

106TH CONGRESS
1ST SESSION

S. 741

To provide for pension reform, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 1999

Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, Mr. KERREY, Mr. ROBB, Mr. MACK, Mr. BOND, Mr. CHAFEE, Mr. THOMPSON, Mr. BINGAMAN and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for pension reform, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Pension Coverage and Portability Act”.

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING COVERAGE FOR SMALL BUSINESS

Sec. 101. Plan loans for subchapter S owners, partners, and sole proprietors.

Sec. 102. Contributions to IRAs through payroll deductions.

Sec. 103. Safe annuities and trusts.

Sec. 104. Modification of top-heavy rules.

Sec. 105. Salary reduction only simple plans.

Sec. 106. Credit for small employer pension plan contributions and start-up costs.

Sec. 107. Increasing limits for deferrals to simple plans.

Sec. 108. Phase-in of additional PBGC premium for new plans.

Sec. 109. Reduced PBGC premium for new plans of small employers.

Sec. 110. Elimination of user fee for requests to IRS regarding new pension plans.

Sec. 111. Compensation limit not to apply to simple 401(k) arrangements.

Sec. 112. Elective deferrals not taken into account for purposes of limits.

Sec. 113. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.

Sec. 114. Alternative method of meeting nondiscrimination requirements for opt-out plans.

TITLE II—INCREASING PENSION ACCESS AND FAIRNESS FOR WOMEN

Sec. 201. Equitable treatment for contributions of employees to defined contribution plans.

Sec. 202. Faster vesting of certain employer matching contributions.

Sec. 203. Deferred annuities for surviving spouses of Federal employees.

Sec. 204. Clarification of tax treatment of division of section 457 plan benefits upon divorce.

Sec. 205. Spouses' right to know proposal.

Sec. 206. Simplify and update the minimum distribution rules.

Sec. 207. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.

TITLE III—INCREASING PORTABILITY OF PENSION PLANS

Sec. 301. Rollovers allowed among various types of plans.

Sec. 302. Rollovers of IRAs into workplace retirement plans.

Sec. 303. Rollovers of after-tax contributions; hardship exception.

Sec. 304. Rationalization of restrictions on distributions from defined contribution plans.

Sec. 305. Transferee defined contribution plan need not have same distribution options as transferor defined contribution plan.

Sec. 306. Purchase of service credit in governmental defined benefit plans.

Sec. 307. Employers may disregard rollovers for purposes of cash-out amounts.

TITLE IV—STRENGTHENING PENSION SECURITY AND
ENFORCEMENT

- Sec. 401. Repeal of 150 percent of current liability funding limit.
- Sec. 402. Increase in limits for employer-sponsored retirement plans.
- Sec. 403. Treatment of multiemployer plans under section 415.
- Sec. 404. Extension of missing participants program to multiemployer plans.
- Sec. 405. Civil penalties for breach of fiduciary responsibility.
- Sec. 406. Penalty tax relief for sound pension funding.
- Sec. 407. Protection of investment of employee contributions to 401(k) plans.
- Sec. 408. Elimination of ERISA double jeopardy.

TITLE V—ENCOURAGING RETIREMENT EDUCATION

- Sec. 501. Periodic pension benefits statements.
- Sec. 502. Small Business Administration advice to small businesses.
- Sec. 503. Clarification of treatment of employer-provided retirement advice.

TITLE VI—REDUCING RED TAPE

- Sec. 601. Modification of timing of plan valuations.
- Sec. 602. Rules for substantial owners relating to plan terminations.
- Sec. 603. ESOP dividends may be reinvested without loss of dividend deduction.
- Sec. 604. Modification of 403(b) exclusion allowance to conform to 415 modification.
- Sec. 605. Safety valve from mechanical rules.
- Sec. 606. Coverage test flexibility.
- Sec. 607. Section 457 inapplicable to certain mirror plans.
- Sec. 608. Notice and consent period regarding distributions.
- Sec. 609. Conforming amendments relating to election to receive taxable cash compensation in lieu of nontaxable transportation fringe benefits.
- Sec. 610. Repeal of transition rule relating to certain highly compensated employees.
- Sec. 611. Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
- Sec. 612. Annual report dissemination.
- Sec. 613. Employees of tax-exempt entities.
- Sec. 614. Repeal of the multiple use test.

TITLE VII—PLAN AMENDMENTS

- Sec. 701. Provisions relating to plan amendments.

1 **TITLE I—EXPANDING COVERAGE**
2 **FOR SMALL BUSINESS**

3 **SEC. 101. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**
4 **ners, AND SOLE PROPRIETORS.**

5 (a) AMENDMENTS TO 1986 CODE.—

1 (1) IN GENERAL.—Section 4975(f) (relating to
2 other definitions and special rules) is amended by
3 striking paragraph (6).

4 (2) CONFORMING AMENDMENT.—Section
5 4975(d) (relating to exemptions) is amended by
6 striking “Except as provided in subsection (f)(6),
7 the prohibitions” and inserting “The prohibitions”.

8 (b) AMENDMENTS TO ERISA.—

9 (1) IN GENERAL.—Section 408 of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1108(d)) is amended—

12 (A) by striking subsection (d), and

13 (B) by redesignating subsections (e) and
14 (f) as subsections (d) and (e), respectively.

15 (2) CONFORMING AMENDMENT.—Section
16 407(b)(2)(B) of such Act (29 U.S.C. 1107(b)(2)(B))
17 is amended by striking “section 408(e)” and insert-
18 ing “section 408(d)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of enactment of
21 this Act.

22 **SEC. 102. CONTRIBUTIONS TO IRAS THROUGH PAYROLL DE-**
23 **DUCTIONS.**

24 (a) DEFINITIONS.—For purposes of this section—

1 (1) CONTRIBUTION CERTIFICATE.—The term
2 “contribution certificate” means a certificate sub-
3 mitted by an employee to the employee’s employer
4 which—

5 (A) identifies the employee by name, ad-
6 dress, and social security number,

7 (B) identifies the individual retirement
8 plan to which the employee wishes to make con-
9 tributions through payroll deductions, and

10 (C) identifies the amount of such contribu-
11 tions, not to exceed the amount allowed under
12 section 408 of the Internal Revenue Code of
13 1986 to an individual retirement plan for such
14 year.

15 (2) EMPLOYEE.—The term “employee” does
16 not include an employee as defined in section
17 401(c)(1) of such Code.

18 (3) INDIVIDUAL RETIREMENT PLANS.—The
19 term “individual retirement plan” has the meaning
20 given the term by section 7701(a)(37) of the Inter-
21 nal Revenue Code of 1986.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of the Treasury.

24 (b) ESTABLISHMENT OF PAYROLL DEDUCTION SYS-
25 TEM.—An employer may establish a system under which

1 employees, through employer payroll deductions, may
 2 make contributions to individual retirement plans. An em-
 3 ployer shall not incur any liability under title I of the Em-
 4 ployee Retirement Income Security Act of 1974 in pro-
 5 viding for such a system.

6 (c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT
 7 PLANS.—

8 (1) IN GENERAL.—The system established
 9 under subsection (b) shall provide that contributions
 10 made to an individual retirement plan for any tax-
 11 able year are—

12 (A) contributions through employer payroll
 13 deductions, and

14 (B) if the employer so elects, additional
 15 contributions by the employee which, when
 16 added to contributions under subparagraph (A),
 17 do not exceed the amount allowed under section
 18 408 of the Internal Revenue Code of 1986 for
 19 the taxable year.

20 (2) EMPLOYER PAYROLL DEDUCTIONS.—

21 (A) IN GENERAL.—The system established
 22 under subsection (b) shall provide that an em-
 23 ployee may establish and maintain an individual
 24 retirement plan simply by—

1 (i) completing a contribution certifi-
2 cate, and

3 (ii) submitting such certificate to the
4 employee's employer in the manner pro-
5 vided under subparagraph (D).

6 (B) CHANGE OF AMOUNTS.—An employee
7 establishing and maintaining an individual re-
8 tirement plan under subparagraph (A) may
9 change the amount of an employer payroll de-
10 duction in the same manner as under subpara-
11 graph (A).

12 (C) SIMPLIFIED FORMS.—

13 (i) CONTRIBUTION CERTIFICATE.—
14 The Secretary shall develop a model con-
15 tribution certificate for purposes of this
16 paragraph—

17 (I) which is written in a clear
18 and easily understandable manner,
19 and

20 (II) the completion of which by
21 an employee will constitute the estab-
22 lishment of an individual retirement
23 plan and the request for employer
24 payroll deductions or changes in such
25 deductions.

1 (ii) AVAILABILITY.—The Secretary
2 shall make available to all employees and
3 employers the forms developed under this
4 subparagraph, and shall include with such
5 forms easy to understand explanatory ma-
6 terials.

7 (D) USE OF CERTIFICATE.—Each em-
8 ployer electing to adopt a system under sub-
9 section (b) shall, upon receipt of a contribution
10 certificate from an employee, deduct the appro-
11 priate contribution as determined by such cer-
12 tificate from the employee's wages in equal
13 amounts during the remaining payroll periods
14 for the taxable year and shall remit such
15 amounts for investment in the employee's indi-
16 vidual retirement plan not later than the close
17 of the 30-day period following the last day of
18 the month in which such payroll period occurs.

19 (E) FAILURE TO REMIT PAYROLL DEDUC-
20 TIONS.—For purposes of the Internal Revenue
21 Code of 1986, any amount which an employer
22 fails to remit on behalf of an employee pursuant
23 to a contribution certificate of such employee
24 shall not be allowed as a deduction to the em-
25 ployer under such Code.

1 (d) ADDITIONAL INFORMATION.—

2 (1) IN GENERAL.—The system established
3 under subsection (b) shall provide for the furnishing
4 of information to employees of the opportunity of es-
5 tablishing individual retirement plans and of trans-
6 ferring amounts to such plans.

7 (2) INVESTMENT INFORMATION.—The employer
8 shall also make available to employees information
9 on how to make informed investment decisions and
10 how to achieve retirement objectives.

11 (3) INFORMATION NOT INVESTMENT ADVICE.—
12 Information provided under this subsection shall not
13 be treated as investment advice for purposes of any
14 Federal or State law.

15 **SEC. 103. SAFE ANNUITIES AND TRUSTS.**

16 (a) IN GENERAL.—Subpart A of part I of subchapter
17 D of chapter 1 (relating to deferred compensation, etc.)
18 is amended by inserting after section 408A the following:

19 **“SEC. 408B. SAFE ANNUITIES AND TRUSTS.**

20 **“(a) EMPLOYER ELIGIBILITY.—**

21 **“(1) IN GENERAL.—**An employer may establish
22 and maintain a SAFE annuity or a SAFE trust for
23 any year only if—

24 **“(A) the employer is an eligible employer**
25 **(as defined in section 408(p)(2)(C)), and**

1 “(B) the employer does not maintain (and
2 no predecessor of the employer maintains) a
3 qualified plan (other than a permissible plan)
4 with respect to which contributions were made,
5 or benefits were accrued, for service in any year
6 in the period beginning with the year such an-
7 nuity or trust became effective and ending with
8 the year for which the determination is being
9 made.

10 “(2) DEFINITIONS.—For purposes of paragraph
11 (1)—

12 “(A) QUALIFIED PLAN.—The term ‘quali-
13 fied plan’ has the meaning given such term by
14 section 408(p)(2)(D)(ii).

15 “(B) PERMISSIBLE PLAN.—The term ‘per-
16 missible plan’ means—

17 “(i) a plan under which only elective
18 deferrals described in section 402(g)(3),
19 deferred compensation described in section
20 457, or employer matching contributions
21 may be made, and

22 “(ii) any collectively bargained plan.

23 “(b) SAFE ANNUITY.—

24 “(1) IN GENERAL.—For purposes of this title,
25 the term ‘SAFE annuity’ means an individual retire-

1 ment annuity (as defined in section 408(b) without
2 regard to paragraph (2) thereof and without regard
3 to the limitation on aggregate annual premiums con-
4 tained in the flush language of section 408(b)) if—

5 “(A) such annuity meets the requirements
6 of paragraphs (2) through (6), and

7 “(B) the only contributions to such annu-
8 ity (other than rollover contributions) are em-
9 ployer contributions.

10 Nothing in this section shall be construed as pre-
11 venting an employer from using a group annuity
12 contract which is divisible into individual retirement
13 annuities for purposes of providing SAFE annuities.

14 “(2) PARTICIPATION REQUIREMENTS.—

15 “(A) IN GENERAL.—The requirements of
16 this paragraph are met for any year only if all
17 employees of the employer who—

18 “(i) received at least \$5,000 in com-
19 pensation from the employer during any 2
20 consecutive preceding years, and

21 “(ii) received at least \$5,000 in com-
22 pensation during the year,

23 are entitled to the benefit described in para-
24 graph (5) for such year.

1 “(B) EXCLUDABLE EMPLOYEES.—An em-
2 ployer may elect to exclude from the require-
3 ments under subparagraph (A) employees de-
4 scribed in section 410(b)(3).

5 “(3) VESTING.—The requirements of this para-
6 graph are met if the employee’s rights to any bene-
7 fits are nonforfeitable.

8 “(4) BENEFIT FORM.—

9 “(A) IN GENERAL.—The requirements of
10 this paragraph are met if the only form of ben-
11 efit is—

12 “(i) a benefit payable annually in the
13 form of a single life annuity with monthly
14 payments (with no ancillary benefits) be-
15 ginning at age 65, or

16 “(ii) any other form of benefit which
17 is the actuarial equivalent (based on the
18 assumptions specified in the SAFE annu-
19 ity) of the benefit described in clause (i).

20 “(B) DIRECT TRANSFERS AND ROLL-
21 OVERS.—A plan shall not fail to meet the re-
22 quirements of this paragraph by reason of per-
23 mitting, at the election of the employee, a trust-
24 ee-to-trustee transfer or a rollover contribution.

1 “(5) AMOUNT OF ANNUAL ACCRUED BEN-
2 EFIT.—

3 “(A) IN GENERAL.—The requirements of
4 this paragraph are met for any plan year if the
5 accrued benefit of each participant derived from
6 employer contributions for such year, when ex-
7 pressed as a benefit described in paragraph
8 (4)(A), equals the applicable percentage of the
9 participant’s compensation for such year.

10 “(B) APPLICABLE PERCENTAGE.—For
11 purposes of this paragraph—

12 “(i) IN GENERAL.—The term ‘applica-
13 ble percentage’ means 3 percent.

14 “(ii) ELECTION OF LOWER PERCENT-
15 AGE.—An employer may elect to apply an
16 applicable percentage of 1 percent, 2 per-
17 cent or zero percent for any year for all
18 employees eligible to participate in the plan
19 for such year if the employer notifies the
20 employees of such percentage within a rea-
21 sonable period before the beginning of such
22 year.

23 “(C) COMPENSATION LIMIT.—The com-
24 pensation taken into account under this para-
25 graph for any year shall not exceed the limita-

1 tion in effect for such year under section
2 401(a)(17).

3 “(D) CREDIT FOR SERVICE BEFORE PLAN
4 ADOPTED.—

5 “(i) IN GENERAL.—An employer may
6 elect to take into account a specified num-
7 ber of years of service (not greater than
8 10) performed before the adoption of the
9 plan (each hereinafter referred to as a
10 ‘prior service year’) as service under the
11 plan if the same specified number of years
12 is available to all employees eligible to par-
13 ticipate in the plan for the first plan year.

14 “(ii) ACCRUAL OF PRIOR SERVICE
15 BENEFIT.—Such an election shall be effec-
16 tive for a prior service year only if the re-
17 quirements of this paragraph are met for
18 an eligible plan year (with respect to em-
19 ployees entitled to credit for such prior
20 service year) by doubling the applicable
21 percentage (if any) for such plan year. For
22 purposes of the preceding sentence, an eli-
23 gible plan year is a plan year in the period
24 of consecutive plan years (but not more
25 than the number specified under clause (i))

1 beginning with the first plan year that the
2 plan is in effect.

3 “(iii) ELECTION MAY NOT APPLY TO
4 CERTAIN PRIOR SERVICE YEARS.—This
5 subparagraph shall not apply with respect
6 to any prior service year of an employee
7 if—

8 “(I) for any part of such prior
9 service year such employee was an ac-
10 tive participant (within the meaning
11 of section 219(g)(5)) under any de-
12 fined benefit plan of the employer (or
13 any predecessor thereof), or

14 “(II) such employee received dur-
15 ing such prior service year less than
16 \$5,000 in compensation from the em-
17 ployer.

18 “(6) FUNDING.—

19 “(A) IN GENERAL.—The requirements of
20 this paragraph are met only if the employer is
21 required to contribute to the annuity for each
22 plan year the amount necessary (determined in
23 accordance with subparagraph (B)) to fund the
24 accrued benefit for each participant entitled to
25 such benefit for such year.

1 “(B) ACTUARIAL ASSUMPTIONS.—In deter-
2 mining the amount required to be contributed
3 under subparagraph (A)—

4 “(i) the assumed interest rate shall be
5 not less than 3 percent and not greater
6 than 5 percent per year,

7 “(ii) the assumed mortality shall be
8 determined under the applicable mortality
9 table (as defined in section 417(e)(3), as
10 modified by the Secretary so that it does
11 not include any assumption for preretire-
12 ment mortality),

13 “(iii) the assumed retirement age
14 shall be 65, and

15 “(iv) an assumption for reasonable ex-
16 penses shall be permitted consistent with
17 State law.

18 “(C) TIME WHEN CONTRIBUTIONS
19 DEEMED MADE.—For purposes of this para-
20 graph, an employer shall be deemed to have
21 made a contribution on the last day of the pre-
22 ceding taxable year if the payment is on ac-
23 count of such taxable year and is made not
24 later than the time prescribed by law for filing

1 the return for such taxable year (including ex-
2 tensions thereof).

3 “(D) PENALTY FOR FAILURE TO MAKE RE-
4 QUIRED CONTRIBUTION.—The taxes imposed by
5 section 4971 shall apply to a failure to make
6 the contribution required by this paragraph in
7 the same manner as if the amount of the failure
8 were an accumulated funding deficiency to
9 which such section applies.

10 “(7) DEFINITIONS AND SPECIAL RULE.—

11 “(A) DEFINITIONS.—The definitions in
12 section 408(p)(6) shall apply for purposes of
13 this subsection.

14 “(B) USE OF DESIGNATED FINANCIAL IN-
15 STITUTIONS.—A rule similar to the rule of sec-
16 tion 408(p)(7) (without regard to the last sen-
17 tence thereof) shall apply for purposes of this
18 subsection.

19 “(C) TREATMENT OF MATCHING CON-
20 TRIBUTIONS.—A rule similar to the rule of sec-
21 tion 408(p)(8) shall apply for purposes of this
22 subsection.

23 “(c) SAFE TRUST.—

1 “(1) IN GENERAL.—For purposes of this title,
2 the term ‘SAFE trust’ means a trust forming part
3 of a defined benefit plan if—

4 “(A) such trust meets the requirements of
5 section 401(a) as modified by subsection (d),

6 “(B) a participant’s benefits under the
7 plan are based solely on the balance of a sepa-
8 rate account in such plan of such participant,

9 “(C) such plan meets the requirements of
10 paragraphs (2) through (8), and

11 “(D) the only contributions to such trust
12 (other than rollover contributions) are employer
13 contributions.

14 “(2) PARTICIPATION REQUIREMENTS.—A plan
15 meets the requirements of this paragraph for any
16 year only if the requirements of subsection (b)(2)
17 are met for such year.

18 “(3) VESTING.—A plan meets the requirements
19 of this paragraph for any year only if the require-
20 ments of subsection (b)(3) are met for such year.

21 “(4) BENEFIT FORM.—A plan meets the re-
22 quirements of this paragraph only if the require-
23 ments of subsection (b)(4) are met. For purposes of
24 this paragraph, a plan may satisfy the requirements
25 of subsection (b)(4) by purchasing an annuity con-

1 tract which meets the requirements of subsection
2 (b)(4).

3 “(5) AMOUNT OF ANNUAL ACCRUED BEN-
4 EFIT.—A plan meets the requirements of this para-
5 graph for any year only if the requirements of sub-
6 section (b)(5) are met for such year.

7 “(6) FUNDING.—

8 “(A) IN GENERAL.—A plan meets the re-
9 quirements of this paragraph for any year only
10 if—

11 “(i) the requirements of subsection
12 (b)(6) are met for such year, and

13 “(ii) in the case of a plan which has
14 an unfunded prior year liability as of the
15 close of such plan year, the plan requires
16 that the employer make an additional con-
17 tribution to such plan for such year equal
18 to the amount of such unfunded prior year
19 liability.

20 “(B) UNFUNDED PRIOR YEAR LIABIL-
21 ITY.—For purposes of this paragraph, the term
22 ‘unfunded prior year liability’ means, with re-
23 spect to any plan year, the excess (if any) of—

1 “(i) the aggregate of the accrued li-
2 abilities under the plan as of the close of
3 the prior plan year, over

4 “(ii) the value of the plan’s assets de-
5 termined under section 412(c)(2) as of the
6 close of the plan year (determined without
7 regard to any contributions for such plan
8 year).

9 Such accrued liabilities shall be determined
10 using the assumptions specified in subsection
11 (b)(6)(B).

12 “(C) CHANGES IN MORTALITY TABLE.—If
13 the applicable mortality table under section
14 417(e)(3) for any plan year is not the same as
15 such table for the prior plan year, the Secretary
16 shall prescribe regulations which phase in the
17 effect of the changes over a reasonable period
18 of plan years determined by the Secretary.

19 “(D) DISREGARD ASSUMPTIONS FOR EX-
20 PENSES.—For purposes of this paragraph, the
21 assumption specified in subsection (b)(6)(B)(iv)
22 shall be disregarded.

23 “(7) SEPARATE ACCOUNTS FOR PARTICI-
24 PANTS.—A plan meets the requirements of this
25 paragraph for any year only if the plan provides—

1 “(A) for an individual account for each
2 participant, and

3 “(B) for benefits based solely on—

4 “(i) the amount contributed to the
5 participant’s account, and

6 “(ii) any income, expenses, gains and
7 losses, and any forfeitures of accounts of
8 other participants which may be allocated
9 to such participant’s account.

10 “(8) TRUST MAY NOT HOLD SECURITIES WHICH
11 ARE NOT READILY TRADABLE.—A plan meets the
12 requirements of this paragraph only if the plan pro-
13 hibits the trust from holding directly or indirectly se-
14 curities which are not readily tradable on an estab-
15 lished securities market or otherwise. Nothing in
16 this paragraph shall prohibit the trust from holding
17 insurance company products regulated by State law.

18 “(9) DEFINITIONS AND SPECIAL RULE.—The
19 definitions and special rule applicable under sub-
20 section (b)(7) shall apply for purposes of this sub-
21 section.

22 “(d) SPECIAL RULES FOR SAFE ANNUITIES AND
23 TRUSTS.—

24 “(1) CERTAIN REQUIREMENTS TREATED AS
25 MET.—For purposes of section 401(a), a SAFE an-

1 nuity and a SAFE trust shall be treated as meeting
2 the requirements of the following provisions:

3 “(A) Section 401(a)(4) (relating to non-
4 discrimination rules).

5 “(B) Section 401(a)(26) (relating to min-
6 imum participation).

7 “(C) Section 410 (relating to minimum
8 participation and coverage requirements).

9 “(D) Section 411(b) (relating to accrued
10 benefit requirements).

11 “(E) Paragraphs (6) and (7) of section
12 412(c) (relating to full funding limitation).

13 “(F) Section 415 (relating to limitations
14 on benefits and contributions under qualified
15 plans).

16 “(G) Section 416 (relating to special rules
17 for top-heavy plans).

18 “(2) CONTRIBUTIONS NOT TAKEN INTO AC-
19 COUNT IN APPLYING LIMITS TO OTHER PLANS.—
20 Contributions to a SAFE annuity or a SAFE trust
21 shall not be taken into account in applying sections
22 404 and 415 to other plans maintained by the em-
23 ployer.

24 “(3) COORDINATION WITH MAXIMUM LIMITA-
25 TION UNDER SUBSECTION (a).—In the case of any

1 SAFE annuity or SAFE trust, subsections (a)(1)
 2 and (b) of section 408 shall be applied by sub-
 3 stituting ‘the dollar amount in effect under section
 4 408B(b)(5)(C)’ for ‘\$2,000’ each place it appears in
 5 such subsections.

6 “(e) ROLLOVER CONTRIBUTION.—For purposes of
 7 this section, the term ‘rollover contribution’ means any
 8 rollover contribution under section 402(c), 403(a)(4),
 9 403(b)(8), 408(d)(3), or 457(e)(16).”.

10 (b) DEDUCTION LIMITS NOT TO APPLY TO EM-
 11 PLOYER CONTRIBUTIONS.—

12 (1) IN GENERAL.—Section 404 (relating to de-
 13 ductions for contributions of an employer to pension,
 14 etc., plans) is amended by adding at the end the fol-
 15 lowing:

16 “(n) SPECIAL RULES FOR SAFE ANNUITIES AND
 17 TRUSTS.—

18 “(1) IN GENERAL.—Employer contributions to
 19 a SAFE annuity or SAFE trust shall be treated as
 20 if they are made to a plan subject to the require-
 21 ments of this section.

22 “(2) TIMING.—

23 “(A) DEDUCTION.—Contributions de-
 24 scribed in paragraph (1) shall be deductible in
 25 the taxable year of the employer with or within

1 which the calendar year for which the contribu-
2 tions were made ends.

3 “(B) CONTRIBUTIONS AFTER END OF
4 YEAR.—For purposes of this subsection, con-
5 tributions shall be treated as made for a taxable
6 year if they are made on account of the taxable
7 year and are made not later than the time pre-
8 scribed by law for filing the return for the tax-
9 able year (including extensions thereof).”.

10 (2) COORDINATION WITH DEDUCTION UNDER
11 SECTION 219.—

12 (A) Section 219(b) (relating to maximum
13 amount of deduction) is amended by adding at
14 the end the following:

15 “(5) SPECIAL RULE FOR SAFE ANNUITIES.—
16 This section shall not apply with respect to any
17 amount contributed to a SAFE annuity established
18 under section 408A(B).”.

19 (B) Section 219(g)(5)(A) (defining active
20 participant) is amended by striking “or” at the
21 end of clause (v) and by adding at the end the
22 following:

23 “(vii) any SAFE annuity (within the
24 meaning of section 408B), or”.

1 (c) CONTRIBUTIONS AND DISTRIBUTIONS.—Section
2 402 (relating to taxability of beneficiary of employees’
3 trust) is amended by adding at the end the following:

4 “(l) TREATMENT OF SAFE ANNUITIES.—Rules simi-
5 lar to the rules of paragraphs (1) and (3) of subsection
6 (h) shall apply to contributions and distributions with re-
7 spect to a SAFE annuities under section 408B.”.

8 (d) INCREASED PENALTY ON EARLY WITH-
9 DRAWALS.—Section 72(t) (relating to additional tax on
10 early distributions) is amended by adding at the end the
11 following:

12 “(9) SPECIAL RULES FOR SAFE ANNUITIES AND
13 TRUSTS.—In the case of any amount received from
14 a SAFE annuity or a SAFE trust (within the mean-
15 ing of section 408B), paragraph (1) shall be applied
16 by substituting ‘20 percent’ for ‘10 percent’.”.

17 (e) SIMPLIFIED EMPLOYER REPORTS.—

18 (1) SAFE ANNUITIES.—Section 408(l) (relating
19 to simplified employer reports) is amended by add-
20 ing at the end the following:

21 “(3) SAFE ANNUITIES.—

22 “(A) SIMPLIFIED REPORT.—The employer
23 maintaining any SAFE annuity (within the
24 meaning of section 408B) shall file a simplified
25 annual return with the Secretary containing

1 only the information described in subparagraph
2 (B).

3 “(B) CONTENTS.—The return required by
4 subparagraph (A) shall set forth—

5 “(i) the name and address of the em-
6 ployer,

7 “(ii) the date the plan was adopted,

8 “(iii) the number of employees of the
9 employer,

10 “(iv) the number of such employees
11 who are eligible to participate in the plan,

12 “(v) the total amount contributed by
13 the employer to each such annuity for such
14 year and the minimum amount required
15 under section 408B to be so contributed,

16 “(vi) the percentage elected under sec-
17 tion 408B(b)(5)(B), and

18 “(vii) the number of employees with
19 respect to whom contributions are required
20 to be made for such year under section
21 408B(b)(5)(D).

22 “(C) REPORTING BY ISSUER OF SAFE AN-
23 NUITY.—

24 “(i) IN GENERAL.—The issuer of each
25 SAFE annuity shall provide to the owner

1 of the annuity for each year a statement
2 setting forth as of the close of such year—

3 “(I) the benefits guaranteed at
4 age 65 under the annuity, and

5 “(II) the cash surrender value of
6 the annuity.

7 “(ii) SUMMARY DESCRIPTION.—The
8 issuer of any SAFE annuity shall provide
9 to the employer maintaining the annuity
10 for each year a description containing the
11 following information:

12 “(I) The name and address of
13 the employer and the issuer.

14 “(II) The requirements for eligi-
15 bility for participation.

16 “(III) The benefits provided with
17 respect to the annuity.

18 “(IV) The procedures for, and ef-
19 fects of, withdrawals (including roll-
20 overs) from the annuity.

21 “(D) TIME AND MANNER OF REPORT-
22 ING.—Any return, report, or statement required
23 under this paragraph shall be made in such
24 form and at such time as the Secretary shall
25 prescribe.”.

1 (2) SAFE TRUSTS.—Section 6059 (relating to
2 actuarial reports) is amended by redesignating sub-
3 sections (c) and (d) as subsections (d) and (e), re-
4 spectively, and by inserting after subsection (b) the
5 following:

6 “(c) SAFE TRUSTS.—In the case of a SAFE Trust
7 (within the meaning of section 408B), the Secretary shall
8 require a simplified actuarial report which contains infor-
9 mation similar to the information required in section
10 408(l)(3)(B).”.

11 (f) CONFORMING AMENDMENTS.—

12 (1) Section 280G(b)(6) is amended by striking
13 “or” at the end of subparagraph (C), by striking the
14 period at the end of subparagraph (D) and inserting
15 “, or” and by adding after subparagraph (D) the
16 following:

17 “(E) a SAFE annuity described in section
18 408B.”.

19 (2) Subsections (b), (c), (m)(4)(B), and
20 (n)(3)(B) of section 414 are each amended by in-
21 serting “408B,” after “408(p),”.

22 (3) Section 4972(d)(1)(A) is amended by strik-
23 ing “and” at the end of clause (iii), by striking the
24 period at the end of clause (iv) and inserting “,
25 and”, and by adding after clause (iv) the following:

1 “(v) any SAFE annuity (within the
2 meaning of section 408B).”.

3 (4) The table of sections for subpart A of part
4 I of subchapter D of chapter 1 is amended by insert-
5 ing after the item relating to section 408A the fol-
6 lowing:

 “Sec. 408B. SAFE annuities and trusts.”.

7 (g) MODIFICATIONS OF ERISA.—

8 (1) EXEMPTION FROM INSURANCE COV-
9 ERAGE.—Subsection (b) of section 4021 of the Em-
10 ployee Retirement Income Security Act of 1974 (29
11 U.S.C. 1321) is amended by striking “or” at the end
12 of paragraph (12), by striking the period at the end
13 of paragraph (13) and inserting “; or”, and by add-
14 ing at the end the following:

15 “(14) which is established and maintained as
16 part of a SAFE trust (as defined in section 408B
17 of the Internal Revenue Code of 1986).”.

18 (2) REPORTING REQUIREMENTS.—Section 101
19 of such Act (29 U.S.C. 1021) is amended by redес-
20 ignating the second subsection (h) as subsection (j)
21 and by inserting after the first subsection (h) the
22 following:

23 “(i) SAFE ANNUITIES.—

24 “(1) NO EMPLOYER REPORTS.—Except as pro-
25 vided in this subsection, no report shall be required

1 under this section by an employer maintaining a
2 SAFE annuity under section 408B(b) of the Inter-
3 nal Revenue Code of 1986.

4 “(2) SUMMARY DESCRIPTION.—The issuer of
5 any SAFE annuity shall provide to the employer
6 maintaining the annuity for each year a description
7 containing the following information:

8 “(A) The name and address of the em-
9 ployer and the issuer.

10 “(B) The requirements for eligibility for
11 participation.

12 “(C) The benefits provided with respect to
13 the annuity.

14 “(D) The procedures for, and effects of,
15 withdrawals (including rollovers) from the an-
16 nuity.

17 “(3) EMPLOYEE NOTIFICATION.—The employer
18 shall provide each employee eligible to participate in
19 the SAFE annuity with the description described in
20 paragraph (2) at the same time as the notification
21 required under section 408B(b)(5)(B) of the Inter-
22 nal Revenue Code of 1986.”.

23 (h) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to years beginning after December
25 31, 1999.

1 **SEC. 104. MODIFICATION OF TOP-HEAVY RULES.**

2 (a) REPEAL OF FAMILY AGGREGATION RULES.—
3 Section 416(i)(1)(B)(i)(I) (defining 5-percent owner) is
4 amended by inserting “(without regard to subsection
5 (a)(1) thereof)” after “section 318”.

6 (b) SIMPLIFICATION OF DEFINITION OF KEY EM-
7 PLOYEE.—

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

10 (A) by striking “or any of the 4 preceding
11 plan years” in the matter preceding clause (i),

12 (B) by striking clause (i) and inserting the
13 following:

14 “(i) an officer of the employer who is
15 a highly compensated employee described
16 in section 414(q)(1)(B),”

17 (C) by striking clause (ii) and redesign-
18 ating clauses (iii) and (iv) as clauses (ii) and
19 (iii), respectively, and

20 (D) by striking the second sentence in the
21 matter following clause (iii), as redesignated by
22 subparagraph (C).

23 (2) CONFORMING AMENDMENT.—Section
24 416(i)(1)(B)(iii) is amended by striking “and sub-
25 paragraph (A)(ii)”.

1 (c) EMPLOYEE ELECTIVE CONTRIBUTIONS TO PLAN
2 NOT TAKEN INTO ACCOUNT.—

3 (1) DEFINITION OF TOP-HEAVY PLAN.—Section
4 416(g)(4) (relating to other special rules) is amend-
5 ed by adding at the end the following:

6 “(H) EMPLOYEE ELECTIVE CONTRIBU-
7 TIONS TO PLAN NOT TAKEN INTO ACCOUNT.—

8 At the election of the employer, any employee
9 elective contribution described in section
10 415(c)(3)(D) to a plan (and earnings allocable
11 thereto) shall not be taken into account for pur-
12 poses of determining whether a plan is a top-
13 heavy plan (or whether any aggregation group
14 which includes such plan is a top-heavy
15 group).”.

16 (2) DEFINITION OF COMPENSATION.—Section
17 416(i)(1)(D) (defining compensation) is amended to
18 read as follows:

19 “(D) COMPENSATION.—

20 “(i) IN GENERAL.—For purposes of
21 this paragraph, except as provided in
22 clause (ii), the term ‘compensation’ has the
23 meaning given such term by section
24 414(q)(4).

1 “(ii) EMPLOYEE ELECTIVE CONTRIBU-
2 TIONS TO PLAN NOT TAKEN INTO AC-
3 COUNT.—At the election of the employer,
4 any employee elective contribution de-
5 scribed in section 415(c)(3)(D) to a plan
6 shall not be taken into account for pur-
7 poses of determining compensation.”.

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

15 (e) DISTRIBUTIONS DURING LAST YEAR BEFORE
16 DETERMINATION DATE TAKEN INTO ACCOUNT.—Section
17 416(g) is amended—

18 (1) in paragraph (3)—

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

22 (B) in the matter following subparagraph
23 (B), by striking “5-year period” and inserting
24 “1-year period”, and

25 (2) in paragraph (4)(E)—

1 (A) by striking “LAST 5 YEARS” in the
 2 heading and inserting “LAST YEAR BEFORE DE-
 3 TERMINATION DATE”, and

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

6 (f) REQUIREMENTS FOR QUALIFICATIONS.—Clause
 7 (ii) of section 401(a)(10)(B) (relating to requirements for
 8 qualifications for top-heavy plans) is amended by adding
 9 at the end the following new flush sentence:

10 “The preceding sentence shall not apply to
 11 a plan if the plan is not top-heavy and if
 12 it is not reasonable to expect that the plan
 13 will become a top-heavy plan.”.

14 (g) DEFINITION OF TOP-HEAVY PLANS.—

15 (1) EXCLUSION OF CERTAIN PLANS FROM DEFINI-
 16 TION OF TOP-HEAVY PLAN.—Section 416(g)(4)
 17 (relating to other special rules for top-heavy plans),
 18 as amended by subsection (c), is amended by adding
 19 at the end the following new subparagraph:

20 “(I) CASH OR DEFERRED ARRANGEMENTS
 21 AND PLANS USING ALTERNATIVE METHODS OF
 22 MEETING NONDISCRIMINATION REQUIRE-
 23 MENTS.—The term ‘top-heavy plan’ shall not
 24 include—

1 “(i) a cash or deferred arrangement
2 to the extent that such arrangement meets
3 the requirements of section 401(k)(12), or
4 “(ii) a defined contribution plan to
5 the extent that such plan meets the re-
6 quirements of section 401(m)(11),

7 This subparagraph shall also apply to contribu-
8 tions that are not required to satisfy the re-
9 quirements of section 401(k)(12) or
10 401(m)(11), whichever is applicable, but are
11 consistent with the purposes of such section, as
12 permitted under regulations which the Sec-
13 retary shall prescribe. Nothing in this subpara-
14 graph shall preclude an employer from taking
15 into account contributions made under the cash
16 or deferred arrangement or the defined con-
17 tribution plan when determining whether any
18 plan of such employer satisfies the requirements
19 of this section.”.

20 (2) AGGREGATION GROUP NOT REQUIRED TO
21 INCLUDE CERTAIN PLANS.—Clause (i) of section
22 416(g)(2)(A) of such Code (relating to required ag-
23 gregation) is amended by adding at the end the fol-
24 lowing new flush sentence:

1 “Such term shall not include a plan or ar-
2 rangement described in subparagraph (I)
3 of paragraph (4).”.

4 (h) EFFECTIVE DEFERRALS NOT TAKEN INTO AC-
5 COUNT.—Clause (i) of section 416(c)(2)(B) (relating to
6 special rule where maximum contribution less than 3 per-
7 cent) is amended by inserting “(other than elective defer-
8 rals (as defined in section 402(g)(3))” after “contribu-
9 tions”.

10 (i) FROZEN PLAN EXEMPT FROM MINIMUM BEN-
11 EFIT REQUIREMENT.—

12 (1) IN GENERAL.—Subparagraph (C) of section
13 416(c)(1) (relating to defined benefit plans) is
14 amended—

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

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

18 “(iii) EXCEPTION FOR FROZEN
19 PLAN.—For purposes of determining an
20 employee’s years of service with the em-
21 ployer, any service with the employer shall
22 be disregarded to the extent that such
23 service occurs during a plan year when the
24 plan benefits (within the meaning of sec-

1 tion 410(b)) no employee or former em-
2 ployee.”.

3 (2) CONFORMING AMENDMENT.—Subparagraph
4 (A) of section 415(b)(5) is amended by adding at
5 the end the following: “An employee shall not be
6 credited with a year of participation in a defined
7 benefit plan for any year in which the plan does not
8 benefit (within the meaning of section 410(b)) such
9 employee.”.

10 (j) ALTERNATIVE 60 PERCENT.—

11 (1) IN GENERAL.—Subsection (g) of section
12 416 (relating to top heavy plan defined) is amended
13 by adding at the end the following:

14 “(5) ALTERNATIVE 60 PERCENT TEST.—

15 “(A) IN GENERAL.—For any plan year, an
16 employer may elect for this paragraph to apply
17 to all plans maintained by such employer. If
18 this paragraph applies to a plan, the term ‘top-
19 heavy plan’ shall have the meaning set forth in
20 subparagraph (B) and the term ‘top-heavy
21 group’ shall have the meaning set forth in sub-
22 paragraph (C).

23 “(B) TOP-HEAVY PLAN DEFINED.—In the
24 case of any plan to which this paragraph ap-

1 plies, the term ‘top-heavy plan’ means, with re-
2 spect to any plan year—

3 “(i) any defined benefit plan if, for
4 the plan year ending on the determination
5 date, the present value of the accruals for
6 key employees, exceeds 60 percent of the
7 present value of the accruals for all em-
8 ployees, and

9 “(ii) any defined contribution plan if,
10 for the plan year ending on the determina-
11 tion date, the annual additions for key em-
12 ployees exceed 60 percent of the annual
13 additions for all employees.

14 “(C) TOP-HEAVY GROUP.—In the case of
15 any plan to which this paragraph applies, the
16 term ‘top-heavy group’ means any aggregation
17 group if—

18 “(i) the sum, for the plan year ending
19 on the determination date, of—

20 “(I) the present value of the ac-
21 cruals for key employees under all de-
22 fined benefit plans included in such
23 group, and

24 “(II) the aggregate of the annual
25 additions of key employees under all

1 defined contribution plans included in
2 such group,

3 “(ii) exceeds 60 percent of a similar
4 sum determined for all employees.

5 “(D) ANNUAL ADDITION.—For purposes of
6 this paragraph, the term ‘annual addition’ shall
7 have the same meaning as when used in section
8 415(c)(2) (without regard to section 415(l) or
9 section 419A(d)(2)).

10 “(E) CERTAIN RULES NOT TO APPLY.—
11 Paragraphs (3) and (4) (other than subpara-
12 graphs (B), (C), (D), (E), and (G) of para-
13 graph (4)) shall not apply for purposes of this
14 paragraph.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Subparagraph (A) of section 416(g)(1)
17 is amended by striking “subparagraph (B)”
18 and inserting “subparagraph (B) and para-
19 graph (5)”.

20 (B) Subparagraph (B) of section 416(g)(2)
21 is amended by striking “The term” and insert-
22 ing “Except as provided in paragraph (5), the
23 term”.

1 (k) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 1999.

4 **SEC. 105. SALARY REDUCTION ONLY SIMPLE PLANS.**

5 (a) SIMPLE RETIREMENT ACCOUNTS.—

6 (1) IN GENERAL.—Paragraph (2) of section
7 408(p) is amended—

8 (A) by redesignating subparagraphs (C),
9 (D), and (E) as subparagraphs (D), (E), and
10 (F), respectively, and

11 (B) by inserting after subparagraph (B)
12 the following:

13 “(C) EMPLOYER MAY ELECT SALARY RE-
14 Duction ONLY ARRANGEMENT.—

15 “(i) IN GENERAL.—An employer shall
16 be treated as meeting the requirements of
17 subparagraph (A)(iii) for any year if, in
18 lieu of the contributions described in such
19 subparagraph, the employer elects to have
20 subparagraph (A)(ii) applied for the year
21 by substituting ‘\$4,000’ for ‘\$6,000’. If an
22 employer makes an election under this sub-
23 paragraph for any year, the employer shall
24 notify employees of such election within a
25 reasonable period of time before the 60-day

1 period for such year under paragraph
2 (5)(C).

3 “(ii) EXCEPTION.—This subpara-
4 graph shall not apply to an employer if
5 such employer (or any predecessor em-
6 ployer) maintained another qualified plan
7 (as defined in subparagraph (E)(ii)) with
8 respect to which contributions were made,
9 or benefits were accrued, for service during
10 the year in which the arrangement de-
11 scribed in clause (i) became effective or ei-
12 ther of the 2 preceding years. If only indi-
13 viduals other than employees described in
14 subparagraph (A) or (B) of section
15 410(b)(3) are eligible to participate in the
16 arrangement described in clause (i), then
17 the preceding sentence shall be applied
18 without regard to any qualified plan in
19 which only employees so described are eli-
20 gible to participate.”.

21 (2) SPECIAL RULE FOR ACQUISITIONS, DISPOSI-
22 TIONS, AND SIMILAR TRANSACTIONS.—Subpara-
23 graph (B) of section 408(p)(10) is amended by
24 striking “and” at the end of clause (ii), by striking
25 the period at the end of clause (iii) and inserting “;

1 and”, and by inserting after clause (iii) the fol-
2 lowing:

3 “(iv) the requirement under para-
4 graph (2)(C) that the employer not have
5 maintained another qualified plan de-
6 scribed therein.”.

7 (3) COST-OF-LIVING ADJUSTMENT.—Subpara-
8 graph (F) of section 408(p)(2) (as so redesignated)
9 is amended by inserting “and the \$4,000 and
10 \$6,000 amounts under subparagraph (C)” after
11 “subparagraph (A)(ii)”.

12 (4) COORDINATION WITH MAXIMUM LIMITA-
13 TION.—Paragraph (8) of section 408(p) (relating to
14 coordination with maximum limitation under sub-
15 section (a)) is amended by striking “paragraph
16 (2)(A)(ii) of this subsection” and inserting “sub-
17 paragraph (A)(ii) or (C) of paragraph (2) of this
18 subsection, whichever is applicable,”.

19 (b) ADOPTION OF SIMPLE PLAN TO MEET NON-
20 DISCRIMINATION TESTS.—

21 (1) SIMPLE PLAN.—Subparagraph (B) of sec-
22 tion 401(k)(11) is amended by redesignating clause
23 (iii) as clause (iv) and by inserting after clause (ii)
24 the following new clause:

1 “(iii) EMPLOYER MAY ELECT SALARY
2 REDUCTION ONLY ARRANGEMENT.—

3 “(I) IN GENERAL.—An employer
4 shall be treated as meeting the re-
5 quirements of clause (i)(II) for any
6 year if, in lieu of the contributions de-
7 scribed in such clause, the employer
8 elects to have clause (i)(I) applied for
9 the year by substituting ‘\$4,000’ for
10 ‘\$6,000’. If an employer makes an
11 election under this clause for any
12 year, the employer shall notify em-
13 ployees of such election within a rea-
14 sonable period of time before the 60-
15 day period for such year under clause
16 (iv)(II).

17 “(II) EXCEPTION.—This clause
18 shall not apply to an employer if such
19 employer (or any predecessor em-
20 ployer) maintained another qualified
21 plan (as defined in section
22 408(p)(2)(E)(ii)) with respect to
23 which contributions were made, or
24 benefits were accrued, for service dur-
25 ing the year in which the arrangement

1 described in subclause (I) became ef-
 2 fective or either of the 2 preceding
 3 years. This subclause shall not apply
 4 if such contributions or benefits were
 5 solely on behalf of employees who are
 6 not eligible to participate in the ar-
 7 rangement described in subclause
 8 (I).”.

9 (2) COST-OF-LIVING ADJUSTMENT.—Subpara-
 10 graph (E) of section 401(k)(11) is amended by in-
 11 serting “and the \$4,000 and \$6,000 amounts under
 12 subparagraph (B)(iii)” after “subparagraph
 13 (B)(i)(I)”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to years beginning after December
 16 31, 1999.

17 **SEC. 106. CREDIT FOR SMALL EMPLOYER PENSION PLAN**
 18 **CONTRIBUTIONS AND START-UP COSTS.**

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

23 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN CREDIT.**

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

1 sion plan credit determined under this section for any tax-
2 able year is an amount equal to the sum of—

3 “(1) 50 percent of the qualified employer con-
4 tributions of the taxpayer for the taxable year, and

5 “(2) 50 percent of the qualified start-up costs
6 paid or incurred by the taxpayer during the taxable
7 year.

8 “(b) LIMITATIONS.—

9 “(1) LIMITS ON CONTRIBUTIONS.—For pur-
10 poses of subsection (a)(1)—

11 “(A) qualified employer contributions may
12 only be taken into account for each of the first
13 5 taxable years ending after the date the em-
14 ployer establishes the qualified employer plan to
15 which the contribution is made, and

16 “(B) the amount of the qualified employer
17 contributions taken into account with respect to
18 any qualified employee for any such taxable
19 year shall not exceed 3 percent of the com-
20 pensation (as defined in section 414(s)) of the
21 qualified employee for such taxable year.

22 “(2) LIMITS ON START-UP COSTS.—The amount
23 of the credit determined under subsection (a)(2) for
24 any taxable year shall not exceed—

1 “(A) \$2,000 for the first taxable year end-
2 ing after the date the employer established the
3 qualified employer plan to which such costs re-
4 late,

5 “(B) \$1,000 for each of the second and
6 third such taxable years, and

7 “(C) zero for each taxable year thereafter.

8 “(c) DEFINITIONS.—For purposes of this section—

9 “(1) ELIGIBLE EMPLOYER.—

10 “(A) IN GENERAL.—The term ‘eligible em-
11 ployer’ means, with respect to any year, an em-
12 ployer which has no more than—

13 “(i) for purposes of subsection (a)(1),
14 50 employees, and

15 “(ii) for purposes of subsection (a)(2),
16 100 employees,

17 who received at least \$5,000 of compensation
18 from the employer for the preceding year.

19 “(B) 2-YEAR GRACE PERIOD.—An eligible
20 employer who establishes and maintains a quali-
21 fied employer plan for 1 or more years and who
22 fails to be an eligible employer for any subse-
23 quent year shall be treated as an eligible em-
24 ployer for the 2 years following the last year
25 the employer was an eligible employer.

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

15 “(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

16 “(A) IN GENERAL.—The term ‘qualified
17 employer contributions’ means, with respect to
18 any taxable year, any employer contributions
19 made on behalf of a qualified employee to a
20 qualified employer plan for a plan year ending
21 with or within the taxable year.

22 “(B) EMPLOYER CONTRIBUTIONS.—The
23 term ‘employer contributions’ shall not include
24 any elective deferral (within the meaning of sec-
25 tion 402(g)(3)).

1 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-
2 fied employee’ means an individual who—

3 “(A) is eligible to participate in the quali-
4 fied employer plan to which the employer con-
5 tributions are made, and

6 “(B) is not a highly compensated employee
7 (within the meaning of section 414(q)) for the
8 year for which the contribution is made.

9 “(4) QUALIFIED START-UP COSTS.—The term
10 ‘qualified start-up costs’ means any ordinary and
11 necessary expenses of an eligible employer which are
12 paid or incurred in connection with—

13 “(A) the establishment or maintenance of
14 a qualified employer plan in which qualified em-
15 ployees are eligible to participate, and

16 “(B) providing educational information to
17 employees regarding participation in such plan
18 and the benefits of establishing an investment
19 plan.

20 “(5) QUALIFIED EMPLOYER PLAN.—The term
21 ‘qualified employer plan’ has the meaning given such
22 term in section 4972(d).

23 “(d) SPECIAL RULES.—

24 “(1) AGGREGATION RULES.—All persons treat-
25 ed as a single employer under subsection (a) or (b)

1 of section 52, or subsection (n) or (o) of section 414,
2 shall be treated as one person. All qualified employer
3 plans of an employer shall be treated as a single
4 qualified employer plan.

5 “(2) DISALLOWANCE OF DEDUCTION.—No de-
6 duction shall be allowable under this chapter for any
7 qualified start-up costs or qualified contributions for
8 which a credit is determined under subsection (a).

9 “(3) ELECTION NOT TO CLAIM CREDIT.—This
10 section shall not apply to a taxpayer for any taxable
11 year if such taxpayer elects to have this section not
12 apply for such taxable year.”.

13 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
14 NESS CREDIT.—Section 38(b) (defining current year busi-
15 ness credit) is amended by striking “plus” at the end of
16 paragraph (11), by striking the period at the end of para-
17 graph (12) and inserting “, plus”, and by adding at the
18 end the following new paragraph:

19 “(13) in the case of an eligible employer (as de-
20 fined in section 45D(e)), the small employer pension
21 plan credit determined under section 45D(a).”.

22 (c) PORTION OF CREDIT REFUNDABLE.—Section
23 38(c) (relating to limitation based on amount of tax) is
24 amended by adding at the end the following new para-
25 graph:

1 “(4) PORTION OF SMALL EMPLOYER PENSION
2 PLAN CREDIT REFUNDABLE.—

3 “(A) IN GENERAL.—In the case of the
4 small employer pension plan credit under sub-
5 section (b)(13), the aggregate credits allowed
6 under subpart C shall be increased by the lesser
7 of—

8 “(i) the credit which would be allowed
9 without regard to this paragraph and the
10 limitation under paragraph (1), or

11 “(ii) the amount by which the aggre-
12 gate amount of credits allowed by this sec-
13 tion (without regard to this paragraph)
14 would increase if the limitation under
15 paragraph (1) were increased by the tax-
16 payer’s applicable payroll taxes for the tax-
17 able year.

18 “(B) TREATMENT OF CREDIT.—The
19 amount of the credit allowed under this para-
20 graph shall not be treated as a credit allowed
21 under this subpart and shall reduce the amount
22 of the credit allowed under this section for the
23 taxable year.

24 “(C) APPLICABLE PAYROLL TAXES.—For
25 purposes of this paragraph—

1 “(i) IN GENERAL.—The term ‘applica-
2 ble payroll taxes’ means, with respect to
3 any taxpayer for any taxable year—

4 “(I) the amount of the taxes im-
5 posed by sections 3111 and 3221(a)
6 on compensation paid by the taxpayer
7 during the taxable year,

8 “(II) 50 percent of the taxes im-
9 posed by section 1401 on the self-em-
10 ployment income of the taxpayer dur-
11 ing the taxable year, and

12 “(III) 50 percent of the taxes im-
13 posed by section 3211(a)(1) on
14 amounts received by the taxpayer dur-
15 ing the calendar year in which the
16 taxable year begins.

17 “(ii) AGREEMENTS REGARDING FOR-
18 EIGN AFFILIATES.—Section 24(d)(5)(C)
19 shall apply for purposes of clause (i).”.

20 (d) CONFORMING AMENDMENT.—The table of sec-
21 tions for subpart D of part IV of subchapter A of chapter
22 1 is amended by adding at the end the following new item:

 “Sec. 45D. Small employer pension plan credit.”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to costs paid or incurred or con-

1 tributions made in connection with qualified employer
2 plans established after April 30, 1999.

3 **SEC. 107. INCREASING LIMITS FOR DEFERRALS TO SIMPLE**
4 **PLANS.**

5 (a) SIMPLE RETIREMENT ACCOUNTS.—

6 (1) IN GENERAL.—Paragraph (2)(A)(ii) of sec-
7 tion 408(p) (relating to simple retirement accounts)
8 is amended by striking “\$6,000” and inserting
9 “\$8,000”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 408(p)(2)(C)(i), as added by
12 section 105, is amended by striking “\$6,000”
13 and inserting “\$8,000”.

14 (B) Subparagraph (F) of section 408(p)(2)
15 (relating to cost-of-living adjustment), as
16 amended by section 105, is amended by striking
17 “\$6,000” each place it appears and inserting
18 “\$8,000”.

19 (b) NONDISCRIMINATION TESTS.—

20 (1) IN GENERAL.—Section 401(k)(11)(B)(i)(I)
21 is amended by striking “\$6,000” and inserting
22 “\$8,000”.

23 (2) CONFORMING AMENDMENTS.—

1 (A) Section 401(k)(11)(B)(iii)(I), as added
2 by section 105, is amended by striking
3 “\$6,000” and inserting “\$8,000”.

4 (B) Section 401(k)(11)(E), as amended by
5 section 105, is amended by striking “\$6,000”
6 each place it appears and inserting “\$8,000”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 1999.

10 **SEC. 108. PHASE-IN OF ADDITIONAL PBGC PREMIUM FOR**
11 **NEW PLANS.**

12 (a) AMENDMENTS TO ERISA.—Subparagraph (E) of
13 section 4006(a)(3) of the Employee Retirement Income
14 Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amend-
15 ed by adding at the end the following new clause:

16 “(v) In the case of a new defined benefit plan, the
17 amount determined under clause (ii) for any plan year
18 shall be an amount equal to the product derived by multi-
19 plying the amount determined under clause (ii) by the ap-
20 plicable percentage. For purposes of this clause, the term
21 ‘applicable percentage’ means—

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

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

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

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

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

2 “(VI) 100 percent, for the sixth plan year, and
3 for each succeeding plan year.

4 For purposes of this clause, a defined benefit plan (as de-
5 fined in section 3(35)) maintained by an employer shall
6 be treated as a new defined benefit plan if, during the
7 36-month period ending on the date of the adoption of
8 the plan, the employer and each member of any controlled
9 group including the employer (or any predecessor of ei-
10 ther) did not establish or maintain a plan to which this
11 title applies with respect to which contributions were
12 made, or benefits were accrued, for substantially the same
13 employees as are in the new plan.”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to plan years beginning after De-
16 cember 31, 1999.

17 **SEC. 109. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
18 **SMALL EMPLOYERS.**

19 (a) **IN GENERAL.**—Subparagraph (A) of section
20 4006(a)(3) of the Employee Retirement Income Security
21 Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

22 (1) in clause (i), by inserting “other than a new
23 single-employer plan (as defined in subparagraph
24 (F)),” after “single-employer plan,”

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

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

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

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

15 “(F)(i) For purposes of this paragraph, a
16 single-employer plan maintained by an employer
17 shall be treated as a new single-employer plan
18 for each of its first 5 plan years if, during the
19 36-month period ending on the date of the
20 adoption of such plan, the employer or any
21 member of such employer’s controlled group (or
22 any predecessor of either) had not established
23 or maintained a plan to which this title applies
24 with respect to which contributions were made,
25 or benefits were accrued, for substantially the

1 same employees as are in the new single-em-
2 ployer plan.

3 “(ii)(I) For purposes of this paragraph,
4 the term ‘small employer’ means an employer
5 which on the first day of any plan year has, in
6 aggregation with all members of the controlled
7 group of such employer, 100 or fewer employ-
8 ees.

9 “(II) In the case of a plan maintained by
10 2 or more contributing sponsors that are not
11 part of the same controlled group, the employ-
12 ees of all contributing sponsors and controlled
13 groups of such sponsor shall be aggregated for
14 purposes of determining whether the sponsor is
15 a small employer.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to plan years beginning after De-
18 cember 31, 1999.

19 **SEC. 110. ELIMINATION OF USER FEE FOR REQUESTS TO**
20 **IRS REGARDING NEW PENSION PLANS.**

21 (a) ELIMINATION OF CERTAIN USER FEES.—The
22 Secretary of the Treasury or the Secretary’s delegate shall
23 not require payment of user fees under the program estab-
24 lished under section 10511 of the Revenue Act of 1987
25 for requests to the Internal Revenue Service for ruling let-

1 ters, opinion letters, and determination letters or similar
2 requests with respect to the qualified status of a new pen-
3 sion benefit plan or any trust which is part of the plan.

4 (b) NEW PENSION BENEFIT PLAN.—For purposes of
5 this section—

6 (1) IN GENERAL.—The term “new pension ben-
7 efit plan” means a pension, profit-sharing, stock
8 bonus, annuity, or employee stock ownership plan
9 which is maintained by one or more eligible employ-
10 ers if such employer (or any predecessor employer)
11 has not made a prior request described in subsection
12 (a) for such plan (or any predecessor plan).

13 (2) ELIGIBLE EMPLOYER.—The term “eligible
14 employer” means an employer (or any predecessor
15 employer) which has not established or maintained a
16 qualified employer plan with respect to which con-
17 tributions were made, or benefits were accrued for
18 service, in the 3 most recent taxable years ending
19 prior to the first taxable year in which the request
20 is made.

21 (c) EFFECTIVE DATE.—The provisions of this section
22 shall apply with respect to requests made after December
23 31, 1999.

1 **SEC. 111. COMPENSATION LIMIT NOT TO APPLY TO SIMPLE**
 2 **401(K) ARRANGEMENTS.**

3 (a) IN GENERAL.—Section 401(k)(11) (relating to
 4 adoption of simple plan to meet nondiscrimination tests)
 5 is amended by adding at the end the following new sub-
 6 paragraph:

7 “(F) COMPENSATION.—The limitation
 8 under subsection (a)(17) shall not apply for
 9 purposes of determining compensation taken
 10 into account under this paragraph (other than
 11 subparagraph (B)(ii)).”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 this section shall apply to years beginning after December
 14 31, 1999.

15 **SEC. 112. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
 16 **COUNT FOR PURPOSES OF LIMITS.**

17 (a) IN GENERAL.—Section 404 is amended by adding
 18 at the end the following new subsection:

19 “(o) ELECTIVE DEFERRALS NOT TAKEN INTO AC-
 20 COUNT FOR PURPOSES OF LIMITS.—Elective deferrals (as
 21 defined in section 402(g)(3)) shall not be subject to any
 22 limitations described in this section (other than subsection
 23 (a)), and such elective deferrals shall not be taken into
 24 account in applying such limitations to any other contribu-
 25 tions.”.

1 (b) CONFORMING AMENDMENT.—Paragraph (3) of
 2 section 4972(c) is amended to read as follows:

3 “(3) CONTRIBUTIONS NOT TAKEN INTO AC-
 4 COUNT.—In determining the amount of nondeduct-
 5 ible contributions for any taxable year, there shall
 6 not be taken into account—

7 “(A) any elective deferral (as defined in
 8 section 402(g)(3)), or

9 “(B) any contribution for such taxable
 10 year which is distributed to the employer in a
 11 distribution described in section
 12 4980(c)(2)(B)(ii) if such distribution is made
 13 on or before the last day on which a contribu-
 14 tion may be made for such taxable year under
 15 section 404(a)(6).”.

16 (c) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to years beginning after December
 18 31, 1999.

19 **SEC. 113. REPEAL OF COORDINATION REQUIREMENTS FOR**
 20 **DEFERRED COMPENSATION PLANS OF STATE**
 21 **AND LOCAL GOVERNMENTS AND TAX-EX-**
 22 **EMPT ORGANIZATIONS.**

23 (a) IN GENERAL.—Subsection (c) of section 457 (re-
 24 lating to deferred compensation plans of State and local

1 governments and tax-exempt organizations) is amended by
 2 striking paragraph (2).

3 (b) **EFFECTIVE DATE.**—The amendment made by
 4 subsection (a) shall apply to years beginning after Decem-
 5 ber 31, 1999.

6 **SEC. 114. ALTERNATIVE METHOD OF MEETING NON-**
 7 **DISCRIMINATION REQUIREMENTS FOR OPT-**
 8 **OUT PLANS.**

9 (a) **IN GENERAL.**—Section 401(k) (relating to cash
 10 or deferred arrangement) is amended by adding at the end
 11 the following new paragraph:

12 “(13) **NONDISCRIMINATION REQUIREMENTS**
 13 **FOR OPT-OUT ARRANGEMENTS.**—

14 “(A) **IN GENERAL.**—A cash or deferred ar-
 15 rangement shall be treated as meeting the re-
 16 quirements of paragraph (3)(A)(ii) if such ar-
 17 rangement constitutes a negative election trust
 18 (a ‘NET’).

19 “(B) **NEGATIVE ELECTION TRUST.**—For
 20 purposes of this paragraph, the term ‘negative
 21 election trust’ means an arrangement—

22 “(i) under which each employee eligi-
 23 ble to participate in the arrangement is
 24 treated as having elected to have the em-
 25 ployer make elective contributions in an

1 amount equal to the uniform percentage
2 (not less than 3 percent) of compensation
3 provided under the arrangement unless the
4 employee specifically elects not to have
5 such contributions made, and

6 “(ii) which meets the other require-
7 ments of this paragraph.

8 Clause (i) of this subparagraph shall not apply
9 to any employee who was eligible to participate
10 in the arrangement (or a predecessor arrange-
11 ment) immediately before the first date on
12 which the arrangement is a NET. The election
13 treated as having been made under clause (i)
14 shall cease to apply to compensation paid after
15 the specific election by the employee.

16 “(C) PARTICIPATION.—An arrangement
17 meets the requirements of this subparagraph
18 for any year if, during the plan year or the pre-
19 ceding plan year, elective contributions are
20 made on behalf of at least 70 percent of em-
21 ployees other than highly compensated employ-
22 ees eligible to participate in the arrangement.

23 “(D) MATCHING OR NONELECTIVE CON-
24 TRIBUTIONS.—The requirements of this sub-

1 paragraph are met if, under the arrangement,
2 the employer—

3 “(i) makes matching contributions on
4 behalf of each employee who is not a highly
5 compensated employee in an amount equal
6 to 50 percent of the elective contributions
7 of the employee to the extent such elective
8 contributions do not exceed 5 percent of
9 compensation, or

10 “(ii) is required, without regard to
11 whether the employee makes an elective
12 contribution or employee contribution, to
13 make a contribution to a defined contribu-
14 tion plan on behalf of each employee who
15 is not a highly compensated employee and
16 who is eligible to participate in the ar-
17 rangement in an amount equal to at least
18 2 percent of the employee’s compensation.

19 The rules of clauses (ii), (iii), and (iv) of para-
20 graph (12)(B) shall apply for purposes of clause
21 (i).

22 “(E) WITHDRAWAL AND VESTING.—The
23 requirements of this subparagraph are met if
24 the requirements of subparagraphs (B) and (C)
25 of paragraph (2) are met with respect to all em-

1 employer contributions (including matching con-
2 tributions) taken into account in determining
3 whether the requirements of subparagraph (B)
4 or (D) are met.

5 “(F) NOTICE REQUIREMENTS.—The re-
6 quirements of this subparagraph are met if
7 each employee eligible to participate in the
8 arrangement—

9 “(i) receives a notice explaining the
10 employee’s right under the arrangement to
11 elect not to have elective contributions
12 made on the employee’s behalf, and

13 “(ii) has a reasonable period of time
14 after receipt of such notice and before the
15 first elective contribution is made to make
16 such election.

17 The requirements of clauses (i) and (ii) of para-
18 graph (12)(D) shall be met with respect to such
19 notice.”.

20 (b) MATCHING CONTRIBUTIONS.—Section 401(m)
21 (relating to nondiscrimination test for matching contribu-
22 tions and employee contributions) is amended by redesignig-
23 nating paragraph (12) as paragraph (13) and by inserting
24 after paragraph (11) the following new paragraph:

1 “(12) ALTERNATIVE METHOD FOR OPT-OUT
2 PLANS.—

3 “(A) IN GENERAL.—A defined contribution
4 plan shall be treated as meeting the require-
5 ments of paragraph (2) with respect to match-
6 ing contributions if the plan—

7 “(i) meets the contribution require-
8 ments of subparagraphs (B)(i) and (D) of
9 subsection (k)(13),

10 “(ii) meets the participation require-
11 ments of subsection (k)(13)(C),

12 “(iii) meets the vesting and notice re-
13 quirements of subparagraphs (E) and (F)
14 of subsection (k)(13), and

15 “(iv) meets the requirements of
16 clauses (i) and (ii) of paragraph (11)(B).

17 “(B) MATCHING CONTRIBUTIONS UNDER
18 SECTION 403(b) PLANS.—An annuity contract
19 under section 403(b) shall be treated as meet-
20 ing the requirements of paragraph (2) with re-
21 spect to matching contributions on account of
22 an elective deferral described in section
23 402(g)(3)(C) if such contract meets require-
24 ments similar to the requirements under sub-
25 paragraph (A).”.

1 (c) EXCLUSION FROM DEFINITION OF TOP-HEAVY
2 PLANS.—Paragraph (4) of section 416(g) (relating to
3 other special rules for top-heavy plans), as amended by
4 section 104(g), is amended by adding at the end the fol-
5 lowing new subparagraph:

6 “(J) NEGATIVE ELECTION TRUST.—The
7 term ‘top-heavy plan’ shall not include a nega-
8 tive election trust under section 401(k)(13).
9 Nothing in this subparagraph shall preclude an
10 employer from taking into account contributions
11 made under the negative election trust when de-
12 termining whether any plan of such employer
13 satisfies the requirements of this section.”.

14 (d) DEFINITION OF COMPENSATION.—

15 (1) IN GENERAL.—Paragraph (9) of section
16 401(k) is amended to read as follows:

17 “(9) COMPENSATION.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), for purposes of this section,
20 the term ‘compensation’ has the meaning given
21 such term by section 414(s).

22 “(B) USE OF BASE PAY.—For purposes of
23 paragraph (12)(B), the term ‘compensation’
24 means compensation as defined under the terms

1 of the cash or deferred arrangement if such
2 compensation—

3 “(i) meets the requirements of section
4 414(s), or

5 “(ii) constitutes base pay.

6 “(C) BASE PAY.—For purposes of sub-
7 paragraph (B), the term ‘base pay’ means a
8 reasonable definition of compensation which
9 does not by design favor highly compensated
10 employees and which excludes on a consistent
11 basis all irregular or additional compensation.”.

12 (2) NEGATIVE ELECTION TRUSTS.—Paragraph
13 (9)(B) of section 401(k) (as amended by paragraph
14 (1)) is amended by striking “paragraph (12)(B)”
15 and inserting “paragraphs (12)(B), (13)(B), and
16 (13)(D)(i)”.

17 (3) MATCHING CONTRIBUTIONS.—Paragraph
18 (11) of section 401(m) is amended by adding at the
19 end the following:

20 “(C) DEFINITION OF COMPENSATION.—
21 For purposes of subparagraph (B), the term
22 “compensation” has the meaning given such
23 term by subsection (k)(9)(B).”.

24 (e) APPLICATION BY YEAR OR PAYROLL PERIOD.—

1 (1) CASH OR DEFERRED ARRANGEMENTS.—
2 Subparagraph (B) of section 401(k)(12) is amended
3 by adding at the end the following:

4 “(iv) APPLICATION BY YEAR OR PAY-
5 ROLL PERIOD.—The requirements of this
6 subparagraph may be met for a plan year
7 by meeting such requirements either—

8 “(I) with respect to the plan year
9 as a whole, or

10 “(II) separately with respect to
11 each payroll period (or other payment
12 of compensation) taken into account
13 under the arrangement for the plan
14 year.”.

15 (2) DEFINED CONTRIBUTION PLANS.—Para-
16 graph (11) of section 401(m) (as amended by this
17 section) is amended by adding at the end the fol-
18 lowing:

19 “(D) APPLICATION BY YEAR OR PAYROLL
20 PERIOD.—The requirements of subparagraph
21 (B) may be met for a plan year by meeting
22 such requirements either—

23 “(i) with respect to the plan year as
24 a whole, or

1 “(ii) separately with respect to each
2 payroll period (or other payment of com-
3 pensation) taken into account under the
4 plan for the plan year.”.

5 (f) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided by para-
7 graph (2), the amendments made by this section
8 shall apply to plan years beginning after December
9 31, 1999.

10 (2) EXCEPTION.—The amendments made by
11 subsections (d)(1), (d)(3), and (e) shall apply to
12 years beginning after December 31, 1998.

13 **TITLE II—INCREASING PENSION**
14 **ACCESS AND FAIRNESS FOR**
15 **WOMEN**

16 **SEC. 201. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
17 **EMPLOYEES TO DEFINED CONTRIBUTION**
18 **PLANS.**

19 (a) EQUITABLE TREATMENT.—

20 (1) IN GENERAL.—Subparagraph (B) of section
21 415(c)(1) (relating to limitation for defined con-
22 tribution plans) is amended to read as follows:

23 “(B) the participant’s compensation.”.

24 (2) APPLICATION TO SECTION 403(b).—Section
25 403(b) is amended—

1 (A) by striking “the exclusion allowance
2 for such taxable year” in paragraph (1) and in-
3 sserting “the applicable limit under section
4 415”, and

5 (B) by striking paragraph (2).

6 (3) CONFORMING AMENDMENTS.—

7 (A) Subsection (f) of section 72 is amend-
8 ed by striking “section 403(b)(2)(D)(iii)” and
9 inserting “section 403(b)(2)(D)(iii), as in effect
10 on December 31, 1998”.

11 (B) Section 403(b)(3) is amended by in-
12 sserting “or any amount received by a former
13 employee after the 5th taxable year following
14 the taxable year in which such employee was
15 terminated” before the period at the end of the
16 second sentence.

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

20 (D) Section 415(a)(2) is amended by strik-
21 ing “, and the amount of the contribution for
22 such portion shall reduce the exclusion allow-
23 ance as provided in section 403(b)(2)”.

24 (E) Section 415(c)(3) is amended by add-
25 ing at the end the following new subparagraph:

1 “(E) ANNUITY CONTRACTS.—In the case
2 of an annuity contract described in section
3 403(b), the term ‘participant’s compensation’
4 means the participant’s includible compensation
5 determined under section 403(b)(3).”.

6 (F) Section 415(c) is amended by striking
7 paragraph (4) and by redesignating paragraph
8 (6) as paragraph (4).

9 (G) Section 415(c) is amended by striking
10 paragraph (7) and inserting the following new
11 paragraph:

12 “(5) CERTAIN CONTRIBUTIONS BY CHURCH
13 PLANS NOT TREATED AS EXCEEDING LIMIT.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this subsection, at the elec-
16 tion of a participant who is an employee of a
17 church, a convention or association of churches,
18 including an organization described in section
19 414(e)(3)(B)(ii), contributions and other addi-
20 tions for an annuity contract or retirement in-
21 come account described in section 403(b) with
22 respect to such participant, when expressed as
23 an annual addition to such participant’s ac-
24 count, shall be treated as not exceeding the lim-

1 itation of paragraph (1) if such annual addition
2 is not in excess of \$10,000.

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

8 “(C) ANNUAL ADDITION.—For purposes of
9 this paragraph, the term ‘annual addition’ has
10 the meaning given such term by paragraph
11 (2).”.

12 (H) Section 415(e)(3)(B) is amended—

13 (i) by striking “subsection (c)(6)” in
14 clause (i) and inserting “subsection
15 (c)(4)”, and

16 (ii) by striking “subsection (c)(7)” in
17 clause (ii)(II) and inserting “subsection
18 (c)(5)”.

19 (I) Section 415(e)(5) is amended—

20 (i) by striking “(except in the case of
21 a participant who has elected under sub-
22 section (c)(4)(D) to have the provisions of
23 subsection (c)(4)(C) apply)”, and

24 (ii) by striking the last sentence.

1 (J) Section 415(n)(2)(B) is amended by
2 striking “percentage”.

3 (K) Subparagraph (B) of section 402(g)(7)
4 is amended by inserting before the period at the
5 end the following: “(as in effect on the date of
6 the enactment of the Pension Coverage and
7 Portability Act)”.

8 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
9 408.—Subsection (k) of section 415 is amended by adding
10 at the end the following new paragraph:

11 “(4) SPECIAL RULES FOR ANNUITY CONTRACTS
12 AND SIMPLIFIED PENSIONS.—For purposes of this
13 section—

14 “(A) ANNUITY CONTRACTS.—Any annuity
15 contract described in section 403(b) for the
16 benefit of a participant shall be treated as a de-
17 fined contribution plan maintained by each em-
18 ployer with respect to which the participant has
19 the control required under subsection (b) or (c)
20 of section 414 (as modified by subsection (h)).

21 “(B) SIMPLIFIED PLANS.—Any contribu-
22 tion by an employer to a simplified employee
23 pension plan for an individual for a taxable
24 year shall be treated as an employer contribu-

1 tion to a defined contribution plan for such in-
2 dividual for such year.”.

3 (c) DEFERRED COMPENSATION PLANS OF STATE
4 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
5 ZATIONS.—Subparagraph (B) of section 457(b)(2) (relat-
6 ing to salary limitation on eligible deferred compensation
7 plans) is amended by striking “33 $\frac{1}{3}$ percent” and insert-
8 ing “100 percent”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to years beginning after December
11 31, 1999.

12 **SEC. 202. FASTER VESTING OF CERTAIN EMPLOYER**
13 **MATCHING CONTRIBUTIONS.**

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

16 (1) in paragraph (2), by striking “A plan” and
17 inserting “Except as provided in paragraph (12), a
18 plan”, and

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

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

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

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

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

3 (b) AMENDMENTS TO ERISA.—Section 203(a) of the
 4 Employee Retirement Income Security Act of 1974 (29
 5 U.S.C. 1053(a)) is amended—

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

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

10 “(4) FASTER VESTING FOR MATCHING CON-
 11 TRIBUTIONS.—In the case of matching contributions
 12 (as defined in section 401(m)(4)(A) of the Internal
 13 Revenue Code of 1986), paragraph (2) shall be
 14 applied—

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

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

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

1 (c) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to contributions for plan years beginning
5 after December 31, 1999.

6 (2) COLLECTIVE BARGAINING AGREEMENTS.—

7 In the case of a plan maintained pursuant to 1 or
8 more collective bargaining agreements between em-
9 ployee representatives and 1 or more employers rati-
10 fied by the date of enactment of this Act, the
11 amendments made by this section shall not apply to
12 contributions on behalf of employees covered by any
13 such agreement for plan years beginning before the
14 earlier of—

15 (A) the later of—

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

21 (ii) January 1, 2000, or

22 (B) January 1, 2004.

23 (3) SERVICE REQUIRED.—With respect to any
24 plan, the amendments made by this section shall not
25 apply to any employee before the date that such em-

1 ployee has 1 hour of service under such plan in any
2 plan year to which the amendments made by this
3 section apply.

4 **SEC. 203. DEFERRED ANNUITIES FOR SURVIVING SPOUSES**
5 **OF FEDERAL EMPLOYEES.**

6 (a) IN GENERAL.—Section 8341 of title 5, United
7 States Code, is amended—

8 (1) in subsection (h)(1), by striking “section
9 8338(b) of this title” and inserting “section
10 8338(b), and a former spouse of a deceased former
11 employee who separated from the service with title
12 to a deferred annuity under section 8338 (if they
13 were married to one another prior to the date of sep-
14 aration),”; and

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

16 “(j)(1) If a former employee dies after having sepa-
17 rated from the service with title to a deferred annuity
18 under section 8338 but before having established a valid
19 claim for annuity, and is survived by a spouse to whom
20 married on the date of separation, the surviving spouse
21 may elect to receive—

22 “(A) an annuity, commencing on what would
23 have been the former employee’s 62d birthday, equal
24 to 55 percent of the former employee’s deferred an-
25 nuity;

1 “(B) an annuity, commencing on the day after
2 the date of death of the former employee, such that,
3 to the extent practicable, the present value of the fu-
4 ture payments of the annuity would be actuarially
5 equivalent to the present value of the future pay-
6 ments under subparagraph (A) as of the day after
7 the former employee’s death; or

8 “(C) the lump-sum credit, if the surviving
9 spouse is the individual who would be entitled to the
10 lump-sum credit and if such surviving spouse files
11 application therefor.

12 “(2) An annuity under this subsection and the right
13 thereto terminate on the last day of the month before the
14 surviving spouse remarries before becoming 55 years of
15 age, or dies.”.

16 (b) CORRESPONDING AMENDMENT FOR FERS.—
17 Section 8445(a) of title 5, United States Code, is
18 amended—

19 (1) by striking “(or of a former employee or”
20 and inserting “(or of a former”; and

21 (2) by striking “annuity)” and inserting “annu-
22 ity, or of a former employee who dies after having
23 separated from the service with title to a deferred
24 annuity under section 8413 but before having estab-
25 lished a valid claim for annuity (if such former

1 spouse was married to such former employee prior
2 to the date of separation))”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to surviving spouses
5 and former spouses (whose marriage, in the case of the
6 amendments made by subsection (a), terminated after
7 May 6, 1985) of former employees who die after the date
8 of the enactment of this Act.

9 **SEC. 204. CLARIFICATION OF TAX TREATMENT OF DIVISION**
10 **OF SECTION 457 PLAN BENEFITS UPON DI-**
11 **VORCE.**

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

15 (1) by inserting “or an eligible deferred com-
16 pensation plan (within the meaning of section
17 457(b))” after “subsection (e))”, and

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

21 (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-
22 MENTS.—Section 414(p)(10) is amended by striking “and
23 section 409(d)” and inserting “section 409(d), and section
24 457(d)”.

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

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

13 (d) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to transfers, payments, and dis-
 15 tribution after the date of the enactment of this Act.

16 **SEC. 205. SPOUSES’ RIGHT TO KNOW PROPOSAL.**

17 (a) SPOUSE’S RIGHT TO KNOW DISTRIBUTION IN-
 18 FORMATION.—

19 (1) AMENDMENT OF INTERNAL REVENUE
 20 CODE.—Section 417(a)(3) (relating to plan to pro-
 21 vide written explanations) is amended by adding at
 22 the end the following new subparagraph:

23 “(C) EXPLANATION TO SPOUSE.—At the
 24 time a plan provides a participant with a writ-
 25 ten explanation under subparagraph (A) or (B),

1 such plan shall provide a copy of such expla-
2 nation to such participant's spouse. If the last
3 known address of the spouse is the same as the
4 last known address of the participant, the re-
5 quirement of the preceding sentence shall be
6 treated as met if the copy referred to in the
7 preceding sentence is included in a single mail-
8 ing made to such address and addressed to both
9 such participant and spouse.”.

10 (2) AMENDMENT OF ERISA.—Paragraph (3) of
11 section 205(c) of Employee Retirement Income Se-
12 curity Act of 1974 is amended by adding at the end
13 the following new subparagraph:

14 “(C) EXPLANATION TO SPOUSE.—At the
15 time a plan provides a participant with a writ-
16 ten explanation under subparagraph (A) or (B),
17 such plan shall provide a copy of such expla-
18 nation to such participant's spouse. If the last
19 known address of the spouse is the same as the
20 last known address of the participant, the re-
21 quirement of the preceding sentence shall be
22 treated as met if the copy referred to in the
23 preceding sentence is included in a single mail-
24 ing made to such address and addressed to both
25 such participant and spouse.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to years beginning after December
3 31, 1999.

4 **SEC. 206. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**
5

6 (a) REQUIRED DISTRIBUTIONS.—

7 (1) IN GENERAL.—Subparagraphs (C)(i)(I) and
8 (C)(ii)(I) of section 401(a)(9) are each amended by
9 striking “70½” and inserting “75”.

10 (2) ACTUARIAL ADJUSTMENT OF BENEFIT
11 UNDER DEFINED BENEFIT PLAN.—Clause (iii) of
12 section 401(a)(9)(C) is amended to read as follows:

13 “(iii) ACTUARIAL ADJUSTMENT.—In
14 the case of a defined benefit plan, an em-
15 ployee’s accrued benefit shall be actuarially
16 increased to take into account any
17 period—

18 “(I) which occurs after April 1 of
19 the calendar year following the cal-
20 endar year in which the employee at-
21 tains age 70½, and

22 “(II) during which the employee
23 was not eligible to receive any benefits
24 under the plan.”.

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

4 (b) SIMPLIFICATION AND FINALIZATION OF MIN-
5 IMUM DISTRIBUTION REQUIREMENTS.—

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

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

13 (B) modify such regulations to—

14 (i) reflect increases in life expectancy,
15 and

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

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

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

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

11 (c) AMOUNT NOT SUBJECT TO MINIMUM DISTRIBU-
12 TION REQUIREMENTS.—Paragraph (9) of section 401(a)
13 is amended—

14 (1) in subparagraph (A), by inserting “(minus
15 the exclusion amount)” after “the entire interest”,
16 and

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

18 “(H) EXCLUSION AMOUNT.—

19 “(i) IN GENERAL.—For purposes of
20 this paragraph, the term ‘exclusion
21 amount’ means—

22 “(I) \$100,000 in the case of a
23 defined contribution plan,

24 “(II) \$100,000 in the case of an
25 individual retirement plan, and

1 “(III) \$0 in the case of a defined
2 benefit plan.

3 “(ii) AGGREGATION OF PLANS.—For
4 purposes of determining the exclusion
5 amount under clause (i)—

6 “(I) all defined contribution
7 plans maintained by the same em-
8 ployer shall be treated as a single
9 plan,

10 “(II) all individual retirement
11 plans (other than Roth IRAs) of the
12 individual shall be treated as a single
13 plan, and

14 “(III) all Roth IRAs of the indi-
15 vidual shall be treated as a single
16 plan.

17 “(iii) COST-OF-LIVING ADJUST-
18 MENT.—The Secretary shall adjust each of
19 the \$100,000 amounts specified in clause
20 (i) at the same time and in the same man-
21 ner as under section 415(d), except that
22 the base period shall be the calendar quar-
23 ter ending September 30, 1999.”.

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

4 (d) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
5 BEGUN BEFORE DEATH OCCURS.—

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

10 (2) CONFORMING CHANGES.—

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

13 (i) by striking “FOR OTHER CASES” in
14 the heading, and

15 (ii) by striking “the distribution of the
16 employee’s interest has begun in accord-
17 ance with subparagraph (A)(ii),” and in-
18 serting “the employee’s entire interest has
19 been distributed to such employee, the re-
20 mainder of”.

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

6 (iii) in subclause (I), by striking “the
7 date on which the employee would have at-
8 tained the age 70½,” and inserting “April
9 1 of the calendar year following the cal-
10 endar year in which the spouse attains 75,
11 and clause (ii) shall not apply to the exclu-
12 sion amount,” and

13 (iv) in subclause (II), by striking “the
14 distributions to such spouse begin,” and
15 inserting “such spouse’s entire interest has
16 been distributed to such spouse,”.

17 (3) REDUCTION IN EXCISE TAX.—Subsection
18 (a) of section 4974 is amended by striking “50 per-
19 cent” and inserting “10 percent”.

20 (4) EFFECTIVE DATE.—

21 (A) IN GENERAL.—Except as provided by
22 subparagraph (B), the amendments made by
23 this subsection shall apply to years beginning
24 after December 31, 2000.

1 (B) EXCISE TAX.—The amendment made
 2 by paragraph (3) shall apply to years beginning
 3 after December 31, 1999.

4 **SEC. 207. MODIFICATION OF SAFE HARBOR RELIEF FOR**
 5 **HARDSHIP WITHDRAWALS FROM CASH OR**
 6 **DEFERRED ARRANGEMENTS.**

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

14 (b) EFFECTIVE DATE.—The revised regulations
 15 under subsection (a) shall apply to years beginning after
 16 December 31, 1999.

17 **TITLE III—INCREASING PORT-**
 18 **ABILITY OF PENSION PLANS**

19 **SEC. 301. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
 20 **OF PLANS.**

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

23 (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, if—

7 “(i) any portion of the balance to the
8 credit of an employee in such plan is paid
9 to such employee in an eligible rollover dis-
10 tribution,

11 “(ii) the employee transfers any por-
12 tion of the property such employee receives
13 in such distribution to an eligible retire-
14 ment plan described in section
15 402(e)(8)(B), and

16 “(iii) in the case of a distribution of
17 property other than money, the amount so
18 transferred consists of the property distrib-
19 uted,

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

23 “(B) CERTAIN RULES MADE APPLICA-
24 BLE.—Rules similar to the rules of paragraphs
25 (2) through (7) (other than paragraph (4)(C))

1 and (9) of section 402(c) and section 402(f)
2 shall apply for purposes of subparagraph (A).

3 “(C) REPORTING.—Rollovers under this
4 paragraph shall be reported to the Secretary in
5 the same manner as rollovers from qualified re-
6 tirement plans (as defined in section
7 4974(c)).”.

8 (B) DEFERRAL LIMIT DETERMINED WITH-
9 OUT REGARD TO ROLLOVER AMOUNTS.—Section
10 457(b)(2) (defining eligible deferred compensa-
11 tion plan) is amended by inserting “(other than
12 rollover amounts)” after “taxable year”.

13 (C) DIRECT ROLLOVER.—Paragraph (1) of
14 section 457(d) is amended by striking “and” at
15 the end of subparagraph (A), by striking the
16 period at the end of subparagraph (B) and in-
17 serting “, and”, and by inserting after subpara-
18 graph (B) the following:

19 “(C) the plan meets requirements similar
20 to the requirements of section 401(a)(31).

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

25 (D) WITHHOLDING.—

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

4 “(E) under or to an eligible deferred com-
 5 pensation plan which, at the time of such pay-
 6 ment, is a plan described in section 457(b); or”.

7 (ii) Paragraph (5) of section 3405(e)
 8 is amended by adding at the end the fol-
 9 lowing: “Such term shall include an eligible
 10 deferred compensation plan described in
 11 section 457(b).”.

12 (iii) Paragraph (3) of section 3405(c)
 13 is amended to read as follows:

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

18 (iv) LIABILITY FOR WITHHOLDING.—
 19 Subparagraph (B) of section 3405(d)(2) is
 20 amended by striking “or” at the end of
 21 clause (ii), by striking the period at the
 22 end of clause (iii) and inserting “, or”, and
 23 by adding at the end the following:

24 “(iv) section 457(b).”.

25 (2) ROLLOVERS TO SECTION 457 PLANS.—

1 (A) Section 402(c)(8)(B) (defining eligible
2 retirement plan) is amended by striking “and”
3 at the end of clause (iii), by striking the period
4 at the end of clause (iv) and inserting “, and”,
5 and by adding at the end the following:

6 “(v) an eligible deferred compensation
7 plan described in section 457(b) of an eli-
8 gible employer described in section
9 457(e)(1)(A).”.

10 (B) Paragraph (9) of section 402(c) is
11 amended by striking “except that” and all that
12 follows and inserting “except that only an ac-
13 count or annuity described in clause (i) or (ii)
14 of paragraph (8)(B) shall be treated as an eligi-
15 ble retirement plan with respect to such dis-
16 tribution.”.

17 (C) Subsection (a) of section 457 (relating
18 to year of inclusion in gross income) is amended
19 by striking “or otherwise made available”.

20 (3) MINIMUM DISTRIBUTIONS.—Paragraph (2)
21 of section 457(d) is amended to read as follows:

22 “(2) MINIMUM DISTRIBUTION REQUIRE-
23 MENTS.—A plan meets the distribution requirements
24 of this paragraph if the plan meets the requirements
25 of section 401(a)(9).”.

1 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
2 403(b) PLANS.—

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

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

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

17 (3) CONFORMING AMENDMENT.—Subparagraph
18 (B) of section 403(b)(8) is amended by striking
19 “Rules similar to the” and inserting “The”.

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

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

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

9 (d) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

5 (7) Subparagraph (B) of section 403(b)(8) is
6 amended by striking “shall apply for purposes of
7 subparagraph (A)” and inserting “and section
8 402(f) shall apply for purposes of subparagraph (A),
9 except that section 402(f) shall be applied to the
10 payor in lieu of the plan administrator”.

11 (8) Subparagraph (B) of section 403(b)(8) is
12 amended by inserting “and (9)” after “through
13 (7)”.

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

17 (10) Subparagraphs (A) and (B) of section
18 415(b)(2) are each amended by striking “and
19 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
20 457(e)(16)”.

21 (11) Section 415(c)(2) is amended by striking
22 “and 408(d)(3)” and inserting “408(d)(3), and
23 457(e)(16)”.

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

4 (e) EFFECTIVE DATE; SPECIAL RULE.—

5 (1) EFFECTIVE DATE.—The amendments made
6 by this section shall apply to distributions after De-
7 cember 31, 1999.

8 (2) SPECIAL RULE.—Notwithstanding any other
9 provision of law, subsections (h)(3) and (h)(5) of
10 section 1122 of the Tax Reform Act of 1986, and
11 section 402(d) of the Internal Revenue Code of 1986
12 (as in effect for taxable years beginning before Jan-
13 uary 1, 2000), shall not apply to any distribution
14 from a defined contribution plan (as defined in sec-
15 tion 408(d)(3)(A) of such Code, as amended by sec-
16 tion 302) or a defined benefit plan (as so defined)
17 on behalf of an individual if there was a rollover to
18 such plan on behalf of such individual which is per-
19 mitted solely by reason of any amendment made by
20 this section.

21 **SEC. 302. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
22 **MENT PLANS.**

23 (a) IN GENERAL.—Subparagraph (A) of section
24 408(d)(3) (relating to rollover amounts) is amended by
25 striking “or” at the end of clause (ii), by striking the pe-

1 riod at the end of clause (iii) and inserting a semicolon,
2 and by adding at the end the following:

3 “(iv)(I) the entire amount received
4 (including money and other property) rep-
5 represents the entire interest in the account
6 or the entire value of the annuity,

7 “(II) no amount in the account and
8 no part of the value of the annuity is at-
9 tributable to any source other than a roll-
10 over contribution from a defined contribu-
11 tion plan or a defined benefit plan and any
12 earnings on such rollover, and

13 “(III) such entire amount received is
14 paid into a defined contribution plan or a
15 defined benefit plan (for the benefit of
16 such individual) not later than the 60th
17 day after he receives the payment or dis-
18 tribution; or

19 “(v)(I) the entire amount received (in-
20 cluding money and other property) rep-
21 represents the entire interest in the account
22 or the entire value of the annuity,

23 “(II) no amount in any such account
24 and no part of the value of any such annu-
25 ity is attributable to any source other than

1 a rollover contribution from such an ac-
2 count or annuity of such individual (and
3 any earnings on such contribution),

4 “(III) all contributions to all indi-
5 vidual retirement accounts, and all
6 amounts paid for all individual retirement
7 annuities, of such individual were allowed
8 as a deduction under section 219, and

9 “(IV) such entire amount received is
10 paid (not later than the 60th day after
11 being so received) into a defined contribu-
12 tion plan or a defined benefit plan (for the
13 benefit of such individual) under which
14 amounts are held in trust by a person de-
15 scribed in section 408(a)(2) or in a manner
16 that satisfies section 401(f).

17 If a payment or distribution from an individual
18 retirement plan is described in more than one
19 clause of this subparagraph, such payment or
20 distribution shall be treated as described only in
21 the clause specified by the payee or distributee.
22 For purposes of this subparagraph, the term
23 ‘defined contribution plan’ means a defined con-
24 tribution plan (as defined in section 414(i))
25 which includes a trust exempt from tax under

1 section 501(a), an annuity plan described in
2 section 403(a), an annuity contract described in
3 section 403(b), and an eligible deferred com-
4 pensation plan described in section 457(b) of an
5 eligible employer described in section
6 457(e)(1)(A). For purposes of clause (iv)(II),
7 the term ‘defined contribution plan’ shall also
8 include an eligible deferred compensation plan
9 described in section 457(b) of an eligible em-
10 ployer described in section 457(e)(1)(B). For
11 purposes of this subparagraph, the term ‘de-
12 fined benefit plan’ means a defined benefit plan
13 (as defined in section 414(j)) which includes a
14 trust exempt from tax under section 501(a).”.

15 (b) CONFORMING AMENDMENT.—Paragraph (1) of
16 section 403(b) is amended by striking “section
17 408(d)(3)(A)(iii)” and inserting “clause (iii), (iv), or (v)
18 of section 408(d)(3)(A)”.

19 (c) EFFECTIVE DATE; SPECIAL RULE.—

20 (1) EFFECTIVE DATE.—The amendments made
21 by this section shall apply to distributions after De-
22 cember 31, 1999.

23 (2) SPECIAL RULE.—Notwithstanding any other
24 provision of law, subsections (h)(3) and (h)(5) of
25 section 1122 of the Tax Reform Act of 1986, and

1 section 402(d) of the Internal Revenue Code of 1986
2 (as in effect for taxable years beginning before Jan-
3 uary 1, 2000), shall not apply to any distribution
4 from a defined contribution plan (as defined in sec-
5 tion 408(d)(3)(A) of the such Code, as amended by
6 this section) or a defined benefit plan (as so defined)
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 the amendments made by
10 this section.

11 **SEC. 303. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS;**
12 **HARDSHIP EXCEPTION.**

13 (a) ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.—

14 (1) IN GENERAL.—Subsection (c) of section
15 402 (relating to rules applicable to rollovers from ex-
16 empt trusts) (as amended by section 301) is amend-
17 ed by striking paragraph (2) and redesignating
18 paragraphs (3) through (10) as paragraphs (2)
19 through (9), respectively.

20 (2) DIRECT TRANSFERS.—Paragraph (31) of
21 section 401(a) (relating to optional direct transfer of
22 eligible rollover distributions) is amended by striking
23 subparagraph (B) and redesignating subparagraphs
24 (C) and (D) as subparagraphs (B) and (C), respec-
25 tively.

1 (3) ANNUITIES.—Subparagraph (B) of section
2 408(d)(3) (relating to rollover contributions) is
3 amended by striking “which was not includible in his
4 gross income because of the application of this para-
5 graph” and inserting “to which this paragraph ap-
6 plied”.

7 (b) HARDSHIP EXCEPTION TO 60-DAY RULE.—

8 (1) PLAN ROLLOVERS.—Paragraph (2) of sec-
9 tion 402(c) (as so redesignated) is amended to read
10 as follows:

11 “(2) TRANSFER MUST BE MADE WITHIN 60
12 DAYS OF RECEIPT.—

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

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

1 (2) IRA ROLLOVERS.—Paragraph (3) of section
2 408(d) (relating to rollover contributions) is amend-
3 ed by adding at the end the following new subpara-
4 graph:

5 “(H) WAIVER OF 60-DAY REQUIREMENT.—

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

13 (c) CONFORMING AMENDMENTS.—

14 (1) Paragraph (4) of section 402(c) (as redesign-
15 nated by subsection (a)(1)) is amended by striking
16 “(8)(B)” and inserting “(7)(B)”.

17 (2) Subparagraph (B) of section 403(a)(4) is
18 amended by striking “(2) through (7)” and inserting
19 “(2) through (6)”.

20 (3) Section 403(b)(8)(A)(ii) (as amended by
21 section 301) is amended by striking “section
22 402(c)(8)(B)” and inserting “section 402(c)(7)(B)”.

23 (4) Subparagraph (B) of section 403(b)(8) (as
24 amended by section 301) is amended by striking

1 “(2) through (7) and (9) of section 402(c)” and in-
2 serting “(2) through (6) and (8) of section 402(c)”.

3 (5) Paragraph (16) of section 457(e) (as added
4 by section 301) is amended—

5 (A) in subparagraph (A)(i) by striking
6 “402(c)(4)” and inserting “402(c)(3)”,

7 (B) in subparagraph (A)(ii) by striking
8 “402(c)(8)(B)” and inserting “402(c)(7)(B)”,
9 and

10 (C) in subparagraph (B) by striking “para-
11 graphs (2) through (7) and (9) of section
12 402(c)” and inserting “paragraphs (2) through
13 (6) and (8) of section 402(c)”.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided by para-
16 graph (2), the amendments made by this section
17 shall apply to distributions made after December 31,
18 1999.

19 (2) HARDSHIP EXCEPTION.—The amendments
20 made by subsection (b) shall apply to 60-day periods
21 ending after the date of the enactment of this Act.

1 **SEC. 304. RATIONALIZATION OF RESTRICTIONS ON DIS-**
2 **TRIBUTIONS FROM DEFINED CONTRIBUTION**
3 **PLANS.**

4 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE
5 FROM EMPLOYMENT.—

6 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)
7 (relating to qualified cash or deferred arrangements)
8 is amended by striking “separation from service”
9 and inserting “severance from employment”.

10 (2) 403(b) CONTRACTS.—

11 (A) Clause (ii) of section 403(b)(7)(A) is
12 amended by striking “separates from service”
13 and inserting “severs from employment”.

14 (B) Paragraph (11) of section 403(b) is
15 amended—

16 (i) by striking “SEPARATION FROM
17 SERVICE” in the heading and inserting
18 “SEVERANCE FROM EMPLOYMENT”, and

19 (ii) by striking “separates from serv-
20 ice” and inserting “severs from employ-
21 ment”.

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

26 (b) BUSINESS SALE REQUIREMENTS DELETED.—

1 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)
2 (relating to qualified cash or deferred arrangements)
3 is amended by striking “an event” and inserting “a
4 plan termination”.

5 (2) CONFORMING AMENDMENTS.—Section
6 401(k)(10) is amended—

7 (A) by striking subparagraph (A) and in-
8 serting the following:

9 “(A) IN GENERAL.—A plan termination is
10 described in this paragraph if the termination
11 of the plan does not involve the establishment
12 or maintenance of another defined contribution
13 plan (other than an employee stock ownership
14 plan as defined in section 4975(e)(7)).”

15 (B) in subparagraph (B)—

16 (i) by striking “An event” and insert-
17 ing “A termination”, and

18 (ii) by striking “the event” and insert-
19 ing “the termination”,

20 (C) by striking subparagraph (C), and

21 (D) by striking “OR DISPOSITION OF AS-
22 SETS OR SUBSIDIARY” in the heading.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to distributions after December 31,
25 1999.

1 **SEC. 305. TRANSFeree DEFINED CONTRIBUTION PLAN**
2 **NEED NOT HAVE SAME DISTRIBUTION OP-**
3 **TIONS AS TRANSFEROR DEFINED CONTRIBU-**
4 **TION PLAN.**

5 (a) AMENDMENT TO 1986 CODE.—Section 411(d)(6)
6 (relating to accrued benefit not to be decreased by amend-
7 ment) is amended by adding at the end the following new
8 subparagraph:

9 “(D) PLAN TRANSFERS.—A defined con-
10 tribution plan (in this subparagraph referred to
11 as the ‘transferee plan’) shall not be treated as
12 failing to meet the requirements of this para-
13 graph merely because the transferee plan does
14 not provide some or all of the forms of distribu-
15 tion previously available under another defined
16 contribution plan (in this subparagraph referred
17 to as the ‘transferor plan’) to the extent that—

18 “(i) the forms of distribution pre-
19 viously available under the transferor plan
20 applied to the account of a participant or
21 beneficiary under the transferor plan that
22 was transferred from the transferor plan to
23 the transferee plan pursuant to a direct
24 transfer rather than pursuant to a dis-
25 tribution from the transferor plan,

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

4 “(iii) the transfer described in clause
5 (i) was made pursuant to a voluntary elec-
6 tion by the participant or beneficiary
7 whose account was transferred to the
8 transferee plan,

9 “(iv) the election described in clause
10 (iii) was made after the participant or ben-
11 efiary received a notice describing the
12 consequences of making the election,

13 “(v) if the transferor plan provides for
14 an annuity as the normal form of distribu-
15 tion under the plan in accordance with sec-
16 tion 417, the transfer is made with the
17 consent of the participant’s spouse (if
18 any), and such consent meets requirements
19 similar to the requirements imposed by
20 section 417(a)(2), and

21 “(vi) the transferee plan allows the
22 participant or beneficiary described in
23 clause (iii) to receive any distribution to
24 which the participant or beneficiary is enti-

1 tled under transferee plan in the form of
2 a single sum distribution.”.

3 (b) AMENDMENT TO ERISA.—Section 204(g) of the
4 Employee Retirement Income Security Act of 1974 (29
5 U.S.C. 1054(g)) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(4) A defined contribution plan (in this paragraph
8 referred to as the ‘transferee plan’) shall not be treated
9 as failing to meet the requirements of this subsection
10 merely because the transferee plan does not provide some
11 or all of the forms of distribution previously available
12 under another defined contribution plan (in this para-
13 graph referred to as the ‘transferor plan’) to the extent
14 that—

15 “(A) the forms of distribution previously avail-
16 able under the transferor plan applied to the account
17 of a participant or beneficiary under the transferor
18 plan that was transferred from the transferor plan
19 to the transferee plan pursuant to a direct transfer
20 rather than pursuant to a distribution from the
21 transferor plan,

22 “(B) the terms of both the transferor plan and
23 the transferee plan authorize the transfer described
24 in subparagraph (A),

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

5 “(D) the election described in subparagraph (C)
6 was made after the participant or beneficiary re-
7 ceived a notice describing the consequences of mak-
8 ing the election,

9 “(E) if the transferor plan provides for an an-
10 nuity as the normal form of distribution under the
11 plan in accordance with section 205, the transfer is
12 made with the consent of the participant’s spouse (if
13 any), and such consent meets requirements similar
14 to the requirements imposed by section 205(c)(2),
15 and

16 “(F) the transferee plan allows the participant
17 or beneficiary described in subparagraph (C) to re-
18 ceive any distribution to which the participant or
19 beneficiary is entitled under transferee plan in the
20 form of a single sum distribution.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to transfers after December 31,
23 1999.

1 **SEC. 306. 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.—

19 (1) Subsection (e) of section 457 is amended by
 20 adding at the end the following 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 out regard to that portion of such benefit which
2 is attributable to rollover contributions (and
3 earnings allocable thereto). For purposes of this
4 subparagraph, the term ‘rollover contributions’
5 means any rollover contribution under sections
6 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A) (ii),
7 (iii), or (iv), and 457(e)(16).”.

8 (2) Clause (i) of section 457(e)(9)(A) is amend-
9 ed by striking “such amount” and inserting “the
10 portion of such amount which is not attributable to
11 rollover contributions (as defined in section
12 411(a)(11)(D))”.

13 (b) AMENDMENT TO ERISA.—Section 203(e) of the
14 Employee Retirement Income Security Act of 1974 (29
15 U.S.C. 1053(e)) is amended by adding at the end the fol-
16 lowing:

17 “(4) A plan shall not fail to meet the requirements
18 of this subsection if, under the terms of the plan, the
19 present value of the nonforfeitable accrued benefit is de-
20 termined without regard to that portion of such benefit
21 which is attributable to rollover contributions (and earn-
22 ings allocable thereto). For purposes of this paragraph,
23 the term ‘rollover contributions’ means any rollover con-
24 tribution under sections 402(c), 403(a)(4), 403(b)(8),

1 408(d)(3)(A) (ii), (iii), or (iv), and 457(e)(16) of the In-
2 ternal Revenue Code of 1986.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to distributions after December 31,
5 1999.

6 **TITLE IV—STRENGTHENING**
7 **PENSION SECURITY AND EN-**
8 **FORCEMENT**

9 **SEC. 401. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**
10 **FUNDING LIMIT.**

11 (a) IN GENERAL.—

12 (1) CODE AMENDMENT.—Section 412(c)(7) (re-
13 lating to full-funding limitation) is amended—

14 (A) by striking “the applicable percentage”
15 in subparagraph (A)(i)(I) and inserting “in the
16 case of plan years beginning before January 1,
17 2003, the applicable percentage”, and

18 (B) by amending subparagraph (F) to read
19 as follows:

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

“In the case of any plan year The applicable percentage is—	
beginning in—	
1999	155
2000	160

**“In the case of any plan year The applicable percentage is—
beginning in—**

2001	165
2002	170.”.

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

4 (A) by striking “the applicable percentage”
5 in subparagraph (A)(i)(I) and inserting “in the
6 case of plan years beginning before January 1,
7 2003, the applicable percentage”, and

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

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

**“In the case of any plan year The applicable percentage is—
beginning in—**

1999	155
2000	160
2001	165
2002	170.”.

14 (3) EFFECTIVE DATES.—The amendments
15 made by this subsection shall apply to plan years be-
16 ginning after December 31, 1998.

17 (b) MAXIMUM CONTRIBUTION DEDUCTION RULES
18 MODIFIED AND APPLIED TO ALL DEFINED BENEFIT
19 PLANS.—

1 (1) IN GENERAL.—Section 404(a)(1)(D) (relat-
2 ing to special rule in case of certain plans) is
3 amended—

4 (A) by striking “which has more than 100
5 participants for the plan year”,

6 (B) by striking “unfunded current liability
7 determined under section 414(l)” and inserting
8 “unfunded termination liability (determined as
9 if the proposed termination date referred to in
10 section 4041(b)(2)(A)(i)(II) of the Employee
11 Retirement Income Security Act of 1974 were
12 the last day of the plan year)”,

13 (C) by inserting after the first sentence the
14 following: “For purposes of this subparagraph,
15 in the case of a plan which has less than 100
16 participants for the plan year, termination li-
17 ability shall not include the liability attributable
18 to benefit increases for highly compensated em-
19 ployees (as defined in section 414(q)) brought
20 about by plan amendment within the last 2
21 years before the termination date.”, and

22 (D) by striking “(other than a multiem-
23 ployer plan)”.

1 (2) CONFORMING AMENDMENT.—Paragraph (6)
2 of section 4972(c) is amended by striking the sen-
3 tence preceding the last sentence thereof.

4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall apply to plan years begin-
6 ning after the date of enactment of this Act.

7 **SEC. 402. INCREASE IN LIMITS FOR EMPLOYER-SPONSORED**
8 **RETIREMENT PLANS.**

9 (a) DEFINED BENEFIT PLANS.—

10 (1) DOLLAR LIMIT.—

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

15 (B) Subparagraphs (C) and (D) of section
16 415(b)(2) are each amended by striking
17 “\$90,000” each place it appears in the head-
18 ings and the text and inserting “\$160,000”.

19 (C) Paragraph (7) of section 415(b) (relat-
20 ing to benefits under certain collectively bar-
21 gained plans) is amended by striking “the
22 greater of \$68,212 or one-half the amount oth-
23 erwise applicable for such year under paragraph
24 (1)(A) for ‘\$90,000’” and inserting “one-half

1 the amount otherwise applicable for such year
2 under paragraph (1)(A) for ‘\$160,000’”.

3 (2) LIMIT REDUCED WHEN BENEFIT BEGINS
4 BEFORE AGE 62.—Subparagraph (C) of section
5 415(b)(2) is amended—

6 (A) by striking the last sentence and in-
7 serting the following: “The reduction under this
8 subparagraph shall not reduce the limitation of
9 paragraph (1)(A) below (i) \$75,000 if the ben-
10 efit begins at or after age 55, or (ii) if the ben-
11 efit begins before age 55, the equivalent of the
12 \$75,000 limitation for age 55.”,

13 (B) by striking “the social security retire-
14 ment age” each place it appears and inserting
15 “age 62”, and

16 (C) by striking “THE SOCIAL SECURITY
17 RETIREMENT AGE” in the heading and inserting
18 “AGE 62”.

19 (3) LIMIT INCREASED WHEN BENEFIT BEGINS
20 AFTER AGE 65.—Subparagraph (D) of section
21 415(b)(2) is amended—

22 (A) by striking “the social security retire-
23 ment age” each place it appears and inserting
24 “age 65”, and

1 (B) by striking “THE SOCIAL SECURITY
2 RETIREMENT AGE” in the heading and inserting
3 “AGE 65”.

4 (4) MULTIEmployer PLANS AND PLANS MAIN-
5 TAINED BY GOVERNMENTS AND TAX EXEMPT ORGA-
6 NIZATIONS.—Subparagraph (F) of section 415(b)(2)
7 is amended to read as follows:

8 “(F) MULTIEmployer PLANS AND PLANS
9 MAINTAINED BY GOVERNMENTS AND TAX EX-
10 EMPT ORGANIZATIONS.—

11 “(i) IN GENERAL.—Subparagraph (C)
12 shall apply in the case of a governmental
13 plan (within the meaning of section
14 414(d)), a plan maintained by an organiza-
15 tion (other than a governmental unit) ex-
16 empt from tax under this subtitle, a multi-
17 employer plan (as defined in section
18 414(f)), or a qualified merchant marine
19 plan.

20 “(ii) QUALIFIED MERCHANT MARINE
21 PLAN.—For purposes of clause (i), the
22 term ‘qualified merchant marine plan’
23 means a plan in existence on January 1,
24 1986, the participants in which are mer-
25 chant marine officers holding licenses

1 issued by the Secretary of Transportation
2 under title 46, United States Code.”.

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

6 (A) in paragraph (1)(A) by striking
7 “\$90,000” and inserting “\$160,000”,

8 (B) in paragraph (3)(A)—

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

11 (ii) by striking “October 1, 1986” and
12 inserting “July 1, 1999”, and

13 (C) by striking paragraph (4) and insert-
14 ing the following:

15 “(4) ROUNDING.—Any increase under subpara-
16 graph (A) or (C) of paragraph (1) which is not a
17 multiple of \$5,000 shall be rounded to the next low-
18 est multiple of \$5,000.”.

19 (b) QUALIFIED TRUSTS.—

20 (1) COMPENSATION LIMIT.—Sections
21 401(a)(17), 404(l), 408(k), and 505(b)(7) are each
22 amended by striking “\$150,000” each place it ap-
23 pears and inserting “\$200,000”.

1 (2) BASE PERIOD AND ROUNDING OF COST-OF-
2 LIVING ADJUSTMENT.—Subparagraph (B) of section
3 401(a)(17) is amended—

4 (A) by striking “October 1, 1993” and in-
5 serting “July 1, 1999”, and

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

8 (c) ELECTIVE DEFERRALS.—

9 (1) IN GENERAL.—Paragraphs (1) and (5) of
10 section 402(g) (relating to limitation on exclusion
11 for elective deferrals) are each amended by striking
12 “\$7,000” and inserting “\$12,000”.

13 (2) CONFORMING AMENDMENTS.—

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

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

23 (d) DEFERRED COMPENSATION PLANS OF STATE
24 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
25 ZATIONS.—Section 457 (relating to deferred compensation

1 plans of State and local governments and tax-exempt orga-
 2 nizations) is amended—

3 (1) in subsections (b)(2)(A), (c)(1), and (e)(15)
 4 by striking “\$7,500” each place it appears and in-
 5 serting “\$10,000”, and

6 (2) in subsection (e)(15), by striking “Sep-
 7 tember 30, 1994” and inserting “September 30,
 8 1999”.

9 (e) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to years beginning after December
 11 31, 1999.

12 **SEC. 403. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
 13 **SECTION 415.**

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

17 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
 18 MENTAL AND MULTIEMPLOYER PLANS.—In the case
 19 of a governmental plan (as defined in section
 20 414(d)) or a multiemployer plan (as defined in sec-
 21 tion 414(f)), subparagraph (B) of paragraph (1)
 22 shall not apply.”.

23 (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. The preceding sentence shall not apply
 11 for purposes of applying subsection (b)(1)(A) to a
 12 plan which is not a multiemployer plan.”.

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

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to years beginning after December
 20 31, 1999.

21 **SEC. 404. EXTENSION OF MISSING PARTICIPANTS PRO-**
 22 **GRAM TO MULTIEMPLOYER PLANS.**

23 (a) IN GENERAL.—Section 4050 of the Employee Re-
 24 tirement Income Security Act of 1974 (29 U.S.C. 1350)

1 is amended by redesignating subsection (c) as subsection
2 (d) and by inserting after subsection (b) the following:

3 “(c) **MULTIEMPLOYER PLANS.**—The corporation
4 shall prescribe rules similar to the rules in subsection (a)
5 for multiemployer plans covered by this title that termi-
6 nate under section 4041A.”.

7 (b) **CONFORMING AMENDMENT.**—Section 206(f) of
8 the Employee Retirement Income Security Act of 1974
9 (29 U.S.C. 1056(f)) is amended by striking “the plan shall
10 provide that,”.

11 (c) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to distributions made after final
13 regulations implementing subsection (c) of section 4050
14 of the Employee Retirement Income Security Act of 1974
15 (as added by subsection (a)) are prescribed.

16 **SEC. 405. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
17 **RESPONSIBILITY.**

18 (a) **IMPOSITION AND AMOUNT OF PENALTY MADE**
19 **DISCRETIONARY.**—Section 502(l)(1) of the Employee Re-
20 tirement Income Security Act of 1974 (29 U.S.C.
21 1132(l)(1)) is amended—

22 (1) by striking “shall” and inserting “may”,
23 and

24 (2) by striking “equal to” and inserting “not
25 greater than”.

1 (b) APPLICABLE RECOVERY AMOUNT.—Section
2 502(l)(2) of the Employee Retirement Income Security
3 Act of 1974 (29 U.S.C. 1132(l)(2)) is amended to read
4 as follows:

5 “(2) For purposes of paragraph (1), the term ‘appli-
6 cable recovery amount’ means any amount which is recov-
7 ered from (or on behalf of) any fiduciary or other person
8 with respect to a breach or violation described in para-
9 graph (1) on or after the 90th day following receipt by
10 such fiduciary or other person of written notice from the
11 Secretary of the violation, whether paid voluntarily or by
12 order of a court in a judicial proceeding instituted by the
13 Secretary under subsection (a)(2) or (a)(5). The Secretary
14 may, in the Secretary’s sole discretion, extend the 90-day
15 period described in the preceding sentence.”.

16 (c) OTHER RULES.—Section 502(l) of the Employee
17 Retirement Income Security Act of 1974 (29 U.S.C.
18 1132(l)) is amended by adding at the end the following:

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

23 “(6) No penalty shall be assessed under this sub-
24 section unless the person against whom the penalty is as-

1 sessed is given notice and opportunity for a hearing with
2 respect to the violation and applicable recovery amount.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to any action or claim, including
5 any action or claim commenced by the Secretary of Labor,
6 pending on or after the date of enactment of this Act.

7 **SEC. 406. PENALTY TAX RELIEF FOR SOUND PENSION**
8 **FUNDING.**

9 (a) **IN GENERAL.**—Subsection (c) of section 4972
10 (relating to nondeductible contributions) is amended by
11 adding at the end the following:

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

1 taxable year, paragraph (6) shall not apply to such
2 employer for such taxable year.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 1999.

6 **SEC. 407. PROTECTION OF INVESTMENT OF EMPLOYEE**
7 **CONTRIBUTIONS TO 401(K) PLANS.**

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

10 “(b) EFFECTIVE DATE.—

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

15 “(2) NONAPPLICATION TO PREVIOUSLY AC-
16 QUIRED PROPERTY.—The amendments made by this
17 section shall not apply to any elective deferral used
18 to acquire an interest in the income or gain from
19 employer securities or employer real property
20 acquired—

21 “(A) before January 1, 1999, or

22 “(B) after such date pursuant to a written
23 contract which was binding on such date and at
24 all times thereafter on such plan.”.

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

4 **SEC. 408. ELIMINATION OF ERISA DOUBLE JEOPARDY.**

5 (a) IN GENERAL.—Section 502(h) of the Employee
6 Retirement Income Security Act of 1974 (29 U.S.C.
7 1132(h)) is amended—

8 (1) by inserting “(1)” after “(h)”, and

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

10 “(2) If a complaint in an action brought against a
11 person under subsection (a)(2) is served in accordance
12 with paragraph (1), and

13 “(A) the action is resolved by a court-approved
14 settlement, and

15 “(B) the proposed settlement is served upon the
16 Secretary and the Secretary of the Treasury at least
17 90 days before the date of the entry of the final
18 judgment approving such settlement,

19 either Secretary shall be barred from litigating any claim
20 against such person under subsection (a)(2) that was, or
21 could have been, brought in that action with respect to
22 the same plan.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to any action or claim, including
25 any action or claim commenced by the Secretary of Labor

1 or the Secretary of the Treasury, pending on or after the
2 date of enactment of this Act.

3 **TITLE V—ENCOURAGING**
4 **RETIREMENT EDUCATION**

5 **SEC. 501. PERIODIC PENSION BENEFITS STATEMENTS.**

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

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

10 “(A) The administrator of an individual ac-
11 count plan shall furnish a pension benefit
12 statement—

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

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

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

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

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

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

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

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

11 “(i) the total benefits accrued, and

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

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

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

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

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

5 (b) CONFORMING AMENDMENTS.—

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

9 (2) Section 105(b) of such Act (29 U.S.C.
 10 1025(b)) is amended to read as follows:

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

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

18 **SEC. 502. SMALL BUSINESS ADMINISTRATION ADVICE TO**
 19 **SMALL BUSINESSES.**

20 (a) PREPARATION OF PLAN.—The Administrator of
 21 the Small Business Administration shall, not later than
 22 9 months after the date of the enactment of this Act, pre-
 23 pare and submit to Congress a plan to—

24 (1) increase the awareness of the American peo-
 25 ple of retirement benefits,

1 (2) increase the understanding of the American
2 people of the types of plans and other options avail-
3 able to provide retirement benefits, including simple
4 retirement plans, payroll deduction IRAs, and SAFE
5 annuities and trusts, and

6 (3) periodically update small business owners
7 on changes made by Congress and the executive
8 branch in the laws, regulations, and rules governing
9 retirement benefits.

10 The Administrator shall consult with the Secretary of
11 Labor in preparing the plan under this subsection.

12 (b) POSTING OF INFORMATION ON INTERNET.—The
13 Administrator of the Small Business Administration shall
14 post on the Internet information on the types of plans and
15 other options available to provide retirement benefits, in-
16 cluding simple retirement plans, payroll deduction IRAs,
17 and SAFE annuities and trusts.

18 **SEC. 503. CLARIFICATION OF TREATMENT OF EMPLOYER-**

19 **PROVIDED RETIREMENT ADVICE.**

20 (a) IN GENERAL.—Section 132(e) (defining de mini-
21 mis fringe) is amended by adding at the end the following:

22 “(3) TREATMENT OF CERTAIN RETIREMENT
23 PLANNING SERVICES.—The provision of retirement
24 planning services by an employer to employees shall
25 be treated as a de minimis fringe to the extent not

1 treated as a working condition fringe under sub-
2 section (d).”.

3 (b) NO CONSTRUCTIVE RECEIPT.—Section 132 is
4 amended by redesignating subsection (m) as subsection
5 (n) and by inserting after subsection (l) the following:

6 “(m) RETIREMENT PLANNING.—

7 “(1) IN GENERAL.—No amount shall be in-
8 cluded in the gross income of an employee solely be-
9 cause the employee may choose between any retire-
10 ment planning fringe and compensation which would
11 otherwise be includible in the gross income of such
12 employee.

13 “(2) NONDISCRIMINATION REQUIREMENT.—
14 Paragraph (1) shall apply to a highly compensated
15 employee only if the choice described in such para-
16 graph is available on substantially the same terms to
17 each member of a group of employees which is de-
18 fined under a reasonable classification set up by the
19 employer which does not discriminate in favor of
20 highly compensated employees.

21 “(3) RETIREMENT PLANNING FRINGE.—For
22 purposes of this subsection, the term ‘retirement
23 planning fringe’ means any retirement planning
24 services provided by an employer to an employee

1 which are not included in the gross income of the
2 employee by reason of subsection (d) or (e).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 1999.

6 **TITLE VI—REDUCING RED TAPE**

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

8 (a) IN GENERAL.—Section 412(c)(9) (relating to an-
9 nual valuation) is amended—

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

12 “(A) IN GENERAL.—For purposes”, and

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

14 “(B) ELECTION TO USE PRIOR YEAR
15 VALUATION.—

16 “(i) IN GENERAL.—If, for any plan
17 year—

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

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

1 the valuation date for the preceding
2 plan year,
3 then this section shall be applied using the
4 information available as of such valuation
5 date.

6 “(ii) ADJUSTMENTS.—Information
7 under clause (i) shall, in accordance with
8 regulations, be actuarially adjusted to re-
9 flect significant differences in participants.

10 “(iii) ELECTION.—An election under
11 this subparagraph, once made, shall be ir-
12 revocable without the consent of the Sec-
13 retary.”.

14 (b) AMENDMENTS TO ERISA.—Paragraph (9) of
15 section 302(c) of the Employee Retirement Income Secu-
16 rity Act of 1974 (29 U.S.C. 1053(c)) is amended—

17 (1) by inserting “(A)” after “(9)”, and

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

19 “(B)(i) If, for any plan year—

20 “(I) an election is in effect under this subpara-
21 graph with respect to a plan, and

22 “(II) the assets of the plan are not less than
23 125 percent of the plan’s current liability (as defined
24 in paragraph (7)(B)), determined as of the valuation
25 date for the preceding plan year,

1 then this section shall be applied using the information
2 available as of such valuation date.

3 “(ii) Information under clause (i) shall, in accordance
4 with regulations, be actuarially adjusted to reflect signifi-
5 cant differences in participants.

6 “(iii) An election under this subparagraph, once
7 made, shall be irrevocable without the consent of the Sec-
8 retary of the Treasury.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to plan years beginning on or after
11 the date of enactment of this Act.

12 **SEC. 602. RULES FOR SUBSTANTIAL OWNERS RELATING TO**
13 **PLAN TERMINATIONS.**

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

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

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

24 “(ii) in the case of a partnership, is a partner
25 who owns, directly or indirectly, 50 percent or more

1 of either the capital interest or the profits interest
2 in such partnership, or

3 “(iii) in the case of a corporation, owns, directly
4 or indirectly, 50 percent or more in value of either
5 the voting stock of that corporation or all the stock
6 of that corporation.

7 For purposes of clause (iii), the constructive ownership
8 rules of section 1563(e) of the Internal Revenue Code of
9 1986 shall apply (determined without regard to section
10 1563(e)(3)(C)).

11 “(B) In the case of a participant who is a majority
12 owner, the amount of benefits guaranteed under this sec-
13 tion shall not exceed the product of—

14 “(i) a fraction (not to exceed 1) the numerator
15 of which is the number of years from the later of the
16 effective date or the adoption date of the plan to the
17 termination date, and the denominator of which is
18 30, and

19 “(ii) the amount of the majority owner’s month-
20 ly benefits guaranteed under subsection (a) (as lim-
21 ited by paragraph (3) of this subsection).”.

22 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

23 (1) Section 4044(a)(4)(B) of the Employee Re-
24 tirement Income Security Act of 1974 (29 U.S.C.

1 1344(a)(4)(B)) is amended by striking “section
2 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

3 (2) Section 4044(b) of such Act (29 U.S.C.
4 1344(b)) is amended—

5 (A) by striking “(5)” in paragraph (2) and
6 inserting “(4), (5),” and

7 (B) by redesignating paragraphs (3)
8 through (6) as paragraphs (4) through (7), re-
9 spectively, and by inserting after paragraph (2)
10 the following:

11 “(3) If assets available for allocation under
12 paragraph (4) of subsection (a) are insufficient to
13 satisfy in full the benefits of all individuals who are
14 described in that paragraph, the assets shall be allo-
15 cated first to benefits described in subparagraph (A)
16 of that paragraph. Any remaining assets shall then
17 be allocated to benefits described in subparagraph
18 (B) of that paragraph. If assets allocated to such
19 subparagraph (B) are insufficient to satisfy in full
20 the benefits described in that subparagraph, the as-
21 sets shall be allocated pro rata among individuals on
22 the basis of the present value (as of the termination
23 date) of their respective benefits described in that
24 subparagraph.”.

25 (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:

7 “(d) For purposes of subsection (b)(9), the term ‘sub-
8 stantial owner’ means an individual who, at any time dur-
9 ing the 60-month period ending on the date the determina-
10 tion is being made—

11 “(1) owns the entire interest in an unincor-
12 porated trade or business,

13 “(2) in the case of a partnership, is a partner
14 who owns, directly or indirectly, more than 10 per-
15 cent of either the capital interest or the profits inter-
16 est in such partnership, or

17 “(3) in the case of a corporation, owns, directly
18 or indirectly, more than 10 percent in value of either
19 the voting stock of that corporation or all the stock
20 of that corporation.

21 For purposes of paragraph (3), the constructive ownership
22 rules of section 1563(e) of the Internal Revenue Code of
23 1986 shall apply (determined without regard to section
24 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
3 4022(b)(6)” 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)) on or after the date of enactment
14 of this Act, or

15 (B) under section 4042 of such Act (29
16 U.S.C. 1342) with respect to which proceedings
17 are instituted by the corporation on or after
18 such date.

19 (2) CONFORMING AMENDMENTS.—The amend-
20 ments made by subsection (c) shall take effect on
21 the date of enactment of this Act.

22 **SEC. 603. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
23 **LOSS OF DIVIDEND DEDUCTION.**

24 (a) IN GENERAL.—Section 404(k)(2)(A) (defining
25 applicable dividends) is amended by striking “or” at the

1 end of clause (ii), by redesignating clause (iii) as clause
2 (iv), and by inserting after clause (ii) the following:

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, 1999.

13 **SEC. 604. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE**
14 **TO CONFORM TO 415 MODIFICATION.**

15 (a) IN GENERAL.—The Secretary of the Treasury
16 shall modify the regulations regarding the exclusion allow-
17 ance under section 403(b)(2) of the Internal Revenue
18 Code of 1986 to repeal the requirement that contributions
19 to a defined benefit pension plan be treated as previously
20 excluded amounts for purposes of the exclusion allowance.

21 (b) EFFECTIVE DATE.—The revised regulations
22 under subsection (a) shall apply to taxable years beginning
23 after December 31, 1999.

1 **SEC. 605. SAFETY VALVE FROM MECHANICAL RULES.**

2 (a) IN GENERAL.—The Secretary of the Treasury
3 shall, by regulation, provide that a plan shall be deemed
4 to satisfy the requirements of section 401(a)(4) of the In-
5 ternal Revenue Code of 1986 if such plan satisfies the
6 facts and circumstances test under section 401(a)(4) of
7 such Code, as in effect before January 1, 1994, but only
8 if—

9 (1) the plan satisfies conditions prescribed by
10 the Secretary to appropriately limit the availability
11 of such test, and

12 (2) the plan is submitted to the Secretary for
13 a determination of whether it satisfies such test.

14 Paragraph (2) shall only apply to the extent provided by
15 the Secretary.

16 (b) EFFECTIVE DATES.—

17 (1) REGULATIONS.—The regulation required by
18 subsection (a) shall apply to years beginning after
19 December 31, 1999.

20 (2) CONDITIONS OF AVAILABILITY.—Any condi-
21 tion of availability prescribed by the Secretary under
22 subsection (a)(1) shall not apply before the first year
23 beginning not less than 120 days after the date on
24 which such condition is prescribed.

1 **SEC. 606. COVERAGE TEST FLEXIBILITY.**

2 (a) IN GENERAL.—Section 410(b)(1) (relating to
3 minimum coverage requirements) is amended by adding
4 at the end the following:

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

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

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

14 “(iii) satisfies conditions prescribed by
15 the Secretary by regulation that appro-
16 priately limit the availability of this sub-
17 paragraph.

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

20 (b) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendment made by
22 subsection (a) shall apply to years beginning after
23 December 31, 1999.

24 (2) CONDITIONS OF AVAILABILITY.—Any condi-
25 tion of availability prescribed by the Secretary under
26 regulations prescribed by the Secretary under sec-

1 tion 410(b)(1)(D) of the Internal Revenue Code of
2 1986 shall not apply before the first year beginning
3 not less than 120 days after the date on which such
4 condition is prescribed.

5 **SEC. 607. SECTION 457 INAPPLICABLE TO CERTAIN MIRROR**
6 **PLANS.**

7 (a) **IN GENERAL.**—Subsection (e) of section 457 (re-
8 lating to deferred compensation plans of State and local
9 governments and tax-exempt organizations), as amended
10 by section 306, is amended by adding at the end the fol-
11 lowing:

12 “(18) This section shall not apply to a plan,
13 program, or arrangement maintained solely for the
14 purposes of providing retirement benefits for em-
15 ployees in excess of the limitations imposed by sec-
16 tions 401(a)(17) or 415.”.

17 (b) **CERTAIN DEFERRED COMPENSATION NOT**
18 **TAKEN INTO ACCOUNT.**—Section 457(c) (relating to indi-
19 viduals who are participants in more than 1 plan), as
20 amended by section 113, is amended by adding at the end
21 the following:

22 “(2) **EXCEPTION FOR MIRROR PLANS.**—This
23 section shall be applied without regard to a plan,
24 program, or arrangement described in subsection
25 (e)(18).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to years beginning after December
3 31, 1999.

4 **SEC. 608. NOTICE AND CONSENT PERIOD REGARDING DIS-**
5 **TRIBUTIONS.**

6 (a) EXPANSION OF PERIOD.—

7 (1) IN GENERAL.—

8 (A) Section 417(a)(6)(A) (defining applica-
9 ble election period) is amended by striking “90-
10 day” and inserting “one-year”.

11 (B) Subparagraph (A) of section 205(e)(7)
12 of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1055) is amended by
14 striking “90-day” and inserting “one-year”.

15 (2) MODIFICATION OF REGULATIONS.—The
16 Secretary of the Treasury shall modify the regula-
17 tions under sections 402(f), 411(a)(11), and 417 of
18 the Internal Revenue Code of 1986 to substitute
19 “one year” for “90 days” each place it appears in
20 Treasury Regulations sections 1.402(f)-1 Q/A-2,
21 1.411(a)-11T(c)(2), and 1.417(e)-1T(b)(3).

22 (3) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) and the modifications required by
24 paragraph (2) shall apply to years beginning after
25 December 31, 1999.

1 (b) CONSENT REGULATION INAPPLICABLE TO CER-
2 TAIN DISTRIBUTIONS.—

3 (1) IN GENERAL.—The Secretary of the Treas-
4 ury shall modify the regulations under section
5 411(a)(11) of the Internal Revenue Code of 1986 to
6 provide that the description of a participant’s right,
7 if any, to defer receipt of a distribution shall also de-
8 scribe the consequences of failing to defer such re-
9 ceipt.

10 (2) EFFECTIVE DATE.—The modifications re-
11 quired by paragraph (1) shall apply to years begin-
12 ning after December 31, 1999.

13 **SEC. 609. CONFORMING AMENDMENTS RELATING TO ELEC-**
14 **TION TO RECEIVE TAXABLE CASH COM-**
15 **PENSATION IN LIEU OF NONTAXABLE TRANS-**
16 **PORTATION FRINGE BENEFITS.**

17 (a) IN GENERAL.—

18 (1) Clause (ii) of section 415(e)(3)(D) and sub-
19 paragraph (B) of section 403(b)(3) are each amend-
20 ed by striking “section 125 or” and inserting “sec-
21 tion 125, 132(f)(4), or”.

22 (2) Paragraph (2) of section 414(s) is amended
23 by striking “section 125, 402(e)(3)” and inserting
24 “section 125, 132(f)(4), 402(e)(3)”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect as if included in the
3 amendment made by section 1072 of the Taxpayer Relief
4 Act of 1997.

5 **SEC. 610. REPEAL OF TRANSITION RULE RELATING TO CER-**
6 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

7 (a) IN GENERAL.—Paragraph (4) of section
8 1114(c)(4) of the Tax Reform Act of 1986 is hereby re-
9 pealed.

10 (b) EFFECTIVE DATE.—The repeal made by sub-
11 section (a) shall apply to plan years beginning after De-
12 cember 31, 1999.

13 **SEC. 611. EXTENSION TO INTERNATIONAL ORGANIZATIONS**
14 **OF MORATORIUM ON APPLICATION OF CER-**
15 **TAIN NONDISCRIMINATION RULES APPLICA-**
16 **BLE TO STATE AND LOCAL PLANS.**

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

24 (b) CONFORMING AMENDMENTS.—

1 (1) The headings for subparagraph (G) of sec-
2 tion 401(a)(5) and subparagraph (H) of section
3 401(a)(26) are each amended by inserting “AND
4 INTERNATIONAL ORGANIZATION” after “GOVERN-
5 MENTAL”.

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

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect as if included in the amend-
12 ment made by section 1505 of the Taxpayer Relief Act
13 of 1997.

14 **SEC. 612. ANNUAL REPORT DISSEMINATION.**

15 (a) IN GENERAL.—Section 104(b)(3) of the Em-
16 ployee Retirement Income Security Act of 1974 (29
17 U.S.C. 1024(b)(3)) is amended by striking “shall furnish”
18 and inserting “shall make available for examination (and,
19 upon request, shall furnish)”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to reports for years beginning after
22 December 31, 1998.

23 **SEC. 613. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

24 (a) IN GENERAL.—The Secretary of the Treasury
25 shall modify Treasury Regulations section 1.410(b)–6(g)

1 to provide that employees of an organization described in
2 section 403(b)(1)(A)(i) of the Internal Revenue Code of
3 1986 who are eligible to make contributions under section
4 403(b) pursuant to a salary reduction agreement may be
5 treated as excludable with respect to a plan under section
6 401(k) or section 401(m) of such Code that is provided
7 under the same general arrangement as a plan under such
8 section 401(k), if—

9 (1) no employee of an organization described in
10 section 403(b)(1)(A)(i) of such Code is eligible to
11 participate in such section 401(k) plan or section
12 401(m) plan, and

13 (2) 95 percent of the employees who are not
14 employees of an organization described in section
15 403(b)(1)(A)(i) of such Code are eligible to partici-
16 pate in such section 401(k) plan or section 401(m)
17 plan.

18 (b) EFFECTIVE DATE.—The modification required by
19 subsection (a) shall apply as of the same date set forth
20 in section 1426(b) of the Small Business Job Protection
21 Act of 1996.

22 **SEC. 614. REPEAL OF THE MULTIPLE USE TEST.**

23 (a) IN GENERAL.—Paragraph (9) of section 401(m)
24 (relating to nondiscrimination test for matching contribu-

1 tions and employee contributions) is amended to read as
2 follows:

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

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to years after December 31, 1999.

10 **TITLE VII—PLAN AMENDMENTS**

11 **SEC. 701. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

14 (1) such plan or contract shall be treated as
15 being operated in accordance with the terms of the
16 plan during the period described in subsection
17 (b)(2)(A), and

18 (2) such plan shall not fail to meet the require-
19 ments of section 411(d)(6) of the Internal Revenue
20 Code of 1986 or section 204(g) of the Employee Re-
21 tirement Income Security Act of 1974 (29 U.S.C.
22 1054(g)) by reason of such amendment.

23 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

4 (A) pursuant to any amendment made by
5 this Act, or pursuant to any regulation issued
6 under this Act, and

7 (B) on or before the last day of the first
8 plan year beginning on or after January 1,
9 2003.

10 In the case of a government plan (as defined in sec-
11 tion 414(d) of the Internal Revenue Code of 1986
12 and section 3(32) of the Employee Retirement In-
13 come Security Act of 1974), this paragraph shall be
14 applied by substituting “2004” for “2003”.

15 (2) CONDITIONS.—This section shall not apply
16 to any amendment unless—

17 (A) during the period—

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

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

5 the plan or contract is operated as if such plan
6 or contract amendment were in effect, and

7 (B) such plan or contract amendment ap-
8 plies retroactively for such period.

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