

107TH CONGRESS
1ST SESSION

H. R. 10

To provide for pension reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2001

Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ARMEY, Mr. FROST, Mr. BOEHNER, Mr. ANDREWS, Mr. BLUNT, Mr. BENTSEN, Mr. GALLEGLY, Mr. MOORE, Mr. HOUGHTON, Mr. COYNE, Mr. SAM JOHNSON of Texas, Mr. POMEROY, Mrs. JOHNSON of Connecticut, Mr. MANZULLO, Mrs. MORELLA, Mr. WELLER, Mr. WYNN, Mr. AKIN, Mr. BACA, Mr. BACHUS, Mr. BAIRD, Mr. BAKER, Mr. BALDACCI, Mr. BALLENGER, Mr. BARCIA, Mr. BARRETT, Mr. BASS, Mr. BEREUTER, Ms. BERKLEY, Mrs. BIGGERT, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BORSKI, Mr. BOSWELL, Mrs. BONO, Mr. BRADY of Texas, Mr. BRADY of Pennsylvania, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mrs. CAPPES, Mr. CAPUANO, Mr. CHABOT, Mr. CLAY, Mr. CLEMENT, Mr. COBLE, Mr. COLLINS, Mr. CONDIT, Mr. COOKSEY, Mr. COX, Mr. CRANE, Mr. CRENSHAW, Mr. CROWLEY, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DELAHUNT, Mr. DEMINT, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DOOLEY of California, Mr. DOYLE, Mr. DREIER, Ms. DUNN, Mr. EHR- LICH, Mrs. EMERSON, Mr. ENGEL, Mr. ENGLISH, Ms. ESHOO, Mr. ETHERIDGE, Mr. EVANS, Mr. FALCOMA, Mr. FERGUSON, Mr. FIL- NER, Mr. FLETCHER, Mr. FOLEY, Mr. FORD, Mr. FOSSELLA, Mr. FRELINGHUYSEN, Mr. GANSKE, Mr. GIBBONS, Mr. GILCREST, Mr. GILLMOR, Mr. GOSS, Mr. GONZALEZ, Mr. GOODE, Mr. GOODLATTE, Mr. GORDON, Ms. GRANGER, Mr. GRAVES, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HALL of Ohio, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HOBSON, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. HORN, Mr. HOYER, Mr. HULSHOF, Mr. HOLT, Mr. HUTCHINSON, Mr. HYDE, Mr. ISAKSON, Mr. ISTOOK, Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. JONES of North Carolina, Mr. KANJORSKI, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KING, Mr. KINGSTON, Mr. KIRK, Mr. KLECZKA, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARGENT, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mr. LATHAM, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LOBIONDO,

Ms. LOFGREN, Mrs. LOWEY, Mr. LUCAS of Oklahoma, Mr. LUCAS of Kentucky, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MASCARA, Mr. MATHESON, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCCRERY, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTYRE, Mr. MCKEON, Mr. MCNULTY, Mr. MEEHAN, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GARY MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NADLER, Mr. NETHERCUTT, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. OSBORNE, Mr. OTTER, Mr. OXLEY, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PLATTS, Ms. PRYCE of Ohio, Mr. PUTNAM, Mr. QUINN, Mr. RAHALL, Mr. RAMSTAD, Mr. REGULA, Mr. REYNOLDS, Mr. RILEY, Mr. ROEMER, Mr. ROGERS of Michigan, Mrs. ROUKEMA, Mr. ROTHMAN, Mr. ROYCE, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SANDLIN, Mr. SAWYER, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCARBOROUGH, Mr. SCHAFFER, Mr. SCHROCK, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHERMAN, Mr. SHERWOOD, Mr. SHOWS, Mr. SIMMONS, Mr. SIMPSON, Mr. SKELTON, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SNYDER, Mr. SOUDER, Mr. SPRATT, Mr. STEARNS, Mr. STRICKLAND, Mr. STUPAK, Mr. SUNUNU, Mr. SWEENEY, Mr. TANCREDO, Mr. TANNER, Mrs. TAUSCHER, Mr. TAYLOR of North Carolina, Mr. TERRY, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mr. THUNE, Mrs. THURMAN, Mr. TIBERI, Mr. TRAFICANT, Mr. TOOMEY, Mr. TURNER, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. UPTON, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WEINER, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WOLF, Ms. WOOLSEY, Mr. WU, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for pension reform, and for other purposes.

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

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

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Comprehensive Retirement Security and Pension Reform
 5 Act of 2001”.

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

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

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

TITLE I—INDIVIDUAL RETIREMENT ACCOUNT PROVISIONS

Sec. 101. Modification of IRA contribution limits.

TITLE II—EXPANDING COVERAGE

Sec. 201. Increase in benefit and contribution limits.

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

Sec. 203. Modification of top-heavy rules.

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

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

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

Sec. 207. Deduction limits.

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

TITLE III—ENHANCING FAIRNESS FOR WOMEN

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

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

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

Sec. 304. Simplify and update the minimum distribution rules.

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

- Sec. 306. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 401. Rollovers allowed among various types of plans.
 Sec. 402. Rollovers of IRAs into workplace retirement plans.
 Sec. 403. Rollovers of after-tax contributions.
 Sec. 404. Hardship exception to 60-day rule.
 Sec. 405. Treatment of forms of distribution.
 Sec. 406. Rationalization of restrictions on distributions.
 Sec. 407. Purchase of service credit in governmental defined benefit plans.
 Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
 Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 501. Repeal of percent of current liability funding limit.
 Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
 Sec. 503. Excise tax relief for sound pension funding.
 Sec. 504. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.
 Sec. 505. Treatment of multiemployer plans under section 415.
 Sec. 506. Protection of investment of employee contributions to 401(k) plans.
 Sec. 507. Periodic pension benefits statements.
 Sec. 508. Prohibited allocations of stock in S corporation ESOP.

TITLE VI—REDUCING REGULATORY BURDENS

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

TITLE VII—OTHER ERISA PROVISIONS

- Sec. 701. Missing participants.
 Sec. 702. Reduced PBGC premium for new plans of small employers.
 Sec. 703. Reduction of additional PBGC premium for new and small plans.
 Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.

Sec. 705. Substantial owner benefits in terminated plans.
 Sec. 706. Civil penalties for breach of fiduciary responsibility.
 Sec. 707. Benefit suspension notice.

TITLE VIII—PLAN AMENDMENTS

Sec. 801. Provisions relating to plan amendments.

1 **TITLE I—INDIVIDUAL**
 2 **RETIREMENT ACCOUNTS**

3 **SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.**

4 (a) INCREASE IN CONTRIBUTION LIMIT.—

5 (1) IN GENERAL.—Paragraph (1)(A) of section
 6 219(b) (relating to maximum amount of deduction)
 7 is amended by striking “\$2,000” and inserting “the
 8 deductible amount”.

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

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

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

“For taxable years beginning in:	The deductible amount is:
2001	\$3,000
2002	\$4,000
2003 and thereafter	\$5,000.

17 “(B) CATCH-UP CONTRIBUTIONS FOR INDI-
 18 VIDUALS 50 OR OLDER.—In the case of an indi-
 19 vidual who has attained the age of 50 before

1 the close of the taxable year, the deductible
2 amount for taxable years beginning in 2001 or
3 2002 shall be \$5,000.

4 “(C) COST-OF-LIVING ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of any
6 taxable year beginning in a calendar year
7 after 2003, the \$5,000 amount under sub-
8 paragraph (A) shall be increased by an
9 amount equal to—

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

12 “(II) the cost-of-living adjust-
13 ment determined under section
14 1(f)(3) for the calendar year in which
15 the taxable year begins, determined by
16 substituting ‘calendar year 2002’ for
17 ‘calendar year 1992’ in subparagraph
18 (B) thereof.

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

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 408(a)(1) is amended by striking
2 “in excess of \$2,000 on behalf of any individual”
3 and inserting “on behalf of any individual in excess
4 of the amount in effect for such taxable year under
5 section 219(b)(1)(A)”.

6 (2) Section 408(b)(2)(B) is amended by strik-
7 ing “\$2,000” and inserting “the dollar amount in
8 effect under section 219(b)(1)(A)”.

9 (3) Section 408(b) is amended by striking
10 “\$2,000” in the matter following paragraph (4) and
11 inserting “the dollar amount in effect under section
12 219(b)(1)(A)”.

13 (4) Section 408(j) is amended by striking
14 “\$2,000”.

15 (5) Section 408(p)(8) is amended by striking
16 “\$2,000” and inserting “the dollar amount in effect
17 under section 219(b)(1)(A)”.

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

21 **TITLE II—EXPANDING** 22 **COVERAGE**

23 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION** 24 **LIMITS.**

25 (a) DEFINED BENEFIT PLANS.—

1 (1) DOLLAR LIMIT.—

2 (A) Subparagraph (A) of section 415(b)(1)
3 (relating to limitation for defined benefit plans)
4 is amended by striking “\$90,000” and inserting
5 “\$160,000”.

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

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

18 (2) LIMIT REDUCED WHEN BENEFIT BEGINS
19 BEFORE AGE 62.—Subparagraph (C) of section
20 415(b)(2) is amended by striking “the social security
21 retirement age” each place it appears in the heading
22 and text and inserting “age 62” and by striking the
23 second sentence.

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

1 415(b)(2) is amended by striking “the social security
2 retirement age” each place it appears in the heading
3 and text and inserting “age 65”.

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

7 (A) by striking “\$90,000” in paragraph

8 (1)(A) and inserting “\$160,000”; and

9 (B) in paragraph (3)(A)—

10 (i) by striking “\$90,000” in the head-

11 ing and inserting “\$160,000”; and

12 (ii) by striking “October 1, 1986” and

13 inserting “July 1, 2000”.

14 (5) CONFORMING AMENDMENTS.—

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

17 (B) Section 415(b)(9) is amended to read
18 as follows:

19 “(9) SPECIAL RULE FOR COMMERCIAL AIR-
20 LINE PILOTS.—

21 “(A) IN GENERAL.—Except as pro-
22 vided in subparagraph (B), in the case of
23 any participant who is a commercial airline
24 pilot, if, as of the time of the participant’s
25 retirement, regulations prescribed by the

1 Federal Aviation Administration require an
2 individual to separate from service as a
3 commercial airline pilot after attaining any
4 age occurring on or after age 60 and be-
5 fore age 62, paragraph (2)(C) shall be ap-
6 plied by substituting such age for age 62.

7 “(B) INDIVIDUALS WHO SEPARATE
8 FROM SERVICE BEFORE AGE 60.—If a par-
9 ticipant described in subparagraph (A)
10 separates from service before age 60, the
11 rules of paragraph (2)(C) shall apply.”

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

15 (b) DEFINED CONTRIBUTION PLANS.—

16 (1) DOLLAR LIMIT.—Subparagraph (A) of sec-
17 tion 415(c)(1) (relating to limitation for defined con-
18 tribution plans) is amended by striking “\$30,000”
19 and inserting “\$40,000”.

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

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

25 (B) in paragraph (3)(D)—

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

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

5 (c) QUALIFIED TRUSTS.—

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

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

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

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

17 (d) ELECTIVE DEFERRALS.—

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

21 “(1) IN GENERAL.—

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

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

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$11,000
2002	\$12,000
2003	\$13,000
2004	\$14,000
2005 or thereafter	\$15,000.”.

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

10 “(5) COST-OF-LIVING ADJUSTMENT.—In the
 11 case of taxable years beginning after December 31,
 12 2005, the Secretary shall adjust the \$15,000
 13 amount under paragraph (1)(B) at the same time
 14 and in the same manner as under section 415(d),
 15 except that the base period shall be the calendar
 16 quarter beginning July 1, 2004, and any increase
 17 under this paragraph which is not a multiple of
 18 \$500 shall be rounded to the next lowest multiple of
 19 \$500.”.

20 (3) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

22 (B) in subsection (b)(3)(A) by striking
23 “\$15,000” and inserting “twice the dollar
24 amount in effect under subsection (b)(2)(A)”.

1 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-
 2 LIVING ADJUSTMENT.—Paragraph (15) of section
 3 457(e) is amended to read as follows:

4 “(15) APPLICABLE DOLLAR AMOUNT.—

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$11,000
2002	\$12,000
2003	\$13,000
2004	\$14,000
2005 or thereafter	\$15,000.

8 “(B) COST-OF-LIVING ADJUSTMENTS.—In
 9 the case of taxable years beginning after De-
 10 cember 31, 2005, the Secretary shall adjust the
 11 \$15,000 amount under subparagraph (A) at the
 12 same time and in the same manner as under
 13 section 415(d), except that the base period shall
 14 be the calendar quarter beginning July 1, 2004,
 15 and any increase under this paragraph which is
 16 not a multiple of \$500 shall be rounded to the
 17 next lowest multiple of \$500.”.

18 (f) SIMPLE RETIREMENT ACCOUNTS.—

19 (1) LIMITATION.—Clause (ii) of section
 20 408(p)(2)(A) (relating to general rule for qualified
 21 salary reduction arrangement) is amended by strik-

1 ing “\$6,000” and inserting “the applicable dollar
2 amount”.

3 (2) APPLICABLE DOLLAR AMOUNT.—Subpara-
4 graph (E) of 408(p)(2) is amended to read as fol-
5 lows:

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

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

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

12 “(ii) COST-OF-LIVING ADJUSTMENT.—
13 In the case of a year beginning after De-
14 cember 31, 2004, the Secretary shall ad-
15 just the \$10,000 amount under clause (i)
16 at the same time and in the same manner
17 as under section 415(d), except that the
18 base period taken into account shall be the
19 calendar quarter beginning July 1, 2003,
20 and any increase under this subparagraph
21 which is not a multiple of \$500 shall be

1 rounded to the next lower multiple of
2 \$500.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subclause (I) of section
5 401(k)(11)(B)(i) is amended by striking
6 “\$6,000” and inserting “the amount in effect
7 under section 408(p)(2)(A)(ii)”.

8 (B) Section 401(k)(11) is amended by
9 striking subparagraph (E).

10 (g) ROUNDING RULE RELATING TO DEFINED BEN-
11 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—

12 Paragraph (4) of section 415(d) is amended to read as
13 follows:

14 “(4) ROUNDING.—

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

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

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

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

3 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
4 Subparagraph (B) of section 4975(f)(6) (relating to ex-
5 emptions not to apply to certain transactions) is amended
6 by adding at the end the following new clause:

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

12 (b) AMENDMENT OF ERISA.—Section 408(d)(2) of
13 the Employee Retirement Income Security Act of 1974
14 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
15 the following new subparagraph:

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

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

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

23 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
24 PLOYEE.—

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

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

3 (B) by striking clause (i) and inserting the
4 following:

5 “(i) an officer of the employer having
6 an annual compensation greater than
7 \$150,000,”;

8 (C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively; and

11 (D) by striking the second sentence in the
12 matter following clause (iii), as redesignated by
13 subparagraph (C).

14 (2) CONFORMING AMENDMENT.—Section
15 416(i)(1)(B)(iii) is amended by striking “and sub-
16 paragraph (A)(ii)”.

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

24 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE
25 DETERMINATION DATE TAKEN INTO ACCOUNT.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 416(g) is amended to read as follows:

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

6 “(A) IN GENERAL.—For purposes of
7 determining—

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

10 “(ii) the amount of the account of any
11 employee,

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

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

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

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

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

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

13 “(H) CASH OR DEFERRED ARRANGEMENTS
14 USING ALTERNATIVE METHODS OF MEETING
15 NONDISCRIMINATION REQUIREMENTS.—The
16 term ‘top-heavy plan’ shall not include a plan
17 which consists solely of—

18 “(i) a cash or deferred arrangement
19 which meets the requirements of section
20 401(k)(12), and

21 “(ii) matching contributions with re-
22 spect to which the requirements of section
23 401(m)(11) are met.

24 If, but for this subparagraph, a plan would be
25 treated as a top-heavy plan because it is a

1 member of an aggregation group which is a top-
2 heavy group, contributions under the plan may
3 be taken into account in determining whether
4 any other plan in the group meets the require-
5 ments of subsection (c)(2).”.

6 (e) FROZEN PLAN EXEMPT FROM MINIMUM BEN-
7 EFIT REQUIREMENT.—Subparagraph (C) of section
8 416(c)(1) (relating to defined benefit plans) is amended—

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

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

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

21 (f) ELIMINATION OF FAMILY CONTRIBUTION.—Sec-
22 tion 416(i)(1)(B) (defining 5-percent owner) is amended
23 by adding at the end the following new clause:

24 “(iv) FAMILY CONTRIBUTION DIS-
25 REGARDED.—Solely for purposes of apply-

1 not be taken into account in applying any such limitation
2 to any other contributions.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to years beginning after December
5 31, 2001.

6 **SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR**
7 **DEFERRED COMPENSATION PLANS OF STATE**
8 **AND LOCAL GOVERNMENTS AND TAX-EX-**
9 **EMPT ORGANIZATIONS.**

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

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

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

1 **SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO**
2 **IRS REGARDING PENSION PLANS.**

3 (a) **ELIMINATION OF CERTAIN USER FEES.**—The
4 Secretary of the Treasury or the Secretary’s delegate shall
5 not require payment of user fees under the program estab-
6 lished under section 10511 of the Revenue Act of 1987
7 for requests to the Internal Revenue Service for deter-
8 mination letters with respect to the qualified status of a
9 pension benefit plan maintained solely by one or more eli-
10 gible employers or any trust which is part of the plan.
11 The preceding sentence shall not apply to any request—

12 (1) made after the later of—

13 (A) the fifth plan year the pension benefit
14 plan is in existence; or

15 (B) the end of any remedial amendment
16 period with respect to the plan beginning within
17 the first 5 plan years; or

18 (2) made by the sponsor of any prototype or
19 similar plan which the sponsor intends to market to
20 participating employers.

21 (b) **PENSION BENEFIT PLAN.**—For purposes of this
22 section, the term “pension benefit plan” means a pension,
23 profit-sharing, stock bonus, annuity, or employee stock
24 ownership plan.

25 (c) **ELIGIBLE EMPLOYER.**—For purposes of this sec-
26 tion, the term “eligible employer” has the same meaning

1 given such term in section 408(p)(2)(C)(i)(I) of the Inter-
2 nal Revenue Code of 1986. The determination of whether
3 an employer is an eligible employer under this section shall
4 be made as of the date of the request described in sub-
5 section (a).

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

10 (e) EFFECTIVE DATE.—The provisions of this section
11 shall apply with respect to requests made after December
12 31, 2001.

13 **SEC. 207. DEDUCTION LIMITS.**

14 (a) STOCK BONUS AND PROFIT SHARING TRUSTS.—

15 (1) IN GENERAL.—Subclause (I) of section
16 404(a)(3)(A)(i) (relating to stock bonus and profit
17 sharing trusts) is amended by striking “15 percent”
18 and inserting “20 percent”.

19 (2) CONFORMING AMENDMENT.—Subparagraph
20 (C) of section 404(h)(1) is amended by striking “15
21 percent” each place it appears and inserting “20
22 percent”.

23 (b) COMPENSATION.—

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

4 “(12) DEFINITION OF COMPENSATION.—For
5 purposes of paragraphs (3), (7), (8), and (9), the
6 term ‘compensation otherwise paid or accrued dur-
7 ing the taxable year’ shall include amounts treated
8 as ‘participant’s compensation’ under subparagraph
9 (C) or (D) of section 415(c)(3).”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (B) of section 404(a)(3)
12 is amended by striking the last sentence there-
13 of.

14 (B) Clause (i) of section 4972(e)(6)(B) is
15 amended by striking “(within the meaning of
16 section 404(a))” and inserting “(within the
17 meaning of section 404(a) and as adjusted
18 under section 404(a)(12))”.

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

22 **SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS**
23 **AFTER-TAX CONTRIBUTIONS.**

24 (a) IN GENERAL.—Subpart A of part I of subchapter
25 D of chapter 1 (relating to deferred compensation, etc.)

1 tribution program unless the applicable retirement
2 plan—

3 “(A) establishes separate accounts (‘des-
4 ignated plus accounts’) for the designated plus
5 contributions of each employee and any earn-
6 ings properly allocable to the contributions, and

7 “(B) maintains separate recordkeeping
8 with respect to each account.

9 “(c) DEFINITIONS AND RULES RELATING TO DES-
10 IGNATED PLUS CONTRIBUTIONS.—For purposes of this
11 section—

12 “(1) DESIGNATED PLUS CONTRIBUTION.—The
13 term ‘designated plus contribution’ means any elec-
14 tive deferral which—

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

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

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

24 “(A) the maximum amount of elective de-
25 ferrals excludable from gross income of the em-

1 ployee for the taxable year (without regard to
2 this section), over

3 “(B) the aggregate amount of elective de-
4 ferrals of the employee for the taxable year
5 which the employee does not designate under
6 paragraph (1).

7 “(3) ROLLOVER CONTRIBUTIONS.—

8 “(A) IN GENERAL.—A rollover contribu-
9 tion of any payment or distribution from a des-
10 ignated plus account which is otherwise allow-
11 able under this chapter may be made only if the
12 contribution is to—

13 “(i) another designated plus account
14 of the individual from whose account the
15 payment or distribution was made, or

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

17 “(B) COORDINATION WITH LIMIT.—Any
18 rollover contribution to a designated plus ac-
19 count under subparagraph (A) shall not be
20 taken into account for purposes of paragraph
21 (1).

22 “(d) DISTRIBUTION RULES.—For purposes of this
23 title—

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

4 “(2) QUALIFIED DISTRIBUTION.—For purposes
5 of this subsection—

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

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

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

21 “(ii) if a rollover contribution was
22 made to such designated plus account from
23 a designated plus account previously estab-
24 lished for such individual under another
25 applicable retirement plan, the first taxable

1 year for which the individual made a des-
2 ignated plus contribution to such pre-
3 viously established account.

4 “(C) DISTRIBUTIONS OF EXCESS DEFER-
5 RALS AND EARNINGS.—The term ‘qualified dis-
6 tribution’ shall not include any distribution of
7 any excess deferral under section 402(g)(2) and
8 any income on the excess deferral.

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

13 “(e) OTHER DEFINITIONS.—For purposes of this
14 section—

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

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

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

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

1 (b) EXCESS DEFERRALS.—Section 402(g) (relating
2 to limitation on exclusion for elective deferrals) is
3 amended—

4 (1) by adding at the end of paragraph (1) the
5 following new sentence: “The preceding sentence
6 shall not apply to so much of such excess as does
7 not exceed the designated plus contributions of the
8 individual for the taxable year.”; and

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

12 (c) ROLLOVERS.—Subparagraph (B) of section
13 402(c)(8) is amended by adding at the end the following:

14 “If any portion of an eligible rollover distribu-
15 tion is attributable to payments or distributions
16 from a designated plus account (as defined in
17 section 402A), an eligible retirement plan with
18 respect to such portion shall include only an-
19 other designated plus account and a Roth
20 IRA.”.

21 (d) REPORTING REQUIREMENTS.—

22 (1) W-2 INFORMATION.—Section 6051(a)(8) is
23 amended by inserting “, including the amount of
24 designated plus contributions (as defined in section
25 402A)” before the comma at the end.

1 **TITLE III—ENHANCING**
2 **FAIRNESS FOR WOMEN**

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

4 **AGE 50 OR OVER.**

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

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

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

15 “(2) LIMITATION ON AMOUNT OF ADDITIONAL
16 DEFERRALS.—A plan shall not permit additional
17 elective deferrals under paragraph (1) for any year
18 in an amount greater than the lesser of—

19 “(A) \$5,000, or

20 “(B) the excess (if any) of—

21 “(i) the participant’s compensation for
22 the year, over

23 “(ii) any other elective deferrals of the
24 participant for such year which are made
25 without regard to this subsection.

1 “(3) TREATMENT OF CONTRIBUTIONS.—In the
2 case of any contribution to a plan under paragraph
3 (1), such contribution shall not, with respect to the
4 year in which the contribution is made—

5 “(A) be subject to any otherwise applicable
6 limitation contained in section 402(g),
7 402(h)(2), 404(a), 404(h), 408(p)(2)(A)(ii),
8 415, or 457, or

9 “(B) be taken into account in applying
10 such limitations to other contributions or bene-
11 fits under such plan or any other such plan.

12 “(4) APPLICATION OF NONDISCRIMINATION
13 RULES.—

14 “(A) IN GENERAL.—An applicable em-
15 ployer plan shall not be treated as failing to
16 meet the nondiscrimination requirements under
17 section 401(a)(4) with respect to benefits,
18 rights, and features if the plan allows all eligi-
19 ble participants to make the same election with
20 respect to the additional elective deferrals under
21 this subsection.

22 “(B) AGGREGATION.—For purposes of
23 subparagraph (A), all plans maintained by em-
24 ployers who are treated as a single employer

1 under subsection (b), (c), (m), or (o) of section
2 414 shall be treated as 1 plan.

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

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

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

16 “(6) OTHER DEFINITIONS AND RULES.—For
17 purposes of this subsection—

18 “(A) APPLICABLE EMPLOYER PLAN.—The
19 term ‘applicable employer plan’ means—

20 “(i) an employees’ trust described in
21 section 401(a) which is exempt from tax
22 under section 501(a),

23 “(ii) a plan under which amounts are
24 contributed by an individual’s employer for

1 an annuity contract described in section
2 403(b),

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

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

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

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

17 “(D) COST-OF-LIVING ADJUSTMENT.—In
18 the case of a year beginning after December 31,
19 2005, the Secretary shall adjust annually the
20 \$5,000 amount in paragraph (2)(A) for in-
21 creases in the cost-of-living at the same time
22 and in the same manner as adjustments under
23 section 415(d); except that the base period
24 taken into account shall be the calendar quarter
25 beginning July 1, 2004, and any increase under

1 this subparagraph which is not a multiple of
2 \$500 shall be rounded to the next lower mul-
3 tiple of \$500.”.

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

7 **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
8 **EMPLOYEES TO DEFINED CONTRIBUTION**
9 **PLANS.**

10 (a) EQUITABLE TREATMENT.—

11 (1) IN GENERAL.—Subparagraph (B) of section
12 415(c)(1) (relating to limitation for defined con-
13 tribution plans) is amended by striking “25 percent”
14 and inserting “100 percent”.

15 (2) APPLICATION TO SECTION 403(b).—Section
16 403(b) is amended—

17 (A) by striking “the exclusion allowance
18 for such taxable year” in paragraph (1) and in-
19 serting “the applicable limit under section
20 415”;

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

22 (C) by inserting “or any amount received
23 by a former employee after the fifth taxable
24 year following the taxable year in which such
25 employee was terminated” before the period at

1 the end of the second sentence of paragraph
2 (3).

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subsection (f) of section 72 is amend-
5 ed by striking “section 403(b)(2)(D)(iii)” and
6 inserting “section 403(b)(2)(D)(iii), as in effect
7 before the enactment of the Comprehensive Re-
8 tirement Security and Pension Reform Act of
9 2001”.

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

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

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

19 “(E) ANNUITY CONTRACTS.—In the case
20 of an annuity contract described in section
21 403(b), the term ‘participant’s compensation’
22 means the participant’s includible compensation
23 determined under section 403(b)(3).”.

24 (E) Section 415(c) is amended by striking
25 paragraph (4).

1 (F) Section 415(c)(7) is amended to read
2 as follows:

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

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of this subsection, at the elec-
7 tion of a participant who is an employee of a
8 church or a convention or association of church-
9 es, including an organization described in sec-
10 tion 414(e)(3)(B)(ii), contributions and other
11 additions for an annuity contract or retirement
12 income account described in section 403(b) with
13 respect to such participant, when expressed as
14 an annual addition to such participant’s ac-
15 count, shall be treated as not exceeding the lim-
16 itation of paragraph (1) if such annual addition
17 is not in excess of \$10,000.

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

23 “(C) ANNUAL ADDITION.—For purposes of
24 this paragraph, the term ‘annual addition’ has

1 the meaning given such term by paragraph
2 (2).”.

3 (G) Subparagraph (B) of section 402(g)(7)
4 (as redesignated by section 201) is amended by
5 inserting before the period at the end the fol-
6 lowing: “(as in effect before the enactment of
7 the Comprehensive Retirement Security and
8 Pension Reform Act of 2001)”.

9 (H) Section 664(g) is amended—

10 (i) in paragraph (3)(E) by striking
11 “limitations under section 415(c)” and in-
12 serting “applicable limitation under para-
13 graph (7)”, and

14 (ii) by adding at the end the following
15 new paragraph:

16 “(7) APPLICABLE LIMITATION.—

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

21 “(i) \$30,000, or

22 “(ii) 25 percent of the participant’s
23 compensation (as defined in section
24 415(c)(3)).

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

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

13 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
14 408.—

15 (1) IN GENERAL.—Subsection (k) of section
16 415 is amended by adding at the end the following
17 new paragraph:

18 “(4) SPECIAL RULES FOR SECTIONS 403(b)
19 AND 408.—For purposes of this section, any annuity
20 contract described in section 403(b) for the benefit
21 of a participant shall be treated as a defined con-
22 tribution plan maintained by each employer with re-
23 spect to which the participant has the control re-
24 quired under subsection (b) or (c) of section 414 (as
25 modified by subsection (h)). For purposes of this

1 section, any contribution by an employer to a sim-
2 plified employee pension plan for an individual for a
3 taxable year shall be treated as an employer con-
4 tribution to a defined contribution plan for such in-
5 dividual for such year.”.

6 (2) EFFECTIVE DATE.—

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

10 (B) EXCLUSION ALLOWANCE.—Effective
11 for limitation years beginning in 2000, in the
12 case of any annuity contract described in sec-
13 tion 403(b) of the Internal Revenue Code of
14 1986, the amount of the contribution disquali-
15 fied by reason of section 415(g) of such Code
16 shall reduce the exclusion allowance as provided
17 in section 403(b)(2) of such Code.

18 (3) MODIFICATION OF 403(b) EXCLUSION AL-
19 LOWANCE TO CONFORM TO 415 MODIFICATION.—The
20 Secretary of the Treasury shall modify the regula-
21 tions regarding the exclusion allowance under section
22 403(b)(2) of the Internal Revenue Code of 1986 to
23 render void the requirement that contributions to a
24 defined benefit pension plan be treated as previously
25 excluded amounts for purposes of the exclusion al-

1 lowance. For taxable years beginning after Decem-
2 ber 31, 1999, such regulations shall be applied as if
3 such requirement were void.

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

7 (1) IN GENERAL.—Subparagraph (B) of section
8 457(b)(2) (relating to salary limitation on eligible
9 deferred compensation plans) is amended by striking
10 “33 $\frac{1}{3}$ percent” and inserting “100 percent”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply to years beginning
13 after December 31, 2000.

14 **SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER**
15 **MATCHING CONTRIBUTIONS.**

16 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
17 Section 411(a) (relating to minimum vesting standards)
18 is amended—

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

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

23 “(12) FASTER VESTING FOR MATCHING CON-
24 TRIBUTIONS.—In the case of matching contributions

1 (as defined in section 401(m)(4)(A)), paragraph (2)
2 shall be applied—

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

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

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

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

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

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

14 “(4) In the case of matching contributions (as
15 defined in section 401(m)(4)(A) of the Internal Rev-
16 enue Code of 1986), paragraph (2) shall be
17 applied—

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

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

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

1 (c) EFFECTIVE DATES.—

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

6 (2) COLLECTIVE BARGAINING AGREEMENTS.—

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

15 (A) the later of—

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

21 (ii) January 1, 2002; or

22 (B) January 1, 2006.

1 (3) SERVICE REQUIRED.—With respect to any
2 plan, the amendments made by this section shall not
3 apply to any employee before the date that such em-
4 ployee has 1 hour of service under such plan in any
5 plan year to which the amendments made by this
6 section apply.

7 **SEC. 304. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**
8

9 (a) SIMPLIFICATION AND FINALIZATION OF MIN-
10 IMUM DISTRIBUTION REQUIREMENTS.—

11 (1) IN GENERAL.—The Secretary of the Treas-
12 ury shall—

13 (A) simplify and finalize the regulations re-
14 lating to minimum distribution requirements
15 under sections 401(a)(9), 408(a)(6) and (b)(3),
16 403(b)(10), and 457(d)(2) of the Internal Rev-
17 enue Code of 1986; and

18 (B) modify such regulations to—

19 (i) reflect current life expectancy; and

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

1 (2) FRESH START.—Notwithstanding subpara-
2 graph (D) of section 401(a)(9) of such Code, during
3 the first year that regulations are in effect under
4 this subsection, required distributions for future
5 years may be redetermined to reflect changes under
6 such regulations. Such redetermination shall include
7 the opportunity to choose a new designated bene-
8 ficiary and to elect a new method of calculating life
9 expectancy.

10 (3) DATE FOR REGULATIONS.—Not later than
11 December 31, 2002, the Secretary shall issue final
12 regulations described in paragraph (1) and such reg-
13 ulations shall apply without regard to whether an in-
14 dividual had previously begun receiving minimum
15 distributions.

16 (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
17 BEGUN BEFORE DEATH OCCURS.—

18 (1) IN GENERAL.—Subparagraph (B) of section
19 401(a)(9) is amended by striking clause (i) and re-
20 designating clauses (ii), (iii), and (iv) as clauses (i),
21 (ii), and (iii), respectively.

22 (2) CONFORMING CHANGES.—

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

1 (i) by striking “FOR OTHER CASES” in
2 the heading; and

3 (ii) by striking “the distribution of the
4 employee’s interest has begun in accord-
5 ance with subparagraph (A)(ii)” and in-
6 serting “his entire interest has been dis-
7 tributed to him”.

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

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

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

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

18 (iii) by striking “the date on which
19 the employee would have attained age
20 70½,” in subclause (I) and inserting
21 “April 1 of the calendar year following the
22 calendar year in which the spouse attains
23 70½,”; and

24 (iv) by striking “the distributions to
25 such spouse begin,” in subclause (II) and

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

3 (3) EFFECTIVE DATE.—

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

8 (B) DISTRIBUTIONS TO SURVIVING
9 SPOUSE.—

10 (i) IN GENERAL.—In the case of an
11 employee described in clause (ii), distribu-
12 tions to the surviving spouse of the em-
13 ployee shall not be required to commence
14 prior to the date on which such distribu-
15 tions would have been required to begin
16 under section 401(a)(9)(B) of the Internal
17 Revenue Code of 1986 (as in effect on the
18 day before the date of the enactment of
19 this Act).

20 (ii) CERTAIN EMPLOYEES.—An em-
21 ployee is described in this clause if such
22 employee dies before—

23 (I) the date of the enactment of
24 this Act, and

1 (II) the required beginning date
2 (within the meaning of section
3 401(a)(9)(C) of the Internal Revenue
4 Code of 1986) of the employee.

5 (c) REDUCTION IN EXCISE TAX.—

6 (1) IN GENERAL.—Subsection (a) of section
7 4974 is amended by striking “50 percent” and in-
8 serting “10 percent”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to years beginning
11 after December 31, 2001.

12 **SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION**
13 **OF SECTION 457 PLAN BENEFITS UPON DI-**
14 **VORCE.**

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

18 (1) by inserting “or an eligible deferred com-
19 pensation plan (within the meaning of section
20 457(b))” after “subsection (e)”; and

21 (2) in the heading, by striking “GOVERN-
22 MENTAL AND CHURCH PLANS” and inserting “CER-
23 TAIN OTHER PLANS”.

24 (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-
25 MENTS.—Paragraph (10) of section 414(p) is amended by

1 striking “and section 409(d)” and inserting “section
2 409(d), and section 457(d)”.

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

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

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transfers, distributions, and
17 payments made after December 31, 2001.

18 **SEC. 306. MODIFICATION OF SAFE HARBOR RELIEF FOR**
19 **HARDSHIP WITHDRAWALS FROM CASH OR**
20 **DEFERRED ARRANGEMENTS.**

21 (a) IN GENERAL.—The Secretary of the Treasury
22 shall revise the regulations relating to hardship distribu-
23 tions under section 401(k)(2)(B)(i)(IV) of the Internal
24 Revenue Code of 1986 to provide that the period an em-
25 ployee is prohibited from making elective and employee

1 contributions in order for a distribution to be deemed nec-
 2 essary to satisfy financial need shall be equal to 6 months.

3 (b) EFFECTIVE DATE.—The revised regulations
 4 under subsection (a) shall apply to years beginning after
 5 December 31, 2001.

6 **TITLE IV—INCREASING PORT-** 7 **ABILITY FOR PARTICIPANTS**

8 **SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES** 9 **OF PLANS.**

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

12 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

16 “(16) ROLLOVER AMOUNTS.—

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

21 “(i) any portion of the balance to the
 22 credit of an employee in such plan is paid
 23 to such employee in an eligible rollover dis-
 24 tribution (within the meaning of section

1 402(c)(4) without regard to subparagraph
2 (C) thereof),

3 “ (ii) the employee transfers any por-
4 tion of the property such employee receives
5 in such distribution to an eligible retire-
6 ment plan described in section
7 402(c)(8)(B), and

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

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

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

20 “(C) REPORTING.—Rollovers under this
21 paragraph shall be reported to the Secretary in
22 the same manner as rollovers from qualified re-
23 tirement plans (as defined in section
24 4974(c)).”.

1 (B) DEFERRAL LIMIT DETERMINED WITH-
2 OUT REGARD TO ROLLOVER AMOUNTS.—Section
3 457(b)(2) (defining eligible deferred compensa-
4 tion plan) is amended by inserting “(other than
5 rollover amounts)” after “taxable year”.

6 (C) DIRECT ROLLOVER.—Paragraph (1) of
7 section 457(d) is amended by striking “and” at
8 the end of subparagraph (A), by striking the
9 period at the end of subparagraph (B) and in-
10 sserting “, and”, and by inserting after subpara-
11 graph (B) the following:

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

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

20 (D) WITHHOLDING.—

21 (i) Paragraph (12) of section 3401(a)
22 is amended by adding at the end the fol-
23 lowing:

24 “(E) under or to an eligible deferred com-
25 pensation plan which, at the time of such pay-

1 ment, is a plan described in section 457(b)
2 maintained by an employer described in section
3 457(e)(1)(A); or”.

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

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

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

16 “(iv) section 457(b) and which is
17 maintained by an eligible employer de-
18 scribed in section 457(e)(1)(A).”.

19 (2) ROLLOVERS TO SECTION 457 PLANS.—

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

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

5 (B) SEPARATE ACCOUNTING.—Section
6 402(c) is amended by adding at the end the fol-
7 lowing new paragraph:

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

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

20 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-
21 TION 457 PLANS.—For purposes of this subsection,
22 a distribution from an eligible deferred compensation
23 plan (as defined in section 457(b)) of an eligible em-
24 ployer described in section 457(e)(1)(A) shall be
25 treated as a distribution from a qualified retirement

1 plan described in 4974(c)(1) to the extent that such
2 distribution is attributable to an amount transferred
3 to an eligible deferred compensation plan from a
4 qualified retirement plan (as defined in section
5 4974(c)).”.

6 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
7 403(b) PLANS.—

8 (1) ROLLOVERS FROM SECTION 403(b) PLANS.—

9 Section 403(b)(8)(A)(ii) (relating to rollover
10 amounts) is amended by striking “such distribution”
11 and all that follows and inserting “such distribution
12 to an eligible retirement plan described in section
13 402(c)(8)(B), and”.

14 (2) ROLLOVERS TO SECTION 403(b) PLANS.—

15 Section 402(c)(8)(B) (defining eligible retirement
16 plan), as amended by subsection (a), is amended by
17 striking “and” at the end of clause (iv), by striking
18 the period at the end of clause (v) and inserting “,
19 and”, and by inserting after clause (v) the following
20 new clause:

21 “(vi) an annuity contract described in
22 section 403(b).”.

23 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
24 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section
25 402(f) (relating to written explanation to recipients of dis-

1 tributions eligible for rollover treatment) is amended by
2 striking “and” at the end of subparagraph (C), by striking
3 the period at the end of subparagraph (D) and inserting
4 “, and”, and by adding at the end the following new sub-
5 paragraph:

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

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

16 (e) CONFORMING AMENDMENTS.—

17 (1) Section 72(o)(4) is amended by striking
18 “and 408(d)(3)” and inserting “403(b)(8),
19 408(d)(3), and 457(e)(16)”.

20 (2) Section 219(d)(2) is amended by striking
21 “or 408(d)(3)” and inserting “408(d)(3), or
22 457(e)(16)”.

23 (3) Section 401(a)(31)(B) is amended by strik-
24 ing “and 403(a)(4)” and inserting “, 403(a)(4),
25 403(b)(8), and 457(e)(16)”.

1 (4) Subparagraph (A) of section 402(f)(2) is
2 amended by striking “or paragraph (4) of section
3 403(a)” and inserting “, paragraph (4) of section
4 403(a), subparagraph (A) of section 403(b)(8), or
5 subparagraph (A) of section 457(e)(16)”.

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

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

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

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

20 (8) Section 408(a)(1) is amended by striking
21 “or 403(b)(8),” and inserting “403(b)(8), or
22 457(e)(16)”.

23 (9) Subparagraphs (A) and (B) of section
24 415(b)(2) are each amended by striking “and

1 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
2 457(e)(16)”.

3 (10) Section 415(c)(2) is amended by striking
4 “and 408(d)(3)” and inserting “408(d)(3), and
5 457(e)(16)”.

6 (11) Section 4973(b)(1)(A) is amended by
7 striking “or 408(d)(3)” and inserting “408(d)(3), or
8 457(e)(16)”.

9 (f) EFFECTIVE DATE; SPECIAL RULE.—

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

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

1 **SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
2 **MENT PLANS.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 408(d)(3) (relating to rollover amounts) is amended by
5 adding “or” at the end of clause (i), by striking clauses
6 (ii) and (iii), and by adding at the end the following:

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

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

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (1) of section 403(b) is amended
24 by striking “section 408(d)(3)(A)(iii)” and inserting
25 “section 408(d)(3)(A)(ii)”.

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

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

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

13 (c) EFFECTIVE DATE; SPECIAL RULE.—

14 (1) EFFECTIVE DATE.—The amendments made
15 by this section shall apply to distributions after the
16 date of the enactment of this Act.

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

1 mitted solely by reason of the amendments made by
2 this section.

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

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

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

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

21 (b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE
22 ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of sec-
23 tion 401(a)(31) (relating to limitation) is amended by add-
24 ing at the end the following: “The preceding sentence shall

1 not apply to such distribution if the plan to which such
2 distribution is transferred—

3 “(i) agrees to separately account for
4 amounts so transferred, including sepa-
5 rately accounting for the portion of such
6 distribution which is includible in gross in-
7 come and the portion of such distribution
8 which is not so includible, or

9 “(ii) is an eligible retirement plan de-
10 scribed in clause (i) or (ii) of section
11 402(c)(8)(B).”.

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

16 “(H) APPLICATION OF SECTION 72.—

17 “(i) IN GENERAL.—If—

18 “(I) a distribution is made from
19 an individual retirement plan, and

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

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

4 “(ii) APPLICABLE RULES.—In the
5 case of a distribution described in clause
6 (i)—

7 “(I) section 72 shall be applied
8 separately to such distribution,

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

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

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions made after the
3 date of the enactment of this Act.

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

5 (a) EXEMPT TRUSTS.—Paragraph (3) of section
6 402(c) (relating to transfer must be made within 60 days
7 of receipt) is amended to read as follows:

8 “(3) TRANSFER MUST BE MADE WITHIN 60
9 DAYS OF RECEIPT.—

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

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

23 (b) IRAS.—Paragraph (3) of section 408(d) (relating
24 to rollover contributions), as amended by section 403, is

1 amended by adding after subparagraph (H) the following
2 new subparagraph:

3 “(I) WAIVER OF 60-DAY REQUIREMENT.—
4 The Secretary may waive the 60-day require-
5 ment under subparagraphs (A) and (D) where
6 the failure to waive such requirement would be
7 against equity or good conscience, including
8 casualty, disaster, or other events beyond the
9 reasonable control of the individual subject to
10 such requirement.”.

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

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

15 (a) PLAN TRANSFERS.—

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

20 “(D) PLAN TRANSFERS.—

21 “(i) IN GENERAL.—A defined con-
22 tribution plan (in this subparagraph re-
23 ferred to as the ‘transferee plan’) shall not
24 be treated as failing to meet the require-
25 ments of this subsection merely because

1 the transferee plan does not provide some
2 or all of the forms of distribution pre-
3 viously available under another defined
4 contribution plan (in this subparagraph re-
5 ferred to as the ‘transferor plan’) to the
6 extent that—

7 “(I) the forms of distribution
8 previously available under the trans-
9 feror plan applied to the account of a
10 participant or beneficiary under the
11 transferor plan that was transferred
12 from the transferor plan to the trans-
13 feree plan pursuant to a direct trans-
14 fer rather than pursuant to a distribu-
15 tion from the transferor plan,

16 “(II) the terms of both the trans-
17 feror plan and the transferee plan au-
18 thorize the transfer described in sub-
19 clause (I),

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

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

6 “(V) the transferee plan allows
7 the participant or beneficiary de-
8 scribed in subclause (III) to receive
9 any distribution to which the partici-
10 pant or beneficiary is entitled under
11 the transferee plan in the form of a
12 single sum distribution.

13 “(ii) EXCEPTION.—Clause (i) shall
14 apply to plan mergers and other trans-
15 actions having the effect of a direct trans-
16 fer, including consolidations of benefits at-
17 tributable to different employers within a
18 multiple employer plan.

19 “(E) ELIMINATION OF FORM OF DISTRIBU-
20 TION.—Except to the extent provided in regula-
21 tions, a defined contribution plan shall not be
22 treated as failing to meet the requirements of
23 this section merely because of the elimination of
24 a form of distribution previously available there-
25 under. This subparagraph shall not apply to the

1 elimination of a form of distribution with re-
2 spect to any participant unless—

3 “(i) a single sum payment is available
4 to such participant at the same time or
5 times as the form of distribution being
6 eliminated, and

7 “(ii) such single sum payment is
8 based on the same or greater portion of
9 the participant’s account as the form of
10 distribution being eliminated.”

11 (2) AMENDMENT OF ERISA.—Section 204(g) of
12 the Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1054(g)) is amended by adding at
14 the end the following:

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

23 “(i) the forms of distribution previously avail-
24 able under the transferor plan applied to the account
25 of a participant or beneficiary under the transferor

1 plan that was transferred from the transferor plan
2 to the transferee plan pursuant to a direct transfer
3 rather than pursuant to a distribution from the
4 transferor plan;

5 “(ii) the terms of both the transferor plan and
6 the transferee plan authorize the transfer described
7 in clause (i);

8 “(iii) the transfer described in clause (i) was
9 made pursuant to a voluntary election by the partici-
10 pant or beneficiary whose account was transferred to
11 the transferee plan;

12 “(iv) the election described in clause (iii) was
13 made after the participant or beneficiary received a
14 notice describing the consequences of making the
15 election; and

16 “(v) the transferee plan allows the participant
17 or beneficiary described in clause (iii) to receive any
18 distribution to which the participant or beneficiary is
19 entitled under the transferee plan in the form of a
20 single sum distribution.

21 “(B) Subparagraph (A) shall apply to plan mergers
22 and other transactions having the effect of a direct trans-
23 fer, including consolidations of benefits attributable to dif-
24 ferent employers within a multiple employer plan.

1 “(5) Except to the extent provided in regulations pro-
2 mulgated by the Secretary of the Treasury, a defined con-
3 tribution plan shall not be treated as failing to meet the
4 requirements of this subsection merely because of the
5 elimination of a form of distribution previously available
6 thereunder. This paragraph shall not apply to the elimi-
7 nation of a form of distribution with respect to any partici-
8 pant unless—

9 “(A) a single sum payment is available to such
10 participant at the same time or times as the form
11 of distribution being eliminated; and

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

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

18 (b) REGULATIONS.—

19 (1) AMENDMENT OF INTERNAL REVENUE
20 CODE.—Paragraph (6)(B) of section 411(d) (relat-
21 ing to accrued benefit not to be decreased by amend-
22 ment) is amended by inserting after the second sen-
23 tence the following new sentence: “The Secretary
24 shall by regulations provide that this subparagraph
25 shall not apply to any plan amendment which re-

1 duces or eliminates benefits or subsidies which cre-
2 ate significant burdens or complexities for the plan
3 and plan participants and does not adversely affect
4 the rights of any participant in a more than de mini-
5 mis manner.”.

6 (2) AMENDMENT OF ERISA.—Section 204(g)(2)
7 of the Employee Retirement Income Security Act of
8 1974 (29 U.S.C. 1054(g)(2)) is amended by insert-
9 ing before the last sentence the following new sen-
10 tence: “The Secretary of the Treasury shall by regu-
11 lations provide that this paragraph shall not apply
12 to any plan amendment which reduces or eliminates
13 benefits or subsidies which create significant bur-
14 dens or complexities for the plan and plan partici-
15 pants and does not adversely affect the rights of any
16 participant in a more than de minimis manner.”.

17 (3) SECRETARY DIRECTED.—Not later than
18 December 31, 2003, the Secretary of the Treasury
19 is directed to issue regulations under section
20 411(d)(6) of the Internal Revenue Code of 1986 and
21 section 204(g) of the Employee Retirement Income
22 Security Act of 1974, including the regulations re-
23 quired by the amendment made by this subsection.
24 Such regulations shall apply to plan years beginning

1 after December 31, 2003, or such earlier date as is
2 specified by the Secretary of the Treasury.

3 **SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-**
4 **TRIBUTIONS.**

5 (a) MODIFICATION OF SAME DESK EXCEPTION.—

6 (1) SECTION 401(k).—

7 (A) Section 401(k)(2)(B)(i)(I) (relating to
8 qualified cash or deferred arrangements) is
9 amended by striking “separation from service”
10 and inserting “severance from employment”.

11 (B) Subparagraph (A) of section
12 401(k)(10) (relating to distributions upon ter-
13 mination of plan or disposition of assets or sub-
14 sidiary) is amended to read as follows:

15 “(A) IN GENERAL.—An event described in
16 this subparagraph is the termination of the
17 plan without establishment or maintenance of
18 another defined contribution plan (other than
19 an employee stock ownership plan as defined in
20 section 4975(e)(7)).”.

21 (C) Section 401(k)(10) is amended—

22 (i) in subparagraph (B)—

23 (I) by striking “An event” in
24 clause (i) and inserting “A termi-
25 nation”; and

1 (II) by striking “the event” in
2 clause (i) and inserting “the termi-
3 nation”;

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

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

7 (2) SECTION 403(b).—

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

12 (B) The heading for paragraph (11) of
13 section 403(b) is amended by striking “SEPARA-
14 TION FROM SERVICE” and inserting “SEVER-
15 ANCE FROM EMPLOYMENT”.

16 (3) SECTION 457.—Clause (ii) of section
17 457(d)(1)(A) is amended by striking “is separated
18 from service” and inserting “has a severance from
19 employment”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to distributions after the date of
22 the enactment of this Act.

1 **SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-**
2 **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

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

18 (b) 457 PLANS.—Subsection (e) of section 457 is
19 amended by adding after paragraph (16) the following
20 new paragraph:

21 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
22 PURCHASE PERMISSIVE SERVICE CREDIT.—No
23 amount shall be includible in gross income by reason
24 of a direct trustee-to-trustee transfer to a defined
25 benefit governmental plan (as defined in section
26 414(d)) if such transfer is—

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

4 “(B) a repayment to which section 415
5 does not apply by reason of subsection (k)(3)
6 thereof.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to trustee-to-trustee transfers after
9 the date of the enactment of this Act.

10 **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
11 **PURPOSES OF CASH-OUT AMOUNTS.**

12 (a) QUALIFIED PLANS.—

13 (1) AMENDMENT OF INTERNAL REVENUE
14 CODE.—Section 411(a)(11) (relating to restrictions
15 on certain mandatory distributions) is amended by
16 adding at the end the following:

17 “(D) SPECIAL RULE FOR ROLLOVER CON-
18 TRIBUTIONS.—A plan shall not fail to meet the
19 requirements of this paragraph if, under the
20 terms of the plan, the present value of the non-
21 forfeitable accrued benefit is determined with-
22 out regard to that portion of such benefit which
23 is attributable to rollover contributions (and
24 earnings allocable thereto). For purposes of this
25 subparagraph, the term ‘rollover contributions’

1 means any rollover contribution under sections
2 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
3 and 457(e)(16).”.

4 (2) AMENDMENT OF ERISA.—Section 203(e) of
5 the Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1053(c)) is amended by adding at
7 the end the following:

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

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

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

1 **SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-**
2 **QUIREMENTS FOR SECTION 457 PLANS.**

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

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

10 (b) INCLUSION IN GROSS INCOME.—

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

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

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

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

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

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

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

7 (2) CONFORMING AMENDMENTS.—

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

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions after the date of
 3 the enactment of this Act.

4 **TITLE V—STRENGTHENING PEN-**
 5 **SION SECURITY AND EN-**
 6 **FORCEMENT**

7 **SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY**
 8 **FUNDING LIMIT.**

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

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

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

18 “(F) APPLICABLE PERCENTAGE.—For
 19 purposes of subparagraph (A)(i)(I), the applica-
 20 ble percentage shall be determined in accord-
 21 ance with the following table:

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

1 (b) AMENDMENT OF ERISA.—Section 302(c)(7) of
 2 the Employee Retirement Income Security Act of 1974
 3 (29 U.S.C. 1082(c)(7)) is amended—

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

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

10 “(F) APPLICABLE PERCENTAGE.—For
 11 purposes of subparagraph (A)(i)(I), the applica-
 12 ble percentage shall be determined in accord-
 13 ance with the following table:

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

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

17 **SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES**
 18 **MODIFIED AND APPLIED TO ALL DEFINED**
 19 **BENEFIT PLANS.**

20 (a) IN GENERAL.—Subparagraph (D) of section
 21 404(a)(1) (relating to special rule in case of certain plans)
 22 is amended to read as follows:

1 “(D) SPECIAL RULE IN CASE OF CERTAIN
2 PLANS.—

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

13 “(ii) PLANS WITH LESS THAN 100
14 PARTICIPANTS.—For purposes of this sub-
15 paragraph, in the case of a plan which has
16 less than 100 participants for the plan
17 year, termination liability shall not include
18 the liability attributable to benefit in-
19 creases for highly compensated employees
20 (as defined in section 414(q)) resulting
21 from a plan amendment which is made or
22 becomes effective, whichever is later, within
23 the last 2 years before the termination
24 date.

1 “(iii) RULE FOR DETERMINING NUM-
2 BER OF PARTICIPANTS.—For purposes of
3 determining whether a plan has more than
4 100 participants, all defined benefit plans
5 maintained by the same employer (or any
6 member of such employer’s controlled
7 group (within the meaning of section
8 412(l)(8)(C))) shall be treated as one plan,
9 but only employees of such member or em-
10 ployer shall be taken into account.

11 “(iv) PLANS MAINTAINED BY PROFES-
12 SIONAL SERVICE EMPLOYERS.—Clause (i)
13 shall not apply to a plan described in sec-
14 tion 4021(b)(13) of the Employee Retire-
15 ment Income Security Act of 1974.”.

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

18 “(6) EXCEPTIONS.—In determining the amount
19 of nondeductible contributions for any taxable year,
20 there shall not be taken into account so much of the
21 contributions to one or more defined contribution
22 plans which are not deductible when contributed
23 solely because of section 404(a)(7) as does not ex-
24 ceed the greater of—

1 tions for any taxable year, an employer may elect for
2 such year not to take into account any contributions
3 to a defined benefit plan except to the extent that
4 such contributions exceed the full-funding limitation
5 (as defined in section 412(c)(7), determined without
6 regard to subparagraph (A)(i)(I) thereof). For pur-
7 poses of this paragraph, the deductible limits under
8 section 404(a)(7) shall first be applied to amounts
9 contributed to defined contribution plans and then
10 to amounts described in this paragraph. If an em-
11 ployer makes an election under this paragraph for a
12 taxable year, paragraph (6) shall not apply to such
13 employer for such taxable year.”.

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

17 **SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**
18 **DEFINED BENEFIT PLANS SIGNIFICANTLY**
19 **REDUCING FUTURE BENEFIT ACCRUALS.**

20 (a) AMENDMENT OF INTERNAL REVENUE CODE.—

21 (1) IN GENERAL.—Chapter 43 (relating to
22 qualified pension, etc., plans) is amended by adding
23 at the end the following new section:

1 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**
2 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**
3 **QUIREMENTS.**

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

8 “(b) AMOUNT OF TAX.—

9 “(1) IN GENERAL.—The amount of the tax im-
10 posed by subsection (a) on any failure with respect
11 to any applicable individual shall be \$100 for each
12 day in the noncompliance period with respect to such
13 failure.

14 “(2) NONCOMPLIANCE PERIOD.—For purposes
15 of this section, the term ‘noncompliance period’
16 means, with respect to any failure, the period begin-
17 ning on the date the failure first occurs and ending
18 on the date the failure is corrected.

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

20 “(1) OVERALL LIMITATION FOR UNINTEN-
21 TIONAL FAILURES.—In the case of failures that are
22 due to reasonable cause and not to willful neglect,
23 the tax imposed by subsection (a) for failures during
24 the taxable year of the employer (or, in the case of
25 a multiemployer plan, the taxable year of the trust
26 forming part of the plan) shall not exceed \$500,000.

1 For purposes of the preceding sentence, all multiem-
2 ployer plans of which the same trust forms a part
3 shall be treated as one plan. For purposes of this
4 paragraph, if not all persons who are treated as a
5 single employer for purposes of this section have the
6 same taxable year, the taxable years taken into ac-
7 count shall be determined under principles similar to
8 the principles of section 1561.

9 “(2) WAIVER BY SECRETARY.—In the case of a
10 failure which is due to reasonable cause and not to
11 willful neglect, the Secretary may waive part or all
12 of the tax imposed by subsection (a) to the extent
13 that the payment of such tax would be excessive rel-
14 ative to the failure involved.

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

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

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

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

23 “(1) IN GENERAL.—If an applicable pension
24 plan is amended to provide for a significant reduc-
25 tion in the rate of future benefit accrual, the plan

1 administrator shall provide written notice to each
2 applicable individual (and to each employee organi-
3 zation representing applicable individuals).

4 “(2) NOTICE.—The notice required by para-
5 graph (1) shall be written in a manner calculated to
6 be understood by the average plan participant and
7 shall provide sufficient information (as determined
8 in accordance with regulations prescribed by the
9 Secretary) to allow applicable individuals to under-
10 stand the effect of the plan amendment. The Sec-
11 retary may provide a simplified form of notice for,
12 or exempt from any notice requirement, a plan—

13 “(A) which has fewer than 100 partici-
14 pants who have accrued a benefit under the
15 plan, or

16 “(B) which offers participants the option
17 to choose between the new benefit formula and
18 the old benefit formula.

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

23 “(4) DESIGNEES.—Any notice under paragraph
24 (1) may be provided to a person designated, in writ-

1 ing, by the person to which it would otherwise be
2 provided.

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

10 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
11 poses of this section—

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

15 “(A) each participant in the plan, and

16 “(B) any beneficiary who is an alternate
17 payee (within the meaning of section 414(p)(8))
18 under an applicable qualified domestic relations
19 order (within the meaning of section
20 414(p)(1)(A)),

21 whose rate of future benefit accrual under the plan
22 may reasonably be expected to be significantly re-
23 duced by such plan amendment.

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

1 “(A) any defined benefit plan, or

2 “(B) an individual account plan which is
3 subject to the funding standards of section 412.

4 Such term shall not include a governmental plan
5 (within the meaning of section 414(d)) or a church
6 plan (within the meaning of section 414(e)) with re-
7 spect to which the election provided by section
8 410(d) has not been made.

9 “(3) EARLY RETIREMENT.—A plan amendment
10 which eliminates or significantly reduces any early
11 retirement benefit or retirement-type subsidy (within
12 the meaning of section 411(d)(6)(B)(i)) shall be
13 treated as having the effect of significantly reducing
14 the rate of future benefit accrual.

15 “(g) NEW TECHNOLOGIES.—The Secretary may by
16 regulations allow any notice under subsection (e) to be
17 provided by using new technologies.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-
19 tions for chapter 43 is amended by adding at the
20 end the following new item:

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

21 (b) AMENDMENT OF ERISA.—Section 204(h) of the
22 Employee Retirement Income Security Act of 1974 (29
23 U.S.C. 1054(h)) is amended by adding at the end the fol-
24 lowing new paragraphs:

1 “(3)(A) An applicable pension plan to which para-
2 graph (1) applies shall not be treated as meeting the re-
3 quirements of such paragraph unless, in addition to any
4 notice required to be provided to an individual or organiza-
5 tion under such paragraph, the plan administrator pro-
6 vides the notice described in subparagraph (B) to each ap-
7 plicable individual (and to each employee organization rep-
8 resenting applicable individuals).

9 “(B) The notice required by subparagraph (A) shall
10 be written in a manner calculated to be understood by the
11 average plan participant and shall provide sufficient infor-
12 mation (as determined in accordance with regulations pre-
13 scribed by the Secretary of the Treasury) to allow applica-
14 ble individuals to understand the effect of the plan amend-
15 ment. The Secretary of the Treasury may provide a sim-
16 plified form of notice for, or exempt from any notice re-
17 quirement, a plan—

18 “(i) which has fewer than 100 participants who
19 have accrued a benefit under the plan, or

20 “(ii) which offers participants the option to
21 choose between the new benefit formula and the old
22 benefit formula.

23 “(C) Except as provided in regulations prescribed by
24 the Secretary of the Treasury, the notice required by sub-

1 paragraph (A) shall be provided within a reasonable time
2 before the effective date of the plan amendment.

3 “(D) Any notice under subparagraph (A) may be pro-
4 vided to a person designated, in writing, by the person
5 to which it would otherwise be provided.

6 “(E) A plan shall not be treated as failing to meet
7 the requirements of subparagraph (A) merely because no-
8 tice is provided before the adoption of the plan amendment
9 if no material modification of the amendment occurs be-
10 fore the amendment is adopted.

11 “(F) The Secretary of the Treasury may by regula-
12 tions allow any notice under this paragraph to be provided
13 by using new technologies.

14 “(4) For purposes of paragraph (3)—

15 “(A) The term ‘applicable individual’ means,
16 with respect to any plan amendment—

17 “(i) each participant in the plan; and

18 “(ii) any beneficiary who is an alternate
19 payee (within the meaning of section
20 206(d)(3)(K)) under an applicable qualified do-
21 mestic relations order (within the meaning of
22 section 206(d)(3)(B)(i)),

23 whose rate of future benefit accrual under the plan
24 may reasonably be expected to be significantly re-
25 duced by such plan amendment.

1 “(B) The term ‘applicable pension plan’
2 means—

3 “(i) any defined benefit plan; or

4 “(ii) an individual account plan which is
5 subject to the funding standards of section 412
6 of the Internal Revenue Code of 1986.

7 “(C) A plan amendment which eliminates or
8 significantly reduces any early retirement benefit or
9 retirement-type subsidy (within the meaning of sub-
10 section (g)(2)(A)) shall be treated as having the ef-
11 fect of significantly reducing the rate of future ben-
12 efit accrual.”.

13 (c) EFFECTIVE DATES.—

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

18 (2) TRANSITION.—Until such time as the Sec-
19 retary of the Treasury issues regulations under sec-
20 tions 4980F(e)(2) and (3) of the Internal Revenue
21 Code of 1986, and section 204(h)(3) of the Em-
22 ployee Retirement Income Security Act of 1974, as
23 added by the amendments made by this section, a
24 plan shall be treated as meeting the requirements of

1 such sections if it makes a good faith effort to com-
2 ply with such requirements.

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

8 (d) STUDY.—The Secretary of the Treasury shall
9 prepare a report on the effects of conversions of tradi-
10 tional defined benefit plans to cash balance or hybrid for-
11 mula plans. Such study shall examine the effect of such
12 conversions on longer service participants, including the
13 incidence and effects of “wear away” provisions under
14 which participants earn no additional benefits for a period
15 of time after the conversion. As soon as practicable, but
16 not later than 60 days after the date of the enactment
17 of this Act, the Secretary shall submit such report, to-
18 gether with recommendations thereon, to the Committee
19 on Ways and Means and the Committee on Education and
20 the Workforce of the House of Representatives and the
21 Committee on Finance and the Committee on Health,
22 Education, Labor, and Pensions of the Senate.

23 **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
24 **SECTION 415.**

25 (a) COMPENSATION LIMIT.—

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

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

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

16 (b) COMBINING AND AGGREGATION OF PLANS.—

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

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

1 this section, except that such plan shall be combined
 2 or aggregated with another plan which is not such
 3 a multiemployer plan solely for purposes of deter-
 4 mining whether such other plan meets the require-
 5 ments of subsections (b)(1)(A) and (c).”.

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

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

14 **SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE**
 15 **CONTRIBUTIONS TO 401(K) PLANS.**

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

18 “(b) EFFECTIVE DATE.—

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

23 “(2) NONAPPLICATION TO PREVIOUSLY AC-
 24 QUIRED PROPERTY.—The amendments made by this
 25 section shall not apply to any elective deferral which

1 is invested in assets consisting of qualifying em-
2 ployer securities, qualifying employer real property,
3 or both, if such assets were acquired before January
4 1, 1999.”.

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

8 **SEC. 507. PERIODIC PENSION BENEFITS STATEMENTS.**

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

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

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

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

17 “(ii) to a plan beneficiary upon written re-
18 quest, and

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

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

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

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

9 “(3) A pension benefit statement under paragraph
10 (1)—

11 “(A) shall indicate, on the basis of the latest
12 available information—

13 “(i) the total benefits accrued, and

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

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

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

21 “(4)(A) In the case of a defined benefit plan, the re-
22 quirements of paragraph (1)(B)(i) shall be treated as met
23 with respect to a participant if the administrator provides
24 the participant at least once each year with notice of the
25 availability of the pension benefit statement and the ways

1 in which the participant may obtain such statement. Such
2 notice shall be provided in written, electronic, telephonic,
3 or other appropriate form, and may be included with other
4 communications to the participant if done in a manner
5 reasonably designed to attract the attention of the partici-
6 pant.

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

13 (b) CONFORMING AMENDMENTS.—

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

17 (2) Section 105(b) of such Act (29 U.S.C.
18 1025(b)) is amended to read as follows:

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

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

1 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
2 **PORATION ESOP.**

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

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

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

19 “(2) FAILURE TO MEET REQUIREMENTS.—

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

1 “(B) CROSS REFERENCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(B) TREATMENT OF FAMILY MEMBERS.—

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

8 “(C) DEEMED-OWNED SHARES.—

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

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

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

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

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

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

9 “(i) the spouse of the individual,

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

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

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

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

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

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

8 “(A) the treatment of any person as a dis-
9 qualified person, or

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

12 For purposes of this paragraph, synthetic equity
13 shall be treated as owned by a person in the same
14 manner as stock is treated as owned by a person
15 under the rules of paragraphs (2) and (3) of section
16 318(a). If, without regard to this paragraph, a per-
17 son is treated as a disqualified person or a year is
18 treated as a nonallocation year, this paragraph shall
19 not be construed to result in the person or year not
20 being so treated.

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

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

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

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

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

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

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

24 (c) EXCISE TAX.—

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

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

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

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

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

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

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

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

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

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

1 which made the written statement described in sec-
2 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as
3 the case may be), and

4 “(2) in the case of an allocation or ownership
5 referred to in paragraph (3) or (4) of subsection (a),
6 by the S corporation the stock in which was so allo-
7 cated or owned.”.

8 (3) DEFINITIONS.—Section 4979A(e) (relating
9 to definitions) is amended to read as follows:

10 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
11 poses of this section—

12 “(1) DEFINITIONS.—Except as provided in
13 paragraph (2), terms used in this section have the
14 same respective meanings as when used in sections
15 409 and 4978.

16 “(2) SPECIAL RULES RELATING TO TAX IM-
17 POSED BY REASON OF PARAGRAPH (3) OR (4) OF
18 SUBSECTION (a).—

19 “(A) PROHIBITED ALLOCATIONS.—The
20 amount involved with respect to any tax im-
21 posed by reason of subsection (a)(3) is the
22 amount allocated to the account of any person
23 in violation of section 409(p)(1).

24 “(B) SYNTHETIC EQUITY.—The amount
25 involved with respect to any tax imposed by rea-

1 son of subsection (a)(4) is the value of the
2 shares on which the synthetic equity is based.

3 “(C) SPECIAL RULE DURING FIRST NON-
4 ALLOCATION YEAR.—For purposes of subpara-
5 graph (A), the amount involved for the first
6 nonallocation year of any employee stock owner-
7 ship plan shall be determined by taking into ac-
8 count the total value of all the deemed-owned
9 shares of all disqualified persons with respect to
10 such plan.

11 “(D) STATUTE OF LIMITATIONS.—The
12 statutory period for the assessment of any tax
13 imposed by this section by reason of paragraph
14 (3) or (4) of subsection (a) shall not expire be-
15 fore the date which is 3 years from the later
16 of—

17 “(i) the allocation or ownership re-
18 ferred to in such paragraph giving rise to
19 such tax, or

20 “(ii) the date on which the Secretary
21 is notified of such allocation or owner-
22 ship.”.

23 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to plan years beginning after
3 December 31, 2004.

4 (2) EXCEPTION FOR CERTAIN PLANS.—In the
5 case of any—

6 (A) employee stock ownership plan estab-
7 lished after March 14, 2001, or

8 (B) employee stock ownership plan estab-
9 lished on or before such date if employer securi-
10 ties held by the plan consist of stock in a cor-
11 poration with respect to which an election under
12 section 1362(a) of the Internal Revenue Code
13 of 1986 is not in effect on such date,

14 the amendments made by this section shall apply to
15 plan years ending after March 14, 2001.

16 **TITLE VI—REDUCING**
17 **REGULATORY BURDENS**

18 **SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

19 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
20 Paragraph (9) of section 412(c)(9) (relating to annual
21 valuation) is amended to read as follows:

22 “(9) ANNUAL VALUATION.—

23 “(A) IN GENERAL.—For purposes of this
24 section, a determination of experience gains and
25 losses and a valuation of the plan’s liability

1 shall be made not less frequently than once
2 every year, except that such determination shall
3 be made more frequently to the extent required
4 in particular cases under regulations prescribed
5 by the Secretary.

6 “(B) VALUATION DATE.—

7 “(i) CURRENT YEAR.—Except as pro-
8 vided in clause (ii), the valuation referred
9 to in subparagraph (A) shall be made as of
10 a date within the plan year to which the
11 valuation refers or within one month prior
12 to the beginning of such year.

13 “(ii) ELECTION TO USE PRIOR YEAR
14 VALUATION.—The valuation referred to in
15 subparagraph (A) may be made as of a
16 date within the plan year prior to the year
17 to which the valuation refers if—

18 “(I) an election is in effect under
19 this clause with respect to the plan,
20 and

21 “(II) as of such date, the value
22 of the assets of the plan are not less
23 than 125 percent of the plan’s current
24 liability (as defined in paragraph
25 (7)(B)).

1 “(iii) ADJUSTMENTS.—Information
2 under clause (ii) shall, in accordance with
3 regulations, be actuarially adjusted to re-
4 flect significant differences in participants.

5 “(iv) ELECTION.—An election under
6 clause (ii), once made, shall be irrevocable
7 without the consent of the Secretary.”.

8 (b) AMENDMENT OF ERISA.—Paragraph (9) of sec-
9 tion 302(c) of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1053(c)) is amended—

11 (1) by inserting “(A)” after “(9)”; and

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

13 “(B)(i) Except as provided in clause (ii), the valu-
14 ation referred to in subparagraph (A) shall be made as
15 of a date within the plan year to which the valuation refers
16 or within one month prior to the beginning of such year.

17 “(ii) The valuation referred to in subparagraph (A)
18 may be made as of a date within the plan year prior to
19 the year to which the valuation refers if—

20 “(I) an election is in effect under this clause
21 with respect to the plan; and

22 “(II) as of such date, the value of the assets of
23 the plan are not less than 125 percent of the plan’s
24 current liability (as defined in paragraph (7)(B)).

1 “(iii) Information under clause (ii) shall, in accord-
2 ance with regulations, be actuarially adjusted to reflect
3 significant differences in participants.

4 “(iv) An election under clause (ii), once made, shall
5 be irrevocable without the consent of the Secretary of the
6 Treasury.”.

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

10 **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
11 **LOSS OF DIVIDEND DEDUCTION.**

12 (a) IN GENERAL.—Section 404(k)(2)(A) (defining
13 applicable dividends) is amended by striking “or” at the
14 end of clause (ii), by redesignating clause (iii) as clause
15 (iv), and by inserting after clause (ii) the following new
16 clause:

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

19 “(I) payable as provided in clause
20 (i) or (ii), or

21 “(II) paid to the plan and rein-
22 vested in qualifying employer securi-
23 ties, or”.

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

4 **SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CER-**
5 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

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

8 (b) EFFECTIVE DATE.—The repeal made by sub-
9 section (a) shall apply to plan years beginning after De-
10 cember 31, 2001.

11 **SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

12 (a) IN GENERAL.—The Secretary of the Treasury
13 shall modify Treasury Regulations section 1.410(b)–6(g)
14 to provide that employees of an organization described in
15 section 403(b)(1)(A)(i) of the Internal Revenue Code of
16 1986 who are eligible to make contributions under section
17 403(b) of such Code pursuant to a salary reduction agree-
18 ment may be treated as excludable with respect to a plan
19 under section 401(k) or (m) of such Code that is provided
20 under the same general arrangement as a plan under such
21 section 401(k), if—

22 (1) no employee of an organization described in
23 section 403(b)(1)(A)(i) of such Code is eligible to
24 participate in such section 401(k) plan or section
25 401(m) plan; and

1 (2) 95 percent of the employees who are not
 2 employees of an organization described in section
 3 403(b)(1)(A)(i) of such Code are eligible to partici-
 4 pate in such plan under such section 401(k) or (m).

5 (b) EFFECTIVE DATE.—The modification required by
 6 subsection (a) shall apply as of the same date set forth
 7 in section 1426(b) of the Small Business Job Protection
 8 Act of 1996.

9 **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**
 10 **PROVIDED RETIREMENT ADVICE.**

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

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

17 (b) QUALIFIED RETIREMENT PLANNING SERVICES
 18 DEFINED.—Section 132 is amended by redesignating sub-
 19 section (m) as subsection (n) and by inserting after sub-
 20 section (l) the following:

21 “(m) QUALIFIED RETIREMENT PLANNING SERV-
 22 ICES.—

23 “(1) IN GENERAL.—For purposes of this sec-
 24 tion, the term ‘qualified retirement planning serv-
 25 ices’ means any retirement planning advice or infor-

1 mation provided to an employee and his spouse by
2 an employer maintaining a qualified employer plan.

3 “(2) NONDISCRIMINATION RULE.—Subsection
4 (a)(7) shall apply in the case of highly compensated
5 employees only if such services are available on sub-
6 stantially the same terms to each member of the
7 group of employees normally provided education and
8 information regarding the employer’s qualified em-
9 ployer plan.

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

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

17 **SEC. 606. REPORTING SIMPLIFICATION.**

18 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
19 OWNERS AND THEIR SPOUSES.—

20 (1) IN GENERAL.—The Secretary of the Treas-
21 ury shall modify the requirements for filing annual
22 returns with respect to one-participant retirement
23 plans to ensure that such plans with assets of
24 \$250,000 or less as of the close of the plan year
25 need not file a return for that year.

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

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

6 (i) covered only the employer (and the
7 employer’s spouse) and the employer
8 owned the entire business (whether or not
9 incorporated); or

10 (ii) covered only one or more partners
11 (and their spouses) in a business partner-
12 ship (including partners in an S or C cor-
13 poration);

14 (B) meets the minimum coverage require-
15 ments of section 410(b) of the Internal Revenue
16 Code of 1986 without being combined with any
17 other plan of the business that covers the em-
18 ployees of the business;

19 (C) does not provide benefits to anyone ex-
20 cept the employer (and the employer’s spouse)
21 or the partners (and their spouses);

22 (D) does not cover a business that is a
23 member of an affiliated service group, a con-
24 trolled group of corporations, or a group of
25 businesses under common control; and

1 (E) does not cover a business that leases
2 employees.

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

7 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
8 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case
9 of a retirement plan which covers less than 25 employees
10 on the first day of the plan year and meets the require-
11 ments described in subparagraphs (B), (D), and (E) of
12 subsection (a)(2), the Secretary of the Treasury shall pro-
13 vide for the filing of a simplified annual return that is
14 substantially similar to the annual return required to be
15 filed by a one-participant retirement plan.

16 (c) EFFECTIVE DATE.—The provisions of this section
17 shall take effect on January 1, 2002.

18 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
19 **ANCE RESOLUTION SYSTEM.**

20 The Secretary of the Treasury shall continue to up-
21 date and improve the Employee Plans Compliance Resolu-
22 tion System (or any successor program) giving special at-
23 tention to—

1 (1) increasing the awareness and knowledge of
2 small employers concerning the availability and use
3 of the program;

4 (2) taking into account special concerns and
5 circumstances that small employers face with respect
6 to compliance and correction of compliance failures;

7 (3) extending the duration of the self-correction
8 period under the Administrative Policy Regarding
9 Self-Correction for significant compliance failures;

10 (4) expanding the availability to correct insig-
11 nificant compliance failures under the Administra-
12 tive Policy Regarding Self-Correction during audit;
13 and

14 (5) assuring that any tax, penalty, or sanction
15 that is imposed by reason of a compliance failure is
16 not excessive and bears a reasonable relationship to
17 the nature, extent, and severity of the failure.

18 **SEC. 608. REPEAL OF THE MULTIPLE USE TEST.**

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

21 “(9) REGULATIONS.—The Secretary shall pre-
22 scribe such regulations as may be necessary to carry
23 out the purposes of this subsection and subsection
24 (k), including regulations permitting appropriate ag-
25 gregation of plans and contributions.”.

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

4 **SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-**
5 **ERAGE, AND LINE OF BUSINESS RULES.**

6 (a) NONDISCRIMINATION.—

7 (1) IN GENERAL.—The Secretary of the Treas-
8 ury shall, by regulation, provide that a plan shall be
9 deemed to satisfy the requirements of section
10 401(a)(4) of the Internal Revenue Code of 1986 if
11 such plan satisfies the facts and circumstances test
12 under section 401(a)(4) of such Code, as in effect
13 before January 1, 1994, but only if—

14 (A) the plan satisfies conditions prescribed
15 by the Secretary to appropriately limit the
16 availability of such test; and

17 (B) the plan is submitted to the Secretary
18 for a determination of whether it satisfies such
19 test.

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

22 (2) EFFECTIVE DATES.—

23 (A) REGULATIONS.—The regulation re-
24 quired by paragraph (1) shall apply to years be-
25 ginning after December 31, 2003.

1 (B) CONDITIONS OF AVAILABILITY.—Any
2 condition of availability prescribed by the Sec-
3 retary under paragraph (1)(A) shall not apply
4 before the first year beginning not less than
5 120 days after the date on which such condition
6 is prescribed.

7 (b) COVERAGE TEST.—

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

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

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

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

20 “(iii) satisfies conditions prescribed by
21 the Secretary by regulation that appro-
22 priately limit the availability of this sub-
23 paragraph.

24 Clause (ii) shall apply only to the extent pro-
25 vided by the Secretary.”.

1 (2) EFFECTIVE DATES.—

2 (A) IN GENERAL.—The amendment made
3 by paragraph (1) shall apply to years beginning
4 after December 31, 2003.

5 (B) CONDITIONS OF AVAILABILITY.—Any
6 condition of availability prescribed by the Sec-
7 retary under regulations prescribed by the Sec-
8 retary under section 410(b)(1)(D) of the Inter-
9 nal Revenue Code of 1986 shall not apply be-
10 fore the first year beginning not less than 120
11 days after the date on which such condition is
12 prescribed.

13 (c) LINE OF BUSINESS RULES.—The Secretary of
14 the Treasury shall, on or before December 31, 2003, mod-
15 ify the existing regulations issued under section 414(r) of
16 the Internal Revenue Code of 1986 in order to expand
17 (to the extent that the Secretary determines appropriate)
18 the ability of a pension plan to demonstrate compliance
19 with the line of business requirements based upon the
20 facts and circumstances surrounding the design and oper-
21 ation of the plan, even though the plan is unable to satisfy
22 the mechanical tests currently used to determine compli-
23 ance.

1 **SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
2 **MORATORIUM ON APPLICATION OF CERTAIN**
3 **NONDISCRIMINATION RULES APPLICABLE TO**
4 **STATE AND LOCAL PLANS.**

5 (a) IN GENERAL.—

6 (1) Subparagraph (G) of section 401(a)(5) and
7 subparagraph (H) of section 401(a)(26) are each
8 amended by striking “section 414(d)” and all that
9 follows and inserting “section 414(d).”.

10 (2) Subparagraph (G) of section 401(k)(3) and
11 paragraph (2) of section 1505(d) of the Taxpayer
12 Relief Act of 1997 are each amended by striking
13 “maintained by a State or local government or polit-
14 ical subdivision thereof (or agency or instrumentality
15 thereof)”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) The heading for subparagraph (G) of sec-
18 tion 401(a)(5) is amended to read as follows: “GOV-
19 ERNMENTAL PLANS”.

20 (2) The heading for subparagraph (H) of sec-
21 tion 401(a)(26) is amended to read as follows: “EX-
22 CEPTION FOR GOVERNMENTAL PLANS”.

23 (3) Subparagraph (G) of section 401(k)(3) is
24 amended by inserting “GOVERNMENTAL PLANS.—”
25 after “(G)”.

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

4 **SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-**
5 **TRIBUTIONS.**

6 (a) EXPANSION OF PERIOD.—

7 (1) AMENDMENT OF INTERNAL REVENUE
8 CODE.—

9 (A) IN GENERAL.—Subparagraph (A) of
10 section 417(a)(6) is amended by striking “90-
11 day” and inserting “180-day”.

12 (B) MODIFICATION OF REGULATIONS.—

13 The Secretary of the Treasury shall modify the
14 regulations under sections 402(f), 411(a)(11),
15 and 417 of the Internal Revenue Code of 1986
16 to substitute “180 days” for “90 days” each
17 place it appears in Treasury Regulations sec-
18 tions 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-
19 1(b).

20 (2) AMENDMENT OF ERISA.—Section
21 205(c)(7)(A) of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is
23 amended by striking “90-day” and inserting “180-
24 day”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by paragraph (1)(A) and (2) and the modifications
3 required by paragraph (1)(B) shall apply to years
4 beginning after December 31, 2001.

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

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

14 (2) EFFECTIVE DATE.—The modifications re-
15 quired by paragraph (1) shall apply to years begin-
16 ning after December 31, 2001.

17 **SEC. 612. ANNUAL REPORT DISSEMINATION.**

18 (a) REPORT AVAILABLE THROUGH ELECTRONIC
19 MEANS.—Section 104(b)(3) of the Employee Retirement
20 Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is
21 amended by adding at the end the following new sentence:
22 “The requirement to furnish information under the pre-
23 vious sentence shall be satisfied if the administrator makes
24 such information reasonably available through electronic
25 means or other new technology.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to reports for years beginning after
3 December 31, 2000.

4 **SEC. 623. TECHNICAL CORRECTIONS TO SAVER ACT.**

5 Section 517 of the Employee Retirement Income Se-
6 curity Act of 1974 (29 U.S.C. 1147) is amended—

7 (1) in subsection (a), by striking “2001 and
8 2005 on or after September 1 of each year involved”
9 and inserting “2001, 2005, and 2009 in the month
10 of September of each year involved”;

11 (2) in subsection (b), by adding at the end the
12 following new sentence: “To effectuate the purposes
13 of this paragraph, the Secretary may enter into a co-
14 operative agreement, pursuant to the Federal Grant
15 and Cooperative Agreement Act of 1977 (31 U.S.C.
16 6301 et seq.), with the American Savings Education
17 Council.”;

18 (3) in subsection (e)(2)—

19 (A) by striking “Committee on Labor and
20 Human Resources” in subparagraph (D) and
21 inserting “Committee on Health, Education,
22 Labor, and Pensions”;

23 (B) by striking subparagraph (F) and in-
24 serting the following:

1 “(F) the Chairman and Ranking Member
2 of the Subcommittee on Labor, Health and
3 Human Services, and Education of the Com-
4 mittee on Appropriations of the House of Rep-
5 resentatives and the Chairman and Ranking
6 Member of the Subcommittee on Labor, Health
7 and Human Services, and Education of the
8 Committee on Appropriations of the Senate;”;

9 (C) by redesignating subparagraph (G) as
10 subparagraph (J); and

11 (D) by inserting after subparagraph (F)
12 the following new subparagraphs:

13 “(G) the Chairman and Ranking Member
14 of the Committee on Finance of the Senate;

15 “(H) the Chairman and Ranking Member
16 of the Committee on Ways and Means of the
17 House of Representatives;

18 “(I) the Chairman and Ranking Member
19 of the Subcommittee on Employer-Employee
20 Relations of the Committee on Education and
21 the Workforce of the House of Representatives;
22 and”;

23 (4) in subsection (e)(3)(A)—

24 (A) by striking “There shall be no more
25 than 200 additional participants.” and inserting

1 “The participants in the National Summit shall
2 also include additional participants appointed
3 under this subparagraph.”;

4 (B) by striking “one-half shall be ap-
5 pointed by the President,” in clause (i) and in-
6 serting “not more than 100 participants shall
7 be appointed under this clause by the Presi-
8 dent,”, and by striking “and” at the end of
9 clause (i);

10 (C) by striking “one-half shall be ap-
11 pointed by the elected leaders of Congress” in
12 clause (ii) and inserting “not more than 100
13 participants shall be appointed under this
14 clause by the elected leaders of Congress”, and
15 by striking the period at the end of clause (ii)
16 and inserting “; and”;

17 (D) by adding at the end the following new
18 clause:

19 “(iii) The President, in consultation
20 with the elected leaders of Congress re-
21 ferred to in subsection (a), may appoint
22 under this clause additional participants to
23 the National Summit. The number of such
24 additional participants appointed under
25 this clause may not exceed the lesser of 3

1 percent of the total number of all addi-
2 tional participants appointed under this
3 paragraph, or 10. Such additional partici-
4 pants shall be appointed from persons
5 nominated by the organization referred to
6 in subsection (b)(2) which is made up of
7 private sector businesses and associations
8 partnered with Government entities to pro-
9 mote long term financial security in retire-
10 ment through savings and with which the
11 Secretary is required thereunder to consult
12 and cooperate and shall not be Federal,
13 State, or local government employees.”;

14 (5) in subsection (e)(3)(B), by striking “Janu-
15 ary 31, 1998” in subparagraph (B) and inserting
16 “May 1, 2001, May 1, 2005, and May 1, 2009, for
17 each of the subsequent summits, respectively”;

18 (6) in subsection (f)(1)(C), by inserting “, no
19 later than 90 days prior to the date of the com-
20 mencement of the National Summit,” after “com-
21 ment” in paragraph (1)(C);

22 (7) in subsection (g), by inserting “, in con-
23 sultation with the congressional leaders specified in
24 subsection (e)(2),” after “report”;

25 (8) in subsection (i)—

1 (A) by striking “beginning on or after Oc-
 2 tober 1, 1997” in paragraph (1) and inserting
 3 “2001, 2005, and 2009”; and

4 (B) by adding at the end the following new
 5 paragraph:

6 “(3) RECEPTION AND REPRESENTATION AU-
 7 THORITY.—The Secretary is hereby granted recep-
 8 tion and representation authority limited specifically
 9 to the events at the National Summit. The Secretary
 10 shall use any private contributions accepted in con-
 11 nection with the National Summit prior to using
 12 funds appropriated for purposes of the National
 13 Summit pursuant to this paragraph.”; and

14 (9) in subsection (k)—

15 (A) by striking “shall enter into a contract
 16 on a sole-source basis” and inserting “may
 17 enter into a contract on a sole-source basis”;
 18 and

19 (B) by striking “fiscal year 1998” and in-
 20 serting “fiscal years 2001, 2005, and 2009”.

21 **TITLE VII—OTHER ERISA** 22 **PROVISIONS**

23 **SEC. 701. MISSING PARTICIPANTS.**

24 (a) IN GENERAL.—Section 4050 of the Employee Re-
 25 tirement Income Security Act of 1974 (29 U.S.C. 1350)

1 is amended by redesignating subsection (c) as subsection
2 (e) and by inserting after subsection (b) the following new
3 subsections:

4 “(c) **MULTIEMPLOYER PLANS.**—The corporation
5 shall prescribe rules similar to the rules in subsection (a)
6 for multiemployer plans covered by this title that termi-
7 nate under section 4041A.

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

9 “(1) **TRANSFER TO CORPORATION.**—The plan
10 administrator of a plan described in paragraph (4)
11 may elect to transfer a missing participant’s benefits
12 to the corporation upon termination of the plan.

13 “(2) **INFORMATION TO THE CORPORATION.**—To
14 the extent provided in regulations, the plan adminis-
15 trator of a plan described in paragraph (4) shall,
16 upon termination of the plan, provide the corpora-
17 tion information with respect to benefits of a miss-
18 ing participant if the plan transfers such benefits—

19 “(A) to the corporation, or

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

22 “(3) **PAYMENT BY THE CORPORATION.**—If ben-
23 efits of a missing participant were transferred to the
24 corporation under paragraph (1), the corporation
25 shall, upon location of the participant or beneficiary,

1 pay to the participant or beneficiary the amount
2 transferred (or the appropriate survivor benefit)
3 either—

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

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

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

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

11 “(i) to which the provisions of this
12 section do not apply (without regard to
13 this subsection), and

14 “(ii) which is not a plan described in
15 paragraphs (2) through (11) of section
16 4021(b), and

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

19 “(i) has missing participants, and

20 “(ii) has not provided for the transfer
21 of assets to pay the benefits of all missing
22 participants to another pension plan (with-
23 in the meaning of section 3(2)).

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

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

10 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
11 **SMALL EMPLOYERS.**

12 (a) IN GENERAL.—Subparagraph (A) of section
13 4006(a)(3) of the Employee Retirement Income Security
14 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

15 (1) in clause (i), by inserting “other than a new
16 single-employer plan (as defined in subparagraph
17 (F)) maintained by a small employer (as so de-
18 fined),” after “single-employer plan,”,

19 (2) in clause (iii), by striking the period at the
20 end and inserting “, and”, and

21 (3) by adding at the end the following new
22 clause:

23 “(iv) in the case of a new single-employer plan
24 (as defined in subparagraph (F)) maintained by a
25 small employer (as so defined) for the plan year, \$5

1 for each individual who is a participant in such plan
2 during the plan year.”.

3 (b) DEFINITION OF NEW SINGLE-EMPLOYER
4 PLAN.—Section 4006(a)(3) of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
6 amended by adding at the end the following new subpara-
7 graph:

8 “(F)(i) For purposes of this paragraph, a single-em-
9 ployer plan maintained by a contributing sponsor shall be
10 treated as a new single-employer plan for each of its first
11 5 plan years if, during the 36-month period ending on the
12 date of the adoption of such plan, the sponsor or any
13 member of such sponsor’s controlled group (or any prede-
14 cessor of either) did not establish or maintain a plan to
15 which this title applies with respect to which benefits were
16 accrued for substantially the same employees as are in the
17 new single-employer plan.

18 “(ii)(I) For purposes of this paragraph, the term
19 ‘small employer’ means an employer which on the first day
20 of any plan year has, in aggregation with all members of
21 the controlled group of such employer, 100 or fewer em-
22 ployees.

23 “(II) In the case of a plan maintained by two or more
24 contributing sponsors that are not part of the same con-
25 trolled group, the employees of all contributing sponsors

1 and controlled groups of such sponsors shall be aggregated
2 for purposes of determining whether any contributing
3 sponsor is a small employer.”.

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

7 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
8 **NEW AND SMALL PLANS.**

9 (a) NEW PLANS.—Subparagraph (E) of section
10 4006(a)(3) of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
12 adding at the end the following new clause:

13 “(v) In the case of a new defined benefit plan, the
14 amount determined under clause (ii) for any plan year
15 shall be an amount equal to the product of the amount
16 determined under clause (ii) and the applicable percent-
17 age. For purposes of this clause, the term ‘applicable per-
18 centage’ means—

19 “(I) 0 percent, for the first plan year.

20 “(II) 20 percent, for the second plan year.

21 “(III) 40 percent, for the third plan year.

22 “(IV) 60 percent, for the fourth plan year.

23 “(V) 80 percent, for the fifth plan year.

24 For purposes of this clause, a defined benefit plan (as de-
25 fined in section 3(35)) maintained by a contributing spon-

1 sor shall be treated as a new defined benefit plan for each
2 of its first 5 plan years if, during the 36-month period
3 ending on the date of the adoption of the plan, the sponsor
4 and each member of any controlled group including the
5 sponsor (or any predecessor of either) did not establish
6 or maintain a plan to which this title applies with respect
7 to which benefits were accrued for substantially the same
8 employees as are in the new plan.”.

9 (b) SMALL PLANS.—Paragraph (3) of section
10 4006(a) of the Employee Retirement Income Security Act
11 of 1974 (29 U.S.C. 1306(a)), as amended by section
12 702(b), is amended—

13 (1) by striking “The” in subparagraph (E)(i)
14 and inserting “Except as provided in subparagraph
15 (G), the”, and

16 (2) by inserting after subparagraph (F) the fol-
17 lowing new subparagraph:

18 “(G)(i) In the case of an employer who has 25 or
19 fewer employees on the first day of the plan year, the addi-
20 tional premium determined under subparagraph (E) for
21 each participant shall not exceed \$5 multiplied by the
22 number of participants in the plan as of the close of the
23 preceding plan year.

24 “(ii) For purposes of clause (i), whether an employer
25 has 25 or fewer employees on the first day of the plan

1 year is determined taking into consideration all of the em-
2 ployees of all members of the contributing sponsor's con-
3 trolled group. In the case of a plan maintained by two
4 or more contributing sponsors, the employees of all con-
5 tributing sponsors and their controlled groups shall be ag-
6 gregated for purposes of determining whether the 25-or-
7 fewer-employees limitation has been satisfied.”.

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendments made
10 by subsection (a) shall apply to plans established
11 after December 31, 2001.

12 (2) SUBSECTION (b).—The amendments made
13 by subsection (b) shall apply to plan years beginning
14 after December 31, 2001.

15 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
16 **PREMIUM OVERPAYMENT REFUNDS.**

17 (a) IN GENERAL.—Section 4007(b) of the Employ-
18 ment Retirement Income Security Act of 1974 (29 U.S.C.
19 1307(b)) is amended—

20 (1) by striking “(b)” and inserting “(b)(1)”,
21 and

22 (2) by inserting at the end the following new
23 paragraph:

24 “(2) The corporation is authorized to pay, subject to
25 regulations prescribed by the corporation, interest on the

1 amount of any overpayment of premium refunded to a des-
2 ignated payor. Interest under this paragraph shall be cal-
3 culated at the same rate and in the same manner as inter-
4 est is calculated for underpayments under paragraph
5 (1).”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to interest accruing for periods
8 beginning not earlier than the date of the enactment of
9 this Act.

10 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
11 **PLANS.**

12 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—
13 Section 4022(b)(5) of the Employee Retirement Income
14 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended
15 to read as follows:

16 “(5)(A) For purposes of this paragraph, the term
17 ‘majority owner’ means an individual who, at any time
18 during the 60-month period ending on the date the deter-
19 mination is being made—

20 “(i) owns the entire interest in an unincor-
21 porated trade or business,

22 “(ii) in the case of a partnership, is a partner
23 who owns, directly or indirectly, 50 percent or more
24 of either the capital interest or the profits interest
25 in such partnership, or

1 “(iii) in the case of a corporation, owns, directly
2 or indirectly, 50 percent or more in value of either
3 the voting stock of that corporation or all the stock
4 of that corporation.

5 For purposes of clause (iii), the constructive ownership
6 rules of section 1563(e) of the Internal Revenue Code of
7 1986 shall apply (determined without regard to section
8 1563(e)(3)(C)).

9 “(B) In the case of a participant who is a majority
10 owner, the amount of benefits guaranteed under this sec-
11 tion shall equal the product of—

12 “(i) a fraction (not to exceed 1) the numerator
13 of which is the number of years from the later of the
14 effective date or the adoption date of the plan to the
15 termination date, and the denominator of which is
16 10, and

17 “(ii) the amount of benefits that would be guar-
18 anteed under this section if the participant were not
19 a majority owner.”.

20 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

21 (1) Section 4044(a)(4)(B) of the Employee Re-
22 tirement Income Security Act of 1974 (29 U.S.C.
23 1344(a)(4)(B)) is amended by striking “section
24 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

1 (2) Section 4044(b) of such Act (29 U.S.C.
2 1344(b)) is amended—

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

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

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

23 (c) CONFORMING AMENDMENTS.—

1 (1) Section 4021 of the Employee Retirement
2 Income Security Act of 1974 (29 U.S.C. 1321) is
3 amended—

4 (A) in subsection (b)(9), by striking “as
5 defined in section 4022(b)(6)”, and

6 (B) by adding at the end the following new
7 subsection:

8 “(d) For purposes of subsection (b)(9), the term ‘sub-
9 stantial owner’ means an individual who, at any time dur-
10 ing the 60-month period ending on the date the determina-
11 tion is being made—

12 “(1) owns the entire interest in an unincor-
13 porated trade or business,

14 “(2) in the case of a partnership, is a partner
15 who owns, directly or indirectly, more than 10 per-
16 cent of either the capital interest or the profits inter-
17 est in such partnership, or

18 “(3) in the case of a corporation, owns, directly
19 or indirectly, more than 10 percent in value of either
20 the voting stock of that corporation or all the stock
21 of that corporation.

22 For purposes of paragraph (3), the constructive ownership
23 rules of section 1563(e) of the Internal Revenue Code of
24 1986 shall apply (determined without regard to section
25 1563(e)(3)(C)).”.

1 (2) Section 4043(c)(7) of such Act (29 U.S.C.
2 1343(c)(7)) is amended by striking “section 4022(b)(6)”
3 and inserting “section 4021(d)”.

4 (d) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to plan terminations—

8 (A) under section 4041(c) of the Employee
9 Retirement Income Security Act of 1974 (29
10 U.S.C. 1341(c)) with respect to which notices
11 of intent to terminate are provided under sec-
12 tion 4041(a)(2) of such Act (29 U.S.C.
13 1341(a)(2)) after December 31, 2001, and

14 (B) under section 4042 of such Act (29
15 U.S.C. 1342) with respect to which proceedings
16 are instituted by the corporation after such
17 date.

18 (2) CONFORMING AMENDMENTS.—The amend-
19 ments made by subsection (c) shall take effect on
20 January 1, 2002.

21 **SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
22 **RESPONSIBILITY.**

23 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
24 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-

1 Retirement Income Security Act of 1974 (29 U.S.C.
2 1132(l)(1)) is amended—

3 (1) by striking “shall” and inserting “may”,
4 and

5 (2) by striking “equal to” and inserting “not
6 greater than”.

7 (b) APPLICABLE RECOVERY AMOUNT.—Section
8 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended
9 to read as follows:

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

22 (c) OTHER RULES.—Section 502(l) of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C.
24 1132(l)) is amended by adding at the end the following
25 new paragraph:

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

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

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to any breach of fiduciary re-
12 sponsibility or other violation of part 4 of subtitle B
13 of title I of the Employee Retirement Income Secu-
14 rity Act of 1974 occurring on or after the date of
15 enactment of this Act.

16 (2) TRANSITION RULE.—In applying the
17 amendment made by subsection (b) (relating to ap-
18 plicable recovery amount), a breach or other viola-
19 tion occurring before the date of enactment of this
20 Act which continues after the 180th day after such
21 date (and which may have been discontinued at any
22 time during its existence) shall be treated as having
23 occurred after such date of enactment.

1 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

2 (a) MODIFICATION OF REGULATION.—The Secretary
3 of Labor shall modify the regulation under section
4 203(a)(3)(B) of the Employee Retirement Income Secu-
5 rity Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide
6 that the notification required by such regulation—

7 (1) in the case of an employee who returns to
8 work for a former employer after commencement of
9 payment of benefits under the plan shall—

10 (A) be made during the first calendar
11 month or payroll period in which the plan with-
12 holds payments, and

13 (B) if a reduced rate of future benefit ac-
14 cruals will apply to the returning employee (as
15 of the first date of participation in the plan by
16 the employee after returning to work), include
17 a statement that the rate of future benefit ac-
18 cruals will be reduced, and

19 (2) in the case of any employee who is not de-
20 scribed in paragraph (1)—

21 (A) may be included in the summary plan
22 description for the plan furnished in accordance
23 with section 104(b) of such Act (29 U.S.C.
24 1024(b)), rather than in a separate notice, and

25 (B) need not include a copy of the relevant
26 plan provisions.

1 (b) EFFECTIVE DATE.—The modification made
2 under this section shall apply to plan years beginning after
3 December 31, 2001.

4 **TITLE VIII—PLAN AMENDMENTS**

5 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

8 (1) such plan or contract shall be treated as
9 being operated in accordance with the terms of the
10 plan during the period described in subsection
11 (b)(2)(A); and

12 (2) except as provided by the Secretary of the
13 Treasury, such plan shall not fail to meet the re-
14 quirements of section 411(d)(6) of the Internal Rev-
15 enue Code of 1986 or section 204(g) of the Em-
16 ployee Retirement Income Security Act of 1974 by
17 reason of such amendment.

18 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

19 (1) IN GENERAL.—This section shall apply to
20 any amendment to any plan or annuity contract
21 which is made—

22 (A) pursuant to any amendment made by
23 this Act, or pursuant to any regulation issued
24 under this Act; and

1 (B) on or before the last day of the first
2 plan year beginning on or after January 1,
3 2004.

4 In the case of a governmental plan (as defined in
5 section 414(d) of the Internal Revenue Code of
6 1986), this paragraph shall be applied by sub-
7 stituting “2006” for “2004”.

8 (2) CONDITIONS.—This section shall not apply
9 to any amendment unless—

10 (A) during the period—

11 (i) beginning on the date the legisla-
12 tive or regulatory amendment described in
13 paragraph (1)(A) takes effect (or in the
14 case of a plan or contract amendment not
15 required by such legislative or regulatory
16 amendment, the effective date specified by
17 the plan); and

18 (ii) ending on the date described in
19 paragraph (1)(B) (or, if earlier, the date
20 the plan or contract amendment is adopt-
21 ed),

22 the plan or contract is operated as if such plan
23 or contract amendment were in effect; and

1 (B) such plan or contract amendment ap-
2 plies retroactively for such period.

○