

Union Calendar No. 33

107TH CONGRESS
1ST SESSION

H. R. 10

[Report No. 107-51, Parts I and II]

To provide for pension reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2001

Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ARMEY, Mr. FROST, Mr. BOEHNER, Mr. ANDREWS, Mr. BLUNT, Mr. BENTSEN, Mr. GALLEGLY, Mr. MOORE, Mr. HOUGHTON, Mr. COYNE, Mr. SAM JOHNSON of Texas, Mr. POMEROY, Mrs. JOHNSON of Connecticut, Mr. MANZULLO, Mrs. MORELLA, Mr. WELLER, Mr. WYNN, Mr. AKIN, Mr. BACA, Mr. BACHUS, Mr. BAIRD, Mr. BAKER, Mr. BALDACCI, Mr. BALLENGER, Mr. BARCIA, Mr. BARRETT, Mr. BASS, Mr. BEREUTER, Ms. BERKLEY, Mrs. BIGGERT, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BORSKI, Mr. BOSWELL, Mrs. BONO, Mr. BRADY of Texas, Mr. BRADY of Pennsylvania, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mrs. CAPPS, Mr. CAPUANO, Mr. CHABOT, Mr. CLAY, Mr. CLEMENT, Mr. COBLE, Mr. COLLINS, Mr. CONDIT, Mr. COOKSEY, Mr. COX, Mr. CRANE, Mr. CRENSHAW, Mr. CROWLEY, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DELAHUNT, Mr. DEMINT, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DOOLEY of California, Mr. DOYLE, Mr. DREIER, Ms. DUNN, Mr. EHR-
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NER, Mr. FLETCHER, Mr. FOLEY, Mr. FORD, Mr. FOSSELLA, Mr. FRELINGHUYSEN, Mr. GANSKE, Mr. GIBBONS, Mr. GILCHREST, Mr. GILLMOR, Mr. GOSS, Mr. GONZALEZ, Mr. GOODE, Mr. GOODLATTE, Mr. GORDON, Ms. GRANGER, Mr. GRAVES, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HALL of Ohio, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HOBSON, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. HORN, Mr. HOYER, Mr. HULSHOF, Mr. HOLT, Mr. HUTCHINSON, Mr. HYDE, Mr. ISAKSON, Mr. ISTOOK, Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. JONES of North Carolina, Mr. KANJORSKI, Mrs. KELLY, Mr. KENNEDY of Rhode Island,

Mr. KILDEE, Mr. KIND, Mr. KING, Mr. KINGSTON, Mr. KIRK, Mr. KLECZKA, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARGENT, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mr. LATHAM, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LOBIONDO, Ms. LOFGREN, Mrs. LOWEY, Mr. LUCAS of Oklahoma, Mr. LUCAS of Kentucky, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MASCARA, Mr. MATHESON, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCCRERY, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTYRE, Mr. MCKEON, Mr. MCNULTY, Mr. MEEHAN, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GARY MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NADLER, Mr. NETHERCUTT, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. OSBORNE, Mr. OTTER, Mr. OXLEY, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PLATTS, Ms. PRYCE of Ohio, Mr. PUTNAM, Mr. QUINN, Mr. RAHALL, Mr. RAMSTAD, Mr. REGULA, Mr. REYNOLDS, Mr. RILEY, Mr. ROEMER, Mr. ROGERS of Michigan, Mrs. ROUKEMA, Mr. ROTHMAN, Mr. ROYCE, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SANDLIN, Mr. SAWYER, Mr. SEXTON, Ms. SCHAKOWSKY, Mr. SCARBOROUGH, Mr. SCHAFER, Mr. SCHROCK, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHERMAN, Mr. SHERWOOD, Mr. SHOWS, Mr. SIMMONS, Mr. SIMPSON, Mr. SKELTON, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SNYDER, Mr. SOUDER, Mr. SPRATT, Mr. STEARNS, Mr. STRICKLAND, Mr. STUPAK, Mr. SUNUNU, Mr. SWEENEY, Mr. TANCREDO, Mr. TANNER, Mrs. TAUSCHER, Mr. TAYLOR of North Carolina, Mr. TERRY, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mr. THUNE, Mrs. THURMAN, Mr. TIBERI, Mr. TRAFICANT, Mr. TOOMEY, Mr. TURNER, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. UPTON, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WEINER, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WOLF, Ms. WOOLSEY, Mr. WU, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 1, 2001

Additional sponsors: Mr. WELDON of Pennsylvania, Mr. FATTAH, Mr. FLAKE, Mr. BARR of Georgia, Mr. ROGERS of Kentucky, Mr. SKEEN, Mr. FARR of California, Mr. INSLEE, Mr. TIAHRT, Mr. JENKINS, Mr. BARTLETT of Maryland, Mr. DEAL of Georgia, Mr. COSTELLO, Ms. DELAURO, Ms. HARMAN, Ms. MCKINNEY, Mr. RUSH, Mr. BOUCHER, Mr. BURTON of Indiana, Mr. DAVIS of Illinois, Mr. SCHIFF, Mr. GEKAS, Ms. BALDWIN, Mr. ISRAEL, Mr. GUTIERREZ, Mr. DOOLITTLE, Ms. CARSON of Indiana, Mr. WICKER, Mr. HOSTETTLER, Mr. SHIMKUS, Mr. PETERSON of Minnesota, Mr. HANSEN, Mrs. CLAYTON, Mr. TIERNEY, Mr. ABERCROMBIE, Mr. GRUCCI, Mr. GILMAN, Ms. MCCOLLUM, Ms. ROS-LEHTINEN, Mr. REHBERG, Mrs. NAPOLITANO, Mr. JOHNSON of Illinois, Mr. PITTS, Mr.

DELAY, Mrs. CUBIN, Ms. SANCHEZ, Mr. THOMAS, Mr. ADERHOLT, Mr. KERNS, Mr. TOM DAVIS of Virginia, Mr. VITTER, Mr. REYES, Mr. BROWN of South Carolina, Mr. MORAN of Virginia, and Mr. BROWN of Ohio

MAY 1, 2001

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

Reported from the Committee on Education and the Workforce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on March 14, 2001]

A BILL

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,*
 3 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**
 4 **TENTS.**

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

8 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 9 *expressly provided, whenever in this Act an amendment or*
 10 *repeal is expressed in terms of an amendment to, or repeal*
 11 *of, a section or other provision, the reference shall be consid-*
 12 *ered to be made to a section or other provision of the Inter-*
 13 *nal Revenue Code of 1986.*

1 (c) *TABLE OF CONTENTS.—The table of contents of this*
 2 *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.

TITLE VIII—PLAN AMENDMENTS

- Sec. 801. Provisions relating to plan amendments.*

- 1 **TITLE I—INDIVIDUAL**
2 **RETIREMENT ACCOUNTS**
3 **SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.**
4 (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:

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

“(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.

“(C) *COST-OF-LIVING ADJUSTMENT.*—

“(i) *IN GENERAL.*—In the case of any taxable year beginning in a calendar year after 2004, the \$5,000 amount under sub-

1 paragraph (A) shall be increased by an
2 amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost-of-living adjustment
6 determined under section 1(f)(3) for
7 the calendar year in which the taxable
8 year begins, determined by substituting
9 ‘calendar year 2003’ for ‘calendar year
10 1992’ in subparagraph (B) thereof.

11 “(ii) ROUNDING RULES.—If any
12 amount after adjustment under clause (i) is
13 not a multiple of \$500, such amount shall
14 be rounded to the next lower multiple of
15 \$500.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 408(a)(1) is amended by striking “in
18 excess of \$2,000 on behalf of any individual” and in-
19 serting “on behalf of any individual in excess of the
20 amount in effect for such taxable year under section
21 219(b)(1)(A)”.

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

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

5 (4) Section 408(j) is amended by striking
 6 “\$2,000”.

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

10 (c) *EFFECTIVE DATE.*—The amendments made by this
 11 section shall apply to taxable years beginning after Decem-
 12 ber 31, 2001.

13 **TITLE II—EXPANDING** 14 **COVERAGE**

15 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION** 16 **LIMITS.**

17 (a) *DEFINED BENEFIT PLANS.*—

18 (1) *DOLLAR LIMIT.*—

19 (A) Subparagraph (A) of section 415(b)(1)
 20 (relating to limitation for defined benefit plans)
 21 is amended by striking “\$90,000” and inserting
 22 “\$160,000”.

23 (B) Subparagraphs (C) and (D) of section
 24 415(b)(2) are each amended by striking

1 “\$90,000” each place it appears in the headings
2 and the text and inserting “\$160,000”.

3 (C) Paragraph (7) of section 415(b) (relat-
4 ing to benefits under certain collectively bar-
5 gained plans) is amended by striking “the great-
6 er of \$68,212 or one-half the amount otherwise
7 applicable for such year under paragraph (1)(A)
8 for “\$90,000”” and inserting “one-half the
9 amount otherwise applicable for such year under
10 paragraph (1)(A) for “\$160,000””.

11 (2) *LIMIT REDUCED WHEN BENEFIT BEGINS BE-*
12 *FORE AGE 62.*—Subparagraph (C) of section 415(b)(2)
13 is amended by striking “the social security retirement
14 age” each place it appears in the heading and text
15 and inserting “age 62” and by striking the second
16 sentence.

17 (3) *LIMIT INCREASED WHEN BENEFIT BEGINS*
18 *AFTER AGE 65.*—Subparagraph (D) of section
19 415(b)(2) is amended by striking “the social security
20 retirement age” each place it appears in the heading
21 and text and inserting “age 65”.

22 (4) *COST-OF-LIVING ADJUSTMENTS.*—Subsection
23 (d) of section 415 (related to cost-of-living adjust-
24 ments) is amended—

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

3 (B) in paragraph (3)(A)—

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

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

8 (5) CONFORMING AMENDMENTS.—

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

11 (B) Section 415(b)(9) is amended to read as
12 follows:

13 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE
14 PILOTS.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), in the case of any participant
17 who is a commercial airline pilot, if, as of the
18 time of the participant’s retirement, regulations
19 prescribed by the Federal Aviation Administra-
20 tion require an individual to separate from serv-
21 ice as a commercial airline pilot after attaining
22 any age occurring on or after age 60 and before
23 age 62, paragraph (2)(C) shall be applied by
24 substituting such age for age 62.

1 “(B) *INDIVIDUALS WHO SEPARATE FROM*
 2 *SERVICE BEFORE AGE 60.—If a participant de-*
 3 *scribed in subparagraph (A) separates from serv-*
 4 *ice before age 60, the rules of paragraph (2)(C)*
 5 *shall apply.”.*

6 (C) *Section 415(b)(10)(C)(i) is amended by*
 7 *striking “applied without regard to paragraph*
 8 *(2)(F)”.*

9 (b) *DEFINED CONTRIBUTION PLANS.—*

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

14 (2) *COST-OF-LIVING ADJUSTMENTS.—Subsection*
 15 *(d) of section 415 (related to cost-of-living adjust-*
 16 *ments) is amended—*

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

19 (B) *in paragraph (3)(D)—*

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

22 (ii) *by striking “October 1, 1993” and*
 23 *inserting “July 1, 2001”.*

24 (c) *QUALIFIED TRUSTS.—*

1 (1) *COMPENSATION LIMIT.*—Sections 401(a)(17),
 2 404(l), 408(k), and 505(b)(7) are each amended by
 3 striking “\$150,000” each place it appears and insert-
 4 ing “\$200,000”.

5 (2) *BASE PERIOD AND ROUNDING OF COST-OF-*
 6 *LIVING ADJUSTMENT.*—Subparagraph (B) of section
 7 401(a)(17) is amended—

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

10 (B) by striking “\$10,000” both places it ap-
 11 pears and inserting “\$5,000”.

12 (d) *ELECTIVE DEFERRALS.*—

13 (1) *IN GENERAL.*—Paragraph (1) of section
 14 402(g) (relating to limitation on exclusion for elective
 15 deferrals) is amended to read as follows:

16 “(1) *IN GENERAL.*—

17 “(A) *LIMITATION.*—Notwithstanding sub-
 18 sections (e)(3) and (h)(1)(B), the elective defer-
 19 rals of any individual for any taxable year shall
 20 be included in such individual’s gross income to
 21 the extent the amount of such deferrals for the
 22 taxable year exceeds the applicable dollar
 23 amount.

24 “(B) *APPLICABLE DOLLAR AMOUNT.*—For
 25 purposes of subparagraph (A), the applicable

1 *dollar amount shall be the amount determined in*
 2 *accordance with the following table:*

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

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

5 *“(5) COST-OF-LIVING ADJUSTMENT.—In the case*
 6 *of taxable years beginning after December 31, 2006,*
 7 *the Secretary shall adjust the \$15,000 amount under*
 8 *paragraph (1)(B) at the same time and in the same*
 9 *manner as under section 415(d), except that the base*
 10 *period shall be the calendar quarter beginning July 1,*
 11 *2005, and any increase under this paragraph which*
 12 *is not a multiple of \$500 shall be rounded to the next*
 13 *lowest multiple of \$500.”.*

14 *(3) CONFORMING AMENDMENTS.—*

15 *(A) Section 402(g) (relating to limitation*
 16 *on exclusion for elective deferrals), as amended*
 17 *by paragraphs (1) and (2), is further amended*
 18 *by striking paragraph (4) and redesignating*
 19 *paragraphs (5), (6), (7), (8), and (9) as para-*
 20 *graphs (4), (5), (6), (7), and (8), respectively.*

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

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

(e) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended—

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

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

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

“(15) APPLICABLE DOLLAR AMOUNT.—

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

***“For taxable years
beginning in
calendar year:***

***The applicable
dollar amount:***

<i>2002</i>	<i>\$11,000</i>
<i>2003</i>	<i>\$12,000</i>
<i>2004</i>	<i>\$13,000</i>
<i>2005</i>	<i>\$14,000</i>
<i>2006 or thereafter</i>	<i>\$15,000.</i>

1 “(B) *COST-OF-LIVING ADJUSTMENTS.—In*
2 *the case of taxable years beginning after Decem-*
3 *ber 31, 2006, the Secretary shall adjust the*
4 *\$15,000 amount under subparagraph (A) at the*
5 *same time and in the same manner as under sec-*
6 *tion 415(d), except that the base period shall be*
7 *the calendar quarter beginning July 1, 2005,*
8 *and any increase under this paragraph which is*
9 *not a multiple of \$500 shall be rounded to the*
10 *next lowest multiple of \$500.”.*

11 (f) *SIMPLE RETIREMENT ACCOUNTS.—*

12 (1) *LIMITATION.—Clause (ii) of section*
13 *408(p)(2)(A) (relating to general rule for qualified*
14 *salary reduction arrangement) is amended by striking*
15 *“\$6,000” and inserting “the applicable dollar*
16 *amount”.*

17 (2) *APPLICABLE DOLLAR AMOUNT.—Subpara-*
18 *graph (E) of 408(p)(2) is amended to read as follows:*

19 “(E) *APPLICABLE DOLLAR AMOUNT; COST-*
20 *OF-LIVING ADJUSTMENT.—*

1 “(i) *IN GENERAL.*—For purposes of
 2 subparagraph (A)(ii), the applicable dollar
 3 amount shall be the amount determined in
 4 accordance with the following table:

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

5 “(ii) *COST-OF-LIVING ADJUSTMENT.*—
 6 In the case of a year beginning after Decem-
 7 ber 31, 2005, the Secretary shall adjust the
 8 \$10,000 amount under clause (i) at the
 9 same time and in the same manner as
 10 under section 415(d), except that the base
 11 period taken into account shall be the cal-
 12 endar quarter beginning July 1, 2004, and
 13 any increase under this subparagraph
 14 which is not a multiple of \$500 shall be
 15 rounded to the next lower multiple of
 16 \$500.”.

17 (3) *CONFORMING AMENDMENTS.*—

18 (A) Subclause (I) of section
 19 401(k)(11)(B)(i) is amended by striking
 20 “\$6,000” and inserting “the amount in effect
 21 under section 408(p)(2)(A)(ii)”.

1 (B) Section 401(k)(11) is amended by strik-
 2 ing subparagraph (E).

3 (g) *ROUNDING RULE RELATING TO DEFINED BENEFIT*
 4 *PLANS AND DEFINED CONTRIBUTION PLANS.*—Paragraph
 5 (4) of section 415(d) is amended to read as follows:

6 “(4) *ROUNDING.*—

7 “(A) \$160,000 *AMOUNT.*—Any increase
 8 under subparagraph (A) of paragraph (1) which
 9 is not a multiple of \$5,000 shall be rounded to
 10 the next lowest multiple of \$5,000.

11 “(B) \$40,000 *AMOUNT.*—Any increase
 12 under subparagraph (C) of paragraph (1) which
 13 is not a multiple of \$1,000 shall be rounded to
 14 the next lowest multiple of \$1,000.”.

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

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

20 (a) *AMENDMENT OF INTERNAL REVENUE CODE.*—
 21 Subparagraph (B) of section 4975(f)(6) (relating to exemp-
 22 tions not to apply to certain transactions) is amended by
 23 adding at the end the following new clause:

24 “(iii) *LOAN EXCEPTION.*—For purposes
 25 of subparagraph (A)(i), the term ‘owner-em-

1 *ployee’ shall only include a person described*
 2 *in subclause (II) or (III) of clause (i).”.*

3 *(b) AMENDMENT OF ERISA.—Section 408(d)(2) of the*
 4 *Employee Retirement Income Security Act of 1974 (29*
 5 *U.S.C. 1108(d)(2)) is amended by adding at the end the*
 6 *following new subparagraph:*

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

10 *(c) EFFECTIVE DATE.—The amendments made by this*
 11 *section shall apply to years beginning after December 31,*
 12 *2001.*

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

14 *(a) SIMPLIFICATION OF DEFINITION OF KEY EM-*
 15 *PLOYEE.—*

16 *(1) IN GENERAL.—Section 416(i)(1)(A) (defining*
 17 *key employee) is amended—*

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

20 *(B) by striking clause (i) and inserting the*
 21 *following:*

22 *“(i) an officer of the employer having*
 23 *an annual compensation greater than*
 24 *\$150,000,”;*

1 (C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively; and

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

3 (2) CONFORMING AMENDMENT.—Section 416(i)(1)(B)(iii) is amended by striking “and subparagraph (A)(ii)”.

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

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

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

7 “(3) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—

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

1 “(i) the present value of the cumulative
2 accrued benefit for any employee, or

3 “(ii) the amount of the account of any
4 employee,

5 such present value or amount shall be increased
6 by the aggregate distributions made with respect
7 to such employee under the plan during the 1-
8 year period ending on the determination date.
9 The preceding sentence shall also apply to dis-
10 tributions under a terminated plan which if it
11 had not been terminated would have been re-
12 quired to be included in an aggregation group.

13 “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-
14 ICE DISTRIBUTION.—In the case of any distribu-
15 tion made for a reason other than separation
16 from service, death, or disability, subparagraph
17 (A) shall be applied by substituting ‘5-year pe-
18 riod’ for ‘1-year period’.”.

19 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—Sub-
20 paragraph (E) of section 416(g)(4) is amended—

21 (A) by striking “LAST 5 YEARS” in the
22 heading and inserting “LAST YEAR BEFORE DE-
23 TERMINATION DATE”; and

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

1 (d) *DEFINITION OF TOP-HEAVY PLANS.*—Paragraph
 2 (4) of section 416(g) (relating to other special rules for top-
 3 heavy plans) is amended by adding at the end the following
 4 new subparagraph:

5 “(H) *CASH OR DEFERRED ARRANGEMENTS*
 6 *USING ALTERNATIVE METHODS OF MEETING NON-*
 7 *DISCRIMINATION REQUIREMENTS.*—The term
 8 ‘top-heavy plan’ shall not include a plan which
 9 consists solely of—

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

13 “(ii) matching contributions with re-
 14 spect to which the requirements of section
 15 401(m)(11) are met.

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

23 (e) *FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT*
 24 *REQUIREMENT.*—Subparagraph (C) of section 416(c)(1)
 25 (relating to defined benefit plans) is amended—

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

3 (B) by adding at the end the following:

4 “(iii) EXCEPTION FOR FROZEN
 5 PLAN.—For purposes of determining an em-
 6 ployee’s years of service with the employer,
 7 any service with the employer shall be dis-
 8 regarded to the extent that such service oc-
 9 curs during a plan year when the plan ben-
 10 efits (within the meaning of section 410(b))
 11 no key employee or former key employee.”.

12 (f) ELIMINATION OF FAMILY ATTRIBUTION.—Section
 13 416(i)(1)(B) (defining 5-percent owner) is amended by add-
 14 ing at the end the following new clause:

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

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

4 **SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
 5 **COUNT FOR PURPOSES OF DEDUCTION LIM-**
 6 **ITS.**

7 (a) *IN GENERAL.*—Section 404 (relating to deduction
 8 for contributions of an employer to an employees’ trust or
 9 annuity plan and compensation under a deferred payment
 10 plan) is amended by adding at the end the following new
 11 subsection:

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

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

1 **SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR**
 2 **DEFERRED COMPENSATION PLANS OF STATE**
 3 **AND LOCAL GOVERNMENTS AND TAX-EXEMPT**
 4 **ORGANIZATIONS.**

5 (a) *IN GENERAL.*—Subsection (c) of section 457 (relat-
 6 ing to deferred compensation plans of State and local gov-
 7 ernments and tax-exempt organizations), as amended by
 8 section 201, is amended to read as follows:

9 “(c) *LIMITATION.*—The maximum amount of the com-
 10 pensation of any one individual which may be deferred
 11 under subsection (a) during any taxable year shall not ex-
 12 ceed the amount in effect under subsection (b)(2)(A) (as
 13 modified by any adjustment provided under subsection
 14 (b)(3)).”.

15 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 16 section (a) shall apply to years beginning after December
 17 31, 2001.

18 **SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO**
 19 **IRS REGARDING PENSION PLANS.**

20 (a) *ELIMINATION OF CERTAIN USER FEES.*—The Sec-
 21 retary of the Treasury or the Secretary’s delegate shall not
 22 require payment of user fees under the program established
 23 under section 10511 of the Revenue Act of 1987 for requests
 24 to the Internal Revenue Service for determination letters
 25 with respect to the qualified status of a pension benefit plan
 26 maintained solely by one or more eligible employers or any

1 *trust which is part of the plan. The preceding sentence shall*
 2 *not apply to any request—*

3 *(1) made after the later of—*

4 *(A) the fifth plan year the pension benefit*
 5 *plan is in existence; or*

6 *(B) the end of any remedial amendment pe-*
 7 *riod with respect to the plan beginning within*
 8 *the first 5 plan years; or*

9 *(2) made by the sponsor of any prototype or*
 10 *similar plan which the sponsor intends to market to*
 11 *participating employers.*

12 *(b) PENSION BENEFIT PLAN.—For purposes of this*
 13 *section, the term “pension benefit plan” means a pension,*
 14 *profit-sharing, stock bonus, annuity, or employee stock own-*
 15 *ership plan.*

16 *(c) ELIGIBLE EMPLOYER.—For purposes of this sec-*
 17 *tion, the term “eligible employer” has the same meaning*
 18 *given such term in section 408(p)(2)(C)(i)(I) of the Internal*
 19 *Revenue Code of 1986. The determination of whether an em-*
 20 *ployer is an eligible employer under this section shall be*
 21 *made as of the date of the request described in subsection*
 22 *(a).*

23 *(d) DETERMINATION OF AVERAGE FEES CHARGED.—*
 24 *For purposes of any determination of average fees charged,*

1 *any request to which subsection (a) applies shall not be*
 2 *taken into account.*

3 *(e) EFFECTIVE DATE.—The provisions of this section*
 4 *shall apply with respect to requests made after December*
 5 *31, 2001.*

6 **SEC. 207. DEDUCTION LIMITS.**

7 *(a) STOCK BONUS AND PROFIT SHARING TRUSTS.—*

8 *(1) IN GENERAL.—Subclause (I) of section*
 9 *404(a)(3)(A)(i) (relating to stock bonus and profit*
 10 *sharing trusts) is amended by striking “15 percent”*
 11 *and inserting “20 percent”.*

12 *(2) CONFORMING AMENDMENT.—Subparagraph*
 13 *(C) of section 404(h)(1) is amended by striking “15*
 14 *percent” each place it appears and inserting “20 per-*
 15 *cent”.*

16 *(b) COMPENSATION.—*

17 *(1) IN GENERAL.—Section 404(a) (relating to*
 18 *general rule) is amended by adding at the end the fol-*
 19 *lowing:*

20 *“(12) DEFINITION OF COMPENSATION.—For pur-*
 21 *poses of paragraphs (3), (7), (8), and (9), the term*
 22 *‘compensation otherwise paid or accrued during the*
 23 *taxable year’ shall include amounts treated as ‘par-*
 24 *ticipant’s compensation’ under subparagraph (C) or*
 25 *(D) of section 415(c)(3).”.*

1 (2) *CONFORMING AMENDMENTS.*—

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

4 (B) *Clause (i) of section 4972(c)(6)(B) is*
 5 *amended by striking “(within the meaning of*
 6 *section 404(a))” and inserting “(within the*
 7 *meaning of section 404(a) and as adjusted under*
 8 *section 404(a)(12))”.*

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

12 **SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS**
 13 **AFTER-TAX CONTRIBUTIONS.**

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

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

20 “(a) *GENERAL RULE.*—*If an applicable retirement*
 21 *plan includes a qualified plus contribution program—*

22 “(1) *any designated plus contribution made by*
 23 *an employee pursuant to the program shall be treated*
 24 *as an elective deferral for purposes of this chapter, ex-*

1 *cept that such contribution shall not be excludable*
 2 *from gross income, and*

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

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

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

15 “(2) *SEPARATE ACCOUNTING REQUIRED.—A pro-*
 16 *gram shall not be treated as a qualified plus contribu-*
 17 *tion program unless the applicable retirement plan—*

18 “(A) *establishes separate accounts (‘des-*
 19 *ignated plus accounts’) for the designated plus*
 20 *contributions of each employee and any earnings*
 21 *properly allocable to the contributions, and*

22 “(B) *maintains separate recordkeeping with*
 23 *respect to each account.*

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

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

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

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

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

15 “(A) *the maximum amount of elective defer-*
 16 *rals excludable from gross income of the employee*
 17 *for the taxable year (without regard to this sec-*
 18 *tion), over*

19 “(B) *the aggregate amount of elective defer-*
 20 *rals of the employee for the taxable year which*
 21 *the employee does not designate under paragraph*
 22 *(1).*

23 “(3) *ROLLOVER CONTRIBUTIONS.*—

24 “(A) *IN GENERAL.*—*A rollover contribution*
 25 *of any payment or distribution from a des-*

1 *ignated plus account which is otherwise allow-*
 2 *able under this chapter may be made only if the*
 3 *contribution is to—*

4 “(i) *another designated plus account of*
 5 *the individual from whose account the pay-*
 6 *ment or distribution was made, or*

7 “(ii) *a Roth IRA of such individual.*

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

12 “(d) *DISTRIBUTION RULES.—For purposes of this*
 13 *title—*

14 “(1) *EXCLUSION.—Any qualified distribution*
 15 *from a designated plus account shall not be includible*
 16 *in gross income.*

17 “(2) *QUALIFIED DISTRIBUTION.—For purposes*
 18 *of this subsection—*

19 “(A) *IN GENERAL.—The term ‘qualified dis-*
 20 *tribution’ has the meaning given such term by*
 21 *section 408A(d)(2)(A) (without regard to clause*
 22 *(iv) thereof).*

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

1 *a qualified distribution if such payment or dis-*
 2 *tribution is made within the 5-taxable-year pe-*
 3 *riod beginning with the earlier of—*

4 *“(i) the first taxable year for which the*
 5 *individual made a designated plus con-*
 6 *tribution to any designated plus account es-*
 7 *tablished for such individual under the*
 8 *same applicable retirement plan, or*

9 *“(ii) if a rollover contribution was*
 10 *made to such designated plus account from*
 11 *a designated plus account previously estab-*
 12 *lished for such individual under another*
 13 *applicable retirement plan, the first taxable*
 14 *year for which the individual made a des-*
 15 *ignated plus contribution to such previously*
 16 *established account.*

17 *“(C) DISTRIBUTIONS OF EXCESS DEFER-*
 18 *RALS AND CONTRIBUTIONS AND EARNINGS*
 19 *THEREON.—The term ‘qualified distribution’*
 20 *shall not include any distribution of an excess*
 21 *deferral under section 402(g)(2) or any excess*
 22 *contribution under section 401(k)(8), and any*
 23 *income on the excess deferral or contribution.*

24 *“(3) TREATMENT OF DISTRIBUTIONS OF CERTAIN*
 25 *EXCESS DEFERRALS.—Notwithstanding section 72, if*

1 *any excess deferral under section 402(g)(2) attrib-*
 2 *utable to a designated plus contribution is not dis-*
 3 *tributed on or before the 1st April 15 following the*
 4 *close of the taxable year in which such excess deferral*
 5 *is made, the amount of such excess deferral 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 be*
 11 *applied separately with respect to distributions and*
 12 *payments from a designated plus account and other*
 13 *distributions and payments from the plan.*

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

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

18 *“(A) an employees’ trust described in sec-*
 19 *tion 401(a) which is exempt from tax under sec-*
 20 *tion 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 sub-
3 *paragraph (A) or (C) of section 402(g)(3).*”.

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

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

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

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

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

23 (d) *REPORTING REQUIREMENTS*.—

24 (1) *W-2 INFORMATION*.—Section 6051(a)(8) is
25 *amended by inserting “, including the amount of des-*

1 *ignated plus contributions (as defined in section*
 2 *402A)” before the comma at the end.*

3 (2) *INFORMATION.—Section 6047 is amended by*
 4 *redesignating subsection (f) as subsection (g) and by*
 5 *inserting after subsection (e) the following new sub-*
 6 *section:*

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

14 (e) *CONFORMING AMENDMENTS.—*

15 (1) *Section 408A(e) is amended by adding after*
 16 *the first sentence the following new sentence: “Such*
 17 *term includes a rollover contribution described in sec-*
 18 *tion 402A(c)(3)(A).”.*

19 (2) *The table of sections for subpart A of part I*
 20 *of subchapter D of chapter 1 is amended by inserting*
 21 *after the item relating to section 402 the following*
 22 *new item:*

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

1 (f) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 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 purposes*
 11 *of this part only (other than sections 419 and 419A), this*
 12 *subparagraph shall be applied as if the term ‘trade or busi-*
 13 *ness’ for purposes of section 1402 included service described*
 14 *in section 1402(c)(6).”.*

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

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 22 *section shall apply to taxable years beginning after Decem-*
 23 *ber 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” after
 8 “section 861(a)(3)”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 10 section (a) shall apply to plan years beginning after Decem-
 11 ber 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 definitions
 17 and special rules) is amended by adding at the end the fol-
 18 lowing new subsection:

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

21 “(1) *IN GENERAL.*—An applicable employer plan
 22 shall not be treated as failing to meet any require-
 23 ment of this title solely because the plan permits an
 24 eligible participant to make additional elective defer-
 25 rals 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 in*
 4 *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), 415,*
 19 *or 457, or*

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

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

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

9 “(B) *AGGREGATION.*—For purposes of sub-
 10 paragraph (A), all plans maintained by employ-
 11 ers who are treated as a single employer under
 12 subsection (b), (c), (m), or (o) of section 414
 13 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 elective*
 21 *deferrals may (without regard to this subsection)*
 22 *be made to the plan for the plan year by reason*
 23 *of the application of any limitation or other re-*
 24 *striction described in paragraph (3) or com-*

1 *parable limitation contained in the terms of the*
 2 *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 compensation*
 15 *plan under section 457 of an eligible em-*
 16 *ployer as defined in section 457(e)(1)(A),*
 17 *and*

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

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

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

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

3 “(D) *COST-OF-LIVING ADJUSTMENT.*—In the
4 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 increases
7 in the cost-of-living at the same time and in the
8 same manner as adjustments under section
9 415(d); except that the base period taken into ac-
10 count shall be the calendar quarter beginning
11 July 1, 2005, and any increase under this sub-
12 paragraph which is not a multiple of \$500 shall
13 be rounded to the next lower multiple of \$500.”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this
15 section shall apply to contributions in taxable years begin-
16 ning after December 31, 2001.

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

20 (a) *EQUITABLE TREATMENT.*—

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

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

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

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

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

12 (3) *CONFORMING AMENDMENTS.*—

13 (A) Subsection (f) of section 72 is amended
14 by striking “section 403(b)(2)(D)(iii)” and in-
15 serting “section 403(b)(2)(D)(iii), as in effect be-
16 fore the enactment of the Comprehensive Retirement
17 Security and Pension Reform Act of
18 2001)”.

19 (B) Section 404(a)(10)(B) is amended by
20 striking “, the exclusion allowance under section
21 403(b)(2),”.

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

24 “(3) *SPECIAL RULE FOR MONEY PURCHASE*
25 *PLANS.*—For purposes of paragraph (1)(B), in the

1 *case of a defined contribution plan which is subject*
 2 *to the funding standards of section 412, section*
 3 *415(c)(1)(B) shall be applied by substituting ‘25 per-*
 4 *cent’ for ‘100 percent’.”.*

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

9 *(E) Section 415(c)(3) is amended by adding*
 10 *at the end the following new subparagraph:*

11 *“(E) ANNUITY CONTRACTS.—In the case of*
 12 *an annuity contract described in section 403(b),*
 13 *the term ‘participant’s compensation’ means the*
 14 *participant’s includible compensation deter-*
 15 *mined under section 403(b)(3).”.*

16 *(F) Section 415(c) is amended by striking*
 17 *paragraph (4).*

18 *(G) Section 415(c)(7) is amended to read as*
 19 *follows:*

20 *“(7) CERTAIN CONTRIBUTIONS BY CHURCH*
 21 *PLANS NOT TREATED AS EXCEEDING LIMIT.—*

22 *“(A) IN GENERAL.—Notwithstanding any*
 23 *other provision of this subsection, at the election*
 24 *of a participant who is an employee of a church*
 25 *or a convention or association of churches, in-*

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

(I) Section 664(g) is amended—

1 (i) in paragraph (3)(E) by striking
 2 “limitations under section 415(c)” and in-
 3 serting “applicable limitation under para-
 4 graph (7)”, and

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

7 “(7) *APPLICABLE LIMITATION.*—

8 “(A) *IN GENERAL.*—For purposes of para-
 9 graph (3)(E), the applicable limitation under
 10 this paragraph with respect to a participant is
 11 an amount equal to the lesser of—

12 “(i) \$30,000, or

13 “(ii) 25 percent of the participant’s
 14 compensation (as defined in section
 15 415(c)(3)).

16 “(B) *COST-OF-LIVING ADJUSTMENT.*—The
 17 Secretary shall adjust annually the \$30,000
 18 amount under subparagraph (A)(i) at the same
 19 time and in the same manner as under section
 20 415(d), except that the base period shall be the
 21 calendar quarter beginning October 1, 1993, and
 22 any increase under this subparagraph which is
 23 not a multiple of \$5,000 shall be rounded to the
 24 next lowest multiple of \$5,000.”.

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

4 (b) *SPECIAL RULES FOR SECTIONS 403(b) AND 408.*—

5 (1) *IN GENERAL.*—*Subsection (k) of section 415*
 6 *is amended by adding at the end the following new*
 7 *paragraph:*

8 “(4) *SPECIAL RULES FOR SECTIONS 403(B) AND*
 9 *408.*—*For purposes of this section, any annuity con-*
 10 *tract described in section 403(b) for the benefit of a*
 11 *participant shall be treated as a defined contribution*
 12 *plan maintained by each employer with respect to*
 13 *which the participant has the control required under*
 14 *subsection (b) or (c) of section 414 (as modified by*
 15 *subsection (h)). For purposes of this section, any con-*
 16 *tribution by an employer to a simplified employee*
 17 *pension plan for an individual for a taxable year*
 18 *shall be treated as an employer contribution to a de-*
 19 *defined contribution plan for such individual for such*
 20 *year.”.*

21 (2) *EFFECTIVE DATE.*—

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

1 (B) *EXCLUSION ALLOWANCE.*—Effective for
 2 limitation years beginning in 2000, in the case
 3 of any annuity contract described in section
 4 403(b) of the Internal Revenue Code of 1986, the
 5 amount of the contribution disqualified by rea-
 6 son of section 415(g) of such Code shall reduce
 7 the exclusion allowance as provided in section
 8 403(b)(2) of such Code.

9 (3) *MODIFICATION OF 403(b) EXCLUSION ALLOW-*
 10 *ANCE TO CONFORM TO 415 MODIFICATION.*—The Sec-
 11 retary of the Treasury shall modify the regulations re-
 12 garding the exclusion allowance under section
 13 403(b)(2) of the Internal Revenue Code of 1986 to
 14 render void the requirement that contributions to a
 15 defined benefit pension plan be treated as previously
 16 excluded amounts for purposes of the exclusion allow-
 17 ance. For taxable years beginning after December 31,
 18 1999, such regulations shall be applied as if such re-
 19 quirement were void.

20 (c) *DEFERRED COMPENSATION PLANS OF STATE AND*
 21 *LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*
 22 *TIONS.*—

23 (1) *IN GENERAL.*—Subparagraph (B) of section
 24 457(b)(2) (relating to salary limitation on eligible de-

ferred compensation plans) is amended by striking
 “33 $\frac{1}{3}$ percent” and inserting “100 percent”.

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

**SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER MATCH-
 ING CONTRIBUTIONS.**

(a) *AMENDMENT OF INTERNAL REVENUE CODE.*—Sec-
 tion 411(a) (relating to minimum vesting standards) is
 amended—

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

(2) by adding at the end the following:

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

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

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

“Years of service:	<i>The nonforfeitable percentage is:</i>
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), by striking “A plan” and
5 inserting “Except as provided in paragraph (4), a
6 plan”, and

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

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

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

13 “(B) by substituting the following table for
14 the table contained in subparagraph (B):

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

15 (c) *EFFECTIVE DATES.*—

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

20 (2) *COLLECTIVE BARGAINING AGREEMENTS.*—In
21 the case of a plan maintained pursuant to one or

1 *more collective bargaining agreements between em-*
 2 *ployee representatives and one or more employers*
 3 *ratified by the date of the enactment of this Act, the*
 4 *amendments made by this section shall not apply to*
 5 *contributions on behalf of employees covered by any*
 6 *such agreement for plan years beginning before the*
 7 *earlier of—*

8 *(A) the later of—*

9 *(i) the date on which the last of such*
 10 *collective bargaining agreements terminates*
 11 *(determined without regard to any exten-*
 12 *sion thereof on or after such date of the en-*
 13 *actment); or*

14 *(ii) January 1, 2002; or*

15 *(B) January 1, 2006.*

16 *(3) SERVICE REQUIRED.—With respect to any*
 17 *plan, the amendments made by this section shall not*
 18 *apply to any employee before the date that such em-*
 19 *ployee has 1 hour of service under such plan in any*
 20 *plan year to which the amendments made by this sec-*
 21 *tion apply.*

22 **SEC. 304. MODIFICATIONS TO MINIMUM DISTRIBUTION**
 23 **RULES.**

24 *(a) LIFE EXPECTANCY TABLES.—The Secretary of the*
 25 *Treasury shall modify the life expectancy tables under the*

1 *regulations relating to minimum distribution requirements*
 2 *under sections 401(a)(9), 408(a)(6) and (b)(3), 403(b)(10),*
 3 *and 457(d)(2) of the Internal Revenue Code to reflect cur-*
 4 *rent life expectancy.*

5 *(b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD*
 6 *BEGUN BEFORE DEATH OCCURS.—*

7 *(1) IN GENERAL.—Subparagraph (B) of section*
 8 *401(a)(9) is amended by striking clause (i) and redes-*
 9 *ignating clauses (ii), (iii), and (iv) as clauses (i),*
 10 *(ii), and (iii), respectively.*

11 *(2) CONFORMING CHANGES.—*

12 *(A) Clause (i) of section 401(a)(9)(B) (as so*
 13 *redesignated) is amended—*

14 *(i) by striking “FOR OTHER CASES” in*
 15 *the heading; and*

16 *(ii) by striking “the distribution of the*
 17 *employee’s interest has begun in accordance*
 18 *with subparagraph (A)(ii)” and inserting*
 19 *“his entire interest has been distributed to*
 20 *him”.*

21 *(B) Clause (ii) of section 401(a)(9)(B) (as*
 22 *so redesignated) is amended by striking “clause*
 23 *(ii)” and inserting “clause (i)”.*

24 *(C) Clause (iii) of section 401(a)(9)(B) (as*
 25 *so redesignated) is amended—*

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

3 (ii) by striking “clause (iii)(III)” in
 4 subclause (I) and inserting “clause
 5 (ii)(III)”;

6 (iii) by striking “the date on which the
 7 employee would have attained age 70½,” in
 8 subclause (I) and inserting “April 1 of the
 9 calendar year following the calendar year
 10 in which the spouse attains 70½,”; and

11 (iv) by striking “the distributions to
 12 such spouse begin,” in subclause (II) and
 13 inserting “his entire interest has been dis-
 14 tributed to him,”.

15 (3) *EFFECTIVE DATE.*—

16 (A) *IN GENERAL.*—Except as provided in
 17 subparagraph (B), the amendments made by this
 18 subsection shall apply to years beginning after
 19 December 31, 2001.

20 (B) *DISTRIBUTIONS TO SURVIVING*
 21 *SPOUSE.*—

22 (i) *IN GENERAL.*—In the case of an
 23 employee described in clause (ii), distribu-
 24 tions to the surviving spouse of the employee
 25 shall not be required to commence prior to

1 *the date on which such distributions would*
 2 *have been required to begin under section*
 3 *401(a)(9)(B) of the Internal Revenue Code*
 4 *of 1986 (as in effect on the day before the*
 5 *date of the enactment of this Act).*

6 (ii) *CERTAIN EMPLOYEES.—An em-*
 7 *ployee is described in this clause if such em-*
 8 *ployee dies before—*

9 *(I) the date of the enactment of*
 10 *this Act, and*

11 *(II) the required beginning date*
 12 *(within the meaning of section*
 13 *401(a)(9)(C) of the Internal Revenue*
 14 *Code of 1986) of the employee.*

15 (c) *REDUCTION IN EXCISE TAX.—*

16 (1) *IN GENERAL.—Subsection (a) of section 4974*
 17 *is amended by striking “50 percent” and inserting*
 18 *“10 percent”.*

19 (2) *EFFECTIVE DATE.—The amendment made by*
 20 *this subsection shall apply to years beginning after*
 21 *December 31, 2001.*

1 **SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION**
 2 **OF SECTION 457 PLAN BENEFITS UPON DI-**
 3 **VORCE.**

4 (a) *IN GENERAL.*—Section 414(p)(11) (relating to ap-
 5 plication of rules to governmental and church plans) is
 6 amended—

7 (1) by inserting “or an eligible deferred com-
 8 pensation plan (within the meaning of section
 9 457(b))” after “subsection (e)”; and

10 (2) in the heading, by striking “GOVERNMENTAL
 11 AND CHURCH PLANS” and inserting “CERTAIN OTHER
 12 PLANS”.

13 (b) *WAIVER OF CERTAIN DISTRIBUTION REQUIRE-*
 14 *MENTS.*—Paragraph (10) of section 414(p) is amended by
 15 striking “and section 409(d)” and inserting “section
 16 409(d), and section 457(d)”.

17 (c) *TAX TREATMENT OF PAYMENTS FROM A SECTION*
 18 *457 PLAN.*—Subsection (p) of section 414 is amended by
 19 redesignating paragraph (12) as paragraph (13) and in-
 20 serting after paragraph (11) the following new paragraph:

21 “(12) *TAX TREATMENT OF PAYMENTS FROM A*
 22 *SECTION 457 PLAN.*—If a distribution or payment
 23 from an eligible deferred compensation plan described
 24 in section 457(b) is made pursuant to a qualified do-
 25 mestic relations order, rules similar to the rules of

3 (d) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to transfers, distributions, and pay-
5 ments made after December 31, 2001.

6 SEC. 306. PROVISIONS RELATING TO HARDSHIP DISTRIBUTIONS.
7

8 (a) *SAFE HARBOR RELIEF.*—

(1) *IN GENERAL.*—The Secretary of the Treasury shall revise the regulations relating to hardship distributions under section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that the period an employee is prohibited from making elective and employee contributions in order for a distribution to be deemed necessary to satisfy financial need shall be equal to 6 months.

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

20 (b) *HARDSHIP DISTRIBUTIONS NOT TREATED AS ELI-*
21 *GIBLE ROLLOVER DISTRIBUTIONS.*—

22 (1) MODIFICATION OF DEFINITION OF ELIGIBLE
23 ROLLOVER.—Subparagraph (C) of section 402(c)(4)
24 (relating to eligible rollover distribution) is amended
25 to read as follows:

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

3 (2) *EFFECTIVE DATE.*—The amendment made by
4 this subsection shall apply to distributions made after
5 December 31, 2001.

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

8 (a) *IN GENERAL.*—Section 4972(c)(6) (relating to ex-
9 ceptions to nondeductible contributions), as amended by sec-
10 tion 502, is amended by striking “and” at the end of sub-
11 paragraph (A), by striking the period and inserting “, and”
12 at the end of subparagraph (B), and by inserting after sub-
13 paragraph (B) the following new subparagraph:

14 “(C) so much of the contributions to a sim-
15 ple retirement account (within the meaning of
16 section 408(p)) or a simple plan (within the
17 meaning of section 401(k)(11)) which are not de-
18 ductible when contributed solely because such
19 contributions are not made in connection with a
20 trade or business of the employer.”

21 (b) *EXCLUSION OF CERTAIN CONTRIBUTIONS.*—Sec-
22 tion 4972(c)(6) is amended by adding at the end the fol-
23 lowing new sentence: “Subparagraph (C) shall not apply
24 to contributions made on behalf of the employer or a mem-

ber of the employer's family (as defined in section 447(e)(1)).”.

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

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

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.

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

(1) *ROLLOVERS FROM SECTION 457 PLANS*.—

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

“(16) *ROLLOVER AMOUNTS*.—

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

“(i) any portion of the balance to the credit of an employee in such plan is paid

1 to such employee in an eligible rollover dis-
2 tribution (within the meaning of section
3 402(c)(4) without regard to subparagraph
4 (C) thereof),

5 “(ii) the employee transfers any por-
6 tion of the property such employee receives
7 in such distribution to an eligible retire-
8 ment plan described in section 402(c)(8)(B),
9 and

10 “(iii) in the case of a distribution of
11 property other than money, the amount so
12 transferred consists of the property distrib-
13 uted,

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

17 “(B) CERTAIN RULES MADE APPLICABLE.—
18 The rules of paragraphs (2) through (7) (other
19 than paragraph (4)(C)) and (9) of section 402(c)
20 and section 402(f) shall apply for purposes of
21 subparagraph (A).

22 “(C) REPORTING.—Rollovers under this
23 paragraph shall be reported to the Secretary in
24 the same manner as rollovers from qualified re-
25 tirement plans (as defined in section 4974(c)).”.

1 (B) *DEFERRAL LIMIT DETERMINED WITH-*
 2 *OUT REGARD TO ROLLOVER AMOUNTS.*—Section
 3 457(b)(2) (defining eligible deferred compensa-
 4 tion plan) is amended by inserting “(other than
 5 rollover amounts)” after “taxable year”.

6 (C) *DIRECT ROLLOVER.*—Paragraph (1) of
 7 section 457(d) is amended by striking “and” at
 8 the end of subparagraph (A), by striking the pe-
 9 riod at the end of subparagraph (B) and insert-
 10 ing “, and”, and by inserting after subpara-
 11 graph (B) the following:

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

16 Any amount transferred in a direct trustee-to-trustee
 17 transfer in accordance with section 401(a)(31) shall
 18 not be includible in gross income for the taxable year
 19 of transfer.”.

20 (D) *WITHHOLDING.*—

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

24 “(E) under or to an eligible deferred com-
 25 pensation plan which, at the time of such pay-

ment, is a plan described in section 457(b) maintained by an employer described in section 457(e)(1)(A); or”.

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

“(3) *ELIGIBLE ROLLOVER DISTRIBUTION.*—For purposes of this subsection, the term ‘eligible rollover distribution’ has the meaning given such term by section 402(f)(2)(A).”.

(iii) *LIABILITY FOR WITHHOLDING.*—Subparagraph (B) of section 3405(d)(2) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by adding at the end the following:

“(iv) section 457(b) and which is maintained by an eligible employer described in section 457(e)(1)(A).”.

(2) *ROLLOVERS TO SECTION 457 PLANS.*—

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

1 “(v) an eligible deferred compensation
2 plan described in section 457(b) which is
3 maintained by an eligible employer de-
4 scribed in section 457(e)(1)(A).”.

5 (B) SEPARATE ACCOUNTING.—Section
6 402(c) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(10) SEPARATE ACCOUNTING.—Unless a plan
9 described in clause (v) of paragraph (8)(B) agrees to
10 separately account for amounts rolled into such plan
11 from eligible retirement plans not described in such
12 clause, the plan described in such clause may not ac-
13 cept transfers or rollovers from such retirement
14 plans.”.

15 (C) 10 PERCENT ADDITIONAL TAX.—Sub-
16 section (t) of section 72 (relating to 10-percent
17 additional tax on early distributions from quali-
18 fied retirement plans) is amended by adding at
19 the end the following new paragraph:

20 “(9) SPECIAL RULE FOR ROLLOVERS TO SECTION
21 457 PLANS.—For purposes of this subsection, a dis-
22 tribution from an eligible deferred compensation plan
23 (as defined in section 457(b)) of an eligible employer
24 described in section 457(e)(1)(A) shall be treated as a
25 distribution from a qualified retirement plan de-

1 *scribed in section 4974(c)(1) to the extent that such*
 2 *distribution is attributable to an amount transferred*
 3 *to an eligible deferred compensation plan from a*
 4 *qualified retirement plan (as defined in section*
 5 *4974(c)).”.*

6 *(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403(b)*
 7 *PLANS.—*

8 *(1) ROLLOVERS FROM SECTION 403(b) PLANS.—*
 9 *Section 403(b)(8)(A)(ii) (relating to rollover*
 10 *amounts) is amended by striking “such distribution”*
 11 *and all that follows and inserting “such distribution*
 12 *to an eligible retirement plan described in section*
 13 *402(c)(8)(B), and”.*

14 *(2) ROLLOVERS TO SECTION 403(b) PLANS.—Sec-*
 15 *tion 402(c)(8)(B) (defining eligible retirement plan),*
 16 *as amended by subsection (a), is amended by striking*
 17 *“and” at the end of clause (iv), by striking the period*
 18 *at the end of clause (v) and inserting “, and”, and*
 19 *by inserting after clause (v) the following new clause:*
 20 *“(vi) an annuity contract described in*
 21 *section 403(b).”.*

22 *(c) EXPANDED EXPLANATION TO RECIPIENTS OF*
 23 *ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section*
 24 *402(f) (relating to written explanation to recipients of dis-*
 25 *tributions eligible for rollover treatment) is amended by*

1 *striking “and” at the end of subparagraph (C), by striking*
 2 *the period at the end of subparagraph (D) and inserting*
 3 *“, and”, and by adding at the end the following new sub-*
 4 *paragraph:*

5 *“(E) of the provisions under which distribu-*
 6 *tions from the eligible retirement plan receiving*
 7 *the distribution may be subject to restrictions*
 8 *and tax consequences which are different from*
 9 *those applicable to distributions from the plan*
 10 *making such distribution.”.*

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

15 *(e) CONFORMING AMENDMENTS.—*

16 *(1) Section 72(o)(4) is amended by striking “and*
 17 *408(d)(3)” and inserting “403(b)(8), 408(d)(3), and*
 18 *457(e)(16)”.*

19 *(2) Section 219(d)(2) is amended by striking “or*
 20 *408(d)(3)” and inserting “408(d)(3), or 457(e)(16)”.*

21 *(3) Section 401(a)(31)(B) is amended by strik-*
 22 *ing “and 403(a)(4)” and inserting “, 403(a)(4),*
 23 *403(b)(8), and 457(e)(16)”.*

24 *(4) Subparagraph (A) of section 402(f)(2) is*
 25 *amended by striking “or paragraph (4) of section*

1 403(a)” and inserting “, paragraph (4) of section
 2 403(a), subparagraph (A) of section 403(b)(8), or sub-
 3 paragraph (A) of section 457(e)(16)”.

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

6 (6) Subparagraphs (A) and (B) of section
 7 402(f)(1) are amended by striking “another eligible
 8 retirement plan” and inserting “an eligible retire-
 9 ment plan”.

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

12 “(B) CERTAIN RULES MADE APPLICABLE.—
 13 The rules of paragraphs (2) through (7) and (9)
 14 of section 402(c) and section 402(f) shall apply
 15 for purposes of subparagraph (A), except that
 16 section 402(f) shall be applied to the payor in
 17 lieu of the plan administrator.”.

18 (8) Section 408(a)(1) is amended by striking “or
 19 403(b)(8),” and inserting “403(b)(8), or 457(e)(16)”.

20 (9) Subparagraphs (A) and (B) of section
 21 415(b)(2) are each amended by striking “and
 22 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
 23 457(e)(16)”.

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

4 (11) Section 4973(b)(1)(A) is amended by strik-
 5 ing “or 408(d)(3)” and inserting “408(d)(3), or
 6 457(e)(16)”.

7 (f) *EFFECTIVE DATE; SPECIAL RULE.*—

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

11 (2) *REASONABLE NOTICE.*—No penalty shall be
 12 imposed on a plan for the failure to provide the infor-
 13 mation required by the amendment made by sub-
 14 section (c) with respect to any distribution made be-
 15 fore the date that is 90 days after the date on which
 16 the Secretary of the Treasury issues a safe harbor
 17 rollover notice after the date of the enactment of this
 18 Act, if the administrator of such plan makes a rea-
 19 sonable attempt to comply with such requirement.

20 (3) *SPECIAL RULE.*—Notwithstanding any other
 21 provision of law, subsections (h)(3) and (h)(5) of sec-
 22 tion 1122 of the Tax Reform Act of 1986 shall not
 23 apply to any distribution from an eligible retirement
 24 plan (as defined in clause (iii) or (iv) of section
 25 402(c)(8)(B) of the Internal Revenue Code of 1986) on

1 *behalf of an individual if there was a rollover to such*
 2 *plan on behalf of such individual which is permitted*
 3 *solely by reason of any amendment made by this sec-*
 4 *tion.*

5 **SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
 6 **MENT PLANS.**

7 (a) *IN GENERAL.*—Subparagraph (A) of section
 8 408(d)(3) (relating to rollover amounts) is amended by add-
 9 ing “or” at the end of clause (i), by striking clauses (ii)
 10 and (iii), and by adding at the end the following:

11 “(ii) the entire amount received (in-
 12 cluding money and any other property) is
 13 paid into an eligible retirement plan for the
 14 benefit of such individual not later than the
 15 60th day after the date on which the pay-
 16 ment or distribution is received, except that
 17 the maximum amount which may be paid
 18 into such plan may not exceed the portion
 19 of the amount received which is includible
 20 in gross income (determined without regard
 21 to this paragraph).

22 *For purposes of clause (ii), the term ‘eligible re-*
 23 *tirement plan’ means an eligible retirement plan*
 24 *described in clause (iii), (iv), (v), or (vi) of sec-*
 25 *tion 402(c)(8)(B).”.*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *Paragraph (1) of section 403(b) is amended*
 3 *by striking “section 408(d)(3)(A)(iii)” and inserting*
 4 *“section 408(d)(3)(A)(ii)”.*

5 (2) *Clause (i) of section 408(d)(3)(D) is amended*
 6 *by striking “(i), (ii), or (iii)” and inserting “(i) or*
 7 *(ii)”.*

8 (3) *Subparagraph (G) of section 408(d)(3) is*
 9 *amended to read as follows:*

10 “(G) *SIMPLE RETIREMENT ACCOUNTS.*—*In*
 11 *the case of any payment or distribution out of*
 12 *a simple retirement account (as defined in sub-*
 13 *section (p)) to which section 72(t)(6) applies,*
 14 *this paragraph shall not apply unless such pay-*
 15 *ment or distribution is paid into another simple*
 16 *retirement account.”.*

17 (c) *EFFECTIVE DATE; SPECIAL RULE.*—

18 (1) *EFFECTIVE DATE.*—*The amendments made*
 19 *by this section shall apply to distributions after De-*
 20 *cember 31, 2001.*

21 (2) *SPECIAL RULE.*—*Notwithstanding any other*
 22 *provision of law, subsections (h)(3) and (h)(5) of sec-*
 23 *tion 1122 of the Tax Reform Act of 1986 shall not*
 24 *apply to any distribution from an eligible retirement*
 25 *plan (as defined in clause (iii) or (iv) of section*

1 402(c)(8)(B) of the Internal Revenue Code of 1986) on
 2 behalf of an individual if there was a rollover to such
 3 plan on behalf of such individual which is permitted
 4 solely by reason of the amendments made by this sec-
 5 tion.

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

7 (a) *ROLLOVERS FROM EXEMPT TRUSTS.*—Paragraph
 8 (2) of section 402(c) (relating to maximum amount which
 9 may be rolled over) is amended by adding at the end the
 10 following: “The preceding sentence shall not apply to such
 11 distribution to the extent—

12 “(A) such portion is transferred in a direct
 13 trustee-to-trustee transfer to a qualified trust
 14 which is part of a plan which is a defined con-
 15 tribution plan and which agrees to separately
 16 account for amounts so transferred, including
 17 separately accounting for the portion of such dis-
 18 tribution which is includible in gross income
 19 and the portion of such distribution which is not
 20 so includible, or

21 “(B) such portion is transferred to an eligi-
 22 ble retirement plan described in clause (i) or (ii)
 23 of paragraph (8)(B).”.

24 (b) *OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLL-*
 25 *OVER DISTRIBUTIONS.*—Subparagraph (B) of section

1 401(a)(31) (relating to limitation) is amended by adding
 2 at the end the following:

3 “The preceding sentence shall not apply to such
 4 distribution if the plan to which such distribu-
 5 tion is transferred—

6 “(i) agrees to separately account for
 7 amounts so transferred, including sepa-
 8 rately accounting for the portion of such
 9 distribution which is includible in gross in-
 10 come and the portion of such distribution
 11 which is not so includible, or

12 “(ii) is an eligible retirement plan de-
 13 scribed in clause (i) or (ii) of section
 14 402(c)(8)(B).”.

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

19 “(H) APPLICATION OF SECTION 72.—

20 “(i) IN GENERAL.—If—

21 “(I) a distribution is made from
 22 an individual retirement plan, and

23 “(II) a rollover contribution is
 24 made to an eligible retirement plan de-
 25 scribed in section 402(c)(8)(B)(iii),

1 (iv), (v), or (vi) with respect to all or
2 part of such distribution,

3 then, notwithstanding paragraph (2), the
4 rules of clause (ii) shall apply for purposes
5 of applying section 72.

6 “(ii) *APPLICABLE RULES.*—In the case
7 of a distribution described in clause (i)—

8 “(I) section 72 shall be applied
9 separately to such distribution,

10 “(II) notwithstanding the pro
11 rata allocation of income on, and in-
12 vestment in, the contract to distribu-
13 tions under section 72, the portion of
14 such distribution rolled over to an eli-
15 gible retirement plan described in
16 clause (i) shall be treated as from in-
17 come on the contract (to the extent of
18 the aggregate income on the contract
19 from all individual retirement plans of
20 the distributee), and

21 “(III) appropriate adjustments
22 shall be made in applying section 72 to
23 other distributions in such taxable year
24 and subsequent taxable years.”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to distributions after December 31, 2001.*

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

4 (a) *EXEMPT TRUSTS.*—*Paragraph (3) of section*
 5 *402(c) (relating to transfer must be made within 60 days*
 6 *of receipt) is amended to read as follows:*

7 “(3) *TRANSFER MUST BE MADE WITHIN 60 DAYS*
 8 *OF RECEIPT.*—

9 “(A) *IN GENERAL.*—*Except as provided in*
 10 *subparagraph (B), paragraph (1) shall not*
 11 *apply to any transfer of a distribution made*
 12 *after the 60th day following the day on which the*
 13 *distributee received the property distributed.*

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

21 (b) *IRAS.*—*Paragraph (3) of section 408(d) (relating*
 22 *to rollover contributions), as amended by section 403, is*
 23 *amended by adding after subparagraph (H) the following*
 24 *new subparagraph:*

1 “(I) *WAIVER OF 60-DAY REQUIREMENT.*—
 2 *The Secretary may waive the 60-day require-*
 3 *ment under subparagraphs (A) and (D) where*
 4 *the failure to waive such requirement would be*
 5 *against equity or good conscience, including cas-*
 6 *ualty, disaster, or other events beyond the rea-*
 7 *sonable control of the individual subject to such*
 8 *requirement.”.*

9 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 10 *section shall apply to distributions after December 31, 2001.*

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

12 (a) *PLAN TRANSFERS.*—

13 (1) *AMENDMENT OF INTERNAL REVENUE*
 14 *CODE.*—*Paragraph (6) of section 411(d) (relating to*
 15 *accrued benefit not to be decreased by amendment) is*
 16 *amended by adding at the end the following:*

17 “(D) *PLAN TRANSFERS.*—

18 “(i) *IN GENERAL.*—*A defined contribu-*
 19 *tion plan (in this subparagraph referred to*
 20 *as the ‘transferee plan’) shall not be treated*
 21 *as failing to meet the requirements of this*
 22 *subsection merely because the transferee*
 23 *plan does not provide some or all of the*
 24 *forms of distribution previously available*
 25 *under another defined contribution plan (in*

1 *this subparagraph referred to as the ‘trans-*
2 *feror plan’)* to the extent that—

3 *“(I) the forms of distribution pre-*
4 *viously available under the transferor*
5 *plan applied to the account of a par-*
6 *ticipant or beneficiary under the*
7 *transferor plan that was transferred*
8 *from the transferor plan to the trans-*
9 *feree plan pursuant to a direct transfer*
10 *rather than pursuant to a distribution*
11 *from the transferor plan,*

12 *“(II) the terms of both the trans-*
13 *feror plan and the transferee plan au-*
14 *thorize the transfer described in sub-*
15 *clause (I),*

16 *“(III) the transfer described in*
17 *subclause (I) was made pursuant to a*
18 *voluntary election by the participant*
19 *or beneficiary whose account was*
20 *transferred to the transferee plan,*

21 *“(IV) the election described in*
22 *subclause (III) was made after the par-*
23 *ticipant or beneficiary received a no-*
24 *tice describing the consequences of*
25 *making the election, and*

1 “(V) the transferee plan allows the
2 participant or beneficiary described in
3 subclause (III) to receive any distribu-
4 tion to which the participant or bene-
5 ficiary is entitled under the transferee
6 plan in the form of a single sum dis-
7 tribution.

8 “(ii) *EXCEPTION.*—Clause (i) shall
9 apply to plan mergers and other trans-
10 actions having the effect of a direct transfer,
11 including consolidations of benefits attrib-
12 utable to different employers within a mul-
13 tiple employer plan.

14 “(E) *ELIMINATION OF FORM OF DISTRIBUTION.*—Except to the extent provided in regula-
15 tions, a defined contribution plan shall not be
16 treated as failing to meet the requirements of this
17 section merely because of the elimination of a
18 form of distribution previously available there-
19 under. This subparagraph shall not apply to the
20 elimination of a form of distribution with re-
21 spect to any participant unless—
22

23 “(i) a single sum payment is available
24 to such participant at the same time or

1 times as the form of distribution being
2 eliminated, and

3 “(ii) such single sum payment is based
4 on the same or greater portion of the par-
5 ticipant’s account as the form of distribu-
6 tion being eliminated.”.

7 (2) *AMENDMENT OF ERISA*.—Section 204(g) of
8 the *Employee Retirement Income Security Act of*
9 1974 (29 U.S.C. 1054(g)) is amended by adding at
10 the end the following:

11 “(4)(A) A defined contribution plan (in this subpara-
12 graph referred to as the ‘transferee plan’) shall not be treat-
13 ed as failing to meet the requirements of this subsection
14 merely because the transferee plan does not provide some
15 or all of the forms of distribution previously available under
16 another defined contribution plan (in this subparagraph re-
17 ferred to as the ‘transferor plan’) to the extent that—

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

1 “(ii) the terms of both the transferor plan and
2 the transferee plan authorize the transfer described in
3 clause (i);

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

8 “(iv) the election described in clause (iii) was
9 made after the participant or beneficiary received a
10 notice describing the consequences of making the elec-
11 tion; and

12 “(v) the transferee plan allows the participant or
13 beneficiary described in clause (iii) to receive any dis-
14 tribution to which the participant or beneficiary is
15 entitled under the transferee plan in the form of a
16 single sum distribution.

17 “(B) Subparagraph (A) shall apply to plan mergers
18 and other transactions having the effect of a direct transfer,
19 including consolidations of benefits attributable to different
20 employers within a multiple employer plan.

21 “(5) Except to the extent provided in regulations pro-
22 mulgated by the Secretary of the Treasury, a defined con-
23 tribution plan shall not be treated as failing to meet the
24 requirements of this subsection merely because of the elimi-
25 nation of a form of distribution previously available there-

1 *under. This paragraph shall not apply to the elimination*
 2 *of a form of distribution with respect to any participant*
 3 *unless—*

4 “(A) *a single sum payment is available to such*
 5 *participant at the same time or times as the form of*
 6 *distribution being eliminated; and*

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

10 (3) *EFFECTIVE DATE.—The amendments made*
 11 *by this subsection shall apply to years beginning after*
 12 *December 31, 2001.*

13 (b) *REGULATIONS.—*

14 (1) *AMENDMENT OF INTERNAL REVENUE*
 15 *CODE.—Paragraph (6)(B) of section 411(d) (relating*
 16 *to accrued benefit not to be decreased by amendment)*
 17 *is amended by inserting after the second sentence the*
 18 *following new sentence: “The Secretary shall by regu-*
 19 *lations provide that this subparagraph shall not*
 20 *apply to any plan amendment which reduces or*
 21 *eliminates benefits or subsidies which create signifi-*
 22 *cant burdens or complexities for the plan and plan*
 23 *participants and does not adversely affect the rights*
 24 *of any participant in a more than de minimis man-*
 25 *ner.”.*

1 (2) *AMENDMENT OF ERISA.*—Section 204(g)(2) of
 2 *the Employee Retirement Income Security Act of*
 3 *1974 (29 U.S.C. 1054(g)(2)) is amended by inserting*
 4 *before the last sentence the following new sentence:*
 5 *“The Secretary of the Treasury shall by regulations*
 6 *provide that this paragraph shall not apply to any*
 7 *plan amendment which reduces or eliminates benefits*
 8 *or subsidies which create significant burdens or com-*
 9 *plexities for the plan and plan participants and does*
 10 *not adversely affect the rights of any participant in*
 11 *a more than de minimis manner.”.*

12 (3) *SECRETARY DIRECTED.*—Not later than De-
 13 *cember 31, 2003, the Secretary of the Treasury is di-*
 14 *rected to issue regulations under section 411(d)(6) of*
 15 *the Internal Revenue Code of 1986 and section 204(g)*
 16 *of the Employee Retirement Income Security Act of*
 17 *1974, including the regulations required by the*
 18 *amendment made by this subsection. Such regulations*
 19 *shall apply to plan years beginning after December*
 20 *31, 2003, or such earlier date as is specified by the*
 21 *Secretary of the Treasury.*

22 **SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-**
 23 **TRIBUTIONS.**

24 (a) *MODIFICATION OF SAME DESK EXCEPTION.*—

25 (1) *SECTION 401(k).*—

1 (A) Section 401(k)(2)(B)(i)(I) (relating to
2 qualified cash or deferred arrangements) is
3 amended by striking “separation from service”
4 and inserting “severance from employment”.

5 (B) Subparagraph (A) of section 401(k)(10)
6 (relating to distributions upon termination of
7 plan or disposition of assets or subsidiary) is
8 amended to read as follows:

9 “(A) *IN GENERAL*.—An event described in
10 this subparagraph is the termination of the plan
11 without establishment or maintenance of another
12 defined contribution plan (other than an em-
13 ployee stock ownership plan as defined in section
14 4975(e)(7)).”.

15 (C) Section 401(k)(10) is amended—

16 (i) in subparagraph (B)—

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

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

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

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

1 (2) *SECTION 403(b).*—

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

6 (B) *The heading for paragraph (11) of sec-*
 7 *tion 403(b) is amended by striking “SEPARATION*
 8 *FROM SERVICE” and inserting “SEVERANCE*
 9 *FROM EMPLOYMENT”.*

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

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

20 “(13) *TRUSTEE-TO-TRUSTEE TRANSFERS TO*
 21 *PURCHASE PERMISSIVE SERVICE CREDIT.*—*No*
 22 *amount shall be includible in gross income by reason*
 23 *of a direct trustee-to-trustee transfer to a defined ben-*
 24 *efit governmental plan (as defined in section 414(d))*
 25 *if such transfer is—*

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

4 “(B) a repayment to which section 415 does
5 not apply by reason of subsection (k)(3) there-
6 of.”.

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

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

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

19 “(B) a repayment to which section 415 does
20 not apply by reason of subsection (k)(3) there-
21 of.”.

22 (c) EFFECTIVE DATE.—The amendments made by this
23 section shall apply to trustee-to-trustee transfers after De-
24 cember 31, 2001.

1 **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
 2 **PURPOSES OF CASH-OUT AMOUNTS.**

3 (a) *QUALIFIED PLANS.*—

4 (1) *AMENDMENT OF INTERNAL REVENUE*
 5 *CODE.*—Section 411(a)(11) (relating to restrictions on
 6 certain mandatory distributions) is amended by add-
 7 ing at the end the following:

8 “(D) *SPECIAL RULE FOR ROLLOVER CON-*
 9 *TRIBUTIONS.*—A plan shall not fail to meet the
 10 requirements of this paragraph if, under the
 11 terms of the plan, the present value of the non-
 12 forfeitable accrued benefit is determined without
 13 regard to that portion of such benefit which is
 14 attributable to rollover contributions (and earn-
 15 ings allocable thereto). For purposes of this sub-
 16 paragraph, the term ‘rollover contributions’
 17 means any rollover contribution under sections
 18 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
 19 and 457(e)(16).”.

20 (2) *AMENDMENT OF ERISA.*—Section 203(e) of
 21 the Employee Retirement Income Security Act of
 22 1974 (29 U.S.C. 1053(c)) is amended by adding at
 23 the end the following:

24 “(4) A plan shall not fail to meet the requirements of
 25 this subsection if, under the terms of the plan, the present
 26 value of the nonforfeitable accrued benefit is determined

1 *without regard to that portion of such benefit which is at-*
 2 *tributable to rollover contributions (and earnings allocable*
 3 *thereto). For purposes of this subparagraph, the term ‘roll-*
 4 *over contributions’ means any rollover contribution under*
 5 *sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and*
 6 *457(e)(16) of the Internal Revenue Code of 1986.”.*

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

12 (c) *EFFECTIVE DATE.—The amendments made by this*
 13 *section shall apply to distributions after December 31, 2001.*

14 **SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-**
 15 **QUIREMENTS FOR SECTION 457 PLANS.**

16 (a) *MINIMUM DISTRIBUTION REQUIREMENTS.—Para-*
 17 *graph (2) of section 457(d) (relating to distribution require-*
 18 *ments) is amended to read as follows:*

19 “(2) *MINIMUM DISTRIBUTION REQUIREMENTS.—*
 20 *A plan meets the minimum distribution requirements*
 21 *of this paragraph if such plan meets the requirements*
 22 *of section 401(a)(9).”.*

23 (b) *INCLUSION IN GROSS INCOME.—*

1 (1) *YEAR OF INCLUSION.*—Subsection (a) of sec-
 2 tion 457 (relating to year of inclusion in gross in-
 3 come) is amended to read as follows:

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

5 “(1) *IN GENERAL.*—Any amount of compensa-
 6 tion deferred under an eligible deferred compensation
 7 plan, and any income attributable to the amounts so
 8 deferred, shall be includible in gross income only for
 9 the taxable year in which such compensation or other
 10 income—

11 “(A) is paid to the participant or other ben-
 12 eficiary, in the case of a plan of an eligible em-
 13 ployer described in subsection (e)(1)(A), and

14 “(B) is paid or otherwise made available to
 15 the participant or other beneficiary, in the case
 16 of a plan of an eligible employer described in
 17 subsection (e)(1)(B).

18 “(2) *SPECIAL RULE FOR ROLLOVER AMOUNTS.*—
 19 To the extent provided in section 72(t)(9), section
 20 72(t) shall apply to any amount includible in gross
 21 income under this subsection.”.

22 (2) *CONFORMING AMENDMENTS.*—

23 (A) So much of paragraph (9) of section
 24 457(e) as precedes subparagraph (A) is amended
 25 to read as follows:

1 “(9) *BENEFITS OF TAX EXEMPT ORGANIZATION*
 2 *PLANS NOT TREATED AS MADE AVAILABLE BY REASON*
 3 *OF CERTAIN ELECTIONS, ETC.—In the case of an eligi-*
 4 *ble deferred compensation plan of an employer de-*
 5 *scribed in subsection (e)(1)(B)—”.*

6 *(B) Section 457(d) is amended by adding at*
 7 *the end the following new paragraph:*

8 “(3) *SPECIAL RULE FOR GOVERNMENT PLAN.—*
 9 *An eligible deferred compensation plan of an em-*
 10 *ployer described in subsection (e)(1)(A) shall not be*
 11 *treated as failing to meet the requirements of this sub-*
 12 *section solely by reason of making a distribution de-*
 13 *scribed in subsection (e)(9)(A).”.*

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

16 ***TITLE V—STRENGTHENING PEN-***
 17 ***SION SECURITY AND EN-***
 18 ***FORCEMENT***

19 ***SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY***
 20 ***FUNDING LIMIT.***

21 *(a) AMENDMENT OF INTERNAL REVENUE CODE.—Sec-*
 22 *tion 412(c)(7) (relating to full-funding limitation) is*
 23 *amended—*

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

1 *plan years beginning before January 1, 2004, the ap-*
 2 *plicable percentage”; and*

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

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

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

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

12 *(1) by striking “the applicable percentage” in*
 13 *subparagraph (A)(i)(I) and inserting “in the case of*
 14 *plan years beginning before January 1, 2004, the ap-*
 15 *plicable percentage”; and*

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

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

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

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

4 **SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES**
 5 **MODIFIED AND APPLIED TO ALL DEFINED**
 6 **BENEFIT PLANS.**

7 (a) *IN GENERAL.*—*Subparagraph (D) of section*
 8 *404(a)(1) (relating to special rule in case of certain plans)*
 9 *is amended to read as follows:*

10 “(D) *SPECIAL RULE IN CASE OF CERTAIN*
 11 *PLANS.*—

12 “(i) *IN GENERAL.*—*In the case of any*
 13 *defined benefit plan, except as provided in*
 14 *regulations, the maximum amount deduct-*
 15 *ible under the limitations of this paragraph*
 16 *shall not be less than the unfunded termi-*
 17 *nation liability (determined as if the pro-*
 18 *posed termination date referred to in section*
 19 *4041(b)(2)(A)(i)(II) of the Employee Retire-*
 20 *ment Income Security Act of 1974 were the*
 21 *last day of the plan year).*

22 “(ii) *PLANS WITH LESS THAN 100 PAR-*
 23 *TICIPANTS.*—*For purposes of this subpara-*
 24 *graph, in the case of a plan which has less*
 25 *than 100 participants for the plan year,*

1 *termination liability shall not include the*
 2 *liability attributable to benefit increases for*
 3 *highly compensated employees (as defined*
 4 *in section 414(q)) resulting from a plan*
 5 *amendment which is made or becomes effec-*
 6 *tive, whichever is later, within the last 2*
 7 *years before the termination date.*

8 “(iii) *RULE FOR DETERMINING NUM-*
 9 *BER OF PARTICIPANTS.—For purposes of de-*
 10 *termining whether a plan has more than*
 11 *100 participants, all defined benefit plans*
 12 *maintained by the same employer (or any*
 13 *member of such employer’s controlled group*
 14 *(within the meaning of section*
 15 *412(l)(8)(C))) shall be treated as one plan,*
 16 *but only employees of such member or em-*
 17 *ployer shall be taken into account.*

18 “(iv) *PLANS MAINTAINED BY PROFES-*
 19 *SIONAL SERVICE EMPLOYERS.—Clause (i)*
 20 *shall not apply to a plan described in sec-*
 21 *tion 4021(b)(13) of the Employee Retire-*
 22 *ment Income Security Act of 1974.”.*

23 (b) *CONFORMING AMENDMENT.—Paragraph (6) of sec-*
 24 *tion 4972(c), as amended by section 207, is amended to read*
 25 *as follows:*

1 “(6) *EXCEPTIONS.*—*In determining the amount*
 2 *of nondeductible contributions for any taxable year,*
 3 *there shall not be taken into account so much of the*
 4 *contributions to one or more defined contribution*
 5 *plans which are not deductible when contributed sole-*
 6 *ly because of section 404(a)(7) as does not exceed the*
 7 *greater of—*

8 “(A) *the amount of contributions not in ex-*
 9 *cess of 6 percent of compensation (within the*
 10 *meaning of section 404(a)) paid or accrued (dur-*
 11 *ing the taxable year for which the contributions*
 12 *were made) to beneficiaries under the plans, or*

13 “(B) *the sum of—*

14 “(i) *the amount of contributions de-*
 15 *scribed in section 401(m)(4)(A), plus*

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

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

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

1 **SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**
2 **ING.**

3 (a) *IN GENERAL.*—Subsection (c) of section 4972 (re-
4 lating to nondeductible contributions) is amended by add-
5 ing at the end the following new paragraph:

6 “(7) *DEFINED BENEFIT PLAN EXCEPTION.*—In
7 determining the amount of nondeductible contribu-
8 tions for any taxable year, an employer may elect for
9 such year not to take into account any contributions
10 to a defined benefit plan except to the extent that such
11 contributions exceed the full-funding limitation (as
12 defined in section 412(c)(7), determined without re-
13 gard to subparagraph (A)(i)(I) thereof). For purposes
14 of this paragraph, the deductible limits under section
15 404(a)(7) shall first be applied to amounts contrib-
16 uted to defined contribution plans and then to
17 amounts described in this paragraph. If an employer
18 makes an election under this paragraph for a taxable
19 year, paragraph (6) shall not apply to such employer
20 for such taxable year.”.

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

1 **SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**
 2 **DEFINED BENEFIT PLANS SIGNIFICANTLY RE-**
 3 **DUCING FUTURE BENEFIT ACCRUALS.**

4 (a) *AMENDMENT OF INTERNAL REVENUE CODE.*—

5 (1) *IN GENERAL.*—Chapter 43 (relating to quali-
 6 fied pension, etc., plans) is amended by adding at the
 7 end the following new section:

8 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**
 9 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**
 10 **QUIREMENTS.**

11 “(a) *IMPOSITION OF TAX.*—There is hereby imposed a
 12 tax on the failure of any applicable pension plan to meet
 13 the requirements of subsection (e) with respect to any appli-
 14 cable individual.

15 “(b) *AMOUNT OF TAX.*—

16 “(1) *IN GENERAL.*—The amount of the tax im-
 17 posed by subsection (a) on any failure with respect to
 18 any applicable individual shall be \$100 for each day
 19 in the noncompliance period with respect to such fail-
 20 ure.

21 “(2) *NONCOMPLIANCE PERIOD.*—For purposes of
 22 this section, the term ‘noncompliance period’ means,
 23 with respect to any failure, the period beginning on
 24 the date the failure first occurs and ending on the
 25 date the notice to which the failure relates is provided
 26 or the failure is otherwise corrected.

1 “(c) *LIMITATIONS ON AMOUNT OF TAX.*—

2 “(1) *TAX NOT TO APPLY WHERE FAILURE NOT*
3 *DISCOVERED AND REASONABLE DILIGENCE EXER-*
4 *CISED.*—No tax shall be imposed by subsection (a) on
5 any failure during any period for which it is estab-
6 lished to the satisfaction of the Secretary that any
7 person subject to liability for the tax under subsection
8 (d) did not know that the failure existed and exercised
9 reasonable diligence to meet the requirements of sub-
10 section (e).

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

14 “(A) any person subject to liability for the
15 tax under subsection (d) exercised reasonable
16 diligence to meet the requirements of subsection
17 (e), and

18 “(B) such person provides the notice de-
19 scribed in subsection (e) during the 30-day pe-
20 riod beginning on the first date such person
21 knew, or exercising reasonable diligence would
22 have known, that such failure existed.

23 “(3) *OVERALL LIMITATION FOR UNINTENTIONAL*
24 *FAILURES.*—

1 “(A) *IN GENERAL.*—If the person subject to
2 liability for tax under subsection (d) exercised
3 reasonable diligence to meet the requirements of
4 subsection (e), the tax imposed by subsection (a)
5 for failures during the taxable year of the em-
6 ployer (or, in the case of a multiemployer plan,
7 the taxable year of the trust forming part of the
8 plan) shall not exceed \$500,000. For purposes of
9 the preceding sentence, all multiemployer plans
10 of which the same trust forms a part shall be
11 treated as 1 plan.

12 “(B) *TAXABLE YEARS IN THE CASE OF CER-*
13 *TAIN CONTROLLED GROUPS.*—For purposes of
14 this paragraph, if all persons who are treated as
15 a single employer for purposes of this section do
16 not have the same taxable year, the taxable years
17 taken into account shall be determined under
18 principles similar to the principles of section
19 1561.

20 “(4) *WAIVER BY SECRETARY.*—In the case of a
21 failure which is due to reasonable cause and not to
22 willful neglect, the Secretary may waive part or all
23 of the tax imposed by subsection (a) to the extent that
24 the payment of such tax would be excessive or other-
25 wise inequitable relative to the failure involved.

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

3 “(1) *In the case of a plan other than a multiem-*
 4 *ployer plan, the employer.*

5 “(2) *In the case of a multiemployer plan, the*
 6 *plan.*

7 “(e) *NOTICE REQUIREMENTS FOR PLANS SIGNIFI-*
 8 *CANTLY REDUCING BENEFIT ACCRUALS.*—

9 “(1) *IN GENERAL.*—*If an applicable pension*
 10 *plan is amended to provide for a significant reduc-*
 11 *tion in the rate of future benefit accrual, the plan ad-*
 12 *ministrator shall provide written notice to each ap-*
 13 *plicable individual (and to each employee organiza-*
 14 *tion representing applicable individuals).*

15 “(2) *NOTICE.*—*The notice required by paragraph*
 16 *(1) shall be written in a manner calculated to be un-*
 17 *derstood by the average plan participant and shall*
 18 *provide sufficient information (as determined in ac-*
 19 *cordance with regulations prescribed by the Sec-*
 20 *retary) to allow applicable individuals to understand*
 21 *the effect of the plan amendment. The Secretary may*
 22 *provide a simplified form of notice for, or exempt*
 23 *from any notice requirement, a plan—*

24 “(A) *which has fewer than 100 participants*
 25 *who have accrued a benefit under the plan, or*

1 “(B) which offers participants the option to
 2 choose between the new benefit formula and the
 3 old benefit formula.

4 “(3) *TIMING OF NOTICE.*—Except as provided in
 5 regulations, the notice required by paragraph (1)
 6 shall be provided within a reasonable time before the
 7 effective date of the plan amendment.

8 “(4) *DESIGNEES.*—Any notice under paragraph
 9 (1) may be provided to a person designated, in writ-
 10 ing, by the person to which it would otherwise be pro-
 11 vided.

12 “(5) *NOTICE BEFORE ADOPTION OF AMEND-*
 13 *MENT.*—A plan shall not be treated as failing to meet
 14 the requirements of paragraph (1) merely because no-
 15 tice is provided before the adoption of the plan
 16 amendment if no material modification of the amend-
 17 ment occurs before the amendment is adopted.

18 “(f) *DEFINITIONS AND SPECIAL RULES.*—For pur-
 19 poses of this section—

20 “(1) *APPLICABLE INDIVIDUAL.*—The term ‘appli-
 21 cable individual’ means, with respect to any plan
 22 amendment—

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

24 “(B) any beneficiary who is an alternate
 25 payee (within the meaning of section 414(p)(8))

1 under an applicable qualified domestic relations
 2 order (within the meaning of section
 3 414(p)(1)(A)),
 4 whose rate of future benefit accrual under the plan
 5 may reasonably be expected to be significantly re-
 6 duced by such plan amendment.

7 “(2) *APPLICABLE PENSION PLAN.*—The term ‘ap-
 8 plicable pension plan’ means—

9 “(A) any defined benefit plan, or

10 “(B) an individual account plan which is
 11 subject to the funding standards of section 412.
 12 Such term shall not include a governmental plan
 13 (within the meaning of section 414(d)) or a church
 14 plan (within the meaning of section 414(e)) with re-
 15 spect to which the election provided by section 410(d)
 16 has not been made.

17 “(3) *EARLY RETIREMENT.*—A plan amendment
 18 which eliminates or significantly reduces any early
 19 retirement benefit or retirement-type subsidy (within
 20 the meaning of section 411(d)(6)(B)(i)) shall be treat-
 21 ed as having the effect of significantly reducing the
 22 rate of future benefit accrual.

23 “(g) *NEW TECHNOLOGIES.*—The Secretary may by
 24 regulations allow any notice under subsection (e) to be pro-
 25 vided by using new technologies.”.

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

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

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

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

16 “(B) *The notice required by subparagraph (A) shall*
 17 *be written in a manner calculated to be understood by the*
 18 *average plan participant and shall provide sufficient infor-*
 19 *mation (as determined in accordance with regulations pre-*
 20 *scribed by the Secretary of the Treasury) to allow applicable*
 21 *individuals to understand the effect of the plan amendment.*
 22 *The Secretary of the Treasury may provide a simplified*
 23 *form of notice for, or exempt from any notice requirement,*
 24 *a plan—*

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

3 “(ii) which offers participants the option to
4 choose between the new benefit formula and the old
5 benefit formula.

6 “(C) Except as provided in regulations prescribed by
7 the Secretary of the Treasury, the notice required by sub-
8 paragraph (A) shall be provided within a reasonable time
9 before the effective date of the plan amendment.

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

13 “(E) A plan shall not be treated as failing to meet
14 the requirements of subparagraph (A) merely because notice
15 is provided before the adoption of the plan amendment if
16 no material modification of the amendment occurs before
17 the amendment is adopted.

18 “(F) The Secretary of the Treasury may by regulations
19 allow any notice under this paragraph to be provided by
20 using new technologies.

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

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

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

1 “(ii) any beneficiary who is an alternate
 2 payee (within the meaning of section
 3 206(d)(3)(K)) under an applicable qualified do-
 4 mestic relations order (within the meaning of
 5 section 206(d)(3)(B)(i)),
 6 whose rate of future benefit accrual under the plan
 7 may reasonably be expected to be significantly re-
 8 duced by such plan amendment.

9 “(B) The term ‘applicable pension plan’
 10 means—

11 “(i) any defined benefit plan; or

12 “(ii) an individual account plan which is
 13 subject to the funding standards of section 412 of
 14 the Internal Revenue Code of 1986.

15 “(C) A plan amendment which eliminates or sig-
 16 nificantly reduces any early retirement benefit or re-
 17 tirement-type subsidy (within the meaning of sub-
 18 section (g)(2)(A)) shall be treated as having the effect
 19 of significantly reducing the rate of future benefit ac-
 20 crual.”.

21 (c) *EFFECTIVE DATES.*—

22 (1) *IN GENERAL.*—The amendments made by
 23 this section shall apply to plan amendments taking
 24 effect on or after the date of the enactment of this Act.

1 (2) *TRANSITION.*—Until such time as the Sec-
2 retary of the Treasury issues regulations under sec-
3 tions 4980F(e)(2) and (3) of the Internal Revenue
4 Code of 1986, and section 204(h)(3) of the Employee
5 Retirement Income Security Act of 1974, as added by
6 the amendments made by this section, a plan shall be
7 treated as meeting the requirements of such sections
8 if it makes a good faith effort to comply with such re-
9 quirements.

10 (3) *SPECIAL NOTICE RULE.*—

11 (A) *IN GENERAL.*—The period for providing
12 any notice required by the amendments made by
13 this section shall not end before the date which
14 is 3 months after the date of the enactment of
15 this Act.

16 (B) *REASONABLE NOTICE.*—The amend-
17 ments made by this section shall not apply to
18 any plan amendment taking effect on or after the
19 date of the enactment of this Act if, before April
20 25, 2001, notice was provided to participants
21 and beneficiaries adversely affected by the plan
22 amendment (or their representatives) which was
23 reasonably expected to notify them of the nature
24 and effective date of the plan amendment.

1 (d) *STUDY.*—*The Secretary of the Treasury shall pre-*
2 *pare a report on the effects of conversions of traditional de-*
3 *defined benefit plans to cash balance or hybrid formula plans.*
4 *Such study shall examine the effect of such conversions on*
5 *longer service participants, including the incidence and ef-*
6 *fects of “wear away” provisions under which participants*
7 *earn no additional benefits for a period of time after the*
8 *conversion. As soon as practicable, but not later than 60*
9 *days after the date of the enactment of this Act, the Sec-*
10 *retary shall submit such report, together with recommenda-*
11 *tions thereon, to the Committee on Ways and Means and*
12 *the Committee on Education and the Workforce of the*
13 *House of Representatives and the Committee on Finance*
14 *and the Committee on Health, Education, Labor, and Pen-*
15 *sions of the Senate.*

16 **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
17 **SECTION 415.**

18 (a) *COMPENSATION LIMIT.*—

19 (1) *IN GENERAL.*—*Paragraph (11) of section*
20 *415(b) (relating to limitation for defined benefit*
21 *plans) is amended to read as follows:*

22 “(11) *SPECIAL LIMITATION RULE FOR GOVERN-*
23 *MENTAL AND MULTIEMPLOYER PLANS.*—*In the case of*
24 *a governmental plan (as defined in section 414(d)) or*

1 *a multiemployer plan (as defined in section 414(f)),*
 2 *subparagraph (B) of paragraph (1) shall not apply.”.*

3 (2) *CONFORMING AMENDMENT.—Section*
 4 *415(b)(7) (relating to benefits under certain collec-*
 5 *tively bargained plans) is amended by inserting*
 6 *“(other than a multiemployer plan)” after “defined*
 7 *benefit plan” in the matter preceding subparagraph*
 8 *(A).*

9 (b) *COMBINING AND AGGREGATION OF PLANS.—*

10 (1) *COMBINING OF PLANS.—Subsection (f) of sec-*
 11 *tion 415 (relating to combining of plans) is amended*
 12 *by adding at the end the following:*

13 “(3) *EXCEPTION FOR MULTIEMPLOYER PLANS.—*
 14 *Notwithstanding paragraph (1) and subsection (g), a*
 15 *multiemployer plan (as defined in section 414(f))*
 16 *shall not be combined or aggregated—*

17 “(A) *with any other plan which is not a*
 18 *multiemployer plan for purposes of applying*
 19 *subsection (b)(1)(B) to such other plan, or*

20 “(B) *with any other multiemployer plan for*
 21 *purposes of applying the limitations established*
 22 *in this section.”.*

23 (2) *CONFORMING AMENDMENT FOR AGGREGATION*
 24 *OF PLANS.—Subsection (g) of section 415 (relating to*
 25 *aggregation of plans) is amended by striking “The*

1 *Secretary” and inserting “Except as provided in sub-*
 2 *section (f)(3), the Secretary”.*

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

6 **SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE**
 7 **CONTRIBUTIONS TO 401(K) PLANS.**

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

10 “(b) *EFFECTIVE DATE.*—

11 “(1) *IN GENERAL.*—*Except as provided in para-*
 12 *graph (2), the amendments made by this section shall*
 13 *apply to elective deferrals for plan years beginning*
 14 *after December 31, 1998.*

15 “(2) *NONAPPLICATION TO PREVIOUSLY ACQUIRED*
 16 *PROPERTY.*—*The amendments made by this section*
 17 *shall not apply to any elective deferral which is in-*
 18 *vested in assets consisting of qualifying employer se-*
 19 *curities, qualifying employer real property, or both, if*
 20 *such assets were acquired before January 1, 1999.”.*

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

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

2 (a) *IN GENERAL.*—Section 105(a) of the Employee Re-
3 *tirement Income Security Act of 1974 (29 U.S.C. 1025 (a))*
4 *is amended to read as follows:*

5 “(a)(1) *Except as provided in paragraph (2)—*

6 “(A) *the administrator of an individual account*
7 *plan shall furnish a pension benefit statement—*

8 “(i) *to a plan participant at least once an-*
9 *nually, and*

10 “(ii) *to a plan beneficiary upon written re-*
11 *quest, and*

12 “(B) *the administrator of a defined benefit plan*
13 *shall furnish a pension benefit statement—*

14 “(i) *at least once every 3 years to each par-*
15 *ticipant with a nonforfeitable accrued benefit*
16 *who is employed by the employer maintaining*
17 *the plan at the time the statement is furnished*
18 *to participants, and*

19 “(ii) *to a plan participant or plan bene-*
20 *ficiary of the plan upon written request.*

21 “(2) *Notwithstanding paragraph (1), the adminis-*
22 *trator of a plan to which more than 1 unaffiliated employer*
23 *is required to contribute shall only be required to furnish*
24 *a pension benefit statement under paragraph (1) upon the*
25 *written request of a participant or beneficiary of the plan.*

1 “(3) *A pension benefit statement under paragraph*
2 *(1)—*

3 “(A) *shall indicate, on the basis of the latest*
4 *available information—*

5 “(i) *the total benefits accrued, and*

6 “(ii) *the nonforfeitable pension benefits, if*
7 *any, which have accrued, or the earliest date on*
8 *which benefits will become nonforfeitable,*

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

11 “(C) *may be provided in written, electronic, tele-*
12 *phonic, or other appropriate form.*

13 “(4)(A) *In the case of a defined benefit plan, the re-*
14 *quirements of paragraph (1)(B)(i) shall be treated as met*
15 *with respect to a participant if the administrator provides*
16 *the participant at least once each year with notice of the*
17 *availability of the pension benefit statement and the ways*
18 *in which the participant may obtain such statement. Such*
19 *notice shall be provided in written, electronic, telephonic,*
20 *or other appropriate form, and may be included with other*
21 *communications to the participant if done in a manner*
22 *reasonably designed to attract the attention of the partici-*
23 *pant.*

24 “(B) *The Secretary may provide that years in which*
25 *no employee or former employee benefits (within the mean-*

1 *ing of section 410(b) of the Internal Revenue Code of 1986)*
 2 *under the plan need not be taken into account in deter-*
 3 *mining the 3-year period under paragraph (1)(B)(i).”.*

4 *(b) CONFORMING AMENDMENTS.—*

5 *(1) Section 105 of the Employee Retirement In-*
 6 *come Security Act of 1974 (29 U.S.C. 1025) is*
 7 *amended by striking subsection (d).*

8 *(2) Section 105(b) of such Act (29 U.S.C.*
 9 *1025(b)) is amended to read as follows:*

10 *“(b) In no case shall a participant or beneficiary of*
 11 *a plan be entitled to more than one statement described in*
 12 *subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is applica-*
 13 *ble, in any 12-month period.”.*

14 *(c) EFFECTIVE DATE.—The amendments made by this*
 15 *section shall apply to plan years beginning after December*
 16 *31, 2002.*

17 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
 18 **PORATION ESOP.**

19 *(a) IN GENERAL.—Section 409 (relating to qualifica-*
 20 *tions for tax credit employee stock ownership plans) is*
 21 *amended by redesignating subsection (p) as subsection (q)*
 22 *and by inserting after subsection (o) the following new sub-*
 23 *section:*

24 *“(p) PROHIBITED ALLOCATIONS OF SECURITIES IN AN*
 25 *S CORPORATION.—*

1 “(1) *IN GENERAL.*—*An employee stock ownership*
 2 *plan holding employer securities consisting of stock in*
 3 *an S corporation shall provide that no portion of the*
 4 *assets of the plan attributable to (or allocable in lieu*
 5 *of) such employer securities may, during a nonalloca-*
 6 *tion year, accrue (or be allocated directly or indi-*
 7 *rectly under any plan of the employer meeting the re-*
 8 *quirements of section 401(a)) for the benefit of any*
 9 *disqualified person.*

10 “(2) *FAILURE TO MEET REQUIREMENTS.*—

11 “(A) *IN GENERAL.*—*If a plan fails to meet*
 12 *the requirements of paragraph (1), the plan shall*
 13 *be treated as having distributed to any disquali-*
 14 *fied person the amount allocated to the account*
 15 *of such person in violation of paragraph (1) at*
 16 *the time of such allocation.*

17 “(B) *CROSS REFERENCE.*—

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

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

20 “(A) *IN GENERAL.*—*The term ‘nonalloca-*
 21 *tion year’ means any plan year of an employee*
 22 *stock ownership plan if, at any time during such*
 23 *plan year—*

1 “(i) such plan holds employer securi-
 2 ties consisting of stock in an S corporation,
 3 and

4 “(ii) disqualified persons own at least
 5 50 percent of the number of shares of stock
 6 in the S corporation.

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

9 “(i) *IN GENERAL.*—The rules of section
 10 318(a) shall apply for purposes of deter-
 11 mining ownership, except that—

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

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

19 “(ii) *DEEMED-OWNED SHARES.*—Not-
 20 withstanding the employee trust exception
 21 in section 318(a)(2)(B)(i), individual shall
 22 be treated as owning deemed-owned shares
 23 of the individual.

24 Solely for purposes of applying paragraph (5),
 25 this subparagraph shall be applied after the at-

1 *tribution rules of paragraph (5) have been ap-*
2 *plied.*

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

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

7 “(i) *the aggregate number of deemed-*
8 *owned shares of such person and the mem-*
9 *bers of such person’s family is at least 20*
10 *percent of the number of deemed-owned*
11 *shares of stock in the S corporation, or*

12 “(ii) *in the case of a person not de-*
13 *scribed in clause (i), the number of deemed-*
14 *owned shares of such person is at least 10*
15 *percent of the number of deemed-owned*
16 *shares of stock in such corporation.*

17 “(B) *TREATMENT OF FAMILY MEMBERS.*—
18 *In the case of a disqualified person described in*
19 *subparagraph (A)(i), any member of such per-*
20 *son’s family with deemed-owned shares shall be*
21 *treated as a disqualified person if not otherwise*
22 *treated as a disqualified person under subpara-*
23 *graph (A).*

24 “(C) *DEEMED-OWNED SHARES.*—

1 “(i) *IN GENERAL.*—*The term ‘deemed-*
2 *owned shares’ means, with respect to any*
3 *person—*

4 “(I) *the stock in the S corporation*
5 *constituting employer securities of an*
6 *employee stock ownership plan which*
7 *is allocated to such person under the*
8 *plan, and*

9 “(II) *such person’s share of the*
10 *stock in such corporation which is held*
11 *by such plan but which is not allocated*
12 *under the plan to participants.*

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

23 “(D) *MEMBER OF FAMILY.*—*For purposes of*
24 *this paragraph, the term ‘member of the family’*
25 *means, with respect to any individual—*

- 1 “(i) the spouse of the individual,
 2 “(ii) an ancestor or lineal descendant
 3 of the individual or the individual’s spouse,
 4 “(iii) a brother or sister of the indi-
 5 vidual or the individual’s spouse and any
 6 lineal descendant of the brother or sister,
 7 and
 8 “(iv) the spouse of any individual de-
 9 scribed in clause (ii) or (iii).

10 A spouse of an individual who is legally sepa-
 11 rated from such individual under a decree of di-
 12 vorce or separate maintenance shall not be treat-
 13 ed as such individual’s spouse for purposes of
 14 this subparagraph.

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

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

1 “(B) *the treatment of any year as a non-*
2 *allocation year.*

3 *For purposes of this paragraph, synthetic equity shall*
4 *be treated as owned by a person in the same manner*
5 *as stock is treated as owned by a person under the*
6 *rules of paragraphs (2) and (3) of section 318(a). If,*
7 *without regard to this paragraph, a person is treated*
8 *as a disqualified person or a year is treated as a non-*
9 *allocation year, this paragraph shall not be construed*
10 *to result in the person or year not being so treated.*

11 “(6) *DEFINITIONS.—For purposes of this*
12 *subsection—*

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

17 “(B) *EMPLOYER SECURITIES.—The term*
18 *‘employer security’ has the meaning given such*
19 *term by section 409(l).*

20 “(C) *SYNTHETIC EQUITY.—The term ‘syn-*
21 *thetic equity’ means any stock option, warrant,*
22 *restricted stock, deferred issuance stock right, or*
23 *similar interest or right that gives the holder the*
24 *right to acquire or receive stock of the S corpora-*
25 *tion in the future. Except to the extent provided*

1 *in regulations, synthetic equity also includes a*
 2 *stock appreciation right, phantom stock unit, or*
 3 *similar right to a future cash payment based on*
 4 *the value of such stock or appreciation in such*
 5 *value.*

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

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

13 **(c) EXCISE TAX.**—

14 **(1) APPLICATION OF TAX.**—*Subsection (a) of sec-*
 15 *tion 4979A (relating to tax on certain prohibited allo-*
 16 *cations of employer securities) is amended—*

17 **(A)** *by striking “or” at the end of para-*
 18 *graph (1), and*

19 **(B)** *by striking all that follows paragraph*
 20 *(2) and inserting the following:*

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

1 “(4) *any synthetic equity is owned by a dis-*
 2 *qualified person in any nonallocation year,*
 3 *there is hereby imposed a tax on such allocation or owner-*
 4 *ship equal to 50 percent of the amount involved.”.*

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

7 “(c) *LIABILITY FOR TAX.*—The tax imposed by this
 8 *section shall be paid—*

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

11 “(A) *the employer sponsoring such plan, or*

12 “(B) *the eligible worker-owned cooperative,*
 13 *which made the written statement described in section*
 14 *664(g)(1)(E) or in section 1042(b)(3)(B) (as the case*
 15 *may be), and*

16 “(2) *in the case of an allocation or ownership re-*
 17 *ferred to in paragraph (3) or (4) of subsection (a), by*
 18 *the S corporation the stock in which was so allocated*
 19 *or owned.”.*

20 (3) *DEFINITIONS.*—Section 4979A(e) (relating to
 21 *definitions)* is amended to read as follows:

22 “(e) *DEFINITIONS AND SPECIAL RULES.*—For pur-
 23 *poses of this section—*

24 “(1) *DEFINITIONS.*—Except as provided in para-
 25 *graph (2), terms used in this section have the same*

1 *respective meanings as when used in sections 409 and*
2 *4978.*

3 “(2) *SPECIAL RULES RELATING TO TAX IMPOSED*
4 *BY REASON OF PARAGRAPH (3) OR (4) OF SUBSECTION*
5 *(a).—*

6 “(A) *PROHIBITED ALLOCATIONS.—The*
7 *amount involved with respect to any tax imposed*
8 *by reason of subsection (a)(3) is the amount allo-*
9 *cated to the account of any person in violation*
10 *of section 409(p)(1).*

11 “(B) *SYNTHETIC EQUITY.—The amount in-*
12 *volved with respect to any tax imposed by reason*
13 *of subsection (a)(4) is the value of the shares on*
14 *which the synthetic equity is based.*

15 “(C) *SPECIAL RULE DURING FIRST NON-*
16 *ALLOCATION YEAR.—For purposes of subpara-*
17 *graph (A), the amount involved for the first non-*
18 *allocation year of any employee stock ownership*
19 *plan shall be determined by taking into account*
20 *the total value of all the deemed-owned shares of*
21 *all disqualified persons with respect to such*
22 *plan.*

23 “(D) *STATUTE OF LIMITATIONS.—The stat-*
24 *utory period for the assessment of any tax im-*
25 *posed by this section by reason of paragraph (3)*

1 or (4) of subsection (a) shall not expire before the
2 date which is 3 years from the later 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 is
7 notified of such allocation or ownership.”.

8 (d) *EFFECTIVE DATES.*—

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

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

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

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

1 *within the plan year prior to the year to*
 2 *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 of*
 7 *the assets of the plan are not less than*
 8 *125 percent of the plan’s current liabil-*
 9 *ity (as defined in paragraph (7)(B)).*

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

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

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

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

21 *(2) by adding at the end the following:*

22 “(B)(i) *Except as provided in clause (ii), the valuation*
 23 *referred to in subparagraph (A) shall be made as of a date*
 24 *within the plan year to which the valuation refers or within*
 25 *one month prior to the beginning of such year.*

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

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

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

9 “(iii) *Information under clause (ii) shall, in accord-*
 10 *ance with regulations, be actuarially adjusted to reflect sig-*
 11 *nificant differences in participants.*

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

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

18 **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**

19 **LOSS OF DIVIDEND DEDUCTION.**

20 (a) *IN GENERAL.—Section 404(k)(2)(A) (defining ap-*
 21 *plicable dividends) is amended by striking “or” at the end*
 22 *of clause (ii), by redesignating clause (iii) as clause (iv),*
 23 *and by inserting after clause (ii) the following new clause:*

24 “(iii) *is, at the election of such partici-*
 25 *pants or their beneficiaries—*

1 “(I) payable as provided in clause
 2 (i) or (ii), or
 3 “(II) paid to the plan and rein-
 4 vested in qualifying employer securi-
 5 ties, or”.

6 (b) *STANDARDS FOR DISALLOWANCE.*—Section
 7 404(k)(5)(A) (relating to disallowance of deduction) is
 8 amended by inserting “avoidance or” before “evasion”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall apply to taxable years beginning after Decem-
 11 ber 31, 2001.

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

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

16 (b) *EFFECTIVE DATE.*—The repeal made by subsection
 17 (a) shall apply to plan years beginning after December 31,
 18 2001.

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

20 (a) *IN GENERAL.*—The Secretary of the Treasury shall
 21 modify Treasury Regulations section 1.410(b)–6(g) to pro-
 22 vide that employees of an organization described in section
 23 403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who
 24 are eligible to make contributions under section 403(b) of
 25 such Code pursuant to a salary reduction agreement may

1 *be treated as excludable with respect to a plan under section*
 2 *401(k) or (m) of such Code that is provided under the same*
 3 *general arrangement as a plan under such section 401(k),*
 4 *if—*

5 *(1) no employee of an organization described in*
 6 *section 403(b)(1)(A)(i) of such Code is eligible to par-*
 7 *ticipate in such section 401(k) plan or section 401(m)*
 8 *plan; and*

9 *(2) 95 percent of the employees who are not em-*
 10 *ployees of an organization described in section*
 11 *403(b)(1)(A)(i) of such Code are eligible to partici-*
 12 *pate in such plan under such section 401(k) or (m).*

13 *(b) EFFECTIVE DATE.—The modification required by*
 14 *subsection (a) shall apply as of the same date set forth in*
 15 *section 1426(b) of the Small Business Job Protection Act*
 16 *of 1996.*

17 **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**
 18 **PROVIDED RETIREMENT ADVICE.**

19 *(a) IN GENERAL.—Subsection (a) of section 132 (relat-*
 20 *ing to exclusion from gross income) is amended by striking*
 21 *“or” at the end of paragraph (5), by striking the period*
 22 *at the end of paragraph (6) and inserting “, or”, and by*
 23 *adding at the end the following new paragraph:*

24 *“(7) qualified retirement planning services.”.*

1 (b) *QUALIFIED RETIREMENT PLANNING SERVICES DE-*
 2 *FINED.*—Section 132 is amended by redesignating sub-
 3 section (m) as subsection (n) and by inserting after sub-
 4 section (l) the following:

5 “(m) *QUALIFIED RETIREMENT PLANNING SERV-*
 6 *ICES.*—

7 “(1) *IN GENERAL.*—For purposes of this section,
 8 the term ‘qualified retirement planning services’
 9 means any retirement planning advice or informa-
 10 tion provided to an employee and his spouse by an
 11 employer maintaining a qualified employer plan.

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

19 “(3) *QUALIFIED EMPLOYER PLAN.*—For purposes
 20 of this subsection, the term ‘qualified employer plan’
 21 means a plan, contract, pension, or account described
 22 in section 219(g)(5).”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
 24 section shall apply to years beginning after December 31,
 25 2001.

1 **SEC. 606. REPORTING SIMPLIFICATION.**

2 (a) *SIMPLIFIED ANNUAL FILING REQUIREMENT FOR*
3 *OWNERS AND THEIR SPOUSES.—*

4 (1) *IN GENERAL.—The Secretary of the Treasury*
5 *and the Secretary of Labor shall modify the require-*
6 *ments for filing annual returns with respect to one-*
7 *participant retirement plans to ensure that such*
8 *plans with assets of \$250,000 or less as of the close*
9 *of the plan year need not file a return for that year.*

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

14 (A) *on the first day of the plan year—*

15 (i) *covered only the employer (and the*
16 *employer’s spouse) and the employer owned*
17 *the entire business (whether or not incor-*
18 *porated); or*

19 (ii) *covered only one or more partners*
20 *(and their spouses) in a business partner-*
21 *ship (including partners in an S or C cor-*
22 *poration);*

23 (B) *meets the minimum coverage require-*
24 *ments of section 410(b) of the Internal Revenue*
25 *Code of 1986 without being combined with any*

1 *other plan of the business that covers the employ-*
2 *ees of the business;*

3 *(C) does not provide benefits to anyone ex-*
4 *cept the employer (and the employer's spouse) or*
5 *the partners (and their spouses);*

6 *(D) does not cover a business that is a*
7 *member of an affiliated service group, a con-*
8 *trolled group of corporations, or a group of busi-*
9 *nesses under common control; and*

10 *(E) does not cover a business that leases em-*
11 *ployees.*

12 *(3) OTHER DEFINITIONS.—Terms used in para-*
13 *graph (2) which are also used in section 414 of the*
14 *Internal Revenue Code of 1986 shall have the respec-*
15 *tive meanings given such terms by such section.*

16 *(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR*
17 *PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case*
18 *of plan years beginning after December 31, 2002, the Sec-*
19 *retary of the Treasury and the Secretary of Labor shall pro-*
20 *vide for the filing of a simplified annual return for any*
21 *retirement plan which covers less than 25 employees on the*
22 *first day of a plan year and which meets the requirements*
23 *described in subparagraphs (B), (D), and (E) of subsection*
24 *(a)(2).*

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

3 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
4 **ANCE RESOLUTION SYSTEM.**

5 *The Secretary of the Treasury shall continue to update*
6 *and improve the Employee Plans Compliance Resolution*
7 *System (or any successor program) giving special attention*
8 *to—*

9 (1) *increasing the awareness and knowledge of*
10 *small employers concerning the availability and use*
11 *of the program;*

12 (2) *taking into account special concerns and cir-*
13 *cumstances that small employers face with respect to*
14 *compliance and correction of compliance failures;*

15 (3) *extending the duration of the self-correction*
16 *period under the Self-Correction Program for signifi-*
17 *cant compliance failures;*

18 (4) *expanding the availability to correct insig-*
19 *nificant compliance failures under the Self-Correction*
20 *Program during audit; and*

21 (5) *assuring that any tax, penalty, or sanction*
22 *that is imposed by reason of a compliance failure is*
23 *not excessive and bears a reasonable relationship to*
24 *the nature, extent, and severity of the failure.*

1 **SEC. 608. REPEAL OF THE MULTIPLE USE TEST.**

2 (a) *IN GENERAL.*—Paragraph (9) of section 401(m) is
3 *amended to read as follows:*

4 “(9) *REGULATIONS.*—The Secretary shall pre-
5 *scribe such regulations as may be necessary to carry*
6 *out the purposes of this subsection and subsection (k),*
7 *including regulations permitting appropriate aggre-*
8 *gation of plans and contributions.”.*

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

12 **SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-**
13 **ERAGE, AND LINE OF BUSINESS RULES.**

14 (a) *NONDISCRIMINATION.*—

15 (1) *IN GENERAL.*—The Secretary of the Treasury
16 *shall, by regulation, provide that a plan shall be*
17 *deemed to satisfy the requirements of section*
18 *401(a)(4) of the Internal Revenue Code of 1986 if*
19 *such plan satisfies the facts and circumstances test*
20 *under section 401(a)(4) of such Code, as in effect be-*
21 *fore January 1, 1994, but only if—*

22 (A) *the plan satisfies conditions prescribed*
23 *by the Secretary to appropriately limit the*
24 *availability of such test; and*

1 (B) the plan is submitted to the Secretary
 2 for a determination of whether it satisfies such
 3 test.

4 Subparagraph (B) shall only apply to the extent pro-
 5 vided by the Secretary.

6 (2) *EFFECTIVE DATES.*—

7 (A) *REGULATIONS.*—The regulation re-
 8 quired by paragraph (1) shall apply to years be-
 9 ginning after December 31, 2003.

10 (B) *CONDITIONS OF AVAILABILITY.*—Any
 11 condition of availability prescribed by the Sec-
 12 retary under paragraph (1)(A) shall not apply
 13 before the first year beginning not less than 120
 14 days after the date on which such condition is
 15 prescribed.

16 (b) *COVERAGE TEST.*—

17 (1) *IN GENERAL.*—Section 410(b)(1) (relating to
 18 minimum coverage requirements) is amended by add-
 19 ing at the end the following:

20 “(D) In the case that the plan fails to meet
 21 the requirements of subparagraphs (A), (B) and
 22 (C), the plan—

23 “(i) satisfies subparagraph (B), as in
 24 effect immediately before the enactment of
 25 the Tax Reform Act of 1986,

1 “(ii) is submitted to the Secretary for
2 a determination of whether it satisfies the
3 requirement described in clause (i), and

4 “(iii) satisfies conditions prescribed by
5 the Secretary by regulation that appro-
6 priately limit the availability of this sub-
7 paragraph.

8 Clause (ii) shall apply only to the extent pro-
9 vided by the Secretary.”.

10 (2) *EFFECTIVE DATES.*—

11 (A) *IN GENERAL.*—The amendment made
12 by paragraph (1) shall apply to years beginning
13 after December 31, 2003.

14 (B) *CONDITIONS OF AVAILABILITY.*—Any
15 condition of availability prescribed by the Sec-
16 retary under regulations prescribed by the Sec-
17 retary under section 410(b)(1)(D) of the Internal
18 Revenue Code of 1986 shall not apply before the
19 first year beginning not less than 120 days after
20 the date on which such condition is prescribed.

21 (c) *LINE OF BUSINESS RULES.*—The Secretary of the
22 Treasury shall, on or before December 31, 2003, modify the
23 existing regulations issued under section 414(r) of the Inter-
24 nal Revenue Code of 1986 in order to expand (to the extent
25 that the Secretary determines appropriate) the ability of

1 a pension plan to demonstrate compliance with the line of
 2 business requirements based upon the facts and cir-
 3 cumstances surrounding the design and operation of the
 4 plan, even though the plan is unable to satisfy the mechan-
 5 ical tests currently used to determine compliance.

6 **SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
 7 **MORATORIUM ON APPLICATION OF CERTAIN**
 8 **NONDISCRIMINATION RULES APPLICABLE TO**
 9 **STATE AND LOCAL PLANS.**

10 (a) *IN GENERAL.*—

11 (1) Subparagraph (G) of section 401(a)(5) of the
 12 Internal Revenue Code of 1986 and subparagraph
 13 (H) of section 401(a)(26) are each amended by strik-
 14 ing “section 414(d))” and all that follows and insert-
 15 ing “section 414(d)).”.

16 (2) Subparagraph (G) of section 401(k)(3) and
 17 paragraph (2) of section 1505(d) of the Taxpayer Re-
 18 lief Act of 1997 are each amended by striking “main-
 19 tained by a State or local government or political
 20 subdivision thereof (or agency or instrumentality
 21 thereof)”.

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) The heading for subparagraph (G) of section
 24 401(a)(5) is amended to read as follows: “GOVERN-
 25 MENTAL PLANS.—”.

1 (2) *The heading for subparagraph (H) of section*
 2 *401(a)(26) is amended to read as follows: “EXCEP-*
 3 *TION FOR GOVERNMENTAL PLANS.—”.*

4 (3) *Subparagraph (G) of section 401(k)(3) is*
 5 *amended by inserting “GOVERNMENTAL PLANS.—”*
 6 *after “(G)”.*

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

10 **SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-**
 11 **TRIBUTIONS.**

12 (a) *EXPANSION OF PERIOD.—*

13 (1) *AMENDMENT OF INTERNAL REVENUE*
 14 *CODE.—*

15 (A) *IN GENERAL.—Subparagraph (A) of*
 16 *section 417(a)(6) is amended by striking “90-*
 17 *day” and inserting “180-day”.*

18 (B) *MODIFICATION OF REGULATIONS.—The*
 19 *Secretary of the Treasury shall modify the regu-*
 20 *lations under sections 402(f), 411(a)(11), and*
 21 *417 of the Internal Revenue Code of 1986 to sub-*
 22 *stitute “180 days” for “90 days” each place it*
 23 *appears in Treasury Regulations sections*
 24 *1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).*

1 (2) *AMENDMENT OF ERISA.*—Section
 2 205(c)(7)(A) of the *Employee Retirement Income Se-*
 3 *curity Act of 1974* (29 U.S.C. 1055(c)(7)(A)) is
 4 amended by striking “90-day” and inserting “180-
 5 day”.

6 (3) *EFFECTIVE DATE.*—The amendments made
 7 by paragraph (1)(A) and (2) and the modifications
 8 required by paragraph (1)(B) shall apply to years be-
 9 ginning after December 31, 2001.

10 (b) *CONSENT REGULATION INAPPLICABLE TO CERTAIN*
 11 *DISTRIBUTIONS.*—

12 (1) *IN GENERAL.*—The Secretary of the Treasury
 13 shall modify the regulations under section 411(a)(11)
 14 of the *Internal Revenue Code of 1986* to provide that
 15 the description of a participant’s right, if any, to
 16 defer receipt of a distribution shall also describe the
 17 consequences of failing to defer such receipt.

18 (2) *EFFECTIVE DATE.*—The modifications re-
 19 quired by paragraph (1) shall apply to years begin-
 20 ning after December 31, 2001.

21 **SEC. 612. ANNUAL REPORT DISSEMINATION.**

22 (a) *REPORT AVAILABLE THROUGH ELECTRONIC*
 23 *MEANS.*—Section 104(b)(3) of the *Employee Retirement In-*
 24 *come Security Act of 1974* (29 U.S.C. 1024(b)(3)) is amend-
 25 ed by adding at the end the following new sentence: “The

1 *requirement to furnish information under the previous sen-*
 2 *tence shall be satisfied if the administrator makes such in-*
 3 *formation reasonably available through electronic means or*
 4 *other new technology.”.*

5 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 6 *section shall apply to reports for years beginning after De-*
 7 *cember 31, 2000.*

8 **SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.**

9 *Section 517 of the Employee Retirement Income Secu-*
 10 *rity Act of 1974 (29 U.S.C. 1147) is amended—*

11 (1) *in subsection (a), by striking “2001 and*
 12 *2005 on or after September 1 of each year involved”*
 13 *and inserting “2001, 2005, and 2009 in the month of*
 14 *September of each year involved”;*

15 (2) *in subsection (b), by adding at the end the*
 16 *following new sentence: “To effectuate the purposes of*
 17 *this paragraph, the Secretary may enter into a coop-*
 18 *erative agreement, pursuant to the Federal Grant and*
 19 *Cooperative Agreement Act of 1977 (31 U.S.C. 6301*
 20 *et seq.), with the American Savings Education Coun-*
 21 *cil.”;*

22 (3) *in subsection (e)(2)—*

23 (A) *by striking “Committee on Labor and*
 24 *Human Resources” in subparagraph (D) and in-*

serting “Committee on Health, Education,
Labor, and Pensions”;

(B) by striking subparagraph (F) and inserting the following:

“(F) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;”;

(C) by redesignating subparagraph (G) as subparagraph (J); and

(D) by inserting after subparagraph (F) the following new subparagraphs:

“(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

“(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

“(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and”;

1 (4) in subsection (e)(3)(A)—

2 (A) by striking “There shall be no more
3 than 200 additional participants.” and inserting
4 “The participants in the National Summit shall
5 also include additional participants appointed
6 under this subparagraph.”;

7 (B) by striking “one-half shall be appointed
8 by the President,” in clause (i) and inserting
9 “not more than 100 participants shall be ap-
10 pointed under this clause by the President,” and
11 by striking “and” at the end of clause (i);

12 (C) by striking “one-half shall be appointed
13 by the elected leaders of Congress” in clause (ii)
14 and inserting “not more than 100 participants
15 shall be appointed under this clause by the elect-
16 ed leaders of Congress”, and by striking the pe-
17 riod at the end of clause (ii) and inserting “;
18 and”;

19 (D) by adding at the end the following new
20 clause:

21 “(iii) The President, in consultation
22 with the elected leaders of Congress referred
23 to in subsection (a), may appoint under
24 this clause additional participants to the
25 National Summit. The number of such ad-

1 ditional participants appointed under this
2 clause may not exceed the lesser of 3 percent
3 of the total number of all additional par-
4 ticipants appointed under this paragraph,
5 or 10. Such additional participants shall be
6 appointed from persons nominated by the
7 organization referred to in subsection (b)(2)
8 which is made up of private sector busi-
9 nesses and associations partnered with Gov-
10 ernment entities to promote long term fi-
11 nancial security in retirement through sav-
12 ings and with which the Secretary is re-
13 quired thereunder to consult and cooperate
14 and shall not be Federal, State, or local gov-
15 ernment employees.”;

16 (5) in subsection (e)(3)(B), by striking “January
17 31, 1998” in subparagraph (B) and inserting “May
18 1, 2001, May 1, 2005, and May 1, 2009, for each of
19 the subsequent summits, respectively”;

20 (6) in subsection (f)(1)(C), by inserting “, no
21 later than 90 days prior to the date of the commence-
22 ment of the National Summit,” after “comment” in
23 paragraph (1)(C);

1 (7) in subsection (g), by inserting “, in consulta-
2 tion with the congressional leaders specified in sub-
3 section (e)(2),” after “report”;

4 (8) in subsection (i)—

5 (A) by striking “beginning on or after Octo-
6 ber 1, 1997” in paragraph (1) and inserting
7 “2001, 2005, and 2009”; and

8 (B) by adding at the end the following new
9 paragraph:

10 “(3) *RECEPTION AND REPRESENTATION AUTHOR-*
11 *ITY.—The Secretary is hereby granted reception and*
12 *representation authority limited specifically to the*
13 *events at the National Summit. The Secretary shall*
14 *use any private contributions accepted in connection*
15 *with the National Summit prior to using funds ap-*
16 *propriated for purposes of the National Summit pur-*
17 *suant to this paragraph.*”; and

18 (9) in subsection (k)—

19 (A) by striking “shall enter into a contract
20 on a sole-source basis” and inserting “may enter
21 into a contract on a sole-source basis”; and

22 (B) by striking “fiscal year 1998” and in-
23 serting “fiscal years 2001, 2005, and 2009”.

TITLE VII—OTHER ERISA PROVISIONS

SEC. 701. MISSING PARTICIPANTS.

(a) *IN GENERAL.*—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

“(c) *MULTIEMPLOYER PLANS.*—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

“(d) *PLANS NOT OTHERWISE SUBJECT TO TITLE.*—

“(1) *TRANSFER TO CORPORATION.*—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant’s benefits to the corporation upon termination of the plan.

“(2) *INFORMATION TO THE CORPORATION.*—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

“(A) to the corporation, or

1 “(B) to an entity other than the corporation
2 or a plan described in paragraph (4)(B)(ii).

3 “(3) *PAYMENT BY THE CORPORATION.*—If bene-
4 fits of a missing participant were transferred to the
5 corporation under paragraph (1), the corporation
6 shall, upon location of the participant or beneficiary,
7 pay to the participant or beneficiary the amount
8 transferred (or the appropriate survivor benefit)
9 either—

10 “(A) in a single sum (plus interest), or

11 “(B) in such other form as is specified in
12 regulations of the corporation.

13 “(4) *PLANS DESCRIBED.*—A plan is described in
14 this paragraph if—

15 “(A) the plan is a pension plan (within the
16 meaning of section 3(2))—

17 “(i) to which the provisions of this sec-
18 tion do not apply (without regard to this
19 subsection), and

20 “(ii) which is not a plan described in
21 paragraphs (2) through (11) of section
22 4021(b), and

23 “(B) at the time the assets are to be distrib-
24 uted upon termination, the plan—

25 “(i) has missing participants, and

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

15 (a) IN GENERAL.—Subparagraph (A) of section
16 4006(a)(3) of the Employee Retirement Income Security
17 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(2) in clause (iii), by striking the period at the
end and inserting “, and”, and

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1 “(iv) in the case of a new single-employer plan
 2 (as defined in subparagraph (F)) maintained by a
 3 small employer (as so defined) for the plan year, \$5
 4 for each individual who is a participant in such plan
 5 during the plan year.”.

6 (b) *DEFINITION OF NEW SINGLE-EMPLOYER PLAN.*—
 7 Section 4006(a)(3) of the Employee Retirement Income Se-
 8 curity Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by
 9 adding at the end the following new subparagraph:

10 “(F)(i) For purposes of this paragraph, a single-em-
 11 ployer plan maintained by a contributing sponsor shall be
 12 treated as a new single-employer plan for each of its first
 13 5 plan years if, during the 36-month period ending on the
 14 date of the adoption of such plan, the sponsor or any mem-
 15 ber of such sponsor’s controlled group (or any predecessor
 16 of either) did not establish or maintain a plan to which
 17 this title applies with respect to which benefits were accrued
 18 for substantially the same employees as are in the new sin-
 19 gle-employer plan.

20 “(ii)(I) For purposes of this paragraph, the term
 21 ‘small employer’ means an employer which on the first day
 22 of any plan year has, in aggregation with all members of
 23 the controlled group of such employer, 100 or fewer employ-
 24 ees.

1 “(II) *In the case of a plan maintained by two or more*
 2 *contributing sponsors that are not part of the same con-*
 3 *trolled group, the employees of all contributing sponsors and*
 4 *controlled groups of such sponsors shall be aggregated for*
 5 *purposes of determining whether any contributing sponsor*
 6 *is a small employer.”.*

7 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 8 *section shall apply to plans established after December 31,*
 9 *2001.*

10 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
 11 **NEW AND SMALL PLANS.**

12 (a) *NEW PLANS.*—*Subparagraph (E) of section*
 13 *4006(a)(3) of the Employee Retirement Income Security*
 14 *Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by add-*
 15 *ing at the end the following new clause:*

16 “(v) *In the case of a new defined benefit plan, the*
 17 *amount determined under clause (ii) for any plan year*
 18 *shall be an amount equal to the product of the amount de-*
 19 *termined under clause (ii) and the applicable percentage.*
 20 *For purposes of this clause, the term ‘applicable percentage’*
 21 *means—*

22 “(I) *0 percent, for the first plan year.*

23 “(II) *20 percent, for the second plan year.*

24 “(III) *40 percent, for the third plan year.*

25 “(IV) *60 percent, for the fourth plan year.*

1 “(V) 80 percent, for the fifth plan year.

2 *For purposes of this clause, a defined benefit plan (as de-*
 3 *defined in section 3(35)) maintained by a contributing spon-*
 4 *sor shall be treated as a new defined benefit plan for each*
 5 *of its first 5 plan years if, during the 36-month period end-*
 6 *ing on the date of the adoption of the plan, the sponsor*
 7 *and each member of any controlled group including the*
 8 *sponsor (or any predecessor of either) did not establish or*
 9 *maintain a plan to which this title applies with respect*
 10 *to which benefits were accrued for substantially the same*
 11 *employees as are in the new plan.”.*

12 (b) *SMALL PLANS.*—Paragraph (3) of section 4006(a)
 13 *of the Employee Retirement Income Security Act of 1974*
 14 *(29 U.S.C. 1306(a)), as amended by section 702(b), is*
 15 *amended—*

16 (1) *by striking “The” in subparagraph (E)(i)*
 17 *and inserting “Except as provided in subparagraph*
 18 *(G), the”, and*

19 (2) *by inserting after subparagraph (F) the fol-*
 20 *lowing new subparagraph:*

21 “(G)(i) *In the case of an employer who has 25 or fewer*
 22 *employees on the first day of the plan year, the additional*
 23 *premium determined under subparagraph (E) for each par-*
 24 *ticipant shall not exceed \$5 multiplied by the number of*

1 participants in the plan as of the close of the preceding plan
2 year.

3 “(ii) For purposes of clause (i), whether an employer
4 has 25 or fewer employees on the first day of the plan year
5 is determined taking into consideration all of the employees
6 of all members of the contributing sponsor’s controlled
7 group. In the case of a plan maintained by two or more
8 contributing sponsors, the employees of all contributing
9 sponsors and their controlled groups shall be aggregated for
10 purposes of determining whether the 25-or-fewer-employees
11 limitation has been satisfied.”.

12 (c) *EFFECTIVE DATES.*—

13 (1) *SUBSECTION (a).*—The amendments made by
14 subsection (a) shall apply to plans established after
15 December 31, 2001.

16 (2) *SUBSECTION (b).*—The amendments made by
17 subsection (b) shall apply to plan years beginning
18 after December 31, 2001.

19 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
20 **PREMIUM OVERPAYMENT REFUNDS.**

21 (a) *IN GENERAL.*—Section 4007(b) of the Employment
22 Retirement Income Security Act of 1974 (29 U.S.C.
23 1307(b)) is amended—

24 (1) by striking “(b)” and inserting “(b)(1)”, and

1 (2) *by inserting at the end the following new*
 2 *paragraph:*

3 “(2) *The corporation is authorized to pay, subject to*
 4 *regulations prescribed by the corporation, interest on the*
 5 *amount of any overpayment of premium refunded to a des-*
 6 *ignated payor. Interest under this paragraph shall be cal-*
 7 *culated at the same rate and in the same manner as interest*
 8 *is calculated for underpayments under paragraph (1).”.*

9 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 10 *section (a) shall apply to interest accruing for periods be-*
 11 *ginning not earlier than the date of the enactment of this*
 12 *Act.*

13 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
 14 **PLANS.**

15 (a) *MODIFICATION OF PHASE-IN OF GUARANTEE.*—
 16 *Section 4022(b)(5) of the Employee Retirement Income Se-*
 17 *curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to*
 18 *read as follows:*

19 “(5)(A) *For purposes of this paragraph, the term ‘ma-*
 20 *jority owner’ means an individual who, at any time during*
 21 *the 60-month period ending on the date the determination*
 22 *is being made—*

23 “(i) *owns the entire interest in an unincor-*
 24 *porated trade or business,*

1 “(ii) in the case of a partnership, is a partner
 2 who owns, directly or indirectly, 50 percent or more
 3 of either the capital interest or the profits interest in
 4 such partnership, or

5 “(iii) in the case of a corporation, owns, directly
 6 or indirectly, 50 percent or more in value of either the
 7 voting stock of that corporation or all the stock of that
 8 corporation.

9 For purposes of clause (iii), the constructive ownership
 10 rules of section 1563(e) of the Internal Revenue Code of
 11 1986 shall apply (determined without regard to section
 12 1563(e)(3)(C)).

13 “(B) In the case of a participant who is a majority
 14 owner, the amount of benefits guaranteed under this section
 15 shall equal the product of—

16 “(i) a fraction (not to exceed 1) the numerator
 17 of which is the number of years from the later of the
 18 effective date or the adoption date of the plan to the
 19 termination date, and the denominator of which is
 20 10, and

21 “(ii) the amount of benefits that would be guar-
 22 anteed under this section if the participant were not
 23 a majority owner.”.

24 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

1 (1) *Section 4044(a)(4)(B) of the Employee Re-*
2 *irement Income Security Act of 1974 (29 U.S.C.*
3 *1344(a)(4)(B)) is amended by striking “section*
4 *4022(b)(5)” and inserting “section 4022(b)(5)(B)”.*

5 (2) *Section 4044(b) of such Act (29 U.S.C.*
6 *1344(b)) is amended—*

7 (A) *by striking “(5)” in paragraph (2) and*
8 *inserting “(4), (5),”, and*

9 (B) *by redesignating paragraphs (3)*
10 *through (6) as paragraphs (4) through (7), re-*
11 *spectively, and by inserting after paragraph (2)*
12 *the following new paragraph:*

13 “(3) *If assets available for allocation under*
14 *paragraph (4) of subsection (a) are insufficient to sat-*
15 *isfy in full the benefits of all individuals who are de-*
16 *scribed in that paragraph, the assets shall be allocated*
17 *first to benefits described in subparagraph (A) of that*
18 *paragraph. Any remaining assets shall then be allo-*
19 *cated to benefits described in subparagraph (B) of*
20 *that paragraph. If assets allocated to such subpara-*
21 *graph (B) are insufficient to satisfy in full the bene-*
22 *fits described in that subparagraph, the assets shall be*
23 *allocated pro rata among individuals on the basis of*
24 *the present value (as of the termination date) of their*
25 *respective benefits described in that subparagraph.”.*

1 (c) *CONFORMING AMENDMENTS.*—

2 (1) *Section 4021 of the Employee Retirement In-*
 3 *come Security Act of 1974 (29 U.S.C. 1321) is*
 4 *amended—*

5 (A) *in subsection (b)(9), by striking “as de-*
 6 *finied in section 4022(b)(6)”*, and

7 (B) *by adding at the end the following new*
 8 *subsection:*

9 “(d) *For purposes of subsection (b)(9), the term ‘sub-*
 10 *stantial owner’ means an individual who, at any time dur-*
 11 *ing the 60-month period ending on the date the determina-*
 12 *tion is being made—*

13 “(1) *owns the entire interest in an unincor-*
 14 *porated trade or business,*

15 “(2) *in the case of a partnership, is a partner*
 16 *who owns, directly or indirectly, more than 10 per-*
 17 *cent of either the capital interest or the profits inter-*
 18 *est in such partnership, or*

19 “(3) *in the case of a corporation, owns, directly*
 20 *or indirectly, more than 10 percent in value of either*
 21 *the voting stock of that corporation or all the stock of*
 22 *that corporation.*

23 *For purposes of paragraph (3), the constructive ownership*
 24 *rules of section 1563(e) of the Internal Revenue Code of*

1 1986 shall apply (determined without regard to section
2 1563(e)(3)(C)).”.

3 (2) Section 4043(c)(7) of such Act (29 U.S.C.
4 1343(c)(7)) is amended by striking “section 4022(b)(6)”
5 and inserting “section 4021(d)”.

6 (d) *EFFECTIVE DATES.*—

7 (1) *IN GENERAL.*—Except as provided in para-
8 graph (2), the amendments made by this section shall
9 apply to plan terminations—

10 (A) under section 4041(c) of the Employee
11 Retirement Income Security Act of 1974 (29
12 U.S.C. 1341(c)) with respect to which notices of
13 intent to terminate are provided under section
14 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2))
15 after December 31, 2001, and

16 (B) under section 4042 of such Act (29
17 U.S.C. 1342) with respect to which proceedings
18 are instituted by the corporation after such date.

19 (2) *CONFORMING AMENDMENTS.*—The amend-
20 ments made by subsection (c) shall take effect on Jan-
21 uary 1, 2002.

22 **SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RE-**
23 **SPONSIBILITY.**

24 (a) *IMPOSITION AND AMOUNT OF PENALTY MADE DIS-*
25 *CRETIONARY.*—Section 502(l)(1) of the Employee Retire-

1 *ment Income Security Act of 1974 (29 U.S.C. 1132(l)(1))*
2 *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 to*
9 *read as follows:*

10 “(2) *For purposes of paragraph (1), the term ‘applica-*
11 *ble recovery amount’ means any amount which is recovered*
12 *from any fiduciary or other person (or from any other per-*
13 *son on behalf of any such fiduciary or other person) with*
14 *respect to a breach or violation described in paragraph (1)*
15 *on or after the 30th day following receipt by such fiduciary*
16 *or other person of written notice from the Secretary of the*
17 *violation, whether paid voluntarily or by order of a court*
18 *in a judicial proceeding instituted by the Secretary under*
19 *subsection (a)(2) or (a)(5). The Secretary may, in the Sec-*
20 *retary’s sole discretion, extend the 30-day period described*
21 *in the preceding sentence.”.*

22 (c) *OTHER RULES.—Section 502(l) of the Employee*
23 *Retirement Income Security Act of 1974 (29 U.S.C.*
24 *1132(l)) is amended by adding at the end the following new*
25 *paragraph:*

1 “(5) *A person shall be jointly and severally liable for*
 2 *the penalty described in paragraph (1) to the same extent*
 3 *that such person is jointly and severally liable for the appli-*
 4 *cable recovery amount on which the penalty is based.*

5 “(6) *No penalty shall be assessed under this subsection*
 6 *unless the person against whom the penalty is assessed is*
 7 *given notice and opportunity for a hearing with respect to*
 8 *the violation and applicable recovery amount.”.*

9 (d) *EFFECTIVE DATES.—*

10 (1) *IN GENERAL.—The amendments made by*
 11 *this section shall apply to any breach of fiduciary re-*
 12 *sponsibility or other violation of part 4 of subtitle B*
 13 *of title I of the Employee Retirement Income Security*
 14 *Act of 1974 occurring on or after the date of enact-*
 15 *ment of this Act.*

16 (2) *TRANSITION RULE.—In applying the amend-*
 17 *ment made by subsection (b) (relating to applicable*
 18 *recovery amount), a breach or other violation occur-*
 19 *ring before the date of enactment of this Act which*
 20 *continues after the 180th day after such date (and*
 21 *which may have been discontinued at any time dur-*
 22 *ing its existence) shall be treated as having occurred*
 23 *after such date of enactment.*

1 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

2 (a) *MODIFICATION OF REGULATION.*—*The Secretary of*
3 *Labor shall modify the regulation under section*
4 *203(a)(3)(B) of the Employee Retirement Income Security*
5 *Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the*
6 *notification required by such regulation—*

7 (1) *in the case of an employee who returns to*
8 *work for a former employer after commencement of*
9 *payment of benefits under the plan shall—*

10 (A) *be made during the first calendar*
11 *month or payroll period in which the plan with-*
12 *holds payments, and*

13 (B) *if a reduced rate of future benefit accru-*
14 *als will apply to the returning employee (as of*
15 *the first date of participation in the plan by the*
16 *employee after returning to work), include a*
17 *statement that the rate of future benefit accruals*
18 *will be reduced, and*

19 (2) *in the case of any employee who is not de-*
20 *scribed in paragraph (1)—*

21 (A) *may be included in the summary plan*
22 *description for the plan furnished in accordance*
23 *with section 104(b) of such Act (29 U.S.C.*
24 *1024(b)), rather than in a separate notice, and*

25 (B) *need not include a copy of the relevant*
26 *plan provisions.*

1 (b) *EFFECTIVE DATE.*—*The modification made under*
 2 *this section shall apply to plan years beginning after De-*
 3 *cember 31, 2001.*

4 ***TITLE VIII—PLAN AMENDMENTS***

5 ***SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.***

6 (a) *IN GENERAL.*—*If this section applies to any plan*
 7 *or contract amendment—*

8 (1) *such plan or contract shall be treated as*
 9 *being operated in accordance with the terms of the*
 10 *plan during the period described in subsection*
 11 *(b)(2)(A); and*

12 (2) *except as provided by the Secretary of the*
 13 *Treasury, such plan shall not fail to meet the require-*
 14 *ments of section 411(d)(6) of the Internal Revenue*
 15 *Code of 1986 or section 204(g) of the Employee Re-*
 16 *irement Income Security Act of 1974 by reason of*
 17 *such amendment.*

18 (b) *AMENDMENTS TO WHICH SECTION APPLIES.*—

19 (1) *IN GENERAL.*—*This section shall apply to*
 20 *any amendment to any plan or annuity contract*
 21 *which is made—*

22 (A) *pursuant to any amendment made by*
 23 *this Act, or pursuant to any regulation issued*
 24 *under this Act; and*

1 (B) on or before the last day of the first
2 plan year beginning on or after January 1,
3 2004.

4 In the case of a governmental plan (as defined in sec-
5 tion 414(d) of the Internal Revenue Code of 1986),
6 this paragraph shall be applied by substituting
7 “2006” for “2004”.

8 (2) CONDITIONS.—This section shall not apply to
9 any amendment unless—

10 (A) during the period—

11 (i) beginning on the date the legislative
12 or regulatory amendment described in para-
13 graph (1)(A) takes effect (or in the case of
14 a plan or contract amendment not required
15 by such legislative or regulatory amend-
16 ment, the effective date specified by the
17 plan); and

18 (ii) ending on the date described in
19 paragraph (1)(B) (or, if earlier, the date the
20 plan or contract amendment is adopted),
21 the plan or contract is operated as if such plan
22 or contract amendment were in effect; and

23 (B) such plan or contract amendment ap-
24 plies retroactively for such period.

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

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

6 (b) **AMENDMENT OF 1986 CODE.**—Except as
 7 otherwise expressly provided, whenever in
 8 this Act an amendment or repeal is expressed
 9 in terms of an amendment to, or repeal of, a
 10 section or other provision, the reference shall
 11 be considered to be made to a section or other
 12 provision of the Internal Revenue Code of
 13 1986.

14 (c) **TABLE OF CONTENTS.**—The table of con-
 15 tents of 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 pur-
 poses of deduction limits.

Sec. 205. Repeal of coordination requirements for deferred
 compensation plans of State and local govern-
 ments 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 con-
 tributions.

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. Simplify and update the minimum distribution rules.**
- Sec. 305. Clarification of tax treatment of division of section 457 plan benefits upon divorce.**
- Sec. 306. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.**

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:

1 **“(5) DEDUCTIBLE AMOUNT.—For pur-**
 2 **poses of paragraph (1)(A)—**

3 **“(A) IN GENERAL.—The deductible**
 4 **amount shall be determined in ac-**
 5 **cordance with the following table:**

“For taxable years beginning in:	The deductible amount is:
2001	\$3,000
2002	\$4,000
2003 and thereafter	\$5,000.

6 **“(B) CATCH-UP CONTRIBUTIONS FOR**
 7 **INDIVIDUALS 50 OR OLDER.—In the case**
 8 **of an individual who has attained the**
 9 **age of 50 before the close of the tax-**
 10 **able year, the deductible amount for**
 11 **taxable years beginning in 2001 or**
 12 **2002 shall be \$5,000.**

13 **“(C) COST-OF-LIVING ADJUSTMENT.—**

14 **“(i) IN GENERAL.—In the case**
 15 **of any taxable year beginning in a**
 16 **calendar year after 2003, the**
 17 **\$5,000 amount under subpara-**
 18 **graph (A) shall be increased by an**
 19 **amount equal to—**

20 **“(I) such dollar amount,**
 21 **multiplied by**

22 **“(II) the cost-of-living ad-**
 23 **justment determined under**

1 section 1(f)(3) for the cal-
2 endar year in which the tax-
3 able year begins, determined
4 by substituting ‘calendar year
5 2002’ for ‘calendar year 1992’
6 in subparagraph (B) thereof.

7 “(ii) ROUNDING RULES.—If any
8 amount after adjustment under
9 clause (i) is not a multiple of \$500,
10 such amount shall be rounded to
11 the next lower multiple of \$500.”.

12 **(b) CONFORMING AMENDMENTS.—**

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

19 (2) Section 408(b)(2)(B) is amended by
20 striking “\$2,000” and inserting “the dollar
21 amount in effect under section
22 219(b)(1)(A)”.

23 (3) Section 408(b) is amended by
24 striking “\$2,000” in the matter following
25 paragraph (4) and inserting “the dollar

1 **amount in effect under section**
 2 **219(b)(1)(A)”.**

3 **(4) Section 408(j) is amended by strik-**
 4 **ing “\$2,000”.**

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

9 **(c) EFFECTIVE DATE.—The amendments**
 10 **made by this section shall apply to taxable**
 11 **years beginning after December 31, 2000.**

12 **TITLE II—EXPANDING** 13 **COVERAGE**

14 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LIM-**
 15 **ITS.**

16 **(a) DEFINED BENEFIT PLANS.—**

17 **(1) DOLLAR LIMIT.—**

18 **(A) Subparagraph (A) of section**
 19 **415(b)(1) (relating to limitation for de-**
 20 **defined benefit plans) is amended by**
 21 **striking “\$90,000” and inserting**
 22 **“\$160,000”.**

23 **(B) Subparagraphs (C) and (D) of**
 24 **section 415(b)(2) are each amended by**
 25 **striking “\$90,000” each place it ap-**

1 **pears in the headings and the text**
2 **and inserting “\$160,000”.**

3 **(C) Paragraph (7) of section**
4 **415(b) (relating to benefits under cer-**
5 **tain collectively bargained plans) is**
6 **amended by striking “the greater of**
7 **\$68,212 or one-half the amount other-**
8 **wise applicable for such year under**
9 **paragraph (1)(A) for ‘\$90,000’” and in-**
10 **serting “one-half the amount other-**
11 **wise applicable for such year under**
12 **paragraph (1)(A) for ‘\$160,000’”.**

13 **(2) LIMIT REDUCED WHEN BENEFIT BE-**
14 **GINS BEFORE AGE 62.—Subparagraph (C) of**
15 **section 415(b)(2) is amended by striking**
16 **“the social security retirement age” each**
17 **place it appears in the heading and text**
18 **and inserting “age 62” and by striking the**
19 **second sentence.**

20 **(3) LIMIT INCREASED WHEN BENEFIT BE-**
21 **GINS AFTER AGE 65.—Subparagraph (D) of**
22 **section 415(b)(2) is amended by striking**
23 **“the social security retirement age” each**
24 **place it appears in the heading and text**
25 **and inserting “age 65”.**

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

4 **(A) by striking “\$90,000” in para-**
5 **graph (1)(A) and inserting “\$160,000”;**
6 **and**

7 **(B) in paragraph (3)(A)—**

8 **(i) by striking “\$90,000” in the**
9 **heading and inserting “\$160,000”;**
10 **and**

11 **(ii) by striking “October 1,**
12 **1986” and inserting “July 1, 2000”.**

13 **(5) CONFORMING AMENDMENTS.—**

14 **(A) Section 415(b)(2) is amended**
15 **by striking subparagraph (F).**

16 **(B) Section 415(b)(9) is amended**
17 **to read as follows:**

18 **“(9) SPECIAL RULE FOR COMMERCIAL**
19 **AIRLINE PILOTS.—**

20 **“(A) IN GENERAL.—Except as**
21 **provided in subparagraph (B), in**
22 **the case of any participant who is**
23 **a commercial airline pilot, if, as of**
24 **the time of the participant’s re-**
25 **tirement, regulations prescribed**

1 by the Federal Aviation Adminis-
2 tration require an individual to
3 separate from service as a com-
4 mercial airline pilot after attain-
5 ing any age occurring on or after
6 age 60 and before age 62, para-
7 graph (2)(C) shall be applied by
8 substituting such age for age 62.

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

15 (C) Section 415(b)(10)(C)(i) is
16 amended by striking “applied without
17 regard to paragraph (2)(F)”.

18 **(b) DEFINED CONTRIBUTION PLANS.—**

19 (1) DOLLAR LIMIT.—Subparagraph (A)
20 of section 415(c)(1) (relating to limitation
21 for defined contribution plans) is amend-
22 ed by striking “\$30,000” and inserting
23 “\$40,000”.

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

4 **(A) by striking “\$30,000” in para-**
5 **graph (1)(C) and inserting “\$40,000”;**
6 **and**

7 **(B) in paragraph (3)(D)—**

8 **(i) by striking “\$30,000” in the**
9 **heading and inserting “\$40,000”;**
10 **and**

11 **(ii) by striking “October 1,**
12 **1993” and inserting “July 1, 2000”.**

13 **(c) QUALIFIED TRUSTS.—**

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

18 **(2) BASE PERIOD AND ROUNDING OF**
19 **COST-OF-LIVING ADJUSTMENT.—Subpara-**
20 **graph (B) of section 401(a)(17) is**
21 **amended—**

22 **(A) by striking “October 1, 1993”**
23 **and inserting “July 1, 2000”; and**

1 **(B) by striking “\$10,000” both**
 2 **places it appears and inserting**
 3 **“\$5,000”.**

4 **(d) ELECTIVE DEFERRALS.—**

5 **(1) IN GENERAL.—Paragraph (1) of sec-**
 6 **tion 402(g) (relating to limitation on ex-**
 7 **clusion for elective deferrals) is amended**
 8 **to read as follows:**

9 **“(1) IN GENERAL.—**

10 **“(A) LIMITATION.—Notwith-**
 11 **standing subsections (e)(3) and**
 12 **(h)(1)(B), the elective deferrals of any**
 13 **individual for any taxable year shall**
 14 **be included in such individual’s gross**
 15 **income to the extent the amount of**
 16 **such deferrals for the taxable year ex-**
 17 **ceeds the applicable dollar amount.**

18 **“(B) APPLICABLE DOLLAR AMOUNT.—**
 19 **For purposes of subparagraph (A),**
 20 **the applicable dollar amount shall be**
 21 **the amount determined in accord-**
 22 **ance with the following table:**

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$11,000
2002	\$12,000
2003	\$13,000

2004	\$14,000
2005 or thereafter	\$15,000.”.

1 **(2) COST-OF-LIVING ADJUSTMENT.—**

2 **Paragraph (5) of section 402(g) is amend-**
3 **ed to read as follows:**

4 **“(5) COST-OF-LIVING ADJUSTMENT.—In**
5 **the case of taxable years beginning after**
6 **December 31, 2005, the Secretary shall**
7 **adjust the \$15,000 amount under para-**
8 **graph (1)(B) at the same time and in the**
9 **same manner as under section 415(d), ex-**
10 **cept that the base period shall be the cal-**
11 **endar quarter beginning July 1, 2004, and**
12 **any increase under this paragraph which**
13 **is not a multiple of \$500 shall be rounded**
14 **to the next lowest multiple of \$500.”.**

15 **(3) CONFORMING AMENDMENTS.—**

16 **(A) Section 402(g) (relating to lim-**
17 **itation on exclusion for elective defer-**
18 **rals), as amended by paragraphs (1)**
19 **and (2), is further amended by strik-**
20 **ing paragraph (4) and redesignating**
21 **paragraphs (5), (6), (7), (8), and (9) as**
22 **paragraphs (4), (5), (6), (7), and (8), re-**
23 **spectively.**

1 **(B) Paragraph (2) of section 457(c)**
2 **is amended by striking**
3 **“402(g)(8)(A)(iii)” and inserting**
4 **“402(g)(7)(A)(iii)”.**

5 **(C) Clause (iii) of section**
6 **501(c)(18)(D) is amended by striking**
7 **“(other than paragraph (4) thereof)”.**

8 **(e) DEFERRED COMPENSATION PLANS OF**
9 **STATE AND LOCAL GOVERNMENTS AND TAX-EX-**
10 **EMPT ORGANIZATIONS.—**

11 **(1) IN GENERAL.—Section 457 (relating**
12 **to deferred compensation plans of State**
13 **and local governments and tax-exempt**
14 **organizations) is amended—**

15 **(A) in subsections (b)(2)(A) and**
16 **(c)(1) by striking “\$7,500” each place**
17 **it appears and inserting “the applica-**
18 **ble dollar amount”; and**

19 **(B) in subsection (b)(3)(A) by**
20 **striking “\$15,000” and inserting**
21 **“twice the dollar amount in effect**
22 **under subsection (b)(2)(A)”.**

23 **(2) APPLICABLE DOLLAR AMOUNT; COST-**
24 **OF-LIVING ADJUSTMENT.—Paragraph (15) of**

section 457(e) is amended to read as follows:

“(15) APPLICABLE DOLLAR AMOUNT.—

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$11,000
2002	\$12,000
2003	\$13,000
2004	\$14,000
2005 or thereafter	\$15,000.

“(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the \$15,000 amount under subparagraph (A) 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 July 1, 2004, and any increase under this paragraph which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500.”.

(f) SIMPLE RETIREMENT ACCOUNTS.—

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

(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of 408(p)(2) is amended to read as follows:

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

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$7,000
2002	\$8,000
2003	\$9,000
2004 or thereafter	\$10,000.

“(ii) COST-OF-LIVING ADJUSTMENT.—In the case of a year beginning after December 31, 2004, the Secretary shall adjust the \$10,000 amount under clause (i) at the same time and in the same manner as under section 415(d),

1 except that the base period taken
2 into account shall be the calendar
3 quarter beginning July 1, 2003,
4 and any increase under this sub-
5 paragraph which is not a multiple
6 of \$500 shall be rounded to the
7 next lower multiple of \$500.”.

8 **(3) CONFORMING AMENDMENTS.—**

9 **(A) Subclause (I) of section**
10 **401(k)(11)(B)(i) is amended by strik-**
11 **ing “\$6,000” and inserting “the**
12 **amount in effect under section**
13 **408(p)(2)(A)(ii)”.**

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

16 **(g) ROUNDING RULE RELATING TO DEFINED**
17 **BENEFIT PLANS AND DEFINED CONTRIBUTION**
18 **PLANS.—Paragraph (4) of section 415(d) is**
19 **amended to read as follows:**

20 **“(4) ROUNDING.—**

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

1 **“(B) \$40,000 AMOUNT.—Any in-**
2 **crease under subparagraph (C) of**
3 **paragraph (1) which is not a multiple**
4 **of \$1,000 shall be rounded to the next**
5 **lowest multiple of \$1,000.”.**

6 **(h) EFFECTIVE DATE.—The amendments**
7 **made by this section shall apply to years be-**
8 **ginning after December 31, 2000.**

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

11 **(a) AMENDMENT OF INTERNAL REVENUE**
12 **CODE.—Subparagraph (B) of section 4975(f)(6)**
13 **(relating to exemptions not to apply to certain**
14 **transactions) is amended by adding at the end**
15 **the following new clause:**

16 **“(iii) LOAN EXCEPTION.—For**
17 **purposes of subparagraph (A)(i),**
18 **the term ‘owner-employee’ shall**
19 **only include a person described**
20 **in subclause (II) or (III) of clause**
21 **(i).”.**

22 **(b) AMENDMENT OF ERISA.—Section**
23 **408(d)(2) of the Employee Retirement Income**
24 **Security Act of 1974 (29 U.S.C. 1108(d)(2)) is**

1 amended by adding at the end the following
2 new subparagraph:

3 “(C) For purposes of paragraph (1)(A), the
4 term ‘owner-employee’ shall only include a
5 person described in clause (ii) or (iii) of sub-
6 paragraph (A).”.

7 (c) EFFECTIVE DATE.—The amendments
8 made by this section shall apply to years be-
9 ginning after December 31, 2001.

10 SEC. 203. MODIFICATION OF TOP-HEAVY RULES.

11 (a) SIMPLIFICATION OF DEFINITION OF KEY
12 EMPLOYEE.—

13 (1) IN GENERAL.—Section 416(i)(1)(A)
14 (defining key employee) is amended—

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

18 (B) by striking clause (i) and in-
19 serting the following:

20 “(i) an officer of the employer
21 having an annual compensation
22 greater than \$150,000,”;

23 (C) by striking clause (ii) and re-
24 designating clauses (iii) and (iv) as
25 clauses (ii) and (iii), respectively; and

1 **(D) by striking the second sen-**
2 **tence in the matter following clause**
3 **(iii), as redesignated by subparagraph**
4 **(C).**

5 **(2) CONFORMING AMENDMENT.—Section**
6 **416(i)(1)(B)(iii) is amended by striking**
7 **“and subparagraph (A)(ii)”.**

8 **(b) MATCHING CONTRIBUTIONS TAKEN INTO**
9 **ACCOUNT FOR MINIMUM CONTRIBUTION RE-**
10 **QUIREMENTS.—Section 416(c)(2)(A) (relating to**
11 **defined contribution plans) is amended by**
12 **adding at the end the following: “Employer**
13 **matching contributions (as defined in section**
14 **401(m)(4)(A)) shall be taken into account for**
15 **purposes of this subparagraph.”.**

16 **(c) DISTRIBUTIONS DURING LAST YEAR BE-**
17 **FORE DETERMINATION DATE TAKEN INTO AC-**
18 **COUNT.—**

19 **(1) IN GENERAL.—Paragraph (3) of sec-**
20 **tion 416(g) is amended to read as follows:**

21 **“(3) DISTRIBUTIONS DURING LAST YEAR**
22 **BEFORE DETERMINATION DATE TAKEN INTO**
23 **ACCOUNT.—**

24 **“(A) IN GENERAL.—For purposes of**
25 **determining—**

1 “(i) the present value of the
2 cumulative accrued benefit for
3 any employee, or

4 “(ii) the amount of the ac-
5 count of any employee,

6 such present value or amount shall
7 be increased by the aggregate dis-
8 tributions made with respect to such
9 employee under the plan during the
10 1-year period ending on the deter-
11 mination date. The preceding sen-
12 tence shall also apply to distributions
13 under a terminated plan which if it
14 had not been terminated would have
15 been required to be included in an
16 aggregation group.

17 “(B) 5-YEAR PERIOD IN CASE OF IN-
18 SERVICE DISTRIBUTION.—In the case of
19 any distribution made for a reason
20 other than separation from service,
21 death, or disability, subparagraph (A)
22 shall be applied by substituting ‘5-
23 year period’ for ‘1-year period’.”.

1 **(2) BENEFITS NOT TAKEN INTO AC-**
2 **COUNT.—Subparagraph (E) of section**
3 **416(g)(4) is amended—**

4 **(A) by striking “LAST 5 YEARS” in**
5 **the heading and inserting “LAST YEAR**
6 **BEFORE DETERMINATION DATE”; and**

7 **(B) by striking “5-year period”**
8 **and inserting “1-year period”.**

9 **(d) DEFINITION OF TOP-HEAVY PLANS.—**
10 **Paragraph (4) of section 416(g) (relating to**
11 **other special rules for top-heavy plans) is**
12 **amended by adding at the end the following**
13 **new subparagraph:**

14 **“(H) CASH OR DEFERRED ARRANGE-**
15 **MENTS USING ALTERNATIVE METHODS OF**
16 **MEETING NONDISCRIMINATION REQUIRE-**
17 **MENTS.—The term ‘top-heavy plan’**
18 **shall not include a plan which con-**
19 **sists solely of—**

20 **“(i) a cash or deferred ar-**
21 **rangement which meets the re-**
22 **quirements of section 401(k)(12),**
23 **and**

24 **“(ii) matching contributions**
25 **with respect to which the require-**

1 ments of section 401(m)(11) are
2 met.

3 If, but for this subparagraph, a plan
4 would be treated as a top-heavy plan
5 because it is a member of an aggrega-
6 tion group which is a top-heavy
7 group, contributions under the plan
8 may be taken into account in deter-
9 mining whether any other plan in the
10 group meets the requirements of sub-
11 section (c)(2).”.

12 (e) **FROZEN PLAN EXEMPT FROM MINIMUM**
13 **BENEFIT REQUIREMENT.**—Subparagraph (C) of
14 section 416(c)(1) (relating to defined benefit
15 plans) is amended—

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

19 (B) by adding at the end the fol-
20 lowing:

21 “(iii) **EXCEPTION FOR FROZEN**
22 **PLAN.**—For purposes of deter-
23 mining an employee’s years of
24 service with the employer, any
25 service with the employer shall be

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

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

11 **“(iv) FAMILY ATTRIBUTION DIS-**
12 **REGARDED.—Solely for purposes of**
13 **applying this paragraph (and not**
14 **for purposes of any provision of**
15 **this title which incorporates by**
16 **reference the definition of a key**
17 **employee or 5-percent owner**
18 **under this paragraph), section**
19 **318 shall be applied without re-**
20 **gard to subsection (a)(1) thereof**
21 **in determining whether any per-**
22 **son is a 5-percent owner.”.**

23 **(g) EFFECTIVE DATE.—The amendments**
24 **made by this section shall apply to years be-**
25 **ginning after December 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
5 deduction for contributions of an employer to
6 an employees' trust or annuity plan and com-
7 pensation under a deferred payment plan) is
8 amended by adding at the end the following
9 new subsection:

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

19 (b) EFFECTIVE DATE.—The amendment
20 made by this section shall apply to years be-
21 ginning after December 31, 2001.

1 SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR
2 DEFERRED COMPENSATION PLANS OF STATE
3 AND LOCAL GOVERNMENTS AND TAX-EX-
4 EMPT ORGANIZATIONS.

5 (a) IN GENERAL.—Subsection (c) of section
6 457 (relating to deferred compensation plans
7 of State and local governments and tax-ex-
8 empt organizations), as amended by section
9 201, is amended to read as follows:

10 “(c) LIMITATION.—The maximum amount of
11 the compensation of any one individual which
12 may be deferred under subsection (a) during
13 any taxable year shall not exceed the amount
14 in effect under subsection (b)(2)(A) (as modi-
15 fied by any adjustment provided under sub-
16 section (b)(3)).”.

17 (b) EFFECTIVE DATE.—The amendment
18 made by subsection (a) shall apply to years
19 beginning after December 31, 2001.

20 SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO
21 IRS REGARDING PENSION PLANS.

22 (a) ELIMINATION OF CERTAIN USER FEES.—
23 The Secretary of the Treasury or the Sec-
24 retary’s delegate shall not require payment of
25 user fees under the program established
26 under section 10511 of the Revenue Act of

1 1987 for requests to the Internal Revenue
2 Service for determination letters with respect
3 to the qualified status of a pension benefit
4 plan maintained solely by one or more eligible
5 employers or any trust which is part of the
6 plan. The preceding sentence shall not apply
7 to any request—

8 (1) made after the later of—

9 (A) the fifth plan year the pension
10 benefit plan is in existence; or

11 (B) the end of any remedial
12 amendment period with respect to
13 the plan beginning within the first 5
14 plan years; or

15 (2) made by the sponsor of any proto-
16 type or similar plan which the sponsor
17 intends to market to participating em-
18 ployers.

19 (b) **PENSION BENEFIT PLAN.**—For purposes
20 of this section, the term “pension benefit
21 plan” means a pension, profit-sharing, stock
22 bonus, annuity, or employee stock ownership
23 plan.

24 (c) **ELIGIBLE EMPLOYER.**—For purposes of
25 this section, the term “eligible employer” has

1 the same meaning given such term in section
 2 408(p)(2)(C)(i)(I) of the Internal Revenue Code
 3 of 1986. The determination of whether an em-
 4 ployer is an eligible employer under this sec-
 5 tion shall be made as of the date of the re-
 6 quest described in subsection (a).

7 (d) DETERMINATION OF AVERAGE FEES
 8 CHARGED.—For purposes of any determina-
 9 tion of average fees charged, any request to
 10 which subsection (a) applies shall not be
 11 taken into account.

12 (e) EFFECTIVE DATE.—The provisions of
 13 this section shall apply with respect to re-
 14 quests made after December 31, 2001.

15 SEC. 207. DEDUCTION LIMITS.

16 (a) STOCK BONUS AND PROFIT SHARING
 17 TRUSTS.—

18 (1) IN GENERAL.—Subclause (I) of sec-
 19 tion 404(a)(3)(A)(i) (relating to stock
 20 bonus and profit sharing trusts) is
 21 amended by striking “15 percent” and in-
 22 serting “20 percent”.

23 (2) CONFORMING AMENDMENT.—Sub-
 24 paragraph (C) of section 404(h)(1) is
 25 amended by striking “15 percent” each

1 place it appears and inserting “20 per-
2 cent”.

3 **(b) COMPENSATION.—**

4 **(1) IN GENERAL.—**Section 404(a) (relat-
5 ing to general rule) is amended by adding
6 at the end the following:

7 **“(12) DEFINITION OF COMPENSATION.—**
8 **For purposes of paragraphs (3), (7), (8),**
9 **and (9), the term ‘compensation other-**
10 **wise paid or accrued during the taxable**
11 **year’ shall include amounts treated as**
12 **‘participant’s compensation’ under sub-**
13 **paragraph (C) or (D) of section 415(c)(3).”.**

14 **(2) CONFORMING AMENDMENTS.—**

15 **(A) Subparagraph (B) of section**
16 **404(a)(3) is amended by striking the**
17 **last sentence thereof.**

18 **(B) Clause (i) of section**
19 **4972(c)(6)(B) is amended by striking**
20 **“(within the meaning of section**
21 **404(a))” and inserting “(within the**
22 **meaning of section 404(a) and as ad-**
23 **justed under section 404(a)(12))”.**

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

4 **SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS**
5 **AFTER-TAX CONTRIBUTIONS.**

6 **(a) IN GENERAL.**—Subpart A of part I of
7 subchapter D of chapter 1 (relating to de-
8 ferred compensation, etc.) is amended by in-
9 serting after section 402 the following new
10 section:

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

13 **“(a) GENERAL RULE.**—If an applicable re-
14 tirement plan includes a qualified plus con-
15 tribution program—

16 **“(1) any designated plus contribution**
17 **made by an employee pursuant to the**
18 **program shall be treated as an elective**
19 **deferral for purposes of this chapter, ex-**
20 **cept that such contribution shall not be**
21 **excludable from gross income, and**

22 **“(2) such plan (and any arrangement**
23 **which is part of such plan) shall not be**
24 **treated as failing to meet any require-**

1 ment of this chapter solely by reason of
2 including such program.

3 **“(b) QUALIFIED PLUS CONTRIBUTION PRO-**
4 **GRAM.—For purposes of this section—**

5 **“(1) IN GENERAL.—The term ‘qualified**
6 **plus contribution program’ means a pro-**
7 **gram under which an employee may elect**
8 **to make designated plus contributions in**
9 **lieu of all or a portion of elective defer-**
10 **als the employee is otherwise eligible to**
11 **make under the applicable retirement**
12 **plan.**

13 **“(2) SEPARATE ACCOUNTING RE-**
14 **QUIRED.—A program shall not be treated**
15 **as a qualified plus contribution program**
16 **unless the applicable retirement plan—**

17 **“(A) establishes separate accounts**
18 **(‘designated plus accounts’) for the**
19 **designated plus contributions of each**
20 **employee and any earnings properly**
21 **allocable to the contributions, and**

22 **“(B) maintains separate record-**
23 **keeping with respect to each account.**

1 **“(c) DEFINITIONS AND RULES RELATING TO**
2 **DESIGNATED PLUS CONTRIBUTIONS.—For pur-**
3 **poses of this section—**

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

7 **“(A) is excludable from gross in-**
8 **come of an employee without regard**
9 **to this section, and**

10 **“(B) the employee designates (at**
11 **such time and in such manner as the**
12 **Secretary may prescribe) as not being**
13 **so excludable.**

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

18 **“(A) the maximum amount of elec-**
19 **tive deferrals excludable from gross**
20 **income of the employee for the tax-**
21 **able year (without regard to this sec-**
22 **tion), over**

23 **“(B) the aggregate amount of elec-**
24 **tive deferrals of the employee for the**

1 **taxable year which the employee does**
2 **not designate under paragraph (1).**

3 **“(3) ROLLOVER CONTRIBUTIONS.—**

4 **“(A) IN GENERAL.—A rollover con-**
5 **tribution of any payment or distribu-**
6 **tion from a designated plus account**
7 **which is otherwise allowable under**
8 **this chapter may be made only if the**
9 **contribution is to—**

10 **“(i) another designated plus**
11 **account of the individual from**
12 **whose account the payment or**
13 **distribution was made, or**

14 **“(ii) a Roth IRA of such indi-**
15 **vidual.**

16 **“(B) COORDINATION WITH LIMIT.—**
17 **Any rollover contribution to a des-**
18 **ignated plus account under subpara-**
19 **graph (A) shall not be taken into ac-**
20 **count for purposes of paragraph (1).**

21 **“(d) DISTRIBUTION RULES.—For purposes of**
22 **this title—**

23 **“(1) EXCLUSION.—Any qualified dis-**
24 **tribution from a designated plus account**
25 **shall not be includible in gross income.**

1 **“(2) QUALIFIED DISTRIBUTION.—For**
2 **purposes of this subsection—**

3 **“(A) IN GENERAL.—The term ‘quali-**
4 **fied distribution’ has the meaning**
5 **given such term by section**
6 **408A(d)(2)(A) (without regard to**
7 **clause (iv) thereof).**

8 **“(B) DISTRIBUTIONS WITHIN NON-**
9 **EXCLUSION PERIOD.—A payment or dis-**
10 **tribution from a designated plus ac-**
11 **count shall not be treated as a quali-**
12 **fied distribution if such payment or**
13 **distribution is made within the 5-tax-**
14 **able-year period beginning with the**
15 **earlier of—**

16 **“(i) the first taxable year for**
17 **which the individual made a des-**
18 **ignated plus contribution to any**
19 **designated plus account estab-**
20 **lished for such individual under**
21 **the same applicable retirement**
22 **plan, or**

23 **“(ii) if a rollover contribution**
24 **was made to such designated plus**
25 **account from a designated plus**

1 account previously established
2 for such individual under another
3 applicable retirement plan, the
4 first taxable year for which the
5 individual made a designated
6 plus contribution to such pre-
7 viously established account.

8 “(C) DISTRIBUTIONS OF EXCESS DE-
9 FERRALS AND EARNINGS.—The term
10 ‘qualified distribution’ shall not in-
11 clude any distribution of any excess
12 deferral under section 402(g)(2) and
13 any income on the excess deferral.

14 “(3) AGGREGATION RULES.—Section 72
15 shall be applied separately with respect
16 to distributions and payments from a des-
17 ignated plus account and other distribu-
18 tions and payments from the plan.

19 “(e) OTHER DEFINITIONS.—For purposes of
20 this section—

21 “(1) APPLICABLE RETIREMENT PLAN.—
22 The term ‘applicable retirement plan’
23 means—

1 “(A) an employees’ trust described
2 in section 401(a) which is exempt
3 from tax under section 501(a), and

4 “(B) a plan under which amounts
5 are contributed by an individual’s
6 employer for an annuity contract de-
7 scribed in section 403(b).

8 “(2) ELECTIVE DEFERRAL.—The term
9 ‘elective deferral’ means any elective de-
10 ferral described in subparagraph (A) or
11 (C) of section 402(g)(3).”.

12 (b) EXCESS DEFERRALS.—Section 402(g) (re-
13 lating to limitation on exclusion for elective
14 deferrals) is amended—

15 (1) by adding at the end of paragraph
16 (1) the following new sentence: “The pre-
17 ceding sentence shall not apply to so
18 much of such excess as does not exceed
19 the designated plus contributions of the
20 individual for the taxable year.”; and

21 (2) by inserting “(or would be in-
22 cluded but for the last sentence thereof)”
23 after “paragraph (1)” in paragraph (2)(A).

1 **(c) ROLLOVERS.—**Subparagraph (B) of sec-
2 **tion 402(c)(8)** is amended by adding at the end
3 **the following:**

4 **“If any portion of an eligible rollover**
5 **distribution is attributable to pay-**
6 **ments or distributions from a des-**
7 **ignated plus account (as defined in**
8 **section 402A), an eligible retirement**
9 **plan with respect to such portion**
10 **shall include only another designated**
11 **plus account and a Roth IRA.”.**

12 **(d) REPORTING REQUIREMENTS.—**

13 **(1) W-2 INFORMATION.—**Section
14 **6051(a)(8)** is amended by inserting “, in-
15 **cluding the amount of designated plus**
16 **contributions (as defined in section**
17 **402A)” before the comma at the end.**

18 **(2) INFORMATION.—**Section 6047 is
19 **amended by redesignating subsection (f)**
20 **as subsection (g) and by inserting after**
21 **subsection (e) the following new sub-**
22 **section:**

23 **“(f) DESIGNATED PLUS CONTRIBUTIONS.—**
24 **The Secretary shall require the plan adminis-**
25 **trator of each applicable retirement plan (as**

1 defined in section 402A) to make such returns
2 and reports regarding designated plus con-
3 tributions (as so defined) to the Secretary,
4 participants and beneficiaries of the plan, and
5 such other persons as the Secretary may pre-
6 scribe.”.

7 (e) CONFORMING AMENDMENTS.—

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

13 (2) The table of sections for subpart A
14 of part I of subchapter D of chapter 1 is
15 amended by inserting after the item re-
16 lating to section 402 the following new
17 item:

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

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

**TITLE III—ENHANCING
FAIRNESS FOR WOMEN**

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

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

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

“(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

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

“(A) \$5,000, or

“(B) the excess (if any) of—

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

1 “(ii) any other elective defer-
2 rals of the participant for such
3 year which are made without re-
4 gard to this subsection.

5 “(3) TREATMENT OF CONTRIBUTIONS.—In
6 the case of any contribution to a plan
7 under paragraph (1), such contribution
8 shall not, with respect to the year in
9 which the contribution is made—

10 “(A) be subject to any otherwise
11 applicable limitation contained in
12 section 402(g), 402(h)(2), 404(a),
13 404(h), 408(p)(2)(A)(ii), 415, or 457, or

14 “(B) be taken into account in ap-
15 plying such limitations to other con-
16 tributions or benefits under such
17 plan or any other such plan.

18 “(4) APPLICATION OF NONDISCRIMINA-
19 TION RULES.—

20 “(A) IN GENERAL.—An applicable
21 employer plan shall not be treated as
22 failing to meet the nondiscrimination
23 requirements under section 401(a)(4)
24 with respect to benefits, rights, and
25 features if the plan allows all eligible

1 participants to make the same elec-
2 tion with respect to the additional
3 elective deferrals under this sub-
4 section.

5 “(B) AGGREGATION.—For purposes
6 of subparagraph (A), all plans main-
7 tained by employers who are treated
8 as a single employer under sub-
9 section (b), (c), (m), or (o) of section
10 414 shall be treated as 1 plan.

11 “(5) ELIGIBLE PARTICIPANT.—For pur-
12 poses of this subsection, the term ‘eligible
13 participant’ means, with respect to any
14 plan year, a participant in a plan—

15 “(A) who has attained the age of
16 50 before the close of the plan year,
17 and

18 “(B) with respect to whom no
19 other elective deferrals may (without
20 regard to this subsection) be made to
21 the plan for the plan year by reason
22 of the application of any limitation or
23 other restriction described in para-
24 graph (3) or comparable limitation
25 contained in the terms of the plan.

1 **“(6) OTHER DEFINITIONS AND RULES.—**

2 **For purposes of this subsection—**

3 **“(A) APPLICABLE EMPLOYER PLAN.—**

4 **The term ‘applicable employer plan’**
5 **means—**

6 **“(i) an employees’ trust de-**
7 **scribed in section 401(a) which is**
8 **exempt from tax under section**
9 **501(a),**

10 **“(ii) a plan under which**
11 **amounts are contributed by an in-**
12 **dividual’s employer for an annu-**
13 **ity contract described in section**
14 **403(b),**

15 **“(iii) an eligible deferred com-**
16 **pensation plan under section 457**
17 **of an eligible employer as defined**
18 **in section 457(e)(1)(A), and**

19 **“(iv) an arrangement meeting**
20 **the requirements of section 408**
21 **(k) or (p).**

22 **“(B) ELECTIVE DEFERRAL.—The**
23 **term ‘elective deferral’ has the mean-**
24 **ing given such term by subsection**
25 **(u)(2)(C).**

1 **“(C) EXCEPTION FOR SECTION 457**
2 **PLANS.—This subsection shall not**
3 **apply to an applicable employer plan**
4 **described in subparagraph (A)(iii) for**
5 **any year to which section 457(b)(3)**
6 **applies.**

7 **“(D) COST-OF-LIVING ADJUSTMENT.—**
8 **In the case of a year beginning after**
9 **December 31, 2005, the Secretary**
10 **shall adjust annually the \$5,000**
11 **amount in paragraph (2)(A) for in-**
12 **creases in the cost-of-living at the**
13 **same time and in the same manner as**
14 **adjustments under section 415(d); ex-**
15 **cept that the base period taken into**
16 **account shall be the calendar quarter**
17 **beginning July 1, 2004, and any in-**
18 **crease under this subparagraph**
19 **which is not a multiple of \$500 shall**
20 **be rounded to the next lower multiple**
21 **of \$500.”.**

22 **(b) EFFECTIVE DATE.—The amendment**
23 **made by this section shall apply to contribu-**
24 **tions in taxable years beginning after Decem-**
25 **ber 31, 2000.**

1 **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
2 **EMPLOYEES TO DEFINED CONTRIBUTION**
3 **PLANS.**

4 **(a) EQUITABLE TREATMENT.—**

5 **(1) IN GENERAL.—**Subparagraph (B) of
6 **section 415(c)(1) (relating to limitation**
7 **for defined contribution plans) is amend-**
8 **ed by striking “25 percent” and inserting**
9 **“100 percent”.**

10 **(2) APPLICATION TO SECTION 403(b).—**
11 **Section 403(b) is amended—**

12 **(A) by striking “the exclusion al-**
13 **lowance for such taxable year” in**
14 **paragraph (1) and inserting “the ap-**
15 **plicable limit under section 415”;**

16 **(B) by striking paragraph (2); and**

17 **(C) by inserting “or any amount**
18 **received by a former employee after**
19 **the fifth taxable year following the**
20 **taxable year in which such employee**
21 **was terminated” before the period at**
22 **the end of the second sentence of**
23 **paragraph (3).**

24 **(3) CONFORMING AMENDMENTS.—**

25 **(A) Subsection (f) of section 72 is**
26 **amended by striking “section**

1 **403(b)(2)(D)(iii))” and inserting “sec-**
2 **tion 403(b)(2)(D)(iii), as in effect be-**
3 **fore the enactment of the Comprehen-**
4 **sive Retirement Security and Pension**
5 **Reform Act of 2001)”.**

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

9 **(C) Section 415(a)(2) is amended**
10 **by striking “, and the amount of the**
11 **contribution for such portion shall re-**
12 **duce the exclusion allowance as pro-**
13 **vided in section 403(b)(2)”.**

14 **(D) Section 415(c)(3) is amended**
15 **by adding at the end the following**
16 **new subparagraph:**

17 **“(E) ANNUITY CONTRACTS.—In the**
18 **case of an annuity contract described**
19 **in section 403(b), the term ‘partici-**
20 **pant’s compensation’ means the par-**
21 **ticipant’s includible compensation de-**
22 **termined under section 403(b)(3).”.**

23 **(E) Section 415(c) is amended by**
24 **striking paragraph (4).**

1 **(F) Section 415(c)(7) is amended**
2 **to read as follows:**

3 **“(7) CERTAIN CONTRIBUTIONS BY**
4 **CHURCH PLANS NOT TREATED AS EXCEEDING**
5 **LIMIT.—**

6 **“(A) IN GENERAL.—Notwith-**
7 **standing any other provision of this**
8 **subsection, at the election of a partic-**
9 **ipant who is an employee of a church**
10 **or a convention or association of**
11 **churches, including an organization**
12 **described in section 414(e)(3)(B)(ii),**
13 **contributions and other additions for**
14 **an annuity contract or retirement in-**
15 **come account described in section**
16 **403(b) with respect to such partici-**
17 **pant, when expressed as an annual**
18 **addition to such participant’s ac-**
19 **count, shall be treated as not exceed-**
20 **ing the limitation of paragraph (1) if**
21 **such annual addition is not in excess**
22 **of \$10,000.**

23 **“(B) \$40,000 AGGREGATE LIMITA-**
24 **TION.—The total amount of additions**
25 **with respect to any participant which**

1 may be taken into account for pur-
2 poses of this subparagraph for all
3 years may not exceed \$40,000.

4 “(C) ANNUAL ADDITION.—For pur-
5 poses of this paragraph, the term ‘an-
6 nual addition’ has the meaning given
7 such term by paragraph (2).”.

8 (G) Subparagraph (B) of section
9 402(g)(7) (as redesignated by section
10 201) is amended by inserting before
11 the period at the end the following:
12 “(as in effect before the enactment of
13 the Comprehensive Retirement Secu-
14 rity and Pension Reform Act of
15 2001)”.

16 (H) Section 664(g) is amended—

17 (i) in paragraph (3)(E) by
18 striking “limitations under sec-
19 tion 415(c)” and inserting “appli-
20 cable limitation under paragraph
21 (7)”, and

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

24 “(7) APPLICABLE LIMITATION.—

1 **“(A) IN GENERAL.—For purposes of**
2 **paragraph (3)(E), the applicable limi-**
3 **tation under this paragraph with re-**
4 **spect to a participant is an amount**
5 **equal to the lesser of—**

6 **“(i) \$30,000, or**

7 **“(ii) 25 percent of the partici-**
8 **pant’s compensation (as defined**
9 **in section 415(c)(3)).**

10 **“(B) COST-OF-LIVING ADJUSTMENT.—**

11 **The Secretary shall adjust annually**
12 **the \$30,000 amount under subpara-**
13 **graph (A)(i) at the same time and in**
14 **the same manner as under section**
15 **415(d), except that the base period**
16 **shall be the calendar quarter begin-**
17 **ning October 1, 1993, and any in-**
18 **crease under this subparagraph**
19 **which is not a multiple of \$5,000 shall**
20 **be rounded to the next lowest mul-**
21 **tiiple of \$5,000.”.**

22 **(3) EFFECTIVE DATE.—The amendments**
23 **made by this subsection shall apply to**
24 **years beginning after December 31, 2000.**

1 **(b) SPECIAL RULES FOR SECTIONS 403(b) AND**
2 **408.—**

3 **(1) IN GENERAL.—**Subsection (k) of sec-
4 **tion 415 is amended by adding at the end**
5 **the following new paragraph:**

6 **“(4) SPECIAL RULES FOR SECTIONS**
7 **403(b) AND 408.—**For purposes of this sec-
8 **tion, any annuity contract described in**
9 **section 403(b) for the benefit of a partici-**
10 **pant shall be treated as a defined con-**
11 **tribution plan maintained by each em-**
12 **ployer with respect to which the partici-**
13 **pant has the control required under sub-**
14 **section (b) or (c) of section 414 (as modi-**
15 **fied by subsection (h)). For purposes of**
16 **this section, any contribution by an em-**
17 **ployer to a simplified employee pension**
18 **plan for an individual for a taxable year**
19 **shall be treated as an employer contribu-**
20 **tion to a defined contribution plan for**
21 **such individual for such year.”.**

22 **(2) EFFECTIVE DATE.—**

23 **(A) IN GENERAL.—**The amendment
24 **made by paragraph (1) shall apply to**

1 **limitation years beginning after De-**
2 **cember 31, 1999.**

3 **(B) EXCLUSION ALLOWANCE.—Effec-**
4 **tive for limitation years beginning in**
5 **2000, in the case of any annuity con-**
6 **tract described in section 403(b) of**
7 **the Internal Revenue Code of 1986,**
8 **the amount of the contribution dis-**
9 **qualified by reason of section 415(g)**
10 **of such Code shall reduce the exclu-**
11 **sion allowance as provided in section**
12 **403(b)(2) of such Code.**

13 **(3) MODIFICATION OF 403(b) EXCLUSION**
14 **ALLOWANCE TO CONFORM TO 415 MODIFICA-**
15 **TION.—The Secretary of the Treasury**
16 **shall modify the regulations regarding**
17 **the exclusion allowance under section**
18 **403(b)(2) of the Internal Revenue Code of**
19 **1986 to render void the requirement that**
20 **contributions to a defined benefit pen-**
21 **sion plan be treated as previously ex-**
22 **cluded amounts for purposes of the exclu-**
23 **sion allowance. For taxable years begin-**
24 **ning after December 31, 1999, such regu-**

1 lations shall be applied as if such re-
2 quirement were void.

3 (c) DEFERRED COMPENSATION PLANS OF
4 STATE AND LOCAL GOVERNMENTS AND TAX-EX-
5 EMPT ORGANIZATIONS.—

6 (1) IN GENERAL.—Subparagraph (B) of
7 section 457(b)(2) (relating to salary limi-
8 tation on eligible deferred compensation
9 plans) is amended by striking “33 $\frac{1}{3}$ per-
10 cent” and inserting “100 percent”.

11 (2) EFFECTIVE DATE.—The amendment
12 made by this subsection shall apply to
13 years beginning after December 31, 2000.

14 SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER
15 MATCHING CONTRIBUTIONS.

16 (a) AMENDMENT OF INTERNAL REVENUE
17 CODE.—Section 411(a) (relating to minimum
18 vesting standards) is amended—

19 (1) in paragraph (2), by striking “A
20 plan” and inserting “Except as provided
21 in paragraph (12), a plan”; and

22 (2) by adding at the end the fol-
23 lowing:

24 “(12) FASTER VESTING FOR MATCHING
25 CONTRIBUTIONS.—In the case of matching

1 **contributions (as defined in section**
 2 **401(m)(4)(A)), paragraph (2) shall be**
 3 **applied—**

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

6 **“(B) by substituting the following**
 7 **table for the table contained in sub-**
 8 **paragraph (B):**

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

9 **(b) AMENDMENT OF ERISA.—Section 203(a)**
 10 **of the Employee Retirement Income Security**
 11 **Act of 1974 (29 U.S.C. 1053(a)) is amended—**

12 **(1) in paragraph (2), in the matter**
 13 **preceding subparagraph (A), by striking**
 14 **“A plan” and inserting “Except as pro-**
 15 **vided in paragraph (4), a plan”, and**

16 **(2) by adding at the end the fol-**
 17 **lowing:**

18 **“(4) In the case of matching contribu-**
 19 **tions (as defined in section 401(m)(4)(A)**
 20 **of the Internal Revenue Code of 1986),**
 21 **paragraph (2) shall be applied—**

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

3 “(B) by substituting the following
4 table for the table contained in sub-
5 paragraph (B):

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

6 **(c) EFFECTIVE DATES.—**

7 **(1) IN GENERAL.—**Except as provided
8 in paragraph (2), the amendments made
9 by this section shall apply to contribu-
10 tions for plan years beginning after De-
11 cember 31, 2001.

12 **(2) COLLECTIVE BARGAINING AGREE-**
13 **MENTS.—**In the case of a plan maintained
14 pursuant to one or more collective bar-
15 gaining agreements between employee
16 representatives and one or more employ-
17 ers ratified by the date of the enactment
18 of this Act, the amendments made by this
19 section shall not apply to contributions
20 on behalf of employees covered by any
21 such agreement for plan years beginning
22 before the earlier of—

1 (A) the later of—

2 (i) the date on which the last
3 of such collective bargaining
4 agreements terminates (deter-
5 mined without regard to any ex-
6 tension thereof on or after such
7 date of the enactment); or

8 (ii) January 1, 2002; or

9 (B) January 1, 2006.

10 (3) SERVICE REQUIRED.—With respect
11 to any plan, the amendments made by
12 this section shall not apply to any em-
13 ployee before the date that such em-
14 ployee has 1 hour of service under such
15 plan in any plan year to which the
16 amendments made by this section apply.

17 SEC. 304. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBU-
18 TION RULES.

19 (a) SIMPLIFICATION AND FINALIZATION OF
20 MINIMUM DISTRIBUTION REQUIREMENTS.—

21 (1) IN GENERAL.—The Secretary of the
22 Treasury shall—

23 (A) simplify and finalize the regu-
24 lations relating to minimum distribu-
25 tion requirements under sections

1 **401(a)(9), 408(a)(6) and (b)(3),**
2 **403(b)(10), and 457(d)(2) of the Inter-**
3 **nal Revenue Code of 1986; and**

4 **(B) modify such regulations to—**

5 **(i) reflect current life expect-**
6 **ancy; and**

7 **(ii) revise the required dis-**
8 **tribution methods so that, under**
9 **reasonable assumptions, the**
10 **amount of the required minimum**
11 **distribution does not decrease**
12 **over a participant's life expect-**
13 **ancy.**

14 **(2) FRESH START.—Notwithstanding**
15 **subparagraph (D) of section 401(a)(9) of**
16 **such Code, during the first year that reg-**
17 **ulations are in effect under this sub-**
18 **section, required distributions for future**
19 **years may be redetermined to reflect**
20 **changes under such regulations. Such re-**
21 **determination shall include the oppor-**
22 **tunity to choose a new designated bene-**
23 **ficiary and to elect a new method of cal-**
24 **culating life expectancy.**

1 **(3) DATE FOR REGULATIONS.—**Not later
2 than December 31, 2002, the Secretary
3 shall issue final regulations described in
4 paragraph (1) and such regulations shall
5 apply without regard to whether an indi-
6 vidual had previously begun receiving
7 minimum distributions.

8 **(b) REPEAL OF RULE WHERE DISTRIBUTIONS**
9 **HAD BEGUN BEFORE DEATH OCCURS.—**

10 **(1) IN GENERAL.—**Subparagraph (B) of
11 section 401(a)(9) is amended by striking
12 clause (i) and redesignating clauses (ii),
13 (iii), and (iv) as clauses (i), (ii), and (iii),
14 respectively.

15 **(2) CONFORMING CHANGES.—**

16 **(A) Clause (i) of section**
17 **401(a)(9)(B) (as so redesignated) is**
18 **amended—**

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

21 **(ii) by striking “the distribu-**
22 **tion of the employee’s interest has**
23 **begun in accordance with sub-**
24 **paragraph (A)(ii)” and inserting**

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

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

7 **(C) Clause (iii) of section**
8 **401(a)(9)(B) (as so redesignated) is**
9 **amended—**

10 **(i) by striking “clause (iii)(I)”**
11 **and inserting “clause (ii)(I)”;**

12 **(ii) by striking “clause**
13 **(iii)(III)” in subclause (I) and in-**
14 **serting “clause (ii)(III)”;**

15 **(iii) by striking “the date on**
16 **which the employee would have**
17 **attained age 70¹/₂,” in subclause**
18 **(I) and inserting “April 1 of the**
19 **calendar year following the cal-**
20 **endar year in which the spouse**
21 **attains 70¹/₂,”; and**

22 **(iv) by striking “the distribu-**
23 **tions to such spouse begin,” in**
24 **subclause (II) and inserting “his**

1 entire interest has been distrib-
2 uted to him,”.

3 **(3) EFFECTIVE DATE.—**

4 **(A) IN GENERAL.—**Except as pro-
5 vided in subparagraph (B), the
6 amendments made by this subsection
7 shall apply to years beginning after
8 December 31, 2001.

9 **(B) DISTRIBUTIONS TO SURVIVING**
10 **SPOUSE.—**

11 **(i) IN GENERAL.—**In the case of
12 an employee described in clause
13 (ii), distributions to the surviving
14 spouse of the employee shall not
15 be required to commence prior to
16 the date on which such distribu-
17 tions would have been required to
18 begin under section 401(a)(9)(B)
19 of the Internal Revenue Code of
20 1986 (as in effect on the day be-
21 fore the date of the enactment of
22 this Act).

23 **(ii) CERTAIN EMPLOYEES.—**An
24 employee is described in this

1 **clause if such employee dies**
2 **before—**

3 **(I) the date of the enact-**
4 **ment of this Act, and**

5 **(II) the required begin-**
6 **ning date (within the meaning**
7 **of section 401(a)(9)(C) of the**
8 **Internal Revenue Code of**
9 **1986) of the employee.**

10 **(c) REDUCTION IN EXCISE TAX.—**

11 **(1) IN GENERAL.—Subsection (a) of sec-**
12 **tion 4974 is amended by striking “50 per-**
13 **cent” and inserting “10 percent”.**

14 **(2) EFFECTIVE DATE.—The amendment**
15 **made by this subsection shall apply to**
16 **years beginning after December 31, 2001.**

17 **SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION**
18 **OF SECTION 457 PLAN BENEFITS UPON DI-**
19 **VORCE.**

20 **(a) IN GENERAL.—Section 414(p)(11) (relat-**
21 **ing to application of rules to governmental**
22 **and church plans) is amended—**

23 **(1) by inserting “or an eligible de-**
24 **ferred compensation plan (within the**

1 **meaning of section 457(b))” after “sub-**
2 **section (e))”; and**

3 **(2) in the heading, by striking “GOV-**
4 **ERNMENTAL AND CHURCH PLANS” and in-**
5 **serting “CERTAIN OTHER PLANS”.**

6 **(b) WAIVER OF CERTAIN DISTRIBUTION RE-**
7 **QUIREMENTS.—Paragraph (10) of section 414(p)**
8 **is amended by striking “and section 409(d)”**
9 **and inserting “section 409(d), and section**
10 **457(d)”.**

11 **(c) TAX TREATMENT OF PAYMENTS FROM A**
12 **SECTION 457 PLAN.—Subsection (p) of section**
13 **414 is amended by redesignating paragraph**
14 **(12) as paragraph (13) and inserting after**
15 **paragraph (11) the following new paragraph:**

16 **“(12) TAX TREATMENT OF PAYMENTS**
17 **FROM A SECTION 457 PLAN.—If a distribu-**
18 **tion or payment from an eligible deferred**
19 **compensation plan described in section**
20 **457(b) is made pursuant to a qualified do-**
21 **mestic relations order, rules similar to**
22 **the rules of section 402(e)(1)(A) shall**
23 **apply to such distribution or payment.”.**

24 **(d) EFFECTIVE DATE.—The amendments**
25 **made by this section shall apply to transfers,**

1 **distributions, and payments made after De-**
2 **cember 31, 2001.**

3 **SEC. 306. MODIFICATION OF SAFE HARBOR RELIEF FOR**
4 **HARDSHIP WITHDRAWALS FROM CASH OR**
5 **DEFERRED ARRANGEMENTS.**

6 **(a) IN GENERAL.—The Secretary of the**
7 **Treasury shall revise the regulations relating**
8 **to hardship distributions under section**
9 **401(k)(2)(B)(i)(IV) of the Internal Revenue**
10 **Code of 1986 to provide that the period an em-**
11 **ployee is prohibited from making elective and**
12 **employee contributions in order for a dis-**
13 **tribution to be deemed necessary to satisfy fi-**
14 **nancial need shall be equal to 6 months.**

15 **(b) EFFECTIVE DATE.—The revised regula-**
16 **tions under subsection (a) shall apply to years**
17 **beginning after 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**
25 **PLANS.—**

1 **(A) IN GENERAL.—Section 457(e)**
2 **(relating to other definitions and spe-**
3 **cial rules) is amended by adding at**
4 **the end the following:**

5 **“(16) ROLLOVER AMOUNTS.—**

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

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

18 **“(ii) the employee transfers**
19 **any portion of the property such**
20 **employee receives in such dis-**
21 **tribution to an eligible retirement**
22 **plan described in section**
23 **402(c)(8)(B), and**

24 **“(iii) in the case of a distribu-**
25 **tion of property other than**

1 money, the amount so transferred
2 consists of the property distrib-
3 uted,

4 then such distribution (to the extent
5 so transferred) shall not be includible
6 in gross income for the taxable year
7 in which paid.

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

14 “(C) REPORTING.—Rollovers under
15 this paragraph shall be reported to
16 the Secretary in the same manner as
17 rollovers from qualified retirement
18 plans (as defined in section 4974(c)).”.

19 (B) DEFERRAL LIMIT DETERMINED
20 WITHOUT REGARD TO ROLLOVER
21 AMOUNTS.—Section 457(b)(2) (defining
22 eligible deferred compensation plan)
23 is amended by inserting “(other than
24 rollover amounts)” after “taxable
25 year”.

(C) DIRECT ROLLOVER.—Paragraph

(1) of section 457(d) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by inserting after subparagraph (B) the following:

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

Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of transfer.”.

(D) WITHHOLDING.—

(i) Paragraph (12) of section 3401(a) is amended by adding at the end the following:

“(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) main-

1 **tained by an employer described in**
2 **section 457(e)(1)(A); or”.**

3 **(ii) Paragraph (3) of section**
4 **3405(c) is amended to read as fol-**
5 **lows:**

6 **“(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection,**
7 **the term ‘eligible rollover distribution’**
8 **has the meaning given such term by sec-**
9 **tion 402(f)(2)(A).”.**

11 **(iii) LIABILITY FOR WITH-**
12 **HOLDING.—Subparagraph (B) of**
13 **section 3405(d)(2) is amended by**
14 **striking “or” at the end of clause**
15 **(ii), by striking the period at the**
16 **end of clause (iii) and inserting “,**
17 **or”, and by adding at the end the**
18 **following:**

19 **“(iv) section 457(b) and which**
20 **is maintained by an eligible em-**
21 **ployer described in section**
22 **457(e)(1)(A).”.**

23 **(2) ROLLOVERS TO SECTION 457 PLANS.—**

24 **(A) IN GENERAL.—Section**
25 **402(c)(8)(B) (defining eligible retire-**

1 ment plan) is amended by striking
2 “and” at the end of clause (iii), by
3 striking the period at the end of
4 clause (iv) and inserting “, and”, and
5 by inserting after clause (iv) the fol-
6 lowing new clause:

7 “(v) an eligible deferred com-
8 pensation plan described in sec-
9 tion 457(b) which is maintained
10 by an eligible employer described
11 in section 457(e)(1)(A).”.

12 (B) SEPARATE ACCOUNTING.—Sec-
13 tion 402(c) is amended by adding at
14 the end the following new paragraph:

15 “(11) SEPARATE ACCOUNTING.—Unless a
16 plan described in clause (v) of paragraph
17 (8)(B) agrees to separately account for
18 amounts rolled into such plan from eligi-
19 ble retirement plans not described in
20 such clause, the plan described in such
21 clause may not accept transfers or roll-
22 overs from such retirement plans.”.

23 (C) 10 PERCENT ADDITIONAL TAX.—
24 Subsection (t) of section 72 (relating
25 to 10-percent additional tax on early

1 distributions from qualified retire-
2 ment plans) is amended by adding at
3 the end the following new paragraph:

4 “(9) SPECIAL RULE FOR ROLLOVERS TO
5 SECTION 457 PLANS.—For purposes of this
6 subsection, a distribution from an eligible
7 deferred compensation plan (as defined
8 in section 457(b)) of an eligible employer
9 described in section 457(e)(1)(A) shall be
10 treated as a distribution from a qualified
11 retirement plan described in 4974(c)(1) to
12 the extent that such distribution is at-
13 tributable to an amount transferred to an
14 eligible deferred compensation plan from
15 a qualified retirement plan (as defined in
16 section 4974(c)).”.

17 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
18 403(b) PLANS.—

19 (1) ROLLOVERS FROM SECTION 403(b)
20 PLANS.—Section 403(b)(8)(A)(ii) (relating
21 to rollover amounts) is amended by strik-
22 ing “such distribution” and all that fol-
23 lows and inserting “such distribution to
24 an eligible retirement plan described in
25 section 402(c)(8)(B), and”.

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

9 **“(vi) an annuity contract de-**
10 **scribed in section 403(b).”.**

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

20 **“(E) of the provisions under**
21 **which distributions from the eligible**
22 **retirement plan receiving the dis-**
23 **tribution may be subject to restric-**
24 **tions and tax consequences which are**
25 **different from those applicable to dis-**

1 **tributions from the plan making such**
2 **distribution.”.**

3 **(d) SPOUSAL ROLLOVERS.—Section 402(c)(9)**
4 **(relating to rollover where spouse receives**
5 **distribution after death of employee) is**
6 **amended by striking “; except that” and all**
7 **that follows up to the end period.**

8 **(e) CONFORMING AMENDMENTS.—**

9 **(1) Section 72(o)(4) is amended by**
10 **striking “and 408(d)(3)” and inserting**
11 **“403(b)(8), 408(d)(3), and 457(e)(16)”.**

12 **(2) Section 219(d)(2) is amended by**
13 **striking “or 408(d)(3)” and inserting**
14 **“408(d)(3), or 457(e)(16)”.**

15 **(3) Section 401(a)(31)(B) is amended**
16 **by striking “and 403(a)(4)” and inserting**
17 **“, 403(a)(4), 403(b)(8), and 457(e)(16)”.**

18 **(4) Subparagraph (A) of section**
19 **402(f)(2) is amended by striking “or para-**
20 **graph (4) of section 403(a)” and inserting**
21 **“, paragraph (4) of section 403(a), sub-**
22 **paragraph (A) of section 403(b)(8), or sub-**
23 **paragraph (A) of section 457(e)(16)”.**

1 (5) Paragraph (1) of section 402(f) is
2 amended by striking “from an eligible re-
3 tirement plan”.

4 (6) Subparagraphs (A) and (B) of sec-
5 tion 402(f)(1) are amended by striking
6 “another eligible retirement plan” and in-
7 serting “an eligible retirement plan”.

8 (7) Subparagraph (B) of section
9 403(b)(8) is amended to read as follows:

10 “(B) CERTAIN RULES MADE APPLICA-
11 BLE.—The rules of paragraphs (2)
12 through (7) and (9) of section 402(c)
13 and section 402(f) shall apply for pur-
14 poses of subparagraph (A), except
15 that section 402(f) shall be applied to
16 the payor in lieu of the plan adminis-
17 trator.”.

18 (8) Section 408(a)(1) is amended by
19 striking “or 403(b)(8),” and inserting
20 “403(b)(8), or 457(e)(16)”.

21 (9) Subparagraphs (A) and (B) of sec-
22 tion 415(b)(2) are each amended by strik-
23 ing “and 408(d)(3)” and inserting
24 “403(b)(8), 408(d)(3), and 457(e)(16)”.

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

4 **(11) Section 4973(b)(1)(A) is amended**
5 **by striking “or 408(d)(3)” and inserting**
6 **“408(d)(3), or 457(e)(16)”.**

7 **(f) EFFECTIVE DATE; SPECIAL RULE.—**

8 **(1) EFFECTIVE DATE.—The amendments**
9 **made by this section shall apply to dis-**
10 **tributions after the date of the enactment**
11 **of this Act.**

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

1 SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-
2 MENT PLANS.

3 (a) IN GENERAL.—Subparagraph (A) of sec-
4 tion 408(d)(3) (relating to rollover amounts) is
5 amended by adding “or” at the end of clause
6 (i), by striking clauses (ii) and (iii), and by
7 adding at the end the following:

8 “(ii) the entire amount re-
9 ceived (including money and any
10 other property) is paid into an eli-
11 gible retirement plan for the ben-
12 efit of such individual not later
13 than the 60th day after the date
14 on which the payment or distribu-
15 tion is received, except that the
16 maximum amount which may be
17 paid into such plan may not ex-
18 ceed the portion of the amount
19 received which is includible in
20 gross income (determined without
21 regard to this paragraph).

22 For purposes of clause (ii), the term
23 ‘eligible retirement plan’ means an el-
24 igible retirement plan described in
25 clause (iii), (iv), (v), or (vi) of section
26 402(c)(8)(B).”.

(b) CONFORMING AMENDMENTS.—

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

(2) Clause (i) of section 408(d)(3)(D) is amended by striking “(i), (ii), or (iii)” and inserting “(i) or (ii)”.

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

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

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

1 **(2) SPECIAL RULE.—**Notwithstanding
2 any other provision of law, subsections
3 **(h)(3) and (h)(5) of section 1122 of the Tax**
4 **Reform Act of 1986 shall not apply to any**
5 **distribution from an eligible retirement**
6 **plan (as defined in clause (iii) or (iv) of**
7 **section 402(c)(8)(B) of the Internal Rev-**
8 **enue Code of 1986) on behalf of an indi-**
9 **vidual if there was a rollover to such**
10 **plan on behalf of such individual which**
11 **is permitted solely by reason of the**
12 **amendments made by this section.**

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

14 **(a) ROLLOVERS FROM EXEMPT TRUSTS.—**
15 **Paragraph (2) of section 402(c) (relating to**
16 **maximum amount which may be rolled over)**
17 **is amended by adding at the end the fol-**
18 **lowing: “The preceding sentence shall not**
19 **apply to such distribution to the extent—**

20 **“(A) such portion is transferred in**
21 **a direct trustee-to-trustee transfer to**
22 **a qualified trust which is part of a**
23 **plan which is a defined contribution**
24 **plan and which agrees to separately**
25 **account for amounts so transferred,**

1 including separately accounting for
2 the portion of such distribution
3 which is includible in gross income
4 and the portion of such distribution
5 which is not so includible, or

6 “(B) such portion is transferred to
7 an eligible retirement plan described
8 in clause (i) or (ii) of paragraph
9 (8)(B).”.

10 (b) **OPTIONAL DIRECT TRANSFER OF ELIGI-**
11 **BLE ROLLOVER DISTRIBUTIONS.**—Subparagraph
12 **(B)** of section 401(a)(31) (relating to limita-
13 tion) is amended by adding at the end the fol-
14 lowing: “The preceding sentence shall not
15 apply to such distribution if the plan to which
16 such distribution is transferred—

17 “(i) agrees to separately ac-
18 count for amounts so transferred,
19 including separately accounting
20 for the portion of such distribu-
21 tion which is includible in gross
22 income and the portion of such
23 distribution which is not so in-
24 cludible, or

1 “(ii) is an eligible retirement
2 plan described in clause (i) or (ii)
3 of section 402(c)(8)(B).”.

4 (c) RULES FOR APPLYING SECTION 72 TO
5 IRAs.—Paragraph (3) of section 408(d) (relat-
6 ing to special rules for applying section 72) is
7 amended by inserting at the end the fol-
8 lowing:

9 “(H) APPLICATION OF SECTION 72.—

10 “(i) IN GENERAL.—If—

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

14 “(II) a rollover contribu-
15 tion is made to an eligible re-
16 tirement plan described in
17 section 402(c)(8)(B)(iii), (iv),
18 (v), or (vi) with respect to all
19 or part of such distribution,
20 then, notwithstanding paragraph
21 (2), the rules of clause (ii) shall
22 apply for purposes of applying
23 section 72.

1 **“(ii) APPLICABLE RULES.—In**
2 **the case of a distribution de-**
3 **scribed in clause (i)—**

4 **“(I) section 72 shall be ap-**
5 **plied separately to such dis-**
6 **tribution,**

7 **“(II) notwithstanding the**
8 **pro rata allocation of income**
9 **on, and investment in, the**
10 **contract to distributions**
11 **under section 72, the portion**
12 **of such distribution rolled**
13 **over to an eligible retirement**
14 **plan described in clause (i)**
15 **shall be treated as from in-**
16 **come on the contract (to the**
17 **extent of the aggregate in-**
18 **come on the contract from all**
19 **individual retirement plans of**
20 **the distributee), and**

21 **“(III) appropriate adjust-**
22 **ments shall be made in apply-**
23 **ing section 72 to other dis-**
24 **tributions in such taxable**

1 year and subsequent taxable
2 years.”.

3 **(d) EFFECTIVE DATE.**—The amendments
4 made by this section shall apply to distribu-
5 tions made after the date of the enactment of
6 this Act.

7 SEC. 404. HARDSHIP EXCEPTION TO 60-DAY RULE.

8 **(a) EXEMPT TRUSTS.**—Paragraph (3) of sec-
9 tion 402(c) (relating to transfer must be made
10 within 60 days of receipt) is amended to read
11 as follows:

12 **“(3) TRANSFER MUST BE MADE WITHIN 60**
13 **DAYS OF RECEIPT.—**

14 **“(A) IN GENERAL.**—Except as pro-
15 vided in subparagraph (B), paragraph
16 (1) shall not apply to any transfer of
17 a distribution made after the 60th
18 day following the day on which the
19 distributee received the property dis-
20 tributed.

21 **“(B) HARDSHIP EXCEPTION.**—The
22 Secretary may waive the 60-day re-
23 quirement under subparagraph (A)
24 where the failure to waive such re-
25 quirement would be against equity or

1 good conscience, including casualty,
2 disaster, or other events beyond the
3 reasonable control of the individual
4 subject to such requirement.”.

5 **(b) IRAs.—**Paragraph (3) of section 408(d)
6 (relating to rollover contributions), as amend-
7 ed by section 403, is amended by adding after
8 subparagraph (H) the following new subpara-
9 graph:

10 **“(I) WAIVER OF 60-DAY REQUIRE-**
11 **MENT.—**The Secretary may waive the
12 60-day requirement under subpara-
13 graphs (A) and (D) where the failure
14 to waive such requirement would be
15 against equity or good conscience, in-
16 cluding casualty, disaster, or other
17 events beyond the reasonable control
18 of the individual subject to such re-
19 quirement.”.

20 **(c) EFFECTIVE DATE.—**The amendments
21 made by this section shall apply to distribu-
22 tions after the date of the enactment of this
23 Act.

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

25 **(a) PLAN TRANSFERS.—**

1 **(1) AMENDMENT OF INTERNAL REVENUE**
2 **CODE.—Paragraph (6) of section 411(d)**
3 **(relating to accrued benefit not to be de-**
4 **creased by amendment) is amended by**
5 **adding at the end the following:**

6 **“(D) PLAN TRANSFERS.—**

7 **“(i) IN GENERAL.—A defined**
8 **contribution plan (in this sub-**
9 **paragraph referred to as the**
10 **‘transferee plan’) shall not be**
11 **treated as failing to meet the re-**
12 **quirements of this subsection**
13 **merely because the transferee**
14 **plan does not provide some or all**
15 **of the forms of distribution pre-**
16 **viously available under another**
17 **defined contribution plan (in this**
18 **subparagraph referred to as the**
19 **‘transferor plan’) to the extent**
20 **that—**

21 **“(I) the forms of distribu-**
22 **tion previously available**
23 **under the transferor plan ap-**
24 **plied to the account of a par-**
25 **ticipant or beneficiary under**

1 the transferor plan that was
2 transferred from the trans-
3 feror plan to the transferee
4 plan pursuant to a direct
5 transfer rather than pursuant
6 to a distribution from the
7 transferor plan,

8 “(II) the terms of both the
9 transferor plan and the trans-
10 feree plan authorize the
11 transfer described in sub-
12 clause (I),

13 “(III) the transfer de-
14 scribed in subclause (I) was
15 made pursuant to a voluntary
16 election by the participant or
17 beneficiary whose account
18 was transferred to the trans-
19 feree plan,

20 “(IV) the election de-
21 scribed in subclause (III) was
22 made after the participant or
23 beneficiary received a notice
24 describing the consequences
25 of making the election, and

1 “(V) the transferee plan
2 allows the participant or ben-
3 eficiary described in sub-
4 clause (III) to receive any dis-
5 tribution to which the partici-
6 pant or beneficiary is entitled
7 under the transferee plan in
8 the form of a single sum dis-
9 tribution.

10 “(ii) EXCEPTION.—Clause (i)
11 shall apply to plan mergers and
12 other transactions having the ef-
13 fect of a direct transfer, including
14 consolidations of benefits attrib-
15 utable to different employers
16 within a multiple employer plan.

17 “(E) ELIMINATION OF FORM OF DIS-
18 TRIBUTION.—Except to the extent pro-
19 vided in regulations, a defined con-
20 tribution plan shall not be treated as
21 failing to meet the requirements of
22 this section merely because of the
23 elimination of a form of distribution
24 previously available thereunder. This
25 subparagraph shall not apply to the

1 **elimination of a form of distribution**
2 **with respect to any participant**
3 **unless—**

4 “(i) a single sum payment is
5 available to such participant at
6 the same time or times as the
7 form of distribution being elimi-
8 nated, and

9 “(ii) such single sum payment
10 is based on the same or greater
11 portion of the participant’s ac-
12 count as the form of distribution
13 being eliminated.”.

14 **(2) AMENDMENT OF ERISA.—Section**
15 **204(g) of the Employee Retirement In-**
16 **come Security Act of 1974 (29 U.S.C.**
17 **1054(g)) is amended by adding at the end**
18 **the following:**

19 “(4)(A) A defined contribution plan (in
20 this subparagraph referred to as the ‘trans-
21 feree plan’) shall not be treated as failing to
22 meet the requirements of this subsection
23 merely because the transferee plan does not
24 provide some or all of the forms of distribu-
25 tion previously available under another de-

1 **financed contribution plan (in this subparagraph**
2 **referred to as the ‘transferor plan’) to the ex-**
3 **tent that—**

4 **“(i) the forms of distribution pre-**
5 **viously available under the transferor**
6 **plan applied to the account of a partici-**
7 **pant or beneficiary under the transferor**
8 **plan that was transferred from the trans-**
9 **feror plan to the transferee plan pursu-**
10 **ant to a direct transfer rather than pur-**
11 **suant to a distribution from the trans-**
12 **feror plan;**

13 **“(ii) the terms of both the transferor**
14 **plan and the transferee plan authorize**
15 **the transfer described in clause (i);**

16 **“(iii) the transfer described in clause**
17 **(i) was made pursuant to a voluntary**
18 **election by the participant or beneficiary**
19 **whose account was transferred to the**
20 **transferee plan;**

21 **“(iv) the election described in clause**
22 **(iii) was made after the participant or**
23 **beneficiary received a notice describing**
24 **the consequences of making the election;**
25 **and**

1 “(v) the transferee plan allows the
2 participant or beneficiary described in
3 clause (iii) to receive any distribution to
4 which the participant or beneficiary is
5 entitled under the transferee plan in the
6 form of a single sum distribution.

7 “(B) Subparagraph (A) shall apply to plan
8 mergers and other transactions having the ef-
9 fect of a direct transfer, including consolida-
10 tions of benefits attributable to different em-
11 ployers within a multiple employer plan.

12 “(5) Except to the extent provided in regu-
13 lations promulgated by the Secretary of the
14 Treasury, a defined contribution plan shall
15 not be treated as failing to meet the require-
16 ments of this subsection merely because of
17 the elimination of a form of distribution pre-
18 viously available thereunder. This paragraph
19 shall not apply to the elimination of a form of
20 distribution with respect to any participant
21 unless—

22 “(A) a single sum payment is available
23 to such participant at the same time or
24 times as the form of distribution being
25 eliminated; and

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

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

8 (b) REGULATIONS.—

9 (1) AMENDMENT OF INTERNAL REVENUE
10 CODE.—Paragraph (6)(B) of section 411(d)
11 (relating to accrued benefit not to be de-
12 creased by amendment) is amended by
13 inserting after the second sentence the
14 following new sentence: “The Secretary
15 shall by regulations provide that this sub-
16 paragraph shall not apply to any plan
17 amendment which reduces or eliminates
18 benefits or subsidies which create signifi-
19 cant burdens or complexities for the plan
20 and plan participants and does not ad-
21 versely affect the rights of any partici-
22 pant in a more than de minimis manner.”.

23 (2) AMENDMENT OF ERISA.—Section
24 204(g)(2) of the Employee Retirement In-
25 come Security Act of 1974 (29 U.S.C.

1 **1054(g)(2)) is amended by inserting before**
2 **the last sentence the following new sen-**
3 **tence: “The Secretary of the Treasury**
4 **shall by regulations provide that this**
5 **paragraph shall not apply to any plan**
6 **amendment which reduces or eliminates**
7 **benefits or subsidies which create signifi-**
8 **cant burdens or complexities for the plan**
9 **and plan participants and does not ad-**
10 **versely affect the rights of any partici-**
11 **pant in a more than de minimis manner.”.**

12 **(3) SECRETARY DIRECTED.—Not later**
13 **than December 31, 2003, the Secretary of**
14 **the Treasury is directed to issue regula-**
15 **tions under section 411(d)(6) of the Inter-**
16 **nal Revenue Code of 1986 and section**
17 **204(g) of the Employee Retirement In-**
18 **come Security Act of 1974, including the**
19 **regulations required by the amendment**
20 **made by this subsection. Such regula-**
21 **tions shall apply to plan years beginning**
22 **after December 31, 2003, or such earlier**
23 **date as is specified by the Secretary of**
24 **the Treasury.**

1 SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-
2 TRIBUTIONS.

3 (a) MODIFICATION OF SAME DESK EXCEP-
4 TION.—

5 (1) SECTION 401(k).—

6 (A) Section 401(k)(2)(B)(i)(I) (re-
7 lating to qualified cash or deferred
8 arrangements) is amended by strik-
9 ing “separation from service” and in-
10 serting “severance from employ-
11 ment”.

12 (B) Subparagraph (A) of section
13 401(k)(10) (relating to distributions
14 upon termination of plan or disposi-
15 tion of assets or subsidiary) is amend-
16 ed to read as follows:

17 “(A) IN GENERAL.—An event de-
18 scribed in this subparagraph is the
19 termination of the plan without es-
20 tablishment or maintenance of an-
21 other defined contribution plan
22 (other than an employee stock owner-
23 ship plan as defined in section
24 4975(e)(7)).”.

25 (C) Section 401(k)(10) is
26 amended—

1 (i) in subparagraph (B)—

2 (I) by striking “An event”
3 in clause (i) and inserting “A
4 termination”; and

5 (II) by striking “the event”
6 in clause (i) and inserting “the
7 termination”;

8 (ii) by striking subparagraph
9 (C); and

10 (iii) by striking “OR DISPOSI-
11 TION OF ASSETS OR SUBSIDIARY” in
12 the heading.

13 (2) SECTION 403(b).—

14 (A) Paragraphs (7)(A)(ii) and
15 (11)(A) of section 403(b) are each
16 amended by striking “separates from
17 service” and inserting “has a sever-
18 ance from employment”.

19 (B) The heading for paragraph
20 (11) of section 403(b) is amended by
21 striking “SEPARATION FROM SERVICE”
22 and inserting “SEVERANCE FROM EM-
23 PLOYMENT”.

24 (3) SECTION 457.—Clause (ii) of section
25 457(d)(1)(A) is amended by striking “is

1 separated from service” and inserting
2 “has a severance from employment”.

3 **(b) EFFECTIVE DATE.**—The amendments
4 made by this section shall apply to distribu-
5 tions after the date of the enactment of this
6 Act.

7 SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-
8 MENTAL DEFINED BENEFIT PLANS.

9 **(a) 403(b) PLANS.**—Subsection (b) of sec-
10 tion 403 is amended by adding at the end the
11 following new paragraph:

12 **“(13) TRUSTEE-TO-TRUSTEE TRANSFERS**
13 **TO PURCHASE PERMISSIVE SERVICE CREDIT.—**
14 **No amount shall be includible in gross in-**
15 **come by reason of a direct trustee-to-**
16 **trustee transfer to a defined benefit gov-**
17 **ernmental plan (as defined in section**
18 **414(d)) if such transfer is—**

19 **“(A) for the purchase of permis-**
20 **sive service credit (as defined in sec-**
21 **tion 415(n)(3)(A)) under such plan, or**

22 **“(B) a repayment to which section**
23 **415 does not apply by reason of sub-**
24 **section (k)(3) thereof.”.**

1 **(b) 457 PLANS.—**Subsection (e) of section
2 **457** is amended by adding after paragraph
3 **(16)** the following new paragraph:

4 **“(17) TRUSTEE-TO-TRUSTEE TRANSFERS**
5 **TO PURCHASE PERMISSIVE SERVICE CREDIT.—**
6 **No amount shall be includible in gross in-**
7 **come by reason of a direct trustee-to-**
8 **trustee transfer to a defined benefit gov-**
9 **ernmental plan (as defined in section**
10 **414(d)) if such transfer is—**

11 **“(A) for the purchase of permis-**
12 **sive service credit (as defined in sec-**
13 **tion 415(n)(3)(A)) under such plan, or**

14 **“(B) a repayment to which section**
15 **415 does not apply by reason of sub-**
16 **section (k)(3) thereof.”.**

17 **(c) EFFECTIVE DATE.—**The amendments
18 **made by this section shall apply to trustee-to-**
19 **trustee transfers after the date of the enact-**
20 **ment of this Act.**

21 **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
22 **PURPOSES OF CASH-OUT AMOUNTS.**

23 **(a) QUALIFIED PLANS.—**

24 **(1) AMENDMENT OF INTERNAL REVENUE**
25 **CODE.—Section 411(a)(11) (relating to re-**

1 **strictions on certain mandatory distribu-**
2 **tions) is amended by adding at the end**
3 **the following:**

4 **“(D) SPECIAL RULE FOR ROLLOVER**
5 **CONTRIBUTIONS.—A plan shall not fail**
6 **to meet the requirements of this para-**
7 **graph if, under the terms of the plan,**
8 **the present value of the nonforfeit-**
9 **able accrued benefit is determined**
10 **without regard to that portion of**
11 **such benefit which is attributable to**
12 **rollover contributions (and earnings**
13 **allocable thereto). For purposes of**
14 **this subparagraph, the term ‘rollover**
15 **contributions’ means any rollover**
16 **contribution under sections 402(c),**
17 **403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),**
18 **and 457(e)(16).”.**

19 **(2) AMENDMENT OF ERISA.—Section**
20 **203(e) of the Employee Retirement In-**
21 **come Security Act of 1974 (29 U.S.C.**
22 **1053(c)) is amended by adding at the end**
23 **the following:**

24 **“(4) A plan shall not fail to meet the re-**
25 **quirements of this subsection if, under the**

1 terms of the plan, the present value of the
 2 nonforfeitable accrued benefit is determined
 3 without regard to that portion of such benefit
 4 which is attributable to rollover contributions
 5 (and earnings allocable thereto). For purposes
 6 of this subparagraph, the term ‘rollover con-
 7 tributions’ means any rollover contribution
 8 under sections 402(c), 403(a)(4), 403(b)(8),
 9 408(d)(3)(A)(ii), and 457(e)(16) of the Internal
 10 Revenue Code of 1986.”.

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

17 (c) EFFECTIVE DATE.—The amendments
 18 made by this section shall apply to distribu-
 19 tions after December 31, 2001.

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

22 (a) MINIMUM DISTRIBUTION REQUIRE-
 23 MENTS.—Paragraph (2) of section 457(d) (relat-
 24 ing to distribution requirements) is amended
 25 to read as follows:

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

6 **(b) INCLUSION IN GROSS INCOME.—**

7 **(1) YEAR OF INCLUSION.—Subsection (a)**
8 **of section 457 (relating to year of inclu-**
9 **sion in gross income) is amended to read**
10 **as follows:**

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

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

19 **“(A) is paid to the participant or**
20 **other beneficiary, in the case of a**
21 **plan of an eligible employer de-**
22 **scribed in subsection (e)(1)(A), and**

23 **“(B) is paid or otherwise made**
24 **available to the participant or other**
25 **beneficiary, in the case of a plan of**

1 **an eligible employer described in sub-**
2 **section (e)(1)(B).**

3 **“(2) SPECIAL RULE FOR ROLLOVER**
4 **AMOUNTS.—To the extent provided in sec-**
5 **tion 72(t)(9), section 72(t) shall apply to**
6 **any amount includible in gross income**
7 **under this subsection.”.**

8 **(2) CONFORMING AMENDMENTS.—**

9 **(A) So much of paragraph (9) of**
10 **section 457(e) as precedes subpara-**
11 **graph (A) is amended to read as fol-**
12 **lows:**

13 **“(9) BENEFITS OF TAX EXEMPT ORGANI-**
14 **ZATION PLANS NOT TREATED AS MADE AVAIL-**
15 **ABLE BY REASON OF CERTAIN ELECTIONS,**
16 **ETC.—In the case of an eligible deferred**
17 **compensation plan of an employer de-**
18 **scribed in subsection (e)(1)(B)—”.**

19 **(B) Section 457(d) is amended by**
20 **adding at the end the following new**
21 **paragraph:**

22 **“(3) SPECIAL RULE FOR GOVERNMENT**
23 **PLAN.—An eligible deferred compensation**
24 **plan of an employer described in sub-**
25 **section (e)(1)(A) shall not be treated as**

1 failing to meet the requirements of this
 2 subsection solely by reason of making a
 3 distribution described in subsection
 4 (e)(9)(A).”.

5 (c) **EFFECTIVE DATE.**—The amendments
 6 made by this section shall apply to distribu-
 7 tions after the date of the enactment of this
 8 Act.

9 **TITLE V—STRENGTHENING PEN-**
 10 **SION SECURITY AND EN-**
 11 **FORCEMENT**

12 **SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY**
 13 **FUNDING LIMIT.**

14 (a) **AMENDMENT OF INTERNAL REVENUE**
 15 **CODE.**—Section 412(c)(7) (relating to full-fund-
 16 ing limitation) is amended—

17 (1) by striking “the applicable per-
 18 centage” in subparagraph (A)(i)(I) and in-
 19 serting “in the case of plan years begin-
 20 ning before January 1, 2004, the applica-
 21 ble percentage”; and

22 (2) by amending subparagraph (F) to
 23 read as follows:

24 “(F) **APPLICABLE PERCENTAGE.**—For
 25 purposes of subparagraph (A)(i)(I),

the applicable percentage shall be determined in accordance with the following table:

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

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

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

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

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

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

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

4 **SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES**
5 **MODIFIED AND APPLIED TO ALL DEFINED**
6 **BENEFIT PLANS.**

7 **(a) IN GENERAL.—**Subparagraph (D) of sec-
8 tion 404(a)(1) (relating to special rule in case
9 of certain plans) is amended to read as fol-
10 lows:

11 **“(D) SPECIAL RULE IN CASE OF CER-**
12 **TAIN PLANS.—**

13 **“(i) IN GENERAL.—**In the case
14 of any defined benefit plan, ex-
15 cept as provided in regulations,
16 the maximum amount deductible
17 under the limitations of this para-
18 graph shall not be less than the
19 unfunded termination liability
20 (determined as if the proposed
21 termination date referred to in
22 section 4041(b)(2)(A)(i)(II) of the
23 Employee Retirement Income Se-
24 curity Act of 1974 were the last
25 day of the plan year).

1 **“(ii) PLANS WITH LESS THAN 100**
2 **PARTICIPANTS.—For purposes of**
3 **this subparagraph, in the case of**
4 **a plan which has less than 100**
5 **participants for the plan year,**
6 **termination liability shall not in-**
7 **clude the liability attributable to**
8 **benefit increases for highly com-**
9 **pensated employees (as defined in**
10 **section 414(q)) resulting from a**
11 **plan amendment which is made**
12 **or becomes effective, whichever is**
13 **later, within the last 2 years be-**
14 **fore the termination date.**

15 **“(iii) RULE FOR DETERMINING**
16 **NUMBER OF PARTICIPANTS.—For**
17 **purposes of determining whether**
18 **a plan has more than 100 partici-**
19 **pants, all defined benefit plans**
20 **maintained by the same employer**
21 **(or any member of such employ-**
22 **er’s controlled group (within the**
23 **meaning of section 412(l)(8)(C)))**
24 **shall be treated as one plan, but**
25 **only employees of such member**

1 or employer shall be taken into
2 account.

3 “(iv) PLANS MAINTAINED BY
4 PROFESSIONAL SERVICE EMPLOY-
5 ERS.—Clause (i) shall not apply to
6 a plan described in section
7 4021(b)(13) of the Employee Re-
8 tirement Income Security Act of
9 1974.”.

10 (b) CONFORMING AMENDMENT.—Paragraph
11 (6) of section 4972(c) is amended to read as fol-
12 lows:

13 “(6) EXCEPTIONS.—In determining the
14 amount of nondeductible contributions
15 for any taxable year, there shall not be
16 taken into account so much of the con-
17 tributions to one or more defined con-
18 tribution plans which are not deductible
19 when contributed solely because of sec-
20 tion 404(a)(7) as does not exceed the
21 greater of—

22 “(A) the amount of contributions
23 not in excess of 6 percent of com-
24 pensation (within the meaning of sec-
25 tion 404(a)) paid or accrued (during

1 the taxable year for which the con-
2 tributions were made) to bene-
3 ficiaries under the plans, or

4 “(B) the sum of—

5 “(i) the amount of contribu-
6 tions described in section
7 401(m)(4)(A), plus

8 “(ii) the amount of contribu-
9 tions described in section
10 402(g)(3)(A).

11 For purposes of this paragraph, the de-
12 ductible limits under section 404(a)(7)
13 shall first be applied to amounts contrib-
14 uted to a defined benefit plan and then to
15 amounts described in subparagraph (B).”.

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

19 SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-
20 ING.

21 (a) IN GENERAL.—Subsection (c) of section
22 4972 (relating to nondeductible contributions)
23 is amended by adding at the end the following
24 new paragraph:

1 **“(7) DEFINED BENEFIT PLAN EXCEP-**
2 **TION.—In determining the amount of non-**
3 **deductible contributions for any taxable**
4 **year, an employer may elect for such year**
5 **not to take into account any contribu-**
6 **tions to a defined benefit plan except to**
7 **the extent that such contributions exceed**
8 **the full-funding limitation (as defined in**
9 **section 412(c)(7), determined without re-**
10 **gard to subparagraph (A)(i)(I) thereof).**
11 **For purposes of this paragraph, the de-**
12 **ductible limits under section 404(a)(7)**
13 **shall first be applied to amounts contrib-**
14 **uted to defined contribution plans and**
15 **then to amounts described in this para-**
16 **graph. If an employer makes an election**
17 **under this paragraph for a taxable year,**
18 **paragraph (6) shall not apply to such em-**
19 **ployer for such taxable year.”.**

20 **(b) EFFECTIVE DATE.—The amendment**
21 **made by this section shall apply to years be-**
22 **ginning after December 31, 2001.**

1 SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY
2 DEFINED BENEFIT PLANS SIGNIFICANTLY
3 REDUCING FUTURE BENEFIT ACCRUALS.

4 (a) AMENDMENT OF INTERNAL REVENUE
5 CODE.—

6 (1) IN GENERAL.—Chapter 43 (relating
7 to qualified pension, etc., plans) is
8 amended by adding at the end the fol-
9 lowing new section:

10 “SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING
11 BENEFIT ACCRUALS TO SATISFY NOTICE RE-
12 QUIREMENTS.

13 “(a) IMPOSITION OF TAX.—There is hereby
14 imposed a tax on the failure of any applicable
15 pension plan to meet the requirements of sub-
16 section (e) with respect to any applicable indi-
17 vidual.

18 “(b) AMOUNT OF TAX.—

19 “(1) IN GENERAL.—The amount of the
20 tax imposed by subsection (a) on any fail-
21 ure with respect to any applicable indi-
22 vidual shall be \$100 for each day in the
23 noncompliance period with respect to
24 such failure.

25 “(2) NONCOMPLIANCE PERIOD.—For pur-
26 poses of this section, the term ‘non-

1 compliance period’ means, with respect
2 to any failure, the period beginning on
3 the date the failure first occurs and end-
4 ing on the date the failure is corrected.

5 “(c) LIMITATIONS ON AMOUNT OF TAX.—

6 “(1) OVERALL LIMITATION FOR UNINTEN-
7 TIONAL FAILURES.—In the case of failures
8 that are due to reasonable cause and not
9 to willful neglect, the tax imposed by sub-
10 section (a) for failures during the taxable
11 year of the employer (or, in the case of a
12 multiemployer plan, the taxable year of
13 the trust forming part of the plan) shall
14 not exceed \$500,000. For purposes of the
15 preceding sentence, all multiemployer
16 plans of which the same trust forms a
17 part shall be treated as one plan. For
18 purposes of this paragraph, if not all per-
19 sons who are treated as a single employer
20 for purposes of this section have the
21 same taxable year, the taxable years
22 taken into account shall be determined
23 under principles similar to the principles
24 of section 1561.

1 **“(2) WAIVER BY SECRETARY.—In the**
2 **case of a failure which is due to reason-**
3 **able cause and not to willful neglect, the**
4 **Secretary may waive part or all of the tax**
5 **imposed by subsection (a) to the extent**
6 **that the payment of such tax would be**
7 **excessive relative to the failure involved.**

8 **“(d) LIABILITY FOR TAX.—The following**
9 **shall be liable for the tax imposed by sub-**
10 **section (a):**

11 **“(1) In the case of a plan other than a**
12 **multiemployer plan, the employer.**

13 **“(2) In the case of a multiemployer**
14 **plan, the plan.**

15 **“(e) NOTICE REQUIREMENTS FOR PLANS SIG-**
16 **NIFICANTLY REDUCING BENEFIT ACCRUALS.—**

17 **“(1) IN GENERAL.—If an applicable**
18 **pension plan is amended to provide for a**
19 **significant reduction in the rate of future**
20 **benefit accrual, the plan administrator**
21 **shall provide written notice to each ap-**
22 **plicable individual (and to each employee**
23 **organization representing applicable in-**
24 **dividuals).**

1 **“(2) NOTICE.—The notice required by**
2 **paragraph (1) shall be written in a man-**
3 **ner calculated to be understood by the**
4 **average plan participant and shall pro-**
5 **vide sufficient information (as deter-**
6 **mined in accordance with regulations**
7 **prescribed by the Secretary) to allow ap-**
8 **plicable individuals to understand the ef-**
9 **fect of the plan amendment. The Sec-**
10 **retary may provide a simplified form of**
11 **notice for, or exempt from any notice re-**
12 **quirement, a plan—**

13 **“(A) which has fewer than 100**
14 **participants who have accrued a ben-**
15 **efit under the plan, or**

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

20 **“(3) TIMING OF NOTICE.—Except as pro-**
21 **vided in regulations, the notice required**
22 **by paragraph (1) shall be provided within**
23 **a reasonable time before the effective**
24 **date of the plan amendment.**

1 **“(4) DESIGNEES.—Any notice under**
2 **paragraph (1) may be provided to a per-**
3 **son designated, in writing, by the person**
4 **to which it would otherwise be provided.**

5 **“(5) NOTICE BEFORE ADOPTION OF**
6 **AMENDMENT.—A plan shall not be treated**
7 **as failing to meet the requirements of**
8 **paragraph (1) merely because notice is**
9 **provided before the adoption of the plan**
10 **amendment if no material modification of**
11 **the amendment occurs before the amend-**
12 **ment is adopted.**

13 **“(f) DEFINITIONS AND SPECIAL RULES.—For**
14 **purposes of this section—**

15 **“(1) APPLICABLE INDIVIDUAL.—The**
16 **term ‘applicable individual’ means, with**
17 **respect to any plan amendment—**

18 **“(A) each participant in the plan,**
19 **and**

20 **“(B) any beneficiary who is an al-**
21 **ternate payee (within the meaning of**
22 **section 414(p)(8)) under an applicable**
23 **qualified domestic relations order**
24 **(within the meaning of section**
25 **414(p)(1)(A)),**

1 **whose rate of future benefit accrual**
2 **under the plan may reasonably be ex-**
3 **pected to be significantly reduced by**
4 **such plan amendment.**

5 **“(2) APPLICABLE PENSION PLAN.—The**
6 **term ‘applicable pension plan’ means—**

7 **“(A) any defined benefit plan, or**

8 **“(B) an individual account plan**
9 **which is subject to the funding stand-**
10 **ards of section 412.**

11 **Such term shall not include a govern-**
12 **mental plan (within the meaning of sec-**
13 **tion 414(d)) or a church plan (within the**
14 **meaning of section 414(e)) with respect to**
15 **which the election provided by section**
16 **410(d) has not been made.**

17 **“(3) EARLY RETIREMENT.—A plan**
18 **amendment which eliminates or signifi-**
19 **cantly reduces any early retirement ben-**
20 **efit or retirement-type subsidy (within**
21 **the meaning of section 411(d)(6)(B)(i))**
22 **shall be treated as having the effect of**
23 **significantly reducing the rate of future**
24 **benefit accrual.**

1 “(g) NEW TECHNOLOGIES.—The Secretary
2 may by regulations allow any notice under
3 subsection (e) to be provided by using new
4 technologies.”.

5 (2) CLERICAL AMENDMENT.—The table
6 of sections for chapter 43 is amended by
7 adding at the end the following new item:

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

8 (b) AMENDMENT OF ERISA.—Section 204(h)
9 of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1054(h)) is amended by
11 adding at the end the following new para-
12 graphs:

13 “(3)(A) An applicable pension plan to
14 which paragraph (1) applies shall not be
15 treated as meeting the requirements of such
16 paragraph unless, in addition to any notice
17 required to be provided to an individual or
18 organization under such paragraph, the plan
19 administrator provides the notice described
20 in subparagraph (B) to each applicable indi-
21 vidual (and to each employee organization
22 representing applicable individuals).

23 “(B) The notice required by subparagraph
24 (A) shall be written in a manner calculated to

1 be understood by the average plan partici-
2 pant and shall provide sufficient information
3 (as determined in accordance with regula-
4 tions prescribed by the Secretary of the
5 Treasury) to allow applicable individuals to
6 understand the effect of the plan amendment.
7 The Secretary of the Treasury may provide a
8 simplified form of notice for, or exempt from
9 any notice requirement, a plan—

10 “(i) which has fewer than 100 partici-
11 pants who have accrued a benefit under
12 the plan, or

13 “(ii) which offers participants the op-
14 tion to choose between the new benefit
15 formula and the old benefit formula.

16 “(C) Except as provided in regulations
17 prescribed by the Secretary of the Treasury,
18 the notice required by subparagraph (A) shall
19 be provided within a reasonable time before
20 the effective date of the plan amendment.

21 “(D) Any notice under subparagraph (A)
22 may be provided to a person designated, in
23 writing, by the person to which it would oth-
24 erwise be provided.

1 “(E) A plan shall not be treated as failing
2 to meet the requirements of subparagraph (A)
3 merely because notice is provided before the
4 adoption of the plan amendment if no mate-
5 rial modification of the amendment occurs be-
6 fore the amendment is adopted.

7 “(F) The Secretary of the Treasury may by
8 regulations allow any notice under this para-
9 graph to be provided by using new tech-
10 nologies.

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

12 “(A) The term ‘applicable individual’
13 means, with respect to any plan
14 amendment—

15 “(i) each participant in the plan;
16 and

17 “(ii) any beneficiary who is an al-
18 ternate payee (within the meaning of
19 section 206(d)(3)(K)) under an appli-
20 cable qualified domestic relations
21 order (within the meaning of section
22 206(d)(3)(B)(i)),

23 whose rate of future benefit accrual
24 under the plan may reasonably be ex-

1 pected to be significantly reduced by
2 such plan amendment.

3 “(B) The term ‘applicable pension
4 plan’ means—

5 “(i) any defined benefit plan; or

6 “(ii) an individual account plan
7 which is subject to the funding stand-
8 ards of section 412 of the Internal
9 Revenue Code of 1986.

10 “(C) A plan amendment which elimi-
11 nates or significantly reduces any early
12 retirement benefit or retirement-type
13 subsidy (within the meaning of sub-
14 section (g)(2)(A)) shall be treated as hav-
15 ing the effect of significantly reducing
16 the rate of future benefit accrual.”.

17 (c) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendments
19 made by this section shall apply to plan
20 amendments taking effect on or after the
21 date of the enactment of this Act.

22 (2) TRANSITION.—Until such time as
23 the Secretary of the Treasury issues regu-
24 lations under sections 4980F(e)(2) and (3)
25 of the Internal Revenue Code of 1986, and

1 **section 204(h)(3) of the Employee Retirement**
2 **Income Security Act of 1974, as**
3 **added by the amendments made by this**
4 **section, a plan shall be treated as meet-**
5 **ing the requirements of such sections if it**
6 **makes a good faith effort to comply with**
7 **such requirements.**

8 **(3) SPECIAL NOTICE RULE.—The period**
9 **for providing any notice required by the**
10 **amendments made by this section shall**
11 **not end before the date which is 3**
12 **months after the date of the enactment of**
13 **this Act.**

14 **(4) REASONABLE NOTICE.—The amend-**
15 **ments made by this section shall not**
16 **apply to any plan amendment taking ef-**
17 **fect on or after the date of the enactment**
18 **of this Act if, before April 25, 2001, notice**
19 **was provided to participants and bene-**
20 **ficiaries adversely affected by the plan**
21 **amendment (or their representatives)**
22 **which was reasonably expected to notify**
23 **them of the nature and effective date of**
24 **the plan amendment.**

1 **(d) STUDY.—The Secretary of the Treasury**
2 **shall prepare a report on the effects of con-**
3 **versions of traditional defined benefit plans**
4 **to cash balance or hybrid formula plans. Such**
5 **study shall examine the effect of such conver-**
6 **sions on longer service participants, includ-**
7 **ing the incidence and effects of “wear away”**
8 **provisions under which participants earn no**
9 **additional benefits for a period of time after**
10 **the conversion. As soon as practicable, but**
11 **not later than 60 days after the date of the en-**
12 **actment of this Act, the Secretary shall submit**
13 **such report, together with recommendations**
14 **thereon, to the Committee on Ways and Means**
15 **and the Committee on Education and the**
16 **Workforce of the House of Representatives**
17 **and the Committee on Finance and the Com-**
18 **mittee on Health, Education, Labor, and Pen-**
19 **sions of the Senate.**

20 **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
21 **SECTION 415.**

22 **(a) COMPENSATION LIMIT.—**

23 **(1) IN GENERAL.—Paragraph (11) of**
24 **section 415(b) (relating to limitation for**

1 **defined benefit plans) is amended to read**
2 **as follows:**

3 **“(11) SPECIAL LIMITATION RULE FOR**
4 **GOVERNMENTAL AND MULTIEMPLOYER**
5 **PLANS.—In the case of a governmental**
6 **plan (as defined in section 414(d)) or a**
7 **multiemployer plan (as defined in section**
8 **414(f)), subparagraph (B) of paragraph (1)**
9 **shall not apply.”.**

10 **(2) CONFORMING AMENDMENT.—Section**
11 **415(b)(7) (relating to benefits under cer-**
12 **tain collectively bargained plans) is**
13 **amended by inserting “(other than a mul-**
14 **tiemployer plan)” after “defined benefit**
15 **plan” in the matter preceding subpara-**
16 **graph (A).**

17 **(b) COMBINING AND AGGREGATION OF**
18 **PLANS.—**

19 **(1) COMBINING OF PLANS.—Subsection**
20 **(f) of section 415 (relating to combining of**
21 **plans) is amended by adding at the end**
22 **the following:**

23 **“(3) EXCEPTION FOR MULTIEMPLOYER**
24 **PLANS.—Notwithstanding paragraph (1)**
25 **and subsection (g), a multiemployer plan**

1 (as defined in section 414(f)) shall not be
2 combined or aggregated with any other
3 plan maintained by an employer for pur-
4 poses of applying the limitations estab-
5 lished in this section, except that such
6 plan shall be combined or aggregated
7 with another plan which is not such a
8 multiemployer plan solely for purposes of
9 determining whether such other plan
10 meets the requirements of subsections
11 (b)(1)(A) and (c).”.

12 (2) CONFORMING AMENDMENT FOR AG-
13 GREGATION OF PLANS.—Subsection (g) of
14 section 415 (relating to aggregation of
15 plans) is amended by striking “The Sec-
16 retary” and inserting “Except as provided
17 in subsection (f)(3), the Secretary”.

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

21 SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE

22 CONTRIBUTIONS TO 401(K) PLANS.

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

1 **“(b) EFFECTIVE DATE.—**

2 **“(1) IN GENERAL.—Except as provided**
3 **in paragraph (2), the amendments made**
4 **by this section shall apply to elective de-**
5 **ferrals for plan years beginning after De-**
6 **cember 31, 1998.**

7 **“(2) NONAPPLICATION TO PREVIOUSLY**
8 **ACQUIRED PROPERTY.—The amendments**
9 **made by this section shall not apply to**
10 **any elective deferral which is invested in**
11 **assets consisting of qualifying employer**
12 **securities, qualifying employer real prop-**
13 **erty, or both, if such assets were acquired**
14 **before January 1, 1999.”.**

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

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

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

1 **“SEC. 105. (a)(1)(A) The administrator of**
2 **an individual account plan shall furnish a**
3 **pension benefit statement—**

4 **“(i) to a plan participant at least once**
5 **annually, and**

6 **“(ii) to a plan beneficiary upon writ-**
7 **ten request.**

8 **“(B) The administrator of a defined ben-**
9 **efit plan shall furnish a pension benefit**
10 **statement—**

11 **“(i) at least once every 3 years to each**
12 **participant with a nonforfeitable accrued**
13 **benefit who is employed by the employer**
14 **maintaining the plan at the time the**
15 **statement is furnished to participants,**
16 **and**

17 **“(ii) to a plan participant or plan ben-**
18 **eficiary of the plan upon written request.**

19 **“(2) A pension benefit statement under**
20 **paragraph (1)—**

21 **“(A) shall indicate, on the basis of the**
22 **latest available information—**

23 **“(i) the total benefits accrued, and**

24 **“(ii) the nonforfeitable pension**
25 **benefits, if any, which have accrued,**

1 or the earliest date on which benefits
2 will become nonforfeitable,

3 “(B) shall be written in a manner cal-
4 culated to be understood by the average
5 plan participant, and

6 “(C) may be provided in written, elec-
7 tronic, or other appropriate form.

8 “(3)(A) In the case of a defined benefit
9 plan, the requirements of paragraph (1)(B)(i)
10 shall be treated as met with respect to a par-
11 ticipant if the administrator provides the par-
12 ticipant at least once each year with notice of
13 the availability of the pension benefit state-
14 ment and the ways in which the participant
15 may obtain such statement. Such notice shall
16 be provided in written, electronic, or other
17 appropriate form, and may be included with
18 other communications to the participant if
19 done in a manner reasonably designed to at-
20 tract the attention of the participant.

21 “(B) The Secretary may provide that years
22 in which no employee or former employee
23 benefits (within the meaning of section 410(b)
24 of the Internal Revenue Code of 1986) under
25 the plan need not be taken into account in de-

1 **termining the 3-year period under paragraph**
2 **(1)(B)(i).”.**

3 **(b) CONFORMING AMENDMENTS.—**

4 **(1) Section 105 of the Employee Re-**
5 **irement Income Security Act of 1974 (29**
6 **U.S.C. 1025) is amended by striking sub-**
7 **section (d).**

8 **(2) Section 105(b) of such Act (29**
9 **U.S.C. 1025(b)) is amended to read as fol-**
10 **lows:**

11 **“(b) In no case shall a participant or bene-**
12 **ficiary of a plan be entitled to more than one**
13 **statement described in subsection (a)(1)(A) or**
14 **(a)(1)(B)(ii), whichever is applicable, in any**
15 **12-month period.”.**

16 **(c) MODEL STATEMENTS.—The Secretary of**
17 **Labor shall develop a model benefit state-**
18 **ment, written in a manner calculated to be**
19 **understood by the average plan participant,**
20 **that may be used by plan administrators in**
21 **complying with the requirements of section**
22 **105 of the Employee Retirement Income Secu-**
23 **rity Act of 1974.**

1 **(d) EFFECTIVE DATE.—**The amendments
2 made by this section shall apply to plan years
3 beginning after December 31, 2002.

4 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
5 **PORATION ESOP.**

6 **(a) IN GENERAL.—**Section 409 (relating to
7 qualifications for tax credit employee stock
8 ownership plans) is amended by redesignig-
9 nating subsection (p) as subsection (q) and by
10 inserting after subsection (o) the following
11 new subsection:

12 **“(p) PROHIBITED ALLOCATIONS OF SECURI-**
13 **TIES IN AN S CORPORATION.—**

14 **“(1) IN GENERAL.—**An employee stock
15 ownership plan holding employer securi-
16 ties consisting of stock in an S corpora-
17 tion shall provide that no portion of the
18 assets of the plan attributable to (or allo-
19 cable in lieu of) such employer securities
20 may, during a nonallocation year, accrue
21 (or be allocated directly or indirectly
22 under any plan of the employer meeting
23 the requirements of section 401(a)) for
24 the benefit of any disqualified person.

25 **“(2) FAILURE TO MEET REQUIREMENTS.—**

1 **“(A) IN GENERAL.—If a plan fails to**
2 **meet the requirements of paragraph**
3 **(1), the plan shall be treated as hav-**
4 **ing distributed to any disqualified**
5 **person the amount allocated to the**
6 **account of such person in violation of**
7 **paragraph (1) at the time of such allo-**
8 **cation.**

9 **“(B) CROSS REFERENCE.—**

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

10 **“(3) NONALLOCATION YEAR.—For pur-**
11 **poses of this subsection—**

12 **“(A) IN GENERAL.—The term ‘non-**
13 **allocation year’ means any plan year**
14 **of an employee stock ownership plan**
15 **if, at any time during such plan**
16 **year—**

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

20 **“(ii) disqualified persons own**
21 **at least 50 percent of the number**
22 **of shares of stock in the S cor-**
23 **poration.**

1 **“(B) ATTRIBUTION RULES.—For pur-**
2 **poses of subparagraph (A)—**

3 **“(i) IN GENERAL.—The rules of**
4 **section 318(a) shall apply for pur-**
5 **poses of determining ownership,**
6 **except that—**

7 **“(I) in applying paragraph**
8 **(1) thereof, the members of an**
9 **individual’s family shall in-**
10 **clude members of the family**
11 **described in paragraph (4)(D),**
12 **and**

13 **“(II) paragraph (4) thereof**
14 **shall not apply.**

15 **“(ii) DEEMED-OWNED SHARES.—**
16 **Notwithstanding the employee**
17 **trust exception in section**
18 **318(a)(2)(B)(i), individual shall be**
19 **treated as owning deemed-owned**
20 **shares of the individual.**

21 **Solely for purposes of applying para-**
22 **graph (5), this subparagraph shall be**
23 **applied after the attribution rules of**
24 **paragraph (5) have been applied.**

1 **“(4) DISQUALIFIED PERSON.—For pur-**
2 **poses of this subsection—**

3 **“(A) IN GENERAL.—The term ‘dis-**
4 **qualified person’ means any person**
5 **if—**

6 **“(i) the aggregate number of**
7 **deemed-owned shares of such**
8 **person and the members of such**
9 **person’s family is at least 20 per-**
10 **cent of the number of deemed-**
11 **owned shares of stock in the S**
12 **corporation, or**

13 **“(ii) in the case of a person**
14 **not described in clause (i), the**
15 **number of deemed-owned shares**
16 **of such person is at least 10 per-**
17 **cent of the number of deemed-**
18 **owned shares of stock in such**
19 **corporation.**

20 **“(B) TREATMENT OF FAMILY MEM-**
21 **BERS.—In the case of a disqualified**
22 **person described in subparagraph**
23 **(A)(i), any member of such person’s**
24 **family with deemed-owned shares**
25 **shall be treated as a disqualified per-**

1 son if not otherwise treated as a dis-
2 qualified person under subparagraph
3 (A).

4 “(C) DEEMED-OWNED SHARES.—

5 “(i) IN GENERAL.—The term
6 ‘deemed-owned shares’ means,
7 with respect to any person—

8 “(I) the stock in the S cor-
9 poration constituting em-
10 ployer securities of an em-
11 ployee stock ownership plan
12 which is allocated to such
13 person under the plan, and

14 “(II) such person’s share
15 of the stock in such corpora-
16 tion which is held by such
17 plan but which is not allo-
18 cated under the plan to par-
19 ticipants.

20 “(ii) PERSON’S SHARE OF
21 UNALLOCATED STOCK.—For pur-
22 poses of clause (i)(II), a person’s
23 share of unallocated S corpora-
24 tion stock held by such plan is the
25 amount of the unallocated stock

1 which would be allocated to such
2 person if the unallocated stock
3 were allocated to all participants
4 in the same proportions as the
5 most recent stock allocation
6 under the plan.

7 “(D) MEMBER OF FAMILY.—For pur-
8 poses of this paragraph, the term
9 ‘member of the family’ means, with
10 respect to any individual—

11 “(i) the spouse of the indi-
12 vidual,

13 “(ii) an ancestor or lineal de-
14 scendant of the individual or the
15 individual’s spouse,

16 “(iii) a brother or sister of the
17 individual or the individual’s
18 spouse and any lineal descendant
19 of the brother or sister, and

20 “(iv) the spouse of any indi-
21 vidual described in clause (ii) or
22 (iii).

23 A spouse of an individual who is le-
24 gally separated from such individual
25 under a decree of divorce or separate

1 maintenance shall not be treated as
2 such individual's spouse for purposes
3 of this subparagraph.

4 “(5) TREATMENT OF SYNTHETIC EQ-
5 UITY.—For purposes of paragraphs (3) and
6 (4), in the case of a person who owns syn-
7 thetic equity in the S corporation, except
8 to the extent provided in regulations, the
9 shares of stock in such corporation on
10 which such synthetic equity is based
11 shall be treated as outstanding stock in
12 such corporation and deemed-owned
13 shares of such person if such treatment
14 of synthetic equity of 1 or more such per-
15 sons results in—

16 “(A) the treatment of any person
17 as a disqualified person, or

18 “(B) the treatment of any year as
19 a nonallocation year.

20 For purposes of this paragraph, synthetic
21 equity shall be treated as owned by a per-
22 son in the same manner as stock is treat-
23 ed as owned by a person under the rules
24 of paragraphs (2) and (3) of section
25 318(a). If, without regard to this para-

1 **graph, a person is treated as a disquali-**
2 **fied person or a year is treated as a non-**
3 **allocation year, this paragraph shall not**
4 **be construed to result in the person or**
5 **year not being so treated.**

6 **“(6) DEFINITIONS.—For purposes of**
7 **this subsection—**

8 **“(A) EMPLOYEE STOCK OWNERSHIP**
9 **PLAN.—The term ‘employee stock own-**
10 **ership plan’ has the meaning given**
11 **such term by section 4975(e)(7).**

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

16 **“(C) SYNTHETIC EQUITY.—The term**
17 **‘synthetic equity’ means any stock op-**
18 **tion, warrant, restricted stock, de-**
19 **ferred issuance stock right, or similar**
20 **interest or right that gives the holder**
21 **the right to acquire or receive stock**
22 **of the S corporation in the future. Ex-**
23 **cept to the extent provided in regula-**
24 **tions, synthetic equity also includes a**
25 **stock appreciation right, phantom**

1 stock unit, or similar right to a future
2 cash payment based on the value of
3 such stock or appreciation in such
4 value.

5 “(7) REGULATIONS.—The Secretary
6 shall prescribe such regulations as may
7 be necessary to carry out the purposes of
8 this subsection.”.

9 (b) COORDINATION WITH SECTION
10 4975(e)(7).—The last sentence of section
11 4975(e)(7) (defining employee stock owner-
12 ship plan) is amended by inserting “, section
13 409(p),” after “409(n)”.

14 (c) EXCISE TAX.—

15 (1) APPLICATION OF TAX.—Subsection
16 (a) of section 4979A (relating to tax on
17 certain prohibited allocations of em-
18 ployer securities) is amended—

19 (A) by striking “or” at the end of
20 paragraph (1), and

21 (B) by striking all that follows
22 paragraph (2) and inserting the fol-
23 lowing:

24 “(3) there is any allocation of em-
25 ployer securities which violates the pro-

1 visions of section 409(p), or a nonalloca-
2 tion year described in subsection (e)(2)(C)
3 with respect to an employee stock owner-
4 ship plan, or

5 “(4) any synthetic equity is owned by
6 a disqualified person in any nonalloca-
7 tion year,

8 there is hereby imposed a tax on such alloca-
9 tion or ownership equal to 50 percent of the
10 amount involved.”.

11 (2) **LIABILITY.**—Section 4979A(c) (de-
12 fining liability for tax) is amended to
13 read as follows:

14 “(c) **LIABILITY FOR TAX.**—The tax imposed
15 by this section shall be paid—

16 “(1) in the case of an allocation re-
17 ferred to in paragraph (1) or (2) of sub-
18 section (a), by—

19 “(A) the employer sponsoring
20 such plan, or

21 “(B) the eligible worker-owned co-
22 operative,

23 which made the written statement de-
24 scribed in section 664(g)(1)(E) or in sec-

1 **tion 1042(b)(3)(B) (as the case may be),**
2 **and**

3 **“(2) in the case of an allocation or**
4 **ownership referred to in paragraph (3) or**
5 **(4) of subsection (a), by the S corporation**
6 **the stock in which was so allocated or**
7 **owned.”.**

8 **(3) DEFINITIONS.—Section 4979A(e) (re-**
9 **lating to definitions) is amended to read**
10 **as follows:**

11 **“(e) DEFINITIONS AND SPECIAL RULES.—For**
12 **purposes of this section—**

13 **“(1) DEFINITIONS.—Except as provided**
14 **in paragraph (2), terms used in this sec-**
15 **tion have the same respective meanings**
16 **as when used in sections 409 and 4978.**

17 **“(2) SPECIAL RULES RELATING TO TAX**
18 **IMPOSED BY REASON OF PARAGRAPH (3) OR (4)**
19 **OF SUBSECTION (a).—**

20 **“(A) PROHIBITED ALLOCATIONS.—**
21 **The amount involved with respect to**
22 **any tax imposed by reason of sub-**
23 **section (a)(3) is the amount allocated**
24 **to the account of any person in viola-**
25 **tion of section 409(p)(1).**

1 **“(B) SYNTHETIC EQUITY.—The**
2 **amount involved with respect to any**
3 **tax imposed by reason of subsection**
4 **(a)(4) is the value of the shares on**
5 **which the synthetic equity is based.**

6 **“(C) SPECIAL RULE DURING FIRST**
7 **NONALLOCATION YEAR.—For purposes**
8 **of subparagraph (A), the amount in-**
9 **volved for the first nonallocation year**
10 **of any employee stock ownership**
11 **plan shall be determined by taking**
12 **into account the total value of all the**
13 **deemed-owned shares of all disquali-**
14 **fied persons with respect to such**
15 **plan.**

16 **“(D) STATUTE OF LIMITATIONS.—The**
17 **statutory period for the assessment of**
18 **any tax imposed by this section by**
19 **reason of paragraph (3) or (4) of sub-**
20 **section (a) shall not expire before the**
21 **date which is 3 years from the later**
22 **of—**

23 **“(i) the allocation or owner-**
24 **ship referred to in such para-**
25 **graph giving rise to such tax, or**

1 “(ii) the date on which the
2 Secretary is notified of such allo-
3 cation or ownership.”.

4 **(d) EFFECTIVE DATES.—**

5 **(1) IN GENERAL.—**The amendments
6 made by this section shall apply to plan
7 years beginning after December 31, 2004.

8 **(2) EXCEPTION FOR CERTAIN PLANS.—**In
9 the case of any—

10 **(A) employee stock ownership**
11 **plan established after March 14, 2001,**
12 **or**

13 **(B) employee stock ownership**
14 **plan established on or before such**
15 **date if employer securities held by**
16 **the plan consist of stock in a corpora-**
17 **tion with respect to which an election**
18 **under section 1362(a) of the Internal**
19 **Revenue Code of 1986 is not in effect**
20 **on such date,**

21 **the amendments made by this section**
22 **shall apply to plan years ending after**
23 **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)(9) (re-
lating to annual valuation) is amended to
read as follows:**

“(9) ANNUAL VALUATION.—

**“(A) IN GENERAL.—For purposes of
this section, a determination of expe-
rience gains and losses and a valu-
ation of the plan’s liability shall be
made not less frequently than once
every year, except that such deter-
mination shall be made more fre-
quently to the extent required in par-
ticular cases under regulations pre-
scribed by the Secretary.**

“(B) VALUATION DATE.—

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

1 month prior to the beginning of
2 such year.

3 “(ii) ELECTION TO USE PRIOR
4 YEAR VALUATION.—The valuation
5 referred to in subparagraph (A)
6 may be made as of a date within
7 the plan year prior to the year to
8 which the valuation refers if—

9 “(I) an election is in effect
10 under this clause with respect
11 to the plan, and

12 “(II) as of such date, the
13 value of the assets of the plan
14 are not less than 125 percent
15 of the plan’s current liability
16 (as defined in paragraph
17 (7)(B)).

18 “(iii) ADJUSTMENTS.—Informa-
19 tion under clause (ii) shall, in ac-
20 cordance with regulations, be ac-
21 tuarially adjusted to reflect sig-
22 nificant differences in partici-
23 pants.

24 “(iv) ELECTION.—An election
25 under clause (ii), once made, shall

1 be irrevocable without the con-
2 sent of the Secretary.”.

3 **(b) AMENDMENT OF ERISA.—Paragraph (9)**
4 **of section 302(c) of the Employee Retirement**
5 **Income Security Act of 1974 (29 U.S.C. 1053(c))**
6 **is amended—**

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

8 (2) by adding at the end the fol-
9 lowing:

10 **“(B)(i) Except as provided in clause (ii),**
11 **the valuation referred to in subparagraph (A)**
12 **shall be made as of a date within the plan**
13 **year to which the valuation refers or within**
14 **one month prior to the beginning of such**
15 **year.**

16 **“(ii) The valuation referred to in subpara-**
17 **graph (A) may be made as of a date within the**
18 **plan year prior to the year to which the valu-**
19 **ation refers if—**

20 **“(I) an election is in effect under this**
21 **clause with respect to the plan; and**

22 **“(II) as of such date, the value of the**
23 **assets of the plan are not less than 125**
24 **percent of the plan’s current liability (as**
25 **defined in paragraph (7)(B)).**

1 “(iii) Information under clause (ii) shall,
 2 in accordance with regulations, be actuarially
 3 adjusted to reflect significant differences in
 4 participants.

5 “(iv) An election under clause (ii), once
 6 made, shall be irrevocable without the con-
 7 sent of the Secretary of the Treasury.”.

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

11 SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT
 12 LOSS OF DIVIDEND DEDUCTION.

13 (a) IN GENERAL.—Section 404(k)(2)(A) (de-
 14 fining applicable dividends) is amended by
 15 striking “or” at the end of clause (ii), by redes-
 16 ignating clause (iii) as clause (iv), and by in-
 17 serting after clause (ii) the following new
 18 clause:

19 “(iii) is, at the election of such
 20 participants or their
 21 beneficiaries—

22 “(I) payable as provided in
 23 clause (i) or (ii), or

1 **“(II) paid to the plan and**
2 **reinvested in qualifying em-**
3 **ployer securities, or”.**

4 **(b) EFFECTIVE DATE.—The amendments**
5 **made by this section shall apply to taxable**
6 **years beginning after December 31, 2000.**

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

9 **(a) IN GENERAL.—Paragraph (4) of section**
10 **1114(c) of the Tax Reform Act of 1986 is here-**
11 **by repealed.**

12 **(b) EFFECTIVE DATE.—The repeal made by**
13 **subsection (a) shall apply to plan years begin-**
14 **ning after December 31, 2001.**

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

16 **(a) IN GENERAL.—The Secretary of the**
17 **Treasury shall modify Treasury Regulations**
18 **section 1.410(b)–6(g) to provide that employ-**
19 **ees of an organization described in section**
20 **403(b)(1)(A)(i) of the Internal Revenue Code of**
21 **1986 who are eligible to make contributions**
22 **under section 403(b) of such Code pursuant to**
23 **a salary reduction agreement may be treated**
24 **as excludable with respect to a plan under**
25 **section 401(k) or (m) of such Code that is pro-**

1 vided under the same general arrangement as
2 a plan under such section 401(k), if—

3 (1) no employee of an organization
4 described in section 403(b)(1)(A)(i) of
5 such Code is eligible to participate in
6 such section 401(k) plan or section 401(m)
7 plan; and

8 (2) 95 percent of the employees who
9 are not employees of an organization de-
10 scribed in section 403(b)(1)(A)(i) of such
11 Code are eligible to participate in such
12 plan under such section 401(k) or (m).

13 (b) **EFFECTIVE DATE.**—The modification re-
14 quired by subsection (a) shall apply as of the
15 same date set forth in section 1426(b) of the
16 Small Business Job Protection Act of 1996.

17 **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**
18 **PROVIDED RETIREMENT ADVICE.**

19 (a) **IN GENERAL.**—Subsection (a) of section
20 132 (relating to exclusion from gross income)
21 is amended by striking “or” at the end of para-
22 graph (5), by striking the period at the end of
23 paragraph (6) and inserting “, or”, and by add-
24 ing at the end the following new paragraph:

1 **“(7) qualified retirement planning**
2 **services.”.**

3 **(b) QUALIFIED RETIREMENT PLANNING SERV-**
4 **ICES DEFINED.—Section 132 is amended by re-**
5 **designating subsection (m) as subsection (n)**
6 **and by inserting after subsection (l) the fol-**
7 **lowing:**

8 **“(m) QUALIFIED RETIREMENT PLANNING**
9 **SERVICES.—**

10 **“(1) IN GENERAL.—For purposes of this**
11 **section, the term ‘qualified retirement**
12 **planning services’ means any retirement**
13 **planning advice or information provided**
14 **to an employee and his spouse by an em-**
15 **ployer maintaining a qualified employer**
16 **plan.**

17 **“(2) NONDISCRIMINATION RULE.—Sub-**
18 **section (a)(7) shall apply in the case of**
19 **highly compensated employees only if**
20 **such services are available on substan-**
21 **tially the same terms to each member of**
22 **the group of employees normally pro-**
23 **vided education and information regard-**
24 **ing the employer’s qualified employer**
25 **plan.**

1 **“(3) QUALIFIED EMPLOYER PLAN.—For**
2 **purposes of this subsection, the term**
3 **‘qualified employer plan’ means a plan,**
4 **contract, pension, or account described**
5 **in section 219(g)(5).”.**

6 **(c) EFFECTIVE DATE.—The amendments**
7 **made by this section shall apply to years be-**
8 **ginning after December 31, 2001.**

9 **SEC. 606. REPORTING SIMPLIFICATION.**

10 **(a) SIMPLIFIED ANNUAL FILING REQUIRE-**
11 **MENT FOR OWNERS AND THEIR SPOUSES.—**

12 **(1) IN GENERAL.—The Secretary of the**
13 **Treasury and the Secretary of Labor**
14 **shall modify the requirements for filing**
15 **annual returns with respect to one-par-**
16 **ticipant retirement plans to ensure that**
17 **such plans with assets of \$250,000 or less**
18 **as of the close of the plan year need not**
19 **file a return for that year.**

20 **(2) ONE-PARTICIPANT RETIREMENT PLAN**
21 **DEFINED.—For purposes of this sub-**
22 **section, the term “one-participant retire-**
23 **ment plan” means a retirement plan**
24 **that—**

1 **(A) on the first day of the plan**
2 **year—**

3 **(i) covered only the employer**
4 **(and the employer's spouse) and**
5 **the employer owned the entire**
6 **business (whether or not incor-**
7 **porated); or**

8 **(ii) covered only one or more**
9 **partners (and their spouses) in a**
10 **business partnership (including**
11 **partners in an S or C corpora-**
12 **tion);**

13 **(B) meets the minimum coverage**
14 **requirements of section 410(b) of the**
15 **Internal Revenue Code of 1986 with-**
16 **out being combined with any other**
17 **plan of the business that covers the**
18 **employees of the business;**

19 **(C) does not provide benefits to**
20 **anyone except the employer (and the**
21 **employer's spouse) or the partners**
22 **(and their spouses);**

23 **(D) does not cover a business that**
24 **is a member of an affiliated service**
25 **group, a controlled group of corpora-**

1 **tions, or a group of businesses under**
2 **common control; and**

3 **(E) does not cover a business that**
4 **leases employees.**

5 **(3) OTHER DEFINITIONS.—Terms used**
6 **in paragraph (2) which are also used in**
7 **section 414 of the Internal Revenue Code**
8 **of 1986 shall have the respective mean-**
9 **ings given such terms by such section.**

10 **(b) SIMPLIFIED ANNUAL FILING REQUIRE-**
11 **MENT FOR PLANS WITH FEWER THAN 25 EMPLOY-**
12 **EES.—In the case of plan years beginning after**
13 **December 31, 2002, the Secretary of the Treas-**
14 **ury and the Secretary of Labor shall provide**
15 **for the filing of a simplified annual return for**
16 **any retirement plan which covers less than 25**
17 **employees on the first day of a plan year and**
18 **which meets the requirements described in**
19 **subparagraphs (B), (D), and (E) of subsection**
20 **(a)(2).**

21 **(c) EFFECTIVE DATE.—The provisions of**
22 **this section shall take effect on January 1,**
23 **2002.**

1 SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-
2 ANCE RESOLUTION SYSTEM.

3 The Secretary of the Treasury shall con-
4 tinue to update and improve the Employee
5 Plans Compliance Resolution System (or any
6 successor program) giving special attention
7 to—

8 (1) increasing the awareness and
9 knowledge of small employers concerning
10 the availability and use of the program;

11 (2) taking into account special con-
12 cerns and circumstances that small em-
13 ployers face with respect to compliance
14 and correction of compliance failures;

15 (3) extending the duration of the self-
16 correction period under the Administra-
17 tive Policy Regarding Self-Correction for
18 significant compliance failures;

19 (4) expanding the availability to cor-
20 rect insignificant compliance failures
21 under the Administrative Policy Regard-
22 ing Self-Correction during audit; and

23 (5) assuring that any tax, penalty, or
24 sanction that is imposed by reason of a
25 compliance failure is not excessive and

1 **bears a reasonable relationship to the na-**
2 **ture, extent, and severity of the failure.**

3 **SEC. 608. REPEAL OF THE MULTIPLE USE TEST.**

4 **(a) IN GENERAL.—Paragraph (9) of section**
5 **401(m) is amended to read as follows:**

6 **“(9) REGULATIONS.—The Secretary**
7 **shall prescribe such regulations as may**
8 **be necessary to carry out the purposes of**
9 **this subsection and subsection (k), in-**
10 **cluding regulations permitting appro-**
11 **priate aggregation of plans and contribu-**
12 **tions.”.**

13 **(b) EFFECTIVE DATE.—The amendment**
14 **made by this section shall apply to years be-**
15 **ginning after December 31, 2001.**

16 **SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-**
17 **ERAGE, AND LINE OF BUSINESS RULES.**

18 **(a) NONDISCRIMINATION.—**

19 **(1) IN GENERAL.—The Secretary of the**
20 **Treasury shall, by regulation, provide**
21 **that a plan shall be deemed to satisfy the**
22 **requirements of section 401(a)(4) of the**
23 **Internal Revenue Code of 1986 if such**
24 **plan satisfies the facts and circumstances**
25 **test under section 401(a)(4) of such Code,**

1 as in effect before January 1, 1994, but
2 only if—

3 (A) the plan satisfies conditions
4 prescribed by the Secretary to appro-
5 priately limit the availability of such
6 test; and

7 (B) the plan is submitted to the
8 Secretary for a determination of
9 whether it satisfies such test.

10 Subparagraph (B) shall only apply to the
11 extent provided by the Secretary.

12 (2) EFFECTIVE DATES.—

13 (A) REGULATIONS.—The regulation
14 required by paragraph (1) shall apply
15 to years beginning after December 31,
16 2003.

17 (B) CONDITIONS OF AVAILABILITY.—
18 Any condition of availability pre-
19 scribed by the Secretary under para-
20 graph (1)(A) shall not apply before
21 the first year beginning not less than
22 120 days after the date on which such
23 condition is prescribed.

24 (b) COVERAGE TEST.—

1 **(1) IN GENERAL.—Section 410(b)(1) (re-**
2 **lating to minimum coverage require-**
3 **ments) is amended by adding at the end**
4 **the following:**

5 **“(D) In the case that the plan fails**
6 **to meet the requirements of subpara-**
7 **graphs (A), (B) and (C), the plan—**

8 **“(i) satisfies subparagraph**
9 **(B), as in effect immediately be-**
10 **fore the enactment of the Tax Re-**
11 **form Act of 1986,**

12 **“(ii) is submitted to the Sec-**
13 **retary for a determination of**
14 **whether it satisfies the require-**
15 **ment described in clause (i), and**

16 **“(iii) satisfies conditions pre-**
17 **scribed by the Secretary by regu-**
18 **lation that appropriately limit the**
19 **availability of this subparagraph.**
20 **Clause (ii) shall apply only to the ex-**
21 **tent provided by the Secretary.”.**

22 **(2) EFFECTIVE DATES.—**

23 **(A) IN GENERAL.—The amendment**
24 **made by paragraph (1) shall apply to**

1 years beginning after December 31,
2 2003.

3 **(B) CONDITIONS OF AVAILABILITY.—**

4 Any condition of availability pre-
5 scribed by the Secretary under regu-
6 lations prescribed by the Secretary
7 under section 410(b)(1)(D) of the In-
8 ternal Revenue Code of 1986 shall not
9 apply before the first year beginning
10 not less than 120 days after the date
11 on which such condition is pre-
12 scribed.

13 **(c) LINE OF BUSINESS RULES.—**The Sec-
14 retary of the Treasury shall, on or before De-
15 cember 31, 2003, modify the existing regula-
16 tions issued under section 414(r) of the Inter-
17 nal Revenue Code of 1986 in order to expand
18 (to the extent that the Secretary determines
19 appropriate) the ability of a pension plan to
20 demonstrate compliance with the line of busi-
21 ness requirements based upon the facts and
22 circumstances surrounding the design and
23 operation of the plan, even though the plan is
24 unable to satisfy the mechanical tests cur-
25 rently used to determine compliance.

1 SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF
2 MORATORIUM ON APPLICATION OF CERTAIN
3 NONDISCRIMINATION RULES APPLICABLE TO
4 STATE AND LOCAL PLANS.

5 (a) IN GENERAL.—

6 (1) Subparagraph (G) of section
7 401(a)(5) and subparagraph (H) of section
8 401(a)(26) are each amended by striking
9 “section 414(d))” and all that follows and
10 inserting “section 414(d)).”.

11 (2) Subparagraph (G) of section
12 401(k)(3) and paragraph (2) of section
13 1505(d) of the Taxpayer Relief Act of 1997
14 are each amended by striking “main-
15 tained by a State or local government or
16 political subdivision thereof (or agency
17 or instrumentality thereof)”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) The heading for subparagraph (G)
20 of section 401(a)(5) is amended to read as
21 follows: “GOVERNMENTAL PLANS”.

22 (2) The heading for subparagraph (H)
23 of section 401(a)(26) is amended to read
24 as follows: “EXCEPTION FOR GOVERNMENTAL
25 PLANS”.

1 **(3) Subparagraph (G) of section**
2 **401(k)(3) is amended by inserting “Gov-**
3 **ERNMENTAL PLANS.—” after “(G)”.**

4 **(c) EFFECTIVE DATE.—The amendments**
5 **made by this section shall apply to years be-**
6 **ginning after December 31, 2001.**

7 **SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-**
8 **TRIBUTIONS.**

9 **(a) EXPANSION OF PERIOD.—**

10 **(1) AMENDMENT OF INTERNAL REVENUE**
11 **CODE.—**

12 **(A) IN GENERAL.—Subparagraph**
13 **(A) of section 417(a)(6) is amended by**
14 **striking “90-day” and inserting “180-**
15 **day”.**

16 **(B) MODIFICATION OF REGULA-**
17 **TIONS.—The Secretary of the Treasury**
18 **shall modify the regulations under**
19 **sections 402(f), 411(a)(11), and 417 of**
20 **the Internal Revenue Code of 1986 to**
21 **substitute “180 days” for “90 days”**
22 **each place it appears in Treasury**
23 **Regulations sections 1.402(f)-1,**
24 **1.411(a)-11(c), and 1.417(e)-1(b).**

25 **(2) AMENDMENT OF ERISA.—**

1 (A) IN GENERAL.—Section
2 205(c)(7)(A) of the Employee Retirement
3 Income Security Act of 1974 (29
4 U.S.C. 1055(c)(7)(A)) is amended by
5 striking “90-day” and inserting “180-
6 day”.

7 (B) MODIFICATION OF REGULA-
8 TIONS.—The Secretary of the Treasury
9 shall modify the regulations under
10 part 2 of subtitle B of title I of the
11 Employee Retirement Income Secu-
12 rity Act of 1974 to the extent that
13 they relate to sections 203(e) and 205
14 of such Act to substitute “180 days”
15 for “90 days” each place it appears.

16 (3) EFFECTIVE DATE.—The amendments
17 made by paragraph (1)(A) and (2) and the
18 modifications required by paragraph
19 (1)(B) shall apply to years beginning after
20 December 31, 2001.

21 (b) CONSENT REGULATION INAPPLICABLE TO
22 CERTAIN DISTRIBUTIONS.—

23 (1) IN GENERAL.—The Secretary of the
24 Treasury shall modify the regulations
25 under section 411(a)(11) of the Internal

1 Revenue Code of 1986 and under section
2 205 of the Employee Retirement Income
3 Security Act of 1974 to provide that the
4 description of a participant's right, if
5 any, to defer receipt of a distribution
6 shall also describe the consequences of
7 failing to defer such receipt.

8 (2) EFFECTIVE DATE.—The modifica-
9 tions required by paragraph (1) shall
10 apply to years beginning after December
11 31, 2001.

12 SEC. 612. ANNUAL REPORT DISSEMINATION.

13 (a) REPORT AVAILABLE THROUGH ELEC-
14 TRONIC MEANS.—Section 104(b)(3) of the Em-
15 ployee Retirement Income Security Act of
16 1974 (29 U.S.C. 1024(b)(3)) is amended by add-
17 ing at the end the following new sentence:
18 “The requirement to furnish information
19 under the previous sentence shall be satisfied
20 if the administrator makes such information
21 reasonably available through electronic
22 means or other new technology.”.

23 (b) EFFECTIVE DATE.—The amendment
24 made by this section shall apply to reports for
25 years beginning after December 31, 2000.

1 SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.

2 Section 517 of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C. 1147)
4 is amended—

5 (1) in subsection (a), by striking “2001
6 and 2005 on or after September 1 of each
7 year involved” and inserting “2001, 2005,
8 and 2009 in the month of September of
9 each year involved”;

10 (2) in subsection (b), by adding at the
11 end the following new sentence: “To ef-
12 fectuate the purposes of this paragraph,
13 the Secretary may enter into a coopera-
14 tive agreement, pursuant to the Federal
15 Grant and Cooperative Agreement Act of
16 1977 (31 U.S.C. 6301 et seq.), with the
17 American Savings Education Council or
18 any other appropriate, qualified entity.”;

19 (3) in subsection (e)(2)—

20 (A) by striking “Committee on
21 Labor and Human Resources” in sub-
22 paragraph (D) and inserting “Com-
23 mittee on Health, Education, Labor,
24 and Pensions”;

25 (B) by striking subparagraph (F)
26 and inserting the following:

1 **“(F) the Chairman and Ranking**
2 **Member of the Subcommittee on**
3 **Labor, Health and Human Services,**
4 **and Education of the Committee on**
5 **Appropriations of the House of Rep-**
6 **resentatives and the Chairman and**
7 **Ranking Member of the Sub-**
8 **committee on Labor, Health and**
9 **Human Services, and Education of**
10 **the Committee on Appropriations of**
11 **the Senate;”;**

12 **(C) by redesignating subpara-**
13 **graph (G) as subparagraph (J); and**

14 **(D) by inserting after subpara-**
15 **graph (F) the following new subpara-**
16 **graphs:**

17 **“(G) the Chairman and Ranking**
18 **Member of the Committee on Finance**
19 **of the Senate;**

20 **“(H) the Chairman and Ranking**
21 **Member of the Committee on Ways**
22 **and Means of the House of Represent-**
23 **atives;**

24 **“(I) the Chairman and Ranking**
25 **Member of the Subcommittee on Em-**

1 **ployer-Employee Relations of the**
2 **Committee on Education and the**
3 **Workforce of the House of Represent-**
4 **atives; and”;**

5 **(4) in subsection (e)(3)—**

6 **(A) by striking “There shall be not**
7 **more than 200 additional partici-**
8 **pants.” in subparagraph (A) and in-**
9 **serting “The participants in the Na-**
10 **tional Summit shall also include addi-**
11 **tional participants appointed under**
12 **this subparagraph.”;**

13 **(B) by striking “one-half shall be**
14 **appointed by the President,” in sub-**
15 **paragraph (A)(i) and inserting “not**
16 **more than 100 participants shall be**
17 **appointed under this clause by the**
18 **President,”;**

19 **(C) by striking “one-half shall be**
20 **appointed by the elected leaders of**
21 **Congress” in subparagraph (A)(ii) and**
22 **inserting “not more than 100 partici-**
23 **pants shall be appointed under this**
24 **clause by the elected leaders of Con-**
25 **gress”;**

1 (D) by redesignating subpara-
2 graph (B) as subparagraph (C); and

3 (E) by inserting after subpara-
4 graph (A) the following new subpara-
5 graph:

6 “(B) PRESIDENTIAL AUTHORITY FOR
7 ADDITIONAL APPOINTMENTS.—The Presi-
8 dent, in consultation with the elected
9 leaders of Congress referred to in
10 subsection (a), may appoint under
11 this subparagraph additional partici-
12 pants to the National Summit. The
13 number of such additional partici-
14 pants appointed under this subpara-
15 graph may not exceed the lesser of 3
16 percent of the total number of all ad-
17 ditional participants appointed under
18 this paragraph, or 10. Such additional
19 participants shall be appointed from
20 persons nominated by the organiza-
21 tion referred to in subsection (b)(2)
22 which is made up of private sector
23 businesses and associations
24 partnered with Government entities
25 to promote long term financial secu-

1 rity in retirement through savings
2 and with which the Secretary is re-
3 quired thereunder to consult and co-
4 operate and shall not be Federal,
5 State, or local government employ-
6 ees.”;

7 (5) in subsection (e)(3)(C) (as redesign-
8 nated), by striking “January 31, 1998”
9 and inserting “May 1, 2001, May 1, 2005,
10 and May 1, 2009, for each of the subse-
11 quent summits, respectively”;

12 (6) in subsection (f)(1)(C), by inserting
13 “, no later than 90 days prior to the date
14 of the commencement of the National
15 Summit,” after “comment”;

16 (7) in subsection (g), by inserting “, in
17 consultation with the congressional lead-
18 ers specified in subsection (e)(2),” after
19 “report” the first place it appears;

20 (8) in subsection (i)—

21 (A) by striking “beginning on or
22 after October 1, 1997” in paragraph
23 (1) and inserting “2001, 2005, and
24 2009”; and

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

“(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph.”; and

(9) in subsection (k)—

(A) by striking “shall enter into a contract on a sole-source basis” and inserting “may enter into a contract on a sole-source basis”; and

(B) by striking “fiscal year 1998” and inserting “fiscal years 2001, 2005, and 2009”.

TITLE VII—OTHER ERISA PROVISIONS

SEC. 701. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of

1 1974 (29 U.S.C. 1350) is amended by redesignig-
2 nating subsection (c) as subsection (e) and by
3 inserting after subsection (b) the following
4 new subsections:

5 “(c) **MULTIEMPLOYER PLANS.**—The corpora-
6 tion shall prescribe rules similar to the rules
7 in subsection (a) for multiemployer plans cov-
8 ered by this title that terminate under section
9 4041A.

10 “(d) **PLANS NOT OTHERWISE SUBJECT TO**
11 **TITLE.**—

12 “(1) **TRANSFER TO CORPORATION.**—The
13 plan administrator of a plan described in
14 paragraph (4) may elect to transfer a
15 missing participant’s benefits to the cor-
16 poration upon termination of the plan.

17 “(2) **INFORMATION TO THE CORPORA-**
18 **TION.**—To the extent provided in regula-
19 tions, the plan administrator of a plan de-
20 scribed in paragraph (4) shall, upon ter-
21 mination of the plan, provide the cor-
22 poration information with respect to ben-
23 efits of a missing participant if the plan
24 transfers such benefits—

25 “(A) to the corporation, or

1 “(B) to an entity other than the
2 corporation or a plan described in
3 paragraph (4)(B)(ii).

4 “(3) PAYMENT BY THE CORPORATION.—If
5 benefits of a missing participant were
6 transferred to the corporation under
7 paragraph (1), the corporation shall,
8 upon location of the participant or bene-
9 ficiary, pay to the participant or bene-
10 ficiary the amount transferred (or the ap-
11 propriate survivor benefit) either—

12 “(A) in a single sum (plus inter-
13 est), or

14 “(B) in such other form as is spec-
15 ified in regulations of the corpora-
16 tion.

17 “(4) PLANS DESCRIBED.—A plan is de-
18 scribed in this paragraph if—

19 “(A) the plan is a pension plan
20 (within the meaning of section 3(2))—

21 “(i) to which the provisions of
22 this section do not apply (without
23 regard to this subsection), and

1 “(ii) which is not a plan de-
2 scribed in paragraphs (2) through
3 (11) of section 4021(b), and

4 “(B) at the time the assets are to
5 be distributed upon termination, the
6 plan—

7 “(i) has missing participants,
8 and

9 “(ii) has not provided for the
10 transfer of assets to pay the bene-
11 fits of all missing participants to
12 another pension plan (within the
13 meaning of section 3(2)).

14 “(5) CERTAIN PROVISIONS NOT TO
15 APPLY.—Subsections (a)(1) and (a)(3) shall
16 not apply to a plan described in para-
17 graph (4).”.

18 (b) CONFORMING AMENDMENTS.—Section
19 206(f) of such Act (29 U.S.C. 1056(f)) is
20 amended—

21 (1) by striking “title IV” and inserting
22 “section 4050”; and

23 (2) by striking “the plan shall provide
24 that,”.

1 **(c) EFFECTIVE DATE.**—The amendments
 2 made by this section shall apply to distribu-
 3 tions made after final regulations imple-
 4 menting subsections (c) and (d) of section
 5 4050 of the Employee Retirement Income Se-
 6 curity Act of 1974 (as added by subsection (a)),
 7 respectively, are prescribed.

8 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
 9 **SMALL EMPLOYERS.**

10 **(a) IN GENERAL.**—Subparagraph (A) of sec-
 11 tion 4006(a)(3) of the Employee Retirement In-
 12 come Security Act of 1974 (29 U.S.C.
 13 1306(a)(3)(A)) is amended—

14 (1) in clause (i), by inserting “other
 15 than a new single-employer plan (as de-
 16 fined in subparagraph (F)) maintained by
 17 a small employer (as so defined),” after
 18 “single-employer plan,”

19 (2) in clause (iii), by striking the pe-
 20 riod at the end and inserting “, and”, and

21 (3) by adding at the end the following
 22 new clause:

23 “(iv) in the case of a new single-em-
 24 ployer plan (as defined in subparagraph
 25 (F)) maintained by a small employer (as

1 so defined) for the plan year, \$5 for each
2 individual who is a participant in such
3 plan during the plan year.”.

4 **(b) DEFINITION OF NEW SINGLE-EMPLOYER**
5 **PLAN.—Section 4006(a)(3) of the Employee Re-**
6 **tirement Income Security Act of 1974 (29**
7 **U.S.C. 1306(a)(3)) is amended by adding at the**
8 **end the following new subparagraph:**

9 **“(F)(i) For purposes of this paragraph, a**
10 **single-employer plan maintained by a contrib-**
11 **uting sponsor shall be treated as a new single-**
12 **employer plan for each of its first 5 plan years**
13 **if, during the 36-month period ending on the**
14 **date of the adoption of such plan, the sponsor**
15 **or any member of such sponsor’s controlled**
16 **group (or any predecessor of either) did not**
17 **establish or maintain a plan to which this title**
18 **applies with respect to which benefits were**
19 **accrued for substantially the same employees**
20 **as are in the new single-employer plan.**

21 **“(ii)(I) For purposes of this paragraph, the**
22 **term ‘small employer’ means an employer**
23 **which on the first day of any plan year has,**
24 **in aggregation with all members of the con-**

1 trolled group of such employer, 100 or fewer
2 employees.

3 “(II) In the case of a plan maintained by
4 two or more contributing sponsors that are
5 not part of the same controlled group, the em-
6 ployees of all contributing sponsors and con-
7 trolled groups of such sponsors shall be ag-
8 gregated for purposes of determining whether
9 any contributing sponsor is a small em-
10 ployer.”.

11 (c) EFFECTIVE DATE.—The amendments
12 made by this section shall apply to plans es-
13 tablished after December 31, 2001.

14 SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR
15 NEW AND SMALL PLANS.

16 (a) NEW PLANS.—Subparagraph (E) of sec-
17 tion 4006(a)(3) of the Employee Retirement In-
18 come Security Act of 1974 (29 U.S.C.
19 1306(a)(3)(E)) is amended by adding at the
20 end the following new clause:

21 “(v) In the case of a new defined benefit
22 plan, the amount determined under clause (ii)
23 for any plan year shall be an amount equal to
24 the product of the amount determined under
25 clause (ii) and the applicable percentage. For

1 purposes of this clause, the term ‘applicable
2 percentage’ means—

3 “(I) 0 percent, for the first plan year.

4 “(II) 20 percent, for the second plan
5 year.

6 “(III) 40 percent, for the third plan
7 year.

8 “(IV) 60 percent, for the fourth plan
9 year.

10 “(V) 80 percent, for the fifth plan
11 year.

12 For purposes of this clause, a defined benefit
13 plan (as defined in section 3(35)) maintained
14 by a contributing sponsor shall be treated as
15 a new defined benefit plan for each of its first
16 5 plan years if, during the 36-month period
17 ending on the date of the adoption of the plan,
18 the sponsor and each member of any con-
19 trolled group including the sponsor (or any
20 predecessor of either) did not establish or
21 maintain a plan to which this title applies
22 with respect to which benefits were accrued
23 for substantially the same employees as are in
24 the new plan.”.

1 **(b) SMALL PLANS.—Paragraph (3) of sec-**
2 **tion 4006(a) of the Employee Retirement In-**
3 **come Security Act of 1974 (29 U.S.C. 1306(a)),**
4 **as amended by section 702(b), is amended—**

5 **(1) by striking “The” in subparagraph**
6 **(E)(i) and inserting “Except as provided**
7 **in subparagraph (G), the”, and**

8 **(2) by inserting after subparagraph**
9 **(F) the following new subparagraph:**

10 **“(G)(i) In the case of an employer who has**
11 **25 or fewer employees on the first day of the**
12 **plan year, the additional premium deter-**
13 **mined under subparagraph (E) for each par-**
14 **ticipant shall not exceed \$5 multiplied by the**
15 **number of participants in the plan as of the**
16 **close of the preceding plan year.**

17 **“(ii) For purposes of clause (i), whether an**
18 **employer has 25 or fewer employees on the**
19 **first day of the plan year is determined taking**
20 **into consideration all of the employees of all**
21 **members of the contributing sponsor’s con-**
22 **trolled group. In the case of a plan main-**
23 **tained by two or more contributing sponsors,**
24 **the employees of all contributing sponsors**
25 **and their controlled groups shall be aggre-**

1 gated for purposes of determining whether
2 the 25-or-fewer-employees limitation has been
3 satisfied.”.

4 (c) EFFECTIVE DATES.—

5 (1) SUBSECTION (a).—The amendments
6 made by subsection (a) shall apply to
7 plans established after December 31,
8 2001.

9 (2) SUBSECTION (b).—The amendments
10 made by subsection (b) shall apply to
11 plan years beginning after December 31,
12 2001.

13 SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON
14 PREMIUM OVERPAYMENT REFUNDS.

15 (a) IN GENERAL.—Section 4007(b) of the
16 Employment Retirement Income Security Act
17 of 1974 (29 U.S.C. 1307(b)) is amended—

18 (1) by striking “(b)” and inserting
19 “(b)(1)”, and

20 (2) by inserting at the end the fol-
21 lowing new paragraph:

22 “(2) The corporation is authorized to pay,
23 subject to regulations prescribed by the cor-
24 poration, interest on the amount of any over-
25 payment of premium refunded to a des-

1 **ignated payor. Interest under this paragraph**
2 **shall be calculated at the same rate and in the**
3 **same manner as interest is calculated for un-**
4 **derpayments under paragraph (1).”.**

5 **(b) EFFECTIVE DATE.—The amendment**
6 **made by subsection (a) shall apply to interest**
7 **accruing for periods beginning not earlier**
8 **than the date of the enactment of this Act.**

9 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
10 **PLANS.**

11 **(a) MODIFICATION OF PHASE-IN OF GUAR-**
12 **ANTEE.—Section 4022(b)(5) of the Employee**
13 **Retirement Income Security Act of 1974 (29**
14 **U.S.C. 1322(b)(5)) is amended to read as fol-**
15 **lows:**

16 **“(5)(A) For purposes of this paragraph,**
17 **the term ‘majority owner’ means an indi-**
18 **vidual who, at any time during the 60-month**
19 **period ending on the date the determination**
20 **is being made—**

21 **“(i) owns the entire interest in an un-**
22 **incorporated trade or business,**

23 **“(ii) in the case of a partnership, is a**
24 **partner who owns, directly or indirectly,**
25 **50 percent or more of either the capital**

1 interest or the profits interest in such
2 partnership, or

3 “(iii) in the case of a corporation,
4 owns, directly or indirectly, 50 percent or
5 more in value of either the voting stock
6 of that corporation or all the stock of
7 that corporation.

8 For purposes of clause (iii), the constructive
9 ownership rules of section 1563(e) of the In-
10 ternal Revenue Code of 1986 shall apply (de-
11 termined without regard to section
12 1563(e)(3)(C)).

13 “(B) In the case of a participant who is a
14 majority owner, the amount of benefits guar-
15 anteed under this section shall equal the
16 product of—

17 “(i) a fraction (not to exceed 1) the
18 numerator of which is the number of
19 years from the later of the effective date
20 or the adoption date of the plan to the
21 termination date, and the denominator of
22 which is 10, and

23 “(ii) the amount of benefits that
24 would be guaranteed under this section if

1 the participant were not a majority
2 owner.”.

3 **(b) MODIFICATION OF ALLOCATION OF AS-**
4 **SETS.—**

5 (1) Section 4044(a)(4)(B) of the Em-
6 ployee Retirement Income Security Act of
7 1974 (29 U.S.C. 1344(a)(4)(B)) is amended
8 by striking “section 4022(b)(5)” and in-
9 serting “section 4022(b)(5)(B)”.

10 (2) Section 4044(b) of such Act (29
11 U.S.C. 1344(b)) is amended—

12 (A) by striking “(5)” in paragraph
13 (2) and inserting “(4), (5),”, and

14 (B) by redesignating paragraphs
15 (3) through (6) as paragraphs (4)
16 through (7), respectively, and by in-
17 serting after paragraph (2) the fol-
18 lowing new paragraph:

19 “(3) If assets available for allocation
20 under paragraph (4) of subsection (a) are
21 insufficient to satisfy in full the benefits
22 of all individuals who are described in
23 that paragraph, the assets shall be allo-
24 cated first to benefits described in sub-
25 paragraph (A) of that paragraph. Any re-

1 **maining assets shall then be allocated to**
2 **benefits described in subparagraph (B) of**
3 **that paragraph. If assets allocated to**
4 **such subparagraph (B) are insufficient to**
5 **satisfy in full the benefits described in**
6 **that subparagraph, the assets shall be al-**
7 **located pro rata among individuals on**
8 **the basis of the present value (as of the**
9 **termination date) of their respective ben-**
10 **efits described in that subparagraph.”.**

11 **(c) CONFORMING AMENDMENTS.—**

12 **(1) Section 4021 of the Employee Re-**
13 **tirement Income Security Act of 1974 (29**
14 **U.S.C. 1321) is amended—**

15 **(A) in subsection (b)(9), by strik-**
16 **ing “as defined in section 4022(b)(6”),**
17 **and**

18 **(B) by adding at the end the fol-**
19 **lowing new subsection:**

20 **“(d) For purposes of subsection (b)(9), the**
21 **term ‘substantial owner’ means an individual**
22 **who, at any time during the 60-month period**
23 **ending on the date the determination is being**
24 **made—**

1 “(1) owns the entire interest in an un-
2 incorporated trade or business,

3 “(2) in the case of a partnership, is a
4 partner who owns, directly or indirectly,
5 more than 10 percent of either the capital
6 interest or the profits interest in such
7 partnership, or

8 “(3) in the case of a corporation,
9 owns, directly or indirectly, more than 10
10 percent in value of either the voting
11 stock of that corporation or all the stock
12 of that corporation.

13 For purposes of paragraph (3), the construc-
14 tive ownership rules of section 1563(e) of the
15 Internal Revenue Code of 1986 shall apply
16 (determined without regard to section
17 1563(e)(3)(C)).”.

18 (2) Section 4043(c)(7) of such Act (29 U.S.C.
19 1343(c)(7)) is amended by striking “section
20 4022(b)(6)” and inserting “section 4021(d)”.

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided
23 in paragraph (2), the amendments made
24 by this section shall apply to plan
25 terminations—

1 (A) under section 4041(c) of the
2 Employee Retirement Income Secu-
3 rity Act of 1974 (29 U.S.C. 1341(c))
4 with respect to which notices of in-
5 tent to terminate are provided under
6 section 4041(a)(2) of such Act (29
7 U.S.C. 1341(a)(2)) after December 31,
8 2001, and

9 (B) under section 4042 of such Act
10 (29 U.S.C. 1342) with respect to which
11 proceedings are instituted by the cor-
12 poration after such date.

13 (2) CONFORMING AMENDMENTS.—The
14 amendments made by subsection (c) shall
15 take effect on January 1, 2002.

16 SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY
17 RESPONSIBILITY.

18 (a) IMPOSITION AND AMOUNT OF PENALTY
19 MADE DISCRETIONARY.—Section 502(l)(1) of the
20 Employee Retirement Income Security Act of
21 1974 (29 U.S.C. 1132(l)(1)) is amended—

22 (1) by striking “shall” and inserting
23 “may”, and

24 (2) by striking “equal to” and insert-
25 ing “not greater than”.

1 **(b) APPLICABLE RECOVERY AMOUNT.—Section**
2 **tion 502(l)(2) of such Act (29 U.S.C. 1132(l)(2))**
3 **is amended by inserting after “fiduciary or**
4 **other person” the following: “(or from any**
5 **other person on behalf of any such fiduciary**
6 **or other person)”.**

7 **(c) OTHER RULES.—Section 502(l) of the**
8 **Employee Retirement Income Security Act of**
9 **1974 (29 U.S.C. 1132(l)) is amended by adding**
10 **at the end the following new paragraphs:**

11 **“(5) A person shall be jointly and severally**
12 **liable for the penalty described in paragraph**
13 **(1) to the same extent that such person is**
14 **jointly and severally liable for the applicable**
15 **recovery amount on which the penalty is**
16 **based.**

17 **“(6) No penalty shall be assessed under**
18 **this subsection unless the person against**
19 **whom the penalty is assessed is given notice**
20 **and opportunity for a hearing with respect to**
21 **the violation and applicable recovery**
22 **amount.”.**

23 **(d) EFFECTIVE DATE.—The amendments**
24 **made by this section shall apply to any breach**
25 **of fiduciary responsibility or other violation**

1 of part 4 of subtitle B of title I of the Employee
2 Retirement Income Security Act of 1974 oc-
3 ccurring on or after the date of the enactment
4 of this Act.

5 SEC. 707. BENEFIT SUSPENSION NOTICE.

6 (a) MODIFICATION OF REGULATION.—The
7 Secretary of Labor shall modify the regula-
8 tion under subparagraph (B) of section
9 203(a)(3) of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1053(a)(3)(B))
11 to provide that the notification required by
12 such regulation in connection with any sus-
13 pension of benefits described in such
14 subparagraph—

15 (1) in the case of an employee who re-
16 turns to service under the plan after com-
17 mencement of payment of benefits under
18 the plan—

19 (A) shall be made during the first
20 calendar month or payroll period in
21 which the plan withholds payments,
22 and

23 (B) if a reduced rate of future
24 benefit accrual will apply to the re-
25 turning employee (as of the first date

1 of participation in the plan by the
2 employee after returning to work),
3 shall include a statement that the
4 rate of future benefit accrual will be
5 reduced, and

6 (2) in the case of any employee who is
7 not described in paragraph (1)—

8 (A) may be included in the sum-
9 mary plan description for the plan
10 furnished in accordance with section
11 104(b) of such Act (29 U.S.C. 1024(b)),
12 rather than in a separate notice, and

13 (B) need not include a copy of the
14 relevant plan provisions.

15 (b) **EFFECTIVE DATE.**—The modification
16 made under this section shall apply to plan
17 years beginning after December 31, 2001.

18 **SEC. 708. STUDIES.**

19 (a) **MODEL SMALL EMPLOYER GROUP PLANS**
20 **STUDY.**—As soon as practicable after the date
21 of the enactment of this Act, the Secretary of
22 Labor, in consultation with the Secretary of
23 the Treasury, shall conduct a study to
24 determine—

1 (1) the most appropriate form or
2 forms of—

3 (A) employee pension benefit
4 plans which would—

5 (i) be simple in form and eas-
6 ily maintained by multiple small
7 employers, and

8 (ii) provide for ready port-
9 ability of benefits for all partici-
10 pants and beneficiaries,

11 (B) alternative arrangements pro-
12 viding comparable benefits which
13 may be established by employee or
14 employer associations, and

15 (C) alternative arrangements pro-
16 viding comparable benefits to which
17 employees may contribute in a man-
18 ner independent of employer sponsor-
19 ship, and

20 (2) appropriate methods and strate-
21 gies for making pension plan coverage
22 described in paragraph (1) more widely
23 available to American workers.

24 (b) MATTERS TO BE CONSIDERED.—In con-
25 ducting the study under subsection (a), the

1 Secretary of Labor shall consider the ade-
2 quacy and availability of existing employee
3 pension benefit plans and the extent to which
4 existing models may be modified to be more
5 accessible to both employees and employers.

6 (c) REPORT.—Not later than 18 months
7 after the date of the enactment of this Act, the
8 Secretary of Labor shall report the results of
9 the study under subsection (a), together with
10 the Secretary's recommendations, to the Com-
11 mittee on Education and the Workforce and
12 the Committee on Ways and Means of the
13 House of Representatives and the Committee
14 on Health, Education, Labor, and Pensions
15 and the Committee on Finance of the Senate.
16 Such recommendations shall include one or
17 more model plans described in subsection
18 (a)(1)(A) and model alternative arrangements
19 described in subsections (a)(1)(B) and
20 (a)(1)(C) which may serve as the basis for ap-
21 propriate administrative or legislative action.

22 (d) STUDY ON EFFECT OF LEGISLATION.—Not
23 later than 5 years after the date of the enact-
24 ment of this Act, the Secretary of Labor shall
25 submit to the Committee on Education and

1 the Workforce of the House of Representa-
2 tives and the Committee on Health, Edu-
3 cation, Labor, and Pensions of the Senate a
4 report on the effect of the provisions of this
5 Act on pension plan coverage, including any
6 change in—

7 (1) the extent of pension plan cov-
8 erage for low and middle-income work-
9 ers,

10 (2) the levels of pension plan benefits
11 generally,

12 (3) the quality of pension plan cov-
13 erage generally,

14 (4) workers' access to and participa-
15 tion in pension plans, and

16 (5) retirement security.

17 **TITLE VIII—PLAN AMENDMENTS**

18 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

21 (1) such plan or contract shall be
22 treated as being operated in accordance
23 with the terms of the plan during the pe-
24 riod described in subsection (b)(2)(A);
25 and

1 (2) except as provided by the Sec-
2 retary of the Treasury, such plan shall
3 not fail to meet the requirements of sec-
4 tion 411(d)(6) of the Internal Revenue
5 Code of 1986 or section 204(g) of the Em-
6 ployee Retirement Income Security Act of
7 1974 by reason of such amendment.

8 (b) AMENDMENTS TO WHICH SECTION AP-
9 PLIES.—

10 (1) IN GENERAL.—This section shall
11 apply to any amendment to any plan or
12 annuity contract which is made—

13 (A) pursuant to any amendment
14 made by this Act, or pursuant to any
15 regulation issued under this Act; and

16 (B) on or before the last day of
17 the first plan year beginning on or
18 after January 1, 2004.

19 In the case of a governmental plan (as de-
20 fined in section 414(d) of the Internal
21 Revenue Code of 1986), this paragraph
22 shall be applied by substituting “2006” for
23 “2004”.

24 (2) CONDITIONS.—This section shall
25 not apply to any amendment unless—

1 **(A) during the period—**

2 **(i) beginning on the date the**
3 **legislative or regulatory amend-**
4 **ment described in paragraph**
5 **(1)(A) takes effect (or in the case**
6 **of a plan or contract amendment**
7 **not required by such legislative**
8 **or regulatory amendment, the ef-**
9 **fective date specified by the**
10 **plan); and**

11 **(ii) ending on the date de-**
12 **scribed in paragraph (1)(B) (or, if**
13 **earlier, the date the plan or con-**
14 **tract amendment is adopted),**
15 **the plan or contract is operated as if**
16 **such plan or contract amendment**
17 **were in effect; and**

18 **(B) such plan or contract amend-**
19 **ment applies retroactively for such**
20 **period.**

Union Calendar No. 33

107TH CONGRESS
1ST SESSION

H. R. 10

[Report No. 107-51, Parts I and II]

A BILL

To provide for pension reform, and for other
purposes.

MAY 1, 2001

Reported from the Committee on Education and the
Workforce with an amendment; committed to the Com-
mittee of the Whole House on the State of the Union,
and ordered to be printed