

106TH CONGRESS
1ST SESSION

H. R. 1213

To amend the Internal Revenue Code of 1986 to promote expanded retirement savings.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 1999

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

A BILL

To amend the Internal Revenue Code of 1986 to promote expanded retirement savings.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Employee Pension Portability and Accountability Act of
6 1999”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—

- Sec. 1. Short title; amendment of 1986 Code.
- Sec. 2. Exclusion for payroll deduction contributions to IRAs.
- Sec. 3. Credit for pension plan startup costs of small employers.
- Sec. 4. Secure money annuity or retirement (SMART) trusts.
- Sec. 5. Faster vesting of employer matching contributions.
- Sec. 6. Pension right to know proposals.
- Sec. 7. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
- Sec. 8. Definition of highly compensated employees.
- Sec. 9. Treatment of multiemployer plans under section 415.
- Sec. 10. Full funding limitation for multiemployer plans.
- Sec. 11. Elimination of partial termination rules for multiemployer plans.
- Sec. 12. Allowance of rollovers from and to 403(b) plans.
- Sec. 13. Rollover contributions from deferred compensation plans of State and local governments.
- Sec. 14. Rollovers of IRAs into workplace retirement plans.
- Sec. 15. Rollovers of after-tax contributions.
- Sec. 16. Purchase of service credit in governmental defined benefit plans.
- Sec. 17. Modifications of joint and survivor annuity requirements.
- Sec. 18. Periods of family and medical leave treated as hours of service for pension participation and vesting.

6 **SEC. 2. EXCLUSION FOR PAYROLL DEDUCTION CONTRIBU-**
 7 **TIONS TO IRAS.**

8 (a) IN GENERAL.—Section 408 (relating to individual
 9 retirement accounts) is amended by redesignating sub-
 10 section (q) as subsection (r) and by inserting after sub-
 11 section (p) the following new subsection:

12 “(q) QUALIFIED PAYROLL DEDUCTION ARRANGE-
 13 MENT FOR IRA CONTRIBUTIONS.—

14 “(1) IN GENERAL.—For purposes of this title,
 15 the term ‘qualified payroll deduction arrangement’

1 means a written arrangement of an employer under
2 which—

3 “(A) an employee eligible to participate in
4 the arrangement may elect to have the employer
5 make payments—

6 “(i) to the employee directly in cash,
7 or

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

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

20 “(C) no other contributions may be made
21 other than contributions described in subpara-
22 graph (A),

23 “(D) the employee’s rights to any contribu-
24 tions made to an individual retirement plan are

1 nonforfeitable (for this purpose, rules similar to
2 the rules of subsection (k)(4) shall apply), and

3 “(E) the employer makes the elective em-
4 ployer contributions under subparagraph (A)
5 not later than the close of the 30-day period
6 following the last day of the month with respect
7 to which the contributions are to be made.

8 “(2) ELECTION NOT TO HAVE SUBSECTION
9 APPLY.—An employer that maintains an arrange-
10 ment otherwise described in paragraph (1) may elect
11 to have contributions treated as though they were
12 not made under such an arrangement. If an em-
13 ployer does not make an election described in the
14 preceding sentence, an employee may elect, before
15 any contributions are made for the calendar year, to
16 have contributions on behalf of the employee treated
17 as though they were not made under an arrange-
18 ment described in paragraph (1). An employer shall
19 be deemed to have made an election under this para-
20 graph for a year if the employer maintained a quali-
21 fied plan with respect to which contributions were
22 made or benefits were accrued for such year. For
23 purposes of the preceding sentence, the term ‘quali-
24 fied plan’ means a plan, contract, pension, or trust

1 described in subparagraph (A) or (B) of section
 2 219(g)(5).”.

3 (b) TAX TREATMENT OF EMPLOYER CONTRIBUTIONS
 4 MADE UNDER A QUALIFIED PAYROLL DEDUCTION AR-
 5 RANGEMENT.—

6 (1) COORDINATION WITH DEDUCTION UNDER
 7 SECTION 219.—

8 (A) Section 219(b) (relating to maximum
 9 amount of deduction) is amended by adding at
 10 the end the following new paragraph:

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

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

21 “(1) IN GENERAL.—If (for any part of any plan
 22 year ending with or within a taxable year) an indi-
 23 vidual is an active participant, each of the dollar
 24 limitations contained in subsections (b)(1)(A) and

1 (c)(1)(A) for such taxable year shall be reduced (but
 2 not below zero) by the sum of—

3 “(A) the amount determined under para-
 4 graph (2), and

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

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

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

22 (3) CONTRIBUTIONS AND DISTRIBUTIONS.—
 23 Section 402 (relating to taxability of beneficiary of
 24 employees’ trust) is amended by adding at the end
 25 the following new subsection:

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

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

23 “(22) for any payment made for the benefit of
24 the employee to an individual retirement plan if the

1 amount of such payment was deducted and withheld
 2 under section 408(q).”.

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

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

11 (e) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to remuneration paid after Decem-
 13 ber 31, 1999.

14 **SEC. 3. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
 15 **SMALL EMPLOYERS.**

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

20 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN STARTUP**
 21 **COSTS.**

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

1 of the qualified startup costs paid or incurred by the tax-
2 payer during the taxable year.

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

6 “(1) \$1,000 for the first credit year,

7 “(2) \$500 for each of the 2 taxable years imme-
8 diately following the first credit year, and

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

10 “(c) ELIGIBLE EMPLOYER.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘eligible em-
13 ployer’ has the meaning given such term by section
14 408(p)(2)(C)(i).

15 “(2) EMPLOYERS MAINTAINING QUALIFIED
16 PLANS DURING 1997 NOT ELIGIBLE.—Such term
17 shall not include an employer if such employer (or
18 any predecessor employer) maintained a qualified
19 plan (as defined in section 408(p)(2)(D)(ii)) with re-
20 spect to which contributions were made, or benefits
21 were accrued, for service in 1997. If only individuals
22 other than employees described in subparagraph (A)
23 or (B) of section 410(b)(3) are eligible to participate
24 in the qualified employer plan referred to in sub-
25 section (d)(1), then the preceding sentence shall be

1 applied without regard to any qualified plan in
2 which only employees so described are eligible to
3 participate.

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

6 “(1) QUALIFIED STARTUP COSTS.—

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

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

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

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

20 “(C) PLAN MUST BE ESTABLISHED BE-
21 FORE JANUARY 1, 2002.—Such term shall not
22 include any expense in connection with a plan
23 established after December 31, 2001.

24 “(2) ELIGIBLE EMPLOYER PLAN.—The term
25 ‘eligible employer plan’ means a qualified employer

1 plan within the meaning of section 4972(d), or a
2 qualified payroll deduction arrangement within the
3 meaning of section 408(q)(2). A qualified payroll de-
4 duction arrangement shall be treated as an eligible
5 employer plan only if all employees of the employer
6 who—

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

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

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

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

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

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

20 “(e) SPECIAL RULES.—For purposes of this
21 section—

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

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

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

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

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

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

22 (c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

1 **SEC. 4. SECURE MONEY ANNUITY OR RETIREMENT (SMART)**

2 **TRUSTS.**

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

6 **“SEC. 408B. SMART PLANS.**

7 “(a) EMPLOYER ELIGIBILITY.—

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

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

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

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

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 SIMPLE plan described in sec-
9 tion 408(p),

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

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

14 “(iv) a collectively bargained plan but
15 only if the employees eligible to participate
16 in such plan are not also entitled to a ben-
17 efit described in subsection (b)(5) or
18 (c)(5), or

19 “(v) a plan under which there may be
20 made only—

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

23 “(II) employer matching con-
24 tributions not in excess of the

1 amounts described in subclauses (I)
2 and (II) of section 401(k)(12)(B)(i).

3 “(b) SMART ANNUITY.—

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

11 “(A) such annuity meets the requirements
12 of paragraphs (2) through (7), and

13 “(B) the only contributions to such annu-
14 ity are employer contributions.

15 Nothing in this section shall be construed as pre-
16 venting an employer from using a group annuity
17 contract which is divisible into individual retirement
18 annuities for purposes of providing SMART annu-
19 ities.

20 “(2) PARTICIPATION REQUIREMENTS.—

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

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

4 “(ii) received at least \$5,000 in com-
5 pensation during the year,

6 are entitled to the benefit described in para-
7 graph (5) for such year.

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

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

16 “(4) BENEFIT FORM.—The requirements of
17 this paragraph are met if the only form of benefit
18 is—

19 “(A) a benefit payable annually in the
20 form of a single life annuity with monthly pay-
21 ments (with no ancillary benefits) beginning at
22 age 65, or

23 “(B) any other form of benefit which is the
24 actuarial equivalent (based on the assumptions

1 specified in the SMART annuity) of the benefit
2 described in subparagraph (A).

3 “(5) AMOUNT OF ANNUAL ACCRUED BEN-
4 EFIT.—

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

12 “(B) APPLICABLE PERCENTAGE.—For
13 purposes of this paragraph—

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

16 “(ii) ELECTION OF HIGHER PERCENT-
17 AGE.—An employer may elect to apply an
18 applicable percentage of 1 percent for any
19 year for all employees eligible to partici-
20 pate in the plan for such year, if the em-
21 ployer notifies the employees of such per-
22 centage within a reasonable period before
23 the beginning of such year. An employer
24 may also elect to apply an applicable per-
25 centage of 3 percent for any of the first 5

1 years that the plan is effective for all em-
2 ployees eligible to participate in the plan
3 for such year, if the employer so notifies
4 the employees.

5 “(C) COMPENSATION LIMIT.—

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

9 “(ii) COST-OF-LIVING ADJUSTMENT.—
10 The Secretary shall adjust annually the
11 \$100,000 amount in clause (i) for in-
12 creases in the cost-of-living at the same
13 time and in the same manner as adjust-
14 ments under section 415(d); except that
15 the base period shall be the calendar quar-
16 ter beginning October 1, 1999, and any in-
17 crease which is not a multiple of \$5,000
18 shall be rounded to the next lowest mul-
19 tiple of \$5,000.

20 “(6) FUNDING.—

21 “(A) IN GENERAL.—The requirements of
22 this paragraph are met only if the employer is
23 required to contribute to the annuity for each
24 plan year the amount necessary to purchase a
25 SMART annuity in the amount of the benefit

1 accrued for such year for each participant enti-
2 tled to such benefit. Such contribution must be
3 made no later than 8½ months after the end
4 of the plan year.

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

12 “(7) LIMITATION ON DISTRIBUTIONS.—

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

19 “(B) LIMITATION ON DISTRIBUTIONS ON
20 SEPARATION FROM SERVICE OF EMPLOYEES
21 WHO HAVE NOT ATTAINED AGE 65.—Subpara-
22 graph (A) shall apply to a distribution on sepa-
23 ration of service of an employee who has not at-
24 tained age 65 only if—

1 “(i) the aggregate cash value of an
2 employee’s SMART annuity does not ex-
3 ceed the dollar limit in effect under section
4 411(a)(11)(A), or

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

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

14 “(9) DEFINITIONS AND SPECIAL RULE.—

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

18 “(B) USE OF DESIGNATED FINANCIAL IN-
19 STITUTIONS.—A rule similar to the rule of sec-
20 tion 408(p)(7) (without regard to the last sen-
21 tence thereof) shall apply for purposes of this
22 subsection.

23 “(C) SMART ROLLOVER PLAN.—For pur-
24 poses of this section, the term ‘SMART rollover
25 plan’ means an individual retirement plan for

1 the benefit of the employee to which a rollover
2 was made from a SMART Annuity, SMART
3 trust, or another SMART Rollover plan.

4 “(c) SMART TRUST.—

5 “(1) IN GENERAL.—For purposes of this title,
6 the term ‘SMART 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) such plan meets the requirements of
11 paragraphs (2) through (8), and

12 “(C) the only contributions to such trust
13 are employer contributions.

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

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

21 “(4) BENEFIT FORM.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), a plan meets the require-
24 ments of this paragraph only if the trustee dis-
25 tributes a SMART annuity that satisfies sub-

1 section (b)(4) where the annual benefit de-
2 scribed in subsection (b)(4)(A) is no less than
3 the accrued benefit determined under para-
4 graph (5).

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

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

23 “(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 subparagraph
5 (A) of subsection (b)(6) are met for such
6 year,

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

15 “(iii) in the case of a plan which has
16 an unfunded prior year liability with re-
17 spect to the account of any participant as
18 of the close of such plan year, the plan re-
19 quires that the employer make an addi-
20 tional contribution to such plan for such
21 year equal to the amount of such unfunded
22 prior year liability no later than 8½
23 months following the end of the plan year.

24 “(B) UNFUNDED ANNUITY AMOUNT.—For
25 purposes of this paragraph, the term ‘unfunded

1 annuity amount’ means, with respect to the ac-
2 count of any participant for whom an annuity
3 is being purchased, the excess (if any) of—

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

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

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

15 “(i) the aggregate present value of the
16 participants’ accrued benefits under the
17 plan as of the close of the prior plan year,
18 over

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

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

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

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

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

12 “(iii) the assumed retirement age
13 shall be 65.

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

21 “(F) PENALTY FOR FAILURE TO MAKE RE-
22 QUIRED CONTRIBUTION.—The taxes imposed by
23 section 4971 shall apply to a failure to make
24 the contribution required by this paragraph in
25 the same manner as if the amount of the failure

1 were an accumulated funding deficiency to
2 which such section applies.

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

6 “(A) for an individual account for each
7 participant, and

8 “(B) for benefits based solely on—

9 “(i) the amount contributed to the
10 participant’s account,

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

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

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

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

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

8 “(1) Section 401(a)(4) (relating to non-
9 discrimination rules).

10 “(2) Section 401(a)(26) (relating to minimum
11 participation).

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

14 “(4) Section 411(b) (relating to accrued benefit
15 requirements).

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

18 (b) DEDUCTION RULES.—

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

22 “(o) SPECIAL RULES FOR SMART ANNUITIES AND
23 TRUSTS.—

24 “(1) IN GENERAL.—Employer contributions to
25 a SMART annuity shall be treated as if they are

1 made to a plan described in paragraph (1) of sub-
 2 section (a).

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

9 (2) COORDINATION WITH DEDUCTION UNDER
 10 SECTION 219.—

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

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

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

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

23 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—

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

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

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

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

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

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

20 (B) Section 301(a) of Employee Retirement In-
21 come Security Act of 1974 (29 U.S.C. 1081) is
22 amended by striking “or” at the end of paragraph
23 (9), by striking the period at the end of paragraph
24 (10) and inserting “; or”, and by adding at the end
25 the following new paragraph:

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

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

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

13 (d) INCREASED PENALTY ON EARLY WITH-
14 DRAWALS.—Section 72(t) (relating to additional tax on
15 early distributions) is amended by adding at the end the
16 following new paragraph:

17 “(9) SPECIAL RULES FOR SMART ANNUITIES
18 AND TRUSTS.—In the case of any amount received
19 from a SMART annuity, a SMART trust, or a
20 SMART rollover plan (within the meaning of section
21 408B), paragraph (1) shall be applied by sub-
22 stituting ‘20 percent’ for ‘10 percent’ and paragraph
23 (2) shall be applied by substituting ‘age 65’ for ‘age
24 59½’.”

25 (e) SIMPLIFIED EMPLOYER REPORTS.—

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

4 “(3) SMART ANNUITIES.—

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

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

13 “(i) the name and address of the em-
14 ployer,

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

16 “(iii) the number of employees of the
17 employer,

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

20 “(v) the total amount contributed by
21 the employer to each such annuity for such
22 year and the minimum amount required
23 under section 408B to be so contributed,

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

1 “(vii) the name of the issuer,

2 “(viii) the employer identification
3 number,

4 “(ix) the name of the plan, and

5 “(x) the date of the contribution.

6 “(C) REPORTING BY ISSUER OF SMART AN-
7 NUITY.—

8 “(i) IN GENERAL.—The issuer of each
9 SMART annuity shall provide to the owner
10 of the annuity for each year a statement
11 setting forth as of the close of such year—

12 “(I) the benefits guaranteed at
13 age 65 under the annuity, and

14 “(II) the cash surrender value of
15 the annuity.

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

21 “(I) The name and address of
22 the employer and the issuer.

23 “(II) The requirements for eligi-
24 bility for participation.

1 “(III) The benefits provided with
2 respect to the annuity.

3 “(IV) The procedures for, and ef-
4 fects of, withdrawals (including roll-
5 overs) from the annuity.

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

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

16 “(c) SMART TRUSTS.—In the case of a SMART
17 trust (within the meaning of section 408B), the Secretary
18 shall require a simplified actuarial report which
19 contains—

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

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

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

1 “(4) the amounts transferred to SMART roll-
2 over plans, and

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

5 (f) CONFORMING AMENDMENTS.—

6 (1) Subparagraph (A) of section 219(g)(5) is
7 amended by striking “or” at the end of clause (v)
8 and by inserting after clause (vi) the following new
9 clause:

10 “(vii) any SMART trust or SMART
11 annuity (within the meaning of section
12 408B), or”.

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

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

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

23 (4) Section 4972(d)(1)(A) is amended by strik-
24 ing “and” at the end of clause (iii), by striking the
25 period at the end of clause (iv) and inserting “,

1 and”, and by adding after clause (iv) the following
2 new clause:

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

5 (g) REPORTING REQUIREMENTS UNDER ERISA.—

6 Section 101 of the Employee Retirement Income Security
7 Act of 1974 (29 U.S.C. 1021) is amended by redesignig-
8 nating subsection (h) as subsection (i) and by inserting
9 after subsection (g) the following new subsection:

10 “(h) SMART ANNUITIES.—

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

16 “(2) SUMMARY DESCRIPTION.—The issuer of
17 any SMART annuity shall provide to the employer
18 maintaining the annuity for each year a description
19 containing the following information:

20 “(A) The name and address of the em-
21 ployer and the issuer.

22 “(B) The requirements for eligibility for
23 participation.

24 “(C) The benefits provided with respect to
25 the annuity.

1 “(D) The procedures for, and effects of,
2 withdrawals (including rollovers) from the an-
3 nuity.”

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

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

14 (1) by inserting “not described in clause (iv)”
15 after “in the case of a single-employer plan” in
16 clause (i),

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

19 (3) by inserting after clause (iii) the following
20 new clause:

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

1 (i) CLERICAL AMENDMENT.—The table of sections
 2 for subpart A of part I of subchapter D of chapter 1 is
 3 amended by inserting after the item relating to section
 4 408A the following new item:

“Sec. 408B. SMART plans.”

5 (j) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to years beginning after December
 7 31, 1999.

8 **SEC. 5. FASTER VESTING OF EMPLOYER MATCHING CON-**
 9 **TRIBUTIONS.**

10 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
 11 Paragraph (2) of section 411(a) (relating to employer con-
 12 tributions) is amended—

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

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

17 “(C) MATCHING CONTRIBUTIONS.—In the
 18 case of a plan that includes an accrued benefit
 19 derived from matching contributions (as defined
 20 in section 401(m)(4)(A)), the plan satisfies the
 21 requirements of this subparagraph if—

22 “(i) if an employee who has completed
 23 at least 3 years of service has a nonforfeit-
 24 able right to 100 percent of the employee’s

1 accrued benefit derived from such match-
 2 ing contributions, or

3 “(ii) an employee has a nonforfeitable
 4 right to a percentage of the employee’s ac-
 5 crued benefit derived from employer
 6 matching contributions (as so defined) de-
 7 termined under the following table:

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

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

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

13 (2) by adding at the end the following new sub-
 14 paragraph:

15 “(C) MATCHING CONTRIBUTIONS.—In the
 16 case of a plan that includes an accrued benefit
 17 derived from matching contributions (as defined
 18 in section 401(m)(4)(A) of the Internal Rev-
 19 enue Code of 1986), the plan satisfies the re-
 20 quirements of this subparagraph if—

21 “(i) if an employee who has completed
 22 at least 3 years of service has a nonforfeit-

1 able right to 100 percent of the employee’s
 2 accrued benefit derived from such match-
 3 ing contributions, or

4 “(ii) an employee has a nonforfeitable
 5 right to a percentage of the employee’s ac-
 6 crued benefit derived from employer
 7 matching contributions (as so defined) de-
 8 termined under the following table:

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

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-
 11 graphs (2) and (3), the amendments made by this
 12 section shall apply to plan years beginning after De-
 13 cember 31, 1999.

14 (2) APPLICATION TO CURRENT EMPLOYEES.—
 15 The amendments made by this section shall not
 16 apply to any employee who does not have at least 1
 17 hour of service in any plan year beginning after De-
 18 cember 31, 1999.

19 (3) COLLECTIVE BARGAINING AGREEMENTS.—
 20 In the case of a plan maintained pursuant to 1 or
 21 more collective bargaining agreements between em-
 22 ployee representatives and 1 or more employers rati-

1 fied by the date of the enactment of this Act, the
 2 amendments made by this section shall not apply to
 3 employees covered by any such agreement in plan
 4 years beginning before the earlier of—

5 (A) the later of—

6 (i) the date on which the last of such
 7 collective bargaining agreements termi-
 8 nates (determined without regard to any
 9 extension thereof on or after such date of
 10 enactment), or

11 (ii) January 1, 1999, or

12 (B) January 1, 2004.

13 **SEC. 6. PENSION RIGHT TO KNOW PROPOSALS.**

14 (a) SPOUSE’S RIGHT TO KNOW DISTRIBUTION IN-
 15 FORMATION.—

16 (1) AMENDMENT OF INTERNAL REVENUE
 17 CODE.—Paragraph (3) of section 417(a) (relating to
 18 definitions and special rules for purposes of min-
 19 imum survivor annuity requirements) is amended by
 20 adding at the end the following new subparagraph:

21 “(C) EXPLANATION TO SPOUSE.—At the
 22 time a plan provides a participant with a writ-
 23 ten explanation under subparagraph (A) or (B),
 24 such plan shall provide a copy of such expla-
 25 nation to such participant’s spouse. If the last

1 known address of the spouse is the same as the
 2 last known address of the participant, the re-
 3 quirement of the preceding sentence shall be
 4 treated as met if the copy referred to in the
 5 preceding sentence is included in a single mail-
 6 ing made to such address and addressed to both
 7 such participant and spouse.”.

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

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

24 (b) EMPLOYEE’S RIGHT TO KNOW OF OPPORTUNITY
 25 FOR ELECTIVE CONTRIBUTIONS UNDER 401(k) PLANS.—

1 Subparagraph (D) of section 401(k)(12) (relating to no-
 2 tice requirements) is amended—

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

6 (2) by adding at the end the following new
 7 flush sentence:

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

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to years beginning after December
 12 31, 1999.

13 **SEC. 7. NONDISCRIMINATION RULES FOR QUALIFIED CASH**
 14 **OR DEFERRED ARRANGEMENTS AND MATCH-**
 15 **ING CONTRIBUTIONS.**

16 (a) ALTERNATIVE METHODS OF SATISFYING SEC-
 17 TION 401(k) NONDISCRIMINATION TESTS.—Subpara-
 18 graph (B) of section 401(k)(12) (relating to alternative
 19 methods of meeting nondiscrimination requirements) is
 20 amended to read as follows:

21 “(B) NONELECTIVE AND MATCHING CON-
 22 TRIBUTIONS.—

23 “(i) IN GENERAL.—The requirements
 24 of this subparagraph are met if the re-
 25 quirements of clauses (ii) and (iii) are met.

1 “(ii) NONELECTIVE CONTRIBU-
2 TIONS.—The requirements of this clause
3 are met if, under the arrangement, the em-
4 ployer is required, without regard to
5 whether the employee makes an elective
6 contribution or employee contribution, to
7 make a contribution to a defined contribu-
8 tion plan on behalf of each employee who
9 is not a highly compensated employee and
10 who is eligible to participate in the ar-
11 rangement in an amount equal to at least
12 1 percent of the employee’s compensation.

13 “(iii) MATCHING CONTRIBUTIONS.—
14 The requirements of this clause are met if,
15 under the arrangement, the employer
16 makes matching contributions on behalf of
17 each employee who is not a highly com-
18 pensated employee in an amount equal
19 to—

20 “(I) 100 percent of the elective
21 contributions of the employee to the
22 extent such elective contributions do
23 not exceed 3 percent of the employee’s
24 compensation, and

1 “(II) 50 percent of the elective
2 contributions of the employee to the
3 extent that such elective contributions
4 exceed 3 percent but do not exceed 5
5 percent of the employee’s compensa-
6 tion.

7 “(iv) RATE FOR HIGHLY COM-
8 PENSATED EMPLOYEES.—The require-
9 ments of clause (iii) are not met if, under
10 the arrangement, the rate of matching con-
11 tribution with respect to any rate of elec-
12 tive contribution of a highly compensated
13 employee is greater than that with respect
14 to an employee who is not a highly com-
15 pensated employee. For purposes of this
16 clause, to the extent provided in regula-
17 tions, the last sentences of paragraph
18 (3)(A) and subsection (m)(2)(B) shall not
19 apply.

20 “(v) ALTERNATIVE PLAN DESIGNS.—
21 If the rate of matching contribution with
22 respect to any rate of elective contribution
23 is not equal to the percentage required
24 under clause (iii), an arrangement shall

1 not be treated as failing to meet the re-
 2 quirements of clause (iii) if—

3 “(I) the rate of an employer’s
 4 matching contribution does not in-
 5 crease as an employee’s rate of elec-
 6 tive contribution increase, and

7 “(II) the aggregate amount of
 8 matching contributions at such rate of
 9 elective contribution is at least equal
 10 to the aggregate amount of matching
 11 contributions which would be made if
 12 matching contributions were made on
 13 the basis of the percentages described
 14 in clause (iii).”

15 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
 16 TION 401(m) NONDISCRIMINATION TESTS.—Section
 17 401(m)(11) (relating to alternative method of satisfying
 18 tests) is amended by adding at the end of subparagraph
 19 (B) the following new flush sentence:

20 “To the extent provided in regulations, the last
 21 sentences of paragraph (2)(B) and subsection
 22 (k)(3)(A) shall not apply for purposes of clause
 23 (iii).”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to years beginning after December
 3 31, 1999.

4 **SEC. 8. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
 5 **EES.**

6 (a) IN GENERAL.—Subparagraph (B) of section
 7 414(q)(1) (defining highly compensated employee) is
 8 amended to read as follows:

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

11 (b) CONFORMING AMENDMENTS.—

12 (1)(A) Subsection (q) of section 414 is amended
 13 by striking paragraphs (3), (5), and (7) and by re-
 14 designating paragraphs (4), (6), (8), and (9) as
 15 paragraphs (3) through (6), respectively.

16 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
 17 408(k)(2)(C), and 416(i)(1)(D) are each amended
 18 by striking “section 414(q)(4)” and inserting “sec-
 19 tion 414(q)(3)”.

20 (C) Section 416(i)(1)(A) is amended by striking
 21 “section 414(q)(5)” and inserting “section
 22 414(r)(9)”.

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

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

4 “(A) Employees who have not completed 6
5 months of service.

6 “(B) Employees who normally work less
7 than 17½ hours per week.

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

10 “(D) Employees who have not attained the
11 age of 21.

12 “(E) Except to the extent provided in reg-
13 ulations, employees who are included in a unit
14 of employees covered by an agreement which
15 the Secretary of Labor finds to be a collective
16 bargaining agreement between employee rep-
17 resentatives and the employer.”.

18 (B) Subparagraph (A) of section 414(r)(2) is
19 amended by striking “subsection (q)(5)” and insert-
20 ing “paragraph (9)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 1999.

1 **SEC. 9. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
2 **SECTION 415.**

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

6 “(11) **SPECIAL LIMITATION RULE FOR GOVERN-**
7 **MENTAL AND MULTIEMPLOYER PLANS.**—In the case
8 of a governmental plan (as defined in section
9 414(d)) or a multiemployer plan (as defined in sec-
10 tion 414(f)), subparagraph (B) of paragraph (1)
11 shall not apply.”.

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

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

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

20 (3) by inserting “AND MULTIEMPLOYER” after
21 “GOVERNMENTAL” in the heading.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to years beginning after December
24 31, 1999.

1 **SEC. 10. FULL FUNDING LIMITATION FOR MULTIEMPLOYER**
 2 **PLANS.**

3 (a) AMENDMENTS TO CODE.—

4 (1) FULL FUNDING LIMITATION.—Section
 5 412(c)(7)(C) (relating to full funding limitation) is
 6 amended—

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

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

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

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

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

18 (b) AMENDMENTS TO ERISA.—

19 (1) FULL FUNDING LIMITATION.—Section
 20 302(c)(7)(C) of the Employee Retirement Income
 21 Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is
 22 amended—

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

1 (B) by inserting “AND MULTIEMPLOYER
2 PLANS” after “PARAGRAPH (6)(B)” in the head-
3 ing thereof.

4 (2) VALUATION.—Section 302(c)(9) of such Act
5 (29 U.S.C. 1082(c)(9)) is amended—

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

8 (B) by striking “ANNUAL VALUATION” in
9 the heading and inserting “VALUATION”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to plan years beginning after De-
12 cember 31, 1999.

13 **SEC. 11. ELIMINATION OF PARTIAL TERMINATION RULES**
14 **FOR MULTIEMPLOYER PLANS.**

15 (a) PARTIAL TERMINATION RULES FOR MULTIEM-
16 PLOYER PLANS.—Section 411(d)(3) (relating to termi-
17 nation or partial termination; discontinuance of contribu-
18 tions) is amended by adding at the end the following new
19 sentence: “This paragraph shall not apply in the case of
20 a partial termination of a multiemployer plan.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to partial terminations beginning
23 after December 31, 1999.

1 **SEC. 12. ALLOWANCE OF ROLLOVERS FROM AND TO 403(b)**
 2 **PLANS.**

3 (a) ROLLOVERS FROM SECTION 403(b) PLANS.—
 4 Section 403(b)(8)(A)(ii) (relating to rollover amounts) is
 5 amended by striking “such distribution” and all that fol-
 6 lows and inserting “such distribution to an eligible retire-
 7 ment plan described in section 402(c)(8)(B), and”.

8 (b) ROLLOVERS TO SECTION 403(b) PLANS.—Sec-
 9 tion 402(c)(8)(B) (defining eligible retirement plan) is
 10 amended by striking “and” at the end of clause (ii), by
 11 striking the period at the end of clause (iv) and inserting
 12 “, and”, and by adding at the end the following:

13 “(v) an annuity contract described in
 14 section 403(b).”

15 (c) CONFORMING AMENDMENTS.—

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

19 (2) Section 401(a)(31)(B) is amended by strik-
 20 ing “and 403(a)(4)” and inserting “, 403(a)(4), and
 21 403(b)(8)”.

22 (3) Subparagraph (B) of section 403(b)(8) is
 23 amended by inserting “and (9)” after “through
 24 (7)”.

25 (4) Subparagraphs (A) and (B) of section
 26 415(b)(2) are each amended by striking “and

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

3 (d) EFFECTIVE DATE; SPECIAL RULE.—

4 (1) EFFECTIVE DATE.—The amendments made
 5 by this section shall apply to distributions after De-
 6 cember 31, 1999.

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

15 **SEC. 13. ROLLOVER CONTRIBUTIONS FROM DEFERRED**
 16 **COMPENSATION PLANS OF STATE AND**
 17 **LOCAL GOVERNMENTS.**

18 (a) ROLLOVERS FROM SECTION 457 PLANS.—

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

22 “(16) ROLLOVER AMOUNTS.—

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

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

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

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

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

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

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

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

5 (3) CONFORMING AMENDMENTS.—

6 (A) Section 72(o)(4) is amended—

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

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

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

13 (B) Section 219(d)(2) is amended by strik-
14 ing “or 408(d)(3)” and inserting “408(d)(3), or
15 457(e)(16)”.

16 (C) Section 401(a)(31)(B) is amended by
17 striking “and 403(b)(8)” and inserting “,
18 403(b)(8), and 457(e)(16)”.

19 (D) Paragraph (4) of section 402(c) is
20 amended by inserting “or in an eligible deferred
21 compensation plan (as defined in section
22 457(b)) of an eligible employer described in sec-
23 tion 457(e)(1)(A)” after “qualified trust”.

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

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

13 (H) Section 4973(b)(1)(A) is amended by
 14 striking “or 408(d)(3)” and inserting
 15 “408(d)(3), or 457(e)(16)”.

16 (d) EFFECTIVE DATE; SPECIAL RULE.—

17 (1) EFFECTIVE DATE.—The amendments made
 18 by this section shall apply to distributions after De-
 19 cember 31, 1999.

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

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

3 **SEC. 14. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
4 **MENT PLANS.**

5 (a) IN GENERAL.—Subparagraph (A) of section
6 408(d)(3) (relating to rollover amounts) is amended by
7 striking “or” at the end of clause (ii), by striking the pe-
8 riod at the end of clause (iii) and inserting a semicolon,
9 and by adding at the end the following:

10 “(iv)(I) the entire amount received
11 (including money and other property) rep-
12 resents the entire interest in the account
13 or the entire value of the annuity,

14 “(II) no amount in the account and
15 no part of the value of the annuity is at-
16 tributable to any source other than a roll-
17 over contribution from a defined contribu-
18 tion plan and any earnings on such roll-
19 over, and

20 “(III) such entire amount received is
21 paid into another defined contribution plan
22 (for the benefit of such individual) not
23 later than the 60th day after he receives
24 the payment or distribution; or

1 “(v)(I) the entire amount received (in-
2 cluding money and other property) rep-
3 resents the entire interest in the account
4 or the entire value of the annuity,

5 “(II) no amount in any such account
6 and no part of the value of any such annu-
7 ity is attributable to any source other than
8 a rollover contribution from such an ac-
9 count or annuity of such individual (and
10 any earnings on such contribution),

11 “(III) all contributions to all indi-
12 vidual retirement accounts, and all
13 amounts paid for all individual retirement
14 annuities, of such individual were allowed
15 as a deduction under section 219, and

16 “(IV) such entire amount received is
17 paid (not later than the 60th day after
18 being so received) into a defined contribu-
19 tion plan (for the benefit of such indi-
20 vidual) under which amounts are held in
21 trust by a person described in section
22 408(a)(2) or in a manner that satisfies
23 section 401(f).

24 If a payment or distribution from an individual
25 retirement plan is described in more than one

1 clause of this subparagraph, such payment or
 2 distribution shall be treated as described only in
 3 the clause specified by the payee or distributee.
 4 For purposes of this subparagraph, the term
 5 ‘defined contribution plan’ means a defined con-
 6 tribution plan (as defined in section 414(i))
 7 which includes a trust exempt from tax under
 8 section 501(a), an annuity plan described in
 9 section 403(a), an annuity contract described in
 10 section 403(b), and an eligible deferred com-
 11 pensation plan described in section 457(b) of an
 12 eligible employer described in section
 13 457(e)(1)(A).”

14 (b) CONFORMING AMENDMENT.—Paragraph (1) of
 15 section 403(b) is amended by striking “section
 16 408(d)(3)(A)(iii)” and inserting “clause (iii), (iv), or (v)
 17 of section 408(d)(3)(A)”.

18 (c) EFFECTIVE DATE; SPECIAL RULE.—

19 (1) EFFECTIVE DATE.—The amendments made
 20 by this section shall apply to distributions after De-
 21 cember 31, 1999.

22 (2) SPECIAL RULE.—Notwithstanding any other
 23 provision of law, subsections (h)(3) and (h)(5) of
 24 section 1122 of the Tax Reform Act of 1986 shall
 25 not apply to any distribution from a defined con-

1 tribution plan (as defined in section 408(d)(3)(A) of
2 the Internal Revenue Code of 1986 (as added by
3 this section) on behalf of an individual if there was
4 a rollover to such plan on behalf of such individual
5 which is permitted solely by reason of the amend-
6 ments made by this section.

7 **SEC. 15. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

8 (a) IN GENERAL.—Paragraph (2) of section 402(c)
9 (relating to rules applicable to rollovers from exempt
10 trusts) is amended by adding at the end the following new
11 sentence: “In accordance with rules prescribed by the Sec-
12 retary, the preceding sentence shall not apply to any dis-
13 tribution if—

14 “(A) the portion of the distribution which
15 would be so includible is reported by the trust-
16 ee, and

17 “(B) the eligible retirement plan to which
18 it is paid agrees to report such amount in any
19 subsequent distribution.”

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (B) of section 401(a)(31) is
22 amended by adding at the end the following new
23 sentence: “In accordance with rules prescribed by
24 the Secretary, the preceding sentence shall not apply
25 to any distribution if—

1 “(i) the portion of the distribution
2 which would be so includible is reported by
3 the trustee, and

4 “(ii) the eligible retirement plan to
5 which it is paid agrees to report such
6 amount in any subsequent distribution.”

7 (2) Subparagraph (B) of section 408(d)(3) is
8 amended—

9 (A) by striking “LIMITATION.—” in the
10 heading and inserting “LIMITATIONS.—”, and

11 (B) by adding at the end the following: “In
12 addition, this paragraph does not apply unless
13 rules similar to the rules of section 402(c)(2)
14 are satisfied, except that the rollover contribu-
15 tion may exceed the amount includible in in-
16 come to the extent the rollover contribution con-
17 sists of nondeductible contributions described in
18 subsection (o).”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to distributions made after Decem-
21 ber 31, 1999.

1 **SEC. 16. PURCHASE OF SERVICE CREDIT IN GOVERN-**
 2 **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

15 “(B) a repayment to which section 415
 16 does not apply by reason of subsection (k)(3)
 17 thereof.”

18 (b) 457 PLANS.—Subsection (e) of section 457, as
 19 amended by section 12, is amended by adding at the end
 20 the following new paragraph:

21 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 22 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 23 amount shall be includible in gross income by reason
 24 of a direct trustee-to-trustee transfer to a defined
 25 benefit governmental plan (as defined in section
 26 414(d)) if such transfer is—

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

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

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to trustee-to-trustee transfers after
9 December 31, 1999.

10 **SEC. 17. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
11 **ITY REQUIREMENTS.**

12 (a) AMENDMENTS TO ERISA.—

13 (1) AMOUNT OF ANNUITY.—Paragraph (1) of
14 section 205(a) of the Employee Retirement Income
15 Security Act of 1974 (29 U.S.C. 1055(a)) is amend-
16 ed by inserting “or, at the election of the partici-
17 pant, shall be provided in the form of a qualified
18 joint and 75 percent survivor annuity” after “sur-
19 vivor annuity,”.

20 (2) DEFINITION.—Subsection (d) of section 205
21 of such Act (29 U.S.C. 1055) is amended—

22 (A) by redesignating paragraphs (1) and

23 (2) as subparagraphs (A) and (B), respectively,

24 (B) by inserting “(1)” after “(d)”, and

1 (C) by adding at the end the following new
 2 paragraph:

3 “(2) For purposes of this section, the term “qualified
 4 joint and 75 percent survivor annuity” means a joint and
 5 survivor annuity under which the survivor annuity for the
 6 life of the surviving spouse is equal to at least 75 percent
 7 of the amount of the annuity which is payable during the
 8 joint lives of the participant and spouse.”

9 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

10 (1) AMOUNT OF ANNUITY.—Clause (i) of sec-
 11 tion 401(a)(11)(A) (relating to requirement of joint
 12 and survivor annuity and preretirement survivor an-
 13 nuity) is amended by inserting “or, at the election
 14 of the participant, shall be provided in the form of
 15 a qualified joint and 75 percent survivor annuity”
 16 after “survivor annuity,”.

17 (2) DEFINITION.—Section 417 (relating to defi-
 18 nitions and special rules for purposes of minimum
 19 survivor annuity requirements), is amended by re-
 20 designating subsection (f) as subsection (g) and by
 21 inserting after subsection (e) the following new sub-
 22 section:

23 “(f) DEFINITION OF QUALIFIED JOINT AND 75 PER-
 24 CENT SURVIVOR ANNUITY.—For purposes of this section
 25 and section 401(a)(11), the term “qualified joint and 75

1 percent survivor annuity” means a joint and survivor an-
2 nuity under which the survivor annuity for the life of the
3 surviving spouse is equal to at least 75 percent of the
4 amount of the annuity which is payable during the joint
5 lives of the participant and spouse.”

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graphs (2) and (3), the amendments made by this
9 section shall apply to plan years beginning after De-
10 cember 31, 1999.

11 (2) APPLICATION TO CURRENT EMPLOYEES.—
12 The amendments made by this section shall not
13 apply to any employee who does not have at least 1
14 hour of service in any plan year beginning after De-
15 cember 31, 1999.

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

24 (A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 1999, or
(B) January 1, 2004.

SEC. 18. PERIODS OF FAMILY AND MEDICAL LEAVE TREATED AS HOURS OF SERVICE FOR PENSION PARTICIPATION AND VESTING.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) PARTICIPATION.—

(A) IN GENERAL.—Paragraph (3) of section 410(a) (relating to minimum participation standards) is amended by adding at the end the following new subparagraph:

“(E) FAMILY AND MEDICAL LEAVE TREATED AS SERVICE.—

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

1 “(I) the hours of service which
2 otherwise would normally have been
3 credited to such individual but for
4 such absence, or

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

9 “(ii) YEAR TO WHICH HOURS ARE
10 CREDITED.—The hours described in clause
11 (i) shall be treated as hours of service as
12 provided in this subparagraph—

13 “(I) only in the year in which the
14 absence from work begins, if section
15 411(a)(5)(E)(ii)(I) requires hours to
16 be credited to the year in which the
17 absence from work begins, or

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

20 (B) COORDINATION WITH TREATMENT OF
21 MATERNITY AND PATERNITY ABSENCES UNDER
22 BREAK IN SERVICE RULES.—Subparagraph (E)
23 of section 410(a)(5) is amended—

1 (i) by inserting “NOT UNDER FAMILY
2 AND MEDICAL LEAVE ACT OF 1993” after
3 “ABSENCES” in the heading, and

4 (ii) by adding at the end of clause (i)
5 the following new sentence: “The preceding
6 sentence shall apply to an absence from
7 work only if no part of such absence is re-
8 quired to be given under the Family and
9 Medical Leave Act of 1993.”

10 (2) VESTING.—

11 (A) IN GENERAL.—Paragraph (5) of sec-
12 tion 411(a) (relating to minimum vesting stand-
13 ards) is amended by adding at the end the fol-
14 lowing new subparagraph:

15 “(E) FAMILY AND MEDICAL LEAVE TREAT-
16 ED AS SERVICE.—

17 “(i) IN GENERAL.—For purposes of
18 this subsection, in the case of an individual
19 who is absent from work on leave required
20 to be given to such individual under the
21 Family and Medical Leave Act of 1993,
22 the plan shall treat as hours of service—

23 “(I) the hours of service which
24 otherwise would normally have been

1 credited to such individual but for
2 such absence, or

3 “(II) in any case in which the
4 plan is unable to determine the hours
5 described in subclause (I), 8 hours of
6 service per day of absence.

7 “(ii) YEAR TO WHICH HOURS ARE
8 CREDITED.—The hours described in clause
9 (i) shall be treated as hours of service as
10 provided in this subparagraph—

11 “(I) only in the year in which the
12 absence from work begins, if the par-
13 ticipant’s rights in his accrued benefit
14 derived from employer contributions
15 are to any extent not nonforfeitable
16 and the participant would have a year
17 of service solely because the period of
18 absence is treated as hours of service
19 as provided in clause (i); or

20 “(II) in any other case, in the
21 immediately following year.”

22 (B) COORDINATION WITH TREATMENT OF
23 MATERNITY AND PATERNITY ABSENCES UNDER
24 BREAK IN SERVICE RULES.—Subparagraph (E)
25 of section 411(a)(6) is amended—

1 (i) by inserting “NOT UNDER FAMILY
2 AND MEDICAL LEAVE ACT OF 1993” after
3 “ABSENCES” in the heading, and

4 (ii) by adding at the end of clause (i)
5 the following new sentence: “The preceding
6 sentence shall apply to an absence from
7 work only if no part of such absence is re-
8 quired to be given under the Family and
9 Medical Leave Act of 1993.”

10 (b) AMENDMENTS OF ERISA.—

11 (1) PARTICIPATION.—

12 (A) IN GENERAL.—Paragraph (3) of sec-
13 tion 202(a) of the Employee Retirement Income
14 Security Act of 1974 (relating to minimum par-
15 ticipation standards) is amended by adding at
16 the end the following new subparagraph:

17 “(E)(i) For purposes of this subsection, in the case
18 of an individual who is absent from work on leave required
19 to be given to such individual under the Family and Med-
20 ical Leave Act of 1993, the plan shall treat as hours of
21 service—

22 “(I) the hours of service which otherwise would
23 normally have been credited to such individual but
24 for such absence, or

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

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

6 “(I) only in the year in which the absence from
 7 work begins, if section 203(b)(2)(E)(ii)(I) requires
 8 hours to be credited to the year in which the absence
 9 from work begins, or

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

12 (B) COORDINATION WITH TREATMENT OF
 13 MATERNITY AND PATERNITY ABSENCES UNDER
 14 BREAK IN SERVICE RULES.—Subparagraph (A)
 15 of section 202(b)(5) of such Act is amended by
 16 adding at the end of clause (i) the following
 17 new sentence: “The preceding sentence shall
 18 apply to an absence from work only if no part
 19 of such absence is required to be given under
 20 the Family and Medical Leave Act of 1993.”

21 (2) VESTING.—

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

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

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

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

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

14 “(I) only in the year in which the absence from
 15 work begins, if the participant’s rights in his ac-
 16 crued benefit derived from employer contributions
 17 are to any extent not nonforfeitable and the partici-
 18 pant would have a year of service solely because the
 19 period of absence is treated as hours of service as
 20 provided in clause (i); or

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

23 (B) COORDINATION WITH TREATMENT OF
 24 MATERNITY AND PATERNITY ABSENCES UNDER
 25 BREAK IN SERVICE RULES.—Clause (i) of sec-

1 tion 203(b)(3)(E) of such Act is amended by
2 adding at the end of clause (i) the following
3 new sentence: “The preceding sentence shall
4 apply to an absence from work only if no part
5 of such absence is required to be given under
6 the Family and Medical Leave Act of 1993.”

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to plan years beginning after December
11 31, 1999.

12 (2) APPLICATION TO CURRENT EMPLOYEES.—
13 The amendments made by this section shall not
14 apply to any employee who does not have at least 1
15 hour of service in any plan year beginning after De-
16 cember 31, 1999.

○