

Calendar No. _____

106TH CONGRESS
1ST SESSION

S. _____

[Report No. 106-____]

IN THE SENATE OF THE UNITED STATES

____ (legislative day, _____), 1999

Mr. ROTH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, 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; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Affordable Education Act of 1999”.

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

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EDUCATION SAVINGS INCENTIVES

Sec. 101. Modifications to education individual retirement accounts.

Sec. 102. Modifications to qualified tuition programs.

TITLE II—EDUCATIONAL ASSISTANCE

Sec. 201. Extension of exclusion for employer-provided educational assistance.

Sec. 202. Elimination of 60-month limit on student loan interest deduction.

Sec. 203. Exclusion of certain amounts received under the National Public Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

TITLE III—LIBERALIZATION OF TAX-EXEMPT FINANCING RULES FOR PUBLIC SCHOOL CONSTRUCTION

Sec. 301. Additional increase in arbitrage rebate exception for governmental bonds used to finance educational facilities.

Sec. 302. Treatment of qualified public educational facility bonds as exempt facility bonds.

Sec. 303. Federal guarantee of school construction bonds by Federal Housing Finance Board.

TITLE IV—REVENUE PROVISIONS

Sec. 401. Modification to foreign tax credit carryback and carryover periods.

Sec. 402. Limitation on use of non-accrual experience method of accounting.

Sec. 403. Returns relating to cancellations of indebtedness by organizations lending money.

Sec. 404. Extension of Internal Revenue Service user fees.

Sec. 405. Property subject to a liability treated in same manner as assumption of liability.

Sec. 406. Charitable split-dollar life insurance, annuity, and endowment contracts.

Sec. 407. Transfer of excess defined benefit plan assets for retiree health benefits.

Sec. 408. Limitations on welfare benefit funds of 10 or more employer plans.

Sec. 409. Modification of installment method and repeal of installment method for accrual method taxpayers.

Sec. 410. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines.

1 **TITLE I—EDUCATION SAVINGS**
2 **INCENTIVES**

3 **SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
4 **TIREMENT ACCOUNTS.**

5 (a) MAXIMUM ANNUAL CONTRIBUTIONS.—

6 (1) IN GENERAL.—Section 530(b)(1)(A)(iii)
7 (defining education individual retirement account) is
8 amended by striking “\$500” and inserting “the con-
9 tribution limit for such taxable year”.

10 (2) CONTRIBUTION LIMIT.—Section 530(b) (re-
11 lating to definitions and special rules) is amended by
12 adding at the end the following new paragraph:

13 “(4) CONTRIBUTION LIMIT.—The term ‘con-
14 tribution limit’ means \$500 (\$2,000 in the case of
15 any taxable year beginning after December 31,
16 1999, and ending before January 1, 2004).”

17 (3) CONFORMING AMENDMENT.—Section
18 4973(e)(1)(A) is amended by striking “\$500” and
19 inserting “the contribution limit (as defined in sec-
20 tion 530(b)(4)) for such taxable year”.

21 (b) TAX-FREE EXPENDITURES FOR ELEMENTARY
22 AND SECONDARY SCHOOL EXPENSES.—

1 (1) IN GENERAL.—Section 530(b)(2) (defining
2 qualified higher education expenses) is amended to
3 read as follows:

4 “(2) QUALIFIED EDUCATION EXPENSES.—

5 “(A) IN GENERAL.—The term ‘qualified
6 education expenses’ means—

7 “(i) qualified higher education ex-
8 penses (as defined in section 529(e)(3)),
9 and

10 “(ii) qualified elementary and second-
11 ary education expenses (as defined in para-
12 graph (5)).

13 Such expenses shall be reduced as provided in
14 section 25A(g)(2).

15 “(B) QUALIFIED STATE TUITION PRO-
16 GRAMS.—Such term shall include any contribu-
17 tion to a qualified State tuition program (as de-
18 fined in section 529(b)) on behalf of the des-
19 ignated beneficiary (as defined in section
20 529(e)(1)); but there shall be no increase in the
21 investment in the contract for purposes of ap-
22 plying section 72 by reason of any portion of
23 such contribution which is not includible in
24 gross income by reason of subsection (d)(2).”

1 (2) QUALIFIED ELEMENTARY AND SECONDARY
2 EDUCATION EXPENSES.—Section 530(b) (relating to
3 definitions and special rules), as amended by sub-
4 section (a)(2), is amended by adding at the end the
5 following new paragraph:

6 “(5) QUALIFIED ELEMENTARY AND SECONDARY
7 EDUCATION EXPENSES.—

8 “(A) IN GENERAL.—The term ‘qualified el-
9 ementary and secondary education expenses’
10 means—

11 “(i) expenses for tuition, fees, aca-
12 demic tutoring, special needs services,
13 books, supplies, computer equipment (in-
14 cluding related software and services), and
15 other equipment which are incurred in con-
16 nection with the enrollment or attendance
17 of the designated beneficiary of the trust
18 as an elementary or secondary school stu-
19 dent at a public, private, or religious
20 school, and

21 “(ii) expenses for room and board,
22 uniforms, transportation, and supple-
23 mentary items and services (including ex-
24 tended day programs) which are required
25 or provided by a public, private, or reli-

1 gious school in connection with such enroll-
2 ment or attendance.

3 “(B) SPECIAL RULE FOR
4 HOMESCHOOLING.—Such term shall include ex-
5 penses described in subparagraph (A)(i) in con-
6 nection with education provided by
7 homeschooling if the requirements of any appli-
8 cable State or local law are met with respect to
9 such education.

10 “(C) SCHOOL.—The term ‘school’ means
11 any school which provides elementary education
12 or secondary education (kindergarten through
13 grade 12), as determined under State law.”

14 (3) SPECIAL RULES FOR APPLYING EXCLUSION
15 TO ELEMENTARY AND SECONDARY EXPENSES.—Sec-
16 tion 530(d)(2) (relating to distributions for qualified
17 higher education expenses) is amended by adding at
18 the end the following new subparagraph:

19 “(E) SPECIAL RULES FOR ELEMENTARY
20 AND SECONDARY EXPENSES.—

21 “(i) IN GENERAL.—The aggregate
22 amount of qualified elementary and sec-
23 ondary education expenses taken into ac-
24 count for purposes of this paragraph with
25 respect to any education individual retire-

1 ment account for all taxable years shall not
2 exceed the sum of the aggregate contribu-
3 tions to such account for taxable years be-
4 ginning after December 31, 1999, and be-
5 fore January 1, 2004, and earnings on
6 such contributions.

7 “(ii) SPECIAL OPERATING RULES.—
8 For purposes of clause (i)—

9 “(I) the trustee of an education
10 individual retirement account shall
11 keep separate accounts with respect to
12 contributions and earnings described
13 in clause (i), and

14 “(II) if there are distributions in
15 excess of qualified elementary and sec-
16 ondary education expenses for any
17 taxable year, such excess distributions
18 shall be allocated first to contributions
19 and earnings not described in clause
20 (i).”

21 (4) CONFORMING AMENDMENTS.—Section 530
22 is amended—

23 (A) by striking “higher” each place it ap-
24 pears in subsections (b)(1) and (d)(2), and

1 (B) by striking “HIGHER” in the heading
2 for subsection (d)(2).

3 (c) WAIVER OF AGE LIMITATIONS FOR CHILDREN
4 WITH SPECIAL NEEDS.—Section 530(b)(1) (defining edu-
5 cation individual retirement account) is amended by add-
6 ing at the end the following flush sentence:

7 “The age limitations in the preceding sentence and
8 paragraphs (5) and (6) of subsection (d) shall not
9 apply to any designated beneficiary with special
10 needs (as determined under regulations prescribed
11 by the Secretary).”

12 (d) ENTITIES PERMITTED TO CONTRIBUTE TO AC-
13 COUNTS.—Section 530(c)(1) (relating to reduction in per-
14 mitted contributions based on adjusted gross income) is
15 amended by striking “The maximum amount which a con-
16 tributor” and inserting “In the case of a contributor who
17 is an individual, the maximum amount the contributor”.

18 (e) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

19 (1) IN GENERAL.—Section 530(b) (relating to
20 definitions and special rules), as amended by sub-
21 section (b)(2), is amended by adding at the end the
22 following new paragraph:

23 “(6) TIME WHEN CONTRIBUTIONS DEEMED
24 MADE.—An individual shall be deemed to have made
25 a contribution to an education individual retirement

1 account on the last day of the preceding taxable year
2 if the contribution is made on account of such tax-
3 able year and is made not later than the time pre-
4 scribed by law for filing the return for such taxable
5 year (not including extensions thereof).”

6 (2) EXTENSION OF TIME TO RETURN EXCESS
7 CONTRIBUTIONS.—Subparagraph (C) of section
8 530(d)(4) (relating to additional tax for distribu-
9 tions not used for educational expenses) is amend-
10 ed—

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

13 “(i) such distribution is made before
14 the 1st day of the 6th month of the taxable
15 year following the taxable year, and”, and

16 (B) by striking “DUE DATE OF RETURN”
17 in the heading and inserting “JUNE”.

18 (f) COORDINATION WITH HOPE AND LIFETIME
19 LEARNING CREDITS AND QUALIFIED TUITION PRO-
20 GRAMS.—

21 (1) IN GENERAL.—Section 530(d)(2)(C) is
22 amended to read as follows:

23 “(C) COORDINATION WITH HOPE AND
24 LIFETIME LEARNING CREDITS AND QUALIFIED
25 TUITION PROGRAMS.—

1 “(i) CREDIT COORDINATION.—

2 “(I) IN GENERAL.—Except as
3 provided in subclause (II), subpara-
4 graph (A) shall not apply for any tax-
5 able year to any qualified higher edu-
6 cation expenses with respect to any
7 individual if a credit is allowed under
8 section 25A with respect to such ex-
9 penses for such taxable year.

10 “(II) SPECIAL COORDINATION
11 RULE.—In the case of any taxable
12 year beginning after December 31,
13 1999, and before January 1, 2004,
14 subclause (I) shall not apply, but the
15 total amount of qualified higher edu-
16 cation expenses otherwise taken into
17 account under subparagraph (A) with
18 respect to an individual for such tax-
19 able year shall be reduced (after the
20 application of the reduction provided
21 in section 25A(g)(2)) by the amount
22 of such expenses which were taken
23 into account in determining the credit
24 allowed to the taxpayer or any other

1 person under section 25A with respect
2 to such expenses.

3 “(ii) COORDINATION WITH QUALIFIED
4 TUITION PROGRAMS.—If the aggregate dis-
5 tributions to which subparagraph (A) and
6 section 529(c)(3)(B) apply exceed the total
7 amount of qualified higher education ex-
8 penses otherwise taken into account under
9 subparagraph (A) (after the application of
10 clause (i)) with respect to an individual for
11 any taxable year, the taxpayer shall allo-
12 cate such expenses among such distribu-
13 tions for purposes of determining the
14 amount of the exclusion under subpara-
15 graph (A) and section 529(c)(3)(B).”

16 (2) CONFORMING AMENDMENTS.—

17 (A) Subsection (e) of section 25A is
18 amended to read as follows:

19 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A
20 taxpayer may elect not to have this section apply with re-
21 spect to the qualified tuition and related expenses of an
22 individual for any taxable year.”

23 (B) Section 135(d)(2)(A) is amended by
24 striking “allowable” and inserting “allowed”.

1 (C) Section 530(b)(2)(A) is amended by
2 striking “, reduced as provided in section
3 25A(g)(2)”.

4 (D) Section 530(d)(2)(D) is amended—
5 (i) by striking “or credit”, and
6 (ii) by striking “CREDIT OR” in the
7 heading.

8 (E) Section 4973(e)(1) is amended by add-
9 ing “and” at the end of subparagraph (A), by
10 striking subparagraph (B), and by redesignat-
11 ing subparagraph (C) as subparagraph (B).

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

15 **SEC. 102. MODIFICATIONS TO QUALIFIED TUITION PRO-**
16 **GRAMS.**

17 (a) ELIGIBLE EDUCATIONAL INSTITUTIONS PER-
18 MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

19 (1) IN GENERAL.—Section 529(b)(1) (defining
20 qualified State tuition program) is amended by in-
21 sserting “or by 1 or more eligible educational institu-
22 tions” after “maintained by a State or agency or in-
23 strumentality thereof”.

24 (2) PRIVATE QUALIFIED TUITION PROGRAMS
25 LIMITED TO BENEFIT PLANS.—Clause (ii) of section

1 529(b)(1)(A) is amended by inserting “in the case of
2 a program established and maintained by a State or
3 agency or instrumentality thereof,” before “may
4 make”.

5 (3) CONFORMING AMENDMENTS.—

6 (A) Sections 72(e)(9), 135(c)(2)(C),
7 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and
8 6693(a)(2)(C) are each amended by striking
9 “qualified State tuition” each place it appears
10 and inserting “qualified tuition”.

11 (B) The headings for sections 72(e)(9) and
12 135(c)(2)(C) are each amended by striking
13 “QUALIFIED STATE TUITION” and inserting
14 “QUALIFIED TUITION”.

15 (C) The headings for sections 529(b) and
16 530(b)(2)(B) are each amended by striking
17 “QUALIFIED STATE TUITION” and inserting
18 “QUALIFIED TUITION”.

19 (D) The heading for section 529 is amend-
20 ed by striking “**STATE**”.

21 (E) The item relating to section 529 in the
22 table of sections for part VIII of subchapter F
23 of chapter 1 is amended by striking “State”.

1 (b) EXCLUSION FROM GROSS INCOME OF EDU-
2 CATION DISTRIBUTIONS FROM QUALIFIED TUITION PRO-
3 GRAMS.—

4 (1) IN GENERAL.—Section 529(c)(3)(B) (relat-
5 ing to distributions) is amended to read as follows:

6 “(B) DISTRIBUTIONS FOR QUALIFIED
7 HIGHER EDUCATION EXPENSES.—

8 “(i) IN GENERAL.—For purposes of
9 this paragraph—

10 “(I) no amount shall be includ-
11 ible in gross income under subpara-
12 graph (A) by reason of a distribution
13 which consists of providing a benefit
14 to the distributee which, if paid for by
15 the distributee, would constitute pay-
16 ment of a qualified higher education
17 expense, and

18 “(II) the amount which (deter-
19 mined without regard to subclause
20 (I)) would be includible in gross in-
21 come under subparagraph (A) by rea-
22 son of any other distribution shall not
23 be so includible in an amount which
24 bears the same ratio to the amount
25 which would be so includible as the

1 qualified higher education expenses
2 bear to such aggregate distributions.

3 “(ii) NONAPPLICATION OF CLAUSE.—

4 In the case of any taxable year beginning
5 before January 1, 2004, clause (i) shall
6 not apply with respect to any distribution
7 in such taxable year under a qualified tui-
8 tion program established and maintained
9 by 1 or more eligible educational institu-
10 tions.

11 “(iii) IN-KIND DISTRIBUTIONS.—Any
12 benefit furnished to a designated bene-
13 ficiary under a qualified tuition program
14 shall be treated as a distribution to the
15 beneficiary for purposes of this paragraph.

16 “(iv) COORDINATION WITH HOPE AND
17 LIFETIME LEARNING CREDITS.—

18 “(I) IN GENERAL.—Except as
19 provided in subclause (II), clause (i)
20 shall not apply for any taxable year to
21 any qualified higher education ex-
22 penses with respect to any individual
23 if a credit is allowed under section
24 25A with respect to such expenses for
25 such taxable year.

1 “(II) SPECIAL COORDINATION
2 RULE.—In the case of any taxable
3 year beginning after December 31,
4 1999, and before January 1, 2004,
5 subclause (I) shall not apply, but the
6 total amount of qualified higher edu-
7 cation expenses otherwise taken into
8 account under clause (i) with respect
9 to an individual for such taxable year
10 shall be reduced (after the application
11 of the reduction provided in section
12 25A(g)(2)) by the amount of such ex-
13 penses which were taken into account
14 in determining the credit allowed to
15 the taxpayer or any other person
16 under section 25A with respect to
17 such expenses.

18 “(V) COORDINATION WITH EDUCATION
19 IRAS.—If the aggregate distributions to
20 which clause (i) and section 530(d)(2)(A)
21 apply exceed the total amount of qualified
22 higher education expenses otherwise taken
23 into account under clause (i) (after the ap-
24 plication of clause (iv)) with respect to an
25 individual for any taxable year, the tax-

1 payer shall allocate such expenses among
2 such distributions for purposes of deter-
3 mining the amount of the exclusion under
4 clause (i) and section 530(d)(2)(A).”

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 135(d)(2)(B) is amended by
7 striking “section 530(d)(2)” and inserting “sec-
8 tions 529(e)(3)(B)(i) and 530(d)(2)”.

9 (B) Section 221(e)(2)(A) is amended by
10 inserting “529,” after “135,”.

11 (c) BENEFICIARY MAY CHANGE PROGRAM.—Section
12 529(e)(3)(C) (relating to change in beneficiaries) is
13 amended—

14 (1) by striking “transferred to the credit” in
15 clause (i) and inserting “transferred—

16 “(I) to another qualified tuition
17 program for the benefit of the des-
18 ignated beneficiary, or

19 “(II) to the credit”,

20 (2) by adding at the end the following new
21 clause:

22 “(iii) LIMITATION ON CERTAIN ROLL-
23 OVERS.—Clause (i)(I) shall only apply to
24 the first 3 transfers with respect to a des-
25 ignated beneficiary.”, and

1 (3) by inserting “OR PROGRAMS” after “BENE-
2 FICIARIES” in the heading.

3 (d) MEMBER OF FAMILY INCLUDES FIRST COUS-
4 IN.—Section 529(e)(2) (defining member of family) is
5 amended by striking “and” at the end of subparagraph
6 (B), by striking the period at the end of subparagraph
7 (C) and by inserting “; and”, and by adding at the end
8 the following new subparagraph:

9 “(D) any first cousin of such beneficiary.”

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

13 **TITLE II—EDUCATIONAL** 14 **ASSISTANCE**

15 **SEC. 201. EXTENSION OF EXCLUSION FOR EMPLOYER-PRO-** 16 **VIDED EDUCATIONAL ASSISTANCE.**

17 (a) IN GENERAL.—Section 127(d) (relating to termi-
18 nation of exclusion for educational assistance programs)
19 is amended by striking “May 31, 2000” and inserting
20 “June 30, 2004”.

21 (b) REPEAL OF LIMITATION ON GRADUATE EDU-
22 CATION.—

23 (1) IN GENERAL.—The last sentence of section
24 127(c)(1) is amended by striking “, and such term
25 also does not include any payment for, or the provi-

1 sion of any benefits with respect to, any graduate
2 level course of a kind normally taken by an individ-
3 ual pursuing a program leading to a law, business,
4 medical, or other advanced academic or professional
5 degree”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by paragraph (1) shall apply with respect to ex-
8 penses relating to courses beginning after December
9 31, 1999.

10 **SEC. 202. ELIMINATION OF 60-MONTH LIMIT ON STUDENT**
11 **LOAN INTEREST DEDUCTION.**

12 (a) IN GENERAL.—Section 221 (relating to interest
13 on education loans) is amended by striking subsection (d)
14 and by redesignating subsections (e), (f), and (g) as sub-
15 sections (d), (e), and (f), respectively.

16 (b) CONFORMING AMENDMENT.—Section 6050S(e)
17 is amended by striking “section 221(e)(1)” and inserting
18 “section 221(d)(1)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to any loan interest
21 paid after December 31, 1999.

1 **SEC. 203. EXCLUSION OF CERTAIN AMOUNTS RECEIVED**
2 **UNDER THE NATIONAL PUBLIC HEALTH**
3 **SERVICE CORPS SCHOLARSHIP PROGRAM**
4 **AND THE F. EDWARD HEBERT ARMED**
5 **FORCES HEALTH PROFESSIONS SCHOLAR-**
6 **SHIP AND FINANCIAL ASSISTANCE PROGRAM.**

7 (a) IN GENERAL.—Section 117(c) (relating to the ex-
8 clusion from gross income amounts received as a qualified
9 scholarship) is amended—

10 (1) by striking “Subsections (a)” and inserting
11 the following:

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), subsections (a)”, and

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

16 “(2) EXCEPTIONS.—Paragraph (1) shall not
17 apply to any amount received by an individual
18 under—

19 “(A) the National Public Health Service
20 Corps Scholarship Program under section
21 338A(g)(1)(A) of the Public Health Service
22 Act, or

23 “(B) the Armed Forces Health Professions
24 Scholarship and Financial Assistance program
25 under subchapter I of chapter 105 of title 10,
26 United States Code.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to amounts received in taxable
3 years beginning after December 31, 1993.

4 **TITLE III—LIBERALIZATION OF**
5 **TAX-EXEMPT FINANCING**
6 **RULES FOR PUBLIC SCHOOL**
7 **CONSTRUCTION**

8 **SEC. 301. ADDITIONAL INCREASE IN ARBITRAGE REBATE**
9 **EXCEPTION FOR GOVERNMENTAL BONDS**
10 **USED TO FINANCE EDUCATIONAL FACILI-**
11 **TIES.**

12 (a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relat-
13 ing to increase in exception for bonds financing public
14 school capital expenditures) is amended by striking
15 “\$5,000,000” the second place it appears and inserting
16 “\$10,000,000”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to obligations issued in calendar
19 years beginning after December 31, 1999.

20 **SEC. 302. TREATMENT OF QUALIFIED PUBLIC EDU-**
21 **CATIONAL FACILITY BONDS AS EXEMPT FA-**
22 **CILITY BONDS.**

23 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
24 section (a) of section 142 (relating to exempt facility
25 bond) is amended by striking “or” at the end of paragraph

1 (11), by striking the period at the end of paragraph (12)
2 and inserting “, or”, and by adding at the end the follow-
3 ing new paragraph:

4 “(13) qualified public educational facilities.”

5 (b) QUALIFIED PUBLIC EDUCATIONAL FACILI-
6 TIES.—Section 142 (relating to exempt facility bond) is
7 amended by adding at the end the following new sub-
8 section:

9 “(k) QUALIFIED PUBLIC EDUCATIONAL FACILI-
10 TIES.—

11 “(1) IN GENERAL.—For purposes of subsection
12 (a)(13), the term ‘qualified public educational facil-
13 ity’ means any school facility which is—

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

16 “(B) owned by a private, for-profit cor-
17 poration pursuant to a public-private partner-
18 ship agreement with a State or local edu-
19 cational agency described in paragraph (2).

20 “(2) PUBLIC-PRIVATE PARTNERSHIP AGREE-
21 MENT DESCRIBED.—A public-private partnership
22 agreement is described in this paragraph if it is an
23 agreement—

24 “(A) under which the corporation agrees—

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

4 “(ii) at the end of the term of the
5 agreement, to transfer the school facility to
6 such agency for no additional consider-
7 ation, and

8 “(B) the term of which does not exceed the
9 term of the issue to be used to provide the
10 school facility.

11 “(3) SCHOOL FACILITY.—For purposes of this
12 subsection, the term ‘school facility’ means—

13 “(A) school buildings,

14 “(B) functionally related and subordinate
15 facilities and land with respect to such build-
16 ings, including any stadium or other facility pri-
17 marily used for school events, and

18 “(C) any property, to which section 168
19 applies (or would apply but for section 179), for
20 use in the facility.

21 “(4) PUBLIC SCHOOLS.—For purposes of this
22 subsection, the terms ‘elementary school’ and ‘sec-
23 ondary school’ have the meanings given such terms
24 by section 14101 of the Elementary and Secondary

1 Education Act of 1965 (20 U.S.C. 8801), as in ef-
2 fect on the date of the enactment of this subsection.

3 “(5) ANNUAL AGGREGATE FACE AMOUNT OF
4 TAX-EXEMPT FINANCING.—

5 “(A) IN GENERAL.—An issue shall not be
6 treated as an issue described in subsection
7 (a)(13) if the aggregate face amount of bonds
8 issued by the State pursuant thereto (when
9 added to the aggregate face amount of bonds
10 previously so issued during the calendar year)
11 exceeds an amount equal to the greater of—

12 “(i) \$10 multiplied by the State popu-
13 lation, or

14 “(ii) \$5,000,000.

15 “(B) ALLOCATION RULES.—

16 “(i) IN GENERAL.—Except as other-
17 wise provided in this subparagraph, the
18 State may allocate the amount described in
19 subparagraph (A) for any calendar year in
20 such manner as the State determines ap-
21 propriate.

22 “(ii) RULES FOR CARRYFORWARD OF
23 UNUSED LIMITATION.—A State may elect
24 to carry forward an unused limitation for
25 any calendar year for 3 calendar years fol-

1 lowing the calendar year in which the un-
2 used limitation arose under rules similar to
3 the rules of section 146(f), except that the
4 only purpose for which the carryforward
5 may be elected is the issuance of exempt
6 facility bonds described in subsection
7 (a)(13).”

8 (c) EXEMPTION FROM GENERAL STATE VOLUME
9 CAPS.—Paragraph (3) of section 146(g) (relating to ex-
10 ception for certain bonds) is amended—

11 (1) by striking “or (12)” and inserting “(12),
12 or (13)”, and

13 (2) by striking “and environmental enhance-
14 ments of hydroelectric generating facilities” and in-
15 serting “environmental enhancements of hydro-
16 electric generating facilities, and qualified public
17 educational facilities”.

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

24 “(3) EXEMPT FACILITY BONDS FOR QUALIFIED
25 PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not

1 apply to any exempt facility bond issued as part of
2 an issue described in section 142(a)(13) (relating to
3 qualified public educational facilities).”

4 (e) CONFORMING AMENDMENT.—The heading for
5 section 147(h) is amended by striking “MORTGAGE REVE-
6 NUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND
7 QUALIFIED 501(c)(3) BONDS” and inserting “CERTAIN
8 BONDS”.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to bonds issued after December
11 31, 1999.

12 **SEC. 303. FEDERAL GUARANTEE OF SCHOOL CONSTRUC-**
13 **TION BONDS BY FEDERAL HOUSING FINANCE**
14 **BOARD.**

15 (a) IN GENERAL.—Section 149(b)(3) (relating to ex-
16 ceptions) is amended by adding at the end the following
17 new subparagraph:

18 “(E) CERTAIN GUARANTEED SCHOOL CON-
19 STRUCTION BONDS.—Any bond issued as part
20 of an issue 95 percent or more of the net pro-
21 ceeds of which are used for public school con-
22 struction shall not be treated as federally guar-
23 anteed for any calendar year by reason of any
24 guarantee by the Federal Housing Finance
25 Board (through any Federal Home Loan Bank)

1 under the Federal Home Loan Bank Act (12
2 U.S.C. 1421 et seq.), as in effect on the date
3 of the enactment of this subparagraph, to the
4 extent the face amount of such bond, when
5 added to the aggregate face amount of such
6 bonds previously so guaranteed for such year,
7 does not exceed \$500,000,000.”

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to bonds issued after December
10 31, 1999.

11 **TITLE IV—REVENUE**

12 **PROVISIONS**

13 **SEC. 401. MODIFICATION TO FOREIGN TAX CREDIT**

14 **CARRYBACK AND CARRYOVER PERIODS.**

15 (a) IN GENERAL.—Section 904(c) (relating to limita-
16 tion on credit) is amended—

17 (1) by striking “in the second preceding taxable
18 year,” and

19 (2) by striking “or fifth” and inserting “fifth,
20 sixth, or seventh”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to credits arising in taxable
23 years beginning after December 31, 2001.

1 **SEC. 402. LIMITATION ON USE OF NON-ACCRUAL EXPERI-**
2 **ENCE METHOD OF ACCOUNTING.**

3 (a) IN GENERAL.—Section 448(d)(5) (relating to
4 special rule for services) is amended—

5 (1) by inserting “in fields described in para-
6 graph (2)(A)” after “services by such person”, and

7 (2) by inserting “CERTAIN PERSONAL” before
8 “SERVICES” in the heading.

9 (b) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to taxable years ending after
12 the date of the enactment of this Act.

13 (2) CHANGE IN METHOD OF ACCOUNTING.—In
14 the case of any taxpayer required by the amend-
15 ments made by this section to change its method of
16 accounting for its first taxable year ending after the
17 date of the enactment of this Act—

18 (A) such change shall be treated as initi-
19 ated by the taxpayer,

20 (B) such change shall be treated as made
21 with the consent of the Secretary of the Treas-
22 ury, and

23 (C) the net amount of the adjustments re-
24 quired to be taken into account by the taxpayer
25 under section 481 of the Internal Revenue Code
26 of 1986 shall be taken into account over a pe-

1 riod (not greater than 4 taxable years) begin-
2 ning with such first taxable year.

3 **SEC. 403. RETURNS RELATING TO CANCELLATIONS OF IN-**
4 **DEBTEDNESS BY ORGANIZATIONS LENDING**
5 **MONEY.**

6 (a) IN GENERAL.—Paragraph (2) of section
7 6050P(c) (relating to definitions and special rules) is
8 amended by striking “and” at the end of subparagraph
9 (B), by striking the period at the end of subparagraph
10 (C) and inserting “, and”, and by inserting after subpara-
11 graph (C) the following new subparagraph:

12 “(D) any organization a significant trade
13 or business of which is the lending of money.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to discharges of indebtedness
16 after December 31, 1999.

17 **SEC. 404. EXTENSION OF INTERNAL REVENUE SERVICE**
18 **USER FEES.**

19 (a) IN GENERAL.—Chapter 77 (relating to mis-
20 cellaneous provisions) is amended by adding at the end
21 the following new section:

22 **“SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.**

23 “(a) GENERAL RULE.—The Secretary shall establish
24 a program requiring the payment of user fees for—

1 “(1) requests to the Internal Revenue Service
2 for ruling letters, opinion letters, and determination
3 letters, and

4 “(2) other similar requests.

5 “(b) PROGRAM CRITERIA.—

6 “(1) IN GENERAL.—The fees charged under the
7 program required by subsection (a)—

8 “(A) shall vary according to categories (or
9 subcategories) established by the Secretary,

10 “(B) shall be determined after taking into
11 account the average time for (and difficulty of)
12 complying with requests in each category (and
13 subcategory), and

14 “(C) shall be payable in advance.

15 “(2) EXEMPTIONS, ETC.—The Secretary shall
16 provide for such exemptions (and reduced fees)
17 under such program as the Secretary determines to
18 be appropriate.

19 “(3) AVERAGE FEE REQUIREMENT.—The aver-
20 age fee charged under the program required by sub-
21 section (a) shall not be less than the amount deter-
22 mined under the following table:

“Category	Average Fee
Employee plan ruling and opinion	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

1 “(c) TERMINATION.—No fee shall be imposed under
2 this section with respect to requests made after September
3 30, 2009.”

4 (b) CONFORMING AMENDMENTS.—

5 (1) The table of sections for chapter 77 is
6 amended by adding at the end the following new
7 item:

 “Sec. 7527. Internal Revenue Service user fees.”

8 (2) Section 10511 of the Revenue Act of 1987
9 is repealed.

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

13 **SEC. 405. PROPERTY SUBJECT TO A LIABILITY TREATED IN**
14 **SAME MANNER AS ASSUMPTION OF LIABIL-**
15 **ITY.**

16 (a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY
17 TEST.—

18 (1) SECTION 357.—Section 357(a)(2) (relating
19 to assumption of liability) is amended by striking “,
20 or acquires from the taxpayer property subject to a
21 liability”.

22 (2) SECTION 358.—Section 358(d)(1) (relating
23 to assumption of liability) is amended by striking
24 “or acquired from the taxpayer property subject to
25 a liability”.

1 (3) SECTION 368.—

2 (A) Section 368(a)(1)(C) is amended by
3 striking “, or the fact that property acquired is
4 subject to a liability,”.

5 (B) The last sentence of section
6 368(a)(2)(B) is amended by striking “, and the
7 amount of any liability to which any property
8 acquired from the acquiring corporation is sub-
9 ject,”.

10 (b) CLARIFICATION OF ASSUMPTION OF LIABIL-
11 ITY.—

12 (1) IN GENERAL.—Section 357 is amended by
13 adding at the end the following new subsection:

14 “(d) DETERMINATION OF AMOUNT OF LIABILITY AS-
15 SUMED.—

16 “(1) IN GENERAL.—For purposes of this sec-
17 tion, section 358(d), section 362(d), section
18 368(a)(1)(C), and section 368(a)(2)(B), except as
19 provided in regulations—

20 “(A) a recourse liability (or portion there-
21 of) shall be treated as having been assumed if,
22 as determined on the basis of all facts and cir-
23 cumstances, the transferee has agreed to, and is
24 expected to, satisfy such liability (or portion),

1 whether or not the transferor has been relieved
2 of such liability, and

3 “(B) except to the extent provided in para-
4 graph (2), a nonrecourse liability shall be treat-
5 ed as having been assumed by the transferee of
6 any asset subject to such liability.

7 “(2) EXCEPTION FOR NONRECOURSE LIABIL-
8 ITY.—The amount of the nonrecourse liability treat-
9 ed as described in paragraph (1)(B) shall be reduced
10 by the lesser of—

11 “(A) the amount of such liability which an
12 owner of other assets not transferred to the
13 transferee and also subject to such liability has
14 agreed with the transferee to, and is expected
15 to, satisfy, or

16 “(B) the fair market value of such other
17 assets (determined without regard to section
18 7701(g)).

19 “(3) REGULATIONS.—The Secretary shall pre-
20 scribe such regulations as may be necessary to carry
21 out the purposes of this subsection and section
22 362(d). The Secretary may also prescribe regula-
23 tions which provide that the manner in which a li-
24 ability is treated as assumed under this subsection

1 is applied, where appropriate, elsewhere in this
2 title.”

3 (2) LIMITATION ON BASIS INCREASE ATTRIB-
4 UTABLE TO ASSUMPTION OF LIABILITY.—Section
5 362 is amended by adding at the end the following
6 new subsection:

7 “(d) LIMITATION ON BASIS INCREASE ATTRIB-
8 UTABLE TO ASSUMPTION OF LIABILITY.—

9 “(1) IN GENERAL.—In no event shall the basis
10 of any property be increased under subsection (a) or
11 (b) above the fair market value of such property (de-
12 termined without regard to section 7701(g)) by rea-
13 son of any gain recognized to the transferor as a re-
14 sult of the assumption of a liability.

15 “(2) TREATMENT OF GAIN NOT SUBJECT TO
16 TAX.—Except as provided in regulations, if—

17 “(A) gain is recognized to the transferor as
18 a result of an assumption of a nonrecourse li-
19 ability by a transferee which is also secured by
20 assets not transferred to such transferee, and

21 “(B) no person is subject to tax under this
22 title on such gain,

23 then, for purposes of determining basis under sub-
24 sections (a) and (b), the amount of gain recognized
25 by the transferor as a result of the assumption of

1 the liability shall be determined as if the liability as-
2 sumed by the transferee equaled such transferee's
3 ratable portion of such liability determined on the
4 basis of the relative fair market values (determined
5 without regard to section 7701(g)) of all of the as-
6 sets subject to such liability.”

7 (c) APPLICATION TO PROVISIONS OTHER THAN SUB-
8 CHAPTER C.—

9 (1) SECTION 584.—Section 584(h)(3) is amend-
10 ed—

11 (A) by striking “, and the fact that any
12 property transferred by the common trust fund
13 is subject to a liability,” in subparagraph (A),
14 and

15 (B) by striking clause (ii) of subparagraph
16 (B) and inserting:

17 “(ii) ASSUMED LIABILITIES.—For
18 purposes of clause (i), the term ‘assumed
19 liabilities’ means any liability of the com-
20 mon trust fund assumed by any regulated
21 investment company in connection with the
22 transfer referred to in paragraph (1)(A).

23 “(C) ASSUMPTION.—For purposes of this
24 paragraph, in determining the amount of any li-

1 ability assumed, the rules of section 357(d)
2 shall apply.”

3 (2) SECTION 1031.—The last sentence of section
4 1031(d) is amended—

5 (A) by striking “assumed a liability of the
6 taxpayer or acquired from the taxpayer prop-
7 erty subject to a liability” and inserting “as-
8 sumed (as determined under section 357(d)) a
9 liability of the taxpayer”, and

10 (B) by striking “or acquisition (in the
11 amount of the liability)”.

12 (d) CONFORMING AMENDMENTS.—

13 (1) Section 351(h)(1) is amended by striking “,
14 or acquires property subject to a liability,”.

15 (2) Section 357 is amended by striking “or ac-
16 quisition” each place it appears in subsection (a) or
17 (b).

18 (3) Section 357(b)(1) is amended by striking
19 “or acquired”.

20 (4) Section 357(c)(1) is amended by striking “,
21 plus the amount of the liabilities to which the prop-
22 erty is subject,”.

23 (5) Section 357(e)(3) is amended by striking
24 “or to which the property transferred is subject”.

1 (6) Section 358(d)(1) is amended by striking
2 “or acquisition (in the amount of the liability)”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to transfers after October 19,
5 1998.

6 **SECTION 406. CHARITABLE SPLIT-DOLLAR LIFE INSUR-**
7 **ANCE, ANNUITY, AND ENDOWMENT CON-**
8 **TRACTS.**

9 (a) IN GENERAL.—Subsection (f) of section 170 (re-
10 lating to disallowance of deduction in certain cases and
11 special rules) is amended by adding at the end the follow-
12 ing new paragraph:

13 “(10) SPLIT-DOLLAR LIFE INSURANCE, ANNU-
14 ITY, AND ENDOWMENT CONTRACTS.—

15 “(A) IN GENERAL.—Nothing in this sec-
16 tion or in section 545(b)(2), 556(b)(2), 642(c),
17 2055, 2106(a)(2), or 2522 shall be construed to
18 allow a deduction, and no deduction shall be al-
19 lowed, for any transfer to or for the use of an
20 organization described in subsection (c) if in
21 connection with such transfer—

22 “(i) the organization directly or indi-
23 rectly pays, or has previously paid, any
24 premium on any personal benefit contract
25 with respect to the transferor, or

1 “(ii) there is an understanding or ex-
2 pectation that any person will directly or
3 indirectly pay any premium on any per-
4 sonal benefit contract with respect to the
5 transferor.

6 “(B) PERSONAL BENEFIT CONTRACT.—
7 For purposes of subparagraph (A), the term
8 ‘personal benefit contract’ means, with respect
9 to the transferor, any life insurance, annuity, or
10 endowment contract if any direct or indirect
11 beneficiary under such contract is the trans-
12 feror, any member of the transferor’s family, or
13 any other person (other than an organization
14 described in subsection (e)) designated by the
15 transferor.

16 “(C) APPLICATION TO CHARITABLE RE-
17 MAINDER TRUSTS.—In the case of a transfer to
18 a trust referred to in subparagraph (E), ref-
19 erences in subparagraphs (A) and (F) to an or-
20 ganization described in subsection (e) shall be
21 treated as a reference to such trust.

22 “(D) EXCEPTION FOR CERTAIN ANNUITY
23 CONTRACTS.—If, in connection with a transfer
24 to or for the use of an organization described
25 in subsection (e), such organization incurs an

1 obligation to pay a charitable gift annuity (as
2 defined in section 501(m)) and such organiza-
3 tion purchases any annuity contract to fund
4 such obligation, persons receiving payments
5 under the charitable gift annuity shall not be
6 treated for purposes of subparagraph (B) as in-
7 direct beneficiaries under such contract if—

8 “(i) such organization possesses all of
9 the incidents of ownership under such con-
10 tract,

11 “(ii) such organization is entitled to
12 all the payments under such contract, and

13 “(iii) the timing and amount of pay-
14 ments under such contract are substan-
15 tially the same as the timing and amount
16 of payments to each such person under
17 such obligation (as such obligation is in ef-
18 fect at the time of such transfer).

19 “(E) EXCEPTION FOR CERTAIN CON-
20 TRACTS HELD BY CHARITABLE REMAINDER
21 TRUSTS.—A person shall not be treated for pur-
22 poses of subparagraph (B) as an indirect bene-
23 ficiary under any life insurance, annuity, or en-
24 dowment contract held by a charitable remain-
25 der annuity trust or a charitable remainder

1 unitrust (as defined in section 664(d)) solely by
2 reason of being entitled to any payment re-
3 ferred to in paragraph (1)(A) or (2)(A) of sec-
4 tion 664(d) if—

5 “(i) such trust possesses all of the in-
6 cidents of ownership under such contract,
7 and

8 “(ii) such trust is entitled to all the
9 payments under such contract.

10 “(F) EXCISE TAX ON PREMIUMS PAID.—

11 “(i) IN GENERAL.—There is hereby
12 imposed on any organization described in
13 subsection (c) an excise tax equal to the
14 premiums paid by such organization on
15 any life insurance, annuity, or endowment
16 contract if the payment of premiums on
17 such contract is in connection with a trans-
18 fer for which a deduction is not allowable
19 under subparagraph (A), determined with-
20 out regard to when such transfer is made.

21 “(ii) PAYMENTS BY OTHER PER-
22 SONS.—For purposes of clause (i), pay-
23 ments made by any other person pursuant
24 to an understanding or expectation re-

1 ferred to in subparagraph (A) shall be
2 treated as made by the organization.

3 “(iii) REPORTING.—Any organization
4 on which tax is imposed by clause (i) with
5 respect to any premium shall file an an-
6 nual return which includes—

7 “(I) the amount of such pre-
8 miums paid during the year and the
9 name and TIN of each beneficiary
10 under the contract to which the pre-
11 mium relates, and

12 “(II) such other information as
13 the Secretary may require.

14 The penalties applicable to returns re-
15 quired under section 6033 shall apply to
16 returns required under this clause. Returns
17 required under this clause shall be fur-
18 nished at such time and in such manner as
19 the Secretary shall by forms or regulations
20 require.

21 “(iv) CERTAIN RULES TO APPLY.—
22 The tax imposed by this subparagraph
23 shall be treated as imposed by chapter 42
24 for purposes of this title other than sub-
25 chapter B of chapter 42.

1 “(G) SPECIAL RULE WHERE STATE RE-
2 QUIRES SPECIFICATION OF CHARITABLE GIFT
3 ANNUITANT IN CONTRACT.—In the case of an
4 obligation to pay a charitable gift annuity re-
5 ferred to in subparagraph (D) which is entered
6 into under the laws of a State which requires,
7 in order for the charitable gift annuity to be ex-
8 empt from insurance regulation by such State,
9 that each beneficiary under the charitable gift
10 annuity be named as a beneficiary under an an-
11 nuity contract issued by an insurance company
12 authorized to transact business in such State,
13 the requirements of clauses (i) and (ii) of sub-
14 paragraph (D) shall be treated as met if—

15 “(i) such State law requirement was
16 in effect on February 8, 1999,

17 “(ii) each such beneficiary under the
18 charitable gift annuity is a bona fide resi-
19 dent of such State at the time the obliga-
20 tion to pay a charitable gift annuity is en-
21 tered into, and

22 “(iii) the only persons entitled to pay-
23 ments under such contract are persons en-
24 titled to payments as beneficiaries under

1 such obligation on the date such obligation
2 is entered into.

3 “(H) REGULATIONS.—The Secretary shall
4 prescribe such regulations as may be necessary
5 or appropriate to carry out the purposes of this
6 paragraph, including regulations to prevent the
7 avoidance of such purposes.”

8 (b) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this section, the amendment made by this
11 section shall apply to transfers made after February
12 8, 1999.

13 (2) EXCISE TAX.—Except as provided in para-
14 graph (3) of this subsection, section 170(f)(10)(F)
15 of the Internal Revenue Code of 1986 (as added by
16 this section) shall apply to premiums paid after the
17 date of the enactment of this Act.

18 (3) REPORTING.—Clause (iii) of such section
19 170(f)(10)(F) shall apply to premiums paid after
20 February 8, 1999 (determined as if the tax imposed
21 by such section applies to premiums paid after such
22 date).

23 **SEC. 407. TRANSFER OF EXCESS DEFINED BENEFIT PLAN**
24 **ASSETS FOR RETIREE HEALTH BENEFITS.**

25 (a) EXTENSION.—

1 (1) IN GENERAL.—Section 420(b)(5) (relating
2 to expiration) is amended by striking “in any tax-
3 able year beginning after December 31, 2000” and
4 inserting “made after September 30, 2009”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 101(e)(3) of the Employee Re-
7 tirement Income Security Act of 1974 (29
8 U.S.C. 1021(e)(3)) is amended by striking
9 “1995” and inserting “2001”.

10 (B) Section 403(c)(1) of such Act (29 U.S.C.
11 1103(c)(1)) is amended by striking “1995” and in-
12 sserting “2001”.

13 (C) Paragraph (13) of section 408(b) of such
14 Act (29 U.S.C. 1108(b)(13)) is amended—

15 (i) by striking “in a taxable year beginning
16 before January 1, 2001” and inserting “made
17 before October 1, 2009”, and

18 (ii) by striking “1995” and inserting
19 “2001”.

20 (b) APPLICATION OF MINIMUM COST REQUIRE-
21 MENTS.—

22 (1) IN GENERAL.—Section 420(c)(3) is amend-
23 ed to read as follows:

24 “(3) MINIMUM COST REQUIREMENTS.—

1 “(A) IN GENERAL.—The requirements of
2 this paragraph are met if each group health
3 plan or arrangement under which applicable
4 health benefits are provided provides that the
5 applicable employer cost for each taxable year
6 during the cost maintenance period shall not be
7 less than the higher of the applicable employer
8 costs for each of the 2 taxable years imme-
9 diately preceding the taxable year of the quali-
10 fied transfer.

11 “(B) APPLICABLE EMPLOYER COST.—For
12 purposes of this paragraph, the term ‘applicable
13 employer cost’ means, with respect to any tax-
14 able year, the amount determined by dividing—

15 “(i) the qualified current retiree
16 health liabilities of the employer for such
17 taxable year determined—

18 “(I) without regard to any reduc-
19 tion under subsection (e)(1)(B), and

20 “(II) in the case of a taxable
21 year in which there was no qualified
22 transfer, in the same manner as if
23 there had been such a transfer at the
24 end of the taxable year, by

1 “(ii) the number of individuals to
2 whom coverage for applicable health bene-
3 fits was provided during such taxable year.

4 “(C) ELECTION TO COMPUTE COST SEPA-
5 RATELY.—An employer may elect to have this
6 paragraph applied separately with respect to in-
7 dividuals eligible for benefits under title XVIII
8 of the Social Security Act at any time during
9 the taxable year and with respect to individuals
10 not so eligible.

11 “(D) COST MAINTENANCE PERIOD.—For
12 purposes of this paragraph, the term ‘cost
13 maintenance period’ means the period of 5 tax-
14 able years beginning with the taxable year in
15 which the qualified transfer occurs. If a taxable
16 year is in 2 or more overlapping cost mainte-
17 nance periods, this paragraph shall be applied
18 by taking into account the highest applicable
19 employer cost required to be provided under
20 subparagraph (A) for such taxable year.”

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 420(b)(1)(C)(iii) is amended
23 by striking “benefits” and inserting “cost”.

24 (B) Section 420(e)(1)(D) is amended by
25 striking “and shall not be subject to the mini-

1 The preceding sentence shall not apply to any
2 plan which maintains experience-rating arrange-
3 ments with respect to individual employers.”

4 (b) LIMITATION ON USE OF AMOUNTS FOR OTHER
5 PURPOSES.—Section 4976(b) (defining disqualified bene-
6 fit) is amended by adding at the end the following new
7 paragraph:

8 “(5) SPECIAL RULE FOR 10 OR MORE EM-
9 PLOYER PLANS EXEMPTED FROM PREFUNDING LIM-
10 ITS.—For purposes of paragraph (1)(C), if—

11 “(A) subpart D of part I of subchapter D
12 of chapter 1 does not apply by reason of section
13 419A(f)(6) to contributions to provide 1 or
14 more welfare benefits through a welfare benefit
15 fund under a 10 or more employer plan, and

16 “(B) any portion of the welfare benefit
17 fund attributable to such contributions is used
18 for a purpose other than that for which the con-
19 tributions were made,

20 then such portion shall be treated as reverting to the
21 benefit of the employers maintaining the fund.”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to contributions paid or accrued
24 after the date of the enactment of this Act, in taxable
25 years ending after such date.

1 **SEC. 409. MODIFICATION OF INSTALLMENT METHOD AND**
2 **REPEAL OF INSTALLMENT METHOD FOR AC-**
3 **CRUAL METHOD TAXPAYERS.**

4 (a) REPEAL OF INSTALLMENT METHOD FOR AC-
5 CRUAL BASIS TAXPAYERS.—

6 (1) IN GENERAL.—Subsection (a) of section
7 453 (relating to installment method) is amended to
8 read as follows:

9 “(a) USE OF INSTALLMENT METHOD.—

10 “(1) IN GENERAL.—Except as otherwise pro-
11 vided in this section, income from an installment
12 sale shall be taken into account for purposes of this
13 title under the installment method.

14 “(2) ACCRUAL METHOD TAXPAYER.—The in-
15 stallment method shall not apply to income from an
16 installment sale if such income would be reported
17 under an accrual method of accounting without re-
18 gard to this section. The preceding sentence shall
19 not apply to a disposition described in subparagraph
20 (A) or (B) of subsection (1)(2).”

21 (2) CONFORMING AMENDMENTS.—Sections
22 453(d)(1), 453(i)(1), and 453(k) are each amended
23 by striking “(a)” each place it appears and inserting
24 “(a)(1)”.

25 (b) MODIFICATION OF PLEDGE RULES.—Paragraph
26 (4) of section 453A(d) (relating to pledges, etc., of install-

1 ment obligations) is amended by adding at the end the
2 following: “A payment shall be treated as directly secured
3 by an interest in an installment obligation to the extent
4 an arrangement allows the taxpayer to satisfy all or a por-
5 tion of the indebtedness with the installment obligation.”

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to sales or other dispositions occur-
8 ring on or after the date of the enactment of this Act.

9 **SEC. 410. INCLUSION OF CERTAIN VACCINES AGAINST**
10 **STREPTOCOCCUS PNEUMONIAE TO LIST OF**
11 **TAXABLE VACCINES.**

12 (a) IN GENERAL.—Section 4132(a)(1) (defining tax-
13 able vaccine) is amended by adding at the end the follow-
14 ing new subparagraph:

15 “(L) Any conjugate vaccine against strep-
16 tococcus pneumoniae.”

17 (b) EFFECTIVE DATE.—

18 (1) SALES.—The amendment made by this sec-
19 tion shall apply to vaccine sales beginning on the
20 day after the date on which the Centers for Disease
21 Control makes a final recommendation for routine
22 administration to children of any conjugate vaccine
23 against streptococcus pneumoniae.

24 (2) DELIVERIES.—For purposes of paragraph
25 (1), in the case of sales on or before the date de-

1 scribed in such paragraph for which delivery is made
2 after such date, the delivery date shall be considered
3 the sale date.