

105TH CONGRESS
2D SESSION

S. 2635

To amend the Internal Revenue Code of 1986 to provide for retirement savings for the 21st century.

IN THE SENATE OF THE UNITED STATES

OCTOBER 14 (legislative day, OCTOBER 2), 1998

Mr. GREGG (for himself and Mr. BREAU) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for retirement savings for the 21st century.

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 “21st Century Retirement Savings Act”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—

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

TITLE I—NEW EMPLOYER PENSION PLANS MUST BE 401(k)
 PLANS AND NOT 403(b) OR 457 PLANS

Sec. 101. New employer pension plans must be 401(k) plans and not 403(b)
 or 457 plans.

TITLE II—SAFE ANNUITIES AND TRUSTS

Sec. 201. Safe annuities and trusts.

TITLE III—ENHANCED PORTABILITY OF RETIREMENT PLANS

Sec. 301. Rollovers allowed among various types of plans.

Sec. 302. Rollovers of IRAs into workplace retirement plans.

Sec. 303. Rollovers of after-tax contributions.

Sec. 304. Rationalize the restrictions on distributions from defined contribution
 plans.

Sec. 305. Transferee defined contribution plan need not have same distribution
 options as transferor defined contribution plan.

Sec. 306. Allowance of employers to disregard rollovers for purposes of cash-
 out amounts.

Sec. 307. Purchase of service credit in governmental defined benefit plans.

TITLE IV—CREDIT FOR PENSION PLAN STARTUP COSTS OF
 SMALL EMPLOYERS

Sec. 401. Credit for pension plan startup costs of small employers.

TITLE V—MISCELLANEOUS IMPROVEMENTS TO PENSION PLANS

Sec. 501. IRA catch-up contributions.

Sec. 502. Repeal of 25 percent limitation on defined contribution plans.

Sec. 503. Faster vesting of employer matching contributions.

Sec. 504. Periodic pension benefits statements.

Sec. 505. Failure of pension plans to meet requirements.

Sec. 506. Assignment and alienation.

1 **TITLE I—NEW EMPLOYER PEN-**
 2 **SION PLANS MUST BE 401(k)**
 3 **PLANS AND NOT 403(b) OR 457**
 4 **PLANS**

5 **SEC. 101. NEW EMPLOYER PENSION PLANS MUST BE 401(k)**
 6 **PLANS AND NOT 403(b) OR 457 PLANS.**

7 (a) 401(k) PLANS.—Paragraph (4) of section 401(k)
 8 (relating to other requirements for cash or deferred ar-
 9 rangements) is amended by striking subparagraph (B)
 10 and redesignating subparagraph (C) as subparagraph (B).

11 (b) 403(b) PLANS.—Subsection (b) of section 403
 12 (relating to taxability of beneficiary under annuity pur-
 13 chased by section 501(c)(3) organization or public school)
 14 is amended by adding at the end the following new para-
 15 graph:

16 “(13) TERMINATION.—Paragraph (1) shall not
 17 apply to an annuity plan, contract, or other arrange-
 18 ment entered into after December 31, 1998.”.

19 (c) 457 PLANS.—Section 457 (relating to deferred
 20 compensation plans of State and local governments and
 21 tax-exempt organizations) is amended by adding at the
 22 end the following new subsection:

23 “(g) TERMINATION.—Subsection (a) shall not apply
 24 to any plan or other arrangement entered into after De-
 25 cember 31, 1998.”.

1 (d) CONFORMING AMENDMENT.—Subparagraph (C)
 2 of section 7701(j)(1) is amended by striking “section
 3 401(k)(4)(B) and”.

4 (e) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to years beginning after the date
 6 of the enactment of this Act.

7 **TITLE II—SAFE ANNUITIES AND** 8 **TRUSTS**

9 **SEC. 201. SAFE ANNUITIES AND TRUSTS.**

10 (a) IN GENERAL.—Subpart A of part I of subchapter
 11 D of chapter 1 is amended by inserting after section 408A
 12 the following new section:

13 **“SEC. 408B. SAFE ANNUITIES AND TRUSTS.**

14 “(a) EMPLOYER ELIGIBILITY.—

15 “(1) IN GENERAL.—An employer may establish
 16 and maintain a SAFE annuity or a SAFE trust for
 17 any year only if—

18 “(A) the employer is an eligible employer
 19 (as defined in section 408(p)(2)(C)), and

20 “(B) the employer does not maintain (and
 21 no predecessor of the employer maintains) a
 22 qualified plan (other than a permissible plan)
 23 with respect to which contributions were made,
 24 or benefits were accrued, for service in any year
 25 in the period beginning with the year such an-

1 nuity or trust became effective and ending with
 2 the year for which the determination is being
 3 made.

4 “(2) DEFINITIONS.—For purposes of paragraph
 5 (1)—

6 “(A) QUALIFIED PLAN.—The term ‘quali-
 7 fied plan’ has the meaning given such term by
 8 section 408(p)(2)(D)(ii).

9 “(B) PERMISSIBLE PLAN.—The term ‘per-
 10 missible plan’ means—

11 “(i) a plan under which only elective
 12 deferrals described in section 402(g)(3),
 13 deferred compensation described in section
 14 457, or employer matching contributions
 15 may be made, and

16 “(ii) any collectively bargained plan.

17 “(b) SAFE ANNUITY.—

18 “(1) IN GENERAL.—For purposes of this title,
 19 the term ‘SAFE annuity’ means an individual retire-
 20 ment annuity (as defined in section 408(b) without
 21 regard to paragraph (2) thereof and without regard
 22 to the limitation on aggregate annual premiums con-
 23 tained in the flush language of section 408(b)) if—

24 “(A) such annuity meets the requirements
 25 of paragraphs (2) through (6), and

1 “(B) the only contributions to such annu-
 2 ity are employer contributions.

3 Nothing in this section shall be construed as pre-
 4 venting an employer from using a group annuity
 5 contract which is divisible into individual retirement
 6 annuities for purposes of providing SAFE annuities.

7 “(2) PARTICIPATION REQUIREMENTS.—

8 “(A) IN GENERAL.—The requirements of
 9 this paragraph are met for any year only if all
 10 employees of the employer who received com-
 11 pensation from the employer during any 2 con-
 12 secutive preceding years, and received at least
 13 \$5,000 in compensation during the year, are
 14 entitled to the benefit described in paragraph
 15 (5) for such year.

16 “(B) EXCLUDABLE EMPLOYEES.—An em-
 17 ployer may elect to exclude from the require-
 18 ments under subparagraph (A) employees de-
 19 scribed in section 410(b)(3).

20 “(3) VESTING.—The requirements of this para-
 21 graph are met if the employee’s rights to any bene-
 22 fits are nonforfeitable.

23 “(4) BENEFIT FORM.—The requirements of
 24 this paragraph are met if the only form of benefit
 25 is—

1 “(A) a benefit payable annually in the
2 form of a single life annuity with monthly pay-
3 ments (with no ancillary benefits) beginning at
4 age 65, or

5 “(B) any other form of benefit which is the
6 actuarial equivalent (based on the assumptions
7 specified in the SAFE annuity) of the benefit
8 described in subparagraph (A).

9 “(5) AMOUNT OF ANNUAL ACCRUED BENE-
10 FIT.—

11 “(A) IN GENERAL.—The requirements of
12 this paragraph are met for any plan year if the
13 accrued benefit of each participant derived from
14 employer contributions for such year, when ex-
15 pressed as a benefit described in paragraph
16 (4)(A), equals the applicable percentage of the
17 participant’s compensation for such year.

18 “(B) APPLICABLE PERCENTAGE.—For
19 purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘applica-
21 ble percentage’ means 2 percent.

22 “(ii) ELECTION OF DIFFERENT PER-
23 CENTAGE.—An employer may elect to
24 apply an applicable percentage of 1 percent
25 for any year for all employees eligible to

1 participate in the plan for such year, if the
 2 employer notifies the employees of such
 3 percentage within a reasonable period be-
 4 fore the beginning of such year. An em-
 5 ployer may also elect to apply an applicable
 6 percentage of 3 percent for any of the first
 7 5 years that the plan is effective for all
 8 employees eligible to participate in the plan
 9 for such year, if the employer so notifies
 10 the employees.

11 “(C) COMPENSATION LIMIT.—The com-
 12 pensation taken into account under this para-
 13 graph for any year shall not exceed the limita-
 14 tion in effect for such year under section
 15 401(a)(17).

16 “(D) CREDIT FOR SERVICE BEFORE PLAN
 17 ADOPTED.—

18 “(i) IN GENERAL.—An employer may
 19 elect to take into account a specified num-
 20 ber of years of service (not greater than 5)
 21 performed before the adoption of the plan
 22 (each hereinafter referred to as a ‘prior
 23 service year’) as service under the plan if
 24 the same specified number of years is

1 available to all employees eligible to par-
 2 ticipate in the plan for the first plan year.

3 “(ii) ACCRUAL OF PRIOR SERVICE
 4 BENEFIT.—Such an election shall be effec-
 5 tive for a prior service year only if the re-
 6 quirements of this paragraph are met for
 7 an eligible plan year (with respect to em-
 8 ployees entitled to credit for such prior
 9 service year) by doubling the applicable
 10 percentage (if any) for such plan year. For
 11 purposes of the preceding sentence, an eli-
 12 gible plan year is a plan year in the period
 13 of consecutive plan years (but not more
 14 than the number specified under clause (i))
 15 beginning with the first plan year that the
 16 plan is in effect.

17 “(iii) ELECTION MAY NOT APPLY TO
 18 CERTAIN PRIOR SERVICE YEARS.—This
 19 subparagraph shall not apply with respect
 20 to any prior service year of an employee
 21 if—

22 “(I) for any part of such prior
 23 service year such employee was an ac-
 24 tive participant (within the meaning
 25 of section 219(g)(5) under any de-

1 fined benefit plan of the employer (or
2 any predecessor thereof), or

3 “(II) such employee received dur-
4 ing such prior service year less than
5 \$5,000 in compensation from the em-
6 ployer.

7 “(6) FUNDING.—

8 “(A) IN GENERAL.—The requirements of
9 this paragraph are met only if the employer is
10 required to contribute to the annuity for each
11 plan year the amount necessary (determined in
12 accordance with subparagraph (B)) to fund the
13 accrued benefit for each participant entitled to
14 such benefit for such year.

15 “(B) ACTUARIAL ASSUMPTIONS.—In deter-
16 mining the amount required to be contributed
17 under subparagraph (A)—

18 “(i) the assumed interest rate shall be
19 5 percent per year,

20 “(ii) the assumed mortality shall be
21 determined under the applicable mortality
22 table (as defined in section 417(e)(3), as
23 modified by the Secretary so that it does
24 not include any assumption for preretire-
25 ment mortality),

1 “(iii) the assumed retirement age
2 shall be 65, and

3 “(iv) an assumption for reasonable ex-
4 penses shall be permitted consistent with
5 State law.

6 “(C) TIME WHEN CONTRIBUTIONS
7 DEEMED MADE.—For purposes of this para-
8 graph, any contribution made for a plan year
9 during the 8½-month period beginning on the
10 day after the last day of such plan year shall
11 be deemed to have been made on such last day.

12 “(D) PENALTY FOR FAILURE TO MAKE RE-
13 QUIRED CONTRIBUTION.—The taxes imposed by
14 section 4971 shall apply to a failure to make
15 the contribution required by this paragraph in
16 the same manner as if the amount of the failure
17 were an accumulated funding deficiency to
18 which such section applies.

19 “(7) DEFINITIONS AND SPECIAL RULE.—

20 “(A) DEFINITIONS.—The definitions in
21 section 408(p)(6) shall apply for purposes of
22 this subsection.

23 “(B) USE OF DESIGNATED FINANCIAL IN-
24 STITUTIONS.—A rule similar to the rule of sec-
25 tion 408(p)(7) (without regard to the last sen-

1 tence thereof) shall apply for purposes of this
2 subsection.

3 “(c) SAFE TRUST.—

4 “(1) IN GENERAL.—For purposes of this title,
5 the term ‘SAFE trust’ means a trust forming part
6 of a defined benefit plan if—

7 “(A) such trust meets the requirements of
8 section 401(a) as modified by subsection (d),

9 “(B) a participant’s benefits under the
10 plan are based solely on the balance of a sepa-
11 rate account in such plan of such participant,

12 “(C) such plan meets the requirements of
13 paragraphs (2) through (8), and

14 “(D) the only contributions to such trust
15 are employer contributions.

16 “(2) PARTICIPATION REQUIREMENTS.—A plan
17 meets the requirements of this paragraph for any
18 year only if the requirements of subsection (b)(2)
19 are met for such year.

20 “(3) VESTING.—A plan meets the requirements
21 of this paragraph for any year only if the require-
22 ments of subsection (b)(3) are met for such year.

23 “(4) BENEFIT FORM.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), a plan meets the require-

ments of this paragraph only if the requirements of subsection (b)(4) are met. For purposes of this subparagraph, a plan may satisfy the requirements of subsection (b)(4) by purchasing an annuity contract which meets the requirements of subsection (b)(4).

“(B) DIRECT TRANSFERS TO INDIVIDUAL RETIREMENT PLAN OR SAFE ANNUITY.—A plan shall not fail to meet the requirements of this paragraph by reason of permitting, at the election of the employee, a trustee-to-trustee transfer of the entire balance to the credit of the employee to an individual retirement account described in section 408(a), an individual retirement annuity described in section 408(b) (other than an endowment contract), or a SAFE annuity.

“(5) AMOUNT OF ANNUAL ACCRUED BENEFIT.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(5) are met for such year.

“(6) FUNDING.—

“(A) IN GENERAL.—A plan meets the requirements of this paragraph for any year only if—

1 “(i) the requirements of subsection
2 (b)(6) are met for such year, and

3 “(ii) in the case of a plan which has
4 an unfunded prior year liability as of the
5 close of such plan year, the plan requires
6 that the employer make an additional con-
7 tribution to such plan for such year equal
8 to the amount of such unfunded prior year
9 liability.

10 “(B) UNFUNDED PRIOR YEAR LIABIL-
11 ITY.—For purposes of this paragraph, the term
12 ‘unfunded prior year liability’ means, with re-
13 spect to any plan year, the excess (if any) of—

14 “(i) the aggregate of the accrued li-
15 abilities under the plan as of the close of
16 the prior plan year, over

17 “(ii) the value of the plan’s assets de-
18 termined under section 412(c)(2) as of the
19 close of the plan year (determined without
20 regard to any contributions for such plan
21 year).

22 Such accrued liabilities shall be determined
23 using the assumptions specified in subsection
24 (b)(6)(B).

1 “(C) CHANGES IN MORTALITY TABLE.—If
 2 the applicable mortality table under section
 3 417(e)(3) for any plan year is not the same as
 4 such table for the prior plan year, the Secretary
 5 shall prescribe regulations which phase in the
 6 effect of the changes over a reasonable period
 7 of plan years determined by the Secretary.

8 “(D) DISREGARD ASSUMPTIONS FOR EX-
 9 PENSES.—For purposes of this paragraph, the
 10 assumption specified in subsection (b)(6)(B)(iv)
 11 shall be disregarded.

12 “(7) SEPARATE ACCOUNTS FOR PARTICI-
 13 PANTS.—A plan meets the requirements of this
 14 paragraph for any year only if the plan provides—

15 “(A) for an individual account for each
 16 participant, and

17 “(B) for benefits based solely on—

18 “(i) the amount contributed to the
 19 participant’s account, and

20 “(ii) any income, expenses, gains and
 21 losses, and any forfeitures of accounts of
 22 other participants which may be allocated
 23 to such participant’s account.

24 “(8) TRUST MAY NOT HOLD SECURITIES WHICH
 25 ARE NOT READILY TRADABLE.—A plan meets the

1 requirements of this paragraph only if the plan pro-
 2 hibits the trust from holding directly or indirectly se-
 3 curities which are not readily tradable on an estab-
 4 lished securities market or otherwise. Nothing in
 5 this paragraph shall prohibit the trust from holding
 6 insurance company products regulated by State law.

7 “(9) DEFINITIONS AND SPECIAL RULE.—The
 8 definitions and special rule applicable under sub-
 9 section (b)(7) shall apply for purposes of this sub-
 10 section.

11 “(d) SPECIAL RULES FOR SAFE ANNUITIES AND
 12 TRUSTS.—

13 “(1) CERTAIN REQUIREMENTS TREATED AS
 14 MET.—For purposes of section 401(a), a SAFE an-
 15 nuity and a SAFE trust shall be treated as meeting
 16 the requirements of the following provisions:

17 “(A) Section 401(a)(4) (relating to non-
 18 discrimination rules).

19 “(B) Section 401(a)(26) (relating to mini-
 20 mum participation).

21 “(C) Section 410 (relating to minimum
 22 participation and coverage requirements).

23 “(D) Section 411(b) (relating to accrued
 24 benefit requirements).

1 “(E) Paragraphs (6) and (7) of section
2 412(c) (relating to full funding limitation).

3 “(F) Section 415 (relating to limitations
4 on benefits and contributions under qualified
5 plans).

6 “(G) Section 416 (relating to special rules
7 for top-heavy plans).

8 “(2) CONTRIBUTIONS NOT TAKEN INTO AC-
9 COUNT IN APPLYING LIMITS TO OTHER PLANS.—
10 Contributions to a SAFE annuity or a SAFE trust
11 shall not be taken into account in applying sections
12 404 and 415 to other plans maintained by the em-
13 ployer.”

14 (b) DEDUCTION LIMITS NOT TO APPLY TO EM-
15 PLOYER CONTRIBUTIONS.—

16 (1) IN GENERAL.—Section 404 (relating to de-
17 ductions for contributions of an employer to pension,
18 etc., plans) is amended by adding at the end the fol-
19 lowing new subsection:

20 “(n) SPECIAL RULES FOR SAFE ANNUITIES AND
21 TRUSTS.—

22 “(1) IN GENERAL.—Employer contributions to
23 a SAFE annuity or SAFE trust shall be treated as
24 if they are made to a plan subject to the require-
25 ments of this section.

1 “(2) TIMING.—

2 “(A) DEDUCTION.—Contributions de-
3 scribed in paragraph (1) shall be deductible in
4 the taxable year of the employer with or within
5 which the calendar year for which the contribu-
6 tions were made ends.

7 “(B) CONTRIBUTIONS AFTER END OF
8 YEAR.—For purposes of this subsection, con-
9 tributions shall be treated as made for a taxable
10 year if they are made on account of the taxable
11 year and are made not later than the time pre-
12 scribed by law for filing the return for the tax-
13 able year (including extensions thereof).”

14 (2) COORDINATION WITH DEDUCTION UNDER
15 SECTION 219.—

16 (A) Section 219(b) (relating to maximum
17 amount of deduction) is amended by adding at
18 the end the following new paragraph:

19 “(5) SPECIAL RULE FOR SAFE ANNUITIES.—
20 This section shall not apply with respect to any
21 amount contributed to a SAFE annuity established
22 under section 408B(b).”

23 (B) Section 219(g)(5)(A) (defining active
24 participant) is amended by striking “or” at the

1 end of clause (v) and by adding at the end the
2 following new clause:

3 “(vii) any SAFE annuity (within the
4 meaning of section 408B), or”.

5 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—

6 (1) Section 402 (relating to taxability of bene-
7 ficiary of employees’ trust) is amended by adding at
8 the end the following new subsection:

9 “(1) TREATMENT OF SAFE ANNUITIES.—Rules simi-
10 lar to the rules of paragraphs (1) and (3) of subsection
11 (h) shall apply to contributions and distributions with re-
12 spect to SAFE annuities under section 408B.”

13 (2) Section 408(d)(3) is amended by adding at
14 the end the following new subparagraph:

15 “(H) SAFE ANNUITIES.—This paragraph
16 shall not apply to any amount paid or distrib-
17 uted out of a SAFE annuity (as defined in sec-
18 tion 408B) unless it is paid in a trustee-to-
19 trustee transfer into another SAFE annuity.”

20 (d) INCREASED PENALTY ON EARLY WITHDRAW-
21 ALS.—Section 72(t) (relating to additional tax on early
22 distributions) is amended by adding at the end the follow-
23 ing new paragraph:

24 “(9) SPECIAL RULES FOR SAFE ANNUITIES AND
25 TRUSTS.—In the case of any amount received from

1 a SAFE annuity or a SAFE trust (within the mean-
 2 ing of section 408B), paragraph (1) shall be applied
 3 by substituting ‘20 percent’ for ‘10 percent’.”

4 (e) SIMPLIFIED EMPLOYER REPORTS.—

5 (1) SAFE ANNUITIES.—Section 408(l) (relating
 6 to simplified employer reports) is amended by add-
 7 ing at the end the following new paragraph:

8 “(3) SAFE ANNUITIES.—

9 “(A) SIMPLIFIED REPORT.—The employer
 10 maintaining any SAFE annuity (within the
 11 meaning of section 408B) shall file a simplified
 12 annual return with the Secretary containing
 13 only the information described in subparagraph
 14 (B).

15 “(B) CONTENTS.—The return required by
 16 subparagraph (A) shall set forth—

17 “(i) the name and address of the em-
 18 ployer,

19 “(ii) the date the plan was adopted,

20 “(iii) the number of employees of the
 21 employer,

22 “(iv) the number of such employees
 23 who are eligible to participate in the plan,

24 “(v) the total amount contributed by
 25 the employer to each such annuity for such

1 year and the minimum amount required
2 under section 408B to be so contributed,

3 “(vi) the percentage elected under sec-
4 tion 408B(b)(5)(B), and

5 “(vii) the number of employees which
6 respect to whom contributions are required
7 to be made for such year under section
8 408B(b)(5)(D).

9 “(C) REPORTING BY ISSUER OF SAFE AN-
10 NUITY.—

11 “(i) IN GENERAL.—The issuer of each
12 SAFE annuity shall provide to the owner
13 of the annuity for each year a statement
14 setting forth as of the close of such year—

15 “(I) the benefits guaranteed at
16 age 65 under the annuity, and

17 “(II) the cash surrender value of
18 the annuity.

19 “(ii) SUMMARY DESCRIPTION.—The
20 issuer of any SAFE annuity shall provide
21 to the employer maintaining the annuity
22 for each year a description containing the
23 following information:

24 “(I) The name and address of
25 the employer and the issuer.

1 “(II) The requirements for eligi-
2 bility for participation.

3 “(III) The benefits provided with
4 respect to the annuity.

5 “(IV) The procedures for, and ef-
6 fects of, withdrawals (including roll-
7 overs) from the annuity.

8 “(D) TIME AND MANNER OF REPORT-
9 ING.—Any return, report, or statement required
10 under this paragraph shall be made in such
11 form and at such time as the Secretary shall
12 prescribe.”

13 (2) SAFE TRUSTS.—Section 6059 (relating to
14 actuarial reports) is amended by redesignating sub-
15 sections (c) and (d) as subsections (d) and (e), re-
16 spectively, and by inserting after subsection (b) the
17 following new subsection:

18 “(c) SAFE TRUSTS.—In the case of a SAFE Trust
19 (within the meaning of section 408B), the Secretary shall
20 require a simplified actuarial report which contains infor-
21 mation similar to the information required in section
22 408(l)(3)(B).”

23 (f) CONFORMING AMENDMENTS.—

24 (1) Section 280G(b)(6) is amended by striking
25 “or” at the end of subparagraph (C), by striking the

1 period at the end of subparagraph (D) and inserting
 2 “, or” and by adding after subparagraph (D) the
 3 following new subparagraph:

4 “(E) a SAFE annuity described in section
 5 408B.”

6 (2) Subsections (b), (c), (m)(4)(B), and
 7 (n)(3)(B) of section 414 are each amended by in-
 8 serting “408B,” after “408(p),”.

9 (3) Section 4972(d)(1)(A) is amended by strik-
 10 ing “and” at the end of clause (iii), by striking the
 11 period at the end of clause (iv) and inserting “,
 12 and”, and by adding after clause (iv) the following
 13 new clause:

14 “(v) any SAFE annuity (within the
 15 meaning of section 408B).”

16 (g) MODIFICATIONS OF ERISA.—

17 (1) EXEMPTION FROM INSURANCE COV-
 18 ERAGE.—Subsection (b) of section 4021 of the Em-
 19 ployee Retirement Income Security Act of 1974 (29
 20 U.S.C. 1321) is amended by striking “or” at the end
 21 of paragraph (12), by striking the period at the end
 22 of paragraph (13) and inserting “; or”, and by add-
 23 ing at the end the following new paragraph:

1 “(14) which is established and maintained as
2 part of a SAFE trust (as defined in section 408B
3 of the Internal Revenue Code of 1986).”

4 (2) REPORTING REQUIREMENTS.—Section 101
5 of such Act (29 U.S.C. 1021) is amended by redesh-
6 ignating subsection (h) as subsection (i) and by in-
7 serting after subsection (g) the following new sub-
8 section:

9 “(h) SAFE ANNUITIES.—

10 “(1) NO EMPLOYER REPORTS.—Except as pro-
11 vided in this subsection, no report shall be required
12 under this section by an employer maintaining a
13 SAFE annuity under section 408B(b) of the Inter-
14 nal Revenue Code of 1986.

15 “(2) SUMMARY DESCRIPTION.—The issuer of
16 any SAFE annuity shall provide to the employer
17 maintaining the annuity for each year a description
18 containing the following information:

19 “(A) The name and address of the em-
20 ployer and the issuer.

21 “(B) The requirements for eligibility for
22 participation.

23 “(C) The benefits provided with respect to
24 the annuity.

1 “(D) The procedures for, and effects of,
2 withdrawals (including rollovers) from the an-
3 nuity.”

4 (3) EMPLOYEE NOTIFICATION.—The employer
5 shall provide each employee eligible to participate in
6 the SAFE annuity with the description described in
7 paragraph (2) at the same time as the notification
8 required under section 408B(b)(5)(B) of the Inter-
9 nal Revenue Code of 1986.”

10 (h) CLERICAL AMENDMENT.—The table of sections
11 for subpart A of part I of subchapter D of chapter 1 is
12 amended by inserting after the item relating to section
13 408A the following new item:

 “Sec. 408B. SAFE annuities and trusts.”

14 (i) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to years beginning after December
16 31, 1998.

17 **TITLE III—ENHANCED PORT-**
18 **ABILITY OF RETIREMENT**
19 **PLANS**

20 **SEC. 301. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
21 **OF PLANS.**

22 (a) ROLLOVERS FROM AND TO SECTION 457
23 PLANS.—

24 (1) ROLLOVERS FROM SECTION 457 PLANS.—

1 (A) IN GENERAL.—Section 457(e) (relat-
 2 ing to other definitions and special rules) is
 3 amended by adding at the end the following:

4 “(16) ROLLOVER AMOUNTS.—

5 “(A) GENERAL RULE.—In the case of an
 6 eligible deferred compensation plan of an eligi-
 7 ble employer described in paragraph (1)(A),
 8 if—

9 “(i) any portion of the balance to the
 10 credit of an employee in such plan is paid
 11 to such employee in an eligible rollover dis-
 12 tribution (within the meaning of section
 13 402(c)(4)),

14 “(ii) the employee transfers any por-
 15 tion of the property such employee receives
 16 in such distribution to an eligible retire-
 17 ment plan described in section
 18 402(c)(8)(B), and

19 “(iii) in the case of a distribution of
 20 property other than money, the amount so
 21 transferred consists of the property distrib-
 22 uted,

23 then such distribution (to the extent so trans-
 24 ferred) shall not be includible in gross income
 25 for the taxable year in which paid.

1 “(B) CERTAIN RULES MADE APPLICA-
2 BLE.—Rules similar to the rules of paragraphs
3 (2) through (7) and (9) of section 402(c) and
4 section 402(f) shall apply for purposes of sub-
5 paragraph (A).

6 “(C) REPORTING.—Rollovers under this
7 paragraph shall be reported to the Secretary in
8 the same manner as rollovers from qualified re-
9 tirement plans (as defined in section
10 4974(c)).”.

11 (B) DEFERRAL LIMIT DETERMINED WITH-
12 OUT REGARD TO ROLLOVER AMOUNTS.—Section
13 457(b)(2) (defining eligible deferred compensa-
14 tion plan) is amended by inserting “(other than
15 rollover amounts)” after “taxable year”.

16 (2) ROLLOVERS TO SECTION 457 PLANS.—

17 (A) Section 402(c)(8)(B) (defining eligible
18 retirement plan) is amended by striking “and”
19 at the end of clause (iii), by striking the period
20 at the end of clause (iv) and inserting “, and”,
21 and by adding at the end the following:

22 “(v) an eligible deferred compensation
23 plan described in section 457(b) of an eli-
24 gible employer described in section
25 457(e)(1)(A).”.

1 (B) Paragraph (9) of section 402(c) is
 2 amended by striking “except that” and all that
 3 follows and inserting “except that only an ac-
 4 count or annuity described in clause (i) or (ii)
 5 of paragraph (8)(B) shall be treated as an eligi-
 6 ble retirement plan with respect to such dis-
 7 tribution.”.

8 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
 9 403(b) PLANS.—

10 (1) ROLLOVERS FROM SECTION 403(b)
 11 PLANS.—Section 403(b)(8)(A)(ii) (relating to roll-
 12 over amounts) is amended by striking “such dis-
 13 tribution” and all that follows and inserting “such
 14 distribution to an eligible retirement plan described
 15 in section 402(c)(8)(B), and”.

16 (2) ROLLOVERS TO SECTION 403(b) PLANS.—
 17 Section 402(c)(8)(B) (defining eligible retirement
 18 plan), as amended by subsection (a), is amended by
 19 striking “and” at the end of clause (iv), by striking
 20 the period at the end of clause (v) and inserting “,
 21 and”, and by adding at the end the following

22 “(vi) an annuity contract described in
 23 section 403(b).”

24 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
 25 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section

1 402(f) (relating to written explanation to recipients of dis-
 2 tributions eligible for rollover treatment) is amended by
 3 striking “and” at the end of subparagraph (C), by striking
 4 the period at the end of subparagraph (D) and inserting
 5 “, and”, and by adding at the end the following new sub-
 6 paragraph:

7 “(E) of the provisions under which dis-
 8 tributions from the eligible retirement plan re-
 9 ceiving the distribution may be subject to re-
 10 strictions and tax consequences which are dif-
 11 ferent from those applicable to distributions
 12 from the plan making such distribution.”

13 (d) CONFORMING AMENDMENTS.—

14 (1) Section 72(o)(4) is amended by striking
 15 “and 408(d)(3)” and inserting “403(b)(8),
 16 408(d)(3), and 457(e)(16)”.

17 (2) Section 219(d)(2) is amended by striking
 18 “or 408(d)(3)” and inserting “408(d)(3), or
 19 457(e)(16)”.

20 (3) Section 401(a)(31)(B) is amended by strik-
 21 ing “and 403(a)(4)” and inserting “, 403(a)(4),
 22 403(b)(8), and 457(e)(16)”.

23 (4) Subparagraph (B) of section 403(b)(8) is
 24 amended by inserting “and (9)” after “through
 25 (7)”.

1 (5) Section 408(a)(1) is amended by striking
 2 “or 403(b)(8)” and inserting “, 403(b)(8), or
 3 457(e)(16)”.

4 (6) Subparagraphs (A) and (B) of section
 5 415(b)(2) are each amended by striking “and
 6 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
 7 457(e)(16)”.

8 (7) Section 415(c)(2) is amended by striking
 9 “and 408(d)(3)” and inserting “408(d)(3), and
 10 457(e)(16)”.

11 (8) Section 4973(b)(1)(A) is amended by strik-
 12 ing “or 408(d)(3)” and inserting “408(d)(3), or
 13 457(e)(16)”.

14 (e) EFFECTIVE DATE; SPECIAL RULE.—

15 (1) EFFECTIVE DATE.—The amendments made
 16 by this section shall apply to distributions after De-
 17 cember 31, 1998.

18 (2) SPECIAL RULE.—Notwithstanding any other
 19 provision of law, subsections (h)(3) and (h)(5) of
 20 section 1122 of the Tax Reform Act of 1986 shall
 21 not apply to any distribution from an eligible retire-
 22 ment plan on behalf of an individual if there was a
 23 rollover to such plan on behalf of such individual
 24 which is permitted solely by reason of any amend-
 25 ment made by this section. For purposes of the pre-

1 ceding sentence, the term “eligible retirement plan”
 2 has the meaning given such term by section
 3 402(c)(8)(B) of the Internal Revenue Code of 1986;
 4 except that such term shall not include any individ-
 5 ual retirement plan described in section
 6 408(d)(3)(A)(ii) of such Code.

7 **SEC. 302. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
 8 **MENT PLANS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
 10 408(d)(3) (relating to rollover amounts) is amended by
 11 striking “or” at the end of clause (ii), by striking the pe-
 12 riod at the end of clause (iii) and inserting a semicolon,
 13 and by adding at the end the following:

14 “(iv)(I) the entire amount received
 15 (including money and other property) rep-
 16 resents the entire interest in the account
 17 or the entire value of the annuity,

18 “(II) no amount in the account and
 19 no part of the value of the annuity is at-
 20 tributable to any source other than a roll-
 21 over contribution from a defined contribu-
 22 tion plan and any earnings on such roll-
 23 over, and

24 “(III) such entire amount received is
 25 paid into another defined contribution plan

1 (for the benefit of such individual) not
2 later than the 60th day after he receives
3 the payment or distribution; or

4 “(v)(I) the entire amount received (in-
5 cluding money and other property) rep-
6 resents the entire interest in the account
7 or the entire value of the annuity,

8 “(II) no amount in any such account
9 and no part of the value of any such annu-
10 ity is attributable to any source other than
11 a rollover contribution from such an ac-
12 count or annuity of such individual (and
13 any earnings on such contribution),

14 “(III) all contributions to all individ-
15 ual retirement accounts, and all amounts
16 paid for all individual retirement annuities,
17 of such individual were allowed as a deduc-
18 tion under section 219, and

19 “(IV) such entire amount received is
20 paid (not later than the 60th day after
21 being so received) into a defined contribu-
22 tion plan (for the benefit of such individ-
23 ual) under which amounts are held in trust
24 by a person described in section 408(a)(2)

1 or in a manner that satisfies section
2 401(f).

3 If a payment or distribution from an individual
4 retirement plan is described in more than 1
5 clause of this subparagraph, such payment or
6 distribution shall be treated as described only in
7 the clause specified by the payee or distributee.
8 For purposes of this subparagraph, the term
9 ‘defined contribution plan’ means a defined con-
10 tribution plan (as defined in section 414(i))
11 which includes a trust exempt from tax under
12 section 501(a), an annuity plan described in
13 section 403(a), an annuity contract described in
14 section 403(b), and an eligible deferred com-
15 pensation plan described in section 457(b) of an
16 eligible employer described in section
17 457(e)(1)(A).”

18 (b) CONFORMING AMENDMENT.—Paragraph (1) of
19 section 403(b) is amended by striking “section
20 408(d)(3)(A)(iii)” and inserting “clause (iii), (iv), or (v)
21 of section 408(d)(3)(A)”.

22 (c) EFFECTIVE DATE; SPECIAL RULE.—

23 (1) EFFECTIVE DATE.—The amendments made
24 by this section shall apply to distributions after De-
25 cember 31, 1998.

1 (2) SPECIAL RULE.—Notwithstanding any other
 2 provision of law, subsections (h)(3) and (h)(5) of
 3 section 1122 of the Tax Reform Act of 1986 shall
 4 not apply to any distribution from a defined con-
 5 tribution plan (as defined in section 408(d)(3)(A) of
 6 the Internal Revenue Code of 1986 (as added by
 7 this section) on behalf of an individual if there was
 8 a rollover to such plan on behalf of such individual
 9 which is permitted solely by reason of the amend-
 10 ments made by this section.

11 **SEC. 303. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

12 (a) IN GENERAL.—Paragraph (2) of section 402(c)
 13 (relating to rules applicable to rollovers from exempt
 14 trusts) is amended by adding at the end the following new
 15 sentence: “In accordance with rules prescribed by the Sec-
 16 retary, the preceding sentence shall not apply to any dis-
 17 tribution if—

18 “(A) the portion of the distribution which
 19 would be so includible is reported by the trust-
 20 ee, and

21 “(B) the eligible retirement plan to which
 22 it is paid agrees to report such amount in any
 23 subsequent distribution.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (B) of section 401(a)(31) is
2 amended by adding at the end the following new
3 sentence: “In accordance with rules prescribed by
4 the Secretary, the preceding sentence shall not apply
5 to any distribution if—

6 “(i) the portion of the distribution
7 which would be so includible is reported by
8 the trustee, and

9 “(ii) the eligible retirement plan to
10 which it is paid agrees to report such
11 amount in any subsequent distribution.”

12 (2) Subparagraph (B) of section 408(d)(3) is
13 amended—

14 (A) by striking “LIMITATION.—” in the
15 heading and inserting “LIMITATIONS.—”, and

16 (B) by adding at the end the following: “In
17 addition, this paragraph does not apply unless
18 rules similar to the rules of section 402(c)(2)
19 are satisfied, except that the rollover contribu-
20 tion may exceed the amount includible in in-
21 come to the extent the rollover contribution con-
22 sists of nondeductible contributions described in
23 subsection (o).”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions made after Decem-
 3 ber 31, 1998.

4 **SEC. 304. RATIONALIZE THE RESTRICTIONS ON DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.**

7 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE
 8 FROM EMPLOYMENT.—

9 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)
 10 (relating to qualified cash or deferred arrangements)
 11 is amended by striking “separation from service”
 12 and inserting “severance from employment”.

13 (2) 403(b) CONTRACTS.—

14 (A) Clause (ii) of section 403(b)(7)(A) is
 15 amended by striking “separates from service”
 16 and inserting “severs from employment”.

17 (B) Paragraph (11) of section 403(b) is
 18 amended—

19 (i) by striking “SEPARATION FROM
 20 SERVICE” in the heading and inserting
 21 “SEVERANCE FROM EMPLOYMENT”, and

22 (ii) by striking “separates from serv-
 23 ice” and inserting “severs from employ-
 24 ment”.

1 (3) 457 PLANS.—Clause (ii) of section
 2 457(d)(1)(A) is amended by striking “is separated
 3 from service” and inserting “has a severance from
 4 employment”.

5 (b) BUSINESS SALE REQUIREMENTS DELETED.—

6 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)
 7 (relating to qualified cash or deferred arrangements)
 8 is amended by striking “an event” and inserting “a
 9 plan termination”.

10 (2) CONFORMING AMENDMENTS.—Section
 11 401(k)(10) is amended—

12 (A) by striking subparagraph (A) and in-
 13 serting the following:

14 “(A) IN GENERAL.—A plan termination is
 15 described in this paragraph if the termination
 16 of the plan does not involve the establishment
 17 or maintenance of another defined contribution
 18 plan (other than an employee stock ownership
 19 plan as defined in section 4975(e)(7)).”,

20 (B) in subparagraph (B)—

21 (i) by striking “An event” and insert-
 22 ing “A termination”, and

23 (ii) by striking “the event” and insert-
 24 ing “the termination”,

25 (C) by striking subparagraph (C), and

1 (D) by striking “OR DISPOSITION OF AS-
 2 SETS OR SUBSIDIARY” in the heading.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to distributions after December 31,
 5 1998.

6 **SEC. 305. TRANSFeree DEFINED CONTRIBUTION PLAN**
 7 **NEED NOT HAVE SAME DISTRIBUTION OP-**
 8 **TIONS AS TRANSFEROR DEFINED CONTRIBU-**
 9 **TION PLAN.**

10 (a) IN GENERAL.—Section 411(d)(6) (relating to ac-
 11 crued benefit not to be decreased by amendment) is
 12 amended by adding at the end the following new subpara-
 13 graph:

14 “(D) PLAN TRANSFERS.—A defined con-
 15 tribution plan (in this subparagraph referred to
 16 as the ‘transferee plan’) shall not be treated as
 17 failing to meet the requirements of this para-
 18 graph merely because the transferee plan does
 19 not provide some or all of the forms of distribu-
 20 tion previously available under another defined
 21 contribution plan (in this subparagraph referred
 22 to as the ‘transferor plan’) to the extent that—

23 “(i) the forms of distribution pre-
 24 viously available under the transferor plan
 25 applied to the account of a participant or

1 beneficiary under the transferor plan that
2 was transferred from the transferor plan to
3 the transferee plan pursuant to a direct
4 transfer rather than pursuant to a dis-
5 tribution from the transferor plan,

6 “(ii) the terms of both the transferor
7 plan and the transferee plan authorize the
8 transfer described in clause (i),

9 “(iii) the transfer described in clause
10 (i) was made pursuant to a voluntary elec-
11 tion by the participant or beneficiary
12 whose account was transferred to the
13 transferee plan,

14 “(iv) the election described in clause
15 (iii) was made after the participant or ben-
16 eficiary received a notice describing the
17 consequences of making the election,

18 “(v) if the transferor plan provides for
19 an annuity as the normal form of distribu-
20 tion under the plan in accordance with sec-
21 tion 417, the transfer is made with the
22 consent of the participant’s spouse (if
23 any), and such consent meets requirements
24 similar to the requirements imposed by
25 section 417(a)(2), and

1 “(vi) the transferee plan allows the
 2 participant or beneficiary described in
 3 clause (iii) to receive any distribution to
 4 which the participant or beneficiary is enti-
 5 tled under transferee plan in the form of
 6 a single sum distribution.”.

7 (b) CONFORMING AMENDMENT.—Section 204(g) of
 8 the Employee Retirement Income Security Act of 1974
 9 (29 U.S.C. 1054(g)) is amended by adding at the end the
 10 following new paragraph:

11 “(4) A defined contribution plan (in this paragraph
 12 referred to as the ‘transferee plan’) shall not be treated
 13 as failing to meet the requirements of this subsection
 14 merely because the transferee plan does not provide some
 15 or all of the forms of distribution previously available
 16 under another defined contribution plan (in this para-
 17 graph referred to as the ‘transferor plan’) to the extent
 18 that—

19 “(A) the forms of distribution previously avail-
 20 able under the transferor plan applied to the account
 21 of a participant or beneficiary under the transferor
 22 plan that was transferred from the transferor plan
 23 to the transferee plan pursuant to a direct transfer
 24 rather than pursuant to a distribution from the
 25 transferor plan,

1 “(B) the terms of both the transferor plan and
2 the transferee plan authorize the transfer described
3 in subparagraph (A),

4 “(C) the transfer described in subparagraph
5 (A) was made pursuant to a voluntary election by
6 the participant or beneficiary whose account was
7 transferred to the transferee plan,

8 “(D) the election described in subparagraph (C)
9 was made after the participant or beneficiary re-
10 ceived a notice describing the consequences of mak-
11 ing the election,

12 “(E) if the transferor plan provides for an an-
13 nuity as the normal form of distribution under the
14 plan in accordance with section 205, the transfer is
15 made with the consent of the participant’s spouse (if
16 any), and such consent meets requirements similar
17 to the requirements imposed by section 205(c)(2),
18 and

19 “(F) the transferee plan allows the participant
20 or beneficiary described in subparagraph (C) to re-
21 ceive any distribution to which the participant or
22 beneficiary is entitled under transferee plan in the
23 form of a single sum distribution.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to transfers after December 31,
 3 1998.

4 **SEC. 306. ALLOWANCE OF EMPLOYERS TO DISREGARD**
 5 **ROLLOVERS FOR PURPOSES OF CASH-OUT**
 6 **AMOUNTS.**

7 (a) AMENDMENTS TO 1986 CODE.—

8 (1) Section 411(a)(11) (relating to restrictions
 9 on certain mandatory distributions) is amended by
 10 adding at the end the following:

11 “(D) SPECIAL RULE FOR ROLLOVER CON-
 12 TRIBUTIONS.—A plan shall not fail to meet the
 13 requirements of this paragraph if, under the
 14 terms of the plan, the present value of the non-
 15 forfeitable accrued benefit is determined with-
 16 out regard to that portion of such benefit which
 17 is attributable to rollover contributions (and
 18 earnings allocable thereto). For purposes of this
 19 subparagraph, the term ‘rollover contributions’
 20 means any rollover contribution under sections
 21 402(c), 403(a)(4), 403(b)(8), clause (ii), (iii),
 22 or (iv) of 408(d)(3)(A), and 457(e)(16).”.

23 (2) Clause (i) of section 457(e)(9)(A) is amend-
 24 ed by striking “such amount” and inserting “the
 25 portion of such amount which is not attributable to

1 rollover contributions (as defined in section
2 411(a)(11)(D))”.

3 (b) AMENDMENT TO ERISA.—Section 203(e) of the
4 Employee Retirement Income Security Act of 1974 (29
5 U.S.C. 1053(e)) is amended by adding at the end the fol-
6 lowing:

7 “(4) A plan shall not fail to meet the requirements
8 of this subsection if, under the terms of the plan, the
9 present value of the nonforfeitable accrued benefit is de-
10 termined without regard to that portion of such benefit
11 which is attributable to rollover contributions (and earn-
12 ings allocable thereto). For purposes of this paragraph,
13 the term ‘rollover contributions’ means any rollover con-
14 tribution under sections 402(c), 403(a)(4), 403(b)(8),
15 clause (ii), (iii), or (iv) of 408(d)(3)(A), and 457(e)(16)
16 of the Internal Revenue Code of 1986.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to distributions after December 31,
19 1998.

20 **SEC. 307. PURCHASE OF SERVICE CREDIT IN GOVERN-**
21 **MENTAL DEFINED BENEFIT PLANS.**

22 (a) 403(b) PLANS.—Subsection (b) of section 403 is
23 amended by adding at the end the following new para-
24 graph:

1 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 2 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 3 amount shall be includible in gross income by reason
 4 of a direct trustee-to-trustee transfer to a defined
 5 benefit governmental plan (as defined in section
 6 414(d)) if such transfer is—

7 “(A) for the purchase of permissive service
 8 credit (as defined in section 415(n)(3)(A))
 9 under such plan, or

10 “(B) a repayment to which section 415
 11 does not apply by reason of subsection (k)(3)
 12 thereof.”

13 (b) 457 PLANS.—

14 (1) Subsection (e) of section 457 is amended by
 15 adding at the end the following new paragraph:

16 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 17 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 18 amount shall be includible in gross income by reason
 19 of a direct trustee-to-trustee transfer to a defined
 20 benefit governmental plan (as defined in section
 21 414(d)) if such transfer is—

22 “(A) for the purchase of permissive service
 23 credit (as defined in section 415(n)(3)(A))
 24 under such plan, or

1 “(B) a repayment to which section 415
2 does not apply by reason of subsection (k)(3)
3 thereof.”

4 (2) Section 457(b)(2), as amended by section 2,
5 is amended by striking “(other than rollover
6 amounts)” and inserting “(other than rollover
7 amounts and amounts received in a transfer referred
8 to in subsection (e)(16))”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to trustee-to-trustee transfers after
11 December 31, 1998.

12 **TITLE IV—CREDIT FOR PENSION**
13 **PLAN STARTUP COSTS OF**
14 **SMALL EMPLOYERS**

15 **SEC. 401. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
16 **SMALL EMPLOYERS.**

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

21 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN STARTUP**
22 **COSTS.**

23 “(a) GENERAL RULE.—For purposes of section 38,
24 in the case of an eligible employer, the small employer pen-
25 sion plan startup cost credit determined under this section

1 for any taxable year is an amount equal to the applicable
 2 percentage of the qualified startup costs paid or incurred
 3 by the taxpayer during the taxable year.

4 “(b) APPLICABLE PERCENTAGE.—For purposes of
 5 subsection (a), the applicable percentage is—

6 “(1) 60 percent for the first credit year, and

7 “(2) 50 percent for each of the 2 taxable years
 8 immediately following the first credit year, and

9 “(3) zero for any other taxable year.

10 “(c) DOLLAR LIMITATION.—The amount of the cred-
 11 it determined under this section for any taxable year shall
 12 not exceed—

13 “(1) \$2,000 for the first credit year,

14 “(2) \$1000 for each of the 2 taxable years im-
 15 mediately following the first credit year, and

16 “(3) zero for any other taxable year.

17 “(d) ELIGIBLE EMPLOYER.—For purposes of this
 18 section—

19 “(1) IN GENERAL.—The term ‘eligible em-
 20 ployer’ has the meaning given such term by section
 21 408(p)(2)(C)(i).

22 “(2) EMPLOYERS MAINTAINING QUALIFIED
 23 PLANS DURING 1997 NOT ELIGIBLE.—Such term
 24 shall not include an employer if such employer (or
 25 any predecessor employer) maintained a qualified

1 plan (as defined in section 408(p)(2)(D)(ii)) with re-
 2 spect to which contributions were made, or benefits
 3 were accrued, for service in 1997. If only individuals
 4 other than employees described in subparagraph (A)
 5 or (B) of section 410(b)(3) are eligible to participate
 6 in the qualified employer plan referred to in sub-
 7 section (e)(1), then the preceding sentence shall be
 8 applied without regard to any qualified plan in
 9 which only employees so described are eligible to
 10 participate.

11 “(e) OTHER DEFINITIONS.—For purposes of this
 12 section—

13 “(1) QUALIFIED STARTUP COSTS.—

14 “(A) IN GENERAL.—The term ‘qualified
 15 startup costs’ means any ordinary and nec-
 16 essary expenses of an eligible employer which
 17 are paid or incurred in connection with—

18 “(i) the establishment or administra-
 19 tion of an eligible employer plan, or

20 “(ii) the retirement-related education
 21 of employees with respect to such plan.

22 “(B) PLAN MUST HAVE AT LEAST 2 PAR-
 23 TICIPANTS.—Such term shall not include any
 24 expense in connection with a plan that does not

1 have at least 2 individuals who are eligible to
2 participate.

3 “(C) PLAN MUST BE ESTABLISHED BE-
4 FORE JANUARY 1, 2001.—Such term shall not
5 include any expense in connection with a plan
6 established after December 31, 2000.

7 “(2) ELIGIBLE EMPLOYER PLAN.—The term
8 ‘eligible employer plan’ means a qualified employer
9 plan within the meaning of section 4972(d), or a
10 qualified payroll deduction arrangement within the
11 meaning of section 408(q)(1) (whether or not an
12 election is made under section 408(q)(2)). A quali-
13 fied payroll deduction arrangement shall be treated
14 as an eligible employer plan only if all employees of
15 the employer who—

16 “(A) have been employed for 90 days, and

17 “(B) are not described in subparagraph
18 (A) or (C) of section 410(b)(3),

19 are eligible to make the election under section
20 408(q)(1)(A).

21 “(3) FIRST CREDIT YEAR.—The term ‘first
22 credit year’ means—

23 “(A) the taxable year which includes the
24 date that the eligible employer plan to which
25 such costs relate becomes effective, or

1 “(B) at the election of the eligible employer, the
2 taxable year preceding the taxable year referred to
3 in subparagraph (A).

4 “(f) SPECIAL RULES.—For purposes of this sec-
5 tion—

6 “(1) AGGREGATION RULES.—All persons treat-
7 ed as a single employer under subsection (a) or (b)
8 of section 52, or subsection (n) or (o) of section 414,
9 shall be treated as one person. All eligible employer
10 plans shall be treated as 1 eligible employer plan.

11 “(2) DISALLOWANCE OF DEDUCTION.—No de-
12 duction shall be allowed for that portion of the quali-
13 fied startup costs paid or incurred for the taxable
14 year which is equal to the credit determined under
15 subsection (a).

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

20 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
21 NESS CREDIT.—Section 38(b) (defining current year busi-
22 ness credit) is amended by striking “plus” at the end of
23 paragraph (11), by striking the period at the end of para-
24 graph (12) and inserting “, plus”, and by adding at the
25 end the following new paragraph:

1 “(13) in the case of an eligible employer (as de-
 2 fined in section 45D(c)), the small employer pension
 3 plan startup cost credit determined under section
 4 45D(a).”

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 39(d) is amended by adding at the
 7 end the following new paragraph:

8 “(8) NO CARRYBACK OF SMALL EMPLOYER
 9 PENSION PLAN STARTUP COST CREDIT BEFORE EF-
 10 FECTIVE DATE.—No portion of the unused business
 11 credit for any taxable year which is attributable to
 12 the small employer pension plan startup cost credit
 13 determined under section 45D may be carried back
 14 to a taxable year ending on or before the date of the
 15 enactment of section 45D.”

16 (2) Subsection (c) of section 196 is amended by
 17 striking “and” at the end of paragraph (7), by strik-
 18 ing the period at the end of paragraph (8) and in-
 19 serting “, and”, and by adding at the end the follow-
 20 ing new paragraph:

21 “(9) the small employer pension plan startup
 22 cost credit determined under section 45D(a).”

23 (3) The table of sections for subpart D of part
 24 IV of subchapter A of chapter 1 is amended by add-
 25 ing at the end the following new item:

“Sec. 45D. Small employer pension plan startup costs.”

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to costs paid or incurred in taxable
 3 years ending after the date of the enactment of this Act.

4 **TITLE V—MISCELLANEOUS IM-**
 5 **PROVEMENTS TO PENSION**
 6 **PLANS**

7 **SEC. 501. IRA CATCH-UP CONTRIBUTIONS.**

8 (a) IN GENERAL.—Section 408 is amended by redes-
 9 ignating subsection (q) as subsection (r) and by inserting
 10 after subsection (p) the following new subsection:

11 “(q) DEFINITIONS AND RULES RELATING TO NON-
 12 DEDUCTIBLE CATCH-UP CONTRIBUTIONS.—

13 “(1) IN GENERAL.—Subject to the provisions of
 14 this subsection, catch-up contributions may be made
 15 on behalf of a qualified individual to an individual
 16 retirement plan.

17 “(2) CATCH-UP CONTRIBUTIONS.—For pur-
 18 poses of this subsection—

19 “(A) IN GENERAL.—The term ‘catch-up
 20 contribution’ means any contribution to an indi-
 21 vidual retirement plan made during the catch-
 22 up period which is designated (in such manner
 23 as the Secretary may prescribe) as a catch-up
 24 contribution for which a deduction is not allow-
 25 able under section 219. Any such designation

1 shall be made on the return of tax imposed by
 2 chapter 1 for the taxable year for which such
 3 contribution is made.

4 “(B) LIMITATIONS.—A contribution may
 5 be designated a catch-up contribution if—

6 “(i) no contribution was made on be-
 7 half of the individual to a pension, profit-
 8 sharing, or stock bonus plan which con-
 9 stitutes a qualified trust under section
 10 401(a) (other than an individual retire-
 11 ment plan) for any of the 5 taxable years
 12 preceding the calendar year in which the
 13 catch-up period begins,

14 “(ii) such contribution, when added to
 15 all other contributions designated as catch-
 16 up contributions, does not exceed \$2,000
 17 for the taxable year for which such con-
 18 tribution is made

19 “(C) CATCH-UP CONTRIBUTION.—The
 20 term ‘catch-up period’ means the 5 taxable year
 21 period beginning in the taxable year in which
 22 the individual 1st designates a contribution as
 23 a catch-up contribution.

24 “(3) QUALIFIED INDIVIDUAL.—For purposes of
 25 paragraph (1)—

1 “(A) IN GENERAL.—The term ‘qualified
2 individual’ means an individual whose modified
3 adjusted gross income does not exceed \$50,000.

4 “(B) SPECIAL RULE FOR JOINT RE-
5 TURN.—In the case of a joint return, adjusted
6 gross income shall be determined separately for
7 each spouse as if each spouse had filed a sepa-
8 rate return.

9 “(C) MODIFIED ADJUSTED GROSS IN-
10 COME.—The term ‘modified adjusted gross in-
11 come’ means adjusted gross income increased
12 by any amount excluded from gross income
13 under section 911, 931, or 933.

14 “(4) NO DEDUCTION ALLOWED.—No deduction
15 shall be allowed under section 219 for a catch-up
16 contribution.

17 “(5) INCREASE IN LIMITS.—For purposes of
18 this subsection—

19 “(A) IN GENERAL.—The limitation on con-
20 tributions in subsections (a)(1) and (b)(2)(B)
21 are hereby increased by the amount of contribu-
22 tions allowed under this subsection.

23 “(B) EXCISE TAX.—In applying section
24 4973, the amount allowable as a deduction
25 under section 219 shall be increased by the

1 amount of contributions allowed under this sub-
 2 section.”

3 (b) EFFECTIVE DATE.—The amendment made by
 4 this section shall apply to contributions made after De-
 5 cember 31, 1998.

6 **SEC. 502. REPEAL OF 25 PERCENT LIMITATION ON DEFINED**
 7 **CONTRIBUTION PLANS.**

8 (a) IN GENERAL.—Paragraph (1) of section 415(c)
 9 (relating to general limitation for defined contribution
 10 plans) is amended to read as follows:

11 “(1) IN GENERAL.—Contributions and other
 12 additions with respect to a participant exceed the
 13 limitation of this subsection if, when expressed as an
 14 annual addition (within the meaning of paragraph
 15 (2)) to the participant’s account, such annual addi-
 16 tion is greater than \$30,000.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Subparagraph (B) of section 402(h)(2),
 19 subparagraph (A) of section 408(d)(5), subsection
 20 (j) of section 408, clause (ii) of section 416(i)(1)(A),
 21 and subparagraph (B) of section 419A(c)(4) are
 22 each amended by striking “section 415(c)(1)(A)”
 23 and inserting “section 415(c)(1)”.

24 (2) Paragraph (2) of section 419A(d) is amend-
 25 ed by striking the last sentence.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to years beginning after December
 3 31, 1998.

4 **SEC. 503. FASTER VESTING OF EMPLOYER MATCHING CON-**
 5 **TRIBUTIONS.**

6 (a) AMENDMENTS TO 1986 CODE.—Subsection (a) of
 7 section 411 (relating to minimum vesting standards) is
 8 amended—

9 (1) in paragraph (2), by striking “A plan” and
 10 inserting “Except as provided in paragraph (12), a
 11 plan”, and

12 (2) by adding at the end the following:

13 “(12) FASTER VESTING FOR MATCHING CON-
 14 TRIBUTIONS.—In the case of matching contributions
 15 (as defined in section 401(m)(4)(A)), paragraph (2)
 16 shall be applied—

17 “(A) by substituting ‘3 years’ for ‘5 years’
 18 in subparagraph (A), and

19 “(B) by substituting the following table for
 20 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”

1 (b) AMENDMENTS TO ERISA.—Section 203(a) of the
 2 Employee Retirement Income Security Act of 1974 (29
 3 U.S.C. 1053(a)) is amended—

4 (1) in paragraph (2), by striking “A plan” and
 5 inserting “Except as provided in paragraph (4), a
 6 plan”, and

7 (2) by adding at the end the following:

8 “(4) FASTER VESTING FOR MATCHING CON-
 9 TRIBUTIONS.—In the case of matching contributions
 10 (as defined in section 401(m)(4)(A) of the Internal
 11 Revenue Code of 1986), paragraph (2) shall be ap-
 12 plied—

13 “(A) by substituting ‘3 years’ for ‘5 years’
 14 in subparagraph (A), and

15 “(B) by substituting the following table for
 16 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”

17 (c) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-
 19 graph (2), the amendments made by this section
 20 shall apply to contributions for plan years beginning
 21 after December 31, 1998.

1 (2) COLLECTIVE BARGAINING AGREEMENTS.—

2 In the case of a plan maintained pursuant to 1 or
 3 more collective bargaining agreements between em-
 4 ployee representatives and 1 or more employers rati-
 5 fied by the date of enactment of this Act, the
 6 amendments made by this section shall not apply to
 7 contributions on behalf of employees covered by any
 8 such agreement for plan years beginning before the
 9 earlier of—

10 (A) the later of—

11 (i) the date on which the last of such
 12 collective bargaining agreements termi-
 13 nates (determined without regard to any
 14 extension thereof on or after such date of
 15 enactment), or

16 (ii) January 1, 1999, or

17 (B) January 1, 2003.

18 (3) PARTICIPATION REQUIRED.—The amend-
 19 ments made by this section shall not apply to any
 20 employee who does not have 1 hour of service in any
 21 plan year to which the amendments made by this
 22 section apply.

23 **SEC. 504. PERIODIC PENSION BENEFITS STATEMENTS.**

24 (a) IN GENERAL.—Section 105(a) of the Employee
 25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1025(a)) is amended by striking “shall furnish to any plan
 2 participant or beneficiary who so requests in writing, a
 3 statement” and inserting “shall furnish to each plan par-
 4 ticipant at least once each year (in the case of a defined
 5 contribution plan) and at least once every three years (in
 6 the case of a defined benefit plan), a statement in written
 7 or electronic form”.

8 (b) REQUIRED PERIODIC STATEMENTS FOR PLANS
 9 WITH MORE THAN ONE UNAFFILIATED EMPLOYER.—
 10 Section 105(d) of the Employee Retirement Income Secu-
 11 rity Act of 1974 (29 U.S.C. 1025(d)) is repealed.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to plan years beginning after De-
 14 cember 31, 1998.

15 **SEC. 505. FAILURE OF PENSION PLANS TO MEET REQUIRE-**
 16 **MENTS.**

17 (a) IN GENERAL.—Part I of subchapter B of chapter
 18 68 (relating to assessable penalties) is amended by adding
 19 at the end the following new section:

20 **“Sec. 6716. FAILURE OF PENSION PLANS TO MEET RE-**
 21 **QUIREMENTS.**

22 “(a) IN GENERAL.—If, as a result of a violation of
 23 a provision of this title, the Secretary determines that a
 24 stock bonus, pension, or profit-sharing plan arrangement

1 would no longer constitute a qualified trust under section
2 401—

3 “(1) no sanction may be imposed if the viola-
4 tion is cured before the close of an audit of such ar-
5 rangement,

6 “(2) an intermediate sanction under subsection
7 (b) may be imposed if the violation is not corrected
8 before the close of an audit of such arrangement,
9 and

10 “(3) after the close of an audit of such arrange-
11 ment, the Secretary may make a final determination
12 that such arrangement does not constitute a quali-
13 fied trust under section 401.

14 Paragraphs (1) and (2) shall not apply if the Secretary
15 determines that such violation is known, material, and re-
16 curring.

17 “(b) INTERMEDIATE SANCTIONS.—For purposes of
18 subsection (a) and in accordance with regulations which
19 the Secretary shall prescribe—

20 “(1) if the violation is corrected within the pe-
21 riod that both the Secretary and the taxpayer con-
22 sent to in writing, the Secretary may impose a pen-
23 alty in the amount of 20 percent of the actual dam-
24 ages incurred as a result of such violation, and

1 “(2) the Secretary may impose a penalty in the
 2 amount of 100 percent of the actual damages in-
 3 curred as a result of such violation if such violation
 4 is not corrected within the period referred to in
 5 paragraph (1).”.

6 (b) CLERICAL AMENDMENT.—The table of sections
 7 for part I of subchapter B of chapter 68 (relating to as-
 8 sessable penalties) is amended by adding at the end the
 9 following new item:

 “Sec. 6716. Failure of pension plans to meet requirements.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to violations occurring after the
 12 date of the enactment of this Act.

13 **SEC. 506. ASSIGNMENT AND ALIENATION**

14 (a) IN GENERAL.—Subparagraph (C) of section
 15 401(a)(13) (relating to assignment and alienation) is
 16 amended by striking clause (ii) and redesignating clause
 17 (iii) as clause (ii).

18 (b) EFFECTIVE DATE.—The amendment made by
 19 this section shall apply to years beginning after December
 20 31, 1998.

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