

112TH CONGRESS  
1ST SESSION

# H. R. 1534

To amend the Internal Revenue Code of 1986 to encourage retirement savings by modifying requirements with respect to employer-established IRAs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2011

Mr. KIND (for himself and Mr. REICHERT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage retirement savings by modifying requirements with respect to employer-established IRAs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Businesses Add Value for Employees Act of 2011”  
6 or the “SAVE Act of 2011”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Elimination of restriction on SIMPLE IRA rollovers.
- Sec. 3. Allowing mid-year SIMPLE IRA plan termination.
- Sec. 4. Elimination of higher penalty on early SIMPLE IRA distributions.
- Sec. 5. Increase in contributions allowed for SIMPLE IRA.
- Sec. 6. SIMPLE 401(k) parity for additional nonelective employer contribu-  
 tions.
- Sec. 7. Automatic deferral IRAs.
- Sec. 8. 401(k) automatic deferral percentage parity.
- Sec. 9. Limited transfer of unused balance in flexible spending arrangement.
- Sec. 10. Prior years compensation taken into account in determining maximum  
 retirement savings deduction.
- Sec. 11. Expanding small employer pension plan startup cost credit.
- Sec. 12. Financial education.
- Sec. 13. Multiple small employer plan.
- Sec. 14. Clarification of treatment of multiple employer defined contribution  
 plans.
- Sec. 15. Clarification of treatment of individual retirement plans with payroll  
 deduction.
- Sec. 16. Disclosure regarding lifetime income.

3 **SEC. 2. ELIMINATION OF RESTRICTION ON SIMPLE IRA**  
 4 **ROLLOVERS.**

5 (a) IN GENERAL.—Paragraph (3) of section 408(d)  
 6 of the Internal Revenue Code of 1986 (relating to rollover  
 7 contribution) is amended by striking subparagraph (G).

8 (b) EFFECTIVE DATE.—The amendment made by  
 9 this section shall apply to distributions in taxable years  
 10 beginning after the date of the enactment of this Act.

11 **SEC. 3. ALLOWING MID-YEAR SIMPLE IRA PLAN TERMI-**  
 12 **NATION.**

13 (a) IN GENERAL.—Subsection (p) of section 408 of  
 14 the Internal Revenue Code of 1986 is amended by adding  
 15 at the end the following new paragraph:

1           “(11) SPECIAL RULES RELATING TO MID-YEAR  
2 TERMINATION.—

3           “(A) IN GENERAL.—An employer may  
4 elect to terminate (in such form and manner as  
5 the Secretary may provide) the qualified salary  
6 reduction arrangement of the employer at any  
7 time during the year.

8           “(B) PRORATION AND APPLICATION OF  
9 QUALIFIED PLAN LIMITATION.—In the case of a  
10 year during which an employer terminates a  
11 qualified salary reduction arrangement before  
12 the end of such year—

13           “(i) the applicable dollar amount in  
14 effect for such year shall be prorated to  
15 the date of such termination,

16           “(ii) for purposes of determining the  
17 compensation of an employee for such ar-  
18 rangement for such year, the year of such  
19 termination shall be treated as ending on  
20 the date of such termination, and

21           “(iii) subparagraph (D) of paragraph  
22 (2) shall not apply with respect to a quali-  
23 fied plan maintained in such year only  
24 after the date of such termination.”.

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

4 **SEC. 4. ELIMINATION OF HIGHER PENALTY ON EARLY SIM-**  
5 **PLE IRA DISTRIBUTIONS.**

6 (a) IN GENERAL.—Subsection (t) of section 72 of the  
7 Internal Revenue Code of 1986 (relating to 10-percent ad-  
8 ditional tax on early distributions from qualified retire-  
9 ment plans) is amended by striking paragraph (6).

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to distributions in taxable years  
12 beginning after the date of the enactment of this Act.

13 **SEC. 5. INCREASE IN CONTRIBUTIONS ALLOWED FOR SIM-**  
14 **PLE IRA.**

15 (a) ADDITIONAL NONELECTIVE EMPLOYER CON-  
16 TRIBUTIONS ALLOWED.—

17 (1) IN GENERAL.—Subparagraph (A) of section  
18 408(p)(2) of the Internal Revenue Code of 1986 (re-  
19 lating to qualified salary reduction arrangement) is  
20 amended by striking “and” at the end of clause (iii),  
21 by redesignating clause (iv) as clause (v), and by in-  
22 serting after clause (iii) the following new clause:

23 “(iv) the employer may make, in addi-  
24 tion to any other contribution under this  
25 paragraph, nonelective contributions of not

1 more than 10 percent of compensation  
2 (subject to the limitation described in sub-  
3 paragraph (B)(ii)) for each employee who  
4 is eligible to participate in the arrangement  
5 and who has at least \$5,000 of compensa-  
6 tion from the employer for the year, and”.

7 (2) CONFORMING AMENDMENT.—Clause (v) of  
8 section 408(p)(2)(A) of such Code, as redesignated  
9 by this section, is amended by striking “clause (i) or  
10 (iii)” and inserting “clause (i), (iii), or (iv)”.

11 (b) INCREASE IN ELECTIVE CONTRIBUTION LIMITA-  
12 TION.—Subparagraph (E) of section 408(p)(2) is amend-  
13 ed to read as follows:

14 “(E) APPLICABLE DOLLAR AMOUNT.—For  
15 purposes of subparagraph (A)(ii), the applicable  
16 dollar amount shall be the applicable dollar  
17 amount in effect under subparagraph (B) of  
18 section 402(g)(1).”.

19 (c) SIMPLE IRA SUBJECT TO DEFINED CONTRIBU-  
20 TION PLAN LIMITATION.—Subsection (p) of section 408  
21 of such Code is amended by adding at the end the fol-  
22 lowing new paragraph:

23 “(11) SUBJECT TO DEFINED CONTRIBUTION  
24 PLAN LIMITATION.—An arrangement shall not be  
25 treated as a qualified salary reduction arrangement

1 for any year if contributions with respect to any em-  
2 ployee for the year exceed the limitation of para-  
3 graph (1) of section 415(c) (relating to limitation for  
4 defined contribution plans).”.

5 (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to contributions for taxable years  
7 beginning after December 31, 2011.

8 **SEC. 6. SIMPLE 401(k) PARITY FOR ADDITIONAL NONELEC-**  
9 **TIVE EMPLOYER CONTRIBUTIONS.**

10 (a) IN GENERAL.—Subparagraph (B) of section  
11 401(k)(11) of such Code (relating to contribution require-  
12 ments) is amended by adding at the end the following new  
13 clause:

14 “(iv) SPECIAL RULE FOR ADDITIONAL  
15 NONELECTIVE EMPLOYER CONTRIBU-  
16 TIONS.—An arrangement shall not be  
17 treated as failing to meet the requirements  
18 of this subparagraph merely because under  
19 such arrangement the employer makes, in  
20 addition to any other contribution under  
21 this subparagraph, nonelective contribu-  
22 tions of not more than 10 percent of com-  
23 pensation for each employee who is eligible  
24 to participate in the arrangement and who

1                   has at least \$5,000 of compensation from  
2                   the employer for the year.”.

3           (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to plan years beginning after De-  
5 cember 31, 2011.

6 **SEC. 7. AUTOMATIC DEFERRAL IRAS.**

7           (a) **IN GENERAL.**—Subpart A of part I of subchapter  
8 D of chapter 1 of the Internal Revenue Code of 1986 (re-  
9 lating to pension, profit-sharing, stock bonus plans, etc.)  
10 is amended by inserting after section 408A the following  
11 new section:

12 **“SEC. 408B. AUTOMATIC DEFERRAL IRAS.**

13           “(a) **IN GENERAL.**—An automatic deferral IRA shall  
14 be treated for purposes of this title in the same manner  
15 as an individual retirement plan. An automatic deferral  
16 IRA may also be treated as a Roth IRA for purposes of  
17 this title if it meets the requirements of section 408A.

18           “(b) **AUTOMATIC DEFERRAL IRA.**—For purposes of  
19 this section, the term ‘automatic deferral IRA’ means an  
20 individual retirement plan (as defined in section  
21 7701(a)(37)) with respect to which contributions are made  
22 under an arrangement which satisfies the requirements of  
23 paragraphs (1) through (4) of subsection (c).

24           “(c) **AUTOMATIC DEFERRAL IRA ARRANGEMENTS.**—

25                   “(1) **ENROLLMENT.**—

1           “(A) IN GENERAL.—The requirements of  
2 this paragraph are met if each employee eligible  
3 to participate in the arrangement is treated as  
4 having elected to have the employer make pay-  
5 ments as elective contributions to an automatic  
6 deferral IRA on behalf of such employee (which  
7 would have otherwise been made to the em-  
8 ployee directly in cash) in an amount equal to  
9 so much of a qualified percentage of compensa-  
10 tion of such employee as does not exceed the  
11 deductible amount for such year (within the  
12 meaning of section 219(b)).

13           “(B) ELIGIBILITY.—An employee is eligi-  
14 ble to participate if such employee is described  
15 in paragraph (2) of section 408(k), except that  
16 for purposes of determining whether an em-  
17 ployee is described in such paragraph, subpara-  
18 graph (C) thereof shall be applied by sub-  
19 stituting ‘\$5,000’ for ‘\$450’.

20           “(C) ELECTION OUT.—The election treat-  
21 ed as having been made under subparagraph  
22 (A) shall cease to apply with respect to any em-  
23 ployee who makes an affirmative election—

24                   “(i) to not have such elective contribu-  
25                   tions made, or



1           “(ii) not later than the close of the  
2           30-day period beginning on the date of the  
3           first contribution with respect to such em-  
4           ployee, to make elective contributions at a  
5           level specified in such affirmative election.

6           “(D) QUALIFIED PERCENTAGE.—For pur-  
7           poses of this paragraph, the term ‘qualified per-  
8           centage’ means, with respect to any employee,  
9           any percentage determined under the trust  
10          agreement if such percentage is applied uni-  
11          formly, does not exceed 15 percent, and is at  
12          least—

13               “(i) 3 percent during the period end-  
14               ing on the last day of the first plan year  
15               which begins after the date on which the  
16               first elective contribution described in sub-  
17               paragraph (A) is made with respect to  
18               such employee, and

19               “(ii) during any subsequent plan year,  
20               a percentage equal to—

21                       “(I) 3 percent, plus

22                       “(II) 1 percent multiplied by the  
23                       number of plan years (but not more  
24                       than 12) beginning after the plan year  
25                       described in clause (i).

1 “(2) NOTICE.—

2 “(A) IN GENERAL.—The requirements of  
3 this paragraph are met if, within a reasonable  
4 period before the first day an employee is eligi-  
5 ble to participate in the arrangement, the em-  
6 ployee receives written notice of the employee’s  
7 rights and obligations under the arrangement  
8 which—

9 “(i) is sufficiently accurate and com-  
10 prehensive to apprise the employee of such  
11 rights, and

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

15 “(B) TIMING AND CONTENT.—A notice  
16 shall not be treated as meeting the require-  
17 ments of subparagraph (A) with respect to an  
18 employee unless—

19 “(i) the notice explains the employee’s  
20 right to elect not to have elective contribu-  
21 tions made on the employee’s behalf (or to  
22 elect to have such contributions made at a  
23 different percentage),

24 “(ii) the notice explains how contribu-  
25 tions made under the arrangement will be

1           invested in the absence of any investment  
2           election by the employee, and

3                   “(iii) the employee has a reasonable  
4           period of time after receipt of the notice  
5           described in clauses (i) and (ii) and before  
6           the first elective contribution is made to  
7           make either such election.

8                   “(3) DEFAULT INVESTMENT ARRANGEMENT.—  
9           The requirements of this paragraph are met if—

10                   “(A) in the absence of an investment elec-  
11           tion by the employee with respect to the em-  
12           ployee’s interest in the trust, such interest is in-  
13           vested as provided in regulations prescribed  
14           pursuant to subparagraph (A) of section  
15           404(c)(5) of the Employee Retirement Income  
16           Security Act of 1974, and

17                   “(B) the employer provides each employee  
18           who has an interest in the trust, notice which  
19           meets the requirements of subparagraph (B) of  
20           such section.

21                   “(4) ADMINISTRATIVE REQUIREMENTS.—The  
22           requirements of this paragraph are met if—

23                   “(A) an employer must make the elective  
24           employer contributions under paragraph (1)(A)  
25           not later than the close of the 30-day period

1 following the last day of the month with respect  
2 to which the contributions are to be made,

3 “(B) an employee may elect to terminate  
4 participation in the arrangement at any time  
5 during the year, except that if the employee so  
6 terminates, the arrangement may provide that  
7 the employee may elect to resume participation  
8 until the beginning of the next year, and

9 “(C) each employee eligible to participate  
10 may elect, during the 30-day period before the  
11 beginning of any year, or to modify the amount  
12 subject to such arrangement, for such year.”.

13 (b) PREEMPTION OF CONFLICTING STATE LAWS.—  
14 Any law of a State shall be superseded if it would directly  
15 or indirectly prohibit or restrict an employer from creating  
16 or organizing an automatic deferral IRA (as defined in  
17 section 408B of the Internal Revenue Service of 1986).

18 (c) CLERICAL AMENDMENT.—The table of sections  
19 for subpart A of part I of subchapter D of chapter 1 of  
20 the Internal Revenue Code of 1986 is amended by insert-  
21 ing after the item relating to 408A the following new item:

“408B. Automatic deferral IRAs.”.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years beginning after  
24 December 31, 2011.

1 **SEC. 8. 401(k) AUTOMATIC DEFERRAL PERCENTAGE PAR-**  
 2 **ITY.**

3 (a) IN GENERAL.—Clause (iii) of section  
 4 401(k)(13)(C) of the Internal Revenue Code of 1986 is  
 5 amended by striking “10 percent” and inserting “15 per-  
 6 cent”.

7 (b) EFFECTIVE DATE.—The amendment made by  
 8 this section shall apply to plan years beginning after De-  
 9 cember 31, 2011.

10 **SEC. 9. LIMITED TRANSFER OF UNUSED BALANCE IN**  
 11 **FLEXIBLE SPENDING ARRANGEMENT.**

12 (a) IN GENERAL.—Section 125 of the Internal Rev-  
 13 enue Code of 1986 is amended by redesignating sub-  
 14 sections (i) and (j) as subsections (j) and (k), respectively,  
 15 and by inserting after subsection (h) the following new  
 16 subsection:

17 “(i) SPECIAL RULE FOR UNUSED BENEFITS IN  
 18 FLEXIBLE SPENDING ARRANGEMENTS.—

19 “(1) IN GENERAL.—For purposes of this title,  
 20 a plan or other arrangement shall not fail to be  
 21 treated as a cafeteria plan or flexible spending ar-  
 22 rangement merely because such arrangement pro-  
 23 vides for qualified retirement distributions.

24 “(2) QUALIFIED RETIREMENT DISTRIBUTION.—

25 “(A) IN GENERAL.—For purposes of this  
 26 section, the term ‘qualified retirement distribu-

1           tion’ means any distribution to an individual of  
2           all or a portion of the employee’s account under  
3           such arrangement, but only to the extent—

4                   “(i) the amount does not exceed the  
5           lesser of—

6                           “(I) \$250, or

7                           “(II) the unused benefits with re-  
8                   spect to the arrangement, and

9                   “(ii) the amount received is paid into  
10           a qualified retirement plan (as defined in  
11           section 4974(c)), or an eligible deferred  
12           compensation plan (as defined in section  
13           457(b)) of an eligible employer described in  
14           section 457(e)(1)(A), of the individual not  
15           later than the 60th day after the day on  
16           which the individual receives the payment  
17           or distribution.

18           “(B) UNUSED BENEFITS.—For purposes  
19           of this paragraph, the term ‘unused benefits’  
20           means, with respect to an employee, the excess  
21           of—

22                   “(i) the maximum amount of reim-  
23           bursement allowable to the employee dur-  
24           ing a plan year under a flexible spending  
25           arrangement, over

1           “(ii) the actual amount of reimburse-  
2           ment during such year under such ar-  
3           rangement.

4           “(C) SPECIAL RULES FOR TREATMENT OF  
5           CONTRIBUTIONS TO RETIREMENT PLANS.—For  
6           purposes of this title, qualified retirement dis-  
7           tributions—

8                   “(i) shall be treated as elective defer-  
9                   rals (as defined in section 402(g)(3)) in  
10                  the case of contributions to a qualified  
11                  cash or deferred arrangement (as defined  
12                  in section 401(k)) or to an annuity con-  
13                  tract described in section 403(b),

14                   “(ii) shall be treated as employer con-  
15                  tributions to which the employee has a  
16                  nonforfeitable right in the case of a plan  
17                  which is described in section 401(a) which  
18                  includes a trust exempt from tax under  
19                  section 501(a),

20                   “(iii) shall be treated as deferred com-  
21                  pensation in the case of contributions to an  
22                  eligible deferred compensation plan (as de-  
23                  fined in section 457(b)), and

24                   “(iv) shall be treated in the manner  
25                  designated for purposes of section 408 or

1           408A in the case of contributions to an in-  
2           dividual retirement plan.”.

3           (b) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to plan years ending after the date  
5 of the enactment of this Act.

6 **SEC. 10. PRIOR YEARS COMPENSATION TAKEN INTO AC-**  
7           **COUNT IN DETERMINING MAXIMUM RETIRE-**  
8           **MENT SAVINGS DEDUCTION.**

9           (a) **IN GENERAL.**—Subparagraph (B) of section  
10 219(b)(1) of the Internal Revenue Code of 1986 is amend-  
11 ed by striking “for such taxable year” and inserting “for  
12 the preceding taxable year”.

13           (b) **EFFECTIVE DATE.**—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 the date of the enactment of this Act.

16 **SEC. 11. EXPANDING SMALL EMPLOYER PENSION PLAN**  
17           **STARTUP COST CREDIT.**

18           (a) **IN GENERAL.**—

19           (1) **INCLUDING STARTUP COSTS FOR EM-**  
20           **PLOYER-ESTABLISHED IRAS.**—Paragraph (2) of sec-  
21 tion 45E(d) of the Internal Revenue Code of 1986  
22 (defining eligible employer plan) is amended by  
23 striking “means a qualified employer plan” and all  
24 that follows and inserting: “means—



1           “(A) a qualified employer plan within the  
2 meaning of section 4972(d), or

3           “(B) a plan of which a trust described in  
4 section 408(c) is a part.”.

5           (2) ADDITIONAL CREDIT AMOUNT.—

6           (A) IN GENERAL.—Subsection (a) of sec-  
7 tion 45E of such Code is amended by striking  
8 “50 percent of” and all that follows and insert-  
9 ing “the sum of—

10           “(1) the applicable percentage of the qualified  
11 startup costs paid or incurred by the taxpayer dur-  
12 ing the taxable year, plus

13           “(2) \$25 multiplied by the number of employees  
14 of the employer who participate in any eligible em-  
15 ployer plan of the employer for the first time in such  
16 taxable year.”.

17           (B) APPLICABLE PERCENTAGE.—Sub-  
18 section (d) of section 45E of such Code is  
19 amended by adding at the end the following  
20 new paragraph:

21           “(4) APPLICABLE PERCENTAGE.—The applica-  
22 ble percentage is—

23           “(A) in the case of a plan described in sub-  
24 section (d)(2)(A), 75 percent, or

1           “(B) in the case of a plan described in  
2           subsection (d)(2)(B), 50 percent.”.

3           (C) CONFORMING AMENDMENT.—Para-  
4           graph (2) of section 45E(e) of such Code (de-  
5           fining eligible employer) is amended—

6                   (i) by striking “qualified employer  
7                   plan” in each place it appears and insert-  
8                   ing “eligible employer plan”, and

9                   (ii) by striking “QUALIFIED” in the  
10                  heading thereof and inserting “ELIGIBLE”.

11           (3) INCREASED LIMITATION.—Paragraph (1) of  
12           section 45E(b) of such Code is amended by striking  
13           “\$500” and inserting “\$750 (\$2,000 in the case of  
14           qualified startup costs attributable to a plan de-  
15           scribed in subsection (d)(2)(A))”.

16           (b) EFFECTIVE DATE.—The amendment made by  
17           this section shall apply to costs paid or incurred in taxable  
18           years beginning after the date of the enactment of this  
19           Act.

20   **SEC. 12. FINANCIAL EDUCATION.**

21           (a) RETIREMENT PLAN EDUCATION FOR SMALL  
22           BUSINESSES.—Not later than 6 months after the date of  
23           the enactment of this Act—

24                   (1) the Department of the Treasury Office of  
25                   Financial Education, in consultation with the De-

1       partment of Labor, shall develop and implement an  
2       outreach plan to educate small businesses on the  
3       types of retirement plans available and the benefits  
4       and requirements of such plans, and

5               (2) the Secretary of the Treasury and the Sec-  
6       retary of Labor shall develop recommendations for  
7       small businesses in order to improve retirement out-  
8       comes. Such recommendations shall take into ac-  
9       count established behavioral trends of employee in-  
10      vestment and the effect of default design features  
11      such as auto escalation, expansion of auto rollovers,  
12      auto diversification for near retirees, and automatic  
13      forms of distribution.

14      (b) FINANCIAL LITERACY.—

15              (1) IN GENERAL.—Not later than 1 year after  
16      the date of the enactment of this Act, the Secretary  
17      of the Treasury, in consultation with the Secretary  
18      of Education, shall develop sample age-appropriate  
19      curricula to be made available for financial literacy  
20      education in elementary and secondary schools.

21              (2) CONTENT OF CURRICULA.—Such curricula  
22      shall include the following:

23                      (A) How to balance a checkbook, read a  
24                      credit card statement, and calculate interest  
25                      rates.

1           (B) What a pay stub is and why Federal  
2           and State income taxes and Social Security and  
3           Medicare taxes are withheld from wages.

4           (C) The differences between various types  
5           of bank accounts.

6           (D) The significance of a credit score and  
7           how to read credit reports.

8           (E) The marketing techniques frequently  
9           used by individuals and businesses to attract  
10          patrons.

11          (F) The importance of saving for college  
12          and retirement, including the various methods  
13          for saving such as traditional pensions, 401(k)s,  
14          and IRAs.

15 **SEC. 13. MULTIPLE SMALL EMPLOYER PLAN.**

16          (a) IN GENERAL.—Paragraph (11) of section 401(k)  
17          of the Internal Revenue Code of 1986 is amended by add-  
18          ing the following at the end thereof:

19                   “(E) MULTIPLE SMALL EMPLOYER  
20                   PLAN.—

21                           “(i) IN GENERAL.—In the case of a  
22                           plan described in clause (ii)—

23                                   “(I) the amount described in sub-  
24                                   paragraph (B)(i)(I) shall be \$10,000,

1 in lieu of the amount in effect under  
2 section 408(p)(2)(A)(ii),

3 “(II) such \$10,000 amount shall  
4 be adjusted as described in section  
5 408(p)(2)(E)(ii) except that the base  
6 period taken into account shall be the  
7 calendar quarter beginning July 1,  
8 2011,

9 “(III) subclause (II) of subpara-  
10 graph (B)(i) and clause (ii) of sub-  
11 paragraph (B) shall not apply, and

12 “(IV) section 414(v) shall not  
13 apply.

14 “(ii) PLAN DESCRIBED.—A plan is de-  
15 scribed in this clause if the plan satisfies  
16 the following requirements:

17 “(I) Such plan satisfies the re-  
18 quirements of this paragraph, as  
19 modified by clause (i).

20 “(II) The plan is described in  
21 section 413(c).

22 “(III) The plan includes a quali-  
23 fied automatic contribution arrange-  
24 ment, as defined in paragraph (13),  
25 except that subparagraph (D) of para-

1 graph (13) shall not apply and the  
2 qualified percentage shall be deter-  
3 mined by reference to subclauses (I),  
4 (II), (III), and (IV) of paragraph  
5 (13)(C)(iii).

6 “(IV) The plan does not permit  
7 any participant or beneficiary to re-  
8 ceive or maintain a loan from the  
9 plan.

10 “(V) The plan does not permit  
11 hardship distributions described in  
12 paragraph (2)(B)(i)(IV) except to the  
13 extent any such distribution is  
14 deemed, under regulations prescribed  
15 by the Secretary, to be on account of  
16 an immediate and heavy financial  
17 need of the employee and necessary to  
18 satisfy an immediate and heavy finan-  
19 cial need of the employee.

20 “(VI) The plan is maintained  
21 pursuant to a model plan document  
22 published by the Secretary.”.

23 (b) SIMPLIFICATION.—

24 (1) MODEL PLAN.—Within one year of the date  
25 of the enactment of this Act, the Secretary of the

1 Treasury shall publish a model plan that may be  
2 used to satisfy the requirement of subclause (VI) of  
3 section 401(k)(11)(E)(ii) of the Internal Revenue  
4 Code of 1986.

5 (2) PROTECTION AGAINST LOSS.—Within 120  
6 days of the date of the enactment of this Act, the  
7 Secretary of Labor shall amend Department of  
8 Labor Regulation section 2550.404e-5(e)(4)(iv)(B)  
9 so that, in the case of a plan described in section  
10 401(k)(11)(E) of such Code “four years” shall be  
11 substituted for “120 days”.

12 (3) CLARIFYING DUTIES AND REDUCING BUR-  
13 DENS.—Within one year of the date of the enact-  
14 ment of this Act, the Secretary of Labor shall—

15 (A) publish rules clarifying the extent to  
16 which the fiduciary duties of a participating  
17 employer and of a named fiduciary with respect  
18 to a plan described in section 401(k)(11)(E) of  
19 such Code are limited to prudently selecting  
20 and monitoring the provider of such plan and  
21 the services, fees, and investment options avail-  
22 able from such provider, and

23 (B) prescribe interim final regulations pro-  
24 viding simplified means by which plans de-  
25 scribed in section 401(k)(11)(E) of such Code

1           may satisfy the requirements of sections 102,  
2           103, and 105 of the Employee Retirement In-  
3           come Security Act of 1974.

4           (4) ELIMINATION OF DISINCENTIVE TO POOL-  
5           ING.—Not later than one year after the date of the  
6           enactment of this Act, the Secretary of the Treasury  
7           shall prescribe final regulations under which a plan  
8           described in section 413(c) of such Code may be  
9           treated as satisfying the qualification requirements  
10          of section 401(a) of such Code despite the violation  
11          of such requirements with respect to one or more  
12          participating employers. Such rules may require that  
13          the portion of the plan attributable to such partici-  
14          pating employers be spun off to plans maintained by  
15          such employers.

16          (c) EFFECTIVE DATE.—

17               (1) IN GENERAL.—Except as provided in para-  
18               graph (2), the amendments made by this section  
19               shall apply to years beginning after December 31,  
20               2011.

21               (2) EXCEPTION.—Subsection (b) shall apply as  
22               of the date of the enactment of this Act.



1 **SEC. 14. CLARIFICATION OF TREATMENT OF MULTIPLE EM-**  
2 **LOYER DEFINED CONTRIBUTION PLANS.**

3 (a) **IN GENERAL.**—Section 3(2) of the Employee Re-  
4 tirement Income Security Act of 1974 (29 U.S.C.  
5 1002(2)) is amended by adding at the end thereof the fol-  
6 lowing new subparagraph:

7 “(C) A plan, fund, or program shall not fail to be  
8 treated as an employee pension benefit plan solely by rea-  
9 son of the plan, fund, or program being established or  
10 maintained by two or more employers whose only relation-  
11 ship is participation in the same plan, fund, or program.  
12 This subparagraph shall only apply to a plan, fund, or  
13 program that provides for an individual account for each  
14 participant and for benefits based solely upon the amount  
15 contributed to the participant’s account, and any income,  
16 expenses, gains and losses, and any forfeitures of accounts  
17 of other participants which may be allocated to such par-  
18 ticipant’s account.”.

19 (b) **CONFORMING AMENDMENT.**—Section 3(2)(A) of  
20 such Act is amended by striking “Except as provided in  
21 subparagraph (B)” and inserting “Except as provided in  
22 subparagraphs (B) and (C)”.

23 (c) **EFFECTIVE DATE.**—The amendments made by  
24 this section shall take effect on the date of enactment of  
25 this Act.

1 **SEC. 15. CLARIFICATION OF TREATMENT OF INDIVIDUAL**  
2 **RETIREMENT PLANS WITH PAYROLL DEDUC-**  
3 **TION.**

4 (a) **IN GENERAL.**—Section 3(2) of the Employee Re-  
5 tirement Income Security Act of 1974 (29 U.S.C.  
6 1002(2)), as amended by this Act, is amended by adding  
7 at the end the following new subparagraph:

8 “(D) An individual retirement plan (as defined in sec-  
9 tion 7701(a)(37) of the Internal Revenue Code of 1986)  
10 shall not be considered a pension plan merely because an  
11 employer establishes a payroll deduction program for the  
12 purpose of enabling employees to make voluntary con-  
13 tributions to such account or annuity.”.

14 (b) **EFFECTIVE DATE.**—The amendments made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

17 **SEC. 16. DISCLOSURE REGARDING LIFETIME INCOME.**

18 (a) **IN GENERAL.**—Subparagraph (B) of section  
19 105(a)(2) of the Employee Retirement Income Security  
20 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

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

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

23 and inserting “diversification, and”; and

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

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

1           In the case of pension benefit statements de-  
2           scribed in clause (i) of paragraph (1)(A), a life-  
3           time income disclosure under clause (iii) of this  
4           subparagraph shall only be required to be in-  
5           cluded in one pension benefit statement during  
6           any one 12-month period.”.

7           (b) LIFETIME INCOME.—Paragraph (2) of section  
8           105(a) of such Act (29 U.S.C. 1025(a)) is amended by  
9           adding at the end the following new subparagraph:

10                   “(D) LIFETIME INCOME DISCLOSURE.—

11                           “(i) IN GENERAL.—

12                                   “(I) DISCLOSURE.—A lifetime in-  
13                                   come disclosure shall set forth the life-  
14                                   time income stream equivalent of the  
15                                   total benefits accrued with respect to  
16                                   the participant or beneficiary.

17                                   “(II) LIFETIME INCOME STREAM  
18                                   EQUIVALENT OF THE TOTAL BENE-  
19                                   FITS ACCRUED.—For purposes of this  
20                                   subparagraph, the term ‘lifetime in-  
21                                   come stream equivalent of the total  
22                                   benefits accrued’ means the amount of  
23                                   monthly payments the participant or  
24                                   beneficiary would receive if the total  
25                                   accrued benefits of such participant or

1 beneficiary were used to provide life-  
2 time income streams described in sub-  
3 clause (III), based on assumptions  
4 specified in rules prescribed by the  
5 Secretary.

6 “(III) LIFETIME INCOME  
7 STREAMS.—The lifetime income  
8 streams described in this subclause  
9 are a qualified joint and survivor an-  
10 nuity (as defined in section 205(d)),  
11 based on assumptions specified in  
12 rules prescribed by the Secretary, in-  
13 cluding the assumption that the par-  
14 ticipant or beneficiary has a spouse of  
15 equal age, and a single life annuity.  
16 Such lifetime income streams may  
17 have a term certain or other features  
18 to the extent permitted under rules  
19 prescribed by the Secretary.

20 “(ii) MODEL DISCLOSURE.—Not later  
21 than 1 year after the date of the enact-  
22 ment of the Lifetime Income Disclosure  
23 Act, the Secretary shall issue a model life-  
24 time income disclosure, written in a man-

1 ner so as to be understood by the average  
2 plan participant, that—

3 “(I) explains that the lifetime in-  
4 come stream equivalent is only pro-  
5 vided as an illustration;

6 “(II) explains that the actual  
7 payments under the lifetime income  
8 stream described in clause (i)(III)  
9 that may be purchased with the total  
10 benefits accrued will depend on nu-  
11 merous factors and may vary substan-  
12 tially from the lifetime income stream  
13 equivalent in the disclosures;

14 “(III) explains the assumptions  
15 upon which the lifetime income stream  
16 equivalent was determined; and

17 “(IV) provides such other similar  
18 explanations as the Secretary con-  
19 siders appropriate.

20 “(iii) ASSUMPTIONS AND RULES.—  
21 Not later than 1 year after the date of the  
22 enactment of the Lifetime Income Disclo-  
23 sure Act, the Secretary shall—

24 “(I) prescribe assumptions that  
25 administrators of individual account

1 plans may use in converting total ac-  
2 crued benefits into lifetime income  
3 stream equivalents for purposes of  
4 this subparagraph; and

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

7 In prescribing assumptions under sub-  
8 clause (I), the Secretary may prescribe a  
9 single set of specific assumptions (in which  
10 case the Secretary may issue tables or fac-  
11 tors that facilitate such conversions), or  
12 ranges of permissible assumptions. To the  
13 extent that an accrued benefit is or may be  
14 invested in a lifetime income stream de-  
15 scribed in clause (i)(III), the assumptions  
16 prescribed under subclause (I) shall, to the  
17 extent appropriate, permit administrators  
18 of individual account plans to use the  
19 amounts payable under such lifetime in-  
20 come stream as a lifetime income stream  
21 equivalent.

22 “(iv) LIMITATION ON LIABILITY.—No  
23 plan fiduciary, plan sponsor, or other per-  
24 son shall have any liability under this title  
25 solely by reason of the provision of lifetime

1 income stream equivalents which are de-  
2 rived in accordance with the assumptions  
3 and rules described in clause (iii) and  
4 which include the explanations contained in  
5 the model lifetime income disclosure de-  
6 scribed in clause (ii). This clause shall  
7 apply without regard to whether the provi-  
8 sion of such lifetime income stream equiva-  
9 lent is required by subparagraph (B)(iii).

10 “(v) EFFECTIVE DATE.—The require-  
11 ment in subparagraph (B)(iii) shall apply  
12 to pension benefit statements furnished  
13 more than 12 months after the latest of  
14 the issuance by the Secretary of—

15 “(I) interim final rules under  
16 clause (i);

17 “(II) the model disclosure under  
18 clause (ii); or

19 “(III) the assumptions under  
20 clause (iii).”.

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on the date of the enactment  
23 of this Act.

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