

107TH CONGRESS  
1ST SESSION

# H. R. 10

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## AN ACT

To provide for pension reform, and for other  
purposes.



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To provide for pension reform, 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,*

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**  
 2 **TENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the  
 4 “Comprehensive Retirement Security and Pension Reform  
 5 Act of 2001”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
 7 wise expressly provided, whenever in this Act an amend-  
 8 ment or repeal is expressed in terms of an amendment  
 9 to, or repeal of, a section or other provision, the reference  
 10 shall be considered to be made to a section or other provi-  
 11 sion of the Internal Revenue Code of 1986.

12 (c) TABLE OF CONTENTS.—The table of contents of  
 13 this Act is as follows:

Sec. 1. Short title; references; table of contents.

**TITLE I—INDIVIDUAL RETIREMENT ACCOUNT PROVISIONS**

Sec. 101. Modification of IRA contribution limits.

**TITLE II—EXPANDING COVERAGE**

Sec. 201. Increase in benefit and contribution limits.

Sec. 202. Plan loans for subchapter S owners, partners, and sole proprietors.

Sec. 203. Modification of top-heavy rules.

Sec. 204. Elective deferrals not taken into account for purposes of deduction limits.

Sec. 205. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.

Sec. 206. Elimination of user fee for requests to IRS regarding pension plans.

Sec. 207. Deduction limits.

Sec. 208. Option to treat elective deferrals as after-tax contributions.

Sec. 209. Availability of qualified plans to self-employed individuals who are exempt from the self-employment tax by reason of their religious beliefs.

Sec. 210. Certain nonresident aliens excluded in applying minimum coverage requirements.

**TITLE III—ENHANCING FAIRNESS FOR WOMEN**

Sec. 301. Catch-up contributions for individuals age 50 or over.

Sec. 302. Equitable treatment for contributions of employees to defined contribution plans.

- Sec. 303. Faster vesting of certain employer matching contributions.
- Sec. 304. Modifications to minimum distribution rules.
- Sec. 305. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
- Sec. 306. Provisions relating to hardship distributions.
- Sec. 307. Waiver of tax on nondeductible contributions for domestic or similar workers.

#### TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 401. Rollovers allowed among various types of plans.
- Sec. 402. Rollovers of IRAs into workplace retirement plans.
- Sec. 403. Rollovers of after-tax contributions.
- Sec. 404. Hardship exception to 60-day rule.
- Sec. 405. Treatment of forms of distribution.
- Sec. 406. Rationalization of restrictions on distributions.
- Sec. 407. Purchase of service credit in governmental defined benefit plans.
- Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
- Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

#### TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 501. Repeal of percent of current liability funding limit.
- Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
- Sec. 503. Excise tax relief for sound pension funding.
- Sec. 504. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.
- Sec. 505. Treatment of multiemployer plans under section 415.
- Sec. 506. Protection of investment of employee contributions to 401(k) plans.
- Sec. 507. Periodic pension benefits statements.
- Sec. 508. Prohibited allocations of stock in S corporation ESOP.

#### TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Modification of timing of plan valuations.
- Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 603. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 604. Employees of tax-exempt entities.
- Sec. 605. Clarification of treatment of employer-provided retirement advice.
- Sec. 606. Reporting simplification.
- Sec. 607. Improvement of employee plans compliance resolution system.
- Sec. 608. Repeal of the multiple use test.
- Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.
- Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 611. Notice and consent period regarding distributions.
- Sec. 612. Annual report dissemination.
- Sec. 613. Technical corrections to SAVER Act.

#### TITLE VII—OTHER ERISA PROVISIONS

- Sec. 701. Missing participants.  
 Sec. 702. Reduced PBGC premium for new plans of small employers.  
 Sec. 703. Reduction of additional PBGC premium for new and small plans.  
 Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.  
 Sec. 705. Substantial owner benefits in terminated plans.  
 Sec. 706. Civil penalties for breach of fiduciary responsibility.  
 Sec. 707. Benefit suspension notice.  
 Sec. 708. Studies.

#### TITLE VIII—PLAN AMENDMENTS

- Sec. 801. Provisions relating to plan amendments.

## **TITLE I—INDIVIDUAL RETIREMENT ACCOUNTS**

### **SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.**

#### (a) INCREASE IN CONTRIBUTION LIMIT.—

(1) IN GENERAL.—Paragraph (1)(A) of section 219(b) (relating to maximum amount of deduction) is amended by striking “\$2,000” and inserting “the deductible amount”.

(2) DEDUCTIBLE AMOUNT.—Section 219(b) is amended by adding at the end the following new paragraph:

“(5) DEDUCTIBLE AMOUNT.—For purposes of paragraph (1)(A)—

“(A) IN GENERAL.—The deductible amount shall be determined in accordance with the following table:

<b>“For taxable years beginning in:</b>	<b>The deductible amount is:</b>
2002 .....	\$3,000
2003 .....	\$4,000
2004 and thereafter .....	\$5,000.

1           “(B) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS 50 OR OLDER.—In the case of an individual who has attained the age of 50 before the close of the taxable year, the deductible amount for taxable years beginning in 2002 or 2003 shall be \$5,000.

7           “(C) COST-OF-LIVING ADJUSTMENT.—

8           “(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2004, the \$5,000 amount under subparagraph (A) shall be increased by an amount equal to—

13           “(I) such dollar amount, multiplied by

15           “(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.

22           “(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of \$500, such amount

1                   shall be rounded to the next lower multiple  
2                   of \$500.”.

3       (b) CONFORMING AMENDMENTS.—

4           (1) Section 408(a)(1) is amended by striking  
5       “in excess of \$2,000 on behalf of any individual”  
6       and inserting “on behalf of any individual in excess  
7       of the amount in effect for such taxable year under  
8       section 219(b)(1)(A)”.

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

12          (3) Section 408(b) is amended by striking  
13       “\$2,000” in the matter following paragraph (4) and  
14       inserting “the dollar amount in effect under section  
15       219(b)(1)(A)”.

16          (4) Section 408(j) is amended by striking  
17       “\$2,000”.

18          (5) Section 408(p)(8) is amended by striking  
19       “\$2,000” and inserting “the dollar amount in effect  
20       under section 219(b)(1)(A)”.

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



## **TITLE II—EXPANDING COVERAGE**

### **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LIMITS.**

#### **(a) DEFINED BENEFIT PLANS.—**

##### **(1) DOLLAR LIMIT.—**

(A) Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans) is amended by striking “\$90,000” and inserting “\$160,000”.

(B) Subparagraphs (C) and (D) of section 415(b)(2) are each amended by striking “\$90,000” each place it appears in the headings and the text and inserting “\$160,000”.

(C) Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking “the greater of \$68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for ‘\$90,000’” and inserting “one-half the amount otherwise applicable for such year under paragraph (1)(A) for ‘\$160,000’”.

(2) **LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE AGE 62.**—Subparagraph (C) of section 415(b)(2) is amended by striking “the social security

1 retirement age” each place it appears in the heading  
 2 and text and inserting “age 62” and by striking the  
 3 second sentence.

4 (3) LIMIT INCREASED WHEN BENEFIT BEGINS  
 5 AFTER AGE 65.—Subparagraph (D) of section  
 6 415(b)(2) is amended by striking “the social security  
 7 retirement age” each place it appears in the heading  
 8 and text and inserting “age 65”.

9 (4) COST-OF-LIVING ADJUSTMENTS.—Sub-  
 10 section (d) of section 415 (related to cost-of-living  
 11 adjustments) is amended—

12 (A) by striking “\$90,000” in paragraph  
 13 (1)(A) and inserting “\$160,000”; and

14 (B) in paragraph (3)(A)—

15 (i) by striking “\$90,000” in the head-  
 16 ing and inserting “\$160,000”; and

17 (ii) by striking “October 1, 1986” and  
 18 inserting “July 1, 2001”.

19 (5) CONFORMING AMENDMENTS.—

20 (A) Section 415(b)(2) is amended by strik-  
 21 ing subparagraph (F).

22 (B) Section 415(b)(9) is amended to read  
 23 as follows:

24 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE  
 25 PILOTS.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), in the case of any partici-  
3           pant who is a commercial airline pilot, if, as of  
4           the time of the participant’s retirement, regula-  
5           tions prescribed by the Federal Aviation Admin-  
6           istration require an individual to separate from  
7           service as a commercial airline pilot after at-  
8           taining any age occurring on or after age 60  
9           and before age 62, paragraph (2)(C) shall be  
10          applied by substituting such age for age 62.

11          “(B) INDIVIDUALS WHO SEPARATE FROM  
12          SERVICE BEFORE AGE 60.—If a participant de-  
13          scribed in subparagraph (A) separates from  
14          service before age 60, the rules of paragraph  
15          (2)(C) shall apply.”.

16          (C) Section 415(b)(10)(C)(i) is amended  
17          by striking “applied without regard to para-  
18          graph (2)(F)”.

19          (b) DEFINED CONTRIBUTION PLANS.—

20          (1) DOLLAR LIMIT.—Subparagraph (A) of sec-  
21          tion 415(c)(1) (relating to limitation for defined con-  
22          tribution plans) is amended by striking “\$30,000”  
23          and inserting “\$40,000”.

1           (2)    COST-OF-LIVING    ADJUSTMENTS.—Sub-  
2           section (d) of section 415 (related to cost-of-living  
3           adjustments) is amended—

4                   (A) by striking “\$30,000” in paragraph  
5                   (1)(C) and inserting “\$40,000”; and

6                   (B) in paragraph (3)(D)—

7                           (i) by striking “\$30,000” in the head-  
8                           ing and inserting “\$40,000”; and

9                           (ii) by striking “October 1, 1993” and  
10                          inserting “July 1, 2001”.

11       (c) QUALIFIED TRUSTS.—

12           (1)        COMPENSATION        LIMIT.—Sections  
13           401(a)(17), 404(l), 408(k), and 505(b)(7) are each  
14           amended by striking “\$150,000” each place it ap-  
15           pears and inserting “\$200,000”.

16           (2) BASE PERIOD AND ROUNDING OF COST-OF-  
17           LIVING ADJUSTMENT.—Subparagraph (B) of section  
18           401(a)(17) is amended—

19                   (A) by striking “October 1, 1993” and in-  
20                   serting “July 1, 2001”; and

21                   (B) by striking “\$10,000” both places it  
22                   appears and inserting “\$5,000”.

23       (d) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Paragraph (1) of section 402(g) (relating to limitation on exclusion for elective deferrals) is amended to read as follows:

“(1) IN GENERAL.—

“(A) LIMITATION.—Notwithstanding subsections (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual’s gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.

“(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A), the applicable dollar amount shall be the amount determined in accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2002 .....	\$11,000
2003 .....	\$12,000
2004 .....	\$13,000
2005 .....	\$14,000
2006 or thereafter .....	\$15,000.”.

(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (5) of section 402(g) is amended to read as follows:

“(5) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2006, the Secretary shall adjust the \$15,000 amount under paragraph (1)(B) at the same time

1 and in the same manner as under section 415(d),  
 2 except that the base period shall be the calendar  
 3 quarter beginning July 1, 2005, and any increase  
 4 under this paragraph which is not a multiple of  
 5 \$500 shall be rounded to the next lowest multiple of  
 6 \$500.”.

7 (3) CONFORMING AMENDMENTS.—

8 (A) Section 402(g) (relating to limitation  
 9 on exclusion for elective deferrals), as amended  
 10 by paragraphs (1) and (2), is further amended  
 11 by striking paragraph (4) and redesignating  
 12 paragraphs (5), (6), (7), (8), and (9) as para-  
 13 graphs (4), (5), (6), (7), and (8), respectively.

14 (B) Paragraph (2) of section 457(c) is  
 15 amended by striking “402(g)(8)(A)(iii)” and in-  
 16 serting “402(g)(7)(A)(iii)”.

17 (C) Clause (iii) of section 501(c)(18)(D) is  
 18 amended by striking “(other than paragraph  
 19 (4) thereof)”.

20 (e) DEFERRED COMPENSATION PLANS OF STATE  
 21 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-  
 22 ZATIONS.—

23 (1) IN GENERAL.—Section 457 (relating to de-  
 24 ferred compensation plans of State and local govern-  
 25 ments and tax-exempt organizations) is amended—

1 (A) in subsections (b)(2)(A) and (c)(1) by  
 2 striking “\$7,500” each place it appears and in-  
 3 serting “the applicable dollar amount”; and

4 (B) in subsection (b)(3)(A) by striking  
 5 “\$15,000” and inserting “twice the dollar  
 6 amount in effect under subsection (b)(2)(A)”.

7 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-  
 8 LIVING ADJUSTMENT.—Paragraph (15) of section  
 9 457(e) is amended to read as follows:

10 “(15) APPLICABLE DOLLAR AMOUNT.—

11 “(A) IN GENERAL.—The applicable dollar  
 12 amount shall be the amount determined in ac-  
 13 cordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2002 .....	\$11,000
2003 .....	\$12,000
2004 .....	\$13,000
2005 .....	\$14,000
2006 or thereafter .....	\$15,000.

14 “(B) COST-OF-LIVING ADJUSTMENTS.—In  
 15 the case of taxable years beginning after De-  
 16 cember 31, 2006, the Secretary shall adjust the  
 17 \$15,000 amount under subparagraph (A) at the  
 18 same time and in the same manner as under  
 19 section 415(d), except that the base period shall  
 20 be the calendar quarter beginning July 1, 2005,  
 21 and any increase under this paragraph which is

1 not a multiple of \$500 shall be rounded to the  
 2 next lowest multiple of \$500.”.

3 (f) SIMPLE RETIREMENT ACCOUNTS.—

4 (1) LIMITATION.—Clause (ii) of section  
 5 408(p)(2)(A) (relating to general rule for qualified  
 6 salary reduction arrangement) is amended by strik-  
 7 ing “\$6,000” and inserting “the applicable dollar  
 8 amount”.

9 (2) APPLICABLE DOLLAR AMOUNT.—Subpara-  
 10 graph (E) of 408(p)(2) is amended to read as fol-  
 11 lows:

12 “(E) APPLICABLE DOLLAR AMOUNT; COST-  
 13 OF-LIVING ADJUSTMENT.—

14 “(i) IN GENERAL.—For purposes of  
 15 subparagraph (A)(ii), the applicable dollar  
 16 amount shall be the amount determined in  
 17 accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2002 .....	\$7,000
2003 .....	\$8,000
2004 .....	\$9,000
2005 or thereafter .....	\$10,000.

18 “(ii) COST-OF-LIVING ADJUSTMENT.—

19 In the case of a year beginning after De-  
 20 cember 31, 2005, the Secretary shall ad-  
 21 just the \$10,000 amount under clause (i)  
 22 at the same time and in the same manner



1 as under section 415(d), except that the  
2 base period taken into account shall be the  
3 calendar quarter beginning July 1, 2004,  
4 and any increase under this subparagraph  
5 which is not a multiple of \$500 shall be  
6 rounded to the next lower multiple of  
7 \$500.”.

8 (3) CONFORMING AMENDMENTS.—

9 (A) Subclause (I) of section  
10 401(k)(11)(B)(i) is amended by striking  
11 “\$6,000” and inserting “the amount in effect  
12 under section 408(p)(2)(A)(ii)”.

13 (B) Section 401(k)(11) is amended by  
14 striking subparagraph (E).

15 (g) ROUNDING RULE RELATING TO DEFINED BEN-

16 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—

17 Paragraph (4) of section 415(d) is amended to read as  
18 follows:

19 “(4) ROUNDING.—

20 “(A) \$160,000 AMOUNT.—Any increase  
21 under subparagraph (A) of paragraph (1) which  
22 is not a multiple of \$5,000 shall be rounded to  
23 the next lowest multiple of \$5,000.

24 “(B) \$40,000 AMOUNT.—Any increase  
25 under subparagraph (C) of paragraph (1) which

1 is not a multiple of \$1,000 shall be rounded to  
 2 the next lowest multiple of \$1,000.”.

3 (h) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to years beginning after December  
 5 31, 2001.

6 **SEC. 202. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**  
 7 **NERS, AND SOLE PROPRIETORS.**

8 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
 9 Subparagraph (B) of section 4975(f)(6) (relating to ex-  
 10 emptions not to apply to certain transactions) is amended  
 11 by adding at the end the following new clause:

12 “(iii) LOAN EXCEPTION.—For pur-  
 13 poses of subparagraph (A)(i), the term  
 14 ‘owner-employee’ shall only include a per-  
 15 son described in subclause (II) or (III) of  
 16 clause (i).”.

17 (b) AMENDMENT OF ERISA.—Section 408(d)(2) of  
 18 the Employee Retirement Income Security Act of 1974  
 19 (29 U.S.C. 1108(d)(2)) is amended by adding at the end  
 20 the following new subparagraph:

21 “(C) For purposes of paragraph (1)(A), the term  
 22 ‘owner-employee’ shall only include a person described in  
 23 clause (ii) or (iii) of subparagraph (A).”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to years beginning after December  
 3 31, 2001.

4 **SEC. 203. MODIFICATION OF TOP-HEAVY RULES.**

5 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-  
 6 PLOYEE.—

7 (1) IN GENERAL.—Section 416(i)(1)(A) (defin-  
 8 ing key employee) is amended—

9 (A) by striking “or any of the 4 preceding  
 10 plan years” in the matter preceding clause (i);

11 (B) by striking clause (i) and inserting the  
 12 following:

13 “(i) an officer of the employer having  
 14 an annual compensation greater than  
 15 \$150,000,”;

16 (C) by striking clause (ii) and redesign-  
 17 ating clauses (iii) and (iv) as clauses (ii) and  
 18 (iii), respectively; and

19 (D) by striking the second sentence in the  
 20 matter following clause (iii), as redesignated by  
 21 subparagraph (C).

22 (2) CONFORMING AMENDMENT.—Section  
 23 416(i)(1)(B)(iii) is amended by striking “and sub-  
 24 paragraph (A)(ii)”.

1 (b) MATCHING CONTRIBUTIONS TAKEN INTO AC-  
 2 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—  
 3 Section 416(c)(2)(A) (relating to defined contribution  
 4 plans) is amended by adding at the end the following:  
 5 “Employer matching contributions (as defined in section  
 6 401(m)(4)(A)) shall be taken into account for purposes  
 7 of this subparagraph.”.

8 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE  
 9 DETERMINATION DATE TAKEN INTO ACCOUNT.—

10 (1) IN GENERAL.—Paragraph (3) of section  
 11 416(g) is amended to read as follows:

12 “(3) DISTRIBUTIONS DURING LAST YEAR BE-  
 13 FORE DETERMINATION DATE TAKEN INTO AC-  
 14 COUNT.—

15 “(A) IN GENERAL.—For purposes of  
 16 determining—

17 “(i) the present value of the cumu-  
 18 lative accrued benefit for any employee, or

19 “(ii) the amount of the account of any  
 20 employee,

21 such present value or amount shall be increased  
 22 by the aggregate distributions made with re-  
 23 spect to such employee under the plan during  
 24 the 1-year period ending on the determination  
 25 date. The preceding sentence shall also apply to

1 distributions under a terminated plan which if  
 2 it had not been terminated would have been re-  
 3 quired to be included in an aggregation group.

4 “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-  
 5 ICE DISTRIBUTION.—In the case of any dis-  
 6 tribution made for a reason other than separa-  
 7 tion from service, death, or disability, subpara-  
 8 graph (A) shall be applied by substituting ‘5-  
 9 year period’ for ‘1-year period’.”.

10 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—  
 11 Subparagraph (E) of section 416(g)(4) is  
 12 amended—

13 (A) by striking “LAST 5 YEARS” in the  
 14 heading and inserting “LAST YEAR BEFORE DE-  
 15 TERMINATION DATE”; and

16 (B) by striking “5-year period” and insert-  
 17 ing “1-year period”.

18 (d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph  
 19 (4) of section 416(g) (relating to other special rules for  
 20 top-heavy plans) is amended by adding at the end the fol-  
 21 lowing new subparagraph:

22 “(H) CASH OR DEFERRED ARRANGEMENTS  
 23 USING ALTERNATIVE METHODS OF MEETING  
 24 NONDISCRIMINATION REQUIREMENTS.—The

term ‘top-heavy plan’ shall not include a plan which consists solely of—

“(i) a cash or deferred arrangement which meets the requirements of section 401(k)(12), and

“(ii) matching contributions with respect to which the requirements of section 401(m)(11) are met.

If, but for this subparagraph, a plan would be treated as a top-heavy plan because it is a member of an aggregation group which is a top-heavy group, contributions under the plan may be taken into account in determining whether any other plan in the group meets the requirements of subsection (c)(2).”.

(e) FROZEN PLAN EXEMPT FROM MINIMUM BEN-

EFIT REQUIREMENT.—Subparagraph (C) of section 416(c)(1) (relating to defined benefit plans) is amended—

(A) by striking “clause (ii)” in clause (i) and inserting “clause (ii) or (iii)”; and

(B) by adding at the end the following:

“(iii) EXCEPTION FOR FROZEN PLAN.—For purposes of determining an employee’s years of service with the employer, any service with the employer shall

1           be disregarded to the extent that such  
2           service occurs during a plan year when the  
3           plan benefits (within the meaning of sec-  
4           tion 410(b)) no key employee or former  
5           key employee.”.

6           (f) ELIMINATION OF FAMILY ATTRIBUTION.—Sec-  
7   tion 416(i)(1)(B) (defining 5-percent owner) is amended  
8   by adding at the end the following new clause:

9                   “(iv) FAMILY ATTRIBUTION DIS-  
10           REGARDED.—Solely for purposes of apply-  
11           ing this paragraph (and not for purposes  
12           of any provision of this title which incor-  
13           porates by reference the definition of a key  
14           employee or 5-percent owner under this  
15           paragraph), section 318 shall be applied  
16           without regard to subsection (a)(1) thereof  
17           in determining whether any person is a 5-  
18           percent owner.”.

19           (g) EFFECTIVE DATE.—The amendments made by  
20   this section shall apply to years beginning after December  
21   31, 2001.

1 **SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**  
 2 **COUNT FOR PURPOSES OF DEDUCTION LIM-**  
 3 **ITS.**

4 (a) IN GENERAL.—Section 404 (relating to deduction  
 5 for contributions of an employer to an employees’ trust  
 6 or annuity plan and compensation under a deferred pay-  
 7 ment plan) is amended by adding at the end the following  
 8 new subsection:

9 “(n) ELECTIVE DEFERRALS NOT TAKEN INTO AC-  
 10 COUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective  
 11 deferrals (as defined in section 402(g)(3)) shall not be  
 12 subject to any limitation contained in paragraph (3), (7),  
 13 or (9) of subsection (a), and such elective deferrals shall  
 14 not be taken into account in applying any such limitation  
 15 to any other contributions.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 this section shall apply to years beginning after December  
 18 31, 2001.

19 **SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR**  
 20 **DEFERRED COMPENSATION PLANS OF STATE**  
 21 **AND LOCAL GOVERNMENTS AND TAX-EX-**  
 22 **EMPT ORGANIZATIONS.**

23 (a) IN GENERAL.—Subsection (c) of section 457 (re-  
 24 lating to deferred compensation plans of State and local  
 25 governments and tax-exempt organizations), as amended  
 26 by section 201, is amended to read as follows:



1       “(c) LIMITATION.—The maximum amount of the  
 2 compensation of any one individual which may be deferred  
 3 under subsection (a) during any taxable year shall not ex-  
 4 ceed the amount in effect under subsection (b)(2)(A) (as  
 5 modified by any adjustment provided under subsection  
 6 (b)(3)).”.

7       (b) EFFECTIVE DATE.—The amendment made by  
 8 subsection (a) shall apply to years beginning after Decem-  
 9 ber 31, 2001.

10 **SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO**  
 11 **IRS REGARDING PENSION PLANS.**

12       (a) ELIMINATION OF CERTAIN USER FEES.—The  
 13 Secretary of the Treasury or the Secretary’s delegate shall  
 14 not require payment of user fees under the program estab-  
 15 lished under section 10511 of the Revenue Act of 1987  
 16 for requests to the Internal Revenue Service for deter-  
 17 mination letters with respect to the qualified status of a  
 18 pension benefit plan maintained solely by one or more eli-  
 19 gible employers or any trust which is part of the plan.  
 20 The preceding sentence shall not apply to any request—

21               (1) made after the later of—

22                       (A) the fifth plan year the pension benefit  
 23 plan is in existence; or

1 (B) the end of any remedial amendment  
2 period with respect to the plan beginning within  
3 the first 5 plan years; or

4 (2) made by the sponsor of any prototype or  
5 similar plan which the sponsor intends to market to  
6 participating employers.

7 (b) PENSION BENEFIT PLAN.—For purposes of this  
8 section, the term “pension benefit plan” means a pension,  
9 profit-sharing, stock bonus, annuity, or employee stock  
10 ownership plan.

11 (c) ELIGIBLE EMPLOYER.—For purposes of this sec-  
12 tion, the term “eligible employer” has the same meaning  
13 given such term in section 408(p)(2)(C)(i)(I) of the Inter-  
14 nal Revenue Code of 1986. The determination of whether  
15 an employer is an eligible employer under this section shall  
16 be made as of the date of the request described in sub-  
17 section (a).

18 (d) DETERMINATION OF AVERAGE FEES  
19 CHARGED.—For purposes of any determination of average  
20 fees charged, any request to which subsection (a) applies  
21 shall not be taken into account.

22 (e) EFFECTIVE DATE.—The provisions of this section  
23 shall apply with respect to requests made after December  
24 31, 2001.

1 **SEC. 207. DEDUCTION LIMITS.**

2 (a) STOCK BONUS AND PROFIT SHARING TRUSTS.—

3 (1) IN GENERAL.—Subclause (I) of section  
4 404(a)(3)(A)(i) (relating to stock bonus and profit  
5 sharing trusts) is amended by striking “15 percent”  
6 and inserting “20 percent”.

7 (2) CONFORMING AMENDMENT.—Subparagraph  
8 (C) of section 404(h)(1) is amended by striking “15  
9 percent” each place it appears and inserting “20  
10 percent”.

11 (b) COMPENSATION.—

12 (1) IN GENERAL.—Section 404(a) (relating to  
13 general rule) is amended by adding at the end the  
14 following:

15 “(12) DEFINITION OF COMPENSATION.—For  
16 purposes of paragraphs (3), (7), (8), and (9), the  
17 term ‘compensation otherwise paid or accrued dur-  
18 ing the taxable year’ shall include amounts treated  
19 as ‘participant’s compensation’ under subparagraph  
20 (C) or (D) of section 415(c)(3).”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Subparagraph (B) of section 404(a)(3)  
23 is amended by striking the last sentence.

24 (B) Clause (i) of section 4972(c)(6)(B) is  
25 amended by striking “(within the meaning of  
26 section 404(a))” and inserting “(within the

1 meaning of section 404(a) and as adjusted  
 2 under section 404(a)(12))”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to years beginning after December  
 5 31, 2001.

6 **SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS**  
 7 **AFTER-TAX CONTRIBUTIONS.**

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

12 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-**  
 13 **RALS AS PLUS CONTRIBUTIONS.**

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

16 “(1) any designated plus contribution made by  
 17 an employee pursuant to the program shall be treat-  
 18 ed as an elective deferral for purposes of this chap-  
 19 ter, except that such contribution shall not be ex-  
 20 cludable from gross income, and

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

1       “(b) QUALIFIED PLUS CONTRIBUTION PROGRAM.—

2   For purposes of this section—

3               “(1) IN GENERAL.—The term ‘qualified plus  
4       contribution program’ means a program under which  
5       an employee may elect to make designated plus con-  
6       tributions in lieu of all or a portion of elective defer-  
7       rals the employee is otherwise eligible to make under  
8       the applicable retirement plan.

9               “(2) SEPARATE ACCOUNTING REQUIRED.—A  
10      program shall not be treated as a qualified plus con-  
11      tribution program unless the applicable retirement  
12      plan—

13              “(A) establishes separate accounts (‘des-  
14      ignated plus accounts’) for the designated plus  
15      contributions of each employee and any earn-  
16      ings properly allocable to the contributions, and

17              “(B) maintains separate recordkeeping  
18      with respect to each account.

19       “(c) DEFINITIONS AND RULES RELATING TO DES-  
20      IGNATED PLUS CONTRIBUTIONS.—For purposes of this  
21      section—

22              “(1) DESIGNATED PLUS CONTRIBUTION.—The  
23      term ‘designated plus contribution’ means any elec-  
24      tive deferral which—

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

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

6           “(2) DESIGNATION LIMITS.—The amount of  
7           elective deferrals which an employee may designate  
8           under paragraph (1) shall not exceed the excess (if  
9           any) of—

10           “(A) the maximum amount of elective de-  
11           ferrals excludable from gross income of the em-  
12           ployee for the taxable year (without regard to  
13           this section), over

14           “(B) the aggregate amount of elective de-  
15           ferrals of the employee for the taxable year  
16           which the employee does not designate under  
17           paragraph (1).

18           “(3) ROLLOVER CONTRIBUTIONS.—

19           “(A) IN GENERAL.—A rollover contribu-  
20           tion of any payment or distribution from a des-  
21           ignated plus account which is otherwise allow-  
22           able under this chapter may be made only if the  
23           contribution is to—

1 “(i) another designated plus account  
2 of the individual from whose account the  
3 payment or distribution was made, or

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

5 “(B) COORDINATION WITH LIMIT.—Any  
6 rollover contribution to a designated plus ac-  
7 count under subparagraph (A) shall not be  
8 taken into account for purposes of paragraph  
9 (1).

10 “(d) DISTRIBUTION RULES.—For purposes of this  
11 title—

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

15 “(2) QUALIFIED DISTRIBUTION.—For purposes  
16 of this subsection—

17 “(A) IN GENERAL.—The term ‘qualified  
18 distribution’ has the meaning given such term  
19 by section 408A(d)(2)(A) (without regard to  
20 clause (iv) thereof).

21 “(B) DISTRIBUTIONS WITHIN NONEXCLU-  
22 SION PERIOD.—A payment or distribution from  
23 a designated plus account shall not be treated  
24 as a qualified distribution if such payment or

distribution is made within the 5-taxable-year period beginning with the earlier of—

“(i) the first taxable year for which the individual made a designated plus contribution to any designated plus account established for such individual under the same applicable retirement plan, or

“(ii) if a rollover contribution was made to such designated plus account from a designated plus account previously established for such individual under another applicable retirement plan, the first taxable year for which the individual made a designated plus contribution to such previously established account.

“(C) DISTRIBUTIONS OF EXCESS DEFERRALS AND CONTRIBUTIONS AND EARNINGS THEREON.—The term ‘qualified distribution’ shall not include any distribution of an excess deferral under section 402(g)(2) or any excess contribution under section 401(k)(8), and any income on the excess deferral or contribution.

“(3) TREATMENT OF DISTRIBUTIONS OF CERTAIN EXCESS DEFERRALS.—Notwithstanding section 72, if any excess deferral under section 402(g)(2) at-



1       tributable to a designated plus contribution is not  
2       distributed on or before the 1st April 15 following  
3       the close of the taxable year in which such excess de-  
4       ferral is made, the amount of such excess deferral  
5       shall—

6               “(A) not be treated as investment in the  
7       contract, and

8               “(B) be included in gross income for the  
9       taxable year in which such excess is distributed.

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

14       “(e) OTHER DEFINITIONS.—For purposes of this  
15       section—

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

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

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

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

4       (b) EXCESS DEFERRALS.—Section 402(g) (relating  
5 to limitation on exclusion for elective deferrals) is  
6 amended—

7           (1) by adding at the end of paragraph (1)(A)  
8       (as added by section 201(d)(1)) the following new  
9       sentence: “The preceding sentence shall not apply to  
10      so much of such excess as does not exceed the des-  
11      ignated plus contributions of the individual for the  
12      taxable year.”; and

13          (2) by inserting “(or would be included but for  
14      the last sentence thereof)” after “paragraph (1)” in  
15      paragraph (2)(A).

16      (c) ROLLOVERS.—Subparagraph (B) of section  
17 402(c)(8) is amended by adding at the end the following:

18           “If any portion of an eligible rollover distribu-  
19      tion is attributable to payments or distributions  
20      from a designated plus account (as defined in  
21      section 402A), an eligible retirement plan with  
22      respect to such portion shall include only an-  
23      other designated plus account and a Roth  
24      IRA.”.

25      (d) REPORTING REQUIREMENTS.—

1           (1) W-2 INFORMATION.—Section 6051(a)(8) is  
 2           amended by inserting “, including the amount of  
 3           designated plus contributions (as defined in section  
 4           402A)” before the comma at the end.

5           (2) INFORMATION.—Section 6047 is amended  
 6           by redesignating subsection (f) as subsection (g) and  
 7           by inserting after subsection (e) the following new  
 8           subsection:

9           “(f) DESIGNATED PLUS CONTRIBUTIONS.—The Sec-  
 10          retary shall require the plan administrator of each applica-  
 11          ble retirement plan (as defined in section 402A) to make  
 12          such returns and reports regarding designated plus con-  
 13          tributions (as so defined) to the Secretary, participants  
 14          and beneficiaries of the plan, and such other persons as  
 15          the Secretary may prescribe.”.

16          (e) CONFORMING AMENDMENTS.—

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

21           (2) The table of sections for subpart A of part  
 22           I of subchapter D of chapter 1 is amended by insert-  
 23           ing after the item relating to section 402 the fol-  
 24           lowing new item:

          “Sec. 402A. Optional treatment of elective deferrals as plus con-  
           tributions.”.

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2001.

4 **SEC. 209. AVAILABILITY OF QUALIFIED PLANS TO SELF-EM-**  
5 **PLOYED INDIVIDUALS WHO ARE EXEMPT**  
6 **FROM THE SELF-EMPLOYMENT TAX BY REA-**  
7 **SON OF THEIR RELIGIOUS BELIEFS.**

8 (a) IN GENERAL.—Subparagraph (A) of section  
9 401(c)(2) (defining earned income) is amended by adding  
10 at the end thereof the following new sentence: “For pur-  
11 poses of this part only (other than sections 419 and  
12 419A), this subparagraph shall be applied as if the term  
13 ‘trade or business’ for purposes of section 1402 included  
14 service described in section 1402(c)(6).”.

15 (b) SIMPLE RETIREMENT ACCOUNTS.—Clause (ii) of  
16 section 408(p)(6)(A) (defining self-employed) is amended  
17 by adding at the end the following new sentence: “The  
18 preceding sentence shall be applied as if the term ‘trade  
19 or business’ for purposes of section 1402 included service  
20 described in section 1402(c)(6).”.

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

1 **SEC. 210. CERTAIN NONRESIDENT ALIENS EXCLUDED IN**  
 2 **APPLYING MINIMUM COVERAGE REQUIRE-**  
 3 **MENTS.**

4 (a) IN GENERAL.—Subparagraph (C) of section  
 5 410(b)(3) (relating to exclusion of certain employees) is  
 6 amended by inserting “, determined without regard to the  
 7 reference to subchapter D in the last sentence thereof”  
 8 after “section 861(a)(3)”.

9 (b) EFFECTIVE DATE.—The amendment made by  
 10 subsection (a) shall apply to plan years beginning after  
 11 December 31, 2001.

12 **TITLE III—ENHANCING**  
 13 **FAIRNESS FOR WOMEN**

14 **SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS**  
 15 **AGE 50 OR OVER.**

16 (a) IN GENERAL.—Section 414 (relating to defini-  
 17 tions and special rules) is amended by adding at the end  
 18 the following new subsection:

19 “(v) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS  
 20 AGE 50 OR OVER.—

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

1           “(2) LIMITATION ON AMOUNT OF ADDITIONAL  
2       DEFERRALS.—A plan shall not permit additional  
3       elective deferrals under paragraph (1) for any year  
4       in an amount greater than the lesser of—

5           “(A) \$5,000, or

6           “(B) the excess (if any) of—

7           “(i) the participant’s compensation for  
8       the year, over

9           “(ii) any other elective deferrals of the  
10       participant for such year which are made  
11       without regard to this subsection.

12          “(3) TREATMENT OF CONTRIBUTIONS.—In the  
13       case of any contribution to a plan under paragraph  
14       (1), such contribution shall not, with respect to the  
15       year in which the contribution is made—

16          “(A) be subject to any otherwise applicable  
17       limitation contained in section 402(g),  
18       402(h)(2), 404(a), 404(h), 408(p)(2)(A)(ii),  
19       415, or 457, or

20          “(B) be taken into account in applying  
21       such limitations to other contributions or bene-  
22       fits under such plan or any other such plan.

23          “(4) APPLICATION OF NONDISCRIMINATION  
24       RULES.—

1           “(A) IN GENERAL.—An applicable em-  
2           ployer plan shall not be treated as failing to  
3           meet the nondiscrimination requirements under  
4           section 401(a)(4) with respect to benefits,  
5           rights, and features if the plan allows all eligi-  
6           ble participants to make the same election with  
7           respect to the additional elective deferrals under  
8           this subsection.

9           “(B) AGGREGATION.—For purposes of  
10          subparagraph (A), all plans maintained by em-  
11          ployers who are treated as a single employer  
12          under subsection (b), (c), (m), or (o) of section  
13          414 shall be treated as 1 plan.

14          “(5) ELIGIBLE PARTICIPANT.—For purposes of  
15          this subsection, the term ‘eligible participant’ means,  
16          with respect to any plan year, a participant in a  
17          plan—

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

20                 “(B) with respect to whom no other elec-  
21                 tive deferrals may (without regard to this sub-  
22                 section) be made to the plan for the plan year  
23                 by reason of the application of any limitation or  
24                 other restriction described in paragraph (3) or

1 comparable limitation contained in the terms of  
2 the plan.

3 “(6) OTHER DEFINITIONS AND RULES.—For  
4 purposes of this subsection—

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

7 “(i) an employees’ trust described in  
8 section 401(a) which is exempt from tax  
9 under section 501(a),

10 “(ii) a plan under which amounts are  
11 contributed by an individual’s employer for  
12 an annuity contract described in section  
13 403(b),

14 “(iii) an eligible deferred compensa-  
15 tion plan under section 457 of an eligible  
16 employer as defined in section  
17 457(e)(1)(A), and

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

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

23 “(C) EXCEPTION FOR SECTION 457  
24 PLANS.—This subsection shall not apply to an  
25 applicable employer plan described in subpara-



1 graph (A)(iii) for any year to which section  
2 457(b)(3) applies.

3 “(D) COST-OF-LIVING ADJUSTMENT.—In  
4 the case of a year beginning after December 31,  
5 2006, the Secretary shall adjust annually the  
6 \$5,000 amount in paragraph (2)(A) for in-  
7 creases in the cost-of-living at the same time  
8 and in the same manner as adjustments under  
9 section 415(d); except that the base period  
10 taken into account shall be the calendar quarter  
11 beginning July 1, 2005, and any increase under  
12 this subparagraph which is not a multiple of  
13 \$500 shall be rounded to the next lower mul-  
14 tiple of \$500.”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to contributions in taxable years  
17 beginning after December 31, 2001.

18 **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**  
19 **EMPLOYEES TO DEFINED CONTRIBUTION**  
20 **PLANS.**

21 (a) EQUITABLE TREATMENT.—

22 (1) IN GENERAL.—Subparagraph (B) of section  
23 415(c)(1) (relating to limitation for defined con-  
24 tribution plans) is amended by striking “25 percent”  
25 and inserting “100 percent”.

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

3           (A) by striking “the exclusion allowance  
4       for such taxable year” in paragraph (1) and in-  
5       serting “the applicable limit under section  
6       415”;

7           (B) by striking paragraph (2); and

8           (C) by inserting “or any amount received  
9       by a former employee after the fifth taxable  
10      year following the taxable year in which such  
11      employee was terminated” before the period at  
12      the end of the second sentence of paragraph  
13      (3).

14       (3) CONFORMING AMENDMENTS.—

15           (A) Subsection (f) of section 72 is amend-  
16      ed by striking “section 403(b)(2)(D)(iii))” and  
17      inserting “section 403(b)(2)(D)(iii), as in effect  
18      before the enactment of the Comprehensive Re-  
19      tirement Security and Pension Reform Act of  
20      2001)”.

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

24           (C) Section 404(j) is amended by adding  
25      at the end the following new paragraph:

1           “(3) SPECIAL RULE FOR MONEY PURCHASE  
2           PLANS.—For purposes of paragraph (1)(B), in the  
3           case of a defined contribution plan which is subject  
4           to the funding standards of section 412, section  
5           415(c)(1)(B) shall be applied by substituting ‘25  
6           percent’ for ‘100 percent’.”.

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

11          (E) Section 415(c)(3) is amended by add-  
12          ing at the end the following new subparagraph:

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

18          (F) Section 415(c) is amended by striking  
19          paragraph (4).

20          (G) Section 415(c)(7) is amended to read  
21          as follows:

22               “(7) CERTAIN CONTRIBUTIONS BY CHURCH  
23               PLANS NOT TREATED AS EXCEEDING LIMIT.—

24                       “(A) IN GENERAL.—Notwithstanding any  
25                       other provision of this subsection, at the elec-

tion of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of \$10,000.

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

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

(H) Subparagraph (B) of section 402(g)(7) (as redesignated by section 201) is amended by inserting before the period at the end the following: “(as in effect before the en-

actment of the Comprehensive Retirement Security and Pension Reform Act of 2001”).

(I) Section 664(g) is amended—

(i) in paragraph (3)(E) by striking “limitations under section 415(c)” and inserting “applicable limitation under paragraph (7)”, and

(ii) by adding at the end the following new paragraph:

“(7) APPLICABLE LIMITATION.—

“(A) IN GENERAL.—For purposes of paragraph (3)(E), the applicable limitation under this paragraph with respect to a participant is an amount equal to the lesser of—

“(i) \$30,000, or

“(ii) 25 percent of the participant’s compensation (as defined in section 415(c)(3)).

“(B) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the \$30,000 amount under subparagraph (A)(i) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1993, and any increase under this subparagraph

1           which is not a multiple of \$5,000 shall be  
2           rounded to the next lowest multiple of \$5,000.”.

3           (4) EFFECTIVE DATE.—The amendments made  
4           by this subsection shall apply to years beginning  
5           after December 31, 2001.

6           (b) SPECIAL RULES FOR SECTIONS 403(b) AND  
7           408.—

8           (1) IN GENERAL.—Subsection (k) of section  
9           415 is amended by adding at the end the following  
10          new paragraph:

11          “(4) SPECIAL RULES FOR SECTIONS 403(B)  
12          AND 408.—For purposes of this section, any annuity  
13          contract described in section 403(b) for the benefit  
14          of a participant shall be treated as a defined con-  
15          tribution plan maintained by each employer with re-  
16          spect to which the participant has the control re-  
17          quired under subsection (b) or (c) of section 414 (as  
18          modified by subsection (h)). For purposes of this  
19          section, any contribution by an employer to a sim-  
20          plified employee pension plan for an individual for a  
21          taxable year shall be treated as an employer con-  
22          tribution to a defined contribution plan for such in-  
23          dividual for such year.”.

24          (2) EFFECTIVE DATE.—

1 (A) IN GENERAL.—The amendment made  
2 by paragraph (1) shall apply to limitation years  
3 beginning after December 31, 1999.

4 (B) EXCLUSION ALLOWANCE.—Effective  
5 for limitation years beginning in 2000, in the  
6 case of any annuity contract described in sec-  
7 tion 403(b) of the Internal Revenue Code of  
8 1986, the amount of the contribution disquali-  
9 fied by reason of section 415(g) of such Code  
10 shall reduce the exclusion allowance as provided  
11 in section 403(b)(2) of such Code.

12 (3) MODIFICATION OF 403(b) EXCLUSION AL-  
13 LOWANCE TO CONFORM TO 415 MODIFICATION.—The  
14 Secretary of the Treasury shall modify the regula-  
15 tions regarding the exclusion allowance under section  
16 403(b)(2) of the Internal Revenue Code of 1986 to  
17 render void the requirement that contributions to a  
18 defined benefit pension plan be treated as previously  
19 excluded amounts for purposes of the exclusion al-  
20 lowance. For taxable years beginning after Decem-  
21 ber 31, 1999, such regulations shall be applied as if  
22 such requirement were void.

23 (c) DEFERRED COMPENSATION PLANS OF STATE  
24 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-  
25 ZATIONS.—

1 (1) IN GENERAL.—Subparagraph (B) of section  
 2 457(b)(2) (relating to salary limitation on eligible  
 3 deferred compensation plans) is amended by striking  
 4 “33 $\frac{1}{3}$  percent” and inserting “100 percent”.

5 (2) EFFECTIVE DATE.—The amendment made  
 6 by this subsection shall apply to years beginning  
 7 after December 31, 2001.

8 **SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER**  
 9 **MATCHING CONTRIBUTIONS.**

10 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
 11 Section 411(a) (relating to minimum vesting standards)  
 12 is amended—

13 (1) in paragraph (2) in the matter preceding  
 14 subparagraph (A), by striking “A plan” and insert-  
 15 ing “Except as provided in paragraph (12), a plan”;  
 16 and

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

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

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

24 “(B) by substituting the following table for  
 25 the table contained in subparagraph (B):



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

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

4 (1) in paragraph (2), in the matter preceding  
5 subparagraph (A), by striking “A plan” and insert-  
6 ing “Except as provided in paragraph (4), a plan”,  
7 and

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

9 “(4) In the case of matching contributions (as  
10 defined in section 401(m)(4)(A) of the Internal Rev-  
11 enue Code of 1986), paragraph (2) shall be  
12 applied—

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

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

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

17 (c) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the amendments made by this section  
3           shall apply to contributions for plan years beginning  
4           after December 31, 2001.

5           (2) COLLECTIVE BARGAINING AGREEMENTS.—  
6           In the case of a plan maintained pursuant to one or  
7           more collective bargaining agreements between em-  
8           ployee representatives and one or more employers  
9           ratified by the date of the enactment of this Act, the  
10          amendments made by this section shall not apply to  
11          contributions on behalf of employees covered by any  
12          such agreement for plan years beginning before the  
13          earlier of—

14                 (A) the later of—

15                         (i) the date on which the last of such  
16                         collective bargaining agreements termi-  
17                         nates (determined without regard to any  
18                         extension thereof on or after such date of  
19                         the enactment); or

20                         (ii) January 1, 2002; or

21                 (B) January 1, 2006.

22          (3) SERVICE REQUIRED.—With respect to any  
23          plan, the amendments made by this section shall not  
24          apply to any employee before the date that such em-  
25          ployee has 1 hour of service under such plan in any

1 plan year to which the amendments made by this  
2 section apply.

3 **SEC. 304. MODIFICATIONS TO MINIMUM DISTRIBUTION**  
4 **RULES.**

5 (a) LIFE EXPECTANCY TABLES.—The Secretary of  
6 the Treasury shall modify the life expectancy tables under  
7 the regulations relating to minimum distribution require-  
8 ments under sections 401(a)(9), 408(a)(6) and (b)(3),  
9 403(b)(10), and 457(d)(2) of the Internal Revenue Code  
10 to reflect current life expectancy.

11 (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD  
12 BEGUN BEFORE DEATH OCCURS.—

13 (1) IN GENERAL.—Subparagraph (B) of section  
14 401(a)(9) is amended by striking clause (i) and re-  
15 designating clauses (ii), (iii), and (iv) as clauses (i),  
16 (ii), and (iii), respectively.

17 (2) CONFORMING CHANGES.—

18 (A) Clause (i) of section 401(a)(9)(B) (as  
19 so redesignated) is amended—

20 (i) by striking “FOR OTHER CASES” in  
21 the heading; and

22 (ii) by striking “the distribution of the  
23 employee’s interest has begun in accord-  
24 ance with subparagraph (A)(ii)” and in-

1           serting “his entire interest has been dis-  
2           tributed to him”.

3           (B) Clause (ii) of section 401(a)(9)(B) (as  
4           so redesignated) is amended by striking “clause  
5           (ii)” and inserting “clause (i)”.

6           (C) Clause (iii) of section 401(a)(9)(B) (as  
7           so redesignated) is amended—

8                   (i) by striking “clause (iii)(I)” and in-  
9                   serting “clause (ii)(I)”;

10                   (ii) by striking “clause (iii)(III)” in  
11                   subclause (I) and inserting “clause  
12                   (ii)(III)”;

13                   (iii) by striking “the date on which  
14                   the employee would have attained age  
15                   70½,” in subclause (I) and inserting  
16                   “April 1 of the calendar year following the  
17                   calendar year in which the spouse attains  
18                   70½,”; and

19                   (iv) by striking “the distributions to  
20                   such spouse begin,” in subclause (II) and  
21                   inserting “his entire interest has been dis-  
22                   tributed to him,”.

23           (3) EFFECTIVE DATE.—

24                   (A) IN GENERAL.—Except as provided in  
25                   subparagraph (B), the amendments made by

1           this subsection shall apply to years beginning  
2           after December 31, 2001.

3                   (B)   DISTRIBUTIONS    TO    SURVIVING  
4           SPOUSE.—

5                   (i) IN GENERAL.—In the case of an  
6           employee described in clause (ii), distribu-  
7           tions to the surviving spouse of the em-  
8           ployee shall not be required to commence  
9           prior to the date on which such distribu-  
10          tions would have been required to begin  
11          under section 401(a)(9)(B) of the Internal  
12          Revenue Code of 1986 (as in effect on the  
13          day before the date of the enactment of  
14          this Act).

15                   (ii) CERTAIN EMPLOYEES.—An em-  
16          ployee is described in this clause if such  
17          employee dies before—

18                   (I) the date of the enactment of  
19           this Act, and

20                   (II) the required beginning date  
21           (within the meaning of section  
22           401(a)(9)(C) of the Internal Revenue  
23           Code of 1986) of the employee.

24          (c) REDUCTION IN EXCISE TAX.—

1           (1) IN GENERAL.—Subsection (a) of section  
2           4974 is amended by striking “50 percent” and in-  
3           serting “10 percent”.

4           (2) EFFECTIVE DATE.—The amendment made  
5           by this subsection shall apply to years beginning  
6           after December 31, 2001.

7   **SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION**  
8                           **OF SECTION 457 PLAN BENEFITS UPON DI-**  
9                           **VORCE.**

10          (a) IN GENERAL.—Section 414(p)(11) (relating to  
11          application of rules to governmental and church plans) is  
12          amended—

13               (1) by inserting “or an eligible deferred com-  
14          pensation plan (within the meaning of section  
15          457(b))” after “subsection (e)”; and

16               (2) in the heading, by striking “GOVERN-  
17          MENTAL AND CHURCH PLANS” and inserting “CER-  
18          TAIN OTHER PLANS”.

19          (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-  
20          MENTS.—Paragraph (10) of section 414(p) is amended by  
21          striking “and section 409(d)” and inserting “section  
22          409(d), and section 457(d)”.

23          (c) TAX TREATMENT OF PAYMENTS FROM A SEC-  
24          TION 457 PLAN.—Subsection (p) of section 414 is amend-  
25          ed by redesignating paragraph (12) as paragraph (13) and

1 inserting after paragraph (11) the following new para-  
2 graph:

3           “(12) TAX TREATMENT OF PAYMENTS FROM A  
4       SECTION 457 PLAN.—If a distribution or payment  
5       from an eligible deferred compensation plan de-  
6       scribed in section 457(b) is made pursuant to a  
7       qualified domestic relations order, rules similar to  
8       the rules of section 402(e)(1)(A) shall apply to such  
9       distribution or payment.”.

10       (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to transfers, distributions, and  
12 payments made after December 31, 2001.

13 **SEC. 306. PROVISIONS RELATING TO HARDSHIP DISTRIBUTIONS.**  
14

15       (a) SAFE HARBOR RELIEF.—

16           (1) IN GENERAL.—The Secretary of the Treas-  
17 ury shall revise the regulations relating to hardship  
18 distributions under section 401(k)(2)(B)(i)(IV) of  
19 the Internal Revenue Code of 1986 to provide that  
20 the period an employee is prohibited from making  
21 elective and employee contributions in order for a  
22 distribution to be deemed necessary to satisfy finan-  
23 cial need shall be equal to 6 months.

1           (2) EFFECTIVE DATE.—The revised regulations  
2       under this subsection shall apply to years beginning  
3       after December 31, 2001.

4       (b) HARDSHIP DISTRIBUTIONS NOT TREATED AS  
5 ELIGIBLE ROLLOVER DISTRIBUTIONS.—

6           (1) MODIFICATION OF DEFINITION OF ELIGI-  
7 BLE ROLLOVER.—Subparagraph (C) of section  
8 402(c)(4) (relating to eligible rollover distribution) is  
9 amended to read as follows:

10                   “(C) any distribution which is made upon  
11 hardship of the employee.”.

12           (2) EFFECTIVE DATE.—The amendment made  
13 by this subsection shall apply to distributions made  
14 after December 31, 2001.

15 **SEC. 307. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBU-**  
16 **TIONS FOR DOMESTIC OR SIMILAR WORKERS.**

17       (a) IN GENERAL.—Section 4972(c)(6) (relating to  
18 exceptions to nondeductible contributions), as amended by  
19 section 502, is amended by striking “or” at the end of  
20 subparagraph (A), by striking the period and inserting “,  
21 and” at the end of subparagraph (B), and by inserting  
22 after subparagraph (B) the following new subparagraph:

23                   “(C) so much of the contributions to a  
24 simple retirement account (within the meaning  
25 of section 408(p)) or a simple plan (within the



1 meaning of section 401(k)(11)) which are not  
 2 deductible when contributed solely because such  
 3 contributions are not made in connection with  
 4 a trade or business of the employer.”.

5 (b) EXCLUSION OF CERTAIN CONTRIBUTIONS.—Sec-  
 6 tion 4972(c)(6) is amended by adding at the end the fol-  
 7 lowing new sentence: “Subparagraph (C) shall not apply  
 8 to contributions made on behalf of the employer or a mem-  
 9 ber of the employer’s family (as defined in section  
 10 447(e)(1)).”.

11 (c) NO INFERENCE.—Nothing in the amendments  
 12 made by this section shall be construed to infer the proper  
 13 treatment of nondeductible contributions under the laws  
 14 in effect before such amendments.

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

## 18 **TITLE IV—INCREASING PORT-** 19 **ABILITY FOR PARTICIPANTS**

### 20 **SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES** 21 **OF PLANS.**

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

24 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

4           “(16) ROLLOVER AMOUNTS.—

5           “(A) GENERAL RULE.—In the case of an  
6           eligible deferred compensation plan established  
7           and maintained by an employer described in  
8           subsection (e)(1)(A), if—

9           “(i) any portion of the balance to the  
10           credit of an employee in such plan is paid  
11           to such employee in an eligible rollover dis-  
12           tribution (within the meaning of section  
13           402(c)(4) without regard to subparagraph  
14           (C) thereof),

15           “(ii) the employee transfers any por-  
16           tion of the property such employee receives  
17           in such distribution to an eligible retire-  
18           ment plan described in section  
19           402(c)(8)(B), and

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

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

4 “(B) CERTAIN RULES MADE APPLICA-  
5 BLE.—The rules of paragraphs (2) through (7)  
6 (other than paragraph (4)(C)) and (9) of sec-  
7 tion 402(c) and section 402(f) shall apply for  
8 purposes of subparagraph (A).

9 “(C) REPORTING.—Rollovers under this  
10 paragraph shall be reported to the Secretary in  
11 the same manner as rollovers from qualified re-  
12 tirement plans (as defined in section  
13 4974(c)).”.

14 (B) DEFERRAL LIMIT DETERMINED WITH-  
15 OUT REGARD TO ROLLOVER AMOUNTS.—Section  
16 457(b)(2) (defining eligible deferred compensa-  
17 tion plan) is amended by inserting “(other than  
18 rollover amounts)” after “taxable year”.

19 (C) DIRECT ROLLOVER.—Paragraph (1) of  
20 section 457(d) is amended by striking “and” at  
21 the end of subparagraph (A), by striking the  
22 period at the end of subparagraph (B) and in-  
23 serting “, and”, and by inserting after subpara-  
24 graph (B) the following:

1           “(C) in the case of a plan maintained by  
 2           an employer described in subsection (e)(1)(A),  
 3           the plan meets requirements similar to the re-  
 4           quirements of section 401(a)(31).

5           Any amount transferred in a direct trustee-to-trust-  
 6           ee transfer in accordance with section 401(a)(31)  
 7           shall not be includible in gross income for the tax-  
 8           able year of transfer.”.

9           (D) WITHHOLDING.—

10           (i) Paragraph (12) of section 3401(a)  
 11           is amended by adding at the end the fol-  
 12           lowing:

13           “(E) under or to an eligible deferred com-  
 14           pensation plan which, at the time of such pay-  
 15           ment, is a plan described in section 457(b)  
 16           maintained by an employer described in section  
 17           457(e)(1)(A); or”.

18           (ii) Paragraph (3) of section 3405(c)  
 19           is amended to read as follows:

20           “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For  
 21           purposes of this subsection, the term ‘eligible roll-  
 22           over distribution’ has the meaning given such term  
 23           by section 402(f)(2)(A).”.

24           (iii) LIABILITY FOR WITHHOLDING.—

25           Subparagraph (B) of section 3405(d)(2) is

1           amended by striking “or” at the end of  
 2           clause (ii), by striking the period at the  
 3           end of clause (iii) and inserting “, or”, and  
 4           by adding at the end the following:

5                   “(iv) section 457(b) and which is  
 6                   maintained by an eligible employer de-  
 7                   scribed in section 457(e)(1)(A).”.

8           (2) ROLLOVERS TO SECTION 457 PLANS.—

9                   (A) IN GENERAL.—Section 402(c)(8)(B)  
 10           (defining eligible retirement plan) is amended  
 11           by striking “and” at the end of clause (iii), by  
 12           striking the period at the end of clause (iv) and  
 13           inserting “, and”, and by inserting after clause  
 14           (iv) the following new clause:

15                   “(v) an eligible deferred compensation  
 16                   plan described in section 457(b) which is  
 17                   maintained by an eligible employer de-  
 18                   scribed in section 457(e)(1)(A).”.

19                   (B) SEPARATE ACCOUNTING.—Section  
 20           402(c) is amended by adding at the end the fol-  
 21           lowing new paragraph:

22                   “(10) SEPARATE ACCOUNTING.—Unless a plan  
 23           described in clause (v) of paragraph (8)(B) agrees to  
 24           separately account for amounts rolled into such plan  
 25           from eligible retirement plans not described in such

1 clause, the plan described in such clause may not ac-  
 2 cept transfers or rollovers from such retirement  
 3 plans.”.

4 (C) 10 PERCENT ADDITIONAL TAX.—Sub-  
 5 section (t) of section 72 (relating to 10-percent  
 6 additional tax on early distributions from quali-  
 7 fied retirement plans) is amended by adding at  
 8 the end the following new paragraph:

9 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-  
 10 TION 457 PLANS.—For purposes of this subsection,  
 11 a distribution from an eligible deferred compensation  
 12 plan (as defined in section 457(b)) of an eligible em-  
 13 ployer described in section 457(e)(1)(A) shall be  
 14 treated as a distribution from a qualified retirement  
 15 plan described in section 4974(c)(1) to the extent  
 16 that such distribution is attributable to an amount  
 17 transferred to an eligible deferred compensation plan  
 18 from a qualified retirement plan (as defined in sec-  
 19 tion 4974(c)).”.

20 (b) ALLOWANCE OF ROLLOVERS FROM AND TO  
 21 403(b) PLANS.—

22 (1) ROLLOVERS FROM SECTION 403(b) PLANS.—  
 23 Section 403(b)(8)(A)(ii) (relating to rollover  
 24 amounts) is amended by striking “such distribution”  
 25 and all that follows and inserting “such distribution

1 to an eligible retirement plan described in section  
2 402(c)(8)(B), and”.

3 (2) ROLLOVERS TO SECTION 403(b) PLANS.—  
4 Section 402(c)(8)(B) (defining eligible retirement  
5 plan), as amended by subsection (a), is amended by  
6 striking “and” at the end of clause (iv), by striking  
7 the period at the end of clause (v) and inserting “,  
8 and”, and by inserting after clause (v) the following  
9 new clause:

10 “(vi) an annuity contract described in  
11 section 403(b).”.

12 (c) EXPANDED EXPLANATION TO RECIPIENTS OF  
13 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section  
14 402(f) (relating to written explanation to recipients of dis-  
15 tributions eligible for rollover treatment) is amended by  
16 striking “and” at the end of subparagraph (C), by striking  
17 the period at the end of subparagraph (D) and inserting  
18 “, and”, and by adding at the end the following new sub-  
19 paragraph:

20 “(E) of the provisions under which dis-  
21 tributions from the eligible retirement plan re-  
22 ceiving the distribution may be subject to re-  
23 strictions and tax consequences which are dif-  
24 ferent from those applicable to distributions  
25 from the plan making such distribution.”.

1 (d) SPOUSAL ROLLOVERS.—Section 402(c)(9) (relat-  
2 ing to rollover where spouse receives distribution after  
3 death of employee) is amended by striking “; except that”  
4 and all that follows up to the end period.

5 (e) CONFORMING AMENDMENTS.—

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

9 (2) Section 219(d)(2) is amended by striking  
10 “or 408(d)(3)” and inserting “408(d)(3), or  
11 457(e)(16)”.

12 (3) Section 401(a)(31)(B) is amended by strik-  
13 ing “and 403(a)(4)” and inserting “, 403(a)(4),  
14 403(b)(8), and 457(e)(16)”.

15 (4) Subparagraph (A) of section 402(f)(2) is  
16 amended by striking “or paragraph (4) of section  
17 403(a)” and inserting “, paragraph (4) of section  
18 403(a), subparagraph (A) of section 403(b)(8), or  
19 subparagraph (A) of section 457(e)(16)”.

20 (5) Paragraph (1) of section 402(f) is amended  
21 by striking “from an eligible retirement plan”.

22 (6) Subparagraphs (A) and (B) of section  
23 402(f)(1) are amended by striking “another eligible  
24 retirement plan” and inserting “an eligible retire-  
25 ment plan”.



1           (7) Subparagraph (B) of section 403(b)(8) is  
2 amended to read as follows:

3           “(B) CERTAIN RULES MADE APPLICA-  
4 BLE.—The rules of paragraphs (2) through (7)  
5 and (9) of section 402(c) and section 402(f)  
6 shall apply for purposes of subparagraph (A),  
7 except that section 402(f) shall be applied to  
8 the payor in lieu of the plan administrator.”.

9           (8) Section 408(a)(1) is amended by striking  
10 “or 403(b)(8),” and inserting “403(b)(8), or  
11 457(e)(16)”.

12           (9) Subparagraphs (A) and (B) of section  
13 415(b)(2) are each amended by striking “and  
14 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and  
15 457(e)(16)”.

16           (10) Section 415(c)(2) is amended by striking  
17 “and 408(d)(3)” and inserting “408(d)(3), and  
18 457(e)(16)”.

19           (11) Section 4973(b)(1)(A) is amended by  
20 striking “or 408(d)(3)” and inserting “408(d)(3), or  
21 457(e)(16)”.

22 (f) EFFECTIVE DATE; SPECIAL RULE.—

23           (1) EFFECTIVE DATE.—The amendments made  
24 by this section shall apply to distributions after De-  
25 cember 31, 2001.

1           (2) REASONABLE NOTICE.—No penalty shall be  
2       imposed on a plan for the failure to provide the in-  
3       formation required by the amendment made by sub-  
4       section (c) with respect to any distribution made be-  
5       fore the date that is 90 days after the date on which  
6       the Secretary of the Treasury issues a safe harbor  
7       rollover notice after the date of the enactment of  
8       this Act, if the administrator of such plan makes a  
9       reasonable attempt to comply with such requirement.

10          (3) SPECIAL RULE.—Notwithstanding any other  
11       provision of law, subsections (h)(3) and (h)(5) of  
12       section 1122 of the Tax Reform Act of 1986 shall  
13       not apply to any distribution from an eligible retire-  
14       ment plan (as defined in clause (iii) or (iv) of section  
15       402(c)(8)(B) of the Internal Revenue Code of 1986)  
16       on behalf of an individual if there was a rollover to  
17       such plan on behalf of such individual which is per-  
18       mitted solely by reason of any amendment made by  
19       this section.

20   **SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**  
21                           **MENT PLANS.**

22          (a) IN GENERAL.—Subparagraph (A) of section  
23       408(d)(3) (relating to rollover amounts) is amended by  
24       adding “or” at the end of clause (i), by striking clauses  
25       (ii) and (iii), and by adding at the end the following:

1 “(ii) the entire amount received (in-  
2 cluding money and any other property) is  
3 paid into an eligible retirement plan for  
4 the benefit of such individual not later  
5 than the 60th day after the date on which  
6 the payment or distribution is received, ex-  
7 cept that the maximum amount which may  
8 be paid into such plan may not exceed the  
9 portion of the amount received which is in-  
10 cludible in gross income (determined with-  
11 out regard to this paragraph).

12 For purposes of clause (ii), the term ‘eligible re-  
13 tirement plan’ means an eligible retirement plan  
14 described in clause (iii), (iv), (v), or (vi) of sec-  
15 tion 402(c)(8)(B).”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Paragraph (1) of section 403(b) is amended  
18 by striking “section 408(d)(3)(A)(iii)” and inserting  
19 “section 408(d)(3)(A)(ii)”.

20 (2) Clause (i) of section 408(d)(3)(D) is amend-  
21 ed by striking “(i), (ii), or (iii)” and inserting “(i)  
22 or (ii)”.

23 (3) Subparagraph (G) of section 408(d)(3) is  
24 amended to read as follows:

1           “(G) SIMPLE RETIREMENT ACCOUNTS.—In  
 2           the case of any payment or distribution out of  
 3           a simple retirement account (as defined in sub-  
 4           section (p)) to which section 72(t)(6) applies,  
 5           this paragraph shall not apply unless such pay-  
 6           ment or distribution is paid into another simple  
 7           retirement account.”.

8           (c) EFFECTIVE DATE; SPECIAL RULE.—

9           (1) EFFECTIVE DATE.—The amendments made  
 10          by this section shall apply to distributions after De-  
 11          cember 31, 2001.

12          (2) SPECIAL RULE.—Notwithstanding any other  
 13          provision of law, subsections (h)(3) and (h)(5) of  
 14          section 1122 of the Tax Reform Act of 1986 shall  
 15          not apply to any distribution from an eligible retire-  
 16          ment plan (as defined in clause (iii) or (iv) of section  
 17          402(c)(8)(B) of the Internal Revenue Code of 1986)  
 18          on behalf of an individual if there was a rollover to  
 19          such plan on behalf of such individual which is per-  
 20          mitted solely by reason of the amendments made by  
 21          this section.

22   **SEC. 403. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

23          (a) ROLLOVERS FROM EXEMPT TRUSTS.—Para-  
 24          graph (2) of section 402(c) (relating to maximum amount  
 25          which may be rolled over) is amended by adding at the

1 end the following: “The preceding sentence shall not apply  
2 to such distribution to the extent—

3 “(A) such portion is transferred in a direct  
4 trustee-to-trustee transfer to a qualified trust  
5 which is part of a plan which is a defined con-  
6 tribution plan and which agrees to separately  
7 account for amounts so transferred, including  
8 separately accounting for the portion of such  
9 distribution which is includible in gross income  
10 and the portion of such distribution which is  
11 not so includible, or

12 “(B) such portion is transferred to an eli-  
13 gible retirement plan described in clause (i) or  
14 (ii) of paragraph (8)(B).”.

15 (b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE  
16 ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of sec-  
17 tion 401(a)(31) (relating to limitation) is amended by add-  
18 ing at the end the following:

19 “The preceding sentence shall not apply to such  
20 distribution if the plan to which such distribu-  
21 tion is transferred—

22 “(i) agrees to separately account for  
23 amounts so transferred, including sepa-  
24 rately accounting for the portion of such  
25 distribution which is includible in gross in-

1                   come and the portion of such distribution  
 2                   which is not so includible, or

3                   “(ii) is an eligible retirement plan de-  
 4                   scribed in clause (i) or (ii) of section  
 5                   402(c)(8)(B).”.

6           (c) RULES FOR APPLYING SECTION 72 TO IRAS.—  
 7 Paragraph (3) of section 408(d) (relating to special rules  
 8 for applying section 72) is amended by inserting at the  
 9 end the following:

10                   “(H) APPLICATION OF SECTION 72.—

11                   “(i) IN GENERAL.—If—

12                   “(I) a distribution is made from  
 13                   an individual retirement plan, and

14                   “(II) a rollover contribution is  
 15                   made to an eligible retirement plan  
 16                   described in section 402(c)(8)(B)(iii),  
 17                   (iv), (v), or (vi) with respect to all or  
 18                   part of such distribution,

19                   then, notwithstanding paragraph (2), the  
 20                   rules of clause (ii) shall apply for purposes  
 21                   of applying section 72.

22                   “(ii) APPLICABLE RULES.—In the  
 23                   case of a distribution described in clause  
 24                   (i)—

1 “(I) section 72 shall be applied  
2 separately to such distribution,

3 “(II) notwithstanding the pro  
4 rata allocation of income on, and in-  
5 vestment in, the contract to distribu-  
6 tions under section 72, the portion of  
7 such distribution rolled over to an eli-  
8 gible retirement plan described in  
9 clause (i) shall be treated as from in-  
10 come on the contract (to the extent of  
11 the aggregate income on the contract  
12 from all individual retirement plans of  
13 the distributee), and

14 “(III) appropriate adjustments  
15 shall be made in applying section 72  
16 to other distributions in such taxable  
17 year and subsequent taxable years.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to distributions after December 31,  
20 2001.

21 **SEC. 404. HARDSHIP EXCEPTION TO 60-DAY RULE.**

22 (a) EXEMPT TRUSTS.—Paragraph (3) of section  
23 402(c) (relating to transfer must be made within 60 days  
24 of receipt) is amended to read as follows:

1           “(3) TRANSFER MUST BE MADE WITHIN 60  
2       DAYS OF RECEIPT.—

3           “(A) IN GENERAL.—Except as provided in  
4       subparagraph (B), paragraph (1) shall not  
5       apply to any transfer of a distribution made  
6       after the 60th day following the day on which  
7       the distributee received the property distrib-  
8       uted.

9           “(B) HARDSHIP EXCEPTION.—The Sec-  
10       retary may waive the 60-day requirement under  
11       subparagraph (A) where the failure to waive  
12       such requirement would be against equity or  
13       good conscience, including casualty, disaster, or  
14       other events beyond the reasonable control of  
15       the individual subject to such requirement.”.

16       (b) IRAS.—Paragraph (3) of section 408(d) (relating  
17       to rollover contributions), as amended by section 403, is  
18       amended by adding after subparagraph (H) the following  
19       new subparagraph:

20           “(I) WAIVER OF 60-DAY REQUIREMENT.—  
21       The Secretary may waive the 60-day require-  
22       ment under subparagraphs (A) and (D) where  
23       the failure to waive such requirement would be  
24       against equity or good conscience, including  
25       casualty, disaster, or other events beyond the



1           reasonable control of the individual subject to  
2           such requirement.”.

3           (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to distributions after December 31,  
5 2001.

6 **SEC. 405. TREATMENT OF FORMS OF DISTRIBUTION.**

7           (a) PLAN TRANSFERS.—

8           (1) AMENDMENT OF INTERNAL REVENUE  
9 CODE.—Paragraph (6) of section 411(d) (relating to  
10 accrued benefit not to be decreased by amendment)  
11 is amended by adding at the end the following:

12                   “(D) PLAN TRANSFERS.—

13                           “(i) IN GENERAL.—A defined con-  
14 tribution plan (in this subparagraph re-  
15 ferred to as the ‘transferee plan’) shall not  
16 be treated as failing to meet the require-  
17 ments of this subsection merely because  
18 the transferee plan does not provide some  
19 or all of the forms of distribution pre-  
20 viously available under another defined  
21 contribution plan (in this subparagraph re-  
22 ferred to as the ‘transferor plan’) to the  
23 extent that—

24                                   “(I) the forms of distribution  
25                                   previously available under the trans-

1           feror plan applied to the account of a  
2           participant or beneficiary under the  
3           transferor plan that was transferred  
4           from the transferor plan to the trans-  
5           feree plan pursuant to a direct trans-  
6           fer rather than pursuant to a distribu-  
7           tion from the transferor plan,

8                   “(II) the terms of both the trans-  
9           feror plan and the transferee plan au-  
10          thorize the transfer described in sub-  
11          clause (I),

12                   “(III) the transfer described in  
13          subclause (I) was made pursuant to a  
14          voluntary election by the participant  
15          or beneficiary whose account was  
16          transferred to the transferee plan,

17                   “(IV) the election described in  
18          subclause (III) was made after the  
19          participant or beneficiary received a  
20          notice describing the consequences of  
21          making the election, and

22                   “(V) the transferee plan allows  
23          the participant or beneficiary de-  
24          scribed in subclause (III) to receive  
25          any distribution to which the partici-

1                   pant or beneficiary is entitled under  
2                   the transferee plan in the form of a  
3                   single sum distribution.

4                   “(ii) EXCEPTION.—Clause (i) shall  
5                   apply to plan mergers and other trans-  
6                   actions having the effect of a direct trans-  
7                   fer, including consolidations of benefits at-  
8                   tributable to different employers within a  
9                   multiple employer plan.

10                  “(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regula-  
11                  tions, a defined contribution plan shall not be  
12                  treated as failing to meet the requirements of  
13                  this section merely because of the elimination of  
14                  a form of distribution previously available there-  
15                  under. This subparagraph shall not apply to the  
16                  elimination of a form of distribution with re-  
17                  spect to any participant unless—  
18                  

19                         “(i) a single sum payment is available  
20                         to such participant at the same time or  
21                         times as the form of distribution being  
22                         eliminated, and

23                         “(ii) such single sum payment is  
24                         based on the same or greater portion of

1                   the participant’s account as the form of  
2                   distribution being eliminated.”.

3                   (2) AMENDMENT OF ERISA.—Section 204(g) of  
4           the Employee Retirement Income Security Act of  
5           1974 (29 U.S.C. 1054(g)) is amended by adding at  
6           the end the following:

7           “(4)(A) A defined contribution plan (in this subpara-  
8   graph referred to as the ‘transferee plan’) shall not be  
9   treated as failing to meet the requirements of this sub-  
10   section merely because the transferee plan does not pro-  
11   vide some or all of the forms of distribution previously  
12   available under another defined contribution plan (in this  
13   subparagraph referred to as the ‘transferor plan’) to the  
14   extent that—

15                   “(i) the forms of distribution previously avail-  
16           able under the transferor plan applied to the account  
17           of a participant or beneficiary under the transferor  
18           plan that was transferred from the transferor plan  
19           to the transferee plan pursuant to a direct transfer  
20           rather than pursuant to a distribution from the  
21           transferor plan;

22                   “(ii) the terms of both the transferor plan and  
23           the transferee plan authorize the transfer described  
24           in clause (i);

1           “(iii) the transfer described in clause (i) was  
2           made pursuant to a voluntary election by the partici-  
3           pant or beneficiary whose account was transferred to  
4           the transferee plan;

5           “(iv) the election described in clause (iii) was  
6           made after the participant or beneficiary received a  
7           notice describing the consequences of making the  
8           election; and

9           “(v) the transferee plan allows the participant  
10          or beneficiary described in clause (iii) to receive any  
11          distribution to which the participant or beneficiary is  
12          entitled under the transferee plan in the form of a  
13          single sum distribution.

14          “(B) Subparagraph (A) shall apply to plan mergers  
15          and other transactions having the effect of a direct trans-  
16          fer, including consolidations of benefits attributable to dif-  
17          ferent employers within a multiple employer plan.

18          “(5) Except to the extent provided in regulations pro-  
19          mulgated by the Secretary of the Treasury, a defined con-  
20          tribution plan shall not be treated as failing to meet the  
21          requirements of this subsection merely because of the  
22          elimination of a form of distribution previously available  
23          thereunder. This paragraph shall not apply to the elimi-  
24          nation of a form of distribution with respect to any partici-  
25          pant unless—

1           “(A) a single sum payment is available to such  
2           participant at the same time or times as the form  
3           of distribution being eliminated; and

4           “(B) such single sum payment is based on the  
5           same or greater portion of the participant’s account  
6           as the form of distribution being eliminated.”.

7           (3) EFFECTIVE DATE.—The amendments made  
8           by this subsection shall apply to years beginning  
9           after December 31, 2001.

10          (b) REGULATIONS.—

11           (1) AMENDMENT OF INTERNAL REVENUE  
12           CODE.—Paragraph (6)(B) of section 411(d) (relat-  
13           ing to accrued benefit not to be decreased by amend-  
14           ment) is amended by inserting after the second sen-  
15           tence the following new sentence: “The Secretary  
16           shall by regulations provide that this subparagraph  
17           shall not apply to any plan amendment which re-  
18           duces or eliminates benefits or subsidies which cre-  
19           ate significant burdens or complexities for the plan  
20           and plan participants and does not adversely affect  
21           the rights of any participant in a more than de mini-  
22           mis manner.”.

23           (2) AMENDMENT OF ERISA.—Section 204(g)(2)  
24           of the Employee Retirement Income Security Act of  
25           1974 (29 U.S.C. 1054(g)(2)) is amended by insert-

1 ing before the last sentence the following new sen-  
 2 tence: “The Secretary of the Treasury shall by regu-  
 3 lations provide that this paragraph shall not apply  
 4 to any plan amendment which reduces or eliminates  
 5 benefits or subsidies which create significant bur-  
 6 dens or complexities for the plan and plan partici-  
 7 pants and does not adversely affect the rights of any  
 8 participant in a more than de minimis manner.”.

9 (3) SECRETARY DIRECTED.—Not later than  
 10 December 31, 2003, the Secretary of the Treasury  
 11 is directed to issue regulations under section  
 12 411(d)(6) of the Internal Revenue Code of 1986 and  
 13 section 204(g) of the Employee Retirement Income  
 14 Security Act of 1974, including the regulations re-  
 15 quired by the amendment made by this subsection.  
 16 Such regulations shall apply to plan years beginning  
 17 after December 31, 2003, or such earlier date as is  
 18 specified by the Secretary of the Treasury.

19 **SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-**  
 20 **TRIBUTIONS.**

21 (a) MODIFICATION OF SAME DESK EXCEPTION.—

22 (1) SECTION 401(k).—

23 (A) Section 401(k)(2)(B)(i)(I) (relating to  
 24 qualified cash or deferred arrangements) is

1 amended by striking “separation from service”  
2 and inserting “severance from employment”.

3 (B) Subparagraph (A) of section  
4 401(k)(10) (relating to distributions upon ter-  
5 mination of plan or disposition of assets or sub-  
6 sidiary) is amended to read as follows:

7 “(A) IN GENERAL.—An event described in  
8 this subparagraph is the termination of the  
9 plan without establishment or maintenance of  
10 another defined contribution plan (other than  
11 an employee stock ownership plan as defined in  
12 section 4975(e)(7)).”.

13 (C) Section 401(k)(10) is amended—

14 (i) in subparagraph (B)—

15 (I) by striking “An event” in  
16 clause (i) and inserting “A termi-  
17 nation”; and

18 (II) by striking “the event” in  
19 clause (i) and inserting “the termi-  
20 nation”;

21 (ii) by striking subparagraph (C); and

22 (iii) by striking “OR DISPOSITION OF  
23 ASSETS OR SUBSIDIARY” in the heading.

24 (2) SECTION 403(b).—



1 (A) Paragraphs (7)(A)(ii) and (11)(A) of  
 2 section 403(b) are each amended by striking  
 3 “separates from service” and inserting “has a  
 4 severance from employment”.

5 (B) The heading for paragraph (11) of  
 6 section 403(b) is amended by striking “SEPARA-  
 7 TION FROM SERVICE” and inserting “SEVER-  
 8 ANCE FROM EMPLOYMENT”.

9 (3) SECTION 457.—Clause (ii) of section  
 10 457(d)(1)(A) is amended by striking “is separated  
 11 from service” and inserting “has a severance from  
 12 employment”.

13 (b) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to distributions after December 31,  
 15 2001.

16 **SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-**  
 17 **MENTAL DEFINED BENEFIT PLANS.**

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

21 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO  
 22 PURCHASE PERMISSIVE SERVICE CREDIT.—No  
 23 amount shall be includible in gross income by reason  
 24 of a direct trustee-to-trustee transfer to a defined

1 benefit governmental plan (as defined in section  
2 414(d)) if such transfer is—

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

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

9 (b) 457 PLANS.—Subsection (e) of section 457 is  
10 amended by adding after paragraph (16) the following  
11 new paragraph:

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

18 “(A) for the purchase of permissive service  
19 credit (as defined in section 415(n)(3)(A))  
20 under such plan, or

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

1       (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to trustee-to-trustee transfers after  
 3 December 31, 2001.

4       **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**  
 5               **PURPOSES OF CASH-OUT AMOUNTS.**

6       (a) QUALIFIED PLANS.—

7               (1) AMENDMENT OF INTERNAL REVENUE  
 8 CODE.—Section 411(a)(11) (relating to restrictions  
 9 on certain mandatory distributions) is amended by  
 10 adding at the end the following:

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

23               (2) AMENDMENT OF ERISA.—Section 203(e) of  
 24 the Employee Retirement Income Security Act of

1        1974 (29 U.S.C. 1053(c)) is amended by adding at  
 2        the end the following:

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

13        (b) ELIGIBLE DEFERRED COMPENSATION PLANS.—  
 14        Clause (i) of section 457(e)(9)(A) is amended by striking  
 15        “such amount” and inserting “the portion of such amount  
 16        which is not attributable to rollover contributions (as de-  
 17        fined in section 411(a)(11)(D))”.

18        (c) EFFECTIVE DATE.—The amendments made by  
 19        this section shall apply to distributions after December 31,  
 20        2001.

21        **SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-**  
 22        **QUIREMENTS FOR SECTION 457 PLANS.**

23        (a) MINIMUM DISTRIBUTION REQUIREMENTS.—  
 24        Paragraph (2) of section 457(d) (relating to distribution  
 25        requirements) is amended to read as follows:

1           “(2)   MINIMUM   DISTRIBUTION   REQUIRE-  
 2           MENTS.—A plan meets the minimum distribution re-  
 3           quirements of this paragraph if such plan meets the  
 4           requirements of section 401(a)(9).”.

5           (b) INCLUSION IN GROSS INCOME.—

6           (1) YEAR OF INCLUSION.—Subsection (a) of  
 7           section 457 (relating to year of inclusion in gross in-  
 8           come) is amended to read as follows:

9           “(a) YEAR OF INCLUSION IN GROSS INCOME.—

10           “(1) IN GENERAL.—Any amount of compensa-  
 11           tion deferred under an eligible deferred compensa-  
 12           tion plan, and any income attributable to the  
 13           amounts so deferred, shall be includible in gross in-  
 14           come only for the taxable year in which such com-  
 15           pensation or other income—

16           “(A) is paid to the participant or other  
 17           beneficiary, in the case of a plan of an eligible  
 18           employer described in subsection (e)(1)(A), and

19           “(B) is paid or otherwise made available to  
 20           the participant or other beneficiary, in the case  
 21           of a plan of an eligible employer described in  
 22           subsection (e)(1)(B).

23           “(2)   SPECIAL   RULE   FOR   ROLLOVER  
 24           AMOUNTS.—To the extent provided in section

1       72(t)(9), section 72(t) shall apply to any amount in-  
 2       cludible in gross income under this subsection.”.

3               (2) CONFORMING AMENDMENTS.—

4               (A) So much of paragraph (9) of section  
 5       457(e) as precedes subparagraph (A) is amend-  
 6       ed to read as follows:

7               “(9) BENEFITS OF TAX EXEMPT ORGANIZATION  
 8       PLANS NOT TREATED AS MADE AVAILABLE BY REA-  
 9       SON OF CERTAIN ELECTIONS, ETC.—In the case of  
 10      an eligible deferred compensation plan of an em-  
 11      ployer described in subsection (e)(1)(B)—”.

12              (B) Section 457(d) is amended by adding  
 13      at the end the following new paragraph:

14              “(3) SPECIAL RULE FOR GOVERNMENT PLAN.—  
 15      An eligible deferred compensation plan of an em-  
 16      ployer described in subsection (e)(1)(A) shall not be  
 17      treated as failing to meet the requirements of this  
 18      subsection solely by reason of making a distribution  
 19      described in subsection (e)(9)(A).”.

20              (c) EFFECTIVE DATE.—The amendments made by  
 21      this section shall apply to distributions after December 31,  
 22      2001.

1 **TITLE V—STRENGTHENING PEN-**  
 2 **SION SECURITY AND EN-**  
 3 **FORCEMENT**

4 **SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY**  
 5 **FUNDING LIMIT.**

6 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
 7 Section 412(c)(7) (relating to full-funding limitation) is  
 8 amended—

9 (1) by striking “the applicable percentage” in  
 10 subparagraph (A)(i)(I) and inserting “in the case of  
 11 plan years beginning before January 1, 2004, the  
 12 applicable percentage”; and

13 (2) by amending subparagraph (F) to read as  
 14 follows:

15 “(F) APPLICABLE PERCENTAGE.—For  
 16 purposes of subparagraph (A)(i)(I), the applica-  
 17 ble percentage shall be determined in accord-  
 18 ance with the following table:

<b>“In the case of any plan year beginning in—</b>	<b>The applicable percentage is—</b>
2002 .....	165
2003 .....	170.”.

19 (b) AMENDMENT OF ERISA.—Section 302(c)(7) of  
 20 the Employee Retirement Income Security Act of 1974  
 21 (29 U.S.C. 1082(c)(7)) is amended—

22 (1) by striking “the applicable percentage” in  
 23 subparagraph (A)(i)(I) and inserting “in the case of

1 plan years beginning before January 1, 2004, the  
 2 applicable percentage”; and

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

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

<b>“In the case of any plan year beginning in—</b>	<b>The applicable percentage is—</b>
2002 .....	165
2003 .....	170.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to plan years beginning after De-  
 11 cember 31, 2001.

12 **SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES**  
 13 **MODIFIED AND APPLIED TO ALL DEFINED**  
 14 **BENEFIT PLANS.**

15 (a) IN GENERAL.—Subparagraph (D) of section  
 16 404(a)(1) (relating to special rule in case of certain plans)  
 17 is amended to read as follows:

18 “(D) SPECIAL RULE IN CASE OF CERTAIN  
 19 PLANS.—

20 “(i) IN GENERAL.—In the case of any  
 21 defined benefit plan, except as provided in  
 22 regulations, the maximum amount deduct-  
 23 ible under the limitations of this paragraph



1 shall not be less than the unfunded termi-  
2 nation liability (determined as if the pro-  
3 posed termination date referred to in sec-  
4 tion 4041(b)(2)(A)(i)(II) of the Employee  
5 Retirement Income Security Act of 1974  
6 were the last day of the plan year).

7 “(ii) PLANS WITH LESS THAN 100  
8 PARTICIPANTS.—For purposes of this sub-  
9 paragraph, in the case of a plan which has  
10 less than 100 participants for the plan  
11 year, termination liability shall not include  
12 the liability attributable to benefit in-  
13 creases for highly compensated employees  
14 (as defined in section 414(q)) resulting  
15 from a plan amendment which is made or  
16 becomes effective, whichever is later, within  
17 the last 2 years before the termination  
18 date.

19 “(iii) RULE FOR DETERMINING NUM-  
20 BER OF PARTICIPANTS.—For purposes of  
21 determining whether a plan has more than  
22 100 participants, all defined benefit plans  
23 maintained by the same employer (or any  
24 member of such employer’s controlled  
25 group (within the meaning of section

1                   412(l)(8)(C))) shall be treated as one plan,  
 2                   but only employees of such member or em-  
 3                   ployer shall be taken into account.

4                   “(iv) PLANS MAINTAINED BY PROFES-  
 5                   SIONAL SERVICE EMPLOYERS.—Clause (i)  
 6                   shall not apply to a plan described in sec-  
 7                   tion 4021(b)(13) of the Employee Retire-  
 8                   ment Income Security Act of 1974.”.

9           (b) CONFORMING AMENDMENT.—Paragraph (6) of  
 10 section 4972(c), as amended by section 207, is amended  
 11 to read as follows:

12                   “(6) EXCEPTIONS.—In determining the amount  
 13                   of nondeductible contributions for any taxable year,  
 14                   there shall not be taken into account so much of the  
 15                   contributions to one or more defined contribution  
 16                   plans which are not deductible when contributed  
 17                   solely because of section 404(a)(7) as does not ex-  
 18                   ceed the greater of—

19                   “(A) the amount of contributions not in  
 20                   excess of 6 percent of compensation (within the  
 21                   meaning of section 404(a)) paid or accrued  
 22                   (during the taxable year for which the contribu-  
 23                   tions were made) to beneficiaries under the  
 24                   plans, or

25                   “(B) the sum of—

1 “(i) the amount of contributions de-  
 2 scribed in section 401(m)(4)(A), plus

3 “(ii) the amount of contributions de-  
 4 scribed in section 402(g)(3)(A).

5 For purposes of this paragraph, the deductible limits  
 6 under section 404(a)(7) shall first be applied to  
 7 amounts contributed to a defined benefit plan and  
 8 then to amounts described in subparagraph (B).”.

9 (c) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to plan years beginning after De-  
 11 cember 31, 2001.

12 **SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**  
 13 **ING.**

14 (a) IN GENERAL.—Subsection (c) of section 4972  
 15 (relating to nondeductible contributions) is amended by  
 16 adding at the end the following new paragraph:

17 “(7) DEFINED BENEFIT PLAN EXCEPTION.—In  
 18 determining the amount of nondeductible contribu-  
 19 tions for any taxable year, an employer may elect for  
 20 such year not to take into account any contributions  
 21 to a defined benefit plan except to the extent that  
 22 such contributions exceed the full-funding limitation  
 23 (as defined in section 412(c)(7), determined without  
 24 regard to subparagraph (A)(i)(I) thereof). For pur-  
 25 poses of this paragraph, the deductible limits under

1 section 404(a)(7) shall first be applied to amounts  
 2 contributed to defined contribution plans and then  
 3 to amounts described in this paragraph. If an em-  
 4 ployer makes an election under this paragraph for a  
 5 taxable year, paragraph (6) shall not apply to such  
 6 employer for such taxable year.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
 8 this section shall apply to years beginning after December  
 9 31, 2001.

10 **SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**  
 11 **DEFINED BENEFIT PLANS SIGNIFICANTLY**  
 12 **REDUCING FUTURE BENEFIT ACCRUALS.**

13 (a) AMENDMENT OF INTERNAL REVENUE CODE.—

14 (1) IN GENERAL.—Chapter 43 (relating to  
 15 qualified pension, etc., plans) is amended by adding  
 16 at the end the following new section:

17 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**  
 18 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**  
 19 **QUIREMENTS.**

20 “(a) IMPOSITION OF TAX.—There is hereby imposed  
 21 a tax on the failure of any applicable pension plan to meet  
 22 the requirements of subsection (e) with respect to any ap-  
 23 plicable individual.

24 “(b) AMOUNT OF TAX.—

1           “(1) IN GENERAL.—The amount of the tax im-  
2       posed by subsection (a) on any failure with respect  
3       to any applicable individual shall be \$100 for each  
4       day in the noncompliance period with respect to such  
5       failure.

6           “(2) NONCOMPLIANCE PERIOD.—For purposes  
7       of this section, the term ‘noncompliance period’  
8       means, with respect to any failure, the period begin-  
9       ning on the date the failure first occurs and ending  
10      on the date the notice to which the failure relates is  
11      provided or the failure is otherwise corrected.

12      “(c) LIMITATIONS ON AMOUNT OF TAX.—

13           “(1) TAX NOT TO APPLY WHERE FAILURE NOT  
14      DISCOVERED AND REASONABLE DILIGENCE EXER-  
15      CISED.—No tax shall be imposed by subsection (a)  
16      on any failure during any period for which it is es-  
17      tablished to the satisfaction of the Secretary that  
18      any person subject to liability for the tax under sub-  
19      section (d) did not know that the failure existed and  
20      exercised reasonable diligence to meet the require-  
21      ments of subsection (e).

22           “(2) TAX NOT TO APPLY TO FAILURES COR-  
23      RECTED WITHIN 30 DAYS.—No tax shall be imposed  
24      by subsection (a) on any failure if—

1           “(A) any person subject to liability for the  
2           tax under subsection (d) exercised reasonable  
3           diligence to meet the requirements of subsection  
4           (e), and

5           “(B) such person provides the notice de-  
6           scribed in subsection (e) during the 30-day pe-  
7           riod beginning on the first date such person  
8           knew, or exercising reasonable diligence would  
9           have known, that such failure existed.

10          “(3) OVERALL LIMITATION FOR UNINTEN-  
11          TIONAL FAILURES.—

12               “(A) IN GENERAL.—If the person subject  
13               to liability for tax under subsection (d) exer-  
14               cised reasonable diligence to meet the require-  
15               ments of subsection (e), the tax imposed by  
16               subsection (a) for failures during the taxable  
17               year of the employer (or, in the case of a multi-  
18               employer plan, the taxable year of the trust  
19               forming part of the plan) shall not exceed  
20               \$500,000. For purposes of the preceding sen-  
21               tence, all multiemployer plans of which the  
22               same trust forms a part shall be treated as 1  
23               plan.

24               “(B) TAXABLE YEARS IN THE CASE OF  
25               CERTAIN CONTROLLED GROUPS.—For purposes

1 of this paragraph, if all persons who are treated  
2 as a single employer for purposes of this section  
3 do not have the same taxable year, the taxable  
4 years taken into account shall be determined  
5 under principles similar to the principles of sec-  
6 tion 1561.

7 “(4) WAIVER BY SECRETARY.—In the case of a  
8 failure which is due to reasonable cause and not to  
9 willful neglect, the Secretary may waive part or all  
10 of the tax imposed by subsection (a) to the extent  
11 that the payment of such tax would be excessive or  
12 otherwise inequitable relative to the failure involved.

13 “(d) LIABILITY FOR TAX.—The following shall be lia-  
14 ble for the tax imposed by subsection (a):

15 “(1) In the case of a plan other than a multi-  
16 employer plan, the employer.

17 “(2) In the case of a multiemployer plan, the  
18 plan.

19 “(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFI-  
20 CANTLY REDUCING BENEFIT ACCRUALS.—

21 “(1) IN GENERAL.—If an applicable pension  
22 plan is amended to provide for a significant reduc-  
23 tion in the rate of future benefit accrual, the plan  
24 administrator shall provide written notice to each

1 applicable individual (and to each employee organi-  
2 zation representing applicable individuals).

3 “(2) NOTICE.—The notice required by para-  
4 graph (1) shall be written in a manner calculated to  
5 be understood by the average plan participant and  
6 shall provide sufficient information (as determined  
7 in accordance with regulations prescribed by the  
8 Secretary) to allow applicable individuals to under-  
9 stand the effect of the plan amendment. The Sec-  
10 retary may provide a simplified form of notice for,  
11 or exempt from any notice requirement, a plan—

12 “(A) which has fewer than 100 partici-  
13 pants who have accrued a benefit under the  
14 plan, or

15 “(B) which offers participants the option  
16 to choose between the new benefit formula and  
17 the old benefit formula.

18 “(3) TIMING OF NOTICE.—Except as provided  
19 in regulations, the notice required by paragraph (1)  
20 shall be provided within a reasonable time before the  
21 effective date of the plan amendment.

22 “(4) DESIGNEES.—Any notice under paragraph  
23 (1) may be provided to a person designated, in writ-  
24 ing, by the person to which it would otherwise be  
25 provided.



1           “(5) NOTICE BEFORE ADOPTION OF AMEND-  
2           MENT.—A plan shall not be treated as failing to  
3           meet the requirements of paragraph (1) merely be-  
4           cause notice is provided before the adoption of the  
5           plan amendment if no material modification of the  
6           amendment occurs before the amendment is adopt-  
7           ed.

8           “(f) DEFINITIONS AND SPECIAL RULES.—For pur-  
9           poses of this section—

10           “(1) APPLICABLE INDIVIDUAL.—The term ‘ap-  
11           plicable individual’ means, with respect to any plan  
12           amendment—

13                   “(A) each participant in the plan, and

14                   “(B) any beneficiary who is an alternate  
15                   payee (within the meaning of section 414(p)(8))  
16                   under an applicable qualified domestic relations  
17                   order (within the meaning of section  
18                   414(p)(1)(A)),

19           whose rate of future benefit accrual under the plan  
20           may reasonably be expected to be significantly re-  
21           duced by such plan amendment.

22           “(2) APPLICABLE PENSION PLAN.—The term  
23           ‘applicable pension plan’ means—

24                   “(A) any defined benefit plan, or

1           “(B) an individual account plan which is  
2           subject to the funding standards of section 412.  
3       Such term shall not include a governmental plan  
4       (within the meaning of section 414(d)) or a church  
5       plan (within the meaning of section 414(e)) with re-  
6       spect to which the election provided by section  
7       410(d) has not been made.

8           “(3) EARLY RETIREMENT.—A plan amendment  
9       which eliminates or significantly reduces any early  
10      retirement benefit or retirement-type subsidy (within  
11      the meaning of section 411(d)(6)(B)(i)) shall be  
12      treated as having the effect of significantly reducing  
13      the rate of future benefit accrual.

14      “(g) NEW TECHNOLOGIES.—The Secretary may by  
15      regulations allow any notice under subsection (e) to be  
16      provided by using new technologies.”.

17           (2) CLERICAL AMENDMENT.—The table of sec-  
18      tions for chapter 43 is amended by adding at the  
19      end the following new item:

                    “Sec. 4980F. Failure of applicable plans reducing benefit accruals  
                    to satisfy notice requirements.”.

20           (b) AMENDMENT OF ERISA.—Section 204(h) of the  
21      Employee Retirement Income Security Act of 1974 (29  
22      U.S.C. 1054(h)) is amended by adding at the end the fol-  
23      lowing new paragraphs:

1       “(3)(A) An applicable pension plan to which para-  
2 graph (1) applies shall not be treated as meeting the re-  
3 quirements of such paragraph unless, in addition to any  
4 notice required to be provided to an individual or organiza-  
5 tion under such paragraph, the plan administrator pro-  
6 vides the notice described in subparagraph (B) to each ap-  
7 plicable individual (and to each employee organization rep-  
8 resenting applicable individuals).

9       “(B) The notice required by subparagraph (A) shall  
10 be written in a manner calculated to be understood by the  
11 average plan participant and shall provide sufficient infor-  
12 mation (as determined in accordance with regulations pre-  
13 scribed by the Secretary of the Treasury) to allow applica-  
14 ble individuals to understand the effect of the plan amend-  
15 ment. The Secretary of the Treasury may provide a sim-  
16 plified form of notice for, or exempt from any notice re-  
17 quirement, a plan—

18               “(i) which has fewer than 100 participants who  
19 have accrued a benefit under the plan, or

20               “(ii) which offers participants the option to  
21 choose between the new benefit formula and the old  
22 benefit formula.

23       “(C) Except as provided in regulations prescribed by  
24 the Secretary of the Treasury, the notice required by sub-

1 paragraph (A) shall be provided within a reasonable time  
 2 before the effective date of the plan amendment.

3 “(D) Any notice under subparagraph (A) may be pro-  
 4 vided to a person designated, in writing, by the person  
 5 to which it would otherwise be provided.

6 “(E) A plan shall not be treated as failing to meet  
 7 the requirements of subparagraph (A) merely because no-  
 8 tice is provided before the adoption of the plan amendment  
 9 if no material modification of the amendment occurs be-  
 10 fore the amendment is adopted.

11 “(F) The Secretary of the Treasury may by regula-  
 12 tions allow any notice under this paragraph to be provided  
 13 by using new technologies.

14 “(4) For purposes of paragraph (3)—

15 “(A) The term ‘applicable individual’ means,  
 16 with respect to any plan amendment—

17 “(i) each participant in the plan; and

18 “(ii) any beneficiary who is an alternate  
 19 payee (within the meaning of section  
 20 206(d)(3)(K)) under an applicable qualified do-  
 21 mestic relations order (within the meaning of  
 22 section 206(d)(3)(B)(i)),

23 whose rate of future benefit accrual under the plan  
 24 may reasonably be expected to be significantly re-  
 25 duced by such plan amendment.

1           “(B) The term ‘applicable pension plan’  
2 means—

3           “(i) any defined benefit plan; or

4           “(ii) an individual account plan which is  
5 subject to the funding standards of section 412  
6 of the Internal Revenue Code of 1986.

7           “(C) A plan amendment which eliminates or  
8 significantly reduces any early retirement benefit or  
9 retirement-type subsidy (within the meaning of sub-  
10 section (g)(2)(A)) shall be treated as having the ef-  
11 fect of significantly reducing the rate of future ben-  
12 efit accrual.”.

13       (c) EFFECTIVE DATES.—

14           (1) IN GENERAL.—The amendments made by  
15 this section shall apply to plan amendments taking  
16 effect on or after the date of the enactment of this  
17 Act.

18           (2) TRANSITION.—Until such time as the Sec-  
19 retary of the Treasury issues regulations under sec-  
20 tions 4980F(e)(2) and (3) of the Internal Revenue  
21 Code of 1986, and section 204(h)(3) of the Em-  
22 ployee Retirement Income Security Act of 1974, as  
23 added by the amendments made by this section, a  
24 plan shall be treated as meeting the requirements of

1       such sections if it makes a good faith effort to com-  
2       ply with such requirements.

3           (3) SPECIAL NOTICE RULE.—

4           (A) IN GENERAL.—The period for pro-  
5       viding any notice required by the amendments  
6       made by this section shall not end before the  
7       date which is 3 months after the date of the en-  
8       actment of this Act.

9           (B) REASONABLE NOTICE.—The amend-  
10       ments made by this section shall not apply to  
11       any plan amendment taking effect on or after  
12       the date of the enactment of this Act if, before  
13       April 25, 2001, notice was provided to partici-  
14       pants and beneficiaries adversely affected by  
15       the plan amendment (or their representatives)  
16       which was reasonably expected to notify them  
17       of the nature and effective date of the plan  
18       amendment.

19       (d) STUDY.—The Secretary of the Treasury shall  
20       prepare a report on the effects of conversions of tradi-  
21       tional defined benefit plans to cash balance or hybrid for-  
22       mula plans. Such study shall examine the effect of such  
23       conversions on longer service participants, including the  
24       incidence and effects of “wear away” provisions under  
25       which participants earn no additional benefits for a period

1 of time after the conversion. As soon as practicable, but  
2 not later than 60 days after the date of the enactment  
3 of this Act, the Secretary shall submit such report, to-  
4 gether with recommendations thereon, to the Committee  
5 on Ways and Means and the Committee on Education and  
6 the Workforce of the House of Representatives and the  
7 Committee on Finance and the Committee on Health,  
8 Education, Labor, and Pensions of the Senate.

9 **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**

10 **SECTION 415.**

11 (a) COMPENSATION LIMIT.—

12 (1) IN GENERAL.—Paragraph (11) of section  
13 415(b) (relating to limitation for defined benefit  
14 plans) is amended to read as follows:

15 “(11) SPECIAL LIMITATION RULE FOR GOVERN-  
16 MENTAL AND MULTIEMPLOYER PLANS.—In the case  
17 of a governmental plan (as defined in section  
18 414(d)) or a multiemployer plan (as defined in sec-  
19 tion 414(f)), subparagraph (B) of paragraph (1)  
20 shall not apply.”.

21 (2) CONFORMING AMENDMENT.—Section  
22 415(b)(7) (relating to benefits under certain collec-  
23 tively bargained plans) is amended by inserting  
24 “(other than a multiemployer plan)” after “defined

1 benefit plan” in the matter preceding subparagraph  
 2 (A).

3 (b) COMBINING AND AGGREGATION OF PLANS.—

4 (1) COMBINING OF PLANS.—Subsection (f) of  
 5 section 415 (relating to combining of plans) is  
 6 amended by adding at the end the following:

7 “(3) EXCEPTION FOR MULTIEMPLOYER  
 8 PLANS.—Notwithstanding paragraph (1) and sub-  
 9 section (g), a multiemployer plan (as defined in sec-  
 10 tion 414(f)) shall not be combined or aggregated—

11 “(A) with any other plan which is not a  
 12 multiemployer plan for purposes of applying  
 13 subsection (b)(1)(B) to such other plan, or

14 “(B) with any other multiemployer plan  
 15 for purposes of applying the limitations estab-  
 16 lished in this section.”.

17 (2) CONFORMING AMENDMENT FOR AGGREGA-  
 18 TION OF PLANS.—Subsection (g) of section 415 (re-  
 19 lating to aggregation of plans) is amended by strik-  
 20 ing “The Secretary” and inserting “Except as pro-  
 21 vided in subsection (f)(3), the Secretary”.

22 (c) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to years beginning after December  
 24 31, 2001.



1 **SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE**  
 2 **CONTRIBUTIONS TO 401(K) PLANS.**

3 (a) IN GENERAL.—Section 1524(b) of the Taxpayer  
 4 Relief Act of 1997 is amended to read as follows:

5 “(b) EFFECTIVE DATE.—

6 “(1) IN GENERAL.—Except as provided in para-  
 7 graph (2), the amendments made by this section  
 8 shall apply to elective deferrals for plan years begin-  
 9 ning after December 31, 1998.

10 “(2) NONAPPLICATION TO PREVIOUSLY AC-  
 11 QUIRED PROPERTY.—The amendments made by this  
 12 section shall not apply to any elective deferral which  
 13 is invested in assets consisting of qualifying em-  
 14 ployer securities, qualifying employer real property,  
 15 or both, if such assets were acquired before January  
 16 1, 1999.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 this section shall apply as if included in the provision of  
 19 the Taxpayer Relief Act of 1997 to which it relates.

20 **SEC. 507. PERIODIC PENSION BENEFITS STATEMENTS.**

21 (a) IN GENERAL.—Section 105(a) of the Employee  
 22 Retirement Income Security Act of 1974 (29 U.S.C. 1025  
 23 (a)) is amended to read as follows:

24 “SEC. 105. (a)(1)(A) The administrator of an indi-  
 25 vidual account plan shall furnish a pension benefit  
 26 statement—

1           “(i) to a plan participant at least once annually,  
2           and

3           “(ii) to a plan beneficiary upon written request.

4           “(B) The administrator of a defined benefit plan  
5 shall furnish a pension benefit statement—

6                   “(i) at least once every 3 years to each  
7           participant with a nonforfeitable accrued ben-  
8           efit who is employed by the employer maintain-  
9           ing the plan at the time the statement is fur-  
10          nished to participants, and

11                   “(ii) to a plan participant or plan bene-  
12          ficiary of the plan upon written request.

13          “(2) A pension benefit statement under paragraph  
14 (1)—

15                   “(A) shall indicate, on the basis of the latest  
16          available information—

17                           “(i) the total benefits accrued, and

18                           “(ii) the nonforfeitable pension benefits, if  
19          any, which have accrued, or the earliest date on  
20          which benefits will become nonforfeitable,

21                   “(B) shall be written in a manner calculated to  
22          be understood by the average plan participant, and

23                   “(C) may be provided in written, electronic, or  
24          other appropriate form.

1       “(3)(A) In the case of a defined benefit plan, the re-  
2       quirements of paragraph (1)(B)(i) shall be treated as met  
3       with respect to a participant if the administrator provides  
4       the participant at least once each year with notice of the  
5       availability of the pension benefit statement and the ways  
6       in which the participant may obtain such statement. Such  
7       notice shall be provided in written, electronic, or other ap-  
8       propriate form, and may be included with other commu-  
9       nications to the participant if done in a manner reasonably  
10      designed to attract the attention of the participant.

11      “(B) The Secretary may provide that years in which  
12      no employee or former employee benefits (within the  
13      meaning of section 410(b) of the Internal Revenue Code  
14      of 1986) under the plan need not be taken into account  
15      in determining the 3-year period under paragraph  
16      (1)(B)(i).”.

17      (b) CONFORMING AMENDMENTS.—

18           (1) Section 105 of the Employee Retirement In-  
19      come Security Act of 1974 (29 U.S.C. 1025) is  
20      amended by striking subsection (d).

21           (2) Section 105(b) of such Act (29 U.S.C.  
22      1025(b)) is amended to read as follows:

23      “(b) In no case shall a participant or beneficiary of  
24      a plan be entitled to more than one statement described

1 in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is appli-  
 2 cable, in any 12-month period.”.

3 (c) MODEL STATEMENTS.—The Secretary of Labor  
 4 shall develop a model benefit statement, written in a man-  
 5 ner calculated to be understood by the average plan partic-  
 6 ipant, that may be used by plan administrators in com-  
 7 plying with the requirements of section 105 of the Em-  
 8 ployee Retirement Income Security Act of 1974.

9 (d) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to plan years beginning after De-  
 11 cember 31, 2002.

12 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**  
 13 **PORATION ESOP.**

14 (a) IN GENERAL.—Section 409 (relating to qualifica-  
 15 tions for tax credit employee stock ownership plans) is  
 16 amended by redesignating subsection (p) as subsection (q)  
 17 and by inserting after subsection (o) the following new  
 18 subsection:

19 “(p) PROHIBITED ALLOCATIONS OF SECURITIES IN  
 20 AN S CORPORATION.—

21 “(1) IN GENERAL.—An employee stock owner-  
 22 ship plan holding employer securities consisting of  
 23 stock in an S corporation shall provide that no por-  
 24 tion of the assets of the plan attributable to (or allo-  
 25 cable in lieu of) such employer securities may, dur-

ing a nonallocation year, accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a)) for the benefit of any disqualified person.

“(2) FAILURE TO MEET REQUIREMENTS.—

“(A) IN GENERAL.—If a plan fails to meet the requirements of paragraph (1), the plan shall be treated as having distributed to any disqualified person the amount allocated to the account of such person in violation of paragraph (1) at the time of such allocation.

“(B) CROSS REFERENCE.—

**“For excise tax relating to violations of paragraph (1) and ownership of synthetic equity, see section 4979A.**

“(3) NONALLOCATION YEAR.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘nonallocation year’ means any plan year of an employee stock ownership plan if, at any time during such plan year—

“(i) such plan holds employer securities consisting of stock in an S corporation, and

“(ii) disqualified persons own at least 50 percent of the number of shares of stock in the S corporation.

“(B) **ATTRIBUTION RULES.**—For purposes of subparagraph (A)—

“(i) **IN GENERAL.**—The rules of section 318(a) shall apply for purposes of determining ownership, except that—

“(I) in applying paragraph (1) thereof, the members of an individual’s family shall include members of the family described in paragraph (4)(D), and

“(II) paragraph (4) thereof shall not apply.

“(ii) **DEEMED-OWNED SHARES.**—Notwithstanding the employee trust exception in section 318(a)(2)(B)(i), individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.

“(4) **DISQUALIFIED PERSON.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘disqualified person’ means any person if—

1 “(i) the aggregate number of deemed-  
 2 owned shares of such person and the mem-  
 3 bers of such person’s family is at least 20  
 4 percent of the number of deemed-owned  
 5 shares of stock in the S corporation, or

6 “(ii) in the case of a person not de-  
 7 scribed in clause (i), the number of  
 8 deemed-owned shares of such person is at  
 9 least 10 percent of the number of deemed-  
 10 owned shares of stock in such corporation.

11 “(B) TREATMENT OF FAMILY MEMBERS.—

12 In the case of a disqualified person described in  
 13 subparagraph (A)(i), any member of such per-  
 14 son’s family with deemed-owned shares shall be  
 15 treated as a disqualified person if not otherwise  
 16 treated as a disqualified person under subpara-  
 17 graph (A).

18 “(C) DEEMED-OWNED SHARES.—

19 “(i) IN GENERAL.—The term  
 20 ‘deemed-owned shares’ means, with respect  
 21 to any person—

22 “(I) the stock in the S corpora-  
 23 tion constituting employer securities  
 24 of an employee stock ownership plan

1 which is allocated to such person  
2 under the plan, and

3 “(II) such person’s share of the  
4 stock in such corporation which is  
5 held by such plan but which is not al-  
6 located under the plan to participants.

7 “(ii) PERSON’S SHARE OF  
8 UNALLOCATED STOCK.—For purposes of  
9 clause (i)(II), a person’s share of  
10 unallocated S corporation stock held by  
11 such plan is the amount of the unallocated  
12 stock which would be allocated to such per-  
13 son if the unallocated stock were allocated  
14 to all participants in the same proportions  
15 as the most recent stock allocation under  
16 the plan.

17 “(D) MEMBER OF FAMILY.—For purposes  
18 of this paragraph, the term ‘member of the  
19 family’ means, with respect to any individual—

20 “(i) the spouse of the individual,

21 “(ii) an ancestor or lineal descendant  
22 of the individual or the individual’s spouse,

23 “(iii) a brother or sister of the indi-  
24 vidual or the individual’s spouse and any



1 lineal descendant of the brother or sister,  
2 and

3 “(iv) the spouse of any individual de-  
4 scribed in clause (ii) or (iii).

5 A spouse of an individual who is legally sepa-  
6 rated from such individual under a decree of di-  
7 vorce or separate maintenance shall not be  
8 treated as such individual’s spouse for purposes  
9 of this subparagraph.

10 “(5) TREATMENT OF SYNTHETIC EQUITY.—For  
11 purposes of paragraphs (3) and (4), in the case of  
12 a person who owns synthetic equity in the S corpora-  
13 tion, except to the extent provided in regulations, the  
14 shares of stock in such corporation on which such  
15 synthetic equity is based shall be treated as out-  
16 standing stock in such corporation and deemed-  
17 owned shares of such person if such treatment of  
18 synthetic equity of 1 or more such persons results  
19 in—

20 “(A) the treatment of any person as a dis-  
21 qualified person, or

22 “(B) the treatment of any year as a non-  
23 allocation year.

24 For purposes of this paragraph, synthetic equity  
25 shall be treated as owned by a person in the same

1 manner as stock is treated as owned by a person  
2 under the rules of paragraphs (2) and (3) of section  
3 318(a). If, without regard to this paragraph, a per-  
4 son is treated as a disqualified person or a year is  
5 treated as a nonallocation year, this paragraph shall  
6 not be construed to result in the person or year not  
7 being so treated.

8 “(6) DEFINITIONS.—For purposes of this  
9 subsection—

10 “(A) EMPLOYEE STOCK OWNERSHIP  
11 PLAN.—The term ‘employee stock ownership  
12 plan’ has the meaning given such term by sec-  
13 tion 4975(e)(7).

14 “(B) EMPLOYER SECURITIES.—The term  
15 ‘employer security’ has the meaning given such  
16 term by section 409(l).

17 “(C) SYNTHETIC EQUITY.—The term ‘syn-  
18 thetic equity’ means any stock option, warrant,  
19 restricted stock, deferred issuance stock right,  
20 or similar interest or right that gives the holder  
21 the right to acquire or receive stock of the S  
22 corporation in the future. Except to the extent  
23 provided in regulations, synthetic equity also in-  
24 cludes a stock appreciation right, phantom  
25 stock unit, or similar right to a future cash

1 payment based on the value of such stock or  
2 appreciation in such value.

3 “(7) REGULATIONS.—The Secretary shall pre-  
4 scribe such regulations as may be necessary to carry  
5 out the purposes of this subsection.”.

6 (b) COORDINATION WITH SECTION 4975(e)(7).—The  
7 last sentence of section 4975(e)(7) (defining employee  
8 stock ownership plan) is amended by inserting “, section  
9 409(p),” after “409(n)”.

10 (c) EXCISE TAX.—

11 (1) APPLICATION OF TAX.—Subsection (a) of  
12 section 4979A (relating to tax on certain prohibited  
13 allocations of employer securities) is amended—

14 (A) by striking “or” at the end of para-  
15 graph (1), and

16 (B) by striking all that follows paragraph  
17 (2) and inserting the following:

18 “(3) there is any allocation of employer securi-  
19 ties which violates the provisions of section 409(p),  
20 or a nonallocation year described in subsection  
21 (e)(2)(C) with respect to an employee stock owner-  
22 ship plan, or

23 “(4) any synthetic equity is owned by a dis-  
24 qualified person in any nonallocation year,

1 there is hereby imposed a tax on such allocation or owner-  
2 ship equal to 50 percent of the amount involved.”.

3 (2) LIABILITY.—Section 4979A(c) (defining li-  
4 ability for tax) is amended to read as follows:

5 “(c) LIABILITY FOR TAX.—The tax imposed by this  
6 section shall be paid—

7 “(1) in the case of an allocation referred to in  
8 paragraph (1) or (2) of subsection (a), by—

9 “(A) the employer sponsoring such plan, or

10 “(B) the eligible worker-owned cooperative,  
11 which made the written statement described in sec-  
12 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as  
13 the case may be), and

14 “(2) in the case of an allocation or ownership  
15 referred to in paragraph (3) or (4) of subsection (a),  
16 by the S corporation the stock in which was so allo-  
17 cated or owned.”.

18 (3) DEFINITIONS.—Section 4979A(e) (relating  
19 to definitions) is amended to read as follows:

20 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
21 poses of this section—

22 “(1) DEFINITIONS.—Except as provided in  
23 paragraph (2), terms used in this section have the  
24 same respective meanings as when used in sections  
25 409 and 4978.

1           “(2) SPECIAL RULES RELATING TO TAX IM-  
2       POSED BY REASON OF PARAGRAPH (3) OR (4) OF  
3       SUBSECTION (a).—

4           “(A) PROHIBITED ALLOCATIONS.—The  
5       amount involved with respect to any tax im-  
6       posed by reason of subsection (a)(3) is the  
7       amount allocated to the account of any person  
8       in violation of section 409(p)(1).

9           “(B) SYNTHETIC EQUITY.—The amount  
10      involved with respect to any tax imposed by rea-  
11      son of subsection (a)(4) is the value of the  
12      shares on which the synthetic equity is based.

13          “(C) SPECIAL RULE DURING FIRST NON-  
14      ALLOCATION YEAR.—For purposes of subpara-  
15      graph (A), the amount involved for the first  
16      nonallocation year of any employee stock owner-  
17      ship plan shall be determined by taking into ac-  
18      count the total value of all the deemed-owned  
19      shares of all disqualified persons with respect to  
20      such plan.

21          “(D) STATUTE OF LIMITATIONS.—The  
22      statutory period for the assessment of any tax  
23      imposed by this section by reason of paragraph  
24      (3) or (4) of subsection (a) shall not expire be-

1 fore the date which is 3 years from the later  
2 of—

3 “(i) the allocation or ownership re-  
4 ferred to in such paragraph giving rise to  
5 such tax, or

6 “(ii) the date on which the Secretary  
7 is notified of such allocation or owner-  
8 ship.”.

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by  
11 this section shall apply to plan years beginning after  
12 December 31, 2004.

13 (2) EXCEPTION FOR CERTAIN PLANS.—In the  
14 case of any—

15 (A) employee stock ownership plan estab-  
16 lished after March 14, 2001, or

17 (B) employee stock ownership plan estab-  
18 lished on or before such date if employer securi-  
19 ties held by the plan consist of stock in a cor-  
20 poration with respect to which an election under  
21 section 1362(a) of the Internal Revenue Code  
22 of 1986 is not in effect on such date,

23 the amendments made by this section shall apply to  
24 plan years ending after March 14, 2001.

## **TITLE VI—REDUCING REGULATORY BURDENS**

### **SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

(a) AMENDMENT OF INTERNAL REVENUE CODE.—

Paragraph (9) of section 412(c) (relating to annual valuation) is amended to read as follows:

“(9) ANNUAL VALUATION.—

“(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan’s liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

“(B) VALUATION DATE.—

“(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

“(ii) ELECTION TO USE PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a

1 date within the plan year prior to the year  
 2 to which the valuation refers if—

3 “(I) an election is in effect under  
 4 this clause with respect to the plan,  
 5 and

6 “(II) as of such date, the value  
 7 of the assets of the plan are not less  
 8 than 125 percent of the plan’s current  
 9 liability (as defined in paragraph  
 10 (7)(B)).

11 “(iii) ADJUSTMENTS.—Information  
 12 under clause (ii) shall, in accordance with  
 13 regulations, be actuarially adjusted to re-  
 14 flect significant differences in participants.

15 “(iv) ELECTION.—An election under  
 16 clause (ii), once made, shall be irrevocable  
 17 without the consent of the Secretary.”.

18 (b) AMENDMENT OF ERISA.—Paragraph (9) of sec-  
 19 tion 302(c) of the Employee Retirement Income Security  
 20 Act of 1974 (29 U.S.C. 1053(c)) is amended—

21 (1) by inserting “(A)” after “(9)”; and

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

23 “(B)(i) Except as provided in clause (ii), the valu-  
 24 ation referred to in subparagraph (A) shall be made as



1 of a date within the plan year to which the valuation refers  
 2 or within one month prior to the beginning of such year.

3 “(ii) The valuation referred to in subparagraph (A)  
 4 may be made as of a date within the plan year prior to  
 5 the year to which the valuation refers if—

6 “(I) an election is in effect under this clause  
 7 with respect to the plan; and

8 “(II) as of such date, the value of the assets of  
 9 the plan are not less than 125 percent of the plan’s  
 10 current liability (as defined in paragraph (7)(B)).

11 “(iii) Information under clause (ii) shall, in accord-  
 12 ance with regulations, be actuarially adjusted to reflect  
 13 significant differences in participants.

14 “(iv) An election under clause (ii), once made, shall  
 15 be irrevocable without the consent of the Secretary of the  
 16 Treasury.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to plan years beginning after De-  
 19 cember 31, 2001.

20 **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**  
 21 **LOSS OF DIVIDEND DEDUCTION.**

22 (a) IN GENERAL.—Section 404(k)(2)(A) (defining  
 23 applicable dividends) is amended by striking “or” at the  
 24 end of clause (ii), by redesignating clause (iii) as clause

1 (iv), and by inserting after clause (ii) the following new  
 2 clause:

3 “(iii) is, at the election of such par-  
 4 ticipants or their beneficiaries—

5 “(I) payable as provided in clause  
 6 (i) or (ii), or

7 “(II) paid to the plan and rein-  
 8 vested in qualifying employer securi-  
 9 ties, or”.

10 (b) STANDARDS FOR DISALLOWANCE.—Section  
 11 404(k)(5)(A) (relating to disallowance of deduction) is  
 12 amended by inserting “avoidance or” before “evasion”.

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

16 **SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CER-**  
 17 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

18 (a) IN GENERAL.—Paragraph (4) of section 1114(c)  
 19 of the Tax Reform Act of 1986 is hereby repealed.

20 (b) EFFECTIVE DATE.—The repeal made by sub-  
 21 section (a) shall apply to plan years beginning after De-  
 22 cember 31, 2001.

23 **SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

24 (a) IN GENERAL.—The Secretary of the Treasury  
 25 shall modify Treasury Regulations section 1.410(b)–6(g)

1 to provide that employees of an organization described in  
 2 section 403(b)(1)(A)(i) of the Internal Revenue Code of  
 3 1986 who are eligible to make contributions under section  
 4 403(b) of such Code pursuant to a salary reduction agree-  
 5 ment may be treated as excludable with respect to a plan  
 6 under section 401(k) or (m) of such Code that is provided  
 7 under the same general arrangement as a plan under such  
 8 section 401(k), if—

9 (1) no employee of an organization described in  
 10 section 403(b)(1)(A)(i) of such Code is eligible to  
 11 participate in such section 401(k) plan or section  
 12 401(m) plan; and

13 (2) 95 percent of the employees who are not  
 14 employees of an organization described in section  
 15 403(b)(1)(A)(i) of such Code are eligible to partici-  
 16 pate in such plan under such section 401(k) or (m).

17 (b) EFFECTIVE DATE.—The modification required by  
 18 subsection (a) shall apply as of the same date set forth  
 19 in section 1426(b) of the Small Business Job Protection  
 20 Act of 1996.

21 **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**  
 22 **PROVIDED RETIREMENT ADVICE.**

23 (a) IN GENERAL.—Subsection (a) of section 132 (re-  
 24 lating to exclusion from gross income) is amended by  
 25 striking “or” at the end of paragraph (5), by striking the

1 period at the end of paragraph (6) and inserting “, or”,  
 2 and by adding at the end the following new paragraph:

3 “(7) qualified retirement planning services.”.

4 (b) QUALIFIED RETIREMENT PLANNING SERVICES  
 5 DEFINED.—Section 132 is amended by redesignating sub-  
 6 section (m) as subsection (n) and by inserting after sub-  
 7 section (l) the following:

8 “(m) QUALIFIED RETIREMENT PLANNING SERV-  
 9 ICES.—

10 “(1) IN GENERAL.—For purposes of this sec-  
 11 tion, the term ‘qualified retirement planning serv-  
 12 ices’ means any retirement planning advice or infor-  
 13 mation provided to an employee and his spouse by  
 14 an employer maintaining a qualified employer plan.

15 “(2) NONDISCRIMINATION RULE.—Subsection  
 16 (a)(7) shall apply in the case of highly compensated  
 17 employees only if such services are available on sub-  
 18 stantially the same terms to each member of the  
 19 group of employees normally provided education and  
 20 information regarding the employer’s qualified em-  
 21 ployer plan.

22 “(3) QUALIFIED EMPLOYER PLAN.—For pur-  
 23 poses of this subsection, the term ‘qualified employer  
 24 plan’ means a plan, contract, pension, or account de-  
 25 scribed in section 219(g)(5).”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to years beginning after December  
 3 31, 2001.

4 **SEC. 606. REPORTING SIMPLIFICATION.**

5 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
 6 OWNERS AND THEIR SPOUSES.—

7 (1) IN GENERAL.—The Secretary of the Treas-  
 8 ury and the Secretary of Labor shall modify the re-  
 9 quirements for filing annual returns with respect to  
 10 one-participant retirement plans to ensure that such  
 11 plans with assets of \$250,000 or less as of the close  
 12 of the plan year need not file a return for that year.

13 (2) ONE-PARTICIPANT RETIREMENT PLAN DE-  
 14 FINED.—For purposes of this subsection, the term  
 15 “one-participant retirement plan” means a retire-  
 16 ment plan that—

17 (A) on the first day of the plan year—

18 (i) covered only the employer (and the  
 19 employer’s spouse) and the employer  
 20 owned the entire business (whether or not  
 21 incorporated); or

22 (ii) covered only one or more partners  
 23 (and their spouses) in a business partner-  
 24 ship (including partners in an S or C cor-  
 25 poration);

1 (B) meets the minimum coverage require-  
2 ments of section 410(b) of the Internal Revenue  
3 Code of 1986 without being combined with any  
4 other plan of the business that covers the em-  
5 ployees of the business;

6 (C) does not provide benefits to anyone ex-  
7 cept the employer (and the employer's spouse)  
8 or the partners (and their spouses);

9 (D) does not cover a business that is a  
10 member of an affiliated service group, a con-  
11 trolled group of corporations, or a group of  
12 businesses under common control; and

13 (E) does not cover a business that leases  
14 employees.

15 (3) OTHER DEFINITIONS.—Terms used in para-  
16 graph (2) which are also used in section 414 of the  
17 Internal Revenue Code of 1986 shall have the re-  
18 spective meanings given such terms by such section.

19 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
20 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case  
21 of plan years beginning after December 31, 2002, the Sec-  
22 retary of the Treasury and the Secretary of Labor shall  
23 provide for the filing of a simplified annual return for any  
24 retirement plan which covers less than 25 employees on  
25 the first day of a plan year and which meets the require-

1 ments described in subparagraphs (B), (D), and (E) of  
2 subsection (a)(2).

3 (c) EFFECTIVE DATE.—The provisions of this section  
4 shall take effect on January 1, 2002.

5 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**  
6 **ANCE RESOLUTION SYSTEM.**

7 The Secretary of the Treasury shall continue to up-  
8 date and improve the Employee Plans Compliance Resolu-  
9 tion System (or any successor program) giving special at-  
10 tention to—

11 (1) increasing the awareness and knowledge of  
12 small employers concerning the availability and use  
13 of the program;

14 (2) taking into account special concerns and  
15 circumstances that small employers face with respect  
16 to compliance and correction of compliance failures;

17 (3) extending the duration of the self-correction  
18 period under the Self-Correction Program for signifi-  
19 cant compliance failures;

20 (4) expanding the availability to correct insig-  
21 nificant compliance failures under the Self-Correc-  
22 tion Program during audit; and

23 (5) assuring that any tax, penalty, or sanction  
24 that is imposed by reason of a compliance failure is

1 not excessive and bears a reasonable relationship to  
2 the nature, extent, and severity of the failure.

3 **SEC. 608. REPEAL OF THE MULTIPLE USE TEST.**

4 (a) IN GENERAL.—Paragraph (9) of section 401(m)  
5 is amended to read as follows:

6 “(9) REGULATIONS.—The Secretary shall pre-  
7 scribe such regulations as may be necessary to carry  
8 out the purposes of this subsection and subsection  
9 (k), including regulations permitting appropriate ag-  
10 gregation of plans and contributions.”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to years beginning after December  
13 31, 2001.

14 **SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-**  
15 **ERAGE, AND LINE OF BUSINESS RULES.**

16 (a) NONDISCRIMINATION.—

17 (1) IN GENERAL.—The Secretary of the Treas-  
18 ury shall, by regulation, provide that a plan shall be  
19 deemed to satisfy the requirements of section  
20 401(a)(4) of the Internal Revenue Code of 1986 if  
21 such plan satisfies the facts and circumstances test  
22 under section 401(a)(4) of such Code, as in effect  
23 before January 1, 1994, but only if—



1 (A) the plan satisfies conditions prescribed  
 2 by the Secretary to appropriately limit the  
 3 availability of such test; and

4 (B) the plan is submitted to the Secretary  
 5 for a determination of whether it satisfies such  
 6 test.

7 Subparagraph (B) shall only apply to the extent pro-  
 8 vided by the Secretary.

9 (2) EFFECTIVE DATES.—

10 (A) REGULATIONS.—The regulation re-  
 11 quired by paragraph (1) shall apply to years be-  
 12 ginning after December 31, 2003.

13 (B) CONDITIONS OF AVAILABILITY.—Any  
 14 condition of availability prescribed by the Sec-  
 15 retary under paragraph (1)(A) shall not apply  
 16 before the first year beginning not less than  
 17 120 days after the date on which such condition  
 18 is prescribed.

19 (b) COVERAGE TEST.—

20 (1) IN GENERAL.—Section 410(b)(1) (relating  
 21 to minimum coverage requirements) is amended by  
 22 adding at the end the following:

23 “(D) In the case that the plan fails to  
 24 meet the requirements of subparagraphs (A),  
 25 (B) and (C), the plan—

1 “(i) satisfies subparagraph (B), as in  
2 effect immediately before the enactment of  
3 the Tax Reform Act of 1986,

4 “(ii) is submitted to the Secretary for  
5 a determination of whether it satisfies the  
6 requirement described in clause (i), and

7 “(iii) satisfies conditions prescribed by  
8 the Secretary by regulation that appro-  
9 priately limit the availability of this sub-  
10 paragraph.

11 Clause (ii) shall apply only to the extent pro-  
12 vided by the Secretary.”.

13 (2) EFFECTIVE DATES.—

14 (A) IN GENERAL.—The amendment made  
15 by paragraph (1) shall apply to years beginning  
16 after December 31, 2003.

17 (B) CONDITIONS OF AVAILABILITY.—Any  
18 condition of availability prescribed by the Sec-  
19 retary under regulations prescribed by the Sec-  
20 retary under section 410(b)(1)(D) of the Inter-  
21 nal Revenue Code of 1986 shall not apply be-  
22 fore the first year beginning not less than 120  
23 days after the date on which such condition is  
24 prescribed.

1       (c) LINE OF BUSINESS RULES.—The Secretary of  
 2 the Treasury shall, on or before December 31, 2003, mod-  
 3 ify the existing regulations issued under section 414(r) of  
 4 the Internal Revenue Code of 1986 in order to expand  
 5 (to the extent that the Secretary determines appropriate)  
 6 the ability of a pension plan to demonstrate compliance  
 7 with the line of business requirements based upon the  
 8 facts and circumstances surrounding the design and oper-  
 9 ation of the plan, even though the plan is unable to satisfy  
 10 the mechanical tests currently used to determine compli-  
 11 ance.

12 **SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF**  
 13 **MORATORIUM ON APPLICATION OF CERTAIN**  
 14 **NONDISCRIMINATION RULES APPLICABLE TO**  
 15 **STATE AND LOCAL PLANS.**

16       (a) IN GENERAL.—

17           (1) Subparagraph (G) of section 401(a)(5) of  
 18 the Internal Revenue Code of 1986 and subpara-  
 19 graph (H) of section 401(a)(26) are each amended  
 20 by striking “section 414(d))” and all that follows  
 21 and inserting “section 414(d)).”.

22           (2) Subparagraph (G) of section 401(k)(3) and  
 23 paragraph (2) of section 1505(d) of the Taxpayer  
 24 Relief Act of 1997 are each amended by striking  
 25 “maintained by a State or local government or polit-

1 ical subdivision thereof (or agency or instrumentality  
2 thereof)".

3 (b) CONFORMING AMENDMENTS.—

4 (1) The heading for subparagraph (G) of sec-  
5 tion 401(a)(5) is amended to read as follows: "GOV-  
6 ERNMENTAL PLANS.—".

7 (2) The heading for subparagraph (H) of sec-  
8 tion 401(a)(26) is amended to read as follows: "EX-  
9 CEPTION FOR GOVERNMENTAL PLANS.—".

10 (3) Subparagraph (G) of section 401(k)(3) is  
11 amended by inserting "GOVERNMENTAL PLANS.—"  
12 after "(G)".

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

16 **SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-**  
17 **TRIBUTIONS.**

18 (a) EXPANSION OF PERIOD.—

19 (1) AMENDMENT OF INTERNAL REVENUE  
20 CODE.—

21 (A) IN GENERAL.—Subparagraph (A) of  
22 section 417(a)(6) is amended by striking "90-  
23 day" and inserting "180-day".

24 (B) MODIFICATION OF REGULATIONS.—

25 The Secretary of the Treasury shall modify the

1 regulations under sections 402(f), 411(a)(11),  
 2 and 417 of the Internal Revenue Code of 1986  
 3 to substitute “180 days” for “90 days” each  
 4 place it appears in Treasury Regulations sec-  
 5 tions 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–  
 6 1(b).

7 (2) AMENDMENT OF ERISA.—

8 (A) IN GENERAL.—Section 205(c)(7)(A) of  
 9 the Employee Retirement Income Security Act  
 10 of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended  
 11 by striking “90-day” and inserting “180-day”.

12 (B) MODIFICATION OF REGULATIONS.—

13 The Secretary of the Treasury shall modify the  
 14 regulations under part 2 of subtitle B of title  
 15 I of the Employee Retirement Income Security  
 16 Act of 1974 to the extent that they relate to  
 17 sections 203(e) and 205 of such Act to sub-  
 18 stitute “180 days” for “90 days” each place it  
 19 appears.

20 (3) EFFECTIVE DATE.—The amendments made  
 21 by paragraph (1)(A) and (2)(A) and the modifica-  
 22 tions required by paragraph (1)(B) shall apply to  
 23 years beginning after December 31, 2001.

24 (b) CONSENT REGULATION INAPPLICABLE TO CER-  
 25 TAIN DISTRIBUTIONS.—

1           (1) IN GENERAL.—The Secretary of the Treas-  
2       ury shall modify the regulations under section  
3       411(a)(11) of the Internal Revenue Code of 1986  
4       and under section 205 of the Employee Retirement  
5       Income Security Act of 1974 to provide that the de-  
6       scription of a participant’s right, if any, to defer re-  
7       ceipt of a distribution shall also describe the con-  
8       sequences of failing to defer such receipt.

9           (2) EFFECTIVE DATE.—The modifications re-  
10      quired by paragraph (1) shall apply to years begin-  
11      ning after December 31, 2001.

12   **SEC. 612. ANNUAL REPORT DISSEMINATION.**

13       (a) REPORT AVAILABLE THROUGH ELECTRONIC  
14   MEANS.—Section 104(b)(3) of the Employee Retirement  
15   Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is  
16   amended by adding at the end the following new sentence:  
17   “The requirement to furnish information under the pre-  
18   vious sentence shall be satisfied if the administrator makes  
19   such information reasonably available through electronic  
20   means or other new technology.”.

21       (b) EFFECTIVE DATE.—The amendment made by  
22   this section shall apply to reports for years beginning after  
23   December 31, 2000.

1 **SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.**

2 Section 517 of the Employee Retirement Income Se-  
3 curity Act of 1974 (29 U.S.C. 1147) is amended—

4 (1) in subsection (a), by striking “2001 and  
5 2005 on or after September 1 of each year involved”  
6 and inserting “2001, 2005, and 2009 in the month  
7 of September of each year involved”;

8 (2) in subsection (b), by adding at the end the  
9 following new sentence: “To effectuate the purposes  
10 of this paragraph, the Secretary may enter into a co-  
11 operative agreement, pursuant to the Federal Grant  
12 and Cooperative Agreement Act of 1977 (31 U.S.C.  
13 6301 et seq.), with the American Savings Education  
14 Council or any other appropriate, qualified entity.”;

15 (3) in subsection (e)(2)—

16 (A) by striking “Committee on Labor and  
17 Human Resources” in subparagraph (D) and  
18 inserting “Committee on Health, Education,  
19 Labor, and Pensions”;

20 (B) by striking subparagraph (F) and in-  
21 serting the following:

22 “(F) the Chairman and Ranking Member  
23 of the Subcommittee on Labor, Health and  
24 Human Services, and Education of the Com-  
25 mittee on Appropriations of the House of Rep-  
26 resentatives and the Chairman and Ranking

1 Member of the Subcommittee on Labor, Health  
2 and Human Services, and Education of the  
3 Committee on Appropriations of the Senate;”;

4 (C) by redesignating subparagraph (G) as  
5 subparagraph (J); and

6 (D) by inserting after subparagraph (F)  
7 the following new subparagraphs:

8 “(G) the Chairman and Ranking Member  
9 of the Committee on Finance of the Senate;

10 “(H) the Chairman and Ranking Member  
11 of the Committee on Ways and Means of the  
12 House of Representatives;

13 “(I) the Chairman and Ranking Member  
14 of the Subcommittee on Employer-Employee  
15 Relations of the Committee on Education and  
16 the Workforce of the House of Representatives;  
17 and”;

18 (4) in subsection (e)(3)—

19 (A) by striking “There shall be not more  
20 than 200 additional participants.” in subpara-  
21 graph (A) and inserting “The participants in  
22 the National Summit shall also include addi-  
23 tional participants appointed under this sub-  
24 paragraph.”;



1 (B) by striking “one-half shall be ap-  
2 pointed by the President,” in subparagraph  
3 (A)(i) and inserting “not more than 100 par-  
4 ticipants shall be appointed under this clause by  
5 the President,”;

6 (C) by striking “one-half shall be ap-  
7 pointed by the elected leaders of Congress” in  
8 subparagraph (A)(ii) and inserting “not more  
9 than 100 participants shall be appointed under  
10 this clause by the elected leaders of Congress”;

11 (D) by redesignating subparagraph (B) as  
12 subparagraph (C); and

13 (E) by inserting after subparagraph (A)  
14 the following new subparagraph:

15 “(B) PRESIDENTIAL AUTHORITY FOR AD-  
16 DITIONAL APPOINTMENTS.—The President, in  
17 consultation with the elected leaders of Con-  
18 gress referred to in subsection (a), may appoint  
19 under this subparagraph additional participants  
20 to the National Summit. The number of such  
21 additional participants appointed under this  
22 subparagraph may not exceed the lesser of 3  
23 percent of the total number of all additional  
24 participants appointed under this paragraph, or  
25 10. Such additional participants shall be ap-

1 pointed from persons nominated by the organi-  
2 zation referred to in subsection (b)(2) which is  
3 made up of private sector businesses and asso-  
4 ciations partnered with Government entities to  
5 promote long term financial security in retire-  
6 ment through savings and with which the Sec-  
7 retary is required thereunder to consult and co-  
8 operate and shall not be Federal, State, or local  
9 government employees.”;

10 (5) in subsection (e)(3)(C) (as redesignated), by  
11 striking “January 31, 1998” and inserting “May 1,  
12 2001, May 1, 2005, and May 1, 2009, for each of  
13 the subsequent summits, respectively”;

14 (6) in subsection (f)(1)(C), by inserting “, no  
15 later than 90 days prior to the date of the com-  
16 mencement of the National Summit,” after “com-  
17 ment”;

18 (7) in subsection (g), by inserting “, in con-  
19 sultation with the congressional leaders specified in  
20 subsection (e)(2),” after “report” the first place it  
21 appears;

22 (8) in subsection (i)—

23 (A) by striking “beginning on or after Oc-  
24 tober 1, 1997” in paragraph (1) and inserting  
25 “2001, 2005, and 2009”; and

1 (B) by adding at the end the following new  
2 paragraph:

3 “(3) RECEPTION AND REPRESENTATION AU-  
4 THORITY.—The Secretary is hereby granted recep-  
5 tion and representation authority limited specifically  
6 to the events at the National Summit. The Secretary  
7 shall use any private contributions accepted in con-  
8 nection with the National Summit prior to using  
9 funds appropriated for purposes of the National  
10 Summit pursuant to this paragraph.”; and

11 (9) in subsection (k)—

12 (A) by striking “shall enter into a contract  
13 on a sole-source basis” and inserting “may  
14 enter into a contract on a sole-source basis”;  
15 and

16 (B) by striking “fiscal year 1998” and in-  
17 serting “fiscal years 2001, 2005, and 2009”.

## 18 **TITLE VII—OTHER ERISA** 19 **PROVISIONS**

### 20 **SEC. 701. MISSING PARTICIPANTS.**

21 (a) IN GENERAL.—Section 4050 of the Employee Re-  
22 tirement Income Security Act of 1974 (29 U.S.C. 1350)  
23 is amended by redesignating subsection (c) as subsection  
24 (e) and by inserting after subsection (b) the following new  
25 subsections:

1       “(c) MULTIEMPLOYER PLANS.—The corporation  
 2 shall prescribe rules similar to the rules in subsection (a)  
 3 for multiemployer plans covered by this title that termi-  
 4 nate under section 4041A.

5       “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

6               “(1) TRANSFER TO CORPORATION.—The plan  
 7 administrator of a plan described in paragraph (4)  
 8 may elect to transfer a missing participant’s benefits  
 9 to the corporation upon termination of the plan.

10              “(2) INFORMATION TO THE CORPORATION.—To  
 11 the extent provided in regulations, the plan adminis-  
 12 trator of a plan described in paragraph (4) shall,  
 13 upon termination of the plan, provide the corpora-  
 14 tion information with respect to benefits of a miss-  
 15 ing participant if the plan transfers such benefits—

16                      “(A) to the corporation, or

17                      “(B) to an entity other than the corpora-  
 18 tion or a plan described in paragraph (4)(B)(ii).

19              “(3) PAYMENT BY THE CORPORATION.—If ben-  
 20 efits of a missing participant were transferred to the  
 21 corporation under paragraph (1), the corporation  
 22 shall, upon location of the participant or beneficiary,  
 23 pay to the participant or beneficiary the amount  
 24 transferred (or the appropriate survivor benefit)  
 25 either—

1 “(A) in a single sum (plus interest), or

2 “(B) in such other form as is specified in  
3 regulations of the corporation.

4 “(4) PLANS DESCRIBED.—A plan is described  
5 in this paragraph if—

6 “(A) the plan is a pension plan (within the  
7 meaning of section 3(2))—

8 “(i) to which the provisions of this  
9 section do not apply (without regard to  
10 this subsection), and

11 “(ii) which is not a plan described in  
12 paragraphs (2) through (11) of section  
13 4021(b), and

14 “(B) at the time the assets are to be dis-  
15 tributed upon termination, the plan—

16 “(i) has missing participants, and

17 “(ii) has not provided for the transfer  
18 of assets to pay the benefits of all missing  
19 participants to another pension plan (with-  
20 in the meaning of section 3(2)).

21 “(5) CERTAIN PROVISIONS NOT TO APPLY.—  
22 Subsections (a)(1) and (a)(3) shall not apply to a  
23 plan described in paragraph (4).”.

24 (b) CONFORMING AMENDMENTS.—Section 206(f) of  
25 such Act (29 U.S.C. 1056(f)) is amended—

1 (1) by striking “title IV” and inserting “section  
2 4050”; and

3 (2) by striking “the plan shall provide that,”.

4 (c) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to distributions made after final  
6 regulations implementing subsections (c) and (d) of sec-  
7 tion 4050 of the Employee Retirement Income Security  
8 Act of 1974 (as added by subsection (a)), respectively, are  
9 prescribed.

10 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**  
11 **SMALL EMPLOYERS.**

12 (a) IN GENERAL.—Subparagraph (A) of section  
13 4006(a)(3) of the Employee Retirement Income Security  
14 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

15 (1) in clause (i), by inserting “other than a new  
16 single-employer plan (as defined in subparagraph  
17 (F)) maintained by a small employer (as so de-  
18 fined),” after “single-employer plan,”,

19 (2) in clause (iii), by striking the period at the  
20 end and inserting “, and”, and

21 (3) by adding at the end the following new  
22 clause:

23 “(iv) in the case of a new single-employer plan  
24 (as defined in subparagraph (F)) maintained by a  
25 small employer (as so defined) for the plan year, \$5

1       for each individual who is a participant in such plan  
2       during the plan year.”.

3       (b)   DEFINITION OF NEW SINGLE-EMPLOYER  
4   PLAN.—Section 4006(a)(3) of the Employee Retirement  
5   Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is  
6   amended by adding at the end the following new subpara-  
7   graph:

8       “(F)(i) For purposes of this paragraph, a single-em-  
9   ployer plan maintained by a contributing sponsor shall be  
10   treated as a new single-employer plan for each of its first  
11   5 plan years if, during the 36-month period ending on the  
12   date of the adoption of such plan, the sponsor or any  
13   member of such sponsor’s controlled group (or any prede-  
14   cessor of either) did not establish or maintain a plan to  
15   which this title applies with respect to which benefits were  
16   accrued for substantially the same employees as are in the  
17   new single-employer plan.

18       “(ii)(I) For purposes of this paragraph, the term  
19   ‘small employer’ means an employer which on the first day  
20   of any plan year has, in aggregation with all members of  
21   the controlled group of such employer, 100 or fewer em-  
22   ployees.

23       “(II) In the case of a plan maintained by two or more  
24   contributing sponsors that are not part of the same con-  
25   trolled group, the employees of all contributing sponsors

1 and controlled groups of such sponsors shall be aggregated  
 2 for purposes of determining whether any contributing  
 3 sponsor is a small employer.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to plans established after Decem-  
 6 ber 31, 2001.

7 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**  
 8 **NEW AND SMALL PLANS.**

9 (a) NEW PLANS.—Subparagraph (E) of section  
 10 4006(a)(3) of the Employee Retirement Income Security  
 11 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by  
 12 adding at the end the following new clause:

13 “(v) In the case of a new defined benefit plan, the  
 14 amount determined under clause (ii) for any plan year  
 15 shall be an amount equal to the product of the amount  
 16 determined under clause (ii) and the applicable percent-  
 17 age. For purposes of this clause, the term ‘applicable per-  
 18 centage’ means—

19 “(I) 0 percent, for the first plan year.

20 “(II) 20 percent, for the second plan year.

21 “(III) 40 percent, for the third plan year.

22 “(IV) 60 percent, for the fourth plan year.

23 “(V) 80 percent, for the fifth plan year.

24 For purposes of this clause, a defined benefit plan (as de-  
 25 fined in section 3(35)) maintained by a contributing spon-



1 sor shall be treated as a new defined benefit plan for each  
 2 of its first 5 plan years if, during the 36-month period  
 3 ending on the date of the adoption of the plan, the sponsor  
 4 and each member of any controlled group including the  
 5 sponsor (or any predecessor of either) did not establish  
 6 or maintain a plan to which this title applies with respect  
 7 to which benefits were accrued for substantially the same  
 8 employees as are in the new plan.”.

9 (b) SMALL PLANS.—Paragraph (3) of section  
 10 4006(a) of the Employee Retirement Income Security Act  
 11 of 1974 (29 U.S.C. 1306(a)), as amended by section  
 12 702(b), is amended—

13 (1) by striking “The” in subparagraph (E)(i)  
 14 and inserting “Except as provided in subparagraph  
 15 (G), the”, and

16 (2) by inserting after subparagraph (F) the fol-  
 17 lowing new subparagraph:

18 “(G)(i) In the case of an employer who has 25 or  
 19 fewer employees on the first day of the plan year, the addi-  
 20 tional premium determined under subparagraph (E) for  
 21 each participant shall not exceed \$5 multiplied by the  
 22 number of participants in the plan as of the close of the  
 23 preceding plan year.

24 “(ii) For purposes of clause (i), whether an employer  
 25 has 25 or fewer employees on the first day of the plan

1 year is determined taking into consideration all of the em-  
 2 ployees of all members of the contributing sponsor's con-  
 3 trolled group. In the case of a plan maintained by two  
 4 or more contributing sponsors, the employees of all con-  
 5 tributing sponsors and their controlled groups shall be ag-  
 6 gregated for purposes of determining whether the 25-or-  
 7 fewer-employees limitation has been satisfied.”.

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendments made  
 10 by subsection (a) shall apply to plans established  
 11 after December 31, 2001.

12 (2) SUBSECTION (b).—The amendments made  
 13 by subsection (b) shall apply to plan years beginning  
 14 after December 31, 2001.

15 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**  
 16 **PREMIUM OVERPAYMENT REFUNDS.**

17 (a) IN GENERAL.—Section 4007(b) of the Employ-  
 18 ment Retirement Income Security Act of 1974 (29 U.S.C.  
 19 1307(b)) is amended—

20 (1) by striking “(b)” and inserting “(b)(1)”,  
 21 and

22 (2) by inserting at the end the following new  
 23 paragraph:

24 “(2) The corporation is authorized to pay, subject to  
 25 regulations prescribed by the corporation, interest on the

1 amount of any overpayment of premium refunded to a des-  
2 ignated payor. Interest under this paragraph shall be cal-  
3 culated at the same rate and in the same manner as inter-  
4 est is calculated for underpayments under paragraph  
5 (1).”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall apply to interest accruing for periods  
8 beginning not earlier than the date of the enactment of  
9 this Act.

10 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**  
11 **PLANS.**

12 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—  
13 Section 4022(b)(5) of the Employee Retirement Income  
14 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended  
15 to read as follows:

16 “(5)(A) For purposes of this paragraph, the term  
17 ‘majority owner’ means an individual who, at any time  
18 during the 60-month period ending on the date the deter-  
19 mination is being made—

20 “(i) owns the entire interest in an unincor-  
21 porated trade or business,

22 “(ii) in the case of a partnership, is a partner  
23 who owns, directly or indirectly, 50 percent or more  
24 of either the capital interest or the profits interest  
25 in such partnership, or

1           “(iii) in the case of a corporation, owns, directly  
2           or indirectly, 50 percent or more in value of either  
3           the voting stock of that corporation or all the stock  
4           of that corporation.

5 For purposes of clause (iii), the constructive ownership  
6 rules of section 1563(e) of the Internal Revenue Code of  
7 1986 shall apply (determined without regard to section  
8 1563(e)(3)(C)).

9           “(B) In the case of a participant who is a majority  
10 owner, the amount of benefits guaranteed under this sec-  
11 tion shall equal the product of—

12           “(i) a fraction (not to exceed 1) the numerator  
13           of which is the number of years from the later of the  
14           effective date or the adoption date of the plan to the  
15           termination date, and the denominator of which is  
16           10, and

17           “(ii) the amount of benefits that would be guar-  
18           anteed under this section if the participant were not  
19           a majority owner.”.

20 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

21           (1) Section 4044(a)(4)(B) of the Employee Re-  
22           tirement Income Security Act of 1974 (29 U.S.C.  
23           1344(a)(4)(B)) is amended by striking “section  
24           4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

1           (2) Section 4044(b) of such Act (29 U.S.C.  
2   1344(b)) is amended—

3           (A) by striking “(5)” in paragraph (2) and  
4           inserting “(4), (5),” and

5           (B) by redesignating paragraphs (3)  
6           through (6) as paragraphs (4) through (7), re-  
7           spectively, and by inserting after paragraph (2)  
8           the following new paragraph:

9           “(3) If assets available for allocation under  
10          paragraph (4) of subsection (a) are insufficient to  
11          satisfy in full the benefits of all individuals who are  
12          described in that paragraph, the assets shall be allo-  
13          cated first to benefits described in subparagraph (A)  
14          of that paragraph. Any remaining assets shall then  
15          be allocated to benefits described in subparagraph  
16          (B) of that paragraph. If assets allocated to such  
17          subparagraph (B) are insufficient to satisfy in full  
18          the benefits described in that subparagraph, the as-  
19          sets shall be allocated pro rata among individuals on  
20          the basis of the present value (as of the termination  
21          date) of their respective benefits described in that  
22          subparagraph.”.

23          (c) CONFORMING AMENDMENTS.—

1           (1) Section 4021 of the Employee Retirement  
2       Income Security Act of 1974 (29 U.S.C. 1321) is  
3       amended—

4                   (A) in subsection (b)(9), by striking “as  
5       defined in section 4022(b)(6)”, and

6                   (B) by adding at the end the following new  
7       subsection:

8       “(d) For purposes of subsection (b)(9), the term ‘sub-  
9       stantial owner’ means an individual who, at any time dur-  
10      ing the 60-month period ending on the date the determina-  
11      tion is being made—

12                   “(1) owns the entire interest in an unincor-  
13      porated trade or business,

14                   “(2) in the case of a partnership, is a partner  
15      who owns, directly or indirectly, more than 10 per-  
16      cent of either the capital interest or the profits inter-  
17      est in such partnership, or

18                   “(3) in the case of a corporation, owns, directly  
19      or indirectly, more than 10 percent in value of either  
20      the voting stock of that corporation or all the stock  
21      of that corporation.

22      For purposes of paragraph (3), the constructive ownership  
23      rules of section 1563(e) of the Internal Revenue Code of  
24      1986 shall apply (determined without regard to section  
25      1563(e)(3)(C)).”.

1       (2) Section 4043(c)(7) of such Act (29 U.S.C.  
 2 1343(c)(7)) is amended by striking “section 4022(b)(6)”  
 3 and inserting “section 4021(d)”.

4       (d) EFFECTIVE DATES.—

5           (1) IN GENERAL.—Except as provided in para-  
 6 graph (2), the amendments made by this section  
 7 shall apply to plan terminations—

8           (A) under section 4041(c) of the Employee  
 9 Retirement Income Security Act of 1974 (29  
 10 U.S.C. 1341(c)) with respect to which notices  
 11 of intent to terminate are provided under sec-  
 12 tion 4041(a)(2) of such Act (29 U.S.C.  
 13 1341(a)(2)) after December 31, 2001, and

14           (B) under section 4042 of such Act (29  
 15 U.S.C. 1342) with respect to which proceedings  
 16 are instituted by the corporation after such  
 17 date.

18       (2) CONFORMING AMENDMENTS.—The amend-  
 19 ments made by subsection (c) shall take effect on  
 20 January 1, 2002.

21 **SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**  
 22 **RESPONSIBILITY.**

23       (a) IMPOSITION AND AMOUNT OF PENALTY MADE  
 24 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-

1 retirement Income Security Act of 1974 (29 U.S.C.  
2 1132(l)(1)) is amended—

3 (1) by striking “shall” and inserting “may”,  
4 and

5 (2) by striking “equal to” and inserting “not  
6 greater than”.

7 (b) APPLICABLE RECOVERY AMOUNT.—Section  
8 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended  
9 by inserting after “fiduciary or other person” the fol-  
10 lowing: “(or from any other person on behalf of any such  
11 fiduciary or other person)”.

12 (c) OTHER RULES.—Section 502(l) of the Employee  
13 Retirement Income Security Act of 1974 (29 U.S.C.  
14 1132(l)) is amended by adding at the end the following  
15 new paragraphs:

16 “(5) A person shall be jointly and severally liable for  
17 the penalty described in paragraph (1) to the same extent  
18 that such person is jointly and severally liable for the ap-  
19 plicable recovery amount on which the penalty is based.

20 “(6) No penalty shall be assessed under this sub-  
21 section unless the person against whom the penalty is as-  
22 sessed is given notice and opportunity for a hearing with  
23 respect to the violation and applicable recovery amount.”.

24 (d) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to any breach of fiduciary responsi-



1 bility or other violation of part 4 of subtitle B of title I  
2 of the Employee Retirement Income Security Act of 1974  
3 occurring on or after the date of the enactment of this  
4 Act.

5 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

6 (a) MODIFICATION OF REGULATION.—The Secretary  
7 of Labor shall modify the regulation under subparagraph  
8 (B) of section 203(a)(3) of the Employee Retirement In-  
9 come Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to  
10 provide that the notification required by such regulation  
11 in connection with any suspension of benefits described in  
12 such subparagraph—

13 (1) in the case of an employee who returns to  
14 service under the plan after commencement of pay-  
15 ment of benefits under the plan—

16 (A) shall be made during the first calendar  
17 month or payroll period in which the plan with-  
18 holds payments, and

19 (B) if a reduced rate of future benefit ac-  
20 crual will apply to the returning employee (as  
21 of the first date of participation in the plan by  
22 the employee after returning to work), shall in-  
23 clude a statement that the rate of future benefit  
24 accrual will be reduced, and

1           (2) in the case of any employee who is not de-  
2       scribed in paragraph (1)—

3           (A) may be included in the summary plan  
4       description for the plan furnished in accordance  
5       with section 104(b) of such Act (29 U.S.C.  
6       1024(b)), rather than in a separate notice, and

7           (B) need not include a copy of the relevant  
8       plan provisions.

9       (b) EFFECTIVE DATE.—The modification made  
10     under this section shall apply to plan years beginning after  
11     December 31, 2001.

12     **SEC. 708. STUDIES.**

13       (a) MODEL SMALL EMPLOYER GROUP PLANS  
14     STUDY.—As soon as practicable after the date of the en-  
15     actment of this Act, the Secretary of Labor, in consulta-  
16     tion with the Secretary of the Treasury, shall conduct a  
17     study to determine—

18           (1) the most appropriate form or forms of—

19           (A) employee pension benefit plans which  
20       would—

21           (i) be simple in form and easily main-  
22       tained by multiple small employers, and

23           (ii) provide for ready portability of  
24       benefits for all participants and bene-  
25       ficiaries,

1           (B) alternative arrangements providing  
2           comparable benefits which may be established  
3           by employee or employer associations, and

4           (C) alternative arrangements providing  
5           comparable benefits to which employees may  
6           contribute in a manner independent of employer  
7           sponsorship, and

8           (2) appropriate methods and strategies for  
9           making pension plan coverage described in para-  
10          graph (1) more widely available to American work-  
11          ers.

12          (b) MATTERS TO BE CONSIDERED.—In conducting  
13          the study under subsection (a), the Secretary of Labor  
14          shall consider the adequacy and availability of existing em-  
15          ployee pension benefit plans and the extent to which exist-  
16          ing models may be modified to be more accessible to both  
17          employees and employers.

18          (c) REPORT.—Not later than 18 months after the  
19          date of the enactment of this Act, the Secretary of Labor  
20          shall report the results of the study under subsection (a),  
21          together with the Secretary's recommendations, to the  
22          Committee on Education and the Workforce and the Com-  
23          mittee on Ways and Means of the House of Representa-  
24          tives and the Committee on Health, Education, Labor,  
25          and Pensions and the Committee on Finance of the Sen-

1 ate. Such recommendations shall include one or more  
 2 model plans described in subsection (a)(1)(A) and model  
 3 alternative arrangements described in subsections  
 4 (a)(1)(B) and (a)(1)(C) which may serve as the basis for  
 5 appropriate administrative or legislative action.

6 (d) STUDY ON EFFECT OF LEGISLATION.—Not later  
 7 than 5 years after the date of the enactment of this Act,  
 8 the Secretary of Labor shall submit to the Committee on  
 9 Education and the Workforce of the House of Representa-  
 10 tives and the Committee on Health, Education, Labor,  
 11 and Pensions of the Senate a report on the effect of the  
 12 provisions of this Act on pension plan coverage, including  
 13 any change in—

14 (1) the extent of pension plan coverage for low  
 15 and middle-income workers,

16 (2) the levels of pension plan benefits generally,

17 (3) the quality of pension plan coverage gen-  
 18 erally,

19 (4) workers' access to and participation in pen-  
 20 sion plans, and

21 (5) retirement security.

## 22 **TITLE VIII—PLAN AMENDMENTS**

### 23 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

1           (1) such plan or contract shall be treated as  
2           being operated in accordance with the terms of the  
3           plan during the period described in subsection  
4           (b)(2)(A); and

5           (2) except as provided by the Secretary of the  
6           Treasury, such plan shall not fail to meet the re-  
7           quirements of section 411(d)(6) of the Internal Rev-  
8           enue Code of 1986 or section 204(g) of the Em-  
9           ployee Retirement Income Security Act of 1974 by  
10          reason of such amendment.

11         (b) AMENDMENTS TO WHICH SECTION APPLIES.—

12           (1) IN GENERAL.—This section shall apply to  
13           any amendment to any plan or annuity contract  
14           which is made—

15                 (A) pursuant to any amendment made by  
16                 this Act, or pursuant to any regulation issued  
17                 under this Act; and

18                 (B) on or before the last day of the first  
19                 plan year beginning on or after January 1,  
20                 2004.

21         In the case of a governmental plan (as defined in  
22         section 414(d) of the Internal Revenue Code of  
23         1986), this paragraph shall be applied by sub-  
24         stituting “2006” for “2004”.

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

3           (A) during the period—

4               (i) beginning on the date the legisla-  
5               tive or regulatory amendment described in  
6               paragraph (1)(A) takes effect (or in the  
7               case of a plan or contract amendment not  
8               required by such legislative or regulatory  
9               amendment, the effective date specified by  
10              the plan); and

11              (ii) ending on the date described in  
12              paragraph (1)(B) (or, if earlier, the date  
13              the plan or contract amendment is adopt-  
14              ed),

15       the plan or contract is operated as if such plan  
16       or contract amendment were in effect; and

- 1 (B) such plan or contract amendment ap-  
2 plies retroactively for such period.

Passed the House of Representatives May 2, 2001.

Attest:

*Clerk.*