

107TH CONGRESS  
1ST SESSION

# H. R. 546

To amend the Internal Revenue Code of 1986 to provide tax benefits for small businesses, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2001

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

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## A BILL

To amend the Internal Revenue Code of 1986 to provide tax benefits for small businesses, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

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

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

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Small Business Tax Fairness Act of 2001”.

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

7 (c) TABLE OF CONTENTS.—The table of contents of  
 8 this Act is as follows:

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

#### TITLE I—SMALL BUSINESS PROVISIONS

Sec. 101. Deduction for 100 percent of health insurance costs of self-employed individuals.

Sec. 102. Increase in expense treatment for small businesses.

Sec. 103. Increased deduction for meal expenses.

Sec. 104. Increased deductibility of business meal expenses for individuals subject to Federal limitations on hours of service.

Sec. 105. Income averaging for farmers and fishermen not to increase alternative minimum tax liability.

Sec. 106. Repeal of occupational taxes relating to distilled spirits, wine, and beer.

#### TITLE II—PENSION PROVISIONS

##### Subtitle A—Expanding Coverage

Sec. 201. Increase in benefit and contribution limits.

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

Sec. 203. Modification of top-heavy rules.

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

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

Sec. 206. Elimination of user fee for requests to IRS regarding pension plans.

Sec. 207. Deduction limits.

Sec. 208. Option to treat elective deferrals as after-tax contributions.

##### Subtitle B—Enhancing Fairness for Women

Sec. 221. Catchup contributions for individuals age 50 or over.

Sec. 222. Equitable treatment for contributions of employees to defined contribution plans.

Sec. 223. Faster vesting of certain employer matching contributions.

Sec. 224. Simplify and update the minimum distribution rules.

Sec. 225. Clarification of tax treatment of division of section 457 plan benefits upon divorce.

Sec. 226. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.

#### Subtitle C—Increasing Portability for Participants

Sec. 231. Rollovers allowed among various types of plans.  
 Sec. 232. Rollovers of IRAs into workplace retirement plans.  
 Sec. 233. Rollovers of after-tax contributions.  
 Sec. 234. Hardship exception to 60-day rule.  
 Sec. 235. Treatment of forms of distribution.  
 Sec. 236. Rationalization of restrictions on distributions.  
 Sec. 237. Purchase of service credit in governmental defined benefit plans.  
 Sec. 238. Employers may disregard rollovers for purposes of cash-out amounts.  
 Sec. 239. Minimum distribution and inclusion requirements for section 457 plans.

#### Subtitle D—Strengthening Pension Security and Enforcement

Sec. 241. Repeal of 150 percent of current liability funding limit.  
 Sec. 242. Maximum contribution deduction rules modified and applied to all defined benefit plans.  
 Sec. 243. Excise tax relief for sound pension funding.  
 Sec. 244. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.  
 Sec. 245. Treatment of multiemployer plans under section 415.

#### Subtitle E—Reducing Regulatory Burdens

Sec. 261. Modification of timing of plan valuations.  
 Sec. 262. ESOP dividends may be reinvested without loss of dividend deduction.  
 Sec. 263. Repeal of transition rule relating to certain highly compensated employees.  
 Sec. 264. Employees of tax-exempt entities.  
 Sec. 265. Clarification of treatment of employer-provided retirement advice.  
 Sec. 266. Reporting simplification.  
 Sec. 267. Improvement of employee plans compliance resolution system.  
 Sec. 268. Modification of exclusion for employer provided transit passes.  
 Sec. 269. Repeal of the multiple use test.  
 Sec. 270. Flexibility in nondiscrimination, coverage, and line of business rules.  
 Sec. 271. Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local plans.  
 Sec. 272. Notice and consent period regarding distributions.

#### Subtitle F—Plan Amendments

Sec. 281. Provisions relating to plan amendments.

### TITLE III—ESTATE TAX RELIEF

#### Subtitle A—Reductions of Estate and Gift Tax Rates

Sec. 301. Reductions of estate and gift tax rates.  
 Sec. 302. Sense of the Congress concerning repeal of the death tax.

#### Subtitle B—Unified Credit Replaced With Unified Exemption Amount

Sec. 311. Unified credit against estate and gift taxes replaced with unified exemption amount.

Subtitle C—Modifications of Generation-Skipping Transfer Tax

Sec. 321. Deemed allocation of GST exemption to lifetime transfers to trusts; retroactive allocations.

Sec. 322. Severing of trusts.

Sec. 323. Modification of certain valuation rules.

Sec. 324. Relief provisions.

Subtitle D—Conservation Easements

Sec. 331. Expansion of estate tax rule for conservation easements.

TITLE IV—TIMBER INCENTIVE

Sec. 401. Temporary suspension of maximum amount of amortizable reforestation expenditures.

TITLE V—REAL ESTATE PROVISIONS

Subtitle A—Private Activity Bond Volume Cap

Sec. 501. Acceleration of phase-in of increase in volume cap on private activity bonds.

Subtitle B—Exclusion From Gross Income for Certain Forgiven Mortgage Obligations

Sec. 502. Exclusion from gross income for certain forgiven mortgage obligations.

TITLE VI—AMENDMENTS TO THE FAIR LABOR STANDARDS ACT OF 1938

Sec. 601. Short title.

Sec. 602. Minimum Wage.

Sec. 603. Exemption for computer professionals.

Sec. 604. Exemption for certain sales employees.

Sec. 605. Exemption for funeral directors.

1           **TITLE I—SMALL BUSINESS**  
2                           **PROVISIONS**

3   **SEC. 101. DEDUCTION FOR 100 PERCENT OF HEALTH IN-**  
4                           **SURANCE COSTS OF SELF-EMPLOYED INDIV-**  
5                           **IDUALS.**

6           (a) IN GENERAL.—Paragraph (1) of section 162(l)  
7 is amended to read as follows:

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

1           “(1) DOLLAR LIMITATION.—The aggregate cost  
2           which may be taken into account under subsection  
3           (a) for any taxable year shall not exceed \$30,000.”.

4           (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 2000.

7 **SEC. 103. INCREASED DEDUCTION FOR MEAL EXPENSES.**

8           (a) IN GENERAL.—Paragraph (1) of section 274(n)  
9 (relating to only 50 percent of meal and entertainment  
10 expenses allowed as deduction) is amended by striking “50  
11 percent” in the text and inserting “the allowable percent-  
12 age”.

13           (b) ALLOWABLE PERCENTAGES.—Subsection (n) of  
14 section 274 is amended by redesignating paragraphs (2)  
15 and (3) as paragraphs (3) and (4), respectively, and by  
16 inserting after paragraph (1) the following new paragraph:

17           “(2) ALLOWABLE PERCENTAGE.—For purposes  
18           of paragraph (1), the allowable percentage is—

19                       “(A) in the case of amounts for items de-  
20                       scribed in paragraph (1)(B), 50 percent, and

21                       “(B) in the case of expenses for food or  
22                       beverages, 60 percent (55 percent for taxable  
23                       years beginning during 2001).”.

1 (c) CONFORMING AMENDMENT.—The heading for  
2 subsection (n) of section 274 is amended by striking “50  
3 PERCENT” and inserting “LIMITED PERCENTAGES”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 2000.

7 **SEC. 104. INCREASED DEDUCTIBILITY OF BUSINESS MEAL**  
8 **EXPENSES FOR INDIVIDUALS SUBJECT TO**  
9 **FEDERAL LIMITATIONS ON HOURS OF SERV-**  
10 **ICE.**

11 (a) IN GENERAL.—Paragraph (4) of section 274(n)  
12 (relating to limited percentages of meal and entertainment  
13 expenses allowed as deduction), as redesignated by section  
14 103, is amended to read as follows:

15 “(4) SPECIAL RULE FOR INDIVIDUALS SUBJECT  
16 TO FEDERAL HOURS OF SERVICE.—In the case of  
17 any expenses for food or beverages consumed while  
18 away from home (within the meaning of section  
19 162(a)(2)) by an individual during, or incident to,  
20 the period of duty subject to the hours of service  
21 limitations of the Department of Transportation,  
22 paragraph (2)(B) shall be applied by substituting  
23 ‘80 percent’ for the percentage otherwise applicable  
24 under paragraph (2)(B).”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to taxable years beginning after  
 3 December 31, 2000.

4 **SEC. 105. INCOME AVERAGING FOR FARMERS AND FISHER-**  
 5 **MEN NOT TO INCREASE ALTERNATIVE MIN-**  
 6 **IMUM TAX LIABILITY.**

7 (a) IN GENERAL.—Section 55(c) (defining regular  
 8 tax) is amended by redesignating paragraph (2) as para-  
 9 graph (3) and by inserting after paragraph (1) the fol-  
 10 lowing:

11 “(2) COORDINATION WITH INCOME AVERAGING  
 12 FOR FARMERS AND FISHERMEN.—Solely for pur-  
 13 poses of this section, section 1301 (relating to aver-  
 14 aging of farm and fishing income) shall not apply in  
 15 computing the regular tax.”.

16 (b) ALLOWING INCOME AVERAGING FOR FISHER-  
 17 MEN.—

18 (1) IN GENERAL.—Section 1301(a) is amended  
 19 by striking “farming business” and inserting “farm-  
 20 ing business or fishing business,”.

21 (2) DEFINITION OF ELECTED FARM INCOME.—

22 (A) IN GENERAL.—Clause (i) of section  
 23 1301(b)(1)(A) is amended by inserting “or fish-  
 24 ing business” before the semicolon.



1 (B) CONFORMING AMENDMENT.—Subpara-  
 2 graph (B) of section 1301(b)(1) is amended by  
 3 inserting “or fishing business” after “farming  
 4 business” both places it occurs.

5 (3) DEFINITION OF FISHING BUSINESS.—Sec-  
 6 tion 1301(b) is amended by adding at the end the  
 7 following new paragraph:

8 “(4) FISHING BUSINESS.—The term ‘fishing  
 9 business’ means the conduct of commercial fishing  
 10 as defined in section 3 of the Magnuson-Stevens  
 11 Fishery Conservation and Management Act (16  
 12 U.S.C. 1802).”.

13 (c) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to taxable years beginning after  
 15 December 31, 2000.

16 **SEC. 106. REPEAL OF OCCUPATIONAL TAXES RELATING TO**  
 17 **DISTILLED SPIRITS, WINE, AND BEER.**

18 (a) REPEAL OF OCCUPATIONAL TAXES.—

19 (1) IN GENERAL.—The following provisions of  
 20 part II of subchapter A of chapter 51 of the Internal  
 21 Revenue Code of 1986 (relating to occupational  
 22 taxes) are hereby repealed:

23 (A) Subpart A (relating to proprietors of  
 24 distilled spirits plants, bonded wine cellars,  
 25 etc.).

1 (B) Subpart B (relating to brewer).

2 (C) Subpart D (relating to wholesale deal-  
3 ers) (other than sections 5114 and 5116).

4 (D) Subpart E (relating to retail dealers)  
5 (other than section 5124).

6 (E) Subpart G (relating to general provi-  
7 sions) (other than sections 5142, 5143, 5145,  
8 and 5146).

9 (2) NONBEVERAGE DOMESTIC DRAWBACK.—  
10 Section 5131 is amended by striking “, on payment  
11 of a special tax per annum,”.

12 (3) INDUSTRIAL USE OF DISTILLED SPIRITS.—  
13 Section 5276 is hereby repealed.

14 (b) CONFORMING AMENDMENTS.—

15 (1)(A) The heading for part II of subchapter A  
16 of chapter 51 and the table of subparts for such  
17 part are amended to read as follows:

18 **“PART II—MISCELLANEOUS PROVISIONS**

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping by dealers.

“Subpart D. Other provisions.”.

19 (B) The table of parts for such subchapter A  
20 is amended by striking the item relating to part II  
21 and inserting the following new item:

“Part II. Miscellaneous provisions.”.

1           (2) Subpart C of part II of such subchapter  
2           (relating to manufacturers of stills) is redesignated  
3           as subpart A.

4           (3)(A) Subpart F of such part II (relating to  
5           nonbeverage domestic drawback claimants) is rededesignated as subpart B and sections 5131 through  
6           5134 are redesignated as sections 5111 through  
7           5114, respectively.

8           (B) The table of sections for such subpart B,  
9           as so redesignated, is amended—

10           (i) by redesignating the items relating to  
11           sections 5131 through 5134 as relating to sec-  
12           tions 5111 through 5114, respectively; and

13           (ii) by striking “and rate of tax” in the  
14           item relating to section 5111, as so rededesignated.  
15           nated.

16           (C) Section 5111, as redesignated by subparagraph (A), is amended—

17           (i) by striking “**AND RATE OF TAX**” in  
18           the section heading;

19           (ii) by striking “(a) ELIGIBILITY FOR  
20           DRAWBACK.—”; and

21           (iii) by striking subsection (b).

1 (4) Part II of subchapter A of chapter 51 is  
 2 amended by adding after subpart B, as redesignated  
 3 by paragraph (3), the following new subpart:

4 **“Subpart C—Recordkeeping by Dealers**

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of  
 premises for inspection.”.

5 (5)(A) Section 5114 (relating to records) is  
 6 moved to subpart C of such part II and inserted  
 7 after the table of sections for such subpart.

8 (B) Section 5114 is amended—

9 (i) by striking the section heading and in-  
 10 serting the following new heading:

11 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”;**

12 and

13 (ii) by redesignating subsection (c) as sub-  
 14 section (d) and by inserting after subsection (b)  
 15 the following new subsection:

16 **“(c) WHOLESALE DEALERS.—**For purposes of this  
 17 part—

18 **“(1) WHOLESALE DEALER IN LIQUORS.—**The  
 19 term ‘wholesale dealer in liquors’ means any dealer  
 20 (other than a wholesale dealer in beer) who sells, or  
 21 offers for sale, distilled spirits, wines, or beer, to an-  
 22 other dealer.

1           “(2) WHOLESALE DEALER IN BEER.—The term  
2       ‘wholesale dealer in beer’ means any dealer who  
3       sells, or offers for sale, beer, but not distilled spirits  
4       or wines, to another dealer.

5           “(3) DEALER.—The term ‘dealer’ means any  
6       person who sells, or offers for sale, any distilled spir-  
7       its, wines, or beer.

8           “(4) PRESUMPTION IN CASE OF SALE OF 20  
9       WINE GALLONS OR MORE.—The sale, or offer for  
10      sale, of distilled spirits, wines, or beer, in quantities  
11      of 20 wine gallons or more to the same person at  
12      the same time, shall be presumptive evidence that  
13      the person making such sale, or offer for sale, is en-  
14      gaged in or carrying on the business of a wholesale  
15      dealer in liquors or a wholesale dealer in beer, as the  
16      case may be. Such presumption may be overcome by  
17      evidence satisfactorily showing that such sale, or  
18      offer for sale, was made to a person other than a  
19      dealer.”.

20           (C) Paragraph (3) of section 5121(d), as so re-  
21      designated, is amended by striking “section 5146”  
22      and inserting “section 5123”.

23           (6)(A) Section 5124 (relating to records) is  
24      moved to subpart C of part II of subchapter A of  
25      chapter 51 and inserted after section 5121.

1 (B) Section 5124 is amended—

2 (i) by striking the section heading and in-  
3 serting the following new heading:

4 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”;**

5 (ii) by striking “section 5146” in sub-  
6 section (c) and inserting “section 5123”; and

7 (iii) by redesignating subsection (c) as sub-  
8 section (d) and inserting after subsection (b)  
9 the following new subsection:

10 “(c) RETAIL DEALERS.—For purposes of this  
11 section—

12 “(1) RETAIL DEALER IN LIQUORS.—The term  
13 ‘retail dealer in liquors’ means any dealer (other  
14 than a retail dealer in beer) who sells, or offers for  
15 sale, distilled spirits, wines, or beer, to any person  
16 other than a dealer.

17 “(2) RETAIL DEALER IN BEER.—The term ‘re-  
18 tail dealer in beer’ means any dealer who sells, or of-  
19 fers for sale, beer, but not distilled spirits or wines,  
20 to any person other than a dealer.

21 “(3) DEALER.—The term ‘dealer’ has the  
22 meaning given such term by section 5121(c)(3).”.

23 (7) Section 5146 is moved to subpart C of part  
24 II of subchapter A of chapter 51, inserted after sec-  
25 tion 5122, and redesignated as section 5123.

1           (8) Part II of subchapter A of chapter 51 is  
 2           amended by inserting after subpart C the following  
 3           new subpart:

4                           **“Subpart D—Other Provisions**

                          “Sec. 5131. Packaging distilled spirits for industrial uses.  
                           “Sec. 5132. Prohibited purchases by dealers.”.

5           (9) Section 5116 is moved to subpart D of part  
 6           II of subchapter A of chapter 51, inserted after the  
 7           table of sections, redesignated as section 5131, and  
 8           amended by inserting “(as defined in section  
 9           5121(c))” after “dealer” in subsection (a).

10          (10) Subpart D of part II of subchapter A of  
 11          chapter 51 is amended by adding at the end thereof  
 12          the following new section:

13       **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

14          “(a) IN GENERAL.—Except as provided in regula-  
 15       tions prescribed by the Secretary, it shall be unlawful for  
 16       a dealer to purchase distilled spirits from any person other  
 17       than a wholesale dealer in liquors who is required to keep  
 18       the records prescribed by section 5121.

19          “(b) PENALTY AND FORFEITURE.—

**“For penalty and forfeiture provisions applicable  
                           to violations of subsection (a), see sections 5687 and  
                           7302.”.**

20          (11) Subsection (b) of section 5002 is  
 21          amended—

1 (A) by striking “section 5112(a)” and in-  
2 serting “section 5121(c)(3)”;

3 (B) by striking “section 5112” and insert-  
4 ing “section 5121(c)”; and

5 (C) by striking “section 5122” and insert-  
6 ing “section 5122(c)”.

7 (12) Subparagraph (A) of section 5010(c)(2) is  
8 amended by striking “section 5134” and inserting  
9 “section 5114”.

10 (13) Subsection (d) of section 5052 is amended  
11 to read as follows:

12 “(d) BREWER.—For purposes of this chapter, the  
13 term ‘brewer’ means any person who brews beer or pro-  
14 duces beer for sale. Such term shall not include any person  
15 who produces only beer exempt from tax under section  
16 5053(e).”.

17 (14) The text of section 5182 is amended to  
18 read as follows:

**“For provisions requiring recordkeeping by  
wholesale liquor dealers, see section 5112, and by  
retail liquor dealers, see section 5122.”.**

19 (15) Subsection (b) of section 5402 is amended  
20 by striking “section 5092” and inserting “section  
21 5052(d)”.

22 (16) Section 5671 is amended by striking “or  
23 5091”.



1           (17)(A) Part V of subchapter J of chapter 51  
2 is hereby repealed.

3           (B) The table of parts for such subchapter J is  
4 amended by striking the item relating to part V.

5           (18)(A) Sections 5142, 5143, and 5145 are  
6 moved to subchapter D of chapter 52, inserted after  
7 section 5731, redesignated as sections 5732, 5733,  
8 and 5734, respectively, and amended—

9                   (i) by striking “this part” each place it ap-  
10 pears and inserting “this subchapter”; and

11                   (ii) by striking “this subpart” in section  
12 5732(c)(2) (as so redesignated) and inserting  
13 “this subchapter”.

14           (B) Section 5732, as redesignated by subpara-  
15 graph (A), is amended by striking “(except the tax  
16 imposed by section 5131)” each place it appears.

17           (C) Subsection (c) of section 5733, as redesi-  
18 gnated by subparagraph (A), is amended by striking  
19 paragraph (2) and by redesignating paragraph (3)  
20 as paragraph (2).

21           (D) The table of sections for subchapter D of  
22 chapter 52 is amended by adding at the end thereof  
23 the following:

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”.

1 (E) Section 5731 is amended by striking sub-  
 2 section (c) and by redesignating subsection (d) as  
 3 subsection (c).

4 (19) Subsection (c) of section 6071 is amended  
 5 by striking “section 5142” and inserting “section  
 6 5732”.

7 (20) Paragraph (1) of section 7652(g) is  
 8 amended—

9 (A) by striking “subpart F” and inserting  
 10 “subpart B”; and

11 (B) by striking “section 5131(a)” and in-  
 12 serting “section 5111(a)”.

13 (21) The table of sections for subchapter D of  
 14 chapter 51 is amended by striking the item relating  
 15 to section 5276.

16 (c) EFFECTIVE DATE.—The amendments made by  
 17 this section shall take effect on July 1, 2001, but shall  
 18 not apply to taxes imposed for periods before such date.

## 19 **TITLE II—PENSION PROVISIONS**

### 20 **Subtitle A—Expanding Coverage**

#### 21 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LIM-**

#### 22 **ITS.**

23 (a) DEFINED BENEFIT PLANS.—

24 (1) DOLLAR LIMIT.—

1           (A) Subparagraph (A) of section 415(b)(1)  
 2           (relating to limitation for defined benefit plans)  
 3           is amended by striking “\$90,000” and inserting  
 4           “\$160,000”.

5           (B) Subparagraphs (C) and (D) of section  
 6           415(b)(2) are each amended by striking  
 7           “\$90,000” each place it appears in the head-  
 8           ings and the text and inserting “\$160,000”.

9           (C) Paragraph (7) of section 415(b) (relat-  
 10          ing to benefits under certain collectively bar-  
 11          gained plans) is amended by striking “the  
 12          greater of \$68,212 or one-half the amount oth-  
 13          erwise applicable for such year under paragraph  
 14          (1)(A) for ‘\$90,000’” and inserting “one-half  
 15          the amount otherwise applicable for such year  
 16          under paragraph (1)(A) for ‘\$160,000’”.

17          (2) LIMIT REDUCED WHEN BENEFIT BEGINS  
 18          BEFORE AGE 62.—Subparagraph (C) 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 62”.

22          (3) LIMIT INCREASED WHEN BENEFIT BEGINS  
 23          AFTER AGE 65.—Subparagraph (D) of section  
 24          415(b)(2) is amended by striking “the social security

retirement age” each place it appears in the heading and text and inserting “age 65”.

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

(A) by striking “\$90,000” in paragraph (1)(A) and inserting “\$160,000”; and

(B) in paragraph (3)(A)—

(i) by striking “\$90,000” in the heading and inserting “\$160,000”; and

(ii) by striking “October 1, 1986” and inserting “July 1, 2000”.

(5) CONFORMING AMENDMENT.—Section 415(b)(2) is amended by striking subparagraph (F).

(b) DEFINED CONTRIBUTION PLANS.—

(1) DOLLAR LIMIT.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking “\$30,000” and inserting “\$40,000”.

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

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

(B) in paragraph (3)(D)—

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

3 (ii) by striking “October 1, 1993” and  
 4 inserting “July 1, 2000”.

5 (c) QUALIFIED TRUSTS.—

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

10 (2) BASE PERIOD AND ROUNDING OF COST-OF-  
 11 LIVING ADJUSTMENT.—Subparagraph (B) of section  
 12 401(a)(17) is amended—

13 (A) by striking “October 1, 1993” and in-  
 14 serting “July 1, 2000”; and

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

17 (d) ELECTIVE DEFERRALS.—

18 (1) IN GENERAL.—Paragraph (1) of section  
 19 402(g) (relating to limitation on exclusion for elec-  
 20 tive deferrals) is amended to read as follows:

21 “(1) IN GENERAL.—

22 “(A) LIMITATION.—Notwithstanding sub-  
 23 sections (e)(3) and (h)(1)(B), the elective defer-  
 24 rals of any individual for any taxable year shall  
 25 be included in such individual’s gross income to

1 the extent the amount of such deferrals for the  
 2 taxable year exceeds the applicable dollar  
 3 amount.

4 “(B) APPLICABLE DOLLAR AMOUNT.—For  
 5 purposes of subparagraph (A), the applicable  
 6 dollar amount shall be the amount determined  
 7 in accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2001 .....	\$11,000
2002 .....	\$12,000
2003 .....	\$13,000
2004 or thereafter .....	\$14,000.”.

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

10 “(5) COST-OF-LIVING ADJUSTMENT.—In the  
 11 case of taxable years beginning after December 31,  
 12 2004, the Secretary shall adjust the \$14,000  
 13 amount under paragraph (1)(B) at the same time  
 14 and in the same manner as under section 415(d),  
 15 except that the base period shall be the calendar  
 16 quarter beginning July 1, 2003, and any increase  
 17 under this paragraph which is not a multiple of  
 18 \$500 shall be rounded to the next lowest multiple of  
 19 \$500.”.

20 (3) CONFORMING AMENDMENTS.—

21 (A) Section 402(g) (relating to limitation  
 22 on exclusion for elective deferrals), as amended

1 by paragraphs (1) and (2), is further amended  
 2 by striking paragraph (4) and redesignating  
 3 paragraphs (5), (6), (7), (8), and (9) as para-  
 4 graphs (4), (5), (6), (7), and (8), respectively.

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

8 (C) Clause (iii) of section 501(c)(18)(D) is  
 9 amended by striking “(other than paragraph  
 10 (4) thereof)”.

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

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

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

20 (B) in subsection (b)(3)(A) by striking  
 21 “\$15,000” and inserting “twice the dollar  
 22 amount in effect under subsection (b)(2)(A)”.

23 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-  
 24 LIVING ADJUSTMENT.—Paragraph (15) of section  
 25 457(e) is amended to read as follows:

1 “(15) APPLICABLE DOLLAR AMOUNT.—

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

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2001 .....	\$11,000
2002 .....	\$12,000
2003 .....	\$13,000
2004 or thereafter .....	\$14,000.

5 “(B) COST-OF-LIVING ADJUSTMENTS.—In  
6 the case of taxable years beginning after De-  
7 cember 31, 2004, the Secretary shall adjust the  
8 \$14,000 amount specified in the table in sub-  
9 paragraph (A) at the same time and in the  
10 same manner as under section 415(d), except  
11 that the base period shall be the calendar quar-  
12 ter beginning July 1, 2003, and any increase  
13 under this paragraph which is not a multiple of  
14 \$500 shall be rounded to the next lowest mul-  
15 tiple of \$500.”.

16 (f) SIMPLE RETIREMENT ACCOUNTS.—

17 (1) LIMITATION.—Clause (ii) of section  
18 408(p)(2)(A) (relating to general rule for qualified  
19 salary reduction arrangement) is amended by strik-  
20 ing “\$6,000” and inserting “the applicable dollar  
21 amount”.



(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of 408(p)(2) is amended to read as follows:

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

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

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2001 .....	\$7,000
2002 .....	\$8,000
2003 .....	\$9,000
2004 or thereafter .....	\$10,000.

“(ii) COST-OF-LIVING ADJUSTMENT.—

In the case of a year beginning after December 31, 2004, the Secretary shall adjust the \$10,000 amount under clause (i) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter beginning July 1, 2003, and any increase under this subparagraph which is not a multiple of \$500 shall be rounded to the next lower multiple of \$500.”.

(3) CONFORMING AMENDMENTS.—

1 (A) Clause (I) of section 401(k)(11)(B)(i)  
2 is amended by striking “\$6,000” and inserting  
3 “the amount in effect under section  
4 408(p)(2)(A)(ii)”.

5 (B) Section 401(k)(11) is amended by  
6 striking subparagraph (E).

7 (g) ROUNDING RULE RELATING TO DEFINED BEN-  
8 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—  
9 Paragraph (4) of section 415(d) is amended to read as  
10 follows:

11 “(4) ROUNDING.—

12 “(A) \$160,000 AMOUNT.—Any increase  
13 under subparagraph (A) of paragraph (1) which  
14 is not a multiple of \$5,000 shall be rounded to  
15 the next lowest multiple of \$5,000.

16 “(B) \$40,000 AMOUNT.—Any increase  
17 under subparagraph (C) of paragraph (1) which  
18 is not a multiple of \$1,000 shall be rounded to  
19 the next lowest multiple of \$1,000.”.

20 (h) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to years beginning after December  
22 31, 2000.

1 **SEC. 202. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**  
 2 **NERS, AND SOLE PROPRIETORS.**

3 (a) AMENDMENT TO 1986 CODE.—Subparagraph  
 4 (B) of section 4975(f)(6) (relating to exemptions not to  
 5 apply to certain transactions) is amended by adding at the  
 6 end the following new clause:

7 “(iii) LOAN EXCEPTION.—For pur-  
 8 poses of subparagraph (A)(i), the term  
 9 ‘owner-employee’ shall only include a per-  
 10 son described in subclause (II) or (III) of  
 11 clause (i).”.

12 (b) EFFECTIVE DATE.—The amendment made by  
 13 this section shall apply to loans made after December 31,  
 14 2000.

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

16 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-  
 17 PLOYEE.—

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

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

22 (B) by striking clause (i) and inserting the  
 23 following:

24 “(i) an officer of the employer having  
 25 an annual compensation greater than  
 26 \$150,000,”;

1 (C) by striking clause (ii) and redesignig-  
 2 nating clauses (iii) and (iv) as clauses (ii) and  
 3 (iii), respectively; and

4 (D) by striking the second sentence in the  
 5 matter following clause (iii), as redesignated by  
 6 subparagraph (C).

7 (2) CONFORMING AMENDMENT.—Section  
 8 416(i)(1)(B)(iii) is amended by striking “and sub-  
 9 paragraph (A)(ii)”.

10 (b) MATCHING CONTRIBUTIONS TAKEN INTO AC-  
 11 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—  
 12 Section 416(c)(2)(A) (relating to defined contribution  
 13 plans) is amended by adding at the end the following:  
 14 “Employer matching contributions (as defined in section  
 15 401(m)(4)(A)) shall be taken into account for purposes  
 16 of this subparagraph.”.

17 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE  
 18 DETERMINATION DATE TAKEN INTO ACCOUNT.—

19 (1) IN GENERAL.—Paragraph (3) of section  
 20 416(g) is amended to read as follows:

21 “(3) DISTRIBUTIONS DURING LAST YEAR BE-  
 22 FORE DETERMINATION DATE TAKEN INTO AC-  
 23 COUNT.—

24 “(A) IN GENERAL.—For purposes of  
 25 determining—

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

3 “(ii) the amount of the account of any  
 4 employee,

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

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

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

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

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

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

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

12 “(i) a cash or deferred arrangement  
 13 which meets the requirements of section  
 14 401(k)(12), and

15 “(ii) matching contributions with re-  
 16 spect to which the requirements of section  
 17 401(m)(11) are met.

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

1 (e) FROZEN PLAN EXEMPT FROM MINIMUM BEN-  
 2 EFIT REQUIREMENT.—Subparagraph (C) of section  
 3 416(c)(1) (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  
 9 employee’s years of service with the em-  
 10 ployer, any service with the employer shall  
 11 be disregarded to the extent that such  
 12 service occurs during a plan year when the  
 13 plan benefits (within the meaning of sec-  
 14 tion 410(b)) no employee or former em-  
 15 ployee.”.

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

19 “(iv) FAMILY ATTRIBUTION DIS-  
 20 REGARDED.—Solely for purposes of apply-  
 21 ing this paragraph (and not for purposes  
 22 of any provision of this title which incor-  
 23 porates by reference the definition of a key  
 24 employee or 5-percent owner under this  
 25 paragraph), section 318 shall be applied

1 without regard to subsection (a)(1) thereof  
2 in determining whether any person is a 5-  
3 percent owner.”.

4 (g) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to years beginning after December  
6 31, 2000.

7 **SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**  
8 **COUNT FOR PURPOSES OF DEDUCTION LIM-**  
9 **ITS.**

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

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

22 (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall apply to years beginning after December  
24 31, 2000.



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

5 (a) IN GENERAL.—Subsection (c) of section 457 (re-  
6 lating to deferred compensation plans of State and local  
7 governments and tax-exempt organizations), as amended  
8 by section 211, is amended to read as follows:

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

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply to years beginning after Decem-  
17 ber 31, 2000.

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

20 (a) ELIMINATION OF CERTAIN USER FEES.—The  
21 Secretary of the Treasury or the Secretary’s delegate shall  
22 not require payment of user fees under the program estab-  
23 lished under section 7527 of the Internal Revenue Code  
24 of 1986 for requests to the Internal Revenue Service for  
25 determination letters with respect to the qualified status  
26 of a pension benefit plan maintained solely by one or more

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

2 The preceding sentence shall not apply to any request—

3 (1) made after the fifth plan year the pension

4 benefit plan is in existence; or

5 (2) made by the sponsor of any prototype or

6 similar plan which the sponsor intends to market to

7 participating employers.

8 (b) PENSION BENEFIT PLAN.—For purposes of this

9 section, the term “pension benefit plan” means a pension,

10 profit-sharing, stock bonus, annuity, or employee stock

11 ownership plan.

12 (c) ELIGIBLE EMPLOYER.—For purposes of this sec-

13 tion, the term “eligible employer” has the same meaning

14 given such term in section 408(p)(2)(C)(i)(I) of the Inter-

15 nal Revenue Code of 1986. The determination of whether

16 an employer is an eligible employer under this section shall

17 be made as of the date of the request described in sub-

18 section (a).

19 (d) EFFECTIVE DATE.—The provisions of this sec-

20 tion shall apply with respect to requests made after De-

21 cember 31, 2000.

22 **SEC. 207. DEDUCTION LIMITS.**

23 (a) IN GENERAL.—Section 404(a) (relating to gen-

24 eral rule) is amended by adding at the end the following:

1           “(12) DEFINITION OF COMPENSATION.—For  
 2           purposes of paragraphs (3), (7), (8), and (9), the  
 3           term ‘compensation’ shall include amounts treated  
 4           as participant’s compensation under subparagraph  
 5           (C) or (D) of section 415(c)(3).”.

6           (b) CONFORMING AMENDMENT.—Subparagraph (B)  
 7           of section 404(a)(3) is amended by striking the last sen-  
 8           tence thereof.

9           (c) EFFECTIVE DATE.—The amendments made by  
 10          this section shall apply to years beginning after December  
 11          31, 2000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24               “(3) ROLLOVER CONTRIBUTIONS.—

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

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

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

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

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

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

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

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

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

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

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

20           “(C) DISTRIBUTIONS OF EXCESS DEFER-  
21           RALS AND EARNINGS.—The term ‘qualified dis-  
22           tribution’ shall not include any distribution of  
23           any excess deferral under section 402(g)(2) and  
24           any income on the excess deferral.

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

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

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

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

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

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

18       (b) EXCESS DEFERRALS.—Section 402(g) (relating  
19 to limitation on exclusion for elective deferrals) is  
20 amended—

21           (1) by adding at the end of paragraph (1) the  
22       following new sentence: “The preceding sentence  
23       shall not apply to so much of such excess as does  
24       not exceed the designated plus contributions of the  
25       individual for the taxable year.”; and



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

4           (c) ROLLOVERS.—Subparagraph (B) of section  
5 402(c)(8) is amended by adding at the end the following:

6           “If any portion of an eligible rollover distribu-  
7           tion is attributable to payments or distributions  
8           from a designated plus account (as defined in  
9           section 402A), an eligible retirement plan with  
10          respect to such portion shall include only an-  
11          other designated plus account and a Roth  
12          IRA.”.

13          (d) REPORTING REQUIREMENTS.—

14           (1) W-2 INFORMATION.—Section 6051(a)(8) is  
15          amended by inserting “, including the amount of  
16          designated plus contributions (as defined in section  
17          402A)” before the comma at the end.

18           (2) INFORMATION.—Section 6047 is amended  
19          by redesignating subsection (f) as subsection (g) and  
20          by inserting after subsection (e) the following new  
21          subsection:

22          “(f) DESIGNATED PLUS CONTRIBUTIONS.—The Sec-  
23          retary shall require the plan administrator of each applica-  
24          ble retirement plan (as defined in section 402A) to make  
25          such returns and reports regarding designated plus con-

1 tributions (as so defined) to the Secretary, participants  
 2 and beneficiaries of the plan, and such other persons as  
 3 the Secretary may prescribe.”.

4 (e) CONFORMING AMENDMENTS.—

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

9 (2) The table of sections for subpart A of part  
 10 I of subchapter D of chapter 1 is amended by insert-  
 11 ing after the item relating to section 402 the fol-  
 12 lowing new item:

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

13 (f) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to taxable years beginning after  
 15 December 31, 2000.

## 16 **Subtitle B—Enhancing Fairness for** 17 **Women**

### 18 **SEC. 221. CATCHUP CONTRIBUTIONS FOR INDIVIDUALS** 19 **AGE 50 OR OVER.**

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

23 “(v) CATCHUP CONTRIBUTIONS FOR INDIVIDUALS  
 24 AGE 50 OR OVER.—

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

6           “(2) LIMITATION ON AMOUNT OF ADDITIONAL  
 7           DEFERRALS.—

8           “(A) IN GENERAL.—A plan shall not per-  
 9           mit additional elective deferrals under para-  
 10          graph (1) for any year in an amount greater  
 11          than the lesser of—

12                   “(i) the applicable percentage of the  
 13                   applicable dollar amount for such elective  
 14                   deferrals for such year, or

15                   “(ii) the excess (if any) of—

16                           “(I) the participant’s compensa-  
 17                           tion for the year, over

18                           “(II) any other elective deferrals  
 19                           of the participant for such year which  
 20                           are made without regard to this sub-  
 21                           section.

22           “(B) APPLICABLE PERCENTAGE.—For  
 23           purposes of this paragraph, the applicable per-  
 24           centage shall be determined in accordance with  
 25           the following table:

<b>“For taxable years beginning in:</b>	<b>The applicable percentage is:</b>
2001 .....	10 percent
2002 .....	20 percent
2003 .....	30 percent
2004 and thereafter .....	40 percent.

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  
9                           402(g), 402(h), 403(b), 404(a), 404(h),  
10                          408, 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  
17                          401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11),  
18                          401(k)(12), 401(m), 403(b)(12), 408(k),  
19                          408(p), 408B, 410(b), or 416 by reason of the  
20                          making of (or the right to make) such contribu-  
21                          tion.

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

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

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

13           “(5) OTHER DEFINITIONS AND RULES.—For  
14           purposes of this subsection—

15                   “(A) APPLICABLE DOLLAR AMOUNT.—The  
16                   term ‘applicable dollar amount’ means, with re-  
17                   spect to any year, the amount in effect under  
18                   section 402(g)(1)(B), 408(p)(2)(E)(i), or  
19                   457(e)(15)(A), whichever is applicable to an ap-  
20                   plicable employer plan, for such year.

21                   “(B) APPLICABLE EMPLOYER PLAN.—The  
22                   term ‘applicable employer plan’ means—

23                           “(i) an employees’ trust described in  
24                           section 401(a) which is exempt from tax  
25                           under section 501(a),

1 “(ii) a plan under which amounts are  
 2 contributed by an individual’s employer for  
 3 an annuity contract described in section  
 4 403(b),

5 “(iii) an eligible deferred compensa-  
 6 tion plan under section 457 of an eligible  
 7 employer as defined in section  
 8 457(e)(1)(A), and

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

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

14 “(D) EXCEPTION FOR SECTION 457  
 15 PLANS.—This subsection shall not apply to an  
 16 applicable employer plan described in subpara-  
 17 graph (B)(iii) for any year to which section  
 18 457(b)(3) applies.”.

19 (b) EFFECTIVE DATE.—The amendment made by  
 20 this section shall apply to contributions in taxable years  
 21 beginning after December 31, 2000.

22 **SEC. 222. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**  
 23 **EMPLOYEES TO DEFINED CONTRIBUTION**  
 24 **PLANS.**

25 (a) EQUITABLE TREATMENT.—

1           (1) IN GENERAL.—Subparagraph (B) of section  
 2           415(c)(1) (relating to limitation for defined con-  
 3           tribution plans) is amended by striking “25 percent”  
 4           and inserting “100 percent”.

5           (2) APPLICATION TO SECTION 403(b).—Section  
 6           403(b) is amended—

7                   (A) by striking “the exclusion allowance  
 8                   for such taxable year” in paragraph (1) and in-  
 9                   serting “the applicable limit under section  
 10                  415”;

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

12                  (C) by inserting “or any amount received  
 13                  by a former employee after the fifth taxable  
 14                  year following the taxable year in which such  
 15                  employee was terminated” before the period at  
 16                  the end of the second sentence of paragraph  
 17                  (3).

18           (3) CONFORMING AMENDMENTS.—

19                   (A) Subsection (f) of section 72 is amend-  
 20                   ed by striking “section 403(b)(2)(D)(iii))” and  
 21                   inserting “section 403(b)(2)(D)(iii), as in effect  
 22                   before the enactment of the Small Business Tax  
 23                   Fairness Act of 2001)”.

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

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

8 (D) Section 415(c)(3) is amended by add-  
 9 ing at the end the following new subparagraph:

10 “(E) ANNUITY CONTRACTS.—In the case  
 11 of an annuity contract described in section  
 12 403(b), the term ‘participant’s compensation’  
 13 means the participant’s includible compensation  
 14 determined under section 403(b)(3).”.

15 (E) Section 415(c) is amended by striking  
 16 paragraph (4).

17 (F) Section 415(c)(7) is amended to read  
 18 as follows:

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

21 “(A) IN GENERAL.—Notwithstanding any  
 22 other provision of this subsection, at the elec-  
 23 tion of a participant who is an employee of a  
 24 church or a convention or association of church-  
 25 es, including an organization described in sec-



tion 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of \$10,000.

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

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

(G) Subparagraph (B) of section 402(g)(7) (as redesignated by section 211) is amended by inserting before the period at the end the following: “(as in effect before the enactment of the Small Business Tax Fairness Act of 2001)”.

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

4       (b) SPECIAL RULES FOR SECTIONS 403(b) AND  
5       408.—

6           (1) IN GENERAL.—Subsection (k) of section  
7       415 is amended by adding at the end the following  
8       new paragraph:

9           “(4) SPECIAL RULES FOR SECTIONS 403(b) AND  
10       408.—For purposes of this section, any annuity con-  
11       tract described in section 403(b) for the benefit of  
12       a participant shall be treated as a defined contribu-  
13       tion plan maintained by each employer with respect  
14       to which the participant has the control required  
15       under subsection (b) or (c) of section 414 (as modi-  
16       fied by subsection (h)). For purposes of this section,  
17       any contribution by an employer to a simplified em-  
18       ployee pension plan for an individual for a taxable  
19       year shall be treated as an employer contribution to  
20       a defined contribution plan for such individual for  
21       such year.”.

22       (2) EFFECTIVE DATE.—

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

1 (B) EXCLUSION ALLOWANCE.—Effective  
2 for limitation years beginning in 2000, in the  
3 case of any annuity contract described in sec-  
4 tion 403(b) of the Internal Revenue Code of  
5 1986, the amount of the contribution disquali-  
6 fied by reason of section 415(g) of such Code  
7 shall reduce the exclusion allowance as provided  
8 in section 403(b)(2) of such Code.

9 (3) MODIFICATION OF 403(b) EXCLUSION AL-  
10 LOWANCE TO CONFORM TO 415 MODIFICATION.—The  
11 Secretary of the Treasury shall modify the regula-  
12 tions regarding the exclusion allowance under section  
13 403(b)(2) of the Internal Revenue Code of 1986 to  
14 render void the requirement that contributions to a  
15 defined benefit pension plan be treated as previously  
16 excluded amounts for purposes of the exclusion al-  
17 lowance. For taxable years beginning after Decem-  
18 ber 31, 1999, such regulations shall be applied as if  
19 such requirement were void.

20 (c) DEFERRED COMPENSATION PLANS OF STATE  
21 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-  
22 ZATIONS.—

23 (1) IN GENERAL.—Subparagraph (B) of section  
24 457(b)(2) (relating to salary limitation on eligible

1 deferred compensation plans) is amended by striking  
 2 “33 $\frac{1}{3}$  percent” and inserting “100 percent”.

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

6 **SEC. 223. FASTER VESTING OF CERTAIN EMPLOYER**  
 7 **MATCHING CONTRIBUTIONS.**

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

10 (1) in paragraph (2), by striking “A plan” and  
 11 inserting “Except as provided in paragraph (12), a  
 12 plan”; and

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

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

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

20 “(B) by substituting the following table for  
 21 the table contained in subparagraph (B):

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

22 (b) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the amendments made by this section  
3           shall apply to contributions for plan years beginning  
4           after December 31, 2000.

5           (2) COLLECTIVE BARGAINING AGREEMENTS.—  
6           In the case of a plan maintained pursuant to one or  
7           more collective bargaining agreements between em-  
8           ployee representatives and one or more employers  
9           ratified by the date of the enactment of this Act, the  
10          amendments made by this section shall not apply to  
11          contributions on behalf of employees covered by any  
12          such agreement for plan years beginning before the  
13          earlier of—

14                 (A) the later of—

15                         (i) the date on which the last of such  
16                         collective bargaining agreements termi-  
17                         nates (determined without regard to any  
18                         extension thereof on or after such date of  
19                         the enactment); or

20                         (ii) January 1, 2001; or

21                 (B) January 1, 2005.

22          (3) SERVICE REQUIRED.—With respect to any  
23          plan, the amendments made by this section shall not  
24          apply to any employee before the date that such em-  
25          ployee has 1 hour of service under such plan in any

1 plan year to which the amendments made by this  
 2 section apply.

3 **SEC. 224. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**  
 4

5 (a) SIMPLIFICATION AND FINALIZATION OF MIN-  
 6 IMUM DISTRIBUTION REQUIREMENTS.—

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

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

14 (B) modify such regulations to—

15 (i) reflect current life expectancy; and

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

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

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

5               (3) EFFECTIVE DATE FOR REGULATIONS.—

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

11       (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD  
 12      BEGUN BEFORE DEATH OCCURS.—

13              (1) IN GENERAL.—Subparagraph (B) of section  
 14      401(a)(9) is amended by striking clause (i) and re-  
 15      designating clauses (ii), (iii), and (iv) as clauses (i),  
 16      (ii), and (iii), respectively.

17              (2) CONFORMING CHANGES.—

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

20                      (i) by striking “FOR OTHER CASES” in  
 21                      the heading; and

22                      (ii) by striking “the distribution of the  
 23                      employee’s interest has begun in accord-  
 24                      ance with subparagraph (A)(ii)” and in-

1           serting “his entire interest has been dis-  
2           tributed to him,”.

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

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

8                   (i) by striking “clause (iii)(I)” and in-  
9                   serting “clause (ii)(I)”;

10                   (ii) by striking “clause (iii)(III)” in  
11                   subclause (I) and inserting “clause  
12                   (ii)(III)”;

13                   (iii) by striking “the date on which  
14                   the employee would have attained the age  
15                   70½,” in subclause (I) and inserting  
16                   “April 1 of the calendar year following the  
17                   calendar year in which the spouse attains  
18                   70½,”; and

19                   (iv) by striking “the distributions to  
20                   such spouse begin,” in subclause (II) and  
21                   inserting “his entire interest has been dis-  
22                   tributed to him,”.

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



1 (c) REDUCTION IN EXCISE TAX.—

2 (1) IN GENERAL.—Subsection (a) of section  
3 4974 is amended by striking “50 percent” and in-  
4 serting “10 percent”.

5 (2) EFFECTIVE DATE.—The amendment made  
6 by this subsection shall apply to years beginning  
7 after December 31, 2000.

8 **SEC. 225. CLARIFICATION OF TAX TREATMENT OF DIVISION**  
9 **OF SECTION 457 PLAN BENEFITS UPON DI-**  
10 **VORCE.**

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

14 (1) by inserting “or an eligible deferred com-  
15 pensation plan (within the meaning of section  
16 457(b))” after “subsection (e))”; and

17 (2) in the heading, by striking “GOVERN-  
18 MENTAL AND CHURCH PLANS” and inserting “CER-  
19 TAIN OTHER PLANS”.

20 (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-  
21 MENTS.—Paragraph (10) of section 414(p) is amended by  
22 striking “and section 409(d)” and inserting “section  
23 409(d), and section 457(d)”.

24 (c) TAX TREATMENT OF PAYMENTS FROM A SEC-  
25 TION 457 PLAN.—Subsection (p) of section 414 is amend-

1 ed by redesignating paragraph (12) as paragraph (13) and  
 2 inserting after paragraph (11) the following new para-  
 3 graph:

4           “(12) TAX TREATMENT OF PAYMENTS FROM A  
 5       SECTION 457 PLAN.—If a distribution or payment  
 6       from an eligible deferred compensation plan de-  
 7       scribed in section 457(b) is made pursuant to a  
 8       qualified domestic relations order, rules similar to  
 9       the rules of section 402(e)(1)(A) shall apply to such  
 10      distribution or payment.”.

11      (d) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to transfers, distributions, and  
 13 payments made after December 31, 2000.

14 **SEC. 226. MODIFICATION OF SAFE HARBOR RELIEF FOR**  
 15                   **HARDSHIP WITHDRAWALS FROM CASH OR**  
 16                   **DEFERRED ARRANGEMENTS.**

17      (a) IN GENERAL.—The Secretary of the Treasury  
 18 shall revise the regulations relating to hardship distribu-  
 19 tions under section 401(k)(2)(B)(i)(IV) of the Internal  
 20 Revenue Code of 1986 to provide that the period an em-  
 21 ployee is prohibited from making elective and employee  
 22 contributions in order for a distribution to be deemed nec-  
 23 essary to satisfy financial need shall be equal to 6 months.

1 (b) EFFECTIVE DATE.—The revised regulations  
 2 under subsection (a) shall apply to years beginning after  
 3 December 31, 2000.

4 **Subtitle C—Increasing Portability**  
 5 **for Participants**

6 **SEC. 231. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**  
 7 **OF PLANS.**

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

10 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

14 “(16) ROLLOVER AMOUNTS.—

15 “(A) GENERAL RULE.—In the case of an  
 16 eligible deferred compensation plan established  
 17 and maintained by an employer described in  
 18 subsection (e)(1)(A), if—

19 “(i) any portion of the balance to the  
 20 credit of an employee in such plan is paid  
 21 to such employee in an eligible rollover dis-  
 22 tribution (within the meaning of section  
 23 402(c)(4) without regard to subparagraph  
 24 (C) thereof),

1 “(ii) the employee transfers any por-  
2 tion of the property such employee receives  
3 in such distribution to an eligible retire-  
4 ment plan described in section  
5 402(c)(8)(B), and

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

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

13 “(B) CERTAIN RULES MADE APPLICA-  
14 BLE.—The rules of paragraphs (2) through (7)  
15 (other than paragraph (4)(C)) and (9) of sec-  
16 tion 402(c) and section 402(f) shall apply for  
17 purposes of subparagraph (A).

18 “(C) REPORTING.—Rollovers under this  
19 paragraph shall be reported to the Secretary in  
20 the same manner as rollovers from qualified re-  
21 tirement plans (as defined in section  
22 4974(c)).”.

23 (B) DEFERRAL LIMIT DETERMINED WITH-  
24 OUT REGARD TO ROLLOVER AMOUNTS.—Section  
25 457(b)(2) (defining eligible deferred compensa-

tion plan) is amended by inserting “(other than rollover amounts)” after “taxable year”.

(C) DIRECT ROLLOVER.—Paragraph (1) of section 457(d) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by inserting after subparagraph (B) the following:

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

Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of transfer.”.

(D) WITHHOLDING.—

(i) Paragraph (12) of section 3401(a) is amended by adding at the end the following:

“(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) maintained by an employer described in section 457(e)(1)(A); or”.

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

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

7 (iii) LIABILITY FOR WITHHOLDING.—  
8 Subparagraph (B) of section 3405(d)(2) is  
9 amended by striking “or” at the end of  
10 clause (ii), by striking the period at the  
11 end of clause (iii) and inserting “, or”, and  
12 by adding at the end the following:

13 “(iv) section 457(b).”.

14 (2) ROLLOVERS TO SECTION 457 PLANS.—

15 (A) IN GENERAL.—Section 402(c)(8)(B)  
16 (defining eligible retirement plan) is amended  
17 by striking “and” at the end of clause (iii), by  
18 striking the period at the end of clause (iv) and  
19 inserting “, and”, and by inserting after clause  
20 (iv) the following new clause:

21 “(v) an eligible deferred compensation  
22 plan described in section 457(b) of an em-  
23 ployer described in section 457(e)(1)(A).”.

1 (B) SEPARATE ACCOUNTING.—Section  
2 402(c) is amended by adding at the end the fol-  
3 lowing new paragraph:

4 “(11) SEPARATE ACCOUNTING.—Unless a plan  
5 described in clause (v) of paragraph (8)(B) agrees to  
6 separately account for amounts rolled into such plan  
7 from eligible retirement plans not described in such  
8 clause, the plan described in such clause may not ac-  
9 cept transfers or rollovers from such retirement  
10 plans.”.

11 (C) 10 PERCENT ADDITIONAL TAX.—Sub-  
12 section (t) of section 72 (relating to 10-percent  
13 additional tax on early distributions from quali-  
14 fied retirement plans) is amended by adding at  
15 the end the following new paragraph:

16 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-  
17 TION 457 PLANS.—For purposes of this subsection,  
18 a distribution from an eligible deferred compensation  
19 plan (as defined in section 457(b)) of an employer  
20 described in section 457(e)(1)(A) shall be treated as  
21 a distribution from a qualified retirement plan de-  
22 scribed in 4974(c)(1) to the extent that such dis-  
23 tribution is attributable to an amount transferred to  
24 an eligible deferred compensation plan from a quali-

1       fied retirement plan (as defined in section  
2       4974(c)).”.

3       (b) ALLOWANCE OF ROLLOVERS FROM AND TO  
4       403(b) PLANS.—

5               (1) ROLLOVERS FROM SECTION 403(b)  
6       PLANS.—Section 403(b)(8)(A)(ii) (relating to roll-  
7       over amounts) is amended by striking “such dis-  
8       tribution” and all that follows and inserting “such  
9       distribution to an eligible retirement plan described  
10      in section 402(c)(8)(B), and”.

11              (2) ROLLOVERS TO SECTION 403(b) PLANS.—  
12      Section 402(c)(8)(B) (defining eligible retirement  
13      plan), as amended by subsection (a), is amended by  
14      striking “and” at the end of clause (iv), by striking  
15      the period at the end of clause (v) and inserting “,  
16      and”, and by inserting after clause (v) the following  
17      new clause:

18                               “(vi) an annuity contract described in  
19                               section 403(b).”.

20       (c) EXPANDED EXPLANATION TO RECIPIENTS OF  
21      ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section  
22      402(f) (relating to written explanation to recipients of dis-  
23      tributions eligible for rollover treatment) is amended by  
24      striking “and” at the end of subparagraph (C), by striking  
25      the period at the end of subparagraph (D) and inserting



1 “, and”, and by adding at the end the following new sub-  
 2 paragraph:

3 “(E) of the provisions under which dis-  
 4 tributions from the eligible retirement plan re-  
 5 ceiving the distribution may be subject to re-  
 6 strictions and tax consequences which are dif-  
 7 ferent from those applicable to distributions  
 8 from the plan making such distribution.”.

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

13 (e) CONFORMING AMENDMENTS.—

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

17 (2) Section 219(d)(2) is amended by striking  
 18 “or 408(d)(3)” and inserting “408(d)(3), or  
 19 457(e)(16)”.

20 (3) Section 401(a)(31)(B) is amended by strik-  
 21 ing “and 403(a)(4)” and inserting “, 403(a)(4),  
 22 403(b)(8), and 457(e)(16)”.

23 (4) Subparagraph (A) of section 402(f)(2) is  
 24 amended by striking “or paragraph (4) of section  
 25 403(a)” and inserting “, paragraph (4) of section

1       403(a), subparagraph (A) of section 403(b)(8), or  
2       subparagraph (A) of section 457(e)(16)”.  
3

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

6       (6) Subparagraphs (A) and (B) of section  
7       402(f)(1) are amended by striking “another eligible  
8       retirement plan” and inserting “an eligible retire-  
9       ment plan”.

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

12               “(B) CERTAIN RULES MADE APPLICA-  
13               BLE.—The rules of paragraphs (2) through (7)  
14               and (9) of section 402(c) and section 402(f)  
15               shall apply for purposes of subparagraph (A),  
16               except that section 402(f) shall be applied to  
17               the payor in lieu of the plan administrator.”.

18       (8) Section 408(a)(1) is amended by striking  
19       “or 403(b)(8)” and inserting “, 403(b)(8), or  
20       457(e)(16)”.

21       (9) Subparagraphs (A) and (B) of section  
22       415(b)(2) are each amended by striking “and  
23       408(d)(3)” and inserting “403(b)(8), 408(d)(3), and  
24       457(e)(16)”.

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

4           (11) Section 4973(b)(1)(A) is amended by  
5           striking “or 408(d)(3)” and inserting “408(d)(3), or  
6           457(e)(16)”.

7           (f) EFFECTIVE DATE; SPECIAL RULE.—

8           (1) EFFECTIVE DATE.—The amendments made  
9           by this section shall apply to distributions after De-  
10          cember 31, 2000.

11          (2) SPECIAL RULE.—Notwithstanding any other  
12          provision of law, subsections (h)(3) and (h)(5) of  
13          section 1122 of the Tax Reform Act of 1986 shall  
14          not apply to any distribution from an eligible retire-  
15          ment plan (as defined in clause (iii) or (iv) of section  
16          402(c)(8)(B) of the Internal Revenue Code of 1986)  
17          on behalf of an individual if there was a rollover to  
18          such plan on behalf of such individual which is per-  
19          mitted solely by reason of any amendment made by  
20          this section.

21   **SEC. 232. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**  
22                           **MENT PLANS.**

23          (a) IN GENERAL.—Subparagraph (A) of section  
24          408(d)(3) (relating to rollover amounts) is amended by

1 adding “or” at the end of clause (i), by striking clauses  
2 (ii) and (iii), and by adding at the end the following:

3 “(ii) the entire amount received (in-  
4 cluding money and any other property) is  
5 paid into an eligible retirement plan for  
6 the benefit of such individual not later  
7 than the 60th day after the date on which  
8 the payment or distribution is received, ex-  
9 cept that the maximum amount which may  
10 be paid into such plan may not exceed the  
11 portion of the amount received which is in-  
12 cludible in gross income (determined with-  
13 out regard to this paragraph).

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

18 (b) CONFORMING AMENDMENTS.—

19 (1) Paragraph (1) of section 403(b) is amended  
20 by striking “section 408(d)(3)(A)(iii)” and inserting  
21 “section 408(d)(3)(A)(ii)”.

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

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

3           “(G) SIMPLE RETIREMENT ACCOUNTS.—In  
4       the case of any payment or distribution out of  
5       a simple retirement account (as defined in sub-  
6       section (p)) to which section 72(t)(6) applies,  
7       this paragraph shall not apply unless such pay-  
8       ment or distribution is paid into another simple  
9       retirement account.”.

10       (c) EFFECTIVE DATE; SPECIAL RULE.—

11           (1) EFFECTIVE DATE.—The amendments made  
12       by this section shall apply to distributions after De-  
13       cember 31, 2000.

14           (2) SPECIAL RULE.—Notwithstanding any other  
15       provision of law, subsections (h)(3) and (h)(5) of  
16       section 1122 of the Tax Reform Act of 1986 shall  
17       not apply to any distribution from an eligible retire-  
18       ment plan (as defined in clause (iii) or (iv) of section  
19       402(c)(8)(B) of the Internal Revenue Code of 1986)  
20       on behalf of an individual if there was a rollover to  
21       such plan on behalf of such individual which is per-  
22       mitted solely by reason of the amendments made by  
23       this section.

1 **SEC. 233. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

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

7 “(A) such portion is transferred in a direct  
8 trustee-to-trustee transfer to a qualified trust  
9 which is part of a plan which is a defined con-  
10 tribution plan and which agrees to separately  
11 account for amounts so transferred, including  
12 separately accounting for the portion of such  
13 distribution which is includible in gross income  
14 and the portion of such distribution which is  
15 not so includible, or

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

19 (b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE  
20 ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of sec-  
21 tion 401(a)(31) (relating to limitation) is amended by add-  
22 ing at the end the following: “The preceding sentence shall  
23 not apply to such distribution if the plan to which such  
24 distribution is transferred—

25 “(i) agrees to separately account for  
26 amounts so transferred, including sepa-

1           rately accounting for the portion of such  
 2           distribution which is includible in gross in-  
 3           come and the portion of such distribution  
 4           which is not so includible, or

5           “(ii) is an eligible retirement plan de-  
 6           scribed in clause (i) or (ii) of section  
 7           402(c)(8)(B).”.

8           (c) RULES FOR APPLYING SECTION 72 TO IRAS.—

9           Paragraph (3) of section 408(d) (relating to special rules  
 10          for applying section 72) is amended by inserting at the  
 11          end the following:

12           “(H) APPLICATION OF SECTION 72.—

13           “(i) IN GENERAL.—If—

14           “(I) a distribution is made from  
 15           an individual retirement plan, and

16           “(II) a rollover contribution is  
 17           made to an eligible retirement plan  
 18           described in section 402(c)(8)(B)(iii),  
 19           (iv), (v), or (vi) with respect to all or  
 20           part of such distribution,

21          then, notwithstanding paragraph (2), the  
 22          rules of clause (ii) shall apply for purposes  
 23          of applying section 72.

1                   “(ii) APPLICABLE RULES.—In the  
2                   case of a distribution described in clause  
3                   (i)—

4                   “(I) section 72 shall be applied  
5                   separately to such distribution,

6                   “(II) notwithstanding the pro  
7                   rata allocation of income on, and in-  
8                   vestment in, the contract to distribu-  
9                   tions under section 72, the portion of  
10                  such distribution rolled over to an eli-  
11                  gible retirement plan described in  
12                  clause (i) shall be treated as from in-  
13                  come on the contract (to the extent of  
14                  the aggregate income on the contract  
15                  from all individual retirement plans of  
16                  the distributee), and

17                  “(III) appropriate adjustments  
18                  shall be made in applying section 72  
19                  to other distributions in such taxable  
20                  year and subsequent taxable years.”.

21           (d) EFFECTIVE DATE.—The amendments made by  
22           this section shall apply to distributions made after Decem-  
23           ber 31, 2000.



1 **SEC. 234. HARDSHIP EXCEPTION TO 60-DAY RULE.**

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

5 “(3) TRANSFER MUST BE MADE WITHIN 60  
6 DAYS OF RECEIPT.—

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

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

20 (b) IRAS.—Paragraph (3) of section 408(d) (relating  
21 to rollover contributions), as amended by section 233, is  
22 amended by adding after subparagraph (H) the following  
23 new subparagraph:

24 “(I) WAIVER OF 60-DAY REQUIREMENT.—  
25 The Secretary may waive the 60-day require-  
26 ment under subparagraphs (A) and (D) where

1 the failure to waive such requirement would be  
2 against equity or good conscience, including  
3 casualty, disaster, or other events beyond the  
4 reasonable control of the individual subject to  
5 such requirement.”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to distributions after December 31,  
8 2000.

9 **SEC. 235. TREATMENT OF FORMS OF DISTRIBUTION.**

10 (a) PLAN TRANSFERS.—

11 (1) AMENDMENT TO INTERNAL REVENUE CODE  
12 OF 1986.—Paragraph (6) of section 411(d) (relating  
13 to accrued benefit not to be decreased by amend-  
14 ment) is amended by adding at the end the fol-  
15 lowing:

16 “(D) PLAN TRANSFERS.—

17 “(i) A defined contribution plan (in  
18 this subparagraph referred to as the  
19 ‘transferee plan’) shall not be treated as  
20 failing to meet the requirements of this  
21 subsection merely because the transferee  
22 plan does not provide some or all of the  
23 forms of distribution previously available  
24 under another defined contribution plan

(in this subparagraph referred to as the ‘transferor plan’) to the extent that—

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

“(II) the terms of both the transferor plan and the transferee plan authorize the transfer described in subclause (I),

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

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

1           “(V) if the transferor plan pro-  
2           vides for an annuity as the normal  
3           form of distribution under the plan in  
4           accordance with section 417, the  
5           transfer is made with the consent of  
6           the participant’s spouse (if any), and  
7           such consent meets requirements simi-  
8           lar to the requirements imposed by  
9           section 417(a)(2), and

10           “(VI) the transferee plan allows  
11           the participant or beneficiary de-  
12           scribed in clause (iii) to receive any  
13           distribution to which the participant  
14           or beneficiary is entitled under the  
15           transferee plan in the form of a single  
16           sum distribution.

17           “(ii) Clause (i) shall apply to plan  
18           mergers and other transactions having the  
19           effect of a direct transfer, including con-  
20           solidations of benefits attributable to dif-  
21           ferent employers within a multiple em-  
22           ployer plan.

23           “(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regula-  
24           tions, a defined contribution plan shall not be  
25

1 treated as failing to meet the requirements of  
2 this section merely because of the elimination of  
3 a form of distribution previously available there-  
4 under. This subparagraph shall not apply to the  
5 elimination of a form of distribution with re-  
6 spect to any participant unless—

7 “(i) a single sum payment is available  
8 to such participant at the same time or  
9 times as the form of distribution being  
10 eliminated, and

11 “(ii) such single sum payment is  
12 based on the same or greater portion of  
13 the participant’s account as the form of  
14 distribution being eliminated.”.

15 (2) EFFECTIVE DATE.—The amendment made  
16 by this subsection shall apply to years beginning  
17 after December 31, 2000.

18 (b) REGULATIONS.—

19 (1) AMENDMENT TO INTERNAL REVENUE CODE  
20 OF 1986.—The last sentence of paragraph (6)(B) of  
21 section 411(d) (relating to accrued benefit not to be  
22 decreased by amendment) is amended to read as fol-  
23 lows: “The Secretary shall by regulations provide  
24 that this subparagraph shall not apply to any plan

1 amendment that does not adversely affect the rights  
2 of participants in a material manner.”.

3 (2) SECRETARY DIRECTED.—Not later than  
4 December 31, 2001, the Secretary of the Treasury  
5 is directed to issue final regulations under section  
6 411(d)(6) of the Internal Revenue Code of 1986, in-  
7 cluding the regulations required by the amendments  
8 made by this subsection. Such regulations shall  
9 apply to plan years beginning after December 31,  
10 2001, or such earlier date as is specified by the Sec-  
11 retary of the Treasury.

12 **SEC. 236. RATIONALIZATION OF RESTRICTIONS ON DIS-**  
13 **TRIBUTIONS.**

14 (a) MODIFICATION OF SAME DESK EXCEPTION.—

15 (1) SECTION 401(k).—

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

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

24 “(A) IN GENERAL.—An event described in  
25 this subparagraph is the termination of the

1 plan without establishment or maintenance of  
 2 another defined contribution plan (other than  
 3 an employee stock ownership plan as defined in  
 4 section 4975(e)(7)).”.

5 (C) Section 401(k)(10) is amended—

6 (i) in subparagraph (B)—

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

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

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

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

16 (2) SECTION 403(b).—

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

21 (B) The heading for paragraph (11) of  
 22 section 403(b) is amended by striking “SEPARA-  
 23 TION FROM SERVICE” and inserting “SEVER-  
 24 ANCE FROM EMPLOYMENT”.

1           (3) SECTION 457.—Clause (ii) of section  
 2           457(d)(1)(A) is amended by striking “is separated  
 3           from service” and inserting “has a severance from  
 4           employment”.

5           (b) EFFECTIVE DATE.—The amendments made by  
 6           this section shall apply to distributions after December 31,  
 7           2000.

8           **SEC. 237. PURCHASE OF SERVICE CREDIT IN GOVERN-**  
 9                                   **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

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

25          (b) 457 PLANS.—



1           (1) Subsection (e) of section 457 is amended by  
 2           adding after paragraph (16) the following new para-  
 3           graph:

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

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

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

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

20           (c) EFFECTIVE DATE.—The amendments made by  
 21           this section shall apply to trustee-to-trustee transfers after  
 22           December 31, 2000.

1 **SEC. 238. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**  
2 **PURPOSES OF CASH-OUT AMOUNTS.**

3 (a) QUALIFIED PLANS.—Section 411(a)(11) (relating  
4 to restrictions on certain mandatory distributions) is  
5 amended by adding at the end the following:

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

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

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to distributions after December 31,  
25 2000.

1 **SEC. 239. MINIMUM DISTRIBUTION AND INCLUSION RE-**  
 2 **QUIREMENTS FOR SECTION 457 PLANS.**

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

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

10 (b) INCLUSION IN GROSS INCOME.—

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

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

15 “(1) IN GENERAL.—Any amount of compensa-  
 16 tion deferred under an eligible deferred compensa-  
 17 tion plan, and any income attributable to the  
 18 amounts so deferred, shall be includible in gross in-  
 19 come only for the taxable year in which such com-  
 20 pensation or other income—

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

24 “(B) is paid or otherwise made available to  
 25 the participant or other beneficiary, in the case

1 of a plan of an eligible employer described in  
2 subsection (e)(1)(B).

3 “(2) SPECIAL RULE FOR ROLLOVER  
4 AMOUNTS.—To the extent provided in section  
5 72(t)(9), section 72(t) shall apply to any amount in-  
6 cludible in gross income under this subsection.”.

7 (2) CONFORMING AMENDMENTS.—

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

## **Subtitle D—Strengthening Pension Security and Enforcement**

### **SEC. 241. REPEAL OF 150 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.**

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 412(c)(7) (relating to full-funding limitation) is amended—

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

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

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

<b>“In the case of any plan year beginning in—</b>	<b>The applicable percentage is—</b>
2001 .....	160
2002 .....	165
2003 .....	170.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

1 **SEC. 242. MAXIMUM CONTRIBUTION DEDUCTION RULES**  
2 **MODIFIED AND APPLIED TO ALL DEFINED**  
3 **BENEFIT PLANS.**

4 (a) IN GENERAL.—Subparagraph (D) of section  
5 404(a)(1) (relating to special rule in case of certain plans)  
6 is amended to read as follows:

7 “(D) SPECIAL RULE IN CASE OF CERTAIN  
8 PLANS.—

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

19 “(ii) PLANS WITH LESS THAN 100  
20 PARTICIPANTS.—For purposes of this sub-  
21 paragraph, in the case of a plan which has  
22 less than 100 participants for the plan  
23 year, termination liability shall not include  
24 the liability attributable to benefit in-  
25 creases for highly compensated employees  
26 (as defined in section 414(q)) resulting

1 from a plan amendment which is made or  
2 becomes effective, whichever is later, within  
3 the last 2 years before the termination  
4 date.

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

15 “(iv) PLANS ESTABLISHED AND MAIN-  
16 TAIN BY PROFESSIONAL SERVICE EMPLOY-  
17 ERS.—Clause (i) shall not apply to a plan  
18 described in section 4021(b)(13) of the  
19 Employee Retirement Income Security Act  
20 of 1974.”.

21 (b) CONFORMING AMENDMENT.—Paragraph (6) of  
22 section 4972(c) is amended to read as follows:

23 “(6) EXCEPTIONS.—In determining the amount  
24 of nondeductible contributions for any taxable year,  
25 there shall not be taken into account so much of the

1 contributions to one or more defined contribution  
2 plans which are not deductible when contributed  
3 solely because of section 404(a)(7) as does not ex-  
4 ceed the greater of—

5 “(A) the amount of contributions not in  
6 excess of 6 percent of compensation (within the  
7 meaning of section 404(a)) paid or accrued  
8 (during the taxable year for which the contribu-  
9 tions were made) to beneficiaries under the  
10 plans, or

11 “(B) the sum of—

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

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

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

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to plan years beginning after De-  
22 cember 31, 2000.



1 **SEC. 243. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**  
2 **ING.**

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

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

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to years beginning after December  
23 31, 2000.

1 **SEC. 244. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**  
2 **DEFINED BENEFIT PLANS SIGNIFICANTLY**  
3 **REDUCING FUTURE BENEFIT ACCRUALS.**

4 (a) AMENDMENT TO 1986 CODE.—Chapter 43 (relat-  
5 ing to qualified pension, etc., plans) is amended by adding  
6 at the end the following new section:

7 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**  
8 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**  
9 **QUIREMENTS.**

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

14 “(b) AMOUNT OF TAX.—

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

20 “(2) NONCOMPLIANCE PERIOD.—For purposes  
21 of this section, the term ‘noncompliance period’  
22 means, with respect to any failure, the period begin-  
23 ning on the date the failure first occurs and ending  
24 on the date the failure is corrected.

25 “(c) LIMITATIONS ON AMOUNT OF TAX.—

1           “(1) OVERALL LIMITATION FOR UNINTEN-  
2           TIONAL FAILURES.—In the case of failures that are  
3           due to reasonable cause and not to willful neglect,  
4           the tax imposed by subsection (a) for failures during  
5           the taxable year of the employer (or, in the case of  
6           a multiemployer plan, the taxable year of the trust  
7           forming part of the plan) shall not exceed \$500,000.  
8           For purposes of the preceding sentence, all multiem-  
9           ployer plans of which the same trust forms a part  
10          shall be treated as one plan. For purposes of this  
11          paragraph, if not all persons who are treated as a  
12          single employer for purposes of this section have the  
13          same taxable year, the taxable years taken into ac-  
14          count shall be determined under principles similar to  
15          the principles of section 1561.

16          “(2) WAIVER BY SECRETARY.—In the case of a  
17          failure which is due to reasonable cause and not to  
18          willful neglect, the Secretary may waive part or all  
19          of the tax imposed by subsection (a) to the extent  
20          that the payment of such tax would be excessive rel-  
21          ative to the failure involved.

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

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

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

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

5           “(1) IN GENERAL.—If an applicable pension  
6           plan is amended to provide for a significant reduc-  
7           tion in the rate of future benefit accrual, the plan  
8           administrator shall provide written notice to each  
9           applicable individual (and to each employee organi-  
10          zation representing applicable individuals).

11          “(2) NOTICE.—The notice required by para-  
12          graph (1) shall be written in a manner calculated to  
13          be understood by the average plan participant and  
14          shall provide sufficient information (as determined  
15          in accordance with regulations prescribed by the  
16          Secretary) to allow applicable individuals to under-  
17          stand the effect of the plan amendment.

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

22          “(4) DESIGNEES.—Any notice under paragraph  
23          (1) may be provided to a person designated, in writ-  
24          ing, by the person to which it would otherwise be  
25          provided.

1           “(5) NOTICE BEFORE ADOPTION OF AMEND-  
 2           MENT.—A plan shall not be treated as failing to  
 3           meet the requirements of paragraph (1) merely be-  
 4           cause notice is provided before the adoption of the  
 5           plan amendment if no material modification of the  
 6           amendment occurs before the amendment is adopt-  
 7           ed.

8           “(f) APPLICABLE INDIVIDUAL; APPLICABLE PEN-  
 9           SION PLAN.—For purposes of this section—

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

13                   “(A) any participant in the plan, and

14                   “(B) any beneficiary who is an alternate  
 15                   payee (within the meaning of section 414(p)(8))  
 16                   under an applicable qualified domestic relations  
 17                   order (within the meaning of section  
 18                   414(p)(1)(A)),

19           who may reasonably be expected to be affected by  
 20           such plan amendment.

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

23                   “(A) any defined benefit plan, or

24                   “(B) an individual account plan which is  
 25                   subject to the funding standards of section 412,

1       which had 100 or more participants who had ac-  
 2       crued a benefit, or with respect to whom contribu-  
 3       tions were made, under the plan (whether or not  
 4       vested) as of the last day of the plan year preceding  
 5       the plan year in which the plan amendment becomes  
 6       effective. Such term shall not include a governmental  
 7       plan (within the meaning of section 414(d)) or a  
 8       church plan (within the meaning of section 414(e))  
 9       with respect to which the election provided by sec-  
 10      tion 410(d) has not been made.”.

11      (b) CLERICAL AMENDMENT.—The table of sections  
 12      for chapter 43 is amended by adding at the end the fol-  
 13      lowing new item:

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

14      (c) EFFECTIVE DATES.—

15           (1) IN GENERAL.—The amendments made by  
 16      this section shall apply to plan amendments taking  
 17      effect on or after the date of the enactment of this  
 18      Act.

19           (2) TRANSITION.—Until such time as the Sec-  
 20      retary of the Treasury issues regulations under sec-  
 21      tions 4980F(e)(2) and (3) of the Internal Revenue  
 22      Code of 1986 (as added by the amendments made  
 23      by this section), a plan shall be treated as meeting

1 the requirements of such sections if it makes a good  
 2 faith effort to comply with such requirements.

3 (3) SPECIAL RULE.—The period for providing  
 4 any notice required by the amendments made by this  
 5 section shall not end before the date which is 3  
 6 months after the date of the enactment of this Act.

7 **SEC. 245. TREATMENT OF MULTIEMPLOYER PLANS UNDER**  
 8 **SECTION 415.**

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

12 “(11) SPECIAL LIMITATION RULE FOR GOVERN-  
 13 MENTAL AND MULTIEMPLOYER PLANS.—In the case  
 14 of a governmental plan (as defined in section  
 15 414(d)) or a multiemployer plan (as defined in sec-  
 16 tion 414(f)), subparagraph (B) of paragraph (1)  
 17 shall not apply.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
 19 this section shall apply to years beginning after December  
 20 31, 2000.

21 **Subtitle E—Reducing Regulatory**  
 22 **Burdens**

23 **SEC. 261. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

24 (a) AMENDMENTS TO 1986 CODE.—Section  
 25 412(c)(9) (relating to annual valuation) is amended—

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

3                   “(A) IN GENERAL.—For purposes”; and

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

5                   “(B) ELECTION TO USE PRIOR YEAR  
6       VALUATION.—

7                   “(i) IN GENERAL.—Except as pro-  
8       vided in clause (ii), if, for any plan year—

9                           “(I) an election is in effect under  
10                   this subparagraph with respect to a  
11                   plan, and

12                           “(II) the assets of the plan are  
13                   not less than 125 percent of the  
14                   plan’s current liability (as defined in  
15                   paragraph (7)(B)), determined as of  
16                   the valuation date for the preceding  
17                   plan year,

18       then this section shall be applied using the  
19       information available as of such valuation  
20       date.

21                   “(ii) EXCEPTIONS.—

22                           “(I) ACTUAL VALUATION EVERY  
23                   3 YEARS.—Clause (i) shall not apply  
24                   for more than 2 consecutive plan  
25                   years and valuation shall be under



1                   subparagraph (A) with respect to any  
 2                   plan year to which clause (i) does not  
 3                   apply by reason of this subclause.

4                   “(II) REGULATIONS.—Clause (i)  
 5                   shall not apply to the extent that  
 6                   more frequent valuations are required  
 7                   under the regulations under subpara-  
 8                   graph (A).

9                   “(iii) ADJUSTMENTS.—Information  
 10                  under clause (i) shall, in accordance with  
 11                  regulations, be actuarially adjusted to re-  
 12                  flect significant differences in participants.

13                  “(iv) ELECTION.—An election under  
 14                  this subparagraph, once made, shall be ir-  
 15                  revocable without the consent of the Sec-  
 16                  retary.”.

17           (b) EFFECTIVE DATE.—The amendments made by  
 18   this section shall apply to plan years beginning after De-  
 19   cember 31, 2000.

20   **SEC. 262. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**  
 21                   **LOSS OF DIVIDEND DEDUCTION.**

22           (a) IN GENERAL.—Section 404(k)(2)(A) (defining  
 23   applicable dividends) is amended by striking “or” at the  
 24   end of clause (ii), by redesignating clause (iii) as clause

1 (iv), and by inserting after clause (ii) the following new  
 2 clause:

3 “(iii) is, at the election of such par-  
 4 ticipants or their beneficiaries—

5 “(I) payable as provided in clause  
 6 (i) or (ii), or

7 “(II) paid to the plan and rein-  
 8 vested in qualifying employer securi-  
 9 ties, or”.

10 (b) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to taxable years beginning after  
 12 December 31, 2000.

13 **SEC. 263. REPEAL OF TRANSITION RULE RELATING TO CER-**  
 14 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

15 (a) IN GENERAL.—Paragraph (4) of section 1114(c)  
 16 of the Tax Reform Act of 1986 is hereby repealed.

17 (b) EFFECTIVE DATE.—The repeal made by sub-  
 18 section (a) shall apply to plan years beginning after De-  
 19 cember 31, 2000.

20 **SEC. 264. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

21 (a) IN GENERAL.—The Secretary of the Treasury  
 22 shall modify Treasury Regulations section 1.410(b)–6(g)  
 23 to provide that employees of an organization described in  
 24 section 403(b)(1)(A)(i) of the Internal Revenue Code of  
 25 1986 who are eligible to make contributions under section

1 403(b) of such Code pursuant to a salary reduction agree-  
 2 ment may be treated as excludable with respect to a plan  
 3 under section 401(k) or (m) of such Code that is provided  
 4 under the same general arrangement as a plan under such  
 5 section 401(k), if—

6 (1) no employee of an organization described in  
 7 section 403(b)(1)(A)(i) of such Code is eligible to  
 8 participate in such section 401(k) plan or section  
 9 401(m) plan; and

10 (2) 95 percent of the employees who are not  
 11 employees of an organization described in section  
 12 403(b)(1)(A)(i) of such Code are eligible to partici-  
 13 pate in such plan under such section 401(k) or (m).

14 (b) EFFECTIVE DATE.—The modification required by  
 15 subsection (a) shall apply as of the same date set forth  
 16 in section 1426(b) of the Small Business Job Protection  
 17 Act of 1996.

18 **SEC. 265. CLARIFICATION OF TREATMENT OF EMPLOYER-**

19 **PROVIDED RETIREMENT ADVICE.**

20 (a) IN GENERAL.—Subsection (a) of section 132 (re-  
 21 lating to exclusion from gross income) is amended by  
 22 striking “or” at the end of paragraph (5), by striking the  
 23 period at the end of paragraph (6) and inserting “, or”,  
 24 and by adding at the end the following new paragraph:

25 “(7) qualified retirement planning services.”.

1 (b) QUALIFIED RETIREMENT PLANNING SERVICES

2 DEFINED.—Section 132 is amended by redesignating sub-  
3 section (m) as subsection (n) and by inserting after sub-  
4 section (l) the following:

5 “(m) QUALIFIED RETIREMENT PLANNING SERV-  
6 ICES.—

7 “(1) IN GENERAL.—For purposes of this sec-  
8 tion, the term ‘qualified retirement planning serv-  
9 ices’ means any retirement planning service provided  
10 to an employee and his spouse by an employer main-  
11 taining a qualified employer plan.

12 “(2) NONDISCRIMINATION RULE.—Subsection  
13 (a)(7) shall apply in the case of highly compensated  
14 employees only if such services are available on sub-  
15 stantially the same terms to each member of the  
16 group of employees normally provided education and  
17 information regarding the employer’s qualified em-  
18 ployer plan.

19 “(3) QUALIFIED EMPLOYER PLAN.—For pur-  
20 poses of this subsection, the term ‘qualified employer  
21 plan’ means a plan, contract, pension, or account de-  
22 scribed in section 219(g)(5).”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to years beginning after December  
25 31, 2000.

1 **SEC. 266. REPORTING SIMPLIFICATION.**

2 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
3 OWNERS AND THEIR SPOUSES.—

4 (1) IN GENERAL.—The Secretary of the Treas-  
5 ury shall modify the requirements for filing annual  
6 returns with respect to one-participant retirement  
7 plans to ensure that such plans with assets of  
8 \$250,000 or less as of the close of the plan year  
9 need not file a return for that year.

10 (2) ONE-PARTICIPANT RETIREMENT PLAN DE-  
11 FINED.—For purposes of this subsection, the term  
12 “one-participant retirement plan” means a retire-  
13 ment plan that—

14 (A) on the first day of the plan year—

15 (i) covered only the employer (and the  
16 employer’s spouse) and the employer  
17 owned the entire business (whether or not  
18 incorporated); or

19 (ii) covered only one or more partners  
20 (and their spouses) in a business partner-  
21 ship (including partners in an S or C cor-  
22 poration);

23 (B) meets the minimum coverage require-  
24 ments of section 410(b) of the Internal Revenue  
25 Code of 1986 without being combined with any

1 other plan of the business that covers the em-  
2 ployees of the business;

3 (C) does not provide benefits to anyone ex-  
4 cept the employer (and the employer's spouse)  
5 or the partners (and their spouses);

6 (D) does not cover a business that is a  
7 member of an affiliated service group, a con-  
8 trolled group of corporations, or a group of  
9 businesses under common control; and

10 (E) does not cover a business that leases  
11 employees.

12 (3) OTHER DEFINITIONS.—Terms used in para-  
13 graph (2) which are also used in section 414 of the  
14 Internal Revenue Code of 1986 shall have the re-  
15 spective meanings given such terms by such section.

16 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
17 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case  
18 of a retirement plan which covers less than 25 employees  
19 on the first day of the plan year and meets the require-  
20 ments described in subparagraphs (B), (D), and (E) of  
21 subsection (a)(2), the Secretary of the Treasury shall pro-  
22 vide for the filing of a simplified annual return that is  
23 substantially similar to the annual return required to be  
24 filed by a one-participant retirement plan.

1 (c) EFFECTIVE DATE.—The provisions of this section  
2 shall take effect on January 1, 2001.

3 **SEC. 267. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**  
4 **ANCE RESOLUTION SYSTEM.**

5 The Secretary of the Treasury shall continue to up-  
6 date and improve the Employee Plans Compliance Resolu-  
7 tion System (or any successor program) giving special at-  
8 tention to—

9 (1) increasing the awareness and knowledge of  
10 small employers concerning the availability and use  
11 of the program;

12 (2) taking into account special concerns and  
13 circumstances that small employers face with respect  
14 to compliance and correction of compliance failures;

15 (3) extending the duration of the self-correction  
16 period under the Administrative Policy Regarding  
17 Self-Correction for significant compliance failures;

18 (4) expanding the availability to correct insig-  
19 nificant compliance failures under the Administra-  
20 tive Policy Regarding Self-Correction during audit;  
21 and

22 (5) assuring that any tax, penalty, or sanction  
23 that is imposed by reason of a compliance failure is  
24 not excessive and bears a reasonable relationship to  
25 the nature, extent, and severity of the failure.

1 **SEC. 268. MODIFICATION OF EXCLUSION FOR EMPLOYER**  
2 **PROVIDED TRANSIT PASSES.**

3 (a) IN GENERAL.—Section 132(f)(3) (relating to  
4 cash reimbursements) is amended by striking the last sen-  
5 tence.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2000.

9 **SEC. 269. REPEAL OF THE MULTIPLE USE TEST.**

10 (a) IN GENERAL.—Paragraph (9) of section 401(m)  
11 is amended to read as follows:

12 “(9) REGULATIONS.—The Secretary shall pre-  
13 scribe such regulations as may be necessary to carry  
14 out the purposes of this subsection and subsection  
15 (k), including regulations permitting appropriate ag-  
16 gregation of plans and contributions.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to years beginning after December  
19 31, 2000.

20 **SEC. 270. FLEXIBILITY IN NONDISCRIMINATION, COV-**  
21 **ERAGE, AND LINE OF BUSINESS RULES.**

22 (a) NONDISCRIMINATION.—

23 (1) IN GENERAL.—The Secretary of the Treas-  
24 ury shall, by regulation, provide that a plan shall be  
25 deemed to satisfy the requirements of section  
26 401(a)(4) of the Internal Revenue Code of 1986 if



1 such plan satisfies the facts and circumstances test  
2 under section 401(a)(4) of such Code, as in effect  
3 before January 1, 1994, but only if—

4 (A) the plan satisfies conditions prescribed  
5 by the Secretary to appropriately limit the  
6 availability of such test; and

7 (B) the plan is submitted to the Secretary  
8 for a determination of whether it satisfies such  
9 test.

10 Subparagraph (B) shall only apply to the extent pro-  
11 vided by the Secretary.

12 (2) EFFECTIVE DATES.—

13 (A) REGULATIONS.—The regulation re-  
14 quired by paragraph (1) shall apply to years be-  
15 ginning after December 31, 2000.

16 (B) CONDITIONS OF AVAILABILITY.—Any  
17 condition of availability prescribed by the Sec-  
18 retary under paragraph (1)(A) shall not apply  
19 before the first year beginning not less than  
20 120 days after the date on which such condition  
21 is prescribed.

22 (b) COVERAGE TEST.—

23 (1) IN GENERAL.—Section 410(b)(1) (relating  
24 to minimum coverage requirements) is amended by  
25 adding at the end the following:

“(D) In the case that the plan fails to meet the requirements of subparagraphs (A), (B) and (C), the plan—

“(i) satisfies subparagraph (B), as in effect immediately before the enactment of the Tax Reform Act of 1986,

“(ii) is submitted to the Secretary for a determination of whether it satisfies the requirement described in clause (i), and

“(iii) satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of this subparagraph.

Clause (ii) shall apply only to the extent provided by the Secretary.”.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 2000.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under regulations prescribed by the Secretary under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not apply before the first year beginning not less than 120

1           days after the date on which such condition is  
2           prescribed.

3           (c) LINE OF BUSINESS RULES.—The Secretary of  
4 the Treasury shall, on or before December 31, 2000, mod-  
5 ify the existing regulations issued under section 414(r) of  
6 the Internal Revenue Code of 1986 in order to expand  
7 (to the extent that the Secretary determines appropriate)  
8 the ability of a pension plan to demonstrate compliance  
9 with the line of business requirements based upon the  
10 facts and circumstances surrounding the design and oper-  
11 ation of the plan, even though the plan is unable to satisfy  
12 the mechanical tests currently used to determine compli-  
13 ance.

14 **SEC. 271. EXTENSION TO INTERNATIONAL ORGANIZATIONS**  
15 **OF MORATORIUM ON APPLICATION OF CER-**  
16 **TAIN NONDISCRIMINATION RULES APPLICA-**  
17 **BLE TO STATE AND LOCAL PLANS.**

18           (a) IN GENERAL.—Subparagraph (G) of section  
19 401(a)(5), subparagraph (H) of section 401(a)(26), sub-  
20 paragraph (G) of section 401(k)(3), and paragraph (2) of  
21 section 1505(d) of the Taxpayer Relief Act of 1997 are  
22 each amended by inserting “or by an international organi-  
23 zation which is described in section 414(d)” after “or in-  
24 strumentality thereof”.

25           (b) CONFORMING AMENDMENTS.—

6 (2) Subparagraph (G) of section 401(k)(3) is  
7 amended by inserting “STATE AND LOCAL GOVERN-  
8 MENTAL AND INTERNATIONAL ORGANIZATION  
9 PLANS.—” after “(G)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

13 SEC. 272. NOTICE AND CONSENT PERIOD REGARDING DIS-  
14 TRIBUTIONS.

15 (a) EXPANSION OF PERIOD.—

(1) AMENDMENT TO 1986 CODE.—Subpara-  
graph (A) of section 417(a)(6) is amended by strik-  
ing “90-day” and inserting “180-day”.

(2) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 to substitute “180 days” for “90 days” each place it appears in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).

1           (3) EFFECTIVE DATE.—The amendment made  
 2       by paragraph (1) and the modifications required by  
 3       paragraph (2) shall apply to years beginning after  
 4       December 31, 2000.

5       (b) CONSENT REGULATION INAPPLICABLE TO CER-  
 6 TAIN DISTRIBUTIONS.—

7           (1) IN GENERAL.—The Secretary of the Treas-  
 8       ury shall modify the regulations under section  
 9       411(a)(11) of the Internal Revenue Code of 1986 to  
 10      provide that the description of a participant's right,  
 11      if any, to defer receipt of a distribution shall also de-  
 12      scribe the consequences of failing to defer such re-  
 13      ceipt.

14          (2) EFFECTIVE DATE.—The modifications re-  
 15      quired by paragraph (1) shall apply to years begin-  
 16      ning after December 31, 2000.

## 17       **Subtitle F—Plan Amendments**

### 18   **SEC. 281. PROVISIONS RELATING TO PLAN AMENDMENTS.**

19          (a) IN GENERAL.—If this section applies to any plan  
 20      or contract amendment—

21           (1) such plan or contract shall be treated as  
 22      being operated in accordance with the terms of the  
 23      plan during the period described in subsection  
 24      (b)(2)(A); and

1           (2) such plan shall not fail to meet the require-  
2           ments of section 411(d)(6) of the Internal Revenue  
3           Code of 1986 by reason of such amendment.

4           (b) AMENDMENTS TO WHICH SECTION APPLIES.—

5           (1) IN GENERAL.—This section shall apply to  
6           any amendment to any plan or annuity contract  
7           which is made—

8                   (A) pursuant to any amendment made by  
9                   this title, or pursuant to any regulation issued  
10                  under this title; and

11                  (B) on or before the last day of the first  
12                  plan year beginning on or after January 1,  
13                  2003.

14           In the case of a governmental plan (as defined in  
15           section 414(d) of the Internal Revenue Code of  
16           1986), this paragraph shall be applied by sub-  
17           stituting “2005” for “2003”.

18           (2) CONDITIONS.—This section shall not apply  
19           to any amendment unless—

20                   (A) during the period—

21                           (i) beginning on the date the legisla-  
22                           tive or regulatory amendment described in  
23                           paragraph (1)(A) takes effect (or in the  
24                           case of a plan or contract amendment not  
25                           required by such legislative or regulatory

1 amendment, the effective date specified by  
2 the plan); and

3 (ii) ending on the date described in  
4 paragraph (1)(B) (or, if earlier, the date  
5 the plan or contract amendment is adopt-  
6 ed),

7 the plan or contract is operated as if such plan  
8 or contract amendment were in effect; and

9 (B) such plan or contract amendment ap-  
10 plies retroactively for such period.

# 11 **TITLE III—ESTATE TAX RELIEF**

## 12 **Subtitle A—Reductions of Estate**

### 13 **and Gift Tax Rates**

#### 14 **SEC. 301. REDUCTIONS OF ESTATE AND GIFT TAX RATES.**

15 (a) MAXIMUM RATE OF TAX REDUCED TO 50 PER-  
16 CENT.—

17 (1) IN GENERAL.—The table contained in sec-  
18 tion 2001(c)(1) is amended by striking the two high-  
19 est brackets and inserting the following:

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

20 (2) PHASE-IN OF REDUCED RATE.—Subsection  
21 (c) of section 2001 is amended by adding at the end  
22 the following new paragraph:

23 “(3) PHASE-IN OF REDUCED RATE.—In the  
24 case of decedents dying, and gifts made, during

1       2001, the last item in the table contained in para-  
2       graph (1) shall be applied by substituting ‘53%’ for  
3       ‘50%’.”.

4       (b) REPEAL OF PHASEOUT OF GRADUATED  
5 RATES.—Subsection (c) of section 2001 is amended by  
6 striking paragraph (2) and redesignating paragraph (3),  
7 as added by subsection (a), as paragraph (2).

8       (c) ADDITIONAL REDUCTIONS OF RATES OF TAX.—  
9 Subsection (c) of section 2001, as so amended, is amended  
10 by adding at the end the following new paragraph:

11           “(3) PHASEDOWN OF TAX.—In the case of es-  
12       tates of decedents dying, and gifts made, during any  
13       calendar year after 2002—

14           “(A) IN GENERAL.—Except as provided in  
15       subparagraph (C), the tentative tax under this  
16       subsection shall be determined by using a table  
17       prescribed by the Secretary (in lieu of using the  
18       table contained in paragraph (1)) which is the  
19       same as such table; except that—

20           “(i) each of the rates of tax shall be  
21       reduced by the number of percentage  
22       points determined under subparagraph  
23       (B), and



1 “(ii) the amounts setting forth the tax  
 2 shall be adjusted to the extent necessary to  
 3 reflect the adjustments under clause (i).

4 “(B) PERCENTAGE POINTS OF REDUC-  
 5 TION.—

<b>“For calendar year:</b>	<b>The number of percentage points is:</b>
2003 .....	1.0
2004 .....	2.0.

6 “(C) TABLE FOR YEARS AFTER 2004.—The  
 7 table applicable under this subsection to estates  
 8 of decedents dying, and gifts made, during cal-  
 9 endar year 2004 shall apply to estates of dece-  
 10 dents dying, and gifts made, after calendar year  
 11 2004.

12 “(D) COORDINATION WITH CREDIT FOR  
 13 STATE DEATH TAXES.—Rules similar to the  
 14 rules of subparagraph (A) shall apply to the  
 15 table contained in section 2011(b) except that  
 16 the Secretary shall prescribe percentage point  
 17 reductions which maintain the proportionate re-  
 18 lationship (as in effect before any reduction  
 19 under this paragraph) between the credit under  
 20 section 2011 and the tax rates under subsection  
 21 (c).”.

22 (d) EFFECTIVE DATES.—

1           (1) SUBSECTIONS (a) AND (b).—The amend-  
2       ments made by subsections (a) and (b) shall apply  
3       to estates of decedents dying, and gifts made, after  
4       December 31, 2000.

5           (2) SUBSECTION (c).—The amendment made  
6       by subsection (c) shall apply to estates of decedents  
7       dying, and gifts made, after December 31, 2002.

8   **SEC. 302. SENSE OF THE CONGRESS CONCERNING REPEAL**  
9                           **OF THE DEATH TAX.**

10       (a) FINDINGS.—Congress finds the following:

11           (1) The death tax stifles economic growth by  
12       taking productive resources out of the private sector,  
13       thereby causing unemployment and inhibiting job  
14       creation.

15           (2) The death tax penalizes hard work and en-  
16       trepreneurial activity by causing the demise of small,  
17       family-owned businesses when an owner dies.

18           (3) The death tax rates in the United States  
19       are the second highest among all industrialized na-  
20       tions.

21           (4) The death tax prevents minorities from  
22       gaining an economic foothold in the economy since  
23       it limits the inter-generational transfer of wealth,  
24       which is critical to establishing a legacy and power  
25       base for minorities in our society.

1           (5) The death tax presents serious challenges  
2       for farmers whose value is in their land, not liquid  
3       assets, and who must sell land to pay the tax, there-  
4       by jeopardizing the future existence of the already-  
5       struggling family farm.

6           (6) The death tax contributes to the develop-  
7       ment of rural areas by causing farms and ranches  
8       to be sold and subdivided.

9           (7) Previous attempts by Congress to create  
10      death tax exemptions have been ineffective due to an  
11      inability to legislatively duplicate the complex family  
12      relationships that exist in our society.

13          (8) Increasing entrepreneurship and investment  
14      in retirement will bring a whole new class of people  
15      under the death tax.

16      (b) SENSE OF CONGRESS.—It is the sense of the  
17      Congress that the death tax relief in this Act is considered  
18      a first step in our effort to ultimately repeal this onerous  
19      tax.

1 **Subtitle B—Unified Credit Re-**  
 2 **placed With Unified Exemption**  
 3 **Amount**

4 **SEC. 311. UNIFIED CREDIT AGAINST ESTATE AND GIFT**  
 5 **TAXES REPLACED WITH UNIFIED EXEMPTION**  
 6 **AMOUNT.**

7 (a) IN GENERAL.—

8 (1) ESTATE TAX.—Subsection (b) of section  
 9 2001 (relating to computation of tax) is amended to  
 10 read as follows:

11 “(b) COMPUTATION OF TAX.—

12 “(1) IN GENERAL.—The tax imposed by this  
 13 section shall be the amount equal to the excess (if  
 14 any) of—

15 “(A) the tentative tax determined under  
 16 paragraph (2), over

17 “(B) the aggregate amount of tax which  
 18 would have been payable under chapter 12 with  
 19 respect to gifts made by the decedent after De-  
 20 cember 31, 1976, if the provisions of subsection  
 21 (c) (as in effect at the decedent’s death) had  
 22 been applicable at the time of such gifts.

23 “(2) TENTATIVE TAX.—For purposes of para-  
 24 graph (1), the tentative tax determined under this

1 paragraph is a tax computed under subsection (c) on  
 2 the excess of—

3 “(A) the sum of—

4 “(i) the amount of the taxable estate,  
 5 and

6 “(ii) the amount of the adjusted tax-  
 7 able gifts, over

8 “(B) the exemption amount for the cal-  
 9 endar year in which the decedent died.

10 “(3) EXEMPTION AMOUNT.—For purposes of  
 11 paragraph (2), the term ‘exemption amount’ means  
 12 the amount determined in accordance with the fol-  
 13 lowing table:

<b>“In the case of calendar year:</b>	<b>The exemption amount is:</b>
2001 .....	\$675,000
2002 and 2003 .....	\$700,000
2004 .....	\$850,000
2005 .....	\$950,000
2006 or thereafter .....	\$1,000,000.

14 “(4) ADJUSTED TAXABLE GIFTS.—For pur-  
 15 poses of paragraph (2), the term ‘adjusted taxable  
 16 gifts’ means the total amount of the taxable gifts  
 17 (within the meaning of section 2503) made by the  
 18 decedent after December 31, 1976, other than gifts  
 19 which are includible in the gross estate of the dece-  
 20 dent.”.

1           (2) GIFT TAX.—Subsection (a) of section 2502  
2           (relating to computation of tax) is amended to read  
3           as follows:

4           “(a) COMPUTATION OF TAX.—

5                 “(1) IN GENERAL.—The tax imposed by section  
6           2501 for each calendar year shall be the amount  
7           equal to the excess (if any) of—

8                 “(A) the tentative tax determined under  
9           paragraph (2), over

10                “(B) the tax paid under this section for all  
11           prior calendar periods.

12               “(2) TENTATIVE TAX.—For purposes of para-  
13           graph (1), the tentative tax determined under this  
14           paragraph for a calendar year is a tax computed  
15           under section 2001(c) on the excess of—

16                “(A) the aggregate sum of the taxable gifts  
17           for such calendar year and for each of the pre-  
18           ceding calendar periods, over

19                “(B) the exemption amount under section  
20           2001(b)(3) for such calendar year.”.

21           (b) REPEAL OF UNIFIED CREDITS.—

22                (1) Section 2010 (relating to unified credit  
23           against estate tax) is hereby repealed.

24                (2) Section 2505 (relating to unified credit  
25           against gift tax) is hereby repealed.

1 (c) CONFORMING AMENDMENTS.—

2 (1)(A) Subsection (b) of section 2011 is  
3 amended—

4 (i) by striking “adjusted” in the table; and

5 (ii) by striking the last sentence.

6 (B) Subsection (f) of section 2011 is amended  
7 by striking “, reduced by the amount of the unified  
8 credit provided by section 2010”.

9 (2) Subsection (a) of section 2012 is amended  
10 by striking “and the unified credit provided by sec-  
11 tion 2010”.

12 (3) Subparagraph (A) of section 2013(c)(1) is  
13 amended by striking “2010,”.

14 (4) Paragraph (2) of section 2014(b) is amend-  
15 ed by striking “2010,”.

16 (5) Clause (ii) of section 2056A(b)(12)(C) is  
17 amended to read as follows:

18 “(ii) to treat any reduction in the tax  
19 imposed by paragraph (1)(A) by reason of  
20 the credit allowable under section 2010 (as  
21 in effect on the day before the date of the  
22 enactment of the Small Business Tax Fair-  
23 ness Act of 2001) or the exemption  
24 amount allowable under section 2001(b)  
25 with respect to the decedent as a credit

1 under section 2505 (as so in effect) or ex-  
 2 emption under section 2521 (as the case  
 3 may be) allowable to such surviving spouse  
 4 for purposes of determining the amount of  
 5 the exemption allowable under section  
 6 2521 with respect to taxable gifts made by  
 7 the surviving spouse during the year in  
 8 which the spouse becomes a citizen or any  
 9 subsequent year.”.

10 (6) Subsection (a) of section 2057 is amended  
 11 by striking paragraphs (2) and (3) and inserting the  
 12 following new paragraph:

13 “(2) MAXIMUM DEDUCTION.—The deduction al-  
 14 lowed by this section shall not exceed the excess of  
 15 \$1,300,000 over the exemption amount (as defined  
 16 in section 2001(b)(3)).”.

17 (7)(A) Subsection (b) of section 2101 is amend-  
 18 ed to read as follows:

19 “(b) COMPUTATION OF TAX.—

20 “(1) IN GENERAL.—The tax imposed by this  
 21 section shall be the amount equal to the excess (if  
 22 any) of—

23 “(A) the tentative tax determined under  
 24 paragraph (2), over



1           “(B) a tentative tax computed under sec-  
2           tion 2001(c) on the amount of the adjusted tax-  
3           able gifts.

4           “(2) TENTATIVE TAX.—For purposes of para-  
5           graph (1), the tentative tax determined under this  
6           paragraph is a tax computed under section 2001(c)  
7           on the excess of—

8           “(A) the sum of—

9                   “(i) the amount of the taxable estate,  
10                  and

11                   “(ii) the amount of the adjusted tax-  
12                  able gifts, over

13           “(B) the exemption amount for the cal-  
14           endar year in which the decedent died.

15           “(3) EXEMPTION AMOUNT.—

16           “(A) IN GENERAL.—The term ‘exemption  
17           amount’ means \$60,000.

18           “(B) RESIDENTS OF POSSESSIONS OF THE  
19           UNITED STATES.—In the case of a decedent  
20           who is considered to be a nonresident not a cit-  
21           izen of the United States under section 2209,  
22           the exemption amount under this paragraph  
23           shall be the greater of—

24                   “(i) \$60,000, or

1           “(ii) that proportion of \$175,000  
2           which the value of that part of the dece-  
3           dent’s gross estate which at the time of his  
4           death is situated in the United States  
5           bears to the value of his entire gross estate  
6           wherever situated.

7           “(C) SPECIAL RULES.—

8           “(i) COORDINATION WITH TREA-  
9           TIES.—To the extent required under any  
10          treaty obligation of the United States, the  
11          exemption amount allowed under this para-  
12          graph shall be equal to the amount which  
13          bears the same ratio to the exemption  
14          amount under section 2001(b)(3) (for the  
15          calendar year in which the decedent died)  
16          as the value of the part of the decedent’s  
17          gross estate which at the time of his death  
18          is situated in the United States bears to  
19          the value of his entire gross estate wher-  
20          ever situated. For purposes of the pre-  
21          ceding sentence, property shall not be  
22          treated as situated in the United States if  
23          such property is exempt from the tax im-  
24          posed by this subchapter under any treaty  
25          obligation of the United States.

1                   “(ii) COORDINATION WITH GIFT TAX  
2                   EXEMPTION AND UNIFIED CREDIT.—If an  
3                   exemption has been allowed under section  
4                   2521 (or a credit has been allowed under  
5                   section 2505 as in effect on the day before  
6                   the date of the enactment of the Small  
7                   Business Tax Fairness Act of 2001) with  
8                   respect to any gift made by the decedent,  
9                   each dollar amount contained in subpara-  
10                  graph (A) or (B) or the exemption amount  
11                  applicable under clause (i) of this subpara-  
12                  graph (whichever applies) shall be reduced  
13                  by the exemption so allowed under 2521  
14                  (or, in the case of such a credit, by the  
15                  amount of the gift for which the credit was  
16                  so allowed).”.

17               (8) Section 2102 is amended by striking sub-  
18               section (c).

19               (9)(A) Subsection (a) of section 2107 is amend-  
20               ed by adding at the end the following new para-  
21               graph:

22               “(3) LIMITATION ON EXEMPTION AMOUNT.—  
23               Subparagraphs (B) and (C) of section 2101(b)(3)  
24               shall not apply in applying section 2101 for purposes  
25               of this section.”.

1           (B) Subsection (c) of section 2107 is  
2 amended—

3           (i) by striking paragraph (1) and by redesi-  
4 gnating paragraphs (2) and (3) as paragraphs  
5 (1) and (2), respectively; and

6           (ii) by striking the second sentence of  
7 paragraph (2) (as so redesignated).

8           (10) Paragraph (1) of section 6018(a) is  
9 amended by striking “the applicable exclusion  
10 amount in effect under section 2010(c)” and insert-  
11 ing “the exemption amount under section  
12 2001(b)(3)”.

13           (11) Subparagraph (A) of section 6601(j)(2) is  
14 amended to read as follows:

15           “(A) the amount of the tentative tax which  
16 would be determined under the rate schedule  
17 set forth in section 2001(c) if the amount with  
18 respect to which such tentative tax is to be  
19 computed were \$1,000,000, or”.

20           (12) The table of sections for part II of sub-  
21 chapter A of chapter 11 is amended by striking the  
22 item relating to section 2010.

23           (13) The table of sections for subchapter A of  
24 chapter 12 is amended by striking the item relating  
25 to section 2505.

1           (14) The table of sections for subchapter C of  
 2       chapter 12 is amended by inserting before the item  
 3       relating to section 2522 the following new item:

          “Sec. 2521. Exemption.”.

4       (d) EFFECTIVE DATE.—The amendments made by  
 5       this section—

6           (1) insofar as they relate to the tax imposed by  
 7       chapter 11 of the Internal Revenue Code of 1986,  
 8       shall apply to estates of decedents dying after De-  
 9       cember 31, 2000; and

10          (2) insofar as they relate to the tax imposed by  
 11       chapter 12 of such Code, shall apply to gifts made  
 12       after December 31, 2000.

## 13           **Subtitle C—Modifications of** 14       **Generation-skipping Transfer Tax**

### 15       **SEC. 321. DEEMED ALLOCATION OF GST EXEMPTION TO** 16               **LIFETIME TRANSFERS TO TRUSTS; RETRO-** 17               **ACTIVE ALLOCATIONS.**

18       (a) IN GENERAL.—Section 2632 (relating to special  
 19       rules for allocation of GST exemption) is amended by re-  
 20       designating subsection (c) as subsection (e) and by insert-  
 21       ing after subsection (b) the following new subsections:

22           “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME  
 23       TRANSFERS TO GST TRUSTS.—

24           “(1) IN GENERAL.—If any individual makes an  
 25       indirect skip during such individual’s lifetime, any

1 unused portion of such individual's GST exemption  
 2 shall be allocated to the property transferred to the  
 3 extent necessary to make the inclusion ratio for such  
 4 property zero. If the amount of the indirect skip ex-  
 5 ceeds such unused portion, the entire unused portion  
 6 shall be allocated to the property transferred.

7 “(2) UNUSED PORTION.—For purposes of para-  
 8 graph (1), the unused portion of an individual's  
 9 GST exemption is that portion of such exemption  
 10 which has not previously been—

11 “(A) allocated by such individual,

12 “(B) treated as allocated under subsection  
 13 (b) with respect to a direct skip occurring dur-  
 14 ing or before the calendar year in which the in-  
 15 direct skip is made, or

16 “(C) treated as allocated under paragraph  
 17 (1) with respect to a prior indirect skip.

18 “(3) DEFINITIONS.—

19 “(A) INDIRECT SKIP.—For purposes of  
 20 this subsection, the term ‘indirect skip’ means  
 21 any transfer of property (other than a direct  
 22 skip) subject to the tax imposed by chapter 12  
 23 made to a GST trust.

24 “(B) GST TRUST.—The term ‘GST trust’  
 25 means a trust that could have a generation-

1 skipping transfer with respect to the transferor  
2 unless—

3 “(i) the trust instrument provides that  
4 more than 25 percent of the trust corpus  
5 must be distributed to or may be with-  
6 drawn by one or more individuals who are  
7 non-skip persons—

8 “(I) before the date that the indi-  
9 vidual attains age 46,

10 “(II) on or before one or more  
11 dates specified in the trust instrument  
12 that will occur before the date that  
13 such individual attains age 46, or

14 “(III) upon the occurrence of an  
15 event that, in accordance with regula-  
16 tions prescribed by the Secretary, may  
17 reasonably be expected to occur before  
18 the date that such individual attains  
19 age 46;

20 “(ii) the trust instrument provides  
21 that more than 25 percent of the trust cor-  
22 pus must be distributed to or may be with-  
23 drawn by one or more individuals who are  
24 non-skip persons and who are living on the  
25 date of death of another person identified

1 in the instrument (by name or by class)  
2 who is more than 10 years older than such  
3 individuals;

4 “(iii) the trust instrument provides  
5 that, if one or more individuals who are  
6 non-skip persons die on or before a date or  
7 event described in clause (i) or (ii), more  
8 than 25 percent of the trust corpus either  
9 must be distributed to the estate or estates  
10 of one or more of such individuals or is  
11 subject to a general power of appointment  
12 exercisable by one or more of such individ-  
13 uals;

14 “(iv) the trust is a trust any portion  
15 of which would be included in the gross es-  
16 tate of a non-skip person (other than the  
17 transferor) if such person died immediately  
18 after the transfer;

19 “(v) the trust is a charitable lead an-  
20 nuity trust (within the meaning of section  
21 2642(e)(3)(A)) or a charitable remainder  
22 annuity trust or a charitable remainder  
23 unitrust (within the meaning of section  
24 664(d)); or



1           “(vi) the trust is a trust with respect  
2           to which a deduction was allowed under  
3           section 2522 for the amount of an interest  
4           in the form of the right to receive annual  
5           payments of a fixed percentage of the net  
6           fair market value of the trust property (de-  
7           termined yearly) and which is required to  
8           pay principal to a non-skip person if such  
9           person is alive when the yearly payments  
10          for which the deduction was allowed termi-  
11          nate.

12          For purposes of this subparagraph, the value of  
13          transferred property shall not be considered to  
14          be includible in the gross estate of a non-skip  
15          person or subject to a right of withdrawal by  
16          reason of such person holding a right to with-  
17          draw so much of such property as does not ex-  
18          ceed the amount referred to in section 2503(b)  
19          with respect to any transferor, and it shall be  
20          assumed that powers of appointment held by  
21          non-skip persons will not be exercised.

22          “(4) AUTOMATIC ALLOCATIONS TO CERTAIN  
23          GST TRUSTS.—For purposes of this subsection, an  
24          indirect skip to which section 2642(f) applies shall  
25          be deemed to have been made only at the close of

1 the estate tax inclusion period. The fair market  
2 value of such transfer shall be the fair market value  
3 of the trust property at the close of the estate tax  
4 inclusion period.

5 “(5) APPLICABILITY AND EFFECT.—

6 “(A) IN GENERAL.—An individual—

7 “(i) may elect to have this subsection  
8 not apply to—

9 “(I) an indirect skip, or

10 “(II) any or all transfers made  
11 by such individual to a particular  
12 trust, and

13 “(ii) may elect to treat any trust as a  
14 GST trust for purposes of this subsection  
15 with respect to any or all transfers made  
16 by such individual to such trust.

17 “(B) ELECTIONS.—

18 “(i) ELECTIONS WITH RESPECT TO  
19 INDIRECT SKIPS.—An election under sub-  
20 paragraph (A)(i)(I) shall be deemed to be  
21 timely if filed on a timely filed gift tax re-  
22 turn for the calendar year in which the  
23 transfer was made or deemed to have been  
24 made pursuant to paragraph (4) or on

1           such later date or dates as may be pre-  
2           scribed by the Secretary.

3           “(ii) OTHER ELECTIONS.—An election  
4           under clause (i)(II) or (ii) of subparagraph  
5           (A) may be made on a timely filed gift tax  
6           return for the calendar year for which the  
7           election is to become effective.

8           “(d) RETROACTIVE ALLOCATIONS.—

9           “(1) IN GENERAL.—If—

10           “(A) a non-skip person has an interest or  
11           a future interest in a trust to which any trans-  
12           fer has been made,

13           “(B) such person—

14           “(i) is a lineal descendant of a grand-  
15           parent of the transferor or of a grand-  
16           parent of the transferor’s spouse or former  
17           spouse, and

18           “(ii) is assigned to a generation below  
19           the generation assignment of the trans-  
20           feror, and

21           “(C) such person predeceases the trans-  
22           feror,

23           then the transferor may make an allocation of any  
24           of such transferor’s unused GST exemption to any

1 previous transfer or transfers to the trust on a  
2 chronological basis.

3 “(2) SPECIAL RULES.—If the allocation under  
4 paragraph (1) by the transferor is made on a gift  
5 tax return filed on or before the date prescribed by  
6 section 6075(b) for gifts made within the calendar  
7 year within which the non-skip person’s death  
8 occurred—

9 “(A) the value of such transfer or trans-  
10 fers for purposes of section 2642(a) shall be de-  
11 termined as if such allocation had been made  
12 on a timely filed gift tax return for each cal-  
13 endar year within which each transfer was  
14 made,

15 “(B) such allocation shall be effective im-  
16 mediately before such death, and

17 “(C) the amount of the transferor’s unused  
18 GST exemption available to be allocated shall  
19 be determined immediately before such death.

20 “(3) FUTURE INTEREST.—For purposes of this  
21 subsection, a person has a future interest in a trust  
22 if the trust may permit income or corpus to be paid  
23 to such person on a date or dates in the future.”.

1 (b) CONFORMING AMENDMENT.—Paragraph (2) of  
 2 section 2632(b) is amended by striking “with respect to  
 3 a direct skip” and inserting “or subsection (c)(1)”.

4 (c) EFFECTIVE DATES.—

5 (1) DEEMED ALLOCATION.—Section 2632(c) of  
 6 the Internal Revenue Code of 1986 (as added by  
 7 subsection (a)), and the amendment made by sub-  
 8 section (b), shall apply to transfers subject to chap-  
 9 ter 11 or 12 made after December 31, 1999, and to  
 10 estate tax inclusion periods ending after December  
 11 31, 1999.

12 (2) RETROACTIVE ALLOCATIONS.—Section  
 13 2632(d) of the Internal Revenue Code of 1986 (as  
 14 added by subsection (a)) shall apply to deaths of  
 15 non-skip persons occurring after December 31,  
 16 1999.

17 **SEC. 322. SEVERING OF TRUSTS.**

18 (a) IN GENERAL.—Subsection (a) of section 2642  
 19 (relating to inclusion ratio) is amended by adding at the  
 20 end the following new paragraph:

21 “(3) SEVERING OF TRUSTS.—

22 “(A) IN GENERAL.—If a trust is severed in  
 23 a qualified severance, the trusts resulting from  
 24 such severance shall be treated as separate  
 25 trusts thereafter for purposes of this chapter.

1           “(B) QUALIFIED SEVERANCE.—For pur-  
2           poses of subparagraph (A)—

3                   “(i) IN GENERAL.—The term ‘quali-  
4                   fied severance’ means the division of a sin-  
5                   gle trust and the creation (by any means  
6                   available under the governing instrument  
7                   or under local law) of two or more trusts  
8                   if—

9                           “(I) the single trust was divided  
10                           on a fractional basis, and

11                           “(II) the terms of the new trusts,  
12                           in the aggregate, provide for the same  
13                           succession of interests of beneficiaries  
14                           as are provided in the original trust.

15                   “(ii) TRUSTS WITH INCLUSION RATIO  
16                   GREATER THAN ZERO.—If a trust has an  
17                   inclusion ratio of greater than zero and  
18                   less than 1, a severance is a qualified sev-  
19                   erance only if the single trust is divided  
20                   into two trusts, one of which receives a  
21                   fractional share of the total value of all  
22                   trust assets equal to the applicable fraction  
23                   of the single trust immediately before the  
24                   severance. In such case, the trust receiving  
25                   such fractional share shall have an inclu-

1                   sion ratio of zero and the other trust shall  
2                   have an inclusion ratio of 1.

3                   “(iii)     REGULATIONS.—The     term  
4                   ‘qualified severance’ includes any other  
5                   severance permitted under regulations pre-  
6                   scribed by the Secretary.

7                   “(C)     TIMING     AND     MANNER     OF  
8                   SEVERANCES.—A severance pursuant to this  
9                   paragraph may be made at any time. The Sec-  
10                  retary shall prescribe by forms or regulations  
11                  the manner in which the qualified severance  
12                  shall be reported to the Secretary.”.

13               (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to severances after December 31,  
15 1999.

16 **SEC. 323. MODIFICATION OF CERTAIN VALUATION RULES.**

17               (a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR  
18 DEEMED ALLOCATION MADE.—Paragraph (1) of section  
19 2642(b) (relating to valuation rules, etc.) is amended to  
20 read as follows:

21               “(1) GIFTS FOR WHICH GIFT TAX RETURN  
22 FILED OR DEEMED ALLOCATION MADE.—If the allo-  
23 cation of the GST exemption to any transfers of  
24 property is made on a gift tax return filed on or be-  
25 fore the date prescribed by section 6075(b) for such

1 transfer or is deemed to be made under section  
 2 2632(b)(1) or (c)(1)—

3 “(A) the value of such property for pur-  
 4 poses of subsection (a) shall be its value as fi-  
 5 nally determined for purposes of chapter 12  
 6 (within the meaning of section 2001(f)(2)), or,  
 7 in the case of an allocation deemed to have been  
 8 made at the close of an estate tax inclusion pe-  
 9 riod, its value at the time of the close of the es-  
 10 tate tax inclusion period, and

11 “(B) such allocation shall be effective on  
 12 and after the date of such transfer, or, in the  
 13 case of an allocation deemed to have been made  
 14 at the close of an estate tax inclusion period, on  
 15 and after the close of such estate tax inclusion  
 16 period.”.

17 (b) TRANSFERS AT DEATH.—Subparagraph (A) of  
 18 section 2642(b)(2) is amended to read as follows:

19 “(A) TRANSFERS AT DEATH.—If property  
 20 is transferred as a result of the death of the  
 21 transferor, the value of such property for pur-  
 22 poses of subsection (a) shall be its value as fi-  
 23 nally determined for purposes of chapter 11; ex-  
 24 cept that, if the requirements prescribed by the  
 25 Secretary respecting allocation of post-death



1 changes in value are not met, the value of such  
 2 property shall be determined as of the time of  
 3 the distribution concerned.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to transfers subject to chapter 11  
 6 or 12 of the Internal Revenue Code of 1986 made after  
 7 December 31, 1999.

8 **SEC. 324. RELIEF PROVISIONS.**

9 (a) IN GENERAL.—Section 2642 is amended by add-  
 10 ing at the end the following new subsection:

11 “(g) RELIEF PROVISIONS.—

12 “(1) RELIEF FOR LATE ELECTIONS.—

13 “(A) IN GENERAL.—The Secretary shall by  
 14 regulation prescribe such circumstances and  
 15 procedures under which extensions of time will  
 16 be granted to make—

17 “(i) an allocation of GST exemption  
 18 described in paragraph (1) or (2) of sub-  
 19 section (b), and

20 “(ii) an election under subsection  
 21 (b)(3) or (c)(5) of section 2632.

22 Such regulations shall include procedures for  
 23 requesting comparable relief with respect to  
 24 transfers made before the date of the enactment  
 25 of this paragraph.

1           “(B) BASIS FOR DETERMINATIONS.—In  
2           determining whether to grant relief under this  
3           paragraph, the Secretary shall take into ac-  
4           count all relevant circumstances, including evi-  
5           dence of intent contained in the trust instru-  
6           ment or instrument of transfer and such other  
7           factors as the Secretary deems relevant. For  
8           purposes of determining whether to grant relief  
9           under this paragraph, the time for making the  
10          allocation (or election) shall be treated as if not  
11          expressly prescribed by statute.

12          “(2) SUBSTANTIAL COMPLIANCE.—An alloca-  
13          tion of GST exemption under section 2632 that  
14          demonstrates an intent to have the lowest possible  
15          inclusion ratio with respect to a transfer or a trust  
16          shall be deemed to be an allocation of so much of  
17          the transferor’s unused GST exemption as produces  
18          the lowest possible inclusion ratio. In determining  
19          whether there has been substantial compliance, all  
20          relevant circumstances shall be taken into account,  
21          including evidence of intent contained in the trust  
22          instrument or instrument of transfer and such other  
23          factors as the Secretary deems relevant.”.

24          (b) EFFECTIVE DATES.—

1           (1) RELIEF FOR LATE ELECTIONS.—Section  
 2           2642(g)(1) of the Internal Revenue Code of 1986  
 3           (as added by subsection (a)) shall apply to requests  
 4           pending on, or filed after, December 31, 1999.

5           (2) SUBSTANTIAL COMPLIANCE.—Section  
 6           2642(g)(2) of such Code (as so added) shall take ef-  
 7           fect on the date of the enactment of this Act and  
 8           shall apply to transfers subject to chapter 11 or 12  
 9           of the Internal Revenue Code of 1986 made after  
 10          December 31, 1999.

## 11                   **Subtitle D—Conservation** 12                   **Easements**

### 13   **SEC. 331. EXPANSION OF ESTATE TAX RULE FOR CON-** 14                   **SERVATION EASEMENTS.**

15          (a) WHERE LAND IS LOCATED.—

16               (1) IN GENERAL.—Clause (i) of section  
 17               2031(c)(8)(A) (defining land subject to a conserva-  
 18               tion easement) is amended—

19                       (A) by striking “25 miles” both places it  
 20                       appears and inserting “50 miles”; and

21                       (B) striking “10 miles” and inserting “25  
 22                       miles”.

23               (2) EFFECTIVE DATE.—The amendments made  
 24               by this subsection shall apply to estates of decedents  
 25               dying after December 31, 1999.

1 (b) CLARIFICATION OF DATE FOR DETERMINING  
2 VALUE OF LAND AND EASEMENT.—

3 (1) IN GENERAL.—Section 2031(c)(2) (defining  
4 applicable percentage) is amended by adding at the  
5 end the following new sentence: “The values taken  
6 into account under the preceding sentence shall be  
7 such values as of the date of the contribution re-  
8 ferred to in paragraph (8)(B).”.

9 (2) EFFECTIVE DATE.—The amendment made  
10 by this subsection shall apply to estates of decedents  
11 dying after December 31, 1997.

## 12 **TITLE IV—TIMBER INCENTIVE**

### 13 **SEC. 401. TEMPORARY SUSPENSION OF MAXIMUM AMOUNT** 14 **OF AMORTIZABLE REFORESTATION EXPENDI-** 15 **TURES.**

16 (a) INCREASE IN DOLLAR LIMITATION.—Paragraph  
17 (1) of section 194(b) (relating to amortization of reforest-  
18 ation expenditures) is amended by striking “\$10,000  
19 (\$5,000” and inserting “\$25,000 (\$12,500”.

20 (b) TEMPORARY SUSPENSION OF INCREASED DOL-  
21 LAR LIMITATION.—Subsection (b) of section 194(b) (re-  
22 lating to amortization of reforestation expenditures) is  
23 amended by adding at the end the following new para-  
24 graph:

1 “(5) SUSPENSION OF DOLLAR LIMITATION.—  
 2 Paragraph (1) shall not apply to taxable years be-  
 3 ginning after December 31, 2000, and before Janu-  
 4 ary 1, 2004.

5 (c) CONFORMING AMENDMENT.—Paragraph (1) of  
 6 section 48(b) is amended by striking “section 194(b)(1)”  
 7 and inserting “section 194(b)(1) and without regard to  
 8 section 194(b)(5)”.

9 (d) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to taxable years beginning after  
 11 December 31, 2000.

12 **TITLE V—REAL ESTATE**  
 13 **PROVISIONS**  
 14 **Subtitle A—Private Activity Bond**  
 15 **Volume Cap**

16 **SEC. 501. ACCELERATION OF PHASE-IN OF INCREASE IN**  
 17 **VOLUME CAP ON PRIVATE ACTIVITY BONDS.**

18 (a) IN GENERAL.—The table contained in section  
 19 146(d)(2) (relating to per capita limit; aggregate limit) is  
 20 amended to read as follows:

<b>“Calendar Year</b>	<b>Per Capita Limit</b>	<b>Aggregate Limit</b>
2001 .....	\$55.00	\$165,000,000
2002 .....	60.00	180,000,000
2003 .....	65.00	195,000,000
2004, 2005, and 2006 .....	70.00	210,000,000
2007 and thereafter .....	75.00	225,000,000.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to calendar years beginning after  
 3 2000.

4 **Subtitle B—Exclusion From Gross**  
 5 **Income for Certain Forgiven**  
 6 **Mortgage Obligations**

7 **SEC. 502. EXCLUSION FROM GROSS INCOME FOR CERTAIN**  
 8 **FORGIVEN MORTGAGE OBLIGATIONS.**

9 (a) IN GENERAL.—Paragraph (1) of section 108(a)  
 10 (relating to exclusion from gross income) is amended by  
 11 striking “or” at the end of both subparagraphs (A) and  
 12 (C), by striking the period at the end of subparagraph (D)  
 13 and inserting “, or”, and by inserting after subparagraph  
 14 (D) the following new subparagraph:

15 “(E) in the case of an individual, the in-  
 16 debtedness discharged is qualified residential in-  
 17 debtedness.”.

18 (b) QUALIFIED RESIDENTIAL INDEBTEDNESS  
 19 SHORTFALL.—Section 108 (relating to discharge of in-  
 20 debtedness) is amended by adding at the end the following  
 21 new subsection:

22 “(h) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

23 “(1) LIMITATIONS.—The amount excluded  
 24 under subparagraph (E) of subsection (a)(1) with

1       respect to any qualified residential indebtedness  
2       shall not exceed the excess (if any) of—

3               “(A) the outstanding principal amount of  
4               such indebtedness (immediately before the dis-  
5               charge), over

6               “(B) the sum of—

7                       “(i) the amount realized from the sale  
8                       of the real property securing such indebt-  
9                       edness reduced by the cost of such sale,  
10                      and

11                     “(ii) the outstanding principal amount  
12                     of any other indebtedness secured by such  
13                     property.

14               “(2) QUALIFIED RESIDENTIAL INDEBTED-  
15       NESS.—

16               “(A) IN GENERAL.—The term ‘qualified  
17       residential indebtedness’ means indebtedness  
18       which—

19                     “(i) was incurred or assumed by the  
20                     taxpayer in connection with real property  
21                     used as the principal residence (within the  
22                     meaning of section 121) of the taxpayer  
23                     and is secured by such real property,

1                   “(ii) is incurred or assumed to ac-  
 2                   quire, construct, reconstruct, or substan-  
 3                   tially improve such real property, and

4                   “(iii) with respect to which such tax-  
 5                   payer makes an election to have this para-  
 6                   graph apply.

7                   “(B) REFINANCED INDEBTEDNESS.—Such  
 8                   term shall include indebtedness resulting from  
 9                   the refinancing of indebtedness under subpara-  
 10                  graph (A)(ii), but only to the extent the amount  
 11                  of the indebtedness resulting from such refi-  
 12                  nancing does not exceed the amount of the refi-  
 13                  nanced indebtedness.

14                  “(C) EXCEPTIONS.—Such term shall not  
 15                  include qualified farm indebtedness or qualified  
 16                  real property business indebtedness.”.

17                  (c) CONFORMING AMENDMENTS.—

18                  (1) Paragraph (2) of section 108(a) is  
 19                  amended—

20                         (A) in subparagraph (A) by striking “and  
 21                         (D)” and inserting “(D), and (E)”; and

22                         (B) by amending subparagraph (B) to read  
 23                         as follows:

24                                 “(B) INSOLVENCY EXCLUSION TAKES  
 25                                 PRECEDENCE OVER QUALIFIED FARM EXCLU-



1           SION; QUALIFIED REAL PROPERTY BUSINESS  
2           EXCLUSION; AND QUALIFIED RESIDENTIAL  
3           SHORTFALL EXCLUSION.—Subparagraphs (C),  
4           (D), and (E) of paragraph (1) shall not apply  
5           to a discharge to the extent the taxpayer is in-  
6           solvent.”.

7           (2) Paragraph (1) of section 108(b) is amended  
8           by striking “or (C)” and inserting “(C), or (E)”.

9           (3) Subsection (c) of section 121 of such Code  
10          is amended by adding at the end the following new  
11          paragraph:

12           “(4) SPECIAL RULE RELATING TO DISCHARGE  
13          OF INDEBTEDNESS.—The amount of gain which  
14          (but for this paragraph) would be excluded from  
15          gross income under subsection (a) with respect to a  
16          principal residence shall be reduced by the amount  
17          excluded from gross income under section  
18          108(a)(1)(E) with respect to such residence.”.

19          (d) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply to discharges after December 31,  
21          2000.

1 **TITLE VI—AMENDMENTS TO THE**  
2 **FAIR LABOR STANDARDS ACT**  
3 **OF 1938**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Minimum Wage In-  
6 crease Act of 2001”.

7 **SEC. 602. MINIMUM WAGE.**

8 Section 6(a)(1) of the Fair Labor Standards Act of  
9 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

10 “(1) except as otherwise provided in this sec-  
11 tion, not less than—

12 “(A) \$5.15 an hour beginning September  
13 1, 1997,

14 “(B) \$5.65 an hour during the year begin-  
15 ning April 1, 2001, and

16 “(C) \$6.15 an hour beginning April 1,  
17 2002;”.

18 **SEC. 603. EXEMPTION FOR COMPUTER PROFESSIONALS.**

19 Section 13(a) of the Fair Labor Standards Act of  
20 1938 (29 U.S.C. 213(a)) is amended by amend-  
21 ing paragraph (17) to read as follows:

22 “(17) any employee who is a computer systems,  
23 network, or database analyst, designer, developer,  
24 programmer, software engineer, or other similarly  
25 skilled worker—

1 “(A) whose primary duty is—

2 “(i) the application of systems or net-  
3 work or database analysis techniques and  
4 procedures, including consulting with  
5 users, to determine hardware, software,  
6 systems, network, or database specifica-  
7 tions (including functional specifications);

8 “(ii) the design, configuration, devel-  
9 opment, integration, documentation, anal-  
10 ysis, creation, testing, securing, or modi-  
11 fication of, or problem resolution for, com-  
12 puter systems, networks, databases, or pro-  
13 grams, including prototypes, based on and  
14 related to user, system, network, or data-  
15 base specifications, including design speci-  
16 fications and machine operating systems;

17 “(iii) the management or training of  
18 employees performing duties described in  
19 clause (i) or (ii); or

20 “(iv) a combination of duties de-  
21 scribed in clauses (i), (ii), or (iii) the per-  
22 formance of which requires the same level  
23 of skills; and

24 “(B) who, in the case of an employee who  
25 is compensated on an hourly basis, is com-

1           pensated at a rate of not less than \$27.63 an  
2           hour.

3           For purposes of this paragraph, the term ‘network’  
4           includes the Internet and intranet networks and the  
5           world wide web. An employee who meets the exemp-  
6           tion provided by this paragraph shall be considered  
7           an employee in a professional capacity pursuant to  
8           paragraph (1); or”.

9   **SEC. 604. EXEMPTION FOR CERTAIN SALES EMPLOYEES.**

10          (a) AMENDMENT.—Section 13(a) of the Fair Labor  
11 Standards Act of 1938 (29 U.S.C. 213(a)) is further  
12 amended by adding after paragraph (17) the following:

13               “(18) any employee employed in a sales position  
14           if—

15                       “(A) the employee has specialized or tech-  
16           nical knowledge related to products or services  
17           being sold;

18                       “(B) the employee’s—

19                               “(i) sales are predominantly to per-  
20           sons or entities to whom the employee’s  
21           position has made previous sales; or

22                               “(ii) position does not involve initi-  
23           ating sales contacts;

1           “(C) the employee has a detailed under-  
2           standing of the needs of those to whom the em-  
3           ployee is selling;

4           “(D) the employee exercises discretion in  
5           offering a variety of products and services;

6           “(E) the employee receives—

7                   “(i) base compensation, determined  
8                   without regard to the number of hours  
9                   worked by the employee, of not less than  
10                  an amount equal to one and one-half times  
11                  the minimum wage in effect under section  
12                  6(a)(1) multiplied by 2,080; and

13                   “(ii) in addition to the employee’s  
14                  base compensation, compensation based  
15                  upon each sale attributable to the em-  
16                  ployee;

17           “(F) the employee’s aggregate compensa-  
18           tion based upon sales attributable to the em-  
19           ployee is not less than 40 percent of one and  
20           one-half times the minimum wage multiplied by  
21           2,080;

22           “(G) the employee receives a rate of com-  
23           pensation based upon each sale attributable to  
24           the employee which is beyond sales required to  
25           reach the compensation required by subpara-

1 graph (F) which rate is not less than the rate  
2 on which the compensation required by sub-  
3 paragraph (F) is determined; and

4 “(H) the rate of annual compensation or  
5 base compensation for any employee who did  
6 not work for an employer for an entire calendar  
7 year is prorated to reflect annual compensation  
8 which would have been earned if the employee  
9 had been compensated at the same rate for the  
10 entire calendar year; or”.

11 (b) CONSTRUCTION.—The amendment made by sub-  
12 section (a) may not be construed to apply to individuals  
13 who are employed as route sales drivers.

14 **SEC. 605. EXEMPTION FOR FUNERAL DIRECTORS.**

15 Section 13(a) of the Fair Labor Standards Act of  
16 1938 (29 U.S.C. 213(a)) is further amended by adding  
17 after paragraph (18) the following:

18 “(19) any employee employed as a licensed fu-  
19 neral director or a licensed embalmer.”.

○