To amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar saving by the self-employed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2006

Mr. BINGAMAN (for himself and Mr. SMITH) 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 allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar saving by the self-employed, 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.

This Act may be cited as the “Automatic IRA Act of 2006”.
SEC. 2. EMPLOYEES NOT COVERED BY QUALIFIED RETIREMENT PLANS OR ARRANGEMENTS ENTITLED TO PARTICIPATE IN PAYROLL DEPOSIT IRA ARRANGEMENTS.

(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 DEPOSIT IRA ARRANGEMENTS AT WORK.

"(a) REQUIREMENT TO PROVIDE PAYROLL DEPOSIT IRA ARRANGEMENT.—Each employer (other than an 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 deposit IRA arrangement which meets the requirements of this section.

"(b) PAYROLL DEPOSIT IRA ARRANGEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term ‘payroll deposit IRA 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 periodic direct de-
deposit or other payroll deposit payments (including electronic 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 deposit IRA arrangement if—

“(A) the employer must make the payments elected under paragraph (1)(A) on or before the later of—

“(i) the due date for the deposit of tax required to be deducted and withheld under chapter 24 (relating to collection of income tax at source on wages) for the payroll period to which such payments relate, or

“(ii) the 30th day following the last day of the month with respect to which the payments are to be made,

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

“(C) each employee eligible to participate may elect, during the 60-day period or other pe-
riod specified by the Secretary before the begin-
ning of any calendar year (and during the 60-
day period or other period specified by the Sec-
retary before the first day the employee is eligi-
ble to participate), to participate in the ar-
rangement, or to modify the employee’s election under the arrangement (including the amounts subject to the arrangement and the manner in which such amounts are invested), for such year,

“(D) the employer provides—

“(i) immediately before the beginning of each period described in subparagraph (C), a notice to each employee of the em-
ployee’s opportunity to make the election and the maximum amount which may be contributed to an individual retirement plan on an annual basis, and

“(ii) if the arrangement includes an automatic contribution arrangement, the
notices required under subsection (g) with respect to the automatic contribution arrange-
ment,

“(E) subject to subsection (f), the arrange-
ment provides that an employee may elect to have contributions made to any individual re-
tirement plan specified by the employee, and

“(F) if the arrangement does not include an automatic contribution arrangement—

“(i) the arrangement requires the em-
ployer to take all reasonable actions to so-
licit from all employees eligible to partici-
pate in the arrangement an explicit elec-
tion to either participate or not to partici-
pate in the arrangement, and

“(ii) the arrangement provides that if an employee fails to make an explicit elec-
tion under clause (i) within the time pre-
scribed under the arrangement, the em-
ployee will be treated as having made an election to participate in the arrangement (and amounts shall be invested on behalf of the participant) in the same manner as if the arrangement had included an auto-
matic contribution arrangement under subsection (g).

“(c) APPLICABLE EMPLOYEE DEFINED; RELATED DEFINITIONS AND RULES.—For purposes of this section—

“(1) APPLICABLE EMPLOYEE.—

“(A) IN GENERAL.—The term ‘applicable employee’ means, with respect to any calendar year, any employee—

“(i) who was not eligible under a qualified plan or arrangement maintained by the employer for service for the preceding calendar year, and

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

“(B) SPECIAL RULES.—For purposes of subparagraph (A)(i)—

“(i) ELIGIBILITY.—An employee shall be treated as eligible under a plan for a preceding calendar year if, as of the last day of the last plan year ending in the pre-
ceeding calendar year, the employee has satisfied the plan’s eligibility requirements.

“(ii) EXCLUDED PLANS.—A qualified plan or arrangement shall not be taken into account under this paragraph if—

“(I) the plan or arrangement is frozen as of the first day of the preceding calendar year, or

“(II) in the case of a plan or arrangement under which the only contributions are discretionary on the part of the sponsor, there has not been an employer contribution made to the plan or arrangement for the 2-plan-year period ending with the last plan year ending in the second preceding calendar year and it is not reasonable to assume that an employer contribution will be made for the plan year ending in the preceding calendar year.

“(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 will be eligible to participate in a qualified plan or arrangement of the employer upon completion of eligibility requirements described in section 410(a)(1)(A) (without regard to section 410(a)(1)(B)),

“(E) employees who are eligible to make salary reduction contributions under an arrangement which meets the requirements of section 403(b), and

“(F) all employees of the employer if the employer maintains an arrangement described in section 408(p).

“(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).

“(5) Designation of Applicable Employees.—The Secretary shall issue guidelines for determining the class or classes of employees to be covered by a payroll deposit IRA arrangement. Such guidelines shall provide that if an employer elects under paragraph (2) to exclude employees from the arrangement, the employer shall specify the classification or categories of employees who are not so covered.

“(d) Payroll Deposit IRA 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 deposit IRA arrangement instead of being made di-
rectly 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 deposit IRA arrange-
ment shall be taken into account in applying the lim-
itations 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 and New
Employers.—

“(1) In General.—The requirements of this
section shall not apply for any calendar year to an
employer if—

“(A) the employer did not have more than
10 employees who received at least $5,000 of
compensation from the employer for the pre-
ceding calendar year, or

“(B) was not in existence at all times dur-
ing the 2 preceding calendar years and did not
have more than 100 employees who received at
least $5,000 of compensation from the employer
on any day during either of the 2 preceding calendar years.

“(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,

“(B) all members of the same family (within the meaning of section 318(a)(1)) shall be treated as 1 individual, and

“(C) any reference to an employer shall include a reference to any predecessor employer.

“(f) DEPOSITS TO INDIVIDUAL RETIREMENT PLANS OTHER THAN THOSE SELECTED BY EMPLOYEE.—

“(1) IN GENERAL.—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—

“(A) individual retirement plans specified in paragraph (2), or
“(B) individual retirement plans under the payroll tax deposit system established under paragraph (3).

“(2) Plans of a designated trustee or issuer.—An employer may elect to have contributions for all applicable employees participating in a payroll deposit IRA arrangement made to individual retirement plans of a designated trustee or issuer under the arrangement. 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 established by or on behalf of the participant.

“(3) Payroll tax deposit system.—The Secretary, in consultation with the TSP II Board, shall establish a system under which an employer—

“(A) includes with each deposit of tax required to be deducted and withheld under chapter 24 the aggregate amounts, for the period covered by the deposit, which applicable employees designated under subsection (b)(1)(A) (or are deemed to have designated under subsection (b)(2)(F)(ii) or under an automatic contribution arrangement described in subsection (g))
for contribution to individual retirement plans,
established on behalf of the employees under
paragraph (4), and

“(B) specifies, in such manner as the Sec-
retary may prescribe, for each applicable em-
ployee for whom a contribution is to be made
the following information:

“(i) The employee’s name and TIN.
“(ii) The amount of the contribution.
“(iii) The investment options selected
by the employee (or deemed to have been
selected by the employee under such auto-
matic contribution arrangement) and the
amount of the contribution allocated to
each option.

“(4) Establishment and maintenance of
accounts under payroll tax deposit sys-
tem.—

“(A) In general.—Subject to the provi-
sions of this section and section 408C, the TSP
II Board shall provide for the establishment
and maintenance of individual retirement plans
(including automatic IRAs) into which contribu-
tions may be deposited through the payroll tax
deposit system. To the maximum extent prac-
ticable, the TSP II Board shall—

“(i) enter into contracts with persons
eligible to be trustees of individual retire-
ment plans under section 408 to establish
such plans, to provide the investment
funds and investment management, and to
provide notice, record keeping, and other
administrative services, and

“(ii) ensure that the costs of invest-
ment management and administration are
kept to a minimum, including through con-
sideration of the use of investments which
involve passive management and which
seek to replicate the performance of a por-
tion of the market.

“(B) PAYROLL DEPOSIT FEATURES.—The
TSP II Board shall establish procedures so that
contributions may be made to individual retire-
ment plans (including automatic IRAs) through
the payroll tax deposit system described in
paragraph (3) without undue administrative or
paperwork requirements on employers partici-
pating in the payroll tax deposit system. Such
procedures shall ensure that only 1 such plan
may be established for each TIN.

“(C) LIMITATION ON ROLLOVERS TO
PLANS OUTSIDE THE SYSTEM.—If—

“(i) any amount is paid or distributed
out of an individual retirement plan estab-
lished under this paragraph, and

“(ii) such amount is paid into an indi-
vidual retirement plan established outside
of the payroll tax deposit system,

the payment described in clause (ii) shall be
treated as a rollover contribution for purposes
of section 408(d)(3) if and only if the balance
to the credit of the individual in such individual
retirement plan or arrangement immediately be-
fore the payment described in clause (i) was at
least $15,000.

“(g) COORDINATION WITH AUTOMATIC ENROLL-
MENT AND OTHER DEFAULT ELECTION PROVISIONS.—

“(1) IN GENERAL.—A payroll deposit IRA ar-
angement may provide that contributions under the
arrangement will be made pursuant to an automatic
contribution arrangement but only if the arrange-
ment meets requirements similar to the require-
ments applicable to an eligible automatic contribu-
tion arrangement under section 414(w). The Secretary shall modify such requirements to the extent necessary to carry out the purposes of this section.

“(2) DEFAULT INVESTMENTS.—If an employee is deemed under an automatic contribution arrangement to have made an election to participate in a payroll deposit IRA arrangement—

“(A) the employee shall be deemed to have made an election to make contributions in the amount specified in paragraph (3),

“(B) such contributions shall be transferred to—

“(i) an automatic IRA, or,

“(ii) if the employer has made an election under subsection (f)(2), to an individual retirement plan of the designated trustee or issuer but only if the requirements of subparagraph (C) are met with respect to such individual retirement plan, and

“(C) such contributions shall be invested as provided in paragraph (4).

“(3) AMOUNT OF CONTRIBUTIONS.—

“(A) IN GENERAL.—The amount specified in this paragraph is 3 percent of compensation.
“(B) Authority of Board to Provide for Annual Increases.—The TSP II Board may by regulation provide for annual increases in the percentage of compensation an employee is deemed to have elected under paragraph (2) but in no event shall the percentage of compensation an employee is deemed to have elected exceed 8 percent.

“(C) Contribution Limit.—The contributions under paragraph (2) on behalf of an employee for any calendar year shall not exceed the dollar limits applicable to the employee for the calendar year under section 219 or 408A.

“(4) Investment in Life Cycle Fund or Other Investments Specified by the Board.—Amounts contributed under paragraph (2) shall be invested in—

“(A) a life cycle fund similar to the life cycle funds offered under the Thrift Savings Fund established under subchapter III of chapter 84 of title 5, United States Code, or

“(B) such other investment or investments as the TSP II Board specifies in regulations and which entails asset allocation and extensive diversification.
A fund or investment shall meet the requirements of this paragraph only if it is consistent with regulations prescribed by the Secretary of Labor under section 404(c)(5) of the Employee Retirement Income Security Act of 1974.

“(5) COORDINATION WITH WITHHOLDING.—
The Secretary shall modify the withholding exemption certificate under section 3402(f) so that any notice and election requirements with respect to an automatic contribution arrangement which is part of a payroll deposit IRA arrangement may be met through the use of such certificate.

“(h) MODEL NOTICE.—The Secretary, in consultation with the TSP II Board, shall—

“(1) provide a model notice, written in a manner calculated to be understandable to the average worker, that is simple for employers to use—

“(A) to notify employees of the requirement under this section for the employer to provide certain employees with the opportunity to participate in a payroll deposit IRA arrangement, and

“(B) to satisfy the requirements of subsection (b)(2)(D).
“(2) provide uniform forms for enrollment, in- 
cluding automatic enrollment, in a payroll deposit 
IRA arrangement, and 
“(3) establish a web site or other electronic 
means for small employers to access and use to ob-
tain information on payroll deposit IRA arrange-
ments and to obtain required notices and forms.”.

(b) PREEMPTION OF CONFLICTING STATE LAWS.—
Section 514(e)(1) of the Employee Retirement Income Se-
curity Act of 1974 (29 U.S.C. 1144(e)(1)), as added by 
section 902 of the Pension Protection Act of 2006, is 
amended to read as follows:
“(1) IN GENERAL.—Notwithstanding any other 
 provision of this section, this title shall supersede 
any law of a State which would directly or indirectly 
prohibit or restrict—
“(A) the inclusion in any plan of an auto-
matic contribution arrangement, or 
“(B) the establishment or operation of a 
deposit IRA arrangement meeting the require-
ments of section 408B of the Internal Revenue 
Code of 1986 (and the inclusion in such ar-
rangement of an automatic contribution ar-
angement).
The Secretary may prescribe regulations which would establish minimum standards that an automatic contribution arrangement would be required to satisfy in order for this subsection to apply in the case of such arrangement. This subsection shall apply to a plan or arrangement without regard to whether this title applies to such plan or arrangement.”.

(e) *Notice of Availability of Investment Guidelines.*—Section 408(i) (relating to reports) is amended by adding at the end the following new sentence: “Any report furnished under paragraph (2) to an individual shall include notice of the availability of, and methods of acquiring, the basic investment guidelines prepared by the Secretary of Labor.”.

(d) *Development of Basic Investment Guidelines.*—

(1) *In General.*—The Secretary of Labor shall, in consultation with the Secretary of Treasury, develop and publish basic guidelines for investing for retirement. Except as otherwise provided by the Secretary of Labor, such guidelines shall include—

(A) information on the benefits of diversification,
(B) information on the essential differences, in terms of risk and return, between various 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 guidelines under paragraph (1) shall include addresses for Internet sites and worksheets which a participant or beneficiary in a pension plan 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 var-
ied 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 proposed guidelines before publishing the final guidelines.

(4) **RULES RELATING TO GUIDELINES.**—The guidelines 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 guidelines are reasonably accessible to participants and beneficiaries.

(e) **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:

“SEC. 4980H. REQUIREMENTS FOR EMPLOYERS TO PROVIDE EMPLOYEES ACCESS TO PAYROLL DEPOSIT IRA ARRANGEMENTS.

“(a) GENERAL RULE.—There is hereby imposed a tax on any failure by an employer to meet the requirements of subsection (d) for a calendar year.

“(b) AMOUNT.—

“(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure for any calendar year shall be $100 with respect to each employee 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 established to the satisfaction of the Secretary that the employer subject to liability for the tax did not know that the failure existed and exercised reasonable diligence to meet the requirements of subsection (d). In no event shall the tax be imposed 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 (e).

“(3) TAX NOT TO APPLY TO FAILURES COR-
RECTED 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 reason-
able diligence to meet the requirements of sub-
section (d), and

“(B) the employer provides the payroll de-
posit IRA arrangement described in section
408B to each employee eligible to participate in
the arrangement by the end of the 30-day pe-
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.

“(e) 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 em-
ployers are in compliance with the requirements of sub-
section (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 employ-
ment taxes, or such other means as the Secretary may
deem advisable.

“(d) REQUIREMENT TO PROVIDE EMPLOYEE ACCESS
TO PAYROLL DEPOSIT IRA ARRANGEMENTS.—The re-
quirements of this subsection are met if the employer
meets the requirements of section 408B.”.

(f) COORDINATION WITH ERISA FIDUCIARY DU-
TIES.—Section 404(c)(2) of such Act (29 U.S.C.
1104(c)(2)) is amended—

(1) by inserting “or an individual retirement
plan designated by the employer under section 408B
of such Code” after “1986”,

(2) by inserting “(7 days after notice has been
given to an employee that an individual retirement
plan has been established on behalf of the employee
under section 408B of such Code)” after “estab-
lished” in subparagraph (C), and

(3) by inserting “or with respect to an indi-
vidual retirement plan designated by an employer
under section 408B of such Code” after “arrange-
ment” in the last sentence.

(g) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part
I of subchapter A of chapter 1 is amended by insert-
ing after the item relating to section 408A the fol-
lowing new item:

“Sec. 408B. Right to payroll deposit IRA arrangements 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 pay-
roll deposit IRA arrangements.”.

(h) EFFECTIVE DATE.—The amendments made by
this section shall apply to calendar years beginning after

SEC. 3. CREDIT FOR SMALL EMPLOYERS MAINTAINING
PAYROLL DEPOSIT IRA ARRANGEMENTS.

(a) IN GENERAL.—Subpart D of part IV of sub-
chapter A of chapter 1 (relating to business related cred-
its) is amended by adding at the end the following new
section:

“SEC. 45N. SMALL EMPLOYER PAYROLL DEPOSIT IRA AR-
RANGEMENT COSTS.

“(a) GENERAL RULE.—For purposes of section 38,
in the case of an eligible employer maintaining a payroll
deposit IRA 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 deposit IRA 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 deposit IRA arrangement referred to in subsection (a) for the calendar year in which the taxable year begins, or

“(B) $250.

“(2) DURATION OF CREDIT.—No credit shall be determined under this section for any taxable year other than a taxable year which begins in the first 2 calendar years in which the eligible employer maintains a payroll deposit IRA arrangement meeting the requirements of section 408B.
“(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 deposit IRA arrangement meeting the requirements of section 408B and which, on each day during the preceding calendar year, had no more than 100 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(c)) maintaining a payroll deposit IRA arrangement meeting the requirements of section 408B, the small employer payroll deposit IRA 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 deposit IRA arrangement costs."

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

SEC. 4. ESTABLISHMENT OF AUTOMATIC IRAS.

(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 2, is amended by inserting after section 408B the following new section:

"SEC. 408C. AUTOMATIC IRAS.

"(a) GENERAL RULE.—An automatic IRA shall be treated for purposes of this title in the same manner as an individual retirement plan. An automatic IRA may also be treated as a Roth IRA for purposes of this title if it meets the requirements of section 408A.

"(b) AUTOMATIC IRA.—For purposes of this section, the term ‘automatic IRA’ 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 TSP II Board, in consultation with the Secretary and 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 an automatic IRA.

“(2) INVESTMENT OPTIONS.—The regulations
under paragraph (1) shall provide that an automatic
IRA 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 in-
vestment options which are available (at the
time the plan is established) to a participant in
the Thrift Savings Fund established under sub-
chapter III of chapter 84 of title 5, United
States Code.

“(B) Any other investment option specified
in the regulations.

Such regulations shall specify which of the invest-
ment options shall be treated as default investment
options for purposes of section 408B(g)(4).

“(3) INVESTMENT FEES.—

“(A) IN GENERAL.—The regulations under
paragraph (1) shall provide that an automatic
IRA 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 automatic IRA.”.

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

(1) by inserting “(including an automatic IRA)” after “individual retirement plan” each place it appears, and

(2) by adding at the end the following new sentence: “Any amount so transferred (and any earnings thereon) shall be invested in a default investment described in section 408B(g)(4).”

(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. Automatic IRAs.”.

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

SEC. 5. ESTABLISHMENT OF TSP II BOARD.

(a) Establishment.—There is established in the ex-
cutive branch of the Government a TSP II Board. The
board shall be established and maintained in the same
manner as the Federal Retirement Thrift Investment
Board under subchapter VII of chapter 84 of title 5,
United States Code.

(b) Executive Director.—The TSP II Board shall
appoint an Executive Director in a similar manner and
with similar functions as the Executive Director of the
Federal Retirement Thrift Investment Board under sec-
tion 8474 of title 5, United States Code.

(c) Duties of Board.—The TSP II Board shall es-
tablish policies and procedures for—

(1) establishment and maintenance of individual
retirement plans under the payroll tax deposit sys-
tem established under section 408B(f)(3) of the In-
ternal Revenue Code of 1986,

(2) the investment and management of con-
tributions to such individual retirement plans,

(3) the amount of contributions, and the invest-
ment of such contributions, under automatic con-
tribution arrangements under section 408B(g) of such Code, including the designation of investment funds in which such contributions may be invested, and

(4) the establishment of automatic IRAs under section 408C of such Code, including the issuance of regulations under subsection (c) of such section.

(d) BEST PRACTICES.—The TSP II Board shall, on a continual basis, prescribe and encourage best practices (including cost efficiencies and innovations) in enrollment, investment, distribution, and other procedures or arrangements relating to retirement savings and investment. In carrying out its responsibilities under this section, the TSP II Board may implement (by contract or otherwise) pilot projects to help assess the efficacy and workability of specific practices and arrangements.

(e) EXPANSION OF USE OF IRAS BY SELF-EMPLOYED AND OTHER INDIVIDUALS.—The TSP II Board shall establish procedures to disseminate information (through use of the Internet and other appropriate means) to—

(1) facilitate and encourage the use by self-employed and other individuals of automatic debit and similar arrangements for investment in individual retirement plans, including automatic IRAs,
(2) facilitate and encourage efforts by voluntary associations to promote savings in individual retirement plans, including automatic IRAs, by their members and others, and

(3) facilitate and encourage the direct deposit of Federal and State income tax refunds in individual retirement plans, including automatic IRAs.

(f) Exclusive Interest.—The members of the TSP II Board shall discharge their responsibilities solely in the interest of participants and beneficiaries under the payroll tax deposit system established under section 408B of the Internal Revenue Code of 1986.

(g) Other Provisions Made Applicable.—The provisions of subsections (f)(3), (g), (i), and (j) of section 8472 of title 5, United States Code, shall apply to the TSP II Board.