109TH CONGRESS
2D Session

S. 2431

To amend the Internal Revenue Code of 1986 to encourage all Americans to save for retirement by increasing their access to pension plans and other retirement savings vehicles, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage all Americans to save for retirement by increasing their access to pension plans and other retirement savings vehicles, and for other purposes.

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;

TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Savings Competitiveness Act of 2006”.

(b) Amendment of 1986 Code.—Except as other-

wise expressly provided, whenever in this Act an amend-
ment or repeal is expressed in terms of an amendment
to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provi-

c) Table of Contents.—The table of contents of
this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EMPLOYEE ACCESS TO RETIREMENT SAVINGS
PROGRAMS AT WORK

Sec. 101. Employees not covered by qualified retirement plans or arrangements
entitled to participate in payroll retirement savings programs
at work.

Sec. 102. Credit for small employers maintaining payroll retirement savings ar-
rangements.

Sec. 103. Establishment of Secure Retirement Accounts.

TITLE II—FEDERAL MATCHING OF CERTAIN RETIREMENT
CONTRIBUTIONS

Sec. 201. Refundable credit to provide a Federal match for retirement contribu-
tions of certain taxpayers.

TITLE III—OTHER PROVISIONS TO INCREASE RETIREMENT
SAVINGS

Sec. 301. Young Savers Accounts.

Sec. 302. Increasing participation in cash or deferred plans through automatic
 contribution arrangements.

Sec. 303. Treatment of investment of assets by plan where participant fails to
 exercise investment election.

Sec. 304. Credit for qualified pension plan contributions of small employers.

Sec. 305. Account funds disregarded for purposes of certain means-tested Fed-
eral programs.

Sec. 306. Direct payment of tax refunds to individual retirement plans.

TITLE IV—SIMPLIFICATION PROVISIONS

Sec. 401. Exception from required distributions where aggregate retirement
 savings less than $50,000.

Sec. 402. Allowance of additional nonelective contributions to simple plans.

Sec. 403. Extension of certain exceptions from tax on early distributions to
 plans other than individual retirement plans.

Sec. 404. Elimination of higher penalty on certain simple plan distributions.

Sec. 405. Simple plan portability.

Sec. 406. Allow direct rollovers from retirement plans to Roth IRAs.

Sec. 407. Coordination of ordering rules for distributions from Roth IRAs and
designated Roth accounts.
TITLE I—EMPLOYEE ACCESS TO RETIREMENT SAVINGS PROGRAMS AT WORK

SEC. 101. EMPLOYEES NOT COVERED BY QUALIFIED RETIREMENT PLANS OR ARRANGEMENTS ENTITLED TO PARTICIPATE IN PAYROLL RETIREMENT SAVINGS PROGRAMS AT WORK.

(a) In General.—Subpart A of part I of subchapter A of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408A the following new section:

"SEC. 408B. RIGHT TO PAYROLL RETIREMENT SAVINGS PROGRAMS AT WORK.

"(a) Requirement to Provide Payroll Program.—Each employer (other than a small employer described in subsection (e)) shall provide to each applicable employee of the employer for any calendar year the opportunity to participate in a payroll retirement savings arrangement which meets the requirements of this section.

"(b) Payroll Retirement Savings Arrangement.—For purposes of this section—
“(1) IN GENERAL.—The term ‘payroll retirement savings arrangement’ means a written arrangement of an employer—

“(A) under which an applicable employee eligible to participate in the arrangement may elect to contribute to an individual retirement plan established by or on behalf of the employee by having the employer make direct deposit payments to the plan by payroll deduction, and

“(B) which meets the requirements of paragraph (2).

“(2) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any payroll retirement savings arrangement if—

“(A) the employer must make the payments elected under paragraph (1)(A)(i) not later than the close of the 30-day period following the last day of the month in which the payroll deduction occurs,

“(B) subject to a requirement for reasonable notice, an employee may elect to terminate participation in the arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that
the employee may not elect to resume participation until the beginning of the next year,

“(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year (and the 60-day period before the first day the employee is eligible to participate), to participate in the arrangement, or to modify the amounts subject to the arrangement, for such year,

“(D) immediately before the period for which an election described in paragraph (1)(A) may be made, the employer provides a notice to each employee of the employee’s opportunity to make the election and the maximum amount which may be contributed to an individual retirement plan on an annual basis, and

“(E) subject to subsection (f), the arrangement provides that an employee may elect to have contributions made to any individual retirement plan specified by the employee.

“(c) APPLICABLE EMPLOYEE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘applicable employee’ means, with respect to any calendar year, any employee—
“(A) who did not benefit (within the meaning of section 410(b)) under a qualified plan or arrangement maintained by the employer for service during the preceding calendar year, and

“(B) with respect to whom it is reasonable to expect that the employee will not so benefit during the calendar year under such a qualified plan or arrangement.

“(2) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from treatment as applicable employees under subparagraph (A)—

“(A) employees described in section 410(b)(3),

“(B) employees who have not attained the age of 18 before the beginning of the calendar year,

“(C) employees who have not completed at least 3 months of service with the employer,

“(D) employees who are reasonably expected to receive less than $5,000 of compensation from the employer during the calendar year, and

“(E) employees who will be eligible to participate in a qualified cash or deferred arrangement (as defined in section 401(k)(2)) of the
employer upon the completion of a year of service requirement which, under the arrangement, is not more than 500 hours.

“(3) QUALIFIED PLAN OR ARRANGEMENT.—
The term ‘qualified plan or arrangement’ means a plan, contract, pension, or trust described in section 219(g)(5).

“(4) EXCEPTION FOR EMPLOYEES OF GOVERNMENTS AND CHURCHES.—The term ‘applicable employee’ shall not include an employee of—

“(A) a government or entity described in section 414(d), or

“(B) a church or a convention or association of churches which is exempt from tax under section 501, including any employee described in section 414(e)(3)(B).

“(d) PAYROLL SAVINGS CONTRIBUTIONS TREATED LIKE OTHER CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

“(1) TAX TREATMENT UNAFFECTED.—The fact that a contribution to an individual retirement plan is made on behalf of an employee under a payroll retirement savings arrangement instead of being made directly by the employee shall not affect the deduct-
ibility or other tax treatment of the contribution or of other amounts under this title.

“(2) Payroll Savings Contributions Taken Into Account.—Any contribution made on behalf of an employee under a payroll retirement savings arrangement shall be taken into account in applying the limitations on contributions to individual retirement plans and the other provisions of this title applicable to individual retirement plans as if the contribution had been made directly by the employee.

“(e) Exception for Certain Small Employers.—

“(1) In General.—The requirements of this section shall not apply for any calendar year to an employer which had not more than 4 employees who received at least $5,000 of compensation from the employer for the preceding calendar year.

“(2) Operating Rules.—In determining the number of employees for purposes of this subsection—

“(A) any rule applicable in determining the number of employees for purposes of section 408(p)(2)(C) shall be applicable under this subsection, and
“(B) all members of the same family (within the meaning of section 318(a)(1)) shall be treated as 1 individual.

“(f) USE OF DESIGNATED FINANCIAL INSTITUTION.—An employer shall not be treated as failing to satisfy the requirements of this section or any other provision of this title merely because the employer makes all contributions (or all contributions on behalf of employees who do not specify an individual retirement plan, trustee, or issuer to receive the contributions) to Secure Retirement Accounts, or other arrangements specified in regulations prescribed by the Secretary, of a designated trustee or issuer. The preceding sentence shall not apply unless each participant is notified in writing that the participant’s balance may be transferred without cost or penalty to another individual retirement plan in accordance with subsection (b)(1)(A).

“(g) COORDINATION WITH AUTOMATIC ENROLLMENT PROVISIONS.—

“(1) IN GENERAL.—A payroll retirement savings arrangement may provide that contributions under the arrangement will be made pursuant to an automatic contribution arrangement but only if the arrangement meets the requirements applicable to an eligible automatic contribution arrangement
under section 414(w). The Secretary may modify such requirements to the extent necessary to carry out the purposes of this section.

“(2) DEFAULT INVESTMENTS.—If an employee does not make an investment election under an automatic contribution arrangement described in paragraph (1)—

“(A) the contributions shall be transferred to a Secure Retirement Account or other arrangement specified in regulations prescribed by the Secretary, and

“(B) such contributions (and any earnings thereon) shall be invested in accordance with the regulations prescribed under section 404(c)(4) of the Employee Retirement Income Security Act of 1974.

“(h) MODEL NOTICE.—The Secretary shall provide a model notice, written in a manner calculated to be understandable to the average worker, that employers may use—

“(1) to notify employees of the requirement under this section for the employer to provide certain employees with the opportunity to participate in a payroll retirement savings arrangement, and
“(2) to satisfy the requirements of subsections (b)(2)(D) and (f).”.

(b) Preemption of Conflicting State Regulations.—Section 514(e)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(e)(1)), as added by section 302, is amended to read as follows:

“(1) IN GENERAL.—Notwithstanding any other provision of this section, any law of a State shall be superseded if it would directly or indirectly prohibit or restrict—

“(A) the inclusion in any plan of an eligible automatic contribution arrangement, or

“(B) the establishment or operation of a payroll retirement savings arrangement meeting the requirements of section 408B of the Internal Revenue Code of 1986 (and the inclusion in such arrangement of an eligible automatic contribution arrangement).

This subsection shall apply to a plan or arrangement without regard to whether this title applies to such plan or arrangement.”.

(c) Provisions to Ensure Adequate Notice of Availability of Payroll Retirement Savings Arrangements and Investment Guidelines.—

(1) Employer-provided notice.—
(A) W-4 STATEMENTS.—Section 3402(f) (relating to withholding exemptions) is amended by adding at the end the following new paragraph:

“(8) INCLUSION OF PAYROLL SAVINGS NOTICE.—An employer shall include with any withholding exemption certificate provided to an employee under this subsection the model notice described in section 408B(h) and notice of the availability of, and methods of acquiring, the model form prepared by the Secretary of Labor with respect to basic investment guidelines.”.

(B) POSTING AT WORKSITE.—Each employer required to maintain a payroll retirement savings arrangement under section 408B of the Internal Revenue Code of 1986 shall, in addition to any other requirement, post the following notices within the principal places of employment of any applicable employees which are customarily used for employer notices to employees with regard to employment and employee benefit matters:

(i) The model notice described in section 408B(h) of such Code (in such form
and manner as the Secretary may pre-
scribe).

(ii) Notice of the availability of, and
methods of acquiring, the model form pre-
pared by the Secretary of Labor with re-
spect to basic investment guidelines.

(2) INCLUSION IN SOCIAL SECURITY NO-
tICES.—Section 1143 of the Social Security Act (42
U.S.C. 1320b-13) is amended by adding at the end
the following new subsection:

“(e) NOTICE OF PAYROLL SAVINGS PROGRAMS.—
The Commissioner shall include with each social security
account statement required to be provided under this sec-
tion the notice described in section 408B(h).”.

(3) IRA NOTICES.—Section 408(i) (relating to
reports) is amended by adding at the end the fol-
lowing new sentence: “Any report furnished under
paragraph (2) to an individual shall include the no-
tice of the availability of, and methods of acquiring,
the model form prepared by the Secretary of Labor
with respect to basic investment guidelines.”.

(d) DEVELOPMENT OF MODEL FORM ESTABLISHING
BASIC INVESTMENT GUIDELINES.—

(1) IN GENERAL.—The Secretary of Labor
shall, in consultation with the Secretary of Treasury,
develop a model form containing basic guidelines for investing for retirement. Except as otherwise provided by the Secretary, such guidelines shall include—

(A) information on the benefits of diversification,

(B) information on the essential differences, in terms of risk and return, of pension plan investments, including stocks, bonds, mutual funds, and money market investments,

(C) information on how an individual’s pension plan investment allocations may differ depending on the individual’s age and years to retirement and on other factors determined by the Secretary of Labor,

(D) sources of information where individuals may learn more about pension rights, individual investing, and investment advice, and

(E) such other information related to individual investing as the Secretary of Labor determines appropriate.

(2) **Calculation Information.**—The model form under paragraph (1) shall include addresses for Internet sites and worksheets which a participant or beneficiary may use to calculate—
(A) the retirement age value of the participant’s or beneficiary’s nonforfeitable pension benefits under the plan (expressed as an annuity amount and determined by reference to varied historical annual rates of return and annuity interest rates), and

(B) other important amounts relating to retirement savings, including the amount which a participant or beneficiary would be required to save annually to provide a retirement income equal to various percentages of their current salary (adjusted for expected growth prior to retirement).

(3) Public Comment.—The Secretary of Labor shall provide at least 90 days for public comment on a proposed form before publishing final notice of the model form.

(4) Rules Relating to Form and Statement.—The model form under paragraph (1)—

(A) shall be written in a manner calculated to be understood by the average plan participant, and

(B) may be delivered in written, electronic, or other appropriate manner to the extent such
manner would ensure that the form is reason-
ably accessible to participants and beneficiaries.

(c) **Penalty for Failure to Provide Access to Payroll Savings Arrangements.**—Chapter 43 (relat-
ing to qualified pension, etc., plans) is amended by adding
at the end the following new section:

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“SEC. 4980H. REQUIREMENTS FOR EMPLOYERS TO PROVIDE EMPLOYEES ACCESS TO PAYROLL RETIREMENT SAVINGS ARRANGEMENTS.

“(a) General Rule.—There is hereby imposed a tax on any failure by an employer to meet the require-
ments of subsection (d) for a calendar year.

“(b) Amount.—

“(1) In general.—The amount of the tax im-
posed by subsection (a) on any failure for any cal-
endar year shall be $100 with respect to each em-
ployee to whom such failure relates.

“(2) Tax not to apply where failure not discovered and reasonable diligence exercised.—No tax shall be imposed by subsection (a) on any failure during any period for which it is est-
ablished to the satisfaction of the Secretary that
any employer subject to liability for the tax did not
know that the failure existed and exercised reason-
able diligence to meet the requirements of subsection
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(d). In no event shall the tax be impaired with respect to any failure that ends before the expiration of 90 days after the employer has responded or has had a reasonable opportunity to respond to a request for confirmation of compliance under subsection (c).

“(3) Tax not to apply to failures corrected within 30 days.—No tax shall be imposed by subsection (a) on any failure if—

“(A) the employer subject to liability for the tax under subsection (a) exercised reasonable diligence to meet the requirements of subsection (d), and

“(B) the employer provides the payroll retirement savings arrangement described in section 408B to each employee eligible to participate in the arrangement by the end of the 30-day period beginning on the first date the employer knew, or exercising reasonable diligence would have known, that such failure existed.

“(4) Waiver by Secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.
“(c) Procedures for Notice.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe and implement procedures for obtaining from employers confirmation that such employers are in compliance with the requirements of subsection (d). The Secretary, in the Secretary’s discretion, may prescribe that the confirmation shall be obtained on an annual or less frequent basis, and may use for this purpose the annual report or quarterly report for employment taxes, or such other means as the Secretary may deem advisable.

“(d) Requirement to Provide Employee Access to Payroll Retirement Savings Arrangements.—The requirements of this subsection are met if the employer meets the requirements of section 408B.”.

(f) Coordination With ERISA Fiduciary Duties.—Section 404(c)(2) of such Act (29 U.S.C. 1104(c)(2)) is amended—

(1) by inserting “or an individual retirement plan established pursuant to a payroll retirement savings arrangement required under section 408B of such Code” after “1986”, and

(2) by inserting “or individual retirement plan established pursuant to a payroll retirement savings arrangement required under section 408B of such
Code” after “simple retirement account” each place it appears in subparagraph (B) or (C).

(g) MODIFICATION OF TOP-HEAVY RULES.—Section 416(i) (relating to definitions) is amended by adding at the end the following new paragraph:

“(7) TREATMENT OF CERTAIN EMPLOYEES UNDER CASH OR DEFERRED ARRANGEMENTS.—If employees are eligible to participate in a qualified cash or deferred arrangement (as defined in section 401(k)(2)) of the employer during any year upon completion of a year of service requirement, which under the arrangement, is not more than 500 hours, the employer may elect to exclude from the application of this section all such employees who do not meet the age and service requirements of section 410(a)(1)(A).”.

(h) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part I of subchapter A of chapter 1 is amended by inserting after the item relating to section 408A the following new item:

“Sec. 408B. Right to payroll retirement savings programs at work.”.

(2) The table of sections for chapter 43 is amended by adding at the end the following new item:
Sec. 4980H. Requirements for employers to provide employees access to payroll retirement savings arrangements.

(i) Effective Date.—The amendments made by this section shall apply to calendar years beginning after December 31, 2007.

SEC. 102. CREDIT FOR SMALL EMPLOYERS MAINTAINING PAYROLL RETIREMENT SAVINGS ARRANGEMENTS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"Sec. 45N. SMALL EMPLOYER PAYROLL RETIREMENT SAVINGS ARRANGEMENT COSTS.

"(a) General Rule.—For purposes of section 38, in the case of an eligible employer maintaining a payroll retirement savings arrangement meeting the requirements of section 408B (without regard to whether or not the employer is required to maintain the arrangement), the small employer payroll retirement savings arrangement cost credit determined under this section for any taxable year is the amount determined under subsection (b).

"(b) Amount of Credit.—

"(1) In General.—The amount of the credit determined under this section for any taxable year
with respect to an eligible employer shall be equal to the lesser of—

"(A) $25 multiplied by the number of applicable employees (within the meaning of section 408B(c)) for whom contributions are made under the payroll retirement savings arrangement referred to in subsection (a) for the calendar year in which the taxable year begins, or

"(B) $250.

"(2) DURATION OF CREDIT.—

"(A) IN GENERAL.—No credit shall be determined under this section for any taxable year other than the first taxable year which begins in the first calendar year in which the eligible employer maintains a payroll retirement savings arrangement meeting the requirements of section 408B.

"(B) EXCEPTION FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any taxable year beginning in a calendar year if the payroll retirement savings arrangement includes an eligible automatic contribution arrangement meeting the requirements of section
408B(g) at all times during the calendar year.

“(ii) LIMITATION.—This subparagraph shall only apply to 2 taxable years. The taxpayer shall elect the applicable taxable years and such election, once made, shall be irrevocable.

“(3) COORDINATION WITH SMALL EMPLOYER STARTUP CREDIT.—No credit shall be allowed under this section for any taxable year if a credit is determined under section 45E for the taxable year.

“(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term ‘eligible employer’ means, with respect to any calendar year in which the taxable year begins, an employer which maintains a payroll retirement savings arrangement meeting the requirements of section 408B and which, on each day during the preceding calendar year, had no more than 25 employees.”.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit) is amended by striking “and” at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting “, and”, and by adding at the end the following new paragraph:
“(31) in the case of an eligible employer (as defined in section 45N(e)) maintaining a payroll retirement savings arrangement meeting the requirements of section 408B, the small employer payroll retirement savings arrangement cost credit determined under section 45N(a).”

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45N. Small employer payroll retirement savings arrangement costs.”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 103. ESTABLISHMENT OF SECURE RETIREMENT ACCOUNTS.

(a) In General.—Subpart A of part I of subchapter A of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.), as amended by section 101, is amended by inserting after section 408B the following new section:

“Sec. 408C. Secure Retirement Accounts.

“(a) General Rule.—A Secure Retirement Account shall be treated for purposes of this title in the same manner as an individual retirement plan. A Secure Retirement Account may also be treated as a Roth IRA for purposes of this title if it meets the requirements of section 408A.”
“(b) Secure Retirement Account.—For purposes of this section, the term ‘Secure Retirement Account’ means an individual retirement plan (as defined in section 7701(a)(37)) which meets the investment and fee requirements under the regulations under subsection (c).

“(c) Investment and Fee Requirements.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, shall, not later than 1 year after the date of the enactment of this section, prescribe regulations which set forth the requirements of this subsection which an individual retirement plan must meet in order to be treated as a Secure Retirement Account.

“(2) INVESTMENT OPTIONS.—The regulations under paragraph (1) shall provide that a Secure Retirement Account shall allow the individual on whose behalf the individual retirement plan is established to invest contributions to, and earnings of, the plan in all of the following investment options:

“(A) Options which are similar to all investment options which are available (at the time the plan is established) to a participant in the Thrift Savings Fund established under subchapter III of chapter 84 of title 5, United States Code.
“(B) Any other investment option specified in the regulations.

“(3) INVESTMENT FEES.—

“(A) IN GENERAL.—The regulations under paragraph (1) shall provide that a Secure Retirement Account shall not charge any investment fees which, in the aggregate, are not reasonable (as determined under such regulations).

“(B) INVESTMENT FEES.—For purposes of this paragraph, the term ‘investment fees’ includes any fee, commission, asset management fee, compensation for services, or any other charge or fee specified in the regulations under paragraph (1) which is imposed with respect to the Secure Retirement Account.”.

(b) MANDATORY TRANSFERS.—Section 401(a)(31)(B) is amended—

(1) by striking “an individual retirement plan” and inserting “a Secure Retirement Account under section 408C, or such other arrangement prescribed by the Secretary in regulations,”, and

(2) by adding at the end the following new sentence: “Any amount so transferred (and any earnings thereon) shall be invested in accordance with the regulations prescribed under section 404(c)(4) of
the Employee Retirement Income Security Act of 1974.”

(c) Clerical Amendment.—The table of sections for subpart A of part I of subchapter A of chapter 1 is amended by inserting after the item relating to section 408B the following new item:

“Sec. 408C. Secure retirement accounts.”.

(d) Effective Date.—The amendments made by this section shall apply to calendar years beginning on or after the date on which final regulations described in section 408C(c) of the Internal Revenue Code of 1986 (as added by this Act) are issued.

TITLE II—FEDERAL MATCHING OF CERTAIN RETIREMENT CONTRIBUTIONS

SEC. 201. REFUNDABLE CREDIT TO PROVIDE A FEDERAL MATCH FOR RETIREMENT CONTRIBUTIONS OF CERTAIN TAXPAYERS.

(a) Allowance of Credit.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

“SEC. 36. MATCHING CONTRIBUTIONS FOR CERTAIN RETIREMENT SAVINGS CONTRIBUTIONS.

“(a) Allowance of Credit.—In the case of an eligible individual, there shall be allowed as a credit against
the tax imposed by this subtitle for the taxable year an
amount equal to the retirement savings credit amount.

“(b) Retirement Savings Credit Amount.—For purposes of this section—

“(1) In General.—The term ‘retirement savings credit amount’ means an amount equal to 50
percent of so much of the qualified retirement savings contributions of the eligible individual for the
taxable year as does not exceed the applicable contribution amount.

“(2) Minimum Contributions Required.—The retirement savings credit amount shall be zero
if the qualified retirement savings contributions of the eligible individual for the taxable year do not exceed $200.

“(c) Applicable Contribution Amount.—For purposes of this section—

“(1) In General.—The term ‘applicable contribution amount’ means $2,000.

“(2) Cost-of-Living Adjustment.—In the case of any taxable year beginning in a calendar
year after 2007, the $2,000 dollar amount under paragraph (1) shall be increased by an amount equal
to such dollar amount multiplied by the cost of living adjustment determined under section 1(f)(3) for the
calendar year in which the taxable year begins, determined by substituting ‘2006’ for ‘1992’ in subparagraph (B) thereof. If any amount so increased is not a multiple of $50, the amount shall be rounded to the next lower multiple of $50.

“(3) ADJUSTED GROSS INCOME LIMITATION.—

“(A) IN GENERAL.—If the taxpayer’s adjusted gross income for any taxable year exceeds the threshold amount, the applicable contribution amount for the taxpayer for the taxable year (determined without regard to this paragraph) shall be reduced by an amount equal to the amount which bears the same ratio to such applicable contribution amount as such excess bears to $10,000 in the case of a joint return, $7,500 in the case of the head of a household, and $5,000 in the case of any other taxpayer.

“(B) THRESHOLD AMOUNT.—For purposes of this paragraph, the term ‘threshold amount’ means—

“(i) $50,000 in the case of a joint return,

“(ii) $37,500 in the case of a head of household,
“(iii) zero in the case of a married individual filing a separate return, and

“(iv) $25,000 in the case of any other taxpayer.

The rules of section 219(g)(4) shall apply for purposes of this paragraph.

“(C) Cost-of-living adjustment.—In the case of any taxable year beginning in a calendar year after 2007—

“(i) the $50,000 dollar amount under subparagraph (B)(i) shall—

“(I) be increased by an amount equal to such dollar amount multiplied by the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘2006’ for ‘1992’ in subparagraph (B) thereof, and

“(II) after such increase be rounded as provided in section 32(j)(2)(B),

“(ii) the amount under subparagraph (B)(ii) shall be increased to an amount equal to 75 percent of the amount in effect
under subparagraph (B)(i) for the taxable year after the increase under clause (i), and

“(iii) the amount under subparagraph (B)(iv) shall be increased to an amount equal to 50 percent of the amount in effect under subparagraph (B)(i) for the taxable year after the increase under clause (i).

“(d) ELIGIBLE INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible individual’ means any individual if such individual has attained the age of 18 as of the close of the taxable year.

“(2) DEPENDENTS AND FULL-TIME STUDENTS NOT ELIGIBLE.—The term ‘eligible individual’ shall not include—

“(A) any individual with respect to whom a deduction under section 151 is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins, and

“(B) any individual who is a student (as defined in section 152(f)(2)).
“(e) Qualified Retirement Savings Contributions.—For purposes of this section—

“(1) In general.—The term ‘qualified retirement savings contributions’ means, with respect to any taxable year, the sum of—

“(A) the amount of the qualified retirement contributions (as defined in section 219(e)) made by or on behalf of the eligible individual,

“(B) the amount of—

“(i) any elective deferrals (as defined in section 402(g)(3)) of such individual, and

“(ii) any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)).

“(2) Reduction for certain distributions.—
“(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made. The preceding sentence shall not apply to the portion of any distribution which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.

“(B) TESTING PERIOD.—For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

“(i) such taxable year,

“(ii) the 2 preceding taxable years, and

“(iii) the period after such taxable year and before the due date (including extensions) for filing the return of tax for such taxable year.

“(C) EXCEPTED DISTRIBUTIONS.—There shall not be taken into account under subparagraph (A)—
“(i) any distribution referred to in section 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4), and
“(ii) any distribution to which section 408A(d)(3) applies.
“(D) TREATMENT OF DISTRIBUTIONS RECEIVED BY SPOUSE OF INDIVIDUAL.—For purposes of determining distributions received by an individual under subparagraph (A) for any taxable year, any distribution received by the spouse of such individual shall be treated as received by such individual if such individual and spouse file a joint return for such taxable year and for the taxable year during which the spouse receives the distribution.
“(f) OTHER DEFINITIONS AND RULES.—
“(1) ADJUSTED GROSS INCOME.—For purposes of this section, adjusted gross income shall be determined without regard to sections 911, 931, and 933.
“(2) INVESTMENT IN THE CONTRACT.—Notwithstanding any other provision of law—
“(A) a qualified retirement savings contribution shall not fail to be included in determining the investment in the contract for pur-
poses of section 72 by reason of the credit under this section, and

“(B) any deposit under subsection (g) shall be included in determining investment in the contract for purposes of section 72.

“(g) CREDIT MAY ONLY BE DEPOSITED IN ROTH RETIREMENT SAVINGS ACCOUNT.—

“(1) IN GENERAL.—The credit allowed under this section—

“(A) shall not be treated as a credit allowed under this part, but

“(B) shall be treated as an overpayment of tax under section 6401(b)(3) which may, in accordance with section 6402(l), only be transferred to—

“(i) a Roth IRA, or

“(ii) a designated Roth account which is within any other plan or arrangement to which qualified retirement savings contributions may be made.

Any amount so transferred on behalf of an individual (and any earnings thereon) shall be non-forfeitable.

“(2) COORDINATION WITH LIMITATIONS AND OTHER CONTRIBUTIONS.—If there is any transfer to
a plan or account under paragraph (1) by reason of a credit under this section, the rules of subparagraphs (A) and (C) of section 414(u)(1) shall apply with respect to the transfer.

“(h) Recapture of Credit.—

“(1) Addition to Tax.—If, during the 5-taxable year period beginning with the taxable year for which a transfer is made under section 6402(l), a taxpayer receives a distribution or payment out of a plan or account described in clause (i) or (ii) of subsection (g)(1)(B), then, notwithstanding section 72, the taxpayer’s tax under this chapter for the taxable year in which the distribution or payment is received shall be increased by the amount described in paragraph (2). This subsection shall not apply to a payment or distribution unless an additional tax would be imposed under section 72(t) with respect to the payment or distribution if it were includible in gross income.

“(2) Amount of Tax.—The amount of the tax under paragraph (1) shall be equal to the amount transferred under section 6402(l) with respect to the amount so paid or distributed, reduced by any portion of the amount so transferred with respect to
which this subsection previously applied during the taxable year or any preceding taxable year.

“(3) OPERATING RULES.—For purposes of determining under paragraph (1)(B) whether an amount was transferred under section 6402(l) with respect to a distribution or payment, the following rules shall apply:

“(A) FIFO RULE.—Distributions or payments shall be treated as made from contributions (and earning thereon) in the order in which the contributions were made, beginning with the least recent taxable year.

“(B) UNMATCHED CONTRIBUTIONS COUNTED FIRST.—If contributions were made in excess of the applicable amount for any taxable year, distributions or payments shall be treated as made first from contributions (and any earnings thereon) with respect to which no transfer was made under section 6402(l).”.

(b) CREDIT FOR MATCHING CONTRIBUTIONS TREATED AS OVERPAYMENT OF TAX.—Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by adding at the end the following new paragraph:
“(3) Special rule for credit for matching contributions under section 36.—Subject to the provisions of section 6402(l), the amount of any credit allowed under section 36 (relating to matching credit for retirement contributions) for any taxable year shall be considered an overpayment.”.

(e) Transfer of credit amount to retirement accounts.—

(1) In general.—Section 6402 (relating to authority to make credits or refunds) is amended by adding at the end the following:

“(l) Overpayments attributable to matching retirement credit.—

“(1) In general.—In the case of any overpayment described in section 6401(b)(3), the Secretary shall transfer an amount equal to the amount of such overpayment to the account designated under paragraph (2) by the individual entitled to the overpayment.

“(2) Designation of account.—An eligible individual (as defined in section 36(d)) shall file a designation including the information described in paragraph (3) along with the return of the individual for the taxable year of the overpayment (or if no return is required to be filed, on a form pre-
scribed by the Secretary) not later than the later of—

“(A) the due date (including extensions) for filing such return (if applicable), or

“(B) the 15th day of April following the close of the taxable year.

“(3) REQUIRED INFORMATION.—For purposes of paragraph (2), the information described in this paragraph is—

“(A) the designation of the Roth IRA or designated Roth account described in section 36(g)(1)(B) to which the transfer is to be made,

“(B) such information as the Secretary may require to enable electronic transfer of the overpayment amount to such IRA or account, and

“(C) the amount of qualified retirement savings contributions (as defined in section 36(e)) for the taxable year with respect to the individual.”.

(d) REPORTING REQUIREMENTS.—Section 6047 (relating to information relating to certain trusts and annuity plans) is amended by redesignating subsection (g) as sub-
section (h) and by inserting after subsection (f) the follow-  
lowing new subsection:

“(g) Matching Contributions.—The Secretary shall require the trustee of each plan or account to which overpayments are transferred under section 6402(l) to make such returns and reports regarding such transfers to the Secretary, participants, and beneficiaries of the plan, and such other persons as the Secretary may prescribe.”.

(e) Conforming Amendments.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking “or” before “enacted” and by inserting before the period at the end “, or enacted by the Savings Competitiveness Act of 2006”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by redesignating the item relating to section 36 as the item relating to section 37 and by inserting after the item relating to section 35 the following new item:

“Sec. 36. Matching contributions for certain retirement savings contributions.”.

(3) Section 6402(a) is amended by striking “In the case” and inserting “Except as provided in subsection (l), in the case”.

“S 2431 IS
(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

TITLE III—OTHER PROVISIONS TO INCREASE RETIREMENT SAVINGS

SEC. 301. YOUNG SAVERS ACCOUNTS.

(a) IN GENERAL.—Section 408A (relating to Roth IRAs) is amended by adding at the end the following new subsection:

“(g) YOUNG SAVERS ACCOUNTS.—

“(1) IN GENERAL.—Except as provided in this subsection, a young savers account shall be treated in the same manner as a Roth IRA.

“(2) YOUNG SAVERS ACCOUNT.—For purposes of this subsection, the term ‘young savers account’ means, with respect to any taxable year, a Roth IRA which is established and maintained on behalf of an individual who has not attained the age of 18 before the close of the taxable year.

“(3) CONTRIBUTION LIMITS.—In the case of any contributions for any taxable year to 1 or more young savers accounts established and maintained on behalf of an individual, each of the following con-
tribution limits for the taxable year shall be increased as follows:

“(A) The contribution limit applicable to the individual under subsection (c)(2) shall be increased by the aggregate amount of qualified parental contributions to such accounts for the taxable year.

“(B) The contribution limits applicable to the young savers accounts under subsection (a)(1) or (b)(2)(B) of section 408, whichever is appropriate, shall be increased by the dollar amount in effect under section 219(b)(1)(A) for the taxable year.

“(4) QUALIFIED PARENTAL CONTRIBUTIONS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified parental contribution’ means, with respect to any taxable year, a contribution by an individual to a young savers account established and maintained on behalf of an individual who—

“(i) is the child of the individual making the contribution, and

“(ii) with respect to whom a deduction for an additional exemption is allow—
able for the taxable year under section 151(c) to the individual making the contribution.

“(B) Dollar limitations.—

“(i) In general.—The aggregate amount of qualified parental contributions which may be made for any taxable year on behalf of an individual shall not exceed the dollar amount in effect under section 219(b)(1)(A) for the taxable year.

“(ii) Limit on each parent.—The aggregate amount of qualified parental contributions which an individual may make for any taxable year on behalf of 1 or more of the individual’s children shall not exceed the contribution limit applicable to the individual under subsection (c)(2) for the taxable year, reduced by any contributions made by or on behalf of the individual to any Roth IRA established and maintained on behalf of the individual.

“(5) Coordination with matching credit for retirement savings contributions.—Any qualified parental contributions made by an eligible individual (as defined in section 36(d)) shall be
treated as qualified retirement savings contributions for purposes of section 36.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 302. INCREASING PARTICIPATION IN CASH OR DEFERRED PLANS THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) IN GENERAL.—Section 401(k) (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph:

“(13) NONDISCRIMINATION REQUIREMENTS FOR AUTOMATIC CONTRIBUTION TRUSTS.—

“(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement constitutes an automatic contribution trust.

“(B) AUTOMATIC CONTRIBUTION TRUST.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘automatic contribution trust’ means an arrangement—

“(I) except as provided in clauses (ii) and (iii), under which each employee eligible to participate in the ar-
rangement is treated as having elected to have the employer make elective contributions in an amount equal to the applicable percentage of the employee’s compensation, and

“(II) which meets the requirements of subparagraphs (C), (D), (E), and (F).

“(ii) EXCEPTION FOR EXISTING EMPLOYEES.—In the case of any employee—

“(I) who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, and

“(II) whose rate of contribution immediately before such first date was less than the applicable percentage for the employee,

clause (i)(I) shall not apply to such employee until the date which is 1 year after such first date (or such earlier date as the employer may elect).
“(iii) Election out.—Each employee eligible to participate in the arrangement may specifically elect not to have contributions made under clause (i), and such clause shall cease to apply to compensation paid on or after the effective date of the election.

“(iv) Applicable percentage.—For purposes of this subparagraph—

“(I) In general.—The term ‘applicable percentage’ means, with respect to any employee, the uniform percentage (not less than 3 percent) determined under the arrangement. In the case of an employee who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, the initial applicable percentage shall in no event be less than the percentage in effect with respect to the employee under the arrangement immediately before the em-
ployee first begins participation in the automatic contribution trust.

"(II) INCREASE IN PERCENT-
AGE.—In the case of the second plan year beginning after the first date on which the election under clause (i)(I) is in effect with respect to the employee and any succeeding plan year, the applicable percentage shall be a percentage (not greater than 10 per-
cent or such higher uniform percentage determined under the arrange-
ment) equal to the sum of the applicable percentage for the employee as of the close of the preceding plan year plus 1 percentage point (or such higher percentage specified by the plan). A plan may elect to provide that, in lieu of any increase under the preceding sentence, the increase in the applicable percentage required under this subclause shall occur after each increase in compensation an employee receives on or after the first day of such second plan year and that the
applicable percentage after each such increase in compensation shall be equal to the applicable percentage for the employee immediately before such increase in compensation plus 1 percentage point (or such higher percentage specified by the plan).

“(C) Matching or nonelective contributions.—

“(i) In general.—The requirements of this subparagraph are met if, under the arrangement, the employer—

“(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 7 percent of compensation; or

“(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of
each employee who is not a highly
compensated employee and who is eli-
gible to participate in the arrange-
ment in an amount equal to at least
3 percent of the employee’s compensa-
tion,
The rules of clauses (ii) and (iii) of para-
graph (12)(B) shall apply for purposes of
subclause (I). The rules of paragraph
(12)(E)(ii) shall apply for purposes of sub-
clausess (I) and (II).

“(ii) OTHER PLANS.—An arrange-
ment shall be treated as meeting the re-
quirements under clause (i) if any other
plan maintained by the employer meets
such requirements with respect to employ-
ees eligible under the arrangement.

“(D) NOTICE REQUIREMENTS.—

“(i) IN GENERAL.—The requirements
of this subparagraph are met if the re-
quirements of clauses (ii) and (iii) are met.

“(ii) REASONABLE PERIOD TO MAKE
ELECTION.—The requirements of this
clause are met if each employee to whom
subparagraph (B)(i) applies—
“(I) receives a notice explaining
the employee’s right under the ar-
arrangement to elect not to have elective
contributions made on the employee’s
behalf, and how contributions made
under the arrangement will be in-
vested in the absence of any invest-
ment election by the employee, and

“(II) has a reasonable period of
time after receipt of such notice and
before the first elective contribution is
made to make such election.

“(iii) Annual notice of rights
and obligations.—The requirements of
this clause are met if each employee eligi-
ble to participate in the arrangement is,
within a reasonable period before any year
(or if the plan elects to change the applica-
ble percentage after any increase in com-
pensation, before the increase), given no-
tice of the employee’s rights and obliga-
tions under the arrangement.

The requirements of clauses (i) and (ii) of para-
graph (12)(D) shall be met with respect to the
notices described in clauses (ii) and (iii) of this subparagraph.

“(E) PARTICIPATION, WITHDRAWAL, AND VESTING REQUIREMENTS.—The requirements of this subparagraph are met if—

“(i) the arrangement requires that each employee eligible to participate in the arrangement (determined without regard to any minimum service requirement otherwise applicable under section 410(a) or the plan) commences participation in the arrangement no later than the 1st day of the 1st calendar quarter beginning after the date on which employee first becomes so eligible,

“(ii) the withdrawal requirements of paragraph (2)(B) are met with respect to all employer contributions (including matching and elective contributions) taken into account in determining whether the arrangement meets the requirements of subparagraph (C), and

“(iii) the arrangement requires that an employee’s right to the accrued benefit derived from employer contributions de-
scribed in clause (ii) (other than elective contributions) is nonforfeitable after the employee has completed at least 2 years of service.

“(F) Certain withdrawals must be allowed.—Notwithstanding any other provision of this subsection, the requirements of this subparagraph are met if the arrangement allows employees to elect to make permissible withdrawals in accordance with section 414(w).”

(b) Matching Contributions.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

“(12) Alternate method for automatic contribution trusts.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

“(A) meets the contribution requirements of subparagraphs (B)(i) and (C) of subsection (k)(13);
“(B) meets the notice requirements of subparagraph (D) of subsection (k)(13); and
“(C) meets the requirements of paragraph (11)(B) (ii) and (iii).”.

(c) Exclusion from Definition of Top-Heavy Plans.—

(1) Elective Contribution Rule.—Clause (i) of section 416(g)(4)(H) is amended by inserting “or 401(k)(13)” after “section 401(k)(12)”.

(2) Matching Contribution Rule.—Clause (ii) of section 416(g)(4)(H) is amended by inserting “or 401(m)(12)” after “section 401(m)(11)”.

(d) Section 403(b) Contracts.—Paragraph (11) of section 401(m) is amended by adding at the end the following:

“(C) Section 403(b) Contracts.—An annuity contract under section 403(b) shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if such contract meets requirements similar to the requirements under subparagraph (A).”.

(e) Preemption of Conflicting State Regulation.—Section 514 of the Employee Retirement Income
Security of 1974 (29 U.S.C. 1144) is amended by inserting at the end the following new subsection:

“(e) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, any law of a State shall be superseded if it would directly or indirectly prohibit or restrict the inclusion in any plan of an eligible automatic contribution arrangement.

“(2) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term ‘eligible automatic contribution arrangement’ means an arrangement—

“(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

“(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),
“(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary under section 404(c)(4), and

“(D) which meets the requirements of paragraph (3).

“(3) NOTICE REQUIREMENTS.—

“(A) IN GENERAL.—The administrator of an individual account plan shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (2) applies for such plan year notice of the employee’s rights and obligations under the arrangement which—

“(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

“(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

“(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—
“(i) the notice includes a notice explaining the employee’s right under the arrangement to elect not to have elective contributions made on the employee’s behalf (or to elect to have such contributions made at a different percentage),

“(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

“(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.”.

(f) Treatment of Withdrawals of Contributions During First 60 Days.—Section 414 is amended by adding at the end the following new subsection:

“(w) Special Rules for Certain Withdrawals from Eligible Automatic Contribution Arrangements.—

“(1) In general.—If an eligible automatic contribution arrangement allows an employee to elect to make permissible withdrawals—
“(A) the amount of any such withdrawal shall be includible in the gross income of the employee for the taxable year of the employee in which the distribution is made,

“(B) no tax shall be imposed under section 72(t) with respect to the distribution, and

“(C) the arrangement shall not be treated as violating any restriction on distributions under this title solely by reason of allowing the withdrawal.

In the case of any distribution to an employee by reason of an election under this paragraph, employer matching contributions shall be forfeited or subject to such other treatment as the Secretary may prescribe.

“(2) PERMISSIBLE WITHDRAWAL.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘permissible withdrawal’ means any withdrawal from an eligible automatic contribution arrangement meeting the requirements of this paragraph which—

“(i) is made pursuant to an election by an employee, and
“(ii) consists of elective contributions described in paragraph (3)(B) (and earnings attributable thereto).

“(B) Time for making election.—Subparagraph (A) shall not apply to an election by an employee unless the election is made no later than the date which is 60 days after the date of the first elective contribution with respect to the employee under the arrangement.

“(C) Amount of distribution.—Subparagraph (A) shall not apply to any election by an employee unless the amount of any distribution by reason of the election is equal to the amount of elective contributions made with respect to the first payroll period to which the eligible automatic contribution arrangement applies to the employee and any succeeding payroll period beginning before the effective date of the election (and earnings attributable thereto).

“(3) Eligible automatic contribution arrangement.—For purposes of this subsection, the term ‘eligible automatic contribution arrangement’ means an arrangement—

“(A) under which a participant may elect to have the employer make payments as con-
tributions under the plan on behalf of the participant, or to the participant directly in cash,

“(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

“(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary of Labor under section 404(e)(4) of the Employee Retirement Income Security Act of 1974, and

“(D) which meets the requirements of paragraph (4).

“(4) NOTICE REQUIREMENTS.—

“(A) IN GENERAL.—The administrator of a plan containing an arrangement described in paragraph (3) shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (3) applies for such plan year notice of the em-
employee’s rights and obligations under the arrangement which—

“(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

“(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

“(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

“(i) the notice includes a notice explaining the employee’s right under the arrangement to elect not to have elective contributions made on the employee’s behalf (or to elect to have such contributions made at a different percentage),

“(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

“(iii) the notice explains how contributions made under the arrangement will be
invested in the absence of any investment
election by the employee.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by para-
graph (2), the amendments made by this section
shall apply to plan years beginning after December
31, 2006.

(2) SECTION 403(b) CONTRACTS.—The amend-
ments made by subsection (d) shall apply to years
ending after the date of the enactment of this Act.

SEC. 303. TREATMENT OF INVESTMENT OF ASSETS BY PLAN
WHERE PARTICIPANT FAILS TO EXERCISE IN-
VESTMENT ELECTION.

(a) IN GENERAL.—Section 404(c) of the Employee
1104(c)) is amended by adding at the end the following
new paragraph:

“(4) DEFAULT INVESTMENT ARRANGE-
MENTS.—

“(A) IN GENERAL.—For purposes of para-
graph (1), a participant in an individual ac-
count plan meeting the notice requirements of
subparagraph (B) shall be treated as exercising
control over the assets in the account with re-
spect to the amount of contributions and earn-
ings which, in the absence of an investment
election by the participant, are invested by the
plan in accordance with regulations prescribed
by the Secretary. The regulations under this
subparagraph shall provide guidance on the ap-
propriateness of designating default investments
that include a mix of asset classes consistent
with capital preservation, long-term capital ap-
preciation, or a blend of both.

“(B) NOTICE REQUIREMENTS.—

“(i) IN GENERAL.—The requirements
of this subparagraph are met if each par-
ticipant—

“(I) receives, within a reasonable
period of time before each plan year,
a notice explaining the employee’s
right under the plan to designate how
contributions and earnings will be in-
vested and explaining how, in the ab-
sence of any investment election by
the participant, such contributions
and earnings will be invested, and

“(II) has a reasonable period of
time after receipt of such notice and
before the beginning of the plan year
to make such designation.

“(ii) FORM OF NOTICE.—The require-
ments of clauses (i) and (ii) of section
401(k)(12)(D) of the Internal Revenue
Code of 1986 shall be met with respect to
the notices described in this subpara-
graph.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by
this section shall apply to plan years beginning after
December 31, 2006.

(2) REGULATIONS.—Final regulations under
section 404(c)(4)(A) of the Employee Retirement In-
come Security Act of 1974 (as added by this section)
shall be issued no later than 6 months after the date
of the enactment of this Act.

SEC. 304. CREDIT FOR QUALIFIED PENSION PLAN CON-
TRIBUTIONS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of sub-
chapter A of chapter 1 (relating to business related cred-
its), as amended by this Act, is amended by adding at
the end the following new section:
SEC. 45O. SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS.

(a) General Rule.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section for any taxable year is an amount equal to 50 percent of the amount which would (but for subsection (f)(1)) be allowed as a deduction under section 404 for such taxable year for qualified employer contributions made to any qualified retirement plan on behalf of any employee who is not a highly compensated employee.

(b) Credit Limited to 3 Years.—The credit allowable by this section shall be allowed only with respect to the period of 3 taxable years beginning with the first taxable year for which a credit is allowable with respect to a plan under this section.

(c) Qualified Employer Contribution.—For purposes of this section—

(1) Defined contribution plans.—In the case of a defined contribution plan, the term ‘qualified employer contribution’ means the amount of nonelective and matching contributions to the plan made by the employer on behalf of any employee who is not a highly compensated employee to the extent such amount does not exceed 3 percent of such
employee’s compensation from the employer for the year.

“(2) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the term ‘qualified employer contribution’ means the amount of employer contributions to the plan made on behalf of any employee who is not a highly compensated employee to the extent that the accrued benefit of such employee derived from employer contributions for the year does not exceed the equivalent (as determined under regulations prescribed by the Secretary and without regard to section 401(l) or contributions and benefits under the Social Security Act) of 3 percent of such employee’s compensation from the employer for the year.

“(d) QUALIFIED RETIREMENT PLAN.—

“(1) IN GENERAL.—The term ‘qualified retirement plan’ means any plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or any plan described in section 408(k) or (p), if the plan meets—

“(A) the contribution requirements of paragraph (2), and

“(B) the distribution requirements of paragraph (3).
“(2) Contribution requirements.—

“(A) In general.—The requirements of this paragraph are met if, under the plan—

“(i) the employer is required to make nonelective contributions of at least 1 percent of compensation (or the equivalent thereof in the case of a defined benefit plan) for each employee who is not a highly compensated employee who is eligible to participate in the plan, and

“(ii) allocations of nonelective employer contributions, in the case of a defined contribution plan, are either in equal dollar amounts for all employees covered by the plan or bear a uniform relationship to the total compensation, of the employees covered by the plan (and an equivalent requirement is met with respect to a defined benefit plan).

“(B) Compensation limitation.—The compensation taken into account under subparagraph (A) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).
“(3) Distribution Requirements.—In the case of a profit-sharing or stock bonus plan, the requirements of this paragraph are met if, under the plan, qualified employer contributions are distributable only as provided in section 401(k)(2)(B).

“(e) Other Definitions.—For purposes of this section—

“(1) Eligible Employer.—

“(A) In General.—The term ‘eligible employer’ means, with respect to any year, an employer which has no more than 25 employees who received at least $5,000 of compensation from the employer for the preceding year. In determining the number of employees for purposes of this paragraph, any rule applicable in determining the number of employees for purposes of section 408(p)(2)(C) shall be applicable under this paragraph.

“(B) Requirement for New Qualified Employer Plans.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any mem-
ber of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

"(2) Highly Compensated Employee.—The term ‘highly compensated employee’ has the meaning given such term by section 414(q) (determined without regard to section 414(q)(1)(B)(ii)).

"(f) Special Rules.—

"(1) Disallowance of Deduction.—No deduction shall be allowed for that portion of the qualified employer contributions paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

"(2) Election Not to Claim Credit.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

"(3) Aggregation Rules.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414,
shall be treated as one person. All eligible employer
plans shall be treated as 1 eligible employer plan.

“(g) Recapture of Credit on Forfeited Con-
tributions.—If any accrued benefit which is forfeitable
by reason of subsection (d)(3) is forfeited, the employer’s
tax imposed by this chapter for the taxable year in which
the forfeiture occurs shall be increased by 35 percent of
the employer contributions from which such benefit is de-
rived to the extent such contributions were taken into ac-
count in determining the credit under this section.”.

(b) Credit Allowed as Part of General Busi-
ness Credit.—Section 38(b) (defining current year busi-
ness credit), as amended by this Act, is amended by strik-
ing “and” at the end of paragraph (30), by striking the
period at the end of paragraph (31) and inserting “, and”,
and by adding at the end the following new paragraph:

“(32) in the case of an eligible employer (as de-
defined in section 45O(e)), the small employer pension
plan contribution credit determined under section
45O(a).”.

(c) Conforming Amendments.—

(1) Subsection (c) of section 196 is amended by
striking “and” at the end of paragraph (12), by
striking the period at the end of paragraph (13) and
inserting “, and”, and by adding at the end the following new paragraph:

“(14) the small employer pension plan contribution credit determined under section 45O(a).”.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45O. Small employer pension plan contributions.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or incurred in taxable years beginning after December 31, 2006.

SEC. 305. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by—

(1) the United States Housing Act of 1937,

(2) title V of the Housing Act of 1949,

(3) section 101 of the Housing and Urban Development Act of 1965,
(4) sections 221(d)(3), 235, and 236 of the National Housing Act, and
(5) the Food Stamp Act of 1977,
any amount (including earnings thereon) in any qualified retirement plan (as defined in section 4974(c) of such Code), or any eligible deferred compensation plan (as defined in section 457(b) of such Code) maintained by an employer described in section 457(e)(1)(A) of such Code, of such individual shall be disregarded for such purpose with respect to any period during which such individual has not attained normal retirement age (as defined in section 216(l)(1) of the Social Security Act).

SEC. 306. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary’s delegate) shall make available a form (or modify existing forms) for use by individuals to direct that a portion of any refund of overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1986 be paid directly to an individual retirement plan (as defined in section 7701(a)(37) of such Code) of such individual, except that in the case of a joint return, the form or forms shall provide that each spouse shall be entitled to designate an individual retirement plan with respect to the payments attributable to the spouse.
(b) Effective Date.—The form required by subsection (a) shall be made available for taxable years begin-
ning after December 31, 2006.

TITLE IV—SIMPLIFICATION

PROVISIONS

SEC. 401. EXCEPTION FROM REQUIRED DISTRIBUTIONS

WHERE AGGREGATE RETIREMENT SAVINGS

LESS THAN $50,000.

(a) In General.—Section 401(a)(9) (relating to re-
quired distributions) is amended by adding at the end the
following new subparagraph:

“(H) Exception from required distrib-
utions during life of employee

where assets do not exceed $50,000.—

“(i) In general.—If, as of the close

of any calendar year, the aggregate bal-

ance to the credit of an individual in all

applicable eligible retirement plans and

health savings accounts—

“(I) does not exceed $50,000,

then the requirements of subpara-

graph (A) (and the requirements of

any provision of this title which incor-

porates the requirements of subpara-

graph (A) by reference) shall not
apply during the succeeding calendar year, or

“(II) exceeds $50,000 but does not exceed $200,000, then such requirements shall apply during the succeeding calendar year only to the excess.

“(ii) Applicable Eligible Retirement Plan.—For purposes of this subparagraph, the term ‘applicable eligible retirement plan’ means an eligible retirement plan (as defined in section 402(c)(8)(B)), except that in applying such section—

“(I) only qualified trusts which are part of a defined contribution plan shall be taken into account under clause (iii), and

“(II) clause (iv) shall be disregarded.

“(iii) Special Rule for Roth and Health Savings Accounts.—For purposes of applying clause (i) for any calendar year, each of the $50,000 and $200,000 amounts shall be reduced by the aggregate balance to the credit of an indi-
individual in all Roth IRAs, designated Roth accounts under section 402A, and health savings accounts which was taken into account in computing the aggregate balance under clause (i).

“(iv) **SPECIAL RULE FOR ANNUITY CONTRACTS.**—In determining the aggregate balance under clause (i) for any calendar year, there shall not be taken into account the value of any commercial annuity which was acquired by an applicable eligible retirement plan and from which distributions are being made, but the distributions shall be taken into account for purposes of this paragraph in the same manner as the distributions are taken into account without regard to this subparagraph.

“(v) **HEALTH SAVINGS ACCOUNT.**—For purposes of this subparagraph, the term ‘health savings account’ has the meaning given such term by section 223(d).”
(b) **Effective Date.**—The amendment made by this section shall apply to distributions after December 31, 2006.

**SEC. 402. ALLOWANCE OF ADDITIONAL NONELECTIVE CONTRIBUTIONS TO SIMPLE PLANS.**

(a) **Simple Retirement Accounts.**—Section 408(p)(2) (defining qualified salary reduction arrangement) is amended by adding at the end the following:

"(F) **Additional nonelective contributions.**—An employer shall not be treated as failing to meet the requirements of subparagraph (A)(iii) or (B) for any year if, in addition to any contributions described in either such subparagraph, the employer elects to make nonelective contributions of a uniform percentage (not greater than 10 percent) of compensation for each employee eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year."

(b) **Simple Cash or Deferred Plans.**—Section 401(k)(11)(B) (relating to contribution requirements) is amended by adding at the end the following:

"(iv) **Additional nonelective contributions.**—An employer shall not be treated as failing to meet the requirements..."
of clause (i)(II) or (ii) for any year if, in
addition to any contributions described in
either such clause, the employer elects to
make nonelective contributions of a uni-
form percentage (not greater than 10 per-
cent) of compensation for each employee
eligible to participate in the arrangement
and who has at least $5,000 of compensa-
tion from the employer for the year.”.

(c) Effective Dates.—The amendments made by
this section shall apply to years beginning after December
31, 2006.

SEC. 403. EXTENSION OF CERTAIN EXCEPTIONS FROM TAX
ON EARLY DISTRIBUTIONS TO PLANS OTHER
THAN INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Subparagraphs (D), (E), and (F)
of section 72(t)(2) (relating to subsection not to apply to
certain distributions) are each amended by striking “from
an individual retirement plan”.

(b) Conforming Amendments.—

(1) The heading for section 72(t)(2)(E) is
amended by striking “FROM INDIVIDUAL RETIRE-
MENT PLANS”.

(2) The heading for section 72(t)(2)(F) is
amended by striking “FROM CERTAIN PLANS”.
(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 404. ELIMINATION OF HIGHER PENALTY ON CERTAIN SIMPLE PLAN DISTRIBUTIONS.

(a) In General.—Subsection (t) of section 72 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by striking paragraph (6) and redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively.

(b) Conforming Amendments.—

(1) Section 72(t)(2)(E) is amended by striking “paragraph (7)” and inserting “paragraph (6)”.

(2) Section 72(t)(2)(F) is amended by striking “paragraph (8)” and inserting “paragraph (7)”.

(3) Section 408(d)(3)(G) is amended by striking “applies” and inserting “applied on the day before the date of the enactment of the Savings Competitiveness Act of 2006”.

(4) Section 457(a)(2) is amended by striking “section 72(t)(9)” and inserting “section 72(t)(8)”.

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 2006.
SEC. 405. SIMPLE PLAN PORTABILITY.

(a) Repeal of Limitation.—Paragraph (3) of section 408(d) (relating to rollover contributions) is amended by striking subparagraph (G) and redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 2006.

SEC. 406. ALLOW DIRECT ROLLOVERS FROM RETIREMENT PLANS TO ROTH IRAS.

(a) In General.—Subsection (e) of section 408A (defining qualified rollover contribution) is amended to read as follows:

"(e) Qualified Rollover Contribution.—For purposes of this section, the term ‘qualified rollover contribution’ means a rollover contribution—

“(1) to a Roth IRA from another such account,

“(2) from an eligible retirement plan, but only if—

“(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

“(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover
contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable. 

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.”

(b) CONFORMING AMENDMENTS.—

(1) Section 408A(c)(3)(B) is amended—

(A) in the text by striking “individual retirement plan” and inserting “an eligible retirement plan (as defined by section 402(c)(8)(B))”, and

(B) in the heading by striking “IRA” and inserting “ELIGIBLE RETIREMENT PLAN”.

(2) Section 408A(d)(3) is amended—

(A) in subparagraph (A), by striking “section 408(d)(3)” inserting “sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)”,

(B) in subparagraph (B), by striking “individual retirement plan” and inserting “eligible retirement plan (as defined by section 402(c)(8)(B))”,

(C) in subparagraph (D), by inserting “or 6047” after “408(i)”,
(D) in subparagraph (D), by striking “or both” and inserting “persons subject to section 6047(d)(1), or all of the foregoing persons”, and

(E) in the heading, by striking “IRA” and inserting “ELIGIBLE RETIREMENT PLAN”.

(e) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 2006.

SEC. 407. COORDINATION OF ORDERING RULES FOR DISTRIBUTIONS FROM ROTH IRAS AND DESIGNATED ROTH ACCOUNTS.

(a) In General.—Section 402A(d) is amended by adding at the end the following new paragraph:

“(5) ORDERING RULE.—For purposes of applying this section, section 72, and section 402 to any distribution from a designated Roth account, such distribution shall be treated as made from contributions to the extent that the amount of such distribution, when added to all previous distributions from the designated Roth account, does not exceed the aggregate contributions to the designated Roth account.”.
(b) Effective Date.—The amendment made by this section shall apply to distributions after December 31, 2006.

**TITLE V—PAY-GO PROVISIONS**

**SEC. 501. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.**

(a) Point of Order.—

(1) In General.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit (as measured in paragraphs (5) and (6)) for any 1 of the 3 applicable time periods.

(2) Applicable Time Periods.—For purposes of this subsection, the term “applicable time period” means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.
(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term “direct-spending legislation” means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms “direct-spending legislation” and “revenue legislation” do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of
the Balanced Budget and Emergency Deficit
Control Act of 1985 for fiscal years beyond
those covered by that concurrent resolution on
the budget.

(6) PRIOR SURPLUS.—If direct spending or rev-

enue legislation increases the on-budget deficit or
causes an on-budget deficit when taken individually,
it must also increase the on-budget deficit or cause
an on-budget deficit when taken together with all di-
rect spending and revenue legislation enacted since
the beginning of the calendar year not accounted for
in the baseline under paragraph (5)(A), except that
direct spending or revenue effects resulting in net
deficit reduction enacted pursuant to reconciliation
instructions since the beginning of that same cal-
endar year shall not be available.

(b) WAIVER.—This section may be waived or sus-
pended in the Senate only by the affirmative vote of \( \frac{3}{5} \)
of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the deci-
sions of the Chair relating to any provision of this section
shall be limited to 1 hour, to be equally divided between,
and controlled by, the appellant and the manager of the
bill or joint resolution, as the case may be. An affirmative
vote of \( \frac{3}{5} \) of the Members of the Senate, duly chosen and
sworn, shall be required to sustain an appeal of the ruling
of the Chair on a point of order raised under this section.

(d) **Determination of Budget Levels.**—For purposes of this section, the levels of new budget author-
ity, outlays, and revenues for a fiscal year shall be deter-
mind on the basis of estimates made by the Committee
on the Budget of the Senate.

(e) **Sunset.**—This section shall expire on September 30, 2011.

**TITLE VI—Administrative Provisions**

**SEC. 601. Provisions Relating to Plan Amendments.**

(a) **In General.**—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the re-
quirements of section 411(d)(6) of the Internal Rev-
venue Code of 1986 and section 204(g) of the Em-
ployee Retirement Income Security Act of 1974 by reason of such amendment.

(b) **Amendments to Which Section Applies.**—
(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this Act, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (B) shall be applied by substituting the date which is 2 years after the date otherwise applied under subparagraph (B).

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

(A) during the period—

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

(ii) ending on the date described in
paragraph (1)(B) (or, if earlier, the date
the plan or contract amendment is adopt-
ed),
the plan or contract is operated as if such plan
or contract amendment were in effect; and

(B) such plan or contract amendment ap-
plies retroactively for such period.

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