

106TH CONGRESS  
1ST SESSION

# H. R. 1590

To provide retirement security for all Americans.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1999

Mr. GEJDENSON (for himself, Mr. GEPHARDT, Mr. BONIOR, Mr. RANGEL, Mr. CLAY, Mr. ANDREWS, Mr. NEAL of Massachusetts, Mr. POMEROY, Mr. FROST, Mr. MENENDEZ, Ms. DELAURO, Mr. KENNEDY of Rhode Island, Mr. NADLER, Mr. CROWLEY, Mr. BRADY of Pennsylvania, Ms. NORTON, Mrs. CAPPS, Mr. BROWN of Ohio, Mr. GREEN of Texas, Mr. VENTO, Mr. BALDACCI, Mr. FILNER, Mr. MCGOVERN, Ms. PELOSI, Mr. DIXON, Mr. DEFazio, Mr. UNDERWOOD, Mr. PALLONE, Mr. SHOWS, Mr. OBERSTAR, Mrs. MINK of Hawaii, Mr. FALEOMAVAEGA, Ms. SCHAKOWSKY, Mr. KILDEE, Mr. OLVER, Mr. STRICKLAND, Ms. LOFGREN, Mr. GEORGE MILLER of California, Mr. KLECZKA, Mr. JEFFERSON, Mr. LaFALCE, Mr. SANDLIN, Mr. FORD, Mr. LEWIS of Georgia, Mr. INSLEE, Mr. HILLIARD, Mr. McNULTY, Ms. KILPATRICK, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. WEINER, Mr. MOORE, Mr. PRICE of North Carolina, Mr. HINCHEY, Mr. DELAHUNT, Ms. BERKLEY, Mrs. MEEK of Florida, Mr. WYNN, Mr. RAHALL, Mr. BOUCHER, Mr. CUMMINGS, Mr. GUTIERREZ, Mr. DOYLE, Mr. KUCINICH, Mr. MOAKLEY, Mr. WISE, Mr. CLYBURN, Mr. ACKERMAN, Ms. BROWN of Florida, Ms. LEE, Mrs. MALONEY of New York, Mr. BERMAN, Ms. STABENOW, Mr. TIERNEY, Mr. MALONEY of Connecticut, Mr. WAXMAN, Ms. MILLENDER-McDONALD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LAMPSON, Mr. MARTINEZ, Mr. GONZALEZ, Mr. WEXLER, Ms. JACKSON-LEE of Texas, Mr. DINGELL, Mrs. LOWEY, Mr. CAPUANO, Mr. ALLEN, Mr. STARK, Ms. WOOLSEY, Mr. EVANS, Mrs. THURMAN, Mr. MARKEY, Mr. SABO, Ms. WATERS, Mr. HASTINGS of Florida, Mr. BLAGOJEVICH, Mr. ENGEL, Ms. ROYBAL-ALLARD, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To provide retirement security for all Americans.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retirement Security  
 5 Act of 1999”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

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

## TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

### Subtitle A—Improved Access to Individual Retirement Savings

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

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

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

### Subtitle C—Improved Fairness in Retirement Plan Benefits

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

## TITLE II—SECURITY

Sec. 200. Amendment of ERISA.

### Subtitle A—General Provisions

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

### Subtitle B—ERISA Enforcement

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

### Subtitle C—Increase in Excise Tax on Employer Reversions

- Sec. 221. Increase in excise tax.

## TITLE III—PORTABILITY

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

## TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION

### Subtitle A—Pension Reform

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

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

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

Subtitle C—Modifications of Joint and Survivor Annuity Requirements

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

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(2) EMPLOYERS MAINTAINING QUALIFIED  
22 PLANS DURING 1997 NOT ELIGIBLE.—Such term  
23 shall not include an employer if such employer (or  
24 any predecessor employer) maintained a qualified  
25 plan (as defined in section 408(p)(2)(D)(ii)) with re-  
26 spect to which contributions were made, or benefits

1 were accrued, for service in 1997. If only individuals  
2 other than employees described in subparagraph (A)  
3 or (B) of section 410(b)(3) are eligible to participate  
4 in the qualified employer plan referred to in sub-  
5 section (d)(1), then the preceding sentence shall be  
6 applied without regard to any qualified plan in  
7 which only employees so described are eligible to  
8 participate.

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

11 “(1) QUALIFIED STARTUP COSTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           (c) CONFORMING AMENDMENTS.—

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

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

16          (2) Subsection (c) of section 196 is amended by  
17          striking “and” at the end of paragraph (7), by strik-  
18          ing the period at the end of paragraph (8) and in-  
19          serting “, and”, and by adding at the end the fol-  
20          lowing new paragraph:

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

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

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

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

4 **SEC. 102. EXCLUSION FOR PAYROLL DEDUCTION CON-**  
5 **TRIBUTIONS TO IRAS.**

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

10 “(q) QUALIFIED PAYROLL DEDUCTION ARRANGE-  
11 MENT FOR IRA CONTRIBUTIONS.—

12 “(1) IN GENERAL.—For purposes of this title,  
13 the term ‘qualified payroll deduction arrangement’  
14 means a written arrangement of an employer under  
15 which—

16 “(A) an employee eligible to participate in  
17 the arrangement may elect to have the employer  
18 make payments—

19 “(i) to the employee directly in cash,  
20 or

21 “(ii) as elective employer contributions  
22 to an individual retirement plan (as de-  
23 fined in section 7701(a)(37)), other than  
24 an individual retirement plan described in  
25 section 408(k), 408(p), or 408A(b), on be-

1 half of the employee for the taxable year in  
2 which the payments otherwise would have  
3 been made to the employee directly in  
4 cash,

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

8 “(C) no other contributions may be made  
9 other than contributions described in subpara-  
10 graph (A),

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

15 “(E) the employer makes the elective em-  
16 ployer contributions under subparagraph (A)  
17 not later than the close of the 30-day period  
18 following the last day of the month with respect  
19 to which the contributions are to be made.

20 “(2) ELECTION NOT TO HAVE SUBSECTION  
21 APPLY.—An employer that maintains an arrange-  
22 ment otherwise described in paragraph (1) may elect  
23 to have contributions treated as though they were  
24 not made under such an arrangement. If an em-  
25 ployer does not make an election described in the

1 preceding sentence, an employee may elect, before  
2 any contributions are made for the calendar year, to  
3 have contributions on behalf of the employee treated  
4 as though they were not made under an arrange-  
5 ment described in paragraph (1). An employer shall  
6 be deemed to have made an election under this para-  
7 graph for a year if the employer maintained a quali-  
8 fied plan with respect to which contributions were  
9 made or benefits were accrued for such year. For  
10 purposes of the preceding sentence, the term ‘quali-  
11 fied plan’ means a plan, contract, pension, or trust  
12 described in subparagraph (A) or (B) of section  
13 219(g)(5).”.

14 (b) TAX TREATMENT OF EMPLOYER CONTRIBUTIONS  
15 MADE UNDER A QUALIFIED PAYROLL DEDUCTION AR-  
16 RANGEMENT.—

17 (1) COORDINATION WITH DEDUCTION UNDER  
18 SECTION 219.—

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

22 “(5) SPECIAL RULE FOR CONTRIBUTIONS  
23 UNDER A QUALIFIED PAYROLL DEDUCTION AR-  
24 RANGEMENT.—This section shall not apply with re-  
25 spect to any amount contributed under a qualified

1 payroll deduction arrangement described in section  
2 408(q)(1) (for which an election has not been made  
3 under section 408(q)(2)).”.

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

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

13 “(A) the amount determined under para-  
14 graph (2), and

15 “(B) the amount contributed for the tax-  
16 able year under a qualified payroll deduction ar-  
17 rangement described in section 408(q)(1) (for  
18 which an election has not been made under sec-  
19 tion 408(q)(2)).”.

20 (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-  
21 TIONS.—Section 404 (relating to deductions for con-  
22 tributions of an employer to pension, etc., plans) is  
23 amended by adding at the end the following new  
24 subsection:

1       “(n) SPECIAL RULES FOR CONTRIBUTIONS UNDER  
2 A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—  
3 Rules similar to the rules of subsection (m) shall apply  
4 to employer contributions made under a qualified payroll  
5 deduction arrangement described in section 408(q)(1) (for  
6 which an election has not been made under section  
7 408(q)(2)).”.

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

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

1 the preceding sentence shall be treated as designated non-  
2 deductible contributions under section 408(o).”.

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

9 “(22) for any payment made for the benefit of  
10 the employee to an individual retirement plan if the  
11 amount of such payment was deducted and withheld  
12 under section 408(q).”.

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

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

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

1 **SEC. 103. NONREFUNDABLE TAX CREDIT FOR CONTRIBU-**  
 2 **TIONS TO INDIVIDUAL RETIREMENT PLANS.**

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

7 **“SEC. 25B. RETIREMENT SAVINGS.**

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
 9 lowed as a credit against the tax imposed by this chapter  
 10 so much of the qualified retirement contributions of the  
 11 taxpayer for the taxable year as does not exceed the appli-  
 12 cable amount of the adjusted gross income of the taxpayer  
 13 for such year.

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

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

17 “(c) SECTION NOT TO APPLY TO CERTAIN CON-  
 18 TRIBUTIONS.—This section shall not apply with respect  
 19 to—

20 “(1) an employer contribution to a simplified  
 21 employee pension,

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

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

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

7           “(d) OTHER LIMITATIONS AND RESTRICTIONS.—

8           “(1) BENEFICIARY MUST BE UNDER AGE  
9           70½.—No credit shall be allowed under this section  
10           with respect to any qualified retirement contribution  
11           for the benefit of an individual if such individual has  
12           attained age 70½ before the close of such individ-  
13           ual’s taxable year for which the contribution was  
14           made.

15           “(2) RECONTRIBUTED AMOUNTS.—No credit  
16           shall be allowed under this section with respect to a  
17           rollover contribution described in section 402(c),  
18           403(a)(4), 403(b)(8), or 408(d)(3).

19           “(3) AMOUNTS CONTRIBUTED UNDER ENDOW-  
20           MENT CONTRACT.—In the case of an endowment  
21           contract described in section 408(b), no credit shall  
22           be allowed under this section for that portion of the  
23           amounts paid under the contract for the taxable  
24           year which is properly allocable, under regulations

1 prescribed by the Secretary, to the cost of life insur-  
2 ance.

3 “(4) DENIAL OF CREDIT FOR AMOUNT CON-  
4 TRIBUTED TO INHERITED ANNUITIES OR AC-  
5 COUNTS.—No credit shall be allowed under this sec-  
6 tion with respect to any amount paid to an inherited  
7 individual retirement account or individual retire-  
8 ment annuity (within the meaning of section  
9 408(d)(3)(C)(ii)).

10 “(5) NO DOUBLE BENEFIT.—No credit shall be  
11 allowed under this section for any taxable year with  
12 respect to the amount of any qualified retirement  
13 contribution for the benefit of an individual if such  
14 individual takes a deduction with respect to such  
15 amount under section 219 for such taxable year.

16 “(e) QUALIFIED RETIREMENT CONTRIBUTION.—For  
17 purposes of this section, the term ‘qualified retirement  
18 contribution’ means—

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

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

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

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

4           “(2) MARRIED COUPLES MUST FILE JOINT RE-  
5 TURN.—If the taxpayer is married at the close of  
6 the taxable year, the credit shall be allowed under  
7 subsection (a) only if the taxpayer and the tax-  
8 payer’s spouse file a joint return for the taxable  
9 year.

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

19           “(4) EMPLOYER PAYMENTS.—For purposes of  
20 this title, any amount paid by an employer to an in-  
21 dividual retirement plan shall be treated as payment  
22 of compensation to the employee (other than a self-  
23 employed individual who is an employee within the  
24 meaning of section 401(c)(1)) includible in his gross  
25 income in the taxable year for which the amount was

1 contributed, whether or not a credit for such pay-  
2 ment is allowable under this section to the em-  
3 ployee.”

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 86(f) is amended by redesignating  
6 paragraphs (2), (3), and (4) as paragraphs (3), (4),  
7 and (5), respectively, and by inserting after para-  
8 graph (1) the following new paragraph:

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

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

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

17 (4) Section 6652(g) is amended by inserting  
18 “CREDITABLE” before “DEDUCTIBLE” in the head-  
19 ing thereof.

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

“Sec. 25B. Retirement savings.”

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

4 **SEC. 104. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**  
5 **USED WITHOUT PENALTY DURING PERIODS**  
6 **OF UNEMPLOYMENT.**

7 (a) IN GENERAL.—Paragraph (2) of section 72(t)  
8 (relating to exceptions to 10-percent additional tax on  
9 early distributions from qualified retirement plans) is  
10 amended by adding at the end the following new subpara-  
11 graph:

12 “(G) ADDITIONAL DISTRIBUTIONS TO UN-  
13 EMPLOYED INDIVIDUALS.—

14 “(i) IN GENERAL.—Distributions from  
15 an individual retirement plan, or from  
16 amounts attributable to employer contribu-  
17 tions made pursuant to elective deferrals  
18 described in subparagraph (A) or (C) of  
19 section 402(g)(3) or section  
20 501(c)(18)(D)(iii), to an individual after  
21 separation from employment if—

22 “(I) such individual has received  
23 unemployment compensation for 12  
24 consecutive weeks under any Federal

1 or State unemployment compensation  
2 law by reason of such separation, and

3 “(II) such distributions are made  
4 during the 1-year period beginning on  
5 the date of such separation.

6 “(ii) DISTRIBUTIONS AFTER REEM-  
7 PLOYMENT.—Clause (i) shall not apply to  
8 any distribution made after the individual  
9 has been employed for at least 60 days  
10 after the separation from employment to  
11 which clause (i) applies.

12 “(iii) COORDINATION WITH SUBPARA-  
13 GRAPH (D).—Distributions during the 1-  
14 year period described in clause (i)(II) shall  
15 not be taken into account in applying the  
16 limitation under subparagraph  
17 (D)(i)(III).”

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 401(k)(2)(B)(i) is amended by  
20 striking “or” at the end of subclause (III), by strik-  
21 ing “and” at the end of subclause (IV) and inserting  
22 “or”, and by inserting after subclause (IV) the fol-  
23 lowing new subclause:

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

4 (2) Section 403(b)(11) is amended by striking  
5 “or” at the end of subparagraph (A), by striking the  
6 period at the end of subparagraph (B) and inserting  
7 “, or”, and by inserting after subparagraph (B) the  
8 following new subparagraph:

9 “(C) for distributions to which section  
10 72(t)(2)(G) applies.”

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to distributions after the date of  
13 the enactment of this Act.

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

16 **SEC. 111. SECURE MONEY ANNUITY OR RETIREMENT**  
17 **(SMART) TRUSTS.**

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

21 **“SEC. 408B. SMART PLANS.**

22 “(a) EMPLOYER ELIGIBILITY.—

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

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

3           “(B) the employer does not maintain (and  
4           no predecessor of the employer maintains) a  
5           qualified plan (other than a permissible plan)  
6           with respect to which contributions were made,  
7           or benefits were accrued, for service in any year  
8           in the period beginning with the year such an-  
9           nuity or trust became effective and ending with  
10          the year for which the determination is being  
11          made.

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

17          “(2) DEFINITIONS.—For purposes of paragraph  
18          (1)—

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

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

24                         “(i) a SIMPLE plan described in sec-  
25                         tion 408(p),

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

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

5           “(iv) a collectively bargained plan but  
6           only if the employees eligible to participate  
7           in such plan are not also entitled to a ben-  
8           efit described in subsection (b)(5) or  
9           (c)(5), or

10           “(v) a plan under which there may be  
11           made only—

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

14                   “(II) employer matching con-  
15                   tributions not in excess of the  
16                   amounts described in subclauses (I)  
17                   and (II) of section 401(k)(12)(B)(i).

18           “(b) SMART ANNUITY.—

19                   “(1) IN GENERAL.—For purposes of this title,  
20           the term ‘SMART annuity’ means an individual re-  
21           tirement annuity (as defined in section 408(b) with-  
22           out regard to paragraph (2) thereof and without re-  
23           gard to the limitation on aggregate annual pre-  
24           miums contained in the flush language of section  
25           408(b)) if—

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

3           “(B) the only contributions to such annu-  
4 ity are employer contributions.

5 Nothing in this section shall be construed as pre-  
6 venting an employer from using a group annuity  
7 contract which is divisible into individual retirement  
8 annuities for purposes of providing SMART annu-  
9 ities.

10           “(2) PARTICIPATION REQUIREMENTS.—

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

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

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

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

21           “(B) EXCLUDABLE EMPLOYEES.—An em-  
22 ployer may elect to exclude from the require-  
23 ments under subparagraph (A) employees de-  
24 scribed in subparagraph (A) or (C) of section  
25 410(b)(3).

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

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

7                   “(A) a benefit payable annually in the  
8 form of a single life annuity with monthly pay-  
9 ments (with no ancillary benefits) beginning at  
10 age 65, or

11                   “(B) any other form of benefit which is the  
12 actuarial equivalent (based on the assumptions  
13 specified in the SMART annuity) of the benefit  
14 described in subparagraph (A).

15           “(5) AMOUNT OF ANNUAL ACCRUED BEN-  
16 EFIT.—

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

24                   “(B) APPLICABLE PERCENTAGE.—For  
25 purposes of this paragraph—

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

3           “(ii) ELECTION OF HIGHER PERCENT-  
4           AGE.—An employer may elect to apply an  
5           applicable percentage of 1 percent for any  
6           year for all employees eligible to partici-  
7           pate in the plan for such year, if the em-  
8           ployer notifies the employees of such per-  
9           centage within a reasonable period before  
10          the beginning of such year. An employer  
11          may also elect to apply an applicable per-  
12          centage of 3 percent for any of the first 5  
13          years that the plan is effective for all em-  
14          ployees eligible to participate in the plan  
15          for such year, if the employer so notifies  
16          the employees.

17          “(C) COMPENSATION LIMIT.—

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

21               “(ii) COST-OF-LIVING ADJUSTMENT.—  
22               The Secretary shall adjust annually the  
23               \$100,000 amount in clause (i) for in-  
24               creases in the cost-of-living at the same  
25               time and in the same manner as adjust-

1           ments under section 415(d); except that  
2           the base period shall be the calendar quar-  
3           ter beginning October 1, 1999, and any in-  
4           crease which is not a multiple of \$5,000  
5           shall be rounded to the next lowest mul-  
6           tiple of \$5,000.

7           “(6) FUNDING.—

8           “(A) IN GENERAL.—The requirements of  
9           this paragraph are met only if the employer is  
10          required to contribute to the annuity for each  
11          plan year the amount necessary to purchase a  
12          SMART annuity in the amount of the benefit  
13          accrued for such year for each participant enti-  
14          tled to such benefit. Such contribution must be  
15          made no later than 8½ months after the end  
16          of the plan year.

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

24          “(7) LIMITATION ON DISTRIBUTIONS.—

1           “(A) IN GENERAL.—The requirements of  
2 this paragraph are met only if distributions  
3 may be paid only when the employee attains  
4 age 65, separates from service, dies, or becomes  
5 disabled (within the meaning of section  
6 72(m)(7)).

7           “(B) LIMITATION ON DISTRIBUTIONS ON  
8 SEPARATION FROM SERVICE OF EMPLOYEES  
9 WHO HAVE NOT ATTAINED AGE 65.—Subpara-  
10 graph (A) shall apply to a distribution on sepa-  
11 ration of service of an employee who has not  
12 attained age 65 only if—

13           “(i) the aggregate cash value of an  
14 employee’s SMART annuity does not ex-  
15 ceed the dollar limit in effect under section  
16 411(a)(11)(A), or

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

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

1 “(9) DEFINITIONS AND SPECIAL RULE.—

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

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

10 “(C) SMART ROLLOVER PLAN.—For pur-  
11 poses of this section, the term ‘SMART rollover  
12 plan’ means an individual retirement plan for  
13 the benefit of the employee to which a rollover  
14 was made from a SMART Annuity, SMART  
15 trust, or another SMART Rollover plan.

16 “(c) SMART TRUST.—

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

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

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

24 “(C) the only contributions to such trust  
25 are employer contributions.

1           “(2) PARTICIPATION REQUIREMENTS.—A plan  
2           meets the requirements of this paragraph for any  
3           year only if the requirements of subsection (b)(2)  
4           are met for such year.

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

8           “(4) BENEFIT FORM.—

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

17                   “(B) DIRECT TRANSFERS TO INDIVIDUAL  
18                  RETIREMENT PLAN OR SMART ANNUITY.—A  
19                  plan shall not fail to meet the requirements of  
20                  this paragraph by reason of permitting, as an  
21                  optional form of benefit, the distribution of the  
22                  entire balance to the credit of the employee. If  
23                  the employee is under age 65, such distribution  
24                  must be in the form of a direct trustee-to-trust-  
25                  ee transfer to a SMART annuity, another

1 SMART trust, or a SMART rollover plan (or,  
2 in the case of a distribution that does not ex-  
3 ceed the dollar limit in effect under section  
4 411(a)(11)(A), any other individual retirement  
5 plan).

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

10 “(6) FUNDING.—

11 “(A) IN GENERAL.—A plan meets the re-  
12 quirements of this paragraph for any year only  
13 if—

14 “(i) the requirements of subparagraph  
15 (A) of subsection (b)(6) are met for such  
16 year,

17 “(ii) in the case of a plan which has  
18 an unfunded annuity amount with respect  
19 to the account of any participant, the plan  
20 requires that the employer make an addi-  
21 tional contribution to such plan (at the  
22 time the annuity contract to which such  
23 amount relates is purchased) equal to the  
24 unfunded annuity amount, and

1           “(iii) in the case of a plan which has  
2           an unfunded prior year liability with re-  
3           spect to the account of any participant as  
4           of the close of such plan year, the plan re-  
5           quires that the employer make an addi-  
6           tional contribution to such plan for such  
7           year equal to the amount of such unfunded  
8           prior year liability no later than 8½  
9           months following the end of the plan year.

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

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

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

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

1           “(i) the aggregate present value of the  
2           participants’ accrued benefits under the  
3           plan as of the close of the prior plan year,  
4           over

5           “(ii) the value of the plan’s assets de-  
6           termined under section 412(c)(2) as of the  
7           close of the plan year (determined without  
8           regard to any contributions for such plan  
9           year).

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

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

15                 “(i) the assumed interest rate shall be  
16                 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), and

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

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

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

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

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

20                 “(B) for benefits based solely on—

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

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

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

3 “(iii) the amount of any unfunded an-  
4 nuity amount with respect to the partici-  
5 pant.

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

14 “(9) DEFINITIONS.—The definitions applicable  
15 under subsection (b)(8) shall apply for purposes of  
16 this subsection.

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

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

23 “(2) Section 401(a)(26) (relating to minimum  
24 participation).

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

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

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

7           (b) DEDUCTION RULES.—

8           (1) IN GENERAL.—Section 404 is further  
9           amended by adding at the end the following new  
10          subsection:

11          “(o) SPECIAL RULES FOR SMART ANNUITIES AND  
12          TRUSTS.—

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

17                 “(2) DEDUCTIBLE LIMIT.—For purposes of sec-  
18                 tion 404(a)(1)(A)(i), the amount necessary to satisfy  
19                 the minimum funding requirement of section  
20                 408B(b)(6) or (c)(6) shall be treated as the amount  
21                 necessary to satisfy the minimum funding require-  
22                 ment of section 412.”

23                 (2) COORDINATION WITH DEDUCTION UNDER  
24                 SECTION 219.—

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

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

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

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

13 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—

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

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

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

22 “(H) SMART ANNUITIES.—This para-  
23 graph shall not apply to any amount paid or  
24 distributed out of a SMART annuity (as de-  
25 fined in section 408B) unless it is paid in a

1 trustee-to-trustee transfer into a SMART roll-  
2 over plan.”

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

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

10 (B) Section 301(a) of Employee Retirement In-  
11 come Security Act of 1974 (29 U.S.C. 1081) is  
12 amended by striking “or” at the end of paragraph  
13 (9), by striking the period at the end of paragraph  
14 (10) and inserting “; or”, and by adding at the end  
15 the following new paragraph:

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

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

21 “(12) TREATMENT OF SMART ANNUITIES AND  
22 TRUSTS.—A SMART annuity and a SMART trust  
23 shall be treated as meeting the requirements of this  
24 section, but distributions from such an annuity or  
25 trust shall be taken into account in determining

1       whether any other plan satisfies the requirements of  
2       this section.”

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

7               “(9) SPECIAL RULES FOR SMART ANNUITIES  
8       AND TRUSTS.—In the case of any amount received  
9       from a SMART annuity, a SMART trust, or a  
10       SMART rollover plan (within the meaning of section  
11       408B), paragraph (1) shall be applied by sub-  
12       stituting ‘20 percent’ for ‘10 percent’ and paragraph  
13       (2) shall be applied by substituting ‘age 65’ for ‘age  
14       59½’.”

15       (e) SIMPLIFIED EMPLOYER REPORTS.—

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

19               “(3) SMART ANNUITIES.—

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

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

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

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

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

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

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

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

16           “(vii) the name of the issuer,

17           “(viii) the employer identification  
18 number,

19           “(ix) the name of the plan, and

20           “(x) the date of the contribution.

21           “(C) REPORTING BY ISSUER OF SMART AN-  
22 NUIITY.—

23           “(i) IN GENERAL.—The issuer of each  
24 SMART annuity shall provide to the owner

1 of the annuity for each year a statement  
2 setting forth as of the close of such year—

3 “(I) the benefits guaranteed at  
4 age 65 under the annuity, and

5 “(II) the cash surrender value of  
6 the annuity.

7 “(ii) SUMMARY DESCRIPTION.—The  
8 issuer of any SMART annuity shall pro-  
9 vide to the employer maintaining the annu-  
10 ity for each year a description containing  
11 the following information:

12 “(I) The name and address of  
13 the employer and the issuer.

14 “(II) The requirements for eligi-  
15 bility for participation.

16 “(III) The benefits provided with  
17 respect to the annuity.

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

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

1           (2) SMART TRUSTS.—Section 6059 (relating  
2           to actuarial reports) is amended by redesignating  
3           subsections (c) and (d) as subsections (d) and (e),  
4           respectively, and by inserting after subsection (b)  
5           the following new subsection:

6           “(c) SMART TRUSTS.—In the case of a SMART  
7           trust (within the meaning of section 408B), the Secretary  
8           shall require a simplified actuarial report which  
9           contains—

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

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

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

16           “(4) the amounts transferred to SMART roll-  
17           over plans, and

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

20           (f) CONFORMING AMENDMENTS.—

21           (1) Subparagraph (A) of section 219(g)(5) is  
22           amended by striking “or” at the end of clause (v)  
23           and by inserting after clause (vi) the following new  
24           clause:

1                   “(vii) any SMART trust or SMART  
2                   annuity (within the meaning of section  
3                   408B), or”.

4                   (2) Section 280G(b)(6) is amended by striking  
5                   “or” at the end of subparagraph (C), by striking the  
6                   period at the end of subparagraph (D) and inserting  
7                   “, or” and by adding after subparagraph (D) the  
8                   following new subparagraph:

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

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

14                  (4) Section 4972(d)(1)(A) is amended by strik-  
15                  ing “and” at the end of clause (iii), by striking the  
16                  period at the end of clause (iv) and inserting  
17                  “, and”, and by adding after clause (iv) the fol-  
18                  lowing new clause:

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

21                  (g) REPORTING REQUIREMENTS UNDER ERISA.—  
22                  Section 101 of the Employee Retirement Income Security  
23                  Act of 1974 (29 U.S.C. 1021) is amended by redesi-  
24                  gnating subsection (h) as subsection (i) and by inserting  
25                  after subsection (g) the following new subsection:

1 “(h) SMART ANNUITIES.—

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

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

11 “(A) The name and address of the em-  
12 ployer and the issuer.

13 “(B) The requirements for eligibility for  
14 participation.

15 “(C) The benefits provided with respect to  
16 the annuity.

17 “(D) The procedures for, and effects of,  
18 withdrawals (including rollovers) from the an-  
19 nuity.

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

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

5 (1) by inserting “not described in clause (iv)”  
6 after “in the case of a single-employer plan” in  
7 clause (i),

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

10 (3) by inserting after clause (iii) the following  
11 new clause:

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

16 (i) CLERICAL AMENDMENT.—The table of sections  
17 for subpart A of part I of subchapter D of chapter 1 is  
18 amended by inserting after the item relating to section  
19 408A the following new item:

“Sec. 408B. SMART plans.”

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

1     **Subtitle C—Improved Fairness in**  
2             **Retirement Plan Benefits**

3     **SEC. 121. AMENDMENTS TO SIMPLE RETIREMENT AC-**  
4             **COUNTS.**

5             (a) MINIMUM CONTRIBUTION REQUIREMENT.—

6                 (1) IN GENERAL.—Paragraph (2) of section  
7             408(p) (defining qualified salary reduction arrange-  
8             ment) is amended—

9                 (A) by striking clauses (iii) and (iv) of sub-  
10             paragraph (A) and inserting the following new  
11             clauses:

12                 “(iii) the employer is required to make  
13             a matching contribution to the simple re-  
14             tirement account for any year in an  
15             amount equal to—

16                 “(I) so much of the amount the  
17             employee elects under clause (i)(I) as  
18             does not exceed 3 percent of com-  
19             pensation for the year, and

20                 “(II) a uniform percentage  
21             (which is at least 50 percent but not  
22             more than 100 percent) of the amount  
23             the employee elects under clause (i)(I)  
24             to the extent that such amount ex-  
25             ceeds 3 percent but does not exceed 5

1 percent of the employee's compensa-  
2 tion,

3 “(iv) the employer is required to make  
4 nonelective contributions of 1 percent of  
5 compensation for each employee eligible to  
6 participate in the arrangement who has at  
7 least \$5,000 of compensation from the em-  
8 ployer for the year, and

9 “(v) no contributions may be made  
10 other than contributions described in  
11 clause (i), (iii), or (iv).”, and

12 (B) by striking subparagraph (B) and in-  
13 serting the following new subparagraph:

14 “(B) CONTRIBUTION RULES.—

15 “(i) EMPLOYER MAY ELECT 3-PER-  
16 CENT NONELECTIVE CONTRIBUTION.—An  
17 employer shall be treated as meeting the  
18 requirements of clauses (iii) and (iv) of  
19 subparagraph (A) for any year if, in lieu of  
20 the contributions described in such clauses,  
21 the employer elects to make nonelective  
22 contributions of 3 percent of compensation  
23 for each employee who is eligible to partici-  
24 pate in the arrangement and who has at  
25 least \$5,000 of compensation from the em-

1            ployer for the year. If an employer makes  
2            an election under this clause for any year,  
3            the employer shall notify employees of such  
4            election within a reasonable period of time  
5            before the 60-day period for such year  
6            under paragraph (5)(C).

7            “(ii)    DISCRETIONARY    CONTRIBU-  
8            TIONS.—A plan shall not be treated as fail-  
9            ing to meet the requirements of subpara-  
10           graph (A)(v) merely because, pursuant to  
11           the terms of the plan, an employer makes  
12           nonelective contributions under subpara-  
13           graph (A)(iv) or clause (i) of this subpara-  
14           graph in excess of 1 percent or 3 percent  
15           of compensation, respectively, but only if  
16           all such contributions bear a uniform rela-  
17           tionship to the compensation of each eligi-  
18           ble employee and do not exceed 5 percent  
19           of compensation for any eligible employee.

20           “(iii)    COMPENSATION    LIMITATION.—  
21           The compensation taken into account  
22           under this paragraph for any year shall  
23           not exceed the limitation in effect for such  
24           year under section 401(a)(17).”

1           (2) MATCHING CONTRIBUTIONS.—Subpara-  
2 graph (B) of section 401(k)(11) (relating to adop-  
3 tion of simple plan to meet nondiscrimination tests)  
4 is amended—

5           (A) by striking subclauses (II) and (III) of  
6 clause (i) and inserting the following new sub-  
7 clauses:

8                   “(II) the employer is required to  
9 make a matching contribution to the  
10 trust for any year in an amount equal  
11 to—

12                           “(aa) so much of the  
13 amount the employee elects  
14 under subclause (I) as does not  
15 exceed 3 percent of compensation  
16 for the year, and

17                           “(bb) a uniform percentage  
18 (which is at least 50 percent but  
19 not more than 100 percent) of  
20 the amount the employee elects  
21 under subclause (I) to the extent  
22 that such amount exceeds 3 per-  
23 cent but does not exceed 5 per-  
24 cent of the employee’s compensa-  
25 tion,

1 “(III) the employer is required to  
2 make nonelective contributions of 1  
3 percent of compensation for each em-  
4 ployee eligible to participate in the ar-  
5 rangement who has at least \$5,000 of  
6 compensation from the employer for  
7 the year, and

8 “(IV) no other contributions may  
9 be made other than contributions de-  
10 scribed in subclause (I), (II), or  
11 (III).”, and

12 (B) by striking clause (ii) and inserting the  
13 following new clause:

14 “(ii) CONTRIBUTION RULES.—

15 “(I) EMPLOYER MAY ELECT 3-  
16 PERCENT NONELECTIVE CONTRIBU-  
17 TION.—An employer shall be treated  
18 as meeting the requirements of sub-  
19 clauses (II) and (III) of clause (i) for  
20 any year if, in lieu of the contribu-  
21 tions described in such subclauses, the  
22 employer elects to make nonelective  
23 contributions of 3 percent of com-  
24 pensation for each employee who is el-  
25 igible to participate in the arrange-

1           ment and who has at least \$5,000 of  
2           compensation from the employer for  
3           the year. If an employer makes an  
4           election under this subclause for any  
5           year, the employer shall notify em-  
6           ployees of such election within a rea-  
7           sonable period of time before the 60th  
8           day before the beginning of such year.

9           “(II) DISCRETIONARY CONTRIBU-  
10          TIONS.—A plan shall not be treated  
11          as failing to meet the requirements of  
12          clause (i)(IV) merely because, pursu-  
13          ant to the terms of the plan, an em-  
14          ployer makes nonelective contributions  
15          under clause (i)(III) or subclause (I)  
16          of this clause in excess of 1 percent or  
17          3 percent of compensation, respec-  
18          tively, but only if all such contribu-  
19          tions bear a uniform relationship to  
20          the compensation of each eligible em-  
21          ployee and do not exceed 5 percent of  
22          compensation for any eligible em-  
23          ployee.”

1 (b) OPTION TO SUSPEND CONTRIBUTIONS.—Section  
2 408(p) (relating to simple retirement accounts) is amend-  
3 ed by adding at the end the following new paragraph:

4 “(10) SUSPENSION OF PLAN.—Except as pro-  
5 vided by the Secretary, a plan shall not be treated  
6 as failing to meet the requirements of this sub-  
7 section if, under the plan, the employer may suspend  
8 all elective, matching, and nonelective contributions  
9 under the plan after notifying employees eligible to  
10 participate in the arrangement of such suspension in  
11 writing at least 30 days in advance. Such suspension  
12 shall apply to contributions with respect to com-  
13 pensation earned after the effective date of the sus-  
14 pension. Only 1 suspension under this paragraph  
15 may take effect during any year.”

16 (c) CONFORMING AMENDMENTS.—Section  
17 408(p)(2)(C) is amended—

18 (1) by striking clause (ii),

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

21 (3) by striking “(i) ELIGIBLE EMPLOYER.—”,

22 and

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

25 (d) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided in para-  
 2           graph (2), the amendments made by this section  
 3           shall apply to taxable years beginning after Decem-  
 4           ber 31, 1999.

5           (2) DELAYED EFFECTIVE DATE FOR PLANS ES-  
 6           TABLISHED IN 1998 OR 1999.—In the case of plans  
 7           established in 1998 or 1999 under section 408(p)  
 8           of the Internal Revenue Code of 1986, the amend-  
 9           ments made by this section shall apply to taxable  
 10          years beginning after December 31, 2003.

11 **SEC. 122. NONDISCRIMINATION RULES FOR QUALIFIED**  
 12                                   **CASH OR DEFERRED ARRANGEMENTS AND**  
 13                                   **MATCHING CONTRIBUTIONS.**

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

19                                   “(B) NONELECTIVE AND MATCHING CON-  
 20                                   TRIBUTIONS.—

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

24                                   “(ii) NONELECTIVE CONTRIBU-  
 25                                   TIONS.—The requirements of this clause

1 are met if, under the arrangement, the em-  
2 ployer is required, without regard to  
3 whether the employee makes an elective  
4 contribution or employee contribution, to  
5 make a contribution to a defined contribu-  
6 tion plan on behalf of each employee who  
7 is not a highly compensated employee and  
8 who is eligible to participate in the ar-  
9 rangement in an amount equal to at least  
10 1 percent of the employee's compensation.

11 “(iii) MATCHING CONTRIBUTIONS.—

12 The requirements of this clause are met if,  
13 under the arrangement, the employer  
14 makes matching contributions on behalf of  
15 each employee who is not a highly com-  
16 pensated employee in an amount equal  
17 to—

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

23 “(II) 50 percent of the elective  
24 contributions of the employee to the  
25 extent that such elective contributions

1           exceed 3 percent but do not exceed 5  
2           percent of the employee's compensa-  
3           tion.

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

17          “(v) ALTERNATIVE PLAN DESIGNS.—  
18          If the rate of matching contribution with  
19          respect to any rate of elective contribution  
20          is not equal to the percentage required  
21          under clause (iii), an arrangement shall  
22          not be treated as failing to meet the re-  
23          quirements of clause (iii) if—

24                  “(I) the rate of an employer's  
25                  matching contribution does not in-

1                   crease as an employee’s rate of elec-  
2                   tive contribution increase, and

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

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

14                   “(ii) SOCIAL SECURITY AND SIMILAR  
15                   CONTRIBUTIONS NOT TAKEN INTO AC-  
16                   COUNT.—Except as provided in regula-  
17                   tions, an arrangement shall not be treated  
18                   as meeting the requirements of subpara-  
19                   graph (B) or (C) unless such requirements  
20                   are met without regard to subsection (l),  
21                   and, for purposes of subsection (l), and de-  
22                   termining whether contributions provided  
23                   under a plan satisfy subsection (a)(4) on  
24                   the basis of equivalent benefits, employer

1 contributions under subparagraph (B) or  
2 (C) shall not be taken into account.”

3 (c) ALTERNATIVE METHODS OF SATISFYING SEC-  
4 TION 401(m) NONDISCRIMINATION TESTS.—Section  
5 401(m)(11) (relating to alternative method of satisfying  
6 tests) is amended—

7 (1) by striking “subparagraph (B)” in subpara-  
8 graph (A)(iii) and inserting “subparagraphs (B) and  
9 (C)”,

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

12 “To the extent provided in regulations, the last  
13 sentences of paragraph (2)(B) and subsection  
14 (k)(3)(A) shall not apply for purposes of clause  
15 (iii).”, and

16 (3) by adding at the end the following new sub-  
17 paragraph:

18 “(C) TEST MUST BE MET SEPARATELY.—  
19 If this paragraph applies to any matching con-  
20 tributions, such contributions shall not be taken  
21 into account in determining whether employee  
22 contributions satisfy the requirements of this  
23 subsection.”

24 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-  
25 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

1 Subparagraph (E) of section 401(k)(3) is amended to read  
2 as follows:

3           “(E) For purposes of this paragraph, in  
4           the case of the first plan year of any plan, the  
5           amount taken into account as the actual deferral  
6           percentage of nonhighly compensated employees for the preceding plan year shall be—

7                           “(i) 3 percent, or

8                           “(ii) the actual deferral percentage of  
9                           nonhighly compensated employees determined for such first plan year in the case  
10                           of—  
11                           of—  
12                           of—

13                           “(I) an employer who elects to  
14                           have this clause apply, or

15                           “(II) except to the extent provided by the Secretary, a successor  
16                           plan.”  
17                           plan.”

18           (e) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to years beginning after December  
20 31, 1999.

21 **SEC. 123. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.**  
22                           **EES.**

23           (a) IN GENERAL.—Subparagraph (B) of section  
24 414(q)(1) (defining highly compensated employee) is  
25 amended to read as follows:

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

3           (b) CONFORMING AMENDMENTS.—

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

8           (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),  
9           408(k)(2)(C), and 416(i)(1)(D) are each amended  
10          by striking “section 414(q)(4)” and inserting “sec-  
11          tion 414(q)(3)”.

12          (C) Section 416(i)(1)(A) is amended by striking  
13          “section 414(q)(5)” and inserting “section  
14          414(r)(9)”.

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

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

20                         “(A) Employees who have not completed 6  
21                         months of service.

22                         “(B) Employees who normally work less  
23                         than 17½ hours per week.

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



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

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

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

9 (3) by inserting “AND MULTIEMPLOYER” after  
10 “GOVERNMENTAL” in the heading.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to years beginning after December  
13 31, 1999.

14 **SEC. 125. EXEMPTION OF MIRROR PLANS FROM SECTION**  
15 **457 LIMITS.**

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) is amended by  
19 adding at the end the following new paragraph:

20 “(16) EXEMPTION FOR MIRROR PLANS.—

21 “(A) IN GENERAL.—Amounts of com-  
22 pensation deferred under a mirror plan shall  
23 not be taken into account in applying this sec-  
24 tion to amounts of compensation deferred under  
25 any other deferred compensation plan.

1           “(B) MIRROR PLAN.—The term ‘mirror  
2           plan’ means a plan, program, or arrangement  
3           maintained solely for the purpose of providing  
4           retirement benefits for employees in excess of  
5           the limitations imposed by section 401(a)(17)  
6           or section 415, or both.”

7           (b) EFFECTIVE DATE.—The amendment made by  
8           this section shall apply to taxable years beginning after  
9           December 31, 1999.

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

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

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

18           “(A) Notwithstanding subparagraph (A) of  
19           paragraph (2), an employee or Member described in  
20           such subparagraph shall be afforded a reasonable  
21           opportunity to first make an election under this sub-  
22           section beginning on the date of commencing service  
23           or, if that is not administratively feasible, beginning  
24           on the earliest date thereafter that such an election

1 becomes administratively feasible, as determined by  
2 the Executive Director.

3 “(B) An employee or Member described in sub-  
4 paragraph (B) of paragraph (2) shall be afforded a  
5 reasonable opportunity to first make an election  
6 under this subsection (based on the appointment or  
7 election described in such subparagraph) beginning  
8 on the date of commencing service pursuant to such  
9 appointment or election or, if that is not administra-  
10 tively feasible, beginning on the earliest date there-  
11 after that such an election becomes administratively  
12 feasible, as determined by the Executive Director.

13 “(C) Notwithstanding the preceding provisions  
14 of this paragraph, contributions under paragraphs  
15 (1) and (2) of subsection (c) shall not be payable  
16 with respect to any pay period before the earliest  
17 pay period for which such contributions would other-  
18 wise be allowable under this subsection if this para-  
19 graph had not been enacted.

20 “(D) Sections 8351(a)(2), 8440a(a)(2),  
21 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be  
22 applied in a manner consistent with the purposes of  
23 subparagraphs (A) and (B), to the extent those sub-  
24 paragraphs can be applied with respect thereto.

1           “(E) Nothing in this paragraph shall affect  
2 paragraph (3).”

3           (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

8           (B) by amending the second sentence to  
9 read as follows: “Contributions under this sub-  
10 section pursuant to such an election shall, with  
11 respect to each pay period for which such elec-  
12 tion remains in effect, be made in accordance  
13 with a program of regular contributions pro-  
14 vided in regulations prescribed by the Executive  
15 Director.”

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

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

22           (4) Section 8432(i)(1)(B)(ii) of such title is  
23 amended by striking “either elected to terminate in-  
24 dividual contributions to the Thrift Savings Fund

1 within 2 months before commencing military service  
2 or”.

3 (5) Section 8439(a)(1) of such title is amended  
4 by inserting “who makes contributions or” after “for  
5 each individual” and by striking “section  
6 8432(c)(1)” and inserting “section 8432”.

7 (6) Section 8439(c)(2) of such title is amended  
8 by adding at the end the following: “Nothing in this  
9 paragraph shall be considered to limit the dissemina-  
10 tion of information only to the times required under  
11 the preceding sentence.”

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

15 (c) EFFECTIVE DATE.—This section shall take effect  
16 6 months after the date of the enactment of this Act or  
17 such earlier date as the Executive Director may by regula-  
18 tion prescribe.

19 **SEC. 127. FULL FUNDING LIMITATION FOR MULTIEM-**  
20 **PLOYER PLANS.**

21 (a) AMENDMENTS TO CODE.—

22 (1) FULL FUNDING LIMITATION.—Section  
23 412(c)(7)(C) (relating to full funding limitation) is  
24 amended—

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

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

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

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

10 (B) by striking “ANNUAL VALUATION” in  
11 the heading and inserting “VALUATION”.

12 (b) AMENDMENTS TO ERISA.—

13 (1) FULL FUNDING LIMITATION.—Section  
14 302(c)(7)(C) of the Employee Retirement Income  
15 Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is  
16 amended—

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

19 (B) by inserting “AND MULTIEMPLOYER  
20 PLANS” after “PARAGRAPH (6)(B)” in the head-  
21 ing thereof.

22 (2) VALUATION.—Section 302(c)(9) of such Act  
23 (29 U.S.C. 1082(c)(9)) is amended—

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

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

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

6 **SEC. 128. ELIMINATION OF PARTIAL TERMINATION RULES**  
7 **FOR MULTIEMPLOYER PLANS.**

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

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

17 **SEC. 129. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**  
18 **FUNDING LIMIT.**

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

21 (1) by striking “150 percent” in subparagraph  
22 (A)(i)(I) and inserting “the applicable percentage”,  
23 and

24 (2) by adding at the end the following new sub-  
25 paragraph:

1                   “(F) APPLICABLE PERCENTAGE.—For  
 2                   purposes of subparagraph (A)(i)(I), the applica-  
 3                   ble percentage is determined according to the  
 4                   following table:

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

5                   (b) SPECIAL AMORTIZATION RULE.—

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

9                   “(G) SPECIAL AMORTIZATION RULE.—Con-  
 10                   tributions that would be required to be made  
 11                   under the plan but for the provisions of sub-  
 12                   paragraph (A)(i)(I) shall be amortized over a  
 13                   20-year period.”

14                   (2) CONFORMING AMENDMENT.—Section  
 15                   412(c)(7)(D) is amended by adding “and” at the  
 16                   end of clause (i), by striking “, and” at the end of  
 17                   clause (ii) and inserting a period, and by striking  
 18                   clause (iii).

19                   (3) EFFECTIVE DATE.—The amendments made  
 20                   by this subsection shall apply to any unamortized  
 21                   bases with respect to plan years beginning before,  
 22                   on, or after December 31, 1999.

1                   **TITLE II—SECURITY**

2   **SEC. 200. AMENDMENT OF ERISA.**

3           Except as otherwise expressly provided, whenever in  
4 this title an amendment or repeal is expressed in terms  
5 of an amendment to, or repeal of, a section or other provi-  
6 sion, the reference shall be considered to be made to a  
7 section or other provision of the Employee Retirement In-  
8 come Security Act of 1974.

9                   **Subtitle A—General Provisions**

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

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

13                   (1) by striking “shall furnish to any plan par-  
14 ticipant or beneficiary who so requests in writing,”  
15 and inserting “shall furnish at least once every 3  
16 years, in the case of a participant in a defined ben-  
17 efit plan who has attained age 35, and annually, in  
18 the case of a defined contribution plan, to each plan  
19 participant, and shall furnish to any plan participant  
20 or beneficiary who so requests,” and

21                   (2) by adding at the end the following flush  
22 sentence:

23 “Information furnished under the preceding sentence to  
24 a participant in a defined benefit plan (other than at the  
25 request of the participant) may be based on reasonable

1 estimates determined under regulations prescribed by the  
2 Secretary.”

3 (b) **RULE FOR MULTIEMPLOYER PLANS.**—Subsection  
4 (d) of section 105 (29 U.S.C. 1025) is amended to read  
5 as follows:

6 “(d) Each administrator of a plan to which more than  
7 1 unaffiliated employer is required to contribute shall fur-  
8 nish to any plan participant or beneficiary who so requests  
9 in writing, a statement described in subsection (a).”

10 (c) **EFFECTIVE DATE.**—The amendments made by  
11 this section shall apply to plan years beginning after the  
12 later of—

13 (1) the date of issuance by the Secretary of  
14 Labor of regulations providing guidance for simpli-  
15 fying defined benefit plan calculations with respect  
16 to the information required under section 105 of the  
17 Employee Retirement Income Security Act of 1974  
18 (29 U.S.C. 1025), or

19 (2) December 31, 1999.

20 **SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVEST-**  
21 **MENT REPORTS APPLIED TO CERTAIN 401(k)**  
22 **PLANS.**

23 (a) **IN GENERAL.**—Section 104(b)(3) (29 U.S.C.  
24 1024(b)(3)) is amended—

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

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

3           “(B)(i) If, for any plan year, a plan includes a  
4 qualified cash or deferred arrangement (as defined  
5 in section 401(k)(2) of the Internal Revenue Code of  
6 1986) and such plan covers less than 100 partici-  
7 pants, the administrator shall furnish (within 60  
8 days after the end of such plan year) to each partici-  
9 pant and to each beneficiary receiving benefits under  
10 the plan an annual investment report detailing such  
11 information as the Secretary by regulation shall re-  
12 quire.

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

15 (b) REGULATIONS.—

16           (1) IN GENERAL.—The Secretary of Labor, in  
17 prescribing regulations required under section  
18 104(b)(3)(B)(i) of the Employee Retirement Income  
19 Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)),  
20 as added by subsection (a), shall consider including  
21 in the information required in an annual investment  
22 report the following:

23           (A) Total plan assets and liabilities as of  
24 the beginning and ending of the plan year.

1 (B) Plan income and expenses and con-  
2 tributions made and benefits paid for the plan  
3 year.

4 (C) Any transaction between the plan and  
5 the employer, any fiduciary, or any 10-percent  
6 owner during the plan year, including the acqui-  
7 sition of any employer security or employer real  
8 property.

9 (D) Any noncash contributions made to or  
10 purchases of nonpublicly traded securities made  
11 by the plan during the plan year without an ap-  
12 praisal by an independent third party.

13 (2) ELECTRONIC TRANSFER.—The Secretary of  
14 Labor in prescribing such regulations shall also  
15 make provision for the electronic transfer of the re-  
16 quired annual investment report by a plan adminis-  
17 trator to plan participants and beneficiaries.

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

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

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

1 “(e) If—

2 “(1) the administrator of an individual account  
3 plan described in section 401(k) of the Internal Rev-  
4 enue Code of 1986 provides for investment of the  
5 plan assets by means of a contractual arrangement  
6 with another party, and

7 “(2) such other party is not required under  
8 such arrangement to separately account for benefits  
9 accrued with respect to each participant and bene-  
10 ficiary under this plan,

11 such administrator shall be treated as failing to meet the  
12 requirements of subsection (a) unless, under such contrac-  
13 tual arrangement, such administrator provides to such  
14 other party such information as is necessary to enable  
15 such party to separately account at any time for benefits  
16 accrued with respect to each participant and beneficiary.”

17 (b) CIVIL PENALTY FOR VIOLATIONS.—Paragraph  
18 (1) of section 502(e) (29 U.S.C. 1132(e)(1)) is amended  
19 by striking “or section 101(e)(1)” and inserting “, section  
20 101(e)(1), or section 105(e)”.

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

22 (a) STUDY.—The Secretary of Labor, in consultation  
23 with the Secretary of the Treasury, shall study the extent  
24 to which pension plans invest in collectibles and whether

1 such investments present a risk to the pension security  
2 of the participants and beneficiaries of such plans.

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

8 **SEC. 205. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**  
9 **MAKING LOANS THROUGH CREDIT CARDS**  
10 **AND OTHER INTERMEDIARIES.**

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

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

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

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

24 (a) IN GENERAL.—Section 4022A(c) (29 U.S.C.  
25 1322a(c)) is amended—

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

3           (2) by striking “\$15” in paragraph (1) and in-  
4 sserting “\$33”, and

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

8           (b) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply to any multiemployer plan that has  
10 not received financial assistance (within the meaning of  
11 section 4261 of the Employee Retirement Income Security  
12 Act of 1974) within the 1-year period ending on the date  
13 of the enactment of this Act.

14 **SEC. 207. PROHIBITED TRANSACTIONS.**

15           (a) **IN GENERAL.**—Section 502(i) (29 U.S.C.  
16 1132(i)) is amended by striking “5 percent” and inserting  
17 “15 percent”.

18           (b) **EFFECTIVE DATE.**—The amendments made by  
19 this section shall apply to prohibited transactions occur-  
20 ring after the date of the enactment of this Act.

21 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

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

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

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

9               “(i) a fraction (not to exceed 1) the numerator  
10       of which is the number of years from the later of the  
11       effective date or the adoption date of the plan to the  
12       termination date, and the denominator of which is  
13       30, and

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

17       (b) MODIFICATION OF ALLOCATION OF ASSETS.—

18               (1) Section 4044(a)(4)(B) (29 U.S.C.  
19       1344(a)(4)(B)) is amended by striking “section  
20       4022(b)(5)” and inserting “section 4022(b)(5)(C)”.

21               (2) Section 4044(b) (29 U.S.C. 1344(b)) is  
22       amended—

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

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

5           “(3) If assets available for allocation under  
6           paragraph (4) of subsection (a) are insufficient to  
7           satisfy in full the benefits of all individuals who are  
8           described in that paragraph, the assets shall be allo-  
9           cated first to benefits described in subparagraph (A)  
10          of that paragraph. Any remaining assets shall then  
11          be allocated to subparagraph (B). If assets allocated  
12          to subparagraph (B) are insufficient to satisfy in full  
13          the benefits in that subparagraph, the assets shall  
14          be allocated pro rata among individuals on the basis  
15          of the present value (as of the termination date) of  
16          their respective benefits described in that subpara-  
17          graph.”

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

20           (1) under section 4041(c) of the Employee Re-  
21           tirement Income Security Act of 1974 (29 U.S.C.  
22           1341(c)) with respect to which notices of intent to  
23           terminate are provided under section 4041(a)(2) of  
24           such Act (29 U.S.C. 1341(a)(2)) on or after the  
25           date of the enactment of this Act, or

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

4 **SEC. 209. REVERSION REPORT.**

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

8           “(b) REVERSION REPORT.—As soon as practicable  
9 after the close of each fiscal year, the Secretary of Labor  
10 (acting in the Secretary’s capacity as chairman of the cor-  
11 poration’s board) shall transmit to the President and the  
12 Congress a report providing information on plans from  
13 which residual assets were distributed to employers pursu-  
14 ant to section 4044(d).”

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

18           (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to fiscal years beginning after Sep-  
20 tember 30, 1999.

1     **Subtitle B—ERISA Enforcement**

2     **SEC. 211. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**  
3                   **RESPONSIBILITIES MADE DISCRETIONARY,**  
4                   **ETC.**

5           (a) IMPOSITION AND AMOUNT OF PENALTY MADE  
6 DISCRETIONARY.—Section 502(l)(1) (29 U.S.C. 1132(l))  
7 is amended—

8           (1) by striking “shall” and inserting “may”,  
9           and

10           (2) by striking “equal to” and inserting “not  
11 greater than”.

12           (b) APPLICABLE RECOVERY AMOUNT.—Section  
13 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read as  
14 follows:

15           “(2) For purposes of paragraph (1), the term ‘appli-  
16 cable recovery amount’ means any amount which is recov-  
17 ered from (or on behalf of) any fiduciary or other person  
18 with respect to a breach or violation described in para-  
19 graph (1) on or after the 30th day following receipt by  
20 such fiduciary or other person of written notice from the  
21 Secretary of the violation, whether paid voluntarily or by  
22 order of a court in a judicial proceeding instituted by the  
23 Secretary under paragraph (2) or (5) of subsection (a).  
24 The Secretary may, in the Secretary’s sole discretion, ex-

1 tend the 30-day period described in the preceding sen-  
2 tence.”.

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

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

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

13 (d) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by  
15 this section shall apply to any breach of fiduciary re-  
16 sponsibility or other violation of part 4 of title I of  
17 the Employee Retirement Income Security Act of  
18 1974 occurring on or after the date of the enact-  
19 ment of this Act.

20 (2) TRANSITION RULE.—In applying the  
21 amendment made by subsection (b), a breach or  
22 other violation occurring before the date of the en-  
23 actment of this Act which continues after the 180th  
24 day after such date (and which may be discontinued  
25 at any time during its existence) shall be treated as

1       having occurred on the day after such date of enact-  
2       ment.

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

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

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

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

11           “DIRECT REPORTING OF CERTAIN EVENTS

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

13           “(1) NOTIFICATIONS BY PLAN ADMINIS-  
14       TRATOR.—Within 5 business days after an adminis-  
15       trator of an employee benefit plan determines that  
16       there is evidence (or after the administrator is noti-  
17       fied under paragraph (2)) that an irregularity may  
18       have occurred with respect to the plan, the adminis-  
19       trator shall—

20           “(A) notify the Secretary of the irregu-  
21       larity in writing; and

22           “(B) furnish a copy of such notification to  
23       the accountant who is currently engaged under  
24       section 103(a)(3)(A).

25           “(2) NOTIFICATIONS BY ACCOUNTANT.—

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

8                   “(i) notify the plan administrator of  
9 the irregularity in writing, or

10                   “(ii) if the accountant determines that  
11 there is evidence that the irregularity may  
12 have involved an individual who is the plan  
13 administrator or who is a senior official of  
14 the plan administrator, notify the Sec-  
15 retary of the irregularity in writing.

16           “(B) NOTIFICATION UPON FAILURE OF  
17 PLAN ADMINISTRATOR TO NOTIFY.—If an ac-  
18 countant who has provided notification to the  
19 plan administrator pursuant to subparagraph  
20 (A)(i) does not receive a copy of the administra-  
21 tor’s notification to the Secretary required in  
22 paragraph (1) within the 5-business day period  
23 specified therein, the accountant shall furnish  
24 to the Secretary a copy of the accountant’s no-

1           tification made to the plan administrator on the  
2           next business day following such period.

3           “(3) IRREGULARITY DEFINED.—

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

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

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

14                           “(iii) a bribery, a kickback, or a viola-  
15                           tion of section 1954 of title 18, United  
16                           States Code (relating to offer, acceptance,  
17                           or solicitation to influence operations of an  
18                           employee benefit plan);

19                           “(iv) a violation of section 1027 of  
20                           title 18, United States Code (relating to  
21                           false statements and concealment of facts  
22                           in relation to employee benefit plan  
23                           records); or

1                   “(v) a violation of section 411, 501, or  
2                   511 of this title (relating to criminal viola-  
3                   tions).

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

10                  “(b) NOTIFICATION UPON TERMINATION OF EN-  
11 GAGEMENT OF ACCOUNTANT.—

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

17                   “(A) notify the Secretary in writing of  
18 such termination, giving the reasons for such  
19 termination, and

20                   “(B) furnish the accountant whose engage-  
21 ment was terminated with a copy of the notifi-  
22 cation sent to the Secretary.

23                   “(2) NOTIFICATION BY ACCOUNTANT.—If the  
24 accountant referred to in paragraph (1)(B) has not  
25 received a copy of the administrator’s notification to

1 the Secretary as required under paragraph (1)(B),  
2 or if the accountant disagrees with the reasons given  
3 in the notification of termination of the engagement  
4 for auditing services, the accountant shall notify the  
5 Secretary in writing of the termination, giving the  
6 reasons for the termination, within 10 business days  
7 after the termination of the engagement.

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

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

15 “(2) Saturdays, Sundays, and legal holidays  
16 shall not be included.

17 For purposes of this subsection, the term ‘legal holiday’  
18 means any Federal legal holiday and any other day ap-  
19 pointed as a holiday by the State in which the person re-  
20 sponsible for making the notification principally conducts  
21 business.

22 “(d) IMMUNITY FOR GOOD FAITH NOTIFICATION.—  
23 No accountant or plan administrator shall be liable to any  
24 person for any finding, conclusion, or statement made in  
25 any notification made pursuant to subsection (a)(2) or

1 (b)(2), or pursuant to any regulations issued under those  
2 subsections, if the finding, conclusion, or statement is  
3 made in good faith.”

4 (b) CIVIL PENALTY.—

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

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

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

16 (2) CONFORMING AMENDMENT.—Section  
17 502(a)(6) (29 U.S.C. 1132(a)(6)) is amended by  
18 striking “or (6)” and inserting “(6), or (8)”.

19 (c) CLERICAL AMENDMENTS.—

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

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

“Sec. 111. Direct reporting of certain events.

“Sec. 112. Repeal and effective date.”

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to any irregularity or  
3 termination of engagement described in the amendments  
4 only if the 5-day period described in the amendments in  
5 connection with the irregularity or termination commences  
6 at least 90 days after the date of the enactment of this  
7 Act.

8 **SEC. 213. ADDITIONAL REQUIREMENTS FOR QUALIFIED**  
9 **PUBLIC ACCOUNTANTS.**

10 (a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C.  
11 1023(a)(3)(D)) is amended—

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

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

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

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

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

1           (6) by adding at the end the following new  
2 clauses:

3           “(ii) A person meets the requirements of  
4 this clause with respect to an engagement of  
5 the person as an accountant under subpara-  
6 graph (A) if the person—

7                   “(I) has in operation an appropriate  
8 internal quality control system;

9                   “(II) has undergone a qualified exter-  
10 nal quality control review of the person’s  
11 accounting and auditing practices, includ-  
12 ing such practices relevant to employee  
13 benefit plans (if any), during the 3-year  
14 period immediately preceding such engage-  
15 ment; and

16                   “(III) has completed, within the 2 cal-  
17 endar years immediately preceding such  
18 engagement, such continuing education or  
19 training as the Secretary in regulations de-  
20 termines is necessary to maintain profes-  
21 sional proficiency in connection with em-  
22 ployee benefit plans.

23           “(iii) A person meets the requirements of  
24 this clause with respect to an engagement of  
25 the person as an accountant under subpara-

1 graph (A) if the person meets such additional  
2 requirements and qualifications of regulations  
3 which the Secretary deems necessary to ensure  
4 the quality of plan audits.

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

9 “(I) such review is performed in ac-  
10 cordance with the requirements of external  
11 quality control review programs of recog-  
12 nized auditing standard setting bodies, as  
13 determined in regulations of the Secretary,  
14 and

15 “(II) in the case of any such person  
16 who has, during the peer review period,  
17 conducted 1 or more previous audits of  
18 employee benefit plans, such review in-  
19 cludes the review of an appropriate number  
20 (determined as provided in such regula-  
21 tions, but in no case less than 1) of plan  
22 audits in relation to the scale of the per-  
23 son’s auditing practice.”

24 (b) EFFECTIVE DATES.—

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

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

11          (3) REGULATIONS.—The Secretary shall issue  
12          regulations under this section no later than Decem-  
13          ber 31, 2000.

14 **SEC. 214. INSPECTOR GENERAL STUDY.**

15          (a) STUDY.—The Inspector General of the Depart-  
16          ment of Labor shall conduct a study on the need for regu-  
17          latory standards and procedures to authorize the Sec-  
18          retary, in appropriate cases, to prohibit persons from serv-  
19          ing as qualified accountants for purposes of section 103  
20          of the Employee Retirement Income Security Act of 1974  
21          (29 U.S.C. 1023).

22          (b) MATTERS TO BE STUDIED.—In conducting the  
23          study under this section, the Inspector General shall ad-  
24          dress whether standards and procedures to prohibit per-  
25          sons from serving as qualified public accountants are like-

1 ly to improve the quality of employee benefit plan audits,  
2 and the potential for increased costs to plans. If the In-  
3 spector General concludes that regulations incorporating  
4 standards and procedures would be appropriate, the study  
5 shall include recommended standards and procedures.

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

## 11 **Subtitle C—Increase in Excise Tax** 12 **on Employer Reversions**

### 13 **SEC. 221. INCREASE IN EXCISE TAX.**

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

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

19 (2) in subsection (d)(1), by striking “sub-  
20 stituting ‘50 percent’ for ‘20 percent’ with respect to  
21 any employer reversion” and inserting “substituting  
22 ‘65 percent’ for ‘35 percent’ with respect to any em-  
23 ployer reversion”.

24 (b) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the amendment made by this section shall  
3           apply to reversions occurring after December 31,  
4           1999.

5           (2) EXCEPTION.—The amendment made by this  
6           section shall not apply to any reversion after Decem-  
7           ber 31, 1999, if—

8                   (A) in the case of plans subject to title IV  
9                   of the Employee Retirement Income Security  
10                  Act of 1974, a notice of intent to terminate  
11                  under such title was provided to participants  
12                  (or if no participants, to the Pension Benefit  
13                  Guaranty Corporation) before June 25, 1999,

14                  (B) in the case of plans subject to title I  
15                  (and not to title IV) of such Act, a notice of in-  
16                  tent to reduce future accruals under section  
17                  204(h) of such Act was provided to participants  
18                  in connection with the termination before June  
19                  25, 1999,

20                  (C) in the case of plans not subject to title  
21                  I or IV of such Act, a request for a determina-  
22                  tion letter with respect to the termination was  
23                  filed with the Secretary of the Treasury or the  
24                  Secretary's delegate before June 25, 1999, or

1 (D) in the case of plans not subject to title  
2 I or IV of such Act and having only 1 partici-  
3 pant, a resolution terminating the plan was  
4 adopted by the employer before June 25, 1999.

### 5 **TITLE III—PORTABILITY**

#### 6 **SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CON-** 7 **TRIBUTIONS.**

8 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
9 Paragraph (2) of section 411(a) of the Internal Revenue  
10 Code of 1986 (relating to employer contributions) is  
11 amended—

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

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

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

21 “(i) an employee who has completed  
22 at least 3 years of service has a nonforfeit-  
23 able right to 100 percent of the employee’s  
24 accrued benefit derived from such match-  
25 ing contributions, or

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

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

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

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

11                  (2) by adding at the end the following new sub-  
 12                  paragraph:

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

19                                 “(i) an employee who has completed  
 20                                 at least 3 years of service has a nonforfeit-  
 21                                 able right to 100 percent of the employee’s

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

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

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

8 (c) EFFECTIVE DATE.—

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

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

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

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

4 (A) the later of—

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

10 (ii) January 1, 2000, or

11 (B) January 1, 2004.

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

14 (a) **IN GENERAL.**—Section 401(k)(2)(B)(i)(I) of the  
15 Internal Revenue Code of 1986 (relating to qualified cash  
16 or deferred arrangements) is amended by striking “sepa-  
17 ration from service” and inserting “severance from em-  
18 ployment”.

19 (b) **BUSINESS SALE REQUIREMENTS DELETED.**—

20 (1) **IN GENERAL.**—Section 401(k)(2)(B)(i)(II)  
21 of the Internal Revenue Code of 1986 (relating to  
22 qualified cash or deferred arrangements) is amended  
23 by striking “an event” and inserting “a plan termi-  
24 nation”.

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

3                   (A) by striking subparagraph (A) and in-  
4                   serting the following:

5                           “(A) IN GENERAL.—A plan termination is  
6                           described in this paragraph if the termination  
7                           of the plan is without establishment or mainte-  
8                           nance of another defined contribution plan  
9                           (other than an employee stock ownership plan  
10                           as defined in section 4975(e)(7)).”,

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

12                           (C) by striking “OR DISPOSITION OF AS-  
13                           SETS OR SUBSIDIARY” in the heading.

14           (c) EFFECTIVE DATE.—The amendments made by  
15           this section shall apply to distributions after December 31,  
16           1999.

17           **SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED**  
18                           **CONTRIBUTION PLANS.**

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

23                           “(D) PLAN TRANSFERS.—A defined con-  
24                           tribution plan (in this subparagraph referred to  
25                           as the ‘transferee plan’) shall not be treated as

1 failing to meet the requirements of this para-  
2 graph merely because the transferee plan does  
3 not provide some or all of the forms of distribu-  
4 tion previously available under another defined  
5 contribution plan (in this subparagraph referred  
6 to as the ‘transferor plan’) to the extent that—

7 “(i) the forms of distribution pre-  
8 viously available under the transferor plan  
9 applied to the account of a participant or  
10 beneficiary under the transferor plan that  
11 was transferred from the transferor plan to  
12 the transferee plan pursuant to a direct  
13 transfer rather than pursuant to a dis-  
14 tribution from the transferor plan,

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

18 “(iii) the transfer described in clause  
19 (i) was made pursuant to a voluntary elec-  
20 tion by the participant or beneficiary  
21 whose account was transferred to the  
22 transferee plan,

23 “(iv) the election described in clause  
24 (iii) was made after the participant or ben-

1            beneficiary received a notice describing the  
2            consequences of making the election,

3            “(v) if the transferor plan provides for  
4            an annuity as the normal form of distribu-  
5            tion under the plan in accordance with sec-  
6            tion 417, the transfer is made with the  
7            consent of the participant’s spouse (if  
8            any), and such consent meets requirements  
9            similar to the requirements imposed by  
10          section 417(a)(2), and

11          “(vi) the transferee plan allows the  
12          participant or beneficiary described in  
13          clause (iii) to receive any distribution to  
14          which the participant or beneficiary is enti-  
15          tled under transferee plan in the form of  
16          a single sum distribution.”

17          (b) CONFORMING AMENDMENT.—Section 204(g) of  
18          the Employee Retirement Income Security Act of 1974  
19          (29 U.S.C. 1054(g)) is amended by adding at the end the  
20          following new paragraph:

21          “(4) A defined contribution plan (in this paragraph  
22          referred to as the ‘transferee plan’) shall not be treated  
23          as failing to meet the requirements of this subsection  
24          merely because the transferee plan does not provide some  
25          or all of the forms of distribution previously available

1 under another defined contribution plan (in this para-  
2 graph referred to as the ‘transferor plan’) to the extent  
3 that—

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

11           “(B) the terms of both the transferor plan and  
12 the transferee plan authorize the transfer described  
13 in subparagraph (A),

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

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

22           “(E) if the transferor plan provides for an an-  
23 nuity as the normal form of distribution under the  
24 plan in accordance with section 205, the transfer is  
25 made with the consent of the participant’s spouse (if

1 any), and such consent meets requirements similar  
2 to the requirements imposed by section 205(c)(2),  
3 and

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

9 (b) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to transfers after December 31,  
11 1999.

12 **SEC. 304. MISSING PARTICIPANTS.**

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

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

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

23 “(1) TRANSFER TO CORPORATION.—The plan  
24 administrator of a plan described in paragraph (4)

1 may elect to transfer a missing participant's benefits  
2 to the corporation upon termination of the plan.

3 “(2) INFORMATION TO THE CORPORATION.—To  
4 the extent provided in regulations, the plan adminis-  
5 trator of a plan described in paragraph (4) shall,  
6 upon termination of the plan, provide the corpora-  
7 tion information with respect to benefits of a miss-  
8 ing participant if the plan transfers such benefits—

9 “(A) to the corporation, or

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

12 “(3) PAYMENT BY THE CORPORATION.—If ben-  
13 efits of a missing participant were transferred to the  
14 corporation under paragraph (1), the corporation  
15 shall, upon location of the participant or beneficiary,  
16 pay to the participant or beneficiary the amount  
17 transferred (or the appropriate survivor benefit)  
18 either—

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

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

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

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

1           “(i) to which the provisions of this  
2           section do not apply (without regard to  
3           this subsection), and

4           “(ii) which is not a plan described in  
5           paragraphs (2) through (11) of section  
6           4021(b), and

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

9           “(i) has missing participants, and

10           “(ii) has not provided for the transfer  
11           of assets to pay the benefits of all missing  
12           participants to another pension plan (with-  
13           in the meaning of section 3(2)).

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

17           (b) CONFORMING AMENDMENTS.—

18           (1) Section 206(f) of the Employee Retirement  
19           Income Security Act of 1974 (29 U.S.C. 1056(f)) is  
20           amended—

21           (A) by striking “title IV” and inserting  
22           “section 4050”, and

23           (B) by striking “the plan shall provide  
24           that,”.

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

5           (c) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply to distributions made after final  
7           regulations implementing subsections (c) and (d) of sec-  
8           tion 4050 of the Employee Retirement Income Security  
9           Act of 1974 (as added by subsection (a)), respectively, are  
10          prescribed.

11       **SEC. 305. ALLOWANCE OF ROLLOVERS FROM AND TO 403(b)**  
12                               **PLANS.**

13           (a) ROLLOVERS FROM SECTION 403(b) PLANS.—  
14           Section 403(b)(8)(A)(ii) of the Internal Revenue Code of  
15           1986 (relating to rollover amounts) is amended by striking  
16           “such distribution” and all that follows and inserting  
17           “such distribution to an eligible retirement plan described  
18           in section 402(c)(8)(B), and”.

19           (b) ROLLOVERS TO SECTION 403(b) PLANS.—Sec-  
20           tion 402(c)(8)(B) of such Code (defining eligible retire-  
21           ment plan) is amended by striking “and” at the end of  
22           clause (ii), by striking the period at the end of clause (iv)  
23           and inserting “, and”, and by adding at the end the fol-  
24           lowing:

1                   “(v) an annuity contract described in  
2                   section 403(b).”

3           (c) CONFORMING AMENDMENTS.—

4           (1) Section 72(o)(4) of such Code is amended  
5           by striking “and 408(d)(3)” and inserting  
6           “403(b)(8), and 408(d)(3)”.

7           (2) Section 401(a)(31)(B) of such Code is  
8           amended by striking “and 403(a)(4)” and inserting  
9           “, 403(a)(4), and 403(b)(8)”.

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

13           (4) Subparagraphs (A) and (B) of section  
14           415(b)(2) of such Code are each amended by strik-  
15           ing “and 408(d)(3)” and inserting “403(b)(8), and  
16           408(d)(3)”.

17           (d) EFFECTIVE DATE; SPECIAL RULE.—

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

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

1 rollover to such plan on behalf of such individual  
2 which is permitted solely by reason of any amend-  
3 ment made by this section.

4 **SEC. 306. ROLLOVER CONTRIBUTIONS FROM DEFERRED**  
5 **COMPENSATION PLANS OF STATE AND**  
6 **LOCAL GOVERNMENTS.**

7 (a) ROLLOVERS FROM SECTION 457 PLANS.—

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

12 “(16) ROLLOVER AMOUNTS.—

13 “(A) GENERAL RULE.—In the case of an  
14 eligible deferred compensation plan of an eligi-  
15 ble employer described in paragraph (1)(A),  
16 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 a rollover distribution  
20 (other than a distribution described in sub-  
21 section (d)(1)(A)(iii) or in subparagraph  
22 (A) or (B) of section 402(c)(4)),

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

1           ment plan (as defined in section  
2           7701(a)(37), 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 section  
12           401(a)(31), paragraphs (2), (3), (5), (6), (7),  
13           and (9) of section 402(c), and section 402(f)  
14           shall apply for purposes of subparagraph (A).”

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

19           (3) CONFORMING AMENDMENTS.—

20           (A) Section 72(o)(4) of such Code is  
21           amended—

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

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

1 (iii) in the heading by inserting “OR  
2 EXCLUDABLE” after “DEDUCTIBLE”.

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

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

9 (D) Paragraph (4) of section 402(c) of  
10 such Code is amended by inserting “or in an el-  
11 igible deferred compensation plan (as defined in  
12 section 457(b)) of an eligible employer de-  
13 scribed in section 457(e)(1)(A)” after “qualified  
14 trust”.

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

18 (F) Section 408(d)(3)(A)(ii) of such Code  
19 is amended by striking “or” after “501(a)” and  
20 inserting a comma, and by inserting “, or from  
21 an eligible deferred compensation plan described  
22 in section 457(b)” after “contribution”.

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

1 striking “and 408(d)(3)” and inserting  
2 “408(d)(3), and 457(e)(16)”.

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

6 (d) EFFECTIVE DATE; SPECIAL RULE.—

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

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

18 **SEC. 307. EXTENSION OF 60-DAY ROLLOVER PERIOD IN THE**  
19 **CASE OF PRESIDENTIALLY DECLARED DISAS-**  
20 **TERS AND SERVICE IN COMBAT ZONE.**

21 (a) IN GENERAL.—Paragraph (1) of section 7508(a)  
22 of the Internal Revenue Code of 1986 (relating to time  
23 postponed for performing certain acts) is amended by  
24 striking “and” at the end of subparagraph (J), by redesign-  
25 ating subparagraph (K) as subparagraph (L), and by in-

1 serting after subparagraph (J) the following new subpara-  
 2 graph:

3           “(K) Rollover of any distribution within  
 4           the 60-day period specified in section 402(e)(3)  
 5           or 408(d)(3)(A); and”.

6           (b) EFFECTIVE DATE.—The amendment made by  
 7 this section shall apply to distributions made after Decem-  
 8 ber 31, 1999.

9 **SEC. 308. PURCHASE OF SERVICE CREDIT IN GOVERN-**  
 10 **MENTAL DEFINED BENEFIT PLANS.**

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

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.—Subsection (e) of section 457 of  
 2 such Code, as amended by section 306, is amended by add-  
 3 ing 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 (c) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to trustee-to-trustee transfers after  
 18 December 31, 1999.

19 **TITLE IV—COMPREHENSIVE**  
 20 **WOMEN’S PENSION PROTECTION**  
 21 **Subtitle A—Pension Reform**

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

23 (a) SPOUSE’S RIGHT TO KNOW DISTRIBUTION IN-  
 24 FORMATION.—

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

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

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

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

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

10 (b) EMPLOYEE'S RIGHT TO KNOW OF OPPORTUNITY  
11 FOR ELECTIVE CONTRIBUTIONS UNDER 401(k) PLANS.—  
12 Subparagraph (D) of section 401(k)(12) of the Internal  
13 Revenue Code of 1986 (relating to notice requirements)  
14 is amended—

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

18 (2) by adding at the end the following new  
19 flush sentence:

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

22 **SEC. 402. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.**

23 (a) IN GENERAL.—The Secretary of Labor shall con-  
24 tract with an independent organization to create a wom-

1 en's pension toll-free telephone number and contact to  
2 serve as—

3 (1) a resource for women on pension questions  
4 and issues;

5 (2) a source for referrals to appropriate agen-  
6 cies; and

7 (3) a source for printed information.

8 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There  
9 are authorized to be appropriated \$1,000,000 for each of  
10 the fiscal years 2000, 2001, 2002, and 2003 to carry out  
11 subsection (a).

12 **SEC. 403. MODIFICATION OF GOVERNMENT PENSION OFF-**  
13 **SET.**

14 (a) **WIFE'S INSURANCE BENEFITS.**—Section  
15 202(b)(4)(A) of the Social Security Act (42 U.S.C.  
16 402(b)(4)(A)) is amended—

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

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

22 (b) **HUSBAND'S INSURANCE BENEFITS.**—Section  
23 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is  
24 amended—

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

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

6           (c) WIDOW’S INSURANCE BENEFITS.—Section  
7 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is  
8 amended—

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

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

14          (d) WIDOWER’S INSURANCE BENEFITS.—Section  
15 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is  
16 amended—

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

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

22          (e) MOTHER’S AND FATHER’S INSURANCE BENE-  
23 FITS.—Section 202(g)(4)(A) of such Act (42 U.S.C.  
24 402(g)(4)(A)) is amended—

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

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

6           (f) AMOUNT DESCRIBED.—Section 202 of such Act  
7           (42 U.S.C. 402) is amended by adding at the end the fol-  
8           lowing:

9           “(z) The amount described in this subsection is, for  
10           months in each 12-month period beginning in December  
11           of 1999, and each succeeding calendar year, the greater  
12           of—

13           “(1) \$1,200; or

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

20           (g) LIMITATIONS ON REDUCTIONS IN BENEFITS.—  
21           Section 202 of such Act (42 U.S.C. 402), as amended by  
22           subsection (f), is amended by adding at the end the fol-  
23           lowing:

24           “(aa) For any month after December 1999, in no  
25           event shall an individual receive a reduction in a benefit

1 under subsection (b)(4)(A), (c)(2)(A), (e)(7)(A), (f)(2)(A),  
 2 or (g)(4)(A) for the month that is more than the reduction  
 3 in such benefit that would have applied for such month  
 4 under such subsections as in effect on December 1, 1999.”

5 (h) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply with respect to monthly insurance  
 7 benefits payable under title II of the Social Security Act  
 8 for months after December 1999.

9 **SEC. 404. PERIODS OF FAMILY AND MEDICAL LEAVE**  
 10 **TREATED AS HOURS OF SERVICE FOR PEN-**  
 11 **SION PARTICIPATION AND VESTING.**

12 (a) AMENDMENTS OF INTERNAL REVENUE CODE.—

13 (1) PARTICIPATION.—

14 (A) IN GENERAL.—Paragraph (3) of sec-  
 15 tion 410(a) (relating to minimum participation  
 16 standards) is amended by adding at the end the  
 17 following new subparagraph:

18 “(E) FAMILY AND MEDICAL LEAVE TREAT-  
 19 ED AS SERVICE.—

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

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

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

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

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

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

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

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

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

10 (2) VESTING.—

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) AMENDMENTS OF ERISA.—

11 (1) PARTICIPATION.—

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

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

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

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

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

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

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

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

21                       (2) VESTING.—

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

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

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

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

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

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

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

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

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

7           (c) EFFECTIVE DATE.—

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

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

17   **SEC. 405. PENSION INTEGRATION RULES.**

18          (a) APPLICABILITY OF NEW INTEGRATION RULES  
19          EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—  
20          Notwithstanding subsection (c)(1) of section 1111 of the  
21          Tax Reform Act of 1986 (relating to effective date of ap-  
22          plication of nondiscrimination rules to integrated plans)  
23          (100 Stat. 2440), effective for plan years beginning after  
24          the date of the enactment of this Act, the amendments  
25          made by subsection (a) of such section 1111 shall also

1 apply to benefits attributable to plan years beginning on  
2 or before December 31, 1988.

3 (b) INTEGRATION DISALLOWED FOR SIMPLIFIED  
4 EMPLOYEE PENSIONS.—

5 (1) IN GENERAL.—Subparagraph (D) of section  
6 408(k)(3) of the Internal Revenue Code of 1986 (re-  
7 lating to permitted disparity under rules limiting  
8 discrimination under simplified employee pensions)  
9 is repealed.

10 (2) CONFORMING AMENDMENT.—Subparagraph  
11 (C) of such section 408(k)(3) is amended by striking  
12 “and except as provided in subparagraph (D),”.

13 (3) EFFECTIVE DATE.—The amendments made  
14 by this subsection shall apply with respect to taxable  
15 years beginning on or after January 1, 1999.

16 (c) EVENTUAL REPEAL OF INTEGRATION RULES.—  
17 Effective for plan years beginning on or after January 1,  
18 2004—

19 (1) subparagraphs (C) and (D) of section  
20 401(a)(5) of the Internal Revenue Code of 1986 (re-  
21 lating to pension integration exceptions under non-  
22 discrimination requirements for qualification) are re-  
23 pealed, and subparagraph (E) of such section  
24 401(a)(5) is redesignated as subparagraph (C); and

1           (2) subsection (l) of section 401 of such Code  
2           (relating to nondiscriminatory coordination of de-  
3           fined contribution plans with OASDI) is repealed.

4 **SEC. 406. DIVISION OF PENSION BENEFITS UPON DIVORCE.**

5           (a) AMENDMENTS TO THE INTERNAL REVENUE  
6 CODE OF 1986.—Section 414(p) of the Internal Revenue  
7 Code of 1986 (relating to qualified domestic relations  
8 order defined) is amended by redesignating paragraph  
9 (12) as paragraph (13) and by adding at the end the fol-  
10 lowing new paragraph:

11           “(12) SPECIAL RULES AND PROCEDURES FOR  
12           DOMESTIC RELATIONS ORDERS NOT SPECIFYING DI-  
13           VISION OF PENSION BENEFITS.—

14           “(A) IN GENERAL.—If—

15           “(i) a domestic relations order (in-  
16           cluding an annulment or other order of  
17           marital dissolution) relates to provision of  
18           marital property with respect to a mar-  
19           riage of at least 5 years duration between  
20           the participant and the former spouse,

21           “(ii)(I) such order (and any prior  
22           order) does not specifically provide that  
23           pension benefits were considered by the  
24           parties and no division is intended, and

1           “(II) such order is not a qualified do-  
2           mestic relations order without regard to  
3           this paragraph and there is no other prior  
4           qualified domestic relations order issued in  
5           connection with the dissolution of the mar-  
6           riage to which such order relates, and

7           “(iii) the former spouse notifies a plan  
8           within the period prescribed under sub-  
9           paragraph (C) that the former spouse is  
10          entitled to benefits under the plan in ac-  
11          cordance with the provisions of this para-  
12          graph,

13          then such domestic relations order shall be  
14          treated as a qualified domestic relations order  
15          for purposes of this subsection and section  
16          401(a)(13).

17          “(B) AMOUNT OF BENEFIT.—

18          “(i) IN GENERAL.—Any domestic rela-  
19          tions order treated as a qualified domestic  
20          relations order under subparagraph (A)  
21          shall be treated as specifying that the  
22          former spouse is entitled to the applicable  
23          percentage of the marital share of the par-  
24          ticipant’s accrued benefit.

1           “(ii) MARITAL SHARE.—For purposes  
2 of clause (i), the marital share of a partici-  
3 pant’s accrued benefit is an amount equal  
4 to the product of—

5           “(I) such benefit as of the date  
6 of the first payment under the plan  
7 (to the extent such accrued benefit is  
8 vested at the date of the divorce or  
9 any later date), and

10           “(II) a fraction the numerator of  
11 which is the period of participation by  
12 the participant under the plan start-  
13 ing with the date of marriage and  
14 ending with the date of divorce, and  
15 the denominator of which is the total  
16 period of participation by the partici-  
17 pant under the plan.

18           “(iii) APPLICABLE PERCENTAGE.—  
19 For purposes of this subparagraph, the ap-  
20 plicable percentage is—

21           “(I) except as provided in sub-  
22 clause (II), 50 percent, and

23           “(II) in the case of a participant  
24 who fails to provide the plan with no-  
25 tice of a domestic relations order

1                   within the time prescribed under sub-  
2                   paragraph (C), 67 percent.

3                   “(C) NOTICE REQUIREMENTS.—

4                   “(i) NOTICE BY EMPLOYEE.—Each  
5                   employee who is a participant in a pension  
6                   plan shall, within 60 days after the dis-  
7                   solution of the marriage of the employee—

8                   “(I) notify the plan administrator  
9                   of the plan of such dissolution, and

10                   “(II) provide to the plan adminis-  
11                   trator a copy of the domestic relations  
12                   order (including an annulment or  
13                   other order of marital dissolution)  
14                   providing for such dissolution and the  
15                   last known address of the employee’s  
16                   former spouse.

17                   “(ii) NOTICE BY PLAN ADMINIS-  
18                   TRATOR.—Each plan administrator receiv-  
19                   ing notice under clause (i) shall promptly  
20                   notify the former spouse of a participant of  
21                   such spouse’s rights under this paragraph,  
22                   including the time period within which  
23                   such spouse is required to notify the plan  
24                   of the spouse’s intention to claim rights  
25                   under this paragraph.

1                   “(iii) NOTICE BY FORMER SPOUSE.—

2                   A former spouse may notify the plan ad-  
3                   ministrators of such spouse’s intent to claim  
4                   rights under this paragraph at any time  
5                   before the last day of the 1-year period fol-  
6                   lowing receipt of notice under clause (ii).

7                   “(iv) COORDINATION WITH PLAN PRO-  
8                   CEDURES.—The determination under para-  
9                   graph (6)(A)(ii) with respect to a domestic  
10                  relations order to which this paragraph ap-  
11                  plies shall be made within a reasonable pe-  
12                  riod of time after the plan administrator  
13                  receives the notice described in clause (iii).

14                  “(D) INTERPRETATION AS QUALIFIED DO-  
15                  MESTIC RELATIONS ORDER.—Each plan shall  
16                  establish reasonable rules for determining how  
17                  any such deemed domestic relations order is to  
18                  be interpreted under the plan so as to con-  
19                  stitute a qualified domestic relations order that  
20                  satisfies paragraphs (2) through (4) (and a  
21                  copy of such rules shall be provided to such  
22                  former spouse promptly after delivery of the di-  
23                  vorce decree). Such rules—

24                               “(i) may delay the effect of such an  
25                               order until the earlier of the date the par-

1            participant is fully vested or has terminated  
2            employment,

3            “(ii) may allow the former spouse to  
4            be paid out immediately,

5            “(iii) shall permit the former spouse  
6            to be paid not later than the earliest retire-  
7            ment age under the plan or the partici-  
8            pant’s death,

9            “(iv) may require the submitter of the  
10           divorce decree to present a marriage cer-  
11           tificate or other evidence of the marriage  
12           date to assist in benefit calculations, and

13           “(v) may conform to the rules applica-  
14           ble to qualified domestic relations orders  
15           regarding form or type of benefit.”

16           (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT  
17 INCOME SECURITY ACT OF 1974.—Section 206(d)(3) of  
18 the Employee Retirement Income Security Act of 1974  
19 (29 U.S.C. 1056(d)(3)) is amended by redesignating sub-  
20 paragraph (N) as subparagraph (O) and by inserting after  
21 subparagraph (M) the following new subparagraph:

22           “(N) SPECIAL RULES AND PROCEDURES  
23           FOR DOMESTIC RELATIONS ORDERS NOT SPECI-  
24           FYING DIVISION OF PENSION BENEFITS.—

25           “(i) IN GENERAL.—If—

1           “(I) a domestic relations order  
2           (including an annulment or other  
3           order of marital dissolution) relates to  
4           provision of marital property with re-  
5           spect to a marriage of at least 5 years  
6           duration between the participant and  
7           the former spouse,

8           “(II)(aa) such order (and any  
9           prior order) does not specifically pro-  
10          vide that pension benefits were consid-  
11          ered by the parties and no division is  
12          intended, or

13          “(bb) such order is a qualified  
14          domestic relations order without re-  
15          gard to this subparagraph or there is  
16          no other prior qualified domestic rela-  
17          tions order issued in connection with  
18          the dissolution of the marriage to  
19          which such order relates, and

20          “(III) the former spouse notifies  
21          a plan within the period prescribed  
22          under clause (iii) that the former  
23          spouse is entitled to benefits under  
24          the plan in accordance with the provi-  
25          sions of this subparagraph,

1 then such domestic relations order shall be  
2 treated as a qualified domestic relations  
3 order for purposes of this paragraph.

4 “(ii) AMOUNT OF BENEFIT.—

5 “(I) IN GENERAL.—Any domestic  
6 relations order treated as a qualified  
7 domestic relations order under clause  
8 (i) shall be treated as specifying that  
9 the former spouse is entitled to the  
10 applicable percentage of the marital  
11 share of the participant’s accrued ben-  
12 efit.

13 “(II) MARITAL SHARE.—For  
14 purposes of subclause (I), the marital  
15 share of a participant’s accrued ben-  
16 efit is an amount equal to the product  
17 of—

18 “(aa) such benefit as of the  
19 date of the first payment under  
20 the plan (to the extent such ac-  
21 crued benefit is vested at the  
22 date of the divorce or any later  
23 date), and

24 “(bb) the numerator of  
25 which is the period of participa-

1           tion by the participant under the  
2           plan starting with the date of  
3           marriage and ending with the  
4           date of divorce, and the denomi-  
5           nator of which is the total period  
6           of participation by the partici-  
7           pant under the plan.

8           “(III) APPLICABLE PERCENT-  
9           AGE.—For purposes of this clause, the  
10          applicable percentage is—

11                   “(aa) except as provided in  
12                   item (bb), 50 percent, and

13                   “(bb) in the case of a partici-  
14                   pant who fails to provide the  
15                   plan with notice of a domestic re-  
16                   lations order within the time pre-  
17                   scribed under clause (iii), 67 per-  
18                   cent.

19          “(iii) NOTICE REQUIREMENTS.—

20                   “(I) NOTICE BY EMPLOYEE.—  
21                   Each employee who is a participant in  
22                   a pension plan shall, within 60 days  
23                   after the dissolution of the marriage  
24                   of the employee—

1                   “(aa) notify the plan admin-  
2                   istrator of the plan of such dis-  
3                   solution, and

4                   “(bb) provide to the plan ad-  
5                   ministrator a copy of the domes-  
6                   tic relations order (including an  
7                   annulment or other order of mar-  
8                   ital dissolution) providing for  
9                   such dissolution and the last  
10                  known address of the employee’s  
11                  former spouse.

12                  “(II) NOTICE BY PLAN ADMINIS-  
13                  TRATOR.—Each plan administrator  
14                  receiving notice under subclause (I)  
15                  shall promptly notify the former  
16                  spouse of a participant of such  
17                  spouse’s rights under this subpara-  
18                  graph, including the time period with-  
19                  in which such spouse is required to  
20                  notify the plan of the spouse’s inten-  
21                  tion to claim rights under this sub-  
22                  paragraph.

23                  “(III) NOTICE BY FORMER  
24                  SPOUSE.—A former spouse may notify  
25                  the plan administrator of such

1 spouse's intent to claim rights under  
2 this subparagraph at any time before  
3 the last day of the 1-year period fol-  
4 lowing receipt of notice under sub-  
5 clause (II).

6 “(IV) COORDINATION WITH PLAN  
7 PROCEDURES.—The determination  
8 under subparagraph (G)(i)(II) with  
9 respect to a domestic relations order  
10 to which this subparagraph applies  
11 shall be made within a reasonable pe-  
12 riod of time after the plan adminis-  
13 trator receives the notice described in  
14 subclause (III).

15 “(iv) INTERPRETATION AS QUALIFIED  
16 DOMESTIC RELATIONS ORDER.—Each plan  
17 shall establish reasonable rules for deter-  
18 mining how any such deemed domestic re-  
19 lations order is to be interpreted under the  
20 plan so as to constitute a qualified domes-  
21 tic relations order that satisfies subpara-  
22 graphs (C) through (E) (and a copy of  
23 such rules shall be provided to such former  
24 spouse promptly after delivery of the di-  
25 vorce decree). Such rules—

1           “(I) may delay the effect of such  
2           an order until the earlier of the date  
3           the participant is fully vested or has  
4           terminated employment,

5           “(II) may allow the former  
6           spouse to be paid out immediately,

7           “(III) shall permit the former  
8           spouse to be paid not later than the  
9           earliest retirement age under the plan  
10          or the participant’s death,

11          “(IV) may require the submitter  
12          of the divorce decree to present a  
13          marriage certificate or other evidence  
14          of the marriage date to assist in ben-  
15          efit calculations, and

16          “(V) may conform to the rules  
17          applicable to qualified domestic rela-  
18          tions orders regarding form or type of  
19          benefit.”

20 **SEC. 407. ENTITLEMENT OF DIVORCED SPOUSES TO RAIL-**  
21 **ROAD RETIREMENT ANNUITIES INDE-**  
22 **PENDENT OF ACTUAL ENTITLEMENT OF EM-**  
23 **PLOYEE.**

24          Section 2 of the Railroad Retirement Act of 1974 (45  
25 U.S.C. 231a) is amended—

1           (1) in subsection (c)(4)(i), by striking “(A) is  
2           entitled to an annuity under subsection (a)(1) and  
3           (B)”;

4           (2) in subsection (e)(5), by striking “or di-  
5           vorced wife” the second place it appears.

6 **SEC. 408. EFFECTIVE DATES.**

7           (a) IN GENERAL.—Except as provided in subsection  
8           (b), the amendments made by this subtitle, other than sec-  
9           tions 403 and 405, shall apply with respect to plan years  
10           beginning on or after January 1, 2000, and the amend-  
11           ments made by section 406 shall apply only with respect  
12           to divorces becoming final in such plan years.

13           (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED  
14           PLANS.—In the case of a plan maintained pursuant to 1  
15           or more collective bargaining agreements between em-  
16           ployee representatives and 1 or more employers ratified  
17           on or before the date of the enactment of this Act, sub-  
18           section (a) shall be applied to benefits pursuant to, and  
19           individuals covered by, any such agreement by substituting  
20           for “January 1, 2000” the date of the commencement of  
21           the first plan year beginning on or after the earlier of—

22                   (1) the later of—

23                           (A) January 1, 2001, or

24                           (B) the date on which the last of such col-  
25           lective bargaining agreements terminates (de-

1           terminated without regard to any extension there-  
2           of after the date of the enactment of this Act),  
3           or  
4           (2) January 1, 2002.

5   **Subtitle B—Protection of Rights of**  
6   **Former Spouses to Pension Ben-**  
7   **efits Under Certain Government**  
8   **and Government-Sponsored Re-**  
9   **tirement Programs**

10 **SEC. 411. EXTENSION OF TIER II RAILROAD RETIREMENT**  
11                   **BENEFITS TO SURVIVING FORMER SPOUSES**  
12                   **PURSUANT TO DIVORCE AGREEMENTS.**

13           (a) IN GENERAL.—Section 5 of the Railroad Retire-  
14   ment Act of 1974 (45 U.S.C. 231d) is amended by adding  
15   at the end the following new subsection:

16           “(d) Notwithstanding any other provision of law, the  
17   payment of any portion of an annuity computed under sec-  
18   tion 3(b) to a surviving former spouse in accordance with  
19   a court decree of divorce, annulment, or legal separation  
20   or the terms of any court-approved property settlement  
21   incident to any such court decree shall not be terminated  
22   upon the death of the individual who performed the service  
23   with respect to which such annuity is so computed unless  
24   such termination is otherwise required by the terms of  
25   such court decree.”

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 412. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**  
5 **AND FORMER SPOUSES OF FEDERAL EM-**  
6 **PLOYEES WHO DIE BEFORE ATTAINING AGE**  
7 **FOR DEFERRED ANNUITY UNDER CIVIL**  
8 **SERVICE RETIREMENT SYSTEM.**

9 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section  
10 8341(f) of title 5, United States Code, is amended—

11 (1) in the matter preceding paragraph (1) by—

12 (A) by inserting “a former employee sepa-  
13 rated from the service with title to deferred an-  
14 nuity from the Fund dies before having estab-  
15 lished a valid claim for annuity and is survived  
16 by a spouse, or if” before “a Member”; and

17 (B) by inserting “of such former employee  
18 or Member” after “the surviving spouse”;

19 (2) in paragraph (1)—

20 (A) by inserting “former employee or” be-  
21 fore “Member commencing”; and

22 (B) by inserting “former employee or” be-  
23 fore “Member dies”; and

24 (3) in the undesignated sentence following para-  
25 graph (2)—

1 (A) in the matter preceding subparagraph  
2 (A) by inserting “former employee or” before  
3 “Member”; and

4 (B) in subparagraph (B) by inserting  
5 “former employee or” before “Member”.

6 (b) BENEFITS FOR FORMER SPOUSE.—Section  
7 8341(h) of title 5, United States Code, is amended—

8 (1) in paragraph (1) by adding after the first  
9 sentence “Subject to paragraphs (2) through (5) of  
10 this subsection, a former spouse of a former em-  
11 ployee who dies after having separated from the  
12 service with title to a deferred annuity under section  
13 8338(a) but before having established a valid claim  
14 for annuity is entitled to a survivor annuity under  
15 this subsection, if and to the extent expressly pro-  
16 vided for in an election under section 8339(j)(3) of  
17 this title, or in the terms of any decree of divorce  
18 or annulment or any court order or court-approved  
19 property settlement agreement incident to such de-  
20 cree.”; and

21 (2) in paragraph (2)—

22 (A) in subparagraph (A)(ii) by striking “or  
23 annuitant,” and inserting “annuitant, or former  
24 employee”; and

1 (B) in subparagraph (B)(iii) by inserting  
2 “former employee or” before “Member”.

3 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—  
4 Section 8339(j)(3) of title 5, United States Code, is  
5 amended by inserting at the end the following: “The Office  
6 shall provide by regulation for the application of this sub-  
7 section to the widow, widower, or surviving former spouse  
8 of a former employee who dies after having separated from  
9 the service with title to a deferred annuity under section  
10 8338(a) but before having established a valid claim for  
11 annuity.”

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect on the date of the enactment  
14 of this Act and shall apply only in the case of a former  
15 employee who dies on or after such date.

16 **SEC. 413. PAYMENT OF LUMP-SUM BENEFITS TO FORMER**  
17 **SPOUSES OF FEDERAL EMPLOYEES.**

18 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Chapter  
19 83 of title 5, United States Code, is amended—

20 (1) in section 8342(c), by striking “Lump-sum”  
21 and inserting “Except as provided in section  
22 8345(j), lump-sum”;

23 (2) in section 8345(j) by adding at the end of  
24 paragraph (1) the following: “Except for purposes of  
25 subparagraph (B), the first sentence of this para-

1 graph shall be deemed to be amended by inserting  
2 after ‘that individual’ the following: ‘, and any lump-  
3 sum benefits authorized by section 8342(d) through  
4 (f) which would otherwise be paid to any person or  
5 persons under section 8342(c),’ ”; and

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

7 “(4) Any payment under this subsection to a person  
8 bars recovery by any other person.”

9 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

10 Chapter 84 of title 5, United States Code, is amended—

11 (1) in section 8424(d), by striking “Lump-sum”  
12 and inserting “Except as provided in section  
13 8467(a), lump-sum”; and

14 (2) in section 8467—

15 (A) in subsection (a), by adding at the end  
16 the following: “Except for purposes of para-  
17 graph (2), the first sentence of this subsection  
18 shall be deemed to be amended by inserting  
19 after ‘that individual’ the following: ‘, and any  
20 lump-sum benefits authorized by section  
21 8424(e) through (g) which would otherwise be  
22 paid to any individual or individuals under sec-  
23 tion 8424(d),’ ”; and

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

1 “(d) Any payment under this section to a person bars  
2 recovery by any other person.”

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to any amount payable  
5 by reason of any death occurring on or after the date of  
6 the enactment of this Act.

7 **Subtitle C—Modifications of Joint**  
8 **and Survivor Annuity Require-**  
9 **ments**

10 **SEC. 421. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**  
11 **ITY REQUIREMENTS.**

12 (a) AMENDMENTS TO ERISA.—

13 (1) AMOUNT OF ANNUITY.—

14 (A) IN GENERAL.—Paragraph (1) of sec-  
15 tion 205(a) of the Employee Retirement Income  
16 Security Act of 1974 (29 U.S.C. 1055(a)) is  
17 amended by inserting “or, at the election of the  
18 participant, shall be provided in the form of a  
19 qualified joint and  $\frac{2}{3}$  survivor annuity” after  
20 “survivor annuity,”.

21 (B) DEFINITION.—Subsection (d) of sec-  
22 tion 205 of such Act (29 U.S.C. 1055) is  
23 amended—

1 (i) by redesignating paragraphs (1)  
2 and (2) as subparagraphs (A) and (B), re-  
3 spectively,

4 (ii) by inserting “(1)” after “(d)”,  
5 and

6 (iii) by adding at the end the fol-  
7 lowing new paragraph:

8 “(2) For purposes of this section, the term “qualified  
9 joint and  $\frac{2}{3}$  survivor annuity” means a joint and survivor  
10 annuity under which the survivor annuity for the life of  
11 the surviving spouse is equal to at least  $\frac{2}{3}$  of the amount  
12 of the annuity which is payable during the joint lives of  
13 the participant and spouse.”

14 (2) ILLUSTRATION REQUIREMENT.—Clause (i)  
15 of section 205(c)(3)(A) of such Act (29 U.S.C.  
16 1055(c)(3)(A)) is amended to read as follows:

17 “(i) the terms and conditions of each qualified  
18 joint and survivor annuity and qualified joint and  $\frac{2}{3}$   
19 survivor annuity offered, accompanied by an illustra-  
20 tion of the benefits under each such annuity for the  
21 particular participant and spouse and an acknowl-  
22 edgement form to be signed by the participant and  
23 the spouse that they have read and considered the  
24 illustration before any form of retirement benefit is  
25 chosen,”.

1 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

2 (1) AMOUNT OF ANNUITY.—

3 (A) IN GENERAL.—Clause (i) of section  
4 401(a)(11)(A) of the Internal Revenue Code of  
5 1986 (relating to requirement of joint and sur-  
6 vivor annuity and preretirement survivor annu-  
7 ity) is amended by inserting “or, at the election  
8 of the participant, shall be provided in the form  
9 of a qualified joint and  $\frac{2}{3}$  survivor annuity”  
10 after “survivor annuity.”

11 (B) DEFINITION.—Section 417 of such  
12 Code (relating to definitions and special rules  
13 for purposes of minimum survivor annuity re-  
14 quirements), as amended by section 422, is  
15 amended by redesignating subsection (f) as sub-  
16 section (g) and by inserting after subsection (e)  
17 the following new subsection:

18 “(f) DEFINITION OF QUALIFIED JOINT AND  $\frac{2}{3}$  SUR-  
19 VIVOR ANNUITY.—For purposes of this section and section  
20 401(a)(11), the term ‘qualified joint and  $\frac{2}{3}$  survivor annu-  
21 ity’ means a joint and survivor annuity under which the  
22 survivor annuity for the life of the surviving spouse is  
23 equal to at least  $\frac{2}{3}$  of the amount of the annuity which  
24 is payable during the joint lives of the participant and  
25 spouse.”

1           (2) ILLUSTRATION REQUIREMENT.—Clause (i)  
2 of section 417(a)(3)(A) of such Code (relating to ex-  
3 planation of joint and survivor annuity) is amended  
4 to read as follows:

5                   “(i) the terms and conditions of each  
6 qualified joint and survivor annuity and  
7 qualified joint and  $\frac{2}{3}$  survivor annuity of-  
8 fered, accompanied by an illustration of  
9 the benefits under each such annuity for  
10 the particular participant and spouse and  
11 an acknowledgement form to be signed by  
12 the participant and the spouse that they  
13 have read and considered the illustration  
14 before any form of retirement benefit is  
15 chosen.”.

16           (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to plan years beginning on or after  
18 January 1, 2000.

19 **SEC. 422. SPOUSAL CONSENT REQUIRED FOR DISTRIBU-**  
20 **TIONS FROM DEFINED CONTRIBUTION**  
21 **PLANS.**

22           (a) AMENDMENTS TO INTERNAL REVENUE CODE OF  
23 1986.—

24                   (1) IN GENERAL.—Section 401(a)(11) of the  
25 Internal Revenue Code of 1986 (relating to require-

1       ment of joint and survivor annuity and preretire-  
2       ment survivor annuity) is amended by striking sub-  
3       paragraphs (B), (C), and (D), by redesignating sub-  
4       paragraphs (E) and (F) as subparagraphs (C) and  
5       (D), respectively, and by inserting after subpara-  
6       graph (A) the following new subparagraph:

7               “(B) PLANS TO WHICH PARAGRAPH AP-  
8               PLIES.—This paragraph shall apply to any de-  
9               fined benefit plan and to any defined contribu-  
10              tion plan.”

11             (2) EXCEPTION FOR HARDSHIP DISTRIBUTI-  
12             ONS.—Section 417(f) of such Code is amended by  
13             adding at the end the following new paragraph:

14             “(8) HARDSHIP DISTRIBUTIONS.—The require-  
15             ments of section 401(a)(11) and this section shall  
16             not apply to a hardship distribution under section  
17             401(k)(2)(B)(i)(IV).”

18             (3) SPECIAL RULE FOR CASH-OUTS.—Section  
19             417(e) of such Code is amended by adding at the  
20             end the following new paragraph:

21             “(4) SPECIAL RULE FOR DEFINED CONTRIBU-  
22             TION PLANS.—

23             “(A) IN GENERAL.—In the case of a de-  
24             fined contribution plan, notwithstanding para-  
25             graph (2), if the present value of the qualified

1 joint and survivor annuity does not exceed  
2 \$10,000, the plan may immediately distribute  
3 50 percent of the present value of such annuity  
4 to each spouse.

5 “(B) EXCEPTION.—The plan may dis-  
6 tribute a different percentage of the present  
7 value of an annuity to each spouse if a court  
8 order or contractual agreement provides for  
9 such different percentage.”

10 (b) AMENDMENTS TO ERISA.—

11 (1) IN GENERAL.—Section 205(b) of the Em-  
12 ployee Retirement Income Security Act of 1974 (29  
13 U.S.C. 1055(b)) is amended to read as follows:

14 “(b)(1) This section shall apply to any defined benefit  
15 plan and to any individual account plan.

16 “(2) This section shall not apply to a plan which the  
17 Secretary of the Treasury or his delegate has determined  
18 is a plan described in section 404(c) of the Internal Rev-  
19 enue Code of 1986 (or a continuation thereof) in which  
20 participation is substantially limited to individuals who,  
21 before January 1, 1976, ceased employment covered by  
22 the plan.”

23 (2) HARDSHIP DISTRIBUTION.—Section 205 of  
24 such Act (29 U.S.C. 1055) is amended by adding at  
25 the end the following new subsection:

1       “(m) This section shall not apply to a hardship dis-  
2 tribution under section 401(k)(2)(B)(i)(IV) of the Internal  
3 Revenue Code of 1986.”

4           (3) SPECIAL RULE FOR CASH-OUTS.—Section  
5 205(g) of such Act (29 U.S.C. 1055(g)) is amended  
6 by adding at the end the following new paragraph:

7           “(4) SPECIAL RULE FOR DEFINED CONTRIBU-  
8 TION PLANS.—

9           “(A) IN GENERAL.—In the case of an indi-  
10 vidual account plan, notwithstanding paragraph  
11 (2), if the present value of the qualified joint  
12 and survivor annuity or the qualified preretire-  
13 ment survivor annuity exceeds \$10,000, the  
14 plan may immediately distribute 50 percent of  
15 the present value of such annuity to each  
16 spouse.

17           “(B) EXCEPTION.—The plan may dis-  
18 tribute a different percentage of the present  
19 value of an annuity to each spouse if a court  
20 order or contractual agreement provides for  
21 such different percentage.”

22           (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to plan years beginning after De-  
24 cember 31, 2000.

1     **TITLE V—DATE FOR ADOPTION**  
2             **OF PLAN AMENDMENTS**

3     **SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

4             (a) IN GENERAL.—Except as otherwise provided in  
5 this Act, if any amendment made by this Act requires an  
6 amendment to any plan, such plan amendment shall not  
7 be required to be made before the last day of the first  
8 plan year beginning on or after January 1, 2000, if—

9                 (1) during the period after such amendment  
10             takes effect and before the last day of such first  
11             plan year, the plan is operated in accordance with  
12             the requirements of such amendment, and

13                 (2) such plan amendment applies retroactively  
14             to such period.

15 A plan shall not be treated as failing to provide definitely  
16 determinable benefits or contributions, or to be operated  
17 in accordance with the provisions of the plan, merely be-  
18 cause it operates in accordance with this subsection.

19             (b) GOVERNMENTAL PLANS.—In the case of a gov-  
20 ernmental plan (as defined in section 414(d) of the Inter-  
21 nal Revenue Code of 1986), subsection (a) shall be applied  
22 by substituting for “January 1, 2000” the later of—

23                 (1) January 1, 2001, or

24                 (2) the date which is 90 days after the opening  
25             of the first legislative session beginning after Janu-

1       ary 1, 2000, of the governing body with authority to  
2       amend the plan, but only if such governing body  
3       does not meet continuously.

4       (c) SPECIAL RULE FOR COLLECTIVELY BARGAINED  
5 PLANS.—Notwithstanding any other provision of this Act,  
6 in the case of a plan maintained pursuant to 1 or more  
7 collective bargaining agreements between employee rep-  
8 resentatives and 1 or more employers ratified on or before  
9 the date of the enactment of this Act, any amendment  
10 made by this Act which requires an amendment to such  
11 plan shall not be required to be made before the last day  
12 of the first plan year beginning on or after the earlier of—

13               (1) the later of—

14                       (A) January 1, 2000, or

15                       (B) the date on which the last of such col-  
16       lective bargaining agreements terminates (de-  
17       termined without regard to any extension there-  
18       of after the date of the enactment of this Act),

19       or

20               (2) January 1, 2001.

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