

105TH CONGRESS
2D SESSION

H. R. 3788

To provide for pension reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1998

Mr. PORTMAN (for himself and Mr. CARDIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To 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; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Retirement Security for the 21st Century Act”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

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

TITLE I—EXPANDING COVERAGE

Sec. 101. Restoration of limits formerly in effect.
 Sec. 102. Plan loans for subchapter S owners, partners, and sole proprietors.
 Sec. 103. Salary reduction only simple plans.
 Sec. 104. Modification of top-heavy rules.
 Sec. 105. Qualified staffing firms.
 Sec. 106. Elective deferrals not taken into account for purposes of limits.
 Sec. 107. Phase-in of additional PBGC premium for new plans.
 Sec. 108. Repeal of coordination requirements for deferred compensation plans
 of State and local governments and tax-exempt organizations.

TITLE II—ENHANCING FAIRNESS FOR WOMEN AND CHILDREN

Sec. 201. Additional salary reduction catch-up contributions.
 Sec. 202. Equitable treatment for contributions of employees to defined con-
 tribution plans.
 Sec. 203. Faster vesting of certain employer matching contributions.
 Sec. 204. Deferred annuities for surviving spouses of Federal employees.
 Sec. 205. Simplify and update the minimum distribution rules.
 Sec. 206. Clarification of tax treatment of division of section 457 plan benefits
 upon divorce.

TITLE III—INCREASING PORTABILITY FOR PARTICIPANTS

Sec. 301. Rollovers allowed among various types of plans.
 Sec. 302. Rollovers of IRAs into workplace retirement plans.
 Sec. 303. Rollovers of after-tax contributions.
 Sec. 304. Treatment of forms of distribution.
 Sec. 305. Rationalization of restrictions on distributions.
 Sec. 306. Purchase of service credit in governmental defined benefit plans.

TITLE IV—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

Sec. 401. Repeal of 150 percent of current liability funding limit.
 Sec. 402. Missing participants.
 Sec. 403. Periodic pension benefits statements.
 Sec. 404. Civil penalties for breach of fiduciary responsibility.
 Sec. 405. Penalty tax relief for sound pension funding.

TITLE V—REDUCING REGULATORY BURDENS

Sec. 501. Intermediate sanctions for inadvertent failures.
 Sec. 502. Repeal of the multiple use test.
 Sec. 503. Safety valve from mechanical rules.
 Sec. 504. Reform of the line of business rules.

- Sec. 505. Coverage test flexibility.
- Sec. 506. Increase in retirement plan cash-out amount.
- Sec. 507. Simplification of cash-out rule.
- Sec. 508. Modification of timing of plan valuations.
- Sec. 509. Section 457 inapplicable to certain mirror plans.
- Sec. 510. Rules for substantial owners relating to plan terminations.
- Sec. 511. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 512. Modification of 403(b) exclusion allowance to conform to 415 modification.
- Sec. 513. Treatment of multiemployer plans under section 415.
- Sec. 514. Elimination of partial termination rules for multiemployer plans.
- Sec. 515. Notice and consent period regarding distributions.
- Sec. 516. Conforming amendments relating to election to receive taxable cash compensation in lieu of nontaxable parking benefits.
- Sec. 517. Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 518. Employees of tax-exempt entities.
- Sec. 519. Permissive aggregation of collective bargaining units.
- Sec. 520. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 521. Provisions relating to plan amendments.

1 **TITLE I—EXPANDING COVERAGE**

2 **SEC. 101. RESTORATION OF LIMITS FORMERLY IN EFFECT.**

3 (a) DEFINED BENEFIT PLANS.—

4 (1) DOLLAR LIMIT.—(A) Subparagraph (A) of
 5 section 415(b)(1) (relating to limitation for defined
 6 benefit plans) is amended by striking “\$90,000” and
 7 inserting “\$140,000”.

8 (B) Subparagraphs (C) and (D) of section
 9 415(b)(2) are each amended by striking “\$90,000”
 10 each place it appears in the headings and the text
 11 and inserting “\$140,000”.

12 (C) Paragraph (7) of section 415(b) (relating to
 13 benefits under certain collectively bargained plans) is
 14 amended by striking “the greater of \$68,212 or one-

1 half the amount otherwise applicable for such year
 2 under paragraph (1)(A) for ‘\$90,000’” and insert-
 3 ing “one-half the amount otherwise applicable for
 4 such year under paragraph (1)(A) for ‘\$140,000’”.

5 (2) LIMIT REDUCED WHEN BENEFIT BEGINS
 6 BEFORE AGE 62.—Subparagraph (C) of section
 7 415(b)(2) is amended by striking “the social security
 8 retirement age” each place it appears in the heading
 9 and text and inserting “age 62”.

10 (3) LIMIT INCREASED WHEN BENEFIT BEGINS
 11 AFTER AGE 65.—Subparagraph (D) of section
 12 415(b)(2) is amended by striking “the social security
 13 retirement age” each place it appears in the heading
 14 and text and inserting “age 65”.

15 (4) PLANS MAINTAINED BY GOVERNMENTS AND
 16 TAX EXEMPT ORGANIZATIONS.—Subparagraph (F)
 17 of section 415(b)(2) is amended to read as follows:

18 “(F) PLANS MAINTAINED BY GOVERN-
 19 MENTS AND TAX-EXEMPT ORGANIZATIONS.—

20 “(i) IN GENERAL.—In the case of a
 21 governmental plan (within the meaning of
 22 section 414(d)), a plan maintained by an
 23 organization (other than a governmental
 24 unit) exempt from tax under this subtitle,
 25 or a qualified merchant marine plan, sub-

1 paragraph (C) shall be applied as if the
2 last sentence thereof read as follows: ‘The
3 reduction under this subparagraph shall
4 not reduce the limitation of paragraph
5 (1)(A) below (i) \$100,000 if the benefit be-
6 gins at or after age 55, or (ii) if the bene-
7 fit begins before age 55, the equivalent of
8 the \$100,000 limitation for age 55.’

9 “(ii) DEFINITIONS.—For purposes of
10 this subparagraph—

11 “(I) QUALIFIED MERCHANT MA-
12 RINE PLAN.—The term ‘qualified mer-
13 chant marine plan’ means a plan in
14 existence on January 1, 1986, the
15 participants in which are merchant
16 marine officers holding licenses issued
17 by the Secretary of Transportation
18 under title 46, United States Code.

19 “(II) EXEMPT ORGANIZATION
20 PLAN COVERING 50 PERCENT OF ITS
21 EMPLOYEES.—A plan shall be treated
22 as a plan maintained by an organiza-
23 tion (other than a governmental unit)
24 exempt from tax under this subtitle if
25 at least 50 percent of the employees

1 benefiting under the plan are employ-
 2 ees of an organization (other than a
 3 governmental unit) exempt from tax
 4 under this subtitle.”

5 (5) COST-OF-LIVING ADJUSTMENTS.—Sub-
 6 section (d) of section 415 (related to cost-of-living
 7 adjustments) is amended—

8 (A) in paragraph (1)(A) by striking
 9 “\$90,000” and inserting “\$140,000”, and

10 (B) in paragraph (3)(A)—

11 (i) by striking “\$90,000” in the head-
 12 ing and inserting “\$140,000”, and

13 (ii) by striking “October 1, 1986” and
 14 inserting “July 1, 1998”.

15 (b) DEFINED CONTRIBUTION PLANS.—

16 (1) DOLLAR LIMIT.—Subparagraph (A) of sec-
 17 tion 415(c)(1) (relating to limitation for defined con-
 18 tribution plans) is amended by striking “\$30,000”
 19 and inserting “\$45,000”.

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

23 (A) in paragraph (1)(C) by striking
 24 “\$30,000” and inserting “\$45,000”, and

25 (B) in paragraph (3)(D)—

- 1 (i) by striking “\$30,000” in the head-
2 ing and inserting “\$45,000”, and
3 (ii) by striking “October 1, 1993” and
4 inserting “July 1, 1998”.

5 (c) QUALIFIED TRUSTS.—

- 6 (1) COMPENSATION LIMIT.—Sections
7 401(a)(17), 404(l), 408(k), and 505(b)(7) are each
8 amended by striking “\$150,000” each place it ap-
9 pears and inserting “\$235,000”.

- 10 (2) BASE PERIOD AND ROUNDING OF COST-OF-
11 LIVING ADJUSTMENT.—Subparagraph (B) of section
12 401(a)(17) is amended—

- 13 (A) by striking “October 1, 1993” and in-
14 serting “July 1, 1998”, and

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

17 (d) ELECTIVE DEFERRALS.—

- 18 (1) IN GENERAL.—Paragraphs (1) and (5) of
19 section 402(g) (relating to limitation on exclusion
20 for elective deferrals) are each amended by striking
21 “\$7,000” and inserting “\$15,000”.

22 (2) CONFORMING AMENDMENTS.—

- 23 (A) Section 402(g) (relating to limitation
24 on exclusion for elective deferrals), as amended
25 by paragraph (1), is further amended by strik-

1 ing paragraph (4) and redesignating para-
 2 graphs (5), (6), (7), (8), and (9) as paragraphs
 3 (4), (5), (6), (7), and (8), respectively.

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

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

10 (e) DEFERRED COMPENSATION PLANS OF STATE
 11 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 12 ZATIONS.—Section 457 (relating to deferred compensation
 13 plans of State and local governments and tax-exempt orga-
 14 nizations) is amended—

15 (1) in subsections (b)(2)(A), (c)(1), and (e)(15)
 16 by striking “\$7,500” each place it appears and in-
 17 serting “\$15,000”,

18 (2) in subsection (b)(3)(A) by striking
 19 “\$15,000” and inserting “\$30,000”, and

20 (3) in subsection (e)(15)—

21 (A) by inserting “and the \$30,000 amount
 22 specified in subsection (b)(3)(A)” after
 23 “(c)(1)”, and

24 (B) by striking “September 30, 1994” and
 25 inserting “September 30, 1998”.

1 (f) SIMPLE RETIREMENT ACCOUNTS.—

2 (1) LIMITATION.—Sections 408(p)(2)(A)(ii),
3 401(k)(11)(B)(i)(I), and 401(k)(11)(E) are each
4 amended by striking “\$6,000” and inserting
5 “\$10,000”.

6 (2) BASE PERIOD FOR COST-OF-LIVING ADJUST-
7 MENT.—Subparagraph (E) of section 408(p)(2) is
8 amended by striking “September 30, 1996” and in-
9 serting “September 30, 1998”.

10 (g) COST-OF-LIVING ADJUSTMENTS.—

11 (1) PLANS MAINTAINED BY GOVERNMENTS AND
12 TAX EXEMPT ORGANIZATIONS.—Paragraph (1) of
13 section 415(d) (as amended by subsection (b)) is
14 amended by striking “and” at the end of subpara-
15 graph (B), by redesignating subparagraph (C) as
16 subparagraph (D), and by inserting after subpara-
17 graph (B) the following new subparagraph:

18 “(C) the \$100,000 amount in subsection
19 (b)(2)(F), and”.

20 (2) BASE PERIOD.—Paragraph (3) of section
21 415(d) (as amended by subsection (b)) is further
22 amended by redesignating subparagraph (D) as sub-
23 paragraph (E) and by inserting after subparagraph
24 (C) the following new subparagraph:

1 “(D) \$100,000 AMOUNT.—The base period
2 taken into account for purposes of paragraph
3 (1)(C) is the calendar quarter beginning July 1,
4 1998.”

5 (3) ROUNDING RULE RELATING TO DEFINED
6 BENEFIT PLANS AND DEFINED CONTRIBUTION
7 PLANS.—Paragraph (4) of section 415(d) is amend-
8 ed to read as follows:

9 “(4) ROUNDING.—

10 “(A) \$140,000 AMOUNT.—Any increase
11 under subparagraph (A) of paragraph (1) which
12 is not a multiple of \$5,000 shall be rounded to
13 the next lowest multiple of \$5,000.

14 “(B) \$100,000 AND \$45,000 AMOUNTS.—
15 Any increase under subparagraph (C) or (D) of
16 paragraph (1) which is not a multiple of \$1,000
17 shall be rounded to the next lowest multiple of
18 \$1,000.”

19 (4) CONFORMING AMENDMENT.—Subparagraph
20 (D) of section 415(d)(3) (as amended by paragraph
21 (1)) is amended by striking “paragraph (1)(C)” and
22 inserting “paragraph (1)(D)”.

23 (h) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to years beginning after De-
3 cember 31, 1998.

4 (2) COLLECTIVE BARGAINING AGREEMENTS.—
5 In the case of a plan maintained pursuant to 1 or
6 more collective bargaining agreements between em-
7 ployee representatives and 1 or more employers rati-
8 fied by the date of enactment of this Act, the
9 amendments made by this section shall not apply to
10 contributions or benefits pursuant to any such
11 agreement for years beginning before the earlier
12 of—

13 (A) the later of—

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

19 (ii) January 1, 1999, or

20 (B) January 1, 2003.

21 **SEC. 102. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**
22 **NERS, AND SOLE PROPRIETORS.**

23 (a) AMENDMENT TO 1986 CODE.—Subsection (f) of
24 section 4975 (relating to other definitions and special
25 rules) is amended by striking paragraph (6).

1 (b) AMENDMENTS TO ERISA.—

2 (1) Section 408 of the Employee Retirement In-
3 come Security Act of 1974 (29 U.S.C. 1108) is
4 amended—

5 (A) by striking subsection (d); and

6 (B) by redesignating subsections (e) and
7 (f) as subsections (d) and (e), respectively.

8 (2) Section 407(b)(3)(B) of such Act (29
9 U.S.C. 1107(b)(3)(B)) is amended by striking “**sec-**
10 **tion 408(e)**” and inserting “**section 408(d)**”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act.

14 **SEC. 103. SALARY REDUCTION ONLY SIMPLE PLANS.**

15 (a) SIMPLE RETIREMENT ACCOUNTS.—

16 (1) IN GENERAL.—Paragraph (2) of section
17 408(p) (as amended by section 101(f)) is further
18 amended—

19 (A) by redesignating subparagraphs (C),
20 (D), and (E) as subparagraphs (D), (E), and
21 (F), respectively; and

22 (B) by inserting after subparagraph (B)
23 the following:

24 “(C) EMPLOYER MAY ELECT SALARY RE-
25 DUCATION ONLY ARRANGEMENT.—

1 “(i) IN GENERAL.—An employer shall
2 be treated as meeting the requirements of
3 subparagraph (A)(iii) for any year if, in
4 lieu of the contributions described in such
5 subparagraph, the employer elects to limit
6 the amount which an employee may elect
7 under subparagraph (A)(i) to a total of
8 \$5,000 for the year. If an employer makes
9 an election under this subparagraph for
10 any year, the employer shall notify employ-
11 ees of such election within a reasonable pe-
12 riod of time before the 60-day period for
13 such year under paragraph (5)(C).

14 “(ii) EXCEPTION.—This subpara-
15 graph shall not apply to an employer if
16 such employer (or any predecessor em-
17 ployer) maintained another qualified plan
18 (as defined in subparagraph (D)(ii)) with
19 respect to which contributions were made,
20 or benefits were accrued, for service during
21 the year in which the arrangement de-
22 scribed in clause (i) became effective or ei-
23 ther of the 2 preceding years. If only indi-
24 viduals other than employees described in
25 subparagraph (A) or (B) of section

1 410(b)(3) are eligible to participate in the
 2 arrangement described in clause (i), then
 3 the preceding sentence shall be applied
 4 without regard to any qualified plan in
 5 which only employees so described are eli-
 6 gible to participate.

7 “(iii) APPLICABLE RULES.—For pur-
 8 poses of this subparagraph, rules similar to
 9 the rules of subparagraph (D)(iii) shall
 10 apply.”

11 (2) COST-OF-LIVING ADJUSTMENT.—Subpara-
 12 graph (F) of section 408(p)(2) (as so redesignated)
 13 is amended by inserting “and the \$5,000 amount
 14 under subparagraph (C)” after “subparagraph
 15 (A)(ii)”.

16 (3) COORDINATION WITH MAXIMUM LIMITA-
 17 TION.—Paragraph (8) of section 408(p) (relating to
 18 coordination with maximum limitation under sub-
 19 section (a)) is amended by striking “paragraph
 20 (2)(A)(ii) of this subsection” and inserting “sub-
 21 paragraph (A)(ii) or (C) of paragraph (2) of this
 22 subsection, whichever is applicable,”.

23 (b) ADOPTION OF SIMPLE PLAN TO MEET NON-
 24 DISCRIMINATION TESTS.—

1 (1) SIMPLE PLAN.—Subparagraph (B) of sec-
2 tion 401(k)(11) is amended by redesignating clause
3 (iii) as clause (iv) and by inserting after clause (ii)
4 the following new clause:

5 “(iii) EMPLOYER MAY ELECT SALARY
6 REDUCTION ONLY ARRANGEMENT.—

7 “(I) IN GENERAL.—An employer
8 shall be treated as meeting the re-
9 quirements of clause (i)(II) for any
10 year if, in lieu of the contributions de-
11 scribed in such clause, the employer
12 elects to limit the amount which an
13 employee may elect under clause (i) to
14 a total of \$5,000 for the year. If an
15 employer makes an election under this
16 clause for any year, the employer shall
17 notify employees of such election with-
18 in a reasonable period of time before
19 the 60-day period for such year under
20 clause (iv)(II).

21 “(II) EXCEPTION.—This clause
22 shall not apply to an employer if such
23 employer (or any predecessor em-
24 ployer) maintained another qualified
25 plan (as defined in section

1 408(p)(2)(D)(ii)) with respect to
 2 which contributions were made, or
 3 benefits were accrued, for service dur-
 4 ing the year in which the arrangement
 5 described in subclause (I) became ef-
 6 fective or either of the 2 preceding
 7 years. This subclause shall not apply
 8 if such contributions or benefits were
 9 solely on behalf of employees who are
 10 not eligible to participate in the ar-
 11 rangement described in subclause
 12 (I).”

13 (2) COST-OF-LIVING ADJUSTMENT.—Subpara-
 14 graph (E) of section 401(k)(11) is amended by in-
 15 serting “and the \$5,000 amount under subpara-
 16 graph (B)(iii)” after “subparagraph (B)(i)(I)”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to years beginning after December
 19 31, 1998.

20 **SEC. 104. MODIFICATION OF TOP-HEAVY RULES.**

21 (a) REPEAL OF FAMILY AGGREGATION RULES.—
 22 Section 416(i)(1)(B)(i)(I) (defining 5-percent owner) is
 23 amended by inserting “(without regard to subsection
 24 (a)(1) thereof)” after “section 318”.

1 (b) SIMPLIFICATION OF DEFINITION OF KEY EM-
2 PLOYEE.—

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

5 (A) by striking “or any of the 4 preceding
6 plan years” in the matter preceding clause (i),

7 (B) by striking clause (i) and inserting the
8 following:

9 “(i) an officer of the employer who
10 has compensation from the employer of
11 more than \$150,000,”

12 (C) by striking clause (ii) and redesignat-
13 ing clauses (iii) and (iv) as clauses (ii) and (iii),
14 respectively, and

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

18 (2) CONFORMING AMENDMENT.—Section
19 416(i)(1)(B)(iii) is amended by striking “and sub-
20 paragraph (A)(ii)”.

21 (c) EMPLOYEE ELECTIVE CONTRIBUTIONS TO PLAN
22 NOT TAKEN INTO ACCOUNT.—

23 (1) DEFINITION OF TOP-HEAVY PLAN.—Section
24 416(g)(4) (relating to other special rules) is amend-
25 ed by adding at the end the following:

1 “(H) EMPLOYEE ELECTIVE CONTRIBU-
2 TIONS TO PLAN NOT TAKEN INTO ACCOUNT.—
3 At the election of the employer, any employee
4 elective contribution described in section
5 415(c)(3)(D) to a plan (and earnings allocable
6 thereto) shall not be taken into account for pur-
7 poses of determining whether a plan is a top-
8 heavy plan (or whether any aggregation group
9 which includes such plan is a top-heavy
10 group).”

11 (2) DEFINITION OF COMPENSATION.—Section
12 416(i)(1)(D) (defining compensation) is amended to
13 read as follows:

14 “(D) COMPENSATION.—

15 “(i) IN GENERAL.—For purposes of
16 this paragraph, except as provided in
17 clause (ii), the term ‘compensation’ has the
18 meaning given such term by section
19 414(q)(4).

20 “(ii) EMPLOYEE ELECTIVE CONTRIBU-
21 TIONS TO PLAN NOT TAKEN INTO AC-
22 COUNT.—At the election of the employer,
23 any employee elective contribution de-
24 scribed in section 415(c)(3)(D) to a plan

1 shall not be taken into account for pur-
2 poses of determining compensation.”

3 (d) MATCHING CONTRIBUTIONS TAKEN INTO AC-
4 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—
5 Section 416(c)(2)(A) (relating to defined contribution
6 plans) is amended by adding at the end the following:
7 “Employer matching contributions (as defined in section
8 401(m)(4)(A)) shall be taken into account for purposes
9 of this subparagraph.”

10 (e) REQUIREMENTS FOR QUALIFICATIONS.—Clause
11 (ii) of section 401(a)(10)(B) (relating to requirements for
12 qualifications for top-heavy plans) is amended by adding
13 at the end the following new flush sentence:

14 “The preceding sentence shall not apply to
15 a plan if the plan is not top-heavy and if
16 it is not reasonable to expect that the plan
17 will become top-heavy.”

18 (f) DISTRIBUTIONS DURING LAST YEAR BEFORE
19 DETERMINATION DATE TAKEN INTO ACCOUNT.—Section
20 416(g) is amended—

21 (1) in paragraph (3)—

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

1 (B) in the matter following subparagraph
 2 (B), by striking “5-year period” and inserting
 3 “1-year period”, and
 4 (2) in paragraph (4)(E)—

5 (A) by striking “LAST 5 YEARS” in the
 6 heading and inserting “LAST YEAR BEFORE DE-
 7 TERMINATION DATE”, and

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

10 (g) DEFINITION OF TOP-HEAVY PLANS.—

11 (1) EXCLUSION OF CERTAIN PLANS FROM DEFINI-
 12 TION OF TOP-HEAVY PLAN.—Paragraph (4) of sec-
 13 tion 416(d) (relating to other special rules for top-
 14 heavy plans) is amended by adding at the end the
 15 following new subparagraphs:

16 “(H) CASH OR DEFERRED ARRANGEMENTS
 17 USING ALTERNATIVE METHODS OF MEETING
 18 NONDISCRIMINATION REQUIREMENTS.—The
 19 term ‘top-heavy plan’ shall not include a cash
 20 or deferred arrangement to the extent that such
 21 arrangement meets the requirements of section
 22 401(k)(12). This subparagraph shall also apply
 23 to contributions that are not required to satisfy
 24 the requirements of section 401(k)(12) but are
 25 consistent with the purposes of such section, as

1 permitted under regulations which the Sec-
2 retary shall prescribe.

3 “(I) DEFINED CONTRIBUTION PLANS
4 USING ALTERNATIVE METHODS OF MEETING
5 NONDISCRIMINATION REQUIREMENTS.—The
6 term ‘top-heavy plan’ shall not include a de-
7 fined contribution plan to the extent that such
8 plan meets the requirements of section
9 401(m)(11). This subparagraph shall also apply
10 to contributions that are not required to satisfy
11 the requirements of section 401(m)(11) but are
12 consistent with the purposes of such section, as
13 permitted under regulations which the Sec-
14 retary shall prescribe.”

15 (2) AGGREGATION GROUP NOT REQUIRED TO
16 INCLUDE CERTAIN PLANS.—Clause (i) of section
17 416(g)(2)(A) of such Code (relating to required ag-
18 gregation) is amended by adding at the end the fol-
19 lowing new flush sentence:

20 “Such term shall not include a plan or ar-
21 rangement described in subparagraph (H)
22 or (I) of paragraph (4).”

23 (h) EFFECTIVE DEFERRALS NOT TAKEN INTO AC-
24 COUNT.—Clause (i) of section 416(c)(2)(B) (relating to
25 special rule where maximum contribution less than 3 per-

1 cent) is amended by inserting “(other than elective defer-
 2 rals (as defined in section 402(g)(3))” after “contribu-
 3 tions”.

4 (i) **EFFECTIVE DATE.**—The amendments made by
 5 this section shall apply to years beginning after December
 6 31, 1998.

7 **SEC. 105. QUALIFIED STAFFING FIRMS.**

8 (a) **CODIFICATION OF EMPLOYER STATUS OF QUALI-**
 9 **FIED STAFFING FIRM FOR EMPLOYMENT TAX PUR-**
 10 **POSES.**—

11 (1) **INCOME TAX WITHHOLDING.**—Section
 12 3401(d) is amended—

13 (A) in paragraph (1), by striking “and” at
 14 the end;

15 (B) in paragraph (2), by striking the pe-
 16 riod and inserting “, and”; and

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

18 “(3) notwithstanding any provision in this sub-
 19 title to the contrary, in the case of a qualified staff-
 20 ing firm, described in section 7701(a)(47), paying
 21 wages to an individual performing services for a cus-
 22 tomer of such qualified staffing firm, the term ‘em-
 23 ployer’ means such qualified staffing firm (and not
 24 the customer).”.

1 (2) FICA TAX.—Section 3121 is amended by
2 adding at the end the following:

3 “(z) APPLICATION TO QUALIFIED STAFFING
4 FIRMS.—In the case of a qualified staffing firm, described
5 in section 7701(a)(47), paying wages to an individual per-
6 forming services for a customer of such qualified staffing
7 firm, the term ‘employer’ means such qualified staffing
8 firm (and not the customer), notwithstanding any provi-
9 sion in this subtitle to the contrary.”.

10 (3) FUTA TAX.—Subsection (a) of section
11 3306 is amended by adding at the end the following:

12 “In the case of a qualified staffing firm, described
13 in section 7701(a)(47), paying wages to an individ-
14 ual performing services for a customer of such quali-
15 fied staffing firm, the term ‘employer’ means such
16 qualified staffing firm (and not the customer), not-
17 withstanding any provision in this subtitle to the
18 contrary.”.

19 (4) DEFINITION—Subsection (a) of section
20 7701 is amended by adding at the end the following
21 paragraph—

22 “(47) QUALIFIED STAFFING FIRM.—The term
23 ‘qualified staffing firm’ means any person that is engaged
24 in providing staffing services to a customer pursuant to
25 a service contract, and that with respect to a worker per-

1 forming services for the customer who is covered by the
2 contract—

3 “(A) Assumes responsibility for payment of
4 wages to the worker, without regard to the receipt
5 or adequacy of payment from the customer for such
6 services,

7 “(B) Assumes responsibility for reporting, with-
8 holding, and paying any applicable taxes under
9 Chapters 21, 23, and 24, with respect to the work-
10 er’s wages, without regard to the receipt of adequacy
11 of payment from the customer for such services,

12 “(C) Assumes responsibility for any worker
13 benefits that may be required by the service con-
14 tract, without regard to the receipt or adequacy of
15 payment from the customer for such services,

16 “(D) Assumes authority to hire, reassign, and
17 dismiss the worker and has the contractual right to
18 exercise this authority independent of the customer,

19 “(E) Maintains employee records relating to the
20 worker, and

21 “(F) Assumes responsibility for addressing the
22 worker’s complaints, claims, filings, or requests re-
23 lating to employment, except as otherwise provided
24 by applicable collective bargaining agreements, if
25 any, notwithstanding that some or all of the actions

1 described in this subparagraph may be shared by the
2 customer.”.

3 (b) CODIFICATION OF EMPLOYER STATUS OF QUALI-
4 FIED STAFFING FIRM FOR PURPOSES OF PROVIDING EM-
5 PLOYEE BENEFITS.—

6 (1) Paragraph (20) of section 7701(a) is
7 amended—

8 (A) by redesignating the text of such para-
9 graph as subparagraph (A);

10 (B) by adding the heading “(A) FULL-
11 TIME LIFE INSURANCE SALESMAN.—” at the
12 start of new subparagraph (A); and

13 (C) by adding at the end of paragraph
14 (20) the following:

15 “(B) INDIVIDUAL COVERED BY QUALIFIED
16 STAFFING FIRM CONTRACT.—For the purpose
17 of applying the provisions of section 79 with re-
18 spect to group-term insurance purchased for
19 employees, for the purpose of applying the pro-
20 visions of sections 104, 105, and 106 with re-
21 spect to accident and health insurance or acci-
22 dent and health plans, for the purpose of apply-
23 ing the provisions of this title with respect to
24 contributions to or under a trust which is a
25 part of a plan described in section 401(a)

1 (other than a defined benefit plan), or to or
2 under a plan described in section 403(a) (other
3 than a defined benefit plan), including for this
4 purpose elective contributions under section
5 401(k) and employee contributions and match-
6 ing contributions under section 401(m), with
7 respect to a tax-exempt status of a trust form-
8 ing a part of such plan, and with respect to the
9 tax-exempt status of a trust forming a part of
10 such plan, and with respect to distributions
11 under such a plan, or by a trust forming part
12 of such a plan, for the purpose of applying sec-
13 tion 125 with respect to cafeteria plans, for the
14 purpose of applying section 127 with respect to
15 educational assistance programs, for the pur-
16 pose of applying section 129 with respect to de-
17 pendent care assistance programs, for the pur-
18 pose of applying the provisions of section
19 414(n), and for the purpose of applying the
20 provisions listed in section 414(n)(3), with re-
21 spect to such other benefits, plans, or programs
22 as are described in section 414(n)(3), the term
23 ‘employee’ shall include, with respect to a quali-
24 fied staffing firm, any individual whose em-
25 ployer is considered to be the qualified staffing

1 firm for the purpose of Chapters 21, 23, and
2 24. For these purposes, a change in the employ-
3 ment relationship between an individual and a
4 qualified staffing firm or between the individual
5 and a customer or former customer of the
6 qualified staffing firm, as the cause may be,
7 whereby the individual becomes or ceases to be
8 an employee of the qualified staffing firm under
9 this subparagraph, shall be treated as the ter-
10 mination of employment and separation from
11 service by the individual from the employment
12 or service of the qualified staffing firm’s cus-
13 tomer or the qualified staffing firm, as the case
14 may be.”.

15 (c) COVERAGE OF LEASED EMPLOYEES IN EMPLOY-
16 MENT BENEFIT PLANS.—

17 (1) APPLICATION OF REQUIREMENTS CONCERN-
18 ING CASH OR DEFERRED ARRANGEMENTS, MATCH-
19 ING CONTRIBUTIONS, AND EMPLOYEE CONTRIBU-
20 TIONS TO LEASED EMPLOYEES.—Section
21 414(n)(3)(B) is amended by inserting “401(k),
22 401(m)” before “408(k)”.

23 (2) SPECIAL RULES FOR LEASING ORGANIZA-
24 TION’S PLAN.—Section 414(n) is amended—

1 (A) by renumbering paragraph (6) as
 2 paragraph (7); and

3 (B) by inserting the following as para-
 4 graph (6):

5 “(6) LEASING ORGANIZATION’S PLAN.—

6 “(A) ELECTIVE DISAGGREGATION.—

7 “(i) GENERAL RULE.—A leasing orga-
 8 nization that is a qualified staffing firm
 9 may elect, for any year, to have a plan that
 10 it sponsors and that is described in section
 11 401(a) or 403(a) treated as maintained by
 12 more than one employer for purposes of
 13 applying sections 410(b) and 401(a)(4).
 14 For these purposes, (I) all the employees
 15 who perform services directly for a recipi-
 16 ent and related persons and who would be
 17 treated as leased employees of the recipient
 18 but for the requirements of paragraph
 19 (2)(B), shall be treated as employed by
 20 that recipient, and (II) all employees who
 21 do not meet the requirements of subclause
 22 (I) shall be treated as employed by the
 23 leasing organization. Such leasing organi-
 24 zation may also elect, for any year, to have
 25 a plan that is subject to section 105(h)(3)

1 and (4), or to section 125(c), tested on a
2 comparable basis under section 105(h)(3)
3 and (4), or under section 125(c), as the
4 case may be.

5 “(ii) SPECIAL RULES.—A leasing or-
6 ganization electing under this paragraph
7 (6)(A) may, under regulations prescribed
8 by the Secretary, elect in the alternative to
9 have subclause (I) of paragraph (6)(A)(i)
10 applied (I) to all employees who perform
11 services directly for the recipient and the
12 related persons, whether or not they would
13 be treated as leased employees of the recip-
14 ient, or (ii) only with respect to selected re-
15 cipients and related persons. Notwith-
16 standing the foregoing, in the event that a
17 five-percent owner (as defined in section
18 416(i)) of a recipient is covered by a plan
19 described in paragraph (6)(A)(i), then such
20 leasing organization shall be deemed to
21 have elected disaggregation in accordance
22 with subclause (ii) of this clause with re-
23 spect to such recipient and related persons.

24 “(iii) EFFECT OF DISQUALIFICA-
25 TION.—If the plan of a leasing organiza-

1 tion electing under this paragraph (6)(A)
2 fails to satisfy the requirements of section
3 410(b) or section 401(a)(4) with respect to
4 the person deemed to be the employer
5 under paragraph (6)(A), only that portion
6 of the plan that is treated under paragraph
7 (6)(A) as maintained by such person shall
8 be disqualified.

9 “(iv) TREATMENT OF RELATED PER-
10 SONS.—For purposes of this subparagraph
11 (A), the term “recipient” shall not include
12 any person that is a related person with
13 respect to the leasing organization.

14 “(B) HIGHLY COMPENSATED EMPLOY-
15 EES.—Whether or not the leasing organization
16 makes an election under subparagraph (A), sec-
17 tion 414(q) shall be applied to employees of a
18 leasing organization that is a qualified staffing
19 firm by treating the employees who perform
20 services for a recipient or related persons and
21 who would be leased employees of the recipient
22 but for the requirements of paragraph (2)(B)
23 as employed by, and receiving compensation
24 from, the recipient or the related person for
25 purposes of determining whether the employees

1 are highly compensated employees of the leasing
2 organization.”.

3 (d) REVISIONS TO SAFE HARBOR PROVISION.—

4 (1) REVISIONS TO SAFE HARBOR PLAN RE-
5 QUIREMENTS.—Subparagraph (B) of section
6 414(n)(5) is amended to read as follows:

7 “(B) PLAN REQUIREMENTS.—A plan meets the re-
8 quirements of this subparagraph if—

9 “(i) such plan is a money purchase pension
10 plan or a profit-sharing plan, with a nonintegrated
11 employer contribution rate for each participant
12 which is at least 7.5 percent of that portion of the
13 participant’s compensation attributable to services
14 performed for the recipient, and which is not de-
15 pendent on the current or accumulated points of the
16 leasing organization or on whether the participant
17 makes an elective contribution or employee contribu-
18 tion to such plan.

19 “(ii) such plan provides for full and immediate
20 vesting,

21 “(iii) if the plan is a profit-sharing plan, such
22 plan meets the distribution requirements of section
23 401(k)(2)(B) with respect to all employer contribu-
24 tions, and

1 “(iv) each employee of the leasing organization
2 who performs services for the recipient immediately
3 participates in such plan.”.

4 (2) EXTENSION OF SAFE HARBOR RULE TO AD-
5 DITIONAL EMPLOYEE BENEFITS.—Paragraph (5) of
6 Section 414(n) is amended by adding at the end the
7 following:

8 “(D) SPECIAL RULE FOR ADDITIONAL EM-
9 PLOYEE BENEFITS.—To the extent provided for in
10 regulations issued by the Secretary, in the case of a
11 requirement described in subparagraph (C) of para-
12 graph (3), this subsection shall not apply to any
13 leased employee with respect to service performed
14 for a recipient if—

15 “(i) such employee is covered by a plan for
16 an arrangement that is maintained by the leas-
17 ing organization and that meets such require-
18 ments as the Secretary shall prescribe in regu-
19 lations, and

20 “(ii) leased employees (determined without
21 regard to this paragraph) do not constitute
22 more than 20 percent of the recipient’s non-
23 highly compensated work force.”.

24 (e) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date of the enactment

1 of this Act. In the case of a plan that covers employees
2 of a qualified staffing firm who are providing services for
3 a customer pursuant to a service contract and that was
4 adopted and in effect before the date of enactment of this
5 Act, such amendments shall not take effect until the first
6 day of the first plan year that begins after the date of
7 enactment of this Act, and the plan shall not be required
8 to be amended to reflect this Act until the end of such
9 plan year.

10 **SEC. 106. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
11 **COUNT FOR PURPOSES OF LIMITS.**

12 (a) IN GENERAL.—Section 404 is amended by adding
13 at the end the following new subsection:

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

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to years beginning after December
23 31, 1998.

1 **SEC. 107. PHASE-IN OF ADDITIONAL PBGC PREMIUM FOR**
 2 **NEW PLANS.**

3 (a) AMENDMENTS TO ERISA.—Subparagraph (E) of
 4 section 4006(a)(3) of the Employee Retirement Income
 5 Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amend-
 6 ed by adding at the end the following new clause:

7 “(v) In the case of a new defined benefit plan, the
 8 amount determined under clause (ii) for any plan year
 9 shall be an amount equal to the product derived by mul-
 10 tiplying the amount determined under clause (ii) by the
 11 applicable percentage. For purposes of this clause, the
 12 term ‘applicable percentage’ means—

13 “(I) 0 percent, for the first plan year.

14 “(II) 20 percent, for the second plan year.

15 “(III) 40 percent, for the third plan year.

16 “(IV) 60 percent, for the fourth plan year.

17 “(V) 80 percent, for the fifth plan year.

18 “(VI) 100 percent, for the sixth plan year, and
 19 for each succeeding plan year.

20 “For purposes of this clause, the term ‘new defined
 21 benefit plan’ means a defined benefit plan (as defined in
 22 section 3(35) maintained by an employer if such employer
 23 (including any predecessor employer) has not established
 24 or maintained a plan to which this title applies with re-
 25 spect to which contributions were made, or benefits were
 26 accrued, for service in the 3 preceding taxable years.”

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to plan years beginning after De-
 3 cember 31, 1998.

4 **SEC. 108. REPEAL OF COORDINATION REQUIREMENTS FOR**
 5 **DEFERRED COMPENSATION PLANS OF STATE**
 6 **AND LOCAL GOVERNMENTS AND TAX-EX-**
 7 **EMPT ORGANIZATIONS.**

8 (a) IN GENERAL.—Subsection (c) of section 457 (re-
 9 lating to deferred compensation plans of State and local
 10 governments and tax-exempt organizations) is amended to
 11 read as follows:

12 “(c) LIMITATION.—The maximum amount of the
 13 compensation of any one individual which may be deferred
 14 under subsection (a) during any taxable year shall not ex-
 15 ceed \$15,000 (as modified by any adjustment provided
 16 under subsection (b)(3)).”.

17 (b) EFFECTIVE DATE.—The amendment made by
 18 subsection (a) shall apply to years beginning after Decem-
 19 ber 31, 1998.

20 **TITLE II—ENHANCING FAIRNESS**
 21 **FOR WOMEN AND CHILDREN**

22 **SEC. 201. ADDITIONAL SALARY REDUCTION CATCH-UP CON-**
 23 **TRIBUTIONS.**

24 (a) LIMITATION ON EXCLUSION FOR ELECTIVE DE-
 25 FERRALS.—

1 (1) IN GENERAL.—Subsection (g) of section
 2 402 (as amended by section 101(d)) is further
 3 amended by adding at the end the following:

4 “(9) CATCH-UP CONTRIBUTIONS FOR THOSE
 5 APPROACHING RETIREMENT.—In the case of an indi-
 6 vidual who has attained age 50 during any taxable
 7 year, the limitation of paragraph (1) for such year,
 8 after the application of paragraph (8), shall be in-
 9 creased by \$5,000.”

10 (2) COST-OF-LIVING ADJUSTMENT.—Paragraph
 11 (4) of section 402(g) (relating to cost-of-living ad-
 12 justment), as amended by section 101(d), is further
 13 amended by inserting “and the \$5,000 amount
 14 under paragraph (10)” after “paragraph (1)”.

15 (b) SIMPLE RETIREMENT ACCOUNTS.—

16 (1) IN GENERAL.—Paragraph (2) of section
 17 408(p) (relating to qualified salary reduction ar-
 18 rangement) (as amended by sections 101(f) and
 19 103(a)) is further amended by redesignating sub-
 20 paragraph (F) as subparagraph (G) and by inserting
 21 after subparagraph (E) the following new subpara-
 22 graph:

23 “(F) CATCH-UP CONTRIBUTIONS FOR
 24 THOSE APPROACHING RETIREMENT.—In the
 25 case of an individual who has attained age 50

1 during any taxable year, the limitation of sub-
 2 paragraph (A)(ii) for such year shall be in-
 3 creased by \$5,000.”

4 (2) COST-OF-LIVING ADJUSTMENT.—Subpara-
 5 graph (G) of section 408(p)(2) (as so redesignated)
 6 is amended by inserting “and the \$5,000 amount
 7 under subparagraph (F)” after “subparagraph
 8 (A)(ii)”.

9 (c) DEFERRED COMPENSATION PLANS OF STATE
 10 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 11 ZATIONS.—

12 (1) IN GENERAL.—Subsection (b) of section
 13 457 (relating to definition of eligible deferred com-
 14 pensation plan) is amended by adding at the end the
 15 following new paragraph:

16 “(7) CATCH-UP CONTRIBUTIONS FOR THOSE
 17 APPROACHING RETIREMENT.—In the case of an indi-
 18 vidual who has attained age 50 during any taxable
 19 year, the limitation of paragraph (2)(A) for such
 20 year shall be increased by \$5,000.”

21 (2) COST-OF-LIVING ADJUSTMENT.—Paragraph
 22 (15) of section 457(e) (relating to cost-of-living ad-
 23 justment) is amended by inserting “, and the \$5,000
 24 amount specified in subsection (b)(7),” after
 25 “(c)(1)”.

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

4 **SEC. 202. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
 5 **EMPLOYEES TO DEFINED CONTRIBUTION**
 6 **PLANS.**

7 (a) IN GENERAL.—

8 (1) Subparagraph (B) of section 415(c)(1) (re-
 9 lating to limitation for defined contribution plans) is
 10 amended to read as follows:

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

12 (2) CONFORMING AMENDMENTS.—

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

17 (B)(i) Section 403(b) is amended—

18 (I) by striking “the exclusion allow-
 19 ance for such taxable year” in paragraph
 20 (1) and inserting “the applicable limit
 21 under section 415”, and

22 (II) by striking paragraph (2).

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

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

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

7 “(E) ANNUITY CONTRACTS.—In the case
 8 of an annuity contract described in section
 9 403(b), the term ‘participant’s compensation’
 10 shall mean the participant’s includible com-
 11 pensation as determined under regulations pre-
 12 scribed by the Secretary.”

13 (F) Section 415(c) is amended by striking
 14 paragraph (4).

15 (G) Section 415(c)(7) is amended to read
 16 as follows:

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

19 “(A) IN GENERAL.—Notwithstanding any
 20 other provision of this subsection, at the elec-
 21 tion of a participant who is an employee of a
 22 church, a convention or association of churches,
 23 including an organization described in section
 24 414(e)(3)(B)(ii), contributions and other addi-
 25 tions for an annuity contract or retirement in-

come 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) Section 415(e)(5) is amended—

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

(ii) by striking the last sentence.

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

(J) Subparagraph (A) of section 457(c)(2) is amended by striking “or 403(b)(2)(A)(ii)”

1 and by striking “or 403(b)(2)(A)(ii), respec-
2 tively”.

3 (K) Subparagraph (B) of section 402(g)(7)
4 (as amended by section 101(d)) is amended by
5 inserting before the period at the end the fol-
6 lowing: “(as in effect on the date of the enact-
7 ment of the Retirement Security for the 21st
8 Century Act)”.

9 (3) EFFECTIVE DATE.—The amendments made
10 by this subsection shall apply to years beginning
11 after December 31, 1998.

12 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
13 408.—

14 (1) IN GENERAL.—Subsection (k) of section
15 415 is amended by adding at the end the following
16 new paragraph:

17 “(4) SPECIAL RULES FOR SECTIONS 403(b) AND
18 408.—For purposes of this section, any annuity con-
19 tract described in section 403(b) for the benefit of
20 a participant shall be treated as a defined contribu-
21 tion plan maintained by each employer with respect
22 to which the participant has the control required
23 under subsection (b) or (c) of section 414 (as modi-
24 fied by subsection (h)). For purposes of this section,
25 any contribution by an employer to a simplified em-

8 (c) DEFERRED COMPENSATION PLANS OF STATE
9 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
10 ZATIONS.—Subparagraph (B) of section 457(b)(2) (relat-
11 ing to salary limitation on eligible deferred compensation
12 plans” is amended by striking “33⅓ percent” and insert-
13 ing “100 percent”.

17 SEC. 203. FASTER VESTING OF CERTAIN EMPLOYER
18 MATCHING CONTRIBUTIONS.

(1) in paragraph (2), by striking “A plan” and inserting “Except as provided in paragraph (12), a plan”, and

•HR 3788 IH

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

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

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

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

9 (b) AMENDMENTS TO ERISA.—Section 203(a) of the
 10 Employee Retirement Income Security Act of 1974 (29
 11 U.S.C. 1053(a)) is amended—

12 (1) in paragraph (2), by striking “A plan” and
 13 inserting “Except as provided in paragraph (4), a
 14 plan”, and

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

16 “(4) FASTER VESTING FOR MATCHING CON-
 17 TRIBUTIONS.—In the case of matching contributions
 18 (as defined in section 401(m)(4)(A) of the Internal
 19 Revenue Code of 1986), paragraph (2) shall be ap-
 20 plied—

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

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

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

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
 5 graph (2), the amendments made by this section
 6 shall apply to contributions for plan years beginning
 7 after December 31, 1998.

8 (2) COLLECTIVE BARGAINING AGREEMENTS.—

9 In the case of a plan maintained pursuant to 1 or
 10 more collective bargaining agreements between em-
 11 ployee representatives and 1 or more employers rati-
 12 fied by the date of enactment of this Act, the
 13 amendments made by this section shall not apply to
 14 contributions on behalf of employees covered by any
 15 such agreement for plan years beginning before the
 16 earlier of—

17 (A) the later of—

18 (i) the date on which the last of such
 19 collective bargaining agreements termi-
 20 nates (determined without regard to any
 21 extension thereof on or after such date of
 22 enactment), or

1 (ii) January 1, 1999, or
2 (B) January 1, 2003.

3 (3) SERVICE REQUIRED.—With respect to any
4 plan, the amendments made by this section shall not
5 apply to any employee before the date that such em-
6 ployee has 1 hour of service under such plan in any
7 plan year to which the amendments made by this
8 section apply.

9 **SEC. 204. DEFERRED ANNUITIES FOR SURVIVING SPOUSES**
10 **OF FEDERAL EMPLOYEES.**

11 (a) IN GENERAL.—Section 8341 of title 5, United
12 States Code, is amended—

13 (1) in subsection (h)(1), by striking “section
14 8338(b) of this title” and inserting “section
15 8338(b), and a former spouse of a deceased former
16 employee who separated from the service with title
17 to a deferred annuity under section 8338 (if they
18 were married to one another prior to the date of sep-
19 aration),”; and

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

21 “(j)(1) If a former employee dies after having sepa-
22 rated from the service with title to a deferred annuity
23 under section 8338 but before having established a valid
24 claim for annuity, and is survived by a spouse to whom

1 married on the date of separation, the surviving spouse
2 may elect to receive—

3 “(A) an annuity, commencing on what would
4 have been the former employee’s 62d birthday, equal
5 to 55 percent of the former employee’s deferred an-
6 nuity;

7 “(B) an annuity, commencing on the day after
8 the date of death of the former employee, such that,
9 to the extent practicable, the present value of the fu-
10 ture payments of the annuity would be actuarially
11 equivalent to the present value of the future pay-
12 ments under subparagraph (A) as of the day after
13 the former employee’s death; or

14 “(C) the lump-sum credit, if the surviving
15 spouse is the individual who would be entitled to the
16 lump-sum credit and if such surviving spouse files
17 application therefor.

18 “(2) An annuity under this subsection and the right
19 thereto terminate on the last day of the month before the
20 surviving spouse remarries before becoming 55 years of
21 age, or dies.”

22 (b) CORRESPONDING AMENDMENT FOR FERS.—
23 Section 8445(a) of title 5, United States Code, is amend-
24 ed—

1 (1) by striking “(or of a former employee or”
2 and inserting “(or of a former”; and

3 (2) by striking “annuity)” and inserting “annu-
4 ity, or of a former employee who dies after having
5 separated from the service with title to a deferred
6 annuity under section 8413 but before having estab-
7 lished a valid claim for annuity (if such former
8 spouse was married to such former employee prior
9 to the date of separation))”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to surviving spouses
12 and former spouses (whose marriage, in the case of the
13 amendments made by subsection (a), terminated after
14 May 6, 1985) of former employees who die after the date
15 of the enactment of this Act.

16 **SEC. 205. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**

18 (a) REQUIRED DISTRIBUTIONS.—

19 (1) IN GENERAL.—Subparagraphs (C)(i)(I) and
20 (C)(ii)(I) of section 401(a)(9) are each amended by
21 striking “70½” and inserting “75”.

22 (2) ACTUARIAL ADJUSTMENT OF BENEFIT
23 UNDER DEFINED BENEFIT PLAN.—Clause (iii) of
24 section 401(a)(9)(C) is amended to read as follows:

25 “(iii) ACTUARIAL ADJUSTMENT.—

1 “(I) IN GENERAL.—In the case
 2 of a defined benefit plan, an employ-
 3 ee’s accrued benefit shall be actuari-
 4 ally increased to take into account the
 5 period after the applicable date during
 6 which the employee was not eligible to
 7 receive any benefits under the plan.

8 “(II) APPLICABLE DATE.—For
 9 purposes of clause (I), the term ‘appli-
 10 cable date’ means the 1st April follow-
 11 ing the calendar year in which the em-
 12 ployee attains age 70½.

13 (3) EFFECTIVE DATE.—The amendments made
 14 by this subsection shall apply to years beginning
 15 after December 31, 2000.

16 (b) SIMPLIFICATION AND FINALIZATION OF MINI-
 17 MUM DISTRIBUTION REQUIREMENTS.—

18 (1) IN GENERAL.—The Secretary of the Treas-
 19 ury shall—

20 (A) simplify and finalize the regulations re-
 21 lating to minimum distribution requirements
 22 under sections 401(a)(9), 408(a)(6) and (b)(3),
 23 403(b)(10), and 457(d)(2) of the Internal Reve-
 24 nue Code of 1986, and

25 (B) modify such regulations to—

- 1 (i) reflect increases in life expectancy,
2 and
3 (ii) revise the required distribution
4 methods so that, under reasonable assump-
5 tions, the amount of the required minimum
6 distribution does not decrease over a par-
7 ticipant's life expectancy.

8 (2) FRESH START.—Notwithstanding subpara-
9 graph (D) of section 401(a)(9) of such Code, during
10 the first year that regulations are in effect under
11 this subsection, required distributions for future
12 years may be redetermined to reflect changes under
13 such regulations. Such redetermination shall include
14 the opportunity to choose a new designated bene-
15 ficiary and to elect a new method of calculating life
16 expectancy.

17 (3) EFFECTIVE DATE FOR REGULATIONS.—
18 Regulations referred to in paragraph (1) shall be ef-
19 fective for years beginning after December 31, 2000,
20 and shall apply in such years without regard to
21 whether an individual had previously begun receiving
22 minimum distributions.

23 (c) AMOUNT NOT SUBJECT TO MINIMUM DISTRIBU-
24 TION REQUIREMENTS.—Paragraph (9) of section 401(a)
25 is amended—

1 (1) in subparagraph (A), by inserting “(minus
2 the exclusion amount)” after “the entire interest”;
3 and

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

5 “(H) EXCLUSION AMOUNT.—

6 “(i) IN GENERAL.—For purposes of
7 this paragraph, the term ‘exclusion
8 amount’ means—

9 “(I) \$300,000 in the case of a
10 defined contribution plan;

11 “(II) \$300,000 in the case of an
12 individual retirement plan; and

13 “(III) \$0 in the case of a defined
14 benefit plan.

15 “(ii) AGGREGATION OF PLANS.—For
16 purposes of determining the exclusion
17 amount under clause (i)—

18 “(I) all defined contribution
19 plans maintained by the same em-
20 ployer shall be treated as a single
21 plan; and

22 “(II) all individual retirement
23 plans (other than Roth IRAs) of the
24 individual shall be treated as a single
25 plan.

1 “(iii) COST-OF-LIVING ADJUST-
2 MENT.—The Secretary shall adjust the
3 \$300,000 exclusion amount specified in
4 clause (i) at the same time and in the
5 same manner as under section 415(d), ex-
6 cept that the base period shall be the cal-
7 endar quarter ending September 30,
8 1999.”

9 (3) EFFECTIVE DATE.—The amendments made
10 by this subsection shall apply to years beginning
11 after December 31, 2000.

12 (d) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
13 BEGUN BEFORE DEATH OCCURS.—

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

18 (2) CONFORMING CHANGES.—

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

21 (i) by striking “FOR OTHER CASES” in
22 the heading, and

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

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

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

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

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

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

13 (iii) in subclause (I) by striking “the
14 date on which the employee would have at-
15 tained the age 70½,” and inserting “April
16 1 of the calendar year following the cal-
17 endar year in which the spouse attains 75,
18 and clause (ii) shall not apply to the exclu-
19 sion amount,” and

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

1 (3) REDUCTION IN EXCISE TAX.—Subsection
 2 (a) of section 4974 is amended by striking “50 per-
 3 cent” and inserting “10 percent”.

4 (4) EFFECTIVE DATE.—

5 (A) IN GENERAL.—Except as provided by
 6 subparagraph (B), the amendments made by
 7 this subsection shall apply to years beginning
 8 after December 31, 2000.

9 (B) EXCISE TAX.—The amendment made
 10 by paragraph (3) shall apply to years beginning
 11 after December 31, 1998.

12 **SEC. 206. CLARIFICATION OF TAX TREATMENT OF DIVISION**
 13 **OF SECTION 457 PLAN BENEFITS UPON DI-**
 14 **VORCE.**

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

18 (1) by inserting “or an eligible deferred com-
 19 pensation plan (within the meaning of section
 20 457(b))” after “subsection (e))”, and

21 (2) in the heading, by striking “GOVERN-
 22 MENTAL AND CHURCH PLANS” and inserting “CER-
 23 TAIN OTHER PLANS”.

24 (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-
 25 MENTS.—Paragraph (10) of section 414(p) is amended by

1 striking “and section 409(d)” and inserting “section
2 409(d), and section 457(d)”.

3 (c) TAX TREATMENT OF PAYMENTS FROM A SEC-
4 TION 457 PLAN.—Subsection (p) of section 414 is amend-
5 ed by redesignating paragraph (12) as paragraph (13) and
6 inserting after paragraph (11) the following new para-
7 graph:

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

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transfers, distributions, and
17 payments made after the date of enactment of this Act.

18 **TITLE III—INCREASING PORT-** 19 **ABILITY FOR PARTICIPANTS**

20 **SEC. 301. ROLLOVERS ALLOWED AMONG VARIOUS TYPES** 21 **OF PLANS.**

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

24 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

4 “(16) ROLLOVER AMOUNTS.—

5 “(A) GENERAL RULE.—In the case of an
6 eligible deferred compensation plan, if—

7 “(i) any portion of the balance to the
8 credit of an employee in such plan is paid
9 to such employee in an eligible rollover dis-
10 tribution (within the meaning of section
11 402(c)(4)),

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

17 “(iii) in the case of a distribution of
18 property other than money, the amount so
19 transferred consists of the property distrib-
20 uted,

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

24 “(B) CERTAIN RULES MADE APPLICA-
25 BLE.—Rules similar to the rules of paragraphs

(2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).

“(C) REPORTING.—Rollovers under this paragraph shall be reported to the Secretary in the same manner as rollovers from qualified retirement plans (as defined in section 4974(c)).”

(B) DEFERRAL LIMIT DETERMINED WITHOUT REGARD TO ROLLOVER AMOUNTS.—Section 457(b)(2) (defining eligible deferred compensation plan) is amended by inserting “(other than rollover amounts)” after “taxable year”.

(2) ROLLOVERS TO SECTION 457 PLANS.—

(A) 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 adding at the end the following:

“(v) an eligible deferred compensation plan described in section 457(b) of an eligible employer described in section 457(e)(1)(A).”

(B) Paragraph (9) of section 402(c) is amended by striking “except that” and all that follows and inserting “except that only an ac-

1 count or annuity described in clause (i) or (ii)
2 of paragraph (8)(B) shall be treated as an eligi-
3 ble retirement plan with respect to such dis-
4 tribution.”

5 (C) Subsection (t) of section 72 (relating
6 to 10-percent additional tax on early distribu-
7 tions from qualified retirement plans) is amend-
8 ed by adding at the end the following new para-
9 graph:

10 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-
11 TION 457 PLANS.—For purposes of this subsection,
12 a distribution from an eligible deferred compensation
13 plan (as defined in section 457(b)) of an employer
14 described in section 457(e)(1)(A) shall be treated as
15 a distribution from a qualified retirement plan to the
16 extent that such distribution is attributable to an
17 amount transferred to an eligible deferred compensa-
18 tion plan from a qualified retirement plan (as de-
19 fined in section 4974(c)). For purposes of this sub-
20 section, any such distribution shall be treated as if
21 made from a qualified retirement plan described in
22 section 4974(c)(1). This paragraph shall only apply
23 to a transfer that is in excess of \$50,000 and that
24 is permitted by reason of section 402(c)(8)(B)(v) or
25 section 408(d)(3)(A)(iv).”

1 (D) Subsection (a) of section 457 (relating
2 to year of inclusion in gross income) is amend-
3 ed—

4 (i) by striking “or otherwise made
5 available”, and

6 (ii) by adding at the end the follow-
7 ing: “To the extent provided in section
8 72(t)(9), section 72(t) shall apply to any
9 amount includible in gross income under
10 this subsection.”.

11 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
12 403(b) PLANS.—

13 (1) ROLLOVERS FROM SECTION 403(b)
14 PLANS.—Section 403(b)(8)(A)(ii) (relating to roll-
15 over amounts) is amended by striking “such dis-
16 tribution” and all that follows and inserting “such
17 distribution to an eligible retirement plan described
18 in section 402(c)(8)(B), and”.

19 (2) ROLLOVERS TO SECTION 403(b) PLANS.—
20 Section 402(c)(8)(B) (defining eligible retirement
21 plan), as amended by subsection (a), is amended by
22 striking “and” at the end of clause (iv), by striking
23 the period at the end of clause (v) and inserting “,
24 and”, and by adding at the end the following:

1 “(vi) an annuity contract described in
2 section 403(b).”

3 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
4 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section
5 402(f) (relating to written explanation to recipients of dis-
6 tributions eligible for rollover treatment) is amended by
7 striking “and” at the end of subparagraph (C), by striking
8 the period at the end of subparagraph (D) and inserting
9 “, and”, and by adding at the end the following new sub-
10 paragraph:

11 “(E) of the provisions under which dis-
12 tributions from the eligible retirement plan re-
13 ceiving the distribution may be subject to re-
14 strictions and tax consequences which are dif-
15 ferent from those applicable to distributions
16 from the plan making such distribution.”

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 72(o)(4) is amended by striking
19 “and 408(d)(3)” and inserting “403(b)(8),
20 408(d)(3), and 457(e)(16)”.

21 (2) Section 219(d)(2) is amended by striking
22 “or 408(d)(3)” and inserting “408(d)(3), or
23 457(e)(16)”.

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

4 (4) Subparagraph (B) of section 403(b)(8) is
5 amended by inserting “and (9)” after “through
6 (7)”.

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

10 (6) Subparagraphs (A) and (B) of section
11 415(b)(2) are each amended by striking “and
12 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
13 457(e)(16)”.

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

17 (8) Section 4973(b)(1)(A) is amended by strik-
18 ing “or 408(d)(3)” and inserting “408(d)(3), or
19 457(e)(16)”.

20 (e) EFFECTIVE DATE; SPECIAL RULE.—

21 (1) EFFECTIVE DATE.—The amendments made
22 by this section shall apply to distributions after De-
23 cember 31, 1998.

24 (2) SPECIAL RULE.—Notwithstanding any other
25 provision of law, subsections (h)(3) and (h)(5) of

1 section 1122 of the Tax Reform Act of 1986, and
 2 section 402(d) of the Internal Revenue Code of 1986
 3 (as in effect for taxable years beginning before Jan-
 4 uary 1, 2000), shall not apply to any distribution
 5 from an eligible retirement plan on behalf of an indi-
 6 vidual if there was a rollover to such plan on behalf
 7 of such individual which is permitted solely by rea-
 8 son of any amendment made by this section.

9 **SEC. 302. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
 10 **MENT PLANS.**

11 (a) IN GENERAL.—Subparagraph (A) of section
 12 408(d)(3) (relating to rollover amounts) is amended by
 13 striking “or” at the end of clause (ii), by striking the pe-
 14 riod at the end of clause (iii) and inserting “; or”, and
 15 by adding at the end the following:

16 “(iv)(I) the entire amount received
 17 (including money and other property) rep-
 18 resents the entire interest in the account
 19 or the entire value of the annuity,

20 “(II) no amount in the account and
 21 no part of the value of the annuity is at-
 22 tributable to any source other than a roll-
 23 over contribution from a defined contribu-
 24 tion plan or a defined benefit plan and any
 25 earnings on such rollover, and

1 “(III) such entire amount received is
2 paid into a defined contribution plan or a
3 defined benefit plan (for the benefit of
4 such individual) not later than the 60th
5 day after he receives the payment or dis-
6 tribution.

7 If a payment or distribution from an individual
8 retirement plan is described in more than one
9 clause of this subparagraph, such payment or
10 distribution shall be treated as described only in
11 the clause specified by the payee or distributee.
12 For purposes of this subparagraph, the term
13 ‘defined contribution plan’ means a defined con-
14 tribution plan (as defined in section 414(i))
15 which includes a trust exempt from tax under
16 section 501(a), an annuity plan described in
17 section 403(a), an annuity contract described in
18 section 403(b), and an eligible deferred com-
19 pensation plan described in section 457(b) of an
20 eligible employer described in section
21 457(e)(1)(A). For purposes of clause (iv)(II),
22 the term ‘defined contribution plan’ shall also
23 include an eligible deferred compensation plan
24 described in section 457(b) of an eligible em-
25 ployer described in section 457(e)(1)(B). For

1 purposes of this subparagraph, the term ‘de-
2 fined benefit plan’ means a defined benefit plan
3 (as defined in section 414(j)) which includes a
4 trust exempt from tax under section 501(a).”

5 (b) CONFORMING AMENDMENT.—Paragraph (1) of
6 section 403(b) is amended by striking “section
7 408(d)(3)(A)(iii)” and inserting “clause (iii) or (iv) of sec-
8 tion 408(d)(3)(A)”.

9 (c) EFFECTIVE DATE; SPECIAL RULE.—

10 (1) EFFECTIVE DATE.—The amendments made
11 by this section shall apply to distributions after De-
12 cember 31, 1998.

13 (2) SPECIAL RULE.—Notwithstanding any other
14 provision of law, subsections (h)(3) and (h)(5) of
15 section 1122 of the Tax Reform Act of 1986, and
16 section 402(d) of the Internal Revenue Code of 1986
17 (as in effect for taxable years beginning before Jan-
18 uary 1, 2000), shall not apply to any distribution
19 from a defined contribution plan (as defined in sec-
20 tion 408(d)(3)(A) of the Internal Revenue Code of
21 1986 (as added by this section)) or a defined benefit
22 plan (as defined in section 408(d)(3)(A) of the In-
23 ternal Revenue Code of 1986 (as added by this sec-
24 tion)) on behalf of an individual if there was a roll-
25 over to such plan on behalf of such individual which

1 is permitted solely by reason of the amendments
2 made by this section.

3 **SEC. 303. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

4 (a) IN GENERAL.—

5 (1) Subsection (c) of section 402 (relating to
6 rules applicable to rollovers from exempt trusts) (as
7 amended by section 301) is amended by striking
8 paragraph (2) and redesignating paragraphs (3)
9 through (10) as paragraphs (2) through (9), respec-
10 tively.

11 (2) Paragraph (31) of section 401(a) (relating
12 to optional direct transfer of eligible rollover dis-
13 tributions) is amended by striking subparagraph (B)
14 and redesignating subparagraphs (C) and (D) as
15 subparagraphs (B) and (C), respectively.

16 (3) Subparagraph (B) of section 408(d)(3) (re-
17 lating to rollover contributions) is amended by strik-
18 ing “which was not includible in his gross income
19 because of the application of this paragraph” and in-
20 serting “to which this paragraph applied”.

21 (b) HARDSHIP EXCEPTION TO 60-DAY RULE.—

22 (1) Paragraph (2) of section 402(c) (as so re-
23 designated) is amended to read as follows:

24 “(2) TRANSFER MUST BE MADE WITHIN 60
25 DAYS OF RECEIPT.—

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

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

14 (2) Paragraph (3) of section 408(d) (relating to
15 rollover contributions) is amended by adding at the
16 end the following new subparagraph:

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

25 (c) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (B) of section 403(a)(4) is
2 amended by striking “(2) through (7)” and inserting
3 “(2) through (6)”.

4 (2) Section 403(b)(8)(A)(ii) (as amended by
5 section 301) is amended by striking “section
6 402(c)(8)(B)” and inserting “section 402(c)(7)(B)”.

7 (3) Paragraph (16) of section 457(e) (as added
8 by section 301) is amended—

9 (A) in subparagraph (A)(i) by striking
10 “402(c)(4)” and inserting “402(c)(3)”,

11 (B) in subparagraph (A)(ii) by striking
12 “402(c)(8)(B)” and inserting “402(c)(7)(B)”,
13 and

14 (C) in subparagraph (B) by striking “para-
15 graphs (2) through (7) and (9) of section
16 402(c)” and inserting “paragraphs (2) through
17 (6) and (8) of section 402(c)”.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided by para-
20 graph (2), the amendments made by this section
21 shall apply to distributions made after December 31,
22 1998.

23 (2) HARDSHIP EXCEPTION.—The amendments
24 made by subsection (b) shall apply to 60-day periods
25 ending after the date of the enactment of this Act.

1 **SEC. 304. TREATMENT OF FORMS OF DISTRIBUTION.**

2 (a) IN GENERAL.—Paragraph (6) of section 411(d)
3 (relating to accrued benefit not to be decreased by amend-
4 ment) is amended by adding at the end the following:

5 “(D) PLAN TRANSFERS.—

6 “(i) A defined contribution plan (in
7 this subparagraph referred to as the
8 ‘transferee plan’) shall not be treated as
9 failing to meet the requirements of this
10 subsection merely because the transferee
11 plan does not provide some or all of the
12 forms of distribution previously available
13 under another defined contribution plan
14 (in this paragraph referred to as the
15 ‘transferor plan’) to the extent that—

16 “(I) the forms of distribution
17 previously available under the trans-
18 feror plan applied to the account of a
19 participant or beneficiary under the
20 transferor plan that was transferred
21 from the transferor plan to the trans-
22 feree plan pursuant to a direct trans-
23 fer rather than pursuant to a distribu-
24 tion from the transferor plan;

25 “(II) the terms of both the trans-
26 feror plan and the transferee plan au-

1 authorize the transfer described in sub-
2 clause (I);

3 “(III) the transfer described in
4 subclause (I) was made pursuant to a
5 voluntary election by the participant
6 or beneficiary whose account was
7 transferred to the transferee plan;

8 “(IV) the election described in
9 subclause (III) was made after the
10 participant or beneficiary received a
11 notice describing the consequences of
12 making the election;

13 “(V) if the transferor plan pro-
14 vides for an annuity as the normal
15 form of distribution under the plan in
16 accordance with section 417, the
17 transfer is made with the consent of
18 the participant’s spouse (if any), and
19 such consent meets requirements simi-
20 lar to the requirements imposed by
21 section 417(a)(2); and

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

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

4 “(ii) Clause (i) shall apply to a direct
5 transfer received by a defined benefit plan
6 (‘transferee plan’) from another defined
7 benefit plan (‘transferor plan’) except that
8 for this purpose—

9 “(I) Subclause (VI) of clause (i)
10 shall not apply; and

11 “(II) Clause (i) shall not apply
12 with respect to the elimination of any
13 form of distribution with respect to a
14 participant or beneficiary unless the
15 transferee plan contains a form of dis-
16 tribution with respect to such partici-
17 pant or beneficiary that (a) has an
18 equal or greater value based on rea-
19 sonable actuarial assumptions and (b)
20 is available at the same times and
21 under the same conditions as the form
22 of distribution being eliminated.

23 “(III) Clause (i) shall be applied
24 by substituting ‘accrued benefit’ for
25 ‘account’ wherever it appears.

1 “(iii) Clauses (i) and (ii) shall apply
2 to plan mergers and other transactions
3 having the effect of a direct transfer, in-
4 cluding consolidations of benefits attrib-
5 utable to different employers within a mul-
6 tiple employer plan.

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

15
16 “(i) a single sum payment is available
17 to such participant at the same time or
18 times as the form of distribution being
19 eliminated; and

20 “(ii) such single sum payment is
21 based on the same or greater portion of
22 the participant’s account as the form of
23 distribution being eliminated.”

24 (b) CONFORMING AMENDMENT.—

1 (1) Subsection (g) of section 204 of the Em-
2 ployee Retirement Income Security Act of 1974 (29
3 U.S.C. 1054) is amended by adding at the end the
4 following:

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

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

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

23 “(iii) the transfer described in clause (i) was
24 made pursuant to a voluntary election by the partici-

1 pant or beneficiary whose account was transferred to
2 the transferee plan;

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

7 “(v) if the transferor plan provides for an annu-
8 ity as the normal form of distribution under the plan
9 in accordance with section 205, the transfer is made
10 with the consent of the participant’s spouse (if any),
11 and such consent meets requirements similar to the
12 requirements imposed by section 205(c)(2); and

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

18 “(B) Subparagraph (A) shall apply to a direct trans-
19 fer received by a defined benefit plan (‘transferee plan’)
20 from another defined benefit plan (‘transferor plan’) ex-
21 cept that for this purpose—

22 “(i) Clause (vi) of subparagraph (A) shall not
23 apply;

24 “(ii) Subparagraph (A) shall not apply with re-
25 spect to the elimination of any form of distribution

1 with respect to a participant or beneficiary unless
2 the transferee plan contains a form of distribution
3 with respect to such participant or beneficiary that
4 (I) has an equal or greater value based on reason-
5 able actuarial assumptions and (II) is available at
6 the same times and under the same conditions as
7 the form of distribution being eliminated; and

8 “(iii) Subparagraph (A) shall be applied by sub-
9 stituting ‘accrued benefit’ for ‘account’ wherever it
10 appears.

11 “(C) Subparagraphs (A) and (B) shall apply to plan
12 mergers and other transactions having the effect of a di-
13 rect transfer, including consolidations of benefits attrib-
14 utable to different employers within a multiple employer
15 plan.

16 “(5) Except to the extent provided in regulations, a
17 defined contribution plan shall not be treated as failing
18 to meet the requirements of this section merely because
19 of the elimination of a form of distribution previously
20 available thereunder. This paragraph shall not apply to
21 the elimination of a form of distribution with respect to
22 any participant unless—

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

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

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to years beginning after December
6 31, 1998.

7 **SEC. 305. RATIONALIZATION OF RESTRICTIONS ON DIS-**
8 **TRIBUTIONS.**

9 (a) MODIFICATION OF SAME DESK EXCEPTION.—

10 (1) SECTION 401(k).—Section
11 401(k)(2)(B)(i)(I) (relating to qualified cash or de-
12 ferred arrangements) is amended by striking “sepa-
13 ration from service” and inserting “severance from
14 employment”.

15 (2) SECTION 403(b).—

16 (A) Paragraphs (7)(A)(ii) and (11)(A) of
17 section 403(b) are each amended by striking
18 “separates from service” and inserting “has a
19 severance from employment”.

20 (B) The heading for paragraph (11) of
21 section 403(b) is amended by striking “SEPARA-
22 TION FROM SERVICE” and inserting “SEVER-
23 ANCE FROM EMPLOYMENT”.

24 (3) SECTION 457.—Clause (ii) of section
25 457(d)(1)(A) is amended by striking “is separated

1 from service” and inserting “has a severance from
2 employment”.

3 (b) BUSINESS SALE REQUIREMENTS REPEALED.—

4 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)
5 (relating to qualified cash or deferred arrangements)
6 is amended by striking “an event” and inserting “a
7 plan termination”.

8 (2) CONFORMING AMENDMENTS.—Section
9 401(k)(10) is amended—

10 (A) by striking subparagraph (A) and in-
11 serting the following:

12 “(A) IN GENERAL.—A plan termination is
13 described in this paragraph if the termination
14 of the plan does not involve the establishment
15 or maintenance of another defined contribution
16 plan (other than an employee stock ownership
17 plan as defined in section 4975(e)(7)).”,

18 (B) in subparagraph (B)—

19 (i) by striking “An event” and insert-
20 ing “A termination”, and

21 (ii) by striking “the event” and insert-
22 ing “the termination”,

23 (C) by striking subparagraph (C), and

24 (D) by striking “OR DISPOSITION OF AS-
25 SETS OR SUBSIDIARY” in the heading.

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

4 **SEC. 306. PURCHASE OF SERVICE CREDIT IN GOVERN-**
5 **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

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

21 (b) 457 PLANS.—

22 (1) Subsection (e) of section 457 (as amended
23 by section 509) is amended by adding at the end the
24 following new paragraph:

1 “(18) TRUSTEE-TO-TRUSTEE TRANSFERS TO
2 PURCHASE PERMISSIVE SERVICE CREDIT.—No
3 amount shall be includible in gross income by reason
4 of a direct trustee-to-trustee transfer to a defined
5 benefit governmental plan (as defined in section
6 414(d)) if such transfer is—

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

10 “(B) a repayment to which section 415
11 does not apply by reason of subsection (k)(3)
12 thereof.”

13 (2) Section 457(b)(2), as amended by sections
14 101 and 202, is amended by striking “(other than
15 rollover amounts)” and inserting “(other than roll-
16 over amounts and amounts received in a transfer re-
17 ferred to in subsection (e)(16))”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to trustee-to-trustee transfers after
20 December 31, 1998.

1 **TITLE IV—STRENGTHENING**
 2 **PENSION SECURITY AND EN-**
 3 **FORCEMENT**

4 **SEC. 401. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**
 5 **FUNDING LIMIT.**

6 (a) IN GENERAL.—

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

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

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

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

“In the case of any plan year beginning in—	
1999	155
2000	160
2001	165
2002	170.”

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

1 (A) by striking “the applicable percentage”
 2 in subparagraph (A)(i)(I) and inserting “in the
 3 case of plan years beginning before January 1,
 4 2003, the applicable percentage”, and

5 (B) by amending subparagraph (F) to read
 6 as follows:

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

“In the case of any plan year beginning in— The applicable percentage is—	
1999	155
2000	160
2001	165
2002	170.”

11 (3) EFFECTIVE DATES.—The amendments
 12 made by this subsection shall apply to plan years be-
 13 ginning after December 31, 1998.

14 (b) MAXIMUM CONTRIBUTION DEDUCTION RULES
 15 MODIFIED AND APPLIED TO ALL DEFINED BENEFIT
 16 PLANS.—

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

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

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

(C) by inserting after the first sentence the following: “For purposes of this subparagraph, in the case of a plan which has less than 100 participants for the plan year, termination liability shall not include the liability attributable to benefit increases for highly compensated employees (as defined in section 414(q)) brought about by plan amendment within the last 2 years before the termination date.”, and

(D) by striking “(other than a multiemployer plan)”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after the date of enactment of this Act.

SEC. 402. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350)

1 is amended by redesignating subsection (c) as subsection
2 (e) and by inserting after subsection (b) the following:

3 “(c) MULTIEMPLOYER PLANS.—The corporation
4 shall prescribe rules similar to the rules in subsection (a)
5 for multiemployer plans covered by this title that termi-
6 nate under section 4041A.

7 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

8 “(1) TRANSFER TO CORPORATION.—The plan
9 administrator of a plan described in paragraph (4)
10 may elect to transfer a missing participant’s benefits
11 to the corporation upon termination of the plan.

12 “(2) INFORMATION TO THE CORPORATION.—To
13 the extent provided in regulations, the plan adminis-
14 trator of a plan described in paragraph (4) shall,
15 upon termination of the plan, provide the corpora-
16 tion information with respect to benefits of a miss-
17 ing participant if the plan transfers such benefits—

18 “(A) to the corporation, or

19 “(B) to an entity other than the corpora-
20 tion or a plan described in paragraph (4)(B)(ii).

21 “(3) PAYMENT BY THE CORPORATION.—If ben-
22 efits of a missing participant were transferred to the
23 corporation under paragraph (1), the corporation
24 shall, upon location of the participant or beneficiary,
25 pay to the participant or beneficiary the amount

1 transferred (or the appropriate survivor benefit) ei-
2 ther—

3 “(A) in a single sum (plus interest), or

4 “(B) in such other form as is specified in
5 regulations of the corporation.

6 “(4) PLANS DESCRIBED.—A plan is described
7 in this paragraph if—

8 “(A) the plan is a pension plan (within the
9 meaning of section 3(2))—

10 “(i) to which the provisions of this
11 section do not apply (without regard to
12 this subsection), and

13 “(ii) which is not a plan described in
14 paragraphs (2) through (11) of section
15 4021(b), and

16 “(B) at the time the assets are to be dis-
17 tributed upon termination, the plan—

18 “(i) has missing participants, and

19 “(ii) has not provided for the transfer
20 of assets to pay the benefits of all missing
21 participants to another pension plan (with-
22 in the meaning of section 3(2)).

23 “(5) CERTAIN PROVISIONS NOT TO APPLY.—
24 Subsections (a)(1) and (a)(3) shall not apply to a
25 plan described in paragraph (4).”

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 206(f) of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C. 1056(f)) is
4 amended—

5 (A) by striking “title IV” and inserting
6 “section 4050”, and

7 (B) by striking “the plan shall provide
8 that”.

9 (2) Section 401(a)(34) (relating to benefits of
10 missing participants on plan termination) is amend-
11 ed by striking “title IV” and inserting “section
12 4050”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to distributions made after final
15 regulations implementing subsections (c) and (d) of sec-
16 tion 4050 of the Employee Retirement Income Security
17 Act of 1974 (as added by subsection (a)), respectively, are
18 prescribed.

19 **SEC. 403. PERIODIC PENSION BENEFITS STATEMENTS.**

20 (a) IN GENERAL.—Section 105(a) of the Employee
21 Retirement Income Security Act of 1974 (29 U.S.C.
22 1025(a)) is amended by striking “shall furnish to any plan
23 participant or beneficiary who so requests in writing, a
24 statement” and inserting “shall furnish to each plan par-
25 ticipant at least once each year (in the case of a defined

1 contribution plan) and upon written request of a plan par-
 2 ticipant or beneficiary (in the case of a defined benefit
 3 plan), a statement in written or electronic form”.

4 (b) REQUIRED PERIODIC STATEMENTS FOR PLANS
 5 WITH MORE THAN ONE UNAFFILIATED EMPLOYER.—
 6 Section 105(d) of the Employee Retirement Income Secu-
 7 rity Act of 1974 (29 U.S.C. 1025(d)) is repealed.

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

11 **SEC. 404. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
 12 **RESPONSIBILITY.**

13 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
 14 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-
 15 tirement Income Security Act of 1974 (29 U.S.C.
 16 1132(l)(1)) is amended—

17 (1) by striking “shall” and inserting “may”,
 18 and

19 (2) by striking “equal to” and inserting “not
 20 greater than”.

21 (b) APPLICABLE RECOVERY AMOUNT.—Section
 22 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended
 23 to read as follows:

24 “(2) For purposes of paragraph (1), the term ‘appli-
 25 cable recovery amount’ means any amount which is recov-

1 ered from any fiduciary or other person (or from any other
 2 person on behalf of any such fiduciary or other person)
 3 with respect to a breach or violation described in para-
 4 graph (1) on or after the 30th day following receipt by
 5 such fiduciary or other person of written notice from the
 6 Secretary of the violation, whether paid voluntarily or by
 7 order of a court in a judicial proceeding instituted by the
 8 Secretary under subsection (a)(2) or (a)(5). The Secretary
 9 may, in the Secretary's sole discretion, extend the 30-day
 10 period described in the preceding sentence.”

11 (c) OTHER RULES.—Section 502(l) of the Employee
 12 Retirement Income Security Act of 1974 (29 U.S.C.
 13 1132(l)) is amended by adding at the end the following:

14 “(5) A person shall be jointly and severally liable for
 15 the penalty described in paragraph (1) to the same extent
 16 that such person is jointly and severally liable for the ap-
 17 plicable recovery amount on which the penalty is based.

18 “(6) No penalty shall be assessed under this sub-
 19 section unless the person against whom the penalty is as-
 20 sessed is given notice and opportunity for a hearing with
 21 respect to the violation and applicable recovery amount.”

22 (d) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
 24 this section shall apply to any breach of fiduciary re-
 25 sponsibility or other violation of part 4 of subtitle B

1 of title I of the Employee Retirement Income Secu-
2 rity Act of 1974 occurring on or after the date of
3 enactment of this Act.

4 (2) TRANSITION RULE.—In applying the
5 amendment made by subsection (b) (relating to ap-
6 plicable recovery amount), a breach or other viola-
7 tion occurring before the date of enactment of this
8 Act which continues after the 180th day after such
9 date (and which may have been discontinued at any
10 time during its existence) shall be treated as having
11 occurred after such date of enactment.

12 **SEC. 405. PENALTY TAX RELIEF FOR SOUND PENSION**
13 **FUNDING.**

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

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

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

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

10 **TITLE V—REDUCING** 11 **REGULATORY BURDENS**

12 **SEC. 501. INTERMEDIATE SANCTIONS FOR INADVERTENT** 13 **FAILURES.**

14 (a) IN GENERAL.—Section 401(a) (relating to quali-
 15 fied pension, profit-sharing, and stock bonus plans) is
 16 amended by inserting after paragraph (34) the following:

17 “(35) PROTECTION FROM DISQUALIFICATION
 18 UPON TIMELY CORRECTION OR PAYMENT OF FINE.—
 19 A trust shall not fail to constitute a qualified trust
 20 under this section if the plan of which such trust is
 21 a part has made good faith efforts to meet the re-
 22 quirements of this section, has inadvertently failed
 23 to satisfy 1 or more of such requirements, and ei-
 24 ther—

1 “(A) substantially corrects (to the extent
2 possible) such failure before the date the plan
3 becomes subject to a plan examination for the
4 applicable year (as determined under rules pre-
5 scribed by the Secretary), or

6 “(B) substantially corrects (to the extent
7 possible) such failure on or after such date.

8 If the plan satisfies the requirement under subpara-
9 graph (B), the Secretary may require the sponsoring
10 employer to make a payment to the Secretary in an
11 amount that does not exceed an amount that bears
12 a reasonable relationship to the severity of the plan’s
13 failure to satisfy the requirements of this section.”

14 (b) APPLICATION TO CASH OR DEFERRED ARRANGE-
15 MENTS.—Section 401(k) is amended by inserting after
16 paragraph (12) the following new paragraph:

17 “(13) PROTECTION FROM DISQUALIFICATION.—
18 Rules similar to the rules set forth in section
19 401(a)(35) shall apply for purposes of determining
20 whether a cash or deferred arrangement is a quali-
21 fied cash or deferred arrangement.”

22 (c) APPLICATION TO SECTION 403(b) ANNUITY CON-
23 TRACTS.—Section 403(b) is amended by inserting after
24 paragraph (12) the following:

25 “(13) CORRECTION OF ERRORS.—

1 “(A) IN GENERAL.—Under distribution
 2 and reporting procedures conforming to those
 3 applicable under section 415, the Secretary
 4 shall allow for the correction of elective defer-
 5 rals (within the meaning of section
 6 402(g)(3)(C)) which, as a result of reasonable
 7 error, would cause the limitation of section
 8 403(b)(2) to be exceeded.

9 “(B) PROTECTION FROM DISQUALIFICA-
 10 TION.—For purposes of determining whether
 11 the exclusion from gross income under para-
 12 graph (1) is applicable to an employee for any
 13 taxable year, rules similar to the rules set forth
 14 in section 401(a)(35) shall apply to any annuity
 15 contract purchased under this subsection or any
 16 plan established to meet the requirements of
 17 this subsection.”

18 (d) INCOME INCLUSION FOR DISQUALIFICATION NOT
 19 APPLICABLE TO NONHIGHLY COMPENSATED EMPLOY-
 20 EES.—Section 402(b) (relating to taxability of beneficiary
 21 of nonexempt trust) is amended by striking paragraph (4)
 22 and inserting the following:

23 “(4) INCOME INCLUSION FOR DISQUALIFICA-
 24 TION NOT APPLICABLE TO NONHIGHLY COM-
 25 PENSATED EMPLOYEES.—Paragraphs (1) and (2)

1 shall not apply to employees who are not highly com-
2 pensated employees.

3 “(5) FAILURE TO MEET REQUIREMENTS OF
4 SECTION 401(a)(26) OR 410(b).—If 1 of the reasons
5 a trust is not exempt from tax under section 501(a)
6 is the failure of the plan to meet the requirements
7 of section 401(a)(26) or 410(b), then a highly com-
8 pensated employee shall, in lieu of the amount deter-
9 mined under paragraph (1) or (2), include in gross
10 income for the taxable year with or within which the
11 taxable year of the trust ends an amount equal to
12 the vested accrued benefit of such employee (other
13 than the employee’s investment in the contract) as
14 of the close of such taxable year of the trust.

15 “(6) HIGHLY COMPENSATED EMPLOYEE.—For
16 purposes of this subsection, the term ‘highly com-
17 pensated employee’ has the meaning given such term
18 by section 414(q).”

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of enactment of
21 this Act.

22 **SEC. 502. REPEAL OF THE MULTIPLE USE TEST.**

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

1 “(9) REGULATIONS.—The Secretary shall pre-
 2 scribe such regulations as may be necessary to carry
 3 out the purposes of this subsection and subsection
 4 (k), including regulations permitting appropriate ag-
 5 gregation of plans and contributions.”

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

8 **SEC. 503. SAFETY VALVE FROM MECHANICAL RULES.**

9 (a) IN GENERAL.—The Secretary of the Treasury, by
 10 regulation, shall provide that the plan shall be deemed to
 11 satisfy the requirements of section 401(a)(4) of the Inter-
 12 nal Revenue Code of 1986 if such plan satisfies the facts
 13 and circumstances test under section 401(a)(4) of such
 14 Code, as in effect before January 1, 1994, if—

15 (1) the plan satisfies conditions prescribed by
 16 the Secretary to appropriately limit the availability
 17 of such test, and

18 (2) the plan is submitted to the Secretary for
 19 a determination of whether it satisfies such test.

20 Paragraph (2) shall only apply to the extent provided by
 21 the Secretary.

22 (b) EFFECTIVE DATES.—

23 (1) REGULATIONS.—The regulation required by
 24 subsection (a) shall apply to years beginning after
 25 December 31, 1999.

1 (2) CONDITIONS OF AVAILABILITY.—Any condi-
2 tion of availability prescribed by the Secretary under
3 subsection (a)(1) shall not apply before the first year
4 beginning not less than 120 days after the date on
5 which such condition is prescribed.

6 **SEC. 504. REFORM OF THE LINE OF BUSINESS RULES.**

7 (a) REPEAL OF GATEWAY TEST.—Paragraph (5) of
8 section 410(b) is amended to read as follows:

9 “(5) LINE OF BUSINESS EXCEPTION.—If, under
10 section 414(r), an employer is treated as operating
11 separate lines of business for a year, the employer
12 may apply the requirements of this subsection for
13 such year separately with respect to employees in
14 each separate line of business.”

15 (b) REGULATIONS.—The Secretary of the Treasury
16 shall modify the regulations issued under section 414(r)
17 of the Internal Revenue Code of 1986 (relating to special
18 rules for separate line of business) to—

19 (1) simplify the administrability of the rules for
20 both the Secretary and plans, and

21 (2) permit employees to be allocated among
22 lines of business based on all the facts and cir-
23 cumstances.

24 (c) EFFECTIVE DATES.—

1 (1) REPEAL.—The repeal made by subsection
 2 (a) shall apply to years beginning after December
 3 31, 1999.

4 (2) REGULATIONS.—The regulations modified
 5 under subsection (b) shall apply to years beginning
 6 after December 31, 1999.

7 **SEC. 505. COVERAGE TEST FLEXIBILITY.**

8 (a) IN GENERAL.—Paragraph (1) of section 410(b)
 9 is amended by adding at the end the following:

10 “(D) In the case that the plan fails to
 11 meet the requirements of subparagraphs (A),
 12 (B) and (C), the plan—

13 “(i) satisfies subparagraph (B), as in
 14 effect immediately before the enactment of
 15 the Tax Reform Act of 1986,

16 “(ii) is submitted to the Secretary for
 17 a determination of whether it satisfies the
 18 requirement described in clause (i), and

19 “(iii) satisfies conditions prescribed by
 20 the Secretary by regulation that appro-
 21 priately limit the availability of this sub-
 22 paragraph.

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

25 (b) EFFECTIVE DATES.—

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

4 (2) CONDITIONS OF AVAILABILITY.—Any condi-
 5 tion of availability prescribed by the Secretary under
 6 regulations prescribed by the Secretary under sec-
 7 tion 410(a)(1)(D) of the Internal Revenue Code of
 8 1986 shall not apply before the first year beginning
 9 not less than 120 days after the date on which such
 10 condition is prescribed.

11 **SEC. 506. INCREASE IN RETIREMENT PLAN CASH-OUT**
 12 **AMOUNT.**

13 (a) AMENDMENTS TO 1986 CODE.—Section
 14 411(a)(11) (relating to restrictions on certain mandatory
 15 distributions) is amended by adding at the end the follow-
 16 ing:

17 “(D) INFLATION ADJUSTMENT.—In the
 18 case of any plan year beginning in a calendar
 19 year after 1998, the Secretary shall adjust an-
 20 nually the \$5,000 amount contained in subpara-
 21 graph (A) for increases in the cost of living at
 22 the same time and in the same manner as ad-
 23 justments under section 415(d); except that the
 24 base period shall be the calendar quarter ending
 25 September 30, 1997, and any increase which is

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

3 (b) AMENDMENTS TO ERISA.—Section 203(e) of the
4 Employee Retirement Income Security Act of 1974 (29
5 U.S.C. 1053(e)) is amended by adding at the end the fol-
6 lowing:

7 “(4) INFLATION ADJUSTMENT.—In the case of any
8 plan year beginning in a calendar year after 1998, the
9 Secretary shall adjust annually the \$5,000 amount con-
10 tained in paragraph (1) for increases in the cost of living
11 at the same time and in the same manner as adjustments
12 under section 415(d) of the Internal Revenue Code of
13 1986; except that the base period shall be the calendar
14 quarter ending September 30, 1997, and any increase
15 which is not a multiple of \$500 shall be rounded to the
16 next lowest multiple of \$500.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to plan years beginning on or after
19 the date of enactment of this Act.

20 **SEC. 507. SIMPLIFICATION OF CASH-OUT RULE.**

21 (a) MODIFICATION OF REGULATIONS.—The Sec-
22 retary of the Treasury shall modify the regulations issued
23 under sections 411(a)(11) and 417(e) of the Internal Rev-
24 enue Code of 1986 to delete the rule set forth in the last
25 sentence of Treasury Regulation section 1.411(a)–

1 11(c)(3) and in the last sentence of Treasury Regulation
 2 section 1.417(e)–1(b)(2)(i).

3 (b) EFFECTIVE DATE.—The modifications made
 4 under subsection (a) shall apply to years beginning after
 5 December 31, 1998.

6 **SEC. 508. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

7 (a) IN GENERAL.—Section 412(c)(9) (relating to an-
 8 nual valuation) is amended—

9 (1) by striking “For purposes” and inserting
 10 the following:

11 “(A) IN GENERAL.—For purposes”, and

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

13 “(B) ELECTION TO USE PRIOR YEAR
 14 VALUATION.—

15 “(i) IN GENERAL.—If, for any plan
 16 year—

17 “(I) an election is in effect under
 18 this subparagraph with respect to a
 19 plan, and

20 “(II) the assets of the plan are
 21 not less than 125 percent of the
 22 plan’s current liability (as defined in
 23 paragraph (7)(B)), determined as of
 24 the valuation date for the preceding
 25 plan year, then this section shall be

1 applied using the information avail-
 2 able as of such valuation date.

3 “(ii) ADJUSTMENTS.—Information
 4 under clause (i) shall, in accordance with
 5 regulations, be actuarially adjusted to re-
 6 flect significant differences in participants.

7 “(iii) ELECTION.—An election under
 8 this subparagraph, once made, shall be ir-
 9 revocable without the consent of the Sec-
 10 retary.”

11 (b) AMENDMENTS TO ERISA.—Paragraph (9) of
 12 section 302(c) of the Employee Retirement Income Secu-
 13 rity Act of 1974 (29 U.S.C. 1053(c)) is amended—

14 (1) by inserting “(A)” after “(9)”, and

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

16 “(B)(i) If, for any plan year—

17 “(I) an election is in effect under this subpara-
 18 graph with respect to a plan, and

19 “(II) the assets of the plan are not less than
 20 125 percent of the plan’s current liability (as defined
 21 in paragraph (7)(B)), determined as of the valuation
 22 date for the preceding plan year,

23 then this section shall be applied using the information
 24 available as of such valuation date.

1 “(ii) Information under clause (i) shall, in accordance
2 with regulations, be actuarially adjusted to reflect signifi-
3 cant differences in participants.

4 “(iii) An election under this subparagraph, once
5 made, shall be irrevocable without the consent of the Sec-
6 retary of the Treasury.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan years beginning on or after
9 the date of enactment of this Act.

10 **SEC. 509. SECTION 457 INAPPLICABLE TO CERTAIN MIRROR**
11 **PLANS.**

12 (a) IN GENERAL.—Subsection (e) of section 457 (re-
13 lating to deferred compensation plans of State and local
14 governments and tax-exempt organizations) is amended by
15 adding at the end the following new paragraph:

16 “(17) This section shall not apply to a plan,
17 program, or arrangement maintained solely for the
18 purposes of providing retirement benefits for em-
19 ployees in excess of the limitations imposed by sec-
20 tions 401(a)(17) or 415.”

21 (b) CERTAIN DEFERRED COMPENSATION NOT
22 TAKEN INTO ACCOUNT.—Subsection (c) of section 457
23 (relating to individuals who are participants in more than
24 1 plan) is amended by adding at the end the following
25 new paragraph:

1 “(3) This section shall be applied without re-
2 gard to a plan, program, or arrangement described
3 in subsection (e)(17).”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to years beginning after December
6 31, 1998.

7 **SEC. 510. RULES FOR SUBSTANTIAL OWNERS RELATING TO**
8 **PLAN TERMINATIONS.**

9 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—
10 Section 4022(b)(5) of the Employee Retirement Income
11 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended
12 to read as follows:

13 “(5)(A) For purposes of this paragraph, the term
14 ‘majority owner’ means an individual who, at any time
15 during the 60-month period ending on the date the deter-
16 mination is being made—

17 “(i) owns the entire interest in an unincor-
18 porated trade or business,

19 “(ii) in the case of a partnership, is a partner
20 who owns, directly or indirectly, 50 percent or more
21 of either the capital interest or the profits interest
22 in such partnership, or

23 “(iii) in the case of a corporation, owns, directly
24 or indirectly, 50 percent or more in value of either

1 the voting stock of that corporation or all the stock
2 of that corporation.

3 For purposes of clause (iii), the constructive ownership
4 rules of section 1563(e) of the Internal Revenue Code of
5 1986 shall apply (determined without regard to section
6 1563(e)(3)(C)).

7 “(B) In the case of a participant who is a majority
8 owner, the amount of benefits guaranteed under this sec-
9 tion shall not exceed the product of—

10 “(i) a fraction (not to exceed 1) the numerator
11 of which is the number of years from the later of the
12 effective date or the adoption date of the plan to the
13 termination date, and the denominator of which is
14 30, and

15 “(ii) the amount of the majority owner’s month-
16 ly benefits guaranteed under subsection (a) (as lim-
17 ited by paragraph (3) of this subsection).”

18 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

19 (1) Section 4044(a)(4)(B) of the Employee Re-
20 tirement Income Security Act of 1974 (29 U.S.C.
21 1344(a)(4)(B)) is amended by striking “section
22 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

23 (2) Section 4044(b) of such Act (29 U.S.C.
24 1344(b)) is amended—

1 (A) by striking “(5)” in paragraph (2) and
2 inserting “(4), (5),” and

3 (B) by redesignating paragraphs (3)
4 through (6) as paragraphs (4) through (7), re-
5 spectively, and by inserting after paragraph (2)
6 the following:

7 “(3) If assets available for allocation under
8 paragraph (4) of subsection (a) are insufficient to
9 satisfy in full the benefits of all individuals who are
10 described in that paragraph, the assets shall be allo-
11 cated first to benefits described in subparagraph (A)
12 of that paragraph. Any remaining assets shall then
13 be allocated to benefits described in subparagraph
14 (B) of that paragraph. If assets allocated to such
15 subparagraph (B) are insufficient to satisfy in full
16 the benefits described in that subparagraph, the as-
17 sets shall be allocated pro rata among individuals on
18 the basis of the present value (as of the termination
19 date) of their respective benefits described in that
20 subparagraph.”

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 4021 of the Employee Retirement
23 Income Security Act of 1974 (29 U.S.C. 1321) is
24 amended—

1 (A) in subsection (b)(9), by striking “as
2 defined in section 4022(b)(6)”, and

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

4 “(d) For purposes of subsection (b)(9), the term ‘sub-
5 stantial owner’ means an individual who, at any time dur-
6 ing the 60-month period ending on the date the determina-
7 tion is being made—

8 “(1) owns the entire interest in an unincor-
9 porated trade or business,

10 “(2) in the case of a partnership, is a partner
11 who owns, directly or indirectly, more than 10 per-
12 cent of either the capital interest or the profits inter-
13 est in such partnership, or

14 “(3) in the case of a corporation, owns, directly
15 or indirectly, more than 10 percent in value of either
16 the voting stock of that corporation or all the stock
17 of that corporation.

18 For purposes of paragraph (3), the constructive ownership
19 rules of section 1563(e) of the Internal Revenue Code of
20 1986 shall apply (determined without regard to section
21 1563(e)(3)(C)).”

22 (2) Section 4043(c)(7) of such Act (29 U.S.C.
23 1343(c)(7)) is amended by striking “section
24 4022(b)(6)” and inserting “section 4021(d)”.

25 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), the amendments made by this section
 3 shall apply to plan terminations—

4 (A) under section 4041(c) of the Employee
 5 Retirement Income Security Act of 1974 (29
 6 U.S.C. 1341(c)) with respect to which notices
 7 of intent to terminate are provided under sec-
 8 tion 4041(a)(2) of such Act (29 U.S.C.
 9 1341(a)(2)) on or after the date of enactment
 10 of this Act, or

11 (B) under section 4042 of such Act (29
 12 U.S.C. 1342) with respect to which proceedings
 13 are instituted by the corporation on or after
 14 such date.

15 (2) CONFORMING AMENDMENTS.—The amend-
 16 ments made by subsection (c) shall take effect on
 17 the date of enactment of this Act.

18 **SEC. 511. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**

19 **LOSS OF DIVIDEND DEDUCTION.**

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

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

3 “(I) payable as provided in clause
 4 (i) or (ii), or

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

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

11 **SEC. 512. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE**
 12 **TO CONFORM TO 415 MODIFICATION.**

13 The Secretary of the Treasury shall modify the regu-
 14 lations regarding the exclusion allowance under section
 15 403(b)(2) of the Internal Revenue Code of 1986 to render
 16 void the requirement that contributions to a defined bene-
 17 fit pension plan be treated as previously excluded amounts
 18 for purposes of the exclusion allowance. For taxable years
 19 beginning after December 31, 1999, such regulations shall
 20 be applied as if such requirement were void.

21 **SEC. 513. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
 22 **SECTION 415.**

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

1 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
 2 MENTAL AND MULTIEMPLOYER PLANS.—In the case
 3 of a governmental plan (as defined in section
 4 414(d)) or a multiemployer plan (as defined in sec-
 5 tion 414(f)), subparagraph (B) of paragraph (1)
 6 shall not apply.”

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

10 (1) by inserting “or a multiemployer plan (as
 11 defined in section 414(f))” after “section 414(d))”
 12 in clause (i),

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

15 (3) by inserting “AND MULTIEMPLOYER” after
 16 “GOVERNMENTAL” in the heading.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to years beginning after December
 19 31, 1998.

20 **SEC. 514. ELIMINATION OF PARTIAL TERMINATION RULES**
 21 **FOR MULTIEMPLOYER PLANS.**

22 (a) PARTIAL TERMINATION RULES FOR MULTIEM-
 23 PLOYER PLANS.—Section 411(d)(3) (relating to termi-
 24 nation or partial termination; discontinuance of contribu-
 25 tions) is amended by adding at the end the following new

1 sentence: “This paragraph shall not apply in the case of
2 a partial termination of a multiemployer plan.”

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

6 **SEC. 515. NOTICE AND CONSENT PERIOD REGARDING DIS-**
7 **TRIBUTIONS.**

8 (a) EXPANSION OF PERIOD.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 417(a)(6) is amended by striking “90-day” and in-
11 serting “one-year”.

12 (2) MODIFICATION OF REGULATIONS.—The
13 Secretary of the Treasury shall modify the regula-
14 tions under sections 402(f), 411(a)(11), and 417 of
15 the Internal Revenue Code of 1986 to substitute
16 “one year” for “90 days” each place it appears in
17 Treasury Regulations sections 1.402(f)–1 Q/A–2,
18 1.411(a)–11T(c)(2), and 1.417(e)–1T(b)(3).

19 (3) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) and the modifications required by
21 paragraph (2) shall apply to years beginning after
22 December 31, 1998.

23 (b) CONSENT REGULATION INAPPLICABLE TO CER-
24 TAIN DISTRIBUTIONS.—

1 (1) IN GENERAL.—The Secretary of the Treas-
 2 ury shall modify the regulations under section
 3 411(a)(11) of the Internal Revenue Code of 1986 to
 4 provide that the description of a participant’s right,
 5 if any, to defer receipt of a distribution shall also de-
 6 scribe the consequences of failing to defer such re-
 7 ceipt.

8 (2) EFFECTIVE DATE.—The modifications re-
 9 quired by paragraph (1) shall apply to years begin-
 10 ning after December 31, 1998.

11 **SEC. 516. CONFORMING AMENDMENTS RELATING TO ELEC-**
 12 **TION TO RECEIVE TAXABLE CASH COM-**
 13 **PENSATION IN LIEU OF NONTAXABLE PARK-**
 14 **ING BENEFITS.**

15 (a) IN GENERAL.—

16 (1) Clause (ii) of section 415(c)(3)(D) and sub-
 17 paragraph (B) of section 403(b)(3) are each amend-
 18 ed by striking “section 125 or” and inserting “sec-
 19 tion 125, 132(f)(4), or”.

20 (2) Paragraph (2) of section 414(s) is amended
 21 by striking “section 125, 402(e)(3)” and inserting
 22 “section 125, 132(f)(4), 402(e)(3)”.

23 (b) EFFECTIVE DATE.—The amendments made by
 24 subsection (a) shall take effect as if included in the

1 amendment made by section 1072 of the Taxpayer Relief
2 Act of 1997.

3 **SEC. 517. EXTENSION TO INTERNATIONAL ORGANIZATIONS**
4 **OF MORATORIUM ON APPLICATION OF CER-**
5 **TAIN NONDISCRIMINATION RULES APPLICA-**
6 **BLE TO STATE AND LOCAL PLANS.**

7 (a) IN GENERAL.—Subparagraph (g) of section
8 401(a)(5), subparagraph (h) of section 401(a)(26), sub-
9 paragraph (G) of section 401(k)(3), and paragraph (2) of
10 section 1505(d) of the Taxpayer Relief Act of 1997 are
11 each amended by inserting “or by an international organi-
12 zation which is described in section 414(d)” after “or in-
13 strumentality thereof”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) The headings for subparagraph (G) of sec-
16 tion 401(a)(5) and subparagraph (H) of section
17 401(a)(26) are each amended by inserting “AND
18 INTERNATIONAL ORGANIZATION” after “GOVERN-
19 MENTAL”.

20 (2) Subparagraph (G) of section 401(k)(3) is
21 amended by inserting “STATE AND LOCAL GOVERN-
22 MENTAL AND INTERNATIONAL ORGANIZATION
23 PLANS.—” after “(G)”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect as if included in the amend-

1 ment made by section 1505 of the Taxpayer Relief Act
2 of 1997.

3 **SEC. 518. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

4 (a) IN GENERAL.—The Secretary of the Treasury
5 shall modify Treasury Regulations section 1.410(b)–6(g)
6 to provide that employees of an organization described in
7 section 403(b)(1)(A)(i) of the Internal Revenue Code of
8 1986 who are eligible to make contributions under section
9 403(b) pursuant to a salary reduction agreement may be
10 treated as excludable with respect to a plan under section
11 401(k), or section 401(m) of such Code that is provided
12 under the same general arrangement as a plan under such
13 section 401(k), if—

14 (1) no employee of an organization described in
15 section 403(b)(1)(A)(i) of such Code is eligible to
16 participate in such section 401(k) plan or section
17 401(m) plan, and

18 (2) 95 percent of the employees who are not
19 employees of an organization described in section
20 403(b)(1)(A)(i) of such Code are eligible to partici-
21 pate in such section 401(k) plan or section 401(m)
22 plan.

23 (b) EFFECTIVE DATE.—The modification required by
24 subsection (a) shall apply as of the same date set forth

1 in section 1426(b) of the Small Business Job Protection
2 Act of 1996.

3 **SEC. 519. PERMISSIVE AGGREGATION OF COLLECTIVE BAR-**
4 **GAINING UNITS.**

5 (a) IN GENERAL.—Paragraph (3) of section 410(b)
6 is amended by inserting the following immediately before
7 the last sentence thereof: “Solely for purposes of applying
8 this subsection to employees who are not described in sub-
9 paragraph (A), an employer may elect to have subpara-
10 graph (A) not apply to one or more units of employees
11 who are described in subparagraph (A).”

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to years beginning after December
14 31, 1998.

15 **SEC. 520. REPEAL OF TRANSITION RULE RELATING TO CER-**
16 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

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

20 (b) EFFECTIVE DATE.—The repeal made by sub-
21 section (a) shall apply to plan years beginning on or after
22 January 1, 1999.

23 **SEC. 521. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

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

5 (2) such plan shall not fail to meet the require-
6 ments of section 411(d)(6) of the Internal Revenue
7 Code of 1986 or section 204(g) of the Employee Re-
8 tirement Income Security Act of 1974 (29 U.S.C.
9 1054(g)) by reason of such amendment.

10 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

11 (1) IN GENERAL.—This section shall apply to
12 any amendment to any plan or annuity contract
13 which is made—

14 (A) pursuant to any amendment made by
15 this Act, or pursuant to any regulation issued
16 under this Act, and

17 (B) before the last day of the first plan
18 year beginning on or after January 1, 2001.

19 In the case of a government plan (as defined in sec-
20 tion 414(d) of the Internal Revenue Code of 1986
21 and section 3(32) of the Employee Retirement In-
22 come Security Act of 1974), this paragraph shall be
23 applied by substituting “2003” for “2001”.

24 (2) CONDITIONS.—This section shall not apply
25 to any amendment unless—

1 (A) during the period—

2 (i) beginning on the date the legisla-
3 tive or regulatory amendment described in
4 paragraph (1)(A) takes effect (or in the
5 case of a plan or contract amendment not
6 required by such legislative or regulatory
7 amendment, the effective date specified by
8 the plan), and

9 (ii) ending on the date described in
10 paragraph (1)(B) (or, if earlier, the date
11 the plan or contract amendment is adopt-
12 ed),

13 the plan or contract is operated as if such plan
14 or contract amendment were in effect, and

15 (B) such plan or contract amendment ap-
16 plies retroactively for such period.

○