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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R.

To improve and enhance retirement savings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SCOTT of Virginia (for himself, Ms. FOXX, Mr. DESAULNIER, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on _____

A BILL

To improve and enhance 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Retirement Improvement and Savings Enhancement
6 Act” or the “RISE Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Retirement savings lost and found.

- Sec. 3. Retirement plan modernization act.
- Sec. 4. Multiple employer 403(b) plans.
- Sec. 5. Small immediate financial incentives for contributing to a plan.
- Sec. 6. Performance benchmarks for asset allocation funds.
- Sec. 7. Pooled employer plans modification.
- Sec. 8. Review of pension risk transfer interpretive bulletin.
- Sec. 9. Review and report to congress relating to reporting and disclosure requirements.
- Sec. 10. Eliminating unnecessary plan requirements related to unenrolled participants.
- Sec. 11. Recovery of retirement plan overpayments.
- Sec. 12. Improving coverage for part-time workers.

1 **SEC. 2. RETIREMENT SAVINGS LOST AND FOUND.**

2 (a) IN GENERAL.—

3 (1) ESTABLISHMENT OF RETIREMENT SAVINGS
4 LOST AND FOUND.—Part 5 of title I of the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1341 et seq.) is amended by adding at the
7 end the following:

8 **“SEC. 522. RETIREMENT SAVINGS LOST AND FOUND.**

9 “(a) ESTABLISHMENT.—

10 “(1) IN GENERAL.—Not later than 2 years
11 after the date of the enactment of this section, the
12 Secretary of Labor, in consultation with the Sec-
13 retary of the Treasury, shall establish an online
14 searchable database (to be managed by the Depart-
15 ment of Labor in accordance with this section) to be
16 known as the ‘Retirement Savings Lost and Found’.
17 The Retirement Savings Lost and Found shall—

18 “(A) allow an individual to search for in-
19 formation that enables the individual to locate
20 the administrator of any plan described in para-

1 graph (2) with respect to which the individual
2 is or was a participant or beneficiary, and pro-
3 vide contact information for the administrator
4 of any such plan;

5 “(B) allow the Department of Labor to as-
6 sist such an individual in locating any such plan
7 of the individual; and

8 “(C) allow the Department of Labor to
9 make any necessary changes to contact infor-
10 mation on record for the administrator based
11 on any changes to the plan due to merger or
12 consolidation of the plan with any other plan,
13 division of the plan into two or more plans,
14 bankruptcy, termination, change in name of the
15 plan, change in name or address of the admin-
16 istrator, or other causes.

17 The Retirement Savings Lost and Found established
18 under this paragraph shall include information re-
19 ported under this section and other relevant infor-
20 mation obtained by the Department of Labor.

21 “(2) PLANS DESCRIBED.—A plan described in
22 this paragraph is a plan to which the vesting stand-
23 ards of section 203 apply.

24 “(b) ADMINISTRATION.—The Retirement Savings
25 Lost and Found established under subsection (a) shall

1 provide individuals described in subsection (a)(1) only
2 with the ability to search for information that enables the
3 individual to locate the administrator and contact informa-
4 tion for the administrator of any plan with respect to
5 which the individual is or was a participant or beneficiary,
6 sufficient to allow the individual to locate the individual's
7 plan in order to recover any benefit owing to the individual
8 under the plan.

9 “(c) SAFEGUARDING PARTICIPANT PRIVACY AND SE-
10 CURITY.—In establishing the Retirement Savings Lost
11 and Found under subsection (a), the Department of Labor
12 shall take all necessary and proper precautions to ensure
13 that individuals' plan information maintained by the Re-
14 tirement Savings Lost and Found is protected.

15 “(d) DEFINITION OF ADMINISTRATOR.—For pur-
16 poses of this section and section 523, the term ‘adminis-
17 trator’ has the meaning given such term in section
18 3(16)(A).

19 “(e) INFORMATION COLLECTION FROM PLANS.—Ef-
20 fective with respect to plan years beginning after the sec-
21 ond December 31 occurring after the date of the enact-
22 ment of this subsection, the administrator of a plan to
23 which the vesting standards of section 203 apply shall sub-
24 mit to the Department of Labor, at such time and in such
25 form and manner as is prescribed in regulations—

1 “(1) the information described in paragraphs
2 (1) through (4) of section 6057(b) of the Internal
3 Revenue Code of 1986;

4 “(2) the information described in subpara-
5 graphs (A), (B), (E), and (F) of section 6057(a)(2)
6 of the Internal Revenue Code of 1986; and

7 “(3) such other information as the Secretary of
8 Labor may require.

9 “(f) INFORMATION COLLECTION FROM FEDERAL
10 AGENCIES.—The Secretary of Labor is authorized to ac-
11 cess and receive information collected by other Federal
12 agencies that may be necessary to perform work related
13 to the Retirement Savings Lost and Found. Such nec-
14 essary and appropriate information, which shall be fur-
15 nished to the Secretary of Labor on request, includes in-
16 formation covered by section 6103 of the Internal Revenue
17 Code of 1986 and section 205(r) of the Social Security
18 Act.

19 “(g) PROGRAM INTEGRITY AUDIT.—On an annual
20 basis for each of the first 5 years beginning one year after
21 the establishment of the database in subsection (a)(1) and
22 every 5 years thereafter, the Inspector General of the De-
23 partment of Labor shall conduct an audit of the adminis-
24 tration of the Retirement Savings Lost and Found.”.

1 (3) CONFORMING AMENDMENT.—The table of
2 contents for the Employee Retirement Income Secu-
3 rity Act of 1974 (29 U.S.C. 1001 et seq.) is amend-
4 ed by inserting after the matter relating to section
5 521 the following:

“Sec. 522.Retirement Savings Lost and Found.”.

6 **SEC. 3. RETIREMENT PLAN MODERNIZATION ACT.**

7 Section 203(e)(1) of the Employee Retirement In-
8 come Security Act of 1974 and sections 401(a)(31)(B)(ii)
9 and 411(a)(11)(A) of the Internal Revenue Code of 1986
10 and are each amended by striking “\$5,000” and inserting
11 “\$7,000”.

12 **SEC. 4. MULTIPLE EMPLOYER 403(b) PLANS.**

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

16 “(15) MULTIPLE EMPLOYER PLANS.—

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

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

1 “(i) IN GENERAL.—In the case of a
2 plan maintained by more than 1 employer,
3 this subsection shall not be treated as fail-
4 ing to apply to an annuity contract held
5 under such plan merely because of one or
6 more employers failing to meet the require-
7 ments of this subsection if such plan satis-
8 fies rules similar to the rules of section
9 413(e)(2) with respect to any such em-
10 ployer failure.

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

22 (b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE
23 EMPLOYER PLAN.—Section 6057 of the Internal Revenue
24 Code of 1986 is amended by redesignating subsection (g)

1 as subsection (h) and by inserting after subsection (f) the
2 following new subsection:

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

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

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

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

24 (1) TREATED AS POOLED EMPLOYER PLAN.—

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

4 (i) in clause (ii), by striking “section
5 501(a) of such Code or” and inserting
6 “section 501(a) of such Code, a plan that
7 consists of contracts described in section
8 403(b) of such Code, or”; and

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

19 (B) CONFORMING AMENDMENTS.—Sec-
20 tions 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of the
21 Employee Retirement Income Security Act of
22 1974 are each amended by striking “section
23 401(a) of such Code or” and inserting “401(a)
24 of such Code, a plan that consists of contracts
25 described in section 403(b) of such Code, or”.

1 (2) FIDUCIARIES.—Section 3(43)(B)(ii) of the
2 Employee Retirement Income Security Act of 1974
3 is amended—

4 (A) by striking “trustees meeting the re-
5 quirements of section 408(a)(2) of the Internal
6 Revenue Code of 1986” and inserting “trustees
7 (or other fiduciaries in the case of a plan that
8 consists of contracts described in section 403(b)
9 of the Internal Revenue Code of 1986) meeting
10 the requirements of section 408(a)(2) of such
11 Code”, and

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

15 (e) REGULATIONS RELATING TO PLAN TERMI-
16 NATION.—The Secretary of the Treasury (or the Sec-
17 retary’s designee) shall prescribe such regulations as may
18 be necessary to clarify the treatment of a plan termination
19 by an employer in the case of plans to which section
20 403(b)(15) of the Internal Revenue Code of 1986 applies.

21 (f) MODIFICATION OF MODEL PLAN LANGUAGE,
22 ETC.—

23 (1) PLAN NOTIFICATIONS.—The Secretary of
24 the Treasury (or the Secretary’s designee) shall
25 modify the model plan language published under sec-

1 tion 413(e)(5) of the Internal Revenue Code of 1986
2 to include language that notifies participating em-
3 ployers described in section 501(c)(3), and which are
4 exempt from tax under section 501(a), that the plan
5 is subject to the Employee Retirement Income Secu-
6 rity Act of 1974 and that such employer is a plan
7 sponsor with respect to its employees participating
8 in the multiple employer plan and, as such, has cer-
9 tain fiduciary duties with respect to the plan and to
10 its employees.

11 (2) MODEL PLANS FOR MULTIPLE EMPLOYER
12 403(b) NON-GOVERNMENTAL PLANS.—For plans to
13 which section 403(b)(15)(A) of the Internal Revenue
14 Code of 1986 applies (other than a plan maintained
15 for its employees by a State, a political subdivision
16 of a State, or an agency or instrumentality of any
17 one or more of the foregoing), the Secretary of the
18 Treasury shall publish model plan language similar
19 to model plan language published under section
20 413(e)(5) of such Code.

21 (3) EDUCATIONAL OUTREACH TO EMPLOYERS
22 EXEMPT FROM TAX.—The Secretary of the Treasury
23 shall provide education and outreach to increase
24 awareness to employers described in section
25 501(c)(3) of the Internal Revenue Code of 1986,

1 and which are exempt from tax under section 501(a)
2 of such Code, that multiple employer plans are sub-
3 ject to the Employee Retirement Income Security
4 Act of 1974 and that such employer is a plan spon-
5 sor with respect to its employees participating in the
6 multiple employer plan and, as such, has certain fi-
7 duciary duties with respect to the plan and to its
8 employees.

9 (g) NO INFERENCE WITH RESPECT TO CHURCH
10 PLANS.—Regarding any application of section 403(b) of
11 the Internal Revenue Code of 1986 to an annuity contract
12 purchased under a church plan (as defined in section
13 414(e) of such Code) maintained by more than 1 em-
14 ployer, or to any application of rules similar to section
15 413(e) of such Code to such a plan, no inference shall
16 be made from section 403(b)(15)(A) of such Code (as
17 added by this Act) not applying to such plans.

18 (h) EFFECTIVE DATE.—

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

22 (2) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by subsection (a) shall be con-
24 strued as limiting the authority of the Secretary of
25 the Treasury or the Secretary's delegate (determined

1 without regard to such amendment) to provide for
2 the proper treatment of a failure to meet any re-
3 quirement applicable under the Internal Revenue
4 Code of 1986 with respect to one employer (and its
5 employees) in the case of a plan to which section
6 403(b)(15) of the Internal Revenue Code of 1986
7 applies.

8 **SEC. 5. SMALL IMMEDIATE FINANCIAL INCENTIVES FOR**
9 **CONTRIBUTING TO A PLAN.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 401(k)(4) of the Internal Revenue Code of 1986 is amend-
12 ed by inserting “(other than a de minimis financial incen-
13 tive)” after “any other benefit”.

14 (b) SECTION 403(b) PLANS.—Subparagraph (A) of
15 section 403(b)(12) of the Internal Revenue Code of 1986,
16 is further amended by adding at the end the following:
17 “A plan shall not fail to satisfy clause (ii) solely by reason
18 of offering a de minimis financial incentive to employees
19 to elect to have the employer make contributions pursuant
20 to a salary reduction agreement.”.

21 (c) EXEMPTION FROM PROHIBITED TRANSACTION
22 RULES.—Subsection (d) of section 4975 of the Internal
23 Revenue Code of 1986 is amended by striking “or” at the
24 end of paragraph (22), by striking the period at the end

1 of paragraph (23) and inserting “, or”, and by adding at
2 the end the following new paragraph:

3 “(24) the provision of a de minimis financial in-
4 centive described in section 401(k)(4)(A) or
5 403(b)(12)(A).”.

6 (d) AMENDMENT OF EMPLOYEE RETIREMENT IN-
7 COME SECURITY ACT OF 1974.—Subsection (b) of section
8 408 of the Employee Retirement Income Security Act of
9 1974 (29 U.S.C. 1108(b)) is amended by adding at the
10 end the following new paragraph:

11 “(21) The provision of a de minimis financial
12 incentive described in section 401(k)(4)(A) or sec-
13 tion 403(b)(12)(A) of the Internal Revenue Code of
14 1986.”.

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

18 **SEC. 6. PERFORMANCE BENCHMARKS FOR ASSET ALLOCA-**
19 **TION FUNDS.**

20 (a) IN GENERAL.—Not later than 1 year after the
21 date of enactment of this Act, the Secretary of Labor shall
22 provide that, in the case of a designated investment alter-
23 native that contains a mix of asset classes, the adminis-
24 trator of a plan may, but is not required to, use a bench-

1 mark that is a blend of different broad-based securities
2 market indices if—

3 (1) the blend is reasonably representative of the
4 asset class holdings of the designated investment al-
5 ternative;

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

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

15 (4) each securities market index that is used for
16 an associated asset class would separately satisfy the
17 requirements of such regulation for such asset class.

18 (b) STUDY.—Not later than 3 years after the date
19 of enactment of this Act, the Secretary of Labor shall de-
20 liver a report to the Committees on Finance and Health,
21 Education, Labor, and Pensions of the Senate and the
22 Committees on Ways and Means and Education and
23 Labor of the House of Representatives regarding the utili-
24 zation, effectiveness, and participants' understanding of
25 the benchmarking requirements under this section.

1 **SEC. 7. POOLED EMPLOYER PLANS MODIFICATION.**

2 Section 3(43)(B)(ii) of the Employee Retirement In-
3 come Security Act of 1974 (29 U.S.C. 1002(43)(B)(ii))
4 is amended to read as follows:

5 “(ii) designate a named fiduciary
6 (other than an employer in the plan) to be
7 responsible for collecting contributions to
8 the plan and require such fiduciary to im-
9 plement written contribution collection pro-
10 cedures that are reasonable, diligent, and
11 systematic;”.

12 **SEC. 8. REVIEW OF PENSION RISK TRANSFER INTERPRE-**
13 **TIVE BULLETIN.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Secretary of Labor shall—

16 (1) review section 2509.95–1 of title 29, Code
17 of Federal Regulations (relating to the fiduciary
18 standards under the Employee Retirement Income
19 Security Act of 1974 when selecting an annuity pro-
20 vider for a defined benefit pension plan) to deter-
21 mine whether amendments to such section are war-
22 ranted; and

23 (2) report to Congress on the findings of such
24 review, including an assessment of any risk to par-
25 ticipants.

1 **SEC. 9. REVIEW AND REPORT TO CONGRESS RELATING TO**
2 **REPORTING AND DISCLOSURE REQUIRE-**
3 **MENTS.**

4 (a) STUDY.—As soon as practicable after the date of
5 enactment of this Act, the Secretary of Labor, the Sec-
6 retary of the Treasury, and the Director of the Pension
7 Benefit Guaranty Corporation shall review the reporting
8 and disclosure requirements as applicable to each such
9 agency head, of—

10 (1) the Employee Retirement Income Security
11 Act of 1974 applicable to pension plans (as defined
12 in section 3(2) of such Act (29 U.S.C. 1002(2)); and

13 (2) the Internal Revenue Code of 1986 applica-
14 ble to qualified retirement plans (as defined in sec-
15 tion 4974(c) of such Code, without regard to para-
16 graphs (4) and (5) of such section).

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 2 years after
19 the date of enactment of this Act, the Secretary of
20 Labor, the Secretary of the Treasury, and the Direc-
21 tor of the Pension Benefit Guaranty Corporation,
22 jointly, and after consultation with a balanced group
23 of participant and employer representatives, shall
24 with respect to plans referenced in subsection (a) re-
25 port on the effectiveness of the applicable reporting
26 and disclosure requirements and make such rec-

1 ommendations as may be appropriate to the Com-
2 mittee on Education and Labor and the Committee
3 on Ways and Means of the House of Representatives
4 and the Committee on Health, Education, Labor,
5 and Pensions and the Committee on Finance of the
6 Senate to consolidate, simplify, standardize, and im-
7 prove such requirements so as to simplify reporting
8 for such plans and ensure that plans can furnish
9 and participants and beneficiaries timely receive and
10 better understand the information they need to mon-
11 itor their plans, plan for retirement, and obtain the
12 benefits they have earned.

13 (2) ANALYSIS OF EFFECTIVENESS.—To assess
14 the effectiveness of the applicable reporting and dis-
15 closure requirements, the report shall include an
16 analysis, based on plan data, of how participants
17 and beneficiaries are providing preferred contact in-
18 formation, the methods by which plan sponsors and
19 plans are furnishing disclosures, and the rate at
20 which participants and beneficiaries (grouped by key
21 demographics) are receiving, accessing, under-
22 standing, and retaining disclosures.

23 (3) COLLECTION OF INFORMATION.—The agen-
24 cies shall conduct appropriate surveys and data col-
25 lection to obtain any needed information.

1 **SEC. 10. ELIMINATING UNNECESSARY PLAN REQUIRE-**
2 **MENTS RELATED TO UNENROLLED PARTICI-**
3 **PANTS.**

4 (a) AMENDMENT OF EMPLOYEE RETIREMENT IN-
5 COME SECURITY ACT OF 1974.—

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

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

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

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

24 “(2) any document requested by such partici-
25 pant that the participant would be entitled to receive
26 notwithstanding this section.

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

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

6 “(2) has received the summary plan description
7 pursuant to section 104(b) and any other eligibility
8 notices required to be furnished under this title in
9 connection with such participant’s initial eligibility
10 to participate in such plan;

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

12 “(4) does not have a balance in the plan; and

13 “(5) satisfies such other criteria as the Sec-
14 retary of Labor may determine appropriate, as pre-
15 scribed in guidance issued in consultation with the
16 Secretary of Treasury.

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

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

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

6 “(2) notifies the unenrolled participant of—

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

9 “(B) the key benefits and rights under the
10 plan, with a focus on employer contributions
11 and vesting provisions; and

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

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

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

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

21 (b) AMENDMENT OF INTERNAL REVENUE CODE OF
22 1986.—Section 414 of the Internal Revenue Code of 1986
23 is amended by adding at the end the following new sub-
24 section:

1 “(aa) ELIMINATING UNNECESSARY PLAN REQUIRE-
2 MENTS RELATED TO UNENROLLED PARTICIPANTS.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this title, with respect to any defined
5 contribution plan, no disclosure, notice, or other plan
6 document (other than the notices and documents de-
7 scribed in subparagraphs (A) and (B)) shall be re-
8 quired to be furnished under this title to any
9 unenrolled participant if the unenrolled participant
10 receives—

11 “(A) an annual reminder notice of such
12 participant’s eligibility to participate in such
13 plan and any applicable election deadlines under
14 the plan, and

15 “(B) any document requested by such par-
16 ticipant that the participant would be entitled
17 to receive notwithstanding this subsection.

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

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

23 “(B) has received the summary plan de-
24 scription pursuant to section 104(b) of the Em-
25 ployee Retirement Income Security Act of 1974

1 and any other eligibility notices in connection
2 with such participant's initial eligibility to par-
3 ticipate in such plan,

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

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

6 and

7 “(E) satisfies such other criteria as the
8 Secretary of the Treasury may determine ap-
9 propriate, as prescribed in guidance issued in
10 consultation with the Secretary of Labor.

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

15 “(3) ANNUAL REMINDER NOTICE.—For pur-
16 poses of this subsection, the term ‘annual reminder
17 notice’ means the notice described in section 111(c)
18 of the Employee Retirement Income Security Act of
19 1974.”.

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

1 **SEC. 11. RECOVERY OF RETIREMENT PLAN OVERPAY-**
2 **MENTS.**

3 (a) OVERPAYMENTS UNDER ERISA.—Section 206 of
4 the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1056) is amended by adding at the end the
6 following new subsection:

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

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

16 “(A) any participant or beneficiary,

17 “(B) any plan sponsor of, or contributing
18 employer to—

19 “(i) an individual account plan, pro-
20 vided that the amount needed to prevent or
21 restore any impermissible forfeiture from
22 any participant’s or beneficiary’s account
23 arising in connection with the overpayment
24 is, separately from and independently of
25 the overpayment, allocated to such account
26 pursuant to the nonforfeitability require-

1 ments of section 203 (for example, out of
2 the plan’s forfeiture account, additional
3 employer contributions, or recoveries from
4 those responsible for the overpayment), or
5 “(ii) a defined benefit pension plan
6 subject to the funding rules in part 3 of
7 this subtitle B, unless the responsible plan
8 fiduciary determines, in the exercise of its
9 fiduciary discretion, that failure to recover
10 all or part of the overpayment faster than
11 required under such funding rules would
12 materially affect the plan’s ability to pay
13 benefits due to other participants and
14 beneficiaries, or
15 “(C) any fiduciary of the plan, other than
16 a fiduciary (including a plan sponsor or contrib-
17 uting employer acting in a fiduciary capacity)
18 whose breach of its fiduciary duties resulted in
19 such overpayment, provided that if the plan has
20 established prudent procedures to prevent and
21 minimize overpayment of benefits and the rel-
22 evant plan fiduciaries have followed such proce-
23 dures, an inadvertent benefit overpayment will
24 not give rise to a breach of fiduciary duty.

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

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

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

12 “(3) EMPLOYER FUNDING OBLIGATIONS.—
13 Nothing in this subsection shall relieve an employer
14 of any obligation imposed on it to make contribu-
15 tions to a plan to meet the minimum funding stand-
16 ards under part 3 of this subtitle B or to prevent
17 or restore an impermissible forfeiture in accordance
18 with section 203.

19 “(4) RECOUPMENT FROM PARTICIPANTS AND
20 BENEFICIARIES.—If the responsible plan fiduciary,
21 in the exercise of its fiduciary discretion, decides to
22 seek recoupment from a participant or beneficiary of
23 all or part of an inadvertent benefit overpayment
24 made by the plan to such participant or beneficiary,
25 it may do so, subject to the following conditions:

1 “(A) No interest or other additional
2 amounts (such as collection costs or fees) are
3 sought on overpaid amounts for any period be-
4 fore or after the date of correction of such over-
5 payment.

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

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

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

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

20 Alternatively, if the plan seeks to recoup past
21 overpayments of a non-decreasing periodic ben-
22 efit through one or more installment payments,
23 the sum of such installment payments in any
24 calendar year does not exceed the sum of the

1 reductions that would be permitted in such year
2 under the preceding sentence.

3 “(C) If the plan seeks to recoup past over-
4 payments of a benefit other than a non-decreas-
5 ing periodic benefit, the plan satisfies require-
6 ments developed by the Secretary for purposes
7 of this subparagraph.

8 “(D) Efforts to recoup overpayments are—

9 “(i) not accompanied by threats of
10 litigation, unless the responsible plan fidu-
11 ciary reasonably believes it could prevail in
12 a civil action brought in Federal or State
13 court to recoup the overpayments, and

14 “(ii) not made through a collection
15 agency or similar third party, unless the
16 participant or beneficiary ignores or rejects
17 efforts to recoup the overpayment following
18 either a final judgment in Federal or State
19 court or a settlement between the partici-
20 pant or beneficiary and the plan, in either
21 case authorizing such recoupment.

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

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

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

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

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

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

13 (b) OVERPAYMENTS UNDER INTERNAL REVENUE
14 CODE OF 1986.—

15 (1) QUALIFICATION REQUIREMENTS.—Section
16 414 of the Internal Revenue Code of 1986, is fur-
17 ther amended by adding at the end the following
18 new subsection:

19 “(bb) SPECIAL RULES APPLICABLE TO BENEFIT
20 OVERPAYMENTS.—

21 “(1) IN GENERAL.—A plan shall not fail to be
22 treated as described in clause (i), (ii), (iii), or (iv)
23 of section 219(g)(5)(A) (and shall not fail to be
24 treated as satisfying the requirements of section
25 401(a) or 403) merely because—

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

6 “(B) the plan sponsor amends the plan to
7 reduce past or future benefit payments to af-
8 fected participants and beneficiaries in order to
9 adjust for prior inadvertent benefit overpay-
10 ments.

11 “(2) REDUCTION IN FUTURE BENEFIT PAY-
12 MENTS AND RECOVERY FROM RESPONSIBLE
13 PARTY.—Paragraph (1) shall not fail to apply to a
14 plan merely because, after discovering a benefit over-
15 payment, such plan—

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

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

21 “(3) EMPLOYER FUNDING OBLIGATIONS.—
22 Nothing in this subsection shall relieve an employer
23 of any obligation imposed on it to make contribu-
24 tions to a plan to meet the minimum funding stand-
25 ards under sections 412 and 430 or to prevent or re-

1 store an impermissible forfeiture in accordance with
2 section 411.

3 “(4) OBSERVANCE OF BENEFIT LIMITATIONS.—
4 Notwithstanding paragraph (1), a plan to which
5 paragraph (1) applies shall observe any limitations
6 imposed on it by section 401(a)(17) or 415. The
7 plan may enforce such limitations using any method
8 approved by the Secretary of the Treasury for re-
9 coupling benefits previously paid or allocations pre-
10 viously made in excess of such limitations.

11 “(5) COORDINATION WITH OTHER QUALIFICA-
12 TION REQUIREMENTS.—The Secretary of the Treas-
13 ury may issue regulations or other guidance of gen-
14 eral applicability specifying how benefit overpay-
15 ments and their recoupment or non-recoupment
16 from a participant or beneficiary shall be taken into
17 account for purposes of satisfying any requirement
18 applicable to a plan to which paragraph (1) ap-
19 plies.”.

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

23 “(12) In the case of an inadvertent benefit
24 overpayment from a plan to which section
25 414(bb)(1) applies that is transferred to an eligible

1 retirement plan by or on behalf of a participant or
2 beneficiary—

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

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

19 In any case in which recoupment is sought on behalf
20 of the plan but is disputed by the participant or ben-
21 efiiciary who received such overpayment, such dispute
22 shall be subject to the claims procedures of the plan
23 that made such overpayment, such plan shall notify
24 the plan receiving the rollover of such dispute, and
25 the plan receiving the rollover shall retain such over-

1 payment on behalf of the participant or beneficiary
2 (and shall be entitled to treat such overpayment as
3 plan assets) pending the outcome of such proce-
4 dures.”.

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

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

11 (1) a good faith interpretation of then existing
12 administrative guidance for inadvertent benefit over-
13 payment recoupments and recoveries that com-
14 menced before the date of enactment of this Act,
15 and

16 (2) determinations made before the date of en-
17 actment of this Act by the responsible plan fidu-
18 ciary, in the exercise of its fiduciary discretion, not
19 to seek recoupment or recovery of all or part of an
20 inadvertent benefit overpayment.

21 In the case of a benefit overpayment that occurred prior
22 to the date of enactment of this Act, any installment pay-
23 ments by the participant or beneficiary to the plan or any
24 reduction in periodic benefit payments to the participant
25 or beneficiary, which were made in recoupment of such

1 overpayment and which commenced prior to such date,
2 may continue after such date. Nothing in this subsection
3 shall relieve a fiduciary from responsibility for an overpay-
4 ment that resulted from a breach of its fiduciary duties.

5 **SEC. 12. IMPROVING COVERAGE FOR PART-TIME WORKERS.**

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

8 (1) IN GENERAL.—Section 202 of the Employee
9 Retirement Income Security Act of 1974 (29 U.S.C.
10 1052) is amended by adding at the end the following
11 new subsection:

12 “(c) SPECIAL RULE FOR CERTAIN PART-TIME EM-
13 PLOYEES.—

14 “(1) IN GENERAL.—A pension plan that in-
15 cludes either a qualified cash or deferred arrange-
16 ment (as defined in section 401(k) of the Internal
17 Revenue Code of 1986) or a salary reduction agree-
18 ment (as described in section 403(b) of such Code)
19 shall not require, as a condition of participation in
20 the arrangement or agreement, that an employee
21 complete a period of service with the employer (or
22 employers) maintaining the plan extending beyond
23 the close of the earlier of—

1 “(A) the period permitted under subsection
2 (a)(1) (determined without regard to subpara-
3 graph (B)(i) thereof); or

4 “(B) the first 24-month period—

5 “(i) consisting of 2 consecutive 12-
6 month periods during each of which the
7 employee has at least 500 hours of service;
8 and

9 “(ii) by the close of which the em-
10 ployee has attained the age of 21.

11 “(2) EXCEPTION.—Paragraph (1)(B) shall not
12 apply to any employee described in section 410(b)(3)
13 of the Internal Revenue Code of 1986.

14 “(3) COORDINATION WITH OTHER RULES.—

15 “(A) IN GENERAL.—In the case of employ-
16 ees who are eligible to participate in the ar-
17 rangement or agreement solely by reason of
18 paragraph (1)(B):

19 “(i) EXCLUSIONS.—An employer may
20 elect to exclude such employees from the
21 application of subsections (a)(4), (k)(3),
22 (k)(12), (k)(13), (k)(15)(B)(i)(I), and
23 (m)(2) of section 401 of the Internal Rev-
24 enue Code of 1986 and section 410(b) of
25 such Code.

1 “(ii) TIME OF PARTICIPATION.—The
2 rules of subsection (a)(4) shall apply to
3 such employees.

4 “(B) TOP-HEAVY RULES.—An employer
5 may elect to exclude all employees who are eligi-
6 ble to participate in a plan maintained by the
7 employer solely by reason of paragraph (1)(B)
8 from the application of the vesting and benefit
9 requirements under subsections (b) and (c) of
10 section 416 of the Internal Revenue Code of
11 1986.

12 “(4) 12-MONTH PERIOD.—For purposes of this
13 subsection, 12-month periods shall be determined in
14 the same manner as under the last sentence of sub-
15 section (a)(3)(A), except that 12-month periods be-
16 ginning before January 1, 2021, shall not be taken
17 into account.”

18 (2) VESTING.—Section 203(b) of the Employee
19 Retirement Income Security Act of 1974 (29 U.S.C.
20 1053(a)) is amended by redesignating paragraph (4)
21 as paragraph (5) and by inserting after paragraph
22 (3) the following new paragraph:

23 “(4) PART-TIME EMPLOYEES.—For purposes of
24 determining whether an employee who is eligible to
25 participate in a qualified cash or deferred arrange-

1 ment or a salary reduction agreement under a plan
2 solely by reason of section 202(c)(1)(B) has a non-
3 forfeitable right to employer contributions—

4 “(A) except as provided in subparagraph
5 (B), each 12-month period for which the em-
6 ployee has at least 500 hours of service shall be
7 treated as a year of service;

8 “(B) paragraph (3) shall be applied by
9 substituting ‘at least 500 hours of service’ for
10 ‘more than 500 hours of service’ in subpara-
11 graph (A) thereof; and

12 “(C) 12-month periods occurring before
13 the 24-month period described in section
14 202(c)(1)(B) shall not be treated as years of
15 service.

16 For purposes of this paragraph, 12-month periods
17 shall be determined in the same manner as under
18 the last sentence of section 202(a)(3)(A), except that
19 12-month periods beginning before January 1, 2021,
20 shall not be taken into account.”.

21 (3) PRE-2021 SERVICE.—Section 112(b) of the
22 Setting Every Community Up for Retirement En-
23 hancement Act of 2019 (26 U.S.C. 401 note) is
24 amended by striking “section 401(k)(2)(D)(ii)” and

1 inserting “paragraphs (2)(D)(ii) and (15)(B)(iii) of
2 section 401(k)”.

3 (b) CONFORMING AMENDMENTS TO INTERNAL REV-
4 ENUE CODE OF 1986.—

5 (1) IN GENERAL.—Section 410(a) of the Inter-
6 nal Revenue Code of 1986 is amended by adding at
7 the end the following new paragraphs:

8 “(6) SPECIAL RULE FOR CERTAIN PART-TIME
9 EMPLOYEES.—

10 “(A) IN GENERAL.—In the case of a plan
11 that includes either a qualified cash or deferred
12 arrangement (as defined in section 401(k)), a
13 trust of which such plan is a part shall not con-
14 stitute a qualified trust under section 401(a) if
15 the plan requires, as a condition of participa-
16 tion in the plan or arrangement, that an em-
17 ployee complete a period of service with the em-
18 ployer (or employers) maintaining the plan ex-
19 tending beyond the close of the earlier of—

20 “(i) the period permitted under para-
21 graph (1) (determined without regard to
22 subparagraph (B)(i) thereof), or

23 “(ii) the first 24-month period—

24 “(I) consisting of 2 consecutive
25 12-month periods during each of

1 which the employee has at least 500
2 hours of service, and

3 “(II) by the close of which the
4 employee has attained the age of 21.

5 “(B) EXCEPTION.—Subparagraph (A)(ii)
6 shall not apply to any employee described in
7 section 410(b)(3).

8 “(C) COORDINATION WITH OTHER
9 RULES.—

10 “(i) IN GENERAL.—In the case of em-
11 ployees who are eligible to participate in
12 the arrangement or agreement solely by
13 reason of subparagraph (A)(ii)—

14 “(I) EXCLUSIONS.—An employer
15 may elect to exclude such employees
16 from the application of subsection (b)
17 and of subsections (a)(4), (k)(3),
18 (k)(12), (k)(13), (k)(15)(B)(i)(I), and
19 (m)(2) of section 401.

20 “(II) TIME OF PARTICIPATION.—
21 The rules of paragraph (4) shall apply
22 to such employees.

23 “(ii) TOP-HEAVY RULES.—An em-
24 ployer may elect to exclude all employees
25 who are eligible to participate in a plan

1 maintained by the employer solely by rea-
2 son of subparagraph (A)(ii) from the appli-
3 cation of the vesting and benefit require-
4 ments under subsections (b) and (c) of sec-
5 tion 416.

6 “(D) 12-MONTH PERIOD.—For purposes of
7 this paragraph, 12-month periods shall be de-
8 termined in the same manner as under the last
9 sentence of paragraph (3)(A), except that 12-
10 month periods beginning before January 1,
11 2021, shall not be taken into account.”

12 (2) VESTING.—Section 410(a) of the Internal
13 Revenue Code of 1986 is amended by adding at the
14 end the following:

15 “(6) PART-TIME EMPLOYEES.—For purposes of
16 determining whether an employee who is eligible to
17 participate in a qualified cash or deferred arrange-
18 ment or a salary reduction agreement under a plan
19 solely by reason of paragraph (6)(A)(ii) has a non-
20 forfeitable right to employer contributions—

21 “(A) except as provided in subparagraph
22 (B), each 12-month period for which the em-
23 ployee has at least 500 hours of service shall be
24 treated as a year of service,

1 “(B) section 411(a)(6) shall be applied by
2 substituting ‘at least 500 hours of service’ for
3 ‘more than 500 hours of service’ in subpara-
4 graph (A) thereof, and

5 “(C) 12-month periods occurring before
6 the 24-month period described in paragraph
7 (6)(A)(ii) shall not be treated as years of serv-
8 ice.

9 For purposes of this paragraph, 12-month periods
10 shall be determined in the same manner as under
11 paragraph (6)(D).”.