

[COMMITTEE PRINT]

APRIL 25, 2001

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 10
OFFERED BY MR. BOEHNER**

Strike all after the enacting clause and insert the following:

**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 contribution 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.
- Sec. 708. Model small employer group plans.

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:

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

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

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

6 “(B) CATCH-UP CONTRIBUTIONS FOR INDI-
7 VIDUALS 50 OR OLDER.—In the case of an indi-
8 vidual who has attained the age of 50 before
9 the close of the taxable year, the deductible
10 amount for taxable years beginning in 2001 or
11 2002 shall be \$5,000.

12 “(C) COST-OF-LIVING ADJUSTMENT.—

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

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section
22 1(f)(3) for the calendar year in which
23 the taxable year begins, determined by

1 substituting ‘calendar year 2002’ for
2 ‘calendar year 1992’ in subparagraph
3 (B) thereof.

4 “(ii) ROUNDING RULES.—If any
5 amount after adjustment under clause (i)
6 is not a multiple of \$500, such amount
7 shall be rounded to the next lower multiple
8 of \$500.”.

9 (b) CONFORMING AMENDMENTS.—

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

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

18 (3) Section 408(b) is amended by striking
19 “\$2,000” in the matter following paragraph (4) and
20 inserting “the dollar amount in effect under section
21 219(b)(1)(A)”.

22 (4) Section 408(j) is amended by striking
23 “\$2,000”.

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

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

7 **TITLE II—EXPANDING** 8 **COVERAGE**

9 **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LIM-** 10 **ITS.**

11 (a) DEFINED BENEFIT PLANS.—

12 (1) DOLLAR LIMIT.—

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

17 (B) Subparagraphs (C) and (D) of section
18 415(b)(2) are each amended by striking
19 “\$90,000” each place it appears in the head-
20 ings and the text and inserting “\$160,000”.

21 (C) Paragraph (7) of section 415(b) (relat-
22 ing to benefits under certain collectively bar-
23 gained plans) is amended by striking “the
24 greater of \$68,212 or one-half the amount oth-
25 erwise applicable for such year under paragraph

1 (1)(A) for “\$90,000” and inserting “one-half
2 the amount otherwise applicable for such year
3 under paragraph (1)(A) for “\$160,000”.

4 (2) LIMIT REDUCED WHEN BENEFIT BEGINS
5 BEFORE AGE 62.—Subparagraph (C) of section
6 415(b)(2) is amended by striking “the social security
7 retirement age” each place it appears in the heading
8 and text and inserting “age 62” and by striking the
9 second sentence.

10 (3) LIMIT INCREASED WHEN BENEFIT BEGINS
11 AFTER AGE 65.—Subparagraph (D) of section
12 415(b)(2) is amended by striking “the social security
13 retirement age” each place it appears in the heading
14 and text and inserting “age 65”.

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

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

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

20 (B) in paragraph (3)(A)—

21 (i) by striking “\$90,000” in the head-
22 ing and inserting “\$160,000”; and

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

25 (5) CONFORMING AMENDMENTS.—

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

3 (B) Section 415(b)(9) is amended to read
4 as follows:

5 “(9) SPECIAL RULE FOR COMMERCIAL AIR-
6 LINE PILOTS.—

7 “(A) IN GENERAL.—Except as pro-
8 vided in subparagraph (B), in the case of
9 any participant who is a commercial airline
10 pilot, if, as of the time of the participant’s
11 retirement, regulations prescribed by the
12 Federal Aviation Administration require an
13 individual to separate from service as a
14 commercial airline pilot after attaining any
15 age occurring on or after age 60 and be-
16 fore age 62, paragraph (2)(C) shall be ap-
17 plied by substituting such age for age 62.

18 “(B) INDIVIDUALS WHO SEPARATE
19 FROM SERVICE BEFORE AGE 60.—If a par-
20 ticipant described in subparagraph (A)
21 separates from service before age 60, the
22 rules of paragraph (2)(C) shall apply.”.

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

1 (b) DEFINED CONTRIBUTION PLANS.—

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

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

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

11 (B) in paragraph (3)(D)—

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

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

16 (c) QUALIFIED TRUSTS.—

17 (1) COMPENSATION LIMIT.—Sections
18 401(a)(17), 404(l), 408(k), and 505(b)(7) are each
19 amended by striking “\$150,000” each place it ap-
20 pears and inserting “\$200,000”.

21 (2) BASE PERIOD AND ROUNDING OF COST-OF-
22 LIVING ADJUSTMENT.—Subparagraph (B) of section
23 401(a)(17) is amended—

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

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

3 (d) ELECTIVE DEFERRALS.—

4 (1) IN GENERAL.—Paragraph (1) of section
5 402(g) (relating to limitation on exclusion for elec-
6 tive deferrals) is amended to read as follows:

7 “(1) IN GENERAL.—

8 “(A) LIMITATION.—Notwithstanding sub-
9 sections (e)(3) and (h)(1)(B), the elective defer-
10 rals of any individual for any taxable year shall
11 be included in such individual’s gross income to
12 the extent the amount of such deferrals for the
13 taxable year exceeds the applicable dollar
14 amount.

15 “(B) APPLICABLE DOLLAR AMOUNT.—For
16 purposes of subparagraph (A), the applicable
17 dollar amount shall be the amount determined
18 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.”.

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

1 “(5) COST-OF-LIVING ADJUSTMENT.—In the
2 case of taxable years beginning after December 31,
3 2005, the Secretary shall adjust the \$15,000
4 amount under paragraph (1)(B) at the same time
5 and in the same manner as under section 415(d),
6 except that the base period shall be the calendar
7 quarter beginning July 1, 2004, and any increase
8 under this paragraph which is not a multiple of
9 \$500 shall be rounded to the next lowest multiple of
10 \$500.”.

11 (3) CONFORMING AMENDMENTS.—

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

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

21 (C) Clause (iii) of section 501(c)(18)(D) is
22 amended by striking “(other than paragraph
23 (4) thereof)”.

1 (e) DEFERRED COMPENSATION PLANS OF STATE
 2 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
 3 ZATIONS.—

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

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

10 (B) in subsection (b)(3)(A) by striking
 11 “\$15,000” and inserting “twice the dollar
 12 amount in effect under subsection (b)(2)(A)”.

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

16 “(15) APPLICABLE DOLLAR AMOUNT.—

17 “(A) IN GENERAL.—The applicable dollar
 18 amount shall be the amount determined in ac-
 19 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.

20 “(B) COST-OF-LIVING ADJUSTMENTS.—In
 21 the case of taxable years beginning after De-

1 cember 31, 2005, the Secretary shall adjust the
 2 \$15,000 amount under subparagraph (A) at the
 3 same time and in the same manner as under
 4 section 415(d), except that the base period shall
 5 be the calendar quarter beginning July 1, 2004,
 6 and any increase under this paragraph which is
 7 not a multiple of \$500 shall be rounded to the
 8 next lowest multiple of \$500.”.

9 (f) SIMPLE RETIREMENT ACCOUNTS.—

10 (1) LIMITATION.—Clause (ii) of section
 11 408(p)(2)(A) (relating to general rule for qualified
 12 salary reduction arrangement) is amended by strik-
 13 ing “\$6,000” and inserting “the applicable dollar
 14 amount”.

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

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

20 “(i) IN GENERAL.—For purposes of
 21 subparagraph (A)(ii), the applicable dollar
 22 amount shall be the amount determined in
 23 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.

1 “(ii) COST-OF-LIVING ADJUSTMENT.—
2 In the case of a year beginning after De-
3 cember 31, 2004, the Secretary shall ad-
4 just the \$10,000 amount under clause (i)
5 at the same time and in the same manner
6 as under section 415(d), except that the
7 base period taken into account shall be the
8 calendar quarter beginning July 1, 2003,
9 and any increase under this subparagraph
10 which is not a multiple of \$500 shall be
11 rounded to the next lower multiple of
12 \$500.”.

13 (3) CONFORMING AMENDMENTS.—

14 (A) Subclause (I) of section
15 401(k)(11)(B)(i) is amended by striking
16 “\$6,000” and inserting “the amount in effect
17 under section 408(p)(2)(A)(ii)”.

18 (B) Section 401(k)(11) is amended by
19 striking subparagraph (E).

20 (g) ROUNDING RULE RELATING TO DEFINED BEN-
21 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—
22 Paragraph (4) of section 415(d) is amended to read as
23 follows:

24 “(4) ROUNDING.—

1 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
2 the following new subparagraph:

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

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

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

10 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
11 PLOYEE.—

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

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

16 (B) by striking clause (i) and inserting the
17 following:

18 “(i) an officer of the employer having
19 an annual compensation greater than
20 \$150,000,”;

21 (C) by striking clause (ii) and redesign-
22 ating clauses (iii) and (iv) as clauses (ii) and
23 (iii), respectively; and

1 (D) by striking the second sentence in the
2 matter following clause (iii), as redesignated by
3 subparagraph (C).

4 (2) CONFORMING AMENDMENT.—Section
5 416(i)(1)(B)(iii) is amended by striking “and sub-
6 paragraph (A)(ii)”.

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

14 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE
15 DETERMINATION DATE TAKEN INTO ACCOUNT.—

16 (1) IN GENERAL.—Paragraph (3) of section
17 416(g) is amended to read as follows:

18 “(3) DISTRIBUTIONS DURING LAST YEAR BE-
19 FORE DETERMINATION DATE TAKEN INTO AC-
20 COUNT.—

21 “(A) IN GENERAL.—For purposes of
22 determining—

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

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

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

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

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

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

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

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

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

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

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

23 (e) FROZEN PLAN EXEMPT FROM MINIMUM BEN-
24 EFIT REQUIREMENT.—Subparagraph (C) of section
25 416(c)(1) (relating to defined benefit plans) is amended—

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

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

4 “(iii) EXCEPTION FOR FROZEN
5 PLAN.—For purposes of determining an
6 employee’s years of service with the em-
7 ployer, any service with the employer shall
8 be disregarded to the extent that such
9 service occurs during a plan year when the
10 plan benefits (within the meaning of sec-
11 tion 410(b)) no key employee or former
12 key employee.”.

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

16 “(iv) FAMILY ATTRIBUTION DIS-
17 REGARDED.—Solely for purposes of apply-
18 ing this paragraph (and not for purposes
19 of any provision of this title which incor-
20 porates by reference the definition of a key
21 employee or 5-percent owner under this
22 paragraph), section 318 shall be applied
23 without regard to subsection (a)(1) thereof
24 in determining whether any person is a 5-
25 percent owner.”.

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

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

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

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

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

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

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

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

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

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

20 (a) ELIMINATION OF CERTAIN USER FEES.—The
21 Secretary of the Treasury or the Secretary’s delegate shall
22 not require payment of user fees under the program estab-
23 lished under section 10511 of the Revenue Act of 1987
24 for requests to the Internal Revenue Service for deter-
25 mination letters with respect to the qualified status of a
26 pension benefit plan maintained solely by one or more eli-

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

2 The preceding sentence shall not apply to any request—

3 (1) made after the later of—

4 (A) the fifth plan year the pension benefit
5 plan is in existence; or

6 (B) the end of any remedial amendment
7 period with respect to the plan beginning within
8 the first 5 plan years; or

9 (2) made by the sponsor of any prototype or
10 similar plan which the sponsor intends to market to
11 participating employers.

12 (b) PENSION BENEFIT PLAN.—For purposes of this
13 section, the term “pension benefit plan” means a pension,
14 profit-sharing, stock bonus, annuity, or employee stock
15 ownership plan.

16 (c) ELIGIBLE EMPLOYER.—For purposes of this sec-
17 tion, the term “eligible employer” has the same meaning
18 given such term in section 408(p)(2)(C)(i)(I) of the Inter-
19 nal Revenue Code of 1986. The determination of whether
20 an employer is an eligible employer under this section shall
21 be made as of the date of the request described in sub-
22 section (a).

23 (d) DETERMINATION OF AVERAGE FEES
24 CHARGED.—For purposes of any determination of average

1 fees charged, any request to which subsection (a) applies
2 shall not be taken into account.

3 (e) EFFECTIVE DATE.—The provisions of this section
4 shall apply with respect to requests made after December
5 31, 2001.

6 **SEC. 207. DEDUCTION LIMITS.**

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

8 (1) IN GENERAL.—Subclause (I) of section
9 404(a)(3)(A)(i) (relating to stock bonus and profit
10 sharing trusts) is amended by striking “15 percent”
11 and inserting “20 percent”.

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

16 (b) COMPENSATION.—

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

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

1 (2) CONFORMING AMENDMENTS.—

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

5 (B) Clause (i) of section 4972(e)(6)(B) is
6 amended by striking “(within the meaning of
7 section 404(a))” and inserting “(within the
8 meaning of section 404(a) and as adjusted
9 under section 404(a)(12))”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(3) ROLLOVER CONTRIBUTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (d) REPORTING REQUIREMENTS.—

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

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

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

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

4 (e) CONFORMING AMENDMENTS.—

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

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

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

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

16 **TITLE III—ENHANCING**
17 **FAIRNESS FOR WOMEN**

18 **SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS**
19 **AGE 50 OR OVER.**

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

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

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

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

10 “(A) \$5,000, or

11 “(B) the excess (if any) of—

12 “(i) the participant’s compensation for
13 the year, over

14 “(ii) any other elective deferrals of the
15 participant for such year which are made
16 without regard to this subsection.

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

21 “(A) be subject to any otherwise applicable
22 limitation contained in section 402(g),
23 402(h)(2), 404(a), 404(h), 408(p)(2)(A)(ii),
24 415, or 457, or

1 “(B) be taken into account in applying
2 such limitations to other contributions or bene-
3 fits under such plan or any other such plan.

4 “(4) APPLICATION OF NONDISCRIMINATION
5 RULES.—

6 “(A) IN GENERAL.—An applicable em-
7 ployer plan shall not be treated as failing to
8 meet the nondiscrimination requirements under
9 section 401(a)(4) with respect to benefits,
10 rights, and features if the plan allows all eligi-
11 ble participants to make the same election with
12 respect to the additional elective deferrals under
13 this subsection.

14 “(B) AGGREGATION.—For purposes of
15 subparagraph (A), all plans maintained by em-
16 ployers who are treated as a single employer
17 under subsection (b), (c), (m), or (o) of section
18 414 shall be treated as 1 plan.

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

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

1 “(B) with respect to whom no other elec-
2 tive deferrals may (without regard to this sub-
3 section) be made to the plan for the plan year
4 by reason of the application of any limitation or
5 other restriction described in paragraph (3) or
6 comparable limitation contained in the terms of
7 the plan.

8 “(6) OTHER DEFINITIONS AND RULES.—For
9 purposes of this subsection—

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

12 “(i) an employees’ trust described in
13 section 401(a) which is exempt from tax
14 under section 501(a),

15 “(ii) a plan under which amounts are
16 contributed by an individual’s employer for
17 an annuity contract described in section
18 403(b),

19 “(iii) an eligible deferred compensa-
20 tion plan under section 457 of an eligible
21 employer as defined in section
22 457(e)(1)(A), and

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

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

4 “(C) EXCEPTION FOR SECTION 457
5 PLANS.—This subsection shall not apply to an
6 applicable employer plan described in subpara-
7 graph (A)(iii) for any year to which section
8 457(b)(3) applies.

9 “(D) COST-OF-LIVING ADJUSTMENT.—In
10 the case of a year beginning after December 31,
11 2005, the Secretary shall adjust annually the
12 \$5,000 amount in paragraph (2)(A) for in-
13 creases in the cost-of-living at the same time
14 and in the same manner as adjustments under
15 section 415(d); except that the base period
16 taken into account shall be the calendar quarter
17 beginning July 1, 2004, and any increase under
18 this subparagraph which is not a multiple of
19 \$500 shall be rounded to the next lower mul-
20 tiple of \$500.”.

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

1 **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
2 **EMPLOYEES TO DEFINED CONTRIBUTION**
3 **PLANS.**

4 (a) EQUITABLE TREATMENT.—

5 (1) IN GENERAL.—Subparagraph (B) of section
6 415(c)(1) (relating to limitation for defined con-
7 tribution plans) is amended by striking “25 percent”
8 and inserting “100 percent”.

9 (2) APPLICATION TO SECTION 403(b).—Section
10 403(b) is amended—

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

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

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

22 (3) CONFORMING AMENDMENTS.—

23 (A) Subsection (f) of section 72 is amend-
24 ed by striking “section 403(b)(2)(D)(iii)” and
25 inserting “section 403(b)(2)(D)(iii), as in effect
26 before the enactment of the Comprehensive Re-

1 tirement Security and Pension Reform Act of
2 2001)”.
3

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

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

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

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

18 (E) Section 415(c) is amended by striking
19 paragraph (4).

20 (F) Section 415(c)(7) is amended to read
21 as follows:

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

24 “(A) IN GENERAL.—Notwithstanding any
25 other provision of this subsection, at the elec-
26 tion of a participant who is an employee of a

1 church or a convention or association of church-
2 es, including an organization described in sec-
3 tion 414(e)(3)(B)(ii), contributions and other
4 additions for an annuity contract or retirement
5 income account described in section 403(b) with
6 respect to such participant, when expressed as
7 an annual addition to such participant's ac-
8 count, shall be treated as not exceeding the lim-
9 itation of paragraph (1) if such annual addition
10 is not in excess of \$10,000.

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

16 “(C) ANNUAL ADDITION.—For purposes of
17 this paragraph, the term ‘annual addition’ has
18 the meaning given such term by paragraph
19 (2).”.

20 (G) Subparagraph (B) of section 402(g)(7)
21 (as redesignated by section 201) is amended by
22 inserting before the period at the end the fol-
23 lowing: “(as in effect before the enactment of
24 the Comprehensive Retirement Security and
25 Pension Reform Act of 2001)”.

1 (H) Section 664(g) is amended—

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

6 (ii) by adding at the end the following
7 new paragraph:

8 “(7) APPLICABLE LIMITATION.—

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

13 “(i) \$30,000, or

14 “(ii) 25 percent of the participant’s
15 compensation (as defined in section
16 415(c)(3)).

17 “(B) COST-OF-LIVING ADJUSTMENT.—The
18 Secretary shall adjust annually the \$30,000
19 amount under subparagraph (A)(i) at the same
20 time and in the same manner as under section
21 415(d), except that the base period shall be the
22 calendar quarter beginning October 1, 1993,
23 and any increase under this subparagraph
24 which is not a multiple of \$5,000 shall be
25 rounded to the next lowest multiple of \$5,000.”.

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

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

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

9 “(4) SPECIAL RULES FOR SECTIONS 403(b)
10 AND 408.—For purposes of this section, any annuity
11 contract described in section 403(b) for the benefit
12 of a participant shall be treated as a defined con-
13 tribution plan maintained by each employer with re-
14 spect to which the participant has the control re-
15 quired under subsection (b) or (c) of section 414 (as
16 modified by subsection (h)). For purposes of this
17 section, any contribution by an employer to a sim-
18 plified employee pension plan for an individual for a
19 taxable year shall be treated as an employer con-
20 tribution to a defined contribution plan for such in-
21 dividual for such year.”.

22 (2) EFFECTIVE DATE.—

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

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

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

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

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

1 deferred compensation plans) is amended by striking
2 “33¹/₃ percent” and inserting “100 percent”.

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

6 **SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER**
7 **MATCHING CONTRIBUTIONS.**

8 (a) AMENDMENT OF INTERNAL REVENUE CODE.—
9 Section 411(a) (relating to minimum vesting standards)
10 is amended—

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

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

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

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

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

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

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

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

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

8 “(4) In the case of matching contributions (as
9 defined in section 401(m)(4)(A) of the Internal Rev-
10 enue Code of 1986), paragraph (2) shall be
11 applied—

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

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

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

16 (c) EFFECTIVE DATES.—

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

21 (2) COLLECTIVE BARGAINING AGREEMENTS.—

22 In the case of a plan maintained pursuant to one or

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

8 (A) the later of—

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

14 (ii) January 1, 2002; or

15 (B) January 1, 2006.

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

22 **SEC. 304. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBU-**
23 **TION RULES.**

24 (a) SIMPLIFICATION AND FINALIZATION OF MIN-
25 IMUM DISTRIBUTION REQUIREMENTS.—

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

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

8 (B) modify such regulations to—

9 (i) reflect current life expectancy; and

10 (ii) revise the required distribution
11 methods so that, under reasonable assump-
12 tions, the amount of the required minimum
13 distribution does not decrease over a par-
14 ticipant's life expectancy.

15 (2) FRESH START.—Notwithstanding subpara-
16 graph (D) of section 401(a)(9) of such Code, during
17 the first year that regulations are in effect under
18 this subsection, required distributions for future
19 years may be redetermined to reflect changes under
20 such regulations. Such redetermination shall include
21 the opportunity to choose a new designated bene-
22 ficiary and to elect a new method of calculating life
23 expectancy.

24 (3) DATE FOR REGULATIONS.—Not later than
25 December 31, 2002, the Secretary shall issue final

1 regulations described in paragraph (1) and such reg-
2 ulations shall apply without regard to whether an in-
3 dividual had previously begun receiving minimum
4 distributions.

5 (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
6 BEGUN BEFORE DEATH OCCURS.—

7 (1) IN GENERAL.—Subparagraph (B) of section
8 401(a)(9) is amended by striking clause (i) and re-
9 designating clauses (ii), (iii), and (iv) as clauses (i),
10 (ii), and (iii), respectively.

11 (2) CONFORMING CHANGES.—

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

14 (i) by striking “FOR OTHER CASES” in
15 the heading; and

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

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

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

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

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

6 (iii) by striking “the date on which
7 the employee would have attained age
8 70½,” in subclause (I) and inserting
9 “April 1 of the calendar year following the
10 calendar year in which the spouse attains
11 70½,”; and

12 (iv) by striking “the distributions to
13 such spouse begin,” in subclause (II) and
14 inserting “his entire interest has been dis-
15 tributed to him,”.

16 (3) EFFECTIVE DATE.—

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

21 (B) DISTRIBUTIONS TO SURVIVING
22 SPOUSE.—

23 (i) IN GENERAL.—In the case of an
24 employee described in clause (ii), distribu-
25 tions to the surviving spouse of the em-

1 ployee shall not be required to commence
2 prior to the date on which such distribu-
3 tions would have been required to begin
4 under section 401(a)(9)(B) of the Internal
5 Revenue Code of 1986 (as in effect on the
6 day before the date of the enactment of
7 this Act).

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

11 (I) the date of the enactment of
12 this Act, and

13 (II) the required beginning date
14 (within the meaning of section
15 401(a)(9)(C) of the Internal Revenue
16 Code of 1986) of the employee.

17 (c) REDUCTION IN EXCISE TAX.—

18 (1) IN GENERAL.—Subsection (a) of section
19 4974 is amended by striking “50 percent” and in-
20 serting “10 percent”.

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

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

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

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

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

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

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

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

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

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

6 **SEC. 306. MODIFICATION OF SAFE HARBOR RELIEF FOR**
7 **HARDSHIP WITHDRAWALS FROM CASH OR**
8 **DEFERRED ARRANGEMENTS.**

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

16 (b) EFFECTIVE DATE.—The revised regulations
17 under subsection (a) shall apply to years beginning after
18 December 31, 2001.

19 **TITLE IV—INCREASING PORT-**
20 **ABILITY FOR PARTICIPANTS**

21 **SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
22 **OF PLANS.**

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

25 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

4 “(16) ROLLOVER AMOUNTS.—

5 “(A) GENERAL RULE.—In the case of an
6 eligible deferred compensation plan established
7 and maintained by an employer described in
8 subsection (e)(1)(A), if—

9 “(i) any portion of the balance to the
10 credit of an employee in such plan is paid
11 to such employee in an eligible rollover dis-
12 tribution (within the meaning of section
13 402(c)(4) without regard to subparagraph
14 (C) thereof),

15 “(ii) the employee transfers any por-
16 tion of the property such employee receives
17 in such distribution to an eligible retire-
18 ment plan described in section
19 402(c)(8)(B), and

20 “(iii) in the case of a distribution of
21 property other than money, the amount so
22 transferred consists of the property distrib-
23 uted,

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

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

9 “(C) REPORTING.—Rollovers under this
10 paragraph shall be reported to the Secretary in
11 the same manner as rollovers from qualified re-
12 tirement plans (as defined in section
13 4974(c)).”.

14 (B) DEFERRAL LIMIT DETERMINED WITH-
15 OUT REGARD TO ROLLOVER AMOUNTS.—Section
16 457(b)(2) (defining eligible deferred compensa-
17 tion plan) is amended by inserting “(other than
18 rollover amounts)” after “taxable year”.

19 (C) DIRECT ROLLOVER.—Paragraph (1) of
20 section 457(d) is amended by striking “and” at
21 the end of subparagraph (A), by striking the
22 period at the end of subparagraph (B) and in-
23 serting “, and”, and by inserting after subpara-
24 graph (B) the following:

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

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

9 (D) WITHHOLDING.—

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

13 “(E) under or to an eligible deferred com-
14 pensation plan which, at the time of such pay-
15 ment, is a plan described in section 457(b)
16 maintained by an employer described in section
17 457(e)(1)(A); or”.

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

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

24 (iii) LIABILITY FOR WITHHOLDING.—

25 Subparagraph (B) of section 3405(d)(2) is

1 amended by striking “or” at the end of
2 clause (ii), by striking the period at the
3 end of clause (iii) and inserting “, or”, and
4 by adding at the end the following:

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

8 (2) ROLLOVERS TO SECTION 457 PLANS.—

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

15 “(v) an eligible deferred compensation
16 plan described in section 457(b) which is
17 maintained by an eligible employer de-
18 scribed in section 457(e)(1)(A).”.

19 (B) SEPARATE ACCOUNTING.—Section
20 402(c) is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(11) SEPARATE ACCOUNTING.—Unless a plan
23 described in clause (v) of paragraph (8)(B) agrees to
24 separately account for amounts rolled into such plan
25 from eligible retirement plans not described in such

1 clause, the plan described in such clause may not ac-
2 cept transfers or rollovers from such retirement
3 plans.”.

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

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

20 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
21 403(b) PLANS.—

22 (1) ROLLOVERS FROM SECTION 403(b) PLANS.—
23 Section 403(b)(8)(A)(ii) (relating to rollover
24 amounts) is amended by striking “such distribution”
25 and all that follows and inserting “such distribution

1 to an eligible retirement plan described in section
2 402(c)(8)(B), and”.

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

4 Section 402(c)(8)(B) (defining eligible retirement
5 plan), as amended by subsection (a), is amended by
6 striking “and” at the end of clause (iv), by striking
7 the period at the end of clause (v) and inserting “,
8 and”, and by inserting after clause (v) the following
9 new clause:

10 “(vi) an annuity contract described in
11 section 403(b).”.

12 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
13 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section
14 402(f) (relating to written explanation to recipients of dis-
15 tributions eligible for rollover treatment) is amended by
16 striking “and” at the end of subparagraph (C), by striking
17 the period at the end of subparagraph (D) and inserting
18 “, and”, and by adding at the end the following new sub-
19 paragraph:

20 “(E) of the provisions under which dis-
21 tributions from the eligible retirement plan re-
22 ceiving the distribution may be subject to re-
23 strictions and tax consequences which are dif-
24 ferent from those applicable to distributions
25 from the plan making such distribution.”.

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

5 (e) CONFORMING AMENDMENTS.—

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

9 (2) Section 219(d)(2) is amended by striking
10 “or 408(d)(3)” and inserting “408(d)(3), or
11 457(e)(16)”.

12 (3) Section 401(a)(31)(B) is amended by strik-
13 ing “and 403(a)(4)” and inserting “, 403(a)(4),
14 403(b)(8), and 457(e)(16)”.

15 (4) Subparagraph (A) of section 402(f)(2) is
16 amended by striking “or paragraph (4) of section
17 403(a)” and inserting “, paragraph (4) of section
18 403(a), subparagraph (A) of section 403(b)(8), or
19 subparagraph (A) of section 457(e)(16)”.

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

22 (6) Subparagraphs (A) and (B) of section
23 402(f)(1) are amended by striking “another eligible
24 retirement plan” and inserting “an eligible retire-
25 ment plan”.

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

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

9 (8) Section 408(a)(1) is amended by striking
10 “or 403(b)(8),” and inserting “403(b)(8), or
11 457(e)(16)”.

12 (9) Subparagraphs (A) and (B) of section
13 415(b)(2) are each amended by striking “and
14 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
15 457(e)(16)”.

16 (10) Section 415(c)(2) is amended by striking
17 “and 408(d)(3)” and inserting “408(d)(3), and
18 457(e)(16)”.

19 (11) Section 4973(b)(1)(A) is amended by
20 striking “or 408(d)(3)” and inserting “408(d)(3), or
21 457(e)(16)”.

22 (f) EFFECTIVE DATE; SPECIAL RULE.—

23 (1) EFFECTIVE DATE.—The amendments made
24 by this section shall apply to distributions after the
25 date of the enactment of this Act.

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

11 **SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
12 **MENT PLANS.**

13 (a) IN GENERAL.—Subparagraph (A) of section
14 408(d)(3) (relating to rollover amounts) is amended by
15 adding “or” at the end of clause (i), by striking clauses
16 (ii) and (iii), and by adding at the end the following:

17 “(ii) the entire amount received (in-
18 cluding money and any other property) is
19 paid into an eligible retirement plan for
20 the benefit of such individual not later
21 than the 60th day after the date on which
22 the payment or distribution is received, ex-
23 cept that the maximum amount which may
24 be paid into such plan may not exceed the
25 portion of the amount received which is in-

1 cludible in gross income (determined with-
2 out regard to this paragraph).

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

7 (b) CONFORMING AMENDMENTS.—

8 (1) Paragraph (1) of section 403(b) is amended
9 by striking “section 408(d)(3)(A)(iii)” and inserting
10 “section 408(d)(3)(A)(ii)”.

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

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

16 “(G) SIMPLE RETIREMENT ACCOUNTS.—In
17 the case of any payment or distribution out of
18 a simple retirement account (as defined in sub-
19 section (p)) to which section 72(t)(6) applies,
20 this paragraph shall not apply unless such pay-
21 ment or distribution is paid into another simple
22 retirement account.”.

23 (c) EFFECTIVE DATE; SPECIAL RULE.—

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

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

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

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

20 “(A) such portion is transferred in a direct
21 trustee-to-trustee transfer to a qualified trust
22 which is part of a plan which is a defined con-
23 tribution plan and which agrees to separately
24 account for amounts so transferred, including
25 separately accounting for the portion of such

1 distribution which is includible in gross income
2 and the portion of such distribution which is
3 not so includible, or

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

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

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

19 “(ii) is an eligible retirement plan de-
20 scribed in clause (i) or (ii) of section
21 402(c)(8)(B).”.

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

1 “(H) APPLICATION OF SECTION 72.—

2 “(i) IN GENERAL.—If—

3 “(I) a distribution is made from
4 an individual retirement plan, and

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

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

13 “(ii) APPLICABLE RULES.—In the
14 case of a distribution described in clause
15 (i)—

16 “(I) section 72 shall be applied
17 separately to such distribution,

18 “(II) notwithstanding the pro
19 rata allocation of income on, and in-
20 vestment in, the contract to distribu-
21 tions under section 72, the portion of
22 such distribution rolled over to an eli-
23 gible retirement plan described in
24 clause (i) shall be treated as from in-
25 come on the contract (to the extent of

1 the aggregate income on the contract
2 from all individual retirement plans of
3 the distributee), and

4 “(III) appropriate adjustments
5 shall be made in applying section 72
6 to other distributions in such taxable
7 year and subsequent taxable years.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to distributions made after the
10 date of the enactment of this Act.

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

12 (a) EXEMPT TRUSTS.—Paragraph (3) of section
13 402(c) (relating to transfer must be made within 60 days
14 of receipt) is amended to read as follows:

15 “(3) TRANSFER MUST BE MADE WITHIN 60
16 DAYS OF RECEIPT.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), paragraph (1) shall not
19 apply to any transfer of a distribution made
20 after the 60th day following the day on which
21 the distributee received the property distrib-
22 uted.

23 “(B) HARDSHIP EXCEPTION.—The Sec-
24 retary may waive the 60-day requirement under
25 subparagraph (A) where the failure to waive

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

5 (b) IRAS.—Paragraph (3) of section 408(d) (relating
6 to rollover contributions), as amended by section 403, is
7 amended by adding after subparagraph (H) the following
8 new subparagraph:

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

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to distributions after the date of
19 the enactment of this Act.

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

21 (a) PLAN TRANSFERS.—

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

1 “(D) PLAN TRANSFERS.—

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

13 “(I) the forms of distribution
14 previously available under the trans-
15 feror plan applied to the account of a
16 participant or beneficiary under the
17 transferor plan that was transferred
18 from the transferor plan to the trans-
19 feree plan pursuant to a direct trans-
20 fer rather than pursuant to a distribu-
21 tion from the transferor plan,

22 “(II) the terms of both the trans-
23 feror plan and the transferee plan au-
24 thorize the transfer described in sub-
25 clause (I),

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

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

11 “(V) the transferee plan allows
12 the participant or beneficiary de-
13 scribed in subclause (III) to receive
14 any distribution to which the partici-
15 pant or beneficiary is entitled under
16 the transferee plan in the form of a
17 single sum distribution.

18 “(ii) EXCEPTION.—Clause (i) shall
19 apply to plan mergers and other trans-
20 actions having the effect of a direct trans-
21 fer, including consolidations of benefits at-
22 tributable to different employers within a
23 multiple employer plan.

24 “(E) ELIMINATION OF FORM OF DISTRIBU-
25 TION.—Except to the extent provided in regula-

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

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

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

16 (2) AMENDMENT OF ERISA.—Section 204(g) of
17 the Employee Retirement Income Security Act of
18 1974 (29 U.S.C. 1054(g)) is amended by adding at
19 the end the following:

20 “(4)(A) A defined contribution plan (in this subpara-
21 graph referred to as the ‘transferee plan’) shall not be
22 treated as failing to meet the requirements of this sub-
23 section merely because the transferee plan does not pro-
24 vide some or all of the forms of distribution previously
25 available under another defined contribution plan (in this

1 subparagraph referred to as the ‘transferor plan’) to the
2 extent that—

3 “(i) the forms of distribution previously avail-
4 able under the transferor plan applied to the account
5 of a participant or beneficiary under the transferor
6 plan that was transferred from the transferor plan
7 to the transferee plan pursuant to a direct transfer
8 rather than pursuant to a distribution from the
9 transferor plan;

10 “(ii) the terms of both the transferor plan and
11 the transferee plan authorize the transfer described
12 in clause (i);

13 “(iii) the transfer described in clause (i) was
14 made pursuant to a voluntary election by the partici-
15 pant or beneficiary whose account was transferred to
16 the transferee plan;

17 “(iv) the election described in clause (iii) was
18 made after the participant or beneficiary received a
19 notice describing the consequences of making the
20 election; and

21 “(v) the transferee plan allows the participant
22 or beneficiary described in clause (iii) to receive any
23 distribution to which the participant or beneficiary is
24 entitled under the transferee plan in the form of a
25 single sum distribution.

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

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

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

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

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

22 (b) REGULATIONS.—

23 (1) AMENDMENT OF INTERNAL REVENUE
24 CODE.—Paragraph (6)(B) of section 411(d) (relat-
25 ing to accrued benefit not to be decreased by amend-

1 ment) is amended by inserting after the second sen-
2 tence the following new sentence: “The Secretary
3 shall by regulations provide that this subparagraph
4 shall not apply to any plan amendment which re-
5 duces or eliminates benefits or subsidies which cre-
6 ate significant burdens or complexities for the plan
7 and plan participants and does not adversely affect
8 the rights of any participant in a more than de mini-
9 mis manner.”.

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

21 (3) SECRETARY DIRECTED.—Not later than
22 December 31, 2003, the Secretary of the Treasury
23 is directed to issue regulations under section
24 411(d)(6) of the Internal Revenue Code of 1986 and
25 section 204(g) of the Employee Retirement Income

1 Security Act of 1974, including the regulations re-
2 quired by the amendment made by this subsection.
3 Such regulations shall apply to plan years beginning
4 after December 31, 2003, or such earlier date as is
5 specified by the Secretary of the Treasury.

6 **SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DIS-**
7 **TRIBUTIONS.**

8 (a) MODIFICATION OF SAME DESK EXCEPTION.—

9 (1) SECTION 401(k).—

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

14 (B) Subparagraph (A) of section
15 401(k)(10) (relating to distributions upon ter-
16 mination of plan or disposition of assets or sub-
17 sidiary) is amended to read as follows:

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

24 (C) Section 401(k)(10) is amended—

25 (i) in subparagraph (B)—

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

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

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

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

10 (2) SECTION 403(b).—

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

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

19 (3) SECTION 457.—Clause (ii) of section
20 457(d)(1)(A) is amended by striking “is separated
21 from service” and inserting “has a severance from
22 employment”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to distributions after the date of
25 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 (4) REASONABLE NOTICE.—The amendments
9 made by this section shall not apply to any plan
10 amendment taking effect on or after the date of the
11 enactment of this Act if, before April 25, 2001, no-
12 tice was provided to participants and beneficiaries
13 adversely affected by the plan amendment (or their
14 representatives) which was reasonably expected to
15 notify them of the nature and effective date of the
16 plan amendment.

17 (d) STUDY.—The Secretary of the Treasury shall
18 prepare a report on the effects of conversions of tradi-
19 tional defined benefit plans to cash balance or hybrid for-
20 mula plans. Such study shall examine the effect of such
21 conversions on longer service participants, including the
22 incidence and effects of “wear away” provisions under
23 which participants earn no additional benefits for a period
24 of time after the conversion. As soon as practicable, but
25 not later than 60 days after the date of the enactment

1 of this Act, the Secretary shall submit such report, to-
2 gether with recommendations thereon, to the Committee
3 on Ways and Means and the Committee on Education and
4 the Workforce of the House of Representatives and the
5 Committee on Finance and the Committee on Health,
6 Education, Labor, and Pensions of the Senate.

7 **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
8 **SECTION 415.**

9 (a) COMPENSATION LIMIT.—

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

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

19 (2) CONFORMING AMENDMENT.—Section
20 415(b)(7) (relating to benefits under certain collec-
21 tively bargained plans) is amended by inserting
22 “(other than a multiemployer plan)” after “defined
23 benefit plan” in the matter preceding subparagraph
24 (A).

25 (b) COMBINING AND AGGREGATION OF PLANS.—

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

4 “(3) EXCEPTION FOR MULTIEMPLOYER
5 PLANS.—Notwithstanding paragraph (1) and sub-
6 section (g), a multiemployer plan (as defined in sec-
7 tion 414(f)) shall not be combined or aggregated
8 with any other plan maintained by an employer for
9 purposes of applying the limitations established in
10 this section, except that such plan shall be combined
11 or aggregated with another plan which is not such
12 a multiemployer plan solely for purposes of deter-
13 mining whether such other plan meets the require-
14 ments of subsections (b)(1)(A) and (c).”.

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 2001.

1 **SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE**
2 **CONTRIBUTIONS TO 401(K) PLANS.**

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

5 “(b) EFFECTIVE DATE.—

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

10 “(2) NONAPPLICATION TO PREVIOUSLY AC-
11 QUIRED PROPERTY.—The amendments made by this
12 section shall not apply to any elective deferral which
13 is invested in assets consisting of qualifying em-
14 ployer securities, qualifying employer real property,
15 or both, if such assets were acquired before January
16 1, 1999.”.

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

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

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

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

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

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

3 “(ii) to a plan beneficiary upon written re-
4 quest, and

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

7 “(i) at least once every 3 years to each
8 participant with a nonforfeitable accrued ben-
9 efit who is employed by the employer maintain-
10 ing the plan at the time the statement is fur-
11 nished to participants, and

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

14 “(2) A pension benefit statement under paragraph
15 (1)—

16 “(A) shall indicate, on the basis of the latest
17 available information—

18 “(i) the total benefits accrued, and

19 “(ii) the nonforfeitable pension benefits, if
20 any, which have accrued, or the earliest date on
21 which benefits will become nonforfeitable,

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

24 “(C) may be provided in written, electronic, or
25 other appropriate form.

1 “(4)(A) In the case of a defined benefit plan, the re-
2 quirements of paragraph (1)(B)(i) shall be treated as met
3 with respect to a participant if the administrator provides
4 the participant at least once each year with notice of the
5 availability of the pension benefit statement and the ways
6 in which the participant may obtain such statement. Such
7 notice shall be provided in written, electronic, or other ap-
8 propriate form, and may be included with other commu-
9 nications to the participant if done in a manner reasonably
10 designed to attract the attention of the participant.

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

17 (b) CONFORMING AMENDMENTS.—

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

21 (2) Section 105(b) of such Act (29 U.S.C.
22 1025(b)) is amended to read as follows:

23 “(b) In no case shall a participant or beneficiary of
24 a plan be entitled to more than one statement described

1 in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is appli-
2 cable, in any 12-month period.”.

3 (c) MODEL STATEMENTS.—The Secretary of Labor
4 shall develop a model benefit statement, written in a man-
5 ner calculated to be understood by the average plan partici-
6 pant, that may be used by plan administrators in com-
7 plying with the requirements of section 105 of the Em-
8 ployee Retirement Income Security Act of 1974.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to plan years beginning after De-
11 cember 31, 2002.

12 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
13 **PORATION ESOP.**

14 (a) IN GENERAL.—Section 409 (relating to qualifica-
15 tions for tax credit employee stock ownership plans) is
16 amended by redesignating subsection (p) as subsection (q)
17 and by inserting after subsection (o) the following new
18 subsection:

19 “(p) PROHIBITED ALLOCATIONS OF SECURITIES IN
20 AN S CORPORATION.—

21 “(1) IN GENERAL.—An employee stock owner-
22 ship plan holding employer securities consisting of
23 stock in an S corporation shall provide that no por-
24 tion of the assets of the plan attributable to (or allo-
25 cable in lieu of) such employer securities may, dur-

1 ing a nonallocation year, accrue (or be allocated di-
2 rectly or indirectly under any plan of the employer
3 meeting the requirements of section 401(a)) for the
4 benefit of any disqualified person.

5 “(2) FAILURE TO MEET REQUIREMENTS.—

6 “(A) IN GENERAL.—If a plan fails to meet
7 the requirements of paragraph (1), the plan
8 shall be treated as having distributed to any
9 disqualified person the amount allocated to the
10 account of such person in violation of para-
11 graph (1) at the time of such allocation.

12 “(B) CROSS REFERENCE.—

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

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

15 “(A) IN GENERAL.—The term ‘nonalloca-
16 tion year’ means any plan year of an employee
17 stock ownership plan if, at any time during
18 such plan year—

19 “(i) such plan holds employer securi-
20 ties consisting of stock in an S corpora-
21 tion, and

22 “(ii) disqualified persons own at least
23 50 percent of the number of shares of
24 stock in the S corporation.

1 “(B) **ATTRIBUTION RULES.**—For purposes
2 of subparagraph (A)—

3 “(i) **IN GENERAL.**—The rules of sec-
4 tion 318(a) shall apply for purposes of de-
5 termining ownership, except that—

6 “(I) in applying paragraph (1)
7 thereof, the members of an individ-
8 ual’s family shall include members of
9 the family described in paragraph
10 (4)(D), and

11 “(II) paragraph (4) thereof shall
12 not apply.

13 “(ii) **DEEMED-OWNED SHARES.**—Not-
14 withstanding the employee trust exception
15 in section 318(a)(2)(B)(i), individual shall
16 be treated as owning deemed-owned shares
17 of the individual.

18 Solely for purposes of applying paragraph (5),
19 this subparagraph shall be applied after the at-
20 tribution rules of paragraph (5) have been ap-
21 plied.

22 “(4) **DISQUALIFIED PERSON.**—For purposes of
23 this subsection—

24 “(A) **IN GENERAL.**—The term ‘disqualified
25 person’ means any person if—

1 “(i) the aggregate number of deemed-
2 owned shares of such person and the mem-
3 bers of such person’s family is at least 20
4 percent of the number of deemed-owned
5 shares of stock in the S corporation, or

6 “(ii) in the case of a person not de-
7 scribed in clause (i), the number of
8 deemed-owned shares of such person is at
9 least 10 percent of the number of deemed-
10 owned shares of stock in such corporation.

11 “(B) TREATMENT OF FAMILY MEMBERS.—
12 In the case of a disqualified person described in
13 subparagraph (A)(i), any member of such per-
14 son’s family with deemed-owned shares shall be
15 treated as a disqualified person if not otherwise
16 treated as a disqualified person under subpara-
17 graph (A).

18 “(C) DEEMED-OWNED SHARES.—

19 “(i) IN GENERAL.—The term
20 ‘deemed-owned shares’ means, with respect
21 to any person—

22 “(I) the stock in the S corpora-
23 tion constituting employer securities
24 of an employee stock ownership plan

1 which is allocated to such person
2 under the plan, and

3 “(II) such person’s share of the
4 stock in such corporation which is
5 held by such plan but which is not al-
6 located under the plan to participants.

7 “(ii) PERSON’S SHARE OF
8 UNALLOCATED STOCK.—For purposes of
9 clause (i)(II), a person’s share of
10 unallocated S corporation stock held by
11 such plan is the amount of the unallocated
12 stock which would be allocated to such per-
13 son if the unallocated stock were allocated
14 to all participants in the same proportions
15 as the most recent stock allocation under
16 the plan.

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

20 “(i) the spouse of the individual,

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

23 “(iii) a brother or sister of the indi-
24 vidual or the individual’s spouse and any

1 lineal descendant of the brother or sister,
2 and

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

5 A spouse of an individual who is legally sepa-
6 rated from such individual under a decree of di-
7 vorce or separate maintenance shall not be
8 treated as such individual’s spouse for purposes
9 of this subparagraph.

10 “(5) TREATMENT OF SYNTHETIC EQUITY.—For
11 purposes of paragraphs (3) and (4), in the case of
12 a person who owns synthetic equity in the S corpora-
13 tion, except to the extent provided in regulations, the
14 shares of stock in such corporation on which such
15 synthetic equity is based shall be treated as out-
16 standing stock in such corporation and deemed-
17 owned shares of such person if such treatment of
18 synthetic equity of 1 or more such persons results
19 in—

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

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

24 For purposes of this paragraph, synthetic equity
25 shall be treated as owned by a person in the same

1 manner as stock is treated as owned by a person
2 under the rules of paragraphs (2) and (3) of section
3 318(a). If, without regard to this paragraph, a per-
4 son is treated as a disqualified person or a year is
5 treated as a nonallocation year, this paragraph shall
6 not be construed to result in the person or year not
7 being so treated.

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

10 “(A) EMPLOYEE STOCK OWNERSHIP
11 PLAN.—The term ‘employee stock ownership
12 plan’ has the meaning given such term by sec-
13 tion 4975(e)(7).

14 “(B) EMPLOYER SECURITIES.—The term
15 ‘employer security’ has the meaning given such
16 term by section 409(l).

17 “(C) SYNTHETIC EQUITY.—The term ‘syn-
18 thetic equity’ means any stock option, warrant,
19 restricted stock, deferred issuance stock right,
20 or similar interest or right that gives the holder
21 the right to acquire or receive stock of the S
22 corporation in the future. Except to the extent
23 provided in regulations, synthetic equity also in-
24 cludes a stock appreciation right, phantom
25 stock unit, or similar right to a future cash

1 payment based on the value of such stock or
2 appreciation in such value.

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

6 (b) COORDINATION WITH SECTION 4975(e)(7).—The
7 last sentence of section 4975(e)(7) (defining employee
8 stock ownership plan) is amended by inserting “, section
9 409(p),” after “409(n)”.

10 (c) EXCISE TAX.—

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

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

16 (B) by striking all that follows paragraph
17 (2) and inserting the following:

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

23 “(4) any synthetic equity is owned by a dis-
24 qualified person in any nonallocation year,

1 there is hereby imposed a tax on such allocation or owner-
2 ship equal to 50 percent of the amount involved.”.

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

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

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

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

10 “(B) the eligible worker-owned cooperative,
11 which made the written statement described in sec-
12 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as
13 the case may be), and

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

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

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

22 “(1) DEFINITIONS.—Except as provided in
23 paragraph (2), terms used in this section have the
24 same respective meanings as when used in sections
25 409 and 4978.

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

4 “(A) PROHIBITED ALLOCATIONS.—The
5 amount involved with respect to any tax im-
6 posed by reason of subsection (a)(3) is the
7 amount allocated to the account of any person
8 in violation of section 409(p)(1).

9 “(B) SYNTHETIC EQUITY.—The amount
10 involved with respect to any tax imposed by rea-
11 son of subsection (a)(4) is the value of the
12 shares on which the synthetic equity is based.

13 “(C) SPECIAL RULE DURING FIRST NON-
14 ALLOCATION YEAR.—For purposes of subpara-
15 graph (A), the amount involved for the first
16 nonallocation year of any employee stock owner-
17 ship plan shall be determined by taking into ac-
18 count the total value of all the deemed-owned
19 shares of all disqualified persons with respect to
20 such plan.

21 “(D) STATUTE OF LIMITATIONS.—The
22 statutory period for the assessment of any tax
23 imposed by this section by reason of paragraph
24 (3) or (4) of subsection (a) shall not expire be-

1 fore the date which is 3 years from the later
2 of—

3 “(i) the allocation or ownership re-
4 ferred to in such paragraph giving rise to
5 such tax, or

6 “(ii) the date on which the Secretary
7 is notified of such allocation or owner-
8 ship.”.

9 (d) EFFECTIVE DATES.—

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

13 (2) EXCEPTION FOR CERTAIN PLANS.—In the
14 case of any—

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

17 (B) employee stock ownership plan estab-
18 lished on or before such date if employer securi-
19 ties held by the plan consist of stock in a cor-
20 poration with respect to which an election under
21 section 1362(a) of the Internal Revenue Code
22 of 1986 is not in effect on such date,

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

1 **TITLE VI—REDUCING**
2 **REGULATORY BURDENS**

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

4 (a) AMENDMENT OF INTERNAL REVENUE CODE.—

5 Paragraph (9) of section 412(c)(9) (relating to annual
6 valuation) is amended to read as follows:

7 “(9) ANNUAL VALUATION.—

8 “(A) IN GENERAL.—For purposes of this
9 section, a determination of experience gains and
10 losses and a valuation of the plan’s liability
11 shall be made not less frequently than once
12 every year, except that such determination shall
13 be made more frequently to the extent required
14 in particular cases under regulations prescribed
15 by the Secretary.

16 “(B) VALUATION DATE.—

17 “(i) CURRENT YEAR.—Except as pro-
18 vided in clause (ii), the valuation referred
19 to in subparagraph (A) shall be made as of
20 a date within the plan year to which the
21 valuation refers or within one month prior
22 to the beginning of such year.

23 “(ii) ELECTION TO USE PRIOR YEAR
24 VALUATION.—The valuation referred to in
25 subparagraph (A) may be made as of a

1 date within the plan year prior to the year
2 to which the valuation refers if—

3 “(I) an election is in effect under
4 this clause with respect to the plan,
5 and

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

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

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

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

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

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

23 “(B)(i) Except as provided in clause (ii), the valu-
24 ation referred to in subparagraph (A) shall be made as

1 of a date within the plan year to which the valuation refers
2 or within one month prior to the beginning of such year.

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

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

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

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

14 “(iv) An election under clause (ii), once made, shall
15 be irrevocable without the consent of the Secretary of the
16 Treasury.”

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

20 **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
21 **LOSS OF DIVIDEND DEDUCTION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**

19 **PROVIDED RETIREMENT ADVICE.**

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

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

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

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

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

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

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

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

1 **SEC. 606. REPORTING SIMPLIFICATION.**

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

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

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

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

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

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

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

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

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

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

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

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

16 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
17 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case
18 of plan years beginning after December 31, 2002, the Sec-
19 retary of the Treasury and the Secretary of Labor shall
20 provide for the filing of a simplified annual return for any
21 retirement plan which covers less than 25 employees on
22 the first day of a plan year and which meets the require-
23 ments described in subparagraphs (B), (D), and (E) of
24 subsection (a)(2).

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

3 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
4 **ANCE RESOLUTION SYSTEM.**

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

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

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

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

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

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

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

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

4 “(9) REGULATIONS.—The Secretary shall pre-
5 scribe such regulations as may be necessary to carry
6 out the purposes of this subsection and subsection
7 (k), including regulations permitting appropriate ag-
8 gregation of plans and contributions.”.

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

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

14 (a) NONDISCRIMINATION.—

15 (1) IN GENERAL.—The Secretary of the Treas-
16 ury shall, by regulation, provide that a plan shall be
17 deemed to satisfy the requirements of section
18 401(a)(4) of the Internal Revenue Code of 1986 if
19 such plan satisfies the facts and circumstances test
20 under section 401(a)(4) of such Code, as in effect
21 before January 1, 1994, but only if—

22 (A) the plan satisfies conditions prescribed
23 by the Secretary to appropriately limit the
24 availability of such test; and

1 (B) the plan is submitted to the Secretary
2 for a determination of whether it satisfies such
3 test.

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

6 (2) EFFECTIVE DATES.—

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

10 (B) CONDITIONS OF AVAILABILITY.—Any
11 condition of availability prescribed by the Sec-
12 retary under paragraph (1)(A) shall not apply
13 before the first year beginning not less than
14 120 days after the date on which such condition
15 is prescribed.

16 (b) COVERAGE TEST.—

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

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

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

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

4 “(iii) satisfies conditions prescribed by
5 the Secretary by regulation that appro-
6 priately limit the availability of this sub-
7 paragraph.

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

10 (2) EFFECTIVE DATES.—

11 (A) IN GENERAL.—The amendment made
12 by paragraph (1) shall apply to years beginning
13 after December 31, 2003.

14 (B) CONDITIONS OF AVAILABILITY.—Any
15 condition of availability prescribed by the Sec-
16 retary under regulations prescribed by the Sec-
17 retary under section 410(b)(1)(D) of the Inter-
18 nal Revenue Code of 1986 shall not apply be-
19 fore the first year beginning not less than 120
20 days after the date on which such condition is
21 prescribed.

22 (c) LINE OF BUSINESS RULES.—The Secretary of
23 the Treasury shall, on or before December 31, 2003, mod-
24 ify the existing regulations issued under section 414(r) of
25 the Internal Revenue Code of 1986 in order to expand

1 (to the extent that the Secretary determines appropriate)
2 the ability of a pension plan to demonstrate compliance
3 with the line of business requirements based upon the
4 facts and circumstances surrounding the design and oper-
5 ation of the plan, even though the plan is unable to satisfy
6 the mechanical tests currently used to determine compli-
7 ance.

8 **SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
9 **MORATORIUM ON APPLICATION OF CERTAIN**
10 **NONDISCRIMINATION RULES APPLICABLE TO**
11 **STATE AND LOCAL PLANS.**

12 (a) IN GENERAL.—

13 (1) Subparagraph (G) of section 401(a)(5) and
14 subparagraph (H) of section 401(a)(26) are each
15 amended by striking “section 414(d)” and all that
16 follows and inserting “section 414(d).”.

17 (2) Subparagraph (G) of section 401(k)(3) and
18 paragraph (2) of section 1505(d) of the Taxpayer
19 Relief Act of 1997 are each amended by striking
20 “maintained by a State or local government or polit-
21 ical subdivision thereof (or agency or instrumentality
22 thereof)”.

23 (b) CONFORMING AMENDMENTS.—

1 place it appears in Treasury Regulations sec-
2 tions 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-
3 1(b).

4 (2) AMENDMENT OF ERISA.—

5 (A) IN GENERAL.—Section 205(c)(7)(A) of
6 the Employee Retirement Income Security Act
7 of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended
8 by striking “90-day” and inserting “180-day”.

9 (B) MODIFICATION OF REGULATIONS.—

10 The Secretary of the Treasury shall modify the
11 regulations under part 2 of subtitle B of title
12 I of the Employee Retirement Income Security
13 Act of 1974 to the extent that they relate to
14 sections 203(e) and 205 of such Act to sub-
15 stitute “180 days” for “90 days” each place it
16 appears.

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

21 (b) CONSENT REGULATION INAPPLICABLE TO CER-
22 TAIN DISTRIBUTIONS.—

23 (1) IN GENERAL.—The Secretary of the Treas-
24 ury shall modify the regulations under section
25 411(a)(11) of the Internal Revenue Code of 1986

1 and under section 205 of the Employee Retirement
2 Income Security Act of 1974 to provide that the de-
3 scription of a participant's right, if any, to defer re-
4 ceipt of a distribution shall also describe the con-
5 sequences of failing to defer such receipt.

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

9 **SEC. 612. ANNUAL REPORT DISSEMINATION.**

10 (a) REPORT AVAILABLE THROUGH ELECTRONIC
11 MEANS.—Section 104(b)(3) of the Employee Retirement
12 Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is
13 amended by adding at the end the following new sentence:
14 “The requirement to furnish information under the pre-
15 vious sentence shall be satisfied if the administrator makes
16 such information reasonably available through electronic
17 means or other new technology.”.

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

21 **SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.**

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

24 (1) in subsection (a), by striking “2001 and
25 2005 on or after September 1 of each year involved”

1 and inserting “2001, 2005, and 2009 in the month
2 of September of each year involved”;

3 (2) in subsection (b), by adding at the end the
4 following new sentence: “To effectuate the purposes
5 of this paragraph, the Secretary may enter into a co-
6 operative agreement, pursuant to the Federal Grant
7 and Cooperative Agreement Act of 1977 (31 U.S.C.
8 6301 et seq.), with the American Savings Education
9 Council or any other appropriate, qualified entity.”;

10 (3) in subsection (e)(2)—

11 (A) by striking “Committee on Labor and
12 Human Resources” in subparagraph (D) and
13 inserting “Committee on Health, Education,
14 Labor, and Pensions”;

15 (B) by striking subparagraph (F) and in-
16 serting the following:

17 “(F) the Chairman and Ranking Member
18 of the Subcommittee on Labor, Health and
19 Human Services, and Education of the Com-
20 mittee on Appropriations of the House of Rep-
21 resentatives and the Chairman and Ranking
22 Member of the Subcommittee on Labor, Health
23 and Human Services, and Education of the
24 Committee on Appropriations of the Senate.”;

1 (C) by redesignating subparagraph (G) as
2 subparagraph (J); and

3 (D) by inserting after subparagraph (F)
4 the following new subparagraphs:

5 “(G) the Chairman and Ranking Member
6 of the Committee on Finance of the Senate;

7 “(H) the Chairman and Ranking Member
8 of the Committee on Ways and Means of the
9 House of Representatives;

10 “(I) the Chairman and Ranking Member
11 of the Subcommittee on Employer-Employee
12 Relations of the Committee on Education and
13 the Workforce of the House of Representatives;
14 and”;

15 (4) in subsection (e)(3)(A)—

16 (A) by striking “There shall be no more
17 than 200 additional participants.” and inserting
18 “The participants in the National Summit shall
19 also include additional participants appointed
20 under this subparagraph.”;

21 (B) by striking “one-half shall be ap-
22 pointed by the President,” in clause (i) and in-
23 serting “not more than 100 participants shall
24 be appointed under this clause by the Presi-

1 dent,” and by striking “and” at the end of
2 clause (i);

3 (C) by striking “one-half shall be ap-
4 pointed by the elected leaders of Congress” in
5 clause (ii) and inserting “not more than 100
6 participants shall be appointed under this
7 clause by the elected leaders of Congress”, and
8 by striking the period at the end of clause (ii)
9 and inserting “; and”;

10 (D) by adding at the end the following new
11 clause:

12 “(iii) The President, in consultation
13 with the elected leaders of Congress re-
14 ferred to in subsection (a), may appoint
15 under this clause additional participants to
16 the National Summit. The number of such
17 additional participants appointed under
18 this clause may not exceed the lesser of 3
19 percent of the total number of all addi-
20 tional participants appointed under this
21 paragraph, or 10. Such additional partici-
22 pants shall be appointed from persons
23 nominated by the organization referred to
24 in subsection (b)(2) which is made up of
25 private sector businesses and associations

1 partnered with Government entities to pro-
2 mote long term financial security in retire-
3 ment through savings and with which the
4 Secretary is required thereunder to consult
5 and cooperate and shall not be Federal,
6 State, or local government employees.”;

7 (5) in subsection (e)(3)(B), by striking “Janu-
8 ary 31, 1998” and inserting “May 1, 2001, May 1,
9 2005, and May 1, 2009, for each of the subsequent
10 summits, respectively”;

11 (6) in subsection (f)(1)(C), by inserting “, no
12 later than 90 days prior to the date of the com-
13 mencement of the National Summit,” after “com-
14 ment”;

15 (7) in subsection (g), by inserting “, in con-
16 sultation with the congressional leaders specified in
17 subsection (e)(2),” after “report”;

18 (8) in subsection (i)—

19 (A) by striking “beginning on or after Oc-
20 tober 1, 1997” in paragraph (1) and inserting
21 “2001, 2005, and 2009”; and

22 (B) by adding at the end the following new
23 paragraph:

24 “(3) RECEPTION AND REPRESENTATION AU-
25 THORITY.—The Secretary is hereby granted recep-

1 tion and representation authority limited specifically
2 to the events at the National Summit. The Secretary
3 shall use any private contributions accepted in con-
4 nection with the National Summit prior to using
5 funds appropriated for purposes of the National
6 Summit pursuant to this paragraph.”; and

7 (9) in subsection (k)—

8 (A) by striking “shall enter into a contract
9 on a sole-source basis” and inserting “may
10 enter into a contract on a sole-source basis”;
11 and

12 (B) by striking “fiscal year 1998” and in-
13 serting “fiscal years 2001, 2005, and 2009”.

14 **TITLE VII—OTHER ERISA**
15 **PROVISIONS**

16 **SEC. 701. MISSING PARTICIPANTS.**

17 (a) IN GENERAL.—Section 4050 of the Employee Re-
18 tirement Income Security Act of 1974 (29 U.S.C. 1350)
19 is amended by redesignating subsection (c) as subsection
20 (e) and by inserting after subsection (b) the following new
21 subsections:

22 “(c) **MULTIEMPLOYER PLANS.**—The corporation
23 shall prescribe rules similar to the rules in subsection (a)
24 for multiemployer plans covered by this title that termi-
25 nate under section 4041A.

1 “(d) PLANS NOT OTHERWISE SUBJECT TO
2 TITLEDDBU

3 “(1) TRANSFER TO CORPORATION.—The plan
4 administrator of a plan described in paragraph (4)
5 may elect to transfer a missing participant’s benefits
6 to the corporation upon termination of the plan.

7 “(2) INFORMATION TO THE CORPORATION.—To
8 the extent provided in regulations, the plan adminis-
9 trator of a plan described in paragraph (4) shall,
10 upon termination of the plan, provide the corpora-
11 tion information with respect to benefits of a miss-
12 ing participant if the plan transfers such benefits—

13 “(A) to the corporation, or

14 “(B) to an entity other than the corpora-
15 tion or a plan described in paragraph (4)(B)(ii).

16 “(3) PAYMENT BY THE CORPORATION.—If ben-
17 efits of a missing participant were transferred to the
18 corporation under paragraph (1), the corporation
19 shall, upon location of the participant or beneficiary,
20 pay to the participant or beneficiary the amount
21 transferred (or the appropriate survivor benefit)
22 either—

23 “(A) in a single sum (plus interest), or

24 “(B) in such other form as is specified in
25 regulations of the corporation.

1 “(4) PLANS DESCRIBED.—A plan is described
2 in this paragraph if—

3 “(A) the plan is a pension plan (within the
4 meaning of section 3(2))—

5 “(i) to which the provisions of this
6 section do not apply (without regard to
7 this subsection), and

8 “(ii) which is not a plan described in
9 paragraphs (2) through (11) of section
10 4021(b), and

11 “(B) at the time the assets are to be dis-
12 tributed upon termination, the plan—

13 “(i) has missing participants, and

14 “(ii) has not provided for the transfer
15 of assets to pay the benefits of all missing
16 participants to another pension plan (with-
17 in the meaning of section 3(2)).

18 “(5) CERTAIN PROVISIONS NOT TO APPLY.—
19 Subsections (a)(1) and (a)(3) shall not apply to a
20 plan described in paragraph (4).”.

21 (b) CONFORMING AMENDMENTS.—Section 206(f) of
22 such Act (29 U.S.C. 1056(f)) is amended—

23 (1) by striking “title IV” and inserting “section
24 4050”; and

25 (2) by striking “the plan shall provide that,”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions made after final
3 regulations implementing subsections (c) and (d) of sec-
4 tion 4050 of the Employee Retirement Income Security
5 Act of 1974 (as added by subsection (a)), respectively, are
6 prescribed.

7 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
8 **SMALL EMPLOYERS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
10 4006(a)(3) of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

12 (1) in clause (i), by inserting “other than a new
13 single-employer plan (as defined in subparagraph
14 (F)) maintained by a small employer (as so de-
15 fined),” after “single-employer plan,”

16 (2) in clause (iii), by striking the period at the
17 end and inserting “, and”, and

18 (3) by adding at the end the following new
19 clause:

20 “(iv) in the case of a new single-employer plan
21 (as defined in subparagraph (F)) maintained by a
22 small employer (as so defined) for the plan year, \$5
23 for each individual who is a participant in such plan
24 during the plan year.”.

1 (b) DEFINITION OF NEW SINGLE-EMPLOYER
2 PLAN.—Section 4006(a)(3) of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
4 amended by adding at the end the following new subpara-
5 graph:

6 “(F)(i) For purposes of this paragraph, a single-em-
7 ployer plan maintained by a contributing sponsor shall be
8 treated as a new single-employer plan for each of its first
9 5 plan years if, during the 36-month period ending on the
10 date of the adoption of such plan, the sponsor or any
11 member of such sponsor’s controlled group (or any prede-
12 cessor of either) did not establish or maintain a plan to
13 which this title applies with respect to which benefits were
14 accrued for substantially the same employees as are in the
15 new single-employer plan.

16 “(ii)(I) For purposes of this paragraph, the term
17 ‘small employer’ means an employer which on the first day
18 of any plan year has, in aggregation with all members of
19 the controlled group of such employer, 100 or fewer em-
20 ployees.

21 “(II) In the case of a plan maintained by two or more
22 contributing sponsors that are not part of the same con-
23 trolled group, the employees of all contributing sponsors
24 and controlled groups of such sponsors shall be aggregated

1 for purposes of determining whether any contributing
2 sponsor is a small employer.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to plans established after Decem-
5 ber 31, 2001.

6 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
7 **NEW AND SMALL PLANS.**

8 (a) NEW PLANS.—Subparagraph (E) of section
9 4006(a)(3) of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
11 adding at the end the following new clause:

12 “(v) In the case of a new defined benefit plan, the
13 amount determined under clause (ii) for any plan year
14 shall be an amount equal to the product of the amount
15 determined under clause (ii) and the applicable percent-
16 age. For purposes of this clause, the term ‘applicable per-
17 centage’ means—

18 “(I) 0 percent, for the first plan year.

19 “(II) 20 percent, for the second plan year.

20 “(III) 40 percent, for the third plan year.

21 “(IV) 60 percent, for the fourth plan year.

22 “(V) 80 percent, for the fifth plan year.

23 For purposes of this clause, a defined benefit plan (as de-
24 fined in section 3(35)) maintained by a contributing spon-
25 sor shall be treated as a new defined benefit plan for each

1 of its first 5 plan years if, during the 36-month period
2 ending on the date of the adoption of the plan, the sponsor
3 and each member of any controlled group including the
4 sponsor (or any predecessor of either) did not establish
5 or maintain a plan to which this title applies with respect
6 to which benefits were accrued for substantially the same
7 employees as are in the new plan.”.

8 (b) SMALL PLANS.—Paragraph (3) of section
9 4006(a) of the Employee Retirement Income Security Act
10 of 1974 (29 U.S.C. 1306(a)), as amended by section
11 702(b), is amended—

12 (1) by striking “The” in subparagraph (E)(i)
13 and inserting “Except as provided in subparagraph
14 (G), the”, and

15 (2) by inserting after subparagraph (F) the fol-
16 lowing new subparagraph:

17 “(G)(i) In the case of an employer who has 25 or
18 fewer employees on the first day of the plan year, the addi-
19 tional premium determined under subparagraph (E) for
20 each participant shall not exceed \$5 multiplied by the
21 number of participants in the plan as of the close of the
22 preceding plan year.

23 “(ii) For purposes of clause (i), whether an employer
24 has 25 or fewer employees on the first day of the plan
25 year is determined taking into consideration all of the em-

1 ployees of all members of the contributing sponsor's con-
2 trolled group. In the case of a plan maintained by two
3 or more contributing sponsors, the employees of all con-
4 tributing sponsors and their controlled groups shall be ag-
5 gregated for purposes of determining whether the 25-or-
6 fewer-employees limitation has been satisfied.”.

7 (c) EFFECTIVE DATES.—

8 (1) SUBSECTION (a).—The amendments made
9 by subsection (a) shall apply to plans established
10 after December 31, 2001.

11 (2) SUBSECTION (b).—The amendments made
12 by subsection (b) shall apply to plan years beginning
13 after December 31, 2001.

14 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
15 **PREMIUM OVERPAYMENT REFUNDS.**

16 (a) IN GENERAL.—Section 4007(b) of the Employ-
17 ment Retirement Income Security Act of 1974 (29 U.S.C.
18 1307(b)) is amended—

19 (1) by striking “(b)” and inserting “(b)(1)”,
20 and

21 (2) by inserting at the end the following new
22 paragraph:

23 “(2) The corporation is authorized to pay, subject to
24 regulations prescribed by the corporation, interest on the
25 amount of any overpayment of premium refunded to a des-

1 igned payor. Interest under this paragraph shall be cal-
2 culated at the same rate and in the same manner as inter-
3 est is calculated for underpayments under paragraph
4 (1).”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to interest accruing for periods
7 beginning not earlier than the date of the enactment of
8 this Act.

9 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
10 **PLANS.**

11 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—
12 Section 4022(b)(5) of the Employee Retirement Income
13 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended
14 to read as follows:

15 “(5)(A) For purposes of this paragraph, the term
16 ‘majority owner’ means an individual who, at any time
17 during the 60-month period ending on the date the deter-
18 mination is being made—

19 “(i) owns the entire interest in an unincor-
20 porated trade or business,

21 “(ii) in the case of a partnership, is a partner
22 who owns, directly or indirectly, 50 percent or more
23 of either the capital interest or the profits interest
24 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 Section 4044(a)(4)(B) of the Employee Retirement
22 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 tirement 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 by inserting after “fiduciary or other person” the fol-
10 lowing: “(or from any other person on behalf of any such
11 fiduciary or other person)”.

12 (c) OTHER RULES.—Section 502(l) of the Employee
13 Retirement Income Security Act of 1974 (29 U.S.C.
14 1132(l)) is amended by adding at the end the following
15 new paragraph:

16 “(5) A person shall be jointly and severally liable for
17 the penalty described in paragraph (1) to the same extent
18 that such person is jointly and severally liable for the ap-
19 plicable recovery amount on which the penalty is based.

20 “(6) No penalty shall be assessed under this sub-
21 section unless the person against whom the penalty is as-
22 sessed is given notice and opportunity for a hearing with
23 respect to the violation and applicable recovery amount.”.

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to any breach of fiduciary responsi-

1 bility or other violation of part 4 of subtitle B of title I
2 of the Employee Retirement Income Security Act of 1974
3 occurring on or after the date of the enactment of this
4 Act.

5 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

6 (a) MODIFICATION OF REGULATION.—The Secretary
7 of Labor shall modify the regulation under subparagraph
8 (B) of section 203(a)(3) of the Employee Retirement In-
9 come Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to
10 provide that the notification required by such regulation
11 in connection with any suspension of benefits described in
12 such subparagraph—

13 (1) in the case of an employee who returns to
14 service under the plan after commencement of pay-
15 ment of benefits under the plan—

16 (A) shall be made during the first calendar
17 month or payroll period in which the plan with-
18 holds payments, and

19 (B) if a reduced rate of future benefit ac-
20 crenal will apply to the returning employee (as
21 of the first date of participation in the plan by
22 the employee after returning to work), shall in-
23 clude a statement that the rate of future benefit
24 accrual will be reduced, and

1 (2) in the case of any employee who is not de-
2 scribed in paragraph (1)—

3 (A) may be included in the summary plan
4 description for the plan furnished in accordance
5 with section 104(b) of such Act (29 U.S.C.
6 1024(b)), rather than in a separate notice, and

7 (B) need not include a copy of the relevant
8 plan provisions.

9 (b) EFFECTIVE DATE.—The modification made
10 under this section shall apply to plan years beginning after
11 December 31, 2001.

12 **SEC. 708. MODEL SMALL EMPLOYER GROUP PLANS.**

13 (a) STUDY.—As soon as practicable after the date of
14 the enactment of this Act, the Secretary of Labor, in con-
15 sultation with the Secretary of the Treasury, shall conduct
16 a study to determine—

17 (1) the most appropriate form or forms of—

18 (A) employee pension benefit plans which
19 would—

20 (i) be simple in form and easily main-
21 tained by multiple small employers, and

22 (ii) provide for ready portability of
23 benefits for all participants and bene-
24 ficiaries,

1 (B) alternative arrangements providing
2 comparable benefits which may be established
3 by employee or employer associations, and

4 (C) alternative arrangements providing
5 comparable benefits to which employees may
6 contribute in a manner independent of employer
7 sponsorship, and

8 (2) appropriate methods and strategies for
9 making pension plan coverage described in para-
10 graph (1) more widely available to American work-
11 ers.

12 (b) MATTERS TO BE CONSIDERED.—In conducting
13 the study under this section, the Secretary of Labor shall
14 consider the adequacy and availability of existing employee
15 pension benefit plans and the extent to which existing
16 models may be modified to be more accessible to both em-
17 ployees and employers.

18 (c) REPORT.—Not later than 18 months after the
19 date of the enactment of this Act, the Secretary of Labor
20 shall report the results of the study, together with the Sec-
21 retary's recommendations, to the Committee on Education
22 and the Workforce and the Committee on Ways and
23 Means of the House of Representatives and the Committee
24 on Health, Education, Labor, and Pensions and the Com-
25 mittee on Finance of the Senate. Such recommendations

1 shall include one or more model plans described in sub-
2 section (a)(1)(A) and model alternative arrangements de-
3 scribed in subsections (a)(1)(B) and (a)(1)(C) which may
4 serve as the basis for appropriate administrative or legisla-
5 tive action.

6 **TITLE VIII—PLAN AMENDMENTS**

7 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

10 (1) such plan or contract shall be treated as
11 being operated in accordance with the terms of the
12 plan during the period described in subsection
13 (b)(2)(A); and

14 (2) except as provided by the Secretary of the
15 Treasury, such plan shall not fail to meet the re-
16 quirements of section 411(d)(6) of the Internal Rev-
17 enue Code of 1986 or section 204(g) of the Em-
18 ployee Retirement Income Security Act of 1974 by
19 reason of such amendment.

20 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

21 (1) IN GENERAL.—This section shall apply to
22 any amendment to any plan or annuity contract
23 which is made—

1 (A) pursuant to any amendment made by
2 this Act, or pursuant to any regulation issued
3 under this Act; and

4 (B) on or before the last day of the first
5 plan year beginning on or after January 1,
6 2004.

7 In the case of a governmental plan (as defined in
8 section 414(d) of the Internal Revenue Code of
9 1986), this paragraph shall be applied by sub-
10 stituting “2006” for “2004”.

11 (2) CONDITIONS.—This section shall not apply
12 to any amendment unless—

13 (A) during the period—

14 (i) beginning on the date the legisla-
15 tive or regulatory amendment described in
16 paragraph (1)(A) takes effect (or in the
17 case of a plan or contract amendment not
18 required by such legislative or regulatory
19 amendment, the effective date specified by
20 the plan); and

21 (ii) ending on the date described in
22 paragraph (1)(B) (or, if earlier, the date
23 the plan or contract amendment is adopt-
24 ed),

1 the plan or contract is operated as if such plan
2 or contract amendment were in effect; and
3 (B) such plan or contract amendment ap-
4 plies retroactively for such period.