

107TH CONGRESS
1ST SESSION

H. R. 1498

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit for elective deferrals and IRA contributions and to allow small employers credits for pension plan startup costs and for pension plan contributions.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. NEAL of Massachusetts (for himself, Mr. RANGEL, Mr. MATSUI, Mr. COYNE, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit for elective deferrals and IRA contributions and to allow small employers credits for pension plan startup costs and for pension plan contributions.

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.**

4 This Act may be cited as the “Retirement Security
5 Act of 2001”.

1 **SEC. 2. REFUNDABLE CREDIT TO CERTAIN INDIVIDUALS**
2 **FOR ELECTIVE DEFERRALS AND IRA CON-**
3 **TRIBUTIONS.**

4 (a) IN GENERAL.—Subpart C of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to refundable credits) is amended by redes-
7 ignating section 35 as section 36 and by inserting after
8 section 34 the following new section:

9 **“SEC. 35. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS**
10 **BY CERTAIN INDIVIDUALS.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
12 gible individual, there shall be allowed as a credit against
13 the tax imposed by this subtitle for the taxable year an
14 amount equal to the applicable percentage of so much of
15 the qualified retirement savings contributions of the eligi-
16 ble individual for the taxable year as do not exceed \$2,000.

17 “(b) APPLICABLE PERCENTAGE.—For purposes of
18 this section, the applicable percentage is the percentage
19 determined in accordance with the following table:

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$25,000	\$0	\$18,750	\$0	\$12,500	50
25,000	35,000	18,750	26,250	12,500	17,500	45
35,000	45,000	26,250	33,750	17,500	22,500	35
45,000	55,000	33,750	41,250	22,500	27,500	25
55,000	75,000	41,250	56,250	27,500	37,500	15
75,000		56,250		37,500		0

1 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The term ‘eligible indi-
4 vidual’ means any individual if—

5 “(A) such individual has attained the age
6 of 18 as of the close of the taxable year, and

7 “(B) the compensation (as defined in sec-
8 tion 219(f)(1)) includible in the gross income of
9 the individual (or, in the case of a joint return,
10 of the taxpayer) for such taxable year is at least
11 \$5,000.

12 “(2) DEPENDENTS AND FULL-TIME STUDENTS
13 NOT ELIGIBLE.—The term ‘eligible individual’ shall
14 not include—

15 “(A) any individual with respect to whom
16 a deduction under section 151 is allowable to
17 another taxpayer for a taxable year beginning
18 in the calendar year in which such individual’s
19 taxable year begins, and

20 “(B) any individual who is a student (as
21 defined in section 151(c)(4)).

22 “(3) INDIVIDUALS RECEIVING CERTAIN RETIRE-
23 MENT DISTRIBUTIONS NOT ELIGIBLE.—

24 “(A) IN GENERAL.—The term ‘eligible in-
25 dividual’ shall not include, with respect to a

1 taxable year, any individual who received during
2 the testing period—

3 “(i) any distribution from a qualified
4 retirement plan (as defined in section
5 4974(c)), or from an eligible deferred com-
6 pensation plan (as defined in section
7 457(b)), which is includible in gross in-
8 come, or

9 “(ii) any distribution from a Roth
10 IRA which is not a qualified rollover con-
11 tribution (as defined in section 408A(e)) to
12 a Roth IRA.

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

17 “(i) such taxable year,

18 “(ii) the preceding taxable year, and

19 “(iii) the period after such taxable
20 year and before the due date (without ex-
21 tensions) for filing the return of tax for
22 such taxable year.

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

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

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

6 “(iii) any distribution before January
 7 1, 2002.

8 “(D) TREATMENT OF DISTRIBUTIONS RE-
 9 CEIVED BY SPOUSE OF INDIVIDUAL.—For pur-
 10 poses of determining whether an individual is
 11 an eligible individual for any taxable year, any
 12 distribution received by the spouse of such indi-
 13 vidual shall be treated as received by such indi-
 14 vidual if such individual and spouse file a joint
 15 return for such taxable year and for the taxable
 16 year during which the spouse receives the dis-
 17 tribution.

18 “(d) QUALIFIED RETIREMENT SAVINGS CONTRIBU-
 19 TIONS.—For purposes of this section, the term ‘qualified
 20 retirement savings contributions’ means the sum of—

21 “(1) the amount of the qualified retirement
 22 contributions (as defined in section 219(e)) made by
 23 the eligible individual,

24 “(2) the amount of—

1 “(A) any elective deferrals (as defined in
2 section 402(g)(3)) of such individual, and

3 “(B) any elective deferral of compensation
4 by such individual under an eligible deferred
5 compensation plan (as defined in section
6 457(b)) of an eligible employer described in sec-
7 tion 457(e)(1)(A), and

8 “(3) the amount of voluntary employee con-
9 tributions by such individual to any qualified retire-
10 ment plan (as defined in section 4974(c)).

11 “(e) ADJUSTED GROSS INCOME.—For purposes of
12 this section, adjusted gross income shall be determined
13 without regard to sections 911, 931, and 933.

14 “(f) INVESTMENT IN THE CONTRACT.—Notwith-
15 standing any other provision of law, a qualified retirement
16 savings contribution shall not fail to be included in deter-
17 mining the investment in the contract for purposes of sec-
18 tion 72 by reason of the credit under this section.

19 “(g) TRANSITIONAL RULES.—In the case of taxable
20 years beginning before January 1, 2008—

21 “(1) CONTRIBUTION LIMIT.—Subsection (a)
22 shall be applied by substituting for ‘\$2,000’—

23 “(A) \$600 in the case of taxable years be-
24 ginning in 2002, 2003, or 2004, and

1 “(B) \$1,000 in the case of taxable years
2 beginning in 2005, 2006, or 2007.

3 “(2) APPLICABLE PERCENTAGE.—The applica-
4 ble percentage shall be determined under the fol-
5 lowing table (in lieu of the table in subsection (b)):

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$20,000	\$0	\$15,000	\$0	\$10,000	50
20,000	25,000	15,000	18,750	10,000	12,500	45
25,000	30,000	18,750	22,500	12,500	15,000	35
30,000	35,000	22,500	26,250	15,000	17,500	25
35,000	40,000	26,250	30,000	17,500	20,000	15
40,000		30,000		20,000		0.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (2) of section 1324(b) of title
8 31, United States Code, is amended by inserting be-
9 fore the period “, or from section 35 of such Code”.

10 (2) The table of sections for subpart C of part
11 IV of subchapter A of chapter 1 of such Code is
12 amended by striking the last item and inserting the
13 following new items:

“Sec. 35. Elective deferrals and IRA contributions by certain indi-
viduals.

“Sec. 36. Overpayments of tax.”

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2001.

1 **SEC. 3. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
 2 **SMALL EMPLOYERS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to business related credits) is amended by
 6 adding at the end the following new section:

7 **“SEC. 45E. SMALL EMPLOYER PENSION PLAN STARTUP**
 8 **COSTS.**

9 “(a) GENERAL RULE.—For purposes of section 38,
 10 in the case of an eligible employer, the small employer pen-
 11 sion plan startup cost credit determined under this section
 12 for any taxable year is an amount equal to 50 percent
 13 of the qualified startup costs paid or incurred by the tax-
 14 payer during the taxable year.

15 “(b) DOLLAR LIMITATION.—The amount of the cred-
 16 it determined under this section for any taxable year shall
 17 not exceed—

18 “(1) \$1,000 for the first credit year,

19 “(2) \$500 for each of the 2 taxable years imme-
 20 diately following the first credit year, and

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

22 “(c) ELIGIBLE EMPLOYER.—For purposes of this
 23 section—

24 “(1) IN GENERAL.—The term ‘eligible em-
 25 ployer’ has the meaning given such term by section
 26 408(p)(2)(C)(i).

1 “(2) EMPLOYERS MAINTAINING QUALIFIED
2 PLANS DURING 1998 NOT ELIGIBLE.—Such term
3 shall not include an employer if such employer (or
4 any predecessor employer) maintained a qualified
5 plan (as defined in section 408(p)(2)(D)(ii)) with re-
6 spect to which contributions were made, or benefits
7 were accrued, for service in 1998. If only individuals
8 other than employees described in subparagraph (A)
9 or (B) of section 410(b)(3) are eligible to participate
10 in the qualified employer plan referred to in sub-
11 section (d)(1), then the preceding sentence shall be
12 applied without regard to any qualified plan in
13 which only employees so described are eligible to
14 participate.

15 “(d) OTHER DEFINITIONS.—For purposes of this
16 section—

17 “(1) QUALIFIED STARTUP COSTS.—

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

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

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

1 “(B) PLAN MUST HAVE AT LEAST 2 PAR-
2 TICIPANTS.—Such term shall not include any
3 expense in connection with a plan that does not
4 have at least 2 individuals who are eligible to
5 participate.

6 “(C) PLAN MUST BE ESTABLISHED BE-
7 FORE JANUARY 1, 2010.—Such term shall not
8 include any expense in connection with a plan
9 established after December 31, 2009.

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

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

20 “(B) are not described in subparagraph

21 (A) or (C) of section 410(b)(3),

22 are eligible to make the election under section
23 408(q)(1)(A).

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

1 “(A) the taxable year which includes the
2 date that the eligible employer plan to which
3 such costs relate becomes effective, or

4 “(B) at the election of the eligible em-
5 ployer, the taxable year preceding the taxable
6 year referred to in subparagraph (A).

7 “(e) SPECIAL RULES.—For purposes of this
8 section—

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

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

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

23 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
24 NESS CREDIT.—Section 38(b) of such Code (defining cur-
25 rent year business credit) is amended by striking “plus”

1 at the end of paragraph (12), by striking the period at
2 the end of paragraph (13) and inserting “, plus”, and by
3 adding at the end the following new paragraph:

4 “(14) in the case of an eligible employer (as de-
5 fined in section 45E(c)), the small employer pension
6 plan startup cost credit determined under section
7 45E(a).”

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 39(d) of such Code is amended by
10 adding at the end the following new paragraph:

11 “(10) NO CARRYBACK OF SMALL EMPLOYER
12 PENSION PLAN STARTUP COST CREDIT BEFORE JAN-
13 UARY 1, 2002.—No portion of the unused business
14 credit for any taxable year which is attributable to
15 the small employer pension plan startup cost credit
16 determined under section 45E may be carried back
17 to a taxable year beginning before January 1,
18 2002.”

19 (2) Subsection (c) of section 196 of such Code
20 is amended by striking “and” at the end of para-
21 graph (8), by striking the period at the end of para-
22 graph (9) and inserting “, and”, and by adding at
23 the end the following new paragraph:

24 “(10) the small employer pension plan startup
25 cost credit determined under section 45E(a).”

1 (3) The table of sections for subpart D of part
2 IV of subchapter A of chapter 1 of such Code is
3 amended by adding at the end the following new
4 item:

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

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to costs paid or incurred in taxable
7 years beginning after December 31, 2001.

8 **SEC. 4. CREDIT FOR QUALIFIED PENSION PLAN CONTRIBU-**
9 **TIONS OF SMALL EMPLOYERS.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-
11 chapter A of chapter 1 of the Internal Revenue Code of
12 1986 (relating to business related credits) is amended by
13 adding at the end the following new section:

14 **“SEC. 45F. SMALL EMPLOYER PENSION PLAN CONTRIBU-**
15 **TIONS.**

16 “(a) GENERAL RULE.—For purposes of section 38,
17 in the case of an eligible employer, the small employer pen-
18 sion plan contribution credit determined under this section
19 for any taxable year is an amount equal to 50 percent
20 of the amount which would (but for subsection (f)(1)) be
21 allowed as a deduction under section 404 for such taxable
22 year for qualified employer contributions made to any
23 qualified retirement plan on behalf of any nonhighly com-
24 pensated employee.

1 “(b) CREDIT LIMITED TO 3 Years.—The credit allow-
2 able by this section shall be allowed only with respect to
3 the period of 3 taxable years beginning with the taxable
4 year in which the qualified retirement plan becomes effec-
5 tive.

6 “(c) QUALIFIED EMPLOYER CONTRIBUTION.—For
7 purposes of this section—

8 “(1) DEFINED CONTRIBUTION PLANS.—In the
9 case of a defined contribution plan, the term ‘quali-
10 fied employer contribution’ means the amount of
11 nonelective and matching contributions to the plan
12 made by the employer on behalf of any nonhighly
13 compensated employee to the extent such amount
14 does not exceed 3 percent of such employee’s com-
15 pensation from the employer for the year.

16 “(2) DEFINED BENEFIT PLANS.—In the case of
17 a defined benefit plan, the term ‘qualified employer
18 contribution’ means the amount of employer con-
19 tributions to the plan made on behalf of any non-
20 highly compensated employee to the extent that the
21 accrued benefit of such employee derived from such
22 contributions for the year do not exceed the equiva-
23 lent (as determined under regulations prescribed by
24 the Secretary and without regard to contributions
25 and benefits under the Social Security Act) of 3 per-

1 cent of such employee's compensation from the em-
2 ployer for the year.

3 “(d) QUALIFIED RETIREMENT PLAN.—

4 “(1) IN GENERAL.—The term ‘qualified retire-
5 ment plan’ means any plan described in section
6 401(a) which includes a trust exempt from tax
7 under section 501(a) if the plan meets—

8 “(A) the contribution requirements of
9 paragraph (2),

10 “(B) the vesting requirements of para-
11 graph (3), and

12 “(C) the distributions requirements of
13 paragraph (4).

14 “(2) CONTRIBUTION REQUIREMENTS.—

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

17 “(i) the employer is required to make
18 nonelective contributions of at least 1 per-
19 cent of compensation (or the equivalent
20 thereof in the case of a defined benefit
21 plan) for each nonhighly compensated em-
22 ployee who is eligible to participate in the
23 plan, and

24 “(ii) except in the case of a defined
25 benefit plan, allocations of nonelective em-

1 employer contributions are either in equal dol-
2 lar amounts for all employees covered by
3 the plan or bear a uniform relationship to
4 the total compensation, or the basic or reg-
5 ular rate of compensation, of the employ-
6 ees covered by the plan.

7 “(B) COMPENSATION LIMITATION.—The
8 compensation taken into account under sub-
9 paragraph (A) for any year shall not exceed the
10 limitation in effect for such year under section
11 401(a)(17).

12 “(3) VESTING REQUIREMENTS.—The require-
13 ments of this paragraph are met if the plan satisfies
14 the requirements of subparagraph (A) or (B).

15 “(A) 3-YEAR VESTING.—A plan satisfies
16 the requirements of this subparagraph if an em-
17 ployee who has completed at least 3 years of
18 service has a nonforfeitable right to 100 percent
19 of the employee’s accrued benefit derived from
20 employer contributions.

21 “(B) 5-YEAR GRADED VESTING.—A plan
22 satisfies the requirements of this subparagraph
23 if an employee has a nonforfeitable right to a
24 percentage of the employee’s accrued benefit de-

1 rived from employer contributions determined
2 under the following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

3 “(4) DISTRIBUTION REQUIREMENTS.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the requirements of this
6 paragraph are met if, under the plan—

7 “(i) in the case of a profit-sharing or
8 stock bonus plan, amounts are distribut-
9 able only as provided in section
10 401(k)(2)(B), and

11 “(ii) in the case of a pension plan,
12 amounts are distributable subject to the
13 limitations applicable to other distributions
14 from the plan.

15 “(B) DISTRIBUTIONS WITHIN 5 YEARS
16 AFTER SEPARATION, ETC.—In no event shall a
17 plan meet the requirements of this paragraph
18 unless, under the plan, amounts distributed—

19 “(i) after separation from service or
20 severance from employment, and

1 “(ii) within 5 years after the date of
2 the earliest employer contribution to the
3 plan,
4 may be distributed only in a direct trustee-to-
5 trustee transfer to a plan having the same dis-
6 tribution restrictions as the distributing plan.

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

9 “(1) ELIGIBLE EMPLOYER.—The term ‘eligible
10 employer’ has the meaning given such term by sec-
11 tion 408(p)(2)(C)(i).

12 “(2) NONHIGHLY COMPENSATED EMPLOY-
13 EES.—The term ‘highly compensated employee’ has
14 the meaning given such term by section 414(q) (de-
15 termined without regard to section 414(q)(1)(B)(ii)).

16 “(f) SPECIAL RULES.—

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

22 “(2) ELECTION NOT TO CLAIM CREDIT.—This
23 section shall not apply to a taxpayer for any taxable
24 year if such taxpayer elects to have this section not
25 apply for such taxable year.

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

9 “(h) REGULATIONS.—The Secretary shall prescribe
 10 such regulations as may be appropriate to carry out the
 11 purposes of this section, including regulations to prevent
 12 the abuse of the purposes of this section through the use
 13 of multiple plans.

14 “(i) TERMINATION.—This section shall not apply to
 15 any plan established after December 31, 2009.”

16 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 17 NESS CREDIT.—Section 38(b) of such Code (defining cur-
 18 rent year business credit) is amended by striking “plus”
 19 at the end of paragraph (13), by striking the period at
 20 the end of paragraph (14) and inserting “, plus”, and by
 21 adding at the end the following new paragraph:

22 “(15) in the case of an eligible employer (as de-
 23 fined in section 45F(e)), the small employer pension
 24 plan contribution credit determined under section
 25 45F(a).”

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 39(d) of such Code is amended by
3 adding at the end the following new paragraph:

4 “(11) NO CARRYBACK OF SMALL EMPLOYER
5 PENSION PLAN CONTRIBUTION CREDIT BEFORE JAN-
6 UARY 1, 2002.—No portion of the unused business
7 credit for any taxable year which is attributable to
8 the small employer pension plan contribution credit
9 determined under section 45F may be carried back
10 to a taxable year beginning before January 1,
11 2002.”

12 (2) Subsection (c) of section 196 of such Code
13 is amended by striking “and” at the end of para-
14 graph (9), by striking the period at the end of para-
15 graph (10) and inserting “, and”, and by adding at
16 the end the following new paragraph:

17 “(11) the small employer pension plan contribu-
18 tion credit determined under section 45F(a).”

19 (3) The table of sections for subpart D of part
20 IV of subchapter A of chapter 1 of such Code is
21 amended by adding at the end the following new
22 item:

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

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions paid or incurred
3 in taxable years beginning after December 31, 2001.

○