

Calendar No. _____

107TH CONGRESS
1ST SESSION

S. _____

[Report No. 107-____]

IN THE SENATE OF THE UNITED STATES

MAY ____ (legislative day, _____), 2001

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

A BILL

To provide for reconciliation pursuant to section 103 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83).

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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Restoring Earnings To Lift Individuals and Empower
6 Families (RELIEF) Act of 2001”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
2 to, or repeal of, a section or other provision, the reference
3 shall be considered to be made to a section or other provi-
4 sion of the Internal Revenue Code of 1986.

5 (c) SECTION 15 NOT TO APPLY.—No amendment
6 made by this Act shall be treated as a change in a rate
7 of tax for purposes of section 15 of the Internal Revenue
8 Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—INDIVIDUAL INCOME TAX RATE REDUCTIONS

Subtitle A—In General

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

Sec. 102. Increase in amount of income required before phaseout of itemized deductions begins.

Sec. 103. Repeal of phaseout of deduction for personal exemptions.

Subtitle B—Compliance With Congressional Budget Act

Sec. 111. Sunset of provisions of title.

Sec. 112. Restoration of provisions of title.

TITLE II—CHILD TAX CREDIT

Subtitle A—In General

Sec. 201. Modifications to child tax credit.

Subtitle B—Compliance With Congressional Budget Act

Sec. 211. Sunset of provisions of title.

Sec. 212. Restoration of provisions of title.

TITLE III—MARRIAGE PENALTY RELIEF

Subtitle A—In General

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

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

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

3

Subtitle B—Compliance With Congressional Budget Act

- Sec. 311. Sunset of provisions of title.
- Sec. 312. Restoration of provisions of title.

TITLE IV—AFFORDABLE EDUCATION PROVISIONS

Subtitle A—Education Savings Incentives

- Sec. 401. Modifications to education individual retirement accounts.
- Sec. 402. Modifications to qualified tuition programs.

Subtitle B—Educational Assistance

- Sec. 411. Permanent extension of exclusion for employer-provided educational assistance.
- Sec. 412. Elimination of 60-month limit and increase in income limitation on student loan interest deduction.
- Sec. 413. Exclusion of certain amounts received under the national health service corps scholarship program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

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

- Sec. 421. Additional increase in arbitrage rebate exception for governmental bonds used to finance educational facilities.
- Sec. 422. Treatment of qualified public educational facility bonds as exempt facility bonds.

Subtitle D—Other Provisions

- Sec. 431. Deduction for higher education expenses.
- Sec. 432. Credit for interest on higher education loans.

Subtitle E—Compliance With Congressional Budget Act

- Sec. 441. Sunset of provisions of title.
- Sec. 442. Restoration of provisions of title.

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

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

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

Subtitle B—Reductions of Estate and Gift Tax Rates

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

Subtitle C—Increase in Exemption Amounts

- Sec. 521. Increase in exemption equivalent of unified credit, lifetime gifts exemption, and GST exemption amounts.

Subtitle D—Credit for State Death Taxes

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

4

Sec. 532. Credit for State death taxes replaced with deduction for such taxes.

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

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

Sec. 542. Treatment of property acquired from a decedent dying after December 31, 2010.

Subtitle F—Conservation Easements

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

Subtitle G—Modifications of Generation-Skipping Transfer Tax

Sec. 561. Deemed allocation of GST exemption to lifetime transfers to trusts; retroactive allocations.

Sec. 562. Severing of trusts.

Sec. 563. Modification of certain valuation rules.

Sec. 564. Relief provisions.

Subtitle H—Extension of Time for Payment of Estate Tax

Sec. 571. Expansion of availability of installment payment for estates with interests qualifying lending and finance businesses.

Sec. 572. Clarification of availability of installment payment.

Subtitle I—Compliance With Congressional Budget Act

Sec. 581. Sunset of provisions of title.

Sec. 582. Restoration of provisions of title.

TITLE VI—PENSION AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS

Subtitle A—Individual Retirement Accounts

Sec. 601. Modification of IRA contribution limits.

Sec. 602. Deemed IRAs under employer plans.

Sec. 603. Tax-free distributions from individual retirement accounts for charitable purposes.

Subtitle B—Expanding Coverage

Sec. 611. Increase in benefit and contribution limits.

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

Sec. 613. Modification of top-heavy rules.

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

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

Sec. 616. Deduction limits.

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

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

Sec. 619. Credit for qualified pension plan contributions of small employers.

Sec. 620. Credit for pension plan startup costs of small employers.

Sec. 621. Elimination of user fee for requests to IRS regarding new pension plans.

5

Sec. 622. Treatment of nonresident aliens engaged in international transportation services.

Subtitle C—Enhancing Fairness for Women

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

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

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

Sec. 634. Modifications to minimum distribution rules.

Sec. 635. Clarification of tax treatment of division of section 457 plan benefits upon divorce.

Sec. 636. Provisions relating to hardship distributions.

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

Subtitle D—Increasing Portability for Participants

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

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

Sec. 643. Rollovers of after-tax contributions.

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

Sec. 645. Treatment of forms of distribution.

Sec. 646. Rationalization of restrictions on distributions.

Sec. 647. Purchase of service credit in governmental defined benefit plans.

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

Sec. 649. Minimum distribution and inclusion requirements for section 457 plans.

Subtitle E—Strengthening Pension Security and Enforcement

PART I—GENERAL PROVISIONS

Sec. 651. Repeal of 160 percent of current liability funding limit.

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

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

Sec. 654. Treatment of multiemployer plans under section 415.

Sec. 655. Protection of investment of employee contributions to 401(k) plans.

Sec. 656. Prohibited allocations of stock in S corporation ESOP.

Sec. 657. Automatic rollovers of certain mandatory distributions.

Sec. 658. Clarification of treatment of contributions to multiemployer plan.

PART II—TREATMENT OF PLAN AMENDMENTS REDUCING FUTURE BENEFIT ACCRUALS

Sec. 659. Notice required for pension plan amendments having the effect of significantly reducing future benefit accruals.

Subtitle F—Reducing Regulatory Burdens

Sec. 661. Modification of timing of plan valuations.

Sec. 662. ESOP dividends may be reinvested without loss of dividend deduction.

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

Sec. 664. Employees of tax-exempt entities.

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

6

- Sec. 666. Reporting simplification.
- Sec. 667. Improvement of employee plans compliance resolution system.
- Sec. 668. Repeal of the multiple use test.
- Sec. 669. Flexibility in nondiscrimination, coverage, and line of business rules.
- Sec. 670. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.

Subtitle G—Other ERISA Provisions

- Sec. 681. Missing participants.
- Sec. 682. Reduced PBGC premium for new plans of small employers.
- Sec. 683. Reduction of additional PBGC premium for new and small plans.
- Sec. 684. Authorization for PBGC to pay interest on premium overpayment refunds.
- Sec. 685. Substantial owner benefits in terminated plans.

Subtitle H—Miscellaneous Provisions

- Sec. 691. Tax treatment and information requirements of Alaska Native Settlement Trusts.

Subtitle I—Compliance With Congressional Budget Act

- Sec. 695. Sunset of provisions of title.
- Sec. 696. Restoration of provisions of title.

TITLE VII—ALTERNATIVE MINIMUM TAX

Subtitle A—In General

- Sec. 701. Increase in alternative minimum tax exemption.

Subtitle B—Compliance With Congressional Budget Act

- Sec. 711. Sunset of provisions of title.
- Sec. 712. Restoration of provisions of title.

TITLE VIII—OTHER PROVISIONS

Subtitle A—In General

- Sec. 801. Time for payment of corporate estimated taxes.
- Sec. 802. Expansion of authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.

Subtitle B—Compliance With Congressional Budget Act

- Sec. 811. Sunset of provisions of title.
- Sec. 812. Restoration of provisions of title.

1 **TITLE I—INDIVIDUAL INCOME**
2 **TAX RATE REDUCTIONS**
3 **Subtitle A—In General**

4 **SEC. 101. REDUCTION IN INCOME TAX RATES FOR INDIVID-**
5 **UALS.**

6 (a) IN GENERAL.—Section 1 is amended by adding
7 at the end the following new subsection:

8 “(i) RATE REDUCTIONS AFTER 2000.—

9 “(1) 10-PERCENT RATE BRACKET.—

10 “(A) IN GENERAL.—In the case of taxable
11 years beginning after December 31, 2000—

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

16 “(ii) the 15 percent rate of tax shall
17 apply only to taxable income over the ini-
18 tial bracket amount but not over the max-
19 imum dollar amount for the 15-percent
20 rate bracket.

21 “(B) INITIAL BRACKET AMOUNT.—For
22 purposes of this subsection, the initial bracket
23 amount is—

24 “(i) \$12,000 in the case of subsection
25 (a),

1 “(ii) \$10,000 in the case of subsection
2 (b), and

3 “(iii) $\frac{1}{2}$ the amount applicable under
4 clause (i) (after adjustment, if any, under
5 subparagraph (C)) in the case of sub-
6 sections (c) and (d).

7 “(C) INFLATION ADJUSTMENT.—In pre-
8 scribing the tables under subsection (f) which
9 apply with respect to taxable years beginning in
10 calendar years after 2001—

11 “(i) the Secretary shall make no ad-
12 justment to the initial bracket amount for
13 any taxable year beginning before January
14 1, 2007,

15 “(ii) the cost-of-living adjustment
16 used in making adjustments to the initial
17 bracket amount for any taxable year begin-
18 ning after December 31, 2006, shall be de-
19 termined under subsection (f)(3) by sub-
20 stituting ‘2005’ for ‘1992’ in subparagraph
21 (B) thereof, and

22 “(iii) such adjustment shall not apply
23 to the amount referred to in subparagraph
24 (B)(iii).

1 If any amount after adjustment under the pre-
 2 ceding sentence is not a multiple of \$50, such
 3 amount shall be rounded to the next lowest
 4 multiple of \$50.

5 “(2) REDUCTIONS IN RATES AFTER 2001.—In
 6 the case of taxable years beginning in a calendar
 7 year after 2001, the corresponding percentage speci-
 8 fied for such calendar year in the following table
 9 shall be substituted for the otherwise applicable tax
 10 rate in the tables under subsections (a), (b), (c), (d),
 11 and (e).

“In the case of taxable years beginning during calendar year:	The corresponding percent- ages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2002, 2003, and 2004	27%	30%	35%	38.6%
2005 and 2006	26%	29%	34%	37.6%
2007 and thereafter	25%	28%	33%	36%

12 “(3) ADJUSTMENT OF TABLES.—The Secretary
 13 shall adjust the tables prescribed under subsection
 14 (f) to carry out this subsection.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Subparagraph (B) of section 1(g)(7) is
 17 amended by striking “15 percent” in clause (ii)(II)
 18 and inserting “10 percent.”.

19 (2) Section 1(h) is amended—

1 (A) by striking “28 percent” both places it
2 appears in paragraphs (1)(A)(ii)(I) and
3 (1)(B)(i) and inserting “25 percent”, and
4 (B) by striking paragraph (13).

5 (3) Section 531 is amended by striking “equal
6 to” and all that follows and inserting “equal to the
7 product of the highest rate of tax under section 1(c)
8 and the accumulated taxable income.”.

9 (4) Section 541 is amended by striking “equal
10 to” and all that follows and inserting “equal to the
11 product of the highest rate of tax under section 1(c)
12 and the undistributed personal holding company in-
13 come.”.

14 (5) Section 3402(p)(1)(B) is amended by strik-
15 ing “7, 15, 28, or 31 percent” and inserting “7 per-
16 cent, any percentage applicable to any of the 3 low-
17 est income brackets in the table under section
18 1(c),”.

19 (6) Section 3402(p)(2) is amended by striking
20 “15 percent” and inserting “10 percent”.

21 (7) Section 3402(q)(1) is amended by striking
22 “equal to 28 percent of such payment” and inserting
23 “equal to the product of the third lowest rate of tax
24 under section 1(c) and such payment”.

1 (8) Section 3402(r)(3) is amended by striking
2 “31 percent” and inserting “the fourth lowest rate
3 of tax under section 1(c)”.

4 (9) Section 3406(a)(1) is amended by striking
5 “equal to 31 percent of such payment” and inserting
6 “equal to the product of the fourth lowest rate of
7 tax under section 1(c) and such payment”.

8 (10) Section 13273 of the Revenue Reconcili-
9 ation Act of 1993 is amended by striking “28 per-
10 cent” and inserting “the third lowest rate of tax
11 under section 1(c) of the Internal Revenue Code of
12 1986”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall apply to taxable years beginning after Decem-
17 ber 31, 2000.

18 (2) AMENDMENTS TO WITHHOLDING PROVI-
19 SIONS.—The amendments made by paragraphs (6),
20 (7), (8), (9), (10), and (11) of subsection (b) shall
21 apply to amounts paid after the 60th day after the
22 date of the enactment of this Act.

1 **SEC. 102. INCREASE IN AMOUNT OF INCOME REQUIRED BE-**
2 **FORE PHASEOUT OF ITEMIZED DEDUCTIONS**
3 **BEGINS.**

4 (a) IN GENERAL.—Section 68(b)(1) (defining appli-
5 cable amount) is amended—

6 (1) by striking “\$100,000” and inserting
7 “\$150,000”, and

8 (2) by striking “\$50,000” and inserting
9 “\$75,000”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2008.

13 **SEC. 103. REPEAL OF PHASEOUT OF DEDUCTION FOR PER-**
14 **SONAL EXEMPTIONS.**

15 (a) IN GENERAL.—Subsection (d) of section 151 (re-
16 lating to exemption amount) is amended by striking para-
17 graph (3).

18 (b) TECHNICAL AMENDMENTS.—

19 (1) Paragraph (6) of section 1(f) is amended—

20 (A) by striking “section 151(d)(4)” in sub-
21 paragraph (A) and inserting “section
22 151(d)(3)”, and

23 (B) by striking “section 151(d)(4)(A)” in
24 subparagraph (B) and inserting “section
25 151(d)(3)”.

1 (2) Paragraph (4) of section 151(d) is amended
2 to read as follows:

3 “(3) INFLATION ADJUSTMENT.—In the case of
4 any taxable year beginning in a calendar year after
5 1989, the dollar amount contained in paragraph (1)
6 shall be increased by an amount equal to—

7 “(A) such dollar amount, multiplied by

8 “(B) the cost-of-living adjustment deter-
9 mined under section 1(f)(3) for the calendar
10 year in which the taxable year begins, by sub-
11 stituting ‘calendar year 1988’ for ‘calendar year
12 1992’ in subparagraph (B) thereof.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2008.

16 **Subtitle B—Compliance With** 17 **Congressional Budget Act**

18 **SEC. 111. SUNSET OF PROVISIONS OF TITLE.**

19 All provisions of, and amendments made by, this title
20 which are in effect on September 30, 2011, shall cease
21 to apply as of the close of September 30, 2011.

22 **SEC. 112. RESTORATION OF PROVISIONS OF TITLE.**

23 All provisions of, and amendments made by, this title
24 which were terminated under section 111 shall begin to

1 apply again as of October 1, 2011, as provided in each
2 such provision or amendment.

3 **TITLE II—CHILD TAX CREDIT**

4 **Subtitle A—In General**

5 **SEC. 201. MODIFICATIONS TO CHILD TAX CREDIT.**

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

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) IN GENERAL.—There shall be allowed as a
11 credit against the tax imposed by this chapter for
12 the taxable year with respect to each qualifying child
13 of the taxpayer an amount equal to the per child
14 amount.

15 “(2) PER CHILD AMOUNT.—For purposes of
16 paragraph (1), the per child amount shall be deter-
17 mined as follows:

“In the case of any taxable year beginning in—	
2001, 2002, or 2003	\$ 600
2004, 2005, or 2006	700
2007, 2008, or 2009	800
2010	900
2011 or thereafter	1,000.”.

18 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
19 IMUM TAX.—

20 (1) IN GENERAL.—Subsection (b) of section 24
21 (relating to child tax credit) is amended by adding
22 at the end the following new paragraph:

1 “(3) LIMITATION BASED ON AMOUNT OF
2 TAX.—The credit allowed under subsection (a) for
3 any taxable year shall not exceed the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under this subpart (other than this section) and
9 section 27 for the taxable year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) The heading for section 24(b) is
12 amended to read as follows: “LIMITATIONS.—”.

13 (B) The heading for section 24(b)(1) is
14 amended to read as follows: “LIMITATION
15 BASED ON ADJUSTED GROSS INCOME.—”.

16 (C) Section 24(d) is amended—

17 (i) by striking “section 26(a)” each
18 place it appears and inserting “subsection
19 (b)(3)”, and

20 (ii) in paragraph (1)(B) by striking
21 “aggregate amount of credits allowed by
22 this subpart” and inserting “amount of
23 credit allowed by this section”.

1 (D) Paragraph (1) of section 26(a) is
2 amended by inserting “(other than section 24)”
3 after “this subpart”.

4 (E) Subsection (c) of section 23 is amend-
5 ed by striking “and section 1400C” and insert-
6 ing “and sections 24 and 1400C”.

7 (F) Subparagraph (C) of section 25(e)(1)
8 is amended by inserting “, 24,” after “sections
9 23”.

10 (G) Section 904(h) is amended by insert-
11 ing “(other than section 24)” after “chapter”.

12 (H) Subsection (d) of section 1400C is
13 amended by inserting “and section 24” after
14 “this section”.

15 (c) REFUNDABLE CHILD CREDIT.—

16 (1) IN GENERAL.—So much of section 24(d)
17 (relating to additional credit for families with 3 or
18 more children) as precedes paragraph (2) is amend-
19 ed to read as follows:

20 “(d) PORTION OF CREDIT REFUNDABLE.—

21 “(1) IN GENERAL.—The aggregate credits al-
22 lowed to a taxpayer under subpart C shall be in-
23 creased by the lesser of—

24 “(A) the credit which would be allowed
25 under this section without regard to this sub-

1 section and the limitation under subsection
2 (b)(3), or

3 “(B) the amount by which the amount of
4 credit allowed by this section (determined with-
5 out regard to this subsection) would increase if
6 the limitation imposed by subsection (b)(3)
7 were increased by the greater of—

8 “(i) 15 percent of so much of the tax-
9 payer’s earned income (within the meaning
10 of section 32) for the taxable year as ex-
11 ceeds \$10,000, or

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

15 “(I) the taxpayer’s social security
16 taxes for the taxable year, over

17 “(II) the credit allowed under
18 section 32 for the taxable year.

19 The amount of the credit allowed under this sub-
20 section shall not be treated as a credit allowed under
21 this subpart and shall reduce the amount of credit
22 otherwise allowable under subsection (a) without re-
23 gard to subsection (b)(3).”.

24 (2) CONFORMING AMENDMENT.—Section 32 is
25 amended by striking subsection (n).

1 (d) ELIMINATION OF REDUCTION OF CREDIT TO
2 TAXPAYER SUBJECT TO ALTERNATIVE MINIMUM TAX
3 PROVISION.—Section 24(d) is amended—

4 (1) by striking paragraph (2), and

5 (2) by redesignating paragraph (3) as para-
6 graph (2).

7 (e) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to taxable years beginning after Decem-
11 ber 31, 2000.

12 (2) SUBSECTION (b).—The amendments made
13 by subsection (b) shall apply to taxable years begin-
14 ning after December 31, 2001.

15 **Subtitle B—Compliance With**
16 **Congressional Budget Act**

17 **SEC. 211. SUNSET OF PROVISIONS OF TITLE.**

18 All provisions of, and amendments made by, this title
19 which are in effect on September 30, 2011, shall cease
20 to apply as of the close of September 30, 2011.

21 **SEC. 212. RESTORATION OF PROVISIONS OF TITLE.**

22 All provisions of, and amendments made by, this title
23 which were terminated under section 211 shall begin to
24 apply again as of October 1, 2011, as provided in each
25 such provision or amendment.

1 **TITLE III—MARRIAGE PENALTY**
 2 **RELIEF**
 3 **Subtitle A—In General**

4 **SEC. 301. ELIMINATION OF MARRIAGE PENALTY IN STAND-**
 5 **ARD DEDUCTION.**

6 (a) IN GENERAL.—Paragraph (2) of section 63(c)
 7 (relating to standard deduction) is amended—

8 (1) by striking “\$5,000” in subparagraph (A)
 9 and inserting “the applicable percentage of the dol-
 10 lar amount in effect under subparagraph (C) for the
 11 taxable year”;

12 (2) by adding “or” at the end of subparagraph
 13 (B);

14 (3) by striking “in the case of” and all that fol-
 15 lows in subparagraph (C) and inserting “in any
 16 other case.”; and

17 (4) by striking subparagraph (D).

18 (b) APPLICABLE PERCENTAGE.—Section 63(c) (re-
 19 lating to standard deduction) is amended by adding at the
 20 end the following new paragraph:

21 “(7) APPLICABLE PERCENTAGE.—For purposes
 22 of paragraph (2), the applicable percentage shall be
 23 determined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2006	174
2007	180
2008	187

2009	193
2010 and thereafter	200.”.

1 (c) TECHNICAL AMENDMENTS.—

2 (1) Subparagraph (B) of section 1(f)(6), as
3 amended by section 103(b), is amended by striking
4 “(other than with” and all that follows through
5 “shall be applied” and inserting “(other than with
6 respect to sections 63(c)(4) and 151(d)(3)(A)) shall
7 be applied”.

8 (2) Paragraph (4) of section 63(c) is amended
9 by adding at the end the following flush sentence:
10 “The preceding sentence shall not apply to the
11 amount referred to in paragraph (2)(A).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2005.

15 **SEC. 302. PHASEOUT OF MARRIAGE PENALTY IN 15-PER-**
16 **CENT BRACKET.**

17 (a) IN GENERAL.—Section 1(f) (relating to adjust-
18 ments in tax tables so that inflation will not result in tax
19 increases) is amended by adding at the end the following
20 new paragraph:

21 “(8) PHASEOUT OF MARRIAGE PENALTY IN 15-
22 PERCENT BRACKET.—

1 “(A) IN GENERAL.—With respect to tax-
2 able years beginning after December 31, 2005,
3 in prescribing the tables under paragraph (1)—

4 “(i) the maximum taxable income in
5 the 15-percent rate bracket in the table
6 contained in subsection (a) (and the min-
7 imum taxable income in the next higher
8 taxable income bracket in such table) shall
9 be the applicable percentage of the max-
10 imum taxable income in the 15-percent
11 rate bracket in the table contained in sub-
12 section (c) (after any other adjustment
13 under this subsection), and

14 “(ii) the comparable taxable income
15 amounts in the table contained in sub-
16 section (d) shall be $\frac{1}{2}$ of the amounts de-
17 termined under clause (i).

18 “(B) APPLICABLE PERCENTAGE.—For
19 purposes of subparagraph (A), the applicable
20 percentage shall be determined in accordance
21 with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2006	174
2007	180
2008	187
2009	193
2010 and thereafter	200.

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the earned”, and

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

5 “(B) JOINT RETURNS.—In the case of a
6 joint return filed by an eligible individual and
7 such individual’s spouse, the phaseout amount
8 determined under subparagraph (A) shall be in-
9 creased by \$3,000.”.

10 (2) INFLATION ADJUSTMENT.—Paragraph
11 (1)(B) of section 32(j) (relating to inflation adjust-
12 ments) is amended to read as follows:

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year in which the taxable year begins,
16 determined—

17 “(i) in the case of amounts in sub-
18 sections (b)(2)(A) and (i)(1), by sub-
19 stituting ‘calendar year 1995’ for ‘calendar
20 year 1992’ in subparagraph (B) thereof,
21 and

22 “(ii) in the case of the \$3,000 amount
23 in subsection (b)(2)(B), by substituting
24 ‘calendar year 2001’ for ‘calendar year

1 1992’ in subparagraph (B) of such section
2 1.”.

3 (3) ROUNDING.—Section 32(j)(2)(A) (relating
4 to rounding) is amended by striking “subsection
5 (b)(2)” and inserting “subsection (b)(2)(A) (after
6 being increased under subparagraph (B) thereof)”.

7 (b) EARNED INCOME TO INCLUDE ONLY AMOUNTS
8 INCLUDIBLE IN GROSS INCOME.—Clause (i) of section
9 32(c)(2)(A) (defining earned income) is amended by in-
10 sserting “, but only if such amounts are includible in gross
11 income for the taxable year” after “other employee com-
12 pensation”.

13 (c) REPEAL OF REDUCTION OF CREDIT TO TAX-
14 PAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—Sec-
15 tion 32(h) is repealed.

16 (d) REPLACEMENT OF MODIFIED ADJUSTED GROSS
17 INCOME WITH ADJUSTED GROSS INCOME.—

18 (1) IN GENERAL.—Section 32(a)(2)(B) is
19 amended by striking “modified”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 32(c) is amended by striking
22 paragraph (5).

23 (B) Section 32(f)(2)(B) is amended by
24 striking “modified” each place it appears.

25 (e) RELATIONSHIP TEST.—

1 (1) IN GENERAL.—Clause (i) of section
2 32(c)(3)(B) (relating to relationship test) is amend-
3 ed to read as follows:

4 “(i) IN GENERAL.—An individual
5 bears a relationship to the taxpayer de-
6 scribed in this subparagraph if such indi-
7 vidual is—

8 “(I) a son, daughter, stepson, or
9 stepdaughter, or a descendant of any
10 such individual,

11 “(II) a brother, sister, step-
12 brother, or stepsister, or a descendant
13 of any such individual, who the tax-
14 payer cares for as the taxpayer’s own
15 child, or

16 “(III) an eligible foster child of
17 the taxpayer.”.

18 (2) ELIGIBLE FOSTER CHILD.—

19 (A) IN GENERAL.—Clause (iii) of section
20 32(c)(3)(B) is amended to read as follows:

21 “(iii) ELIGIBLE FOSTER CHILD.—For
22 purposes of clause (i), the term ‘eligible
23 foster child’ means an individual not de-
24 scribed in subclause (I) or (II) of clause (i)
25 who—

1 “(I) is placed with the taxpayer
2 by an authorized placement agency,
3 and

4 “(II) the taxpayer cares for as
5 the taxpayer’s own child.”.

6 (B) CONFORMING AMENDMENT.—Section
7 32(c)(3)(A)(ii) is amended by striking “except
8 as provided in subparagraph (B)(iii),”.

9 (f) 2 OR MORE CLAIMING QUALIFYING CHILD.—Sec-
10 tion 32(c)(1)(C) is amended to read as follows:

11 “(C) 2 OR MORE CLAIMING QUALIFYING
12 CHILD.—

13 “(i) IN GENERAL.—Except as pro-
14 vided in clause (ii), if (but for this para-
15 graph) an individual may be claimed, and
16 is claimed, as a qualifying child by 2 or
17 more taxpayers for a taxable year begin-
18 ning in the same calendar year, such indi-
19 vidual shall be treated as the qualifying
20 child of the taxpayer who is—

21 “(I) a parent of the individual, or

22 “(II) if subclause (I) does not
23 apply, the taxpayer with the highest
24 adjusted gross income for such tax-
25 able year.

1 (h) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to taxable years beginning
4 after December 31, 2001.

5 (2) SUBSECTION (g).—The amendment made
6 by subsection (g) shall take effect on January 1,
7 2004.

8 **Subtitle B—Compliance With**
9 **Congressional Budget Act**

10 **SEC. 311. SUNSET OF PROVISIONS OF TITLE.**

11 All provisions of, and amendments made by, this title
12 which are in effect on September 30, 2011, shall cease
13 to apply as of the close of September 30, 2011.

14 **SEC. 312. RESTORATION OF PROVISIONS OF TITLE.**

15 All provisions of, and amendments made by, this title
16 which were terminated under section 311 shall begin to
17 apply again as of October 1, 2011, as provided in each
18 such provision or amendment.

19 **TITLE IV—AFFORDABLE**
20 **EDUCATION PROVISIONS**
21 **Subtitle A—Education Savings**
22 **Incentives**

23 **SEC. 401. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
24 **TIREMENT ACCOUNTS.**

25 (a) MAXIMUM ANNUAL CONTRIBUTIONS.—

1 (1) IN GENERAL.—Section 530(b)(1)(A)(iii)
2 (defining education individual retirement account) is
3 amended by striking “\$500” and inserting
4 “\$2,000”.

5 (2) CONFORMING AMENDMENT.—Section
6 4973(e)(1)(A) is amended by striking “\$500” and
7 inserting “\$2,000”.

8 (b) MODIFICATION OF AGI LIMITS TO REMOVE
9 MARRIAGE PENALTY.—Section 530(c)(1) (relating to re-
10 duction in permitted contributions based on adjusted gross
11 income) is amended—

12 (1) by striking “\$150,000” in subparagraph
13 (A)(ii) and inserting “\$190,000”, and

14 (2) by striking “\$10,000” in subparagraph (B)
15 and inserting “\$30,000”.

16 (c) TAX-FREE EXPENDITURES FOR ELEMENTARY
17 AND SECONDARY SCHOOL EXPENSES.—

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

21 “(2) QUALIFIED EDUCATION EXPENSES.—

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

1 “(i) qualified higher education ex-
2 penses (as defined in section 529(e)(3)),
3 and

4 “(ii) qualified elementary and sec-
5 ondary education expenses (as defined in
6 paragraph (4)).

7 “(B) QUALIFIED STATE TUITION PRO-
8 GRAMS.—Such term shall include any contribu-
9 tion to a qualified State tuition program (as de-
10 fined in section 529(b)) on behalf of the des-
11 ignated beneficiary (as defined in section
12 529(e)(1)); but there shall be no increase in the
13 investment in the contract for purposes of ap-
14 plying section 72 by reason of any portion of
15 such contribution which is not includible in
16 gross income by reason of subsection (d)(2).”.

17 (2) QUALIFIED ELEMENTARY AND SECONDARY
18 EDUCATION EXPENSES.—Section 530(b) (relating to
19 definitions and special rules) is amended by adding
20 at the end the following new paragraph:

21 “(4) QUALIFIED ELEMENTARY AND SECONDARY
22 EDUCATION EXPENSES.—

23 “(A) IN GENERAL.—The term ‘qualified el-
24 elementary and secondary education expenses’
25 means—

1 “(i) expenses for tuition, fees, aca-
2 demic tutoring, special needs services,
3 books, supplies, computer equipment (in-
4 cluding related software and services), and
5 other equipment which are incurred in con-
6 nection with the enrollment or attendance
7 of the designated beneficiary of the trust
8 as an elementary or secondary school stu-
9 dent at a public, private, or religious
10 school, and

11 “(ii) expenses for room and board,
12 uniforms, transportation, and supple-
13 mentary items and services (including ex-
14 tended day programs) which are required
15 or provided by a public, private, or reli-
16 gious school in connection with such enroll-
17 ment or attendance.

18 “(B) SCHOOL.—The term ‘school’ means
19 any school which provides elementary education
20 or secondary education (kindergarten through
21 grade 12), as determined under State law.”.

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

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

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

3 (d) 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 subparagraphs (A)(ii) and
8 (E), and paragraphs (5) and (6) of subsection (d),
9 shall not apply to any designated beneficiary with
10 special needs (as determined under regulations pre-
11 scribed by the Secretary).”

12 (e) 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 (f) 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 (c)(2), is amended by adding at the end the
22 following new paragraph:

23 “(5) 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
10 amended—

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

13 “(i) such distribution is made before
14 the first day of the sixth month of the tax-
15 able year following the taxable year, and”,
16 and

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

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

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

24 “(C) COORDINATION WITH HOPE AND
25 LIFETIME LEARNING CREDITS AND QUALIFIED

1 TUTION PROGRAMS.—For purposes of subpara-
2 graph (A)—

3 “(i) CREDIT COORDINATION.—The
4 total amount of qualified higher education
5 expenses with respect to an individual for
6 the taxable year shall be reduced—

7 “(I) as provided in section
8 25A(g)(2), and

9 “(II) by the amount of such ex-
10 penses which were taken into account
11 in determining the credit allowed to
12 the taxpayer or any other person
13 under section 25A.

14 “(ii) COORDINATION WITH QUALIFIED
15 TUTION PROGRAMS.—If, with respect to
16 an individual for any taxable year—

17 “(I) the aggregate distributions
18 during such year to which subpara-
19 graph (A) and section 529(c)(3)(B)
20 apply, exceed

21 “(II) the total amount of quali-
22 fied education expenses (after the ap-
23 plication of clause (i)) for such year,
24 the taxpayer shall allocate such expenses
25 among such distributions for purposes of

1 determining the amount of the exclusion
2 under subparagraph (A) and section
3 529(e)(3)(B).”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Subsection (e) of section 25A is
6 amended to read as follows:

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

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

13 (C) Section 530(d)(2)(D) is amended—

14 (i) by striking “or credit”, and

15 (ii) by striking “CREDIT OR” in the
16 heading.

17 (D) Section 4973(e)(1) is amended by add-
18 ing “and” at the end of subparagraph (A), by
19 striking subparagraph (B), and by redesignig-
20 nating subparagraph (C) as subparagraph (B).

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

1 **SEC. 402. MODIFICATIONS TO QUALIFIED TUITION PRO-**
2 **GRAMS.**

3 (a) **ELIGIBLE EDUCATIONAL INSTITUTIONS PER-**
4 **MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—**

5 (1) **IN GENERAL.—**Section 529(b)(1) (defining
6 qualified State tuition program) is amended—

7 (A) by inserting “or by 1 or more eligible
8 educational institutions” after “maintained by a
9 State or agency or instrumentality thereof” in
10 the matter preceding subparagraph (A), and

11 (B) by adding at the end the following new
12 flush sentence:

13 “Except to the extent provided in regulations, a pro-
14 gram established and maintained by 1 or more eligi-
15 ble educational institutions shall not be treated as a
16 qualified tuition program unless such program has
17 received a ruling or determination that such pro-
18 gram meets the applicable requirements for a quali-
19 fied tuition program.”.

20 (2) **PRIVATE QUALIFIED TUITION PROGRAMS**
21 **LIMITED TO BENEFIT PLANS.—**Clause (ii) of section
22 529(b)(1)(A) is amended by inserting “in the case of
23 a program established and maintained by a State or
24 agency or instrumentality thereof,” before “may
25 make”.

26 (3) **CONFORMING AMENDMENTS.—**

1 (A) Sections 72(e)(9), 135(c)(2)(C),
2 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and
3 6693(a)(2)(C) are amended by striking “quali-
4 fied State tuition” each place it appears and in-
5 serting “qualified tuition”.

6 (B) The headings for sections 72(e)(9) and
7 135(c)(2)(C) are amended by striking “QUALI-
8 FIED STATE TUITION” each place it appears
9 and inserting “QUALIFIED TUITION”.

10 (C) The headings for sections 529(b) and
11 530(b)(2)(B) are amended by striking “QUALI-
12 FIED STATE TUITION” each place it appears
13 and inserting “QUALIFIED TUITION”.

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

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

19 (b) EXCLUSION FROM GROSS INCOME OF EDU-
20 CATION DISTRIBUTIONS FROM QUALIFIED TUITION PRO-
21 GRAMS.—

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

1 “(B) DISTRIBUTIONS FOR QUALIFIED
2 HIGHER EDUCATION EXPENSES.—For purposes
3 of this paragraph—

4 “(i) IN-KIND DISTRIBUTIONS.—No
5 amount shall be includible in gross income
6 under subparagraph (A) by reason of a
7 distribution which consists of providing a
8 benefit to the distributee which, if paid for
9 by the distributee, would constitute pay-
10 ment of a qualified higher education ex-
11 pense.

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

15 “(I) such distributions do not ex-
16 ceed the qualified higher education ex-
17 penses (reduced by expenses described
18 in clause (i)), no amount shall be in-
19 cludible in gross income, and

20 “(II) in any other case, the
21 amount otherwise includible in gross
22 income shall be reduced by an amount
23 which bears the same ratio to such
24 amount as such expenses bear to such
25 distributions.

1 “(iii) EXCEPTION FOR INSTITUTIONAL
2 PROGRAMS.—In the case of any taxable
3 year beginning before January 1, 2004,
4 clauses (i) and (ii) shall not apply with re-
5 spect to any distribution during such tax-
6 able year under a qualified tuition program
7 established and maintained by 1 or more
8 eligible educational institutions.

9 “(iv) TREATMENT AS DISTRIBUTI-
10 ONS.—Any benefit furnished to a des-
11 ignated beneficiary under a qualified tui-
12 tion program shall be treated as a distribu-
13 tion to the beneficiary for purposes of this
14 paragraph.

15 “(v) COORDINATION WITH HOPE AND
16 LIFETIME LEARNING CREDITS.—The total
17 amount of qualified higher education ex-
18 penses with respect to an individual for the
19 taxable year shall be reduced—

20 “(I) as provided in section
21 25A(g)(2), and

22 “(II) by the amount of such ex-
23 penses which were taken into account
24 in determining the credit allowed to

1 the taxpayer or any other person
2 under section 25A.

3 “(vi) COORDINATION WITH EDU-
4 CATION INDIVIDUAL RETIREMENT AC-
5 COUNTS.—If, with respect to an individual
6 for any taxable year—

7 “(I) the aggregate distributions
8 to which clauses (i) and (ii) and sec-
9 tion 530(d)(2)(A) apply, exceed

10 “(II) the total amount of quali-
11 fied higher education expenses other-
12 wise taken into account under clauses
13 (i) and (ii) (after the application of
14 clause (v)) for such year,

15 the taxpayer shall allocate such expenses
16 among such distributions for purposes of
17 determining the amount of the exclusion
18 under clauses (i) and (ii) and section
19 530(d)(2)(A).”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 135(d)(2)(B) is amended by
22 striking “the exclusion under section
23 530(d)(2)” and inserting “the exclusions under
24 sections 529(c)(3)(B) and 530(d)(2)”.

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

3 (c) ROLLOVER TO DIFFERENT PROGRAM FOR BEN-
4 EFIT OF SAME DESIGNATED BENEFICIARY.—Section
5 529(e)(3)(C) (relating to change in beneficiaries) is
6 amended—

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

9 “(I) to another qualified tuition
10 program for the benefit of the des-
11 ignated beneficiary, or

12 “(II) to the credit”,

13 (2) by adding at the end the following new
14 clause:

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

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

21 (d) MEMBER OF FAMILY INCLUDES FIRST COUS-
22 IN.—Section 529(e)(2) (defining member of family) is
23 amended by striking “and” at the end of subparagraph
24 (B), by striking the period at the end of subparagraph

1 (C) and by inserting “; and”, and by adding at the end
2 the following new subparagraph:

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

4 (e) ADJUSTMENT OF LIMITATION ON ROOM AND
5 BOARD DISTRIBUTIONS.—Section 529(e)(3)(B)(ii) is
6 amended to read as follows:

7 “(ii) LIMITATION.—The amount treat-
8 ed as qualified higher education expenses
9 by reason of clause (i) shall not exceed—

10 “(I) the allowance (applicable to
11 the student) for room and board in-
12 cluded in the cost of attendance (as
13 defined in section 472 of the Higher
14 Education Act of 1965 (20 U.S.C.
15 1087l), as in effect on the date of the
16 enactment of the Restoring Earnings
17 To Lift Individuals and Empower
18 Families (RELIEF) Act of 2001) as
19 determined by the eligible educational
20 institution for such period, or

21 “(II) if greater, the actual invoice
22 amount the student residing in hous-
23 ing owned or operated by the eligible
24 educational institution is charged by

1 such institution for room and board
2 costs for such period.”.

3 (f) TECHNICAL AMENDMENTS.—Section
4 529(c)(3)(D) is amended—

5 (1) by inserting “except to the extent provided
6 by the Secretary,” before “all distributions” in
7 clause (ii), and

8 (2) by inserting “except to the extent provided
9 by the Secretary,” before “the value” in clause (iii).

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

13 **Subtitle B—Educational Assistance**

14 **SEC. 411. PERMANENT EXTENSION OF EXCLUSION FOR EM-** 15 **PLOYER-PROVIDED EDUCATIONAL ASSIST-** 16 **ANCE.**

17 (a) IN GENERAL.—Section 127 (relating to exclusion
18 for educational assistance programs) is amended by strik-
19 ing subsection (d) and by redesignating subsection (e) as
20 subsection (d).

21 (b) REPEAL OF LIMITATION ON GRADUATE EDU-
22 CATION.—The last sentence of section 127(c)(1) is amend-
23 ed by striking “, and such term also does not include any
24 payment for, or the provision of any benefits with respect
25 to, any graduate level course of a kind normally taken by

1 an individual pursuing a program leading to a law, busi-
2 ness, medical, or other advanced academic or professional
3 degree”.

4 (c) CONFORMING AMENDMENT.—Section
5 51A(b)(5)(B)(iii) is amended by striking “or would be so
6 excludable but for section 127(d)”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to expenses relating
9 to courses beginning after December 31, 2001.

10 **SEC. 412. ELIMINATION OF 60-MONTH LIMIT AND INCREASE**
11 **IN INCOME LIMITATION ON STUDENT LOAN**
12 **INTEREST DEDUCTION.**

13 (a) ELIMINATION OF 60-MONTH LIMIT.—

14 (1) IN GENERAL.—Section 221 (relating to in-
15 terest on education loans), as amended by section
16 402(b)(2)(B), is amended by striking subsection (d)
17 and by redesignating subsections (e), (f), and (g) as
18 subsections (d), (e), and (f), respectively.

19 (2) CONFORMING AMENDMENT.—Section
20 6050S(e) is amended by striking “section 221(e)(1)”
21 and inserting “section 221(d)(1)”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply with respect to any
24 loan interest paid after December 31, 2001, in tax-
25 able years ending after such date.

1 (b) INCREASE IN INCOME LIMITATION.—

2 (1) IN GENERAL.—Section 221(b)(2)(B) (relat-
3 ing to amount of reduction) is amended by striking
4 clauses (i) and (ii) and inserting the following:

5 “(i) the excess of—

6 “(I) the taxpayer’s modified ad-
7 justed gross income for such taxable
8 year, over

9 “(II) \$50,000 (\$100,000 in the
10 case of a joint return), bears to

11 “(ii) \$15,000 (\$30,000 in the case of
12 a joint return).”.

13 (2) CONFORMING AMENDMENT.—Section
14 221(g)(1) is amended by striking “\$40,000 and
15 \$60,000 amounts” and inserting “\$50,000 and
16 \$100,000 amounts”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to taxable years end-
19 ing after December 31, 2001.

1 **SEC. 413. EXCLUSION OF CERTAIN AMOUNTS RECEIVED**
2 **UNDER THE NATIONAL HEALTH SERVICE**
3 **CORPS SCHOLARSHIP PROGRAM AND THE F.**
4 **EDWARD HEBERT ARMED FORCES HEALTH**
5 **PROFESSIONS SCHOLARSHIP AND FINANCIAL**
6 **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 Health Service Corps
20 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, 2001.

4 **Subtitle C—Liberalization of Tax-**
5 **Exempt Financing Rules for**
6 **Public School Construction**

7 **SEC. 421. ADDITIONAL INCREASE IN ARBITRAGE REBATE**
8 **EXCEPTION FOR GOVERNMENTAL BONDS**
9 **USED TO FINANCE EDUCATIONAL FACILI-**
10 **TIES.**

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

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

19 **SEC. 422. TREATMENT OF QUALIFIED PUBLIC EDU-**
20 **CATIONAL FACILITY BONDS AS EXEMPT FA-**
21 **CILITY BONDS.**

22 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
23 section (a) of section 142 (relating to exempt facility
24 bond) is amended by striking “or” at the end of paragraph
25 (11), by striking the period at the end of paragraph (12)

1 and inserting “, or”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(13) qualified public educational facilities.”.

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

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

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

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

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

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

23 “(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) any school building,

14 “(B) any functionally related and subordi-
15 nate facility and land with respect to such
16 building, including any stadium or other facility
17 primarily 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 a facility described in subparagraph (A)
21 or (B).

22 “(4) PUBLIC SCHOOLS.—For purposes of this
23 subsection, the terms ‘elementary school’ and ‘sec-
24 ondary school’ have the meanings given such terms
25 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 REV-
6 ENUE 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, 2001.

12 **Subtitle D—Other Provisions**

13 **SEC. 431. DEDUCTION FOR HIGHER EDUCATION EXPENSES.**

14 (a) DEDUCTION ALLOWED.—Part VII of subchapter
15 B of chapter 1 (relating to additional itemized deductions
16 for individuals) is amended by redesignating section 222
17 as section 223 and by inserting after section 221 the fol-
18 lowing:

19 **“SEC. 222. QUALIFIED TUITION AND RELATED EXPENSES.**

20 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
21 individual, there shall be allowed as a deduction an
22 amount equal to the qualified tuition and related expenses
23 paid by the taxpayer during the taxable year.

24 “(b) DOLLAR LIMITATIONS.—

1 “(1) IN GENERAL.—The amount allowed as a
2 deduction under subsection (a) with respect to the
3 taxpayer for any taxable year shall not exceed the
4 applicable dollar limit.

5 “(2) APPLICABLE DOLLAR LIMIT.—

6 “(A) 2002 AND 2003.—In the case of a tax-
7 able year beginning in 2002 or 2003, the appli-
8 cable dollar limit shall be equal to—

9 “(i) in the case of a taxpayer whose
10 adjusted gross income for the taxable year
11 does not exceed \$65,000 (\$130,000 in the
12 case of a joint return), \$3,000, and—

13 “(ii) in the case of any other tax-
14 payer, zero.

15 “(B) 2004 AND 2005.—In the case of a
16 taxable year beginning in 2004 or 2005, the ap-
17 plicable dollar amount shall be equal to—

18 “(i) in the case of a taxpayer whose
19 adjusted gross income for the taxable year
20 does not exceed \$65,000 (\$130,000 in the
21 case of a joint return), \$5,000,

22 “(ii) in the case of a taxpayer not de-
23 scribed in clause (i) whose adjusted gross
24 income for the taxable year does not ex-

1 ceed \$80,000 (\$160,000 in the case of a
2 joint return), \$2,000, and

3 “(iii) in the case of any other tax-
4 payer, zero.

5 “(C) ADJUSTED GROSS INCOME.—For pur-
6 poses of this paragraph, adjusted gross income
7 shall be determined—

8 “(i) without regard to this section and
9 sections 911, 931, and 933, and

10 “(ii) after application of sections 86,
11 135, 137, 219, 221, and 469.

12 “(c) NO DOUBLE BENEFIT.—

13 “(1) IN GENERAL.—No deduction shall be al-
14 lowed under subsection (a) for any expense for
15 which a deduction is allowed to the taxpayer under
16 any other provision of this chapter.

17 “(2) COORDINATION WITH OTHER EDUCATION
18 INCENTIVES.—

19 “(A) DENIAL OF DEDUCTION IF CREDIT
20 ELECTED.—No deduction shall be allowed
21 under subsection (a) for a taxable year with re-
22 spect to the qualified tuition and related ex-
23 penses with respect to an individual if the tax-
24 payer or any other person elects to have section

1 25A apply with respect to such individual for
2 such year.

3 “(B) COORDINATION WITH EXCLUSIONS.—

4 The total amount of qualified tuition and re-
5 lated expenses shall be reduced by the amount
6 of such expenses taken into account in deter-
7 mining any amount excluded under section 135,
8 529(c)(1), or 530(d)(2).

9 “(3) DEPENDENTS.—No deduction shall be al-
10 lowed under subsection (a) to any individual with re-
11 spect to whom a deduction under section 151 is al-
12 lowable to another taxpayer for a taxable year begin-
13 ning in the calendar year in which such individual’s
14 taxable year begins.

15 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
16 poses of this section—

17 “(1) QUALIFIED TUITION AND RELATED EX-
18 PENSES.—The term ‘qualified tuition and related ex-
19 penses’ has the meaning given such term by section
20 25A(f). Such expenses shall be reduced in the same
21 manner as under section 25A(g)(2).

22 “(2) IDENTIFICATION REQUIREMENT.—No de-
23 duction shall be allowed under subsection (a) to a
24 taxpayer with respect to the qualified tuition and re-
25 lated expenses of an individual unless the taxpayer

1 includes the name and taxpayer identification num-
2 ber of the individual on the return of tax for the tax-
3 able year.

4 “(3) LIMITATION ON TAXABLE YEAR OF DE-
5 DUCTION.—

6 “(A) IN GENERAL.—A deduction shall be
7 allowed under subsection (a) for qualified tui-
8 tion and related expenses for any taxable year
9 only to the extent such expenses are in connec-
10 tion with enrollment at an institution of higher
11 education during the taxable year.

12 “(B) CERTAIN PREPAYMENTS ALLOWED.—
13 Subparagraph (A) shall not apply to qualified
14 tuition and related expenses paid during a tax-
15 able year if such expenses are in connection
16 with an academic term beginning during such
17 taxable year or during the first 3 months of the
18 next taxable year.

19 “(4) NO DEDUCTION FOR MARRIED INDIVID-
20 UALS FILING SEPARATE RETURNS.—If the taxpayer
21 is a married individual (within the meaning of sec-
22 tion 7703), this section shall apply only if the tax-
23 payer and the taxpayer’s spouse file a joint return
24 for the taxable year.

1 “(5) NONRESIDENT ALIENS.—If the taxpayer is
2 a nonresident alien individual for any portion of the
3 taxable year, this section shall apply only if such in-
4 dividual is treated as a resident alien of the United
5 States for purposes of this chapter by reason of an
6 election under subsection (g) or (h) of section 6013.

7 “(6) REGULATIONS.—The Secretary may pre-
8 scribe such regulations as may be necessary or ap-
9 propriate to carry out this section, including regula-
10 tions requiring recordkeeping and information re-
11 porting.

12 “(e) TERMINATION.—This section shall not apply to
13 taxable years beginning after December 31, 2005.”.

14 (b) DEDUCTION ALLOWED IN COMPUTING AD-
15 JUSTED GROSS INCOME.—Section 62(a) is amended by in-
16 serting after paragraph (17) the following:

17 “(18) HIGHER EDUCATION EXPENSES.—The
18 deduction allowed by section 222.”.

19 (c) CONFORMING AMENDMENTS.—

20 (1) Sections 86(b)(2), 135(c)(4), 137(b)(3), and
21 219(g)(3) are each amended by inserting “222,”
22 after “221,”.

23 (2) Section 221(b)(2)(C) is amended by insert-
24 ing “222,” before “911”.

1 (3) Section 469(i)(3)(E) is amended by striking
2 “and 221” and inserting “, 221, and 222”.

3 (4) The table of sections for part VII of sub-
4 chapter B of chapter 1 is amended by striking the
5 item relating to section 222 and inserting the fol-
6 lowing:

 “Sec. 222. Qualified tuition and related expenses.

 “Sec. 223. Cross reference.”.

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

10 **SEC. 432. CREDIT FOR INTEREST ON HIGHER EDUCATION**
11 **LOANS.**

12 (a) **IN GENERAL.**—Subpart A of part IV of sub-
13 chapter A of chapter 1 (relating to nonrefundable personal
14 credits) is amended by inserting after section 25A the fol-
15 lowing new section:

16 **“SEC. 25B. INTEREST ON HIGHER EDUCATION LOANS.**

17 “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-
18 dividual, there shall be allowed as a credit against the tax
19 imposed by this chapter for the taxable year an amount
20 equal to the interest paid by the taxpayer during the tax-
21 able year on any qualified education loan.

22 “(b) **MAXIMUM CREDIT.**—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the credit allowed by subsection (a) for
3 the taxable year shall not exceed \$500.

4 “(2) LIMITATION BASED ON MODIFIED AD-
5 JUSTED GROSS INCOME.—

6 “(A) IN GENERAL.—If the modified ad-
7 justed gross income of the taxpayer for the tax-
8 able year exceeds \$35,000 (\$70,000 in the case
9 of a joint return), the amount which would (but
10 for this paragraph) be allowable as a credit
11 under this section shall be reduced (but not
12 below zero) by the amount which bears the
13 same ratio to the amount which would be so al-
14 lowable as such excess bears to \$10,000
15 (\$20,000 in the case of a joint return).

16 “(B) MODIFIED ADJUSTED GROSS IN-
17 COME.—The term ‘modified adjusted gross in-
18 come’ means adjusted gross income determined
19 without regard to sections 911, 931, and 933.

20 “(C) INFLATION ADJUSTMENT.—In the
21 case of any taxable year beginning after 2009,
22 the \$35,000 and \$70,000 amounts referred to
23 in subparagraph (A) shall be increased by an
24 amount equal to—

25 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section (1)(f)(3) for the
3 calendar year in which the taxable year be-
4 gins, by substituting ‘2008’ for ‘1992’.

5 “(D) ROUNDING.—If any amount as ad-
6 justed under subparagraph (C) is not a multiple
7 of \$50, such amount shall be rounded to the
8 nearest multiple of \$50.

9 “(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No
10 credit shall be allowed by this section to an individual for
11 the taxable year if a deduction under section 151 with re-
12 spect to such individual is allowed to another taxpayer for
13 the taxable year beginning in the calendar year in which
14 such individual’s taxable year begins.

15 “(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit
16 shall be allowed under this section only with respect to
17 interest paid on any qualified education loan during the
18 first 60 months (whether or not consecutive) in which in-
19 terest payments are required. For purposes of this sub-
20 section, any loan and all refinancings of such loan shall
21 be treated as 1 loan. Such 60 months shall be determined
22 in the manner prescribed by the Secretary in the case of
23 multiple loans which are refinanced by, or serviced as, a
24 single loan and in the case of loans incurred before Janu-
25 ary 1, 2009.

1 “(e) DEFINITIONS.—For purposes of this section—

2 “(1) QUALIFIED EDUCATION LOAN.—The term
3 ‘qualified education loan’ has the meaning given
4 such term by section 221(e)(1).

5 “(2) DEPENDENT.—The term ‘dependent’ has
6 the meaning given such term by section 152.

7 “(f) SPECIAL RULES.—

8 “(1) DENIAL OF DOUBLE BENEFIT.—No credit
9 shall be allowed under this section if any amount of
10 interest on a qualified education loan is taken into
11 account for any deduction under any other provision
12 of this chapter for the taxable year.

13 “(2) MARRIED COUPLES MUST FILE JOINT RE-
14 TURN.—If the taxpayer is married at the close of
15 the taxable year, the credit shall be allowed under
16 subsection (a) only if the taxpayer and the tax-
17 payer’s spouse file a joint return for the taxable
18 year.

19 “(3) MARITAL STATUS.—Marital status shall be
20 determined in accordance with section 7703.”.

21 (b) CONFORMING AMENDMENT.—The table of sec-
22 tions for subpart A of part IV of subchapter A of chapter
23 1 is amended by inserting after the item relating to section
24 25A the following new item:

“Sec. 25B. Interest on higher education loans.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any qualified education loan (as
3 defined in section 25B(e)(1) of the Internal Revenue Code
4 of 1986, as added by this section) incurred on, before, or
5 after December 31, 2008, but only with respect to any
6 loan interest payment due in taxable years beginning after
7 December 31, 2008.

8 **Subtitle E—Compliance With**
9 **Congressional Budget Act**

10 **SEC. 441. SUNSET OF PROVISIONS OF TITLE.**

11 All provisions of, and amendments made by, this title
12 which are in effect on September 30, 2011, shall cease
13 to apply as of the close of September 30, 2011.

14 **SEC. 442. RESTORATION OF PROVISIONS OF TITLE.**

15 All provisions of, and amendments made by, this title
16 which were terminated under section 441 shall begin to
17 apply again as of October 1, 2011, as provided in each
18 such provision or amendment.

1 **TITLE V—ESTATE, GIFT, AND**
2 **GENERATION-SKIPPING**
3 **TRANSFER TAX PROVISIONS**
4 **Subtitle A—Repeal of Estate and**
5 **Generation-Skipping Transfer**
6 **Taxes**

7 **SEC. 501. REPEAL OF ESTATE AND GENERATION-SKIPPING**
8 **TRANSFER TAXES.**

9 (a) ESTATE TAX REPEAL.—Subchapter C of chapter
10 11 of subtitle B (relating to miscellaneous) is amended
11 by adding at the end the following new section:

12 **“SEC. 2210. TERMINATION.**

13 “(a) IN GENERAL.—Except as provided in subsection
14 (b), this chapter shall not apply to the estates of decedents
15 dying after December 31, 2010.

16 “(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED
17 DOMESTIC TRUSTS.—In applying section 2056A with re-
18 spect to the surviving spouse of a decedent dying before
19 January 1, 2011—

20 “(1) section 2056A(b)(1)(A) shall not apply to
21 distributions made after December 31, 2021, and

22 “(2) section 2056A(b)(1)(B) shall not apply
23 after December 31, 2010.”.

24 (b) GENERATION-SKIPPING TRANSFER TAX RE-
25 PEAL.—Subchapter G of chapter 13 of subtitle B (relating

1 to administration) is amended by adding at the end the
2 following new section:

3 **“SEC. 2664. TERMINATION.**

4 “This chapter shall not apply to generation-skipping
5 transfers made after December 31, 2010.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) The table of sections for subchapter C of
8 chapter 11 is amended by adding at the end the fol-
9 lowing new item:

“Sec. 2210. Termination.”.

10 (2) The table of sections for subchapter G of
11 chapter 13 is amended by adding at the end the fol-
12 lowing new item:

“Sec. 2664. Termination.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to the estates of decedents dying,
15 and generation-skipping transfers made, after December
16 31, 2010.

17 **Subtitle B—Reductions of Estate**
18 **and Gift Tax Rates**

19 **SEC. 511. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT**
20 **TAX RATES.**

21 (a) MAXIMUM RATE OF TAX REDUCED TO 50 PER-
22 CENT.—The table contained in section 2001(c)(1) is
23 amended by striking the two highest brackets and insert-
24 ing the following:

“Over \$2,500,000 \$1,025,800, plus 50% of the excess
over \$2,500,000.”.

1 (b) REPEAL OF PHASEOUT OF GRADUATED
2 RATES.—Subsection (c) of section 2001 is amended by
3 striking paragraph (2).

4 (c) ADDITIONAL REDUCTIONS OF MAXIMUM RATE
5 OF TAX.—Subsection (c) of section 2001, as amended by
6 subsection (b), is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(2) PHASEDOWN OF MAXIMUM RATE OF
9 TAX.—

10 “(A) IN GENERAL.—In the case of estates
11 of decedents dying, and gifts made, in calendar
12 years after 2002 and before 2011, the tentative
13 tax under this subsection shall be determined
14 by using a table prescribed by the Secretary (in
15 lieu of using the table contained in paragraph
16 (1)) which is the same as such table; except
17 that—

18 “(i) the maximum rate of tax for any
19 calendar year shall be determined in the
20 table under subparagraph (B), and

21 “(ii) the brackets and the amounts
22 setting forth the tax shall be adjusted to
23 the extent necessary to reflect the adjust-
24 ments under subparagraph (A).

1 “(B) MAXIMUM RATE.—

“Calendar year:	Maximum Rate:
2003	49 percent
2004	48 percent
2005	47 percent
2006	46 percent
2007, 2008, 2009, and 2010	45 percent.”.

2 (d) MAXIMUM GIFT TAX RATE REDUCED TO 40 PER-
3 CENT AFTER 2010.—Subsection (a) of section 2502 (re-
4 lating to rate of tax) is amended to read as follows:

5 “(a) COMPUTATION OF TAX.—

6 “(1) IN GENERAL.—The tax imposed by section
7 2501 for each calendar year shall be an amount
8 equal to the excess of—

9 “(A) a tentative tax, computed under para-
10 graph (2), on the aggregate sum of the taxable
11 gifts for such calendar year and for each of the
12 preceding calendar periods, over

13 “(B) a tentative tax, computed under para-
14 graph (2), on the aggregate sum of the taxable
15 gifts for each of the preceding calendar periods.

16 “(2) RATE SCHEDULE.—

“If the amount with respect to which the tentative tax to be computed is: The tentative tax is:

Not over \$10,000	18% of such amount.
Over \$10,000 but not over \$20,000.	\$1,800, plus 20% of the excess over \$10,000.
Over \$20,000 but not over \$40,000.	\$3,800, plus 22% of the excess over \$20,000.
Over \$40,000 but not over \$60,000.	\$8,200, plus 24% of the excess over \$40,000.

“If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Over \$60,000 but not over \$80,000.	\$13,000, plus 26% of the excess over \$60,000.
Over \$80,000 but not over \$100,000.	\$18,200, plus 28% of the excess over \$80,000.
Over \$100,000 but not over \$150,000.	\$23,800, plus 30% of the excess over \$100,000.
Over \$150,000 but not over \$250,000.	\$38,800, plus 32% of the excess over \$150,000.
Over \$250,000 but not over \$500,000.	\$70,800, plus 34% of the excess over \$250,000.
Over \$500,000 but not over \$750,000.	\$155,800, plus 37% of the excess over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$248,300, plus 39% of the excess over \$750,000.
Over \$1,000,000	\$345,800, plus 40% of the excess over \$1,000,000.”.

1 (e) TREATMENT OF CERTAIN TRANSFERS IN
2 TRUST.—Section 2511 (relating to transfers in general)
3 is amended by adding at the end the following new sub-
4 section:

5 “(c) TREATMENT OF CERTAIN TRANSFERS IN
6 TRUST.—Notwithstanding any other provision of this sec-
7 tion and except as provided in regulations, a transfer in
8 trust shall be treated as a taxable gift under section 2503,
9 unless the trust is treated as wholly owned by the donor
10 or the donor’s spouse under subpart E of part I of sub-
11 chapter J of chapter 1.”.

12 (f) EFFECTIVE DATES.—

13 (1) SUBSECTIONS (a) AND (b).—The amend-
14 ments made by subsections (a) and (b) shall apply
15 to estates of decedents dying, and gifts made, after
16 December 31, 2001.

1 (2) SUBSECTION (c).—The amendment made by
2 subsection (c) shall apply to estates of decedents
3 dying, and gifts made, after December 31, 2002.

4 (3) SUBSECTIONS (d) AND (e).—The amend-
5 ments made by subsections (d) and (e) shall apply
6 to gifts made after December 31, 2010.

7 **Subtitle C—Increase in Exemption**
8 **Amounts**

9 **SEC. 521. INCREASE IN EXEMPTION EQUIVALENT OF UNI-**
10 **FIED CREDIT, LIFETIME GIFTS EXEMPTION,**
11 **AND GST EXEMPTION AMOUNTS.**

12 (a) IN GENERAL.—Subsection (c) of section 2010
13 (relating to applicable credit amount) is amended by strik-
14 ing the table and inserting the following new table:

“In the case of estates of decedents dying during:	The applicable exclusion amount is:
2002 and 2003	\$1,000,000
2004	\$2,000,000
2005, 2006, 2007, and 2008	\$3,000,000
2009	\$3,500,000
2010	\$4,000,000.”.

15 (b) LIFETIME GIFT EXEMPTION INCREASED TO
16 \$1,000,000.—

17 (1) FOR PERIODS BEFORE ESTATE TAX RE-
18 PEAL.—Paragraph (1) of section 2505(a) (relating
19 to unified credit against gift tax) is amended by in-
20 serting “(determined as if the applicable exclusion
21 amount were \$1,000,000)” after “calendar year”.

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

5 “(1) the amount of the tentative tax which
6 would be determined under the rate schedule set
7 forth in section 2502(a)(2) if the amount with re-
8 spect to which such tentative tax is to be computed
9 were \$1,000,000, reduced by”.

10 (c) GST EXEMPTION.—

11 (1) IN GENERAL.—Subsection (a) of 2631 (re-
12 lating to GST exemption) is amended by striking “of
13 \$1,000,000” and inserting “amount”.

14 (2) EXEMPTION AMOUNT.—Subsection (c) of
15 section 2631 is amended to read as follows:

16 “(c) GST EXEMPTION AMOUNT.—For purposes of
17 subsection (a), the GST exemption amount for any cal-
18 endar year shall be equal to the applicable exclusion
19 amount under section 2010(c) for such calendar year.”.

20 (d) REPEAL OF SPECIAL BENEFIT FOR FAMILY-
21 OWNED BUSINESS INTERESTS.—

22 (1) IN GENERAL.—Section 2057 is hereby re-
23 pealed.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Paragraph (10) of section 2031(c) is
2 amended by inserting “(as in effect on the day
3 before the date of the enactment of this par-
4 enthetical)” before the period.

5 (B) The table of sections for part IV of
6 subchapter A of chapter 11 is amended by
7 striking the item relating to section 2057.

8 (e) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graphs (2) and (3), the amendments made by this
11 section shall apply to estates of decedents dying, and
12 gifts made, after December 31, 2001.

13 (2) SUBSECTION (b)(2).—The amendments
14 made by subsection (b)(2) shall apply to gifts made
15 after December 31, 2010.

16 (3) SUBSECTIONS (c) AND (d).—The amend-
17 ments made by subsections (c) and (d) shall apply
18 to estates of decedents dying, and generation-skip-
19 ping transfers made, after December 31, 2003.

20 **Subtitle D—Credit for State Death**
21 **Taxes**

22 **SEC. 531. REDUCTION OF CREDIT FOR STATE DEATH**
23 **TAXES.**

24 (a) MAXIMUM CREDIT REDUCED TO 8 PERCENT.—

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to estates of decedents
3 dying after December 31, 2003.

4 **SEC. 522. CREDIT FOR STATE DEATH TAXES REPLACED**
5 **WITH DEDUCTION FOR SUCH TAXES.**

6 (a) REPEAL OF CREDIT.—Section 2011 (relating to
7 credit for State death taxes) is repealed.

8 (b) DEDUCTION FOR STATE DEATH TAXES.—Part
9 IV of subchapter A of chapter 11 is amended by adding
10 at the end the following new section:

11 **“SEC. 2058. STATE DEATH TAXES.**

12 “(a) ALLOWANCE OF DEDUCTION.—For purposes of
13 the tax imposed by section 2001, the value of the taxable
14 estate shall be determined by deducting from the value
15 of the gross estate the amount of any estate, inheritance,
16 legacy, or succession taxes actually paid to any State or
17 the District of Columbia, in respect of any property in-
18 cluded in the gross estate (not including any such taxes
19 paid with respect to the estate of a person other than the
20 decedent).

21 “(b) PERIOD OF LIMITATIONS.—The deduction al-
22 lowed by this section shall include only such taxes as were
23 actually paid and deduction therefor claimed before the
24 later of—

1 “(1) 4 years after the filing of the return re-
2 quired by section 6018, or

3 “(2) if—

4 “(A) a petition for redetermination of a de-
5 ficiency has been filed with the Tax Court with-
6 in the time prescribed in section 6213(a), the
7 expiration of 60 days after the decision of the
8 Tax Court becomes final,

9 “(B) an extension of time has been grant-
10 ed under section 6161 or 6166 for payment of
11 the tax shown on the return, or of a deficiency,
12 the date of the expiration of the period of the
13 extension, or

14 “(C) a claim for refund or credit of an
15 overpayment of tax imposed by this chapter has
16 been filed within the time prescribed in section
17 6511, the latest of the expiration of—

18 “(i) 60 days from the date of mailing
19 by certified mail or registered mail by the
20 Secretary to the taxpayer of a notice of the
21 disallowance of any part of such claim,

22 “(ii) 60 days after a decision by any
23 court of competent jurisdiction becomes
24 final with respect to a timely suit insti-
25 tuted upon such claim, or

1 “(iii) 2 years after a notice of the
2 waiver of disallowance is filed under sec-
3 tion 6532(a)(3).

4 Notwithstanding sections 6511 and 6512, refund based on
5 the deduction may be made if the claim for refund is filed
6 within the period provided in the preceding sentence. Any
7 such refund shall be made without interest.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Subsection (a) of section 2012 is amended
10 by striking “the credit for State death taxes pro-
11 vided by section 2011 and”.

12 (2) Subparagraph (A) of section 2013(c)(1) is
13 amended by striking “2011,”.

14 (3) Paragraph (2) of section 2014(b) is amend-
15 ed by striking “, 2011,”.

16 (4) Sections 2015 and 2016 are each amended
17 by striking “2011 or”.

18 (5) Subsection (d) of section 2053 is amended
19 to read as follows:

20 “(d) CERTAIN FOREIGN DEATH TAXES.—

21 “(1) IN GENERAL.—Notwithstanding the provi-
22 sions of subsection (c)(1)(B), for purposes of the tax
23 imposed by section 2001, the value of the taxable es-
24 tate may be determined, if the executor so elects be-
25 fore the expiration of the period of limitation for as-

1 assessment provided in section 6501, by deducting
2 from the value of the gross estate the amount (as
3 determined in accordance with regulations prescribed
4 by the Secretary) of any estate, succession, legacy,
5 or inheritance tax imposed by and actually paid to
6 any foreign country, in respect of any property situ-
7 ated within such foreign country and included in the
8 gross estate of a citizen or resident of the United
9 States, upon a transfer by the decedent for public,
10 charitable, or religious uses described in section
11 2055. The determination under this paragraph of
12 the country within which property is situated shall
13 be made in accordance with the rules applicable
14 under subchapter B (sec. 2101 and following) in de-
15 termining whether property is situated within or
16 without the United States. Any election under this
17 paragraph shall be exercised in accordance with reg-
18 ulations prescribed by the Secretary.

19 “(2) CONDITION FOR ALLOWANCE OF DEDUC-
20 TION.—No deduction shall be allowed under para-
21 graph (1) for a foreign death tax specified therein
22 unless the decrease in the tax imposed by section
23 2001 which results from the deduction provided in
24 paragraph (1) will inure solely for the benefit of the
25 public, charitable, or religious transferees described

1 in section 2055 or section 2106(a)(2). In any case
2 where the tax imposed by section 2001 is equitably
3 apportioned among all the transferees of property
4 included in the gross estate, including those de-
5 scribed in sections 2055 and 2106(a)(2) (taking into
6 account any exemptions, credits, or deductions al-
7 lowed by this chapter), in determining such decrease,
8 there shall be disregarded any decrease in the Fed-
9 eral estate tax which any transferees other than
10 those described in sections 2055 and 2106(a)(2) are
11 required to pay.

12 “(3) EFFECT ON CREDIT FOR FOREIGN DEATH
13 TAXES OF DEDUCTION UNDER THIS SUBSECTION.—

14 “(A) ELECTION.—An election under this
15 subsection shall be deemed a waiver of the right
16 to claim a credit, against the Federal estate
17 tax, under a death tax convention with any for-
18 eign country for any tax or portion thereof in
19 respect of which a deduction is taken under this
20 subsection.

21 “(B) CROSS REFERENCE.—

“See section 2014(f) for the effect of a deduction
taken under this paragraph on the credit for foreign
death taxes.”.

22 (6) Subparagraph (A) of section 2056A(b)(10)
23 is amended—

24 (A) by striking “2011,” and

1 (B) by inserting “2058,” after “2056,”.

2 (7)(A) Subsection (a) of section 2102 is amend-
3 ed to read as follows:

4 “(a) IN GENERAL.—The tax imposed by section 2101
5 shall be credited with the amounts determined in accord-
6 ance with sections 2012 and 2013 (relating to gift tax and
7 tax on prior transfers).”.

8 (B) Section 2102 is amended by striking sub-
9 section (b) and by redesignating subsection (c) as
10 subsection (b).

11 (C) Section 2102(b)(5) (as redesignated by sub-
12 paragraph (B)) and section 2107(c)(3) are each
13 amended by striking “2011 to 2013, inclusive,” and
14 inserting “2012 and 2013”.

15 (8) Subsection (a) of section 2106 is amended
16 by adding at the end the following new paragraph:

17 “(4) STATE DEATH TAXES.—The amount which
18 bears the same ratio to the State death taxes as the
19 value of the property, as determined for purposes of
20 this chapter, upon which State death taxes were paid
21 and which is included in the gross estate under sec-
22 tion 2103 bears to the value of the total gross estate
23 under section 2103. For purposes of this paragraph,
24 the term ‘State death taxes’ means the taxes de-
25 scribed in section 2011(a).”.

1 (9) Section 2201 is amended—

2 (A) by striking “as defined in section
3 2011(d)”, and

4 (B) by adding at the end the following new
5 flush sentence:

6 “For purposes of this section, the additional estate tax
7 is the difference between the tax imposed by section 2001
8 or 2101 and the amount equal to 125 percent of the max-
9 imum credit provided by section 2011(b), as in effect be-
10 fore its repeal by the Restoring Earnings To Lift Individ-
11 uals and Empower Families (RELIEF) Act of 2001.”.

12 (10) Section 2604 is repealed.

13 (11) Paragraph (2) of section 6511(i) is amend-
14 ed by striking “2011(c), 2014(b),” and inserting
15 “2014(b)”.

16 (12) Subsection (c) of section 6612 is amended
17 by striking “section 2011(c) (relating to refunds due
18 to credit for State taxes),”.

19 (13) The table of sections for part II of sub-
20 chapter A of chapter 11 is amended by striking the
21 item relating to section 2011.

22 (14) The table of sections for part IV of sub-
23 chapter A of chapter 11 is amended by adding at
24 the end the following new item:

“Sec. 2058. State death taxes.”.

1 **“SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM A**
2 **DECEDENT DYING AFTER DECEMBER 31, 2010.**

3 “(a) IN GENERAL.—Except as otherwise provided in
4 this section—

5 “(1) property acquired from a decedent dying
6 after December 31, 2010, shall be treated for pur-
7 poses of this subtitle as transferred by gift, and

8 “(2) the basis of the person acquiring property
9 from such a decedent shall be the lesser of—

10 “(A) the adjusted basis of the decedent, or

11 “(B) the fair market value of the property
12 at the date of the decedent’s death.

13 “(b) BASIS INCREASE FOR CERTAIN PROPERTY.—

14 “(1) IN GENERAL.—In the case of property to
15 which this subsection applies, the basis of such prop-
16 erty under subsection (a) shall be increased by its
17 basis increase under this subsection.

18 “(2) BASIS INCREASE.—For purposes of this
19 subsection—

20 “(A) IN GENERAL.—The basis increase
21 under this subsection for any property is the
22 portion of the aggregate basis increase which is
23 allocated to the property pursuant to this sec-
24 tion.

1 “(B) AGGREGATE BASIS INCREASE.—In
2 the case of any estate, the aggregate basis in-
3 crease under this subsection is \$1,300,000.

4 “(C) LIMIT INCREASED BY UNUSED BUILT-
5 IN LOSSES AND LOSS CARRYOVERS.—The limi-
6 tation under subparagraph (B) shall be in-
7 creased by—

8 “(i) the sum of the amount of any
9 capital loss carryover under section
10 1212(b), and the amount of any net oper-
11 ating loss carryover under section 172,
12 which would (but for the decedent’s death)
13 be carried from the decedent’s last taxable
14 year to a later taxable year of the dece-
15 dent, plus

16 “(ii) the sum of the amount of any
17 losses that would have been allowable
18 under section 165 if the property acquired
19 from the decedent had been sold at fair
20 market value immediately before the dece-
21 dent’s death.

22 “(3) DECEDENT NONRESIDENTS WHO ARE NOT
23 CITIZENS OF THE UNITED STATES.—In the case of
24 a decedent nonresident not a citizen of the United
25 States—

1 “(A) paragraph (2)(B) shall be applied by
2 substituting ‘\$60,000’ for ‘\$1,300,000’, and

3 “(B) paragraph (2)(C) shall not apply.

4 “(c) ADDITIONAL BASIS INCREASE FOR PROPERTY
5 ACQUIRED BY SURVIVING SPOUSE.—

6 “(1) IN GENERAL.—In the case of property to
7 which this subsection applies and which is qualified
8 spousal property, the basis of such property under
9 subsection (a) (as increased under subsection (b))
10 shall be increased by its spousal property basis in-
11 crease.

12 “(2) SPOUSAL PROPERTY BASIS INCREASE.—
13 For purposes of this subsection—

14 “(A) IN GENERAL.—The spousal property
15 basis increase for property referred to in para-
16 graph (1) is the portion of the aggregate spousal
17 property basis increase which is allocated to
18 the property pursuant to this section.

19 “(B) AGGREGATE SPOUSAL PROPERTY
20 BASIS INCREASE.—In the case of any estate,
21 the aggregate spousal property basis increase is
22 \$3,000,000.

23 “(3) QUALIFIED SPOUSAL PROPERTY.—For
24 purposes of this subsection, the term ‘qualified
25 spousal property’ means—

1 “(A) outright transfer property, and

2 “(B) qualified terminable interest property.

3 “(4) OUTRIGHT TRANSFER PROPERTY.—For
4 purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘outright
6 transfer property’ means any interest in prop-
7 erty acquired from the decedent by the dece-
8 dent’s surviving spouse.

9 “(B) EXCEPTION.—Subparagraph (A)
10 shall not apply where, on the lapse of time, on
11 the occurrence of an event or contingency, or on
12 the failure of an event or contingency to occur,
13 an interest passing to the surviving spouse will
14 terminate or fail—

15 “(i)(I) if an interest in such property
16 passes or has passed (for less than an ade-
17 quate and full consideration in money or
18 money’s worth) from the decedent to any
19 person other than such surviving spouse
20 (or the estate of such spouse), and

21 “(II) if by reason of such passing
22 such person (or his heirs or assigns) may
23 possess or enjoy any part of such property
24 after such termination or failure of the in-

1 terest so passing to the surviving spouse,
2 or

3 “(ii) if such interest is to be acquired
4 for the surviving spouse, pursuant to direc-
5 tions of the decedent, by his executor or by
6 the trustee of a trust.

7 For purposes of this subparagraph, an interest
8 shall not be considered as an interest which will
9 terminate or fail merely because it is the owner-
10 ship of a bond, note, or similar contractual obli-
11 gation, the discharge of which would not have
12 the effect of an annuity for life or for a term.

13 “(C) INTEREST OF SPOUSE CONDITIONAL
14 ON SURVIVAL FOR LIMITED PERIOD.—For pur-
15 poses of this paragraph, an interest passing to
16 the surviving spouse shall not be considered as
17 an interest which will terminate or fail on the
18 death of such spouse if—

19 “(i) such death will cause a termi-
20 nation or failure of such interest only if it
21 occurs within a period not exceeding 6
22 months after the decedent’s death, or only
23 if it occurs as a result of a common dis-
24 aster resulting in the death of the decedent

1 and the surviving spouse, or only if it oc-
2 curs in the case of either such event, and
3 “(ii) such termination or failure does
4 not in fact occur.

5 “(5) QUALIFIED TERMINABLE INTEREST PROP-
6 ERTY.—For purposes of this subsection—

7 “(A) IN GENERAL.—The term ‘qualified ter-
8 minable interest property’ means property—

9 “(i) which passes from the decedent,
10 and

11 “(ii) in which the surviving spouse has
12 a qualifying income interest for life.

13 “(B) QUALIFYING INCOME INTEREST FOR
14 LIFE.—The surviving spouse has a qualifying
15 income interest for life if—

16 “(i) the surviving spouse is entitled to
17 all the income from the property, payable
18 annually or at more frequent intervals, or
19 has a usufruct interest for life in the prop-
20 erty, and

21 “(ii) no person has a power to appoint
22 any part of the property to any person
23 other than the surviving spouse.

24 Clause (ii) shall not apply to a power exer-
25 cisable only at or after the death of the sur-

1 living spouse. To the extent provided in regula-
2 tions, an annuity shall be treated in a manner
3 similar to an income interest in property (re-
4 gardless of whether the property from which the
5 annuity is payable can be separately identified).

6 “(C) PROPERTY INCLUDES INTEREST
7 THEREIN.—The term ‘property’ includes an in-
8 terest in property.

9 “(D) SPECIFIC PORTION TREATED AS SEP-
10 ARATE PROPERTY.—A specific portion of prop-
11 erty shall be treated as separate property. For
12 purposes of the preceding sentence, the term
13 ‘specific portion’ only includes a portion deter-
14 mined on a fractional or percentage basis.

15 “(d) DEFINITIONS AND SPECIAL RULES FOR APPLI-
16 CATION OF SUBSECTIONS (b) AND (c).—

17 “(1) PROPERTY TO WHICH SUBSECTIONS (b)
18 AND (c) APPLY.—

19 “(A) IN GENERAL.—The basis of property
20 acquired from a decedent may be increased
21 under subsection (b) or (c) only if the property
22 was owned by the decedent at the time of
23 death.

24 “(B) RULES RELATING TO OWNERSHIP.—

1 cedent shall be treated as the owner
2 to the extent of the value of a frac-
3 tional part to be determined by divid-
4 ing the value of the property by the
5 number of joint tenants with right of
6 survivorship.

7 “(ii) REVOCABLE TRUSTS.—The dece-
8 dent shall be treated as owning property
9 transferred by the decedent during life to
10 a qualified revocable trust (as defined in
11 section 645(b)(1)).

12 “(iii) POWERS OF APPOINTMENT.—
13 The decedent shall not be treated as own-
14 ing any property by reason of holding a
15 power of appointment with respect to such
16 property.

17 “(iv) COMMUNITY PROPERTY.—Prop-
18 erty which represents the surviving
19 spouse’s one-half share of community prop-
20 erty held by the decedent and the surviving
21 spouse under the community property laws
22 of any State or possession of the United
23 States or any foreign country shall be
24 treated for purposes of this section as
25 owned by, and acquired from, the decedent

1 if at least one-half of the whole of the com-
2 munity interest in such property is treated
3 as owned by, and acquired from, the dece-
4 dent without regard to this clause.

5 “(C) PROPERTY ACQUIRED BY DECEDENT
6 BY GIFT WITHIN 3 YEARS OF DEATH.—

7 “(i) IN GENERAL.—Subsections (b)
8 and (c) shall not apply to property ac-
9 quired by the decedent by gift or by inter
10 vivos transfer for less than adequate and
11 full consideration in money or money’s
12 worth during the 3-year period ending on
13 the date of the decedent’s death.

14 “(ii) EXCEPTION FOR CERTAIN GIFTS
15 FROM SPOUSE.—Clause (i) shall not apply
16 to property acquired by the decedent from
17 the decedent’s spouse unless, during such
18 3-year period, such spouse acquired the
19 property in whole or in part by gift or by
20 inter vivos transfer for less than adequate
21 and full consideration in money or money’s
22 worth.

23 “(D) STOCK OF CERTAIN ENTITIES.—Sub-
24 sections (b) and (c) shall not apply to—

1 “(i) stock or securities a foreign per-
2 sonal holding company,

3 “(ii) stock of a DISC or former
4 DISC,

5 “(iii) stock of a foreign investment
6 company, or

7 “(iv) stock of a passive foreign invest-
8 ment company unless such company is a
9 qualified electing fund (as defined in sec-
10 tion 1295) with respect to the decedent.

11 “(2) FAIR MARKET VALUE LIMITATION.—The
12 adjustments under subsections (b) and (c) shall not
13 increase the basis of any interest in property ac-
14 quired from the decedent above its fair market value
15 in the hands of the decedent as of the date of the
16 decedent’s death.

17 “(3) ALLOCATION RULES.—

18 “(A) IN GENERAL.—The executor shall al-
19 locate the adjustments under subsections (b)
20 and (c) on the return required by section 6018.

21 “(B) CHANGES IN ALLOCATION.—Any allo-
22 cation made pursuant to subparagraph (A) may
23 be changed only as provided by the Secretary.

24 “(4) INFLATION ADJUSTMENT OF BASIS AD-
25 JUSTMENT AMOUNTS.—

1 “(A) IN GENERAL.—In the case of dece-
2 dents dying in a calendar year after 2011, the
3 \$1,300,000, \$60,000, and \$3,000,000 dollar
4 amounts in subsections (b) and (c)(2)(B) shall
5 each be increased by an amount equal to the
6 product of—

7 “(i) such dollar amount, and

8 “(ii) the cost-of-living adjustment de-
9 termined under section 1(f)(3) for such
10 calendar year, determined by substituting
11 ‘2010’ for ‘1992’ in subparagraph (B)
12 thereof.

13 “(B) ROUNDING.—If any increase deter-
14 mined under subparagraph (A) is not a multiple
15 of—

16 “(i) \$100,000 in the case of the
17 \$1,300,000 amount,

18 “(ii) \$5,000 in the case of the
19 \$60,000 amount, and

20 “(iii) \$250,000 in the case of the
21 \$3,000,000 amount,

22 such increase shall be rounded to the next low-
23 est multiple thereof.

1 “(e) PROPERTY ACQUIRED FROM THE DECEDENT.—

2 For purposes of this section, the following property shall
3 be considered to have been acquired from the decedent:

4 “(1) Property acquired by bequest, devise, or
5 inheritance, or by the decedent’s estate from the de-
6 cedent.

7 “(2) Property transferred by the decedent dur-
8 ing his lifetime—

9 “(A) to a qualified revocable trust (as de-
10 fined in section 645(b)(1)), or

11 “(B) to any other trust with respect to
12 which the decedent reserved the right to make
13 any change in the enjoyment thereof through
14 the exercise of a power to alter, amend, or ter-
15minate the trust.

16 “(3) Any other property passing from the dece-
17 dent by reason of death to the extent that such
18 property passed without consideration.

19 “(f) COORDINATION WITH SECTION 691.—This sec-
20 tion shall not apply to property which constitutes a right
21 to receive an item of income in respect of a decedent under
22 section 691.

23 “(g) CERTAIN LIABILITIES DISREGARDED.—

24 “(1) IN GENERAL.—In determining whether
25 gain is recognized on the acquisition of property—

1 “(A) from a decedent by a decedent’s es-
2 tate or any beneficiary other than a tax-exempt
3 beneficiary, and

4 “(B) from the decedent’s estate by any
5 beneficiary other than a tax-exempt beneficiary,
6 and in determining the adjusted basis of such prop-
7 erty, liabilities in excess of basis shall be dis-
8 regarded.

9 “(2) TAX-EXEMPT BENEFICIARY.—For pur-
10 poses of paragraph (1)(B)—

11 “(A) IN GENERAL.—The term ‘tax-exempt
12 beneficiary’ means—

13 “(i) the United States, any State or
14 political subdivision thereof, any possession
15 of the United States, any Indian tribal
16 government (within the meaning of section
17 7871), or any agency or instrumentality of
18 any of the foregoing,

19 “(ii) an organization (other than a co-
20 operative described in section 521) which
21 is exempt from tax imposed by chapter 1,
22 and

23 “(iii) any foreign person or entity
24 (within the meaning of section 168(h)(2)).

1 “(h) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary to carry out the pur-
3 poses of this section.”.

4 (b) INFORMATION RETURNS, ETC.—

5 (1) LARGE TRANSFERS AT DEATH.—So much
6 of subpart C of part II of subchapter A of chapter
7 61 as precedes section 6019 is amended to read as
8 follows:

9 **“Subpart C—Returns Relating to Transfers During**
10 **Life or at Death**

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

“Sec. 6019. Gift tax returns.

11 **“SEC. 6018. RETURNS RELATING TO LARGE TRANSFERS AT**
12 **DEATH.**

13 “(a) IN GENERAL.—If this section applies to prop-
14 erty acquired from a decedent, the executor of the estate
15 of such decedent shall make a return containing the infor-
16 mation specified in subsection (c) with respect to such
17 property.

18 “(b) PROPERTY TO WHICH SECTION APPLIES.—

19 “(1) LARGE TRANSFERS.—This section shall
20 apply to all property (other than cash) acquired
21 from a decedent if the fair market value of such
22 property acquired from the decedent exceeds the dol-
23 lar amount applicable under section 1022(b)(2)(B)
24 (without regard to section 1022(b)(2)(C)).

1 “(2) TRANSFERS OF CERTAIN GIFTS RECEIVED
2 BY DECEDENT WITHIN 3 YEARS OF DEATH.—This
3 section shall apply to any appreciated property ac-
4 quired from the decedent if—

5 “(A) subsections (b) and (c) of section
6 1022 do not apply to such property by reason
7 of section 1022(d)(1)(C), and

8 “(B) such property was required to be in-
9 cluded on a return required to be filed under
10 section 6019.

11 “(3) NONRESIDENTS NOT CITIZENS OF THE
12 UNITED STATES.—In the case of a decedent who is
13 a nonresident not a citizen of the United States,
14 paragraphs (1) and (2) shall be applied—

15 “(A) by taking into account only—

16 “(i) tangible property situated in the
17 United States, and

18 “(ii) other property acquired from the
19 decedent by a United States person, and

20 “(B) by substituting the dollar amount ap-
21 plicable under section 1022(b)(3) for the dollar
22 amount referred to in paragraph (1).

23 “(4) RETURNS BY TRUSTEES OR BENE-
24 FICIARIES.—If the executor is unable to make a
25 complete return as to any property acquired from or

1 passing from the decedent, the executor shall include
2 in the return a description of such property and the
3 name of every person holding a legal or beneficial in-
4 terest therein. Upon notice from the Secretary, such
5 person shall in like manner make a return as to
6 such property.

7 “(c) INFORMATION REQUIRED TO BE FURNISHED.—
8 The information specified in this subsection with respect
9 to any property acquired from the decedent is—

10 “(1) the name and TIN of the recipient of such
11 property,

12 “(2) an accurate description of such property,

13 “(3) the adjusted basis of such property in the
14 hands of the decedent and its fair market value at
15 the time of death,

16 “(4) the decedent’s holding period for such
17 property,

18 “(5) sufficient information to determine wheth-
19 er any gain on the sale of the property would be
20 treated as ordinary income,

21 “(6) the amount of basis increase allocated to
22 the property under subsection (b) or (c) of section
23 1022, and

24 “(7) such other information as the Secretary
25 may by regulations prescribe.

1 “(d) PROPERTY ACQUIRED FROM DECEDENT.—For
2 purposes of this section, section 1022 shall apply for pur-
3 poses of determining the property acquired from a dece-
4 dent.

5 “(e) STATEMENTS TO BE FURNISHED TO CERTAIN
6 PERSONS.—Every person required to make a return under
7 subsection (a) shall furnish to each person whose name
8 is required to be set forth in such return (other than the
9 person required to make such return) a written statement
10 showing—

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

13 “(2) the information specified in subsection (c)
14 with respect to property acquired from, or passing
15 from, the decedent to the person required to receive
16 such statement.

17 The written statement required under the preceding sen-
18 tence shall be furnished not later than 30 days after the
19 date that the return required by subsection (a) is filed.”.

20 (2) GIFTS.—Section 6019 (relating to gift tax
21 returns) is amended—

22 (A) by striking “Any individual” and in-
23 serting “(a) IN GENERAL.—Any individual”,
24 and

1 (B) by adding at the end the following new
2 subsection:

3 “(b) STATEMENTS TO BE FURNISHED TO CERTAIN
4 PERSONS.—Every person required to make a return under
5 subsection (a) shall furnish to each person whose name
6 is required to be set forth in such return (other than the
7 person required to make such return) a written statement
8 showing—

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

11 “(2) the information specified in such return
12 with respect to property received by the person re-
13 quired to receive such statement.

14 The written statement required under the preceding sen-
15 tence shall be furnished not later than 30 days after the
16 date that the return required by subsection (a) is filed.”.

17 (3) TIME FOR FILING SECTION 6018 RE-
18 TURNS.—

19 (A) RETURNS RELATING TO LARGE TRANS-
20 FERS AT DEATH.—Subsection (a) of section
21 6075 is amended to read as follows:

22 “(a) RETURNS RELATING TO LARGE TRANSFERS AT
23 DEATH.—The return required by section 6018 with re-
24 spect to a decedent shall be filed with the return of the
25 tax imposed by chapter 1 for the decedent’s last taxable

1 year or such later date specified in regulations prescribed
2 by the Secretary.”.

3 (B) CONFORMING AMENDMENTS.—Para-
4 graph (3) of section 6075(b) is amended—

5 (I) by striking “ESTATE TAX RE-
6 TURN” in the heading and inserting
7 “SECTION 6018 RETURN”, and

8 (II) by striking “(relating to es-
9 tate tax returns)” and inserting “(re-
10 lating to returns relating to large
11 transfers at death)”.

12 (4) PENALTIES.—Part I of subchapter B of
13 chapter 68 (relating to assessable penalties) is
14 amended by adding at the end the following new sec-
15 tion:

16 **“SEC. 6716. FAILURE TO FILE INFORMATION WITH RESPECT**
17 **TO CERTAIN TRANSFERS AT DEATH AND**
18 **GIFTS.**

19 “(a) INFORMATION REQUIRED TO BE FURNISHED
20 TO THE SECRETARY.—Any person required to furnish any
21 information under section 6018 who fails to furnish such
22 information on the date prescribed therefor (determined
23 with regard to any extension of time for filing) shall pay
24 a penalty of \$10,000 (\$500 in the case of information re-

1 quired to be furnished under section 6018(b)(2)) for each
2 such failure.

3 “(b) INFORMATION REQUIRED TO BE FURNISHED
4 TO BENEFICIARIES.—Any person required to furnish in
5 writing to each person described in section 6018(e) or
6 6019(b) the information required under such section who
7 fails to furnish such information shall pay a penalty of
8 \$50 for each such failure.

9 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
10 shall be imposed under subsection (a) or (b) with respect
11 to any failure if it is shown that such failure is due to
12 reasonable cause.

13 “(d) INTENTIONAL DISREGARD.—If any failure
14 under subsection (a) or (b) is due to intentional disregard
15 of the requirements under sections 6018 and 6019(b), the
16 penalty under such subsection shall be 5 percent of the
17 fair market value (as of the date of death or, in the case
18 of section 6019(b), the date of the gift) of the property
19 with respect to which the information is required.

20 “(e) DEFICIENCY PROCEDURES NOT TO APPLY.—
21 Subchapter B of chapter 63 (relating to deficiency proce-
22 dures for income, estate, gift, and certain excise taxes)
23 shall not apply in respect of the assessment or collection
24 of any penalty imposed by this section.”.

25 (5) CLERICAL AMENDMENTS.—

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

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

4 (B) The item relating to subpart C in the
5 table of subparts for part II of subchapter A of
6 chapter 61 is amended to read as follows:

“Subpart C. Returns relating to transfers during life or at death.”.

7 (c) EXCLUSION OF GAIN ON SALE OF PRINCIPAL
8 RESIDENCE MADE AVAILABLE TO HEIR OF DECEDENT
9 IN CERTAIN CASES.—Subsection (d) of section 121 (relat-
10 ing to exclusion of gain from sale of principal residence)
11 is amended by adding at the end the following new para-
12 graph:

13 “(9) PROPERTY ACQUIRED FROM A DECE-
14 DENT.—The exclusion under this section shall apply
15 to property sold by—

16 “(A) the estate of a decedent, and

17 “(B) any individual who acquired such
18 property from the decedent (within the meaning
19 of section 1022),

20 determined by taking into account the ownership
21 and use by the decedent.”.

22 (d) TRANSFERS OF APPRECIATED CARRYOVER BASIS
23 PROPERTY TO SATISFY PECUNIARY BEQUEST.—

1 (1) IN GENERAL.—Section 1040 (relating to
2 transfer of certain farm, etc., real property) is
3 amended to read as follows:

4 **“SEC. 1040. USE OF APPRECIATED CARRYOVER BASIS**
5 **PROPERTY TO SATISFY PECUNIARY BE-**
6 **QUEST.**

7 “(a) IN GENERAL.—If the executor of the estate of
8 any decedent satisfies the right of any person to receive
9 a pecuniary bequest with appreciated property, then gain
10 on such exchange shall be recognized to the estate only
11 to the extent that, on the date of such exchange, the fair
12 market value of such property exceeds such value on the
13 date of death.

14 “(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the
15 extent provided in regulations prescribed by the Secretary,
16 a rule similar to the rule provided in subsection (a) shall
17 apply where—

18 “(1) by reason of the death of the decedent, a
19 person has a right to receive from a trust a specific
20 dollar amount which is the equivalent of a pecuniary
21 bequest, and

22 “(2) the trustee of a trust satisfies such right
23 with property.

24 “(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE
25 DESCRIBED IN SUBSECTION (a) OR (b).—The basis of

1 property acquired in an exchange with respect to which
2 gain realized is not recognized by reason of subsection (a)
3 or (b) shall be the basis of such property immediately be-
4 fore the exchange increased by the amount of the gain rec-
5 ognized to the estate or trust on the exchange.”.

6 (2) The item relating to section 1040 in the
7 table of sections for part III of subchapter O of
8 chapter 1 is amended to read as follows:

“Sec. 1040. Use of appreciated carryover basis property to satisfy
pecuniary bequest.”.

9 (e) MISCELLANEOUS AMENDMENTS RELATED TO
10 CARRYOVER BASIS.—

11 (1) RECOGNITION OF GAIN ON TRANSFERS TO
12 NONRESIDENTS.—

13 (A) Subsection (a) of section 684 is
14 amended by inserting “or to a nonresident
15 alien” after “or trust”.

16 (B) Subsection (b) of section 684 is
17 amended by striking “any person” and insert-
18 ing “any United States person”.

19 (C) The section heading for section 684 is
20 amended by inserting “**AND NONRESIDENT**
21 **ALIENS**” after “**ESTATES**”.

22 (D) The item relating to section 684 in the
23 table of sections for subpart F of part I of sub-

1 chapter J of chapter 1 is amended by inserting
2 “and nonresident aliens” after “estates”.

3 (2) CAPITAL GAIN TREATMENT FOR INHERITED
4 ART WORK OR SIMILAR PROPERTY.—

5 (A) IN GENERAL.—Subparagraph (C) of
6 section 1221(a)(3) (defining capital asset) is
7 amended by inserting “(other than by reason of
8 section 1022)” after “is determined”.

9 (B) COORDINATION WITH SECTION 170.—
10 Paragraph (1) of section 170(e) (relating to
11 certain contributions of ordinary income and
12 capital gain property) is amended by adding at
13 the end the following: “For purposes of this
14 paragraph, the determination of whether prop-
15 erty is a capital asset shall be made without re-
16 gard to the exception contained in section
17 1221(a)(3)(C) for basis determined under sec-
18 tion 1022.”.

19 (3) DEFINITION OF EXECUTOR.—Section
20 7701(a) (relating to definitions) is amended by add-
21 ing at the end the following:

22 “(47) EXECUTOR.—The term ‘executor’ means
23 the executor or administrator of the decedent, or, if
24 there is no executor or administrator appointed,
25 qualified, and acting within the United States, then

1 any person in actual or constructive possession of
2 any property of the decedent.”.

3 (4) CERTAIN TRUSTS.—Subparagraph (A) of
4 section 4947(a)(2) is amended by inserting
5 “642(e),” after “170(f)(2)(B),”.

6 (5) OTHER AMENDMENTS.—

7 (A) Section 1246 is amended by striking
8 subsection (e).

9 (B) Subsection (e) of section 1291 is
10 amended—

11 (i) by striking “(e),”; and

12 (ii) by striking “; except that” and all
13 that follows and inserting a period.

14 (C) Section 1296 is amended by striking
15 subsection (i).

16 (6) CLERICAL AMENDMENT.—The table of sec-
17 tions for part II of subchapter O of chapter 1 is
18 amended by inserting after the item relating to sec-
19 tion 1021 the following new item:

“Sec. 1022. Treatment of property acquired from a decedent
dying after December 31, 2010.”.

20 (f) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply to estates of decedents dying after De-
24 cember 31, 2010.

1 (2) TRANSFERS TO NONRESIDENTS.—The
2 amendments made by subsection (e)(1) shall apply
3 to transfers after December 31, 2010.

4 (3) SECTION 4947.—The amendment made by
5 subsection (e)(4) shall apply to deductions for tax-
6 able years beginning after December 31, 2010.

7 **Subtitle F—Conservation** 8 **Easements**

9 **SEC. 551. EXPANSION OF ESTATE TAX RULE FOR CON-** 10 **SERVATION EASEMENTS.**

11 (a) REPEAL OF CERTAIN RESTRICTIONS ON WHERE
12 LAND IS LOCATED.—Clause (i) of section 2031(c)(8)(A)
13 (defining land subject to a qualified conservation ease-
14 ment) is amended to read as follows:

15 “(i) which is located in the United
16 States or any possession of the United
17 States.”.

18 (b) CLARIFICATION OF DATE FOR DETERMINING
19 VALUE OF LAND AND EASEMENT.—Section 2031(c)(2)
20 (defining applicable percentage) is amended by adding at
21 the end the following new sentence: “The values taken into
22 account under the preceding sentence shall be such values
23 as of the date of the contribution referred to in paragraph
24 (8)(B).”.

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

4 **Subtitle G—Modifications of**
5 **Generation-Skipping Transfer Tax**

6 **SEC. 561. DEEMED ALLOCATION OF GST EXEMPTION TO**
7 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**
8 **ACTIVE ALLOCATIONS.**

9 (a) IN GENERAL.—Section 2632 (relating to special
10 rules for allocation of GST exemption) is amended by re-
11 designating subsection (c) as subsection (e) and by insert-
12 ing after subsection (b) the following new subsections:

13 “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME
14 TRANSFERS TO GST TRUSTS.—

15 “(1) IN GENERAL.—If any individual makes an
16 indirect skip during such individual’s lifetime, any
17 unused portion of such individual’s GST exemption
18 shall be allocated to the property transferred to the
19 extent necessary to make the inclusion ratio for such
20 property zero. If the amount of the indirect skip ex-
21 ceeds such unused portion, the entire unused portion
22 shall be allocated to the property transferred.

23 “(2) UNUSED PORTION.—For purposes of para-
24 graph (1), the unused portion of an individual’s

1 GST exemption is that portion of such exemption
2 which has not previously been—

3 “(A) allocated by such individual,

4 “(B) treated as allocated under subsection
5 (b) with respect to a direct skip occurring dur-
6 ing or before the calendar year in which the in-
7 direct skip is made, or

8 “(C) treated as allocated under paragraph
9 (1) with respect to a prior indirect skip.

10 “(3) DEFINITIONS.—

11 “(A) INDIRECT SKIP.—For purposes of
12 this subsection, the term ‘indirect skip’ means
13 any transfer of property (other than a direct
14 skip) subject to the tax imposed by chapter 12
15 made to a GST trust.

16 “(B) GST TRUST.—The term ‘GST trust’
17 means a trust that could have a generation-
18 skipping transfer with respect to the transferor
19 unless—

20 “(i) the trust instrument provides that
21 more than 25 percent of the trust corpus
22 must be distributed to or may be with-
23 drawn by one or more individuals who are
24 non-skip persons—

1 “(I) before the date that the indi-
2 vidual attains age 46,

3 “(II) on or before one or more
4 dates specified in the trust instrument
5 that will occur before the date that
6 such individual attains age 46, or

7 “(III) upon the occurrence of an
8 event that, in accordance with regula-
9 tions prescribed by the Secretary, may
10 reasonably be expected to occur before
11 the date that such individual attains
12 age 46,

13 “(ii) the trust instrument provides
14 that more than 25 percent of the trust cor-
15 pus must be distributed to or may be with-
16 drawn by one or more individuals who are
17 non-skip persons and who are living on the
18 date of death of another person identified
19 in the instrument (by name or by class)
20 who is more than 10 years older than such
21 individuals,

22 “(iii) the trust instrument provides
23 that, if one or more individuals who are
24 non-skip persons die on or before a date or
25 event described in clause (i) or (ii), more

1 than 25 percent of the trust corpus either
2 must be distributed to the estate or estates
3 of one or more of such individuals or is
4 subject to a general power of appointment
5 exercisable by one or more of such individ-
6 uals,

7 “(iv) the trust is a trust any portion
8 of which would be included in the gross es-
9 tate of a non-skip person (other than the
10 transferor) if such person died immediately
11 after the transfer,

12 “(v) the trust is a charitable lead an-
13 nuity trust (within the meaning of section
14 2642(e)(3)(A)) or a charitable remainder
15 annuity trust or a charitable remainder
16 unitrust (within the meaning of section
17 664(d)), or

18 “(vi) the trust is a trust with respect
19 to which a deduction was allowed under
20 section 2522 for the amount of an interest
21 in the form of the right to receive annual
22 payments of a fixed percentage of the net
23 fair market value of the trust property (de-
24 termined yearly) and which is required to
25 pay principal to a non-skip person if such

1 person is alive when the yearly payments
2 for which the deduction was allowed termi-
3 nate.

4 For purposes of this subparagraph, the value of
5 transferred property shall not be considered to
6 be includible in the gross estate of a non-skip
7 person or subject to a right of withdrawal by
8 reason of such person holding a right to with-
9 draw so much of such property as does not ex-
10 ceed the amount referred to in section 2503(b)
11 with respect to any transferor, and it shall be
12 assumed that powers of appointment held by
13 non-skip persons will not be exercised.

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

22 “(5) APPLICABILITY AND EFFECT.—

23 “(A) IN GENERAL.—An individual—

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

1 “(I) an indirect skip, or

2 “(II) any or all transfers made
3 by such individual to a particular
4 trust, and

5 “(ii) may elect to treat any trust as a
6 GST trust for purposes of this subsection
7 with respect to any or all transfers made
8 by such individual to such trust.

9 “(B) ELECTIONS.—

10 “(i) ELECTIONS WITH RESPECT TO
11 INDIRECT SKIPS.—An election under sub-
12 paragraph (A)(i)(I) shall be deemed to be
13 timely if filed on a timely filed gift tax re-
14 turn for the calendar year in which the
15 transfer was made or deemed to have been
16 made pursuant to paragraph (4) or on
17 such later date or dates as may be pre-
18 scribed by the Secretary.

19 “(ii) OTHER ELECTIONS.—An election
20 under clause (i)(II) or (ii) of subparagraph
21 (A) may be made on a timely filed gift tax
22 return for the calendar year for which the
23 election is to become effective.

24 “(d) RETROACTIVE ALLOCATIONS.—

25 “(1) IN GENERAL.—If—

1 “(A) a non-skip person has an interest or
2 a future interest in a trust to which any trans-
3 fer has been made,

4 “(B) such person—

5 “(i) is a lineal descendant of a grand-
6 parent of the transferor or of a grand-
7 parent of the transferor’s spouse or former
8 spouse, and

9 “(ii) is assigned to a generation below
10 the generation assignment of the trans-
11 feror, and

12 “(C) such person predeceases the trans-
13 feror,

14 then the transferor may make an allocation of any
15 of such transferor’s unused GST exemption to any
16 previous transfer or transfers to the trust on a
17 chronological basis.

18 “(2) SPECIAL RULES.—If the allocation under
19 paragraph (1) by the transferor is made on a gift
20 tax return filed on or before the date prescribed by
21 section 6075(b) for gifts made within the calendar
22 year within which the non-skip person’s death
23 occurred—

24 “(A) the value of such transfer or trans-
25 fers for purposes of section 2642(a) shall be de-

1 terminated as if such allocation had been made
2 on a timely filed gift tax return for each cal-
3 endar year within which each transfer was
4 made,

5 “(B) such allocation shall be effective im-
6 mediately before such death, and

7 “(C) the amount of the transferor’s unused
8 GST exemption available to be allocated shall
9 be determined immediately before such death.

10 “(3) FUTURE INTEREST.—For purposes of this
11 subsection, a person has a future interest in a trust
12 if the trust may permit income or corpus to be paid
13 to such person on a date or dates in the future.”.

14 (b) CONFORMING AMENDMENT.—Paragraph (2) of
15 section 2632(b) is amended by striking “with respect to
16 a prior direct skip” and inserting “or subsection (c)(1)”.

17 (c) EFFECTIVE DATES.—

18 (1) DEEMED ALLOCATION.—Section 2632(c) of
19 the Internal Revenue Code of 1986 (as added by
20 subsection (a)), and the amendment made by sub-
21 section (b), shall apply to transfers subject to chap-
22 ter 11 or 12 made after December 31, 2000, and to
23 estate tax inclusion periods ending after December
24 31, 2000.

1 (2) RETROACTIVE ALLOCATIONS.—Section
2 2632(d) of the Internal Revenue Code of 1986 (as
3 added by subsection (a)) shall apply to deaths of
4 non-skip persons occurring after December 31,
5 2000.

6 **SEC. 562. SEVERING OF TRUSTS.**

7 (a) IN GENERAL.—Subsection (a) of section 2642
8 (relating to inclusion ratio) is amended by adding at the
9 end the following new paragraph:

10 “(3) SEVERING OF TRUSTS.—

11 “(A) IN GENERAL.—If a trust is severed in
12 a qualified severance, the trusts resulting from
13 such severance shall be treated as separate
14 trusts thereafter for purposes of this chapter.

15 “(B) QUALIFIED SEVERANCE.—For pur-
16 poses of subparagraph (A)—

17 “(i) IN GENERAL.—The term ‘quali-
18 fied severance’ means the division of a sin-
19 gle trust and the creation (by any means
20 available under the governing instrument
21 or under local law) of two or more trusts
22 if—

23 “(I) the single trust was divided
24 on a fractional basis, and

1 “(II) the terms of the new trusts,
2 in the aggregate, provide for the same
3 succession of interests of beneficiaries
4 as are provided in the original trust.

5 “(ii) TRUSTS WITH INCLUSION RATIO
6 GREATER THAN ZERO.—If a trust has an
7 inclusion ratio of greater than zero and
8 less than 1, a severance is a qualified sev-
9 erance only if the single trust is divided
10 into two trusts, one of which receives a
11 fractional share of the total value of all
12 trust assets equal to the applicable fraction
13 of the single trust immediately before the
14 severance. In such case, the trust receiving
15 such fractional share shall have an inclu-
16 sion ratio of zero and the other trust shall
17 have an inclusion ratio of 1.

18 “(iii) REGULATIONS.—The term
19 ‘qualified severance’ includes any other
20 severance permitted under regulations pre-
21 scribed by the Secretary.

22 “(C) TIMING AND MANNER OF
23 SEVERANCES.—A severance pursuant to this
24 paragraph may be made at any time. The Sec-
25 retary shall prescribe by forms or regulations

1 the manner in which the qualified severance
2 shall be reported to the Secretary.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to severances after December 31,
5 2000.

6 **SEC. 563. MODIFICATION OF CERTAIN VALUATION RULES.**

7 (a) **GIFTS FOR WHICH GIFT TAX RETURN FILED OR**
8 **DEEMED ALLOCATION MADE.**—Paragraph (1) of section
9 2642(b) (relating to valuation rules, etc.) is amended to
10 read as follows:

11 “(1) **GIFTS FOR WHICH GIFT TAX RETURN**
12 **FILED OR DEEMED ALLOCATION MADE.**—If the allo-
13 cation of the GST exemption to any transfers of
14 property is made on a gift tax return filed on or be-
15 fore the date prescribed by section 6075(b) for such
16 transfer or is deemed to be made under section 2632
17 (b)(1) or (c)(1)—

18 “(A) the value of such property for pur-
19 poses of subsection (a) shall be its value as fi-
20 nally determined for purposes of chapter 12
21 (within the meaning of section 2001(f)(2)), or,
22 in the case of an allocation deemed to have been
23 made at the close of an estate tax inclusion pe-
24 riod, its value at the time of the close of the es-
25 tate tax inclusion period, and

1 “(B) such allocation shall be effective on
2 and after the date of such transfer, or, in the
3 case of an allocation deemed to have been made
4 at the close of an estate tax inclusion period, on
5 and after the close of such estate tax inclusion
6 period.”.

7 (b) TRANSFERS AT DEATH.—Subparagraph (A) of
8 section 2642(b)(2) is amended to read as follows:

9 “(A) TRANSFERS AT DEATH.—If property
10 is transferred as a result of the death of the
11 transferor, the value of such property for pur-
12 poses of subsection (a) shall be its value as fi-
13 nally determined for purposes of chapter 11; ex-
14 cept that, if the requirements prescribed by the
15 Secretary respecting allocation of post-death
16 changes in value are not met, the value of such
17 property shall be determined as of the time of
18 the distribution concerned.”.

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

23 **SEC. 564. RELIEF PROVISIONS.**

24 (a) IN GENERAL.—Section 2642 is amended by add-
25 ing at the end the following new subsection:

1 “(g) RELIEF PROVISIONS.—

2 “(1) RELIEF FROM LATE ELECTIONS.—

3 “(A) IN GENERAL.—The Secretary shall by
4 regulation prescribe such circumstances and
5 procedures under which extensions of time will
6 be granted to make—

7 “(i) an allocation of GST exemption
8 described in paragraph (1) or (2) of sub-
9 section (b), and

10 “(ii) an election under subsection
11 (b)(3) or (c)(5) of section 2632.

12 Such regulations shall include procedures for
13 requesting comparable relief with respect to
14 transfers made before the date of the enactment
15 of this paragraph.

16 “(B) BASIS FOR DETERMINATIONS.—In
17 determining whether to grant relief under this
18 paragraph, the Secretary shall take into ac-
19 count all relevant circumstances, including evi-
20 dence of intent contained in the trust instru-
21 ment or instrument of transfer and such other
22 factors as the Secretary deems relevant. For
23 purposes of determining whether to grant relief
24 under this paragraph, the time for making the

1 allocation (or election) shall be treated as if not
2 expressly prescribed by statute.

3 “(2) SUBSTANTIAL COMPLIANCE.—An alloca-
4 tion of GST exemption under section 2632 that
5 demonstrates an intent to have the lowest possible
6 inclusion ratio with respect to a transfer or a trust
7 shall be deemed to be an allocation of so much of
8 the transferor’s unused GST exemption as produces
9 the lowest possible inclusion ratio. In determining
10 whether there has been substantial compliance, all
11 relevant circumstances shall be taken into account,
12 including evidence of intent contained in the trust
13 instrument or instrument of transfer and such other
14 factors as the Secretary deems relevant.”.

15 (b) EFFECTIVE DATES.—

16 (1) RELIEF FROM LATE ELECTIONS.—Section
17 2642(g)(1) of the Internal Revenue Code of 1986
18 (as added by subsection (a)) shall apply to requests
19 pending on, or filed after, December 31, 2000.

20 (2) SUBSTANTIAL COMPLIANCE.—Section
21 2642(g)(2) of such Code (as so added) shall apply
22 to transfers subject to chapter 11 or 12 of the Inter-
23 nal Revenue Code of 1986 made after December 31,
24 2000. No implication is intended with respect to the
25 availability of relief from late elections or the appli-

1 cation of a rule of substantial compliance on or be-
2 fore such date.

3 **Subtitle H—Extension of Time for**
4 **Payment of Estate Tax**

5 **SEC. 571. EXPANSION OF AVAILABILITY OF INSTALLMENT**
6 **PAYMENT FOR ESTATES WITH INTERESTS**
7 **QUALIFYING LENDING AND FINANCE BUSI-**
8 **NESSES.**

9 (a) IN GENERAL.—Section 6166(b) (relating to defi-
10 nitions and special rules) is amended by adding at the end
11 the following new paragraph:

12 “(10) STOCK IN QUALIFYING LENDING AND FI-
13 NANCE BUSINESS TREATED AS STOCK IN AN ACTIVE
14 TRADE OR BUSINESS COMPANY.—

15 “(A) IN GENERAL.—If the executor elects
16 the benefits of this paragraph, then—

17 “(i) STOCK IN QUALIFYING LENDING
18 AND FINANCE BUSINESS TREATED AS
19 STOCK IN AN ACTIVE TRADE OR BUSINESS
20 COMPANY.—For purposes of this section,
21 any asset used in a qualifying lending and
22 finance business shall be treated as an
23 asset which is used in carrying on a trade
24 or business.

1 stantially all of the services of whom
2 were in the active management of
3 such business, 10 full-time, nonowner
4 employees substantially all of the serv-
5 ices of whom were directly related to
6 such business, and \$5,000,000 in
7 gross receipts from activities described
8 in clause (ii).

9 “(ii) LENDING AND FINANCE BUSI-
10 NESS.—The term ‘lending and finance
11 business’ means a trade or business of—

12 “(I) making loans,

13 “(II) purchasing or discounting
14 accounts receivable, notes, or install-
15 ment obligations,

16 “(III) engaging in rental and
17 leasing of real and tangible personal
18 property, including entering into
19 leases and purchasing, servicing, and
20 disposing of leases and leased assets,

21 “(IV) rendering services or mak-
22 ing facilities available in the ordinary
23 course of a lending or finance busi-
24 ness, and

1 “(V) rendering services or mak-
2 ing facilities available in connection
3 with activities described in subclauses
4 (I) through (IV) carried on by the
5 corporation rendering services or mak-
6 ing facilities available, or another cor-
7 poration which is a member of the
8 same affiliated group (as defined in
9 section 1504 without regard to section
10 1504(b)(3)).

11 “(iii) LIMITATION.—The term ‘quali-
12 fying lending and finance business’ shall
13 not include any interest in an entity, if the
14 stock or debt of such entity or a controlled
15 group (as defined in section 267(f)(1)) of
16 which such entity was a member was read-
17 ily tradable on an established securities
18 market or secondary market (as defined by
19 the Secretary) at any time within 3 years
20 before the date of the decedent’s death.”.

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

1 **SEC. 572. CLARIFICATION OF AVAILABILITY OF INSTALL-**
2 **MENT PAYMENT.**

3 (a) **IN GENERAL.**—Subparagraph (B) of section
4 6166(b)(8) (relating to all stock must be non-readily-
5 tradable stock) is amended to read as follows:

6 “(B) **ALL STOCK MUST BE NON-READILY-**
7 **TRADABLE STOCK.**—

8 “(i) **IN GENERAL.**—No stock shall be
9 taken into account for purposes of apply-
10 ing this paragraph unless it is non-readily-
11 tradable stock (within the meaning of
12 paragraph (7)(B)).

13 “(ii) **SPECIAL APPLICATION WHERE**
14 **ONLY HOLDING COMPANY STOCK IS NON-**
15 **READILY-TRADABLE STOCK.**—If the re-
16 quirements of clause (i) are not met, but
17 all of the stock of any holding company
18 taken into account is non-readily-tradable,
19 then this paragraph shall apply, but sub-
20 section (a)(1) shall be applied by sub-
21 stituting ‘5’ for ‘10’.”.

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

1 **Subtitle I—Compliance With**
2 **Congressional Budget Act**

3 **SEC. 581. SUNSET OF PROVISIONS OF TITLE.**

4 All provisions of, and amendments made by, this title
5 which are in effect on September 30, 2011, shall cease
6 to apply as of the close of September 30, 2011.

7 **SEC. 582. RESTORATION OF PROVISIONS OF TITLE.**

8 All provisions of, and amendments made by, this title
9 which were terminated under section 581 shall begin to
10 apply again as of October 1, 2011, as provided in each
11 such provision or amendment.

12 **TITLE VI—PENSION AND INDI-**
13 **VIDUAL RETIREMENT AR-**
14 **RANGEMENT PROVISIONS**

15 **Subtitle A—Individual Retirement**
16 **Accounts**

17 **SEC. 601. MODIFICATION OF IRA CONTRIBUTION LIMITS.**

18 (a) INCREASE IN CONTRIBUTION LIMIT.—

19 (1) IN GENERAL.—Paragraph (1)(A) of section
20 219(b) (relating to maximum amount of deduction)
21 is amended by striking “\$2,000” and inserting “the
22 deductible amount”.

23 (2) DEDUCTIBLE AMOUNT.—Section 219(b) is
24 amended by adding at the end the following new
25 paragraph:

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

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

“For taxable years beginning in:	The deductible amount is:
2002 through 2005	\$2,500
2006 and 2007	\$3,000
2008 and 2009	\$3,500
2010	\$4,000
2011 and thereafter	\$5,000.

6 “(B) CATCH-UP CONTRIBUTIONS FOR INDI-
7 VIDUALS 50 OR OLDER.—

8 “(i) IN GENERAL.—In the case of an
9 individual who has attained the age of 50
10 before the close of the taxable year, the de-
11 ductible amount for such taxable year shall
12 be increased by the applicable amount.

13 “(ii) APPLICABLE AMOUNT.—For pur-
14 poses of clause (i), the applicable amount
15 shall be the amount determined in accord-
16 ance with the following table:

“For taxable years beginning in:	The applicable amount is:
2002 through 2005	\$500
2006 through 2009	\$1,000
2010	\$1,500
2011 and thereafter	\$2,000.

17 “(C) COST-OF-LIVING ADJUSTMENT.—

18 “(i) IN GENERAL.—In the case of any
19 taxable year beginning in a calendar year

1 after 2011, the \$5,000 amount under sub-
2 paragraph (A) shall be increased by an
3 amount equal to—

4 “(I) such dollar amount, multi-
5 plied by

6 “(II) the cost-of-living adjust-
7 ment determined under section 1(f)(3)
8 for the calendar year in which the tax-
9 able year begins, determined by sub-
10 stituting ‘calendar year 2010’ for ‘cal-
11 endar year 1992’ in subparagraph (B)
12 thereof.

13 “(ii) ROUNDING RULES.—If any
14 amount after adjustment under clause (i)
15 is not a multiple of \$500, such amount
16 shall be rounded to the next lower multiple
17 of \$500.”.

18 (b) CONFORMING AMENDMENTS.—

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

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

4 (3) Section 408(b) is amended by striking
5 “\$2,000” in the matter following paragraph (4) and
6 inserting “the dollar amount in effect under section
7 219(b)(1)(A)”.

8 (4) Section 408(j) is amended by striking
9 “\$2,000”.

10 (5) Section 408(p)(8) is amended by striking
11 “\$2,000” and inserting “the dollar amount in effect
12 under section 219(b)(1)(A)”.

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

16 **SEC. 602. DEEMED IRAS UNDER EMPLOYER PLANS.**

17 (a) IN GENERAL.—Section 408 (relating to individual
18 retirement accounts) is amended by redesignating sub-
19 section (q) as subsection (r) and by inserting after sub-
20 section (p) the following new subsection:

21 “(q) DEEMED IRAS UNDER QUALIFIED EMPLOYER
22 PLANS.—

23 “(1) GENERAL RULE.—If—

24 “(A) a qualified employer plan elects to
25 allow employees to make voluntary employee

1 contributions to a separate account or annuity
2 established under the plan, and

3 “(B) under the terms of the qualified em-
4 ployer plan, such account or annuity meets the
5 applicable requirements of this section or sec-
6 tion 408A for an individual retirement account
7 or annuity,

8 then such account or annuity shall be treated for
9 purposes of this title in the same manner as an indi-
10 vidual retirement plan and not as a qualified em-
11 ployer plan (and contributions to such account or
12 annuity as contributions to an individual retirement
13 plan and not to the qualified employer plan). For
14 purposes of subparagraph (B), the requirements of
15 subsection (a)(5) shall not apply.

16 “(2) SPECIAL RULES FOR QUALIFIED EM-
17 PLOYER PLANS.—For purposes of this title, a quali-
18 fied employer plan shall not fail to meet any require-
19 ment of this title solely by reason of establishing and
20 maintaining a program described in paragraph (1).

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

23 “(A) QUALIFIED EMPLOYER PLAN.—The
24 term ‘qualified employer plan’ has the meaning
25 given such term by section 72(p)(4); except

1 such term shall only include an eligible deferred
2 compensation plan (as defined in section
3 457(b)) which is maintained by an eligible em-
4 ployer described in section 457(e)(1)(A).

5 “(B) VOLUNTARY EMPLOYEE CONTRIBU-
6 TION.—The term ‘voluntary employee contribu-
7 tion’ means any contribution (other than a
8 mandatory contribution within the meaning of
9 section 411(c)(2)(C))—

10 “(i) which is made by an individual as
11 an employee under a qualified employer
12 plan which allows employees to elect to
13 make contributions described in paragraph
14 (1), and

15 “(ii) with respect to which the indi-
16 vidual has designated the contribution as a
17 contribution to which this subsection ap-
18 plies.”.

19 (b) AMENDMENT OF ERISA.—

20 (1) IN GENERAL.—Section 4 of the Employee
21 Retirement Income Security Act of 1974 (29 U.S.C.
22 1003) is amended by adding at the end the following
23 new subsection:

24 “(c) If a pension plan allows an employee to elect to
25 make voluntary employee contributions to accounts and

1 annuities as provided in section 408(q) of the Internal
2 Revenue Code of 1986, such accounts and annuities (and
3 contributions thereto) shall not be treated as part of such
4 plan (or as a separate pension plan) for purposes of any
5 provision of this title other than section 403(e), 404, or
6 405 (relating to exclusive benefit, and fiduciary and co-
7 fiduciary responsibilities).”.

8 (2) CONFORMING AMENDMENT.—Section 4(a)
9 of such Act (29 U.S.C. 1003(a)) is amended by in-
10 serting “or (c)” after “subsection (b)”.

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

14 **SEC. 603. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
15 **TIREMENT ACCOUNTS FOR CHARITABLE**
16 **PURPOSES.**

17 (a) IN GENERAL.—Subsection (d) of section 408 (re-
18 lating to individual retirement accounts) is amended by
19 adding at the end the following new paragraph:

20 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-
21 POSES.—

22 “(A) IN GENERAL.—In the case of a quali-
23 fied charitable distribution from an individual
24 retirement account to an organization described
25 in section 170(c), no amount shall be includible

1 in the gross income of the account holder or
2 beneficiary.

3 “(B) SPECIAL RULES RELATING TO CHARITABLE
4 REMAINDER TRUSTS, POOLED INCOME
5 FUNDS, AND CHARITABLE GIFT ANNUITIES.—

6 “(i) IN GENERAL.—In the case of a
7 qualified charitable distribution from an
8 individual retirement account—

9 “(I) to a charitable remainder
10 annuity trust or a charitable remain-
11 der unitrust (as such terms are de-
12 fined in section 664(d)),

13 “(II) to a pooled income fund (as
14 defined in section 642(c)(5)), or

15 “(III) for the issuance of a chari-
16 table gift annuity (as defined in sec-
17 tion 501(m)(5)),

18 no amount shall be includible in gross in-
19 come of the account holder or beneficiary.

20 The preceding sentence shall apply only if
21 no person holds any interest in the
22 amounts in the trust, fund, or annuity at-
23 tributable to such distribution other than
24 one or more of the following: the individual
25 for whose benefit such account is main-

1 tained, the spouse of such individual, or
2 any organization described in section
3 170(e).

4 “(ii) DETERMINATION OF INCLUSION
5 OF AMOUNTS DISTRIBUTED.—In deter-
6 mining the amount includible in the gross
7 income of the distributee of a distribution
8 from a trust described in clause (i)(I) or
9 an annuity described in clause (i)(III), the
10 portion of any qualified charitable distribu-
11 tion to such trust or for such annuity
12 which would (but for this subparagraph)
13 have been includible in gross income—

14 “(I) in the case of any such
15 trust, shall be treated as income de-
16 scribed in section 664(b)(1), or

17 “(II) in the case of any such an-
18 nuity, shall not be treated as an in-
19 vestment in the contract.

20 “(iii) NO INCLUSION FOR DISTRIBUTION
21 TO POOLED INCOME FUND.—No
22 amount shall be includible in the gross in-
23 come of a pooled income fund (as so de-
24 fined) by reason of a qualified charitable
25 distribution to such fund.

1 “(C) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the
2 term ‘qualified charitable distribution’ means
3 any distribution from an individual retirement
4 account—
5

6 “(i) which is made on or after the
7 date that the individual for whose benefit
8 the account is maintained has attained age
9 70½, and

10 “(ii) which is a charitable contribution
11 (as defined in section 170(c)) made di-
12 rectly from the account to—

13 “(I) an organization described in
14 section 170(c), or

15 “(II) a trust, fund, or annuity
16 described in subparagraph (B).

17 “(D) DENIAL OF DEDUCTION.—The
18 amount allowable as a deduction to the tax-
19 payer for the taxable year under section 170
20 (before the application of section 170(b)) for
21 qualified charitable distributions shall be re-
22 duced (but not below zero) by the sum of the
23 amounts of the qualified charitable distributions
24 during such year which (but for this paragraph)

1 would have been includible in the gross income
2 of the taxpayer for such year.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to taxable years beginning after
5 December 31, 2009.

6 **Subtitle B—Expanding Coverage**

7 **SEC. 611. INCREASE IN BENEFIT AND CONTRIBUTION LIM-** 8 **ITS.**

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 “the applicable limit”.

15 (B) Section 415(b) is amended by adding
16 at the end the following new paragraph:

17 “(12) APPLICABLE LIMIT.—For purposes of
18 paragraph (1)(A), the applicable limit shall be deter-
19 mined in accordance with the following table:

“For taxable years beginning in:	The applicable limit is:
2002, 2003, and 2004	\$150,000
2005 and thereafter	\$160,000.”.

20 (C) Subparagraphs (C) and (D) of section
21 415(b)(2) are each amended—

22 (i) in the headings, by striking
23 “\$90,000” and inserting “APPLICABLE”,

1 (ii) by striking “\$90,000 limitation”
2 each place it appears and inserting “limita-
3 tion”, and

4 (iii) by striking “a \$90,000 annual
5 benefit” each place it appears and insert-
6 ing “an annual benefit equal to the appli-
7 cable limit”.

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

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

23 (3) LIMIT INCREASED WHEN BENEFIT BEGINS
24 AFTER AGE 65.—Subparagraph (D) of section
25 415(b)(2) is amended by striking “the social security

1 retirement age” each place it appears in the heading
2 and text and inserting “age 65”.

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

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

8 (B) in paragraph (3)(A)—

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

11 (ii) by striking “October 1, 1986” and
12 inserting “July 1, 2004”.

13 (5) CONFORMING AMENDMENTS.—

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

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

18 “(9) SPECIAL RULE FOR COMMERCIAL AIRLINE
19 PILOTS.—In the case of any participant who is a
20 commercial airline pilot, if, as of the time of the par-
21 ticipant’s retirement, regulations prescribed by the
22 Federal Aviation Administration require an indi-
23 vidual to separate from service as a commercial air-
24 line pilot after attaining any age occurring on or
25 after age 60 and before age 62, paragraph (2)(C)

1 shall be applied by substituting such age for age
2 62.”.

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

6 (b) QUALIFIED TRUSTS.—

7 (1) COMPENSATION LIMIT.—

8 (A) Section 401(a)(17) is amended—

9 (i) in subparagraph (A), by striking
10 “\$150,000” and inserting “the applicable
11 dollar amount”,

12 (ii) in subparagraph (B), by striking
13 “\$150,000” and inserting “the applicable
14 dollar”, and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(C) APPLICABLE DOLLAR AMOUNT.—For
18 purposes of this paragraph, the applicable dol-
19 lar amount shall be determined in accordance
20 with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$180,000
2003	\$190,000
2004 or thereafter	\$200,000.”.

21 (B) Section 404(l) is amended—

22 (i) by striking the second sentence,

1 (ii) by striking “\$150,000” and in-
2 serting “the applicable dollar amount in ef-
3 fect under section 401(a)(17)(A)”, and

4 (iii) by striking “the preceding sen-
5 tence” and inserting “section
6 401(a)(17)(B)”.

7 (C) Section 408(k) is amended—

8 (i) in each of paragraphs (3)(C) and
9 (6)(D)(ii), by striking “\$150,000” each
10 place it appears and inserting “amount of
11 compensation equal to the applicable dollar
12 amount in effect under section
13 401(a)(17)(A)”, and

14 (ii) in paragraph (8), by striking “and
15 shall adjust” and all that follows through
16 “section 401(a)(17)(B)”.

17 (D) Section 505(b)(7) is amended—

18 (i) by striking “\$150,000” and insert-
19 ing “the applicable dollar amount in effect
20 under section 401(a)(17)(A)”, and

21 (ii) by striking the second sentence.

22 (2) BASE PERIOD AND ROUNDING OF COST-OF-
23 LIVING ADJUSTMENT.—Subparagraph (B) of section
24 401(a)(17) is amended—

1 (A) by striking “The Secretary” and in-
 2 serting “In calendar years beginning after
 3 2005, the Secretary”,

4 (B) by striking “October 1, 1993” and in-
 5 serting “July 1, 2005”; and

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

8 (c) ELECTIVE DEFERRALS.—

9 (1) IN GENERAL.—Paragraph (1) of section
 10 402(g) (relating to limitation on exclusion for elec-
 11 tive deferrals) is amended to read as follows:

12 “(1) IN GENERAL.—

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

20 “(B) APPLICABLE DOLLAR AMOUNT.—For
 21 purposes of subparagraph (A), the applicable
 22 dollar amount shall be the amount determined
 23 in accordance with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$11,000
2003	\$11,500

142

2004	\$12,000
2005	\$12,500
2006	\$13,000
2007	\$13,500
2008	\$14,000
2009	\$14,500
2010 or thereafter	\$15,000.”.

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

3 “(5) COST-OF-LIVING ADJUSTMENT.—In the
4 case of taxable years beginning after December 31,
5 2010, the Secretary shall adjust the \$15,000
6 amount under paragraph (1)(B) at the same time
7 and in the same manner as under section 415(d),
8 except that the base period shall be the calendar
9 quarter beginning July 1, 2009, and any increase
10 under this paragraph which is not a multiple of
11 \$500 shall be rounded to the next lowest multiple of
12 \$500.”.

13 (3) CONFORMING AMENDMENTS.—

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

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

1 (C) Clause (iii) of section 501(c)(18)(D) is
 2 amended by striking “(other than paragraph
 3 (4) thereof)”.

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

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

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

13 (B) in subsection (b)(3)(A) by striking
 14 “\$15,000” and inserting “twice the dollar
 15 amount in effect under subsection (b)(2)(A)”.

16 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-
 17 LIVING ADJUSTMENT.—Paragraph (15) of section
 18 457(e) is amended to read as follows:

19 “(15) APPLICABLE DOLLAR AMOUNT.—

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

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002	\$9,000
2003	\$9,500
2004	\$10,000
2005	\$10,500

2006	\$11,000
2007	\$12,000
2008	\$13,000
2009	\$14,000
2010 or thereafter	\$15,000.

1 “(B) COST-OF-LIVING ADJUSTMENTS.—In
2 the case of taxable years beginning after De-
3 cember 31, 2010, the Secretary shall adjust the
4 \$15,000 amount under subparagraph (A) at the
5 same time and in the same manner as under
6 section 415(d), except that the base period shall
7 be the calendar quarter beginning July 1, 2009,
8 and any increase under this paragraph which is
9 not a multiple of \$500 shall be rounded to the
10 next lowest multiple of \$500.”.

11 (e) SIMPLE RETIREMENT ACCOUNTS.—

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

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

20 “(E) APPLICABLE DOLLAR AMOUNT; COST-
21 OF-LIVING ADJUSTMENT.—

22 “(i) IN GENERAL.—For purposes of
23 subparagraph (A)(ii), the applicable dollar

1 amount shall be the amount determined in
 2 accordance with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2002 and 2003	\$7,000
2004 and 2005	\$8,000
2006 and 2007	\$9,000
2008 or thereafter	\$10,000.

3 “(ii) COST-OF-LIVING ADJUSTMENT.—
 4 In the case of a year beginning after De-
 5 cember 31, 2008, the Secretary shall ad-
 6 just the \$10,000 amount under clause (i)
 7 at the same time and in the same manner
 8 as under section 415(d), except that the
 9 base period taken into account shall be the
 10 calendar quarter beginning July 1, 2007,
 11 and any increase under this subparagraph
 12 which is not a multiple of \$500 shall be
 13 rounded to the next lower multiple of
 14 \$500.”.

15 (3) CONFORMING AMENDMENTS.—

16 (A) Subclause (I) of section
 17 401(k)(11)(B)(i) is amended by striking
 18 “\$6,000” and inserting “the amount in effect
 19 under section 408(p)(2)(A)(ii)”.

20 (B) Section 401(k)(11) is amended by
 21 striking subparagraph (E).

1 (f) ROUNDING RULE RELATING TO DEFINED BEN-
2 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—
3 Paragraph (4) of section 415(d) is amended to read as
4 follows:

5 “(4) ROUNDING.—

6 “(A) APPLICABLE LIMIT AMOUNT.—Any
7 increase under subparagraph (A) of paragraph
8 (1) which is not a multiple of \$5,000 shall be
9 rounded to the next lowest multiple of \$5,000.

10 “(B) \$30,000 AMOUNT.—Any increase
11 under subparagraph (C) of paragraph (1) which
12 is not a multiple of \$1,000 shall be rounded to
13 the next lowest multiple of \$1,000.”.

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

17 **SEC. 612. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**
18 **NER, AND SOLE PROPRIETORS.**

19 (a) IN GENERAL.—Subparagraph (B) of section
20 4975(f)(6) (relating to exemptions not to apply to certain
21 transactions) is amended by adding at the end the fol-
22 lowing new clause:

23 “(iii) LOAN EXCEPTION.—For pur-
24 poses of subparagraph (A)(i), the term
25 ‘owner-employee’ shall only include a per-

1 son described in subclause (II) or (III) of
2 clause (i).”.

3 (b) AMENDMENT OF ERISA.—Section 408(d)(2) of
4 the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
6 the following new subparagraph:

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

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

13 **SEC. 613. MODIFICATION OF TOP-HEAVY RULES.**

14 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
15 PLOYEE.—

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

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

20 (B) by striking clause (i) and inserting the
21 following:

22 “(i) an officer of the employer having
23 an annual compensation greater than the
24 amount in effect under section
25 414(q)(1)(B)(i) for such plan year,”;

1 (C) by striking clause (ii) and redesignig-
2 nating clauses (iii) and (iv) as clauses (ii) and
3 (iii), respectively;

4 (D) by striking the second sentence in the
5 matter following clause (iii), as redesignated by
6 subparagraph (C); and

7 (E) by adding at the end the following:
8 “For purposes of this subparagraph, in the case
9 of an employee who is not employed during the
10 preceding plan year or is employed for a portion
11 of such year, such employee shall be treated as
12 a key employee if it can be reasonably antici-
13 pated that such employee will be described in 1
14 of the preceding clauses for the current plan
15 year.”.

16 (2) CONFORMING AMENDMENT.—Section
17 416(i)(1)(B)(iii) is amended by striking “and sub-
18 paragraph (A)(ii)”.

19 (b) MATCHING CONTRIBUTIONS TAKEN INTO AC-
20 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—
21 Section 416(c)(2)(A) (relating to defined contribution
22 plans) is amended by adding at the end the following:
23 “Employer matching contributions (as defined in section
24 401(m)(4)(A)) shall be taken into account for purposes
25 of this subparagraph.”.

1 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE
2 DETERMINATION DATE TAKEN INTO ACCOUNT.—

3 (1) IN GENERAL.—Paragraph (3) of section
4 416(g) is amended to read as follows:

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

8 “(A) IN GENERAL.—For purposes of
9 determining—

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

12 “(ii) the amount of the account of any
13 employee,

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

22 “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-
23 ICE DISTRIBUTION.—In the case of any dis-
24 tribution made for a reason other than separa-
25 tion from service, death, or disability, subpara-

1 graph (A) shall be applied by substituting ‘5-
2 year period’ for ‘1-year period.’.”

3 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—

4 Subparagraph (E) of section 416(g)(4) is
5 amended—

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

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

11 (d) FROZEN PLAN EXEMPT FROM MINIMUM BEN-
12 EFIT REQUIREMENT.—Subparagraph (C) of section
13 416(c)(1) (relating to defined benefit plans) is amended—

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

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

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

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

4 **SEC. 614. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
5 **COUNT FOR PURPOSES OF DEDUCTION LIM-**
6 **ITS.**

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

12 “(n) ELECTIVE DEFERRALS NOT TAKEN INTO AC-
13 COUNT FOR PURPOSES OF DEDUCTION LIMITS.—

14 “(1) IN GENERAL.—The applicable percentage
15 of the amount of any elective deferrals (as defined
16 in section 402(g)(3)) shall not be subject to any lim-
17 itation contained in paragraph (3), (7), or (9) of
18 subsection (a), and such elective deferrals shall not
19 be taken into account in applying any such limita-
20 tion to any other contributions.

21 “(2) APPLICABLE PERCENTAGE.—For purposes
22 of paragraph (1), the applicable percentage shall be
23 determined in accordance with the following table:

“For taxable years beginning in:	The applicable percentage is:
2002 through 2010	25 percent
2011 and thereafter	100 percent.”.

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

4 **SEC. 615. REPEAL OF COORDINATION REQUIREMENTS FOR**
5 **DEFERRED COMPENSATION PLANS OF STATE**
6 **AND LOCAL GOVERNMENTS AND TAX-EX-**
7 **EMPT ORGANIZATIONS.**

8 (a) IN GENERAL.—Subsection (c) of section 457 (re-
9 lating to deferred compensation plans of State and local
10 governments and tax-exempt organizations), as amended
11 by section 611, is amended to read as follows:

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

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

21 **SEC. 616. DEDUCTION LIMITS.**

22 (a) MODIFICATION OF LIMITS.—

23 (1) STOCK BONUS AND PROFIT SHARING
24 TRUSTS.—

1 (A) IN GENERAL.—Subclause (I) of section
2 404(a)(3)(A)(i) (relating to stock bonus and
3 profit sharing trusts) is amended by striking
4 “15 percent” and inserting “25 percent”.

5 (B) CONFORMING AMENDMENT.—Subpara-
6 graph (C) of section 404(h)(1) is amended by
7 striking “15 percent” each place it appears and
8 inserting “25 percent”.

9 (2) DEFINED CONTRIBUTION PLANS.—

10 (A) IN GENERAL.—Clause (v) of section
11 404(a)(3)(A) (relating to stock bonus and profit
12 sharing trusts) is amended to read as follows:

13 “(v) DEFINED CONTRIBUTION PLANS
14 SUBJECT TO THE FUNDING STANDARDS.—
15 Except as provided by the Secretary, a de-
16 fined contribution plan which is subject to
17 the funding standards of section 412 shall
18 be treated in the same manner as a stock
19 bonus or profit-sharing plan for purposes
20 of this subparagraph.”

21 (B) CONFORMING AMENDMENTS.—

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

1 (ii) Section 404(h)(2) is amended by
2 striking “stock bonus or profit-sharing
3 trust” and inserting “trust subject to sub-
4 section (a)(3)(A)”.

5 (iii) The heading of section 404(h)(2)
6 is amended by striking “STOCK BONUS
7 AND PROFIT-SHARING TRUST” and insert-
8 ing “CERTAIN TRUSTS”.

9 (b) COMPENSATION.—

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

13 “(12) DEFINITION OF COMPENSATION.—For
14 purposes of paragraphs (3), (7), (8), and (9), the
15 term ‘compensation’ shall include amounts treated
16 as ‘participant’s compensation’ under subparagraph
17 (C) or (D) of section 415(c)(3).”.

18 (2) CONFORMING AMENDMENTS.—

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

22 (B) Clause (i) of section 4972(e)(6)(B) is
23 amended by striking “(within the meaning of
24 section 404(a))” and inserting “(within the

1 meaning of section 404(a) and as adjusted
2 under section 404(a)(12))”.

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

6 **SEC. 617. OPTION TO TREAT ELECTIVE DEFERRALS AS**
7 **AFTER-TAX ROTH CONTRIBUTIONS.**

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

12 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-**
13 **RALS AS ROTH CONTRIBUTIONS.**

14 “(a) GENERAL RULE.—If an applicable retirement
15 plan includes a qualified Roth contribution program—

16 “(1) any designated Roth contribution made by
17 an employee pursuant to the program shall be treat-
18 ed as an elective deferral for purposes of this chap-
19 ter, except that such contribution shall not be ex-
20 cludable from gross income, and

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

1 “(b) QUALIFIED ROTH CONTRIBUTION PROGRAM.—

2 For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified Roth
4 contribution program’ means a program under which
5 an employee may elect to make designated Roth con-
6 tributions in lieu of all or a portion of elective deferr-
7 als the employee is otherwise eligible to make under
8 the applicable retirement plan.

9 “(2) SEPARATE ACCOUNTING REQUIRED.—A
10 program shall not be treated as a qualified Roth
11 contribution program unless the applicable retire-
12 ment plan—

13 “(A) establishes separate accounts (‘des-
14 ignated Roth accounts’) for the designated Roth
15 contributions of each employee and any earn-
16 ings properly allocable to the contributions, and

17 “(B) maintains separate recordkeeping
18 with respect to each account.

19 “(c) DEFINITIONS AND RULES RELATING TO DES-
20 IGNATED ROTH CONTRIBUTIONS.—For purposes of this
21 section—

22 “(1) DESIGNATED ROTH CONTRIBUTION.—The
23 term ‘designated Roth contribution’ means any elec-
24 tive deferral which—

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

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

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

10 “(A) the maximum amount of elective de-
11 ferrals excludable from gross income of the em-
12 ployee for the taxable year (without regard to
13 this section), over

14 “(B) the aggregate amount of elective de-
15 ferrals of the employee for the taxable year
16 which the employee does not designate under
17 paragraph (1).

18 “(3) ROLLOVER CONTRIBUTIONS.—

19 “(A) IN GENERAL.—A rollover contribu-
20 tion of any payment or distribution from a des-
21 ignated Roth account which is otherwise allow-
22 able under this chapter may be made only if the
23 contribution is to—

1 “(i) another designated Roth account
2 of the individual from whose account the
3 payment or distribution was made, or

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

5 “(B) COORDINATION WITH LIMIT.—Any
6 rollover contribution to a designated Roth ac-
7 count under subparagraph (A) shall not be
8 taken into account for purposes of paragraph
9 (1).

10 “(d) DISTRIBUTION RULES.—For purposes of this
11 title—

12 “(1) EXCLUSION.—Any qualified distribution
13 from a designated Roth account shall not be includ-
14 ible in gross income.

15 “(2) QUALIFIED DISTRIBUTION.—For purposes
16 of this subsection—

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

21 “(B) DISTRIBUTIONS WITHIN NONEXCLU-
22 SION PERIOD.—A payment or distribution from
23 a designated Roth account shall not be treated
24 as a qualified distribution if such payment or

1 distribution is made within the 5-taxable-year
2 period beginning with the earlier of—

3 “(i) the first taxable year for which
4 the individual made a designated Roth con-
5 tribution to any designated Roth account
6 established for such individual under the
7 same applicable retirement plan, or

8 “(ii) if a rollover contribution was
9 made to such designated Roth account
10 from a designated Roth account previously
11 established for such individual under an-
12 other applicable retirement plan, the first
13 taxable year for which the individual made
14 a designated Roth contribution to such
15 previously established account.

16 “(C) DISTRIBUTIONS OF EXCESS DEFER-
17 RALS AND CONTRIBUTIONS AND EARNINGS
18 THEREON.—The term ‘qualified distribution’
19 shall not include any distribution of any excess
20 deferral under section 402(g)(2) or any excess
21 contribution under section 401(k)(8), and any
22 income on the excess deferral or contribution.

23 “(3) TREATMENT OF DISTRIBUTIONS OF CER-
24 TAIN EXCESS DEFERRALS.—Notwithstanding section
25 72, if any excess deferral under section 402(g)(2) at-

1 tributable to a designated Roth contribution is not
2 distributed on or before the 1st April 15 following
3 the close of the taxable year in which such excess de-
4 ferral is made, the amount of such excess deferral
5 shall—

6 “(A) not be treated as investment in the
7 contract, and

8 “(B) be included in gross income for the
9 taxable year in which such excess is distributed.

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

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

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

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

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

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

4 (b) EXCESS DEFERRALS.—Section 402(g) (relating
5 to limitation on exclusion for elective deferrals) is
6 amended—

7 (1) by adding at the end of paragraph (1)(A)
8 (as added by section 201(c)(1)) the following new
9 sentence: “The preceding sentence shall not apply
10 the portion of such excess as does not exceed the
11 designated Roth contributions of the individual for
12 the taxable year.”; and

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

16 (c) ROLLOVERS.—Subparagraph (B) of section
17 402(c)(8) is amended by adding at the end the following:

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

25 (d) REPORTING REQUIREMENTS.—

1 (1) W-2 INFORMATION.—Section 6051(a)(8) is
2 amended by inserting “, including the amount of
3 designated Roth contributions (as defined in section
4 402A)” before the comma at the end.

5 (2) INFORMATION.—Section 6047 is amended
6 by redesignating subsection (f) as subsection (g) and
7 by inserting after subsection (e) the following new
8 subsection:

9 “(f) DESIGNATED ROTH CONTRIBUTIONS.—The Sec-
10 retary shall require the plan administrator of each applica-
11 ble retirement plan (as defined in section 402A) to make
12 such returns and reports regarding designated Roth con-
13 tributions (as defined in section 402A) to the Secretary,
14 participants and beneficiaries of the plan, and such other
15 persons as the Secretary may prescribe.”.

16 (e) CONFORMING AMENDMENTS.—

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

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

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

1 (f) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2003.

4 **SEC. 618. NONREFUNDABLE CREDIT TO CERTAIN INDIVID-**
 5 **UALS FOR ELECTIVE DEFERRALS AND IRA**
 6 **CONTRIBUTIONS.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
 8 chapter A of chapter 1 (relating to nonrefundable personal
 9 credits), as amended by section 432, is amended by insert-
 10 ing after section 25B the following new section:

11 **“SEC. 25C. ELECTIVE DEFERRALS AND IRA CONTRIBU-**
 12 **TIONS BY CERTAIN INDIVIDUALS.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
 14 gible individual, there shall be allowed as a credit against
 15 the tax imposed by this subtitle for the taxable year an
 16 amount equal to the applicable percentage of so much of
 17 the qualified retirement savings contributions of the eligi-
 18 ble individual for the taxable year as do not exceed \$2,000.

19 “(b) APPLICABLE PERCENTAGE.—For purposes of
 20 this section, the applicable percentage is the percentage
 21 determined in accordance with the following table:

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$30,000	\$0	\$22,500	\$0	\$15,000	50
30,000	32,500	22,500	24,375	15,000	16,250	20
32,500	50,000	24,375	37,500	16,250	25,000	10

Adjusted Gross Income						Applicable percentage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
50,000		37,500		25,000		0

1 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The term ‘eligible indi-
4 vidual’ means any individual if such individual has
5 attained the age of 18 as of the close of the taxable
6 year.

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

10 “(A) any individual with respect to whom
11 a deduction under section 151 is allowed to an-
12 other taxpayer for a taxable year beginning in
13 the calendar year in which such individual’s
14 taxable year begins, and

15 “(B) any individual who is a student (as
16 defined in section 151(c)(4)).

17 “(d) QUALIFIED RETIREMENT SAVINGS CONTRIBU-
18 TIONS.—For purposes of this section—

19 “(1) IN GENERAL.—The term ‘qualified retire-
20 ment savings contributions’ means, with respect to
21 any taxable year, the sum of—

1 “(A) the amount of the qualified retire-
2 ment contributions (as defined in section
3 219(e)) made by the eligible individual,

4 “(B) the amount of—

5 “(i) any elective deferrals (as defined
6 in section 402(g)(3)) of such individual,
7 and

8 “(ii) any elective deferral of com-
9 pensation by such individual under an eli-
10 gible deferred compensation plan (as de-
11 fined in section 457(b)) of an eligible em-
12 ployer described in section 457(e)(1)(A),
13 and

14 “(C) the amount of voluntary employee
15 contributions by such individual to any qualified
16 retirement plan (as defined in section 4974(c)).

17 “(2) REDUCTION FOR CERTAIN DISTRIBU-
18 TIONS.—

19 “(A) IN GENERAL.—The qualified retire-
20 ment savings contributions determined under
21 paragraph (1) shall be reduced (but not below
22 zero) by the sum of—

23 “(i) any distribution from a qualified
24 retirement plan (as defined in section
25 4974(c)), or from an eligible deferred com-

1 pensation plan (as defined in section
2 457(b)), received by the individual during
3 the testing period which is includible in
4 gross income, and

5 “(ii) any distribution from a Roth
6 IRA received by the individual during the
7 testing period which is not a qualified roll-
8 over contribution (as defined in section
9 408A(e)) to a Roth IRA.

10 “(B) TESTING PERIOD.—For purposes of
11 subparagraph (A), the testing period, with re-
12 spect to a taxable year, is the period which
13 includes—

14 “(i) such taxable year,

15 “(ii) the 2 preceding taxable years,

16 and

17 “(iii) the period after such taxable
18 year and before the due date (including ex-
19 tensions) for filing the return of tax for
20 such taxable year.

21 “(C) EXCEPTED DISTRIBUTIONS.—There
22 shall not be taken into account under subpara-
23 graph (A)—

1 “(i) any distribution referred to in
2 section 72(p), 401(k)(8), 401(m)(6),
3 402(g)(2), 404(k), or 408(d)(4), and

4 “(ii) any distribution to which section
5 408A(d)(3) applies.

6 “(D) TREATMENT OF DISTRIBUTIONS RE-
7 CEIVED BY SPOUSE OF INDIVIDUAL.—For pur-
8 poses of determining distributions received by
9 an individual under subparagraph (A) for any
10 taxable year, any distribution received by the
11 spouse of such individual shall be treated as re-
12 ceived by such individual if such individual and
13 spouse file a joint return for such taxable year
14 and for the taxable year during which the
15 spouse receives the distribution.

16 “(e) ADJUSTED GROSS INCOME.—For purposes of
17 this section, adjusted gross income shall be determined
18 without regard to sections 911, 931, and 933.

19 “(f) INVESTMENT IN THE CONTRACT.—Notwith-
20 standing any other provision of law, a qualified retirement
21 savings contribution shall not fail to be included in deter-
22 mining the investment in the contract for purposes of sec-
23 tion 72 by reason of the credit under this section.

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

1 (b) CREDIT ALLOWED AGAINST REGULAR TAX AND
2 ALTERNATIVE MINIMUM TAX.—

3 (1) IN GENERAL.—Section 25C, as added by
4 subsection (a), is amended by inserting after sub-
5 section (f) the following new subsection:

6 “(g) LIMITATION BASED ON AMOUNT OF TAX.—The
7 aggregate credit allowed by this section for the taxable
8 year shall not exceed the sum of—

9 “(1) the taxpayer’s regular tax liability for the
10 taxable year reduced by the sum of the credits al-
11 lowed by sections 21, 22, 23, 24, 25, 25A, and 25B
12 plus

13 “(2) the tax imposed by section 55 for such
14 taxable year.”

15 (2) CONFORMING AMENDMENTS.—

16 (A) Section 26(a)(1), as amended by sec-
17 tion 201, is amended by inserting “or section
18 25C” after “section 24”.

19 (B) Section 23(c), as amended by section
20 201, is amended by striking “sections 24” and
21 inserting “sections 24, 25C,”.

22 (C) Section 25(e)(1)(C), as amended by
23 section 201, is amended by inserting “25C,”
24 after “24,”.

1 (D) Section 904(h), as amended by section
2 201, is amended by inserting “or 25C” after
3 “section 24”.

4 (E) Section 1400C(d), as amended by sec-
5 tion 201, is amended by inserting “and section
6 25C” after “section 24”.

7 (c) CONFORMING AMENDMENT.—The table of sec-
8 tions for subpart A of part IV of subchapter A of chapter
9 1, as amended by section 432, is amended by inserting
10 after the item relating to section 25B the following new
11 item:

“Sec. 25C. Elective deferrals and IRA contributions by certain in-
dividuals.”

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

15 **SEC. 619. CREDIT FOR QUALIFIED PENSION PLAN CON-**
16 **TRIBUTIONS OF SMALL EMPLOYERS.**

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

21 **“SEC. 45E. SMALL EMPLOYER PENSION PLAN CONTRIBU-**
22 **TIONS.**

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

1 sion plan contribution credit determined under this section
2 for any taxable year is an amount equal to 50 percent
3 of the amount which would (but for subsection (f)(1)) be
4 allowed as a deduction under section 404 for such taxable
5 year for qualified employer contributions made to any
6 qualified retirement plan on behalf of any employee who
7 is not a highly compensated employee.

8 “(b) CREDIT LIMITED TO 3 YEARS.—The credit al-
9 lowable by this section shall be allowed only with respect
10 to the period of 3 taxable years beginning with the first
11 taxable year for which a credit is allowable with respect
12 to a plan under this section.

13 “(c) QUALIFIED EMPLOYER CONTRIBUTION.—For
14 purposes of this section—

15 “(1) DEFINED CONTRIBUTION PLANS.—In the
16 case of a defined contribution plan, the term ‘quali-
17 fied employer contribution’ means the amount of
18 nonelective and matching contributions to the plan
19 made by the employer on behalf of any employee
20 who is not a highly compensated employee to the ex-
21 tent such amount does not exceed 3 percent of such
22 employee’s compensation from the employer for the
23 year.

24 “(2) DEFINED BENEFIT PLANS.—In the case of
25 a defined benefit plan, the term ‘qualified employer

1 contribution' means the amount of employer con-
2 tributions to the plan made on behalf of any em-
3 ployee who is not a highly compensated employee to
4 the extent that the accrued benefit of such employee
5 derived from employer contributions for the year
6 does not exceed the equivalent (as determined under
7 regulations prescribed by the Secretary and without
8 regard to contributions and benefits under the Social
9 Security Act) of 3 percent of such employee's com-
10 pensation from the employer for the year.

11 “(d) QUALIFIED RETIREMENT PLAN.—

12 “(1) IN GENERAL.—The term ‘qualified retire-
13 ment plan’ means any plan described in section
14 401(a) which includes a trust exempt from tax
15 under section 501(a) if the plan meets—

16 “(A) the contribution requirements of
17 paragraph (2),

18 “(B) the vesting requirements of para-
19 graph (3), and

20 “(C) the distribution requirements of para-
21 graph (4).

22 “(2) CONTRIBUTION REQUIREMENTS.—

23 “(A) IN GENERAL.—The requirements of
24 this paragraph are met if, under the plan—

1 “(i) the employer is required to make
2 nonelective contributions of at least 1 per-
3 cent of compensation (or the equivalent
4 thereof in the case of a defined benefit
5 plan) for each employee who is not a high-
6 ly compensated employee who is eligible to
7 participate in the plan, and

8 “(ii) allocations of nonelective em-
9 ployer contributions, in the case of a de-
10 fined contribution plan, are either in equal
11 dollar amounts for all employees covered
12 by the plan or bear a uniform relationship
13 to the total compensation, or the basic or
14 regular rate of compensation, of the em-
15 ployees covered by the plan (and an equiv-
16 alent requirement is met with respect to a
17 defined benefit plan).

18 “(B) COMPENSATION LIMITATION.—The
19 compensation taken into account under sub-
20 paragraph (A) for any year shall not exceed the
21 limitation in effect for such year under section
22 401(a)(17).

23 “(3) VESTING REQUIREMENTS.—The require-
24 ments of this paragraph are met if the plan satisfies

1 the requirements of either of the following subpara-
2 graphs:

3 “(A) 3-YEAR VESTING.—A plan satisfies
4 the requirements of this subparagraph if an em-
5 ployee who has completed at least 3 years of
6 service has a nonforfeitable right to 100 percent
7 of the employee’s accrued benefit derived from
8 employer contributions.

9 “(B) 5-YEAR GRADED VESTING.—A plan
10 satisfies the requirements of this subparagraph
11 if an employee has a nonforfeitable right to a
12 percentage of the employee’s accrued benefit de-
13 rived from employer contributions determined
14 under the following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

15 “(4) DISTRIBUTION REQUIREMENTS.—In the
16 case of a profit-sharing or stock bonus plan, the re-
17 quirements of this paragraph are met if, under the
18 plan, qualified employer contributions are distribut-
19 able only as provided in section 401(k)(2)(B).

20 “(e) OTHER DEFINITIONS.—For purposes of this
21 section—

22 “(1) ELIGIBLE EMPLOYER.—

1 “(A) IN GENERAL.—The term ‘eligible em-
2 ployer’ means, with respect to any year, an em-
3 ployer which has no more than 20 employees
4 who received at least \$5,000 of compensation
5 from the employer for the preceding year.

6 “(B) REQUIREMENT FOR NEW QUALIFIED
7 EMPLOYER PLANS.—Such term shall not in-
8 clude an employer if, during the 3-taxable year
9 period immediately preceding the 1st taxable
10 year for which the credit under this section is
11 otherwise allowable for a qualified employer
12 plan of the employer, the employer or any mem-
13 ber of any controlled group including the em-
14 ployer (or any predecessor of either) established
15 or maintained a qualified employer plan with
16 respect to which contributions were made, or
17 benefits were accrued, for substantially the
18 same employees as are in the qualified employer
19 plan.

20 “(2) HIGHLY COMPENSATED EMPLOYEE.—The
21 term ‘highly compensated employee’ has the mean-
22 ing given such term by section 414(q) (determined
23 without regard to section 414(q)(1)(B)(ii)).

24 “(f) SPECIAL RULES.—

1 “(1) DISALLOWANCE OF DEDUCTION.—No de-
2 duction shall be allowed for that portion of the quali-
3 fied employer contributions paid or incurred for the
4 taxable year which is equal to the credit determined
5 under subsection (a).

6 “(2) ELECTION NOT TO CLAIM CREDIT.—This
7 section shall not apply to a taxpayer for any taxable
8 year if such taxpayer elects to have this section not
9 apply for such taxable year.

10 “(3) AGGREGATION RULES.—All persons treat-
11 ed as a single employer under subsection (a) or (b)
12 of section 52, or subsection (n) or (o) of section 414,
13 shall be treated as one person. All eligible employer
14 plans shall be treated as 1 eligible employer plan.

15 “(g) RECAPTURE OF CREDIT ON FORFEITED CON-
16 TRIBUTIONS.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), if any accrued benefit which is forfeitable
19 by reason of subsection (d)(3) is forfeited, the em-
20 ployer’s tax imposed by this chapter for the taxable
21 year in which the forfeiture occurs shall be increased
22 by 35 percent of the employer contributions from
23 which such benefit is derived to the extent such con-
24 tributions were taken into account in determining
25 the credit under this section.

1 “(2) REALLOCATED CONTRIBUTIONS.—Para-
2 graph (1) shall not apply to any contribution which
3 is reallocated by the employer under the plan to em-
4 ployees who are not highly compensated employees.”.

5 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
6 NESS CREDIT.—Section 38(b) (defining current year busi-
7 ness credit) is amended by striking “plus” at the end of
8 paragraph (12), by striking the period at the end of para-
9 graph (13) and inserting “, plus”, and by adding at the
10 end the following new paragraph:

11 “(14) in the case of an eligible employer (as de-
12 fined in section 45E(e)), the small employer pension
13 plan contribution credit determined under section
14 45E(a).”

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 39(d) is amended by adding at the
17 end the following new paragraph:

18 “(10) NO CARRYBACK OF SMALL EMPLOYER
19 PENSION PLAN CONTRIBUTION CREDIT BEFORE JAN-
20 UARY 1, 2003.—No portion of the unused business
21 credit for any taxable year which is attributable to
22 the small employer pension plan contribution credit
23 determined under section 45E may be carried back
24 to a taxable year beginning before January 1,
25 2003.”

1 (2) Subsection (c) of section 196 is amended by
2 striking “and” at the end of paragraph (8), by strik-
3 ing the period at the end of paragraph (9) and in-
4 serting “, and”, and by adding at the end the fol-
5 lowing new paragraph:

6 “(10) the small employer pension plan contribu-
7 tion credit determined under section 45E(a).”

8 (3) The table of sections for subpart D of part
9 IV of subchapter A of chapter 1 is amended by add-
10 ing at the end the following new item:

 “Sec. 45E. Small employer pension plan contributions.”

11 (d) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to contributions paid or incurred
13 in taxable years beginning after December 31, 2002.

14 **SEC. 620. CREDIT FOR PENSION PLAN STARTUP COSTS OF**
15 **SMALL EMPLOYERS.**

16 (a) **IN GENERAL.**—Subpart D of part IV of sub-
17 chapter A of chapter 1 (relating to business related cred-
18 its), as amended by section 619, is amended by adding
19 at the end the following new section:

20 **“SEC. 45F. SMALL EMPLOYER PENSION PLAN STARTUP**
21 **COSTS.**

22 “(a) **GENERAL RULE.**—For purposes of section 38,
23 in the case of an eligible employer, the small employer pen-
24 sion plan startup cost credit determined under this section
25 for any taxable year is an amount equal to 50 percent

1 of the qualified startup costs paid or incurred by the tax-
2 payer during the taxable year.

3 “(b) DOLLAR LIMITATION.—The amount of the cred-
4 it determined under this section for any taxable year shall
5 not exceed—

6 “(1) \$500 for the first credit year and each of
7 the 2 taxable years immediately following the first
8 credit year, and

9 “(2) zero for any other taxable year.

10 “(c) ELIGIBLE EMPLOYER.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘eligible em-
13 ployer’ has the meaning given such term by section
14 408(p)(2)(C)(i).

15 “(2) REQUIREMENT FOR NEW QUALIFIED EM-
16 PLOYER PLANS.—Such term shall not include an
17 employer if, during the 3-taxable year period imme-
18 diately preceding the 1st taxable year for which the
19 credit under this section is otherwise allowable for a
20 qualified employer plan of the employer, the em-
21 ployer or any member of any controlled group in-
22 cluding the employer (or any predecessor of either)
23 established or maintained a qualified employer plan
24 with respect to which contributions were made, or

1 benefits were accrued, for substantially the same em-
2 ployees as are in the qualified employer plan.

3 “(d) OTHER DEFINITIONS.—For purposes of this
4 section—

5 “(1) QUALIFIED STARTUP COSTS.—

6 “(A) IN GENERAL.—The term ‘qualified
7 startup costs’ means any ordinary and nec-
8 essary expenses of an eligible employer which
9 are paid or incurred in connection with—

10 “(i) the establishment or administra-
11 tion of an eligible employer plan, or

12 “(ii) the retirement-related education
13 of employees with respect to such plan.

14 “(B) PLAN MUST HAVE AT LEAST 1 PAR-
15 TICIPANT.—Such term shall not include any ex-
16 pense in connection with a plan that does not
17 have at least 1 employee eligible to participate
18 who is not a highly compensated employee.

19 “(2) ELIGIBLE EMPLOYER PLAN.—The term
20 ‘eligible employer plan’ means a qualified employer
21 plan within the meaning of section 4972(d).

22 “(3) FIRST CREDIT YEAR.—The term ‘first
23 credit year’ means—

1 “(A) the taxable year which includes the
2 date that the eligible employer plan to which
3 such costs relate becomes effective, or

4 “(B) at the election of the eligible em-
5 ployer, the taxable year preceding the taxable
6 year referred to in subparagraph (A).

7 “(e) SPECIAL RULES.—For purposes of this
8 section—

9 “(1) AGGREGATION RULES.—All persons treat-
10 ed as a single employer under subsection (a) or (b)
11 of section 52, or subsection (n) or (o) of section 414,
12 shall be treated as one person. All eligible employer
13 plans shall be treated as 1 eligible employer plan.

14 “(2) DISALLOWANCE OF DEDUCTION.—No de-
15 duction shall be allowed for that portion of the quali-
16 fied startup costs paid or incurred for the taxable
17 year which is equal to the credit determined under
18 subsection (a).

19 “(3) ELECTION NOT TO CLAIM CREDIT.—This
20 section shall not apply to a taxpayer for any taxable
21 year if such taxpayer elects to have this section not
22 apply for such taxable year.”

23 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
24 NESS CREDIT.—Section 38(b) (defining current year busi-
25 ness credit), as amended by section 619, is amended by

1 striking “plus” at the end of paragraph (13), by striking
2 the period at the end of paragraph (14) and inserting “,
3 plus”, and by adding at the end the following new para-
4 graph:

5 “(15) in the case of an eligible employer (as de-
6 fined in section 45F(c)), the small employer pension
7 plan startup cost credit determined under section
8 45F(a).”

9 (c) CONFORMING AMENDMENTS.—

10 (1) Section 39(d), as amended by section
11 619(c), is amended by adding at the end the fol-
12 lowing new paragraph:

13 “(11) NO CARRYBACK OF SMALL EMPLOYER
14 PENSION PLAN STARTUP COST CREDIT BEFORE JAN-
15 UARY 1, 2002.—No portion of the unused business
16 credit for any taxable year which is attributable to
17 the small employer pension plan startup cost credit
18 determined under section 45F may be carried back
19 to a taxable year beginning before January 1,
20 2002.”

21 (2) Subsection (c) of section 196, as amended
22 by section 619(c), is amended by striking “and” at
23 the end of paragraph (9), by striking the period at
24 the end of paragraph (10) and inserting “, and”,

1 and by adding at the end the following new para-
2 graph:

3 “(11) the small employer pension plan startup
4 cost credit determined under section 45F(a).”

5 (3) The table of sections for subpart D of part
6 IV of subchapter A of chapter 1, as amended by sec-
7 tion 619(c), is amended by adding at the end the
8 following new item:

“Sec. 45F. Small employer pension plan startup costs.”

9 (d) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to costs paid or incurred in taxable
11 years beginning after December 31, 2001, with respect to
12 qualified employer plans established after such date.

13 **SEC. 621. ELIMINATION OF USER FEE FOR REQUESTS TO**
14 **IRS REGARDING NEW PENSION PLANS.**

15 (a) **ELIMINATION OF CERTAIN USER FEES.**—The
16 Secretary of the Treasury or the Secretary’s delegate shall
17 not require payment of user fees under the program estab-
18 lished under section 10511 of the Revenue Act of 1987
19 for requests to the Internal Revenue Service for ruling let-
20 ters, opinion letters, and determination letters or similar
21 requests with respect to the qualified status of a new pen-
22 sion benefit plan or any trust which is part of the plan.

23 (b) **NEW PENSION BENEFIT PLAN.**—For purposes of
24 this section—

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

8 (2) ELIGIBLE EMPLOYER.—

9 (A) IN GENERAL.—The term “eligible em-
10 ployer” means an employer which has—

11 (i) no more than 100 employees for
12 the preceding year, and

13 (ii) at least one employee who is not
14 a highly compensated employee (as defined
15 in section 414(q)) and is participating in
16 the plan.

17 (B) NEW PLAN REQUIREMENT.—The term
18 “eligible employer” shall not include an em-
19 ployer if, during the 3-taxable year period im-
20 mediately preceding the taxable year in which
21 the request is made, the employer or any mem-
22 ber of any controlled group including the em-
23 ployer (or any predecessor of either) established
24 or maintained a qualified employer plan with
25 respect to which contributions were made, or

1 benefits were accrued for service, for substan-
2 tially the same employees as are in the qualified
3 employer plan.

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

8 (d) EFFECTIVE DATE.—The provisions of this sec-
9 tion shall apply with respect to requests made after De-
10 cember 31, 2001.

11 **SEC. 622. TREATMENT OF NONRESIDENT ALIENS ENGAGED**
12 **IN INTERNATIONAL TRANSPORTATION SERV-**
13 **ICES.**

14 (a) EXCLUSION FROM INCOME SOURCING RULES.—
15 The second sentence of section 861(a)(3) (relating to
16 gross income from sources within the United States) is
17 amended by striking “except for purposes of sections 79
18 and 105 and subchapter D,”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to remuneration for services per-
21 formed in plan years beginning after December 31, 2001.

1 **Subtitle C—Enhancing Fairness for**
2 **Women**

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

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

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

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

15 “(2) LIMITATION ON AMOUNT OF ADDITIONAL
16 DEFERRALS.—

17 “(A) IN GENERAL.—A plan shall not per-
18 mit additional elective deferrals under para-
19 graph (1) for any year in an amount greater
20 than the lesser of—

21 “(i) the applicable dollar amount, or

22 “(ii) the excess (if any) of—

23 “(I) the participant’s compensa-
24 tion (as defined in section 415(c)(3))
25 for the year, over

1 “(II) any other elective deferrals
 2 of the participant for such year which
 3 are made without regard to this sub-
 4 section.

5 “(B) APPLICABLE DOLLAR AMOUNT.—For
 6 purposes of this paragraph, the applicable dol-
 7 lar amount shall be determined in accordance
 8 with the following table:

“For taxable years beginning in:	The applicable dollar amount is:
2002, 2003, and 2004	\$500
2005 and 2006	\$1,000
2007	\$2,000
2008	\$3,000
2009	\$4,000
2010 and thereafter	\$7,500.

9 “(3) TREATMENT OF CONTRIBUTIONS.—In the
 10 case of any contribution to a plan under paragraph
 11 (1)—

12 “(A) such contribution shall not, with re-
 13 spect to the year in which the contribution is
 14 made—

15 “(i) be subject to any otherwise appli-
 16 cable limitation contained in section
 17 402(g), 402(h), 403(b), 404(a), 404(h),
 18 408(k), 408(p), 415, or 457, or

19 “(ii) be taken into account in applying
 20 such limitations to other contributions or

1 benefits under such plan or any other such
2 plan, and

3 “(B) such plan shall not be treated as fail-
4 ing to meet the requirements of section
5 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11),
6 401(k)(12), 401(m), 403(b)(12), 408(k),
7 408(p), 408B, 410(b), or 416 by reason of the
8 making of (or the right to make) such contribu-
9 tion.

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

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

16 “(B) with respect to whom no other elec-
17 tive deferrals may (without regard to this sub-
18 section) be made to the plan for the plan year
19 by reason of the application of any limitation or
20 other restriction described in paragraph (3) or
21 comparable limitation or restriction contained
22 in the terms of the plan.

23 “(5) OTHER DEFINITIONS AND RULES.—For
24 purposes of this subsection—

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

3 “(i) an employees’ trust described in
4 section 401(a) which is exempt from tax
5 under section 501(a),

6 “(ii) a plan under which amounts are
7 contributed by an individual’s employer for
8 an annuity contract described in section
9 403(b),

10 “(iii) an eligible deferred compensa-
11 tion plan under section 457 of an eligible
12 employer described in section 457(e)(1)(A),
13 and

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

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

19 “(C) EXCEPTION FOR SECTION 457
20 PLANS.—This subsection shall not apply to an
21 applicable employer plan described in subpara-
22 graph (A)(iii) for any year to which section
23 457(b)(3) applies.”.

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

4 **SEC. 632. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**
 5 **EMPLOYEES TO DEFINED CONTRIBUTION**
 6 **PLANS.**

7 (a) EQUITABLE TREATMENT.—

8 (1) IN GENERAL.—Subparagraph (B) of section
 9 415(c)(1) (relating to limitation for defined con-
 10 tribution plans) is amended by striking “25 percent”
 11 and inserting “the applicable percentage”.

12 (2) APPLICABLE PERCENTAGE.—Section 415(c)
 13 is amended by adding at the end the following new
 14 paragraph:

15 “(8) APPLICABLE PERCENTAGE.—For purposes
 16 of paragraph (1)(B), the applicable percentage shall
 17 be determined in accordance with the following
 18 table:

“For years beginning in:	The applicable percentage is:
2002 through 2010	50 percent
2011 and thereafter	100 percent.”.

19 (3) APPLICATION TO SECTION 403(b).—Section
 20 403(b) is amended—

21 (A) by striking “the exclusion allowance
 22 for such taxable year” in paragraph (1) and in-

1 serting “the applicable limit under section
2 415”,

3 (B) by striking paragraph (2), and

4 (C) by inserting “or any amount received
5 by a former employee after the fifth taxable
6 year following the taxable year in which such
7 employee was terminated” before the period at
8 the end of the second sentence of paragraph
9 (3).

10 (4) CONFORMING AMENDMENTS.—

11 (A) Subsection (f) of section 72 is amend-
12 ed by striking “section 403(b)(2)(D)(iii)” and
13 inserting “section 403(b)(2)(D)(iii), as in effect
14 before the enactment of the Restoring Earnings
15 to Lift Individuals and Empower Families Act
16 of 2001”.

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

20 (C) 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 (D) 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 (E) Section 415(c) is amended by striking
7 paragraph (4).

8 (F) Section 415(c)(7) is amended to read
9 as follows:

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

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

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

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

10 (G) Subparagraph (B) of section 402(g)(7)
11 (as redesignated by section 611(c)(3)) is
12 amended by inserting before the period at the
13 end the following: “(as in effect before the en-
14 actment of the Restoring Earnings to Lift Indi-
15 viduals and Empower Families Act of 2001)”.

16 (H) Section 664(g) is amended—

17 (i) in paragraph (3)(E) by striking
18 “limitations under section 415(c)” and in-
19 serting “applicable limitation under para-
20 graph (7)”, and

21 (ii) by adding at the end the following
22 new paragraph:

23 “(7) APPLICABLE LIMITATION.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (3)(E), the applicable limitation under

1 this paragraph with respect to a participant is
2 an amount equal to the lesser of—

3 “(i) \$30,000, or

4 “(ii) 25 percent of the participant’s
5 compensation (as defined in section
6 415(c)(3)).

7 “(B) COST-OF-LIVING ADJUSTMENT.—The
8 Secretary shall adjust annually the \$30,000
9 amount under subparagraph (A)(i) at the same
10 time and in the same manner as under section
11 415(d), except that the base period shall be the
12 calendar quarter beginning October 1, 1993,
13 and any increase under this subparagraph
14 which is not a multiple of \$5,000 shall be
15 rounded to the next lowest multiple of \$5,000.”.

16 (5) EFFECTIVE DATE.—

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

21 (B) The amendments made by paragraphs
22 (3) and (4) shall apply to years beginning after
23 December 31, 2010.

24 (b) SPECIAL RULES FOR SECTIONS 403(b) AND
25 408.—

1 (1) IN GENERAL.—Subsection (k) of section
2 415 is amended by adding at the end the following
3 new paragraph:

4 “(4) SPECIAL RULES FOR SECTIONS 403(b) AND
5 408.—For purposes of this section, any annuity con-
6 tract described in section 403(b) for the benefit of
7 a participant shall be treated as a defined contribu-
8 tion plan maintained by each employer with respect
9 to which the participant has the control required
10 under subsection (b) or (c) of section 414 (as modi-
11 fied by subsection (h)). For purposes of this section,
12 any contribution by an employer to a simplified em-
13 ployee pension plan for an individual for a taxable
14 year shall be treated as an employer contribution to
15 a defined contribution plan for such individual for
16 such year.”.

17 (2) EFFECTIVE DATE.—

18 (A) IN GENERAL.—The amendment made
19 by paragraph (1) shall apply to limitation years
20 beginning after December 31, 2000.

21 (B) EXCLUSION ALLOWANCE.—Effective
22 for limitation years beginning in 2001, in the
23 case of any annuity contract described in sec-
24 tion 403(b) of the Internal Revenue Code of
25 1986, the amount of the contribution disquali-

1 fied by reason of section 415(g) of such Code
2 shall reduce the exclusion allowance as provided
3 in section 403(b)(2) of such Code.

4 (3) MODIFICATION OF 403(b) EXCLUSION AL-
5 LOWANCE TO CONFORM TO 415 MODIFICATION.—The
6 Secretary of the Treasury shall modify the regula-
7 tions regarding the exclusion allowance under section
8 403(b)(2) of the Internal Revenue Code of 1986 to
9 render void the requirement that contributions to a
10 defined benefit pension plan be treated as previously
11 excluded amounts for purposes of the exclusion al-
12 lowance. For taxable years beginning after Decem-
13 ber 31, 2000, such regulations shall be applied as if
14 such requirement were void.

15 (c) DEFERRED COMPENSATION PLANS OF STATE
16 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
17 ZATIONS.—

18 (1) IN GENERAL.—Subparagraph (B) of section
19 457(b)(2) (relating to salary limitation on eligible
20 deferred compensation plans) is amended by striking
21 “33 $\frac{1}{3}$ percent” and inserting “the applicable per-
22 centage”.

23 (2) APPLICABLE PERCENTAGE.—Section 457 is
24 amended by adding at the end the following new
25 subsection:

1 “(h) APPLICABLE PERCENTAGE.—For purposes of
 2 subsection (b)(2)(A), the applicable percentage shall be
 3 determined in accordance with the following table:

“For years beginning in:	The applicable percentage is:
2002 through 2010	50 percent
2011 and thereafter	100 percent.”.

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

7 **SEC. 633. FASTER VESTING OF CERTAIN EMPLOYER**
 8 **MATCHING CONTRIBUTIONS.**

9 (a) IN GENERAL.—Section 411(a) (relating to min-
 10 imum vesting standards) is amended—

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

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

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

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

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

“Years of service:	The nonforfeitable percentage is:
2	20

3	40
4	60
5	80
6	100.”.

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

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

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

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

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

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

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

16 (c) EFFECTIVE DATES.—

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

1 (2) COLLECTIVE BARGAINING AGREEMENTS.—

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

10 (A) the later of—

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

16 (ii) January 1, 2002; or

17 (B) January 1, 2006.

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

1 **SEC. 634. MODIFICATIONS TO MINIMUM DISTRIBUTION**
2 **RULES.**

3 (a) LIFE EXPECTANCY TABLES.—The Secretary of
4 the Treasury shall modify the life expectancy tables under
5 the regulations relating to minimum distribution require-
6 ments under sections 401(a)(9), 408(a)(6) and (b)(3),
7 403(b)(10), and 457(d)(2) of the Internal Revenue Code
8 to reflect current life expectancy.

9 (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD
10 BEGUN BEFORE DEATH OCCURS.—

11 (1) IN GENERAL.—Subparagraph (B) of section
12 401(a)(9) is amended by striking clause (i) and re-
13 designating clauses (ii), (iii), and (iv) as clauses (i),
14 (ii), and (iii), respectively.

15 (2) CONFORMING CHANGES.—

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

18 (i) by striking “FOR OTHER CASES” in
19 the heading; and

20 (ii) by striking “the distribution of the
21 employee’s interest has begun in accord-
22 ance with subparagraph (A)(ii)” and in-
23 sserting “his entire interest has been dis-
24 tributed to him”.

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

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

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

8 (ii) by striking “clause (iii)(III)” in
9 subclause (I) and inserting “clause
10 (ii)(III)”;

11 (iii) by striking “the date on which
12 the employee would have attained age
13 70 $\frac{1}{2}$,” in subclause (I) and inserting
14 “April 1 of the calendar year following the
15 calendar year in which the spouse attains
16 70 $\frac{1}{2}$,”; and

17 (iv) by striking “the distributions to
18 such spouse begin,” in subclause (II) and
19 inserting “his entire interest has been dis-
20 tributed to him,”.

21 (3) EFFECTIVE DATE.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), the amendments made by
24 this subsection shall apply to years beginning
25 after December 31, 2001.

201

1 (B) DISTRIBUTIONS TO SURVIVING
2 SPOUSE.—

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

13 (ii) CERTAIN EMPLOYEES.—An em-
14 ployee is described in this clause if such
15 employee dies before—

16 (I) the date of the enactment of
17 this Act, and

18 (II) the required beginning date
19 (within the meaning of section
20 401(a)(9)(C) of the Internal Revenue
21 Code of 1986) of the employee.

1 **SEC. 635. CLARIFICATION OF TAX TREATMENT OF DIVISION**
2 **OF SECTION 457 PLAN BENEFITS UPON DI-**
3 **VORCE.**

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

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

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

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

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

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

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

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
5 subsection (c) shall apply to transfers, distributions,
6 and payments made after December 31, 2001.

7 (2) AMENDMENTS RELATING TO ASSIGNMENTS
8 IN DIVORCE, ETC., PROCEEDINGS.—The amendments
9 made by subsections (a) and (b) shall take effect on
10 January 1, 2002, except that in the case of a domes-
11 tic relations order entered before such date, the plan
12 administrator—

13 (A) shall treat such order as a qualified
14 domestic relations order if such administrator is
15 paying benefits pursuant to such order on such
16 date, and

17 (B) may treat any other such order en-
18 tered before such date as a qualified domestic
19 relations order even if such order does not meet
20 the requirements of such amendments.

21 **SEC. 636. PROVISIONS RELATING TO HARDSHIP DISTRIBUTIONS.**
22

23 (a) SAFE HARBOR RELIEF.—

24 (1) IN GENERAL.—The Secretary of the Treas-
25 ury shall revise the regulations relating to hardship

1 distributions under section 401(k)(2)(B)(i)(IV) of
2 the Internal Revenue Code of 1986 to provide that
3 the period an employee is prohibited from making
4 elective and employee contributions in order for a
5 distribution to be deemed necessary to satisfy finan-
6 cial need shall be equal to 6 months.

7 (2) EFFECTIVE DATE.—The revised regulations
8 under this subsection shall apply to years beginning
9 after December 31, 2001.

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

12 (1) MODIFICATION OF DEFINITION OF ELIGI-
13 BLE ROLLOVER.—Subparagraph (C) of section
14 402(c)(4) (relating to eligible rollover distribution) is
15 amended to read as follows:

16 “(C) any distribution which is made upon
17 hardship of the employee.”.

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

21 **SEC. 637. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBU-**
22 **TIONS FOR DOMESTIC OR SIMILAR WORKERS.**

23 (a) IN GENERAL.—Section 4972(c)(6) (relating to
24 exceptions to nondeductible contributions), as amended by
25 section 502, is amended by striking “or” at the end of

1 subparagraph (A), by striking the period and inserting “,
2 or” at the end of subparagraph (B), and by inserting after
3 subparagraph (B) the following new subparagraph:

4 “(C) so much of the contributions to a
5 simple retirement account (within the meaning
6 of section 408(p)) or a simple plan (within the
7 meaning of section 401(k)(11)) which are not
8 deductible when contributed solely because such
9 contributions are not made in connection with
10 a trade or business of the employer.”

11 (b) EXCLUSION OF CERTAIN CONTRIBUTIONS.—Sec-
12 tion 4972(c)(6), as amended by subsection (a), is amended
13 by adding at the end the following new sentence: “Sub-
14 paragraph (C) shall not apply to contributions made on
15 behalf of the employer or a member of the employer’s fam-
16 ily (as defined in section 447(e)(1)).”

17 (c) NO INFERENCE.—Nothing in the amendments
18 made by this section shall be construed to infer the proper
19 treatment of nondeductible contributions under the laws
20 in effect before such amendments.

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

1 **Subtitle D—Increasing Portability**
2 **for Participants**

3 **SEC. 641. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
4 **OF PLANS.**

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

7 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

11 “(16) ROLLOVER AMOUNTS.—

12 “(A) GENERAL RULE.—In the case of an
13 eligible deferred compensation plan established
14 and maintained by an employer described in
15 subsection (e)(1)(A), if—

16 “(i) any portion of the balance to the
17 credit of an employee in such plan is paid
18 to such employee in an eligible rollover dis-
19 tribution (within the meaning of section
20 402(c)(4) without regard to subparagraph
21 (C) thereof),

22 “(ii) the employee transfers any por-
23 tion of the property such employee receives
24 in such distribution to an eligible retire-

1 ment plan described in section
2 402(c)(8)(B), and

3 “(iii) in the case of a distribution of
4 property other than money, the amount so
5 transferred consists of the property distrib-
6 uted,

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

10 “(B) CERTAIN RULES MADE APPLICA-
11 BLE.—The rules of paragraphs (2) through (7)
12 and (9) of section 402(c) and section 402(f)
13 shall apply for purposes of subparagraph (A).

14 “(C) REPORTING.—Rollovers under this
15 paragraph shall be reported to the Secretary in
16 the same manner as rollovers from qualified re-
17 tirement plans (as defined in section
18 4974(c)).”.

19 (B) DEFERRAL LIMIT DETERMINED WITH-
20 OUT REGARD TO ROLLOVER AMOUNTS.—Section
21 457(b)(2) (defining eligible deferred compensa-
22 tion plan) is amended by inserting “(other than
23 rollover amounts)” after “taxable year”.

24 (C) DIRECT ROLLOVER.—Paragraph (1) of
25 section 457(d) is amended by striking “and” at

1 the end of subparagraph (A), by striking the
2 period at the end of subparagraph (B) and in-
3 serting “, and”, and by inserting after subpara-
4 graph (B) the following:

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

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

13 (D) WITHHOLDING.—

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

17 “(E) under or to an eligible deferred com-
18 pensation plan which, at the time of such pay-
19 ment, is a plan described in section 457(b)
20 which is maintained by an eligible employer de-
21 scribed in section 457(e)(1)(A), or”.

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

24 “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For
25 purposes of this subsection, the term ‘eligible roll-

1 over distribution' has the meaning given such term
2 by section 402(f)(2)(A).”.

3 (iii) LIABILITY FOR WITHHOLDING.—

4 Subparagraph (B) of section 3405(d)(2) is
5 amended by striking “or” at the end of
6 clause (ii), by striking the period at the
7 end of clause (iii) and inserting “, or”, and
8 by adding at the end the following:

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

12 (2) ROLLOVERS TO SECTION 457 PLANS.—

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

19 “(v) an eligible deferred compensation
20 plan described in section 457(b) which is
21 maintained by an eligible employer de-
22 scribed in section 457(e)(1)(A).”.

23 (B) SEPARATE ACCOUNTING.—Section
24 402(c) is amended by adding at the end the fol-
25 lowing new paragraph:

1 “(11) SEPARATE ACCOUNTING.—Unless a plan
2 described in clause (v) of paragraph (8)(B) agrees to
3 separately account for amounts rolled into such plan
4 from eligible retirement plans not described in such
5 clause, the plan described in such clause may not ac-
6 cept transfers or rollovers from such retirement
7 plans.”.

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

13 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-
14 TION 457 PLANS.—For purposes of this subsection,
15 a distribution from an eligible deferred compensation
16 plan (as defined in section 457(b)) of an eligible em-
17 ployer described in section 457(e)(1)(A) shall be
18 treated as a distribution from a qualified retirement
19 plan described in 4974(c)(1) to the extent that such
20 distribution is attributable to an amount transferred
21 to an eligible deferred compensation plan from a
22 qualified retirement plan (as defined in section
23 4974(e)).”.

24 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
25 403(b) PLANS.—

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

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

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

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

24 “(E) of the provisions under which dis-
25 tributions from the eligible retirement plan re-

1 ceiving the distribution may be subject to re-
2 strictions and tax consequences which are dif-
3 ferent from those applicable to distributions
4 from the plan making such distribution.”.

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

9 (e) 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 to read as follows:

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

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

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

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

23 (11) Section 4973(b)(1)(A) is amended by
24 striking “or 408(d)(3)” and inserting “408(d)(3), or
25 457(e)(16)”.

1 (f) EFFECTIVE DATE; SPECIAL RULE.—

2 (1) EFFECTIVE DATE.—The amendments made
3 by this section shall apply to distributions after De-
4 cember 31, 2001.

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

15 **SEC. 642. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
16 **MENT PLANS.**

17 (a) IN GENERAL.—Subparagraph (A) of section
18 408(d)(3) (relating to rollover amounts) is amended by
19 adding “or” at the end of clause (i), by striking clauses
20 (ii) and (iii), and by adding at the end the following:

21 “(ii) the entire amount received (in-
22 cluding money and any other property) is
23 paid into an eligible retirement plan for
24 the benefit of such individual not later
25 than the 60th day after the date on which

1 the payment or distribution is received, ex-
2 cept that the maximum amount which may
3 be paid into such plan may not exceed the
4 portion of the amount received which is in-
5 cludible in gross income (determined with-
6 out regard to this paragraph).

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

11 (b) CONFORMING AMENDMENTS.—

12 (1) Paragraph (1) of section 403(b) is amended
13 by striking “section 408(d)(3)(A)(iii)” and inserting
14 “section 408(d)(3)(A)(ii)”.

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

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

20 “(G) SIMPLE RETIREMENT ACCOUNTS.—In
21 the case of any payment or distribution out of
22 a simple retirement account (as defined in sub-
23 section (p)) to which section 72(t)(6) applies,
24 this paragraph shall not apply unless such pay-

1 ment or distribution is paid into another simple
2 retirement account.”.

3 (c) EFFECTIVE DATE; SPECIAL RULE.—

4 (1) EFFECTIVE DATE.—The amendments made
5 by this section shall apply to distributions after De-
6 cember 31, 2001.

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

17 **SEC. 643. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

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

23 “(A) such portion is transferred in a direct
24 trustee-to-trustee transfer to a qualified trust
25 which is part of a plan which is a defined con-

1 tribution plan and which agrees to separately
2 account for amounts so transferred, including
3 separately accounting for the portion of such
4 distribution which is includible in gross income
5 and the portion of such distribution which is
6 not so includible, or

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

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

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

22 “(ii) is an eligible retirement plan de-
23 scribed in clause (i) or (ii) of section
24 402(c)(8)(B).”.

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

5 “(H) APPLICATION OF SECTION 72.—

6 “(i) IN GENERAL.—If—

7 “(I) a distribution is made from
8 an individual retirement plan, and

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

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

17 “(ii) APPLICABLE RULES.—In the
18 case of a distribution described in clause
19 (i)—

20 “(I) section 72 shall be applied
21 separately to such distribution,

22 “(II) notwithstanding the pro
23 rata allocation of income on, and in-
24 vestment in, the contract to distribu-
25 tions under section 72, the portion of

1 such distribution rolled over to an eli-
2 gible retirement plan described in
3 clause (i) shall be treated as from in-
4 come on the contract (to the extent of
5 the aggregate income on the contract
6 from all individual retirement plans of
7 the distributee), and

8 “(III) appropriate adjustments
9 shall be made in applying section 72
10 to other distributions in such taxable
11 year and subsequent taxable years.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions made after Decem-
14 ber 31, 2001.

15 **SEC. 644. HARDSHIP EXCEPTION TO 60-DAY RULE.**

16 (a) EXEMPT TRUSTS.—Paragraph (3) of section
17 402(c) (relating to transfer must be made within 60 days
18 of receipt) is amended to read as follows:

19 “(3) TRANSFER MUST BE MADE WITHIN 60
20 DAYS OF RECEIPT.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), paragraph (1) shall not
23 apply to any transfer of a distribution made
24 after the 60th day following the day on which

1 the distributee received the property distrib-
2 uted.

3 “(B) HARDSHIP EXCEPTION.—The Sec-
4 retary may waive the 60-day requirement under
5 subparagraph (A) where the failure to waive
6 such requirement would be against equity or
7 good conscience, including casualty, disaster, or
8 other events beyond the reasonable control of
9 the individual subject to such requirement.”.

10 (b) IRAs.—Paragraph (3) of section 408(d) (relating
11 to rollover contributions), as amended by section 643, is
12 amended by adding after subparagraph (H) the following
13 new subparagraph:

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

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

1 **SEC. 645. TREATMENT OF FORMS OF DISTRIBUTION.**

2 (a) PLAN TRANSFERS.—

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

7 “(D) PLAN TRANSFERS.—

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

19 “(I) the forms of distribution
20 previously available under the trans-
21 feror plan applied to the account of a
22 participant or beneficiary under the
23 transferor plan that was transferred
24 from the transferor plan to the trans-
25 feree plan pursuant to a direct trans-

1 fer rather than pursuant to a distribu-
2 tion from the transferor plan,

3 “(II) the terms of both the trans-
4 feror plan and the transferee plan au-
5 thorize the transfer described in sub-
6 clause (I),

7 “(III) the transfer described in
8 subclause (I) was made pursuant to a
9 voluntary election by the participant
10 or beneficiary whose account was
11 transferred to the transferee plan,

12 “(IV) the election described in
13 subclause (III) was made after the
14 participant or beneficiary received a
15 notice describing the consequences of
16 making the election, and

17 “(V) the transferee plan allows
18 the participant or beneficiary de-
19 scribed in subclause (III) to receive
20 any distribution to which the partici-
21 pant or beneficiary is entitled under
22 the transferee plan in the form of a
23 single sum distribution.

24 “(ii) SPECIAL RULE FOR MERGERS,
25 ETC.—Clause (i) shall apply to plan merg-

1 ers and other transactions having the ef-
2 fect of a direct transfer, including consoli-
3 dations of benefits attributable to different
4 employers within a multiple employer
5 plan.”.

6 (2) AMENDMENT OF ERISA.—Section 204(g) of
7 the Employee Retirement Income Security Act of
8 1974 (29 U.S.C. 1054(g)) is amended by adding at
9 the end the following:

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

18 “(i) the forms of distribution previously avail-
19 able under the transferor plan applied to the account
20 of a participant or beneficiary under the transferor
21 plan that was transferred from the transferor plan
22 to the transferee plan pursuant to a direct transfer
23 rather than pursuant to a distribution from the
24 transferor plan;

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

4 “(iii) the transfer described in clause (i) was
5 made pursuant to a voluntary election by the partici-
6 pant or beneficiary whose account was transferred to
7 the transferee plan;

8 “(iv) the election described in clause (iii) was
9 made after the participant or beneficiary received a
10 notice describing the consequences of making the
11 election; and

12 “(v) the transferee plan allows the participant
13 or beneficiary described in clause (iii) to receive any
14 distribution to which the participant or beneficiary is
15 entitled under the transferee plan in the form of a
16 single sum distribution.

17 “(B) Subparagraph (A) shall apply to plan mergers
18 and other transactions having the effect of a direct trans-
19 fer, including consolidations of benefits attributable to dif-
20 ferent employers within a multiple employer plan.”.

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

24 (b) REGULATIONS.—

1 (1) AMENDMENT OF INTERNAL REVENUE
2 CODE.—The last sentence of paragraph (6)(B) of
3 section 411(d) (relating to accrued benefit not to be
4 decreased by amendment) is amended to read as fol-
5 lows: “The Secretary shall by regulations provide
6 that this subparagraph shall not apply to any plan
7 amendment which reduces or eliminates benefits or
8 subsidies which create significant burdens or com-
9 plexities for the plan and plan participants, unless
10 such amendment adversely affects the rights of any
11 participant in a more than de minimis manner.”.

12 (2) AMENDMENT OF ERISA.—The last sentence
13 of section 204(g)(2) of the Employee Retirement In-
14 come Security Act of 1974 (29 U.S.C. 1054(g)(2))
15 is amended to read as follows: “The Secretary of the
16 Treasury shall by regulations provide that this para-
17 graph shall not apply to any plan amendment which
18 reduces or eliminates benefits or subsidies which cre-
19 ate significant burdens or complexities for the plan
20 and plan participants, unless such amendment ad-
21 versely affects the rights of any participant in a
22 more than de minimis manner.”.

23 (3) SECRETARY DIRECTED.—Not later than
24 December 31, 2002, the Secretary of the Treasury
25 is directed to issue regulations under section

1 411(d)(6) of the Internal Revenue Code of 1986 and
2 section 204(g) of the Employee Retirement Income
3 Security Act of 1974, including the regulations re-
4 quired by the amendment made by this subsection.
5 Such regulations shall apply to plan years beginning
6 after December 31, 2002, or such earlier date as is
7 specified by the Secretary of the Treasury.

8 **SEC. 646. RATIONALIZATION OF RESTRICTIONS ON DIS-**
9 **TRIBUTIONS.**

10 (a) MODIFICATION OF SAME DESK EXCEPTION.—

11 (1) SECTION 401(k).—

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

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

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

1 (C) Section 401(k)(10) is amended—
2 (i) in subparagraph (B)—
3 (I) by striking “An event” in
4 clause (i) and inserting “A termi-
5 nation”; and
6 (II) by striking “the event” in
7 clause (i) and inserting “the termi-
8 nation”;
9 (ii) by striking subparagraph (C); and
10 (iii) by striking “OR DISPOSITION OF
11 ASSETS OR SUBSIDIARY” in the heading.

12 (2) SECTION 403(b).—

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

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

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

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

4 **SEC. 647. PURCHASE OF SERVICE CREDIT IN GOVERN-**
5 **MENTAL DEFINED BENEFIT PLANS.**

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

9 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
10 PURCHASE PERMISSIVE SERVICE CREDIT.—No
11 amount shall be includible in gross income by reason
12 of a direct trustee-to-trustee transfer to a defined
13 benefit governmental plan (as defined in section
14 414(d)) if such transfer is—

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

18 “(B) a repayment to which section 415
19 does not apply by reason of subsection (k)(3)
20 thereof.”.

21 (b) 457 PLANS.—Subsection (e) of section 457, as
22 amended by section 401, is amended by adding after para-
23 graph (16) the following new paragraph:

24 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
25 PURCHASE PERMISSIVE SERVICE CREDIT.—No

1 amount shall be includible in gross income by reason
2 of a direct trustee-to-trustee transfer to a defined
3 benefit governmental plan (as defined in section
4 414(d)) if such transfer is—

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

8 “(B) a repayment to which section 415
9 does not apply by reason of subsection (k)(3)
10 thereof.”.

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

14 **SEC. 648. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
15 **PURPOSES OF CASH-OUT AMOUNTS.**

16 (a) QUALIFIED PLANS.—

17 (1) AMENDMENT OF INTERNAL REVENUE
18 CODE.—Section 411(a)(11) (relating to restrictions
19 on certain mandatory distributions) is amended by
20 adding at the end the following:

21 “(D) SPECIAL RULE FOR ROLLOVER CON-
22 TRIBUTIONS.—A plan shall not fail to meet the
23 requirements of this paragraph if, under the
24 terms of the plan, the present value of the non-
25 forfeitable accrued benefit is determined with-

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 and 457(e)(16).’.

8 (2) AMENDMENT OF ERISA.—Section 203(e) of
9 the Employee Retirement Income Security Act of
10 1974 (29 U.S.C. 1053(c)) is amended by adding at
11 the end the following:

12 “(4) A plan shall not fail to meet the requirements
13 of this subsection if, under the terms of the plan, the
14 present value of the nonforfeitable accrued benefit is de-
15 termined without regard to that portion of such benefit
16 which is attributable to rollover contributions (and earn-
17 ings allocable thereto). For purposes of this subparagraph,
18 the term ‘rollover contributions’ means any rollover con-
19 tribution under sections 402(c), 403(a)(4), 403(b)(8),
20 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue
21 Code of 1986.”.

22 (b) ELIGIBLE DEFERRED COMPENSATION PLANS.—
23 Clause (i) of section 457(e)(9)(A) is amended by striking
24 “such amount” and inserting “the portion of such amount

1 which is not attributable to rollover contributions (as de-
2 fined in section 411(a)(11)(D))”.

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

6 **SEC. 649. MINIMUM DISTRIBUTION AND INCLUSION RE-**
7 **QUIREMENTS FOR SECTION 457 PLANS.**

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

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

15 (b) INCLUSION IN GROSS INCOME.—

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

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

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

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

4 “(B) is paid or otherwise made available to
5 the participant or other beneficiary, in the case
6 of a plan of an eligible employer described in
7 subsection (e)(1)(B).

8 “(2) SPECIAL RULE FOR ROLLOVER
9 AMOUNTS.—To the extent provided in section
10 72(t)(9), section 72(t) shall apply to any amount in-
11 cludible in gross income under this subsection.”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) So much of paragraph (9) of section
14 457(e) as precedes subparagraph (A) is amend-
15 ed to read as follows:

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

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

23 “(3) SPECIAL RULE FOR GOVERNMENT PLAN.—
24 An eligible deferred compensation plan of an em-
25 ployer described in subsection (e)(1)(A) shall not be

1 treated as failing to meet the requirements of this
2 subsection solely by reason of making a distribution
3 described in subsection (e)(9)(A).”.

4 (c) MODIFICATION OF TRANSITION RULES FOR EX-
5 ISTING 457 PLANS.—

6 (1) IN GENERAL.—Section 1107(c)(3)(B) of the
7 Tax Reform Act of 1986 is amended by striking
8 “or” at the end of clause (i), by striking the period
9 at the end of clause (ii) and inserting “, or” and by
10 inserting after clause (ii) the following new clause:

11 “(iii) are deferred pursuant to an
12 agreement with an individual covered by
13 an agreement described in clause (ii), to
14 the extent the annual amount under such
15 agreement with the individual does not
16 exceed—

17 “(I) the amount described in
18 clause (ii)(II), multiplied by

19 “(II) the cumulative increase in
20 the Consumer Price Index (as pub-
21 lished by the Bureau of Labor Statis-
22 tics of the Department of Labor).”.

23 (2) CONFORMING AMENDMENT.—The fourth
24 sentence of section 1107(c)(3)(B) of the Tax Reform
25 Act of 1986 is amended by striking “This subpara-

1 graph” and inserting “Clauses (i) and (ii) of this
2 subparagraph”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to taxable years end-
5 ing after the date of the enactment of this Act with
6 respect to increases in the Consumer Price Index
7 after September 30, 1993.

8 (d) EFFECTIVE DATE.—The amendments made by
9 subsections (a) and (b) shall apply to distributions after
10 December 31, 2001.

11 **Subtitle E—Strengthening Pension** 12 **Security and Enforcement**

13 **PART I—GENERAL PROVISIONS**

14 **SEC. 651. REPEAL OF 160 PERCENT OF CURRENT LIABILITY** 15 **FUNDING LIMIT.**

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

19 (1) by striking “the applicable percentage” in
20 subparagraph (A)(i)(I) and inserting “in the case of
21 plan years beginning before January 1, 2005, the
22 applicable percentage”; and

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

1 “(F) APPLICABLE PERCENTAGE.—For
 2 purposes of subparagraph (A)(i)(I), the applica-
 3 ble percentage shall be determined in accord-
 4 ance with the following table:

“In the case of any plan year beginning in—	The applicable percentage is—
2002	160
2003	165
2004	170.”.

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

8 (1) by striking “the applicable percentage” in
 9 subparagraph (A)(i)(I) and inserting “in the case of
 10 plan years beginning before January 1, 2005, the
 11 applicable percentage”, and

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

14 “(F) APPLICABLE PERCENTAGE.—For
 15 purposes of subparagraph (A)(i)(I), the applica-
 16 ble percentage shall be determined in accord-
 17 ance with the following table:

“In the case of any plan year beginning in—	The applicable percentage is—
2002	160
2003	165
2004	170.”.

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

1 **SEC. 652. MAXIMUM CONTRIBUTION DEDUCTION RULES**
2 **MODIFIED AND APPLIED TO ALL DEFINED**
3 **BENEFIT PLANS.**

4 (a) IN GENERAL.—Subparagraph (D) of section
5 404(a)(1) (relating to special rule in case of certain plans)
6 is amended to read as follows:

7 “(D) SPECIAL RULE IN CASE OF CERTAIN
8 PLANS.—

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

19 “(ii) PLANS WITH LESS THAN 100
20 PARTICIPANTS.—For purposes of this sub-
21 paragraph, in the case of a plan which has
22 less than 100 participants for the plan
23 year, termination liability shall not include
24 the liability attributable to benefit in-
25 creases for highly compensated employees
26 (as defined in section 414(q)) resulting

1 from a plan amendment which is made or
2 becomes effective, whichever is later, within
3 the last 2 years before the termination
4 date.

5 “(iii) RULE FOR DETERMINING NUM-
6 BER OF PARTICIPANTS.—For purposes of
7 determining whether a plan has more than
8 100 participants, all defined benefit plans
9 maintained by the same employer (or any
10 member of such employer’s controlled
11 group (within the meaning of section
12 412(l)(8)(C))) shall be treated as one plan,
13 but only employees of such member or em-
14 ployer shall be taken into account.

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

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

22 “(6) EXCEPTIONS.—In determining the amount
23 of nondeductible contributions for any taxable year,
24 there shall not be taken into account so much of the
25 contributions to one or more defined contribution

1 plans which are not deductible when contributed
2 solely because of section 404(a)(7) as does not ex-
3 ceed the greater of—

4 “(A) the amount of contributions not in
5 excess of 6 percent of compensation (within the
6 meaning of section 404(a)) paid or accrued
7 (during the taxable year for which the contribu-
8 tions were made) to beneficiaries under the
9 plans, or

10 “(B) the sum of—

11 “(i) the amount of contributions de-
12 scribed in section 401(m)(4)(A), plus

13 “(ii) the amount of contributions de-
14 scribed in section 402(g)(3)(A).

15 For purposes of this paragraph, the deductible limits
16 under section 404(a)(7) shall first be applied to
17 amounts contributed to a defined benefit plan and
18 then to amounts described in subparagraph (B).”.

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

1 **SEC. 653. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**
2 **ING.**

3 (a) **IN GENERAL.**—Subsection (c) of section 4972
4 (relating to nondeductible contributions) is amended by
5 adding at the end the following new paragraph:

6 “(7) **DEFINED BENEFIT PLAN EXCEPTION.**—In
7 determining the amount of nondeductible contribu-
8 tions for any taxable year, an employer may elect for
9 such year not to take into account any contributions
10 to a defined benefit plan except to the extent that
11 such contributions exceed the full-funding limitation
12 (as defined in section 412(c)(7), determined without
13 regard to subparagraph (A)(i)(I) thereof). For pur-
14 poses of this paragraph, the deductible limits under
15 section 404(a)(7) shall first be applied to amounts
16 contributed to defined contribution plans and then
17 to amounts described in this paragraph. If an em-
18 ployer makes an election under this paragraph for a
19 taxable year, paragraph (6) shall not apply to such
20 employer for such taxable year.”.

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

24 **SEC. 654. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
25 **SECTION 415.**

26 (a) **COMPENSATION LIMIT.**—

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

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

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

16 (b) COMBINING AND AGGREGATION OF PLANS.—

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

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

1 purposes of applying subsection (b)(1)(B) to such
2 plan or any other such plan.”.

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

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

11 **SEC. 655. PROTECTION OF INVESTMENT OF EMPLOYEE**
12 **CONTRIBUTIONS TO 401(k) PLANS.**

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

15 “(b) EFFECTIVE DATE.—

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

20 “(2) NONAPPLICATION TO PREVIOUSLY AC-
21 QUIRED PROPERTY.—The amendments made by this
22 section shall not apply to any elective deferral which
23 is invested in assets consisting of qualifying em-
24 ployer securities, qualifying employer real property,

1 or both, if such assets were acquired before January
2 1, 1999.”.

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

6 **SEC. 656. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**
7 **PORATION ESOP.**

8 (a) **IN GENERAL.**—Section 409 (relating to qualifica-
9 tions for tax credit employee stock ownership plans) is
10 amended by redesignating subsection (p) as subsection (q)
11 and by inserting after subsection (o) the following new
12 subsection:

13 “(p) **PROHIBITED ALLOCATIONS OF SECURITIES IN**
14 **AN S CORPORATION.**—

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

24 “(2) **FAILURE TO MEET REQUIREMENTS.**—

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

7 “(B) CROSS REFERENCE.—

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

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

10 “(A) IN GENERAL.—The term ‘nonalloca-
11 tion year’ means any plan year of an employee
12 stock ownership plan if, at any time during
13 such plan year—

14 “(i) such plan holds employer securi-
15 ties consisting of stock in an S corpora-
16 tion, and

17 “(ii) disqualified persons own at least
18 50 percent of the number of shares of
19 stock in the S corporation.

20 “(B) CONTRIBUTION RULES.—For purposes
21 of subparagraph (A)—

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

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

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

14 “(i) the spouse of the individual,

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

17 “(iii) a brother or sister of the indi-
18 vidual or the individual’s spouse and any
19 lineal descendant of the brother or sister,
20 and

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

23 A spouse of an individual who is legally sepa-
24 rated from such individual under a decree of di-
25 vorce or separate maintenance shall not be

1 treated as such individual's spouse for purposes
2 of this subparagraph.

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

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

15 “(B) the treatment of any year as a non-
16 allocation year.

17 For purposes of this paragraph, synthetic equity
18 shall be treated as owned by a person in the same
19 manner as stock is treated as owned by a person
20 under the rules of paragraphs (2) and (3) of section
21 318(a). If, without regard to this paragraph, a per-
22 son is treated as a disqualified person or a year is
23 treated as a nonallocation year, this paragraph shall
24 not be construed to result in the person or year not
25 being so treated.

1 “(6) DEFINITIONS.—For purposes of this
2 subsection—

3 “(A) EMPLOYEE STOCK OWNERSHIP
4 PLAN.—The term ‘employee stock ownership
5 plan’ has the meaning given such term by sec-
6 tion 4975(e)(7).

7 “(B) EMPLOYER SECURITIES.—The term
8 ‘employer security’ has the meaning given such
9 term by section 409(l).

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

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

24 (b) COORDINATION WITH SECTION 4975(e)(7).—The
25 last sentence of section 4975(e)(7) (defining employee

1 stock ownership plan) is amended by inserting “, section
2 409(p),” after “409(n)”.

3 (c) EXCISE TAX.—

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

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

9 (B) by striking all that follows paragraph
10 (2) and inserting the following:

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

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

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

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

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

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

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

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

3 which made the written statement described in sec-

4 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as

5 the case may be), and

6 “(2) in the case of an allocation or ownership

7 referred to in paragraph (3) or (4) of subsection (a),

8 by the S corporation the stock in which was so allo-

9 cated or owned.”.

10 (3) DEFINITIONS.—Section 4979A(e) (relating

11 to definitions) is amended to read as follows:

12 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-

13 poses of this section—

14 “(1) DEFINITIONS.—Except as provided in

15 paragraph (2), terms used in this section have the

16 same respective meanings as when used in sections

17 409 and 4978.

18 “(2) SPECIAL RULES RELATING TO TAX IM-

19 POSED BY REASON OF PARAGRAPH (3) OR (4) OF

20 SUBSECTION (a).—

21 “(A) PROHIBITED ALLOCATIONS.—The

22 amount involved with respect to any tax im-

23 posed by reason of subsection (a)(3) is the

24 amount allocated to the account of any person

25 in violation of section 409(p)(1).

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

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

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

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

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

25 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to plan years beginning after
3 December 31, 2002.

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

6 (A) employee stock ownership plan estab-
7 lished after July 11, 2000, or

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

14 the amendments made by this section shall apply to
15 plan years ending after July 11, 2000.

16 **SEC. 657. AUTOMATIC ROLLOVERS OF CERTAIN MANDA-**
17 **TORY DISTRIBUTIONS.**

18 (a) DIRECT TRANSFERS OF MANDATORY DISTRIBU-
19 TIONS.—

20 (1) IN GENERAL.—Section 401(a)(31) (relating
21 to optional direct transfer of eligible rollover dis-
22 tributions), as amended by section 643, is amended
23 by redesignating subparagraphs (B), (C), and (D) as
24 subparagraphs (C), (D), and (E), respectively, and

1 by inserting after subparagraph (A) the following
2 new subparagraph:

3 “(B) CERTAIN MANDATORY DISTRIBUTIONS.—
4

5 “(i) IN GENERAL.—In case of a trust
6 which is part of an eligible plan, such trust
7 shall not constitute a qualified trust under
8 this section unless the plan of which such
9 trust is a part provides that if—

10 “(I) a distribution described in
11 clause (ii) in excess of \$1,000 is
12 made, and

13 “(II) the distributee does not
14 make an election under subparagraph
15 (A) and does not elect to receive the
16 distribution directly,

17 the plan administrator shall make such
18 transfer to an individual retirement ac-
19 count or annuity of a designated trustee or
20 issuer and shall notify the distributee in
21 writing (either separately or as part of the
22 notice under section 402(f)) that the dis-
23 tribution may be transferred without cost
24 or penalty to another individual account or
25 annuity.

1 “(ii) ELIGIBLE PLAN.—For purposes
2 of clause (i), the term ‘eligible plan’ means
3 a plan which provides that any nonforfeit-
4 able accrued benefit for which the present
5 value (as determined under section
6 411(a)(11)) does not exceed \$5,000 shall
7 be immediately distributed to the partici-
8 pant.”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) The heading of section 401(a)(31) is
11 amended by striking “OPTIONAL DIRECT” and
12 inserting “DIRECT”.

13 (B) Section 401(a)(31)(C), as redesignated
14 by paragraph (1), is amended by striking “Sub-
15 paragraph (A)” and inserting “Subparagraphs
16 (A) and (B)”.

17 (b) NOTICE REQUIREMENT.—Section 402(f)(1) (re-
18 lating to written explanation to recipients of distributions
19 eligible for rollover treatment) is amended by striking
20 “and” at the end of subparagraph (C), by striking the pe-
21 riod at the end of subparagraph (D), and by adding at
22 the end the following new subparagraph:

23 “(E) if applicable, of the provision requir-
24 ing a direct trustee-to-trustee transfer of a dis-

1 tribution under section 401(a)(31)(B) unless
2 the recipient elects otherwise.”.

3 (c) FIDUCIARY RULES.—

4 (1) IN GENERAL.—Section 404(c) of the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1104(c)) is amended by adding at the end
7 the following new paragraph:

8 “(3) In the case of a pension plan which makes
9 a transfer to an individual retirement account or an-
10 nuity of a designated trustee or issuer under section
11 401(a)(31)(B) of the Internal Revenue Code of
12 1986, the participant or beneficiary shall, for pur-
13 poses of paragraph (1), be treated as exercising con-
14 trol over the assets in the account or annuity upon
15 the earlier of—

16 “(A) a rollover of all or a portion of the
17 amount to another individual retirement ac-
18 count or annuity; or

19 “(B) one year after the transfer is made.”.

20 (2) REGULATIONS.—

21 (A) AUTOMATIC ROLLOVER SAFE HAR-
22 BOR.—The Secretary of Labor shall promulgate
23 regulations to provide guidance regarding meet-
24 ing the fiduciary requirements of section 404(a)
25 of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1104(a)) in the case of
2 a pension plan which makes a transfer under
3 section 401(a)(31)(B) of the Internal Revenue
4 Code of 1986.

5 (B) USE OF LOW-COST INDIVIDUAL RE-
6 TIREMENT PLANS.—The Secretary of the
7 Treasury and the Secretary of Labor shall pro-
8 mulgate such regulations as necessary to en-
9 courage the use of low-cost individual retire-
10 ment plans for purposes of transfers under sec-
11 tion 401(a)(31)(B) of the Internal Revenue
12 Code of 1986 and for other uses as appropriate
13 to promote the preservation of assets for retire-
14 ment income purposes.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions made after final
17 regulations implementing subsection (c) are prescribed.

18 **SEC. 658. CLARIFICATION OF TREATMENT OF CONTRIBU-**
19 **TIONS TO MULTIEMPLOYER PLAN.**

20 (a) NOT CONSIDERED METHOD OF ACCOUNTING.—
21 For purposes of section 446 of the Internal Revenue Code
22 of 1986, a determination under section 404(a)(6) of such
23 Code regarding the taxable year with respect to which a
24 contribution to a multiemployer pension plan is deemed
25 made shall not be treated as a method of accounting of

1 the taxpayer. No deduction shall be allowed for any tax-
2 able year for any contribution to a multiemployer pension
3 plan with respect to which a deduction was previously al-
4 lowed.

5 (b) REGULATIONS.—The Secretary of the Treasury
6 shall promulgate such regulations as necessary to clarify
7 that a taxpayer shall not be allowed, with respect to any
8 taxable year, an aggregate amount of deductions for con-
9 tributions to a multiemployer pension plan which exceeds
10 the amount of such contributions made or deemed made
11 under section 404(a)(6) of the Internal Revenue Code of
12 1986 to such plan.

13 (c) EFFECTIVE DATE.—Subsection (a), and any reg-
14 ulations promulgated under subsection (b), shall be effec-
15 tive for years ending after the date of the enactment of
16 this Act.

17 **PART II—TREATMENT OF PLAN AMENDMENTS**

18 **REDUCING FUTURE BENEFIT ACCRUALS**

19 **SEC. 659. NOTICE REQUIRED FOR PENSION PLAN AMEND-**
20 **MENTS HAVING THE EFFECT OF SIGNIFI-**
21 **CANTLY REDUCING FUTURE BENEFIT ACCRU-**
22 **ALS.**

23 (a) EXCISE TAX.—

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

4 **“SEC. 4980F. FAILURE TO PROVIDE NOTICE OF PENSION**
5 **PLAN AMENDMENTS REDUCING BENEFIT AC-**
6 **CRUALS.**

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

11 “(b) AMOUNT OF TAX.—

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

17 “(2) NONCOMPLIANCE PERIOD.—For purposes
18 of this section, the term ‘noncompliance period’
19 means, with respect to any failure, the period begin-
20 ning on the date the failure first occurs and ending
21 on the date the notice to which the failure relates is
22 provided or the failure is otherwise corrected.

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

24 “(1) TAX NOT TO APPLY WHERE FAILURE NOT
25 DISCOVERED AND REASONABLE DILIGENCE EXER-

1 CISED.—No tax shall be imposed by subsection (a)
2 on any failure during any period for which it is es-
3 tablished to the satisfaction of the Secretary that
4 any person subject to liability for the tax under sub-
5 section (d) did not know that the failure existed and
6 exercised reasonable diligence to meet the require-
7 ments of subsection (e).

8 “(2) TAX NOT TO APPLY TO FAILURES COR-
9 RECTED WITHIN 30 DAYS.—No tax shall be imposed
10 by subsection (a) on any failure if—

11 “(A) any person subject to liability for the
12 tax under subsection (d) exercised reasonable
13 diligence to meet the requirements of subsection
14 (e), and

15 “(B) such person provides the notice de-
16 scribed in subsection (e) during the 30-day pe-
17 riod beginning on the first date such person
18 knew, or exercising reasonable diligence would
19 have known, that such failure existed.

20 “(3) OVERALL LIMITATION FOR UNINTEN-
21 TIONAL FAILURES.—

22 “(A) IN GENERAL.—If the person subject
23 to liability for tax under subsection (d) exer-
24 cised reasonable diligence to meet the require-
25 ments of subsection (e), the tax imposed by

1 subsection (a) for failures during the taxable
2 year of the employer (or, in the case of a multi-
3 employer plan, the taxable year of the trust
4 forming part of the plan) shall not exceed
5 \$500,000. For purposes of the preceding sen-
6 tence, all multiemployer plans of which the
7 same trust forms a part shall be treated as 1
8 plan.

9 “(B) TAXABLE YEARS IN THE CASE OF
10 CERTAIN CONTROLLED GROUPS.—For purposes
11 of this paragraph, if all persons who are treated
12 as a single employer for purposes of this section
13 do not have the same taxable year, the taxable
14 years taken into account shall be determined
15 under principles similar to the principles of sec-
16 tion 1561.

17 “(4) WAIVER BY SECRETARY.—In the case of a
18 failure which is due to reasonable cause and not to
19 willful neglect, the Secretary may waive part or all
20 of the tax imposed by subsection (a) to the extent
21 that the payment of such tax would be excessive or
22 otherwise inequitable relative to the failure involved.

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

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

3 “(2) In the case of a multiemployer plan, the
4 plan.

5 “(e) NOTICE REQUIREMENTS FOR PLAN AMEND-
6 MENTS SIGNIFICANTLY REDUCING BENEFIT ACCRU-
7 ALS.—

8 “(1) IN GENERAL.—If the sponsor of an appli-
9 cable pension plan adopts an amendment which has
10 the effect of significantly reducing the rate of future
11 benefit accrual of 1 or more participants, the plan
12 administrator shall, not later than the 45th day be-
13 fore the effective date of the amendment, provide
14 written notice to each applicable individual (and to
15 each employee organization representing applicable
16 individuals) which—

17 “(A) sets forth a summary of the plan
18 amendment and the effective date of the
19 amendment,

20 “(B) includes a statement that the plan
21 amendment is expected to significantly reduce
22 the rate of future benefit accrual,

23 “(C) includes a description of the classes
24 of employees reasonably expected to be affected

1 by the reduction in the rate of future benefit
2 accrual,

3 “(D) sets forth examples illustrating how
4 the plan will change benefits for such classes of
5 employees,

6 “(E) if paragraph (2) applies to the plan
7 amendment, includes a notice that the plan ad-
8 ministrators will provide a benefit estimation
9 tool kit described in paragraph (2)(B) to each
10 applicable individual no later than the date re-
11 quired under paragraph (2)(A), and

12 “(F) includes a notice of each applicable
13 individual’s right under Federal law to receive,
14 and of the procedures for requesting, an annual
15 benefit statement.

16 “(2) REQUIREMENT TO PROVIDE BENEFIT ES-
17 TIMATION TOOL KIT.—

18 “(A) IN GENERAL.—If a plan amendment
19 results in the significant restructuring of the
20 plan benefit formula (as determined under reg-
21 ulations prescribed by the Secretary), the plan
22 administrator shall, not later than the 15th day
23 before the effective date of the amendment, pro-
24 vide a benefit estimation tool kit described in
25 subparagraph (B) to each applicable individual.

1 If such plan amendment occurs within 12
2 months of an event described in section
3 410(b)(6)(C), the plan administrator shall in no
4 event be required to provide the benefit esti-
5 mation tool kit to applicable individuals affected
6 by the event before the date which is 12 months
7 after the date on which notice under paragraph
8 (1) is given to such applicable individuals.

9 “(B) BENEFIT ESTIMATION TOOL KIT.—
10 The benefit estimation tool kit described in this
11 subparagraph shall include the following infor-
12 mation:

13 “(i) Sufficient information to enable
14 an applicable individual to estimate the in-
15 dividual’s projected benefits under the
16 terms of the plan in effect both before and
17 after the adoption of the amendment.

18 “(ii) The formulas and actuarial as-
19 sumptions necessary to estimate under
20 both such plan terms a single life annuity
21 at appropriate ages, and, when available, a
22 lump sum distribution.

23 “(iii) The interest rate used to com-
24 pute a lump sum distribution and informa-
25 tion as to whether the value of any early

1 retirement benefit or retirement-type sub-
2 sidi (within the meaning of section
3 411(d)(6)(B)(i)) is included in the lump
4 sum distribution.

5 “(3) NOTICE TO DESIGNEE.—Any notice under
6 paragraph (1) or (2) may be provided to a person
7 designated, in writing, by the person to which it
8 would otherwise be provided.

9 “(4) FORM OF EXPLANATION.—The informa-
10 tion required to be provided under this subsection
11 shall be provided in a manner calculated to be rea-
12 sonably understood by the average plan participant.

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

15 “(1) APPLICABLE INDIVIDUAL.—

16 “(A) IN GENERAL.—The term ‘applicable
17 individual’ means, with respect to any plan
18 amendment—

19 “(i) each participant in the plan, and

20 “(ii) any beneficiary who is an alter-
21 nate payee (within the meaning of section
22 414(p)(8)) under an applicable qualified
23 domestic relations order (within the mean-
24 ing of section 414(p)(1)(A)),

1 whose rate of future benefit accrual under the
2 plan may reasonably be expected to be signifi-
3 cantly reduced by such plan amendment.

4 “(B) EXCEPTION FOR PARTICIPANTS WITH
5 LESS THAN 1 YEAR OF PARTICIPATION.—Such
6 term shall not include a participant who has
7 less than 1 year of participation (within the
8 meaning of section 411(b)(4)) under the plan
9 as of the effective date of the plan amendment.

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

12 “(A) a defined benefit plan, or

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

15 Such term shall not include a governmental plan
16 (within the meaning of section 414(d)), a church
17 plan (within the meaning of section 414(e)) with re-
18 spect to which an election under section 410(d) has
19 not been made, or any other plan to which section
20 204(h) of the Employee Retirement Income Security
21 Act of 1974 does not apply.

22 “(3) EARLY RETIREMENT.—A plan amendment
23 which eliminates or significantly reduces any early
24 retirement benefit or retirement-type subsidy (within
25 the meaning of section 411(d)(6)(B)(i)) shall be

1 treated as having the effect of significantly reducing
2 the rate of future benefit accrual.

3 “(g) REGULATIONS.—The Secretary shall, not later
4 than 1 year after the date of the enactment of this section,
5 issue—

6 “(1) the regulations described in subsection
7 (e)(2)(A) and section 204(h)(2)(A) of the Employee
8 Retirement Income Security Act of 1974, and

9 “(2) guidance for both of the examples de-
10 scribed in subsection (e)(1)(D) and section
11 204(h)(1)(D) of the Employee Retirement Income
12 Security Act of 1974 and the benefit estimation tool
13 kit described in subsection (e)(2)(B) and section
14 204(h)(2)(B) of the Employee Retirement Income
15 Security Act of 1974.

16 “(h) NEW TECHNOLOGIES.—The Secretary may by
17 regulation allow any notice under paragraph (1) or (2) of
18 subsection (e) to be provided by using new technologies.
19 Such regulations shall ensure that at least one option for
20 providing such notice is not dependent on new tech-
21 nologies.”

22 (2) CONFORMING AMENDMENT.—The table of
23 sections for chapter 43 is amended by adding at the
24 end the following new item:

“Sec. 4980F. Failure to provide notice of pension plan amend-
ments reducing benefit accruals.”

1 (b) AMENDMENT OF ERISA.—Section 204(h) of the
2 Employee Retirement Income Security Act of 1974 (29
3 U.S.C. 1054(h)) is amended to read as follows:

4 “(h)(1) If an applicable pension plan is amended so
5 as to provide a significant reduction in the rate of future
6 benefit accrual of 1 or more participants, the plan admin-
7 istrator shall, not later than the 45th day before the effec-
8 tive date of the amendment, provide written notice to each
9 applicable individual (and to each employee organization
10 representing applicable individuals) which—

11 “(A) sets forth a summary of the plan amend-
12 ment and the effective date of the amendment,

13 “(B) includes a statement that the plan amend-
14 ment is expected to significantly reduce the rate of
15 future benefit accrual,

16 “(C) includes a description of the classes of em-
17 ployees reasonably expected to be affected by the re-
18 duction in the rate of future benefit accrual,

19 “(D) sets forth examples illustrating how the
20 plan will change benefits for such classes of employ-
21 ees,

22 “(E) if paragraph (2) applies to the plan
23 amendment, includes a notice that the plan adminis-
24 trator will provide a benefit estimation tool kit de-
25 scribed in paragraph (2)(B) to each applicable indi-

1 vidual no later than the date required under para-
2 graph (2)(A), and

3 “(F) includes a notice of each applicable indi-
4 vidual’s right under Federal law to receive, and of
5 the procedures for requesting, an annual benefit
6 statement.

7 “(2)(A) If a plan amendment results in the signifi-
8 cant restructuring of the plan benefit formula (as deter-
9 mined under regulations prescribed by the Secretary of the
10 Treasury), the plan administrator shall, not later than the
11 15th day before the effective date of the amendment, pro-
12 vide a benefit estimation tool kit described in subpara-
13 graph (B) to each applicable individual. If such plan
14 amendment occurs within 12 months of an event described
15 in section 410(b)(6)(C) of the Internal Revenue Code of
16 1986, the plan administrator shall in no event be required
17 to provide the benefit estimation tool kit to applicable indi-
18 viduals affected by the event before the date which is 12
19 months after the date on which notice under paragraph
20 (1) is given to such applicable individuals.

21 “(B) The benefit estimation tool kit described in this
22 subparagraph shall include the following information:

23 “(i) Sufficient information to enable an applica-
24 ble individual to estimate the individual’s projected

1 benefits under the terms of the plan in effect both
2 before and after the adoption of the amendment.

3 “(ii) The formulas and actuarial assumptions
4 necessary to estimate under both such plan terms a
5 single life annuity at appropriate ages, and, when
6 available, a lump sum distribution.

7 “(iii) The interest rate used to compute a lump
8 sum distribution and information as to whether the
9 value of any early retirement benefit or retirement-
10 type subsidy (within the meaning of subsection
11 (g)(2)(A)) is included in the lump sum distribution.

12 “(3) Any notice under paragraph (1) or (2) may be
13 provided to a person designated, in writing, by the person
14 to which it would otherwise be provided.

15 “(4) The information required to be provided under
16 this subsection shall be provided in a manner calculated
17 to be reasonably understood by the average participant.

18 “(5)(A) In the case of any failure to exercise due dili-
19 gence in meeting any requirement of this subsection with
20 respect to any plan amendment, the provisions of the ap-
21 plicable pension plan shall be applied as if such plan
22 amendment entitled all applicable individuals to the great-
23 er of—

24 “(i) the benefits to which they would have been
25 entitled without regard to such amendment, or

1 “(ii) the benefits under the plan with regard to
2 such amendment.

3 “(B) For purposes of subparagraph (A), there is a
4 failure to exercise due diligence in meeting the require-
5 ments of this subsection if such failure is within the con-
6 trol of the plan sponsor and is—

7 “(i) an intentional failure (including any failure
8 to promptly provide the required notice or informa-
9 tion after the plan administrator discovers an unin-
10 tentional failure to meet the requirements of this
11 subsection),

12 “(ii) a failure to provide most of the individuals
13 with most of the information they are entitled to re-
14 ceive under this subsection, or

15 “(iii) a failure to exercise due diligence which is
16 determined under regulations prescribed by the Sec-
17 retary of the Treasury.

18 “(C) For excise tax on failure to meet requirements,
19 see section 4980F of the Internal Revenue Code of 1986.

20 “(5)(A) For purposes of this subsection, the term ‘ap-
21 plicable individual’ means, with respect to any plan
22 amendment—

23 “(i) each participant in the plan, and

24 “(ii) any beneficiary who is an alternate payee
25 (within the meaning of section 206(d)(3)(K)) under

1 an applicable qualified domestic relations order
2 (within the meaning of section 206(d)(3)(B)),
3 whose rate of future benefit accrual under the plan may
4 reasonably be expected to be significantly reduced by such
5 plan amendment.

6 “(B) Such term shall not include a participant who
7 has less than 1 year of participation (within the meaning
8 of subsection (b)(4)) under the plan as of the effective
9 date of the plan amendment.

10 “(6) For purposes of this subsection, the term ‘appli-
11 cable pension plan’ means—

12 “(A) a defined benefit plan, or

13 “(B) an individual account plan which is sub-
14 ject to the funding standards of section 302.

15 “(7) For purposes of this subsection, a plan amend-
16 ment which eliminates or significantly reduces any early
17 retirement benefit or retirement-type subsidy (within the
18 meaning of section 204(g)(2)(A)) shall be treated as hav-
19 ing the effect of significantly reducing the rate of future
20 benefit accrual.

21 “(8) The Secretary of the Treasury may by regula-
22 tion allow any notice under this subsection to be provided
23 by using new technologies. Such regulation shall ensure
24 that at least one option for providing such notice is not
25 dependent on new technologies.”

1 (c) REGULATIONS RELATING TO EARLY RETIRE-
2 MENT SUBSIDIES.—The Secretary of the Treasury or the
3 Secretary's delegate shall, not later than 1 year after the
4 date of the enactment of this Act, issue regulations relat-
5 ing to early retirement benefits or retirement-type sub-
6 sidies described in section 411(d)(6)(B)(i) of the Internal
7 Revenue Code of 1986 and section 204(g)(2)(A) of the
8 Employee Retirement Income Security Act of 1974.

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to plan amendments taking
12 effect on or after the date of the enactment of this
13 Act.

14 (2) TRANSITION.—Until such time as the Sec-
15 retary of the Treasury issues regulations under sec-
16 tion 4980F(e)(2) of the Internal Revenue Code of
17 1986 and section 204(h)(2) of the Employee Retire-
18 ment Income Security Act of 1974 (as added by the
19 amendments made by this section), a plan shall be
20 treated as meeting the requirements of such sections
21 if it makes a good faith effort to comply with such
22 requirements.

23 (3) SPECIAL NOTICE RULES.—The period for
24 providing any notice required by the amendments
25 made by this section shall not end before the date

1 “(A) IN GENERAL.—For purposes of this
2 section, a determination of experience gains and
3 losses and a valuation of the plan’s liability
4 shall be made not less frequently than once
5 every year, except that such determination shall
6 be made more frequently to the extent required
7 in particular cases under regulations prescribed
8 by the Secretary.

9 “(B) VALUATION DATE.—

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

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

21 “(I) an election is in effect under
22 this clause with respect to the plan,
23 and

24 “(II) as of such date, the value
25 of the assets of the plan are not less

1 than 125 percent of the plan's current
2 liability (as defined in paragraph
3 (7)(B)).

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

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

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

14 (1) by inserting “(A)” after “(9)”, and

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

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

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

23 “(I) an election is in effect under this clause
24 with respect to the plan, and

1 “(II) paid to the plan and rein-
 2 vested in qualifying employer securi-
 3 ties, or”.

4 (b) LIMITATION ON AMOUNT OF DEDUCTION.—Sec-
 5 tion 404(k)(1) (relating to deduction for dividends paid
 6 on certain employer securities) is amended to read as fol-
 7 lows:

8 “(1) DEDUCTION ALLOWED.—

9 “(A) IN GENERAL.—In the case of a C
 10 corporation, there shall be allowed as a deduc-
 11 tion for the taxable year an amount equal to—

12 “(i) the amount of any applicable divi-
 13 dend described in clause (i), (ii), or (iv) of
 14 paragraph (2)(A), and

15 “(ii) the applicable percentage of any
 16 applicable dividend described in clause (iii),
 17 paid in cash by such corporation during the
 18 taxable year with respect to applicable employer
 19 securities. Such deduction shall be in addition
 20 to the deduction allowed subsection (a).

21 “(B) APPLICABLE PERCENTAGE.—For
 22 purposes of subparagraph (A), the applicable
 23 percentage shall be determined in accordance
 24 with the following table:

“For taxable years beginning in:	The applicable percentage is:
2002, 2003, and 2004	25 percent

2005, 2006, and 2007	50 percent
2008, 2009, and 2010	75 percent
2011 and thereafter	100 percent.”.

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

4 **SEC. 663. REPEAL OF TRANSITION RULE RELATING TO CER-**
 5 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

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

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

11 **SEC. 664. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

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

22 (1) no employee of an organization described in
 23 section 403(b)(1)(A)(i) of such Code is eligible to

1 participate in such section 401(k) plan or section
2 401(m) plan; and

3 (2) 95 percent of the employees who are not
4 employees of an organization described in section
5 403(b)(1)(A)(i) of such Code are eligible to partici-
6 pate in such plan under such section 401(k) or (m).

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

11 **SEC. 665. CLARIFICATION OF TREATMENT OF EMPLOYER-**
12 **PROVIDED RETIREMENT ADVICE.**

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

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

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

23 “(m) QUALIFIED RETIREMENT PLANNING SERV-
24 ICES.—

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

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

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

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

20 **SEC. 666. REPORTING SIMPLIFICATION.**

21 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
22 OWNERS AND THEIR SPOUSES.—

23 (1) IN GENERAL.—The Secretary of the Treas-
24 ury shall modify the requirements for filing annual
25 returns with respect to one-participant retirement

1 plans to ensure that such plans with assets of
2 \$250,000 or less as of the close of the plan year and
3 each plan year beginning on or after January 1,
4 1994, need not file a return for that year.

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

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

10 (i) covered only the employer (and the
11 employer’s spouse) and the employer
12 owned the entire business (whether or not
13 incorporated); or

14 (ii) covered only one or more partners
15 (and their spouses) in a business partner-
16 ship (including partners in an S or C cor-
17 poration);

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

23 (C) does not provide benefits to anyone ex-
24 cept the employer (and the employer’s spouse)
25 or the partners (and their spouses);

1 (D) does not cover a business that is a
2 member of an affiliated service group, a con-
3 trolled group of corporations, or a group of
4 businesses under common control; and

5 (E) does not cover a business that leases
6 employees.

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

11 (b) EFFECTIVE DATE.—The provisions of this sec-
12 tion shall take effect on January 1, 2002.

13 **SEC. 667. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
14 **ANCE RESOLUTION SYSTEM.**

15 The Secretary of the Treasury shall continue to up-
16 date and improve the Employee Plans Compliance Resolu-
17 tion System (or any successor program) giving special at-
18 tention to—

19 (1) increasing the awareness and knowledge of
20 small employers concerning the availability and use
21 of the program;

22 (2) taking into account special concerns and
23 circumstances that small employers face with respect
24 to compliance and correction of compliance failures;

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

8 (A) the plan satisfies conditions prescribed
9 by the Secretary to appropriately limit the
10 availability of such test; and

11 (B) the plan is submitted to the Secretary
12 for a determination of whether it satisfies such
13 test.

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

16 (2) EFFECTIVE DATES.—

17 (A) REGULATIONS.—The regulation re-
18 quired by paragraph (1) shall apply to years be-
19 ginning after December 31, 2001.

20 (B) CONDITIONS OF AVAILABILITY.—Any
21 condition of availability prescribed by the Sec-
22 retary under paragraph (1)(A) shall not apply
23 before the first year beginning not less than
24 120 days after the date on which such condition
25 is prescribed.

1 (b) COVERAGE TEST.—

2 (1) IN GENERAL.—Section 410(b)(1) (relating
3 to minimum coverage requirements) is amended by
4 adding 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 (2) EFFECTIVE DATES.—

21 (A) IN GENERAL.—The amendment made
22 by paragraph (1) shall apply to years beginning
23 after December 31, 2001.

24 (B) CONDITIONS OF AVAILABILITY.—Any
25 condition of availability prescribed by the Sec-

1 retary under regulations prescribed by the Sec-
2 retary under section 410(b)(1)(D) of the Inter-
3 nal Revenue Code of 1986 shall not apply be-
4 fore the first year beginning not less than 120
5 days after the date on which such condition is
6 prescribed.

7 (c) LINE OF BUSINESS RULES.—The Secretary of
8 the Treasury shall, on or before December 31, 2001, mod-
9 ify the existing regulations issued under section 414(r) of
10 the Internal Revenue Code of 1986 in order to expand
11 (to the extent that the Secretary determines appropriate)
12 the ability of a pension plan to demonstrate compliance
13 with the line of business requirements based upon the
14 facts and circumstances surrounding the design and oper-
15 ation of the plan, even though the plan is unable to satisfy
16 the mechanical tests currently used to determine compli-
17 ance.

18 **SEC. 670. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
19 **MORATORIUM ON APPLICATION OF CERTAIN**
20 **NONDISCRIMINATION RULES APPLICABLE TO**
21 **STATE AND LOCAL PLANS.**

22 (a) IN GENERAL.—

23 (1) Subparagraph (G) of section 401(a)(5) and
24 subparagraph (H) of section 401(a)(26) are each

1 amended by striking “section 414(d)” and all that
2 follows and inserting “section 414(d).”.

3 (2) Subparagraph (G) of section 401(k)(3) and
4 paragraph (2) of section 1505(d) of the Taxpayer
5 Relief Act of 1997 are each amended by striking
6 “maintained by a State or local government or polit-
7 ical subdivision thereof (or agency or instrumentality
8 thereof)”.

9 (b) CONFORMING AMENDMENTS.—

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

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

16 (3) Subparagraph (G) of section 401(k)(3) is
17 amended by inserting “GOVERNMENTAL PLANS.—”
18 after “(G)”.

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

1 **Subtitle G—Other ERISA**
2 **Provisions**

3 **SEC. 681. MISSING PARTICIPANTS.**

4 (a) IN GENERAL.—Section 4050 of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C. 1350)
6 is amended by redesignating subsection (c) as subsection
7 (e) and by inserting after subsection (b) the following new
8 subsection:

9 “(c) MULTIEMPLOYER PLANS.—The corporation
10 shall prescribe rules similar to the rules in subsection (a)
11 for multiemployer plans covered by this title that termi-
12 nate under section 4041A.

13 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

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

18 “(2) INFORMATION TO THE CORPORATION.—To
19 the extent provided in regulations, the plan adminis-
20 trator of a plan described in paragraph (4) shall,
21 upon termination of the plan, provide the corpora-
22 tion information with respect to benefits of a miss-
23 ing participant if the plan transfers such benefits—

24 “(A) to the corporation, or

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

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

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

13 “(F)(i) For purposes of this paragraph, a single-em-
14 ployer plan maintained by a contributing sponsor shall be
15 treated as a new single-employer plan for each of its first
16 5 plan years if, during the 36-month period ending on the
17 date of the adoption of such plan, the sponsor or any
18 member of such sponsor’s controlled group (or any prede-
19 cessor of either) did not establish or maintain a plan to
20 which this title applies with respect to which benefits were
21 accrued for substantially the same employees as are in the
22 new single-employer plan.

23 “(ii)(I) For purposes of this paragraph, the term
24 ‘small employer’ means an employer which on the first day
25 of any plan year has, in aggregation with all members of

1 the controlled group of such employer, 100 or fewer em-
2 ployees.

3 “(II) In the case of a plan maintained by two or more
4 contributing sponsors that are not part of the same con-
5 trolled group, the employees of all contributing sponsors
6 and controlled groups of such sponsors shall be aggregated
7 for purposes of determining whether any contributing
8 sponsor is a small employer.”.

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

12 **SEC. 683. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
13 **NEW AND SMALL PLANS.**

14 (a) NEW PLANS.—Subparagraph (E) of section
15 4006(a)(3) of the Employee Retirement Income Security
16 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
17 adding at the end the following new clause:

18 “(v) In the case of a new defined benefit plan, the
19 amount determined under clause (ii) for any plan year
20 shall be an amount equal to the product of the amount
21 determined under clause (ii) and the applicable percent-
22 age. For purposes of this clause, the term ‘applicable per-
23 centage’ means—

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

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

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

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

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

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

14 (b) SMALL PLANS.—Paragraph (3) of section
15 4006(a) of the Employee Retirement Income Security Act
16 of 1974 (29 U.S.C. 1306(a)), as amended by section
17 682(b), is amended—

18 (1) by striking “The” in subparagraph (E)(i)
19 and inserting “Except as provided in subparagraph
20 (G), the”, and

21 (2) by inserting after subparagraph (F) the fol-
22 lowing new subparagraph:

23 “(G)(i) In the case of an employer who has 25 or
24 fewer employees on the first day of the plan year, the addi-
25 tional premium determined under subparagraph (E) for

1 each participant shall not exceed \$5 multiplied by the
2 number of participants in the plan as of the close of the
3 preceding plan year.

4 “(ii) For purposes of clause (i), whether an employer
5 has 25 or fewer employees on the first day of the plan
6 year is determined taking into consideration all of the em-
7 ployees of all members of the contributing sponsor’s con-
8 trolled group. In the case of a plan maintained by two
9 or more contributing sponsors, the employees of all con-
10 tributing sponsors and their controlled groups shall be ag-
11 gregated for purposes of determining whether the 25-or-
12 fewer-employees limitation has been satisfied.”.

13 (c) EFFECTIVE DATES.—

14 (1) SUBSECTION (a).—The amendments made
15 by subsection (a) shall apply to plans established
16 after December 31, 2001.

17 (2) SUBSECTION (b).—The amendments made
18 by subsection (b) shall apply to plan years beginning
19 after December 31, 2001.

20 **SEC. 684. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
21 **PREMIUM OVERPAYMENT REFUNDS.**

22 (a) IN GENERAL.—Section 4007(b) of the Employ-
23 ment Retirement Income Security Act of 1974 (29 U.S.C.
24 1307(b)) is amended—

1 (1) by striking “(b)” and inserting “(b)(1)”,
2 and

3 (2) by inserting at the end the following new
4 paragraph:

5 “(2) The corporation is authorized to pay, subject to
6 regulations prescribed by the corporation, interest on the
7 amount of any overpayment of premium refunded to a des-
8 ignated payor. Interest under this paragraph shall be cal-
9 culated at the same rate and in the same manner as inter-
10 est is calculated for underpayments under paragraph
11 (1).”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to interest accruing for periods
14 beginning not earlier than the date of the enactment of
15 this Act.

16 **SEC. 685. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
17 **PLANS.**

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

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

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

3 “(ii) in the case of a partnership, is a partner
4 who owns, directly or indirectly, 50 percent or more
5 of either the capital interest or the profits interest
6 in such partnership, or

7 “(iii) in the case of a corporation, owns, directly
8 or indirectly, 50 percent or more in value of either
9 the voting stock of that corporation or all the stock
10 of that corporation.

11 For purposes of clause (iii), the constructive ownership
12 rules of section 1563(e) of the Internal Revenue Code of
13 1986 shall apply (determined without regard to section
14 1563(e)(3)(C)).

15 “(B) In the case of a participant who is a majority
16 owner, the amount of benefits guaranteed under this sec-
17 tion shall equal the product of—

18 “(i) a fraction (not to exceed 1) the numerator
19 of which is the number of years from the later of the
20 effective date or the adoption date of the plan to the
21 termination date, and the denominator of which is
22 10, and

23 “(ii) the amount of benefits that would be guar-
24 anteed under this section if the participant were not
25 a majority owner.”.

1 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

2 (1) Section 4044(a)(4)(B) of the Employee Re-
3 tirement Income Security Act of 1974 (29 U.S.C.
4 1344(a)(4)(B)) is amended by striking “section
5 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

6 (2) Section 4044(b) of such Act (29 U.S.C.
7 1344(b)) is amended—

8 (A) by striking “(5)” in paragraph (2) and
9 inserting “(4), (5),” and

10 (B) by redesignating paragraphs (3)
11 through (6) as paragraphs (4) through (7), re-
12 spectively, and by inserting after paragraph (2)
13 the following new paragraph:

14 “(3) If assets available for allocation under
15 paragraph (4) of subsection (a) are insufficient to
16 satisfy in full the benefits of all individuals who are
17 described in that paragraph, the assets shall be allo-
18 cated first to benefits described in subparagraph (A)
19 of that paragraph. Any remaining assets shall then
20 be allocated to benefits described in subparagraph
21 (B) of that paragraph. If assets allocated to such
22 subparagraph (B) are insufficient to satisfy in full
23 the benefits described in that subparagraph, the as-
24 sets shall be allocated pro rata among individuals on
25 the basis of the present value (as of the termination

1 date) of their respective benefits described in that
2 subparagraph.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 4021 of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C. 1321) is
6 amended—

7 (A) in subsection (b)(9), by striking “as
8 defined in section 4022(b)(6)”, and

9 (B) by adding at the end the following new
10 subsection:

11 “(d) For purposes of subsection (b)(9), the term ‘sub-
12 stantial owner’ means an individual who, at any time dur-
13 ing the 60-month period ending on the date the determina-
14 tion is being made—

15 “(1) owns the entire interest in an unincor-
16 porated trade or business,

17 “(2) in the case of a partnership, is a partner
18 who owns, directly or indirectly, more than 10 per-
19 cent of either the capital interest or the profits inter-
20 est in such partnership, or

21 “(3) in the case of a corporation, owns, directly
22 or indirectly, more than 10 percent in value of either
23 the voting stock of that corporation or all the stock
24 of that corporation.

1 For purposes of paragraph (3), the constructive ownership
2 rules of section 1563(e) of the Internal Revenue Code of
3 1986 shall apply (determined without regard to section
4 1563(e)(3)(C)).”.

5 (2) Section 4043(c)(7) of such Act (29 U.S.C.
6 1343(c)(7)) is amended by striking “section
7 4022(b)(6)” and inserting “section 4021(d)”.

8 (d) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall apply to plan terminations—

12 (A) under section 4041(c) of the Employee
13 Retirement Income Security Act of 1974 (29
14 U.S.C. 1341(c)) with respect to which notices
15 of intent to terminate are provided under sec-
16 tion 4041(a)(2) of such Act (29 U.S.C.
17 1341(a)(2)) after December 31, 2001, and

18 (B) under section 4042 of such Act (29
19 U.S.C. 1342) with respect to which proceedings
20 are instituted by the corporation after such
21 date.

22 (2) CONFORMING AMENDMENTS.—The amend-
23 ments made by subsection (c) shall take effect on
24 January 1, 2002.

1 **Subtitle H—Miscellaneous**
2 **Provisions**

3 **SEC. 691. TAX TREATMENT AND INFORMATION REQUIRE-**
4 **MENTS OF ALASKA NATIVE SETTLEMENT**
5 **TRUSTS.**

6 (a) TREATMENT OF ALASKA NATIVE SETTLEMENT
7 TRUSTS.—Subpart A of part I of subchapter J of chapter
8 1 (relating to general rules for taxation of trusts and es-
9 tates) is amended by adding at the end the following new
10 section:

11 **“SEC. 646. TAX TREATMENT OF ELECTING ALASKA NATIVE**
12 **SETTLEMENT TRUSTS.**

13 “(a) IN GENERAL.—If an election under this section
14 is in effect with respect to any Settlement Trust, the provi-
15 sions of this section shall apply in determining the income
16 tax treatment of the Settlement Trust and its beneficiaries
17 with respect to the Settlement Trust.

18 “(b) TAXATION OF INCOME OF TRUST.—Except as
19 provided in subsection (f)(1)(B)(ii)—

20 “(1) IN GENERAL.—There is hereby imposed on
21 the taxable income of an electing Settlement Trust,
22 other than its net capital gain, a tax at the lowest
23 rate specified in section 1(c).

24 “(2) CAPITAL GAIN.—In the case of an electing
25 Settlement Trust with a net capital gain for the tax-

1 able year, a tax is hereby imposed on such gain at
2 the rate of tax which would apply to such gain if the
3 taxpayer were subject to a tax on its other taxable
4 income at only the lowest rate specified in section
5 1(c).

6 Any such tax shall be in lieu of the income tax otherwise
7 imposed by this chapter on such income or gain.

8 “(c) ONE-TIME ELECTION.—

9 “(1) IN GENERAL.—A Settlement Trust may
10 elect to have the provisions of this section apply to
11 the trust and its beneficiaries.

12 “(2) TIME AND METHOD OF ELECTION.—An
13 election under paragraph (1) shall be made by the
14 trustee of such trust—

15 “(A) on or before the due date (including
16 extensions) for filing the Settlement Trust’s re-
17 turn of tax for the first taxable year of such
18 trust ending after the date of the enactment of
19 this section, and

20 “(B) by attaching to such return of tax a
21 statement specifically providing for such elec-
22 tion.

23 “(3) PERIOD ELECTION IN EFFECT.—Except as
24 provided in subsection (f), an election under this
25 subsection—

1 “(A) shall apply to the first taxable year
2 described in paragraph (2)(A) and all subse-
3 quent taxable years, and

4 “(B) may not be revoked once it is made.

5 “(d) CONTRIBUTIONS TO TRUST.—

6 “(1) BENEFICIARIES OF ELECTING TRUST NOT
7 TAXED ON CONTRIBUTIONS.—In the case of an
8 electing Settlement Trust, no amount shall be in-
9 cludible in the gross income of a beneficiary of such
10 trust by reason of a contribution to such trust.

11 “(2) EARNINGS AND PROFITS.—The earnings
12 and profits of the sponsoring Native Corporation
13 shall not be reduced on account of any contribution
14 to such Settlement Trust:

15 “(e) TAX TREATMENT OF DISTRIBUTIONS TO BENE-
16 FIICIARIES.—Amounts distributed by an electing Settle-
17 ment Trust during any taxable year shall be considered
18 as having the following characteristics in the hands of the
19 recipient beneficiary:

20 “(1) First, as amounts excludable from gross
21 income for the taxable year to the extent of the tax-
22 able income of such trust for such taxable year (de-
23 creased by any income tax paid by the trust with re-
24 spect to the income) plus any amount excluded from
25 gross income of the trust under section 103.

1 “(2) Second, as amounts excludable from gross
2 income to the extent of the amount described in
3 paragraph (1) for all taxable years for which an elec-
4 tion is in effect under subsection (c) with respect to
5 the trust, and not previously taken into account
6 under paragraph (1).

7 “(3) Third, as amounts distributed by the spon-
8 soring Native Corporation with respect to its stock
9 (within the meaning of section 301(a)) during such
10 taxable year and taxable to the recipient beneficiary
11 as amounts described in section 301(c)(1), to the ex-
12 tent of current or accumulated earnings and profits
13 of the sponsoring Native Corporation as of the close
14 of such taxable year after proper adjustment is
15 made for all distributions made by the sponsoring
16 Native Corporation during such taxable year.

17 “(4) Fourth, as amounts distributed by the
18 trust in excess of the distributable net income of
19 such trust for such taxable year.

20 Amounts distributed to which paragraph (3) applies shall
21 not be treated as a corporate distribution subject to sec-
22 tion 311(b), and for purposes of determining the amount
23 of a distribution for purposes of paragraph (3) and the
24 basis to the recipients, section 643(e) and not section
25 301(b) or (d) shall apply.

1 “(f) SPECIAL RULES WHERE TRANSFER RESTRIC-
2 TIONS MODIFIED.—

3 “(1) TRANSFER OF BENEFICIAL INTERESTS.—

4 If, at any time, a beneficial interest in an electing
5 Settlement Trust may be disposed of to a person in
6 a manner which would not be permitted by section
7 7(h) of the Alaska Native Claims Settlement Act (43
8 U.S.C. 1606(h)) if such interest were Settlement
9 Common Stock—

10 “(A) no election may be made under sub-
11 section (c) with respect to such trust, and

12 “(B) if such an election is in effect as of
13 such time—

14 “(i) such election shall cease to apply
15 as of the first day of the taxable year in
16 which such disposition is first permitted,

17 “(ii) the provisions of this section
18 shall not apply to such trust for such tax-
19 able year and all taxable years thereafter,
20 and

21 “(iii) the distributable net income of
22 such trust shall be increased by the cur-
23 rent or accumulated earnings and profits
24 of the sponsoring Native Corporation as of
25 the close of such taxable year after proper

1 adjustment is made for all distributions
2 made by the sponsoring Native Corpora-
3 tion during such taxable year.

4 In no event shall the increase under clause (iii) ex-
5 ceed the fair market value of the trust's assets as
6 of the date the beneficial interest of the trust first
7 becomes so disposable. The earnings and profits of
8 the sponsoring Native Corporation shall be adjusted
9 as of the last day of such taxable year by the
10 amount of earnings and profits so included in the
11 distributable net income of the trust.

12 “(2) STOCK IN CORPORATION.—If—

13 “(A) stock in the sponsoring Native Cor-
14 poration may be disposed of to a person in a
15 manner which would not be permitted by sec-
16 tion 7(h) of the Alaska Native Claims Settle-
17 ment Act (43 U.S.C. 1606(h)) if such stock
18 were Settlement Common Stock, and

19 “(B) at any time after such disposition of
20 stock is first permitted, such corporation trans-
21 fers assets to a Settlement Trust,

22 paragraph (1)(B) shall be applied to such trust on
23 and after the date of the transfer in the same man-
24 ner as if the trust permitted dispositions of bene-

1 ficial interests in the trust in a manner not per-
2 mitted by such section 7(h).

3 “(3) CERTAIN DISTRIBUTIONS.—For purposes
4 of this section, the surrender of an interest in a Na-
5 tive Corporation or an electing Settlement Trust in
6 order to accomplish the whole or partial redemption
7 of the interest of a shareholder or beneficiary in
8 such corporation or trust, or to accomplish the whole
9 or partial liquidation of such corporation or trust,
10 shall be deemed to be a transfer permitted by sec-
11 tion 7(h) of the Alaska Native Claims Settlement
12 Act.

13 “(g) TAXABLE INCOME.—For purposes of this title,
14 the taxable income of an electing Settlement Trust shall
15 be determined under section 641(b) without regard to any
16 deduction under section 651 or 661.

17 “(h) DEFINITIONS.—For purposes of this section—

18 “(1) ELECTING SETTLEMENT TRUST.—The
19 term ‘electing Settlement Trust’ means a Settlement
20 Trust which has made the election, effective for a
21 taxable year, described in subsection (c).

22 “(2) NATIVE CORPORATION.—The term ‘Native
23 Corporation’ has the meaning given such term by
24 section 3(m) of the Alaska Native Claims Settlement
25 Act (43 U.S.C. 1602(m)).

1 “(3) SETTLEMENT COMMON STOCK.—The term
2 ‘Settlement Common Stock’ has the meaning given
3 such term by section 3(p) of the Alaska Native
4 Claims Settlement Act (43 U.S.C. 1602(p)).

5 “(4) SETTLEMENT TRUST.—The term ‘Settle-
6 ment Trust’ means a trust that constitutes a settle-
7 ment trust under section 3(t) of the Alaska Native
8 Claims Settlement Act (43 U.S.C. 1602(t)).

9 “(5) SPONSORING NATIVE CORPORATION.—The
10 term ‘sponsoring Native Corporation’ means the Na-
11 tive Corporation which transfers assets to an elect-
12 ing Settlement Trust.

13 “(i) SPECIAL LOSS DISALLOWANCE RULE.—Any loss
14 that would otherwise be recognized by a shareholder upon
15 a disposition of a share of stock of a sponsoring Native
16 Corporation shall be reduced (but not below zero) by the
17 per share loss adjustment factor. The per share loss ad-
18 justment factor shall be the aggregate of all contributions
19 to all electing Settlement Trusts sponsored by such Native
20 Corporation made on or after the first day each trust is
21 treated as an electing Settlement Trust expressed on a per
22 share basis and determined as of the day of each such
23 contribution.

1 “(j) CROSS REFERENCE.—

“For information required with respect to electing Settlement Trusts and sponsoring Native Corporations, see section 6039H.”.

2 (b) REPORTING.—Subpart A of part III of sub-
3 chapter A of chapter 61 of subtitle F (relating to informa-
4 tion concerning persons subject to special provisions) is
5 amended by inserting after section 6039G the following
6 new section:

7 **“SEC. 6039H. INFORMATION WITH RESPECT TO ALASKA NA-**
8 **TIVE SETTLEMENT TRUSTS AND SPON-**
9 **SORING NATIVE CORPORATIONS.**

10 “(a) REQUIREMENT.—The fiduciary of an electing
11 Settlement Trust (as defined in section 646(h)(1)) shall
12 include with the return of income of the trust a statement
13 containing the information required under subsection (c).

14 “(b) APPLICATION WITH OTHER REQUIREMENTS.—
15 The filing of any statement under this section shall be in
16 lieu of the reporting requirements under section 6034A
17 to furnish any statement to a beneficiary regarding
18 amounts distributed to such beneficiary (and such other
19 reporting rules as the Secretary deems appropriate).

20 “(c) REQUIRED INFORMATION.—The information re-
21 quired under this subsection shall include—

22 “(1) the amount of distributions made during
23 the taxable year to each beneficiary,

1 “(2) the treatment of such distribution under
2 the applicable provision of section 646, including the
3 amount that is excludable from the recipient bene-
4 ficiary’s gross income under section 646, and

5 “(3) the amount (if any) of any distribution
6 during such year that is deemed to have been made
7 by the sponsoring Native Corporation (as defined in
8 section 646(h)(5)).

9 “(d) SPONSORING NATIVE CORPORATION.—

10 “(1) IN GENERAL.—The electing Settlement
11 Trust shall, on or before the date on which the
12 statement under subsection (a) is required to be
13 filed, furnish such statement to the sponsoring Na-
14 tive Corporation (as so defined).

15 “(2) DISTRIBUTEES.—The sponsoring Native
16 Corporation shall furnish each recipient of a dis-
17 tribution described in section 646(e)(3) a statement
18 containing the amount deemed to have been distrib-
19 uted to such recipient by such corporation for the
20 taxable year.”.

21 “(e) CLERICAL AMENDMENT.—

22 “(1) The table of sections for subpart A of part
23 I of subchapter J of chapter 1 of such Code is
24 amended by adding at the end the following new
25 item:

“Sec. 646. Tax treatment of electing Alaska Native Settlement Trusts.”.

1 (2) The table of sections for subpart A of part
2 III of subchapter A of chapter 61 of subtitle F of
3 such Code is amended by inserting after the item re-
4 lating to section 6039G the following new item:

“Sec. 6039H. Information with respect to Alaska Native Settlement Trusts and sponsoring Native Corporations.”.

5 (d) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to taxable years ending after the
7 date of the enactment of this Act and to contributions
8 made to electing Settlement Trusts for such year or any
9 subsequent year.

10 **Subtitle I—Compliance With** 11 **Congressional Budget Act**

12 **SEC. 695. SUNSET OF PROVISIONS OF TITLE.**

13 All provisions of, and amendments made by, this title
14 which are in effect on September 30, 2011, shall cease
15 to apply as of the close of September 30, 2011.

16 **SEC. 696. RESTORATION OF PROVISIONS OF TITLE.**

17 All provisions of, and amendments made by, this title
18 which were terminated under section 695 shall begin to
19 apply again as of October 1, 2011, as provided in each
20 such provision or amendment.

1 **TITLE VII—ALTERNATIVE**
2 **MINIMUM TAX**
3 **Subtitle A—In General**

4 **SEC. 701. INCREASE IN ALTERNATIVE MINIMUM TAX EX-**
5 **EMPTION.**

6 (a) IN GENERAL.—

7 (1) Subparagraph (A) of section 55(d)(1) (re-
8 lating to exemption amount for taxpayers other than
9 corporations) is amended by striking “\$45,000” and
10 inserting “\$45,000 (\$49,000 in the case of taxable
11 years beginning in 2001, 2002, 2003, 2004, 2005,
12 and 2006)”.

13 (2) Subparagraph (B) of section 55(d)(1) (re-
14 lating to exemption amount for taxpayers other than
15 corporations) is amended by striking “\$33,750” and
16 inserting “\$33,750 (\$35,750 in the case of taxable
17 years beginning in 2001, 2002, 2003, 2004, 2005,
18 and 2006)”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Paragraph (1) of section 55(d) is amended
21 by striking “and” at the end of subparagraph (B),
22 by striking subparagraph (C), and by inserting after
23 subparagraph (B) the following new subparagraphs:

24 “(C) 50 percent of the dollar amount ap-
25 plicable under paragraph (1)(A) in the case of

1 a married individual who files a separate re-
2 turn, and

3 “(D) \$22,500 in the case of an estate or
4 trust.”.

5 (2) Subparagraph (C) of section 55(d)(3) is
6 amended by striking “paragraph (1)(C)” and insert-
7 ing “subparagraph (C) or (D) of paragraph (1)”.

8 (3) The last sentence of section 55(d)(3) is
9 amended—

10 (A) by striking “paragraph (1)(C)(i)” and
11 inserting “paragraph (1)(C)”; and

12 (B) by striking “\$165,000 or (ii) \$22,500”
13 and inserting “the minimum amount of such in-
14 come (as so determined) for which the exemp-
15 tion amount under paragraph (1)(C) is zero, or
16 (ii) such exemption amount (determined with-
17 out regard to this paragraph)”.

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

1 **Subtitle B—Compliance With**
2 **Congressional Budget Act**

3 **SEC. 711. SUNSET OF PROVISIONS OF TITLE.**

4 All provisions of, and amendments made by, this title
5 which are in effect on September 30, 2011, shall cease
6 to apply as of the close of September 30, 2011.

7 **SEC. 712. RESTORATION OF PROVISIONS OF TITLE.**

8 All provisions of, and amendments made by, this title
9 which were terminated under section 711 shall begin to
10 apply again as of October 1, 2011, as provided in each
11 such provision or amendment.

12 **TITLE VIII—OTHER PROVISIONS**
13 **Subtitle A—In General**

14 **SEC. 801. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
15 **TAXES.**

16 Notwithstanding section 6655 of the Internal Rev-
17 enue Code of 1986—

18 (1) 70 percent of the amount of any required
19 installment of corporate estimated tax which is oth-
20 erwise due in September 2001 shall not be due until
21 October 1, 2001; and

22 (2) 20 percent of the amount of any required
23 installment of corporate estimated tax which is oth-
24 erwise due in September 2004 shall not be due until
25 October 1, 2004.

1 **SEC. 802. EXPANSION OF AUTHORITY TO POSTPONE CER-**
2 **TAIN TAX-RELATED DEADLINES BY REASON**
3 **OF PRESIDENTIALLY DECLARED DISASTER.**

4 (a) **IN GENERAL.**—Section 7508A (relating to au-
5 thority to postpone certain tax-related deadlines by reason
6 of presidentially declared disaster) is amended by adding
7 at the end the following new subsection:

8 “(c) **DUTIES OF DISASTER RESPONSE TEAM.**—The
9 Secretary shall establish as a permanent office in the na-
10 tional office of the Internal Revenue Service a disaster re-
11 sponse team which, in coordination with the Federal
12 Emergency Management Agency, shall assist taxpayers in
13 clarifying and resolving Federal tax matters associated
14 with or resulting from any Presidentially declared disaster
15 (as so defined). One of the duties of the disaster response
16 team shall be to extend in appropriate cases the 90-day
17 period described in subsection (a) by not more than 30
18 days.”.

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

1 **Subtitle B—Compliance With**
2 **Congressional Budget Act**

3 **SEC. 811. SUNSET OF PROVISIONS OF TITLE.**

4 All provisions of, and amendments made by, this title
5 which are in effect on September 30, 2011, shall cease
6 to apply as of the close of September 30, 2011.

7 **SEC. 812. RESTORATION OF PROVISIONS OF TITLE.**

8 All provisions of, and amendments made by, this title
9 which were terminated under section 811 shall begin to
10 apply again as of October 1, 2011, as provided in each
11 such provision or amendment.