Mr. Speaker, I see the distinguished gentleman from Missouri (Mr. GEPHARDT), the minority leader, is here. I am sorry to see the minority leader here rather than at dinner with his wife; but being that he is here, let me yield to the minority leader for his comment.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I ask the majority leader his timing and a time line on the consideration of the tax bill tonight. The reason I ask is that, as the majority leader knows, a lot of our Members are wanting a time line that they can depend on.

A lot of Members have events at home with families and they have plane reservations and they would like to be able to rely on those reservations if it is going to be tomorrow morning. They wanted a time line on when the majority thinks this bill will actually find its way to the floor.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Missouri for his request. The gentleman is absolutely right. We try our very best to keep Members apprised of the fact. This is, of course, a very large bill. It has many complex dimensions, and they are being discussed.

I am happy to report that the discussions are going well, and we have every reason to believe that we will come to closure on these discussions fairly soon.

As that happens, of course, we would have to do the process of actually writing the bill and preparing it for filing. Sometime this evening, perhaps even in the late evening, 11 o’clock or even later, the committee will come to the floor and file the conference report.

We will be advised at that filing; and at that point, we have one hour’s time before the Committee on Rules will meet. We believe the Committee on Rules will be able to meet and take care of its business fairly quickly, and that would then enable them to come to the floor with the rules under which the business would be considered.

The House would then convene to consider the first rule providing for consideration and the second rule providing for consideration of the conference report, both of which are debatable for an hour.

Following consideration of both rules, the House will consider the conference report, and final passage would occur late this evening or early in the morning.

Let me just say we will again remind through e-mail and Whip notices Members at the time that the committee has prepared the bill for filing. That, then, is a 1-hour notice. It would be then available for people to examine before the Committee on Rules meets. I would say, Mr. Speaker, that we should expect that sometime in the neighborhood between 11:00 and 12:00.

Given these circumstances to which I attach a very high probability in my expectations, it is our judgment that Members would, rather than complete that work in before, say, 3:00 or 4:00 in the morning and be able, then, to catch that quick catnap and make their planes back for their district work periods. So it is our judgment it would be better for us to proceed through the night and complete the work so that their time could be free as early as possible when the flights begin on Saturday morning.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield again?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would agree that I think Members, more than anything, want certainty at this point so they can make their plans. Obviously also Members will want to be able to see this bill prior to voting on it. I would hope that there would be time even to have a caucus or a conference in each party so that at least there could be an oral presentation to Members about what is included in the bill before they vote on it, for the Members that want to do that.

As the majority leader knows, a few weeks ago, we had a problem with the budget not having the pages in it, and we do not want to have that happen again. So I hope that we can see the writing in these caucuses and conference meetings before they actually vote.

Mr. ARMEY. Mr. Speaker, I think the gentleman’s point is well taken. Let me say again, as soon as we find the participants agreeing across the table, they will obviously begin the process of vetting as the paperwork is going on.

I would expect Members might again be attentive to their phones. Stay close to a phone, stay in touch with your office. My expectation might be that, in the case of both parties in the body, their respective caucuses may be notifying Members of an opportunity to come together and look at it and get that briefing.

Mr. GEPHARDT. Mr. Speaker, if I could just ask the majority leader one additional question. A lot of our Members from the West Coast have been very desirous of legislation coming here before we leave on energy. Can I inquire whether or not there is any plan to bring any energy legislation before we leave?

Mr. ARMEY. Mr. Speaker, let me thank the gentleman from Missouri for his inquiry. No, we would expect to have no action on anything other than the two rules I mentioned and the tax bill going on.

Mr. GEPHARDT. Mr. Speaker, finally, I assume that Members will look...
forward to receiving an hour’s notice before we go to the Committee on Rules, and that would be a time when the conference and the caucus could meet and review the legislation.

Mr. ARMY. Mr. Speaker, of course that would be subject to the conference chairman on the respective sides making those announcements and that request, and we would communicate as much as we can to all Members.

Finally, Mr. Speaker, I extend to the gentleman from Missouri (Mr. GEATHER), my good friend and colleague, an opportunity to, I hope, get away, have dinner with his wife, and enjoy some part of this evening before we go back to work.

REPORT ON PROGRESS TOWARD ACHIEVING BENCHMARKS IN BOSNIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–78)
The SPEAKER pro tempore (Mr. LAHood) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations, the Committee on Appropriations, and the Committee on Armed Services, and ordered to be printed:

To the Congress of the United States:

As required by the Levin Amendment to the 1998 Supplemental Appropriations and Rescissions Act (section 7(b) of Public Law 105–174) and section 1203(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261), I transmit herewith a report on progress made toward achieving benchmarks for a sustainable peace process in Bosnia and Herzegovina.

In July 2000, the fourth semiannual report was sent to the Congress detailing progress towards achieving the ten benchmarks that were adopted by the Peace Implementation Council in order to evaluate implementation of the Dayton Accords. This fifth report, which also includes supplemental reporting as required by section 1203(a) of Public Law 105–261, provides an updated assessment of progress on the benchmarks covering the period July 1, 2000, to February 28, 2001.

GEORGE W. BUSH

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,


Hon. J. Dennis Hastert,
Speaker, House of Representatives, Capitol, Washington, DC.

DEAR MR. SPEAKER: Enclosed please find copies of the progress reports by the Committee on Transportation and Infrastructure on May 16, 2001, in accordance with 40 U.S.C. § 606 and 40 U.S.C. § 610.

Sincerely,

DON YOUNG,
Chairman.

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o’clock and 39 minutes p.m.), the House stood in recess subject to the call of the Chair.

[- 0517 -]

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHood) at 5 o’clock and 17 minutes a.m.

CONFERENCE REPORT ON H.R. 1836, ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Mr. THOMAS submitted the following conference report and statement on the bill (H.R. 1836) to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002:

CONFERENCE REPORT (H. REPT. 107–84)
The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1836), to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1836), to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the State amendment, insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Economic Growth and Tax Relief Reconciliation Act of 2001”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

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

TITLE I—INDIVIDUAL INCOME TAX RATE REDUCTIONS

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

Sec. 102. Repeal of phaseout of personal exemptions.

Sec. 103. Phaseout of overall limitation on itemized deductions.

TITLE II—TAX BENEFITS RELATING TO CHILDREN

Sec. 201. Modifications to child tax credit.

Sec. 202. Expansion of adoption credit and adoption assistance programs.

Sec. 203. Refunds disregarded in the administration of Federal programs and federally assisted programs.

Sec. 204. Dependent care credit.

Sec. 205. Allowance of credit for employer expenses for child care assistance.

TITLE III—MARRIAGE PENALTY RELIEF

Sec. 301. Elimination of marriage penalty in standard deduction.

Sec. 302. Phaseout of marriage penalty in 15-percent bracket.

Sec. 303. Marriage penalty relief for earned income credit; earned income to include only amounts includible in gross income; simplification of earned income credit.

TITLE IV—AFFORDABLE EDUCATION PROVISIONS

Subtitle A—Education Savings Incentives

Sec. 401. Modifications to education individual retirement accounts.

Sec. 402. Modifications to qualified tuition programs.

Subtitle B—Educational Assistance

Sec. 411. Extension of exclusion for employer-provided educational assistance.

Sec. 412. Elimination of 60-month limit and increase in income limitation on student loan interest deduction.

Sec. 413. Exclusion of certain amounts received under the National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship Program.

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

Sec. 421. Additional increase in arbitration rebate exception for governmental bonds used to finance educational facilities.

Sec. 422. Treatment of qualified public educational facility bonds as exempt facility bonds.

Subtitle D—Other Provisions

Sec. 431. Deduction for higher education expenses.

TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX PROVISIONS

Subtitle A—Repeal of Estate and Generation-Skipping Transfer Taxes

Sec. 501. Repeal of estate and generation-skipping transfer taxes.

Subtitle B—Reductions of Estate and Gift Tax Rates

Sec. 511. Additional reductions of estate and gift tax rates.

Subtitle C—Increase in Exemption Amounts

Sec. 521. Increase in exemption equivalent of unified credit; lifetime gifts exempt; credit for GST exemption amounts.

Subtitle D—Credit for State Death Taxes

Sec. 531. Reduction of credit for State death taxes.

CONGRESSIONAL RECORD—HOUSE

May 25, 2001
Sec. 522. Credit for State death taxes replaced with deduction for such taxes.

Subtitle E—Carryover Basis at Death; Other Changes Taking Effect With Repeal

Sec. 541. Termination of step-up in basis at death.


Subtitle F—Conservation Easements

Sec. 551. Expansion of estate tax rule for conservation easements.

Subtitle G—Modifications of Generation-Skipping Transfer Tax

Sec. 561. Deemed allocation of GST exemption to heirs who transfer to trusts; retroactive allocations.

Sec. 562. Severing of trusts.

Sec. 563. Modification of certain valuation limits.

Sec. 564. Relief provisions.

Subtitle H—Extension of Time for Payment of Estate Tax

Sec. 571. Increase in number of allowable partners and shareholders in closely held businesses.

Sec. 572. Expansion of availability of installment payment for estates with interests qualifying for lending and finance businesses.

Sec. 572. Clarification of availability of installment payment.

Subtitle I—Other Provisions

Sec. 581. Waiver of statute of limitation for taxes on certain farm valuations.

TITLE VI—PENSION AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS

Subtitle A—Individual Retirement Accounts

Sec. 601. Modification of IRA contribution limits.

Sec. 602. Deemed IRAs under employer plans.

Subtitle B—Expanding Coverage

Sec. 611. Increase in benefit and contribution limits.

Sec. 612. Plan loans for subchapter S owners, partners, and sole proprietors.

Sec. 613. Modification of top-heavy rules.

Sec. 614. Elective deferrals not taken into account for purposes of deduction limits.

Sec. 615. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.

Sec. 616. Deduction limits.

Sec. 617. Option to treat elective deferrals as after-tax Roth contributions.

Sec. 618. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.

Sec. 619. Credit for pension plan startup costs of small employers.

Sec. 620. Elimination of user fee for requests to IRS regarding pension plans.

Sec. 621. Treatment of nonresident aliens engaged in international transportation services.

Subtitle C—Enhancing Fairness for Women

Sec. 631. Catch-up contributions for individuals age 50 or over.

Sec. 632. Equitable treatment for contributions of employers to defined contribution plans.

Sec. 633. Faster vesting of certain employer matching contributions.

Sec. 634. Modification to minimum distribution rules.

Sec. 635. Clarification of tax treatment of division of section 401 plan benefits upon divorce.

Sec. 636. Provisions relating to hardship distributions.

Sec. 637. Waiver of the 10 percent tax on nondeductible contributions for domestic or similar workers.

Subtitle D—Increasing Portability for Participants

Sec. 641. Rollovers allowed among various types of plans.

Sec. 642. Rollovers of IRAs into workplace retirement plans.

Sec. 643. Rollovers of after-tax contributions.

Sec. 644. Hardship exception to 60-day rule.

Sec. 645. Treatment of forms of distribution.

Sec. 646. Rationalization of restrictions on distributions.

Sec. 647. Purchase of service credit in government-defined benefit plans.

Sec. 648. Employers may disregard rollovers for purposes of cash-out amounts.

Sec. 649. Minimum distribution and inclusion for purposes of section 401p plans.

Subtitle E—Strengthening Pension Security and Enforcement

PART I—GENERAL PROVISIONS

Sec. 651. Repeal of 10 percent of current liability funding limit.

Sec. 652. Maximum contribution deduction rules modified and applied to all defined benefit plans.

Sec. 653. Excise tax relief for sound pension administration.

Sec. 654. Treatment of multiemployer plans and tax-exempt organizations.

Sec. 655. Protection of investment of employee interests qualifying lending and financial interests.

Sec. 656. Clarification of treatment of contributions to multiemployer plan.

PART II—TREATMENT OF PLAN AMENDMENTS REDUCING FUTURE BENEFIT ACCRUALS

Sec. 659. Excise tax to be imposed on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.

Sec. 660. Excise tax on failure to provide notice to multiemployer plan.

Sec. 661. Repeal of transition rule relating to certain highly compensated employees.

Sec. 662. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.

Sec. 663. Repeal of transition rule relating to certain highly compensated employees.

Sec. 664. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.

Sec. 665. Clarification of treatment of employer-provided retirement advice.

Sec. 666. Repeal of the multiple use test.

Subtitle F—Reducing Regulatory Barriers

Sec. 667. Automatic rollovers of certain mandatory and required distributions.

Sec. 668. Clarification of treatment of contributions to multiemployer plan.

TITLE VII—ALTERNATIVE MINIMUM TAX

Sec. 701. Increase in alternative minimum tax exemption.

TITLE VIII—OTHER PROVISIONS

Sec. 801. Time for payment of corporate estimated taxes.

Sec. 802. Expansion of authority to postpone payment of corporate estate taxes.

Sec. 803. Time for payment of corporate estimated taxes.

TITLE IX—INDIVIDUAL INCOME TAX RATE REDUCTIONS

SEC. 101. REDUCTION IN INCOME TAX RATES FOR INDIVIDUALS

(a) In General.—In section 1 (relating to tax imposed) is amended by adding at the end the following new subsection:

(1) Rate Reductions After 2000.—

(A) In general.—In the case of taxable years beginning after December 31, 2000—

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

(ii) the 15 percent rate of tax shall apply only to taxable income not over the initial bracket amount but not over the maximum dollar amount for the 15 percent rate bracket.

(B) Initial Bracket Amount.—For purposes of this paragraph, the initial bracket amount is—

(i) $14,000 ($12,000 in the case of taxable years beginning before January 1, 2000) in the case of subsection (a),

(ii) $10,000 in the case of subsection (b), and

(iii) ½ the amount applicable under clause (i) after adjustment, if any, under subparagraph (C) in the case of subsections (c) and (d).

(1) Rate Reductions After 2000.—

(A) In general.—In the case of taxable years beginning after December 31, 2000—

(i) the cost-of-living adjustment used in making adjustments to the initial bracket amount for any taxable year beginning after December 31, 2000, shall be determined under section (f)(3) by substituting '2007' for '1992' in subparagraph (B)(iii) thereof, and

(ii) such adjustment shall not apply to the amount determined under section (f)(3) by substituting '1992' for '1992' in subparagraph (B)(iii) thereof.

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(1) Coordination with Acceleration of 10 Percent Rate Bracket Benefit for 2001.—This paragraph shall not apply to any taxable year to which section 6248 applies.

(2) Reductions in Rates After June 30, 2001.—In the case of taxable years beginning in a calendar year after 2000, the corresponding percentage specified for such calendar year in the following table shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

<table>
<thead>
<tr>
<th>Taxable Years Beginning During Calendar Year</th>
<th>10% Rate</th>
<th>25% Rate</th>
<th>35% Rate</th>
<th>39.6% Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>27.5%</td>
<td>30.5%</td>
<td>35.5%</td>
<td>39.1%</td>
</tr>
<tr>
<td>2002 and 2003</td>
<td>27.0%</td>
<td>30.0%</td>
<td>35.0%</td>
<td>38.6%</td>
</tr>
<tr>
<td>2004 and 2005</td>
<td>26.0%</td>
<td>29.0%</td>
<td>34.0%</td>
<td>37.6%</td>
</tr>
<tr>
<td>2006 and thereafter</td>
<td>25.0%</td>
<td>28.0%</td>
<td>33.0%</td>
<td>35.0%</td>
</tr>
</tbody>
</table>

(II) Adjustment of Rates.—The Secretary shall adjust the tables prescribed under subsection (f) to carry out this subsection.

(b) Acceleration of 10 Percent Rate Bracket Benefit for 2001.—

(1) In General.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

SEC. 6428. ACCELERATION OF 10 PERCENT INCOME TAX RATE Bracket Benefit for 2001.—

(a) In General.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by chapter 1 for the taxpayer’s first taxable year beginning in 2001 an amount equal to 5 percent of so much of the taxpayer’s taxable income as does not exceed the initial bracket amount (as defined in section 1(i)(1)(B)).

(b) Limitation Based on Amount of Tax.—The credit allowed by subsection (a) shall not exceed the excess (if any) of—

(1) the sum of the taxpayer’s tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over
“(2) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits).”

“(c) CONFORMING AMENDMENTS.—(1) Subparagraph (B) of section 1(g)(7) is amended by striking “15 percent” and inserting “10 percent.”

“§ 332. PHASEOUT OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) In General.—Section 68 is amended by adding at the end the following new subsection:

“(f) PHASEOUT OF LIMITATION.—

(1) In General.—In the case of taxable years beginning after December 31, 2006, the reduction under subsection (a) shall be equal to the applicable fraction of the amount which would (but for this subsection) be allowable to a taxpayer under subpart A of part IV of subchapter A of chapter 1.

(2) APPLICABLE FRACTION.—For purposes of paragraph (1), the applicable fraction shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>The applicable fraction is year and fraction</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006 and 2007</td>
<td>5/6</td>
</tr>
<tr>
<td>2008 and 2009</td>
<td>½</td>
</tr>
<tr>
<td>2010 and after</td>
<td>0</td>
</tr>
</tbody>
</table>

“(g) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2009.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

TITLE II—TAX BENEFITS RELATING TO CHILDREN

SEC. 201. MODIFICATIONS TO CHILD TAX CREDIT.

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

“(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to the product of the highest rate of tax applicable under section 1(c) and the undistributed personal holding company income.”

“(2) A MENDMENTS TO WITHHOLDING PROVISIONS.—(A) JOINT RETURNS .—In the case of a refund or credit under subpart C, paragraph (2) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.

“(d) SPECIAL RULES.—

“(d) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

“(A) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e).

“(B) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 2005.”

“§ 151. ADJUSTED GROSS INCOME.

“(A) IN GENERAL.—Adjusted gross income shall be increased by the lesser of

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“(g) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2009.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

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“(d) SPECIAL RULES.—

“(d) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

“(A) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e).

“(B) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 2005.”

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<td>0</td>
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</tbody>
</table>

“(g) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2009.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.
“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

(B) the amount by which the amount of credit allowed under section 26(a)(1) (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the greater of—

(i) 5 percent in the case of taxable years beginning before January 1, 2005, of so much of the taxpayer’s earned income (within the meaning of section 32) which is taken into account in computing taxable income for the taxable year as exceeds $10,000, or

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

(I) such dollar amount, multiplied by

(B) the amount by which the amount of adoption expenses, and

(iii) by striking ‘‘subsection (a)’’ and inserting ‘‘subsection (a)(1)(A)’’.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) (relating to dollar limitations for adoption assistance programs) is amended by—

(i) by striking ‘‘$5,000’’ and inserting ‘‘$10,000’’, and

(ii) by striking ‘‘in the case of a child with special needs’’, and

(iii) by striking ‘‘subsection (a)’’ and inserting ‘‘subsection (a)(1)(A)’’.

(3) INFLATION ADJUSTMENT.—Subsection (d) of section 24 is amended by adding at the end the following new paragraph:

‘‘(2) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking ‘‘$75,000’’ and inserting ‘‘$150,000’’. [Subsection (b) is amended by striking ‘‘$75,000’’ and inserting ‘‘$150,000’’.]

(4) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX PROVISION.—Section 24(d) is amended—

(1) by striking paragraph (2), and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(5) EFFECTIVE DATES.—

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

(2) SUBSECTION (b).—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 203. EXPANSION OF ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—The section of the internal revenue code referred to in section 26(a)(6) shall—

(1) ADOPTION CREDIT.—Section 23(a)(1) (relating to allowance of credit) is amended to read as follows:

‘‘(1) ADOPTION CREDIT.—In the case of the adoption of a child with special needs, $10,000.’’;

(2) DOLLAR LIMITATIONS.—

(i) DOLLAR AMOUNT OF ALLOWED EXPENSES.—Section 23(b)(1) (relating to limitation on credit) is amended—

(ii) by striking ‘‘$5,000’’ and inserting ‘‘$10,000’’, and

(iii) by striking ‘‘subsection (a)’’ and inserting ‘‘subsection (a)(1)(A)’’.

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

(i) by striking ‘‘$5,000’’ and inserting ‘‘$10,000’’, and

(ii) by striking ‘‘in the case of a child with special needs’’, and

(iii) by striking ‘‘subsection (a)’’ and inserting ‘‘subsection (a)(1)(A)’’.

(2) PHASE-OUT LIMITATION.—

(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking ‘‘$75,000’’ and inserting ‘‘$150,000’’. [Subsection (b) is amended by striking ‘‘$75,000’’ and inserting ‘‘$150,000’’.]

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) (relating to income limitation) is amended by striking ‘‘$75,000’’ and inserting ‘‘$150,000’’. [Subsection (b) is amended by striking ‘‘$75,000’’ and inserting ‘‘$150,000’’.]

(3) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.

(4) REPEAL OF TERMINATIONS.—

(1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph (2) of section 23(d) (relating to definition of ‘‘eligible child’’) is amended to read as follows:

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

(A) has not attained age 18, or

(B) is physically or mentally incapable of caring for himself.’’;

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

(3) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS FOR INFLATION.—

(1) ADOPTION EXPENSES.—Section 23 (relating to adoption expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

‘‘(h) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2001, each of the dollar amounts in subsection (f)(1)(A)(i) and paragraphs (1) and (2)(A)(i) of subsection (b) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘‘calendar year 2000’’ for ‘‘calendar year 1992’’ in subparagraph (B) thereof.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 (relating to adoption assistance programs) is amended—

(i) by inserting ‘‘subsection (h)’’ after ‘‘subsection (i)’’ and (2) subsection (B) thereof;

(ii) by striking ‘‘subsection (a)’’ and inserting ‘‘subsection (a)(1)(A)’’.

(3) INFLATION ADJUSTMENT.—Section 137(b)(1) (relating to dollar limitations for adoption assistance programs) is amended—

(i) by inserting ‘‘subsection (h)’’ after ‘‘subsection (i)’’ and (2) subsection (B) thereof;

(ii) by striking ‘‘in the case of a child with special needs’’, and

(iii) by striking ‘‘subsection (a)’’ and inserting ‘‘subsection (a)(1)(A)’’.

(4) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.

(5) EFFECTIVE DATES.—

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

(2) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 204. DEPENDENT CARE CREDIT.

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

(1) by striking ‘‘$2,400’’ in paragraph (1) and inserting ‘‘$3,000’’, and

(2) by striking ‘‘$4,800’’ in paragraph (2) and inserting ‘‘$6,000’’.

(b) INCREASE IN APPLICABLE PERCENTAGE.—

Section 21(a)(2) (defining applicable percentage) is amended—

(1) by striking ‘‘30 percent’’ and inserting ‘‘35 percent’’; and

(2) by striking ‘‘$10,000’’ and inserting ‘‘$15,000’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 205. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 619, is further amended by adding at the end the following:

‘‘SEC. 45F. EMPLOYER-PROVIDED CHILD CARE CREDITS.

‘‘(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an addition equal to the sum of—

(1) 25 percent of the qualified child care expenditures, and
``(2) 10 percent of the qualified child care resource and referral expenditures, of the taxpayer for such taxable year.
``(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.
``(c) DEFINITIONS.—For purposes of this section—
``(1) QUALIFIED CHILD CARE EXPENDITURE.—
``(A) IN GENERAL.—The term ‘qualified child care expenditure’ means any amount paid or incurred for—
``(i) to acquire, construct, rehabilitate, or expand property—
``(I) which is to be used as part of a qualified child care facility of the taxpayer,
``(II) the operation of which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and
``(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,
``(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training, or
``(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,
``(B) AIR MARKET VALUE.—The term ‘qualified child care expenditures’ shall not include expenses in excess of the fair market value of such care.
``(2) QUALIFIED CHILD CARE FACILITY.—
``(A) IN GENERAL.—The term ‘qualified child care facility’ means a facility—
``(i) the principal use of which is to provide child care services, and
``(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.
``Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.
``(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer if—
``(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,
``(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and
``(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).
``(C) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—
``(A) IN GENERAL.—The term ‘qualified child care resource and referral expenditure’ means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.
``(B) NONDISCRIMINATION.—The services shall not be treated as qualified unless the provision of such services (or the eligibility to use such services) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).
``(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—
``(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this section (or a reasonable part of the tax) for such taxable year shall be increased by an amount equal to the product of—
``(A) the applicable recapture percentage, and
``(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (a) with respect to such facility had been zero;
``(2) APPLICABLE RECAPTURE PERCENTAGE.—
``(A) IN GENERAL.—For purposes of this subsection, the applicable percentage shall be determined from the following table:
``The applicable recapture percentage is:
``[If the recapture event occurs in:]
``| Years   | Recapture Percentage |
``|---------|----------------------|
``| 1       | 100                  |
``| 2       | 70                   |
``| 3       | 38                   |
``| 4       | 25                   |
``| 5       | 20                   |
``| 6       | 15                   |
``| 7       | 12                   |
``| 8       | 10                   |
``| 9       | 8                    |
``| 10      | 6                    |
``| 11      | 5                    |
``| 12      | 4                    |
``(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.
``(C) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term ‘recapture event’ means—
``(i) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility,
``(ii) CHANGE IN OWNERSHIP.—A change in ownership which results in a qualified child care facility with respect to which the credit described in subsection (a) was allowable,
``(iii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).
``(D) SPECIAL RULES.—
``(i) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the child credit and the earned income credit carryovers and carrybacks under section 32 shall be appropriately adjusted.
``(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax due for purposes of determining the amount of any credit under subpart A, B, or D of this part.
``(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored under section 121 by reason of any recapture event within a reasonable period established by the Secretary.
``(D) SPECIAL RULES.—For purposes of this section—
``(1) AGRÉGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.
``(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (D) of section 52(a) shall apply to estates and trusts described in section 63(c)(4) and 151(d)(4)(A) shall be applied.
``(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.
``(4) NO DOUBLE BENEFIT.—
``(i) REDUCTION IN BASIS.—For purposes of this subsection, the basis of the partnership in the credit shall be increased by the amount of such credit.
``(ii) DEFINITION.—In this paragraph—
``(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.
``(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property resulting from the event resulting in such recapture shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ‘recapture amount’ means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).
``(4) LIMITATION ON DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.
``(b) CONFORMING AMENDMENTS.—
``(1) Section 38(b), as amended by section 619, is amended by striking ‘plus’ at the end of paragraph (14) and inserting ‘, plus’, and by adding at the end the following:
``(15) the employer-provided child care credit determined under section 45F.
``(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:
``‘Sec. 45F. Employer-provided child care credit.’
``(3) Section 1016(a) is amended by striking ‘and’ at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ‘, and’, and by adding at the end the following:
``‘(28) in the case of a facility with respect to which a credit was allowed under section 45F, to the extent provided in section 45F(f)(1).’
``(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE III—MARRIAGE PENALTY RELIEF
SEC. 301. ELIMINATION OF MARRIAGE PENALTY RELIEF IN STANDARD DEDUCTION.
``(a) IN GENERAL.—(Paragraph 2 of section 63(c) (relating to standard deduction) is amended—
``(1) by striking ‘$5,000’ in subparagraph (A) and inserting ‘the applicable percentage of the dollar amount in effect under subparagraph (C) for the taxable year’;
``(2) by adding ‘or’ at the end of subparagraph (B);
``(3) by striking ‘in the case of’ and all that follows in subparagraph (C) and inserting ‘in any other case,’;
``and
``(4) by striking subparagraph (D).
``(b) APPLICABLE PERCENTAGE.—Section 63(c) (relating to standard deduction) is amended by adding at the end the following new paragraph:
``(7) APPLICABLE PERCENTAGE.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:
``For taxable years beginning in calendar year—
``| Year     | Percentage |
``|----------|------------|
``| 2005     | 174        |
``| 2006     | 184        |
``| 2007     | 187        |
``| 2008     | 190        |
``| 2009 and thereafter | 200. |
``(c) TECHNICAL AMENDMENTS.—
``(1) Subparagraph (B) of section 1(f)(6) is amended by striking ‘other than with’ and all that follows through ‘shall be applied’ and inserting ‘other than with’ and after ‘shall be applied’ apply to sections 63(c)(4) and 151(d)(5)(A) shall be applied’.
``(2) Paragraph (4) of section 63(c) is amended by adding at the end the following flush sentence:
``‘The preceding sentence shall not apply to the amount referred to in paragraph (2)(A).’
``(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.
PHASEOUT OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.

(a) IN GENERAL.—Section 1(f) (relating to adjusting the income tax rates so that inflation will not result in tax increases) is amended by adding at the end the following new paragraph:

"(8) PHASEOUT OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

"(A) IN GENERAL.—With respect to taxable years beginning after December 31, 2004, in prescribing the amounts under paragraph (1), (2), (3), and (4), the applicable percentage of the maximum taxable income in the 15-percent bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 1/3 of the amounts determined under clause (i)."

"(B) MODIFICATION OF AGI LIMITS TO REMOVE INCOME CREDIT; EARNED INCOME CREDIT; EARNED INCOME CREDIT.—

"(1) PRE-2005 TAXABLE YEARS.—

(i) the maximum taxable income in the 15-percent bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 1/3 of the amounts determined under clause (i)."

"(ii) the comparable taxable income amounts in the table contained in subsection (d) shall be 1/3 of the amounts determined under clause (i)."

"(C) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

(b) MODIFICATION OF AGI LIMITS TO REMOVE INCOME CREDIT; EARNED INCOME CREDIT; EARNED INCOME CREDIT.—

"(1) IN GENERAL.—Section 6213(g) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking "(1)" and inserting "(1A)(ii)".

"(2) CONFORMING AMENDMENT.—

Section 6213(g)(1)(A) is amended to read as follows:

"(1)(A)(ii) and inserting ""(ii) in general.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is the taxpayer’s parent, stepparent, or other person having an expectancy of inheritance.

(c) MODIFICATION OF AGI LIMITS TO REMOVE INCOME CREDIT; EARNED INCOME CREDIT; EARNED INCOME CREDIT.—

"(2) IN GENERAL.—

Section 15(c)(3)(E) is amended by striking "by inserting "except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001." and inserting "by inserting "except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001."
services are to be used by the beneficiary and the beneficiary’s family during any of the years the beneficiary is in school. Clause (ii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

(‘‘B’’ SCHOOL.—The term ‘‘school’’ means any school providing elementary education or secondary education (kindergarten through grade 12), as determined under State law.’’).

(3) CONFORMING AMENDMENTS.—Section 530 is amended—

(A) by striking ‘‘higher’’ each place it appears in subsections (b)(1) and (d)(2), and

(B) by striking ‘‘higher’’ in the heading for subsection (d)(2).

(d) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

‘‘The age limitations in subparagraphs (A)(ii) and (E), and paragraphs (3) and (6) of subsection (d), shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary) in the case of a program established and maintained by a State or agency or instrumentality thereof in the matter preceding subparagraph (A), and (B) by adding at the end the following new flush sentence:

‘‘Except to the extent provided in regulations, a program established and maintained by 1 or more more eligible educational institutions shall not apply, except as provided in this section, to distributions from an education individual retirement account on the last day of the preceeding taxable year if the distribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).’’.

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

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

‘‘(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and’’;

and

(B) by striking ‘‘DATE OF RETURN’’ in the heading and inserting ‘‘CERTAIN DATE’’.

(5) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS.—

(1) IN GENERAL.—Section 530(b)(6) (relating to additional tax for distributions not used for educational expenses) is amended—

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

‘‘(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and’’;

and

(B) by striking ‘‘DATE OF RETURN’’ in the heading and inserting ‘‘CERTAIN DATE’’.

(2) PRIVATE QUALIFIED TUITION PROGRAMS LIMITED TO BENEFIT PLANS.—Clause (ii) of section 529(b)(1)(A) is amended by inserting ‘‘or by 1 or more more eligible educational institutions maintained by a State or agency or instrumentality thereof’’ in the matter preceding subparagraph (A), and (B) by adding at the end the following new flush sentence:

‘‘Except to the extent provided in regulations, a program established and maintained by a State or agency or instrumentality thereof in the case of a program established and maintained by 1 or more more eligible educational institutions shall not apply, except as provided in this section, to distributions from an education individual retirement account on the last day of the preceeding taxable year if the distribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).’’;

(3) ADDITIONAL TAX ON NONQUALIFIED WITHDRAWAL.—Section 530(d)(4)(F) is amended—

(A) by striking paragraph (3) of subsection (b) and by redesignating paragraphs (4), (5), (6), and (7) of such subsection as paragraphs (3), (4), (5), and (6) respectively;

(B) by adding at the end of subsection (c) the following new paragraph:

‘‘(6) ADDITIONAL TAX. The tax imposed by section 530(d)(4) shall apply to any payment or distribution from a qualified tuition program in the same manner as such tax applies to a payment or distribution from an education individual retirement account. This paragraph shall not apply to any payment or distribution in any taxable year beginning after January 1, 2004, which is includible in gross income but used for qualified higher education expenses of the designated beneficiary.’’.

(4) CONFORMING AMENDMENTS.—

(A) Sections 529(d)(1)(D), 529(h)(2)(B), 4973(e), and 6693(c)(1)(C) are amended by inserting ‘‘qualified State tuition’’ each place it appears and inserting ‘‘qualified tuition’’.

(B) The headings for sections 52(c)(9) and 135(c)(2)(C) are amended by striking ‘‘QUALIFIED STATE TUITION’’ each place it appears and inserting ‘‘QUALIFIED TUITION’’.

(C) The headings for sections 529(b) and 530(b)(2)(B) are amended by striking ‘‘QUALIFIED TUITION’’ each place it appears and inserting ‘‘QUALIFIED TUITION’’.

(D) The heading for section 529 is amended by striking ‘‘STATE’’.

(E) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ‘‘STATE’’.

(F) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this paragraph—

(i) IN GENERAL.—Section 529(c)(3)(B) is amended to read as follows:

‘‘(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this paragraph—

(ii) CASH DISTRIBUTIONS.—In the case of distributions not described in clause (i), if—

(I) such distributions do not exceed the qualified higher education expenses (reduced by expenses described in clause (i), no amount shall be includable in gross income and

(II) in any other case, the amount otherwise includable in gross income shall be reduced by an amount which bears the same ratio to such expenses as expenses bear to such distributions.”

(iii) EXCEPTION FOR INSTITUTIONAL PROGRAMS.—In the case of any taxable year beginning before January 1, 2004, clauses (i) and (ii) shall not apply with respect to any distribution during such taxable year under a qualified tuition program which has received a ruling or determination that such program meets the applicable requirements for a qualified tuition program. For purposes of the preceding sentence, the term ‘‘qualified trust’’ means a trust which is created or organized in the United States for the exclusive benefit of designated beneficiaries and with respect to which the requirements of paragraphs (2) and (3) of section 504(a) are met.

(ii) PRIVATE QUALIFIED TUITION PROGRAMS.—In the case of any taxable year beginning after January 1, 2004, clauses (i) and (ii) shall not apply with respect to any distribution during such taxable year under a qualified tuition program which has received a ruling or determination that such program meets the applicable requirements for a qualified tuition program. For purposes of the preceding sentence, the term ‘‘qualified trust’’ means a trust which is created or organized in the United States for the exclusive benefit of designated beneficiaries and with respect to which the requirements of paragraphs (2) and (3) of section 504(a) are met.

(iii) TREATMENT AS DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

(iv) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS—The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

(A) as provided in section 25A(q)(2), and

(B) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person for such section.

(vi) COORDINATION WITH EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—If, with respect to any individual for any taxable year—

(I) the aggregate distributions to which clauses (i) and (ii) and section 530(d)(2)(A) apply exceed

(ii) the total amount of qualified higher education expenses otherwise taken into account under clauses (i) and (ii) (after the application of clause (v) for such year); the taxpayer shall allocate such expenses among the qualified tuition programs for determining the amount of the exclusion under subparagraph (A) and section 529(c)(3)(B).’’.

(2) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4) is amended by striking ‘‘the exclusion under section 530(d)(2)’’ and inserting ‘‘the exclusions under sections 529 and 530(d)(2)’’.

(B) Section 221(c)(2)(A) is amended by inserting ‘‘§298’’ after ‘‘135.’’.
SEC. 412. ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.

(a) ELIMINATION OF 60-MONTH LIMIT.—

(1) IN GENERAL.—Section 221 (relating to interest on education loans), as amended by section 402(b)(2)(B), is amended by redesignating subsection (d) and by redesignating sections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) CONFORMING AMENDMENT.—Section 600(e)(6) is amended by striking ‘‘subsection (e)’’ and inserting ‘‘subsection (d)’’.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to amounts for which the interest was paid or to which the credit is allowed by reason of an election made by the Secretary before the date of the enactment of this paragraph, and

(c) ADJUSTMENT LIMITATION ON ROOM AND BOARD DISTRIBUTIONS.—Section 529(e)(3)(B)(i) is amended to read as follows:

‘‘(i) LIMITATION.—The amount treated as qualified higher education expenses by reason of clause (i) shall not exceed—

(1) the allowance (applicable to the student) for room and board included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1070)) as in effect on the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001, in taxable years ending after December 31, 2001.

(2) TECHNICAL AMENDMENTS.—Section 529(c)(3)(D) is amended—

(1) by inserting ‘‘except to the extent provided by the State pursuant to (B)’’ after ‘‘all distributions’’ in clause (ii), and

(2) by inserting ‘‘except to the extent provided by the Secretary, before the value in clause (ii)’’ in clause (iii).

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

Subtitle B—Educational Assistance

SEC. 411. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REFELAY LIMITATION ON GRADUATE EDUCATION.—Section 127(c)(1) is amended by striking ‘‘, and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree’’.

(c) TECHNICAL AMENDMENT.—Section 51A(b)(5)(B)(ii) is amended by striking ‘‘or would be so excludable but for section 127(d)’’.

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to amounts relating to courses beginning after December 31, 2001.

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

SEC. 421. ADDITIONAL INCREASE IN ARBITRAGE BOND LIMITATION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATIONAL FACILITIES.

(a) IN GENERAL.—Section 148(4)(D)(vi) (relating to limitation on tax-exempt bonds issued for public school capital expenditures) is amended by striking ‘‘$5,000,000’’ the second place it appears and inserting ‘‘$20,000,000’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after December 31, 2001.

SEC. 422. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (b) of section 148(4)(D)(viii) (relating to exempt facility bond) is amended by striking ‘‘or’’ at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ‘‘, or’’, and by adding at the end the following new paragraph:

‘‘(13) qualified public educational facilities.’’.

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 148 (relating to exempt facility bond) is amended by adding at the end the following new subsection:

‘‘(K) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.‘‘

‘‘(1) IN GENERAL.—For purposes of subsection (a), the term ‘qualified public educational facility’ means any school facility which is—

(A) a part of a public elementary school or a public secondary school, and

(B) owned by a public-private partnership pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

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

(A) under which the corporation agrees—

(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility,

(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

(iii) not to exceed the term of the issue to be provided to the school facility.

(B) SCHOOL FACILITY.—For purposes of this subsection, the term ‘school facility’ means—

(A) any school building,

(B) any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events, and

(C) any property, to which section 168 applies (or would apply if section 179 did), for use in a facility described in subparagraph (A) or (B).

(C) QUALIFIED PUBLIC SCHOOLS.—For purposes of this subsection, the terms ‘elementary school’ and ‘secondary school’ have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

(D) CARRYFORWARD OF UNEXHAUSTED LIMITATION.—A State may elect to carry forward an unused limitation for any calendar year in which the unused limitation arises under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).’’.

(c) EXEMPTION FROM GENERAL STATE VOLUME LIMITATIONS.—Paragraph (3) of section 146(g) (relating to exemption for certain bonds) is amended—

(1) by striking ‘‘or (12)’’ and inserting ‘‘(12), or (13)’’, and

(2) by striking ‘‘and environmental enhancements of hydroelectric generating facilities’’ and inserting ‘‘environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities’’.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) (relating to
certain rules not to apply to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds is amended by adding at the end the following new paragraph:

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

(e) **CONFORMING AMENDMENT.**—The heading for section 147(h) is amended by striking “MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS” and inserting “CERTAIN BONDS”.

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

### Subtitle D—Other Provisions

**SEC. 431. DEDUCTION FOR HIGHER EDUCATION EXPENSES.** (a) **DEDUCTION ALLOWED.**—Part VII of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following:

> **SEC. 222. QUALIFIED TUITION AND RELATED EXPENSES.**
> 
> **(a) ALLOWANCE OF DEDUCTION.**—In the case of an election made under subsection (a) with respect to any individual for any taxable year, the amount of such election shall be added to the applicable dollar amount.
> 
> **(b) DOLLAR LIMITATIONS.**—
> 1. In general.—(i) The amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.
> 2. **APPLICABLE DOLLAR LIMIT.**—
> (A) 2002 and 2003.—In the case of a taxable year beginning in 2002 or 2003, the applicable dollar limit shall be $2,000.
> (B) 2004 and 2005.—In the case of a taxable year beginning in 2004 or 2005, the applicable dollar limit shall be $2,500.
> (C) 2006—2009.—In the case of a taxable year beginning in 2006 or 2007, the applicable dollar limit shall be $3,000.
> (D) 2010—2020.—In the case of a taxable year beginning in 2010 or 2011, the applicable dollar limit shall be $3,500.
> (E) 2021—2025.—In the case of a taxable year beginning in 2021 or 2022, the applicable dollar limit shall be $4,000.
> (F) 2026—2027.—In the case of a taxable year beginning in 2026 or 2027, the applicable dollar limit shall be $4,500.
> (G) 2028—2029.—In the case of a taxable year beginning in 2028 or 2029, the applicable dollar limit shall be $5,000.
> (H) 2030—2038.—In the case of a taxable year beginning in 2030 or 2031, the applicable dollar limit shall be $5,500.
> (I) 2039—2056.—In the case of a taxable year beginning in 2039 or 2040, the applicable dollar limit shall be $6,000.
> (J) 2057 AND THEREAFTER.—In the case of a taxable year beginning after 2056, the applicable dollar limit shall be $6,500.
> (k) **NO DOUBLE BENEFIT.**—No deduction shall be allowed under subsection (a) to any individual with respect to a qualified tuition and related expenses with respect to any individual if the taxpayer or any other person elects to have section 25A apply with respect to such individual for such year.

### SEC. 221. CREDIT FOR ELIGIBLE EDUCATION EXPENSES

**(b) CREDIT.**—The amount allowed under section 222(c) shall be treated as an income tax credit.

**(c) LIMITATION ON CREDIT.**—The credit allowed under subsection (b) with respect to any taxable year shall not exceed the applicable credit limit.

**[(d) CERTAIN DISTRIBUTIONS FROM QUALIFIED DOMESTIC TRUSTS.**—In applying section 2506A with respect to any taxable year, the term “taxpayer” shall be read as including a spouse of a taxpayer who died during the taxable year.

**[(e) CONFORMING AMENDMENTS.**—Sections 222, 223, and 224 are each amended by inserting “or eligible education expenses” after “qualified tuition and related expenses” and inserting “or eligible education expenses” before “to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.”

**[(f) EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.
"(a) COMPUTATION OF TAX.—

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

(A) the tentative tax, computed under paragraph (2), on the aggregate sum of the taxable gifts for such calendar year and for each of the preceding calendar periods, over—

(B) the tentative tax, computed under paragraph (2), on the aggregate sum of the taxable gifts for each of the preceding calendar periods.

(2) RATE SCHEDULE.—

The tentative tax shall be computed as follows:

<table>
<thead>
<tr>
<th>Excess of</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $1,000,000</td>
<td>0%</td>
</tr>
<tr>
<td>$1,000,001 to $2,000,000</td>
<td>37%</td>
</tr>
<tr>
<td>$2,000,001 to $5,000,000</td>
<td>41%</td>
</tr>
<tr>
<td>$5,000,001 to $10,000,000</td>
<td>42%</td>
</tr>
<tr>
<td>$10,000,001 to $20,000,000</td>
<td>43%</td>
</tr>
<tr>
<td>$20,000,001 to $50,000,000</td>
<td>45%</td>
</tr>
<tr>
<td>$50,000,001 to $100,000,000</td>
<td>45%</td>
</tr>
<tr>
<td>$100,000,001 to $200,000,000</td>
<td>35%</td>
</tr>
<tr>
<td>$200,000,001 to $500,000,000</td>
<td>25%</td>
</tr>
<tr>
<td>$500,000,001 to $1,000,000,000</td>
<td>25%</td>
</tr>
<tr>
<td>$1,000,000,001 and over</td>
<td>20%</td>
</tr>
</tbody>
</table>

"(b) PERIOD OF LIMITATIONS.—The deduction allowed by this section shall include only such tax as imposed by this title which has been paid with respect to the estate of a person other than the decedent.

"(c) COMFORMING AMENDMENTS.—

(1) Section 2001 is amended by striking ‘‘the benefit of the public, charitable, or religious uses described in section 2004, 2005, and following) in determining whether property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph of the country of residence of the property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States. Upon any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

"(2) CONDITIONS FOR ALLOWANCE OF DEDUCTION.—No deduction shall be allowed under paragraph (1) for a foreign death tax specified therein unless the decrease in the tax imposed by this chapter which is attributable to the deduction provided in paragraph (1) will more solely for the benefit of the public, charitable, or religious uses described in section 2055 or section 2056.

(2) CONDITIONS AFTER ESTATE TAX REPEAL.—

(1) PERIODS BEFORE ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax) is amended by inserting ‘‘determined as if the applicable exclusion amount were $1,000,000’’ after ‘‘calendar year’’.

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

"(a) ALLOWANCE OF DEDUCTION.—For purposes of section 2501 the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of any estate, inheritance, legacy, or gift tax imposed by any State or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent).

"(b) PERIOD OF LIMITATIONS.—The deduction allowed by this section shall include only such tax as imposed by this title which has been paid with respect to the estate of a person other than the decedent.

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(1) Section 2001 is amended by striking ‘‘the benefit of the public, charitable, or religious uses described in section 2004, 2005, and following) in determining whether property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph of the country of residence of the property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States. Upon any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

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"(b) PERIOD OF LIMITATIONS.—The deduction allowed by this section shall include only such tax as imposed by this title which has been paid with respect to the estate of a person other than the decedent.

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(1) Section 2001 is amended by striking ‘‘the benefit of the public, charitable, or religious uses described in section 2004, 2005, and following) in determining whether property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph of the country of residence of the property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States. Upon any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

"(2) CONDITIONS FOR ALLOWANCE OF DEDUCTION.—No deduction shall be allowed under paragraph (1) for a foreign death tax specified therein unless the decrease in the tax imposed by this chapter which is attributable to the deduction provided in paragraph (1) will more solely for the benefit of the public, charitable, or religious uses described in section 2055 or section 2056.

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"(b) PERIOD OF LIMITATIONS.—The deduction allowed by this section shall include only such tax as imposed by this title which has been paid with respect to the estate of a person other than the decedent.

"(c) COMFORMING AMENDMENTS.—

(1) Section 2001 is amended by striking ‘‘the benefit of the public, charitable, or religious uses described in section 2004, 2005, and following) in determining whether property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph of the country of residence of the property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2201 and following) in determining whether property is situated within or without the United States. Upon any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

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estate, including those described in sections 2055 and 2106(a)(2) (taking into account any exemptions, credits, or deductions allowed by this chapter), in determining such decrease, there shall be deducted the Federal estate tax which any transferees other than those described in sections 2055 and 2106(a)(2) are required to pay.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and generation-skipping transfers, after December 31, 2004.

Subtitle H.—State Death Taxes; Other Changes Taking Effect With Repeal

§ 541. TERMINATION OF STEP-UP IN BASIS AT DEATH.

Section 1014 (relating to basis of property acquired from a decedent by a surviving spouse) is amended by striking at the end the following new subsection:

(f) TERMINATION.—This section shall not apply with respect to decedents dying after December 31, 2009.

§ 542. TREATMENT OF PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 2009.

(a) GENERAL RULE.—Part II of subchapter O of chapter 1 (relating to basis rules of general applications) is amended by inserting after section 1021 the following new section:

SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 2009.

(1) In general.—Except as otherwise provided in this section—

(A) property acquired from a decedent dying after December 31, 2009, shall be treated for purposes of this subsection as if such property were acquired from a decedent dying after December 31, 2009, for purposes of this chapter, in determining such decrease, there shall be deducted the aggregate amount which is allocated to the property pursuant to this section.

(B) BASIS INCREASE FOR CERTAIN PROPERTY.—

(i) In general.—In the case of property to which this subsection applies, the basis of such property shall be increased by an amount equal to 125 percent of the maximum credit provided by section 165 if the property acquired from the decedent had been sold at fair market value immediately before the decedent’s death.

(ii) Limitation.—In the case of any estate, the aggregate basis increase under this subsection is $3,000,000.

Section 1014 (relating to basis of property acquired from a decedent by a surviving spouse) is amended by striking at the end the following new subsection:

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(B) BASIS INCREASE FOR CERTAIN PROPERTY.—

(i) In general.—In the case of property to which this subsection applies, the basis of such property shall be increased by an amount equal to 125 percent of the maximum credit provided by section 165 if the property acquired from the decedent had been sold at fair market value immediately before the decedent’s death.

(ii) Limitation.—In the case of any estate, the aggregate basis increase under this subsection is $3,000,000.

Section 1014 (relating to basis of property acquired from a decedent by a surviving spouse) is amended by striking at the end the following new subsection:

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(B) BASIS INCREASE FOR CERTAIN PROPERTY.—

(i) In general.—In the case of property to which this subsection applies, the basis of such property shall be increased by an amount equal to 125 percent of the maximum credit provided by section 165 if the property acquired from the decedent had been sold at fair market value immediately before the decedent’s death.

(ii) Limitation.—In the case of any estate, the aggregate basis increase under this subsection is $3,000,000.

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(B) BASIS INCREASE FOR CERTAIN PROPERTY.—

(i) In general.—In the case of property to which this subsection applies, the basis of such property shall be increased by an amount equal to 125 percent of the maximum credit provided by section 165 if the property acquired from the decedent had been sold at fair market value immediately before the decedent’s death.

(ii) Limitation.—In the case of any estate, the aggregate basis increase under this subsection is $3,000,000.

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(1) In general.—Except as otherwise provided in this section—

(A) property acquired from a decedent dying after December 31, 2009, shall be treated for purposes of this subsection as if such property were acquired from a decedent dying after December 31, 2009, for purposes of this chapter, in determining such decrease, there shall be deducted the aggregate amount which is allocated to the property pursuant to this section.

(B) BASIS INCREASE FOR CERTAIN PROPERTY.—

(i) In general.—In the case of property to which this subsection applies, the basis of such property shall be increased by an amount equal to 125 percent of the maximum credit provided by section 165 if the property acquired from the decedent had been sold at fair market value immediately before the decedent’s death.

(ii) Limitation.—In the case of any estate, the aggregate basis increase under this subsection is $3,000,000.

Section 1014 (relating to basis of property acquired from a decedent by a surviving spouse) is amended by striking at the end the following new subsection:

(f) TERMINATION.—This section shall not apply with respect to decedents dying after December 31, 2009.
(d) Definitions and Special Rules for Application of Subsections (b) and (c).—
(1) Property to which subsections (b) and (c) apply.—(A) IN GENERAL.—The basis of property acquired from a decedent may be increased under subsection (b) or (c) only if the property was owned by the decedent at the time of death.

(B) RULES RELATING TO OWERSHIP.—(i) JOINTLY HELD PROPERTY.—In the case of property which was owned by the decedent and another or by two or more joint tenants with right of survivorship or tenants by the entirety—

(1) if the only such other person is the surviving spouse of the decedent, the property shall be treated as the owner of only 50 percent of the property;

(2) in any case (to which subclause (i) does not apply) in which the decedent furnished consideration to acquire the property, the decedent shall be treated as the owner to the extent of the portion of the property which is attributable to such consideration; or

(3) in any case (to which subclause (i) does not apply) in which the property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint tenants with right of survivorship or interest in the property of which the decedent was not the sole owner, each such person shall be treated as the owner of one-half of the whole of the community interest in the property that was contributed by the decedent to such property.

(ii) REVOKEABLE TRUSTS.—The decedent shall be treated as owning property transferred by the decedent during life to a qualified revocable trust (as defined in section 655(b)(2)).

(iii) POWERS OF APPOINTMENT.—The decedent shall not be treated as owning any property by reason of holding a power of appointment with respect to such property.

(iv) COMMUNITY PROPERTY.—Property which represents the surviving spouse’s one-half share of community property held by the decedent and the surviving spouse for the purposes of the property laws of any State or possession of the United States or any foreign country shall be treated for purposes of this section as owned by, and acquired from, the decedent if at least one-half of the whole of the community interest in such property is treated as owned by, and acquired from, the decedent without regard to this clause.

(2) Property acquired by decedent by gift within 3 years of death.—

(1) IN GENERAL.—Subsections (b) and (c) shall not apply to property acquired by the decedent by gift if the gift takes effect in possession or enjoyment of the property at any time before the end of the 3-year period ending on the date of the decedent’s death.

(2) Exception for certain gifts from spouse.—Subsections (b) and (c) shall not apply to property acquired by the decedent from the decedent’s spouse unless, during such 3-year period, such spouse acquired the property in whole or in part by gift or by inter vivos transfer for less than adequate and full consideration in money or money’s worth.

(3) Stock of certain entities.—Subsections (b) and (c) shall not apply to—

(i) stock or securities of a foreign personal holding company,

(ii) stock of a DISC or former DISC,

(iii) stock of a foreign investment company, or

(iv) stock of a passive foreign investment company unless such company is a qualified electing fund (as defined in section 1295) with respect to the decedent.

(2) APPRAISAL VALUE LIMITATION.—The adjustments under subsections (b) and (c) shall not increase the basis of any interest in property acquired from the decedent above its fair market value on the date of death of the decedent as of the date of the decedent’s death.

(3) Allocation Rules.—(A) IN GENERAL.—The executor shall allocate the adjustments under subsections (b) and (c) on the return required by section 6018.

(B) Changes in Allocation.—Any allocation made pursuant to subparagraph (A) may be changed only as provided by the Secretary.

(4) Inflation Adjustment of Basis Adjustment Amounts.—(A) In General.—In the case of decedents dying in a calendar year after 2010, the $1,300,000, and $3,000,000 dollar amounts in subsections (b) and (c)(2)(B) shall each be increased by an amount equal to the product of—

(1) such dollar amount, and

(2) the inflation adjustment determined under section 111(c) for such calendar year, determined by substituting ‘2009’ for ‘1992’ in subparagraph (B) thereof.

(B) Rounding.—If any increase determined under subparagraph (A) is not a multiple of—

(i) $100,000 in the case of the $1,300,000 amount,

(ii) $5,000 in the case of the $60,000 amount, and

(iii) $250,000 in the case of the $3,000,000 amount, such increase shall be rounded to the next lowest multiple thereof.

(C) Property Acquired from the Decedent.—For purposes of this section, the following property shall be considered to have been acquired from the decedent—

(1) Property acquired by bequest, devise, or inheritance, or by the decedent’s estate from the decedent.

(2) Property transferred by the decedent during his lifetime—

(A) to a qualified revocable trust (as defined in section 655(b)(3)), or

(B) to any other trust with respect to which the decedent reserved the right to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust.

(3) Any other property passing from the decedent by gift, bequest, devise, or inheritance by the decedent during his lifetime, the principal purpose of which was to evade or avoid any Federal estate or gift tax.

(4) COORDINATION WITH SECTION 691.—This section shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 691.

(5) Certain Liabilities Disregarded.—(1) IN GENERAL.—In determining whether gain is recognized on the acquisition of property—

(A) from a decedent by a decedent’s estate or any beneficiary other than a tax-exempt beneficiary, and

(B) from the decedent’s estate by any beneficiary other than a tax-exempt beneficiary and in determining the adjusted basis of such property, liabilities in excess of basis shall be disregarded.

(2) TAX-EXEMPT BENEFICIARY.—For purposes of paragraph (1), the term ‘tax-exempt beneficiary’ means—

(A) the United States, any State or political subdivision thereof, any Indian tribal government (within the meaning of section 7871), or any agency or instrumentality of any of the foregoing;

(B) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by chapter 1 of subchapter C of part III of subchapter A of chapter 61 as preceded section 6019 is amended to read as follows:

Subpart C—Returns Relating to Transfers During Life

Sec. 6018. Returns relating to large transfers at death.

Sec. 6019. Gift tax returns.
(A) by striking “Any individual” and inserting “(a) IN GENERAL.—Any individual”, and (B) by adding at the end the following new subsection:

"(2) STANDARDS TO BE FURNISHED TO CERTAIN PERSONS.—Every person required to make a return under subsection (a) shall furnish to each person required to be furnished such return information required to make such return a written statement showing—

"(1) the name, address, and phone number of the person required to make such return, and

"(2) the information specified in such return with respect to property received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished not later than 30 days after the date that the return required under subsection (a) is filed.

(3) TIME FOR FILING SECTION 6019 RETURNS.—

(A) RETURNS RELATING TO LARGE TRANSFERS AT DEATH.—Subsection (a) of section 6019 is amended to read as follows:

"(a) RETURNS RELATING TO LARGE TRANSFERS AT DEATH.—The return required by section 6019 with respect to a decedent shall be filed with the return required to be filed by chapter 1 of the decedent’s last taxable year or such later date specified in regulations prescribed by the Secretary of the Treasury.

(B) CONFORMING AMENDMENTS.—Paragraph (3) of section 6019(b) is amended—

(i) by striking “ESTATE TAX RETURN” in the heading and inserting “SECTION 6019 RETURN,” and

(ii) by striking “(relating to estate tax returns)” and inserting “(relating to returns relating to large transfers at death).”

(4) PENALTIES.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6716. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN TRANSFERS AT DEATH.—

(A) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Any person required to furnish any information under section 6019 who fails to furnish such information on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty of $10,000 ($500 in the case of information furnished under section 6019(b)(2)) for each such failure.

"(B) INFORMATION REQUIRED TO BE FURNISHED TO BENEFICIARIES.—Any person required to furnish any information under section 6019(b) the information required under such section who fails to furnish such information shall pay a penalty of $50 for each such failure.

"(C) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subsection (a) or (b) with respect to any failure if it is shown that such failure was due to reasonable cause.

"(d) INTENTIONAL DISREGARD.—If any failure under subsection (a) or (b) is due to intentional disregard of the requirements under section 6019 and 6019(b), the penalty under such section shall be 5 percent of the fair market value (as of the date of death or, in the case of section 6019(b), the date of the gift of the gift of the property with respect to which the information is required.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 66 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(5) CLERICAL AMENDMENTS.—

(A) The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6716. Failure to file information with respect to certain transfers at death and gifts.”

(2) DETERMINATION OF WHETHER PROPERTY IS A CAPITAL ASSET.—The term ‘capital asset’ means property other than an inventory or stock of goods held primarily for the production of income.

(3) Deemed Capital Asset.—The term “deemed capital asset” means property held primarily for the production of income.

(4) Sale of Listed Stock.—The term “sale of listed stock” means the sale of a listed security of a corporation other than a personal holding company.

(5) Safe Harbors.—The term “safe harbor” means a safe harbor set forth in a Treasury regulation.

(6) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.
amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

(c) DEEMED ALLOCATION TO CERTAIN LIFE-TIME GST TRUSTS.—

"(1) IN GENERAL.—If any individual makes an indirect skip during such individual's lifetime, any unused portion of such individual's GST exemption allocated to such property transferred to the extent necessary to make the inclusion ratio for such property zero, if the amount of the indirect skip exceeds such unused portion, and

(2) UNUSED PORTION.—For purposes of paragraph (1), the unused portion of an individual's GST exemption allocated to such property transferred shall be allocated to the property transferred.

(3) DEFINITIONS.—

(A) DIRECT SKIP.—For purposes of this subsection, the term 'direct skip' means a transfer to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(B) TREATED AS ALLOCATED.—For purposes of subsection (b)(1) with respect to a direct skip occurring during or before the calendar year in which the indirect skip is made, or

(C) TREATED AS ALLOCATED UNDER PARAGRAPH (1) WITH RESPECT TO A PRIOR INDIRECT SKIP.—

(4) AUTOMATIC ALLOCATIONS TO CERTAIN GST TRUSTS.—For purposes of this subsection, an indirect skip to which section 2642(f) applies shall be deemed to have been made on the close of the estate tax inclusion period. The fair market value of such transfer shall be the fair market value of the trust property at the close of the estate tax inclusion period.

(5) APPLICABILITY AND EFFECT.—

(A) IN GENERAL.—An individual—

(i) may elect to have this subsection not apply to—

(I) an indirect skip, or

(ii) any or all transfers made by such individual to a particular trust, and

(ii) any or all transfers made by such individual to such trust.

(B) ELECTIONS.—

(i) ELECTIONS WITH RESPECT TO INDIRECT SKIPS.—An election under subparagraph (A)(i)(II) or (ii) of subsection (a) may be made on a timely filed gift tax return for the calendar year for which the election is to become effective.

(d) RETROACTIVE ALLOCATIONS.—

(1) IN GENERAL.—(A) a non-skip person has an interest or a future interest in a trust to which any transfer is made on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(ii) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(iii) during the calendar year in which the indirect skip is made, or

(iv) any unused portion of such individual's GST exemption allocated to such property transferred shall be allocated to the property transferred.

(2) UNUSED PORTION.—For purposes of this subsection, the term 'indirect skip' means a transfer to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(C) THE AMOUNT OF THE INDIRECT SKIP.—If such transfer is to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(D) AN ELECTION UNDER SUBparagraph (A)(i)(II) OR (ii) OF SUBSECTION (A) MAY BE MADE ON A TIMELY FILED GIFT TAX RETURN FOR THE CALENDAR YEAR FOR WHICH THE ELECTION IS TO BECOME EFFECTIVE.

(3) SEVERING OF TRUSTS.—

(A) IN GENERAL.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is permitted to two or more trusts if each of those trusts has an inclusion ratio of zero and such severance is not prohibited by law or the trust instrument.

(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

(ii) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons and who are living or on the date of death of another person identified in the instrument (by name or by class) who is more than 10 years older than such individuals,

(iii) the trust instrument provides that, if one or more individuals who are non-skip persons die on or before a date or event described in clause (i) or (ii), more than 25 percent of the trust corpus must be distributed to the estate or estates of one or more of such individuals or is subject to a general power of appointment exercisable by one or more of such individuals,

(iv) the trust is a trust any portion of which would be included in the gross estate of a non-skip person (other than the transferor) if such person died immediately after the transfer,

(v) the trust is a charitable lead annuity trust (within the meaning of section 2642(e)(3)(A)) or a charitable remainder annuity trust (within the meaning of section 664(d)), or

(vi) the trust is a trust with respect to which a deduction was allowed under subsection 2522 for the amount been made on a timely filed gift tax return for the calendar year in which such transfer was made,

(vii) the trust is a charitable remainder trust (within the meaning of section 2642(e)(3)(A)) or a charitable remainder unitrust (within the meaning of section 664(d)), or

(viii) the trust is a trust with respect to which a deduction was allowed under subsection 2522 for the amount been made on a timely filed gift tax return for the calendar year in which such transfer was made,

(2) EFFECTIVE DATES.—For purposes of this subsection, the terms 'severing of trusts' means the division of a single trust into two or more trusts if each of those trusts has an inclusion ratio of zero and such severance is not prohibited by law or the trust instrument.

(3) SEVERING OF TRUSTS.—

(A) IN GENERAL.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is permitted to two or more trusts if each of those trusts has an inclusion ratio of zero and such severance is not prohibited by law or the trust instrument.

(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

(ii) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(iii) during the calendar year in which the indirect skip is made, or

(iv) any unused portion of such individual's GST exemption allocated to such property transferred shall be allocated to the property transferred.

(2) UNUSED PORTION.—For purposes of this subsection, the term 'indirect skip' means a transfer to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(C) THE AMOUNT OF THE INDIRECT SKIP.—If such transfer is to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(D) AN ELECTION UNDER SUBparagraph (A)(i)(II) OR (ii) OF SUBSECTION (A) MAY BE MADE ON A TIMELY FILED GIFT TAX RETURN FOR THE CALENDAR YEAR FOR WHICH THE ELECTION IS TO BECOME EFFECTIVE.

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(A) IN GENERAL.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is permitted to two or more trusts if each of those trusts has an inclusion ratio of zero and such severance is not prohibited by law or the trust instrument.

(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

(ii) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(iii) during the calendar year in which the indirect skip is made, or

(iv) any unused portion of such individual's GST exemption allocated to such property transferred shall be allocated to the property transferred.

(2) UNUSED PORTION.—For purposes of this subsection, the term 'indirect skip' means a transfer to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(C) THE AMOUNT OF THE INDIRECT SKIP.—If such transfer is to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(D) AN ELECTION UNDER SUBparagraph (A)(i)(II) OR (ii) OF SUBSECTION (A) MAY BE MADE ON A TIMELY FILED GIFT TAX RETURN FOR THE CALENDAR YEAR FOR WHICH THE ELECTION IS TO BECOME EFFECTIVE.

(3) SEVERING OF TRUSTS.—

(A) IN GENERAL.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is permitted to two or more trusts if each of those trusts has an inclusion ratio of zero and such severance is not prohibited by law or the trust instrument.

(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

(ii) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(iii) during the calendar year in which the indirect skip is made, or

(iv) any unused portion of such individual's GST exemption allocated to such property transferred shall be allocated to the property transferred.

(2) UNUSED PORTION.—For purposes of this subsection, the term 'indirect skip' means a transfer to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(C) THE AMOUNT OF THE INDIRECT SKIP.—If such transfer is to a non-skip person if such transfer is made on a timely filed gift tax return for the calendar year in which the indirect skip is made, or

(D) AN ELECTION UNDER SUBparagraph (A)(i)(II) OR (ii) OF SUBSECTION (A) MAY BE MADE ON A TIMELY FILED GIFT TAX RETURN FOR THE CALENDAR YEAR FOR WHICH THE ELECTION IS TO BECOME EFFECTIVE.

(3) SEVERING OF TRUSTS.—

(A) IN GENERAL.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is permitted to two or more trusts if each of those trusts has an inclusion ratio of zero and such severance is not prohibited by law or the trust instrument.

(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

(ii) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(iii) during the calendar year in which the indirect skip is made, or

(iv) any unused portion of such individual's GST exemption allocated to such property transferred shall be allocated to the property transferred.
value are not met, the value of such property shall be determined as of the time of the distribution concerned.’’

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 2000.

SEC. 564. RELIEF PROVISIONS.

(a) In general.—Section 2642(g) is amended by adding at the end the following new subsection:

‘‘(g) RELIEF PROVISIONS.—

(1) RELIEF FROM LATE ELECTIONS.—

(A) In general.—The Secretary shall by regulation prescribe such circumstances and procedures under which extensions of time will be granted, if—

(i) an election under subsection (a)(2) or (c)(3) of section 2632, or

(ii) an election under subsection (a)(3) of section 2632, is not made on or before the due date of the return.

Such regulations may include procedures for requesting a comparable extension with respect to transfers made before the due date of the return referred to in paragraph (1).

(2) BASIS FOR DETERMINATIONS.—In determining whether to grant relief under this paragraph, the Secretary shall take into account all relevant circumstances, including evidence of intent contained in the instrument or instrument of transfer and such other factors as the Secretary deems relevant. For purposes of determining whether relief will be granted under this paragraph, the time for making the election (or election) shall be treated as if not expressly prescribed by statute.

(b) EFFECTIVE DATE.—

(1) RELIEF FROM LATE ELECTIONS.—Section 2642(g)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to elections pending on, or filed after, December 31, 2000.

(2) SUBSTANTIAL COMPLIANCE.—Section 2642(g)(2) of such Code (as so added) shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 2000. No implication is intended with respect to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 2000. Such regulations shall include procedures for requesting comparable relief with respect to transfers made before the due date of the return referred to in paragraph (1).

Subtitle H—Extension of Time for Payment of Estate Tax

SEC. 571. INCREASE IN NUMBER OF ALLOWABLE PARTNERS AND SHAREHOLDERS IN CLOSELY HELD BUSINESSES.

(a) In general.—In general, (1)(B)(ii), (1)(C)(ii), and (9)(B)(iii) of section 615(b) (relating to definitions and special rules) are each amended by striking ‘‘15’’ and inserting ‘‘25’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2000.

SEC. 572. ELIMINATION OF AVAILABILITY OF IN-STALLMENT PAYMENT FOR ESTATES WITH INTERESTS QUALIFYING LEND-ING AND FINANCE BUSINESSES.

(a) In general.—Section 616(b) (relating to payment of taxes on certain farms and ranches) is amended by striking ‘‘the term ‘qualified estate’’ means a qualified estate and inserting ‘‘the term ‘qualified estate’’ means an estate with respect to which the requirement of paragraph (1) is met’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2001.

SEC. 573. CLARIFICATION OF AVAILABILITY OF IN-STALLMENT PAYMENT.

(a) In general.—Subparagraph (B) of section 616(b)(6) (relating to all stock must be non-ready-tradable stock) is amended by adding at the end the following new clause:

‘‘(B) All stock must be non-ready-tradable stock.’’

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2001.
SEC. 602. DEEMED IRAS UNDER EMPLOYER PLANS.

(a) In General.—Section 408 (relating to individually designed retirement plans (other than accounts)) is amended by redesignating subsection (g) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) in the case of a collectively bargained program described in paragraph (1), and allows employees to elect to make contributions to such account or annuity established under the plan, and paragraph (2) is amended by inserting after such paragraph the following new subsection:

"(A) a qualified employer plan elects to allow employees to make voluntary employee contributions to a separate account or annuity established under the plan, and "(B) under the terms of the qualified employer plan, such account or annuity meets the applicable requirements of this section or section 408A for an individual retirement account or annuity, then such account or annuity shall be treated for purposes of this title in the same manner as an individual retirement plan and not as a qualified employer plan (and contributions to such account or annuity as contributions to an individual retirement plan and not to the qualified employer plan). For purposes of subparagraph (B) in paragraph (3)(A), such term shall not apply.

"(2) SPECIAL RULES FOR QUALIFIED EMPLOYER PLANS.—For purposes of this title, an employer plan shall not fail to meet any requirement hereunder solely by reason of establishing and maintaining a program described in paragraph (1).

"(3) DEFINITIONS.—For purposes of this section:

"(A) QUALIFIED EMPLOYER PLAN.—The term ‘qualified employer plan’ has the meaning given such term by section 72(p)(4); except such term shall not include a government plan which is not a qualified plan unless the plan is an eligible deferred compensation plan (as defined in section 457(b)).

"(B) VOLUNTARY EMPLOYEE CONTRIBUTION.—The term ‘voluntary employee contribution’ means any contribution (other than a mandatory contribution within the meaning of section 414(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 section applies.

"(B) AMENDMENT OF ERISA.—

"(1) IN GENERAL.—Section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) is amended by adding at the end the following new subsection:

"(c) If a pension plan allows an employee to elect to make voluntary employee contributions to accounts and annuities as provided in section 408(q) of the Internal Revenue Code of 1986, such accounts and annuities (and contributions thereto) are treated as part of such plan (or as a separate pension plan) for purposes of any provision of this title other than section 403(c), 404, or 405 (relating to exclusive benefit, and ancillary and co-fiduciary responsibilities).

"(2) CONFORMING AMENDMENT.—Section 4(a) of such Act (29 U.S.C. 1003(a)) is amended by inserting ‘or (c)’ after ‘subsection (b)’.

"(3) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2002.

Subtitle B—Expanding Coverage

SEC. 411. INCREASE IN BENEFIT AND CONTRIBUTION LIMITS.

(a) DEFINED BENEFIT PLANS.—

"(1) LIMITATION.—Section 411(a)(1)(B) of the Social Security Act (42 U.S.C. 401(a)(1)(B)), as amended by section 203(b)(1) of such Act, is amended by striking ‘$70,000’ and inserting ‘$110,000’.

"(B) SIMPLE RETIREMENT ACCOUNTS.—Section 401(a)(7) of the Internal Revenue Code of 1986, as amended by section 203(b)(1) of such Code, is amended by striking ‘$10,000’ and inserting ‘$20,000’.

"(C) SIMPLE EMPLOYER-SPONSORED RETIREMENT PLANS.—Section 401(k)(1)(A) of such Code, as amended by section 203(b)(1) of such Code, is amended by striking ‘$10,000’ and inserting ‘$20,000’.

"(D) SIMPLE EMPLOYER-SPONSORED RETIREMENT PLANS.—Section 401(k)(1)(A) of such Code, as amended by section 203(b)(1) of such Code, is amended by striking ‘$10,000’ and inserting ‘$20,000’.

"(D) ELECTIVE DEFERRALS.—

"(1) In General.—(i) Limitation on exclusion for elective deferrals is amended to read as follows:

"(1) 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 that the amount included for such 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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$15,000</td>
</tr>
<tr>
<td>2003</td>
<td>$17,000</td>
</tr>
<tr>
<td>2004</td>
<td>$20,000</td>
</tr>
<tr>
<td>2005</td>
<td>$25,000</td>
</tr>
<tr>
<td>2006 or thereafter</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (3) of section 402(g) is amended to read as follows:

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2001, the Secretary shall adjust the $5,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2001, and 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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$16,000</td>
</tr>
<tr>
<td>2003</td>
<td>$18,000</td>
</tr>
<tr>
<td>2004</td>
<td>$22,000</td>
</tr>
<tr>
<td>2005</td>
<td>$27,000</td>
</tr>
<tr>
<td>2006 or thereafter</td>
<td>$35,000</td>
</tr>
</tbody>
</table>

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"(3) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2001, the Secretary shall adjust the $5,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar year beginning July 1, 2001, and 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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
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</tr>
<tr>
<td>2003</td>
<td>$18,000</td>
</tr>
<tr>
<td>2004</td>
<td>$22,000</td>
</tr>
<tr>
<td>2005</td>
<td>$27,000</td>
</tr>
<tr>
<td>2006 or thereafter</td>
<td>$35,000</td>
</tr>
</tbody>
</table>

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"(3) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2001, the Secretary shall adjust the $5,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar year beginning July 1, 2001, and 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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$16,000</td>
</tr>
<tr>
<td>2003</td>
<td>$18,000</td>
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<tr>
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<td>$22,000</td>
</tr>
<tr>
<td>2005</td>
<td>$27,000</td>
</tr>
<tr>
<td>2006 or thereafter</td>
<td>$35,000</td>
</tr>
</tbody>
</table>
by striking "$6,000" and inserting "the applicable dollar amount".  
(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of section 408(p)(2) is amended to read as follows:  
"(E) APPLICABLE DOLLAR AMOUNT; COST-OFFIVING LIVING ADJUSTMENT.—  
(i) In General.—For purposes of subparagraph (A)(ii), the applicable dollar amount shall be the amount determined in accordance with the following table:  

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
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</tr>
<tr>
<td>2003</td>
<td>$8,000</td>
</tr>
<tr>
<td>2004</td>
<td>$9,000</td>
</tr>
<tr>
<td>2005</td>
<td>$10,000</td>
</tr>
</tbody>
</table>

(ii) COST OF LIVING ADJUSTMENT.—In the case of a year beginning after December 31, 2005, the Secretary shall adjust the $10,000 amount under clause (i) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter beginning July 1, 2004, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.  
(3) CONFORMING AMENDMENTS.—  
(A) Subsection (B) of section 401(h)(11)(B)(i) is amended by striking "$6,000" and inserting "the amount in effect under section 408(p)(2)(A)(ii)".  
(B) Section 408(p)(2)(A)(ii) is amended by striking subparagraph (E).  
(D) Definitions.—In the case of a year beginning after December 31, 2005, except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this sentence which is not a multiple of $5,000 shall be rounded to the next lower multiple of $5,000.  
(4) Certain Compensation Limits.—  
(i) In General.—Subparagraph (A) of section 401(o)(1) (defining earned income) is amended by adding at the end thereof the following new sentence:  
"For purposes of this part only (other than sections 419 and 419A), this subparagraph shall be applied as if the term ‘trade or business’ for purposes of section 1902 included service described in section 1902(c)(6).".  
(ii) SIMPLE RETIREMENT ACCOUNTS.—Clause (ii) of section 408(b)(1) (defining earned income) is amended by adding at the end thereof the following new sentence:  
"The preceding sentence shall be applied as if the term ‘trade or business’ for purposes of section 1902 included service described in section 1902(c)(6).".  
(k) Rounding Rule Relating to Defined Benefit Plans and Defined Contribution Plans.—Paragraph (4) of section 414(d) is amended to read as follows:  
"(4) Rounding.—  
(A) $10,000 AMOUNT.—Any increase under subparagraph (A) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lower multiple of $5,000.  
(B) $25,000 AMOUNT.—Any increase under subparagraph (C) of paragraph (1) which is not a multiple of $1,000 shall be rounded to the next lower multiple of $1,000."

(1) GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 2001.  
(2) DEFINING BENEFIT PLANS.—The amendments made by subsection (a) shall apply to years ending after December 31, 2001.

SEC. 612. PLAN LOANS FOR SUBCHAPTER S OWNERS, PARTNERS, AND SOLE PROPRIETORS.  
(a) In General.—Subparagraph (B) of section 407(f)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(2)) is amended by adding at the end thereof the following new subparagraph:  
"(iii) LOAN EXCEPTION.—For purposes of subparagraph (B) of section 407(f)(2) of the Employee Retirement Income Security Act of 1974, the term ‘owner-employee’ shall only include a person described in subclause (I) or (III) of clause (i)."

(b) Amendment of ERISA.—Section 408(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)(2)) is amended by adding at the end thereof the following new subparagraph:  
"(C) For purposes of paragraph (1)(A), the term ‘owner-employee’ shall only include a person described in clause (ii) or (iii) of subparagraph (A)."

SEC. 613. MODIFICATION OF TOP-HEAVY RULES.  
(a) APPLICATION OF DEFINITION OF KEY EMPLOYEE.—  
(i) In General.—Paragraph (1)(C) of section 416(i)(1) of the Internal Revenue Code is amended by striking clause (ii) and inserting the following:  
"(ii) an officer of the employer having an annual compensation greater than $130,000;".  
(ii) Subparagraph (d) of section 416(i)(1) of the Internal Revenue Code is amended by striking clause (i) and inserting the following:  
"(i) For purposes of determining whether section 416(i)(1) applies, the term ‘top-heavy plan’ shall mean any plan which—  
(A) has $1,500,000 or more of an applicable dollar amount as of the end of the plan year; and  
(B) at the end of the plan year, when determined as of the end of the plan year, satisfies the requirements of section 401(k)(3)."

(b) Matching Contributions Taken Into Account for Minimum Contribution Requirements.—Subparagraph (C) of section 416(i)(1) of the Internal Revenue Code is amended by striking clause (i) and inserting the following:  
"(i) matching contributions with respect to a key employee with respect to the plan, determined without regard to subparagraph (A)(i) and (ii) of section 401(k)(3), of $1,500,000 or more of an applicable dollar amount as of the end of the plan year; provided, however, that contributions of an employer to an owner-employee or former key employee shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b)) no key employee or former key employee is employed by such employer."

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

SEC. 614. ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.  
(a) In General.—Section 401(d) of the Internal Revenue Code is amended by inserting the following new subsection:  
"(2) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective deferrals (as defined in section 402(g)) shall not be subject to any limitation contained in paragraph (3), (7), or (9) of subsection (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions."

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

SEC. 615. REPEAL OF COORDINATION REQUIREMENTS FOR DEFERRED COMPENSATION PLANS AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.  
(a) In General.—Subsection (c) of section 457(b) of the Internal Revenue Code is amended by inserting the following new paragraph:  
"(2) Defined contribution plans.—Subparagraph (C) of section 401(h)(1) is amended by striking the words ‘‘subject to any limitation contained in paragraph (3), (7), or (9) of subsection (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions.’’."

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

SEC. 616. DEDUCTION LIMITS.  
(a) Modification of Limits.—  
(1) Stock Bonus and Profit Sharing Trusts.—Subparagraph (B) of section 401(b)(9)(A) of the Internal Revenue Code is amended by striking "15 percent" and inserting "25 percent".

(b) Defined Contribution Plans.—Subparagraph (C) of section 401(h)(1) of the Internal Revenue Code is amended by striking "15 percent" and inserting "25 percent".

(c) Definitions.—Subject to the funding standards. —For purposes of this section, the term ‘‘top-heavy plan’’ shall mean any plan which—  

(i) consists solely of top-heavy arrangements that meet the requirements of section 401(k)(12), and
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.—

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

(2) Section 404(c)(7) is amended by striking “stock bonus or profit-sharing trust” and inserting “trust subject to subsection (a)(3)(A)”.

(c) DEFINITIONS AND RULES RELATING TO ELECTIVE DEFERRALS AND PROFIT-SHARING TRUSTS AND CERTAIN TRUSTS.—

(1) ELECTIVE DEFERRAL.—The term ‘elective deferral’ means the amount of elective deferral which—

(A) is in excess of the gross income of an employee without regard to this section, and

(B) the employee designates (at such time and in such manner as the Secretary may prescribe) for the taxable year in which the amount of such excess deferral is made.

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

(A) the maximum amount of elective deferrals excludable from gross income of the employee for the taxable year (without regard to this section), over

(B) the aggregate amount of elective deferrals of the employee for the taxable year which the employee does not designate under paragraph (1).

(3) ROLL-OVER CONTRIBUTIONS.—

(A) IN GENERAL.—An ‘elective deferral’ is defined as any contribution of any payment or distribution from a designated Roth account which is otherwise allocable under this chapter may be made only if the contribution is attributable to the designated Roth contributions of the individual for the taxable year.

(B) COORDINATION WITH LIMIT.—Any rollover contribution to a designated Roth account is treated as a qualified distribution from such account for purposes of the limitations on exclusion for elective deferrals set forth in section 402.

(4) DISTRIBUTION RULES.—For purposes of this title—

(I) EXCLUSION.—Any qualified distribution from a designated Roth account shall not be includable in gross income.

(II) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

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

(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a designated Roth account which is not treated as a qualified distribution if such payment or distribution is made within the 5-taxable-year period beginning with the earlier of—

(i) the first taxable year for which the individual made a designated Roth contribution to any designated Roth account established for such individual under the applicable retirement plan,

(ii) if a rollover contribution was made to such designated Roth account from a designated Roth account previously established for such individual under another applicable retirement plan, the first taxable year for which the individual made a designated Roth contribution to such previously established account.

(C) DISTRIBUTIONS OF EXCESS DEFERRALS AND CONTRIBUTIONS AND EARNINGS THEREON.—

The term ‘qualified distribution’ shall not include any distribution which is attributable to an excess deferral under section 402(g)(2) or any excess contribution under section 401(k)(8) and any income on such excess deferral.

(D) TREATMENT OF DISTRIBUTIONS OF CERTAIN EXCESS DEFERRALS.—Notwithstanding section 72, if any excess deferral under section 402(g)(2) attributable to a designated Roth contribution is not distributed on or before the 1st April following the close of the taxable year in which such excess deferral is made, the amount of such excess deferral shall—

(A) be treated as investment in the contract, and

(B) be included in gross income for the taxable year in which such excess deferral is made.

(E) AGGREGATION RULES.—Section 72 shall be applied separately with respect to distributions and payments from a designated Roth account and other distributions and payments from the plan.

(F) OTHER DEFINITIONS.—For purposes of this section—

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

(A) an employee’s trust described in section 403A which is exempt from tax under section 501, and

(B) a plan under which amounts are contributed by an individual’s employer for an annuity contract described in section 403B.

(2) ELECTIVE DEFERRAL.—The term ‘elective deferral’ means any elective deferral described in subparagraph (A) or (C) of section 402(g)(3).
"(c) ELIGIBLE INDIVIDUAL—For purposes of this section—

"(1) IN GENERAL.—The term ‘eligible individual’ means any individual if such individual has not attained the age of 25 as of the close of the taxable year.

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

(A) any individual with respect to whom a deduction under section 151 is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins, and

(B) any individual who is a student (as defined in section 151(c)(4)) as of the close of the taxable year.

"(d) QUALIFIED RETIREMENT SAVINGS CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term ‘qualified retirement savings contributions’ means, with respect to any taxable year, the sum of—

(A) the amount of the qualified retirement contributions (as defined in section 219(c)) made by the eligible individual,

(B) the amount of—

(i) any elective deferrals (as defined in section 402(c)(8)(B)) to a Roth account.

(ii) any distribution to which section 25B applies.

(C) the amount of voluntary employee contributions (as defined in section 219(e)) made by the eligible individual,

(D) the sum of the credits allowable under subparagraph (A) and subparagraph (B) and section 22 and section 27 for the taxable year.

"(2) CONFORMING AMENDMENTS.—

(A) Section 24(b)(2)(B), as amended by sections 201(b) and 203(b), is amended by inserting after subparagraph (f) the following new subparagraph:

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2006.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND AMOUNTS OF MINIMUM TAX.—

(1) IN GENERAL.—Section 25B, as added by subsection (a), is amended by inserting after subsection (f) the following new subsection:

"(h) LIMITATION ON CREDIT.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(1) the sum of the regular tax liability (as defined in section 6621) plus the tax imposed by section 55, over

(2) the sum of the credits allowable under subsection (a), and

section 22 and section 27 for the taxable year.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(b)(3)(B), as amended by sections 201(b) and 203(b), is amended by striking ‘‘section 23’’ and inserting ‘‘sections 23 and 25B’’.

(B) Section 25(e)(1)(C), as amended by section 201(b), is amended by inserting ‘‘25B’’ after ‘‘24’’.

(C) Section 26(c)(1), as amended by sections 201(b) and 203, is amended by striking ‘‘and 24’’ and inserting ‘‘, 24, and 25B’’.

(D) Section 90(d), as amended by sections 201(b) and 203, is amended by striking ‘‘and 24’’ and inserting ‘‘, 24, and 25B’’.

(E) Section 72(p), as amended by sections 201(b) and 203, is amended by striking ‘‘401(k)’’ and inserting ‘‘, 24, and 25B’’.

(F) Section 414(p), as added by section 201(b), is amended by striking ‘‘section 414’’ and inserting ‘‘subsection 414’’.

(G) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 432, is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Elective deferrals and IRA contributions.

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

SEC. 619. CREDIT FOR PENSION PLAN STARTUP COSTS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"Sec. 45E. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(1) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer plan, the amount of the employer plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs incurred by the taxpayer during the taxable year.

(2) DOLLAR LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed—

(A) $500 for the first credit year and each of the 2 taxable years immediately following the first credit year, and

(B) zero for any other taxable year.

(3) ELIGIBLE EMPLOYER.—For purposes of this section—

(1) IN GENERAL.—The term ‘eligible employer’ has the meaning given such term by section 408A(d)(3).

(2) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

(4) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED STARTUP COSTS.—
For taxable years beginning in:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable dollar amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>$2,000</td>
</tr>
<tr>
<td>2004</td>
<td>$3,000</td>
</tr>
<tr>
<td>2005</td>
<td>$4,000</td>
</tr>
</tbody>
</table>

(ii) The applicable dollar amount shall be determined in accordance with the following table:

For taxable years beginning in:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable dollar amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$1,000</td>
</tr>
<tr>
<td>2003</td>
<td>$1,000</td>
</tr>
<tr>
<td>2004</td>
<td>$2,000</td>
</tr>
</tbody>
</table>

(iv) An arrangement meeting the requirements of section 408(k) or (p).

(B) ELECTIVE DEFERRAL.—The term ‘elective deferral’ has the meaning given such term by subsection (a)(2)(C).

(C) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to an applicable employer plan described in subparagraph (A)(iii) for the year to which section 457(b)(3) applies.

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

SEC. 632. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF EMPLOYEES TO DEFERRED CONTRIBUTION PLANS.

(a) EQUITABLE TREATMENT.—

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

(2) APPLICATION TO SECTION 408(b).—Section 408(b) is amended—

(A) by striking the “exclusive allowance for such taxable year” in paragraph (1) and inserting “the applicable limit under section 415”;

(B) by striking paragraph (2), and

(C) by inserting ‘‘or any amount received by a former employee after the fifth taxable year following the taxable year in which such employee was terminated’’ before the end of the second sentence of paragraph (3).

(3) CONFORMING AMENDMENTS.—

(1) Inserting the following new subsection:

(A) the term ‘‘applicable employer plan’’ means an employer plan (as defined in section 408(p)(2)) of the Internal Revenue Code of 1986) which has at least one employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan.

(B) the determination of whether an employer is an eligible employer under this section shall be made as of the date of the request described in subsection (a).

(2) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subsection (a) applies shall not be taken into account.

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

SEC. 631. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

‘‘(o) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.—

‘‘(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

‘‘(A) In general.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

‘‘(i) the applicable dollar amount, or

‘‘(ii) the excess (if any) of—

‘‘(I) the participant’s compensation (as defined in section 415(c)(3)) for the year, over

‘‘(II) any other elective deferrals of the participant for such year which are made without regard to subparagraph (B).

‘‘(B) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph—

‘‘(i) in the case of an applicable employer plan other than a plan described in section 401(k)(11) or 408(p), the applicable dollar amount shall be determined in accordance with the following table:

For taxable years beginning in:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable dollar amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

‘‘(ii) the maximum dollar amount which is the lesser of—

‘‘(I) the amount which is treated as 1 plan.

‘‘(ii) the amount which is treated as 1 plan.

‘‘(iii) an amount which is treated as 1 plan.

‘‘(iii) the applicable dollar amount described in section 405(e)(1)(A), and

‘‘(iv) an arrangement meeting the requirements of section 408(k) or (p).

‘‘(B) ELECTIVE DEFERRAL.—The term ‘elective deferral’ has the meaning given such term by subsection (a)(2)(C).

‘‘(C) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to an applicable employer plan described in subparagraph (A)(iii) for the year to which section 457(b)(3) applies.‘‘

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

SEC. 632. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF EMPLOYEES TO DEFERRED CONTRIBUTION PLANS.

(a) EQUITABLE TREATMENT.—

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

(2) APPLICATION TO SECTION 408(b).—Section 408(b) is amended—

(A) by striking the “exclusive allowance for such taxable year” in paragraph (1) and inserting “the applicable limit under section 415”;

(B) by striking paragraph (2), and

(C) by inserting ‘‘or any amount received by a former employee after the fifth taxable year following the taxable year in which such employee was terminated’’ before the end of the second sentence of paragraph (3).

(3) CONFORMING AMENDMENTS.—

(1) Inserting the following new subsection:

(A) the term ‘‘applicable employer plan’’ means an employer plan (as defined in section 408(p)(2)) of the Internal Revenue Code of 1986) which has at least one employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan.

(B) the determination of whether an employer is an eligible employer under this section shall be made as of the date of the request described in subsection (a).

(2) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subsection (a) applies shall not be taken into account.

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

SEC. 631. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

‘‘(o) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.—

‘‘(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

‘‘(A) In general.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

‘‘(i) the applicable dollar amount, or

‘‘(ii) the excess (if any) of—

‘‘(I) the participant’s compensation (as defined in section 415(c)(3)) for the year, over

‘‘(II) any other elective deferrals of the participant for such year which are made without regard to subparagraph (B).

‘‘(B) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph—

‘‘(i) in the case of an applicable employer plan other than a plan described in section 401(k)(11) or 408(p), the applicable dollar amount shall be determined in accordance with the following table:

For taxable years beginning in:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable dollar amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$1,000</td>
</tr>
</tbody>
</table>
(ii) by adding at the end the following new paragraph:

"(7) APPLICABLE LIMITATION.—

(A) IN GENERAL.—For purposes of paragraph (3)(E), the applicable limitation under this paragraph with respect to a participant is an amount equal to the lesser of—

(i) $30,000, or

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

(B) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $30,000 amount under subparagraph (A)(i) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending October 1, 1993, and any increase under this subparagraph which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

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

SEC. 636. PROVISIONS RELATING TO HARDSHIP DISTRIBUTIONS.

(a) SAFE HARBOUR RELIEF.—

(1) IN GENERAL.—The Secretary of the Treasury shall revise the regulations relating to hardship distributions under section 4980B(b)(5)(C)(i)(IV) of the Internal Revenue Code of 1986 to provide that the period an employee is prohibited from making elective and employee contributions in order for a distribution to be deemed necessary to satisfy financial need shall be equal to 6 months.

(2) EFFECTIVE DATE.—The revised regulations under this subsection shall apply to hardship distributions made after December 31, 2001.

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

(1) MODIFICATION OF DEFINITION OF ELIGIBLE ROLLOVER.—Subparagraph (C) of section 402(c)(4)(B) (relating to eligible rollover distributions) is amended to read as follows:

"(C) any distribution which is made upon hardship of the employee.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to distributions made after December 31, 2001.

SEC. 637. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBUTIONS FOR DOMESTIC OR SIMILAR WORKERS.

(a) IN GENERAL.—Section 4972(c)(6) (relating to exceptions to nondeductible contributions), as amended by section 616, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "or" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) so much of the contributions to a simple retirement account (within the meaning of section 408(p)) or a simple plan (within the meaning of section 401(k)(11)) which are not deducted contributions because such contributions are not made in connection with a trade or business of the employer.".

(b) EXCLUSION OF CERTAIN CONTRIBUTIONS.—Section 4972(c)(6) is amended by adding at the end the following new sentence: "Subparagraph (C) shall not apply to contributions made on behalf of the employer or a member of the employer’s family (as defined in section 447(e)(1)).".

(c) NO INFRINGEMENT.—Nothing in the amendments made by this section shall be construed to interfere with the proper treatment of nondeductible contributions under the laws in effect before such amendments.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2001.

Subtitle D—Increasing Portability for Participants

SEC. 641. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.

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

(1) ROLLOVERS FROM SECTION 457 PLANS.—

(A) IN GENERAL.—Section 457(e) (relating to other definitions and special rules) is amended by adding at the end the following:

"(16) ROLLOVER AMOUNT.—

"(A) IN GENERAL.—In the case of an eligible deferred compensation plan established and maintained by an employer described in section (e)(1)(A), if—

"(B) 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:

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Years of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>20</td>
</tr>
<tr>
<td>3</td>
<td>40</td>
</tr>
<tr>
<td>4</td>
<td>60</td>
</tr>
<tr>
<td>5</td>
<td>80</td>
</tr>
<tr>
<td>6</td>
<td>100</td>
</tr>
</tbody>
</table>

SECTION 611. ROLLOVERS ALLOWED FROM SECTION 457 PLANS.

(1) IN GENERAL.—The Secretary of the Treasury shall adopt such regulations as are necessary to carry out the purposes of section 4980B(b)(5)(C)(i)(IV) of the Internal Revenue Code of 1986, and any regulations issued under this section shall be effective as of the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The regulations under this subsection shall apply to transfers, distributions, and payments made after December 31, 2001.
“(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4)),

(ii) any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(6)(B), and

(iii) a distribution of property other than money, the amount so transferred consists of the property distributed, such distribution (to the extent so transferred) will not be includible in gross income for the taxable year in which paid.

“(B) Certain Rules Made Applicable.—The rules of paragraphs (2) through (7) and (9) of section 402(c)(8) shall apply for purposes of subparagraph (A).

“(C) Reporting.—Rollovers under this paragraph shall be reported to the Secretary in the same manner as rollovers from qualified retirement plans (as defined in section 4974(c)).

(B) Deferred Limit Determined Without regard to Rollover Amounts.—Section 457(b)(2) (defining eligible deferred compensation plan) is amended by inserting “(other than rollover amounts)” after “taxable year”.

(C) Direct Rollover.—Paragraph (1) of section 402(c)(8) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by inserting after subparagraph (B) the following:

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

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

(D) Withholding.—

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

“(D) to the extent such individual (1) is eligible for a qualified distribution under section 457(e)(16), and (2) is making such distribution;”

(ii) section 457(e)(16) is amended by inserting “such distribution” after clause (ii) of paragraph (7) of such section.

(ii) a qualified distribution from a qualified retirement plan (as defined in section 4974(c)) to an eligible retirement plan (as defined in section 457(c)).

(ii) a distribution from an eligible deferred compensation plan (as defined in section 457(c)) to an eligible retirement plan (as defined in section 4974(c)).

(B) Allowance of Rollovers from and to 403(b) Plans.—

(1) Rollovers from Section 403(b) Plans.—Section 403(b)(8)(A)(i) (relating to rollover amounts) is amended by striking “such distribution” and all that follows and inserting “such distribution to an eligible retirement plan described in section 492(c)(8)(B), and”.

(2) Rollovers to Section 403(b) Plans.—Section 403(b)(8)(B) (defining eligible retirement plan, as amended by section 492(c)(8)(B), is amended by inserting “eligible retirement plan, and” at the end of the clause.

(3) Expanded Explanation to Recipients of Rollover Distributions.—Paragraph (1) of section 402(f)(1) (relating to written explanation to recipients of distributions eligible for rollover treatment and made before the date that is 90 days after the date the Secretary issues a safe harbor rollover notice) is amended by striking “and” at the end of subparagraph (C), by inserting “, and” before “by” at the end of subparagraph (D), and inserting “the following new clause:—

“(ii) an annuity contract described in section 403(b).”

(4) Expanded Definition of Plan.—Paragraph (1) of section 3(1)(B) of section 408(d)(3) is amended by striking “relating to rollover amounts” and inserting “relating to rollover amounts or rollover amounts or (ii) the following new paragraph:

“(D) Simple Retirement Accounts.—In the case of any payment or distribution out of a simple retirement account (as defined in section 4975(e)(2)(B)), this paragraph shall not apply unless such payment or distribution is paid into another simple retirement account (as defined in section 4975(e)(2)(B)).

(C) Effective Date; Special Rule.—

(1) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 2001.

(2) Special Rule.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on or before the date which is permitted solely by reason of any amendment made by this section.”

SEC. 643. ROLLOVERS OF IRAS INTO WORKPLACE RETIREMENT PLANS.

(a) In General.—Subparagraph (A) of section 408(d)(3) (relating to rollover amounts) is amended by adding “or” at the end of clause (i), by striking clause (ii) and (iii), and by adding at the end the following:

“(ii) the entire amount received (including money and other property) is paid into an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B)) of an eligible individual not later than the 60th day after the date of the distribution.

(b) Conforming Amendments.—

(1) Paragraph (1) of section 403(b)(8) is amended by striking “and” at the end of subparagraph (A), and by striking “or” at the end of subparagraph (B).

(C) Special Rules.—Subparagraph (C) of the provisions under which distributions are made before the date that is 90 days after the date the Secretary issues a safe harbor rollover notice, except that the maximum amount which may be included in such plan is paid to an eligible retirement plan.

(C) Reporting.—Rollovers from and to 403(b) Plans (as defined in section 4974(c)) of an eligible individual not later than the 60th day after the date of the distribution.

(2) Special Rule.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on or before the date which is permitted solely by reason of any amendment made by this section.”

SEC. 643. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.

(a) Rollovers from Exempt Trusts.—Paragraph (2) of section 402(c) (relating to maximum...
section 72 to IRAs.

(6) Except to the extent provided in regulations promulgated by the Secretary of the Treasury, a defined contribution plan shall not apply to any plan amendment which reduces or eliminates benefits or subsidies which a significant number of the plan and plan participants, unless such amendment adversely affects the rights of any participant in a more than de minimis manner.

(3) Secure DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) (relating to limitation on rollovers) is amended by inserting at the end the following:

"(ii) the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution of an eligible retirement plan (in this subparagraph referred to as the ‘transferee plan’) shall not be treated as failing to receive any distribution to which the participant or beneficiary whose account was transferred is entitled under the transferor plan if—

(I) the forms of distribution previously available under the transferor plan applied to the account as the form of distribution being eliminated;

(II) notwithstanding the pro rata allocation rule prescribed in subclause (I), the transferee plan authorizes the transfer described in subclause (I) in general;

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

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

(V) the transferee plan allows the participant or beneficiary described in subclause (III) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution."

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2001.

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

"(V) the transferee plan allows the participant or beneficiary described in clause (ii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution."

(2) Application RULES.—In the case of a distribution described in clause (I), (II), or (III) with respect to all or part of such distribution, then, for purposes of paragraph (2), the rules of clause (ii) shall apply for purposes of applying section 72.

(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distribu-

tee received the property distributed.

(B) HARDSHIP EXCEPTION—The Secretary may waive the 60-day requirement under subparagraph (A) if the Secretary determines that it is in the interest of the participant or beneficiary under another defined contribution plan to make an immediate distribution in a more than de minimis manner.

(4) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—(A) Paragraph (3) of section 401(c)(2)(B)(i) (relating to qualified cash or deferred arrangements) is amended to read as follows:

"(i) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated; and

(ii) such single sum payment is based on the same or greater portion of the participant’s account as the form of distribution being eliminated, and

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

(II) the forms of distribution previously available under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution of an eligible retirement plan (in this subparagraph referred to as the ‘transferee plan’) shall be treated as failing to receive any distribution to which the participant or beneficiary whose account was transferred is entitled under the transferor plan if—

(I) the forms of distribution previously available under the transferor plan applied to the account as the form of distribution being eliminated;

(II) notwithstanding the pro rata allocation rule prescribed in subclause (I), the transferee plan authorizes the transfer described in subclause (I) in general; and

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

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

(V) the transferee plan allows the participant or beneficiary described in subclause (III) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

(2) AMENDMENT OF INTERNAL REVENUE CODE.—(A) Paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by inserting at the end the following:

"(V) the transferee plan allows the participant or beneficiary described in clause (ii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

(b) REGULATIONS.—(1) AMENDMENT OF INTERNAL REVENUE CODE.—(A) Paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by inserting at the end the following:

"(V) the transferee plan allows the participant or beneficiary described in clause (ii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution."
amended by striking "separation from service" and inserting "severance from employment".

(B) Subparagraph (A) of section 401(k)(10) (relating to distributions upon termination of plan or disposition of assets or subsidiary) is amended to read as follows:

"(A) IN GENERAL.—An event described in this subparagraph is the termination of the plan without the establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(c)(7))."

(C) Section 401(k)(10) is amended—

(1) by striking "an event" in clause (i) and inserting "an event after the plan year in which the event described in subsection (e)(10) (relating to severance from employment) occurs";

(2) by striking "event" in clause (i) and inserting "the event described in subsection (e)(10) (relating to severance from employment) occurs";

(3) by striking subparagraph (C); and

(4) by striking "transfer of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(q)) resulting from a plan establishment or plan termination (if such plan establishment or termination is sepa-
rate from service)" and inserting "severance from employment".

(b) The heading for paragraph (2) of section 401(k) is amended by striking "SEPARATION FROM SERVICE" and inserting "SEVERANCE FROM EMPLOYMENT".

(C) Section 401(k)—Clause (ii) of section 401(k)(d)(A) is amended by striking "is separated from service" and inserting "has a severance from employment".

(D) SEC. 401(k)—The amendments made by this section shall apply to distributions after December 31, 2001.

SEC. 647. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.

(a) Section 403(b) PLANS.—Subsection (b) of section 403(b) is amended by adding at the end the following new paragraph:

"(1) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includable in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

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

(B) a payment to which section 415 does not apply by reason of subsection (i)(3) thereof.

(b) Section 403(f) PLANS.—Subsection (e) of section 457, as amended by section 453(b)(6), is amended by adding after paragraph (6) the following new paragraph:

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

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

(B) a payment to which section 415 does not apply by reason of subsection (i)(3) thereof.

SEC. 648. EMPLOYERS MAY DISREGARD ROLL-OVERS FOR PURPOSES OF CASH-OUT AMOUNTS.

(a) QUALIFIED PLANS.—(1) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by adding after the following:

"(D) SPECIAL RULE FOR ROLLOVER CONTRIBUTIONS.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan, the value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term ‘rollover contributions’ means any rollover contribution under sections 402(c), 403(a)(4), 403(a)(9), 403(h)(6), 403(d)(3)(A)(ii), and 457(e)(16)."

(2) AMENDMENT OF ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(e)(7)) is amended by adding at the end the following:

"(4) A plan shall not fail to meet the requirements of this subsection if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term ‘rollover contributions’ means any rollover contribution under sections 402(c), 403(a)(4), 403(h)(6), 403(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue Code of 1986.

(b) ELIGIBLE DEFERRED COMPENSATION PLANS.—Clause (i) of section 457(e)(9)(A) is amended by striking "such amount" and inserting "the portion of such amount which is not attributable to rollover contributions (and earnings allocable thereto)."

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

SEC. 649. MINIMUM DISTRIBUTION AND INCLUSION REQUIREMENTS FOR SECTION 401(k) PLANS AND ELIGIBLE DEFERRED COMPENSATION PLANS.

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

"(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A plan shall meet the minimum distribution requirements of this paragraph if such plan meets the requirements of section 401(a)(9)."

(b) INCLUSION REQUIREMENTS.—(1) YEAR OF INCLUSION.—Subsection (a) of section 457 (relating to year of inclusion in gross income) is amended to read as follows:

"(a) YEAR OF INCLUSION IN GROSS INCOME.—(1) IN GENERAL.—Any amount of compensation deferred under an eligible deferred compensation plan, and any income attributable to the amounts so deferred, shall be includible in gross income for the year in which such compensation or other income—

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

(B) is paid to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(B).

(2) SPECIAL RULE FOR ROLLOVER AMOUNTS.—To the extent provided in section 72(t)(9), section 72(t) shall apply to any amount includible in gross income under this subsection.

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

SEC. 650. AMENDMENTS TO INTERNAL REVENUE CODE.

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

(1) by striking the "applicable percentage" in subparagraph (A)(i)(II) and inserting in its place of plan years beginning before January 1, 2004, the applicable percentage"; and

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

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

"In the case of any plan year beginning percentage is—"

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>165</td>
</tr>
<tr>
<td>2003</td>
<td>170</td>
</tr>
</tbody>
</table>

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

(1) by striking the "applicable percentage" in subparagraph (A)(i)(II) and inserting in its place of plan years beginning before January 1, 2004, the applicable percentage"; and

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

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

"In the case of any plan year beginning percentage is—"

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>165</td>
</tr>
<tr>
<td>2003</td>
<td>170</td>
</tr>
</tbody>
</table>

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

SEC. 651. MAXIMUM CONTRIBUTION RULES MODIFIED AND APPLIED TO ALL DEFINED BENEFIT PLANS.

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

"(D) SPecial Rule in Case of Certain Plans.—

"(i) IN GENERAL.—In the case of any defined benefit plan, except as provided in regulations, the maximum amount described under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 421.

(2) PLANS WITH 100 OR LESS PARTICIPANTS.—For purposes of this subparagraph, in the case of a plan which has 100 or less participants for the plan year, unfunded current liability shall not include the liability attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years.

"(ii) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining the number of plan participants, all defined benefit plans maintained by the same employer (or any member of such employer’s controlled group (within the meaning of section 424(a)(6)(C))) shall be treated as one plan, but only employers of such member or employer shall be taken into account.

(3) PLANS MAINTAINED BY PROFESSIONAL SERVICE EMPLOYERS.—In the case of any plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, clause (i) shall be applied by substituting for "the unfunded current liability the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 4041(d) of such Act)",

Confier's Amendment—Paragraph (6) of section 4972(c), as amended by sections 616 and 637, is amended—
(A) IN GENERAL.—Paragraph (1) of section 415(b)(7) (relating to benefits under certain collectively bargained plans) is amended by inserting "or" after paragraph (3). For purposes of this paragraph, the deductible limits under section 401(a)(7) shall first be applied to amounts contributed to defined contribution plans and then to amounts contributed to defined benefit plans under this paragraph (3). If an employer makes an election under this paragraph for a taxable year, paragraph (6) shall not apply to such employer for such taxable year.

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

SEC. 655. PROHIBITED ALLOCATIONS OF STOCK IN S CORPORATION ESOP.

(a) IN GENERAL.—Section 409 (relating to qualified stock plans (owner-ship plans) is amended to read as follows:

"(a) GENERAL.—An employer stock ownership plan holding employer securities consisting of stock in an S corporation shall provide that no portion of the assets of the plan attributable to (or allocable in lieu of) such employer securities may, during any calendar year, be allocated to any disqualified person (as so redesignated, in subparagraph (A) (as so redesignated), graphs (A) and (B), respectively, of paragraph (4)(D), and (ii) D EEMED-OWNED SHARES .

"(1) I N GENERAL .—(i) such plan holds employer securities consisting of stock in an S corporation, and

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

"(B) ATTACHMENT RULES.—For purposes of subparagraph (A) . . .

"(i) I N GENERAL .—The rules of section 318(a) shall apply for purposes of determining ownership, except that . . .

(ii) DEEMED-OWNED SHARES .—Notwithstanding the employer trust excess in section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual. . .

(iii) (D) M EMBER OF FAMILY .

"(1) I N GENERAL .—The term ‘member of the family’ means any person if . . .

(ii) D EEMED-OWNED SHARES .—Notwithstanding the employer trust excess in section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual. . .

(iv) the spouse of any individual described in clause (i) or (ii), . . .

"(C) DEFINITION .

"(1) I N GENERAL .—The term ‘deemed-owned person’ means any person if . . .

(iii) D EEMED-OWNED SHARES .—Notwithstanding the employer trust excess in section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual. . .

"(ii) D EEMED-OWNED SHARES .—Notwithstanding the employer trust excess in section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual. . .

(iv) the spouse of any individual described in clause (i) or (ii), . . .

"(D) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2001.

"(E) REGULATIONS AND GUIDANCE.—In the case of a disqualified person described in subparagraph (A) or (B) of clause (i) of sub paragraph (D), the Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(B) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(C) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(D) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(E) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(F) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(G) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(H) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(I) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(J) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(K) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(L) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(M) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(N) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(O) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.

"(P) TREATMENT OF FUNDING .—In the case of a defined benefit plan described in subsection (g)(1) of section 401(a), any member of such person’s family with deemed-owned shares shall be treated as a member of the family.
(B) AVOCANCE OR EVASION.—The Secretary may, by regulation or other guidance of general applicability, provide that a nonallocation year occurs in any case in which the principal purpose of the organization structure of an S corporation constitutes an avoidance or evasion of this subsection.

(b) Coordination With Section 4975(e)(7)—The last sentence of section 4975(e)(7) (defining employee stock ownership plan) is amended by inserting ‘‘, section 409(p),’’ after ‘‘409(n).’’

(c) EXCISE TAX.—

(1) APPLIICATION OF TAX.—Subsection (a) of section 4975A (relating to tax on certain prohibited allocations of employer securities) is amended—

(A) by striking ‘‘or’’ at the end of paragraph (1), and

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

‘‘(3) the automatic distribution of such plan shall be immediately distributed to the participant by definition of ‘direct distribution’ for purposes of section 401(a)(31), and

(4) such plan is in a trust described in paragraph (1), is amended by striking section 401(a)(31)(B) and inserting ‘‘(B) the plan is in a trust described in section 401(a)(31)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(a)),’’ after ‘‘(B)’’ and

(5) any synthetic equity is owned by a director or by an officer of such plan.

11. INDIRECT TRANSFERS OF MANDATORY DISTRIBUTIONS.

(a) DIRECT TRANSFERS OF MANDATORY DISTRIBUTIONS.—

(1) IN GENERAL.—Section 401(a)(31) (relating to optional direct transfer of eligible rollover distributions), as amended by section 463, is amended by redesignating subparagraphs (B), (C), (D), and (E) of section 401(a)(31), as amended, as subparagraphs (C), (D), and (E), respectively, and by inserting after paragraph (C) the following new subparagraph:

‘‘(B) CERTAIN MANDATORY DISTRIBUTIONS.—

’’(i) General.—In the case of a plan which is a multiemployer plan, such a distribution shall be immediately distributed to the participant by the definition of ‘direct distribution’ for purposes of section 401(a)(31), and

(ii) Plan noncompliance.—Any plan distribution which results from a noncompliance period shall be immediately distributed to the participant.

(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid.

(c) AMENDMENT OF INTERNAL REVENUE CODE.—The Secretary of the Treasury shall promulgate such regulations as necessary to clarify that a taxpayer shall not be allowed an aggregate amount of deductions for contributions to a multiemployer pension plan which exceeds the amount of such contributions made or deemed made under section 401(a)(6) of the Internal Revenue Code of 1986 to such plan.

(a) NOT CONSIDERED METHOD OF ACCOUNTING.—For purposes of section 446 of the Internal Revenue Code of 1986, a determination under section 401(a)(6) of such Code regarding the taxable year with respect to which a contribution to a multiemployer pension plan is deemed made shall not be treated as a method of accounting for purposes of section 4975(e)(6) (relating to the taxability of contributions to a multiemployer pension plan).

(2) E XCEPTION FOR CERTAIN PLANS.—Section 4975(e)(7) (defining eligible plan) is amended by inserting ‘‘section 401(a)(31), after ‘‘section 401(a)(31),’’

(3) PLANS ORGANIZED UNDER THE EMERGENCY AND RELIEF PLAN.—Subsection (c) is amended by inserting ‘‘a multiemployer pension plan,’’ after ‘‘is a plan described in section 401(a)(31),’’

(b) LIMITATIONS ON AMOUNT OF TAX.—

(1) IN GENERAL.—The tax imposed by this section shall apply to plan years beginning after December 31, 2004.

(2) EXCEPTION FOR CERTAIN PLANS.—In the case of—

(A) employee stock ownership plan established after March 14, 2001, or

(B) employee stock ownership plan established on or before such date if employer securities held by the plan consist of stock in a corporation with respect to which an election under section 107 of the Internal Revenue Code of 1986 is in effect on such date, the amendments made by this section shall apply to plan years beginning after March 14, 2001.

SEC. 657. AUTOMATIC ROLLOVERS OF CERTAIN MANDATORY DISTRIBUTIONS.

(a) DIRECT TRANSFERS OF MANDATORY DISTRIBUTIONS.—

(1) IN GENERAL.—Section 401(a)(31) (relating to optional direct transfer of eligible rollover distributions), as amended by section 463, is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after paragraph (C) the following new subparagraph:

‘‘(B) CERTAIN MANDATORY DISTRIBUTIONS.—

’’(i) General.—In the case of a trust which is part of an eligible plan, such trust shall not constitute a qualified trust under this section unless the plan of such trust is a part of an eligible plan.

(ii) a distribution described in clause (i) in excess of $1,000 is made, and

(II) the distribution does not make an election under subparagraph (A).

(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid.

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

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 2001.
"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

(A) any person subject to liability for the tax under subsection (a) (i) exercised reasonable diligence to meet the requirements of subsection (e), and

(B) such person provides the notice described in subsection (e) during the 30-day period beginning on the first date such person knew, or exercising reasonable diligence would have known, of the failure.

(3) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

(I) IN GENERAL.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failure during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as one plan.

(III) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have separate taxable years, taxable years taken into account shall be determined under principles similar to the principles of section 1561.

(IV) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

(V) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

(1) In the case of a plan other than a multiemployer plan, the employer.

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

(6) NOTICE REQUIREMENTS FOR PLANS SIGNIFICANTLY REDUCING BENEFIT ACCRUALS.—

(1) IN GENERAL.—If an applicable pension plan is amended to provide for a significant reduction in the rate of future benefit accrual, the plan administrator shall provide written notice to each applicable individual (and to each employee organization representing applicable individuals) as described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals).

(2) NOTICE.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary of the Treasury) to allow applicable individuals to understand the effect of the plan amendment.

(3) EARLY RETIREMENT.—A plan amendment which eliminates or significantly reduces any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) shall be treated as having the effect of significantly reducing the rate of future benefit accrual.

(4) NEW TECHNOLOGIES.—The Secretary may by regulations allow any notice under this subsection to be provided by using new technologies.

(5) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

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

(b) AMENDMENT OF ERISA.—Subsection (h) of section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended to read as follows:

"(h)(1) An applicable pension plan may not be amended so as to provide for a significant reduction in the rate of future benefit accrual unless the plan administrator provides the notice described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals).

(2) The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary of the Treasury) to allow applicable individuals to understand the effect of the plan amendment. The Secretary of the Treasury may provide a simplification of the notice described in paragraph (2) to applicable individuals (and to each employee organization representing applicable individuals).

(3) Except as provided in regulations prescribed by the Secretary of the Treasury, the notice required by paragraph (1) shall be provided within a reasonable time before the effective date of the plan amendment.

(4) Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

(5) A plan shall not be treated as failing to meet the requirements of paragraph (1) merely because notice is provided before the adoption of the plan amendment if no material modification of the plan amendment occurs before the amendment is adopted.

(6) Notice.—(A) In the case of any egregious failure to meet any requirement of this subsection with respect to any plan amendment, the provisions of the applicable pension plan shall be applied as if such plan amendment entitled all applicable individuals to the greater of—

(i) the benefits to which they would have been entitled without regard to such amendment, or

(ii) the benefits under the plan with regard to such amendment.

(B) For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is within the control of the plan sponsor and is not a result of unintentional failure, including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection.

(7) WAIVER.—

(i) a failure to provide most of the information, or any notice, that would otherwise be required under this section, and

(ii) any beneficiary who is an alternate payee (within the meaning of section 416(d)(3)(B)) under an applicable qualified domestic relations order (within the meaning of section 416(d)(3)(B)(ii)), whose rate of benefit accrual is equal to the rate under subsection (a), shall be treated as 1 plan.

(9) ANNUAL VALUATION.—The term "annual valuation" means—

(A) any defined benefit plan, or

(B) an individual account plan which is subject to the funding standards of section 412.

(10) AMENDMENT.—A plan amendment (or their representatives) which was adopted before the enactment of this Act if, before April 25, 2001, the plan administrator provides the notice described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals).

(11) MODIFICATION OF TIMING OF PLAN AMENDMENTS.—

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

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980E(f)(2) and (3) of the Internal Revenue Code of 1986, and section 204(h) of the Employee Retirement Income Security Act of 1974, as added by the amendments made by this section, a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) SPECIAL NOTICE RULE.—

(A) IN GENERAL.—(i) The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

(B) REASONABLE NOTICE.—The amendments made by this section shall not apply to any plan amendment taking effect on or after the date of the enactment of this Act if, after April 25, 2001, the plan administrator does not provide any notice required in particular cases under regulations prescribed by the Secretary.
justed to reflect significant differences in paragraph (7)(B)).

of the plan graph (A) may be made as of a date within the valuation referred to in subparagraph (A) shall be actuarially adjusted to reflect significant differences in participants.”.

(b) AMENDMENT OF ERISA.—Paragraph (9) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended—

(i) by inserting “(c)” after “(b)” and (2) by adding at the end the following:

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after December 31, 2001.

SEC. 662. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT LOSS OF DIVIDEND DE- DUCTION.

(a) IN GENERAL.—Section 404(k)(2)(A) (defining applicable dividends) is amended by striking “or” at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following:

“(iii) in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after December 31, 2001.

SEC. 662. REPEAL OF TRANSITION RULE RELATING TO CERTAIN HIGHLY COM- Pensated EMPLOYEES.

(a) IN GENERAL.—Section 401(h)(3)(A)(i) of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to plan years beginning after December 31, 2001.

SEC. 664. EMPLOYEES OF TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify Treasury Regulations section 1.410(b)-6(g) to provide that employees of an organization described in section 403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who are eligible to make contributions under section 403(b) of such Code pursuant to a salary reduction agreement are not excludable with respect to a plan under section 401(k) or (m) of such Code that is provided under the same general arrangement as a plan under section 401(k).

(b) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 2001.

H2753

May 25, 2001

CONGRESSIONAL RECORD — HOUSE
This page contains a legislative text discussing the treatment of Native Claims Settlement Act (NCSA) trust distributions and related income tax issues. It includes provisions for the taxation of distributions from an electing Settlement Trust, the application of tax rules to Native Corporations, and the treatment of certain income as excluded for tax purposes. The text also references the Alaska Native Claims Settlement Act (ANCSA) and the Native Corporation Trust Act of 1989. It includes various formulas and definitions related to the taxation of Native Corporation trust distributions and the calculation of taxable income for such entities.
resettlement payment” means any payment or distribution to an individual (or the individual’s heirs or estate) which—

(1) is payable by reason of the individual’s status as an eligible individual, including any amount payable by any foreign country, the United States of America, or any other foreign or domestic entity, such country or entity, any amount payable as a result of a final resolution of a legal action, and any amount payable under a law providing for payments or restitution of property;

(2) constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden from, or otherwise lost to, the individual, or immediately before and during World War II by reason of the individual’s status as an eligible individual, including any proceeds of insurance under policies issued to eligible individuals by European insurance companies immediately before and during World War II; or

(3) consists of interest which is payable as part of any payment or distribution described in paragraph (1) or (2).

(a) EXCLUDABLE INTEREST.—For purposes of this section, the term “excludable interest” means any interest earned by—

(1) escrow accounts or settlement funds established pursuant to the settlement of a claim entitled “In re: Holocaust Victim Assets Litigation,” (E.D.N.Y.) C.A. No. 96-4849;

(2) funds to benefit eligible individuals or their heirs created by the International Claimation on Holocaust Insurance Claims as a result of the Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany concerning the Foundation “Remembrance, Responsibility, and Future,” dated July 17, 2000; or

(3) similar funds subject to the administration of the United States courts created to provide excludable restitution payments to eligible individuals (or eligible individuals’ heirs or estates).

(e) EFFECTIVE DATE.

(1) IN GENERAL.—This section shall apply to any amount received on or after January 1, 2000.

(2) NO INCLUSION.—Nothing in this Act shall be construed to create any inclusion with respect to the proper tax treatment of any amount received before January 1, 2000.

TITLE IX—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

SEC. 901. SUNSET OF PROVISIONS OF ACT.

(a) IN GENERAL.—All provisions of, and amendments made by, this Act shall not apply—

(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

(2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

(b) APPLICATION OF CERTAIN LAWS.

The In-ternal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a) as if the provisions and amendments described in subsection (a) had not been enacted.

And the Senate agree to the same.

WILLIAM THOMAS,
Dick Armey,
Managers on the Part of the House.

The managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1836), to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conference, and minor drafting and clerical changes.

I. MARGINAL TAX RATE REDUCTION

A. INDIVIDUAL INCOME TAX RATE STRUCTURE (SECS. 2 AND 3 OF THE HOUSE BILL, SEC. 101 OF THE SENATE AMENDMENT AND SEC. 1 OF THE CODE)

PRESENT LAW

Under the Federal individual income tax system, an individual who is a citizen or a resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions. An individual’s income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability. Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual’s taxable income. This tax liability is then reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual’s income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

For 2001, the regular income tax rate schedules for individuals are shown in Table 1, below. The rate bracket breakpoints for married individuals filing separate returns are exactly one-half of the breakpoints for married individuals filing joint returns. A separate, compressed rate schedule applies to estates and trusts.

TABLE 1—INDIVIDUAL REGULAR INCOME TAX RATES FOR 2001

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Single individuals</th>
<th>Heads of household</th>
<th>Married filing joint returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – $28,050</td>
<td>10% of taxable income</td>
<td>$0 – $5,610</td>
<td>$0 – $17,450</td>
</tr>
<tr>
<td>$28,050 – $56,100</td>
<td>15% of taxable income</td>
<td>$5,610 – $10,990</td>
<td>$17,450 – $27,600</td>
</tr>
<tr>
<td>$56,100 – $109,350</td>
<td>25% of taxable income</td>
<td>$10,990 – $20,375</td>
<td>$27,600 – $41,200</td>
</tr>
<tr>
<td>$109,350 – $237,350</td>
<td>28% of taxable income</td>
<td>$20,375 – $35,625</td>
<td>$41,200 – $64,125</td>
</tr>
<tr>
<td>$237,350 – $750,050</td>
<td>31% of taxable income</td>
<td>$35,625 – $53,125</td>
<td>$64,125 – $93,650</td>
</tr>
<tr>
<td>$750,050 – $1,516,500</td>
<td>36% of taxable income</td>
<td>$53,125 – $78,625</td>
<td>$93,650 – $127,650</td>
</tr>
<tr>
<td>$1,516,500 – $5,123,450</td>
<td>39.6% of taxable income</td>
<td>$78,625 – $126,375</td>
<td>$127,650 – $200,000</td>
</tr>
<tr>
<td>$5,123,450 – $10,000,000</td>
<td>39.6% of taxable income</td>
<td>$126,375 – $181,625</td>
<td>$200,000 – $500,000</td>
</tr>
<tr>
<td>$10,000,000 – $35,000,000</td>
<td>39.6% of taxable income</td>
<td>$181,625 – $252,500</td>
<td>$500,000 – $1,000,000</td>
</tr>
<tr>
<td>$35,000,000 – $50,000,000</td>
<td>39.6% of taxable income</td>
<td>$252,500 – $317,500</td>
<td>$1,000,000 – $2,000,000</td>
</tr>
</tbody>
</table>

H2755

HOUSE BILL

In general

The House bill creates a new low-rate regular income tax bracket for a portion of taxable income that is currently taxed at 15 percent. The bill reduces the other regular income tax rates and consolidates rate brackets. By 2006, the present-law structure of five regular income tax rates (15 percent, 28 percent, 31 percent, 36 percent and 39.6 percent) will be reduced to four rates of 10 percent, 15 percent, 25 percent, and 33 percent.

New low-rate bracket

The bill establishes a new regular income tax rate bracket for a portion of taxable income that is currently taxed at 15 percent, as shown in Table 2, below. The taxable income levels for the new low-rate bracket will be adjusted annually for inflation for taxable years beginning after December 31, 2006.

TABLE 2—PROPOSED NEW LOW RATE BRACKET

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Taxable income</th>
<th>Single individuals</th>
<th>Heads of household</th>
<th>Married filing joint returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001 – 2002</td>
<td>$0 – $6,500</td>
<td>$0 – $10,000</td>
<td>$0 – $12,000</td>
<td>12%</td>
</tr>
<tr>
<td>2003 – 2005</td>
<td>$0 – $6,500</td>
<td>$0 – $10,000</td>
<td>$0 – $12,000</td>
<td>11%</td>
</tr>
<tr>
<td>2006 – 2010</td>
<td>$0 – $6,500</td>
<td>$0 – $10,000</td>
<td>$0 – $12,000</td>
<td>10%</td>
</tr>
</tbody>
</table>
| 2007 and later | $0 – $6,500    | $0 – $10,000     | $0 – $12,000     | 10% | Adjust annually for inflation 1

1. The new low-rate bracket for joint returns and head of household returns will be rounded down to the nearest $50. The bracket for single individuals and married individuals filing separately will be one-half the bracket for joint returns (after adjustment of that bracket for inflation).
Modification of 15-percent bracket

The 15-percent regular income tax bracket is modified to begin at the end of the new low-rate regular income tax bracket. The 15-percent regular income tax bracket ends at the same level as under present law. H. R. 6 also makes other changes to the 15-percent rate bracket.1

Reduction of other rates and consolidation of rate brackets

The present-law regular income tax rates of 28 percent and 31 percent are phased down to 25 percent over five years, effective for taxable years beginning after December 31, 2001. The 15, 25, and 31 percent rates will be one-half the rates for joint returns under the present law. The 25 percent rate bracket begins under present law and ends at the level at which the 31-percent rate bracket ends under present law.

Projected regular income tax rate schedules under the proposal

Table 4, below, shows the projected individual regular income tax rate schedules when the rate reductions are fully phased in (i.e., for 2006). As under present law, the rate brackets for married taxpayers filing separate returns under the bill are one half the rate brackets for married individuals filing joint returns. In addition, appropriate adjustments are made to the separate, compressed rate schedule for estate and trusts.

Projected regular income tax rate schedules under the Senate amendment

Table 6, below, shows the projected individual regular income tax rate schedules when the rate reductions are fully phased in (i.e., for 2007). As under present law, the rate brackets for married taxpayers filing separate returns will be one half the rate brackets for married individuals filing joint returns. In addition, appropriate adjustments will be made to the separate, compressed rate schedule for estate and trusts.

---

1See discussion of the marriage penalty relief in the 15-percent bracket.

2See the discussion of marriage penalty relief in sec. 302 of the Senate amendment.

### Table 3.—Proposed Regular Income Tax Rate Reductions

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>28% rate reduced to</th>
<th>31% rate reduced to</th>
<th>36% rate reduced to</th>
<th>39.6% rate reduced to</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>27%</td>
<td>30%</td>
<td>35%</td>
<td>38%</td>
</tr>
<tr>
<td>2003</td>
<td>27%</td>
<td>29%</td>
<td>35%</td>
<td>37%</td>
</tr>
<tr>
<td>2004</td>
<td>26%</td>
<td>28%</td>
<td>34%</td>
<td>36%</td>
</tr>
<tr>
<td>2005</td>
<td>25%</td>
<td>27%</td>
<td>34%</td>
<td>35%</td>
</tr>
<tr>
<td>2006 and later</td>
<td>25%</td>
<td>27%</td>
<td>33%</td>
<td>35%</td>
</tr>
</tbody>
</table>

### Table 4.—Individual Regular Income Tax Rates for 2006 (Projected)

If taxable income is: Then regular income tax equals:

- **Single individuals**
  - $0–6,000 10% of taxable income
  - $6,000–$15,950 15% of the amount over $6,000
  - $15,950–$30,330 25% of the amount over $15,950
  - $30,330–$51,700 31% of the amount over $30,330
  - $51,700–$122,900 36% of the amount over $51,700
  - $122,900–$190,300 39.6% of the amount over $122,900

- **Heads of households**
  - $0–$9,000 10% of taxable income
  - $9,000–$18,875 15% of the amount over $9,000
  - $18,875–$33,050 25% of the amount over $18,875
  - $33,050–$50,050 31% of the amount over $33,050
  - $50,050–$80,125 36% of the amount over $50,050
  - $80,125–$122,900 39.6% of the amount over $80,125

### Table 5.—Regular Income Tax Rate Reductions

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>28% rate reduced to</th>
<th>31% rate reduced to</th>
<th>36% rate reduced to</th>
<th>39.6% rate reduced to</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002–2004</td>
<td>27%</td>
<td>30%</td>
<td>35%</td>
<td>38%</td>
</tr>
<tr>
<td>2005–2006</td>
<td>26%</td>
<td>28%</td>
<td>34%</td>
<td>36%</td>
</tr>
<tr>
<td>2007 and later</td>
<td>25%</td>
<td>27%</td>
<td>33%</td>
<td>35%</td>
</tr>
</tbody>
</table>

### Table 6.—Individual Regular Income Tax Rates for 2007 (Projected)

If taxable income is: But not over: Then regular income tax equals:

- **Single individuals**
  - $0–6,150 10% of taxable income
  - $6,150–$13,700 15% of the amount over $6,150
  - $13,700–$26,800 25% of the amount over $13,700
  - $26,800–$76,800 31% of the amount over $26,800

- **Heads of households**
  - $0–$10,250 10% of taxable income
  - $10,250–$20,500 15% of the amount over $10,250
  - $20,500–$41,450 25% of the amount over $20,500
  - $41,450–$82,900 31% of the amount over $41,450
  - $82,900–$156,300 36% of the amount over $82,900
  - $156,300–$416,650 39.6% of the amount over $156,300

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2See the discussion of marriage penalty relief in sec. 302 of the Senate amendment.
VerDate 11-MAY-2000 02:21 May 27, 2001 Jkt 089060 PO 00000 Frm 00033 Fmt 7634 Sfmt 0634 E:\CR\FM\A25MY7.054 pfrm02 PsN: H25PT2

rate bracket will be adjusted annually for in-

bracket applies to the first $6,000 of taxable
portion of taxable income that is currently
new 10-percent income tax rate bracket for a

New low-rate bracket

and 39.6 percent) will be lowered to 25 per-
tax rates (28 percent, 31 percent, 36 percent

2001. By 2006, the present-law regular income

tax rates are phased-in beginning in taxable years
beginning after December 31, 2000. The

Effective date

The new 10-percent rate bracket is effec-
tive for taxable years beginning after De-
cember 31, 2000. The reduction in the 28 per-
cent, 31 percent, 36 percent, and 39.6 percent
rates is phased-in beginning in taxable years

CONFERENCE AGREEMENT

In general

The conference agreement creates a new 10-
percent regular income tax bracket for a
portion of taxable income that is currently
taxed at 15 percent, effective for taxable years
beginning after December 31, 2000. The
conference agreement also reduces the other
regular income tax rates, effective July 1,
2001. By 2006, the present-law regular income
tax rates (28 percent, 31 percent and 39.6 per-
cent) will be lowered to 25 percent, 28 percent, 33 percent, and 35 percent,
respectively.

New low-rate bracket

The conference agreement establishes a new 10-
percent regular income tax rate bracket for a
portion of taxable income that is currently
taxed at 15 percent. The 10-percent rate
bracket applies to the first $6,000 of taxable
income for single individuals, $10,000 of tax-
able income for heads of households, and
$12,000 for married couples filing joint
returns. This $6,000 increases to $7,000 and this
$12,000 increases to $14,000 for 2008 and therea-
after.

The taxable income levels for the new low-
rate bracket will be adjusted annually for in-

TABLE 6.—INDIVIDUAL REGULAR INCOME TAX RATES FOR 2007 (PROJECTED)—Continued

<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>But not over:</th>
<th>Then regular income tax equals:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,250</td>
<td>$12,300</td>
<td>$1,230 plus 15% of the amount over $12,300</td>
</tr>
<tr>
<td>$12,300</td>
<td>$19,520</td>
<td>$8,230 plus 28% of the amount over $19,520</td>
</tr>
<tr>
<td>$19,520</td>
<td>$34,835</td>
<td>$12,300 plus 33% of the amount over $34,835</td>
</tr>
<tr>
<td>$34,835</td>
<td>Over $128,000</td>
<td>$25,460 plus 28% of the amount over $128,000</td>
</tr>
<tr>
<td>Over $128,000</td>
<td>Over $177,650</td>
<td>$5,862.50 plus 25% of the amount over $177,650</td>
</tr>
<tr>
<td>Over $177,650</td>
<td>Over $348,350</td>
<td>$1,025 plus 15% of the amount over $348,350</td>
</tr>
</tbody>
</table>

Revised wage withholding for 2001

Under present law, the Secretary of the Treasury is authorized to prescribe appro-
riate income tax withholding tables or computer-

ational procedures for the withholding of income taxes from wages paid by employers. The
Secretary is expected to make appropriate
revision to the wage withholding tables to reflect the rate reduction for calendar year
2001 as expeditiously as possible.

Effective date

The new 10-percent rate bracket is effective for taxable years beginning after De-
cember 31, 2000. The reduction in the 28 per-
cent, 31 percent, 36 percent, and 39.6 percent
rates is phased-in beginning in taxable years

CONFERENCE AGREEMENT

In general

The conference agreement creates a new 10-
percent regular income tax bracket for a
portion of taxable income that is currently
taxed at 15 percent, effective for taxable years
beginning after December 31, 2000. The
conference agreement also reduces the other
regular income tax rates, effective July 1,
2001. By 2006, the present-law regular income
tax rates (28 percent, 31 percent and 39.6 per-
cent) will be lowered to 25 percent, 28 percent, 33 percent, and 35 percent,
respectively.

New low-rate bracket

The conference agreement establishes a new 10-
percent regular income tax rate bracket for a
portion of taxable income that is currently
taxed at 15 percent, effective for taxable years
beginning after December 31, 2000. The
conference agreement also reduces the other
regular income tax rates, effective July 1,
2001. By 2006, the present-law regular income
tax rates (28 percent, 31 percent and 39.6 per-
cent) will be lowered to 25 percent, 28 percent, 33 percent, and 35 percent,
respectively.

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beginning after December 31, 2000. The
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beginning after December 31, 2000. The
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taxed at 15 percent, effective for taxable years
beginning after December 31, 2000. The
conference agreement also reduces the other
regular income tax rates, effective July 1,
2001. By 2006, the present-law regular income
tax rates (28 percent, 31 percent and 39.6 per-
cent) will be lowered to 25 percent, 28 percent, 33 percent, and 35 percent,
respectively.
Projected regular income tax rate schedules under the proposal

Table 8, below, shows the projected individual regular income tax rate schedules when the rate reductions are fully phased in (i.e., for 2006). As under present law, the rate brackets for married individuals filing separate returns under the bill are one-half the rate brackets for married individuals filing joint returns. In addition, appropriate adjustments are made to the separate, compressed rate schedule for estates and trusts.

<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>But not over:</th>
<th>Then regular income tax equals:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$0</td>
<td>0% of the amount over $0</td>
</tr>
<tr>
<td>$6,600</td>
<td>$3,950</td>
<td>10% of taxable income</td>
</tr>
<tr>
<td>$30,950</td>
<td>$7,450</td>
<td>15% of the amount over $6,600</td>
</tr>
<tr>
<td>$156,300</td>
<td>$33,950</td>
<td>25% of the amount over $30,950</td>
</tr>
<tr>
<td>$639,850</td>
<td>$166,200</td>
<td>28% of the amount over $156,300</td>
</tr>
<tr>
<td>Over $639,850</td>
<td></td>
<td>33% of the amount over $639,850</td>
</tr>
</tbody>
</table>

Revised wage withholding for 2001

Under present law, the Secretary of the Treasury is authorized to prescribe appropriate income tax withholding tables or computational procedures for the withholding of income taxes from wages paid by employers. The Secretary is expected to make appropriate revisions to the wage withholding tables to reflect the rate reduction that will be effective beginning July 1, 2001, as expeditiously as possible.

Transfer to Social Security and Medicare trust funds

The conference agreement does not follow the House bill.

Effective date

The provisions of the conference agreement generally apply to taxable years beginning after December 31, 2000. The reductions in the tax rates, other than the new 10 percent rate, are effective after June 30, 2001. The withholding provisions that certain withholding provisions under the bill are effective for amounts paid more than 60 days after the date of enactment.

II. TAX BENEFITS RELATING TO CHILDREN


Present Law

The child tax credit is phased-out for individuals with income over certain thresholds. Specifically, the otherwise allowable child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income over $75,000 for single individuals or heads of households, $150,000 for married individuals filing joint returns, and $35,000 for married individuals filing separate returns. Modified adjusted gross income is the taxpayer’s total gross income plus certain amounts excluded from gross income (i.e., excluded income of U.S. citizens or residents living abroad (sec. 911); residents of American Samoa, and the Northern Mariana Islands (sec. 931); and residents of Puerto Rico (sec. 933)). The length of the phase-out range depends on the number of qualifying children. For example, the phase-out range for a single individual with one qualifying child is between $75,000 and $85,000 of modified adjusted gross income. The phase-out range for a single individual with two qualifying children is between $75,000 and $95,000.

The child tax credit is not adjusted annually for inflation.
Refundability

In general, the child tax credit is non-refundable. However, for families with three or more qualifying children, the child tax credit is refundable up to the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit.

Alternative minimum tax liability

An individual's alternative minimum tax liability reduces the amount of the refundable earned income credit and, for taxable years beginning after December 31, 2001, the amount of the refundable child credit for families with three or more children. This is known as the alternative minimum tax offset of refundable credits.

Through 2001, an individual generally may reduce his or her tentative alternative minimum tax liability by the amount of the child tax credit. For taxable years beginning after December 31, 2001, the child tax credit may not reduce an individual's income tax liability below his or her tentative alternative minimum tax.

HOUSE BILL

In general

No provision. However, H.R. 6, as passed by the House, contains a provision that increases the child tax credit to $1,000, phased-in over seven years, beginning in 2001. Table 10, below, shows the proposed increase in the amount of the child tax credit under the provision.

Table 10.—Increase of the Child Tax Credit

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Credit amount per child</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001-2003</td>
<td>$500</td>
</tr>
<tr>
<td>2004-2006</td>
<td>$700</td>
</tr>
<tr>
<td>2007-2009</td>
<td>$800</td>
</tr>
<tr>
<td>2010</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

Refundability

No provision. However, H.R. 6 extends the present-law refundability of the child tax credit to families with fewer than three children.

Alternative minimum tax

No provision. However, H.R. 6 provides that the refundable child tax credit will no longer be reduced by the amount of the alternative minimum tax. In addition, H.R. 6 allows the child tax credit to the extent of the full amount of the individual's regular income tax and alternative minimum tax.

Effective date

No provision. However, the provisions of H.R. 6 generally are effective for taxable years beginning after December 31, 2000.

SENATE AMENDMENT

In general

The Senate amendment increases the child tax credit to $1,000, phased-in over eleven years, effective for taxable years beginning after December 31, 2000.

Table 11, below, shows the increase of the child tax credit.

Table 11.—Increase of the Child Tax Credit

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Credit amount per child</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001-2003</td>
<td>$500</td>
</tr>
<tr>
<td>2004-2006</td>
<td>$700</td>
</tr>
<tr>
<td>2007-2009</td>
<td>$800</td>
</tr>
<tr>
<td>2010</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

The Senate amendment makes the child tax credit refundable to the extent of 15 percent of the taxpayer's earned income in excess of $10,000. Thus, in 2001, families with earned income of at least $14,000 and one child will get a refundable credit of $600. Families with three or more children are allowed a refundable credit for each qualifying child under the age of 17. In general, a qualifying child is an individual for whom the taxpayer can claim a dependency exemption and who is the taxpayer's son or daughter (or descendent of either), stepson or stepdaughter, or eligible foster child.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides a Sense of the Senate amendment to allow the expansion of the child credit included in the Senate amendment to be retained in the conference agreement.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

C. EXTENSION AND EXPANSION OF ADOPTION TAX BENEFITS

In general

A tax credit is allowed for qualified adoption expenses paid or incurred by a taxpayer. The maximum credit is $5,000 per eligible child ($6,000 for a special needs child). An eligible child is an individual (1) who has not attained age 18 or (2) who is physically or mentally incapable of caring for himself or herself. A special needs child is a child who is a citizen or resident of the United States, whose State has determined: (1) cannot or should not be returned to the home of the birth parents; and (2) has a specific factor or condition (such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions, or physical, mental, or emotional handicap) because of which the child cannot be placed with adoptive parents without adoption assistance.

Qualified adoption expenses are reasonable and necessary adoption fees, court costs, attorneys' fees, and other expenses that are (1) directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer; (2) not incurred in violation of State or Federal law, or in carrying out any surrogate parenting arrangement; (3) not for the adoption of the child of the taxpayer's spouse; and (4) not reimbursed (e.g., by an employer).

Qualified adoption expenses may be incurred in one or more taxable years, but the credit is based on the taxpayer's earned income less than $6,000 for a special needs child. The adoption credit is phased out ratably for taxpayers with modified adjusted gross income between $75,000 and $175,000. The adjusted gross income is the sum of the taxpayer's adjusted gross income plus amounts excluded from income under Code sections 911, 931, and 933 (relating to the exclusion of income of U.S. citizens or residents living abroad; residents of Guam, American Samoa, and the Northern Mariana Islands; and residents of Puerto Rico). The adoption credit for special needs children is permanent. The adoption credit with respect to other children does not apply to expenses paid or incurred after December 31, 2001.

Alternative minimum tax

Through 2001, the adoption credit generally reduces the individual's regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2001, the otherwise allowable adoption credit is allowed only to the extent that the individual's regular income exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit.

Exclusion from income

A maximum $5,000 exclusion from the gross income of an employee is allowed for qualified adoption expenses paid or reimbursed by...
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an employer under an adoption assistance program. The maximum excludible amount is $6,000 for special needs adoptions. The exclusion is phased out ratably for taxpayers with adjusted gross income of $75,000 and $15,000. Modified adjusted gross income is the sum of the taxpayer's adjusted gross income plus amounts excluded from income for special needs adoptions (911, 911, and 958) (relating to the exclusion of income of U.S. citizens or residents living abroad: residents of Guam, American Samoa, and the Northern Marianas Islands; and residents of Puerto Rico, respectively). For purposes of this exclusion, modified adjusted gross income also includes all employer payments and reimbursements for adoption expenses whether or not they are taxable to the employee. The exclusion does not apply for purposes of payroll taxes. Adoption expenses paid or reimbursed by the employer under an adoption assistance program are not eligible for the adoption credit. A taxpayer may be eligible for the adoption credit (with respect to qualified adoption expenses he or she incurs) and for the adoption exemption (with respect to different qualified adoption expenses paid or reimbursed by his or her employer).

Therefore, the exclusion is not available to taxpayers with adjusted gross income in excess of $58,000. If the taxpayer is married filing a separate return, the maximum exclusion is $3,000.

Effective date


Presentation

The Senate amendment provides a $10,000 tax credit for adoption expenses paid or incurred after December 31, 2001. Qualified expenses paid or incurred by an employer under an adoption assistance program are not eligible for the adoption credit. A taxpayer may be eligible for the adoption credit (with respect to qualified adoption expenses he or she incurs) and for the adoption exemption (with respect to different qualified adoption expenses paid or reimbursed by his or her employer).

The provision is effective for taxable years beginning after December 31, 2001.

HOUSE BILL

Tax credit

No provision. However, H.R. 622, the "Hope for Children Act," as passed by the House, permanently extends the adoption credit for children other than special needs children. The maximum credit is increased to $10,000 per eligible child, including special needs children. The beginning point of the income phase-out range is increased to $150,000 of modified gross income. Therefore, the adoption credit is phased-out for taxpayers with modified adjusted gross income of $190,000 or more. Finally, the adoption credit is allowed against the alternative minimum tax permanently.

Exclusion from income

No provision. However, H.R. 622 permanently extends the exclusion from income for employer-provided adoption assistance. The maximum exclusion is increased to $10,000 per eligible child, including special needs children. The beginning point of the income phase-out range is increased to $150,000 of modified gross income. Therefore, the adoption credit is phased-out for taxpayers with modified adjusted gross income of $190,000 or more. The adoption credit is not available to taxpayers with modified adjusted gross income of $190,000 or more.

Effective date

Generally, the provision of H.R. 622 is effective for taxable years beginning after December 31, 2001. Qualified expenses paid or incurred in taxable years beginning on or before December 31, 2001, remain subject to the present-law dollar limits.

SENATE AMENDMENT

Tax credit

Same as H.R. 622, with one modification. The Senate amendment provides a $10,000 tax credit in the year a special needs adoption is finalized regardless of whether the taxpayer has qualified adoption expenses. No credit is allowed with respect to the adoption of a special needs child if the adoption is not finalized.

Effective date

Same as H.R. 622, with one modification. The Senate amendment provides a $10,000 exclusion in the case of a special needs adoption regardless of whether the taxpayer has qualified adoption expenses. No credit is allowed with respect to the adoption of a special needs child if the adoption is not finalized.

Effective date

The provision is effective for taxable years beginning after December 31, 2001.

The Senate amendment follows the Senate amendment with one modification. The provisions of the Senate amendment that extend the tax credit and exclusion from income for special needs adoptions regardless of whether the taxpayer has qualified adoption expenses are effective for taxable years beginning after December 31, 2001.

PRESENT LAW

Dependent care tax credit

A taxpayer who maintains a household that includes a qualifying individual may claim a nonrefundable credit against income tax liability for up to 30 percent of a limited amount of employer-related expenses. Eligible employer-related expenses are limited to $2,400 if there is one qualifying individual or $4,800 if there are two or more qualifying individuals. Thus, the maximum credit is $720 if there is one qualifying individual and $1,440 if there are two or more qualifying individuals. The applicable dollar limit ($2,400/$4,800) of otherwise eligible employment-related expenses is reduced by any amount excluded from income under an employer-provided dependent care assistance program. For example, a taxpayer with one qualifying individual who has $2,400 of otherwise eligible employment-related expenses but excludes $1,000 of dependent care assistance must reduce the dollar limit of eligible employment-related expenses for the dependent care tax credit by the amount of the exclusion to $1,400 ($2,400 - $1,000).

A qualifying individual is (1) a dependent of the taxpayer under the age of 13 for whom the taxpayer is eligible to claim a dependency exemption, (2) a dependent of the taxpayer who is permanently incapable of caring for himself or herself, or (3) the spouse of the taxpayer; if the spouse is physically or mentally incapable of caring for himself or herself.

The 30 percent credit rate is reduced, but not below 20 percent, by 1 percentage point for each $2,000 (or fraction thereof) of adjusted gross income above $10,000. The credit is not available to married taxpayers unless they file a joint return.

Exclusion for employer-provided dependent care

Amounts paid or incurred by an employer for dependent care provided to an employee generally are excluded from the employee's gross income and wages if the assistance is furnished under a program meeting certain requirements. These requirements include that the program be described in writing, satisfy certain nondiscrimination rules, and provide for notification to all eligible employees. The exclusion for employer-provided care assistance expenses eligible for the exclusion are defined the same as employment-related expenses with respect to a qualifying individual under the tax credit.

The dependent care exclusion is limited to $5,000 per year, except that a married taxpayer filing a separate return may exclude only $2,500. Dependent care expenses excluded from income are not eligible for the dependent care tax credit (sec. 21(c)).

No provision.

The Senate amendment makes the maximum amount of eligible employment-related expenses from $2,400 to $3,000, if there is one qualifying individual (from $4,800 to $6,000, if there are two or more qualifying individuals). The Senate amendment also increases the maximum credit from 30 percent to 40 percent. Thus, the maximum credit is $1,200, if there is one qualifying individual and $2,400, if there are two or more qualifying individuals. Finally, the Senate amendment modifies the phase-down of the credit. Under the Senate amendment, the 40 percent credit rate is reduced, but not below 20 percent, by 1 percentage point for each $20,000 (or fraction thereof) of adjusted gross income above $20,000. Therefore, the credit percentage is reduced to 20 percent for taxpayers with adjusted gross income over $40,000.

Effective date.—The provision is effective for taxable years beginning after December 31, 2001.

The Senate amendment increases the maximum credit to $10,000 per eligible child, including special needs adoptions. The exclusion is not available to taxpayers with adjusted gross income in excess of $58,000. If the taxpayer is married filing a separate return, the maximum exclusion is $3,000.

Effective date.—The provision is effective for taxable years beginning after December 31, 2002.

E. TAX CREDIT FOR EMPLOYER-PROVIDED CHILD CARE FACILITIES (secs. 206 and 207 of the Senate Amendment and new sec. 45D of the Code)

PRESENT LAW

House provision

Present law does not provide a tax credit to employers for supporting children in child care centers and other facilities. An employer, however, may elect to deduct such expenses as ordinary and necessary business expenses. Alternatively, the employer may be required to capitalize the expenses and claim depreciation deductions over time.

HOUSE BILL

No provision.

The Senate amendment increases the maximum credit to $10,000 per eligible child, including special needs adoptions. The exclusion is not available to taxpayers with adjusted gross income in excess of $58,000. If the taxpayer is married filing a separate return, the maximum exclusion is $3,000.

Effective date.—The provision is effective for taxable years beginning after December 31, 2001.

Under the Senate amendment, taxpayers receive a tax credit equal to 25 percent of qualified expenses for employee child care and 10 percent of qualified expenses for child care resource and referral services. The maximum credit is limited to $2,000 per year and is calculated with respect to adjusted gross income. Therefore, the credit is not available to married taxpayers unless they file a joint return.

Defining qualified expenses

Qualified child care expenses include costs paid or incurred: (1) to acquire, construct, rehabilitate or expand property that is to be used as part of the taxpayer’s qualified child care facility; (2) for the operation of the taxpayer’s qualified child care facility, including the costs of training and certain compensation for employees of the child care facility, and scholarship programs; or (3) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer. To be a qualified child care facility, the principal use of the facility must be for child care (unless it is the principal residence of the taxpayer), and the facility must meet all applicable State and local laws and regulations, including any licensing laws. A facility is not treated as a qualified child care facility with respect to a taxpayer unless: (1) it has open enrollment to the employees of the taxpayer; (2) use of the facility (or eligibility to use such facility) does not discriminate in favor of highly compensated employees of the taxpayer (within the meaning of section 414(q); and (3)
at least 30 percent of the children enrolled in the center are dependents of the taxpayer's employees, if the facility is the principal trade or business of the taxpayer. Qualified child care and referral expenses are amounts paid or incurred under a contract to provide child care resource and referral services to the employees of the taxpayer. Qualified child care and referral expenses are amounts paid or incurred under a contract to provide child care resource and referral services to the employees of the taxpayer. These amounts are determined by the average cost of the child care resource and referral services provided by the facility. A separate, compressed rate schedule applies to estates and trusts. Lower rates may apply to capital gains.

In general, the bracket breakpoints for single individuals are approximately 60 percent of the rate bracket breakpoints for married couples filing joint returns. The bracket breakpoints for married couples filing separate returns are exactly one-half of the rate brackets for married couples filing joint returns.

Effective date.

The provision is effective for taxable years beginning after December 31, 2001.

Effective date.

The provision is effective for taxable years beginning after December 31, 2001.
Table 16.—Increase in Size of 15-Percent Rate Bracket for Married Couples Filing a Joint Return

<table>
<thead>
<tr>
<th>Taxable year</th>
<th>End point of 15-percent rate bracket for married couple filing joint return as percentage of end point of 15-percent rate bracket for unmarried individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>0.50</td>
</tr>
<tr>
<td>2006</td>
<td>0.53</td>
</tr>
<tr>
<td>2007</td>
<td>0.55</td>
</tr>
<tr>
<td>2008</td>
<td>0.57</td>
</tr>
<tr>
<td>2009 and thereafter</td>
<td>0.59</td>
</tr>
</tbody>
</table>

Effective date.—The provision is effective for taxable years beginning after December 31, 2004.

C. MARRIAGE PENALTY RELIEF AND SIMPLIFICATION RELATING TO THE EARNED INCOME TAX CREDIT

<table>
<thead>
<tr>
<th>Year</th>
<th>Maximum credit</th>
<th>Earned income amount</th>
<th>Phase-out begins</th>
<th>Phase-out rate (percent)</th>
<th>Phase-out ends</th>
<th>Earned income credit parameters (2001)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>$4,008</td>
<td>$10,020</td>
<td>$13,090</td>
<td>21.06%</td>
<td>$32,121</td>
<td>Credit rate (percent) 40.00%</td>
</tr>
<tr>
<td>2006</td>
<td>$2,428</td>
<td>$7,140</td>
<td>$13,090</td>
<td>15.98%</td>
<td>$28,281</td>
<td>34.00%</td>
</tr>
<tr>
<td>2007</td>
<td>$364</td>
<td>$4,760</td>
<td>$5,950</td>
<td>7.65%</td>
<td>$15,990</td>
<td>7.65%</td>
</tr>
<tr>
<td>2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$10,710</td>
<td>7.65%</td>
</tr>
</tbody>
</table>

An individual’s alternative minimum tax liability reduces the amount of the refundable earned income credit.18

The House bill provides that the earned income credit will no longer be reduced by the amount of the alternative minimum tax. The same provision is included in H.R. 6, as passed by the House. In addition, H.R. 6 increases the earned income amount used to calculate the earned income credit for married taxpayers who file a joint return to 110 percent of the earned income amount for other taxpayers eligible for the earned income credit.

H.R. 6 also simplifies the definition of earned income by excluding nontaxable earned income amounts from the determination of earned income for earned income credit purposes. Thus, under H.R. 6, earned income includes wages, salaries, tips, and other employee compensation, if includible in gross income.
income for the taxable year, plus net earnings from self-employment.

Effective date.—The House bill is effective for taxable years beginning after December 31, 2001.

SENATE AMENDMENT

For married taxpayers who file a joint return, the Senate amendment increases the beginning and ending of the earned income credit. These beginning and ending points are to be adjusted annually for inflation after 2002.

The Senate amendment simplifies the definition of earned income by excluding non-earned income. The Senate amendment also requires that the child receive the income from the Federal Case Registry of Child Support Orders indicates the taxpayer is the noncustodial parent of the child or from a pro-rata share of both the principal and earnings components of the distribution. Thus, in such a case, only a portion of the distribution is includable in the beneficiary’s gross income. The $3,000 amount is to be adjusted annually for inflation after 2002.

The conference agreement follows the Senate amendment, except under the conference agreement, for married taxpayers filing a joint return, the earned income credit phase-out amount is increased as follows: by $1,000 in the case of taxable years beginning in 2002, 2003, and 2004; by $2,000 in the case of taxable years beginning in 2005, 2006, and 2007; and by $3,000 in the case of taxable years beginning after 2007. The $3,000 amount is to be adjusted annually for inflation after 2002.

The conference agreement follows the Senate amendment, except under the conference agreement, for married taxpayers filing a joint return, the earned income credit phase-out amount is increased as follows: by $1,000 in the case of taxable years beginning in 2002, 2003, and 2004; by $2,000 in the case of taxable years beginning in 2005, 2006, and 2007; and by $3,000 in the case of taxable years beginning after 2007. The $3,000 amount is to be adjusted annually for inflation after 2002.

The conference agreement follows the Senate amendment, except under the conference agreement, for married taxpayers filing a joint return, the earned income credit phase-out amount is increased as follows: by $1,000 in the case of taxable years beginning in 2002, 2003, and 2004; by $2,000 in the case of taxable years beginning in 2005, 2006, and 2007; and by $3,000 in the case of taxable years beginning after 2007. The $3,000 amount is to be adjusted annually for inflation after 2002.

The conferees realize that the expansion of the earned income credit may create a financial hardship on U.S. possessions with mirror codes and that further study of such effects is necessary.

IV. EDUCATION INCENTIVES

A. MODIFICATIONS TO EDUCATION IRAS (SEC. 401 AND 414 OF THE SENATE AMENDMENT AND SECS. 530 AND 127 OF THE CODE)

In general

Section 530 of the Code provides tax-exempt status to education individual retirement accounts ("education IRAs"), meaning certain trusts or custodial accounts which are created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of a designated beneficiary. Contributions to education IRAs may not exceed $500 per beneficiary (except in cases involving certain tax-free rollovers, as described below) and may not be made after the designated beneficiary reaches age 18.

Phase-out of contribution limit

The $500 annual contribution limit for education IRAs is generally phased-out ratably for contributions adjusted gross income (between $95,000 and $110,000). The phase-out range for married taxpayers filing a joint return is $150,000 to $160,000 of modified adjusted gross income. Individuals with modified adjusted gross income above the phase-out range are not allowed to make contributions to an education IRA established on behalf of an individual.

TREATMENT OF DISTRIBUTIONS

Earnings on contributions to an education IRA generally are subject to tax when withdrawn. However, distributions from an education IRA are treated as nontaxable gross income in the year if such distribution is made on or before the date that a return is required to be filed (regardless of whether the beneficiary is enrolled at an eligible educational institution).

Qualified higher education expenses

Qualified higher education expenses includes tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the designated beneficiary at an eligible educational institution.

TREATMENT OF DISTRIBUTIONS

Earnings on contributions to an education IRA generally are subject to tax when withdrawn. However, distributions from an education IRA are treated as nontaxable gross income in the year if such distribution is made on or before the date that a return is required to be filed (regardless of whether the beneficiary is enrolled at an eligible educational institution).
not include expenses covered by educational assistance for the benefit of the beneficiary that is excludable from gross income. Thus, total qualified higher education expenses are reduced, or followed by educational expenses are excludable from gross income under present-law section 117, as well as any other tax-free educational benefits, such as employer-provided educational assistance that is excludable from the employee’s gross income under section 127.

Present law also provides that if any qualified higher education expenses are taken into account in determining the amount of the exclusion for a distribution from an education IRA, then no deduction (e.g., for trade or business expenses), exclusion (e.g., interest on education savings bonds) or credit is allowed with respect to such expenses.

Eligible educational institutions are defined by reference to section 481 of the Higher Education Act of 1965. Such institutions generally are accredited post-secondary educational institutions offering credit toward a bachelor’s degree, an associate’s degree, a graduate-level or professional degree, or another recognized post-secondary credential. Certain proprietary institutions and post-secondary educational institutions also are eligible institutions. The institution must be eligible to participate in Department of Education student aid programs.

**Time for making contributions**

Contributions to an education IRA for a taxable year are taken into account in the taxable year in which they are made.

**Coordination with HOPE and Lifetime Learning credits**

If an exclusion from gross income is allowed with respect to distributions from an education IRA with respect to an individual, then neither the HOPE nor Lifetime Learning credit may be claimed in the same taxable year with respect to the same individual. However, an individual may elect to waive the exclusion with respect to distributions from an education IRA. If such a waiver is made, then the HOPE or Lifetime Learning credit may be claimed with respect to the individual for the taxable year.

**Coordination with qualified tuition programs**

An excise tax is imposed on contributions to an education IRA for a taxable year if contributions are made by anyone to a qualified State tuition program on behalf of the same beneficiary in the same year. The excise tax is equal to 6 percent of the contributions to the education IRA. The excise tax is imposed each year after the contribution is made, unless the contributions are withdrawn.

**No provision**

**SENATE BILL**

**Annual contribution limit**

The Senate amendment increases the annual limit on contributions to education IRAs from $500 to $2,000. Thus, aggregate contributions that may be made by all contributors to an individual (or the beneficiaries) education IRAs established on behalf of any particular beneficiary is limited to $2,000 for each year.

**Qualified education expenses**

The Senate amendment expands the definition of qualified education expenses that may be paid tax-free from an education IRA to include “qualified elementary and secondary school expenses,” meaning expenses for (1) tuition, fees, academic tutoring, special need services, books, supplies, and other equipment incurred in connection with the enrollment or attendance of the beneficiary at a private religious school providing elementary or secondary education (kindergarten through grade 12) as determined under State law, (2) room and board, uniforms, transportation, and supplementary items or services (including extended day programs) required or provided by such a beneficiary, (3) the purchase of any computer technology or equipment (as defined in sec. 170(e)(6)(F)(i)), and (4) any other necessary and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary’s family during any of the years the beneficiary is in school. Computer software primarily involving sports, games, or hobbies is not considered a qualified elementary and secondary school expense unless the software is educational in nature.

**Phase-out of contribution limit**

The Senate amendment increases the phase-out range for married taxpayers filing a joint return so that it is twice the range for single taxpayers. Thus, the phase-out range for married taxpayers filing a joint return is $150,000 to $220,000 of modified adjusted gross income.

**Special needs beneficiaries**

The Senate amendment provides that the rule prohibiting contributions to an education IRA after the beneficiary attains age 18 does not apply in the case of a special needs beneficiary (as defined by the Secretary of the Treasury). In addition, a deemed distribution of any balance in an education IRA does not occur when a special needs beneficiary attains age 18. Finally, the age 30 limitation does not apply in the case of a rollover contribution for the benefit of a special needs beneficiary or a change in beneficiaries to a special needs beneficiary.

**Contributions by persons other than individuals**

The Senate amendment clarifies that corporations and other entities (including tax-exempt organizations) are permitted to make contributions to education IRAs, regardless of the income of the corporation or entity during the year of the contribution.

**Exclusion for employer contributions**

The Senate amendment provides an exclusion from gross income for certain employer contributions to an education IRA for the employee’s child, the employee’s spouse, or a lineal descendant of the employee or his or her spouse (provided such individual otherwise meets the eligibility requirements for education IRAs). The maximum amount excludable is $500 per beneficiary. Thus, for example, if an employee has two children who are eligible beneficiaries, the employer could contribute $500 each year to an education IRA for each child. The exclusion does not apply to self-employed individuals. The employer is required to report the amount of any education IRA contributions on the employee’s W-2 for the year.

**In order to be excludable from gross income, the contribution must be pursuant to a plan that meets the requirements of an educational assistance program under section 127.**

Thus, for example, the plan must be made available to all employees and must satisfy non-discrimination rules.

**Education IRA contributions that are excludable from gross income are treated as earnings for purposes of determining the amount includible in gross income, if any, due to a withdrawal from the education IRA.**

**The exclusion does not apply for Social Security tax purposes.**

**Contributions permitted until April 15**

Under the Senate amendment, individual contributors to education IRAs are deemed to have made a contribution on the last day of the calendar year. Consequently, each distribution from an education IRA is made on account of such taxable year and is made no later than the time prescribed by law for filing the individual’s Federal income tax return for such taxable year (not including extensions). Thus, individual contributors generally may make contributions for a year until April 15 of the following year.

**Qualified room and board expenses**

The Senate amendment modifies the definition of room and board expenses considered to be qualified higher education expenses. The modification is described with the provisions relating to qualified tuition programs, below.

**Coordination with qualified tuition programs**

The Senate amendment repeals the excise tax on contributions made by any person to an education IRA on behalf of the same student as long as the distribution is not used for the same educational expenses for which the credit was claimed. The Senate amendment also provides that certain age limitations do not apply in the case of special needs beneficiaries. The conference intends that Treasury regulations will define a special needs beneficiary to include an individual who because of a physical, mental, or emotional condition (including learning disability) requires additional time to complete his or her education. The conference agreement clarifies the rule relating to computer software by providing that computer software involving sports, games, or hobbies is not considered a qualified elementary and secondary school expense unless the software is predominantly educational in nature.

**Effective date**

The provisions modifying education IRAs are effective for taxable years beginning after December 31, 2001.

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment, except that the conference agreement does not include the exclusion for employer contributions. As under the Senate amendment, the conference agreement provides that certain age limitations do not apply in the case of special needs beneficiaries.

The conference agreement follows the Senate amendment.

**B. PRIVATE PREPAID TUITION PROGRAMS; EXCLUSION FROM GROSS INCOME OF EDUCATION CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS (SEC. 402 OF THE SENATE AMENDMENT AND SEC. 529 OF THE CODE)**

**PRESENT LAW**

Section 529 of the Code provides tax-exempt status to “qualified tuition programs,” meaning certain programs established and maintained by a State (or agency...
or instrumentality thereof) under which persons may (1) purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to a waiver or refund of qualified higher education expenses of the beneficiary, or (2) make contributions to an account that is established for the purpose of meeting qualified higher education expenses of the designated beneficiary of the account (a “savings account plan”). The term “qualified higher education expenses” generally has the same meaning as do purposes of the education IRAs (as described above) and, thus, includes expenses for tuition, fees, books, supplies, and equipment required for the enrollment or attendance at an eligible educational institution, as well as certain room and board expenses for any period during which the student is at least a half-time student.

No amount is included in the gross income of a contributor, or of a beneficiary of, a qualified State tuition program with respect to any distribution from, or earnings under, such program, except that (1) amounts distributed or contributed to a contributor (e.g., when a parent receives a refund) are included in the contributor’s gross income to the extent such amounts or the value of the educational benefits exceed contributions made on behalf of the beneficiary, and (2) amounts distributed to beneficiaries (e.g., when a parent receives a refund) are included in the beneficiary’s gross income (unless excludable under other Code sections) to the extent such amounts exceed contributions made on behalf of the beneficiary.

A qualified State tuition program is required to provide that purchases or contributions only be made in cash. Contributors and beneficiaries are not allowed to direct the investment of contributions to the program (or earnings thereon). The program is required to maintain a separate accounting for each account. Qualifying educational expenses of an individual must be designated as the beneficiary at the commencement of participation in a qualified State tuition program (i.e., when contributions are first made to purchase an interest in such a program), unless interests in such a program are purchased by a State or local government or a tax-exempt entity other than the qualified State (or agency or instrumentality thereof) under which per-

The Senate amendment provides that, for purposes of tax-free rollovers and changes of designated beneficiaries, a “member of the family” includes first cousins of the original beneficiary.

Effective date

The provisions are effective for taxable years beginning after December 31, 2001, except that the exclusion from gross income for certain distributions from a qualified tuition program established by an entity other than a State (or agency or instrumentality thereof) is effective for taxable years beginning after December 31, 2003.

The conference agreement follows the Senate amendment, with modifications. The conference agreement modifies the definition of qualified higher education expenses to include those expenses of the beneficiary (except in certain circumstances). Instead, the conference agreement imposes an additional 10-percent tax on the amount of a distribution from a qualified tuition plan that is includible in gross income (like the additional tax that applies to such distributions from education IRAs). The same exceptions that apply to the 10-percent additional tax with respect to education IRAs apply to qualified tuition programs. A special rule applies because the exclusion for earnings on distributions used for qualified higher education expenses does not apply to qualified tuition programs of private institutions until 2004. Under the special rule, the 10 percent tax does not apply to any payment in a taxable year beginning before January 1, 2004, which is includible in gross income but used for qualified higher education expenses. Thus, for example, the earnings portion of a distribution from a qualified tuition program of a private institution that is made in 2003 and that is used for qualified higher education expenses is not subject to the additional tax, even though the earnings portion is includible in gross income. Conforming the penalty to the education IRA provisions will make it easier to implement.
for taxpayers to allocate expenses between the various education tax incentives. For example, under the conference agreement, a taxpayer who receives distributions from an employer-provided educational assistance program in the same year is required to allocate qualified expenses in order to determine the amount excludable from income. Other interactions between the various provisions also arise under the conference agreement. For example, a taxpayer may need to know the amount excludable from income due to a distribution from one qualified tuition program in order to determine the amount of expenses eligible for the tuition deduction. The conferees expect that the Secretary will exercise his authority under sections 529(d) and 530(h) to require appropriate reporting, e.g., the amount of distributions and the earnings portions of distributions (taxable and nontaxable), to facilitate the provisions of the conference agreement.

The conference agreement provides that, in order for a tuition program of a private eligible education institution to be a qualified tuition program, assets of the program must be held in a trust created or organized in the United States for the exclusive benefit of designated beneficiaries. This requirement complements the requirements under section 408(a)(2) and (5). Under these rules, the trustee must be a bank or other person who demonstrates that it will administer the trust in accordance with applicable requirements and the assets of the trust may not be commingled with other property except in a common trust fund or education trust.

As under the Senate amendment, the conference agreement provides that a transfer of credit to a student (or other amounts from one qualified tuition program for the benefit of a designated beneficiary to another qualified tuition program for the benefit of the same beneficiary) is treated as a distribution. This rollover treatment does not apply to more than one transfer within any 12-month period with respect to the same beneficiary. The conferees intend that this provision will allow, for example, transfers between a prepaid tuition program and a savings program maintained by the same State and between a State plan and a private prepaid tuition program.

C. EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE (SEC. 411 OF THE SENATE AMENDMENT AND SEC. 127 OF THE CODE)

Present Law

Educational expenses paid by an employer for its employees are generally deductible by the employer. Employer-paid educational expenses are excludable from the gross income and wages of an employee if provided under a section 127 educational assistance plan or if the expenses qualify as a working condition fringe benefit under section 132.

Section 127 provides an exclusion of $5,250 annually for employee-provided educational assistance. The exclusion does not apply to graduate courses beginning after December 31, 1996. The exclusion for employer-provided educational assistance for undergraduate courses expires with respect to courses beginning after December 31, 2001.

In order for the exclusion to apply, certain requirements must be satisfied. The educational assistance program must be provided pursuant to a separate written plan of the employer. The educational assistance program must not discriminate in favor of highly compensated employees. In addition, not more than five percent of the amounts paid or incurred by the employer during the year for educational assistance under a qualified educational assistance plan can be provided for the class of individuals consisting of (1) a spouse or dependent of the employee (and their spouses and dependents). Educational expenses that do not qualify for the section 127 exclusion may be excludable from income as a working condition fringe benefit.

In general, education qualifies as a working condition fringe benefit if the employer could have deducted the education expenses under section 122 if the employee paid for the education. In general, education expenses are deductible by an individual under section 162 if the education expenses are (1) for classes of instruction required by the employer or (2) meet the express requirements of the employer’s employer, applicable law or regulations imposed as a condition of continued employment. However, education expenses are generally not deductible if they relate to certain minimum educational requirements or to training that enables a taxpayer to begin working in a new trade or business.

No provision.

Senate Amendment

The provision extends the exclusion for employer-provided educational assistance to graduate education and makes the exclusion (as applied to both undergraduate and graduate education) permanent.

Effective date.—The provision is effective with respect to courses beginning after December 31, 2001.

Conference Agreement

The conference agreement follows the Senate amendment.

D. MODIFICATIONS TO STUDENT LOAN INTEREST DEDUCTION (SEC. 412 OF THE SENATE AMENDMENT AND SEC. 117 OF THE CODE)

Present Law

Certain individuals may claim an above-the-line deduction for interest paid on qualified education loans, subject to a maximum annual deduction. This deduction is allowed only with respect to interest paid on a qualified education loan during the first 60 months in which interest payments are required. However, interest generally do not include voluntary payments, such as interest payments made during a period of loan forbearance. Months during which interest payments are not required because the qualified education loan is in deferment or forbearance do not count against the 60-month period. No deduction is allowed to the extent that interest is paid by any other party (including the employer). This provision prevents a taxpayer from claiming the tax benefit on interest paid by any other party.

A qualified education loan generally is defined as any indebtedness incurred solely to pay for certain costs of attendance (including room and board) of a student (who may be the taxpayer, the taxpayer’s spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred) who is enrolled in a degree program on at least a half-time basis at (1) an accredited post-secondary educational institution defined by reference to section 481 of the Higher Education Act of 1965, or (2) an institution conducting an internship or residency program leading to a degree or certificate from an institution of higher education, a hospital, or an educational or research facility conducting post-graduate training.

The maximum allowable annual deduction is $2,500. The deduction is phased-out ratably between $65,000 and $75,000.

The Senate amendment repeals both the limit on the number of months during which interest paid on a qualified education loan is deductible and the restriction that voluntary payments of interest are not deductible.

Effective date.—The provision is effective for interest paid on qualified education loans after December 31, 2001.

Conference Agreement

The conference agreement follows the Senate amendment.

E. ELIMINATE TAX ON AWARDS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP AND FELLOWSHIP PROGRAM (SEC. 413 OF THE SENATE AMENDMENT AND SEC. 117 OF THE CODE)

Present Law

Section 117 excludes from gross income amounts received as a qualified scholarship by an individual who is a candidate for a degree and used for tuition and fees required for the enrollment or attendance (or for fees, books, supplies, and equipment required for courses of instruction) at a primary, secondary, or post-secondary educational institution. This tax-free treatment provided by section 117 does not extend to scholarships amounts covering regular living expenses, such as room and board. In addition to the exclusion for qualified scholarships, section 117 provides an exclusion from gross income for qualified tuition reductions for certain educational services provided to employees (and their spouses and dependents) of certain educational organizations.

The exclusion for qualified scholarships and qualified tuition reductions does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition of receiving the scholarship or tuition reduction.

The National Health Service Corps Scholarship Program (the “NHSC Scholarship Program”) and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (the “Armed Forces Scholarship Program”) provide education awards to participants on the condition that the participants provide certain services. In the case of the NHSC Program, the recipient of the scholarship is obligated to practice medicine in an underserved rural or urban area (or to an underserved population group or designated facility) identified by the Public Health Service as having a shortage of health care professionals. In the case of the Armed Forces Scholarship Program, the recipient of the scholarship is obligated to...
serve a certain number of years in the military at an armed forces medical facility. Because the recipients are required to perform services in exchange for the education awards, the awards used to pay higher education expenses are taxable income to the recipient.

**HOUSE BILL**

**SENATE AMENDMENT**

The Senate amendment provides that amounts received by an individual under the NHSC Scholarship Program or the Armed Forces Scholarship Program are eligible for tax-free treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient. As with other qualified scholarships under section 117, the income of States and local governments is limited to the amounts received by students for regular living expenses, including room and board.

Effective date.—The provision is effective for education awards received after December 31, 2001.

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment.

**F. TAX BENEFITS FOR CERTAIN TYPES OF BONDS**

*Qualified zone academy bonds* are limited non-business purposes: certain student loans and mortgage loans for owner-occupied housing ("qualified mortgage bonds" and "qualified veterans mortgage bonds"). Private activity tax-exempt bonds may not be issued to finance schools for private, for-profit businesses. The Federal income tax does not apply to the income of States and local governments that is derived from the exercise of an essential governmental function. To prevent these tax-exempt activities from issuing more Federally subsidized tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., the six-month period before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "disqualified reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government.

Present law includes three exceptions to the arbitrage rebate requirements applicable to education-related bonds. First, issuers of all types of tax-exempt bonds are not required to rebate arbitrage profits if all of the proceeds of the bonds are spent for the purpose of the borrowing within six months after issuance. Second, in the case of bonds to finance certain construction activities, including school buildings and facilities, the construction period is extended to 24 months. Arbitrage profits earned on construction proceeds are not required to be rebated if all such proceeds (other than proceeds on income which is not earned on such proceeds) are spent by the end of the 24-month period and prescribed intermediate spending percentages are satisfied. Issuers qualifying for this “construction bond” exception may elect to be subject to a fixed penalty payment regime in lieu of rebate if they fail to satisfy the spending requirements.

The conference agreement followed the Senate amendment. The Senate amendments issued by "small" governments are not subject to the rebate requirement. Small governments are defined as general purpose governmental units with no more than $5 million of tax-exempt governmental bonds in a calendar year. The $5 million limit is increased to $10 million if at least $5 million of the bonds are used to finance public schools.

**Qualified zone academy bonds**

As an alternative to traditional tax-exempt bonds, States and local governments are given the authority to issue "qualified zone academy bonds." A State, in turn, allocates the credit to qualified zone academies within such State. A State may carry over any unused allocation for up to two years (three years for authorized before 2000). Qualifying financial institutions (e.g., banks, insurance companies, and corporations actively engaged in the business of lending money) that hold the bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. The credit rate is determined by a formula that is based on a qualified zone academy bond on the credit allowance date (i.e., each year’s anniversaries of the issuance of the bond) is equal to a credit. The credit amount is subject to a phase-in process (i.e., if it is 40 percent of the interest payment on the bond), and the credit may be claimed against regular income tax and alternative minimum tax liability.

The Treasury Department sets the credit rate daily at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bonds also is determined by the Treasury Department, so that the present value of the obligation to repay the bond not exceed 85 percent of the face value of the bond. Present value is determined using as a discount rate the average annual interest rate of tax-exempt obligations of comparable maturity. The Treasury Department determines this discount rate as of the beginning of each calendar year.

"Qualified zone academy bonds" are defined as bonds issued by a State or local government, provided that (1) at least 20 percent of the proceeds of the bonds is used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" and (2) private entities have promised to contribute to the qualified zone academy certain equipment, services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in a designated empowerment zone or a designated enterprise community, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible in a "qualified zone academy."
for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

H2768

No provision.

SENATE AMENDMENT
Increase amount of governmental bonds that may be issued and used for the “small governmental unit” arbitrage rebate exception

The additional amount of governmental bonds issued by public schools that small governmental units may issue without being subject to the arbitrage rebate requirements is increased from $5 million to $10 million. Thus, these governmental units may issue up to $10 million of governmental bonds in a calendar year provided that at least $10 million of the bonds are used to finance public school construction expenditures.

Allow issuance of tax-exempt private activity bonds for public school facilities

The private activities for which tax-exempt bonds may be issued are expanded to include elementary and secondary public school facilities which are owned by private, for-profit corporations pursuant to public-private partnership agreements with a State or local educational agency. The term school facility includes school buildings and functionally related and subordinate land (including stadiums or other athletic facilities primarily used for school events) and depreciable intangible property used in the school facility. The school facilities for which these bonds are issued must be operated by a public educational agency as part of a system of public schools.

A public-private partnership agreement is defined as an arrangement pursuant to which the for-profit corporate party constructs, rehabilitates, or equips a school facility for a public school agency (typically pursuant to a lease arrangement). The agreement must provide that, at the end of the contract term, ownership of the bond-financed property is transferred to the public school agency party to the agreement for no additional consideration.

Issuance of these bonds is subject to a separate annual per-State private activity bond volume limit equal to $10 per resident ($5 million, if greater than $5 million under the present-law State private activity bond volume limits). As with the present-law State private activity bond volume limits, States can decide how to allocate the bond authority among the local government agencies. Bond authority that is unused in the year in which it arises may be carried forward for up to three years for public school projects under rules similar to the carryforward rules of the present-law private activity bond volume limits.

Effective date

The provisions are effective for bonds issued after December 31, 2001.

CONFERENCE AGREEMENT
The conference agreement follows the Senate amendment.

G. MODIFY RULES GOVERNING TAX-EXEMPT BONDS FOR SECTION 501(C)(3) ORGANIZATIONS ENGAGED IN TIMBER CONSERVATION ACTIVITIES (SEC. 433 OF THE SENATE AMENDMENT AND NEW SEC. 222 OF THE CODE)

PRESENT LAW
Interest on State or local government bonds is tax-exempt when the proceeds of the bonds are used to finance activities carried out by or for by those governmental units. Interest on bonds issued by State or local governments acting as conduit borrowers for private entities is taxable unless a specific exception is included in the Code. One such exemption allows tax-exempt bonds to be issued to finance activities of non-profit corporations engaged in Code section 501(c)(3) (“qualified 501(c)(3) bonds”).

Qualified 501(c)(3) bonds may be issued only if the tax-exempt status of the corporation is conditioned on its not operating for profit.

The proceeds of a private activity bond issue that may be used to finance land acquisition does not apply to the “small governmental unit” arbitrage rebate exception.

The conference agreement modifies the rules governing issuance of qualified 501(c)(3) bonds for timber management arrangements with private businesses without losing tax-exemption on the bond-financed property.

No provision.

SENATE AMENDMENT
The Senate amendment modifies the rules governing issuance of qualified 501(c)(3) bonds to conform with the requirement that the timber is to be used to support education or training that enables a qualified educational institution as a condition of the issuance of the bond.

The Senate amendment also modifies the rules so that the bonds will not have to be paid (to avoid loss of tax-exemption on interest) when the timber is harvested and sold. In addition, the Senate amendment provision allows these organizations to enter into certain otherwise prohibited timber management arrangements with private businesses without losing tax-exemption on bonds used to finance the property and timber.

Effective date—The provision is effective for bonds issued after December 31, 2001, and before January 1, 2006.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

H. DEDUCTION FOR QUALIFIED HIGHER EDUCATION EXPENSES (SEC. 433 OF THE SENATE AMENDMENT AND NEW SEC. 222 OF THE CODE)

PRESENT LAW
Deduction for education expenses

Under present law, an individual taxpayer generally may not deduct the education and training expenses of the taxpayer or the taxpayer’s dependents. However, a deduction for education expenses generally is allowed under Internal Revenue Code (“the Code”) section 117 and any other tax free educational assistance and scholarships.

The HOPE credit is available for “qualified tuition and related expenses,” which include tuition and fees required to be paid to an eligible educational institution in connection with enrollment or attendance of an eligible student at the institution. Charges and fees for books, supplies, transportation, and similar personal, living, or family expenses are not eligible for the credit.

The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of either the student or the taxpayer claiming the credit.

Qualification for educational expenses

Individual taxpayers are allowed to claim a nonrefundable credit, the “HOPE” credit, against Federal income taxes to the extent of $1,500 for qualified tuition and related expenses paid for the first two years of the student’s post secondary education in a degree or certification program. The credit is 100 percent on the first $1,000 of qualified tuition and related expenses, and 50 percent on the next $1,000 of qualified tuition and related expenses. The qualified tuition and related expenses must be incurred on behalf of the taxpayer, the taxpayer’s spouse, or a dependent of the taxpayer.

The credit is available with respect to an individual student for two taxable years, provided that the student has not completed the first two years of post-secondary education before the beginning of the second taxable year.

The HOPE credit that a taxpayer may otherwise claim is phased-out ratably for taxpayers with modified AGI between $40,000 and $60,000 ($80,000 and $100,000 for joint returns).

For taxable years beginning after 2001, the $1,500 maximum HOPE credit amount and the AGI phase-out ranges remain in effect.

The HOPE credit is available for “qualified tuition and related expenses,” which include tuition and fees required to be paid to an eligible educational institution in connection with enrollment or attendance of an eligible student at the institution. Charges and fees for books, supplies, transportation, and similar personal, living, or family expenses are not eligible for the credit.

The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of either the student or the taxpayer claiming the credit.

Total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excluding from gross income under section 117 and any other tax-free educational assistance and scholarships.

The HOPE credit is available for “qualified tuition and related expenses,” which include tuition and fees required to be paid to an eligible educational institution in connection with enrollment or attendance of an eligible student at the institution. Charges and fees for books, supplies, transportation, and similar personal, living, or family expenses are not eligible for the credit.

The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of either the student or the taxpayer claiming the credit.

Total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excluding from gross income under section 117 and any other tax-free educational assistance and scholarships.

The HOPE credit is not available for “qualified tuition and related expenses,” which include tuition and fees required to be paid to an eligible educational institution in connection with enrollment or attendance of an eligible student at the institution. Charges and fees for books, supplies, transportation, and similar personal, living, or family expenses are not eligible for the credit.

The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of either the student or the taxpayer claiming the credit.

Total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excluding from gross income under section 117 and any other tax-free educational assistance and scholarships.

The HOPE credit is not available for “qualified tuition and related expenses,” which include tuition and fees required to be paid to an eligible educational institution in connection with enrollment or attendance of an eligible student at the institution. Charges and fees for books, supplies, transportation, and similar personal, living, or family expenses are not eligible for the credit.

The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of either the student or the taxpayer claiming the credit.

Total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excluding from gross income under section 117 and any other tax-free educational assistance and scholarships.

The HOPE credit is not available for “qualified tuition and related expenses,” which include tuition and fees required to be paid to an eligible educational institution in connection with enrollment or attendance of an eligible student at the institution. Charges and fees for books, supplies, transportation, and similar personal, living, or family expenses are not eligible for the credit.

The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student’s degree program.
Between $40,000 and $50,000 ($80,000 and $100,000) the payer may otherwise claim is phased-out ratably for taxpayers with modified AGI between $50,000 and $55,000 ($100,000 and $110,000 for joint returns).

No provision.

SENIOR AMENDMENT

The Senate amendment permits taxpayers an above-the-line deduction for qualified higher education expenses paid by the taxpayer during a taxable year. Qualified higher education expenses are defined in the same manner as for purposes of the HOPE credit.

In 2002 and 2003, taxpayers with adjusted gross income that does not exceed $65,000 ($130,000 in the case of married couples filing joint returns) are entitled to a maximum deduction of $3,000 per year. Taxpayers with adjusted gross income that exceeds these amounts would not be entitled to a deduction. In 2004 and 2005, taxpayers with adjusted gross income that does not exceed $65,000 ($130,000 in the case of married taxpayers filing joint returns) are entitled to a maximum deduction of $5,000 and taxpayers with adjusted gross income that does not exceed $80,000 ($160,000 in the case of married taxpayers filing joint returns) are entitled to a maximum deduction of $2,000.

Taxpayers are not eligible to claim the deduction and a HOPE or Lifetime Learning credit in the same year with respect to the same student. A taxpayer may not claim a deduction for qualified withdrawals taken into account in determining the amount excludable due to a distribution (i.e., the earnings and contribution portion of a distribution) from an education IRA or the amount of interest excludable with respect to education savings bonds.

A taxpayer may not claim a deduction for the amount of a distribution from a qualified tuition plan that is not attributable to earnings. For example, if a taxpayer receives a distribution of $100 from a qualified tuition plan which is used for tuition, $10 of which represents earnings, the taxpayer would not be entitled to a deduction with respect to the $90 representing a return of contributions. On the other hand, if the distribution were from an education IRA, the $90 would not be eligible for the deduction.

Effective date.—The provision is effective for taxable years beginning after December 31, 2008.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the modification that the maximum deduction in 2004 and 2005 is $4,000 for taxpayers with adjusted gross income that does not exceed $65,000 ($130,000 in the case of married taxpayers filing joint returns).

I. CREDIT FOR INTEREST ON QUALIFIED HIGHER EDUCATION LOANS (Sec. 432 of the SENATE AMENDMENT and Sec. 225 of the CODE)

PRESENT LAW

An above-the-line deduction for interest paid on qualified education loans is permitted during the first 60 months in which interest payments are required. Required payments of interest generally do not include voluntary payments, such as interest paid in arrears of loan forbearance. Months during which interest payments are not required because the qualified education loan is in deferral or forbearance do not count towards the 60-month period. No deduction is allowed to an individual if that individual is claimed as a dependent on another taxpayer’s return for the taxable year.

The maximum allowable annual deduction is $2,500. The deduction is phased-out ratably for single taxpayers with modified adjusted gross income between $40,000 and $55,000 and for married taxpayers filing joint returns with modified adjusted gross income between $90,000 and $75,000. The income ranges will be adjusted for inflation after 2003.

A qualified education loan generally is defined as any indebtedness incurred solely to pay for certain costs of attendance (including room and board) of a student (who may be the taxpayer, the taxpayer’s spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred) who is enrolled in an educational institution conducting an internship or residency program leading to a degree or certificate from an institution of higher education, a hospital, or a health care facility conducting postgraduate training.

No provision.

SENIOR AMENDMENT

The Senate amendment permits taxpayers a nonrefundable personal credit for interest paid on qualified education loans during the first 60 months in which interest payments are required. The maximum annual credit available would be $500.

The credit is phased-out for single taxpayers with modified adjusted gross income between $35,000 and $45,000 and for married taxpayers filing joint returns with modified adjusted gross income between $70,000 and $90,000. These income phase-out ranges would be adjusted annually for inflation after 2009.

A taxpayer may be ineligible in a taxable year for payment of interest on a qualified education loan if the following conditions are met: (1) the taxpayer is a student attending school on a half-time basis at (1) an accredited post-secondary educational institution defined by reference to section 861 of the Higher Education Act of 1965; (2) the institution conducting an internship or residency program that meets the stated criteria, or (3) a accredited post-secondary educational institution conducting an internship or residency program in an area that is not provided with other firefighting services. Qualified expenses means unreimbursed expenses for police and firefighter activities (as determined by the Secretary of the Treasury).

No other deduction or credit is allowed with respect to the amount taken into account under this provision. A deduction is allowed for qualified expenses for the provision only to the extent the amount of such expenses exceeds the amount allowable under the provisions relating to education savings bonds, education IRA’s, and qualified tuition plans.

Effective date.—The Senate amendment applies to taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

K. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF BOOK INVENTORY FOR EDUCATION (Sec. 433 of the SENATE AMENDMENT and Sec. 170 of the CODE)

PRESENT LAW

In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the deduction is limited to the taxpayer’s basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer’s basis in the property and in such case is added to the property’s basis in the hands of the transferee. Under present law, a taxpayer’s deduction for charitable contributions of book inventory generally is limited to the taxpayer’s basis (typically, cost) in the inventory. However, certain corporations may claim a deduction in excess of basis for certain charitable contributions to charitable organizations other than private non-operating foundations. This enhanced deduction is equal to the lesser of (1) basis plus one-half of the item’s appreciated value (i.e., basis plus one-half of the fair market value minus basis) or (2) two times basis. To be eligible for an enhanced deduction, (1) the use of the property by the donee must be related to the donee’s exempt purpose and be used by the donee solely for the care of the ill, the needy, or the infirm; (2) the property must not be transferred by the donee in exchange for money, other property, or services; and (3) the taxpayer must establish that the fair market value of the donated item exceeds basis.

HOUSE BILL

No provision.

HOUSE BILL

No provision.
SENATE AMENDMENT

The Senate amendment provides that contributions of book inventory to certain educational organizations are entitled to the present-law deduction for business expenses. Eligible educational organizations are (1) educational organizations that normally maintain a regular faculty and curriculum and normally have regular attendance by students in attendance at the place where its educational activities are regularly carried on; (2) charities organized primarily for purposes of supporting elementary and secondary education; and (3) charities organized primarily to make books available to the general public at no cost or to operate a literacy program. The deduction is available with respect to the amount of a written statement by the donee indicating the purpose of the donation.

Present Law

Deduction for education expenses

Under present law, an individual taxpayer generally may not deduct the education and training expenses of the taxpayer or the taxpayer's dependents. However, a deduction for education expenses generally is allowed under section 162(f) of the Code ("the Code") to the extent of the AGI of the taxpayer. Education expenses are not deductible if they relate to certain minimum educational requirements or to education or training that enables a taxpayer to begin working in a new trade or business. In the case of an employee, education expenses (if not reimbursed by the employer) may be claimed as an itemized deduction only if such expenses meet the above described criteria for deductibility under section 162 and only to the extent that the expenses, along with other miscellaneous deductions, exceed 2 percent of the taxpayer's adjusted gross income.

HOPE and Lifetime Learning credits

HOPE credit

Under present law, individual taxpayers are allowed to claim a nonrefundable credit, the "HOPE" credit, against Federal income taxes of up to $1,500 per student per year for qualified tuition and related expenses paid for the first two years of an individual's enrollment in a degree or certificate program. The HOPE credit rate is 100 percent of the first $4,000 of qualified tuition and related expenses.2 The qualified tuition and related expenses must be incurred on behalf of the taxpayer's spouse, or any dependents. However, the HOPE credit is available with respect to an individual student only for two taxable years, provided that the student has not completed the first two years of post-secondary education before the beginning of the second taxable year.2 The HOPE credit may be claimed-phased out ratably for taxpayers with modified AGI between $40,000 and $50,000 ($80,000 and $100,000 for joint returns). For tax years beginning after 2001, the $1,500 maximum HOPE credit amount and the AGI phase-out ranges are indexed for inflation.

The HOPE credit is available for "qualified tuition and related expenses," which include tuition and fees required to be paid to an eligible educational institution as a condition of enrollment or attendance of an eligible student. "Qualified tuition and related expenses" associated with meals, lodging, insurance, transportation, and similar personal, living, or family expenses are not eligible for the credit. The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student's degree program.

Qualified tuition and related expenses generally include only out-of-pocket expenses. Qualified tuition and related expenses do not include expenses covered by employer-provided educational assistance and scholarships that are not required to be included in the gross income of the taxpayer claiming the credit. Thus, total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excluded from gross income under section 117 and any other tax-free educational benefits received by the student (or the taxpayer claiming the credit) during the taxable year.

Lifetime Learning credit

Individual taxpayers are allowed to claim a nonrefundable credit, the Lifetime Learning credit, against Federal income taxes equal to 20 percent of qualified tuition and related expenses paid for the first 52 weeks of an individual's enrollment in a degree or certificate program. The deduction is available with respect to the amount taken into account under this provision. A deduction is allowed for qualified professional development expenses under the provision only to the extent the amount of such expenses exceeds the amount allocable under the provisions relating to education savings bonds, education IRAs, and qualified tuition plans.

Effective date.—The provision is effective for taxable years beginning after December 31, 2000, and expires on December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment providing a present-law enhanced deduction for contributions made after 2001.

Present Law

Unreimbursed employee business expenses are deductible only as an itemized deduction and only to the extent that the individual's total miscellaneous itemized deductions (including employee business expenses) exceed 2 percent of adjusted gross income. Other limits apply.

44Elementary and secondary schools are defined by reference to section 14101 of the Elementary and Secondary Education Act of 1965.

46Local education agency is as defined in section 30B OF THE CODE.

48The HOPE credit may not be claimed against a taxpayer's alternative minimum tax liability.
in the case of contributions to certain organizations and certain property.

An individual’s otherwise allowable itemized deductions may be further limited by the same limitation on itemized deductions, which reduces itemized deductions for taxpayers with adjusted gross income in excess of $132,950 (for 2001).

Dependent personal and family deductions, and a graduated tax rate schedule applies to cumulative taxable transfers between $10 million and $17,184,000, which has the effect of phasing out the benefit of the graduated rates. Thus, these estates are subject to a top marginal rate of 55 percent on all amounts exceeding the unified credit effective exemption amount, as the benefit of the graduated rates has been phased out.

Gift tax annual exclusion

Donors of lifetime gifts are provided an annual exclusion of $10,000 (indexed for inflation occurring after 2003) for transfers of present interests in property to any donee during the taxable year. If the donee is a non-U.S. citizen, the annual exclusion is $20,000. Unlimited gifts between spouses are permitted without imposition of a gift tax.

Unified credit

A unified credit is available with respect to taxable transfers by gift and at death. The unified credit amount is $132,950 (for 2001) and $700,000 in 2002 and 2003, $850,000 in 2004, $950,000 in 2005, and $1 million in 2006 and thereafter. The benefit of the unified credit is measured at the top estate tax marginal rates. For example, in 2001, the unified credit applies between the 18-percent and 37-percent estate and gift tax rates. Thus, in 2001, taxable transfers of $1 million exceed (or step down) in basis eliminates the recognition of income on any appreciation of property to which the election under these rules applies. A “qualifying income interest for life” exists if: (1) the surviving spouse is entitled to all the income from the property (payable from time to time in intervals of not less often than annually), (2) the right to use property during the spouse’s life, and (2) no person has the power to appoint any part of the property to any person other than the surviving spouse.

Transfers to a surviving spouse

In general.—A 100-percent marital deduction generally is available for the value of property transferred between spouses. In addition, transfers of a “qualified terminable interest” also are eligible for the marital deduction. A “qualified terminable interest” is property: (1) which passes from the decedent, (2) in which the surviving spouse has a “qualified income interest for life,” and (3) to which an election under these rules applies. A “qualifying income interest for life” exists if: (1) the surviving spouse is entitled to all the income from the property (payable from time to time in intervals of not less often than annually), (2) the right to use property during the spouse’s life, and (2) no person has the power to appoint any part of the property to any person other than the surviving spouse.

Transfers to surviving spouses who are not U.S. citizens.—A marital deduction generally is denied in a transfer to a surviving spouse who is not a citizen of the United States. A marital deduction is permitted, however, for property passing to a qualified domestic trust of which the noncitizen surviving spouse is a beneficiary. A qualified domestic trust is a trust that has as its trustee at least one U.S. citizen or U.S. corporation. No corpus may be distributed from a qualified domestic trust unless the U.S. trustee has the right to withhold any estate tax imposed on the distribution.

Expenses, indebtedness, and taxes

An estate tax deduction is allowed for funeral expenses and administration expenses of an estate. An estate tax deduction also is allowed for the cost of property and unpaid mortgages on, or any indebtedness in respect of, property for which the value of the decedent’s interest therein, undiminished by the debt, is included in the value of the gross estate.

If the total amount of claims and debts exceeds the estate tax value of the property to which the claims relate, an estate tax deduction for the excess is allowed, computed from the due date of the estate tax return. A deduction for claims against the estate generally is permitted only if the claim is allowable by the courts of the jurisdiction over which the estate is being administered.

A deduction also is allowed for the full unpaid amount of any mortgage upon, or of any unpaid indebtedness of, other property included in the gross estate (including interest which has accrued thereon to the date of the decedent’s death), provided that the full value of the underlying property is included in the decedent’s gross estate.

Basis of property received

In general.—Gain or loss, if any, on the disposition of the property is measured by the basis of the property in the hands of the donee. The basis of property transferred from a decedent’s estate generally is the full value of the property to which the claims relate, an estate tax deduction for the excess is allowed, computed from the due date of the estate tax return. A deduction for claims against the estate generally is permitted only if the claim is allowable by the courts of the jurisdiction over which the estate is being administered.

A deduction also is allowed for the full unpaid amount of any mortgage upon, or of any unpaid indebtedness of, other property included in the gross estate (including interest which has accrued thereon to the date of the decedent’s death), provided that the full value of the underlying property is included in the decedent’s gross estate.

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A deduction also is allowed for the full unpaid amount of any mortgage upon, or of any unpaid indebtedness of, other property included in the gross estate (including interest which has accrued thereon to the date of the decedent’s death), provided that the full value of the underlying property is included in the decedent’s gross estate.

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A deduction also is allowed for the full unpaid amount of any mortgage upon, or of any unpaid indebtedness of, other property included in the gross estate (including interest which has accrued thereon to the date of the decedent’s death), provided that the full value of the underlying property is included in the decedent’s gross estate.
for which a mark-to-market election has been made) generally takes a carryover basis, except that a passive foreign investment company for which a decedent shareholder
holds a qualified equity interest in and a decedent election is allowed a stepped-up basis. Stock owned by a decedent in a domestic international
national sales corporation (or former domestic international sales corporation) is generally stepped-up basis reduced by the amount (if
any) which would have been included in gross income under section 956(c) as a dividend from such stock at its fair market value on the estate
tax valuation date (i.e., generally the date of the decedent’s death unless an alternate valuation date is elected).

Provisions affecting small and family-owned businesses and farms

**Special-use valuation.**—An executor can elect to value for estate tax purposes certain “qualified real property” used in farming or another
qualifying closely-held trade or business at its current-use value, rather than its fair market value. The maximum reduction in value for such real property is $750,000
(adjusted for inflation occurring after 1997; the inflation-adjusted amount for 2001 is $800,000). Real property generally can qualify for special-use
valuation if at least 50 percent of the adjusted value of the decedent’s gross estate consists of a farm or closely-held business assets in the decedent’s estate
(including personal residence and personal use property) and at least 25 percent of the adjusted value of the gross estate consists of farm or closely-held business property. In addition, the property must be used in a qualified use (e.g., farming) by the decedent or a member of the decedent’s family for five of the eight years before the decedent’s death.

If a special-use valuation election is made, the heir who acquired the real property ceases to use it in its qualified use within
10 years of the decedent’s death, an additional estate tax is imposed in order to re-
capture the entire estate-tax benefit of the special-use valuation.

**Family-owned business deduction.**—An est-
etate is permitted to deduct the adjusted
taxable value of a qualified-family owned business
to the extent that the business holds passive assets or ex-
cess cash or marketable securities.

To qualify for the deduction, the decedent (or a member of the decedent’s family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the date of death. In addition, at least one qualified heir (or member of the qualified heir’s family) is required to materially participate in the trade or business for at least 10 years following the decedent’s death.

The qualified family-owned business rules provide a deduction based on the number of years after the decedent’s death in which the disqualifying event occurred. Under the provision, if the disqualifying event occurs during the seventh year after the decedent’s death, then 100 percent of the tax is recaptured. The remaining percentage of re-
capture based on the year after the decedent’s death in which the disqualifying event occurred is as follows: the disqualifying event occurs during the seventh year after the decedent’s death, 80 percent; during the eighth year after the decedent’s death, 50 percent; during the ninth year after the decedent’s death, 40 percent; and during the tenth year after the decedent’s death, 20 percent. For purposes of determining the qualified-business deduction, the contribution of a quali-
fied conservation easement is not considered a disposition that would trigger recapture of estate tax.

In general, there is no requirement that the qualified heir (or members of his or her family) continue to hold or participate in the
trade or business 10 years after the decedent’s death. However, the 10-year recapture period can be extended for a period of up to two years if the qualified heir does not begin to hold or participate in the trade or business 10 years after the decedent’s death.

An estate can claim the benefits of both the qualified family-owned business deduc-
tion and special-use valuation. For purposes of determining whether the value of the trade or business exceeds 50 percent of the
The amount of gain that must be recognized on the sale or exchange of a trade or business is limited to the extent of the qualified family-owned business deduction.

The tax rate is determined under a schedule that applies to the extent of the qualified family-owned business deduction to the extent of the qualified family-owned business deduction.

The unified credit amount for 2001 is $1,060,000.

**State death tax credit**

A credit is allowed against the Federal estate tax, for estate tax purposes, for inheritance or succession taxes actually paid to any State or the District of Columbia with respect to any property included in the decedent’s gross estate, to the extent that the amount of such credit allowable for State death taxes is determined under a graduated rate schedule, taking into account the top rate of 16 percent, based on the size of the decedent’s adjusted taxable estate.

Most States impose a “pick-up” or “soak-up” estate tax, which serves to impose a State tax equal to the maximum Federal credit allowable.

**Estate and gift taxation of nonresident non-
citizens**

Nonresident noncitizens are subject to gift tax with respect to certain transfers by gift of U.S.-situated property. Such property in-
cludes real estate and tangible property located within the United States. Nonresident noncitizens generally are not subject to U.S. gift tax on the transfer of intangibles, such as stocks, bonds or securities, regardless of where such property is situated.

Estates of nonresident noncitizens generally are taxable to U.S. citizens, but the taxable estate includes only property situated within the United States that is owned by the decedent at the date of death and at the date of death of all property, real or personal, tangi-
ble or intangible, situated in the United

States. Special rules apply which treat cer-
tain property as being situated within and
without the United States for these purposes.

Estates modified by a treaty, a nonresident who is not a U.S. citizen generally is allowed a unified credit of $13,000, which effectively exempts $60,000 in assets from estate tax.

**Generation-skipping transfer tax**

A generation-skipping transfer tax generally is imposed on transfers, either di-
rectly or through a trust or similar arrange-
ment, to a “skip person” (i.e., a beneficiary in a generation more than two generations below that of the transferor). Transfers subject to the generation-skipping transfer tax include direct skips, taxable terminations, and taxable distributions. Generation

skipping transfer tax is imposed at a flat
rate of 55 percent (i.e., the top estate and gift
rate) on cumulative generation-skipping

transfers in excess of $1 million (indexed for
inflation occurring after 1997; the inflation-
adjusted amount for 2001 is $1,060,000).

**Selected income tax provisions**

**Transfers to certain foreign trusts and estates**

A transfer (during life or at death) by a U.S. person to a foreign trust or estate gen-
erally is treated as a gift to property for an amount equal to the fair market value of the transferred property. The amount of gain that must be recognized in the final returns of the estate or
trust is the excess of the fair market value of the property transferred over the adjusted basis (for purposes of determining gain) of such property in the
hands of the transferor.

**Net operating loss and capital loss carryovers**

Under present law, a capital loss and net

operating loss from business operations sustained by a decedent during his last taxable year is deductible only to the extent of the basis of the property at the time of the death. This includes the basis of the property transferred to the qualified heir.

**Transfers of property in satisfaction of a pe-
cuniary bequest**

Under present law, gain or loss is recog-
nized on the transfer of property in satisfac-
tion of a pecuniary bequest (i.e., a bequest of a specific dollar amount) to the extent that the fair market value of the property at the time of the transfer exceeds the basis of the property, which generally is the basis stepped up to fair market value on the date of the decedent’s death.

**Income tax exclusion for the gain on the sale of
a principal residence**

A taxpayer generally can exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. The exclusion is al-
lowed each time a taxpayer sells or ex-
changes a principal residence that meets the eligibility requirements, but generally no more frequently than once every two years. To be eligible, a taxpayer must have owned the residence and occupied it as a principal residence for at least two of the five years prior to the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change in place of employment, health, or other unforeseen circumstances is able to exclude the fraction of the $250,000 ($500,000 if married filing a joint return) equal to the fraction of two years that these requirements are met.

**Excise tax on non-exempt trusts**

Under present law, non-exempt split-inter-
est trusts are subject to certain restrictions that are applicable to private foundations if an income, estate, or gift tax charitable de-
duction is allowed, all or a portion of the non-
exempt split-interest trust subject to these rules would be prohibited from

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48 The qualified family-owned business deduction and the unified credit effective exemption amount are coordinated. If the maximum deduction of $675,000 is elected, then the unified credit effective exemption amount is $625,000, for a total of $1.3 million. If the qualified family-owned business deduction is less than $675,000, then the unified effective credit amount is equal to $625,000, increased between $675,000 and the amount of the qualified family-owned business deduction. However, the unified credit effective exemption amount cannot be increased above such amount in effect for the taxable year.
engaging in self-dealing, retaining any excess business holdings, and from making certain investments or taxable expenditures. Failure to comply with these restrictions would lead to the disallowance of certain excess taxes imposed on private foundations, which include excise taxes on self-dealing, excess business holdings, investments which jeopardize the foundation's purpose, and certain taxable expenditures.

HOUSE BILL

No provision. However, H.R. 8, as passed by the House, provides as follows:

Overview of H.R. 8

Beginning in 2011, the estate, gift, and generation-skipping transfers taxes are repealed. The basis of assets received from a decedent generally will equal the basis of the decedent (i.e., carryover basis) at death. However, a decedent’s estate is permitted to increase the basis of appreciated assets transferred by up to a total of $1.3 million. The basis of appreciated property transferred to a surviving spouse can be increased (i.e., stepped up) by an additional $3 million. Thus, the basis of property transferred to a surviving spouse can be increased (i.e., stepped up) by a total of $4.3 million. In no case can the basis of an asset be increased above its fair market value. For these purposes, the executor will determine which assets and to what extent each asset receives a basis of $1.3 million and $3 million amounts are adjusted annually for inflation occurring after 2010.

In 2002, the unified credit is replaced with a unified exemption amount. This phase-out the benefit of the graduated rates and the rates in excess of $3 percent are repealed. Beginning in 2003, the estate, gift, and generation-skipping transfers tax rates are further reduced each year until the estate, gift, and generation-skipping transfer taxes are repealed in 2011.

Phaseout and repeal of estate, gift, and generation-skipping transfer taxes

In general

In 2002, the top estate and gift tax rates above 53 percent are repealed, as is the 5-percent surtax, which phases out the benefit of the graduated rates. In 2003, all rates in excess of 53 percent are repealed. The unified estate and gift tax over the period 2004 through 2006, each of the rates of tax is reduced by one percentage point. In each year 2007 through 2010, each of the rates of tax is reduced by one percentage point. The generation-skipping transfer tax rate is further reduced each year until the estate, gift, and generation-skipping transfer taxes are repealed in 2011.

Successor and repeal of estate, gift, and generation-skipping transfer taxes

In general

In 2002, the top estate and gift tax rates above 53 percent are repealed, as is the 5-percent surtax, which phases out the benefit of the graduated rates. In 2003, all rates in excess of 53 percent are repealed. The unified estate and gift tax over the period 2004 through 2006, each of the rates of tax is reduced by one percentage point. The generation-skipping transfer tax rate is further reduced each year until the estate, gift, and generation-skipping transfer taxes are repealed in 2011.

Replace unified credit with unified exemption amount

Beginning in 2002, the unified credit is replaced with a unified exemption amount. The unified exemption amount, which will follow the dollar amounts of the present-law unified credit, is increased by an effective exemption amount, will be determined as follows: in 2002 and 2003, $700,000; in 2004, $850,000; in 2005, $950,000; and in 2006 and thereafter (up to repeal in 2011), $1 million. The estate and gift tax rates are reduced in proportion to the reduction in the estate and gift tax rates.

Beginning in 2011, the estate, gift, and generation-skipping transfer taxes are repealed. The basis of property acquired from a decedent

In general

Beginning in 2011, after the estate, gift, and generation-skipping transfer taxes have been repealed, the present-law rules providing for a fair market value basis for property acquired from a decedent are repealed. Instead, a modified carryover basis regime generally takes effect. Recipients of property transferred during the decedent’s death will receive a basis equal to the lesser of the adjusted basis of the decedent or the fair market value of the property on the date of the decedent’s death.

The modified carryover basis rules apply to property acquired by bequest, devise, or inheritance by the decedent from the decedent, property passing from the decedent to the extent such property passed without consideration, and certain other property to which the present law rules apply.

Property acquired from a decedent is treated as if the property had been acquired by gift. Thus, the character of gain on the sale of property received from a decedent’s estate is carried over to the heir. For example, real estate that has been depreciated and would be subject to capital gain if sold by the decedent will be subject to recapture if sold by the heir.

Property to which the modified carryover basis rules apply

The modified carryover basis rules apply to property acquired from the decedent. Property acquired from the decedent is (1) property acquired by bequest, devise, or inheritance by the decedent from the decedent, (3) property transferred by the decedent during his or her lifetime to a trust that pays all of its income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust and have the trust assets distributed in any manner the decedent specifies; (4) property transferred by the decedent during his or her lifetime to a trust that pays all of its income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust; (5) property transferred by the decedent during his or her lifetime to a trust that pays all of its income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust; and (6) the surviving spouse’s one-half share of certain community property held as joint tenants with the right reserved to the decedent at all times before his death to revoke the trust.

Basis increase for certain property

Amount of basis increase—The bill allows an executor to increase (i.e., step up) the basis in assets owned by the decedent and acquired from the decedent. Under this rule, each decedent’s estate generally is permitted to increase (i.e., step up) the basis of assets transferred by up to a total of $1.3 million. The basis of assets transferred by reason of the decedent’s death to the extent such property passed without consideration (e.g., property held as joint tenants with the right of survivorship with the right reserved to the decedent at all times before the decedent’s death) is increased by an additional $3 million. Thus, the basis of property transferred to a surviving spouse can be increased by a total of $4.3 million.

Rules applicable to basis increase—Basis increase will be allocable on an asset-by-asset basis (e.g., basis increase can be allocated to a share of stock or a block of stock). However, in no case can the basis of an asset be increased above its fair market value. If the amount of basis increase is less than the fair market value of assets whose bases are eligible to be increased under these rules, the executor will determine which assets and to what extent each asset receives a basis increase.

Reporting requirements

Lifetime gift

A donor is required to report to the Internal Revenue Service ("IRS") the basis and character of any non-cash property transferred by gift with a value in excess of $25,000 (except gifts to charitable organizations). The donor is required to report to the IRS:

1. The name and taxpayer identification number of the donee;
2. An accurate description of the property;
3. The adjusted basis of the property in the hands of the donor at the time of gift;
4. The donor’s holding period for such property;
5. Sufficient information to determine whether any gain on the sale of the property would be treated as ordinary income, if attributable to the decedent’s share of community property could be eligible for a basis increase.

6. Sec. 1016(b)(2) and (3).
7. This is the same property the basis of which is stepped up to date of death fair market value under present law sec. 1016(b)(2).
8. This is the same property the basis of which is stepped up to date of death fair market value under present law sec. 1016(b)(3).
9. Thus, similar to the present law rule in sec. 1016(b)(6), both the decedent’s and the surviving spouse’s share of community property could be eligible for a basis increase.
Similar information (including the name, address, and phone number of the person making the return) is required to be provided to recipients of such property.

**Transfers at death**

For transfers at death of non-cash assets in excess of $1.3 million and for appreciated property, the value of which exceeds $25,000, received by a decedent within three years of death, the executor of the estate (or the trustee of a revocable trust) would report to the IRS:

- The name and taxpayer identification number of the property,
- An accurate description of the property,
- The adjusted basis of the property in the hands of the decedent and its fair market value at the time of death,
- The decedent’s holding period for the property,
- Sufficient information to determine what, if any, liability is due to the property, and
- Any other information as the Treasury Secretary may prescribe.

**Penalties for failure to file required information**

Any donor required to report the basis and character of non-cash property with a value in excess of $25,000 who fails to do so is liable for a penalty of $500 for each failure to report such information to the IRS and $50 for each failure to report such information to a beneficiary.

Any person required to report to the IRS transfers at death of non-cash assets in excess of $1.3 million in value who fails to do so is liable for a penalty of $10,000 for the failure to report such information. Any person required to report to the IRS the receipt by a decedent or a closely-held business of property valued in excess of $25,000 within three years of death who fails to do so is liable for a penalty of $500 for each failure to report such information to the IRS.

No penalty is imposed with respect to any failure that is due to reasonable cause. If any failure to report to the IRS or a beneficiary under the bill is due to intentional disregard of the requirement, then the penalty is five percent of the fair market value of the property for which reporting was required, determined at the date of the decedent’s death (for property passing at death) or determined at the time of gift (for a lifetime gift).

**Certain tax benefits extending past the date for repeal of the estate tax**

Prior to repeal of the estate tax, many estates may have claimed certain estate tax benefits which, upon certain events, may trigger a recapture tax. Because repeal of the estate tax is effective for decedents dying after December 31, 2010, these estate tax recapture provisions will continue to apply to estates of decedents dying before January 1, 2011.

**Qualified conservation easements**

A donor may have retained a development right in the conveyance of a conservation easement that qualified for the estate tax exclusion. Those with an interest in the land are personally liable for an additional tax which may be due after repeal.

**Special-use valuation**

Property may have qualified for special-use valuation for the estate tax. If such property ceases to qualify for special-use valuation, for example, because an heir ceases to use the property in its qualified use within 10 years of the decedent’s death, then the estate tax benefit is required to be recaptured. The recapture provision is retained after repeal of the estate tax. Therefore, the value of property that claimed this benefit prior to repeal of the estate tax will be subject to recapture if a disqualifying event occurs after repeal.

**Qualified family-owned business deduction**

Property may have qualified for the family-owned business deduction. Under the bill, the amount of gain that must be recognized by the transferor is equal to the excess of the fair market value of the transferred property for an amount equal to the fair market value of the property in satisfaction of a pecuniary bequest.

Transfers of property in satisfaction of a pecuniary bequest are subject to certain restrictions that are applicable to private foundations if an income tax charitable deduction, including an income tax charitable deduction by an estate or trust, was allowed with respect to transfers to the trust.

**Anti-abuse rules**

The Treasury Secretary is given authority to treat a transfer that purports to be a gift as having never been transferred, if, in connection with such a transfer, it would be appropriate to prevent income tax avoidance and (1) the transferor (or any person related to or designated by the transferor or such person) has received anything of value in connection with the transfer from the transferee directly or indirectly or (2) there is an understanding or expectation that the transferee (or any person related to or designated by the transferor or such person) will receive anything of value in connection with the transfer from the transferee directly or indirectly.

**Study mandated by the bill**

The bill requires the Treasury Secretary to conduct a study of opportunities for avoidance of the income tax, if any, and potential increases in income tax revenues by reason of enactment of the bill. The results of such study are required to be submitted to the House Committee on Ways and Means and the Senate Committee on Finance no later than December 31, 2002.

**Interaction of the bill with death tax treaties**

The Committee expects that, where applicable, references in U.S. tax treaties to the unified credit under section 2010 (as in effect prior to January 1, 2002) will be construed to apply, in a similar manner, to the unified exemption amount (as in effect for decedents dying and gifts made after December 31, 2001).83

**Effective date**

The unified credit is replaced with a unified exemption, the 5-percent surtax is repealed, and the rates in excess of 53 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001. The estate and gift tax rates in excess of 50 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001. Any estate or gift tax in excess of 50 percent is repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001.

Income tax exclusion for the gain on the sale of a principal residence

The income tax exclusion of up to $250,000 of gain on the sale of a principal residence is extended to estates and heirs. Under the bill, if the decedent’s estate or an heir sells the decedent’s principal residence, $250,000 of gain can be excluded on the sale of the residence, provided the decedent used the property as a principal residence for two or more years during the five-year period prior to the sale. In addition, if an heir occupies the property as a principal residence, the decedent’s estate is required to report to the IRS the receipt by the heir of the property as a principal residence. The property as a principal residence can be added to the heir’s subsequent ownership and occupancy in determining whether the property was owned and occupied for two years as a principal residence.

Excise tax on nonexempt trusts

Under the bill, split-interest trusts are subject to certain restrictions that are applicable to private foundations if an income tax charitable deduction, including an income tax charitable deduction by an estate or trust, was allowed with respect to transfers to the trust.

83See, e.g., Article 3, Protocol Amending the Convention Between the United States of America and the Republic of the Federal Republic of Germany for the Avoidance of Double Taxation with Respect to Taxes on Estates, Inheritances, and Gifts (Senate Treaty Doc. 107-45), filed December 18, 2001 (as of the date of the publication of this report), a pro rata unified credit is provided to the estate of an individual domiciled in Germany (who is not a U.S. citizen for purposes of the estate tax). Such an individual domiciled in Germany is entitled to a credit against U.S. estate tax based on the portion of the assets of the estate situated in the United States.
gifts and generation-skipping transfers made after December 31, 2002.

The additional reductions in estate and gift tax rates and of the State death tax credit occur for decedents dying and gifts and generation-skipping transfers made in 2004 through 2010.

The estate, gift, and generation-skipping transfer taxes are repealed and the carryover basis regime takes effect for estates of decedents dying and generation-skipping transfers made after December 31, 2010.

The provisions relating to purported gifts and recognition of gain on transfers to nonresidents who are not U.S. citizens are effective for transfers made after December 31, 2010.

SENATE AMENDMENT

The Senate amendment is similar to the provision in H.R. 8; however, under the Senate amendment, the gift tax will not be repealed.

The Senate amendment also includes the following modifications:

**Phaseout and repeal of estate and generation-skipping transfer taxes; modifications to gift tax**

The Senate amendment provides that the unified credit effective exemption amount will be increased and the estate and gift tax rates will be reduced over time. The unified credit effective exemption amount (for estate and gift tax purposes) will be increased to $1 million in 2002 and thereafter. For estate tax purposes, the unified credit effective exemption amount will remain at $1 million in 2002 and thereafter. For estate tax purposes, the unified credit effective exemption amount and generation-skipping transfer tax exemption will increase over time.

**TABLE 18.—UNIFIED CREDIT EXEMPTION AMOUNTS AND HIGHEST ESTATE AND GIFT TAX RATES**

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Estate and GST tax deathtime transfer exemption</th>
<th>Highest estate and gift tax rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$1 million</td>
<td>50%</td>
</tr>
<tr>
<td>2003</td>
<td>$1 million</td>
<td>45%</td>
</tr>
<tr>
<td>2004</td>
<td>$2 million</td>
<td>48%</td>
</tr>
<tr>
<td>2005</td>
<td>$3 million</td>
<td>47%</td>
</tr>
<tr>
<td>2006</td>
<td>$3 million</td>
<td>45%</td>
</tr>
<tr>
<td>2007</td>
<td>$3 million</td>
<td>43%</td>
</tr>
<tr>
<td>2008</td>
<td>$3 million</td>
<td>42%</td>
</tr>
<tr>
<td>2009</td>
<td>$3.5 million</td>
<td>45%</td>
</tr>
<tr>
<td>2010</td>
<td>$4 million</td>
<td>45%</td>
</tr>
<tr>
<td>2011</td>
<td>NA (taxes repealed)</td>
<td>(gift tax only)</td>
</tr>
</tbody>
</table>

Under the Senate amendment, except as provided in regulations, a transfer to a trust will be treated as a taxable gift beginning in 2011, for transfers at death or at any time after the decedent’s death. For transfers during life, the Senate amendment provides that a donor is required to provide to recipients of property by gift the information relating to the property (e.g., the fair market value and basis of property) that was reported on the gift tax return with respect to such property.

**Penalties for failure to comply with the reporting requirements**

Any donor required to provide to recipients of property by gift the information relating to the property that was reported on the donor’s gift tax return (e.g., the fair market value and basis of property) with respect to such property who fails to do so is liable for a penalty of $50 for each failure to report such information to a donee.

Any person required to report to the IRS at death of non-cash assets in excess of $1.3 million in value who fails to do so is liable for a penalty of $10,000 for the failure to report such information. Any person required to report to the IRS the receipt by a decedent of appreciated property acquired by the decedent within three years of death for which a gift tax return was required to have been filed by the donor who fails to do so is liable for a penalty of $500 for the failure to report such information to the IRS. There is also a penalty of $50 for each failure to report such information to a beneficiary.

No penalty is imposed with respect to any failure that is due to reasonable cause. If any failure to report to a beneficiary under the bill is due to intentional disregard of the rules, then the penalty is five percent of the fair market value of the property for which reporting was required, determined at the date of the decedent’s death (for property passing at death) or determined at the time of gift (for a lifetime gift).

**Certain tax benefits extending past the date for repeal of the estate tax**

As under the House bill, there will continue to be (1) the additional estate tax for those with a retained development right with respect to which a conservation easement was claimed, (2) the additional estate tax imposed under the special-use valuation rules, (3) the additional tax imposed under family-owned business deduction rules, and (4) acceleration of tax under the installment payment of estate tax provisions.

In addition, under the Senate amendment, there will continue to be an estate tax imposed on (1) any distribution prior to January 1, 2011, to a qualified domestic trust before the date of the death of the noncitizen surviving spouse and (2) the value of the property remaining in a qualified domestic trust on the date of the death of the surviving spouse if such surviving spouse dies before January 1, 2011.

**Effective date**

The estate and gift rate reductions, increased on estate and gift unified credit exemption equivalent amounts and generation-skipping transfer tax exemption amount, and reductions in and repeal of the state death tax credit will be made between 2002 and 2010. For estate tax purposes, the period of extension to pay estate taxes over time under section 6166, or (c) the expiration of the period of limitations in which to file a claim for refund or 60 days after a decision of a court in which such refund suit has been filed becomes final.

**Conferences Agreement**

The Senate amendment provides that, after repeal of the estate tax, the modified estate and gift tax rates in excess of 50 percent are repealed. In 2004, the estate and gift tax rates in excess of 45 percent are repealed. In 2005, the unified credit effective exemption amount for estate tax purposes is increased to $1.5 million. (The unified credit effective exemption amount for gift tax purposes remains at $1 million as increased in 2002.) In addition, in 2004, the family-owned business deduction is increased, the estate and gift tax rates in excess of 47 percent are repealed. In 2006, the estate and gift tax rates in excess of 46 percent are repealed, and the unified credit effective exemption amount for estate tax purposes is increased to $2 million. In 2007, the estate and gift tax rates in excess of 45 percent are repealed. In 2008, the unified credit effective exemption amount is increased to $3.5 million. In 2010, the estate and generation-skipping transfer taxes are repealed.

The generation-skipping transfer tax exemption for a given year (prior to repeal) is equal to the unified credit effective exemption amount for estate tax purposes. In addition, as under present law, the generation-skipping transfer tax rate for a given year is as follows:

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Estate and GST tax deathtime transfer exemption</th>
<th>Highest estate and gift tax rates</th>
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</tr>
<tr>
<td>2010</td>
<td>NA (taxes repealed)</td>
<td>(gift tax only)</td>
</tr>
</tbody>
</table>
the bill, and, except as provided in regula-
tion, transfer taxes are repealed. Also beginning
effect for such year.

There will continue to be an estate tax im-
posing on the date of death of the noncitizen
will be in effect beginning in 2010 (i.e., when
peal of the estate tax included in H.R. 8 and
rules regarding the determination of basis of
Basis of property acquired from a decedent
The conference agreement includes the rules regarding the determination of basis of property acquired from a decedent after re-
peal of the estate tax included in H.R. 8 and the Senate amendment; however, these rules
will be in effect beginning in 2010 (i.e., when
the estate tax is repealed under the con-
ference agreement.

The conference agreement follows the Sen-
ate amendment.

Certain tax benefits extending past the date for
repeal of the estate tax

The conference agreement follows the Sen-
ate amendment, with a modification regard-
ig property in a qualified domestic trust.
There will continue to be an estate tax im-
posed on (1) any distribution prior to Janu-
ary 1, 2021, from a qualified domestic trust
before the date of the death of the noncitizen
surviving spouse and (2) the value of the
property remaining in a qualified domestic
trust on the date of death of the noncitizen
surviving spouse as of such surviving spouse
dies before January 1, 2010.

Transfers to foreign trusts, foreign estates, and
nonresidents who are not U.S. citizens

The conference agreement follows H.R. 8 and
the Senate amendment, with a modifica-
tion. Under the conference agreement, begin-
inning in 2010, only a transfer by a U.S. per-
sion’s estate (i.e., by a U.S. person at death)
to a nonresident who is not a U.S. citizen is
treated as a sale or exchange of the property for
and for the fair market value of the
transferred property. The amount of
gain that must be recognized by the trans-
feror is equal to the excess of the fair market
value of the property transferred over the
adjusted basis of such property in the hands of
the transferor.

Transfers of property in satisfaction of a pecu-
yliar equivalent amount
The conference agreement follows H.R. 8 and
the Senate amendment.

Transfer of property subject to a liability
The conference agreement follows H.R. 8
and the Senate amendment.

Income tax exclusion for the gain on the sale of
a principal residence
The conference agreement follows H.R. 8
and the Senate amendment.

Excise tax on non-exempt trusts
The conference agreement follows H.R. 8
and the Senate amendment.

Effective date
The estate and gift rate reductions, in-
creases in the estate tax unified credit ex-
emption equivalent amounts and generation-
 skipping transfer tax exemption amount, and
reductions in and repeal of the state death
tax credit are phased-in over time, beginning
with estate tax reforms in 2003.

Retained development rights
The conference agreement follows H.R. 8
and the Senate amendment.

B. EXPAND EXPAND TAX RULE FOR CONSERVA-
TION EASEMENTS (SEC. 501 OF H.R. 8, SEC. 551
OF THE SENATE AMENDMENT, AND SEC. 2031 OF
THE CODE) PRESENT LAW

In general
An executor can elect to exclude from the
taxable estate 25 percent of the value of any
land subject to a qualified conservation eas-
ment, up to a maximum exclusion of $100,000
in 1998, $200,000 in 1999, $300,000 in 2000,
$400,000 in 2001, and $500,000 in 2002 and there-
af ter (sec. 2031(c)). The exclusion percentage is
reduced by 2 percent points for each
percentage point (or fraction thereof) by
which the value of the conservation easement
is less than 30 percent of the value of the
land (determined without regard to the
value of such easement and reduced by
the value of any retained development
right).

A qualified conservation easement is one
that meets the following requirements: (1)
the land is located within 25 miles of a met-
ropolitan area (as defined by the Office
of Management and Budget) or a national park
or wilderness area, or within 10 miles of an
Urban National Forest (as designated by the
Forest Service of the U.S. Department of
Agriculture); (2) the land has been owned by
the decedent or a member of the decedent’s
family at all times during the three-year period
ending on the date of the decedent’s death;
and (3) a qualified conservation contribution
(within the meaning of sec. 170(h)) of a quali-
ified real property interest (as generally de-
defined in sec. 170(h)(2)(C)) was granted by the
executor of the decedent’s estate, or the
trustee of a trust holding the land, no
later than the date of the election. To the
test that the value of such land is ex-
cluded from the taxable estate, the basis of
such land acquired at death is a carryover
basis (i.e., the basis is not stepped-up to its
fair market value at death). Property fi-
manced with acquisition indebtedness is eli-
gible for this provision only to the extent of
the net equity in the property.

Retained development rights
The exclusion for land subject to a con-
servation easement does not apply to any
development right retained by the donor in
the conveyance of the conservation easement.
An example of such a development right
would be the right to extract minerals from the
land. If such development rights exist, then
the value of the conservation easement
must be reduced by the value of any retained
development right.

If the donor or holders of the development
rights agree in writing to extinguish the de-
velopment rights in the land, then the value
of the easement need not be reduced by the
development rights. In such case, those per-
sons with an interest in the land must exe-
cute the agreement no later than the earlier of
(1) 150 years after the date of the dece-
dent’s death or (2) the date of the sale of
such land subject to the conservation eas-
ment. If such agreement is not entered into
within this time, then those with an interest
in the land are personally liable for an addi-
tional tax, which is the amount of tax which
would have been due on the retained develop-
m ent rights subject to the termination
agreement.
the distance requirements. Under the bill, the distance within which the land must be situated from a metropolitan area, national park, or wilderness area is increased from 25 to 50 miles. The distance from which the land must be situated from an Urban National Forest is increased from 10 to 25 miles. The bill also clarifies that the date for determining easement compliance is the date on which the donation was made.

**Effective date.**—The provisions are effective for estates of decedents dying after December 31, 2000.

**SENATE AMENDMENT**

The Senate amendment expands availability of qualified conservation easements by eliminating the requirement that the land be adjacent to a certain distance from a metropolitan area, national park, wilderness area, or Urban National Forest. Thus, under the Senate amendment, a qualified conservation easement may be claimed with respect to any land that is located in the United States or its possessions. The Senate amendment also clarifies that the date for determining easement compliance is the date on which the donation was made.

**Effective date.**—The provisions are effective for estates of decedents dying after December 31, 2000.

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment.

**C. MODIFY GENERATION-SKIPPING TRANSFER PROVISIONS**

1. Deemed allocation of the generation-skipping transfer tax exemption to lifetime transfers to trusts that are not direct skips (sec. 601 of H.R. 8, sec. 561 of the Senate amendment, and sec. 2632 of the Code)

**PRESENT LAW**

A generation-skipping transfer tax generally is imposed on transfers, either directly or through a trust or similar arrangement, to a “skip person” (i.e., a beneficiary in a generation more than one generation below that of the transferor). Transfers subject to the generation-skipping transfer tax include direct skips, taxable terminations, and taxable distributions. An exemption of $1 million (indexed beginning in 1999; the inflation factor for 2000 is $1,085,000) is provided for each person making generation-skipping transfers. The exemption can be allocated by a transferor (or his or her executor of the transferor’s property).

A direct skip is any transfer subject to estate or gift tax of an interest in property to a skip person. A skip person may be a natural person or certain trusts. All persons assigned to the second or more remote generation below the transferor are skip persons (e.g., grandchildren and great-grandchildren). Trusts are skip persons if (1) all interests in the trust are held by skip persons, or (2) no person holds an interest in the trust and at no time can the transferor or the transferor’s estate (including distributions and terminations) be made to a non-skip person.

A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property. In the absence of such a termination, no distribution (including a distribution upon termination) may be made from the trust to a skip person. A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or direct skip).

The tax rate on generation-skipping transfers is the tax rate equal to the highest estate and gift tax rate in effect at the time of the transfer (55 percent under present law) multiplied by the “inclusion ratio.” The inclusion ratio with respect to any property transferred in a generation-skipping transfer indicates the amount of property that would be held by the individuals who would not have the persons to whom the property is transferred (i.e., a generation-skipping transfer exemption) allocated to a trust. The allocation of generation-skipping transfer tax exemption reduces the 55-percent tax rate on a generation-skipping transfer.

If an individual makes a direct skip during his or her lifetime, any unused generation-skipping transfer tax exemption is automatically allocated to the trust to the extent necessary to make the inclusion ratio for such property equal to zero. An individual can elect out of the automatic allocation for lifetime direct skips.

For lifetime transfers made to a trust that are not direct skips, the transferor must allocate generation-skipping transfer tax exemption—the allocation is not automatic. If generation-skipping transfer tax exemption is allocated on a timely-filed gift tax return, then the portion of the trust which is exempt from generation-skipping transfer tax is based on the value of the property at the time of the transfer. If, however, the allocation is not made on a timely-filed gift tax return, the portion of the trust which is exempt from generation-skipping transfer tax is based on the value of the property at the time the individual makes the unused generation-skipping transfer tax exemption was made.

Treas. Reg. sec. 26.2632-1(d) further provides that any unused generation-skipping transfer tax exemption has not been automatically allocated to transfers made during an individual’s life, is automatically allocated on the due date for filing the decedent’s estate tax return and retroactively to generation-skipping transfers made before that date, and is automatically allocated pro rata on the basis of the value of the property as finally determined for estate tax purposes, with the allocation occurring on the death of the transferor. The balance, if any, of unused generation-skipping transfer tax exemption is allocated pro rata, on the basis of the estate tax value of the nonexempt portion of the trust property (or in the case of trusts that are not included in the gross estate, on the basis of the date of death value of the trust) to trusts with respect to which a taxable termination may occur or from which a taxable distribution may be made.

**HOUSE BILL**

No provision. However, H.R. 8, as passed by the House provides that generation-skipping transfer tax exemption will be automatically allocated to transfers made during life that are “indirect skips.” An indirect skip is any transfer of property (other than a direct skip subject to the gift tax that is made to a generation-skipping transfer trust).

A generation-skipping transfer trust is defined as a trust that could have a generation-skipping transfer with respect to the transferor (e.g., a taxable termination or taxable distribution), unless:

(a) The trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons, or
(b) (a) or (b) above.

The trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons and who are living on the date of death of another person identified in the instrument (by name or by class) who is more than 10 years older than such individuals.

The trust instrument provides that, if one or more individuals who have not died on or before a date or event described in clause (1) or (2), more than 25 percent of the trust corpus either must be distributed to or may be withdrawn by such individuals or is subject to a general power of appointment exercisable by one or more of such individuals.

The trust is a trust any portion of which would be included in the gross estate of a non-skip person (other than the transferor) if such person died immediately after the transfer.

The trust is a charitable lead annuity trust or a charitable remainder annuity trust or a charitable unitrust.

The trust is a trust with respect to which a deduction was allowed under section 2522 for the amount of an interest in the form of the right to receive annual payments of a fixed or determinable amount.

If any individual makes an indirect skip during his or her lifetime, any unused portion of such individual’s generation-skipping transfer tax exemption is allocated to the property transferred to the extent necessary to make the best possible inclusion ratio for such property.

An individual can elect not to have the automatic allocation rules apply to any indirect skip, and such elections will be deemed timely if filed on a timely-filed gift tax return for the calendar year in which the transfer was made or deemed to have been made on any such later date if prescribed by the Treasury Secretary. An individual can elect not to have the automatic allocation rules apply to any or all transfers made by such individual to a particular trust and can elect to treat any trust as a generation-skipping transfer trust with respect to which there is no generation-skipping transfer tax exemption (sec. 601 of H.R. 8, sec. 561 of the Senate amendment, and sec. 2632 of the Code).

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment.

2. Retroactive allocation of the generation-skipping transfer tax exemption (sec. 601 of H.R. 8, sec. 561 of the Senate amendment, and sec. 2632 of the Code)

**PRESENT LAW**

A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property, or unless at no time after the termination a distribution (including a distribution upon termination) may be made from the trust to a skip person. A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or direct skip). If a transferor allocates generation-skipping transfer tax exemption to a trust or makes a taxable termination or taxable distribution, generation-skipping transfer tax may be avoided.
A transferee likely will not allocate generation-skipping transfer tax exemption to a trust that the transferee expects will benefit only non-skip persons. However, if a taxable term of ownership, for example, the transferee's child unexpectedly dies such that the trust terminates in favor of the transferee’s grandchild, and generation-skipping transfer tax exemption was allocated to a particular trust that the transferor did not have a taxable term of ownership (i.e., a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor’s grandparent or a grandparent of the transferee’s grandchild, and generation-skipping transfer tax exemption was allocated to a particular trust that the transferor did not have a taxable term of ownership (i.e., a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor’s grandparent or a grandparent of the transferee’s grandchild, and generation-skipping transfer tax exemption was allocated to a particular trust that the transferor did not have a taxable term of ownership), then the generation-skipping transfer tax exemption to a particular trust that the transferor did not have a taxable term of ownership (i.e., a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor’s grandparent or a grandparent of the transferee’s grandchild, and generation-skipping transfer tax exemption was allocated to a particular trust that the transferor did not have a taxable term of ownership), then the generation-skipping transfer tax exemption to a particular trust that the transferor did not have a taxable term of ownership, provided that generation-skipping transfer tax exemption is determined using estate tax values for allocations prior to the effective date of the provision in H.R. 8 and the Senate amendment.

The conference agreement follows the provision in H.R. 8 and the Senate amendment.

Securing of trusts holding property having a value of less than one, a severance is determined using estate tax values for allocations prior to the effective date of the provision in H.R. 8 and the Senate amendment.

The conference agreement follows the provision in H.R. 8 and the Senate amendment.

Securing of trusts holding property having a value of less than one, a severance is determined using estate tax values for allocations prior to the effective date of the provision in H.R. 8 and the Senate amendment.

The conference agreement follows the provision in H.R. 8 and the Senate amendment.

Under present law, the inclusion ratio is determined using gift tax values for allocations of generation-skipping transfer tax exemption to a trust that the transferor did not have a taxable term of ownership, provided that generation-skipping transfer tax exemption was allocated to a particular trust that the transferor did not have a taxable term of ownership, in accordance with the applicable fraction of the single applicable fraction under the rules for determining the inclusion ratio.

The conference agreement follows the provision in H.R. 8 and the Senate amendment.

Securing of trusts holding property having a value of less than one, a severance is determined using estate tax values for allocations prior to the effective date of the provision in H.R. 8 and the Senate amendment.

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Securing of trusts holding property having a value of less than one, a severance is determined using estate tax values for allocations prior to the effective date of the provision in H.R. 8 and the Senate amendment.

The conference agreement follows the provision in H.R. 8 and the Senate amendment.

Securing of trusts holding property having a value of less than one, a severance is determined using estate tax values for allocations prior to the effective date of the provision in H.R. 8 and the Senate amendment.
allocated to the extent it produces the low-
est possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances will be con-
sidered, including the duration of the interest con-
tained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems appropriate.

Effective provision applies to transfers subject to estate or gift tax made after December 31, 2000. No inference is in-
tended with respect to the availability of a rule of substantial compliance prior to the effective date of the provision.

SENATE AMENDMENT

The Senate amendment is the same as the provision in H.R. 8.

CONFERENCE AMENDMENT

The conference agreement follows H.R. 8 and the Senate amendment.

D. EXPAND AND MODIFY AVAILABILITY OF IN-
STALLMENT PAYMENT OF ESTATE TAX FOR
CLOSELY-HELD BUSINESSES (SEC. 701 OF H.R.
8, SECS. 571 AND 572 OF THE SENATE AMEND-
MENT, AND SEC. 6166 OF THE CODE)

PRESENT LAW

Under present law, the estate tax generally is due within nine months of a decedent’s death. However, an executor generally may elect to pay the tax attributable to an interest in a closely-held business in two or more installments (but no more than 10). An estate is eligible for payment of estate tax in installments if the value of the decedent’s interest in a closely-held business exceeds 35 percent of the decedent’s adjusted gross estate (i.e., the gross estate less certain deduc-
tions). If the election is made, the estate may defer payment of principal and pay only interest for the first five years, followed by up to 10 annual installments of principal and interest, on a time basis that effectively extends the time for paying estate tax by 14 years from the original due date of the estate tax.

A special two-percent interest rate applies to the amount of deferred estate tax attributable to the first $1 million (adjusted annually for inflation occurring after 1998; the inflation-adjusted amount for 2001 is $1,090,000) in the case of a closely-held business. The interest rate applicable to the amount of estate tax attributable to the taxable value of the closely-held business in ex-
cess of the first $1 million is 8 percent. The rate applicable to underpayments of tax under section 6621 (i.e., 45 percent of the Fed-
eral short-term rate plus 3 percentage points) on deferred interests is 6 percent. Interest is deductible. If stock in a holding company is non-readily tradable, if stock in a holding company is treated as business company stock for pur-
pposes of the installment payment provisions, the five-year deferral for principal and the 2-
percent interest rate do not apply. The value of any interest in a closely-held business does not include the value of that portion of such interest attributable to passive assets held by such business.

HOUSE BILL

No provision. However, H.R. 8, as passed by the House, expands the definition of a clos-
ely-held business for purposes of installment payment of estate tax. The bill increases the number of partners in a partnership and shareholders in a corpora-
tion that is considered a closely-held busi-
ness in which a decedent’s interest is held, and thus will qualify the estate for install-
ment payment of estate tax.

Effective date.—The provision is effective for decedents dying after December 31, 2001.

CONFERENCE AMENDMENT

The Senate amendment expands avail-
ability of the installment payment provi-
sions by providing that an estate of a dece-
dent with an interest in a qualifying lending and financing business, one that claims installment payment of estate tax. The bill also provides that an estate with an interest in a qualifying lending and financing business that claims installment payment of estate tax must make installment payments of es-
tate tax (which will include both principal and interest) relating to the interest in a qualifying lending and financing business over five years.

The Senate amendment also clarifies that the installment payment provisions require that, on the death of closely-held companies, not that of operating subsidiaries, must be non-readily tradable in order to qualify for installment payment of the estate tax. The bill also provides that an estate with a quali-
fying property interest held through holding companies that claims installment payment of estate tax must make all installment pay-
ments of estate tax (which will include both principal and interest) relating to a quali-
fying property interest held through holding companies over five years.

Effective date.—The provision is effective for decedents dying after December 31, 2001.

CONFERENCE AMENDMENT

The conference agreement includes the provision in H.R. 8 and the provisions in the Senate amendment.

VI. PENSION AND INDIVIDUAL RETIRE-
MENT ARRANGEMENT PROVISIONS

A. INDIVIDUAL RETIREMENT ARRANGEMENTS (“IRA”) (HOUSE BILL, SECS. 601-603 OF THE SENATE AMENDMENT AND SECS. 219, 408, AND 408A OF THE CODE)

PRESENT LAW

In general

There are two general types of individual retirement arrangements (“IRAs”) under present law: traditional IRAs, to which both deductible and nondeductible contributions may be made, and Roth IRAs. The Federal income tax rules regarding each type of IRA (and IRA contribution) differ.

For purposes of these rules, an interest in a closely-held business is: (1) an interest as a proprietor in a sole proprietorship, (2) an interest as a partner in a partnership carrying on a trade or business (in which a decedent held an interest, unless the partnership or the ownership of the business by decedent is subject to substantial compliance), or (3) stock in a corporation carrying on a trade or business (in which a decedent held an interest). A stock owned by a partnership and shareholders in a corporation, that is considered a closely-held business, in which a decedent held an interest, and thus will qualify the estate for installment payment of estate tax.

Under present law, an individual may make deductible contributions to an IRA up to the lesser of $2,000 or the individual’s compensa-
tion if neither the individual nor the individual’s spouse is a participant in an employer-sponsored retirement plan. In the case of a married couple, deductible IRA contributions of up to $2,000 can be made for each spouse (including the one who does not work outside the home), if the combined compensation of both spouses is at least equal to the contributed amount. If the individual (or the individual’s spouse) is an active participant in an em-
ployer-sponsored retirement plan, the $2,000 deduction limit is phased out for taxpayers whose modified gross income (“MGI”) over cer-
tain levels for the taxable year.

The AGI phase-out limits for taxpayers who are active participants in employer-
sponsored plans filing a separate return is $0 to $10,000.

To the extent an individual cannot or does not make deductible contributions to an IRA or contributions to a Roth IRA, the individual may make nondeductible contribu-
tions to a traditional IRA.

Amounts held in a traditional IRA are includible in income when withdrawn (except to the extent the withdrawal is a return of nondeductible contributions). Includible amounts withdrawn prior to attainment of age 59½ are subject to an additional 10-per-
cent early withdrawal tax, unless the with-
drawal is due to death or disability, is made in the form of certain periodic payments, is used to pay medical expenses in excess of 7.5 percent of AGI, is used to purchase health ins-
urance for an unemployed individual, is used for education expenses, or is used for first-
time homebuyer expenses of up to $10,000.

Roth IRAs

Individuals with AGI below certain limits may make nondeductible contributions to a Roth IRA. The maximum annual contribu-
tion that can be made to a Roth IRA is phased out for single individuals with AGI between

<table>
<thead>
<tr>
<th>Taxable years beginning in:</th>
<th>Phase-out range in:</th>
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<tbody>
<tr>
<td>2001</td>
<td>$33,000–$43,000</td>
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<tr>
<td>2002</td>
<td>34,000–$44,000</td>
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<td>2003</td>
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<td>2005</td>
<td>37,000–$60,000</td>
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<td>2006</td>
<td>38,000–$65,000</td>
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<tr>
<td>2007 and thereafter</td>
<td>39,000–$70,000</td>
</tr>
</tbody>
</table>

The AGI phase-out range for married tax-
ayers filing a separate return is $0 to $10,000.

If the individual is not an active partici-
 pant in an employer-sponsored retirement plan, but the individual’s spouse is, the $2,000 deduction limit is phased out for taxpayers with AGI between $150,000 and $160,000.

To the extent an individual cannot or does not make deductible contributions to an IRA or contributions to a Roth IRA, the individual may make nondeductible contribu-
tions to a traditional IRA.

Individuals with AGI below certain limits may make nondeductible contributions to a Roth IRA. The maximum annual contribu-
tion that can be made to a Roth IRA is phased out for single individuals with AGI between
$85,000 and $110,000 and for joint filers with AGI between $150,000 and $160,000. Taxpayers with modified AGI of $100,000 or less generally may convert a traditional IRA into a Roth IRA. If the amount converted is not includible in income as if a withdrawal had been made, except that the 10-percent early withdrawal tax does not apply and, if the conversion IRA is treated as a qualified plan, the IRA con-

The amount held in a Roth IRA that are withdrawn as a qualified distribution are not includible in income. All contributions are subject to the additional 10-percent early withdrawal tax on early withdrawals. A qualified distribution is a distribution that (1) is made after the five-taxable year period begins with the first taxable year for which the individual made a contribution to a Roth IRA, and (2) which is made after attainment of age 591⁄2 on account of death or disability, or is made for first-time homebuyer expenses of up to $10,000.

Distributions from a Roth IRA that are not qualified distributions are includible in income and are subject to the additional 10-percent early withdrawal tax, and subject to the 10-percent early withdrawal tax (unless an exception applies). The same exceptions to the early withdrawal tax that apply to Roth IRAs.

**Taxation of charitable contributions**

Generally, a taxpayer who itemizes deductions may deduct cash contributions to charity, as well as the fair market value of contributions of property. The amount of the de-

**increase in annual contribution limits**

The Senate amendment increases the maximum annual dollar contribution limit for IRA contributions from $2,000 to $2,500 for 2002 through 2005, $3,000 for 2006 and 2007, $3,500 for 2008 and 2009, $4,000 for 2010, and $4,500 for 2011 and thereafter. After 2011, the limit is adjusted annually for inflation in $500 incre-

**Additional catch-up contributions**

The Senate amendment provides that indi-

**Deemed IRAs under employer plans**

The Senate amendment provides that, if an eligible retirement plan permits employees to make voluntary employee contributions to a separate account or annuity that (1) is established under the plan, and (2) meets the requirements applicable to either traditional IRAs or Roth IRAs, the separate account or annuity is deemed a traditional IRA or Roth IRA, as applicable, for purposes of the Code. For example, the reporting re-

**Tax-free IRA withdrawals for charitable pur-

**Tax-free IRA withdrawals for charitable pur-

**Tax-free IRA withdrawals for charitable pur-

The Senate amendment provides that an individual who has attained age 50 may make additional catch-up IRA contributions. The otherwise maximum contribution limit (before application of the AGI phase-out limits) for an individual who has attained age 50 before the end of the taxable year is increased by $500 for 2002 through 2005, $1,000 for 2006 through 2009, $1,500 for 2010, and $2,000 for 2011 and thereafter.

**Deemed IRAs under employer plans**

The Senate amendment provides that, if an eligible retirement plan permits employees to make voluntary employee contributions to a separate account or annuity that (1) is established under the plan, and (2) meets the requirements applicable to either traditional IRAs or Roth IRAs, the separate account or annuity is deemed a traditional IRA or Roth IRA, as applicable, for purposes of the Code. For example, the reporting re-

**Effective date**

The Senate amendment is generally effec-

**Decrease in annual contribution limits**

The conference agreement increases the maximum annual dollar contribution limit for IRA contributions from $2,000 to $3,000 for 2002 through 2004, $4,000 for 2005 through 2007, and $5,000 for 2008. After 2008, the limit is adjusted annually for inflation in $500 incre-

**Additional catch-up contributions**

The conference agreement provides that individ-

**Tax-free IRA withdrawals for charitable pur-

The Senate amendment provides that an individual who has attained age 50 may make additional catch-up IRA contributions. The otherwise maximum contribution limit (before application of the AGI phase-out limits) for an individual who has attained age 50 before the end of the taxable year is increased by $500 for 2002 through 2005, and $1,000 for 2006 and thereafter.

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56 Early distribution of converted amounts may also accelerate income inclusion of converted amounts as if the distributions are available under the four-year rule applicable to 1998 conversions.
The conference agreement follows the Senate amendment.

Effective date

The conference agreement is generally effective for taxable years beginning after December 31, 2001. The provision relating to deemed IRAs under employer plans is effective for plan years beginning after December 31, 2002.

B. PENSION PROVISIONS

1. Expanding Coverage

(a) Increase in benefit and contribution limits (sec. 201 and 209 of the House bill, sec. 611 of the Senate amendment, and secs. 401(a)(17), 401(c)(2), 402(g), 408(p), 415 and 457 of the Code)

In general

Present law imposes limits on contributions and benefits under qualified plans (sec. 415), the amount of compensation that may be taken into account under a plan for determining contributions and benefits under a plan, the amount of elective deferrals that an individual may make to a qualified cash or deferred arrangement (a “section 401(k) plan”), a tax-sheltered annuity (“section 403(b) annuity”) or a salary reduction simplified employee pension plan (“SEP”) (1999). The maximum annual amount of elective deferrals that an individual may make to a SIMPLE plan is $6,500 (for 2001). These limits are indexed for inflation in $500 increments.

Section 457 plans

The maximum annual deferral under a deferred compensation plan of a State or local government or a tax-exempt organization (a “section 457 plan”) is the lesser of (1) $6,500 in 2001 and reduced for benefit commencement after age 62, and (2) $3,000 (for 2001). The maximum annual amount of elective deferrals that an individual may make to a SIMPLE plan is $6,500 (for 2001). These limits are indexed for inflation in $500 increments.

Section 475 plans

The maximum annual deferral under a deferred compensation plan of a State or local government or a tax-exempt organization (a “section 457 plan”) is the lesser of (1) $6,500 in 2001 and reduced for benefit commencement after age 62, and (2) $3,000 (for 2001). The maximum annual amount of elective deferrals that an individual may make to a SIMPLE plan is $6,500 (for 2001). These limits are indexed for inflation in $500 increments.

2. Limitations on contributions and benefits

Under present law, the limits on contributions and benefits under qualified plans are based on the type of plan. Under a defined contribution plan, the qualification rules limit the annual additions to the plan with respect to each participant to the lesser of (1) 25 percent of compensation or (2) $25,000 (for 2001). Annual additions are the sum of employer contributions, employee contributions, and forfeitures with respect to an individual under all defined contribution plans of the same employer. The $25,000 limit is indexed for cost-of-living increases in $5,000 increments.

Under a defined benefit plan, the maximum annual benefit payable at retirement is generally the lesser of (1) 100 percent of average compensation ($35,000 for 2001) and (2) $200,000 (for 2001). The dollar limit is adjusted for cost-of-living increases in $5,000 increments.

Under present law, in general, the dollar limit on annual additions to a defined contribution plan to $160,000. The dollar limit is reduced for benefit commencement before age 62 and increased for benefit commencement after age 65. In adopting rules regarding the application of the defined benefit plan limits under the House bill, it is intended that the Secretary will apply rules similar to those adopted in Notice 99-14 re: the repeal of the combination of the combined plan limit under former section 415(e). Thus, for example, a defined benefit plan could provide for benefit increases to reflect the provisions of the House bill for a current or former employee who has commenced benefits under the plan prior to the effective date of the bill if the employee commenced benefit under the plan (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in the section 415 limits under the House bill). Therefore, the maximum amount of permitted increase is generally the amount that could have been provided had the provisions of the House bill been in effect at the time of the commencement of benefit. In no case may benefits reflect increases that could not be paid prior to the effective date of the bill because of the limits in effect under present law. In addition, in no case may plan amendments providing increased benefits under the relevant provision of the House bill be effective prior to the effective date of the House bill.

Compensation limitation

The House bill includes the limit on compensation that may be taken into account under a plan to $200,000. This amount is indexed in $5,000 increments. The House bill also amends the definition of compensation for purposes of all qualified plans and IRAs (including SIMPLE plans) to include an individual’s net earnings that would be subject to SECA taxes but for the fact that the individual is covered by a religious exemption.

Elective deferral limitations

The House bill increases the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs to $11,000 in 2002. In 2003 and thereafter, the limits are increased in $1,000 annual increments until the limits reach $15,000 in 2006, with indexing in $500 increments thereafter. The House bill increases the maximum annual elective deferrals that may be made to a SIMPLE plan to $7,000 in 2002. In 2003 and thereafter, the SIMPLE plan deferral limit is increased in $1,000 annual increments until the limit reaches $10,000 in 2005. Beginning after 2005, the $10,000 dollar limit is indexed in $500 increments.

Effective date

The House bill is effective for years beginning after December 31, 2001.

SENATE AMENDMENT

Limits on contributions and benefits

The Senate amendment provides faster annual indexing for the $35,000 annual limit on annual additions to a defined contribution plan. Under the Senate amendment this limit amount is adjusted annually for increases in $5,000 increments.

The Senate amendment increases the $140,000 annual benefit limit under a defined benefit plan to $160,000 for 2002 through 2004 and to $170,000 for 2005 and thereafter. The dollar limit is reduced for benefit commencement before age 62 and increased for benefit commencement after age 65.

Compensation limitation

The Senate amendment increases the limit on compensation that may be taken into account under a plan to $180,000 for 2002, $190,000 for 2003, and $200,000 for 2004 and 2005. After 2005, this amount is adjusted annually for inflation in $5,000 increments.

Elective deferral limitations

In 2002, the Senate amendment increases the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs to $11,000 in 2002. In 2003 and thereafter, the limits increase in $500 annual increments until the limits reach $15,000 in 2006, with indexing in $500 increments thereafter. The Senate amendment increases the maximum annual elective deferrals that may be made to a SIMPLE plan to $7,000 for 2002 and 2003.
8,000 for 2004 and 2005, $9,000 for 2006 and
2007, and $10,000 for 2008. After 2008, the
$10,000 dollar limit is adjusted annually for
inflation in $500 increments.

Section 457 plans*

The dollar limit on deerrals under a sec-
section 457 plan is increased to $9,000 in 2002,
and is increased in $500 annual increments
thereafter until the limit reaches $11,000 in 2006.
If the limit is reached and increased in $1,000 annual increments until it reaches
$15,000 in 2010. After 2010, the limit is ad-
justed annually for inflation thereafter in
$500 increments. The limit is twice the other-
wise applicable dollar limit in the three years
prior to retirement.63

EFFECTIVE DATE

The Senate amendment is effective for years

CONFERENCE AGREEMENT

Limits on contributions and benefits

The conference agreement follows the
House bill.

Compensation limitation

The conference agreement follows the
House bill.

Electoral reform limitations

The conference agreement follows the
House bill.

Section 457 plans

The conference agreement follows the
House bill.

Effective date

The conference agreement generally is ef-
fective for years beginning after December
31, 2001. The provisions relating to defined
benefit plans are effective for years ending

(a) Plan loans for 8 corporation share-
holders, partners, and sole proprietors
(see 202 of the House bill, sec. 612 of the
Senate amendment, and sec. 4975 of the
Code)

PRESENT LAW

The Internal Revenue Code prohibits cer-
tain transactions ("prohibited trans-
actions") between a qualified plan and a dis-
qualified person in order to prevent persons with a close relationship to the qualified
plan from using that relationship to the det-
iment of plan participants and bene-
ficiaries. Certain types of transactions are exempted from the prohibited transaction
rules, including loans from the plan to plan
participants, if certain requirements are satis-
fied. In addition, the Secretary of Labor
may grant an administrative exemption from
the prohibited transaction rules if the Secre-
tary finds the exemption is administratively
feasible, in the interest of the plan and
plan participants and beneficiaries, and
protective of the rights of participants and
beneficiaries of the plan. Pursuant to this
citation process, the Secretary of Labor
grants exemptions both with respect to spe-
cific transactions and classes of trans-
actions.

The statutory exemptions to the pro-
hibited transaction rules do not apply to certain
transactions in which the plan makes a loan
to an owner-employee.60 Loans to partici-
pants other than owner-employees are per-
mitted if loans are available to all partici-
pants on a reasonably equivalent basis, are
not made available to highly compensated
employees in an amount greater than made
available to other employees, are made in
accordance with specific provisions in the
plan, bear a reasonable rate of interest, and
are adequately secured. In addition, the Code
places limits on the amount of loans and re-
payment terms.

For purposes of the prohibited transaction
rules, an owner-employee means (1) a sole
proprietor, (2) a partner who owns more than
10 percent of either the capital interest or
the profits interest in the partnership, (3) a
employee or officer of a Subchapter C cor-
poration who owns more than five percent of
the outstanding stock of the corporation, and
(4) the actual retirement arrangement ("IRA"). The term owner-
employee also includes certain family members
of an owner-employee and certain corpora-
tions owned by an owner-employee.

Under the Internal Revenue Code, a two-
tier excise tax is imposed on disqualified per-
sons who engage in a prohibited transaction.
The first level tax is equal to 15 percent of
the amount involved in the transaction. The
second level tax is imposed if the prohibited
transaction is not corrected within a certain
period, and is equal to 100 percent of the
amount involved.

HOUSE BILL

The House bill generally eliminates the
special present-law rules relating to plan
loans made to owner-employees (other than
than the owner of an IRA). Thus, the general
statutory exemption applies to such trans-
actions. Present-law continues to apply with
respect to IRAs.

Effective date.—The House bill is effective
with respect to years beginning after Decem-

SENATE AMENDMENT

The Senate amendment is the same as the
House bill.

CONFERENCE AGREEMENT

In general

Under present law, additional qualification
requirements apply to plans that primarily
benefit an employer's key employees ("top-
heavy plans"). These additional require-
ments provide (1) one more vesting option for
plan participants who are nonkey employees
and (2) minimum nonintegrated employer con-
tributions for other plan participants who are non-key employees.

Definition of top-heavy plan

A defined benefit plan is a top-heavy plan if
more than 50 percent of the cumulative ac-
tive compensation limit to 100 percent.

63 Another provision increases the 33 1⁄3
percentage of compensation limit to 100 percent.

64 Title I of the Employee Retirement Income
Security Act of 1974, as amended ("ERISA"), also
contains prohibited transaction rules. The Code and
ERISA provisions are substantially similar, al-
though not identical.

65 Certain transactions involving a plan and 8 cor-
poration shareholders are permitted.

Top-heavy vesting

Benefits under a top-heavy plan must vest at least as rapidly as under one of the following schedules: (1) three-year cliff vesting, which provides for 100 percent vesting after three years; (2) a three-year graduated vesting, which provides for 20 percent vesting after two years of service, and 20 percent more each year thereafter so that a participant is fully vested after six years of service.68

Qualified cash or deferred arrangements

Under a qualified cash or deferred arrangement (a “section 401(k) plan”), an employer may make payments to the employee as contributions to a qualified plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals. A special nondiscrimination test applies to elective deferrals under cash or deferred arrangements, which compares the elective deferrals of highly compensated employees with elective deferrals of nonhighly compensated employees. (This test is called the actual deferral percentage test or the “ACP” test.)

Under a design-based safe harbor, a cash or deferred arrangement is deemed to satisfy the ACP if the employer makes payments as contributions to a qualified plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals. A special nondiscrimination test applies to elective deferrals under cash or deferred arrangements, which compares the elective deferrals of highly compensated employees with elective deferrals of nonhighly compensated employees. (This test is called the actual deferral percentage test or the “ACP” test.)

Effective date.—The Senate amendment is effective for years beginning after December 31, 2001.

CONGRESSional Record—House
limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan does not take into account elective deferral contributions.

Effective date.—The House bill is effective for years beginning after December 31, 2001.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, with the following modification.

Under the Senate amendment, the applicable percentage of elective deferral contributions is the deductible plan limit, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan does not take into account the applicable percentage of elective deferral contributions. The applicable percentage is 25 percent for 2002 through 2010, and 100 percent for 2011 and thereafter.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

(e) Repeal of coordination requirements for deferred compensation plans of state and local governments and tax-exempt organizations (sec. 205 of the House bill, sec. 615 of the Senate amendment, and sec. 457 of the Code)

PRESENT LAW

Compensation deferred under an eligible deferred compensation plan of a tax-exempt or State and local government employer (a “section 457 plan”) is not includible in gross income until paid or made available. In general, the maximum permitted annual deferral under such a plan is the lesser of (1) $8,500 (in 2001) or (2) 33 1/3 percent of compensation. The $8,500 limit is increased for inflation in $500 increments. Under a special catch-up rule, a section 457 plan may provide that, for one or more of the participant’s last three years before retirement, the otherwise applicable limit is increased to the lesser of (1) $15,000 or (2) the sum of the otherwise applicable limit for the year plus the amount by which the limit applicable in preceding years of participation exceeded the deferrals for that year.

The $8,500 limit (as modified under the catch-up rule) applies to all deferrals under all section 457 plans for which the individual participates. In addition, in applying the $8,500 limit, contributions under a tax-sheltered annuity (“section 403(b) annuity”), elective deferrals of a qualified cash or deferred arrangement (“section 401(k) plan”), salary reduction contributions under a simplified employee pension plan (“SEP”), and contributions under a SIMPLE plan are taken into account. Further, the amount deferred under a section 457 plan is taken into account in applying a special catch-up rule for section 403(b) annuities.

HOUSE BILL

The House bill repeals the rules coordinating the section 457 dollar limit with contributions under other types of plans.70

Effective date.—The House bill is effective for years beginning after December 31, 2001.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

(f) Eliminate IRS user fees for certain determination letter requests regarding employer plans (sec. 206 of the House bill and sec. 621 of the Senate amendment)

PRESENT LAW

An employer that maintains a retirement plan for the benefit of its employees may request from the IRS a determination as to whether the form of the plan satisfies the requirements applicable to tax-qualified plans (sec. 401(a)). In order to obtain from the IRS a determination letter on the qualified status of the plan, the employer must pay a user fee. The user fee applicable for various types of requests, subject to statutory minimum requirements for a determination letter, is in the category of the category of the request. The user fee may range from $125 to $2,150, depending upon the scope of the request and the type and format of the plan.71

Present law provides that plans that do not meet the qualification requirements will be treated as meeting such requirements if appropriate retroactive plan amendments are made during the remedial amendment period. In general, the remedial amendment period ends on the due date for the employer’s tax return (including extensions) for the tax-able year in which giving rise to the disqualifying provision occurred (e.g., a plan amendment or a change in the law). The Secretary may for general extensions of the remedial amendment period or for extensions in certain cases. For example, the remedial amendment period with respect to amendments relating to the qualification requirements affected by the General Agreement on Tariffs and Trade, the Uniformed Services Employment and Reemployment Rights Act of 1994, the Small Business Job Protection Act, the Worker Adjustment and Retraining Assistance Act of 1988, the Family and Medical Leave Act of 1993, and the Internal Revenue Service Restructuring and Reform Act of 1998 generally ends the last day of the first plan year beginning on or after January 1, 2001.72

A small employer (100 or fewer employees) is not required to pay a user fee for a determination letter request with respect to the qualified status of a retirement plan that the employer maintains if the request is made before the later of (1) the last day of the fifth plan year of the plan or (2) the end of any applicable remedial amendment period with respect to the plan that precedes the end of the fifth plan year of the plan. In addition, determination letter requests for which user fees are not required under the House bill are not taken into account in averaging average user fees. The House bill applies only to requests by employers for determination letters concerning the qualified status of a retirement plan that the employer maintains if the request is made before the later of (1) the last day of the fifth plan year of the plan or (2) the end of any applicable remedial amendment period with respect to the plan that precedes the end of the fifth plan year of the plan.

The user fee may range from $125 to $2,150, depending upon the scope of the request and the type and format of the plan.

HOUSE BILL

The House bill is effective for determination letter requests made after December 31, 2001.


Senate Amendment

The Senate amendment is the same as the House bill, with the following modifications. An employer is not required to pay a user fee for a ruling letter or similar request with respect to the qualified status of a new retirement plan that the employer maintains with respect to which it has not previously made a request. An employer is eligible under the Senate amendment if (1) the employer has no more than 100 employees, (2) the employer has at least one non-highly compensated employee who is participating in the plan, and (3) during the three-taxable year period immediately preceding the calendar year for which the request is made, neither the employer nor a related employer established or maintained a qualified plan with respect to which contributions are deductible up to substantially the same employees covered under the plan with respect to which the request is made.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the following modification. An employer is eligible under the conference agreement if the employer has no more than 100 employees and has at least one non-highly compensated employee who is participating in the plan.

(g) Deduction limits (sec. 207 of the House bill, sec. 616 of the Senate amendment, and sec. 404 of the Code)

PRESENT LAW

Employer contributions to one or more qualified retirement plans are deductible up to 25 percent of compensation and, thus, are subject to the total deduction for all plans for a plan year. Subject to certain exceptions, nondeductible contributions are subject to a 10-percent excise tax.

In the case of a defined benefit pension plan or a money purchase pension plan, the employer generally may deduct the amount necessary to satisfy the minimum funding cost of the plan for the year. If a defined benefit pension plan has more than 100 participants, the maximum amount deductible is at least equal to the plan’s unfunded current liabilities.

In some cases, the amount of deductible contributions is limited. In the case of a profit-sharing or stock bonus plan, the employer generally may deduct an amount equal to 15 percent of compensation for employees covered by the plan for the year.

If an employer sponsors both a defined benefit pension plan and a defined contribution plan that covers some of the same employees (or a money purchase pension plan and another kind of defined contribution plan), the total deduction for all plans for a plan year generally is limited to the greater of (1) 25 percent of compensation or (2) the contribution necessary to meet the minimum funding requirements of the defined benefit pension plan for the year (or a money purchase plan’s unfunded current liabilities, in the case of a plan with more than 100 participants).

In the case of an employee stock ownership plan (“ESOP”), principal payments on a loan used to acquire qualifying employer securities are deductible up to 25 percent of compensation.

For purposes of the deduction limits, employee elective deferral contributions to a qualified cash or deferred arrangement (“section 401(k) plan”) are taxable contributions and, thus, are subject to the generally applicable deduction limits.73

73 Another provision of the House bill provides that elective deferrals are not subject to the deduction limits.
For purposes of the deduction limits, compensation means the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the plan, and the beneficiaries of a profit-sharing or stock bonus plan are the employees who benefit under the plan with respect to the employer's contributions.

An employee who is eligible to make elective deferrals under a section 401(k) plan is treated as making contributions under a section 403(b) annuity plan as long as the employee makes contributions to a section 403(b) annuity plan, or a qualified cash or deferred arrangement under section 404(a) that is treated as a section 403(b) annuity plan.

Under the Senate bill, the definition of compensation for purposes of the deduction rules includes salary reduction amounts that are treated as compensation under section 415.

Under the conference agreement, a qualified cash or deferred arrangement that is treated as a section 403(b) annuity plan is treated as a section 404(a) plan.

Effective date.—The Senate amendment is effective for years beginning after December 31, 2001.

Under the Senate amendment, the definition of compensation for purposes of the deduction rules includes the annual dollar limitation on salary reduction amounts treated as compensation under section 415. In addition, the annual limitation on the amount of deductible contributions to a profit-sharing or stock bonus plan is increased from 15 percent to 25 percent of compensation of the employees covered by the plan for the year.

Effective date.—The Senate amendment is effective for years beginning after December 31, 2001.

Under the Senate amendment, the definition of compensation for purposes of the deduction rules includes the annual dollar limitation on salary reduction amounts treated as compensation under section 415. In addition, the annual limitation on the amount of deductible contributions to a profit-sharing or stock bonus plan is increased from 15 percent to 25 percent of compensation of the employees covered by the plan for the year. Also, except to the extent provided in regulations, a money purchase pension plan is treated like a profit-sharing or stock bonus plan for purposes of the deduction rules.

Effective date.—The Senate amendment is effective for years beginning after December 31, 2001.

The conference agreement follows the Senate amendment.

(b) Option to treat elective deferrals as after-tax contributions (sec. 208 of the bill, sec. 617 of the Senate amendment, and new sec. 402A of the Code)

A qualified cash or deferred arrangement ("section 401(k) plan") or a tax-sheltered annuity ("section 403(b) annuity") may permit a participant to elect to have all or a portion of the participant's contributions under the plan treated as designated plus contributions. Designated plus contributions are elective deferrals that the participant designates as designated plus contributions (at such time and in such manner as the Secretary may prescribe) as nonforfeitable and are subject to the annual dollar limitation (section 402(g)) and distribution restrictions. In addition, elective deferrals under section 401(k) and section 403(b) plans are nonforfeitable requirements and distribution restrictions.

Elective deferrals under section 401(k) plans are treated as being made to a section 403(b) annuity plan, and designated plus contributions are treated as being made to a section 403(b) annuity plan, or a qualified cash or deferred arrangement under section 404(a) that is treated as a section 403(b) annuity plan.

Elective deferrals for a taxable year that exceed the annual dollar limitation ("excess deferrals") are includible in gross income for the taxable year. If an employee makes elective deferrals for a taxable year that exceed the annual dollar limitation, then the plan may provide for the distribution of the excess deferral in a single payment that is allocable to the excess deferral, the excess deferral may be distributed in a series of payments that are allocable to the excess deferral, or the excess deferral may be distributed in an annuity that is allocable to the excess deferral.

For purposes of the deduction limits, compensation generally includes only taxable compensation, and thus does not include salary reduction amounts, such as elective deferrals under a section 401(k) plan or a tax-sheltered annuity ("section 403(b) annuity"), elective contributions under a deferred compensation plan of a tax-exempt organization or a State or local government ("section 408P plan"), and salary reduction contributions under a section 125 cafeteria plan. For purposes of the contribution limits under section 415, compensation does include such salary reduction amounts.

Elective deferrals for a taxable year that exceed the annual dollar limitation ("excess deferrals") are includible in gross income for the taxable year. If an employee makes elective deferrals for a taxable year that exceed the annual dollar limitation, then the plan may provide for the distribution of the excess deferral in a single payment that is allocable to the excess deferral, the excess deferral may be distributed in a series of payments that are allocable to the excess deferral, or the excess deferral may be distributed in an annuity that is allocable to the excess deferral.

For purposes of the deduction limits, compensation generally includes only taxable compensation, and thus does not include salary reduction amounts, such as elective deferrals under a section 401(k) plan or a tax-sheltered annuity ("section 403(b) annuity"), elective contributions under a deferred compensation plan of a tax-exempt organization or a State or local government ("section 408P plan"), and salary reduction contributions under a section 125 cafeteria plan. For purposes of the contribution limits under section 415, compensation does include such salary reduction amounts.

Elective deferrals for a taxable year that exceed the annual dollar limitation ("excess deferrals") are includible in gross income for the taxable year. If an employee makes elective deferrals for a taxable year that exceed the annual dollar limitation, then the plan may provide for the distribution of the excess deferral in a single payment that is allocable to the excess deferral, the excess deferral may be distributed in a series of payments that are allocable to the excess deferral, or the excess deferral may be distributed in an annuity that is allocable to the excess deferral.

For purposes of the deduction limits, compensation generally includes only taxable compensation, and thus does not include salary reduction amounts, such as elective deferrals under a section 401(k) plan or a tax-sheltered annuity ("section 403(b) annuity"), elective contributions under a deferred compensation plan of a tax-exempt organization or a State or local government ("section 408P plan"), and salary reduction contributions under a section 125 cafeteria plan. For purposes of the contribution limits under section 415, compensation does include such salary reduction amounts.

Elective deferrals for a taxable year that exceed the annual dollar limitation ("excess deferrals") are includible in gross income for the taxable year. If an employee makes elective deferrals for a taxable year that exceed the annual dollar limitation, then the plan may provide for the distribution of the excess deferral in a single payment that is allocable to the excess deferral, the excess deferral may be distributed in a series of payments that are allocable to the excess deferral, or the excess deferral may be distributed in an annuity that is allocable to the excess deferral.

For purposes of the deduction limits, compensation generally includes only taxable compensation, and thus does not include salary reduction amounts, such as elective deferrals under a section 401(k) plan or a tax-sheltered annuity ("section 403(b) annuity"), elective contributions under a deferred compensation plan of a tax-exempt organization or a State or local government ("section 408P plan"), and salary reduction contributions under a section 125 cafeteria plan. For purposes of the contribution limits under section 415, compensation does include such salary reduction amounts.
A participant is permitted to roll over a distribution from a designated plus contributions account only to another designated plus contributions account or a Roth IRA of the participant.

The Secretary of the Treasury is directed to require the plan administrator of each section 401(k) plan or section 403(b) annuity that permits participants to make designated plus contributions to make such returns and reports regarding designated plus contributions to the Secretary, plan participants and beneficiaries, and other persons that the Secretary may designate.

Effective date.—The House bill is effective for taxable years beginning after December 31, 2001.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the Senate amendment refers to designated plus contributions as “Roth contributions.”

Effective date.—The Senate amendment is effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with a modification of the effective date.

Effective date.—The conference agreement is effective for taxable years beginning after December 31, 2003.

(i) Certain nonresident aliens excluded in applying minimum coverage requirements (sec. 610(b), a qualified plan must benefit a minimum number of the employer’s nonresident alien employees performing services in the United States and a foreign country or a possession of the United States, or a nonresident alien employee or individual has reached age 59 1/2 or whose employer or individual has reached age 59 1/2 and the employee or individual is engaged in transportation between the United States and a foreign country or is a member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States. However, this special rule does not apply for purposes of qualified retirement plans, employer-provided group-term life insurance, and employer-provided health plans. Therefore, such compensation is not treated as U.S. source income for any purpose under such plans, including the application of the qualified retirement plan minimum coverage and nondiscrimination requirements.

Effective date.—The Senate amendment is effective with respect to plan years beginning after December 31, 2001.

HOUSE BILL

For purposes of the application of the minimum coverage requirements (see 410(b)), compensation is not treated as U.S. source income if the compensation is paid for labor or services performed by a nonresident alien in connection with the individual’s temporary presence in the United States as a part of a crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States and the individual is not an active participant in certain employer-sponsored retirement plans. Contributions to a Roth IRA are not deductible from gross income, regardless of adjusted gross income. A distribution from a traditional IRA is includable in the individual’s gross income except with respect to the extent of the individual’s adjusted gross income made on a nondeductible basis. A qualified distribution from a Roth IRA is excludable from gross income.

TAXABLE DISTRIBUTIONS MADE BY ELIGIBLE TAXPAYERS TO A QUALIFIED RETIREMENT PLAN OR IRA

The Senate amendment provides a temporary nonrefundable tax credit for contributions made by eligible taxpayers to a qualified retirement plan or IRA. The maximum annual contribution eligible for the credit is $2,000. The credit rate depends on the adjusted gross income (“AGI”) of the taxpayer. Only joint returns with AGI of $90,000 or less, head of household returns of $57,500 or less, and single returns of $25,000 or less are eligible for the credit. The AGI limits applicable to single taxpayers apply to married couples filing separately.

Effective date.—The Senate amendment is effective for taxable years beginning after December 31, 2001.

The Senate amendment directs the Secretary of the Treasury to report annually to the Senate Finance Committee and the House Committee on Ways and Means regarding the number of individuals who claim the credit.

Effective date.—The Senate amendment is effective for taxable years beginning after December 31, 2001, and before January 1, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.
The timing of an employer's deduction for compensation paid to an employee generally corresponds to the employee's recognition of the compensation. However, an employer that contributes to a qualified retirement plan may obtain a deduction (within certain limits) for the employer's contribution to the plan on behalf of an employee even though the employee does not recognize income with respect to the contribution until the amount is distributed to the employee.

No provision. House bill

The Senate amendment provides a nonrefundable income tax credit for small employers equal to 50 percent of certain qualifying employer contributions made to qualified retirement plans on behalf of nonhighly compensated employees. The credit is not available with respect to contributions to a SIMPLE IRA or SEP. For purposes of the Senate amendment, a small employer means an employer with no more than 20 employees who received at least $5,000 of earnings in the preceding year. A nonhighly compensated employee is defined as an employee who neither the employer nor the employer's parent owns 5 percent or more of the common stock or capital stock of the employer at any time during the current year or the preceding year, or (2) for the preceding year, had compensation in excess of $50,000 (adjusted annually for inflation). That amount is $85,000 for 2001.82 The credit is available for the first three plan years of the plan.83

The Senate amendment requires a small employer to make nonelective contributions to a SIMPLE plan equal to at least one percent of compensation to qualify for the credit. The credit applies to both qualifying nonelective employer contributions and qualifying employer matching contributions, but only up to a total of three percent of the nonhighly compensated employee's compensation. The credit is available for 50 percent of qualifying benefit accruals under a nonintegrated defined benefit plan if the benefits are equivalent, as defined in regulations, to a three-year cliff vesting schedule. The credit is available for a nonelective contribution to a defined contribution plan.

To qualify for the credit, the nonelective and matching contributions to a defined contribution plan that are effective for the benefit accruals under a defined benefit plan that are required to vest at least as rapidly as under either a three-year cliff vesting schedule or a graded schedule that provides 20 percent vesting per year for the first five years. In order to qualify for the credit, contributions to plans other than pension plans must be subject to the same distribution restrictions that apply to qualified nonelective employer contributions in a section 401(k) plan, i.e., distribution only upon separation from service, death, disability, attainment of age 59½, plan termination without a successor plan, or acquisition of control of the employer.84

Forfeited nonelective qualifying contributions or accruals for which the credit was claimed generally result in recapture of the credit at a rate of 35 percent. However, recapture does not apply to the extent that forfeitures of contributions are reallocated to nonhighly compensated employees or applied to future contributions on behalf of nonhighly compensated employees. The Secretary of the Treasury is authorized to issue administrative guidance concerning the recapture rules, to simplify or facilitate claiming and recapturing the credit.

The credit is a general business credit.85 The 50 percent of nonelective contributions that are effectively offset by the tax credit are not deductible; the other 50 percent of the qualifying contributions (and other contributions) are deductible to the extent permitted under present law.

Effective date.—The Senate amendment is effective with respect to contributions paid or incurred in taxable years beginning after December 31, 2001.

Conference agreement

The conference agreement follows the Senate amendment.

H2787

Elective deferral limitations

Under present law, after certain salary reduction arrangements, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee in the form of nonelective salary reduction contributions. The credit is not available if the contributions are not deductible; the other 50 percent of the qualifying expenses (and other expenses) are deductible to the extent permitted under present law.

Effective date.—The Senate amendment is effective with respect to costs paid or incurred in taxable years beginning after December 31, 2001, with respect to plans established after such date.

Conference agreement

The conference agreement follows the Senate amendment.

2. Enhancing Fairness for Women

(a) Additional salary reduction catch-up contributions (sec. 301 of the House bill, sec. 631 of the Senate amendment, and sec. 414 of the Code)

Present law

The maximum annual amount of elective deferrals that an individual may make to a qualified cash or deferred arrangement (a ‘‘401(k) plan’’), a tax-sheltered annuity (‘‘section 403(b) annuity’’) or a salary reduction simplified employee pension plan (‘‘SEP’’) is $10,500 (for 2001). The maximum annual amount of elective deferrals that an individual may make to a SIMPLE plan is $6,500 (for 2001). These limits are indexed for inflation in $500 increments.

Section 457 plans

The maximum annual deferral under a deferred compensation plan of a State or local government or a tax-exempt organization (a ‘‘section 457 plan’’) is the lesser of (1) $25,000 (for 2001) or (2) 33–1/3 percent of compensation. The $25,000 dollar limit is increased for individuals who are members of the military, the federal government or a tax-exempt organization. Under a special catch-up rule, the section 457 plan may provide that, for one or more of the participant's last three years before retirement, the otherwise applicable limit is increased to the lesser of $15,000 or (2) the sum of the otherwise applicable limit for the year plus the amount by which the limit applicable in preceding years of participation exceeded the deferrals for that year.

House bill

The House bill provides that the otherwise applicable dollar limit on elective deferrals under a section 401(k) plan, section 403(b) annuity, section 403(b) SEP, or SIMPLE plan is $15,000. Under a section 457 plan are increased for individuals who have attained age 50 by the end of the year.87 Additional contributions are permitted an individual who has attained age 50 before the end of the plan year and with respect to whom no other elective deferrals may otherwise be made to the plan for the year because of the otherwise applicable limit of the Code (e.g., the annual limit on elective deferrals) or of the plan. Under the House bill, the additional amount of elective

82The top paid group election, which under present law permits the employer to classify an employee as a nonhighly compensated employee if the employee had compensation in excess of $80,000 (adjusted annually for inflation) in each of the three preceding years that was not among the top 20 percent of employees of the employer ranked on the basis of compensation paid to employees during the preceding year, is not taken into account in determining nonhighly compensated employees for purposes of the Senate amendment.

83The credit only applies if the employer has not had another qualified retirement plan in the prior three taxable years with respect to which contributions or accruals were made for substantially the same employees. It is intended that a plan will be for substantially the same employees if half or more of the employees for whom contributions or accruals are made under the new plan are employees for whom contributions or accruals were made under a prior plan.

84The rules relating to distribution upon separation from service are modified under another provision of the Senate amendment.

85The credit cannot be carried back to years before the effective date.

86Another provision of the House bill increases the dollar limit on elective deferrals under such arrangements.
contributions that are permitted to be made by an eligible individual participating in such a plan is the lesser of (1) $5,000, or (2) the participant’s compensation for the year reduced by any other elective deferrals of the participant for the year. This $5,000 amount is indexed for inflation in $500 increments in 2007 and thereafter.

Catch-up contributions made under the House bill are not subject to any other contribution limits and are not taken into account in applying other contribution limits. Such contributions are subject to applicable nondiscrimination rules. Although catch-up contributions are subject to applicable nondiscrimination rules, a plan does not fail to meet the terms of the plan, the maximum permitted deferral is 10 percent of compensation or, in B’s case, $3,000. Under the provision, B can contribute up to $15,000 for the year ($3,000 under the normal operation of the plan, and an additional $7,500 under the provision).

Effective date.—The Senate bill is effective for taxable years beginning after December 31, 2001.

SENATE AMENDMENT

The Senate amendment provides that the otherwise applicable dollar limit on elective deferrals under a section 401(k) plan, section 403(b) annuity, SEP, or SIMPLE, or deferrals under a section 403(b) annuity, SEP, or SIMPLE, or deferrals under a defined benefit plan of the same employer. In the case of an employee who is not subject to the annual dollar limit on elective deferrals or of the plan. Under the Senate amendment, the additional amount of elective contributions that could be made by an eligible individual participating in such a plan is the lesser of (1) the applicable dollar amount or (2) the participant’s compensation for the year reduced by any other elective deferrals of the participant for the year.

In the case of a tax-sheltered annuity (a section 403(b) annuity), the annual contribution limit applied if an employee was a participant in both a defined contribution plan and a defined benefit plan. The annual contribution limit to tax-favored retirement plans.

In the case of a tax-sheltered annuity (a section 403(b) annuity), the annual contribution limit applied if an employee was a participant in both a defined contribution plan and a defined benefit plan of the same employer.

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In the case of a tax-sheltered annuity (a section 403(b) annuity), the annual contribution limit applied if an employee was a participant in both a defined contribution plan and a defined benefit plan of the same employer.
Under one special rule, in the year the employee separates from service, the employee may elect to contribute up to the exclusion allowance, without regard to the 25 percent of compensation limit under section 415. Under this rule, the exclusion allowance is determined by taking into account no more than 20 years of service.

Under a second special rule, the employee may contribute up to the lesser of: (1) the exclusion allowance; (2) 25 percent of the participant’s includible compensation; or (3) $15,000.

Under a third special rule, the employee may elect to contribute up to the section 415(c) limit, without regard to the exclusion allowance. If this option is elected, then contributions to other plans of the employer are also taken into account in applying the limit.

For purposes of determining the contribution limits applicable to section 403(b) annuities, includible compensation means the amount of compensation received from the employer for the most recent period which may be counted as a year of service under the exclusion allowance. In addition, includible compensation includes elective deferrals and similar salary reduction amounts.

Treasury is directed to issue regulations regarding application of the exclusion allowance in cases where the employee participates in a defined benefit plan. The Taxpayer Relief Act of 1997 directed the Secretary of the Treasury to revise these regulations, effective for years beginning after December 31, 1999, to reflect the repeal of the overall limit on contributions and benefits.

Section 457 plans

Compensation deferred under an eligible deferred compensation plan of a tax-exempt organization or State and local governmental employer (a "section 457 plan") is not included in gross income until paid or made available. In general, the maximum permitted annual deferral under such a plan is the lesser of (1) $6,500 (in 2001) or (2) 33 1/3 percent of compensation. The $6,500 limit is increased for inflation in $500 increments.

House bill

Increase in defined contribution plan limit

The House bill increases the 25 percent of compensation limitation on annual additions under the defined contribution plan limit to 100 percent.96

Conforming limits on tax-sheltered annuities

The House bill repeals the exclusion allowance applicable to contributions to tax-sheltered annuities. This provision applies to amounts subject to the limits applicable to tax-qualified plans. The House bill also directs the Secretary of the Treasury to revise the regulations relating to the exclusion allowance under section 403(b)(2) to render void the requirement that contributions to a defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance. The Secretary is directed to issue regulations regarding the exclusion allowance in cases where the employee participates in a defined benefit plan. The Taxpayer Relief Act of 1997 directed the Secretary of the Treasury to revise these regulations, effective for years beginning after December 31, 1999, to reflect the repeal of the overall limit on contributions and benefits.

Section 457 plans

The House bill increases the 33 1/3 percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation.

Effective date

The House bill generally is effective for years beginning after December 31, 2001. The provision regarding determinations under section 403(b)(2) is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, with the following modifications.

The Senate amendment increases the 25 percent of compensation limitation on annual additions under a defined contribution plan to 50 percent for 2002 through 2010, and 100 percent for 2011 and thereafter.97 The Senate amendment increases the 33 1/3 percent of compensation limitation on deferrals under a section 457 plan to 50 percent for 2002 through 2010, and 100 percent for 2011 and thereafter.

With respect to the direction to the Secretary of the Treasury to revise the regulations relating to the exclusion allowance under section 403(b)(2) to render void the requirement that contributions to a defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance, the regulatory provisions regarding the exclusion allowance are to be applied as if the treated contributions to a defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance were void for taxable years beginning after December 31, 2000.

Effective date.—The Senate amendment generally is effective for years beginning after December 31, 2001. The provision regarding the exclusion allowance under section 403(b)(2) is effective on the date of enactment.

Conference agreement

The conference agreement follows the House bill, with the following modifications. With respect to the increase in the defined contribution plan limit, the conference intends that the Secretary of the Treasury will use the Secretary's existing authority to address situations where qualified nonelective contributions to a defined benefit plan are certain participants with lower compensation in order to increase the average deferral percentage of nonhighly compensated employees.

For taxable years beginning after December 31, 1999, a plan may disregard the requirement that contributions to a defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance.

(c) Faster vesting of employer matching contributions (sec. 303 of the House bill, sec. 436 of the Senate amendment, and sec. 411 of the Code)

Present law

Under present law, a plan is not a qualified plan unless a participant’s employer-provided benefit vests at least as rapidly as under one of two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant’s accrued benefit derived from employer contributions upon the completion of five years of service. A plan satisfies the second schedule if the participant has a nonforfeitable right to at least 20 percent of the participant’s accrued benefit derived from employer contributions after three years of service, 40 percent after four years of service, 60 percent after five years of service, 80 percent after six years of service, and 100 percent after seven years of service.98

House bill

The House bill applies faster vesting schedules to employer matching contributions. Under the House bill, employer matching contributions are required to vest at least as rapidly as under one of the following two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of employer matching contributions upon the completion of three years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant’s second year of service and ending with 100 percent after six years of service.

Effective date.—The House bill is effective for contributions for plan years beginning after December 31, 2001, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement. The House bill does not apply to any employee until the employee has an hour of service after the effective date. For applying the new vesting schedule, service before the effective date is taken into account.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

(d) Modifications to minimum distribution rules (sec. 304 of the House bill, sec. 634 of the Senate amendment, and sec. 401(a)(9) of the Code)

Present law

In general

Minimum distribution rules apply to all types of tax-favored retirement vehicles, including qualified plans, individual retirement arrangements ("IRAs"), tax-sheltered annuities ("section 403(b) annuities"), and eligible deferred compensation plans of tax-exempt and State and local government employers ("section 457 plans"). In general, under these rules, distribution of minimum benefits must begin no later than the required beginning date. Minimum distribution rules also apply to benefits payable with respect to a plan participant who has died. Failure to comply with the minimum distribution rules results in the imposition of a 50 percent excise tax. The excise tax may be waived if the individual establishes to the satisfaction of the Commissioner that the shortfall in the amount distributed was due to reasonable error and reasonable steps are being taken to remedy the shortfall. Under certain circumstances following the death of a participant, the excess tax is automatically waived under proposed Treasury regulations.

Distributions prior to the death of the individual

In the case of distributions prior to the death of the plan participant, the minimum distribution rules do not apply if (1) the participant's entire interest in the plan is distributed by the required beginning date, or (2) the participant's interest in the plan is to be distributed (in accordance with regulations), beginning not later than the required beginning date, over a permissible period. The permissible periods are (1) the life of the participant; (2) the life of the participant plus five years; (3) a period not to exceed 10 years of service; or (4) a period not to exceed 10 years of service, beginning with the date the participant separates from service.95

Another provision of the Senate amendment increases the defined contribution plan dollar limit.

Another provision of the Senate amendment increases the defined contribution plan dollar limit.

The House bill preserves the present-law deduction rules for qualified pension plans. Thus, for purposes of such rules, the limitation on the amount the employer generally may deduct is an amount equal to 25 percent of the compensation of the employees covered by the plan for the year.

Another provision of the Senate amendment increases the defined contribution plan dollar limit.

The minimum vesting requirements are also contained in Title I of ERISA.

96 Another provision of the House bill increases the defined contribution plan dollar limit.

97 Another provision of the Senate amendment increases the defined contribution plan dollar limit.

98 The minimum vesting requirements are also contained in Title I of ERISA.
The employee was not receiving benefits which the IRA owner attains age 70¼ calendar year following the calendar year in which the employee attains age 70¼ annually.

The distribution of minimum benefits has begun or over the life expectancy of a designated beneficiary. In the case of a surviving spouse, distributions are not required to begin under present law. "Reduction in excise tax"

The House bill reduces the excise tax on failures to satisfy the minimum distribution rules to 10 percent of the amount that was required to be distributed but was not distributed.

"Treasury regulations"

The Treasury is directed to revise the life expectancy tables under the applicable regulations to reflect current life expectancy.

"Effective date."

In general, the House bill is effective for years beginning after December 31, 2001.

The Senate amendment is the same as the House bill, with the following modification. The Senate amendment does not modify the excise tax to reflect the minimum distribution rules.

"Conference agreement"

The conference agreement directs the Treasury to revise the life expectancy tables under the applicable regulations to reflect current life expectancy.

"Effective date."

The conference agreement is effective on the date of enactment.

Under present law, benefits provided under a qualified retirement plan for a participant may not be assigned or alienated to creditors of the participant, except in very limited circumstances. One exception to the prohibition on assignment or alienation rule is a qualified domestic relations order ("QDRO"). A QDRO is a domestic relations order that creates or recognizes a right of an alternate payee under a QDRO. The special rule applicable to government plans and church plans applies for purposes of determining whether a distribution is pursuant to a QDRO.

"Effective date."

The House bill applies the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan does not violate the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO. The special rule applicable to government plans and church plans applies for purposes of determining whether a distribution is pursuant to a QDRO.

"Effective date."

The House bill is effective for transfers, distributions, and payments made after December 31, 2001.

The Senate amendment is the same as the House bill, with a modification of the effective date.

The conference agreement follows the House bill.

(f) Provisions relating to hardship withdrawals (sec. 306 of the House bill, sec. 636 of the Senate amendment, and sec. 401(k) and 457 of the Code)

Under present law, hardship withdrawals of section 457 plan benefits upon divorce (sec. 305 of the House bill, sec. 635 of the Senate amendment, and secs. 414(p) and 457 of the Code) are taxable.

Under present law, benefits provided under a qualified retirement plan for a participant may not be assigned or alienated to creditors of the participant, except in very limited circumstances. One exception to the prohibition on assignment or alienation rule is a qualified domestic relations order ("QDRO"). A QDRO is a domestic relations order that creates or recognizes a right of an alternate payee to any plan benefit payable with respect to a participant, and that meets certain procedural requirements.

Under present law, hardship withdrawals of section 457 plan benefits upon divorce (sec. 305 of the House bill, sec. 635 of the Senate amendment, and sec. 401(k) and 457 of the Code) are taxable.

Under present law, hardship withdrawals of section 457 plan benefits upon divorce (sec. 305 of the House bill, sec. 635 of the Senate amendment, and sec. 401(k) and 457 of the Code) are taxable.

Elective deferrals under a qualified cash or deferred arrangement (a "section 401(k) plan") may not be distributable prior to the occurrence of one or more specified events. One event upon which distribution is permitted is the financial hardship of the employee. Applicable Treasury regulations provide that a distribution is made on account of hardship only if the distribution is made on account of an immediate and heavy financial need of the employee and is necessary to satisfy the financial need.

The Treasury regulations provide a safe harbor under which a distribution may be deemed necessary to satisfy an immediate and heavy financial need. One requirement of this safe harbor is that the employee be prohibited from making elective contributions and employee contributions to the plan and the employee's employer may not make contributions to the plan for at least 12 months after receipt of the hardship distribution.

Under present law, hardship withdrawals of section 457 plan benefits upon divorce (sec. 305 of the House bill, sec. 635 of the Senate amendment, and sec. 401(k) and 457 of the Code) are taxable.
not eligible rollover distributions. Other types of hardship distributions, e.g., employer matching contributions distributed on account of hardship, are eligible rollover distributions. Different withholding rules apply to distributions that are eligible rollover distributions and to distributions that are not eligible rollover distributions. Eligible rollover distributions that are not directly rolled over are subject to withholding at a flat rate of 20 percent. Distributions that are not eligible rollover distributions are subject to withholding. Furthermore, distributions are subject to withholding as if the distribution were wages; nonperiodic distributions are subject to withholding at a rate equal to 10 percent of the amount distributed. Any individual may elect not to have withholding apply.

HOUSE BILL

The Secretary of the Treasury is directed to revise the withholding rules applicable to distributions that are not eligible rollover distributions. The conference agreement follows the Senate bill and the Senate amendment.

CONGRESSIONAL RECORD

The conference agreement follows the House bill and the Senate amendment.

(Senate amendment is effective on the date of enactment. The Secretary has the authority to issue transitional guidance with respect to the provision that hardship distributions are not eligible rollover distributions to provide sufficient time for plans to implement the new rule.)

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFEREE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

(g) Pension coverage for domestic and similar purposes—In general. (A) In general. The conference agreement follows the House bill, sec. 637 of the Senate amendment, and sec. 4972(c)(6) of the Code.

PRESENT LAW

Under present law, within limits, employers may make deductible contributions to qualified retirement plans for employees. Employer matching or nonelective contributions after a fixed period of 10 years or a trade or business, or a trade or business. Thus, for example, contributions are not a trade or business expense for purposes of section 162(c). The employer does not apply with respect to contributions to a SIMPLE plan or a SIMPLE IRA contributions are not deductible because they are not made in connection with a trade or business of the employer.

HOUSE BILL

The 10-percent excise tax on nondeductible contributions does not apply to contributions to a SIMPLE plan or a SIMPLE IRA that are nondeductible solely because the contributions are not a trade or business expense under section 162 because they are not made in connection with a trade or business of the employer. Thus, for example, employers of household workers are able to make contributions to such plans without imposition of the excise tax. As under present law, the contributions are not deductible. The present-law rules applicable to such plans, e.g., contribution limits and nondiscrimination rules, continue to apply. The House does not apply with respect to contributions on behalf of the individual and members of his or her family.

No inference is intended with respect to the application of the excise tax under present law to contributions that are not deductible because they are not made in connection with a trade or business of the employer.

As under present law, a plan covering domestic workers is not qualified unless the coverage rules are satisfied by aggregating all employers taken into account under the attribution rules in section 414(c), but disregarding employees employed by a controlled group of corporations or a trade or business.

It is intended that the House bill is restricted to contributions made by employers of household workers with respect to whom all applicable employment taxes have been and are being paid. Effective date.—The House bill is effective for taxable years beginning after December 31, 2001.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, with the following modification. The Senate amendment does not include a statement of intention that the Senate amendment is restricted to contributions made by employers of household workers with respect to whom all applicable employment taxes have been and are being paid.

CONFEREE AGREEMENT

The conference agreement follows the House bill.

3. Increasing Portability for Participants (a) Rollovers of defined contribution plans and IRA distributions (secs. 401–403 and 409 of the House bill, secs. 641–643 and 619 of the Senate amendment, and secs. 401, 402, 403(b), 408, 409, 414(d), and 3405 of the Code)

PRESENT LAW

Present law permits the rollover of funds from a tax-favored retirement plan to another tax-favored retirement plan. The rules that apply depend on the type of plan involved. The tax treatment of amounts that are not rolled over depend on the type of plan involved. Distributions from qualified plans are not eligible rollover distributions from a tax-qualified employer-sponsored retirement plan may be rolled over tax free to a traditional individual retirement arrangement ("IRA") or another qualified plan.142 An "eligible rollover distribution" means any distribution to an employee of all or any portion of the balance in the account of the employee in a qualified plan, except the term does not include (1) any distribution which is one of a series of substantially equal periodic payments made (a) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee’s designated beneficiary, or (b) for a specified period of 10 years or more, or (2) any distribution to the extent such distribution is required under the minimum distribution rules, and (c) certain hardship distributions. The maximum amount that can be rolled over is the amount of the distribution includible in income, i.e., after-tax employee contributions cannot be rolled over. Qualified plans are not required to accept rollovers.

Distributions from tax-sheltered annuities

Eligible rollover distributions from a tax-sheltered annuity ("section 403(b) annuity") may be rolled over into another tax-sheltered annuity ("IRA") or another section 403(b) annuity. Distributions from a section 403(b) annuity cannot be rolled over into a tax-qualified plan. Section 403(b) annuities are not required to accept rollovers.

IRA distributions

Distributions from a traditional IRA, other than minimum required distributions, can be rolled over into another IRA. In general, distributions from an IRA can be rolled over into a qualified plan or section 403(b) annuity. An exception to this rule applies in the case of so-called “conduit IRAs.” Under the conduit IRA rule, amounts can be rolled over from a qualified plan into an IRA and subsequently rolled back to another qualified plan if the amounts in the IRA are attributable solely to rollovers from a qualified plan. Similarly, an amount may be rolled over from a section 403(b) annuity to an IRA and subsequently rolled back into a section 403(b) annuity. The amounts in the IRA are attributable solely to rollovers from a section 403(b) annuity.

Distributions from section 457 plans

A “section 457 plan” is an eligible deferred compensation plan of a State or local government or tax-exempt employer that meets certain requirements. In some cases, different rules apply under section 457 to government plans and plans that are tax-exempt employers. For example, government section 142 "A traditional IRA refers to IRAs other than Roth IRAs or SIMPLE IRAs. All references to IRAs are to traditional IRAs or SIMPLE IRAs. Rollovers from a traditional IRA to another traditional IRA (or to any IRA or retirement plan or annuity) are treated as if the IRA to which the rollover is made is a SIMPLE IRA.
457 plans are like qualified plans in that plan assets are required to be held in a trust for the exclusive benefit of plan participants and beneficiaries. In contrast, benefits under a section 403(b) plan are generally used to provide retirement income to plan participants and are not held in trust. As a result, section 403(b) plans are treated differently from qualified retirement plans in several respects.

**Rollovers by surviving spouses.** A surviving spouse that receives an eligible rollover distribution may roll over the distribution into an IRA, but not a qualified plan or section 403(b) annuity. **Direct rollovers and withholding requirements.**

Qualified plans and section 403(b) annuities are required to provide that a plan participant may elect not to have withholding apply. If the participant does not elect the direct rollover option, then withholding is required on the distribution at a 20 percent rate. **Notice of eligible rollover distribution.**

The plan administrator of a qualified plan or a section 403(b) annuity is required to provide a notice of eligible rollover distribution to individuals who receive a distribution eligible for rollover. The notice is to be provided within a reasonable period of time before making the distribution and is required to include an explanation of the provisions under which the distributions may be rolled over to an IRA or to a section 403(b) annuity. The notice is also required to include a description of the provisions under which distributions from the plan to which the rollover distribution is subject to the early withdrawal tax. The Secretary has provided more specific guidance regarding timing and content of the notice.

**Taxation of distributions.** As is the case with the rollover rules, different rules regarding taxation of benefits apply to payments from different types of tax-favored arrangements. In general, distributions from a qualified plan, section 403(b) annuity, or IRAs are includible in income in the year received. In certain cases, distributions from qualified plans, section 403(b) annuities, and IRAs are taxable at the time paid or made available, the 10 percent early withdrawal tax does not apply to IRA distributions for educational expenses, but does apply to similar distributions from qualified plans and section 403(b) annuities. Distributions from section 403(b) annuities that are not eligible rollover distributions are subject to withholding at a rate of 10 percent. In effect, the individual may elect not to have withholding apply.
CONFERENCE AGREEMENT

The conference agreement provides that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would cause or increase the hardship for any individual for a reason of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. For example, the Secretary may issue guidance that includes objective standards for a waiver of the 60-day rollover period, such as waiving the rule due to military service in a combat zone or during a presidentially declared disaster (both of which are provided for under present law), or for a period during which the participant has received payment from or has access to a check, but has not cashed the check, or for errors committed by a financial institution, or in cases of inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error.

Effective date.—The conference agreement applies to distributions made after December 31, 2001.

(c) Treatment of forms of distribution (sec. 405 of the House amendment, sec. 415 of the Senate amendment, and sec. 411(d)(6) of the Code)

PRESENT LAW

An amendment of a qualified retirement plan may not decrease the accrued benefit of a participant if the amendment is treated as reducing an accrued benefit if, with respect to benefits accrued before the amendment is adopted, the amendment has the effect of either (1) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (2) except as provided by Treasury regulations, eliminating an optional form of benefit (sec. 411(d)(6)).

Under regulations recently issued by the Secretary, 107 this prohibition against the elimination of an optional form of benefit does not apply in the case of (1) a defined contribution plan that offers a lump sum at retirement, (2) a contributory defined benefit plan to which a beneficiary or survivor is entitled to receive payment from a check, but has not cashed the check, or for errors committed by a financial institution, or in cases of inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error.

Effect of a direct transfer (including consolidation, restrictions imposed by a foreign country, or postal error).

(1) The Secretary may issue guidance that includes objective standards for a waiver of the 60-day rollover period, such as waiving the rule due to military service in a combat zone or during a presidentially declared disaster (both of which are provided for under present law), or for a period during which the participant has received payment from or has access to a check, but has not cashed the check, or for errors committed by a financial institution, or in cases of inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error.

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Under regulations recently issued by the Secretary, 107 this prohibition against the elimination of an optional form of benefit does not apply in the case of (1) a defined contribution plan that offers a lump sum at retirement, (2) a contributory defined benefit plan to which a beneficiary or survivor is entitled to receive payment from a check, but has not cashed the check, or for errors committed by a financial institution, or in cases of inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error.
under the plan (or early retirement age, as applicable), (4) the size of the participant’s benefit that is affected by the plan amendment, in relation to the amount of the participant’s, and (5) the number of years before the plan amendment is effective.

The Senate is directed to issue, not later than December 31, 2002, final regulations under section 411(d)(6), including regulations required under the Senate amendment.

Effective date.—The provision is effective for years beginning after December 31, 2001, except that the direction to the Senate is effective for effective for distributions after December 31, 2001, regardless of when the severance of employment occurred.

|Senate Amendment|
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

Effective date.—The House bill is effective for distributions after December 31, 2001.

HOUSE BILL
A participant in a State or local governmental plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 457 plan if the transferred amount is used (1) to purchase permissible service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date.—The House bill is effective for transfers after December 31, 2001.

HOUSE BILL
A participant in a State or local governmental plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 457 plan if the transferred amount is used (1) to purchase permissible service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date.—The House bill is effective for transfers after December 31, 2001.

In the case of any repayment of contributions and earnings to a governmental plan with respect to an amount previously re-funded upon a participant’s separation from service, the participant’s nonforfeitable accrued benefit that is attributable to the portion of such benefit that is attributable to rollover contributions (and any earnings allocable thereto).

Effective date.—The House bill is effective for distributions after December 31, 2001.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

(g) Minimum distribution and inclusion requirements for section 457 plans (sec. 401(k) plan is an eligible deferred compensation plan of a State or local governmental plan that covers the employees who continue employment with the corporation that acquires the plan. The plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 457 plan if the transferred amount is used (1) to purchase permissible service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date.—The House bill is effective for transfers after December 31, 2001.

|Senate Amendment|
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

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Effective date.—The House bill is effective for transfers after December 31, 2001.

|Senate Amendment|
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

(g) Minimum distribution and inclusion requirements for section 457 plans (sec. 401(k) plan is an eligible deferred compensation plan of a State or local governmental plan that covers the employees who continue employment with the corporation that acquires the plan. The plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 457 plan if the transferred amount is used (1) to purchase permissible service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date.—The House bill is effective for transfers after December 31, 2001.

|Senate Amendment|
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

(g) Minimum distribution and inclusion requirements for section 457 plans (sec. 401(k) plan is an eligible deferred compensation plan of a State or local governmental plan that covers the employees who continue employment with the corporation that acquires the plan. The plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 457 plan if the transferred amount is used (1) to purchase permissible service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date.—The House bill is effective for transfers after December 31, 2001.

|Senate Amendment|
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

(g) Minimum distribution and inclusion requirements for section 457 plans (sec. 401(k) plan is an eligible deferred compensation plan of a State or local governmental plan that covers the employees who continue employment with the corporation that acquires the plan. The plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 457 plan if the transferred amount is used (1) to purchase permissible service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date.—The House bill is effective for transfers after December 31, 2001.
Amounts deferred under a plan of deferred compensation of a State or local government or tax-exempt employer that does not meet the requirements of section 457 are includible in the gross income of the participants and beneficiaries of such plans and are subject to the minimum distribution rules applicable to tax-exempt pension plans. In addition, such plans are subject to additional minimum distribution rules applicable to qualified plans.

HOUSE BILL

The House bill provides that amounts deferred under a section 457 plan of a State or local government are includible in income when the plan is first established or when the individual is required to begin receiving distributions from the plan. The House bill also repeals the special minimum distribution rules applicable to section 457 plans. Thus, such plans are subject to the minimum distribution rules applicable to qualified plans.

Effective date.—The House bill is effective for distributions after December 31, 2001.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, with the following modification.

The Senate amendment also modifies the transition rule adopted in the 1998 Act relating to the contribution continuation plans of tax-exempt employers. Under the Senate amendment, the transition rule applies to agreements providing cost-of-living adjustments to annuities, other than otherwise satisfied requirements of the transition rule. The grandfather does not apply to the extent that the amount annualized provided under such an agreement exceeds the annual grandfathered amount multiplied by the cumulative increase in the Consumer Price Index (as published by the Department of Labor).

Effective date.—The Senate amendment is generally effective for distributions after December 31, 2001. The provision relating to plans of tax-exempt organizations is effective for taxable years ending after the date of enactment for cost-of-living increases after September 1993.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

4. Strengthening Pension Security and Enforcement

(a) Phase in repeal of 160 percent of current liability funding limit; deduction for contributions to fund termination liability

Under current law, the current liability funding limit is 160 percent of current liability for plan years beginning in 2002 and 170 percent for plan years beginning in 2003. The current liability funding limit is scheduled to increase to 180 percent for plan years beginning in 2004 and thereafter. The current liability funding limit is based on projected benefits. The current liability full funding limit is scheduled to increase as follows: 165 percent for plan years beginning in 2003 and 2004, and 170 percent for plan years beginning in 2005 and thereafter.

In no event is a plan's full funding limit less than 90 percent of the plan's current liability over the value of the plan's assets.

The employer sponsoring a defined benefit pension plan generally may deduct amounts contributed to satisfy the minimum funding standards for distributions in excess of the full funding limit generally are not deductible. Under a special rule, an employer that sponsors a defined benefit pension plan which has more than 100 participants for the plan year may deduct amounts contributed of up to 100 percent of the plan's unfunded current liability.

HOUSE BILL

Current liability full funding limit

The House bill gradually increases and then repeals the current liability full funding limit. Under the bill, the current liability full funding limit is 165 percent of current liability for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter. Thus, in 2004 and thereafter, the full funding limit is the excess, if any, of (1) the accrued liability under the plan (including normal cost), over (2) the value of the plan's assets. The special rule allowing a deduction for unfunded current liability generally is extended to all defined benefit pension plans, i.e., the House bill applies to multi- employer plans and plans with 100 or fewer participants. The special rule does not apply to plans not covered by the PBGC termination insurance program.

The Senate amendment also modifies the rule by providing that a plan may deduct up to 100 percent of unfunded termination liability, determined as if the plan terminated at the end of the plan year. In the case of a plan which was made or became effective, whichever is later, within the last two years.

General Accounting Office study

In connection with the Committee's desire to strengthen pension security, the Committee directs the General Accounting Office to conduct a study examining the extent to which certain present-law rules create obstacles or disincentives for taxpayers experiencing financial hardships to make current and future contributions tomenued defined benefit pension plans. The Committee is concerned that, as a result of not obtaining a current or carryback deduction for pension contributions, taxpayers experiencing financial hardships will be subject to higher after-tax costs of maintaining pension funding levels. In the study, the General Accounting Office is to consider whether pension funding would be enhanced if section 172(c), which since 1998 has permitted only listed items to be carried back, were modified to list deductions for payments to defined benefit pension plans as an item for which 10-year specified items carrybacks may be available. This study is to be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than one year after the date of enactment.

Effective date

The House bill is effective for plan years beginning after December 31, 2001.

SENATE AMENDMENT

Current liability full funding limit

The Senate amendment gradually increases and then repeals the current liability full funding limit. Under the Senate amendment, the current liability full funding limit is 160 percent of current liability for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter. Thus, in 2004 and thereafter, the full funding limit is the excess, if any, of (1) the accrued liability under the plan (including normal cost), over (2) the value of the plan's assets. The special rule allowing a deduction for unfunded current liability generally is extended to all defined benefit pension plans, i.e., the Senate amendment applies to multi-employer plans and plans with 100 or fewer participants. The special rule does not apply to plans not covered by the PBGC termination insurance program.

The Senate amendment also modifies the rule by providing that a plan may deduct up to 100 percent of unfunded termination liability, determined as if the plan terminated at the end of the plan year. In the case of a plan which was made or became effective, whichever is later, within the last two years.

Effective date

The Senate amendment is effective for plan years beginning after December 31, 2001.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with modifications.

The conference agreement gradually increases and then repeals the current liability full funding limit. Under the conference agreement, the current liability full funding limit is 165 percent of current liability for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter. Thus, in 2004 and thereafter, the full funding limit is the excess, if any, of (1) the accrued liability under the plan (including normal cost), over (2) the value of the plan’s assets. With respect to the special rule allowing a deduction for unfunded current liability, the modification of the rule is to provide that the deduction is for up to 100 percent of unfunded termination liability is applicable only for a plan that terminates within the plan year.
The Senate amendment is the same as the House bill.

The conference agreement follows the House bill and the Senate amendment.

(c) Notice of significant reduction in plan benefits. Section 204(h) of Title I of ERISA provides that a defined contribution plan or money purchase pension plan may not be amended so as to provide for a significant reduction in the rate of future benefit accrual, unless, after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment, the plan administrator provides a written notice ("section 204(h) notice"), setting forth the plan amendment or (a summary of the amendment written in a manner calculated to be understood by the average plan participant) and its effective date. The plan administrator must provide the section 204(h) notice to each plan participant, each alternate payee, and each employee organization representing participants in the plan. The applicable Treasury regulations provide, however, that a plan administrator can satisfy the section 204(h) notice requirement if the administrator provides a written notice to any participant or alternate payee whose rate of future benefit accrual is reasonably expected not to be reduced by the amendment, if the employee organization that does not represent a participant to whom the section 204(h) notice must be provided. In addition, the regulations provide that the rate of future benefit accrual is determined without regard to optional forms of benefit, early retirement benefits, retirement-type subsidiaries, ancillary benefits, and certain other rights and features. A covered amendment generally will not become effective with respect to any participant and alternate payees whose rate of future benefit accrual is reasonably expected to be reduced by the amendment but who do not receive a section 204(h) notice. An amendment will become effective with respect to all plan participants, and alternate payees to whom the section 204(h) notice was required to be provided if the plan administrator (1) has made a good faith effort to comply with the section 204(h) notice requirements, (2) has provided a section 204(h) notice to each employee organization that represents any participant to whom a section 204(h) notice was required to be provided, (3) has failed to provide a section 204(h) notice to no more than a de minimis percentage of participants and alternate payees to whom the section 204(h) notice was required to be provided, and (4) promptly upon discovering the oversight, provides a section 204(h) notice to each omitted participant and alternate payee.

The Internal Revenue Code does not require any notice concerning a plan amendment that provides for a significant reduction in the rate of future benefit accrual.

The plan administrator is required to provide in this notice, in a manner calculated to be understood by the average plan participant, sufficient information (as defined in Treasury regulations) to enable participants to understand the effect of the amendment.

The notice requirement does not apply to governmental plans or plans with respect to which an election to have the qualified plan participation, vesting, and funding rules apply. Treasury regulations have also been adopted to clarify that plans would not be required under the House bill to be provided by using new technologies. The House bill also authorizes the Secretary to provide a simplified notice requirement or an exemption from the notice requirement for plans with less than 100 participants and to require such notice to be provided under the House bill to be provided by using new technologies. The House bill also authorizes the Secretary to provide a simplified notice requirement or an exemption from the notice requirement if participants are given the option to choose between benefits under the new plan formula and the old plan formula. In such cases, the House bill will have no effect on the fiduciary rules applicable to pension plans that may require appropriate disclosure to participants, even if disclosure is required under the House bill.

The plan administrator is required to provide the written notice or, if required, the notice with respect to each affected alternate payee, and each employee organization representing affected participants. For purposes of the House bill, an employee organization representing a participant or alternate payee whose rate of future benefit accrual may reasonably be expected to be significantly reduced by the plan amendment.

Except to the extent provided by Treasury regulations, the plan administrator is required to provide the written notice with respect to each affected alternate payee, and each employee organization representing affected participants to meet the notice requirement an excise tax equal to $100 per day for each participant or alternate payee. In addition, if a plan administrator fails to provide the written notice required under the House bill, the Secretary of the Treasury is authorized to waive the excise tax. The plan administrator is required to provide the written notice to any participant or alternate payee whose rate of future benefit accrual is reasonably expected not to be significantly reduced by the plan amendment.

The plan administrator is required to provide the written notice to any participant or alternate payee whose rate of future benefit accrual is reasonably expected not to be significantly reduced by the plan amendment.

The plan administrator is required to provide the written notice to any participant or alternate payee whose rate of future benefit accrual is reasonably expected not to be significantly reduced by the plan amendment.
the effects of conversions of traditional defined benefit plans to cash balance or hybrid formula plans. Such study is to examine the effect of such conversions on longer service participants and the incidence of the effects of “wear away” provisions under which participants earn no additional benefits for a period of time after the conversion. The Secretary is directed to submit such report, together with recommendations thereon, to the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate as soon as practicable, but not later than 60 days after the date of enactment.

Effective date.—The House bill is effective for plan amendments taking effect on or after the date of enactment. Prior to the issuance of Treasury regulations, a plan is treated as meeting the requirements of the House bill if the plan makes a good faith effort to comply with such requirements. The Secretary is directed to submit such report, together with recommendations thereon, to the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate as soon as practicable, but not later than one year after the date of enactment.

SENATE AMENDMENT

The Senate amendment adds to the Internal Revenue Code a requirement that the plan administrator of a defined benefit pension plan furnish a written notice concerning a plan amendment that provides for a significant reduction in the rate of future benefit accrual, including any elimination or reduction of an early retirement benefit or retirement-type subsidy.119 The notice is required to set forth: (1) a summary of the plan amendment; (2) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual; (3) a description of the circumstances that are expected to be affected by the reduction in the rate of future benefit accrual; (4) examples illustrating the plan changes for these classes of employees; (5) in the event of a restructuring of the plan benefit formula, as determined under regulations prescribed by the Secretary (a “significant restructuring of a plan”); (6) a statement that the plan administrator will provide, generally no later than 15 days prior to the effective date of the amendment, a benefit estimation tool kit (described below) that will enable employees who have completed at least one year of participation to personalize the illustrative examples of each affected participant’s right to request, and of the procedures for requesting, an annual benefit statement as provided under present law. The plan administrator is required to provide the notice not less than 45 days before the effective date of the plan amendment. The notice requirement does not apply to governmental plans or church plans with respect to any amendment that modifies the qualified plan participation, vesting, and funding rules applicable to the plan prior to the effective date of such amendment, and the examples that are required to be provided by using new technologies, or other formats to be determined by the Secretary of the Treasury. The tool kit is required to include any necessary actuarial assumptions and formulas and to permit the participant to estimate both a single lump sum distribution and, when available, a lump sum distribution. The tool kit is required to disclose the interest rate used to compute a lump sum distribution and the value of early retirement benefits included in the lump sum distribution.

The Senate amendment requires the benefit estimation tool kit to accommodate employee-provided variables with respect to age, years of service, retirement age, covered compensation, and interest rate (when applicable). The tool kit is required to accommodate employee variables with respect to qualified domestic relations orders, factors that result in unusual payroll services (such as extended time away from the job), special benefit formulas for unusual situations, offsets from other plans, and forms of annuity distributions.

In the case of a significant restructuring amendment that occurs in connection with a business disposition or acquisition transaction and within one year following the effective date of the transaction, the Senate amendment requires the plan administrator to provide a written notice prior to the date that is 12 months after the date on which the general notice of the amendment is given to the affected participants. The Senate amendment permits a plan administrator to provide any notice required under the Senate amendment to a person designated in writing by the individual to whom the notice is to be provided. In addition, the provision expands the current ERISA notice requirement regarding significant reductions in normal retirement benefit accrual rates by retirement benefits and retirement-type subsidies.

119The provision also modifies the present-law notice requirement contained in section 204(h) of Title I of ERISA to require the Secretary of the Treasury to ensure that the plan administrator of a defined benefit pension plan may not be amended to provide for a significant reduction in the rate of future benefit accrual in the event of a failure by the plan administrator to exercise due diligence in meeting a notice requirement similar to the notice requirement that the plan administrator is required to provide under the Internal Revenue Code. In addition, the provision expands the current ERISA notice requirement regarding significant reductions in normal retirement benefit accrual rates by retirement benefits and retirement-type subsidies.
Under present law, limits apply to contributions and benefits under qualified plans (sec. 415). The limits on contributions and benefits under qualified plans are based on the type of plan.

Under a defined benefit plan, the maximum annual benefit payable at retirement is generally the lesser of (1) 100 percent of average compensation for the highest three years, or (2) $140,000 (for 2001). The dollar limit is adjusted for cost-of-living increases in $5,000 increments. The dollar limit is reduced in the case of retirement before the social security retirement age and increases in the case of retirement after the social security retirement age.

A special rule applies to governmental defined benefit plans. In the case of such plans, the defined benefit dollar limit is reduced in the case of retirement before age 62 and increased in the case of retirement after age 65. In addition, there is a floor on early retirement benefits. Pursuant to this floor, the minimum benefit payable at age 55 is $75,000.

In the case of a defined contribution plan, the limit on annual additions if the lesser of (1) 25 percent of compensation or (2) $35,000 (for 2001).

In addition, the limits on contributions and benefits, plans of the same employer are aggregated. That is, all defined benefit plans of the same employer are treated as a single plan. Under Treasury regulations, multiemployer plans are not aggregated with other plans. However, if an employer maintains both a plan that is not a multiemployer plan and a multiemployer plan, the plan that is not a multiemployer plan is aggregated with the multiemployer plan to the extent that benefits provided under the multiemployer plan are provided with respect to a common participant.

**HOUSE BILL**

**Effective date.**—The House bill is effective for years beginning after December 31, 2001.

**SENATE AMENDMENT**

The Senate amendment is the same as the House bill with respect to the waiver of the 100 percent of compensation limit.

With respect to aggregation of multiemployer plans with other plans, the House bill provides that multiemployer plans are not aggregated with defined benefit plans maintained by an employer contributing to the multiemployer plan for purposes of applying the 100 percent of compensation limit to such single-employer plan.

**CONFERENCE AGREEMENT**

The conference agreement follows the House bill.

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120Treas. Reg. sec. 1.415-9(c).

121Another provision of the House bill increases the limit to 100 percent of compensation.
optional. It is intended that the model statement include items such as the amount of nonforfeitable accrued benefits as of the statement date that are payable at normal retirement age under the plan, the amount of accrued benefits that are forfeitable but that may become nonforfeitable under the terms of the plan, information on how to contact the Social Security Administration to obtain a participant's personal earnings and benefit estimate statement, and other information that may be important to understanding benefits earned under the plan. Statements provided by electronic forms of communications shall be provided consistent with Department of Labor and Department of Treasury guidance.

Effective date.—The provision is effective for plan years beginning after December 31, 2002.

SENIOR AMENDMENT
No provision.

CONFERENCE AGREEMENT
The conference agreement does not include the House bill.

(g) Prohibited allocations of stock in an S corporation ESOP
The Small Business Job Protection Act of 1996 allowed qualified retirement plan trusts described in section 401(a) to own stock in an S corporation. That Act treated the plan's share of the S corporation's income (and gain or loss) as includible in full in the trust's unrelated business taxable income ("UBTI").

The Tax Relief Act of 1997 repealed the provision treating items of income or loss of an S corporation as UBTI in the case of an employee stock ownership plan ("ESOP"). Thus, the limitation on an S corporation allocable to an ESOP is not subject to current taxation.

Present law provides a deferral of income on the sales of certain employer securities to an ESOP (sec. 1042). A 50-percent excise tax is imposed on certain prohibited allocations of securities acquired by an ESOP in a tax-exempt acquisition or from revested stock, such allocations are currently includible in the gross income of the individual receiving the prohibited allocation.

HOUSE BILL
In general

Under the House bill, if there is a non-allocation year with respect to an ESOP maintained by an S corporation: (1) the amount allocated in a prohibited allocation to an individual who is a disqualified person is treated as distributed to such individual (i.e., the value of the prohibited allocation is includible in the gross income of the individual receiving the prohibited allocation); (2) an excise tax is imposed on the S corporation equal to 50 percent of the amount involved in a prohibited allocation; and (3) an excise tax is imposed on the S corporation with respect to any synthetic equity owned by a disqualified person.122

It is intended that the House bill will limit the establishment of ESOPs by S corporations to those that provide broad-based employee coverage and that benefit rank-and-file employees, not simply compensated employees and historical owners.

Definition of nonallocation year

A nonallocation year means any plan year of an ESOP holding shares in an S corporation if, at any time during the plan year, disqualified persons own at least 50 percent of the number of outstanding shares of the S corporation.

A person is a disqualified person if the person is either (1) a member of a "deemed 20-percent shareholder group" or (2) a "deemed 10-percent shareholder." A person is a member of a "deemed 20-percent shareholder group" if the aggregate number of deemed-owned shares of the person and his or her family members is at least 20 percent of the number of outstanding shares of the stock in the S corporation.123 A person is a deemed 10-percent shareholder if the person is not a member of a deemed 20-percent shareholder group and the person's deemed-owned shares is at least 10 percent of the number of deemed-owned shares of stock of the corporation.

In general, "deemed-owned shares" means: (1) stock allocated to the account of an individual under the ESOP, and (2) an individual's share of unallocated stock held by the ESOP. An individual's share of unallocated stock held by an ESOP is determined in the same manner as the recent allocation of stock under the terms of the stock of the corporation.

For purposes of determining whether there is a nonallocation year, ownership of stock in an S corporation is generally determined under the rules of section 318,124 except that: (1) the family attribution rules are modified to include certain other family members, as described below, (2) the stock does not apply (but instead special rules relating to synthetic equity described below apply), and (3) "deemed-owned shares" held by the ESOP are treated as owned by the individual with respect to whom they are deemed owned.

Under the House bill, family members of an individual include (1) the spouse (other than a synthetic equity described below) of the individual, (2) an ancestor or lineal descendant of the individual, or (3) the sibling of the individual or the individual's spouse.

The House bill contains special rules applicable to synthetic equity interests. Except to the extent provided in regulations, the stock on which a synthetic equity interest is based are treated as outstanding stock of the S corporation. Stocks so treated are generally attributed under the rules of section 318,124 except that: (1) the family attribution rules are modified to include certain other family members, as described below, (2) the stock does not apply (but instead special rules relating to synthetic equity described below apply), and (3) "deemed-owned shares" held by the ESOP are treated as owned by the individual with respect to whom they are deemed owned.

Tests provided by electronic forms of communications shall be provided consistent with Department of Labor and Department of Treasury guidance.

Effective date.

The House bill generally is effective with respect to plan years beginning after December 31, 2004. In the case of an ESOP established after March 14, 2001, or an ESOP established on or before such date if the employer maintaining the plan was an S corporation on such date, the House bill is effective with respect to plan years ending after March 14, 2001.

Senate amendment

The Senate amendment is the same as the House bill, with a modification of the effective date.

The Senate amendment generally is effective with respect to plan years beginning after December 31, 2002. In the case of an ESOP established after July 11, 2000, or an ESOP established on or before such date if the employer maintaining the plan was not an S corporation on such date, the Senate amendment is effective with respect to plan years ending after July 11, 2000.

CONFERENCE AGREEMENT

The conference agreement follows the House bill. The conference agreement authorizes the Secretary to determine, by regulation or other guidance of general applicability, that a nonallocation year occurs in any case in which the principal purpose of the ownership structure of an S corporation constitutes, in substance, an avoidance or evasion of the prohibited allocation rules. For example, this might apply if more than 10 independent businesses are combined in an S corporation organized by an ESOP in order to take advantage of the income tax treatment of S corporations owned by an ESOP.
investor's percentage of total plan income or deductions. The Senate amendment clarifies that, in the aggregate, no taxpayer may be permitted to have in excess of 100 percent of the plan's current liability. The Secretary is directed to automatically approve changes in funding method to use a prior year valuation date with respect to a plan year if, as of such date, plan assets are not less than 125 percent of the plan's current liability. Information determined as of such date is required to be adjusted actuarially, in accordance with Treasury regulations, to reflect significant differences in plan participants. An electronic record of an agreement, once made, may only be revoked with the consent of the Secretary.

Effective date.—The House bill is effective for plan years beginning after December 31, 2001.

SENATE AMENDMENT
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement incorporates into the statute the proposed regulation regarding the date of valuations. The conference agreement also provides, as an exception to this general rule, that the valuation date with respect to a plan year may be any date within the immediately preceding plan year if, as of such date, plan assets are not less than 125 percent of the plan's current liability. Information determined as of such date is required to be adjusted actuarially, in accordance with Treasury regulations, to reflect significant differences in plan participants. A change in funding method to take advantage of the exception to the general rule may not be made unless, as of such date, plan assets are not less than 100 percent of the plan's current liability. The Secretary is authorized to promulgate regulations to clarify that, in the aggregate, no taxpayer may be permitted to have in excess of 100 percent of the plan's current liability.

Effective date.—The Senate amendment is effective after the date of enactment.

CONFERECE AGREEMENT
The conference agreement follows the Senate amendment.

PRESENT LAW
Under present law, plan valuations are generally required annually for plans subject to the minimum funding rules. Under proposed Treasury regulations, except as provided by the Commissioner, the valuation must be as of a date within the plan year to which the valuation refers or within the month prior to the beginning of that year.

HOUSE BILL
The House bill incorporates into the statute the proposed regulation regarding the date of valuations. The House bill also provides, as an exception to this general rule, that the valuation date with respect to a plan year may be any date within the immediately preceding plan year if, as of such date, plan assets are not less than 125 percent of the plan's current liability. Information determined as of such date is required to be adjusted actuarially, in accordance with Treasury regulations, to reflect significant differences in plan participants. An electronic record of an agreement, once made, may only be revoked with the consent of the Secretary.

Effective date.—The House bill is effective for plan years beginning after December 31, 2001.

PRESENT LAW
Under present law, plan valuations are generally required annually for plans subject to the minimum funding rules. Under proposed Treasury regulations, except as provided by the Commissioner, the valuation must be as of a date within the plan year to which the valuation refers or within the month prior to the beginning of that year.

PRESENT LAW
Under present law, plan valuations are generally required annually for plans subject to the minimum funding rules. Under proposed Treasury regulations, except as provided by the Commissioner, the valuation must be as of a date within the plan year to which the valuation refers or within the month prior to the beginning of that year.
were used to acquire the employer securities (whether or not allocated to participants) with respect to which the dividend is paid.

The Secretary may disallow the deduction for any dividend if he determines that the dividend constitutes, in substance, an evasion of tax (sec. 40(k)(8)).

**HOUSE BILL**

In addition to the deductions permitted under present law for dividends paid with respect to employer securities that are held by an ESOP, an employer is entitled to deduct dividends that, at the election of plan participants or beneficiaries, are (1) payable in cash directly to plan participants or beneficiaries, or (2) paid to the plan and subsequently distributed to the participants or beneficiaries in cash no later than 90 days after the close of the plan year in which the dividends are paid to the plan, or (3) paid to the plan and reinvested in qualifying employer securities.

The House bill permits the Secretary to disallow the deduction for any ESOP dividend if the Secretary determines that the dividend constitutes, in substance, the avoidance or evasion of tax.

**Effective date.**—The House bill is effective for taxable years beginning after December 31, 2001.

**SENATE AMENDMENT**

In addition to the deductions permitted under present law for dividends paid with respect to employer securities that are held by an ESOP, an employer is entitled to deduct the applicable percentage of dividends that, at the election of plan participants or their beneficiaries, are (1) payable in cash directly to plan participants or beneficiaries, (2) paid to the plan and subsequently distributed to the participants or beneficiaries in cash no later than 90 days after the close of the plan year in which the dividends are paid to the plan, or (3) paid to the plan and reinvested in qualifying employer securities. The applicable percentage is 25 percent for 2002 through 2004, 50 percent for 2005 through 2007, 75 percent for 2008 through 2010 and 100 percent for 2011 and thereafter.

**CONFERENCE AGREEMENT**

The conference agreement follows the House bill. The provision of the conference agreement that authorizes the Secretary to disallow the deduction for any ESOP dividend if the Secretary determines that the dividend constitutes, in substance, the avoidance or evasion of taxation includes authority to disallow a deduction for a dividend, if the plan has (a) a qualified plan (within the meaning of section 401(k) of the Tax Reform Act of 1986) and (b) a cash or deferred arrangement within the meaning of section 401(k)(3)(A). For purposes of this section 401(k)(3)(A)(iii) reinvested dividends, a dividend paid on common stock that is primarily and regularly traded on an established securities market would be reasonable. In addition, for this purpose in the case of employees with no common stock (determined on a controlled group basis) that is primarily and regularly traded on an established securities market, the reasonableness of a dividend is determined by comparing the dividend rate on common stock of comparable corporations whose stock is primarily and regularly traded on an established securities market. Whether a corporation is comparable is determined by comparing relevant corporate characteristics such as industry, corporate size, earnings, debt-equity structure and dividend history.

(c) Repeal transition rule relating to certain highly compensated employees (sec. 603 of the House bill, sec. 663 of the Senate amendment, and sec. 104(b) of the Act of 1986)

**PRESENT LAW**

Under present law, for purposes of the rules relating to qualified plans, a highly compensated employee is generally defined as an employee who (a) was a 5 percent owner of the employer at any time during the year or the preceding year or (b) earned compensation in excess of $85,000 (for 2001) or (c) at the election of the employer, had compensation in excess of $85,000 for the preceding year and was in the top one percent of employees by compensation for such year.

Under a rule enacted in the Tax Reform Act of 1986, the special definition of highly compensated employee applies for purposes of the nondiscrimination rules relating to qualified cash or deferred arrangements (section 401(k)). This special definition applies to an employer incorporated on December 15, 1924, that meets certain specific requirements.

**HOUSE BILL**

The House bill repeals the special definition of highly compensated employee under the Tax Reform Act of 1986. Thus, the present-law definition applies.

**Effective date.**—The House bill is effective for plan years beginning after December 31, 2001.

**SENATE AMENDMENT**

The Senate amendment is the same as the House bill.

**CONFERENCE AGREEMENT**

The conference agreement follows the House bill. The provision of the conference agreement that authorizes the Secretary to disallow the deduction for any ESOP dividend if the Secretary determines that the dividend constitutes, in substance, an evasion of tax includes authority to disallow any ESOP dividend, if the Secretary determines that the dividend constitutes, in substance, the avoidance or evasion of tax.

**Effective date.**—The House bill is effective for plan years beginning after December 31, 2001.

**PRESENT LAW**

Under present law, certain employer-provided fringe benefits are excludable from gross income (sec. 132) and wages for employment tax purposes. These excludable fringe benefits include working condition fringe benefits and de minimis fringes. In general, a working condition fringe benefit is any property or services provided by an employer to an employee to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction as a business expense. A de minimis fringe benefit is any property or services provided by the employer the value of which, after taking into account the frequency with which similar fringes are provided, is so small as to be considered a reasonable or administratively impracticable.

In addition, if certain requirements are satisfied, up to $5,250 annually of employer-provided educational assistance is excludable from gross income (sec. 127) and wages. This exclusion expires with respect to courses beginning after December 31, 2001. Education not taxable under section 127 may be excludable as a working condition fringe.

There is no specific exclusion under present law for employer-provided retirement planning services. However, such services may be excludable as employer-provided educational assistance or a fringe benefit.

**HOUSE BILL**

Qualified retirement planning services provided to an employee and his or her spouse by an employer maintaining a qualified plan are excludable from income and wages. The exclusion does not apply to services that are retirement planning advice and information regarding retirement income planning for an individual and his or her spouse and how the employer’s plan fits into the individual’s overall retirement income plan. On the other hand, the exclusion does not apply to services that are retirement planning, such as tax preparation, accounting, legal or brokerage services.

It is intended that the Secretary shall make available to employers to take into consideration employer circumstances other than compensation and position in providing advice to classification of employees. Thus, for example, the Secretary may permit employers to limit certain advice to individuals nearing retirement age under the plan.

120 An employee includes a self-employed individual.

121 Treas. Reg. sec. 1.410(b)-6(g).

122 The exclusion does not apply with respect to graduate-level courses.
Effective date.—The House bill is effective with respect to years beginning after December 31, 2001.

SENATE AMENDMENT
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

(f) Reporting simplification (sec. 606 of the House bill and sec. 666 of the Senate amendment)

PRESENT LAW
A plan administrator of a pension, annuity, stock bonus, profit-sharing or other funded plan of deferred compensation generally must file with the Secretary of the Treasury an annual return for each plan year containing certain information with respect to the qualification, financial condition, and operation of the plan. Title I of ERISA also may require the plan administrator to file annual reports concerning the plan with the Department of Labor and the Pension Benefit Guaranty Corporation ("PBGC"). The plan administrator must use the Form 5500 series as the format for the required annual return.120 The Form 5500 series annual return/report, which consists of a primary form and various schedules, includes the information required to be filed with all three agencies. The plan administrator satisfies the requirement with respect to each plan by filing the Form 5500 series annual return/report with the Department of Labor, which forwards the form to the Internal Revenue Service and the PBGC.

The Form 5500 series consists of two different forms: Form 5500 and Form 5500-EZ. Form 5500 is the more comprehensive of the forms and requires the most detailed financial information. A plan administrator generally may file Form 5500-EZ, which consists of only one page, if (1) the only participants in the plan are the sole owner of a business that maintains the plan (and such owner’s spouse), or partners in a partnership that maintains the plan (and such partners’ spouses), (2) the plan is not aggregated with another plan in order to satisfy the minimum coverage requirements of section 410(b), (3) the employer is not a member of a related group of employers, and (4) the employer does not receive the services of leased employees. If the plan satisfies the eligibility requirements for Form 5500-EZ and the timely matter of filing or audit beginning on or after January 1, 1994, does not exceed $100,000, the plan administrator is not required to file a return.

With respect to a plan that does not satisfy the eligibility requirements for Form 5500-EZ, the characteristics and the size of the plan determine the amount of detailed financial information that the plan administrator must provide on Form 5500. If the plan has more than 100 participants at the beginning of the plan year, the plan administrator generally must provide more information.

HOUSE BILL
The Secretary of the Treasury is directed to modify the annual return filing requirements with respect to plans that satisfy the eligibility requirements for Form 5500-EZ to provide that if the total value of the plan assets of such a plan as of the end of the plan year is less than $100,000 on or after January 1, 1994, does not exceed $100,000, the plan administrator is not required to file a return. In addition, the House bill directs the Secretary of the Treasury and the Secretary of Labor to provide simplified reporting requirements for certain plans with fewer than 25 employees.

Effective date.—The House bill is effective on January 1, 2001.

CONFERENCE AGREEMENT
The conference agreement follows the House bill, the following modification. The Senate amendment does not include the direction to the Treasury and the Secretary of Labor to provide simplified reporting requirements for certain plans with fewer than 25 employees.

The conference agreement does not include the House bill or the Senate amendment.

(g) Improvement to Employee Plans Compliance Resolution System (sec. 607 of the House bill and sec. 667 of the Senate amendment)

PRESENT LAW
A retirement plan that is intended to be a tax-qualified plan provides retirement benefits if it satisfies all of the requirements of section 401(a). Similarly, an annuity that is intended to be a tax-sheltered annuity provides retirement benefits if it is deductible from the participant’s gross income and satisfies all of the requirements of section 403(b). The program satisfies all of the requirements of section 401(a) or section 403(b) as applicable for the plan for the intended tax-favored treatment.

The Internal Revenue Service ("IRS") has developed the Employee Plans Compliance Resolution System ("EPCRS"), which is a comprehensive system of correction programs for sponsors of retirement plans and annuities that are intended, but have failed, to satisfy the requirements of section 401(a) or section 403(b) as applicable. EPCRS permits employers to correct certain non-safeguarding failures without providing their employees with retirement benefits on a tax-favored basis.

The I.R.S. has amended EPCRS to (1) encourage operational and formal compliance, (2) promote voluntary and timely correction of compliance failures, (3) provide sanctions for failure to take corrective action that are reasonable in light of the nature, extent, and severity of the violation, (4) provide consistent and uniform administration of the correction program, (5) encourage correction program users to rely on the availability of EPCRS in taking corrective actions to maintain the tax-favored status of their retirement plans and annuities. The basic elements of the programs that comprise EPCRS are self-correction, voluntary correction with IRS approval, and audit reopening.

The Self-Correction Program ("SCP") generally permits a plan sponsor that has established compliance practices to correct certain insignificant failures at any time (including during an audit), and certain significant failures within a two-year period, without payment of any fee or sanction. The SCP permits employers to self-correct compliance failures under SCP for significant failures, if certain conditions are met.

The IRS has announced that EPCRS will be updated and improved periodically in light of experience and comments from those who use it.

HOUSE BILL
The Secretary of the Treasury is directed to continue to update and improve EPCRS, giving special attention to: (1) increasing the awareness and knowledge of small employers concerning the availability and use of EPCRS, (2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures, (3) extending the duration of the self-correction period for significant failures, (4) expanding the availability to correct insignificant compliance failures under SCP during audit, and (5) assuring that any tax penalty, or sanction, by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

Effective date.—The House bill is effective on the date of enactment.

CONFERENCE AGREEMENT
The conference agreement does not include the House bill or the Senate amendment.

(h) Repeal of the multiple use test (sec. 608 of the House bill, sec. 668 of the Senate amendment, and sec. 401(m) of the Code)

PRESENT LAW
Effective deferrals under a qualified cash or deferred arrangement ("section 401(k) plan") satisfy the qualification requirements of section 401(a) and are not subject to the non-discrimination test ("ADP test"). The ADP test compares the actual deferral percentages ("ADPs") of the highly compensated employee group and the nonhighly compensated employee group. The ADP for each group generally is the average of the deferral percentages separately calculated for the group ownership class to which the employee belongs. If the ADP of either the highly compensated employee group or the nonhighly compensated employee group for the prior plan year is more than 200 percent of the ADP of the nonhighly compensated employee group for the prior plan year and not more than 125 percent of the ADP of the highly compensated employee group for the prior plan year, the employer must make elective deferrals for all or a portion of the relevant plan year. Each eligible employee’s deferral percentage generally is the employee’s elective deferrals for the year divided by the employee’s compensation for the year.

The plan generally satisfies the ADP test if the ADP of the highly compensated employee group for the current plan year is either (1) not more than 125 percent of the ADP of the nonhighly compensated employee group for the prior plan year and not more than 200 percent of the ADP of the nonhighly compensated employee group for the prior plan year and not more than 125 percent of the ADP of the highly compensated employee group for the prior plan year, or (2) not more than 200 percent of the ADP of the nonhighly

compensated employee group for the prior plan year and not more than two percentage points greater than the ACP of the nonhighly compensated employee group for the prior plan year.

For any year in which (1) at least one highly compensated employee is eligible to participate in an employer’s plan or plans that are subject to the ADP test, and (2) the plan subject to the ADP test satisfies the ADP test but the ADP of the highly compensated employee group exceeds 125 percent of the ADP of the nonhighly compensated employee group, and (3) the plan subject to the ACP test satisfies the ACP test but the ACP of the highly compensated employee group exceeds 125 percent of the ACP of the nonhighly compensated employee group, an additional special nondiscrimination test (“multiple use test”) applies to the elective deferrals, employer matching contributions, and after-tax employee contributions. The plan or plans generally satisfy the multiple use test if the sum of the ADP and the ACP of the highly compensated employee group does not exceed the greater of (1) the sum of (A) 1.25 times the greater of the ADP or the ACP of the nonhighly compensated employee group, and (B) two percentage points plus (but not more than two times) the lesser of the ADP or the ACP of the nonhighly compensated employee group, and (2) two percentage points plus (but not more than two times) the lesser of the ADP or the ACP of the nonhighly compensated employee group.

HOUSE BILL
The House bill repeals the multiple use test.

Effective date.—The House bill is effective for years beginning after December 31, 2001.

SENATE AMENDMENT
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement follows the House bill and the Senate amendment.

(i) Flexibility in nondiscrimination, coverage, and line of business rules (sec. 609 of the House bill, sec. 669 of the Senate amendment, and secs. 401(a)(4), 410(b), and 414(f) of the Code)

PRESENT LAW
A plan is not a qualified retirement plan if the contributions or benefits provided under the plan do not favor highly compensated employees (sec. 401(a)(4)). The applicable Treasury regulations set forth the exclusive rules for determining whether a plan satisfies the nondiscrimination requirement.

Similarly, a plan is not a qualified retirement plan if the plan does not meet a minimum number of employees (sec. 410(b)). A plan satisfies this minimum coverage requirement if, as of the date of enactment, the sum of the ADP for each separate line of business.

A plan satisfies this minimum coverage requirement if it satisfies one of the tests specified in the applicable Treasury regulations.

HOUSE BILL
The Secretary of the Treasury is directed to modify, on or before December 31, 2003, the existing regulations issued under section 410(r) in order to provide (to the extent that the Secretary may determine to be appropriate) the ability of a plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

The Secretary is directed to provide by regulation applicable to years beginning after December 31, 2003, that a plan is deemed to satisfy the nondiscrimination requirements of section 401(a)(4) if the plan satisfies the pre-1994 facts and circumstances test, satisfies the conditions prescribed by the Secretary to appropriately limit the availability of such test, and is submitted to the Secretary for a determination of whether it satisfies such test (to the extent provided by the Secretary).

Similarly, a plan satisfies the minimum coverage requirement of section 410(b) if the plan satisfies the pre-1989 coverage rules, is submitted to the Secretary for a determination of whether it satisfies the pre-1989 coverage rules (to the extent provided by the Secretary), and satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of the pre-1989 coverage rules.

Effective date.—The provision of the House bill relating to the line of business requirements under section 410(b) is effective on the date of enactment. The provision relating to the nondiscrimination requirements under section 410(a)(4) is effective on the date of enactment, except that any condition of availability prescribed by the Secretary is not effective before the first year beginning not less than 120 days after the date on which such condition is prescribed. The provision relating to the minimum coverage requirements under section 410(b) is effective for years beginning after December 31, 2003, except that any condition of availability prescribed by the Secretary by regulation does not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

SENATE AMENDMENT
The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT
The conference agreement does not include the House bill or the Senate amendment.

(i) Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to state and local government plans (sec. 610 of the House bill, sec. 670 of the Senate amendment, sec. 1595 of the Taxpayer Relief Act of 1997, and secs. 401(a) and 401(k) of the Code)

PRESENT LAW
A qualified retirement plan maintained by a State or local government that is exempt from the rules concerning nondiscrimination (sec. 401(a)(4)) and minimum participation (sec. 401(a)(20)) is not required to provide by regulation applicable to years beginning after December 31, 2001, rules that appropriately limit the availability of such test, and is submitted to the Secretary for a determination of whether it satisfies such test (to the extent provided by the Secretary).

Similarly, a plan satisfies the minimum coverage requirement of section 410(b) if the plan satisfies the pre-1989 coverage rules, is submitted to the Secretary for a determination of whether it satisfies the pre-1989 coverage rules (to the extent provided by the Secretary), and satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of the pre-1989 coverage rules.

Effective date.—The provision of the House bill relating to the line of business requirements under section 410(b) is effective on the date of enactment. The provision relating to the nondiscrimination requirements under section 410(a)(4) is effective on the date of enactment, except that any condition of availability prescribed by the Secretary is not effective before the first year beginning not less than 120 days after the date on which such condition is prescribed. The provision relating to the minimum coverage requirements under section 410(b) is effective for years beginning after December 31, 2003, except that any condition of availability prescribed by the Secretary by regulation does not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

The Senate amendment provides that the Secretary may determine to be appropriate) the ability of a plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

The House bill is effective for years beginning after December 31, 2001.

CONFERENCE AGREEMENT
The conference agreement does not include the House bill or the Senate amendment.

(k) Notice and consent period regarding distributions (sec. 611 of the House bill and sec. 417 of the Code)

Notice and consent requirements apply to certain distributions from qualified retirement plans. These requirements relate to the content and timing of information that a plan may provide to a participant prior to a distribution, and to whether the plan must obtain the participant’s consent to the distribution. The nature and extent of the notice and consent requirements relative to a distribution depend upon the value of the participant’s vested accrued benefit and whether the joint and survivor annuity requirements (sec. 417) apply to the participant.

If the present value of the participant’s vested accrued benefit exceeds $5,000, the plan may not distribute the participant’s benefit without the written consent of the participant. The participant’s consent to a distribution is not valid unless the participant receives from the plan a notice that contains a written explanation of (1) the material features and the relative values of the optional forms of benefit available under the plan, (2) the participant’s right, if any, to have the distribution directly transferred to another retirement plan or IRA, and (3) the rules concerning the taxation of a distribution. If the joint and survivor annuity requirements apply to the participant, this notice also must contain a written explanation of (1) the terms and conditions of the qualified joint and survivor annuity, (2) the participant’s right to make, and the effect of, an election to waive the QJSA, (3) the rights of the participant’s spouse with regard to a participant’s QJSA, and (4) the right to make, and the effect of, a revocation of a waiver of the QJSA.

The plan generally must provide this notice to the participant no less than 30 and no more than 90 days before the date distribution commenced.

If the participant’s vested accrued benefit does not exceed $5,000, the terms of the plan may provide for distribution without the participant’s consent. The plan generally is required, however, to provide to the participant a notice that contains a written explanation of (1) the participant’s right, if any, to have the distribution directly transferred to another retirement plan or IRA, and (2) the rules concerning the taxation of a distribution. The plan generally must provide this notice to the participant no less than 30 and no more than 90 days before the date distribution commenced.

HOUSE BILL
A qualified retirement plan is required to provide the applicable distribution notice no less than 30 days and no more than 90 days before the date distribution commenced.

Similar provisions are contained in Title I of ERISA.
before the date distribution commences. The Secretary of the Treasury is directed to modify the applicable regulations to reflect the extension of the notice period to 180 days and to provide that for retirement benefits of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

 effective date.—The House bill is effective for years beginning after December 31, 2001.

 **SENATE AMENDMENT**

 No provision.

 **CONFERENCE AGREEMENT**

 The conference agreement does not include the House bill.

 (1) Annual report dissemination (sec. 612 of the House bill and sec. 104(b)(3) of ERISA)

 **PRESENT LAW**

 Title I of ERISA generally requires the plan administrator of each employee pension benefit plan and each employee welfare benefit plan to file an annual report concerning the plan with the Secretary of Labor within seven months after the end of the plan year. Within nine months after the end of the plan year, the plan administrator generally must furnish to each participant and to each beneficiary receiving benefits under the plan a summary of the annual report filed with the Secretary of Labor for the plan year.

 The requirement that a plan administrator furnish a summary annual report is satisfied if the report is made reasonably available through electronic means or other new technology. The interpretation of the House bill is to be consistent with the regulations of the Department of Labor and the Department of the Treasury.

 **Effective date.**—The House bill is effective for reports for years beginning after December 31, 2000.

 **SENATE AMENDMENT**

 No provision.

 **CONFERENCE AGREEMENT**

 The conference agreement does not include the House bill.

 (m) Modifications to the SAVER Act (sec. 613 of the House bill and sec. 517 of ERISA)

 **PRESENT LAW**

 The Savings Are Vital to Everyone's Retirement ("SAVER") Act initiated a public-private partnership to educate American workers about retirement savings and directed the Department of Labor to maintain an ongoing program of public information and outreach. The Conference also conveyed a National Summit on Retirement Savings held June 4–5, 1998, and to be held again in 2001 and 2005, co-hosted by the President and the bipartisan Congressional leadership. The National Summit brings together experts in the fields of employee benefits and retirement savings, key leaders of government, and interest groups from the private sector and general public. The delegates are selected by the Congressional leadership and the President. The National Summit is a public-private partnership, receiving substantial funding from the private sector contributions. The goals of the National Summits are to: (1) advance the public's knowledge and understanding of retirement savings and facilitate the development of a broad-based, public education program; (2) identify the barriers which hinder workers from setting aside adequate retirement savings and impede employers, especially small employers, from assisting their workers in accumulating retirement savings; and (3) develop specific recommendations to promote executive, and private sector actions to promote retirement income savings among American workers.

 **HOUSE BILL**

 The House bill clarifies that future National Summits on Retirement Savings are to be held in the month of September in 2001 and 2005, and adds an additional National Summit in 2003. The Department of Labor and the Department of the Treasury is to be consistent with the regulations of the Department of Labor in the administration of future National Summits, the Department of Labor is given authority to enter into cooperative agreements (pursuant to the Federal cooperative Agreement Act of 1977) with its 1999 summit partner, the American Savings Education Council.

 Six new statutory delegates are added to future National Summits: the Chairman and Ranking Member of the House Ways and Means Committee, the Senate Finance Committee, and the Subcommittee on Employer-Employee Relations of the House Committee on Education and the Workforce. Further, the President, in consultation with the Congressional leadership, may appoint up to three percent of the delegates (not to exceed 10) from a list of nominees provided by the private sector partner in the Summit administration. The provision also clarifies that new delegates are to be appointed for each future National Summit (as was the intent of the original legislation) and sets deadlines for their appointment.

 The provision also sets deadlines for the Department of Labor to publish the Summit agenda, gives the Secretary of Labor limited reception and representation authority, and mandates that the Department of Labor consult with the Congressional leadership in drafting the post-Summit report.

 **Effective date.**—The provision is effective on the date of enactment.

 **SENATE AMENDMENT**

 No provision.

 **CONFERENCE AGREEMENT**

 The conference agreement does not include the House bill.

 6. Other ERISA provisions

 (a) Extension of PBGC missing participants program (sec. 701 of the House bill, sec. 681 of the Senate amendment, and sec. 681 of ERISA)

 **PRESENT LAW**

 The plan administrator of a defined benefit pension plan that is subject to Title IV of ERISA, is maintained by a single employer, and terminated during a plan year, is required to distribute the assets of the plan. With respect to a participant whom the plan administrator of a single employer plan cannot locate after a diligent search, the plan administrator satisfies the distribution requirement only by purchasing irrevocable commitments from an insurer to provide all benefit liabilities under the plan or transferring the participant's designated benefit to the Pension Benefit Guaranty Corporation ("PBGC") which holds the benefit of the missing participant until the PBGC locates the missing participant and distributes the benefit.

 The PBGC missing participant program is not available to multiemployer plans or defined contribution plans and other plans not covered by Title IV of ERISA.

 **HOUSE BILL**

 The PBGC is directed to prescribe for terminating single-employer plans rules similar to the present-law missing participant rules applicable to terminating single-employer plans that are subject to Title IV of ERISA.

 Under present law, the PBGC, which is guaranteed by federal law, is to guarantee, to the extent of its assets, the benefits of defined benefit plans that are subject to Title IV of ERISA. The PBGC is entitled to terminate a plan when the plan has insufficient assets to pay the plan's obligations. newborns, and the PBGC is to guarantee the benefits of terminating plans. PBGC is to pay benefits under the plan, the guaranty benefits are treated as part of the plan's assets, reduced by any credit balance in the funding standard account. PBGC is to be notified of contributions to the plan were at least equal to the full funding limit.

 The PBGC guarantee is phased in ratably in the case of plans that have been in effect for less than five years, and with respect to benefit increases from a plan amendment that was in effect for less than five years before termination.

 **HOUSE BILL**

 Reduced flat-rate premiums for new plans of small employers

 Under the House bill, for the first five plan years of a new single-employer plan of a small employer, the flat-rate PBGC premium is $5 per plan participant.

 A small employer is a contributing sponsor that, on the first day of the plan year, has 100 or fewer employees. For this purpose, all employees of the employer and any group of the employer which the employer could reasonably be deemed to control are considered to be in a single group. In the case of a group in which more than one unrelated contributing sponsor or controlling group sponsors a plan, the controlling group sponsors are taken into account. In the case of a group in which one unrelated contributing sponsor or controlling group sponsors a plan, the related group sponsors are taken into account.

 A new plan means a defined benefit plan maintained by a contributing sponsor if, during the 36-month period ending on the date of adoption of the plan, the plan is maintained by a controlling group sponsor or a contributing group or a plan maintained by a controlling group or a controlling group member and (ii) each of the following is true: the plan is a new plan; the plan is in effect for substantially the same employees if not substantially the same employees as are in the plan.
Reduced variable-rate PBGC premium for new plans

The House bill provides that the variable-rate premium is phased in for new defined benefit plans over a six-year period starting with their first plan year. The amount of the variable-rate premium is a percentage of the variable premium otherwise due, as follows: zero percent of the otherwise applicable rate for the first plan year; 20 percent in the second plan year; 40 percent in the third plan year; 60 percent in the fourth plan year; 80 percent in the fifth plan year; and 100 percent in the sixth plan year (and thereafter).

A new defined benefit plan is defined as described above under the flat-rate premium provision of the House bill relating to new small employer plans.

Reduced variable-rate PBGC premium for small plans

In the case of a plan of a small employer, the variable-rate premium is no more than $5 multiplied by the number of plan participants in the plan at the end of the preceding plan year. For purposes of the House bill, a small employer is a contributing sponsor, and all employees of the controlled group of the contributing sponsor are taken into account. In the case of a plan to which this rule applies, all employees of all contributing sponsors (and their controlled group members) are taken into account in determining whether the plan is a plan of a small employer.

Effective date

The reduction of the flat-rate premium for new plans of small employers and the reduction of the variable-rate premium for new plans is effective with respect to plans established after December 31, 2001. The reduction of the variable-rate premium for small plans is effective with respect to plan years beginning after December 31, 2001.

HOUSE BILL

The House bill provides that the 60-month phase-in of guaranteed benefits applies to a substantial owner with less than 50 percent ownership interest substantial ownership in the calendar year 2001 of the otherwise applicable recovery amount.

Effective date.

The PBGC charges interest on underpayments of premiums, but is not authorized to pay interest on overpayments.

The House bill allows the PBGC to pay interest on overpayments made by premium payors. Interest paid on overpayments is calculated at the same rate and in the same manner as interest is charged on premium underpayments.

The House bill is effective with respect to interest accruing for periods beginning not earlier than the date of enactment.

HOUSE BILL

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill or the Senate amendment.

(c) Authorization for PBGC to pay interest on premium overpayment refunds (sec. 704 of the House bill, sec. 684 of the Senate amendment, and sec. 4007(b) of ERISA)
The House bill directs the Secretary of Labor to revise the regulations relating to the benefit suspension notice to generally permit the information currently required to be set forth in the suspension notice to be included in the summary plan description. The House bill also directs the Secretary of Labor to amend the requirement that the notice include a copy of relevant plan provisions. However, individuals reentering the workforce to resume work with a former employer whom they have begun to receive benefits will still receive the notification of the suspension of benefits (and a copy of the plan's provisions relating to suspension of payments). In addition, if a reduced rate of future benefit accruals will apply to a returning employee (as of his or her first date of participation in the plan after returning to work) who has begun to receive benefits, the notice must include a statement that the rate of future benefit accruals will be reduced. Effective date.—The House bill applies to plan years beginning after December 31, 2001.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

7. Miscellaneous provisions

(a) Tax treatment of electing Alaska Native Settlement Trusts (section 691 of the House bill)

An Alaska Native Corporation ("ANC") may establish a Settlement Trust ("Trust") under section 39 of the Alaska Native Claims Settlement Act ("ANCSA,"140 and transfer money or other property to such Trust for the benefit of beneficiaries who constitute all or a class of the shareholders of the ANC, to promote the health, education and welfare of the beneficiaries and preserve the heritage and culture of Alaska Natives.

With certain exceptions, once an ANC has made a conveyance to a Trust, the assets conveyed shall not be subject to attachment, distraint, or sale or execution of judgment, except with respect to the lawful debts and obligations of the Trust.

The Internal Revenue Service ("IRS") has indicated that contributions to a Trust constitute contributions to the beneficiaries, shareholders, owners or members of the Trust and are treated as dividends to the extent of earnings and profits as provided under section 301 of the Code.142 Also, a Trust and its beneficiaries are generally subject to applicable trust rules.143

Under general rules regarding the classification of entities, an entity that is taxed as a trust may not engage in business activity and must meet certain other requirements.144 Under certain circumstances, a trust can be treated as a "grantor trust" and taxed at the levels of income, gains, losses, deductions, and credits of the grantor, rather than the Trust.145 Additional provisions also specify that non-corporate fiduciaries of non-charitable trusts and non-charitable remainder interests, or of ANC stock.

The Senate amendment allows an election under which special rules will apply in determining the income tax treatment of an electing Trust and of its beneficiaries. An electing Trust refers to a trust established by an ANC for the purpose of investing the lowest rate specified for ordinary income of an individual (or corresponding lower capital gains rate). The provision also specifies the treatment of amounts distributed by an electing Trust to beneficiaries, the reporting requirements associated with such an election, and the consequences of disqualification for certain impermissible dispositions of Trust interests, or of ANC stock.

Under this provision, a trust that is an electing Trust established by an Alaska Native Corporation under section 39 of ANCSA may make an election for its first taxable year ending after the date of enactment of the provision to be subject to less the Trust makes an election to pay tax, in which case the basis in the hands of the beneficiaries as distributions by the Trust in excess of the distributable net income of the Trust for the taxable year

142 Sec. 671 et seq. A trust may not engage in business activity and must meet certain other requirements.

143 Under certain circumstances, a trust can be treated as a "grantor trust" and taxed at the levels of income, gains, losses, deductions, and credits of the grantor, rather than the Trust. Additional provisions also specify that non-corporate fiduciaries of non-charitable trusts and non-charitable remainder interests, or of ANC stock.

144 The Senate amendment allows an election under which special rules will apply in determining the income tax treatment of an electing Trust and of its beneficiaries. An electing Trust refers to a trust established by an ANC for the purpose of investing the lowest rate specified for ordinary income of an individual (or corresponding lower capital gains rate). The provision also specifies the treatment of amounts distributed by an electing Trust to beneficiaries, the reporting requirements associated with such an election, and the consequences of disqualification for certain impermissible dispositions of Trust interests, or of ANC stock.

Under this provision, a trust that is an electing Trust established by an Alaska Native Corporation under section 39 of ANCSA may make an election for its first taxable year ending after the date of enactment of the provision to be subject to less otherwise applicable income tax rules. If the election is in effect, no amount will be included in the gross income of a beneficiary of such Trust by reason of a contribution to the Trust.145 In addition, ordinary income of the electing Trust, whether accumulated or distributed, will be taxed only to the extent that (not to beneficiaries) at the lowest individual tax rate for ordinary income; other capital gain will similarly be taxed to the Trust at the capital gains rate applicable to individuals. The Trust will also apply, rather than the higher rates generally applicable to trusts or to higher tax bracket beneficiaries. The election is made on a one-time basis only. The benefits of the election will terminate, however, and other special rules will apply, if the electing Trust or the sponsoring ANC fail to satisfy the restrictions on transferability of Trust beneficial interests or of ANC stock.

The treatment to beneficiaries of amounts distributed by an electing Trust depends upon the amount of the distribution. Solely for purposes of determining what amount has been distributed and thus which treatment to beneficiaries of amounts distributed by an electing Trust during any taxable year are excludable from the gross income of the recipient beneficiary to the extent of (1) the taxable income of the Trust for the taxable year for taxable years for which an election was in effect (decreased by any income tax paid by the Trust with respect to such amounts distributed by) and (2) any amounts excluded from gross income of the Trust under section 103 for those periods.

Amounts distributed by an electing Trust are treated as distributions by the Trust in excess of the distributable net income of the Trust for the taxable year (the fair market value of the property at the time of the distribution). The treatment to beneficiaries of amounts distributed by an electing Trust is similar to the treatment of distributions by the Trust in excess of the distributable net income of the Trust for the taxable year.

ANC, as under present law, so that the ANC will receive no special treatment as if it had been taxed at the fair market value. The Trust takes the property with a fair market value basis, pursuant to section 301(d) of the Code.

Section 661 of the Code, which provides a deduction to the trust for certain distributions, does not apply to an electing Trust. Under these rules, the amount of any distribution of property is the fair market value of the property at the time of the distribution.

The Senate amendment allows an election under which special rules will apply in determining the income tax treatment of an electing Trust and of its beneficiaries. An electing Trust refers to a trust established by an ANC for the purpose of investing the lowest rate specified for ordinary income of an individual (or corresponding lower capital gains rate). The provision also specifies the treatment of amounts distributed by an electing Trust to beneficiaries, the reporting requirements associated with such an election, and the consequences of disqualification for certain impermissible dispositions of Trust interests, or of ANC stock.
The fiduciary of an electing Trust must report to the IRS, with the Trust tax return, the amount of distributions to each beneficiary, and the tax treatment to the beneficiaries of distributions under the provision (either as exempt from tax to the beneficiary, or as a distribution deemed made by the ANC). The electing Trust must also furnish transfers of stock to the ANC. In the case of distributions that are treated as if made by the ANC, the ANC must then report such amounts to the beneficiaries and must indicate how any dividends received, in accordance with the earnings and profits of the ANC. The reporting required by an elective Trust is in lieu of the fiduciary satisfying the reporting requirements of section 6034A (and such other reporting requirements as the Secretary of the Treasury may deem appropriate).

The earnings and profits of an ANC will not be reduced by the amount of its contributions to an electing Trust at the time of the contributions. However, the ANC earnings and profits will be reduced as and when distributions are thereafter made by the electing Trust that are taxed to beneficiaries under the provision as dividends from the ANC to the Trust beneficiaries.

If in any taxable year the beneficial interests in stock may be disposed of to a person in a manner that would not be permitted under ANCSA if the interests were Settlement Common Stock (generally, to a person other than an Alaska Native), then the special provisions applicable to electing Trusts, including the favorable ordinary income tax rate and corresponding lower capital gains tax rate, cease to apply as of the beginning of such taxable year. The distributable net income of the Trust is increased up to the amount of current and accumulated net capital gains of the Trust as of the end of that year, but such increase shall not exceed the fair market value of the assets of the Trust as of the date the beneficial interests of the Trust became disposable.

Thereafter, the Trust and its beneficiaries are generally subject to the rules of chapter J and to the generally applicable requirements for classification and to contributions made to electing Trusts during such year and thereafter.

CONFERECE AGREEMENT

The conference agreement follows the Senate amendment. The conferences wish to state certain technical clarifications of the description of the Senate amendment, which also apply under the conference agreement, the per share loss adjustment factor for stock of an ANC is the aggregate of all contributions to all electing Trusts sponsored by such ANC made on or after the day the ANC is treated as an electing Trust expressed on a per share basis and determined as of the day of each such contribution.

Under the Senate amendment and the conference agreement, the per share loss adjustment factor for stock of an ANC is the aggregate of all contributions to all electing Trusts sponsored by such ANC made on or after the day the ANC is treated as an electing Trust expressed on a per share basis and determined as of the day of each such contribution.

Under the Senate amendment and the conference agreement, the transfer of stock or beneficial interests under the provision are those that would apply to Settlement Common Stock (but without such transferability of ANC stock in manner that would not be permitted under ANCSA if the interest or transfer of Settlement Common Stock (generally, to a person other than an Alaska Native) fails to reflect the allocable basis of the stock in the hands of the beneficiary, and the tax treatment to the beneficiary of such distributions under the provision are those that would apply under ANCSA (whether or not the interest or transfer of Settlement Common Stock is in fact Settlement Common Stock) (January 1, 2006, in the case of a governmental plan). If the amendment is not required to retain qualified status as a result of the changes in the bill (or regulations), then the ANC will have a corresponding right to reflect the changes made by the bill, but only to the extent that the amendment would not result in the ANC being treated as an electing Trust, expressed on a per share basis and determined as of the date of each such contribution.

Under the Senate amendment and the conference agreement, the restrictions on transfer of stock or beneficial interests under the provision are those that would apply to Settlement Common Stock under section 7(h) of ANSCA (whether or not the interest or transfer of Settlement Common Stock is in fact Settlement Common Stock). To the extent section 7(h) of ANSCA permits certain transfers of Settlement Common Stock on death or in other special circumstances, those are also permitted under the provision. Also, the mere fact that a portion of the stock held by an ANC that would not be permitted for Settlement Common Stock (but without such transferability of any Trust interests) will not destroy the beneficial treatment of an existing electing Trust unless and until the ANC thereafter makes a transfer to the Trust.

Under the Senate amendment and the conference agreement, the surrender of an interest in an ANC or an electing Trust in order to accomplish the whole or partial redemp­tion of the interest of a shareholder or benefici­ary in such ANC or Trust, or to accomplish the whole or partial liquidation of such ANC or Trust, is deemed to be a transfer permitted by section 7(h) of ANSCA for purposes of the provision.

The conferences also wish to clarify the ef­fect of the general sunset provision of the legisla­tion. The general sunset provision is effective for taxable years beginning after December 31, 2010. For such taxable years, the tax consequences of any election previously made by the ANC will be treated as if the ANC had elected to pay the lesser of the table values for the provisions of the House bill as of the effective date of the relevant provision of the House bill, or the amounts that would have been treated as set forth in the conference agreement.

Effective date.—The House bill is effective on or before the last day of the first plan year beginning on or after January 1, 2004 (January 1, 2006, in the case of a govern­mental plan). If the amendment is not required to retain qualified status as a result of the changes in the bill (or regulations) then the ANC will have a corresponding right to reflect the changes made by the bill, but only to the extent that the amendment would not result in the ANC being treated as an electing Trust, expressed on a per share basis and determined as of the date of each such contribution.

Amendments that are not required to retain qualified status but that are made pursuant to the changes made by the bill (or applicable regulations) may be made retroactive as of the first day the plan was operated in accordance with the amendment.

As a result of the conference agreement, the Secretary will not permit inappropriate reductions in contributions or benefits that are not directly related to the provi­sions of the House bill and the plan must be operated in compliance with those provisions. In order for this treatment to apply, the plan amendment must be made on or before the last day of the first plan year beginning on or after January 1, 2004 (January 1, 2006, in the case of a govern­mental plan). If the amendment is not required to retain qualified status as a result of the changes in the bill (or regulations) then the ANC will have a corresponding right to reflect the changes made by the bill, but only to the extent that the amendment would not result in the ANC being treated as an electing Trust, expressed on a per share basis and determined as of the date of each such contribution.

The Secretary is authorized to provide exceptions to the relief from the provisions of the House bill on a case-by-case basis provided the Secretary is satisfied that the Secretary will not permit inappropriate reductions in contributions or benefits that are not directly related to the provi­sions of the House bill. For example, it is intended that a plan that incorporates the sec­tion 415 limits by reference could be retroactively amended to impose the section 415 limits in effect before the bill. On the other hand, suppose a plan that incorporates the section 401(a)(17) limit on compensation by reference provides for an employer contribu­tion of three percent of compensation. It is expected that the Secretary will provide that the plan could not be amended retroactively to reduce the contribution percentage for those participants not by the sec­tion 401(a)(17) limit, even though the reduc­tion will result in the same dollar level of compensation for those participants because of the increase in compensation taken into account under the plan. As another example, suppose that under present law a plan is top-heavy and the minimum benefit is required under the plan and the provisions of the House bill, the plan would not be considered to be top heavy. It is ex­pected that for some participants because of the increase in compensation taken into account under the plan. As another example, suppose that under present law a plan is top-heavy, and the minimum benefit is required under the plan and the provisions of the House bill, the plan would not be considered to be top heavy. It is ex­pected that for some participants because of the increase in compensation taken into account under the plan.

No provision.
VII. ALTERNATIVE MINIMUM TAX

A. INDIVIDUAL ALTERNATIVE MINIMUM TAX RELIEF (SEC. 3(C) OF H.R. 6, SEC. 701 OF THE SENATE AMENDMENT AND SEC. 55 OF THE CODE)

PRESENT LAW

Present law imposes an alternative minimum tax ("AMT") on individuals to the extent that the tentative minimum tax exceeds the regular tax. An individual's tentative minimum tax generally is an amount equal to the sum of (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of an exemption amount and (2) 28 percent of the remaining AMTI. AMTI is the lesser of (1) the excess of an exemption amount and (2) the sum of (A) 26 percent of the first $150,000 ($75,000 in the case of a married individual filing a joint return) of modified gross income and (B) AMTI is increased by $2,000.

The AMT exemption amounts are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of other unmarried individuals; and (3) $22,500 in the case of married individuals filing a separate return, estates and trusts. The exemption amounts are phased out in the numerator equal to 25 percent of the amount by which the individual’s AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses; (2) $125,000 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. The exemption amounts for the threshold phase-out amounts, and rate brackets are not indexed for inflation.

HOUSE BILL

No provision.

However, H.R. 6, as passed by the House, increases the AMT exemption amount for married couples filing a joint return and surviving spouses by $1,000. The AMT exemption amounts for other individuals (i.e., unmarried individuals and married individuals filing a separate return) are increased by $2,000.

Effective date.—The provision applies to taxable years beginning after December 31, 2004.

SENATE AMENDMENT

The Senate amendment increases the AMT exemption amount for married couples filing a joint return and surviving spouses by $1,000. The AMT exemption amount for other individuals (i.e., unmarried individuals and married individuals filing a separate return) are increased by $2,000.

Effective date.—The provision applies to taxable years beginning after December 31, 2000, and before January 1, 2001.

CONFERENCE AGREEMENT

The conference agreement increases the AMT exemption amount for married couples filing a joint return and surviving spouses by $1,000. The AMT exemption amount for other individuals (i.e., unmarried individuals and married individuals filing a separate return) are increased by $2,000.

Effective date.—The provision applies to taxable years beginning after December 31, 2000, and beginning before January 1, 2001.

VIII. OTHER PROVISIONS

A. MODIFICATION TO CORPORATE ESTIMATED TAX PAYMENTS TO HOLOCAUST VICTIMS

PRESENT LAW

The Senate amendment provides that excludable restitution payments made to an eligible individual (or the individual’s heirs or estate) are: (1) excluded from gross income; and (2) not taken into account for any provision of the Code which takes into account gross income in computing adjusted gross income (e.g., taxation of Social Security benefits).

The basis of any property received by an eligible individual (or the individual’s heirs or estate) that is excludable under this provision is the fair market value of such property at the time of receipt by the eligible individual (or the individual’s heirs or estate). The Senate amendment also provides that any excludable restitution payment is disregarded in determining eligibility for, and the amount of benefits and services to be provided under, any Federal or federally assisted program which provides benefit or service based, in whole or in part, on need. Under the Senate amendment, no officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided under such a program before January 1, 2000, by reason of failure to take account of excludable restitution payments received before that date.

Similarly, the Senate amendment requires a good faith effort to notify any eligible individual who may have been denied such benefits or services of their potential eligibility for such benefits or services. The Senate amendment provides for a permanent modification to the coordination between this bill and Public Law 103-286, which also disregarded certain restitution payments in determining eligibility for, and the amount of certain needs-based benefits and services.

Eligible restitution payments are any payment distribution made to an eligible individual (or the individual’s heirs or estate) which: (1) is payable by reason of the individual’s status as an eligible individual (including any amount payable by reason of a result of a final administrative action, and any amount payable under a law providing for payments or restitution of property); (2) constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden, or otherwise lost to, the individual before, during, or immediately after World War II by reason of the individual’s status as an eligible individual (including any proceeds of insurance under policies issued on eligible individuals by European insurance companies immediately before World War II); and (3) has the interest payable as part of any payment or distribution described in (1) or (2), above. An eligible individual is a person who was persecuted for reasons of race, religion, national origin, or any other Axis regime, or any other Nazi-controlled or Nazi-allied country.

199September 15, 2001 will be a Saturday. Under present law, any payment made on a Sat- urday must be made no later than the next banking day.

200 Sec. 7508A.

201 Sec. 6404(h).
Effective date.—The provision is effective for any amounts received on or after January 1, 2000. No inference is intended with respect to the income tax treatment of any amounts received after January 1, 2000.

CONFERENCE AGREEMENT
The conference agreement follows the Senate amendment, with three changes. First, the definition of eligible individuals is expanded to also include individuals persecuted on the basis of personal or moral conviction, or sexual orientation. Second, the provision is to be more strictly construed in determining eligibility for and the benefit calculation of certain Federal or Federally assisted programs is deleted. Third, the provision is expanded to also include individuals persecuted on the basis of race, color, national origin, or immigration status.

D. TREATMENT OF SURVIVOR ANNUITY PAYMENTS WITH RESPECT TO PUBLIC SAFETY OFFICERS (SEC. 804 OF THE SENATE AMENDMENT)

PRESENT LAW
The Taxpayer Relief Act of 1997 provided that an amount paid as a survivor annuity on account of the death of a public safety officer who is killed in the line of duty is excludable from income to the extent the surviving annuity is attributable to the officer's service as a public safety officer in the line of duty. The survivor annuity must be provided under a governmental plan to the surviving spouse (or former spouse) of the public safety officer or to the line of the officer.

The provision does not apply with respect to the death of a public safety officer if it is determined by the appropriate supervising authority that the death was caused by the intentional misconduct of the officer or by the officer's intention to bring about the death, (2) the officer was voluntarily intoxicated at the time of the death; (3) the officer was performing his or her duties in a grossly negligent manner at the time of death, or (4) the actions of the individual to whom payment is to be made were a substantial contributing factor to the death of the officer.

For purposes of the exclusion, “public safety officer” is defined as in section 240 of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended). Under that Act, a public safety officer is an: (1) individual serving in the line of duty; the death was caused by the intentional misconduct of the officer or by the officer's intention to bring about the death, (2) the officer was voluntarily intoxicated at the time of the death; (3) the officer was performing his or her duties in a grossly negligent manner at the time of death, or (4) the actions of the individual to whom payment is to be made were a substantial contributing factor to the death of the officer.

Under present law, the individual income tax treatment of health insurance expenses depends on the individual's circumstances. Self-employed individuals may deduct a portion of health insurance expenses for the individual and dependents. The deductible percentage of health insurance expenses of self-employed individuals is 15 percent in 2000, 20 percent in 2001, 25 percent in 2002, and 30 percent in 2003 and thereafter. The deduction for health insurance expenses of self-employed individuals is not available for any month in which the individual is eligible for a subsidized health plan, maintained by the employer of the individual or the individual's spouse. The self-employed health deduction also applies to health insurance expenses for long-term care insurance premiums treated as medical care for purposes of the itemized deduction for medical expenses, described below. Employers can exclude from income 100 percent of employer-provided health insurance.

Individuals who itemize deductions may deduct their health insurance expenses only to the extent that the total medical expenses of the individual exceed 7.5 percent of adjusted gross income (AGI). Subject to certain dollar limitations, premiums for qualified long-term care insurance are treated as medical expenses for purposes of the itemized deduction for medical expenses.

CONGRESSIONAL RECORD — HOUSE H2809
May 25, 2001

Effective date.—The provision is effective for any amounts received on or after January 1, 2000. No inference is intended with respect to the income tax treatment of any amounts received after January 1, 2000.

CONFERENCE AGREEMENT
The conference agreement does not include the provisions of H.R. 1727 or the Senate amendment provision.

E. CIRCUIT BREAKER (SEC. 806 OF THE SENATE AMENDMENT)

PRESENT LAW
The Congressional Budget Act of 1974 contains numerous rules enforcing the scope of items permitted to be considered under the budget reconciliation process.

HOUSE BILL
No provision.

SENATE AMENDMENT
The Senate amendment provides that, in any fiscal year beginning after December 31, 2001, the level of debt held by the public for that fiscal year shall be $2,290 in the case of an individual who is over 60 but not more than 70, $2,200 in the case of an individual who is more than 70 but not more than 80, $2,100 in the case of an individual who is more than 80 but not more than 90, and $2,000 in the case of an individual who is more than 90. These dollar limits are indexed for inflation.

HOUSE BILL
No provision.

SENATE AMENDMENT
The Senate amendment increases the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent of the unadjusted gross income of the individual for taxable years beginning after December 31, 2001.

G. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, AND ARTISTIC COMPOSITIONS (SEC. 808 OF THE SENATE AMENDMENT AND SEC. 170 OF THE CODE)

PRESENT LAW
In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the deduction is limited to the taxpayer’s basis in the property. In the case of a charitable contribution of property, the deduction is limited to the taxpayer’s basis in the property if the use by the recipient charitable organization is unrelated to the organization’s tax-exempt purpose. In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the tax-exempt purpose of the private foundation.

Under present law, charitable contributions of literary, musical, and artistic compositions are considered ordinary income property and a taxpayer’s deduction of such property is limited to the taxpayer’s basis (basis, cost) in the property. To be eligible for the deduction, the contribution must be of an undivided portion of the donor’s entire interest in the property. For purposes of the charitable income tax deduction, the copyright and the work in which the copyright is embodied are not treated as separate property interests. Accordingly, if a donor owns a work of art and the copyright to the work of art, a gift of the artwork without the copyright or the copyright without the artwork does not constitute a gift of a “partial interest” and will not qualify for the income tax charitable deduction.

HOUSE BILL
No provision.

SENATE AMENDMENT
The Senate amendment provides that a deduction for qualified artistic charitable contributions is the fair market value of the
With respect to a decedent’s surviving spouse, a special rule provides that the surviving spouse will not be treated as failing to use the property in a qualified use solely because the decedent’s survivor is a member of the spouse’s family on a net cash basis. Members of an individual’s family include (1) the individual’s spouse, (2) the individual’s parents, (3) the individual’s descendants, or (4) the spouses of any such lineal descendants. Section 2032(c) of the Tax Reform Act of 1997 expanded the class of heirs eligible to lease property for which special-use valuation was claimed without causing the qualified use of the property to cease for purposes of imposition of the additional estate tax. Section 2032A(c)(7)(E) provides that the net cash lease of property (for which special-use valuation was claimed) by a lineal descendant of the decedent to a member of such lineal descendant’s family does not cause the qualified use of the property to cease for purposes of imposition of the additional estate tax. The amendment made under the Tax Reform Act of 1997 applies to leases entered into after December 31, 1997.

A requirement is met if credit is claimed for qualified artistic contributions made after the date of enactment. In Technical Advice Memorandum 9843001, the IRS determined that the retroactive effective date in the changes made by the Tax Reform Act of 1997 was a waiver of the period of limitations otherwise applicable on a taxpayer’s claim. Accordingly, the IRS determined that a taxpayer’s claim for refund of an amount and account of the cessation of a qualified use was barred under the generally applicable statute of limitations on refund claims.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that, if on the date of enactment or at any time within one year after the date of enactment, a claim for refund or credit of any overpayment of tax resulting from the application of net cash lease provisions for spouses and lineal descendants (sec. 2032A(c)(7)(E)) is barred by operation of law or rule of law, then the refund or credit of such overpayment shall, nonetheless, be allowed if a claim therefore is filed before the date that is one year after the date of enactment.

The provision is effective for refund claims filed prior to the date that is one year after the date of enactment.

Senate Amendment

The conference agreement follows the Senate amendment.

Conference Agreement

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer’s qualified research expenditures for the taxable year exceed its base amount for that year. The research tax credit generally applies to amounts paid or incurred before July 1, 2004.

For certain university basic research payments made by corporations, the research tax credit applies only to the extent that the average annual research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer’s “fixed-base percentage” by the average amount of the taxpayer’s research and development payments in each of the five taxable years ending before the current year. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then the “fixed-base percentage” is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period, subject to a maximum ratio of 0.16. All other taxpayers (so-called “start-up firms”) are assigned a fixed-base percentage of 3.0 percent.

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is, lower than the fixed-base percentage otherwise applicable under present law) and the event that the credit subsequently is alternative credit regime, a credit rate of 2.65 percent applies to the extent that a taxpayer’s current-year research expenses exceed the base amount computed by using a fixed-base percentage of 1.0 percent (i.e., the base amount equals 1.0 percent of the taxpayer’s average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applies to the extent that the taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2.0 percent. A credit rate of 3.75 percent applies to the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2.5 percent.

An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years (in the event that the credit subsequently is extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

House Bill

No provision.

Senate Amendment

The Senate amendment would make the research credit permanent.

The Senate amendment would also increase the credit rates under the alternative incremental credit regime from 2.0 percent, from 3.2 percent to 4.0 percent, and from 3.75 percent to 5.0 percent.

In addition, the Senate amendment would provide a new research credit with respect to certain qualified vaccine and microbiology research. The amendment would provide a credit equal to 30 percent of qualifying vaccine research expenses undertaken to develop vaccines and microbiotics for malaria, tuberculosis, HIV, or any infectious disease rendered to the World Health Organization, causes over one million human deaths annually. Qualifying vaccine research expenses would include 100 percent of the research expenses and the cost of the related contract research expenses. In-house research expenses and contract research expenses would be defined as in present-law sec. 41 and no deduction otherwise allowed with respect to qualifying vaccine research expenses would include expenses for research incurred outside the United States, other than...
improve real property. Qualified organizations include pension trusts, educational institutions, and title-holding companies.

HOUSE BILL
No provision.

SENIATE AMENDMENT
The Senate amendment expands the exception to include the qualified real property in the case of a qualified hospital support organization. The exception applies to eligible indebtedness (or the qualified refinancing thereof) to the qualified hospital support organization.

A qualified hospital support organization is a supporting organization (under Code section 509(a)(3)) of a hospital that is an academic health center (under Code section 119(d)(4)(B)). The assets of the supporting organization must also meet certain requirements. First, more than half of the value of its assets at any time since its organization (1) must have been acquired, directly or indirectly, by gift or devise, and (2) must consist of real property. In addition, the fair market value of the organization’s real estate acquired by gift or devise must exceed 10 percent of the fair market value of all investment assets held immediately prior to the time that the eligible indebtedness is incurred. These requirements must be met each time eligible indebtedness is incurred or a qualified refinancing thereof occurs.

Eligible indebtedness means indebtedness secured by real property acquired by gift or devise, the proceeds of which are used exclusively to acquire a leasehold interest in or to improve the property. A qualified refinancing of eligible indebtedness occurs if the refinancing does not exceed the amount of refinanced eligible indebtedness immediately before the refinancing.

Effective date.—The Senate amendment applies to indebtedness incurred after December 31, 2003.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

L. MODIFY RULES GOVERNING TAX-EXEMPT BONDS FOR CERTAIN PRIVATE WATER FACILITIES (SEC. 814 OF THE SENATE AMENDMENT AND SEC. 142 OF THE CODE)

PRESENT LAW
Interest on State or local government bonds is subject to Federal income tax. The proceeds of these bonds are used to finance activities carried out by or for those governmental units. Interest on bonds issued by State or local governments acting as conduit borrowers for private businesses is taxable unless a specific exception is included in the Code. One such exception allows tax-exempt bonds to be issued to finance privately owned and operated facilities for the furnishing of water. Such facilities must be operated in a manner similar to municipal water facilities in order to qualify for the tax exemption. The proceeds of such bonds must be used to provide water service to the general public, and rates must be regulated. Tax-exempt private activity bonds for water facilities may be issued to finance arsenic and other pollutant treatment facilities.

Issuance of private activity tax-exempt bonds for water facilities is subject to aggregate annual State volume limitations that apply to most private activity bonds. Similar to most other private activity bonds, interest on these bonds is a preference item for purposes of the alternative minimum tax.

HOUSE BILL
No provision.

SENIATE AMENDMENT
The Senate amendment provides that private activity bonds for facilities to reme­date arsenic levels in water (as opposed to such bonds to finance private water treat­ment facilities generally) are not subject to the State volume limits and the interest on the bonds is not a preference item for the al­ternative minimum tax. A bond so treated as for arsenic remediation if at least 95 percent of the proceeds are used for facilities to com­ply with the 10 parts per billion standard estab­lished by the Secretary of Health and Human Services. The provision does not affect govern­mental bonds for municipal water facil­ities.

Effective date.—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

M. combined employment tax reporting (SEC. 816 OF THE SENATE AMENDMENT AND SEC. 6103(d)(5) OF THE CODE)

PRESENT LAW
The Internal Revenue Code prohibits disclo­sure of tax returns and return informa­tion, except to the extent specifically au­thorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not to exceed $100,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for the disclosure of in­formation obtained from the IRS (sec. 7431). No tax information may be furnished by the Internal Revenue Service ("IRS") to another agency unless the other agency establishes safeguards satisfactory to the IRS for safeguarding the tax information it receives (sec. 6108(p)).

The Taxpayer Relief Act of 1997 authorized a demonstration project to assess the feasi­bility and desirability of expanding com­bined reporting. The demonstration project was: (1) limited to State of Montana, (2) lim­ited to employment tax reporting of tax­payer identity (name, address, taxpayer identifying number) and the signature of the taxpayer and (4) limited to a period of five years. After August 5, 2002, the demonstra­tion project will expire.

To implement that demonstration project, the Taxpayer Relief Act of 1997 amended the Code to authorize the IRS to disclose the name, address, taxpayer identifying number, and signature of the taxpayer, which is common to both the State and Federal portions of the combined form. The Code permits the IRS to disclose these common data items to the State and not have it subject to the re­quired waiver of the redisclosure restrictions, safeguards, and criminal penalty provisions. Essentially, the State is allowed to use this information as if the State directly received this information from the taxpayer.

HOUSE BILL
No provision.

SENIATE AMENDMENT
The Senate amendment makes the IRS dis­closure authority permanent and expands the authorized recipients to include any State agency, body, or commission, for the purpose of carrying out a combined Federal and State employment tax reporting pro­gram approved by the Secretary. The statute­uary waiver of the redisclosure restrictions, safeguards, and criminal penalty provisions continues to apply. Further, the items authorized for disclosure must be limited to the name, address, taxpayer identifying number, and signature of the taxpayer.

154 Sec. 6103(d)(5). The following restrictions and requirements do not apply to disclosure: (1) the prohibition on disclosure of returns or return information by State officers and employees (sec. 6103(a)(2)); (2) the Fed­eral rules and regulations for unmatched and un­inspected returns and return information (sees. 7213 and 7215) and (3) the requirement that the State establish safeguards regarding the informa­tion obtained from the IRS (sec. 816(b)(p)(4)).
Section 527 organizations

An organization is not treated as a section 527 organization if it is selected, nominated, elected, or appointed to any public office (whether or not incorporated) organized and operated primarily for the purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual, to any Federal, State, local public office or office in a political organization, or the election of President, Vice President, or a Senator, and whether or not such individuals or election to the office of President.

Notice of section 527 organization

An organization that fails to file the notice required to report as a political committee under the Federal Election Campaign Act of 1971, or (2) by organizations that reasonably anticipate that their annual gross receipts will always be less than $25,000, and (3) organizations described in section 501(c). All other organizations, including State and local candidate committees, are required to file the notice.

The notice is required to be transmitted no later than 10 days before the date on which the organization is organized. The notice is required to include the following information: (1) the name and address of the organization and its electronic mailing address, (2) the purpose of the organization, (3) the names and addresses of the organization’s officers, highly compensated employees, contact person, custodian of records, and members of the organization’s Board of Directors, (4) the name and address of, and relationship to, any related entities, and (5) other information that the Secretary may require.

The notice of status as a section 527 organization is required to be disclosed on all solicitations. The organization must be required to make publicly available on the Internet and at the offices of the IRS a list of all solicitations, and then file a notice with the Secretary under section 527 and the name, address, electronic mailing address, custodian of records, and contact person used to make the solicitation. The organization must be required to make this information available within 5 business days after the Secretary of the Treasury receives a notice from a section 527 organization.

An organization that fails to file the notice is not treated as a section 527 organization and its exempt function income is taken into account in determining taxable income.

Disclosure by political organizations of expenditures

A political organization that accepts a contribution or makes an expenditure for an exempt function during any calendar year is required to file with the Secretary of the Treasury certain reports. The purposes of these requirements are to prevent the case of a calendar year in which a regularly scheduled election is held, quarterly reports, a pre-election report, and a post-election report. The report covering January 1 to June 30 and July 1 to December 31, or (2) monthly reports for the calendar year, except that, in the case of the quarterly report due on December of any year in which a regularly scheduled general election is held, a pre-general election report, a post-general election report, and a year end report are to be filed. The reports are required to include the following information: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of the employer of the individual); and (2) the name and address (in the case of an individual, including the occupation and name of the employer of each individual) of all contributors that contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contribution.

The disclosure requirements do not apply to any person required to report as a political committee under the Federal Election Campaign Act of 1971, or (2) by any State or local committee of a political party or political committee of a State or local candidate, (3) to any organization that reasonably anticipates that it will have gross receipts of $25,000 or more for any taxable year, (4) to any organization described in section 501(c), or (5) with respect to any expenditure that is an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971). For purposes of the disclosure requirements, the term “election” means (1) a general, special, primary, or runoff election for a Federal office, (2) a convention or caucus to select a delegate to the national convention for a political party, (3) to any organization that reasonably anticipates that it will have gross receipts of $25,000 or more for any taxable year, (4) to any organization described in section 501(c), or (5) with respect to any expenditure that is an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971). Under present law, a section 527 organization that has political organization taxable income is required annually to file Form 1120-POL (Return of Organization Exempt from Tax Under Section 501(c)(4)), (1) a return (including information regarding the amount of contributions and expenditures in excess of the gross receipts limitation), and must in fact report, information regarding the election of any individual for any Federal, State, local public office or office in a political organization, or the election to the office of President, Vice President, or Senator, and whether or not such individuals or or appointment of any individual to any Fed-

Finally, the Senate amendment gives the Secretary the authority to waive all or any portion of the penalties imposed on an organization for failure to file and pay within 10 days to file regular reports with the Secretary detailing contribution and expenditure information. To be exempt from such reporting requirements under the Senate amendment, the organization must not be an organization already exempt from the reporting require-
IX. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT (SACS. 111, 211, 311, 451, 581, 695, 711, AND 821 OF THE SENATE AMENDMENT)

PRESENT LAW
Reconciliation is a procedure under the Congressional Budget Act of 1974 (the “Budget Act”) by which Congress implements spending and tax policies contained in a budget resolution. The Budget Act contains numerous rules enforcing the scope of items permitted to be considered under the budget reconciliation process. One such rule, the so-called “Byrd rule,” was incorporated into the Budget Act in 1990. The Byrd rule, named after its principal sponsor, Senator Robert C. Byrd, is contained in section 313 of the Budget Act. The Byrd rule generally permits members to raise a point of order against extraneous provisions (those which are unrelated to the goals of the reconciliation process) from either a reconciliation bill or a conference report on such bill.

Under the Byrd rule, a provision is considered to be extraneous if it falls under one or more of the following six definitions:

1. It does not produce a change in outlays or revenues;
2. It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
3. It is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;
4. It produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision;
5. It would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; and
6. It recommends changes in Social Security.

HOUSE BILL
No provision.

SENATE AMENDMENT
Sunset of provisions
To ensure compliance with the Budget Act, the Senate amendment provides that all provisions of, and amendments made by, the bill that are in effect on September 30, 2011, shall cease to apply as of the close of September 30, 2011.

CONFERENCE AGREEMENT
The conference agreement follows the Senate amendment, except that all provisions of, and amendments made by, the bill generally do not apply for taxable, plan or limited years beginning after December 31, 2010. With respect to the estate, gift, and generation-skipping provisions of the bill, the provisions do not apply to estates of decedents dying, gifts made, or generation-skipping transfers, after December 31, 2010. The Employee Retirement Income Security Act of 1974 are applied to such years, estates, gifts and transfers after December 31, 2010, as if the provisions of and amendments made by the bill had never been enacted.

X. TAX COMPLEXITY ANALYSIS
The following tax complexity analysis is provided pursuant to section 402(b)(1) of the Internal Revenue Service Reform and Enabling Act of 1996, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service (“IRS”), the Treasury Department, and the Department of Labor) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, and the Senate Committee on Education and the Workforce. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

1. Reduction in income tax rates for individuals (sec. 101 of the conference agreement)

Summary description of provision
The bill questions that taxpayers pay regular income tax bracket for a portion of the taxable income that is currently taxed at 15 percent. The bill reduces the other regular income tax rates, the present-law individual income tax rate schedules, and the phaseout of the personal and dependency exemption. It also provides for acceleration of the 10 percent income tax rate bracket for 2001, principally through advance payment of the credit in the form of a middle-class refund to taxpayers by the Department of the Treasury.

Number of affected taxpayers
It is estimated that the provision will affect approximately 100 million individual tax returns.

Discussion
It is not anticipated that individuals will need to keep additional records due to this provision. It should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase individuals’ tax preparation costs.

2. Standard deduction tax relief (sec. 301 of the conference agreement)

Summary description of provision
The bill increases the child tax credit. Some taxpayers who currently itemize deductions may respond to the provision by claiming the increased standard deduction in lieu of itemizing. According to estimates by the Senate Committee on Taxation, approximately three million individual tax returns will realize greater tax savings from the increased standard deduction than from itemizing their deductions. In addition to the tax savings, such taxpayers will no longer need to engage in the record keeping inherent in itemizing below-the-line deductions. Moreover, by claiming the standard deduction, such taxpayers may qualify to use simpler versions of the Form 1040 (i.e., Form 1040EZ or Form 1040A) that are not available to individuals who itemize their deductions. These forms simplify the return preparation process by eliminating from the Form 1040 those items that do not apply to regular taxpayers.

This reduction in complexity and record keeping also may result in a decline in the number of individuals using a tax preparation service or a decline in the cost of using such a service. Furthermore, if the provision results in a taxpayer qualifying to use one of the simpler versions of the Form 1040, the taxpayer may be eligible to file a paperless Federal tax return by telephone. The provision also should reduce the number of disputes between taxpayers and the IRS regarding the substantiation of itemized deductions.

3. Expansion of the 15-percent rate bracket (sec. 302 of the conference agreement)

Summary description of provision
The provision increases the size of the 15-percent regular income tax rate bracket for married individuals filing joint returns. The provision should double the size of the corresponding rate bracket for unmarried individuals. This increase is phased-in over four years beginning in 2005. It is fully effective beginning in 2008.

Number of affected taxpayers
It is estimated that the provision will affect approximately 20 million individual tax returns.

Discussion
It is not anticipated that individuals will need to keep additional records due to this provision. It is anticipated that the increase in the size of the 15-percent regular income tax rate bracket for married individuals filing joint returns should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision.

4. Increase the child tax credit (sec. 201 of the conference agreement)

Summary description of provision
The provision increases the child tax credit from $1,000 to $2,000. This provision is phased-in over a ten-year period beginning in 2001, extends refundability of the credit, allows the credit...
to the extent of the full regular tax and alternative minimum tax, and repeals the provision that reduces the refundable child credit by the individual’s alternative minimum tax.

Number of affected taxpayers

It is estimated that the provisions will affect approximately 25 million individual tax returns.

Discussion

Individuals should not have to keep additional records due to this provision, nor will additional regulatory guidance be necessary to implement this provision. More taxpayers will have to perform the additional calculations necessary to determine eligibility for the refundable credit, but this should not lead to an increase in disputes with the IRS. For taxpayer’s with less than two children, however, the provision can be expected to increase tax preparation costs and the number of individuals using a tax preparation service. (See, also, the discussion of the interactive effect of the child credit and the individual alternative minimum tax, below.)

5. The effect of the alternative minimum tax rules

The provisions relating to the rate reductions, standard deduction, expanded 15-percent rate bracket, and the increased child tax credit are affected by the alternative minimum tax rules. Although the bill provides relief from the alternative minimum tax, additional individuals will need to make the necessary calculations to determine the applicability of the alternative minimum tax rules. It is estimated that for the year 2010, 18 million additional individual income tax returns that will benefit from the rate reductions, increased standard deduction, expanded 15-percent rate bracket, and increased child tax credit would be affected by the alternative minimum tax. For these taxpayers, it could be expected that the interaction of the provisions with the alternative minimum tax rules would result in an increase in tax preparation costs and in the number of individuals using a tax preparation service.

The bill also provides that the alternative minimum tax exemption amount for married taxpayers filing jointly is increased. This should reduce complexity for affected taxpayers. It is estimated that, for the year 2006, the provision increasing the alternative minimum tax exemption amount will apply to seven million additional individual income tax returns. Some of these taxpayers will no longer be affected by the alternative minimum tax.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE

Ms. LINDY L. PAULL,
Chief of Staff, Joint Committee on Taxation
Washington, DC.

DEAR Ms. PAULL: Enclosed are the comments of the Internal Revenue Service and the Treasury Department on the provisions of the conference agreement on the “Economic Growth and Tax Relief Reconciliation Act.” Our comments are based on the descriptions of the provisions contained in a brief summary of the conference agreement prepared by the staff of the Joint Committee on Taxation.

Due to the short turnaround time, our comments are necessarily provisional.

Sincerely,
CHARLES O. ROSSOTTI.
Enclosure.
As a result of this provision, the number of taxpayers affected by the AMT would increase.

15-PERCENT RATE BRACKET FOR MARRIED TAXPAYERS FILING JOINTLY

Provision

Increase the width of the 15-percent regular income tax rate bracket for a married couple filing a joint return to twice the width of the corresponding rate bracket for an unmarried individual filing a single return, phased in over 5 years beginning in 2006.

IRS and Treasury Comments

The increase in the width of the 15-percent rate bracket for married taxpayers would be incorporated in the tax tables and the tax rate schedules shown in the instructions for Forms 1040, 1040A, 1040EZ, 1040NR, 1040NR-EZ, and on Form 1040-ES for each year during the phase-in period (2006-2010). No new forms would be required.

Programming changes would be required to reflect the expanded 15-percent rate bracket. Currently, the IRS tax computation programs are updated annually to incorporate mandated inflation adjustments. Programming changes necessitated by the provision would be included during that process.

As a result of this provision, the number of taxpayers affected by the AMT would increase.
## ESTIMATED BUDGET EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836 [1]

**Fiscal Years 2001 - 2011**

[Millions of Dollars]

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<tbody>
<tr>
<td>Marginal Rate Reduction Provisions (Sunset 12/31/10)</td>
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<tr>
<td>1. Create new 10% bracket in 2001 through 2007 for the first $6,000 of taxable income for singles, first $10,000 for heads of households, and first $12,000 for married couples, and in 2008, first $7,000 of taxable income for singles, first $10,000 for heads of households, and first $14,000 for married couples; and index beginning in 2009; credit with advanced payment in lieu of rate for 2001</td>
<td>tyba 12/31/00</td>
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<td>-33,421</td>
<td>-40,223</td>
<td>-40,336</td>
<td>-40,223</td>
<td>-40,203</td>
<td>-40,065</td>
<td>-43,422</td>
<td>-45,359</td>
<td>-46,034</td>
<td>-13,871</td>
<td>-232,570</td>
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<td>2. Reduce the various income tax rates (39.6% rate reduced to 38.6% in 2001 through 2003, 37.6% in 2004 and 2005, 35% in 2006 and thereafter; 36% rate reduced to 35% in 2001 through 2003, and 34% in 2004 and 2005, and 33% in 2006 and thereafter; 31% rate reduced to 30% in 2001 through 2003, 29% in 2004 and 2005, 28% in 2006 and thereafter; 28% rate reduced to 27% in 2001 through 2003, 26% in 2004 and 2005, and 25% in 2006 and thereafter)</td>
<td>tyba 12/31/01</td>
<td>-2,005</td>
<td>-21,100</td>
<td>-21,256</td>
<td>-29,049</td>
<td>-32,774</td>
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<td>-61,652</td>
<td>-63,033</td>
<td>-19,035</td>
<td>-157,107</td>
<td>-420,606</td>
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<td>3. Phase out of Pease cutback of itemized deductions over 5 years</td>
<td>tyba 12/31/05</td>
<td>--</td>
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<td>-1,265</td>
<td>-2,566</td>
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<td>4. Phase out of the personal exemption phaseout over 5 years</td>
<td>tyba 12/31/05</td>
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<td>-473</td>
<td>-955</td>
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<td>Total of Marginal Rate Reductions Provisions (Sunset 12/31/10)</td>
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<tr>
<td>Increase the Child Tax Credit From $500 to $600 in 2001 through 2004, $700 in 2005 through 2008, $800 in 2009, and $1,000 in 2010; Make Refundable up to Greater of 15% (10% for 2001 through 2004) of Earned Income in Excess of $10,000 (Indexed in 2002) or Present Law; Allow Credit Permanently Against the AMT; Repeal AMT Offset of Refundable Credits; Sunset 12/31/10</td>
<td>tyba 12/31/00</td>
<td>-518</td>
<td>-9,291</td>
<td>-9,527</td>
<td>-10,602</td>
<td>-12,788</td>
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<td>-20,532</td>
<td>-25,200</td>
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<td>-61,444</td>
<td>-171,782</td>
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<td>Marriage Penalty Relief Provisions (Sunset 12/31/10)</td>
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<tr>
<td>1. Standard deduction set at 2 times single for married filing jointly, phased in over 5 years</td>
<td>tyba 12/31/04</td>
<td>--</td>
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<td>--</td>
<td>--</td>
<td>-686</td>
<td>-1,954</td>
<td>-2,560</td>
<td>-2,772</td>
<td>-3,164</td>
<td>-2,932</td>
<td>-831</td>
<td>-2,639</td>
<td>-14,918</td>
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<tr>
<td>2. 15% rate bracket set at 2 times single for married filing jointly, phased in over 4 years</td>
<td>tyba 12/31/04</td>
<td>--</td>
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<td>--</td>
<td>--</td>
<td>-4,208</td>
<td>-6,204</td>
<td>-6,559</td>
<td>-5,876</td>
<td>-4,737</td>
<td>-4,001</td>
<td>-1,150</td>
<td>-10,412</td>
<td>-32,734</td>
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</table>
3. EIC Modification and Simplification - increase in joint returns beginning and ending income level for phaseout by $1,000 in 2002 through 2004, $2,000 in 2005 through 2007, and $3,000 in 2008, and indexed thereafter; simplify definition of earned income; use AGI instead of modified AGI; conform definition of qualifying child and tie-breaker rules to those in JCT simplification study; and allow math error procedure with Federal Case registry data beginning in 2004 [2]  

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<tr>
<td>tyba 12/31/01</td>
<td>-8</td>
<td>-847</td>
<td>-1,277</td>
<td>-1,243</td>
<td>-1,017</td>
<td>-1,819</td>
<td>-1,787</td>
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<td>-2,348</td>
<td>-5,191</td>
<td>-15,643</td>
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</table>

Total of Marriage Penalty Relief Provisions (Sunset 12/31/10)  

|----------------------------------------|-----------|------|------|------|------|------|------|------|------|------|------|------|---------|---------|

2. Qualified Tuition Plans - tax-free distributions from State plans; allow private institutions to offer prepaid tuition plans, tax-deferred in 2002, with tax-free distributions beginning in 2004; allow a taxpayer to exclude QTP distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; expand definition of family member to include cousins; allow tax-free distributions for actual living expenses; ease rollover limitations; clarify coordination with the deduction for higher education expenses  

| tyba 12/31/01 | -24 | -53 | -81 | -111 | -141 | -170 | -200 | -234 | -256 | -64 | -410 | -1,334 |         |         |

3. Employer Provided Assistance - permanently extend the exclusion for undergraduate courses and graduate level courses  

| cba 12/31/01 | -519 | -720 | -760 | -804 | -852 | -904 | -958 | -1,012 | -1,068 | -267 | -3,656 | -7,865 |         |         |

4. Student loan interest - eliminate the 60-month rule; increase phaseout ranges to $50,000-$65,000 single/$100,000-$130,000 joint; indexed for inflation after 2002  

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<tr>
<td>5. Eliminate the tax on awards under the National Health Corps Scholarship program and F. Edward Hebert Armed Forces Health Professions Scholarship program</td>
<td>tyba 12/31/01</td>
<td>---</td>
<td>-1</td>
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<td>6. Increase arbitrage rebate exception for governmental bonds used to finance qualified school construction from $10 million to $15 million</td>
<td>bia 12/31/01</td>
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<td>[3]</td>
<td>-3</td>
<td>-5</td>
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<td>-11</td>
<td>-15</td>
<td>-16</td>
<td>-17</td>
<td>-18</td>
<td>-19</td>
<td>-25</td>
<td>-109</td>
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<td>7. Issuance of tax-exempt private activity bonds for qualified education facilities with annual State volume cap at the greater of $10 per resident or $5 million</td>
<td>bia 12/31/01</td>
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<td>-5</td>
<td>-19</td>
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<td>-61</td>
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<td>-155</td>
<td>-191</td>
<td>-227</td>
<td>-251</td>
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**Estate and Gift Provisions (Sunset 12/31/10)**

1. Phase In Repeal of Estate and Generation-Skipping Transfer Taxes - beginning in 2002, repeal the 5% "bubble" (which phases out the lower rates) and repeal rates in excess of 50%; in 2003, repeal rates in excess of 49%; in 2004 in excess of 48%, in 2005 in excess of 47%, in 2006 in excess of 46%, and in 2007 through 2009 in excess of 45%; reduce State death tax credit rates by 25% in 2002, 50% in 2003, 75% in 2004, and repeal in 2005; increase the unified credit to $1 million in 2002 and 2003, $1.5 million in 2004 and 2005, $2 million in 2006 through 2008, and $3.5 million in 2009; repeal section 2057 in 2004; repeal estate and generation-skipping transfer taxes in 2010; retain gift tax in 2010 and thereafter with $1 million lifetime gift exclusion and gift tax rates set at the highest individual income tax rate; carryover basis applies to transfers at death after 12/31/08 of assets fully owned by decedents, except: (1) $1.3 million of additional basis and certain loss carryforwards of the decedent are allowed to be added to carryover basis, and (2) an additional $3 million of basis is allowed to be added to carryover basis of assets going to surviving spouse; certain reporting requirements on bequests.

   dda & gms 12/31/01 | --- | --- | -6,383 | -5,031 | -7,054 | -4,051 | 9,695 | -11,862 | -12,701 | -23,036 | -53,422 | -22,519 | -133,235 |

2. Expand Availability of Estate Tax Exclusion for Conservation Easements - repeal the 25-mile and 10-mile limits, and clarify the date for determining easement compliance


3. Modifications to Generation-Skipping Transfer Tax Rules:
   a. Deemed allocation of the generation-skipping transfer tax exemption to lifetime transfers to trusts that are not direct skips

   tta 12/31/00 | --- | -1 | -3 | -4 | -4 | -4 | -4 | -4 | -4 | -4 | -4 | -16 | -36 |
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<tr>
<td>b. Retroactive allocation of the generation-skipping tax exemption</td>
<td>generally 12/31/00</td>
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<td>-1</td>
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<td>c. Severing of trusts holding property having an inclusion ratio of greater than zero</td>
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<td>d. Modification of certain valuation rules</td>
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<td>e. Relief from late elections</td>
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<td>f. Substantial compliance</td>
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<td>4. Expand Availability of Installment Payment Relief</td>
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<td>Under Section 6166 to</td>
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<tr>
<td>a. Increase from 15 to 45 the number of partners of a partnership or shareholders in a corporation eligible for installment payments of estate tax under section 6166</td>
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<td>-285</td>
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<td>b. Qualified lending and finance business interests</td>
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<td>-84</td>
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<td>c. Certain holding company stock</td>
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<td>-171</td>
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<td>-45</td>
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<td>-668</td>
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<td>5. Waiver of statute of limitations for refunds of recapture of estate tax under section 2032A</td>
<td>DOE</td>
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<td>-100</td>
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<tr>
<td>Total of Estate and Gift Provisions (Sunset 12/31/10)</td>
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**Pension and IRA Provisions (Generally Sunset 12/31/10)**

**Individual Retirement Arrangement Provisions**

1. Modification of IRA Contribution Limits - increase the maximum contribution limit for traditional and Roth IRAs to: $3,000 in 2002 through 2004, $4,000 in 2005 through 2007, and $5,000 in 2008; index in years thereafter.

2. IRA Catch-Up Contributions - increase maximum contribution limits for traditional and Roth IRAs for individuals age 50 and above by $500 in 2002 and $1,000 in 2006.

3. Deemed IRAs under employee plans

**Total of Individual Retirement Arrangement Provisions**

**Provisions for Expanding Coverage**

1. Increase contribution and benefit limits:

   a. Increase limitation on exclusion for elective deferrals to: $11,000 in 2002, $12,000 in 2003, $13,000 in 2004, $14,000 in 2005, and $15,000 in 2006; index thereafter [4] [5]...

   b. Increase limitation on SIMPLE elective contributions to: $7,000 in 2002, $8,000 in 2003, $9,000 in 2004, and $10,000 in 2005; index thereafter [4] [5]...

   c. Increase defined benefit dollar limit to $160,000...

   d. Lower early retirement age to 62; lower normal retirement age to 65...

   e. Increase annual addition limitation for defined contribution plans to $40,000 with indexing in $1,000 increments [4]...
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<tr>
<td>f. Increase qualified plan compensation limit to $200,000 with indexing in $5,000 increments [4] and expand availability of qualified plans to self-employed individuals who are exempt from the self-employment tax by reason of their religious beliefs.</td>
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<td>g. Increase limits on deferrals under deferred compensation plans of State and local governments and tax-exempt organizations to: $11,000 in 2002, $12,000 in 2003, $13,000 in 2004, $14,000 in 2005, and $15,000 in 2006; index thereafter [4][5]</td>
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<td>3. Modification of top-heavy rules</td>
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<td>4. Effective deferrals not taken into account for purposes of deduction limits</td>
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<td>6. Elimination of user fee for certain requests regarding small employer pension plans with at least one non-highly compensated employee [6]</td>
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<td>7. Definition of compensation for purposes of deduction limits [4]</td>
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<td>8. Increase stock bonus and profit sharing plan deduction limit from 15% to 25% [4]</td>
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<td>9. Option to treat elective deferrals as after-tax Roth contributions</td>
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<td>10. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions (sunset 12/31/06)</td>
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<td>11. Small business (100 or fewer employees) tax credit for new retirement plan expenses - first 3 years of the plan</td>
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<td>12. Treatment of nonresident aliens engaged in international transportation services</td>
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<td>-1,310</td>
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Provisions for Enhancing Fairness for Women
1. Additional catch-up contributions for individuals age 50 and above - increase the otherwise applicable contribution limit for all plans other than SIMPLE by $1,000 in 2002, $2,000 in 2003, $3,000 in 2004, $4,000 in 2005, and $5,000 in 2006 and thereafter; index in $500 increments after 2006; SIMPLE plan catch-ups would be 50% of that applicable to other plans; (non-discrimination rules would not apply) [4] | tyba 12/31/01 | --- | -124 | -243 | -234 | -164 | -100 | -84 | -76 | -63 | -57 | -38 | -865 | -1,194 |
2. Equitable treatment for contributions of employees to defined contribution plans [4] | tyba 12/31/01 | --- | -45 | -84 | -98 | -106 | -113 | -121 | -129 | -136 | -144 | -75 | -446 | -1,051 |
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<td>3. Faster vesting of certain employer matching</td>
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<td>457 plans, section 403(b) plans, and qualified plans</td>
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<td>6. Rationalization of restrictions on distributions</td>
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<td>7. Purchase of service credit in governmental defined benefit plans</td>
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<td>8. Employers may disregard rollovers for cash-out</td>
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<td>1. Phase-in repeal of 150% of current liability funding limit, extend</td>
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<td>4. Repeal 100% of compensation limit for multiemployer plans</td>
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<td>5. Modification of section 415 aggregation rules for multiemployer plans</td>
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<td>7. Prohibited allocations of stock in an ESOP corporation</td>
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<td>8. Automatic rollovers of certain mandatory distributions</td>
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<td>4. Employees of tax-exempt entities [9]</td>
<td>DOE</td>
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<td>5. Treatment of employer-provided retirement advice</td>
<td>yba 12/31/01</td>
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<td>6. Repeal of multiple use test</td>
<td>yba 12/31/01</td>
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<td>Total of Provisions for Reducing Regulatory Burdens</td>
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<tr>
<td>Miscellaneous Provision - Allow electing Alaska Native Settlement Trusts to tax income to the Trust not the beneficiaries [11]</td>
<td>[12]</td>
<td>-4</td>
<td>-4</td>
<td>-3</td>
<td>-3</td>
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<td>-4</td>
<td>-1</td>
<td>-17</td>
<td>-33</td>
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<tr>
<td>Total of Pension and IRA Provisions (Generally Sunset 12/31/10)</td>
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<tr>
<td>AMT Relief - Increase Exemption by $2,000 (Single) and $4,000 (Joint) 2001 through 2004; Sunset 12/31/04</td>
<td>tyba 12/31/00</td>
<td>-178</td>
<td>-2,311</td>
<td>-3,161</td>
<td>-4,605</td>
<td>-3,646</td>
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<td>-13,901</td>
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<tr>
<td>Modification to Corporate Estimated Tax Requirements; Special Estimated Tax Rules for Certain 2001 and 2004 Corporate Estimated Tax Payments</td>
<td>DOE</td>
<td>-32,921</td>
<td>32,921</td>
<td>-6,606</td>
<td>6,606</td>
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<tr>
<td>Expansion of Authority to Postpone Certain Tax Deadlines Due to Disaster (Sunset 12/31/10)</td>
<td>doa DOE</td>
<td>[3]</td>
<td>[13]</td>
<td>[13]</td>
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<td>Miscellaneous Provisions (Generally Sunset 12/31/10)</td>
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<tr>
<td>1. Adoption credit - increase the expense limit and the exclusion to $10,000 for both non-special needs and special needs adoptions, and beginning in 2003, make the credit independent of expenses for special needs adoptions, permanently extend the credit and the exclusion, increase the phase-out start point to $150,000, index for inflation the expenses limit and the phase-out start point for both the credit and the exclusion, and allow the credit to apply to the AMT</td>
<td>generally</td>
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<tr>
<td>2. Provide an employer-provided child care credit of 25% for child care expenditures and 10% for child care resource and referral expenditures</td>
<td>tyba 12/31/01</td>
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<td>3. Exclude from gross income certain payments made to Holocaust survivors or their heirs</td>
<td>ar/a 1/1/00</td>
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## Table: Miscellaneous Provisions

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<tbody>
<tr>
<td>4. Dependent care tax credit - increase the credit rate to 35%, increase the eligible expenses to $3,000 for one child and $6,000 for two or more children (not indexed), and increase the start of the phase-out to $15,000 of AGI</td>
<td>tyba 12/31/02</td>
<td>---</td>
<td>---</td>
<td>-336</td>
<td>-432</td>
<td>-413</td>
<td>-393</td>
<td>-380</td>
<td>-352</td>
<td>-317</td>
<td>-296</td>
<td>-73</td>
<td>-1,573</td>
<td>-2,991</td>
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</tbody>
</table>

### Note: Details may not add to totals due to rounding.

### Legend for "Effective" column:
- all = as included in the Taxpayer Relief Act of 1997
- ara/a = amounts received on or after
- bia = bonds issued after
- cba = courses beginning after
- cl = contributions for
- bia = bonds issued after
- da = distributions after
- dda = decedents dying after
- da = disasters occurring after
- dma = distributions made after
- Doe = date of enactment
- frap = Federal regulations are proscribed
- gma = gifts made after
- ifap = interest accruing for periods beginning not earlier than
- ipa = interest paid after
- nopta = notice of intent to terminate after
- paceo/a = plan amendments taking effect on or after
- pes = plans established after
- pyba = plan years beginning after
- rem = requests made after
- tr = transfers after
- tdapma = transfers, distributions, and payments made after
- tyba = taxable years beginning after
- yba = years beginning after
- yea = years ending after

### Notes:
1. The estimates presented in this table include the effects of certain behavioral responses to the tax proposals, including shifts between nontaxable and taxable sources of income, changes in amounts of charitable giving, and changes in the timing of realization of some sources of income. While the estimates do not include the effects of these proposals on economic growth, the proposals are likely to result in modest increases in growth of the economy during the 10-year budget estimating period. The largest component of the proposals, the marginal rate cuts, will provide incentives for more work, investment, and savings.
2. Estimate assumes that any constitutional challenge based on the use of Federal Case registry data would not be successful.
3. Loss of less than $500,000.
4. Provision includes interaction with other provisions in Provisions for Expanding Coverage.
5. Provision includes interaction with the Individual Retirement Arrangement Provisions.
6. Estimate provided by the Congressional Budget Office.
7. Effective for costs paid or incurred in taxable years beginning after December 31, 2001, with respect to qualified employer plans established after such date.
8. Generally effective with respect to years beginning after December 31, 2004. In the case of an ESOP established after March 14, 2001, or an ESOP established on or before such date if the employer maintaining the plan was not an S corporation on such date, the proposal would be effective with respect to plan years ending after March 14, 2001.
9. Directs the Secretary of the Treasury to modify rules through regulations.
10. Effective for distributions from terminating plans that occur after the PBGC has adopted final regulations implementing provision.
11. Special Federal income tax rules would apply if the Trust makes an election for its first taxable year ending after the date of enactment.
12. Effective for taxable years of electing Settlement Trusts ending after the date of enactment, and to contributions made to such trust made after the date of enactment.
13. Loss of less than $1 million.
14. Loss of less than $5 million.
15. Includes the following effect on fiscal year outlays
   - Millions:...
   - ---   | 6,226 | 6,690 | 7,006 | 7,081 | 9,597 | 9,542 | 9,360 | 9,668 | 11,080 | 12,244 | 38,510  | 68,404  |
16. Taxpayers affected by the AMT: Present Law (millions of taxpayers)
   - Millions of taxpayers...
   - 1.5   | 3.6   | 4.3   | 5.6   | 7.1   | 8.7   | 10.5  | 12.6  | 14.9  | 17.5  | 20.7  | 35.5   | 20.7    |
17. Taxpayers affected by the AMT: Proposal (millions of taxpayers)...
CONGRESSIONAL RECORD—HOUSE
May 25, 2001

H2824

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1836, ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 153 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 153
Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1836) to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002. All points of order against the conference report and against its consideration are waived.

The conference report shall be considered as read. The yeas and nays shall be considered as ordered on the question of adoption of the conference report and on any subsequent conference report motion to dispose of an amendment between the houses on H.R. 1836. Clause 5(b) of rule XXI shall not apply to any points of order against the conference report or motion to dispose of an amendment between the houses on H.R. 1836.

The rule provides that the conference report shall be considered as read and the yeas and nays shall be considered as ordered on the question of adoption of the conference report and against its consideration. Further, the rule provides that the yeas and nays shall be considered as ordered on the question of adoption of the conference report and on any subsequent conference report motion to dispose of an amendment between the houses on H.R. 1836.

The Speaker pro tempore. The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 153.

The Speaker pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for purposes of debate only, I yield the customary 10 minutes to the gentleman from Texas (Mr. Fossett), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. Reynolds asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, the rule provides that the conference report shall be considered as read and further provides for 1 hour of debate equally divided by the chairman and the ranking member of the Committee on Ways and Means. Additionally, the rule waives all points of order against the conference report and against its consideration.

Further, the rule provides that the yeas and nays shall be considered as ordered on the question of adoption of the conference report and on any subsequent conference report motion to dispose of an amendment between the Houses on H.R. 1836.

Mr. Speaker, we are in the home stretch. We are in the final stages of bringing about real tangible tax relief to all Americans. With surpluses at an all-time high, and the fiscal responsibility to match, it is time for a refund.

In testimony earlier this year before the House Committee on Ways and Means, Treasury Secretary Paul O'Neill presented the following argument: "Through hard work and ingenuity, Americans have created a booming economy that has spread prosperity around the world. Individuals have created new technologies that have made our industries more productive and improved the standard of living for millions of Americans. We have no business continuing to collect more in Federal taxes than the cost of the services the government provides. It's not the government's money; it's the people's money, and we should return it to them as quickly as possible."

Current high rates punish low-income Americans by creating a disincentive to get ahead. We punish families in marginal tax rates, we desire in all Americans to strive to do better, to realize the American Dream. For example, under the current Tax Code a single mom making $25,000 a year pays a higher marginal tax rate than someone making $150,000.

Taxes now claim a greater share of the median two-income family's income than food, clothing, housing, and transportation combined. And Americans are spending a greater percentage of income towards taxes than at any time since World War II, essentially comprising the largest share of the gross domestic product. In the land of equality, where is the fairness in that? Tax packages would provide relief to every single taxpayer, removing millions of Americans from the tax roll all together. This plan is predicated on the idea that a sensible tax policy will generate high rates of long-term growth. Reforms in marginal tax rates will encourage greater work ethic and provide more inducement for taxpayers to save, invest, and build business enterprises.

Families need the flexibility to dedicate their resources towards their most pressing concerns. While some may need more to help pay off their debts, others may need extra money to pay tuition for their child or to invest in their retirement. The point is, government should not be making these decisions for them.

Mr. Speaker, I have had the opportunity to speak to my colleagues and the American people on this measure twice before. While the facts have most certainly changed, it includes every aspect of President Bush's tax cut proposal. Most important, its essence remains the same: needed tax relief for working Americans.

When I first spoke to the House back in March, I spoke of a constituent of mine, Paul Meloon of Batavia. A husband, father, and teacher, Paul warned that, "The people can't afford our high taxes. We can't afford so much money year after year on Federal programs. No one asks if the taxpayer can afford a tax hike. It's not a matter of affording a tax cut, we demand it."
To Paul and his family, and millions more like him, I say simply this: we have heard your demand, and we are acting on it. Historic tax relief is on its way. America, this is your money, and you know how to spend it best. I am asking my colleagues to help give you this resolution you so much deserve.

Mr. Speaker, I would like to commend the chairman of the Committee on Ways and Means, the gentleman from California (Mr. Thomas), and the ranking member, my colleague, the gentleman from New York (Mr. Rangel), for their hard work to make desperately needed tax relief a reality. Mr. Speaker, I urge my colleagues to give America what they need and what they have earned: responsible, commonsense tax relief. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I really wish that I had three little shells to put up here on my podium with a pea under one of the shells, because that is what you need to follow this tax bill. They have done something extraordinarily ridiculous just for starters, and I would like to kind of talk about that before I go into my full statement.

Now, let us say you are a person that wants the estate tax repealed. I have gotten a lot of calls like that from people in my district. They repeal the estate tax for 1 year. 1 year. Let me say this again. You have to die in the year 2010 to be able to pay no estate tax. If you die in 2011, you have to pay the estate tax just the way it is today. They sunsetted their repeal of the estate tax in the year 2010. So you have got a 12-month window to die if you want to avoid the estate tax. Between now and then, they gradually raise the exemption, so if you die in 2011 and the estate tax is repealed in 2010 you do not have to pay quite as much in the estate tax and if you die in 2010 you do not have to pay any estate tax. But if you have the good fortune to live until 2011, you pay the full estate tax exactly as it is right now.

Now, let us say you were looking forward to the rate reduction. Right now you have a 39.6 percent rate, you are a wealthy taxpayer, and then over a period of the next few years that rate gradually drops down to 35 percent. But viola, in the year 2011, it goes back to 39.6 percent. That applies, of course, to the other provisions in this bill, too. A very, very strange and peculiar way to legislate.

Why did they do this? They did it because they could not make the numbers work. If you extended this stuff beyond 2010 and you did not sunset it, these numbers do not work. You loss that $1.35 trillion cap. All of this stuff has been a game to live within the $1.35 trillion cap that was set in the budget resolution.

Now, you can argue as to whether the $1.35 trillion cap amount is a good amount to be cutting taxes. Everybody would like their taxes cut. I would like my taxes cut. I also would like the government to be able to preserve Social Security and Medicare and not use up additional money, especially Social Security and Medicare in order to give the richest Americans a tax cut. I also would like the government to be able to do a lot of things. I would like the government to be able to have a prescription drug plan for our seniors and I would like the government to have enough money to fund our national defense and I would like the government to be able to fund this wonderful education bill that we recently passed but which everyone on that side knows cannot be funded under the budget resolution we passed because of the size tax cut that we are being asked to vote on today.

As I said, I wish I had those little shells that you have at a carnival show, because that is what this is all about. This is a game. This is a game the Republicans are playing with the American taxpayers and they are not being honest with them. Again, if we were going to cut taxes, let's uniformly reduce them. What that means, that goes to middle-income taxpayers, that does not go primarily to the wealthy, and let us have a tax cut that the American people can afford so that we can do those other things that we all say we want to do. But this is just a charade.

This is a charade at 7:03 a.m. on Saturday morning, after the conference committee dealt with this all night and they suddenly produce something in the wee hours and then we get a little time, maybe an hour to look at it, to try to understand it and to cast one of the most momentous votes that we are going to be called to cast during this session. People have not had adequate time to study this document. But the folks on the other side are not engaged in providing adequate time. They do not want us to be able to really understand it, but I think I understand it enough and we do have a little summary that was provided, summary of provisions contained in the conference agreement for H.R. 1836, provided by the Joint Committee on Taxation.

If you look at that summary on page 13, you will see what I was talking about. I want to read this to you. It says, Roman numeral IX, sunset. Let me read it to you just so you know I am not making this up. You could not make this up, Mr. Speaker.

"To ensure compliance with the Congressional Budget Act of 1974, the conference agreement provides that all provisions of the bill generally do not apply for taxable plan or limitation years beginning after December 31, 2010."

In other words, now you see it, now you don't. Mr. Speaker, I have been in this body for a while. The American people need to be dealt with on the level. I do not always agree with the things that the other side wants to do. That is what politics is all about. But I believe we should be honest with the American people. I do not think we ought to be telling them we have given you this wonderful tax cut but King's X. it all disappears in the year 2011 and all you get is a charade.

Mr. Speaker, at this time, I urge my colleagues to try and understand what we are being asked to do today and to understand how ridiculous and ludicrous this approach is and how shortchanged it is for the average taxpayer, because we are denying the American taxpayer the needed resources for our government to preserve Social Security and Medicare, to provide education funding, to provide for our national defense, and to do the other things we all say we need to do and be done so that we can provide a very large tax cut for the wealthiest of Americans during the next 10 years and then change it all at that time.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I listened to my distinguished colleague talk about his view of having been part of what the left has been on a growing government, a bigger government, more spending. While I have not been in this body a lengthy time, I have been elected now over a quarter of a century, and I have learned at the table and on the committee level as well as right here on the Federal level, if you leave a pile of money on the table, it is going to get spent.

The simple fact is that even after we pay down America's debt, strengthen and secure Social Security and Medicare, improve education and bolster America's defense, we still have enough left over to relieve overtaxed and overburdened American families. We are going to do this in the light of day today. We are going to do it with a bipartisan vote, I am willing to predict, as this rule is passed and we move forward with the debate on the tax bill.

But there is also no question that in 1993, the majorities of the two houses and the then President of the United States imposed the largest tax increase in the history of America. It is also true right now that we are paying more taxes now than any time since World War II. The bottom line is that this agreement, a consensus worked out by Republicans and Democrats in this House and in the other body, has brought a result of compromise, what this bill is that is going to be coming...
Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, it took so many years for the other body to come up with some plan to jeopardize Social Security and Medicare, these programs that the American people have come to rely on for so many, many years, the pride and the dignity that older folks had that they did not have to depend on their children and their grandchildren for survival.

We knew a long time ago when Mr. Stockman was here with President Reagan that it was not a question of just fiscal irresponsibility, it was not a question of tax cuts. No President has to campaign around the country to encourage the people to support a tax cut. No, the American people knew exactly what they were doing. It was to get the money out of Washington. Why? Because they will spend it. This is your money. This is the Congress' money.

Well, whose is the deficit? Is that the Congress' deficit or does it belong to our Nation? Is this what we want which we had after Reagan, a country that was spending more money on interest on our debt than paying for health care? And what about the cases that we have of the education program, the prescription drug program, all of the things that were adopted during the President's campaign but we do not hear anything about that today. No, the real question is that in 10 years, all of the middle class will lose their Social Security, all of the people receives under this tax bill, it is over. Because the Republican accountants and tax writers in the middle of the night came up with the strangest gimmick of all. It is called sunset.

Mr. LEVIN. Mr. Speaker, we are discussing a bill that almost none of us have seen, a $2 trillion plus bill. And where is it? I am not shocked, but I am deeply saddened. The House majority here is hell-bent on this plan if it means reupping us into the fiscal hell of the deficits of the 1980s.

What you have done is to use the gimmick of all gimmicks. You lop off the 10th year, they are going to add over many periods of years. Anybody in this room can see the deficits, in fact, do not even like the government. They do not even want to be involved with the government. They see the government as a separate entity that hopefully is going to send them their Social Security check and maybe will not audit them or cause them any problem.

This nexus that should exist because it is our government does not exist anymore, and the genesis of it is right here in the House floor; the politics in this Congress. Politics of minority versus majority, old versus young, worker versus company, man versus woman. Is it any wonder the country is screwed up?

Look, income taxes started out headed right to the Supreme Court and were struck down as unconstitutional and, my God, I believe they are still. If one looks at the original language and the common sense of America, income taxes are not what the American people ever wanted, nor were they designed to be that which was intended by the Founders.

I give credit to the majority party. Taxes in America are too high and they are trying to reduce them. Yes, there are some things the gentleman from California (Mr. THOMAS) when I do not think he was in any of the discussions. This is a masquerade. They have added a little bit of sugar amidst a potful of fiscal irresponsibility, fiscal irresponsibility, and they can't hide that by taking one year off. Why do they not take a second year off and make it smaller yet?

They are hurling this country potentially over a cliff. They are fiscally irresponsible, and it does not matter if they bring this up at 1:00 in the morning, which was their original intent, or 7:00 in the morning. The daylight will show they are fiscally irresponsible, playing with fire, gambling the future of this country, education, prescription drugs. Three hundred bucks a month in pills will cost seniors more than the 300 bucks people might get, as important as that is to some families. When one looks at this altogether, my Republican colleagues are fiscally irresponsible. They are repeating the sins of the 1980s.

I urge we defeat this rule.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tax relief and tax fairness is not a Republican solution. It is a combined House solution.

Mr. TRAFICANT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT). (Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I am not embarrassed by this bill. No one should be embarrassed by this bill. I think Congress should be embarrassed for what we have allowed to develop over many periods of years. Anybody in this room who can see the deficits, in fact, do not even like the government. They do not even want to be involved with the government. They see the government as a separate entity that hopefully is going to send them their Social Security check and maybe will not audit them or cause them any problem.

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I urge we defeat this rule.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.
Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me this time.

Mr. Speaker, on this early Saturday morning, on the East Coast, perhaps in the House, it strikes me perhaps a little frustrated. Perhaps they remember the words to the great country song, That Is My Story and I Am Sticking to It, even though the facts would suggest otherwise. In lieu of incendiary rhetoric, let us just go back to the central question we will do in this Chamber today and it is something that I think interestingly has gained bipartisan support.

We have overcharged the American people. We have asked them to pay too much of their paycheck in taxes, and now we are simply giving them a very modest refund. It is not perfect. It is not overly ambitious. It is not risky. In fact, it reaffirms what I think people of goodwill on both sides of the aisle want this to do understand the truism and the basic wisdom of letting parents and families provide for themselves while maintaining a social safety net and the long-standing commitments that Americans have come to depend on, and indeed we have seen this as a bipartisan initiative through the years.

Forty years ago, President Kennedy reminded us a rising tide lifts all boats in terms of fair and equitable tax relief. Twenty years ago, President Reagan reminded us that cutting taxes does not hurt the country. One more time, I would remind this chamber that it has gained bipartisan support. We are not in a political 2-year election vehicle which weakens the country long-term.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I am delighted to be here at 7:30 in the morning on a Saturday passing a bill that will help Americans.

We have heard a lot of conversation this morning about deficits on the other side of the aisle, and they probably have a lot of science because they created them through their 40-year rule.

They talk about Social Security and restoring it. Well, the other side borrowed from Social Security for generations to pay for ongoing government spending.

Yes, we had deficits, and I have heard the blame cast on Ronald Reagan. However, the majority party at that time was Democrats who had to bring to the floor the bills that the President offered to the American public. Bills do not just become law because the President signs them. The exercise over the last couple of weeks demonstrates that the President can merely recommend to Congress. But I am delighted to see that the Senate, some Democrats, some Democrats seeking reelection, are, in fact, supporting this package, because it is a balanced approach.

Mr. Speaker, we can talk about dead of night, deals cut in the midnight hours, but we are here on a Saturday
on a Memorial Day weekend to ensure that the American public recognizes that we are looking out for their interests. Yes, we can increase education funding, as we did on this House Floor last week, and the bill passed in a bipartisan fashion. Yes, we can increase national defense and cut the surplus in the next year, money being spent on the environment, as we are doing in Florida on the Everglades. Yes, we can shore up Social Security, and we can restore the fiscal health of Medicare. And we can do that all within the confines of the budget and the tax package being voted on here on the floor today.

What we need to recognize, though, and we have said it many times on this House floor is that the money we are talking about, in fact, belongs to the people not on the House floor, but the people watching us speak this morning, the American taxpayers who work every week and on Fridays they come home and hope they can enjoy time with their families. But no, the people have to work one and two and three jobs to make ends meet and pay taxes well past April. In fact, into May we are paying taxes: excise taxes, unemployment taxes, property taxes, State taxes, sales taxes, income taxes. You name it, it is tax. Today we are here to give just a little bit of a break over 11 years to the American consumer, over 11 years. One would think the conversation today would indicate we are throwing it out in buckets this morning.

Mr. Speaker, this is a balanced approach. This is a good approach. This provides some real return to the American public. Money back this year, lump sum, to single taxpayers, single parents, married taxpayers.

So let us salute this final agreement made by some great Members of this body, both here and on the other side of the aisle; and let us salute the American public, because they have been waiting for some relief.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, the gentleman from Florida claimed inaccurately that Ronald Reagan had a Democratic Congress. In fact, for 6 of the 8 years under Ronald Reagan, the Senate was Republican, so he was not faced with a Democratic Congress.

I would have to say, however, that the good economics make his history look good. He says under this tax scheme we will have enough for Medicare to restore it. In fact, that is the heart of what we are talking about. People talk about the money belonging to the people, and of course, it does.

People have two sets of needs. They have needs that can best be dealt with individually, but they also have needs that can only be dealt with if we do them together.

In my own district, I am often asked about funding for Superfund, for transportation, for law enforcement. All of these are being cut in the President’s budget. The President tells people that he cannot afford, under his budget with this tax cut, to provide any help on prescription drugs for people who make more than $17,000 a year. He canceled, because of the need to pay for the tax cut, the Public Housing Drug Elimination program which puts the police and firefors to be in the public housing projects.

In fact, we have a terrible crisis in the provision of medical care, nursing homes, and home health care agencies. I know people watching us speak this morning are in difficulty, and it is getting worse. We underpay the hard-working people in these facilities. We have a terrible nursing shortage because women are no longer coerced into nursing; and now that they have a better choice of professions, we are not paying enough to attract them.

This bill takes away from the people the funds that they could use to adequately fund Medicare, a prescription drug program, long-term care. None of those can be addressed without the revenues that this bill does away with.

Now, I do understand that it sunsets the tax cuts. That is odd. When the Republicans were in power, Bill Clinton as President, they said if they got in power, they would sunset the Tax Code. Apparently they misunderstood themselves, because this bill does not sunset the Tax Code. It sunsets the tax cuts.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there is a real plot here in this Tax Code. In 1981, I do not think Ronald Reagan understood what he was doing. It was said for a long time that the Democrats would pay for some relief. The Republicans of the 1980s and 1990s turned out to be the party of borrow and spend. The Republicans of the 1980s and 1990s turned out to be the party of borrow and spend. From George Washington through Jimmy Carter, the national debt that was accumulated for 200 years when Ronald Reagan took office was a little under $800 billion. The next 12 years of Republican Presidents and half that time, a Republican Senate, that national debt more than quadrupled to $1.3 trillion. David Stockman said they did not know what they were doing, because only by deliberately creating multi-hundred billion dollar annual deficits can you politically withstand the demand of the American people for more health care, for decent numbers of nurses in the workplace. The President is shorting up Medicare and Social Security.

And what does this tax cut do? It is deliberately designed to create multi-hundred billion dollar annual deficits in the future, $4 trillion of tax cuts in the most decade if it does not sunset, so that we will be able to stand on this floor 10 years from now or 6 years from now, and say, we have to cut Social Security benefits, we have to increase the retirement age, we have to cut back on Medicare, we cannot think about prescription drugs for Medicare, we cannot build the highways and bridges and roads we need, we cannot put the money into education, because we have a $300 billion annual deficit this year.

Mr. Speaker, that is the purpose of this tax cut, because the people who are doing it really do not believe that government ought to fund Social Security or Medicare or prescription drugs under Medicare and all the other things, because the purpose of this tax cut and the effect of it will be, because it is so huge and we are told we have these huge surpluses for 10 years; 10 year surplus projections are as reliable as 10-year weather projections.

If we pass this, we are deliberately creating multi-hundred billion dollar deficits in order to justify cutbacks in all of the programs that the people of this country want.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise at 7:40 in the morning on a Saturday morning to get this work done, to get this work done as Americans are going to work all over the country. Those who have the day off may be watching what we do and wondering how we are going to fund their families.

The truth is that American families can spend their money for the benefit of their family in almost all instances better than the Federal Government can.

We are going to hear a lot, not only today, but in the future, and just did, about the projections of revenue. We never hear revenue projections questioned when we talk about spending. We only hear revenue projections questioned.

Now, I do understand that it sunsets the tax cuts. That is odd. When the Republicans were in power, Bill Clinton as President, they said if they got in power, they would sunset the Tax Code. Apparently they misunderstood themselves, because this bill does not sunset the Tax Code. It sunsets the tax cuts.

Mr. Speaker, this is the right thing to do. This is the right day to do it. This does not mean American people the ability to plan what they can do for their families, how they can create jobs and growth in their small businesses.
This bill will pass today, it will make a difference in America. It is what we should do.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is about 7:30 in the morning on Saturday morning, and there is no complaint from those of us who choose to work for the people of the United States in being here. There is a question about whether or not democracy equates to participation. I wonder why the ranking member of our caucus and the ranking member of the Committee on Ways and Means failed to be included in a participatory fashion to be able to design a tax plan that will respond to all Americans. Instead, what we have is a tax plan that feeds the top fifth of wage-earners or wealth-owners of that class, some 1 percent of those, the richest, are the ones that are getting some 36.9 percent of this tax bill.

I beg to differ with my colleague who says that if we cooperate and collaborate, we can have a balance between the budget and spending. In 1997, we put forward under the Clinton administration in this Congress a balanced budget. I would have stood here today and supported an economic stimulus, one that would have been about $40 billion, the same $300 check and $600 check for married couples and $300 for singles that they are going to get if they file their taxes for the year 2000. That is a reasonable response to give to the American people.

But it is not reasonable to tell them that they are getting a marriage penalty deduction when it takes effect in 2009, 2010. It is not reasonable to suggest that they are getting estate tax relief when we have already done one that would have been more reasonable, if they would know that they have to wait 10 years before it is phased in, and then it sunsets in 2010. So in 2009, that is the death bubble year. That is the time they sell their inherited assets, but there is still a tax-free step-up in basis for capital gains in 2009. That is not up until then.

People with real money realized what a step-up basis is. They realize this does very little for them, and in fact it does not take care of the gift tax.

But we look at the marriage penalty, as the gentleman from North Dakota (Mr. POMEROY) said earlier, the marriage penalty starts in 2005. It is fully phased in in 2009. In 2010 it is repealed. How can that be a high priority?

When we look at the pension plan, we all voted in favor of it. That does not become effective until the latter part of this decade.

Mr. Speaker, this is not a good bill for the American people. It is bait and switch. When they see what was foisted upon them, they will know that the right vote is no on this.

Mr. MORAN of Virginia. Mr. Speaker, we are all entitled to our own opinions, but we are not entitled to our own facts.

The facts will show that every year that President Clinton was in office, and the Republicans were in control of the Congress, the Republicans spent more than the Democratic White House asked for. But now, hypocratically, this Republican Congress is trying to deceive the American people into thinking that we can have it all, all the tax cuts we want and all the government we need.

This tax cut bill is unbelievably irresponsible. If it did not sunset at the end of 10 years, it would cost $4 trillion for the next 10 years. The only way to get the money for that $4 trillion of lost tax cut revenue is to take it out of Medicare and Social Security Trust Funds just as we did to pay for President Reagan's 1981 tax cut.

So what do we do to hide this unavoidable raid on the Social Security Trust Fund? This bill terminates all the tax cuts at the end of the first 10-year forecast period.

Let us look at those deep tax cuts. The estate tax, for example, does not even do a good turn for the very rich. They have to wait 10 years before it is phased in, and then it sunsets the next year. So in 2009, that is the "death bubble" year. That is the only time they can sell their inherited assets, because there
is still a full tax-free step-up in basis for capital assets in 2009. After 2009, the step-up basis is reduced.

People with real money realize what a step-up basis is. They realize that for most of the next decade this does very little for them, and in fact it does not help them save money when it comes to the gift tax.

When you look at the marriage penalty, as the gentleman from North Dakota (Mr. POMEROY) said earlier, the marriage penalty starts in 2005. It is fully phased in in 2009. In 2010 it is repealed. How can that be a high priority?

The Alternative Minimum Tax takes back 1% of the benefits of this tax cut for taxpayers through the 99th percentile of income, but only takes back 11 percent of the tax cut for the top 1 percent of taxpayers and the top 400 taxpayers don’t have to give up anything to the AMT.

When we look at the pension plan, that we all voted for that does not become effective until the very latter part of this decade.

Mr. Speaker, this is not a good bill for the American people. It is bait and switch, when they see what was said upon them, false promise, they will know that the right vote is a no vote on this. It leaves $3 1⁄2 trillion dollars of debt as well as our retirement costs to our kids’ generation to pay. Yes, this surplus revenue is our money, but the public debt is also ours. It’s not our kids and it’s not fair to stick them with it. This phony unfair bill should be defeated.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I want to compliment the people in this body who put together what I believe is a very well-balanced and well-thought-out tax relief proposal.

I believe it is very important for people to recognize at the very beginning that this amount of taxes, $1.35 trillion in revenue, is provided in tax cuts only after every other part of the Federal government is funded. In fact, in total, the Federal budget is funded at almost 5 percent of an increase.

It is very important that we have been responsible in funding the other elements of our government; in fact, giving an 11.5 percent increase to education, setting aside Social Security surpluses, setting aside dollars for Medicare, paying down over the next 10 years, the period of this budget, $2.3 billion in debt owed to the public.

I think it is also very important, Mr. Speaker, to recognize what people want around the country now. People want, for one thing, a lot more control over their dollars. That is what we are giving them in this tax relief proposal. I want to speak briefly to one provision that I am very interested in; that is, the repeal of the death tax or the estate tax.

The estate tax right now is at the point of putting a burden of up to 55 percent on the backs of people who are basically folks who have bought a home, put money into it for years, provided responsibly for their retirement. This hits people on the shoulders of middle-income people.

On this estate tax relief, we will find that in the first year, 2002, the rate goes down from 55 to 50. It decreases over the next 9 years. We get rid of this death tax in 9 years. January 1, 2010, the death tax is gone. Immediately, the rate of deductibility rises to $1 million. This is a huge change from what we had before. I think that the American public is saying this is very good deal with this tax relief bill.

On the death tax, we are sitting there with a farm we have had in the family for generations. The time comes when the owner dies, and within 9 months one has to pay one percent of the value of that property. What does a farmer do who is cash poor and land rich? He sells his land, often creating a situation where the land does not produce enough to support that family.

The same thing has happened over and over in my neck of the woods, Washington State, with timber properties, and the community loses. This is a very bad thing.

So we have had to put into consideration small businesspeople, middle-income people, folks who own farms, people who want to keep businesses in the hands of their families. We have made it easier for them to do that. Everything will phase out by the year 2010, January 1.

I do not know why they are complaining about this. They should have done it years ago. Now we have done it. It is a great plan. I want everybody to get behind it.

Mr. FROST. Mr. Speaker, I yield myself 15 seconds.

To my friend, the gentlewoman from Washington, I would only point out that while the estate tax is repealed in 2010 and 2011, it is back.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SCHERMAN).

Mr. SCHERMAN. Mr. Speaker, we have heard from the others, and it is in intense debate. They have told us the deficits of Reaganomics are so bad that they try to blame the Democratic Congress. We are told that if there is a large pile of money left in Washington, D.C., it will be spent. They are right. There is $2 trillion in the Social Security trust fund, and this Congress will spend it on tax cuts for the wealthy and on missile defense.

But in years to come, people will look at the back of their tax returns and see a huge AMT, alternative minimum tax, added to their tax bill. They will remember a bill that was written at midnight, and they will believe that all the tax benefits went to those less worthy and more wealthy than themselves.

They will be right. Look at what this bill does to the upper middle class. It throws them into the alternative minimum tax. With the change in the Senate, we will not be in a position to fix that. We have almost no AMT relief in this bill.

Mr. FROST. Mr. Speaker, I yield 1 1⁄2 minutes to the gentleman from Maryland (Mr. HOYER).

(Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I knew we were on the precipice of triple-digit deficits, a national debt in the trillions, and destructive and profound dislocations throughout the American economy.

David Stockman, David Stockman, admitted the knowledge that he had as he presented the 1981 economic program. The Congress, with my support and submitted to the Congress, it was the same rhetoric that we have heard about giving Americans back their money.

That is good rhetoric. It is politically attractive rhetoric. But we are fiduciaries of that money. They collectively give us that money to apply to the needs of their country and of themselves and of their families.

In the 1980s, the debt that we created was also theirs. As a result of the creation of that debt, they today pay billions, billions of their dollars in interest, and receive essentially nothing in return except what a previous generation bought with that money.

This is a sad day, as was 1981, because like David Stockman knew, it will be the result of profound dislocations in America in the days ahead. Defeat this bill. Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I yield (Mr. WELLER asked and was given permission to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, I stand in support of the rule. I stand in support of this legislation. I stand in support of this commonsense, balanced package of tax relief that will pass this house with bipartisan support today.

If we think about it, if we look at the big picture, this does make a lot of common sense. We have admitted the knowledge that he had as he presented the 1981 economic program. The Congress, with my support and submitted to the Congress.

As it was projected surplus over the next decade of $5.6 trillion, a tax surplus of extra money. This package takes less than one-fourth of that tax surplus and uses it to help the average family in America, a $1.3 trillion tax cut.

Our friends in the news media will of course try to determine who the winners are here. Clearly, the biggest winners are this tax payer. The winners in this room are also those Republicans and Democrats who have worked together to provide tax relief for working families.

I particularly want to commend my Democratic friends to my other side of the aisle, who set aside partisanship to work together with the President and with the Republicans to help families by lowering taxes.

I also want to salute the President, who made education and tax relief the cornerstone of his agenda for his presidency, because this week we passed his education proposal, and today we are going to send to his
desk for signature into law his tax cut proposal. This is clearly a big victory for President Bush.

But who does it help? Clearly this tax cut helps everyone. If anyone pays taxes, they will receive relief. Under this proposal, the across-the-board tax cut helps every American taxpayer.

All of us are concerned about the direction of the economy. The President inherited a weakening economy, and we all agreed to find a way to help ensure that we can boost this economy. Clearly the tax rebate, $300 for a single, $600 for a married couple, will put some extra cash in the hands of taxpayers so they can pay off some bills, as well as have extra spending money to meet the needs of their family. That clearly will help our economy.

I also want to note that this legislation helps bring about tax fairness. We have all agreed in this House that everyone who itemizes their taxes because they own a home will see marriage tax benefits. That clearly will help our economy. Clearly the tax rebate, $300 for a single, $600 for a married couple, will put some extra cash in the hands of taxpayers so they can pay off some bills, as well as have extra spending money to meet the needs of their family. That clearly will help our economy.

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CONFERENCE REPORT ON H.R. 1836, ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 153, I call up the conference report on the bill (H.R. 1836) to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Well, the day has arrived. There was a contest for President last year. There were very clear and particular themes underscoring the candidacies of each of the gentlemen running for President. One of them said he wanted to bring a different atmosphere to Washington. One of them said he wanted to bring a different environment. One of them said he wanted to bring a different kind of government. One of them said he wanted to bring a different economic environment.

I want to thank the Speaker of the House, Mr. Armey, for his willingness to stand shoulder to shoulder in trying to produce a responsible product. But probably more important was the thank the chair- man of the Senate Committee on Finance, the gentleman from Iowa, Mr. Grassley, and the ranking minority member of the Senate Committee on Finance, the gentleman from Montana, Mr. Baucus, because they decided that the only way legislation as significant and sweeping as this could pass the Senate would be if from the beginning it was a bipartisan effort.

It does not take much analysis to realize that if you have a Committee on Finance divided evenly between 10 Republicans and 10 Democrats, you are not going to be able to move anything unless it is bipartisan.

But they were committed to returning the taxpayers' money enough that they built a bipartisan product from its instigation in the Senate, carried it through the floor and into conference. And along with the gentleman from Louisiana (Mr. Breaux), we put together a bipartisan product coming out of the conference.

Now, I know there is some consternation because not every member of the conference signed the conference report. What is important to note is that there was a bipartisan signature structure because the underlying legislation is bipartisan in itself.

There have been a number of statements about this piece of legislation which I do think need to be addressed. There are individuals who are still using a statistical analysis of the distribution of the effects of the Conference Agreement for H.R. 1836 prepared by the bipartisan Joint Committee on Taxation to give you some feeling of the way this bill has been constructed. Notwithstanding the fact that you are going to hear once again about how this goes only to the wealthy, if you will simply look at the change in Federal taxes and the percent of the benefit going to particular income groups, for example: in those income categories between $10,000 and $20,000, in this calendar year, 11.5 percent of the benefits go to the $10,000 to $20,000; $20,000 to $30,000, 9.4 percent; $30,000 to $40,000, 6.4 percent; $40,000 to $50,000, 5.4 percent; $50,000 to $75,000, 4.5 percent; $75,000 to $100,000, 3.5 percent; $100,000 to $200,000, 2.6 percent; $200,000 and over, 1.3 percent. In other words, those who have the lowest income get the greatest benefit.

In other words, if your income category is $10,000 to $20,000 a year, you get 11.5 percent of the benefit. If it is $200,000 and over, you get 1.3 percent. In fact, it is a numerical cascading structure in which every increment moves in the distribution you would expect if it is a fair distributional structure.

In addition to that, I have heard statements about the fact that this particular package will destroy Medicare. The number that once again is under threat. I wonder how long the bumper sticker political rhetoric is going to be continued. The Senate Budget Committee, the House Budget Committee, those responsible for examining the budgetary structure, say in every year of this agreement, the HI or the Medicare Trust Fund is fully protected and the Social Security Trust Fund is fully protected. This agreement meets the requirement of the budget that was passed to protect Social Security and Medicare in every year of the 10 years of the agreement.

Now, let me address the 10 years because that clearly was one of the most popular themes during the run. I am Sure there will be a number of speakers to take the well to say, hey, this agreement is phony because it only lasts 10 years.

The legislation was considered under the budget reconciliation rules that apply to the Senate. Under budget reconcili- ciation, it is possible to pass legislation limiting the scope of the Senate
in terms of debate and hours to debate a subject normally unlimited and only require 51 votes to do so. It was created because it was almost impossible to move legislation just like this through the Senate without the limitations that it brings. And the Senate has the power to extend its effect outside the 10-year window, it is, as we say, subject to a point of order and, therefore, the entire package fails.

I will tell my colleagues that if you want permanent tax change, it requires 60 votes in the Senate to accomplish that. I have before me what a 60-vote bill would look like. It is, if you notice, a blank piece of paper, because that is what the tax bill would be if it were to be permanent. You would not have $1.35 trillion of tax relief for hardworking American taxpayers. You would not have a lump sum payment in lieu of withholding adjustment of almost $60 billion extending its effect outside the 10-year window, it is, as we say, subject to a point of order and, therefore, the entire package fails.

So I appreciate the wringing of the hands and the concern that this only lasts 10 years. I tell my colleagues, every one of you who are worried about this only lasting 10 years, join with me, let us go and ring Mr. Speaker, and the Capitol, and require you produce 60 votes. If you produce 60 votes, you will have it permanent. If you do not, it is as simple as that. Unfortunately, under the rules in which the Senate must operate to have a clear workable across the Capitol, it can only be done within the 10-year framework.

So we will hear the argument that all of this is only for 10 years. But if it is only available for 10 years, how can we waste $1.3 trillion in a time of surplus will be returned to the hardworking taxpayers. I know some of you are concerned that it is not going to be available to continue to feed the Federal dog. The problem, of course, we know is that when you start one of your programs, it is a cute little puppy but as you continue to feed it with hardworking taxpayers’ dollars, it grows into an enormous, large dog that eats almost all the resources. We have seen it over and over again. That is why we were in deficit year after year after year. What we have, courtesy of the gentleman from Iowa (Mr. Nussle), is a budget under which we are required to make, yes, provide this kind of taxpayer relief but also provides a responsible, over-the-cost-of living growth structure for the Federal Government.

I know they are used to unrestrained growth. A little discipline is not necessarily a bad thing. Frankly, a little relief for the American taxpayer is not necessarily a bad thing, either.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I have been here for 3 decades, and I have never heard such poppycock in my life. What we are talking about, the 10-year end of this bill, is because the Senate made me do it? It is true that we have violated every constitutional principle we could think of in terms of writing law and raising revenue but, my God, is the new Republican thing is “it wasn’t me, the Senate made me do it?”

We are supposed to create revenue here. We are the ones that are supposed to write the tax bills. But what did we send over to the other side? Nothing. And so now we are sorry because they have shoved this piece of legislation down our throats.

Bipartisanship. Let me tell you, Mr. Speaker, when you appointed me to serve on the conference committee along with our distinguished majority leader and the distinguished chairman of the Committee on Ways and Means, I was so proud because I would have been the only Democrat in the House of Representatives, people govern, to at least try to guide this away from just the rich and maybe reflect the concerns of the moderate and the hardworking people of America. So as soon as I was appointed, I waited and I waited and I waited and I waited. The invitation never came.

Now, I do not know where the bipartisanship is unless one of the Republicans is a closet Democrat, but I can tell you this, I went looking for the meeting. The White House was at the meeting. Republican Members of the House were at the meeting. Republicans from the Senate were at the meeting. But guess what? Not one Democrat from the House was at the meeting.

Now, the chairman of the committee waves a piece of paper saying, this is what the bill would look like if the Senate had not made them accept it. Well, do we wave empty paper. Where is the bill, I ask the gentleman from California? Why is it that Members of this House have no copy of this bill? Do we have it up on the Web net as we have been advised and that is the only way we are going to find out what is going on?

I tell you this: If you were proud of this document, it would not have been patched up in the middle of the night. We would not be here on Saturday night. We would not have meetings in the darkness of the night where people do not know where they are, but we would have been walking forward. Democrats and Republicans, proud of what we were doing. Instead of that, we have no bill, we have a lot of sarcasm, and yet we are expected now to go home and be proud.

Mr. Speaker, I reserve the balance of my time. Better than that, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. Gephardt), the leader of the Democratic Party. Maybe he can find the bipartisanship, but for 3 days I have searched for it and it was not to be found in this Capitol. (Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, on my way in here this morning in the dawn’s early light, I was thinking of proper titles for this bill. I am sure it has some classy title that has been given it by its sponsors. What about the “Special Interest Relief Act”? How about the “Deficit Re-Creation Act”? How about the “Plunder Medicare and Social Security Act”?

Mr. Speaker, I ask Members to vote against this bill. It has been a long night, a long night of a conference to put together the biggest tax bill in the history of our country. And as the gentleman from New York just said, it was done in a cloud of secrecy. Democratic Members of the House who showed up in the meetings where this bill, the largest tax bill in our history, was put together. And so what we have today is a giant relief act for special interests in this country, not for the people of this country. And we are not acting on the most important crisis that faces our country today which are runaway, back-breaking electricity prices on the West Coast of the United States.

The President said he came as a uniter, not a divider. He said that he would collaborate with Democrats and that the parties would work together.

Yet from day one on this bill, it has been my way or the highway every day. I dare say there was more collaboration in this conference between Republican Members and special interests than between the House and Democrats to find the right bill.

In fact, the chairman of the committee had this to say in this morning’s Washington Post: He said the decision to scale back numerous provisions rather than jettison a few reflected a political calculation. He said a number of groups in the Senate pushed for individual provisions so negotiators sought, and I quote, “to fit in as many as those special interest goodies as possible.”

Look at what had to be done to shoehorn in as many of those special interests as possible. We moved, in effect, the sunset date back a year. Why was it not moved back five more years? When was every special interest in this country not shoehorned into this bill?

We wind up with becoming the laughing stock of the country because one has to die before 2010 in order to get the full benefit of the estate tax.

Someone said in the morning paper, this is going to be a Saturday Night Live routine, and it is. Can one imagine the routines that can be done?
Now let me give three quick reasons why this bill should be defeated: first, we believe that this tax cut comes over 20 years to over $5 trillion, over $5 trillion. It is backloaded. It is backloaded. It is backloaded. It explodes in the final years. It will cause the largest deficit in history ever and decrease precisely at the time when the baby boomers are going to be coming into the Medicare system and the Social Security Trust Fund. We are going to be raiding those funds of needed dollars to tax cuts.

Secondly, it is weighted to the top. The top 1 percent get 36 percent of the benefits of this bill.

We have no argument with people who have made a lot of money. We bless them. Thank God people can make a lot of money in this country and all of our citizens feel they can make a lot of money. We bear no grudge. We welcome their ability to do this, but we make a choice when we give large tax cuts to the top 1 percent and people at the top. It means we do not give enough to the people in the middle class and the people trying to get in the middle class.

This is the opportunity society. We want all people to feel they can get wealthy. We want people to work hard. But how will they take a tax bill that gives everything at the top?

Finally, it is fiscally irresponsible. We have worked too hard, we have worked so hard in this country, we get back to a time of surplus and not deficits. And tonight, today, this morning, we take a U-turn. We turn away from the most important achievement of this country and this economy.

I began to think that citizens had lost all faith in us because we could not deal with the deficit, and finally we summoned the courage in the early 1990s to take care of the deficit. We made the hard decisions, and I would argue that the defining moment is the economic history of this country and the social history of this country. I urge Members on both sides of the aisle to examine the facts and examine their conscience. This bill, in my opinion, is an outrage. It is an outrage to the common sense and decency of the American people, and I ask each of the Members to consider carefully their vote because I believe with all my heart it will be remembered for their entire career and all of our citizens feel they will be remembered by them for the rest of their lives.

Please do the right thing and reflect the values of the great American people: decency, honesty, fiscal responsibility, and common sense. Vote no on this tax bill.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to thank the minority leader for providing us with a guiding statement. It can be heard made no clearer in terms of the difference here on the floor today. The gentleman from Missouri (Mr. GEPHARDT) said, mark my words, this is the last tax bill. He said this is the last tax bill.

He must know something we do not. Obviously, he is consulting with the new majority leader of the Senate, Tom DASCHLE from South Dakota; and apparently the new majority leader has assured him this will be the last tax bill.

If one wants to know the difference, the defining statement between the two sides, we think there ought to be more tax relief bills. Clearly the statement indicates there will not be any more. He knows more than we do about the way the Democrats are going to run the other body.

Mr. Speaker, it is my pleasure to yield 4 minutes to the gentleman from Iowa (Mr. NUNN), chairman of the Committee on the Budget and a member of the Committee on Ways and Means, someone who created the structure which allowed us to provide this kind of legislation to come to the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would remind all Members that personal references to the Senators are not allowed under the Rules of the House.

Mr. NUSSELE. Mr. Speaker, I thank the gentlewoman from California (Mr. THOMAS) for yielding me this time.

Mr. Speaker, I congratulate the gentleman and all of those that have worked on this bill. It fits within the budget. It is a good product, and it is not an outrage. The minority leader said it is an outrage. If it is such an outrage, why will the majority party today be joined by as many as 40 Democrats who support this bill? If it is such an outrage, why will it be that at least 10 Democrats in the Senate will join with the majority party in support of this bill? If it is such an outrage, why is it that this is supported by the American people in great numbers? It is the ideas they know, as we know, who should be spending the money in this country.

This bill, I think, is a stark contrast between excuses and opportunities.

What we just heard from the minority leader is a number of excuses, excuses that we have heard for a number of years as to why we cannot have a tax cut.

I have heard so many times people say tax cutting is easy; I am for tax cutting. Why is it that the tax cutting is one of the easiest things we can do. Then why is it since World War II that we have only done it twice before? If it is so easy, why is it that this is only the third time that we have an opportunity to have the tax relief for the American people since the end of World War II? It is because it is not easy. It is difficult.

Why is it difficult? Because there are so many excuses for why people cannot have a tax cut. The minority leader is a number of excuses, excuses that the government should be spending money itself.

What are some of those excuses that we have been hearing? The number one excuse was we cannot provide tax relief to the American people because it dips into Social Security. For one of the first times we have a budget that says we are not touching any of Social Security. This tax bill fits within that budget. We do not touch Social Security. We will not touch Social Security. That was a bipartisan decision. I hope that holds, and it fits within this budget.

The second is that we should not do it because it touches Medicare. The minority leader said that this bill touches Medicare. That could not be farther from the truth. It does not touch Medicare. It should not touch Medicare. It will not touch Medicare. That also was a bipartisan agreement, and we should continue that practice here today.

The third excuse was we would pay down the national debt first. In fact, this budget accomplishes the largest reduction of the debt held by the public in our history. This bill does not change that in one way, shape or form; and by the end of the 10 years of this budget we will have eliminated the debt held by the public, except for that which is needed for the cash flow.

We have heard this is for the rich, and the minority leader mistakenly said 30 percent of the relief goes to the top 1 percent. Could not be farther from the truth; could not be farther from the truth. Read the distribution
We have heard it is the wrong time, the wrong way. It is the wrong process. It is the wrong text.

No, we do not live in a parliamentary system, but it is only natural to expect that people like myself, who have been honored with positions of leadership, will largely support the President’s agenda and yet, more and more I find I cannot. Those who do not know me may have thought I took pleasure in resisting the President’s budget or that I enjoyed the limelight. Nothing could be further from the truth. I had serious substantive reservations about that budget, as you all know, and the decision it set in place in the future.

Looking back, I could see more and more instances where I will disagree with the President on very fundamental issues. The issue of choice. The direction of the judiciary, tax and spending decisions, missile defense, energy policy and a host of other issues, large and small. Now, for some, success seems to be measured by the number of students moved out of public schools. In order to best represent my State, I will leave the Republican Party and become an independent. I hope my colleagues on the other side of the aisle will follow the President’s leadership and take that good advice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HULSHOF) asked and was given permission to revise and extend his remarks.

Mr. HULSHOF. Mr. Speaker, I rise in support of this very likely last tax relief measure in this Congress. Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, I rise in support of this very likely last tax relief measure in this Congress. Mr. THOMAS. Mr. Speaker, it is my privilege to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN), who, on a bipartisan basis, was responsible for a major portion of this bill, the pension and IRA area.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me this time. I want to congratulate the Chairman and his colleagues for excellent work on this tax relief measure. I know I am not supposed to talk about Democratic Senators, but I will talk about them in terms of sponsors.

Senator MAX BAUCUS, who did sponsor the legislation on the Senate side, and Senator JOHN BREAUX, who is one of the sponsors on the Senate side, worked very hard with Senator CHUCK GRASSLEY, chairman of the Finance Committee, and the gentleman from California (Mr. MUNOZ), the ranking member of the Committee on Ways and Means; and they did a fantastic job in putting together a great bill.

A couple of points need to be made. One is that this is about 2 percent of the tax surplus that is permitted to go back to the hardworking American people that sent, after all, every dime of that surplus to Washington. That is certainly fair and not consistent with what we have heard on the other side. In terms of special interests, let me talk about the special interests here. First, all of the President’s major proposals are here, the “big four.” Across-the-board tax relief that benefits every single American, while those at the lower- and middle-income levels get a disproportionate amount of the tax relief under this provision. An increase in the child tax credit, allowing all American families to have a little more to begin to raise the expenses incurred by that. It is also refundable, so it helps folks that do not pay any Federal income taxes, some who pay payroll taxes, some who pay no payroll taxes or Federal income taxes at all by virtue of marriage penalty relief. All of us know about that, we have been fighting for that for years.

Finally, in this legislation, we get relief to folks who are married so they are not paying more just for the benefit of being married. Death tax repeal; very important to small businesses around this country, and those four are all in this legislation. Finally, after so many years of talking about them, so much discussion here on the House floor, we will have enacted into law that people have used the special interests, but the people who work hard every day to make this country work.

Other things are also added. The adoption tax credit to let people adopt children more readily. Education tax credit to help with tuition, to help with student loans; and, finally, the retirement security provisions which are extremely important to let every American save more for their own retirement. Raising the IRA contribution from $2,000 to $5,000. Had it been indexed to inflation originally, it would be a little over $5,000 a day. We are doing a catch-up there where it should be. On the 401(k) side, helping people to save more, again, for their own retirement.

This is a good bill. That is why 68 percent of the American people, 55 percent Democrats, support it.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MATSUI), a distinguished member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from New York for yielding me this time. I might just express my disappointment to the gentleman from New York (Mr. RANGEL), because over the last few days I had given him a number of provisions that I thought other Members of this body, Democratic Members particularly, would find helpful in terms of this tax bill, so perhaps we could have voted for it. But, then I found, after the gentleman had received all of these tax proposals that I had, that well, he was not allowed to go into the conference or allowed to go into the meetings. So I am sorry that I burdened the gentleman with that information, because it is pretty obvious the gentleman was shut out. So I just want to make this effort to thank him for his effort.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?
Mr. MATSUI. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I would like the gentleman from California to know, when I found out that I was excluded from the meeting, I did seek to see with other members of the Democratic leadership perhaps had been invited; but as I said to the gentleman early this morning, the gentleman should know, not one Democrat in this House of Representatives got the chance to participate in this bill.

Mr. MATSUI. Mr. Speaker, I thank the gentleman. I think the good news is the fact that the Senate will change in another week. This will be the last extreme bill that we will have before the body that will be sent to the President.

I would like to point out a few things. One, the document that showed that we have a $5.6 trillion surplus over the next 10 years, that same document said that there was only a 50 percent chance that these 5-3 numbers are correct and they have no basis to make an accuracy projection on the 10-year numbers. This could have been $3.9 trillion or $1.6 trillion or perhaps 0. So we are basing this $5.6 trillion surplus on a speculation that is exactly what this bill is all about.

Now, let me just make a couple of observations. The chairman of the committee says that this will not affect Social Security. As I read the 10-year window, it will not have any impact on Social Security. The reason for that is because in the year 2014, 13 years from now, is when Social Security has the cash flow problem. So basically, yes, for the next 10 years, it may not have an impact on Social Security, but it will have a devastating impact on Social Security in terms of its long-term survivability.

I will say that a ‘yes’ vote on this bill, will mean that senior citizens will, in fact, have significant reductions in their benefits. There is no question about it. The chairman of the Committee on the Budget made an interesting observation. He said that this bill really does not go to the wealthy. The problem is that he is using a 5-year projection. Of course, in the 5-year projections, it is not until the 6th to the 10th year that the tax benefits for the wealthy actually phase in. As a result of that, those people that earn $1.1 million a year or their tax returns will get 38 percent of these benefits. That is not good budget policy.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Florida (Mr. YOUNG), a distinguished member of the Committee on Ways and Means who is the chairman of the Subcommittee on Social Security.

Mr. SHAW. Mr. Speaker, I would like to congratulate the gentleman from California (Mr. MATSUI) and all of those responsible for bringing this conference report to us. It absolutely is appalling how we continue to hear, particularly from the other side, that every time we are going to give tax relief that is going to stop us from doing all of these other things and that it is going to in some way impact upon the Social Security Trust Fund. Believe me, this tax bill does not spend one nickel of the Social Security Trust Fund.

The chairman said that the surplus is going to be out there until 2016. Instead of throwing rocks at what are we trying to do, giving Americans some tax relief, I would invite my Democrat friends to join with me in solving the problem of Social Security. Beginning in 2016, there is going to be some problems, because the surplus is going to go away in 2016. By using just one-third of that surplus right now, we could solve the Social Security problem for all times.

So let us quit using this as a political hammer, and let us recognize that we need to legislate for the next generation and not the next election.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a distinguished member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me start off by complimenting the conference on the retirement and pension provisions that are in this conference report. As the chairman mentioned frequently, that bill had been worked in a very bipartisan way, and I think in conference that spirit was continued, and I am very pleased with the provisions that are included in the conference report as it relates to the pension and retirement provisions.

Mr. Speaker, I would hope that I will be forced to vote against a bill that I worked very hard on because of the other provisions that are included in here. The pension retirement provisions are less than 4 percent of the revenue costs of the bill; but the other provisions explode in costs, and I have spoken on this floor several times about this legislation. It does make it much more difficult for us to pay down our debt.

As the chairman of the Committee on Appropriations said, I did not know we were appropriating the Social Security benefits. Maybe the Committee on Appropriations is trying to take the jurisdiction away from the Committee on Ways and Means on the Social Security system. But this bill if, in fact, we are off by 1 percent on the growth rate of our Nation, we will find that we have appropriated all of the surplus during the next 10 years, and I would hope that during the next 10 years, we will have priorities in addition to tax cuts, that we could deal with education, that we could deal with prescription medicines.

I am concerned about is that we are putting into effect today tax relief that will jeopardize our ability to provide these other priorities for the American public. This is a reckless bill, and I urge my colleagues to vote against it.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Florida (Mr. SHAW) control the remainder of time on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a distinguished member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I yield the gentleman from California?

Mr. Speaker, this morning we are hearing again a very interesting debate. The gentleman from Maryland (Mr. CARDIN), who worked in a bipartisan way for meaningful pension reform and relief, now abandons the larger measure. The gentleman from California (Mr. MATSUI) speaks of speculation. Mr. Speaker, it is interesting that when I was in the private sector and I watched Washington spend more and more and more and more of the people’s money, including Social Security funds, it was interesting those forecasts and estimations never seemed to make a difference in the minds of the previous majority.

I heard the gentleman from California (Mr. STARK), reduced to reading a statement from someone in the other body that had nothing to do with the tax relief today; and I heard the gentleman from Missouri (Mr. GEPHARDT), the minority leader, speak of a Saturday Night Live skit. Perhaps he was thinking about the fictional character of Tommy Finnegan as portrayed by Jon Lovitz years ago who was some-what factually challenged, because indeed the presentation from the left has been completely factually challenged throughout.

Mr. Speaker, I invite my colleagues to join us to offer meaningful relief in the marriage penalty, to finally put the death tax to death, for marginal rate reductions, and for the American people to get their hard-earned money back immediately. Rather than have the incendiary comments, let us work together.
Mr. Speaker, I believe today on this floor, despite the wailing and gnashing of teeth, despite the extreme rhetoric of the other side, we will have meaningful tax relief for the American people; and it is about time. Wouldst that my friends would join us again; but they are already flying today, just one, no more. How sad that is. But at least on this one, I say to my colleagues, let us join together for commonsense tax relief, because the money belongs to the people, not to the Washington bureaucrats.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. McNULTY), a member of the Committee on Ways and Means.

Mr. McNULTY. Mr. Speaker, I do not want to go back to the days of deficit spending. There are a lot of numbers flying around Washington, D.C. these days, and I know a lot of people do not know who to believe. So I am not going to use any of the numbers of the gentleman from Missouri (Mr. GEHPARD) or any of the numbers of the gentleman from New York (Mr. McNULTY), I am going to use the President's numbers.

He stood in this Chamber not long ago and he projected we would have over the next 10 years a $5.6 trillion surplus. Some people think that is a guess, some people think it is a gamble, some think it is a dream. But sometimes dreams come true. Let us assume it happens.

He wants to pay down $2 trillion on the national debt. As a fiscally conservative Democrat, I want to do that. I like that. That takes us down to $3.6 trillion.

Then he says, as we all have said, “We are not going to touch the Medicare or Social Security trust fund monies.” Now, 400 of us voted to do that. The chairman of the Appropriations just said we are not going to do that. We subtract that out and we are down to $700 billion.

Now what do we do? We are going to have a tax cut in the amount of $1.35 trillion. I rounded that down to $1.3 trillion, and we have a $600 billion deficit. Using the President’s numbers, with no new program funding, nothing for education, nothing for military pay, nothing further as far as spending is concerned, we have a $500 billion deficit, using the President’s numbers.

Mr. Speaker, here is the deal. We have a $5.7 trillion national debt. Last year, we paid $329 billion in interest on the national debt. Let us not go back to the days of deficit spending at the sake of our children and grandchildren, defeat this irresponsible proposal.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a distinguished member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I stand in strong support of this legislation, and hope Members will help our constituents to see how much help it is going to give to young families getting started in life. It not only drops the taxation on part of their income to 10 percent, but it also gives them two 15 percent brackets before they move up into the higher bracket, so they are able to do a lot more for their families, give their family a much better start before they begin to carry the kind of burden they carried today. Not only will they get the double 15 percent bracket, the advantage of the 10 percent bracket, but they will have the double child tax credit over time, $1,000 per child.

We are going to keep young families out of those mid ranges of our Tax Code for most of their raising their young children. This is an enormous change in the sort of launching of children and families in our society. I am very proud that we are making it possible.

Let me say lastly that I am sort of astounded at what I hear from the other side. It is absolutely as legitimate to, in a sense, spend the surplus through the tax vehicle as through the spending vehicle.

I know many of them want to increase spending in this area and that area. Because we spend $80 billion a year through the Tax Code, America has a primarily employer-provided health care system. All that, the private sector health plans that employers provide to their employees, is made possible because of those tax premiums through the Tax Code.

We spend over $80 billion every year through the Tax Code. I want another tax bill that provides that same tax equity and tax support to everyone who pays their own health insurance premiums. That is every bit as intelligent and effective a way to expand access to health insurance as a subsidy program from Washington, which I know many of them support.

Mr. Speaker, I thank the chairman for the tax bill. It is going to make a big difference in people’s lives.

Mr. RANGEL. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. SKELO). Mr. SKELO. Mr. Speaker, much has been said about this bill jeopardizing Social Security, Medicare, prescription drugs, but nobody needs to speak for the American soldier.

I am not a member of the Armed Services. I take this work very, very seriously. This bill jeopardizes dollars for defense, as so aptly pointed out by the gentleman from South Carolina (Mr. SPRATT) just a few weeks ago.

Later on this year, during either the appropriation process or an amended budget process, I will take this floor, Mr. Speaker, and I will do my best to get additional dollars for the American soldier, because the roofs are leaking on the family housing, the spare parts bins are empty, training is being curtailed.

As a matter of fact, in Missouri there are more non-flyable helicopters because of lack of spare parts than those that fly. I think this jeopardizes the national security. We must look at that.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield ½ minutes to the gentleman from Georgia (Mr. KINGSTOL). Mr. KINGSTOL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, several months ago I was at Johnson High School talking to the seniors, and a little girl named Julie Long sat in the front. I asked her if she had a job, how much she got paid. She had a job, she made $7 an hour.

I said, “Julie, if you work for 2 hours, you take home $14.” She said, “No, Mr. KINGSTOL, of course not, I pay taxes, about $4 worth.” Okay, so on the $14 that she has earned, she was paying $4 in taxes. Now, she understands we need to pay for the military, we need to pay for education, roads and bridges and functions of government. She said, “Yes, sir.” I said, “Julie, what if you found out that I could do all that for $3.50, not $4. What would you want me to do with the other 50 cents?” She said, “It is my money, Mr. KINGSTOL. Give it back to me.”

That is what this bill is all about. All it says is that we are going to take care of Social Security, Medicare, normal functions of government, especially education; come on, I say to the other side. It is absolutely as legitimate for the American soldier, it is the President’s education package. Then we are going to return it to the American taxpayers.

It is not time for class warfare, to bring out the same arguments we heard on health care reform, Medicare reform, regulatory reform. It is not time for all the fearmongering. Let us just say who this money belongs to, which is the taxpayer not us in Washington, and let us say it is their money and we are going to return it to them.

That is what this bill is all about. I urge my colleagues to support the conference report.

Mr. RANGEL. Mr. Speaker, I yield ½ minutes to the gentleman from Wisconsin (Mr. KLEIZKA).

Mr. KLEIZKA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the chairman of the conference, the gentleman from California (Mr. THOMAS), a while ago said when this President ran for office, he said there was going to be a change in the environment in Washington, D.C. Over the last few months we have seen that. In fact, most recently we have found out the fund raisers in this town has moved from the Lincoln bedroom in the White House to the Cheney bedroom. So already we are seeing this big change that was talked about.

What I would like to do this morning is just make some observations on the bill. We are being told by our Republican colleagues that we must give the money back. Taxpayers have been
This tax bill is a gamble. Lacking in a tax cut of the proportion will gamble our ability to provide for a sound fiscal future. Looking at the nation’s long-term fiscal health, beyond 2011, reveals massive deficits as we try to deal with the costs of providing for our children’s education, defense needs, prescription drug benefits, and the soundness of the Social Security trust fund. The Comptroller General tells us that deficits will occur ten years from now even if we don’t pass this $1.35 trillion tax cut.

The Conference Report before us is filled with back-loaded tax cuts. When it comes to tax cuts, there is a ticking time bomb that is set to explode at precisely the same time that the baby boomers begin to retire. It is in the second year of the true cost of this tax bill will be known—precisely the same time that the bulk of baby boomers are retiring. According to the Center on Budget and Policy Priorities, the cost of the bill in the second ten years is $4.1 trillion. To accomplish this, the bill delays marriage penalty relief for 5 years and waits until 2011 to repeal the estate tax—hiding the true cost outside of the 10-year budget window.

By the authors’ own admission, this bill is a floor not a ceiling for additional tax cuts. Other bills the Republican Leadership has indicated will likely be considered include a business tax package to accompany the minimum wage, tax extenders, adoption of the alternative minimum tax, and various tax incentives for health care and education. In addition, the Conference Report does not take into account the hundreds of billions in interest costs that will have to be paid because passage of this bill will jeopardize our ability to pay down the national debt. While the remaining tax bills are added together, the total cost is nearly $3 trillion! That’s more than the $2.7 trillion in projected surpluses that are available outside the Social Security and Medicare Trust Funds. Inevitably, the Republican tax bills will collapse under their own weight.

The tax plan is déjà vu. Twenty years ago, Congress passed a large tax cut that quickly tripled the deficit and quadrupled the national debt. Apparently, my friends on the other side of the aisle seem to have selective recall when it comes to that part of our history.

Mr. Speaker, the tax Reconciliation Conference Report before us today is an irresponsible tax proposal that will be paid out of the pockets of our children. I urge its rejection.

Mr. THOMAS, Mr. Speaker, it is my pleasure to yield 30 seconds to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, this is not complicated, it is simple. People are either for tax relief, or they are not.

This bill provides tax relief for families with children, for married couples, for farmers, for small businesses. Mr. Speaker, when the year 2011 comes around, we will sure want a Senate that reaffirms tax relief, not one that increases taxes, like in 1993. Vote for this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), an outstanding American and a member of the Committee on Ways and Means.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the Republican tax bill is not the way to go. It is going to take the country down the wrong road. What if we are wrong? The Republican tax bill is based on a 10-year forecast that we know probably will not happen. In fact, the people the forecast have said that it is not going to come true. According to them, there is only a 10 percent chance that the forecast will be correct.

We cannot afford to be wrong on this one. We are locking ourselves into a 10-year plan when we are not even sure that the money would be there.

The gentleman from New York (Mr. RANGEL), does he know what this would be like? It would be like counting the chickens before the eggs hatch. That would not be fair for the American people. What if we are wrong? What if the surplus does not happen?

The administration, the Republicans, somebody is not telling the whole truth. They are not telling us the whole story. They need to be honest with the American people, honest about the true costs of the tax bill, honest about what the surplus does not materialize, honest about what will happen to Social Security, honest about Medicare and other priorities.

We have an obligation, a mission, and a mandate to tell the truth, the whole truth, and nothing but the truth. The Republicans are playing with the numbers. It is deceptive, it is a sham, and it is a shame. We should be paying down the debt, saving Social Security and Medicare, taking care of the basic needs of all of our people.

The Republican bill is not right for America. It is not fair and it is not just. We should vote down this bill. We should do it for the American people. We have an obligation to vote it down.

Mr. RANGEL, Mr. Speaker, I yield 1 minute to the distinguished gentleman from Mississippi (Mr. TAYLOR). Mr. Speaker, in the tradition of the gentleman from Iowa (Mr. NUSSEL), I should have worn a paper bag down here today.

How can anyone look the American people in the eye and say we have a surplus when we owe the Social Security trust fund $1 trillion? There is no account. There is no money. They have nothing but IOUs. But somebody else is going to get a tax break today.

We owe the Medicare trust fund at this moment $228 billion. There is no lockbox. There is no bank account. They have an IOU.

We owe our Nation’s military retirees, the people who they are all going to go give speeches to next Monday and tell them how much we value them, we owe them $163 billion. There is no account. There is no bank account. They tax the money and they are going to give it to somebody else.

We owe our Nation’s civil servants $501 billion.

Now, how can anyone look me in the eye and say we have a surplus when we
owe those folks that money? My colleagues have taken money out of their paychecks with the promise that my colleagues were going to set it aside for their retirement.

It is not there. This is wrong for America. We have a unique opportunity to start paying down the debt; and, instead, my colleagues are giving those big contributors a tax break. Shame on you.

Mr. RANGEL. Mr. Speaker, my colleagues have no response?

The SPEAKER pro tempore (Mr. LAHOUDE). The gentleman from New York (Mr. RANGEL) has 6 minutes remaining and the gentleman from California (Mr. THOMAS) has a couple of speakers.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. STENHOLM), an outspoken Member on our government.

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I want to convey my words very carefully today, because tomorrow I may eat them, just as I have heard many statements made on this floor today that I think are going to be eaten.

When you govern this country based on political promises and polls rather than sound economics and good policy, the market will correct us.

Let me remind everyone to start looking at what is happening to long-term interest rates as we have been debating this tax cut. They have gone up 4 percent, which means a tax increase on all soon-to-be homeowners.

Now, this budget bets the ranch that the surpluses that everybody talks about are going to be there. If they are not, we are going to have a difficult time governing in this body in a bipartisan way.

Social Security has been mentioned, and my number one disappointment in this Congress is that we have not taken care of Social Security. We have spent $1.56 for every increased dollar we sent to Washington, not Ronald Reagan.

That went on until 1993. And in 1993, the President of the United States raised taxes and the deficits went on and the spending continued until 1995. Since 1995, the American people have continued to do their job and continued to send increased amounts of money to the government. What did Washington do? Washington spent $1.56 for every increased dollar we sent to Washington, not Ronald Reagan.

The Democrat Congresses wasted those Social Security surpluses year after year. What did Ronald Reagan do? He said that we knew that the budget was in danger of repeating it.

Here we are today, a great day for Americans, a day where we could work together on a bipartisan effort so that we could provide the much-needed relief that Californians are crying out for.
When I go home today and I meet those folks that I represent, the people who are not going to get one iota of a tax break on relief, the people in my district currently are probably the hardest working folks, senior citizens, that have paid their way, that have given the riches that we have in this country.

They are waiting. They are waiting to see what action is going to take place here. The folks in my district want to keep the lights on in California. They get no help from this budget on the energy crisis. There is an energy crisis.

There are children who are crying because they want to know that they are going to be able to have school rooms that are not going to fall down on them because they are going to be built to secure their education and their livelihood there. That is not in this budget.

What about the promises we made to seniors for Medicare and Medicaid reform to help them? What about those people in my district that have been gouged by those energy producers from Texas?

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California, Ms. Pelosi.

Ms. PELOSI. Mr. Speaker, the Republicans are attempting to justify their tax bill by saying this tax break for their wealthy friends is needed to offset a slowdown in the economy.

My Republican colleagues, in case you have not noticed, the biggest threat to the economy is the energy crisis which will be felt throughout the country. There is a solution, and these solutions are the wave of the future, renewable energy and energy efficiency.

Yet this tax cut necessitates a cut by 50 percent in research and renewable energy and 30 percent in energy efficiency. Instead of passing this reckless tax cut instead of helping this House lie silent for two whole days, we should have taken up an energy bill. We should have passed the Inslee bill to help the entire West.

Do not let the Republicans tank the economy with their reckless tax vote. Vote no. Vote responsibly. Vote no on this bill.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from New York, Mr. Hinchey, my friend.

Mr. HINCHERY. Mr. Speaker, I listened very carefully to the gentleman from Texas, Mr. Armey, the distinguished majority leader, just a few moments ago, and I was reminded about the capacity of the human mind to deceive itself.

Ronald Reagan never sent a balanced budget to this Congress, not once in all the 8 years that he was there. This bill is a mistake today. Anyone can make a mistake and any group of people can make a mistake, but it takes a certain melancholy of fools to make the same mistake over again.

In 1981, we passed a tax bill under the direct urging of a new Republican President. The result of that bill was deep recession and huge deficits, $5 trillion of deficits today as a result of that tax cut.

Now we are being asked to do the same thing over again. If we do it, we know what is going to happen; and our Republican colleagues intend it to happen. There will be no money to deal with war, there will be no money to deal with prescription drugs. There will be no money to deal with the problem of 13 million children living in poverty. All of those things our Republican colleagues do not want to address. That is why they want this tax cut passed. Let us defeat this bill.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Washington, Mr. Inslee.

Mr. INSLEE. Mr. Speaker, my Republican colleagues' fiscal plan is a little like a money-laundering machine because every dollar they give to the American taxpayer, the taxpayers are going to give $2 to the energy companies, and their tax plans will not do a single thing about it.

While energy prices go up a thousand percent, they do nothing. Last night, I was reading Tom Brokaw's book about the greatest generation. He quoted Roosevelt saying, "This generation has a rendezvous with destiny." Well, under this plan, the baby boom generation has a rendezvous with a fiscal disaster when we start to retire. The Republicans are going to have this dilemma. When the baby boomers start to retire 10 years from now, when the Republicans sunset the repeal of the estate tax, the Sopranos may have a job under the Republicans' plan in the year 2010. If this goes through, Saturday, March 26th, 2001, will be a day of fiscal infamy.

Defeat this bill. Join us in a fair plan where the baby boom generation will stand up for fiscal responsibility.

Mr. RANGEL. Mr. Speaker, it is my understanding that my colleague on the other side of the aisle will be yielding the remainder of his time to our distinguished Speaker to close.

Mr. THOMAS. Mr. Speaker, I advise the gentleman that the Speaker will close, but he has honored me with just a statement at the end which would take 10 seconds, so it is a closing on this side.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time, and I want to sincerely thank the Speaker for thinking enough of the Democrats and the Committee on Ways and Means in appointing me to the conference. I want to know that I had told the majority leader and the chairman of the committee that he had done that. Because somehow this conference turned from a Ways and Means conference to a Republican conference; Republicans have come from the House, and from the Senate.

I just cannot understand what was in this bill that was so terrible that my colleagues did not want one Democrat to be able to see it. And I say this because as we leave here on this Memorial weekend, not one Member of our side has been able to see my colleagues' bill. They have come and asked me for the bill. I have referred to it to the majority leader, they have referred it to the Speaker. But ultimately, we should be right there on our television, on our Web site, seeing what you rascals have really done, because you never really brought anything to the floor.

Mr. Speaker, I am waiting to go hear just exactly what happened.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois, Mr. Hastert, the Speaker of the House. Without his focus, attention, and diligence we would not have had the atmosphere to bring this accomplishment to fruition.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from California, and I thank him for his diligence and his hard work.

I thank my friends on the other side of the aisle. And to my good friend, the gentleman from New York, we are all in this process, and I think there were some of Democrats that were involved very heavily in this conference for a lot of hours. I am just advising my colleagues that revisionist history and trying to talk about different things, facts still remain facts.

Let me just say that maybe we just ought to tone down our rhetoric this morning, because it is not a Republican victory nor is it a Democrat victory if this bill passes today. The American people win. The American people, who get up in the morning, the farmer in Nebraska this morning that has been up for 3 hours doing chores, he is going to get a better break on his taxes. And that farm he spent his whole life on he may be able to pass on to his children and grandchildren.

The truck driver driving across the delta of Mississippi this morning, trying to get home to his family for Memorial Day, he is going to get a better tax break so he can take better care of his kids and plan for his kids' education. He wins on this.

It is the single mother in California, whose kids were up early this morning watching the TV. Not this. They are watching cartoons. Maybe it is the same thing. But anyway, that mother will be able to take care of her children. She gets a better tax break. She can plan for her children. And there are benefits for her that have never been in another tax bill.

I hear a lot about the budget, and I hear about Presidents in the past. It was 1996 and 1997 and 1998 and 1999 and 2000 and 2001 that this Congress balanced the budget for the first time in 40 years. And because we balanced the budget, we started to pay down the debt. Yes, in September of this year we will have paid $650 billion down in public debt, and we have a surplus that allows us to give back to the
American people. It is time we give to the American people. Because if we do not give them that surplus, we will spend it and we will have bigger govern-ment, and we will have more programs and we will not see a surplus again.

It is time that we get on with this issue, it is time we get on with this work, and it is time we give the Amer-i-can taxpayer a tax break.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time, and I want to thank the Speaker and my colleagues for the opportunity and privi-lege of serving. H. R. 1836 was created by a bipartisan team following Presi-dent Bush’s blueprint. There is a new direction in Washington, both in sub-stance and in bipartisan cooperation. For a decade of growth and for some re lief to the American taxpayer, let us vote ‘yes’ on H. R. 1836.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in grave opposition to this Conference Report, H. R. 1836, the Tax Cut Reconcili-ation bill, and the conservative Republican budget.

All that glitters is not gold in this tax cut. Americans need relief now, and most of all, they need leadership. Sadly, the Majority has sought to twist and confuse the House process to benefit the wealthy. The Minority has been shut out of this process and kept waiting through the night, only to be given a the draft of the plan 1 hour before it went to the floor of the House.

The tax bill is fundamentally unfair. This bill is designed to benefit the rich, cutting the four highest rates, and doing little for the rest of America. Fully 70% of this tax bill goes to the top fifth of taxpayers. The richest 1% of Ameri-cans earn 39.9% of the cut, while most Ameri-cans get a raw deal, with the bottom fifth of all taxpayers getting only 1.0% of the cut. This simply is not a good plan for America. I would have voted for the one-time economic stimulus package, which would have provided $85 bil-lion in relief to taxpayers this year. Now, it has grown to $421 billion.

The bill provides no marriage penalty relief until 2005, despite the fact that the sponsors campaigned on the need for such relief. The bill repeals the estate tax, which overweigh-ingly helps the wealthy, but does nothing about the gift tax. The repeal is effective only for the estates of decedents dying on or after January 1, 2010, and before January 2, 2011. This is not the kind of real tax relief that Amer-i-cans need. We can and must do better.

If we worked together in a bi-partisan fash-ion like we did in the 1997 Clinton balanced budget, Americans would have the relief that they need today. Instead, under this plan we are faced with is a serious crisis in Social Se-curity and Medicare, all for the sake of this huge tax cut.

What is really needed is progress that helps all Americans, and not just the wealthy few. We need a reasonable energy policy now. We need research and development for Lupus, Sickle Cell, and HIV AIDS, which currently have no cure. And under the “Leave No Child Behind” rhetoric, our children are left behind because we short-change the nation’s edu-ca-tional needs.

I call on the Congress to do what is fair and what is right for all Americans

Mrs. MALONEY of New York. Mr. Speaker, after eight years of hard work, we finally have our financial house in order. When I was elected in 1992, we had a $290 billion surplus.

This year the Bush Budget projects a non-Medi-care, non-Social Security surplus of $92 billion and the combined surplus is project-ed at $275 billion; under the Presi-dent’s budget, the non-Medicare, non-Social Security surplus would never again be that large within the ten-year budget window.

At a time of unprecedented surpluses, we should have tax cuts—but I believe in responsible tax cuts—tax cuts that allow us to pay down the debt and pay for domestic priorities such as pre-scription drug coverage for seniors and improvements in education.

I favor the Democratic plan of divid-ing the surplus into thirds.

On third for tax relief, one-third for debt reduction, and One-third for na-tional priorities such as education and prescription drugs.

I believe in fixing the marriage penal-ty, but not delaying its implementa-tion for four years as the Bush plan proposes.

I believe in relief from estate taxes, but not for billionaires, and not for a plan that hides its cost by not phasing in for 10 years.

I believe in giving the relief now—not ten years from now in a move that will blow a hole in the budget and leave us with massive deficits.

We need to be clear about one thing. The Bush tax cuts are based on 10-year budget projections that can vary greatly and potentially lead us back to deficits.

Despite the current surplus the fed-eral government is enjoying, danger lies just over the horizon.

The uncertainty of the next ten years is trumped by the certainty of the sec-ond ten.

Starting in the later half of this dec ade the baby boomers will begin to re tire, drastically increasing our entitle-ment commitments. Should we find ourselves facing deficits in 2008 we will truly be in a dire predicament.

Most misleading about this tax bill is that it treats taxpayers with similar in come far differently based on the state in which they reside.

This is because it greatly increases the impact of the Alternative Min-imum Tax which eliminates deductions for state taxes on the tax cut.

While the tax cut itself is large, it is not so large that it provides relief to the lower income Americans who pay the majority of the taxes through pay-roll taxes rather than income taxes.

I do not believe selling a tax cut as an economic stimulus package when most of the relief will come years from now, long after this economic cycle has passed.

The President says people should use the tax cut to pay their skyrocketing energy bills. However, without provided relief from payroll taxes the Bush plan does nothing for people who are most aff-ected by energy costs.

And I don’t believe that we should cut taxes so far that we run the risk of going back into deficit spending.

Mr. NEAL of Massachusetts. Mr. Speaker, this is a sad day for America, but one every-one knew was coming. The bill we have before us repeats the mistakes of the 1981 Tax Bill, mortgaging our future for immediate poli-tical benefits.

The only question is: Who is going to play the role of Senator Dole this time? Who is going to have the courage to begin to turn this boat around once the immediate euphoria has passed, and the reality of what has been done is reflected in budget estimates? How are we going to act when the delayed effective dates come due and the hemorrhaging of revenue occurs just as the baby boom generation be-gins to retire, and our only choices are to re verse this tax bill or make deep cuts in Medi-care and Social Security?

Hasn’t the President of the United States made a few comments about how the pension provisions came out, as I understand them. I am willing to con cede that this procedure makes it difficult to know exact details, so I will rely on the Chair man correcting me if I have misconstrued something.

I understand that the nonrefundable retire ment savings account proposal is in the con ference report, as is the small business credit for administrative costs for start up pension plans. Those are two of the three provisions I have been working for these past three years, so I thank the Chairman and those who sup ported these provisions. These provisions, when combined with the many solid provisions like portability, make this a better bill than going back to the House.

On the downside, I understand the House version of the nondiscrimination rule and the top-heavy rule has prevailed, thereby in my view weakening pension coverage for some low income workers. In addition, the applica tion of the nondiscrimination rules to the catch up provision has for the most part been dropped. I know Mr. CARDIN was the chief proponent of this very good policy, so I regret that outcome.

I suppose the theme of the pension provi sion, as with this whole bill, is that it is built around a number of good intentions but on the whole it simply goes too far. And we will eventually have to clean it up. It would be bet ter to simply vote this down, and start again to build a bill that solves problems in the tax code like the alternative minimum tax and other complex issues, to the extent we can af ford to do so. I suspect that will not happen, but still I would hope Members would vote this down and start again.

Ms. HARMAN. Mr. Speaker, I rise to oppose the reconciliation conference report.

For close to a decade, I have made every hard vote to balance the budget, eliminate the deficit, and reduce our $5 trillion nation debt.

I made these votes because they were re sponsible, and because the alternative for my generation and future generations was con tinued economic hardship, high unemploy ment, high interest rates, high mortgage rates, and a decline in the standard of living that my generation has enjoyed.

This is another of those brutally hard choices.

I support tax cuts and have recently voted for marriage penalty relief and eventual elimi nation of the estate tax.
I expect to vote for needed tax cuts in the future, including true relief from the AMT, a package of relief for small business, and a permanent research and development tax credit.

But none of these important tax cuts is included in this package. It includes some good features, such as improved pension portability, expanded IRA contributions and marriage penalty relief, but it is riddled with gimmicks and it is backloaded. Taxpayers in my district will be enormously disappointed when they see how little relief they actually get, and learn that, despite promises to the contrary, Social Security and Medicare trust funds are included in budget projections.

My family and I would personally benefit from a reduction in the top tax rate. But to their credit, they agree with me that the right vote is not about our personal interest, but about our country’s interest.

John Kennedy was right. The question is what can I do for my country? And the answer is I can stand for principle and say “no” to the easiest vote.

I hope the Congressional Budget Office re-estimates of our surplus in July is positive. But given current indicators, it is likely to be negative. Should this be the case, the vote we take today will plunge us back into multi-billion dollar annual deficits.

I cannot do this. I have risked my political career fighting for fiscal responsibility. The right vote on this package—which emerged after an all-nighter of the 107th Congress—is “no”.

We can write a better tax cut bill and we should.

Mr. PORTMAN. Mr. Speaker, I rise in strong support of this conference report providing needed tax relief for the American people and for our economy. The retirement security provisions are excellent and will help everyone save for retirement.

Unfortunately, several retirement security provisions had to be dropped from this bill because of the Byrd rule, a Senate rule that applies to tax bills passed under budget reconciliation rules.

Several of these provisions would make it easier for small businesses to offer defined contribution plans. For example, one provision would allow small businesses who adopt a new pension plan to pay more reasonable PBGC insurance premiums in the early years of the plan. Another would simplify annual reporting requirements for small plans.

We hope to work with the Education and Workforce Committee Chairman BOEHNER and Subcommittees Chairman JOHNSON, and ranking members GEORGE Miller and ROBS ANDREW to get these and the other important ERISA and tax provisions enacted that had to be dropped from this bill for procedural reasons.

Mr. BLUMENAUER. Mr. Speaker, I am disappointed as we vote on this tax bill for the fifth time that no substantive change has been made to it more fiscally responsible and direct more help to those who need it the most. Accordingly, I have decided keeping direct more help to those who need it the most. Accordingly, I have decided keeping commitments to my constituents in Oregon made to make it more fiscally responsible and
dropping requirements for small plans.

The fifth time that no substantive change has been made to it more fiscally responsible and
dropping requirements for small plans.

The proponents of wholesale repeal were able to shore up, in part based largely on symbolism and distortion of fact. They cited the plight of farmers, but when a reporter asked for living examples of real small farmers who had lost their farms, they couldn’t be found. The deliberal tradition of the Senate caved under the pressure of ideology.

Missing has been a debate about the potential dangers of eliminating our estate tax. What will it cost in lost federal revenue? How will state treasuries manage without their revenue? What will the estate tax do? What effect will it have on charitable giving and the nonprofit civic sector? What happens to democracy and equality of opportunity in a society in which such great inequities of wealth and power?

And more technical questions: Are there ways to reform the tax to address concerns about family enterprises? How would a repeal of the “stepped up basis,” which exempts estates from capital gains taxes, be administered? Instead of discerning these vital questions, our elected leaders have punted. By structuring full repeal to take effect 10 years down the road, they have obscured the issue of repeal and shifted the burden onto future generations.

A hundred years ago, we did have a rich debate about how the tax burden on all American tax-payers, who are being taxed at historic levels. I have traveled the world in my work on health and am struck by the quality of the human spirit. But our society has facilitated wealth-building by creating order, protecting freedom, creating laws to govern property and our marketplace, and investing in an educated workforce. What’s wrong with the most successful people putting one-quarter of their money back into the pockets and purses of Americans. Quite simply, I believe tax relief is about freedom. The more of your money are allowed to keep, the more freedom you have to save, spend or invest your money as you see fit.

The second principle addressed by this legislation is economic growth. Central to America’s economic growth and continued prosperity is education; but, too often students and teachers are limited by the cost or prospect of a crushing debt-load. The best answer to this dilemma is to encourage advanced family savings.
I am pleased this conference agreement recognizes the need to provide federal tax incentives to help and encourage families to save for college. This legislation provides for tax-free treatment of distributions from state-sponsored prepaid tuition or college savings plans. This bill language to ensure that the contributions to these plans are treated as tax-free is important. This provision mirrors the Education Savings Account provision in legislation I introduced earlier this year, the Securing Affordable collegiate and Vocational Education (SAVE) Act.

The cost of attending college, whether at a public or private institution, continues to rise steadily. In order to send their children to college, American families increasingly rely upon debt to meet these rising college or vocational training costs. All 50 states have responded by establishing, within section 529 of the federal tax code, state qualified tuition programs that are free from state income taxes.

As the author of Michigan’s recently-enacted Michigan Education Savings Program I have witnessed first-hand the demand for such common-sense education savings plans. Although Michigan’s program was only launched in November of 1997, it has been a resounding success as more than 16,000 accounts have been opened with over $34 million in investments. The power of compounding makes these plans especially appealing to families who can save every month. For example, in Michigan, families can put away as little as $10 a week over the first 18 years of a child’s life and, based at a conservative earnings rate of 8 percent, have about $20,000 by the time he or she is ready for technical school.

When it comes to saving for college and vocational training, we need to help our families turn from a borrowing class into a saving class. Title II of the Family FILE Act, the State Savings Accounts (SAVE) Act.

Mr. Speaker, well, how about the Republican’s promise to remove the so-called marriage tax penalty? Remarkably, here again, the Administration failed to meet the test. Families earning $10,000 or more in Texas have reportedly seen revenues climb by 400 percent in the past two years while the Californian utilities spiraled into debt. It’s a nutshell game. Is the money under the stool for the oil companies or is it for the wealthiest one percent to go on a shopping spree?

As the author of Michigan’s recently-enacted Michigan Education Savings Program I have witnessed first-hand the demand for such common-sense education savings plans. Although Michigan’s program was only launched in November of 1997, it has been a resounding success as more than 16,000 accounts have been opened with over $34 million in investments. The power of compounding makes these plans especially appealing to families who can save every month. For example, in Michigan, families can put away as little as $10 a week over the first 18 years of a child’s life and, based at a conservative earnings rate of 8 percent, have about $20,000 by the time he or she is ready for technical school.

When it comes to saving for college and vocational training, we need to help our families turn from a borrowing class into a saving class. Title II of the Family FILE Act, the State Savings Accounts (SAVE) Act.
interest costs. Most importantly, the cost in the second ten years is estimated to be about $4.1 trillion. Thus, this measure that provides a prescription drug benefit, paying down the debt or reforming Social Security.

For reasons of fiscal responsibility, Mr. Speaker, I oppose the Conference Report to H.R. 1836.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to House Resolution 153, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 154, not voting 39, as follows:

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The result of the vote was announced and recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. McDERMOTT. Mr. Speaker, on rollcall vote No. 149, due to difficulties associated with my travel logistics, I was unavoidably detained. Had I been present, I would have voted "nay."

Ms. MCCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 149, due to difficulties associated with my travel logistics, I was unavoidably detained. Had I been present, I would have voted "nay."

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 1836.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule I, the Journal stands approved.


Mr. TIAHRT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 146) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That the House adjourns on the legislative day of Friday, May 25, 2001, or Saturday, May 26, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 5, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or the House adjourns at the close of business on Saturday, May 26, 2001, Sunday, May 27, 2001, or Tuesday, May 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, May 30, 2001.
June 5, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDoned ADJOURNMENT OF THE HOUSE TO TUESDAY, JUNE 5, 2001

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it stand adjourned until 2 p.m. on Wednesday, May 30, 2001, unless the House sooner receives a message from the Senate transmitting its concurrence to House Concurrent Resolution 146, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore (Mr. LAROON). Is there objection to the request of the gentleman from Kansas?

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE NOTWITHSTANDING ADJOURNMENT

Mr. TIAHRT. I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, June 5, 2001, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore (Mr. LAROON). Is there objection to the request of the gentleman from Kansas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BACA (at the request of Mr. GEHRARDT) for today on account of family business.

Mr. BISHOP (at the request of Mr. GEHRARDT) for today on account of personal business in the district.

Mr. BLUMENAUER (at the request of Mr. GEHRARDT) for today on account of official business.

Mr. BOYD (at the request of Mr. GEHRARDT) for today.

Mr. HOEFFEL (at the request of Mr. GEHRARDT) for today on account of attending his son's graduation.

Mr. OSE (at the request of Mr. ARMY) for today until 8:30 a.m. on account of family commitments.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McNULTY) to revise and extend their remarks and include extraneous material:)

Ms. CARSON of Indiana, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. GARY G. MILLER of California, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. COLLINS, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. FENCE, for 5 minutes, today.

 condições ADJOURNMENT

Mr. TIAHRT. Mr. Speaker, pursuant to House Concurrent Resolution 146, 107th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Accord- ingly, the House stands adjourned until 2 p.m. on Tuesday, June 5, 2001, pursuant to House Concurrent Resolution 146, or, under the previous order of the House, until 2 p.m. on Wednesday, May 30, 2001, if not sooner in receipt of a message from the Senate transmitting its concurrence in House Concurrent Resolution 146.

Thereupon (at 10 o'clock and 19 minutes a.m., legislative day of May 25, 2001, pursuant to House Concurrent Resolution 146, the House adjourned until Wednesday, May 30, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2216. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tobacco Fees and Charges for Permissive Inspection and Certification; Fee Revisions (Docket No. TB–00–01) (RIN: 0581–AB66) received May 24, 2001, pursuant to 5 U.S.C. 301(a)(1)(A), to the Committee on Agriculture.

2217. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral James F. Amerault, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2218. A letter from the President and Chairman, Export-Import Bank of the United States.
States, transmitting a report involving U.S. exports to Brazil, pursuant to 12 U.S.C. 630(b)(3)(i); to the Committee on Financial Services.

2218. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board’s final rule—Maintenance of Effort—Minimum Number of Annual Bank Board Meetings [No. 2001-06] (RIN: 3069-AB05) received May 25, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.


2221. A letter from the Deputy Chief, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting the Commission’s final rule—Manufacturing License Agreement with the Republic of Korea (Transmittal No. DTC 058-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2222. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with the Netherlands, Denmark, Portugal, Sabca (Transmittal No. DTC 063-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2223. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Norway, Belgium, the Netherlands, Denmark, Portugal, Sabca (Transmittal No. DTC 068-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2224. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to France (Transmittal No. DTC 069-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2225. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan (Transmittal No. DTC 070-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2226. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Germany (Transmittal No. DTC 071-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2227. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Saudi Arabia (Transmittal No. DTC 072-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2228. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Belgium (Transmittal No. DTC 073-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2229. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Korea (Transmittal No. DTC 074-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2230. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially to France (Transmittal No. DTC 075-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2231. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan (Transmittal No. DTC 076-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2232. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the Republic of Korea (Transmittal No. DTC 077-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2233. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Belgium (Transmittal No. DTC 078-01), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2234. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1-732 and 1-734(a)(1)(A); to the Committee on Ethics.

2235. A letter from the Attorney/Advisor, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 2002, to the Committee on Government Reform.


2237. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Inland Waterways Navigation Regulations; Ports and Waterways Safety [CGD 09-08-010] (RIN: 2115-AG01) received May 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2238. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone for Puerto Rico Outer Continental Shelf; Guayanilla, Puerto Rico [COTP San Juan 00-806] (RIN: 2115-A977) received May 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.
H.R. 2015. A bill to redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the “Paul Simon Congressional Center.”

H.R. 2018. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to ensure full Federal compliance with that Act; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Wisconsin (for himself, Mr. Ryan of Wisconsin, Mr. Sensenbrenner, Mr. Pitt, Mr. Barrett, Mr. Klecza, Mr. Weiler, Mr. Johnson of Illinois, Mr. Kirk, Mr. Kennedy of Minnesota, and Mrs. Biggert):

H.R. 2017. A bill to direct the Administrator of the Environmental Protection Agency to study the feasibility of developing regional vehicle fuel specifications for the United States and of implementing the use of a uniform blend of gasoline in the Midwest region of the United States; to the Committee on Energy and Commerce.

By Ms. HART (for herself, Mrs. Jones of Ohio, Mr. Million of Pennsylvania, Mr. Bachus, Mr. English, Mr. Aderholt, Mr. Smith of New Jersey, Mr. Pitts, Mr. Stearns, Mrs. Jo Ann Davis of Virginia, Mr. Hokestra, Mrs. Myrick, Ms. Ross-Lehtinen, Mr. Souder, Ms. Pyle of Ohio, Mr. Weldon of Florida, Ms. Jackson-Lee of Texas, Ms. Lee, Mr. Greenwood, and Mr. Ryu of Kansas):

H.R. 2018. A bill to authorize States to use funds provided under the program of block grants to States for temporary assistance for needy families to support infant safe haven programs; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUTCHINSON:

H.R. 2019. A bill to amend the National Labor Relations Act; to the Committee on Education and the Workforce.

By Mr. JONES of North Carolina:

H.R. 2020. A bill to amend title 38, United States Code, to extend the period over which an individual may make payment to the Secretary to become entitled to educational assistance under the Montgomery GI Bill, to prospectively permit any servicemember to withdraw from and not to enroll under the Montgomery GI Bill, and to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill; to the Committee on Veterans’ Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. Leach, Mr. Forbes, Mr. Roe, Mr. McCollum, Mr. Gutknecht, Mr. Evans, Mr. Shimkus, Mr. Boswell, Mr. Holshof, Mr. Baldwin, Mr. Fossati, Mr. Petri, Ms. Hooley of Oregon, Mr. Etheridge, Mr. Blumenauer, and Mr. Barrett):

H.R. 2021. A bill to reduce flood losses; to the Committee on Transportation and Infrastructure.

By Mr. LAFAULCE (for himself, Mr. Kaptur, Mr. Israel, Mr. Guttierrez, Mr. Souder, Mr. Gonzalez, Mrs. Thurman, Mr. Owens, and Mr. Underwood):

H.R. 2022. A bill to amend the Internal Revenue Code of 1986 to provide assistance to first-time homebuyers; to the Committee on Ways and Means.

By Mr. LEWIS of Kentucky (for himself, Mr. Rogers of Kentucky, Mr. Whitfield, Mr. Fletcher, Mr. Lucas of Kentucky, and Ms. Ros-Lehtinen):

H.R. 2023. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on distilled spirits to its pre-1985 level; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 2024. A bill to amend title 18, United States Code, to prohibit desecration of Veterans’ memorials; to the Committee on the Judiciary.

By Mr. MANZULLO:

H.R. 2025. A bill to amend the Internal Revenue Code of 1986 to allow all individuals a deduction for Federal, State, and local highway motor fuel sales taxes; to the Committee on Ways and Means.

By Mrs. ROYBAL (for herself, Mrs. Roybal-Allard):

H.R. 2026. A bill to make appropriations for fiscal year 2002 for the establishment and operation of a plant genetic conservation center; to the Appropriations Committees.

By Mr. MORAN of Kansas (for himself, Mrs. Emerson, and Mr. Berry):

H.R. 2027. A bill to amend the Agricultural Market Transition Act to extend for the 2001 and 2002 crop years the temporary eligibility of producers for loan deficiency payments when the producers, although not eligible to obtain a marketing assistance loan, produce a contract commodity; to the Committee on Agriculture.

By Mr. NEY:

H.R. 2028. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Ohio; to the Committee on Energy and Commerce.

By Mr. PICKERING:

H.R. 2029. A bill to amend title 23, United States Code, to require the Secretary of Transportation to grant program grants for providing financial assistance for local rail line relocation projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. ROS-LEHTINEN (for herself, Mr. Smith of New Jersey, Mr. Rohr-Archer, Mr. Burton of Indiana, and Mr. Chabot):

H.R. 2030. A bill to prohibit issuance of a visa, or admission to the United States, of any alien who is a citizen of the People’s Republic of China and who seeks to enter for the purpose of training in organ or bodily tissue transplantation; to the Committee on the Judiciary.

By Ms. ROYBAL-ALLARD (for herself, Ms. Lee, Mrs. Jones of Ohio, Mr. Guttierrez, Mr. Frank, Mr. Klecza, Mr. George Miller of California, Ms. Solis, Ms. Baldwin, Ms. Sanchez, Mr. Kildeer, Mr. Acevedo-Vila, and Mr. Underwood):

H.R. 2031. A bill to amend the Fair Credit Reporting Act to allow any consumer to receive a free credit report annually from any consumer reporting agency; to the Committee on Financial Services.

By Ms. ROYBAL-ALLARD (for herself, Ms. Lee, Mr. Thompson of Mississippi, Mr. Frost, Mr. Filner, Ms. Jackson-Lee of Texas, Mr. Cannon, Mr. Rangel, Ms. Solis, and Mr. Underwood):

H.R. 2032. A bill to amend the Internal Revenue Code of 1986 to provide a credit to promote home ownership among low-income individuals; to the Committee on Ways and Means.

By Ms. ROYBAL-ALLARD (for herself, Mr. Acevedo-Vila, Mr. Borski, Ms. Carson of Illinois, and in addition to the Committee on Ways and Means, and in addition to the Subcommittee on Housing and Community Development of the Committee on Ways and Means):

H.R. 2040. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase energy efficient appliances; to the Committee on Ways and Means.

By Mr. ENGEL (for himself, Mr. GERHARDT, MR. LANTOS, MR. LEACH, MR. HASTINGS OF Florida, MS. ROS-LETIBNIN, MR. BERMAN, MR. SMITH OF New Jersey, MR. ACKERMAN, MR. FLEISCHMANN, MR. FLEISCHMANN, MR. FLORIDA, MR. SCHIFF, MR. CROWLEY, MS. BERKLEY, MR. CANTOR, MR. WAXMAN, MR. HINCHEY, MR. MCNULTY, MR. ROGERS OF Connecticut, MR. ARBERCMICH, MR. PALLONE, MR. MCDERMOTT, MRS. CAPPS, MR. REYES, MR. MORAN OF Virginia, MR. LAUGHER, MR. HOYER, MR. SANDERS, MR. HONDA, MR. TIERNEY, MR. CAPUANO, MR. NADLER, MR. SOLIS, MS. KAPU, MR. ENGLISH, MS. SCHAKENSKY, MR. MALCHUS OF New York, MR. OBEY, GEORGE MILLER OF California, MR. FAIR OF New York, MRS. MORELLA, MR. ESCH, MR. GONZALES, MR. STARK, MS. NORTHUP, MR. MCGOVERN, MR. ISRAEL, AND MRS. SLAUGHTER):

H. Con. Res. 145. Concurrent resolution expressing the sense of the House of Representatives that the United States Postal Service should take all appropriate measures to ensure the continuation of its 5-day mail delivery service; to the Committee on Government Reform.

By Mr. SMITH OF Michigan:

H.R. 2046. A bill to reform the coastal, intercoastal, and noncontiguous trade shipping laws, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIAHRT:

H. Con. Res. 146. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recession or adjournment of the Senate; to the Committee on Rules.

By Mr. DAVIS OF Illinois (for himself and MR. CARSON OF Indiana):

H. Con. Res. 147. Concurrent resolution supporting the efforts and activities of individuals, organizations, institutions, and other entities to honor fatherhood on Father’s Day; to the Committee on Government Reform.

By Mr. ROGERS OF Michigan (for himself, MR. CAMP, MR. PENCE, MR. TISESE, AND MR. UPTON):


By Mr. DAVIS OF Illinois (for himself, MR. MC مح, MR. BURTON OF Indiana, MR. WAXMAN, MR. RUSH, MR. THOMPSON OF Mississippi, MR. KANJORS, MR. RAginas OF Ohio, MR. ACKERMAN, MR. ALLEN, AND MR. BLEMMAINE):

H. Res. 154. Resolution expressing the sense of the House of Representatives that the United States Postal Service should take all appropriate measures to ensure the continuation of its 5-day mail delivery service; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: MR. SANDLIN.
H.R. 61: MR. KANJORSKI.
H.R. 134: MR. FALOMAVAR.
H.R. 144: MS. MCCOLLUM.
H.R. 326: MR. BUYER.
H.R. 326: MR. DEFAZIO.
H.R. 442: MS. PELOSI.
H.R. 507: MR. CANTOR.
H.R. 516: MR. MASCARE, MR. BLUNT, AND MR. ADAMHOLT.
H.R. 537: MR. PAUL AND MS. MCCARTY OF Missouri.
H.R. 572: MR. TANCREDO AND Mr. TURNER.
H.R. 600: MR. BURTON OF Indiana.
H.R. 602: MR. SIMONS.
H.R. 606: MS. SLAUGHTER.
H.R. 612: MR. BERRY, MR. SHIRMAN, MR. HASTINGS OF Florida, MR. LARSEN OF Washington, MR. MICA, MR. CUNNINGHAM, MS. NORTON, MR. KERZ, AND MR. MCCRENS.
H.R. 638: MR. JEFFERSON.
H.R. 647: MR. GOODLATTE.
H.R. 656: MR. OXLEY.
H.R. 685: MR. SHIRMAN.
DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

(May 26, (legislative day May 25), 2001)

H.R. 1839: Mr. Owens and Ms. Rose-Leftwich.
H.R. 1841: Mr. Boehlert, Mr. Rothman, Ms. Kilpatrick, Mr. Aderholt, and Mr. Mascara.
H.R. 1862: Mrs. McCarthy of New York and Mr. DeFazio.
H.R. 1864: Mr. Inslee.
H.R. 1997: Mr. McNulty, Ms. LaTourette, Mr. Blagojevich, Mr. Gutiérrez, Mr. Meeks of New York, Mr. Langevin, Mrs. Jones of Ohio, Mr. Gillmor, Ms. Norton, Ms. Jackson-Lee of Texas, and Mr. Sandlin.
H.R. 1929: Mr. Reyes, Mr. Honda, Mr. Baker, Ms. McKinney, and Ms. Watters.
H.R. 1944: Mr. Armstrong and Mr. Tiberi.
H.R. 1949: Mr. Samuels.
H.R. 1954: Mr. Bachu, Mr. Baldrick, Ms. Brown of Florida, Mr. Davis of Illinois, Mr. Farr of California, Ms. Meehan, Ms. Velázquez, and Mr. Chablis.
H.R. 1967: Mr. Stupak and Mr. Frank.
H.R. 1968: Mr. Owens, Mr. Blumenauer, and Mr. Bonior.
H.J. Res. 6: Mr. Fossella and Mr. Schrock.
H.J. Res. 36: Mr. Roemer and Ms. Sanchez.
H.J. Res. 42: Ms. Schakowsky, Mr. Hulshof, Mr. Stupak, and Ms. Sanchez.
H.J. Res. 46: Mr. Boucher.
H. Con. Res. 23: Ms. Lee and Mr. Berman.
H. Con. Res. 42: Mr. Clemint.
H. Con. Res. 54: Mr. Sandlin.
H. Con. Res. 104: Mr. Allen.
H. Con. Res. 106: Mr. Goodlatte and Mr. Bartlett of Maryland.
H. Con. Res. 116: Ms. Issa and Mr. Ehlers.
H. Con. Res. 124: Mr. Watts of Oklahoma, Mr. Crane, and Mr. Goodlatte.
H. Res. 18: Ms. Kilpatrick.
H. Res. 65: Mr. Fossella and Mr. Paul.
H. Res. 120: Mr. Cunningham and Ms. Hart.
HIGHLIGHTS


Senates

Chamber Action

Routine Proceedings, pages S5663–S5765

Measures Introduced: Fifteen bills and six resolutions were introduced, as follows: S. 964–978, S. Res. 95–99, and S. Con. Res. 44. Pages S5694–95

Measures Passed:

National Child’s Day: Committee on the Judiciary was discharged from further consideration of S. Res. 90, designating June 3, 2001, as “National Child’s Day”, and the resolution was then agreed to.

Welcoming His Holiness Karekin II: Senate agreed to H. Con. Res. 139, welcoming His Holiness Karekin II, Supreme Patriarch and Catholicos of All Armenians, on his visit to the United States and commemorating the 1700th anniversary of the acceptance of Christianity in Armenia. Pages S5764–65

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report on the progress toward achieving benchmarks in Bosnia; to the Committee on Armed Services (PM–25).

Nominations Confirmed: Senate confirmed the following nominations:

Donna R. McLean, of the District of Columbia, to be an Assistant Secretary of Transportation.

Sean B. O’Hollaren, of Oregon, to be an Assistant Secretary of Transportation.

Piyush Jindal, of Louisiana, to be an Assistant Secretary of Health and Human Services.

Maria Cino, of Virginia, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Timothy J. Muris, of Virginia, to be a Federal Trade Commissioner for the term of seven years from September 26, 2001.

Bruce Marshall Carnes, of Virginia, to be Chief Financial Officer, Department of Energy.

A. Elizabeth Jones, of Maryland, to be an Assistant Secretary of State (European Affairs), vice James F. Dobbins.

Timothy J. Muris, of Virginia, to be a Federal Trade Commissioner for the unexpired term of seven years from September 26, 1994.

Bruce P. Mehlman, of Maryland, to be Assistant Secretary of Commerce for Technology Policy.

Kevin J. Martin, of North Carolina, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2001.

Walter H. Kansteiner, of Virginia, to be an Assistant Secretary of State (African Affairs).

Peter S. Watson, of California, to be President of the Overseas Private Investment Corporation.

David Garman, of Virginia, to be an Assistant Secretary of Energy (Energy Efficiency and Renewable Energy).

Patrick Henry Wood III, of Texas, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2005.

Kathleen B. Cooper, of Texas, to be Under Secretary of Commerce for Economic Affairs.

Thomas Scully, of Virginia, to be Administrator of the Health Care Financing Administration.

Lorne W. Craner, of Virginia, to be Assistant Secretary of State for Democracy, Human Rights, and Labor.

William J. Burns, of the District of Columbia, to be an Assistant Secretary of State (Near Eastern Affairs), vice Edward S. Walker, Jr.

Ruth A. Davis, of Georgia, to be Director General of the Foreign Service, vice Marc Grossman.

Francis S. Blake, of Connecticut, to be Deputy Secretary of Energy.

Nora Mead Brownell, of Pennsylvania, to be a Member of the Federal Energy Regulatory Commission for a term expiring June 30, 2006. (Reappointment)
Nora Mead Brownell, of Pennsylvania, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring June 30, 2001.

Carl W. Ford, Jr., of Arkansas, to be an Assistant Secretary of State (Intelligence and Research).

Christina B. Rocca, of Virginia, to be Assistant Secretary of State for South Asian Affairs.

Donald Cameron Findlay, of Illinois, to be Deputy Secretary of Labor.

Kathleen Q. Abernathy, of Maryland, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1999.

Michael Joseph Copps, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2000.

Robert Gordon Card, of Colorado, to be Under Secretary of Energy.

Stephen Brauer, of Missouri, to be Ambassador to Belgium.

Michael K. Powell, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2002. (Reappointment)

Paul Vincent Kelly, of Virginia, to be an Assistant Secretary of State (Legislative Affairs).

Donald Burnham Ensent, of Louisiana, to be Chief of Protocol, and to have the rank of Ambassador during his tenure of service.

1 Navy nomination in the rank of admiral.

Routine lists in the Foreign Service.

Nominations Received: Senate received the following nominations:

Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Executives:

Petitions and Memorials:

Executive Reports of Committees:

Messages From the House:

Measures Placed on Calendar:

Statements on Introduced Bills:

Additional Cosponsors:

Additional Statements:

Text of H.R. 1836, as Previously Passed:

Notices of Hearings:

Adjournment: Senate met at 10:02 a.m., and adjourned at 4:05 p.m., until 10 a.m., on Saturday, May 26, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S5765.)

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Bills Introduced: 35 public bills, H.R. 2012–2046; and 5 resolutions, H. Con. Res. 145–148 and H. Res. 154, were introduced. Pages H2846–48

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002 (H. Rept. 107–84); and

H. Res. 153, waiving points of order against the conference report to accompany the bill (H.R. 1836) to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002 (H. Rept. 107–85).

Pages H2726–H2824, H2846

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Biggert to act as Speaker pro tempore for today. Page H2715

Guest Chaplain: The prayer was offered by the guest Chaplain, Capt. Leroy Gilbert, Chaplain of the United States Coast Guard. Page H2715

Presidential Message—Peace Process in Bosnia and Herzegovina: Read a message from the President wherein he transmitted a report on progress made toward achieving benchmarks for a sustainable peace process in Bosnia and Herzegovina—referred to the Committees on International Relations, Appropriations, and Armed Services and ordered printed (H. Doc. 107–78). Page H2726

Transportation and Infrastructure Resolutions: Read a letter from Chairman Young of Alaska
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wherein he transmitted copies of resolutions approved by the Committee on Transportation and Infrastructure on May 16, 2001—referred to the Committee on Appropriations.

Recess: The House recessed at 11:15 a.m. and reconvened at 5:30 p.m.

Recess: The House recessed at 5:39 p.m. and reconvened at 5:17 a.m. on Saturday, May 26.

Recess: The House recessed at 5:18 a.m. and reconvened at 6:51 a.m. on Saturday, May 26.

Economic Growth and Tax Relief Act: The House agreed to the conference report on H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002 by a yea-and-nay vote of 240 yeas to 154 nays, Roll No. 149.

H. Res. 153, the rule that waived points of order against the conference report, was agreed to by a yea-and-nay vote of 213 yeas to 177 nays, Roll No. 148.

Memorial Day District Work Period: The House agreed to H. Con. Res. 146, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

Agreed that when the House adjourns today, it stand adjourned until 2 p.m. on Wednesday, May 30, 2001, unless the House receives a message from the Senate transmitting its concurrent in H. Con. Res. 146 in which case the House shall stand adjourned pursuant to that concurrent resolution.

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Tuesday, June 5, 2001, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

Private Calendar: Agreed to dispense with the call of the Private Calendar on Tuesday, June 5, 2001.

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of Wednesday, June 6, 2001.

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf to act as Speaker pro tempore to sign enrolled bills and joint resolutions through June 5.

Senate Messages: Message received from the Senate today appears on page H2715.

Referrals: S. 143, S. 468, and S. 757 were held at the desk. S. 378 and S. 774 were referred to the Committee on Transportation and Infrastructure.

Quorum Calls—Votes: Two yea-and-nay votes developed during the proceedings of the House today and appear on pages H2831–32 and H2844. There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 10:19 a.m. on Saturday, May 26, adjourned until 2 p.m. on Tuesday, June 5, pursuant to H. Con. Res 146, or under the previous order of the House, until 2 p.m. on Wednesday, May 30, 2001, if not in receipt of a message from the Senate transmitting its concurrence in H. Con. Res. 146.

Committee Meetings

CONFERENCE REPORT—ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT

Committee on Rules: Granted by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 1836, Economic Growth and Tax Relief Reconciliation Act and against its consideration. The rule provides that the conference report shall be considered as read. The rule provides that the yeas and nays shall be considered as ordered on the question of adoption of the conference report and on any subsequent conference report or motion to dispose of an amendment between the houses on H.R. 1836. The rule provides that Clause 5(b) of rule XXI (requiring a three-fifths vote on any measure containing a federal income tax rate increase) shall not apply to the bill, amendments thereto, or conference reports thereon.

COMMITTEE MEETINGS FOR SATURDAY,
MAY 26, 2001

Senate
No committee meetings are scheduled.

House
No committee meetings are scheduled.
Next Meeting of the SENATE
10 a.m., Saturday, May 26

Senate Chamber

Program for Saturday: After the transaction of any morning business, Senate may consider the Tax Reconciliation Conference Report.

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Tuesday, June 5

House Chamber

Program for Tuesday: To be announced.