

106TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. ROTH (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to provide increased retirement savings opportunities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**  
4 **MENT TO 1986 CODE.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Retirement Savings Opportunity Act of 1999”.

7 (b) TABLE OF CONTENTS.—

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

TITLE I—INDIVIDUAL RETIREMENT PLANS

Sec. 101. Modification of deduction limits for IRA contributions.

- Sec. 102. Modification of income limits on contributions and rollovers to Roth IRAs.
- Sec. 103. Deemed IRAs under employer plans.

#### TITLE II—PENSION PLANS

- Sec. 201. Option to treat elective deferrals as after-tax contributions.
- Sec. 202. Increase in limit on exclusion amount for elective deferrals.
- Sec. 203. Increased limit on deferred amount for plans of State and local governments.
- Sec. 204. Equitable treatment for contributions of employees to defined contribution plans.
- Sec. 205. Repeal of 150 percent of current liability funding limit.
- Sec. 203. Increased limit on contribution amount for SIMPLE retirement accounts.

#### TITLE III—SMALL BUSINESS INCENTIVES

- Sec. 301. Credit for small employer pension plan contributions and start-up costs.
- Sec. 302. SAFE annuities and trusts.
- Sec. 303. Increased limit on contribution amount for simple retirement accounts.

#### TITLE IV—CATCHUP CONTRIBUTIONS

- Sec. 401. Catchup contributions for individuals age 50 or over.

#### TITLE V—PLAN AMENDMENTS

- Sec. 501. Provisions relating to plan amendments.

1       (c) AMENDMENT OF 1986 CODE.—Except as other-  
2 wise expressly provided, whenever in this title an amend-  
3 ment or repeal is expressed in terms of an amendment  
4 to, or repeal of, a section or other provision, the reference  
5 shall be considered to be made to a section or other provi-  
6 sion of the Internal Revenue Code of 1986.

## **TITLE I—INDIVIDUAL RETIREMENT PLANS**

### **9 SEC. 101. MODIFICATION OF DEDUCTION LIMITS FOR IRA 10 CONTRIBUTIONS.**

11       (a) INCREASE IN CONTRIBUTION LIMIT.—Paragraph  
12 (1)(A) of section 219(b) (relating to maximum amount of

1 deduction) is amended by striking “\$2,000” and inserting  
2 “\$5,000”.

3 (b) INFLATION ADJUSTMENT.—Section 219 (relating  
4 to deduction for retirement savings) is amended by redес-  
5 ignating subsection (h) as subsection (i) and by inserting  
6 after subsection (g) the following new subsection:

7 “(h) COST-OF-LIVING ADJUSTMENT.—

8 “(1) DEDUCTIBLE AMOUNTS.—In the case of  
9 any taxable year beginning in a calendar year after  
10 2000, the \$5,000 amount under subsection (b)(1)(A)  
11 shall be increased by an amount equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-  
14 mined under section 1(f)(3) for the calendar  
15 year in which the taxable year begins, deter-  
16 mined by substituting ‘calendar year 1999’ for  
17 ‘calendar year 1992’ in subparagraph (B)  
18 thereof.

19 “(2) ROUNDING RULES.—If any amount after  
20 adjustment under paragraph (1) is not a multiple of  
21 \$100, such amount shall be rounded to the next  
22 lower multiple of \$100.”

23 (c) REPEAL OF RESTRICTIONS ON ACTIVE PARTICI-  
24 PANTS.—

1           (1) IN GENERAL.—Section 219, as amended by  
2 subsection (b), is amended by striking subsection (g)  
3 and by redesignating subsections (h) and (i) as sub-  
4 sections (g) and (h).

5           (2) TECHNICAL AND CONFORMING AMEND-  
6 MENTS.—

7           (A) Section 219(f) is amended by striking  
8 paragraph (7).

9           (B) Section 408(d)(5) is amended by strik-  
10 ing the last sentence.

11           (C) Section 408(o) is amended by adding  
12 at the end the following new paragraph:

13           “(5) TERMINATION.—This subsection shall not  
14 apply to any contribution for any taxable year begin-  
15 ning after December 31, 1999.”

16           (D) Section 408A(c)(2)(A) is amended by  
17 striking “or (g)”.

18           (E) Section 408A(c)(3)(A) is amended by  
19 striking the last sentence.

20           (F) Section 408A(c)(3)(C) is amended—

21           (i) by striking all before clause (ii)  
22 and inserting the following:

23           “(C) SPECIAL RULES.—For purposes of  
24 this paragraph—

1 “(i) adjusted gross income shall be de-  
2 termined—

3 “(I) after application of sections  
4 86 and 469, and

5 “(II) without regard to sections  
6 135, 137, 221, and 911, the deduction  
7 allowable under section 219, or any  
8 amount included in gross income  
9 under subsection (d)(3),”

10 (ii) by striking the period at the end  
11 of clause (ii) and inserting a comma, and

12 (iii) by adding at the end the follow-  
13 ing new clauses:

14 “(iii) no dollar limitation shall be re-  
15 duced below \$200 under subparagraph (A)  
16 unless (without regard to this clause) such  
17 limitation is reduced to zero, and

18 “(iv) any amount determined under  
19 subparagraph (A) which is not a multiple  
20 of \$10 shall be rounded to the next lowest  
21 \$10.”

22 (G) Section 408A(c)(3)(D) is amended to  
23 read as follows:

1           “(D) SPECIAL RULE FOR MARRIED INDI-  
2           VIDUALS FILING SEPARATELY AND LIVING  
3           APART.—A husband and wife who—

4                   “(i) file separate returns for any tax-  
5                   able year, and

6                   “(ii) live apart at all times during  
7                   such taxable year,

8           shall not be treated as married individuals for  
9           purposes of this paragraph.”

10           (H) Section 4973(b) is amended by strik-  
11           ing the last sentence.

12           (d) ADDITIONAL CONFORMING AMENDMENTS.—

13           (1) Section 408(a)(1) is amended by striking  
14           “in excess of \$2,000 on behalf of any individual”  
15           and inserting “on behalf of any individual in excess  
16           of the amount in effect for such taxable year under  
17           section 219(b)(1)(A)”.

18           (2) Section 408(b)(2)(B) is amended by strik-  
19           ing “\$2,000” and inserting “the dollar amount in  
20           effect under section 219(b)(1)(A)”.

21           (3) Section 408(b) is amended by striking  
22           “\$2,000” in the matter following paragraph (4) and  
23           inserting “the dollar amount in effect under section  
24           219(b)(1)(A)”.

1           (4) Section 408(j) is amended by striking  
2           “\$2,000”.

3           (5) Section 408(p)(8) is amended by striking  
4           “\$2,000” and inserting “the dollar amount in effect  
5           under section 219(b)(1)(A)”

6           (e) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 1999.

9   **SEC. 102. MODIFICATION OF INCOME LIMITS ON CON-**  
10                           **TRIBUTIONS AND ROLLOVERS TO ROTH IRAS.**

11           (a) REPEAL OF AGI LIMIT ON CONTRIBUTIONS.—  
12 Subsection 408A(c)(3) (relating to limits based on modi-  
13 fied adjusted gross income), as amended by section  
14 101(c)(2), is amended by striking subparagraph (A) and  
15 by redesignating subparagraphs (B), (C), and (D) as sub-  
16 paragraphs (A), (B), and (C), respectively.

17           (b) INCREASE IN AGI LIMIT FOR ROLLOVER CON-  
18 TRIBUTIONS.—Clause (i) of section 408A(c)(3)(A) (relat-  
19 ing to rollover from IRA), as redesignated by subsection  
20 (a), is amended by striking “\$100,000” and inserting  
21 “\$1,000,000”.

22           (c) CONFORMING AMENDMENTS.—

23                   (1)(A) Subparagraph (B) of section 408A(c)(3),  
24           as redesignated by subsection (a) and as amended

1 by section 101(c)(2)(F), is amended to read as fol-  
2 lows:

3 “(B) DEFINITION OF ADJUSTED GROSS IN-  
4 COME.—For purposes of subparagraph (A), ad-  
5 justed gross income shall be determined—

6 “(i) after application of sections 86  
7 and 469, and

8 “(ii) without regard to sections 135,  
9 137, 221, and 911, the deduction allowable  
10 under section 219, or any amount included  
11 in gross income under subsection (d)(3).”

12 (B) EFFECTIVE DATE.—The amendment made  
13 by this paragraph shall apply to taxable years begin-  
14 ning after December 31, 1999.

15 (2)(A) Subparagraph (B) of section 408A(c)(3),  
16 as amended by paragraph (1), is amended to read  
17 as follows:

18 “(B) DEFINITION OF ADJUSTED GROSS IN-  
19 COME.—For purposes of subparagraph (A), ad-  
20 justed gross income shall be determined—

21 “(i) after application of sections 86  
22 and 469, and

23 “(ii) without regard to sections 135,  
24 137, 221, and 911, the deduction allowable  
25 under section 219, or any amount included



1           in gross income under subsection (d)(3) or  
2           by reason of a required distribution under  
3           a provision described in paragraph (5).”

4           (B) EFFECTIVE DATE.—The amendment made  
5           by this paragraph shall apply to taxable years begin-  
6           ning after December 31, 2004.

7           (d) EFFECTIVE DATE.—Except as otherwise pro-  
8           vided in this section, the amendments made by this section  
9           shall apply to taxable years beginning after December 31,  
10          1999.

11 **SEC. 103. DEEMED IRAS UNDER EMPLOYER PLANS.**

12          (a) IN GENERAL.—Section 408 (relating to individual  
13          retirement accounts) is amended by redesignating sub-  
14          section (q) as subsection (r) and by inserting after sub-  
15          section (p) the following new subsection:

16          “(q) DEEMED IRAS UNDER QUALIFIED EMPLOYER  
17          PLANS.—

18                  “(1) GENERAL RULE.—If—

19                          “(A) a qualified employer plan elects to  
20                          allow employees to make voluntary employee  
21                          contributions to a separate account or annuity  
22                          established under the plan, and

23                          “(B) under the terms of the qualified em-  
24                          ployer plan, such account or annuity meets the  
25                          applicable requirements of this section or sec-

1           tion 408A for an individual retirement account  
2           or annuity,  
3           then such account or annuity shall be treated for  
4           purposes of this title in the same manner as an indi-  
5           vidual retirement plan (and contributions to such ac-  
6           count or annuity as contributions to an individual  
7           retirement plan). For purposes of subparagraph (B),  
8           the requirements of subsection (a)(5) shall not  
9           apply.

10           “(2) SPECIAL RULES FOR QUALIFIED EM-  
11           PLOYER PLANS.—For purposes of this title—

12                   “(A) a qualified employer plan shall not  
13                   fail to meet any requirement of this title solely  
14                   by reason of establishing and maintaining a  
15                   program described in paragraph (1), and

16                   “(B) any account or annuity described in  
17                   paragraph (1), and any contribution to the ac-  
18                   count or annuity, shall not be subject to any re-  
19                   quirement of this title applicable to a qualified  
20                   employer plan or taken into account in applying  
21                   any such requirement to any other contribu-  
22                   tions under the plan.

23           “(3) DEFINITIONS.—For purposes of this sub-  
24           section—

1           “(A) QUALIFIED EMPLOYER PLAN.—The  
2 term ‘qualified employer plan’ has the meaning  
3 given such term by section 72(p)(4).

4           “(B) VOLUNTARY EMPLOYEE CONTRIBU-  
5 TION.—The term ‘voluntary employee contribu-  
6 tion’ means any contribution (other than a  
7 mandatory contribution within the meaning of  
8 section 411(c)(2)(C))—

9           “(i) which is made by an individual as  
10 an employee under a qualified employer  
11 plan which allows employees to elect to  
12 make contributions described in paragraph  
13 (1), and

14           “(ii) with respect to which the individ-  
15 ual has designated the contribution as a  
16 contribution to which this subsection ap-  
17 plies.”

18 (b) AMENDMENT OF ERISA.—

19           (1) IN GENERAL.—Section 4 of the Employee  
20 Retirement Income Security Act of 1974 (29 U.S.C.  
21 1003) is amended by adding at the end the following  
22 new subsection:

23           “(c) If a pension plan allows an employee to elect to  
24 make voluntary employee contributions to accounts and  
25 annuities as provided in section 408(q) of the Internal

1 Revenue Code of 1986, such accounts and annuities (and  
2 contributions thereto) shall not be treated as part of such  
3 plan (or as a separate pension plan) for purposes of any  
4 provision of this title other than section 403(e), 404, or  
5 405 (relating to exclusive benefit, and fiduciary and co-  
6 fiduciary responsibilities).”

7 (2) CONFORMING AMENDMENT.—Section 4(a)  
8 of such Act (29 U.S.C. 1003(a)) is amended by in-  
9 serting “or (c)” after “subsection (b)”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to plan years beginning after De-  
12 cember 31, 1999.

## 13 **TITLE II—PENSION PLANS**

### 14 **SEC. 201. OPTION TO TREAT ELECTIVE DEFERRALS AS** 15 **AFTER-TAX CONTRIBUTIONS.**

16 (a) IN GENERAL.—Subpart A of part I of subchapter  
17 D of chapter 1 (relating to deferred compensation, etc.)  
18 is amended by inserting after section 402 the following  
19 new section:

### 20 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-** 21 **RALS AS PLUS CONTRIBUTIONS.**

22 “(a) GENERAL RULE.—If an applicable retirement  
23 plan includes a qualified plus contribution program—

24 “(1) any designated plus contribution made by  
25 an employee pursuant to the program shall be treat-

1 ed as an elective deferral for purposes of this chap-  
2 ter, except that such contribution shall not be ex-  
3 cludable from gross income, and

4 “(2) such plan (and any arrangement which is  
5 part of such plan) shall not be treated as failing to  
6 meet any requirement of this chapter solely by rea-  
7 son of including such program.

8 “(b) QUALIFIED PLUS CONTRIBUTION PROGRAM.—  
9 For purposes of this section—

10 “(1) IN GENERAL.—The term ‘qualified plus  
11 contribution program’ means a program under which  
12 an employee may elect to make designated plus con-  
13 tributions in lieu of all or a portion of elective defer-  
14 rals the employee is otherwise eligible to make under  
15 the applicable retirement plan.

16 “(2) SEPARATE ACCOUNTING REQUIRED.—A  
17 program shall not be treated as a qualified plus con-  
18 tribution program unless the applicable retirement  
19 plan—

20 “(A) establishes separate accounts (‘des-  
21 ignated plus accounts’) for the designated plus  
22 contributions of each employee and any earn-  
23 ings properly allocable to the contributions, and

24 “(B) maintains separate recordkeeping  
25 with respect to each account.

1           “(c) DEFINITIONS AND RULES RELATING TO DES-  
2   IGNATED PLUS CONTRIBUTIONS.—For purposes of this  
3   section—

4           “(1) DESIGNATED PLUS CONTRIBUTION.—The  
5   term ‘designated plus contribution’ means any elec-  
6   tive deferral which—

7                   “(A) is excludable from gross income of an  
8                   employee without regard to this section, and

9                   “(B) the employee designates (at such time  
10                   and in such manner as the Secretary may pre-  
11                   scribe) as not being so excludable.

12           “(2) DESIGNATION LIMITS.—The amount of  
13   elective deferrals which an employee may designate  
14   under paragraph (1) shall not exceed the excess (if  
15   any) of—

16                   “(A) the maximum amount of elective de-  
17                   ferrals excludable from gross income of the em-  
18                   ployee for the taxable year (without regard to  
19                   this section), over

20                   “(B) the aggregate amount of elective de-  
21                   ferrals of the employee for the taxable year  
22                   which the employee does not designate under  
23                   paragraph (1).

24           “(3) ROLLOVER CONTRIBUTIONS.—

1           “(A) IN GENERAL.—A rollover contribu-  
2           tion of any payment or distribution from a des-  
3           ignated plus account which is otherwise allow-  
4           able under this chapter may be made only if the  
5           contribution is to—

6                   “(i) another designated plus account  
7                   of the individual from whose account the  
8                   payment or distribution was made, or

9                   “(ii) a Roth IRA of such individual.

10           “(B) COORDINATION WITH LIMIT.—Any  
11           rollover contribution to a designated plus ac-  
12           count under subparagraph (A) shall not be  
13           taken into account for purposes of paragraph  
14           (1).

15           “(d) DISTRIBUTION RULES.—For purposes of this  
16           title—

17                   “(1) EXCLUSION.—Any qualified distribution  
18                   from a designated plus account shall not be includ-  
19                   ible in gross income.

20                   “(2) QUALIFIED DISTRIBUTION.—For purposes  
21                   of this subsection—

22                           “(A) IN GENERAL.—The term ‘qualified  
23                           distribution’ has the meaning given such term  
24                           by section 408A(d)(2)(A).

1           “(B) DISTRIBUTIONS WITHIN NONEXCLU-  
2           SION PERIOD.—A payment or distribution from  
3           a designated plus account shall not be treated  
4           as a qualified distribution if such payment or  
5           distribution is made within the 5-taxable-year  
6           period beginning with the earlier of—

7                   “(i) the earlier of—

8                           “(I) the 1st taxable year for  
9                           which the individual made a des-  
10                          ignated plus contribution to any des-  
11                          ignated plus account established for  
12                          such individual under the same appli-  
13                          cable retirement plan, or

14                           “(II) if a rollover contribution  
15                           was made to such designated plus ac-  
16                           count from a designated plus account  
17                           previously established for such individ-  
18                           ual under another applicable retire-  
19                           ment plan, the 1st taxable year for  
20                           which the individual made a des-  
21                           ignated plus contribution to such pre-  
22                           viously established account), or

23                           “(ii) the 1st taxable year for which  
24                           the individual (or the individual’s spouse)



1           made a contribution to a Roth IRA estab-  
2           lished for such individual.

3           “(C) DISTRIBUTIONS OF EXCESS DEFER-  
4           RALS AND EARNINGS.—The term ‘qualified dis-  
5           tribution’ shall not include any distribution of  
6           any excess deferral under section 402(g)(2) and  
7           any income on the excess deferral.

8           “(3) AGGREGATION RULES.—Section 72 shall  
9           be applied separately with respect to distributions  
10          and payments from a designated plus account and  
11          other distributions and payments from the plan.

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

14                 “(1) APPLICABLE RETIREMENT PLAN.—The  
15                 term ‘applicable retirement plan’ means—

16                         “(A) an employees’ trust described in sec-  
17                         tion 401(a) which is exempt from tax under  
18                         section 501(a), and

19                         “(B) a plan under which amounts are con-  
20                         tributed by an individual’s employer for an an-  
21                         nuity contract described in section 403(b).

22                 “(2) ELECTIVE DEFERRAL.—The term ‘elective  
23                 deferral’ means any elective deferral described in  
24                 subparagraph (A) or (C) of section 402(g)(3).”

1 (b) EXCESS DEFERRALS.—Section 402(g) (relating  
2 to limitation on exclusion for elective deferrals) is amend-  
3 ed—

4 (1) by adding at the end of paragraph (1) the  
5 following new sentence: “The preceding sentence  
6 shall not apply to so much of such excess as does  
7 not exceed the designated plus contributions of the  
8 individual for the taxable year.”, and

9 (2) by inserting “(or would be included but for  
10 the last sentence thereof)” after “paragraph (1)” in  
11 paragraph (2)(A).

12 (c) ROLLOVERS.—

13 (1) QUALIFIED TRUSTS.—Section 402(d)(8)(B)  
14 is amended by adding at the end the following new  
15 flush sentence:

16 “Without regard to the foregoing provisions of  
17 this paragraph, if any portion of an eligible roll-  
18 over distribution is attributable to payments or  
19 distributions from a designated plus account (as  
20 defined in section 402A), an eligible retirement  
21 plan with respect to such portion shall include  
22 only another designated plus account and a  
23 Roth IRA.”

24 (2) ANNUITIES.—Section 403(b)(8)(A) is  
25 amended by adding at the end the following new

1 sentence: “If any portion of an eligible rollover dis-  
2 tribution is attributable to payments or distributions  
3 from a designated plus account (as defined in sec-  
4 tion 402A), the transfer of such portion under  
5 clause (ii) may be made only to another such ac-  
6 count or to a Roth IRA.”

7 (3) INDIVIDUAL RETIREMENT PLANS.—Section  
8 408(d)(3) is amended by adding at the end the fol-  
9 lowing new subparagraph:

10 “(H) DESIGNATED PLUS ACCOUNTS.—The  
11 requirements of clauses (ii) and (iii) of subpara-  
12 graph (A) shall not be treated as met if the  
13 rollover contribution includes any amount at-  
14 tributable to a designated plus account (as de-  
15 fined in section 402A).”

16 (d) REPORTING REQUIREMENTS.—

17 (1) W-2 INFORMATION.—Section 6051(a)(8) is  
18 amended by inserting “, including the amount of  
19 designated plus contributions (as defined in section  
20 402A)” before the comma at the end.

21 (2) INFORMATION.—Section 6047 is amended  
22 by redesignating subsection (f) as subsection (g) and  
23 by inserting after subsection (e) the following new  
24 subsection:

1           “(f) DESIGNATED PLUS CONTRIBUTIONS.—The Sec-  
2 retary shall require the plan administrator of each applica-  
3 ble retirement plan (as defined in section 402A) to make  
4 such returns and reports regarding designated plus con-  
5 tributions (as so defined) to the Secretary, participants  
6 and beneficiaries of the plan, and such other persons as  
7 the Secretary may prescribe.”

8           (e) CONFORMING AMENDMENTS.—

9           (1) Section 408A(e) is amended by adding after  
10 the first sentence the following new sentence: “Such  
11 term includes a rollover contribution described in  
12 section 402A(c)(3)(A).”

13           (2) The table of sections for subpart A of part  
14 I of subchapter D of chapter 1 is amended by insert-  
15 ing after the item relating to section 402 the follow-  
16 ing new item:

“Sec. 402A. Optional treatment of elective deferrals as plus contributions.”

17           (f) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2000.

20 **SEC. 202. INCREASE IN LIMIT ON EXCLUSION AMOUNT FOR**  
21 **ELECTIVE DEFERRALS.**

22           (a) INCREASE IN ELECTIVE DEFERRAL LIMIT.—  
23 Paragraph (1) of section 402(g) (relating to limitation on  
24 exclusion for elective deferrals) is amended by striking  
25 “\$7,000” and inserting “\$15,000”.

1 (b) CONFORMING AMENDMENTS.—

2 (1)(A) Section 402(g) is amended by striking  
3 paragraph (4) and by redesignating paragraphs (5),  
4 (6), (7), (8), and (9) as paragraphs (4), (5), (6),  
5 (7), and (8), respectively.

6 (B) Section 457(c)(2) is amended by striking  
7 “section 402(g)(8)(A)(iii)” and inserting “section  
8 402(g)(7)(A)(iii)”.

9 (C) Section 501(c)(18)(D)(iii) is amended by  
10 striking “(other than paragraph (4) thereof)”.

11 (2) Section 402(g)(4), as redesignated by para-  
12 graph (1)(A), is amended by striking “\$7,000” and  
13 inserting “\$15,000”.

14 (3) Section 402(g)(4), as so redesignated, is  
15 amended by inserting “the base period taken into  
16 account shall be the calendar quarter ending Sep-  
17 tember 30, 1999, and” after “except that”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 1999.

21 **SEC. 203. INCREASED LIMIT ON DEFERRED AMOUNT FOR**  
22 **PLANS OF STATE AND LOCAL GOVERNMENTS.**

23 (a) IN GENERAL.—Subparagraph (A) of section  
24 457(b)(2) (defining eligible deferred compensation plan)  
25 is amended by inserting “(\$12,000, in the case of a plan

1 of an eligible employer as defined in subsection (e)(1)(A))”  
2 after “\$7,500”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to years beginning after December  
5 31, 1999.

6 **SEC. 204. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**  
7 **EMPLOYEES TO DEFINED CONTRIBUTION**  
8 **PLANS.**

9 (a) EQUITABLE TREATMENT.—

10 (1) IN GENERAL.—Subparagraph (B) of section  
11 415(c)(1) (relating to limitation for defined con-  
12 tribution plans) is amended to read as follows:

13 “(B) the participant’s compensation.”

14 (2) APPLICATION TO SECTION 403(b).—Section  
15 403(b) is amended—

16 (A) by striking “the exclusion allowance  
17 for such taxable year” in paragraph (1) and in-  
18 serting “the applicable limit under section  
19 415”,

20 (B) by striking paragraph (2), and

21 (C) by inserting “or any amount received  
22 by a former employee after the 5th taxable year  
23 following the taxable year in which such em-  
24 ployee was terminated” before the period at the  
25 end of the second sentence of paragraph (3).

1 (3) CONFORMING AMENDMENTS.—

2 (A) Subsection (f) of section 72 is amend-  
3 ed by striking “section 403(b)(2)(D)(iii)” and  
4 inserting “section 403(b)(2)(D)(iii), as in effect  
5 on December 31, 1998”.

6 (B) Section 404(a)(10)(B) is amended by  
7 striking “, the exclusion allowance under sec-  
8 tion 403(b)(2),”.

9 (C) Section 415(a)(2) is amended by strik-  
10 ing “, and the amount of the contribution for  
11 such portion shall reduce the exclusion allow-  
12 ance as provided in section 403(b)(2)”.

13 (D) Section 415(c)(3) is amended by add-  
14 ing at the end the following new subparagraph:

15 “(E) ANNUITY CONTRACTS.—In the case  
16 of an annuity contract described in section  
17 403(b), the term ‘participant’s compensation’  
18 means the participant’s includible compensation  
19 determined under section 403(b)(3).”

20 (E) Section 415(c) is amended by striking  
21 paragraph (4) and redesignating paragraph (6)  
22 as paragraph (4).

23 (F) Section 415(c)(7) is amended to read  
24 as follows:

1           “(5) CERTAIN CONTRIBUTIONS BY CHURCH  
2 PLANS NOT TREATED AS EXCEEDING LIMIT.—

3           “(A) IN GENERAL.—Notwithstanding any  
4 other provision of this subsection, at the elec-  
5 tion of a participant who is an employee of a  
6 church, a convention or association of churches,  
7 including an organization described in section  
8 414(e)(3)(B)(ii), contributions and other addi-  
9 tions for an annuity contract or retirement in-  
10 come account described in section 403(b) with  
11 respect to such participant, when expressed as  
12 an annual addition to such participant’s ac-  
13 count, shall be treated as not exceeding the lim-  
14 itation of paragraph (1) if such annual addition  
15 is not in excess of \$10,000.

16           “(B) \$40,000 AGGREGATE LIMITATION.—  
17 The total amount of additions with respect to  
18 any participant which may be taken into ac-  
19 count for purposes of this subparagraph for all  
20 years may not exceed \$40,000.

21           “(C) ANNUAL ADDITION.—For purposes of  
22 this paragraph, the term ‘annual addition’ has  
23 the meaning given such term by paragraph  
24 (2).”

25           (G) Section 415(e)(3)(B) is amended—



1 (i) by striking “subsection (c)(6)” in  
2 clause (i) and inserting “subsection  
3 (c)(4)”, and

4 (ii) by striking “subsection (c)(7)” in  
5 clause (ii)(II) and inserting “subsection  
6 (c)(5)”.

7 (H) Section 415(e)(5) is amended—

8 (i) by striking “(except in the case of  
9 a participant who has elected under sub-  
10 section (c)(4)(D) to have the provisions of  
11 subsection (c)(4)(C) apply)”, and

12 (ii) by striking the last sentence.

13 (I) Section 415(n)(2)(B) is amended by  
14 striking “percentage”.

15 (J) Subparagraph (B) of section  
16 402(g)(7), as redesignated by section  
17 202(b)(1)(A), is amended by inserting before  
18 the period at the end the following: “(as in ef-  
19 fect on the date of the enactment of the Retire-  
20 ment Savings Opportunity Act of 1999)”.

21 (b) DEFERRED COMPENSATION PLANS OF STATE  
22 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-  
23 ZATIONS.—Subparagraph (B) of section 457(b)(2) (relat-  
24 ing to salary limitation on eligible deferred compensation

1 plans” is amended by striking “33 $\frac{1}{3}$  percent” and insert-  
2 ing “100 percent”.

3 (c) ELECTIVE DEFERRALS NOT TAKEN INTO AC-  
4 COUNT FOR PURPOSES OF LIMITS.—Section 404 (relating  
5 to deduction for contributions of an employer to an em-  
6 ployees’ trust or annuity plan and compensation under a  
7 deferred-payment plan) is amended by adding at the end  
8 the following new subsection:

9 “(n) ELECTIVE DEFERRALS NOT TAKEN INTO AC-  
10 COUNT FOR PURPOSES OF LIMITS.—Elective deferrals (as  
11 defined in section 402(g)(3)) shall not be subject to any  
12 limitation described in this section (other than subsection  
13 (a)), and such elective deferrals shall not be taken into  
14 account in applying such limitations to any other contribu-  
15 tions.”

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to years beginning after December  
18 31, 1999.

19 **SEC. 205. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**  
20 **FUNDING LIMIT.**

21 (a) IN GENERAL.—

22 (1) CODE AMENDMENT.—Section 412(c)(7) (re-  
23 lating to full-funding limitation) is amended—

24 (A) by striking “the applicable percentage”  
25 in subparagraph (A)(i)(I) and inserting “in the

1 case of plan years beginning before January 1,  
2 2003, the applicable percentage”, and

3 (B) by amending subparagraph (F) to read  
4 as follows:

5 “(F) APPLICABLE PERCENTAGE.—For  
6 purposes of subparagraph (A)(i)(I), the applica-  
7 ble percentage shall be determined in accord-  
8 ance with the following table:

**“In the case of any plan year The applicable percentage is—  
beginning in—**

1999 .....	155
2000 .....	160
2001 .....	165
2002 .....	170.”

9 (2) ERISA AMENDMENT.—Section 302(c)(7) of  
10 the Employee Retirement Income Security Act of  
11 1974 (29 U.S.C. 1082(c)(7)) is amended—

12 (A) by striking “the applicable percentage”  
13 in subparagraph (A)(i)(I) and inserting “in the  
14 case of plan years beginning before January 1,  
15 2003, the applicable percentage”, and

16 (B) by amending subparagraph (F) to read  
17 as follows:

18 “(F) APPLICABLE PERCENTAGE.—For purposes  
19 of subparagraph (A)(i)(I), the applicable percentage  
20 shall be determined in accordance with the following  
21 table:

**“In the case of any plan year The applicable percentage is—  
beginning in—**

1999 .....	155
------------	-----

**“In the case of any plan year The applicable percentage is—  
beginning in—**

2000 .....	160
2001 .....	165
2002 .....	170.”

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to plan years begin-  
3           ning after December 31, 1998.

4           (b) MAXIMUM CONTRIBUTION DEDUCTION RULES  
5 MODIFIED AND APPLIED TO ALL DEFINED BENEFIT  
6 PLANS.—

7           (1) IN GENERAL.—Section 404(a)(1)(D) (relat-  
8           ing to special rule in case of certain plans) is amend-  
9           ed—

10                   (A) by striking “which has more than 100  
11                   participants for the plan year”,

12                   (B) by striking “unfunded current liability  
13                   determined under section 414(l)” and inserting  
14                   “unfunded termination liability (determined as  
15                   if the proposed termination date referred to in  
16                   section 4041(b)(2)(A)(i)(II) of the Employee  
17                   Retirement Income Security Act of 1974 were  
18                   the last day of the plan year)”,

19                   (C) by inserting after the first sentence the  
20                   following new sentence: “For purposes of this  
21                   subparagraph, in the case of a plan which has  
22                   less than 100 participants for the plan year,  
23                   termination liability shall not include the liabil-

1           ity attributable to benefit increases for highly  
2           compensated employees (as defined in section  
3           414(q)) brought about by plan amendment  
4           within the last 2 years before the termination  
5           date.”, and

6                   (D) by striking “(other than a multiem-  
7           ployer plan)”.

8           (2) CONFORMING AMENDMENT.—Paragraph (6)  
9           of section 4972(c) is amended by striking the sen-  
10          tence preceding the last sentence thereof.

11          (3) EFFECTIVE DATE.—The amendments made  
12          by this subsection shall apply to plan years begin-  
13          ning after the date of the enactment of this Act.

14           **TITLE III—SMALL BUSINESS**  
15                   **INCENTIVES**

16   **SEC. 301. CREDIT FOR SMALL EMPLOYER PENSION PLAN**  
17                   **CONTRIBUTIONS AND START-UP COSTS.**

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

22   **“SEC. 45D. SMALL EMPLOYER PENSION PLAN CREDIT.**

23          “(a) GENERAL RULE.—For purposes of section 38,  
24          in the case of an eligible employer, the small employer pen-

1 sion plan credit determined under this section for any tax-  
2 able year is an amount equal to the sum of—

3 “(1) 50 percent of the qualified employer con-  
4 tributions of the taxpayer for the taxable year, and

5 “(2) the qualified start-up costs paid or in-  
6 curred by the taxpayer during the taxable year.

7 “(b) LIMITATIONS.—

8 “(1) LIMITS ON CONTRIBUTIONS.—For pur-  
9 poses of subsection (a)(1)—

10 “(A) qualified employer contributions may  
11 only be taken into account for each of the first  
12 5 taxable years ending after the date the em-  
13 ployer establishes the qualified employer plan to  
14 which the contribution is made, and

15 “(B) the amount of the qualified employer  
16 contributions taken into account with respect to  
17 any qualified employee for any such taxable  
18 year shall not exceed 3 percent of the com-  
19 pensation (as defined in section 414(s)) of the  
20 qualified employee for such taxable year.

21 “(2) LIMITS ON START-UP COSTS.—The amount  
22 of the credit determined under subsection (a)(2) for  
23 any taxable year shall not exceed—

24 “(A) \$500 for each of the first, second,  
25 and third taxable years ending after the date

1 the employer established the qualified employer  
2 plan to which such costs relate, and

3 “(B) zero for each taxable year thereafter.

4 “(c) DEFINITIONS.—For purposes of this section—

5 “(1) ELIGIBLE EMPLOYER.—

6 “(A) IN GENERAL.—The term ‘eligible em-  
7 ployer’ means, with respect to any year, an em-  
8 ployer which has no more than—

9 “(i) for purposes of subsection (a)(1),  
10 50 employees, and

11 “(ii) for purposes of subsection (a)(2),  
12 100 employees,

13 who received at least \$5,000 of compensation  
14 from the employer for the preceding year.

15 “(B) 2-YEAR GRACE PERIOD.—An eligible  
16 employer who establishes and maintains a quali-  
17 fied employer plan for 1 or more years and who  
18 fails to be an eligible employer for any subse-  
19 quent year shall be treated as an eligible em-  
20 ployer for the 2 years following the last year  
21 the employer was an eligible employer.

22 “(C) REQUIREMENT FOR NEW QUALIFIED  
23 EMPLOYER PLANS.—Such term shall not in-  
24 clude an employer if the employer (or any pred-  
25 ecessor employer) established or maintained a

1 qualified employer plan with respect to which  
2 contributions were made, or benefits were ac-  
3 crued, for service in the 3 taxable years ending  
4 prior to the first taxable year in which the cred-  
5 it under this section is allowed.

6 “(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

7 “(A) IN GENERAL.—The term ‘qualified  
8 employer contributions’ means, with respect to  
9 any taxable year, any employer contributions  
10 made on behalf of a qualified employee to a  
11 qualified employer plan for a plan year ending  
12 with or within the taxable year.

13 “(B) EMPLOYER CONTRIBUTIONS.—The  
14 term ‘employer contributions’ shall not include  
15 any elective deferral (within the meaning of sec-  
16 tion 402(g)(3)).

17 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-  
18 fied employee’ means an individual who—

19 “(A) is eligible to participate in the quali-  
20 fied employer plan to which the employer con-  
21 tributions are made, and

22 “(B) is not a highly compensated employee  
23 (within the meaning of section 414(q)) for the  
24 year for which the contribution is made.



1           “(4) QUALIFIED START-UP COSTS.—The term  
2           ‘qualified start-up costs’ means any ordinary and  
3           necessary expenses of an eligible employer which are  
4           paid or incurred in connection with—

5                   “(A) the establishment or maintenance of  
6                   a qualified employer plan in which qualified em-  
7                   ployees are eligible to participate, and

8                   “(B) providing educational information to  
9                   employees regarding participation in such plan  
10                  and the benefits of establishing an investment  
11                  plan.

12           “(5) QUALIFIED EMPLOYER PLAN.—The term  
13           ‘qualified employer plan’ has the meaning given such  
14           term in section 4972(d).

15           “(d) SPECIAL RULES.—

16                   “(1) AGGREGATION RULES.—All persons treat-  
17                   ed as a single employer under subsection (a) or (b)  
18                   of section 52, or subsection (n) or (o) of section 414,  
19                   shall be treated as one person. All qualified employer  
20                   plans of an employer shall be treated as 1 qualified  
21                   employer plan.

22                   “(2) DISALLOWANCE OF DEDUCTION.—No de-  
23                   duction shall be allowable under this chapter for any  
24                   qualified start-up costs or qualified employer con-

1       tributions for which a credit is determined under  
2       subsection (a).

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

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

13               “(13) in the case of an eligible employer (as de-  
14      fined in section 45D(e)), the small employer pension  
15      plan credit determined under section 45D(a).”

16      (c) CONFORMING AMENDMENT.—The table of sec-  
17      tions for subpart D of part IV of subchapter A of chapter  
18      1 is amended by adding at the end the following new item:

                  “Sec. 45D. Small employer pension plan credit.”

19      (d) EFFECTIVE DATE.—The amendments made by  
20      this section shall apply to costs paid or incurred or con-  
21      tributions made in connection with qualified employer  
22      plans established after December 31, 1999.

23      **SEC. 302. SAFE ANNUITIES AND TRUSTS.**

24      (a) IN GENERAL.—Subpart A of part I of subchapter  
25      D of chapter 1 (relating to deferred compensation, etc.)

1 is amended by inserting after section 408A the following  
2 new section:

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

4 “(a) EMPLOYER ELIGIBILITY.—

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

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

10 “(B) the employer does not maintain (and  
11 no predecessor of the employer maintains) a  
12 qualified plan (other than a permissible plan)  
13 with respect to which contributions were made,  
14 or benefits were accrued, for service in any year  
15 in the period beginning with the year such an-  
16 nuity or trust became effective and ending with  
17 the year for which the determination is being  
18 made.

19 “(2) DEFINITIONS.—For purposes of paragraph  
20 (1)—

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

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

1                   “(i) a plan under which only elective  
2                   deferrals described in section 402(g)(3),  
3                   deferred compensation described in section  
4                   457, or employer matching contributions  
5                   may be made, and

6                   “(ii) any collectively bargained plan.

7                   “(b) SAFE ANNUITY.—

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

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

16                   “(B) the only contributions to such annu-  
17                   ity (other than rollover contributions) are em-  
18                   ployer contributions.

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

23                  “(2) PARTICIPATION REQUIREMENTS.—

1           “(A) IN GENERAL.—The requirements of  
2 this paragraph are met for any year only if all  
3 employees of the employer who—

4                   “(i) received at least \$5,000 in com-  
5 pensation from the employer during any 2  
6 consecutive preceding years, and

7                   “(ii) received at least \$5,000 in com-  
8 pensation during the year,  
9 are entitled to the benefit described in para-  
10 graph (5) for such year.

11           “(B) EXCLUDABLE EMPLOYEES.—An em-  
12 ployer may elect to exclude from the require-  
13 ments under subparagraph (A) employees de-  
14 scribed in section 410(b)(3).

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

18           “(4) BENEFIT FORM.—

19                   “(A) IN GENERAL.—The requirements of  
20 this paragraph are met if the only form of bene-  
21 fit is—

22                           “(i) a benefit payable annually in the  
23 form of a single life annuity with monthly  
24 payments (with no ancillary benefits) be-  
25 ginning at age 65, or

1                   “(ii) any other form of benefit which  
2                   is the actuarial equivalent (based on the  
3                   assumptions specified in the SAFE annu-  
4                   ity) of the benefit described in clause (i).

5                   “(B) DIRECT TRANSFERS AND ROLL-  
6                   OVERS.—A plan shall not fail to meet the re-  
7                   quirements of this paragraph by reason of per-  
8                   mitting, at the election of the employee, a trust-  
9                   ee-to-trustee transfer or a rollover contribution.

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

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

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

21                   “(i) IN GENERAL.—The term ‘applica-  
22                   ble percentage’ means 3 percent.

23                   “(ii) ELECTION OF LOWER PERCENT-  
24                   AGE.—An employer may elect to apply an  
25                   applicable percentage of 1 percent, 2 per-

1 cent or zero percent for any year for all  
2 employees eligible to participate in the plan  
3 for such year if the employer notifies the  
4 employees of such percentage within a rea-  
5 sonable period before the beginning of such  
6 year.

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

12 “(D) CREDIT FOR SERVICE BEFORE PLAN  
13 ADOPTED.—

14 “(i) IN GENERAL.—An employer may  
15 elect to take into account a specified num-  
16 ber of years of service (not greater than  
17 10) performed before the adoption of the  
18 plan (each hereinafter referred to as a  
19 ‘prior service year’) as service under the  
20 plan if the same specified number of years  
21 is available to all employees eligible to par-  
22 ticipate in the plan for the first plan year.

23 “(ii) ACCRUAL OF PRIOR SERVICE  
24 BENEFIT.—Such an election shall be effec-  
25 tive for a prior service year only if the re-

1            requirements of this paragraph are met for  
2            an eligible plan year (with respect to em-  
3            ployees entitled to credit for such prior  
4            service year) by doubling the applicable  
5            percentage (if any) for such plan year. For  
6            purposes of the preceding sentence, an eli-  
7            gible plan year is a plan year in the period  
8            of consecutive plan years (but not more  
9            than the number specified under clause (i))  
10          beginning with the first plan year that the  
11          plan is in effect.

12            “(iii) ELECTION MAY NOT APPLY TO  
13            CERTAIN PRIOR SERVICE YEARS.—This  
14            subparagraph shall not apply with respect  
15            to any prior service year of an employee  
16            if—

17            “(I) for any part of such prior  
18            service year such employee was an ac-  
19            tive participant (within the meaning  
20            of section 219(g)(5), as in effect on  
21            the day before the date of the enact-  
22            ment of the Retirement Savings Op-  
23            portunity Act of 1999) under any de-  
24            fined benefit plan of the employer (or  
25            any predecessor thereof), or



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

5                   “(6) FUNDING.—

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

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

16                   “(i) the assumed interest rate shall be  
17                   not less than 3 percent and not greater  
18                   than 5 percent per year,

19                   “(ii) the assumed mortality shall be  
20                   determined under the applicable mortality  
21                   table (as defined in section 417(e)(3), as  
22                   modified by the Secretary so that it does  
23                   not include any assumption for preretire-  
24                   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, an employer shall be deemed to have  
9                   made a contribution on the last day of the pre-  
10                  ceding taxable year if the payment is on ac-  
11                  count of such taxable year and is made not  
12                  later than the time prescribed by law for filing  
13                  the return for such taxable year (including ex-  
14                  tensions thereof).

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

22                  “(7) DEFINITIONS AND SPECIAL RULE.—

23                  “(A) DEFINITIONS.—The definitions in  
24                  section 408(p)(6) shall apply for purposes of  
25                  this subsection.

1           “(B) USE OF DESIGNATED FINANCIAL IN-  
2           STITUTIONS.—A rule similar to the rule of sec-  
3           tion 408(p)(7) (without regard to the last sen-  
4           tence thereof) shall apply for purposes of this  
5           subsection.

6           “(C) TREATMENT OF MATCHING CON-  
7           TRIBUTIONS.—A rule similar to the rule of sec-  
8           tion 408(p)(8) shall apply for purposes of this  
9           subsection.

10          “(c) SAFE TRUST.—

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

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

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

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

21           “(D) the only contributions to such trust  
22          (other than rollover contributions) are employer  
23          contributions.

24           “(2) PARTICIPATION REQUIREMENTS.—A plan  
25          meets the requirements of this paragraph for any

1 year only if the requirements of subsection (b)(2)  
2 are met for such year.

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

6 “(4) BENEFIT FORM.—A plan meets the re-  
7 quirements of this paragraph only if the require-  
8 ments of subsection (b)(4) are met. For purposes of  
9 this paragraph, a plan may satisfy the requirements  
10 of subsection (b)(4) by purchasing an annuity con-  
11 tract which meets the requirements of subsection  
12 (b)(4).

13 “(5) AMOUNT OF ANNUAL ACCRUED BENE-  
14 FIT.—A plan meets the requirements of this para-  
15 graph for any year only if the requirements of sub-  
16 section (b)(5) are met for such year.

17 “(6) FUNDING.—

18 “(A) IN GENERAL.—A plan meets the re-  
19 quirements of this paragraph for any year only  
20 if—

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

23 “(ii) in the case of a plan which has  
24 an unfunded prior year liability as of the  
25 close of such plan year, the plan requires

1           that the employer make an additional con-  
2           tribution to such plan for such year equal  
3           to the amount of such unfunded prior year  
4           liability.

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

9                   “(i) the aggregate of the accrued li-  
10                  abilities under the plan as of the close of  
11                  the prior plan year, over

12                   “(ii) the value of the plan’s assets de-  
13                  termined under section 412(c)(2) as of the  
14                  close of the plan year (determined without  
15                  regard to any contributions for such plan  
16                  year).

17           Such accrued liabilities shall be determined  
18           using the assumptions specified in subsection  
19           (b)(6)(B).

20           “(C) CHANGES IN MORTALITY TABLE.—If  
21           the applicable mortality table under section  
22           417(e)(3) for any plan year is not the same as  
23           such table for the prior plan year, the Secretary  
24           shall prescribe regulations which phase in the

1 effect of the changes over a reasonable period  
2 of plan years determined by the Secretary.

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

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

10 “(A) for an individual account for each  
11 participant, and

12 “(B) for benefits based solely on—

13 “(i) the amount contributed to the  
14 participant’s account, and

15 “(ii) any income, expenses, gains and  
16 losses, and any forfeitures of accounts of  
17 other participants which may be allocated  
18 to such participant’s account.

19 “(8) TRUST MAY NOT HOLD SECURITIES WHICH  
20 ARE NOT READILY TRADABLE.—A plan meets the  
21 requirements of this paragraph only if the plan pro-  
22 hibits the trust from holding directly or indirectly se-  
23 curities which are not readily tradable on an estab-  
24 lished securities market or otherwise. Nothing in

1 this paragraph shall prohibit the trust from holding  
2 insurance company products regulated by State law.

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

7 “(d) SPECIAL RULES FOR SAFE ANNUITIES AND  
8 TRUSTS.—

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

13 “(A) Section 401(a)(4) (relating to non-  
14 discrimination rules).

15 “(B) Section 401(a)(26) (relating to mini-  
16 mum participation).

17 “(C) Section 410 (relating to minimum  
18 participation and coverage requirements).

19 “(D) Section 411(b) (relating to accrued  
20 benefit requirements).

21 “(E) Paragraphs (6) and (7) of section  
22 412(c) (relating to full funding limitation).

23 “(F) Section 415 (relating to limitations  
24 on benefits and contributions under qualified  
25 plans).

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

3                   “(2) CONTRIBUTIONS NOT TAKEN INTO AC-  
4                   COUNT IN APPLYING LIMITS TO OTHER PLANS.—  
5                   Contributions to a SAFE annuity or a SAFE trust  
6                   shall not be taken into account in applying sections  
7                   404 and 415 to other plans maintained by the em-  
8                   ployer.

9                   “(3) COORDINATION WITH MAXIMUM LIMITA-  
10                  TION UNDER SUBSECTION (a).—In the case of any  
11                  SAFE annuity or SAFE trust, subsections (a)(1)  
12                  and (b) of section 408 shall be applied by substitut-  
13                  ing ‘the dollar amount in effect under section  
14                  408B(b)(5)(C)’ for ‘\$2,000’ each place it appears in  
15                  such subsections.

16                  “(e) ROLLOVER CONTRIBUTION.—For purposes of  
17                  this section, the term ‘rollover contribution’ means any  
18                  rollover contribution under section 402(c), 403(a)(4),  
19                  403(b)(8), 408(d)(3), or 457(e)(16).”

20                  (b) DEDUCTION LIMITS NOT TO APPLY TO EM-  
21                  PLOYER CONTRIBUTIONS.—

22                  (1) IN GENERAL.—Section 404 (relating to de-  
23                  ductions for contributions of an employer to pension,  
24                  etc., plans), as amended by section 204(c), is amend-



1 ed by adding at the end the following new sub-  
2 section:

3 “(o) SPECIAL RULES FOR SAFE ANNUITIES AND  
4 TRUSTS.—

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

9 “(2) TIMING.—

10 “(A) DEDUCTION.—Contributions de-  
11 scribed in paragraph (1) shall be deductible in  
12 the taxable year of the employer with or within  
13 which the calendar year for which the contribu-  
14 tions were made ends.

15 “(B) CONTRIBUTIONS AFTER END OF  
16 YEAR.—For purposes of this subsection, con-  
17 tributions shall be treated as made for a taxable  
18 year if they are made on account of the taxable  
19 year and are made not later than the time pre-  
20 scribed by law for filing the return for the tax-  
21 able year (including extensions thereof).”

22 (2) COORDINATION WITH DEDUCTION UNDER  
23 SECTION 219.—Section 219(b) (relating to maximum  
24 amount of deduction) is amended by adding at the  
25 end the following new paragraph:

1           “(5) SPECIAL RULE FOR SAFE ANNUITIES.—  
2           This section shall not apply with respect to any  
3           amount contributed to a SAFE annuity established  
4           under section 408A(B).”

5           (c) CONTRIBUTIONS AND DISTRIBUTIONS.—Section  
6           402 (relating to taxability of beneficiary of employees’  
7           trust) is amended by adding at the end the following new  
8           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 a SAFE annuities under section 408B.”

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

17                 “(9) SPECIAL RULES FOR SAFE ANNUITIES AND  
18                 TRUSTS.—In the case of any amount received from  
19                 a SAFE annuity or a SAFE trust (within the mean-  
20                 ing of section 408B), paragraph (1) shall be applied  
21                 by substituting ‘20 percent’ for ‘10 percent’.”

22          (e) SIMPLIFIED EMPLOYER REPORTS.—

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

1 “(3) SAFE ANNUITIES.—

2 “(A) SIMPLIFIED REPORT.—The employer  
3 maintaining any SAFE annuity (within the  
4 meaning of section 408B) shall file a simplified  
5 annual return with the Secretary containing  
6 only the information described in subparagraph  
7 (B).

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

10 “(i) the name and address of the em-  
11 ployer,

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

13 “(iii) the number of employees of the  
14 employer,

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

17 “(v) the total amount contributed by  
18 the employer to each such annuity for such  
19 year and the minimum amount required  
20 under section 408B to be so contributed,

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

23 “(vii) the number of employees with  
24 respect to whom contributions are required

1 to be made for such year under section  
2 408B(b)(5)(D).

3 “(C) REPORTING BY ISSUER OF SAFE AN-  
4 NUIITY.—

5 “(i) IN GENERAL.—The issuer of each  
6 SAFE annuity shall provide to the owner  
7 of the annuity for each year a statement  
8 setting forth as of the close of such year—

9 “(I) the benefits guaranteed at  
10 age 65 under the annuity, and

11 “(II) the cash surrender value of  
12 the annuity.

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

18 “(I) The name and address of  
19 the employer and the issuer.

20 “(II) The requirements for eligi-  
21 bility for participation.

22 “(III) The benefits provided with  
23 respect to the annuity.

1                   “(IV) The procedures for, and ef-  
2                   fects of, withdrawals (including roll-  
3                   overs) from the annuity.

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

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

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

19                 (f) CONFORMING AMENDMENTS.—

20                 (1) Section 280G(b)(6) is amended by striking  
21                 “or” at the end of subparagraph (C), by striking the  
22                 period at the end of subparagraph (D) and inserting  
23                 “, or” and by adding after subparagraph (D) the  
24                 following new subparagraph:

1                   “(E) a SAFE annuity described in section  
2                   408B.”

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

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

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

13                   (4) The table of sections for subpart A of part  
14                   I of subchapter D of chapter 1 is amended by insert-  
15                   ing after the item relating to section 408A the fol-  
16                   lowing new item:

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

17                   (g) MODIFICATIONS OF ERISA.—

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

9           “(i) 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           (3) Section 408(p)(2)(E) of such Code is  
2 amended—

3           (A) by striking “\$6,000” and inserting  
4 “\$10,000”, and

5           (B) by striking “1996” and inserting  
6 “1999”.

7       (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to years beginning after December  
9 31, 1999.

10                           **TITLE IV—CATCHUP**  
11                           **CONTRIBUTIONS**

12       **SEC. 401. CATCHUP CONTRIBUTIONS FOR INDIVIDUALS**  
13                           **AGE 50 OR OVER.**

14       (a) ELECTIVE DEFERRALS.—Section 414 (relating to  
15 definitions and special rules) is amended by adding at the  
16 end the following new subsection:

17       “(v) CATCHUP CONTRIBUTIONS FOR INDIVIDUALS  
18 AGE 50 OR OVER.—

19           “(1) IN GENERAL.—An applicable employer  
20 plan shall not be treated as failing to meet any re-  
21 quirement of this title solely because the plan per-  
22 mits an eligible participant to make additional elec-  
23 tive deferrals in any plan year.

24           “(2) LIMITATION ON AMOUNT OF ADDITIONAL  
25 DEFERRALS.—A plan shall not permit additional

1 elective deferrals under paragraph (1) for any year  
2 in an amount greater than the lesser of—

3 “(A) 50 percent of the maximum amount  
4 of elective deferrals excludable from gross in-  
5 come of the participant for such year (deter-  
6 mined without regard to this subsection, sub-  
7 section (u), or any limitation described in para-  
8 graph (3)(A)), or

9 “(B) the excess (if any) of—

10 “(i) the participant’s compensation for  
11 the year, over

12 “(ii) any other elective deferrals of the  
13 participant for such year which are made  
14 without regard to this subsection.

15 “(3) TREATMENT OF CONTRIBUTIONS.—In the  
16 case of any contribution to a plan under paragraph  
17 (1) (and any employer matching contribution with  
18 respect thereto)—

19 “(A) such contribution shall not, with re-  
20 spect to the year in which the contribution is  
21 made—

22 “(i) be subject to any otherwise appli-  
23 cable limitation contained in section  
24 402(g), 402(h), 403(b), 404(a), 404(h),  
25 408, 415, or 457, or

1                   “(ii) be taken into account in applying  
2                   such limitations to other contributions or  
3                   benefits under such plan or any other such  
4                   plan, and

5                   “(B) except as provided in paragraph (4),  
6                   such plan shall not be treated as failing to meet  
7                   the requirements of section 401(a)(4),  
8                   401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12),  
9                   401(m), 403(b)(12), 408(k), 408(p), 408B,  
10                  410(b), or 416 by reason of the making of (or  
11                  the right to make) such contribution.

12                  “(4) MATCHING CONTRIBUTIONS.—Nothing in  
13                  paragraph (1) shall require an employer to make  
14                  any matching contribution with respect to any addi-  
15                  tional elective deferrals under paragraph (1) for any  
16                  year, but if the employer elects to make any such  
17                  matching contribution, such matching contribution  
18                  shall be taken into account in determining whether  
19                  the requirements of section 401(a)(4) are met for  
20                  the year.

21                  “(5) ELIGIBLE PARTICIPANT.—For purposes of  
22                  this subsection, the term ‘eligible participant’ means,  
23                  with respect to any plan year, a participant in a  
24                  plan—

1           “(A) who has attained the age of 50 before  
2 the close of the plan year, and

3           “(B) with respect to whom no other elec-  
4 tive deferrals may (without regard to this sub-  
5 section) be made to the plan for the plan year  
6 by reason of the application of any limitation or  
7 other restriction described in paragraph (3) or  
8 contained in the terms of the plan.

9           “(6) OTHER DEFINITIONS AND RULES.—For  
10 purposes of this subsection—

11           “(A) APPLICABLE EMPLOYER PLAN.—The  
12 term ‘applicable employer plan’ means—

13           “(i) an employees’ trust described in  
14 section 401(a) which is exempt from tax  
15 under section 501(a),

16           “(ii) a plan under which amounts are  
17 contributed by an individual’s employer for  
18 an annuity contract described in section  
19 403(b),

20           “(iii) an eligible deferred compensa-  
21 tion plan under section 457 of an eligible  
22 employer as defined in section  
23 457(e)(1)(A), and

24           “(iv) an arrangement meeting the re-  
25 quirements of section 408 (k) or (p).

1           “(B) ELECTIVE DEFERRAL.—The term  
2           ‘elective deferral’ has the meaning given such  
3           term by subsection (u)(2)(C).”

4           (b) INDIVIDUAL RETIREMENT PLANS.—Section  
5 219(b), as amended by section 302(b)(2)(A), is amended  
6 by adding at the end the following new paragraph:

7           “(6) CATCHUP CONTRIBUTIONS.—In the case of  
8           an individual who has attained the age of 50 before  
9           the close of the taxable year, the dollar amount in  
10          effect under paragraph (1)(A) for such taxable year  
11          shall be equal to 150 percent of such amount deter-  
12          mined without regard to this paragraph.”

13          (c) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to contributions in taxable years  
15 beginning after December 31, 2000.

## 16       **TITLE V—PLAN AMENDMENTS**

### 17       **SEC. 501. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

20               (1) such plan or contract shall be treated as  
21 being operated in accordance with the terms of the  
22 plan during the period described in subsection  
23 (b)(2)(A), and

24               (2) such plan shall not fail to meet the require-  
25 ments of section 411(d)(6) of the Internal Revenue

1 Code of 1986 or section 204(g) of the Employee Re-  
2 tirement Income Security Act of 1974 (29 U.S.C.  
3 1054(g)) by reason of such amendment.

4 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

8 (A) pursuant to any amendment made by  
9 this Act, or pursuant to any regulation issued  
10 under this Act, and

11 (B) before the last day of the first plan  
12 year beginning on or after January 1, 2002.

13 In the case of a government plan (as defined in sec-  
14 tion 414(d) of the Internal Revenue Code of 1986  
15 and section 3(32) of the Employee Retirement In-  
16 come Security Act of 1974), this paragraph shall be  
17 applied by substituting “2004” for “2002”.

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

20 (A) during the period—

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

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

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

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

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