

105TH CONGRESS
2D SESSION

H. R. 4152

To provide retirement security for all Americans.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 1998

Mr. GEJDENSON (for himself, Mr. NEAL of Massachusetts, Mr. GEPHARDT, Mr. BONIOR, Mr. FAZIO of California, Mrs. KENNELLY of Connecticut, Mr. FROST, Mr. RANGEL, Mr. CLAY, Mr. POMEROY, Ms. STABENOW, Mr. MATSUI, Mr. PAYNE, Mr. LEWIS of Georgia, Mr. YATES, Mr. SANDLIN, Ms. SANCHEZ, Mr. VENTO, Mr. UNDERWOOD, Mr. PASCRELL, Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Mr. LANTOS, Ms. LEE, Mr. FILNER, Mr. TOWNS, Mrs. LOWEY, Mr. RAHALL, Mr. HINCHEY, Mr. BALDACCI, Mr. GORDON, Mr. ANDREWS, Mr. JEFFERSON, Mrs. MINK of Hawaii, Mr. PRICE of North Carolina, Mr. MANTON, Mr. DELAHUNT, Ms. CARSON, Mr. NADLER, Mr. LEVIN, and Mr. BORSKI) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and Transportation and Infrastructure, 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 retirement security for all Americans.

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.**

4 This Act may be cited as the “Retirement Accessibil-
5 ity, Security, and Portability Act of 1998”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PENSION ACCESS AND COVERAGE

- Sec. 100. Amendment of 1986 Code.

Subtitle A—Improved Access to Individual Retirement Savings

- Sec. 101. Credit for pension plan startup costs of small employers.
- Sec. 102. Exclusion for payroll deduction contributions to IRAs.
- Sec. 103. Nonrefundable tax credit for contributions to individual retirement plans.
- Sec. 104. Distributions from certain plans may be used without penalty during periods of unemployment.

Subtitle B—Secure Money Annuity or Retirement (SMART) Trusts

- Sec. 111. Secure money annuity or retirement (SMART) trusts.

Subtitle C—Improved Fairness in Retirement Plan Benefits

- Sec. 121. Amendments to SIMPLE retirement accounts.
- Sec. 122. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
- Sec. 123. Definition of highly compensated employees.
- Sec. 124. Treatment of multiemployer plans under section 415.
- Sec. 125. Exemption of mirror plans from section 457 limits.
- Sec. 126. Immediate participation in the thrift savings plan for Federal employees.
- Sec. 127. Full funding limitation for multiemployer plans.
- Sec. 128. Elimination of partial termination rules for multiemployer plans.
- Sec. 129. Repeal of 150 percent of current liability funding limit.

TITLE II—SECURITY

- Sec. 200. Amendment of ERISA.

Subtitle A—General Provisions

- Sec. 201. Periodic pension benefits statements.
- Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
- Sec. 203. Information required to be provided to investment managers of 401(k) plans.
- Sec. 204. Study on investments in collectibles.
- Sec. 205. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.
- Sec. 206. Multiemployer plan benefits guaranteed.
- Sec. 207. Prohibited transactions.
- Sec. 208. Substantial owner benefits.
- Sec. 209. Reversion report.

Subtitle B—ERISA Enforcement

- Sec. 211. Civil penalties for breach of fiduciary responsibilities made discretionary, etc.
- Sec. 212. Reporting and enforcement requirements for employee benefit plans.
- Sec. 213. Additional requirements for qualified public accountants.
- Sec. 214. Inspector General study.

Subtitle C—Increase in Excise Tax on Employer Reversions

- Sec. 221. Increase in excise tax.

TITLE III—PORTABILITY

- Sec. 301. Faster vesting of employer matching contributions.
- Sec. 302. Rationalization of the restrictions on distributions from 401(k) plans.
- Sec. 303. Treatment of transfers between defined contribution plans.
- Sec. 304. Missing participants.
- Sec. 305. Allowance of rollovers from and to 403(b) plans.
- Sec. 306. Rollover contributions from deferred compensation plans of State and local governments.
- Sec. 307. Extension of 60-day rollover period in the case of Presidentially declared disasters and service in combat zone.
- Sec. 308. Purchase of service credit in governmental defined benefit plans.

TITLE IV—COMPREHENSIVE WOMEN’S PENSION PROTECTION

Subtitle A—Pension Reform

- Sec. 401. Pension right to know proposals.
- Sec. 402. Women’s pension toll-free phone number.
- Sec. 403. Modification of government pension offset.
- Sec. 404. Family leave provisions.
- Sec. 405. Pension integration rules.
- Sec. 406. Division of pension benefits upon divorce.
- Sec. 407. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
- Sec. 408. Effective dates.

Subtitle B—Protection of Rights of Former Spouses to Pension Benefits Under Certain Government and Government-Sponsored Retirement Programs

- Sec. 411. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
- Sec. 412. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under civil service retirement system.
- Sec. 413. Payment of lump-sum benefits to former spouses of Federal employees.

Subtitle C—Modifications of Joint and Survivor Annuity Requirements

- Sec. 421. Modifications of joint and survivor annuity requirements.
- Sec. 422. Spousal consent required for distributions from defined contribution plans.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

- Sec. 501. Date for adoption of plan amendments.

1 **TITLE I—PENSION ACCESS AND**
2 **COVERAGE**

3 **SEC. 100. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this title an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Internal Revenue Code
9 of 1986.

10 **Subtitle A—Improved Access to**
11 **Individual Retirement Savings**

12 **SEC. 101. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
13 **SMALL EMPLOYERS.**

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

18 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN STARTUP**
19 **COSTS.**

20 “(a) GENERAL RULE.—For purposes of section 38,
21 in the case of an eligible employer, the small employer pen-
22 sion plan startup cost credit determined under this section
23 for any taxable year is an amount equal to 50 percent
24 of the qualified startup costs paid or incurred by the tax-
25 payer during the taxable year.

1 “(b) DOLLAR LIMITATION.—The amount of the cred-
2 it determined under this section for any taxable year shall
3 not exceed—

4 “(1) \$1,000 for the first credit year,

5 “(2) \$500 for each of the 2 taxable years imme-
6 diately following the first credit year, and

7 “(3) zero for any other taxable year.

8 “(c) ELIGIBLE EMPLOYER.—For purposes of this
9 section—

10 “(1) IN GENERAL.—The term ‘eligible em-
11 ployer’ has the meaning given such term by section
12 408(p)(2)(C)(i).

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

1 which only employees so described are eligible to
2 participate.

3 “(d) OTHER DEFINITIONS.—For purposes of this
4 section—

5 “(1) QUALIFIED STARTUP COSTS.—

6 “(A) IN GENERAL.—The term ‘qualified
7 startup costs’ means any ordinary and nec-
8 essary expenses of an eligible employer which
9 are paid or incurred in connection with—

10 “(i) the establishment or administra-
11 tion of an eligible employer plan, or

12 “(ii) the retirement-related education
13 of employees with respect to such plan.

14 “(B) PLAN MUST HAVE AT LEAST 2 PAR-
15 TICIPANTS.—Such term shall not include any
16 expense in connection with a plan that does not
17 have at least 2 individuals who are eligible to
18 participate.

19 “(C) PLAN MUST BE ESTABLISHED BE-
20 FORE JANUARY 1, 2001.—Such term shall not
21 include any expense in connection with a plan
22 established after December 31, 2000.

23 “(2) ELIGIBLE EMPLOYER PLAN.—The term
24 ‘eligible employer plan’ means a qualified employer
25 plan within the meaning of section 4972(d), or a

1 qualified payroll deduction arrangement within the
 2 meaning of section 408(q)(1) (whether or not an
 3 election is made under section 408(q)(2)). A quali-
 4 fied payroll deduction arrangement shall be treated
 5 as an eligible employer plan only if all employees of
 6 the employer who—

7 “(A) have been employed for 90 days, and

8 “(B) are not described in subparagraph
 9 (A) or (C) of section 410(b)(3),

10 are eligible to make the election under section
 11 408(q)(1)(A).

12 “(3) FIRST CREDIT YEAR.—The term ‘first
 13 credit year’ means—

14 “(A) the taxable year which includes the
 15 date that the eligible employer plan to which
 16 such costs relate becomes effective, or

17 “(B) at the election of the eligible em-
 18 ployer, the taxable year preceding the taxable
 19 year referred to in subparagraph (A).

20 “(e) SPECIAL RULES.—For purposes of this sec-
 21 tion—

22 “(1) AGGREGATION RULES.—All persons treat-
 23 ed as a single employer under subsection (a) or (b)
 24 of section 52, or subsection (n) or (o) of section 414,

1 shall be treated as one person. All eligible employer
2 plans shall be treated as 1 eligible employer plan.

3 “(2) DISALLOWANCE OF DEDUCTION.—No de-
4 duction shall be allowed for that portion of the quali-
5 fied startup costs paid or incurred for the taxable
6 year which is equal to the credit determined under
7 subsection (a).

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

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

18 “(13) in the case of an eligible employer (as de-
19 fined in section 45D(c)), the small employer pension
20 plan startup cost credit determined under section
21 45D(a).”

22 (c) CONFORMING AMENDMENTS.—

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

1 “(8) NO CARRYBACK OF SMALL EMPLOYER
 2 PENSION PLAN STARTUP COST CREDIT BEFORE EF-
 3 FECTIVE DATE.—No portion of the unused business
 4 credit for any taxable year which is attributable to
 5 the small employer pension plan startup cost credit
 6 determined under section 45D may be carried back
 7 to a taxable year ending on or before the date of
 8 the enactment of section 45D.”

9 (2) Subsection (c) of section 196 is amended by
 10 striking “and” at the end of paragraph (7), by strik-
 11 ing the period at the end of paragraph (8) and in-
 12 serting “, and”, and by adding at the end the follow-
 13 ing new paragraph:

14 “(9) the small employer pension plan startup
 15 cost credit determined under section 45D(a).”

16 (3) The table of sections for subpart D of part
 17 IV of subchapter A of chapter 1 is amended by add-
 18 ing at the end the following new item:

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

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

22 **SEC. 102. EXCLUSION FOR PAYROLL DEDUCTION CON-**
 23 **TRIBUTIONS TO IRAS.**

24 (a) IN GENERAL.—Section 408 (relating to individual
 25 retirement accounts) is amended by redesignating sub-

1 section (q) as subsection (r) and by inserting after sub-
2 section (p) the following new subsection:

3 “(q) QUALIFIED PAYROLL DEDUCTION ARRANGE-
4 MENT FOR IRA CONTRIBUTIONS.—

5 “(1) IN GENERAL.—For purposes of this title,
6 the term ‘qualified payroll deduction arrangement’
7 means a written arrangement of an employer under
8 which—

9 “(A) an employee eligible to participate in
10 the arrangement may elect to have the employer
11 make payments—

12 “(i) to the employee directly in cash,
13 or

14 “(ii) as elective employer contributions
15 to an individual retirement plan (as de-
16 fined in section 7701(a)(37)), other than
17 an individual retirement plan described in
18 section 408(k), 408(p), or 408A(b), on be-
19 half of the employee for the taxable year in
20 which the payments otherwise would have
21 been made to the employee directly in
22 cash,

23 “(B) the amount which the employee may
24 elect under subparagraph (A) for any year may
25 not exceed a total of \$2,000,

1 “(C) no other contributions may be made
2 other than contributions described in subpara-
3 graph (A),

4 “(D) the employee’s rights to any contribu-
5 tions made to an individual retirement plan are
6 nonforfeitable (for this purpose, rules similar to
7 the rules of subsection (k)(4) shall apply), and

8 “(E) the employer makes the elective em-
9 ployer contributions under subparagraph (A)
10 not later than the close of the 30-day period
11 following the last day of the month with respect
12 to which the contributions are to be made.

13 “(2) ELECTION NOT TO HAVE SUBSECTION
14 APPLY.—An employer that maintains an arrange-
15 ment otherwise described in paragraph (1) may elect
16 to have contributions treated as though they were
17 not made under such an arrangement. If an em-
18 ployer does not make an election described in the
19 preceding sentence, an employee may elect, before
20 any contributions are made for the calendar year, to
21 have contributions on behalf of the employee treated
22 as though they were not made under an arrange-
23 ment described in paragraph (1). An employer shall
24 be deemed to have made an election under this para-
25 graph for a year if the employer maintained a quali-

1 fied plan with respect to which contributions were
 2 made or benefits were accrued for such year. For
 3 purposes of the preceding sentence, the term ‘quali-
 4 fied plan’ means a plan, contract, pension, or trust
 5 described in subparagraph (A) or (B) of section
 6 219(g)(5).”.

7 (b) TAX TREATMENT OF EMPLOYER CONTRIBUTIONS
 8 MADE UNDER A QUALIFIED PAYROLL DEDUCTION AR-
 9 RANGEMENT.—

10 (1) COORDINATION WITH DEDUCTION UNDER
 11 SECTION 219.—

12 (A) Section 219(b) (relating to maximum
 13 amount of deduction) is amended by adding at
 14 the end the following new paragraph:

15 “(5) SPECIAL RULE FOR CONTRIBUTIONS
 16 UNDER A QUALIFIED PAYROLL DEDUCTION AR-
 17 RANGEMENT.—This section shall not apply with re-
 18 spect to any amount contributed under a qualified
 19 payroll deduction arrangement described in section
 20 408(q)(1) (for which an election has not been made
 21 under section 408(q)(2)).”.

22 (B) Section 219(g)(1) (relating to the limi-
 23 tation on deduction for active participants) is
 24 amended to read as follows:

1 “(1) IN GENERAL.—If (for any part of any plan
 2 year ending with or within a taxable year) an indi-
 3 vidual is an active participant, each of the dollar
 4 limitations contained in subsections (b)(1)(A) and
 5 (c)(1)(A) for such taxable year shall be reduced (but
 6 not below zero) by the sum of—

7 “(A) the amount determined under para-
 8 graph (2), and

9 “(B) the amount contributed for the tax-
 10 able year under a qualified payroll deduction ar-
 11 rangement described in section 408(q)(1) (for
 12 which an election has not been made under sec-
 13 tion 408(q)(2)).”.

14 (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-
 15 TIONS.—Section 404 (relating to deductions for con-
 16 tributions of an employer to pension, etc., plans) is
 17 amended by adding at the end the following new
 18 subsection:

19 “(n) SPECIAL RULES FOR CONTRIBUTIONS UNDER
 20 A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—
 21 Rules similar to the rules of subsection (m) shall apply
 22 to employer contributions made under a qualified payroll
 23 deduction arrangement described in section 408(q)(1) (for
 24 which an election has not been made under section
 25 408(q)(2)).”.

1 (3) CONTRIBUTIONS AND DISTRIBUTIONS.—

2 Section 402 (relating to taxability of beneficiary of
3 employees' trust) is amended by adding at the end
4 the following new subsection:

5 “(1) TREATMENT OF CONTRIBUTIONS AND DIS-
6 TRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION
7 ARRANGEMENT.—Rules similar to the rules of paragraphs
8 (1) and (3) of subsection (h) shall apply to contributions
9 and distributions made with respect to an individual re-
10 tirement plan under a qualified payroll deduction arrange-
11 ment described in section 408(q)(1) (for which an election
12 has not been made under section 408(q)(2)), except that
13 contributions made by an employer on behalf of an em-
14 ployee for a taxable year shall be excluded from income
15 only to the extent such contributions would have been de-
16 ductible for such taxable year under section 219, if such
17 section applied, without regard to section 219(g)(1)(B).
18 Contributions that are not excluded from income under
19 the preceding sentence shall be treated as designated non-
20 deductible contributions under section 408(o).”.

21 (c) EXEMPTION FROM WITHHOLDING.—Subsection
22 (a) of section 3401 (defining wages) is amended by strik-
23 ing “or” at the end of paragraph (20), by striking the
24 period at the end of paragraph (21) and inserting “; or”,

1 and by inserting after paragraph (21) the following new
2 paragraph:

3 “(22) for any payment made for the benefit of
4 the employee to an individual retirement plan if the
5 amount of such payment was deducted and withheld
6 under section 408(q).”.

7 (d) EXCLUSION SHOWN ON W-2.—Subsection (a) of
8 section 6051 (relating to receipts for employees) is amend-
9 ed by striking “and” at the end of paragraph (10), by
10 striking the period at the end of paragraph (11) and in-
11 serting “, and”, and by inserting after paragraph (11) the
12 following new paragraph:

13 “(12) the total amount deducted and withheld
14 pursuant to section 408(q).”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to remuneration paid after Decem-
17 ber 31, 1998.

18 **SEC. 103. NONREFUNDABLE TAX CREDIT FOR CONTRIBU-**
19 **TIONS TO INDIVIDUAL RETIREMENT PLANS.**

20 (a) IN GENERAL.—Subpart A of part IV of sub-
21 chapter A of chapter 1 (relating to nonrefundable personal
22 credits) is amended by inserting after section 25A the fol-
23 lowing new section:

1 **“SEC. 25B. RETIREMENT SAVINGS.**

2 “(a) ALLOWANCE OF CREDIT.—There shall be al-
3 lowed as a credit against the tax imposed by this chapter
4 so much of the qualified retirement contributions of the
5 taxpayer for the taxable year as does not exceed the appli-
6 cable amount of the adjusted gross income of the taxpayer
7 for such year.

8 “(b) APPLICABLE AMOUNT.—For purposes of sub-
9 section (a), the applicable amount is determined in accord-
10 ance with the following table:

“If adjusted gross income is:	The applicable amount is:
Not over \$15,000	\$450.
Over \$15,000 but not over \$20,000.	\$400.
Over \$20,000 but not over \$25,000.	\$350.
Over \$25,000 but not over \$30,000.	\$300.
Over \$30,000	\$0.

11 “(c) SECTION NOT TO APPLY TO CERTAIN CON-
12 TRIBUTIONS.—This section shall not apply with respect
13 to—

14 “(1) an employer contribution to a simplified
15 employee pension,

16 “(2) any amount contributed to a simple retire-
17 ment account established under section 408(p),

18 “(3) any amount contributed to a Roth IRA,
19 and

20 “(4) any designated nondeductible contribution
21 (as defined in section 408(o)(2)(C)).

1 “(d) OTHER LIMITATIONS AND RESTRICTIONS.—

2 “(1) BENEFICIARY MUST BE UNDER AGE
3 70½.—No credit shall be allowed under this section
4 with respect to any qualified retirement contribution
5 for the benefit of an individual if such individual has
6 attained age 70½ before the close of such individ-
7 ual’s taxable year for which the contribution was
8 made.

9 “(2) RECONTRIBUTED AMOUNTS.—No credit
10 shall be allowed under this section with respect to a
11 rollover contribution described in section 402(c),
12 403(a)(4), 403(b)(8), or 408(d)(3).

13 “(3) AMOUNTS CONTRIBUTED UNDER ENDOW-
14 MENT CONTRACT.—In the case of an endowment
15 contract described in section 408(b), no credit shall
16 be allowed under this section for that portion of the
17 amounts paid under the contract for the taxable
18 year which is properly allocable, under regulations
19 prescribed by the Secretary, to the cost of life insur-
20 ance.

21 “(4) DENIAL OF CREDIT FOR AMOUNT CON-
22 TRIBUTED TO INHERITED ANNUITIES OR AC-
23 COUNTS.—No credit shall be allowed under this sec-
24 tion with respect to any amount paid to an inherited
25 individual retirement account or individual retire-

1 ment annuity (within the meaning of section
2 408(d)(3)(C)(ii)).

3 “(5) NO DOUBLE BENEFIT.—No credit shall be
4 allowed under this section for any taxable year with
5 respect to the amount of any qualified retirement
6 contribution for the benefit of an individual if such
7 individual takes a deduction with respect to such
8 amount under section 219 for such taxable year.

9 “(e) QUALIFIED RETIREMENT CONTRIBUTION.—For
10 purposes of this section, the term ‘qualified retirement
11 contribution’ means—

12 “(1) any amount paid in cash for the taxable
13 year by or on behalf of an individual to an individual
14 retirement plan for such individual’s benefit, and

15 “(2) any amount contributed on behalf of any
16 individual to a plan described in section 501(c)(18).

17 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

18 “(1) COMPENSATION.—For purposes of this
19 section, the term ‘compensation’ has the meaning
20 given in section 219(f)(1).

21 “(2) MARRIED COUPLES MUST FILE JOINT RE-
22 TURN.—If the taxpayer is married at the close of
23 the taxable year, the credit shall be allowed under
24 subsection (a) only if the taxpayer and the tax-

1 payer's spouse file a joint return for the taxable
2 year.

3 “(3) TIME WHEN CONTRIBUTIONS DEEMED
4 MADE.—For purposes of this section, a taxpayer
5 shall be deemed to have made a contribution to an
6 individual retirement plan on the last day of the pre-
7 ceding taxable year if the contribution is made on
8 account of such taxable year and is made not later
9 than the time prescribed by law for filing the return
10 for such taxable year (not including extensions
11 thereof).

12 “(4) EMPLOYER PAYMENTS.—For purposes of
13 this title, any amount paid by an employer to an in-
14 dividual retirement plan shall be treated as payment
15 of compensation to the employee (other than a self-
16 employed individual who is an employee within the
17 meaning of section 401(c)(1)) includible in his gross
18 income in the taxable year for which the amount was
19 contributed, whether or not a credit for such pay-
20 ment is allowable under this section to the em-
21 ployee.”

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 86(f) is amended by redesignating
24 paragraphs (2), (3), and (4) as paragraphs (3), (4),

1 and (5), respectively, and by inserting after para-
 2 graph (1) the following new paragraph:

3 “(2) section 25B(f)(1) (defining compensa-
 4 tion),”.

5 (2) Clause (i) of section 501(c)(18)(D) is
 6 amended by inserting “which may be taken into ac-
 7 count in computing the credit allowable under sec-
 8 tion 25B or” before “with respect”.

9 (3) Section 6047(c) is amended by inserting
 10 “section 25B or” before “section 219”.

11 (4) Section 6652(g) is amended by inserting
 12 “CREDITABLE” before “DEDUCTIBLE” in the head-
 13 ing thereof.

14 (5) The table of sections for subpart A of part
 15 IV of subchapter A of chapter 1 is amended by in-
 16 serting after the item relating to section 25A the fol-
 17 lowing new item:

“Sec. 25B. Retirement savings.”

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section apply to taxable years beginning after Decem-
 20 ber 31, 1998.

21 **SEC. 104. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
 22 **USED WITHOUT PENALTY DURING PERIODS**
 23 **OF UNEMPLOYMENT.**

24 (a) IN GENERAL.—Paragraph (2) of section 72(t)
 25 (relating to exceptions to 10-percent additional tax on

1 early distributions from qualified retirement plans) is
2 amended by adding at the end the following new subpara-
3 graph:

4 “(G) ADDITIONAL DISTRIBUTIONS TO UN-
5 EMPLOYED INDIVIDUALS.—

6 “(i) IN GENERAL.—Distributions from
7 an individual retirement plan, or from
8 amounts attributable to employer contribu-
9 tions made pursuant to elective deferrals
10 described in subparagraph (A) or (C) of
11 section 402(g)(3) or section
12 501(c)(18)(D)(iii), to an individual after
13 separation from employment if—

14 “(I) such individual has received
15 unemployment compensation for 12
16 consecutive weeks under any Federal
17 or State unemployment compensation
18 law by reason of such separation, and

19 “(II) such distributions are made
20 during the 1-year period beginning on
21 the date of such separation.

22 “(ii) DISTRIBUTIONS AFTER REEM-
23 PLOYMENT.—Clause (i) shall not apply to
24 any distribution made after the individual
25 has been employed for at least 60 days

1 after the separation from employment to
2 which clause (i) applies.

3 “(iii) COORDINATION WITH SUBPARA-
4 GRAPH (D).—Distributions during the 1-
5 year period described in clause (i)(II) shall
6 not be taken into account in applying the
7 limitation under subparagraph
8 (D)(i)(III).”

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 401(k)(2)(B)(i) is amended by
11 striking “or” at the end of subclause (III), by strik-
12 ing “and” at the end of subclause (IV) and inserting
13 “or”, and by inserting after subclause (IV) the fol-
14 lowing new subclause:

15 “(V) the date on which a period
16 referred to in section 72(t)(2)(G) be-
17 gins, and”.

18 (2) Section 403(b)(11) is amended by striking
19 “or” at the end of subparagraph (A), by striking the
20 period at the end of subparagraph (B) and inserting
21 “, or”, and by inserting after subparagraph (B) the
22 following new subparagraph:

23 “(C) for distributions to which section
24 72(t)(2)(G) applies.”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions after the date of
 3 the enactment of this Act.

4 **Subtitle B—Secure Money Annuity**
 5 **or Retirement (SMART) Trusts**

6 **SEC. 111. SECURE MONEY ANNUITY OR RETIREMENT**
 7 **(SMART) TRUSTS.**

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

11 **“SEC. 408B. SMART PLANS.**

12 “(a) EMPLOYER ELIGIBILITY.—

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

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

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

1 the year for which the determination is being
2 made.

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

8 “(2) DEFINITIONS.—For purposes of paragraph
9 (1)—

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

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

15 “(i) a SIMPLE plan described in sec-
16 tion 408(p),

17 “(ii) a SIMPLE 401(k) plan de-
18 scribed in section 401(k)(11),

19 “(iii) an eligible deferred compensa-
20 tion plan described in section 457(b),

21 “(iv) a collectively bargained plan but
22 only if the employees eligible to participate
23 in such plan are not also entitled to a ben-
24 efit described in subsection (b)(5) or
25 (c)(5), or

1 “(v) a plan under which there may be
2 made only—

3 “(I) elective deferrals described
4 in section 402(g)(3), and

5 “(II) employer matching con-
6 tributions not in excess of the
7 amounts described in subclauses (I)
8 and (II) of section 401(k)(12)(B)(i).

9 “(b) SMART ANNUITY.—

10 “(1) IN GENERAL.—For purposes of this title,
11 the term ‘SMART annuity’ means an individual re-
12 tirement annuity (as defined in section 408(b) with-
13 out regard to paragraph (2) thereof and without re-
14 gard to the limitation on aggregate annual pre-
15 miums contained in the flush language of section
16 408(b)) if—

17 “(A) such annuity meets the requirements
18 of paragraphs (2) through (8), and

19 “(B) the only contributions to such annu-
20 ity are employer contributions.

21 Nothing in this section shall be construed as pre-
22 venting an employer from using a group annuity
23 contract which is divisible into individual retirement
24 annuities for purposes of providing SMART annu-
25 ities.

1 “(2) PARTICIPATION REQUIREMENTS.—

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

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

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

12 “(B) EXCLUDABLE EMPLOYEES.—An em-
13 ployer may elect to exclude from the require-
14 ments under subparagraph (A) employees de-
15 scribed in subparagraph (A) or (C) of section
16 410(b)(3).

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

20 “(4) BENEFIT FORM.—The requirements of
21 this paragraph are met if the only form of benefit
22 is—

23 “(A) a benefit payable annually in the
24 form of a single life annuity with monthly pay-

1 ments (with no ancillary benefits) beginning at
2 age 65, or

3 “(B) any other form of benefit which is the
4 actuarial equivalent (based on the assumptions
5 specified in the SMART annuity) of the benefit
6 described in subparagraph (A).

7 “(5) AMOUNT OF ANNUAL ACCRUED BENE-
8 FIT.—

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

16 “(B) APPLICABLE PERCENTAGE.—For
17 purposes of this paragraph—

18 “(i) IN GENERAL.—The term ‘applica-
19 ble percentage’ means 2 percent.

20 “(ii) ELECTION OF DIFFERENT PER-
21 CENTAGE.—An employer may elect to
22 apply an applicable percentage of 1 percent
23 for any year for all employees eligible to
24 participate in the plan for such year, if the
25 employer notifies the employees of such

1 percentage within a reasonable period be-
2 fore the beginning of such year. An em-
3 ployer may also elect to apply an applicable
4 percentage of 3 percent for any of the first
5 5 years that the plan is effective for all
6 employees eligible to participate in the plan
7 for such year, if the employer so notifies
8 the employees.

9 “(C) COMPENSATION LIMIT.—

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

13 “(ii) COST-OF-LIVING ADJUSTMENT.—
14 The Secretary shall adjust annually the
15 \$100,000 amount in clause (i) for in-
16 creases in the cost-of-living at the same
17 time and in the same manner as adjust-
18 ments under section 415(d); except that
19 the base period shall be the calendar quar-
20 ter beginning October 1, 1998, and any in-
21 crease which is not a multiple of \$5,000
22 shall be rounded to the next lowest mul-
23 tiple of \$5,000.

24 “(6) FUNDING.—

1 “(A) IN GENERAL.—The requirements of
2 this paragraph are met only if the employer is
3 required to contribute to the annuity for each
4 plan year the amount necessary to purchase a
5 SMART annuity in the amount of the benefit
6 accrued for such year for each participant enti-
7 tled to such benefit. Such contribution must be
8 made no later than 8½ months after the end
9 of the plan year.

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

17 “(7) LIMITATION ON DISTRIBUTIONS.—

18 “(A) IN GENERAL.—The requirements of
19 this paragraph are met only if distributions
20 may be paid only when the employee attains
21 age 65, separates from service, dies, or becomes
22 disabled (within the meaning of section
23 72(m)(7)).

24 “(B) LIMITATION ON DISTRIBUTIONS ON
25 SEPARATION FROM SERVICE OF EMPLOYEES

WHO HAVE NOT ATTAINED AGE 65.—Subpara-
graph (A) shall apply to a distribution on sepa-
ration of service of an employee who has not at-
tained age 65 only if—

“(i) the aggregate cash value of an
employee’s SMART annuities does not ex-
ceed the dollar limit in effect under section
411(a)(11)(A), or

“(ii) the distribution is a direct trust-
ee-to-trustee transfer of the entire balance
to the credit of the employee to a SMART
trust described in subsection (c), a
SMART rollover plan, or a SMART annu-
ity for the benefit of such employee.

“(8) JOINT AND SURVIVOR ANNUITY RULES AP-
PLICABLE.—The requirements of this paragraph are
met only if the annuity satisfies section 401(a)(11).

“(9) DEFINITIONS AND SPECIAL RULE.—

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

“(B) USE OF DESIGNATED FINANCIAL IN-
STITUTIONS.—A rule similar to the rule of sec-
tion 408(p)(7) (without regard to the last sen-

1 tence thereof) shall apply for purposes of this
2 subsection.

3 “(C) SMART ROLLOVER PLAN.—For pur-
4 poses of this section, the term ‘SMART rollover
5 plan’ means an individual retirement plan for
6 the benefit of the employee to which a rollover
7 was made from a SMART Annuity, SMART
8 trust, or another SMART Rollover plan.

9 “(c) SMART TRUST.—

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

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

15 “(B) such plan meets the requirements of
16 paragraphs (2) through (8), and

17 “(C) the only contributions to such trust
18 are employer contributions.

19 “(2) PARTICIPATION REQUIREMENTS.—A plan
20 meets the requirements of this paragraph for any
21 year only if the requirements of subsection (b)(2)
22 are met for such year.

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

1 “(4) BENEFIT FORM.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), a plan meets the require-
4 ments of this paragraph only if the trustee dis-
5 tributes a SMART annuity that satisfies sub-
6 section (b)(4) where the annual benefit de-
7 scribed in subsection (b)(4)(A) is no less than
8 the accrued benefit determined under para-
9 graph (5).

10 “(B) DIRECT TRANSFERS TO INDIVIDUAL
11 RETIREMENT PLAN OR SMART ANNUITY.—A
12 plan shall not fail to meet the requirements of
13 this paragraph by reason of permitting, as an
14 optional form of benefit, the distribution of the
15 entire balance to the credit of the employee. If
16 the employee is under age 65, such distribution
17 must be in the form of a direct trustee-to-trust-
18 ee transfer to a SMART annuity, another
19 SMART trust, or a SMART rollover plan (or,
20 in the case of a distribution that does not ex-
21 ceed the dollar limit in effect under section
22 411(a)(11)(A), any other individual retirement
23 plan).

24 “(5) AMOUNT OF ANNUAL ACCRUED BENE-
25 FIT.—A plan meets the requirements of this para-

1 graph for any year only if the requirements of sub-
2 section (b)(5) are met for such year.

3 “(6) FUNDING.—

4 “(A) IN GENERAL.—A plan meets the re-
5 quirements of this paragraph for any year only
6 if—

7 “(i) the requirements of subparagraph
8 (A) of subsection (b)(6) are met for such
9 year,

10 “(ii) in the case of a plan which has
11 an unfunded annuity amount with respect
12 to the account of any participant, the plan
13 requires that the employer make an addi-
14 tional contribution to such plan (at the
15 time the annuity contract to which such
16 amount relates is purchased) equal to the
17 unfunded annuity amount, and

18 “(iii) in the case of a plan which has
19 an unfunded prior year liability as of the
20 close of such plan year, the plan requires
21 that the employer make an additional con-
22 tribution to such plan for such year equal
23 to the amount of such unfunded prior year
24 liability no later than 8½ months following
25 the end of the plan year.

“(B) UNFUNDED ANNUITY AMOUNT.—For purposes of this paragraph, the term ‘unfunded annuity amount’ means, with respect to the account of any participant for whom an annuity is being purchased, the excess (if any) of—

“(i) the amount necessary to purchase an annuity contract which meets the requirements of subsection (b)(4) in the amount of the participant’s accrued benefit determined under paragraph (5), over

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

“(C) UNFUNDED PRIOR YEAR LIABILITY.—For purposes of this paragraph, the term ‘unfunded prior year liability’ means, with respect to any plan year, the excess (if any) of—

“(i) the aggregate of the present value under the plan as of the close of the prior plan year, over

“(ii) the value of the plan’s assets determined under section 412(c)(2) as of the close of the plan year (determined without regard to any contributions for such plan year).

1 Such present value shall be determined using
2 the assumptions specified in subparagraph (D).

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

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

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

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

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

23 “(F) PENALTY FOR FAILURE TO MAKE RE-
24 QUIRED CONTRIBUTION.—The taxes imposed by
25 section 4971 shall apply to a failure to make

1 the contribution required by this paragraph in
2 the same manner as if the amount of the failure
3 were an accumulated funding deficiency to
4 which such section applies.

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

8 “(A) for an individual account for each
9 participant, and

10 “(B) for benefits based solely on—

11 “(i) the amount contributed to the
12 participant’s account,

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

17 “(iii) the amount of any unfunded an-
18 nuity amount with respect to the partici-
19 pant.

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

1 shall prohibit the trust from holding insurance com-
 2 pany products regulated by State law.

3 “(9) DEFINITIONS.—The definitions applicable
 4 under subsection (b)(8) shall apply for purposes of
 5 this subsection.

6 “(d) SPECIAL RULES FOR SMART ANNUITIES AND
 7 TRUSTS.—For purposes of section 401(a), a SMART an-
 8 nuity and a SMART trust shall be treated as meeting the
 9 requirements of the following provisions:

10 “(1) Section 401(a)(4) (relating to non-
 11 discrimination rules).

12 “(2) Section 401(a)(26) (relating to minimum
 13 participation).

14 “(3) Section 410 (relating to minimum partici-
 15 pation and coverage requirements).

16 “(4) Section 411(b) (relating to accrued benefit
 17 requirements).

18 “(5) Section 416 (relating to special rules for
 19 top-heavy plans).”

20 (b) DEDUCTION RULES.—

21 (1) IN GENERAL.—Section 404 is amended by
 22 adding at the end the following new subsection:

23 “(n) SPECIAL RULES FOR SMART ANNUITIES AND
 24 TRUSTS.—

1 “(1) IN GENERAL.—Employer contributions to
2 a SMART annuity shall be treated as if they are
3 made to a plan described in paragraph (1) of sub-
4 section (a).

5 “(2) DEDUCTIBLE LIMIT.—For purposes of sec-
6 tion 404(a)(1)(A)(i), the amount necessary to satisfy
7 the minimum funding requirement of section
8 408B(b)(6) or (c)(6) shall be treated as the amount
9 necessary to satisfy the minimum funding require-
10 ment of section 412.”

11 (2) COORDINATION WITH DEDUCTION UNDER
12 SECTION 219.—

13 (A) Section 219(b) is amended by adding
14 at the end the following new paragraph:

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

19 (B) Section 219(g)(5)(A) (defining active
20 participant) is amended by striking “or” at the
21 end of clause (v) and by adding at the end the
22 following new clause:

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

25 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—

1 (1) Section 402 is amended by adding at the
2 end the following new subsection:

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

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

9 “(H) SMART ANNUITIES.—This para-
10 graph shall not apply to any amount paid or
11 distributed out of a SMART annuity (as de-
12 fined in section 408B) unless it is paid in a
13 trustee-to-trustee transfer into a SMART roll-
14 over plan.”

15 (3)(A) Section 412(h) is amended by striking
16 “or” at the end of paragraph (5), by striking the pe-
17 riod at the end of paragraph (6) and inserting “,
18 or”, and by inserting after paragraph (6) the follow-
19 ing new paragraph:

20 “(7) any plan providing for the purchase of any
21 SMART annuity or any SMART plan.”

22 (B) Section 301(a) of Employee Retirement In-
23 come Security Act of 1974 (29 U.S.C. 1081) is
24 amended by striking “or” at the end of paragraph
25 (9), by striking the period at the end of paragraph

1 (10) and inserting “; or”, and by adding at the end
2 the following new paragraph:

3 “(11) any plan providing for the purchase of
4 any SMART annuity or any SMART plan (as such
5 terms are defined in section 408B of such Code).”

6 (4) Section 415(b) is amended by adding at the
7 end the following new paragraph:

8 “(12) TREATMENT OF SMART ANNUITIES AND
9 TRUSTS.—A SMART annuity and a SMART trust
10 shall be treated as meeting the requirements of this
11 section, but distributions from such an annuity or
12 trust shall be taken into account in determining
13 whether any other plan satisfies the requirements of
14 this section.”

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

19 “(9) SPECIAL RULES FOR SMART ANNUITIES
20 AND TRUSTS.—In the case of any amount received
21 from a SMART annuity, a SMART trust, or a
22 SMART rollover plan (within the meaning of section
23 408B), paragraph (1) shall be applied by substitut-
24 ing ‘20 percent’ for ‘10 percent’ and paragraph (2)

1 shall be applied by substituting ‘age 65’ for ‘age
2 59½’.”

3 (e) SIMPLIFIED EMPLOYER REPORTS.—

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

7 “(3) SMART ANNUITIES.—

8 “(A) SIMPLIFIED REPORT.—The employer
9 maintaining any SMART annuity (within the
10 meaning of section 408B) shall file a simplified
11 annual return with the Secretary containing
12 only the information described in subparagraph
13 (B).

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

16 “(i) the name and address of the em-
17 ployer,

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

19 “(iii) the number of employees of the
20 employer,

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

23 “(v) the total amount contributed by
24 the employer to each such annuity for such

1 year and the minimum amount required
 2 under section 408B to be so contributed,

3 “(vi) the percentage elected under sec-
 4 tion 408B(b)(5)(B),

5 “(vii) the name of the issuer,

6 “(viii) the employer identification
 7 number,

8 “(ix) the name of the plan, and

9 “(x) the date of the contribution.

10 “(C) REPORTING BY ISSUER OF SMART AN-
 11 NUITY.—

12 “(i) IN GENERAL.—The issuer of each
 13 SMART annuity shall provide to the owner
 14 of the annuity for each year a statement
 15 setting forth as of the close of such year—

16 “(I) the benefits guaranteed at
 17 age 65 under the annuity, and

18 “(II) the cash surrender value of
 19 the annuity.

20 “(ii) SUMMARY DESCRIPTION.—The
 21 issuer of any SMART annuity shall pro-
 22 vide to the employer maintaining the annu-
 23 ity for each year a description containing
 24 the following information:

1 “(I) The name and address of
2 the employer and the issuer.

3 “(II) The requirements for eligi-
4 bility for participation.

5 “(III) The benefits provided with
6 respect to the annuity.

7 “(IV) The procedures for, and ef-
8 fects of, withdrawals (including roll-
9 overs) from the annuity.

10 “(D) TIME AND MANNER OF REPORT-
11 ING.—Any return, report, or statement required
12 under this paragraph shall be made in such
13 form and at such time as the Secretary shall
14 prescribe.”

15 (2) SMART TRUSTS.—Section 6059 (relating
16 to actuarial reports) is amended by redesignating
17 subsections (c) and (d) as subsections (d) and (e),
18 respectively, and by inserting after subsection (b)
19 the following new subsection:

20 “(c) SMART TRUSTS.—In the case of a SMART
21 trust (within the meaning of section 408B), the Secretary
22 shall require a simplified actuarial report which con-
23 tains—

24 “(1) information similar to the information re-
25 quired in section 408(l)(3)(B),

1 “(2) the fair market value of the assets of the
2 trust,

3 “(3) the amounts distributed directly to partici-
4 pants,

5 “(4) the amounts transferred to SMART roll-
6 over plans, and

7 “(5) the present value of the annual accrued
8 benefits under the plan to which the trust relates.”

9 (f) CONFORMING AMENDMENTS.—

10 (1) Subparagraph (A) of section 219(g)(5) is
11 amended by striking “or” at the end of clause (v)
12 and by inserting after clause (vi) the following new
13 clause:

14 “(vii) any SMART trust or SMART
15 annuity (within the meaning of section
16 408B), or”.

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

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

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

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

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

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

16 “(h) SMART ANNUITIES.—

17 “(1) NO EMPLOYER REPORTS.—Except as pro-
18 vided in this subsection, no report shall be required
19 under this section by an employer maintaining a
20 SMART annuity under section 408B(b) of the Inter-
21 nal Revenue Code of 1986.

22 “(2) SUMMARY DESCRIPTION.—The issuer of
23 any SMART annuity shall provide to the employer
24 maintaining the annuity for each year a description
25 containing the following information:

1 “(A) The name and address of the em-
2 ployer and the issuer.

3 “(B) The requirements for eligibility for
4 participation.

5 “(C) The benefits provided with respect to
6 the annuity.

7 “(D) The procedures for, and effects of,
8 withdrawals (including rollovers) from the an-
9 nuity.”

10 “(3) EMPLOYEE NOTIFICATION.—The employer
11 shall provide each employee eligible to participate in
12 the SMART annuity with the description described
13 in paragraph (2) at the same time as the notifica-
14 tion required under section 408B(b)(5)(B) of the In-
15 ternal Revenue Code of 1986.”

16 (h) \$5 PER PARTICIPANT PBGC PREMIUM.—Sub-
17 paragraph (A) of section 4006(a)(3) of the Employee Re-
18 tirement Income Security Act of 1974 (29 U.S.C. 1306)
19 is amended—

20 (1) by inserting “not described in clause (iv)”
21 after “in the case of a single-employer plan” in
22 clause (i),

23 (2) by striking the period at the end of clause
24 (iii) and inserting “; and”, and

1 (3) by inserting after clause (iii) the following
2 new clause:

3 “(iv) in the case of a single-employer plan de-
4 scribed in section 408B(c) of the Internal Revenue
5 Code of 1986, an amount equal to \$5 for each par-
6 ticipant.”.

7 (i) CLERICAL AMENDMENT.—The table of sections
8 for subpart A of part I of subchapter D of chapter 1 is
9 amended by inserting after the item relating to section
10 408A the following new item:

 “Sec. 408B. SMART plans.”

11 (j) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to years beginning after December
13 31, 1998.

14 **Subtitle C—Improved Fairness in** 15 **Retirement Plan Benefits**

16 **SEC. 121. AMENDMENTS TO SIMPLE RETIREMENT AC-** 17 **COUNTS.**

18 (a) MINIMUM CONTRIBUTION REQUIREMENT.—

19 (1) IN GENERAL.—Paragraph (2) of section
20 408(p) (defining qualified salary reduction arrange-
21 ment) is amended—

22 (A) by striking clauses (iii) and (iv) of sub-
23 paragraph (A) and inserting the following new
24 clauses:

1 “(iii) the employer is required to make
2 a matching contribution to the simple re-
3 tirement account for any year in an
4 amount equal to—

5 “(I) so much of the amount the
6 employee elects under clause (i)(I) as
7 does not exceed 3 percent of com-
8 pensation for the year, and

9 “(II) a uniform percentage
10 (which is at least 50 percent but not
11 more than 100 percent) of the amount
12 the employee elects under clause (i)(I)
13 to the extent that such amount ex-
14 ceeds 3 percent but does not exceed 5
15 percent of the employee’s compensa-
16 tion,

17 “(iv) the employer is required to make
18 nonelective contributions of 1 percent of
19 compensation for each employee eligible to
20 participate in the arrangement who has at
21 least \$5,000 of compensation from the em-
22 ployer for the year, and

23 “(v) no contributions may be made
24 other than contributions described in
25 clause (i), (iii), or (iv).”, and

1 (B) by striking subparagraph (B) and in-
2 serting the following new subparagraph:

3 “(B) CONTRIBUTION RULES.—

4 “(i) EMPLOYER MAY ELECT 3-PER-
5 CENT NONELECTIVE CONTRIBUTION.—An
6 employer shall be treated as meeting the
7 requirements of clauses (iii) and (iv) of
8 subparagraph (A) for any year if, in lieu of
9 the contributions described in such clauses,
10 the employer elects to make nonelective
11 contributions of 3 percent of compensation
12 for each employee who is eligible to partici-
13 pate in the arrangement and who has at
14 least \$5,000 of compensation from the em-
15 ployer for the year. If an employer makes
16 an election under this clause for any year,
17 the employer shall notify employees of such
18 election within a reasonable period of time
19 before the 60-day period for such year
20 under paragraph (5)(C).

21 “(ii) DISCRETIONARY CONTRIBU-
22 TIONS.—A plan shall not be treated as fail-
23 ing to meet the requirements of subpara-
24 graph (A)(v) merely because, pursuant to
25 the terms of the plan, an employer makes

1 nonelective contributions under subpara-
 2 graph (A)(iv) or clause (i) of this subpara-
 3 graph in excess of 1 percent or 3 percent
 4 of compensation, respectively, but only if
 5 all such contributions bear a uniform rela-
 6 tionship to the compensation of each eligi-
 7 ble employee and do not exceed 5 percent
 8 of compensation for any eligible employee.

9 “(iii) COMPENSATION LIMITATION.—
 10 The compensation taken into account
 11 under this paragraph for any year shall
 12 not exceed the limitation in effect for such
 13 year under section 401(a)(17).”

14 (2) MATCHING CONTRIBUTIONS.—Subpara-
 15 graph (B) of section 401(k)(11) (relating to adop-
 16 tion of simple plan to meet nondiscrimination tests)
 17 is amended—

18 (A) by striking subclauses (II) and (III) of
 19 clause (i) and inserting the following new sub-
 20 clauses:

21 “(II) the employer is required to
 22 make a matching contribution to the
 23 trust for any year in an amount equal
 24 to—

1 “(aa) so much of the
2 amount the employee elects
3 under subclause (I) as does not
4 exceed 3 percent of compensation
5 for the year, and

6 “(bb) a uniform percentage
7 (which is at least 50 percent but
8 not more than 100 percent) of
9 the amount the employee elects
10 under subclause (I) to the extent
11 that such amount exceeds 3 per-
12 cent but does not exceed 5 per-
13 cent of the employee’s compensa-
14 tion,

15 “(III) the employer is required to
16 make nonelective contributions of 1
17 percent of compensation for each em-
18 ployee eligible to participate in the ar-
19 rangement who has at least \$5,000 of
20 compensation from the employer for
21 the year, and

22 “(IV) no other contributions may
23 be made other than contributions de-
24 scribed in subclause (I), (II), or
25 (III).”, and

1 (B) by striking clause (ii) and inserting the
2 following new clause:

3 “(ii) CONTRIBUTION RULES.—

4 “(I) EMPLOYER MAY ELECT 3-
5 PERCENT NONELECTIVE CONTRIBU-
6 TION.—An employer shall be treated
7 as meeting the requirements of sub-
8 clauses (II) and (III) of clause (i) for
9 any year if, in lieu of the contribu-
10 tions described in such subclauses, the
11 employer elects to make nonelective
12 contributions of 3 percent of com-
13 pensation for each employee who is el-
14 igible to participate in the arrange-
15 ment and who has at least \$5,000 of
16 compensation from the employer for
17 the year. If an employer makes an
18 election under this subclause for any
19 year, the employer shall notify em-
20 ployees of such election within a rea-
21 sonable period of time before the 60th
22 day before the beginning of such year.

23 “(II) DISCRETIONARY CONTRIBU-
24 TIONS.—A plan shall not be treated
25 as failing to meet the requirements of

1 clause (i)(IV) merely because, pursu-
 2 ant to the terms of the plan, an em-
 3 ployer makes nonelective contributions
 4 under clause (i)(III) or subclause (I)
 5 of this clause in excess of 1 percent or
 6 3 percent of compensation, respec-
 7 tively, but only if all such contribu-
 8 tions bear a uniform relationship to
 9 the compensation of each eligible em-
 10 ployee and do not exceed 5 percent of
 11 compensation for any eligible em-
 12 ployee.”

13 (b) OPTION TO SUSPEND CONTRIBUTIONS.—Section
 14 408(p) (relating to simple retirement accounts) is amend-
 15 ed by adding at the end the following new paragraph:

16 “(10) SUSPENSION OF PLAN.—Except as pro-
 17 vided by the Secretary, a plan shall not be treated
 18 as failing to meet the requirements of this sub-
 19 section if, under the plan, the employer may suspend
 20 all elective, matching, and nonelective contributions
 21 under the plan after notifying employees eligible to
 22 participate in the arrangement of such suspension in
 23 writing at least 30 days in advance. Such suspension
 24 shall apply to contributions with respect to com-
 25 pensation earned after the effective date of the sus-

1 pension. Only 1 suspension under this paragraph
2 may take effect during any year.”

3 (c) CONFORMING AMENDMENTS.—Section
4 408(p)(2)(C) is amended—

5 (1) by striking clause (ii),

6 (2) by striking “DEFINITIONS” in the heading
7 and inserting “ELIGIBLE EMPLOYER”,

8 (3) by striking “(i) ELIGIBLE EMPLOYER.—”,
9 and

10 (4) by redesignating subclauses (I) and (II) as
11 clauses (i) and (ii), respectively.

12 (d) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall apply to taxable years beginning after Decem-
16 ber 31, 1998.

17 (2) DELAYED EFFECTIVE DATE FOR PLANS ES-
18 TABLISHED IN 1997 OR 1998.—In the case of plans
19 established in 1997 or 1998 under section 408(p) of
20 the Internal Revenue Code of 1986, the amendments
21 made by this section shall apply to taxable years be-
22 ginning after December 31, 2002.

1 **SEC. 122. NONDISCRIMINATION RULES FOR QUALIFIED**
2 **CASH OR DEFERRED ARRANGEMENTS AND**
3 **MATCHING CONTRIBUTIONS.**

4 (a) **ALTERNATIVE METHODS OF SATISFYING SEC-**
5 **TION 401(k) NONDISCRIMINATION TESTS.**—Subpara-
6 graph (B) of section 401(k)(12) (relating to alternative
7 methods of meeting nondiscrimination requirements) is
8 amended to read as follows:

9 “(B) **NONELECTIVE AND MATCHING CON-**
10 **TRIBUTIONS.**—

11 “(i) **IN GENERAL.**—The requirements
12 of this subparagraph are met if the re-
13 quirements of clauses (ii) and (iii) are met.

14 “(ii) **NONELECTIVE CONTRIBUTU-**
15 **TIONS.**—The requirements of this clause
16 are met if, under the arrangement, the em-
17 ployer is required, without regard to
18 whether the employee makes an elective
19 contribution or employee contribution, to
20 make a contribution to a defined contribu-
21 tion plan on behalf of each employee who
22 is not a highly compensated employee and
23 who is eligible to participate in the ar-
24 rangement in an amount equal to at least
25 1 percent of the employee’s compensation.

1 “(iii) MATCHING CONTRIBUTIONS.—

2 The requirements of this clause are met if,
3 under the arrangement, the employer
4 makes matching contributions on behalf of
5 each employee who is not a highly com-
6 pensated employee in an amount equal
7 to—

8 “(I) 100 percent of the elective
9 contributions of the employee to the
10 extent such elective contributions do
11 not exceed 3 percent of the employee’s
12 compensation, and

13 “(II) 50 percent of the elective
14 contributions of the employee to the
15 extent that such elective contributions
16 exceed 3 percent but do not exceed 5
17 percent of the employee’s compensa-
18 tion.

19 “(iv) RATE FOR HIGHLY COM-
20 PENSATED EMPLOYEES.—The require-
21 ments of clause (iii) are not met if, under
22 the arrangement, the rate of matching con-
23 tribution with respect to any rate of elec-
24 tive contribution of a highly compensated
25 employee is greater than that with respect

1 to an employee who is not a highly com-
2 pensated employee. For purposes of this
3 clause, to the extent provided in regula-
4 tions, the last sentences of paragraph
5 (3)(A) and subsection (m)(2)(B) shall not
6 apply.

7 “(v) ALTERNATIVE PLAN DESIGNS.—
8 If the rate of matching contribution with
9 respect to any rate of elective contribution
10 is not equal to the percentage required
11 under clause (iii), an arrangement shall
12 not be treated as failing to meet the re-
13 quirements of clause (iii) if—

14 “(I) the rate of an employer’s
15 matching contribution does not in-
16 crease as an employee’s rate of elec-
17 tive contribution increase, and

18 “(II) the aggregate amount of
19 matching contributions at such rate of
20 elective contribution is at least equal
21 to the aggregate amount of matching
22 contributions which would be made if
23 matching contributions were made on
24 the basis of the percentages described
25 in clause (iii).”

1 (b) CONTRIBUTIONS PART OF QUALIFIED CASH OR
 2 DEFERRED ARRANGEMENT.—Subparagraph (E)(ii) of
 3 section 401(k)(12) is amended to read as follows:

4 “(ii) SOCIAL SECURITY AND SIMILAR
 5 CONTRIBUTIONS NOT TAKEN INTO AC-
 6 COUNT.—Except as provided in regula-
 7 tions, an arrangement shall not be treated
 8 as meeting the requirements of subpara-
 9 graph (B) or (C) unless such requirements
 10 are met without regard to subsection (l),
 11 and, for purposes of subsection (l), and de-
 12 termining whether contributions provided
 13 under a plan satisfy subsection (a)(4) on
 14 the basis of equivalent benefits, employer
 15 contributions under subparagraph (B) or
 16 (C) shall not be taken into account.”

17 (c) ALTERNATIVE METHODS OF SATISFYING SEC-
 18 TION 401(m) NONDISCRIMINATION TESTS.—Section
 19 401(m)(11) (relating to alternative method of satisfying
 20 tests) is amended—

21 (1) by striking “subparagraph (B)” in subpara-
 22 graph (A)(iii) and inserting “subparagraphs (B) and
 23 (C)”,

24 (2) by adding at the end of subparagraph (B)
 25 the following new flush sentence:

1 “To the extent provided in regulations, the last
2 sentences of paragraph (2)(B) and subsection
3 (k)(3)(A) shall not apply for purposes of clause
4 (iii).”, and
5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(C) TEST MUST BE MET SEPARATELY.—
8 If this paragraph applies to any matching con-
9 tributions, such contributions shall not be taken
10 into account in determining whether employee
11 contributions satisfy the requirements of this
12 subsection.”

13 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
14 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—
15 Subparagraph (E) of section 401(k)(3) is amended to read
16 as follows:

17 “(E) For purposes of this paragraph, in
18 the case of the first plan year of any plan, the
19 amount taken into account as the actual defer-
20 ral percentage of nonhighly compensated em-
21 ployees for the preceding plan year shall be—

22 “(i) 3 percent, or

23 “(ii) the actual deferral percentage of
24 nonhighly compensated employees deter-

1 mined for such first plan year in the case
2 of—

3 “(I) an employer who elects to
4 have this clause apply, or

5 “(II) except to the extent pro-
6 vided by the Secretary, a successor
7 plan.”

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

11 **SEC. 123. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
12 **EES.**

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

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

18 (b) CONFORMING AMENDMENTS.—

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

23 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
24 408(k)(2)(C), and 416(i)(1)(D) are each amended

1 by striking “section 414(q)(4)” and inserting “sec-
2 tion 414(q)(3)”.

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

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

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

11 “(A) Employees who have not completed 6
12 months of service.

13 “(B) Employees who normally work less
14 than 17½ hours per week.

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

17 “(D) Employees who have not attained the
18 age of 21.

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

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

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

“(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.”

(b) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Subparagraph (I) of section 415(b)(2) (relating to limitation for defined benefit plans) is amended—

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

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

1 (3) by inserting “AND MULTIEMPLOYER” after
 2 “GOVERNMENTAL” in the heading.

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

6 **SEC. 125. EXEMPTION OF MIRROR PLANS FROM SECTION**
 7 **457 LIMITS.**

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

12 “(16) EXEMPTION FOR MIRROR PLANS.—

13 “(A) IN GENERAL.—Amounts of com-
 14 pensation deferred under a mirror plan shall
 15 not be taken into account in applying this sec-
 16 tion to amounts of compensation deferred under
 17 any other deferred compensation plan.

18 “(B) MIRROR PLAN.—The term ‘mirror
 19 plan’ means a plan, program, or arrangement
 20 maintained solely for the purpose of providing
 21 retirement benefits for employees in excess of
 22 the limitations imposed by section 401(a)(17)
 23 or section 415, or both.”

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

4 **SEC. 126. IMMEDIATE PARTICIPATION IN THE THRIFT SAV-**
5 **INGS PLAN FOR FEDERAL EMPLOYEES.**

6 (a) ELIMINATION OF CERTAIN WAITING PERIODS
7 FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Para-
8 graph (4) of section 8432(b) of title 5, United States
9 Code, is amended to read as follows:

10 “(4) The Executive Director shall prescribe such reg-
11 ulations as may be necessary to carry out the following:

12 “(A) Notwithstanding subparagraph (A) of
13 paragraph (2), an employee or Member described in
14 such subparagraph shall be afforded a reasonable
15 opportunity to first make an election under this sub-
16 section beginning on the date of commencing service
17 or, if that is not administratively feasible, beginning
18 on the earliest date thereafter that such an election
19 becomes administratively feasible, as determined by
20 the Executive Director.

21 “(B) An employee or Member described in sub-
22 paragraph (B) of paragraph (2) shall be afforded a
23 reasonable opportunity to first make an election
24 under this subsection (based on the appointment or
25 election described in such subparagraph) beginning

1 on the date of commencing service pursuant to such
2 appointment or election or, if that is not administra-
3 tively feasible, beginning on the earliest date there-
4 after that such an election becomes administratively
5 feasible, as determined by the Executive Director.

6 “(C) Notwithstanding the preceding provisions
7 of this paragraph, contributions under paragraphs
8 (1) and (2) of subsection (c) shall not be payable
9 with respect to any pay period before the earliest
10 pay period for which such contributions would other-
11 wise be allowable under this subsection if this para-
12 graph had not been enacted.

13 “(D) Sections 8351(a)(2), 8440a(a)(2),
14 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be
15 applied in a manner consistent with the purposes of
16 subparagraphs (A) and (B), to the extent those sub-
17 paragraphs can be applied with respect thereto.

18 “(E) Nothing in this paragraph shall affect
19 paragraph (3).”

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) Section 8432(a) of title 5, United States
22 Code, is amended—

23 (A) in the first sentence by striking
24 “(b)(1)” and inserting “(b)”; and

1 (B) by amending the second sentence to
2 read as follows: “Contributions under this sub-
3 section pursuant to such an election shall, with
4 respect to each pay period for which such elec-
5 tion remains in effect, be made in accordance
6 with a program of regular contributions pro-
7 vided in regulations prescribed by the Executive
8 Director.”

9 (2) Section 8432(b)(1)(B) of such title is
10 amended by inserting “(or any election allowable by
11 virtue of paragraph (4))” after “subparagraph (A)”.

12 (3) Section 8432(b)(3) of such title is amended
13 by striking “Notwithstanding paragraph (2)(A), an”
14 and inserting “An”.

15 (4) Section 8432(i)(1)(B)(ii) of such title is
16 amended by striking “either elected to terminate in-
17 dividual contributions to the Thrift Savings Fund
18 within 2 months before commencing military service
19 or”.

20 (5) Section 8439(a)(1) of such title is amended
21 by inserting “who makes contributions or” after “for
22 each individual” and by striking “section
23 8432(c)(1)” and inserting “section 8432”.

24 (6) Section 8439(c)(2) of such title is amended
25 by adding at the end the following: “Nothing in this

paragraph shall be considered to limit the dissemination of information only to the times required under the preceding sentence.”

(7) Sections 8440a(a)(2) and 8440d(a)(2) of such title are amended by striking all after “subject to” and inserting “subject to this chapter.”

(c) **EFFECTIVE DATE.**—This section shall take effect 6 months after the date of the enactment of this Act or such earlier date as the Executive Director may by regulation prescribe.

SEC. 127. FULL FUNDING LIMITATION FOR MULTIEMPLOYER PLANS.

(a) **AMENDMENTS TO CODE.**—

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

(A) by inserting “or in the case of a multiemployer plan,” after “paragraph (6)(B),”, and

(B) by inserting “AND MULTIEMPLOYER PLANS” after “PARAGRAPH (6)(B)” in the heading thereof.

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

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

1 (B) by striking “ANNUAL VALUATION” in
 2 the heading and inserting “VALUATION”.

3 (b) AMENDMENTS TO ERISA.—

4 (1) FULL FUNDING LIMITATION.—Section
 5 302(c)(7)(C) of the Employee Retirement Income
 6 Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is
 7 amended—

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

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

13 (2) VALUATION.—Section 302(c)(9) of such Act
 14 (29 U.S.C. 1082(c)(9)) is amended—

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

17 (B) by striking “ANNUAL VALUATION” in
 18 the heading and inserting “VALUATION”.

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

22 **SEC. 128. ELIMINATION OF PARTIAL TERMINATION RULES**
 23 **FOR MULTIEMPLOYER PLANS.**

24 (a) PARTIAL TERMINATION RULES FOR MULTIEM-
 25 PLOYER PLANS.—Section 411(d)(3) (relating to termi-

1 nation or partial termination; discontinuance of contribu-
 2 tions) is amended by adding at the end the following new
 3 sentence: “This paragraph shall not apply in the case of
 4 a partial termination of a multiemployer plan.”

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

8 **SEC. 129. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**
 9 **FUNDING LIMIT.**

10 (a) IN GENERAL.—Section 412(c)(7) (relating to
 11 full-funding limitation) is amended—

12 (1) by striking “150 percent” in subparagraph
 13 (A)(i)(I) and inserting “the applicable percentage”,
 14 and

15 (2) by adding at the end the following new sub-
 16 paragraph:

17 “(F) APPLICABLE PERCENTAGE.—For
 18 purposes of subparagraph (A)(i)(I), the applica-
 19 ble percentage is determined according to the
 20 following table:

“In the case of any plan year beginning in—		The applicable percentage is—
1998		155
1999		160
2000		165
2001		170
2002 and succeeding years		0.”

21 (b) SPECIAL AMORTIZATION RULE.—

1 (1) IN GENERAL.—Section 412(c)(7), as
 2 amended by subsection (a), is amended by adding at
 3 the end the following new subparagraph:

4 “(G) SPECIAL AMORTIZATION RULE.—Con-
 5 tributions that would be required to be made
 6 under the plan but for the provisions of sub-
 7 paragraph (A)(i)(I) shall be amortized over a
 8 20-year period.”

9 (2) CONFORMING AMENDMENT.—Section
 10 412(c)(7)(D) is amended by adding “and” at the
 11 end of clause (i), by striking “, and” at the end of
 12 clause (ii) and inserting a period, and by striking
 13 clause (iii).

14 (3) EFFECTIVE DATE.—The amendments made
 15 by this subsection shall apply to any unamortized
 16 bases with respect to plan years beginning before,
 17 on, or after December 31, 1998.

18 **TITLE II—SECURITY**

19 **SEC. 200. AMENDMENT OF ERISA.**

20 Except as otherwise expressly provided, whenever in
 21 this title an amendment or repeal is expressed in terms
 22 of an amendment to, or repeal of, a section or other provi-
 23 sion, the reference shall be considered to be made to a
 24 section or other provision of the Employee Retirement In-
 25 come Security Act of 1974.

1 **Subtitle A—General Provisions**

2 **SEC. 201. PERIODIC PENSION BENEFITS STATEMENTS.**

3 (a) IN GENERAL.—Subsection (a) of section 105 (29
4 U.S.C. 1025) is amended—

5 (1) by striking “shall furnish to any plan par-
6 ticipant or beneficiary who so requests in writing,”
7 and inserting “shall furnish at least once every 3
8 years, in the case of a participant in a defined bene-
9 fit plan who has attained age 35, and annually, in
10 the case of a defined contribution plan, to each plan
11 participant, and shall furnish to any plan participant
12 or beneficiary who so requests,” and

13 (2) by adding at the end the following flush
14 sentence:

15 “Information furnished under the preceding sentence to
16 a participant in a defined benefit plan (other than at the
17 request of the participant) may be based on reasonable
18 estimates determined under regulations prescribed by the
19 Secretary.”

20 (b) RULE FOR MULTIEMPLOYER PLANS.—Subsection
21 (d) of section 105 (29 U.S.C. 1025) is amended to read
22 as follows:

23 “(d) Each administrator of a plan to which more than
24 1 unaffiliated employer is required to contribute shall fur-

1 nish to any plan participant or beneficiary who so requests
 2 in writing, a statement described in subsection (a).”

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to plan years beginning after the
 5 later of—

6 (1) the date of issuance by the Secretary of
 7 Labor of regulations providing guidance for simplify-
 8 ing defined benefit plan calculations with respect to
 9 the information required under section 105 of the
 10 Employee Retirement Income Security Act of 1974
 11 (29 U.S.C. 1025), or

12 (2) December 31, 1998.

13 **SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVEST-**
 14 **MENT REPORTS APPLIED TO CERTAIN 401(k)**
 15 **PLANS.**

16 (a) IN GENERAL.—Section 104(b)(3) (29 U.S.C.
 17 1024(b)(3)) is amended—

18 (1) by inserting “(A)” after “(3)”; and

19 (2) by adding at the end the following new sub-
 20 paragraph:

21 “(B)(i) If, for any plan year, a plan includes a
 22 qualified cash or deferred arrangement (as defined
 23 in section 401(k)(2) of the Internal Revenue Code of
 24 1986) and such plan covers less than 100 partici-
 25 pants, the administrator shall furnish (within 60

1 days after the end of such plan year) to each partici-
2 pant and to each beneficiary receiving benefits under
3 the plan an annual investment report detailing such
4 information as the Secretary by regulation shall re-
5 quire.

6 “(ii) Clause (i) shall not apply with respect to
7 any participant described in section 404(c).”

8 (b) REGULATIONS.—

9 (1) IN GENERAL.—The Secretary of Labor, in
10 prescribing regulations required under section
11 104(b)(3)(B)(i) of the Employee Retirement Income
12 Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)),
13 as added by subsection (a), shall consider including
14 in the information required in an annual investment
15 report the following:

16 (A) Total plan assets and liabilities as of
17 the beginning and ending of the plan year.

18 (B) Plan income and expenses and con-
19 tributions made and benefits paid for the plan
20 year.

21 (C) Any transaction between the plan and
22 the employer, any fiduciary, or any 10-percent
23 owner during the plan year, including the acqui-
24 sition of any employer security or employer real
25 property.

1 (D) Any noncash contributions made to or
 2 purchases of nonpublicly traded securities made
 3 by the plan during the plan year without an ap-
 4 praisal by an independent third party.

5 (2) ELECTRONIC TRANSFER.—The Secretary of
 6 Labor in prescribing such regulations shall also
 7 make provision for the electronic transfer of the re-
 8 quired annual investment report by a plan adminis-
 9 trator to plan participants and beneficiaries.

10 (c) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall apply to plan years beginning after
 12 the date of the enactment of this Act.

13 **SEC. 203. INFORMATION REQUIRED TO BE PROVIDED TO**
 14 **INVESTMENT MANAGERS OF 401(k) PLANS.**

15 (a) IN GENERAL.—Section 105 (29 U.S.C. 1025) is
 16 amended by adding at the end the following new sub-
 17 section:

18 “(e) If—

19 “(1) the administrator of an individual account
 20 plan described in section 401(k) of the Internal Rev-
 21 enue Code of 1986 provides for investment of the
 22 plan assets by means of a contractual arrangement
 23 with another party, and

24 “(2) such other party is not required under
 25 such arrangement to separately account for benefits

1 accrued with respect to each participant and bene-
2 ficiary under this plan,
3 such administrator shall be treated as failing to meet the
4 requirements of subsection (a) unless, under such contrac-
5 tual arrangement, such administrator provides to such
6 other party such information as is necessary to enable
7 such party to separately account at any time for benefits
8 accrued with respect to each participant and beneficiary.”

9 (b) CIVIL PENALTY FOR VIOLATIONS.—Paragraph
10 (1) of section 502(c) (29 U.S.C. 1132(c)(1)) is amended
11 by striking “or section 101(e)(1)” and inserting “, section
12 101(e)(1), or section 105(e)”.

13 **SEC. 204. STUDY ON INVESTMENTS IN COLLECTIBLES.**

14 (a) STUDY.—The Secretary of Labor, in consultation
15 with the Secretary of the Treasury, shall study the extent
16 to which pension plans invest in collectibles and whether
17 such investments present a risk to the pension security
18 of the participants and beneficiaries of such plans.

19 (b) REPORT.—Not later than 12 months after the
20 date of the enactment of this Act, the Secretary of Labor
21 shall submit a report to the Congress containing the find-
22 ings of the study described in subsection (a) and any rec-
23 ommendations for legislative action.

1 **SEC. 205. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
2 **MAKING LOANS THROUGH CREDIT CARDS**
3 **AND OTHER INTERMEDIARIES.**

4 (a) IN GENERAL.—Subsection (a) of section 401 of
5 the Internal Revenue Code of 1986 is amended by adding
6 after paragraph (34) the following new paragraph:

7 “(35) PROHIBITION OF LOANS THROUGH CRED-
8 IT CARDS AND OTHER INTERMEDIARIES.—A trust
9 shall not constitute a qualified trust under this sec-
10 tion if the plan makes any loan to any beneficiary
11 under the plan through the use of any credit card
12 or any other intermediary.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply to plan years beginning after
15 the date of the enactment of this Act.

16 **SEC. 206. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.**

17 (a) IN GENERAL.—Section 4022A(c) (29 U.S.C.
18 1322a(c)) is amended—

19 (1) by striking “\$5” each place it appears in
20 paragraph (1) and inserting “\$11”,

21 (2) by striking “\$15” in paragraph (1) and in-
22 serting “\$33”, and

23 (3) by striking paragraphs (2), (5), and (6) and
24 by redesignating paragraphs (3) and (4) as para-
25 graphs (2) and (3), respectively.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any multiemployer plan that has
3 not received financial assistance (within the meaning of
4 section 4261 of the Employee Retirement Income Security
5 Act of 1974) within the 1-year period ending on the date
6 of the enactment of this Act.

7 **SEC. 207. PROHIBITED TRANSACTIONS.**

8 (a) IN GENERAL.—Section 502(i) (29 U.S.C.
9 1132(i)) is amended by striking “5 percent” and inserting
10 “15 percent”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to prohibited transactions occur-
13 ring after the date of the enactment of this Act.

14 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

15 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—
16 Subparagraphs (B) and (C) of section 4022(b)(5) (29
17 U.S.C. 1322(b)(5)) are amended to read as follows:

18 “(B) For purposes of this title, the term ‘majority
19 owner’ has the same meaning as substantial owner under
20 subparagraph (A), except that subparagraph (A) shall be
21 applied by substituting ‘50 percent or more’ for ‘more
22 than 10 percent’ each place it appears.

23 “(C) In the case of a participant who is a majority
24 owner, the amount of benefits guaranteed under this sec-
25 tion shall not exceed the product of—

1 “(i) a fraction (not to exceed 1) the numerator
2 of which is the number of years from the later of the
3 effective date or the adoption date of the plan to the
4 termination date, and the denominator of which is
5 30, and

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

9 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

10 (1) Section 4044(a)(4)(B) (29 U.S.C.
11 1344(a)(4)(B)) is amended by striking “section
12 4022(b)(5)” and inserting “section 4022(b)(5)(C)”.

13 (2) Section 4044(b) (29 U.S.C. 1344(b)) is
14 amended—

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

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

21 “(3) If assets available for allocation under
22 paragraph (4) of subsection (a) are insufficient to
23 satisfy in full the benefits of all individuals who are
24 described in that paragraph, the assets shall be allo-
25 cated first to benefits described in subparagraph (A)

1 of that paragraph. Any remaining assets shall then
2 be allocated to subparagraph (B). If assets allocated
3 to subparagraph (B) are insufficient to satisfy in full
4 the benefits in that subparagraph, the assets shall
5 be allocated pro rata among individuals on the basis
6 of the present value (as of the termination date) of
7 their respective benefits described in that subpara-
8 graph.”

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to plan terminations—

11 (1) under section 4041(c) of the Employee Re-
12 tirement Income Security Act of 1974 (29 U.S.C.
13 1341(c)) with respect to which notices of intent to
14 terminate are provided under section 4041(a)(2) of
15 such Act (29 U.S.C. 1341(a)(2)) on or after the
16 date of the enactment of this Act, or

17 (2) under section 4042 of such Act (29 U.S.C.
18 1342) with respect to which proceedings are insti-
19 tuted by the corporation on or after such date.

20 **SEC. 209. REVERSION REPORT.**

21 (a) IN GENERAL.—Section 4008 (29 U.S.C. 1308)
22 is amended by adding at the end the following new sub-
23 section:

24 “(b) REVERSION REPORT.—As soon as practicable
25 after the close of each fiscal year, the Secretary of Labor

1 (acting in the Secretary’s capacity as chairman of the cor-
 2 poration’s board) shall transmit to the President and the
 3 Congress a report providing information on plans from
 4 which residual assets were distributed to employers pursu-
 5 ant to section 4044(d).”

6 (b) CONFORMING AMENDMENT.—Section 4008 (29
 7 U.S.C. 1308) is amended by striking “SEC. 4008.” and
 8 inserting “SEC. 4008. (a) ANNUAL REPORT.—”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to fiscal years beginning after Sep-
 11 tember 30, 1998.

12 **Subtitle B—ERISA Enforcement**

13 **SEC. 211. CIVIL PENALTIES FOR BREACH OF FIDUCIARY** 14 **RESPONSIBILITIES MADE DISCRETIONARY,** 15 **ETC.**

16 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
 17 DISCRETIONARY.—Section 502(l)(1) (29 U.S.C. 1132(l))
 18 is amended—

19 (1) by striking “shall” and inserting “may”,
 20 and

21 (2) by striking “equal to” and inserting “not
 22 greater than”.

23 (b) APPLICABLE RECOVERY AMOUNT.—Section
 24 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read as
 25 follows:

1 “(2) For purposes of paragraph (1), the term ‘appli-
2 cable recovery amount’ means any amount which is recov-
3 ered from (or on behalf of) any fiduciary or other person
4 with respect to a breach or violation described in para-
5 graph (1) on or after the 30th day following receipt by
6 such fiduciary or other person of written notice from the
7 Secretary of the violation, whether paid voluntarily or by
8 order of a court in a judicial proceeding instituted by the
9 Secretary under paragraph (2) or (5) of subsection (a).
10 The Secretary may, in the Secretary’s sole discretion, ex-
11 tend the 30-day period described in the preceding sen-
12 tence.”.

13 (c) OTHER RULES.—Section 502(1) is amended by
14 adding at the end the following new paragraphs:

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

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

23 (d) EFFECTIVE DATES.—

24 (1) IN GENERAL.—The amendments made by
25 this section shall apply to any breach of fiduciary re-

sponsibility or other violation of part 4 of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(2) **TRANSITION RULE.**—In applying the amendment made by subsection (b), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may be discontinued at any time during its existence) shall be treated as having occurred on the day after such date of enactment.

**SEC. 212. REPORTING AND ENFORCEMENT REQUIREMENTS
FOR EMPLOYEE BENEFIT PLANS.**

(a) **IN GENERAL.**—Part 1 of subtitle B of title I (29 U.S.C. 1021 et seq.) is amended—

(1) by redesignating section 111 as section 112, and

(2) inserting after section 110 the following new section:

“DIRECT REPORTING OF CERTAIN EVENTS

“SEC. 111. (a) **REQUIRED NOTIFICATIONS.**—

“(1) **NOTIFICATIONS BY PLAN ADMINISTRATOR.**—Within 5 business days after an administrator of an employee benefit plan determines that there is evidence (or after the administrator is noti-

1 fied under paragraph (2)) that an irregularity may
2 have occurred with respect to the plan, the adminis-
3 trator shall—

4 “(A) notify the Secretary of the irregular-
5 ity in writing; and

6 “(B) furnish a copy of such notification to
7 the accountant who is currently engaged under
8 section 103(a)(3)(A).

9 “(2) NOTIFICATIONS BY ACCOUNTANT.—

10 “(A) IN GENERAL.—Within 5 business
11 days after an accountant engaged by the ad-
12 ministrator of an employee benefit plan under
13 section 103(a)(3)(A) determines in connection
14 with such engagement that there is evidence
15 that an irregularity may have occurred with re-
16 spect to the plan, the accountant shall—

17 “(i) notify the plan administrator of
18 the irregularity in writing, or

19 “(ii) if the accountant determines that
20 there is evidence that the irregularity may
21 have involved an individual who is the plan
22 administrator or who is a senior official of
23 the plan administrator, notify the Sec-
24 retary of the irregularity in writing.

“(B) NOTIFICATION UPON FAILURE OF
PLAN ADMINISTRATOR TO NOTIFY.—If an ac-
countant who has provided notification to the
plan administrator pursuant to subparagraph
(A)(i) does not receive a copy of the administra-
tor’s notification to the Secretary required in
paragraph (1) within the 5-business day period
specified therein, the accountant shall furnish
to the Secretary a copy of the accountant’s no-
tification made to the plan administrator on the
next business day following such period.

“(3) IRREGULARITY DEFINED.—

“(A) For purposes of this subsection, the
term ‘irregularity’ means—

“(i) a theft, embezzlement, or a viola-
tion of section 664 of title 18, United
States Code (relating to theft or embezzle-
ment from an employee benefit plan);

“(ii) an extortion or a violation of sec-
tion 1951 of title 18, United States Code
(relating to interference with commerce by
threats or violence);

“(iii) a bribery, a kickback, or a viola-
tion of section 1954 of title 18, United
States Code (relating to offer, acceptance,

1 or solicitation to influence operations of an
2 employee benefit plan);

3 “(iv) a violation of section 1027 of
4 title 18, United States Code (relating to
5 false statements and concealment of facts
6 in relation to employee benefit plan
7 records); or

8 “(v) a violation of section 411, 501, or
9 511 of this title (relating to criminal viola-
10 tions).

11 “(B) The term ‘irregularity’ does not in-
12 clude any act or omission described in this
13 paragraph involving less than \$1,000 unless
14 there is reason to believe that the act or omis-
15 sion may bear on the integrity of plan manage-
16 ment.

17 “(b) NOTIFICATION UPON TERMINATION OF EN-
18 GAGEMENT OF ACCOUNTANT.—

19 “(1) NOTIFICATION BY PLAN ADMINIS-
20 TRATOR.—Within 5 business days after the termi-
21 nation of an engagement of an accountant under
22 section 103(a)(3)(A) with respect to an employee
23 benefit plan, the administrator of such plan shall—

1 “(A) notify the Secretary in writing of
2 such termination, giving the reasons for such
3 termination, and

4 “(B) furnish the accountant whose engage-
5 ment was terminated with a copy of the notifi-
6 cation sent to the Secretary.

7 “(2) NOTIFICATION BY ACCOUNTANT.—If the
8 accountant referred to in paragraph (1)(B) has not
9 received a copy of the administrator’s notification to
10 the Secretary as required under paragraph (1)(B),
11 or if the accountant disagrees with the reasons given
12 in the notification of termination of the engagement
13 for auditing services, the accountant shall notify the
14 Secretary in writing of the termination, giving the
15 reasons for the termination, within 10 business days
16 after the termination of the engagement.

17 “(c) DETERMINATION OF PERIODS REQUIRED FOR
18 NOTIFICATION.—In determining whether a notification re-
19 quired under this section with respect to any act or omis-
20 sion has been made within the required number of busi-
21 ness days—

22 “(1) the day on which such act or omission be-
23 gins shall not be included; and

24 “(2) Saturdays, Sundays, and legal holidays
25 shall not be included.

1 For purposes of this subsection, the term ‘legal holiday’
2 means any Federal legal holiday and any other day ap-
3 pointed as a holiday by the State in which the person re-
4 sponsible for making the notification principally conducts
5 business.

6 “(d) IMMUNITY FOR GOOD FAITH NOTIFICATION.—
7 No accountant or plan administrator shall be liable to any
8 person for any finding, conclusion, or statement made in
9 any notification made pursuant to subsection (a)(2) or
10 (b)(2), or pursuant to any regulations issued under those
11 subsections, if the finding, conclusion, or statement is
12 made in good faith.”

13 (b) CIVIL PENALTY.—

14 (1) IN GENERAL.—Section 502(c) (29 U.S.C.
15 1132(c)) is amended by inserting after paragraph
16 (6) the following new paragraph:

17 “(8)(A) The Secretary may assess a civil penalty of
18 up to \$50,000 against any administrator who fails to pro-
19 vide the Secretary with any notification as required under
20 section 111.

21 “(B) The Secretary may assess a civil penalty of up
22 to \$50,000 against any accountant who knowingly and
23 willfully fails to provide the Secretary with any notification
24 as required under section 111.”

1 (2) CONFORMING AMENDMENT.—Section
 2 502(a)(6) (29 U.S.C. 1132(a)(6)) is amended by
 3 striking “or (6)” and inserting “(6), or (8)”.

4 (c) CLERICAL AMENDMENTS.—

5 (1) Section 514(d) (29 U.S.C. 114(d)) is
 6 amended by striking “111” and inserting “112”.

7 (2) The table of contents in section 1 is amend-
 8 ed by striking the item relating to section 111 and
 9 inserting the following new items:

“Sec. 111. Direct reporting of certain events.
 “Sec. 112. Repeal and effective date.”

10 (d) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply with respect to any irregularity or
 12 termination of engagement described in the amendments
 13 only if the 5-day period described in the amendments in
 14 connection with the irregularity or termination commences
 15 at least 90 days after the date of the enactment of this
 16 Act.

17 **SEC. 213. ADDITIONAL REQUIREMENTS FOR QUALIFIED**
 18 **PUBLIC ACCOUNTANTS.**

19 (a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C.
 20 1023(a)(3)(D)) is amended—

21 (1) by inserting “(i)” after “(D)”;

22 (2) by inserting “, with respect to any engage-
 23 ment of an accountant under subparagraph (A)”
 24 after “means”;

1 (3) by redesignating clauses (i), (ii), and (iii) as
2 subclauses (I), (II), and (III), respectively;

3 (4) by striking the period at the end of sub-
4 clause (III) (as so redesignated) and inserting a
5 comma;

6 (5) by adding after and below subclause (III)
7 (as so redesignated), the following: “but only if such
8 person meets the requirements of clauses (ii) and
9 (iii), with respect to such engagement.”; and

10 (6) by adding at the end the following new
11 clauses:

12 “(ii) A person meets the requirements of
13 this clause with respect to an engagement of
14 the person as an accountant under subpara-
15 graph (A) if the person—

16 “(I) has in operation an appropriate
17 internal quality control system;

18 “(II) has undergone a qualified exter-
19 nal quality control review of the person’s
20 accounting and auditing practices, includ-
21 ing such practices relevant to employee
22 benefit plans (if any), during the 3-year
23 period immediately preceding such engage-
24 ment; and

1 “(III) has completed, within the 2 cal-
2 endar years immediately preceding such
3 engagement, such continuing education or
4 training as the Secretary in regulations de-
5 termines is necessary to maintain profes-
6 sional proficiency in connection with em-
7 ployee benefit plans.

8 “(iii) A person meets the requirements of
9 this clause with respect to an engagement of
10 the person as an accountant under subpara-
11 graph (A) if the person meets such additional
12 requirements and qualifications of regulations
13 which the Secretary deems necessary to ensure
14 the quality of plan audits.

15 “(iv) For purposes of clause (ii)(II), an ex-
16 ternal quality control review shall be treated as
17 qualified with respect to a person referred to in
18 clause (ii) if—

19 “(I) such review is performed in ac-
20 cordance with the requirements of external
21 quality control review programs of recog-
22 nized auditing standard setting bodies, as
23 determined in regulations of the Secretary,
24 and

1 “(II) in the case of any such person
2 who has, during the peer review period,
3 conducted 1 or more previous audits of
4 employee benefit plans, such review in-
5 cludes the review of an appropriate number
6 (determined as provided in such regula-
7 tions, but in no case less than 1) of plan
8 audits in relation to the scale of the per-
9 son’s auditing practice.

10 (b) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 apply with respect to plan years beginning on or
14 after the date which is 3 years after the date of the
15 enactment of this Act.

16 (2) RESTRICTIONS ON CONDUCTING EXAMINA-
17 TIONS.—Clause (iii) of section 103(a)(1)(D) of the
18 Employee Retirement Income Security Act of 1974
19 (as added by subsection (a)(6)) takes effect on the
20 date of enactment of this Act.

21 (3) REGULATIONS.—The Secretary shall issue
22 regulations under this section no later than Decem-
23 ber 31, 1999.

1 **SEC. 214. INSPECTOR GENERAL STUDY.**

2 (a) STUDY.—The Inspector General of the Depart-
3 ment of Labor shall conduct a study on the need for regu-
4 latory standards and procedures to authorize the Sec-
5 retary, in appropriate cases, to prohibit persons from serv-
6 ing as qualified accountants for purposes of section 103
7 of the Employee Retirement Income Security Act of 1974
8 (29 U.S.C. 1023).

9 (b) MATTERS TO BE STUDIED.—In conducting the
10 study under this section, the Inspector General shall ad-
11 dress whether standards and procedures to prohibit per-
12 sons from serving as qualified public accountants are like-
13 ly to improve the quality of employee benefit plan audits,
14 and the potential for increased costs to plans. If the In-
15 spector General concludes that regulations incorporating
16 standards and procedures would be appropriate, the study
17 shall include recommended standards and procedures.

18 (c) REPORT.—Not later than 1 year after the date
19 of the enactment of this Act, the Inspector General shall
20 submit a report on the results of the study conducted pur-
21 suant to this section to each house of Congress and the
22 Secretary of Labor.

1 **Subtitle C—Increase in Excise Tax**
2 **on Employer Reversions**

3 **SEC. 221. INCREASE IN EXCISE TAX.**

4 (a) IN GENERAL.—Section 4980 of the Internal Rev-
5 enue Code of 1986 (relating to tax on reversion of quali-
6 fied plan assets to employer) is amended—

7 (1) in subsection (a), by striking “20 percent”
8 and inserting “35 percent”; and

9 (2) in subsection (d)(1), by striking “substitut-
10 ing ‘50 percent’ for ‘20 percent’ with respect to any
11 employer reversion” and inserting “substituting ‘65
12 percent’ for ‘35 percent’ with respect to any em-
13 ployer reversion”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendment made by this section shall
17 apply to reversions occurring after December 31,
18 1998.

19 (2) EXCEPTION.—The amendment made by this
20 section shall not apply to any reversion after Decem-
21 ber 31, 1998, if—

22 (A) in the case of plans subject to title IV
23 of the Employee Retirement Income Security
24 Act of 1974, a notice of intent to terminate
25 under such title was provided to participants

1 (or if no participants, to the Pension Benefit
2 Guaranty Corporation) before June 25, 1998,

3 (B) in the case of plans subject to title I
4 (and not to title IV) of such Act, a notice of in-
5 tent to reduce future accruals under section
6 204(h) of such Act was provided to participants
7 in connection with the termination before June
8 25, 1998,

9 (C) in the case of plans not subject to title
10 I or IV of such Act, a request for a determina-
11 tion letter with respect to the termination was
12 filed with the Secretary of the Treasury or the
13 Secretary's delegate before June 25, 1998, or

14 (D) in the case of plans not subject to title
15 I or IV of such Act and having only 1 partici-
16 pant, a resolution terminating the plan was
17 adopted by the employer before June 25, 1998.

18 **TITLE III—PORTABILITY**

19 **SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CON-** 20 **TRIBUTIONS.**

21 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
22 Paragraph (2) of section 411(a) of the Internal Revenue
23 Code of 1986 (relating to employer contributions) is
24 amended—

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

3 (2) by adding at the end the following new sub-
 4 paragraph:

5 “(C) MATCHING CONTRIBUTIONS.—In the
 6 case of a plan that includes an accrued benefit
 7 derived from matching contributions (as defined
 8 in section 401(m)(4)(A)), the plan satisfies the
 9 requirements of this subparagraph if—

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

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

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

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

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

3 (2) by adding at the end the following new sub-
 4 paragraph:

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

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

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

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

21 (c) EFFECTIVE DATE.—

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

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

10 (3) COLLECTIVE BARGAINING AGREEMENTS.—
11 In the case of a plan maintained pursuant to 1 or
12 more collective bargaining agreements between em-
13 ployee representatives and 1 or more employers rati-
14 fied by the date of the enactment of this Act, the
15 amendments made by this section shall not apply to
16 employees covered by any such agreement in plan
17 years beginning before the earlier of—

18 (A) the later of—

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

24 (ii) January 1, 1999, or

25 (B) January 1, 2003.

1 **SEC. 302. RATIONALIZATION OF THE RESTRICTIONS ON**
2 **DISTRIBUTIONS FROM 401(k) PLANS.**

3 (a) IN GENERAL.—Section 401(k)(2)(B)(i)(I) of the
4 Internal Revenue Code of 1986 (relating to qualified cash
5 or deferred arrangements) is amended by striking “sepa-
6 ration from service” and inserting “severance from em-
7 ployment”.

8 (b) BUSINESS SALE REQUIREMENTS DELETED.—

9 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)
10 of the Internal Revenue Code of 1986 (relating to
11 qualified cash or deferred arrangements) is amended
12 by striking “an event” and inserting “a plan termi-
13 nation”.

14 (2) CONFORMING AMENDMENTS.—Section
15 401(k)(10) of such Code is amended—

16 (A) by striking subparagraph (A) and in-
17 serting the following:

18 “(A) IN GENERAL.—A plan termination is
19 described in this paragraph if the termination
20 of the plan is without establishment or mainte-
21 nance of another defined contribution plan
22 (other than an employee stock ownership plan
23 as defined in section 4975(e)(7)).”,

24 (B) by striking subparagraph (C), and

25 (C) by striking “OR DISPOSITION OF AS-
26 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. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED**
5 **CONTRIBUTION PLANS.**

6 (a) IN GENERAL.—Section 411(d)(6) of the Internal
7 Revenue Code of 1986 (relating to accrued benefit not to
8 be decreased by amendment) is amended by adding at the
9 end the following new subparagraph:

10 “(D) PLAN TRANSFERS.—A defined con-
11 tribution plan (in this subparagraph referred to
12 as the ‘transferee plan’) shall not be treated as
13 failing to meet the requirements of this para-
14 graph merely because the transferee plan does
15 not provide some or all of the forms of distribu-
16 tion previously available under another defined
17 contribution plan (in this subparagraph referred
18 to as the ‘transferor plan’) to the extent that—

19 “(i) the forms of distribution pre-
20 viously available under the transferor plan
21 applied to the account of a participant or
22 beneficiary under the transferor plan that
23 was transferred from the transferor plan to
24 the transferee plan pursuant to a direct

1 transfer rather than pursuant to a dis-
2 tribution from the transferor plan,

3 “(ii) the terms of both the transferor
4 plan and the transferee plan authorize the
5 transfer described in clause (i),

6 “(iii) the transfer described in clause
7 (i) was made pursuant to a voluntary elec-
8 tion by the participant or beneficiary
9 whose account was transferred to the
10 transferee plan,

11 “(iv) the election described in clause
12 (iii) was made after the participant or ben-
13 eficiary received a notice describing the
14 consequences of making the election,

15 “(v) if the transferor plan provides for
16 an annuity as the normal form of distribu-
17 tion under the plan in accordance with sec-
18 tion 417, the transfer is made with the
19 consent of the participant’s spouse (if
20 any), and such consent meets requirements
21 similar to the requirements imposed by
22 section 417(a)(2), and

23 “(vi) the transferee plan allows the
24 participant or beneficiary described in
25 clause (iii) to receive any distribution to

1 which the participant or beneficiary is enti-
2 tled under transferee plan in the form of
3 a single sum distribution.”

4 (b) CONFORMING AMENDMENT.—Section 204(g) of
5 the Employee Retirement Income Security Act of 1974
6 (29 U.S.C. 1054(g)) is amended by adding at the end the
7 following new paragraph:

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

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

23 “(B) the terms of both the transferor plan and
24 the transferee plan authorize the transfer described
25 in subparagraph (A),

1 “(C) the transfer described in subparagraph
2 (A) was made pursuant to a voluntary election by
3 the participant or beneficiary whose account was
4 transferred to the transferee plan,

5 “(D) the election described in subparagraph (C)
6 was made after the participant or beneficiary re-
7 ceived a notice describing the consequences of mak-
8 ing the election,

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

16 “(F) the transferee plan allows the participant
17 or beneficiary described in subparagraph (C) to re-
18 ceive any distribution to which the participant or
19 beneficiary is entitled under transferee plan in the
20 form of a single sum distribution.”

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

1 **SEC. 304. MISSING PARTICIPANTS.**

2 (a) IN GENERAL.—Section 4050 of the Employee Re-
 3 tirement Income Security Act of 1974 (29 U.S.C. 1350)
 4 is amended by redesignating subsection (c) as subsection
 5 (e) and by inserting after subsection (b) the following new
 6 subsections:

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

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

12 “(1) TRANSFER TO CORPORATION.—The plan
 13 administrator of a plan described in paragraph (4)
 14 may elect to transfer a missing participant’s benefits
 15 to the corporation upon termination of the plan.

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

22 “(A) to the corporation, or

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

25 “(3) PAYMENT BY THE CORPORATION.—If ben-
 26 efits of a missing participant were transferred to the

1 corporation under paragraph (1), the corporation
2 shall, upon location of the participant or beneficiary,
3 pay to the participant or beneficiary the amount
4 transferred (or the appropriate survivor benefit) ei-
5 ther—

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

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

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

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

13 “(i) to which the provisions of this
14 section do not apply (without regard to
15 this subsection), and

16 “(ii) which is not a plan described in
17 paragraphs (2) through (11) of section
18 4021(b), and

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

21 “(i) has missing participants, and

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

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

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 206(f) of the Employee Retirement
 6 Income Security Act of 1974 (29 U.S.C. 1056(f)) is
 7 amended—

8 (A) by striking “title IV” and inserting
 9 “section 4050”, and

10 (B) by striking “the plan shall provide
 11 that,”.

12 (2) Section 401(a)(34) of the Internal Revenue
 13 Code of 1986 (relating to benefits of missing partici-
 14 pants on plan termination) is amended by striking
 15 “title IV” and inserting “section 4050”.

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

22 **SEC. 305. ALLOWANCE OF ROLLOVERS FROM AND TO 403(b)**
 23 **PLANS.**

24 (a) ROLLOVERS FROM SECTION 403(b) PLANS.—
 25 Section 403(b)(8)(A)(ii) of the Internal Revenue Code of

1 1986 (relating to rollover amounts) is amended by striking
 2 “such distribution” and all that follows and inserting
 3 “such distribution to an eligible retirement plan described
 4 in section 402(c)(8)(B), and”.

5 (b) ROLLOVERS TO SECTION 403(b) PLANS.—Sec-
 6 tion 402(c)(8)(B) of such Code (defining eligible retire-
 7 ment plan) is amended by striking “and” at the end of
 8 clause (ii), by striking the period at the end of clause (iv)
 9 and inserting “, and”, and by adding at the end the follow-
 10 ing:

11 “(v) an annuity contract described in
 12 section 403(b).”

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 72(o)(4) of such Code is amended
 15 by striking “and 408(d)(3)” and inserting
 16 “403(b)(8), and 408(d)(3)”.

17 (2) Section 401(a)(31)(B) of such Code is
 18 amended by striking “and 403(a)(4)” and inserting
 19 “, 403(a)(4), and 403(b)(8)”.

20 (3) Subparagraph (B) of section 403(b)(8) of
 21 such Code is amended by inserting “and (9)” after
 22 “through (7)”.

23 (4) Subparagraphs (A) and (B) of section
 24 415(b)(2) of such Code are each amended by strik-

1 ing “and 408(d)(3)” and inserting “403(b)(8), and
2 408(d)(3)”.

3 (d) EFFECTIVE DATE; SPECIAL RULE.—

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

7 (2) SPECIAL RULE.—Notwithstanding any other
8 provision of law, subsections (h)(3) and (h)(5) of
9 section 1122 of the Tax Reform Act of 1986 shall
10 not apply to any distribution from an eligible retire-
11 ment plan on behalf of an individual if there was a
12 rollover to such plan on behalf of such individual
13 which is permitted solely by reason of any amend-
14 ment made by this section.

15 **SEC. 306. ROLLOVER CONTRIBUTIONS FROM DEFERRED**
16 **COMPENSATION PLANS OF STATE AND**
17 **LOCAL GOVERNMENTS.**

18 (a) ROLLOVERS FROM SECTION 457 PLANS.—

19 (1) IN GENERAL.—Section 457(e) of the Inter-
20 nal Revenue Code of 1986 (relating to other defini-
21 tions and special rules) is amended by adding at the
22 end the following:

23 “(16) ROLLOVER AMOUNTS.—

24 “(A) GENERAL RULE.—In the case of an
25 eligible deferred compensation plan of an eligi-

1 ble employer described in paragraph (1)(A),
2 if—

3 “(i) any portion of the balance to the
4 credit of an employee in such plan is paid
5 to such employee in a rollover distribution
6 (other than a distribution described in sub-
7 section (d)(1)(A)(iii) or in subparagraph
8 (A) or (B) of section 402(c)(4)),

9 “(ii) the employee transfers any por-
10 tion of the property such employee receives
11 in such distribution to an individual retire-
12 ment plan (as defined in section
13 7701(a)(37)), and

14 “(iii) in the case of a distribution of
15 property other than money, the amount so
16 transferred consists of the property distrib-
17 uted,

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

21 “(B) CERTAIN RULES MADE APPLICA-
22 BLE.—Rules similar to the rules of section
23 401(a)(31), paragraphs (2), (3), (5), (6), (7),
24 and (9) of section 402(c), and section 402(f)
25 shall apply for purposes of subparagraph (A).”

1 (2) DISTRIBUTION REQUIREMENTS.—Section
2 457(d)(1)(A) of such Code (relating to distribution
3 requirements) is amended by inserting “except as
4 provided in subsection (e)(16),” after “(A)”.

5 (3) CONFORMING AMENDMENTS.—

6 (A) Section 72(o)(4) of such Code is
7 amended—

8 (i) by striking “and 408(d)(3)” and
9 inserting “408(d)(3), and 457(e)(16)”,

10 (ii) by inserting “or excludable” after
11 “deductible” each place it appears, and

12 (iii) in the heading by inserting “OR
13 EXCLUDABLE” after “DEDUCTIBLE”.

14 (B) Section 219(d)(2) of such Code is
15 amended by striking “or 408(d)(3)” and insert-
16 ing “408(d)(3), or 457(e)(16)”.

17 (C) Section 401(a)(31)(B) of such Code is
18 amended by striking “and 403(b)(8)” and in-
19 serting “, 403(b)(8), and 457(e)(16)”.

20 (D) Paragraph (4) of section 402(c) of
21 such Code is amended by inserting “or in an el-
22 igible deferred compensation plan (as defined in
23 section 457(b)) of an eligible employer de-
24 scribed in section 457(e)(1)(A)” after “qualified
25 trust”.

1 (E) Section 408(a)(1) of such Code is
2 amended by striking “or 403(b)(8)” and insert-
3 ing “, 403(b)(8), or 457(e)(16)”.

4 (F) Section 408(d)(3)(A)(ii) of such Code
5 is amended by striking “or” after “501(a)” and
6 inserting a comma, and by inserting “, or from
7 an eligible deferred compensation plan described
8 in section 457(b)” after “contribution”.

9 (G) Subparagraphs (A) and (B) of section
10 415(b)(2) of such Code are each amended by
11 striking “and 408(d)(3)” and inserting
12 “408(d)(3), and 457(e)(16)”.

13 (H) Section 4973(b)(1)(A) of such Code is
14 amended by striking “or 408(d)(3)” and insert-
15 ing “408(d)(3), or 457(e)(16)”.

16 (d) EFFECTIVE DATE; SPECIAL RULE.—

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

20 (2) SPECIAL RULE.—Notwithstanding any other
21 provision of law, subsections (h)(3) and (h)(5) of
22 section 1122 of the Tax Reform Act of 1986 shall
23 not apply to any distribution from an individual re-
24 tirement plan on behalf of an individual if there was
25 a rollover to such plan on behalf of such individual

1 which is permitted solely by reason of any amend-
 2 ment made by this section.

3 **SEC. 307. EXTENSION OF 60-DAY ROLLOVER PERIOD IN THE**
 4 **CASE OF PRESIDENTIALLY DECLARED DISAS-**
 5 **TERS AND SERVICE IN COMBAT ZONE.**

6 (a) IN GENERAL.—Paragraph (1) of section 7508(a)
 7 of the Internal Revenue Code of 1986 (relating to time
 8 postponed for performing certain acts) is amended by
 9 striking “and” at the end of subparagraph (J), by redesign-
 10 ating subparagraph (K) as subparagraph (L), and by in-
 11 serting after subparagraph (J) the following new subpara-
 12 graph:

13 “(K) Rollover of any distribution within
 14 the 60-day period specified in section 402(c)(3)
 15 or 408(d)(3)(A); and”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to distributions made after Decem-
 18 ber 31, 1998.

19 **SEC. 308. PURCHASE OF SERVICE CREDIT IN GOVERN-**
 20 **MENTAL DEFINED BENEFIT PLANS.**

21 (a) 403(b) PLANS.—Subsection (b) of section 403 of
 22 the Internal Revenue Code of 1986 is amended by adding
 23 at the end the following new paragraph:

24 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 25 PURCHASE PERMISSIVE SERVICE CREDIT.—No

1 amount shall be includible in gross income by reason
 2 of a direct trustee-to-trustee transfer to a defined
 3 benefit governmental plan (as defined in section
 4 414(d)) if such transfer is—

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

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

11 (b) 457 PLANS.—Subsection (e) of section 457 of
 12 such Code, as amended by section 306, is amended by add-
 13 ing at the end the following new paragraph:

14 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 15 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 16 amount shall be includible in gross income by reason
 17 of a direct trustee-to-trustee transfer to a defined
 18 benefit governmental plan (as defined in section
 19 414(d)) if such transfer is—

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

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

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

4 **TITLE IV—COMPREHENSIVE**
 5 **WOMEN’S PENSION PROTECTION**
 6 **Subtitle A—Pension Reform**

7 **SEC. 401. PENSION RIGHT TO KNOW PROPOSALS.**

8 (a) SPOUSE’S RIGHT TO KNOW DISTRIBUTION IN-
 9 FORMATION.—

10 (1) AMENDMENT OF INTERNAL REVENUE
 11 CODE.—Paragraph (3) of section 417(a) of the In-
 12 ternal Revenue Code of 1986 (relating to definitions
 13 and special rules for purposes of minimum survivor
 14 annuity requirements) is amended by adding at the
 15 end the following new subparagraph:

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

1 ing made to such address and addressed to both
2 such participant and spouse.”

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

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

19 (b) EMPLOYEE’S RIGHT TO KNOW OF OPPORTUNITY
20 FOR ELECTIVE CONTRIBUTIONS UNDER 401(k) PLANS.—
21 Subparagraph (D) of section 401(k)(12) of the Internal
22 Revenue Code of 1986 (relating to notice requirements)
23 is amended—

1 (1) by striking “, within a reasonable period be-
2 fore any year,” and inserting “before the 60th day
3 before the beginning of any year”, and

4 (2) by adding at the end the following new
5 flush sentence:

6 “The requirements of paragraph (11)(B)(iii)
7 shall apply for purposes of this subparagraph.”

8 **SEC. 402. WOMEN’S PENSION TOLL-FREE PHONE NUMBER.**

9 (a) IN GENERAL.—The Secretary of Labor shall con-
10 tract with an independent organization to create a wom-
11 en’s pension toll-free telephone number and contact to
12 serve as—

13 (1) a resource for women on pension questions
14 and issues;

15 (2) a source for referrals to appropriate agen-
16 cies; and

17 (3) a source for printed information.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated \$1,000,000 for each of
20 the fiscal years 1999, 2000, 2001, and 2002 to carry out
21 subsection (a).

1 **SEC. 403. MODIFICATION OF GOVERNMENT PENSION OFF-**
2 **SET.**

3 (a) WIFE'S INSURANCE BENEFITS.—Section
4 202(b)(4)(A) of the Social Security Act (42 U.S.C.
5 402(b)(4)(A)) is amended—

6 (1) by inserting “the amount (if any) by which
7 the sum of such benefit (before reduction under this
8 paragraph) and” after “two-thirds of”; and

9 (2) by inserting “exceeds the amount described
10 in subsection (z) for such month,” before “if”.

11 (b) HUSBAND'S INSURANCE BENEFITS.—Section
12 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is
13 amended—

14 (1) by inserting “the amount (if any) by which
15 the sum of such benefit (before reduction under this
16 paragraph) and” after “two-thirds of”; and

17 (2) by inserting “exceeds the amount described
18 in subsection (z) for such month,” before “if”.

19 (c) WIDOW'S INSURANCE BENEFITS.—Section
20 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is
21 amended—

22 (1) by inserting “the amount (if any) by which
23 the sum of such benefit (before reduction under this
24 paragraph) and” after “two-thirds of”; and

25 (2) by inserting “exceeds the amount described
26 in subsection (z) for such month,” before “if”.

1 (d) WIDOWER'S INSURANCE BENEFITS.—Section
2 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is
3 amended—

4 (1) by inserting “the amount (if any) by which
5 the sum of such benefit (before reduction under this
6 paragraph) and” after “two-thirds of”; and

7 (2) by inserting “exceeds the amount described
8 in subsection (z) for such month,” before “if”.

9 (e) MOTHER'S AND FATHER'S INSURANCE BENE-
10 FITS.—Section 202(g)(4)(A) of such Act (42 U.S.C.
11 402(g)(4)(A)) is amended—

12 (1) by inserting “the amount (if any) by which
13 the sum of such benefit (before reduction under this
14 paragraph) and” after “two-thirds of”; and

15 (2) by inserting “exceeds the amount described
16 in subsection (z) for such month,” before “if”.

17 (f) AMOUNT DESCRIBED.—Section 202 of such Act
18 (42 U.S.C. 402) is amended by adding at the end the fol-
19 lowing:

20 “(z) The amount described in this subsection is, for
21 months in each 12-month period beginning in December
22 of 1998, and each succeeding calendar year, the greater
23 of—

24 “(1) \$1200; or

1 “(2) the amount applicable for months in the
 2 preceding 12-month period, increased by the cost-of-
 3 living adjustment for such period determined for an
 4 annuity under section 8340 of title 5, United States
 5 Code (without regard to any other provision of
 6 law).”

7 (g) LIMITATIONS ON REDUCTIONS IN BENEFITS.—
 8 Section 202 of such Act (42 U.S.C. 402), as amended by
 9 subsection (f), is amended by adding at the end the follow-
 10 ing:

11 “(aa) For any month after December 1998, in no
 12 event shall an individual receive a reduction in a benefit
 13 under subsection (b)(4)(A), (c)(2)(A), (e)(7)(A), (f)(2)(A),
 14 or (g)(4)(A) for the month that is more than the reduction
 15 in such benefit that would have applied for such month
 16 under such subsections as in effect on December 1, 1998.”

17 (h) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply with respect to monthly insurance
 19 benefits payable under title II of the Social Security Act
 20 for months after December 1998.

21 **SEC. 404. PERIODS OF FAMILY AND MEDICAL LEAVE**
 22 **TREATED AS HOURS OF SERVICE FOR PEN-**
 23 **SION PARTICIPATION AND VESTING.**

24 (a) AMENDMENTS OF INTERNAL REVENUE CODE.—

25 (1) PARTICIPATION.—

1 (A) IN GENERAL.—Paragraph (3) of sec-
2 tion 410(a) of the Internal Revenue Code of
3 1986 (relating to minimum participation stand-
4 ards) is amended by adding at the end the fol-
5 lowing new subparagraph:

6 “(E) FAMILY AND MEDICAL LEAVE TREAT-
7 ED AS SERVICE.—

8 “(i) IN GENERAL.—For purposes of
9 this subsection, in the case of an individual
10 who is absent from work on leave required
11 to be given to such individual under the
12 Family and Medical Leave Act of 1993,
13 the plan shall treat as hours of service—

14 “(I) the hours of service which
15 otherwise would normally have been
16 credited to such individual but for
17 such absence, or

18 “(II) in any case in which the
19 plan is unable to determine the hours
20 described in subclause (I), 8 hours of
21 service per day of absence.

22 “(ii) YEAR TO WHICH HOURS ARE
23 CREDITED.—The hours described in clause
24 (i) shall be treated as hours of service as
25 provided in this subparagraph—

1 “(I) only in the year in which the
 2 absence from work begins, if a partici-
 3 pant would have a year of service sole-
 4 ly because the period of absence is
 5 treated as hours of service as provided
 6 in clause (i); or

7 “(II) in any other case, in the
 8 immediately following year.”

9 (B) COORDINATION WITH TREATMENT OF
 10 MATERNITY AND PATERNITY ABSENCES UNDER
 11 BREAK IN SERVICE RULES.—Subparagraph (E)
 12 of section 410(a)(5) of such Code is amended—

13 (i) by inserting “NOT UNDER FAMILY
 14 AND MEDICAL LEAVE ACT OF 1993” after
 15 “ABSENCES” in the heading, and

16 (ii) by adding at the end of clause (i)
 17 the following new sentence: “The preceding
 18 sentence shall apply to an absence from
 19 work only if no part of such absence is re-
 20 quired to be given under the Family and
 21 Medical Leave Act of 1993.”

22 (2) VESTING.—

23 (A) IN GENERAL.—Paragraph (5) of sec-
 24 tion 411(a) of such Code (relating to minimum

1 vesting standards) is amended by adding at the
2 end the following new subparagraph:

3 “(E) FAMILY AND MEDICAL LEAVE TREAT-
4 ED AS SERVICE.—

5 “(i) IN GENERAL.—For purposes of
6 this subsection, in the case of an individual
7 who is absent from work on leave required
8 to be given to such individual under the
9 Family and Medical Leave Act of 1993,
10 the plan shall treat as hours of service—

11 “(I) the hours of service which
12 otherwise would normally have been
13 credited to such individual but for
14 such absence, or

15 “(II) in any case in which the
16 plan is unable to determine the hours
17 described in subclause (I), 8 hours of
18 service per day of absence.

19 “(ii) YEAR TO WHICH HOURS ARE
20 CREDITED.—The hours described in clause
21 (i) shall be treated as hours of service as
22 provided in this subparagraph—

23 “(I) only in the year in which the
24 absence from work begins, if a partici-
25 pant would have a year of service sole-

1 ly because the period of absence is
 2 treated as hours of service as provided
 3 in clause (i); or

4 “(II) in any other case, in the
 5 immediately following year.”

6 (B) COORDINATION WITH TREATMENT OF
 7 MATERNITY AND PATERNITY ABSENCES UNDER
 8 BREAK IN SERVICE RULES.—Subparagraph (E)
 9 of section 411(a)(6) of such Code is amended—

10 (i) by inserting “NOT UNDER FAMILY
 11 AND MEDICAL LEAVE ACT OF 1993” after
 12 “ABSENCES” in the heading, and

13 (ii) by adding at the end of clause (i)
 14 the following new sentence: “The preceding
 15 sentence shall apply to an absence from
 16 work only if no part of such absence is re-
 17 quired to be given under the Family and
 18 Medical Leave Act of 1993.”

19 (b) AMENDMENTS OF ERISA.—

20 (1) PARTICIPATION.—

21 (A) IN GENERAL.—Paragraph (3) of sec-
 22 tion 202(a) of the Employee Retirement Income
 23 Security Act of 1974 (relating to minimum par-
 24 ticipation standards) is amended by adding at
 25 the end the following new subparagraph:

1 “(E)(i) For purposes of this subsection, in the case
 2 of an individual who is absent from work on leave required
 3 to be given to such individual under the Family and Medi-
 4 cal Leave Act of 1993, the plan shall treat as hours of
 5 service—

6 “(I) the hours of service which otherwise would
 7 normally have been credited to such individual but
 8 for such absence, or

9 “(II) in any case in which the plan is unable to
 10 determine the hours described in subclause (I), 8
 11 hours of service per day of absence.

12 “(ii) The hours described in clause (i) shall be treated
 13 as hours of service as provided in this subparagraph—

14 “(I) only in the year in which the absence from
 15 work begins, if a participant would have a year of
 16 service solely because the period of absence is treat-
 17 ed as hours of service as provided in clause (i); or

18 “(II) in any other case, in the immediately fol-
 19 lowing year.”

20 (B) COORDINATION WITH TREATMENT OF
 21 MATERNITY AND PATERNITY ABSENCES UNDER
 22 BREAK IN SERVICE RULES.—Subparagraph (A)
 23 of section 202(b)(5) of such Act is amended by
 24 adding at the end of clause (i) the following
 25 new sentence: “The preceding sentence shall

1 apply to an absence from work only if no part
 2 of such absence is required to be given under
 3 the Family and Medical Leave Act of 1993.”

4 (2) VESTING.—

5 (A) IN GENERAL.—Paragraph (2) of sec-
 6 tion 203(b) of such Act (relating to minimum
 7 vesting standards) is amended by adding at the
 8 end the following new subparagraph:

9 “(E)(i) For purposes of this subsection, in the case
 10 of an individual who is absent from work on leave required
 11 to be given to such individual under the Family and Medi-
 12 cal Leave Act of 1993, the plan shall treat as hours of
 13 service—

14 “(I) the hours of service which otherwise would
 15 normally have been credited to such individual but
 16 for such absence, or

17 “(II) in any case in which the plan is unable to
 18 determine the hours described in subclause (I), 8
 19 hours of service per day of absence.

20 “(ii) The hours described in clause (i) shall be treated
 21 as hours of service as provided in this subparagraph—

22 “(I) only in the year in which the absence from
 23 work begins, if a participant would have a year of
 24 service solely because the period of absence is treat-
 25 ed as hours of service as provided in clause (i); or

1 “(II) in any other case, in the immediately fol-
2 lowing year.”

3 (B) COORDINATION WITH TREATMENT OF
4 MATERNITY AND PATERNITY ABSENCES UNDER
5 BREAK IN SERVICE RULES.—Clause (i) of sec-
6 tion 203(b)(3)(E) of such Act is amended by
7 adding at the end of clause (i) the following
8 new sentence: “The preceding sentence shall
9 apply to an absence from work only if no part
10 of such absence is required to be given under
11 the Family and Medical Leave Act of 1993.”

12 **SEC. 405. PENSION INTEGRATION RULES.**

13 (a) APPLICABILITY OF NEW INTEGRATION RULES
14 EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—
15 Notwithstanding subsection (c)(1) of section 1111 of the
16 Tax Reform Act of 1986 (relating to effective date of ap-
17 plication of nondiscrimination rules to integrated plans)
18 (100 Stat. 2440), effective for plan years beginning after
19 the date of the enactment of this Act, the amendments
20 made by subsection (a) of such section 1111 shall also
21 apply to benefits attributable to plan years beginning on
22 or before December 31, 1988.

23 (b) INTEGRATION DISALLOWED FOR SIMPLIFIED
24 EMPLOYEE PENSIONS.—

1 (1) IN GENERAL.—Subparagraph (D) of section
2 408(k)(3) of the Internal Revenue Code of 1986 (re-
3 lating to permitted disparity under rules limiting
4 discrimination under simplified employee pensions)
5 is repealed.

6 (2) CONFORMING AMENDMENT.—Subparagraph
7 (C) of such section 408(k)(3) is amended by striking
8 “and except as provided in subparagraph (D),”.

9 (3) EFFECTIVE DATE.—The amendments made
10 by this subsection shall apply with respect to taxable
11 years beginning on or after January 1, 1998.

12 (c) EVENTUAL REPEAL OF INTEGRATION RULES.—
13 Effective for plan years beginning on or after January 1,
14 2004—

15 (1) subparagraphs (C) and (D) of section
16 401(a)(5) of the Internal Revenue Code of 1986 (re-
17 lating to pension integration exceptions under non-
18 discrimination requirements for qualification) are re-
19 pealed, and subparagraph (E) of such section
20 401(a)(5) is redesignated as subparagraph (C); and

21 (2) subsection (l) of section 401 of such Code
22 (relating to nondiscriminatory coordination of de-
23 fined contribution plans with OASDI) is repealed.

1 **SEC. 406. DIVISION OF PENSION BENEFITS UPON DIVORCE.**

2 (a) AMENDMENTS TO THE INTERNAL REVENUE
3 CODE OF 1986.—Section 414(p) of the Internal Revenue
4 Code of 1986 (relating to qualified domestic relations
5 order defined) is amended by redesignating paragraph
6 (12) as paragraph (13) and by adding at the end the fol-
7 lowing new paragraph:

8 “(12) SPECIAL RULES AND PROCEDURES FOR
9 DOMESTIC RELATIONS ORDERS NOT SPECIFYING DI-
10 VISION OF PENSION BENEFITS.—

11 “(A) IN GENERAL.—If—

12 “(i) a domestic relations order (in-
13 cluding an annulment or other order of
14 marital dissolution) relates to provision of
15 marital property with respect to a mar-
16 riage of at least 5 years duration between
17 the participant and the former spouse,

18 “(ii)(I) such order (and any prior
19 order) does not specifically provide that
20 pension benefits were considered by the
21 parties and no division is intended, and

22 “(II) such order is not a qualified do-
23 mestic relations order without regard to
24 this paragraph and there is no other prior
25 qualified domestic relations order issued in

1 connection with the dissolution of the mar-
2 riage to which such order relates, and

3 “(iii) the former spouse notifies a plan
4 within the period prescribed under sub-
5 paragraph (C) that the former spouse is
6 entitled to benefits under the plan in ac-
7 cordance with the provisions of this para-
8 graph,

9 then such domestic relations order shall be
10 treated as a qualified domestic relations order
11 for purposes of this subsection and section
12 401(a)(13).

13 “(B) AMOUNT OF BENEFIT.—

14 “(i) IN GENERAL.—Any domestic rela-
15 tions order treated as a qualified domestic
16 relations order under subparagraph (A)
17 shall be treated as specifying that the
18 former spouse is entitled to the applicable
19 percentage of the marital share of the par-
20 ticipant’s accrued benefit.

21 “(ii) MARITAL SHARE.—For purposes
22 of clause (i), the marital share of a partici-
23 pant’s accrued benefit is an amount equal
24 to the product of—

1 “(I) such benefit as of the date
2 of the first payment under the plan
3 (to the extent such accrued benefit is
4 vested at the date of the divorce or
5 any later date), and

6 “(II) a fraction the numerator of
7 which is the period of participation by
8 the participant under the plan start-
9 ing with the date of marriage and
10 ending with the date of divorce, and
11 the denominator of which is the total
12 period of participation by the partici-
13 pant under the plan.

14 “(iii) APPLICABLE PERCENTAGE.—
15 For purposes of this subparagraph, the ap-
16 plicable percentage is—

17 “(I) except as provided in sub-
18 clause (II), 50 percent, and

19 “(II) in the case of a participant
20 who fails to provide the plan with no-
21 tice of a domestic relations order
22 within the time prescribed under sub-
23 paragraph (C), 67 percent.

24 “(C) NOTICE REQUIREMENTS.—

1 “(i) NOTICE BY EMPLOYEE.—Each
2 employee who is a participant in a pension
3 plan shall, within 60 days after the dis-
4 solution of the marriage of the employee—

5 “(I) notify the plan administrator
6 of the plan of such dissolution, and

7 “(II) provide to the plan adminis-
8 trator a copy of the domestic relations
9 order (including an annulment or
10 other order of marital dissolution)
11 providing for such dissolution and the
12 last known address of the employee’s
13 former spouse.

14 “(ii) NOTICE BY PLAN ADMINIS-
15 TRATOR.—Each plan administrator receiv-
16 ing notice under clause (i) shall promptly
17 notify the former spouse of a participant of
18 such spouse’s rights under this paragraph,
19 including the time period within which
20 such spouse is required to notify the plan
21 of the spouse’s intention to claim rights
22 under this paragraph.

23 “(iii) NOTICE BY FORMER SPOUSE.—
24 A former spouse may notify the plan ad-
25 ministrator of such spouse’s intent to claim

1 rights under this paragraph at any time
2 before the last day of the 1-year period fol-
3 lowing receipt of notice under clause (ii).

4 “(iv) COORDINATION WITH PLAN PRO-
5 CEDURES.—The determination under para-
6 graph (6)(A)(ii) with respect to a domestic
7 relations order to which this paragraph ap-
8 plies shall be made within a reasonable pe-
9 riod of time after the plan administrator
10 receives the notice described in clause (iii).

11 “(D) INTERPRETATION AS QUALIFIED DO-
12 MESTIC RELATIONS ORDER.—Each plan shall
13 establish reasonable rules for determining how
14 any such deemed domestic relations order is to
15 be interpreted under the plan so as to con-
16 stitute a qualified domestic relations order that
17 satisfies paragraphs (2) through (4) (and a
18 copy of such rules shall be provided to such
19 former spouse promptly after delivery of the di-
20 vorce decree). Such rules—

21 “(i) may delay the effect of such an
22 order until the earlier of the date the par-
23 ticipant is fully vested or has terminated
24 employment,

1 “(ii) may allow the former spouse to
2 be paid out immediately,

3 “(iii) shall permit the former spouse
4 to be paid not later than the earliest retire-
5 ment age under the plan or the partici-
6 pant’s death,

7 “(iv) may require the submitter of the
8 divorce decree to present a marriage cer-
9 tificate or other evidence of the marriage
10 date to assist in benefit calculations, and

11 “(v) may conform to the rules applica-
12 ble to qualified domestic relations orders
13 regarding form or type of benefit.”

14 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
15 INCOME SECURITY ACT OF 1974.—Section 206(d)(3) of
16 the Employee Retirement Income Security Act of 1974
17 (29 U.S.C. 1056(d)(3)) is amended by redesignating sub-
18 paragraph (N) as subparagraph (O) and by inserting after
19 subparagraph (M) the following new subparagraph:

20 “(N) SPECIAL RULES AND PROCEDURES
21 FOR DOMESTIC RELATIONS ORDERS NOT SPECI-
22 FYING DIVISION OF PENSION BENEFITS.—

23 “(i) IN GENERAL.—If—

24 “(I) a domestic relations order
25 (including an annulment or other

1 order of marital dissolution) relates to
2 provision of marital property with re-
3 spect to a marriage of at least 5 years
4 duration between the participant and
5 the former spouse,

6 “(II)(aa) such order (and any
7 prior order) does not specifically pro-
8 vide that pension benefits were consid-
9 ered by the parties and no division is
10 intended, or

11 “(bb) such order is a qualified
12 domestic relations order without re-
13 gard to this subparagraph or there is
14 no other prior qualified domestic rela-
15 tions order issued in connection with
16 the dissolution of the marriage to
17 which such order relates, and

18 “(III) the former spouse notifies
19 a plan within the period prescribed
20 under clause (iii) that the former
21 spouse is entitled to benefits under
22 the plan in accordance with the provi-
23 sions of this subparagraph,

1 then such domestic relations order shall be
2 treated as a qualified domestic relations
3 order for purposes of this paragraph.

4 “(ii) AMOUNT OF BENEFIT.—

5 “(I) IN GENERAL.—Any domestic
6 relations order treated as a qualified
7 domestic relations order under clause
8 (i) shall be treated as specifying that
9 the former spouse is entitled to the
10 applicable percentage of the marital
11 share of the participant’s accrued ben-
12 efit.

13 “(II) MARITAL SHARE.—For
14 purposes of subclause (I), the marital
15 share of a participant’s accrued bene-
16 fit is an amount equal to the product
17 of—

18 “(aa) such benefit as of the
19 date of the first payment under
20 the plan (to the extent such ac-
21 crued benefit is vested at the
22 date of the divorce or any later
23 date), and

24 “(bb) the numerator of
25 which is the period of participa-

tion by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

“(III) APPLICABLE PERCENTAGE.—For purposes of this clause, the applicable percentage is—

“(aa) except as provided in item (bb), 50 percent, and

“(bb) in the case of a participant who fails to provide the plan with notice of a domestic relations order within the time prescribed under clause (iii), 67 percent.

“(iii) NOTICE REQUIREMENTS.—

“(I) NOTICE BY EMPLOYEE.—Each employee who is a participant in a pension plan shall, within 60 days after the dissolution of the marriage of the employee—

1 “(aa) notify the plan admin-
2 istrator of the plan of such dis-
3 solution, and

4 “(bb) provide to the plan ad-
5 ministrator a copy of the domes-
6 tic relations order (including an
7 annulment or other order of mar-
8 ital dissolution) providing for
9 such dissolution and the last
10 known address of the employee’s
11 former spouse.

12 “(II) NOTICE BY PLAN ADMINIS-
13 TRATOR.—Each plan administrator
14 receiving notice under subclause (I)
15 shall promptly notify the former
16 spouse of a participant of such
17 spouse’s rights under this subpara-
18 graph, including the time period with-
19 in which such spouse is required to
20 notify the plan of the spouse’s inten-
21 tion to claim rights under this sub-
22 paragraph.

23 “(III) NOTICE BY FORMER
24 SPOUSE.—A former spouse may notify
25 the plan administrator of such

1 spouse's intent to claim rights under
2 this subparagraph at any time before
3 the last day of the 1-year period fol-
4 lowing receipt of notice under sub-
5 clause (II).

6 “(IV) COORDINATION WITH PLAN
7 PROCEDURES.—The determination
8 under subparagraph (G)(i)(II) with
9 respect to a domestic relations order
10 to which this subparagraph applies
11 shall be made within a reasonable pe-
12 riod of time after the plan adminis-
13 trator receives the notice described in
14 subclause (III).

15 “(iv) INTERPRETATION AS QUALIFIED
16 DOMESTIC RELATIONS ORDER.—Each plan
17 shall establish reasonable rules for deter-
18 mining how any such deemed domestic re-
19 lations order is to be interpreted under the
20 plan so as to constitute a qualified domes-
21 tic relations order that satisfies subpara-
22 graphs (C) through (E) (and a copy of
23 such rules shall be provided to such former
24 spouse promptly after delivery of the di-
25 vorce decree). Such rules—

1 “(I) may delay the effect of such
 2 an order until the earlier of the date
 3 the participant is fully vested or has
 4 terminated employment,

5 “(II) may allow the former
 6 spouse to be paid out immediately,

7 “(III) shall permit the former
 8 spouse to be paid not later than the
 9 earliest retirement age under the plan
 10 or the participant’s death,

11 “(IV) may require the submitter
 12 of the divorce decree to present a
 13 marriage certificate or other evidence
 14 of the marriage date to assist in bene-
 15 fit calculations, and

16 “(V) may conform to the rules
 17 applicable to qualified domestic rela-
 18 tions orders regarding form or type of
 19 benefit.”

20 **SEC. 407. ENTITLEMENT OF DIVORCED SPOUSES TO RAIL-**
 21 **ROAD RETIREMENT ANNUITIES INDEPEND-**
 22 **ENT OF ACTUAL ENTITLEMENT OF EM-**
 23 **PLOYEE.**

24 Section 2 of the Railroad Retirement Act of 1974 (45
 25 U.S.C. 231a) is amended—

1 (1) in subsection (c)(4)(i), by striking “(A) is
2 entitled to an annuity under subsection (a)(1) and
3 (B)”;

4 (2) in subsection (e)(5), by striking “or di-
5 vorced wife” the second place it appears.

6 **SEC. 408. EFFECTIVE DATES.**

7 (a) IN GENERAL.—Except as provided in subsection
8 (b), the amendments made by this subtitle, other than sec-
9 tions 403 and 405, shall apply with respect to plan years
10 beginning on or after January 1, 1999, and the amend-
11 ments made by section 406 shall apply only with respect
12 to divorces becoming final in such plan years.

13 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
14 PLANS.—In the case of a plan maintained pursuant to 1
15 or more collective bargaining agreements between em-
16 ployee representatives and 1 or more employers ratified
17 on or before the date of the enactment of this Act, sub-
18 section (a) shall be applied to benefits pursuant to, and
19 individuals covered by, any such agreement by substituting
20 for “January 1, 1999” the date of the commencement of
21 the first plan year beginning on or after the earlier of—

22 (1) the later of—

23 (A) January 1, 2000, or

24 (B) the date on which the last of such col-
25 lective bargaining agreements terminates (de-

1 terminated without regard to any extension there-
2 of after the date of the enactment of this Act),
3 or
4 (2) January 1, 2001.

5 **Subtitle B—Protection of Rights of**
6 **Former Spouses to Pension Ben-**
7 **efits Under Certain Government**
8 **and Government-Sponsored Re-**
9 **tirement Programs**

10 **SEC. 411. EXTENSION OF TIER II RAILROAD RETIREMENT**
11 **BENEFITS TO SURVIVING FORMER SPOUSES**
12 **PURSUANT TO DIVORCE AGREEMENTS.**

13 (a) IN GENERAL.—Section 5 of the Railroad Retire-
14 ment Act of 1974 (45 U.S.C. 231d) is amended by adding
15 at the end the following new subsection:

16 “(d) Notwithstanding any other provision of law, the
17 payment of any portion of an annuity computed under sec-
18 tion 3(b) to a surviving former spouse in accordance with
19 a court decree of divorce, annulment, or legal separation
20 or the terms of any court-approved property settlement
21 incident to any such court decree shall not be terminated
22 upon the death of the individual who performed the service
23 with respect to which such annuity is so computed unless
24 such termination is otherwise required by the terms of
25 such court decree.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 412. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
5 **AND FORMER SPOUSES OF FEDERAL EM-**
6 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
7 **FOR DEFERRED ANNUITY UNDER CIVIL**
8 **SERVICE RETIREMENT SYSTEM.**

9 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section
10 8341(f) of title 5, United States Code, is amended—

11 (1) in the matter preceding paragraph (1) by—

12 (A) by inserting “a former employee sepa-
13 rated from the service with title to deferred an-
14 nuity from the Fund dies before having estab-
15 lished a valid claim for annuity and is survived
16 by a spouse, or if” before “a Member”; and

17 (B) by inserting “of such former employee
18 or Member” after “the surviving spouse”;

19 (2) in paragraph (1)—

20 (A) by inserting “former employee or” be-
21 fore “Member commencing”; and

22 (B) by inserting “former employee or” be-
23 fore “Member dies”; and

24 (3) in the undesignated sentence following para-
25 graph (2)—

1 (A) in the matter preceding subparagraph
2 (A) by inserting “former employee or” before
3 “Member”; and

4 (B) in subparagraph (B) by inserting
5 “former employee or” before “Member”.

6 (b) BENEFITS FOR FORMER SPOUSE.—Section
7 8341(h) of title 5, United States Code, is amended—

8 (1) in paragraph (1) by adding after the first
9 sentence “Subject to paragraphs (2) through (5) of
10 this subsection, a former spouse of a former em-
11 ployee who dies after having separated from the
12 service with title to a deferred annuity under section
13 8338(a) but before having established a valid claim
14 for annuity is entitled to a survivor annuity under
15 this subsection, if and to the extent expressly pro-
16 vided for in an election under section 8339(j)(3) of
17 this title, or in the terms of any decree of divorce
18 or annulment or any court order or court-approved
19 property settlement agreement incident to such de-
20 cree.”; and

21 (2) in paragraph (2)—

22 (A) in subparagraph (A)(ii) by striking “or
23 annuitant,” and inserting “annuitant, or former
24 employee”; and

1 (B) in subparagraph (B)(iii) by inserting
 2 “former employee or” before “Member”.

3 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—
 4 Section 8339(j)(3) of title 5, United States Code, is
 5 amended by inserting at the end the following: “The Office
 6 shall provide by regulation for the application of this sub-
 7 section to the widow, widower, or surviving former spouse
 8 of a former employee who dies after having separated from
 9 the service with title to a deferred annuity under section
 10 8338(a) but before having established a valid claim for
 11 annuity.”

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall take effect on the date of the enactment
 14 of this Act and shall apply only in the case of a former
 15 employee who dies on or after such date.

16 **SEC. 413. PAYMENT OF LUMP-SUM BENEFITS TO FORMER**
 17 **SPOUSES OF FEDERAL EMPLOYEES.**

18 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Chapter
 19 83 of title 5, United States Code, is amended—

20 (1) in section 8342(c), by striking “Lump-sum”
 21 and inserting “Except as provided in section
 22 8345(j), lump-sum”;

23 (2) in section 8345(j) by adding at the end of
 24 paragraph (1) the following: “Except for purposes of
 25 subparagraph (B), the first sentence of this para-

1 graph shall be deemed to be amended by inserting
 2 after ‘that individual’ the following: ‘, and any lump-
 3 sum benefits authorized by section 8342(d) through
 4 (f) which would otherwise be paid to any person or
 5 persons under section 8342(c),’ ”; and

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

7 “(4) Any payment under this subsection to a person
 8 bars recovery by any other person.”

9 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—
 10 Chapter 84 of title 5, United States Code, is amended—

11 (1) in section 8424(d), by striking “Lump-sum”
 12 and inserting “Except as provided in section
 13 8467(a), lump-sum”; and

14 (2) in section 8467—

15 (A) in subsection (a), by adding at the end
 16 the following: “Except for purposes of para-
 17 graph (2), the first sentence of this subsection
 18 shall be deemed to be amended by inserting
 19 after ‘that individual’ the following: ‘, and any
 20 lump-sum benefits authorized by section
 21 8424(e) through (g) which would otherwise be
 22 paid to any individual or individuals under sec-
 23 tion 8424(d),’ ”; and

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

1 “(d) Any payment under this section to a person bars
2 recovery by any other person.”

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to any amount payable
5 by reason of any death occurring on or after the date of
6 the enactment of this Act.

7 **Subtitle C—Modifications of Joint**
8 **and Survivor Annuity Require-**
9 **ments**

10 **SEC. 421. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
11 **ITY REQUIREMENTS.**

12 (a) AMENDMENTS TO ERISA.—

13 (1) AMOUNT OF ANNUITY.—

14 (A) IN GENERAL.—Paragraph (1) of sec-
15 tion 205(a) of the Employee Retirement Income
16 Security Act of 1974 (29 U.S.C. 1055(a)) is
17 amended by inserting “or, at the election of the
18 participant, shall be provided in the form of a
19 qualified joint and $\frac{2}{3}$ survivor annuity” after
20 “survivor annuity,”.

21 (B) DEFINITION.—Subsection (d) of sec-
22 tion 205 of such Act (29 U.S.C. 1055) is
23 amended—

1 (i) by redesignating paragraphs (1)
2 and (2) as subparagraphs (A) and (B), re-
3 spectively,

4 (ii) by inserting “(1)” after “(d)”,
5 and

6 (iii) by adding at the end the follow-
7 ing new paragraph:

8 “(2) For purposes of this section, the term “qualified
9 joint and $\frac{2}{3}$ survivor annuity” means a joint and survivor
10 annuity under which the survivor annuity for the life of
11 the surviving spouse is equal to at least $\frac{2}{3}$ of the amount
12 of the annuity which is payable during the joint lives of
13 the participant and spouse.”

14 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
15 of section 205(c)(3)(A) of such Act (29 U.S.C.
16 1055(c)(3)(A)) is amended to read as follows:

17 “(i) the terms and conditions of each qualified
18 joint and survivor annuity and qualified joint and $\frac{2}{3}$
19 survivor annuity offered, accompanied by an illustra-
20 tion of the benefits under each such annuity for the
21 particular participant and spouse and an acknowl-
22 edgement form to be signed by the participant and
23 the spouse that they have read and considered the
24 illustration before any form of retirement benefit is
25 chosen,”.

1 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

2 (1) AMOUNT OF ANNUITY.—

3 (A) IN GENERAL.—Clause (i) of section
 4 401(a)(11)(A) of the Internal Revenue Code of
 5 1986 (relating to requirement of joint and sur-
 6 vivor annuity and preretirement survivor annu-
 7 ity) is amended by inserting “or, at the election
 8 of the participant, shall be provided in the form
 9 of a qualified joint and $\frac{2}{3}$ survivor annuity”
 10 after “survivor annuity,”.

11 (B) DEFINITION.—Section 417 of such
 12 Code (relating to definitions and special rules
 13 for purposes of minimum survivor annuity re-
 14 quirements), as amended by section 422, is
 15 amended by redesignating subsection (f) as sub-
 16 section (g) and by inserting after subsection (e)
 17 the following new subsection:

18 “(f) DEFINITION OF QUALIFIED JOINT AND $\frac{2}{3}$ SUR-
 19 VIVOR ANNUITY.—For purposes of this section and section
 20 401(a)(11), the term “qualified joint and $\frac{2}{3}$ survivor an-
 21 nuity” means a joint and survivor annuity under which
 22 the survivor annuity for the life of the surviving spouse
 23 is equal to at least $\frac{2}{3}$ of the amount of the annuity which
 24 is payable during the joint lives of the participant and
 25 spouse.”

1 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
2 of section 417(a)(3)(A) of such Code (relating to ex-
3 planation of joint and survivor annuity) is amended
4 to read as follows:

5 “(i) the terms and conditions of each
6 qualified joint and survivor annuity and
7 qualified joint and $\frac{2}{3}$ survivor annuity of-
8 fered, accompanied by an illustration of
9 the benefits under each such annuity for
10 the particular participant and spouse and
11 an acknowledgement form to be signed by
12 the participant and the spouse that they
13 have read and considered the illustration
14 before any form of retirement benefit is
15 chosen.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to plan years beginning on or after
18 January 1, 1999.

19 **SEC. 422. SPOUSAL CONSENT REQUIRED FOR DISTRIBU-**
20 **TIONS FROM DEFINED CONTRIBUTION**
21 **PLANS.**

22 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
23 1986.—

24 (1) IN GENERAL.—Section 401(a)(11) of the
25 Internal Revenue Code of 1986 (relating to require-

1 ment of joint and survivor annuity and preretire-
 2 ment survivor annuity) is amended by striking sub-
 3 paragraphs (B), (C), and (D), by redesignating sub-
 4 paragraphs (E) and (F) as subparagraphs (C) and
 5 (D), respectively, and by inserting after subpara-
 6 graph (A) the following new subparagraph:

7 “(B) PLANS TO WHICH PARAGRAPH AP-
 8 PLIES.—This paragraph shall apply to any de-
 9 fined benefit plan and to any defined contribu-
 10 tion plan.”

11 (2) EXCEPTION FOR HARDSHIP DISTRIBUTIONS.—Section 417(f) of such Code is amended by
 12 adding at the end the following new paragraph:

14 “(8) HARDSHIP DISTRIBUTIONS.—The require-
 15 ments of section 401(a)(11) and this section shall
 16 not apply to a hardship distribution under section
 17 401(k)(2)(B)(i)(IV).”

18 (3) SPECIAL RULE FOR CASH-OUTS.—Section
 19 417(e) of such Code is amended by adding at the
 20 end the following new paragraph:

21 “(4) SPECIAL RULE FOR DEFINED CONTRIBU-
 22 TION PLANS.—

23 “(A) IN GENERAL.—In the case of a de-
 24 fined contribution plan, notwithstanding para-
 25 graph (2), if the present value of the qualified

1 joint and survivor annuity does not exceed
2 \$10,000, the plan may immediately distribute
3 50 percent of the present value of such annuity
4 to each spouse.

5 “(B) EXCEPTION.—The plan may distrib-
6 ute a different percentage of the present value
7 of an annuity to each spouse if a court order
8 or contractual agreement provides for such dif-
9 ferent percentage.”

10 (b) AMENDMENTS TO ERISA.—

11 (1) IN GENERAL.—Section 205(b) of the Em-
12 ployee Retirement Income Security Act of 1974 (29
13 U.S.C. 1055(b)) is amended to read as follows:

14 “(b)(1) This section shall apply to any defined benefit
15 plan and to any individual account plan.

16 “(2) This section shall not apply to a plan which the
17 Secretary of the Treasury or his delegate has determined
18 is a plan described in section 404(c) of the Internal Reve-
19 nue Code of 1986 (or a continuation thereof) in which par-
20 ticipation is substantially limited to individuals who, be-
21 fore January 1, 1976, ceased employment covered by the
22 plan.”

23 (2) HARDSHIP DISTRIBUTION.—Section 205 of
24 such Act (29 U.S.C. 1055) is amended by adding at
25 the end the following new subsection:

1 “(m) This section shall not apply to a hardship dis-
2 tribution under section 401(k)(2)(B)(i)(IV) of the Internal
3 Revenue Code of 1986.”

4 (3) SPECIAL RULE FOR CASH-OUTS.—Section
5 205(g) of such Act (29 U.S.C. 1055(g)) is amended
6 by adding at the end the following new paragraph:

7 “(4) SPECIAL RULE FOR DEFINED CONTRIBU-
8 TION PLANS.—

9 “(A) IN GENERAL.—In the case of an indi-
10 vidual account plan, notwithstanding paragraph
11 (2), if the present value of the qualified joint
12 and survivor annuity or the qualified preretire-
13 ment survivor annuity exceeds \$10,000, the
14 plan may immediately distribute 50 percent of
15 the present value of such annuity to each
16 spouse.

17 “(B) EXCEPTION.—The plan may distrib-
18 ute a different percentage of the present value
19 of an annuity to each spouse if a court order
20 or contractual agreement provides for such dif-
21 ferent percentage.”

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

1 **TITLE V—DATE FOR ADOPTION**
2 **OF PLAN AMENDMENTS**

3 **SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

4 (a) IN GENERAL.—Except as otherwise provided in
5 this Act, if any amendment made by this Act requires an
6 amendment to any plan, such plan amendment shall not
7 be required to be made before the last day of the first
8 plan year beginning on or after January 1, 1999, if—

9 (1) during the period after such amendment
10 takes effect and before the last day of such first
11 plan year, the plan is operated in accordance with
12 the requirements of such amendment, and

13 (2) such plan amendment applies retroactively
14 to such period.

15 A plan shall not be treated as failing to provide definitely
16 determinable benefits or contributions, or to be operated
17 in accordance with the provisions of the plan, merely be-
18 cause it operates in accordance with this subsection.

19 (b) GOVERNMENTAL PLANS.—In the case of a gov-
20 ernmental plan (as defined in section 414(d) of the Inter-
21 nal Revenue Code of 1986), subsection (a) shall be applied
22 by substituting for “January 1, 1999” the later of—

23 (1) January 1, 2000, or

24 (2) the date which is 90 days after the opening
25 of the first legislative session beginning after Janu-

1 ary 1, 1999, of the governing body with authority to
2 amend the plan, but only if such governing body
3 does not meet continuously.

4 (c) SPECIAL RULE FOR COLLECTIVELY BARGAINED
5 PLANS.—Notwithstanding any other provision of this Act,
6 in the case of a plan maintained pursuant to 1 or more
7 collective bargaining agreements between employee rep-
8 resentatives and 1 or more employers ratified on or before
9 the date of the enactment of this Act, any amendment
10 made by this Act which requires an amendment to such
11 plan shall not be required to be made before the last day
12 of the first plan year beginning on or after the earlier of—

13 (1) the later of—

14 (A) January 1, 1999, or

15 (B) the date on which the last of such col-
16 lective bargaining agreements terminates (de-
17 termined without regard to any extension there-
18 of after the date of the enactment of this Act),

19 or

20 (2) January 1, 2000.

○