

105TH CONGRESS
2D SESSION

S. 2339

To provide for pension reform, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21, 1998

Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for pension reform, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Pension Coverage and Portability Act”.

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.

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE FOR SMALL BUSINESS

- Sec. 101. Plan loans for subchapter S owners, partners, and sole proprietors.
- Sec. 102. Contributions to IRAs through payroll deductions.
- Sec. 103. Safe annuities and trusts.
- Sec. 104. Modification of top-heavy rules.
- Sec. 105. Salary reduction only simple plans.
- Sec. 106. Credit for small employer pension plan contributions and start-up costs.
- Sec. 107. Increasing limits for deferrals to simple plans.
- Sec. 108. Qualified staffing firms.
- Sec. 109. Phase-in of additional PBGC premium for new plans.
- Sec. 110. Elimination of user fee for requests to IRS regarding new pension plans.
- Sec. 111. Compensation limit not to apply to simple 401(k) arrangements.
- Sec. 112. Elective deferrals not taken into account for purposes of limits.
- Sec. 113. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
- Sec. 114. Alternative method of meeting nondiscrimination requirements for opt-out plans.

TITLE II—INCREASING PENSION ACCESS AND FAIRNESS FOR WOMEN

- Sec. 201. Equitable treatment for contributions of employees to defined contribution plans.
- Sec. 202. Faster vesting of certain employer matching contributions.
- Sec. 203. Deferred annuities for surviving spouses of Federal employees.
- Sec. 204. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
- Sec. 205. Pension right to know proposals.
- Sec. 206. Simplify and update the minimum distribution rules.

TITLE III—INCREASING PORTABILITY OF PENSION PLANS

- Sec. 301. Rollovers allowed among various types of plans.
- Sec. 302. Rollovers of IRAs into workplace retirement plans.
- Sec. 303. Rollovers of after-tax contributions; hardship exception.
- Sec. 304. Rationalization of restrictions on distributions from defined contribution plans.
- Sec. 305. Transferee defined contribution plan need not have same distribution options as transferor defined contribution plan.
- Sec. 306. Purchase of service credit in governmental defined benefit plans.
- Sec. 307. Employers may disregard rollovers for purposes of cash-out amounts.

TITLE IV—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 401. Repeal of 150 percent of current liability funding limit.
- Sec. 402. Extension of missing participants program to multiemployer plans.
- Sec. 403. Civil penalties for breach of fiduciary responsibility.

- Sec. 404. Qualified employer plans prohibited from making loans through credit cards and other revolving credit arrangements.
- Sec. 405. Penalty tax relief for sound pension funding.
- Sec. 406. Protection of investment of employee contributions to 401(k) plans.

TITLE V—ENCOURAGING RETIREMENT EDUCATION

- Sec. 501. Periodic pension benefits statements.
- Sec. 502. Small Business Administration advice to small businesses.
- Sec. 503. Clarification of treatment of employer-provided retirement advice.
- Sec. 504. Dissemination of government retirement education program strategies to private companies.

TITLE VI—REDUCING RED TAPE

- Sec. 601. Intermediate sanctions for inadvertent failures.
- Sec. 602. Modification of timing of plan valuations.
- Sec. 603. Rules for substantial owners relating to plan terminations.
- Sec. 604. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 605. Modification of 403(b) exclusion allowance to conform to 415 modification.
- Sec. 606. Safety valve from mechanical rules.
- Sec. 607. Coverage test flexibility.
- Sec. 608. Simplification of cash-out rule.
- Sec. 609. Section 457 inapplicable to certain mirror plans.
- Sec. 610. Notice and consent period regarding distributions.
- Sec. 611. Conforming amendments relating to election to receive taxable cash compensation in lieu of nontaxable transportation fringe benefits.
- Sec. 612. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 613. Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 614. Annual report dissemination.
- Sec. 615. Employees of tax-exempt entities.
- Sec. 616. Repeal of the multiple use test.

TITLE VII—PLAN AMENDMENTS

- Sec. 701. Provisions relating to plan amendments.

1 **TITLE I—EXPANDING COVERAGE** 2 **FOR SMALL BUSINESS**

3 **SEC. 101. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-** 4 **NERS, AND SOLE PROPRIETORS.**

5 (a) AMENDMENTS TO 1986 CODE.—

1 (1) IN GENERAL.—Section 4975(f) (relating to
2 other definitions and special rules) is amended by
3 striking paragraph (6).

4 (2) CONFORMING AMENDMENT.—Section
5 4975(d) (relating to exemptions) is amended by
6 striking “Except as provided in subsection (f)(6),
7 the prohibitions” and inserting “The prohibitions”.

8 (b) AMENDMENTS TO ERISA.—

9 (1) IN GENERAL.—Section 408 of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1108(d)) is amended—

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

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

15 (2) CONFORMING AMENDMENT.—Section
16 407(b)(2)(B) of such Act (29 U.S.C. 1107(b)(2)(B))
17 is amended by striking “section 408(e)” and insert-
18 ing “section 408(d)”.

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

22 **SEC. 102. CONTRIBUTIONS TO IRAS THROUGH PAYROLL DE-**
23 **DUCTIONS.**

24 (a) DEFINITIONS.—For purposes of this section—

1 (1) CONTRIBUTION CERTIFICATE.—The term
2 “contribution certificate” means a certificate submit-
3 ted by an eligible employee to the employee’s em-
4 ployer which—

5 (A) identifies the employee by name, ad-
6 dress, and social security number,

7 (B) includes a certification by the em-
8 ployee that the employee is an eligible employee,

9 (C) identifies the individual retirement
10 plan to which the employee wishes to make con-
11 tributions through payroll deductions, and

12 (D) identifies the amount of such contribu-
13 tions, not to exceed the amount allowed under
14 section 408 of the Internal Revenue Code of
15 1986 to an individual retirement plan for such
16 year.

17 (2) ELIGIBLE EMPLOYEE.—

18 (A) IN GENERAL.—The term “eligible em-
19 ployee” means, with respect to any taxable
20 year, an employee whose employer does not
21 sponsor a qualified retirement plan (as defined
22 in section 4974(c) of the Internal Revenue Code
23 of 1986).

1 (B) EMPLOYEE.—The term “employee”
 2 does not include an employee as defined in sec-
 3 tion 401(c)(1) of such Code.

4 (3) INDIVIDUAL RETIREMENT PLANS.—The
 5 term “individual retirement plan” has the meaning
 6 given the term by section 7701(a)(37) of the Inter-
 7 nal Revenue Code of 1986.

8 (4) SECRETARY.—The term “Secretary” means
 9 the Secretary of the Treasury.

10 (b) ESTABLISHMENT OF PAYROLL DEDUCTION SYS-
 11 TEM.—An employer may establish a system under which
 12 eligible employees, through employer payroll deductions,
 13 may make contributions to individual retirement plans. An
 14 employer shall not incur any liability under title I of the
 15 Employee Retirement Income Security Act of 1974 in pro-
 16 viding for such a system.

17 (c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT
 18 PLANS.—

19 (1) IN GENERAL.—The system established
 20 under subsection (b) shall provide that contributions
 21 made to an individual retirement plan for any tax-
 22 able year are—

23 (A) contributions through employer payroll
 24 deductions, and

(B) if the employer so elects, additional contributions by the employee which, when added to contributions under subparagraph (A), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) EMPLOYER PAYROLL DEDUCTIONS.—

(A) IN GENERAL.—The system established under subsection (b) shall provide that an eligible employee may establish and maintain an individual retirement plan simply by—

(i) completing a contribution certificate, and

(ii) submitting such certificate to the eligible employee's employer in the manner provided under subparagraph (D).

(B) CHANGE OF AMOUNTS.—An eligible employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction in the same manner as under subparagraph (A).

(C) SIMPLIFIED FORMS.—

(i) CONTRIBUTION CERTIFICATE.—

The Secretary shall develop a model con-

1 tribution certificate for purposes of this
2 paragraph—

3 (I) which is written in a clear
4 and easily understandable manner,
5 and

6 (II) the completion of which by
7 an eligible employee will constitute the
8 establishment of an individual retire-
9 ment plan and the request for em-
10 ployer payroll deductions or changes
11 in such deductions.

12 (ii) AVAILABILITY.—The Secretary
13 shall make available to all eligible employ-
14 ees and employers the forms developed
15 under this subparagraph, and shall include
16 with such forms easy to understand ex-
17 planatory materials.

18 (D) USE OF CERTIFICATE.—Each em-
19 ployer electing to adopt a system under sub-
20 section (b) shall, upon receipt of a contribution
21 certificate from an eligible employee, deduct the
22 appropriate contribution as determined by such
23 certificate from the employee's wages in equal
24 amounts during the remaining payroll periods
25 for the taxable year and shall remit such

1 amounts for investment in the employee's indi-
2 vidual retirement plan not later than the close
3 of the 30-day period following the last day of
4 the month in which such payroll period occurs.

5 (E) FAILURE TO REMIT PAYROLL DEDUC-
6 TIONS.—For purposes of the Internal Revenue
7 Code of 1986, any amount which an employer
8 fails to remit on behalf of an eligible employee
9 pursuant to a contribution certificate of such
10 employee shall not be allowed as a deduction to
11 the employer under such Code.

12 (d) ADDITIONAL INFORMATION.—

13 (1) IN GENERAL.—The system established
14 under subsection (b) shall provide for the furnishing
15 of information to employees of the opportunity of es-
16 tablishing individual retirement plans and of trans-
17 ferring amounts to such plans.

18 (2) INVESTMENT INFORMATION.—The employer
19 shall also make available to employees information
20 on how to make informed investment decisions and
21 how to achieve retirement objectives.

22 (3) INFORMATION NOT INVESTMENT ADVICE.—
23 Information provided under this subsection shall not
24 be treated as investment advice for purposes of any
25 Federal or State law.

1 **SEC. 103. SAFE ANNUITIES AND TRUSTS.**

2 (a) IN GENERAL.—Subpart A of part I of subchapter
3 D of chapter 1 (relating to deferred compensation, etc.)
4 is amended by inserting after section 408A the following:

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

6 “(a) EMPLOYER ELIGIBILITY.—

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

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

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

21 “(2) DEFINITIONS.—For purposes of paragraph
22 (1)—

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

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

3 “(i) a plan under which only elective
4 deferrals described in section 402(g)(3),
5 deferred compensation described in section
6 457, or employer matching contributions
7 may be made, and

8 “(ii) any collectively bargained plan.

9 “(b) SAFE ANNUITY.—

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

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

18 “(B) the only contributions to such annu-
19 ity (other than rollover contributions) are em-
20 ployer contributions.

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

25 “(2) PARTICIPATION REQUIREMENTS.—

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

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

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

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

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

18 “(4) BENEFIT FORM.—

19 “(A) IN GENERAL.—The requirements of
20 this paragraph are met if the only form of bene-
21 fit is—

22 “(i) a benefit payable annually in the
23 form of a single life annuity with monthly
24 payments (with no ancillary benefits) be-
25 ginning at age 65, or

1 “(ii) any other form of benefit which
 2 is the actuarial equivalent (based on the
 3 assumptions specified in the SAFE annu-
 4 ity) of the benefit described in clause (i).

5 “(B) DIRECT TRANSFERS AND ROLL-
 6 OVERS.—A plan shall not fail to meet the re-
 7 quirements of this paragraph by reason of per-
 8 mitting, at the election of the employee, a trust-
 9 ee-to-trustee transfer or a rollover contribution.

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

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

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

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

23 “(ii) ELECTION OF LOWER PERCENT-
 24 AGE.—An employer may elect to apply an
 25 applicable percentage of 1 percent, 2 per-

cent or zero percent for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such percentage within a reasonable period before the beginning of such year.

“(C) COMPENSATION LIMIT.—The compensation taken into account under this paragraph for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

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

“(i) IN GENERAL.—An employer may elect to take into account a specified number of years of service (not greater than 10) performed before the adoption of the plan (each hereinafter referred to as a ‘prior service year’) as service under the plan if the same specified number of years is available to all employees eligible to participate in the plan for the first plan year.

“(ii) ACCRUAL OF PRIOR SERVICE BENEFIT.—Such an election shall be effective for a prior service year only if the re-

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

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

17 “(I) for any part of such prior
 18 service year such employee was an ac-
 19 tive participant (within the meaning
 20 of section 219(g)(5)) under any de-
 21 fined benefit plan of the employer (or
 22 any predecessor thereof), or

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

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

3 “(6) FUNDING.—

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

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

14 “(i) the assumed interest rate shall be
15 not less than 3 percent and not greater
16 than 5 percent per year,

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

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

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

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

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

20 “(7) DEFINITIONS AND SPECIAL RULE.—

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

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

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

4 “(C) TREATMENT OF MATCHING CON-
 5 TRIBUTIONS.—A rule similar to the rule of sec-
 6 tion 408(p)(8) shall apply for purposes of this
 7 subsection.

8 “(c) SAFE TRUST.—

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

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

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

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

19 “(D) the only contributions to such trust
 20 (other than rollover contributions) are employer
 21 contributions.

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

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

4 “(4) BENEFIT FORM.—A plan meets the re-
5 quirements of this paragraph only if the require-
6 ments of subsection (b)(4) are met. For purposes of
7 this paragraph, a plan may satisfy the requirements
8 of subsection (b)(4) by purchasing an annuity con-
9 tract which meets the requirements of subsection
10 (b)(4).

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

15 “(6) FUNDING.—

16 “(A) IN GENERAL.—A plan meets the re-
17 quirements of this paragraph for any year only
18 if—

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

21 “(ii) in the case of a plan which has
22 an unfunded prior year liability as of the
23 close of such plan year, the plan requires
24 that the employer make an additional con-
25 tribution to such plan for such year equal

1 to the amount of such unfunded prior year
2 liability.

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

7 “(i) the aggregate of the accrued li-
8 abilities under the plan as of the close of
9 the prior plan year, over

10 “(ii) the value of the plan’s assets de-
11 termined under section 412(c)(2) as of the
12 close of the plan year (determined without
13 regard to any contributions for such plan
14 year).

15 Such accrued liabilities shall be determined
16 using the assumptions specified in subsection
17 (b)(6)(B).

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

1 “(D) DISREGARD ASSUMPTIONS FOR EX-
 2 PENSES.—For purposes of this paragraph, the
 3 assumption specified in subsection (b)(6)(B)(iv)
 4 shall be disregarded.

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

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

10 “(B) for benefits based solely on—

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

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

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

1 “(9) DEFINITIONS AND SPECIAL RULE.—The
 2 definitions and special rule applicable under sub-
 3 section (b)(7) shall apply for purposes of this sub-
 4 section.

5 “(d) SPECIAL RULES FOR SAFE ANNUITIES AND
 6 TRUSTS.—

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

11 “(A) Section 401(a)(4) (relating to non-
 12 discrimination rules).

13 “(B) Section 401(a)(26) (relating to mini-
 14 mum participation).

15 “(C) Section 410 (relating to minimum
 16 participation and coverage requirements).

17 “(D) Section 411(b) (relating to accrued
 18 benefit requirements).

19 “(E) Paragraphs (6) and (7) of section
 20 412(c) (relating to full funding limitation).

21 “(F) Section 415 (relating to limitations
 22 on benefits and contributions under qualified
 23 plans).

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

1 “(2) CONTRIBUTIONS NOT TAKEN INTO AC-
 2 COUNT IN APPLYING LIMITS TO OTHER PLANS.—
 3 Contributions to a SAFE annuity or a SAFE trust
 4 shall not be taken into account in applying sections
 5 404 and 415 to other plans maintained by the em-
 6 ployer.

7 “(3) COORDINATION WITH MAXIMUM LIMITA-
 8 TION UNDER SUBSECTION (a).—In the case of any
 9 SAFE annuity or SAFE trust, subsections (a)(1)
 10 and (b) of section 408 shall be applied by substitut-
 11 ing ‘the dollar amount in effect under section
 12 408B(b)(5)(C)’ for ‘\$2,000’ each place it appears in
 13 such subsections.

14 “(e) ROLLOVER CONTRIBUTION.—For purposes of
 15 this section, the term ‘rollover contribution’ means any
 16 rollover contribution under section 402(c), 403(a)(4),
 17 403(b)(8), 408(d)(3), or 457(e)(16).”

18 (b) DEDUCTION LIMITS NOT TO APPLY TO EM-
 19 PLOYER CONTRIBUTIONS.—

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

24 “(n) SPECIAL RULES FOR SAFE ANNUITIES AND
 25 TRUSTS.—

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

5 “(2) TIMING.—

6 “(A) DEDUCTION.—Contributions de-
 7 scribed in paragraph (1) shall be deductible in
 8 the taxable year of the employer with or within
 9 which the calendar year for which the contribu-
 10 tions were made ends.

11 “(B) CONTRIBUTIONS AFTER END OF
 12 YEAR.—For purposes of this subsection, con-
 13 tributions shall be treated as made for a taxable
 14 year if they are made on account of the taxable
 15 year and are made not later than the time pre-
 16 scribed by law for filing the return for the tax-
 17 able year (including extensions thereof).”

18 (2) COORDINATION WITH DEDUCTION UNDER
 19 SECTION 219.—

20 (A) Section 219(b) (relating to maximum
 21 amount of deduction) is amended by adding at
 22 the end the following:

23 “(5) SPECIAL RULE FOR SAFE ANNUITIES.—
 24 This section shall not apply with respect to any

1 amount contributed to a SAFE annuity established
2 under section 408A(B).”

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

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

9 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—Section
10 402 (relating to taxability of beneficiary of employees’
11 trust) is amended by adding at the end the following:

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

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

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

25 (e) SIMPLIFIED EMPLOYER REPORTS.—

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

4 “(3) SAFE ANNUITIES.—

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

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

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

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

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

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

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

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

1 “(vii) the number of employees with
 2 respect to whom contributions are required
 3 to be made for such year under section
 4 408B(b)(5)(D).

5 “(C) REPORTING BY ISSUER OF SAFE AN-
 6 NUIITY.—

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

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

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

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

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

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

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

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

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

9 (2) SAFE TRUSTS.—Section 6059 (relating to
 10 actuarial reports) is amended by redesignating sub-
 11 sections (c) and (d) as subsections (d) and (e), re-
 12 spectively, and by inserting after subsection (b) the
 13 following:

14 “(c) SAFE TRUSTS.—In the case of a SAFE Trust
 15 (within the meaning of section 408B), the Secretary shall
 16 require a simplified actuarial report which contains infor-
 17 mation similar to the information required in section
 18 408(l)(3)(B).”

19 (f) CONFORMING AMENDMENTS.—

20 (1) Section 280G(b)(6) is amended by striking
 21 “or” at the end of subparagraph (C), by striking the
 22 period at the end of subparagraph (D) and inserting
 23 “, or” and by adding after subparagraph (D) the
 24 following:

1 “(E) a SAFE annuity described in section
2 408B.”

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

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

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

12 (4) The table of sections for subpart A of part
13 I of subchapter D of chapter 1 is amended by insert-
14 ing after the item relating to section 408A the fol-
15 lowing:

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

16 (g) MODIFICATIONS OF ERISA.—

17 (1) EXEMPTION FROM INSURANCE COV-
18 ERAGE.—Subsection (b) of section 4021 of the Em-
19 ployee Retirement Income Security Act of 1974 (29
20 U.S.C. 1321) is amended by striking “or” at the end
21 of paragraph (12), by striking the period at the end
22 of paragraph (13) and inserting “; or”, and by add-
23 ing at the end the following:

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

4 (2) REPORTING REQUIREMENTS.—Section 101
5 of such Act (29 U.S.C. 1021) is amended by redesh-
6 ignating the second subsection (h) as subsection (j)
7 and by inserting after the first subsection (h) the
8 following:

9 “(i) SAFE ANNUITIES.—

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

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

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

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

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

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

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

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

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

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

18 (b) SIMPLIFICATION OF DEFINITION OF KEY EM-
19 PLOYEE.—

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

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

24 (B) by striking clause (i) and inserting the
25 following:

1 “(i) an officer of the employer who is
 2 a highly compensated employee described
 3 in section 414(q)(1)(B),”,

4 (C) by striking clause (ii) and redesignat-
 5 ing clauses (iii) and (iv) as clauses (ii) and (iii),
 6 respectively, and

7 (D) by striking the second sentence in the
 8 matter following clause (iii), as redesignated by
 9 subparagraph (C).

10 (2) CONFORMING AMENDMENT.—Section
 11 416(i)(1)(B)(iii) is amended by striking “and sub-
 12 paragraph (A)(ii)”.

13 (c) EMPLOYEE ELECTIVE CONTRIBUTIONS TO PLAN
 14 NOT TAKEN INTO ACCOUNT.—

15 (1) DEFINITION OF TOP-HEAVY PLAN.—Section
 16 416(g)(4) (relating to other special rules) is amend-
 17 ed by adding at the end the following:

18 “(H) EMPLOYEE ELECTIVE CONTRIBU-
 19 TIONS TO PLAN NOT TAKEN INTO ACCOUNT.—

20 At the election of the employer, any employee
 21 elective contribution described in section
 22 415(c)(3)(D) to a plan (and earnings allocable
 23 thereto) shall not be taken into account for pur-
 24 poses of determining whether a plan is a top-
 25 heavy plan (or whether any aggregation group

1 which includes such plan is a top-heavy
2 group).”

3 (2) DEFINITION OF COMPENSATION.—Section
4 416(i)(1)(D) (defining compensation) is amended to
5 read as follows:

6 “(D) COMPENSATION.—

7 “(i) IN GENERAL.—For purposes of
8 this paragraph, except as provided in
9 clause (ii), the term ‘compensation’ has the
10 meaning given such term by section
11 414(q)(4).

12 “(ii) EMPLOYEE ELECTIVE CONTRIBU-
13 TIONS TO PLAN NOT TAKEN INTO AC-
14 COUNT.—At the election of the employer,
15 any employee elective contribution de-
16 scribed in section 415(c)(3)(D) to a plan
17 shall not be taken into account for pur-
18 poses of determining compensation.”

19 (d) MATCHING CONTRIBUTIONS TAKEN INTO AC-
20 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—
21 Section 416(c)(2)(A) (relating to defined contribution
22 plans) is amended by adding at the end the following:
23 “Employer matching contributions (as defined in section
24 401(m)(4)(A)) shall be taken into account for purposes
25 of this subparagraph.”.

1 (e) DISTRIBUTIONS DURING LAST YEAR BEFORE
 2 DETERMINATION DATE TAKEN INTO ACCOUNT.—Section
 3 416(g) is amended—

4 (1) in paragraph (3)—

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

8 (B) in the matter following subparagraph
 9 (B), by striking “5-year period” and inserting
 10 “1-year period”, and

11 (2) in paragraph (4)(E)—

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

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

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

21 “The preceding sentence shall not apply to
 22 a plan if the plan is not top-heavy and if
 23 it is not reasonable to expect that the plan
 24 will become a top-heavy plan.”

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

1 (1) EXCLUSION OF CERTAIN PLANS FROM DEFINITION OF TOP-HEAVY PLAN.—Paragraph (4) of section 416(d) (relating to other special rules for top-heavy plans) is amended by adding at the end the following new subparagraphs:

6 “(H) CASH OR DEFERRED ARRANGEMENTS USING ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—The term ‘top-heavy plan’ shall not include a cash or deferred arrangement to the extent that such arrangement meets the requirements of section 401(k)(12). This subparagraph shall also apply to contributions that are not required to satisfy the requirements of section 401(k)(12) but are consistent with the purposes of such section, as permitted under regulations which the Secretary shall prescribe.

18 “(I) DEFINED CONTRIBUTION PLANS USING ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—The term ‘top-heavy plan’ shall not include a defined contribution plan to the extent that such plan meets the requirements of section 401(m)(11). This subparagraph shall also apply to contributions that are not required to satisfy

1 the requirements of section 401(m)(11) but are
 2 consistent with the purposes of such section, as
 3 permitted under regulations which the Sec-
 4 retary shall prescribe.”

5 (2) AGGREGATION GROUP NOT REQUIRED TO
 6 INCLUDE CERTAIN PLANS.—Clause (i) of section
 7 416(g)(2)(A) of such Code (relating to required ag-
 8 gregation) is amended by adding at the end the fol-
 9 lowing new flush sentence:

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

13 (h) EFFECTIVE DEFERRALS NOT TAKEN INTO AC-
 14 COUNT.—Clause (i) of section 416(c)(2)(B) (relating to
 15 special rule where maximum contribution less than 3 per-
 16 cent) is amended by inserting “(other than elective defer-
 17 rals (as defined in section 402(g)(3))” after “contribu-
 18 tions”.

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

22 **SEC. 105. SALARY REDUCTION ONLY SIMPLE PLANS.**

23 (a) SIMPLE RETIREMENT ACCOUNTS.—

24 (1) IN GENERAL.—Paragraph (2) of section
 25 408(p) is amended—

(A) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and

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

“(C) EMPLOYER MAY ELECT SALARY REDUCTION ONLY ARRANGEMENT.—

“(i) IN GENERAL.—An employer shall be treated as meeting the requirements of subparagraph (A)(iii) for any year if, in lieu of the contributions described in such subparagraph, the employer elects to have subparagraph (A)(ii) applied for the year by substituting ‘\$4,000’ for ‘\$6,000’. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

“(ii) EXCEPTION.—This subparagraph shall not apply to an employer if such employer (or any predecessor employer) maintained another qualified plan (as defined in subparagraph (E)(ii)) with

respect to which contributions were made, or benefits were accrued, for service during the year in which the arrangement described in clause (i) became effective or either of the 2 preceding years. If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in the arrangement described in clause (i), then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.

“(iii) APPLICABLE RULES.—For purposes of this subparagraph, rules similar to the rules of subparagraph (E)(iii) shall apply.”

(2) COST-OF-LIVING ADJUSTMENT.—Subparagraph (F) of section 408(p)(2) (as so redesignated) is amended by inserting “and the \$4,000 and \$6,000 amounts under subparagraph (C)” after “subparagraph (A)(ii)”.

(3) COORDINATION WITH MAXIMUM LIMITATION.—Paragraph (8) of section 408(p) (relating to coordination with maximum limitation under sub-

1 section (a)) is amended by striking “paragraph
 2 (2)(A)(ii) of this subsection” and inserting “sub-
 3 paragraph (A)(ii) or (C) of paragraph (2) of this
 4 subsection, whichever is applicable,”.

5 (b) ADOPTION OF SIMPLE PLAN TO MEET NON-
 6 DISCRIMINATION TESTS.—

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

11 “(iii) EMPLOYER MAY ELECT SALARY
 12 REDUCTION ONLY ARRANGEMENT.—

13 “(I) IN GENERAL.—An employer
 14 shall be treated as meeting the re-
 15 quirements of clause (i)(II) for any
 16 year if, in lieu of the contributions de-
 17 scribed in such clause, the employer
 18 elects to have clause (i)(I) applied for
 19 the year by substituting ‘\$4,000’ for
 20 ‘\$6,000’. If an employer makes an
 21 election under this clause for any
 22 year, the employer shall notify em-
 23 ployees of such election within a rea-
 24 sonable period of time before the 60-

1 day period for such year under clause
 2 (iv)(II).

3 “(II) EXCEPTION.—This clause
 4 shall not apply to an employer if such
 5 employer (or any predecessor em-
 6 ployer) maintained another qualified
 7 plan (as defined in section
 8 408(p)(2)(E)(ii)) with respect to
 9 which contributions were made, or
 10 benefits were accrued, for service dur-
 11 ing the year in which the arrangement
 12 described in subclause (I) became ef-
 13 fective or either of the 2 preceding
 14 years. This subclause shall not apply
 15 if such contributions or benefits were
 16 solely on behalf of employees who are
 17 not eligible to participate in the ar-
 18 rangement described in subclause
 19 (I).”

20 (2) COST-OF-LIVING ADJUSTMENT.—Subpara-
 21 graph (E) of section 401(k)(11) is amended by in-
 22 serting “and the \$4,000 and \$6,000 amounts under
 23 subparagraph (B)(iii)” after “subparagraph
 24 (B)(i)(I)”.

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

4 **SEC. 106. CREDIT FOR SMALL EMPLOYER PENSION PLAN**
 5 **CONTRIBUTIONS AND START-UP COSTS.**

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

10 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN CREDIT.**

11 “(a) GENERAL RULE.—For purposes of section 38,
 12 in the case of an eligible employer, the small employer pen-
 13 sion plan credit determined under this section for any tax-
 14 able year is an amount equal to the sum of—

15 “(1) 50 percent of the qualified employer con-
 16 tributions of the taxpayer for the taxable year, and

17 “(2) the qualified start-up costs paid or in-
 18 curred by the taxpayer during the taxable year.

19 “(b) LIMITATIONS.—

20 “(1) LIMITS ON CONTRIBUTIONS.—For pur-
 21 poses of subsection (a)(1)—

22 “(A) qualified employer contributions may
 23 only be taken into account for each of the first
 24 5 taxable years ending after the date the em-

1 employer establishes the qualified employer plan to
 2 which the contribution is made, and

3 “(B) the amount of the qualified employer
 4 contributions taken into account with respect to
 5 any qualified employee for any such taxable
 6 year shall not exceed 3 percent of the com-
 7 pensation (as defined in section 414(s)) of the
 8 qualified employee for such taxable year.

9 “(2) LIMITS ON START-UP COSTS.—The amount
 10 of the credit determined under subsection (a)(2) for
 11 any taxable year shall not exceed—

12 “(A) \$500 for each of the first, second,
 13 and third taxable years ending after the date
 14 the employer established the qualified employer
 15 plan to which such costs relate, and

16 “(B) zero for each taxable year thereafter.

17 “(c) DEFINITIONS.—For purposes of this section—

18 “(1) ELIGIBLE EMPLOYER.—

19 “(A) IN GENERAL.—The term ‘eligible em-
 20 ployer’ means, with respect to any year, an em-
 21 ployer which has no more than—

22 “(i) for purposes of subsection (a)(1),
 23 50 employees, and

24 “(ii) for purposes of subsection (a)(2),
 25 100 employees,

1 who received at least \$5,000 of compensation
2 from the employer for the preceding year.

3 “(B) 2-YEAR GRACE PERIOD.—An eligible
4 employer who establishes and maintains a quali-
5 fied employer plan for 1 or more years and who
6 fails to be an eligible employer for any subse-
7 quent year shall be treated as an eligible em-
8 ployer for the 2 years following the last year
9 the employer was an eligible employer.

10 “(C) REQUIREMENT FOR NEW QUALIFIED
11 EMPLOYER PLANS.—Such term shall not in-
12 clude an employer if the employer (or any pred-
13 ecessor employer) established or maintained a
14 qualified employer plan with respect to which
15 contributions were made, or benefits were ac-
16 crued, for service in the 3 taxable years ending
17 prior to the first taxable year in which the cred-
18 it under this section is allowed.

19 “(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

20 “(A) IN GENERAL.—The term ‘qualified
21 employer contributions’ means, with respect to
22 any taxable year, any employer contributions
23 made on behalf of a qualified employee to a
24 qualified employer plan for a plan year ending
25 with or within the taxable year.

1 “(B) EMPLOYER CONTRIBUTIONS.—The
2 term ‘employer contributions’ shall not include
3 any elective deferral (within the meaning of sec-
4 tion 402(g)(3)).

5 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-
6 fied employee’ means an individual who—

7 “(A) is eligible to participate in the quali-
8 fied employer plan to which the employer con-
9 tributions are made, and

10 “(B) is not a highly compensated employee
11 (within the meaning of section 414(q)) for the
12 year for which the contribution is made.

13 “(4) QUALIFIED START-UP COSTS.—The term
14 ‘qualified start-up costs’ means any ordinary and
15 necessary expenses of an eligible employer which are
16 paid or incurred in connection with—

17 “(A) the establishment or maintenance of
18 a qualified employer plan in which qualified em-
19 ployees are eligible to participate, and

20 “(B) providing educational information to
21 employees regarding participation in such plan
22 and the benefits of establishing an investment
23 plan.

1 “(5) QUALIFIED EMPLOYER PLAN.—The term
2 ‘qualified employer plan’ has the meaning given such
3 term in section 4972(d).

4 “(d) SPECIAL RULES.—

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

9 “(2) DISALLOWANCE OF DEDUCTION.—No de-
10 duction shall be allowable under this chapter for any
11 qualified start-up costs or qualified contributions for
12 which a credit is determined under subsection (a).

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

17 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
18 NESS CREDIT.—Section 38(b) of such Code (defining cur-
19 rent year business credit) is amended by striking “plus”
20 at the end of paragraph (11), by striking the period at
21 the end of paragraph (12) and inserting “, plus”, and by
22 adding at the end the following new paragraph:

23 “(13) in the case of an eligible employer (as de-
24 fined in section 45D(c)), the small employer pension
25 plan credit determined under section 45D(a).”

1 (c) PORTION OF CREDIT REFUNDABLE.—Section
 2 38(c) of such Code (relating to limitation based on amount
 3 of tax) is amended by adding at the end the following new
 4 paragraph:

5 “(4) PORTION OF SMALL EMPLOYER PENSION
 6 PLAN CREDIT REFUNDABLE.—

7 “(A) IN GENERAL.—In the case of the
 8 small employer pension plan credit under sub-
 9 section (b)(13), the aggregate credits allowed
 10 under subpart C shall be increased by the lesser
 11 of—

12 “(i) the credit which would be allowed
 13 without regard to this paragraph and the
 14 limitation under paragraph (1), or

15 “(ii) the amount by which the aggre-
 16 gate amount of credits allowed by this sec-
 17 tion (without regard to this paragraph)
 18 would increase if the limitation under
 19 paragraph (1) were increased by the tax-
 20 payer’s applicable payroll taxes for the tax-
 21 able year.

22 “(B) TREATMENT OF CREDIT.—The
 23 amount of the credit allowed under this para-
 24 graph shall not be treated as a credit allowed
 25 under this subpart and shall reduce the amount

1 of the credit allowed under this section for the
2 taxable year.

3 “(C) APPLICABLE PAYROLL TAXES.—For
4 purposes of this paragraph—

5 “(i) IN GENERAL.—The term ‘applica-
6 ble payroll taxes’ means, with respect to
7 any taxpayer for any taxable year—

8 “(I) the amount of the taxes im-
9 posed by sections 3111 and 3221(a)
10 on compensation paid by the taxpayer
11 during the taxable year,

12 “(II) 50 percent of the taxes im-
13 posed by section 1401 on the self-em-
14 ployment income of the taxpayer dur-
15 ing the taxable year, and

16 “(III) 50 percent of the taxes im-
17 posed by section 3211(a)(1) on
18 amounts received by the taxpayer dur-
19 ing the calendar year in which the
20 taxable year begins.

21 “(ii) AGREEMENTS REGARDING FOR-
22 EIGN AFFILIATES.—Section 24(d)(5)(C)
23 shall apply for purposes of clause (i).”

24 (d) CONFORMING AMENDMENT.—The table of sec-
25 tions for subpart D of part IV of subchapter A of chapter

1 1 of such Code is amended by adding at the end the follow-
 2 ing new item:

“Sec. 45D. Small employer pension plan credit.”

3 (e) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to costs paid or incurred or con-
 5 tributions made in connection with qualified employer
 6 plans established after April 30, 1998.

7 **SEC. 107. INCREASING LIMITS FOR DEFERRALS TO SIMPLE**
 8 **PLANS.**

9 (a) SIMPLE RETIREMENT ACCOUNTS.—

10 (1) IN GENERAL.—Paragraph (2)(A)(ii) of sec-
 11 tion 408(p) (relating to simple retirement accounts)
 12 is amended by striking “\$6,000” and inserting
 13 “\$8,000”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 408(p)(2)(C)(i), as added by
 16 section 105, is amended by striking “\$6,000”
 17 and inserting “\$8,000”.

18 (B) Subparagraph (F) of section 408(p)(2)
 19 (relating to cost-of-living adjustment), as
 20 amended by section 105, is amended by striking
 21 “\$6,000” each place it appears and inserting
 22 “\$8,000”.

23 (b) NONDISCRIMINATION TESTS.—

1 (1) IN GENERAL.—Section 401(k)(11)(B)(i)(I)
 2 is amended by striking “\$6,000” and inserting
 3 “\$8,000”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 401(k)(11)(B)(iii)(I), as added
 6 by section 105, is amended by striking
 7 “\$6,000” and inserting “\$8,000”.

8 (B) Section 401(k)(11)(E) is amended by
 9 striking “\$6,000” each place it appears and in-
 10 serting “\$8,000”.

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

14 **SEC. 108. QUALIFIED STAFFING FIRMS.**

15 (a) CODIFICATION OF EMPLOYER STATUS OF QUALI-
 16 FIED STAFFING FIRM FOR EMPLOYMENT TAX PUR-
 17 POSES.—

18 (1) INCOME TAX WITHHOLDING.—Section
 19 3401(d) is amended by striking “and” at the end of
 20 paragraph (1), by striking the period at the end of
 21 paragraph (2) and inserting “, and”, and by adding
 22 at the end the following:

23 “(3) notwithstanding any other provision of this
 24 subtitle, if a qualified staffing firm described in sec-
 25 tion 7701(a)(47) pays wages to an individual per-

1 forming services for a customer of such qualified
 2 staffing firm, the term ‘employer’ means, with re-
 3 spect to such individual for such services, such quali-
 4 fied staffing firm (and not the customer).”

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

7 “(z) APPLICATION TO QUALIFIED STAFFING
 8 FIRMS.—Notwithstanding any other provision of this sub-
 9 title, if a qualified staffing firm described in section
 10 7701(a)(47) pays wages to an individual performing serv-
 11 ices for a customer of such qualified staffing firm, the
 12 term ‘employer’ means, with respect to such individual for
 13 such services, such qualified staffing firm (and not the
 14 customer).”

15 (3) FUTA TAX.—Subsection (a) of section
 16 3306 is amended by adding at the end the following:
 17 “Notwithstanding any other provision of this sub-
 18 title, if a qualified staffing firm described in section
 19 7701(a)(47) pays wages to an individual performing
 20 services for a customer of such qualified staffing
 21 firm, the term ‘employer’ means, with respect to
 22 such individual for such services, such qualified
 23 staffing firm (and not the customer).”

1 (4) DEFINITION—Subsection (a) of section
2 7701 is amended by adding at the end the following
3 paragraph:

4 “(47) QUALIFIED STAFFING FIRM.—

5 “(A) IN GENERAL.—The term ‘qualified
6 staffing firm’ means any person which is en-
7 gaged in providing staffing services to a cus-
8 tomer pursuant to a service contract, and which
9 with respect to a worker performing services for
10 the customer who is covered by the contract—

11 “(i) assumes responsibility for pay-
12 ment of wages to the worker, without re-
13 gard to the receipt or adequacy of payment
14 from the customer for such services,

15 “(ii) assumes responsibility for report-
16 ing, withholding, and paying any applicable
17 taxes under chapters 21, 23, and 24, with
18 respect to the worker’s wages, without re-
19 gard to the receipt or adequacy of payment
20 from the customer for such services,

21 “(iii) assumes responsibility for any
22 worker benefits that may be required by
23 the service contract, without regard to the
24 receipt or adequacy of payment from the
25 customer for such services,

1 “(iv) assumes authority to hire, reas-
2 sign, and dismiss the worker and has the
3 contractual right to exercise this authority
4 independent of the customer,

5 “(v) maintains employee records relat-
6 ing to the worker, and

7 “(vi) assumes responsibility for ad-
8 dressing the worker’s complaints, claims,
9 filings, or requests relating to employment,
10 except as otherwise provided by applicable
11 collective bargaining agreements, if any,
12 notwithstanding that some or all of the ac-
13 tions described in this subparagraph may
14 be shared by the customer.

15 “(B) STAFFING FIRM OR CUSTOMER MUST
16 OFFER DEFINED CONTRIBUTION PLAN.—

17 “(i) IN GENERAL.—A person shall not
18 be treated as a qualified staffing firm with
19 respect to any worker for whom the re-
20 quirements of subparagraph (A) are met
21 unless such worker is eligible to participate
22 in a defined contribution plan maintained
23 by such person or the customer for which
24 the worker performs services.

1 “(ii) DE MINIMUS EXCEPTION.—
 2 Clause (i) shall not apply to the treatment
 3 of any worker by a person if at least 95
 4 percent of all workers (other than workers
 5 excluded under clause (iii)) for whom the
 6 person seeks to be treated as a qualified
 7 staffing firm under this paragraph are eli-
 8 gible to participate in a defined contribu-
 9 tion plan described in clause (i). All per-
 10 sons treated as a single employer under
 11 subsections (b), (c), (m), or (o) of section
 12 414 shall be treated as one person for pur-
 13 poses of applying this clause.

14 “(iii) EXCLUSIONS.—Workers may be
 15 excluded from consideration under this
 16 subparagraph if such workers do not meet
 17 the minimum age and service requirements
 18 of section 410(a)(1)(A) or such workers
 19 are excludable from consideration under
 20 section 410(b)(3).”

21 (b) CODIFICATION OF EMPLOYER STATUS OF QUALI-
 22 FIED STAFFING FIRM FOR PURPOSES OF PROVIDING EM-
 23 PLOYEE BENEFITS.—

24 (1) Paragraph (20) of section 7701(a) is
 25 amended—

1 (A) by striking “For” and inserting the
 2 following:

3 “(A) FULL-TIME LIFE INSURANCE SALES-
 4 MAN.—For”; and

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

6 “(B) INDIVIDUAL COVERED BY QUALIFIED
 7 STAFFING FIRM CONTRACT.—

8 “(i) IN GENERAL.—For purposes of
 9 applying any applicable employee benefit
 10 provision, the term ‘employee’ shall in-
 11 clude, with respect to a qualified staffing
 12 firm, any individual whose employer is con-
 13 sidered to be the qualified staffing firm for
 14 the purpose of chapters 21, 23, and 24.

15 “(ii) CHANGE IN RELATIONSHIP.—
 16 For purposes of any applicable employee
 17 benefit provision, any change in the em-
 18 ployment relationship between an individ-
 19 ual and a qualified staffing firm or be-
 20 tween the individual and a customer or
 21 former customer of the qualified staffing
 22 firm, as the case may be, which results in
 23 the individual becoming or ceasing to be an
 24 employee of the qualified staffing firm
 25 shall be treated as the termination of em-

1 employment and separation from service by
 2 the individual from the employment or
 3 service of the qualified staffing firm’s cus-
 4 tomer or the qualified staffing firm, as the
 5 case may be.

6 “(iii) APPLICABLE EMPLOYEE BENE-
 7 FIT PROVISION.—For purposes of clause
 8 (i), the term ‘applicable employee benefit
 9 provision’ means each of the following:

10 “(I) Section 79 with respect to
 11 group-term insurance purchased for
 12 employees.

13 “(II) Sections 104, 105, and 106
 14 with respect to accident and health in-
 15 surance or plans.

16 “(III) The provisions of this title
 17 with respect to contributions (includ-
 18 ing elective contributions under sec-
 19 tion 401(k) and employee and match-
 20 ing contributions under section 401)
 21 and distributions to and under a trust
 22 which is part of a plan (other than a
 23 defined benefit plan) described in sec-
 24 tion 401(a) or 403(a) or with respect
 25 to the tax-exempt status of such trust.

1 “(IV) Sections 125, 127, and
2 129 with respect to plans and pro-
3 grams under such sections.

4 “(V) Section 414(n) and the pro-
5 visions described in paragraph (3)
6 thereof.”

7 (c) COVERAGE OF LEASED EMPLOYEES IN EMPLOY-
8 MENT BENEFIT PLANS.—

9 (1) APPLICATION OF REQUIREMENTS CONCERN-
10 ING CASH OR DEFERRED ARRANGEMENTS, MATCH-
11 ING CONTRIBUTIONS, AND EMPLOYEE CONTRIBU-
12 TIONS TO LEASED EMPLOYEES.—Section
13 414(n)(3)(B) is amended by inserting “401(k),
14 401(m),” before “408(k)”.

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

17 (A) by renumbering paragraph (6) as
18 paragraph (7); and

19 (B) by inserting the following as para-
20 graph (6):

21 “(6) LEASING ORGANIZATION’S PLAN.—

22 “(A) ELECTIVE DISAGGREGATION.—

23 “(i) GENERAL RULE.—A leasing orga-
24 nization that is a qualified staffing firm
25 may elect, for any year, to have a plan that

1 it sponsors and that is described in section
2 401(a) or 403(a) treated as maintained by
3 more than one employer for purposes of
4 applying sections 410(b) and 401(a)(4).
5 For these purposes, (I) all the employees
6 who perform services directly for a recipi-
7 ent and related persons and who would be
8 treated as leased employees of the recipient
9 but for the requirements of paragraph
10 (2)(B), shall be treated as employed by
11 that recipient, and (II) all employees who
12 do not meet the requirements of subclause
13 (I) shall be treated as employed by the
14 leasing organization. Such leasing organi-
15 zation may also elect, for any year, to have
16 a plan that is subject to paragraphs (3)
17 and (4) of section 105(h), or to section
18 125(c), tested on a comparable basis under
19 paragraphs (3) and (4) of section 105(h),
20 or under section 125(c), as the case may
21 be.

22 “(ii) SPECIAL RULES.—A leasing or-
23 ganization electing under this paragraph
24 may, under regulations prescribed by the
25 Secretary, elect in the alternative to have

1 subclause (I) of paragraph (6)(A)(i) ap-
2 plied to (I) all employees who perform
3 services directly for the recipient and the
4 related persons, whether or not they would
5 be treated as leased employees of the recip-
6 ient, or (II) only with respect to selected
7 recipients and related persons. Notwith-
8 standing the foregoing, in the event that a
9 five-percent owner (as defined in section
10 416(i)) of a recipient is covered by a plan
11 described in subparagraph (A)(i), then
12 such leasing organization shall be deemed
13 to have elected disaggregation in accord-
14 ance with subclause (II) of this clause with
15 respect to such recipient and related per-
16 sons.

17 “(iii) EFFECT OF DISQUALIFICA-
18 TION.—If the plan of a leasing organiza-
19 tion electing under this subparagraph fails
20 to satisfy the requirements of section
21 410(b) or section 401(a)(4) with respect to
22 the person deemed to be the employer
23 under this paragraph, only that portion of
24 the plan that is treated under this sub-

paragraph as maintained by such person shall be disqualified.

“(iv) TREATMENT OF RELATED PERSONS.—For purposes of this subparagraph, the term “recipient” shall not include any person that is a related person with respect to the leasing organization.

“(B) HIGHLY COMPENSATED EMPLOYEES.—Whether or not the leasing organization makes an election under subparagraph (A), section 414(q) shall be applied to employees of a leasing organization that is a qualified staffing firm by treating the employees who perform services for a recipient or related persons and who would be leased employees of the recipient but for the requirements of paragraph (2)(B) as employed by, and receiving compensation from, the recipient or the related person for purposes of determining whether the employees are highly compensated employees of the leasing organization.”

(d) REVISIONS TO SAFE HARBOR PROVISION.—

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

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

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

13 “(ii) such plan provides for full and immediate
14 vesting,

15 “(iii) in the case of a profit-sharing plan, such
16 plan meets the distribution requirements of section
17 401(k)(2)(B) with respect to all employer contribu-
18 tions, and

19 “(iv) each employee of the leasing organization
20 who performs services for the recipient immediately
21 participates in such plan.”

22 (2) EXTENSION OF SAFE HARBOR RULE TO AD-
23 DITIONAL EMPLOYEE BENEFITS.—Paragraph (5) of
24 section 414(n) is amended by adding at the end the
25 following:

1 “(D) SPECIAL RULE FOR ADDITIONAL EM-
 2 PLOYEE BENEFITS.—To the extent provided for in
 3 regulations issued by the Secretary, in the case of a
 4 requirement described in subparagraph (C) of para-
 5 graph (3), this subsection shall not apply to any
 6 leased employee with respect to service performed
 7 for a recipient if—

8 “(i) such employee is covered by a plan for
 9 an arrangement that is maintained by the leas-
 10 ing organization and that meets such require-
 11 ments as the Secretary shall prescribe in regu-
 12 lations, and

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

17 (e) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
 19 this section shall take effect on the date of the en-
 20 actment of this Act.

21 (2) EXISTING SERVICE CONTRACTS.—In the
 22 case of a plan that covers employees of a qualified
 23 staffing firm who are providing services for a cus-
 24 tomer pursuant to a service contract and that was
 25 adopted and in effect before the date of enactment

1 of this Act, such amendments shall not take effect
 2 until the first day of the first plan year that begins
 3 after the date of enactment of this Act, and the plan
 4 shall not be required to be amended to reflect this
 5 Act until the end of such plan year.

6 **SEC. 109. PHASE-IN OF ADDITIONAL PBGC PREMIUM FOR**
 7 **NEW PLANS.**

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

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

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

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

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

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

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

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

1 For purposes of this clause, the term ‘new defined benefit
 2 plan’ means a defined benefit plan (as defined in section
 3 3(35)) maintained by an employer if such employer (in-
 4 cluding any predecessor employer) has not established or
 5 maintained a plan to which this title applies with respect
 6 to which contributions were made, or benefits were ac-
 7 crued, for service in the 3 preceding plan years.”

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

11 **SEC. 110. ELIMINATION OF USER FEE FOR REQUESTS TO**
 12 **IRS REGARDING NEW PENSION PLANS.**

13 (a) ELIMINATION OF CERTAIN USER FEES.—The
 14 Secretary of the Treasury or the Secretary’s delegate shall
 15 not require payment of user fees under the program estab-
 16 lished under section 10511 of the Revenue Act of 1987
 17 for requests to the Internal Revenue Service for ruling let-
 18 ters, opinion letters, and determination letters or similar
 19 requests with respect to the qualified status of a new pen-
 20 sion benefit plan or any trust which is part of the plan.

21 (b) NEW PENSION BENEFIT PLAN.—For purposes of
 22 this section, the term ‘new pension benefit plan’ means
 23 a pension, profit-sharing, stock bonus, annuity, or em-
 24 ployee stock ownership plan which is maintained by an em-
 25 ployer if such employer (or any predecessor employer) has

1 not made a prior request described in subsection (a) for
 2 such plan (or any predecessor plan).

3 (c) EFFECTIVE DATE.—The provisions of this section
 4 shall apply with respect to requests made after December
 5 31, 1998.

6 **SEC. 111. COMPENSATION LIMIT NOT TO APPLY TO SIMPLE**
 7 **401(K) ARRANGEMENTS.**

8 (a) IN GENERAL.—Section 401(k)(11) (relating to
 9 adoption of simple plan to meet nondiscrimination tests)
 10 is amended by adding at the end the following new sub-
 11 paragraph:

12 “(F) COMPENSATION.—The limitation
 13 under subsection (a)(17) shall not apply for
 14 purposes of determining compensation taken
 15 into account under this paragraph (other than
 16 subparagraph (B)(ii)).”

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

20 **SEC. 112. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
 21 **COUNT FOR PURPOSES OF LIMITS.**

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

24 “(o) ELECTIVE DEFERRALS NOT TAKEN INTO AC-
 25 COUNT FOR PURPOSES OF LIMITS.—Elective deferrals (as

1 defined in section 402(g)(3)) shall not be subject to any
 2 limitations described in this section (other than subsection
 3 (a)), and such elective deferrals shall not be taken into
 4 account in applying such limitations to any other contribu-
 5 tions.”

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

9 **SEC. 113. REPEAL OF COORDINATION REQUIREMENTS FOR**
 10 **DEFERRED COMPENSATION PLANS OF STATE**
 11 **AND LOCAL GOVERNMENTS AND TAX-EX-**
 12 **EMPT ORGANIZATIONS.**

13 (a) IN GENERAL.—Subsection (c) of section 457 (re-
 14 lating to deferred compensation plans of State and local
 15 governments and tax-exempt organizations), as amended
 16 by section 609, is amended by striking paragraph (2).

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

20 **SEC. 114. ALTERNATIVE METHOD OF MEETING NON-**
 21 **DISCRIMINATION REQUIREMENTS FOR OPT-**
 22 **OUT PLANS.**

23 (a) IN GENERAL.—Section 401(k) (relating to cash
 24 or deferred arrangement) is amended by adding at the end
 25 the following new paragraph:

1 “(13) NONDISCRIMINATION REQUIREMENTS
2 FOR OPT-OUT ARRANGEMENTS.—

3 “(A) IN GENERAL.—A cash or deferred ar-
4 rangement shall be treated as meeting the re-
5 quirements of paragraph (3)(A)(ii) if such ar-
6 rangement constitutes a negative election trust
7 (a ‘NET’).

8 “(B) NEGATIVE ELECTION TRUST.—For
9 purposes of this paragraph, the term ‘negative
10 election trust’ means an arrangement—

11 “(i) under which each employee eligi-
12 ble to participate in the arrangement is
13 treated as having elected to have the em-
14 ployer make elective contributions in an
15 amount equal to the uniform percentage
16 (not less than 3 percent) provided under
17 the arrangement unless the employee spe-
18 cifically elects not to have such contribu-
19 tions made, and

20 “(ii) which meets the other require-
21 ments of this paragraph.

22 “(C) PARTICIPATION.—An arrangement
23 meets the requirements of this subparagraph
24 for any year if, during the plan year or the pre-
25 ceding plan year, elective contributions de-

scribed in subparagraph (B)(i) are made on behalf of at least 70 percent of employees other than highly compensated employees eligible to participate in the arrangement.

“(D) MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 5 percent of compensation. The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of this subparagraph.

“(E) WITHDRAWAL AND VESTING.—The requirements of this subparagraph are met if the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraph (B) or (D) are met.

“(F) NOTICE REQUIREMENTS.—The requirements of this subparagraph are met if

1 each employee eligible to participate in the ar-
 2 rangement—

3 “(i) receives a notice explaining the
 4 employee’s right under the arrangement to
 5 elect not to have elective contributions
 6 made on the employee’s behalf, and

7 “(ii) has a reasonable period of time
 8 after receipt of such notice and before the
 9 first elective contribution is made to make
 10 such election.

11 The requirements of clauses (i) and (ii) of para-
 12 graph (12)(D) shall be met with respect to such
 13 notice.”

14 (b) MATCHING CONTRIBUTIONS.—Section 401(m)
 15 (relating to nondiscrimination test for matching contribu-
 16 tions and employee contributions) is amended by redesign-
 17 ating paragraph (12) as paragraph (13) and by inserting
 18 after paragraph (11) the following new paragraph:

19 “(12) ALTERNATIVE METHOD FOR OPT-OUT
 20 PLANS.—

21 “(A) IN GENERAL.—A defined contribution
 22 plan shall be treated as meeting the require-
 23 ments of paragraph (2) with respect to match-
 24 ing contributions if the plan—

1 “(i) meets the contribution require-
 2 ments of subparagraphs (B)(i) and (D) of
 3 subsection (k)(13),

4 “(ii) meets the participation require-
 5 ments of subsection (k)(13)(C),

6 “(iii) meets the vesting and notice re-
 7 quirements of subparagraphs (E) and (F)
 8 of subsection (k)(13), and

9 “(iv) meets the requirements of
 10 clauses (i) and (ii) of paragraph (11)(B).

11 “(B) MATCHING CONTRIBUTIONS UNDER
 12 SECTION 403(b) PLANS.—An annuity contract
 13 under section 403(b) shall be treated as meet-
 14 ing the requirements of paragraph (2) with re-
 15 spect to matching contributions on account of
 16 an elective deferral described in section
 17 402(g)(3)(C) if such contract meets require-
 18 ments similar to the requirements under sub-
 19 paragraph (A).”

20 (c) EXCLUSION FROM DEFINITION OF TOP-HEAVY
 21 PLANS.—Paragraph (4) of section 416(d) (relating to
 22 other special rules for top-heavy plans), as amended by
 23 section 104(g), is amended by adding at the end the fol-
 24 lowing new subparagraph:

1 “(J) NEGATIVE ELECTION TRUST.—The
 2 term ‘top-heavy plan’ shall not include a nega-
 3 tive election trust under section 401(k)(13).”

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

7 **TITLE II—INCREASING PENSION**
 8 **ACCESS AND FAIRNESS FOR**
 9 **WOMEN**

10 **SEC. 201. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
 11 **EMPLOYEES TO DEFINED CONTRIBUTION**
 12 **PLANS.**

13 (a) IN GENERAL.—

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

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

18 (2) CONFORMING AMENDMENTS.—

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

23 (B)(i) Section 403(b) is amended—

24 (I) by striking “the exclusion allow-
 25 ance for such taxable year” in paragraph

1 (1) and inserting “the applicable limit
2 under section 415”, and

3 (II) by striking paragraph (2).

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

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

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

13 “(E) ANNUITY CONTRACTS.—In the case
14 of an annuity contract described in section
15 403(b), the term ‘participant’s compensation’
16 shall mean the participant’s includible com-
17 pensation as determined under regulations pre-
18 scribed by the Secretary.”

19 (F) Section 415(c) is amended by striking
20 paragraph (4).

21 (G) Section 415(c)(7) is amended to read
22 as follows:

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

“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant’s account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of \$10,000.

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

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

(H) Section 415(e)(5) is amended—

(i) by striking “(except in the case of a participant who has elected under sub-

1 section (c)(4)(D) to have the provisions of
 2 subsection (c)(4)(C) apply”, and

3 (ii) by striking the last sentence.

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

6 (J) Subparagraph (B) of section 402(g)(7)
 7 is amended by inserting before the period at the
 8 end the following: “(as in effect on the date of
 9 the enactment of the Pension Coverage and
 10 Portability Act)”.

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

14 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
 15 408.—Subsection (k) of section 415 is amended by adding
 16 at the end the following new paragraph:

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

1 ployee pension plan for an individual for a taxable
 2 year shall be treated as an employer contribution to
 3 a defined contribution plan for such individual for
 4 such year.”

5 (c) DEFERRED COMPENSATION PLANS OF STATE
 6 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 7 ZATIONS.—Subparagraph (B) of section 457(b)(2) (relat-
 8 ing to salary limitation on eligible deferred compensation
 9 plans” is amended by striking “33 $\frac{1}{3}$ percent” and insert-
 10 ing “100 percent”.

11 (d) EFFECTIVE DATES.—

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

16 (2) EFFECTIVE DATE.—The amendment made
 17 by subsection (b) shall apply to limitation years be-
 18 ginning after December 31, 1999.

19 **SEC. 202. FASTER VESTING OF CERTAIN EMPLOYER**
 20 **MATCHING CONTRIBUTIONS.**

21 (a) AMENDMENTS TO 1986 CODE.—Section 411(a)
 22 (relating to minimum vesting standards) is amended—

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

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

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

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

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

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

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

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

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

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

1 “(A) by substituting ‘3 years’ for ‘5 years’
 2 in subparagraph (A), and
 3 “(B) by substituting the following table for
 4 the table contained in subparagraph (B):

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

5 (c) EFFECTIVE DATES.—

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

10 (2) COLLECTIVE BARGAINING AGREEMENTS.—

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

19 (A) the later of—

20 (i) the date on which the last of such
 21 collective bargaining agreements termi-
 22 nates (determined without regard to any

1 extension thereof on or after such date of
 2 enactment), or

3 (ii) January 1, 1999, or

4 (B) January 1, 2003.

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

11 **SEC. 203. DEFERRED ANNUITIES FOR SURVIVING SPOUSES**
 12 **OF FEDERAL EMPLOYEES.**

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

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

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

23 “(j)(1) If a former employee dies after having sepa-
 24 rated from the service with title to a deferred annuity
 25 under section 8338 but before having established a valid

1 claim for annuity, and is survived by a spouse to whom
 2 married on the date of separation, the surviving spouse
 3 may elect to receive—

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

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

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

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

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

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

16 SEC. 204. CLARIFICATION OF TAX TREATMENT OF DIVISION
17 OF SECTION 457 PLAN BENEFITS UPON DI-
18 VORCE.

(1) by inserting “or an eligible deferred compensation plan (within the meaning of section 457(b))” after “subsection (e))”,

1 (2) in the heading, by striking “GOVERN-
2 MENTAL AND CHURCH PLANS” and inserting “CER-
3 TAIN OTHER PLANS”, and

4 (3) by adding at the end the following new sen-
5 tence: “The rule of section 402(e)(1)(A) shall apply
6 to a payment or distribution of an eligible deferred
7 compensation plan to which this paragraph applies.”

8 (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-
9 MENTS.—Section 414(p)(10) is amended by striking “and
10 section 409(d)” and inserting “section 409(d), and section
11 457(d)”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to transfers after the date of enact-
14 ment of this Act.

15 **SEC. 205. PENSION RIGHT TO KNOW PROPOSALS.**

16 (a) SPOUSE’S RIGHT TO KNOW DISTRIBUTION IN-
17 FORMATION.—

18 (1) AMENDMENT OF INTERNAL REVENUE
19 CODE.—Section 417(a)(3) (relating to plan to pro-
20 vide written explanations) is amended by adding at
21 the end the following new subparagraph:

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

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

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

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

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

4 **SEC. 206. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**
 5

6 (a) REQUIRED DISTRIBUTIONS.—

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

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

13 “(iii) ACTUARIAL ADJUSTMENT.—

14 “(I) IN GENERAL.—In the case
 15 of a defined benefit plan, an employ-
 16 ee’s accrued benefit shall be actuari-
 17 ally increased to take into account the
 18 period after the applicable date during
 19 which the employee was not eligible to
 20 receive any benefits under the plan.

21 “(II) APPLICABLE DATE.—For
 22 purposes of clause (I), the term ‘appli-
 23 cable date’ means the 1st April follow-
 24 ing the calendar year in which the em-
 25 ployee attains age 70½.

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

4 (b) SIMPLIFICATION AND FINALIZATION OF MINI-
5 MUM DISTRIBUTION REQUIREMENTS.—

6 (1) IN GENERAL.—The Secretary of the Treas-
7 ury shall—

8 (A) simplify and finalize the regulations re-
9 lating to minimum distribution requirements
10 under sections 401(a)(9), 408(a)(6) and (b)(3),
11 403(b)(10), and 457(d)(2) of the Internal Reve-
12 nue Code of 1986, and

13 (B) modify such regulations to—

14 (i) reflect increases in life expectancy,
15 and

16 (ii) revise the required distribution
17 methods so that, under reasonable assump-
18 tions, the amount of the required minimum
19 distribution does not decrease over a par-
20 ticipant's life expectancy.

21 (2) FRESH START.—Notwithstanding subpara-
22 graph (D) of section 401(a)(9) of such Code, during
23 the first year that regulations are in effect under
24 this subsection, required distributions for future
25 years may be redetermined to reflect changes under

1 such regulations. Such redetermination shall include
 2 the opportunity to choose a new designated bene-
 3 ficiary and to elect a new method of calculating life
 4 expectancy.

5 (3) EFFECTIVE DATE FOR REGULATIONS.—

6 Regulations referred to in paragraph (1) shall be ef-
 7 fective for years beginning after December 31, 2000,
 8 and shall apply in such years without regard to
 9 whether an individual had previously begun receiving
 10 minimum distributions.

11 (c) AMOUNT NOT SUBJECT TO MINIMUM DISTRIBUTION
 12 REQUIREMENTS.—Paragraph (9) of section 401(a)
 13 is amended—

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

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

18 “(H) EXCLUSION AMOUNT.—

19 “(i) IN GENERAL.—For purposes of
 20 this paragraph, the term ‘exclusion
 21 amount’ means—

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

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

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

3 “(ii) AGGREGATION OF PLANS.—For
4 purposes of determining the exclusion
5 amount under clause (i)—

6 “(I) all defined contribution
7 plans maintained by the same em-
8 ployer shall be treated as a single
9 plan;

10 “(II) all individual retirement
11 plans (other than Roth IRAs) of the
12 individual shall be treated as a single
13 plan; and

14 “(III) all Roth IRAs of the indi-
15 vidual shall be treated as a single
16 plan.

17 “(iii) COST-OF-LIVING ADJUST-
18 MENT.—The Secretary shall adjust the
19 \$300,000 exclusion amount specified in
20 clause (i) at the same time and in the
21 same manner as under section 415(d), ex-
22 cept that the base period shall be the cal-
23 endar quarter ending September 30,
24 1999.”

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

4 (d) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
5 BEGUN BEFORE DEATH OCCURS.—

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

10 (2) CONFORMING CHANGES.—

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

13 (i) by striking “FOR OTHER CASES” in
14 the heading, and

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

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

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

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

3 (ii) in subclause (I) by striking
 4 “clause (iii)(III)” and inserting “clause
 5 (ii)(III),”

6 (iii) in subclause (I) by striking “the
 7 date on which the employee would have at-
 8 tained the age 70½,” and inserting “April
 9 1 of the calendar year following the cal-
 10 endar year in which the spouse attains 75,
 11 and clause (ii) shall not apply to the exclu-
 12 sion amount,” and

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

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

20 (4) EFFECTIVE DATE.—

21 (A) IN GENERAL.—Except as provided by
 22 subparagraph (B), the amendments made by
 23 this subsection shall apply to years beginning
 24 after December 31, 2000.

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

4 **TITLE III—INCREASING PORT-**
 5 **ABILITY OF PENSION PLANS**

6 **SEC. 301. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
 7 **OF PLANS.**

8 (a) ROLLOVERS FROM AND TO SECTION 457
 9 PLANS.—

10 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

14 “(16) ROLLOVER AMOUNTS.—

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

17 “(i) any portion of the balance to the
 18 credit of an employee in such plan is paid
 19 to such employee in an eligible rollover dis-
 20 tribution (within the meaning of section
 21 402(c)(4)),

22 “(ii) the employee transfers any por-
 23 tion of the property such employee receives
 24 in such distribution to an eligible retire-

1 ment plan described in section
2 402(c)(8)(B), and

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

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

10 “(B) CERTAIN RULES MADE APPLICA-
11 BLE.—Rules similar to the rules of paragraphs
12 (2) through (7) and (9) of section 402(c) and
13 section 402(f) shall apply for purposes of sub-
14 paragraph (A).

15 “(C) REPORTING.—Rollovers under this
16 paragraph shall be reported to the Secretary in
17 the same manner as rollovers from qualified re-
18 tirement plans (as defined in section
19 4974(c)).”.

20 (B) DEFERRAL LIMIT DETERMINED WITH-
21 OUT REGARD TO ROLLOVER AMOUNTS.—Section
22 457(b)(2) (defining eligible deferred compensa-
23 tion plan) is amended by inserting “(other than
24 rollover amounts)” after “taxable year”.

25 (2) ROLLOVERS TO SECTION 457 PLANS.—

(A) Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following:

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

(B) Paragraph (9) of section 402(c) is amended by striking “except that” and all that follows and inserting “except that only an account or annuity described in clause (i) or (ii) of paragraph (8)(B) shall be treated as an eligible retirement plan with respect to such distribution.”.

(C) Subsection (a) of section 457 (relating to year of inclusion in gross income) is amended by striking “or otherwise made available”.

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

(1) ROLLOVERS FROM SECTION 403(b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollover amounts) is amended by striking “such distribution” and all that follows and inserting “such

1 distribution to an eligible retirement plan described
 2 in section 402(c)(8)(B), and”.

3 (2) ROLLOVERS TO SECTION 403(b) PLANS.—

4 Section 402(c)(8)(B) (defining eligible retirement
 5 plan), as amended by subsection (a), is amended by
 6 striking “and” at the end of clause (iv), by striking
 7 the period at the end of clause (v) and inserting “,
 8 and”, and by adding at the end the following:

9 “(vi) an annuity contract described in
 10 section 403(b).”

11 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
 12 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section
 13 402(f) (relating to written explanation to recipients of dis-
 14 tributions eligible for rollover treatment) is amended by
 15 striking “and” at the end of subparagraph (C), by striking
 16 the period at the end of subparagraph (D) and inserting
 17 “, and”, and by adding at the end the following new sub-
 18 paragraph:

19 “(E) of the provisions under which dis-
 20 tributions from the eligible retirement plan re-
 21 ceiving the distribution may be subject to re-
 22 strictions and tax consequences which are dif-
 23 ferent from those applicable to distributions
 24 from the plan making such distribution.”

25 (d) 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 (B) of section 403(b)(8) is
11 amended by inserting “and (9)” after “through
12 (7)”.

13 (5) Section 408(a)(1) is amended by striking
14 “or 403(b)(8)” and inserting “, 403(b)(8), or
15 457(e)(16)”.

16 (6) Subparagraphs (A) and (B) of section
17 415(b)(2) are each amended by striking “and
18 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
19 457(e)(16)”.

20 (7) Section 415(c)(2) is amended by striking
21 “and 408(d)(3)” and inserting “408(d)(3), and
22 457(e)(16)”.

23 (8) Section 4973(b)(1)(A) is amended by strik-
24 ing “or 408(d)(3)” and inserting “408(d)(3), or
25 457(e)(16)”.

1 (e) EFFECTIVE DATE; SPECIAL RULE.—

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

5 (2) 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, and
8 section 402(d) of the Internal Revenue Code of 1986
9 (as in effect for taxable years beginning before Jan-
10 uary 1, 2000), shall not apply to any distribution
11 from a defined contribution plan (as defined in sec-
12 tion 408(d)(3)(A) of such Code, as amended by sec-
13 tion 302) or a defined benefit plan (as so defined)
14 on behalf of an individual if there was a rollover to
15 such plan on behalf of such individual which is per-
16 mitted solely by reason of any amendment made by
17 this section.

18 **SEC. 302. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
19 **MENT PLANS.**

20 (a) IN GENERAL.—Subparagraph (A) of section
21 408(d)(3) (relating to rollover amounts) is amended by
22 striking “or” at the end of clause (ii), by striking the pe-
23 riod at the end of clause (iii) and inserting a semicolon,
24 and by adding at the end the following:

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

5 “(II) no amount in the account and
6 no part of the value of the annuity is at-
7 tributable to any source other than a roll-
8 over contribution from a defined contribu-
9 tion plan or a defined benefit plan and any
10 earnings on such rollover, and

11 “(III) such entire amount received is
12 paid into a defined contribution plan or a
13 defined benefit plan (for the benefit of
14 such individual) not later than the 60th
15 day after he receives the payment or dis-
16 tribution; or

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

21 “(II) no amount in any such account
22 and no part of the value of any such annu-
23 ity is attributable to any source other than
24 a rollover contribution from such an ac-

count or annuity of such individual (and
any earnings on such contribution),

“(III) all contributions to all individual retirement accounts, and all amounts paid for all individual retirement annuities, of such individual were allowed as a deduction under section 219, and

“(IV) such entire amount received is paid (not later than the 60th day after being so received) into a defined contribution plan or a defined benefit plan (for the benefit of such individual) under which amounts are held in trust by a person described in section 408(a)(2) or in a manner that satisfies section 401(f).

If a payment or distribution from an individual retirement plan is described in more than one clause of this subparagraph, such payment or distribution shall be treated as described only in the clause specified by the payee or distributee. For purposes of this subparagraph, the term ‘defined contribution plan’ means a defined contribution plan (as defined in section 414(i)) which includes a trust exempt from tax under section 501(a), an annuity plan described in

1 section 403(a), an annuity contract described in
 2 section 403(b), and an eligible deferred com-
 3 pensation plan described in section 457(b) of an
 4 eligible employer described in section
 5 457(e)(1)(A). For purposes of clause (iv)(II),
 6 the term ‘defined contribution plan’ shall also
 7 include an eligible deferred compensation plan
 8 described in section 457(b) of an eligible em-
 9 ployer described in section 457(e)(1)(B). For
 10 purposes of this subparagraph, the term ‘de-
 11 fined benefit plan’ means a defined benefit plan
 12 (as defined in section 414(j)) which includes a
 13 trust exempt from tax under section 501(a).”

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

18 (c) EFFECTIVE DATE; SPECIAL RULE.—

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

22 (2) SPECIAL RULE.—Notwithstanding any other
 23 provision of law, subsections (h)(3) and (h)(5) of
 24 section 1122 of the Tax Reform Act of 1986, and
 25 section 402(d) of the Internal Revenue Code of 1986

1 (as in effect for taxable years beginning before Jan-
 2 uary 1, 2000), shall not apply to any distribution
 3 from a defined contribution plan (as defined in sec-
 4 tion 408(d)(3)(A) of the such Code, as amended by
 5 this section) or a defined benefit plan (as so defined)
 6 on behalf of an individual if there was a rollover to
 7 such plan on behalf of such individual which is per-
 8 mitted solely by reason of the amendments made by
 9 this section.

10 **SEC. 303. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS;**
 11 **HARDSHIP EXCEPTION.**

12 (a) IN GENERAL.—

13 (1) Subsection (c) of section 402 (relating to
 14 rules applicable to rollovers from exempt trusts) (as
 15 amended by section 301) is amended by striking
 16 paragraph (2) and redesignating paragraphs (3)
 17 through (10) as paragraphs (2) through (9), respec-
 18 tively.

19 (2) Paragraph (31) of section 401(a) (relating
 20 to optional direct transfer of eligible rollover dis-
 21 tributions) is amended by striking subparagraph (B)
 22 and redesignating subparagraphs (C) and (D) as
 23 subparagraphs (B) and (C), respectively.

24 (3) Subparagraph (B) of section 408(d)(3) (re-
 25 lating to rollover contributions) is amended by strik-

1 ing “which was not includible in his gross income
 2 because of the application of this paragraph” and in-
 3 serting “to which this paragraph applied”.

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

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

7 “(2) **TRANSFER MUST BE MADE WITHIN 60**
 8 **DAYS OF RECEIPT.**—

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

15 “(B) **HARDSHIP EXCEPTION.**—The Sec-
 16 retary may waive the 60-day requirement under
 17 subparagraph (A) where the failure to waive
 18 such requirement would be against equity or
 19 good conscience, including casualty, disaster, or
 20 other events beyond the reasonable control of
 21 the individual subject to such requirement.”

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

1 “(H) WAIVER OF 60-DAY REQUIREMENT.—

2 The Secretary may waive the 60-day require-
 3 ment under subparagraphs (A) and (D) where
 4 the failure to waive such requirement would be
 5 against equity or good conscience, including
 6 casualty, disaster, or other events beyond the
 7 reasonable control of the individual subject to
 8 such requirement.”

9 (c) CONFORMING AMENDMENTS.—

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

13 (2) Section 403(b)(8)(A)(ii) (as amended by
 14 section 301) is amended by striking “section
 15 402(c)(8)(B)” and inserting “section 402(c)(7)(B)”.

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

18 (A) in subparagraph (A)(i) by striking
 19 “402(c)(4)” and inserting “402(c)(3)”,

20 (B) in subparagraph (A)(ii) by striking
 21 “402(c)(8)(B)” and inserting “402(c)(7)(B)”,
 22 and

23 (C) in subparagraph (B) by striking “para-
 24 graphs (2) through (7) and (9) of section

1 402(c)” and inserting “paragraphs (2) through
2 (6) and (8) of section 402(c)”.

3 (d) EFFECTIVE DATE.—

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

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

11 **SEC. 304. RATIONALIZATION OF RESTRICTIONS ON DIS-**
12 **TRIBUTIONS FROM DEFINED CONTRIBUTION**
13 **PLANS.**

14 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE
15 FROM EMPLOYMENT.—

16 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)
17 (relating to qualified cash or deferred arrangements)
18 is amended by striking “separation from service”
19 and inserting “severance from employment”.

20 (2) 403(b) CONTRACTS.—

21 (A) Clause (ii) of section 403(b)(7)(A) is
22 amended by striking “separates from service”
23 and inserting “severs from employment”.

24 (B) Paragraph (11) of section 403(b) is
25 amended—

1 (i) by striking “SEPARATION FROM
2 SERVICE” in the heading and inserting
3 “SEVERANCE FROM EMPLOYMENT”, and

4 (ii) by striking “separates from serv-
5 ice” and inserting “severs from employ-
6 ment”.

7 (3) 457 PLANS.—Clause (ii) of section
8 457(d)(1)(A) is amended by striking “is separated
9 from service” and inserting “has a severance from
10 employment”.

11 (b) BUSINESS SALE REQUIREMENTS DELETED.—

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

16 (2) CONFORMING AMENDMENTS.—Section
17 401(k)(10) is amended—

18 (A) by striking subparagraph (A) and in-
19 serting the following:

20 “(A) IN GENERAL.—A plan termination is
21 described in this paragraph if the termination
22 of the plan does not involve the establishment
23 or maintenance of another defined contribution
24 plan (other than an employee stock ownership
25 plan as defined in section 4975(e)(7)).”,

1 (B) in subparagraph (B)—

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

4 (ii) by striking “the event” and insert-
5 ing “the termination”,

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

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

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to distributions after December 31,
11 1998.

12 **SEC. 305. TRANSFeree DEFINED CONTRIBUTION PLAN**
13 **NEED NOT HAVE SAME DISTRIBUTION OP-**
14 **TIONS AS TRANSFEROR DEFINED CONTRIBU-**
15 **TION PLAN.**

16 (a) AMENDMENT TO 1986 CODE.—Section 411(d)(6)
17 (relating to accrued benefit not to be decreased by amend-
18 ment) is amended by adding at the end the following new
19 subparagraph:

20 “(D) PLAN TRANSFERS.—A defined con-
21 tribution plan (in this subparagraph referred to
22 as the ‘transferee plan’) shall not be treated as
23 failing to meet the requirements of this para-
24 graph merely because the transferee plan does
25 not provide some or all of the forms of distribu-

tion previously available under another defined contribution plan (in this subparagraph referred to as the ‘transferor plan’) to the extent that—

“(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

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

“(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

“(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

“(v) if the transferor plan provides for an annuity as the normal form of distribu-

tion under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

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

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

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

1 “(A) the forms of distribution previously avail-
2 able under the transferor plan applied to the account
3 of a participant or beneficiary under the transferor
4 plan that was transferred from the transferor plan
5 to the transferee plan pursuant to a direct transfer
6 rather than pursuant to a distribution from the
7 transferor plan,

8 “(B) the terms of both the transferor plan and
9 the transferee plan authorize the transfer described
10 in subparagraph (A),

11 “(C) the transfer described in subparagraph
12 (A) was made pursuant to a voluntary election by
13 the participant or beneficiary whose account was
14 transferred to the transferee plan,

15 “(D) the election described in subparagraph (C)
16 was made after the participant or beneficiary re-
17 ceived a notice describing the consequences of mak-
18 ing the election,

19 “(E) if the transferor plan provides for an an-
20 nuity as the normal form of distribution under the
21 plan in accordance with section 205, the transfer is
22 made with the consent of the participant’s spouse (if
23 any), and such consent meets requirements similar
24 to the requirements imposed by section 205(c)(2),
25 and

1 “(F) the transferee plan allows the participant
 2 or beneficiary described in subparagraph (C) to re-
 3 ceive any distribution to which the participant or
 4 beneficiary is entitled under transferee plan in the
 5 form of a single sum distribution.”.

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

9 **SEC. 306. PURCHASE OF SERVICE CREDIT IN GOVERN-**
 10 **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

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

1 (b) 457 PLANS.—

2 (1) Subsection (e) of section 457 is amended by
3 adding at the end the following new paragraph:

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

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

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

16 (2) Section 457(b)(2), as amended by section
17 301, is amended by striking “(other than rollover
18 amounts)” and inserting “(other than rollover
19 amounts and amounts received in a transfer referred
20 to in subsection (e)(17))”.

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

1 **SEC. 307. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
 2 **PURPOSES OF CASH-OUT AMOUNTS.**

3 (a) AMENDMENTS TO 1986 CODE.—

4 (1) Section 411(a)(11) (relating to restrictions
 5 on certain mandatory distributions) is amended by
 6 adding at the end the following:

7 “(D) SPECIAL RULE FOR ROLLOVER CON-
 8 TRIBUTIONS.—A plan shall not fail to meet the
 9 requirements of this paragraph if, under the
 10 terms of the plan, the present value of the non-
 11 forfeitable accrued benefit is determined with-
 12 out regard to that portion of such benefit which
 13 is attributable to rollover contributions (and
 14 earnings allocable thereto). For purposes of this
 15 subparagraph, the term ‘rollover contributions’
 16 means any rollover contribution under sections
 17 402(c), 403(a)(4), 403(b)(8), clause (ii), (iii),
 18 or (iv) of 408(d)(3)(A), and 457(e)(16).”.

19 (2) Clause (i) of section 457(e)(9)(A) is amend-
 20 ed by striking “such amount” and inserting “the
 21 portion of such amount which is not attributable to
 22 rollover contributions (as defined in section
 23 411(a)(11)(D))”.

24 (b) AMENDMENT TO ERISA.—Section 203(e) of the
 25 Employee Retirement Income Security Act of 1974 (29

1 U.S.C. 1053(e)) is amended by adding at the end the fol-
 2 lowing:

3 “(4) A plan shall not fail to meet the requirements
 4 of this subsection if, under the terms of the plan, the
 5 present value of the nonforfeitable accrued benefit is de-
 6 termined without regard to that portion of such benefit
 7 which is attributable to rollover contributions (and earn-
 8 ings allocable thereto). For purposes of this paragraph,
 9 the term ‘rollover contributions’ means any rollover con-
 10 tribution under sections 402(c), 403(a)(4), 403(b)(8),
 11 clause (ii), (iii), or (iv) of 408(d)(3)(A), and 457(e)(16)
 12 of the Internal Revenue Code of 1986.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to distributions after December 31,
 15 1998.

16 **TITLE IV—STRENGTHENING** 17 **PENSION SECURITY AND EN-** 18 **FORCEMENT**

19 **SEC. 401. REPEAL OF 150 PERCENT OF CURRENT LIABILITY** 20 **FUNDING LIMIT.**

21 (a) IN GENERAL.—

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

24 (A) by striking “the applicable percentage”
 25 in subparagraph (A)(i)(I) and inserting “in the

1 case of plan years beginning before January 1,
2 2003, the applicable percentage”, and

3 (B) by amending subparagraph (F) to read
4 as follows:

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

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

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

12 (A) by striking “the applicable percentage”
13 in subparagraph (A)(i)(I) and inserting “in the
14 case of plan years beginning before January 1,
15 2003, the applicable percentage”, and

16 (B) by amending subparagraph (F) to read
17 as follows:

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

“In the case of any plan year beginning in—	
1999	155

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

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

4 (b) MAXIMUM CONTRIBUTION DEDUCTION RULES
5 MODIFIED AND APPLIED TO ALL DEFINED BENEFIT
6 PLANS.—

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

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

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

19 (C) by inserting after the first sentence the
20 following: “For purposes of this subparagraph,
21 in the case of a plan which has less than 100
22 participants for the plan year, termination li-
23 ability shall not include the liability attributable

1 to benefit increases for highly compensated em-
 2 ployees (as defined in section 414(q)) brought
 3 about by plan amendment within the last 2
 4 years before the termination date.”, and

5 (D) by striking “(other than a multiem-
 6 ployer plan)”.

7 (2) EFFECTIVE DATE.—The amendments made
 8 by this subsection shall apply to plan years begin-
 9 ning after the date of enactment of this Act.

10 **SEC. 402. EXTENSION OF MISSING PARTICIPANTS PRO-**
 11 **GRAM TO MULTIEMPLOYER PLANS.**

12 (a) IN GENERAL.—Section 4050 of the Employee Re-
 13 tirement Income Security Act of 1974 (29 U.S.C. 1350)
 14 is amended by redesignating subsection (c) as subsection
 15 (d) and by inserting after subsection (b) the following:

16 “(c) MULTIEMPLOYER PLANS.—The corporation
 17 shall prescribe rules similar to the rules in subsection (a)
 18 for multiemployer plans covered by this title that termi-
 19 nate under section 4041A.”

20 (b) CONFORMING AMENDMENT.—Section 206(f) of
 21 the Employee Retirement Income Security Act of 1974
 22 (29 U.S.C. 1056(f)) is amended by striking “the plan shall
 23 provide that,”.

24 (c) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to distributions made after final

1 regulations implementing subsection (c) of section 4050
2 of the Employee Retirement Income Security Act of 1974
3 (as added by subsection (a)) are prescribed.

4 **SEC. 403. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
5 **RESPONSIBILITY.**

6 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
7 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-
8 tirement Income Security Act of 1974 (29 U.S.C.
9 1132(l)(1)) is amended—

10 (1) by striking “shall” and inserting “may”,
11 and

12 (2) by striking “equal to” and inserting “not
13 greater than”.

14 (b) APPLICABLE RECOVERY AMOUNT.—Section
15 502(l)(2) of the Employee Retirement Income Security
16 Act of 1974 (29 U.S.C. 1132(l)(2)) is amended to read
17 as follows:

18 “(2) For purposes of paragraph (1), the term ‘appli-
19 cable recovery amount’ means any amount which is recov-
20 ered from (or on behalf of) any fiduciary or other person
21 with respect to a breach or violation described in para-
22 graph (1) on or after the 90th day following receipt by
23 such fiduciary or other person of written notice from the
24 Secretary of the violation, whether paid voluntarily or by
25 order of a court in a judicial proceeding instituted by the

1 Secretary under subsection (a)(2) or (a)(5). The Secretary
 2 may, in the Secretary's sole discretion, extend the 90-day
 3 period described in the preceding sentence."

4 (c) OTHER RULES.—Section 502(*l*) of the Employee
 5 Retirement Income Security Act of 1974 (29 U.S.C.
 6 1132(*l*)) is amended by adding at the end the following:

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

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

15 (d) EFFECTIVE DATES.—

16 (1) IN GENERAL.—The amendments made by
 17 this section shall apply to any breach of fiduciary re-
 18 sponsibility or other violation of part 4 of subtitle B
 19 of title I of the Employee Retirement Income Secu-
 20 rity Act of 1974 occurring on or after the date of
 21 enactment of this Act.

22 (2) TRANSITION RULE.—In applying the
 23 amendment made by subsection (b) (relating to ap-
 24 plicable recovery amount), a breach or other viola-
 25 tion occurring before the date of enactment of this

1 Act which continues after the 180th day after such
2 date (and which may have been discontinued at any
3 time during its existence) shall be treated as having
4 occurred after such date of enactment.

5 **SEC. 404. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
6 **MAKING LOANS THROUGH CREDIT CARDS**
7 **AND OTHER REVOLVING CREDIT ARRANGE-**
8 **MENTS.**

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

12 “(35) PROHIBITION OF LOANS THROUGH CRED-
13 IT CARDS AND OTHER INTERMEDIARIES.—A trust
14 shall not constitute a qualified trust under this sec-
15 tion if the plan makes any loan to any beneficiary
16 under the plan through the use of any credit or
17 debit card, any line of credit, or any other revolving
18 credit arrangement.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to plan years beginning after the
21 date of enactment of this Act.

1 **SEC. 405. PENALTY TAX RELIEF FOR SOUND PENSION**
2 **FUNDING.**

3 (a) IN GENERAL.—Subsection (c) of section 4972
4 (relating to nondeductible contributions) is amended by
5 adding at the end the following:

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

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

1 **SEC. 406. PROTECTION OF INVESTMENT OF EMPLOYEE**
2 **CONTRIBUTIONS TO 401(K) PLANS.**

3 (a) IN GENERAL.—Section 1524(b) of the Taxpayer
4 Relief Act of 1997 is amended to read as follows:

5 “(b) EFFECTIVE DATE.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to elective deferrals for plan years begin-
9 ning after December 31, 1998.

10 “(2) NONAPPLICATION TO PREVIOUSLY AC-
11 QUIRED PROPERTY.—The amendments made by this
12 section shall not apply to any elective deferral if
13 such deferral is used for the payment of indebted-
14 ness incurred before January 1, 1999 (or any refi-
15 nancing thereof) on the acquisition by the plan of
16 employer securities or employer real property—

17 “(A) before January 1, 1999, or

18 “(B) after such date pursuant to a written
19 contract which was binding on such date and at
20 all times thereafter on such plan.”

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

1 **TITLE V—ENCOURAGING**
2 **RETIREMENT EDUCATION**

3 **SEC. 501. PERIODIC PENSION BENEFITS STATEMENTS.**

4 (a) IN GENERAL.—Section 105(a) of the Employee
5 Retirement Income Security Act of 1974 (29 U.S.C.
6 1025(a)) is amended by striking “shall furnish to any plan
7 participant or beneficiary who so requests in writing, a
8 statement” and inserting “shall furnish to each plan par-
9 ticipant at least once each year (3 years in the case of
10 a defined benefit plan) or upon written request of a plan
11 participant or beneficiary, a statement in written or elec-
12 tronic form”.

13 (b) RULE FOR MULTIEMPLOYER PLANS.—Section
14 105(d) of the Employee Retirement Income Security Act
15 of 1974 (29 U.S.C. 1025(d)) is amended to read as fol-
16 lows:

17 “(d) Upon written request of a plan participant or
18 beneficiary, each administrator of a plan to which more
19 than 1 unaffiliated employer is required to contribute shall
20 furnish a statement described in subsection (a) in written
21 or electronic form.”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to plan years beginning after the
24 earlier of—

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

7 (2) December 31, 1998.

8 **SEC. 502. SMALL BUSINESS ADMINISTRATION ADVICE TO**
9 **SMALL BUSINESSES.**

10 (a) PREPARATION OF PLAN.—The Administrator of
11 the Small Business Administration shall, not later than
12 9 months after the date of the enactment of this Act, pre-
13 pare and submit to Congress a plan to—

14 (1) increase the awareness of the American peo-
15 ple of retirement benefits,

16 (2) increase the understanding of the American
17 people of the types of plans and other options avail-
18 able to provide retirement benefits, including simple
19 retirement plans, payroll deduction IRAs, and SAFE
20 annuities and trusts, and

21 (3) periodically update small business owners
22 on changes made by Congress and the executive
23 branch in the laws, regulations, and rules governing
24 retirement benefits.

1 The Administrator shall consult with the Secretary of
 2 Labor in preparing the plan under this subsection.

3 (b) POSTING OF INFORMATION ON INTERNET.—The
 4 Administrator of the Small Business Administration shall
 5 post on the Internet information on the types of plans and
 6 other options available to provide retirement benefits, in-
 7 cluding simple retirement plans, payroll deduction IRAs,
 8 and SAFE annuities and trusts.

9 **SEC. 503. CLARIFICATION OF TREATMENT OF EMPLOYER-**
 10 **PROVIDED RETIREMENT ADVICE.**

11 (a) IN GENERAL.—Section 132(e) (defining de mini-
 12 mis fringe) is amended by adding at the end the following:

13 “(3) TREATMENT OF CERTAIN RETIREMENT
 14 AND FINANCIAL PLANNING SERVICES.—The provi-
 15 sion of retirement and financial planning services by
 16 an employer to employees on an individual basis, to
 17 the extent not described in subsection (d), shall be
 18 treated as a de minimis fringe. The preceding sen-
 19 tence shall only apply to the extent such services are
 20 available on substantially the same terms to each
 21 member of the group of employees normally provided
 22 education and information regarding the employer’s
 23 pension plan.”

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

4 **SEC. 504. DISSEMINATION OF GOVERNMENT RETIREMENT**
5 **EDUCATION PROGRAM STRATEGIES TO PRI-**
6 **VATE COMPANIES.**

7 (a) PROVISION OF STRATEGIES.—The Director of the
8 Office of Personnel Management shall develop a program
9 under which successful Federal Government retirement
10 education program strategies are made available to non-
11 governmental retirement plan sponsors in such written
12 and nonwritten formats as the Director determines appro-
13 priate.

14 (b) REPORT.—Not later than December 31, 1999,
15 the Director of the Office of Personnel Management shall
16 report to Congress on the status of the program developed
17 under subsection (a), including any recommendations for
18 improving the dissemination of the strategies described in
19 subsection (a).

20 **TITLE VI—REDUCING RED TAPE**

21 **SEC. 601. INTERMEDIATE SANCTIONS FOR INADVERTENT**
22 **FAILURES.**

23 (a) IN GENERAL.—Section 401(a) (relating to quali-
24 fied pension, profit-sharing, and stock bonus plans), as

1 amended by section 404, is amended by inserting after
 2 paragraph (35) the following:

3 “(36) PROTECTION FROM DISQUALIFICATION
 4 UPON TIMELY CORRECTION OR PAYMENT OF FINE.—

5 A trust shall not fail to constitute a qualified trust
 6 under this section if the plan of which such trust is
 7 a part has made good faith efforts to meet the re-
 8 quirements of this section, has inadvertently failed
 9 to satisfy 1 or more of such requirements, and ei-
 10 ther—

11 “(A) substantially corrects (to the extent
 12 possible) such failure before the date the plan
 13 becomes subject to a plan examination for the
 14 applicable year (as determined under rules pre-
 15 scribed by the Secretary), or

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

18 The Secretary may require the sponsoring employer
 19 to make a payment to the Secretary in an amount
 20 that does not exceed an amount that bears a reason-
 21 able relationship to the severity of the plan’s failure
 22 to satisfy the requirements of this section.”

23 (b) APPLICATION TO CASH OR DEFERRED ARRANGE-
 24 MENTS.—Section 401(k) is amended by adding at the end
 25 the following:

1 “(13) PROTECTION FROM DISQUALIFICATION.—
 2 Rules similar to the rules set forth in section
 3 401(a)(36) shall apply for purposes of determining
 4 whether a cash or deferred arrangement is a quali-
 5 fied cash or deferred arrangement.”

6 (c) APPLICATION TO SECTION 403(b) ANNUITY CON-
 7 TRACTS.—Section 403(b), as amended by section 306, is
 8 amended by adding at the end the following:

9 “(14) CORRECTION OF ERRORS.—

10 “(A) IN GENERAL.—Under distribution
 11 and reporting procedures conforming to those
 12 applicable under section 415, the Secretary
 13 shall allow for the correction of elective defer-
 14 rals (within the meaning of section
 15 402(g)(3)(C)) which, as a result of reasonable
 16 error, would cause the limitation of section
 17 403(b)(2) to be exceeded.

18 “(B) PROTECTION FROM DISQUALIFICA-
 19 TION.—For purposes of determining whether
 20 the exclusion from gross income under para-
 21 graph (1) is applicable to an employee for any
 22 taxable year, rules similar to the rules set forth
 23 in section 401(a)(36) shall apply to any annuity
 24 contract purchased under this subsection or any

1 plan established to meet the requirements of
2 this subsection.”

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

8 “(4) INCOME INCLUSION FOR DISQUALIFICA-
9 TION NOT APPLICABLE TO NONHIGHLY COM-
10 PENSATED EMPLOYEES.—Paragraphs (1) and (2)
11 shall not apply to employees who are not highly com-
12 pensated employees.

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

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

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on the date of enactment of
 7 this Act.

8 **SEC. 602. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

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

11 (1) by striking “For purposes” and inserting
 12 the following:

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

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

15 “(B) ELECTION TO USE PRIOR YEAR
 16 VALUATION.—

17 “(i) IN GENERAL.—If, for any plan
 18 year—

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

22 “(II) the assets of the plan are
 23 not less than 125 percent of the
 24 plan’s current liability (as defined in
 25 paragraph (7)(B)), determined as of

1 the valuation date for the preceding
 2 plan year,
 3 then this section shall be applied using the
 4 information available as of such valuation
 5 date.

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

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

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

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

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

19 “(B)(i) If, for any plan year—

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

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

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

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

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

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

12 **SEC. 603. RULES FOR SUBSTANTIAL OWNERS RELATING TO**
 13 **PLAN TERMINATIONS.**

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

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

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

24 “(ii) in the case of a partnership, is a partner
 25 who owns, directly or indirectly, 50 percent or more

1 of either the capital interest or the profits interest
 2 in such partnership, or

3 “(iii) in the case of a corporation, owns, directly
 4 or indirectly, 50 percent or more in value of either
 5 the voting stock of that corporation or all the stock
 6 of that corporation.

7 For purposes of clause (iii), the constructive ownership
 8 rules of section 1563(e) of the Internal Revenue Code of
 9 1986 shall apply (determined without regard to section
 10 1563(e)(3)(C)).

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

14 “(i) a fraction (not to exceed 1) the numerator
 15 of which is the number of years from the later of the
 16 effective date or the adoption date of the plan to the
 17 termination date, and the denominator of which is
 18 30, and

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

22 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

23 (1) Section 4044(a)(4)(B) of the Employee Re-
 24 tirement Income Security Act of 1974 (29 U.S.C.

1 1344(a)(4)(B)) is amended by striking “section
2 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

3 (2) Section 4044(b) of such Act (29 U.S.C.
4 1344(b)) is amended—

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

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

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

25 (c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

21 For purposes of paragraph (3), the constructive ownership
22 rules of section 1563(e) of the Internal Revenue Code of
23 1986 shall apply (determined without regard to section
24 1563(e)(3)(C)).”

1 (2) Section 4043(c)(7) of such Act (29 U.S.C.
2 1343(c)(7)) is amended by striking “section
3 4022(b)(6)” and inserting “section 4021(d)”.

4 (d) EFFECTIVE DATES.—

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

8 (A) under section 4041(c) of the Employee
9 Retirement Income Security Act of 1974 (29
10 U.S.C. 1341(c)) with respect to which notices
11 of intent to terminate are provided under sec-
12 tion 4041(a)(2) of such Act (29 U.S.C.
13 1341(a)(2)) on or after the date of enactment
14 of this Act, or

15 (B) under section 4042 of such Act (29
16 U.S.C. 1342) with respect to which proceedings
17 are instituted by the corporation on or after
18 such date.

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

22 **SEC. 604. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
23 **LOSS OF DIVIDEND DEDUCTION.**

24 (a) IN GENERAL.—Section 404(k)(2)(A) (defining
25 applicable dividends) is amended by striking “or” at the

1 end of clause (ii), by redesignating clause (iii) as clause
 2 (iv), and by inserting after clause (ii) the following:

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

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

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

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

13 **SEC. 605. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE**
 14 **TO CONFORM TO 415 MODIFICATION.**

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

23 **SEC. 606. SAFETY VALVE FROM MECHANICAL RULES.**

24 (a) IN GENERAL.—The Secretary of the Treasury
 25 shall, by regulation, provide that the plan shall be deemed

1 to satisfy the requirements of section 401(a)(4) of the In-
 2 ternal Revenue Code of 1986 if such plan satisfies the
 3 facts and circumstances test under section 401(a)(4) of
 4 such Code, as in effect before January 1, 1994, but only
 5 if—

6 (1) the plan satisfies conditions prescribed by
 7 the Secretary to appropriately limit the availability
 8 of such test, and

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

11 Paragraph (2) shall only apply to the extent provided by
 12 the Secretary.

13 (b) EFFECTIVE DATES.—

14 (1) REGULATIONS.—The regulation required by
 15 subsection (a) shall apply to years beginning after
 16 December 31, 1999.

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

22 **SEC. 607. COVERAGE TEST FLEXIBILITY.**

23 (a) IN GENERAL.—Section 410(b)(1) (relating to
 24 minimum coverage requirements) is amended by adding
 25 at the end the following:

1 “(D) In the case that the plan fails to
 2 meet the requirements of subparagraphs (A),
 3 (B) and (C), the plan—

4 “(i) satisfies subparagraph (B), as in
 5 effect immediately before the enactment of
 6 the Tax Reform Act of 1986,

7 “(ii) is submitted to the Secretary for
 8 a determination of whether it satisfies the
 9 requirement described in clause (i), and

10 “(iii) satisfies conditions prescribed by
 11 the Secretary by regulation that appro-
 12 priately limit the availability of this sub-
 13 paragraph.

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

16 (b) EFFECTIVE DATES.—

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

20 (2) CONDITIONS OF AVAILABILITY.—Any condi-
 21 tion of availability prescribed by the Secretary under
 22 regulations prescribed by the Secretary under sec-
 23 tion 410(b)(1)(D) of the Internal Revenue Code of
 24 1986 shall not apply before the first year beginning

1 not less than 120 days after the date on which such
2 condition is prescribed.

3 **SEC. 608. SIMPLIFICATION OF CASH-OUT RULE.**

4 (a) MODIFICATION OF REGULATIONS.—The Sec-
5 retary of the Treasury shall modify the regulations issued
6 under sections 411(a)(11) and 417(e) of the Internal Rev-
7 enue Code of 1986 to delete the rule set forth in the last
8 sentence of Treasury Regulation section 1.411(a)–
9 11(c)(3) and in the last sentence of Treasury Regulation
10 section 1.417(e)–1(b)(2)(i).

11 (b) EFFECTIVE DATE.—The modifications made
12 under subsection (a) shall apply to years beginning after
13 December 31, 1998.

14 **SEC. 609. SECTION 457 INAPPLICABLE TO CERTAIN MIRROR**
15 **PLANS.**

16 (a) IN GENERAL.—Subsection (e) of section 457 (re-
17 lating to deferred compensation plans of State and local
18 governments and tax-exempt organizations), as amended
19 by section 306, is amended by adding at the end the fol-
20 lowing:

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

1 (b) CERTAIN DEFERRED COMPENSATION NOT
 2 TAKEN INTO ACCOUNT.—Section 457(c) (relating to indi-
 3 viduals who are participants in more than 1 plan), as
 4 amended by section 113, is amended by adding at the end
 5 the following:

6 “(2) EXCEPTION FOR MIRROR PLANS.—This
 7 section shall be applied without regard to a plan,
 8 program, or arrangement described in subsection
 9 (e)(18).”

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

13 **SEC. 610. NOTICE AND CONSENT PERIOD REGARDING DIS-**
 14 **TRIBUTIONS.**

15 (a) EXPANSION OF PERIOD.—

16 (1) IN GENERAL.—Section 417(a)(6)(A) (defin-
 17 ing applicable election period) is amended by strik-
 18 ing “90-day” and inserting “one-year”.

19 (2) MODIFICATION OF REGULATIONS.—The
 20 Secretary of the Treasury shall modify the regula-
 21 tions under sections 402(f), 411(a)(11), and 417 of
 22 the Internal Revenue Code of 1986 to substitute
 23 “one year” for “90 days” each place it appears in
 24 Treasury Regulations sections 1.402(f)–1 Q/A–2,
 25 1.411(a)–11T(c)(2), and 1.417(e)–1T(b)(3).

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

5 (b) CONSENT REGULATION INAPPLICABLE TO CER-
 6 TAIN DISTRIBUTIONS.—

7 (1) IN GENERAL.—The Secretary of the Treas-
 8 ury shall modify the regulations under section
 9 411(a)(11) of the Internal Revenue Code of 1986 to
 10 provide that the description of a participant’s right,
 11 if any, to defer receipt of a distribution shall also de-
 12 scribe the consequences of failing to defer such re-
 13 ceipt.

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

17 **SEC. 611. CONFORMING AMENDMENTS RELATING TO ELEC-**
 18 **TION TO RECEIVE TAXABLE CASH COM-**
 19 **PENSATION IN LIEU OF NONTAXABLE TRANS-**
 20 **PORTATION FRINGE BENEFITS.**

21 (a) IN GENERAL.—

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

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

4 (b) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) shall take effect as if included in the
 6 amendment made by section 1072 of the Taxpayer Relief
 7 Act of 1997.

8 **SEC. 612. REPEAL OF TRANSITION RULE RELATING TO CER-**
 9 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

10 (a) IN GENERAL.—Paragraph (4) of section
 11 1114(c)(4) of the Tax Reform Act of 1986 is hereby re-
 12 pealed.

13 (b) EFFECTIVE DATE.—The repeal made by sub-
 14 section (a) shall apply to plan years beginning after De-
 15 cember 31, 1998.

16 **SEC. 613. EXTENSION TO INTERNATIONAL ORGANIZATIONS**
 17 **OF MORATORIUM ON APPLICATION OF CER-**
 18 **TAIN NONDISCRIMINATION RULES APPLICA-**
 19 **BLE TO STATE AND LOCAL PLANS.**

20 (a) IN GENERAL.—Subparagraph (G) of section
 21 401(a)(5), subparagraph (H) of section 401(a)(26), sub-
 22 paragraph (G) of section 401(k)(3), and paragraph (2) of
 23 section 1505(d) of the Taxpayer Relief Act of 1997 are
 24 each amended by inserting “or by an international organi-

1 zation which is described in section 414(d)” after “or in-
 2 strumentality thereof”).

3 (b) CONFORMING AMENDMENTS.—

4 (1) The headings for subparagraph (G) of sec-
 5 tion 401(a)(5) and subparagraph (H) of section
 6 401(a)(26) are each amended by inserting “AND
 7 INTERNATIONAL ORGANIZATION” after “GOVERN-
 8 MENTAL”.

9 (2) Subparagraph (G) of section 401(k)(3) is
 10 amended by inserting “STATE AND LOCAL GOVERN-
 11 MENTAL AND INTERNATIONAL ORGANIZATION
 12 PLANS.—” after “(G)”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect as if included in the amend-
 15 ment made by section 1505 of the Taxpayer Relief Act
 16 of 1997.

17 **SEC. 614. ANNUAL REPORT DISSEMINATION.**

18 (a) IN GENERAL.—Section 104(b)(3) of the Em-
 19 ployee Retirement Income Security Act of 1974 (29
 20 U.S.C. 1024(b)(3)) is amended by striking “shall furnish”
 21 and inserting “shall make available for examination (and,
 22 upon request, shall furnish)”.

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

1 **SEC. 615. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

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

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

16 (2) 95 percent of the employees who are not
17 employees of an organization described in section
18 403(b)(1)(A)(i) of such Code are eligible to partici-
19 pate in such section 401(k) plan or section 401(m)
20 plan.

21 (b) EFFECTIVE DATE.—The modification required by
22 subsection (a) shall apply as of the same date set forth
23 in section 1426(b) of the Small Business Job Protection
24 Act of 1996.

1 **SEC. 616. REPEAL OF THE MULTIPLE USE TEST.**

2 (a) IN GENERAL.—Paragraph (9) of section 401(m)
 3 (relating to nondiscrimination test for matching contribu-
 4 tions and employee contributions) is amended to read as
 5 follows:

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

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

13 **TITLE VII—PLAN AMENDMENTS**

14 **SEC. 701. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

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

21 (2) such plan shall not fail to meet the require-
 22 ments of section 411(d)(6) of the Internal Revenue
 23 Code of 1986 or section 204(g) of the Employee Re-
 24 tirement Income Security Act of 1974 (29 U.S.C.
 25 1054(g)) by reason of such amendment.

26 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

4 (A) pursuant to any amendment made by
5 this Act, or pursuant to any regulation issued
6 under this Act, and

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

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

14 (2) CONDITIONS.—This section shall not apply
15 to any amendment unless—

16 (A) during the period—

17 (i) beginning on the date the legisla-
18 tive or regulatory amendment described in
19 paragraph (1)(A) takes effect (or in the
20 case of a plan or contract amendment not
21 required by such legislative or regulatory
22 amendment, the effective date specified by
23 the plan), and

24 (ii) ending on the date described in
25 paragraph (1)(B) (or, if earlier, the date

1 the plan or contract amendment is adopt-
2 ed),
3 the plan or contract is operated as if such plan
4 or contract amendment were in effect, and
5 (B) such plan or contract amendment ap-
6 plies retroactively for such period.

○