

107TH CONGRESS
1ST SESSION

S. 742

To provide for pension reform, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2001

Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GRAHAM, Mr. HATCH, Mr. BREAUX, Mr. MURKOWSKI, Mr. KERRY, Mr. JEFFORDS, Mr. TORRICELLI, Mr. KYL, Mrs. LINCOLN, Mr. HUTCHINSON, Mr. JOHNSON, Mr. HAGEL, Mr. DURBIN, Mr. GREGG, Mr. SCHUMER, Mrs. HUTCHISON, Mr. BAYH, Mr. CHAFEE, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for pension reform, and for other purposes.

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

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

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Retirement Security and Savings Act of 2001”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

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

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

TITLE I—INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 101. Modification of IRA contribution limits.

Sec. 102. Deemed IRAs under employer plans.

Sec. 103. Tax-free distributions from individual retirement accounts for chari-
 table purposes.

Sec. 104. Modification of AGI limits for Roth IRAs.

TITLE II—EXPANDING COVERAGE

Sec. 201. Increase in benefit and contribution limits.

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

Sec. 203. Modification of top-heavy rules.

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

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

Sec. 206. Deduction limits.

Sec. 207. Option to treat elective deferrals as after-tax Roth contributions.

Sec. 208. Nonrefundable credit to certain individuals for elective deferrals and
 IRA contributions.

Sec. 209. Credit for qualified pension plan contributions of small employers.

Sec. 210. Credit for pension plan startup costs of small employers.

Sec. 211. Elimination of user fee for requests to IRS regarding new pension
 plans.

TITLE III—ENHANCING FAIRNESS FOR WOMEN

Sec. 301. Catch-up contributions for individuals age 50 or over.

Sec. 302. Equitable treatment for contributions of employees to defined con-
 tribution plans.

Sec. 303. Faster vesting of certain employer matching contributions.

Sec. 304. Minimum distribution rules.

Sec. 305. Clarification of tax treatment of division of section 457 plan benefits
 upon divorce.

Sec. 306. Provisions relating to hardship distributions.

Sec. 307. Waiver of tax on nondeductible contributions for domestic or similar
 workers.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

Sec. 401. Rollovers allowed among various types of plans.

Sec. 402. Rollovers of IRAs into workplace retirement plans.

Sec. 403. Rollovers of after-tax contributions.

Sec. 404. Hardship exception to 60-day rule.

Sec. 405. Treatment of forms of distribution.

- Sec. 406. Rationalization of restrictions on distributions.
- Sec. 407. Purchase of service credit in governmental defined benefit plans.
- Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
- Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

Subtitle A—General Provisions

- Sec. 501. Repeal of 155 percent of current liability funding limit.
- Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
- Sec. 503. Excise tax relief for sound pension funding.
- Sec. 504. Treatment of multiemployer plans under section 415.
- Sec. 505. Protection of investment of employee contributions to 401(k) plans.
- Sec. 506. Periodic pension benefits statements.
- Sec. 507. Prohibited allocations of stock in S Corporation ESOP.
- Sec. 508. Automatic rollovers of certain mandatory distributions.

Subtitle B—Treatment of Plan Amendments Reducing Future Benefit Accruals

- Sec. 521. Notice required for pension plan amendments having the effect of significantly reducing future benefit accruals.

TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Modification of timing of plan valuations.
- Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 603. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 604. Employees of tax-exempt entities.
- Sec. 605. Clarification of treatment of employer-provided retirement advice.
- Sec. 606. Reporting simplification.
- Sec. 607. Improvement of employee plans compliance resolution system.
- Sec. 608. Repeal of the multiple use test.
- Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.
- Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 611. Notice and consent period regarding distributions.
- Sec. 612. Annual report dissemination.
- Sec. 613. Technical corrections to Saver Act.
- Sec. 614. Studies.

TITLE VII—OTHER ERISA PROVISIONS

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

Sec. 707. Benefit suspension notice.

TITLE VIII—PLAN AMENDMENTS

Sec. 801. Provisions relating to plan amendments.

TITLE I—INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.

(a) INCREASE IN CONTRIBUTION LIMIT.—

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

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

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

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

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

“(B) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS 50 OR OLDER.—In the case of an individual who has attained the age of 50 before the close of the taxable year, the deductible

1 amount for such taxable year shall be an
2 amount equal to 150 percent of such amount
3 determined without regard to this subpara-
4 graph.

5 “(C) COST-OF-LIVING ADJUSTMENT.—

6 “(i) IN GENERAL.—In the case of any
7 taxable year beginning in a calendar year
8 after 2004, the \$5,000 amount under sub-
9 paragraph (A) shall be increased by an
10 amount equal to—

11 “(I) such dollar amount, multi-
12 plied by

13 “(II) the cost-of-living adjust-
14 ment determined under section 1(f)(3)
15 for the calendar year in which the tax-
16 able year begins, determined by sub-
17 stituting ‘calendar year 2003’ for ‘cal-
18 endar year 1992’ in subparagraph (B)
19 thereof.

20 “(ii) ROUNDING RULES.—If any
21 amount after adjustment under clause (i)
22 is not a multiple of \$500, such amount
23 shall be rounded to the next lower multiple
24 of \$500.”.

1 (b) INCREASE IN AGI LIMITS FOR ACTIVE PARTICI-
 2 PANTS.—

3 (1) JOINT RETURNS.—The table in clause (i) of
 4 section 219(g)(3)(B) (relating to applicable dollar
 5 amount) is amended to read as follows:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$56,000
2003	\$60,000
2004	\$64,000
2005	\$68,000
2006	\$72,000
2007	\$76,000
2008 or thereafter	\$80,000.”.

6 (2) OTHER TAXPAYERS.—Section 219(g)(3)(B)
 7 (relating to applicable dollar amount) is amended by
 8 striking clauses (ii) and (iii) and inserting the fol-
 9 lowing:

10 “(ii) In the case of any other tax-
 11 payer:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$36,000
2003	\$40,000
2004	\$44,000
2005	\$48,000
2006 or thereafter	\$50,000.”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 408(a)(1) is amended by striking
 14 “in excess of \$2,000 on behalf of any individual”
 15 and inserting “on behalf of any individual in excess

1 of the amount in effect for such taxable year under
 2 section 219(b)(1)(A)’’.

3 (2) Section 408(b)(2)(B) is amended by strik-
 4 ing ‘‘\$2,000’’ and inserting ‘‘the dollar amount in
 5 effect under section 219(b)(1)(A)’’.

6 (3) Section 408(b) is amended by striking
 7 ‘‘\$2,000’’ in the matter following paragraph (4) and
 8 inserting ‘‘the dollar amount in effect under section
 9 219(b)(1)(A)’’.

10 (4) Section 408(j) is amended by striking
 11 ‘‘\$2,000’’.

12 (5) Section 408(p)(8) is amended by striking
 13 ‘‘\$2,000’’ and inserting ‘‘the dollar amount in effect
 14 under section 219(b)(1)(A)’’.

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

18 **SEC. 102. DEEMED IRAS UNDER EMPLOYER PLANS.**

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

23 ‘‘(q) DEEMED IRAS UNDER QUALIFIED EMPLOYER
 24 PLANS.—

25 ‘‘(1) GENERAL RULE.—If—

1 “(A) a qualified employer plan elects to
 2 allow employees to make voluntary employee
 3 contributions to a separate account or annuity
 4 established under the plan, and

5 “(B) under the terms of the qualified em-
 6 ployer plan, such account or annuity meets the
 7 applicable requirements of this section or sec-
 8 tion 408A for an individual retirement account
 9 or annuity,

10 then such account or annuity shall be treated for
 11 purposes of this title in the same manner as an indi-
 12 vidual retirement plan and not as a qualified em-
 13 ployer plan (and contributions to such account or
 14 annuity as contributions to an individual retirement
 15 plan and not to the qualified employer plan). For
 16 purposes of subparagraph (B), the requirements of
 17 subsection (a)(5) shall not apply.

18 “(2) SPECIAL RULES FOR QUALIFIED EM-
 19 PLOYER PLANS.—For purposes of this title, a quali-
 20 fied employer plan shall not fail to meet any require-
 21 ment of this title solely by reason of establishing and
 22 maintaining a program described in paragraph (1).

23 “(3) DEFINITIONS.—For purposes of this
 24 subsection—

“(A) QUALIFIED EMPLOYER PLAN.—The term ‘qualified employer plan’ has the meaning given such term by section 72(p)(4); except such term shall only include an eligible deferred compensation plan (as defined in section 457(b)) which is maintained by an eligible employer described in section 457(e)(1)(A).

“(B) VOLUNTARY EMPLOYEE CONTRIBUTION.—The term ‘voluntary employee contribution’ means any contribution (other than a mandatory contribution within the meaning of section 411(c)(2)(C))—

“(i) which is made by an individual as an employee under a qualified employer plan which allows employees to elect to make contributions described in paragraph (1), and

“(ii) with respect to which the individual has designated the contribution as a contribution to which this subsection applies.”.

(b) AMENDMENT OF ERISA.—

(1) IN GENERAL.—Section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C.

1 1003) is amended by adding at the end the following
 2 new subsection:

3 “(c) If a pension plan allows an employee to elect to
 4 make voluntary employee contributions to accounts and
 5 annuities as provided in section 408(q) of the Internal
 6 Revenue Code of 1986, such accounts and annuities (and
 7 contributions thereto) shall not be treated as part of such
 8 plan (or as a separate pension plan) for purposes of any
 9 provision of this title other than section 403(c), 404, or
 10 405 (relating to exclusive benefit, and fiduciary and co-
 11 fiduciary responsibilities).”.

12 (2) CONFORMING AMENDMENT.—Section 4(a)
 13 of such Act (29 U.S.C. 1003(a)) is amended by in-
 14 serting “or (c)” after “subsection (b)”.

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

18 **SEC. 103. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 19 **TIREMENT ACCOUNTS FOR CHARITABLE**
 20 **PURPOSES.**

21 (a) IN GENERAL.—Subsection (d) of section 408 (re-
 22 lating to individual retirement accounts) is amended by
 23 adding at the end the following new paragraph:

24 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-
 25 POSES.—

“(A) IN GENERAL.—In the case of a qualified charitable distribution from an individual retirement account to an organization described in section 170(c), no amount shall be includible in the gross income of the account holder or beneficiary.

“(B) SPECIAL RULES RELATING TO CHARITABLE REMAINDER TRUSTS, POOLED INCOME FUNDS, AND CHARITABLE GIFT ANNUITIES.—

“(i) IN GENERAL.—In the case of a qualified charitable distribution from an individual retirement account—

“(I) to a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)),

“(II) to a pooled income fund (as defined in section 642(c)(5)), or

“(III) for the issuance of a charitable gift annuity (as defined in section 501(m)(5)),

no amount shall be includible in gross income of the account holder or beneficiary.

The preceding sentence shall apply only if no person holds any interest in the

1 amounts in the trust, fund, or annuity at-
 2 tributable to such distribution other than
 3 one or more of the following: the individual
 4 for whose benefit such account is main-
 5 tained, the spouse of such individual, or
 6 any organization described in section
 7 170(c).

8 “(ii) DETERMINATION OF INCLUSION
 9 OF AMOUNTS DISTRIBUTED.—In deter-
 10 mining the amount includible in the gross
 11 income of the distributee of a distribution
 12 from a trust described in clause (i)(I) or
 13 an annuity described in clause (i)(III), the
 14 portion of any qualified charitable distribu-
 15 tion to such trust or for such annuity
 16 which would (but for this subparagraph)
 17 have been includible in gross income—

18 “(I) in the case of any such
 19 trust, shall be treated as income de-
 20 scribed in section 664(b)(1), or

21 “(II) in the case of any such an-
 22 nuity, shall not be treated as an in-
 23 vestment in the contract.

24 “(iii) NO INCLUSION FOR DISTRIBUTION
 25 TO POOLED INCOME FUND.—No

1 amount shall be includible in the gross in-
 2 come of a pooled income fund (as so de-
 3 fined) by reason of a qualified charitable
 4 distribution to such fund.

5 “(C) QUALIFIED CHARITABLE DISTRIBU-
 6 TION.—For purposes of this paragraph, the
 7 term ‘qualified charitable distribution’ means
 8 any distribution from an individual retirement
 9 account—

10 “(i) which is made on or after the
 11 date that the individual for whose benefit
 12 the account is maintained has attained age
 13 70½, and

14 “(ii) which is a charitable contribution
 15 (as defined in section 170(c)) made di-
 16 rectly from the account to—

17 “(I) an organization described in
 18 section 170(c), or

19 “(II) a trust, fund, or annuity
 20 described in subparagraph (B).

21 “(D) DENIAL OF DEDUCTION.—The
 22 amount allowable as a deduction to the tax-
 23 payer for the taxable year under section 170
 24 (before the application of section 170(b)) for
 25 qualified charitable distributions shall be re-

1 duced (but not below zero) by the sum of the
 2 amounts of the qualified charitable distributions
 3 during such year which (but for this paragraph)
 4 would have been includible in the gross income
 5 of the taxpayer for such year.”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
 7 subsection (a) shall apply to taxable years beginning after
 8 December 31, 2001.

9 **SEC. 104. MODIFICATION OF AGI LIMITS FOR ROTH IRAS.**

10 (a) **INCREASE IN AGI LIMIT FOR ROTH IRA CON-**
 11 **TRIBUTIONS.**—

12 (1) **IN GENERAL.**—Section 408A(c)(3)(C)(ii)
 13 (relating to limits based on modified adjusted gross
 14 income) is amended to read as follows:

15 “(ii) the applicable dollar amount is—

16 “(I) in the case of a taxpayer fil-
 17 ing a joint return, \$190,000, and

18 “(II) in the case of any other
 19 taxpayer, \$95,000.”.

20 (2) **PHASEOUT AMOUNT.**—Clause (ii) of section
 21 408A(c)(3)(A) is amended to read as follows:

22 “(ii) \$15,000 (\$30,000 in the case of
 23 a joint return).”

24 (b) **INCREASE IN AGI LIMIT FOR ROTH IRA CON-**
 25 **VERSIONS.**—Section 408A(c)(3)(B) (relating to rollover

1 from IRA) is amended by striking “relates” and all that
 2 follows and inserting “relates, the taxpayer’s adjusted
 3 gross income exceeds \$100,000 (\$200,000 in the case of
 4 a joint return).”.

5 (c) CONFORMING AMENDMENT.—Section 408A(c)(3)
 6 is amended by striking subparagraph (D).

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

10 **TITLE II—EXPANDING** 11 **COVERAGE**

12 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LIM-** 13 **ITS.**

14 (a) DEFINED BENEFIT PLANS.—

15 (1) DOLLAR LIMIT.—

16 (A) Subparagraph (A) of section 415(b)(1)
 17 (relating to limitation for defined benefit plans)
 18 is amended by striking “\$90,000” and inserting
 19 “\$160,000”.

20 (B) Subparagraphs (C) and (D) of section
 21 415(b)(2) are each amended by striking
 22 “\$90,000” each place it appears in the head-
 23 ings and the text and inserting “\$160,000”.

24 (C) Paragraph (7) of section 415(b) (relat-
 25 ing to benefits under certain collectively bar-

gained plans) is amended by striking “the greater of \$68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for ‘\$90,000’” and inserting “one-half the amount otherwise applicable for such year under paragraph (1)(A) for ‘\$160,000’”.

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

(3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 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

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

3 (5) CONFORMING AMENDMENTS.—

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

6 (B) Section 415(b)(9) is amended to read
 7 as follows:

8 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE
 9 PILOTS.—In the case of any participant who is a
 10 commercial airline pilot, if, as of the time of the par-
 11 ticipant’s retirement, regulations prescribed by the
 12 Federal Aviation Administration require an indi-
 13 vidual to separate from service as a commercial air-
 14 line pilot after attaining any age occurring on or
 15 after age 60 and before age 62, paragraph (2)(C)
 16 shall be applied by substituting such age for age
 17 62.”.

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

21 (b) QUALIFIED TRUSTS.—

22 (1) COMPENSATION LIMIT.—Sections
 23 401(a)(17), 404(l), 408(k), and 505(b)(7) are each
 24 amended by striking “\$150,000” each place it ap-
 25 pears and inserting “\$200,000”.

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

(A) by striking “October 1, 1993” and inserting “July 1, 2001”; and

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

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Paragraph (1) of section 402(g) (relating to limitation on exclusion for elective deferrals) is amended to read as follows:

“(1) IN GENERAL.—

“(A) LIMITATION.—Notwithstanding subsections (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual’s gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$11,000
2003	\$12,000

2004	\$13,000
2005	\$14,000
2006 or thereafter	\$15,000.”.

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

3 “(5) COST-OF-LIVING ADJUSTMENT.—In the
4 case of taxable years beginning after December 31,
5 2006, the Secretary shall adjust the \$15,000
6 amount under paragraph (1)(B) at the same time
7 and in the same manner as under section 415(d),
8 except that the base period shall be the calendar
9 quarter beginning July 1, 2005, and any increase
10 under this paragraph which is not a multiple of
11 \$500 shall be rounded to the next lowest multiple of
12 \$500.”.

13 (3) CONFORMING AMENDMENTS.—

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

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

1 (C) Clause (iii) of section 501(c)(18)(D) is
 2 amended by striking “(other than paragraph
 3 (4) thereof)”.

4 (d) DEFERRED COMPENSATION PLANS OF STATE
 5 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 6 ZATIONS.—

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

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

13 (B) in subsection (b)(3)(A) by striking
 14 “\$15,000” and inserting “twice the dollar
 15 amount in effect under subsection (b)(2)(A)”.

16 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-
 17 LIVING ADJUSTMENT.—Paragraph (15) of section
 18 457(e) is amended to read as follows:

19 “(15) APPLICABLE DOLLAR AMOUNT.—

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$11,000
2003	\$12,000
2004	\$13,000

2005	\$14,000
2006 or thereafter	\$15,000.

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

11 (e) SIMPLE RETIREMENT ACCOUNTS.—

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

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

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

22 “(i) IN GENERAL.—For purposes of
23 subparagraph (A)(ii), the applicable dollar

1 amount shall be the amount determined in
 2 accordance with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$7,000
2003	\$8,000
2004	\$9,000
2005 or thereafter	\$10,000.

3 “(ii) COST-OF-LIVING ADJUSTMENT.—

4 In the case of a year beginning after De-
 5 cember 31, 2005, the Secretary shall ad-
 6 just the \$10,000 amount under clause (i)
 7 at the same time and in the same manner
 8 as under section 415(d), except that the
 9 base period taken into account shall be the
 10 calendar quarter beginning July 1, 2004,
 11 and any increase under this subparagraph
 12 which is not a multiple of \$500 shall be
 13 rounded to the next lower multiple of
 14 \$500.”.

15 (3) CONFORMING AMENDMENTS.—

16 (A) Subclause (I) of section
 17 401(k)(11)(B)(i) is amended by striking
 18 “\$6,000” and inserting “the amount in effect
 19 under section 408(p)(2)(A)(ii)”.

20 (B) Section 401(k)(11) is amended by
 21 striking subparagraph (E).

1 (f) ROUNDING RULE RELATING TO DEFINED BEN-
 2 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—
 3 Paragraph (4) of section 415(d) is amended to read as
 4 follows:

5 “(4) ROUNDING.—

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

10 “(B) \$30,000 AMOUNT.—Any increase
 11 under subparagraph (C) of paragraph (1) which
 12 is not a multiple of \$1,000 shall be rounded to
 13 the next lowest multiple of \$1,000.”.

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

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

19 (a) IN GENERAL.—Subparagraph (B) of section
 20 4975(f)(6) (relating to exemptions not to apply to certain
 21 transactions) is amended by adding at the end the fol-
 22 lowing new clause:

23 “(iii) LOAN EXCEPTION.—For pur-
 24 poses of subparagraph (A)(i), the term
 25 ‘owner-employee’ shall only include a per-

1 son described in subclause (II) or (III) of
2 clause (i).”.

3 (b) AMENDMENT OF ERISA.—Section 408(d)(2) of
4 the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
6 the following new subparagraph:

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

10 (c) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to years beginning after December
12 31, 2001.

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

14 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
15 PLOYEE.—

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

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

20 (B) by striking clause (i) and inserting the
21 following:

22 “(i) an officer of the employer having
23 an annual compensation greater than the
24 amount in effect under section
25 414(q)(1)(B)(i) for such plan year,”;

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

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

7 (E) by adding at the end the following:
 8 “For purposes of this subparagraph, in the case
 9 of an employee who is not employed during the
 10 preceding plan year or is employed for a portion
 11 of such year, such employee shall be treated as
 12 a key employee if it can be reasonably antici-
 13 pated that such employee will be described in 1
 14 of the preceding clauses for the current plan
 15 year.”.

16 (2) CONFORMING AMENDMENT.—Section
 17 416(i)(1)(B)(iii) is amended by striking “and sub-
 18 paragraph (A)(ii)”.

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

1 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE
2 DETERMINATION DATE TAKEN INTO ACCOUNT.—

3 (1) IN GENERAL.—Paragraph (3) of section
4 416(g) is amended to read as follows:

5 “(3) DISTRIBUTIONS DURING LAST YEAR BE-
6 FORE DETERMINATION DATE TAKEN INTO AC-
7 COUNT.—

8 “(A) IN GENERAL.—For purposes of
9 determining—

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

12 “(ii) the amount of the account of any
13 employee,

14 such present value or amount shall be increased
15 by the aggregate distributions made with re-
16 spect to such employee under the plan during
17 the 1-year period ending on the determination
18 date. The preceding sentence shall also apply to
19 distributions under a terminated plan which if
20 it had not been terminated would have been re-
21 quired to be included in an aggregation group.

22 “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-
23 ICE DISTRIBUTION.—In the case of any dis-
24 tribution made for a reason other than separa-
25 tion from service, death, or disability, subpara-

1 graph (A) shall be applied by substituting ‘5-
2 year period’ for ‘1-year period’.”.

3 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—
4 Subparagraph (E) of section 416(g)(4) is
5 amended—

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

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

11 (d) FROZEN PLAN EXEMPT FROM MINIMUM BEN-
12 EFIT REQUIREMENT.—Subparagraph (C) of section
13 416(c)(1) (relating to defined benefit plans) is amended—

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

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

17 “(iii) EXCEPTION FOR FROZEN
18 PLAN.—For purposes of determining an
19 employee’s years of service with the em-
20 ployer, any service with the employer shall
21 be disregarded to the extent that such
22 service occurs during a plan year when the
23 plan benefits (within the meaning of sec-
24 tion 410(b)) no key employee or former
25 key employee.”.

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

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

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

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

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

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

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

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

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

18 **SEC. 206. DEDUCTION LIMITS.**

19 (a) MODIFICATION OF LIMITS.—

20 (1) STOCK BONUS AND PROFIT SHARING
 21 TRUSTS.—

22 (A) IN GENERAL.—Subclause (I) of section
 23 404(a)(3)(A)(i) (relating to stock bonus and
 24 profit sharing trusts) is amended by striking
 25 “15 percent” and inserting “25 percent”.

(B) CONFORMING AMENDMENT.—Subparagraph (C) of section 404(h)(1) is amended by striking “15 percent” each place it appears and inserting “25 percent”.

(2) DEFINED CONTRIBUTION PLANS.—

(A) IN GENERAL.—Clause (v) of section 404(a)(3)(A) (relating to stock bonus and profit sharing trusts) is amended to read as follows:

“(v) DEFINED CONTRIBUTION PLANS
SUBJECT TO THE FUNDING STANDARDS.—

Except as provided by the Secretary, a defined contribution plan which is subject to the funding standards of section 412 shall be treated in the same manner as a stock bonus or profit-sharing plan for purposes of this subparagraph.”

(B) CONFORMING AMENDMENTS.—

(i) Section 404(a)(1)(A) is amended by inserting “(other than a trust to which paragraph (3) applies)” after “pension trust”.

(ii) Section 404(h)(2) is amended by striking “stock bonus or profit-sharing trust” and inserting “trust subject to subsection (a)(3)(A)”.

1 (iii) The heading of section 404(h)(2)
 2 is amended by striking “STOCK BONUS
 3 AND PROFIT-SHARING TRUST” and insert-
 4 ing “CERTAIN TRUSTS”.

5 (b) COMPENSATION.—

6 (1) IN GENERAL.—Section 404(a) (relating to
 7 general rule) is amended by adding at the end the
 8 following:

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

14 (2) CONFORMING AMENDMENTS.—

15 (A) Subparagraph (B) of section 404(a)(3)
 16 is amended by striking the last sentence there-
 17 of.

18 (B) Clause (i) of section 4972(c)(6)(B) is
 19 amended by striking “(within the meaning of
 20 section 404(a))” and inserting “(within the
 21 meaning of section 404(a) and as adjusted
 22 under section 404(a)(12))”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to years beginning after December
 25 31, 2001.

1 **SEC. 207. OPTION TO TREAT ELECTIVE DEFERRALS AS**
 2 **AFTER-TAX ROTH CONTRIBUTIONS.**

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

7 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-**
 8 **ALS AS ROTH CONTRIBUTIONS.**

9 “(a) GENERAL RULE.—If an applicable retirement
 10 plan includes a qualified Roth contribution program—

11 “(1) any designated Roth contribution made by
 12 an employee pursuant to the program shall be treat-
 13 ed as an elective deferral for purposes of this chap-
 14 ter, except that such contribution shall not be ex-
 15 cludable from gross income, and

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

20 “(b) QUALIFIED ROTH CONTRIBUTION PROGRAM.—
 21 For purposes of this section—

22 “(1) IN GENERAL.—The term ‘qualified Roth
 23 contribution program’ means a program under which
 24 an employee may elect to make designated Roth con-
 25 tributions in lieu of all or a portion of elective defer-

1 rals the employee is otherwise eligible to make under
 2 the applicable retirement plan.

3 “(2) SEPARATE ACCOUNTING REQUIRED.—A
 4 program shall not be treated as a qualified Roth
 5 contribution program unless the applicable retire-
 6 ment plan—

7 “(A) establishes separate accounts (‘des-
 8 ignated Roth accounts’) for the designated Roth
 9 contributions of each employee and any earn-
 10 ings properly allocable to the contributions, and

11 “(B) maintains separate recordkeeping
 12 with respect to each account.

13 “(c) DEFINITIONS AND RULES RELATING TO DES-
 14 IGNATED ROTH CONTRIBUTIONS.—For purposes of this
 15 section—

16 “(1) DESIGNATED ROTH CONTRIBUTION.—The
 17 term ‘designated Roth contribution’ means any elec-
 18 tive deferral which—

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

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

24 “(2) DESIGNATION LIMITS.—The amount of
 25 elective deferrals which an employee may designate

1 under paragraph (1) shall not exceed the excess (if
2 any) of—

3 “(A) the maximum amount of elective de-
4 ferrals excludable from gross income of the em-
5 ployee for the taxable year (without regard to
6 this section), over

7 “(B) the aggregate amount of elective de-
8 ferrals of the employee for the taxable year
9 which the employee does not designate under
10 paragraph (1).

11 “(3) ROLLOVER CONTRIBUTIONS.—

12 “(A) IN GENERAL.—A rollover contribu-
13 tion of any payment or distribution from a des-
14 ignated Roth account which is otherwise allow-
15 able under this chapter may be made only if the
16 contribution is to—

17 “(i) another designated Roth account
18 of the individual from whose account the
19 payment or distribution was made, or

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

21 “(B) COORDINATION WITH LIMIT.—Any
22 rollover contribution to a designated Roth ac-
23 count under subparagraph (A) shall not be
24 taken into account for purposes of paragraph
25 (1).

1 “(d) DISTRIBUTION RULES.—For purposes of this
2 title—

3 “(1) EXCLUSION.—Any qualified distribution
4 from a designated Roth account shall not be includ-
5 ible in gross income.

6 “(2) QUALIFIED DISTRIBUTION.—For purposes
7 of this subsection—

8 “(A) IN GENERAL.—The term ‘qualified
9 distribution’ has the meaning given such term
10 by section 408A(d)(2)(A) (without regard to
11 clause (iv) thereof).

12 “(B) DISTRIBUTIONS WITHIN NONEXCLU-
13 SION PERIOD.—A payment or distribution from
14 a designated Roth account shall not be treated
15 as a qualified distribution if such payment or
16 distribution is made within the 5-taxable-year
17 period beginning with the earlier of—

18 “(i) the first taxable year for which
19 the individual made a designated Roth con-
20 tribution to any designated Roth account
21 established for such individual under the
22 same applicable retirement plan, or

23 “(ii) if a rollover contribution was
24 made to such designated Roth account
25 from a designated Roth account previously

1 established for such individual under an-
 2 other applicable retirement plan, the first
 3 taxable year for which the individual made
 4 a designated Roth contribution to such
 5 previously established account.

6 “(C) DISTRIBUTIONS OF EXCESS DEFER-
 7 RALS AND CONTRIBUTIONS AND EARNINGS
 8 THEREON.—The term ‘qualified distribution’
 9 shall not include any distribution of any excess
 10 deferral under section 402(g)(2) or any excess
 11 contribution under section 401(k)(8), and any
 12 income on the excess deferral or contribution.

13 “(3) TREATMENT OF DISTRIBUTIONS OF CER-
 14 TAIN EXCESS DEFERRALS.—Notwithstanding section
 15 72, if any excess deferral under section 402(g)(2) at-
 16 tributable to a designated Roth contribution is not
 17 distributed on or before the 1st April 15 following
 18 the close of the taxable year in which such excess de-
 19 ferral is made, the amount of such excess deferral
 20 shall—

21 “(A) not be treated as investment in the
 22 contract, and

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

1 “(4) AGGREGATION RULES.—Section 72 shall
 2 be applied separately with respect to distributions
 3 and payments from a designated Roth 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)(A)
 22 (as added by section 201(c)(1)) the following new
 23 sentence: “The preceding sentence shall not apply
 24 the portion of such excess as does not exceed the

1 designated Roth contributions of the individual for
 2 the taxable year.”; and

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

6 (c) ROLLOVERS.—Subparagraph (B) of section
 7 402(c)(8) is amended by adding at the end the following:

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

15 (d) REPORTING REQUIREMENTS.—

16 (1) W-2 INFORMATION.—Section 6051(a)(8) is
 17 amended by inserting “, including the amount of
 18 designated Roth contributions (as defined in section
 19 402A)” before the comma at the end.

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

24 “(f) DESIGNATED ROTH CONTRIBUTIONS.—The Sec-
 25 retary shall require the plan administrator of each applica-

1 ble retirement plan (as defined in section 402A) to make
 2 such returns and reports regarding designated Roth con-
 3 tributions (as defined in section 402A) to the Secretary,
 4 participants and beneficiaries of the plan, and such other
 5 persons as the Secretary may prescribe.”.

6 (e) CONFORMING AMENDMENTS.—

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

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

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

15 (f) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 December 31, 2001.

18 **SEC. 208. NONREFUNDABLE CREDIT TO CERTAIN INDIVID-**
 19 **UALS FOR ELECTIVE DEFERRALS AND IRA**
 20 **CONTRIBUTIONS.**

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

1 **“SEC. 25B. ELECTIVE DEFERRALS AND IRA CONTRIBU-**
 2 **TIONS BY CERTAIN INDIVIDUALS.**

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

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

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$30,000	\$0	\$22,500	\$0	\$15,000	50
30,000	32,500	22,500	24,375	15,000	16,250	20
32,500	50,000	24,375	37,500	16,250	25,000	10
50,000		37,500		25,000		0

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

14 “(1) IN GENERAL.—The term ‘eligible indi-
 15 vidual’ means any individual if such individual has
 16 attained the age of 18 as of the close of the taxable
 17 year.

18 “(2) DEPENDENTS AND FULL-TIME STUDENTS
 19 NOT ELIGIBLE.—The term ‘eligible individual’ shall
 20 not include—

1 “(A) any individual with respect to whom
 2 a deduction under section 151 is allowed to an-
 3 other taxpayer for a taxable year beginning in
 4 the calendar year in which such individual’s
 5 taxable year begins, and

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

8 “(d) QUALIFIED RETIREMENT SAVINGS CONTRIBU-
 9 TIONS.—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘qualified retire-
 11 ment savings contributions’ means, with respect to
 12 any taxable year, the sum of—

13 “(A) the amount of the qualified retire-
 14 ment contributions (as defined in section
 15 219(e)) made by the eligible individual,

16 “(B) the amount of—

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

20 “(ii) any elective deferral of com-
 21 pensation by such individual under an eli-
 22 gible deferred compensation plan (as de-
 23 fined in section 457(b)) of an eligible em-
 24 ployer described in section 457(e)(1)(A),
 25 and

1 “(C) the amount of voluntary employee
2 contributions by such individual to any qualified
3 retirement plan (as defined in section 4974(c)).

4 “(2) REDUCTION FOR CERTAIN DISTRIBUTIONS.—
5

6 “(A) IN GENERAL.—The qualified retire-
7 ment savings contributions determined under
8 paragraph (1) shall be reduced (but not below
9 zero) by the sum of—

10 “(i) any distribution from a qualified
11 retirement plan (as defined in section
12 4974(c)), or from an eligible deferred com-
13 pensation plan (as defined in section
14 457(b)), received by the individual during
15 the testing period which is includible in
16 gross income, and

17 “(ii) any distribution from a Roth
18 IRA received by the individual during the
19 testing period which is not a qualified roll-
20 over contribution (as defined in section
21 408A(e)) to a Roth IRA.

22 “(B) TESTING PERIOD.—For purposes of
23 subparagraph (A), the testing period, with re-
24 spect to a taxable year, is the period which
25 includes—

1 “(i) such taxable year,

2 “(ii) the 2 preceding taxable years,

3 and

4 “(iii) the period after such taxable
5 year and before the due date (including ex-
6 tensions) for filing the return of tax for
7 such taxable year.

8 “(C) EXCEPTED DISTRIBUTIONS.—There
9 shall not be taken into account under subpara-
10 graph (A)—

11 “(i) any distribution referred to in
12 section 72(p), 401(k)(8), 401(m)(6),
13 402(g)(2), 404(k), or 408(d)(4), and

14 “(ii) any distribution to which section
15 408A(d)(3) applies.

16 “(D) TREATMENT OF DISTRIBUTIONS RE-
17 CEIVED BY SPOUSE OF INDIVIDUAL.—For pur-
18 poses of determining distributions received by
19 an individual under subparagraph (A) for any
20 taxable year, any distribution received by the
21 spouse of such individual shall be treated as re-
22 ceived by such individual if such individual and
23 spouse file a joint return for such taxable year
24 and for the taxable year during which the
25 spouse receives the distribution.

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

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

9 (b) CREDIT ALLOWED AGAINST REGULAR TAX AND
10 ALTERNATIVE MINIMUM TAX.—

11 (1) IN GENERAL.—Subsection (a) of section 26
12 is amended by inserting “(other than the credit al-
13 lowed by section 25B)” after “credits allowed by this
14 subpart”.

15 (2) CONFORMING AMENDMENT.—Section 25B,
16 as added by subsection (a), is amended by inserting
17 after subsection (f) the following new subsection:

18 “(g) LIMITATION BASED ON AMOUNT OF TAX.—The
19 aggregate credit allowed by this section for the taxable
20 year shall not exceed the sum of—

21 “(1) the taxpayer’s regular tax liability for the
22 taxable year reduced by the sum of the credits al-
23 lowed by sections 21, 22, 23, 24, 25, and 25A, plus

24 “(2) the tax imposed by section 55 for such
25 taxable year.”

1 (c) ANNUAL REPORT.—The Comptroller General of
 2 the United States shall submit a report annually to the
 3 Committee on Ways and Means of the House of Rep-
 4 resentatives and the Committee on Finance of the Senate
 5 regarding the number of taxpayers receiving the credit al-
 6 lowed under section 25B of the Internal Revenue Code of
 7 1986, as added by subsection (a).

8 (d) CONFORMING AMENDMENT.—The table of sec-
 9 tions for subpart A of part IV of subchapter A of chapter
 10 1 is amended by inserting after the item relating to section
 11 25A the following new item:

“Sec. 25B. Elective deferrals and IRA contributions by certain in-
 dividuals.”

12 (e) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2001, and before January 1, 2007.

15 **SEC. 209. CREDIT FOR QUALIFIED PENSION PLAN CON-**
 16 **TRIBUTIONS OF SMALL EMPLOYERS.**

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

21 **“SEC. 45E. SMALL EMPLOYER PENSION PLAN CONTRIBU-**
 22 **TIONS.**

23 “(a) GENERAL RULE.—For purposes of section 38,
 24 in the case of an eligible employer, the small employer pen-

1 sion plan contribution credit determined under this section
 2 for any taxable year is an amount equal to 50 percent
 3 of the amount which would (but for subsection (f)(1)) be
 4 allowed as a deduction under section 404 for such taxable
 5 year for qualified employer contributions made to any
 6 qualified retirement plan on behalf of any employee who
 7 is not a highly compensated employee.

8 “(b) CREDIT LIMITED TO 3 YEARS.—The credit al-
 9 lowable by this section shall be allowed only with respect
 10 to the period of 3 taxable years beginning with the first
 11 taxable year for which a credit is allowable with respect
 12 to a plan under this section.

13 “(c) QUALIFIED EMPLOYER CONTRIBUTION.—For
 14 purposes of this section—

15 “(1) DEFINED CONTRIBUTION PLANS.—In the
 16 case of a defined contribution plan, the term ‘quali-
 17 fied employer contribution’ means the amount of
 18 nonelective and matching contributions to the plan
 19 made by the employer on behalf of any employee
 20 who is not a highly compensated employee to the ex-
 21 tent such amount does not exceed 3 percent of such
 22 employee’s compensation from the employer for the
 23 year.

24 “(2) DEFINED BENEFIT PLANS.—In the case of
 25 a defined benefit plan, the term ‘qualified employer

1 contribution’ means the amount of employer con-
 2 tributions to the plan made on behalf of any em-
 3 ployee who is not a highly compensated employee to
 4 the extent that the accrued benefit of such employee
 5 derived from employer contributions for the year
 6 does not exceed the equivalent (as determined under
 7 regulations prescribed by the Secretary and without
 8 regard to contributions and benefits under the Social
 9 Security Act) of 3 percent of such employee’s com-
 10 pensation from the employer for the year.

11 “(d) QUALIFIED RETIREMENT PLAN.—

12 “(1) IN GENERAL.—The term ‘qualified retire-
 13 ment plan’ means any plan described in section
 14 401(a) which includes a trust exempt from tax
 15 under section 501(a) if the plan meets—

16 “(A) the contribution requirements of
 17 paragraph (2),

18 “(B) the vesting requirements of para-
 19 graph (3), and

20 “(C) the distribution requirements of para-
 21 graph (4).

22 “(2) CONTRIBUTION REQUIREMENTS.—

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

1 “(i) the employer is required to make
 2 nonelective contributions of at least 1 per-
 3 cent of compensation (or the equivalent
 4 thereof in the case of a defined benefit
 5 plan) for each employee who is not a high-
 6 ly compensated employee who is eligible to
 7 participate in the plan, and

8 “(ii) allocations of nonelective em-
 9 ployer contributions are either in equal dol-
 10 lar amounts for all employees covered by
 11 the plan or bear a uniform relationship to
 12 the total compensation, or the basic or reg-
 13 ular rate of compensation, of the employ-
 14 ees covered by the plan.

15 “(B) COMPENSATION LIMITATION.—The
 16 compensation taken into account under sub-
 17 paragraph (A) for any year shall not exceed the
 18 limitation in effect for such year under section
 19 401(a)(17).

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

23 “(A) 3-YEAR VESTING.—A plan satisfies
 24 the requirements of this subparagraph if an em-
 25 ployee who has completed at least 3 years of

1 service has a nonforfeitable right to 100 percent
 2 of the employee’s accrued benefit derived from
 3 employer contributions.

4 “(B) 5-YEAR GRADED VESTING.—A plan
 5 satisfies the requirements of this subparagraph
 6 if an employee has a nonforfeitable right to a
 7 percentage of the employee’s accrued benefit de-
 8 rived from employer contributions determined
 9 under the following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

10 “(4) DISTRIBUTION REQUIREMENTS.—In the
 11 case of a profit-sharing or stock bonus plan, the re-
 12 quirements of this paragraph are met if, under the
 13 plan, qualified employer contributions are distribut-
 14 able only as provided in section 401(k)(2)(B).

15 “(e) OTHER DEFINITIONS.—For purposes of this
 16 section—

17 “(1) ELIGIBLE EMPLOYER.—

18 “(A) IN GENERAL.—The term ‘eligible em-
 19 ployer’ means, with respect to any year, an em-
 20 ployer which has no more than 50 employees
 21 who received at least \$5,000 of compensation
 22 from the employer for the preceding year.

1 “(B) REQUIREMENT FOR NEW QUALIFIED
 2 EMPLOYER PLANS.—Such term shall not in-
 3 clude an employer if, during the 3-taxable year
 4 period immediately preceding the 1st taxable
 5 year for which the credit under this section is
 6 otherwise allowable for a qualified employer
 7 plan of the employer, the employer or any mem-
 8 ber of any controlled group including the em-
 9 ployer (or any predecessor of either) established
 10 or maintained a qualified employer plan with
 11 respect to which contributions were made, or
 12 benefits were accrued, for substantially the
 13 same employees as are in the qualified employer
 14 plan.

15 “(2) HIGHLY COMPENSATED EMPLOYEE.—The
 16 term ‘highly compensated employee’ has the mean-
 17 ing given such term by section 414(q) (determined
 18 without regard to section 414(q)(1)(B)(ii)).

19 “(f) SPECIAL RULES.—

20 “(1) DISALLOWANCE OF DEDUCTION.—No de-
 21 duction shall be allowed for that portion of the quali-
 22 fied employer contributions paid or incurred for the
 23 taxable year which is equal to the credit determined
 24 under subsection (a).

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

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

10 “(g) RECAPTURE OF CREDIT ON FORFEITED CON-
 11 TRIBUTIONS.—

12 “(1) IN GENERAL.—Except as provided in para-
 13 graph (2), if any accrued benefit which is forfeitable
 14 by reason of subsection (d)(3) is forfeited, the em-
 15 ployer’s tax imposed by this chapter for the taxable
 16 year in which the forfeiture occurs shall be increased
 17 by 35 percent of the employer contributions from
 18 which such benefit is derived to the extent such con-
 19 tributions were taken into account in determining
 20 the credit under this section.

21 “(2) REALLOCATED CONTRIBUTIONS.—Para-
 22 graph (1) shall not apply to any contribution which
 23 is reallocated by the employer under the plan to em-
 24 ployees who are not highly compensated employees.”.

1 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 2 NESS CREDIT.—Section 38(b) (defining current year busi-
 3 ness credit) is amended by striking “plus” at the end of
 4 paragraph (12), by striking the period at the end of para-
 5 graph (13) and inserting “, plus”, and by adding at the
 6 end the following new paragraph:

7 “(14) in the case of an eligible employer (as de-
 8 fined in section 45E(e)), the small employer pension
 9 plan contribution credit determined under section
 10 45E(a).”

11 (c) CONFORMING AMENDMENTS.—

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

14 “(10) NO CARRYBACK OF SMALL EMPLOYER
 15 PENSION PLAN CONTRIBUTION CREDIT BEFORE JAN-
 16 UARY 1, 2002.—No portion of the unused business
 17 credit for any taxable year which is attributable to
 18 the small employer pension plan contribution credit
 19 determined under section 45E may be carried back
 20 to a taxable year beginning before January 1,
 21 2002.”

22 (2) Subsection (c) of section 196 is amended by
 23 striking “and” at the end of paragraph (8), by strik-
 24 ing the period at the end of paragraph (9) and in-

1 serting “, and”, and by adding at the end the fol-
 2 lowing new paragraph:

3 “(10) the small employer pension plan contribu-
 4 tion credit determined under section 45E(a).”

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

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

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

11 **SEC. 210. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
 12 **SMALL EMPLOYERS.**

13 (a) IN GENERAL.—Subpart D of part IV of sub-
 14 chapter A of chapter 1 (relating to business related cred-
 15 its), as amended by section 209, is amended by adding
 16 at the end the following new section:

17 **“SEC. 45F. SMALL EMPLOYER PENSION PLAN STARTUP**
 18 **COSTS.**

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

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

4 “(1) \$500 for the first credit year and each of
 5 the 2 taxable years immediately following the first
 6 credit year, and

7 “(2) zero for any other taxable year.

8 “(c) ELIGIBLE EMPLOYER.—For purposes of this
 9 section—

10 “(1) IN GENERAL.—The term ‘eligible em-
 11 ployer’ has the meaning given such term by section
 12 408(p)(2)(C)(i).

13 “(2) REQUIREMENT FOR NEW QUALIFIED EM-
 14 PLOYER PLANS.—Such term shall not include an
 15 employer if, during the 3-taxable year period imme-
 16 diately preceding the 1st taxable year for which the
 17 credit under this section is otherwise allowable for a
 18 qualified employer plan of the employer, the em-
 19 ployer or any member of any controlled group in-
 20 cluding the employer (or any predecessor of either)
 21 established or maintained a qualified employer plan
 22 with respect to which contributions were made, or
 23 benefits were accrued, for substantially the same em-
 24 ployees as are in the qualified employer plan.

1 “(d) OTHER DEFINITIONS.—For purposes of this
2 section—

3 “(1) QUALIFIED STARTUP COSTS.—

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

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

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

12 “(B) PLAN MUST HAVE AT LEAST 1 PAR-
13 TICIPANT.—Such term shall not include any ex-
14 pense in connection with a plan that does not
15 have at least 1 employee eligible to participate
16 who is not a highly compensated employee.

17 “(2) ELIGIBLE EMPLOYER PLAN.—The term
18 ‘eligible employer plan’ means a qualified employer
19 plan within the meaning of section 4972(d).

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

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

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

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

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

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

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

20 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 21 NESS CREDIT.—Section 38(b) (defining current year busi-
 22 ness credit), as amended by section 209, is amended by
 23 striking “plus” at the end of paragraph (13), by striking
 24 the period at the end of paragraph (14) and inserting “,

1 plus”, and by adding at the end the following new para-
 2 graph:

3 “(15) in the case of an eligible employer (as de-
 4 fined in section 45E(c)), the small employer pension
 5 plan startup cost credit determined under section
 6 45F(a).”

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 39(d), as amended by section
 9 209(c), is amended by adding at the end the fol-
 10 lowing new paragraph:

11 “(11) NO CARRYBACK OF SMALL EMPLOYER
 12 PENSION PLAN STARTUP COST CREDIT BEFORE JAN-
 13 UARY 1, 2002.—No portion of the unused business
 14 credit for any taxable year which is attributable to
 15 the small employer pension plan startup cost credit
 16 determined under section 45F may be carried back
 17 to a taxable year beginning before January 1,
 18 2002.”

19 (2) Subsection (c) of section 196, as amended
 20 by section 209(c), is amended by striking “and” at
 21 the end of paragraph (9), by striking the period at
 22 the end of paragraph (10) and inserting “, and”,
 23 and by adding at the end the following new para-
 24 graph:

1 “(11) the small employer pension plan startup
2 cost credit determined under section 45F(a).”

3 (3) The table of sections for subpart D of part
4 IV of subchapter A of chapter 1, as amended by sec-
5 tion 209(c), is amended by adding at the end the
6 following new item:

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

7 (d) **EFFECTIVE DATE.**—The amendments made by
8 this section shall apply to costs paid or incurred in taxable
9 years beginning after December 31, 2001, with respect to
10 qualified employer plans established after such date.

11 **SEC. 211. ELIMINATION OF USER FEE FOR REQUESTS TO**
12 **IRS REGARDING NEW PENSION PLANS.**

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

21 (b) **NEW PENSION BENEFIT PLAN.**—For purposes of
22 this section—

23 (1) **IN GENERAL.**—The term “new pension ben-
24 efit plan” means a pension, profit-sharing, stock
25 bonus, annuity, or employee stock ownership plan

1 which is maintained by one or more eligible employ-
 2 ers if such employer (or any predecessor employer)
 3 has not made a prior request described in subsection
 4 (a) for such plan (or any predecessor plan).

5 (2) ELIGIBLE EMPLOYER.—The term “eligible
 6 employer” shall not include an employer if, during
 7 the 3-taxable year period immediately preceding the
 8 taxable year in which the request is made, the em-
 9 ployer or any member of any controlled group in-
 10 cluding the employer (or any predecessor of either)
 11 established or maintained a qualified employer plan
 12 with respect to which contributions were made, or
 13 benefits were accrued for service, for substantially
 14 the same employees as are in the qualified employer
 15 plan.

16 (c) EFFECTIVE DATE.—The provisions of this section
 17 shall apply with respect to requests made after December
 18 31, 2001.

19 **TITLE III—ENHANCING** 20 **FAIRNESS FOR WOMEN**

21 **SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS**

22 **AGE 50 OR OVER.**

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

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

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

8 “(2) LIMITATION ON AMOUNT OF ADDITIONAL
9 DEFERRALS.—

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

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

17 “(ii) the excess (if any) of—

18 “(I) the participant’s compensa-
19 tion (as defined in section 415(c)(3))
20 for the year, over

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

1 “(B) APPLICABLE PERCENTAGE.—For
 2 purposes of this paragraph, the applicable per-
 3 centage shall be determined in accordance with
 4 the following table:

“For taxable years beginning in:	The applicable percentage is:
2002	10 percent
2003	20 percent
2004	30 percent
2005	40 percent
2006 and thereafter	50 percent.

5 “(3) TREATMENT OF CONTRIBUTIONS.—In the
 6 case of any contribution to a plan under paragraph
 7 (1)—

8 “(A) such contribution shall not, with re-
 9 spect to the year in which the contribution is
 10 made—

11 “(i) be subject to any otherwise appli-
 12 cable limitation contained in section
 13 402(g), 402(h), 403(b), 404(a), 404(h),
 14 408(k), 408(p), 415, or 457, or

15 “(ii) be taken into account in applying
 16 such limitations to other contributions or
 17 benefits under such plan or any other such
 18 plan, and

19 “(B) such plan shall not be treated as fail-
 20 ing to meet the requirements of section
 21 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11),
 22 401(k)(12), 401(m), 403(b)(12), 408(k),

1 408(p), 408B, 410(b), or 416 by reason of the
 2 making of (or the right to make) such contribu-
 3 tion.

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

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

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

17 “(5) OTHER DEFINITIONS AND RULES.—For
 18 purposes of this subsection—

19 “(A) APPLICABLE DOLLAR AMOUNT.—The
 20 term ‘applicable dollar amount’ means, with re-
 21 spect to any year, the amount in effect under
 22 section 402(g)(1)(B), 408(p)(2)(E)(i), or
 23 457(e)(15)(A), whichever is applicable to an ap-
 24 plicable employer plan, for such year.

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

3 “(i) an employees’ trust described in
4 section 401(a) which is exempt from tax
5 under section 501(a),

6 “(ii) a plan under which amounts are
7 contributed by an individual’s employer for
8 an annuity contract described in section
9 403(b),

10 “(iii) an eligible deferred compensa-
11 tion plan under section 457 of an eligible
12 employer described in section 457(e)(1)(A),
13 and

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

16 “(C) ELECTIVE DEFERRAL.—The term
17 ‘elective deferral’ has the meaning given such
18 term by subsection (u)(2)(C).

19 “(D) EXCEPTION FOR SECTION 457
20 PLANS.—This subsection shall not apply to an
21 applicable employer plan described in subpara-
22 graph (B)(iii) for any year to which section
23 457(b)(3) applies.”.

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

4 **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
 5 **EMPLOYEES TO DEFINED CONTRIBUTION**
 6 **PLANS.**

7 (a) EQUITABLE TREATMENT.—

8 (1) IN GENERAL.—Subparagraph (B) of section
 9 415(c)(1) (relating to limitation for defined con-
 10 tribution plans) is amended by striking “25 percent”
 11 and inserting “100 percent”.

12 (2) APPLICATION TO SECTION 403(b).—Section
 13 403(b) is amended—

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

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

19 (C) by inserting “or any amount received
 20 by a former employee after the fifth taxable
 21 year following the taxable year in which such
 22 employee was terminated” before the period at
 23 the end of the second sentence of paragraph
 24 (3).

25 (3) CONFORMING AMENDMENTS.—

1 (A) Subsection (f) of section 72 is amend-
 2 ed by striking “section 403(b)(2)(D)(iii)” and
 3 inserting “section 403(b)(2)(D)(iii), as in effect
 4 before the enactment of the Retirement Secu-
 5 rity and Savings Act of 2001”).

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

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

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

15 “(E) ANNUITY CONTRACTS.—In the case
 16 of an annuity contract described in section
 17 403(b), the term ‘participant’s compensation’
 18 means the participant’s includible compensation
 19 determined under section 403(b)(3).”.

20 (E) Section 415(c) is amended by striking
 21 paragraph (4).

22 (F) Section 415(c)(7) is amended to read
 23 as follows:

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

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

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

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

(G) Subparagraph (B) of section 402(g)(7) (as redesignated by section 201(c)(3)) is amended by inserting before the period at the

1 end the following: “(as in effect before the en-
 2 actment of the Retirement Security and Savings
 3 Act of 2001)”.

4 (H) Section 664(g) is amended—

5 (i) in paragraph (3)(E) by striking
 6 “limitations under section 415(c)” and in-
 7 serting “applicable limitation under para-
 8 graph (7)”, and

9 (ii) by adding at the end the following
 10 new paragraph:

11 “(7) APPLICABLE LIMITATION.—

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

16 “(i) \$30,000, or

17 “(ii) 25 percent of the participant’s
 18 compensation (as defined in section
 19 415(c)(3)).

20 “(B) COST-OF-LIVING ADJUSTMENT.—The
 21 Secretary shall adjust annually the \$30,000
 22 amount under subparagraph (A)(i) at the same
 23 time and in the same manner as under section
 24 415(d), except that the base period shall be the
 25 calendar quarter beginning October 1, 1993,

1 and any increase under this subparagraph
 2 which is not a multiple of \$5,000 shall be
 3 rounded to the next lowest multiple of \$5,000.”.

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

7 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
 8 408.—

9 (1) IN GENERAL.—Subsection (k) of section
 10 415 is amended by adding at the end the following
 11 new paragraph:

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

25 (2) EFFECTIVE DATE.—

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

4 (B) EXCLUSION ALLOWANCE.—Effective
 5 for limitation years beginning in 2001, in the
 6 case of any annuity contract described in sec-
 7 tion 403(b) of the Internal Revenue Code of
 8 1986, the amount of the contribution disquali-
 9 fied by reason of section 415(g) of such Code
 10 shall reduce the exclusion allowance as provided
 11 in section 403(b)(2) of such Code.

12 (3) MODIFICATION OF 403(b) EXCLUSION AL-
 13 LOWANCE TO CONFORM TO 415 MODIFICATION.—The
 14 Secretary of the Treasury shall modify the regula-
 15 tions regarding the exclusion allowance under section
 16 403(b)(2) of the Internal Revenue Code of 1986 to
 17 render void the requirement that contributions to a
 18 defined benefit pension plan be treated as previously
 19 excluded amounts for purposes of the exclusion al-
 20 lowance. For taxable years beginning after Decem-
 21 ber 31, 2000, such regulations shall be applied as if
 22 such requirement were void.

23 (c) DEFERRED COMPENSATION PLANS OF STATE
 24 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 25 ZATIONS.—

1 (1) IN GENERAL.—Subparagraph (B) of section
 2 457(b)(2) (relating to salary limitation on eligible
 3 deferred compensation plans) is amended by striking
 4 “33 $\frac{1}{3}$ percent” and inserting “100 percent”.

5 (2) EFFECTIVE DATE.—The amendment made
 6 by this subsection shall apply to years beginning
 7 after December 31, 2001.

8 **SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER**
 9 **MATCHING CONTRIBUTIONS.**

10 (a) IN GENERAL.—Section 411(a) (relating to min-
 11 imum vesting standards) is amended—

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

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

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

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

22 “(B) by substituting the following table for
 23 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60

5	80
6	100.”.

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

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

(2) by adding at the end the following:

“(4) In the case of matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

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

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

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

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2001.

1 (2) COLLECTIVE BARGAINING AGREEMENTS.—

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

10 (A) the later of—

11 (i) the date on which the last of such
12 collective bargaining agreements termi-
13 nates (determined without regard to any
14 extension thereof on or after such date of
15 the enactment); or

16 (ii) January 1, 2002; or

17 (B) January 1, 2006.

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

1 **SEC. 304. MINIMUM DISTRIBUTION RULES.**

2 (a) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
3 BEGUN BEFORE DEATH OCCURS.—

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

8 (2) CONFORMING CHANGES.—

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

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

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

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

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

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

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

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

(iv) by striking “the distributions to such spouse begin,” in subclause (II) and inserting “his entire interest has been distributed to him,”.

(3) EFFECTIVE DATE.—

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

(B) DISTRIBUTIONS TO SURVIVING SPOUSE.—

(i) IN GENERAL.—In the case of an employee described in clause (ii), distributions to the surviving spouse of the employee shall not be required to commence prior to the date on which such distribu-

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

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

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

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

15 (b) REDUCTION IN EXCISE TAX.—

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

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

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

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

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

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

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

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

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

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

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
5 subsection (c) shall apply to transfers, distributions,
6 and payments made after December 31, 2001.

7 (2) AMENDMENTS RELATING TO ASSIGNMENTS
8 IN DIVORCE, ETC., PROCEEDINGS.—The amendments
9 made by subsections (a) and (b) shall take effect on
10 January 1, 2002, except that in the case of a domes-
11 tic relations order entered before such date, the plan
12 administrator—

13 (A) shall treat such order as a qualified
14 domestic relations order if such administrator is
15 paying benefits pursuant to such order on such
16 date, and

17 (B) may treat any other such order en-
18 tered before such date as a qualified domestic
19 relations order even if such order does not meet
20 the requirements of such amendments.

21 **SEC. 306. PROVISIONS RELATING TO HARDSHIP DISTRIBUTIONS.**
22

23 (a) SAFE HARBOR RELIEF.—

24 (1) IN GENERAL.—The Secretary of the Treas-
25 ury shall revise the regulations relating to hardship

1 distributions under section 401(k)(2)(B)(i)(IV) of
 2 the Internal Revenue Code of 1986 to provide that
 3 the period an employee is prohibited from making
 4 elective and employee contributions in order for a
 5 distribution to be deemed necessary to satisfy finan-
 6 cial need shall be equal to 6 months.

7 (2) EFFECTIVE DATE.—The revised regulations
 8 under this subsection shall apply to years beginning
 9 after December 31, 2001.

10 (b) HARDSHIP DISTRIBUTIONS NOT TREATED AS
 11 ELIGIBLE ROLLOVER DISTRIBUTIONS.—

12 (1) MODIFICATION OF DEFINITION OF ELIGI-
 13 BLE ROLLOVER.—Section 402(c)(4)(C) (relating to
 14 eligible rollover distribution) is amended by striking
 15 “described in section 401(k)(2)(B)(i)(IV)” and in-
 16 serting “under the terms of the plan”.

17 (2) EFFECTIVE DATE.—The amendment made
 18 by this subsection shall apply to distributions made
 19 after December 31, 2002, unless a plan adminis-
 20 trator elects to apply such amendment to distribu-
 21 tions made after December 31, 2001.

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

24 (a) IN GENERAL.—Section 4972(c)(6) (relating to
 25 exceptions to nondeductible contributions), as amended by

1 section 502, is amended by striking “or” at the end of
2 subparagraph (A), by striking the period and inserting “,
3 or” at the end of subparagraph (B), and by inserting after
4 subparagraph (B) the following new subparagraph:

5 “(C) so much of the contributions to a
6 simple retirement account (within the meaning
7 of section 408(p)) or a simple plan (within the
8 meaning of section 401(k)(11)) which are not
9 deductible when contributed solely because such
10 contributions are not made in connection with
11 a trade or business of the employer.”

12 (b) EXCLUSION OF CERTAIN CONTRIBUTIONS.—Sec-
13 tion 4972(c)(6), as amended by subsection (a), is amended
14 by adding at the end the following new sentence: “Sub-
15 paragraph (C) shall not apply to contributions made on
16 behalf of the employer or a member of the employer’s fam-
17 ily (as defined in section 447(e)(1)).”.

18 (c) NO INFERENCE.—Nothing in the amendments
19 made by this section shall be construed to infer the proper
20 treatment of nondeductible contributions under the laws
21 in effect before such amendments.

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

1 **TITLE IV—INCREASING PORT-**
 2 **ABILITY FOR PARTICIPANTS**

3 **SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
 4 **OF PLANS.**

5 (a) ROLLOVERS FROM AND TO SECTION 457
 6 PLANS.—

7 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

11 “(16) ROLLOVER AMOUNTS.—

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

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

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

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

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

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

10 “(B) CERTAIN RULES MADE APPLICA-
11 BLE.—The rules of paragraphs (2) through (7)
12 and (9) of section 402(c) and section 402(f)
13 shall apply for purposes of subparagraph (A).

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

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

24 (C) DIRECT ROLLOVER.—Paragraph (1) of
25 section 457(d) is amended by striking “and” at

1 the end of subparagraph (A), by striking the
 2 period at the end of subparagraph (B) and in-
 3 serting “, and”, and by inserting after subpara-
 4 graph (B) the following:

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

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

13 (D) WITHHOLDING.—

14 (i) Paragraph (12) of section 3401(a)
 15 is amended by adding at the end the fol-
 16 lowing:

17 “(E) under or to an eligible deferred com-
 18 pensation plan which, at the time of such pay-
 19 ment, is a plan described in section 457(b)
 20 which is maintained by an eligible employer de-
 21 scribed in section 457(e)(1)(A), or”.

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

24 “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For
 25 purposes of this subsection, the term ‘eligible roll-

over distribution’ has the meaning given such term by section 402(f)(2)(A).”.

(iii) LIABILITY FOR WITHHOLDING.—

Subparagraph (B) of section 3405(d)(2) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by adding at the end the following:

“(iv) section 457(b) and which is maintained by an eligible employer described in section 457(e)(1)(A).”.

(2) ROLLOVERS TO SECTION 457 PLANS.—

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

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

(B) SEPARATE ACCOUNTING.—Section 402(c) is amended by adding at the end the following new paragraph:

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

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

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

24 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
 25 403(b) PLANS.—

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

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

14 “(vi) an annuity contract described in
 15 section 403(b).”.

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

24 “(E) of the provisions under which dis-
 25 tributions from the eligible retirement plan re-

1 ceiving the distribution may be subject to re-
 2 strictions and tax consequences which are dif-
 3 ferent from those applicable to distributions
 4 from the plan making such distribution.”.

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

9 (e) CONFORMING AMENDMENTS.—

10 (1) Section 72(o)(4) is amended by striking
 11 “and 408(d)(3)” and inserting “403(b)(8),
 12 408(d)(3), and 457(e)(16)”.

13 (2) Section 219(d)(2) is amended by striking
 14 “or 408(d)(3)” and inserting “408(d)(3), or
 15 457(e)(16)”.

16 (3) Section 401(a)(31)(B) is amended by strik-
 17 ing “and 403(a)(4)” and inserting “, 403(a)(4),
 18 403(b)(8), and 457(e)(16)”.

19 (4) Subparagraph (A) of section 402(f)(2) is
 20 amended by striking “or paragraph (4) of section
 21 403(a)” and inserting “, paragraph (4) of section
 22 403(a), subparagraph (A) of section 403(b)(8), or
 23 subparagraph (A) of section 457(e)(16)”.

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

1 (6) Subparagraphs (A) and (B) of section
 2 402(f)(1) are amended by striking “another eligible
 3 retirement plan” and inserting “an eligible retire-
 4 ment plan”.

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

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

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

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

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

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

1 (f) EFFECTIVE DATE; SPECIAL RULE.—

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

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

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

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

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

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

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

11 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE
 11 ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of sec-
 12 tion 401(a)(31) (relating to limitation) is amended by add-
 13 ing at the end the following: “The preceding sentence shall
 14 not apply to such distribution if the plan to which such
 15 distribution is transferred—

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

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

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

5 “(H) APPLICATION OF SECTION 72.—

6 “(i) IN GENERAL.—If—

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the distributee received the property distrib-
2 uted.

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

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

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

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

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

2 (a) PLAN TRANSFERS.—

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

7 “(D) PLAN TRANSFERS.—

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

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

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

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

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

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

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

24 “(ii) SPECIAL RULE FOR MERGERS,
25 ETC.—Clause (i) shall apply to plan merg-

1 ers and other transactions having the ef-
 2 fect of a direct transfer, including consoli-
 3 dations of benefits attributable to different
 4 employers within a multiple employer
 5 plan.”.

6 (2) AMENDMENT OF ERISA.—Section 204(g) of
 7 the Employee Retirement Income Security Act of
 8 1974 (29 U.S.C. 1054(g)) is amended by adding at
 9 the end the following:

10 “(4)(A) A defined contribution plan (in this subpara-
 11 graph referred to as the ‘transferee plan’) shall not be
 12 treated as failing to meet the requirements of this sub-
 13 section merely because the transferee plan does not pro-
 14 vide some or all of the forms of distribution previously
 15 available under another defined contribution plan (in this
 16 subparagraph referred to as the ‘transferor plan’) to the
 17 extent that—

18 “(i) the forms of distribution previously avail-
 19 able under the transferor plan applied to the account
 20 of a participant or beneficiary under the transferor
 21 plan that was transferred from the transferor plan
 22 to the transferee plan pursuant to a direct transfer
 23 rather than pursuant to a distribution from the
 24 transferor plan;

1 “(ii) the terms of both the transferor plan and
2 the transferee plan authorize the transfer described
3 in clause (i);

4 “(iii) the transfer described in clause (i) was
5 made pursuant to a voluntary election by the partici-
6 pant or beneficiary whose account was transferred to
7 the transferee plan;

8 “(iv) the election described in clause (iii) was
9 made after the participant or beneficiary received a
10 notice describing the consequences of making the
11 election; and

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

17 “(B) Subparagraph (A) shall apply to plan mergers
18 and other transactions having the effect of a direct trans-
19 fer, including consolidations of benefits attributable to dif-
20 ferent employers within a multiple employer plan.”.

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

24 (b) REGULATIONS.—

1 (1) AMENDMENT OF INTERNAL REVENUE
2 CODE.—The last sentence of paragraph (6)(B) of
3 section 411(d) (relating to accrued benefit not to be
4 decreased by amendment) is amended to read as fol-
5 lows: “The Secretary shall by regulations provide
6 that this subparagraph shall not apply to any plan
7 amendment which reduces or eliminates benefits or
8 subsidies which create significant burdens or com-
9 plexities for the plan and plan participants, unless
10 such amendment adversely affects the rights of any
11 participant in a more than de minimis manner.”.

12 (2) AMENDMENT OF ERISA.—The last sentence
13 of section 204(g)(2) of the Employee Retirement In-
14 come Security Act of 1974 (29 U.S.C. 1054(g)(2))
15 is amended to read as follows: “The Secretary of the
16 Treasury shall by regulations provide that this para-
17 graph shall not apply to any plan amendment which
18 reduces or eliminates benefits or subsidies which cre-
19 ate significant burdens or complexities for the plan
20 and plan participants, unless such amendment ad-
21 versely affects the rights of any participant in a
22 more than de minimis manner.”.

23 (3) SECRETARY DIRECTED.—Not later than
24 December 31, 2002, the Secretary of the Treasury
25 is directed to issue regulations under section

1 411(d)(6) of the Internal Revenue Code of 1986 and
 2 section 204(g) of the Employee Retirement Income
 3 Security Act of 1974, including the regulations re-
 4 quired by the amendment made by this subsection.
 5 Such regulations shall apply to plan years beginning
 6 after December 31, 2002, or such earlier date as is
 7 specified by the Secretary of the Treasury.

8 **SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-**
 9 **TRIBUTIONS.**

10 (a) MODIFICATION OF SAME DESK EXCEPTION.—

11 (1) SECTION 401(k).—

12 (A) Section 401(k)(2)(B)(i)(I) (relating to
 13 qualified cash or deferred arrangements) is
 14 amended by striking “separation from service”
 15 and inserting “severance from employment”.

16 (B) Subparagraph (A) of section
 17 401(k)(10) (relating to distributions upon ter-
 18 mination of plan or disposition of assets or sub-
 19 sidiary) is amended to read as follows:

20 “(A) IN GENERAL.—An event described in
 21 this subparagraph is the termination of the
 22 plan without establishment or maintenance of
 23 another defined contribution plan (other than
 24 an employee stock ownership plan as defined in
 25 section 4975(e)(7)).”.

1 (C) Section 401(k)(10) is amended—

2 (i) in subparagraph (B)—

3 (I) by striking “An event” in
4 clause (i) and inserting “A termi-
5 nation”; and

6 (II) by striking “the event” in
7 clause (i) and inserting “the termi-
8 nation”;

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

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

12 (2) SECTION 403(b).—

13 (A) Paragraphs (7)(A)(ii) and (11)(A) of
14 section 403(b) are each amended by striking
15 “separates from service” and inserting “has a
16 severance from employment”.

17 (B) The heading for paragraph (11) of
18 section 403(b) is amended by striking “SEPARA-
19 TION FROM SERVICE” and inserting “SEVER-
20 ANCE FROM EMPLOYMENT”.

21 (3) SECTION 457.—Clause (ii) of section
22 457(d)(1)(A) is amended by striking “is separated
23 from service” and inserting “has a severance from
24 employment”.

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

4 **SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-**
 5 **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

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

21 (b) 457 PLANS.—Subsection (e) of section 457, as
 22 amended by section 401, is amended by adding after para-
 23 graph (16) the following new paragraph:

24 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 25 PURCHASE PERMISSIVE SERVICE CREDIT.—No

1 amount shall be includible in gross income by reason
 2 of a direct trustee-to-trustee transfer to a defined
 3 benefit governmental plan (as defined in section
 4 414(d)) if such transfer is—

5 “(A) for the purchase of permissive service
 6 credit (as defined in section 415(n)(3)(A))
 7 under such plan, or

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

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

14 **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
 15 **PURPOSES OF CASH-OUT AMOUNTS.**

16 (a) QUALIFIED PLANS.—

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

21 “(D) SPECIAL RULE FOR ROLLOVER CON-
 22 TRIBUTIONS.—A plan shall not fail to meet the
 23 requirements of this paragraph if, under the
 24 terms of the plan, the present value of the non-
 25 forfeitable accrued benefit is determined with-

1 out regard to that portion of such benefit which
 2 is attributable to rollover contributions (and
 3 earnings allocable thereto). For purposes of this
 4 subparagraph, the term ‘rollover contributions’
 5 means any rollover contribution under sections
 6 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
 7 and 457(e)(16).’.

8 (2) AMENDMENT OF ERISA.—Section 203(e) of
 9 the Employee Retirement Income Security Act of
 10 1974 (29 U.S.C. 1053(c)) is amended by adding at
 11 the end the following:

12 “(4) A plan shall not fail to meet the requirements
 13 of this subsection if, under the terms of the plan, the
 14 present value of the nonforfeitable accrued benefit is de-
 15 termined without regard to that portion of such benefit
 16 which is attributable to rollover contributions (and earn-
 17 ings allocable thereto). For purposes of this subparagraph,
 18 the term ‘rollover contributions’ means any rollover con-
 19 tribution under sections 402(c), 403(a)(4), 403(b)(8),
 20 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue
 21 Code of 1986.”.

22 (b) ELIGIBLE DEFERRED COMPENSATION PLANS.—
 23 Clause (i) of section 457(e)(9)(A) is amended by striking
 24 “such amount” and inserting “the portion of such amount

1 which is not attributable to rollover contributions (as de-
 2 fined in section 411(a)(11)(D))”.

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

6 **SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-**
 7 **QUIREMENTS FOR SECTION 457 PLANS.**

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

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

15 (b) INCLUSION IN GROSS INCOME.—

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

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

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

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

4 “(B) is paid or otherwise made available to
5 the participant or other beneficiary, in the case
6 of a plan of an eligible employer described in
7 subsection (e)(1)(B).

8 “(2) SPECIAL RULE FOR ROLLOVER
9 AMOUNTS.—To the extent provided in section
10 72(t)(9), section 72(t) shall apply to any amount in-
11 cludible in gross income under this subsection.”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) So much of paragraph (9) of section
14 457(e) as precedes subparagraph (A) is amend-
15 ed to read as follows:

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

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

23 “(3) SPECIAL RULE FOR GOVERNMENT PLAN.—
24 An eligible deferred compensation plan of an em-
25 ployer described in subsection (e)(1)(A) shall not be

1 treated as failing to meet the requirements of this
 2 subsection solely by reason of making a distribution
 3 described in subsection (e)(9)(A).”.

4 (c) MODIFICATION OF TRANSITION RULES FOR EX-
 5 ISTING 457 PLANS.—

6 (1) IN GENERAL.—Section 1107(c)(3)(B) of the
 7 Tax Reform Act of 1986 is amended by striking
 8 “or” at the end of clause (i), by striking the period
 9 at the end of clause (ii) and inserting “, or” and by
 10 inserting after clause (ii) the following new clause:

11 “(iii) are deferred pursuant to an
 12 agreement with an individual covered by
 13 an agreement described in clause (ii), to
 14 the extent the annual amount under such
 15 agreement with the individual does not
 16 exceed—

17 “(I) the amount described in
 18 clause (ii)(II), multiplied by

19 “(II) the cumulative increase in
 20 the Consumer Price Index (as pub-
 21 lished by the Bureau of Labor Statis-
 22 tics of the Department of Labor).”.

23 (2) CONFORMING AMENDMENT.—The fourth
 24 sentence of section 1107(c)(3)(B) of the Tax Reform
 25 Act of 1986 is amended by striking “This subpara-

1 graph” and inserting “Clauses (i) and (ii) of this
2 subparagraph”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to taxable years end-
5 ing after the date of the enactment of this Act with
6 respect to increases in the Consumer Price Index
7 after September 30, 1993.

8 (d) EFFECTIVE DATE.—The amendments made by
9 subsections (a) and (b) shall apply to distributions after
10 December 31, 2001.

11 **TITLE V—STRENGTHENING PEN-** 12 **SION SECURITY AND EN-** 13 **FORCEMENT**

14 **Subtitle A—General Provisions**

15 **SEC. 501. REPEAL OF 155 PERCENT OF CURRENT LIABILITY** 16 **FUNDING LIMIT.**

17 (a) AMENDMENTS TO INTERNAL REVENUE CODE.—
18 Section 412(c)(7) (relating to full-funding limitation) is
19 amended—

20 (1) by striking “the applicable percentage” in
21 subparagraph (A)(i)(I) and inserting “in the case of
22 plan years beginning before January 1, 2005, the
23 applicable percentage”; and

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

1 “(F) APPLICABLE PERCENTAGE.—For
 2 purposes of subparagraph (A)(i)(I), the applica-
 3 ble percentage shall be determined in accord-
 4 ance with the following table:

“In the case of any plan year beginning in—	The applicable percentage is—
2002	160
2003	165
2004	170.”.

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

8 (1) by striking “the applicable percentage” in
 9 subparagraph (A)(i)(I) and inserting “in the case of
 10 plan years beginning before January 1, 2005, the
 11 applicable percentage”, and

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

14 “(F) APPLICABLE PERCENTAGE.—For
 15 purposes of subparagraph (A)(i)(I), the applica-
 16 ble percentage shall be determined in accord-
 17 ance with the following table:

“In the case of any plan year beginning in—	The applicable percentage is—
2002	160
2003	165
2004	170.”.

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

1 **SEC. 502. 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 MAINTAINED BY PROFES-
 16 SIONAL SERVICE EMPLOYERS.—Clause (i)
 17 shall not apply to a plan described in sec-
 18 tion 4021(b)(13) of the Employee Retire-
 19 ment Income Security Act of 1974.”.

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

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

1 plans which are not deductible when contributed
 2 solely because of section 404(a)(7) as does not ex-
 3 ceed the greater of—

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

10 “(B) the sum of—

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

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

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

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

1 **SEC. 503. 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 amendment made by
22 this section shall apply to years beginning after December
23 31, 2001.

24 **SEC. 504. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
25 **SECTION 415.**

26 (a) COMPENSATION LIMIT.—

1 (1) IN GENERAL.—Paragraph (11) of section
 2 415(b) (relating to limitation for defined benefit
 3 plans) is amended to read as follows:

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

10 (2) CONFORMING AMENDMENT.—Section
 11 415(b)(7) (relating to benefits under certain collec-
 12 tively bargained plans) is amended by inserting
 13 “(other than a multiemployer plan)” after “defined
 14 benefit plan” in the matter preceding subparagraph
 15 (A).

16 (b) COMBINING AND AGGREGATION OF PLANS.—

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

20 “(3) EXCEPTION FOR MULTIEMPLOYER
 21 PLANS.—Notwithstanding paragraph (1) and sub-
 22 section (g), a multiemployer plan (as defined in sec-
 23 tion 414(f)) shall not be combined or aggregated
 24 with any other plan maintained by an employer for

1 purposes of applying subsection (b)(1)(B) to such
 2 plan or any other such plan.”.

3 (2) CONFORMING AMENDMENT FOR AGGREGA-
 4 TION OF PLANS.—Subsection (g) of section 415 (re-
 5 lating to aggregation of plans) is amended by strik-
 6 ing “The Secretary” and inserting “Except as pro-
 7 vided in subsection (f)(3), the Secretary”.

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

11 **SEC. 505. PROTECTION OF INVESTMENT OF EMPLOYEE**
 12 **CONTRIBUTIONS TO 401(k) PLANS.**

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

15 “(b) EFFECTIVE DATE.—

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

20 “(2) NONAPPLICATION TO PREVIOUSLY AC-
 21 QUIRED PROPERTY.—The amendments made by this
 22 section shall not apply to any elective deferral which
 23 is invested in assets consisting of qualifying em-
 24 ployer securities, qualifying employer real property,

1 or both, if such assets were acquired before January
2 1, 1999.”.

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

6 **SEC. 506. PERIODIC PENSION BENEFITS STATEMENTS.**

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

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

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

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

15 “(ii) to a plan beneficiary upon written re-
16 quest, and

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

19 “(i) at least once every 3 years to each
20 participant with a nonforfeitable accrued ben-
21 efit who is employed by the employer maintain-
22 ing the plan at the time the statement is fur-
23 nished to participants, and

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

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

7 “(3) A pension benefit statement under paragraph
8 (1)—

9 “(A) shall indicate, on the basis of the latest
10 available information—

11 “(i) the total benefits accrued, and

12 “(ii) the nonforfeitable pension benefits, if
13 any, which have accrued, or the earliest date on
14 which benefits will become nonforfeitable,

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

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

19 “(4)(A) In the case of a defined benefit plan, the re-
20 quirements of paragraph (1)(B)(i) shall be treated as met
21 with respect to a participant if the administrator provides
22 the participant at least once each year with notice of the
23 availability of the pension benefit statement and the ways
24 in which the participant may obtain such statement. Such
25 notice shall be provided in written, electronic, telephonic,

1 or other appropriate form, and may be included with other
2 communications to the participant if done in a manner
3 reasonably designed to attract the attention of the partici-
4 pant.

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

11 (b) CONFORMING AMENDMENTS.—

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

15 (2) Section 105(b) of such Act (29 U.S.C.
16 1025(b)) is amended to read as follows:

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

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

1 **SEC. 507. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
2 **PORATION ESOP.**

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

8 “(p) PROHIBITED ALLOCATIONS OF SECURITIES IN
9 AN S CORPORATION.—

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

19 “(2) FAILURE TO MEET REQUIREMENTS.—

20 “(A) IN GENERAL.—If a plan fails to meet
21 the requirements of paragraph (1), the plan
22 shall be treated as having distributed to any
23 disqualified person the amount allocated to the
24 account of such person in violation of para-
25 graph (1) at the time of such allocation.

1 “(B) CROSS REFERENCE.—

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

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

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

8 “(i) such plan holds employer securi-
9 ties consisting of stock in an S corpora-
10 tion, and

11 “(ii) disqualified persons own at least
12 50 percent of the number of shares of
13 stock in the S corporation.

14 “(B) ATTRIBUTION RULES.—For purposes
15 of subparagraph (A)—

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

19 “(I) in applying paragraph (1)
20 thereof, the members of an individ-
21 ual’s family shall include members of
22 the family described in paragraph
23 (4)(D), and

1 “(II) paragraph (4) thereof shall
2 not apply.

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

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

12 “(4) DISQUALIFIED PERSON.—For purposes of
13 this subsection—

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

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

21 “(ii) in the case of a person not de-
22 scribed in clause (i), the number of
23 deemed-owned shares of such person is at
24 least 10 percent of the number of deemed-
25 owned shares of stock in such corporation.

1 “(B) TREATMENT OF FAMILY MEMBERS.—

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

8 “(C) DEEMED-OWNED SHARES.—

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

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

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

21 “(ii) PERSON’S SHARE OF
22 UNALLOCATED STOCK.—For purposes of
23 clause (i)(II), a person’s share of
24 unallocated S corporation stock held by
25 such plan is the amount of the unallocated

1 stock which would be allocated to such per-
 2 son if the unallocated stock were allocated
 3 to all participants in the same proportions
 4 as the most recent stock allocation under
 5 the plan.

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

9 “(i) the spouse of the individual,

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

12 “(iii) a brother or sister of the indi-
 13 vidual or the individual’s spouse and any
 14 lineal descendant of the brother or sister,
 15 and

16 “(iv) the spouse of any individual de-
 17 scribed in clause (ii) or (iii).

18 A spouse of an individual who is legally sepa-
 19 rated from such individual under a decree of di-
 20 vorce or separate maintenance shall not be
 21 treated as such individual’s spouse for purposes
 22 of this subparagraph.

23 “(5) TREATMENT OF SYNTHETIC EQUITY.—For
 24 purposes of paragraphs (3) and (4), in the case of
 25 a person who owns synthetic equity in the S corpora-

tion, except to the extent provided in regulations, the shares of stock in such corporation on which such synthetic equity is based shall be treated as outstanding stock in such corporation and deemed-owned shares of such person if such treatment of synthetic equity of 1 or more such persons results in—

“(A) the treatment of any person as a disqualified person, or

“(B) the treatment of any year as a non-allocation year.

For purposes of this paragraph, synthetic equity shall be treated as owned by a person in the same manner as stock is treated as owned by a person under the rules of paragraphs (2) and (3) of section 318(a). If, without regard to this paragraph, a person is treated as a disqualified person or a year is treated as a nonallocation year, this paragraph shall not be construed to result in the person or year not being so treated.

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) EMPLOYEE STOCK OWNERSHIP PLAN.—The term ‘employee stock ownership

1 plan’ has the meaning given such term by sec-
2 tion 4975(e)(7).

3 “(B) EMPLOYER SECURITIES.—The term
4 ‘employer security’ has the meaning given such
5 term by section 409(l).

6 “(C) SYNTHETIC EQUITY.—The term ‘syn-
7 thetic equity’ means any stock option, warrant,
8 restricted stock, deferred issuance stock right,
9 or similar interest or right that gives the holder
10 the right to acquire or receive stock of the S
11 corporation in the future. Except to the extent
12 provided in regulations, synthetic equity also in-
13 cludes a stock appreciation right, phantom
14 stock unit, or similar right to a future cash
15 payment based on the value of such stock or
16 appreciation in such value.

17 “(7) REGULATIONS.—The Secretary shall pre-
18 scribe such regulations as may be necessary to carry
19 out the purposes of this subsection.”.

20 (b) COORDINATION WITH SECTION 4975(e)(7).—The
21 last sentence of section 4975(e)(7) (defining employee
22 stock ownership plan) is amended by inserting “, section
23 409(p),” after “409(n)”.

24 (c) EXCISE TAX.—

1 (1) APPLICATION OF TAX.—Subsection (a) of
 2 section 4979A (relating to tax on certain prohibited
 3 allocations of employer securities) is amended—

4 (A) by striking “or” at the end of para-
 5 graph (1), and

6 (B) by striking all that follows paragraph
 7 (2) and inserting the following:

8 “(3) there is any allocation of employer securi-
 9 ties which violates the provisions of section 409(p),
 10 or a nonallocation year described in subsection
 11 (e)(2)(C) with respect to an employee stock owner-
 12 ship plan, or

13 “(4) any synthetic equity is owned by a dis-
 14 qualified person in any nonallocation year,
 15 there is hereby imposed a tax on such allocation or owner-
 16 ship equal to 50 percent of the amount involved.”.

17 (2) LIABILITY.—Section 4979A(c) (defining li-
 18 ability for tax) is amended to read as follows:

19 “(c) LIABILITY FOR TAX.—The tax imposed by this
 20 section shall be paid—

21 “(1) in the case of an allocation referred to in
 22 paragraph (1) or (2) of subsection (a), by—

23 “(A) the employer sponsoring such plan, or

24 “(B) the eligible worker-owned cooperative,

1 which made the written statement described in sec-
 2 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as
 3 the case may be), and

4 “(2) in the case of an allocation or ownership
 5 referred to in paragraph (3) or (4) of subsection (a),
 6 by the S corporation the stock in which was so allo-
 7 cated or owned.”.

8 (3) DEFINITIONS.—Section 4979A(e) (relating
 9 to definitions) is amended to read as follows:

10 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
 11 poses of this section—

12 “(1) DEFINITIONS.—Except as provided in
 13 paragraph (2), terms used in this section have the
 14 same respective meanings as when used in sections
 15 409 and 4978.

16 “(2) SPECIAL RULES RELATING TO TAX IM-
 17 POSED BY REASON OF PARAGRAPH (3) OR (4) OF
 18 SUBSECTION (a).—

19 “(A) PROHIBITED ALLOCATIONS.—The
 20 amount involved with respect to any tax im-
 21 posed by reason of subsection (a)(3) is the
 22 amount allocated to the account of any person
 23 in violation of section 409(p)(1).

24 “(B) SYNTHETIC EQUITY.—The amount
 25 involved with respect to any tax imposed by rea-

1 son of subsection (a)(4) is the value of the
 2 shares on which the synthetic equity is based.

3 “(C) SPECIAL RULE DURING FIRST NON-
 4 ALLOCATION YEAR.—For purposes of subpara-
 5 graph (A), the amount involved for the first
 6 nonallocation year of any employee stock owner-
 7 ship plan shall be determined by taking into ac-
 8 count the total value of all the deemed-owned
 9 shares of all disqualified persons with respect to
 10 such plan.

11 “(D) STATUTE OF LIMITATIONS.—The
 12 statutory period for the assessment of any tax
 13 imposed by this section by reason of paragraph
 14 (3) or (4) of subsection (a) shall not expire be-
 15 fore the date which is 3 years from the later
 16 of—

17 “(i) the allocation or ownership re-
 18 ferred to in such paragraph giving rise to
 19 such tax, or

20 “(ii) the date on which the Secretary
 21 is notified of such allocation or owner-
 22 ship.”.

23 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
 2 this section shall apply to plan years beginning after
 3 December 31, 2002.

4 (2) EXCEPTION FOR CERTAIN PLANS.—In the
 5 case of any—

6 (A) employee stock ownership plan estab-
 7 lished after July 11, 2000, or

8 (B) employee stock ownership plan estab-
 9 lished on or before such date if employer securi-
 10 ties held by the plan consist of stock in a cor-
 11 poration with respect to which an election under
 12 section 1362(a) of the Internal Revenue Code
 13 of 1986 is not in effect on such date,

14 the amendments made by this section shall apply to
 15 plan years ending after July 11, 2000.

16 **SEC. 508. AUTOMATIC ROLLOVERS OF CERTAIN MANDA-**
 17 **TORY DISTRIBUTIONS.**

18 (a) DIRECT TRANSFERS OF MANDATORY DISTRIBU-
 19 TIONS.—

20 (1) IN GENERAL.—Section 401(a)(31) (relating
 21 to optional direct transfer of eligible rollover dis-
 22 tributions), as amended by section 403, is amended
 23 by redesignating subparagraphs (B), (C), and (D) as
 24 subparagraphs (C), (D), and (E), respectively, and

1 by inserting after subparagraph (A) the following
 2 new subparagraph:

3 “(B) CERTAIN MANDATORY DISTRIBUTIONS.—
 4

5 “(i) IN GENERAL.—In case of a trust
 6 which is part of an eligible plan, such trust
 7 shall not constitute a qualified trust under
 8 this section unless the plan of which such
 9 trust is a part provides that if—

10 “(I) a distribution described in
 11 clause (ii) in excess of \$1,000 is
 12 made, and

13 “(II) the distributee does not
 14 make an election under subparagraph
 15 (A) and does not elect to receive the
 16 distribution directly,

17 the plan administrator shall make such
 18 transfer to an individual retirement ac-
 19 count or annuity of a designated trustee or
 20 issuer and shall notify the distributee in
 21 writing (either separately or as part of the
 22 notice under section 402(f)) that the dis-
 23 tribution may be transferred without cost
 24 or penalty to another individual account or
 25 annuity.

1 “(ii) ELIGIBLE PLAN.—For purposes
 2 of clause (i), the term ‘eligible plan’ means
 3 a plan which provides that any nonforfeit-
 4 able accrued benefit for which the present
 5 value (as determined under section
 6 411(a)(11)) does not exceed \$5,000 shall
 7 be immediately distributed to the partici-
 8 pant.”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) The heading of section 401(a)(31) is
 11 amended by striking “OPTIONAL DIRECT” and
 12 inserting “DIRECT”.

13 (B) Section 401(a)(31)(C), as redesignated
 14 by paragraph (1), is amended by striking “Sub-
 15 paragraph (A)” and inserting “Subparagraphs
 16 (A) and (B)”.

17 (b) NOTICE REQUIREMENT.—Section 402(f)(1) (re-
 18 lating to written explanation to recipients of distributions
 19 eligible for rollover treatment) is amended by striking
 20 “and” at the end of subparagraph (C), by striking the pe-
 21 riod at the end of subparagraph (D), and by adding at
 22 the end the following new subparagraph:

23 “(E) if applicable, of the provision requir-
 24 ing a direct trustee-to-trustee transfer of a dis-

1 tribution under section 401(a)(31)(B) unless
2 the recipient elects otherwise.”.

3 (c) FIDUCIARY RULES.—Section 404(c) of the Em-
4 ployee Retirement Income Security Act of 1974 (29
5 U.S.C. 1104(c)) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(3) In the case of a pension plan which makes
8 a transfer to an individual retirement account or an-
9 nuity of a designated trustee or issuer under section
10 401(a)(31)(B) of the Internal Revenue Code of
11 1986, the participant or beneficiary shall, for pur-
12 poses of paragraph (1), be treated as exercising con-
13 trol over the assets in the account or annuity upon
14 the earlier of—

15 “(A) a rollover of all or a portion of the
16 amount to another individual retirement ac-
17 count or annuity; or

18 “(B) one year after the transfer is made.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to distributions made after Decem-
21 ber 31, 2001.

1 **Subtitle B—Treatment of Plan**
 2 **Amendments Reducing Future**
 3 **Benefit Accruals**

4 **SEC. 521. NOTICE REQUIRED FOR PENSION PLAN AMEND-**
 5 **MENTS HAVING THE EFFECT OF SIGNIFI-**
 6 **CANTLY REDUCING FUTURE BENEFIT ACCRU-**
 7 **ALS.**

8 (a) EXCISE TAX.—

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

12 **“SEC. 4980F. FAILURE TO PROVIDE NOTICE OF PENSION**
 13 **PLAN AMENDMENTS REDUCING BENEFIT AC-**
 14 **CRUALS.**

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

19 “(b) AMOUNT OF TAX.—

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

1 “(2) NONCOMPLIANCE PERIOD.—For purposes
 2 of this section, the term ‘noncompliance period’
 3 means, with respect to any failure, the period begin-
 4 ning on the date the failure first occurs and ending
 5 on the date the notice to which the failure relates is
 6 provided or the failure is otherwise corrected.

7 “(c) LIMITATIONS ON AMOUNT OF TAX.—

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

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

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

24 “(B) such person provides the notice de-
 25 scribed in subsection (e) during the 30-day pe-

1 riod beginning on the first date such person
 2 knew, or exercising reasonable diligence would
 3 have known, that such failure existed.

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

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

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

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

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

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

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

13 “(e) NOTICE REQUIREMENTS FOR PLAN AMEND-
 14 MENTS SIGNIFICANTLY REDUCING BENEFIT ACCRU-
 15 ALS.—

16 “(1) IN GENERAL.—If the sponsor of an appli-
 17 cable pension plan adopts an amendment which has
 18 the effect of significantly reducing the rate of future
 19 benefit accrual of 1 or more participants, the plan
 20 administrator shall, not later than the 45th day be-
 21 fore the effective date of the amendment, provide
 22 written notice to each applicable individual (and to
 23 each employee organization representing applicable
 24 individuals) which—

1 “(A) sets forth a summary of the plan
2 amendment and the effective date of the
3 amendment,

4 “(B) includes a statement that the plan
5 amendment is expected to significantly reduce
6 the rate of future benefit accrual,

7 “(C) includes a description of the classes
8 of employees reasonably expected to be affected
9 by the reduction in the rate of future benefit
10 accrual,

11 “(D) sets forth examples illustrating how
12 the plan will change benefits for such classes of
13 employees,

14 “(E) if paragraph (2) applies to the plan
15 amendment, includes a notice that the plan ad-
16 ministrator will provide a benefit estimation
17 tool kit described in paragraph (2)(B) to each
18 applicable individual no later than the date re-
19 quired under paragraph (2)(A), and

20 “(F) includes a notice of each applicable
21 individual’s right under Federal law to receive,
22 and of the procedures for requesting, an annual
23 benefit statement.

24 “(2) REQUIREMENT TO PROVIDE BENEFIT ES-
25 TIMATION TOOL KIT.—

1 “(A) IN GENERAL.—If a plan amendment
2 results in the significant restructuring of the
3 plan benefit formula (as determined under reg-
4 ulations prescribed by the Secretary), the plan
5 administrator shall, not later than the 15th day
6 before the effective date of the amendment, pro-
7 vide a benefit estimation tool kit described in
8 subparagraph (B) to each applicable individual.
9 If such plan amendment occurs within 12
10 months of an event described in section
11 410(b)(6)(C), the plan administrator shall in no
12 event be required to provide the benefit esti-
13 mation tool kit to applicable individuals affected
14 by the event before the date which is 12 months
15 after the date on which notice under paragraph
16 (1) is given to such applicable individuals.

17 “(B) BENEFIT ESTIMATION TOOL KIT.—
18 The benefit estimation tool kit described in this
19 subparagraph shall include the following infor-
20 mation:

21 “(i) Sufficient information to enable
22 an applicable individual to estimate the in-
23 dividual’s projected benefits under the
24 terms of the plan in effect both before and
25 after the adoption of the amendment.

1 “(ii) The formulas and actuarial as-
 2 sumptions necessary to estimate under
 3 both such plan terms a single life annuity
 4 at appropriate ages, and, when available, a
 5 lump sum distribution.

6 “(iii) The interest rate used to com-
 7 pute a lump sum distribution and informa-
 8 tion as to whether the value of any early
 9 retirement benefit or retirement-type sub-
 10 sidy (within the meaning of section
 11 411(d)(6)(B)(i)) is included in the lump
 12 sum distribution.

13 “(3) NOTICE TO DESIGNEE.—Any notice under
 14 paragraph (1) or (2) may be provided to a person
 15 designated, in writing, by the person to which it
 16 would otherwise be provided.

17 “(4) FORM OF EXPLANATION.—The informa-
 18 tion required to be provided under this subsection
 19 shall be provided in a manner calculated to be rea-
 20 sonably understood by the average plan participant.

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

23 “(1) APPLICABLE INDIVIDUAL.—

1 “(A) IN GENERAL.—The term ‘applicable
2 individual’ means, with respect to any plan
3 amendment—

4 “(i) each participant in the plan, and

5 “(ii) any beneficiary who is an alter-
6 nate payee (within the meaning of section
7 414(p)(8)) under an applicable qualified
8 domestic relations order (within the mean-
9 ing of section 414(p)(1)(A)),

10 whose rate of future benefit accrual under the
11 plan may reasonably be expected to be signifi-
12 cantly reduced by such plan amendment.

13 “(B) EXCEPTION FOR PARTICIPANTS WITH
14 LESS THAN 1 YEAR OF PARTICIPATION.—Such
15 term shall not include a participant who has
16 less than 1 year of participation (within the
17 meaning of section 411(b)(4)) under the plan
18 as of the effective date of the plan amendment.

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

21 “(A) a defined benefit plan, or

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

24 Such term shall not include a governmental plan
25 (within the meaning of section 414(d)), a church

1 plan (within the meaning of section 414(e)) with re-
2 spect to which an election under section 410(d) has
3 not been made, or any other plan to which section
4 204(h) of the Employee Retirement Income Security
5 Act of 1974 does not apply.

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

12 “(g) REGULATIONS.—The Secretary shall, not later
13 than 1 year after the date of the enactment of this section,
14 issue—

15 “(1) the regulations described in subsection
16 (e)(2)(A) and section 204(h)(2)(A) of the Employee
17 Retirement Income Security Act of 1974, and

18 “(2) guidance for both of the examples de-
19 scribed in subsection (e)(1)(D) and section
20 204(h)(1)(D) of the Employee Retirement Income
21 Security Act of 1974 and the benefit estimation tool
22 kit described in subsection (e)(2)(B) and section
23 204(h)(2)(B) of the Employee Retirement Income
24 Security Act of 1974.

1 “(h) NEW TECHNOLOGIES.—The Secretary may by
 2 regulation allow any notice under paragraph (1) or (2) of
 3 subsection (e) to be provided by using new technologies.
 4 Such regulations shall ensure that at least one option for
 5 providing such notice is not dependent on new tech-
 6 nologies.”

7 (2) CONFORMING AMENDMENT.—The table of
 8 sections for chapter 43 is amended by adding at the
 9 end the following new item:

“Sec. 4980F. Failure to provide notice of pension plan amend-
 ments reducing benefit accruals.”

10 (b) AMENDMENT OF ERISA.—Section 204(h) of the
 11 Employee Retirement Income Security Act of 1974 (29
 12 U.S.C. 1054(h)) is amended to read as follows:

13 “(h)(1) If an applicable pension plan is amended so
 14 as to provide a significant reduction in the rate of future
 15 benefit accrual of 1 or more participants, the plan admin-
 16 istrator shall, not later than the 45th day before the effec-
 17 tive date of the amendment, provide written notice to each
 18 applicable individual (and to each employee organization
 19 representing applicable individuals) which—

20 “(A) sets forth a summary of the plan amend-
 21 ment and the effective date of the amendment,

22 “(B) includes a statement that the plan amend-
 23 ment is expected to significantly reduce the rate of
 24 future benefit accrual,

1 “(C) includes a description of the classes of em-
2 ployees reasonably expected to be affected by the re-
3 duction in the rate of future benefit accrual,

4 “(D) sets forth examples illustrating how the
5 plan will change benefits for such classes of employ-
6 ees,

7 “(E) if paragraph (2) applies to the plan
8 amendment, includes a notice that the plan adminis-
9 trator will provide a benefit estimation tool kit de-
10 scribed in paragraph (2)(B) to each applicable indi-
11 vidual no later than the date required under para-
12 graph (2)(A), and

13 “(F) includes a notice of each applicable indi-
14 vidual’s right under Federal law to receive, and of
15 the procedures for requesting, an annual benefit
16 statement.

17 “(2)(A) If a plan amendment results in the signifi-
18 cant restructuring of the plan benefit formula (as deter-
19 mined under regulations prescribed by the Secretary of the
20 Treasury), the plan administrator shall, not later than the
21 15th day before the effective date of the amendment, pro-
22 vide a benefit estimation tool kit described in subpara-
23 graph (B) to each applicable individual. If such plan
24 amendment occurs within 12 months of an event described
25 in section 410(b)(6)(C) of the Internal Revenue Code of

1 1986, the plan administrator shall in no event be required
2 to provide the benefit estimation tool kit to applicable indi-
3 viduals affected by the event before the date which is 12
4 months after the date on which notice under paragraph
5 (1) is given to such applicable individuals.

6 “(B) The benefit estimation tool kit described in this
7 subparagraph shall include the following information:

8 “(i) Sufficient information to enable an applica-
9 ble individual to estimate the individual’s projected
10 benefits under the terms of the plan in effect both
11 before and after the adoption of the amendment.

12 “(ii) The formulas and actuarial assumptions
13 necessary to estimate under both such plan terms a
14 single life annuity at appropriate ages, and, when
15 available, a lump sum distribution.

16 “(iii) The interest rate used to compute a lump
17 sum distribution and information as to whether the
18 value of any early retirement benefit or retirement-
19 type subsidy (within the meaning of subsection
20 (g)(2)(A)) is included in the lump sum distribution.

21 “(3) Any notice under paragraph (1) or (2) may be
22 provided to a person designated, in writing, by the person
23 to which it would otherwise be provided.

1 “(4) The information required to be provided under
2 this subsection shall be provided in a manner calculated
3 to be reasonably understood by the average participant.

4 “(5)(A) In the case of any failure to exercise due dili-
5 gence in meeting any requirement of this subsection with
6 respect to any plan amendment, the provisions of the ap-
7 plicable pension plan shall be applied as if such plan
8 amendment entitled all applicable individuals to the great-
9 er of—

10 “(i) the benefits to which they would have been
11 entitled without regard to such amendment, or

12 “(ii) the benefits under the plan with regard to
13 such amendment.

14 “(B) For purposes of subparagraph (A), there is a
15 failure to exercise due diligence in meeting the require-
16 ments of this subsection if such failure is within the con-
17 trol of the plan sponsor and is—

18 “(i) an intentional failure (including any failure
19 to promptly provide the required notice or informa-
20 tion after the plan administrator discovers an unin-
21 tentional failure to meet the requirements of this
22 subsection),

23 “(ii) a failure to provide most of the individuals
24 with most of the information they are entitled to re-
25 ceive under this subsection, or

1 “(iii) a failure to exercise due diligence which is
2 determined under regulations prescribed by the Sec-
3 retary of the Treasury.

4 “(C) For excise tax on failure to meet requirements,
5 see section 4980F of the Internal Revenue Code of 1986.

6 “(5)(A) For purposes of this subsection, the term ‘ap-
7 plicable individual’ means, with respect to any plan
8 amendment—

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

10 “(ii) any beneficiary who is an alternate payee
11 (within the meaning of section 206(d)(3)(K)) under
12 an applicable qualified domestic relations order
13 (within the meaning of section 206(d)(3)(B)),
14 whose rate of future benefit accrual under the plan may
15 reasonably be expected to be significantly reduced by such
16 plan amendment.

17 “(B) Such term shall not include a participant who
18 has less than 1 year of participation (within the meaning
19 of subsection (b)(4)) under the plan as of the effective
20 date of the plan amendment.

21 “(6) For purposes of this subsection, the term ‘appli-
22 cable pension plan’ means—

23 “(A) a defined benefit plan, or

24 “(B) an individual account plan which is sub-
25 ject to the funding standards of section 302.

1 “(7) For purposes of this subsection, a plan amend-
 2 ment which eliminates or significantly reduces any early
 3 retirement benefit or retirement-type subsidy (within the
 4 meaning of section 204(g)(2)(A)) shall be treated as hav-
 5 ing the effect of significantly reducing the rate of future
 6 benefit accrual.

7 “(8) The Secretary of the Treasury may by regula-
 8 tion allow any notice under this subsection to be provided
 9 by using new technologies. Such regulation shall ensure
 10 that at least one option for providing such notice is not
 11 dependent on new technologies.”

12 (c) REGULATIONS RELATING TO EARLY RETIRE-
 13 MENT SUBSIDIES.—The Secretary of the Treasury or the
 14 Secretary’s delegate shall, not later than 1 year after the
 15 date of the enactment of this Act, issue regulations relat-
 16 ing to early retirement benefits or retirement-type sub-
 17 sidies described in section 411(d)(6)(B)(i) of the Internal
 18 Revenue Code of 1986 and section 204(g)(2)(A) of the
 19 Employee Retirement Income Security Act of 1974.

20 (d) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by
 22 this section shall apply to plan amendments taking
 23 effect on or after the date of the enactment of this
 24 Act.

1 (2) TRANSITION.—Until such time as the Sec-
2 retary of the Treasury issues regulations under sec-
3 tion 4980F(e)(2) of the Internal Revenue Code of
4 1986 and section 204(h)(2) of the Employee Retire-
5 ment Income Security Act of 1974 (as added by the
6 amendments made by this section), a plan shall be
7 treated as meeting the requirements of such sections
8 if it makes a good faith effort to comply with such
9 requirements.

10 (3) SPECIAL NOTICE RULES.—The period for
11 providing any notice required by the amendments
12 made by this section shall not end before the date
13 which is 3 months after the date of the enactment
14 of this Act.

15 (d) STUDY.—The Secretary of the Treasury shall
16 prepare a report on the effects of significant
17 restructurings of plan benefit formulas of traditional de-
18 fined benefit plans. Such study shall examine the effects
19 of such restructurings on longer service participants, in-
20 cluding the incidence and effects of “wear away” provi-
21 sions under which participants earn no additional benefits
22 for a period of time after restructuring. As soon as prac-
23 ticable, but not later than one year after the date of enact-
24 ment of this Act, the Secretary shall submit such report,
25 together with recommendations thereon, to the Committee

1 on Ways and Means and the Committee on Education and
 2 the Workforce of the House of Representatives and the
 3 Committee on Finance and the Committee on Health,
 4 Education, Labor, and Pensions of the Senate.

5 **TITLE VI—REDUCING** 6 **REGULATORY BURDENS**

7 **SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

8 (a) IN GENERAL.—Paragraph (9) of section 412(c)
 9 (relating to annual valuation) is amended to read as fol-
 10 lows:

11 “(9) ANNUAL VALUATION.—

12 “(A) IN GENERAL.—For purposes of this
 13 section, a determination of experience gains and
 14 losses and a valuation of the plan’s liability
 15 shall be made not less frequently than once
 16 every year, except that such determination shall
 17 be made more frequently to the extent required
 18 in particular cases under regulations prescribed
 19 by the Secretary.

20 “(B) VALUATION DATE.—

21 “(i) CURRENT YEAR.—Except as pro-
 22 vided in clause (ii), the valuation referred
 23 to in subparagraph (A) shall be made as of
 24 a date within the plan year to which the

1 valuation refers or within one month prior
 2 to the beginning of such year.

3 “(ii) ELECTION TO USE PRIOR YEAR
 4 VALUATION.—The valuation referred to in
 5 subparagraph (A) may be made as of a
 6 date within the plan year prior to the year
 7 to which the valuation refers if—

8 “(I) an election is in effect under
 9 this clause with respect to the plan,
 10 and

11 “(II) as of such date, the value
 12 of the assets of the plan are not less
 13 than 125 percent of the plan’s current
 14 liability (as defined in paragraph
 15 (7)(B)).

16 “(iii) ADJUSTMENTS.—Information
 17 under clause (ii) shall, in accordance with
 18 regulations, be actuarially adjusted to re-
 19 flect significant differences in participants.

20 “(iv) ELECTION.—An election under
 21 clause (ii), once made, shall be irrevocable
 22 without the consent of the Secretary.”.

23 (b) AMENDMENT OF ERISA.—Paragraph (9) of sec-
 24 tion 302(c) of the Employee Retirement Income Security
 25 Act of 1974 (29 U.S.C. 1053(c)) is amended—

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

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

3 “(B)(i) Except as provided in clause (ii), the valu-
4 ation referred to in subparagraph (A) shall be made as
5 of a date within the plan year to which the valuation refers
6 or within one month prior to the beginning of such year.

7 “(ii) The valuation referred to in subparagraph (A)
8 may be made as of a date within the plan year prior to
9 the year to which the valuation refers if—

10 “(I) an election is in effect under this clause
11 with respect to the plan, and

12 “(II) as of such date, the value of the assets of
13 the plan are not less than 125 percent of the plan’s
14 current liability (as defined in paragraph (7)(B)).

15 “(iii) Information under clause (ii) shall, in accord-
16 ance with regulations, be actuarially adjusted to reflect
17 significant differences in participants.

18 “(iv) An election under clause (ii), once made, shall
19 be irrevocable without the consent of the Secretary of the
20 Treasury.”.

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

1 **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
 2 **LOSS OF DIVIDEND DEDUCTION.**

3 (a) IN GENERAL.—Section 404(k)(2)(A) (defining
 4 applicable dividends) is amended by striking “or” at the
 5 end of clause (ii), by redesignating clause (iii) as clause
 6 (iv), and by inserting after clause (ii) the following new
 7 clause:

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

10 “(I) payable as provided in clause
 11 (i) or (ii), or

12 “(II) paid to the plan and rein-
 13 vested in qualifying employer securi-
 14 ties, or”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 December 31, 2001.

18 **SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CER-**
 19 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

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

22 (b) EFFECTIVE DATE.—The repeal made by sub-
 23 section (a) shall apply to plan years beginning after De-
 24 cember 31, 2001.

1 **SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

2 (a) IN GENERAL.—The Secretary of the Treasury
3 shall modify Treasury Regulations section 1.410(b)–6(g)
4 to provide that employees of an organization described in
5 section 403(b)(1)(A)(i) of the Internal Revenue Code of
6 1986 who are eligible to make contributions under section
7 403(b) of such Code pursuant to a salary reduction agree-
8 ment may be treated as excludable with respect to a plan
9 under section 401(k) or (m) of such Code that is provided
10 under the same general arrangement as a plan under such
11 section 401(k), if—

12 (1) no employee of an organization described in
13 section 403(b)(1)(A)(i) of such Code is eligible to
14 participate in such section 401(k) plan or section
15 401(m) plan; and

16 (2) 95 percent of the employees who are not
17 employees of an organization described in section
18 403(b)(1)(A)(i) of such Code are eligible to partici-
19 pate in such plan under such section 401(k) or (m).

20 (b) EFFECTIVE DATE.—The modification required by
21 subsection (a) shall apply as of the same date set forth
22 in section 1426(b) of the Small Business Job Protection
23 Act of 1996.

1 **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**
 2 **PROVIDED RETIREMENT ADVICE.**

3 (a) IN GENERAL.—Subsection (a) of section 132 (re-
 4 lating to exclusion from gross income) is amended by
 5 striking “or” at the end of paragraph (5), by striking the
 6 period at the end of paragraph (6) and inserting “, or”,
 7 and by adding at the end the following new paragraph:
 8 “(7) qualified retirement planning services.”.

9 (b) QUALIFIED RETIREMENT PLANNING SERVICES
 10 DEFINED.—Section 132 is amended by redesignating sub-
 11 section (m) as subsection (n) and by inserting after sub-
 12 section (l) the following:

13 “(m) QUALIFIED RETIREMENT PLANNING SERV-
 14 ICES.—

15 “(1) IN GENERAL.—For purposes of this sec-
 16 tion, the term ‘qualified retirement planning serv-
 17 ices’ means any retirement planning advice or infor-
 18 mation provided to an employee and his spouse by
 19 an employer maintaining a qualified employer plan.

20 “(2) NONDISCRIMINATION RULE.—Subsection
 21 (a)(7) shall apply in the case of highly compensated
 22 employees only if such services are available on sub-
 23 stantially the same terms to each member of the
 24 group of employees normally provided education and
 25 information regarding the employer’s qualified em-
 26 ployer plan.

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

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

8 **SEC. 606. REPORTING SIMPLIFICATION.**

9 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
 10 OWNERS AND THEIR SPOUSES.—

11 (1) IN GENERAL.—The Secretary of the Treas-
 12 ury shall modify the requirements for filing annual
 13 returns with respect to one-participant retirement
 14 plans to ensure that such plans with assets of
 15 \$250,000 or less as of the close of the plan year
 16 need not file a return for that year.

17 (2) ONE-PARTICIPANT RETIREMENT PLAN DE-
 18 FINED.—For purposes of this subsection, the term
 19 “one-participant retirement plan” means a retire-
 20 ment plan that—

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

22 (i) covered only the employer (and the
 23 employer’s spouse) and the employer
 24 owned the entire business (whether or not
 25 incorporated); or

1 (ii) covered only one or more partners
 2 (and their spouses) in a business partner-
 3 ship (including partners in an S or C cor-
 4 poration);

5 (B) meets the minimum coverage require-
 6 ments of section 410(b) of the Internal Revenue
 7 Code of 1986 without being combined with any
 8 other plan of the business that covers the em-
 9 ployees of the business;

10 (C) does not provide benefits to anyone ex-
 11 cept the employer (and the employer's spouse)
 12 or the partners (and their spouses);

13 (D) does not cover a business that is a
 14 member of an affiliated service group, a con-
 15 trolled group of corporations, or a group of
 16 businesses under common control; and

17 (E) does not cover a business that leases
 18 employees.

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

23 (b) EFFECTIVE DATE.—The provisions of this sec-
 24 tion shall take effect on January 1, 2002.

1 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
2 **ANCE RESOLUTION SYSTEM.**

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

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

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

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

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

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

24 **SEC. 608. REPEAL OF THE MULTIPLE USE TEST.**

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

1 “(9) REGULATIONS.—The Secretary shall pre-
 2 scribe such regulations as may be necessary to carry
 3 out the purposes of this subsection and subsection
 4 (k), including regulations permitting appropriate ag-
 5 gregation of plans and contributions.”.

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

9 **SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-**
 10 **ERAGE, AND LINE OF BUSINESS RULES.**

11 (a) NONDISCRIMINATION.—

12 (1) IN GENERAL.—The Secretary of the Treas-
 13 ury shall, by regulation, provide that a plan shall be
 14 deemed to satisfy the requirements of section
 15 401(a)(4) of the Internal Revenue Code of 1986 if
 16 such plan satisfies the facts and circumstances test
 17 under section 401(a)(4) of such Code, as in effect
 18 before January 1, 1994, but only if—

19 (A) the plan satisfies conditions prescribed
 20 by the Secretary to appropriately limit the
 21 availability of such test; and

22 (B) the plan is submitted to the Secretary
 23 for a determination of whether it satisfies such
 24 test.

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

3 (2) EFFECTIVE DATES.—

4 (A) REGULATIONS.—The regulation re-
 5 quired by paragraph (1) shall apply to years be-
 6 ginning after December 31, 2001.

7 (B) CONDITIONS OF AVAILABILITY.—Any
 8 condition of availability prescribed by the Sec-
 9 retary under paragraph (1)(A) shall not apply
 10 before the first year beginning not less than
 11 120 days after the date on which such condition
 12 is prescribed.

13 (b) COVERAGE TEST.—

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

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

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

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

1 “(iii) satisfies conditions prescribed by
2 the Secretary by regulation that appro-
3 priately limit the availability of this sub-
4 paragraph.

5 Clause (ii) shall apply only to the extent pro-
6 vided by the Secretary.”.

7 (2) EFFECTIVE DATES.—

8 (A) IN GENERAL.—The amendment made
9 by paragraph (1) shall apply to years beginning
10 after December 31, 2001.

11 (B) CONDITIONS OF AVAILABILITY.—Any
12 condition of availability prescribed by the Sec-
13 retary under regulations prescribed by the Sec-
14 retary under section 410(b)(1)(D) of the Inter-
15 nal Revenue Code of 1986 shall not apply be-
16 fore the first year beginning not less than 120
17 days after the date on which such condition is
18 prescribed.

19 (c) LINE OF BUSINESS RULES.—The Secretary of
20 the Treasury shall, on or before December 31, 2001, mod-
21 ify the existing regulations issued under section 414(r) of
22 the Internal Revenue Code of 1986 in order to expand
23 (to the extent that the Secretary determines appropriate)
24 the ability of a pension plan to demonstrate compliance
25 with the line of business requirements based upon the

1 facts and circumstances surrounding the design and oper-
 2 ation of the plan, even though the plan is unable to satisfy
 3 the mechanical tests currently used to determine compli-
 4 ance.

5 **SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
 6 **MORATORIUM ON APPLICATION OF CERTAIN**
 7 **NONDISCRIMINATION RULES APPLICABLE TO**
 8 **STATE AND LOCAL PLANS.**

9 (a) IN GENERAL.—

10 (1) Subparagraph (G) of section 401(a)(5) and
 11 subparagraph (H) of section 401(a)(26) are each
 12 amended by striking “section 414(d))” and all that
 13 follows and inserting “section 414(d)).”.

14 (2) Subparagraph (G) of section 401(k)(3) and
 15 paragraph (2) of section 1505(d) of the Taxpayer
 16 Relief Act of 1997 are each amended by striking
 17 “maintained by a State or local government or polit-
 18 ical subdivision thereof (or agency or instrumentality
 19 thereof)”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) The heading for subparagraph (G) of sec-
 22 tion 401(a)(5) is amended to read as follows: “GOV-
 23 ERNMENTAL PLANS”.

1 (2) The heading for subparagraph (H) of sec-
 2 tion 401(a)(26) is amended to read as follows: “EX-
 3 CEPTION FOR GOVERNMENTAL PLANS”.

4 (3) Subparagraph (G) of section 401(k)(3) is
 5 amended by inserting “GOVERNMENTAL PLANS.—”
 6 after “(G)”.

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

10 **SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-**
 11 **TRIBUTIONS.**

12 (a) EXPANSION OF PERIOD.—

13 (1) AMENDMENT OF INTERNAL REVENUE
 14 CODE.—

15 (A) IN GENERAL.—Subparagraph (A) of
 16 section 417(a)(6) is amended by striking “90-
 17 day” and inserting “180-day”.

18 (B) MODIFICATION OF REGULATIONS.—

19 The Secretary of the Treasury shall modify the
 20 regulations under sections 402(f), 411(a)(11),
 21 and 417 of the Internal Revenue Code of 1986
 22 to substitute “180 days” for “90 days” each
 23 place it appears in Treasury Regulations sec-
 24 tions 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–
 25 1(b).

1 (2) AMENDMENT OF ERISA.—Section
 2 205(c)(7)(A) of the Employee Retirement Income
 3 Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is
 4 amended by striking “90-day” and inserting “180-
 5 day”.

6 (3) EFFECTIVE DATE.—The amendments made
 7 by paragraphs (1)(A) and (2) and the modifications
 8 required by paragraph (1)(B) shall apply to years
 9 beginning after December 31, 2001.

10 (b) CONSENT REGULATION INAPPLICABLE TO CER-
 11 TAIN DISTRIBUTIONS.—

12 (1) IN GENERAL.—The Secretary of the Treas-
 13 ury shall modify the regulations under section
 14 411(a)(11) of the Internal Revenue Code of 1986 to
 15 provide that the description of a participant’s right,
 16 if any, to defer receipt of a distribution shall also de-
 17 scribe the consequences of failing to defer such re-
 18 ceipt.

19 (2) EFFECTIVE DATE.—The modifications re-
 20 quired by paragraph (1) shall apply to years begin-
 21 ning after December 31, 2001.

22 (c) DISCLOSURE OF OPTIONAL FORMS OF BENE-
 23 FITS.—

24 (1) AMENDMENT OF INTERNAL REVENUE
 25 CODE.—Section 417(a)(3) (relating to plan to pro-

vide written explanation) is amended by adding at the end the following:

“(C) EXPLANATION OF OPTIONAL FORMS OF BENEFITS.—

“(i) IN GENERAL.—If—

“(I) a plan provides optional forms of benefits, and

“(II) the present values of such forms of benefits are not actuarially equivalent as of the annuity starting date,

then each written explanation required to be provided under subparagraph (A) shall include the information described in clause (ii).

“(ii) INFORMATION.—A plan to which this subparagraph applies shall include sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow the participant to understand the differences in the present values of the optional forms of benefits provided by the plan and the effect the participant’s election as to the form of benefit will have on the value of the benefits avail-

1 able under the plan. Any such information
 2 shall be provided in a manner calculated to
 3 be reasonably understood by the average
 4 plan participant.”

5 (2) AMENDMENT OF ERISA.—Section 205(c)(3)
 6 of the Employee Retirement Income Security Act of
 7 1974 (29 U.S.C. 1055(c)(3)) is amended by adding
 8 at the end the following:

9 “(C)(i) If—
 10 “(I) a plan provides optional forms of benefits,
 11 and
 12 “(II) the present values of such forms of bene-
 13 fits are not actuarially equivalent as of the annuity
 14 starting date,
 15 then such plan shall include the information described in
 16 clause (ii) with each written explanation required to be
 17 provided under subparagraph (A).

18 “(ii) A plan to which this subparagraph applies shall
 19 include sufficient information (as determined in accord-
 20 ance with regulations prescribed by the Secretary of the
 21 Treasury) to allow the participant to understand the dif-
 22 ferences in the present values of the optional forms of ben-
 23 efits provided by the plan and the effect the participant’s
 24 election as to the form of benefit will have on the value
 25 of the benefits available under the plan. Any such informa-

tion shall be provided in a manner calculated to be reasonably understood by the average plan participant.”

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

SEC. 612. ANNUAL REPORT DISSEMINATION.

(a) **IN GENERAL.**—Section 104(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended by striking “shall furnish” and inserting “shall make available for examination (and, upon request, shall furnish)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to reports for years beginning after December 31, 2000.

SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking “2001 and 2005 on or after September 1 of each year involved” and inserting “2001, 2005, and 2009 in the month of September of each year involved”;

(2) in subsection (b), by adding at the end the following new sentence: “To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant

1 and Cooperative Agreement Act of 1977 (31 U.S.C.
2 6301 et seq.), with the American Savings Education
3 Council.”;

4 (3) in subsection (e)(2)—

5 (A) by striking “Committee on Labor and
6 Human Resources” in subparagraph (D) and
7 inserting “Committee on Health, Education,
8 Labor, and Pensions”;

9 (B) by striking subparagraph (F) and in-
10 serting the following:

11 “(F) the Chairman and Ranking Member
12 of the Subcommittee on Labor, Health and
13 Human Services, and Education of the Com-
14 mittee on Appropriations of the House of Rep-
15 resentatives and the Chairman and Ranking
16 Member of the Subcommittee on Labor, Health
17 and Human Services, and Education of the
18 Committee on Appropriations of the Senate;”;

19 (C) by redesignating subparagraph (G) as
20 subparagraph (J); and

21 (D) by inserting after subparagraph (F)
22 the following new subparagraphs:

23 “(G) the Chairman and Ranking Member
24 of the Committee on Finance of the Senate;

1 “(H) the Chairman and Ranking Member
2 of the Committee on Ways and Means of the
3 House of Representatives;

4 “(I) the Chairman and Ranking Member
5 of the Subcommittee on Employer-Employee
6 Relations of the Committee on Education and
7 the Workforce of the House of Representatives;
8 and”;

9 (4) in subsection (e)(3)(A)—

10 (A) by striking “There shall be no more
11 than 200 additional participants.” and inserting
12 “The participants in the National Summit shall
13 also include additional participants appointed
14 under this subparagraph.”;

15 (B) by striking “one-half shall be ap-
16 pointed by the President,” in clause (i) and in-
17 serting “not more than 100 participants shall
18 be appointed under this clause by the Presi-
19 dent,”, and by striking “and” at the end of
20 clause (i);

21 (C) by striking “one-half shall be ap-
22 pointed by the elected leaders of Congress” in
23 clause (ii) and inserting “not more than 100
24 participants shall be appointed under this
25 clause by the elected leaders of Congress”, and

1 by striking the period at the end of clause (ii)
2 and inserting “; and”; and

3 (D) by adding at the end the following new
4 clause:

5 “(iii) The President, in consultation
6 with the elected leaders of Congress re-
7 ferred to in subsection (a), may appoint
8 under this clause additional participants to
9 the National Summit. The number of such
10 additional participants appointed under
11 this clause may not exceed the lesser of 3
12 percent of the total number of all addi-
13 tional participants appointed under this
14 paragraph, or 10. Such additional partici-
15 pants shall be appointed from persons
16 nominated by the organization referred to
17 in subsection (b)(2) which is made up of
18 private sector businesses and associations
19 partnered with Government entities to pro-
20 mote long term financial security in retire-
21 ment through savings and with which the
22 Secretary is required thereunder to consult
23 and cooperate and shall not be Federal,
24 State, or local government employees.”;

1 (5) in subsection (e)(3)(B), by striking “Janu-
 2 ary 31, 1998” in subparagraph (B) and inserting
 3 “May 1, 2001, May 1, 2005, and May 1, 2009, for
 4 each of the subsequent summits, respectively”;

5 (6) in subsection (f)(1)(C), by inserting “, no
 6 later than 90 days prior to the date of the com-
 7 mencement of the National Summit,” after “com-
 8 ment” in paragraph (1)(C);

9 (7) in subsection (g), by inserting “, in con-
 10 sultation with the congressional leaders specified in
 11 subsection (e)(2),” after “report”;

12 (8) in subsection (i)—

13 (A) by striking “beginning on or after Oc-
 14 tober 1, 1997” in paragraph (1) and inserting
 15 “2001, 2005, and 2009”; and

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

18 “(3) RECEPTION AND REPRESENTATION AU-
 19 THORITY.—The Secretary is hereby granted recep-
 20 tion and representation authority limited specifically
 21 to the events at the National Summit. The Secretary
 22 shall use any private contributions accepted in con-
 23 nection with the National Summit prior to using
 24 funds appropriated for purposes of the National
 25 Summit pursuant to this paragraph.”; and

1 (9) in subsection (k)—

2 (A) by striking “shall enter into a contract
3 on a sole-source basis” and inserting “may
4 enter into a contract on a sole-source basis”;
5 and

6 (B) by striking “fiscal year 1998” and in-
7 serting “fiscal years 2001, 2005, and 2009”.

8 **SEC. 614. STUDIES.**

9 (a) REPORT ON PENSION COVERAGE.—Not later
10 than 5 years after the date of the enactment of this Act,
11 the Secretary of the Treasury shall submit a report to the
12 Committee on Ways and Means of the House of Rep-
13 resentatives and the Committee on Finance of the Senate
14 a report on the effect of the provisions of the Retirement
15 Security and Savings Act of 2001 on pension coverage,
16 including—

17 (1) any expansion of coverage for low- and mid-
18 dle-income workers;

19 (2) levels of pension benefits;

20 (3) quality of pension coverage;

21 (4) worker’s access to and participation in
22 plans; and

23 (5) retirement security.

24 (b) STUDY OF PRERETIREMENT USE OF BENE-
25 FITS.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury shall conduct a study of—

3 (A) current tax provisions allowing individ-
4 uals to access individual retirement plans and
5 qualified retirement plan benefits of such indi-
6 vidual prior to retirement, including an analysis
7 of—

8 (i) the extent of use of such current
9 provisions by individuals; and

10 (ii) the extent to which such provi-
11 sions undermine the goal of accumulating
12 adequate resources for retirement; and

13 (B) the types of investment decisions made
14 by individual retirement plan beneficiaries and
15 participants in self-directed qualified retirement
16 plans, including an analysis of—

17 (i) current restrictions on investments;

18 and

19 (ii) the extent to which additional re-
20 strictions on investments would facilitate
21 the accumulation of adequate income for
22 retirement.

23 (2) REPORT.—Not later than January 1, 2003,
24 the Secretary of the Treasury shall submit a report
25 to the Committee on Ways and Means of the House

1 of Representatives and the Committee on Finance of
 2 the Senate containing the results of the study con-
 3 ducted under paragraph (1) and any recommenda-
 4 tions.

5 **TITLE VII—OTHER ERISA** 6 **PROVISIONS**

7 **SEC. 701. MISSING PARTICIPANTS.**

8 (a) IN GENERAL.—Section 4050 of the Employee Re-
 9 tirement Income Security Act of 1974 (29 U.S.C. 1350)
 10 is amended by redesignating subsection (c) as subsection
 11 (e) and by inserting after subsection (b) the following new
 12 subsection:

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

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

18 “(1) TRANSFER TO CORPORATION.—The plan
 19 administrator of a plan described in paragraph (4)
 20 may elect to transfer a missing participant’s benefits
 21 to the corporation upon termination of the plan.

22 “(2) INFORMATION TO THE CORPORATION.—To
 23 the extent provided in regulations, the plan adminis-
 24 trator of a plan described in paragraph (4) shall,
 25 upon termination of the plan, provide the corpora-

1 tion information with respect to benefits of a miss-
 2 ing participant if the plan transfers such benefits—

3 “(A) to the corporation, or

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

6 “(3) PAYMENT BY THE CORPORATION.—If ben-
 7 efits of a missing participant were transferred to the
 8 corporation under paragraph (1), the corporation
 9 shall, upon location of the participant or beneficiary,
 10 pay to the participant or beneficiary the amount
 11 transferred (or the appropriate survivor benefit)
 12 either—

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

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

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

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

20 “(i) to which the provisions of this
 21 section do not apply (without regard to
 22 this subsection), and

23 “(ii) which is not a plan described in
 24 paragraphs (2) through (11) of section
 25 4021(b), and

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

3 “(i) has missing participants, and

4 “(ii) has not provided for the transfer
5 of assets to pay the benefits of all missing
6 participants to another pension plan (with-
7 in the meaning of section 3(2)).

8 “(5) CERTAIN PROVISIONS NOT TO APPLY.—

9 Subsections (a)(1) and (a)(3) shall not apply to a
10 plan described in paragraph (4).”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to distributions made after final
13 regulations implementing subsections (c) and (d) of sec-
14 tion 4050 of the Employee Retirement Income Security
15 Act of 1974 (as added by subsection (a)), respectively, are
16 prescribed.

17 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
18 **SMALL EMPLOYERS.**

19 (a) IN GENERAL.—Subparagraph (A) of section
20 4006(a)(3) of the Employee Retirement Income Security
21 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

22 (1) in clause (i), by inserting “other than a new
23 single-employer plan (as defined in subparagraph
24 (F)) maintained by a small employer (as so de-
25 fined),” after “single-employer plan,”,

1 (2) in clause (iii), by striking the period at the
2 end and inserting “, and”, and

3 (3) by adding at the end the following new
4 clause:

5 “(iv) in the case of a new single-employer plan
6 (as defined in subparagraph (F)) maintained by a
7 small employer (as so defined) for the plan year, \$5
8 for each individual who is a participant in such plan
9 during the plan year.”.

10 (b) DEFINITION OF NEW SINGLE-EMPLOYER
11 PLAN.—Section 4006(a)(3) of the Employee Retirement
12 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
13 amended by adding at the end the following new subpara-
14 graph:

15 “(F)(i) For purposes of this paragraph, a single-em-
16 ployer plan maintained by a contributing sponsor shall be
17 treated as a new single-employer plan for each of its first
18 5 plan years if, during the 36-month period ending on the
19 date of the adoption of such plan, the sponsor or any
20 member of such sponsor’s controlled group (or any prede-
21 cessor of either) did not establish or maintain a plan to
22 which this title applies with respect to which benefits were
23 accrued for substantially the same employees as are in the
24 new single-employer plan.

1 “(ii)(I) For purposes of this paragraph, the term
 2 ‘small employer’ means an employer which on the first day
 3 of any plan year has, in aggregation with all members of
 4 the controlled group of such employer, 100 or fewer em-
 5 ployees.

6 “(II) In the case of a plan maintained by two or more
 7 contributing sponsors that are not part of the same con-
 8 trolled group, the employees of all contributing sponsors
 9 and controlled groups of such sponsors shall be aggregated
 10 for purposes of determining whether any contributing
 11 sponsor is a small employer.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to plans established after Decem-
 14 ber 31, 2001.

15 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
 16 **NEW AND SMALL PLANS.**

17 (a) NEW PLANS.—Subparagraph (E) of section
 18 4006(a)(3) of the Employee Retirement Income Security
 19 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
 20 adding at the end the following new clause:

21 “(v) In the case of a new defined benefit plan, the
 22 amount determined under clause (ii) for any plan year
 23 shall be an amount equal to the product of the amount
 24 determined under clause (ii) and the applicable percent-

1 age. For purposes of this clause, the term ‘applicable per-
2 centage’ means—

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

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

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

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

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

8 For purposes of this clause, a defined benefit plan (as de-
9 fined in section 3(35)) maintained by a contributing spon-
10 sor shall be treated as a new defined benefit plan for each
11 of its first 5 plan years if, during the 36-month period
12 ending on the date of the adoption of the plan, the sponsor
13 and each member of any controlled group including the
14 sponsor (or any predecessor of either) did not establish
15 or maintain a plan to which this title applies with respect
16 to which benefits were accrued for substantially the same
17 employees as are in the new plan.”.

18 (b) SMALL PLANS.—Paragraph (3) of section
19 4006(a) of the Employee Retirement Income Security Act
20 of 1974 (29 U.S.C. 1306(a)), as amended by section
21 702(b), is amended—

22 (1) by striking “The” in subparagraph (E)(i)
23 and inserting “Except as provided in subparagraph
24 (G), the”, and

1 (2) by inserting after subparagraph (F) the fol-
 2 lowing new subparagraph:

3 “(G)(i) In the case of an employer who has 25 or
 4 fewer employees on the first day of the plan year, the addi-
 5 tional premium determined under subparagraph (E) for
 6 each participant shall not exceed \$5 multiplied by the
 7 number of participants in the plan as of the close of the
 8 preceding plan year.

9 “(ii) For purposes of clause (i), whether an employer
 10 has 25 or fewer employees on the first day of the plan
 11 year is determined taking into consideration all of the em-
 12 ployees of all members of the contributing sponsor’s con-
 13 trolled group. In the case of a plan maintained by two
 14 or more contributing sponsors, the employees of all con-
 15 tributing sponsors and their controlled groups shall be ag-
 16 gregated for purposes of determining whether the 25-or-
 17 fewer-employees limitation has been satisfied.”.

18 (c) EFFECTIVE DATES.—

19 (1) SUBSECTION (a).—The amendments made
 20 by subsection (a) shall apply to plans established
 21 after December 31, 2001.

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

1 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
2 **PREMIUM OVERPAYMENT REFUNDS.**

3 (a) IN GENERAL.—Section 4007(b) of the Employ-
4 ment Retirement Income Security Act of 1974 (29 U.S.C.
5 1307(b)) is amended—

6 (1) by striking “(b)” and inserting “(b)(1)”,
7 and

8 (2) by inserting at the end the following new
9 paragraph:

10 “(2) The corporation is authorized to pay, subject to
11 regulations prescribed by the corporation, interest on the
12 amount of any overpayment of premium refunded to a des-
13 ignated payor. Interest under this paragraph shall be cal-
14 culated at the same rate and in the same manner as inter-
15 est is calculated for underpayments under paragraph
16 (1).”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to interest accruing for periods
19 beginning not earlier than the date of the enactment of
20 this Act.

21 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
22 **PLANS.**

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

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

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

7 “(ii) in the case of a partnership, is a partner
8 who owns, directly or indirectly, 50 percent or more
9 of either the capital interest or the profits interest
10 in such partnership, or

11 “(iii) in the case of a corporation, owns, directly
12 or indirectly, 50 percent or more in value of either
13 the voting stock of that corporation or all the stock
14 of that corporation.

15 For purposes of clause (iii), the constructive ownership
16 rules of section 1563(e) of the Internal Revenue Code of
17 1986 shall apply (determined without regard to section
18 1563(e)(3)(C)).

19 “(B) In the case of a participant who is a majority
20 owner, the amount of benefits guaranteed under this sec-
21 tion shall equal the product of—

22 “(i) a fraction (not to exceed 1) the numerator
23 of which is the number of years from the later of the
24 effective date or the adoption date of the plan to the

1 termination date, and the denominator of which is
 2 10, and

3 “(ii) the amount of benefits that would be guar-
 4 anteed under this section if the participant were not
 5 a majority owner.”.

6 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

7 (1) Section 4044(a)(4)(B) of the Employee Re-
 8 tirement Income Security Act of 1974 (29 U.S.C.
 9 1344(a)(4)(B)) is amended by striking “section
 10 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

11 (2) Section 4044(b) of such Act (29 U.S.C.
 12 1344(b)) is amended—

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

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

19 “(3) If assets available for allocation under
 20 paragraph (4) of subsection (a) are insufficient to
 21 satisfy in full the benefits of all individuals who are
 22 described in that paragraph, the assets shall be allo-
 23 cated first to benefits described in subparagraph (A)
 24 of that paragraph. Any remaining assets shall then
 25 be allocated to benefits described in subparagraph

1 (B) of that paragraph. If assets allocated to such
 2 subparagraph (B) are insufficient to satisfy in full
 3 the benefits described in that subparagraph, the as-
 4 sets shall be allocated pro rata among individuals on
 5 the basis of the present value (as of the termination
 6 date) of their respective benefits described in that
 7 subparagraph.”.

8 (c) CONFORMING AMENDMENTS.—

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

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

14 (B) by adding at the end the following new
 15 subsection:

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

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

22 “(2) in the case of a partnership, is a partner
 23 who owns, directly or indirectly, more than 10 per-
 24 cent of either the capital interest or the profits inter-
 25 est in such partnership, or

1 “(3) in the case of a corporation, owns, directly
 2 or indirectly, more than 10 percent in value of either
 3 the voting stock of that corporation or all the stock
 4 of that corporation.

5 For purposes of paragraph (3), the constructive ownership
 6 rules of section 1563(e) of the Internal Revenue Code of
 7 1986 shall apply (determined without regard to section
 8 1563(e)(3)(C)).”.

9 (2) Section 4043(c)(7) of such Act (29 U.S.C.
 10 1343(c)(7)) is amended by striking “section
 11 4022(b)(6)” and inserting “section 4021(d)”.

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
 14 graph (2), the amendments made by this section
 15 shall apply to plan terminations—

16 (A) under section 4041(c) of the Employee
 17 Retirement Income Security Act of 1974 (29
 18 U.S.C. 1341(c)) with respect to which notices
 19 of intent to terminate are provided under sec-
 20 tion 4041(a)(2) of such Act (29 U.S.C.
 21 1341(a)(2)) after December 31, 2001, and

22 (B) under section 4042 of such Act (29
 23 U.S.C. 1342) with respect to which proceedings
 24 are instituted by the corporation after such
 25 date.

1 (2) CONFORMING AMENDMENTS.—The amend-
2 ments made by subsection (c) shall take effect on
3 January 1, 2002.

4 **SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
5 **RESPONSIBILITY.**

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

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

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

14 (b) APPLICABLE RECOVERY AMOUNT.—Section
15 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended
16 to read as follows:

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

1 Secretary under paragraph (2) or (5) of subsection (a).
 2 The Secretary may, in the Secretary's sole discretion, ex-
 3 tend the 30-day period described in the preceding sen-
 4 tence.”.

5 (c) OTHER RULES.—Section 502(l) of the Employee
 6 Retirement Income Security Act of 1974 (29 U.S.C.
 7 1132(l)) is amended by adding at the end the following
 8 new paragraph:

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

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

17 (d) EFFECTIVE DATES.—

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

24 (2) TRANSITION RULE.—In applying the
 25 amendment made by subsection (b) (relating to ap-

1 plicable recovery amount), a breach or other viola-
 2 tion occurring before the date of enactment of this
 3 Act which continues after the 180th day after such
 4 date (and which may have been discontinued at any
 5 time during its existence) shall be treated as having
 6 occurred after such date of enactment.

7 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

8 (a) MODIFICATION OF REGULATION.—The Secretary
 9 of Labor shall modify the regulation under section
 10 203(a)(3)(B) of the Employee Retirement Income Secu-
 11 rity Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide
 12 that the notification required by such regulation—

13 (1) in the case of an employee who returns to
 14 work for a former employer after commencement of
 15 payment of benefits under the plan shall—

16 (A) be made during the first calendar
 17 month or payroll period in which the plan with-
 18 holds payments, and

19 (B) if a reduced rate of future benefit ac-
 20 cruals will apply to the returning employee (as
 21 of the first date of participation in the plan by
 22 the employee after returning to work), include
 23 a statement that the rate of future benefit ac-
 24 cruals will be reduced, and

1 (2) in the case of any employee who is not de-
2 scribed in paragraph (1)—

3 (A) may be included in the summary plan
4 description for the plan furnished in accordance
5 with section 104(b) of such Act (29 U.S.C.
6 1024(b)), rather than in a separate notice, and

7 (B) need not include a copy of the relevant
8 plan provisions.

9 (b) EFFECTIVE DATE.—The modification made
10 under this section shall apply to plan years beginning after
11 December 31, 2001.

12 **TITLE VIII—PLAN AMENDMENTS**

13 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

16 (1) such plan or contract shall be treated as
17 being operated in accordance with the terms of the
18 plan during the period described in subsection

19 (b)(2)(A), and

20 (2) except as provided by the Secretary of the
21 Treasury, such plan shall not fail to meet the re-
22 quirements of section 411(d)(6) of the Internal Rev-
23 enue Code of 1986 or section 204(g) of the Em-
24 ployee Retirement Income Security Act of 1974 by
25 reason of such amendment.

1 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

2 (1) IN GENERAL.—This section shall apply to
3 any amendment to any plan or annuity contract
4 which is made—

5 (A) pursuant to any amendment made by
6 this Act, or pursuant to any regulation issued
7 under this Act, and

8 (B) on or before the last day of the first
9 plan year beginning on or after January 1,
10 2005.

11 In the case of a governmental plan (as defined in
12 section 414(d) of the Internal Revenue Code of
13 1986), this paragraph shall be applied by sub-
14 stituting “2007” for “2005”.

15 (2) CONDITIONS.—This section shall not apply
16 to any amendment unless—

17 (A) during the period—

18 (i) beginning on the date the legisla-
19 tive or regulatory amendment described in
20 paragraph (1)(A) takes effect (or in the
21 case of a plan or contract amendment not
22 required by such legislative or regulatory
23 amendment, the effective date specified by
24 the plan); and

1 (ii) ending on the date described in
2 paragraph (1)(B) (or, if earlier, the date
3 the plan or contract amendment is adopt-
4 ed),
5 the plan or contract is operated as if such plan
6 or contract amendment were in effect; and
7 (B) such plan or contract amendment ap-
8 plies retroactively for such period.

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