

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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.

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## 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

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## 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.

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; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Savings Competitiveness Act of 2006”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-  
8 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment  
 2 to, or repeal of, a section or other provision, the reference  
 3 shall be considered to be made to a section or other provi-  
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents of  
 6 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 arrangements.

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 contributions 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 Federal 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 V—PAY-GO PROVISIONS

Sec. 501. Pay-as-you-go point of order in the Senate.

## TITLE VI—ADMINISTRATIVE PROVISIONS

Sec. 601. Provisions relating to plan amendments.

1 **TITLE I—EMPLOYEE ACCESS TO**  
 2 **RETIREMENT SAVINGS PRO-**  
 3 **GRAMS AT WORK**

4 **SEC. 101. EMPLOYEES NOT COVERED BY QUALIFIED RE-**  
 5 **TIREMENT PLANS OR ARRANGEMENTS ENTI-**  
 6 **TLED TO PARTICIPATE IN PAYROLL RETIRE-**  
 7 **MENT SAVINGS PROGRAMS AT WORK.**

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

12 **“SEC. 408B. RIGHT TO PAYROLL RETIREMENT SAVINGS**  
 13 **PROGRAMS AT WORK.**

14 “(a) REQUIREMENT TO PROVIDE PAYROLL PRO-  
 15 GRAM.—Each employer (other than a small employer de-  
 16 scribed in subsection (e)) shall provide to each applicable  
 17 employee of the employer for any calendar year the oppor-  
 18 tunity to participate in a payroll retirement savings ar-  
 19 rangement which meets the requirements of this section.

20 “(b) PAYROLL RETIREMENT SAVINGS ARRANGE-  
 21 MENT.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘payroll retire-  
2           ment savings arrangement’ means a written ar-  
3           rangement of an employer—

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

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

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

15                   “(A) the employer must make the pay-  
16                   ments elected under paragraph (1)(A)(i) not  
17                   later than the close of the 30-day period fol-  
18                   lowing the last day of the month in which the  
19                   payroll deduction occurs,

20                   “(B) subject to a requirement for reason-  
21                   able notice, an employee may elect to terminate  
22                   participation in the arrangement at any time  
23                   during the year, except that if an employee so  
24                   terminates, the arrangement may provide that

1 the employee may not elect to resume participa-  
2 tion until the beginning of the next year,

3 “(C) each employee eligible to participate  
4 may elect, during the 60-day period before the  
5 beginning of any year (and the 60-day period  
6 before the first day the employee is eligible to  
7 participate), to participate in the arrangement,  
8 or to modify the amounts subject to the ar-  
9 rangement, for such year,

10 “(D) immediately before the period for  
11 which an election described in paragraph (1)(A)  
12 may be made, the employer provides a notice to  
13 each employee of the employee’s opportunity to  
14 make the election and the maximum amount  
15 which may be contributed to an individual re-  
16 tirement plan on an annual basis, and

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

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

23 “(1) IN GENERAL.—The term ‘applicable em-  
24 ployee’ means, with respect to any calendar year,  
25 any employee—

1           “(A) who did not benefit (within the mean-  
2           ing of section 410(b)) under a qualified plan or  
3           arrangement maintained by the employer for  
4           service during the preceding calendar year, and

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

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

12           “(A) employees described in section  
13           410(b)(3),

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

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

19           “(D) employees who are reasonably ex-  
20           pected to receive less than \$5,000 of compensa-  
21           tion from the employer during the calendar  
22           year, and

23           “(E) employees who will be eligible to par-  
24           ticipate in a qualified cash or deferred arrange-  
25           ment (as defined in section 401(k)(2)) of the

1 employer upon the completion of a year of serv-  
2 ice requirement which, under the arrangement,  
3 is not more than 500 hours.

4 “(3) QUALIFIED PLAN OR ARRANGEMENT.—  
5 The term ‘qualified plan or arrangement’ means a  
6 plan, contract, pension, or trust described in section  
7 219(g)(5).

8 “(4) EXCEPTION FOR EMPLOYEES OF GOVERN-  
9 MENTS AND CHURCHES.—The term ‘applicable em-  
10 ployee’ shall not include an employee of—

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

13 “(B) a church or a convention or associa-  
14 tion of churches which is exempt from tax  
15 under section 501, including any employee de-  
16 scribed in section 414(e)(3)(B).

17 “(d) PAYROLL SAVINGS CONTRIBUTIONS TREATED  
18 LIKE OTHER CONTRIBUTIONS TO INDIVIDUAL RETIRE-  
19 MENT PLANS.—

20 “(1) TAX TREATMENT UNAFFECTED.—The fact  
21 that a contribution to an individual retirement plan  
22 is made on behalf of an employee under a payroll re-  
23 tirement savings arrangement instead of being made  
24 directly by the employee shall not affect the deduct-

1       ibility or other tax treatment of the contribution or  
2       of other amounts under this title.

3               “(2) PAYROLL SAVINGS CONTRIBUTIONS TAKEN  
4       INTO ACCOUNT.—Any contribution made on behalf  
5       of an employee under a payroll retirement savings  
6       arrangement shall be taken into account in applying  
7       the limitations on contributions to individual retire-  
8       ment plans and the other provisions of this title ap-  
9       plicable to individual retirement plans as if the con-  
10      tribution had been made directly by the employee.

11      “(e) EXCEPTION FOR CERTAIN SMALL EMPLOY-  
12      ERS.—

13              “(1) IN GENERAL.—The requirements of this  
14      section shall not apply for any calendar year to an  
15      employer which had not more than 4 employees who  
16      received at least \$5,000 of compensation from the  
17      employer for the preceding calendar year.

18              “(2) OPERATING RULES.—In determining the  
19      number of employees for purposes of this sub-  
20      section—

21                  “(A) any rule applicable in determining the  
22                  number of employees for purposes of section  
23                  408(p)(2)(C) shall be applicable under this sub-  
24                  section, and



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

4           “(f) USE OF DESIGNATED FINANCIAL INSTITU-  
5 TION.—An employer shall not be treated as failing to sat-  
6 isfy the requirements of this section or any other provision  
7 of this title merely because the employer makes all con-  
8 tributions (or all contributions on behalf of employees who  
9 do not specify an individual retirement plan, trustee, or  
10 issuer to receive the contributions) to Secure Retirement  
11 Accounts, or other arrangements specified in regulations  
12 prescribed by the Secretary, of a designated trustee or  
13 issuer. The preceding sentence shall not apply unless each  
14 participant is notified in writing that the participant’s bal-  
15 ance may be transferred without cost or penalty to another  
16 individual retirement plan in accordance with subsection  
17 (b)(1)(A).

18           “(g) COORDINATION WITH AUTOMATIC ENROLL-  
19 MENT PROVISIONS.—

20           “(1) IN GENERAL.—A payroll retirement sav-  
21 ings arrangement may provide that contributions  
22 under the arrangement will be made pursuant to an  
23 automatic contribution arrangement but only if the  
24 arrangement meets the requirements applicable to  
25 an eligible automatic contribution arrangement

1 under section 414(w). The Secretary may modify  
2 such requirements to the extent necessary to carry  
3 out the purposes of this section.

4 “(2) DEFAULT INVESTMENTS.—If an employee  
5 does not make an investment election under an auto-  
6 matic contribution arrangement described in para-  
7 graph (1)—

8 “(A) the contributions shall be transferred  
9 to a Secure Retirement Account or other ar-  
10 rangement specified in regulations prescribed by  
11 the Secretary, and

12 “(B) such contributions (and any earnings  
13 thereon) shall be invested in accordance with  
14 the regulations prescribed under section  
15 404(c)(4) of the Employee Retirement Income  
16 Security Act of 1974.

17 “(h) MODEL NOTICE.—The Secretary shall provide  
18 a model notice, written in a manner calculated to be un-  
19 derstandable to the average worker, that employers may  
20 use—

21 “(1) to notify employees of the requirement  
22 under this section for the employer to provide cer-  
23 tain employees with the opportunity to participate in  
24 a payroll retirement savings arrangement, and

1           “(2) to satisfy the requirements of subsections  
2           (b)(2)(D) and (f).”.

3           (b) PREEMPTION OF CONFLICTING STATE REGULA-  
4 TIONS.—Section 514(e)(1) of the Employee Retirement  
5 Income Security Act of 1974 (29 U.S.C. 1144(e)(1)), as  
6 added by section 302, is amended to read as follows:

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

11                   “(A) the inclusion in any plan of an eligi-  
12                   ble automatic contribution arrangement, or

13                   “(B) the establishment or operation of a  
14                   payroll retirement savings arrangement meeting  
15                   the requirements of section 408B of the Inter-  
16                   nal Revenue Code of 1986 (and the inclusion in  
17                   such arrangement of an eligible automatic con-  
18                   tribution arrangement).

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

22           (c) PROVISIONS TO ENSURE ADEQUATE NOTICE OF  
23 AVAILABILITY OF PAYROLL RETIREMENT SAVINGS AR-  
24 RANGEMENTS AND INVESTMENT GUIDELINES.—

25                   (1) EMPLOYER-PROVIDED NOTICE.—

1           (A) W-4 STATEMENTS.—Section 3402(f)  
2           (relating to withholding exemptions) is amended  
3           by adding at the end the following new para-  
4           graph:

5           “(8) INCLUSION OF PAYROLL SAVINGS NO-  
6           TICE.—An employer shall include with any with-  
7           holding exemption certificate provided to an em-  
8           ployee under this subsection the model notice de-  
9           scribed in section 408B(h) and notice of the avail-  
10          ability of, and methods of acquiring, the model form  
11          prepared by the Secretary of Labor with respect to  
12          basic investment guidelines.”.

13          (B) POSTING AT WORKSITE.—Each em-  
14          ployer required to maintain a payroll retirement  
15          savings arrangement under section 408B of the  
16          Internal Revenue Code of 1986 shall, in addi-  
17          tion to any other requirement, post the fol-  
18          lowing notices within the principal places of em-  
19          ployment of any applicable employees which are  
20          customarily used for employer notices to em-  
21          ployees with regard to employment and em-  
22          ployee benefit matters:

23                  (i) The model notice described in sec-  
24                  tion 408B(h) of such Code (in such form

1 and manner as the Secretary may pre-  
2 scribe).

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

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

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

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

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

24 (1) IN GENERAL.—The Secretary of Labor  
25 shall, in consultation with the Secretary of Treasury,

1 develop a model form containing basic guidelines for  
2 investing for retirement. Except as otherwise pro-  
3 vided by the Secretary, such guidelines shall in-  
4 clude—

5 (A) information on the benefits of diver-  
6 sification,

7 (B) information on the essential dif-  
8 ferences, in terms of risk and return, of pension  
9 plan investments, including stocks, bonds, mu-  
10 tual funds, and money market investments,

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

16 (D) sources of information where individ-  
17 uals may learn more about pension rights, indi-  
18 vidual investing, and investment advice, and

19 (E) such other information related to indi-  
20 vidual investing as the Secretary of Labor de-  
21 termines appropriate.

22 (2) CALCULATION INFORMATION.—The model  
23 form under paragraph (1) shall include addresses for  
24 Internet sites and worksheets which a participant or  
25 beneficiary may use to calculate—

1 (A) the retirement age value of the partici-  
2 pant's or beneficiary's nonforfeitable pension  
3 benefits under the plan (expressed as an annu-  
4 ity amount and determined by reference to var-  
5 ied historical annual rates of return and annu-  
6 ity interest rates), and

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

14 (3) PUBLIC COMMENT.—The Secretary of  
15 Labor shall provide at least 90 days for public com-  
16 ment on a proposed form before publishing final no-  
17 tice of the model form.

18 (4) RULES RELATING TO FORM AND STATE-  
19 MENT.—The model form under paragraph (1)—

20 (A) shall be written in a manner calculated  
21 to be understood by the average plan partici-  
22 pant, and

23 (B) may be delivered in written, electronic,  
24 or other appropriate manner to the extent such

1 manner would ensure that the form is reason-  
 2 ably accessible to participants and beneficiaries.

3 (e) PENALTY FOR FAILURE TO PROVIDE ACCESS TO  
 4 PAYROLL SAVINGS ARRANGEMENTS.—Chapter 43 (relat-  
 5 ing to qualified pension, etc., plans) is amended by adding  
 6 at the end the following new section:

7 **“SEC. 4980H. REQUIREMENTS FOR EMPLOYERS TO PRO-**  
 8 **VIDE EMPLOYEES ACCESS TO PAYROLL RE-**  
 9 **TIREMENT SAVINGS ARRANGEMENTS.**

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

13 “(b) AMOUNT.—

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

18 “(2) TAX NOT TO APPLY WHERE FAILURE NOT  
 19 DISCOVERED AND REASONABLE DILIGENCE EXER-  
 20 CISED.—No tax shall be imposed by subsection (a)  
 21 on any failure during any period for which it is es-  
 22 tablished to the satisfaction of the Secretary that  
 23 any employer subject to liability for the tax did not  
 24 know that the failure existed and exercised reason-  
 25 able diligence to meet the requirements of subsection



1 (d). In no event shall the tax be impaired with re-  
2 spect to any failure that ends before the expiration  
3 of 90 days after the employer has responded or has  
4 had a reasonable opportunity to respond to a request  
5 for confirmation of compliance under subsection (c).

6 “(3) TAX NOT TO APPLY TO FAILURES COR-  
7 RECTED WITHIN 30 DAYS.—No tax shall be imposed  
8 by subsection (a) on any failure if—

9 “(A) the employer subject to liability for  
10 the tax under subsection (a) exercised reason-  
11 able diligence to meet the requirements of sub-  
12 section (d), and

13 “(B) the employer provides the payroll re-  
14 tirement savings arrangement described in sec-  
15 tion 408B to each employee eligible to partici-  
16 pate in the arrangement by the end of the 30-  
17 day period beginning on the first date the em-  
18 ployer knew, or exercising reasonable diligence  
19 would have known, that such failure existed.

20 “(4) WAIVER BY SECRETARY.—In the case of a  
21 failure which is due to reasonable cause and not to  
22 willful neglect, the Secretary may waive part or all  
23 of the tax imposed by subsection (a) to the extent  
24 that the payment of such tax would be excessive or  
25 otherwise inequitable relative to the failure involved.

1       “(c) PROCEDURES FOR NOTICE.—Not later than 6  
2 months after the date of the enactment of this section,  
3 the Secretary shall prescribe and implement procedures  
4 for obtaining from employers confirmation that such em-  
5 ployers are in compliance with the requirements of sub-  
6 section (d). The Secretary, in the Secretary’s discretion,  
7 may prescribe that the confirmation shall be obtained on  
8 an annual or less frequent basis, and may use for this  
9 purpose the annual report or quarterly report for employ-  
10 ment taxes, or such other means as the Secretary may  
11 deem advisable.

12       “(d) REQUIREMENT TO PROVIDE EMPLOYEE ACCESS  
13 TO PAYROLL RETIREMENT SAVINGS ARRANGEMENTS.—  
14 The requirements of this subsection are met if the em-  
15 ployer meets the requirements of section 408B.”.

16       (f) COORDINATION WITH ERISA FIDUCIARY DU-  
17 TIES.—Section 404(c)(2) of such Act (29 U.S.C.  
18 1104(c)(2)) is amended—

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

23           (2) by inserting “or individual retirement plan  
24 established pursuant to a payroll retirement savings  
25 arrangement required under section 408B of such

1 Code” after “simple retirement account” each place  
2 it appears in subparagraph (B) or (C).

3 (g) MODIFICATION OF TOP-HEAVY RULES.—Section  
4 416(i) (relating to definitions) is amended by adding at  
5 the end the following new paragraph:

6 “(7) TREATMENT OF CERTAIN EMPLOYEES  
7 UNDER CASH OR DEFERRED ARRANGEMENTS.—If  
8 employees are eligible to participate in a qualified  
9 cash or deferred arrangement (as defined in section  
10 401(k)(2)) of the employer during any year upon  
11 completion of a year of service requirement, which  
12 under the arrangement, is not more than 500 hours,  
13 the employer may elect to exclude from the applica-  
14 tion of this section all such employees who do not  
15 meet the age and service requirements of section  
16 410(a)(1)(A).”.

17 (h) CONFORMING AMENDMENTS.—

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

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

22 (2) The table of sections for chapter 43 is  
23 amended by adding at the end the following new  
24 item:

“Sec. 4980H. Requirements for employers to provide employees access to payroll retirement savings arrangements.”.

1 (i) **EFFECTIVE DATE.**—The amendments made by  
 2 this section shall apply to calendar years beginning after  
 3 December 31, 2007.

4 **SEC. 102. CREDIT FOR SMALL EMPLOYERS MAINTAINING**  
 5 **PAYROLL RETIREMENT SAVINGS ARRANGE-**  
 6 **MENTS.**

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

11 **“SEC. 45N. SMALL EMPLOYER PAYROLL RETIREMENT SAV-**  
 12 **INGS ARRANGEMENT COSTS.**

13 “(a) **GENERAL RULE.**—For purposes of section 38,  
 14 in the case of an eligible employer maintaining a payroll  
 15 retirement savings arrangement meeting the requirements  
 16 of section 408B (without regard to whether or not the em-  
 17 ployer is required to maintain the arrangement), the small  
 18 employer payroll retirement savings arrangement cost  
 19 credit determined under this section for any taxable year  
 20 is the amount determined under subsection (b).

21 “(b) **AMOUNT OF CREDIT.**—

22 “(1) **IN GENERAL.**—The amount of the credit  
 23 determined under this section for any taxable year

1 with respect to an eligible employer shall be equal to  
2 the lesser of—

3 “(A) \$25 multiplied by the number of ap-  
4 plicable employees (within the meaning of sec-  
5 tion 408B(c)) for whom contributions are made  
6 under the payroll retirement savings arrange-  
7 ment referred to in subsection (a) for the cal-  
8 endar year in which the taxable year begins, or

9 “(B) \$250.

10 “(2) DURATION OF CREDIT.—

11 “(A) IN GENERAL.—No credit shall be de-  
12 termined under this section for any taxable year  
13 other than the first taxable year which begins  
14 in the first calendar year in which the eligible  
15 employer maintains a payroll retirement savings  
16 arrangement meeting the requirements of sec-  
17 tion 408B.

18 “(B) EXCEPTION FOR AUTOMATIC CON-  
19 TRIBUTION ARRANGEMENTS.—

20 “(i) IN GENERAL.—Subparagraph (A)  
21 shall not apply to any taxable year begin-  
22 ning in a calendar year if the payroll re-  
23 tirement savings arrangement includes an  
24 eligible automatic contribution arrange-  
25 ment meeting the requirements of section

1           408B(g) at all times during the calendar  
2           year.

3           “(ii) LIMITATION.—This subpara-  
4           graph shall only apply to 2 taxable years.  
5           The taxpayer shall elect the applicable tax-  
6           able years and such election, once made,  
7           shall be irrevocable.

8           “(3) COORDINATION WITH SMALL EMPLOYER  
9           STARTUP CREDIT.—No credit shall be allowed under  
10          this section for any taxable year if a credit is deter-  
11          mined under section 45E for the taxable year.

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

19          (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
20          NESS CREDIT.—Section 38(b) (defining current year busi-  
21          ness credit) is amended by striking “and” at the end of  
22          paragraph (29), by striking the period at the end of para-  
23          graph (30) and inserting “, and”, and by adding at the  
24          end the following new paragraph:



1       “(b) SECURE RETIREMENT ACCOUNT.—For pur-  
2 poses of this section, the term ‘Secure Retirement Ac-  
3 count’ means an individual retirement plan (as defined in  
4 section 7701(a)(37)) which meets the investment and fee  
5 requirements under the regulations under subsection (c).

6       “(c) INVESTMENT AND FEE REQUIREMENTS.—

7           “(1) IN GENERAL.—The Secretary, in consulta-  
8 tion with the Secretary of Labor, shall, not later  
9 than 1 year after the date of the enactment of this  
10 section, prescribe regulations which set forth the re-  
11 quirements of this subsection which an individual re-  
12 tirement plan must meet in order to be treated as  
13 a Secure Retirement Account.

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

20           “(A) Options which are similar to all in-  
21 vestment options which are available (at the  
22 time the plan is established) to a participant in  
23 the Thrift Savings Fund established under sub-  
24 chapter III of chapter 84 of title 5, United  
25 States Code.



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

3           “(3) INVESTMENT FEES.—

4           “(A) IN GENERAL.—The regulations under  
5           paragraph (1) shall provide that a Secure Re-  
6           tirement Account shall not charge any invest-  
7           ment fees which, in the aggregate, are not rea-  
8           sonable (as determined under such regulations).

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

16          (b)           MANDATORY           TRANSFERS.—Section  
17          401(a)(31)(B) is amended—

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

22               (2) by adding at the end the following new sen-  
23               tence: “Any amount so transferred (and any earn-  
24               ings thereon) shall be invested in accordance with  
25               the regulations prescribed under section 404(c)(4) of

1 the Employee Retirement Income Security Act of  
2 1974.”

3 (c) CLERICAL AMENDMENT.—The table of sections  
4 for subpart A of part I of subchapter A of chapter 1 is  
5 amended by inserting after the item relating to section  
6 408B the following new item:

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

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to calendar years beginning on or  
9 after the date on which final regulations described in sec-  
10 tion 408C(c) of the Internal Revenue Code of 1986 (as  
11 added by this Act) are issued.

12 **TITLE II—FEDERAL MATCHING**  
13 **OF CERTAIN RETIREMENT**  
14 **CONTRIBUTIONS**

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

18 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV  
19 of subchapter A of chapter 1 (relating to refundable cred-  
20 its) is amended by redesignating section 36 as section 37  
21 and by inserting after section 35 the following new section:

22 **“SEC. 36. MATCHING CONTRIBUTIONS FOR CERTAIN RE-**  
23 **TIREMENT SAVINGS CONTRIBUTIONS.**

24 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
25 gible individual, there shall be allowed as a credit against

1 the tax imposed by this subtitle for the taxable year an  
2 amount equal to the retirement savings credit amount.

3 “(b) RETIREMENT SAVINGS CREDIT AMOUNT.—For  
4 purposes of this section—

5 “(1) IN GENERAL.—The term ‘retirement sav-  
6 ings credit amount’ means an amount equal to 50  
7 percent of so much of the qualified retirement sav-  
8 ings contributions of the eligible individual for the  
9 taxable year as does not exceed the applicable con-  
10 tribution amount.

11 “(2) MINIMUM CONTRIBUTIONS REQUIRED.—  
12 The retirement savings credit amount shall be zero  
13 if the qualified retirement savings contributions of  
14 the eligible individual for the taxable year do not ex-  
15 ceed \$200.

16 “(c) APPLICABLE CONTRIBUTION AMOUNT.—For  
17 purposes of this section—

18 “(1) IN GENERAL.—The term ‘applicable con-  
19 tribution amount’ means \$2,000.

20 “(2) COST-OF-LIVING ADJUSTMENT.—In the  
21 case of any taxable year beginning in a calendar  
22 year after 2007, the \$2,000 dollar amount under  
23 paragraph (1) shall be increased by an amount equal  
24 to such dollar amount multiplied by the cost of living  
25 adjustment determined under section 1(f)(3) for the

1 calendar year in which the taxable year begins, de-  
2 termined by substituting ‘2006’ for ‘1992’ in sub-  
3 paragraph (B) thereof. If any amount so increased  
4 is not a multiple of \$50, the amount shall be round-  
5 ed to the next lower multiple of \$50.

6 “(3) ADJUSTED GROSS INCOME LIMITATION.—

7 “(A) IN GENERAL.—If the taxpayer’s ad-  
8 justed gross income for any taxable year ex-  
9 ceeds the threshold amount, the applicable con-  
10 tribution amount for the taxpayer for the tax-  
11 able year (determined without regard to this  
12 paragraph) shall be reduced by an amount  
13 equal to the amount which bears the same ratio  
14 to such applicable contribution amount as such  
15 excess bears to \$10,000 in the case of a joint  
16 return, \$7,500 in the case of the head of a  
17 household, and \$5,000 in the case of any other  
18 taxpayer.

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

22 “(i) \$50,000 in the case of a joint re-  
23 turn,

24 “(ii) \$37,500 in the case of a head of  
25 household,

1                   “(iii) zero in the case of a married in-  
2                   dividual filing a separate return, and

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

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

7                   “(C) COST-OF-LIVING ADJUSTMENT.—In  
8                   the case of any taxable year beginning in a cal-  
9                   endar year after 2007—

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

12                   “(I) be increased by an amount  
13                   equal to such dollar amount multi-  
14                   plied by the cost of living adjustment  
15                   determined under section 1(f)(3) for  
16                   the calendar year in which the taxable  
17                   year begins, determined by sub-  
18                   stituting ‘2006’ for ‘1992’ in subpara-  
19                   graph (B) thereof, and

20                   “(II) after such increase be  
21                   rounded as provided in section  
22                   32(j)(2)(B),

23                   “(ii) the amount under subparagraph  
24                   (B)(ii) shall be increased to an amount  
25                   equal to 75 percent of the amount in effect

1 under subparagraph (B)(i) for the taxable  
2 year after the increase under clause (i),  
3 and

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

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

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

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

18 “(A) any individual with respect to whom  
19 a deduction under section 151 is allowed to an-  
20 other taxpayer for a taxable year beginning in  
21 the calendar year in which such individual’s  
22 taxable year begins, and

23 “(B) any individual who is a student (as  
24 defined in section 152(f)(2)).

1       “(e) QUALIFIED RETIREMENT SAVINGS CONTRIBU-  
2 TIONS.—For purposes of this section—

3           “(1) IN GENERAL.—The term ‘qualified retire-  
4 ment savings contributions’ means, with respect to  
5 any taxable year, the sum of—

6           “(A) the amount of the qualified retire-  
7 ment contributions (as defined in section  
8 219(e)) made by or on behalf of the eligible in-  
9 dividual,

10           “(B) the amount of—

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

14           “(ii) any elective deferral of com-  
15 pensation by such individual under an eli-  
16 gible deferred compensation plan (as de-  
17 fined in section 457(b)) of an eligible em-  
18 ployer described in section 457(e)(1)(A),  
19 and

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

23       “(2) REDUCTION FOR CERTAIN DISTRIBU-  
24 TIONS.—

1           “(A) IN GENERAL.—The qualified retire-  
2           ment savings contributions determined under  
3           paragraph (1) shall be reduced (but not below  
4           zero) by the aggregate distributions received by  
5           the individual during the testing period from  
6           any entity of a type to which contributions  
7           under paragraph (1) may be made. The pre-  
8           ceding sentence shall not apply to the portion of  
9           any distribution which is not includible in gross  
10          income by reason of a trustee-to-trustee trans-  
11          fer or a rollover distribution.

12          “(B) TESTING PERIOD.—For purposes of  
13          subparagraph (A), the testing period, with re-  
14          spect to a taxable year, is the period which in-  
15          cludes—

16                 “(i) such taxable year,

17                 “(ii) the 2 preceding taxable years,

18                 and

19                 “(iii) the period after such taxable  
20                 year and before the due date (including ex-  
21                 tensions) for filing the return of tax for  
22                 such taxable year.

23          “(C) EXCEPTED DISTRIBUTIONS.—There  
24          shall not be taken into account under subpara-  
25          graph (A)—



1           “(i) any distribution referred to in  
2           section 72(p), 401(k)(8), 401(m)(6),  
3           402(g)(2), 404(k), or 408(d)(4), and

4           “(ii) any distribution to which section  
5           408A(d)(3) applies.

6           “(D) TREATMENT OF DISTRIBUTIONS RE-  
7           CEIVED BY SPOUSE OF INDIVIDUAL.—For pur-  
8           poses of determining distributions received by  
9           an individual under subparagraph (A) for any  
10          taxable year, any distribution received by the  
11          spouse of such individual shall be treated as re-  
12          ceived by such individual if such individual and  
13          spouse file a joint return for such taxable year  
14          and for the taxable year during which the  
15          spouse receives the distribution.

16          “(f) OTHER DEFINITIONS AND RULES.—

17                 “(1) ADJUSTED GROSS INCOME.—For purposes  
18                 of this section, adjusted gross income shall be deter-  
19                 mined without regard to sections 911, 931, and 933.

20                 “(2) INVESTMENT IN THE CONTRACT.—Not-  
21                 withstanding any other provision of law—

22                         “(A) a qualified retirement savings con-  
23                         tribution shall not fail to be included in deter-  
24                         mining the investment in the contract for pur-

1           poses of section 72 by reason of the credit  
2           under this section, and

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

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

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

10                   “(A) shall not be treated as a credit al-  
11           lowed under this part, but

12                   “(B) shall be treated as an overpayment of  
13           tax under section 6401(b)(3) which may, in ac-  
14           cordance with section 6402(l), only be trans-  
15           ferred to—

16                   “(i) a Roth IRA, or

17                   “(ii) a designated Roth account which  
18           is within any other plan or arrangement to  
19           which qualified retirement savings con-  
20           tributions may be made.

21           Any amount so transferred on behalf of an indi-  
22           vidual (and any earnings thereon) shall be non-  
23           forfeitable.

24                   “(2) COORDINATION WITH LIMITATIONS AND  
25           OTHER CONTRIBUTIONS.—If there is any transfer to

1 a plan or account under paragraph (1) by reason of  
2 a credit under this section, the rules of subpara-  
3 graphs (A) and (C) of section 414(u)(1) shall apply  
4 with respect to the transfer.

5 “(h) RECAPTURE OF CREDIT.—

6 “(1) ADDITION TO TAX.—If, during the 5-tax-  
7 able year period beginning with the taxable year for  
8 which a transfer is made under section 6402(l), a  
9 taxpayer receives a distribution or payment out of a  
10 plan or account described in clause (i) or (ii) of sub-  
11 section (g)(1)(B), then, notwithstanding section 72,  
12 the taxpayer’s tax under this chapter for the taxable  
13 year in which the distribution or payment is received  
14 shall be increased by the amount described in para-  
15 graph (2). This subsection shall not apply to a pay-  
16 ment or distribution unless an additional tax would  
17 be imposed under section 72(t) with respect to the  
18 payment or distribution if it were includible in gross  
19 income.

20 “(2) AMOUNT OF TAX.—The amount of the tax  
21 under paragraph (1) shall be equal to the amount  
22 transferred under section 6402(l) with respect to the  
23 amount so paid or distributed, reduced by any por-  
24 tion of the amount so transferred with respect to

1 which this subsection previously applied during the  
2 taxable year or any preceding taxable year.

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

8 “(A) FIFO RULE.—Distributions or pay-  
9 ments shall be treated as made from contribu-  
10 tions (and earning thereon) in the order in  
11 which the contributions were made, beginning  
12 with the least recent taxable year.

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

20 (b) CREDIT FOR MATCHING CONTRIBUTIONS TREAT-  
21 ED AS OVERPAYMENT OF TAX.—Subsection (b) of section  
22 6401 (relating to amounts treated as overpayments) is  
23 amended by adding at the end the following new para-  
24 graph:

1           “(3) SPECIAL RULE FOR CREDIT FOR MATCH-  
2           ING CONTRIBUTIONS UNDER SECTION 36.—Subject  
3           to the provisions of section 6402(1), the amount of  
4           any credit allowed under section 36 (relating to  
5           matching credit for retirement contributions) for any  
6           taxable year shall be considered an overpayment.”.

7           (c) TRANSFER OF CREDIT AMOUNT TO RETIREMENT  
8           ACCOUNTS.—

9           (1) IN GENERAL.—Section 6402 (relating to  
10          authority to make credits or refunds) is amended by  
11          adding at the end the following:

12          “(1) OVERPAYMENTS ATTRIBUTABLE TO MATCHING  
13          RETIREMENT CREDIT.—

14                 “(1) IN GENERAL.—In the case of any overpay-  
15                 ment described in section 6401(b)(3), the Secretary  
16                 shall transfer an amount equal to the amount of  
17                 such overpayment to the account designated under  
18                 paragraph (2) by the individual entitled to the over-  
19                 payment.

20                 “(2) DESIGNATION OF ACCOUNT.—An eligible  
21                 individual (as defined in section 36(d)) shall file a  
22                 designation including the information described in  
23                 paragraph (3) along with the return of the indi-  
24                 vidual for the taxable year of the overpayment (or  
25                 if no return is required to be filed, on a form pre-

1 scribed by the Secretary) not later than the later  
2 of—

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

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

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

10 “(A) the designation of the Roth IRA or  
11 designated Roth account described in section  
12 36(g)(1)(B) to which the transfer is to be  
13 made,

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

18 “(C) the amount of qualified retirement  
19 savings contributions (as defined in section  
20 36(e)) for the taxable year with respect to the  
21 individual.”.

22 (d) REPORTING REQUIREMENTS.—Section 6047 (re-  
23 lating to information relating to certain trusts and annuity  
24 plans) is amended by redesignating subsection (g) as sub-

1 section (h) and by inserting after subsection (f) the fol-  
2 lowing new subsection:

3       “(g) MATCHING CONTRIBUTIONS.—The Secretary  
4 shall require the trustee of each plan or account to which  
5 overpayments are transferred under section 6402(l) to  
6 make such returns and reports regarding such transfers  
7 to the Secretary, participants, and beneficiaries of the  
8 plan, and such other persons as the Secretary may pre-  
9 scribe.”.

10       (e) CONFORMING AMENDMENTS.—

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

16           (2) The table of sections for subpart C of part  
17 IV of subchapter A of chapter 1 is amended by re-  
18 designating the item relating to section 36 as the  
19 item relating to section 37 and by inserting after the  
20 item relating to section 35 the following new item:

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

21           (3) Section 6402(a) is amended by striking “In  
22 the case” and inserting “Except as provided in sub-  
23 section (l), in the case”.

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

4 **TITLE III—OTHER PROVISIONS**  
5 **TO INCREASE RETIREMENT**  
6 **SAVINGS**

7 **SEC. 301. YOUNG SAVERS ACCOUNTS.**

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

11 “(g) YOUNG SAVERS ACCOUNTS.—

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

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

21 “(3) CONTRIBUTION LIMITS.—In the case of  
22 any contributions for any taxable year to 1 or more  
23 young savers accounts established and maintained  
24 on behalf of an individual, each of the following con-



1       tribution limits for the taxable year shall be in-  
2       creased as follows:

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

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

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

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

22                      “(i) is the child of the individual mak-  
23                      ing the contribution, and

24                      “(ii) with respect to whom a deduc-  
25                      tion for an additional exemption is allow-

1           able for the taxable year under section  
2           151(c) to the individual making the con-  
3           tribution.

4           “(B) DOLLAR LIMITATIONS.—

5                 “(i) IN GENERAL.—The aggregate  
6                 amount of qualified parental contributions  
7                 which may be made for any taxable year  
8                 on behalf of an individual shall not exceed  
9                 the dollar amount in effect under section  
10                219(b)(1)(A) for the taxable year.

11               “(ii) LIMIT ON EACH PARENT.—The  
12               aggregate amount of qualified parental  
13               contributions which an individual may  
14               make for any taxable year on behalf of 1  
15               or more of the individual’s children shall  
16               not exceed the contribution limit applicable  
17               to the individual under subsection (c)(2)  
18               for the taxable year, reduced by any con-  
19               tributions made by or on behalf of the indi-  
20               vidual to any Roth IRA established and  
21               maintained on behalf of the individual.

22               “(5) COORDINATION WITH MATCHING CREDIT  
23               FOR RETIREMENT SAVINGS CONTRIBUTIONS.—Any  
24               qualified parental contributions made by an eligible  
25               individual (as defined in section 36(d)) shall be

1 treated as qualified retirement savings contributions  
2 for purposes of section 36.”.

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

6 **SEC. 302. INCREASING PARTICIPATION IN CASH OR DE-**  
7 **FERRED PLANS THROUGH AUTOMATIC CON-**  
8 **TRIBUTION ARRANGEMENTS.**

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

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

14 “(A) IN GENERAL.—A cash or deferred ar-  
15 rangement shall be treated as meeting the re-  
16 quirements of paragraph (3)(A)(ii) if such ar-  
17 rangement constitutes an automatic contribu-  
18 tion trust.

19 “(B) AUTOMATIC CONTRIBUTION TRUST.—

20 “(i) IN GENERAL.—For purposes of  
21 this paragraph, the term ‘automatic con-  
22 tribution trust’ means an arrangement—

23 “(I) except as provided in clauses  
24 (ii) and (iii), under which each em-  
25 ployee eligible to participate in the ar-

1            arrangement is treated as having elected  
2            to have the employer make elective  
3            contributions in an amount equal to  
4            the applicable percentage of the em-  
5            ployee’s compensation, and

6            “(II) which meets the require-  
7            ments of subparagraphs (C), (D), (E),  
8            and (F).

9            “(ii) EXCEPTION FOR EXISTING EM-  
10           PLOYEES.—In the case of any employee—

11           “(I) who was eligible to partici-  
12           pate in the arrangement (or a prede-  
13           cessor arrangement) immediately be-  
14           fore the first date on which the ar-  
15           rangement is an automatic contribu-  
16           tion trust, and

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

21           clause (i)(I) shall not apply to such em-  
22           ployee until the date which is 1 year after  
23           such first date (or such earlier date as the  
24           employer may elect).

1           “(iii) ELECTION OUT.—Each em-  
2           ployee eligible to participate in the ar-  
3           rangement may specifically elect not to  
4           have contributions made under clause (i),  
5           and such clause shall cease to apply to  
6           compensation paid on or after the effective  
7           date of the election.

8           “(iv) APPLICABLE PERCENTAGE.—  
9           For purposes of this subparagraph—

10           “(I) IN GENERAL.—The term  
11           ‘applicable percentage’ means, with  
12           respect to any employee, the uniform  
13           percentage (not less than 3 percent)  
14           determined under the arrangement. In  
15           the case of an employee who was eligi-  
16           ble to participate in the arrangement  
17           (or a predecessor arrangement) imme-  
18           diately before the first date on which  
19           the arrangement is an automatic con-  
20           tribution trust, the initial applicable  
21           percentage shall in no event be less  
22           than the percentage in effect with re-  
23           spect to the employee under the ar-  
24           rangement immediately before the em-

1            ployee first begins participation in the  
2            automatic contribution trust.

3            “(II) INCREASE IN PERCENT-  
4            AGE.—In the case of the second plan  
5            year beginning after the first date on  
6            which the election under clause (i)(I)  
7            is in effect with respect to the em-  
8            ployee and any succeeding plan year,  
9            the applicable percentage shall be a  
10           percentage (not greater than 10 per-  
11           cent or such higher uniform percent-  
12           age determined under the arrange-  
13           ment) equal to the sum of the applica-  
14           ble percentage for the employee as of  
15           the close of the preceding plan year  
16           plus 1 percentage point (or such high-  
17           er percentage specified by the plan). A  
18           plan may elect to provide that, in lieu  
19           of any increase under the preceding  
20           sentence, the increase in the applica-  
21           ble percentage required under this  
22           subclause shall occur after each in-  
23           crease in compensation an employee  
24           receives on or after the first day of  
25           such second plan year and that the

1 applicable percentage after each such  
2 increase in compensation shall be  
3 equal to the applicable percentage for  
4 the employee immediately before such  
5 increase in compensation plus 1 per-  
6 centage point (or such higher percent-  
7 age specified by the plan).

8 “(C) MATCHING OR NONELECTIVE CON-  
9 TRIBUTIONS.—

10 “(i) IN GENERAL.—The requirements  
11 of this subparagraph are met if, under the  
12 arrangement, the employer—

13 “(I) makes matching contribu-  
14 tions on behalf of each employee who  
15 is not a highly compensated employee  
16 in an amount equal to 50 percent of  
17 the elective contributions of the em-  
18 ployee to the extent such elective con-  
19 tributions do not exceed 7 percent of  
20 compensation; or

21 “(II) is required, without regard  
22 to whether the employee makes an  
23 elective contribution or employee con-  
24 tribution, to make a contribution to a  
25 defined contribution plan on behalf of

1           each employee who is not a highly  
2           compensated employee and who is eli-  
3           gible to participate in the arrange-  
4           ment in an amount equal to at least  
5           3 percent of the employee’s compensa-  
6           tion,

7           The rules of clauses (ii) and (iii) of para-  
8           graph (12)(B) shall apply for purposes of  
9           subclause (I). The rules of paragraph  
10          (12)(E)(ii) shall apply for purposes of sub-  
11          clauses (I) and (II).

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

18          “(D) NOTICE REQUIREMENTS.—

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

22          “(ii) REASONABLE PERIOD TO MAKE  
23          ELECTION.—The requirements of this  
24          clause are met if each employee to whom  
25          subparagraph (B)(i) applies—



1           “(I) receives a notice explaining  
2           the employee’s right under the ar-  
3           rangement to elect not to have elective  
4           contributions made on the employee’s  
5           behalf, and how contributions made  
6           under the arrangement will be in-  
7           vested in the absence of any invest-  
8           ment election by the employee, and

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

13          “(iii) ANNUAL NOTICE OF RIGHTS  
14          AND OBLIGATIONS.—The requirements of  
15          this clause are met if each employee eligi-  
16          ble to participate in the arrangement is,  
17          within a reasonable period before any year  
18          (or if the plan elects to change the applica-  
19          ble percentage after any increase in com-  
20          pensation, before the increase), given no-  
21          tice of the employee’s rights and obliga-  
22          tions under the arrangement.

23          The requirements of clauses (i) and (ii) of para-  
24          graph (12)(D) shall be met with respect to the

1 notices described in clauses (ii) and (iii) of this  
2 subparagraph.

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

6 “(i) the arrangement requires that  
7 each employee eligible to participate in the  
8 arrangement (determined without regard  
9 to any minimum service requirement other-  
10 wise applicable under section 410(a) or the  
11 plan) commences participation in the ar-  
12 rangement no later than the 1st day of the  
13 1st calendar quarter beginning after the  
14 date on which employee first becomes so  
15 eligible,

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

23 “(iii) the arrangement requires that  
24 an employee’s right to the accrued benefit  
25 derived from employer contributions de-

1           scribed in clause (ii) (other than elective  
2           contributions) is nonforfeitable after the  
3           employee has completed at least 2 years of  
4           service.

5           “(F) CERTAIN WITHDRAWALS MUST BE  
6           ALLOWED.—Notwithstanding any other provi-  
7           sion of this subsection, the requirements of this  
8           subparagraph are met if the arrangement al-  
9           lows employees to elect to make permissible  
10          withdrawals in accordance with section  
11          414(w).”

12          (b) MATCHING CONTRIBUTIONS.—Section 401(m)  
13 (relating to nondiscrimination test for matching contribu-  
14 tions and employee contributions) is amended by redesignig-  
15 nating paragraph (12) as paragraph (13) and by inserting  
16 after paragraph (11) the following new paragraph:

17           “(12) ALTERNATE METHOD FOR AUTOMATIC  
18          CONTRIBUTION TRUSTS.—A defined contribution  
19          plan shall be treated as meeting the requirements of  
20          paragraph (2) with respect to matching contribu-  
21          tions if the plan—

22                   “(A) meets the contribution requirements  
23                   of subparagraphs (B)(i) and (C) of subsection  
24                   (k)(13);

1           “(B) meets the notice requirements of sub-  
2           paragraph (D) of subsection (k)(13); and

3           “(C) meets the requirements of paragraph  
4           (11)(B) (ii) and (iii).”.

5           (c) EXCLUSION FROM DEFINITION OF TOP-HEAVY  
6 PLANS.—

7           (1) ELECTIVE CONTRIBUTION RULE.—Clause  
8           (i) of section 416(g)(4)(H) is amended by inserting  
9           “or 401(k)(13)” after “section 401(k)(12)”.

10          (2) MATCHING CONTRIBUTION RULE.—Clause  
11          (ii) of section 416(g)(4)(H) is amended by inserting  
12          “or 401(m)(12)” after “section 401(m)(11)”.

13          (d) SECTION 403(B) CONTRACTS.—Paragraph (11)  
14 of section 401(m) is amended by adding at the end the  
15 following:

16                 “(C) SECTION 403(b) CONTRACTS.—An  
17                 annuity contract under section 403(b) shall be  
18                 treated as meeting the requirements of para-  
19                 graph (2) with respect to matching contribu-  
20                 tions if such contract meets requirements simi-  
21                 lar to the requirements under subparagraph  
22                 (A).”.

23          (e) PREEMPTION OF CONFLICTING STATE REGULA-  
24 TION.—Section 514 of the Employee Retirement Income

1 Security of 1974 (29 U.S.C. 1144) is amended by insert-  
2 ing at the end the following new subsection:

3 “(e) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

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

9 “(2) ELIGIBLE AUTOMATIC CONTRIBUTION AR-  
10 RANGEMENT.—For purposes of this subsection, the  
11 term ‘eligible automatic contribution arrangement’  
12 means an arrangement—

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

17 “(B) under which the participant is treated  
18 as having elected to have the employer make  
19 such contributions in an amount equal to a uni-  
20 form percentage of compensation provided  
21 under the plan until the participant specifically  
22 elects not to have such contributions made (or  
23 specifically elects to have such contributions  
24 made at a different percentage),

1           “(C) under which contributions described  
2           in subparagraph (B) are invested in accordance  
3           with regulations prescribed by the Secretary  
4           under section 404(c)(4), and

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

7           “(3) NOTICE REQUIREMENTS.—

8           “(A) IN GENERAL.—The administrator of  
9           an individual account plan shall, within a rea-  
10          sonable period before each plan year, give to  
11          each employee to whom an arrangement de-  
12          scribed in paragraph (2) applies for such plan  
13          year notice of the employee’s rights and obliga-  
14          tions under the arrangement which—

15                 “(i) is sufficiently accurate and com-  
16                 prehensive to apprise the employee of such  
17                 rights and obligations, and

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

21           “(B) TIME AND FORM OF NOTICE.—A no-  
22           tice shall not be treated as meeting the require-  
23           ments of subparagraph (A) with respect to an  
24           employee unless—

1           “(i) the notice includes a notice ex-  
 2           plaining the employee’s right under the ar-  
 3           rangement to elect not to have elective con-  
 4           tributions made on the employee’s behalf  
 5           (or to elect to have such contributions  
 6           made at a different percentage),

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

12          “(iii) the notice explains how contribu-  
 13          tions made under the arrangement will be  
 14          invested in the absence of any investment  
 15          election by the employee.”.

16          (f) TREATMENT OF WITHDRAWALS OF CONTRIBU-  
 17          TIONS DURING FIRST 60 DAYS.—Section 414 is amended  
 18          by adding at the end the following new subsection:

19          “(w) SPECIAL RULES FOR CERTAIN WITHDRAWALS  
 20          FROM ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGE-  
 21          MENTS.—

22                 “(1) IN GENERAL.—If an eligible automatic  
 23          contribution arrangement allows an employee to  
 24          elect to make permissible withdrawals—

1           “(A) the amount of any such withdrawal  
2 shall be includible in the gross income of the  
3 employee for the taxable year of the employee  
4 in which the distribution is made,

5           “(B) no tax shall be imposed under section  
6 72(t) with respect to the distribution, and

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

11       In the case of any distribution to an employee by  
12 reason of an election under this paragraph, employer  
13 matching contributions shall be forfeited or subject  
14 to such other treatment as the Secretary may pre-  
15 scribe.

16           “(2) PERMISSIBLE WITHDRAWAL.—For pur-  
17 poses of this subsection—

18           “(A) IN GENERAL.—The term ‘permissible  
19 withdrawal’ means any withdrawal from an eli-  
20 gible automatic contribution arrangement meet-  
21 ing the requirements of this paragraph which—

22           “(i) is made pursuant to an election  
23 by an employee, and



1                   “(ii) consists of elective contributions  
2                   described in paragraph (3)(B) (and earn-  
3                   ings attributable thereto).

4                   “(B) TIME FOR MAKING ELECTION.—Sub-  
5                   paragraph (A) shall not apply to an election by  
6                   an employee unless the election is made no later  
7                   than the date which is 60 days after the date  
8                   of the first elective contribution with respect to  
9                   the employee under the arrangement.

10                  “(C) AMOUNT OF DISTRIBUTION.—Sub-  
11                  paragraph (A) shall not apply to any election by  
12                  an employee unless the amount of any distribu-  
13                  tion by reason of the election is equal to the  
14                  amount of elective contributions made with re-  
15                  spect to the first payroll period to which the eli-  
16                  gible automatic contribution arrangement ap-  
17                  plies to the employee and any succeeding pay-  
18                  roll period beginning before the effective date of  
19                  the election (and earnings attributable thereto).

20                  “(3) ELIGIBLE AUTOMATIC CONTRIBUTION AR-  
21                  RANGEMENT.—For purposes of this subsection, the  
22                  term ‘eligible automatic contribution arrangement’  
23                  means an arrangement—

24                         “(A) under which a participant may elect  
25                         to have the employer make payments as con-

1           tributions under the plan on behalf of the par-  
2           ticipant, or to the participant directly in cash,

3           “(B) under which the participant is treated  
4           as having elected to have the employer make  
5           such contributions in an amount equal to a uni-  
6           form percentage of compensation provided  
7           under the plan until the participant specifically  
8           elects not to have such contributions made (or  
9           specifically elects to have such contributions  
10          made at a different percentage),

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

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

18          “(4) NOTICE REQUIREMENTS.—

19          “(A) IN GENERAL.—The administrator of  
20          a plan containing an arrangement described in  
21          paragraph (3) shall, within a reasonable period  
22          before each plan year, give to each employee to  
23          whom an arrangement described in paragraph  
24          (3) applies for such plan year notice of the em-

1           employee’s rights and obligations under the ar-  
2           rangement which—

3                   “(i) is sufficiently accurate and com-  
4                   prehensive to apprise the employee of such  
5                   rights and obligations, and

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

9                   “(B) TIME AND FORM OF NOTICE.—A no-  
10                  tice shall not be treated as meeting the require-  
11                  ments of subparagraph (A) with respect to an  
12                  employee unless—

13                   “(i) the notice includes a notice ex-  
14                   plaining the employee’s right under the ar-  
15                   rangement to elect not to have elective con-  
16                   tributions made on the employee’s behalf  
17                   (or to elect to have such contributions  
18                   made at a different percentage),

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

24                   “(iii) 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.”.

3           (g) EFFECTIVE DATE.—

4           (1) IN GENERAL.—Except as provided by para-  
5           graph (2), the amendments made by this section  
6           shall apply to plan years beginning after December  
7           31, 2006.

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

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

14          (a) IN GENERAL.—Section 404(c) of the Employee  
15          Retirement Income Security Act of 1974 (29 U.S.C.  
16          1104(c)) is amended by adding at the end the following  
17          new paragraph:

18                   “(4)    DEFAULT    INVESTMENT    ARRANGE-  
19                   MENTS.—

20                           “(A) IN GENERAL.—For purposes of para-  
21                           graph (1), a participant in an individual ac-  
22                           count plan meeting the notice requirements of  
23                           subparagraph (B) shall be treated as exercising  
24                           control over the assets in the account with re-  
25                           spect to the amount of contributions and earn-

1           ings which, in the absence of an investment  
2           election by the participant, are invested by the  
3           plan in accordance with regulations prescribed  
4           by the Secretary. The regulations under this  
5           subparagraph shall provide guidance on the ap-  
6           propriateness of designating default investments  
7           that include a mix of asset classes consistent  
8           with capital preservation, long-term capital ap-  
9           preciation, or a blend of both.

10           “(B) NOTICE REQUIREMENTS.—

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

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

23           “(II) has a reasonable period of  
24           time after receipt of such notice and

1 before the beginning of the plan year  
2 to make such designation.

3 “(ii) FORM OF NOTICE.—The require-  
4 ments of clauses (i) and (ii) of section  
5 401(k)(12)(D) of the Internal Revenue  
6 Code of 1986 shall be met with respect to  
7 the notices described in this subpara-  
8 graph.”.

9 (b) EFFECTIVE DATE.—

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

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

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

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

1 **“SEC. 450. SMALL EMPLOYER PENSION PLAN CONTRIBU-**  
2 **TIONS.**

3 “(a) GENERAL RULE.—For purposes of section 38,  
4 in the case of an eligible employer, the small employer pen-  
5 sion plan contribution credit determined under this section  
6 for any taxable year is an amount equal to 50 percent  
7 of the amount which would (but for subsection (f)(1)) be  
8 allowed as a deduction under section 404 for such taxable  
9 year for qualified employer contributions made to any  
10 qualified retirement plan on behalf of any employee who  
11 is not a highly compensated employee.

12 “(b) CREDIT LIMITED TO 3 YEARS.—The credit al-  
13 lowable by this section shall be allowed only with respect  
14 to the period of 3 taxable years beginning with the first  
15 taxable year for which a credit is allowable with respect  
16 to a plan under this section.

17 “(c) QUALIFIED EMPLOYER CONTRIBUTION.—For  
18 purposes of this section—

19 “(1) DEFINED CONTRIBUTION PLANS.—In the  
20 case of a defined contribution plan, the term ‘quali-  
21 fied employer contribution’ means the amount of  
22 nonelective and matching contributions to the plan  
23 made by the employer on behalf of any employee  
24 who is not a highly compensated employee to the ex-  
25 tent such amount does not exceed 3 percent of such

1 employee's compensation from the employer for the  
2 year.

3 “(2) DEFINED BENEFIT PLANS.—In the case of  
4 a defined benefit plan, the term ‘qualified employer  
5 contribution’ means the amount of employer con-  
6 tributions to the plan made on behalf of any em-  
7 ployee who is not a highly compensated employee to  
8 the extent that the accrued benefit of such employee  
9 derived from employer contributions for the year  
10 does not exceed the equivalent (as determined under  
11 regulations prescribed by the Secretary and without  
12 regard to section 401(l) or contributions and bene-  
13 fits under the Social Security Act) of 3 percent of  
14 such employee's compensation from the employer for  
15 the year.

16 “(d) QUALIFIED RETIREMENT PLAN.—

17 “(1) IN GENERAL.—The term ‘qualified retire-  
18 ment plan’ means any plan described in section  
19 401(a) which includes a trust exempt from tax  
20 under section 501(a), or any plan described in sec-  
21 tion 408(k) or (p), if the plan meets—

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

24 “(B) the distribution requirements of para-  
25 graph (3).



1           “(2) CONTRIBUTION REQUIREMENTS.—

2                   “(A) IN GENERAL.—The requirements of  
3 this paragraph are met if, under the plan—

4                           “(i) the employer is required to make  
5 nonelective contributions of at least 1 per-  
6 cent of compensation (or the equivalent  
7 thereof in the case of a defined benefit  
8 plan) for each employee who is not a high-  
9 ly compensated employee who is eligible to  
10 participate in the plan, and

11                           “(ii) allocations of nonelective em-  
12 ployer contributions, in the case of a de-  
13 fined contribution plan, are either in equal  
14 dollar amounts for all employees covered  
15 by the plan or bear a uniform relationship  
16 to the total compensation, of the employees  
17 covered by the plan (and an equivalent re-  
18 quirement is met with respect to a defined  
19 benefit plan).

20                   “(B) COMPENSATION LIMITATION.—The  
21 compensation taken into account under sub-  
22 paragraph (A) for any year shall not exceed the  
23 limitation in effect for such year under section  
24 401(a)(17).

1           “(3) DISTRIBUTION REQUIREMENTS.—In the  
2 case of a profit-sharing or stock bonus plan, the re-  
3 quirements of this paragraph are met if, under the  
4 plan, qualified employer contributions are distribut-  
5 able only as provided in section 401(k)(2)(B).

6           “(e) OTHER DEFINITIONS.—For purposes of this  
7 section—

8           “(1) ELIGIBLE EMPLOYER.—

9           “(A) IN GENERAL.—The term ‘eligible em-  
10 ployer’ means, with respect to any year, an em-  
11 ployer which has no more than 25 employees  
12 who received at least \$5,000 of compensation  
13 from the employer for the preceding year. In  
14 determining the number of employees for pur-  
15 poses of this paragraph, any rule applicable in  
16 determining the number of employees for pur-  
17 poses of section 408(p)(2)(C) shall be applicable  
18 under this paragraph.

19           “(B) REQUIREMENT FOR NEW QUALIFIED  
20 EMPLOYER PLANS.—Such term shall not in-  
21 clude an employer if, during the 3-taxable year  
22 period immediately preceding the 1st taxable  
23 year for which the credit under this section is  
24 otherwise allowable for a qualified employer  
25 plan of the employer, the employer or any mem-

1           ber of any controlled group including the em-  
2           ployer (or any predecessor of either) established  
3           or maintained a qualified employer plan with  
4           respect to which contributions were made, or  
5           benefits were accrued, for substantially the  
6           same employees as are in the qualified employer  
7           plan.

8           “(2) HIGHLY COMPENSATED EMPLOYEE.—The  
9           term ‘highly compensated employee’ has the mean-  
10          ing given such term by section 414(q) (determined  
11          without regard to section 414(q)(1)(B)(ii)).

12          “(f) SPECIAL RULES.—

13                 “(1) DISALLOWANCE OF DEDUCTION.—No de-  
14                 duction shall be allowed for that portion of the quali-  
15                 fied employer contributions paid or incurred for the  
16                 taxable year which is equal to the credit determined  
17                 under subsection (a).

18                 “(2) ELECTION NOT TO CLAIM CREDIT.—This  
19                 section shall not apply to a taxpayer for any taxable  
20                 year if such taxpayer elects to have this section not  
21                 apply for such taxable year.

22                 “(3) AGGREGATION RULES.—All persons treat-  
23                 ed as a single employer under subsection (a) or (b)  
24                 of section 52, or subsection (n) or (o) of section 414,

1 shall be treated as one person. All eligible employer  
2 plans shall be treated as 1 eligible employer plan.

3 “(g) RECAPTURE OF CREDIT ON FORFEITED CON-  
4 TRIBUTIONS.—If any accrued benefit which is forfeitable  
5 by reason of subsection (d)(3) is forfeited, the employer’s  
6 tax imposed by this chapter for the taxable year in which  
7 the forfeiture occurs shall be increased by 35 percent of  
8 the employer contributions from which such benefit is de-  
9 rived to the extent such contributions were taken into ac-  
10 count in determining the credit under this section.”.

11 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
12 NESS CREDIT.—Section 38(b) (defining current year busi-  
13 ness credit), as amended by this Act, is amended by strik-  
14 ing “and” at the end of paragraph (30), by striking the  
15 period at the end of paragraph (31) and inserting “, and”,  
16 and by adding at the end the following new paragraph:

17 “(32) in the case of an eligible employer (as de-  
18 fined in section 450(e)), the small employer pension  
19 plan contribution credit determined under section  
20 450(a).”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Subsection (c) of section 196 is amended by  
23 striking “and” at the end of paragraph (12), by  
24 striking the period at the end of paragraph (13) and

1 inserting “, and”, and by adding at the end the fol-  
 2 lowing new paragraph:

3 “(14) the small employer pension plan contribu-  
 4 tion credit determined under section 45O(a).”.

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

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

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

12 **SEC. 305. ACCOUNT FUNDS DISREGARDED FOR PURPOSES**  
 13 **OF CERTAIN MEANS-TESTED FEDERAL PRO-**  
 14 **GRAMS.**

15 Notwithstanding any other provision of Federal law  
 16 (other than the Internal Revenue Code of 1986) that re-  
 17 quires consideration of 1 or more financial circumstances  
 18 of an individual for the purpose of determining eligibility  
 19 to receive, or the amount of, any assistance or benefit au-  
 20 thorized by—

21 (1) the United States Housing Act of 1937,

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

23 (3) section 101 of the Housing and Urban De-  
 24 velopment Act of 1965,

1 (4) sections 221(d)(3), 235, and 236 of the Na-  
2 tional Housing Act, and

3 (5) the Food Stamp Act of 1977,  
4 any amount (including earnings thereon) in any qualified  
5 retirement plan (as defined in section 4974(c) of such  
6 Code), or any eligible deferred compensation plan (as de-  
7 fined in section 457(b) of such Code) maintained by an  
8 employer described in section 457(e)(1)(A) of such Code,  
9 of such individual shall be disregarded for such purpose  
10 with respect to any period during which such individual  
11 has not attained normal retirement age (as defined in sec-  
12 tion 216(l)(1) of the Social Security Act).

13 **SEC. 306. DIRECT PAYMENT OF TAX REFUNDS TO INDI-**  
14 **VIDUAL RETIREMENT PLANS.**

15 (a) IN GENERAL.—The Secretary of the Treasury (or  
16 the Secretary's delegate) shall make available a form (or  
17 modify existing forms) for use by individuals to direct that  
18 a portion of any refund of overpayment of tax imposed  
19 by chapter 1 of the Internal Revenue Code of 1986 be  
20 paid directly to an individual retirement plan (as defined  
21 in section 7701(a)(37) of such Code) of such individual,  
22 except that in the case of a joint return, the form or forms  
23 shall provide that each spouse shall be entitled to des-  
24 ignate an individual retirement plan with respect to the  
25 payments attributable to the spouse.

1 (b) EFFECTIVE DATE.—The form required by sub-  
 2 section (a) shall be made available for taxable years begin-  
 3 ning after December 31, 2006.

4 **TITLE IV—SIMPLIFICATION**  
 5 **PROVISIONS**

6 **SEC. 401. EXCEPTION FROM REQUIRED DISTRIBUTIONS**  
 7 **WHERE AGGREGATE RETIREMENT SAVINGS**  
 8 **LESS THAN \$50,000.**

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

12 “(H) EXCEPTION FROM REQUIRED DIS-  
 13 TRIBUTIONS DURING LIFE OF EMPLOYEE  
 14 WHERE ASSETS DO NOT EXCEED \$50,000.—

15 “(i) IN GENERAL.—If, as of the close  
 16 of any calendar year, the aggregate bal-  
 17 ance to the credit of an individual in all  
 18 applicable eligible retirement plans and  
 19 health savings accounts—

20 “(I) does not exceed \$50,000,  
 21 then the requirements of subpara-  
 22 graph (A) (and the requirements of  
 23 any provision of this title which incor-  
 24 porates the requirements of subpara-  
 25 graph (A) by reference) shall not

1 apply during the succeeding calendar  
2 year, or

3 “(II) exceeds \$50,000 but does  
4 not exceed \$200,000, then such re-  
5 quirements shall apply during the suc-  
6 ceeding calendar year only to the ex-  
7 cess.

8 “(ii) APPLICABLE ELIGIBLE RETIRE-  
9 MENT PLAN.—For purposes of this sub-  
10 paragraph, the term ‘applicable eligible re-  
11 tirement plan’ means an eligible retirement  
12 plan (as defined in section 402(c)(8)(B)),  
13 except that in applying such section—

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

18 “(II) clause (iv) shall be dis-  
19 regarded.

20 “(iii) SPECIAL RULE FOR ROTH AND  
21 HEALTH SAVINGS ACCOUNTS.—For pur-  
22 poses of applying clause (i) for any cal-  
23 endar year, each of the \$50,000 and  
24 \$200,000 amounts shall be reduced by the  
25 aggregate balance to the credit of an indi-



1           vidual in all Roth IRAs, designated Roth  
2           accounts under section 402A, and health  
3           savings accounts which was taken into ac-  
4           count in computing the aggregate balance  
5           under clause (i).

6           “(iv) SPECIAL RULE FOR ANNUITY  
7           CONTRACTS.—In determining the aggre-  
8           gate balance under clause (i) for any cal-  
9           endar year, there shall not be taken into  
10          account the value of any commercial annu-  
11          ity which was acquired by an applicable eli-  
12          gible retirement plan and from which dis-  
13          tributions are being made, but the dis-  
14          tributions shall be taken into account for  
15          purposes of this paragraph in the same  
16          manner as the distributions are taken into  
17          account without regard to this subpara-  
18          graph.

19          “(v) HEALTH SAVINGS ACCOUNT.—  
20          For purposes of this subparagraph, the  
21          term ‘health savings account’ has the  
22          meaning given such term by section  
23          223(d).”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to distributions after December 31,  
3 2006.

4 **SEC. 402. ALLOWANCE OF ADDITIONAL NONELECTIVE CON-**  
5 **TRIBUTIONS TO SIMPLE PLANS.**

6 (a) SIMPLE RETIREMENT ACCOUNTS.—Section  
7 408(p)(2) (defining qualified salary reduction arrange-  
8 ment) is amended by adding at the end the following:

9 “(F) ADDITIONAL NONELECTIVE CON-  
10 TRIBUTIONS.—An employer shall not be treated  
11 as failing to meet the requirements of subpara-  
12 graph (A)(iii) or (B) for any year if, in addition  
13 to any contributions described in either such  
14 subparagraph, the employer elects to make non-  
15 elective contributions of a uniform percentage  
16 (not greater than 10 percent) of compensation  
17 for each employee eligible to participate in the  
18 arrangement and who has at least \$5,000 of  
19 compensation from the employer for the year.”.

20 (b) SIMPLE CASH OR DEFERRED PLANS.—Section  
21 401(k)(11)(B) (relating to contribution requirements) is  
22 amended by adding at the end the following:

23 “(iv) ADDITIONAL NONELECTIVE CON-  
24 TRIBUTIONS.—An employer shall not be  
25 treated as failing to meet the requirements

1 of clause (i)(II) or (ii) for any year if, in  
2 addition to any contributions described in  
3 either such clause, the employer elects to  
4 make nonelective contributions of a uni-  
5 form percentage (not greater than 10 per-  
6 cent) of compensation for each employee  
7 eligible to participate in the arrangement  
8 and who has at least \$5,000 of compensa-  
9 tion from the employer for the year.”.

10 (c) EFFECTIVE DATES.—The amendments made by  
11 this section shall apply to years beginning after December  
12 31, 2006.

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

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

20 (b) CONFORMING AMENDMENTS.—

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

24 (2) The heading for section 72(t)(2)(F) is  
25 amended by striking “FROM CERTAIN PLANS”.

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

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

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

11 (b) CONFORMING AMENDMENTS.—

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

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

16 (3) Section 408(d)(3)(G) is amended by strik-  
17 ing “applies” and inserting “applied on the day be-  
18 fore the date of the enactment of the Savings Com-  
19 petitiveness Act of 2006”.

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

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to years beginning after December  
24 31, 2006.

1 **SEC. 405. SIMPLE PLAN PORTABILITY.**

2 (a) REPEAL OF LIMITATION.—Paragraph (3) of sec-  
3 tion 408(d) (relating to rollover contributions) is amended  
4 by striking subparagraph (G) and redesignating subpara-  
5 graphs (H) and (I) as subparagraphs (G) and (H), respec-  
6 tively.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to years beginning after December  
9 31, 2006.

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

12 (a) IN GENERAL.—Subsection (e) of section 408A  
13 (defining qualified rollover contribution) is amended to  
14 read as follows:

15 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For  
16 purposes of this section, the term ‘qualified rollover con-  
17 tribution’ means a rollover contribution—

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

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

21 “(A) in the case of an individual retire-  
22 ment plan, such rollover contribution meets the  
23 requirements of section 408(d)(3), and

24 “(B) in the case of any eligible retirement  
25 plan (as defined in section 402(c)(8)(B) other  
26 than clauses (i) and (ii) thereof), such rollover

1 contribution meets the requirements of section  
2 402(c), 403(b)(8), or 457(e)(16), as applicable.  
3 For purposes of section 408(d)(3)(B), there shall be dis-  
4 regarded any qualified rollover contribution from an indi-  
5 vidual retirement plan (other than a Roth IRA) to a Roth  
6 IRA.”

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 408A(c)(3)(B) is amended—

9 (A) in the text by striking “individual re-  
10 tirement plan” and inserting “an eligible retire-  
11 ment plan (as defined by section  
12 402(c)(8)(B))”, and

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

15 (2) Section 408A(d)(3) is amended—

16 (A) in subparagraph (A), by striking “sec-  
17 tion 408(d)(3)” inserting “sections 402(c),  
18 403(b)(8), 408(d)(3), and 457(e)(16)”,

19 (B) in subparagraph (B), by striking “in-  
20 dividual retirement plan” and inserting “eligible  
21 retirement plan (as defined by section  
22 402(c)(8)(B))”,

23 (C) in subparagraph (D), by inserting “or  
24 6047” after “408(i)”,

1 (D) in subparagraph (D), by striking “or  
2 both” and inserting “persons subject to section  
3 6047(d)(1), or all of the foregoing persons”,  
4 and

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

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to distributions after December 31,  
9 2006.

10 **SEC. 407. COORDINATION OF ORDERING RULES FOR DIS-**  
11 **TRIBUTIONS FROM ROTH IRAS AND DES-**  
12 **IGNATED ROTH ACCOUNTS.**

13 (a) IN GENERAL.—Section 402A(d) is amended by  
14 adding at the end the following new paragraph:

15 “(5) ORDERING RULE.—For purposes of apply-  
16 ing this section, section 72, and section 402 to any  
17 distribution from a designated Roth account, such  
18 distribution shall be treated as made from contribu-  
19 tions to the extent that the amount of such distribu-  
20 tion, when added to all previous distributions from  
21 the designated Roth account, does not exceed the ag-  
22 gregate contributions to the designated Roth ac-  
23 count.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to distributions after December 31,  
3 2006.

## 4 **TITLE V—PAY-GO PROVISIONS**

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

6 (a) POINT OF ORDER.—

7 (1) IN GENERAL.—It shall not be in order in  
8 the Senate to consider any direct spending or rev-  
9 enue legislation that would increase the on-budget  
10 deficit or cause an on-budget deficit (as measured in  
11 paragraphs (5) and (6)) for any 1 of the 3 applica-  
12 ble time periods.

13 (2) APPLICABLE TIME PERIODS.—For purposes  
14 of this subsection, the term “applicable time period”  
15 means any 1 of the 3 following periods:

16 (A) The first year covered by the most re-  
17 cently adopted concurrent resolution on the  
18 budget.

19 (B) The period of the first 5 fiscal years  
20 covered by the most recently adopted concu-  
21 rent resolution on the budget.

22 (C) The period of the 5 fiscal years fol-  
23 lowing the first 5 fiscal years covered in the  
24 most recently adopted concurrent resolution on  
25 the budget.



1           (3) DIRECT-SPENDING LEGISLATION.—For pur-  
2           poses of this subsection and except as provided in  
3           paragraph (4), the term “direct-spending legisla-  
4           tion” means any bill, joint resolution, amendment,  
5           motion, or conference report that affects direct  
6           spending as that term is defined by, and interpreted  
7           for purposes of, the Balanced Budget and Emer-  
8           gency Deficit Control Act of 1985.

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

12                 (A) any concurrent resolution on the budg-  
13                 et; or

14                 (B) any provision of legislation that affects  
15                 the full funding of, and continuation of, the de-  
16                 posit insurance guarantee commitment in effect  
17                 on the date of enactment of the Budget En-  
18                 forcement Act of 1990.

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

21                 (A) use the baseline surplus or deficit used  
22                 for the most recently adopted concurrent resolu-  
23                 tion on the budget; and

24                 (B) be calculated under the requirements  
25                 of subsections (b) through (d) of section 257 of

1           the Balanced Budget and Emergency Deficit  
2           Control Act of 1985 for fiscal years beyond  
3           those covered by that concurrent resolution on  
4           the budget.

5           (6) PRIOR SURPLUS.—If direct spending or rev-  
6           enue legislation increases the on-budget deficit or  
7           causes an on-budget deficit when taken individually,  
8           it must also increase the on-budget deficit or cause  
9           an on-budget deficit when taken together with all di-  
10          rect spending and revenue legislation enacted since  
11          the beginning of the calendar year not accounted for  
12          in the baseline under paragraph (5)(A), except that  
13          direct spending or revenue effects resulting in net  
14          deficit reduction enacted pursuant to reconciliation  
15          instructions since the beginning of that same cal-  
16          endar year shall not be available.

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

20          (c) APPEALS.—Appeals in the Senate from the deci-  
21          sions of the Chair relating to any provision of this section  
22          shall be limited to 1 hour, to be equally divided between,  
23          and controlled by, the appellant and the manager of the  
24          bill or joint resolution, as the case may be. An affirmative  
25          vote of  $\frac{3}{5}$  of the Members of the Senate, duly chosen and

1 sworn, shall be required to sustain an appeal of the ruling  
2 of the Chair on a point of order raised under this section.

3 (d) DETERMINATION OF BUDGET LEVELS.—For  
4 purposes of this section, the levels of new budget author-  
5 ity, outlays, and revenues for a fiscal year shall be deter-  
6 mined on the basis of estimates made by the Committee  
7 on the Budget of the Senate.

8 (e) SUNSET.—This section shall expire on September  
9 30, 2011.

## 10 **TITLE VI—ADMINISTRATIVE** 11 **PROVISIONS**

### 12 **SEC. 601. PROVISIONS RELATING TO PLAN AMENDMENTS.**

13 (a) IN GENERAL.—If this section applies to any plan  
14 or contract amendment—

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

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

25 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

1           (1) IN GENERAL.—This section shall apply to  
2 any amendment to any plan or annuity contract  
3 which is made—

4           (A) pursuant to any amendment made by  
5 this Act, or pursuant to any regulation issued  
6 by the Secretary of the Treasury or the Sec-  
7 retary of Labor under this Act, and

8           (B) on or before the last day of the first  
9 plan year beginning on or after January 1,  
10 2007, or such later date as the Secretary of the  
11 Treasury may prescribe.

12 In the case of a governmental plan (as defined in  
13 section 414(d) of the Internal Revenue Code of  
14 1986), subparagraph (B) shall be applied by sub-  
15 stituting the date which is 2 years after the date  
16 otherwise applied under subparagraph (B).

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

19           (A) during the period—

20           (i) beginning on the date the legisla-  
21 tive or regulatory amendment described in  
22 paragraph (1)(A) takes effect (or in the  
23 case of a plan or contract amendment not  
24 required by such legislative or regulatory

1 amendment, the effective date specified by  
2 the plan), and

3 (ii) ending on the date described in  
4 paragraph (1)(B) (or, if earlier, the date  
5 the plan or contract amendment is adopt-  
6 ed),

7 the plan or contract is operated as if such plan  
8 or contract amendment were in effect; and

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

○