

In the Senate of the United States,

May 23, 2001.

Resolved, That the bill from the House of Representatives (H.R. 1836) entitled “An Act to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; ETC.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Re-*
3 *storing Earnings To Lift Individuals and Empower Fami-*
4 *lies (RELIEF) Act of 2001”.*

1 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 2 *expressly provided, whenever in this Act an amendment or*
 3 *repeal is expressed in terms of an amendment to, or repeal*
 4 *of, a section or other provision, the reference shall be consid-*
 5 *ered to be made to a section or other provision of the Inter-*
 6 *nal Revenue Code of 1986.*

7 (c) *SECTION 15 NOT TO APPLY.*—*No amendment*
 8 *made by this Act shall be treated as a change in a rate*
 9 *of tax for purposes of section 15 of the Internal Revenue*
 10 *Code of 1986.*

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

Sec. 1. Short title; etc.

TITLE I—INDIVIDUAL INCOME TAX RATE REDUCTIONS

Subtitle A—In General

Sec. 101. Reduction in income tax rates for individuals.

Sec. 102. Increase in amount of income required before phaseout of itemized de-
ductions begins.

Sec. 103. Repeal of phaseout of deduction for personal exemptions.

Subtitle B—Compliance With Congressional Budget Act

Sec. 111. Sunset of provisions of title.

TITLE II—CHILD TAX CREDIT

Subtitle A—In General

Sec. 201. Modifications to child tax credit.

Sec. 202. Sense of the Senate on the modifications to the child tax credit.

Sec. 203. Expansion of adoption credit and adoption assistance programs.

Sec. 204. Refunds disregarded in the administration of Federal programs and
federally assisted programs.

Sec. 205. Dependent care credit.

Sec. 206. Allowance of credit for employer expenses for child care assistance.

Sec. 207. Allowance of credit for employer expenses for child care assistance.

Subtitle B—Compliance With Congressional Budget Act

Sec. 211. Sunset of provisions of title.

TITLE III—MARRIAGE PENALTY RELIEF

Subtitle A—In General

- Sec. 301. Elimination of marriage penalty in standard deduction.*
Sec. 302. Phaseout of marriage penalty in 15-percent bracket.
Sec. 303. Marriage penalty relief for earned income credit; earned income to include only amounts includible in gross income; simplification of earned income credit.

Subtitle B—Compliance With Congressional Budget Act

- Sec. 311. Sunset of provisions of title.*

TITLE IV—AFFORDABLE EDUCATION PROVISIONS

Subtitle A—Education Savings Incentives

- Sec. 401. Modifications to education individual retirement accounts.*
Sec. 402. Modifications to qualified tuition programs.

Subtitle B—Educational Assistance

- Sec. 411. Permanent extension of exclusion for employer-provided educational assistance.*
Sec. 412. Elimination of 60-month limit and increase in income limitation on student loan interest deduction.
Sec. 413. Exclusion of certain amounts received under the National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.
Sec. 414. Exclusion from income of certain amounts contributed to Coverdell education savings accounts.

Subtitle C—Liberalization of Tax-Exempt Financing Rules for Public School Construction

- Sec. 421. Additional increase in arbitrage rebate exception for governmental bonds used to finance educational facilities.*
Sec. 422. Treatment of qualified public educational facility bonds as exempt facility bonds.
Sec. 423. Treatment of bonds issued to acquire renewable resources on land subject to conservation easement.

Subtitle D—Other Provisions

- Sec. 431. Deduction for higher education expenses.*
Sec. 432. Credit for interest on higher education loans.
Sec. 433. Above-the-line deduction for qualified emergency response expenses of eligible emergency response professionals.
Sec. 434. Contributions of book inventory.

Subtitle E—Miscellaneous Education Provisions

- Sec. 441. Short title.*
Sec. 442. Above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers.
Sec. 443. Credit to elementary and secondary school teachers who provide classroom materials.

*Subtitle F—Compliance With Congressional Budget Act**Sec. 451. Sunset of provisions of title.**TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX PROVISIONS**Subtitle A—Repeal of Estate and Generation-Skipping Transfer Taxes**Sec. 501. Repeal of estate and generation-skipping transfer taxes.**Subtitle B—Reductions of Estate and Gift Tax Rates**Sec. 511. Additional reductions of estate and gift tax rates.**Subtitle C—Increase in Exemption Amounts**Sec. 521. Increase in exemption equivalent of unified credit, lifetime gifts exemption, and GST exemption amounts.**Subtitle D—Credit for State Death Taxes**Sec. 531. Reduction of credit for State death taxes.**Sec. 532. Credit for State death taxes replaced with deduction for such taxes.**Subtitle E—Carryover Basis at Death; Other Changes Taking Effect With Repeal**Sec. 541. Termination of step-up in basis at death.**Sec. 542. Treatment of property acquired from a decedent dying after December 31, 2010.**Subtitle F—Conservation Easements**Sec. 551. Expansion of estate tax rule for conservation easements.**Subtitle G—Modifications of Generation-Skipping Transfer Tax**Sec. 561. Deemed allocation of GST exemption to lifetime transfers to trusts; retroactive allocations.**Sec. 562. Severing of trusts.**Sec. 563. Modification of certain valuation rules.**Sec. 564. Relief provisions.**Subtitle H—Extension of Time for Payment of Estate Tax**Sec. 571. Expansion of availability of installment payment for estates with interests qualifying lending and finance businesses.**Sec. 572. Clarification of availability of installment payment.**Subtitle I—Compliance With Congressional Budget Act**Sec. 581. Sunset of provisions of title.**TITLE VI—PENSION AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS**Subtitle A—Individual Retirement Accounts**Sec. 601. Modification of IRA contribution limits.**Sec. 602. Deemed IRAs under employer plans.*

Sec. 603. Tax-free distributions from individual retirement accounts for charitable purposes.

Subtitle B—Expanding Coverage

- Sec. 611. Increase in benefit and contribution limits.*
Sec. 612. Plan loans for subchapter S owners, partners, and sole proprietors.
Sec. 613. Modification of top-heavy rules.
Sec. 614. Elective deferrals not taken into account for purposes of deduction limits.
Sec. 615. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 616. Deduction limits.
Sec. 617. Option to treat elective deferrals as after-tax Roth contributions.
Sec. 618. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.
Sec. 619. Credit for qualified pension plan contributions of small employers.
Sec. 620. Credit for pension plan startup costs of small employers.
Sec. 621. Elimination of user fee for requests to IRS regarding new pension plans.
Sec. 622. Treatment of nonresident aliens engaged in international transportation services.

Subtitle C—Enhancing Fairness for Women

- Sec. 631. Catch-up contributions for individuals age 50 or over.*
Sec. 632. Equitable treatment for contributions of employees to defined contribution plans.
Sec. 633. Faster vesting of certain employer matching contributions.
Sec. 634. Modifications to minimum distribution rules.
Sec. 635. Clarification of tax treatment of division of section 457 plan benefits upon divorce.
Sec. 636. Provisions relating to hardship distributions.
Sec. 637. Waiver of tax on nondeductible contributions for domestic or similar workers.

Subtitle D—Increasing Portability for Participants

- Sec. 641. Rollovers allowed among various types of plans.*
Sec. 642. Rollovers of IRAs into workplace retirement plans.
Sec. 643. Rollovers of after-tax contributions.
Sec. 644. Hardship exception to 60-day rule.
Sec. 645. Treatment of forms of distribution.
Sec. 646. Rationalization of restrictions on distributions.
Sec. 647. Purchase of service credit in governmental defined benefit plans.
Sec. 648. Employers may disregard rollovers for purposes of cash-out amounts.
Sec. 649. Minimum distribution and inclusion requirements for section 457 plans.

Subtitle E—Strengthening Pension Security and Enforcement

PART I—GENERAL PROVISIONS

- Sec. 651. Repeal of 160 percent of current liability funding limit.*
Sec. 652. Maximum contribution deduction rules modified and applied to all defined benefit plans.
Sec. 653. Excise tax relief for sound pension funding.

- Sec. 654. Treatment of multiemployer plans under section 415.*
Sec. 655. Protection of investment of employee contributions to 401(k) plans.
Sec. 656. Prohibited allocations of stock in S corporation ESOP.
Sec. 657. Automatic rollovers of certain mandatory distributions.
Sec. 658. Clarification of treatment of contributions to multiemployer plan.

PART II—TREATMENT OF PLAN AMENDMENTS REDUCING FUTURE BENEFIT ACCRUALS

- Sec. 659. Notice required for pension plan amendments having the effect of significantly reducing future benefit accruals.*

Subtitle F—Reducing Regulatory Burdens

- Sec. 661. Modification of timing of plan valuations.*
Sec. 662. ESOP dividends may be reinvested without loss of dividend deduction.
Sec. 663. Repeal of transition rule relating to certain highly compensated employees.
Sec. 664. Employees of tax-exempt entities.
Sec. 665. Clarification of treatment of employer-provided retirement advice.
Sec. 666. Reporting simplification.
Sec. 667. Improvement of employee plans compliance resolution system.
Sec. 668. Repeal of the multiple use test.
Sec. 669. Flexibility in nondiscrimination, coverage, and line of business rules.
Sec. 670. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.

Subtitle G—Other ERISA Provisions

- Sec. 681. Missing participants.*
Sec. 682. Reduced PBGC premium for new plans of small employers.
Sec. 683. Reduction of additional PBGC premium for new and small plans.
Sec. 684. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 685. Substantial owner benefits in terminated plans.

Subtitle H—Miscellaneous Provisions

- Sec. 691. Tax treatment and information requirements of Alaska Native Settlement Trusts.*

Subtitle I—Compliance With Congressional Budget Act

- Sec. 695. Sunset of provisions of title.*

TITLE VII—ALTERNATIVE MINIMUM TAX

Subtitle A—In General

- Sec. 701. Increase in alternative minimum tax exemption.*

Subtitle B—Compliance With Congressional Budget Act

- Sec. 711. Sunset of provisions of title.*

TITLE VIII—OTHER PROVISIONS

Subtitle A—In General

- Sec. 801. Time for payment of corporate estimated taxes.*
- Sec. 802. Expansion of authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.*
- Sec. 803. No Federal income tax on restitution received by victims of the Nazi regime or their heirs or estates.*
- Sec. 804. Removal of limitation.*
- Sec. 805. Circuit breaker.*
- Sec. 806. Deduction for health insurance costs of self-employed individuals increased.*
- Sec. 807. Deduction for health insurance costs of self-employed individuals increased.*
- Sec. 808. Charitable contributions of certain items created by the taxpayer.*
- Sec. 809. Waiver of statute of limitation for taxes on certain farm valuations.*
- Sec. 810. Research credit.*
- Sec. 811. Credit for medical research related to developing vaccines against widespread diseases.*
- Sec. 812. Acceleration of benefits of wage tax credits for empowerment zones.*
- Sec. 813. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.*
- Sec. 814. Tax-exempt bond authority for treatment facilities reducing arsenic levels in drinking water.*
- Sec. 815. Time for payment of corporate estimated tax payments due in 2011.*
- Sec. 816. Disclosure of tax information to facilitate combined employment tax reporting.*

Subtitle B—Compliance With Congressional Budget Act

- Sec. 821. Sunset of provisions of title.*

TITLE IX—SECTION 527 POLITICAL ORGANIZATION REPORTING REQUIREMENTS

- Sec. 901. Exemption for State and local candidate committees from notification requirements.*
- Sec. 902. Exemption for certain State and local political committees from reporting and annual return requirements.*
- Sec. 903. Notification of interaction of reporting requirements.*
- Sec. 904. Waiver of penalties.*

1 **TITLE I—INDIVIDUAL INCOME**
 2 **TAX RATE REDUCTIONS**
 3 **Subtitle A—In General**

4 **SEC. 101. REDUCTION IN INCOME TAX RATES FOR INDIVID-**
 5 **UALS.**

6 (a) *IN GENERAL.*—Section 1 is amended by adding
 7 at the end the following new subsection:

8 “(i) *RATE REDUCTIONS AFTER 2000.*—

9 “(1) *10-PERCENT RATE BRACKET.*—

10 “(A) *IN GENERAL.*—In the case of taxable
 11 years beginning after December 31, 2000—

12 “(i) the rate of tax under subsections
 13 (a), (b), (c), and (d) on taxable income not
 14 over the initial bracket amount shall be 10
 15 percent, and

16 “(ii) the 15 percent rate of tax shall
 17 apply only to taxable income over the ini-
 18 tial bracket amount but not over the max-
 19 imum dollar amount for the 15-percent rate
 20 bracket.

21 “(B) *INITIAL BRACKET AMOUNT.*—For pur-
 22 poses of this subsection, the initial bracket
 23 amount is—

24 “(i) \$12,000 in the case of subsection
 25 (a),

1 “(ii) \$10,000 in the case of subsection
2 (b), and

3 “(iii) $\frac{1}{2}$ the amount applicable under
4 clause (i) (after adjustment, if any, under
5 subparagraph (C)) in the case of subsections
6 (c) and (d).

7 “(C) *INFLATION ADJUSTMENT.*—In pre-
8 scribing the tables under subsection (f) which
9 apply with respect to taxable years beginning in
10 calendar years after 2001—

11 “(i) the Secretary shall make no ad-
12 justment to the initial bracket amount for
13 any taxable year beginning before January
14 1, 2007,

15 “(ii) the cost-of-living adjustment used
16 in making adjustments to the initial bracket
17 amount for any taxable year beginning
18 after December 31, 2006, shall be deter-
19 mined under subsection (f)(3) by sub-
20 stituting ‘2005’ for ‘1992’ in subparagraph
21 (B) thereof, and

22 “(iii) such adjustment shall not apply
23 to the amount referred to in subparagraph
24 (B)(iii).

1 *If any amount after adjustment under the pre-*
 2 *ceding sentence is not a multiple of \$50, such*
 3 *amount shall be rounded to the next lowest mul-*
 4 *tiple of \$50.*

5 *“(2) REDUCTIONS IN RATES AFTER 2001.—In the*
 6 *case of taxable years beginning in a calendar year*
 7 *after 2001, the corresponding percentage specified for*
 8 *such calendar year in the following table shall be sub-*
 9 *stituted for the otherwise applicable tax rate in the*
 10 *tables under subsections (a), (b), (c), (d), and (e).*

<i>“In the case of taxable years beginning during calendar year:</i>	<i>The corresponding percent- ages shall be substituted for the following percentages:</i>			
	<i>28%</i>	<i>31%</i>	<i>36%</i>	<i>39.6%</i>
<i>2002, 2003, and 2004</i>	<i>27%</i>	<i>30%</i>	<i>35%</i>	<i>38.6%</i>
<i>2005 and 2006</i>	<i>26%</i>	<i>29%</i>	<i>34%</i>	<i>37.6%</i>
<i>2007 and thereafter</i>	<i>25%</i>	<i>28%</i>	<i>33%</i>	<i>36%</i>

11 *“(3) ADJUSTMENT OF TABLES.—The Secretary*
 12 *shall adjust the tables prescribed under subsection (f)*
 13 *to carry out this subsection.”.*

14 *(b) CONFORMING AMENDMENTS.—*

15 *(1) Subparagraph (B) of section 1(g)(7) is*
 16 *amended by striking “15 percent” in clause (ii)(II)*
 17 *and inserting “10 percent.”.*

18 *(2) Section 1(h) is amended—*

19 *(A) by striking “28 percent” both places it*
 20 *appears in paragraphs (1)(A)(ii)(I) and*
 21 *(1)(B)(i) and inserting “25 percent”, and*

1 (B) by striking paragraph (13).

2 (3) Section 531 is amended by striking “equal
3 to” and all that follows and inserting “equal to the
4 product of the highest rate of tax under section 1(c)
5 and the accumulated taxable income.”.

6 (4) Section 541 is amended by striking “equal
7 to” and all that follows and inserting “equal to the
8 product of the highest rate of tax under section 1(c)
9 and the undistributed personal holding company in-
10 come.”.

11 (5) Section 3402(p)(1)(B) is amended by strik-
12 ing “7, 15, 28, or 31 percent” and inserting “7 per-
13 cent, any percentage applicable to any of the 3 lowest
14 income brackets in the table under section 1(c),”.

15 (6) Section 3402(p)(2) is amended by striking
16 “15 percent” and inserting “10 percent”.

17 (7) Section 3402(q)(1) is amended by striking
18 “equal to 28 percent of such payment” and inserting
19 “equal to the product of the third lowest rate of tax
20 under section 1(c) and such payment”.

21 (8) Section 3402(r)(3) is amended by striking
22 “31 percent” and inserting “the fourth lowest rate of
23 tax under section 1(c)”.

24 (9) Section 3406(a)(1) is amended by striking
25 “equal to 31 percent of such payment” and inserting

1 “equal to the product of the fourth lowest rate of tax
2 under section 1(c) and such payment”.

3 (10) Section 13273 of the Revenue Reconciliation
4 Act of 1993 is amended by striking “28 percent” and
5 inserting “the third lowest rate of tax under section
6 1(c) of the Internal Revenue Code of 1986”.

7 (c) *EFFECTIVE DATES.*—

8 (1) *IN GENERAL.*—Except as provided in para-
9 graph (2), the amendments made by this section shall
10 apply to taxable years beginning after December 31,
11 2000.

12 (2) *AMENDMENTS TO WITHHOLDING PROVI-*
13 *SIONS.*—The amendments made by paragraphs (6),
14 (7), (8), (9), (10), and (11) of subsection (b) shall
15 apply to amounts paid after the 60th day after the
16 date of the enactment of this Act.

17 **SEC. 102. INCREASE IN AMOUNT OF INCOME REQUIRED BE-**
18 **FORE PHASEOUT OF ITEMIZED DEDUCTIONS**

19 **BEGINS.**

20 (a) *IN GENERAL.*—Section 68(b)(1) (defining applica-
21 ble amount) is amended—

22 (1) by striking “\$100,000” and inserting
23 “\$150,000”, and

24 (2) by striking “\$50,000” and inserting
25 “\$75,000”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2008.*

4 **SEC. 103. REPEAL OF PHASEOUT OF DEDUCTION FOR PER-**
5 **SONAL EXEMPTIONS.**

6 (a) *IN GENERAL.*—*Subsection (d) of section 151 (relat-*
7 *ing to exemption amount) is amended by striking para-*
8 *graph (3).*

9 (b) *TECHNICAL AMENDMENTS.*—

10 (1) *Paragraph (6) of section 1(f) is amended—*

11 (A) *by striking “section 151(d)(4)” in sub-*
12 *paragraph (A) and inserting “section*
13 *151(d)(3)”, and*

14 (B) *by striking “section 151(d)(4)(A)” in*
15 *subparagraph (B) and inserting “section*
16 *151(d)(3)”.*

17 (2) *Paragraph (4) of section 151(d) is amended*
18 *to read as follows:*

19 “(3) *INFLATION ADJUSTMENT.*—*In the case of*
20 *any taxable year beginning in a calendar year after*
21 *1989, the dollar amount contained in paragraph (1)*
22 *shall be increased by an amount equal to—*

23 (A) *such dollar amount, multiplied by*

24 (B) *the cost-of-living adjustment deter-*
25 *mined under section 1(f)(3) for the calendar year*

1 *in which the taxable year begins, by substituting*
2 *‘calendar year 1988’ for ‘calendar year 1992’ in*
3 *subparagraph (B) thereof.’*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section shall apply to taxable years beginning after Decem-*
6 *ber 31, 2008.*

7 ***Subtitle B—Compliance With***
8 ***Congressional Budget Act***

9 ***SEC. 111. SUNSET OF PROVISIONS OF TITLE.***

10 *All provisions of, and amendments made by, this title*
11 *which are in effect on September 30, 2011, shall cease to*
12 *apply as of the close of September 30, 2011.*

13 ***TITLE II—CHILD TAX CREDIT***
14 ***Subtitle A—In General***

15 ***SEC. 201. MODIFICATIONS TO CHILD TAX CREDIT.***

16 *(a) INCREASE IN PER CHILD AMOUNT.—Subsection*
17 *(a) of section 24 (relating to child tax credit) is amended*
18 *to read as follows:*

19 *“(a) ALLOWANCE OF CREDIT.—*

20 *“(1) IN GENERAL.—There shall be allowed as a*
21 *credit against the tax imposed by this chapter for the*
22 *taxable year with respect to each qualifying child of*
23 *the taxpayer an amount equal to the per child*
24 *amount.*

1 “(2) *PER CHILD AMOUNT.*—For purposes of
2 *paragraph (1), the per child amount shall be deter-*
3 *mined as follows:*

**“In the case of any taxable The per child amount is—
 year beginning in—**

2001, 2002, or 2003	\$ 600
2004, 2005, or 2006	700
2007, 2008, or 2009	800
2010	900
2011 or thereafter	1,000.”.

4 (b) *CREDIT ALLOWED AGAINST ALTERNATIVE MIN-*
5 *IMUM TAX.*—

6 (1) *IN GENERAL.*—Subsection (b) of section 24
7 *(relating to child tax credit) is amended by adding at*
8 *the end the following new paragraph:*

9 “(3) *LIMITATION BASED ON AMOUNT OF TAX.*—
10 *The credit allowed under subsection (a) for any tax-*
11 *able year shall not exceed the excess of—*

12 “(A) *the sum of the regular tax liability (as*
13 *defined in section 26(b)) plus the tax imposed by*
14 *section 55, over*

15 “(B) *the sum of the credits allowable under*
16 *this subpart (other than this section) and section*
17 *27 for the taxable year.”.*

18 (2) *CONFORMING AMENDMENTS.*—

19 (A) *The heading for section 24(b) is amend-*
20 *ed to read as follows: “LIMITATIONS.—”.*

1 (B) *The heading for section 24(b)(1) is*
2 *amended to read as follows: “LIMITATION BASED*
3 *ON ADJUSTED GROSS INCOME.—”.*

4 (C) *Section 24(d) is amended—*

5 (i) *by striking “section 26(a)” each*
6 *place it appears and inserting “subsection*
7 *(b)(3)”, and*

8 (ii) *in paragraph (1)(B) by striking*
9 *“aggregate amount of credits allowed by*
10 *this subpart” and inserting “amount of*
11 *credit allowed by this section”.*

12 (D) *Paragraph (1) of section 26(a) is*
13 *amended by inserting “(other than section 24)”*
14 *after “this subpart”.*

15 (E) *Subsection (c) of section 23 is amended*
16 *by striking “and section 1400C” and inserting*
17 *“and sections 24 and 1400C”.*

18 (F) *Subparagraph (C) of section 25(e)(1) is*
19 *amended by inserting “, 24,” after “sections 23”.*

20 (G) *Section 904(h) is amended by inserting*
21 *“(other than section 24)” after “chapter”.*

22 (H) *Subsection (d) of section 1400C is*
23 *amended by inserting “and section 24” after*
24 *“this section”.*

25 (c) *REFUNDABLE CHILD CREDIT.—*

1 (1) *IN GENERAL.*—So much of section 24(d) (re-
2 lating to additional credit for families with 3 or more
3 children) as precedes paragraph (2) is amended to
4 read as follows:

5 “(d) *PORTION OF CREDIT REFUNDABLE.*—

6 “(1) *IN GENERAL.*—The aggregate credits al-
7 lowed to a taxpayer under subpart C shall be in-
8 creased by the lesser of—

9 “(A) the credit which would be allowed
10 under this section without regard to this sub-
11 section and the limitation under subsection
12 (b)(3), or

13 “(B) the amount by which the amount of
14 credit allowed by this section (determined with-
15 out regard to this subsection) would increase if
16 the limitation imposed by subsection (b)(3) were
17 increased by the greater of—

18 “(i) 15 percent of so much of the tax-
19 payer’s earned income (within the meaning
20 of section 32) for the taxable year as exceeds
21 \$10,000, or

22 “(ii) in the case of a taxpayer with 3
23 or more qualifying children, the excess (if
24 any) of—

1 “(I) the taxpayer’s social security
2 taxes for the taxable year, over

3 “(II) the credit allowed under sec-
4 tion 32 for the taxable year.

5 *The amount of the credit allowed under this sub-*
6 *section shall not be treated as a credit allowed under*
7 *this subpart and shall reduce the amount of credit*
8 *otherwise allowable under subsection (a) without re-*
9 *gard to subsection (b)(3).”.*

10 (2) *CONFORMING AMENDMENT.*—Section 32 is
11 amended by striking subsection (n).

12 (d) *ELIMINATION OF REDUCTION OF CREDIT TO TAX-*
13 *PAYER SUBJECT TO ALTERNATIVE MINIMUM TAX PROVI-*
14 *SION.*—Section 24(d) is amended—

15 (1) *by striking paragraph (2), and*

16 (2) *by redesignating paragraph (3) as para-*
17 *graph (2).*

18 (e) *EFFECTIVE DATES.*—

19 (1) *IN GENERAL.*—Except as provided in para-
20 graph (2), the amendments made by this section shall
21 apply to taxable years beginning after December 31,
22 2000.

23 (2) *SUBSECTION (b).*—The amendments made by
24 subsection (b) shall apply to taxable years beginning
25 after December 31, 2001.

1 **SEC. 202. SENSE OF THE SENATE ON THE MODIFICATIONS**
2 **TO THE CHILD TAX CREDIT.**

3 (a) *FINDINGS.*—

4 (1) *There are over 12,000,000 children in pov-*
5 *erty in the United States—about 78 percent of these*
6 *children live in working families.*

7 (2) *The child tax credit was originally designed*
8 *to benefit families with children in recognition of the*
9 *costs associated with raising children.*

10 (3) *There are 15,400,000 children whose families*
11 *would not benefit from the doubling of the child tax*
12 *credit unless it is made refundable and another*
13 *7,000,000 children live in families who will not re-*
14 *ceive an increased benefit under the bill unless the*
15 *credit is made refundable.*

16 (4) *A person who earns the Federal minimum*
17 *wage and works 40 hours a week for 50 weeks a year*
18 *earns approximately \$10,300.*

19 (5) *The provision included in section 201 would*
20 *give families with children the benefit of a partially*
21 *refundable child tax credit based on 15 cents of their*
22 *income for every dollar earned above \$10,000.*

23 (6) *For a family earning \$15,000 that is an ad-*
24 *ditional \$750 to help make ends meet.*

1 (7) *Doubling the child tax credit to \$1,000 and*
 2 *making it partially refundable will benefit over*
 3 *37,000,000 families with dependent children.*

4 (8) *The expansion of the child tax credit in-*
 5 *cluded in section 201 is a meaningful and a respon-*
 6 *sible effort on the part of the Senate to address the*
 7 *needs of low income working families to promote work*
 8 *and such an expansion would provide the benefit of*
 9 *a child tax credit to 10,700,000 more children than*
 10 *the provision passed by the House of Representatives.*

11 (b) *SENSE OF THE SENATE.—It is the sense of the Sen-*
 12 *ate that the “10–15” child tax credit provision included in*
 13 *section 201 is a worthy start, and should be maintained*
 14 *as part of the final package.*

15 **SEC. 203. EXPANSION OF ADOPTION CREDIT AND ADOP-**
 16 **TION ASSISTANCE PROGRAMS.**

17 (a) *IN GENERAL.—*

18 (1) *ADOPTION CREDIT.—Section 23(a)(1) (relat-*
 19 *ing to allowance of credit) is amended to read as fol-*
 20 *lows:*

21 “(1) *IN GENERAL.—In the case of an individual,*
 22 *there shall be allowed as a credit against the tax im-*
 23 *posed by this chapter—*

24 “(A) *in the case of an adoption of a child*
 25 *other than a child with special needs, the*

1 *amount of the qualified adoption expenses paid*
2 *or incurred by the taxpayer, and*

3 “(B) *in the case of an adoption of a child*
4 *with special needs, \$10,000.*”.

5 (2) *ADOPTION ASSISTANCE PROGRAMS.—Section*
6 *137(a) (relating to adoption assistance programs) is*
7 *amended to read as follows:*

8 “(a) *IN GENERAL.—Gross income of an employee does*
9 *not include amounts paid or expenses incurred by the em-*
10 *ployer for adoption expenses in connection with the adop-*
11 *tion of a child by an employee if such amounts are fur-*
12 *nished pursuant to an adoption assistance program. The*
13 *amount of the exclusion shall be—*

14 “(1) *in the case of an adoption of a child other*
15 *than a child with special needs, the amount of the*
16 *qualified adoption expenses paid or incurred by the*
17 *taxpayer, and*

18 “(2) *in the case of an adoption of a child with*
19 *special needs, \$10,000.*”.

20 (b) *DOLLAR LIMITATIONS.—*

21 (1) *DOLLAR AMOUNT OF ALLOWED EXPENSES.—*

22 (A) *ADOPTION EXPENSES.—Section 23(b)(1)*
23 *(relating to allowance of credit) is amended—*

24 (i) *by striking “\$5,000” and inserting*
25 *“\$10,000”,*

1 (ii) by striking “(\$6,000, in the case of
2 a child with special needs)”, and

3 (iii) by striking “subsection (a)” and
4 inserting “subsection (a)(1)(A)”.

5 (B) ADOPTION ASSISTANCE PROGRAMS.—
6 Section 137(b)(1) (relating to dollar limitations
7 for adoption assistance programs) is amended—

8 (i) by striking “\$5,000” and inserting
9 “\$10,000”, and

10 (ii) by striking “(\$6,000, in the case of
11 a child with special needs)”, and

12 (iii) by striking “subsection (a)” and
13 inserting “subsection (a)(1)”.

14 (2) PHASE-OUT LIMITATION.—

15 (A) ADOPTION EXPENSES.—Clause (i) of
16 section 23(b)(2)(A) (relating to income limita-
17 tion) is amended by striking “\$75,000” and in-
18 serting “\$150,000”.

19 (B) ADOPTION ASSISTANCE PROGRAMS.—
20 Section 137(b)(2)(A) (relating to income limita-
21 tion) is amended by striking “\$75,000” and in-
22 serting “\$150,000”.

23 (c) YEAR CREDIT ALLOWED.—Section 23(a)(2) (relat-
24 ing to year credit allowed) is amended by adding at the
25 end the following new flush sentence:

1 *“In the case of the adoption of a child with special*
 2 *needs, the credit allowed under paragraph (1) shall be*
 3 *allowed for the taxable year in which the adoption be-*
 4 *comes final.”.*

5 *(d) REPEAL OF SUNSET PROVISIONS.—*

6 *(1) CHILDREN WITHOUT SPECIAL NEEDS.—*

7 *Paragraph (2) of section 23(d) (relating to definition*
 8 *of eligible child) is amended to read as follows:*

9 *“(2) ELIGIBLE CHILD.—The term ‘eligible child’*
 10 *means any individual who—*

11 *“(A) has not attained age 18, or*

12 *“(B) is physically or mentally incapable of*
 13 *caring for himself.”.*

14 *(2) ADOPTION ASSISTANCE PROGRAMS.—Section*
 15 *137 (relating to adoption assistance programs) is*
 16 *amended by striking subsection (f).*

17 *(e) ADJUSTMENT OF DOLLAR AND INCOME LIMITA-*
 18 *TIONS FOR INFLATION.—*

19 *(1) ADOPTION CREDIT.—Section 23 (relating to*
 20 *adoption expenses) is amended by redesignating sub-*
 21 *section (h) as subsection (i) and by inserting after*
 22 *subsection (g) the following new subsection:*

23 *“(h) ADJUSTMENTS FOR INFLATION.—In the case of a*
 24 *taxable year beginning after December 31, 2002, each of the*
 25 *dollar amounts in subsection (a)(1)(B) and paragraphs (1)*

1 *and (2)(A)(i) of subsection (b) shall be increased by an*
2 *amount equal to—*

3 *“(1) such dollar amount, multiplied by*

4 *“(2) the cost-of-living adjustment determined*
5 *under section 1(f)(3) for the calendar year in which*
6 *the taxable year begins, determined by substituting*
7 *‘calendar year 2001’ for ‘calendar year 1992’ in sub-*
8 *paragraph (B) thereof.”.*

9 *(2) ADOPTION ASSISTANCE PROGRAMS.—Section*
10 *137 (relating to adoption assistance programs), as*
11 *amended by subsection (d), is amended by adding at*
12 *the end the following new subsection:*

13 *“(f) ADJUSTMENTS FOR INFLATION.—In the case of a*
14 *taxable year beginning after December 31, 2002, each of the*
15 *dollar amounts in subsection (a)(2) and paragraphs (1)*
16 *and (2)(A) of subsection (b) shall be increased by an*
17 *amount equal to—*

18 *“(1) such dollar amount, multiplied by*

19 *“(2) the cost-of-living adjustment determined*
20 *under section 1(f)(3) for the calendar year in which*
21 *the taxable year begins, determined by substituting*
22 *‘calendar year 2001’ for ‘calendar year 1992’ in sub-*
23 *paragraph (B) thereof.”.*

24 *(f) LIMITATION BASED ON AMOUNT OF TAX.—*

1 (1) *IN GENERAL.*—Section 23(c) (relating to
2 *carryforwards of unused credit*) is amended by strik-
3 ing “the limitation imposed” and all that follows
4 through “1400C)” and inserting “the applicable tax
5 limitation”.

6 (2) *APPLICABLE TAX LIMITATION.*—Section 23(d)
7 (i relating to definitions) is amended by adding at the
8 end the following new paragraph:

9 “(4) *APPLICABLE TAX LIMITATION.*—The term
10 ‘applicable tax limitation’ means the sum of—

11 “(A) the taxpayer’s regular tax liability for
12 the taxable year, reduced (but not below zero) by
13 the sum of the credits allowed by sections 21, 22,
14 24 (other than the amount of the increase under
15 subsection (d) thereof), 25, and 25A, and

16 “(B) the tax imposed by section 55 for such
17 taxable year.”.

18 (3) *CONFORMING AMENDMENTS.*—

19 (A) Section 26(a) (relating to limitation
20 based on amount of tax) is amended by inserting
21 “(other than section 23)” after “allowed by this
22 subpart”.

23 (B) Section 53(b)(1) (relating to minimum
24 tax credit) is amended by inserting “reduced by
25 the aggregate amount taken into account under

1 *section 23(d)(3)(B) for all such prior taxable*
2 *years,” after “1986,”.*

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

6 **SEC. 204. REFUNDS DISREGARDED IN THE ADMINISTRA-**
7 **TION OF FEDERAL PROGRAMS AND FEDER-**
8 **ALLY ASSISTED PROGRAMS.**

9 *Any payment considered to have been made to any in-*
10 *dividual by reason of section 24 of the Internal Revenue*
11 *Code of 1986, as amended by section 201, shall not be taken*
12 *into account as income and shall not be taken into account*
13 *as resources for the month of receipt and the following*
14 *month, for purposes of determining the eligibility of such*
15 *individual or any other individual for benefits or assist-*
16 *ance, or the amount or extent of benefits or assistance,*
17 *under any Federal program or under any State or local*
18 *program financed in whole or in part with Federal funds.*

19 **SEC. 205. DEPENDENT CARE CREDIT.**

20 *(a) INCREASE IN DOLLAR LIMIT.—Subsection (c) of*
21 *section 21 (relating to expenses for household and dependent*
22 *care services necessary for gainful employment) is*
23 *amended—*

24 *(1) by striking “\$2,400” in paragraph (1) and*
25 *inserting “\$3,000”, and*

1 (2) *by striking “\$4,800” in paragraph (2) and*
2 *inserting “\$6,000”.*

3 (b) *INCREASE IN APPLICABLE PERCENTAGE.*—Section
4 *21(a)(2) (defining applicable percentage) is amended—*

5 (1) *by striking “30 percent” and inserting “40*
6 *percent”, and*

7 (2) *by striking “\$10,000” and inserting*
8 *“\$20,000”.*

9 (c) *EFFECTIVE DATE.*—*The amendments made by this*
10 *section shall apply to taxable years beginning after Decem-*
11 *ber 31, 2002.*

12 **SEC. 206. ALLOWANCE OF CREDIT FOR EMPLOYER EX-**
13 **PENSES FOR CHILD CARE ASSISTANCE.**

14 (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*
15 *A of chapter 1 of the Internal Revenue Code of 1986 (relat-*
16 *ing to business related credits), as amended by sections 619*
17 *and 620, is further amended by adding at the end the fol-*
18 *lowing:*

19 **“SEC. 45G. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

20 “(a) *IN GENERAL.*—*For purposes of section 38, the em-*
21 *ployer-provided child care credit determined under this sec-*
22 *tion for the taxable year is an amount equal to the sum*
23 *of—*

24 “(1) *25 percent of the qualified child care ex-*
25 *penditures, and*

1 “(2) 10 percent of the qualified child care re-
2 source and referral expenditures,
3 of the taxpayer for such taxable year.

4 “(b) DOLLAR LIMITATION.—The credit allowable
5 under subsection (a) for any taxable year shall not exceed
6 \$150,000.

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

8 “(1) QUALIFIED CHILD CARE EXPENDITURE.—

9 “(A) IN GENERAL.—The term ‘qualified
10 child care expenditure’ means any amount paid
11 or incurred—

12 “(i) to acquire, construct, rehabilitate,
13 or expand property—

14 “(I) which is to be used as part of
15 a qualified child care facility of the
16 taxpayer,

17 “(II) with respect to which a de-
18 duction for depreciation (or amortiza-
19 tion in lieu of depreciation) is allow-
20 able, and

21 “(III) which does not constitute
22 part of the principal residence (within
23 the meaning of section 121) of the tax-
24 payer or any employee of the taxpayer,

1 “(ii) for the operating costs of a quali-
2 fied child care facility of the taxpayer, in-
3 cluding costs related to the training of em-
4 ployees, to scholarship programs, and to the
5 providing of increased compensation to em-
6 ployees with higher levels of child care
7 training, or

8 “(iii) under a contract with a quali-
9 fied child care facility to provide child care
10 services to employees of the taxpayer.

11 “(B) *FAIR MARKET VALUE*.—The term
12 ‘qualified child care expenditures’ shall not in-
13 clude expenses in excess of the fair market value
14 of such care.

15 “(2) *QUALIFIED CHILD CARE FACILITY*.—

16 “(A) *IN GENERAL*.—The term ‘qualified
17 child care facility’ means a facility—

18 “(i) the principal use of which is to
19 provide child care assistance, and

20 “(ii) which meets the requirements of
21 all applicable laws and regulations of the
22 State or local government in which it is lo-
23 cated, including the licensing of the facility
24 as a child care facility.

1 *Clause (i) shall not apply to a facility which is*
2 *the principal residence (within the meaning of*
3 *section 121) of the operator of the facility.*

4 “(B) *SPECIAL RULES WITH RESPECT TO A*
5 *TAXPAYER.—A facility shall not be treated as a*
6 *qualified child care facility with respect to a tax-*
7 *payer unless—*

8 “(i) *enrollment in the facility is open*
9 *to employees of the taxpayer during the tax-*
10 *able year,*

11 “(ii) *if the facility is the principal*
12 *trade or business of the taxpayer, at least*
13 *30 percent of the enrollees of such facility*
14 *are dependents of employees of the taxpayer,*
15 *and*

16 “(iii) *the use of such facility (or the*
17 *eligibility to use such facility) does not dis-*
18 *criminate in favor of employees of the tax-*
19 *payer who are highly compensated employ-*
20 *ees (within the meaning of section 414(q)).*

21 “(3) *QUALIFIED CHILD CARE RESOURCE AND RE-*
22 *FERRAL EXPENDITURE.—*

23 “(A) *IN GENERAL.—The term ‘qualified*
24 *child care resource and referral expenditure’*
25 *means any amount paid or incurred under a*

1 *contract to provide child care resource and refer-*
2 *ral services to an employee of the taxpayer.*

3 “(B) *NONDISCRIMINATION.*—*The services*
4 *shall not be treated as qualified unless the provi-*
5 *sion of such services (or the eligibility to use such*
6 *services) does not discriminate in favor of em-*
7 *ployees of the taxpayer who are highly com-*
8 *pensated employees (within the meaning of sec-*
9 *tion 414(q)).*

10 “(d) *RECAPTURE OF ACQUISITION AND CONSTRUCTION*
11 *CREDIT.*—

12 “(1) *IN GENERAL.*—*If, as of the close of any tax-*
13 *able year, there is a recapture event with respect to*
14 *any qualified child care facility of the taxpayer, then*
15 *the tax of the taxpayer under this chapter for such*
16 *taxable year shall be increased by an amount equal*
17 *to the product of—*

18 “(A) *the applicable recapture percentage,*
19 *and*

20 “(B) *the aggregate decrease in the credits*
21 *allowed under section 38 for all prior taxable*
22 *years which would have resulted if the qualified*
23 *child care expenditures of the taxpayer described*
24 *in subsection (c)(1)(A) with respect to such facil-*
25 *ity had been zero.*

1 “(2) *APPLICABLE RECAPTURE PERCENTAGE.*—

2 “(A) *IN GENERAL.*—*For purposes of this*
 3 *subsection, the applicable recapture percentage*
 4 *shall be determined from the following table:*

“If the recapture event occurs in:	The applicable recapture percentage is:
<i>Years 1–3</i>	<i>100</i>
<i>Year 4</i>	<i>85</i>
<i>Year 5</i>	<i>70</i>
<i>Year 6</i>	<i>55</i>
<i>Year 7</i>	<i>40</i>
<i>Year 8</i>	<i>25</i>
<i>Years 9 and 10</i>	<i>10</i>
<i>Years 11 and thereafter</i>	<i>0.</i>

5 “(B) *YEARS.*—*For purposes of subpara-*
 6 *graph (A), year 1 shall begin on the first day of*
 7 *the taxable year in which the qualified child care*
 8 *facility is placed in service by the taxpayer.*

9 “(3) *RECAPTURE EVENT DEFINED.*—*For pur-*
 10 *poses of this subsection, the term ‘recapture event’*
 11 *means—*

12 “(A) *CESSATION OF OPERATION.*—*The ces-*
 13 *sation of the operation of the facility as a quali-*
 14 *fied child care facility.*

15 “(B) *CHANGE IN OWNERSHIP.*—

16 “(i) *IN GENERAL.*—*Except as provided*
 17 *in clause (ii), the disposition of a tax-*
 18 *payer’s interest in a qualified child care fa-*
 19 *cility with respect to which the credit de-*
 20 *scribed in subsection (a) was allowable.*

1 “(i) *AGREEMENT TO ASSUME RECAP-*
2 *TURE LIABILITY.*—Clause (i) shall not
3 *apply if the person acquiring such interest*
4 *in the facility agrees in writing to assume*
5 *the recapture liability of the person dis-*
6 *posing of such interest in effect immediately*
7 *before such disposition. In the event of such*
8 *an assumption, the person acquiring the in-*
9 *terest in the facility shall be treated as the*
10 *taxpayer for purposes of assessing any re-*
11 *capture liability (computed as if there had*
12 *been no change in ownership).*

13 “(4) *SPECIAL RULES.*—

14 “(A) *TAX BENEFIT RULE.*—The tax for the
15 *taxable year shall be increased under paragraph*
16 *(1) only with respect to credits allowed by reason*
17 *of this section which were used to reduce tax li-*
18 *ability. In the case of credits not so used to re-*
19 *duce tax liability, the carryforwards and*
20 *carrybacks under section 39 shall be appro-*
21 *priately adjusted.*

22 “(B) *NO CREDITS AGAINST TAX.*—Any in-
23 *crease in tax under this subsection shall not be*
24 *treated as a tax imposed by this chapter for pur-*

1 poses of determining the amount of any credit
2 under subpart A, B, or D of this part.

3 “(C) *NO RECAPTURE BY REASON OF CAS-*
4 *UALTY LOSS.*—The increase in tax under this
5 subsection shall not apply to a cessation of oper-
6 ation of the facility as a qualified child care fa-
7 cility by reason of a casualty loss to the extent
8 such loss is restored by reconstruction or replace-
9 ment within a reasonable period established by
10 the Secretary.

11 “(e) *SPECIAL RULES.*—For purposes of this section—

12 “(1) *AGGREGATION RULES.*—All persons which
13 are treated as a single employer under subsections (a)
14 and (b) of section 52 shall be treated as a single tax-
15 payer.

16 “(2) *PASS-THRU IN THE CASE OF ESTATES AND*
17 *TRUSTS.*—Under regulations prescribed by the Sec-
18 retary, rules similar to the rules of subsection (d) of
19 section 52 shall apply.

20 “(3) *ALLOCATION IN THE CASE OF PARTNER-*
21 *SHIPS.*—In the case of partnerships, the credit shall
22 be allocated among partners under regulations pre-
23 scribed by the Secretary.

24 “(f) *NO DOUBLE BENEFIT.*—

1 “(1) *REDUCTION IN BASIS.*—For purposes of this
2 subtitle—

3 “(A) *IN GENERAL.*—If a credit is deter-
4 mined under this section with respect to any
5 property by reason of expenditures described in
6 subsection (c)(1)(A), the basis of such property
7 shall be reduced by the amount of the credit so
8 determined.

9 “(B) *CERTAIN DISPOSITIONS.*—If, during
10 any taxable year, there is a recapture amount
11 determined with respect to any property the
12 basis of which was reduced under subparagraph
13 (A), the basis of such property (immediately be-
14 fore the event resulting in such recapture) shall
15 be increased by an amount equal to such recap-
16 ture amount. For purposes of the preceding sen-
17 tence, the term ‘recapture amount’ means any
18 increase in tax (or adjustment in carrybacks or
19 carryovers) determined under subsection (d).

20 “(2) *OTHER DEDUCTIONS AND CREDITS.*—No de-
21 duction or credit shall be allowed under any other
22 provision of this chapter with respect to the amount
23 of the credit determined under this section.”.

24 “(b) *CONFORMING AMENDMENTS.*—

1 (1) *Section 38(b) of the Internal Revenue Code*
2 *of 1986 is amended by striking “plus” at the end of*
3 *paragraph (12), by striking the period at the end of*
4 *paragraph (13) and inserting “, plus”, and by add-*
5 *ing at the end the following:*

6 “(14) *the employer-provided child care credit de-*
7 *termined under section 45G.”.*

8 (2) *The table of sections for subpart D of part*
9 *IV of subchapter A of chapter 1 of such Code is*
10 *amended by adding at the end the following:*

 “*Sec. 45G. Employer-provided child care credit.*”

11 (3) *Section 1016(a) of such Code is amended by*
12 *striking “and” at the end of paragraph (26), by strik-*
13 *ing the period at the end of paragraph (27) and in-*
14 *serting “, and”, and by adding at the end the fol-*
15 *lowing:*

16 “(28) *in the case of a facility with respect to*
17 *which a credit was allowed under section 45G, to the*
18 *extent provided in section 45G(f)(1).”.*

19 (c) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to taxable years beginning after Decem-*
21 *ber 31, 2001.*

22 **SEC. 207. ALLOWANCE OF CREDIT FOR EMPLOYER EX-**
23 **PENSES FOR CHILD CARE ASSISTANCE.**

24 (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*
25 *A of chapter 1 of the Internal Revenue Code of 1986 (relat-*

1 *ing to business related credits), as amended by sections 619*
2 *and 620, is further amended by adding at the end the fol-*
3 *lowing:*

4 **“SEC. 45G. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

5 *“(a) IN GENERAL.—For purposes of section 38, the em-*
6 *ployer-provided child care credit determined under this sec-*
7 *tion for the taxable year is an amount equal to the sum*
8 *of—*

9 *“(1) 25 percent of the qualified child care ex-*
10 *penditures, and*

11 *“(2) 10 percent of the qualified child care re-*
12 *source and referral expenditures,*
13 *of the taxpayer for such taxable year.*

14 *“(b) DOLLAR LIMITATION.—The credit allowable*
15 *under subsection (a) for any taxable year shall not exceed*
16 *\$150,000.*

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

18 *“(1) QUALIFIED CHILD CARE EXPENDITURE.—*

19 *“(A) IN GENERAL.—The term ‘qualified*
20 *child care expenditure’ means any amount paid*
21 *or incurred—*

22 *“(i) to acquire, construct, rehabilitate,*
23 *or expand property—*

1 “(I) which is to be used as part of
2 a qualified child care facility of the
3 taxpayer,

4 “(II) with respect to which a de-
5 duction for depreciation (or amortiza-
6 tion in lieu of depreciation) is allow-
7 able, and

8 “(III) which does not constitute
9 part of the principal residence (within
10 the meaning of section 121) of the tax-
11 payer or any employee of the taxpayer,

12 “(ii) for the operating costs of a quali-
13 fied child care facility of the taxpayer, in-
14 cluding costs related to the training of em-
15 ployees, to scholarship programs, and to the
16 providing of increased compensation to em-
17 ployees with higher levels of child care
18 training, or

19 “(iii) under a contract with a quali-
20 fied child care facility to provide child care
21 services to employees of the taxpayer.

22 “(B) FAIR MARKET VALUE.—The term
23 ‘qualified child care expenditures’ shall not in-
24 clude expenses in excess of the fair market value
25 of such care.

1 “(2) *QUALIFIED CHILD CARE FACILITY.*—

2 “(A) *IN GENERAL.*—*The term ‘qualified*
3 *child care facility’ means a facility—*

4 “(i) *the principal use of which is to*
5 *provide child care assistance, and*

6 “(ii) *which meets the requirements of*
7 *all applicable laws and regulations of the*
8 *State or local government in which it is lo-*
9 *cated, including the licensing of the facility*
10 *as a child care facility.*

11 *Clause (i) shall not apply to a facility which is*
12 *the principal residence (within the meaning of*
13 *section 121) of the operator of the facility.*

14 “(B) *SPECIAL RULES WITH RESPECT TO A*
15 *TAXPAYER.*—*A facility shall not be treated as a*
16 *qualified child care facility with respect to a tax-*
17 *payer unless—*

18 “(i) *enrollment in the facility is open*
19 *to employees of the taxpayer during the tax-*
20 *able year,*

21 “(ii) *if the facility is the principal*
22 *trade or business of the taxpayer, at least*
23 *30 percent of the enrollees of such facility*
24 *are dependents of employees of the taxpayer,*
25 *and*

1 “(iii) the use of such facility (or the
2 eligibility to use such facility) does not dis-
3 criminate in favor of employees of the tax-
4 payer who are highly compensated employ-
5 ees (within the meaning of section 414(q)).

6 “(3) *QUALIFIED CHILD CARE RESOURCE AND RE-*
7 *FERRAL EXPENDITURE.—*

8 “(A) *IN GENERAL.—*The term ‘qualified
9 child care resource and referral expenditure’
10 means any amount paid or incurred under a
11 contract to provide child care resource and refer-
12 ral services to an employee of the taxpayer.

13 “(B) *NONDISCRIMINATION.—*The services
14 shall not be treated as qualified unless the provi-
15 sion of such services (or the eligibility to use such
16 services) does not discriminate in favor of em-
17 ployees of the taxpayer who are highly com-
18 pensated employees (within the meaning of sec-
19 tion 414(q)).

20 “(d) *RECAPTURE OF ACQUISITION AND CONSTRUCTION*
21 *CREDIT.—*

22 “(1) *IN GENERAL.—*If, as of the close of any tax-
23 able year, there is a recapture event with respect to
24 any qualified child care facility of the taxpayer, then
25 the tax of the taxpayer under this chapter for such

1 taxable year shall be increased by an amount equal
 2 to the product of—

3 “(A) the applicable recapture percentage,
 4 and

5 “(B) the aggregate decrease in the credits
 6 allowed under section 38 for all prior taxable
 7 years which would have resulted if the qualified
 8 child care expenditures of the taxpayer described
 9 in subsection (c)(1)(A) with respect to such facil-
 10 ity had been zero.

11 “(2) *APPLICABLE RECAPTURE PERCENTAGE.*—

12 “(A) *IN GENERAL.*—For purposes of this
 13 subsection, the applicable recapture percentage
 14 shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

15 “(B) *YEARS.*—For purposes of subpara-
 16 graph (A), year 1 shall begin on the first day of
 17 the taxable year in which the qualified child care
 18 facility is placed in service by the taxpayer.

1 “(3) *RECAPTURE EVENT DEFINED.*—For pur-
2 poses of this subsection, the term ‘recapture event’
3 means—

4 “(A) *CESSATION OF OPERATION.*—The ces-
5 sation of the operation of the facility as a quali-
6 fied child care facility.

7 “(B) *CHANGE IN OWNERSHIP.*—

8 “(i) *IN GENERAL.*—Except as provided
9 in clause (ii), the disposition of a tax-
10 payer’s interest in a qualified child care fa-
11 cility with respect to which the credit de-
12 scribed in subsection (a) was allowable.

13 “(ii) *AGREEMENT TO ASSUME RECAP-*
14 *TURE LIABILITY.*—Clause (i) shall not
15 apply if the person acquiring such interest
16 in the facility agrees in writing to assume
17 the recapture liability of the person dis-
18 posing of such interest in effect immediately
19 before such disposition. In the event of such
20 an assumption, the person acquiring the in-
21 terest in the facility shall be treated as the
22 taxpayer for purposes of assessing any re-
23 capture liability (computed as if there had
24 been no change in ownership).

25 “(4) *SPECIAL RULES.*—

1 “(A) *TAX BENEFIT RULE.*—*The tax for the*
2 *taxable year shall be increased under paragraph*
3 *(1) only with respect to credits allowed by reason*
4 *of this section which were used to reduce tax li-*
5 *ability. In the case of credits not so used to re-*
6 *duce tax liability, the carryforwards and*
7 *carrybacks under section 39 shall be appro-*
8 *priately adjusted.*

9 “(B) *NO CREDITS AGAINST TAX.*—*Any in-*
10 *crease in tax under this subsection shall not be*
11 *treated as a tax imposed by this chapter for pur-*
12 *poses of determining the amount of any credit*
13 *under subpart A, B, or D of this part.*

14 “(C) *NO RECAPTURE BY REASON OF CAS-*
15 *UALTY LOSS.*—*The increase in tax under this*
16 *subsection shall not apply to a cessation of oper-*
17 *ation of the facility as a qualified child care fa-*
18 *cility by reason of a casualty loss to the extent*
19 *such loss is restored by reconstruction or replace-*
20 *ment within a reasonable period established by*
21 *the Secretary.*

22 “(e) *SPECIAL RULES.*—*For purposes of this section—*

23 “(1) *AGGREGATION RULES.*—*All persons which*
24 *are treated as a single employer under subsections (a)*

1 *and (b) of section 52 shall be treated as a single tax-*
2 *payer.*

3 “(2) *PASS-THRU IN THE CASE OF ESTATES AND*
4 *TRUSTS.—Under regulations prescribed by the Sec-*
5 *retary, rules similar to the rules of subsection (d) of*
6 *section 52 shall apply.*

7 “(3) *ALLOCATION IN THE CASE OF PARTNER-*
8 *SHIPS.—In the case of partnerships, the credit shall*
9 *be allocated among partners under regulations pre-*
10 *scribed by the Secretary.*

11 “(f) *NO DOUBLE BENEFIT.—*

12 “(1) *REDUCTION IN BASIS.—For purposes of this*
13 *subtitle—*

14 “(A) *IN GENERAL.—If a credit is deter-*
15 *mined under this section with respect to any*
16 *property by reason of expenditures described in*
17 *subsection (c)(1)(A), the basis of such property*
18 *shall be reduced by the amount of the credit so*
19 *determined.*

20 “(B) *CERTAIN DISPOSITIONS.—If, during*
21 *any taxable year, there is a recapture amount*
22 *determined with respect to any property the*
23 *basis of which was reduced under subparagraph*
24 *(A), the basis of such property (immediately be-*
25 *fore the event resulting in such recapture) shall*

1 *be increased by an amount equal to such recapture*
2 *amount. For purposes of the preceding sen-*
3 *tence, the term ‘recapture amount’ means any*
4 *increase in tax (or adjustment in carrybacks or*
5 *carryovers) determined under subsection (d).*

6 “(2) *OTHER DEDUCTIONS AND CREDITS.—No de-*
7 *duction or credit shall be allowed under any other*
8 *provision of this chapter with respect to the amount*
9 *of the credit determined under this section.”.*

10 **(b) CONFORMING AMENDMENTS.—**

11 (1) *Section 38(b) of the Internal Revenue Code*
12 *of 1986 is amended by striking “plus” at the end of*
13 *paragraph (12), by striking the period at the end of*
14 *paragraph (13) and inserting “, plus”, and by add-*
15 *ing at the end the following:*

16 “(14) *the employer-provided child care credit de-*
17 *termined under section 45G.”.*

18 (2) *The table of sections for subpart D of part*
19 *IV of subchapter A of chapter 1 of such Code is*
20 *amended by adding at the end the following:*

 “*Sec. 45G. Employer-provided child care credit.*”

21 (3) *Section 1016(a) of such Code is amended by*
22 *striking “and” at the end of paragraph (26), by strik-*
23 *ing the period at the end of paragraph (27) and in-*
24 *serting “, and”, and by adding at the end the fol-*
25 *lowing:*

1 “(28) in the case of a facility with respect to
2 which a credit was allowed under section 45G, to the
3 extent provided in section 45G(f)(1).”.

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

7 ***Subtitle B—Compliance With***
8 ***Congressional Budget Act***

9 ***SEC. 211. SUNSET OF PROVISIONS OF TITLE.***

10 All provisions of, and amendments made by, this title
11 which are in effect on September 30, 2011, shall cease to
12 apply as of the close of September 30, 2011.

13 ***TITLE III—MARRIAGE PENALTY***
14 ***RELIEF***

15 ***Subtitle A—In General***

16 ***SEC. 301. ELIMINATION OF MARRIAGE PENALTY IN STAND-***
17 ***ARD DEDUCTION.***

18 (a) *IN GENERAL.*—Paragraph (2) of section 63(c) (re-
19 lating to standard deduction) is amended—

20 (1) by striking “\$5,000” in subparagraph (A)
21 and inserting “the applicable percentage of the dollar
22 amount in effect under subparagraph (C) for the tax-
23 able year”;

24 (2) by adding “or” at the end of subparagraph
25 (B);

1 (3) by striking “in the case of” and all that fol-
 2 lows in subparagraph (C) and inserting “in any
 3 other case.”; and

4 (4) by striking subparagraph (D).

5 (b) *APPLICABLE PERCENTAGE*.—Section 63(c) (relat-
 6 ing to standard deduction) is amended by adding at the
 7 end the following new paragraph:

8 “(7) *APPLICABLE PERCENTAGE*.—For purposes
 9 of paragraph (2), the applicable percentage shall be
 10 determined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2005	174
2006	184
2007	187
2008	190
2009 and thereafter	200.”.

11 (c) *TECHNICAL AMENDMENTS*.—

12 (1) Subparagraph (B) of section 1(f)(6), as
 13 amended by section 103(b), is amended by striking
 14 “(other than with” and all that follows through “shall
 15 be applied” and inserting “(other than with respect
 16 to sections 63(c)(4) and 151(d)(3)(A)) shall be ap-
 17 plied”.

18 (2) Paragraph (4) of section 63(c) is amended by
 19 adding at the end the following flush sentence:

20 “The preceding sentence shall not apply to the
 21 amount referred to in paragraph (2)(A).”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 2004.*

4 **SEC. 302. PHASEOUT OF MARRIAGE PENALTY IN 15-PER-**
 5 **CENT BRACKET.**

6 (a) *IN GENERAL.*—*Section 1(f) (relating to adjust-*
 7 *ments in tax tables so that inflation will not result in tax*
 8 *increases) is amended by adding at the end the following*
 9 *new paragraph:*

10 “(8) *PHASEOUT OF MARRIAGE PENALTY IN 15-*
 11 *PERCENT BRACKET.*—

12 “(A) *IN GENERAL.*—*With respect to taxable*
 13 *years beginning after December 31, 2004, in pre-*
 14 *scribing the tables under paragraph (1)—*

15 “(i) *the maximum taxable income in*
 16 *the 15-percent rate bracket in the table con-*
 17 *tained in subsection (a) (and the minimum*
 18 *taxable income in the next higher taxable*
 19 *income bracket in such table) shall be the*
 20 *applicable percentage of the maximum tax-*
 21 *able income in the 15-percent rate bracket*
 22 *in the table contained in subsection (c)*
 23 *(after any other adjustment under this sub-*
 24 *section), and*

1 “(i) the comparable taxable income
2 amounts in the table contained in sub-
3 section (d) shall be $\frac{1}{2}$ of the amounts deter-
4 mined under clause (i).

5 “(B) *APPLICABLE PERCENTAGE*.—For pur-
6 poses of subparagraph (A), the applicable per-
7 centage shall be determined in accordance with
8 the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2005	174
2006	184
2007	187
2008	190
2009 and thereafter	200.

9 “(C) *ROUNDING*.—If any amount deter-
10 mined under subparagraph (A)(i) is not a mul-
11 tiple of \$50, such amount shall be rounded to the
12 next lowest multiple of \$50.”

13 (b) *TECHNICAL AMENDMENTS*.—

14 (1) Subparagraph (A) of section 1(f)(2) is
15 amended by inserting “except as provided in para-
16 graph (8),” before “by increasing”.

17 (2) The heading for subsection (f) of section 1 is
18 amended by inserting “*PHASEOUT OF MARRIAGE*
19 *PENALTY IN 15-PERCENT BRACKET;*” before “*ADJUST-*
20 *MENTS*”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 2004.*

4 **SEC. 303. MARRIAGE PENALTY RELIEF FOR EARNED IN-**
 5 **COME CREDIT; EARNED INCOME TO INCLUDE**
 6 **ONLY AMOUNTS INCLUDIBLE IN GROSS IN-**
 7 **COME; SIMPLIFICATION OF EARNED INCOME**
 8 **CREDIT.**

9 (a) *INCREASED PHASEOUT AMOUNT.*—

10 (1) *IN GENERAL.*—*Section 32(b)(2) (relating to*
 11 *amounts) is amended—*

12 (A) *by striking “AMOUNTS.—The earned”*
 13 *and inserting “AMOUNTS.—*

14 *“(A) IN GENERAL.—Subject to subpara-*
 15 *graph (B), the earned”, and*

16 (B) *by adding at the end the following new*
 17 *subparagraph:*

18 *“(B) JOINT RETURNS.—In the case of a*
 19 *joint return filed by an eligible individual and*
 20 *such individual’s spouse, the phaseout amount*
 21 *determined under subparagraph (A) shall be in-*
 22 *creased by \$3,000.”.*

23 (2) *INFLATION ADJUSTMENT.*—*Paragraph (1)(B)*
 24 *of section 32(j) (relating to inflation adjustments) is*
 25 *amended to read as follows:*

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar year
3 in which the taxable year begins, determined—

4 “(i) in the case of amounts in sub-
5 sections (b)(2)(A) and (i)(1), by sub-
6 stituting ‘calendar year 1995’ for ‘calendar
7 year 1992’ in subparagraph (B) thereof,
8 and

9 “(ii) in the case of the \$3,000 amount
10 in subsection (b)(2)(B), by substituting ‘cal-
11 endar year 2001’ for ‘calendar year 1992’
12 in subparagraph (B) of such section 1.”.

13 (3) *ROUNDING*.—Section 32(j)(2)(A) (relating to
14 rounding) is amended by striking “subsection (b)(2)”
15 and inserting “subsection (b)(2)(A) (after being in-
16 creased under subparagraph (B) thereof)”.

17 (b) *EARNED INCOME TO INCLUDE ONLY AMOUNTS IN-*
18 *CLUDIBLE IN GROSS INCOME*.—Clause (i) of section
19 32(c)(2)(A) (defining earned income) is amended by insert-
20 ing “, but only if such amounts are includible in gross in-
21 come for the taxable year” after “other employee compensa-
22 tion”.

23 (c) *REPEAL OF REDUCTION OF CREDIT TO TAXPAYERS*
24 *SUBJECT TO ALTERNATIVE MINIMUM TAX*.—Section 32(h)
25 is repealed.

1 (d) *REPLACEMENT OF MODIFIED ADJUSTED GROSS*
2 *INCOME WITH ADJUSTED GROSS INCOME.*—

3 (1) *IN GENERAL.*—Section 32(a)(2)(B) is amend-
4 ed by striking “modified”.

5 (2) *CONFORMING AMENDMENTS.*—

6 (A) Section 32(c) is amended by striking
7 paragraph (5).

8 (B) Section 32(f)(2)(B) is amended by
9 striking “modified” each place it appears.

10 (e) *RELATIONSHIP TEST.*—

11 (1) *IN GENERAL.*—Clause (i) of section
12 32(c)(3)(B) (relating to relationship test) is amended
13 to read as follows:

14 “(i) *IN GENERAL.*—An individual
15 bears a relationship to the taxpayer de-
16 scribed in this subparagraph if such indi-
17 vidual is—

18 “(I) a son, daughter, stepson, or
19 stepdaughter, or a descendant of any
20 such individual,

21 “(II) a brother, sister, stepbrother,
22 or stepsister, or a descendant of any
23 such individual, who the taxpayer
24 cares for as the taxpayer’s own child,
25 or

1 “(III) an eligible foster child of
2 the taxpayer.”.

3 (2) *ELIGIBLE FOSTER CHILD.*—

4 (A) *IN GENERAL.*—Clause (iii) of section
5 32(c)(3)(B) is amended to read as follows:

6 “(iii) *ELIGIBLE FOSTER CHILD.*—For
7 purposes of clause (i), the term ‘eligible fos-
8 ter child’ means an individual not described
9 in subclause (I) or (II) of clause (i) who—

10 “(I) is placed with the taxpayer
11 by an authorized placement agency,
12 and

13 “(II) the taxpayer cares for as the
14 taxpayer’s own child.”.

15 (B) *CONFORMING AMENDMENT.*—Section
16 32(c)(3)(A)(ii) is amended by striking “except as
17 provided in subparagraph (B)(iii),”.

18 (f) *2 OR MORE CLAIMING QUALIFYING CHILD.*—Sec-
19 tion 32(c)(1)(C) is amended to read as follows:

20 “(C) *2 OR MORE CLAIMING QUALIFYING*
21 *CHILD.*—

22 “(i) *IN GENERAL.*—Except as provided
23 in clause (ii), if (but for this paragraph) an
24 individual may be claimed, and is claimed,
25 as a qualifying child by 2 or more tax-

1 *payers for a taxable year beginning in the*
2 *same calendar year, such individual shall*
3 *be treated as the qualifying child of the tax-*
4 *payer who is—*

5 *“(I) a parent of the individual, or*

6 *“(II) if subclause (I) does not*
7 *apply, the taxpayer with the highest*
8 *adjusted gross income for such taxable*
9 *year.*

10 *“(ii) MORE THAN 1 CLAIMING CRED-*
11 *IT.—If the parents claiming the credit with*
12 *respect to any qualifying child do not file a*
13 *joint return together, such child shall be*
14 *treated as the qualifying child of—*

15 *“(I) the parent with whom the*
16 *child resided for the longest period of*
17 *time during the taxable year, or*

18 *“(II) if the child resides with both*
19 *parents for the same amount of time*
20 *during such taxable year, the parent*
21 *with the highest adjusted gross in-*
22 *come.”.*

23 *(g) EXPANSION OF MATHEMATICAL ERROR AUTHOR-*
24 *ITY.—Paragraph (2) of section 6213(g) is amended by strik-*
25 *ing “and” at the end of subparagraph (K), by striking the*

1 *period at the end of subparagraph (L) and inserting “,*
2 *and”, and by inserting after subparagraph (L) the fol-*
3 *lowing new subparagraph:*

4 “(M) *the entry on the return claiming the*
5 *credit under section 32 with respect to a child if,*
6 *according to the Federal Case Registry of Child*
7 *Support Orders established under section 453(h)*
8 *of the Social Security Act, the taxpayer is a non-*
9 *custodial parent of such child.”*

10 *(h) EFFECTIVE DATES.—*

11 (1) *IN GENERAL.—The amendments made by*
12 *this section shall apply to taxable years beginning*
13 *after December 31, 2001.*

14 (2) *SUBSECTION (g).—The amendment made by*
15 *subsection (g) shall take effect on January 1, 2004.*

16 ***Subtitle B—Compliance With***
17 ***Congressional Budget Act***

18 ***SEC. 311. SUNSET OF PROVISIONS OF TITLE.***

19 *All provisions of, and amendments made by, this title*
20 *which are in effect on September 30, 2011, shall cease to*
21 *apply as of the close of September 30, 2011.*

1 **TITLE IV—AFFORDABLE**
2 **EDUCATION PROVISIONS**
3 **Subtitle A—Education Savings**
4 **Incentives**

5 **SEC. 401. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
6 **TIREMENT ACCOUNTS.**

7 (a) *MAXIMUM ANNUAL CONTRIBUTIONS.*—

8 (1) *IN GENERAL.*—Section 530(b)(1)(A)(iii) (*de-*
9 *fining education individual retirement account*) is
10 amended by striking “\$500” and inserting “\$2,000”.

11 (2) *CONFORMING AMENDMENT.*—Section
12 4973(e)(1)(A) is amended by striking “\$500” and in-
13 serting “\$2,000”.

14 (b) *MODIFICATION OF AGI LIMITS TO REMOVE MAR-*
15 *RIAGE PENALTY.*—Section 530(c)(1) (*relating to reduction*
16 *in permitted contributions based on adjusted gross income*)
17 is amended—

18 (1) *by striking “\$150,000” in subparagraph*
19 *(A)(ii) and inserting “\$190,000”, and*

20 (2) *by striking “\$10,000” in subparagraph (B)*
21 *and inserting “\$30,000”.*

22 (c) *TAX-FREE EXPENDITURES FOR ELEMENTARY AND*
23 *SECONDARY SCHOOL EXPENSES.*—

1 (1) *IN GENERAL.*—Section 530(b)(2) (defining
2 *qualified higher education expenses*) is amended to
3 read as follows:

4 “(2) *QUALIFIED EDUCATION EXPENSES.*—

5 “(A) *IN GENERAL.*—The term ‘*qualified*
6 *education expenses*’ means—

7 “(i) *qualified higher education ex-*
8 *penditures (as defined in section 529(e)(3)), and*

9 “(ii) *qualified elementary and sec-*
10 *ondary education expenses (as defined in*
11 *paragraph (4)).*

12 “(B) *QUALIFIED STATE TUITION PRO-*
13 *GRAMS.*—Such term shall include any contribu-
14 tion to a *qualified State tuition program (as de-*
15 *fined in section 529(b)) on behalf of the des-*
16 *ignated beneficiary (as defined in section*
17 *529(e)(1)); but there shall be no increase in the*
18 *investment in the contract for purposes of apply-*
19 *ing section 72 by reason of any portion of such*
20 *contribution which is not includible in gross in-*
21 *come by reason of subsection (d)(2).”.*

22 (2) *QUALIFIED ELEMENTARY AND SECONDARY*
23 *EDUCATION EXPENSES.*—Section 530(b) (relating to
24 *definitions and special rules*) is amended by adding
25 at the end the following new paragraph:

1 “(4) *QUALIFIED ELEMENTARY AND SECONDARY*
2 *EDUCATION EXPENSES.*—

3 “(A) *IN GENERAL.*—*The term ‘qualified ele-*
4 *mentary and secondary education expenses’*
5 *means—*

6 “(i) *expenses for tuition, fees, academic*
7 *tutoring, special needs services, books, sup-*
8 *plies, and other equipment which are in-*
9 *curring in connection with the enrollment or*
10 *attendance of the designated beneficiary of*
11 *the trust as an elementary or secondary*
12 *school student at a public, private, or reli-*
13 *gious school,*

14 “(ii) *expenses for room and board, uni-*
15 *forms, transportation, and supplementary*
16 *items and services (including extended day*
17 *programs) which are required or provided*
18 *by a public, private, or religious school in*
19 *connection with such enrollment or attend-*
20 *ance, and*

21 “(iii) *expenses for the purchase of any*
22 *computer technology or equipment (as de-*
23 *defined in section 170(e)(6)(F)(i)) or Internet*
24 *access and related services, if such tech-*
25 *nology, equipment, or services are to be used*

1 *by the beneficiary and the beneficiary's*
2 *family during any of the years the bene-*
3 *ficiary is in school. Such terms shall not in-*
4 *clude computer software including sports,*
5 *games, or hobbies unless the software is edu-*
6 *cational in nature.*

7 “(B) *SCHOOL.*—*The term ‘school’ means*
8 *any school which provides elementary education*
9 *or secondary education (kindergarten through*
10 *grade 12), as determined under State law.”.*

11 (3) *CONFORMING AMENDMENTS.*—*Section 530 is*
12 *amended—*

13 (A) *by striking “higher” each place it ap-*
14 *pears in subsections (b)(1) and (d)(2), and*

15 (B) *by striking “HIGHER” in the heading*
16 *for subsection (d)(2).*

17 (d) *WAIVER OF AGE LIMITATIONS FOR CHILDREN*
18 *WITH SPECIAL NEEDS.*—*Section 530(b)(1) (defining edu-*
19 *cation individual retirement account) is amended by add-*
20 *ing at the end the following flush sentence:*

21 *“The age limitations in subparagraphs (A)(ii) and*
22 *(E), and paragraphs (5) and (6) of subsection (d),*
23 *shall not apply to any designated beneficiary with*
24 *special needs (as determined under regulations pre-*
25 *scribed by the Secretary).”.*

1 (e) *ENTITIES PERMITTED TO CONTRIBUTE TO AC-*
2 *COUNTS.*—Section 530(c)(1) (relating to reduction in per-
3 mitted contributions based on adjusted gross income) is
4 amended by striking “The maximum amount which a con-
5 tributor” and inserting “In the case of a contributor who
6 is an individual, the maximum amount the contributor”.

7 (f) *TIME WHEN CONTRIBUTIONS DEEMED MADE.*—

8 (1) *IN GENERAL.*—Section 530(b) (relating to
9 definitions and special rules), as amended by sub-
10 section (c)(2), is amended by adding at the end the
11 following new paragraph:

12 “(5) *TIME WHEN CONTRIBUTIONS DEEMED*
13 *MADE.*—An individual shall be deemed to have made
14 a contribution to an education individual retirement
15 account on the last day of the preceding taxable year
16 if the contribution is made on account of such taxable
17 year and is made not later than the time prescribed
18 by law for filing the return for such taxable year (not
19 including extensions thereof).”.

20 (2) *EXTENSION OF TIME TO RETURN EXCESS*
21 *CONTRIBUTIONS.*—Subparagraph (C) of section
22 530(d)(4) (relating to additional tax for distributions
23 not used for educational expenses) is amended—

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

1 “(i) *such distribution is made before*
2 *the first day of the sixth month of the tax-*
3 *able year following the taxable year, and*”,
4 *and*

5 (B) *by striking “DUE DATE OF RETURN” in*
6 *the heading and inserting “CERTAIN DATE”.*

7 (g) *COORDINATION WITH HOPE AND LIFETIME*
8 *LEARNING CREDITS AND QUALIFIED TUITION PRO-*
9 *GRAMS.—*

10 (1) *IN GENERAL.—Section 530(d)(2)(C) is*
11 *amended to read as follows:*

12 “(C) *COORDINATION WITH HOPE AND LIFE-*
13 *TIME LEARNING CREDITS AND QUALIFIED TUI-*
14 *TION PROGRAMS.—For purposes of subparagraph*
15 *(A)—*

16 “(i) *CREDIT COORDINATION.—The*
17 *total amount of qualified higher education*
18 *expenses with respect to an individual for*
19 *the taxable year shall be reduced—*

20 (I) *as provided in section*
21 *25A(g)(2), and*

22 (II) *by the amount of such ex-*
23 *penses which were taken into account*
24 *in determining the credit allowed to*

1 *the taxpayer or any other person under*
2 *section 25A.*

3 “(ii) *COORDINATION WITH QUALIFIED*
4 *TUITION PROGRAMS.—If, with respect to an*
5 *individual for any taxable year—*

6 “*(I) the aggregate distributions*
7 *during such year to which subpara-*
8 *graph (A) and section 529(c)(3)(B)*
9 *apply, exceed*

10 “*(II) the total amount of qualified*
11 *education expenses (after the applica-*
12 *tion of clause (i)) for such year,*
13 *the taxpayer shall allocate such expenses*
14 *among such distributions for purposes of de-*
15 *termining the amount of the exclusion*
16 *under subparagraph (A) and section*
17 *529(c)(3)(B).”.*

18 (2) *CONFORMING AMENDMENTS.—*

19 (A) *Subsection (e) of section 25A is amend-*
20 *ed to read as follows:*

21 “(e) *ELECTION NOT TO HAVE SECTION APPLY.—A*
22 *taxpayer may elect not to have this section apply with re-*
23 *spect to the qualified tuition and related expenses of an in-*
24 *dividual for any taxable year.”.*

1 (B) Section 135(d)(2)(A) is amended by
2 striking “allowable” and inserting “allowed”.

3 (C) Section 530(d)(2)(D) is amended—
4 (i) by striking “or credit”, and
5 (ii) by striking “CREDIT OR” in the
6 heading.

7 (D) Section 4973(e)(1) is amended by add-
8 ing “and” at the end of subparagraph (A), by
9 striking subparagraph (B), and by redesignating
10 subparagraph (C) as subparagraph (B).

11 (h) *EFFECTIVE DATE.*—The amendments made by this
12 section shall apply to taxable years beginning after Decem-
13 ber 31, 2001.

14 **SEC. 402. MODIFICATIONS TO QUALIFIED TUITION PRO-**
15 **GRAMS.**

16 (a) *ELIGIBLE EDUCATIONAL INSTITUTIONS PER-*
17 *MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.*—

18 (1) *IN GENERAL.*—Section 529(b)(1) (defining
19 qualified State tuition program) is amended—

20 (A) by inserting “or by 1 or more eligible
21 educational institutions” after “maintained by a
22 State or agency or instrumentality thereof” in
23 the matter preceding subparagraph (A), and

24 (B) by adding at the end the following new
25 flush sentence:

1 *“Except to the extent provided in regulations, a pro-*
2 *gram established and maintained by 1 or more eligi-*
3 *ble educational institutions shall not be treated as a*
4 *qualified tuition program unless such program has*
5 *received a ruling or determination that such program*
6 *meets the applicable requirements for a qualified tui-*
7 *tion program.”.*

8 (2) *PRIVATE QUALIFIED TUITION PROGRAMS LIM-*
9 *ITED TO BENEFIT PLANS.—*Clause (ii) of section
10 529(b)(1)(A) is amended by inserting “in the case of
11 a program established and maintained by a State or
12 agency or instrumentality thereof,” before “may
13 make”.

14 (3) *CONFORMING AMENDMENTS.—*

15 (A) Sections 72(e)(9), 135(c)(2)(C),
16 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and
17 6693(a)(2)(C) are amended by striking “quali-
18 fied State tuition” each place it appears and in-
19 serting “qualified tuition”.

20 (B) The headings for sections 72(e)(9) and
21 135(c)(2)(C) are amended by striking “QUALI-
22 FIED STATE TUITION” each place it appears and
23 inserting “QUALIFIED TUITION”.

24 (C) The headings for sections 529(b) and
25 530(b)(2)(B) are amended by striking “QUALI-

1 *FIED STATE TUITION*” each place it appears and
 2 inserting “*QUALIFIED TUITION*”.

3 (D) *The heading for section 529 is amended*
 4 *by striking “STATE”.*

5 (E) *The item relating to section 529 in the*
 6 *table of sections for part VIII of subchapter F of*
 7 *chapter 1 is amended by striking “State”.*

8 (b) *EXCLUSION FROM GROSS INCOME OF EDUCATION*
 9 *DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.—*

10 (1) *IN GENERAL.—Section 529(c)(3)(B) (relating*
 11 *to distributions) is amended to read as follows:*

12 “(B) *DISTRIBUTIONS FOR QUALIFIED HIGH-*
 13 *ER EDUCATION EXPENSES.—For purposes of this*
 14 *paragraph—*

15 “(i) *IN-KIND DISTRIBUTIONS.—No*
 16 *amount shall be includible in gross income*
 17 *under subparagraph (A) by reason of a dis-*
 18 *tribution which consists of providing a ben-*
 19 *efit to the distributee which, if paid for by*
 20 *the distributee, would constitute payment of*
 21 *a qualified higher education expense.*

22 “(ii) *CASH DISTRIBUTIONS.—In the*
 23 *case of distributions not described in clause*
 24 *(i), if—*

1 “(I) such distributions do not ex-
2 ceed the qualified higher education ex-
3 penses (reduced by expenses described
4 in clause (i)), no amount shall be in-
5 cludible in gross income, and

6 “(II) in any other case, the
7 amount otherwise includible in gross
8 income shall be reduced by an amount
9 which bears the same ratio to such
10 amount as such expenses bear to such
11 distributions.

12 “(iii) *EXCEPTION FOR INSTITUTIONAL*
13 *PROGRAMS.*—In the case of any taxable
14 year beginning before January 1, 2004,
15 clauses (i) and (ii) shall not apply with re-
16 spect to any distribution during such tax-
17 able year under a qualified tuition program
18 established and maintained by 1 or more el-
19 igible educational institutions.

20 “(iv) *TREATMENT AS DISTRIBU-*
21 *TIONS.*—Any benefit furnished to a des-
22 ignated beneficiary under a qualified tui-
23 tion program shall be treated as a distribu-
24 tion to the beneficiary for purposes of this
25 paragraph.

1 “(v) *COORDINATION WITH HOPE AND*
2 *LIFETIME LEARNING CREDITS.*—*The total*
3 *amount of qualified higher education ex-*
4 *penditures with respect to an individual for the*
5 *taxable year shall be reduced—*

6 “(I) *as provided in section*
7 *25A(g)(2), and*

8 “(II) *by the amount of such ex-*
9 *penditures which were taken into account*
10 *in determining the credit allowed to*
11 *the taxpayer or any other person under*
12 *section 25A.*

13 “(vi) *COORDINATION WITH EDUCATION*
14 *INDIVIDUAL RETIREMENT ACCOUNTS.*—*If,*
15 *with respect to an individual for any tax-*
16 *able year—*

17 “(I) *the aggregate distributions to*
18 *which clauses (i) and (ii) and section*
19 *530(d)(2)(A) apply, exceed*

20 “(II) *the total amount of qualified*
21 *higher education expenses otherwise*
22 *taken into account under clauses (i)*
23 *and (ii) (after the application of clause*
24 *(v)) for such year,*

1 *the taxpayer shall allocate such expenses*
2 *among such distributions for purposes of de-*
3 *termining the amount of the exclusion*
4 *under clauses (i) and (ii) and section*
5 *530(d)(2)(A).”.*

6 (2) *CONFORMING AMENDMENTS.—*

7 (A) *Section 135(d)(2)(B) is amended by*
8 *striking “the exclusion under section 530(d)(2)”*
9 *and inserting “the exclusions under sections*
10 *529(c)(3)(B) and 530(d)(2)”.*

11 (B) *Section 221(e)(2)(A) is amended by in-*
12 *serting “529,” after “135.”.*

13 (c) *ROLLOVER TO DIFFERENT PROGRAM FOR BENEFIT*
14 *OF SAME DESIGNATED BENEFICIARY.—Section*
15 *529(c)(3)(C) (relating to change in beneficiaries) is*
16 *amended—*

17 (1) *by striking “transferred to the credit” in*
18 *clause (i) and inserting “transferred—*

19 *“(I) to another qualified tuition*
20 *program for the benefit of the des-*
21 *ignated beneficiary, or*

22 *“(II) to the credit”,*

23 (2) *by adding at the end the following new*
24 *clause:*

1 “(iii) *LIMITATION ON CERTAIN ROLL-*
2 *OVERS.—Clause (i)(I) shall not apply to*
3 *any transfer if such transfer occurs within*
4 *12 months from the date of a previous*
5 *transfer to any qualified tuition program*
6 *for the benefit of the designated bene-*
7 *ficiary.*”, and

8 (3) by inserting “*OR PROGRAMS*” after “*BENE-*
9 *FICIARIES*” in the heading.

10 (d) *MEMBER OF FAMILY INCLUDES FIRST COUSIN.—*
11 *Section 529(e)(2) (defining member of family) is amended*
12 *by striking “and” at the end of subparagraph (B), by strik-*
13 *ing the period at the end of subparagraph (C) and by in-*
14 *serting “; and”, and by adding at the end the following*
15 *new subparagraph:*

16 “(D) *any first cousin of such beneficiary.*”.

17 (e) *ADJUSTMENT OF LIMITATION ON ROOM AND*
18 *BOARD DISTRIBUTIONS.—Section 529(e)(3)(B)(ii) is*
19 *amended to read as follows:*

20 “(ii) *LIMITATION.—The amount treat-*
21 *ed as qualified higher education expenses by*
22 *reason of clause (i) shall not exceed—*

23 “(I) *the allowance (applicable to*
24 *the student) for room and board in-*
25 *cluded in the cost of attendance (as de-*

1 *defined in section 472 of the Higher Edu-*
2 *cation Act of 1965 (20 U.S.C. 1087l),*
3 *as in effect on the date of the enact-*
4 *ment of the Restoring Earnings To*
5 *Lift Individuals and Empower Fami-*
6 *lies (RELIEF) Act of 2001) as deter-*
7 *mined by the eligible educational insti-*
8 *tution for such period, or*

9 *“(II) if greater, the actual invoice*
10 *amount the student residing in housing*
11 *owned or operated by the eligible edu-*
12 *cational institution is charged by such*
13 *institution for room and board costs*
14 *for such period.”.*

15 *(f) TECHNICAL AMENDMENTS.—Section 529(c)(3)(D)*
16 *is amended—*

17 *(1) by inserting “except to the extent provided by*
18 *the Secretary,” before “all distributions” in clause*
19 *(ii), and*

20 *(2) by inserting “except to the extent provided by*
21 *the Secretary,” before “the value” in clause (iii).*

22 *(g) EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply to taxable years beginning after Decem-*
24 *ber 31, 2001.*

1 ***Subtitle B—Educational Assistance***

2 ***SEC. 411. PERMANENT EXTENSION OF EXCLUSION FOR EM-***
3 ***PLOYER-PROVIDED EDUCATIONAL ASSIST-***
4 ***ANCE.***

5 (a) *IN GENERAL.*—Section 127 (relating to exclusion
6 for educational assistance programs) is amended by strik-
7 ing subsection (d) and by redesignating subsection (e) as
8 subsection (d).

9 (b) *REPEAL OF LIMITATION ON GRADUATE EDU-*
10 *CATION.*—The last sentence of section 127(c)(1) is amended
11 by striking “, and such term also does not include any pay-
12 ment for, or the provision of any benefits with respect to,
13 any graduate level course of a kind normally taken by an
14 individual pursuing a program leading to a law, business,
15 medical, or other advanced academic or professional de-
16 gree”.

17 (c) *CONFORMING AMENDMENT.*—Section
18 51A(b)(5)(B)(iii) is amended by striking “or would be so
19 excludable but for section 127(d)”.

20 (d) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply with respect to expenses relating to
22 courses beginning after December 31, 2001.

1 **SEC. 412. ELIMINATION OF 60-MONTH LIMIT AND INCREASE**
2 **IN INCOME LIMITATION ON STUDENT LOAN**
3 **INTEREST DEDUCTION.**

4 (a) *ELIMINATION OF 60-MONTH LIMIT.—*

5 (1) *IN GENERAL.—Section 221 (relating to inter-*
6 *est on education loans), as amended by section*
7 *402(b)(2)(B), is amended by striking subsection (d)*
8 *and by redesignating subsections (e), (f), and (g) as*
9 *subsections (d), (e), and (f), respectively.*

10 (2) *CONFORMING AMENDMENT.—Section*
11 *6050S(e) is amended by striking “section 221(e)(1)”*
12 *and inserting “section 221(d)(1)”.*

13 (3) *EFFECTIVE DATE.—The amendments made*
14 *by this subsection shall apply with respect to any*
15 *loan interest paid after December 31, 2001, in taxable*
16 *years ending after such date.*

17 (b) *INCREASE IN INCOME LIMITATION.—*

18 (1) *IN GENERAL.—Section 221(b)(2)(B) (relating*
19 *to amount of reduction) is amended by striking*
20 *clauses (i) and (ii) and inserting the following:*

21 “(i) the excess of—

22 “(I) the taxpayer’s modified ad-
23 justed gross income for such taxable
24 year, over

25 “(II) \$50,000 (\$100,000 in the
26 case of a joint return), bears to

1 “(i) \$15,000 (\$30,000 in the case of a
2 joint return).”.

3 (2) **CONFORMING AMENDMENT.**—Section
4 221(g)(1) is amended by striking “\$40,000 and
5 \$60,000 amounts” and inserting “\$50,000 and
6 \$100,000 amounts”.

7 (3) **EFFECTIVE DATE.**—The amendments made
8 by this subsection shall apply to taxable years ending
9 after December 31, 2001.

10 **SEC. 413. EXCLUSION OF CERTAIN AMOUNTS RECEIVED**
11 **UNDER THE NATIONAL HEALTH SERVICE**
12 **CORPS SCHOLARSHIP PROGRAM AND THE F.**
13 **EDWARD HEBERT ARMED FORCES HEALTH**
14 **PROFESSIONS SCHOLARSHIP AND FINANCIAL**
15 **ASSISTANCE PROGRAM.**

16 (a) **IN GENERAL.**—Section 117(c) (relating to the ex-
17 clusion from gross income amounts received as a qualified
18 scholarship) is amended—

19 (1) by striking “Subsections (a)” and inserting
20 the following:

21 “(1) **IN GENERAL.**—Except as provided in para-
22 graph (2), subsections (a)”, and

23 (2) by adding at the end the following new para-
24 graph:

1 “(2) *EXCEPTIONS.*—Paragraph (1) shall not
2 apply to any amount received by an individual
3 under—

4 “(A) the National Health Service Corps
5 Scholarship Program under section
6 338A(g)(1)(A) of the Public Health Service Act,
7 or

8 “(B) the Armed Forces Health Professions
9 Scholarship and Financial Assistance program
10 under subchapter I of chapter 105 of title 10,
11 United States Code.”.

12 (b) *EFFECTIVE DATE.*—The amendments made by sub-
13 section (a) shall apply to amounts received in taxable years
14 beginning after December 31, 2001.

15 **SEC. 414. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS**
16 **CONTRIBUTED TO COVERDELL EDUCATION**
17 **SAVINGS ACCOUNTS.**

18 (a) *IN GENERAL.*—Section 127 (relating to education
19 assistance programs), as amended by section 411(a), is
20 amended by redesignating subsection (d) as subsection (e)
21 and by inserting after subsection (c) the following new sub-
22 section:

23 “(d) *QUALIFIED COVERDELL EDUCATION SAVINGS AC-*
24 *COUNT CONTRIBUTIONS.*—

1 “(1) *IN GENERAL.*—*Gross income of an employee*
2 *shall not include amounts paid or incurred by the*
3 *employer for a qualified Coverdell education savings*
4 *account contribution on behalf of the employee.*

5 “(2) *QUALIFIED COVERDELL EDUCATION SAV-*
6 *INGS ACCOUNT CONTRIBUTION.*—*For purposes of this*
7 *subsection—*

8 “(A) *IN GENERAL.*—*The term ‘qualified*
9 *Coverdell education savings account contribu-*
10 *tion’ means an amount contributed pursuant to*
11 *an educational assistance program described in*
12 *subsection (b) by an employer to a Coverdell edu-*
13 *cation savings account established and main-*
14 *tained for the benefit of an employee or the em-*
15 *ployee’s spouse, or any lineal descendent of ei-*
16 *ther.*

17 “(B) *DOLLAR LIMIT.*—*A contribution by an*
18 *employer to a Coverdell education savings ac-*
19 *count shall not be treated as a qualified Cover-*
20 *dell education savings account contribution to*
21 *the extent that the contribution, when added to*
22 *prior contributions by the employer during the*
23 *calendar year to Coverdell education savings ac-*
24 *counts established and maintained for the same*
25 *beneficiary, exceeds \$500.*

1 “(3) *SPECIAL RULES.*—

2 “(A) *CONTRIBUTIONS NOT TREATED AS*
3 *EDUCATIONAL ASSISTANCE IN DETERMINING*
4 *MAXIMUM EXCLUSION.*—*For purposes of sub-*
5 *section (a)(2), qualified Coverdell education sav-*
6 *ings account contributions shall not be treated as*
7 *educational assistance.*

8 “(B) *SELF-EMPLOYED NOT TREATED AS EM-*
9 *PLOYEE.*—*For purposes of this subsection, sub-*
10 *section (c)(2) shall not apply.*

11 “(C) *ADJUSTED GROSS INCOME PHASEOUT*
12 *OF ACCOUNT CONTRIBUTION NOT APPLICABLE TO*
13 *INDIVIDUAL EMPLOYERS.*—*The limitation under*
14 *section 530(c) shall not apply to a qualified*
15 *Coverdell education savings account contribution*
16 *made by an employer who is an individual.*

17 “(D) *CONTRIBUTIONS NOT TREATED AS AN*
18 *INVESTMENT IN THE CONTRACT.*—*For purposes*
19 *of section 530(d), a qualified Coverdell education*
20 *savings account contribution shall not be treated*
21 *as an investment in the contract.*

22 “(E) *FICA EXCLUSION.*—*For purposes of*
23 *section 530(d), the exclusion from FICA taxes*
24 *shall not apply.”.*

1 (b) *REPORTING REQUIREMENT.*—Section 6051(a) (re-
2 *lating to receipts for employees*) is amended by striking
3 “and” at the end of paragraph (10), by striking the period
4 at the end of paragraph (11) and inserting “, and”, and
5 by adding at the end the following new paragraph:

6 “(12) the amount of any qualified Coverdell edu-
7 *cation savings account contribution under section*
8 *127(d) with respect to such employee.”.*

9 (c) *CONFORMING AMENDMENT.*—Section 221(e)(2)(A)
10 *is amended by inserting “(other than under subsection (d)*
11 *thereof)” after “section 127”.*

12 (d) *EFFECTIVE DATE.*—The amendments made by this
13 *section shall apply to contributions made in taxable years*
14 *beginning after December 31, 2001.*

15 ***Subtitle C—Liberalization of Tax-***
16 ***Exempt Financing Rules for***
17 ***Public School Construction***

18 ***SEC. 421. ADDITIONAL INCREASE IN ARBITRAGE REBATE***
19 ***EXCEPTION FOR GOVERNMENTAL BONDS***
20 ***USED TO FINANCE EDUCATIONAL FACILITIES.***

21 (a) *IN GENERAL.*—Section 148(f)(4)(D)(vii) (*relating*
22 *to increase in exception for bonds financing public school*
23 *capital expenditures*) is amended by striking “\$5,000,000”
24 *the second place it appears and inserting “\$10,000,000”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 2 *section (a) shall apply to obligations issued in calendar*
 3 *years beginning after December 31, 2001.*

4 **SEC. 422. TREATMENT OF QUALIFIED PUBLIC EDU-**
 5 **CATIONAL FACILITY BONDS AS EXEMPT FA-**
 6 **CILITY BONDS.**

7 (a) *TREATMENT AS EXEMPT FACILITY BOND.*—*Sub-*
 8 *section (a) of section 142 (relating to exempt facility bond)*
 9 *is amended by striking “or” at the end of paragraph (11),*
 10 *by striking the period at the end of paragraph (12) and*
 11 *inserting “, or”, and by adding at the end the following*
 12 *new paragraph:*

13 “(13) *qualified public educational facilities.*”.

14 (b) *QUALIFIED PUBLIC EDUCATIONAL FACILITIES.*—
 15 *Section 142 (relating to exempt facility bond) is amended*
 16 *by adding at the end the following new subsection:*

17 “(k) *QUALIFIED PUBLIC EDUCATIONAL FACILITIES.*—

18 “(1) *IN GENERAL.*—*For purposes of subsection*
 19 *(a)(13), the term ‘qualified public educational facil-*
 20 *ity’ means any school facility which is—*

21 “(A) *part of a public elementary school or*
 22 *a public secondary school, and*

23 “(B) *owned by a private, for-profit corpora-*
 24 *tion pursuant to a public-private partnership*

1 *agreement with a State or local educational*
2 *agency described in paragraph (2).*

3 “(2) *PUBLIC-PRIVATE PARTNERSHIP AGREEMENT*
4 *DESCRIBED.—A public-private partnership agreement*
5 *is described in this paragraph if it is an agreement—*

6 “(A) *under which the corporation agrees—*

7 “(i) *to do 1 or more of the following:*
8 *construct, rehabilitate, refurbish, or equip a*
9 *school facility, and*

10 “(ii) *at the end of the term of the*
11 *agreement, to transfer the school facility to*
12 *such agency for no additional consideration,*
13 *and*

14 “(B) *the term of which does not exceed the*
15 *term of the issue to be used to provide the school*
16 *facility.*

17 “(3) *SCHOOL FACILITY.—For purposes of this*
18 *subsection, the term ‘school facility’ means—*

19 “(A) *any school building,*

20 “(B) *any functionally related and subordi-*
21 *nate facility and land with respect to such build-*
22 *ing, including any stadium or other facility pri-*
23 *marily used for school events, and*

24 “(C) *any property, to which section 168 ap-*
25 *plies (or would apply but for section 179), for*

1 *use in a facility described in subparagraph (A)*
2 *or (B).*

3 “(4) *PUBLIC SCHOOLS.*—*For purposes of this*
4 *subsection, the terms ‘elementary school’ and ‘sec-*
5 *ondary school’ have the meanings given such terms by*
6 *section 14101 of the Elementary and Secondary Edu-*
7 *cation Act of 1965 (20 U.S.C. 8801), as in effect on*
8 *the date of the enactment of this subsection.*

9 “(5) *ANNUAL AGGREGATE FACE AMOUNT OF TAX-*
10 *EXEMPT FINANCING.*—

11 “(A) *IN GENERAL.*—*An issue shall not be*
12 *treated as an issue described in subsection*
13 *(a)(13) if the aggregate face amount of bonds*
14 *issued by the State pursuant thereto (when*
15 *added to the aggregate face amount of bonds pre-*
16 *viously so issued during the calendar year) ex-*
17 *ceeds an amount equal to the greater of—*

18 “(i) *\$10 multiplied by the State popu-*
19 *lation, or*

20 “(ii) *\$5,000,000.*

21 “(B) *ALLOCATION RULES.*—

22 “(i) *IN GENERAL.*—*Except as otherwise*
23 *provided in this subparagraph, the State*
24 *may allocate the amount described in sub-*
25 *paragraph (A) for any calendar year in*

1 *such manner as the State determines appro-*
2 *priate.*

3 “(ii) *RULES FOR CARRYFORWARD OF*
4 *UNUSED LIMITATION.—A State may elect to*
5 *carry forward an unused limitation for any*
6 *calendar year for 3 calendar years following*
7 *the calendar year in which the unused limi-*
8 *tation arose under rules similar to the rules*
9 *of section 146(f), except that the only pur-*
10 *pose for which the carryforward may be*
11 *elected is the issuance of exempt facility*
12 *bonds described in subsection (a)(13).”.*

13 (c) *EXEMPTION FROM GENERAL STATE VOLUME*
14 *CAPS.—Paragraph (3) of section 146(g) (relating to excep-*
15 *tion for certain bonds) is amended—*

16 (1) *by striking “or (12)” and inserting “(12), or*
17 *(13)”, and*

18 (2) *by striking “and environmental enhance-*
19 *ments of hydroelectric generating facilities” and in-*
20 *serting “environmental enhancements of hydroelectric*
21 *generating facilities, and qualified public educational*
22 *facilities”.*

23 (d) *EXEMPTION FROM LIMITATION ON USE FOR LAND*
24 *ACQUISITION.—Section 147(h) (relating to certain rules not*
25 *to apply to mortgage revenue bonds, qualified student loan*

1 bonds, and qualified 501(c)(3) bonds) is amended by adding
 2 at the end the following new paragraph:

3 “(3) *EXEMPT FACILITY BONDS FOR QUALIFIED*
 4 *PUBLIC-PRIVATE SCHOOLS.*—Subsection (c) shall not
 5 apply to any exempt facility bond issued as part of
 6 an issue described in section 142(a)(13) (relating to
 7 qualified public educational facilities).”.

8 (e) *CONFORMING AMENDMENT.*—The heading for sec-
 9 tion 147(h) is amended by striking “*MORTGAGE REVENUE*
 10 *BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALI-*
 11 *FIED 501(c)(3) BONDS*” and inserting “*CERTAIN BONDS*”.

12 (f) *EFFECTIVE DATE.*—The amendments made by this
 13 section shall apply to bonds issued after December 31, 2001.

14 **SEC. 423. TREATMENT OF BONDS ISSUED TO ACQUIRE RE-**
 15 **NEWABLE RESOURCES ON LAND SUBJECT TO**
 16 **CONSERVATION EASEMENT.**

17 (a) *IN GENERAL.*—Section 145 (defining qualified
 18 501(c)(3) bond) is amended by redesignating subsection (e)
 19 as subsection (f) and by inserting after subsection (d) the
 20 following new subsection:

21 “(e) *BONDS ISSUED TO ACQUIRE RENEWABLE RE-*
 22 *SOURCES ON LAND SUBJECT TO CONSERVATION EASE-*
 23 *MENT.*—

24 “(1) *IN GENERAL.*—If—

1 “(A) the proceeds of any bond are used to
2 acquire land (or a long-term lease thereof) to-
3 gether with any renewable resource associated
4 with the land (including standing timber, agri-
5 cultural crops, or water rights) from an unaffili-
6 ated person,

7 “(B) the land is subject to a conservation
8 restriction—

9 “(i) which is granted in perpetuity to
10 an unaffiliated person that is—

11 “(I) a 501(c)(3) organization, or

12 “(II) a Federal, State, or local
13 government conservation organization,

14 “(ii) which meets the requirements of
15 clauses (i) and (iii)(II) of section
16 170(h)(4)(A),

17 “(iii) which exceeds the requirements of
18 relevant environmental and land use stat-
19 utes and regulations, and

20 “(iv) which obligates the owner of the
21 land to pay the costs incurred by the holder
22 of the conservation restriction in moni-
23 toring compliance with such restriction,

24 “(C) a management plan which meets the
25 requirements of the statutes and regulations re-

1 *ferred to in subparagraph (B)(iii) is developed*
2 *for the conservation of the renewable resources,*
3 *and*

4 *“(D) such bond would be a qualified*
5 *501(c)(3) bond (after the application of para-*
6 *graph (2)) but for the failure to use revenues de-*
7 *rived by the 501(c)(3) organization from the sale,*
8 *lease, or other use of such resource as otherwise*
9 *required by this part,*

10 *such bond shall not fail to be a qualified 501(c)(3)*
11 *bond by reason of the failure to so use such revenues*
12 *if the revenues which are not used as otherwise re-*
13 *quired by this part are used in a manner consistent*
14 *with the stated charitable purposes of the 501(c)(3)*
15 *organization.*

16 *“(2) TREATMENT OF TIMBER, ETC.—*

17 *“(A) IN GENERAL.—For purposes of sub-*
18 *section (a), the cost of any renewable resource ac-*
19 *quired with proceeds of any bond described in*
20 *paragraph (1) shall be treated as a cost of ac-*
21 *quiring the land associated with the renewable*
22 *resource and such land shall not be treated as*
23 *used for a private business use because of the sale*
24 *or leasing of the renewable resource to, or other*
25 *use of the renewable resource by, an unaffiliated*

1 *person to the extent that such sale, leasing, or*
2 *other use does not constitute an unrelated trade*
3 *or business, determined by applying section*
4 *513(a).*

5 “(B) *APPLICATION OF BOND MATURITY LIM-*
6 *ITATION.—For purposes of section 147(b), the*
7 *cost of any land or renewable resource acquired*
8 *with proceeds of any bond described in para-*
9 *graph (1) shall have an economic life commensu-*
10 *rate with the economic and ecological feasibility*
11 *of the financing of such land or renewable re-*
12 *source.*

13 “(C) *UNAFFILIATED PERSON.—For pur-*
14 *poses of this subsection, the term ‘unaffiliated*
15 *person’ means any person who controls not more*
16 *than 20 percent of the governing body of another*
17 *person.”.*

18 (b) *EFFECTIVE DATE.—The amendments made by sub-*
19 *section (a) shall apply to obligations issued after January*
20 *1, 2002, and before January 1, 2005.*

21 ***Subtitle D—Other Provisions***

22 ***SEC. 431. DEDUCTION FOR HIGHER EDUCATION EXPENSES.***

23 (a) *DEDUCTION ALLOWED.—Part VII of subchapter B*
24 *of chapter 1 (relating to additional itemized deductions for*

1 *individuals) is amended by redesignating section 222 as*
2 *section 223 and by inserting after section 221 the following:*

3 **“SEC. 222. QUALIFIED TUITION AND RELATED EXPENSES.**

4 “(a) *ALLOWANCE OF DEDUCTION.*—*In the case of an*
5 *individual, there shall be allowed as a deduction an amount*
6 *equal to the qualified tuition and related expenses paid by*
7 *the taxpayer during the taxable year.*

8 “(b) *DOLLAR LIMITATIONS.*—

9 “(1) *IN GENERAL.*—*The amount allowed as a de-*
10 *duction under subsection (a) with respect to the tax-*
11 *payer for any taxable year shall not exceed the appli-*
12 *cable dollar limit.*

13 “(2) *APPLICABLE DOLLAR LIMIT.*—

14 “(A) *2002 AND 2003.*—*In the case of a tax-*
15 *able year beginning in 2002 or 2003, the appli-*
16 *cable dollar limit shall be equal to—*

17 “(i) *in the case of a taxpayer whose*
18 *adjusted gross income for the taxable year*
19 *does not exceed \$65,000 (\$130,000 in the*
20 *case of a joint return), \$3,000, and—*

21 “(ii) *in the case of any other taxpayer,*
22 *zero.*

23 “(B) *2004 AND 2005.*—*In the case of a tax-*
24 *able year beginning in 2004 or 2005, the appli-*
25 *cable dollar amount shall be equal to—*

1 “(i) in the case of a taxpayer whose
2 adjusted gross income for the taxable year
3 does not exceed \$65,000 (\$130,000 in the
4 case of a joint return), \$5,000,

5 “(ii) in the case of a taxpayer not de-
6 scribed in clause (i) whose adjusted gross
7 income for the taxable year does not exceed
8 \$80,000 (\$160,000 in the case of a joint re-
9 turn), \$2,000, and

10 “(iii) in the case of any other tax-
11 payer, zero.

12 “(C) *ADJUSTED GROSS INCOME.*—For pur-
13 poses of this paragraph, adjusted gross income
14 shall be determined—

15 “(i) without regard to this section and
16 sections 911, 931, and 933, and

17 “(ii) after application of sections 86,
18 135, 137, 219, 221, and 469.

19 “(c) *NO DOUBLE BENEFIT.*—

20 “(1) *IN GENERAL.*—No deduction shall be al-
21 lowed under subsection (a) for any expense for which
22 a deduction is allowed to the taxpayer under any
23 other provision of this chapter.

24 “(2) *COORDINATION WITH OTHER EDUCATION IN-*
25 *CENTIVES.*—

1 “(A) *DENIAL OF DEDUCTION IF CREDIT*
2 *ELECTED.*—No deduction shall be allowed under
3 subsubsection (a) for a taxable year with respect to
4 the qualified tuition and related expenses with
5 respect to an individual if the taxpayer or any
6 other person elects to have section 25A apply
7 with respect to such individual for such year.

8 “(B) *COORDINATION WITH EXCLUSIONS.*—
9 The total amount of qualified tuition and related
10 expenses shall be reduced by the amount of such
11 expenses taken into account in determining any
12 amount excluded under section 135, 529(c)(1), or
13 530(d)(2). For purposes of the preceding sen-
14 tence, the amount taken into account in deter-
15 mining the amount excluded under section
16 529(c)(1) shall not include that portion of the
17 distribution which represents a return of any
18 contributions to the plan.

19 “(3) *DEPENDENTS.*—No deduction shall be al-
20 lowed under subsubsection (a) to any individual with re-
21 spect to whom a deduction under section 151 is allow-
22 able to another taxpayer for a taxable year beginning
23 in the calendar year in which such individual’s tax-
24 able year begins.

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

3 “(1) *QUALIFIED TUITION AND RELATED EX-*
4 *PENSES.*—*The term ‘qualified tuition and related ex-*
5 *penditures’ has the meaning given such term by section*
6 *25A(f). Such expenses shall be reduced in the same*
7 *manner as under section 25A(g)(2).*

8 “(2) *IDENTIFICATION REQUIREMENT.*—*No deduc-*
9 *tion shall be allowed under subsection (a) to a tax-*
10 *payer with respect to the qualified tuition and related*
11 *expenses of an individual unless the taxpayer includes*
12 *the name and taxpayer identification number of the*
13 *individual on the return of tax for the taxable year.*

14 “(3) *LIMITATION ON TAXABLE YEAR OF DEDUC-*
15 *TION.*—

16 “(A) *IN GENERAL.*—*A deduction shall be al-*
17 *lowed under subsection (a) for qualified tuition*
18 *and related expenses for any taxable year only to*
19 *the extent such expenses are in connection with*
20 *enrollment at an institution of higher education*
21 *during the taxable year.*

22 “(B) *CERTAIN PREPAYMENTS ALLOWED.*—
23 *Subparagraph (A) shall not apply to qualified*
24 *tuition and related expenses paid during a tax-*
25 *able year if such expenses are in connection with*

1 *an academic term beginning during such taxable*
2 *year or during the first 3 months of the next tax-*
3 *able year.*

4 “(4) *NO DEDUCTION FOR MARRIED INDIVIDUALS*
5 *FILING SEPARATE RETURNS.—If the taxpayer is a*
6 *married individual (within the meaning of section*
7 *7703), this section shall apply only if the taxpayer*
8 *and the taxpayer’s spouse file a joint return for the*
9 *taxable year.*

10 “(5) *NONRESIDENT ALIENS.—If the taxpayer is*
11 *a nonresident alien individual for any portion of the*
12 *taxable year, this section shall apply only if such in-*
13 *dividual is treated as a resident alien of the United*
14 *States for purposes of this chapter by reason of an*
15 *election under subsection (g) or (h) of section 6013.*

16 “(6) *REGULATIONS.—The Secretary may pre-*
17 *scribe such regulations as may be necessary or appro-*
18 *priate to carry out this section, including regulations*
19 *requiring recordkeeping and information reporting.*

20 “(e) *TERMINATION.—This section shall not apply to*
21 *taxable years beginning after December 31, 2005.”.*

22 (b) *DEDUCTION ALLOWED IN COMPUTING ADJUSTED*
23 *GROSS INCOME.—Section 62(a) is amended by inserting*
24 *after paragraph (17) the following:*

1 “(18) *HIGHER EDUCATION EXPENSES.*—*The de-*
2 *duction allowed by section 222.*”.

3 (c) *CONFORMING AMENDMENTS.*—

4 (1) *Sections 86(b)(2), 135(c)(4), 137(b)(3), and*
5 *219(g)(3) are each amended by inserting “222,” after*
6 *“221,”.*

7 (2) *Section 221(b)(2)(C) is amended by inserting*
8 *“222,” before “911”.*

9 (3) *Section 469(i)(3)(E) is amended by striking*
10 *“and 221” and inserting “, 221, and 222”.*

11 (4) *The table of sections for part VII of sub-*
12 *chapter B of chapter 1 is amended by striking the*
13 *item relating to section 222 and inserting the fol-*
14 *lowing:*

“Sec. 222. Qualified tuition and related expenses.

“Sec. 223. Cross reference.”.

15 (d) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall apply to payments made in taxable years be-*
17 *ginning after December 31, 2001.*

18 **SEC. 432. CREDIT FOR INTEREST ON HIGHER EDUCATION**
19 **LOANS.**

20 (a) *IN GENERAL.*—*Subpart A of part IV of subchapter*
21 *A of chapter 1 (relating to nonrefundable personal credits)*
22 *is amended by inserting after section 25A the following new*
23 *section:*

1 **“SEC. 25B. INTEREST ON HIGHER EDUCATION LOANS.**

2 “(a) *ALLOWANCE OF CREDIT.*—*In the case of an indi-*
3 *vidual, there shall be allowed as a credit against the tax*
4 *imposed by this chapter for the taxable year an amount*
5 *equal to the interest paid by the taxpayer during the taxable*
6 *year on any qualified education loan.*

7 “(b) *MAXIMUM CREDIT.*—

8 “(1) *IN GENERAL.*—*Except as provided in para-*
9 *graph (2), the credit allowed by subsection (a) for the*
10 *taxable year shall not exceed \$500.*

11 “(2) *LIMITATION BASED ON MODIFIED ADJUSTED*
12 *GROSS INCOME.*—

13 “(A) *IN GENERAL.*—*If the modified adjusted*
14 *gross income of the taxpayer for the taxable year*
15 *exceeds \$35,000 (\$70,000 in the case of a joint*
16 *return), the amount which would (but for this*
17 *paragraph) be allowable as a credit under this*
18 *section shall be reduced (but not below zero) by*
19 *the amount which bears the same ratio to the*
20 *amount which would be so allowable as such ex-*
21 *cess bears to \$10,000 (\$20,000 in the case of a*
22 *joint return).*

23 “(B) *MODIFIED ADJUSTED GROSS IN-*
24 *COME.*—*The term ‘modified adjusted gross in-*
25 *come’ means adjusted gross income determined*
26 *without regard to sections 911, 931, and 933.*

1 “(C) *INFLATION ADJUSTMENT.*—*In the case*
2 *of any taxable year beginning after 2009, the*
3 *\$35,000 and \$70,000 amounts referred to in sub-*
4 *paragraph (A) shall be increased by an amount*
5 *equal to—*

6 “(i) *such dollar amount, multiplied by*
7 “(ii) *the cost-of-living adjustment de-*
8 *termined under section (1)(f)(3) for the cal-*
9 *endar year in which the taxable year be-*
10 *gins, by substituting ‘2008’ for ‘1992’.*

11 “(D) *ROUNDING.*—*If any amount as ad-*
12 *justed under subparagraph (C) is not a multiple*
13 *of \$50, such amount shall be rounded to the*
14 *nearest multiple of \$50.*

15 “(c) *DEPENDENTS NOT ELIGIBLE FOR CREDIT.*—*No*
16 *credit shall be allowed by this section to an individual for*
17 *the taxable year if a deduction under section 151 with re-*
18 *spect to such individual is allowed to another taxpayer for*
19 *the taxable year beginning in the calendar year in which*
20 *such individual’s taxable year begins.*

21 “(d) *LIMIT ON PERIOD CREDIT ALLOWED.*—*A credit*
22 *shall be allowed under this section only with respect to in-*
23 *terest paid on any qualified education loan during the first*
24 *60 months (whether or not consecutive) in which interest*
25 *payments are required. For purposes of this subsection, any*

1 *loan and all refinancings of such loan shall be treated as*
2 *1 loan. Such 60 months shall be determined in the manner*
3 *prescribed by the Secretary in the case of multiple loans*
4 *which are refinanced by, or serviced as, a single loan and*
5 *in the case of loans incurred before January 1, 2009.*

6 “(e) *DEFINITIONS.—For purposes of this section—*

7 “(1) *QUALIFIED EDUCATION LOAN.—The term*
8 *‘qualified education loan’ has the meaning given such*
9 *term by section 221(e)(1).*

10 “(2) *DEPENDENT.—The term ‘dependent’ has the*
11 *meaning given such term by section 152.*

12 “(f) *SPECIAL RULES.—*

13 “(1) *DENIAL OF DOUBLE BENEFIT.—No credit*
14 *shall be allowed under this section if any amount of*
15 *interest on a qualified education loan is taken into*
16 *account for any deduction under any other provision*
17 *of this chapter for the taxable year.*

18 “(2) *MARRIED COUPLES MUST FILE JOINT RE-*
19 *TURN.—If the taxpayer is married at the close of the*
20 *taxable year, the credit shall be allowed under sub-*
21 *section (a) only if the taxpayer and the taxpayer’s*
22 *spouse file a joint return for the taxable year.*

23 “(3) *MARITAL STATUS.—Marital status shall be*
24 *determined in accordance with section 7703.”.*

1 (b) *CONFORMING AMENDMENT.*—*The table of sections*
 2 *for subpart A of part IV of subchapter A of chapter 1 is*
 3 *amended by inserting after the item relating to section 25A*
 4 *the following new item:*

“Sec. 25B. Interest on higher education loans.”.

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to any qualified education loan (as de-*
 7 *fin ed in section 25B(e)(1) of the Internal Revenue Code of*
 8 *1986, as added by this section) incurred on, before, or after*
 9 *December 31, 2008, but only with respect to any loan inter-*
 10 *est payment due in taxable years beginning after December*
 11 *31, 2008.*

12 **SEC. 433. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**
 13 **EMERGENCY RESPONSE EXPENSES OF ELIGI-**
 14 **BLE EMERGENCY RESPONSE PROFES-**
 15 **SIONALS.**

16 (a) *DEDUCTION ALLOWED.*—*Part VII of subchapter B*
 17 *of chapter 1 (relating to additional itemized deductions for*
 18 *individuals), as amended by this Act, is amended by redes-*
 19 *ignating section 224 as section 225 and by inserting after*
 20 *section 223 the following new section:*

21 **“SEC. 224. QUALIFIED EMERGENCY RESPONSE EXPENSES.**

22 “(a) *ALLOWANCE OF DEDUCTION.*—*In the case of an*
 23 *eligible emergency response professional, there shall be al-*
 24 *low ed as a deduction an amount equal to the qualified ex-*

1 *penses paid or incurred by the taxpayer during the taxable*
2 *year.*

3 “(b) *DEFINITIONS.—For purposes of this section—*

4 “(1) *ELIGIBLE EMERGENCY RESPONSE PROFES-*
5 *SIONAL.—The term ‘eligible emergency response pro-*
6 *fessional’ includes—*

7 “(A) *a full-time employee of any police de-*
8 *partment or fire department which is organized*
9 *and operated by a governmental entity to pro-*
10 *vide police protection, firefighting service, or*
11 *emergency medical services for any area within*
12 *the jurisdiction of a governmental entity,*

13 “(B) *an emergency medical technician li-*
14 *censed by a State who is employed by a State or*
15 *non-profit to provide emergency medical services,*
16 *and*

17 “(C) *a member of a volunteer fire depart-*
18 *ment which is organized to provide firefighting*
19 *or emergency medical services for any area with-*
20 *in the jurisdiction of a governmental entity*
21 *which is not provided with any other firefighting*
22 *services.*

23 “(2) *GOVERNMENTAL ENTITY.—The term ‘gov-*
24 *ernmental entity’ means a State (or political subdivi-*

1 sion thereof), Indian tribal (or political subdivision
2 thereof), or Federal government.

3 “(3) *QUALIFIED EXPENSES.*—The term ‘qualified
4 expenses’ means unreimbursed expenses for police and
5 firefighter activities, as determined by the Secretary.

6 “(c) *DENIAL OF DOUBLE BENEFIT.*—

7 “(1) *IN GENERAL.*—No other deduction or credit
8 shall be allowed under this chapter for any amount
9 taken into account for which a deduction is allowed
10 under this section.

11 “(2) *COORDINATION WITH EXCLUSIONS.*—A de-
12 duction shall be allowed under subsection (a) for
13 qualified expenses only to the extent the amount of
14 such expenses exceeds the amount excludable under
15 section 135, 529(c)(1), or 530(d)(2) for the taxable
16 year.

17 “(d) *TERMINATION.*—This section shall not apply to
18 taxable years beginning after December 31, 2006.”.

19 “(b) *DEDUCTION ALLOWED IN COMPUTING ADJUSTED*
20 *GROSS INCOME.*—Section 62(a) (relating to adjusted gross
21 income defined), as amended by this Act, is amended by
22 inserting after paragraph (19) the following new para-
23 graph:

24 “(20) *QUALIFIED PROFESSIONAL DEVELOPMENT*
25 *EXPENSES.*—The deduction allowed by section 224.”.

1 (c) *CONFORMING AMENDMENTS.*—

2 (1) *Sections 86(b)(2), 135(c)(4), 137(b)(3), and*
 3 *219(g)(3), as amended by this Act, are each amended*
 4 *by inserting “224,” after “221.”*

5 (2) *Section 221(b)(2)(C), as amended by this*
 6 *Act, is amended by inserting “224,” before “911”.*

7 (3) *Section 469(i)(3)(E), as amended by this*
 8 *Act, is amended by striking “and 223” and inserting*
 9 *“; 223, and 224”.*

10 (4) *The table of sections for part VII of sub-*
 11 *chapter B of chapter 1, as amended by this Act, is*
 12 *amended by striking the item relating to section 223*
 13 *and inserting the following new items:*

“Sec. 224. Qualified emergency response expenses.
“Sec. 225. Cross reference.”.

14 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 15 *section shall apply to taxable years beginning after Decem-*
 16 *ber 31, 2001.*

17 **SEC. 434. CONTRIBUTIONS OF BOOK INVENTORY.**

18 (a) *IN GENERAL.*—*Section 170(e)(3) (relating to cer-*
 19 *tain contributions of ordinary income and capital gain*
 20 *property) is amended by adding at the end the following*
 21 *new subparagraph:*

22 “(D) *SPECIAL RULE FOR CONTRIBUTIONS*
 23 *OF BOOK INVENTORY FOR EDUCATIONAL PUR-*
 24 *POSES.*—

1 “(i) *CONTRIBUTIONS OF BOOK INVEN-*
2 *TORY.—In determining whether a qualified*
3 *book contribution is a qualified contribu-*
4 *tion, subparagraph (A) shall be applied*
5 *without regard to whether or not—*

6 “(I) *the donee is an organization*
7 *described in the matter preceding*
8 *clause (i) of subparagraph (A), and*

9 “(II) *the property is to be used by*
10 *the donee solely for the care of the ill,*
11 *the needy, or infants.*

12 “(ii) *QUALIFIED BOOK CONTRIBU-*
13 *TION.—For purposes of this paragraph, the*
14 *term ‘qualified book contribution’ means a*
15 *charitable contribution of books, but only if*
16 *the contribution is to an organization—*

17 “(I) *described in subclause (I) or*
18 *(III) of paragraph (6)(B)(i), or*

19 “(II) *described in section*
20 *501(c)(3) and exempt from tax under*
21 *section 501(a) which is organized pri-*
22 *marily to make books available to the*
23 *general public at no cost or to operate*
24 *a literacy program.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to contributions made after the date of*
3 *the enactment of this Act.*

4 ***Subtitle E—Miscellaneous***
5 ***Education Provisions***

6 ***SEC. 441. SHORT TITLE.***

7 *This subtitle may be cited as the “Teacher Relief Act*
8 *of 2001”.*

9 ***SEC. 442. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED***
10 ***PROFESSIONAL DEVELOPMENT EXPENSES OF***
11 ***ELEMENTARY AND SECONDARY SCHOOL***
12 ***TEACHERS.***

13 (a) *DEDUCTION ALLOWED.*—*Part VII of subchapter B*
14 *of chapter 1 (relating to additional itemized deductions for*
15 *individuals), as amended by section 431(a), is amended by*
16 *redesignating section 223 as section 224 and by inserting*
17 *after section 222 the following new section:*

18 ***“SEC. 223. QUALIFIED PROFESSIONAL DEVELOPMENT EX-***
19 ***PENSES.***

20 *“(a) ALLOWANCE OF DEDUCTION.*—*In the case of an*
21 *eligible educator, there shall be allowed as a deduction an*
22 *amount equal to the qualified professional development ex-*
23 *penses paid or incurred by the taxpayer during the taxable*
24 *year.*

1 “(b) *MAXIMUM DEDUCTION.*—*The deduction allowed*
2 *under subsection (a) for any taxable year shall not exceed*
3 *\$500.*

4 “(c) *QUALIFIED PROFESSIONAL DEVELOPMENT EX-*
5 *PENSES OF ELIGIBLE EDUCATORS.*—*For purposes of this*
6 *section—*

7 “(1) *QUALIFIED PROFESSIONAL DEVELOPMENT*
8 *EXPENSES.*—

9 “(A) *IN GENERAL.*—*The term ‘qualified*
10 *professional development expenses’ means ex-*
11 *penses for tuition, fees, books, supplies, equip-*
12 *ment, and transportation required for the enroll-*
13 *ment or attendance of an individual in a quali-*
14 *fied course of instruction.*

15 “(B) *QUALIFIED COURSE OF INSTRU-*
16 *CTION.*—*The term ‘qualified course of instruction’*
17 *means a course of instruction which—*

18 “(i) *is—*

19 “(I) *directly related to the cur-*
20 *riculum and academic subjects in*
21 *which an eligible educator provides in-*
22 *struction,*

23 “(II) *designed to enhance the abil-*
24 *ity of an eligible educator to under-*
25 *stand and use State standards for the*

1 *academic subjects in which such educa-*
2 *tor provides instruction,*

3 *“(III) designed to provide instruc-*
4 *tion in how to teach children with dif-*
5 *ferent learning styles, particularly*
6 *children with disabilities and children*
7 *with special learning needs (including*
8 *children who are gifted and talented),*
9 *or*

10 *“(IV) designed to provide instruc-*
11 *tion in how best to discipline children*
12 *in the classroom and identify early*
13 *and appropriate interventions to help*
14 *children described in subclause (III) to*
15 *learn,*

16 *“(ii) is tied to—*

17 *“(I) challenging State or local*
18 *content standards and student per-*
19 *formance standards, or*

20 *“(II) strategies and programs that*
21 *demonstrate effectiveness in increasing*
22 *student academic achievement and stu-*
23 *dent performance, or substantially in-*
24 *creasing the knowledge and teaching*
25 *skills of an eligible educator,*

1 “(iii) is of sufficient intensity and du-
2 ration to have a positive and lasting impact
3 on the performance of an eligible educator
4 in the classroom (which shall not include 1-
5 day or short-term workshops and con-
6 ferences), except that this clause shall not
7 apply to an activity if such activity is 1
8 component described in a long-term com-
9 prehensive professional development plan es-
10 tablished by an eligible educator and the
11 educator’s supervisor based upon an assess-
12 ment of the needs of the educator, the stu-
13 dents of the educator, and the local edu-
14 cational agency involved, and

15 “(iv) is part of a program of profes-
16 sional development which is approved and
17 certified by the appropriate local edu-
18 cational agency as furthering the goals of
19 the preceding clauses.

20 “(C) LOCAL EDUCATIONAL AGENCY.—The
21 term ‘local educational agency’ has the meaning
22 given such term by section 14101 of the Elemen-
23 tary and Secondary Education Act of 1965, as
24 in effect on the date of the enactment of this sec-
25 tion.

1 “(2) *ELIGIBLE EDUCATOR.*—

2 “(A) *IN GENERAL.*—*The term ‘eligible edu-*
3 *cator’ means an individual who is a kinder-*
4 *garten through grade 12 teacher, instructor,*
5 *counselor, principal, or aide in an elementary or*
6 *secondary school for at least 900 hours during a*
7 *school year.*

8 “(B) *ELEMENTARY OR SECONDARY*
9 *SCHOOL.*—*The terms ‘elementary school’ and*
10 *‘secondary school’ have the meanings given such*
11 *terms by section 14101 of the Elementary and*
12 *Secondary Education Act of 1965 (20 U.S.C.*
13 *8801), as so in effect.*

14 “(d) *DENIAL OF DOUBLE BENEFIT.*—

15 “(1) *IN GENERAL.*—*No other deduction or credit*
16 *shall be allowed under this chapter for any amount*
17 *taken into account for which a deduction is allowed*
18 *under this section.*

19 “(2) *COORDINATION WITH EXCLUSIONS.*—*A de-*
20 *duction shall be allowed under subsection (a) for*
21 *qualified professional development expenses only to*
22 *the extent the amount of such expenses exceeds the*
23 *amount excludable under section 135, 529(c)(1), or*
24 *530(d)(2) for the taxable year.”.*

1 (b) *DEDUCTION ALLOWED IN COMPUTING ADJUSTED*
2 *GROSS INCOME.*—Section 62(a), as amended by section
3 431(b), is amended by inserting after paragraph (18) the
4 following new paragraph:

5 “(19) *QUALIFIED PROFESSIONAL DEVELOPMENT*
6 *EXPENSES.*—The deduction allowed by section 223.”.

7 (c) *CONFORMING AMENDMENTS.*—

8 (1) Sections 86(b)(2), 135(c)(4), 137(b)(3), and
9 219(g)(3) are each amended by inserting “223,” after
10 “221,”.

11 (2) Section 221(b)(2)(C) is amended by inserting
12 “223,” before “911”.

13 (3) Section 469(i)(3)(E) is amended by striking
14 “and 221” and inserting “, 221, and 223”.

15 (4) The table of sections for part VII of sub-
16 chapter B of chapter 1, as amended by section 431(c),
17 is amended by striking the item relating to section
18 223 and inserting the following new items:

 “Sec. 223. Qualified professional development expenses.

 “Sec. 224. Cross reference.”.

19 (d) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to taxable years beginning after Decem-
21 ber 31, 2001, and shall expire on December 31, 2005.

1 **SEC. 443. CREDIT TO ELEMENTARY AND SECONDARY**
2 **SCHOOL TEACHERS WHO PROVIDE CLASS-**
3 **ROOM MATERIALS.**

4 (a) *IN GENERAL.*—Subpart B of part IV of subchapter
5 A of chapter 1 (relating to other credits) is amended by
6 adding at the end the following new section:

7 **“SEC. 30B. CREDIT TO ELEMENTARY AND SECONDARY**
8 **SCHOOL TEACHERS WHO PROVIDE CLASS-**
9 **ROOM MATERIALS.**

10 “(a) *ALLOWANCE OF CREDIT.*—In the case of an eligi-
11 ble educator, there shall be allowed as a credit against the
12 tax imposed by this chapter for the taxable year an amount
13 equal to 50 percent of the qualified elementary and sec-
14 ondary education expenses which are paid or incurred by
15 the taxpayer during such taxable year.

16 “(b) *MAXIMUM CREDIT.*—The credit allowed by sub-
17 section (a) for any taxable year shall not exceed \$250.

18 “(c) *DEFINITIONS.*—

19 “(1) *ELIGIBLE EDUCATOR.*—The term ‘eligible
20 educator’ has the same meaning given such term in
21 section 223(c).

22 “(2) *QUALIFIED ELEMENTARY AND SECONDARY*
23 *EDUCATION EXPENSES.*—The term ‘qualified elemen-
24 tary and secondary education expenses’ means ex-
25 penses for books, supplies (other than nonathletic sup-
26 plies for courses of instruction in health or physical

1 *education), computer equipment (including related*
2 *software and services) and other equipment, and sup-*
3 *plementary materials used by an eligible educator in*
4 *the classroom.*

5 “(3) *ELEMENTARY OR SECONDARY SCHOOL.—*

6 *The term ‘elementary or secondary school’ means any*
7 *school which provides elementary education or sec-*
8 *ondary education (through grade 12), as determined*
9 *under State law.*

10 “(d) *SPECIAL RULES.—*

11 “(1) *DENIAL OF DOUBLE BENEFIT.—No deduc-*
12 *tion shall be allowed under this chapter for any ex-*
13 *penditure for which credit is allowed under this section.*

14 “(2) *APPLICATION WITH OTHER CREDITS.—The*
15 *credit allowable under subsection (a) for any taxable*
16 *year shall not exceed the excess (if any) of—*

17 “(A) *the regular tax for the taxable year, re-*
18 *duced by the sum of the credits allowable under*
19 *subpart A and the preceding sections of this sub-*
20 *part, over*

21 “(B) *the tentative minimum tax for the tax-*
22 *able year.*

23 “(e) *ELECTION TO HAVE CREDIT NOT APPLY.—A tax-*
24 *payer may elect to have this section not apply for any tax-*
25 *able year.”.*

1 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *subpart B of part IV of subchapter A of chapter 1 is amend-*
 3 *ed by adding at the end the following new item:*

*“Sec. 30B. Credit to elementary and secondary school teachers who
 provide classroom materials.”.*

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to taxable years beginning after Decem-*
 6 *ber 31, 2001, and shall expire on December 31, 2005.*

7 *Subtitle F—Compliance With*
8 *Congressional Budget Act*

9 ***SEC. 451. SUNSET OF PROVISIONS OF TITLE.***

10 *All provisions of, and amendments made by, this title*
 11 *which are in effect on September 30, 2011, shall cease to*
 12 *apply as of the close of September 30, 2011.*

13 ***TITLE V—ESTATE, GIFT, AND***
 14 ***GENERATION-SKIPPING***
 15 ***TRANSFER TAX PROVISIONS***

16 ***Subtitle A—Repeal of Estate and***
 17 ***Generation-Skipping Transfer***
 18 ***Taxes***

19 ***SEC. 501. REPEAL OF ESTATE AND GENERATION-SKIPPING***
 20 ***TRANSFER TAXES.***

21 (a) *ESTATE TAX REPEAL.*—*Subchapter C of chapter*
 22 *11 of subtitle B (relating to miscellaneous) is amended by*
 23 *adding at the end the following new section:*

1 **“SEC. 2210. TERMINATION.**

2 “(a) *IN GENERAL.*—*Except as provided in subsection*
3 *(b), this chapter shall not apply to the estates of decedents*
4 *dying after December 31, 2010.*

5 “(b) *CERTAIN DISTRIBUTIONS FROM QUALIFIED DO-*
6 *MESTIC TRUSTS.*—*In applying section 2056A with respect*
7 *to the surviving spouse of a decedent dying before January*
8 *1, 2011—*

9 “(1) *section 2056A(b)(1)(A) shall not apply to*
10 *distributions made after December 31, 2021, and*

11 “(2) *section 2056A(b)(1)(B) shall not apply after*
12 *December 31, 2010.*”.

13 (b) *GENERATION-SKIPPING TRANSFER TAX RE-*
14 *PEAL.*—*Subchapter G of chapter 13 of subtitle B (relating*
15 *to administration) is amended by adding at the end the*
16 *following new section:*

17 **“SEC. 2664. TERMINATION.**

18 “*This chapter shall not apply to generation-skipping*
19 *transfers made after December 31, 2010.*”.

20 (c) *CONFORMING AMENDMENTS.*—

21 (1) *The table of sections for subchapter C of*
22 *chapter 11 is amended by adding at the end the fol-*
23 *lowing new item:*

 “*Sec. 2210. Termination.*”.

1 (2) *The table of sections for subchapter G of*
 2 *chapter 13 is amended by adding at the end the fol-*
 3 *lowing new item:*

“Sec. 2664. Termination.”.

4 (d) *EFFECTIVE DATE.—The amendments made by this*
 5 *section shall apply to the estates of decedents dying, and*
 6 *generation-skipping transfers made, after December 31,*
 7 *2010.*

8 ***Subtitle B—Reductions of Estate*** 9 ***and Gift Tax Rates***

10 ***SEC. 511. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT*** 11 ***TAX RATES.***

12 (a) *MAXIMUM RATE OF TAX REDUCED TO 50 PER-*
 13 *CENT.—The table contained in section 2001(c)(1) is amend-*
 14 *ed by striking the two highest brackets and inserting the*
 15 *following:*

<i>“Over \$2,500,000</i>	<i>\$1,025,800, plus 50% of the excess over</i>
	<i>\$2,500,000.”.</i>

16 (b) *REPEAL OF PHASEOUT OF GRADUATED RATES.—*
 17 *Subsection (c) of section 2001 is amended by striking para-*
 18 *graph (2).*

19 (c) *ADDITIONAL REDUCTIONS OF MAXIMUM RATE OF*
 20 *TAX.—Subsection (c) of section 2001, as amended by sub-*
 21 *section (b), is amended by adding at the end the following*
 22 *new paragraph:*

23 “*(2) PHASEDOWN OF MAXIMUM RATE OF TAX.—*

1 “(A) *IN GENERAL.*—*In the case of estates of*
 2 *decedents dying, and gifts made, in calendar*
 3 *years after 2002 and before 2011, the tentative*
 4 *tax under this subsection shall be determined by*
 5 *using a table prescribed by the Secretary (in lieu*
 6 *of using the table contained in paragraph (1))*
 7 *which is the same as such table; except that—*

8 “(i) *the maximum rate of tax for any*
 9 *calendar year shall be determined in the*
 10 *table under subparagraph (B), and*

11 “(ii) *the brackets and the amounts set-*
 12 *ting forth the tax shall be adjusted to the ex-*
 13 *tent necessary to reflect the adjustments*
 14 *under subparagraph (A).*

15 “(B) *MAXIMUM RATE.*—

“Calendar year:	Maximum Rate:
2003	49 percent
2004	48 percent
2005	47 percent
2006	46 percent
2007, 2008, 2009, and 2010	45 percent.”.

16 (d) *MAXIMUM GIFT TAX RATE REDUCED TO 40 PER-*
 17 *CENT AFTER 2010.*—*Subsection (a) of section 2502 (relat-*
 18 *ing to rate of tax) is amended to read as follows:*

19 “(a) *COMPUTATION OF TAX.*—

20 “(1) *IN GENERAL.*—*The tax imposed by section*
 21 *2501 for each calendar year shall be an amount equal*
 22 *to the excess of—*

1 “(A) a tentative tax, computed under para-
2 graph (2), on the aggregate sum of the taxable
3 gifts for such calendar year and for each of the
4 preceding calendar periods, over

5 “(B) a tentative tax, computed under para-
6 graph (2), on the aggregate sum of the taxable
7 gifts for each of the preceding calendar periods.

8 “(2) *RATE SCHEDULE.*—

**“If the amount with respect to The tentative tax is:
which
the tentative tax to be com-
puted is:**

Not over \$10,000	18% of such amount.
Over \$10,000 but not over \$20,000	\$1,800, plus 20% of the excess over \$10,000.
Over \$20,000 but not over \$40,000	\$3,800, plus 22% of the excess over \$20,000.
Over \$40,000 but not over \$60,000	\$8,200, plus 24% of the excess over \$40,000.
Over \$60,000 but not over \$80,000	\$13,000, plus 26% of the excess over \$60,000.
Over \$80,000 but not over \$100,000	\$18,200, plus 28% of the excess over \$80,000.
Over \$100,000 but not over \$150,000.	\$23,800, plus 30% of the excess over \$100,000.
Over \$150,000 but not over \$250,000.	\$38,800, plus 32% of the excess over \$150,000.
Over \$250,000 but not over \$500,000.	\$70,800, plus 34% of the excess over \$250,000.
Over \$500,000 but not over \$750,000.	\$155,800, plus 37% of the excess over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$248,300, plus 39% of the excess over \$750,000.
Over \$1,000,000	\$345,800, plus 40% of the excess over \$1,000,000.”.

9 (e) *TREATMENT OF CERTAIN TRANSFERS IN TRUST.*—

10 Section 2511 (relating to transfers in general) is amended
11 by adding at the end the following new subsection:

12 “(c) *TREATMENT OF CERTAIN TRANSFERS IN*
13 *TRUST.*—Notwithstanding any other provision of this sec-

1 tion and except as provided in regulations, a transfer in
 2 trust shall be treated as a taxable gift under section 2503,
 3 unless the trust is treated as wholly owned by the donor
 4 or the donor's spouse under subpart E of part I of sub-
 5 chapter J of chapter 1.”.

6 (f) *EFFECTIVE DATES.*—

7 (1) *SUBSECTIONS (a) AND (b).*—The amendments
 8 made by subsections (a) and (b) shall apply to estates
 9 of decedents dying, and gifts made, after December
 10 31, 2001.

11 (2) *SUBSECTION (c).*—The amendment made by
 12 subsection (c) shall apply to estates of decedents
 13 dying, and gifts made, after December 31, 2002.

14 (3) *SUBSECTIONS (d) AND (e).*—The amendments
 15 made by subsections (d) and (e) shall apply to gifts
 16 made after December 31, 2010.

17 **Subtitle C—Increase in Exemption**
 18 **Amounts**

19 **SEC. 521. INCREASE IN EXEMPTION EQUIVALENT OF UNI-**
 20 **FIED CREDIT, LIFETIME GIFTS EXEMPTION,**
 21 **AND GST EXEMPTION AMOUNTS.**

22 (a) *IN GENERAL.*—Subsection (c) of section 2010 (re-
 23 lating to applicable credit amount) is amended by striking
 24 the table and inserting the following new table:

“In the case of estates of decedents dying during:	The applicable exclusion amount is:
2002 and 2003	\$1,000,000

2004	\$2,000,000
2005, 2006, 2007, and 2008	\$3,000,000
2009	\$3,500,000
2010	\$4,000,000.”.

1 **(b) LIFETIME GIFT EXEMPTION INCREASED TO**
2 **\$1,000,000.—**

3 **(1) FOR PERIODS BEFORE ESTATE TAX RE-**
4 **PEAL.—***Paragraph (1) of section 2505(a) (relating to*
5 *unified credit against gift tax) is amended by insert-*
6 *ing “(determined as if the applicable exclusion*
7 *amount were \$1,000,000)” after “calendar year”.*

8 **(2) FOR PERIODS AFTER ESTATE TAX REPEAL.—**
9 *Paragraph (1) of section 2505(a) (relating to unified*
10 *credit against gift tax), as amended by paragraph*
11 *(1), is amended to read as follows:*

12 *“(1) the amount of the tentative tax which would*
13 *be determined under the rate schedule set forth in sec-*
14 *tion 2502(a)(2) if the amount with respect to which*
15 *such tentative tax is to be computed were \$1,000,000,*
16 *reduced by”.*

17 **(c) GST EXEMPTION.—**

18 **(1) IN GENERAL.—***Subsection (a) of 2631 (relat-*
19 *ing to GST exemption) is amended by striking “of*
20 *\$1,000,000” and inserting “amount”.*

21 **(2) EXEMPTION AMOUNT.—***Subsection (c) of sec-*
22 *tion 2631 is amended to read as follows:*

1 “(c) *GST EXEMPTION AMOUNT.*—For purposes of sub-
2 section (a), the GST exemption amount for any calendar
3 year shall be equal to the applicable exclusion amount
4 under section 2010(c) for such calendar year.”.

5 (d) *REPEAL OF SPECIAL BENEFIT FOR FAMILY-*
6 *OWNED BUSINESS INTERESTS.*—

7 (1) *IN GENERAL.*—Section 2057 is hereby re-
8 pealed.

9 (2) *CONFORMING AMENDMENTS.*—

10 (A) Paragraph (10) of section 2031(c) is
11 amended by inserting “(as in effect on the day
12 before the date of the enactment of this par-
13 enthetical)” before the period.

14 (B) The table of sections for part IV of sub-
15 chapter A of chapter 11 is amended by striking
16 the item relating to section 2057.

17 (e) *EFFECTIVE DATES.*—

18 (1) *IN GENERAL.*—Except as provided in para-
19 graphs (2) and (3), the amendments made by this sec-
20 tion shall apply to estates of decedents dying, and
21 gifts made, after December 31, 2001.

22 (2) *SUBSECTION (b)(2).*—The amendments made
23 by subsection (b)(2) shall apply to gifts made after
24 December 31, 2010.

1 (3) *SUBSECTIONS (c) AND (d).*—*The amendments*
 2 *made by subsections (c) and (d) shall apply to estates*
 3 *of decedents dying, and generation-skipping transfers*
 4 *made, after December 31, 2003.*

5 ***Subtitle D—Credit for State Death***
 6 ***Taxes***

7 ***SEC. 531. REDUCTION OF CREDIT FOR STATE DEATH TAXES.***

8 (a) *MAXIMUM CREDIT REDUCED TO 8 PERCENT.*—

9 (1) *IN GENERAL.*—*The table contained in section*
 10 2011(b) *is amended by striking the ten highest brack-*
 11 *ets and inserting the following:*

“Over \$2,040,000	\$106,800, plus 8% of the excess over \$2,040,000.”.
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12 (2) *EFFECTIVE DATE.*—*The amendment made by*
 13 *this subsection shall apply to estates of decedents*
 14 *dying after December 31, 2001.*

15 (b) *MAXIMUM CREDIT REDUCED TO 7.2 PERCENT.*—

16 (1) *IN GENERAL.*—*The table contained in section*
 17 2011(b), *as amended by subsection (a), is amended by*
 18 *striking the two highest brackets and inserting the fol-*
 19 *lowing:*

“Over \$1,540,000	\$70,800, plus 7.2% of the excess over \$1,540,000.”.
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20 (2) *EFFECTIVE DATE.*—*The amendment made by*
 21 *this subsection shall apply to estates of decedents*
 22 *dying after December 31, 2002.*

23 (c) *MAXIMUM CREDIT REDUCED TO 7.04 PERCENT.*—

1 (1) *IN GENERAL*.—*The table contained in section*
 2 *2011(b), as amended by subsections (a) and (b), is*
 3 *amended by striking the highest bracket and inserting*
 4 *the following:*

“Over \$1,540,000	\$70,800, plus 7.04% of the excess over \$1,540,000.”.
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5 (2) *EFFECTIVE DATE*.—*The amendment made by*
 6 *this subsection shall apply to estates of decedents*
 7 *dying after December 31, 2003.*

8 **SEC. 532. CREDIT FOR STATE DEATH TAXES REPLACED**
 9 **WITH DEDUCTION FOR SUCH TAXES.**

10 (a) *REPEAL OF CREDIT*.—*Section 2011 (relating to*
 11 *credit for State death taxes) is repealed.*

12 (b) *DEDUCTION FOR STATE DEATH TAXES*.—*Part IV*
 13 *of subchapter A of chapter 11 is amended by adding at the*
 14 *end the following new section:*

15 **“SEC. 2058. STATE DEATH TAXES.**

16 “(a) *ALLOWANCE OF DEDUCTION*.—*For purposes of*
 17 *the tax imposed by section 2001, the value of the taxable*
 18 *estate shall be determined by deducting from the value of*
 19 *the gross estate the amount of any estate, inheritance, leg-*
 20 *acy, or succession taxes actually paid to any State or the*
 21 *District of Columbia, in respect of any property included*
 22 *in the gross estate (not including any such taxes paid with*
 23 *respect to the estate of a person other than the decedent).*

1 “(b) *PERIOD OF LIMITATIONS.*—*The deduction allowed*
2 *by this section shall include only such taxes as were actually*
3 *paid and deduction therefor claimed before the later of—*

4 “(1) *4 years after the filing of the return re-*
5 *quired by section 6018, or*

6 “(2) *if—*

7 “(A) *a petition for redetermination of a de-*
8 *ficiency has been filed with the Tax Court within*
9 *the time prescribed in section 6213(a), the expi-*
10 *ration of 60 days after the decision of the Tax*
11 *Court becomes final,*

12 “(B) *an extension of time has been granted*
13 *under section 6161 or 6166 for payment of the*
14 *tax shown on the return, or of a deficiency, the*
15 *date of the expiration of the period of the exten-*
16 *sion, or*

17 “(C) *a claim for refund or credit of an over-*
18 *payment of tax imposed by this chapter has been*
19 *filed within the time prescribed in section 6511,*
20 *the latest of the expiration of—*

21 “(i) *60 days from the date of mailing*
22 *by certified mail or registered mail by the*
23 *Secretary to the taxpayer of a notice of the*
24 *disallowance of any part of such claim,*

1 “(ii) 60 days after a decision by any
2 court of competent jurisdiction becomes
3 final with respect to a timely suit instituted
4 upon such claim, or

5 “(iii) 2 years after a notice of the
6 waiver of disallowance is filed under section
7 6532(a)(3).

8 *Notwithstanding sections 6511 and 6512, refund based on*
9 *the deduction may be made if the claim for refund is filed*
10 *within the period provided in the preceding sentence. Any*
11 *such refund shall be made without interest.”.*

12 (c) *CONFORMING AMENDMENTS.—*

13 (1) *Subsection (a) of section 2012 is amended by*
14 *striking “the credit for State death taxes provided by*
15 *section 2011 and”.*

16 (2) *Subparagraph (A) of section 2013(c)(1) is*
17 *amended by striking “2011,”.*

18 (3) *Paragraph (2) of section 2014(b) is amended*
19 *by striking “, 2011,”.*

20 (4) *Sections 2015 and 2016 are each amended by*
21 *striking “2011 or”.*

22 (5) *Subsection (d) of section 2053 is amended to*
23 *read as follows:*

24 “(d) *CERTAIN FOREIGN DEATH TAXES.—*

1 “(1) *IN GENERAL.*—Notwithstanding the provi-
2 sions of subsection (c)(1)(B), for purposes of the tax
3 imposed by section 2001, the value of the taxable es-
4 tate may be determined, if the executor so elects before
5 the expiration of the period of limitation for assess-
6 ment provided in section 6501, by deducting from the
7 value of the gross estate the amount (as determined in
8 accordance with regulations prescribed by the Sec-
9 retary) of any estate, succession, legacy, or inherit-
10 ance tax imposed by and actually paid to any foreign
11 country, in respect of any property situated within
12 such foreign country and included in the gross estate
13 of a citizen or resident of the United States, upon a
14 transfer by the decedent for public, charitable, or reli-
15 gious uses described in section 2055. The determina-
16 tion under this paragraph of the country within
17 which property is situated shall be made in accord-
18 ance with the rules applicable under subchapter B
19 (sec. 2101 and following) in determining whether
20 property is situated within or without the United
21 States. Any election under this paragraph shall be ex-
22 ercised in accordance with regulations prescribed by
23 the Secretary.

24 “(2) *CONDITION FOR ALLOWANCE OF DEDUC-*
25 *TION.*—No deduction shall be allowed under para-

1 *graph (1) for a foreign death tax specified therein un-*
2 *less the decrease in the tax imposed by section 2001*
3 *which results from the deduction provided in para-*
4 *graph (1) will inure solely for the benefit of the pub-*
5 *lic, charitable, or religious transferees described in*
6 *section 2055 or section 2106(a)(2). In any case where*
7 *the tax imposed by section 2001 is equitably appor-*
8 *tioned among all the transferees of property included*
9 *in the gross estate, including those described in sec-*
10 *tions 2055 and 2106(a)(2) (taking into account any*
11 *exemptions, credits, or deductions allowed by this*
12 *chapter), in determining such decrease, there shall be*
13 *disregarded any decrease in the Federal estate tax*
14 *which any transferees other than those described in*
15 *sections 2055 and 2106(a)(2) are required to pay.*

16 *“(3) EFFECT ON CREDIT FOR FOREIGN DEATH*
17 *TAXES OF DEDUCTION UNDER THIS SUBSECTION.—*

18 *“(A) ELECTION.—An election under this*
19 *subsection shall be deemed a waiver of the right*
20 *to claim a credit, against the Federal estate tax,*
21 *under a death tax convention with any foreign*
22 *country for any tax or portion thereof in respect*
23 *of which a deduction is taken under this sub-*
24 *section.*

1 “(B) *CROSS REFERENCE.*—

 “**See section 2014(f) for the effect of a deduction taken under this paragraph on the credit for foreign death taxes.**”.

2 (6) *Subparagraph (A) of section 2056A(b)(10) is*
3 *amended—*

4 *(A) by striking “2011,” and*

5 *(B) by inserting “2058,” after “2056,”.*

6 (7)(A) *Subsection (a) of section 2102 is amended*
7 *to read as follows:*

8 “(a) *IN GENERAL.*—*The tax imposed by section 2101*
9 *shall be credited with the amounts determined in accord-*
10 *ance with sections 2012 and 2013 (relating to gift tax and*
11 *tax on prior transfers).”.*

12 *(B) Section 2102 is amended by striking sub-*
13 *section (b) and by redesignating subsection (c) as sub-*
14 *section (b).*

15 *(C) Section 2102(b)(5) (as redesignated by sub-*
16 *paragraph (B)) and section 2107(c)(3) are each*
17 *amended by striking “2011 to 2013, inclusive,” and*
18 *inserting “2012 and 2013”.*

19 (8) *Subsection (a) of section 2106 is amended by*
20 *adding at the end the following new paragraph:*

21 “(4) *STATE DEATH TAXES.*—*The amount which*
22 *bears the same ratio to the State death taxes as the*
23 *value of the property, as determined for purposes of*
24 *this chapter, upon which State death taxes were paid*

1 *and which is included in the gross estate under sec-*
2 *tion 2103 bears to the value of the total gross estate*
3 *under section 2103. For purposes of this paragraph,*
4 *the term ‘State death taxes’ means the taxes described*
5 *in section 2011(a).’.*

6 (9) *Section 2201 is amended—*

7 (A) *by striking “as defined in section*
8 *2011(d)”*, and

9 (B) *by adding at the end the following new*
10 *flush sentence:*

11 *“For purposes of this section, the additional estate tax is*
12 *the difference between the tax imposed by section 2001 or*
13 *2101 and the amount equal to 125 percent of the maximum*
14 *credit provided by section 2011(b), as in effect before its*
15 *repeal by the Restoring Earnings To Lift Individuals and*
16 *Empower Families (RELIEF) Act of 2001.”.*

17 (10) *Section 2604 is repealed.*

18 (11) *Paragraph (2) of section 6511(i) is amend-*
19 *ed by striking “2011(c), 2014(b),” and inserting*
20 *“2014(b)”.*

21 (12) *Subsection (c) of section 6612 is amended*
22 *by striking “section 2011(c) (relating to refunds due*
23 *to credit for State taxes),”.*

1 (13) *The table of sections for part II of sub-*
 2 *chapter A of chapter 11 is amended by striking the*
 3 *item relating to section 2011.*

4 (14) *The table of sections for part IV of sub-*
 5 *chapter A of chapter 11 is amended by adding at the*
 6 *end the following new item:*

“Sec. 2058. State death taxes.”.

7 (15) *The table of sections for subchapter A of*
 8 *chapter 13 is amended by striking the item relating*
 9 *to section 2604.*

10 (d) *EFFECTIVE DATE.—The amendments made by this*
 11 *section shall apply to estates of decedents dying after De-*
 12 *cember 31, 2004.*

13 ***Subtitle E—Carryover Basis at***
 14 ***Death; Other Changes Taking***
 15 ***Effect With Repeal***

16 ***SEC. 541. TERMINATION OF STEP-UP IN BASIS AT DEATH.***

17 *Section 1014 (relating to basis of property acquired*
 18 *from a decedent) is amended by adding at the end the fol-*
 19 *lowing new subsection:*

20 “(f) *TERMINATION.—This section shall not apply with*
 21 *respect to decedents dying after December 31, 2010.”.*

22 ***SEC. 542. TREATMENT OF PROPERTY ACQUIRED FROM A***
 23 ***DECEDENT DYING AFTER DECEMBER 31, 2010.***

24 (a) *GENERAL RULE.—Part II of subchapter O of chap-*
 25 *ter 1 (relating to basis rules of general application) is*

1 *amended by inserting after section 1021 the following new*
2 *section:*

3 **“SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM A**
4 **DECEDENT DYING AFTER DECEMBER 31, 2010.**

5 *“(a) IN GENERAL.—Except as otherwise provided in*
6 *this section—*

7 *“(1) property acquired from a decedent dying*
8 *after December 31, 2010, shall be treated for purposes*
9 *of this subtitle as transferred by gift, and*

10 *“(2) the basis of the person acquiring property*
11 *from such a decedent shall be the lesser of—*

12 *“(A) the adjusted basis of the decedent, or*

13 *“(B) the fair market value of the property*
14 *at the date of the decedent’s death.*

15 *“(b) BASIS INCREASE FOR CERTAIN PROPERTY.—*

16 *“(1) IN GENERAL.—In the case of property to*
17 *which this subsection applies, the basis of such prop-*
18 *erty under subsection (a) shall be increased by its*
19 *basis increase under this subsection.*

20 *“(2) BASIS INCREASE.—For purposes of this*
21 *subsection—*

22 *“(A) IN GENERAL.—The basis increase*
23 *under this subsection for any property is the*
24 *portion of the aggregate basis increase which is*

1 *allocated to the property pursuant to this sec-*
2 *tion.*

3 “(B) *AGGREGATE BASIS INCREASE.—In the*
4 *case of any estate, the aggregate basis increase*
5 *under this subsection is \$1,300,000.*

6 “(C) *LIMIT INCREASED BY UNUSED BUILT-*
7 *IN LOSSES AND LOSS CARRYOVERS.—The limita-*
8 *tion under subparagraph (B) shall be increased*
9 *by—*

10 “(i) *the sum of the amount of any cap-*
11 *ital loss carryover under section 1212(b),*
12 *and the amount of any net operating loss*
13 *carryover under section 172, which would*
14 *(but for the decedent’s death) be carried*
15 *from the decedent’s last taxable year to a*
16 *later taxable year of the decedent, plus*

17 “(ii) *the sum of the amount of any*
18 *losses that would have been allowable under*
19 *section 165 if the property acquired from*
20 *the decedent had been sold at fair market*
21 *value immediately before the decedent’s*
22 *death.*

23 “(3) *DECEDENT NONRESIDENTS WHO ARE NOT*
24 *CITIZENS OF THE UNITED STATES.—In the case of a*

1 *decedent nonresident not a citizen of the United*
2 *States—*

3 “(A) *paragraph (2)(B) shall be applied by*
4 *substituting ‘\$60,000’ for ‘\$1,300,000’, and*

5 “(B) *paragraph (2)(C) shall not apply.*

6 “(c) *ADDITIONAL BASIS INCREASE FOR PROPERTY AC-*
7 *QUIRED BY SURVIVING SPOUSE.—*

8 “(1) *IN GENERAL.—In the case of property to*
9 *which this subsection applies and which is qualified*
10 *spousal property, the basis of such property under*
11 *subsection (a) (as increased under subsection (b))*
12 *shall be increased by its spousal property basis in-*
13 *crease.*

14 “(2) *SPOUSAL PROPERTY BASIS INCREASE.—For*
15 *purposes of this subsection—*

16 “(A) *IN GENERAL.—The spousal property*
17 *basis increase for property referred to in para-*
18 *graph (1) is the portion of the aggregate spousal*
19 *property basis increase which is allocated to the*
20 *property pursuant to this section.*

21 “(B) *AGGREGATE SPOUSAL PROPERTY*
22 *BASIS INCREASE.—In the case of any estate, the*
23 *aggregate spousal property basis increase is*
24 *\$3,000,000.*

1 “(3) *QUALIFIED SPOUSAL PROPERTY.*—For pur-
2 poses of this subsection, the term ‘qualified spousal
3 property’ means—

4 “(A) *outright transfer property, and*

5 “(B) *qualified terminable interest property.*

6 “(4) *OUTRIGHT TRANSFER PROPERTY.*—For pur-
7 poses of this subsection—

8 “(A) *IN GENERAL.*—The term ‘outright
9 transfer property’ means any interest in prop-
10 erty acquired from the decedent by the decedent’s
11 surviving spouse.

12 “(B) *EXCEPTION.*—Subparagraph (A) shall
13 not apply where, on the lapse of time, on the oc-
14 currence of an event or contingency, or on the
15 failure of an event or contingency to occur, an
16 interest passing to the surviving spouse will ter-
17 minate or fail—

18 “(i)(I) *if an interest in such property*
19 *passes or has passed (for less than an ade-*
20 *quate and full consideration in money or*
21 *money’s worth) from the decedent to any*
22 *person other than such surviving spouse (or*
23 *the estate of such spouse), and*

24 “(II) *if by reason of such passing such*
25 *person (or his heirs or assigns) may possess*

1 *or enjoy any part of such property after*
2 *such termination or failure of the interest so*
3 *passing to the surviving spouse, or*

4 “(i) *if such interest is to be acquired*
5 *for the surviving spouse, pursuant to direc-*
6 *tions of the decedent, by his executor or by*
7 *the trustee of a trust.*

8 *For purposes of this subparagraph, an interest*
9 *shall not be considered as an interest which will*
10 *terminate or fail merely because it is the owner-*
11 *ship of a bond, note, or similar contractual obli-*
12 *gation, the discharge of which would not have the*
13 *effect of an annuity for life or for a term.*

14 “(C) *INTEREST OF SPOUSE CONDITIONAL ON*
15 *SURVIVAL FOR LIMITED PERIOD.—For purposes*
16 *of this paragraph, an interest passing to the sur-*
17 *living spouse shall not be considered as an inter-*
18 *est which will terminate or fail on the death of*
19 *such spouse if—*

20 “(i) *such death will cause a termi-*
21 *nation or failure of such interest only if it*
22 *occurs within a period not exceeding 6*
23 *months after the decedent’s death, or only if*
24 *it occurs as a result of a common disaster*
25 *resulting in the death of the decedent and*

1 *the surviving spouse, or only if it occurs in*
2 *the case of either such event, and*

3 “(i) *such termination or failure does*
4 *not in fact occur.*”

5 “(5) *QUALIFIED TERMINABLE INTEREST PROP-*
6 *ERTY.—For purposes of this subsection—*

7 “(A) *IN GENERAL.—The term ‘qualified ter-*
8 *minable interest property’ means property—*

9 “(i) *which passes from the decedent,*
10 *and*

11 “(ii) *in which the surviving spouse has*
12 *a qualifying income interest for life.*”

13 “(B) *QUALIFYING INCOME INTEREST FOR*
14 *LIFE.—The surviving spouse has a qualifying in-*
15 *come interest for life if—*

16 “(i) *the surviving spouse is entitled to*
17 *all the income from the property, payable*
18 *annually or at more frequent intervals, or*
19 *has a usufruct interest for life in the prop-*
20 *erty, and*

21 “(ii) *no person has a power to appoint*
22 *any part of the property to any person*
23 *other than the surviving spouse.*”

24 *Clause (ii) shall not apply to a power exercisable*
25 *only at or after the death of the surviving spouse.*

1 *To the extent provided in regulations, an annu-*
2 *ity shall be treated in a manner similar to an*
3 *income interest in property (regardless of wheth-*
4 *er the property from which the annuity is pay-*
5 *able can be separately identified).*

6 “(C) *PROPERTY INCLUDES INTEREST*
7 *THEREIN.—The term ‘property’ includes an in-*
8 *terest in property.*

9 “(D) *SPECIFIC PORTION TREATED AS SEPA-*
10 *RATE PROPERTY.—A specific portion of property*
11 *shall be treated as separate property. For pur-*
12 *poses of the preceding sentence, the term ‘specific*
13 *portion’ only includes a portion determined on a*
14 *fractional or percentage basis.*

15 “(d) *DEFINITIONS AND SPECIAL RULES FOR APPLICA-*
16 *TION OF SUBSECTIONS (b) AND (c).—*

17 “(1) *PROPERTY TO WHICH SUBSECTIONS (b) AND*
18 *(c) APPLY.—*

19 “(A) *IN GENERAL.—The basis of property*
20 *acquired from a decedent may be increased*
21 *under subsection (b) or (c) only if the property*
22 *was owned by the decedent at the time of death.*

23 “(B) *RULES RELATING TO OWNERSHIP.—*

24 “(i) *JOINTLY HELD PROPERTY.—In the*
25 *case of property which was owned by the*

1 *decedent and another person as joint ten-*
2 *ants with right of survivorship or tenants*
3 *by the entirety—*

4 “(I) if the only such other person
5 is the surviving spouse, the decedent
6 shall be treated as the owner of only 50
7 percent of the property,

8 “(II) in any case (to which sub-
9 clause (I) does not apply) in which the
10 decedent furnished consideration for
11 the acquisition of the property, the de-
12 cedent shall be treated as the owner to
13 the extent of the portion of the property
14 which is proportionate to such consid-
15 eration, and

16 “(III) in any case (to which sub-
17 clause (I) does not apply) in which the
18 property has been acquired by gift, be-
19 quest, devise, or inheritance by the de-
20 cedent and any other person as joint
21 tenants with right of survivorship and
22 their interests are not otherwise speci-
23 fied or fixed by law, the decedent shall
24 be treated as the owner to the extent of
25 the value of a fractional part to be de-

1 *terminated by dividing the value of the*
2 *property by the number of joint ten-*
3 *ants with right of survivorship.*

4 “(ii) *REVOCABLE TRUSTS.*—*The dece-*
5 *dent shall be treated as owning property*
6 *transferred by the decedent during life to a*
7 *qualified revocable trust (as defined in sec-*
8 *tion 645(b)(1)).*

9 “(iii) *POWERS OF APPOINTMENT.*—*The*
10 *decedent shall not be treated as owning any*
11 *property by reason of holding a power of*
12 *appointment with respect to such property.*

13 “(iv) *COMMUNITY PROPERTY.*—*Prop-*
14 *erty which represents the surviving spouse’s*
15 *one-half share of community property held*
16 *by the decedent and the surviving spouse*
17 *under the community property laws of any*
18 *State or possession of the United States or*
19 *any foreign country shall be treated for pur-*
20 *poses of this section as owned by, and ac-*
21 *quired from, the decedent if at least one-half*
22 *of the whole of the community interest in*
23 *such property is treated as owned by, and*
24 *acquired from, the decedent without regard*
25 *to this clause.*

1 “(C) *PROPERTY ACQUIRED BY DECEDENT*
2 *BY GIFT WITHIN 3 YEARS OF DEATH.*—

3 “(i) *IN GENERAL.*—Subsections (b) and
4 (c) shall not apply to property acquired by
5 the decedent by gift or by inter vivos trans-
6 fer for less than adequate and full consider-
7 ation in money or money’s worth during
8 the 3-year period ending on the date of the
9 decedent’s death.

10 “(ii) *EXCEPTION FOR CERTAIN GIFTS*
11 *FROM SPOUSE.*—Clause (i) shall not apply
12 to property acquired by the decedent from
13 the decedent’s spouse unless, during such 3-
14 year period, such spouse acquired the prop-
15 erty in whole or in part by gift or by inter
16 vivos transfer for less than adequate and
17 full consideration in money or money’s
18 worth.

19 “(D) *STOCK OF CERTAIN ENTITIES.*—Sub-
20 sections (b) and (c) shall not apply to—

21 “(i) stock or securities a foreign per-
22 sonal holding company,

23 “(ii) stock of a DISC or former DISC,

24 “(iii) stock of a foreign investment
25 company, or

1 “(iv) stock of a passive foreign invest-
2 ment company unless such company is a
3 qualified electing fund (as defined in section
4 1295) with respect to the decedent.

5 “(2) FAIR MARKET VALUE LIMITATION.—The ad-
6 justments under subsections (b) and (c) shall not in-
7 crease the basis of any interest in property acquired
8 from the decedent above its fair market value in the
9 hands of the decedent as of the date of the decedent’s
10 death.

11 “(3) ALLOCATION RULES.—

12 “(A) IN GENERAL.—The executor shall allo-
13 cate the adjustments under subsections (b) and
14 (c) on the return required by section 6018.

15 “(B) CHANGES IN ALLOCATION.—Any allo-
16 cation made pursuant to subparagraph (A) may
17 be changed only as provided by the Secretary.

18 “(4) INFLATION ADJUSTMENT OF BASIS ADJUST-
19 MENT AMOUNTS.—

20 “(A) IN GENERAL.—In the case of decedents
21 dying in a calendar year after 2011, the
22 \$1,300,000, \$60,000, and \$3,000,000 dollar
23 amounts in subsections (b) and (c)(2)(B) shall
24 each be increased by an amount equal to the
25 product of—

1 “(i) *such dollar amount, and*

2 “(ii) *the cost-of-living adjustment de-*
3 *termined under section 1(f)(3) for such cal-*
4 *endar year, determined by substituting*
5 *‘2010’ for ‘1992’ in subparagraph (B) there-*
6 *of.*

7 “(B) *ROUNDING.—If any increase deter-*
8 *mined under subparagraph (A) is not a multiple*
9 *of—*

10 “(i) *\$100,000 in the case of the*
11 *\$1,300,000 amount,*

12 “(ii) *\$5,000 in the case of the \$60,000*
13 *amount, and*

14 “(iii) *\$250,000 in the case of the*
15 *\$3,000,000 amount,*

16 *such increase shall be rounded to the next lowest*
17 *multiple thereof.*

18 “(e) *PROPERTY ACQUIRED FROM THE DECEDENT.—*
19 *For purposes of this section, the following property shall*
20 *be considered to have been acquired from the decedent:*

21 “(1) *Property acquired by bequest, devise, or in-*
22 *heritance, or by the decedent’s estate from the dece-*
23 *dent.*

24 “(2) *Property transferred by the decedent during*
25 *his lifetime—*

1 “(A) to a qualified revocable trust (as de-
2 fined in section 645(b)(1)), or

3 “(B) to any other trust with respect to
4 which the decedent reserved the right to make
5 any change in the enjoyment thereof through the
6 exercise of a power to alter, amend, or terminate
7 the trust.

8 “(3) Any other property passing from the dece-
9 dent by reason of death to the extent that such prop-
10 erty passed without consideration.

11 “(f) COORDINATION WITH SECTION 691.—This section
12 shall not apply to property which constitutes a right to re-
13 ceive an item of income in respect of a decedent under sec-
14 tion 691.

15 “(g) CERTAIN LIABILITIES DISREGARDED.—

16 “(1) IN GENERAL.—In determining whether gain
17 is recognized on the acquisition of property—

18 “(A) from a decedent by a decedent’s estate
19 or any beneficiary other than a tax-exempt bene-
20 ficiary, and

21 “(B) from the decedent’s estate by any bene-
22 ficiary other than a tax-exempt beneficiary,
23 and in determining the adjusted basis of such prop-
24 erty, liabilities in excess of basis shall be disregarded.

1 “(2) *TAX-EXEMPT BENEFICIARY.*—*For purposes*
2 *of paragraph (1)(B)—*

3 “(A) *IN GENERAL.*—*The term ‘tax-exempt*
4 *beneficiary’ means—*

5 “(i) *the United States, any State or*
6 *political subdivision thereof, any possession*
7 *of the United States, any Indian tribal gov-*
8 *ernment (within the meaning of section*
9 *7871), or any agency or instrumentality of*
10 *any of the foregoing,*

11 “(ii) *an organization (other than a co-*
12 *operative described in section 521) which is*
13 *exempt from tax imposed by chapter 1, and*

14 “(iii) *any foreign person or entity*
15 *(within the meaning of section 168(h)(2)).*

16 “(h) *REGULATIONS.*—*The Secretary shall prescribe*
17 *such regulations as may be necessary to carry out the pur-*
18 *poses of this section.”.*

19 (b) *INFORMATION RETURNS, ETC.—*

20 (1) *LARGE TRANSFERS AT DEATH.*—*So much of*
21 *subpart C of part II of subchapter A of chapter 61*
22 *as precedes section 6019 is amended to read as fol-*
23 *lows:*

1 **“Subpart C—Returns Relating to Transfers During**
 2 **Life or at Death**

“Sec. 6018. Returns relating to large transfers at death.

“Sec. 6019. Gift tax returns.

3 **“SEC. 6018. RETURNS RELATING TO LARGE TRANSFERS AT**
 4 **DEATH.**

5 “(a) *IN GENERAL.*—*If this section applies to property*
 6 *acquired from a decedent, the executor of the estate of such*
 7 *decedent shall make a return containing the information*
 8 *specified in subsection (c) with respect to such property.*

9 “(b) *PROPERTY TO WHICH SECTION APPLIES.*—

10 “(1) *LARGE TRANSFERS.*—*This section shall*
 11 *apply to all property (other than cash) acquired from*
 12 *a decedent if the fair market value of such property*
 13 *acquired from the decedent exceeds the dollar amount*
 14 *applicable under section 1022(b)(2)(B) (without re-*
 15 *gard to section 1022(b)(2)(C)).*

16 “(2) *TRANSFERS OF CERTAIN GIFTS RECEIVED*
 17 *BY DECEDENT WITHIN 3 YEARS OF DEATH.*—*This sec-*
 18 *tion shall apply to any appreciated property acquired*
 19 *from the decedent if—*

20 “(A) *subsections (b) and (c) of section 1022*
 21 *do not apply to such property by reason of sec-*
 22 *tion 1022(d)(1)(C), and*

1 “(B) such property was required to be in-
2 cluded on a return required to be filed under sec-
3 tion 6019.

4 “(3) *NONRESIDENTS NOT CITIZENS OF THE*
5 *UNITED STATES.—In the case of a decedent who is a*
6 *nonresident not a citizen of the United States, para-*
7 *graphs (1) and (2) shall be applied—*

8 “(A) by taking into account only—

9 “(i) tangible property situated in the
10 United States, and

11 “(ii) other property acquired from the
12 decedent by a United States person, and

13 “(B) by substituting the dollar amount ap-
14 plicable under section 1022(b)(3) for the dollar
15 amount referred to in paragraph (1).

16 “(4) *RETURNS BY TRUSTEES OR BENE-*
17 *FICIARIES.—If the executor is unable to make a com-*
18 *plete return as to any property acquired from or*
19 *passing from the decedent, the executor shall include*
20 *in the return a description of such property and the*
21 *name of every person holding a legal or beneficial in-*
22 *terest therein. Upon notice from the Secretary, such*
23 *person shall in like manner make a return as to such*
24 *property.*

1 “(c) *INFORMATION REQUIRED TO BE FURNISHED.*—
2 *The information specified in this subsection with respect*
3 *to any property acquired from the decedent is—*

4 “(1) *the name and TIN of the recipient of such*
5 *property,*

6 “(2) *an accurate description of such property,*

7 “(3) *the adjusted basis of such property in the*
8 *hands of the decedent and its fair market value at the*
9 *time of death,*

10 “(4) *the decedent’s holding period for such prop-*
11 *erty,*

12 “(5) *sufficient information to determine whether*
13 *any gain on the sale of the property would be treated*
14 *as ordinary income,*

15 “(6) *the amount of basis increase allocated to the*
16 *property under subsection (b) or (c) of section 1022,*
17 *and*

18 “(7) *such other information as the Secretary*
19 *may by regulations prescribe.*

20 “(d) *PROPERTY ACQUIRED FROM DECEDENT.*—*For*
21 *purposes of this section, section 1022 shall apply for pur-*
22 *poses of determining the property acquired from a decedent.*

23 “(e) *STATEMENTS TO BE FURNISHED TO CERTAIN*
24 *PERSONS.*—*Every person required to make a return under*
25 *subsection (a) shall furnish to each person whose name is*

1 *required to be set forth in such return (other than the person*
2 *required to make such return) a written statement*
3 *showing—*

4 “(1) *the name, address, and phone number of the*
5 *person required to make such return, and*

6 “(2) *the information specified in subsection (c)*
7 *with respect to property acquired from, or passing*
8 *from, the decedent to the person required to receive*
9 *such statement.*

10 *The written statement required under the preceding sen-*
11 *tence shall be furnished not later than 30 days after the*
12 *date that the return required by subsection (a) is filed.”.*

13 (2) *GIFTS.—Section 6019 (relating to gift tax re-*
14 *turns) is amended—*

15 (A) *by striking “Any individual” and in-*
16 *serting “(a) IN GENERAL.—Any individual”,*
17 *and*

18 (B) *by adding at the end the following new*
19 *subsection:*

20 “(b) *STATEMENTS TO BE FURNISHED TO CERTAIN*
21 *PERSONS.—Every person required to make a return under*
22 *subsection (a) shall furnish to each person whose name is*
23 *required to be set forth in such return (other than the person*
24 *required to make such return) a written statement*
25 *showing—*

1 “(1) the name, address, and phone number of the
2 person required to make such return, and

3 “(2) the information specified in such return
4 with respect to property received by the person re-
5 quired to receive such statement.

6 *The written statement required under the preceding sen-
7 tence shall be furnished not later than 30 days after the
8 date that the return required by subsection (a) is filed.”.*

9 (3) *TIME FOR FILING SECTION 6018 RETURNS.—*

10 (A) *RETURNS RELATING TO LARGE TRANS-*
11 *FERS AT DEATH.—Subsection (a) of section 6075*
12 *is amended to read as follows:*

13 “(a) *RETURNS RELATING TO LARGE TRANSFERS AT*
14 *DEATH.—The return required by section 6018 with respect*
15 *to a decedent shall be filed with the return of the tax im-*
16 *posed by chapter 1 for the decedent’s last taxable year or*
17 *such later date specified in regulations prescribed by the*
18 *Secretary.”.*

19 (B) *CONFORMING AMENDMENTS.—Para-*
20 *graph (3) of section 6075(b) is amended—*

21 (i) *by striking “ESTATE TAX RETURN”*
22 *in the heading and inserting “SECTION 6018*
23 *RETURN”, and*

1 (ii) by striking “(relating to estate tax
2 returns)” and inserting “(relating to re-
3 turns relating to large transfers at death)”.

4 (4) *PENALTIES.*—Part I of subchapter B of
5 chapter 68 (relating to assessable penalties) is amend-
6 ed by adding at the end the following new section:

7 **“SEC. 6716. FAILURE TO FILE INFORMATION WITH RESPECT**
8 **TO CERTAIN TRANSFERS AT DEATH AND**
9 **GIFTS.**

10 “(a) *INFORMATION REQUIRED TO BE FURNISHED TO*
11 *THE SECRETARY.*—Any person required to furnish any in-
12 formation under section 6018 who fails to furnish such in-
13 formation on the date prescribed therefor (determined with
14 regard to any extension of time for filing) shall pay a pen-
15 alty of \$10,000 (\$500 in the case of information required
16 to be furnished under section 6018(b)(2)) for each such fail-
17 ure.

18 “(b) *INFORMATION REQUIRED TO BE FURNISHED TO*
19 *BENEFICIARIES.*—Any person required to furnish in writ-
20 ing to each person described in section 6018(e) or 6019(b)
21 the information required under such section who fails to
22 furnish such information shall pay a penalty of \$50 for
23 each such failure.

24 “(c) *REASONABLE CAUSE EXCEPTION.*—No penalty
25 shall be imposed under subsection (a) or (b) with respect

1 to any failure if it is shown that such failure is due to
2 reasonable cause.

3 “(d) *INTENTIONAL DISREGARD.*—If any failure under
4 subsection (a) or (b) is due to intentional disregard of the
5 requirements under sections 6018 and 6019(b), the penalty
6 under such subsection shall be 5 percent of the fair market
7 value (as of the date of death or, in the case of section
8 6019(b), the date of the gift) of the property with respect
9 to which the information is required.

10 “(e) *DEFICIENCY PROCEDURES NOT TO APPLY.*—Sub-
11 chapter B of chapter 63 (relating to deficiency procedures
12 for income, estate, gift, and certain excise taxes) shall not
13 apply in respect of the assessment or collection of any pen-
14 alty imposed by this section.”.

15 (5) *CLERICAL AMENDMENTS.*—

16 (A) The table of sections for part I of sub-
17 chapter B of chapter 68 is amended by adding
18 at the end the following new item:

“Sec. 6716. Failure to file information with respect to certain
transfers at death and gifts.”.

19 (B) The item relating to subpart C in the
20 table of subparts for part II of subchapter A of
21 chapter 61 is amended to read as follows:

“Subpart C. Returns relating to transfers during life or at death.”.

22 (c) *EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESI-*
23 *DENCE MADE AVAILABLE TO HEIR OF DECEDENT IN CER-*

1 *TAIN CASES.*—*Subsection (d) of section 121 (relating to ex-*
 2 *clusion of gain from sale of principal residence) is amended*
 3 *by adding at the end the following new paragraph:*

4 “(9) *PROPERTY ACQUIRED FROM A DECEDENT.*—
 5 *The exclusion under this section shall apply to prop-*
 6 *erty sold by—*

7 “(A) *the estate of a decedent, and*

8 “(B) *any individual who acquired such*
 9 *property from the decedent (within the meaning*
 10 *of section 1022),*

11 *determined by taking into account the ownership and*
 12 *use by the decedent.”.*

13 *(d) TRANSFERS OF APPRECIATED CARRYOVER BASIS*
 14 *PROPERTY TO SATISFY PECUNIARY BEQUEST.*—

15 (1) *IN GENERAL.*—*Section 1040 (relating to*
 16 *transfer of certain farm, etc., real property) is*
 17 *amended to read as follows:*

18 **“SEC. 1040. USE OF APPRECIATED CARRYOVER BASIS PROP-**
 19 **ERTY TO SATISFY PECUNIARY BEQUEST.**

20 “(a) *IN GENERAL.*—*If the executor of the estate of any*
 21 *decedent satisfies the right of any person to receive a pecu-*
 22 *niary bequest with appreciated property, then gain on such*
 23 *exchange shall be recognized to the estate only to the extent*
 24 *that, on the date of such exchange, the fair market value*
 25 *of such property exceeds such value on the date of death.*

1 “(b) *SIMILAR RULE FOR CERTAIN TRUSTS.*—*To the*
 2 *extent provided in regulations prescribed by the Secretary,*
 3 *a rule similar to the rule provided in subsection (a) shall*
 4 *apply where—*

5 “(1) *by reason of the death of the decedent, a*
 6 *person has a right to receive from a trust a specific*
 7 *dollar amount which is the equivalent of a pecuniary*
 8 *bequest, and*

9 “(2) *the trustee of a trust satisfies such right*
 10 *with property.*

11 “(c) *BASIS OF PROPERTY ACQUIRED IN EXCHANGE*
 12 *DESCRIBED IN SUBSECTION (a) OR (b).*—*The basis of prop-*
 13 *erty acquired in an exchange with respect to which gain*
 14 *realized is not recognized by reason of subsection (a) or (b)*
 15 *shall be the basis of such property immediately before the*
 16 *exchange increased by the amount of the gain recognized*
 17 *to the estate or trust on the exchange.”.*

18 (2) *The item relating to section 1040 in the table*
 19 *of sections for part III of subchapter O of chapter 1*
 20 *is amended to read as follows:*

*“Sec. 1040. Use of appreciated carryover basis property to satisfy
 pecuniary bequest.”.*

21 (e) *MISCELLANEOUS AMENDMENTS RELATED TO CAR-*
 22 *RYOVER BASIS.*—

23 (1) *RECOGNITION OF GAIN ON TRANSFERS TO*
 24 *NONRESIDENTS.*—

1 (A) Subsection (a) of section 684 is amend-
2 ed by inserting “or to a nonresident alien” after
3 “or trust”.

4 (B) Subsection (b) of section 684 is amend-
5 ed by striking “any person” and inserting “any
6 United States person”.

7 (C) The section heading for section 684 is
8 amended by inserting “**AND NONRESIDENT**
9 **ALIENS**” after “**ESTATES**”.

10 (D) The item relating to section 684 in the
11 table of sections for subpart F of part I of sub-
12 chapter J of chapter 1 is amended by inserting
13 “and nonresident aliens” after “estates”.

14 (2) *CAPITAL GAIN TREATMENT FOR INHERITED*
15 *ART WORK OR SIMILAR PROPERTY.*—

16 (A) *IN GENERAL.*—Subparagraph (C) of
17 section 1221(a)(3) (defining capital asset) is
18 amended by inserting “(other than by reason of
19 section 1022)” after “is determined”.

20 (B) *COORDINATION WITH SECTION 170.*—
21 Paragraph (1) of section 170(e) (relating to cer-
22 tain contributions of ordinary income and cap-
23 ital gain property) is amended by adding at the
24 end the following: “For purposes of this para-
25 graph, the determination of whether property is

1 *a capital asset shall be made without regard to*
2 *the exception contained in section 1221(a)(3)(C)*
3 *for basis determined under section 1022.”.*

4 (3) *DEFINITION OF EXECUTOR.*—Section 7701(a)
5 *(relating to definitions) is amended by adding at the*
6 *end the following:*

7 “(47) *EXECUTOR.*—The term ‘*executor*’ means
8 *the executor or administrator of the decedent, or, if*
9 *there is no executor or administrator appointed,*
10 *qualified, and acting within the United States, then*
11 *any person in actual or constructive possession of any*
12 *property of the decedent.”.*

13 (4) *CERTAIN TRUSTS.*—Subparagraph (A) of sec-
14 *tion 4947(a)(2) is amended by inserting “642(c),”*
15 *after “170(f)(2)(B),”.*

16 (5) *OTHER AMENDMENTS.*—

17 (A) *Section 1246 is amended by striking*
18 *subsection (e).*

19 (B) *Subsection (e) of section 1291 is*
20 *amended—*

21 (i) *by striking “(e),”; and*

22 (ii) *by striking “; except that” and all*
23 *that follows and inserting a period.*

24 (C) *Section 1296 is amended by striking*
25 *subsection (i).*

1 (6) *CLERICAL AMENDMENT.*—*The table of sec-*
 2 *tions for part II of subchapter O of chapter 1 is*
 3 *amended by inserting after the item relating to sec-*
 4 *tion 1021 the following new item:*

*“Sec. 1022. Treatment of property acquired from a decedent dying
 after December 31, 2010.”.*

5 (f) *EFFECTIVE DATE.*—

6 (1) *IN GENERAL.*—*Except as provided in para-*
 7 *graph (2), the amendments made by this section shall*
 8 *apply to estates of decedents dying after December 31,*
 9 *2010.*

10 (2) *TRANSFERS TO NONRESIDENTS.*—*The*
 11 *amendments made by subsection (e)(1) shall apply to*
 12 *transfers after December 31, 2010.*

13 (3) *SECTION 4947.*—*The amendment made by*
 14 *subsection (e)(4) shall apply to deductions for taxable*
 15 *years beginning after December 31, 2010.*

Subtitle F—Conservation Easements

18 ***SEC. 551. EXPANSION OF ESTATE TAX RULE FOR CON-***
 19 ***SERVATION EASEMENTS.***

20 (a) *REPEAL OF CERTAIN RESTRICTIONS ON WHERE*
 21 *LAND IS LOCATED.*—*Clause (i) of section 2031(c)(8)(A)*
 22 *(defining land subject to a qualified conservation easement)*
 23 *is amended to read as follows:*

1 “(i) which is located in the United
2 States or any possession of the United
3 States,”.

4 (b) *CLARIFICATION OF DATE FOR DETERMINING*
5 *VALUE OF LAND AND EASEMENT.*—Section 2031(c)(2) (de-
6 *fining applicable percentage)* is amended by adding at the
7 *end the following new sentence: “The values taken into ac-*
8 *count under the preceding sentence shall be such values as*
9 *of the date of the contribution referred to in paragraph*
10 *(8)(B).”.*

11 (c) *EFFECTIVE DATE.*—The amendments made by this
12 *section shall apply to estates of decedents dying after De-*
13 *cember 31, 2000.*

14 ***Subtitle G—Modifications of***
15 ***Generation-Skipping Transfer Tax***

16 ***SEC. 561. DEEMED ALLOCATION OF GST EXEMPTION TO***
17 ***LIFETIME TRANSFERS TO TRUSTS; RETRO-***
18 ***ACTIVE ALLOCATIONS.***

19 (a) *IN GENERAL.*—Section 2632 (relating to special
20 *rules for allocation of GST exemption)* is amended by redес-
21 *ignating subsection (c) as subsection (e) and by inserting*
22 *after subsection (b) the following new subsections:*

23 “(c) *DEEMED ALLOCATION TO CERTAIN LIFETIME*
24 *TRANSFERS TO GST TRUSTS.*—

1 “(1) *IN GENERAL.*—*If any individual makes an*
2 *indirect skip during such individual’s lifetime, any*
3 *unused portion of such individual’s GST exemption*
4 *shall be allocated to the property transferred to the ex-*
5 *tent necessary to make the inclusion ratio for such*
6 *property zero. If the amount of the indirect skip ex-*
7 *ceeds such unused portion, the entire unused portion*
8 *shall be allocated to the property transferred.*

9 “(2) *UNUSED PORTION.*—*For purposes of para-*
10 *graph (1), the unused portion of an individual’s GST*
11 *exemption is that portion of such exemption which*
12 *has not previously been—*

13 “(A) *allocated by such individual,*

14 “(B) *treated as allocated under subsection*
15 *(b) with respect to a direct skip occurring during*
16 *or before the calendar year in which the indirect*
17 *skip is made, or*

18 “(C) *treated as allocated under paragraph*
19 *(1) with respect to a prior indirect skip.*

20 “(3) *DEFINITIONS.*—

21 “(A) *INDIRECT SKIP.*—*For purposes of this*
22 *subsection, the term ‘indirect skip’ means any*
23 *transfer of property (other than a direct skip)*
24 *subject to the tax imposed by chapter 12 made*
25 *to a GST trust.*

1 “(B) *GST TRUST.*—*The term ‘GST trust’*
2 *means a trust that could have a generation-skip-*
3 *ping transfer with respect to the transferor*
4 *unless—*

5 “(i) *the trust instrument provides that*
6 *more than 25 percent of the trust corpus*
7 *must be distributed to or may be withdrawn*
8 *by one or more individuals who are non-*
9 *skip persons—*

10 “(I) *before the date that the indi-*
11 *vidual attains age 46,*

12 “(II) *on or before one or more*
13 *dates specified in the trust instrument*
14 *that will occur before the date that*
15 *such individual attains age 46, or*

16 “(III) *upon the occurrence of an*
17 *event that, in accordance with regula-*
18 *tions prescribed by the Secretary, may*
19 *reasonably be expected to occur before*
20 *the date that such individual attains*
21 *age 46,*

22 “(ii) *the trust instrument provides that*
23 *more than 25 percent of the trust corpus*
24 *must be distributed to or may be withdrawn*
25 *by one or more individuals who are non-*

1 *skip persons and who are living on the date*
2 *of death of another person identified in the*
3 *instrument (by name or by class) who is*
4 *more than 10 years older than such individ-*
5 *uals,*

6 “(iii) *the trust instrument provides*
7 *that, if one or more individuals who are*
8 *non-skip persons die on or before a date or*
9 *event described in clause (i) or (ii), more*
10 *than 25 percent of the trust corpus either*
11 *must be distributed to the estate or estates*
12 *of one or more of such individuals or is sub-*
13 *ject to a general power of appointment exer-*
14 *cisable by one or more of such individuals,*

15 “(iv) *the trust is a trust any portion*
16 *of which would be included in the gross es-*
17 *tate of a non-skip person (other than the*
18 *transferor) if such person died immediately*
19 *after the transfer,*

20 “(v) *the trust is a charitable lead an-*
21 *nuity trust (within the meaning of section*
22 *2642(e)(3)(A)) or a charitable remainder*
23 *annuity trust or a charitable remainder*
24 *unitrust (within the meaning of section*
25 *664(d)), or*

1 “(vi) the trust is a trust with respect
2 to which a deduction was allowed under sec-
3 tion 2522 for the amount of an interest in
4 the form of the right to receive annual pay-
5 ments of a fixed percentage of the net fair
6 market value of the trust property (deter-
7 mined yearly) and which is required to pay
8 principal to a non-skip person if such per-
9 son is alive when the yearly payments for
10 which the deduction was allowed terminate.

11 For purposes of this subparagraph, the value of
12 transferred property shall not be considered to be
13 includible in the gross estate of a non-skip per-
14 son or subject to a right of withdrawal by reason
15 of such person holding a right to withdraw so
16 much of such property as does not exceed the
17 amount referred to in section 2503(b) with re-
18 spect to any transferor, and it shall be assumed
19 that powers of appointment held by non-skip
20 persons will not be exercised.

21 “(4) *AUTOMATIC ALLOCATIONS TO CERTAIN GST*
22 *TRUSTS.*—For purposes of this subsection, an indirect
23 skip to which section 2642(f) applies shall be deemed
24 to have been made only at the close of the estate tax
25 inclusion period. The fair market value of such trans-

1 *fer shall be the fair market value of the trust property*
2 *at the close of the estate tax inclusion period.*

3 “(5) *APPLICABILITY AND EFFECT.*—

4 “(A) *IN GENERAL.*—*An individual—*

5 “(i) *may elect to have this subsection*
6 *not apply to—*

7 “(I) *an indirect skip, or*

8 “(II) *any or all transfers made by*
9 *such individual to a particular trust,*
10 *and*

11 “(ii) *may elect to treat any trust as a*
12 *GST trust for purposes of this subsection*
13 *with respect to any or all transfers made by*
14 *such individual to such trust.*

15 “(B) *ELECTIONS.*—

16 “(i) *ELECTIONS WITH RESPECT TO IN-*
17 *DIRECT SKIPS.*—*An election under subpara-*
18 *graph (A)(i)(I) shall be deemed to be timely*
19 *if filed on a timely filed gift tax return for*
20 *the calendar year in which the transfer was*
21 *made or deemed to have been made pursu-*
22 *ant to paragraph (4) or on such later date*
23 *or dates as may be prescribed by the Sec-*
24 *retary.*

1 “(ii) *OTHER ELECTIONS.*—An election
2 under clause (i)(II) or (ii) of subparagraph
3 (A) may be made on a timely filed gift tax
4 return for the calendar year for which the
5 election is to become effective.

6 “(d) *RETROACTIVE ALLOCATIONS.*—

7 “(1) *IN GENERAL.*—If—

8 “(A) a non-skip person has an interest or a
9 future interest in a trust to which any transfer
10 has been made,

11 “(B) such person—

12 “(i) is a lineal descendant of a grand-
13 parent of the transferor or of a grandparent
14 of the transferor’s spouse or former spouse,
15 and

16 “(ii) is assigned to a generation below
17 the generation assignment of the transferor,
18 and

19 “(C) such person predeceases the transferor,
20 then the transferor may make an allocation of any of
21 such transferor’s unused GST exemption to any pre-
22 vious transfer or transfers to the trust on a chrono-
23 logical basis.

24 “(2) *SPECIAL RULES.*—If the allocation under
25 paragraph (1) by the transferor is made on a gift tax

1 *return filed on or before the date prescribed by section*
2 *6075(b) for gifts made within the calendar year with-*
3 *in which the non-skip person's death occurred—*

4 *“(A) the value of such transfer or transfers*
5 *for purposes of section 2642(a) shall be deter-*
6 *mined as if such allocation had been made on a*
7 *timely filed gift tax return for each calendar*
8 *year within which each transfer was made,*

9 *“(B) such allocation shall be effective imme-*
10 *diately before such death, and*

11 *“(C) the amount of the transferor's unused*
12 *GST exemption available to be allocated shall be*
13 *determined immediately before such death.*

14 *“(3) FUTURE INTEREST.—For purposes of this*
15 *subsection, a person has a future interest in a trust*
16 *if the trust may permit income or corpus to be paid*
17 *to such person on a date or dates in the future.”.*

18 *(b) CONFORMING AMENDMENT.—Paragraph (2) of sec-*
19 *tion 2632(b) is amended by striking “with respect to a prior*
20 *direct skip” and inserting “or subsection (c)(1)”.*

21 *(c) EFFECTIVE DATES.—*

22 *(1) DEEMED ALLOCATION.—Section 2632(c) of*
23 *the Internal Revenue Code of 1986 (as added by sub-*
24 *section (a)), and the amendment made by subsection*
25 *(b), shall apply to transfers subject to chapter 11 or*

1 12 made after December 31, 2000, and to estate tax
2 inclusion periods ending after December 31, 2000.

3 (2) **RETROACTIVE ALLOCATIONS.**—Section
4 2632(d) of the Internal Revenue Code of 1986 (as
5 added by subsection (a)) shall apply to deaths of non-
6 skip persons occurring after December 31, 2000.

7 **SEC. 562. SEVERING OF TRUSTS.**

8 (a) **IN GENERAL.**—Subsection (a) of section 2642 (re-
9 lating to inclusion ratio) is amended by adding at the end
10 the following new paragraph:

11 “(3) **SEVERING OF TRUSTS.**—

12 “(A) **IN GENERAL.**—If a trust is severed in
13 a qualified severance, the trusts resulting from
14 such severance shall be treated as separate trusts
15 thereafter for purposes of this chapter.

16 “(B) **QUALIFIED SEVERANCE.**—For pur-
17 poses of subparagraph (A)—

18 “(i) **IN GENERAL.**—The term ‘qualified
19 severance’ means the division of a single
20 trust and the creation (by any means avail-
21 able under the governing instrument or
22 under local law) of two or more trusts if—

23 “(I) the single trust was divided
24 on a fractional basis, and

1 “(II) *the terms of the new trusts,*
2 *in the aggregate, provide for the same*
3 *succession of interests of beneficiaries*
4 *as are provided in the original trust.*

5 “(ii) *TRUSTS WITH INCLUSION RATIO*
6 *GREATER THAN ZERO.—If a trust has an*
7 *inclusion ratio of greater than zero and less*
8 *than 1, a severance is a qualified severance*
9 *only if the single trust is divided into two*
10 *trusts, one of which receives a fractional*
11 *share of the total value of all trust assets*
12 *equal to the applicable fraction of the single*
13 *trust immediately before the severance. In*
14 *such case, the trust receiving such fractional*
15 *share shall have an inclusion ratio of zero*
16 *and the other trust shall have an inclusion*
17 *ratio of 1.*

18 “(iii) *REGULATIONS.—The term*
19 *‘qualified severance’ includes any other sev-*
20 *erance permitted under regulations pre-*
21 *scribed by the Secretary.*

22 “(C) *TIMING AND MANNER OF*
23 *SEVERANCES.—A severance pursuant to this*
24 *paragraph may be made at any time. The Sec-*
25 *retary shall prescribe by forms or regulations the*

1 *manner in which the qualified severance shall be*
2 *reported to the Secretary.”.*

3 **(b) EFFECTIVE DATE.**—*The amendment made by this*
4 *section shall apply to severances after December 31, 2000.*

5 **SEC. 563. MODIFICATION OF CERTAIN VALUATION RULES.**

6 **(a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR**
7 **DEEMED ALLOCATION MADE.**—*Paragraph (1) of section*
8 *2642(b) (relating to valuation rules, etc.) is amended to*
9 *read as follows:*

10 “(1) **GIFTS FOR WHICH GIFT TAX RETURN FILED**
11 **OR DEEMED ALLOCATION MADE.**—*If the allocation of*
12 *the GST exemption to any transfers of property is*
13 *made on a gift tax return filed on or before the date*
14 *prescribed by section 6075(b) for such transfer or is*
15 *deemed to be made under section 2632 (b)(1) or*
16 *(c)(1)—*

17 “(A) *the value of such property for purposes*
18 *of subsection (a) shall be its value as finally de-*
19 *termined for purposes of chapter 12 (within the*
20 *meaning of section 2001(f)(2)), or, in the case of*
21 *an allocation deemed to have been made at the*
22 *close of an estate tax inclusion period, its value*
23 *at the time of the close of the estate tax inclusion*
24 *period, and*

1 “(B) such allocation shall be effective on
2 and after the date of such transfer, or, in the
3 case of an allocation deemed to have been made
4 at the close of an estate tax inclusion period, on
5 and after the close of such estate tax inclusion
6 period.”.

7 (b) *TRANSFERS AT DEATH*.—Subparagraph (A) of sec-
8 tion 2642(b)(2) is amended to read as follows:

9 “(A) *TRANSFERS AT DEATH*.—If property is
10 transferred as a result of the death of the trans-
11 feror, the value of such property for purposes of
12 subsection (a) shall be its value as finally deter-
13 mined for purposes of chapter 11; except that, if
14 the requirements prescribed by the Secretary re-
15 specting allocation of post-death changes in value
16 are not met, the value of such property shall be
17 determined as of the time of the distribution con-
18 cerned.”.

19 (c) *EFFECTIVE DATE*.—The amendments made by this
20 section shall apply to transfers subject to chapter 11 or 12
21 of the Internal Revenue Code of 1986 made after December
22 31, 2000.

23 **SEC. 564. RELIEF PROVISIONS.**

24 (a) *IN GENERAL*.—Section 2642 is amended by adding
25 at the end the following new subsection:

1 “(g) *RELIEF PROVISIONS.*—

2 “(1) *RELIEF FROM LATE ELECTIONS.*—

3 “(A) *IN GENERAL.*—*The Secretary shall by*
4 *regulation prescribe such circumstances and pro-*
5 *cedures under which extensions of time will be*
6 *granted to make—*

7 “(i) *an allocation of GST exemption*
8 *described in paragraph (1) or (2) of sub-*
9 *section (b), and*

10 “(ii) *an election under subsection*
11 *(b)(3) or (c)(5) of section 2632.*

12 *Such regulations shall include procedures for re-*
13 *questing comparable relief with respect to trans-*
14 *fers made before the date of the enactment of this*
15 *paragraph.*

16 “(B) *BASIS FOR DETERMINATIONS.*—*In de-*
17 *termining whether to grant relief under this*
18 *paragraph, the Secretary shall take into account*
19 *all relevant circumstances, including evidence of*
20 *intent contained in the trust instrument or in-*
21 *strument of transfer and such other factors as the*
22 *Secretary deems relevant. For purposes of deter-*
23 *mining whether to grant relief under this para-*
24 *graph, the time for making the allocation (or*

1 election) shall be treated as if not expressly pre-
2 scribed by statute.

3 “(2) *SUBSTANTIAL COMPLIANCE.*—An allocation
4 of GST exemption under section 2632 that dem-
5 onstrates an intent to have the lowest possible inclu-
6 sion ratio with respect to a transfer or a trust shall
7 be deemed to be an allocation of so much of the trans-
8 feror’s unused GST exemption as produces the lowest
9 possible inclusion ratio. In determining whether there
10 has been substantial compliance, all relevant cir-
11 cumstances shall be taken into account, including evi-
12 dence of intent contained in the trust instrument or
13 instrument of transfer and such other factors as the
14 Secretary deems relevant.”.

15 (b) *EFFECTIVE DATES.*—

16 (1) *RELIEF FROM LATE ELECTIONS.*—Section
17 2642(g)(1) of the Internal Revenue Code of 1986 (as
18 added by subsection (a)) shall apply to requests pend-
19 ing on, or filed after, December 31, 2000.

20 (2) *SUBSTANTIAL COMPLIANCE.*—Section
21 2642(g)(2) of such Code (as so added) shall apply to
22 transfers subject to chapter 11 or 12 of the Internal
23 Revenue Code of 1986 made after December 31, 2000.
24 No implication is intended with respect to the avail-
25 ability of relief from late elections or the application

1 of a rule of substantial compliance on or before such
2 date.

3 ***Subtitle H—Extension of Time for***
4 ***Payment of Estate Tax***

5 ***SEC. 571. EXPANSION OF AVAILABILITY OF INSTALLMENT***
6 ***PAYMENT FOR ESTATES WITH INTERESTS***
7 ***QUALIFYING LENDING AND FINANCE BUSI-***
8 ***NESSES.***

9 (a) *IN GENERAL.*—Section 6166(b) (relating to defini-
10 tions and special rules) is amended by adding at the end
11 the following new paragraph:

12 “(10) *STOCK IN QUALIFYING LENDING AND FI-*
13 *NANCE BUSINESS TREATED AS STOCK IN AN ACTIVE*
14 *TRADE OR BUSINESS COMPANY.—*

15 “(A) *IN GENERAL.*—If the executor elects the
16 benefits of this paragraph, then—

17 “(i) *STOCK IN QUALIFYING LENDING*
18 *AND FINANCE BUSINESS TREATED AS STOCK*
19 *IN AN ACTIVE TRADE OR BUSINESS COM-*
20 *PANY.—For purposes of this section, any*
21 *asset used in a qualifying lending and fi-*
22 *nance business shall be treated as an asset*
23 *which is used in carrying on a trade or*
24 *business.*

1 “(ii) *5-YEAR DEFERRAL FOR PRIN-*
2 *CIPAL NOT TO APPLY.—The executor shall be*
3 *treated as having selected under subsection*
4 *(a)(3) the date prescribed by section*
5 *6151(a).*

6 “(iii) *5 EQUAL INSTALLMENTS AL-*
7 *LOWED.—For purposes of applying sub-*
8 *section (a)(1), ‘5’ shall be substituted for*
9 *‘10’.*

10 “(B) *DEFINITIONS.—For purposes of this*
11 *paragraph—*

12 “(i) *QUALIFYING LENDING AND FI-*
13 *NANCE BUSINESS.—The term ‘qualifying*
14 *lending and finance business’ means a lend-*
15 *ing and finance business, if—*

16 “(I) *based on all the facts and cir-*
17 *cumstances immediately before the date*
18 *of the decedent’s death, there was sub-*
19 *stantial activity with respect to the*
20 *lending and finance business, or*

21 “(II) *during at least 3 of the 5*
22 *taxable years ending before the date of*
23 *the decedent’s death, such business had*
24 *at least 1 full-time employee substan-*
25 *tially all of the services of whom were*

1 *in the active management of such busi-*
2 *ness, 10 full-time, nonowner employees*
3 *substantially all of the services of*
4 *whom were directly related to such*
5 *business, and \$5,000,000 in gross re-*
6 *ceipts from activities described in*
7 *clause (i).*

8 “(i) *LENDING AND FINANCE BUSI-*
9 *NESS.—The term ‘lending and finance busi-*
10 *ness’ means a trade or business of—*

11 “(I) *making loans,*

12 “(II) *purchasing or discounting*
13 *accounts receivable, notes, or install-*
14 *ment obligations,*

15 “(III) *engaging in rental and*
16 *leasing of real and tangible personal*
17 *property, including entering into leases*
18 *and purchasing, servicing, and dis-*
19 *posing of leases and leased assets,*

20 “(IV) *rendering services or mak-*
21 *ing facilities available in the ordinary*
22 *course of a lending or finance business,*
23 *and*

24 “(V) *rendering services or making*
25 *facilities available in connection with*

1 *activities described in subclauses (I)*
2 *through (IV) carried on by the corpora-*
3 *tion rendering services or making fa-*
4 *cilities available, or another corpora-*
5 *tion which is a member of the same af-*
6 *filiated group (as defined in section*
7 *1504 without regard to section*
8 *1504(b)(3)).*

9 *“(iii) LIMITATION.—The term ‘quali-*
10 *fying lending and finance business’ shall*
11 *not include any interest in an entity, if the*
12 *stock or debt of such entity or a controlled*
13 *group (as defined in section 267(f)(1)) of*
14 *which such entity was a member was read-*
15 *ily tradable on an established securities*
16 *market or secondary market (as defined by*
17 *the Secretary) at any time within 3 years*
18 *before the date of the decedent’s death.”.*

19 *(b) EFFECTIVE DATE.—The amendment made by this*
20 *section shall apply to estates of decedents dying after De-*
21 *cember 31, 2001.*

1 **SEC. 572. CLARIFICATION OF AVAILABILITY OF INSTALL-**
2 **MENT PAYMENT.**

3 (a) *IN GENERAL.*—Subparagraph (B) of section
4 6166(b)(8) (relating to all stock must be non-readily-
5 tradable stock) is amended to read as follows:

6 “(B) *ALL STOCK MUST BE NON-READILY-*
7 *TRADABLE STOCK.*—

8 “(i) *IN GENERAL.*—No stock shall be
9 taken into account for purposes of applying
10 this paragraph unless it is non-readily-
11 tradable stock (within the meaning of para-
12 graph (7)(B)).

13 “(ii) *SPECIAL APPLICATION WHERE*
14 *ONLY HOLDING COMPANY STOCK IS NON-*
15 *READILY-TRADABLE STOCK.*—If the require-
16 ments of clause (i) are not met, but all of
17 the stock of any holding company taken into
18 account is non-readily-tradable, then this
19 paragraph shall apply, but subsection (a)(1)
20 shall be applied by substituting ‘5’ for
21 ‘10’.”.

22 (b) *EFFECTIVE DATE.*—The amendment made by this
23 section shall apply to estates of decedents dying after De-
24 cember 31, 2001.

1 ***Subtitle I—Compliance With***
2 ***Congressional Budget Act***

3 ***SEC. 581. SUNSET OF PROVISIONS OF TITLE.***

4 *All provisions of, and amendments made by, this title*
5 *which are in effect on September 30, 2011, shall cease to*
6 *apply as of the close of September 30, 2011.*

7 ***TITLE VI—PENSION AND INDIVIDUAL RETIREMENT AR-***
8 ***ANGEMENT PROVISIONS***

9 ***Subtitle A—Individual Retirement***
10 ***Accounts***

11 ***SEC. 601. MODIFICATION OF IRA CONTRIBUTION LIMITS.***

12 *(a) INCREASE IN CONTRIBUTION LIMIT.—*

13 *(1) IN GENERAL.—Paragraph (1)(A) of section*
14 *219(b) (relating to maximum amount of deduction) is*
15 *amended by striking “\$2,000” and inserting “the de-*
16 *ductible amount”.*

17 *(2) DEDUCTIBLE AMOUNT.—Section 219(b) is*
18 *amended by adding at the end the following new*
19 *paragraph:*

20 *“(5) DEDUCTIBLE AMOUNT.—For purposes of*
21 *paragraph (1)(A)—*

22 *“(A) IN GENERAL.—The deductible amount*
23 *shall be determined in accordance with the fol-*
24 *lowing table:*
25

“For taxable years beginning in:	The deductible amount is:
2002 through 2005	\$2,500
2006 and 2007	\$3,000
2008 and 2009	\$3,500
2010	\$4,000
2011 and thereafter	\$5,000.

1 “(B) CATCH-UP CONTRIBUTIONS FOR INDI-
2 VIDUALS 50 OR OLDER.—

3 “(i) IN GENERAL.—In the case of an
4 individual who has attained the age of 50
5 before the close of the taxable year, the de-
6 ductible amount for such taxable year shall
7 be increased by the applicable amount.

8 “(ii) APPLICABLE AMOUNT.—For pur-
9 poses of clause (i), the applicable amount
10 shall be the amount determined in accord-
11 ance with the following table:

“For taxable years beginning in:	The applicable amount is:
2002 through 2005	\$500
2006 through 2009	\$1,000
2010	\$1,500
2011 and thereafter	\$2,000.

12 “(C) COST-OF-LIVING ADJUSTMENT.—

13 “(i) IN GENERAL.—In the case of any
14 taxable year beginning in a calendar year
15 after 2011, the \$5,000 amount under sub-
16 paragraph (A) shall be increased by an
17 amount equal to—

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

1 “(II) the cost-of-living adjustment
2 determined under section 1(f)(3) for
3 the calendar year in which the taxable
4 year begins, determined by substituting
5 ‘calendar year 2010’ for ‘calendar year
6 1992’ in subparagraph (B) thereof.

7 “(ii) *ROUNDING RULES.*—If any
8 amount after adjustment under clause (i) is
9 not a multiple of \$500, such amount shall
10 be rounded to the next lower multiple of
11 \$500.”.

12 **(b) CONFORMING AMENDMENTS.**—

13 (1) Section 408(a)(1) is amended by striking “in
14 excess of \$2,000 on behalf of any individual” and in-
15 serting “on behalf of any individual in excess of the
16 amount in effect for such taxable year under section
17 219(b)(1)(A)”.

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

21 (3) Section 408(b) is amended by striking
22 “\$2,000” in the matter following paragraph (4) and
23 inserting “the dollar amount in effect under section
24 219(b)(1)(A)”.

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

3 (5) Section 408(p)(8) is amended by striking
4 “\$2,000” and inserting “the dollar amount in effect
5 under section 219(b)(1)(A)”.

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

9 **SEC. 602. DEEMED IRAS UNDER EMPLOYER PLANS.**

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

14 “(q) *DEEMED IRAS UNDER QUALIFIED EMPLOYER*
15 *PLANS.*—

16 “(1) *GENERAL RULE.*—If—

17 “(A) a qualified employer plan elects to
18 allow employees to make voluntary employee
19 contributions to a separate account or annuity
20 established under the plan, and

21 “(B) under the terms of the qualified em-
22 ployer plan, such account or annuity meets the
23 applicable requirements of this section or section
24 408A for an individual retirement account or
25 annuity,

1 *then such account or annuity shall be treated for pur-*
2 *poses of this title in the same manner as an indi-*
3 *vidual retirement plan and not as a qualified em-*
4 *ployer plan (and contributions to such account or an-*
5 *nuity as contributions to an individual retirement*
6 *plan and not to the qualified employer plan). For*
7 *purposes of subparagraph (B), the requirements of*
8 *subsection (a)(5) shall not apply.*

9 *“(2) SPECIAL RULES FOR QUALIFIED EMPLOYER*
10 *PLANS.—For purposes of this title, a qualified em-*
11 *ployer plan shall not fail to meet any requirement of*
12 *this title solely by reason of establishing and main-*
13 *taining a program described in paragraph (1).*

14 *“(3) DEFINITIONS.—For purposes of this*
15 *subsection—*

16 *“(A) QUALIFIED EMPLOYER PLAN.—The*
17 *term ‘qualified employer plan’ has the meaning*
18 *given such term by section 72(p)(4); except such*
19 *term shall only include an eligible deferred com-*
20 *penetration plan (as defined in section 457(b))*
21 *which is maintained by an eligible employer de-*
22 *scribed in section 457(e)(1)(A).*

23 *“(B) VOLUNTARY EMPLOYEE CONTRIBU-*
24 *TION.—The term ‘voluntary employee contribu-*
25 *tion’ means any contribution (other than a man-*

1 *datory contribution within the meaning of sec-*
2 *tion 411(c)(2)(C)—*

3 “(i) *which is made by an individual as*
4 *an employee under a qualified employer*
5 *plan which allows employees to elect to*
6 *make contributions described in paragraph*
7 *(1), and*

8 “(ii) *with respect to which the indi-*
9 *vidual has designated the contribution as a*
10 *contribution to which this subsection ap-*
11 *plies.”.*

12 **(b) AMENDMENT OF ERISA.—**

13 **(1) IN GENERAL.—***Section 4 of the Employee Re-*
14 *irement Income Security Act of 1974 (29 U.S.C.*
15 *1003) is amended by adding at the end the following*
16 *new subsection:*

17 “(c) *If a pension plan allows an employee to elect to*
18 *make voluntary employee contributions to accounts and an-*
19 *nuities as provided in section 408(q) of the Internal Rev-*
20 *enue Code of 1986, such accounts and annuities (and con-*
21 *tributions thereto) shall not be treated as part of such plan*
22 *(or as a separate pension plan) for purposes of any provi-*
23 *sion of this title other than section 403(c), 404, or 405 (re-*
24 *lating to exclusive benefit, and fiduciary and co-fiduciary*
25 *responsibilities).”.*

1 (2) *CONFORMING AMENDMENT.*—Section 4(a) of
 2 *such Act (29 U.S.C. 1003(a)) is amended by inserting*
 3 *“or (c)” after “subsection (b)”.*

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to plan years beginning after December*
 6 *31, 2002.*

7 **SEC. 603. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 8 **TIREMENT ACCOUNTS FOR CHARITABLE PUR-**
 9 **POSES.**

10 (a) *IN GENERAL.*—*Subsection (d) of section 408 (relat-*
 11 *ing to individual retirement accounts) is amended by add-*
 12 *ing at the end the following new paragraph:*

13 “(8) *DISTRIBUTIONS FOR CHARITABLE PUR-*
 14 *POSES.*—

15 “(A) *IN GENERAL.*—*In the case of a quali-*
 16 *fied charitable distribution from an individual*
 17 *retirement account to an organization described*
 18 *in section 170(c), no amount shall be includible*
 19 *in the gross income of the account holder or bene-*
 20 *ficiary.*

21 “(B) *SPECIAL RULES RELATING TO CHARI-*
 22 *TABLE REMAINDER TRUSTS, POOLED INCOME*
 23 *FUNDS, AND CHARITABLE GIFT ANNUITIES.*—

1 “(i) *IN GENERAL.*—*In the case of a*
2 *qualified charitable distribution from an in-*
3 *dividual retirement account—*

4 “(I) *to a charitable remainder an-*
5 *nuity trust or a charitable remainder*
6 *unitrust (as such terms are defined in*
7 *section 664(d)),*

8 “(II) *to a pooled income fund (as*
9 *defined in section 642(c)(5)), or*

10 “(III) *for the issuance of a chari-*
11 *table gift annuity (as defined in sec-*
12 *tion 501(m)(5)),*

13 *no amount shall be includible in gross in-*
14 *come of the account holder or beneficiary.*

15 *The preceding sentence shall apply only if*
16 *no person holds any interest in the amounts*
17 *in the trust, fund, or annuity attributable*
18 *to such distribution other than one or more*
19 *of the following: the individual for whose*
20 *benefit such account is maintained, the*
21 *spouse of such individual, or any organiza-*
22 *tion described in section 170(c).*

23 “(ii) *DETERMINATION OF INCLUSION*
24 *OF AMOUNTS DISTRIBUTED.*—*In deter-*
25 *mining the amount includible in the gross*

1 *income of the distributee of a distribution*
2 *from a trust described in clause (i)(I) or an*
3 *annuity described in clause (i)(III), the*
4 *portion of any qualified charitable distribu-*
5 *tion to such trust or for such annuity which*
6 *would (but for this subparagraph) have been*
7 *includible in gross income—*

8 *“(I) in the case of any such trust,*
9 *shall be treated as income described in*
10 *section 664(b)(1), or*

11 *“(II) in the case of any such an-*
12 *nuity, shall not be treated as an invest-*
13 *ment in the contract.*

14 *“(iii) NO INCLUSION FOR DISTRIBUTION TO POOLED INCOME FUND.—No*
15 *amount shall be includible in the gross in-*
16 *come of a pooled income fund (as so de-*
17 *finied) by reason of a qualified charitable*
18 *distribution to such fund.*

19
20 *“(C) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term*
21 *‘qualified charitable distribution’ means any dis-*
22 *tribution from an individual retirement*
23 *account—*
24

1 “(i) which is made on or after the date
2 that the individual for whose benefit the ac-
3 count is maintained has attained age 70^{1/2},
4 and

5 “(ii) which is a charitable contribution
6 (as defined in section 170(c)) made directly
7 from the account to—

8 “(I) an organization described in
9 section 170(c), or

10 “(II) a trust, fund, or annuity de-
11 scribed in subparagraph (B).

12 “(D) DENIAL OF DEDUCTION.—The amount
13 allowable as a deduction to the taxpayer for the
14 taxable year under section 170 (before the appli-
15 cation of section 170(b)) for qualified charitable
16 distributions shall be reduced (but not below
17 zero) by the sum of the amounts of the qualified
18 charitable distributions during such year which
19 (but for this paragraph) would have been includ-
20 ible in the gross income of the taxpayer for such
21 year.”.

22 (b) EFFECTIVE DATE.—The amendment made by sub-
23 section (a) shall apply to taxable years beginning after De-
24 cember 31, 2009.

1 **Subtitle B—Expanding Coverage**

2 **SEC. 611. INCREASE IN BENEFIT AND CONTRIBUTION LIM-**

3 **ITS.**

4 (a) **DEFINED BENEFIT PLANS.—**

5 (1) **DOLLAR LIMIT.—**

6 (A) Subparagraph (A) of section 415(b)(1)
7 (relating to limitation for defined benefit plans)
8 is amended by striking “\$90,000” and inserting
9 “the applicable limit”.

10 (B) Section 415(b) is amended by adding at
11 the end the following new paragraph:

12 “(12) **APPLICABLE LIMIT.—**For purposes of
13 paragraph (1)(A), the applicable limit shall be deter-
14 mined in accordance with the following table:

“For taxable years beginning in:	The applicable limit is:
2002, 2003, and 2004	\$150,000
2005 and thereafter	\$160,000.”.

15 (C) Subparagraphs (C) and (D) of section
16 415(b)(2) are each amended—

17 (i) in the headings, by striking
18 “\$90,000” and inserting “APPLICABLE”,

19 (ii) by striking “\$90,000 limitation”
20 each place it appears and inserting “limita-
21 tion”, and

22 (iii) by striking “a \$90,000 annual
23 benefit” each place it appears and inserting

1 *“an annual benefit equal to the applicable*
2 *limit”.*

3 *(D) Paragraph (7) of section 415(b) (relat-*
4 *ing to benefits under certain collectively bar-*
5 *gained plans) is amended by striking “the great-*
6 *er of \$68,212 or one-half the amount otherwise*
7 *applicable for such year under paragraph (1)(A)*
8 *for “\$90,000” and inserting “one-half the*
9 *amount otherwise applicable for such year under*
10 *paragraph (1)(A) for “the applicable limit”.*

11 *(2) LIMIT REDUCED WHEN BENEFIT BEGINS BE-*
12 *FORE AGE 62.—Subparagraph (C) of section 415(b)(2)*
13 *is amended by striking “the social security retirement*
14 *age” each place it appears in the heading and text*
15 *and inserting “age 62” and by striking the second*
16 *sentence.*

17 *(3) LIMIT INCREASED WHEN BENEFIT BEGINS*
18 *AFTER AGE 65.—Subparagraph (D) of section*
19 *415(b)(2) is amended by striking “the social security*
20 *retirement age” each place it appears in the heading*
21 *and text and inserting “age 65”.*

22 *(4) COST-OF-LIVING ADJUSTMENTS.—Subsection*
23 *(d) of section 415 (related to cost-of-living adjust-*
24 *ments) is amended—*

1 (A) by striking “\$90,000” in paragraph
2 (1)(A) and inserting “applicable limit”; and

3 (B) in paragraph (3)(A)—

4 (i) by striking “\$90,000” in the head-
5 ing and inserting “applicable limit”; and

6 (ii) by striking “October 1, 1986” and
7 inserting “July 1, 2004”.

8 (5) CONFORMING AMENDMENTS.—

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

11 (B) Section 415(b)(9) is amended to read as
12 follows:

13 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE
14 PILOTS.—In the case of any participant who is a
15 commercial airline pilot, if, as of the time of the par-
16 ticipant’s retirement, regulations prescribed by the
17 Federal Aviation Administration require an indi-
18 vidual to separate from service as a commercial air-
19 line pilot after attaining any age occurring on or
20 after age 60 and before age 62, paragraph (2)(C) shall
21 be applied by substituting such age for age 62.”.

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

25 (b) QUALIFIED TRUSTS.—

1 (1) *COMPENSATION LIMIT.*—

2 (A) *Section 401(a)(17) is amended—*

3 (i) *in subparagraph (A), by striking*
4 *“\$150,000” and inserting “the applicable*
5 *dollar amount”*,

6 (ii) *in subparagraph (B), by striking*
7 *“\$150,000” and inserting “the applicable*
8 *dollar”*, and

9 (iii) *by adding at the end the fol-*
10 *lowing:*

11 “(C) *APPLICABLE DOLLAR AMOUNT.*—*For*
12 *purposes of this paragraph, the applicable dollar*
13 *amount shall be determined in accordance with*
14 *the following table:*

“For taxable years beginning in calendar year:	The applicable dollar amount is:
2002	\$180,000
2003	\$190,000
2004 or thereafter	\$200,000.”.

15 (B) *Section 404(l) is amended—*

16 (i) *by striking the second sentence,*

17 (ii) *by striking “\$150,000” and insert-*
18 *ing “the applicable dollar amount in effect*
19 *under section 401(a)(17)(A)”*, and

20 (iii) *by striking “the preceding sen-*
21 *tence” and inserting “section*
22 *401(a)(17)(B)”*.

1 (C) Section 408(k) is amended—

2 (i) in each of paragraphs (3)(C) and
3 (6)(D)(ii), by striking “\$150,000” each
4 place it appears and inserting “amount of
5 compensation equal to the applicable dollar
6 amount in effect under section
7 401(a)(17)(A)”, and

8 (ii) in paragraph (8), by striking “and
9 shall adjust” and all that follows through
10 “section 401(a)(17)(B)”.

11 (D) Section 505(b)(7) is amended—

12 (i) by striking “\$150,000” and insert-
13 ing “the applicable dollar amount in effect
14 under section 401(a)(17)(A)”, and

15 (ii) by striking the second sentence.

16 (2) *BASE PERIOD AND ROUNDING OF COST-OF-*
17 *LIVING ADJUSTMENT.*—Subparagraph (B) of section
18 401(a)(17) is amended—

19 (A) by striking “The Secretary” and insert-
20 ing “In calendar years beginning after 2005, the
21 Secretary”,

22 (B) by striking “October 1, 1993” and in-
23 serting “July 1, 2005”; and

24 (C) by striking “\$10,000” both places it ap-
25 pears and inserting “\$5,000”.

1 (c) *ELECTIVE DEFERRALS.*—

2 (1) *IN GENERAL.*—Paragraph (1) of section
3 402(g) (relating to limitation on exclusion for elective
4 deferrals) is amended to read as follows:

5 “(1) *IN GENERAL.*—

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

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

“For taxable years beginning in calendar year:	The applicable dollar amount is:
2002	\$11,000
2003	\$11,500
2004	\$12,000
2005	\$12,500
2006	\$13,000
2007	\$13,500
2008	\$14,000
2009	\$14,500
2010 or thereafter	\$15,000.”.

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

19 “(5) *COST-OF-LIVING ADJUSTMENT.*—In the case
20 of taxable years beginning after December 31, 2010,

1 *the Secretary shall adjust the \$15,000 amount under*
2 *paragraph (1)(B) at the same time and in the same*
3 *manner as under section 415(d), except that the base*
4 *period shall be the calendar quarter beginning July 1,*
5 *2009, and any increase under this paragraph which*
6 *is not a multiple of \$500 shall be rounded to the next*
7 *lowest multiple of \$500.”.*

8 (3) *CONFORMING AMENDMENTS.—*

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

15 (B) *Paragraph (2) of section 457(c) is*
16 *amended by striking “402(g)(8)(A)(iii)” and in-*
17 *serting “402(g)(7)(A)(iii)”.*

18 (C) *Clause (iii) of section 501(c)(18)(D) is*
19 *amended by striking “(other than paragraph (4)*
20 *thereof)”.*

21 (d) *DEFERRED COMPENSATION PLANS OF STATE AND*
22 *LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*
23 *TIONS.—*

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

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

7 (B) in subsection (b)(3)(A) by striking
 8 “\$15,000” and inserting “twice the dollar
 9 amount in effect under subsection (b)(2)(A)”.

10 (2) *APPLICABLE DOLLAR AMOUNT; COST-OF-LIV-*
 11 *ING ADJUSTMENT.*—Paragraph (15) of section 457(e)
 12 is amended to read as follows:

13 “(15) *APPLICABLE DOLLAR AMOUNT.*—

14 “(A) *IN GENERAL.*—The applicable dollar
 15 amount shall be the amount determined in ac-
 16 cordance with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount is:
2002	\$9,000
2003	\$9,500
2004	\$10,000
2005	\$10,500
2006	\$11,000
2007	\$12,000
2008	\$13,000
2009	\$14,000
2010 or thereafter	\$15,000.

17 “(B) *COST-OF-LIVING ADJUSTMENTS.*—In
 18 the case of taxable years beginning after Decem-
 19 ber 31, 2010, the Secretary shall adjust the
 20 \$15,000 amount under subparagraph (A) at the

1 same time and in the same manner as under sec-
 2 tion 415(d), except that the base period shall be
 3 the calendar quarter beginning July 1, 2009,
 4 and any increase under this paragraph which is
 5 not a multiple of \$500 shall be rounded to the
 6 next lowest multiple of \$500.”.

7 (e) *SIMPLE RETIREMENT ACCOUNTS.*—

8 (1) *LIMITATION.*—Clause (ii) of section
 9 408(p)(2)(A) (relating to general rule for qualified
 10 salary reduction arrangement) is amended by striking
 11 “\$6,000” and inserting “the applicable dollar
 12 amount”.

13 (2) *APPLICABLE DOLLAR AMOUNT.*—Subpara-
 14 graph (E) of 408(p)(2) is amended to read as follows:

15 “(E) *APPLICABLE DOLLAR AMOUNT; COST-*
 16 *OF-LIVING ADJUSTMENT.*—

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

“For taxable years beginning in calendar year:	The applicable dollar amount is:
2002 and 2003	\$7,000
2004 and 2005	\$8,000
2006 and 2007	\$9,000
2008 or thereafter	\$10,000.

21 “(ii) *COST-OF-LIVING ADJUSTMENT.*—

22 *In the case of a year beginning after Decem-*

1 ber 31, 2008, the Secretary shall adjust the
2 \$10,000 amount under clause (i) at the
3 same time and in the same manner as
4 under section 415(d), except that the base
5 period taken into account shall be the cal-
6 endar quarter beginning July 1, 2007, and
7 any increase under this subparagraph
8 which is not a multiple of \$500 shall be
9 rounded to the next lower multiple of
10 \$500.”.

11 (3) *CONFORMING AMENDMENTS.*—

12 (A) Subclause (I) of section
13 401(k)(11)(B)(i) is amended by striking
14 “\$6,000” and inserting “the amount in effect
15 under section 408(p)(2)(A)(ii)”.

16 (B) Section 401(k)(11) is amended by strik-
17 ing subparagraph (E).

18 (f) *ROUNDING RULE RELATING TO DEFINED BENEFIT*
19 *PLANS AND DEFINED CONTRIBUTION PLANS.*—Paragraph
20 (4) of section 415(d) is amended to read as follows:

21 “(4) *ROUNDING.*—

22 “(A) *APPLICABLE LIMIT AMOUNT.*—Any in-
23 crease under subparagraph (A) of paragraph (1)
24 which is not a multiple of \$5,000 shall be round-
25 ed to the next lowest multiple of \$5,000.

1 “(B) \$30,000 AMOUNT.—Any increase
2 under subparagraph (C) of paragraph (1) which
3 is not a multiple of \$1,000 shall be rounded to
4 the next lowest multiple of \$1,000.”.

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

8 **SEC. 612. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**
9 **NERs, AND SOLE PROPRIETORS.**

10 (a) *IN GENERAL.*—Subparagraph (B) of section
11 4975(f)(6) (relating to exemptions not to apply to certain
12 transactions) is amended by adding at the end the following
13 new clause:

14 “(iii) *LOAN EXCEPTION.*—For purposes
15 of subparagraph (A)(i), the term ‘owner-em-
16 ployee’ shall only include a person described
17 in subclause (II) or (III) of clause (i).”.

18 (b) *AMENDMENT OF ERISA.*—Section 408(d)(2) of the
19 Employee Retirement Income Security Act of 1974 (29
20 U.S.C. 1108(d)(2)) is amended by adding at the end the
21 following new subparagraph:

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

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

4 **SEC. 613. MODIFICATION OF TOP-HEAVY RULES.**

5 (a) *SIMPLIFICATION OF DEFINITION OF KEY EM-*
6 *PLOYEE.*—

7 (1) *IN GENERAL.*—*Section 416(i)(1)(A) (defining*
8 *key employee) is amended—*

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

11 (B) *by striking clause (i) and inserting the*
12 *following:*

13 *“(i) an officer of the employer having*
14 *an annual compensation greater than the*
15 *amount in effect under section*
16 *414(q)(1)(B)(i) for such plan year,”;*

17 (C) *by striking clause (ii) and redesign-*
18 *ating clauses (iii) and (iv) as clauses (ii) and*
19 *(iii), respectively;*

20 (D) *by striking the second sentence in the*
21 *matter following clause (iii), as redesignated by*
22 *subparagraph (C); and*

23 (E) *by adding at the end the following:*

24 *“For purposes of this subparagraph, in the case*
25 *of an employee who is not employed during the*

1 *preceding plan year or is employed for a portion*
 2 *of such year, such employee shall be treated as a*
 3 *key employee if it can be reasonably anticipated*
 4 *that such employee will be described in 1 of the*
 5 *preceding clauses for the current plan year.”.*

6 (2) *CONFORMING AMENDMENT.—Section*
 7 *416(i)(1)(B)(iii) is amended by striking “and sub-*
 8 *paragraph (A)(ii)”.*

9 (b) *MATCHING CONTRIBUTIONS TAKEN INTO ACCOUNT*
 10 *FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section*
 11 *416(c)(2)(A) (relating to defined contribution plans) is*
 12 *amended by adding at the end the following: “Employer*
 13 *matching contributions (as defined in section*
 14 *401(m)(4)(A)) shall be taken into account for purposes of*
 15 *this subparagraph.”.*

16 (c) *DISTRIBUTIONS DURING LAST YEAR BEFORE DE-*
 17 *TERMINATION DATE TAKEN INTO ACCOUNT.—*

18 (1) *IN GENERAL.—Paragraph (3) of section*
 19 *416(g) is amended to read as follows:*

20 *“(3) DISTRIBUTIONS DURING LAST YEAR BEFORE*
 21 *DETERMINATION DATE TAKEN INTO ACCOUNT.—*

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

24 *“(i) the present value of the cumulative*
 25 *accrued benefit for any employee, or*

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

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

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

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

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

1 (d) *FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT*
2 *REQUIREMENT.*—Subparagraph (C) of section 416(c)(1)
3 (relating to defined benefit plans) is amended—

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

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

7 “(iii) *EXCEPTION FOR FROZEN*
8 *PLAN.*—For purposes of determining an em-
9 *ployee’s years of service with the employer,*
10 *any service with the employer shall be dis-*
11 *regarded to the extent that such service oc-*
12 *curs during a plan year when the plan ben-*
13 *efits (within the meaning of section 410(b))*
14 *no key employee or former key employee.”.*

15 (e) *EFFECTIVE DATE.*—The amendments made by this
16 section shall apply to years beginning after December 31,
17 2001.

18 **SEC. 614. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
19 **COUNT FOR PURPOSES OF DEDUCTION LIM-**
20 **ITS.**

21 (a) *IN GENERAL.*—Section 404 (relating to deduction
22 for contributions of an employer to an employees’ trust or
23 annuity plan and compensation under a deferred payment
24 plan) is amended by adding at the end the following new
25 subsection:

1 “(n) *ELECTIVE DEFERRALS NOT TAKEN INTO AC-*
 2 *COUNT FOR PURPOSES OF DEDUCTION LIMITS.*—

3 “(1) *IN GENERAL.*—*The applicable percentage of*
 4 *the amount of any elective deferrals (as defined in*
 5 *section 402(g)(3)) shall not be subject to any limita-*
 6 *tion contained in paragraph (3), (7), or (9) of sub-*
 7 *section (a), and such elective deferrals shall not be*
 8 *taken into account in applying any such limitation*
 9 *to any other contributions.*

10 “(2) *APPLICABLE PERCENTAGE.*—*For purposes*
 11 *of paragraph (1), the applicable percentage shall be*
 12 *determined in accordance with the following table:*

“For taxable years beginning in:	The applicable percentage is:
2002 through 2010	25 percent
2011 and thereafter	100 percent.”.

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 14 *section shall apply to years beginning after December 31,*
 15 *2001.*

16 **SEC. 615. REPEAL OF COORDINATION REQUIREMENTS FOR**
 17 **DEFERRED COMPENSATION PLANS OF STATE**
 18 **AND LOCAL GOVERNMENTS AND TAX-EXEMPT**
 19 **ORGANIZATIONS.**

20 (a) *IN GENERAL.*—*Subsection (c) of section 457 (relat-*
 21 *ing to deferred compensation plans of State and local gov-*
 22 *ernments and tax-exempt organizations), as amended by*
 23 *section 611, is amended to read as follows:*

1 “(c) *LIMITATION.*—*The maximum amount of the com-*
2 *pensation of any one individual which may be deferred*
3 *under subsection (a) during any taxable year shall not ex-*
4 *ceed the amount in effect under subsection (b)(2)(A) (as*
5 *modified by any adjustment provided under subsection*
6 *(b)(3)).”.*

7 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
8 *section (a) shall apply to years beginning after December*
9 *31, 2001.*

10 **SEC. 616. DEDUCTION LIMITS.**

11 (a) *MODIFICATION OF LIMITS.*—

12 (1) *STOCK BONUS AND PROFIT SHARING*
13 *TRUSTS.*—

14 (A) *IN GENERAL.*—*Subclause (I) of section*
15 *404(a)(3)(A)(i) (relating to stock bonus and*
16 *profit sharing trusts) is amended by striking “15*
17 *percent” and inserting “25 percent”.*

18 (B) *CONFORMING AMENDMENT.*—*Subpara-*
19 *graph (C) of section 404(h)(1) is amended by*
20 *striking “15 percent” each place it appears and*
21 *inserting “25 percent”.*

22 (2) *DEFINED CONTRIBUTION PLANS.*—

23 (A) *IN GENERAL.*—*Clause (v) of section*
24 *404(a)(3)(A) (relating to stock bonus and profit*
25 *sharing trusts) is amended to read as follows:*

1 “(v) *DEFINED CONTRIBUTION PLANS*
2 *SUBJECT TO THE FUNDING STANDARDS.—*
3 *Except as provided by the Secretary, a de-*
4 *defined contribution plan which is subject to*
5 *the funding standards of section 412 shall*
6 *be treated in the same manner as a stock*
7 *bonus or profit-sharing plan for purposes of*
8 *this subparagraph.”*

9 (B) *CONFORMING AMENDMENTS.—*

10 (i) *Section 404(a)(1)(A) is amended by*
11 *inserting “(other than a trust to which*
12 *paragraph (3) applies)” after “pension*
13 *trust”.*

14 (ii) *Section 404(h)(2) is amended by*
15 *striking “stock bonus or profit-sharing*
16 *trust” and inserting “trust subject to sub-*
17 *section (a)(3)(A)”.*

18 (iii) *The heading of section 404(h)(2)*
19 *is amended by striking “STOCK BONUS AND*
20 *PROFIT-SHARING TRUST” and inserting*
21 *“CERTAIN TRUSTS”.*

22 (b) *COMPENSATION.—*

23 (1) *IN GENERAL.—Section 404(a) (relating to*
24 *general rule) is amended by adding at the end the fol-*
25 *lowing:*

1 “(12) *DEFINITION OF COMPENSATION.*—For pur-
2 poses of paragraphs (3), (7), (8), and (9), the term
3 ‘compensation’ shall include amounts treated as ‘par-
4 ticipant’s compensation’ under subparagraph (C) or
5 (D) of section 415(c)(3).”

6 (2) *CONFORMING AMENDMENTS.*—

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

9 (B) Clause (i) of section 4972(c)(6)(B) is
10 amended by striking “(within the meaning of
11 section 404(a))” and inserting “(within the
12 meaning of section 404(a) and as adjusted under
13 section 404(a)(12))”.

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

17 **SEC. 617. OPTION TO TREAT ELECTIVE DEFERRALS AS**
18 **AFTER-TAX ROTH CONTRIBUTIONS.**

19 (a) *IN GENERAL.*—Subpart A of part I of subchapter
20 D of chapter 1 (relating to deferred compensation, etc.) is
21 amended by inserting after section 402 the following new
22 section:

1 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-**
2 **RALS AS ROTH CONTRIBUTIONS.**

3 *“(a) GENERAL RULE.—If an applicable retirement*
4 *plan includes a qualified Roth contribution program—*

5 *“(1) any designated Roth contribution made by*
6 *an employee pursuant to the program shall be treated*
7 *as an elective deferral for purposes of this chapter, ex-*
8 *cept that such contribution shall not be excludable*
9 *from gross income, and*

10 *“(2) such plan (and any arrangement which is*
11 *part of such plan) shall not be treated as failing to*
12 *meet any requirement of this chapter solely by reason*
13 *of including such program.*

14 *“(b) QUALIFIED ROTH CONTRIBUTION PROGRAM.—*
15 *For purposes of this section—*

16 *“(1) IN GENERAL.—The term ‘qualified Roth*
17 *contribution program’ means a program under which*
18 *an employee may elect to make designated Roth con-*
19 *tributions in lieu of all or a portion of elective defer-*
20 *rals the employee is otherwise eligible to make under*
21 *the applicable retirement plan.*

22 *“(2) SEPARATE ACCOUNTING REQUIRED.—A pro-*
23 *gram shall not be treated as a qualified Roth con-*
24 *tribution program unless the applicable retirement*
25 *plan—*

1 “(A) establishes separate accounts (‘des-
2 ignated Roth accounts’) for the designated Roth
3 contributions of each employee and any earnings
4 properly allocable to the contributions, and

5 “(B) maintains separate recordkeeping with
6 respect to each account.

7 “(c) DEFINITIONS AND RULES RELATING TO DES-
8 IGNATED ROTH CONTRIBUTIONS.—For purposes of this
9 section—

10 “(1) DESIGNATED ROTH CONTRIBUTION.—The
11 term ‘designated Roth contribution’ means any elec-
12 tive deferral which—

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

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

18 “(2) DESIGNATION LIMITS.—The amount of elec-
19 tive deferrals which an employee may designate under
20 paragraph (1) shall not exceed the excess (if any) of—

21 “(A) the maximum amount of elective defer-
22 rals excludable from gross income of the employee
23 for the taxable year (without regard to this sec-
24 tion), over

1 “(B) the aggregate amount of elective deferrals of the employee for the taxable year which
2 the employee does not designate under paragraph
3 (1).
4

5 “(3) ROLLOVER CONTRIBUTIONS.—

6 “(A) IN GENERAL.—A rollover contribution
7 of any payment or distribution from a des-
8 ignated Roth account which is otherwise allow-
9 able under this chapter may be made only if the
10 contribution is to—

11 “(i) another designated Roth account
12 of the individual from whose account the
13 payment or distribution was made, or

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

15 “(B) COORDINATION WITH LIMIT.—Any
16 rollover contribution to a designated Roth ac-
17 count under subparagraph (A) shall not be taken
18 into account for purposes of paragraph (1).

19 “(d) DISTRIBUTION RULES.—For purposes of this
20 title—

21 “(1) EXCLUSION.—Any qualified distribution
22 from a designated Roth account shall not be includ-
23 ible in gross income.

24 “(2) QUALIFIED DISTRIBUTION.—For purposes
25 of this subsection—

1 “(A) *IN GENERAL.*—The term ‘qualified dis-
2 tribution’ has the meaning given such term by
3 section 408A(d)(2)(A) (without regard to clause
4 (iv) thereof).

5 “(B) *DISTRIBUTIONS WITHIN NONEXCLU-
6 SION PERIOD.*—A payment or distribution from
7 a designated Roth account shall not be treated as
8 a qualified distribution if such payment or dis-
9 tribution is made within the 5-taxable-year pe-
10 riod beginning with the earlier of—

11 “(i) the first taxable year for which the
12 individual made a designated Roth con-
13 tribution to any designated Roth account
14 established for such individual under the
15 same applicable retirement plan, or

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

24 “(C) *DISTRIBUTIONS OF EXCESS DEFER-
25 RALS AND CONTRIBUTIONS AND EARNINGS*

1 *THEREON.—The term ‘qualified distribution’*
2 *shall not include any distribution of any excess*
3 *deferral under section 402(g)(2) or any excess*
4 *contribution under section 401(k)(8), and any*
5 *income on the excess deferral or contribution.*

6 *“(3) TREATMENT OF DISTRIBUTIONS OF CERTAIN*
7 *EXCESS DEFERRALS.—Notwithstanding section 72, if*
8 *any excess deferral under section 402(g)(2) attrib-*
9 *utable to a designated Roth contribution is not dis-*
10 *tributed on or before the 1st April 15 following the*
11 *close of the taxable year in which such excess deferral*
12 *is made, the amount of such excess deferral shall—*

13 *“(A) not be treated as investment in the*
14 *contract, and*

15 *“(B) be included in gross income for the*
16 *taxable year in which such excess is distributed.*

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

21 *“(e) OTHER DEFINITIONS.—For purposes of this*
22 *section—*

23 *“(1) APPLICABLE RETIREMENT PLAN.—The term*
24 *‘applicable retirement plan’ means—*

1 “(A) an employees’ trust described in sec-
2 tion 401(a) which is exempt from tax under sec-
3 tion 501(a), and

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

7 “(2) *ELECTIVE DEFERRAL*.—The term ‘elective
8 deferral’ means any elective deferral described in sub-
9 paragraph (A) or (C) of section 402(g)(3).”.

10 (b) *EXCESS DEFERRALS*.—Section 402(g) (relating to
11 limitation on exclusion for elective deferrals) is amended—

12 (1) by adding at the end of paragraph (1)(A) (as
13 added by section 201(c)(1)) the following new sen-
14 tence: “The preceding sentence shall not apply the
15 portion of such excess as does not exceed the des-
16 ignated Roth contributions of the individual for the
17 taxable year.”; and

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

21 (c) *ROLLOVERS*.—Subparagraph (B) of section
22 402(c)(8) is amended by adding at the end the following:

23 “If any portion of an eligible rollover distribu-
24 tion is attributable to payments or distributions
25 from a designated Roth account (as defined in

1 *section 402A), an eligible retirement plan with*
2 *respect to such portion shall include only another*
3 *designated Roth account and a Roth IRA.”.*

4 *(d) REPORTING REQUIREMENTS.—*

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

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

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

20 *(e) CONFORMING AMENDMENTS.—*

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

1 (2) *The table of sections for subpart A of part I*
2 *of subchapter D of chapter 1 is amended by inserting*
3 *after the item relating to section 402 the following*
4 *new item:*

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

5 (f) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall apply to taxable years beginning after Decem-*
7 *ber 31, 2003.*

8 **SEC. 618. NONREFUNDABLE CREDIT TO CERTAIN INDIVID-**
9 **UALS FOR ELECTIVE DEFERRALS AND IRA**
10 **CONTRIBUTIONS.**

11 (a) *IN GENERAL.*—*Subpart A of part IV of subchapter*
12 *A of chapter 1 (relating to nonrefundable personal credits),*
13 *as amended by section 432, is amended by inserting after*
14 *section 25B the following new section:*

15 **“SEC. 25C. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS**
16 **BY CERTAIN INDIVIDUALS.**

17 “(a) *ALLOWANCE OF CREDIT.*—*In the case of an eligi-*
18 *ble individual, there shall be allowed as a credit against*
19 *the tax imposed by this subtitle for the taxable year an*
20 *amount equal to the applicable percentage of so much of*
21 *the qualified retirement savings contributions of the eligible*
22 *individual for the taxable year as do not exceed \$2,000.*

1 “(b) *APPLICABLE PERCENTAGE.*—For purposes of this
 2 section, the applicable percentage is the percentage deter-
 3 mined in accordance with the following table:

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$30,000	\$0	\$22,500	\$0	\$15,000	50
30,000	32,500	22,500	24,375	15,000	16,250	20
32,500	50,000	24,375	37,500	16,250	25,000	10
50,000		37,500		25,000		0

4 “(c) *ELIGIBLE INDIVIDUAL.*—For purposes of this
 5 section—

6 “(1) *IN GENERAL.*—The term ‘eligible indi-
 7 vidual’ means any individual if such individual has
 8 attained the age of 18 as of the close of the taxable
 9 year.

10 “(2) *DEPENDENTS AND FULL-TIME STUDENTS*
 11 *NOT ELIGIBLE.*—The term ‘eligible individual’ shall
 12 not include—

13 “(A) any individual with respect to whom
 14 a deduction under section 151 is allowed to an-
 15 other taxpayer for a taxable year beginning in
 16 the calendar year in which such individual’s
 17 taxable year begins, and

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

20 “(d) *QUALIFIED RETIREMENT SAVINGS CONTRIBU-*
 21 *TIONS.*—For purposes of this section—

1 “(1) *IN GENERAL.*—*The term ‘qualified retire-*
2 *ment savings contributions’ means, with respect to*
3 *any taxable year, the sum of—*

4 “(A) *the amount of the qualified retirement*
5 *contributions (as defined in section 219(e)) made*
6 *by the eligible individual,*

7 “(B) *the amount of—*

8 “(i) *any elective deferrals (as defined*
9 *in section 402(g)(3)) of such individual,*
10 *and*

11 “(ii) *any elective deferral of compensa-*
12 *tion by such individual under an eligible*
13 *deferred compensation plan (as defined in*
14 *section 457(b)) of an eligible employer de-*
15 *scribed in section 457(e)(1)(A), and*

16 “(C) *the amount of voluntary employee con-*
17 *tributions by such individual to any qualified*
18 *retirement plan (as defined in section 4974(c)).*

19 “(2) *REDUCTION FOR CERTAIN DISTRIBUTIONS.*—
20

21 “(A) *IN GENERAL.*—*The qualified retire-*
22 *ment savings contributions determined under*
23 *paragraph (1) shall be reduced (but not below*
24 *zero) by the sum of—*

1 “(i) any distribution from a qualified
2 retirement plan (as defined in section
3 4974(c)), or from an eligible deferred com-
4 pensation plan (as defined in section
5 457(b)), received by the individual during
6 the testing period which is includible in
7 gross income, and

8 “(ii) any distribution from a Roth
9 IRA received by the individual during the
10 testing period which is not a qualified roll-
11 over contribution (as defined in section
12 408A(e)) to a Roth IRA.

13 “(B) TESTING PERIOD.—For purposes of
14 subparagraph (A), the testing period, with re-
15 spect to a taxable year, is the period which
16 includes—

17 “(i) such taxable year,

18 “(ii) the 2 preceding taxable years,

19 and

20 “(iii) the period after such taxable
21 year and before the due date (including ex-
22 tensions) for filing the return of tax for such
23 taxable year.

1 “(C) *EXCEPTED DISTRIBUTIONS.*—*There*
2 *shall not be taken into account under subpara-*
3 *graph (A)*—

4 “(i) *any distribution referred to in sec-*
5 *tion 72(p), 401(k)(8), 401(m)(6), 402(g)(2),*
6 *404(k), or 408(d)(4), and*

7 “(ii) *any distribution to which section*
8 *408A(d)(3) applies.*

9 “(D) *TREATMENT OF DISTRIBUTIONS RE-*
10 *CEIVED BY SPOUSE OF INDIVIDUAL.*—*For pur-*
11 *poses of determining distributions received by an*
12 *individual under subparagraph (A) for any tax-*
13 *able year, any distribution received by the spouse*
14 *of such individual shall be treated as received by*
15 *such individual if such individual and spouse*
16 *file a joint return for such taxable year and for*
17 *the taxable year during which the spouse receives*
18 *the distribution.*

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

22 “(f) *INVESTMENT IN THE CONTRACT.*—*Notwith-*
23 *standing any other provision of law, a qualified retirement*
24 *savings contribution shall not fail to be included in deter-*

1 *mining the investment in the contract for purposes of sec-*
2 *tion 72 by reason of the credit under this section.*

3 “(g) *TERMINATION.*—*This section shall not apply to*
4 *taxable years beginning after December 31, 2006.*”

5 (b) *CREDIT ALLOWED AGAINST REGULAR TAX AND*
6 *ALTERNATIVE MINIMUM TAX.*—

7 (1) *IN GENERAL.*—*Section 25C, as added by sub-*
8 *section (a), is amended by inserting after subsection*
9 *(f) the following new subsection:*

10 “(g) *LIMITATION BASED ON AMOUNT OF TAX.*—*The*
11 *aggregate credit allowed by this section for the taxable year*
12 *shall not exceed the sum of—*

13 “(1) *the taxpayer’s regular tax liability for the*
14 *taxable year reduced by the sum of the credits allowed*
15 *by sections 21, 22, 23, 24, 25, 25A, and 25B plus*

16 “(2) *the tax imposed by section 55 for such tax-*
17 *able year.*”

18 (2) *CONFORMING AMENDMENTS.*—

19 (A) *Section 26(a)(1), as amended by section*
20 *201, is amended by inserting “or section 25C”*
21 *after “section 24”.*

22 (B) *Section 23(c), as amended by section*
23 *201, is amended by striking “sections 24” and*
24 *inserting “sections 24, 25C.”*

1 (C) Section 25(e)(1)(C), as amended by sec-
2 tion 201, is amended by inserting “25C,” after
3 “24,”.

4 (D) Section 904(h), as amended by section
5 201, is amended by inserting “or 25C” after
6 “section 24”.

7 (E) Section 1400C(d), as amended by sec-
8 tion 201, is amended by inserting “and section
9 25C” after “section 24”.

10 (c) *CONFORMING AMENDMENT.*—The table of sections
11 for subpart A of part IV of subchapter A of chapter 1, as
12 amended by section 432, is amended by inserting after the
13 item relating to section 25B the following new item:

“Sec. 25C. Elective deferrals and IRA contributions by certain in-
dividuals.”

14 (d) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to taxable years beginning after Decem-
16 ber 31, 2001.

17 **SEC. 619. CREDIT FOR QUALIFIED PENSION PLAN CON-**
18 **TRIBUTIONS OF SMALL EMPLOYERS.**

19 (a) *IN GENERAL.*—Subpart D of part IV of subchapter
20 A of chapter 1 (relating to business related credits) is
21 amended by adding at the end the following new section:

1 **“SEC. 45E. SMALL EMPLOYER PENSION PLAN CONTRIBU-**
2 **TIONS.**

3 “(a) *GENERAL RULE.*—For purposes of section 38, in
4 the case of an eligible employer, the small employer pension
5 plan contribution credit determined under this section for
6 any taxable year is an amount equal to 50 percent of the
7 amount which would (but for subsection (f)(1)) be allowed
8 as a deduction under section 404 for such taxable year for
9 qualified employer contributions made to any qualified re-
10 tirement plan on behalf of any employee who is not a highly
11 compensated employee.

12 “(b) *CREDIT LIMITED TO 3 YEARS.*—The credit allow-
13 able by this section shall be allowed only with respect to
14 the period of 3 taxable years beginning with the first taxable
15 year for which a credit is allowable with respect to a plan
16 under this section.

17 “(c) *QUALIFIED EMPLOYER CONTRIBUTION.*—For
18 purposes of this section—

19 “(1) *DEFINED CONTRIBUTION PLANS.*—In the
20 case of a defined contribution plan, the term ‘quali-
21 fied employer contribution’ means the amount of non-
22 elective and matching contributions to the plan made
23 by the employer on behalf of any employee who is not
24 a highly compensated employee to the extent such
25 amount does not exceed 3 percent of such employee’s
26 compensation from the employer for the year.

1 “(2) *DEFINED BENEFIT PLANS.*—*In the case of a*
2 *defined benefit plan, the term ‘qualified employer con-*
3 *tribution’ means the amount of employer contribu-*
4 *tions to the plan made on behalf of any employee who*
5 *is not a highly compensated employee to the extent*
6 *that the accrued benefit of such employee derived from*
7 *employer contributions for the year does not exceed*
8 *the equivalent (as determined under regulations pre-*
9 *scribed by the Secretary and without regard to con-*
10 *tributions and benefits under the Social Security Act)*
11 *of 3 percent of such employee’s compensation from the*
12 *employer for the year.*

13 “(d) *QUALIFIED RETIREMENT PLAN.*—

14 “(1) *IN GENERAL.*—*The term ‘qualified retire-*
15 *ment plan’ means any plan described in section*
16 *401(a) which includes a trust exempt from tax under*
17 *section 501(a) if the plan meets—*

18 “(A) *the contribution requirements of para-*
19 *graph (2),*

20 “(B) *the vesting requirements of paragraph*
21 *(3), and*

22 “(C) *the distribution requirements of para-*
23 *graph (4).*

24 “(2) *CONTRIBUTION REQUIREMENTS.*—

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

3 “(i) *the employer is required to make*
4 *nonelective contributions of at least 1 per-*
5 *cent of compensation (or the equivalent*
6 *thereof in the case of a defined benefit plan)*
7 *for each employee who is not a highly com-*
8 *pensated employee who is eligible to partici-*
9 *pate in the plan, and*

10 “(ii) *allocations of nonelective em-*
11 *ployer contributions, in the case of a de-*
12 *defined contribution plan, are either in equal*
13 *dollar amounts for all employees covered by*
14 *the plan or bear a uniform relationship to*
15 *the total compensation, or the basic or reg-*
16 *ular rate of compensation, of the employees*
17 *covered by the plan (and an equivalent re-*
18 *quirement is met with respect to a defined*
19 *benefit plan).*

20 “(B) *COMPENSATION LIMITATION.*—*The*
21 *compensation taken into account under subpara-*
22 *graph (A) for any year shall not exceed the limi-*
23 *tation in effect for such year under section*
24 *401(a)(17).*

1 “(3) *VESTING REQUIREMENTS.*—*The require-*
 2 *ments of this paragraph are met if the plan satisfies*
 3 *the requirements of either of the following subpara-*
 4 *graphs:*

5 “(A) *3-YEAR VESTING.*—*A plan satisfies the*
 6 *requirements of this subparagraph if an em-*
 7 *ployee who has completed at least 3 years of*
 8 *service has a nonforfeitable right to 100 percent*
 9 *of the employee’s accrued benefit derived from*
 10 *employer contributions.*

11 “(B) *5-YEAR GRADED VESTING.*—*A plan*
 12 *satisfies the requirements of this subparagraph if*
 13 *an employee has a nonforfeitable right to a per-*
 14 *centage of the employee’s accrued benefit derived*
 15 *from employer contributions determined under*
 16 *the following table:*

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

17 “(4) *DISTRIBUTION REQUIREMENTS.*—*In the*
 18 *case of a profit-sharing or stock bonus plan, the re-*
 19 *quirements of this paragraph are met if, under the*
 20 *plan, qualified employer contributions are distribut-*
 21 *able only as provided in section 401(k)(2)(B).*

1 “(e) *OTHER DEFINITIONS.*—For purposes of this
2 *section*—

3 “(1) *ELIGIBLE EMPLOYER.*—

4 “(A) *IN GENERAL.*—The term ‘eligible em-
5 *ployer*’ means, with respect to any year, an em-
6 *ployer which has no more than 20 employees*
7 *who received at least \$5,000 of compensation*
8 *from the employer for the preceding year.*

9 “(B) *REQUIREMENT FOR NEW QUALIFIED*
10 *EMPLOYER PLANS.*—Such term shall not include
11 *an employer if, during the 3-taxable year period*
12 *immediately preceding the 1st taxable year for*
13 *which the credit under this section is otherwise*
14 *allowable for a qualified employer plan of the*
15 *employer, the employer or any member of any*
16 *controlled group including the employer (or any*
17 *predecessor of either) established or maintained a*
18 *qualified employer plan with respect to which*
19 *contributions were made, or benefits were ac-*
20 *crued, for substantially the same employees as*
21 *are in the qualified employer plan.*

22 “(2) *HIGHLY COMPENSATED EMPLOYEE.*—The
23 *term ‘highly compensated employee’ has the meaning*
24 *given such term by section 414(q) (determined with-*
25 *out regard to section 414(q)(1)(B)(ii)).*

1 “(f) *SPECIAL RULES.*—

2 “(1) *DISALLOWANCE OF DEDUCTION.*—No deduc-
3 tion shall be allowed for that portion of the qualified
4 employer contributions paid or incurred for the tax-
5 able year which is equal to the credit determined
6 under subsection (a).

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

11 “(3) *AGGREGATION RULES.*—All persons treated
12 as a single employer under subsection (a) or (b) of
13 section 52, or subsection (n) or (o) of section 414,
14 shall be treated as one person. All eligible employer
15 plans shall be treated as 1 eligible employer plan.

16 “(g) *RECAPTURE OF CREDIT ON FORFEITED CON-*
17 *TRIBUTIONS.*—

18 “(1) *IN GENERAL.*—Except as provided in para-
19 graph (2), if any accrued benefit which is forfeitable
20 by reason of subsection (d)(3) is forfeited, the employ-
21 er’s tax imposed by this chapter for the taxable year
22 in which the forfeiture occurs shall be increased by 35
23 percent of the employer contributions from which such
24 benefit is derived to the extent such contributions were

1 *taken into account in determining the credit under*
2 *this section.*

3 “(2) *REALLOCATED CONTRIBUTIONS.*—Para-
4 *graph (1) shall not apply to any contribution which*
5 *is reallocated by the employer under the plan to em-*
6 *ployees who are not highly compensated employees.”.*

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

13 “(14) *in the case of an eligible employer (as de-*
14 *finied in section 45E(e)), the small employer pension*
15 *plan contribution credit determined under section*
16 *45E(a).”*

17 (c) *CONFORMING AMENDMENTS.*—

18 (1) *Section 39(d) is amended by adding at the*
19 *end the following new paragraph:*

20 “(10) *NO CARRYBACK OF SMALL EMPLOYER PEN-*
21 *SION PLAN CONTRIBUTION CREDIT BEFORE JANUARY*
22 *1, 2003.*—*No portion of the unused business credit for*
23 *any taxable year which is attributable to the small*
24 *employer pension plan contribution credit determined*

1 *under section 45E may be carried back to a taxable*
2 *year beginning before January 1, 2003.”*

3 (2) *Subsection (c) of section 196 is amended by*
4 *striking “and” at the end of paragraph (8), by strik-*
5 *ing the period at the end of paragraph (9) and insert-*
6 *ing “, and”, and by adding at the end the following*
7 *new paragraph:*

8 *“(10) the small employer pension plan contribu-*
9 *tion credit determined under section 45E(a).”*

10 (3) *The table of sections for subpart D of part*
11 *IV of subchapter A of chapter 1 is amended by adding*
12 *at the end the following new item:*

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

13 (d) *EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply to contributions paid or incurred in tax-*
15 *able years beginning after December 31, 2002.*

16 **SEC. 620. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
17 **SMALL EMPLOYERS.**

18 (a) *IN GENERAL.—Subpart D of part IV of subchapter*
19 *A of chapter 1 (relating to business related credits), as*
20 *amended by section 619, is amended by adding at the end*
21 *the following new section:*

22 **“SEC. 45F. SMALL EMPLOYER PENSION PLAN STARTUP**
23 **COSTS.**

24 *“(a) GENERAL RULE.—For purposes of section 38, in*
25 *the case of an eligible employer, the small employer pension*

1 *plan startup cost credit determined under this section for*
2 *any taxable year is an amount equal to 50 percent of the*
3 *qualified startup costs paid or incurred by the taxpayer*
4 *during the taxable year.*

5 “(b) *DOLLAR LIMITATION.*—*The amount of the credit*
6 *determined under this section for any taxable year shall not*
7 *exceed—*

8 “(1) *\$500 for the first credit year and each of the*
9 *2 taxable years immediately following the first credit*
10 *year, and*

11 “(2) *zero for any other taxable year.*

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

14 “(1) *IN GENERAL.*—*The term ‘eligible employer’*
15 *has the meaning given such term by section*
16 *408(p)(2)(C)(i).*

17 “(2) *REQUIREMENT FOR NEW QUALIFIED EM-*
18 *PLOYER PLANS.*—*Such term shall not include an em-*
19 *ployer if, during the 3-taxable year period imme-*
20 *diately preceding the 1st taxable year for which the*
21 *credit under this section is otherwise allowable for a*
22 *qualified employer plan of the employer, the employer*
23 *or any member of any controlled group including the*
24 *employer (or any predecessor of either) established or*
25 *maintained a qualified employer plan with respect to*

1 *which contributions were made, or benefits were ac-*
2 *crued, for substantially the same employees as are in*
3 *the qualified employer plan.*

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

6 “(1) *QUALIFIED STARTUP COSTS.—*

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

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

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

15 “(B) *PLAN MUST HAVE AT LEAST 1 PARTICI-*
16 *PANT.—Such term shall not include any expense*
17 *in connection with a plan that does not have at*
18 *least 1 employee eligible to participate who is*
19 *not a highly compensated employee.*

20 “(2) *ELIGIBLE EMPLOYER PLAN.—The term ‘eli-*
21 *gible employer plan’ means a qualified employer plan*
22 *within the meaning of section 4972(d).*

23 “(3) *FIRST CREDIT YEAR.—The term ‘first credit*
24 *year’ means—*

1 “(A) the taxable year which includes the
2 date that the eligible employer plan to which
3 such costs relate becomes effective, or

4 “(B) at the election of the eligible employer,
5 the taxable year preceding the taxable year re-
6 ferred to in subparagraph (A).

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

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

13 “(2) DISALLOWANCE OF DEDUCTION.—No deduc-
14 tion shall be allowed for that portion of the qualified
15 startup costs paid or incurred for the taxable year
16 which is equal to the credit determined under sub-
17 section (a).

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

22 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
23 NESS CREDIT.—Section 38(b) (defining current year busi-
24 ness credit), as amended by section 619, is amended by
25 striking “plus” at the end of paragraph (13), by striking

1 *the period at the end of paragraph (14) and inserting “,*
2 *plus”, and by adding at the end the following new para-*
3 *graph:*

4 *“(15) in the case of an eligible employer (as de-*
5 *defined in section 45F(c)), the small employer pension*
6 *plan startup cost credit determined under section*
7 *45F(a).”*

8 *(c) CONFORMING AMENDMENTS.—*

9 *(1) Section 39(d), as amended by section 619(c),*
10 *is amended by adding at the end the following new*
11 *paragraph:*

12 *“(11) NO CARRYBACK OF SMALL EMPLOYER PEN-*
13 *SION PLAN STARTUP COST CREDIT BEFORE JANUARY*
14 *1, 2002.—No portion of the unused business credit for*
15 *any taxable year which is attributable to the small*
16 *employer pension plan startup cost credit determined*
17 *under section 45F may be carried back to a taxable*
18 *year beginning before January 1, 2002.”*

19 *(2) Subsection (c) of section 196, as amended by*
20 *section 619(c), is amended by striking “and” at the*
21 *end of paragraph (9), by striking the period at the*
22 *end of paragraph (10) and inserting “, and”, and by*
23 *adding at the end the following new paragraph:*

24 *“(11) the small employer pension plan startup*
25 *cost credit determined under section 45F(a).”*

1 (3) *The table of sections for subpart D of part*
2 *IV of subchapter A of chapter 1, as amended by sec-*
3 *tion 619(c), is amended by adding at the end the fol-*
4 *lowing new item:*

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

5 (d) *EFFECTIVE DATE.—The amendments made by this*
6 *section shall apply to costs paid or incurred in taxable*
7 *years beginning after December 31, 2001, with respect to*
8 *qualified employer plans established after such date.*

9 **SEC. 621. ELIMINATION OF USER FEE FOR REQUESTS TO**
10 **IRS REGARDING NEW PENSION PLANS.**

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

19 (b) *NEW PENSION BENEFIT PLAN.—For purposes of*
20 *this section—*

21 (1) *IN GENERAL.—The term “new pension ben-*
22 *efit plan” means a pension, profit-sharing, stock*
23 *bonus, annuity, or employee stock ownership plan*
24 *which is maintained by one or more eligible employ-*
25 *ers if such employer (or any predecessor employer)*

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

3 (2) *ELIGIBLE EMPLOYER.—*

4 (A) *IN GENERAL.—The term “eligible em-*
5 *ployer” means an employer which has—*

6 (i) *no more than 100 employees for the*
7 *preceding year, and*

8 (ii) *at least one employee who is not a*
9 *highly compensated employee (as defined in*
10 *section 414(q)) and is participating in the*
11 *plan.*

12 (B) *NEW PLAN REQUIREMENT.—The term*
13 *“eligible employer” shall not include an em-*
14 *ployer if, during the 3-taxable year period imme-*
15 *diately preceding the taxable year in which the*
16 *request is made, the employer or any member of*
17 *any controlled group including the employer (or*
18 *any predecessor of either) established or main-*
19 *tained a qualified employer plan with respect to*
20 *which contributions were made, or benefits were*
21 *accrued for service, for substantially the same*
22 *employees as are in the qualified employer plan.*

23 (c) *DETERMINATION OF AVERAGE FEES CHARGED.—*

24 *For purposes of any determination of average fees charged,*

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

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

6 **SEC. 622. TREATMENT OF NONRESIDENT ALIENS ENGAGED**
7 **IN INTERNATIONAL TRANSPORTATION SERV-**
8 **ICES.**

9 (a) *EXCLUSION FROM INCOME SOURCING RULES.*—
10 The second sentence of section 861(a)(3) (relating to gross
11 income from sources within the United States) is amended
12 by striking “except for purposes of sections 79 and 105 and
13 subchapter D,”.

14 (b) *EFFECTIVE DATE.*—The amendment made by sub-
15 section (a) shall apply to remuneration for services per-
16 formed in plan years beginning after December 31, 2001.

17 **Subtitle C—Enhancing Fairness for**
18 **Women**

19 **SEC. 631. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS**
20 **AGE 50 OR OVER.**

21 (a) *IN GENERAL.*—Section 414 (relating to definitions
22 and special rules) is amended by adding at the end the fol-
23 lowing new subsection:

24 “(v) *CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS*
25 *AGE 50 OR OVER.*—

1 “(1) *IN GENERAL.*—*An applicable employer plan*
 2 *shall not be treated as failing to meet any require-*
 3 *ment of this title solely because the plan permits an*
 4 *eligible participant to make additional elective deferr-*
 5 *als in any plan year.*

6 “(2) *LIMITATION ON AMOUNT OF ADDITIONAL*
 7 *DEFERRALS.*—

8 “(A) *IN GENERAL.*—*A plan shall not permit*
 9 *additional elective deferrals under paragraph (1)*
 10 *for any year in an amount greater than the less-*
 11 *er of—*

12 “(i) *the applicable dollar amount, or*

13 “(ii) *the excess (if any) of—*

14 “(I) *the participant’s compensa-*
 15 *tion (as defined in section 415(c)(3))*
 16 *for the year, over*

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

21 “(B) *APPLICABLE DOLLAR AMOUNT.*—*For*
 22 *purposes of this paragraph, the applicable dollar*
 23 *amount shall be determined in accordance with*
 24 *the following table:*

“For taxable years beginning in:	The applicable dollar amount is:
2002, 2003, and 2004	\$500

“For taxable years beginning in:	The applicable dollar amount is:
2005 and 2006	\$1,000
2007	\$2,000
2008	\$3,000
2009	\$4,000
2010 and thereafter	\$7,500.

1 “(3) *TREATMENT OF CONTRIBUTIONS.*—*In the*
2 *case of any contribution to a plan under paragraph*
3 *(1)—*

4 “(A) *such contribution shall not, with re-*
5 *spect to the year in which the contribution is*
6 *made—*

7 “(i) *be subject to any otherwise appli-*
8 *cable limitation contained in section 402(g),*
9 *402(h), 403(b), 404(a), 404(h), 408(k),*
10 *408(p), 415, or 457, or*

11 “(ii) *be taken into account in applying*
12 *such limitations to other contributions or*
13 *benefits under such plan or any other such*
14 *plan, and*

15 “(B) *such plan shall not be treated as fail-*
16 *ing to meet the requirements of section 401(a)(4),*
17 *401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12),*
18 *401(m), 403(b)(12), 408(k), 408(p), 408B,*
19 *410(b), or 416 by reason of the making of (or the*
20 *right to make) such contribution.*

21 “(4) *ELIGIBLE PARTICIPANT.*—*For purposes of*
22 *this subsection, the term ‘eligible participant’ means,*

1 *with respect to any plan year, a participant in a*
2 *plan—*

3 “(A) *who has attained the age of 50 before*
4 *the close of the plan year, and*

5 “(B) *with respect to whom no other elective*
6 *deferrals may (without regard to this subsection)*
7 *be made to the plan for the plan year by reason*
8 *of the application of any limitation or other re-*
9 *striction described in paragraph (3) or com-*
10 *parable limitation or restriction contained in the*
11 *terms of the plan.*

12 “(5) *OTHER DEFINITIONS AND RULES.—For*
13 *purposes of this subsection—*

14 “(A) *APPLICABLE EMPLOYER PLAN.—The*
15 *term ‘applicable employer plan’ means—*

16 “(i) *an employees’ trust described in*
17 *section 401(a) which is exempt from tax*
18 *under section 501(a),*

19 “(ii) *a plan under which amounts are*
20 *contributed by an individual’s employer for*
21 *an annuity contract described in section*
22 *403(b),*

23 “(iii) *an eligible deferred compensation*
24 *plan under section 457 of an eligible em-*

1 *ployer described in section 457(e)(1)(A),*
2 *and*

3 *“(iv) an arrangement meeting the re-*
4 *quirements of section 408 (k) or (p).*

5 *“(B) ELECTIVE DEFERRAL.—The term ‘elec-*
6 *tive deferral’ has the meaning given such term*
7 *by subsection (u)(2)(C).*

8 *“(C) EXCEPTION FOR SECTION 457 PLANS.—*
9 *This subsection shall not apply to an applicable*
10 *employer plan described in subparagraph*
11 *(A)(iii) for any year to which section 457(b)(3)*
12 *applies.”.*

13 *(b) EFFECTIVE DATE.—The amendment made by this*
14 *section shall apply to contributions in taxable years begin-*
15 *ning after December 31, 2001.*

16 **SEC. 632. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
17 **EMPLOYEES TO DEFINED CONTRIBUTION**
18 **PLANS.**

19 *(a) EQUITABLE TREATMENT.—*

20 *(1) IN GENERAL.—Subparagraph (B) of section*
21 *415(c)(1) (relating to limitation for defined contribu-*
22 *tion plans) is amended by striking “25 percent” and*
23 *inserting “the applicable percentage”.*

1 (2) *APPLICABLE PERCENTAGE.*—Section 415(c)
 2 is amended by adding at the end the following new
 3 paragraph:

4 “(8) *APPLICABLE PERCENTAGE.*—For purposes
 5 of paragraph (1)(B), the applicable percentage shall
 6 be determined in accordance with the following table:

“For years beginning in:	The applicable percentage is:
2002 through 2010	50 percent
2011 and thereafter	100 percent.”.

7 (3) *APPLICATION TO SECTION 403(b).*—Section
 8 403(b) is amended—

9 (A) by striking “the exclusion allowance for
 10 such taxable year” in paragraph (1) and insert-
 11 ing “the applicable limit under section 415”,

12 (B) by striking paragraph (2), and

13 (C) by inserting “or any amount received
 14 by a former employee after the fifth taxable year
 15 following the taxable year in which such em-
 16 ployee was terminated” before the period at the
 17 end of the second sentence of paragraph (3).

18 (4) *CONFORMING AMENDMENTS.*—

19 (A) Subsection (f) of section 72 is amended
 20 by striking “section 403(b)(2)(D)(iii)” and in-
 21 serting “section 403(b)(2)(D)(iii), as in effect be-
 22 fore the enactment of the Restoring Earnings to

1 *Lift Individuals and Empower Families Act of*
2 *2001)*”.

3 (B) Section 404(a)(10)(B) is amended by
4 striking “, the exclusion allowance under section
5 403(b)(2),”.

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

10 (D) Section 415(c)(3) is amended by adding
11 at the end the following new subparagraph:

12 “(E) ANNUITY CONTRACTS.—In the case of
13 an annuity contract described in section 403(b),
14 the term ‘participant’s compensation’ means the
15 participant’s includible compensation deter-
16 mined under section 403(b)(3).”.

17 (E) Section 415(c) is amended by striking
18 paragraph (4).

19 (F) Section 415(c)(7) is amended to read as
20 follows:

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

23 “(A) IN GENERAL.—Notwithstanding any
24 other provision of this subsection, at the election
25 of a participant who is an employee of a church

1 or a convention or association of churches, in-
2 cluding an organization described in section
3 414(e)(3)(B)(ii), contributions and other addi-
4 tions for an annuity contract or retirement in-
5 come account described in section 403(b) with re-
6 spect to such participant, when expressed as an
7 annual addition to such participant's account,
8 shall be treated as not exceeding the limitation
9 of paragraph (1) if such annual addition is not
10 in excess of \$10,000.

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

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

19 (G) Subparagraph (B) of section 402(g)(7)
20 (as redesignated by section 611(c)(3)) is amend-
21 ed by inserting before the period at the end the
22 following: “(as in effect before the enactment of
23 the Restoring Earnings to Lift Individuals and
24 Empower Families Act of 2001)”.

25 (H) Section 664(g) is amended—

1 (i) in paragraph (3)(E) by striking
2 “limitations under section 415(c)” and in-
3 serting “applicable limitation under para-
4 graph (7)”, and

5 (ii) by adding at the end the following
6 new paragraph:

7 “(7) *APPLICABLE LIMITATION.*—

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

12 “(i) \$30,000, or

13 “(ii) 25 percent of the participant’s
14 compensation (as defined in section
15 415(c)(3)).

16 “(B) *COST-OF-LIVING ADJUSTMENT.*—The
17 Secretary shall adjust annually the \$30,000
18 amount under subparagraph (A)(i) at the same
19 time and in the same manner as under section
20 415(d), except that the base period shall be the
21 calendar quarter beginning October 1, 1993, and
22 any increase under this subparagraph which is
23 not a multiple of \$5,000 shall be rounded to the
24 next lowest multiple of \$5,000.”.

25 (5) *EFFECTIVE DATE.*—

1 (A) *Except as provided in subparagraph*
2 (B), *the amendments made by this subsection*
3 *shall apply to years beginning after December*
4 *31, 2001.*

5 (B) *The amendments made by paragraphs*
6 (3) *and (4) shall apply to years beginning after*
7 *December 31, 2010.*

8 (b) *SPECIAL RULES FOR SECTIONS 403(b) AND 408.—*

9 (1) *IN GENERAL.—Subsection (k) of section 415*
10 *is amended by adding at the end the following new*
11 *paragraph:*

12 “(4) *SPECIAL RULES FOR SECTIONS 403(b) AND*
13 *408.—For purposes of this section, any annuity con-*
14 *tract described in section 403(b) for the benefit of a*
15 *participant shall be treated as a defined contribution*
16 *plan maintained by each employer with respect to*
17 *which the participant has the control required under*
18 *subsection (b) or (c) of section 414 (as modified by*
19 *subsection (h)). For purposes of this section, any con-*
20 *tribution by an employer to a simplified employee*
21 *pension plan for an individual for a taxable year*
22 *shall be treated as an employer contribution to a de-*
23 *defined contribution plan for such individual for such*
24 *year.”.*

25 (2) *EFFECTIVE DATE.—*

1 (A) *IN GENERAL.*—*The amendment made*
2 *by paragraph (1) shall apply to limitation years*
3 *beginning after December 31, 2000.*

4 (B) *EXCLUSION ALLOWANCE.*—*Effective for*
5 *limitation years beginning in 2001, in the case*
6 *of any annuity contract described in section*
7 *403(b) of the Internal Revenue Code of 1986, the*
8 *amount of the contribution disqualified by rea-*
9 *son of section 415(g) of such Code shall reduce*
10 *the exclusion allowance as provided in section*
11 *403(b)(2) of such Code.*

12 (3) *MODIFICATION OF 403(b) EXCLUSION ALLOW-*
13 *ANCE TO CONFORM TO 415 MODIFICATION.*—*The Sec-*
14 *retary of the Treasury shall modify the regulations re-*
15 *garding the exclusion allowance under section*
16 *403(b)(2) of the Internal Revenue Code of 1986 to*
17 *render void the requirement that contributions to a*
18 *defined benefit pension plan be treated as previously*
19 *excluded amounts for purposes of the exclusion allow-*
20 *ance. For taxable years beginning after December 31,*
21 *2000, such regulations shall be applied as if such re-*
22 *quirement were void.*

23 (c) *DEFERRED COMPENSATION PLANS OF STATE AND*
24 *LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*
25 *TIONS.*—

1 (1) *IN GENERAL.*—Subparagraph (B) of section
 2 457(b)(2) (relating to salary limitation on eligible de-
 3 ferred compensation plans) is amended by striking
 4 “33¹/₃ percent” and inserting “the applicable percent-
 5 age”.

6 (2) *APPLICABLE PERCENTAGE.*—Section 457 is
 7 amended by adding at the end the following new sub-
 8 section:

9 “(h) *APPLICABLE PERCENTAGE.*—For purposes of sub-
 10 section (b)(2)(A), the applicable percentage shall be deter-
 11 mined in accordance with the following table:

“For years beginning in:	The applicable percentage is:
2002 through 2010	50 percent
2011 and thereafter	100 percent.”.

12 (3) *EFFECTIVE DATE.*—The amendments made
 13 by this subsection shall apply to years beginning after
 14 December 31, 2001.

15 **SEC. 633. FASTER VESTING OF CERTAIN EMPLOYER MATCH-**
 16 **ING CONTRIBUTIONS.**

17 (a) *IN GENERAL.*—Section 411(a) (relating to min-
 18 imum vesting standards) is amended—

19 (1) in paragraph (2), by striking “A plan” and
 20 inserting “Except as provided in paragraph (12), a
 21 plan”; and

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

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

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

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

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

9 (b) *AMENDMENT OF ERISA.—Section 203(a) of the*
 10 *Employee Retirement Income Security Act of 1974 (29*
 11 *U.S.C. 1053(a)) is amended—*

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

15 (2) *by adding at the end the following:*

16 “(4) *In the case of matching contributions (as*
 17 *defined in section 401(m)(4)(A) of the Internal Rev-*
 18 *enue Code of 1986), paragraph (2) shall be applied—*

19 “(A) *by substituting ‘3 years’ for ‘5 years’*
 20 *in subparagraph (A), and*

21 “(B) *by substituting the following table for*
 22 *the table contained in subparagraph (B):*

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

1 (c) *EFFECTIVE DATES.*—

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

6 (2) *COLLECTIVE BARGAINING AGREEMENTS.*—*In*
 7 *the case of a plan maintained pursuant to one or*
 8 *more collective bargaining agreements between em-*
 9 *ployee representatives and one or more employers*
 10 *ratified by the date of the enactment of this Act, the*
 11 *amendments made by this section shall not apply to*
 12 *contributions on behalf of employees covered by any*
 13 *such agreement for plan years beginning before the*
 14 *earlier of—*

15 (A) *the later of—*

16 (i) *the date on which the last of such*
 17 *collective bargaining agreements terminates*
 18 *(determined without regard to any exten-*
 19 *sion thereof on or after such date of the en-*
 20 *actment); or*

21 (ii) *January 1, 2002; or*

22 (B) *January 1, 2006.*

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

7 **SEC. 634. MODIFICATIONS TO MINIMUM DISTRIBUTION**
8 **RULES.**

9 (a) *LIFE EXPECTANCY TABLES.*—The Secretary of the
10 Treasury shall modify the life expectancy tables under the
11 regulations relating to minimum distribution requirements
12 under sections 401(a)(9), 408(a)(6) and (b)(3), 403(b)(10),
13 and 457(d)(2) of the Internal Revenue Code to reflect cur-
14 rent life expectancy.

15 (b) *REPEAL OF RULE WHERE DISTRIBUTIONS HAD*
16 *BEGUN BEFORE DEATH OCCURS.*—

17 (1) *IN GENERAL.*—Subparagraph (B) of section
18 401(a)(9) is amended by striking clause (i) and redес-
19 ignating clauses (ii), (iii), and (iv) as clauses (i),
20 (ii), and (iii), respectively.

21 (2) *CONFORMING CHANGES.*—

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

24 (i) by striking “FOR OTHER CASES” in
25 the heading; and

1 (ii) by striking “the distribution of the
2 employee’s interest has begun in accordance
3 with subparagraph (A)(ii)” and inserting
4 “his entire interest has been distributed to
5 him”.

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

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

11 (i) by striking “clause (iii)(I)” and in-
12 serting “clause (ii)(I)”;

13 (ii) by striking “clause (iii)(III)” in
14 subclause (I) and inserting “clause
15 (ii)(III)”;

16 (iii) by striking “the date on which the
17 employee would have attained age 70¹/₂,” in
18 subclause (I) and inserting “April 1 of the
19 calendar year following the calendar year
20 in which the spouse attains 70¹/₂,”; and

21 (iv) by striking “the distributions to
22 such spouse begin,” in subclause (II) and
23 inserting “his entire interest has been dis-
24 tributed to him,”.

25 (3) *EFFECTIVE DATE.*—

1 (A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the amendments made by this*
3 *subsection shall apply to years beginning after*
4 *December 31, 2001.*

5 (B) *DISTRIBUTIONS TO SURVIVING*
6 *SPOUSE.*—

7 (i) *IN GENERAL.*—*In the case of an*
8 *employee described in clause (ii), distribu-*
9 *tions to the surviving spouse of the employee*
10 *shall not be required to commence prior to*
11 *the date on which such distributions would*
12 *have been required to begin under section*
13 *401(a)(9)(B) of the Internal Revenue Code*
14 *of 1986 (as in effect on the day before the*
15 *date of the enactment of this Act).*

16 (ii) *CERTAIN EMPLOYEES.*—*An em-*
17 *ployee is described in this clause if such em-*
18 *ployee dies before—*

19 (I) *the date of the enactment of*
20 *this Act, and*

21 (II) *the required beginning date*
22 *(within the meaning of section*
23 *401(a)(9)(C) of the Internal Revenue*
24 *Code of 1986) of the employee.*

1 **SEC. 635. CLARIFICATION OF TAX TREATMENT OF DIVISION**
2 **OF SECTION 457 PLAN BENEFITS UPON DI-**
3 **VORCE.**

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

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

10 (2) in the heading, by striking “GOVERNMENTAL
11 AND CHURCH PLANS” and inserting “CERTAIN OTHER
12 PLANS”.

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

17 (c) *TAX TREATMENT OF PAYMENTS FROM A SECTION*
18 *457 PLAN.*—Subsection (p) of section 414 is amended by
19 redesignating paragraph (12) as paragraph (13) and in-
20 serting after paragraph (11) the following new paragraph:

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

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

3 *(d) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—The amendment made by sub-*
5 *section (c) shall apply to transfers, distributions, and*
6 *payments made after December 31, 2001.*

7 *(2) AMENDMENTS RELATING TO ASSIGNMENTS IN*
8 *DIVORCE, ETC., PROCEEDINGS.—The amendments*
9 *made by subsections (a) and (b) shall take effect on*
10 *January 1, 2002, except that in the case of a domestic*
11 *relations order entered before such date, the plan*
12 *administrator—*

13 *(A) shall treat such order as a qualified do-*
14 *mestic relations order if such administrator is*
15 *paying benefits pursuant to such order on such*
16 *date, and*

17 *(B) may treat any other such order entered*
18 *before such date as a qualified domestic relations*
19 *order even if such order does not meet the re-*
20 *quirements of such amendments.*

21 **SEC. 636. PROVISIONS RELATING TO HARDSHIP DISTRIBU-**
22 **TIONS.**

23 *(a) SAFE HARBOR RELIEF.—*

24 *(1) IN GENERAL.—The Secretary of the Treasury*
25 *shall revise the regulations relating to hardship dis-*

1 *tributions under section 401(k)(2)(B)(i)(IV) of the In-*
2 *ternal Revenue Code of 1986 to provide that the pe-*
3 *riod an employee is prohibited from making elective*
4 *and employee contributions in order for a distribu-*
5 *tion to be deemed necessary to satisfy financial need*
6 *shall be equal to 6 months.*

7 (2) *EFFECTIVE DATE.*—*The revised regulations*
8 *under this subsection shall apply to years beginning*
9 *after December 31, 2001.*

10 (b) *HARDSHIP DISTRIBUTIONS NOT TREATED AS ELI-*
11 *GIBLE ROLLOVER DISTRIBUTIONS.*—

12 (1) *MODIFICATION OF DEFINITION OF ELIGIBLE*
13 *ROLLOVER.*—*Subparagraph (C) of section 402(c)(4)*
14 *(relating to eligible rollover distribution) is amended*
15 *to read as follows:*

16 “(C) *any distribution which is made upon*
17 *hardship of the employee.*”

18 (2) *EFFECTIVE DATE.*—*The amendment made by*
19 *this subsection shall apply to distributions made after*
20 *December 31, 2001.*

21 **SEC. 637. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBU-**
22 **TIONS FOR DOMESTIC OR SIMILAR WORKERS.**

23 (a) *IN GENERAL.*—*Section 4972(c)(6) (relating to ex-*
24 *ceptions to nondeductible contributions), as amended by sec-*
25 *tion 502, is amended by striking “or” at the end of subpara-*

1 *graph (A), by striking the period and inserting “, or” at*
2 *the end of subparagraph (B), and by inserting after sub-*
3 *paragraph (B) the following new subparagraph:*

4 *“(C) so much of the contributions to a sim-*
5 *ple retirement account (within the meaning of*
6 *section 408(p)) or a simple plan (within the*
7 *meaning of section 401(k)(11)) which are not de-*
8 *ductible when contributed solely because such*
9 *contributions are not made in connection with a*
10 *trade or business of the employer.”*

11 ***(b) EXCLUSION OF CERTAIN CONTRIBUTIONS.***—*Sec-*
12 *tion 4972(c)(6), as amended by subsection (a), is amended*
13 *by adding at the end the following new sentence: “Subpara-*
14 *graph (C) shall not apply to contributions made on behalf*
15 *of the employer or a member of the employer’s family (as*
16 *defined in section 447(e)(1)).”*

17 ***(c) NO INFERENCE.***—*Nothing in the amendments*
18 *made by this section shall be construed to infer the proper*
19 *treatment of nondeductible contributions under the laws in*
20 *effect before such amendments.*

21 ***(d) EFFECTIVE DATE.***—*The amendments made by this*
22 *section shall apply to taxable years beginning after Decem-*
23 *ber 31, 2001.*

1 ***Subtitle D—Increasing Portability***
2 ***for Participants***

3 ***SEC. 641. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF***
4 ***PLANS.***

5 *(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—*

6 *(1) ROLLOVERS FROM SECTION 457 PLANS.—*

7 *(A) IN GENERAL.—Section 457(e) (relating*
8 *to other definitions and special rules) is amend-*
9 *ed by adding at the end the following:*

10 *“(16) ROLLOVER AMOUNTS.—*

11 *“(A) GENERAL RULE.—In the case of an el-*
12 *igible deferred compensation plan established*
13 *and maintained by an employer described in*
14 *subsection (e)(1)(A), if—*

15 *“(i) any portion of the balance to the*
16 *credit of an employee in such plan is paid*
17 *to such employee in an eligible rollover dis-*
18 *tribution (within the meaning of section*
19 *402(c)(4) without regard to subparagraph*
20 *(C) thereof),*

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

1 “(iii) in the case of a distribution of
2 property other than money, the amount so
3 transferred consists of the property distrib-
4 uted,
5 then such distribution (to the extent so trans-
6 ferred) shall not be includible in gross income for
7 the taxable year in which paid.

8 “(B) CERTAIN RULES MADE APPLICABLE.—
9 The rules of paragraphs (2) through (7) and (9)
10 of section 402(c) and section 402(f) shall apply
11 for purposes of subparagraph (A).

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

16 (B) DEFERRAL LIMIT DETERMINED WITH-
17 OUT REGARD TO ROLLOVER AMOUNTS.—Section
18 457(b)(2) (defining eligible deferred compensa-
19 tion plan) is amended by inserting “(other than
20 rollover amounts)” after “taxable year”.

21 (C) DIRECT ROLLOVER.—Paragraph (1) of
22 section 457(d) is amended by striking “and” at
23 the end of subparagraph (A), by striking the pe-
24 riod at the end of subparagraph (B) and insert-

1 ing “, and”, and by inserting after subpara-
2 graph (B) the following:

3 “(C) in the case of a plan maintained by
4 an employer described in subsection (e)(1)(A),
5 the plan meets requirements similar to the re-
6 quirements of section 401(a)(31).

7 Any amount transferred in a direct trustee-to-trustee
8 transfer in accordance with section 401(a)(31) shall
9 not be includible in gross income for the taxable year
10 of transfer.”.

11 (D) WITHHOLDING.—

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

15 “(E) under or to an eligible deferred com-
16 pensation plan which, at the time of such pay-
17 ment, is a plan described in section 457(b) which
18 is maintained by an eligible employer described
19 in section 457(e)(1)(A), or”.

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

22 “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For
23 purposes of this subsection, the term ‘eligible rollover
24 distribution’ has the meaning given such term by sec-
25 tion 402(f)(2)(A).”.

1 (iii) *LIABILITY FOR WITHHOLDING.*—
2 Subparagraph (B) of section 3405(d)(2) is
3 amended by striking “or” at the end of
4 clause (ii), by striking the period at the end
5 of clause (iii) and inserting “, or”, and by
6 adding at the end the following:

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

10 (2) *ROLLOVERS TO SECTION 457 PLANS.*—

11 (A) *IN GENERAL.*—Section 402(c)(8)(B)
12 (defining eligible retirement plan) is amended by
13 striking “and” at the end of clause (iii), by
14 striking the period at the end of clause (iv) and
15 inserting “, and”, and by inserting after clause
16 (iv) the following new clause:

17 “(v) an eligible deferred compensation
18 plan described in section 457(b) which is
19 maintained by an eligible employer de-
20 scribed in section 457(e)(1)(A).”.

21 (B) *SEPARATE ACCOUNTING.*—Section
22 402(c) is amended by adding at the end the fol-
23 lowing new paragraph:

24 “(11) *SEPARATE ACCOUNTING.*—Unless a plan
25 described in clause (v) of paragraph (8)(B) agrees to

1 *separately account for amounts rolled into such plan*
2 *from eligible retirement plans not described in such*
3 *clause, the plan described in such clause may not ac-*
4 *cept transfers or rollovers from such retirement*
5 *plans.”.*

6 (C) *10 PERCENT ADDITIONAL TAX.—Sub-*
7 *section (t) of section 72 (relating to 10-percent*
8 *additional tax on early distributions from quali-*
9 *fied retirement plans) is amended by adding at*
10 *the end the following new paragraph:*

11 *“(9) SPECIAL RULE FOR ROLLOVERS TO SECTION*
12 *457 PLANS.—For purposes of this subsection, a dis-*
13 *tribution from an eligible deferred compensation plan*
14 *(as defined in section 457(b)) of an eligible employer*
15 *described in section 457(e)(1)(A) shall be treated as a*
16 *distribution from a qualified retirement plan de-*
17 *scribed in 4974(c)(1) to the extent that such distribu-*
18 *tion is attributable to an amount transferred to an el-*
19 *igible deferred compensation plan from a qualified re-*
20 *irement plan (as defined in section 4974(c)).”.*

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

23 (1) *ROLLOVERS FROM SECTION 403(b) PLANS.—*
24 *Section 403(b)(8)(A)(ii) (relating to rollover*
25 *amounts) is amended by striking “such distribution”*

1 *and all that follows and inserting “such distribution*
2 *to an eligible retirement plan described in section*
3 *402(c)(8)(B), and”.*

4 (2) *ROLLOVERS TO SECTION 403(b) PLANS.—Section*
5 *402(c)(8)(B) (defining eligible retirement plan),*
6 *as amended by subsection (a), is amended by striking*
7 *“and” at the end of clause (iv), by striking the period*
8 *at the end of clause (v) and inserting “, and”, and*
9 *by inserting after clause (v) the following new clause:*
10 *“(vi) an annuity contract described in*
11 *section 403(b).”.*

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

20 *“(E) of the provisions under which distribu-*
21 *tions from the eligible retirement plan receiving*
22 *the distribution may be subject to restrictions*
23 *and tax consequences which are different from*
24 *those applicable to distributions from the plan*
25 *making such distribution.”.*

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

5 (e) *CONFORMING AMENDMENTS.*—

6 (1) Section 72(o)(4) is amended by striking “and
7 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
8 457(e)(16)”.

9 (2) Section 219(d)(2) is amended by striking “or
10 408(d)(3)” and inserting “408(d)(3), or 457(e)(16)”.

11 (3) Section 401(a)(31)(B) is amended by strik-
12 *ing* “and 403(a)(4)” and inserting “, 403(a)(4),
13 403(b)(8), and 457(e)(16)”.

14 (4) Subparagraph (A) of section 402(f)(2) is
15 *amended by striking* “or paragraph (4) of section
16 403(a)” and inserting “, paragraph (4) of section
17 403(a), subparagraph (A) of section 403(b)(8), or sub-
18 *paragraph (A) of section 457(e)(16)”.*

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

21 (6) Subparagraphs (A) and (B) of section
22 402(f)(1) are amended by striking “another eligible
23 *retirement plan*” and inserting “an eligible retire-
24 *ment plan*”.

1 (7) *Subparagraph (B) of section 403(b)(8) is*
2 *amended to read as follows:*

3 “(B) *CERTAIN RULES MADE APPLICABLE.—*

4 *The rules of paragraphs (2) through (7) and (9)*
5 *of section 402(c) and section 402(f) shall apply*
6 *for purposes of subparagraph (A), except that*
7 *section 402(f) shall be applied to the payor in*
8 *lieu of the plan administrator.”.*

9 (8) *Section 408(a)(1) is amended by striking “or*
10 *403(b)(8),” and inserting “403(b)(8), or 457(e)(16)”.*

11 (9) *Subparagraphs (A) and (B) of section*
12 *415(b)(2) are each amended by striking “and*
13 *408(d)(3)” and inserting “403(b)(8), 408(d)(3), and*
14 *457(e)(16)”.*

15 (10) *Section 415(c)(2) is amended by striking*
16 *“and 408(d)(3)” and inserting “408(d)(3), and*
17 *457(e)(16)”.*

18 (11) *Section 4973(b)(1)(A) is amended by strik-*
19 *ing “or 408(d)(3)” and inserting “408(d)(3), or*
20 *457(e)(16)”.*

21 (f) *EFFECTIVE DATE; SPECIAL RULE.—*

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

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

11 **SEC. 642. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
12 **MENT PLANS.**

13 (a) *IN GENERAL.*—Subparagraph (A) of section
14 408(d)(3) (relating to rollover amounts) is amended by add-
15 ing “or” at the end of clause (i), by striking clauses (ii)
16 and (iii), and by adding at the end the following:

17 “(ii) the entire amount received (in-
18 cluding money and any other property) is
19 paid into an eligible retirement plan for the
20 benefit of such individual not later than the
21 60th day after the date on which the pay-
22 ment or distribution is received, except that
23 the maximum amount which may be paid
24 into such plan may not exceed the portion
25 of the amount received which is includible

1 in gross income (determined without regard
2 to this paragraph).

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

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) Paragraph (1) of section 403(b) is amended
9 by striking “section 408(d)(3)(A)(iii)” and inserting
10 “section 408(d)(3)(A)(ii)”.

11 (2) Clause (i) of section 408(d)(3)(D) is amended
12 by striking “(i), (ii), or (iii)” and inserting “(i) or
13 (ii)”.

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

16 “(G) *SIMPLE RETIREMENT ACCOUNTS.*—In
17 the case of any payment or distribution out of
18 a simple retirement account (as defined in sub-
19 section (p)) to which section 72(t)(6) applies,
20 this paragraph shall not apply unless such pay-
21 ment or distribution is paid into another simple
22 retirement account.”.

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

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

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

14 **SEC. 643. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

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

20 *“(A) such portion is transferred in a direct*
21 *trustee-to-trustee transfer to a qualified trust*
22 *which is part of a plan which is a defined con-*
23 *tribution plan and which agrees to separately*
24 *account for amounts so transferred, including*
25 *separately accounting for the portion of such dis-*

1 *tribution which is includible in gross income*
2 *and the portion of such distribution which is not*
3 *so includible, or*

4 *“(B) such portion is transferred to an eligi-*
5 *ble retirement plan described in clause (i) or (ii)*
6 *of paragraph (8)(B).”.*

7 ***(b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLL-***
8 ***OVER DISTRIBUTIONS.—Subparagraph (B) of section***
9 ***401(a)(31) (relating to limitation) is amended by adding***
10 ***at the end the following: “The preceding sentence shall not***
11 ***apply to such distribution if the plan to which such dis-***
12 ***tribution is transferred—***

13 *“(i) agrees to separately account for*
14 *amounts so transferred, including sepa-*
15 *rately accounting for the portion of such*
16 *distribution which is includible in gross in-*
17 *come and the portion of such distribution*
18 *which is not so includible, or*

19 *“(ii) is an eligible retirement plan de-*
20 *scribed in clause (i) or (ii) of section*
21 *402(c)(8)(B).”.*

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

1 “(H) *APPLICATION OF SECTION 72.*—

2 “(i) *IN GENERAL.*—If—

3 “(I) *a distribution is made from*
4 *an individual retirement plan, and*

5 “(II) *a rollover contribution is*
6 *made to an eligible retirement plan de-*
7 *scribed in section 402(c)(8)(B)(iii),*
8 *(iv), (v), or (vi) with respect to all or*
9 *part of such distribution,*

10 *then, notwithstanding paragraph (2), the*
11 *rules of clause (ii) shall apply for purposes*
12 *of applying section 72.*

13 “(ii) *APPLICABLE RULES.*—*In the case*
14 *of a distribution described in clause (i)—*

15 “(I) *section 72 shall be applied*
16 *separately to such distribution,*

17 “(II) *notwithstanding the pro*
18 *rata allocation of income on, and in-*
19 *vestment in, the contract to distribu-*
20 *tions under section 72, the portion of*
21 *such distribution rolled over to an eli-*
22 *gible retirement plan described in*
23 *clause (i) shall be treated as from in-*
24 *come on the contract (to the extent of*
25 *the aggregate income on the contract*

1 *from all individual retirement plans of*
2 *the distributee), and*

3 “(III) *appropriate adjustments*
4 *shall be made in applying section 72 to*
5 *other distributions in such taxable year*
6 *and subsequent taxable years.”.*

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

10 **SEC. 644. HARDSHIP EXCEPTION TO 60-DAY RULE.**

11 (a) *EXEMPT TRUSTS.—Paragraph (3) of section*
12 *402(c) (relating to transfer must be made within 60 days*
13 *of receipt) is amended to read as follows:*

14 “(3) *TRANSFER MUST BE MADE WITHIN 60 DAYS*
15 *OF RECEIPT.—*

16 “(A) *IN GENERAL.—Except as provided in*
17 *subparagraph (B), paragraph (1) shall not*
18 *apply to any transfer of a distribution made*
19 *after the 60th day following the day on which the*
20 *distributee received the property distributed.*

21 “(B) *HARDSHIP EXCEPTION.—The Sec-*
22 *retary may waive the 60-day requirement under*
23 *subparagraph (A) where the failure to waive*
24 *such requirement would be against equity or*
25 *good conscience, including casualty, disaster, or*

1 *other events beyond the reasonable control of the*
2 *individual subject to such requirement.”.*

3 **(b) IRAS.**—*Paragraph (3) of section 408(d) (relating*
4 *to rollover contributions), as amended by section 643, is*
5 *amended by adding after subparagraph (H) the following*
6 *new subparagraph:*

7 “(I) **WAIVER OF 60-DAY REQUIREMENT.**—
8 *The Secretary may waive the 60-day require-*
9 *ment under subparagraphs (A) and (D) where*
10 *the failure to waive such requirement would be*
11 *against equity or good conscience, including cas-*
12 *ualty, disaster, or other events beyond the rea-*
13 *sonable control of the individual subject to such*
14 *requirement.”.*

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

17 **SEC. 645. TREATMENT OF FORMS OF DISTRIBUTION.**

18 **(a) PLAN TRANSFERS.**—

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

23 “(D) **PLAN TRANSFERS.**—

24 “(i) **IN GENERAL.**—*A defined contribu-*
25 *tion plan (in this subparagraph referred to*

1 *as the ‘transferee plan’ shall not be treated*
2 *as failing to meet the requirements of this*
3 *subsection merely because the transferee*
4 *plan does not provide some or all of the*
5 *forms of distribution previously available*
6 *under another defined contribution plan (in*
7 *this subparagraph referred to as the ‘trans-*
8 *feror plan’) to the extent that—*

9 *“(I) the forms of distribution pre-*
10 *viously available under the transferor*
11 *plan applied to the account of a par-*
12 *ticipant or beneficiary under the*
13 *transferor plan that was transferred*
14 *from the transferor plan to the trans-*
15 *feree plan pursuant to a direct transfer*
16 *rather than pursuant to a distribution*
17 *from the transferor plan,*

18 *“(II) the terms of both the trans-*
19 *feror plan and the transferee plan au-*
20 *thorize the transfer described in sub-*
21 *clause (I),*

22 *“(III) the transfer described in*
23 *subclause (I) was made pursuant to a*
24 *voluntary election by the participant*

1 or beneficiary whose account was
2 transferred to the transferee plan,

3 “(IV) the election described in
4 subclause (III) was made after the par-
5 ticipant or beneficiary received a no-
6 tice describing the consequences of
7 making the election, and

8 “(V) the transferee plan allows the
9 participant or beneficiary described in
10 subclause (III) to receive any distribu-
11 tion to which the participant or bene-
12 ficiary is entitled under the transferee
13 plan in the form of a single sum dis-
14 tribution.

15 “(ii) *SPECIAL RULE FOR MERGERS,*
16 *ETC.—Clause (i) shall apply to plan merg-*
17 *ers and other transactions having the effect*
18 *of a direct transfer, including consolidations*
19 *of benefits attributable to different employ-*
20 *ers within a multiple employer plan.”.*

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

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

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

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

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

22 “(iv) the election described in clause (iii) was
23 made after the participant or beneficiary received a
24 notice describing the consequences of making the elec-
25 tion; and

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

6 “(B) Subparagraph (A) shall apply to plan mergers
7 and other transactions having the effect of a direct transfer,
8 including consolidations of benefits attributable to different
9 employers within a multiple employer plan.”.

10 (3) *EFFECTIVE DATE.*—The amendments made
11 by this subsection shall apply to years beginning after
12 December 31, 2001.

13 (b) *REGULATIONS.*—

14 (1) *AMENDMENT OF INTERNAL REVENUE*
15 *CODE.*—The last sentence of paragraph (6)(B) of sec-
16 tion 411(d) (relating to accrued benefit not to be de-
17 creased by amendment) is amended to read as follows:
18 “The Secretary shall by regulations provide that this
19 subparagraph shall not apply to any plan amend-
20 ment which reduces or eliminates benefits or subsidies
21 which create significant burdens or complexities for
22 the plan and plan participants, unless such amend-
23 ment adversely affects the rights of any participant in
24 a more than *de minimis* manner.”.

1 (2) *AMENDMENT OF ERISA.*—*The last sentence of*
2 *section 204(g)(2) of the Employee Retirement Income*
3 *Security Act of 1974 (29 U.S.C. 1054(g)(2)) is*
4 *amended to read as follows: “The Secretary of the*
5 *Treasury shall by regulations provide that this para-*
6 *graph shall not apply to any plan amendment which*
7 *reduces or eliminates benefits or subsidies which cre-*
8 *ate significant burdens or complexities for the plan*
9 *and plan participants, unless such amendment ad-*
10 *versely affects the rights of any participant in a more*
11 *than de minimis manner.”.*

12 (3) *SECRETARY DIRECTED.*—*Not later than De-*
13 *cember 31, 2002, the Secretary of the Treasury is di-*
14 *rected to issue regulations under section 411(d)(6) of*
15 *the Internal Revenue Code of 1986 and section 204(g)*
16 *of the Employee Retirement Income Security Act of*
17 *1974, including the regulations required by the*
18 *amendment made by this subsection. Such regulations*
19 *shall apply to plan years beginning after December*
20 *31, 2002, or such earlier date as is specified by the*
21 *Secretary of the Treasury.*

22 **SEC. 646. RATIONALIZATION OF RESTRICTIONS ON DIS-**
23 **TRIBUTIONS.**

24 (a) *MODIFICATION OF SAME DESK EXCEPTION.*—

25 (1) *SECTION 401(k).*—

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

5 (B) Subparagraph (A) of section 401(k)(10)
6 (relating to distributions upon termination of
7 plan or disposition of assets or subsidiary) is
8 amended to read as follows:

9 “(A) *IN GENERAL.*—An event described in
10 this subparagraph is the termination of the plan
11 without establishment or maintenance of another
12 defined contribution plan (other than an em-
13 ployee stock ownership plan as defined in section
14 4975(e)(7)).”.

15 (C) Section 401(k)(10) is amended—

16 (i) in subparagraph (B)—

17 (I) by striking “An event” in
18 clause (i) and inserting “A termi-
19 nation”; and

20 (II) by striking “the event” in
21 clause (i) and inserting “the termi-
22 nation”;

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

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

1 (2) *SECTION 403(b).*—

2 (A) *Paragraphs (7)(A)(ii) and (11)(A) of*
3 *section 403(b) are each amended by striking*
4 *“separates from service” and inserting “has a*
5 *severance from employment”.*

6 (B) *The heading for paragraph (11) of sec-*
7 *tion 403(b) is amended by striking “SEPARATION*
8 *FROM SERVICE” and inserting “SEVERANCE*
9 *FROM EMPLOYMENT”.*

10 (3) *SECTION 457.*—*Clause (ii) of section*
11 *457(d)(1)(A) is amended by striking “is separated*
12 *from service” and inserting “has a severance from*
13 *employment”.*

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

16 **SEC. 647. PURCHASE OF SERVICE CREDIT IN GOVERN-**
17 **MENTAL DEFINED BENEFIT PLANS.**

18 (a) *403(b) PLANS.*—*Subsection (b) of section 403 is*
19 *amended by adding at the end the following new paragraph:*

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

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

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

7 (b) 457 PLANS.—Subsection (e) of section 457, as
8 amended by section 401, is amended by adding after para-
9 graph (16) the following new paragraph:

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

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

19 “(B) a repayment to which section 415 does
20 not apply by reason of subsection (k)(3) there-
21 of.”.

22 (c) EFFECTIVE DATE.—The amendments made by this
23 section shall apply to trustee-to-trustee transfers after De-
24 cember 31, 2001.

1 **SEC. 648. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
2 **PURPOSES OF CASH-OUT AMOUNTS.**

3 (a) *QUALIFIED PLANS.*—

4 (1) *AMENDMENT OF INTERNAL REVENUE*
5 *CODE.*—Section 411(a)(11) (relating to restrictions on
6 certain mandatory distributions) is amended by add-
7 ing at the end the following:

8 “(D) *SPECIAL RULE FOR ROLLOVER CON-*
9 *TRIBUTIONS.*—A plan shall not fail to meet the
10 requirements of this paragraph if, under the
11 terms of the plan, the present value of the non-
12 forfeitable accrued benefit is determined without
13 regard to that portion of such benefit which is
14 attributable to rollover contributions (and earn-
15 ings allocable thereto). For purposes of this sub-
16 paragraph, the term ‘rollover contributions’
17 means any rollover contribution under sections
18 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
19 and 457(e)(16).”.

20 (2) *AMENDMENT OF ERISA.*—Section 203(e) of
21 the Employee Retirement Income Security Act of
22 1974 (29 U.S.C. 1053(c)) is amended by adding at
23 the end the following:

24 “(4) A plan shall not fail to meet the requirements of
25 this subsection if, under the terms of the plan, the present
26 value of the nonforfeitable accrued benefit is determined

1 *without regard to that portion of such benefit which is at-*
2 *tributable to rollover contributions (and earnings allocable*
3 *thereto). For purposes of this subparagraph, the term ‘roll-*
4 *over contributions’ means any rollover contribution under*
5 *sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and*
6 *457(e)(16) of the Internal Revenue Code of 1986.”.*

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

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

14 **SEC. 649. MINIMUM DISTRIBUTION AND INCLUSION RE-**
15 **QUIREMENTS FOR SECTION 457 PLANS.**

16 (a) *MINIMUM DISTRIBUTION REQUIREMENTS.—Para-*
17 *graph (2) of section 457(d) (relating to distribution require-*
18 *ments) is amended to read as follows:*

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

23 (b) *INCLUSION IN GROSS INCOME.—*

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

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

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

11 “(A) *is paid to the participant or other ben-*
12 *eficiary, in the case of a plan of an eligible em-*
13 *ployer described in subsection (e)(1)(A), and*

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

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

22 (2) *CONFORMING AMENDMENTS.*—

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

1 “(9) *BENEFITS OF TAX EXEMPT ORGANIZATION*
2 *PLANS NOT TREATED AS MADE AVAILABLE BY REASON*
3 *OF CERTAIN ELECTIONS, ETC.—In the case of an eligi-*
4 *ble deferred compensation plan of an employer de-*
5 *scribed in subsection (e)(1)(B)—”.*

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

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

14 *(c) MODIFICATION OF TRANSITION RULES FOR EXIST-*
15 *ING 457 PLANS.—*

16 *(1) IN GENERAL.—Section 1107(c)(3)(B) of the*
17 *Tax Reform Act of 1986 is amended by striking “or”*
18 *at the end of clause (i), by striking the period at the*
19 *end of clause (ii) and inserting “, or” and by insert-*
20 *ing after clause (ii) the following new clause:*

21 *“(iii) are deferred pursuant to an*
22 *agreement with an individual covered by an*
23 *agreement described in clause (ii), to the ex-*
24 *tent the annual amount under such agree-*
25 *ment with the individual does not exceed—*

1 “(I) the amount described in
2 clause (i)(II), multiplied by

3 “(II) the cumulative increase in
4 the Consumer Price Index (as pub-
5 lished by the Bureau of Labor Statis-
6 tics of the Department of Labor).”.

7 (2) *CONFORMING AMENDMENT.*—The fourth sen-
8 tence of section 1107(c)(3)(B) of the Tax Reform Act
9 of 1986 is amended by striking “This subparagraph”
10 and inserting “Clauses (i) and (ii) of this subpara-
11 graph”.

12 (3) *EFFECTIVE DATE.*—The amendments made
13 by this subsection shall apply to taxable years ending
14 after the date of the enactment of this Act with respect
15 to increases in the Consumer Price Index after Sep-
16 tember 30, 1993.

17 (d) *EFFECTIVE DATE.*—The amendments made by
18 subsections (a) and (b) shall apply to distributions after
19 December 31, 2001.

1 ***Subtitle E—Strengthening Pension***
 2 ***Security and Enforcement***

3 ***PART I—GENERAL PROVISIONS***

4 ***SEC. 651. REPEAL OF 160 PERCENT OF CURRENT LIABILITY***
 5 ***FUNDING LIMIT.***

6 (a) *AMENDMENTS TO INTERNAL REVENUE CODE.—*
 7 *Section 412(c)(7) (relating to full-funding limitation) is*
 8 *amended—*

9 (1) *by striking “the applicable percentage” in*
 10 *subparagraph (A)(i)(I) and inserting “in the case of*
 11 *plan years beginning before January 1, 2005, the ap-*
 12 *plicable percentage”;* and

13 (2) *by amending subparagraph (F) to read as*
 14 *follows:*

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

<i>“In the case of any plan year beginning in—</i>	<i>The applicable percentage is—</i>
2002	160
2003	165
2004	170.”.

19 (b) *AMENDMENT OF ERISA.—Section 302(c)(7) of the*
 20 *Employee Retirement Income Security Act of 1974 (29*
 21 *U.S.C. 1082(c)(7)) is amended—*

22 (1) *by striking “the applicable percentage” in*
 23 *subparagraph (A)(i)(I) and inserting “in the case of*

1 *plan years beginning before January 1, 2005, the ap-*
 2 *plicable percentage”, and*

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

5 *“(F) APPLICABLE PERCENTAGE.—For pur-*
 6 *poses of subparagraph (A)(i)(I), the applicable*
 7 *percentage shall be determined in accordance*
 8 *with the following table:*

“In the case of any plan year beginning in—	The applicable percentage is—
2002	160
2003	165
2004	170.”.

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

12 **SEC. 652. MAXIMUM CONTRIBUTION DEDUCTION RULES**
 13 **MODIFIED AND APPLIED TO ALL DEFINED**
 14 **BENEFIT PLANS.**

15 *(a) IN GENERAL.—Subparagraph (D) of section*
 16 *404(a)(1) (relating to special rule in case of certain plans)*
 17 *is amended to read as follows:*

18 *“(D) SPECIAL RULE IN CASE OF CERTAIN*
 19 *PLANS.—*

20 *“(i) IN GENERAL.—In the case of any*
 21 *defined benefit plan, except as provided in*
 22 *regulations, the maximum amount deduct-*
 23 *ible under the limitations of this paragraph*

1 *shall not be less than the unfunded termi-*
2 *nation liability (determined as if the pro-*
3 *posed termination date referred to in section*
4 *4041(b)(2)(A)(i)(II) of the Employee Retire-*
5 *ment Income Security Act of 1974 were the*
6 *last day of the plan year).*

7 “(i) *PLANS WITH LESS THAN 100 PAR-*
8 *TICIPANTS.—For purposes of this subpara-*
9 *graph, in the case of a plan which has less*
10 *than 100 participants for the plan year,*
11 *termination liability shall not include the*
12 *liability attributable to benefit increases for*
13 *highly compensated employees (as defined*
14 *in section 414(q)) resulting from a plan*
15 *amendment which is made or becomes effec-*
16 *tive, whichever is later, within the last 2*
17 *years before the termination date.*

18 “(iii) *RULE FOR DETERMINING NUM-*
19 *BER OF PARTICIPANTS.—For purposes of de-*
20 *termining whether a plan has more than*
21 *100 participants, all defined benefit plans*
22 *maintained by the same employer (or any*
23 *member of such employer’s controlled group*
24 *(within the meaning of section*
25 *412(l)(8)(C))) shall be treated as one plan,*

1 *but only employees of such member or em-*
2 *ployer shall be taken into account.*

3 “(iv) *PLANS MAINTAINED BY PROFES-*
4 *SIONAL SERVICE EMPLOYERS.—Clause (i)*
5 *shall not apply to a plan described in sec-*
6 *tion 4021(b)(13) of the Employee Retirement*
7 *Income Security Act of 1974.”.*

8 (b) *CONFORMING AMENDMENT.—Paragraph (6) of sec-*
9 *tion 4972(c) is amended to read as follows:*

10 “(6) *EXCEPTIONS.—In determining the amount*
11 *of nondeductible contributions for any taxable year,*
12 *there shall not be taken into account so much of the*
13 *contributions to one or more defined contribution*
14 *plans which are not deductible when contributed sole-*
15 *ly because of section 404(a)(7) as does not exceed the*
16 *greater of—*

17 “(A) *the amount of contributions not in ex-*
18 *cess of 6 percent of compensation (within the*
19 *meaning of section 404(a)) paid or accrued (dur-*
20 *ing the taxable year for which the contributions*
21 *were made) to beneficiaries under the plans, or*

22 “(B) *the sum of—*

23 “(i) *the amount of contributions de-*
24 *scribed in section 401(m)(4)(A), plus*

1 “(i) the amount of contributions de-
2 scribed in section 402(g)(3)(A).

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

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

10 **SEC. 653. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**
11 **ING.**

12 (a) *IN GENERAL.*—Subsection (c) of section 4972 (re-
13 lating to nondeductible contributions) is amended by add-
14 ing at the end the following new paragraph:

15 “(7) *DEFINED BENEFIT PLAN EXCEPTION.*—In
16 determining the amount of nondeductible contribu-
17 tions for any taxable year, an employer may elect for
18 such year not to take into account any contributions
19 to a defined benefit plan except to the extent that such
20 contributions exceed the full-funding limitation (as
21 defined in section 412(c)(7), determined without re-
22 gard to subparagraph (A)(i)(I) thereof). For purposes
23 of this paragraph, the deductible limits under section
24 404(a)(7) shall first be applied to amounts contrib-
25 uted to defined contribution plans and then to

1 *amounts described in this paragraph. If an employer*
 2 *makes an election under this paragraph for a taxable*
 3 *year, paragraph (6) shall not apply to such employer*
 4 *for such taxable year.”.*

5 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 6 *section shall apply to years beginning after December 31,*
 7 *2001.*

8 **SEC. 654. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
 9 **SECTION 415.**

10 (a) *COMPENSATION LIMIT.*—

11 (1) *IN GENERAL.*—*Paragraph (11) of section*
 12 *415(b) (relating to limitation for defined benefit*
 13 *plans) is amended to read as follows:*

14 “(11) *SPECIAL LIMITATION RULE FOR GOVERN-*
 15 *MENTAL AND MULTIEMPLOYER PLANS.*—*In the case of*
 16 *a governmental plan (as defined in section 414(d)) or*
 17 *a multiemployer plan (as defined in section 414(f)),*
 18 *subparagraph (B) of paragraph (1) shall not apply.”.*

19 (2) *CONFORMING AMENDMENT.*—*Section*
 20 *415(b)(7) (relating to benefits under certain collec-*
 21 *tively bargained plans) is amended by inserting*
 22 *“(other than a multiemployer plan)” after “defined*
 23 *benefit plan” in the matter preceding subparagraph*
 24 *(A).*

25 (b) *COMBINING AND AGGREGATION OF PLANS.*—

1 (1) *COMBINING OF PLANS.*—Subsection (f) of sec-
2 tion 415 (relating to combining of plans) is amended
3 by adding at the end the following:

4 “(3) *EXCEPTION FOR MULTIEMPLOYER PLANS.*—
5 Notwithstanding paragraph (1) and subsection (g), a
6 multiemployer plan (as defined in section 414(f))
7 shall not be combined or aggregated with any other
8 plan maintained by an employer for purposes of ap-
9 plying subsection (b)(1)(B) to such plan or any other
10 such plan.”.

11 (2) *CONFORMING AMENDMENT FOR AGGREGATION*
12 *OF PLANS.*—Subsection (g) of section 415 (relating to
13 aggregation of plans) is amended by striking “The
14 Secretary” and inserting “Except as provided in sub-
15 section (f)(3), the Secretary”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to years beginning after December 31,
18 2001.

19 **SEC. 655. PROTECTION OF INVESTMENT OF EMPLOYEE**
20 **CONTRIBUTIONS TO 401(k) PLANS.**

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

23 “(b) *EFFECTIVE DATE.*—

24 “(1) *IN GENERAL.*—Except as provided in para-
25 graph (2), the amendments made by this section shall

1 *apply to elective deferrals for plan years beginning*
2 *after December 31, 1998.*

3 “(2) *NONAPPLICATION TO PREVIOUSLY ACQUIRED*
4 *PROPERTY.—The amendments made by this section*
5 *shall not apply to any elective deferral which is in-*
6 *vested in assets consisting of qualifying employer se-*
7 *curities, qualifying employer real property, or both, if*
8 *such assets were acquired before January 1, 1999.”.*

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

12 **SEC. 656. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
13 **PORATION ESOP.**

14 *(a) IN GENERAL.—Section 409 (relating to qualifica-*
15 *tions for tax credit employee stock ownership plans) is*
16 *amended by redesignating subsection (p) as subsection (q)*
17 *and by inserting after subsection (o) the following new sub-*
18 *section:*

19 “(p) *PROHIBITED ALLOCATIONS OF SECURITIES IN AN*
20 *S CORPORATION.—*

21 “(1) *IN GENERAL.—An employee stock ownership*
22 *plan holding employer securities consisting of stock in*
23 *an S corporation shall provide that no portion of the*
24 *assets of the plan attributable to (or allocable in lieu*
25 *of) such employer securities may, during a nonalloca-*

1 *tion year, accrue (or be allocated directly or indi-*
2 *rectly under any plan of the employer meeting the re-*
3 *quirements of section 401(a)) for the benefit of any*
4 *disqualified person.*

5 *“(2) FAILURE TO MEET REQUIREMENTS.—*

6 *“(A) IN GENERAL.—If a plan fails to meet*
7 *the requirements of paragraph (1), the plan shall*
8 *be treated as having distributed to any disquali-*
9 *fied person the amount allocated to the account*
10 *of such person in violation of paragraph (1) at*
11 *the time of such allocation.*

12 *“(B) CROSS REFERENCE.—*

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

13 *“(3) NONALLOCATION YEAR.—For purposes of*
14 *this subsection—*

15 *“(A) IN GENERAL.—The term ‘nonalloca-*
16 *tion year’ means any plan year of an employee*
17 *stock ownership plan if, at any time during such*
18 *plan year—*

19 *“(i) such plan holds employer securi-*
20 *ties consisting of stock in an S corporation,*
21 *and*

22 *“(ii) disqualified persons own at least*
23 *50 percent of the number of shares of stock*
24 *in the S corporation.*

1 “(B) *ATTRIBUTION RULES.*—For purposes
2 of subparagraph (A)—

3 “(i) *IN GENERAL.*—The rules of section
4 318(a) shall apply for purposes of deter-
5 mining ownership, except that—

6 “(I) in applying paragraph (1)
7 thereof, the members of an individual’s
8 family shall include members of the
9 family described in paragraph (4)(D),
10 and

11 “(II) paragraph (4) thereof shall
12 not apply.

13 “(ii) *DEEMED-OWNED SHARES.*—Not-
14 withstanding the employee trust exception
15 in section 318(a)(2)(B)(i), an individual
16 shall be treated as owning deemed-owned
17 shares of the individual.

18 Solely for purposes of applying paragraph (5),
19 this subparagraph shall be applied after the at-
20 tribution rules of paragraph (5) have been ap-
21 plied.

22 “(4) *DISQUALIFIED PERSON.*—For purposes of
23 this subsection—

24 “(A) *IN GENERAL.*—The term ‘disqualified
25 person’ means any person if—

1 “(i) the aggregate number of deemed-
2 owned shares of such person and the mem-
3 bers of such person’s family is at least 20
4 percent of the number of deemed-owned
5 shares of stock in the S corporation, or

6 “(ii) in the case of a person not de-
7 scribed in clause (i), the number of deemed-
8 owned shares of such person is at least 10
9 percent of the number of deemed-owned
10 shares of stock in such corporation.

11 “(B) TREATMENT OF FAMILY MEMBERS.—

12 *In the case of a disqualified person described in*
13 *subparagraph (A)(i), any member of such per-*
14 *son’s family with deemed-owned shares shall be*
15 *treated as a disqualified person if not otherwise*
16 *treated as a disqualified person under subpara-*
17 *graph (A).*

18 “(C) DEEMED-OWNED SHARES.—

19 “(i) IN GENERAL.—The term ‘deemed-
20 owned shares’ means, with respect to any
21 person—

22 “(I) the stock in the S corporation
23 constituting employer securities of an
24 employee stock ownership plan which

1 *is allocated to such person under the*
2 *plan, and*

3 *“(II) such person’s share of the*
4 *stock in such corporation which is held*
5 *by such plan but which is not allocated*
6 *under the plan to participants.*

7 *“(i) PERSON’S SHARE OF*
8 *UNALLOCATED STOCK.—For purposes of*
9 *clause (i)(II), a person’s share of*
10 *unallocated S corporation stock held by*
11 *such plan is the amount of the unallocated*
12 *stock which would be allocated to such per-*
13 *son if the unallocated stock were allocated to*
14 *all participants in the same proportions as*
15 *the most recent stock allocation under the*
16 *plan.*

17 *“(D) MEMBER OF FAMILY.—For purposes of*
18 *this paragraph, the term ‘member of the family’*
19 *means, with respect to any individual—*

20 *“(i) the spouse of the individual,*

21 *“(ii) an ancestor or lineal descendant*
22 *of the individual or the individual’s spouse,*

23 *“(iii) a brother or sister of the indi-*
24 *vidual or the individual’s spouse and any*

1 *lineal descendant of the brother or sister,*
2 *and*

3 “(iv) *the spouse of any individual de-*
4 *scribed in clause (ii) or (iii).*

5 *A spouse of an individual who is legally sepa-*
6 *rated from such individual under a decree of di-*
7 *vorce or separate maintenance shall not be treat-*
8 *ed as such individual’s spouse for purposes of*
9 *this subparagraph.*

10 “(5) *TREATMENT OF SYNTHETIC EQUITY.—For*
11 *purposes of paragraphs (3) and (4), in the case of a*
12 *person who owns synthetic equity in the S corpora-*
13 *tion, except to the extent provided in regulations, the*
14 *shares of stock in such corporation on which such*
15 *synthetic equity is based shall be treated as out-*
16 *standing stock in such corporation and deemed-owned*
17 *shares of such person if such treatment of synthetic*
18 *equity of 1 or more such persons results in—*

19 “(A) *the treatment of any person as a dis-*
20 *qualified person, or*

21 “(B) *the treatment of any year as a non-*
22 *allocation year.*

23 *For purposes of this paragraph, synthetic equity shall*
24 *be treated as owned by a person in the same manner*
25 *as stock is treated as owned by a person under the*

1 *rules of paragraphs (2) and (3) of section 318(a). If,*
2 *without regard to this paragraph, a person is treated*
3 *as a disqualified person or a year is treated as a non-*
4 *allocation year, this paragraph shall not be construed*
5 *to result in the person or year not being so treated.*

6 “(6) *DEFINITIONS.—For purposes of this*
7 *subsection—*

8 “(A) *EMPLOYEE STOCK OWNERSHIP*
9 *PLAN.—The term ‘employee stock ownership*
10 *plan’ has the meaning given such term by sec-*
11 *tion 4975(e)(7).*

12 “(B) *EMPLOYER SECURITIES.—The term*
13 *‘employer security’ has the meaning given such*
14 *term by section 409(l).*

15 “(C) *SYNTHETIC EQUITY.—The term ‘syn-*
16 *thetic equity’ means any stock option, warrant,*
17 *restricted stock, deferred issuance stock right, or*
18 *similar interest or right that gives the holder the*
19 *right to acquire or receive stock of the S corpora-*
20 *tion in the future. Except to the extent provided*
21 *in regulations, synthetic equity also includes a*
22 *stock appreciation right, phantom stock unit, or*
23 *similar right to a future cash payment based on*
24 *the value of such stock or appreciation in such*
25 *value.*

1 “(7) *REGULATIONS.*—*The Secretary shall pre-*
2 *scribe such regulations as may be necessary to carry*
3 *out the purposes of this subsection.*”.

4 (b) *COORDINATION WITH SECTION 4975(e)(7).*—*The*
5 *last sentence of section 4975(e)(7) (defining employee stock*
6 *ownership plan) is amended by inserting “, section 409(p),”*
7 *after “409(n).”*

8 (c) *EXCISE TAX.*—

9 (1) *APPLICATION OF TAX.*—*Subsection (a) of sec-*
10 *tion 4979A (relating to tax on certain prohibited allo-*
11 *cations of employer securities) is amended—*

12 (A) *by striking “or” at the end of para-*
13 *graph (1), and*

14 (B) *by striking all that follows paragraph*
15 *(2) and inserting the following:*

16 “(3) *there is any allocation of employer securi-*
17 *ties which violates the provisions of section 409(p), or*
18 *a nonallocation year described in subsection (e)(2)(C)*
19 *with respect to an employee stock ownership plan, or*

20 “(4) *any synthetic equity is owned by a dis-*
21 *qualified person in any nonallocation year,*

22 *there is hereby imposed a tax on such allocation or owner-*
23 *ship equal to 50 percent of the amount involved.*”.

24 (2) *LIABILITY.*—*Section 4979A(c) (defining li-*
25 *ability for tax) is amended to read as follows:*

1 “(c) *LIABILITY FOR TAX.*—*The tax imposed by this*
2 *section shall be paid—*

3 “(1) *in the case of an allocation referred to in*
4 *paragraph (1) or (2) of subsection (a), by—*

5 “(A) *the employer sponsoring such plan, or*

6 “(B) *the eligible worker-owned cooperative,*
7 *which made the written statement described in section*
8 *664(g)(1)(E) or in section 1042(b)(3)(B) (as the case*
9 *may be), and*

10 “(2) *in the case of an allocation or ownership re-*
11 *ferred to in paragraph (3) or (4) of subsection (a), by*
12 *the S corporation the stock in which was so allocated*
13 *or owned.”.*

14 (3) *DEFINITIONS.*—*Section 4979A(e) (relating to*
15 *definitions) is amended to read as follows:*

16 “(e) *DEFINITIONS AND SPECIAL RULES.*—*For pur-*
17 *poses of this section—*

18 “(1) *DEFINITIONS.*—*Except as provided in para-*
19 *graph (2), terms used in this section have the same*
20 *respective meanings as when used in sections 409 and*
21 *4978.*

22 “(2) *SPECIAL RULES RELATING TO TAX IMPOSED*
23 *BY REASON OF PARAGRAPH (3) OR (4) OF SUBSECTION*
24 *(a).*—

1 “(A) *PROHIBITED ALLOCATIONS.*—*The*
2 *amount involved with respect to any tax imposed*
3 *by reason of subsection (a)(3) is the amount allo-*
4 *cated to the account of any person in violation*
5 *of section 409(p)(1).*

6 “(B) *SYNTHETIC EQUITY.*—*The amount in-*
7 *volved with respect to any tax imposed by reason*
8 *of subsection (a)(4) is the value of the shares on*
9 *which the synthetic equity is based.*

10 “(C) *SPECIAL RULE DURING FIRST NON-*
11 *ALLOCATION YEAR.*—*For purposes of subpara-*
12 *graph (A), the amount involved for the first non-*
13 *allocation year of any employee stock ownership*
14 *plan shall be determined by taking into account*
15 *the total value of all the deemed-owned shares of*
16 *all disqualified persons with respect to such*
17 *plan.*

18 “(D) *STATUTE OF LIMITATIONS.*—*The stat-*
19 *utory period for the assessment of any tax im-*
20 *posed by this section by reason of paragraph (3)*
21 *or (4) of subsection (a) shall not expire before the*
22 *date which is 3 years from the later of—*

23 “(i) *the allocation or ownership re-*
24 *ferred to in such paragraph giving rise to*
25 *such tax, or*

1 “(ii) the date on which the Secretary is
2 notified of such allocation or ownership.”.

3 (d) *EFFECTIVE DATES.*—

4 (1) *IN GENERAL.*—The amendments made by
5 this section shall apply to plan years beginning after
6 December 31, 2002.

7 (2) *EXCEPTION FOR CERTAIN PLANS.*—In the
8 case of any—

9 (A) employee stock ownership plan estab-
10 lished after July 11, 2000, or

11 (B) employee stock ownership plan estab-
12 lished on or before such date if employer securi-
13 ties held by the plan consist of stock in a cor-
14 poration with respect to which an election under
15 section 1362(a) of the Internal Revenue Code of
16 1986 is not in effect on such date,

17 the amendments made by this section shall apply to
18 plan years ending after July 11, 2000.

19 **SEC. 657. AUTOMATIC ROLLOVERS OF CERTAIN MANDA-**
20 **TORY DISTRIBUTIONS.**

21 (a) *DIRECT TRANSFERS OF MANDATORY DISTRIBU-*
22 *TIONS.*—

23 (1) *IN GENERAL.*—Section 401(a)(31) (relating
24 to optional direct transfer of eligible rollover distribu-
25 tions), as amended by section 643, is amended by re-

1 *designating subparagraphs (B), (C), and (D) as sub-*
2 *paragraphs (C), (D), and (E), respectively, and by*
3 *inserting after subparagraph (A) the following new*
4 *subparagraph:*

5 “(B) *CERTAIN MANDATORY DISTRIBU-*
6 *TIONS.—*

7 “(i) *IN GENERAL.—In case of a trust*
8 *which is part of an eligible plan, such trust*
9 *shall not constitute a qualified trust under*
10 *this section unless the plan of which such*
11 *trust is a part provides that if—*

12 “(I) *a distribution described in*
13 *clause (ii) in excess of \$1,000 is made,*
14 *and*

15 “(II) *the distributee does not make*
16 *an election under subparagraph (A)*
17 *and does not elect to receive the dis-*
18 *tribution directly,*

19 *the plan administrator shall make such*
20 *transfer to an individual retirement ac-*
21 *count or annuity of a designated trustee or*
22 *issuer and shall notify the distributee in*
23 *writing (either separately or as part of the*
24 *notice under section 402(f)) that the dis-*
25 *tribution may be transferred without cost or*

1 penalty to another individual account or
2 annuity.

3 “(ii) *ELIGIBLE PLAN*.—For purposes of
4 clause (i), the term ‘eligible plan’ means a
5 plan which provides that any nonforfeitable
6 accrued benefit for which the present value
7 (as determined under section 411(a)(11))
8 does not exceed \$5,000 shall be immediately
9 distributed to the participant.”.

10 (2) *CONFORMING AMENDMENTS*.—

11 (A) The heading of section 401(a)(31) is
12 amended by striking “*OPTIONAL DIRECT*” and
13 inserting “*DIRECT*”.

14 (B) Section 401(a)(31)(C), as redesignated
15 by paragraph (1), is amended by striking “Sub-
16 paragraph (A)” and inserting “Subparagraphs
17 (A) and (B)”.

18 (b) *NOTICE REQUIREMENT*.—Section 402(f)(1) (relat-
19 ing to written explanation to recipients of distributions eli-
20 gible for rollover treatment) is amended by striking “and”
21 at the end of subparagraph (C), by striking the period at
22 the end of subparagraph (D), and by adding at the end
23 the following new subparagraph:

24 “(E) if applicable, of the provision requir-
25 ing a direct trustee-to-trustee transfer of a dis-

1 *tribution under section 401(a)(31)(B) unless the*
2 *recipient elects otherwise.”.*

3 *(c) FIDUCIARY RULES.—*

4 *(1) IN GENERAL.—Section 404(c) of the Em-*
5 *ployee Retirement Income Security Act of 1974 (29*
6 *U.S.C. 1104(c)) is amended by adding at the end the*
7 *following new paragraph:*

8 *“(3) In the case of a pension plan which makes*
9 *a transfer to an individual retirement account or an-*
10 *nuity of a designated trustee or issuer under section*
11 *401(a)(31)(B) of the Internal Revenue Code of 1986,*
12 *the participant or beneficiary shall, for purposes of*
13 *paragraph (1), be treated as exercising control over*
14 *the assets in the account or annuity upon the earlier*
15 *of—*

16 *“(A) a rollover of all or a portion of the*
17 *amount to another individual retirement account*
18 *or annuity; or*

19 *“(B) one year after the transfer is made.”.*

20 *(2) REGULATIONS.—*

21 *(A) AUTOMATIC ROLLOVER SAFE HAR-*
22 *BOR.—The Secretary of Labor shall promulgate*
23 *regulations to provide guidance regarding meet-*
24 *ing the fiduciary requirements of section 404(a)*
25 *of the Employee Retirement Income Security Act*

1 *of 1974 (29 U.S.C. 1104(a)) in the case of a pen-*
2 *sion plan which makes a transfer under section*
3 *401(a)(31)(B) of the Internal Revenue Code of*
4 *1986.*

5 *(B) USE OF LOW-COST INDIVIDUAL RETIRE-*
6 *MENT PLANS.—The Secretary of the Treasury*
7 *and the Secretary of Labor shall promulgate*
8 *such regulations as necessary to encourage the*
9 *use of low-cost individual retirement plans for*
10 *purposes of transfers under section 401(a)(31)(B)*
11 *of the Internal Revenue Code of 1986 and for*
12 *other uses as appropriate to promote the preser-*
13 *vation of assets for retirement income purposes.*

14 *(d) EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to distributions made after final regula-*
16 *tions implementing subsection (c) are prescribed.*

17 **SEC. 658. CLARIFICATION OF TREATMENT OF CONTRIBU-**
18 **TIONS TO MULTIEMPLOYER PLAN.**

19 *(a) NOT CONSIDERED METHOD OF ACCOUNTING.—For*
20 *purposes of section 446 of the Internal Revenue Code of*
21 *1986, a determination under section 404(a)(6) of such Code*
22 *regarding the taxable year with respect to which a contribu-*
23 *tion to a multiemployer pension plan is deemed made shall*
24 *not be treated as a method of accounting of the taxpayer.*
25 *No deduction shall be allowed for any taxable year for any*

1 contribution to a multiemployer pension plan with respect
 2 to which a deduction was previously allowed.

3 (b) *REGULATIONS.*—The Secretary of the Treasury
 4 shall promulgate such regulations as necessary to clarify
 5 that a taxpayer shall not be allowed, with respect to any
 6 taxable year, an aggregate amount of deductions for con-
 7 tributions to a multiemployer pension plan which exceeds
 8 the amount of such contributions made or deemed made
 9 under section 404(a)(6) of the Internal Revenue Code of
 10 1986 to such plan.

11 (c) *EFFECTIVE DATE.*—Subsection (a), and any regu-
 12 lations promulgated under subsection (b), shall be effective
 13 for years ending after the date of the enactment of this Act.

14 **PART II—TREATMENT OF PLAN AMENDMENTS**

15 **REDUCING FUTURE BENEFIT ACCRUALS**

16 **SEC. 659. NOTICE REQUIRED FOR PENSION PLAN AMEND-**
 17 **MENTS HAVING THE EFFECT OF SIGNIFI-**
 18 **CANTLY REDUCING FUTURE BENEFIT ACCRU-**
 19 **ALS.**

20 (a) *EXCISE TAX.*—

21 (1) *IN GENERAL.*—Chapter 43 (relating to quali-
 22 fied pension, etc., plans) is amended by adding at the
 23 end the following new section:

1 **“SEC. 4980F. FAILURE TO PROVIDE NOTICE OF PENSION**
2 **PLAN AMENDMENTS REDUCING BENEFIT AC-**
3 **CRUALS.**

4 “(a) *IMPOSITION OF TAX.*—*There is hereby imposed a*
5 *tax on the failure of an applicable pension plan to meet*
6 *the requirements of subsection (e) with respect to any appli-*
7 *cable individual.*

8 “(b) *AMOUNT OF TAX.*—

9 “(1) *IN GENERAL.*—*The amount of the tax im-*
10 *posed by subsection (a) on any failure with respect to*
11 *any applicable individual shall be \$100 for each day*
12 *in the noncompliance period with respect to such fail-*
13 *ure.*

14 “(2) *NONCOMPLIANCE PERIOD.*—*For purposes of*
15 *this section, the term ‘noncompliance period’ means,*
16 *with respect to any failure, the period beginning on*
17 *the date the failure first occurs and ending on the*
18 *date the notice to which the failure relates is provided*
19 *or the failure is otherwise corrected.*

20 “(c) *LIMITATIONS ON AMOUNT OF TAX.*—

21 “(1) *TAX NOT TO APPLY WHERE FAILURE NOT*
22 *DISCOVERED AND REASONABLE DILIGENCE EXER-*
23 *CISED.*—*No tax shall be imposed by subsection (a) on*
24 *any failure during any period for which it is estab-*
25 *lished to the satisfaction of the Secretary that any*
26 *person subject to liability for the tax under subsection*

1 (d) did not know that the failure existed and exercised
2 reasonable diligence to meet the requirements of sub-
3 section (e).

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

7 “(A) any person subject to liability for the
8 tax under subsection (d) exercised reasonable
9 diligence to meet the requirements of subsection
10 (e), and

11 “(B) such person provides the notice de-
12 scribed in subsection (e) during the 30-day pe-
13 riod beginning on the first date such person
14 knew, or exercising reasonable diligence would
15 have known, that such failure existed.

16 “(3) OVERALL LIMITATION FOR UNINTENTIONAL
17 FAILURES.—

18 “(A) IN GENERAL.—If the person subject to
19 liability for tax under subsection (d) exercised
20 reasonable diligence to meet the requirements of
21 subsection (e), the tax imposed by subsection (a)
22 for failures during the taxable year of the em-
23 ployer (or, in the case of a multiemployer plan,
24 the taxable year of the trust forming part of the
25 plan) shall not exceed \$500,000. For purposes of

1 *the preceding sentence, all multiemployer plans*
2 *of which the same trust forms a part shall be*
3 *treated as 1 plan.*

4 “(B) *TAXABLE YEARS IN THE CASE OF CER-*
5 *TAIN CONTROLLED GROUPS.—For purposes of*
6 *this paragraph, if all persons who are treated as*
7 *a single employer for purposes of this section do*
8 *not have the same taxable year, the taxable years*
9 *taken into account shall be determined under*
10 *principles similar to the principles of section*
11 *1561.*

12 “(4) *WAIVER BY SECRETARY.—In the case of a*
13 *failure which is due to reasonable cause and not to*
14 *willful neglect, the Secretary may waive part or all*
15 *of the tax imposed by subsection (a) to the extent that*
16 *the payment of such tax would be excessive or other-*
17 *wise inequitable relative to the failure involved.*

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

20 “(1) *In the case of a plan other than a multiem-*
21 *ployer plan, the employer.*

22 “(2) *In the case of a multiemployer plan, the*
23 *plan.*

24 “(e) *NOTICE REQUIREMENTS FOR PLAN AMENDMENTS*
25 *SIGNIFICANTLY REDUCING BENEFIT ACCRUALS.—*

1 “(1) *IN GENERAL.*—*If the sponsor of an applica-*
2 *ble pension plan adopts an amendment which has the*
3 *effect of significantly reducing the rate of future ben-*
4 *efit accrual of 1 or more participants, the plan ad-*
5 *ministrator shall, not later than the 45th day before*
6 *the effective date of the amendment, provide written*
7 *notice to each applicable individual (and to each em-*
8 *ployee organization representing applicable individ-*
9 *uals) which—*

10 “(A) *sets forth a summary of the plan*
11 *amendment and the effective date of the amend-*
12 *ment,*

13 “(B) *includes a statement that the plan*
14 *amendment is expected to significantly reduce*
15 *the rate of future benefit accrual,*

16 “(C) *includes a description of the classes of*
17 *employees reasonably expected to be affected by*
18 *the reduction in the rate of future benefit ac-*
19 *crual,*

20 “(D) *sets forth examples illustrating how*
21 *the plan will change benefits for such classes of*
22 *employees,*

23 “(E) *if paragraph (2) applies to the plan*
24 *amendment, includes a notice that the plan ad-*
25 *ministrator will provide a benefit estimation tool*

1 *kit described in paragraph (2)(B) to each appli-*
2 *cable individual no later than the date required*
3 *under paragraph (2)(A), and*

4 *“(F) includes a notice of each applicable in-*
5 *dividual’s right under Federal law to receive,*
6 *and of the procedures for requesting, an annual*
7 *benefit statement.*

8 *“(2) REQUIREMENT TO PROVIDE BENEFIT ESTI-*
9 *MATION TOOL KIT.—*

10 *“(A) IN GENERAL.—If a plan amendment*
11 *results in the significant restructuring of the*
12 *plan benefit formula (as determined under regu-*
13 *lations prescribed by the Secretary), the plan ad-*
14 *ministrator shall, not later than the 15th day be-*
15 *fore the effective date of the amendment, provide*
16 *a benefit estimation tool kit described in sub-*
17 *paragraph (B) to each applicable individual. If*
18 *such plan amendment occurs within 12 months*
19 *of an event described in section 410(b)(6)(C), the*
20 *plan administrator shall in no event be required*
21 *to provide the benefit estimation tool kit to ap-*
22 *plicable individuals affected by the event before*
23 *the date which is 12 months after the date on*
24 *which notice under paragraph (1) is given to*
25 *such applicable individuals.*

1 “(B) *BENEFIT ESTIMATION TOOL KIT.*—The
2 *benefit estimation tool kit described in this sub-*
3 *paragraph shall include the following informa-*
4 *tion:*

5 “(i) *Sufficient information to enable*
6 *an applicable individual to estimate the in-*
7 *dividual’s projected benefits under the terms*
8 *of the plan in effect both before and after the*
9 *adoption of the amendment.*

10 “(ii) *The formulas and actuarial as-*
11 *sumptions necessary to estimate under both*
12 *such plan terms a single life annuity at ap-*
13 *propriate ages, and, when available, a lump*
14 *sum distribution.*

15 “(iii) *The interest rate used to compute*
16 *a lump sum distribution and information*
17 *as to whether the value of any early retire-*
18 *ment benefit or retirement-type subsidy*
19 *(within the meaning of section*
20 *411(d)(6)(B)(i)) is included in the lump*
21 *sum distribution.*

22 “(3) *NOTICE TO DESIGNEE.*—Any notice under
23 *paragraph (1) or (2) may be provided to a person*
24 *designated, in writing, by the person to which it*
25 *would otherwise be provided.*

1 “(4) *FORM OF EXPLANATION.*—*The information*
2 *required to be provided under this subsection shall be*
3 *provided in a manner calculated to be reasonably un-*
4 *derstood by the average plan participant.*

5 “(f) *DEFINITIONS AND SPECIAL RULES.*—*For pur-*
6 *poses of this section—*

7 “(1) *APPLICABLE INDIVIDUAL.*—

8 “(A) *IN GENERAL.*—*The term ‘applicable*
9 *individual’ means, with respect to any plan*
10 *amendment—*

11 “(i) *each participant in the plan, and*

12 “(ii) *any beneficiary who is an alter-*
13 *nate payee (within the meaning of section*
14 *414(p)(8)) under an applicable qualified*
15 *domestic relations order (within the mean-*
16 *ing of section 414(p)(1)(A)),*

17 *whose rate of future benefit accrual under the*
18 *plan may reasonably be expected to be signifi-*
19 *cantly reduced by such plan amendment.*

20 “(B) *EXCEPTION FOR PARTICIPANTS WITH*
21 *LESS THAN 1 YEAR OF PARTICIPATION.*—*Such*
22 *term shall not include a participant who has less*
23 *than 1 year of participation (within the mean-*
24 *ing of section 411(b)(4)) under the plan as of the*
25 *effective date of the plan amendment.*

1 “(2) *APPLICABLE PENSION PLAN.*—The term ‘ap-
2 *plicable pension plan*’ means—

3 “(A) a defined benefit plan, or

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

6 Such term shall not include a governmental plan
7 (within the meaning of section 414(d)), a church plan
8 (within the meaning of section 414(e)) with respect to
9 which an election under section 410(d) has not been
10 made, or any other plan to which section 204(h) of
11 the *Employee Retirement Income Security Act of*
12 1974 does not apply.

13 “(3) *EARLY RETIREMENT.*—A plan amendment
14 which eliminates or significantly reduces any early
15 retirement benefit or retirement-type subsidy (within
16 the meaning of section 411(d)(6)(B)(i)) shall be treat-
17 ed as having the effect of significantly reducing the
18 rate of future benefit accrual.

19 “(g) *REGULATIONS.*—The Secretary shall, not later
20 than 1 year after the date of the enactment of this section,
21 issue—

22 “(1) the regulations described in subsection
23 (e)(2)(A) and section 204(h)(2)(A) of the *Employee*
24 *Retirement Income Security Act of 1974*, and

1 “(2) guidance for both of the examples described
2 in subsection (e)(1)(D) and section 204(h)(1)(D) of
3 the *Employee Retirement Income Security Act of*
4 1974 and the benefit estimation tool kit described in
5 subsection (e)(2)(B) and section 204(h)(2)(B) of the
6 *Employee Retirement Income Security Act of 1974.*

7 “(h) *NEW TECHNOLOGIES.*—The Secretary may by
8 regulation allow any notice under paragraph (1) or (2) of
9 subsection (e) to be provided by using new technologies.
10 Such regulations shall ensure that at least one option for
11 providing such notice is not dependent on new tech-
12 nologies.”

13 (2) *CONFORMING AMENDMENT.*—The table of sec-
14 tions for chapter 43 is amended by adding at the end
15 the following new item:

“Sec. 4980F. Failure to provide notice of pension plan amendments
reducing benefit accruals.”

16 (b) *AMENDMENT OF ERISA.*—Section 204(h) of the
17 *Employee Retirement Income Security Act of 1974* (29
18 *U.S.C. 1054(h)*) is amended to read as follows:

19 “(h)(1) If an applicable pension plan is amended so
20 as to provide a significant reduction in the rate of future
21 benefit accrual of 1 or more participants, the plan adminis-
22 trator shall, not later than the 45th day before the effective
23 date of the amendment, provide written notice to each ap-

1 *plicable individual (and to each employee organization rep-*
2 *resenting applicable individuals) which—*

3 “(A) *sets forth a summary of the plan amend-*
4 *ment and the effective date of the amendment,*

5 “(B) *includes a statement that the plan amend-*
6 *ment is expected to significantly reduce the rate of fu-*
7 *ture benefit accrual,*

8 “(C) *includes a description of the classes of em-*
9 *ployees reasonably expected to be affected by the re-*
10 *duction in the rate of future benefit accrual,*

11 “(D) *sets forth examples illustrating how the*
12 *plan will change benefits for such classes of employees,*

13 “(E) *if paragraph (2) applies to the plan*
14 *amendment, includes a notice that the plan adminis-*
15 *trator will provide a benefit estimation tool kit de-*
16 *scribed in paragraph (2)(B) to each applicable indi-*
17 *vidual no later than the date required under para-*
18 *graph (2)(A), and*

19 “(F) *includes a notice of each applicable individ-*
20 *ual’s right under Federal law to receive, and of the*
21 *procedures for requesting, an annual benefit state-*
22 *ment.*

23 “(2)(A) *If a plan amendment results in the significant*
24 *restructuring of the plan benefit formula (as determined*
25 *under regulations prescribed by the Secretary of the Treas-*

1 ury), the plan administrator shall, not later than the 15th
2 day before the effective date of the amendment, provide a
3 benefit estimation tool kit described in subparagraph (B)
4 to each applicable individual. If such plan amendment oc-
5 curs within 12 months of an event described in section
6 410(b)(6)(C) of the Internal Revenue Code of 1986, the plan
7 administrator shall in no event be required to provide the
8 benefit estimation tool kit to applicable individuals affected
9 by the event before the date which is 12 months after the
10 date on which notice under paragraph (1) is given to such
11 applicable individuals.

12 “(B) The benefit estimation tool kit described in this
13 subparagraph shall include the following information:

14 “(i) Sufficient information to enable an applica-
15 ble individual to estimate the individual’s projected
16 benefits under the terms of the plan in effect both be-
17 fore and after the adoption of the amendment.

18 “(ii) The formulas and actuarial assumptions
19 necessary to estimate under both such plan terms a
20 single life annuity at appropriate ages, and, when
21 available, a lump sum distribution.

22 “(iii) The interest rate used to compute a lump
23 sum distribution and information as to whether the
24 value of any early retirement benefit or retirement-

1 *type subsidy (within the meaning of subsection*
2 *(g)(2)(A)) is included in the lump sum distribution.*

3 *“(3) Any notice under paragraph (1) or (2) may be*
4 *provided to a person designated, in writing, by the person*
5 *to which it would otherwise be provided.*

6 *“(4) The information required to be provided under*
7 *this subsection shall be provided in a manner calculated*
8 *to be reasonably understood by the average participant.*

9 *“(5)(A) In the case of any failure to exercise due dili-*
10 *gence in meeting any requirement of this subsection with*
11 *respect to any plan amendment, the provisions of the appli-*
12 *cable pension plan shall be applied as if such plan amend-*
13 *ment entitled all applicable individuals to the greater of—*

14 *“(i) the benefits to which they would have been*
15 *entitled without regard to such amendment, or*

16 *“(ii) the benefits under the plan with regard to*
17 *such amendment.*

18 *“(B) For purposes of subparagraph (A), there is a fail-*
19 *ure to exercise due diligence in meeting the requirements*
20 *of this subsection if such failure is within the control of*
21 *the plan sponsor and is—*

22 *“(i) an intentional failure (including any failure*
23 *to promptly provide the required notice or informa-*
24 *tion after the plan administrator discovers an unin-*

1 *tentional failure to meet the requirements of this sub-*
2 *section),*

3 *“(ii) a failure to provide most of the individuals*
4 *with most of the information they are entitled to re-*
5 *ceive under this subsection, or*

6 *“(iii) a failure to exercise due diligence which is*
7 *determined under regulations prescribed by the Sec-*
8 *retary of the Treasury.*

9 *“(C) For excise tax on failure to meet requirements,*
10 *see section 4980F of the Internal Revenue Code of 1986.*

11 *“(5)(A) For purposes of this subsection, the term ‘ap-*
12 *plicable individual’ means, with respect to any plan*
13 *amendment—*

14 *“(i) each participant in the plan, and*

15 *“(ii) any beneficiary who is an alternate payee*
16 *(within the meaning of section 206(d)(3)(K)) under*
17 *an applicable qualified domestic relations order*
18 *(within the meaning of section 206(d)(3)(B)),*

19 *whose rate of future benefit accrual under the plan may*
20 *reasonably be expected to be significantly reduced by such*
21 *plan amendment.*

22 *“(B) Such term shall not include a participant who*
23 *has less than 1 year of participation (within the meaning*
24 *of subsection (b)(4)) under the plan as of the effective date*
25 *of the plan amendment.*

1 “(6) For purposes of this subsection, the term ‘applica-
2 ble pension plan’ means—

3 “(A) a defined benefit plan, or

4 “(B) an individual account plan which is subject
5 to the funding standards of section 302.

6 “(7) For purposes of this subsection, a plan amend-
7 ment which eliminates or significantly reduces any early
8 retirement benefit or retirement-type subsidy (within the
9 meaning of section 204(g)(2)(A)) shall be treated as having
10 the effect of significantly reducing the rate of future benefit
11 accrual.

12 “(8) The Secretary of the Treasury may by regulation
13 allow any notice under this subsection to be provided by
14 using new technologies. Such regulation shall ensure that
15 at least one option for providing such notice is not depend-
16 ent on new technologies.”

17 (c) *REGULATIONS RELATING TO EARLY RETIREMENT*
18 *SUBSIDIES.*—The Secretary of the Treasury or the Sec-
19 retary’s delegate shall, not later than 1 year after the date
20 of the enactment of this Act, issue regulations relating to
21 early retirement benefits or retirement-type subsidies de-
22 scribed in section 411(d)(6)(B)(i) of the Internal Revenue
23 Code of 1986 and section 204(g)(2)(A) of the Employee Re-
24 tirement Income Security Act of 1974.

25 (d) *EFFECTIVE DATES.*—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to plan amendments taking*
3 *effect on or after the date of the enactment of this Act.*

4 (2) *TRANSITION.*—*Until such time as the Sec-*
5 *retary of the Treasury issues regulations under sec-*
6 *tion 4980F(e)(2) of the Internal Revenue Code of*
7 *1986 and section 204(h)(2) of the Employee Retire-*
8 *ment Income Security Act of 1974 (as added by the*
9 *amendments made by this section), a plan shall be*
10 *treated as meeting the requirements of such sections*
11 *if it makes a good faith effort to comply with such re-*
12 *quirements.*

13 (3) *SPECIAL NOTICE RULES.*—*The period for*
14 *providing any notice required by the amendments*
15 *made by this section shall not end before the date*
16 *which is 3 months after the date of the enactment of*
17 *this Act.*

18 (d) *STUDY.*—*The Secretary of the Treasury shall pre-*
19 *pare a report on the effects of significant restructurings of*
20 *plan benefit formulas of traditional defined benefit plans.*
21 *Such study shall examine the effects of such restructurings*
22 *on longer service participants, including the incidence and*
23 *effects of “wear away” provisions under which participants*
24 *earn no additional benefits for a period of time after re-*
25 *structuring. As soon as practicable, but not later than one*

1 year after the date of enactment of this Act, the Secretary
2 shall submit such report, together with recommendations
3 thereon, to the Committee on Ways and Means and the
4 Committee on Education and the Workforce of the House
5 of Representatives and the Committee on Finance and the
6 Committee on Health, Education, Labor, and Pensions of
7 the Senate.

8 ***Subtitle F—Reducing Regulatory***
9 ***Burdens***

10 **SEC. 661. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

11 (a) *IN GENERAL.*—Paragraph (9) of section 412(c) (re-
12 lating to annual valuation) is amended to read as follows:

13 “(9) *ANNUAL VALUATION.*—

14 “(A) *IN GENERAL.*—For purposes of this
15 section, a determination of experience gains and
16 losses and a valuation of the plan’s liability
17 shall be made not less frequently than once every
18 year, except that such determination shall be
19 made more frequently to the extent required in
20 particular cases under regulations prescribed by
21 the Secretary.

22 “(B) *VALUATION DATE.*—

23 “(i) *CURRENT YEAR.*—Except as pro-
24 vided in clause (ii), the valuation referred
25 to in subparagraph (A) shall be made as of

1 a date within the plan year to which the
2 valuation refers or within one month prior
3 to the beginning of such year.

4 “(ii) *ELECTION TO USE PRIOR YEAR*
5 *VALUATION.*—The valuation referred to in
6 subparagraph (A) may be made as of a date
7 within the plan year prior to the year to
8 which the valuation refers if—

9 “(I) an election is in effect under
10 this clause with respect to the plan,
11 and

12 “(II) as of such date, the value of
13 the assets of the plan are not less than
14 125 percent of the plan’s current liabil-
15 ity (as defined in paragraph (7)(B)).

16 “(iii) *ADJUSTMENTS.*—Information
17 under clause (ii) shall, in accordance with
18 regulations, be actuarially adjusted to re-
19 flect significant differences in participants.

20 “(iv) *ELECTION.*—An election under
21 clause (ii), once made, shall be irrevocable
22 without the consent of the Secretary.”

23 (b) *AMENDMENT OF ERISA.*—Paragraph (9) of sec-
24 tion 302(c) of the Employee Retirement Income Security
25 Act of 1974 (29 U.S.C. 1053(c)) is amended—

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

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

3 “(B)(i) Except as provided in clause (ii), the valuation
4 referred to in subparagraph (A) shall be made as of a date
5 within the plan year to which the valuation refers or within
6 one month prior to the beginning of such year.

7 “(ii) The valuation referred to in subparagraph (A)
8 may be made as of a date within the plan year prior to
9 the year to which the valuation refers if—

10 “(I) an election is in effect under this clause
11 with respect to the plan, and

12 “(II) as of such date, the value of the assets of
13 the plan are not less than 125 percent of the plan’s
14 current liability (as defined in paragraph (7)(B)).

15 “(iii) Information under clause (ii) shall, in accord-
16 ance with regulations, be actuarially adjusted to reflect sig-
17 nificant differences in participants.

18 “(iv) An election under clause (ii), once made, shall
19 be irrevocable without the consent of the Secretary of the
20 Treasury.”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to plan years beginning after December
23 31, 2001.

1 **SEC. 662. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
2 **LOSS OF DIVIDEND DEDUCTION.**

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

7 “(iii) is, at the election of such partici-
8 pants or their beneficiaries—

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

11 “(II) paid to the plan and rein-
12 vested in qualifying employer securi-
13 ties, or”.

14 (b) *LIMITATION ON AMOUNT OF DEDUCTION.*—Section
15 404(k)(1) (relating to deduction for dividends paid on cer-
16 tain employer securities) is amended to read as follows:

17 “(1) *DEDUCTION ALLOWED.*—

18 “(A) *IN GENERAL.*—In the case of a C cor-
19 poration, there shall be allowed as a deduction
20 for the taxable year an amount equal to—

21 “(i) the amount of any applicable divi-
22 dend described in clause (i), (ii), or (iv) of
23 paragraph (2)(A), and

24 “(ii) the applicable percentage of any
25 applicable dividend described in clause (iii),

1 *paid in cash by such corporation during the tax-*
 2 *able year with respect to applicable employer se-*
 3 *curities. Such deduction shall be in addition to*
 4 *the deduction allowed subsection (a).*

5 “(B) *APPLICABLE PERCENTAGE.*—*For pur-*
 6 *poses of subparagraph (A), the applicable per-*
 7 *centage shall be determined in accordance with*
 8 *the following table:*

“For taxable years beginning in:	The applicable percentage is:
2002, 2003, and 2004	25 percent
2005, 2006, and 2007	50 percent
2008, 2009, and 2010	75 percent
2011 and thereafter	100 percent.”.

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

12 **SEC. 663. REPEAL OF TRANSITION RULE RELATING TO CER-**
 13 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

14 (a) *IN GENERAL.*—*Paragraph (4) of section 1114(c)*
 15 *of the Tax Reform Act of 1986 is hereby repealed.*

16 (b) *EFFECTIVE DATE.*—*The repeal made by subsection*
 17 *(a) shall apply to plan years beginning after December 31,*
 18 *2001.*

19 **SEC. 664. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

20 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
 21 *modify Treasury Regulations section 1.410(b)–6(g) to pro-*
 22 *vide that employees of an organization described in section*

1 403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who
2 are eligible to make contributions under section 403(b) of
3 such Code pursuant to a salary reduction agreement may
4 be treated as excludable with respect to a plan under section
5 401(k) or (m) of such Code that is provided under the same
6 general arrangement as a plan under such section 401(k),
7 if—

8 (1) no employee of an organization described in
9 section 403(b)(1)(A)(i) of such Code is eligible to par-
10 ticipate in such section 401(k) plan or section 401(m)
11 plan; and

12 (2) 95 percent of the employees who are not em-
13 ployees of an organization described in section
14 403(b)(1)(A)(i) of such Code are eligible to partici-
15 pate in such plan under such section 401(k) or (m).

16 (b) *EFFECTIVE DATE.*—The modification required by
17 subsection (a) shall apply as of the same date set forth in
18 section 1426(b) of the Small Business Job Protection Act
19 of 1996.

20 **SEC. 665. CLARIFICATION OF TREATMENT OF EMPLOYER-**
21 **PROVIDED RETIREMENT ADVICE.**

22 (a) *IN GENERAL.*—Subsection (a) of section 132 (relat-
23 ing to exclusion from gross income) is amended by striking
24 “or” at the end of paragraph (5), by striking the period

1 *at the end of paragraph (6) and inserting “, or”, and by*
2 *adding at the end the following new paragraph:*

3 *“(7) qualified retirement planning services.”.*

4 *(b) QUALIFIED RETIREMENT PLANNING SERVICES DE-*
5 *FINED.—Section 132 is amended by redesignating sub-*
6 *section (m) as subsection (n) and by inserting after sub-*
7 *section (l) the following:*

8 *“(m) QUALIFIED RETIREMENT PLANNING SERV-*
9 *ICES.—*

10 *“(1) IN GENERAL.—For purposes of this section,*
11 *the term ‘qualified retirement planning services’*
12 *means any retirement planning advice or informa-*
13 *tion provided to an employee and his spouse by an*
14 *employer maintaining a qualified employer plan.*

15 *“(2) NONDISCRIMINATION RULE.—Subsection*
16 *(a)(7) shall apply in the case of highly compensated*
17 *employees only if such services are available on sub-*
18 *stantially the same terms to each member of the group*
19 *of employees normally provided education and infor-*
20 *mation regarding the employer’s qualified employer*
21 *plan.*

22 *“(3) QUALIFIED EMPLOYER PLAN.—For purposes*
23 *of this subsection, the term ‘qualified employer plan’*
24 *means a plan, contract, pension, or account described*
25 *in section 219(g)(5).”.*

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

4 **SEC. 666. REPORTING SIMPLIFICATION.**

5 (a) *SIMPLIFIED ANNUAL FILING REQUIREMENT FOR*
6 *OWNERS AND THEIR SPOUSES.*—

7 (1) *IN GENERAL.*—*The Secretary of the Treasury*
8 *shall modify the requirements for filing annual re-*
9 *turns with respect to one-participant retirement plans*
10 *to ensure that such plans with assets of \$250,000 or*
11 *less as of the close of the plan year and each plan*
12 *year beginning on or after January 1, 1994, need not*
13 *file a return for that year.*

14 (2) *ONE-PARTICIPANT RETIREMENT PLAN DE-*
15 *FINED.*—*For purposes of this subsection, the term*
16 *“one-participant retirement plan” means a retire-*
17 *ment plan that—*

18 (A) *on the first day of the plan year—*

19 (i) *covered only the employer (and the*
20 *employer’s spouse) and the employer owned*
21 *the entire business (whether or not incor-*
22 *porated); or*

23 (ii) *covered only one or more partners*
24 *(and their spouses) in a business partner-*

1 *ship (including partners in an S or C cor-*
2 *poration);*

3 *(B) meets the minimum coverage require-*
4 *ments of section 410(b) of the Internal Revenue*
5 *Code of 1986 without being combined with any*
6 *other plan of the business that covers the employ-*
7 *ees of the business;*

8 *(C) does not provide benefits to anyone ex-*
9 *cept the employer (and the employer's spouse) or*
10 *the partners (and their spouses);*

11 *(D) does not cover a business that is a*
12 *member of an affiliated service group, a con-*
13 *trolled group of corporations, or a group of busi-*
14 *nesses under common control; and*

15 *(E) does not cover a business that leases em-*
16 *ployees.*

17 (3) *OTHER DEFINITIONS.*—*Terms used in para-*
18 *graph (2) which are also used in section 414 of the*
19 *Internal Revenue Code of 1986 shall have the respec-*
20 *tive meanings given such terms by such section.*

21 (b) *EFFECTIVE DATE.*—*The provisions of this section*
22 *shall take effect on January 1, 2002.*

1 **SEC. 667. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
2 **ANCE RESOLUTION SYSTEM.**

3 *The Secretary of the Treasury shall continue to update*
4 *and improve the Employee Plans Compliance Resolution*
5 *System (or any successor program) giving special attention*
6 *to—*

7 *(1) increasing the awareness and knowledge of*
8 *small employers concerning the availability and use*
9 *of the program;*

10 *(2) taking into account special concerns and cir-*
11 *cumstances that small employers face with respect to*
12 *compliance and correction of compliance failures;*

13 *(3) extending the duration of the self-correction*
14 *period under the Self-Correction Program for signifi-*
15 *cant compliance failures;*

16 *(4) expanding the availability to correct insig-*
17 *nificant compliance failures under the Self-Correction*
18 *Program during audit; and*

19 *(5) assuring that any tax, penalty, or sanction*
20 *that is imposed by reason of a compliance failure is*
21 *not excessive and bears a reasonable relationship to*
22 *the nature, extent, and severity of the failure.*

23 **SEC. 668. REPEAL OF THE MULTIPLE USE TEST.**

24 *(a) IN GENERAL.—Paragraph (9) of section 401(m) is*
25 *amended to read as follows:*

1 “(9) *REGULATIONS.*—*The Secretary shall pre-*
2 *scribe such regulations as may be necessary to carry*
3 *out the purposes of this subsection and subsection (k),*
4 *including regulations permitting appropriate aggrega-*
5 *tion of plans and contributions.”.*

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

9 **SEC. 669. FLEXIBILITY IN NONDISCRIMINATION, COV-**
10 **ERAGE, AND LINE OF BUSINESS RULES.**

11 (a) *NONDISCRIMINATION.*—

12 (1) *IN GENERAL.*—*The Secretary of the Treasury*
13 *shall, by regulation, provide that a plan shall be*
14 *deemed to satisfy the requirements of section*
15 *401(a)(4) of the Internal Revenue Code of 1986 if*
16 *such plan satisfies the facts and circumstances test*
17 *under section 401(a)(4) of such Code, as in effect be-*
18 *fore January 1, 1994, but only if—*

19 (A) *the plan satisfies conditions prescribed*
20 *by the Secretary to appropriately limit the*
21 *availability of such test; and*

22 (B) *the plan is submitted to the Secretary*
23 *for a determination of whether it satisfies such*
24 *test.*

1 *Subparagraph (B) shall only apply to the extent pro-*
2 *vided by the Secretary.*

3 (2) *EFFECTIVE DATES.—*

4 (A) *REGULATIONS.—The regulation re-*
5 *quired by paragraph (1) shall apply to years be-*
6 *ginning after December 31, 2001.*

7 (B) *CONDITIONS OF AVAILABILITY.—Any*
8 *condition of availability prescribed by the Sec-*
9 *retary under paragraph (1)(A) shall not apply*
10 *before the first year beginning not less than 120*
11 *days after the date on which such condition is*
12 *prescribed.*

13 (b) *COVERAGE TEST.—*

14 (1) *IN GENERAL.—Section 410(b)(1) (relating to*
15 *minimum coverage requirements) is amended by add-*
16 *ing at the end the following:*

17 “(D) *In the case that the plan fails to meet*
18 *the requirements of subparagraphs (A), (B) and*
19 *(C), the plan—*

20 “(i) *satisfies subparagraph (B), as in*
21 *effect immediately before the enactment of*
22 *the Tax Reform Act of 1986,*

23 “(ii) *is submitted to the Secretary for*
24 *a determination of whether it satisfies the*
25 *requirement described in clause (i), and*

1 “(iii) satisfies conditions prescribed by
2 the Secretary by regulation that appro-
3 priately limit the availability of this sub-
4 paragraph.

5 Clause (ii) shall apply only to the extent pro-
6 vided by the Secretary.”.

7 (2) *EFFECTIVE DATES.*—

8 (A) *IN GENERAL.*—The amendment made
9 by paragraph (1) shall apply to years beginning
10 after December 31, 2001.

11 (B) *CONDITIONS OF AVAILABILITY.*—Any
12 condition of availability prescribed by the Sec-
13 retary under regulations prescribed by the Sec-
14 retary under section 410(b)(1)(D) of the Internal
15 Revenue Code of 1986 shall not apply before the
16 first year beginning not less than 120 days after
17 the date on which such condition is prescribed.

18 (c) *LINE OF BUSINESS RULES.*—The Secretary of the
19 Treasury shall, on or before December 31, 2001, modify the
20 existing regulations issued under section 414(r) of the Inter-
21 nal Revenue Code of 1986 in order to expand (to the extent
22 that the Secretary determines appropriate) the ability of
23 a pension plan to demonstrate compliance with the line of
24 business requirements based upon the facts and cir-
25 cumstances surrounding the design and operation of the

1 *plan, even though the plan is unable to satisfy the mechan-*
2 *ical tests currently used to determine compliance.*

3 **SEC. 670. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
4 **MORATORIUM ON APPLICATION OF CERTAIN**
5 **NONDISCRIMINATION RULES APPLICABLE TO**
6 **STATE AND LOCAL PLANS.**

7 *(a) IN GENERAL.—*

8 *(1) Subparagraph (G) of section 401(a)(5) and*
9 *subparagraph (H) of section 401(a)(26) are each*
10 *amended by striking “section 414(d)” and all that*
11 *follows and inserting “section 414(d).”.*

12 *(2) Subparagraph (G) of section 401(k)(3) and*
13 *paragraph (2) of section 1505(d) of the Taxpayer Re-*
14 *lief Act of 1997 are each amended by striking “main-*
15 *tained by a State or local government or political*
16 *subdivision thereof (or agency or instrumentality*
17 *thereof)”.*

18 *(b) CONFORMING AMENDMENTS.—*

19 *(1) The heading for subparagraph (G) of section*
20 *401(a)(5) is amended to read as follows: “GOVERN-*
21 *MENTAL PLANS”.*

22 *(2) The heading for subparagraph (H) of section*
23 *401(a)(26) is amended to read as follows: “EXCEP-*
24 *TION FOR GOVERNMENTAL PLANS”.*

1 (3) Subparagraph (G) of section 401(k)(3) is
2 amended by inserting “GOVERNMENTAL PLANS.—”
3 after “(G)”.

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

7 ***Subtitle G—Other ERISA Provisions***

8 ***SEC. 681. MISSING PARTICIPANTS.***

9 (a) *IN GENERAL.*—Section 4050 of the Employee Re-
10 tirement Income Security Act of 1974 (29 U.S.C. 1350) is
11 amended by redesignating subsection (c) as subsection (e)
12 and by inserting after subsection (b) the following new sub-
13 section:

14 “(c) *MULTIEMPLOYER PLANS.*—The corporation shall
15 prescribe rules similar to the rules in subsection (a) for mul-
16 tiemployer plans covered by this title that terminate under
17 section 4041A.

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

19 “(1) *TRANSFER TO CORPORATION.*—The plan ad-
20 ministrator of a plan described in paragraph (4) may
21 elect to transfer a missing participant’s benefits to the
22 corporation upon termination of the plan.

23 “(2) *INFORMATION TO THE CORPORATION.*—To
24 the extent provided in regulations, the plan adminis-
25 trator of a plan described in paragraph (4) shall,

1 upon termination of the plan, provide the corporation
2 information with respect to benefits of a missing par-
3 ticipant if the plan transfers such benefits—

4 “(A) to the corporation, or

5 “(B) to an entity other than the corporation
6 or a plan described in paragraph (4)(B)(ii).

7 “(3) *PAYMENT BY THE CORPORATION.*—If bene-
8 fits of a missing participant were transferred to the
9 corporation under paragraph (1), the corporation
10 shall, upon location of the participant or beneficiary,
11 pay to the participant or beneficiary the amount
12 transferred (or the appropriate survivor benefit)
13 either—

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

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

17 “(4) *PLANS DESCRIBED.*—A plan is described in
18 this paragraph if—

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

21 “(i) to which the provisions of this sec-
22 tion do not apply (without regard to this
23 subsection), and

1 “(i) which is not a plan described in
2 paragraphs (2) through (11) of section
3 4021(b), and

4 “(B) at the time the assets are to be distrib-
5 uted upon termination, the plan—

6 “(i) has missing participants, and

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

11 “(5) CERTAIN PROVISIONS NOT TO APPLY.—Sub-
12 sections (a)(1) and (a)(3) shall not apply to a plan
13 described in paragraph (4).”.

14 (b) EFFECTIVE DATE.—The amendment made by this
15 section shall apply to distributions made after final regula-
16 tions implementing subsections (c) and (d) of section 4050
17 of the Employee Retirement Income Security Act of 1974
18 (as added by subsection (a)), respectively, are prescribed.

19 **SEC. 682. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
20 **SMALL EMPLOYERS.**

21 (a) IN GENERAL.—Subparagraph (A) of section
22 4006(a)(3) of the Employee Retirement Income Security
23 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

24 (1) in clause (i), by inserting “other than a new
25 single-employer plan (as defined in subparagraph

1 (F)) maintained by a small employer (as so de-
2 fined),” after “single-employer plan,”

3 (2) in clause (iii), by striking the period at the
4 end and inserting “, and”, and

5 (3) by adding at the end the following new
6 clause:

7 “(iv) in the case of a new single-employer plan
8 (as defined in subparagraph (F)) maintained by a
9 small employer (as so defined) for the plan year, \$5
10 for each individual who is a participant in such plan
11 during the plan year.”.

12 (b) *DEFINITION OF NEW SINGLE-EMPLOYER PLAN.*—
13 Section 4006(a)(3) of the Employee Retirement Income Se-
14 curity Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by
15 adding at the end the following new subparagraph:

16 “(F)(i) For purposes of this paragraph, a single-em-
17 ployer plan maintained by a contributing sponsor shall be
18 treated as a new single-employer plan for each of its first
19 5 plan years if, during the 36-month period ending on the
20 date of the adoption of such plan, the sponsor or any mem-
21 ber of such sponsor’s controlled group (or any predecessor
22 of either) did not establish or maintain a plan to which
23 this title applies with respect to which benefits were accrued
24 for substantially the same employees as are in the new sin-
25 gle-employer plan.

1 “(i)(I) For purposes of this paragraph, the term
2 ‘small employer’ means an employer which on the first day
3 of any plan year has, in aggregation with all members of
4 the controlled group of such employer, 100 or fewer employ-
5 ees.

6 “(II) In the case of a plan maintained by two or more
7 contributing sponsors that are not part of the same con-
8 trolled group, the employees of all contributing sponsors and
9 controlled groups of such sponsors shall be aggregated for
10 purposes of determining whether any contributing sponsor
11 is a small employer.”.

12 (c) *EFFECTIVE DATE.*—The amendments made by this
13 section shall apply to plans established after December 31,
14 2001.

15 **SEC. 683. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
16 **NEW AND SMALL PLANS.**

17 (a) *NEW PLANS.*—Subparagraph (E) of section
18 4006(a)(3) of the Employee Retirement Income Security
19 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by add-
20 ing at the end the following new clause:

21 “(v) In the case of a new defined benefit plan, the
22 amount determined under clause (ii) for any plan year
23 shall be an amount equal to the product of the amount de-
24 termined under clause (ii) and the applicable percentage.

1 *For purposes of this clause, the term ‘applicable percentage’*
2 *means—*

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

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

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

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

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

8 *For purposes of this clause, a defined benefit plan (as de-*
9 *defined in section 3(35)) maintained by a contributing spon-*
10 *sor shall be treated as a new defined benefit plan for each*
11 *of its first 5 plan years if, during the 36-month period end-*
12 *ing on the date of the adoption of the plan, the sponsor*
13 *and each member of any controlled group including the*
14 *sponsor (or any predecessor of either) did not establish or*
15 *maintain a plan to which this title applies with respect*
16 *to which benefits were accrued for substantially the same*
17 *employees as are in the new plan.”.*

18 *(b) SMALL PLANS.—Paragraph (3) of section 4006(a)*
19 *of the Employee Retirement Income Security Act of 1974*
20 *(29 U.S.C. 1306(a)), as amended by section 682(b), is*
21 *amended—*

22 *(1) by striking “The” in subparagraph (E)(i)*
23 *and inserting “Except as provided in subparagraph*
24 *(G), the”, and*

1 (2) *by inserting after subparagraph (F) the fol-*
2 *lowing new subparagraph:*

3 “(G)(i) *In the case of an employer who has 25 or fewer*
4 *employees on the first day of the plan year, the additional*
5 *premium determined under subparagraph (E) for each par-*
6 *ticipant shall not exceed \$5 multiplied by the number of*
7 *participants in the plan as of the close of the preceding plan*
8 *year.*

9 “(ii) *For purposes of clause (i), whether an employer*
10 *has 25 or fewer employees on the first day of the plan year*
11 *is determined taking into consideration all of the employees*
12 *of all members of the contributing sponsor’s controlled*
13 *group. In the case of a plan maintained by two or more*
14 *contributing sponsors, the employees of all contributing*
15 *sponsors and their controlled groups shall be aggregated for*
16 *purposes of determining whether the 25-or-fewer-employees*
17 *limitation has been satisfied.”.*

18 (c) *EFFECTIVE DATES.—*

19 (1) *SUBSECTION (a).—The amendments made by*
20 *subsection (a) shall apply to plans established after*
21 *December 31, 2001.*

22 (2) *SUBSECTION (b).—The amendments made by*
23 *subsection (b) shall apply to plan years beginning*
24 *after December 31, 2001.*

1 **SEC. 684. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
2 **PREMIUM OVERPAYMENT REFUNDS.**

3 (a) *IN GENERAL.*—Section 4007(b) of the Employment
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1307(b)) is amended—

6 (1) by striking “(b)” and inserting “(b)(1)”, and
7 (2) by inserting at the end the following new
8 paragraph:

9 “(2) The corporation is authorized to pay, subject to
10 regulations prescribed by the corporation, interest on the
11 amount of any overpayment of premium refunded to a des-
12 ignated payor. Interest under this paragraph shall be cal-
13 culated at the same rate and in the same manner as interest
14 is calculated for underpayments under paragraph (1).”.

15 (b) *EFFECTIVE DATE.*—The amendment made by sub-
16 section (a) shall apply to interest accruing for periods be-
17 ginning not earlier than the date of the enactment of this
18 Act.

19 **SEC. 685. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
20 **PLANS.**

21 (a) *MODIFICATION OF PHASE-IN OF GUARANTEE.*—
22 Section 4022(b)(5) of the Employee Retirement Income Se-
23 curity Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to
24 read as follows:

25 “(5)(A) For purposes of this paragraph, the term ‘ma-
26 jority owner’ means an individual who, at any time during

1 *the 60-month period ending on the date the determination*
2 *is being made—*

3 “(i) *owns the entire interest in an unincor-*
4 *porated trade or business,*

5 “(ii) *in the case of a partnership, is a partner*
6 *who owns, directly or indirectly, 50 percent or more*
7 *of either the capital interest or the profits interest in*
8 *such partnership, or*

9 “(iii) *in the case of a corporation, owns, directly*
10 *or indirectly, 50 percent or more in value of either the*
11 *voting stock of that corporation or all the stock of that*
12 *corporation.*

13 *For purposes of clause (iii), the constructive ownership*
14 *rules of section 1563(e) of the Internal Revenue Code of*
15 *1986 shall apply (determined without regard to section*
16 *1563(e)(3)(C)).*

17 “(B) *In the case of a participant who is a majority*
18 *owner, the amount of benefits guaranteed under this section*
19 *shall equal the product of—*

20 “(i) *a fraction (not to exceed 1) the numerator*
21 *of which is the number of years from the later of the*
22 *effective date or the adoption date of the plan to the*
23 *termination date, and the denominator of which is*
24 *10, and*

1 “(ii) the amount of benefits that would be guar-
2 anteed under this section if the participant were not
3 a majority owner.”.

4 **(b) MODIFICATION OF ALLOCATION OF ASSETS.—**

5 (1) Section 4044(a)(4)(B) of the *Employee Re-*
6 *irement Income Security Act of 1974* (29 U.S.C.
7 1344(a)(4)(B)) is amended by striking “section
8 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

9 (2) Section 4044(b) of such Act (29 U.S.C.
10 1344(b)) is amended—

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

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

17 “(3) If assets available for allocation under
18 paragraph (4) of subsection (a) are insufficient to sat-
19 isfy in full the benefits of all individuals who are de-
20 scribed in that paragraph, the assets shall be allocated
21 first to benefits described in subparagraph (A) of that
22 paragraph. Any remaining assets shall then be allo-
23 cated to benefits described in subparagraph (B) of
24 that paragraph. If assets allocated to such subpara-
25 graph (B) are insufficient to satisfy in full the bene-

1 *fits described in that subparagraph, the assets shall be*
2 *allocated pro rata among individuals on the basis of*
3 *the present value (as of the termination date) of their*
4 *respective benefits described in that subparagraph.”.*

5 *(c) CONFORMING AMENDMENTS.—*

6 *(1) Section 4021 of the Employee Retirement In-*
7 *come Security Act of 1974 (29 U.S.C. 1321) is*
8 *amended—*

9 *(A) in subsection (b)(9), by striking “as de-*
10 *finied in section 4022(b)(6)”*, and

11 *(B) by adding at the end the following new*
12 *subsection:*

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

17 *“(1) owns the entire interest in an unincor-*
18 *porated trade or business,*

19 *“(2) in the case of a partnership, is a partner*
20 *who owns, directly or indirectly, more than 10 per-*
21 *cent of either the capital interest or the profits inter-*
22 *est in such partnership, or*

23 *“(3) in the case of a corporation, owns, directly*
24 *or indirectly, more than 10 percent in value of either*

1 *the voting stock of that corporation or all the stock of*
2 *that corporation.*

3 *For purposes of paragraph (3), the constructive ownership*
4 *rules of section 1563(e) of the Internal Revenue Code of*
5 *1986 shall apply (determined without regard to section*
6 *1563(e)(3)(C)).”.*

7 *(2) Section 4043(c)(7) of such Act (29 U.S.C.*
8 *1343(c)(7)) is amended by striking “section*
9 *4022(b)(6)” and inserting “section 4021(d)”.*

10 *(d) EFFECTIVE DATES.—*

11 *(1) IN GENERAL.—Except as provided in para-*
12 *graph (2), the amendments made by this section shall*
13 *apply to plan terminations—*

14 *(A) under section 4041(c) of the Employee*
15 *Retirement Income Security Act of 1974 (29*
16 *U.S.C. 1341(c)) with respect to which notices of*
17 *intent to terminate are provided under section*
18 *4041(a)(2) of such Act (29 U.S.C. 1341(a)(2))*
19 *after December 31, 2001, and*

20 *(B) under section 4042 of such Act (29*
21 *U.S.C. 1342) with respect to which proceedings*
22 *are instituted by the corporation after such date.*

23 *(2) CONFORMING AMENDMENTS.—The amend-*
24 *ments made by subsection (c) shall take effect on Jan-*
25 *uary 1, 2002.*

1 **Subtitle H—Miscellaneous**
2 **Provisions**

3 **SEC. 691. TAX TREATMENT AND INFORMATION REQUIRE-**
4 **MENTS OF ALASKA NATIVE SETTLEMENT**
5 **TRUSTS.**

6 (a) *TREATMENT OF ALASKA NATIVE SETTLEMENT*
7 *TRUSTS.*—Subpart A of part I of subchapter J of chapter
8 1 (relating to general rules for taxation of trusts and es-
9 tates) is amended by adding at the end the following new
10 section:

11 **“SEC. 646. TAX TREATMENT OF ELECTING ALASKA NATIVE**
12 **SETTLEMENT TRUSTS.**

13 “(a) *IN GENERAL.*—If an election under this section
14 is in effect with respect to any Settlement Trust, the provi-
15 sions of this section shall apply in determining the income
16 tax treatment of the Settlement Trust and its beneficiaries
17 with respect to the Settlement Trust.

18 “(b) *TAXATION OF INCOME OF TRUST.*—Except as pro-
19 vided in subsection (f)(1)(B)(i)—

20 “(1) *IN GENERAL.*—There is hereby imposed on
21 the taxable income of an electing Settlement Trust,
22 other than its net capital gain, a tax at the lowest
23 rate specified in section 1(c).

24 “(2) *CAPITAL GAIN.*—In the case of an electing
25 Settlement Trust with a net capital gain for the tax-

1 *able year, a tax is hereby imposed on such gain at*
2 *the rate of tax which would apply to such gain if the*
3 *taxpayer were subject to a tax on its other taxable in-*
4 *come at only the lowest rate specified in section 1(c).*
5 *Any such tax shall be in lieu of the income tax otherwise*
6 *imposed by this chapter on such income or gain.*

7 *“(c) ONE-TIME ELECTION.—*

8 *“(1) IN GENERAL.—A Settlement Trust may*
9 *elect to have the provisions of this section apply to the*
10 *trust and its beneficiaries.*

11 *“(2) TIME AND METHOD OF ELECTION.—An elec-*
12 *tion under paragraph (1) shall be made by the trustee*
13 *of such trust—*

14 *“(A) on or before the due date (including*
15 *extensions) for filing the Settlement Trust’s re-*
16 *turn of tax for the first taxable year of such trust*
17 *ending after the date of the enactment of this sec-*
18 *tion, and*

19 *“(B) by attaching to such return of tax a*
20 *statement specifically providing for such election.*

21 *“(3) PERIOD ELECTION IN EFFECT.—Except as*
22 *provided in subsection (f), an election under this*
23 *subsection—*

1 “(A) shall apply to the first taxable year de-
2 scribed in paragraph (2)(A) and all subsequent
3 taxable years, and

4 “(B) may not be revoked once it is made.

5 “(d) CONTRIBUTIONS TO TRUST.—

6 “(1) BENEFICIARIES OF ELECTING TRUST NOT
7 TAXED ON CONTRIBUTIONS.—In the case of an elect-
8 ing Settlement Trust, no amount shall be includible
9 in the gross income of a beneficiary of such trust by
10 reason of a contribution to such trust.

11 “(2) EARNINGS AND PROFITS.—The earnings
12 and profits of the sponsoring Native Corporation shall
13 not be reduced on account of any contribution to such
14 Settlement Trust:

15 “(e) TAX TREATMENT OF DISTRIBUTIONS TO BENE-
16 FICIARIES.—Amounts distributed by an electing Settlement
17 Trust during any taxable year shall be considered as having
18 the following characteristics in the hands of the recipient
19 beneficiary:

20 “(1) First, as amounts excludable from gross in-
21 come for the taxable year to the extent of the taxable
22 income of such trust for such taxable year (decreased
23 by any income tax paid by the trust with respect to
24 the income) plus any amount excluded from gross in-
25 come of the trust under section 103.

1 “(2) *Second, as amounts excludable from gross*
2 *income to the extent of the amount described in para-*
3 *graph (1) for all taxable years for which an election*
4 *is in effect under subsection (c) with respect to the*
5 *trust, and not previously taken into account under*
6 *paragraph (1).*

7 “(3) *Third, as amounts distributed by the spon-*
8 *soring Native Corporation with respect to its stock*
9 *(within the meaning of section 301(a)) during such*
10 *taxable year and taxable to the recipient beneficiary*
11 *as amounts described in section 301(c)(1), to the ex-*
12 *tent of current or accumulated earnings and profits*
13 *of the sponsoring Native Corporation as of the close*
14 *of such taxable year after proper adjustment is made*
15 *for all distributions made by the sponsoring Native*
16 *Corporation during such taxable year.*

17 “(4) *Fourth, as amounts distributed by the trust*
18 *in excess of the distributable net income of such trust*
19 *for such taxable year.*

20 *Amounts distributed to which paragraph (3) applies shall*
21 *not be treated as a corporate distribution subject to section*
22 *311(b), and for purposes of determining the amount of a*
23 *distribution for purposes of paragraph (3) and the basis*
24 *to the recipients, section 643(e) and not section 301(b) or*
25 *(d) shall apply.*

1 “(f) *SPECIAL RULES WHERE TRANSFER RESTRIC-*
2 *TIONS MODIFIED.—*

3 “(1) *TRANSFER OF BENEFICIAL INTERESTS.—If,*
4 *at any time, a beneficial interest in an electing Set-*
5 *tlement Trust may be disposed of to a person in a*
6 *manner which would not be permitted by section 7(h)*
7 *of the Alaska Native Claims Settlement Act (43*
8 *U.S.C. 1606(h)) if such interest were Settlement Com-*
9 *mon Stock—*

10 “(A) *no election may be made under sub-*
11 *section (c) with respect to such trust, and*

12 “(B) *if such an election is in effect as of*
13 *such time—*

14 “(i) *such election shall cease to apply*
15 *as of the first day of the taxable year in*
16 *which such disposition is first permitted,*

17 “(ii) *the provisions of this section shall*
18 *not apply to such trust for such taxable*
19 *year and all taxable years thereafter, and*

20 “(iii) *the distributable net income of*
21 *such trust shall be increased by the current*
22 *or accumulated earnings and profits of the*
23 *sponsoring Native Corporation as of the*
24 *close of such taxable year after proper ad-*
25 *justment is made for all distributions made*

1 by the sponsoring Native Corporation dur-
2 ing such taxable year.

3 *In no event shall the increase under clause (iii) exceed*
4 *the fair market value of the trust's assets as of the*
5 *date the beneficial interest of the trust first becomes*
6 *so disposable. The earnings and profits of the spon-*
7 *soring Native Corporation shall be adjusted as of the*
8 *last day of such taxable year by the amount of earn-*
9 *ings and profits so included in the distributable net*
10 *income of the trust.*

11 “(2) STOCK IN CORPORATION.—If—

12 “(A) stock in the sponsoring Native Cor-
13 poration may be disposed of to a person in a
14 manner which would not be permitted by section
15 7(h) of the Alaska Native Claims Settlement Act
16 (43 U.S.C. 1606(h)) if such stock were Settlement
17 Common Stock, and

18 “(B) at any time after such disposition of
19 stock is first permitted, such corporation trans-
20 fers assets to a Settlement Trust,
21 paragraph (1)(B) shall be applied to such trust on
22 and after the date of the transfer in the same manner
23 as if the trust permitted dispositions of beneficial in-
24 terests in the trust in a manner not permitted by
25 such section 7(h).

1 “(3) *CERTAIN DISTRIBUTIONS.*—For purposes of
2 *this section, the surrender of an interest in a Native*
3 *Corporation or an electing Settlement Trust in order*
4 *to accomplish the whole or partial redemption of the*
5 *interest of a shareholder or beneficiary in such cor-*
6 *poration or trust, or to accomplish the whole or par-*
7 *tial liquidation of such corporation or trust, shall be*
8 *deemed to be a transfer permitted by section 7(h) of*
9 *the Alaska Native Claims Settlement Act.*

10 “(g) *TAXABLE INCOME.*—For purposes of this title, the
11 *taxable income of an electing Settlement Trust shall be de-*
12 *termined under section 641(b) without regard to any deduc-*
13 *tion under section 651 or 661.*

14 “(h) *DEFINITIONS.*—For purposes of this section—

15 “(1) *ELECTING SETTLEMENT TRUST.*—The term
16 *‘electing Settlement Trust’ means a Settlement Trust*
17 *which has made the election, effective for a taxable*
18 *year, described in subsection (c).*

19 “(2) *NATIVE CORPORATION.*—The term ‘Native
20 *Corporation’ has the meaning given such term by sec-*
21 *tion 3(m) of the Alaska Native Claims Settlement Act*
22 *(43 U.S.C. 1602(m)).*

23 “(3) *SETTLEMENT COMMON STOCK.*—The term
24 *‘Settlement Common Stock’ has the meaning given*

1 *such term by section 3(p) of the Alaska Native Claims*
2 *Settlement Act (43 U.S.C. 1602(p)).*

3 “(4) *SETTLEMENT TRUST.*—*The term ‘Settlement*
4 *Trust’ means a trust that constitutes a settlement*
5 *trust under section 3(t) of the Alaska Native Claims*
6 *Settlement Act (43 U.S.C. 1602(t)).*

7 “(5) *SPONSORING NATIVE CORPORATION.*—*The*
8 *term ‘sponsoring Native Corporation’ means the Na-*
9 *tive Corporation which transfers assets to an electing*
10 *Settlement Trust.*

11 “(i) *SPECIAL LOSS DISALLOWANCE RULE.*—*Any loss*
12 *that would otherwise be recognized by a shareholder upon*
13 *a disposition of a share of stock of a sponsoring Native Cor-*
14 *poration shall be reduced (but not below zero) by the per*
15 *share loss adjustment factor. The per share loss adjustment*
16 *factor shall be the aggregate of all contributions to all elect-*
17 *ing Settlement Trusts sponsored by such Native Corpora-*
18 *tion made on or after the first day each trust is treated*
19 *as an electing Settlement Trust expressed on a per share*
20 *basis and determined as of the day of each such contribu-*
21 *tion.*

22 “(j) *CROSS REFERENCE.*—

**“For information required with respect to electing
Settlement Trusts and sponsoring Native Corpora-
tions, see section 6039H.”**

23 (b) *REPORTING.*—*Subpart A of part III of subchapter*
24 *A of chapter 61 of subtitle F (relating to information con-*

1 cerning persons subject to special provisions) is amended
2 by inserting after section 6039G the following new section:

3 **“SEC. 6039H. INFORMATION WITH RESPECT TO ALASKA NA-**
4 **TIVE SETTLEMENT TRUSTS AND SPONSORING**
5 **NATIVE CORPORATIONS.**

6 “(a) *REQUIREMENT.*—*The fiduciary of an electing*
7 *Settlement Trust (as defined in section 646(h)(1)) shall in-*
8 *clude with the return of income of the trust a statement*
9 *containing the information required under subsection (c).*

10 “(b) *APPLICATION WITH OTHER REQUIREMENTS.*—
11 *The filing of any statement under this section shall be in*
12 *lieu of the reporting requirements under section 6034A to*
13 *furnish any statement to a beneficiary regarding amounts*
14 *distributed to such beneficiary (and such other reporting*
15 *rules as the Secretary deems appropriate).*

16 “(c) *REQUIRED INFORMATION.*—*The information re-*
17 *quired under this subsection shall include—*

18 “(1) *the amount of distributions made during*
19 *the taxable year to each beneficiary,*

20 “(2) *the treatment of such distribution under the*
21 *applicable provision of section 646, including the*
22 *amount that is excludable from the recipient bene-*
23 *ficiary’s gross income under section 646, and*

24 “(3) *the amount (if any) of any distribution*
25 *during such year that is deemed to have been made*

1 *by the sponsoring Native Corporation (as defined in*
2 *section 646(h)(5)).*

3 *“(d) SPONSORING NATIVE CORPORATION.—*

4 *“(1) IN GENERAL.—The electing Settlement*
5 *Trust shall, on or before the date on which the state-*
6 *ment under subsection (a) is required to be filed, fur-*
7 *nish such statement to the sponsoring Native Corpora-*
8 *tion (as so defined).*

9 *“(2) DISTRIBUTEES.—The sponsoring Native*
10 *Corporation shall furnish each recipient of a distribu-*
11 *tion described in section 646(e)(3) a statement con-*
12 *taining the amount deemed to have been distributed*
13 *to such recipient by such corporation for the taxable*
14 *year.”.*

15 *(c) CLERICAL AMENDMENT.—*

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

“Sec. 646. Tax treatment of electing Alaska Native Settlement
Trusts.”.

19 *(2) The table of sections for subpart A of part III*
20 *of subchapter A of chapter 61 of subtitle F of such*
21 *Code is amended by inserting after the item relating*
22 *to section 6039G the following new item:*

“Sec. 6039H. Information with respect to Alaska Native Settlement
Trusts and sponsoring Native Corporations.”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years ending after the date*
3 *of the enactment of this Act and to contributions made to*
4 *electing Settlement Trusts for such year or any subsequent*
5 *year.*

6 ***Subtitle I—Compliance With***
7 ***Congressional Budget Act***

8 ***SEC. 695. SUNSET OF PROVISIONS OF TITLE.***

9 *All provisions of, and amendments made by, this title*
10 *which are in effect on September 30, 2011, shall cease to*
11 *apply as of the close of September 30, 2011.*

12 ***TITLE VII—ALTERNATIVE***
13 ***MINIMUM TAX***

14 ***Subtitle A—In General***

15 ***SEC. 701. INCREASE IN ALTERNATIVE MINIMUM TAX EX-***
16 ***EMPTION.***

17 (a) *IN GENERAL.*—

18 (1) *Subparagraph (A) of section 55(d)(1) (relat-*
19 *ing to exemption amount for taxpayers other than*
20 *corporations) is amended by striking “\$45,000” and*
21 *inserting “\$45,000 (\$49,000 in the case of taxable*
22 *years beginning in 2001, 2002, 2003, 2004, 2005, and*
23 *2006)”.*

24 (2) *Subparagraph (B) of section 55(d)(1) (relat-*
25 *ing to exemption amount for taxpayers other than*

1 corporations) is amended by striking “\$33,750” and
2 inserting “\$33,750 (\$35,750 in the case of taxable
3 years beginning in 2001, 2002, 2003, 2004, 2005, and
4 2006)”.

5 **(b) CONFORMING AMENDMENTS.—**

6 (1) Paragraph (1) of section 55(d) is amended
7 by striking “and” at the end of subparagraph (B), by
8 striking subparagraph (C), and by inserting after
9 subparagraph (B) the following new subparagraphs:

10 “(C) 50 percent of the dollar amount appli-
11 cable under paragraph (1)(A) in the case of a
12 married individual who files a separate return,
13 and

14 “(D) \$22,500 in the case of an estate or
15 trust.”.

16 (2) Subparagraph (C) of section 55(d)(3) is
17 amended by striking “paragraph (1)(C)” and insert-
18 ing “subparagraph (C) or (D) of paragraph (1)”.

19 (3) The last sentence of section 55(d)(3) is
20 amended—

21 (A) by striking “paragraph (1)(C)(i)” and
22 inserting “paragraph (1)(C)”; and

23 (B) by striking “\$165,000 or (ii) \$22,500”
24 and inserting “the minimum amount of such in-
25 come (as so determined) for which the exemption

1 *amount under paragraph (1)(C) is zero, or (ii)*
2 *such exemption amount (determined without re-*
3 *gard to this paragraph)”.*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section title shall apply to taxable years beginning after De-*
6 *cember 31, 2000.*

7 **Subtitle B—Compliance With** 8 **Congressional Budget Act**

9 **SEC. 711. SUNSET OF PROVISIONS OF TITLE.**

10 *All provisions of, and amendments made by, this title*
11 *which are in effect on September 30, 2011, shall cease to*
12 *apply as of the close of September 30, 2011.*

13 **TITLE VIII—OTHER PROVISIONS**

14 **Subtitle A—In General**

15 **SEC. 801. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
16 **TAXES.**

17 *Notwithstanding section 6655 of the Internal Revenue*
18 *Code of 1986—*

19 *(1) 70 percent of the amount of any required in-*
20 *stallment of corporate estimated tax which is other-*
21 *wise due in September 2001 shall not be due until Oc-*
22 *tober 1, 2001; and*

23 *(2) 20 percent of the amount of any required in-*
24 *stallment of corporate estimated tax which is other-*

1 *wise due in September 2004 shall not be due until Oc-*
2 *tober 1, 2004.*

3 **SEC. 802. EXPANSION OF AUTHORITY TO POSTPONE CER-**
4 **TAIN TAX-RELATED DEADLINES BY REASON**
5 **OF PRESIDENTIALLY DECLARED DISASTER.**

6 *(a) IN GENERAL.—Section 7508A (relating to author-*
7 *ity to postpone certain tax-related deadlines by reason of*
8 *presidentially declared disaster) is amended by adding at*
9 *the end the following new subsection:*

10 *“(c) DUTIES OF DISASTER RESPONSE TEAM.—The*
11 *Secretary shall establish as a permanent office in the na-*
12 *tional office of the Internal Revenue Service a disaster re-*
13 *sponse team which, in coordination with the Federal Emer-*
14 *gency Management Agency, shall assist taxpayers in clari-*
15 *fying and resolving Federal tax matters associated with or*
16 *resulting from any Presidentially declared disaster (as so*
17 *defined). One of the duties of the disaster response team*
18 *shall be to extend in appropriate cases the 90-day period*
19 *described in subsection (a) by not more than 30 days.”.*

20 *(b) EFFECTIVE DATE.—The amendment made by this*
21 *section shall take effect on the date of enactment of this Act.*

1 **SEC. 803. NO FEDERAL INCOME TAX ON RESTITUTION RE-**
2 **CEIVED BY VICTIMS OF THE NAZI REGIME OR**
3 **THEIR HEIRS OR ESTATES.**

4 (a) *IN GENERAL.*—For purposes of the Internal Rev-
5 enue Code of 1986, any excludable restitution payments re-
6 ceived by an eligible individual (or the individual's heirs
7 or estate)—

8 (1) shall not be included in gross income; and

9 (2) shall not be taken into account for purposes
10 of applying any provision of such Code which takes
11 into account excludable income in computing adjusted
12 gross income, including section 86 of such Code (relat-
13 ing to taxation of social security benefits).

14 For purposes of such Code, the basis of any property re-
15 ceived by an eligible individual (or the individual's heirs
16 or estate) as part of an excludable restitution payment shall
17 be the fair market value of such property as of the time
18 of the receipt.

19 (b) *COORDINATION WITH FEDERAL MEANS-TESTED*
20 *PROGRAMS.*—

21 (1) *IN GENERAL.*—Any excludable restitution
22 payment shall be disregarded in determining eligi-
23 bility for, and the amount of benefits or services to be
24 provided under, any Federal or federally assisted pro-
25 gram which provides benefits or service based, in
26 whole or in part, on need.

1 (2) *PROHIBITION AGAINST RECOVERY OF VALUE*
2 *OF EXCESSIVE BENEFITS OR SERVICES.*—No officer,
3 agency, or instrumentality of any government may
4 attempt to recover the value of excessive benefits or
5 services provided under a program described in sub-
6 section (a) before January 1, 2000, by reason of any
7 failure to take account of excludable restitution pay-
8 ments received before such date.

9 (3) *NOTICE REQUIRED.*—Any agency of govern-
10 ment that has taken into account excludable restitu-
11 tion payments in determining eligibility for a pro-
12 gram described in subsection (a) before January 1,
13 2000, shall make a good faith effort to notify any in-
14 dividual who may have been denied eligibility for
15 benefits or services under the program of the potential
16 eligibility of the individual for such benefits or serv-
17 ices.

18 (4) *COORDINATION WITH 1994 ACT.*—Nothing in
19 this Act shall be construed to override any right or re-
20 quirement under “An Act to require certain payments
21 made to victims of Nazi persecution to be disregarded
22 in determining eligibility for and the amount of bene-
23 fits or services based on need”, approved August 1,
24 1994 (Public Law 103–286; 42 U.S.C. 1437a note),

1 *and nothing in that Act shall be construed to override*
2 *any right or requirement under this Act.*

3 (c) *ELIGIBLE INDIVIDUAL.*—*For purposes of this sec-*
4 *tion, the term “eligible individual” means a person who*
5 *was persecuted for racial or religious reasons by Nazi Ger-*
6 *many, any other Axis regime, or any other Nazi-controlled*
7 *or Nazi-allied country.*

8 (d) *EXCLUDABLE RESTITUTION PAYMENT.*—*For pur-*
9 *poses of this section, the term “excludable restitution pay-*
10 *ment” means any payment or distribution to an individual*
11 *(or the individual’s heirs or estate) which—*

12 (1) *is payable by reason of the individual’s sta-*
13 *tus as an eligible individual, including any amount*
14 *payable by any foreign country, the United States of*
15 *America, or any other foreign or domestic entity, or*
16 *a fund established by any such country or entity, any*
17 *amount payable as a result of a final resolution of a*
18 *legal action, and any amount payable under a law*
19 *providing for payments or restitution of property;*

20 (2) *constitutes the direct or indirect return of, or*
21 *compensation or reparation for, assets stolen or hid-*
22 *den from, or otherwise lost to, the individual before,*
23 *during, or immediately after World War II by reason*
24 *of the individual’s status as an eligible individual,*
25 *including any proceeds of insurance under policies*

1 *issued on eligible individuals by European insurance*
2 *companies immediately before and during World War*
3 *II; or*

4 *(3) consists of interest which is payable as part*
5 *of any payment or distribution described in para-*
6 *graph (1) or (2).*

7 *(e) EFFECTIVE DATE.—*

8 *(1) IN GENERAL.—This section shall apply to*
9 *any amount received on or after January 1, 2000.*

10 *(2) NO INFERENCE.—Nothing in this Act shall*
11 *be construed to create any inference with respect to*
12 *the proper tax treatment of any amount received be-*
13 *fore January 1, 2000.*

14 **SEC. 804. REMOVAL OF LIMITATION.**

15 *(a) IN GENERAL.—Section 101(h) of the Internal Rev-*
16 *enue Code of 1986 (relating to exclusion of survivor benefits*
17 *from gross income) is amended by adding after paragraph*
18 *(2) the following new paragraph:*

19 *“(3) APPLICATION.—This subsection shall apply*
20 *to amounts received after December 31, 2000.”.*

21 *(b) EFFECTIVE DATE.—The amendment made by this*
22 *section shall take effect on the date of the enactment of this*
23 *Act.*

1 **SEC. 805. CIRCUIT BREAKER.**

2 (a) *IN GENERAL.*—*In any fiscal year beginning with*
3 *fiscal year 2004, if the level of debt held by the public at*
4 *the end of that fiscal year (as projected by the Office of*
5 *Management and Budget sequestration update report on*
6 *August 20th preceding the beginning of that fiscal year)*
7 *would exceed the level of debt held by the public for that*
8 *fiscal year set forth in the concurrent resolution on the*
9 *budget for fiscal year 2002 (H. Con. Res. 83, 107th Con-*
10 *gress), any Member of Congress may move to proceed to a*
11 *bill that would make changes in law to reduce discretionary*
12 *spending and direct spending (except for changes in social*
13 *security, medicare and COLA's) and increase revenues in*
14 *a manner that would reduce the debt held by the public*
15 *for the fiscal year to a level not exceeding the level provided*
16 *in that concurrent resolution for that fiscal year.*

17 (b) *CONSIDERATION OF LEGISLATION.*—*A bill consid-*
18 *ered under subsection (a) shall be considered as provided*
19 *in section 310(e) of the Congressional Budget Act of 1974*
20 *(2 U.S.C. 641(e)).*

21 (c) *PROCEDURE.*—*It shall not be in order in the Sen-*
22 *ate to consider any bill, joint resolution, motion, amend-*
23 *ment, or conference report, pursuant to this section, that*
24 *contains any provisions other than those enumerated in sec-*
25 *tions 310(a)(1) and 310(a)(2) of the Congressional Budget*
26 *Act of 1974. This point of order may be waived or sus-*

1 *pended in the Senate only by the affirmative vote of three-*
2 *fifths of the Members duly chosen and sworn. An affirmative*
3 *vote of three-fifths of the Members duly chosen and sworn,*
4 *shall be required in the Senate to sustain an appeal of the*
5 *ruling of the Chair on a point of order raised under this*
6 *paragraph.*

7 **SEC. 806. DEDUCTION FOR HEALTH INSURANCE COSTS OF**
8 **SELF-EMPLOYED INDIVIDUALS INCREASED.**

9 *(a) IN GENERAL.—Section 162(l)(1) (relating to spe-*
10 *cial rules for health insurance costs of self-employed indi-*
11 *viduals) is amended to read as follows:*

12 *“(1) ALLOWANCE OF DEDUCTION.—In the case of*
13 *an individual who is an employee within the mean-*
14 *ing of section 401(c)(1), there shall be allowed as a*
15 *deduction under this section an amount equal to the*
16 *amount paid during the taxable year for insurance*
17 *which constitutes medical care for the taxpayer, the*
18 *taxpayer’s spouse, and dependents.”.*

19 *(b) CLARIFICATION OF LIMITATIONS ON OTHER COV-*
20 *ERAGE.—The first sentence of section 162(l)(2)(B) (relating*
21 *to other coverage) is amended to read as follows: “Para-*
22 *graph (1) shall not apply to any taxpayer for any calendar*
23 *month for which the taxpayer participates in any sub-*
24 *sidized health plan maintained by any employer (other*

1 *than an employer described in section 401(c)(4)) of the tax-*
2 *payer or the spouse of the taxpayer.”.*

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

6 **SEC. 807. DEDUCTION FOR HEALTH INSURANCE COSTS OF**
7 **SELF-EMPLOYED INDIVIDUALS INCREASED.**

8 (a) *IN GENERAL.*—*Section 162(l)(1) (relating to spe-*
9 *cial rules for health insurance costs of self-employed indi-*
10 *viduals) is amended to read as follows:*

11 “(1) *ALLOWANCE OF DEDUCTION.*—*In the case of*
12 *an individual who is an employee within the mean-*
13 *ing of section 401(c)(1), there shall be allowed as a*
14 *deduction under this section an amount equal to the*
15 *amount paid during the taxable year for insurance*
16 *which constitutes medical care for the taxpayer, the*
17 *taxpayer’s spouse, and dependents.”.*

18 (b) *CLARIFICATION OF LIMITATIONS ON OTHER COV-*
19 *ERAGE.*—*The first sentence of section 162(l)(2)(B) (relating*
20 *to other coverage) is amended to read as follows: “Para-*
21 *graph (1) shall not apply to any taxpayer for any calendar*
22 *month for which the taxpayer participates in any sub-*
23 *sidized health plan maintained by any employer (other*
24 *than an employer described in section 401(c)(4)) of the tax-*
25 *payer or the spouse of the taxpayer.”.*

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

4 **SEC. 808. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS**
5 **CREATED BY THE TAXPAYER.**

6 (a) *IN GENERAL.*—*Subsection (e) of section 170 (relat-*
7 *ing to certain contributions of ordinary income and capital*
8 *gain property) is amended by adding at the end the fol-*
9 *lowing new paragraph:*

10 “(7) *SPECIAL RULE FOR CERTAIN CONTRIBU-*
11 *TIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSI-*
12 *TIONS.*—

13 “(A) *IN GENERAL.*—*In the case of a quali-*
14 *fied artistic charitable contribution—*

15 “(i) *the amount of such contribution*
16 *shall be the fair market value of the prop-*
17 *erty contributed (determined at the time of*
18 *such contribution), and*

19 “(ii) *no reduction in the amount of*
20 *such contribution shall be made under*
21 *paragraph (1).*

22 “(B) *QUALIFIED ARTISTIC CHARITABLE*
23 *CONTRIBUTION.*—*For purposes of this para-*
24 *graph, the term ‘qualified artistic charitable con-*
25 *tribution’ means a charitable contribution of any*

1 *literary, musical, artistic, or scholarly composi-*
2 *tion, or similar property, or the copyright there-*
3 *on (or both), but only if—*

4 “(i) *such property was created by the*
5 *personal efforts of the taxpayer making such*
6 *contribution no less than 18 months prior*
7 *to such contribution,*

8 “(ii) *the taxpayer—*

9 “(I) *has received a qualified ap-*
10 *praisal of the fair market value of such*
11 *property in accordance with the regu-*
12 *lations under this section, and*

13 “(II) *attaches to the taxpayer’s*
14 *income tax return for the taxable year*
15 *in which such contribution was made a*
16 *copy of such appraisal,*

17 “(iii) *the donee is an organization de-*
18 *scribed in subsection (b)(1)(A),*

19 “(iv) *the use of such property by the*
20 *donee is related to the purpose or function*
21 *constituting the basis for the donee’s exemp-*
22 *tion under section 501 (or, in the case of a*
23 *governmental unit, to any purpose or func-*
24 *tion described under subsection (c)),*

1 “(v) the taxpayer receives from the
2 donee a written statement representing that
3 the donee’s use of the property will be in ac-
4 cordance with the provisions of clause (iv),
5 and

6 “(vi) the written appraisal referred to
7 in clause (ii) includes evidence of the extent
8 (if any) to which property created by the
9 personal efforts of the taxpayer and of the
10 same type as the donated property is or has
11 been—

12 “(I) owned, maintained, and dis-
13 played by organizations described in
14 subsection (b)(1)(A), and

15 “(II) sold to or exchanged by per-
16 sons other than the taxpayer, donee, or
17 any related person (as defined in sec-
18 tion 465(b)(3)(C)).

19 “(C) *MAXIMUM DOLLAR LIMITATION; NO*
20 *CARRYOVER OF INCREASED DEDUCTION.—The*
21 *increase in the deduction under this section by*
22 *reason of this paragraph for any taxable year—*

23 “(i) shall not exceed the artistic ad-
24 justed gross income of the taxpayer for such
25 taxable year, and

1 “(ii) shall not be taken into account in
2 determining the amount which may be car-
3 ried from such taxable year under sub-
4 section (d).

5 “(D) ARTISTIC ADJUSTED GROSS INCOME.—
6 For purposes of this paragraph, the term ‘artis-
7 tic adjusted gross income’ means that portion of
8 the adjusted gross income of the taxpayer for the
9 taxable year attributable to—

10 “(i) income from the sale or use of
11 property created by the personal efforts of
12 the taxpayer which is of the same type as
13 the donated property, and

14 “(ii) income from teaching, lecturing,
15 performing, or similar activity with respect
16 to property described in clause (i).

17 “(E) PARAGRAPH NOT TO APPLY TO CER-
18 TAIN CONTRIBUTIONS.—Subparagraph (A) shall
19 not apply to any charitable contribution of any
20 letter, memorandum, or similar property which
21 was written, prepared, or produced by or for an
22 individual while the individual is an officer or
23 employee of any person (including any govern-
24 ment agency or instrumentality) unless such let-

1 *ter, memorandum, or similar property is en-*
2 *tirely personal.*

3 “(F) *COPYRIGHT TREATED AS SEPARATE*
4 *PROPERTY FOR PARTIAL INTEREST RULE.—In*
5 *the case of a qualified artistic charitable con-*
6 *tribution, the tangible literary, musical, artistic,*
7 *or scholarly composition, or similar property*
8 *and the copyright on such work shall be treated*
9 *as separate properties for purposes of this para-*
10 *graph and subsection (f)(3).”.*

11 (b) *EFFECTIVE DATE.—The amendment made by this*
12 *section shall apply to contributions made after the date of*
13 *the enactment of this Act in taxable years ending after such*
14 *date.*

15 **SEC. 809. WAIVER OF STATUTE OF LIMITATION FOR TAXES**
16 **ON CERTAIN FARM VALUATIONS.**

17 *If on the date of the enactment of this Act (or at any*
18 *time within 1 year after the date of the enactment) a refund*
19 *or credit of any overpayment of tax resulting from the ap-*
20 *plication of section 2032A(c)(7)(E) of the Internal Revenue*
21 *Code of 1986 is barred by any law or rule of law, the refund*
22 *or credit of such overpayment shall, nevertheless, be made*
23 *or allowed if claim therefor is filed before the date 1 year*
24 *after the date of the enactment of this Act.*

1 **SEC. 810. RESEARCH CREDIT.**

2 (a) *PERMANENT EXTENSION OF RESEARCH CREDIT.*—

3 (1) *IN GENERAL.*—Section 41 (relating to credit
4 for increasing research activities) is amended by
5 striking subsection (h).

6 (2) *CONFORMING AMENDMENT.*—Paragraph (1)
7 of section 45C(b) is amended by striking subpara-
8 graph (D).

9 (3) *EFFECTIVE DATE.*—The amendments made
10 by this subsection shall apply to amounts paid or in-
11 curred after the date of the enactment of this Act.

12 (b) *INCREASES IN RATES OF ALTERNATIVE INCRE-*
13 *MENTAL CREDIT.*—

14 (1) *IN GENERAL.*—Subparagraph (A) of section
15 41(c)(4) (relating to election of alternative incre-
16 mental credit) is amended—

17 (A) by striking “2.65 percent” and insert-
18 ing “3 percent”,

19 (B) by striking “3.2 percent” and inserting
20 “4 percent”, and

21 (C) by striking “3.75 percent” and insert-
22 ing “5 percent”.

23 (2) *EFFECTIVE DATE.*—The amendments made
24 by this subsection shall apply to taxable years ending
25 after the date of the enactment of this Act.

1 **SEC. 811. CREDIT FOR MEDICAL RESEARCH RELATED TO**
2 **DEVELOPING VACCINES AGAINST WIDE-**
3 **SPREAD DISEASES.**

4 (a) *IN GENERAL.*—Subpart D of part IV of subchapter
5 A of chapter 1 (relating to business related credits), as
6 amended by section 620, is amended by adding at the end
7 the following new section:

8 **“SEC. 45G. CREDIT FOR MEDICAL RESEARCH RELATED TO**
9 **DEVELOPING VACCINES AGAINST WIDE-**
10 **SPREAD DISEASES.**

11 “(a) *GENERAL RULE.*—For purposes of section 38, the
12 vaccine research credit determined under this section for the
13 taxable year is an amount equal to 30 percent of the quali-
14 fied vaccine research expenses for the taxable year.

15 “(b) *QUALIFIED VACCINE RESEARCH EXPENSES.*—
16 For purposes of this section—

17 “(1) *QUALIFIED VACCINE RESEARCH EX-*
18 *PENSES.*—

19 “(A) *IN GENERAL.*—Except as otherwise
20 provided in this paragraph, the term ‘qualified
21 vaccine research expenses’ means the amounts
22 which are paid or incurred by the taxpayer dur-
23 ing the taxable year which would be described in
24 subsection (b) of section 41 if such subsection
25 were applied with the modifications set forth in
26 subparagraph (B).

1 “(B) *MODIFICATIONS; INCREASED INCEN-*
2 *TIVE FOR CONTRACT RESEARCH PAYMENTS.—For*
3 *purposes of subparagraph (A), subsection (b) of*
4 *section 41 shall be applied—*

5 “(i) *by substituting ‘vaccine research’*
6 *for ‘qualified research’ each place it appears*
7 *in paragraphs (2) and (3) of such sub-*
8 *section, and*

9 “(ii) *by substituting ‘100 percent’ for*
10 *‘65 percent’ in paragraph (3)(A) of such*
11 *subsection.*

12 “(C) *EXCLUSION FOR AMOUNTS FUNDED BY*
13 *GRANTS, ETC.—The term ‘qualified vaccine re-*
14 *search expenses’ shall not include any amount to*
15 *the extent such amount is funded by any grant,*
16 *contract, or otherwise by another person (or any*
17 *governmental entity).*

18 “(2) *VACCINE RESEARCH.—The term ‘vaccine re-*
19 *search’ means research to develop vaccines and*
20 *microbicides for—*

21 “(A) *malaria,*

22 “(B) *tuberculosis,*

23 “(C) *HIV, or*

24 “(D) *any infectious disease (of a single eti-*
25 *ology) which, according to the World Health Or-*

1 *ganization, causes over 1,000,000 human deaths*
2 *annually.*

3 *“(c) COORDINATION WITH CREDIT FOR INCREASING*
4 *RESEARCH EXPENDITURES.—*

5 *“(1) IN GENERAL.—Except as provided in para-*
6 *graph (2), any qualified vaccine research expenses for*
7 *a taxable year to which an election under this section*
8 *applies shall not be taken into account for purposes*
9 *of determining the credit allowable under section 41*
10 *for such taxable year.*

11 *“(2) EXPENSES INCLUDED IN DETERMINING*
12 *BASE PERIOD RESEARCH EXPENSES.—Any qualified*
13 *vaccine research expenses for any taxable year which*
14 *are qualified research expenses (within the meaning of*
15 *section 41(b)) shall be taken into account in deter-*
16 *mining base period research expenses for purposes of*
17 *applying section 41 to subsequent taxable years.*

18 *“(d) SPECIAL RULES.—*

19 *“(1) LIMITATIONS ON FOREIGN TESTING.—No*
20 *credit shall be allowed under this section with respect*
21 *to any vaccine research (other than human clinical*
22 *testing) conducted outside the United States.*

23 *“(2) PRE-CLINICAL RESEARCH.—No credit shall*
24 *be allowed under this section for pre-clinical research*
25 *unless such research is pursuant to a research plan*

1 *an abstract of which has been filed with the Secretary*
2 *before the beginning of such year. The Secretary, in*
3 *consultation with the Secretary of Health and*
4 *Human Services, shall prescribe regulations speci-*
5 *fying the requirements for such plans and procedures*
6 *for filing under this paragraph.*

7 “(3) *CERTAIN RULES MADE APPLICABLE.—Rules*
8 *similar to the rules of paragraphs (1) and (2) of sec-*
9 *tion 41(f) shall apply for purposes of this section.*”

10 “(4) *ELECTION.—This section (other than sub-*
11 *section (e)) shall apply to any taxpayer for any tax-*
12 *able year only if such taxpayer elects to have this sec-*
13 *tion apply for such taxable year.*”

14 (b) *INCLUSION IN GENERAL BUSINESS CREDIT.—*

15 (1) *IN GENERAL.—Section 38(b), as amended by*
16 *section 620, is amended by striking “plus” at the end*
17 *of paragraph (14), by striking the period at the end*
18 *of paragraph (15) and inserting “, plus”, and by*
19 *adding at the end the following new paragraph:*

20 “(16) *the vaccine research credit determined*
21 *under section 45G.*”

22 (2) *TRANSITION RULE.—Section 39(d), as*
23 *amended by section 620, is amended by adding at the*
24 *end the following new paragraph:*

1 “(12) *NO CARRYBACK OF SECTION 45G CREDIT*
2 *BEFORE ENACTMENT.*—No portion of the unused busi-
3 ness credit for any taxable year which is attributable
4 to the vaccine research credit determined under sec-
5 tion 45G may be carried back to a taxable year end-
6 ing before the date of the enactment of section 45G.”.

7 (c) *DENIAL OF DOUBLE BENEFIT.*—Section 280C is
8 amended by adding at the end the following new subsection:

9 “(d) *CREDIT FOR QUALIFIED VACCINE RESEARCH EX-*
10 *PENSES.*—

11 “(1) *IN GENERAL.*—No deduction shall be al-
12 lowed for that portion of the qualified vaccine re-
13 search expenses (as defined in section 45G(b)) other-
14 wise allowable as a deduction for the taxable year
15 which is equal to the amount of the credit determined
16 for such taxable year under section 45G(a).

17 “(2) *CERTAIN RULES TO APPLY.*—Rules similar
18 to the rules of paragraphs (2), (3), and (4) of sub-
19 section (c) shall apply for purposes of this sub-
20 section.”.

21 (d) *DEDUCTION FOR UNUSED PORTION OF CREDIT.*—
22 Section 196(c) (defining qualified business credits) is
23 amended by striking “and” at the end of paragraph (8),
24 by striking the period at the end of paragraph (9) and in-

1 *serting “, and”, and by adding at the end the following*
2 *new paragraph:*

3 “(10) *the vaccine research credit determined*
4 *under section 45G(a) (other than such credit deter-*
5 *mined under the rules of section 280C(d)(2)).”.*

6 *(e) TECHNICAL AMENDMENTS.—*

7 (1) *Section 1324(b)(2) of title 31, United States*
8 *Code, is amended by inserting “or from section*
9 *45G(e) of such Code,” after “1978,”.*

10 (2) *The table of sections for subpart D of part*
11 *IV of subchapter A of chapter 1, as amended by sec-*
12 *tion 620, is amended by adding at the end the fol-*
13 *lowing new item:*

“Sec. 45G. Credit for medical research related to developing vac-
cines against widespread diseases.”.

14 *(f) EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to taxable years ending after the date*
16 *of the enactment of this Act.*

17 **SEC. 812. ACCELERATION OF BENEFITS OF WAGE TAX CRED-**
18 **ITS FOR EMPOWERMENT ZONES.**

19 *Section 113(d) of the Community Renewal Tax Relief*
20 *Act of 2000 is amended by striking “December 31, 2001”*
21 *and inserting “the earlier of—*

22 “(1) *the date of the enactment of the Restoring*
23 *Earnings To Lift Individuals and Empower Families*
24 *(RELIEF) Act of 2001, or*

1 “(2) July 1, 2001”.

2 **SEC. 813. TREATMENT OF CERTAIN HOSPITAL SUPPORT OR-**
3 **GANIZATIONS AS QUALIFIED ORGANIZATIONS**
4 **FOR PURPOSES OF DETERMINING ACQUI-**
5 **SION INDEBTEDNESS.**

6 (a) *IN GENERAL.*—Subparagraph (C) of section
7 514(c)(9) (relating to real property acquired by a qualified
8 organization) is amended by striking “or” at the end of
9 clause (ii), by striking the period at the end of clause (iii)
10 and inserting “; or”, and by adding at the end the following
11 new clause:

12 “(iv) a qualified hospital support
13 organization (as defined in subpara-
14 graph (I)).”.

15 (b) *QUALIFIED HOSPITAL SUPPORT ORGANIZA-*
16 *TIONS.*—Paragraph (9) of section 514(c) is amended by
17 adding at the end the following new subparagraph:

18 “(I) *QUALIFIED HOSPITAL SUPPORT ORGA-*
19 *NIZATIONS.*—For purposes of subparagraph
20 (C)(iv), the term ‘qualified hospital support or-
21 ganization’ means, with respect to any eligible
22 indebtedness (including any qualified refi-
23 nancing of such eligible indebtedness), a support
24 organization (as defined in section 509(a)(3))

1 *which supports a hospital described in section*
2 *119(d)(4)(B) and with respect to which—*

3 *“(i) more than half of its assets*
4 *(by value) at any time since its*
5 *organization—*

6 *“(I) were acquired, directly*
7 *or indirectly, by gift or devise,*
8 *and*

9 *“(II) consisted of real prop-*
10 *erty, and*

11 *“(ii) the fair market value of the*
12 *organization’s real estate acquired, di-*
13 *rectly or indirectly, by gift or devise,*
14 *exceeded 10 percent of the fair market*
15 *value of all investment assets held by*
16 *the organization immediately prior to*
17 *the time that the eligible indebtedness*
18 *was incurred.*

19 *For purposes of this subparagraph, the term ‘eli-*
20 *gible indebtedness’ means indebtedness secured by*
21 *real property acquired by the organization, di-*
22 *rectly or indirectly, by gift or devise, the pro-*
23 *ceeds of which are used exclusively to acquire*
24 *any leasehold interest in such real property or*
25 *for improvements on, or repairs to, such real*

1 *property. A determination under clauses (i) and*
2 *(ii) of this subparagraph shall be made each*
3 *time such an eligible indebtedness (or the quali-*
4 *fied refinancing of such an eligible indebtedness)*
5 *is incurred. For purposes of this subparagraph,*
6 *a refinancing of such an eligible indebtedness*
7 *shall be considered qualified if such refinancing*
8 *does not exceed the amount of the refinanced eli-*
9 *gible indebtedness immediately before the refi-*
10 *nancing.”.*

11 *(c) EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to indebtedness incurred after December*
13 *31, 2003.*

14 **SEC. 814. TAX-EXEMPT BOND AUTHORITY FOR TREATMENT**
15 **FACILITIES REDUCING ARSENIC LEVELS IN**
16 **DRINKING WATER.**

17 *(a) IN GENERAL.—Section 142(e) (relating to facilities*
18 *for the furnishing of water) is amended—*

19 *(1) by redesignating paragraphs (1) and (2) as*
20 *subparagraphs (A) and (B), respectively,*

21 *(2) by striking “For purposes” and inserting the*
22 *following:*

23 *“(1) IN GENERAL.—For purposes”, and*

24 *(3) by adding at the end the following:*

1 “(2) *FACILITIES REDUCING ARSENIC LEVELS IN-*
2 *CLUDED.—Such term includes improvements to facili-*
3 *ties in order to comply with the 10 parts per billion*
4 *arsenic standard recommended by the National Acad-*
5 *emy of Sciences.”.*

6 (b) *FACILITIES NOT SUBJECT TO STATE CAP.—Sec-*
7 *tion 146(g) (relating to exception for certain bonds) is*
8 *amended—*

9 (1) *by striking “and” at the end of paragraph*
10 (3),

11 (2) *by striking the period at the end of para-*
12 *graph (4) and inserting “, and”, and*

13 (3) *by inserting after paragraph (4), the fol-*
14 *lowing new paragraph:*

15 “(5) *any exempt facility bond issued as part of*
16 *an issue described in section 142(a)(4) (relating to fa-*
17 *ilities for the furnishing of water), but only to the*
18 *extent the property to be financed by the net proceeds*
19 *of the issue is described in section 142(e)(2).”.*

20 (c) *EXEMPT FROM AMT.—Section 57(a)(5)(C) (relat-*
21 *ing to tax-exempt interest of specified private activity*
22 *bonds) is amended by adding at the end the following new*
23 *clause:*

24 “(v) *EXCEPTION FOR CERTAIN WATER*
25 *FACILITY BONDS.—For purposes of clause*

1 *(i), the term ‘private activity bond’ shall*
 2 *not include any exempt facility bond issued*
 3 *as part of an issue described in section*
 4 *142(a)(4) (relating to facilities for the fur-*
 5 *nishing of water), but only to the extent the*
 6 *property to be financed by the net proceeds*
 7 *of the issue is described in section*
 8 *142(e)(2).’.*

9 *(d) EFFECTIVE DATE.—The amendments made by this*
 10 *section shall apply to bonds issued after the date of the en-*
 11 *actment of this Act.*

12 **SEC. 815. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
 13 **TAX PAYMENTS DUE IN 2011.**

14 *Notwithstanding section 6655 of the Internal Revenue*
 15 *Code of 1986, the amount of any required installment of*
 16 *any corporate estimated tax payment due under such sec-*
 17 *tion in July, August, or September of 2011 shall be equal*
 18 *to 170 percent of the amount of such installment determined*
 19 *without regard to this section.*

20 **SEC. 816. DISCLOSURE OF TAX INFORMATION TO FACILI-**
 21 **TATE COMBINED EMPLOYMENT TAX REPORT-**
 22 **ING.**

23 *Section 6103(d)(5) is amended to read as follows:*

24 *“(5) DISCLOSURE FOR COMBINED EMPLOYMENT*
 25 *TAX REPORTING.—The Secretary may disclose tax-*

1 *payer identity information and signatures to any*
 2 *agency, body, or commission of any State for the pur-*
 3 *pose of carrying out with such agency, body, or com-*
 4 *mission a combined Federal and State employment*
 5 *tax reporting program approved by the Secretary.*
 6 *Subsections (a)(2) and (p)(4) and sections 7213 and*
 7 *7213A shall not apply with respect to disclosures or*
 8 *inspections made pursuant to this paragraph.”.*

9 ***Subtitle B—Compliance With***
 10 ***Congressional Budget Act***

11 ***SEC. 821. SUNSET OF PROVISIONS OF TITLE.***

12 *All provisions of, and amendments made by, this title*
 13 *which are in effect on September 30, 2011, shall cease to*
 14 *apply as of the close of September 30, 2011.*

15 ***TITLE IX—SECTION 527 POLIT-***
 16 ***ICAL ORGANIZATION REPORT-***
 17 ***ING REQUIREMENTS***

18 ***SEC. 901. EXEMPTION FOR STATE AND LOCAL CANDIDATE***
 19 ***COMMITTEES FROM NOTIFICATION REQUIRE-***
 20 ***MENTS.***

21 *(a) EXEMPTION FROM NOTIFICATION REQUIRE-*
 22 *MENTS.—Paragraph (5) of section 527(i) (relating to orga-*
 23 *nizations must notify Secretary that they are section 527*
 24 *organizations) is amended by striking “or” at the end of*
 25 *subparagraph (A), by striking the period at the end of sub-*

1 paragraph (B) and inserting “, or”, and by adding at the
2 end the following:

3 “(C) which is a political committee of a
4 State or local candidate.”.

5 (b) *EFFECTIVE DATE.*—The amendment made by sub-
6 section (a) shall take effect as if included in the amendments
7 made by Public Law 106–230.

8 **SEC. 902. EXEMPTION FOR CERTAIN STATE AND LOCAL PO-**
9 **LITICAL COMMITTEES FROM REPORTING AND**
10 **ANNUAL RETURN REQUIREMENTS.**

11 (a) *EXEMPTION FROM REPORTING REQUIREMENTS.*—

12 (1) *IN GENERAL.*—Section 527(j)(5) (relating to
13 coordination with other requirements) is amended by
14 striking “or” at the end of subparagraph (D), by
15 striking the period at the end of subparagraph (E)
16 and inserting “, or”, and by adding at the end the
17 following:

18 “(F) to any organization described in para-
19 graph (7), but only if, during the calendar
20 year—

21 “(i) such organization is required by
22 State or local law to report, and such orga-
23 nization reports, information regarding
24 each separate expenditure and contribution
25 (including information regarding the person

1 *who makes such contribution or receives*
2 *such expenditure) with respect to which in-*
3 *formation would otherwise be required to be*
4 *reported under this subsection, and*

5 “(i) such information is made public
6 by the agency with which such information
7 is filed and is publicly available for inspec-
8 tion in a manner similar to reports under
9 section 6104(d)(1).

10 *An organization shall not be treated as failing to*
11 *meet the requirements of subparagraph (F)(i) solely*
12 *because the minimum amount of any expenditure or*
13 *contribution required to be reported under State or*
14 *local law is greater (but not by more than \$100) than*
15 *the minimum amount required under this sub-*
16 *section.”.*

17 (2) *DESCRIPTION OF ORGANIZATION.*—Section
18 527(j) is amended by adding at the end the following:

19 “(7) *CERTAIN ORGANIZATIONS.*—An organiza-
20 tion is described in this paragraph if—

21 “(A) such organization is not described in
22 subparagraph (A), (B), (C), or (D) of paragraph
23 (5),

24 “(B) such organization does not engage in
25 any exempt function activities other than activi-

1 *ties for the purpose of influencing or attempting*
2 *to influence the selection, nomination, election,*
3 *or appointment of any individual to any State*
4 *or local public office or office in a State or local*
5 *political organization, and*

6 *“(C) no candidate for Federal office or indi-*
7 *vidual holding Federal office—*

8 *“(i) controls or materially participates*
9 *in the direction of such organization,*

10 *“(ii) solicits any contributions to such*
11 *organization, or*

12 *“(iii) directs, in whole or in part, any*
13 *expenditure made by such organization.”.*

14 *(b) EXEMPTION FROM REQUIREMENTS FOR ANNUAL*
15 *RETURN BASED ON GROSS RECEIPTS.—Paragraph (6) of*
16 *section 6012(a) (relating to persons required to make re-*
17 *turns of income) is amended by striking “organization,*
18 *which” and all that follows through “section)” and insert-*
19 *ing “organization—*

20 *“(A) which has political organization tax-*
21 *able income (within the meaning of section*
22 *527(c)(1)) for the taxable year, or*

23 *“(B) which—*

24 *“(i) is not a political committee of a*
25 *State or local candidate or an organization*

1 to which section 527 applies solely by rea-
2 son of subsection (f)(1) of such section, and

3 “(ii) has gross receipts of—

4 “(I) in the case of political orga-
5 nization described in section
6 527(j)(5)(F), \$100,000 or more for the
7 taxable year, and

8 “(II) in the case of any other po-
9 litical organization, \$25,000 or more
10 for the taxable year”.

11 (c) *EFFECTIVE DATE.*—The amendments made by this
12 section shall take effect as if included in the amendments
13 made by Public Law 106–230.

14 **SEC. 903. NOTIFICATION OF INTERACTION OF REPORTING**
15 **REQUIREMENTS.**

16 (a) *IN GENERAL.*—The Secretary of the Treasury, in
17 consultation with the Federal Election Commission, shall
18 publicize—

19 (1) the effect of the amendments made by this
20 title, and

21 (2) the interaction of requirements to file a noti-
22 fication or report under section 527 of the Internal
23 Revenue Code of 1986 and reports under the Federal
24 Election Campaign Act of 1971.

1 (b) *INFORMATION.*—*Information provided under sub-*
2 *section (a) shall be included in any appropriate form, in-*
3 *struction, notice, or other guidance issued to the public by*
4 *the Secretary of the Treasury or the Federal Election Com-*
5 *mission regarding reporting requirements of political orga-*
6 *nizations (as defined in section 527 of the Internal Revenue*
7 *Code of 1986) or reporting requirements under the Federal*
8 *Election Campaign Act of 1971.*

9 **SEC. 904. WAIVER OF PENALTIES.**

10 (a) *WAIVER OF FILING PENALTIES.*—*Section 527 is*
11 *amended by adding at the end the following:*

12 “(k) *AUTHORITY TO WAIVE.*—*The Secretary may*
13 *waive all or any portion of the—*

14 “(1) *tax assessed on an organization by reason*
15 *of the failure of the organization to give notice under*
16 *subsection (i), or*

17 “(2) *penalty imposed under subsection (j) for a*
18 *failure to file a report,*

19 *on a showing that such failure was due to reasonable cause*
20 *and not due to willful neglect.”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
2 *section (a) shall apply to any tax assessed or penalty im-*
3 *posed after June 30, 2000.*

Attest:

Secretary.

107TH CONGRESS
1ST SESSION

H. R. 1836

AMENDMENT

HR 1836 EAS—2

HR 1836 EAS—3

HR 1836 EAS—4

HR 1836 EAS—5

HR 1836 EAS—6

HR 1836 EAS—7

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