

105TH CONGRESS  
2D SESSION

# H. R. 4823

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

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 1998

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

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## A BILL

To amend the Internal Revenue Code of 1986 to 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-

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.—

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 separate  
11           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.—

(A) IN GENERAL.—Section 457(e) (relating to other definitions and special rules) is amended by adding at the end the following:

“(16) ROLLOVER AMOUNTS.—

“(A) GENERAL RULE.—In the case of an eligible deferred compensation plan of an eligible employer described in paragraph (1)(A), if—

“(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4)),

“(ii) the employee transfers any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(8)(B), and

“(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income 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 DISTRIBUTI-**  
 5 **ONS FROM DEFINED CONTRIBUTION**  
 6 **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):

<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
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.

○