “(D) RETIREMENT AS SEPARATION FROM
25 SERVICE.—With respect to a magistrate judge

1 of the Tax Court to whom this subsection ap-
2 plies, retirement under this section is a separa-
3 tion from service for purposes of subchapters
4 III and VII of chapter 84 of such title 5.

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

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

23 “(6) EXCEPTION.—Notwithstanding clauses (i)
24 and (ii) of paragraph (3)(C), if any magistrate judge
25 of the Tax Court retires under circumstances mak-

1 ing such magistrate judge of the Tax Court eligible
2 to make an election under subsection (b) of section
3 8433 of such title 5, and the nonforfeitable account
4 balance of such magistrate judge of the Tax Court
5 is less than an amount which the Executive Director
6 of the Office of Personnel Management prescribes by
7 regulation, the Executive Director shall pay the non-
8 forfeitable account balance to the participant in a
9 single payment.

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

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

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

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

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 3121(b)(5)(E) of the Internal Rev-
24 enue Code of 1986 is amended by inserting “or

1 magistrate judge” before “of the United States Tax
2 Court”.

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

9 (3) Section 7448(b)(2)(A) of the Internal Rev-
10 enue Code of 1986 is amended to read as follows:

11 “(A) 12 months after the date of the en-
12 actment of the Retirement Enhancement and
13 Savings Act of 2016.”.

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

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

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

21 **SEC. 308. PROVISIONS FOR RECALL.**

22 (a) IN GENERAL.—Part I of subchapter C of chapter
23 76 of the Internal Revenue Code of 1986, as amended by
24 section 307, is amended by inserting after section 7443B
25 the following new section:

1 **“SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX**
2 **COURT.**

3 “(a) RECALLING OF RETIRED MAGISTRATE JUDGES
4 OF THE TAX COURT.—Any individual who has retired
5 pursuant to section 7443B or the applicable provisions of
6 title 5 or 28, United States Code, upon reaching the age
7 and service requirements established under such titles 5
8 and 28, may be called upon by the chief judge to perform
9 such judicial duties with the Tax Court as may be re-
10 quested of such individual for a period or periods specified
11 by the chief judge, except that in the case of any such
12 individual—

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

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

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

24 “(b) COMPENSATION.—For the year in which a pe-
25 riod of recall occurs, the magistrate judge of the Tax
26 Court shall receive, in addition to the annuity provided

1 under the provisions of section 7443B, an amount equal
2 to the difference between that annuity and the current sal-
3 ary of the office to which the magistrate judge of the Tax
4 Court is recalled (and allowances for travel and other ex-
5 penses of the magistrate judge of the Tax Court). The
6 annuity for years after the year in which a period of recall
7 occurs of the magistrate judge of the Tax Court who com-
8 pletes such a period of service, who is not recalled in a
9 subsequent year, and who retired under section 7443B,
10 shall be equal to the salary in effect at the end of the
11 year in which the period of recall occurred for the office
12 from which such magistrate judge of the Tax Court re-
13 tired.

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

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for part I of subchapter C of chapter 76 of the Internal
19 Revenue Code of 1986, as amended by section 307, is
20 amended by inserting after the item relating to section
21 7443B the following new item:

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

1 **TITLE IV—OTHER BENEFITS**

2 **SEC. 401. BENEFITS PROVIDED TO VOLUNTEER FIRE-**
3 **FIGHTERS AND EMERGENCY MEDICAL RE-**
4 **SPONDERS.**

5 (a) INCREASE IN DOLLAR LIMITATION ON QUALI-
6 FIED PAYMENTS.—Subparagraph (B) of section
7 139B(c)(2) of the Internal Revenue Code of 1986 is
8 amended by striking “\$30” and inserting “\$50”.

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

13 “(1) after December 31, 2010, and before Jan-
14 uary 1, 2017, or

15 “(2) after December 31, 2017.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2016.

19 **SEC. 402. TREATMENT OF QUALIFIED EQUITY GRANTS.**

20 (a) IN GENERAL.—Section 83 of the Internal Rev-
21 enue Code of 1986 is amended by adding at the end the
22 following new subsection:

23 “(i) QUALIFIED EQUITY GRANTS.—

24 “(1) IN GENERAL.—For purposes of this sub-
25 title—

1 “(A) TIMING OF INCLUSION.—If qualified
2 stock is transferred to a qualified employee who
3 makes an election with respect to such stock
4 under this subsection, subsection (a) shall be
5 applied by including the amount determined
6 under such subsection with respect to such
7 stock in income of the employee in the taxable
8 year determined under subparagraph (B) in lieu
9 of the taxable year described in subsection (a).

10 “(B) TAXABLE YEAR DETERMINED.—The
11 taxable year determined under this subpara-
12 graph is the taxable year of the employee which
13 includes the earliest of—

14 “(i) the first date such qualified stock
15 becomes transferable (including, solely for
16 purposes of this clause, becoming transfer-
17 able to the employer),

18 “(ii) the date the employee first be-
19 comes an excluded employee,

20 “(iii) the first date on which any stock
21 of the corporation which issued the quali-
22 fied stock becomes readily tradable on an
23 established securities market (as deter-
24 mined by the Secretary, but not including
25 any market unless such market is recog-

1 nized as an established securities market
2 by the Secretary for purposes of a provi-
3 sion of this title other than this sub-
4 section),

5 “(iv) the date that is 5 years after the
6 first date the rights of the employee in
7 such stock are transferable or are not sub-
8 ject to a substantial risk of forfeiture,
9 whichever occurs earlier, or

10 “(v) the date on which the employee
11 revokes (at such time and in such manner
12 as the Secretary may provide) the election
13 under this subsection with respect to such
14 stock.

15 “(2) QUALIFIED STOCK.—

16 “(A) IN GENERAL.—For purposes of this
17 subsection, the term ‘qualified stock’ means,
18 with respect to any qualified employee, any
19 stock in a corporation which is the employer of
20 such employee, if—

21 “(i) such stock is received—

22 “(I) in connection with the exer-
23 cise of an option, or

24 “(II) in settlement of a restricted
25 stock unit, and

1 “(ii) such option or restricted stock
2 unit was granted by the corporation—

3 “(I) in connection with the per-
4 formance of services as an employee,
5 and

6 “(II) during a calendar year in
7 which such corporation was an eligible
8 corporation.

9 “(B) LIMITATION.—The term ‘qualified
10 stock’ shall not include any stock if the em-
11 ployee may sell such stock to, or otherwise re-
12 ceive cash in lieu of stock from, the corporation
13 at the time that the rights of the employee in
14 such stock first become transferable or not sub-
15 ject to a substantial risk of forfeiture.

16 “(C) ELIGIBLE CORPORATION.—For pur-
17 poses of subparagraph (A)(ii)(II)—

18 “(i) IN GENERAL.—The term ‘eligible
19 corporation’ means, with respect to any
20 calendar year, any corporation if—

21 “(I) no stock of such corporation
22 (or any predecessor of such corpora-
23 tion) is readily tradable on an estab-
24 lished securities market (as deter-
25 mined under paragraph (1)(B)(iii))

1 during any preceding calendar year,
2 and

3 “(II) such corporation has a writ-
4 ten plan under which, in such cal-
5 endar year, not less than 80 percent
6 of all employees who provide services
7 to such corporation in the United
8 States (or any possession of the
9 United States) are granted stock op-
10 tions, or restricted stock units, with
11 the same rights and privileges to re-
12 ceive qualified stock.

13 “(ii) SAME RIGHTS AND PRIVI-
14 LEGES.—For purposes of clause (i)(II)—

15 “(I) except as provided in sub-
16 clauses (II) and (III), the determina-
17 tion of rights and privileges with re-
18 spect to stock shall be made in a simi-
19 lar manner as under section
20 423(b)(5),

21 “(II) employees shall not fail to
22 be treated as having the same rights
23 and privileges to receive qualified
24 stock solely because the number of
25 shares available to all employees is not

1 equal in amount, so long as the num-
2 ber of shares available to each em-
3 ployee is more than a de minimis
4 amount, and

5 “(III) rights and privileges with
6 respect to the exercise of an option
7 shall not be treated as the same as
8 rights and privileges with respect to
9 the settlement of a restricted stock
10 unit.

11 “(iii) EMPLOYEE.—For purposes of
12 clause (i)(II), the term ‘employee’ shall not
13 include any employee described in section
14 4980E(d)(4) or any excluded employee.

15 “(iv) SPECIAL RULE FOR CALENDAR
16 YEARS BEFORE 2017.—In the case of any
17 calendar year beginning before January 1,
18 2017, clause (i)(II) shall be applied with-
19 out regard to whether the rights and privi-
20 leges with respect to the qualified stock are
21 the same.

22 “(3) QUALIFIED EMPLOYEE; EXCLUDED EM-
23 PLOYEE.—For purposes of this subsection—

24 “(A) IN GENERAL.—The term ‘qualified
25 employee’ means any individual who—

1 “(i) is not an excluded employee, and

2 “(ii) agrees in the election made
3 under this subsection to meet such require-
4 ments as are determined by the Secretary
5 to be necessary to ensure that the with-
6 holding requirements of the corporation
7 under chapter 24 with respect to the quali-
8 fied stock are met.

9 “(B) EXCLUDED EMPLOYEE.—The term
10 ‘excluded employee’ means, with respect to any
11 corporation, any individual—

12 “(i) who was a 1-percent owner (with-
13 in the meaning of section 416(i)(1)(B)(ii))
14 at any time during the 10 preceding cal-
15 endar years,

16 “(ii) who is or has been at any prior
17 time—

18 “(I) the chief executive officer of
19 such corporation or an individual act-
20 ing in such a capacity, or

21 “(II) the chief financial officer of
22 such corporation or an individual act-
23 ing in such a capacity,

24 “(iii) who bears a relationship de-
25 scribed in section 318(a)(1) to any indi-

1 vidual described in subclause (I) or (II) of
2 clause (ii), or

3 “(iv) who was for any of the 10 pre-
4 ceding taxable years one of the 4 highest
5 compensated officers of such corporation,
6 determined with respect to each such tax-
7 able year on the basis of the shareholder
8 disclosure rules for compensation under
9 the Securities Exchange Act of 1934 (as if
10 such rules applied to such corporation).

11 “(4) ELECTION.—

12 “(A) TIME FOR MAKING ELECTION.—An
13 election with respect to qualified stock shall be
14 made under this subsection no later than 30
15 days after the first date the rights of the em-
16 ployee in such stock are transferable or are not
17 subject to a substantial risk of forfeiture,
18 whichever occurs earlier, and shall be made in
19 a manner similar to the manner in which an
20 election is made under subsection (b).

21 “(B) LIMITATIONS.—No election may be
22 made under this section with respect to any
23 qualified stock if—

1 “(i) the qualified employee has made
2 an election under subsection (b) with re-
3 spect to such qualified stock,

4 “(ii) any stock of the corporation
5 which issued the qualified stock is readily
6 tradable on an established securities mar-
7 ket (as determined under paragraph
8 (1)(B)(iii)) at any time before the election
9 is made, or

10 “(iii) such corporation purchased any
11 of its outstanding stock in the calendar
12 year preceding the calendar year which in-
13 cludes the first date the rights of the em-
14 ployee in such stock are transferable or are
15 not subject to a substantial risk of for-
16 feiture, unless—

17 “(I) not less than 25 percent of
18 the total dollar amount of the stock so
19 purchased is deferral stock, and

20 “(II) the determination of which
21 individuals from whom deferral stock
22 is purchased is made on a reasonable
23 basis.

1 “(C) DEFINITIONS AND SPECIAL RULES
2 RELATED TO LIMITATION ON STOCK REDEMP-
3 TIONS.—

4 “(i) DEFERRAL STOCK.—For pur-
5 poses of this paragraph, the term ‘deferral
6 stock’ means stock with respect to which
7 an election is in effect under this sub-
8 section.

9 “(ii) DEFERRAL STOCK WITH RE-
10 SPECT TO ANY INDIVIDUAL NOT TAKEN
11 INTO ACCOUNT IF INDIVIDUAL HOLDS DE-
12 FERRAL STOCK WITH LONGER DEFERRAL
13 PERIOD.—Stock purchased by a corpora-
14 tion from any individual shall not be treat-
15 ed as deferral stock for purposes of sub-
16 paragraph (B)(iii) if such individual (im-
17 mediately after such purchase) holds any
18 deferral stock with respect to which an
19 election has been in effect under this sub-
20 section for a longer period than the elec-
21 tion with respect to the stock so pur-
22 chased.

23 “(iii) PURCHASE OF ALL OUT-
24 STANDING DEFERRAL STOCK.—The re-
25 quirements of subclauses (I) and (II) of

1 subparagraph (B)(iii) shall be treated as
2 met if the stock so purchased includes all
3 of the corporation's outstanding deferral
4 stock.

5 “(iv) REPORTING.—Any corporation
6 which has outstanding deferral stock as of
7 the beginning of any calendar year and
8 which purchases any of its outstanding
9 stock during such calendar year shall in-
10 clude on its return of tax for the taxable
11 year in which, or with which, such calendar
12 year ends the total dollar amount of its
13 outstanding stock so purchased during
14 such calendar year and such other infor-
15 mation as the Secretary may require for
16 purposes of administering this paragraph.

17 “(5) CONTROLLED GROUPS.—For purposes of
18 this subsection, all corporations which are members
19 of the same controlled group of corporations (as de-
20 fined in section 1563(a)) shall be treated as one cor-
21 poration.

22 “(6) NOTICE REQUIREMENT.—Any corporation
23 which transfers qualified stock to a qualified em-
24 ployee shall, at the time that (or a reasonable period
25 before) an amount attributable to such stock would

1 (but for this subsection) first be includible in the
2 gross income of such employee—

3 “(A) certify to such employee that such
4 stock is qualified stock, and

5 “(B) notify such employee—

6 “(i) that the employee may elect to
7 defer income on such stock under this sub-
8 section, and

9 “(ii) that, if the employee makes such
10 an election—

11 “(I) the amount of income recog-
12 nized at the end of the deferral period
13 will be based on the value of the stock
14 at the time at which the rights of the
15 employee in such stock first become
16 transferable or not subject to substan-
17 tial risk of forfeiture, notwithstanding
18 whether the value of the stock has de-
19 clined during the deferral period,

20 “(II) the amount of such income
21 recognized at the end of the deferral
22 period will be subject to withholding
23 under section 3401(i) at the rate de-
24 termined under section 3402(t), and

1 “(III) the responsibilities of the
2 employee (as determined by the Sec-
3 retary under paragraph (3)(A)(ii))
4 with respect to such withholding.”.

5 (b) WITHHOLDING.—

6 (1) TIME OF WITHHOLDING.—Section 3401 of
7 the Internal Revenue Code of 1986 is amended by
8 adding at the end the following new subsection:

9 “(i) QUALIFIED STOCK FOR WHICH AN ELECTION IS
10 IN EFFECT UNDER SECTION 83(i).—For purposes of sub-
11 section (a), qualified stock (as defined in section 83(i))
12 with respect to which an election is made under section
13 83(i) shall be treated as wages—

14 “(1) received on the earliest date described in
15 section 83(i)(1)(B), and

16 “(2) in an amount equal to the amount in-
17 cluded in income under section 83 for the taxable
18 year which includes such date.”.

19 (2) AMOUNT OF WITHHOLDING.—Section 3402
20 of such Code is amended by adding at the end the
21 following new subsection:

22 “(t) RATE OF WITHHOLDING FOR CERTAIN
23 STOCK.—In the case of any qualified stock (as defined in
24 section 83(i)(2)) with respect to which an election is made
25 under section 83(i)—

1 “(1) the rate of tax under subsection (a) shall
2 not be less than the maximum rate of tax in effect
3 under section 1, and

4 “(2) such stock shall be treated for purposes of
5 section 3501(b) in the same manner as a non-cash
6 fringe benefit.”.

7 (c) COORDINATION WITH OTHER DEFERRED COM-
8 PENSATION RULES.—

9 (1) ELECTION TO APPLY DEFERRAL TO STATU-
10 TORY OPTIONS.—

11 (A) INCENTIVE STOCK OPTIONS.—Section
12 422(b) of the Internal Revenue Code of 1986 is
13 amended by adding at the end the following:
14 “Such term shall not include any option if an
15 election is made under section 83(i) with re-
16 spect to the stock received in connection with
17 the exercise of such option.”.

18 (B) EMPLOYEE STOCK PURCHASE
19 PLANS.—Section 423 of such Code is amend-
20 ed—

21 (i) by adding at the end of subsection
22 (a) the following flush sentence:
23 “The preceding sentence shall not apply to any share of
24 stock with respect to which an election is made under sec-
25 tion 83(i).”, and

1 (ii) in subsection (b)(5), by striking
2 “and” before “the plan” and by inserting
3 “, and the rules of section 83(i) shall apply
4 in determining which employees have a
5 right to make an election under such sec-
6 tion” before the semicolon at the end.

7 (2) EXCLUSION FROM DEFINITION OF NON-
8 QUALIFIED DEFERRED COMPENSATION PLAN.—Sub-
9 section (d) of section 409A of such Code is amended
10 by adding at the end the following new paragraph:

11 “(7) TREATMENT OF QUALIFIED STOCK.—An
12 arrangement under which an employee may receive
13 qualified stock (as defined in section 83(i)(2)) shall
14 not be treated as a nonqualified deferred compensa-
15 tion plan solely because of an employee’s election, or
16 ability to make an election, to defer recognition of
17 income under section 83(i).”.

18 (d) INFORMATION REPORTING.—Section 6051(a) of
19 the Internal Revenue Code of 1986 is amended by striking
20 “and” at the end of paragraph (13), by striking the period
21 at the end of paragraph (14) and inserting a comma, and
22 by inserting after paragraph (14) the following new para-
23 graphs:

24 “(15) the amount includible in gross income
25 under subparagraph (A) of section 83(i)(1) with re-

1 spect to an event described in subparagraph (B) of
2 such section which occurs in such calendar year, and
3 “(16) the aggregate amount of income which is
4 being deferred pursuant to elections under section
5 83(i), determined as of the close of the calendar
6 year.”.

7 (e) PENALTY FOR FAILURE OF EMPLOYER TO PRO-
8 VIDE NOTICE OF TAX CONSEQUENCES.—Section 6652 of
9 the Internal Revenue Code of 1986 is amended by adding
10 at the end the following new subsection:

11 “(o) FAILURE TO PROVIDE NOTICE UNDER SECTION
12 83(i).—In the case of each failure to provide a notice as
13 required by section 83(i)(6), at the time prescribed there-
14 for, unless it is shown that such failure is due to reason-
15 able cause and not to willful neglect, there shall be paid,
16 on notice and demand of the Secretary and in the same
17 manner as tax, by the person failing to provide such no-
18 tice, an amount equal to \$100 for each such failure, but
19 the total amount imposed on such person for all such fail-
20 ures during any calendar year shall not exceed \$50,000.”.

21 (f) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the amendments made by this section
24 shall apply to stock attributable to options exercised,

1 or restricted stock units settled, after December 31,
2 2016.

3 (2) REQUIREMENT TO PROVIDE NOTICE.—The
4 amendments made by subsection (e) shall apply to
5 failures after December 31, 2016.

6 (g) TRANSITION RULE.—Until such time as the Sec-
7 retary (or the Secretary’s delegate) issues regulations or
8 other guidance for purposes of implementing the require-
9 ments of paragraph (2)(C)(i)(II) of section 83(i) of the
10 Internal Revenue Code of 1986 (as added by this section),
11 or the requirements of paragraph (6) of such section, a
12 corporation shall be treated as being in compliance with
13 such requirements (respectively) if such corporation com-
14 plies with a reasonable good faith interpretation of such
15 requirements.

16 **TITLE V—REVENUE PROVISIONS**

17 **SEC. 501. MODIFICATIONS OF REQUIRED DISTRIBUTION** 18 **RULES FOR PENSION PLANS.**

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

21 (1) IN GENERAL.—Section 401(a)(9) of the In-
22 ternal Revenue Code of 1986 is amended by adding
23 at the end the following new subparagraph

24 “(H) SPECIAL RULES FOR CERTAIN DE-
25 FINED CONTRIBUTION PLANS.—

1 “(i) IN GENERAL.—In the case of dis-
2 tributions from a defined contribution
3 plan, a trust forming part of such plan
4 shall not constitute a qualified trust under
5 this section unless the plan provides that,
6 if—

7 “(I) an employee dies before the
8 distribution of the employee’s interest
9 (whether or not such distribution has
10 begun in accordance with subpara-
11 graph (A)), and

12 “(II) the aggregate account bal-
13 ances to the credit of the employee
14 under all defined contribution plans,
15 determined as of the date of the em-
16 ployee’s death, exceeds \$450,000,
17 so much of the entire interest of the em-
18 ployee as exceeds the dollar amount in sub-
19 clause (II) will be distributed within 5
20 years after the death of such employee.

21 “(ii) ALLOCATION OF LIMITATION.—If
22 an employee has an account under more
23 than 1 defined contribution plan, the
24 \$450,000 amount under clause (i)(II) shall
25 be allocated among all such plans, as pro-

1 vided in regulations prescribed by the Sec-
2 retary, for purposes of applying clause (i).

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

11 “(iv) MULTIPLE BENEFICIARIES.—In
12 the case of an employee who has more
13 than 1 beneficiary, the amount of the por-
14 tion required to be distributed under clause
15 (i) which shall be treated as payable to (or
16 for the benefit of) such beneficiary is the
17 amount which bears the same ratio to the
18 total amount of such portion as—

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

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

1 “(v) EXCEPTION FOR ELIGIBLE DES-
2 IGNATED BENEFICIARIES.—If—

3 “(I) any portion of the employ-
4 ee’s interest is payable to (or for the
5 benefit of) an eligible designated bene-
6 ficiary,

7 “(II) such portion will be distrib-
8 uted (in accordance with regulations)
9 over the life of such eligible des-
10 ignated beneficiary (or over a period
11 not extending beyond the life expect-
12 ancy of such beneficiary), and

13 “(III) such distributions begin
14 not later than 1 year after the date of
15 the employee’s death or such later
16 date as the Secretary may by regula-
17 tions prescribe,

18 for purposes of clause (i), the portion re-
19 ferred to in subclause (I) shall be treated
20 as distributed on the date on which such
21 distributions begin.

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

1 “(I) the date on which the dis-
2 tributions are required to begin under
3 clause (v)(III) shall not be earlier
4 than the date on which the employee
5 would have attained age 70½, and

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

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

23 “(viii) COORDINATION WITH INDI-
24 VIDUAL RETIREMENT PLANS.—For pur-
25 poses of applying the provisions of this

1 subparagraph and subsections (a)(6) and
2 (b)(3) of section 408, individual retirement
3 plans shall be treated as defined contribu-
4 tion plans in determining the aggregate ac-
5 count balances to the credit of the em-
6 ployee under all defined contribution plans
7 and the amount required to be distributed
8 to each beneficiary under such provi-
9 sions.”.

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

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

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

20 “(ii) ELIGIBLE DESIGNATED BENE-
21 FICIARY.—The term ‘eligible designated
22 beneficiary’ means, with respect to any em-
23 ployee, any designated beneficiary who is—

24 “(I) the surviving spouse of the
25 employee,

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

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

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

18 “(V) an individual not described
19 in any of the preceding subclauses
20 who is not more than 10 years young-
21 er than the employee.

22 “(iii) SPECIAL RULE FOR CHIL-
23 DREN.—Subject to subparagraph (F), an
24 individual described in clause (ii)(II) shall
25 cease to be an eligible designated bene-

1 beneficiary as of the date the individual reaches
2 majority and any remainder of the portion
3 of the interest described in subparagraph
4 (H)(v) shall be distributed within 5 years
5 after such date.

6 “(iv) TIME FOR DETERMINATION OF
7 ELIGIBLE DESIGNATED BENEFICIARY.—
8 The determination of whether a designated
9 beneficiary is an eligible designated bene-
10 fiary shall be made as of the date of
11 death of the employee.”.

12 (3) CONFORMING AMENDMENTS.—

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

17 (B) Section 402(c)(11)(A)(iii) of such
18 Code is amended by striking “section
19 401(a)(9)(B) (other than clause (iv) thereof)”
20 and inserting “subparagraphs (B) (other than
21 clause (iv) thereof) and (H) (other than clause
22 (vi) thereof) of section 401(a)(9)”.

23 (4) EFFECTIVE DATES.—

24 (A) IN GENERAL.—Except as provided in
25 this paragraph and paragraphs (5) and (6), the

1 amendments made by this subsection shall
2 apply to distributions with respect to employees
3 who die after December 31, 2016.

4 (B) COLLECTIVE BARGAINING EXCEP-
5 TION.—In the case of a plan maintained pursu-
6 ant to 1 or more collective bargaining agree-
7 ments between employee representatives and 1
8 or more employers ratified before the date of
9 enactment of this Act, the amendments made
10 by this subsection shall apply to distributions
11 with respect to employees who die in calendar
12 years beginning after the earlier of—

13 (i) the later of—

14 (I) the date on which the last of
15 such collective bargaining agreements
16 terminates (determined without re-
17 gard to any extension thereof agreed
18 to on or after the date of the enact-
19 ment of this Act), or

20 (II) December 31, 2016, or

21 (ii) December 31, 2018.

22 For purposes of clause (i)(I), any plan amend-
23 ment made pursuant to a collective bargaining
24 agreement relating to the plan which amends
25 the plan solely to conform to any requirement

1 added by this section shall not be treated as a
2 termination of such collective bargaining agree-
3 ment.

4 (C) GOVERNMENTAL PLANS.—In the case
5 of a governmental plan (as defined in section
6 414(d) of the Internal Revenue Code of 1986),
7 subparagraph (A) shall be applied by sub-
8 stituting “December 31, 2018” for “December
9 31, 2016”.

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

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

17 (B) QUALIFIED ANNUITY.—For purposes
18 of this paragraph, the term “qualified annuity”
19 means, with respect to an employee, an annu-
20 ity—

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

24 (ii) under which the annuity payments
25 are made over the life of the employee or

1 over the joint lives of such employee and a
2 designated beneficiary (or over a period
3 not extending beyond the life expectancy of
4 such employee or the joint life expectancy
5 of such employee and a designated bene-
6 ficiary) in accordance with the regulations
7 described in section 401(a)(9)(A)(ii) of
8 such Code (as in effect before such amend-
9 ments) and which meets the other require-
10 ments of section 401(a)(9) of such Code
11 (as so in effect) with respect to such pay-
12 ments, and

13 (iii) with respect to which—

14 (I) annuity payments to the em-
15 ployee have begun before the date of
16 enactment of this Act, and the em-
17 ployee has made an irrevocable elec-
18 tion before such date as to the method
19 and amount of the annuity payments
20 to the employee or any designated
21 beneficiaries, or

22 (II) if subclause (I) does not
23 apply, the employee has made an ir-
24 revocable election before the date of
25 enactment of this Act as to the meth-

1 od and amount of the annuity pay-
2 ments to the employee or any des-
3 ignated beneficiaries.

4 (6) EXCEPTION FOR CERTAIN BENE-
5 FICIARIES.—

6 (A) IN GENERAL.—If an employee dies be-
7 fore the effective date, then, in applying the
8 amendments made by this subsection to such
9 employee’s designated beneficiary who dies after
10 such date—

11 (i) such amendments shall apply to
12 any beneficiary of such designated bene-
13 ficiary, and

14 (ii) the designated beneficiary shall be
15 treated as an eligible designated bene-
16 ficiary for purposes of applying section
17 401(a)(9)(H)(iv) of the Internal Revenue
18 Code of 1986 (as in effect after such
19 amendments).

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

1 (b) PROVISIONS RELATING TO PLAN AMEND-
2 MENTS.—

3 (1) IN GENERAL.—If this subsection applies to
4 any plan amendment—

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

9 (B) except as provided by the Secretary of
10 the Treasury, such plan shall not fail to meet
11 the requirements of section 411(d)(6) of the In-
12 ternal Revenue Code of 1986 and section
13 204(g) of the Employee Retirement Income Se-
14 curity Act of 1974 by reason of such amend-
15 ment.

16 (2) AMENDMENTS TO WHICH SUBSECTION AP-
17 PLIES.—

18 (A) IN GENERAL.—This subsection shall
19 apply to any amendment to any plan or which
20 is made—

21 (i) pursuant to any amendment made
22 by this section or pursuant to any regula-
23 tion issued by the Secretary of the Treas-
24 ury under this section or such amend-
25 ments, and

1 (ii) on or before the last day of the
2 first plan year beginning after December
3 31, 2018, or such later date as the Sec-
4 retary of the Treasury may prescribe.

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

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

13 (i) during the period—

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

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

1 the plan is operated as if such plan amend-
2 ment were in effect; and

3 (ii) such plan amendment applies
4 retroactively for such period.

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

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

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to returns the due date for which
11 (including extensions) is after December 31, 2016.

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

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

16 (1) by striking “\$25” and inserting “\$100”,
17 and

18 (2) by striking “\$15,000” and inserting
19 “\$50,000”.

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

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

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

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

5 (c) FAILURE TO PROVIDE NOTICE.—Subsection (h)
6 of section 6652 of the Internal Revenue Code of 1986 is
7 amended—

8 (1) by striking “\$10” and inserting “\$100”,
9 and

10 (2) by striking “\$5,000” and inserting
11 “\$50,000”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to returns, statements, and notifi-
14 cations required to be filed, and notices required to be pro-
15 vided, after December 31, 2016.

16 **SEC. 504. MODIFICATION OF USER FEE REQUIREMENTS**
17 **FOR INSTALLMENT AGREEMENTS.**

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

22 “(f) INSTALLMENT AGREEMENT FEES.—

23 “(1) LIMITATION ON FEE AMOUNT.—The
24 amount of any fee imposed on an installment agree-
25 ment under this section may not exceed the amount

1 of such fee as in effect on the date of the enactment
2 of this subsection.

3 “(2) WAIVER OR REIMBURSEMENT.—In the
4 case of any taxpayer with an adjusted gross income,
5 as determined for the most recent year for which
6 such information is available, which does not exceed
7 250 percent of the applicable poverty level (as deter-
8 mined by the Secretary)—

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

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

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

1 **SEC. 505. INCREASE INFORMATION SHARING TO ADMIN-**
2 **ISTER EXCISE TAXES.**

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

6 “(3) TAXES IMPOSED BY SECTION 4481.—Re-
7 turns and return information with respect to taxes
8 imposed by section 4481 shall be open to inspection
9 by or disclosure to officers and employees of United
10 States Customs and Border Protection of the De-
11 partment of Homeland Security whose official duties
12 require such inspection or disclosure for purposes of
13 administering such section.”.

14 (b) CONFORMING AMENDMENTS.—Paragraph (4) of
15 section 6103(p) of the Internal Revenue Code of 1986 is
16 amended by striking “or (o)(1)(A)” each place it appears
17 and inserting “, (o)(1)(A), or (o)(3)”.

18 **SEC. 506. REPEAL OF TECHNICAL TERMINATION FOR PART-**
19 **NERSHIPS.**

20 (a) IN GENERAL.—Paragraph (1) of section 708(b)
21 of the Internal Revenue Code of 1986 is amended by strik-
22 ing “only if” and all that follows and inserting “only if
23 no part of any business, financial operation, or venture
24 of the partnership continues to be carried on by any of
25 its partners in a partnership.”.

26 (b) CONFORMING AMENDMENTS.—

1 (1) Section 168(i)(7)(B) of the Internal Rev-
2 enue Code of 1986 is amended by striking the last
3 sentence thereof.

4 (2) Section 743(e) of such Code is amended by
5 striking paragraph (4) and by redesignating para-
6 graphs (5), (6), and (7) as paragraphs (4), (5), and
7 (6), respectively.

8 (3) Section 774 of such Code is amended by
9 striking subsection (c) and by redesignating sub-
10 sections (d), (e), and (f) as subsections (c), (d), and
11 (e), respectively.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 this section shall apply to periods beginning after
15 December 31, 2016.

16 (2) SPECIAL RULE FOR PERIODS BEGINNING
17 BEFORE 2017.—In the case of any period beginning
18 before January 1, 2017, section 708(b)(1)(B) of the
19 Internal Revenue Code of 1986 shall be applied
20 without regard to any sale or exchange after Decem-
21 ber 31, 2016.

22 **SEC. 507. PENSION VARIABLE RATE PREMIUM PAYMENT**
23 **ACCELERATION.**

24 Notwithstanding section 4007(a) of the Employee
25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1307(a)) and section 4007.11 of title 29, Code of Federal
2 Regulations, any additional premium determined under
3 subparagraph (E) of section 4006(a)(3) of such Act (29
4 U.S.C. 1306(a)(3)) the due date for which is (but for this
5 section) after September 30, 2026, and before December
6 1, 2026, shall be due not later than September 30, 2026.

Calendar No. 670

114TH CONGRESS
2^D SESSION

S. 3471

[Report No. 114-375]

A BILL

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

NOVEMBER 16, 2016

Read twice and placed on the calendar