

105TH CONGRESS
2D SESSION

H. R. 3672

To amend the Internal Revenue Code of 1986 to promote expanded retirement savings.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1998

Mr. NEAL of Massachusetts (for himself, Mr. RANGEL, Mr. COYNE, Mr. MATSUI, Mr. LEVIN, Mr. McDERMOTT, Mr. GEJDENSON, Mr. POMEROY, and Ms. STABENOW) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to promote expanded retirement savings.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Employee Pension Portability and Accountability Act of
6 1998”.

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

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

5 (c) TABLE OF CONTENTS.—

- Sec. 1. Short title; amendment of 1986 Code.
- Sec. 2. Payroll deduction for retirement savings.
- Sec. 3. Credit for pension plan startup costs of small employers.
- Sec. 4. Secure money annuity or retirement (SMART) trusts.
- Sec. 5. Faster vesting of employer matching contributions.
- Sec. 6. Pension right to know proposals.
- Sec. 7. Mandatory 1 percent employer contribution required under alternative methods of meeting nondiscrimination requirements for 401(k) plans.
- Sec. 8. Definition of highly compensated employees.
- Sec. 9. Treatment of multiemployer plans under section 415.
- Sec. 10. Full funding limitation for multiemployer plans.
- Sec. 11. Elimination of partial termination rules for multiemployer plans.

6 **SEC. 2. PAYROLL DEDUCTION FOR RETIREMENT SAVINGS.**

7 (a) IN GENERAL.—Section 219 (relating to retire-
 8 ment savings) is amended by redesignating subsection (h)
 9 as subsection (i) and by inserting after subsection (g) the
 10 following new subsection:

11 “(h) EXCLUSION IN LIEU OF DEDUCTION FOR
 12 AMOUNTS DEDUCTED AND WITHHELD FROM WAGES.—

13 “(1) IN GENERAL.—If—

14 “(A) an employee submits a written re-
 15 quest to such employee’s employer to deduct
 16 and withhold amounts from the wages paid by
 17 such employer to such employee which are to be
 18 deposited by the employer into an individual re-
 19 tirement plan maintained for the benefit of such

1 employee which is designated by such employee,
2 and

3 “(B) the aggregate amount to be deducted
4 and withheld during a calendar year pursuant
5 to such request does not exceed the lesser of—

6 “(i) \$2,000, or

7 “(ii) the amount that the employee
8 certifies to the employer in such request as
9 being the amount which would (but for
10 paragraph (3)) be allowed as deduction to
11 such employee for contributions to such ac-
12 count for such employee’s last taxable year
13 beginning in such calendar year,

14 the gross income of such employee shall not include
15 the amount so deducted and withheld on wages paid
16 during such calendar year which is paid (not later
17 than the time prescribed by the Secretary) into such
18 individual retirement plan.

19 “(2) MAXIMUM EXCLUSION.—The amount ex-
20 cluded from gross income under paragraph (1) for
21 any taxable year shall not exceed the limitation ap-
22 plicable under subsection (b)(1)(A) to such employee
23 for such year.

1 “(3) DENIAL OF DEDUCTION.—No deduction
2 shall be allowed under this section for amounts ex-
3 cluded from gross income under paragraph (1).”

4 (b) EXEMPTION FROM WITHHOLDING.—Subsection
5 (a) of section 3401 (defining wages) is amended by strik-
6 ing “or” at the end of paragraph (20), by striking the
7 period at the end of paragraph (21) and inserting “; or”,
8 and by inserting after paragraph (21) the following new
9 paragraph:

10 “(22) for any payment made for the benefit of
11 the employee to an individual retirement plan if the
12 amount of such payment was deducted and withheld
13 under section 219(h).”

14 (c) EXCLUSION SHOWN ON W-2.—Subsection (a) of
15 section 6051 (relating to receipts for employees) is amend-
16 ed by striking “and” at the end of paragraph (10), by
17 striking the period at the end of paragraph (11) and in-
18 serting “, and”, and by inserting after paragraph (11) the
19 following new paragraph:

20 “(12) the total amount deducted and withheld
21 pursuant to section 219(h).”

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to remuneration paid after Decem-
24 ber 31, 1998.

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 (relating to business related cred-
5 its) is amended by adding at the end the following new
6 section:

7 **“SEC. 45D. 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 taxable year ending
19 after the date the employer established the qualified
20 employer plan to which such costs relate,

21 “(2) \$500 for each of the second and third tax-
22 able years ending after such date, and

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

24 “(c) ELIGIBLE EMPLOYER.—For purposes of this
25 section—

1 “(1) IN GENERAL.—The term ‘eligible em-
2 ployer’ has the meaning given such term by section
3 408(p)(2)(C)(i).

4 “(2) EMPLOYERS MAINTAINING QUALIFIED
5 PLANS DURING 1997 NOT ELIGIBLE.—Such term
6 shall not include an employer if such employer (or
7 any predecessor employer) maintained a qualified
8 plan (as defined in section 408(p)(2)(D)(ii)) with re-
9 spect to which contributions were made, or benefits
10 were accrued, for service in 1997. If only individuals
11 other than employees described in subparagraph (A)
12 or (B) of section 410(b)(3) are eligible to participate
13 in the qualified employer plan referred to in sub-
14 section (d)(1), then the preceding sentence shall be
15 applied without regard to any qualified plan in
16 which only employees so described are eligible to
17 participate.

18 “(d) OTHER DEFINITIONS.—For purposes of this
19 section—

20 “(1) QUALIFIED STARTUP COSTS.—

21 “(A) IN GENERAL.—The term ‘qualified
22 startup costs’ means any ordinary and nec-
23 essary expenses of an eligible employer which—

24 “(i) are paid or incurred in connection
25 with the establishment of a qualified em-

1 ployer plan in which at least 2 individuals
2 are eligible to participate, and

3 “(ii) are of a nonrecurring nature.

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

8 “(2) QUALIFIED EMPLOYER PLAN.—The term
9 ‘qualified employer plan’ has the meaning given to
10 such term by section 4972(d).

11 “(e) SPECIAL RULES.—For purposes of this sec-
12 tion—

13 “(1) AGGREGATION RULES.—All persons treat-
14 ed as a single employer under subsection (a) or (b)
15 of section 52, or subsection (n) or (o) of section 414,
16 shall be treated as one person.

17 “(2) DISALLOWANCE OF DEDUCTION.—No de-
18 duction shall be allowable under this chapter for any
19 qualified startup costs for which a credit is deter-
20 mined under subsection (a).

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

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

7 “(13) in the case of an eligible employer (as de-
8 fined in section 45D(e)), the small employer pension
9 plan startup cost credit determined under section
10 45D(a).”.

11 (c) CONFORMING AMENDMENTS.—

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

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

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

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

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

4 **SEC. 4. SECURE MONEY ANNUITY OR RETIREMENT (SMART)**
5 **TRUSTS.**

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

9 **“SEC. 408B. SMART PLANS.**

10 **“(a) EMPLOYER ELIGIBILITY.—**

11 **“(1) IN GENERAL.—**An employer may establish
12 and maintain a SMART annuity or a SMART trust
13 for any year only if—

14 **“(A) the employer is an eligible employer**
15 **(as defined in section 408(p)(2)(C)), and**

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

1 The period described in subparagraph (B) shall in-
2 clude the period of 5 years before the year such
3 trust or annuity became effective with respect to
4 qualified plans which are defined benefit plans or
5 money purchase pension plans.

6 “(2) DEFINITIONS.—For purposes of paragraph
7 (1)—

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

11 “(B) PERMISSIBLE PLAN.—The term ‘per-
12 missible plan’ means a plan under which there
13 may be made only—

14 “(i) elective deferrals described in sec-
15 tion 402(g)(3), and

16 “(ii) employer matching contributions
17 not in excess of the amounts permitted
18 under subclauses (I) and (II) of section
19 401(k)(12)(B)(i).

20 “(b) SMART ANNUITY.—

21 “(1) IN GENERAL.—For purposes of this title,
22 the term ‘SMART annuity’ means an individual re-
23 tirement annuity (as defined in section 408(b) with-
24 out regard to paragraph (2) thereof and without re-
25 gard to the limitation on aggregate annual pre-

1 miums contained in the flush language of section
2 408(b)) if—

3 “(A) such annuity meets the requirements
4 of paragraphs (2) through (7), and

5 “(B) the only contributions to such annu-
6 ity are employer contributions.

7 Nothing in this section shall be construed as pre-
8 venting an employer from using a group annuity
9 contract which is divisible into individual retirement
10 annuities for purposes of providing SMART annu-
11 ities.

12 “(2) PARTICIPATION REQUIREMENTS.—

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

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

19 “(ii) received at least \$5,000 in com-
20 pensation during the year,

21 are entitled to the benefit described in para-
22 graph (5) for such year.

23 “(B) EXCLUDABLE EMPLOYEES.—An em-
24 ployer may elect to exclude from the require-

1 ments under subparagraph (A) employees de-
2 scribed in section 410(b)(3).

3 “(3) VESTING.—

4 “(A) IN GENERAL.—The requirements of
5 this paragraph are met if the employee’s rights
6 to any benefits are nonforfeitable.

7 “(B) RESTRICTIONS ON CERTAIN MANDA-
8 TORY DISTRIBUTIONS.—If the present value
9 (determined in accordance with paragraph (6))
10 of an employee’s account balance exceeds the
11 dollar limit in effect under section
12 411(a)(11)(A), the requirements of this para-
13 graph are met only if the plan provides that
14 such benefit may not be immediately distributed
15 without the consent of the employee.

16 “(4) BENEFIT FORM.—The requirements of
17 this paragraph are met if the only form of benefit
18 is—

19 “(A) a benefit payable annually in the
20 form of a single life annuity with monthly pay-
21 ments (with no ancillary benefits) beginning at
22 age 65, or

23 “(B) any other form of benefit which is the
24 actuarial equivalent (based on the assumptions

1 specified in the SMART annuity) of the benefit
2 described in subparagraph (A).

3 “(5) AMOUNT OF ANNUAL ACCRUED BENE-
4 FIT.—

5 “(A) IN GENERAL.—The requirements of
6 this paragraph are met for any plan year if the
7 accrued benefit of each participant derived from
8 employer contributions for such year, when ex-
9 pressed as a benefit described in paragraph
10 (4)(A), equals the applicable percentage of the
11 participant’s compensation for such year.

12 “(B) APPLICABLE PERCENTAGE.—For
13 purposes of this paragraph—

14 “(i) IN GENERAL.—The term ‘applica-
15 ble percentage’ means 1 percent.

16 “(ii) ELECTION OF HIGHER PERCENT-
17 AGE.—An employer may elect to apply an
18 applicable percentage of 2 percent for any
19 year for all employees eligible to partici-
20 pate in the plan for such year, if the em-
21 ployer notifies the employees of such per-
22 centage within a reasonable period before
23 the beginning of such year. An employer
24 may also elect to apply an applicable per-
25 centage of 3 percent for any of the first 5

1 years that the plan is effective for all em-
2 ployees eligible to participate in the plan
3 for such year, if the employer so notifies
4 the employees.

5 “(C) COMPENSATION LIMIT.—

6 “(i) IN GENERAL.—The compensation
7 taken into account under this paragraph
8 for any year shall not exceed \$100,000.

9 “(ii) COST-OF-LIVING ADJUSTMENT.—

10 The Secretary shall adjust annually the
11 \$100,000 amount in clause (i) for in-
12 creases in the cost-of-living at the same
13 time and in the same manner as adjust-
14 ments under section 415(d); except that
15 the base period shall be the calendar quar-
16 ter beginning October 1, 1998, and any in-
17 crease which is not a multiple of \$10,000
18 shall be rounded to the next lowest mul-
19 tiple of \$10,000.

20 “(6) FUNDING.—

21 “(A) IN GENERAL.—The requirements of
22 this paragraph are met only if the employer is
23 required to contribute to the annuity for each
24 plan year the amount necessary (determined in
25 accordance with subparagraph (B)) to fund the

1 accrued benefit for each participant entitled to
2 such benefit for such year.

3 “(B) ACTUARIAL ASSUMPTIONS.—In deter-
4 mining the amount required to be contributed
5 under subparagraph (A)—

6 “(i) the assumed interest rate shall be
7 5 percent per year,

8 “(ii) the assumed mortality shall be
9 determined under the applicable mortality
10 table (as defined in section 417(e)(3), as
11 modified by the Secretary so that it does
12 not include any assumption for preretire-
13 ment mortality),

14 “(iii) the assumed retirement age
15 shall be 65, and

16 “(iv) an assumption for reasonable ex-
17 penses shall be permitted consistent with
18 State law.

19 “(C) TIME WHEN CONTRIBUTIONS
20 DEEMED MADE.—For purposes of this para-
21 graph, any contribution made for a plan year
22 during the 8½-month period beginning on the
23 day after the last day of such plan year shall
24 be deemed to have been made on such last day.

1 “(D) PENALTY FOR FAILURE TO MAKE RE-
2 QUIRED CONTRIBUTION.—The taxes imposed by
3 section 4971 shall apply to a failure to make
4 the contribution required by this paragraph in
5 the same manner as if the amount of the failure
6 were an accumulated funding deficiency to
7 which such section applies.

8 “(7) LIMITATION ON DISTRIBUTIONS.—

9 “(A) IN GENERAL.—The requirements of
10 this paragraph are met only if distributions
11 may be paid only when the employee attains
12 age 65, separates from service, dies, or becomes
13 disabled (within the meaning of section
14 72(m)(7)).

15 “(B) LIMITATION ON DISTRIBUTIONS ON
16 SEPARATION FROM SERVICE OF EMPLOYEES
17 WHO HAVE NOT ATTAINED AGE 65.—Subpara-
18 graph (A) shall apply to a distribution on sepa-
19 ration of service of an employee who has not at-
20 tained age 65 only if—

21 “(i) the present value (determined in
22 accordance with paragraph (6)) of an em-
23 ployee’s account balance does not exceed
24 the dollar limit in effect under section
25 411(a)(11)(A), or

1 “(ii) the distribution is a direct trust-
2 ee-to-trustee transfer of the entire balance
3 to the credit of the employee to a SMART
4 account or a SMART annuity for the bene-
5 fit of such employee.

6 “(C) SMART ACCOUNT.—For purposes of
7 this paragraph, the term ‘SMART account’
8 means an individual retirement account for the
9 benefit of the employee if such employee elects
10 to have the limitations of this paragraph apply
11 to such account.

12 “(8) DEFINITIONS AND SPECIAL RULE.—

13 “(A) DEFINITIONS.—The definitions in
14 section 408(p)(6) shall apply for purposes of
15 this subsection.

16 “(B) USE OF DESIGNATED FINANCIAL IN-
17 STITUTIONS.—A rule similar to the rule of sec-
18 tion 408(p)(7) (without regard to the last sen-
19 tence thereof) shall apply for purposes of this
20 subsection.

21 “(c) SMART TRUST.—

22 “(1) IN GENERAL.—For purposes of this title,
23 the term ‘SMART trust’ means a trust forming part
24 of a defined benefit plan if—

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

3 “(B) a participant’s benefits under the
4 plan are based solely on the balance of a separate
5 account in such plan of such participant,

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

8 “(D) the only contributions to such trust
9 are employer contributions.

10 “(2) PARTICIPATION REQUIREMENTS.—A plan
11 meets the requirements of this paragraph for any
12 year only if the requirements of subsection (b)(2)
13 are met for such year.

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

17 “(4) BENEFIT FORM.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), a plan meets the require-
20 ments of this paragraph only if the require-
21 ments of subsection (b)(4) are met. For pur-
22 poses of this subparagraph, a plan may satisfy
23 the requirements of subsection (b)(4) by pur-
24 chasing an annuity contract which meets the re-
25 quirements of subsection (b)(4).

1 “(B) DIRECT TRANSFERS TO INDIVIDUAL
2 RETIREMENT PLAN OR SMART ANNUITY.—A
3 plan shall not fail to meet the requirements of
4 this paragraph by reason of permitting, at the
5 election of the employee, a trustee-to-trustee
6 transfer of the entire balance to the credit of
7 the employee to an individual retirement ac-
8 count described in section 408(a), an individual
9 retirement annuity described in section 408(b)
10 (other than an endowment contract), or a
11 SMART annuity.

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

16 “(6) FUNDING.—

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

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

22 “(ii) in the case of a plan which has
23 an unfunded annuity amount with respect
24 to the account of any participant, the plan
25 requires that the employer make an addi-

1 tional contribution to such plan (at the
2 time the annuity contract to which such
3 amount relates is purchased) equal to the
4 unfunded annuity amount, and

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

12 “(B) UNFUNDED ANNUITY AMOUNT.—For
13 purposes of this paragraph, the term ‘unfunded
14 annuity amount’ means, with respect to the ac-
15 count of any participant, the excess (if any)
16 of—

17 “(i) the amount necessary to purchase
18 an annuity contract which meets the re-
19 quirements of subsection (b)(4), over

20 “(ii) the balance in such account at
21 the time such contract is purchased.

22 “(C) UNFUNDED PRIOR YEAR LIABIL-
23 ITY.—For purposes of this paragraph, the term
24 ‘unfunded prior year liability’ means, with re-
25 spect to any plan year, the excess (if any) of—

1 “(i) the aggregate of the accrued li-
2 abilities under the plan as of the close of
3 the prior plan year, over

4 “(ii) the value of the plan’s assets de-
5 termined under section 412(c)(2) as of the
6 close of the plan year (determined without
7 regard to any contributions for such plan
8 year).

9 Such accrued liabilities shall be determined
10 using the assumptions specified in subsection
11 (b)(6)(B).

12 “(D) CHANGES IN MORTALITY TABLE.—If
13 the applicable mortality table under section
14 417(e)(3) for any plan year is not the same as
15 such table for the prior plan year, the Secretary
16 shall prescribe regulations which phase in the
17 effect of the changes over a reasonable period
18 of plan years determined by the Secretary.

19 “(E) DISREGARD ASSUMPTIONS FOR EX-
20 PENSES.—For purposes of this paragraph, the
21 assumption specified in subsection (b)(6)(B)(iv)
22 shall be disregarded.

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

1 “(A) for an individual account for each
2 participant, and

3 “(B) for benefits based solely on—

4 “(i) the amount contributed to the
5 participant’s account, and

6 “(ii) any income, expenses, gains and
7 losses, and any forfeitures of accounts of
8 other participants which may be allocated
9 to such participant’s account.

10 “(8) TRUST MAY NOT HOLD SECURITIES WHICH
11 ARE NOT READILY TRADABLE.—A plan meets the
12 requirements of this paragraph only if the plan pro-
13 hibits the trust from holding directly or indirectly se-
14 curities which are not readily tradable on an estab-
15 lished securities market or otherwise. Nothing in
16 this paragraph shall prohibit the trust from holding
17 insurance company products regulated by State law.

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

22 “(d) SPECIAL RULES FOR SMART ANNUITIES AND
23 TRUSTS.—

24 “(1) CERTAIN REQUIREMENTS TREATED AS
25 MET.—For purposes of section 401(a), a SMART

1 annuity and a SMART trust shall be treated as
2 meeting the requirements of the following provisions:

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

5 “(B) Section 401(a)(26) (relating to mini-
6 mum participation).

7 “(C) Section 410 (relating to minimum
8 participation and coverage requirements).

9 “(D) Section 411(b) (relating to accrued
10 benefit requirements).

11 “(E) Paragraphs (6) and (7) of section
12 412(c) (relating to full funding limitation).

13 “(F) Section 415 (relating to limitations
14 on benefits and contributions under qualified
15 plans).

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

18 “(2) CONTRIBUTIONS NOT TAKEN INTO AC-
19 COUNT IN APPLYING LIMITS TO OTHER PLANS.—
20 Contributions to a SMART annuity or a SMART
21 trust shall not be taken into account in applying sec-
22 tions 404 and 415 to other plans maintained by the
23 employer.”

24 (b) DEDUCTION LIMITS NOT TO APPLY TO EM-
25 PLOYER CONTRIBUTIONS.—

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

5 “(n) SPECIAL RULES FOR SMART ANNUITIES AND
6 TRUSTS.—

7 “(1) IN GENERAL.—Employer contributions to
8 a SMART annuity or a SMART trust shall be treat-
9 ed as if they are made to a plan subject to the re-
10 quirements of this section.

11 “(2) TIMING.—

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

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

24 (2) COORDINATION WITH DEDUCTION UNDER
25 SECTION 219.—

1 (A) Section 219(b) (relating to maximum
2 amount of deduction) is amended by adding at
3 the end the following new paragraph:

4 “(5) SPECIAL RULE FOR SMART ANNUITIES.—
5 This section shall not apply with respect to any
6 amount contributed to a SMART annuity estab-
7 lished under section 408B(b).”

8 (B) Section 219(g)(5)(A) (defining active
9 participant) is amended by striking “or” at the
10 end of clause (v) and by adding at the end the
11 following new clause:

12 “(vii) any SMART annuity (within
13 the meaning of section 408B), or”.

14 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—

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

18 “(l) TREATMENT OF SMART ANNUITIES.—Rules
19 similar to the rules of paragraphs (1) and (3) of sub-
20 section (h) shall apply to contributions and distributions
21 with respect to SMART annuities under section 408B.”

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

24 “(H) SMART ANNUITIES.—This para-
25 graph shall not apply to any amount paid or

1 distributed out of a SMART annuity (as de-
2 fined in section 408B) unless it is paid in a
3 trustee-to-trustee transfer into another SMART
4 annuity.”

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

9 “(9) SPECIAL RULES FOR SMART ANNUITIES
10 AND TRUSTS.—In the case of—

11 “(A) any amount received from a SMART
12 annuity or a SMART trust (within the meaning
13 of section 408B), and

14 “(B) any individual retirement plan if any
15 amount was received by such plan from a such
16 an annuity or trust,

17 paragraph (1) shall be applied by substituting ‘20
18 percent’ for ‘10 percent’ and paragraph (2) shall be
19 applied by substituting ‘age 65’ for ‘age 59½.’”

20 (e) SIMPLIFIED EMPLOYER REPORTS.—

21 (1) SMART ANNUITIES.—Section 408(l) (relat-
22 ing to simplified employer reports) is amended by
23 adding at the end the following new paragraph:

24 “(3) SMART ANNUITIES.—

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

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

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

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

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

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

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

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

22 “(vii) the number of employees with
23 respect to whom contributions are required
24 to be made for such year under section
25 408B(b)(5)(D).

1 “(C) REPORTING BY ISSUER OF SMART AN-
2 NUITY.—

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

7 “(I) the benefits guaranteed at
8 age 65 under the annuity, and

9 “(II) the cash surrender value of
10 the annuity.

11 “(ii) SUMMARY DESCRIPTION.—The
12 issuer of any SMART annuity shall pro-
13 vide to the employer maintaining the annu-
14 ity for each year a description containing
15 the following information:

16 “(I) The name and address of
17 the employer and the issuer.

18 “(II) The requirements for eligi-
19 bility for participation.

20 “(III) The benefits provided with
21 respect to the annuity.

22 “(IV) The procedures for, and ef-
23 fects of, withdrawals (including roll-
24 overs) from the annuity.

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

6 (2) SMART TRUSTS.—Section 6059 (relating
7 to actuarial reports) is amended by redesignating
8 subsections (c) and (d) as subsections (d) and (e),
9 respectively, and by inserting after subsection (b)
10 the following new subsection:

11 “(c) SMART TRUSTS.—In the case of a SMART
12 Trust (within the meaning of section 408B), the Secretary
13 shall require a simplified actuarial report which contains
14 information similar to the information required in section
15 408(l)(3)(B).”

16 (f) CONFORMING AMENDMENTS.—

17 (1) Subparagraph (A) of section 219(b)(5) is
18 amended by striking “or” at the end of clause (v)
19 and by inserting after clause (vi) the following new
20 clause:

21 “(vii) any SMART trust or SMART
22 annuity (within the meaning of section
23 408B), or”.

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

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

4 “(E) a SMART annuity described in sec-
5 tion 408B.”

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

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

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

16 (g) REPORTING REQUIREMENTS UNDER ERISA.—
17 Section 101 of the Employee Retirement Income Security
18 Act of 1974 (29 U.S.C. 1021) is amended by redesignat-
19 ing subsection (h) as subsection (i) and by inserting after
20 subsection (g) the following new subsection:

21 “(h) SMART ANNUITIES.—

22 “(1) NO EMPLOYER REPORTS.—Except as pro-
23 vided in this subsection, no report shall be required
24 under this section by an employer maintaining a

1 SMART annuity under section 408B(b) of the Inter-
2 nal Revenue Code of 1986.

3 “(2) SUMMARY DESCRIPTION.—The issuer of
4 any SMART annuity shall provide to the employer
5 maintaining the annuity for each year a description
6 containing the following information:

7 “(A) The name and address of the em-
8 ployer and the issuer.

9 “(B) The requirements for eligibility for
10 participation.

11 “(C) The benefits provided with respect to
12 the annuity.

13 “(D) The procedures for, and effects of,
14 withdrawals (including rollovers) from the an-
15 nuity.”

16 “(3) EMPLOYEE NOTIFICATION.—The employer
17 shall provide each employee eligible to participate in
18 the SMART annuity with the description described
19 in paragraph (2) at the same time as the notifica-
20 tion required under section 408B(b)(5)(B) of the In-
21 ternal Revenue Code of 1986.”

22 (h) CLERICAL AMENDMENT.—The table of sections
23 for subpart A of part I of subchapter D of chapter 1 is
24 amended by inserting after the item relating to section
25 408A the following new item:

“Sec. 408B. SMART plans.”

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

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

6 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
7 Paragraph (2) of section 411(a) (relating to employer con-
8 tributions) is amended—

9 (1) by inserting “, and, if applicable, (C)” after
10 “or (B)”, and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(C) MATCHING CONTRIBUTIONS.—In the
14 case of a plan that includes an accrued benefit
15 derived from matching contributions (as defined
16 in section 401(m)(4)(A)), the plan satisfies the
17 requirements of this subparagraph if—

18 “(i) if an employee who has completed
19 at least 3 years of service has a nonforfeit-
20 able right to 100 percent of the employee’s
21 accrued benefit derived from such match-
22 ing contributions, or

23 “(ii) an employee has a nonforfeitable
24 right to a percentage of the employee’s ac-
25 crued benefit derived from employer

1 matching contributions (as so defined) de-
 2 termined under the following table:

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

3 For purposes of this subparagraph, matching
 4 contributions shall be taken into account re-
 5 gardless of whether the matching contributions
 6 are made to the same plan as the contributions
 7 being matched, and matching contributions to
 8 any plan shall be taken into account if such
 9 matching contributions are made with respect
 10 to after-tax employee contributions and if the
 11 employer’s limit on matching contributions with
 12 respect to such after-tax employee contributions
 13 is coordinated with the employer’s limit on
 14 matching contributions with respect to con-
 15 tributions under such section.”.

16 (b) AMENDMENT OF ERISA.—Paragraph (2) of sec-
 17 tion 203(a) of the Employee Retirement Income Security
 18 Act of 1974 (29 U.S.C. 1053(a)) is amended—

19 (1) by inserting “, and, if applicable, (C)” after
 20 “or (B)”, and

21 (2) by adding at the end the following new sub-
 22 paragraph:

1 “(C) MATCHING CONTRIBUTIONS.—In the
 2 case of a plan that includes an accrued benefit
 3 derived from matching contributions (as defined
 4 in section 401(m)(4)(A) of the Internal Reve-
 5 nue Code of 1986), the plan satisfies the re-
 6 quirements of this subparagraph if—

7 “(i) if an employee who has completed
 8 at least 3 years of service has a nonforfeit-
 9 able right to 100 percent of the employee’s
 10 accrued benefit derived from such match-
 11 ing contributions, or

12 “(ii) an employee has a nonforfeitable
 13 right to a percentage of the employee’s ac-
 14 crued benefit derived from employer
 15 matching contributions (as so defined) de-
 16 termined under the following table:

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

17 For purposes of this subparagraph, matching
 18 contributions shall be taken into account re-
 19 gardless of whether the matching contributions
 20 are made to the same plan as the contributions
 21 being matched, and matching contributions to
 22 any plan shall be taken into account if such

1 matching contributions are made with respect
2 to after-tax employee contributions includible in
3 gross income and if the employer's limit on
4 matching contributions with respect to such in-
5 cludible employee contributions is coordinated
6 with the employer's limit on matching contribu-
7 tions with respect to contributions under such
8 section.”.

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graphs (2) and (3), the amendments made by this
12 section shall apply to plan years beginning after De-
13 cember 31, 1998.

14 (2) APPLICATION TO CURRENT EMPLOYEES.—
15 The amendments made by this section shall not
16 apply to any employee who does not have at least 1
17 hour of service in any plan year beginning after De-
18 cember 31, 1998.

19 (3) COLLECTIVE BARGAINING AGREEMENTS.—
20 In the case of a plan maintained pursuant to 1 or
21 more collective bargaining agreements between em-
22 ployee representatives and 1 or more employers rati-
23 fied by the date of the enactment of this Act, the
24 amendments made by this section shall not apply to

1 employees covered by any such agreement in plan
2 years beginning before the earlier of—

3 (A) the later of—

4 (i) the date on which the last of such
5 collective bargaining agreements termi-
6 nates (determined without regard to any
7 extension thereof on or after such date of
8 enactment), or

9 (ii) January 1, 1999, or

10 (B) January 1, 2003.

11 **SEC. 6. PENSION RIGHT TO KNOW PROPOSALS.**

12 (a) SPOUSE'S RIGHT TO KNOW DISTRIBUTION IN-
13 FORMATION.—

14 (1) AMENDMENT OF INTERNAL REVENUE
15 CODE.—Paragraph (3) of section 417(a) (relating to
16 definitions and special rules for purposes of mini-
17 mum survivor annuity requirements) is amended by
18 adding at the end the following new subparagraph:

19 “(C) EXPLANATION TO SPOUSE.—At the
20 time a plan provides a participant with a writ-
21 ten explanation under subparagraph (A) or (B),
22 such plan shall provide a copy of such expla-
23 nation to such participant's spouse. If the last
24 known address of the spouse is the same as the
25 last known address of the participant, the re-

1 requirement of the preceding sentence shall be
2 treated as met if the copy referred to in the
3 preceding sentence is included in a single mail-
4 ing made to such address and addressed to both
5 such participant and spouse.”.

6 (2) AMENDMENT OF ERISA.—Paragraph (3) of
7 section 205(c) of Employee Retirement Income Se-
8 curity Act of 1974 is amended by adding at the end
9 the following new subparagraph:

10 “(C) EXPLANATION TO SPOUSE.—At the
11 time a plan provides a participant with a writ-
12 ten explanation under subparagraph (A) or (B),
13 such plan shall provide a copy of such expla-
14 nation to such participant’s spouse. If the last
15 known address of the spouse is the same as the
16 last known address of the participant, the re-
17 quirement of the preceding sentence shall be
18 treated as met if the copy referred to in the
19 preceding sentence is included in a single mail-
20 ing made to such address and addressed to both
21 such participant and spouse.”.

22 (b) EMPLOYEE’S RIGHT TO KNOW OF OPPORTUNITY
23 FOR ELECTIVE CONTRIBUTIONS UNDER 401(k) PLANS.—
24 Subparagraph (D) of section 401(k)(12) (relating to no-
25 tice requirements) is amended—

1 are met if, under the arrangement, the em-
2 ployer is required, without regard to
3 whether the employee makes an elective
4 contribution or employee contribution, to
5 make a contribution to a defined contribu-
6 tion plan on behalf of each employee who
7 is not a highly compensated employee and
8 who is eligible to participate in the ar-
9 rangement in an amount equal to at least
10 1 percent of the employee's compensation.

11 “(iii) MATCHING CONTRIBUTIONS.—

12 The requirements of this clause are met if,
13 under the arrangement, the employer
14 makes matching contributions on behalf of
15 each employee who is not a highly com-
16 pensated employee in an amount equal
17 to—

18 “(I) 100 percent of the elective
19 contributions of the employee to the
20 extent such elective contributions do
21 not exceed 3 percent of the employee's
22 compensation, and

23 “(II) 50 percent of the elective
24 contributions of the employee to the
25 extent that such elective contributions

1 exceed 3 percent but do not exceed 5
2 percent of the employee's compensa-
3 tion.

4 “(iv) RATE FOR HIGHLY COM-
5 PENSATED EMPLOYEES.—The require-
6 ments of clause (iii) are not met if, under
7 the arrangement, the rate of matching con-
8 tribution with respect to any rate of elec-
9 tive contribution of a highly compensated
10 employee is greater than that with respect
11 to an employee who is not a highly com-
12 pensated employee.

13 “(v) ALTERNATIVE PLAN DESIGNS.—
14 If the rate of matching contribution with
15 respect to any rate of elective contribution
16 is not equal to the percentage required
17 under clause (iii), an arrangement shall
18 not be treated as failing to meet the re-
19 quirements of clause (iii) if—

20 “(I) the rate of an employer's
21 matching contribution does not in-
22 crease as an employee's rate of elec-
23 tive contribution increase, and

24 “(II) the aggregate amount of
25 matching contributions at such rate of

1 elective contribution is at least equal
2 to the aggregate amount of matching
3 contributions which would be made if
4 matching contributions were made on
5 the basis of the percentages described
6 in clause (iii).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to years beginning after December
9 31, 1998.

10 **SEC. 8. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
11 **EES.**

12 (a) IN GENERAL.—Subparagraph (B) of section
13 414(q)(1) (defining highly compensated employee) is
14 amended to read as follows:

15 “(B) for the preceding year had compensa-
16 tion from the employer in excess of \$80,000.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1)(A) Subsection (q) of section 414 is amended
19 by striking paragraphs (3), (5), and (7) and by re-
20 designating paragraphs (4), (6), (8), and (9) as
21 paragraphs (3) through (6), respectively.

22 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
23 408(k)(2)(C), and 416(i)(1)(D) are each amended
24 by striking “section 414(q)(4)” and inserting “sec-
25 tion 414(q)(3)”.

1 (C) Section 416(i)(1)(A) is amended by striking
2 “section 414(q)(5)” and inserting “section
3 414(r)(9)”.

4 (2)(A) Section 414(r) is amended by adding at
5 the end the following new paragraph:

6 “(9) EXCLUDED EMPLOYEES.—For purposes of
7 paragraph (2)(A), the following employees shall be
8 excluded:

9 “(A) Employees who have not completed 6
10 months of service.

11 “(B) Employees who normally work less
12 than 17½ hours per week.

13 “(C) Employees who normally work during
14 not more than 6 months during any year.

15 “(D) Employees who have not attained the
16 age of 21.

17 “(E) Except to the extent provided in reg-
18 ulations, employees who are included in a unit
19 of employees covered by an agreement which
20 the Secretary of Labor finds to be a collective
21 bargaining agreement between employee rep-
22 resentatives and the employer.”.

23 (B) Subparagraph (A) of section 414(r)(2) is
24 amended by striking “subsection (q)(5)” and insert-
25 ing “paragraph (9)”.

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

4 **SEC. 9. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
5 **SECTION 415.**

6 (a) COMPENSATION LIMIT.—Paragraph (11) of sec-
7 tion 415(b) (relating to limitation for defined benefit
8 plans) is amended to read as follows:

9 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
10 MENTAL AND MULTIEMPLOYER PLANS.—In the case
11 of a governmental plan (as defined in section
12 414(d)) or a multiemployer plan (as defined in sec-
13 tion 414(f)), subparagraph (B) of paragraph (1)
14 shall not apply.”.

15 (b) EXEMPTION FOR SURVIVOR AND DISABILITY
16 BENEFITS.—Subparagraph (I) of section 415(b)(2) (relat-
17 ing to limitation for defined benefit plans) is amended—

18 (1) by inserting “or a multiemployer plan (as
19 defined in section 414(f))” after “section 414(d))”
20 in clause (i),

21 (2) by inserting “or multiemployer plan” after
22 “governmental plan” in clause (ii), and

23 (3) by inserting “AND MULTIEMPLOYER” after
24 “GOVERNMENTAL” in the heading.

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

4 **SEC. 10. FULL FUNDING LIMITATION FOR MULTIEMPLOYER**
5 **PLANS.**

6 (a) AMENDMENTS TO CODE.—

7 (1) FULL FUNDING LIMITATION.—Section
8 412(c)(7)(C) (relating to full funding limitation) is
9 amended—

10 (A) by inserting “or in the case of a multi-
11 employer plan,” after “paragraph (6)(B),”, and

12 (B) by inserting “AND MULTIEMPLOYER
13 PLANS” after “PARAGRAPH (6)(B)” in the head-
14 ing thereof.

15 (2) VALUATION.—Section 412(c)(9) (relating to
16 annual valuation) is amended—

17 (A) by inserting “(3 years in the case of a
18 multiemployer plan)” after “year”, and

19 (B) by striking “ANNUAL VALUATION” in
20 the heading and inserting “VALUATION”.

21 (b) AMENDMENTS TO ERISA.—

22 (1) FULL FUNDING LIMITATION.—Section
23 302(c)(7)(C) of the Employee Retirement Income
24 Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is
25 amended—

1 (A) by inserting “or in the case of a multi-
2 employer plan,” after “paragraph (6)(B),” and

3 (B) by inserting “AND MULTIEMPLOYER
4 PLANS” after “PARAGRAPH (6)(B)” in the head-
5 ing thereof.

6 (2) VALUATION.—Section 302(c)(9) of such Act
7 (29 U.S.C. 1082(c)(9)) is amended—

8 (A) by inserting “(3 years in the case of a
9 multiemployer plan)” after “year”, and

10 (B) by striking “ANNUAL VALUATION” in
11 the heading and inserting “VALUATION”.

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

15 **SEC. 11. ELIMINATION OF PARTIAL TERMINATION RULES**
16 **FOR MULTIEMPLOYER PLANS.**

17 (a) PARTIAL TERMINATION RULES FOR MULTIEM-
18 PLOYER PLANS.—Section 411(d)(3) (relating to termi-
19 nation or partial termination; discontinuance of contribu-
20 tions) is amended by adding at the end the following new
21 sentence: “This paragraph shall not apply in the case of
22 a partial termination of a multiemployer plan.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to partial terminations beginning
3 after December 31, 1998.

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