

105TH CONGRESS
1ST SESSION

S. 883

To amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, to provide pension security, portability, and simplification, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 1997

Mr. GREGG (for himself, Mr. ROTH, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. SANTORUM, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, to provide pension security, portability, and simplification, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**
4 **MENT OF 1986 CODE.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Retirement Income, Security, and Savings Act of 1997”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

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

TITLE I—RETIREMENT SAVINGS INCENTIVES

Subtitle A—Restoration of IRA Deduction

Sec. 101. Restoration of IRA deduction.

Sec. 102. Inflation adjustment for deductible amount.

Subtitle B—Nondeductible Tax-Free IRAs

Sec. 111. Establishment of nondeductible tax-free individual retirement accounts.

TITLE II—WOMEN'S RETIREMENT SECURITY

Sec. 201. Individual's eligibility for deductible IRA not determined by reference to spouse's participation in pension plan.

Sec. 202. Individuals may make contributions for periods of maternity or paternity leave.

Sec. 203. Catchup contributions for families with children.

TITLE III—EXPANSION OF PENSION COVERAGE FOR SMALL BUSINESS

Sec. 301. SAFE annuities and trusts.

Sec. 302. Matching contributions of self-employed individuals not treated as elective deferrals.

Sec. 303. Plan loans for subchapter S owners, partners, and sole proprietors.

Sec. 304. Contributions to individual retirement plans through payroll deductions.

TITLE IV—PORTABILITY

Sec. 401. Allowance of rollovers with respect to section 457 plans.

Sec. 402. Allowance of rollovers from 403(b) plans to eligible retirement plans.

Sec. 403. Protection of plans which accept rollover contributions from disqualification.

Sec. 404. Allowance of employers to disregard rollovers for purposes of cash-out amounts.

Sec. 405. Waiver of 60-day rollover period.

Sec. 406. Treatment of transfers between defined contribution plans.

TITLE V—PENSION SECURITY

Subtitle A—Economically Targeted Investments

Sec. 501. Sense of Congress.

Sec. 502. Prohibitions on Department of Labor regarding economically targeted investments.

Sec. 503. Prohibition on establishing or maintaining any clearinghouse or other database relating to economically targeted investments.

Sec. 504. Termination of contracts.

Sec. 505. Effective date.

Subtitle B—Other Provisions

Sec. 511. Modification of prohibition of assignment or alienation.

Sec. 512. Increase in current liability funding limit.

Sec. 601. New technologies in retirement plans.

Sec. 602. Modifications to nondiscrimination and minimum participation rules with respect to governmental plans.

Sec. 603. Elimination of requirement for plan descriptions and the filing requirement for summary plan descriptions and descriptions of material modifications to a plan; technical corrections.

Sec. 604. Modification of 403(b) exclusion allowance to conform to 415 modifications.

Sec. 605. Modification of 10 percent tax for nondeductible contributions.

Sec. 701. Date for adoption of plan amendments.

7 **TITLE I—RETIREMENT SAVINGS**
8 **INCENTIVES**
9 **Subtitle A—Restoration of IRA**
10 **Deduction**

(a) INCREASE IN INCOME LIMITS APPLICABLE TO
ACTIVE PARTICIPANTS.—Section 219(g)(3)(B) (relating
to applicable dollar amount) is amended to read as follows:

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1 “(i) In the case of a taxpayer filing a
2 joint return:

“For taxable years beginning in:	The applicable dollar amount is:
1997	\$65,000
1998	\$90,000
1999	\$115,000
2000	\$140,000.

3 “(ii) In the case of any other taxpayer
4 (other than a married individual filing a
5 separate return):

“For taxable years beginning in:	The applicable dollar amount is:
1997	\$50,000
1998	\$75,000
1999	\$100,000
2000	\$125,000.

6 “(iii) In the case of a married individ-
7 ual filing a separate return, zero.”.

8 (b) REPEAL OF RESTRICTIONS ON ACTIVE PARTICI-
9 PANTS.—

10 (1) IN GENERAL.—Section 219 (relating to de-
11 duction for retirement savings), as amended by sec-
12 tion 102, is amended by striking subsection (g) and
13 by redesignating subsections (h) and (i) as sub-
14 section (g) and (h), respectively.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Section 219(f) is amended by striking
17 paragraph (7).

18 (B) Section 408(d)(5) is amended by strik-
19 ing the last sentence.

1 (C) Section 408(o) is amended by adding
 2 at the end the following:

3 “(5) TERMINATION.—This subsection shall not
 4 apply to any designated nondeductible contribution
 5 for any taxable year beginning after December 31,
 6 2000.”.

7 (D) Sections 408A(c)(2)(A) and
 8 4973(b)(2)(B)(ii), as added by section 111, are
 9 each amended by striking “(computed without
 10 regard to subsection (g) of such section)”.

11 (c) EFFECTIVE DATES.—

12 (1) IN GENERAL.—The amendments made by
 13 subsection (a) shall apply to taxable years beginning
 14 after December 31, 1996.

15 (2) TERMINATION.—The amendments made by
 16 subsection (b) shall apply to taxable years beginning
 17 after December 31, 2000.

18 **SEC. 102. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
 19 **AMOUNT.**

20 (a) IN GENERAL.—Section 219 is amended by redes-
 21 ignating subsection (h) as subsection (i) and by inserting
 22 after subsection (g) the following:

23 “(h) COST-OF-LIVING ADJUSTMENTS.—In the case
 24 of any taxable year beginning in a calendar year after
 25 1997, the \$2,000 amount under subsection (b)(1)(A) shall

1 be increased by an amount equal to the product of \$2,000
 2 and the cost-of-living adjustment determined under sec-
 3 tion 1(f)(3) for the calendar year in which the taxable year
 4 begins, except that subparagraph (B) thereof shall be ap-
 5 plied by substituting ‘1996’ for ‘1992’. If the amount to
 6 which \$2,000 would be increased under the preceding sen-
 7 tence is not a multiple of \$500, such amount shall be
 8 rounded to the next lower multiple of \$500.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 408(a)(1) is amended by striking
 11 “in excess of \$2,000 on behalf of any individual”
 12 and inserting “on behalf of any individual in excess
 13 of the amount in effect for such taxable year under
 14 section 219(b)(1)(A)”.

15 (2) Section 408(b) is amended by striking
 16 “\$2,000” both places it appears and inserting “the
 17 dollar amount in effect under section 219(b)(1)(A)”.

18 (3) Section 408(j) is amended by striking
 19 “\$2,000”.

20 **Subtitle B—Nondeductible Tax-** 21 **Free IRAs**

22 **SEC. 111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE** 23 **INDIVIDUAL RETIREMENT ACCOUNTS.**

24 (a) IN GENERAL.—Subpart A of part I of subchapter
 25 D of chapter 1 (relating to pension, profit-sharing, stock

1 bonus plans, etc.) is amended by inserting after section
2 408 the following:

3 **“SEC. 408A. IRA PLUS ACCOUNTS.**

4 “(a) GENERAL RULE.—Except as provided in this
5 section, an IRA Plus account shall be treated for purposes
6 of this title in the same manner as an individual retire-
7 ment plan.

8 “(b) IRA PLUS ACCOUNT.—For purposes of this
9 title, the term ‘IRA Plus account’ means an individual re-
10 tirement plan (as defined in section 7701(a)(37)) which
11 is designated (in such manner as the Secretary may pre-
12 scribe) at the time of establishment of the plan as an IRA
13 Plus account.

14 “(c) TREATMENT OF CONTRIBUTIONS.—

15 “(1) NO DEDUCTION ALLOWED.—No deduction
16 shall be allowed under section 219 for a contribution
17 to an IRA Plus account.

18 “(2) CONTRIBUTION LIMIT.—The aggregate
19 amount of contributions for any taxable year to all
20 IRA Plus accounts maintained for the benefit of an
21 individual shall not exceed the excess (if any) of—

22 “(A) the maximum amount allowable as a
23 deduction under section 219 with respect to
24 such individual for such taxable year (computed

1 without regard to subsection (g) of such sec-
 2 tion), over

3 “(B) the amount so allowed.

4 “(3) CONTRIBUTIONS PERMITTED AFTER AGE
 5 70½.—Contributions to an IRA Plus account may be
 6 made even after the individual for whom the account
 7 is maintained has attained age 70½.

8 “(4) MANDATORY DISTRIBUTION RULES NOT
 9 TO APPLY, ETC.—

10 “(A) IN GENERAL.—Except as provided in
 11 subparagraph (B), subsections (a)(6) and (b)(3)
 12 of section 408 (relating to required distribu-
 13 tions) and section 4974 (relating to excise tax
 14 on certain accumulations in qualified retirement
 15 plans) shall not apply to any IRA Plus account.

16 “(B) POST-DEATH DISTRIBUTIONS.—Rules
 17 similar to the rules of section 401(a)(9) (other
 18 than subparagraph (A) thereof) shall apply for
 19 purposes of this section.

20 “(5) ROLLOVER CONTRIBUTIONS.—

21 “(A) IN GENERAL.—No rollover contribu-
 22 tion may be made to an IRA Plus account un-
 23 less it is a qualified rollover contribution.

1 “(B) COORDINATION WITH LIMIT.—A
 2 qualified rollover contribution shall not be taken
 3 into account for purposes of paragraph (2).

4 “(6) TIME WHEN CONTRIBUTIONS MADE.—For
 5 purposes of this section, the rule of section 219(f)(3)
 6 shall apply.

7 “(d) DISTRIBUTION RULES.—For purposes of this
 8 title—

9 “(1) GENERAL RULES.—

10 “(A) EXCLUSIONS FROM GROSS INCOME.—
 11 Any qualified distribution from an IRA Plus ac-
 12 count shall not be includible in gross income.

13 “(B) NONQUALIFIED DISTRIBUTIONS.—In
 14 applying section 72 to any distribution from an
 15 IRA Plus account which is not a qualified dis-
 16 tribution, such distribution shall be treated as
 17 made from contributions to the IRA Plus ac-
 18 count to the extent that such distribution, when
 19 added to all previous distributions from the
 20 IRA Plus account, does not exceed the aggre-
 21 gate amount of contributions to the IRA Plus
 22 account. For purposes of the preceding sen-
 23 tence, all IRA Plus accounts maintained for the
 24 benefit of an individual shall be treated as 1 ac-
 25 count.

1 “(C) EXCEPTION FROM PENALTY TAX.—
 2 Section 72(t) shall not apply to any qualified
 3 distribution from an IRA Plus account.

4 “(2) QUALIFIED DISTRIBUTION.—For purposes
 5 of this subsection—

6 “(A) IN GENERAL.—The term ‘qualified
 7 distribution’ means any payment or distribu-
 8 tion—

9 “(i) made on or after the date on
 10 which the individual attains age 59½,

11 “(ii) made to a beneficiary (or to the
 12 estate of the individual) on or after the
 13 death of the individual,

14 “(iii) attributable to the individual’s
 15 being disabled (within the meaning of sec-
 16 tion 72(m)(7)), or

17 “(iv) which is a qualified special pur-
 18 pose distribution.

19 “(B) CERTAIN DISTRIBUTIONS WITHIN 5
 20 YEARS.—A payment or distribution shall not be
 21 treated as a qualified distribution under clause
 22 (i) of subparagraph (A) if—

23 “(i) it is made within the 5-taxable
 24 year period beginning with the 1st taxable
 25 year for which the individual made a con-

1 tribution to an IRA Plus account (or such
 2 individual's spouse made a contribution to
 3 an IRA Plus account) established for such
 4 individual, or

5 “(ii) in the case of a payment or dis-
 6 tribution properly allocable (as determined
 7 in the manner prescribed by the Secretary)
 8 to a qualified rollover contribution (or in-
 9 come allocable thereto), it is made within
 10 the 5-taxable year period beginning with
 11 the taxable year in which the rollover con-
 12 tribution was made.

13 Clause (ii) shall not apply to a qualified rollover
 14 contribution from an IRA plus account.

15 “(3) ROLLOVERS.—

16 “(A) IN GENERAL.—Paragraph (1) shall
 17 not apply to any distribution which is trans-
 18 ferred in a qualified rollover contribution to an
 19 IRA Plus account.

20 “(B) INCOME INCLUSION FOR ROLLOVERS
 21 FROM NON-PLUS IRAS.—In the case of any
 22 qualified rollover contribution from an individ-
 23 ual retirement plan (other than an IRA Plus
 24 account) to an IRA Plus account established for

1 the benefit of the payee or distributee, as the
 2 case may be—

3 “(i) sections 72(t) and 408(d)(3) shall
 4 not apply, and

5 “(ii) in any case where such contribu-
 6 tion is made before January 1, 1999, any
 7 amount required to be included in gross in-
 8 come by reason of this paragraph shall be
 9 so included ratably over the 4-taxable year
 10 period beginning with the taxable year in
 11 which the payment or distribution is made.

12 “(C) ADDITIONAL REPORTING REQUIRE-
 13 MENTS.—The Secretary shall require that
 14 trustees of IRA Plus accounts, trustees of indi-
 15 vidual retirement plans, or both, whichever is
 16 appropriate, shall include such additional infor-
 17 mation in reports required under section 408(i)
 18 as is necessary to ensure that amounts required
 19 to be included in gross income under subpara-
 20 graph (B) are so included.

21 “(4) QUALIFIED SPECIAL PURPOSE DISTRIBU-
 22 TION.—For purposes of this section, the term ‘quali-
 23 fied special purpose distribution’ means any distribu-
 24 tion to which subparagraph (B), (D), or (E) of sec-
 25 tion 72(t)(2) applies.

1 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified rollover
4 contribution’ means a rollover contribution to an
5 IRA Plus account from another such account, or
6 from an individual retirement plan, but only if such
7 rollover contribution meets the requirements of sec-
8 tion 408(d)(3). For purposes of section
9 408(d)(3)(B), there shall be disregarded any quali-
10 fied rollover contribution from an individual retire-
11 ment plan to an IRA Plus account.

12 “(2) CONVERSIONS.—The conversion of an indi-
13 vidual retirement plan to an IRA Plus account shall
14 be treated as if it were a qualified rollover contribu-
15 tion.”.

16 (b) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—

17 (1) Section 4980A(d)(3)(A) (defining excess re-
18 tirement accumulation) is amended by inserting
19 “(other than IRA Plus accounts described in section
20 408A(b))” after “retirement plans”.

21 (2) Section 4980A(e)(1) (relating to retirement
22 distributions) is amended by adding at the end the
23 following flush sentence:

24 “Such term shall not include any amount distributed
25 from an IRA Plus account or any qualified rollover

1 contribution (as defined in section 408A(e)) from an
 2 individual retirement plan to an IRA Plus account.”.

3 (c) EXCESS CONTRIBUTIONS.—Section 4973(b) (de-
 4 fining excess contributions) is amended to read as follows:

5 “(b) EXCESS CONTRIBUTIONS.—For purposes of this
 6 section—

7 “(1) IN GENERAL.—In the case of individual re-
 8 tirement accounts or individual retirement annuities,
 9 the term ‘excess contributions’ means the sum of—

10 “(A) the amount determined under para-
 11 graph (2) for the taxable year, plus

12 “(B) the carryover amount determined
 13 under paragraph (3) for the taxable year.

14 “(2) CURRENT YEAR.—The amount determined
 15 under this paragraph for any taxable year is an
 16 amount equal to the sum of—

17 “(A) the excess (if any) of—

18 “(i) the amount contributed for the
 19 taxable year to the accounts or for the an-
 20 nuities or bonds (other than IRA Plus ac-
 21 counts), over

22 “(ii) the amount allowable as a deduc-
 23 tion under section 219 for the taxable
 24 year, plus

25 “(B) the excess (if any) of—

1 “(i) the amount described in clause (i)
 2 (taking into account contributions to IRA
 3 Plus accounts) contributed for the taxable
 4 year, over

5 “(ii) the amount allowable as a deduc-
 6 tion under section 219 for the taxable year
 7 (computed without regard to subsection (g)
 8 of such section).

9 “(3) CARRYOVER AMOUNT.—The carryover
 10 amount determined under this paragraph for any
 11 taxable year is the amount determined under para-
 12 graph (2) for the preceding taxable year, reduced by
 13 the sum of—

14 “(A) the distributions out of the account
 15 for the taxable year which were included in the
 16 gross income of the payee under section
 17 408(d)(1),

18 “(B) the distributions out of the account
 19 for the taxable year to which section 408(d)(5)
 20 applies, and

21 “(C) the excess (if any) of the amount de-
 22 termined under paragraph (2)(B)(ii) over the
 23 amount determined under paragraph (2)(B)(i).

24 “(4) SPECIAL RULES.—For purposes of this
 25 subsection—

1 “(A) **ROLLOVER CONTRIBUTIONS.**—Roll-
 2 over distributions described in sections 402(c),
 3 403(a)(4), 403(b)(8), 408(d)(3), and 408A(e)
 4 shall not be taken into account.

5 “(B) **CONTRIBUTIONS RETURNED BEFORE**
 6 **DUE DATE.**—Any contribution which is distrib-
 7 uted from an individual retirement plan in a
 8 distribution to which section 408(d)(4) applies
 9 shall not be taken into account.

10 “(C) **EXCESS CONTRIBUTIONS TREATED AS**
 11 **CONTRIBUTIONS.**—In applying paragraph
 12 (3)(C), the determination as to amounts con-
 13 tributed for a taxable year shall be made with-
 14 out regard to section 219(f)(6).”.

15 (d) **SPOUSAL IRA.**—Section 219(c)(1)(B)(ii) (relat-
 16 ing to special rules for certain married individuals) is
 17 amended to read as follows:

18 “(ii) the compensation includible in
 19 the gross income of such individual’s
 20 spouse for the taxable year reduced by—

21 “(I) the amount allowed as a de-
 22 duction under subsection (a) to such
 23 spouse for such taxable year, and

24 “(II) the amount of any contribu-
 25 tion on behalf of such spouse to an

1 IRA Plus account under section 408A
 2 for such taxable year.”.

3 (e) CONFORMING AMENDMENT.—The table of sec-
 4 tions for subpart A of part I of subchapter D of chapter
 5 1 is amended by inserting after the item relating to section
 6 408 the following:

“Sec. 408A. IRA Plus accounts.”.

7 (f) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 1996.

10 **TITLE II—WOMEN’S** 11 **RETIREMENT SECURITY**

12 **SEC. 201. INDIVIDUAL’S ELIGIBILITY FOR DEDUCTIBLE IRA** 13 **NOT DETERMINED BY REFERENCE TO** 14 **SPOUSE’S PARTICIPATION IN PENSION PLAN.**

15 (a) IN GENERAL.—Section 219(g)(1) (relating to
 16 limitation on deduction for active participants in certain
 17 pension plans) is amended by striking “or the individual’s
 18 spouse”.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 this section shall apply to taxable years beginning after
 21 December 31, 1996.

1 **SEC. 202. INDIVIDUALS MAY MAKE CONTRIBUTIONS FOR**
 2 **PERIODS OF MATERNITY OR PATERNITY**
 3 **LEAVE.**

4 (a) IN GENERAL.—Section 414 (relating to defini-
 5 tions and special rules) is amended by adding at the end
 6 the following:

7 “(v) RIGHT TO MAKE CONTRIBUTIONS WITH RE-
 8 SPECT TO PERIODS OF MATERNITY AND PATERNITY
 9 LEAVE.—

10 “(1) IN GENERAL.—For purposes of this title—

11 “(A) a trust which forms part of a plan
 12 shall not constitute a qualified trust under sec-
 13 tion 401(a),

14 “(B) a plan shall not be treated as de-
 15 scribed in section 403(b),

16 “(C) a plan shall not be treated as an eligi-
 17 ble deferred compensation plan under section
 18 457, and

19 “(D) an arrangement shall not be treated
 20 as meeting the requirements of section 408 (k)
 21 or (p),

22 unless such plan or arrangement which provides for
 23 the making of elective deferrals permits participants
 24 who were on eligible maternity or paternity leave to
 25 make additional elective deferrals under the plan or
 26 arrangement with respect to periods of such leave.

1 “(2) TREATMENT OF CONTRIBUTIONS.—

2 “(A) IN GENERAL.—In the case of any
3 contribution to a plan under paragraph (1)
4 (and any employer matching contribution with
5 respect thereto)—

6 “(i) such contribution shall not, with
7 respect to the year in which the contribu-
8 tion is made—

9 “(I) be subject to any otherwise
10 applicable limitation contained in sec-
11 tion 402(g), 402(h), 403(b), 404(a),
12 404(h), 408, 415, or 457, or

13 “(II) be taken into account in ap-
14 plying such limitations to other con-
15 tributions or benefits under such plan
16 or any other such plan,

17 “(ii) such contribution shall be subject
18 to the limitations referred to in clause (i)
19 with respect to the year to which the con-
20 tribution relates (in accordance with rules
21 prescribed by the Secretary), and

22 “(iii) except as provided in subpara-
23 graph (B)(i), such plan shall not be treated
24 as failing to meet the requirements of sec-
25 tion 401(a)(4), 401(a)(26), 401(k)(3),

1 401(k)(11), 401(k)(12), 401(m),
 2 403(b)(12), 408(k), 408(p), 410(b), or 416
 3 by reason of the making of (or the right to
 4 make) such contribution.

5 “(B) MATCHING CONTRIBUTIONS.—Noth-
 6 ing in subparagraph (A) shall require an em-
 7 ployer to make any matching contribution with
 8 respect to any additional elective deferrals
 9 under paragraph (1), but if the employer elects
 10 to make any such matching contribution—

11 “(i) the requirements of section
 12 401(a)(4) shall be applied separately to all
 13 such matching contributions made during
 14 a year, and

15 “(ii) the amount of any such match-
 16 ing contribution may not exceed the maxi-
 17 mum amount which would have been re-
 18 quired had such deferral actually been
 19 made during the period of eligible mater-
 20 nity and paternity leave.

21 “(3) AMOUNT AND TIMING OF ELECTIVE DE-
 22 FERRALS.—A plan shall not be treated as meeting
 23 the requirements of paragraph (1) unless the plan
 24 provides the following:

1 “(A) AMOUNT.—The amount of any elec-
2 tive deferral under paragraph (1) which any
3 employee is permitted to make with respect to
4 any period of eligible maternity and paternity
5 leave shall not exceed the maximum amount of
6 the elective deferrals that the employee would
7 have been permitted to make during such pe-
8 riod in accordance with the limitations referred
9 to in paragraph (2)(A)(i) if the individual—

10 “(i) had not been on eligible maternity
11 and paternity leave during such period,
12 and

13 “(ii) had received compensation in an
14 amount determined under rules similar to
15 the rules under subsection (u)(7).

16 Proper adjustment shall be made to the amount
17 determined under the preceding sentence for
18 any elective deferrals actually made during such
19 period.

20 “(B) TIMING.—An employee may make an
21 elective deferral to which paragraph (1) applies
22 at any time during the 3-year period beginning
23 on the date on which the eligible maternity or
24 paternity leave ends. Any matching contribution
25 with respect to any such elective deferral shall

1 be made not later than the due date (including
 2 extensions) for the filing of the employer's re-
 3 turn for the taxable year in which such elective
 4 deferral is made.

5 “(4) ELIGIBLE MATERNITY AND PATERNITY
 6 LEAVE.—For purposes of this subsection—

7 “(A) IN GENERAL.—The term ‘eligible ma-
 8 ternity or paternity leave’ means any absence of
 9 an individual from work for any period—

10 “(i) by reason of the pregnancy of the
 11 individual,

12 “(ii) by reason of the birth of a child
 13 of the individual,

14 “(iii) by reason of the placement of a
 15 child with the individual in connection with
 16 the adoption of the child by the individual,
 17 or

18 “(iv) for purposes of caring for such
 19 child for a period beginning immediately
 20 following such birth or placement.

21 “(B) LIMITATION.—Such period may not
 22 exceed 12 months with respect to any child.

23 “(5) OTHER DEFINITIONS AND RULES.—For
 24 purposes of this subsection—

1 “(A) ELECTIVE DEFERRAL.—The term
 2 ‘elective deferral’ has the meaning given such
 3 term by subsection (u)(2)(C). Such term shall
 4 also include any after-tax employee contribu-
 5 tions described in subsection (u)(2)(D).

6 “(B) PLAN.—The term ‘plan’ includes any
 7 arrangement under section 408 (k) or (p).

8 “(C) CERTAIN RETROACTIVE ADJUST-
 9 MENTS NOT REQUIRED.—For purposes of this
 10 subchapter and subchapter E, the rules of sub-
 11 section (u)(3) shall apply.

12 “(D) LOAN REPAYMENT SUSPENSIONS
 13 PERMITTED.—In the case of any plan or ar-
 14 rangement to which paragraph (1) applies, the
 15 rules of subsection (u)(4) shall apply to any
 16 loan repayment suspension during any period of
 17 eligible maternity and paternity leave.”.

18 (b) EFFECTIVE DATE.—The amendment made by
 19 this section shall apply to periods of eligible maternity and
 20 paternity leave beginning after December 31, 1997.

21 **SEC. 203. CATCHUP CONTRIBUTIONS FOR FAMILIES WITH**
 22 **CHILDREN.**

23 (a) IN GENERAL.—Section 414 (relating to defini-
 24 tions and special rules), as amended by section 202, is
 25 amended by adding at the end the following:

1 “(w) CATCHUP CONTRIBUTIONS FOR FAMILIES
2 WITH CHILDREN NOT COVERED BY A PENSION PLAN.—

3 “(1) IN GENERAL.—For purposes of this title—

4 “(A) a trust which forms part of a plan
5 shall not constitute a qualified trust under sec-
6 tion 401(a),

7 “(B) a plan shall not be treated as de-
8 scribed in section 403(b),

9 “(C) a plan shall not be treated as an eligi-
10 ble deferred compensation plan under section
11 457, and

12 “(D) an arrangement shall not be treated
13 as meeting requirements of section 408 (k) or
14 (p),

15 unless such plan or arrangement which provides for
16 the making of elective deferrals permits eligible
17 catchup participants to make additional elective de-
18 ferrals under the plan or arrangement in accordance
19 with paragraph (2).

20 “(2) CATCHUP CONTRIBUTIONS.—

21 “(A) IN GENERAL.—A plan shall permit an
22 eligible catchup participant to make the addi-
23 tional elective deferrals under paragraph (1) in
24 any year which is certified as a catchup year by
25 the participant under subparagraph (E).

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

6 “(i) the amount of the elective defer-
 7 rals the participant may otherwise make
 8 under the plan for such year (determined
 9 without regard to this subsection, sub-
 10 section (u), or any limitation described in
 11 subparagraph (C)(i)), or

12 “(ii) the excess (if any) of—

13 “(I) 120 percent of the dollar
 14 limitation in effect under section
 15 402(g), 408(p), or 457(b)(2)(A),
 16 whichever is applicable, for taxable
 17 years beginning in the calendar year
 18 in which the plan year begins, over

19 “(II) any other elective deferrals
 20 of the participant for such year which
 21 are made without regard to this sub-
 22 section.

23 “(C) TREATMENT OF CONTRIBUTIONS.—In
 24 the case of any contribution to a plan under

paragraph (1) (and any employer matching contribution with respect thereto)—

“(i) such contribution shall not, with respect to the year in which the contribution is made—

“(I) be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, or

“(II) be taken into account in applying such limitations to other contributions or benefits under such plan or any other such plan, and

“(ii) except as provided in subparagraph (D)(i), such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

“(D) MATCHING CONTRIBUTIONS.—Nothing in subparagraph (A) shall require an employer to make any matching contribution with respect to any additional elective deferrals

under paragraph (1) for any year, but if the employer elects to make any such matching contribution—

“(i) the requirements of section 401(a)(4) shall be applied separately to all such matching contributions made during a year, and

“(ii) the amount of any such matching contribution may not exceed the maximum amount which would have been required under the terms of the plan in effect for elective deferrals made for such year without regard to this subsection.

“(E) CERTIFICATION OF CATCHUP YEARS.—

“(i) IN GENERAL.—A participant making additional elective deferrals under paragraph (1) for any year shall certify to the plan administrator that—

“(I) the participant is an eligible catchup participant, and

“(II) the year is a catchup year.

“(ii) CATCHUP YEAR.—An eligible catchup participant may certify 1 or more years as catchup years, except that the

1 total number of years which may be cer-
 2 tified shall not exceed the excess (if any)
 3 of—

4 “(I) the number of years (not in
 5 excess of 18) described in paragraph
 6 (3) occurring before the year in ques-
 7 tion, over

8 “(II) the number of years pre-
 9 viously certified by the participant
 10 under this subsection.

11 “(iii) PLANS NOT RESPONSIBLE FOR
 12 CERTIFICATION FAILURES.—A plan shall
 13 not be treated as failing to meet the re-
 14 quirements of this subsection by reason of
 15 reliance on an incorrect certification under
 16 this subparagraph unless the plan adminis-
 17 trator knew, or reasonably should have
 18 known, that the certification was incorrect.

19 “(3) ELIGIBLE CATCHUP PARTICIPANT.—For
 20 purposes of this subsection, the term ‘eligible catch-
 21 up participant’ means, with respect to any year, a
 22 participant in a plan who, for any calendar year be-
 23 fore the calendar year in which the year begins—

24 “(A) was not an active participant (within
 25 the meaning of section 219(g)(5), as in effect

1 on the effective date of this subsection) for any
 2 plan year beginning in the calendar year, and

3 “(B) had a child or stepchild who had not
 4 attained age 18 with respect to whom a deduc-
 5 tion was allowed under section 151 to the par-
 6 ticipant (or the participant’s spouse) for a tax-
 7 able year beginning in the calendar year.

8 “(4) OTHER DEFINITIONS AND RULES.—For
 9 purposes of this subsection—

10 “(A) ELECTIVE DEFERRAL.—The term
 11 ‘elective deferral’ has the meaning given such
 12 term by subsection (u)(2)(C). Such term shall
 13 also include after-tax employee contributions
 14 described in subsection (u)(2)(D).

15 “(B) PLAN.—The term ‘plan’ includes any
 16 arrangement under section 408 (k) or (p).

17 “(C) CERTAIN RETROACTIVE ADJUST-
 18 MENTS NOT REQUIRED.—For purposes of this
 19 subchapter and subchapter E, the rules of sub-
 20 section (u)(3) shall apply.”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section shall apply to contributions in taxable years
 23 beginning after December 31, 1997.

1 **TITLE III—EXPANSION OF PEN-**
 2 **SION COVERAGE FOR SMALL**
 3 **BUSINESS**

4 **SEC. 301. SAFE ANNUITIES AND TRUSTS.**

5 (a) IN GENERAL.—Subpart A of part I of subchapter
 6 D of chapter 1 (relating to deferred compensation, etc.),
 7 as amended by section 111(a), is amended by inserting
 8 after section 408 the following:

9 **“SEC. 408B. SAFE ANNUITIES AND TRUSTS.**

10 **“(a) EMPLOYER ELIGIBILITY.—**

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

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

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

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

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

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

8 “(i) a plan under which only elective
9 deferrals described in section 402(g)(3),
10 deferred compensation described in section
11 457, or employer matching contributions
12 may be made, and

13 “(ii) any collectively bargained plan.

14 “(b) SAFE ANNUITY.—

15 “(1) IN GENERAL.—For purposes of this title,
16 the term ‘SAFE annuity’ means an individual retire-
17 ment annuity (as defined in section 408(b) without
18 regard to paragraph (2) thereof and without regard
19 to the limitation on aggregate annual premiums con-
20 tained in the flush language of section 408(b)) if—

21 “(A) such annuity meets the requirements
22 of paragraphs (2) through (6), and

23 “(B) the only contributions to such annu-
24 ity are employer contributions.

1 Nothing in this section shall be construed as pre-
 2 venting an employer from using a group annuity
 3 contract which is divisible into individual retirement
 4 annuities for purposes of providing SAFE annuities.

5 “(2) PARTICIPATION REQUIREMENTS.—

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

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

12 “(ii) received at least \$5,000 in com-
 13 pensation during the year,
 14 are entitled to the benefit described in para-
 15 graph (5) for such year.

16 “(B) EXCLUDABLE EMPLOYEES.—An em-
 17 ployer may elect to exclude from the require-
 18 ments under subparagraph (A) employees de-
 19 scribed in section 410(b)(3).

20 “(3) VESTING.—The requirements of this para-
 21 graph are met if the employee’s rights to any bene-
 22 fits are nonforfeitable.

23 “(4) BENEFIT FORM.—The requirements of
 24 this paragraph are met if the only form of benefit
 25 is—

1 “(A) a benefit payable annually in the
2 form of a single life annuity with monthly pay-
3 ments (with no ancillary benefits) beginning at
4 age 65, or

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

9 “(5) AMOUNT OF ANNUAL ACCRUED BENE-
10 FIT.—

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

18 “(B) APPLICABLE PERCENTAGE.—For
19 purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘applica-
21 ble percentage’ means 3 percent.

22 “(ii) ELECTION OF LOWER PERCENT-
23 AGE.—An employer may elect to apply an
24 applicable percentage of 1 percent, 2 per-
25 cent or zero percent for any year for all

1 employees eligible to participate in the plan
2 for such year if the employer notifies the
3 employees of such percentage within a rea-
4 sonable period before the beginning of such
5 year.

6 “(C) COMPENSATION LIMIT.—The com-
7 pensation taken into account under this para-
8 graph for any year shall not exceed the limita-
9 tion in effect for such year under section
10 401(a)(17).

11 “(D) CREDIT FOR SERVICE BEFORE PLAN
12 ADOPTED.—

13 “(i) IN GENERAL.—An employer may
14 elect to take into account a specified num-
15 ber of years of service (not greater than
16 10) performed before the adoption of the
17 plan (each hereinafter referred to as a
18 ‘prior service year’) as service under the
19 plan if the same specified number of years
20 is available to all employees eligible to par-
21 ticipate in the plan for the first plan year.

22 “(ii) ACCRUAL OF PRIOR SERVICE
23 BENEFIT.—Such an election shall be effec-
24 tive for a prior service year only if the re-
25 quirements of this paragraph are met for

1 an eligible plan year (with respect to em-
 2 ployees entitled to credit for such prior
 3 service year) by doubling the applicable
 4 percentage (if any) for such plan year. For
 5 purposes of the preceding sentence, an eli-
 6 gible plan year is a plan year in the period
 7 of consecutive plan years (but not more
 8 than the number specified under clause (i))
 9 beginning with the first plan year that the
 10 plan is in effect.

11 “(iii) ELECTION MAY NOT APPLY TO
 12 CERTAIN PRIOR SERVICE YEARS.—This
 13 subparagraph shall not apply with respect
 14 to any prior service year of an employee
 15 if—

16 “(I) for any part of such prior
 17 service year such employee was an ac-
 18 tive participant (within the meaning
 19 of section 219(g)(5), as in effect on
 20 the effective date of this section)
 21 under any defined benefit plan of the
 22 employer (or any predecessor thereof),
 23 or

24 “(II) such employee received dur-
 25 ing such prior service year less than

1 \$5,000 in compensation from the em-
2 ployer.

3 “(6) FUNDING.—

4 “(A) IN GENERAL.—The requirements of
5 this paragraph are met only if the employer is
6 required to contribute to the annuity for each
7 plan year the amount necessary (determined in
8 accordance with subparagraph (B)) to fund the
9 accrued benefit for each participant entitled to
10 such benefit for such year.

11 “(B) ACTUARIAL ASSUMPTIONS.—In deter-
12 mining the amount required to be contributed
13 under subparagraph (A)—

14 “(i) the assumed interest rate shall be
15 5 percent per year,

16 “(ii) the assumed mortality shall be
17 determined under the applicable mortality
18 table (as defined in section 417(e)(3), as
19 modified by the Secretary so that it does
20 not include any assumption for preretire-
21 ment mortality),

22 “(iii) the assumed retirement age
23 shall be 65, and

1 “(iv) an assumption for reasonable ex-
 2 penses shall be permitted consistent with
 3 State law.

4 “(C) TIME WHEN CONTRIBUTIONS
 5 DEEMED MADE.—For purposes of this para-
 6 graph, an employer shall be deemed to have
 7 made a contribution on the last day of the pre-
 8 ceding taxable year if the payment is on ac-
 9 count of such taxable year and is made not
 10 later than the time prescribed by law for filing
 11 the return for such taxable year (including ex-
 12 tensions thereof).

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

20 “(7) DEFINITIONS AND SPECIAL RULE.—

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

24 “(B) USE OF DESIGNATED FINANCIAL IN-
 25 STITUTIONS.—A rule similar to the rule of sec-

1 tion 408(p)(7) (without regard to the last sen-
 2 tence thereof) shall apply for purposes of this
 3 subsection.

4 “(c) SAFE TRUST.—

5 “(1) IN GENERAL.—For purposes of this title,
 6 the term ‘SAFE trust’ means a trust forming part
 7 of a defined benefit plan if—

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

10 “(B) a participant’s benefits under the
 11 plan are based solely on the balance of a sepa-
 12 rate account in such plan of such participant,

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

15 “(D) the only contributions to such trust
 16 are employer contributions.

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

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

24 “(4) BENEFIT FORM.—

1 “(A) IN GENERAL.—Except as provided in
 2 subparagraph (B), a plan meets the require-
 3 ments of this paragraph only if the require-
 4 ments of subsection (b)(4) are met For pur-
 5 poses of this subparagraph, a plan may satisfy
 6 the requirements of subsection (b)(4) by pur-
 7 chasing an annuity contract which meets the re-
 8 quirements of subsection (b)(4).

9 “(B) DIRECT TRANSFERS TO INDIVIDUAL
 10 RETIREMENT PLAN OR SAFE ANNUITY.—A plan
 11 shall not fail to meet the requirements of this
 12 paragraph by reason of permitting, at the elec-
 13 tion of the employee, a trustee-to-trustee trans-
 14 fer of the entire balance to the credit of the em-
 15 ployee to an individual retirement account de-
 16 scribed in section 408(a), an individual retire-
 17 ment annuity described in section 408(b) (other
 18 than an endowment contract), or a SAFE an-
 19 nuity.

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

24 “(6) FUNDING.—

1 “(A) IN GENERAL.—A plan meets the re-
 2 quirements of this paragraph for any year only
 3 if—

4 “(i) the requirements of subsection
 5 (b)(6) are met for such year, and

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

13 “(B) UNFUNDED PRIOR YEAR LIABIL-
 14 ITY.—For purposes of this paragraph, the term
 15 ‘unfunded prior year liability’ means, with re-
 16 spect to any plan year, the excess (if any) of—

17 “(i) the aggregate of the accrued li-
 18 abilities under the plan as of the close of
 19 the prior plan year, over

20 “(ii) the value of the plan’s assets de-
 21 termined under section 412(c)(2) as of the
 22 close of the plan year (determined without
 23 regard to any contributions for such plan
 24 year).

1 Such accrued liabilities shall be determined
 2 using the assumptions specified in subsection
 3 (b)(6)(B).

4 “(C) CHANGES IN MORTALITY TABLE.—If
 5 the applicable mortality table under section
 6 417(e)(3) for any plan year is not the same as
 7 such table for the prior plan year, the Secretary
 8 shall prescribe regulations which phase in the
 9 effect of the changes over a reasonable period
 10 of plan years determined by the Secretary.

11 “(D) DISREGARD ASSUMPTIONS FOR EX-
 12 PENSES.—For purposes of this paragraph, the
 13 assumption specified in subsection (b)(6)(B)(iv)
 14 shall be disregarded.

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

18 “(A) for an individual account for each
 19 participant, and

20 “(B) for benefits based solely on—

21 “(i) the amount contributed to the
 22 participant’s account, and

23 “(ii) any income, expenses, gains and
 24 losses, and any forfeitures of accounts of

1 other participants which may be allocated
2 to such participant's account.

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

11 “(9) DEFINITIONS AND SPECIAL RULE.—The
12 definitions and special rule applicable under sub-
13 section (b)(7) shall apply for purposes of this sub-
14 section.

15 “(d) SPECIAL RULES FOR SAFE ANNUITIES AND
16 TRUSTS.—

17 “(1) CERTAIN REQUIREMENTS TREATED AS
18 MET.—For purposes of section 401(a), a SAFE an-
19 nuity and a SAFE trust shall be treated as meeting
20 the requirements of the following provisions:

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

23 “(B) Section 401(a)(26) (relating to mini-
24 mum participation).

1 “(C) Section 410 (relating to minimum
2 participation and coverage requirements).

3 “(D) Section 411(b) (relating to accrued
4 benefit requirements).

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

7 “(F) Section 415 (relating to limitations
8 on benefits and contributions under qualified
9 plans).

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

12 “(2) CONTRIBUTIONS NOT TAKEN INTO AC-
13 COUNT IN APPLYING LIMITS TO OTHER PLANS.—
14 Contributions to a SAFE annuity or a SAFE trust
15 shall not be taken into account in applying sections
16 404 and 415 to other plans maintained by the em-
17 ployer.

18 “(3) COORDINATION WITH MAXIMUM LIMITA-
19 TION UNDER SUBSECTION (a).—In the case of any
20 SAFE annuity or SAFE trust, subsections (a)(1)
21 and (b) of section 408 shall be applied by substitut-
22 ing ‘the dollar amount in effect under section
23 408B(b)(5)(C)’ for ‘the dollar amount in effect
24 under section 219(b)(1)(A)’.”.

1 (b) DEDUCTION LIMITS NOT TO APPLY TO EM-
2 PLOYER CONTRIBUTIONS.—

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

7 “(n) SPECIAL RULES FOR SAFE ANNUITIES AND
8 TRUSTS.—

9 “(1) IN GENERAL.—Employer contributions to
10 a SAFE annuity or SAFE trust shall be treated as
11 if they are made to a plan subject to the require-
12 ments of this section.

13 “(2) TIMING.—

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

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

1 (2) COORDINATION WITH DEDUCTION UNDER
2 SECTION 219.—

3 (A) Section 219(b) (relating to maximum
4 amount of deduction) is amended by adding at
5 the end the following:

6 “(5) SPECIAL RULE FOR SAFE ANNUITIES.—
7 This section shall not apply with respect to any
8 amount contributed to a SAFE annuity established
9 under section 408B(b).”.

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

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

16 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—

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

20 “(1) TREATMENT OF SAFE ANNUITIES.—Rules simi-
21 lar to the rules of paragraphs (1) and (3) of subsection
22 (h) shall apply to contributions and distributions with re-
23 spect to a SAFE annuities under section 408B.”.

24 (2) Section 408(d)(3) is amended by adding at
25 the end the following:

1 “(H) SAFE ANNUITIES.—This paragraph
2 shall not apply to any amount paid or distrib-
3 uted out of a SAFE annuity (as defined in sec-
4 tion 408B) unless it is paid in a trustee-to-
5 trustee transfer into another SAFE annuity.”.

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

10 “(7) SPECIAL RULES FOR SAFE ANNUITIES AND
11 TRUSTS.—In the case of any amount received from
12 a SAFE annuity or a SAFE trust (within the mean-
13 ing of section 408B), paragraph (1) shall be applied
14 by substituting ‘20 percent’ for ‘10 percent’.”.

15 (e) SIMPLIFIED EMPLOYER REPORTS.—

16 (1) SAFE ANNUITIES.—Section 408(l) (relating
17 to simplified employer reports) is amended by add-
18 ing at the end the following:

19 “(3) SAFE ANNUITIES.—

20 “(A) SIMPLIFIED REPORT.—The employer
21 maintaining any SAFE annuity (within the
22 meaning of section 408B) shall file a simplified
23 annual return with the Secretary containing
24 only the information described in subparagraph
25 (B).

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

3 “(i) the name and address of the em-
4 ployer,

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

6 “(iii) the number of employees of the
7 employer,

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

10 “(v) the total amount contributed by
11 the employer to each such annuity for such
12 year and the minimum amount required
13 under section 408B to be so contributed,

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

16 “(vii) the number of employees which
17 respect to whom contributions are required
18 to be made for such year under section
19 408B(b)(5)(D).

20 “(C) REPORTING BY ISSUER OF SAFE AN-
21 NUITY.—

22 “(i) IN GENERAL.—The issuer of each
23 SAFE annuity shall provide to the owner
24 of the annuity for each year a statement
25 setting forth as of the close of such year—

1 “(I) the benefits guaranteed at
2 age 65 under the annuity, and

3 “(II) the cash surrender value of
4 the annuity.

5 “(ii) SUMMARY DESCRIPTION.—The
6 issuer of any SAFE annuity shall provide
7 to the employer maintaining the annuity
8 for each year a description containing the
9 following information:

10 “(I) The name and address of
11 the employer and the issuer.

12 “(II) The requirements for eligi-
13 bility for participation.

14 “(III) The benefits provided with
15 respect to the annuity.

16 “(IV) The procedures for, and ef-
17 fects of, withdrawals (including roll-
18 overs) from the annuity.

19 “(D) TIME AND MANNER OF REPORT-
20 ING.—Any return, report, or statement required
21 under this paragraph shall be made in such
22 form and at such time as the Secretary shall
23 prescribe.”.

24 (2) SAFE TRUSTS.—Section 6059 (relating to
25 actuarial reports) is amended by redesignating sub-

1 sections (c) and (d) as subsections (d) and (e), re-
 2 spectively, and by inserting after subsection (b) the
 3 following:

4 “(c) SAFE TRUSTS.—In the case of a SAFE Trust
 5 (within the meaning of section 408B), the Secretary shall
 6 require a simplified actuarial report which contains infor-
 7 mation similar to the information required in section
 8 408(l)(3)(B).”.

9 (f) CONFORMING AMENDMENTS.—

10 (1) Section 280G(b)(6) is amended by striking
 11 “or” at the end of subparagraph (C), by striking the
 12 period at the end of subparagraph (D) and inserting
 13 “, or” and by adding after subparagraph (D) the
 14 following:

15 “(E) a SAFE annuity described in section
 16 408B.”.

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

20 (3) Section 4972(d)(1)(A) is amended by strik-
 21 ing “and” at the end of clause (iii), by striking the
 22 period at the end of clause (iv) and inserting “,
 23 and”, and by adding after clause (iv) the following:

24 “(v) any SAFE annuity (within the
 25 meaning of section 408B).”.

(4) The table of sections for subpart A of part I of subchapter D of chapter 1, as amended by section 111(e), is amended by inserting after the item relating to section 408 the following:

“Sec. 408B. SAFE annuities and trusts.”.

(g) MODIFICATIONS OF ERISA.—

(1) EXEMPTION FROM INSURANCE COVERAGE.—Subsection (b) of section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended by striking “or” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “; or”, and by adding at the end the following:

“(14) which is established and maintained as part of a SAFE trust (as defined in section 408B of the Internal Revenue Code of 1986).”.

(2) REPORTING REQUIREMENTS.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

“(h) SAFE ANNUITIES.—

“(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a SAFE annuity under section 408B(b) of the Internal Revenue Code of 1986.

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

5 “(A) The name and address of the em-
6 ployer and the issuer.

7 “(B) The requirements for eligibility for
8 participation.

9 “(C) The benefits provided with respect to
10 the annuity.

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

14 “(3) EMPLOYEE NOTIFICATION.—The employer
15 shall provide each employee eligible to participate in
16 the SAFE annuity with the description described in
17 paragraph (2) at the same time as the notification
18 required under section 408B(b)(5)(B) of the Inter-
19 nal Revenue Code of 1986.”.

20 (h) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 1997.

1 **SEC. 302. MATCHING CONTRIBUTIONS OF SELF-EMPLOYED**
 2 **INDIVIDUALS NOT TREATED AS ELECTIVE**
 3 **DEFERRALS.**

4 (a) IN GENERAL.—Section 402(g) (relating to limita-
 5 tion on exclusion for elective deferrals) is amended by add-
 6 ing at the end the following:

7 “(9) MATCHING CONTRIBUTIONS ON BEHALF
 8 SELF-EMPLOYED INDIVIDUALS NOT TREATED AS
 9 ELECTIVE DEFERRALS.—Any matching contribution
 10 described in section 401(m)(4)(A)(ii) which is made
 11 on behalf of a self-employed individual (as defined in
 12 section 401(c)) shall not be treated as an elective de-
 13 ferral for purposes of this subsection.”.

14 (b) CONFORMING AMENDMENT FOR SIMPLE RETIRE-
 15 MENT ACCOUNTS.—Section 408(p) (relating to simple re-
 16 tirement accounts) is amended by adding at the end the
 17 following:

18 “(8) MATCHING CONTRIBUTIONS ON BEHALF
 19 SELF-EMPLOYED INDIVIDUALS NOT TREATED AS
 20 ELECTIVE DEFERRALS.—Any matching contribution
 21 described in paragraph (2)(A)(iii) which is made on
 22 behalf of a self-employed individual (as defined in
 23 section 401(c)) shall not be treated as an elective de-
 24 ferral for purposes of this subsection.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to years beginning after December
 3 31, 1996.

4 **SEC. 303. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**
 5 **NERS, AND SOLE PROPRIETORS.**

6 (a) AMENDMENT TO 1986 CODE.—Section 4975(d)
 7 (relating to exemptions) is amended by striking the last
 8 2 sentences.

9 (b) AMENDMENTS TO ERISA.—

10 (1) Section 408 of the Employee Retirement In-
 11 come Security Act of 1974 (29 U.S.C. 1108(d)) is
 12 amended—

13 (A) by striking subsection (d), and

14 (B) by redesignating subsections (e) and
 15 (f) as subsections (d) and (e), respectively.

16 (2) Section 407(b)(2)(B) of such Act (29
 17 U.S.C. 1107(b)(2)(B)) is amended by striking “sec-
 18 tion 408(e)” and inserting “section 408(d)”.

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

22 **SEC. 304. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT**
 23 **PLANS THROUGH PAYROLL DEDUCTIONS.**

24 Section 408 (relating to individual retirement ac-
 25 counts) is amended by redesignating subsection (q) as sub-

1 section (r) and by inserting after subsection (p) the follow-
 2 ing:

3 “(q) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT
 4 PLANS THROUGH PAYROLL DEDUCTIONS.—

5 “(1) DEFINITIONS.—For purposes of this sub-
 6 section:

7 “(A) CONTRIBUTION CERTIFICATE.—The
 8 term “contribution certificate” means a certifi-
 9 cate submitted by an eligible employee to the
 10 employee’s employer who has elected to estab-
 11 lish a payroll deduction system under para-
 12 graph (2) which—

13 “(i) identifies the employee by name,
 14 address, and social security number,

15 “(ii) includes a certification by the
 16 employee that the employee is an eligible
 17 employee,

18 “(iii) identifies the individual retire-
 19 ment plan to which the employee wishes to
 20 make contributions through payroll deduc-
 21 tions,

22 “(iv) identifies the amount of such
 23 contributions, not to exceed the amount al-
 24 lowed under this section to an individual
 25 retirement plan for such year.

1 “(B) ELIGIBLE EMPLOYEE.—

2 “(i) IN GENERAL.—The term ‘eligible
3 employee’ means, with respect to any tax-
4 able year, an employee whose employer
5 does not sponsor a qualified plan (as de-
6 fined in subsection (p)(2)(D)(ii).

7 “(ii) EMPLOYEE.—The term ‘em-
8 ployee’ shall include an employee as de-
9 fined in section 401(c)(1).

10 “(C) INDIVIDUAL RETIREMENT PLANS.—

11 The term ‘individual retirement plan’ has the
12 meaning given such term by section
13 7701(a)(37).

14 “(2) ESTABLISHMENT OF PAYROLL DEDUCTION
15 SYSTEM.—An employer may elect to establish a sys-
16 tem under which eligible employees, through em-
17 ployer payroll deductions, may make contributions to
18 individual retirement plans.

19 “(3) CONTRIBUTIONS TO INDIVIDUAL RETIRE-
20 MENT PLANS.—

21 “(A) IN GENERAL.—The system estab-
22 lished under paragraph (2) shall provide that
23 contributions made to an individual retirement
24 plan for any taxable year are—

1 “(i) contributions through employer
2 payroll deductions, and

3 “(ii) if the employer so elects, addi-
4 tional contributions by the employee which,
5 when added to contributions under clause
6 (i), do not exceed the amount allowed
7 under this section 408 for the taxable year.

8 “(B) EMPLOYER PAYROLL DEDUCTIONS.—

9 “(i) IN GENERAL.—The system estab-
10 lished under paragraph (2) shall provide
11 that an eligible employee may establish and
12 maintain an individual retirement plan
13 simply by—

14 “(I) completing a contribution
15 certificate, and

16 “(II) submitting such certificate
17 to the eligible employee’s employer in
18 the manner provided under clause
19 (iv).

20 “(ii) EASE OF ADMINISTRATION.—An
21 eligible employee establishing and main-
22 taining an individual retirement plan under
23 clause (i) may change the amount of an
24 employer payroll deduction in the same
25 manner as under clause (i).

1 “(iii) SIMPLIFIED FORMS.—The Sec-
2 retary shall develop a model contribution
3 certificate for purposes of this subpara-
4 graph which is written in a clear and easily
5 understandable manner.

6 “(iv) USE OF CERTIFICATE.—Each
7 employer electing to adopt a system under
8 paragraph (2) shall, upon receipt of a con-
9 tribution certificate from an eligible em-
10 ployee, deduct the appropriate contribution
11 as determined by such certificate from the
12 employee’s wages in equal amounts during
13 the remaining payroll periods for the tax-
14 able year and shall remit such amounts for
15 investment in the employee’s individual re-
16 tirement plan not later than the close of
17 the 30-day period following the last day of
18 the month in which such payroll period oc-
19 curs.

20 “(v) FAILURE TO REMIT PAYROLL DE-
21 DUCTIONS.—For purposes of this title, any
22 amount which an employer fails to remit
23 on behalf of an eligible employee pursuant
24 to a contribution certificate of such em-

1 ployee shall not be allowed as a deduction
 2 to the employer.”.

3 **TITLE IV—PORTABILITY**

4 **SEC. 401. ALLOWANCE OF ROLLOVERS WITH RESPECT TO** 5 **SECTION 457 PLANS.**

6 (a) ALLOWANCE OF ROLLOVERS FROM SECTION 457
 7 PLANS.—

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

11 “(16) ROLLOVER AMOUNTS.—

12 “(A) GENERAL RULE.—If—

13 “(i) any portion of the balance to the
 14 credit of an employee in an eligible de-
 15 ferred compensation plan is paid to such
 16 employee in an eligible rollover distribution
 17 (within the meaning of section 402(c)(4)),

18 “(ii) the employee transfers any por-
 19 tion of the property such employee receives
 20 in such distribution to an eligible retire-
 21 ment plan described in section
 22 402(c)(8)(B), and

23 “(iii) in the case of a distribution of
 24 property other than money, the amount so

1 transferred consists of the property distrib-
 2 uted,
 3 then such distribution (to the extent so trans-
 4 ferred) shall not be includible in gross income
 5 for the taxable year in which paid.

6 “(B) CERTAIN RULES MADE APPLICA-
 7 BLE.—Rules similar to the rules of paragraphs
 8 (2), (3), (5), (6), (7), and (9) of section 402(c)
 9 and section 402(f) shall apply for purposes of
 10 subparagraph (A).”.

11 (2) DEFERRAL LIMIT DETERMINED WITHOUT
 12 REGARD TO ROLLOVER AMOUNTS.—Section
 13 457(b)(2) (defining eligible deferred compensation
 14 plan) is amended by inserting “(other than rollover
 15 amounts)” after “taxable year”.

16 (3) CONFORMING AMENDMENTS.—

17 (A) Section 72(o)(4) is amended by strik-
 18 ing “and 408(d)(3)” and inserting “408(d)(3),
 19 and 457(e)(16)”.

20 (B) Section 219(d)(2) is amended by strik-
 21 ing “or 408(d)(3)” and inserting “408(d)(3), or
 22 457(e)(16)”.

23 (C) Section 401(a)(31)(B) is amended by
 24 striking “and 403(a)(4)” and inserting “,
 25 403(a)(4), and 457(e)(16)”.

1 (D) Section 408(a)(1) is amended by strik-
 2 ing “or 403(b)(8)” and inserting “, 403(b)(8),
 3 or 457(e)(16)”.

4 (E) Section 408(d)(3)(A)(ii) is amended—
 5 (i) by inserting “or from an eligible
 6 deferred compensation plan described in
 7 section 457(b)” after “section 403(a)”,
 8 and

9 (ii) by striking “or annuity plan” and
 10 inserting “or plan”.

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

15 (G) Section 415(c)(2) is amended by strik-
 16 ing “and 408(d)(3)” and inserting “408(d)(3),
 17 and 457(e)(16)”.

18 (H) Section 4973(b)(4)(A), as amended by
 19 section 111(c), is amended by striking “and
 20 408A(e)” and inserting “408A(e), and
 21 457(e)(16)”.

22 (b) ALLOWANCE OF ROLLOVERS TO SECTION 457
 23 PLANS.—Section 402(c)(8)(B) (defining eligible retire-
 24 ment plan) is amended by striking “and” at the end of
 25 clause (iii), by striking the period at the end of clause (iv)

1 and inserting “, and”, and by adding at the end the follow-
 2 ing:

3 “(v) an eligible deferred compensation
 4 plan described in section 457(b).”.

5 (c) EFFECTIVE DATE; SPECIAL RULE.—

6 (1) EFFECTIVE DATE.—The amendments made
 7 by this section shall apply to distributions after De-
 8 cember 31, 1997.

9 (2) SPECIAL RULE.—Notwithstanding any other
 10 provision of law, subsections (h)(3) and (h)(5) of
 11 section 1122 of the Tax Reform Act of 1986 shall
 12 not apply to the portion of any distribution which is
 13 attributable to any rollover amount (and earnings al-
 14 locable thereto) described in section 457(e)(16) of
 15 the Internal Revenue Code of 1986 (as added by
 16 subsection (a)).

17 **SEC. 402. ALLOWANCE OF ROLLOVERS FROM 403(b) PLANS**
 18 **TO ELIGIBLE RETIREMENT PLANS.**

19 (a) IN GENERAL.—Section 403(b)(8)(A)(ii) (relating
 20 to rollover amounts) is amended by striking “individual
 21 retirement plan” and inserting “eligible retirement plan
 22 described in section 402(c)(8)(B)”.

23 (b) EFFECTIVE DATE.—The amendment made by
 24 this section shall apply to distributions after December 31,
 25 1997.

1 **SEC. 403. PROTECTION OF PLANS WHICH ACCEPT ROLL-**
 2 **OVER CONTRIBUTIONS FROM DISQUALIFICA-**
 3 **TION.**

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

7 “(35) PLANS NOT DISQUALIFIED MERELY BY
 8 ACCEPTING ROLLOVER CONTRIBUTIONS.—A trust
 9 which is part of a plan shall not fail to be a qualified
 10 trust under this section solely because the plan ac-
 11 cepts a rollover contribution from another plan with-
 12 out such a qualified trust if, at the time of the
 13 transfer, the trustee of the other plan provided no-
 14 tice of the other plan’s intention to have such a
 15 qualified trust.”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to rollover contributions made
 18 after December 31, 1997.

19 **SEC. 404. ALLOWANCE OF EMPLOYERS TO DISREGARD**
 20 **ROLLOVERS FOR PURPOSES OF CASH-OUT**
 21 **AMOUNTS.**

22 (a) AMENDMENT TO 1986 CODE.—Section
 23 411(a)(11) (relating to restrictions on certain mandatory
 24 distributions) is amended by adding at the end the follow-
 25 ing:

1 “(D) SPECIAL RULE FOR ROLLOVER CON-
 2 TRIBUTIONS.—A plan shall not fail to meet the
 3 requirements of this paragraph if, under the
 4 terms of the plan, the present value of the non-
 5 forfeitable accrued benefit is determined with-
 6 out regard to that portion of such benefit which
 7 is attributable to rollover contributions (and
 8 earnings allocable thereto). For purposes of this
 9 subparagraph, the term ‘rollover contributions’
 10 means any rollover contribution under sections
 11 402(c), 408(d)(3)(A)(i), and 457(e)(16).”.

12 (b) AMENDMENT TO ERISA.—Section 203(e) of the
 13 Employee Retirement Income Security Act of 1974 (29
 14 U.S.C. 1053(e)) is amended by adding at the end the fol-
 15 lowing:

16 “(4) A plan shall not fail to meet the requirements
 17 of this subsection if, under the terms of the plan, the
 18 present value of the nonforfeitable accrued benefit is de-
 19 termined without regard to that portion of such benefit
 20 which is attributable to rollover contributions (and earn-
 21 ings allocable thereto). For purposes of this paragraph,
 22 the term ‘rollover contributions’ means any rollover con-
 23 tribution under sections 402(c), 408(d)(3)(A)(i), and
 24 457(e)(16) of the Internal Revenue Code of 1986.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions after December 31,
 3 1997.

4 **SEC. 405. WAIVER OF 60-DAY ROLLOVER PERIOD.**

5 (a) IN GENERAL.—Section 402(c)(3) (relating to
 6 rules applicable to rollovers from exempt trusts) is amend-
 7 ed to read as follows:

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

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

16 “(B) HARDSHIP EXCEPTION.—The Sec-
 17 retary shall waive the 60-day requirement under
 18 subparagraph (A) under circumstances similar
 19 to the circumstances described in section
 20 6654(e)(3).”.

21 (b) CONFORMING AMENDMENT.—Section 408(d)(3)
 22 (relating to rollover contribution) is amended by adding
 23 at the end the following:

24 “(H) HARDSHIP EXCEPTION.—The Sec-
 25 retary shall waive the 60-day requirement under

1 subparagraph (A) under rules similar to the
2 rules described in section 6654(e)(3).”.

3 (c) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to rollover contributions made
5 after December 31, 1997.

6 **SEC. 406. TREATMENT OF TRANSFERS BETWEEN DEFINED**
7 **CONTRIBUTION PLANS.**

8 (a) AMENDMENT TO 1986 CODE.—Section 411(d)(6)
9 (relating to accrued benefit not to be decreased by amend-
10 ment) is amended by adding at the end the following:

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

20 “(i) the forms of distribution pre-
21 viously available under the transferor plan
22 applied to the account of a participant or
23 beneficiary under the transferor plan that
24 was transferred from the transferor plan to
25 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) AMENDMENT TO ERISA.—Section 204(g) of the
5 Employee Retirement Income Security Act of 1974 (29
6 U.S.C. 1054(g)) is amended by adding at the end the fol-
7 lowing:

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 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to transfers after December 31,
23 1997.

1 **TITLE V—PENSION SECURITY**
2 **Subtitle A—Economically Targeted**
3 **Investments**

4 **SEC. 501. SENSE OF CONGRESS.**

5 It is the sense of Congress that economically targeted
6 investments (as defined in section 502(c)(1) of this Act)
7 violate sections 403 and 404 of the Employee Retirement
8 Income Security Act of 1974 (29 U.S.C. 1103 and 1104)
9 because such investments violate the principle of undivided
10 loyalty that a fiduciary owes to employee benefit plan par-
11 ticipants and beneficiaries and are made with the intent
12 to benefit persons other than plan participants and bene-
13 ficiaries and to serve interests other than those of plan
14 participants and beneficiaries.

15 **SEC. 502. PROHIBITIONS ON DEPARTMENT OF LABOR RE-**
16 **GARDING ECONOMICALLY TARGETED IN-**
17 **VESTMENTS.**

18 (a) IN GENERAL.—With respect to the investment by
19 employee benefit plans of plan assets (and the interpreta-
20 tions and decisions by the Department of Labor regarding
21 investment by such plans of plan assets), the application
22 of sections 403 and 404 of the Employee Retirement In-
23 come Security Act of 1974 (29 U.S.C. 1103 and 1104)
24 shall be determined—

1 (1) without regard to Interpretive Bulletin 94–
2 1, issued by the Secretary of Labor on June 23,
3 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–1),
4 and without regard to any other regulation, interpre-
5 tive bulletin, advisory opinion, information letter, or
6 other determination reaching the same result as, or
7 a result similar to, the result set forth in such Inter-
8 pretive Bulletin, and

9 (2) with full regard to sections 403 and 404 of
10 such Act.

11 (b) RESTRICTIONS ON ACTIVITIES OF THE DEPART-
12 MENT OF LABOR.—No officer or employee of the Depart-
13 ment of Labor may travel, lecture, or otherwise expend
14 resources available to such Department for the purpose
15 of promoting, directly or indirectly, economically targeted
16 investments.

17 (c) DEFINITIONS.—For purposes of this section and
18 section 501:

19 (1) ECONOMICALLY TARGETED INVESTMENT.—
20 The term “economically targeted investment” has
21 the meaning given such term in Interpretive Bulletin
22 94–1, as issued by the Secretary of Labor on June
23 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–
24 1).

1 (2) EMPLOYEE BENEFIT PLAN.—The term
 2 “employee benefit plan” means an employee benefit
 3 plan within the meaning of section 3(3) of the Em-
 4 ployee Retirement Income Security Act of 1974 (29
 5 U.S.C. 1002(3)) which is covered under section 4 of
 6 such Act (29 U.S.C. 1003).

7 **SEC. 503. PROHIBITION ON ESTABLISHING OR MAINTAIN-**
 8 **ING ANY CLEARINGHOUSE OR OTHER**
 9 **DATABASE RELATING TO ECONOMICALLY**
 10 **TARGETED INVESTMENTS.**

11 (a) IN GENERAL.—Part 5 of subtitle B of title I of
 12 the Employee Retirement Income Security Act of 1974
 13 (29 U.S.C. 1131 et seq.) is amended by adding at the end
 14 the following:

15 “PROHIBITION ON ESTABLISHING OR MAINTAINING ANY
 16 CLEARINGHOUSE OR OTHER DATABASE RELATING
 17 TO ECONOMICALLY TARGETED INVESTMENTS

18 “SEC. 516. (a) IN GENERAL.—No agency or instru-
 19 mentality of the Federal Government may establish or
 20 maintain, or contract with (or otherwise provide assistance
 21 to) any other party to establish or maintain, any clearing-
 22 house, database, or other listing—

23 “(1) for the purpose of making available to em-
 24 ployee benefit plans information on economically tar-
 25 geted investments,

1 “(2) for the purpose of encouraging, or provid-
 2 ing assistance to, employee benefit plans or any
 3 other party related to an employee benefit plan to
 4 undertake or evaluate economically targeted invest-
 5 ments, or

6 “(3) for the purpose of identifying economically
 7 targeted investments with respect to which such
 8 agency or instrumentality will withhold from under-
 9 taking enforcement actions relating to employee ben-
 10 efit plans under any otherwise applicable authority
 11 of such agency or instrumentality.

12 “(b) ECONOMICALLY TARGETED INVESTMENT DE-
 13 FINED.—For purposes of this section, the term ‘economi-
 14 cally targeted investment’ has the meaning given such
 15 term in Interpretive Bulletin 94–1, as issued by the Sec-
 16 retary on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R.
 17 2509.94–1).”.

18 (b) CONFORMING AMENDMENT.—The table of con-
 19 tents in section 2 of such Act is amended by inserting at
 20 the end of the items relating to part 5 of subtitle B of
 21 title I the following:

“Sec. 516. Prohibition on establishing or maintaining any clearinghouse or
 other database relating to economically targeted investments.”.

22 **SEC. 504. TERMINATION OF CONTRACTS.**

23 The head of each agency and instrumentality of the
 24 Government of the United States shall immediately take

1 such actions as are necessary and appropriate to terminate
 2 any contract or other arrangement entered into by such
 3 agency or instrumentality which is in violation of the re-
 4 quirements of the provisions of this title or the amend-
 5 ments made thereby.

6 **SEC. 505. EFFECTIVE DATE.**

7 The provisions of this subtitle (and the amendments
 8 made thereby) shall take effect on the date of enactment
 9 of this Act.

10 **Subtitle B—Other Provisions**

11 **SEC. 511. MODIFICATION OF PROHIBITION OF ASSIGNMENT**
 12 **OR ALIENATION.**

13 (a) AMENDMENT TO ERISA.—Section 206(d) of the
 14 Employee Retirement Income Security Act of 1974 (29
 15 U.S.C. 1056(d)) is amended by adding at the end the fol-
 16 lowing:

17 “(4) Paragraph (1) shall not apply to any offset of
 18 a participant’s accrued benefit in an employee pension
 19 benefit plan against an amount that the participant is or-
 20 dered or required to pay to the plan—

21 “(A) under a judgment of conviction for a
 22 crime involving such plan, or

23 “(B) under a civil judgment (including a con-
 24 sent order or decree) entered—

1 “(i) by a court in an action brought under
2 section 502(a) of this title, or

3 “(ii) pursuant to a settlement agreement
4 between the Secretary and the participant in
5 connection with a violation (or alleged violation)
6 of part 4 of this title by a fiduciary or any
7 other person,

8 if the judgment, order, decree, or settlement agree-
9 ment expressly provides for the offset of all or part
10 of the amount ordered or required to be paid to the
11 plan against the participant’s accrued benefit in the
12 plan.”.

13 (b) AMENDMENT TO 1986 CODE.—Section
14 401(a)(13) (relating to assignment and alienation) is
15 made by adding at the end the following:

16 “(C) SPECIAL RULE FOR CERTAIN JUDG-
17 MENTS AND SETTLEMENTS.—Subparagraph (A)
18 shall not apply to any offset of a participant’s
19 accrued benefit in an employee pension benefit
20 plan against an amount that the participant is
21 ordered or required to pay to the plan—

22 “(i) under a judgment of conviction
23 for a crime involving such plan, or

24 “(ii) under a civil judgment (including
25 a consent order or decree) entered—

1 “(I) by a court in an action
 2 brought under section 502(a) of the
 3 Employee Retirement Income Security
 4 Act of 1974, or

5 “(II) pursuant to a settlement
 6 agreement between the Secretary of
 7 Labor and the participant in connec-
 8 tion with a violation (or alleged viola-
 9 tion) of part 4 of title I of such Act
 10 by a fiduciary or any other person,
 11 if the judgment, order, decree or settlement
 12 agreement expressly provides for the offset of
 13 all or part of the amount ordered or required
 14 to be paid to the plan against the participant’s
 15 accrued benefit in the plan.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall take effect on the date of enactment of
 18 this Act.

19 **SEC. 512. INCREASE IN CURRENT LIABILITY FUNDING**
 20 **LIMIT.**

21 (a) IN GENERAL.—

22 (1) AMENDMENT TO 1986 CODE.—Section
 23 412(c)(7) (relating to full-funding limitation) is
 24 amended—

1 (A) by striking “150 percent” in subpara-
 2 graph (A)(i)(I) and inserting “the applicable
 3 percentage”, and

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

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

“In the case of any plan year beginning in—	
1999 or 2000	155
2001 or 2002	160
2003 or 2004	165
2005 or 2006	170
2007 and succeeding years	175.”.

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

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

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

16 “(F) APPLICABLE PERCENTAGE.—For purposes
 17 of subparagraph (A)(i)(I), the applicable percentage
 18 shall be determined in accordance with the following
 19 table:

“In the case of any plan year beginning in—	
1999 or 2000	155
2001 or 2002	160
2003 or 2004	165

“In the case of any plan year The applicable percentage is— beginning in—	
2005 or 2006	170
2007 and succeeding years	175.”.

1 (b) SPECIAL AMORTIZATION RULE.—

2 (1) AMENDMENT TO 1986 CODE.—Section
3 412(b)(2) is amended by striking “and” at the end
4 of subparagraph (C), by striking the period at the
5 end of subparagraph (D) and inserting “, and”, and
6 by inserting after subparagraph (D) the following:

7 “(E) the amount necessary to amortize in
8 equal annual installments (until fully amor-
9 tized) over a period of 20 years the contribu-
10 tions which would be required to be made under
11 the plan but for the provisions of subsection
12 (c)(7)(A)(i)(I).”.

13 (2) AMENDMENT TO ERISA.—Section 302(b)(2)
14 of the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1082(b)(2)) is amended by striking
16 “and” at the end of subparagraph (C), by striking
17 the period at the end of subparagraph (D) and in-
18 serting “, and”, and by inserting after subparagraph
19 (D) the following:

20 “(E) the amount necessary to amortize in equal
21 annual installments (until fully amortized) over a pe-
22 riod of 20 years the contributions which would be re-

quired to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).”.

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding “and” at the end of clause (i), by striking “, and” at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding “and” at the end of clause (i), by striking “, and” at the end of clause (ii) and inserting a period, and by striking clause (iii).

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan’s first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraph (1)) over the 20-year period beginning

with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (2)) for plan years beginning before 1999.

(c) MAXIMUM CONTRIBUTION DEDUCTION RULES MODIFIED AND APPLIED TO ALL DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 404(a)(1)(D) (relating to special rule in case of certain plans) is amended—

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

(B) by striking “unfunded current liability determined under section 412(l)” and inserting “termination liability (determined under section 4041(b)(2)(A)(i)(II) of the Employee Retirement Income Security Act of 1974 as if the proposed termination date were the last day of the plan year)”, and

(C) by inserting after the first sentence the following: “For purposes of this subparagraph, in the case of a plan which has less than 100

participants for the plan year, termination liability shall not include the liability attributable to benefit increases for highly compensated employees (as defined in section 414(q)) brought about by plan amendment within the last 2 years before the termination date.”.

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

**SEC. 513. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT
LOSS OF DIVIDEND DEDUCTION.**

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

“(iii) is, at the election of such participants or their beneficiaries—

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

“(II) paid to the plan and reinvested in qualifying employee securities, or”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1997.

4 **TITLE VI—SIMPLIFICATION OF**
5 **PLAN REQUIREMENTS**

6 **SEC. 601. NEW TECHNOLOGIES IN RETIREMENT PLANS.**

7 (a) IN GENERAL.—Not later than July 1, 1998, the
8 Secretary of the Treasury and the Secretary of Labor shall
9 issue coordinated guidance which is designed to—

10 (1) modify notice, election, consent, record-
11 keeping, reporting, and other operational and time
12 requirements applicable to retirement plans in order
13 to permit the use of new technologies by plan spon-
14 sors and administrators while maintaining the pro-
15 tection of the rights of participants and bene-
16 ficiaries, and

17 (2) clarify the extent to which State laws re-
18 quiring paper transactions with respect to retirement
19 plans are preempted and the extent to which writing
20 requirements under the Internal Revenue Code of
21 1986 shall be interpreted to permit paperless trans-
22 actions.

23 (b) APPLICABILITY OF FINAL REGULATIONS.—With
24 respect to the guidance regarding new technologies de-
25 scribed in subsection (a), plan sponsors and administra-

1 tors may operate retirement plans in accordance with a
 2 reasonable, good faith interpretation of the law until the
 3 first plan year beginning at least 6 months after the issu-
 4 ance of final regulations applicable to such guidance.

5 **SEC. 602. MODIFICATIONS TO NONDISCRIMINATION AND**
 6 **MINIMUM PARTICIPATION RULES WITH RE-**
 7 **SPECT TO GOVERNMENTAL PLANS.**

8 (a) GENERAL NONDISCRIMINATION AND PARTICIPA-
 9 TION RULES.—

10 (1) NONDISCRIMINATION REQUIREMENTS.—

11 Section 401(a)(5) (relating to qualified pension,
 12 profit-sharing, and stock bonus plans) is amended by
 13 adding at the end the following:

14 “(G) GOVERNMENTAL PLANS.—Para-
 15 graphs (3) and (4) shall not apply to a govern-
 16 mental plan (within the meaning of section
 17 414(d)).”.

18 (2) ADDITIONAL PARTICIPATION REQUIRE-
 19 MENTS.—Section 401(a)(26)(H) (relating to addi-
 20 tional participation requirements) is amended to
 21 read as follows:

22 “(H) EXCEPTION FOR GOVERNMENTAL
 23 PLANS.—This paragraph shall not apply to a
 24 governmental plan (within the meaning of sec-
 25 tion 414(d)).”.

1 (3) MINIMUM PARTICIPATION STANDARDS.—

2 Section 410(c)(2) (relating to application of partici-
3 pation standards to certain plans) is amended to
4 read as follows:

5 “(2) A plan described in paragraph (1) shall be
6 treated as meeting the requirements of this section
7 for purposes of section 401(a), except that in the
8 case of a plan described in subparagraph (B), (C),
9 or (D) of paragraph (1), this paragraph shall only
10 apply if such plan meets the requirements of section
11 401(a)(3) (as in effect on September 1, 1974).”.

12 (b) PARTICIPATION STANDARDS FOR QUALIFIED
13 CASH OR DEFERRED ARRANGEMENTS.—Section
14 401(k)(3) (relating to application of participation and dis-
15 crimination standards) is amended by adding at the end
16 the following:

17 “(G)(i) The requirements of subparagraph
18 (A)(i) and (C) shall not apply to a govern-
19 mental plan (within the meaning of section
20 414(d)).

21 “(ii) The requirements of subsection
22 (m)(2) (without regard to subsection (a)(4))
23 shall apply to any matching contribution of a
24 governmental plan (as so defined).”.

1 (c) NONDISCRIMINATION RULES FOR SECTION
 2 403(b) PLANS.—Section 403(b)(12) (relating to non-
 3 discrimination requirements) is amended by adding at the
 4 end the following:

5 “(C) GOVERNMENTAL PLANS.—For pur-
 6 poses of paragraph (1)(D), the requirements of
 7 subparagraph (A)(i) shall not apply to a gov-
 8 ernmental plan (within the meaning of section
 9 414(d)).”.

10 (d) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
 12 this section shall apply to taxable years beginning on
 13 or after the date of enactment of this Act.

14 (2) TREATMENT FOR YEARS BEGINNING BE-
 15 FORE DATE OF ENACTMENT.—A governmental plan
 16 (within the meaning of section 414(d) of the Inter-
 17 nal Revenue Code of 1986) shall be treated as satis-
 18 fying the requirements of sections 401(a)(3),
 19 401(a)(4), 401(a)(26), 401(k), 401(m), 403
 20 (b)(1)(D) and (b)(12), and 410 of such Code for all
 21 taxable years beginning before the date of enactment
 22 of this Act.

1 **SEC. 603. ELIMINATION OF REQUIREMENT FOR PLAN DE-**
 2 **SCRIPTIONS AND THE FILING REQUIREMENT**
 3 **FOR SUMMARY PLAN DESCRIPTIONS AND DE-**
 4 **SCRIPTIONS OF MATERIAL MODIFICATIONS**
 5 **TO A PLAN; TECHNICAL CORRECTIONS.**

6 (a) FILING REQUIREMENTS.—Section 101(b) of the
 7 Employee Retirement Income Security Act of 1974 (29
 8 U.S.C. 1021(b)) is amended by striking paragraphs (1),
 9 (2), and (3) and by redesignating paragraphs (4) and (5)
 10 as paragraphs (1) and (2), respectively.

11 (b) PLAN DESCRIPTION.—

12 (1) IN GENERAL.—Section 102(a) of the Em-
 13 ployee Retirement Income Security Act of 1974 (29
 14 U.S.C. 1022(a)) is amended—

15 (A) by striking paragraph (2), and

16 (B) by striking “(a)(1)” and inserting
 17 “(a)”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 102(b) of such Act (29 U.S.C.
 20 1022(b)) is amended by striking “The plan de-
 21 scription and summary plan description shall
 22 contain” and inserting “The summary plan de-
 23 scription shall contain”.

24 (B) The heading for section 102 of such
 25 Act is amended by striking “PLAN DESCRIPTION
 26 AND”.

1 (c) FURNISHING OF REPORTS.—

2 (1) IN GENERAL.—Section 104(a)(1) of the
3 Employee Retirement Income Security Act of 1974
4 (29 U.S.C. 1024(a)(1)) is amended to read as fol-
5 lows:

6 “SEC. 104. (a)(1) The administrator of any employee
7 benefit plan subject to this part shall file with the Sec-
8 retary the annual report for a plan year within 210 days
9 after the close of such year (or within such time as may
10 be required by regulations promulgated by the Secretary
11 in order to reduce duplicative filing). The Secretary shall
12 make copies of such annual reports available for inspection
13 in the public document room of the Department of
14 Labor.”.

15 (2) SECRETARY MAY REQUEST DOCUMENTS.—

16 (A) IN GENERAL.—Section 104(a) of such
17 Act (29 U.S.C. 1024(a)) is amended by adding
18 at the end the following:

19 “(6) The administrator of any employee benefit plan
20 subject to this part shall furnish to the Secretary, upon
21 request, any documents relating to the employee benefit
22 plan, including but not limited to, the latest summary plan
23 description (including any summaries of plan changes not
24 contained in the summary plan description), and the bar-
25 gaining agreement, trust agreement, contract, or other in-

1 strument under which the plan is established or oper-
 2 ated.”.

3 (B) PENALTY.—Section 502(c) of such Act
 4 (29 U.S.C. 1132(c)) is amended by redesignat-
 5 ing paragraph (6) as paragraph (7) and by in-
 6 serting after paragraph (5) the following:

7 “(6) If, within 30 days of a request by the Secretary
 8 to a plan administrator for documents under section
 9 104(a)(6), the plan administrator fails to furnish the ma-
 10 terial requested to the Secretary, the Secretary may assess
 11 a civil penalty against the plan administrator of up to
 12 \$100 a day from the date of such failure (but in no event
 13 in excess of \$1,000 per request). No penalty shall be im-
 14 posed under this paragraph for any failure resulting from
 15 matters reasonably beyond the control of the plan admin-
 16 istrator.”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 104(b)(1) of the Employee Retire-
 19 ment Income Security Act of 1974 (29 U.S.C.
 20 1024(b)(1)) is amended by striking “section
 21 102(a)(1)” each place it appears and inserting “sec-
 22 tion 102(a)”.

23 (2) Section 104(b)(2) of such Act (29 U.S.C.
 24 1024(b)(2)) is amended by striking “the plan de-

1 scription and” and inserting “the latest updated
2 summary plan description and”.

3 (3) Section 104(b)(4) of such Act (29 U.S.C.
4 1024(b)(4)) is amended by striking “plan descrip-
5 tion”.

6 (4) Section 106(a) of such Act (29 U.S.C.
7 1026(a)) is amended by striking “descriptions,”.

8 (5) Section 107 of such Act (29 U.S.C. 1027)
9 is amended by striking “description or”.

10 (6) Paragraph (2)(B) of section 108 of such
11 Act (29 U.S.C. 1028) is amended to read as follows:
12 “(B) after publishing or filing the annual reports,”.

13 (7) Section 502(a)(6) of such Act (29 U.S.C.
14 1132(a)(6)) is amended by striking “or (5)” and in-
15 serting “(5), or (6)”.

16 (e) TECHNICAL CORRECTION.—Section 1144(c) of
17 the Social Security Act (42 U.S.C. 1320b–14(c)) is
18 amended by redesignating paragraph (9) as paragraph
19 (8).

20 **SEC. 604. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE**
21 **TO CONFORM TO 415 MODIFICATIONS.**

22 (a) IN GENERAL.—The Secretary of the Treasury
23 shall modify the regulations regarding the exclusion allow-
24 ance under section 403(b)(2) of the Internal Revenue
25 Code of 1986 to reflect the amendments made by sections

1 1434 and 1452(a) of the Small Business Job Protection
 2 Act of 1996. Such modifications shall take effect for years
 3 beginning after December 31, 1997, and for limitation
 4 years beginning after December 31, 1999, respectively.

5 (b) CERTAIN DEFERRALS INCLUDED IN COMPENSA-
 6 TION.—

7 (1) IN GENERAL.—Section 403(b)(3) (defining
 8 compensation) is amended by striking the last sen-
 9 tence and inserting the following: “Such term in-
 10 cludes, at the option of the employer, any elective
 11 deferral (as defined in section 402(g)(3)).”.

12 (2) EFFECTIVE DATE.—The amendment made
 13 by this subsection shall apply to years beginning
 14 after December 31, 1997.

15 **SEC. 605. MODIFICATION OF 10 PERCENT TAX FOR NON-**
 16 **DEDUCTIBLE CONTRIBUTIONS.**

17 (a) IN GENERAL.—Section 4972(c)(6)(B) (relating
 18 to exceptions) is amended to read as follows:

19 “(B) so much of the contributions to 1 or
 20 more defined contribution plans which are not
 21 deductible when contributed solely because of
 22 section 404(a)(7) as does not exceed the greater
 23 of—

24 “(i) the amount of contributions not
 25 in excess of 6 percent of compensation

1 (within the meaning of section 404(a))
 2 paid or accrued (during the taxable year
 3 for which the contributions were made) to
 4 beneficiaries under the plans, or

5 “(ii) the sum of—

6 “(I) the amount of contributions
 7 described in section 401(m)(4)(A),
 8 plus

9 “(II) the amount of contributions
 10 described in section 402(g)(3)(A).”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to taxable years beginning after
 13 December 31, 1996.

14 **TITLE VII—DATE FOR ADOPTION** 15 **OF PLAN AMENDMENTS**

16 **SEC. 701. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

17 (a) IN GENERAL.—Except as otherwise provided in
 18 this Act, if any provision of this Act requires an amend-
 19 ment of any type to any plan, such plan amendment shall
 20 not be required to be made before the last day of the first
 21 plan year beginning on or after January 1, 1999, if—

22 (1) during the period after such amendment
 23 takes effect and before the last day of such first
 24 plan year, the plan is operated in accordance with
 25 the requirements of such amendment, and

1 (2) such plan amendment applies retroactively
2 to such period.

3 A plan shall not be treated as failing to provide definitely
4 determinable benefits or contributions, or to be operated
5 in accordance with the provisions of the plan, merely be-
6 cause it operates in accordance with this subsection.

7 (b) GOVERNMENTAL PLANS.—In the case of a gov-
8 ernmental plan (as defined in section 414(d) of the Inter-
9 nal Revenue Code of 1986), subsection (a) shall be applied
10 by substituting for “January 1, 1999” the later of—

11 (1) January 1, 2000, or

12 (2) the date which is 90 days after the opening
13 of the first legislative session beginning after Janu-
14 ary 1, 2000, of the governing body with authority to
15 amend the plan, but only if such governing body
16 does not meet continuously.

17 (c) SPECIAL RULE FOR COLLECTIVELY BARGAINED
18 PLANS.—Notwithstanding any other provision of this Act,
19 in the case of a plan maintained pursuant to 1 or more
20 collective bargaining agreements between employee rep-
21 resentatives and 1 or more employers ratified on or before
22 the date of the enactment of this Act, any provision of
23 this Act which requires an amendment of any type to such
24 plan shall not be required to be made before the last day
25 of the first plan year beginning on or after the earlier of—

- 1 (1) the later of—
 - 2 (A) January 1, 1999, or
 - 3 (B) the date on which the last of such col-
 - 4 lective bargaining agreements terminates (de-
 - 5 termined without regard to any extension there-
 - 6 of after the date of the enactment of this Act),
 - 7 or
 - 8 (2) January 1, 2000.

○