

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 10, AS REPORTED
OFFERED BY MR. RANGEL OF NEW YORK**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**
2 **TENTS.**

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

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference
10 shall be considered to be made to a section or other provi-
11 sion of the Internal Revenue Code of 1986.

12 (c) **TABLE OF CONTENTS.**—The table of contents of
13 this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—INDIVIDUAL RETIREMENT ACCOUNT PROVISIONS

Sec. 101. Modification of IRA contribution limits.

TITLE II—EXPANDING COVERAGE

Sec. 201. Increase in benefit and contribution limits.

Sec. 202. Plan loans for subchapter S owners, partners, and sole proprietors.

Sec. 203. Modification of top-heavy rules.

Sec. 204. Elective deferrals not taken into account for purposes of deduction limits.

Sec. 205. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.

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- Sec. 206. Elimination of user fee for requests to IRS regarding pension plans.
- Sec. 207. Deduction limits.
- Sec. 208. Option to treat elective deferrals as after-tax contributions.
- Sec. 209. Availability of qualified plans to self-employed individuals who are exempt from the self-employment tax by reason of their religious beliefs.
- Sec. 210. Certain nonresident aliens excluded in applying minimum coverage requirements.
- Sec. 211. Refundable credit to certain individuals for elective deferrals and IRA contributions.
- Sec. 212. Credit for pension plan startup costs of small employers.
- Sec. 213. Credit for qualified pension plan contributions of small employers.

TITLE III—ENHANCING FAIRNESS FOR WOMEN

- Sec. 301. Catch-up contributions for individuals age 50 or over.
- Sec. 302. Equitable treatment for contributions of employees to defined contribution plans.
- Sec. 303. Faster vesting of certain employer matching contributions.
- Sec. 304. Modifications to minimum distribution rules.
- Sec. 305. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
- Sec. 306. Provisions relating to hardship distributions.
- Sec. 307. Waiver of tax on nondeductible contributions for domestic or similar workers.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 401. Rollovers allowed among various types of plans.
- Sec. 402. Rollovers of IRAs into workplace retirement plans.
- Sec. 403. Rollovers of after-tax contributions.
- Sec. 404. Hardship exception to 60-day rule.
- Sec. 405. Treatment of forms of distribution.
- Sec. 406. Rationalization of restrictions on distributions.
- Sec. 407. Purchase of service credit in governmental defined benefit plans.
- Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
- Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 501. Repeal of percent of current liability funding limit.
- Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
- Sec. 503. Excise tax relief for sound pension funding.
- Sec. 504. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.
- Sec. 505. Treatment of multiemployer plans under section 415.
- Sec. 506. Protection of investment of employee contributions to 401(k) plans.
- Sec. 507. Periodic pension benefits statements.
- Sec. 508. Prohibited allocations of stock in S corporation ESOP.

TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Modification of timing of plan valuations.

- Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 603. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 604. Employees of tax-exempt entities.
- Sec. 605. Clarification of treatment of employer-provided retirement advice.
- Sec. 606. Reporting simplification.
- Sec. 607. Improvement of employee plans compliance resolution system.
- Sec. 608. Repeal of the multiple use test.
- Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.
- Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 611. Notice and consent period regarding distributions.
- Sec. 612. Annual report dissemination.
- Sec. 613. Technical corrections to SAVER Act.

TITLE VII—OTHER ERISA PROVISIONS

- Sec. 701. Missing participants.
- Sec. 702. Reduced PBGC premium for new plans of small employers.
- Sec. 703. Reduction of additional PBGC premium for new and small plans.
- Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.
- Sec. 705. Substantial owner benefits in terminated plans.
- Sec. 706. Civil penalties for breach of fiduciary responsibility.
- Sec. 707. Benefit suspension notice.
- Sec. 708. Studies.

TITLE VIII—PLAN AMENDMENTS

- Sec. 801. Provisions relating to plan amendments.

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

4 (a) INCREASE IN CONTRIBUTION LIMIT.—

5 (1) IN GENERAL.—Paragraph (1)(A) of section
 6 219(b) (relating to maximum amount of deduction)
 7 is amended by striking “\$2,000” and inserting “the
 8 deductible amount”.

9 (2) DEDUCTIBLE AMOUNT.—Section 219(b) is
 10 amended by adding at the end the following new
 11 paragraph:

1 “(5) DEDUCTIBLE AMOUNT.—For purposes of
2 paragraph (1)(A)—

3 “(A) IN GENERAL.—The deductible
4 amount shall be determined in accordance with
5 the following table:

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

6 “(B) CATCH-UP CONTRIBUTIONS FOR INDI-
7 VIDUALS 50 OR OLDER.—In the case of an indi-
8 vidual who has attained the age of 50 before
9 the close of the taxable year, the deductible
10 amount for taxable years beginning in 2002 or
11 2003 shall be \$5,000.

12 “(C) COST-OF-LIVING ADJUSTMENT.—

13 “(i) IN GENERAL.—In the case of any
14 taxable year beginning in a calendar year
15 after 2004, the \$5,000 amount under sub-
16 paragraph (A) shall be increased by an
17 amount equal to—

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section
22 1(f)(3) for the calendar year in which
23 the taxable year begins, determined by

1 substituting ‘calendar year 2003’ for
2 ‘calendar year 1992’ in subparagraph
3 (B) thereof.

4 “(ii) ROUNDING RULES.—If any
5 amount after adjustment under clause (i)
6 is not a multiple of \$500, such amount
7 shall be rounded to the next lower multiple
8 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)(2)(B) is amended by strik-
16 ing “\$2,000” and inserting “the dollar amount in
17 effect under section 219(b)(1)(A)”.

18 (3) Section 408(b) is amended by striking
19 “\$2,000” in the matter following paragraph (4) and
20 inserting “the dollar amount in effect under section
21 219(b)(1)(A)”.

22 (4) Section 408(j) is amended by striking
23 “\$2,000”.

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

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

7 **TITLE II—EXPANDING** 8 **COVERAGE**

9 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION** 10 **LIMITS.**

11 (a) DEFINED BENEFIT PLANS.—

12 (1) DOLLAR LIMIT.—

13 (A) Subparagraph (A) of section 415(b)(1)
14 (relating to limitation for defined benefit plans)
15 is amended by striking “\$90,000” and inserting
16 “\$160,000”.

17 (B) Subparagraphs (C) and (D) of section
18 415(b)(2) are each amended by striking
19 “\$90,000” each place it appears in the head-
20 ings and the text and inserting “\$160,000”.

21 (C) Paragraph (7) of section 415(b) (relat-
22 ing to benefits under certain collectively bar-
23 gained plans) is amended by striking “the
24 greater of \$68,212 or one-half the amount oth-
25 erwise applicable for such year under paragraph

1 (1)(A) for “\$90,000” and inserting “one-half
2 the amount otherwise applicable for such year
3 under paragraph (1)(A) for “\$160,000”.

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

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

15 (4) COST-OF-LIVING ADJUSTMENTS.—Sub-
16 section (d) of section 415 (related to cost-of-living
17 adjustments) is amended—

18 (A) by striking “\$90,000” in paragraph

19 (1)(A) and inserting “\$160,000”; and

20 (B) in paragraph (3)(A)—

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

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

25 (5) CONFORMING AMENDMENTS.—

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

3 (B) Section 415(b)(9) is amended to read
4 as follows:

5 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE
6 PILOTS.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), in the case of any partici-
9 pant who is a commercial airline pilot, if, as of
10 the time of the participant’s retirement, regula-
11 tions prescribed by the Federal Aviation Admin-
12 istration require an individual to separate from
13 service as a commercial airline pilot after at-
14 taining any age occurring on or after age 60
15 and before age 62, paragraph (2)(C) shall be
16 applied by substituting such age for age 62.

17 “(B) INDIVIDUALS WHO SEPARATE FROM
18 SERVICE BEFORE AGE 60.—If a participant de-
19 scribed in subparagraph (A) separates from
20 service before age 60, the rules of paragraph
21 (2)(C) shall apply.”.

22 (C) Section 415(b)(10)(C)(i) is amended
23 by striking “applied without regard to para-
24 graph (2)(F)”.

25 (b) DEFINED CONTRIBUTION PLANS.—

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

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

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

10 (B) in paragraph (3)(D)—

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

13 (ii) by striking “October 1, 1993” and
14 inserting “July 1, 2001”.

15 (c) QUALIFIED TRUSTS.—

16 (1) COMPENSATION LIMIT.—Sections
17 401(a)(17), 404(l), 408(k), and 505(b)(7) are each
18 amended by striking “\$150,000” each place it ap-
19 pears and inserting “\$200,000”.

20 (2) BASE PERIOD AND ROUNDING OF COST-OF-
21 LIVING ADJUSTMENT.—Subparagraph (B) of section
22 401(a)(17) is amended—

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

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

3 (d) ELECTIVE DEFERRALS.—

4 (1) IN GENERAL.—Paragraph (1) of section
5 402(g) (relating to limitation on exclusion for elec-
6 tive deferrals) is amended to read as follows:

7 “(1) IN GENERAL.—

8 “(A) LIMITATION.—Notwithstanding sub-
9 sections (e)(3) and (h)(1)(B), the elective defer-
10 rals of any individual for any taxable year shall
11 be included in such individual’s gross income to
12 the extent the amount of such deferrals for the
13 taxable year exceeds the applicable dollar
14 amount.

15 “(B) APPLICABLE DOLLAR AMOUNT.—For
16 purposes of subparagraph (A), the applicable
17 dollar amount shall be the amount determined
18 in accordance with the following table:

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

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

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

11 (3) CONFORMING AMENDMENTS.—

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

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

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

1 (e) DEFERRED COMPENSATION PLANS OF STATE
 2 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 3 ZATIONS.—

4 (1) IN GENERAL.—Section 457 (relating to de-
 5 ferred compensation plans of State and local govern-
 6 ments and tax-exempt organizations) is amended—

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

10 (B) in subsection (b)(3)(A) by striking
 11 “\$15,000” and inserting “twice the dollar
 12 amount in effect under subsection (b)(2)(A)”.

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

16 “(15) APPLICABLE DOLLAR AMOUNT.—

17 “(A) IN GENERAL.—The applicable dollar
 18 amount shall be the amount determined in ac-
 19 cordance with the following table:

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

20 “(B) COST-OF-LIVING ADJUSTMENTS.—In
 21 the case of taxable years beginning after De-

1 cember 31, 2006, the Secretary shall adjust the
 2 \$15,000 amount under subparagraph (A) at the
 3 same time and in the same manner as under
 4 section 415(d), except that the base period shall
 5 be the calendar quarter beginning July 1, 2005,
 6 and any increase under this paragraph which is
 7 not a multiple of \$500 shall be rounded to the
 8 next lowest multiple of \$500.”.

9 (f) SIMPLE RETIREMENT ACCOUNTS.—

10 (1) LIMITATION.—Clause (ii) of section
 11 408(p)(2)(A) (relating to general rule for qualified
 12 salary reduction arrangement) is amended by strik-
 13 ing “\$6,000” and inserting “the applicable dollar
 14 amount”.

15 (2) APPLICABLE DOLLAR AMOUNT.—Subpara-
 16 graph (E) of 408(p)(2) is amended to read as fol-
 17 lows:

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

20 “(i) IN GENERAL.—For purposes of
 21 subparagraph (A)(ii), the applicable dollar
 22 amount shall be the amount determined in
 23 accordance with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$7,000
2003	\$8,000

14

2004	\$9,000
2005 or thereafter	\$10,000.

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

13 (3) CONFORMING AMENDMENTS.—

14 (A) Subclause (I) of section
15 401(k)(11)(B)(i) is amended by striking
16 “\$6,000” and inserting “the amount in effect
17 under section 408(p)(2)(A)(ii)”.

18 (B) Section 401(k)(11) is amended by
19 striking subparagraph (E).

20 (g) ROUNDING RULE RELATING TO DEFINED BEN-
21 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—
22 Paragraph (4) of section 415(d) is amended to read as
23 follows:

24 “(4) ROUNDING.—

1 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
2 the following new subparagraph:

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

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

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

10 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
11 PLOYEE.—

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

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

16 (B) by striking clause (i) and inserting the
17 following:

18 “(i) an officer of the employer having
19 an annual compensation greater than
20 \$150,000,”;

21 (C) by striking clause (ii) and redesign-
22 nating clauses (iii) and (iv) as clauses (ii) and
23 (iii), respectively; and

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

4 (2) CONFORMING AMENDMENT.—Section
5 416(i)(1)(B)(iii) is amended by striking “and sub-
6 paragraph (A)(ii)”.

7 (b) MATCHING CONTRIBUTIONS TAKEN INTO AC-
8 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—
9 Section 416(c)(2)(A) (relating to defined contribution
10 plans) is amended by adding at the end the following:
11 “Employer matching contributions (as defined in section
12 401(m)(4)(A)) shall be taken into account for purposes
13 of this subparagraph.”.

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

16 (1) IN GENERAL.—Paragraph (3) of section
17 416(g) is amended to read as follows:

18 “(3) DISTRIBUTIONS DURING LAST YEAR BE-
19 FORE DETERMINATION DATE TAKEN INTO AC-
20 COUNT.—

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

23 “(i) the present value of the cumu-
24 lative accrued benefit for any employee, or

1 “(ii) the amount of the account of any
2 employee,
3 such present value or amount shall be increased
4 by the aggregate distributions made with re-
5 spect to such employee under the plan during
6 the 1-year period ending on the determination
7 date. The preceding sentence shall also apply to
8 distributions under a terminated plan which if
9 it had not been terminated would have been re-
10 quired to be included in an aggregation group.

11 “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-
12 ICE DISTRIBUTION.—In the case of any dis-
13 tribution made for a reason other than separa-
14 tion from service, death, or disability, subpara-
15 graph (A) shall be applied by substituting ‘5-
16 year period’ for ‘1-year period’.”.

17 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—
18 Subparagraph (E) of section 416(g)(4) is
19 amended—

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

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

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

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

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

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

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

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

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

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

4 “(iii) EXCEPTION FOR FROZEN
5 PLAN.—For purposes of determining an
6 employee’s years of service with the em-
7 ployer, any service with the employer shall
8 be disregarded to the extent that such
9 service occurs during a plan year when the
10 plan benefits (within the meaning of sec-
11 tion 410(b)) no key employee or former
12 key employee.”.

13 (f) ELIMINATION OF FAMILY ATTRIBUTION.—Sec-
14 tion 416(i)(1)(B) (defining 5-percent owner) is amended
15 by adding at the end the following new clause:

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

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

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

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

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

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

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

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

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

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to years beginning after Decem-
17 ber 31, 2001.

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

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

1 gible employers or any trust which is part of the plan.

2 The preceding sentence shall not apply to any request—

3 (1) made after the later of—

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

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

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

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

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

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

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

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

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

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

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

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

16 (b) COMPENSATION.—

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

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

1 (2) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

22 “(1) any designated plus contribution made by
23 an employee pursuant to the program shall be treat-
24 ed as an elective deferral for purposes of this chap-

1 ter, except that such contribution shall not be ex-
2 cludable from gross income, and

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

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

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

15 “(2) SEPARATE ACCOUNTING REQUIRED.—A
16 program shall not be treated as a qualified plus con-
17 tribution program unless the applicable retirement
18 plan—

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

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

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

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

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

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

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

16 “(A) the maximum amount of elective de-
17 ferrals excludable from gross income of the em-
18 ployee for the taxable year (without regard to
19 this section), over

20 “(B) the aggregate amount of elective de-
21 ferrals of the employee for the taxable year
22 which the employee does not designate under
23 paragraph (1).

24 “(3) ROLLOVER CONTRIBUTIONS.—

1 “(A) IN GENERAL.—A rollover contribu-
2 tion of any payment or distribution from a des-
3 ignated plus account which is otherwise allow-
4 able under this chapter may be made only if the
5 contribution is to—

6 “(i) another designated plus account
7 of the individual from whose account the
8 payment or distribution was made, or

9 “(ii) a Roth IRA of such individual.

10 “(B) COORDINATION WITH LIMIT.—Any
11 rollover contribution to a designated plus ac-
12 count under subparagraph (A) shall not be
13 taken into account for purposes of paragraph
14 (1).

15 “(d) DISTRIBUTION RULES.—For purposes of this
16 title—

17 “(1) EXCLUSION.—Any qualified distribution
18 from a designated plus account shall not be includ-
19 ible in gross income.

20 “(2) QUALIFIED DISTRIBUTION.—For purposes
21 of this subsection—

22 “(A) IN GENERAL.—The term ‘qualified
23 distribution’ has the meaning given such term
24 by section 408A(d)(2)(A) (without regard to
25 clause (iv) thereof).

1 “(B) DISTRIBUTIONS WITHIN NONEXCLU-
2 SION PERIOD.—A payment or distribution from
3 a designated plus account shall not be treated
4 as a qualified distribution if such payment or
5 distribution is made within the 5-taxable-year
6 period beginning with the earlier of—

7 “(i) the first taxable year for which
8 the individual made a designated plus con-
9 tribution to any designated plus account
10 established for such individual under the
11 same applicable retirement plan, or

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

20 “(C) DISTRIBUTIONS OF EXCESS DEFER-
21 RALS AND CONTRIBUTIONS AND EARNINGS
22 THEREON.—The term ‘qualified distribution’
23 shall not include any distribution of an excess
24 deferral under section 402(g)(2) or any excess

1 contribution under section 401(k)(8), and any
2 income on the excess deferral or contribution.

3 “(3) TREATMENT OF DISTRIBUTIONS OF CER-
4 TAIN EXCESS DEFERRALS.—Notwithstanding section
5 72, if any excess deferral under section 402(g)(2) at-
6 tributable to a designated plus contribution is not
7 distributed on or before the 1st April 15 following
8 the close of the taxable year in which such excess de-
9 ferral is made, the amount of such excess deferral
10 shall—

11 “(A) not be treated as investment in the
12 contract, and

13 “(B) be included in gross income for the
14 taxable year in which such excess is distributed.

15 “(4) AGGREGATION RULES.—Section 72 shall
16 be applied separately with respect to distributions
17 and payments from a designated plus account and
18 other distributions and payments from the plan.

19 “(e) OTHER DEFINITIONS.—For purposes of this
20 section—

21 “(1) APPLICABLE RETIREMENT PLAN.—The
22 term ‘applicable retirement plan’ means—

23 “(A) an employees’ trust described in sec-
24 tion 401(a) which is exempt from tax under
25 section 501(a), and

1 “(B) a plan under which amounts are con-
2 tributed by an individual’s employer for an an-
3 nuity contract described in section 403(b).

4 “(2) ELECTIVE DEFERRAL.—The term ‘elective
5 deferral’ means any elective deferral described in
6 subparagraph (A) or (C) of section 402(g)(3).”.

7 (b) EXCESS DEFERRALS.—Section 402(g) (relating
8 to limitation on exclusion for elective deferrals) is
9 amended—

10 (1) by adding at the end of paragraph (1)(A)
11 (as added by section 201(d)(1)) the following new
12 sentence: “The preceding sentence shall not apply to
13 so much of such excess as does not exceed the des-
14 ignated plus contributions of the individual for the
15 taxable year.”; and

16 (2) by inserting “(or would be included but for
17 the last sentence thereof)” after “paragraph (1)” in
18 paragraph (2)(A).

19 (c) ROLLOVERS.—Subparagraph (B) of section
20 402(e)(8) is amended by adding at the end the following:

21 “If any portion of an eligible rollover distribu-
22 tion is attributable to payments or distributions
23 from a designated plus account (as defined in
24 section 402A), an eligible retirement plan with
25 respect to such portion shall include only an-

1 other designated plus account and a Roth
2 IRA.”.

3 (d) REPORTING REQUIREMENTS.—

4 (1) W-2 INFORMATION.—Section 6051(a)(8) is
5 amended by inserting “, including the amount of
6 designated plus contributions (as defined in section
7 402A)” before the comma at the end.

8 (2) INFORMATION.—Section 6047 is amended
9 by redesignating subsection (f) as subsection (g) and
10 by inserting after subsection (e) the following new
11 subsection:

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

19 (e) CONFORMING AMENDMENTS.—

20 (1) Section 408A(e) is amended by adding after
21 the first sentence the following new sentence: “Such
22 term includes a rollover contribution described in
23 section 402A(c)(3)(A).”.

24 (2) The table of sections for subpart A of part
25 I of subchapter D of chapter 1 is amended by insert-

1 ing after the item relating to section 402 the fol-
2 lowing new item:

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

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

6 **SEC. 209. AVAILABILITY OF QUALIFIED PLANS TO SELF-EM-**
7 **PLOYED INDIVIDUALS WHO ARE EXEMPT**
8 **FROM THE SELF-EMPLOYMENT TAX BY REA-**
9 **SON OF THEIR RELIGIOUS BELIEFS.**

10 (a) **IN GENERAL.**—Subparagraph (A) of section
11 401(c)(2) (defining earned income) is amended by adding
12 at the end thereof the following new sentence: “For pur-
13 poses of this part only (other than sections 419 and
14 419A), this subparagraph shall be applied as if the term
15 ‘trade or business’ for purposes of section 1402 included
16 service described in section 1402(c)(6).”.

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

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

4 **SEC. 210. CERTAIN NONRESIDENT ALIENS EXCLUDED IN**
5 **APPLYING MINIMUM COVERAGE REQUIRE-**
6 **MENTS.**

7 (a) IN GENERAL.—Subparagraph (C) of section
8 410(b)(3) (relating to exclusion of certain employees) is
9 amended by inserting “, determined without regard to the
10 reference to subchapter D in the last sentence thereof”
11 after “section 861(a)(3)”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to plan years beginning after
14 December 31, 2001.

15 **SEC. 211. REFUNDABLE CREDIT TO CERTAIN INDIVIDUALS**
16 **FOR ELECTIVE DEFERRALS AND IRA CON-**
17 **TRIBUTIONS.**

18 (a) IN GENERAL.—Subpart C of part IV of sub-
19 chapter A of chapter 1 of the Internal Revenue Code of
20 1986 (relating to refundable credits) is amended by redес-
21 ignating section 35 as section 36 and by inserting after
22 section 34 the following new section:

1 **“SEC. 35. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS**
 2 **BY CERTAIN INDIVIDUALS.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
 4 gible individual, there shall be allowed as a credit against
 5 the tax imposed by this subtitle for the taxable year an
 6 amount equal to the applicable percentage of so much of
 7 the qualified retirement savings contributions of the eligi-
 8 ble individual for the taxable year as do not exceed \$2,000.

9 “(b) APPLICABLE PERCENTAGE.—For purposes of
 10 this section, the applicable percentage is the percentage
 11 determined in accordance with the following table:

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$25,000	\$0	\$18,750	\$0	\$12,500	50
25,000	35,000	18,750	26,250	12,500	17,500	45
35,000	45,000	26,250	33,750	17,500	22,500	35
45,000	55,000	33,750	41,250	22,500	27,500	25
55,000	75,000	41,250	56,250	27,500	37,500	15
75,000		56,250		37,500		0

12 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
 13 section—

14 “(1) IN GENERAL.—The term ‘eligible indi-
 15 vidual’ means any individual if—

16 “(A) such individual has attained the age
 17 of 18 as of the close of the taxable year, and

18 “(B) the compensation (as defined in sec-
 19 tion 219(f)(1)) includible in the gross income of
 20 the individual (or, in the case of a joint return,

1 of the taxpayer) for such taxable year is at least
2 \$5,000.

3 “(2) DEPENDENTS AND FULL-TIME STUDENTS
4 NOT ELIGIBLE.—The term ‘eligible individual’ shall
5 not include—

6 “(A) any individual with respect to whom
7 a deduction under section 151 is allowable to
8 another taxpayer for a taxable year beginning
9 in the calendar year in which such individual’s
10 taxable year begins, and

11 “(B) any individual who is a student (as
12 defined in section 151(c)(4)).

13 “(3) INDIVIDUALS RECEIVING CERTAIN RETIRE-
14 MENT DISTRIBUTIONS NOT ELIGIBLE.—

15 “(A) IN GENERAL.—The term ‘eligible in-
16 dividual’ shall not include, with respect to a
17 taxable year, any individual who received during
18 the testing period—

19 “(i) any distribution from a qualified
20 retirement plan (as defined in section
21 4974(c)), or from an eligible deferred com-
22 pensation plan (as defined in section
23 457(b)), which is includible in gross in-
24 come, or

1 “(ii) any distribution from a Roth
2 IRA which is not a qualified rollover con-
3 tribution (as defined in section 408A(e)) to
4 a Roth IRA.

5 “(B) TESTING PERIOD.—For purposes of
6 subparagraph (A), the testing period, with re-
7 spect to a taxable year, is the period which
8 includes—

9 “(i) such taxable year,

10 “(ii) the preceding taxable year, and

11 “(iii) the period after such taxable
12 year and before the due date (without ex-
13 tensions) for filing the return of tax for
14 such taxable year.

15 “(C) EXCEPTED DISTRIBUTIONS.—There
16 shall not be taken into account under subpara-
17 graph (A)—

18 “(i) any distribution referred to in
19 section 72(p), 401(k)(8), 401(m)(6),
20 402(g)(2), 404(k), or 408(d)(4),

21 “(ii) any distribution to which section
22 408A(d)(3) applies, and

23 “(iii) any distribution before January
24 1, 2002.

1 “(D) TREATMENT OF DISTRIBUTIONS RE-
2 CEIVED BY SPOUSE OF INDIVIDUAL.—For pur-
3 poses of determining whether an individual is
4 an eligible individual for any taxable year, any
5 distribution received by the spouse of such indi-
6 vidual shall be treated as received by such indi-
7 vidual if such individual and spouse file a joint
8 return for such taxable year and for the taxable
9 year during which the spouse receives the dis-
10 tribution.

11 “(d) QUALIFIED RETIREMENT SAVINGS CONTRIBU-
12 TIONS.—For purposes of this section, the term ‘qualified
13 retirement savings contributions’ means the sum of—

14 “(1) the amount of the qualified retirement
15 contributions (as defined in section 219(e)) made by
16 the eligible individual,

17 “(2) the amount of—

18 “(A) any elective deferrals (as defined in
19 section 402(g)(3)) of such individual, and

20 “(B) any elective deferral of compensation
21 by such individual under an eligible deferred
22 compensation plan (as defined in section
23 457(b)) of an eligible employer described in sec-
24 tion 457(e)(1)(A), and

1 “(3) the amount of voluntary employee con-
2 tributions by such individual to any qualified retire-
3 ment plan (as defined in section 4974(c)).

4 “(e) ADJUSTED GROSS INCOME.—For purposes of
5 this section, adjusted gross income shall be determined
6 without regard to sections 911, 931, and 933.

7 “(f) INVESTMENT IN THE CONTRACT.—Notwith-
8 standing any other provision of law, a qualified retirement
9 savings contribution shall not fail to be included in deter-
10 mining the investment in the contract for purposes of sec-
11 tion 72 by reason of the credit under this section.

12 “(g) TRANSITIONAL RULES.—In the case of taxable
13 years beginning before January 1, 2008—

14 “(1) CONTRIBUTION LIMIT.—Subsection (a)
15 shall be applied by substituting for ‘\$2,000’—

16 “(A) \$600 in the case of taxable years be-
17 ginning in 2002, 2003, or 2004, and

18 “(B) \$1,000 in the case of taxable years
19 beginning in 2005, 2006, or 2007.

20 “(2) APPLICABLE PERCENTAGE.—The applica-
21 ble percentage shall be determined under the fol-
22 lowing table (in lieu of the table in subsection (b)):

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$20,000	\$0	\$15,000	\$0	\$10,000	50
20,000	25,000	15,000	18,750	10,000	12,500	45

Joint return		Adjusted Gross Income				Applicable percentage
		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
25,000	30,000	18,750	22,500	12,500	15,000	35
30,000	35,000	22,500	26,250	15,000	17,500	25
35,000	40,000	26,250	30,000	17,500	20,000	15
40,000		30,000		20,000		0.”

1 (b) CONFORMING AMENDMENTS.—

2 (1) Paragraph (2) of section 1324(b) of title
3 31, United States Code, is amended by inserting be-
4 fore the period “, or from section 35 of such Code”.

5 (2) The table of sections for subpart C of part
6 IV of subchapter A of chapter 1 of such Code is
7 amended by striking the last item and inserting the
8 following new items:

“Sec. 35. Elective deferrals and IRA contributions by certain individuals.

“Sec. 36. Overpayments of tax.”

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

12 **SEC. 212. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
13 **SMALL EMPLOYERS.**

14 (a) IN GENERAL.—Subpart D of part IV of sub-
15 chapter A of chapter 1 of the Internal Revenue Code of
16 1986 (relating to business related credits) is amended by
17 adding at the end the following new section:

1 **“SEC. 45E. SMALL EMPLOYER PENSION PLAN STARTUP**
2 **COSTS.**

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

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

12 “(1) \$1,000 for the first credit year,

13 “(2) \$500 for each of the 2 taxable years imme-
14 diately following the first credit year, and

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

16 “(c) ELIGIBLE EMPLOYER.—For purposes of this
17 section—

18 “(1) IN GENERAL.—The term ‘eligible em-
19 ployer’ has the meaning given such term by section
20 408(p)(2)(C)(i).

21 “(2) EMPLOYERS MAINTAINING QUALIFIED
22 PLANS DURING 1998 NOT ELIGIBLE.—Such term
23 shall not include an employer if such employer (or
24 any predecessor employer) maintained a qualified
25 plan (as defined in section 408(p)(2)(D)(ii)) with re-
26 spect to which contributions were made, or benefits

1 were accrued, for service in 1998. If only individuals
2 other than employees described in subparagraph (A)
3 or (B) of section 410(b)(3) are eligible to participate
4 in the qualified employer plan referred to in sub-
5 section (d)(1), then the preceding sentence shall be
6 applied without regard to any qualified plan in
7 which only employees so described are eligible to
8 participate.

9 “(d) OTHER DEFINITIONS.—For purposes of this
10 section—

11 “(1) QUALIFIED STARTUP COSTS.—

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

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

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

20 “(B) PLAN MUST HAVE AT LEAST 2 PAR-
21 TICIPANTS.—Such term shall not include any
22 expense in connection with a plan that does not
23 have at least 2 individuals who are eligible to
24 participate.

1 “(C) PLAN MUST BE ESTABLISHED BE-
2 FORE JANUARY 1, 2010.—Such term shall not
3 include any expense in connection with a plan
4 established after December 31, 2009.

5 “(2) ELIGIBLE EMPLOYER PLAN.—The term
6 ‘eligible employer plan’ means a qualified employer
7 plan within the meaning of section 4972(d), or a
8 qualified payroll deduction arrangement within the
9 meaning of section 408(q)(1) (whether or not an
10 election is made under section 408(q)(2)). A quali-
11 fied payroll deduction arrangement shall be treated
12 as an eligible employer plan only if all employees of
13 the employer who—

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

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

17 are eligible to make the election under section
18 408(q)(1)(A).

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

21 “(A) the taxable year which includes the
22 date that the eligible employer plan to which
23 such costs relate becomes effective, or

1 “(B) at the election of the eligible em-
2 ployer, the taxable year preceding the taxable
3 year referred to in subparagraph (A).

4 “(e) SPECIAL RULES.—For purposes of this
5 section—

6 “(1) AGGREGATION RULES.—All persons treat-
7 ed as a single employer under subsection (a) or (b)
8 of section 52, or subsection (n) or (o) of section 414,
9 shall be treated as one person. All eligible employer
10 plans shall be treated as 1 eligible employer plan.

11 “(2) DISALLOWANCE OF DEDUCTION.—No de-
12 duction shall be allowed for that portion of the quali-
13 fied startup costs paid or incurred for the taxable
14 year which is equal to the credit determined under
15 subsection (a).

16 “(3) ELECTION NOT TO CLAIM CREDIT.—This
17 section shall not apply to a taxpayer for any taxable
18 year if such taxpayer elects to have this section not
19 apply for such taxable year.”

20 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
21 NESS CREDIT.—Section 38(b) of such Code (defining cur-
22 rent year business credit) is amended by striking “plus”
23 at the end of paragraph (12), by striking the period at
24 the end of paragraph (13) and inserting “, plus”, and by
25 adding at the end the following new paragraph:

1 “(14) in the case of an eligible employer (as de-
2 fined in section 45E(e)), the small employer pension
3 plan startup cost credit determined under section
4 45E(a).”

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 39(d) of such Code is amended by
7 adding at the end the following new paragraph:

8 “(10) NO CARRYBACK OF SMALL EMPLOYER
9 PENSION PLAN STARTUP COST CREDIT BEFORE JAN-
10 UARY 1, 2002.—No portion of the unused business
11 credit for any taxable year which is attributable to
12 the small employer pension plan startup cost credit
13 determined under section 45E may be carried back
14 to a taxable year beginning before January 1,
15 2002.”

16 (2) Subsection (c) of section 196 of such Code
17 is amended by striking “and” at the end of para-
18 graph (8), by striking the period at the end of para-
19 graph (9) and inserting “, and”, and by adding at
20 the end the following new paragraph:

21 “(10) the small employer pension plan startup
22 cost credit determined under section 45E(a).”

23 (3) The table of sections for subpart D of part
24 IV of subchapter A of chapter 1 of such Code is

1 amended by adding at the end the following new
2 item:

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

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to costs paid or incurred in taxable
5 years beginning after December 31, 2001.

6 **SEC. 213. CREDIT FOR QUALIFIED PENSION PLAN CON-**
7 **TRIBUTIONS OF SMALL EMPLOYERS.**

8 (a) **IN GENERAL.**—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
10 1986 (relating to business related credits) is amended by
11 adding at the end the following new section:

12 **“SEC. 45F. SMALL EMPLOYER PENSION PLAN CONTRIBU-**
13 **TIONS.**

14 “(a) **GENERAL RULE.**—For purposes of section 38,
15 in the case of an eligible employer, the small employer pen-
16 sion plan contribution credit determined under this section
17 for any taxable year is an amount equal to 50 percent
18 of the amount which would (but for subsection (f)(1)) be
19 allowed as a deduction under section 404 for such taxable
20 year for qualified employer contributions made to any
21 qualified retirement plan on behalf of any nonhighly com-
22 pensated employee.

23 “(b) **CREDIT LIMITED TO 3 Years.**—The credit allow-
24 able by this section shall be allowed only with respect to
25 the period of 3 taxable years beginning with the taxable

1 year in which the qualified retirement plan becomes effec-
2 tive.

3 “(c) QUALIFIED EMPLOYER CONTRIBUTION.—For
4 purposes of this section—

5 “(1) DEFINED CONTRIBUTION PLANS.—In the
6 case of a defined contribution plan, the term ‘quali-
7 fied employer contribution’ means the amount of
8 nonelective and matching contributions to the plan
9 made by the employer on behalf of any nonhighly
10 compensated employee to the extent such amount
11 does not exceed 3 percent of such employee’s com-
12 pensation from the employer for the year.

13 “(2) DEFINED BENEFIT PLANS.—In the case of
14 a defined benefit plan, the term ‘qualified employer
15 contribution’ means the amount of employer con-
16 tributions to the plan made on behalf of any non-
17 highly compensated employee to the extent that the
18 accrued benefit of such employee derived from such
19 contributions for the year do not exceed the equiva-
20 lent (as determined under regulations prescribed by
21 the Secretary and without regard to contributions
22 and benefits under the Social Security Act) of 3 per-
23 cent of such employee’s compensation from the em-
24 ployer for the year.

25 “(d) QUALIFIED RETIREMENT PLAN.—

1 “(1) IN GENERAL.—The term ‘qualified retire-
2 ment plan’ means any plan described in section
3 401(a) which includes a trust exempt from tax
4 under section 501(a) if the plan meets—

5 “(A) the contribution requirements of
6 paragraph (2),

7 “(B) the vesting requirements of para-
8 graph (3), and

9 “(C) the distributions requirements of
10 paragraph (4).

11 “(2) CONTRIBUTION REQUIREMENTS.—

12 “(A) IN GENERAL.—The requirements of
13 this paragraph are met if, under the plan—

14 “(i) the employer is required to make
15 nonelective contributions of at least 1 per-
16 cent of compensation (or the equivalent
17 thereof in the case of a defined benefit
18 plan) for each nonhighly compensated em-
19 ployee who is eligible to participate in the
20 plan, and

21 “(ii) except in the case of a defined
22 benefit plan, allocations of nonelective em-
23 ployer contributions are either in equal dol-
24 lar amounts for all employees covered by
25 the plan or bear a uniform relationship to

1 the total compensation, or the basic or reg-
 2 ular rate of compensation, of the employ-
 3 ees covered by the plan.

4 “(B) COMPENSATION LIMITATION.—The
 5 compensation taken into account under sub-
 6 paragraph (A) for any year shall not exceed the
 7 limitation in effect for such year under section
 8 401(a)(17).

9 “(3) VESTING REQUIREMENTS.—The require-
 10 ments of this paragraph are met if the plan satisfies
 11 the requirements of subparagraph (A) or (B).

12 “(A) 3-YEAR VESTING.—A plan satisfies
 13 the requirements of this subparagraph if an em-
 14 ployee who has completed at least 3 years of
 15 service has a nonforfeitable right to 100 percent
 16 of the employee’s accrued benefit derived from
 17 employer contributions.

18 “(B) 5-YEAR GRADED VESTING.—A plan
 19 satisfies the requirements of this subparagraph
 20 if an employee has a nonforfeitable right to a
 21 percentage of the employee’s accrued benefit de-
 22 rived from employer contributions determined
 23 under the following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60

“Years of service:	The nonforfeitable percentage is:
4	80
5	100.

1 “(4) DISTRIBUTION REQUIREMENTS.—

2 “(A) IN GENERAL.—Except as provided in

3 subparagraph (B), the requirements of this

4 paragraph are met if, under the plan—

5 “(i) in the case of a profit-sharing or

6 stock bonus plan, amounts are distribut-

7 able only as provided in section

8 401(k)(2)(B), and

9 “(ii) in the case of a pension plan,

10 amounts are distributable subject to the

11 limitations applicable to other distributions

12 from the plan.

13 “(B) DISTRIBUTIONS WITHIN 5 YEARS

14 AFTER SEPARATION, ETC.—In no event shall a

15 plan meet the requirements of this paragraph

16 unless, under the plan, amounts distributed—

17 “(i) after separation from service or

18 severance from employment, and

19 “(ii) within 5 years after the date of

20 the earliest employer contribution to the

21 plan,

1 may be distributed only in a direct trustee-to-
2 trustee transfer to a plan having the same dis-
3 tribution restrictions as the distributing plan.

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

6 “(1) ELIGIBLE EMPLOYER.—The term ‘eligible
7 employer’ has the meaning given such term by sec-
8 tion 408(p)(2)(C)(i).

9 “(2) NONHIGHLY COMPENSATED EMPLOY-
10 EES.—The term ‘highly compensated employee’ has
11 the meaning given such term by section 414(q) (de-
12 termined without regard to section 414(q)(1)(B)(ii)).

13 “(f) SPECIAL RULES.—

14 “(1) DISALLOWANCE OF DEDUCTION.—No de-
15 duction shall be allowed for that portion of the quali-
16 fied employer contributions paid or incurred for the
17 taxable year which is equal to the credit determined
18 under subsection (a).

19 “(2) ELECTION NOT TO CLAIM CREDIT.—This
20 section shall not apply to a taxpayer for any taxable
21 year if such taxpayer elects to have this section not
22 apply for such taxable year.

23 “(g) RECAPTURE OF CREDIT ON FORFEITED CON-
24 TRIBUTIONS.—If any accrued benefit which is forfeitable
25 by reason of subsection (d)(3) is forfeited, the employer’s

1 tax imposed by this chapter for the taxable year in which
2 the forfeiture occurs shall be increased by 35 percent of
3 the employer contributions from which such benefit is de-
4 rived to the extent such contributions were taken into ac-
5 count in determining the credit under this section.

6 “(h) REGULATIONS.—The Secretary shall prescribe
7 such regulations as may be appropriate to carry out the
8 purposes of this section, including regulations to prevent
9 the abuse of the purposes of this section through the use
10 of multiple plans.

11 “(i) TERMINATION.—This section shall not apply to
12 any plan established after December 31, 2009.”

13 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
14 NESS CREDIT.—Section 38(b) of such Code (defining cur-
15 rent year business credit) is amended by striking “plus”
16 at the end of paragraph (13), by striking the period at
17 the end of paragraph (14) and inserting “, plus”, and by
18 adding at the end the following new paragraph:

19 “(15) in the case of an eligible employer (as de-
20 fined in section 45F(e)), the small employer pension
21 plan contribution credit determined under section
22 45F(a).”

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 39(d) of such Code is amended by
25 adding at the end the following new paragraph:

1 “(11) NO CARRYBACK OF SMALL EMPLOYER
2 PENSION PLAN CONTRIBUTION CREDIT BEFORE JAN-
3 UARY 1, 2002.—No portion of the unused business
4 credit for any taxable year which is attributable to
5 the small employer pension plan contribution credit
6 determined under section 45F may be carried back
7 to a taxable year beginning before January 1,
8 2002.”

9 (2) Subsection (c) of section 196 of such Code
10 is amended by striking “and” at the end of para-
11 graph (9), by striking the period at the end of para-
12 graph (10) and inserting “, and”, and by adding at
13 the end the following new paragraph:

14 “(11) the small employer pension plan contribu-
15 tion credit determined under section 45F(a).”

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

 “Sec. 45F. Small employer pension plan contributions.”

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to contributions paid or incurred
22 in taxable years beginning after December 31, 2001.

1 **TITLE III—ENHANCING**
2 **FAIRNESS FOR WOMEN**

3 **SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS**
4 **AGE 50 OR OVER.**

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

8 “(v) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS
9 AGE 50 OR OVER.—

10 “(1) IN GENERAL.—An applicable employer
11 plan shall not be treated as failing to meet any re-
12 quirement of this title solely because the plan per-
13 mits an eligible participant to make additional elec-
14 tive deferrals in any plan year.

15 “(2) LIMITATION ON AMOUNT OF ADDITIONAL
16 DEFERRALS.—A plan shall not permit additional
17 elective deferrals under paragraph (1) for any year
18 in an amount greater than the lesser of—

19 “(A) \$5,000, or

20 “(B) the excess (if any) of—

21 “(i) the participant’s compensation for
22 the year, over

23 “(ii) any other elective deferrals of the
24 participant for such year which are made
25 without regard to this subsection.

1 “(3) TREATMENT OF CONTRIBUTIONS.—In the
2 case of any contribution to a plan under paragraph
3 (1), such contribution shall not, with respect to the
4 year in which the contribution is made—

5 “(A) be subject to any otherwise applicable
6 limitation contained in section 402(g),
7 402(h)(2), 404(a), 404(h), 408(p)(2)(A)(ii),
8 415, or 457, or

9 “(B) be taken into account in applying
10 such limitations to other contributions or bene-
11 fits under such plan or any other such plan.

12 “(4) APPLICATION OF NONDISCRIMINATION
13 RULES.—

14 “(A) IN GENERAL.—An applicable em-
15 ployer plan shall not be treated as failing to
16 meet the nondiscrimination requirements under
17 section 401(a)(4) with respect to benefits,
18 rights, and features if the plan allows all eligi-
19 ble participants to make the same election with
20 respect to the additional elective deferrals under
21 this subsection.

22 “(B) AGGREGATION.—For purposes of
23 subparagraph (A), all plans maintained by em-
24 ployers who are treated as a single employer

1 under subsection (b), (c), (m), or (o) of section
2 414 shall be treated as 1 plan.

3 “(5) ELIGIBLE PARTICIPANT.—For purposes of
4 this subsection, the term ‘eligible participant’ means,
5 with respect to any plan year, a participant in a
6 plan—

7 “(A) who has attained the age of 50 before
8 the close of the plan year, and

9 “(B) with respect to whom no other elec-
10 tive deferrals may (without regard to this sub-
11 section) be made to the plan for the plan year
12 by reason of the application of any limitation or
13 other restriction described in paragraph (3) or
14 comparable limitation contained in the terms of
15 the plan.

16 “(6) OTHER DEFINITIONS AND RULES.—For
17 purposes of this subsection—

18 “(A) APPLICABLE EMPLOYER PLAN.—The
19 term ‘applicable employer plan’ means—

20 “(i) an employees’ trust described in
21 section 401(a) which is exempt from tax
22 under section 501(a),

23 “(ii) a plan under which amounts are
24 contributed by an individual’s employer for

1 an annuity contract described in section
2 403(b),

3 “(iii) an eligible deferred compensa-
4 tion plan under section 457 of an eligible
5 employer as defined in section
6 457(e)(1)(A), and

7 “(iv) an arrangement meeting the re-
8 quirements of section 408 (k) or (p).

9 “(B) ELECTIVE DEFERRAL.—The term
10 ‘elective deferral’ has the meaning given such
11 term by subsection (u)(2)(C).

12 “(C) EXCEPTION FOR SECTION 457
13 PLANS.—This subsection shall not apply to an
14 applicable employer plan described in subpara-
15 graph (A)(iii) for any year to which section
16 457(b)(3) applies.

17 “(D) COST-OF-LIVING ADJUSTMENT.—In
18 the case of a year beginning after December 31,
19 2006, the Secretary shall adjust annually the
20 \$5,000 amount in paragraph (2)(A) for in-
21 creases in the cost-of-living at the same time
22 and in the same manner as adjustments under
23 section 415(d); except that the base period
24 taken into account shall be the calendar quarter
25 beginning July 1, 2005, and any increase under

1 this subparagraph which is not a multiple of
2 \$500 shall be rounded to the next lower mul-
3 tiple of \$500.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to contributions in taxable years
6 beginning after December 31, 2001.

7 **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
8 **EMPLOYEES TO DEFINED CONTRIBUTION**
9 **PLANS.**

10 (a) EQUITABLE TREATMENT.—

11 (1) IN GENERAL.—Subparagraph (B) of section
12 415(c)(1) (relating to limitation for defined con-
13 tribution plans) is amended by striking “25 percent”
14 and inserting “100 percent”.

15 (2) APPLICATION TO SECTION 403(b).—Section
16 403(b) is amended—

17 (A) by striking “the exclusion allowance
18 for such taxable year” in paragraph (1) and in-
19 serting “the applicable limit under section
20 415”;

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

22 (C) by inserting “or any amount received
23 by a former employee after the fifth taxable
24 year following the taxable year in which such
25 employee was terminated” before the period at

1 the end of the second sentence of paragraph
2 (3).

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subsection (f) of section 72 is amend-
5 ed by striking “section 403(b)(2)(D)(iii)” and
6 inserting “section 403(b)(2)(D)(iii), as in effect
7 before the enactment of the Comprehensive Re-
8 tirement Security and Pension Reform Act of
9 2001”.

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

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

15 “(3) SPECIAL RULE FOR MONEY PURCHASE
16 PLANS.—For purposes of paragraph (1)(B), in the
17 case of a defined contribution plan which is subject
18 to the funding standards of section 412, section
19 415(c)(1)(B) shall be applied by substituting ‘25
20 percent’ for ‘100 percent’.”.

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

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

3 “(E) ANNUITY CONTRACTS.—In the case
4 of an annuity contract described in section
5 403(b), the term ‘participant’s compensation’
6 means the participant’s includible compensation
7 determined under section 403(b)(3).”.

8 (F) Section 415(c) is amended by striking
9 paragraph (4).

10 (G) Section 415(c)(7) is amended to read
11 as follows:

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

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this subsection, at the elec-
16 tion of a participant who is an employee of a
17 church or a convention or association of church-
18 es, including an organization described in sec-
19 tion 414(e)(3)(B)(ii), contributions and other
20 additions for an annuity contract or retirement
21 income account described in section 403(b) with
22 respect to such participant, when expressed as
23 an annual addition to such participant’s ac-
24 count, shall be treated as not exceeding the lim-

1 itation of paragraph (1) if such annual addition
2 is not in excess of \$10,000.

3 “(B) \$40,000 AGGREGATE LIMITATION.—
4 The total amount of additions with respect to
5 any participant which may be taken into ac-
6 count for purposes of this subparagraph for all
7 years may not exceed \$40,000.

8 “(C) ANNUAL ADDITION.—For purposes of
9 this paragraph, the term ‘annual addition’ has
10 the meaning given such term by paragraph
11 (2).”.

12 (H) Subparagraph (B) of section
13 402(g)(7) (as redesignated by section 201) is
14 amended by inserting before the period at the
15 end the following: “(as in effect before the en-
16 actment of the Comprehensive Retirement Se-
17 curity and Pension Reform Act of 2001)”.

18 (I) Section 664(g) is amended—

19 (i) in paragraph (3)(E) by striking
20 “limitations under section 415(c)” and in-
21 serting “applicable limitation under para-
22 graph (7)”, and

23 (ii) by adding at the end the following
24 new paragraph:

25 “(7) APPLICABLE LIMITATION.—

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

5 “(i) \$30,000, or

6 “(ii) 25 percent of the participant’s
7 compensation (as defined in section
8 415(c)(3)).

9 “(B) COST-OF-LIVING ADJUSTMENT.—The
10 Secretary shall adjust annually the \$30,000
11 amount under subparagraph (A)(i) at the same
12 time and in the same manner as under section
13 415(d), except that the base period shall be the
14 calendar quarter beginning October 1, 1993,
15 and any increase under this subparagraph
16 which is not a multiple of \$5,000 shall be
17 rounded to the next lowest multiple of \$5,000.”.

18 (4) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to years beginning
20 after December 31, 2001.

21 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
22 408.—

23 (1) IN GENERAL.—Subsection (k) of section
24 415 is amended by adding at the end the following
25 new paragraph:

1 “(4) SPECIAL RULES FOR SECTIONS 403(B)
2 AND 408.—For purposes of this section, any annuity
3 contract described in section 403(b) for the benefit
4 of a participant shall be treated as a defined con-
5 tribution plan maintained by each employer with re-
6 spect to which the participant has the control re-
7 quired under subsection (b) or (c) of section 414 (as
8 modified by subsection (h)). For purposes of this
9 section, any contribution by an employer to a sim-
10 plified employee pension plan for an individual for a
11 taxable year shall be treated as an employer con-
12 tribution to a defined contribution plan for such in-
13 dividual for such year.”.

14 (2) EFFECTIVE DATE.—

15 (A) IN GENERAL.—The amendment made
16 by paragraph (1) shall apply to limitation years
17 beginning after December 31, 1999.

18 (B) EXCLUSION ALLOWANCE.—Effective
19 for limitation years beginning in 2000, in the
20 case of any annuity contract described in sec-
21 tion 403(b) of the Internal Revenue Code of
22 1986, the amount of the contribution disquali-
23 fied by reason of section 415(g) of such Code
24 shall reduce the exclusion allowance as provided
25 in section 403(b)(2) of such Code.

1 (3) MODIFICATION OF 403(b) EXCLUSION AL-
2 LOWANCE TO CONFORM TO 415 MODIFICATION.—The
3 Secretary of the Treasury shall modify the regula-
4 tions regarding the exclusion allowance under section
5 403(b)(2) of the Internal Revenue Code of 1986 to
6 render void the requirement that contributions to a
7 defined benefit pension plan be treated as previously
8 excluded amounts for purposes of the exclusion al-
9 lowance. For taxable years beginning after Decem-
10 ber 31, 1999, such regulations shall be applied as if
11 such requirement were void.

12 (c) DEFERRED COMPENSATION PLANS OF STATE
13 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
14 ZATIONS.—

15 (1) IN GENERAL.—Subparagraph (B) of section
16 457(b)(2) (relating to salary limitation on eligible
17 deferred compensation plans) is amended by striking
18 “33 $\frac{1}{3}$ percent” and inserting “100 percent”.

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

1 **SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER**
2 **MATCHING CONTRIBUTIONS.**

3 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
4 Section 411(a) (relating to minimum vesting standards)
5 is amended—

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

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

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

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

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

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

19 (b) AMENDMENT OF ERISA.—Section 203(a) of the
20 Employee Retirement Income Security Act of 1974 (29
21 U.S.C. 1053(a)) is amended—

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

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

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

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

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

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

13 (c) EFFECTIVE DATES.—

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

18 (2) COLLECTIVE BARGAINING AGREEMENTS.—

19 In the case of a plan maintained pursuant to one or
 20 more collective bargaining agreements between em-
 21 ployee representatives and one or more employers
 22 ratified by the date of the enactment of this Act, the

1 amendments made by this section shall not apply to
2 contributions on behalf of employees covered by any
3 such agreement for plan years beginning before the
4 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 the enactment); or

11 (ii) January 1, 2002; or

12 (B) January 1, 2006.

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

19 **SEC. 304. MODIFICATIONS TO MINIMUM DISTRIBUTION**
20 **RULES.**

21 (a) LIFE EXPECTANCY TABLES.—The Secretary of
22 the Treasury shall modify the life expectancy tables under
23 the regulations relating to minimum distribution require-
24 ments under sections 401(a)(9), 408(a)(6) and (b)(3),

1 403(b)(10), and 457(d)(2) of the Internal Revenue Code
2 to reflect current life expectancy.

3 (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
4 BEGUN BEFORE DEATH OCCURS.—

5 (1) IN GENERAL.—Subparagraph (B) of section
6 401(a)(9) is amended by striking clause (i) and re-
7 designating clauses (ii), (iii), and (iv) as clauses (i),
8 (ii), and (iii), respectively.

9 (2) CONFORMING CHANGES.—

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

12 (i) by striking “FOR OTHER CASES” in
13 the heading; and

14 (ii) by striking “the distribution of the
15 employee’s interest has begun in accord-
16 ance with subparagraph (A)(ii)” and in-
17 sserting “his entire interest has been dis-
18 tributed to him”.

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

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

24 (i) by striking “clause (iii)(I)” and in-
25 sserting “clause (ii)(I)”;

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

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

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

14 (3) EFFECTIVE DATE.—

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

19 (B) DISTRIBUTIONS TO SURVIVING
20 SPOUSE.—

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

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

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

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

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

15 (c) REDUCTION IN EXCISE TAX.—

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

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

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

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

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

10 (2) in the heading, by striking “GOVERN-
11 MENTAL AND CHURCH PLANS” and inserting “CER-
12 TAIN OTHER PLANS”.

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

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

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

1 the rules of section 402(e)(1)(A) shall apply to such
2 distribution or payment.”.

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

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

8 (a) SAFE HARBOR RELIEF.—

9 (1) IN GENERAL.—The Secretary of the Treas-
10 ury shall revise the regulations relating to hardship
11 distributions under section 401(k)(2)(B)(i)(IV) of
12 the Internal Revenue Code of 1986 to provide that
13 the period an employee is prohibited from making
14 elective and employee contributions in order for a
15 distribution to be deemed necessary to satisfy finan-
16 cial need shall be equal to 6 months.

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

20 (b) HARDSHIP DISTRIBUTIONS NOT TREATED AS
21 ELIGIBLE ROLLOVER DISTRIBUTIONS.—

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

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

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

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

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

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

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

1 ber of the employer's family (as defined in section
2 447(e)(1)).”.

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

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

10 **TITLE IV—INCREASING PORT-** 11 **ABILITY FOR PARTICIPANTS**

12 **SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES** 13 **OF PLANS.**

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

16 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

20 “(16) ROLLOVER AMOUNTS.—

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

1 “(i) any portion of the balance to the
2 credit of an employee in such plan is paid
3 to such employee in an eligible rollover dis-
4 tribution (within the meaning of section
5 402(c)(4) without regard to subparagraph
6 (C) thereof),

7 “(ii) the employee transfers any por-
8 tion of the property such employee receives
9 in such distribution to an eligible retire-
10 ment plan described in section
11 402(c)(8)(B), and

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

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

19 “(B) CERTAIN RULES MADE APPLICA-
20 BLE.—The rules of paragraphs (2) through (7)
21 (other than paragraph (4)(C)) and (9) of sec-
22 tion 402(c) and section 402(f) shall apply for
23 purposes of subparagraph (A).

24 “(C) REPORTING.—Rollovers under this
25 paragraph shall be reported to the Secretary in

1 the same manner as rollovers from qualified re-
2 tirement plans (as defined in section
3 4974(c)).”.

4 (B) DEFERRAL LIMIT DETERMINED WITH-
5 OUT REGARD TO ROLLOVER AMOUNTS.—Section
6 457(b)(2) (defining eligible deferred compensa-
7 tion plan) is amended by inserting “(other than
8 rollover amounts)” after “taxable year”.

9 (C) DIRECT ROLLOVER.—Paragraph (1) of
10 section 457(d) is amended by striking “and” at
11 the end of subparagraph (A), by striking the
12 period at the end of subparagraph (B) and in-
13 serting “, and”, and by inserting after subpara-
14 graph (B) the following:

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

19 Any amount transferred in a direct trustee-to-trust-
20 ee transfer in accordance with section 401(a)(31)
21 shall not be includible in gross income for the tax-
22 able year of transfer.”.

23 (D) WITHHOLDING.—

1 (i) Paragraph (12) of section 3401(a)
2 is amended by adding at the end the fol-
3 lowing:

4 “(E) under or to an eligible deferred com-
5 pensation plan which, at the time of such pay-
6 ment, is a plan described in section 457(b)
7 maintained by an employer described in section
8 457(e)(1)(A); or”.

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

11 “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For
12 purposes of this subsection, the term ‘eligible roll-
13 over distribution’ has the meaning given such term
14 by section 402(f)(2)(A).”.

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

21 “(iv) section 457(b) and which is
22 maintained by an eligible employer de-
23 scribed in section 457(e)(1)(A).”.

24 (2) ROLLOVERS TO SECTION 457 PLANS.—

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

7 “(v) an eligible deferred compensation
8 plan described in section 457(b) which is
9 maintained by an eligible employer de-
10 scribed in section 457(e)(1)(A).”.

11 (B) SEPARATE ACCOUNTING.—Section
12 402(c) is amended by adding at the end the fol-
13 lowing new paragraph:

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

21 (C) 10 PERCENT ADDITIONAL TAX.—Sub-
22 section (t) of section 72 (relating to 10-percent
23 additional tax on early distributions from quali-
24 fied retirement plans) is amended by adding at
25 the end the following new paragraph:

1 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-
2 TION 457 PLANS.—For purposes of this subsection,
3 a distribution from an eligible deferred compensation
4 plan (as defined in section 457(b)) of an eligible em-
5 ployer described in section 457(e)(1)(A) shall be
6 treated as a distribution from a qualified retirement
7 plan described in section 4974(c)(1) to the extent
8 that such distribution is attributable to an amount
9 transferred to an eligible deferred compensation plan
10 from a qualified retirement plan (as defined in sec-
11 tion 4974(c)).”.

12 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
13 403(b) PLANS.—

14 (1) ROLLOVERS FROM SECTION 403(b) PLANS.—
15 Section 403(b)(8)(A)(ii) (relating to rollover
16 amounts) is amended by striking “such distribution”
17 and all that follows and inserting “such distribution
18 to an eligible retirement plan described in section
19 402(c)(8)(B), and”.

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

1 and”, and by inserting after clause (v) the following
2 new clause:

3 “(vi) an annuity contract described in
4 section 403(b).”.

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

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

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

23 (e) CONFORMING AMENDMENTS.—

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

4 (2) Section 219(d)(2) is amended by striking
5 “or 408(d)(3)” and inserting “408(d)(3), or
6 457(e)(16)”.

7 (3) Section 401(a)(31)(B) is amended by strik-
8 ing “and 403(a)(4)” and inserting “, 403(a)(4),
9 403(b)(8), and 457(e)(16)”.

10 (4) Subparagraph (A) of section 402(f)(2) is
11 amended by striking “or paragraph (4) of section
12 403(a)” and inserting “, paragraph (4) of section
13 403(a), subparagraph (A) of section 403(b)(8), or
14 subparagraph (A) of section 457(e)(16)”.

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

17 (6) Subparagraphs (A) and (B) of section
18 402(f)(1) are amended by striking “another eligible
19 retirement plan” and inserting “an eligible retire-
20 ment plan”.

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

23 “(B) CERTAIN RULES MADE APPLICA-
24 BLE.—The rules of paragraphs (2) through (7)
25 and (9) of section 402(c) and section 402(f)

1 shall apply for purposes of subparagraph (A),
2 except that section 402(f) shall be applied to
3 the payor in lieu of the plan administrator.”.

4 (8) Section 408(a)(1) is amended by striking
5 “or 403(b)(8),” and inserting “403(b)(8), or
6 457(e)(16)”.

7 (9) Subparagraphs (A) and (B) of section
8 415(b)(2) are each amended by striking “and
9 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
10 457(e)(16)”.

11 (10) Section 415(c)(2) is amended by striking
12 “and 408(d)(3)” and inserting “408(d)(3), and
13 457(e)(16)”.

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

17 (f) EFFECTIVE DATE; SPECIAL RULE.—

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

21 (2) REASONABLE NOTICE.—No penalty shall be
22 imposed on a plan for the failure to provide the in-
23 formation required by the amendment made by sub-
24 section (c) with respect to any distribution made be-
25 fore the date that is 90 days after the date on which

1 the Secretary of the Treasury issues a safe harbor
2 rollover notice after the date of the enactment of
3 this Act, if the administrator of such plan makes a
4 reasonable attempt to comply with such requirement.

5 (3) SPECIAL RULE.—Notwithstanding any other
6 provision of law, subsections (h)(3) and (h)(5) of
7 section 1122 of the Tax Reform Act of 1986 shall
8 not apply to any distribution from an eligible retire-
9 ment plan (as defined in clause (iii) or (iv) of section
10 402(c)(8)(B) of the Internal Revenue Code of 1986)
11 on behalf of an individual if there was a rollover to
12 such plan on behalf of such individual which is per-
13 mitted solely by reason of any amendment made by
14 this section.

15 **SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
16 **MENT PLANS.**

17 (a) IN GENERAL.—Subparagraph (A) of section
18 408(d)(3) (relating to rollover amounts) is amended by
19 adding “or” at the end of clause (i), by striking clauses
20 (ii) and (iii), and by adding at the end the following:

21 “(ii) the entire amount received (in-
22 cluding money and any other property) is
23 paid into an eligible retirement plan for
24 the benefit of such individual not later
25 than the 60th day after the date on which

1 the payment or distribution is received, ex-
2 cept that the maximum amount which may
3 be paid into such plan may not exceed the
4 portion of the amount received which is in-
5 cludible in gross income (determined with-
6 out regard to this paragraph).

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

11 (b) CONFORMING AMENDMENTS.—

12 (1) Paragraph (1) of section 403(b) is amended
13 by striking “section 408(d)(3)(A)(iii)” and inserting
14 “section 408(d)(3)(A)(ii)”.

15 (2) Clause (i) of section 408(d)(3)(D) is amend-
16 ed by striking “(i), (ii), or (iii)” and inserting “(i)
17 or (ii)”.

18 (3) Subparagraph (G) of section 408(d)(3) is
19 amended to read as follows:

20 “(G) SIMPLE RETIREMENT ACCOUNTS.—In
21 the case of any payment or distribution out of
22 a simple retirement account (as defined in sub-
23 section (p)) to which section 72(t)(6) applies,
24 this paragraph shall not apply unless such pay-

1 ment or distribution is paid into another simple
2 retirement account.”.

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

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

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 (as defined in clause (iii) or (iv) of section
12 402(c)(8)(B) of the Internal Revenue Code of 1986)
13 on behalf of an individual if there was a rollover to
14 such plan on behalf of such individual which is per-
15 mitted solely by reason of the amendments made by
16 this section.

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

18 (a) **ROLLOVERS FROM EXEMPT TRUSTS.**—Para-
19 graph (2) of section 402(c) (relating to maximum amount
20 which may be rolled over) is amended by adding at the
21 end the following: “The preceding sentence shall not apply
22 to such distribution to the extent—

23 “(A) such portion is transferred in a direct
24 trustee-to-trustee transfer to a qualified trust
25 which is part of a plan which is a defined con-

1 tribution plan and which agrees to separately
2 account for amounts so transferred, including
3 separately accounting for the portion of such
4 distribution which is includible in gross income
5 and the portion of such distribution which is
6 not so includible, or

7 “(B) such portion is transferred to an eli-
8 gible retirement plan described in clause (i) or
9 (ii) of paragraph (8)(B).”.

10 (b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE
11 ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of sec-
12 tion 401(a)(31) (relating to limitation) is amended by add-
13 ing at the end the following:

14 “The preceding sentence shall not apply to such
15 distribution if the plan to which such distribu-
16 tion is transferred—

17 “(i) agrees to separately account for
18 amounts so transferred, including sepa-
19 rately accounting for the portion of such
20 distribution which is includible in gross in-
21 come and the portion of such distribution
22 which is not so includible, or

23 “(ii) is an eligible retirement plan de-
24 scribed in clause (i) or (ii) of section
25 402(c)(8)(B).”.

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

5 “(H) APPLICATION OF SECTION 72.—

6 “(i) IN GENERAL.—If—

7 “(I) a distribution is made from
8 an individual retirement plan, and

9 “(II) a rollover contribution is
10 made to an eligible retirement plan
11 described in section 402(c)(8)(B)(iii),
12 (iv), (v), or (vi) with respect to all or
13 part of such distribution,

14 then, notwithstanding paragraph (2), the
15 rules of clause (ii) shall apply for purposes
16 of applying section 72.

17 “(ii) APPLICABLE RULES.—In the
18 case of a distribution described in clause
19 (i)—

20 “(I) section 72 shall be applied
21 separately to such distribution,

22 “(II) notwithstanding the pro
23 rata allocation of income on, and in-
24 vestment in, the contract to distribu-
25 tions under section 72, the portion of

1 such distribution rolled over to an eli-
2 gible retirement plan described in
3 clause (i) shall be treated as from in-
4 come on the contract (to the extent of
5 the aggregate income on the contract
6 from all individual retirement plans of
7 the distributee), and

8 “(III) appropriate adjustments
9 shall be made in applying section 72
10 to other distributions in such taxable
11 year and subsequent taxable years.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions after December 31,
14 2001.

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

16 (a) EXEMPT TRUSTS.—Paragraph (3) of section
17 402(c) (relating to transfer must be made within 60 days
18 of receipt) is amended to read as follows:

19 “(3) TRANSFER MUST BE MADE WITHIN 60
20 DAYS OF RECEIPT.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), paragraph (1) shall not
23 apply to any transfer of a distribution made
24 after the 60th day following the day on which

1 the distributee received the property distrib-
2 uted.

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

10 (b) IRAS.—Paragraph (3) of section 408(d) (relating
11 to rollover contributions), as amended by section 403, is
12 amended by adding after subparagraph (H) the following
13 new subparagraph:

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

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

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

2 (a) PLAN TRANSFERS.—

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

7 “(D) PLAN TRANSFERS.—

8 “(i) IN GENERAL.—A defined con-
9 tribution plan (in this subparagraph re-
10 ferred to as the ‘transferee plan’) shall not
11 be treated as failing to meet the require-
12 ments of this subsection merely because
13 the transferee plan does not provide some
14 or all of the forms of distribution pre-
15 viously available under another defined
16 contribution plan (in this subparagraph re-
17 ferred to as the ‘transferor plan’) to the
18 extent that—

19 “(I) the forms of distribution
20 previously available under the trans-
21 feror plan applied to the account of a
22 participant or beneficiary under the
23 transferor plan that was transferred
24 from the transferor plan to the trans-
25 feree plan pursuant to a direct trans-

1 fer rather than pursuant to a distribu-
2 tion from the transferor plan,

3 “(II) the terms of both the trans-
4 feror plan and the transferee plan au-
5 thorize the transfer described in sub-
6 clause (I),

7 “(III) the transfer described in
8 subclause (I) was made pursuant to a
9 voluntary election by the participant
10 or beneficiary whose account was
11 transferred to the transferee plan,

12 “(IV) the election described in
13 subclause (III) was made after the
14 participant or beneficiary received a
15 notice describing the consequences of
16 making the election, and

17 “(V) the transferee plan allows
18 the participant or beneficiary de-
19 scribed in subclause (III) to receive
20 any distribution to which the partici-
21 pant or beneficiary is entitled under
22 the transferee plan in the form of a
23 single sum distribution.

24 “(ii) EXCEPTION.—Clause (i) shall
25 apply to plan mergers and other trans-

1 actions having the effect of a direct trans-
2 fer, including consolidations of benefits at-
3 tributable to different employers within a
4 multiple employer plan.

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

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

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

22 (2) AMENDMENT OF ERISA.—Section 204(g) of
23 the Employee Retirement Income Security Act of
24 1974 (29 U.S.C. 1054(g)) is amended by adding at
25 the end the following:

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

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

16 “(ii) the terms of both the transferor plan and
17 the transferee plan authorize the transfer described
18 in clause (i);

19 “(iii) the transfer described in clause (i) was
20 made pursuant to a voluntary election by the partici-
21 pant or beneficiary whose account was transferred to
22 the transferee plan;

23 “(iv) the election described in clause (iii) was
24 made after the participant or beneficiary received a

1 notice describing the consequences of making the
2 election; and

3 “(v) the transferee plan allows the participant
4 or beneficiary described in clause (iii) to receive any
5 distribution to which the participant or beneficiary is
6 entitled under the transferee plan in the form of a
7 single sum distribution.

8 “(B) Subparagraph (A) shall apply to plan mergers
9 and other transactions having the effect of a direct trans-
10 fer, including consolidations of benefits attributable to dif-
11 ferent employers within a multiple employer plan.

12 “(5) Except to the extent provided in regulations pro-
13 mulgated by the Secretary of the Treasury, a defined con-
14 tribution plan shall not be treated as failing to meet the
15 requirements of this subsection merely because of the
16 elimination of a form of distribution previously available
17 thereunder. This paragraph shall not apply to the elimi-
18 nation of a form of distribution with respect to any partici-
19 pant unless—

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

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

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

4 (b) REGULATIONS.—

5 (1) AMENDMENT OF INTERNAL REVENUE
6 CODE.—Paragraph (6)(B) of section 411(d) (relat-
7 ing to accrued benefit not to be decreased by amend-
8 ment) is amended by inserting after the second sen-
9 tence the following new sentence: “The Secretary
10 shall by regulations provide that this subparagraph
11 shall not apply to any plan amendment which re-
12 duces or eliminates benefits or subsidies which cre-
13 ate significant burdens or complexities for the plan
14 and plan participants and does not adversely affect
15 the rights of any participant in a more than de mini-
16 mis manner.”.

17 (2) AMENDMENT OF ERISA.—Section 204(g)(2)
18 of the Employee Retirement Income Security Act of
19 1974 (29 U.S.C. 1054(g)(2)) is amended by insert-
20 ing before the last sentence the following new sen-
21 tence: “The Secretary of the Treasury shall by regu-
22 lations provide that this paragraph shall not apply
23 to any plan amendment which reduces or eliminates
24 benefits or subsidies which create significant bur-
25 dens or complexities for the plan and plan partici-

1 pants and does not adversely affect the rights of any
2 participant in a more than de minimis manner.”.

3 (3) SECRETARY DIRECTED.—Not later than
4 December 31, 2003, the Secretary of the Treasury
5 is directed to issue regulations under section
6 411(d)(6) of the Internal Revenue Code of 1986 and
7 section 204(g) of the Employee Retirement Income
8 Security Act of 1974, including the regulations re-
9 quired by the amendment made by this subsection.
10 Such regulations shall apply to plan years beginning
11 after December 31, 2003, or such earlier date as is
12 specified by the Secretary of the Treasury.

13 **SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-**
14 **TRIBUTIONS.**

15 (a) MODIFICATION OF SAME DESK EXCEPTION.—

16 (1) SECTION 401(k).—

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

21 (B) Subparagraph (A) of section
22 401(k)(10) (relating to distributions upon ter-
23 mination of plan or disposition of assets or sub-
24 subsidiary) is amended to read as follows:

1 “(A) IN GENERAL.—An event described in
2 this subparagraph is the termination of the
3 plan without establishment or maintenance of
4 another defined contribution plan (other than
5 an employee stock ownership plan as defined in
6 section 4975(e)(7)).”.

7 (C) Section 401(k)(10) is amended—

8 (i) in subparagraph (B)—

9 (I) by striking “An event” in
10 clause (i) and inserting “A termi-
11 nation”; and

12 (II) by striking “the event” in
13 clause (i) and inserting “the termi-
14 nation”;

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

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

18 (2) SECTION 403(b).—

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

23 (B) The heading for paragraph (11) of
24 section 403(b) is amended by striking “SEPARA-

1 TION FROM SERVICE” and inserting “SEVER-
2 ANCE FROM EMPLOYMENT”.

3 (3) SECTION 457.—Clause (ii) of section
4 457(d)(1)(A) is amended by striking “is separated
5 from service” and inserting “has a severance from
6 employment”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to distributions after December 31,
9 2001.

10 **SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-**
11 **MENTAL DEFINED BENEFIT PLANS.**

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

15 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
16 PURCHASE PERMISSIVE SERVICE CREDIT.—No
17 amount shall be includible in gross income by reason
18 of a direct trustee-to-trustee transfer to a defined
19 benefit governmental plan (as defined in section
20 414(d)) if such transfer is—

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

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

4 (b) 457 PLANS.—Subsection (e) of section 457 is
5 amended by adding after paragraph (16) the following
6 new paragraph:

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

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

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

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to trustee-to-trustee transfers after
21 December 31, 2001.

22 **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
23 **PURPOSES OF CASH-OUT AMOUNTS.**

24 (a) QUALIFIED PLANS.—

1 (1) AMENDMENT OF INTERNAL REVENUE
2 CODE.—Section 411(a)(11) (relating to restrictions
3 on certain mandatory distributions) is amended by
4 adding at the end the following:

5 “(D) SPECIAL RULE FOR ROLLOVER CON-
6 TRIBUTIONS.—A plan shall not fail to meet the
7 requirements of this paragraph if, under the
8 terms of the plan, the present value of the non-
9 forfeitable accrued benefit is determined with-
10 out regard to that portion of such benefit which
11 is attributable to rollover contributions (and
12 earnings allocable thereto). For purposes of this
13 subparagraph, the term ‘rollover contributions’
14 means any rollover contribution under sections
15 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
16 and 457(e)(16).”.

17 (2) AMENDMENT OF ERISA.—Section 203(e) of
18 the Employee Retirement Income Security Act of
19 1974 (29 U.S.C. 1053(c)) is amended by adding at
20 the end the following:

21 “(4) A plan shall not fail to meet the requirements
22 of this subsection if, under the terms of the plan, the
23 present value of the nonforfeitable accrued benefit is de-
24 termined without regard to that portion of such benefit
25 which is attributable to rollover contributions (and earn-

1 ings allocable thereto). For purposes of this subparagraph,
2 the term ‘rollover contributions’ means any rollover con-
3 tribution under sections 402(c), 403(a)(4), 403(b)(8),
4 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue
5 Code of 1986.”.

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

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

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

16 (a) MINIMUM DISTRIBUTION REQUIREMENTS.—
17 Paragraph (2) of section 457(d) (relating to distribution
18 requirements) is amended to read as follows:

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

23 (b) INCLUSION IN GROSS INCOME.—

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

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

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

11 “(A) is paid to the participant or other
12 beneficiary, in the case of a plan of an eligible
13 employer described in subsection (e)(1)(A), and

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

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

22 (2) CONFORMING AMENDMENTS.—

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

1 “(9) BENEFITS OF TAX EXEMPT ORGANIZATION
2 PLANS NOT TREATED AS MADE AVAILABLE BY REA-
3 SON OF CERTAIN ELECTIONS, ETC.—In the case of
4 an eligible deferred compensation plan of an em-
5 ployer described in subsection (e)(1)(B)—”.

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

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

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to distributions after December 31,
16 2001.

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

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

22 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
23 Section 412(c)(7) (relating to full-funding limitation) is
24 amended—

1 (1) by striking “the applicable percentage” in
 2 subparagraph (A)(i)(I) and inserting “in the case of
 3 plan years beginning before January 1, 2004, the
 4 applicable percentage”; and

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

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

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

11 (b) AMENDMENT OF ERISA.—Section 302(c)(7) of
 12 the Employee Retirement Income Security Act of 1974
 13 (29 U.S.C. 1082(c)(7)) is amended—

14 (1) by striking “the applicable percentage” in
 15 subparagraph (A)(i)(I) and inserting “in the case of
 16 plan years beginning before January 1, 2004, the
 17 applicable percentage”; and

18 (2) by amending subparagraph (F) to read as
 19 follows:

20 “(F) APPLICABLE PERCENTAGE.—For
 21 purposes of subparagraph (A)(i)(I), the applica-
 22 ble percentage shall be determined in accord-
 23 ance with the following table:

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

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

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

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

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

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

22 “(ii) PLANS WITH LESS THAN 100
23 PARTICIPANTS.—For purposes of this sub-

1 paragraph, in the case of a plan which has
2 less than 100 participants for the plan
3 year, termination liability shall not include
4 the liability attributable to benefit in-
5 creases for highly compensated employees
6 (as defined in section 414(q)) resulting
7 from a plan amendment which is made or
8 becomes effective, whichever is later, within
9 the last 2 years before the termination
10 date.

11 “(iii) RULE FOR DETERMINING NUM-
12 BER OF PARTICIPANTS.—For purposes of
13 determining whether a plan has more than
14 100 participants, all defined benefit plans
15 maintained by the same employer (or any
16 member of such employer’s controlled
17 group (within the meaning of section
18 412(l)(8)(C))) shall be treated as one plan,
19 but only employees of such member or em-
20 ployer shall be taken into account.

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

1 (b) CONFORMING AMENDMENT.—Paragraph (6) of
2 section 4972(c), as amended by section 207, is amended
3 to read as follows:

4 “(6) EXCEPTIONS.—In determining the amount
5 of nondeductible contributions for any taxable year,
6 there shall not be taken into account so much of the
7 contributions to one or more defined contribution
8 plans which are not deductible when contributed
9 solely because of section 404(a)(7) as does not ex-
10 ceed the greater of—

11 “(A) the amount of contributions not in
12 excess of 6 percent of compensation (within the
13 meaning of section 404(a)) paid or accrued
14 (during the taxable year for which the contribu-
15 tions were made) to beneficiaries under the
16 plans, or

17 “(B) the sum of—

18 “(i) the amount of contributions de-
19 scribed in section 401(m)(4)(A), plus

20 “(ii) the amount of contributions de-
21 scribed in section 402(g)(3)(A).

22 For purposes of this paragraph, the deductible limits
23 under section 404(a)(7) shall first be applied to
24 amounts contributed to a defined benefit plan and
25 then to amounts described in subparagraph (B).”.

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

4 **SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**
5 **ING.**

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

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

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

4 **SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**
5 **DEFINED BENEFIT PLANS SIGNIFICANTLY**
6 **REDUCING FUTURE BENEFIT ACCRUALS.**

7 (a) AMENDMENT OF INTERNAL REVENUE CODE.—

8 (1) IN GENERAL.—Chapter 43 (relating to
9 qualified pension, etc., plans) is amended by adding
10 at the end the following new section:

11 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**
12 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**
13 **QUIREMENTS.**

14 “(a) IMPOSITION OF TAX.—There is hereby imposed
15 a tax on the failure of any applicable pension plan to meet
16 the requirements of subsection (e) with respect to any ap-
17 plicable individual.

18 “(b) AMOUNT OF TAX.—

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

24 “(2) NONCOMPLIANCE PERIOD.—For purposes
25 of this section, the term ‘noncompliance period’

1 means, with respect to any failure, the period begin-
2 ning on the date the failure first occurs and ending
3 on the date the notice to which the failure relates is
4 provided or the failure is otherwise corrected.

5 “(c) LIMITATIONS ON AMOUNT OF TAX.—

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

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

18 “(A) any person subject to liability for the
19 tax under subsection (d) exercised reasonable
20 diligence to meet the requirements of subsection
21 (e), and

22 “(B) such person provides the notice de-
23 scribed in subsection (e) during the 30-day pe-
24 riod beginning on the first date such person

1 knew, or exercising reasonable diligence would
2 have known, that such failure existed.

3 “(3) OVERALL LIMITATION FOR UNINTEN-
4 TIONAL FAILURES.—

5 “(A) IN GENERAL.—If the person subject
6 to liability for tax under subsection (d) exer-
7 cised reasonable diligence to meet the require-
8 ments of subsection (e), the tax imposed by
9 subsection (a) for failures during the taxable
10 year of the employer (or, in the case of a multi-
11 employer plan, the taxable year of the trust
12 forming part of the plan) shall not exceed
13 \$500,000. For purposes of the preceding sen-
14 tence, all multiemployer plans of which the
15 same trust forms a part shall be treated as 1
16 plan.

17 “(B) TAXABLE YEARS IN THE CASE OF
18 CERTAIN CONTROLLED GROUPS.—For purposes
19 of this paragraph, if all persons who are treated
20 as a single employer for purposes of this section
21 do not have the same taxable year, the taxable
22 years taken into account shall be determined
23 under principles similar to the principles of sec-
24 tion 1561.

1 “(4) WAIVER BY SECRETARY.—In the case of a
2 failure which is due to reasonable cause and not to
3 willful neglect, the Secretary may waive part or all
4 of the tax imposed by subsection (a) to the extent
5 that the payment of such tax would be excessive or
6 otherwise inequitable relative to the failure involved.

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

9 “(1) In the case of a plan other than a multi-
10 employer plan, the employer.

11 “(2) In the case of a multiemployer plan, the
12 plan.

13 “(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFI-
14 CANTLY REDUCING BENEFIT ACCRUALS.—

15 “(1) IN GENERAL.—If an applicable pension
16 plan is amended to provide for a significant reduc-
17 tion in the rate of future benefit accrual, the plan
18 administrator shall provide written notice to each
19 applicable individual (and to each employee organi-
20 zation representing applicable individuals).

21 “(2) NOTICE.—The notice required by para-
22 graph (1) shall be written in a manner calculated to
23 be understood by the average plan participant and
24 shall provide sufficient information (as determined
25 in accordance with regulations prescribed by the

1 Secretary) to allow applicable individuals to under-
2 stand the effect of the plan amendment. The Sec-
3 retary may provide a simplified form of notice for,
4 or exempt from any notice requirement, a plan—

5 “(A) which has fewer than 100 partici-
6 pants who have accrued a benefit under the
7 plan, or

8 “(B) which offers participants the option
9 to choose between the new benefit formula and
10 the old benefit formula.

11 “(3) TIMING OF NOTICE.—Except as provided
12 in regulations, the notice required by paragraph (1)
13 shall be provided within a reasonable time before the
14 effective date of the plan amendment.

15 “(4) DESIGNEES.—Any notice under paragraph
16 (1) may be provided to a person designated, in writ-
17 ing, by the person to which it would otherwise be
18 provided.

19 “(5) NOTICE BEFORE ADOPTION OF AMEND-
20 MENT.—A plan shall not be treated as failing to
21 meet the requirements of paragraph (1) merely be-
22 cause notice is provided before the adoption of the
23 plan amendment if no material modification of the
24 amendment occurs before the amendment is adopt-
25 ed.

1 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) APPLICABLE INDIVIDUAL.—The term ‘ap-
4 plicable individual’ means, with respect to any plan
5 amendment—

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

7 “(B) any beneficiary who is an alternate
8 payee (within the meaning of section 414(p)(8))
9 under an applicable qualified domestic relations
10 order (within the meaning of section
11 414(p)(1)(A)),

12 whose rate of future benefit accrual under the plan
13 may reasonably be expected to be significantly re-
14 duced by such plan amendment.

15 “(2) APPLICABLE PENSION PLAN.—The term
16 ‘applicable pension plan’ means—

17 “(A) any defined benefit plan, or

18 “(B) an individual account plan which is
19 subject to the funding standards of section 412.

20 Such term shall not include a governmental plan
21 (within the meaning of section 414(d)) or a church
22 plan (within the meaning of section 414(e)) with re-
23 spect to which the election provided by section
24 410(d) has not been made.

1 “(3) EARLY RETIREMENT.—A plan amendment
2 which eliminates or significantly reduces any early
3 retirement benefit or retirement-type subsidy (within
4 the meaning of section 411(d)(6)(B)(i)) shall be
5 treated as having the effect of significantly reducing
6 the rate of future benefit accrual.

7 “(g) NEW TECHNOLOGIES.—The Secretary may by
8 regulations allow any notice under subsection (e) to be
9 provided by using new technologies.”.

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

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

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

17 “(3)(A) An applicable pension plan to which para-
18 graph (1) applies shall not be treated as meeting the re-
19 quirements of such paragraph unless, in addition to any
20 notice required to be provided to an individual or organiza-
21 tion under such paragraph, the plan administrator pro-
22 vides the notice described in subparagraph (B) to each ap-
23 plicable individual (and to each employee organization rep-
24 resenting applicable individuals).

1 “(B) The notice required by subparagraph (A) shall
2 be written in a manner calculated to be understood by the
3 average plan participant and shall provide sufficient infor-
4 mation (as determined in accordance with regulations pre-
5 scribed by the Secretary of the Treasury) to allow applica-
6 ble individuals to understand the effect of the plan amend-
7 ment. The Secretary of the Treasury may provide a sim-
8 plified form of notice for, or exempt from any notice re-
9 quirement, a plan—

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

12 “(ii) which offers participants the option to
13 choose between the new benefit formula and the old
14 benefit formula.

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

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

22 “(E) A plan shall not be treated as failing to meet
23 the requirements of subparagraph (A) merely because no-
24 tice is provided before the adoption of the plan amendment

1 if no material modification of the amendment occurs be-
2 fore the amendment is adopted.

3 “(F) The Secretary of the Treasury may by regula-
4 tions allow any notice under this paragraph to be provided
5 by using new technologies.

6 “(4) For purposes of paragraph (3)—

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

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

10 “(ii) any beneficiary who is an alternate
11 payee (within the meaning of section
12 206(d)(3)(K)) under an applicable qualified do-
13 mestic relations order (within the meaning of
14 section 206(d)(3)(B)(i)),

15 whose rate of future benefit accrual under the plan
16 may reasonably be expected to be significantly re-
17 duced by such plan amendment.

18 “(B) The term ‘applicable pension plan’
19 means—

20 “(i) any defined benefit plan; or

21 “(ii) an individual account plan which is
22 subject to the funding standards of section 412
23 of the Internal Revenue Code of 1986.

24 “(C) A plan amendment which eliminates or
25 significantly reduces any early retirement benefit or

1 retirement-type subsidy (within the meaning of sub-
2 section (g)(2)(A)) shall be treated as having the ef-
3 fect of significantly reducing the rate of future ben-
4 efit accrual.”.

5 (c) EFFECTIVE DATES.—

6 (1) IN GENERAL.—The amendments made by
7 this section shall apply to plan amendments taking
8 effect on or after the date of the enactment of this
9 Act.

10 (2) TRANSITION.—Until such time as the Sec-
11 retary of the Treasury issues regulations under sec-
12 tions 4980F(e)(2) and (3) of the Internal Revenue
13 Code of 1986, and section 204(h)(3) of the Em-
14 ployee Retirement Income Security Act of 1974, as
15 added by the amendments made by this section, a
16 plan shall be treated as meeting the requirements of
17 such sections if it makes a good faith effort to com-
18 ply with such requirements.

19 (3) SPECIAL NOTICE RULE.—

20 (A) IN GENERAL.—The period for pro-
21 viding any notice required by the amendments
22 made by this section shall not end before the
23 date which is 3 months after the date of the en-
24 actment of this Act.

1 (B) REASONABLE NOTICE.—The amend-
2 ments made by this section shall not apply to
3 any plan amendment taking effect on or after
4 the date of the enactment of this Act if, before
5 April 25, 2001, notice was provided to partici-
6 pants and beneficiaries adversely affected by
7 the plan amendment (or their representatives)
8 which was reasonably expected to notify them
9 of the nature and effective date of the plan
10 amendment.

11 (d) STUDY.—The Secretary of the Treasury shall
12 prepare a report on the effects of conversions of tradi-
13 tional defined benefit plans to cash balance or hybrid for-
14 mula plans. Such study shall examine the effect of such
15 conversions on longer service participants, including the
16 incidence and effects of “wear away” provisions under
17 which participants earn no additional benefits for a period
18 of time after the conversion. As soon as practicable, but
19 not later than 60 days after the date of the enactment
20 of this Act, the Secretary shall submit such report, to-
21 gether with recommendations thereon, to the Committee
22 on Ways and Means and the Committee on Education and
23 the Workforce of the House of Representatives and the
24 Committee on Finance and the Committee on Health,
25 Education, Labor, and Pensions of the Senate.

1 **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
2 **SECTION 415.**

3 (a) COMPENSATION LIMIT.—

4 (1) IN GENERAL.—Paragraph (11) of section
5 415(b) (relating to limitation for defined benefit
6 plans) is amended to read as follows:

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

13 (2) CONFORMING AMENDMENT.—Section
14 415(b)(7) (relating to benefits under certain collec-
15 tively bargained plans) is amended by inserting
16 “(other than a multiemployer plan)” after “defined
17 benefit plan” in the matter preceding subparagraph
18 (A).

19 (b) COMBINING AND AGGREGATION OF PLANS.—

20 (1) COMBINING OF PLANS.—Subsection (f) of
21 section 415 (relating to combining of plans) is
22 amended by adding at the end the following:

23 “(3) EXCEPTION FOR MULTIEMPLOYER
24 PLANS.—Notwithstanding paragraph (1) and sub-
25 section (g), a multiemployer plan (as defined in sec-
26 tion 414(f)) shall not be combined or aggregated—

1 section shall not apply to any elective deferral which
2 is invested in assets consisting of qualifying em-
3 ployer securities, qualifying employer real property,
4 or both, if such assets were acquired before January
5 1, 1999.”.

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

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

10 (a) IN GENERAL.—Section 105(a) of the Employee
11 Retirement Income Security Act of 1974 (29 U.S.C. 1025
12 (a)) is amended to read as follows:

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

14 “(A) the administrator of an individual account
15 plan shall furnish a pension benefit statement—

16 “(i) to a plan participant at least once an-
17 nually, and

18 “(ii) to a plan beneficiary upon written re-
19 quest, and

20 “(B) the administrator of a defined benefit plan
21 shall furnish a pension benefit statement—

22 “(i) at least once every 3 years to each
23 participant with a nonforfeitable accrued ben-
24 efit who is employed by the employer maintain-

1 ing the plan at the time the statement is fur-
2 nished to participants, and

3 “(ii) to a plan participant or plan bene-
4 ficiary of the plan upon written request.

5 “(2) Notwithstanding paragraph (1), the adminis-
6 trator of a plan to which more than 1 unaffiliated em-
7 ployer is required to contribute shall only be required to
8 furnish a pension benefit statement under paragraph (1)
9 upon the written request of a participant or beneficiary
10 of the plan.

11 “(3) A pension benefit statement under paragraph
12 (1)—

13 “(A) shall indicate, on the basis of the latest
14 available information—

15 “(i) the total benefits accrued, and

16 “(ii) the nonforfeitable pension benefits, if
17 any, which have accrued, or the earliest date on
18 which benefits will become nonforfeitable,

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

21 “(C) may be provided in written, electronic, tel-
22 ephonic, or other appropriate form.

23 “(4)(A) In the case of a defined benefit plan, the re-
24 quirements of paragraph (1)(B)(i) shall be treated as met
25 with respect to a participant if the administrator provides

1 the participant at least once each year with notice of the
2 availability of the pension benefit statement and the ways
3 in which the participant may obtain such statement. Such
4 notice shall be provided in written, electronic, telephonic,
5 or other appropriate form, and may be included with other
6 communications to the participant if done in a manner
7 reasonably designed to attract the attention of the partici-
8 pant.

9 “(B) The Secretary may provide that years in which
10 no employee or former employee benefits (within the
11 meaning of section 410(b) of the Internal Revenue Code
12 of 1986) under the plan need not be taken into account
13 in determining the 3-year period under paragraph
14 (1)(B)(i).”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 105 of the Employee Retirement In-
17 come Security Act of 1974 (29 U.S.C. 1025) is
18 amended by striking subsection (d).

19 (2) Section 105(b) of such Act (29 U.S.C.
20 1025(b)) is amended to read as follows:

21 “(b) In no case shall a participant or beneficiary of
22 a plan be entitled to more than one statement described
23 in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is appli-
24 cable, in any 12-month period.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2002.

4 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
5 **PORATION ESOP.**

6 (a) IN GENERAL.—Section 409 (relating to qualifica-
7 tions for tax credit employee stock ownership plans) is
8 amended by redesignating subsection (p) as subsection (q)
9 and by inserting after subsection (o) the following new
10 subsection:

11 “(p) PROHIBITED ALLOCATIONS OF SECURITIES IN
12 AN S CORPORATION.—

13 “(1) IN GENERAL.—An employee stock owner-
14 ship plan holding employer securities consisting of
15 stock in an S corporation shall provide that no por-
16 tion of the assets of the plan attributable to (or allo-
17 cable in lieu of) such employer securities may, dur-
18 ing a nonallocation year, accrue (or be allocated di-
19 rectly or indirectly under any plan of the employer
20 meeting the requirements of section 401(a)) for the
21 benefit of any disqualified person.

22 “(2) FAILURE TO MEET REQUIREMENTS.—

23 “(A) IN GENERAL.—If a plan fails to meet
24 the requirements of paragraph (1), the plan
25 shall be treated as having distributed to any

1 disqualified person the amount allocated to the
2 account of such person in violation of para-
3 graph (1) at the time of such allocation.

4 “(B) CROSS REFERENCE.—

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

5 “(3) NONALLOCATION YEAR.—For purposes of
6 this subsection—

7 “(A) IN GENERAL.—The term ‘nonalloca-
8 tion year’ means any plan year of an employee
9 stock ownership plan if, at any time during
10 such plan year—

11 “(i) such plan holds employer securi-
12 ties consisting of stock in an S corpora-
13 tion, and

14 “(ii) disqualified persons own at least
15 50 percent of the number of shares of
16 stock in the S corporation.

17 “(B) CONTRIBUTION RULES.—For purposes
18 of subparagraph (A)—

19 “(i) IN GENERAL.—The rules of sec-
20 tion 318(a) shall apply for purposes of de-
21 termining ownership, except that—

22 “(I) in applying paragraph (1)
23 thereof, the members of an individ-
24 ual’s family shall include members of

1 the family described in paragraph
2 (4)(D), and

3 “(II) paragraph (4) thereof shall
4 not apply.

5 “(ii) DEEMED-OWNED SHARES.—Not-
6 withstanding the employee trust exception
7 in section 318(a)(2)(B)(i), individual shall
8 be treated as owning deemed-owned shares
9 of the individual.

10 Solely for purposes of applying paragraph (5),
11 this subparagraph shall be applied after the at-
12 tribution rules of paragraph (5) have been ap-
13 plied.

14 “(4) DISQUALIFIED PERSON.—For purposes of
15 this subsection—

16 “(A) IN GENERAL.—The term ‘disqualified
17 person’ means any person if—

18 “(i) the aggregate number of deemed-
19 owned shares of such person and the mem-
20 bers of such person’s family is at least 20
21 percent of the number of deemed-owned
22 shares of stock in the S corporation, or

23 “(ii) in the case of a person not de-
24 scribed in clause (i), the number of
25 deemed-owned shares of such person is at

1 least 10 percent of the number of deemed-
2 owned shares of stock in such corporation.

3 “(B) TREATMENT OF FAMILY MEMBERS.—

4 In the case of a disqualified person described in
5 subparagraph (A)(i), any member of such per-
6 son’s family with deemed-owned shares shall be
7 treated as a disqualified person if not otherwise
8 treated as a disqualified person under subpara-
9 graph (A).

10 “(C) DEEMED-OWNED SHARES.—

11 “(i) IN GENERAL.—The term
12 ‘deemed-owned shares’ means, with respect
13 to any person—

14 “(I) the stock in the S corpora-
15 tion constituting employer securities
16 of an employee stock ownership plan
17 which is allocated to such person
18 under the plan, and

19 “(II) such person’s share of the
20 stock in such corporation which is
21 held by such plan but which is not al-
22 located under the plan to participants.

23 “(ii) PERSON’S SHARE OF
24 UNALLOCATED STOCK.—For purposes of
25 clause (i)(II), a person’s share of

1 unallocated S corporation stock held by
2 such plan is the amount of the unallocated
3 stock which would be allocated to such per-
4 son if the unallocated stock were allocated
5 to all participants in the same proportions
6 as the most recent stock allocation under
7 the plan.

8 “(D) MEMBER OF FAMILY.—For purposes
9 of this paragraph, the term ‘member of the
10 family’ means, with respect to any individual—

11 “(i) the spouse of the individual,

12 “(ii) an ancestor or lineal descendant
13 of the individual or the individual’s spouse,

14 “(iii) a brother or sister of the indi-
15 vidual or the individual’s spouse and any
16 lineal descendant of the brother or sister,
17 and

18 “(iv) the spouse of any individual de-
19 scribed in clause (ii) or (iii).

20 A spouse of an individual who is legally sepa-
21 rated from such individual under a decree of di-
22 vorce or separate maintenance shall not be
23 treated as such individual’s spouse for purposes
24 of this subparagraph.

1 “(5) TREATMENT OF SYNTHETIC EQUITY.—For
2 purposes of paragraphs (3) and (4), in the case of
3 a person who owns synthetic equity in the S corpora-
4 tion, except to the extent provided in regulations, the
5 shares of stock in such corporation on which such
6 synthetic equity is based shall be treated as out-
7 standing stock in such corporation and deemed-
8 owned shares of such person if such treatment of
9 synthetic equity of 1 or more such persons results
10 in—

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

13 “(B) the treatment of any year as a non-
14 allocation year.

15 For purposes of this paragraph, synthetic equity
16 shall be treated as owned by a person in the same
17 manner as stock is treated as owned by a person
18 under the rules of paragraphs (2) and (3) of section
19 318(a). If, without regard to this paragraph, a per-
20 son is treated as a disqualified person or a year is
21 treated as a nonallocation year, this paragraph shall
22 not be construed to result in the person or year not
23 being so treated.

24 “(6) DEFINITIONS.—For purposes of this
25 subsection—

1 “(A) EMPLOYEE STOCK OWNERSHIP
2 PLAN.—The term ‘employee stock ownership
3 plan’ has the meaning given such term by sec-
4 tion 4975(e)(7).

5 “(B) EMPLOYER SECURITIES.—The term
6 ‘employer security’ has the meaning given such
7 term by section 409(l).

8 “(C) SYNTHETIC EQUITY.—The term ‘syn-
9 thetic equity’ means any stock option, warrant,
10 restricted stock, deferred issuance stock right,
11 or similar interest or right that gives the holder
12 the right to acquire or receive stock of the S
13 corporation in the future. Except to the extent
14 provided in regulations, synthetic equity also in-
15 cludes a stock appreciation right, phantom
16 stock unit, or similar right to a future cash
17 payment based on the value of such stock or
18 appreciation in such value.

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

22 (b) COORDINATION WITH SECTION 4975(e)(7).—The
23 last sentence of section 4975(e)(7) (defining employee
24 stock ownership plan) is amended by inserting “, section
25 409(p),” after “409(n)”.

1 (c) EXCISE TAX.—

2 (1) APPLICATION OF TAX.—Subsection (a) of
3 section 4979A (relating to tax on certain prohibited
4 allocations of employer securities) is amended—

5 (A) by striking “or” at the end of para-
6 graph (1), and

7 (B) by striking all that follows paragraph
8 (2) and inserting the following:

9 “(3) there is any allocation of employer securi-
10 ties which violates the provisions of section 409(p),
11 or a nonallocation year described in subsection
12 (e)(2)(C) with respect to an employee stock owner-
13 ship plan, or

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

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

20 “(c) LIABILITY FOR TAX.—The tax imposed by this
21 section shall be paid—

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

24 “(A) the employer sponsoring such plan, or

25 “(B) the eligible worker-owned cooperative,

1 which made the written statement described in sec-
2 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as
3 the case may be), and

4 “(2) in the case of an allocation or ownership
5 referred to in paragraph (3) or (4) of subsection (a),
6 by the S corporation the stock in which was so allo-
7 cated or owned.”.

8 (3) DEFINITIONS.—Section 4979A(e) (relating
9 to definitions) is amended to read as follows:

10 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
11 poses of this section—

12 “(1) DEFINITIONS.—Except as provided in
13 paragraph (2), terms used in this section have the
14 same respective meanings as when used in sections
15 409 and 4978.

16 “(2) SPECIAL RULES RELATING TO TAX IM-
17 POSED BY REASON OF PARAGRAPH (3) OR (4) OF
18 SUBSECTION (a).—

19 “(A) PROHIBITED ALLOCATIONS.—The
20 amount involved with respect to any tax im-
21 posed by reason of subsection (a)(3) is the
22 amount allocated to the account of any person
23 in violation of section 409(p)(1).

24 “(B) SYNTHETIC EQUITY.—The amount
25 involved with respect to any tax imposed by rea-

1 son of subsection (a)(4) is the value of the
2 shares on which the synthetic equity is based.

3 “(C) SPECIAL RULE DURING FIRST NON-
4 ALLOCATION YEAR.—For purposes of subpara-
5 graph (A), the amount involved for the first
6 nonallocation year of any employee stock owner-
7 ship plan shall be determined by taking into ac-
8 count the total value of all the deemed-owned
9 shares of all disqualified persons with respect to
10 such plan.

11 “(D) STATUTE OF LIMITATIONS.—The
12 statutory period for the assessment of any tax
13 imposed by this section by reason of paragraph
14 (3) or (4) of subsection (a) shall not expire be-
15 fore the date which is 3 years from the later
16 of—

17 “(i) the allocation or ownership re-
18 ferred to in such paragraph giving rise to
19 such tax, or

20 “(ii) the date on which the Secretary
21 is notified of such allocation or owner-
22 ship.”.

23 (d) EFFECTIVE DATES.—

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

4 (2) EXCEPTION FOR CERTAIN PLANS.—In the
5 case of any—

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

8 (B) employee stock ownership plan estab-
9 lished on or before such date if employer securi-
10 ties held by the plan consist of stock in a cor-
11 poration with respect to which an election under
12 section 1362(a) of the Internal Revenue Code
13 of 1986 is not in effect on such date,

14 the amendments made by this section shall apply to
15 plan years ending after March 14, 2001.

16 **TITLE VI—REDUCING**
17 **REGULATORY BURDENS**

18 **SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

19 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
20 Paragraph (9) of section 412(c) (relating to annual valu-
21 ation) is amended to read as follows:

22 “(9) ANNUAL VALUATION.—

23 “(A) IN GENERAL.—For purposes of this
24 section, a determination of experience gains and
25 losses and a valuation of the plan’s liability

1 shall be made not less frequently than once
2 every year, except that such determination shall
3 be made more frequently to the extent required
4 in particular cases under regulations prescribed
5 by the Secretary.

6 “(B) VALUATION DATE.—

7 “(i) CURRENT YEAR.—Except as pro-
8 vided in clause (ii), the valuation referred
9 to in subparagraph (A) shall be made as of
10 a date within the plan year to which the
11 valuation refers or within one month prior
12 to the beginning of such year.

13 “(ii) ELECTION TO USE PRIOR YEAR
14 VALUATION.—The valuation referred to in
15 subparagraph (A) may be made as of a
16 date within the plan year prior to the year
17 to which the valuation refers if—

18 “(I) an election is in effect under
19 this clause with respect to the plan,
20 and

21 “(II) as of such date, the value
22 of the assets of the plan are not less
23 than 125 percent of the plan’s current
24 liability (as defined in paragraph
25 (7)(B)).

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

5 “(iv) ELECTION.—An election under
6 clause (ii), once made, shall be irrevocable
7 without the consent of the Secretary.”.

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

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

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

13 “(B)(i) Except as provided in clause (ii), the valu-
14 ation referred to in subparagraph (A) shall be made as
15 of a date within the plan year to which the valuation refers
16 or within one month prior to the beginning of such year.

17 “(ii) The valuation referred to in subparagraph (A)
18 may be made as of a date within the plan year prior to
19 the year to which the valuation refers if—

20 “(I) an election is in effect under this clause
21 with respect to the plan; and

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

1 “(iii) Information under clause (ii) shall, in accord-
2 ance with regulations, be actuarially adjusted to reflect
3 significant differences in participants.

4 “(iv) An election under clause (ii), once made, shall
5 be irrevocable without the consent of the Secretary of the
6 Treasury.”.

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

10 **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
11 **LOSS OF DIVIDEND DEDUCTION.**

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

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

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

21 “(II) paid to the plan and rein-
22 vested in qualifying employer securi-
23 ties, or”.

1 (b) STANDARDS FOR DISALLOWANCE.—Section
2 404(k)(5)(A) (relating to disallowance of deduction) is
3 amended by inserting “avoidance or” before “evasion”.

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

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

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

11 (b) EFFECTIVE DATE.—The repeal made by sub-
12 section (a) shall apply to plan years beginning after De-
13 cember 31, 2001.

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

15 (a) IN GENERAL.—The Secretary of the Treasury
16 shall modify Treasury Regulations section 1.410(b)–6(g)
17 to provide that employees of an organization described in
18 section 403(b)(1)(A)(i) of the Internal Revenue Code of
19 1986 who are eligible to make contributions under section
20 403(b) of such Code pursuant to a salary reduction agree-
21 ment may be treated as excludable with respect to a plan
22 under section 401(k) or (m) of such Code that is provided
23 under the same general arrangement as a plan under such
24 section 401(k), if—

1 “(m) QUALIFIED RETIREMENT PLANNING SERV-
2 ICES.—

3 “(1) IN GENERAL.—For purposes of this sec-
4 tion, the term ‘qualified retirement planning serv-
5 ices’ means any retirement planning advice or infor-
6 mation provided to an employee and his spouse by
7 an employer maintaining a qualified employer plan.

8 “(2) NONDISCRIMINATION RULE.—Subsection
9 (a)(7) shall apply in the case of highly compensated
10 employees only if such services are available on sub-
11 stantially the same terms to each member of the
12 group of employees normally provided education and
13 information regarding the employer’s qualified em-
14 ployer plan.

15 “(3) QUALIFIED EMPLOYER PLAN.—For pur-
16 poses of this subsection, the term ‘qualified employer
17 plan’ means a plan, contract, pension, or account de-
18 scribed in section 219(g)(5).”.

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

22 **SEC. 606. REPORTING SIMPLIFICATION.**

23 “(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
24 OWNERS AND THEIR SPOUSES.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury and the Secretary of Labor shall modify the re-
3 quirements for filing annual returns with respect to
4 one-participant retirement plans to ensure that such
5 plans with assets of \$250,000 or less as of the close
6 of the plan year need not file a return for that year.

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

11 (A) on the first day of the plan year—

12 (i) covered only the employer (and the
13 employer’s spouse) and the employer
14 owned the entire business (whether or not
15 incorporated); or

16 (ii) covered only one or more partners
17 (and their spouses) in a business partner-
18 ship (including partners in an S or C cor-
19 poration);

20 (B) meets the minimum coverage require-
21 ments of section 410(b) of the Internal Revenue
22 Code of 1986 without being combined with any
23 other plan of the business that covers the em-
24 ployees of the business;

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

4 (D) does not cover a business that is a
5 member of an affiliated service group, a con-
6 trolled group of corporations, or a group of
7 businesses under common control; and

8 (E) does not cover a business that leases
9 employees.

10 (3) OTHER DEFINITIONS.—Terms used in para-
11 graph (2) which are also used in section 414 of the
12 Internal Revenue Code of 1986 shall have the re-
13 spective meanings given such terms by such section.

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

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

1 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
2 **ANCE RESOLUTION SYSTEM.**

3 The Secretary of the Treasury shall continue to up-
4 date and improve the Employee Plans Compliance Resolu-
5 tion System (or any successor program) giving special at-
6 tention to—

7 (1) increasing the awareness and knowledge of
8 small employers concerning the availability and use
9 of the program;

10 (2) taking into account special concerns and
11 circumstances that small employers face with respect
12 to compliance and correction of compliance failures;

13 (3) extending the duration of the self-correction
14 period under the Administrative Policy Regarding
15 Self-Correction for significant compliance failures;

16 (4) expanding the availability to correct insig-
17 nificant compliance failures under the Administra-
18 tive Policy Regarding Self-Correction during audit;
19 and

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

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

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

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

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to years beginning after December
8 31, 2001.

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

11 (a) NONDISCRIMINATION.—

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

19 (A) the plan satisfies conditions prescribed
20 by the Secretary to appropriately limit the
21 availability of such test; and

22 (B) the plan is submitted to the Secretary
23 for a determination of whether it satisfies such
24 test.

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

3 (2) EFFECTIVE DATES.—

4 (A) REGULATIONS.—The regulation re-
5 quired by paragraph (1) shall apply to years be-
6 ginning after December 31, 2003.

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

13 (b) COVERAGE TEST.—

14 (1) IN GENERAL.—Section 410(b)(1) (relating
15 to minimum coverage requirements) is amended by
16 adding at the end the following:

17 “(D) In the case that the plan fails to
18 meet the requirements of subparagraphs (A),
19 (B) and (C), the plan—

20 “(i) satisfies subparagraph (B), as in
21 effect immediately before the enactment of
22 the Tax Reform Act of 1986,

23 “(ii) is submitted to the Secretary for
24 a determination of whether it satisfies the
25 requirement described in clause (i), and

1 “(iii) satisfies conditions prescribed by
2 the Secretary by regulation that appro-
3 priately limit the availability of this sub-
4 paragraph.

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

7 (2) EFFECTIVE DATES.—

8 (A) IN GENERAL.—The amendment made
9 by paragraph (1) shall apply to years beginning
10 after December 31, 2003.

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

19 (c) LINE OF BUSINESS RULES.—The Secretary of
20 the Treasury shall, on or before December 31, 2003, mod-
21 ify the existing regulations issued under section 414(r) of
22 the Internal Revenue Code of 1986 in order to expand
23 (to the extent that the Secretary determines appropriate)
24 the ability of a pension plan to demonstrate compliance
25 with the line of business requirements based upon the

1 facts and circumstances surrounding the design and oper-
2 ation of the plan, even though the plan is unable to satisfy
3 the mechanical tests currently used to determine compli-
4 ance.

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

9 (a) IN GENERAL.—

10 (1) Subparagraph (G) of section 401(a)(5) of
11 the Internal Revenue Code of 1986 and subpara-
12 graph (H) of section 401(a)(26) are each amended
13 by striking “section 414(d)” and all that follows
14 and inserting “section 414(d).”.

15 (2) Subparagraph (G) of section 401(k)(3) and
16 paragraph (2) of section 1505(d) of the Taxpayer
17 Relief Act of 1997 are each amended by striking
18 “maintained by a State or local government or polit-
19 ical subdivision thereof (or agency or instrumentality
20 thereof)”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The heading for subparagraph (G) of sec-
23 tion 401(a)(5) is amended to read as follows: “GOV-
24 ERNMENTAL PLANS.—”.

1 (2) The heading for subparagraph (H) of sec-
2 tion 401(a)(26) is amended to read as follows: “EX-
3 CEPTION FOR GOVERNMENTAL PLANS.—”.

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

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

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

12 (a) EXPANSION OF PERIOD.—

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

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

18 (B) MODIFICATION OF REGULATIONS.—

19 The Secretary of the Treasury shall modify the
20 regulations under sections 402(f), 411(a)(11),
21 and 417 of the Internal Revenue Code of 1986
22 to substitute “180 days” for “90 days” each
23 place it appears in Treasury Regulations sec-
24 tions 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-
25 1(b).

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

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

10 (b) CONSENT REGULATION INAPPLICABLE TO CER-
11 TAIN DISTRIBUTIONS.—

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

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

22 **SEC. 612. ANNUAL REPORT DISSEMINATION.**

23 (a) REPORT AVAILABLE THROUGH ELECTRONIC
24 MEANS.—Section 104(b)(3) of the Employee Retirement
25 Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is

1 amended by adding at the end the following new sentence:
2 “The requirement to furnish information under the pre-
3 vious sentence shall be satisfied if the administrator makes
4 such information reasonably available through electronic
5 means or other new technology.”.

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

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

10 Section 517 of the Employee Retirement Income Se-
11 curity Act of 1974 (29 U.S.C. 1147) is amended—

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

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

23 (3) in subsection (e)(2)—

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

1 inserting “Committee on Health, Education,
2 Labor, and Pensions”;

3 (B) by striking subparagraph (F) and in-
4 serting the following:

5 “(F) the Chairman and Ranking Member
6 of the Subcommittee on Labor, Health and
7 Human Services, and Education of the Com-
8 mittee on Appropriations of the House of Rep-
9 resentatives and the Chairman and Ranking
10 Member of the Subcommittee on Labor, Health
11 and Human Services, and Education of the
12 Committee on Appropriations of the Senate;”;

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

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

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

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

22 “(I) the Chairman and Ranking Member
23 of the Subcommittee on Employer-Employee
24 Relations of the Committee on Education and

1 the Workforce of the House of Representatives;
2 and”;

3 (4) in subsection (e)(3)(A)—

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

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

15 (C) by striking “one-half shall be ap-
16 pointed by the elected leaders of Congress” in
17 clause (ii) and inserting “not more than 100
18 participants shall be appointed under this
19 clause by the elected leaders of Congress”, and
20 by striking the period at the end of clause (ii)
21 and inserting “; and”;

22 (D) by adding at the end the following new
23 clause:

24 “(iii) The President, in consultation
25 with the elected leaders of Congress re-

1 ferred to in subsection (a), may appoint
2 under this clause additional participants to
3 the National Summit. The number of such
4 additional participants appointed under
5 this clause may not exceed the lesser of 3
6 percent of the total number of all addi-
7 tional participants appointed under this
8 paragraph, or 10. Such additional partici-
9 pants shall be appointed from persons
10 nominated by the organization referred to
11 in subsection (b)(2) which is made up of
12 private sector businesses and associations
13 partnered with Government entities to pro-
14 mote long term financial security in retire-
15 ment through savings and with which the
16 Secretary is required thereunder to consult
17 and cooperate and shall not be Federal,
18 State, or local government employees.”;

19 (5) in subsection (e)(3)(B), by striking “Janu-
20 ary 31, 1998” in subparagraph (B) and inserting
21 “May 1, 2001, May 1, 2005, and May 1, 2009, for
22 each of the subsequent summits, respectively”;

23 (6) in subsection (f)(1)(C), by inserting “, no
24 later than 90 days prior to the date of the com-

1 mencement of the National Summit,” after “com-
2 ment” in paragraph (1)(C);

3 (7) in subsection (g), by inserting “, in con-
4 sultation with the congressional leaders specified in
5 subsection (e)(2),” after “report”;

6 (8) in subsection (i)—

7 (A) by striking “beginning on or after Oc-
8 tober 1, 1997” in paragraph (1) and inserting
9 “2001, 2005, and 2009”; and

10 (B) by adding at the end the following new
11 paragraph:

12 “(3) RECEPTION AND REPRESENTATION AU-
13 THORITY.—The Secretary is hereby granted recep-
14 tion and representation authority limited specifically
15 to the events at the National Summit. The Secretary
16 shall use any private contributions accepted in con-
17 nection with the National Summit prior to using
18 funds appropriated for purposes of the National
19 Summit pursuant to this paragraph.”; and

20 (9) in subsection (k)—

21 (A) by striking “shall enter into a contract
22 on a sole-source basis” and inserting “may
23 enter into a contract on a sole-source basis”;
24 and

1 (B) by striking “fiscal year 1998” and in-
2 serting “fiscal years 2001, 2005, and 2009”.

3 **TITLE VII—OTHER ERISA**
4 **PROVISIONS**

5 **SEC. 701. MISSING PARTICIPANTS.**

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

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

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

16 “(1) TRANSFER TO CORPORATION.—The plan
17 administrator of a plan described in paragraph (4)
18 may elect to transfer a missing participant’s benefits
19 to the corporation upon termination of the plan.

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

1 “(A) to the corporation, or

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

4 “(3) PAYMENT BY THE CORPORATION.—If ben-
5 efits of a missing participant were transferred to the
6 corporation under paragraph (1), the corporation
7 shall, upon location of the participant or beneficiary,
8 pay to the participant or beneficiary the amount
9 transferred (or the appropriate survivor benefit)
10 either—

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

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

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

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

18 “(i) to which the provisions of this
19 section do not apply (without regard to
20 this subsection), and

21 “(ii) which is not a plan described in
22 paragraphs (2) through (11) of section
23 4021(b), and

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

1 “(i) has missing participants, and
2 “(ii) has not provided for the transfer
3 of assets to pay the benefits of all missing
4 participants to another pension plan (with-
5 in the meaning of section 3(2)).

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

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

15 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
16 **SMALL EMPLOYERS.**

17 (a) IN GENERAL.—Subparagraph (A) of section
18 4006(a)(3) of the Employee Retirement Income Security
19 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

20 (1) in clause (i), by inserting “other than a new
21 single-employer plan (as defined in subparagraph
22 (F)) maintained by a small employer (as so de-
23 fined),” after “single-employer plan,”,

24 (2) in clause (iii), by striking the period at the
25 end and inserting “, and”, and

1 (3) by adding at the end the following new
2 clause:

3 “(iv) in the case of a new single-employer plan
4 (as defined in subparagraph (F)) maintained by a
5 small employer (as so defined) for the plan year, \$5
6 for each individual who is a participant in such plan
7 during the plan year.”.

8 (b) DEFINITION OF NEW SINGLE-EMPLOYER
9 PLAN.—Section 4006(a)(3) of the Employee Retirement
10 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
11 amended by adding at the end the following new subpara-
12 graph:

13 “(F)(i) For purposes of this paragraph, a single-em-
14 ployer plan maintained by a contributing sponsor shall be
15 treated as a new single-employer plan for each of its first
16 5 plan years if, during the 36-month period ending on the
17 date of the adoption of such plan, the sponsor or any
18 member of such sponsor’s controlled group (or any prede-
19 cessor of either) did not establish or maintain a plan to
20 which this title applies with respect to which benefits were
21 accrued for substantially the same employees as are in the
22 new single-employer plan.

23 “(ii)(I) For purposes of this paragraph, the term
24 ‘small employer’ means an employer which on the first day
25 of any plan year has, in aggregation with all members of

1 the controlled group of such employer, 100 or fewer em-
2 ployees.

3 “(II) In the case of a plan maintained by two or more
4 contributing sponsors that are not part of the same con-
5 trolled group, the employees of all contributing sponsors
6 and controlled groups of such sponsors shall be aggregated
7 for purposes of determining whether any contributing
8 sponsor is a small employer.”.

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

12 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
13 **NEW AND SMALL PLANS.**

14 (a) NEW PLANS.—Subparagraph (E) of section
15 4006(a)(3) of the Employee Retirement Income Security
16 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
17 adding at the end the following new clause:

18 “(v) In the case of a new defined benefit plan, the
19 amount determined under clause (ii) for any plan year
20 shall be an amount equal to the product of the amount
21 determined under clause (ii) and the applicable percent-
22 age. For purposes of this clause, the term ‘applicable per-
23 centage’ means—

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

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

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

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

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

4 For purposes of this clause, a defined benefit plan (as de-
5 fined in section 3(35)) maintained by a contributing spon-
6 sor shall be treated as a new defined benefit plan for each
7 of its first 5 plan years if, during the 36-month period
8 ending on the date of the adoption of the plan, the sponsor
9 and each member of any controlled group including the
10 sponsor (or any predecessor of either) did not establish
11 or maintain a plan to which this title applies with respect
12 to which benefits were accrued for substantially the same
13 employees as are in the new plan.”.

14 (b) SMALL PLANS.—Paragraph (3) of section
15 4006(a) of the Employee Retirement Income Security Act
16 of 1974 (29 U.S.C. 1306(a)), as amended by section
17 702(b), is amended—

18 (1) by striking “The” in subparagraph (E)(i)
19 and inserting “Except as provided in subparagraph
20 (G), the”, and

21 (2) by inserting after subparagraph (F) the fol-
22 lowing new subparagraph:

23 “(G)(i) In the case of an employer who has 25 or
24 fewer employees on the first day of the plan year, the addi-
25 tional premium determined under subparagraph (E) for

1 each participant shall not exceed \$5 multiplied by the
2 number of participants in the plan as of the close of the
3 preceding plan year.

4 “(ii) For purposes of clause (i), whether an employer
5 has 25 or fewer employees on the first day of the plan
6 year is determined taking into consideration all of the em-
7 ployees of all members of the contributing sponsor’s con-
8 trolled group. In the case of a plan maintained by two
9 or more contributing sponsors, the employees of all con-
10 tributing sponsors and their controlled groups shall be ag-
11 gregated for purposes of determining whether the 25-or-
12 fewer-employees limitation has been satisfied.”

13 (c) EFFECTIVE DATES.—

14 (1) SUBSECTION (a).—The amendments made
15 by subsection (a) shall apply to plans established
16 after December 31, 2001.

17 (2) SUBSECTION (b).—The amendments made
18 by subsection (b) shall apply to plan years beginning
19 after December 31, 2001.

20 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
21 **PREMIUM OVERPAYMENT REFUNDS.**

22 (a) IN GENERAL.—Section 4007(b) of the Employ-
23 ment Retirement Income Security Act of 1974 (29 U.S.C.
24 1307(b)) is amended—

1 (1) by striking “(b)” and inserting “(b)(1)”,
2 and

3 (2) by inserting at the end the following new
4 paragraph:

5 “(2) The corporation is authorized to pay, subject to
6 regulations prescribed by the corporation, interest on the
7 amount of any overpayment of premium refunded to a des-
8 ignated payor. Interest under this paragraph shall be cal-
9 culated at the same rate and in the same manner as inter-
10 est is calculated for underpayments under paragraph
11 (1).”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to interest accruing for periods
14 beginning not earlier than the date of the enactment of
15 this Act.

16 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
17 **PLANS.**

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

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

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

3 “(ii) in the case of a partnership, is a partner
4 who owns, directly or indirectly, 50 percent or more
5 of either the capital interest or the profits interest
6 in such partnership, or

7 “(iii) in the case of a corporation, owns, directly
8 or indirectly, 50 percent or more in value of either
9 the voting stock of that corporation or all the stock
10 of that corporation.

11 For purposes of clause (iii), the constructive ownership
12 rules of section 1563(e) of the Internal Revenue Code of
13 1986 shall apply (determined without regard to section
14 1563(e)(3)(C)).

15 “(B) In the case of a participant who is a majority
16 owner, the amount of benefits guaranteed under this sec-
17 tion shall equal the product of—

18 “(i) a fraction (not to exceed 1) the numerator
19 of which is the number of years from the later of the
20 effective date or the adoption date of the plan to the
21 termination date, and the denominator of which is
22 10, and

23 “(ii) the amount of benefits that would be guar-
24 anteed under this section if the participant were not
25 a majority owner.”.

1 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

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

6 (2) Section 4044(b) of such Act (29 U.S.C.
7 1344(b)) is amended—

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

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

14 “(3) If assets available for allocation under
15 paragraph (4) of subsection (a) are insufficient to
16 satisfy in full the benefits of all individuals who are
17 described in that paragraph, the assets shall be allo-
18 cated first to benefits described in subparagraph (A)
19 of that paragraph. Any remaining assets shall then
20 be allocated to benefits described in subparagraph
21 (B) of that paragraph. If assets allocated to such
22 subparagraph (B) are insufficient to satisfy in full
23 the benefits described in that subparagraph, the as-
24 sets shall be allocated pro rata among individuals on
25 the basis of the present value (as of the termination

1 date) of their respective benefits described in that
2 subparagraph.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 4021 of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C. 1321) is
6 amended—

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

9 (B) by adding at the end the following new
10 subsection:

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

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

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

21 “(3) in the case of a corporation, owns, directly
22 or indirectly, more than 10 percent in value of either
23 the voting stock of that corporation or all the stock
24 of that corporation.

1 For purposes of paragraph (3), the constructive ownership
2 rules of section 1563(e) of the Internal Revenue Code of
3 1986 shall apply (determined without regard to section
4 1563(e)(3)(C)).”.

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

8 (d) EFFECTIVE DATES.—

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

12 (A) under section 4041(c) of the Employee
13 Retirement Income Security Act of 1974 (29
14 U.S.C. 1341(c)) with respect to which notices
15 of intent to terminate are provided under sec-
16 tion 4041(a)(2) of such Act (29 U.S.C.
17 1341(a)(2)) after December 31, 2001, and

18 (B) under section 4042 of such Act (29
19 U.S.C. 1342) with respect to which proceedings
20 are instituted by the corporation after such
21 date.

22 (2) CONFORMING AMENDMENTS.—The amend-
23 ments made by subsection (c) shall take effect on
24 January 1, 2002.

1 **SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
2 **RESPONSIBILITY.**

3 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
4 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C.
6 1132(l)(1)) is amended—

7 (1) by striking “shall” and inserting “may”,
8 and

9 (2) by striking “equal to” and inserting “not
10 greater than”.

11 (b) APPLICABLE RECOVERY AMOUNT.—Section
12 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended
13 to read as follows:

14 “(2) For purposes of paragraph (1), the term ‘appli-
15 cable recovery amount’ means any amount which is recov-
16 ered from any fiduciary or other person (or from any other
17 person on behalf of any such fiduciary or other person)
18 with respect to a breach or violation described in para-
19 graph (1) on or after the 30th day following receipt by
20 such fiduciary or other person of written notice from the
21 Secretary of the violation, whether paid voluntarily or by
22 order of a court in a judicial proceeding instituted by the
23 Secretary under subsection (a)(2) or (a)(5). The Secretary
24 may, in the Secretary’s sole discretion, extend the 30-day
25 period described in the preceding sentence.”.

1 (c) OTHER RULES.—Section 502(l) of the Employee
2 Retirement Income Security Act of 1974 (29 U.S.C.
3 1132(l)) is amended by adding at the end the following
4 new paragraph:

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

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

13 (d) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to any breach of fiduciary re-
16 sponsibility or other violation of part 4 of subtitle B
17 of title I of the Employee Retirement Income Secu-
18 rity Act of 1974 occurring on or after the date of
19 enactment of this Act.

20 (2) TRANSITION RULE.—In applying the
21 amendment made by subsection (b) (relating to ap-
22 plicable recovery amount), a breach or other viola-
23 tion occurring before the date of enactment of this
24 Act which continues after the 180th day after such
25 date (and which may have been discontinued at any

1 time during its existence) shall be treated as having
2 occurred after such date of enactment.

3 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

4 (a) MODIFICATION OF REGULATION.—The Secretary
5 of Labor shall modify the regulation under section
6 203(a)(3)(B) of the Employee Retirement Income Secu-
7 rity Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide
8 that the notification required by such regulation—

9 (1) in the case of an employee who returns to
10 work for a former employer after commencement of
11 payment of benefits under the plan shall—

12 (A) be made during the first calendar
13 month or payroll period in which the plan with-
14 holds payments, and

15 (B) if a reduced rate of future benefit ac-
16 cruals will apply to the returning employee (as
17 of the first date of participation in the plan by
18 the employee after returning to work), include
19 a statement that the rate of future benefit ac-
20 cruals will be reduced, and

21 (2) in the case of any employee who is not de-
22 scribed in paragraph (1)—

23 (A) may be included in the summary plan
24 description for the plan furnished in accordance

1 with section 104(b) of such Act (29 U.S.C.
2 1024(b)), rather than in a separate notice, and
3 (B) need not include a copy of the relevant
4 plan provisions.

5 (b) EFFECTIVE DATE.—The modification made
6 under this section shall apply to plan years beginning after
7 December 31, 2001.

8 **SEC. 708. STUDIES.**

9 (a) MODEL SMALL EMPLOYER GROUP PLANS
10 STUDY.—As soon as practicable after the date of the en-
11 actment of this Act, the Secretary of Labor, in consulta-
12 tion with the Secretary of the Treasury, shall conduct a
13 study to determine—

14 (1) the most appropriate form or forms of—

15 (A) employee pension benefit plans which
16 would—

17 (i) be simple in form and easily main-
18 tained by multiple small employers, and

19 (ii) provide for ready portability of
20 benefits for all participants and bene-
21 ficiaries,

22 (B) alternative arrangements providing
23 comparable benefits which may be established
24 by employee or employer associations, and

1 (C) alternative arrangements providing
2 comparable benefits to which employees may
3 contribute in a manner independent of employer
4 sponsorship, and

5 (2) appropriate methods and strategies for
6 making pension plan coverage described in para-
7 graph (1) more widely available to American work-
8 ers.

9 (b) MATTERS TO BE CONSIDERED.—In conducting
10 the study under subsection (a), the Secretary of Labor
11 shall consider the adequacy and availability of existing em-
12 ployee pension benefit plans and the extent to which exist-
13 ing models may be modified to be more accessible to both
14 employees and employers.

15 (c) REPORT.—Not later than 18 months after the
16 date of the enactment of this Act, the Secretary of Labor
17 shall report the results of the study under subsection (a),
18 together with the Secretary's recommendations, to the
19 Committee on Education and the Workforce and the Com-
20 mittee on Ways and Means of the House of Representa-
21 tives and the Committee on Health, Education, Labor,
22 and Pensions and the Committee on Finance of the Sen-
23 ate. Such recommendations shall include one or more
24 model plans described in subsection (a)(1)(A) and model
25 alternative arrangements described in subsections

1 (a)(1)(B) and (a)(1)(C) which may serve as the basis for
2 appropriate administrative or legislative action.

3 (d) STUDY ON EFFECT OF LEGISLATION.—Not later
4 than 5 years after the date of the enactment of this Act,
5 the Secretary of Labor shall submit to the Committee on
6 Education and the Workforce of the House of Representa-
7 tives and the Committee on Health, Education, Labor,
8 and Pensions of the Senate a report on the effect of the
9 provisions of this Act on pension plan coverage, including
10 any change in—

11 (1) the extent of pension plan coverage for low
12 and middle-income workers,

13 (2) the levels of pension plan benefits generally,

14 (3) the quality of pension plan coverage gen-
15 erally,

16 (4) workers' access to and participation in pen-
17 sion plans, and

18 (5) retirement security.

19 **TITLE VIII—PLAN AMENDMENTS**

20 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

23 (1) such plan or contract shall be treated as
24 being operated in accordance with the terms of the

1 plan during the period described in subsection
2 (b)(2)(A); and

3 (2) except as provided by the Secretary of the
4 Treasury, such plan shall not fail to meet the re-
5 quirements of section 411(d)(6) of the Internal Rev-
6 enue Code of 1986 or section 204(g) of the Em-
7 ployee Retirement Income Security Act of 1974 by
8 reason of such amendment.

9 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

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

16 (B) on or before the last day of the first
17 plan year beginning on or after January 1,
18 2004.

19 In the case of a governmental plan (as defined in
20 section 414(d) of the Internal Revenue Code of
21 1986), this paragraph shall be applied by sub-
22 stituting “2006” for “2004”.

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

25 (A) during the period—

- 1 (i) beginning on the date the legisla-
2 tive or regulatory amendment described in
3 paragraph (1)(A) takes effect (or in the
4 case of a plan or contract amendment not
5 required by such legislative or regulatory
6 amendment, the effective date specified by
7 the plan); and
- 8 (ii) ending on the date described in
9 paragraph (1)(B) (or, if earlier, the date
10 the plan or contract amendment is adopt-
11 ed),
- 12 the plan or contract is operated as if such plan
13 or contract amendment were in effect; and
- 14 (B) such plan or contract amendment ap-
15 plies retroactively for such period.