

105TH CONGRESS
1ST SESSION

H. R. 1130

To provide for retirement savings and security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1997

Mr. GEJDENSON (for himself, Mr. POMEROY, Mr. BENTSEN, Mrs. KENNELLY of Connecticut, Mrs. LOWEY, Mr. GEPHARDT, Mr. BOSWELL, Mr. DELAHUNT, Mr. KUCINICH, Mrs. MALONEY of New York, Ms. MCCARTHY of Missouri, Mrs. TAUSCHER, Mr. LEWIS of Georgia, Mr. KILDEE, Mr. ANDREWS, Mr. GONZALEZ, Mr. BROWN of California, Mr. LAFALCE, Mr. FROST, Mr. SABO, Mr. BORSKI, Mr. WISE, Mr. ACKERMAN, Mr. SAWYER, Ms. DELAURO, Mr. OLVER, Mrs. CLAYTON, Mr. FILNER, Mr. BALDACCI, Mr. STRICKLAND, Mr. BLAGOJEVICH, Ms. KILPATRICK, Mr. MCGOVERN, Mr. PASCHELL, Mr. SANDLIN, and Mr. UNDERWOOD) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, Transportation and Infrastructure, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for retirement savings and security, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Retirement Security
3 Act of 1997”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH
PAYROLL DEDUCTIONS

- Sec. 101. Definitions.
- Sec. 102. Establishment of payroll deduction and investment system.
- Sec. 103. Contributions to individual retirement plans.
- Sec. 104. Investment options.
- Sec. 105. Accounting and information.
- Sec. 106. Administrative costs.
- Sec. 107. Fiduciary responsibilities; liability and penalties; bonding; investiga-
tive authority.
- Sec. 108. Selection of contractor.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO
INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 111. Nonrefundable tax credit for contributions to individual retirement
plans.

CHAPTER 3—EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS TO INCREASE
COVERAGE AND PORTABILITY

SUBCHAPTER A—IRA DEDUCTION

- Sec. 121. Increase in income limitations.
- Sec. 122. Inflation adjustment for deductible amount and income limitations.

SUBCHAPTER B—DISTRIBUTIONS AND INVESTMENTS

- Sec. 131. Distributions from IRAs may be used without additional tax to pur-
chase first homes, to pay higher education, or to pay finan-
cially devastating medical expenses.
- Sec. 132. Distributions from certain plans may be used without penalty during
periods of unemployment.
- Sec. 133. Contributions must be held at least 5 years in certain cases.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

Sec. 141. Periodic pension benefits statements.

Subtitle B—Improved Fairness in Retirement Plan Benefits

- Sec. 151. Amendments to simple retirement accounts.
- Sec. 152. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
- Sec. 153. Definition of highly compensated employees.

Subtitle C—Improving Retirement Plan Coverage

- Sec. 161. Credit for pension plan start-up costs of small employers.
- Sec. 162. Treatment of multiemployer plans under section 415.
- Sec. 163. Exemption of mirror plans from section 457 limits.
- Sec. 164. Special rules for self-employed individuals.
- Sec. 165. Immediate participation in the thrift savings plan for Federal employees.
- Sec. 166. Modification of 10 percent tax for nondeductible contributions.
- Sec. 167. Treatment of certain disability benefits received by former police officers or firefighters.

Subtitle D—Simplifying Plan Requirements

- Sec. 171. Full funding limitation for multiemployer plans.
- Sec. 172. Elimination of partial termination rules for multiemployer plans.
- Sec. 173. Modifications to nondiscrimination and minimum participation rules with respect to governmental plans.
- Sec. 174. Elimination of requirement for plan descriptions and the filing requirement for summary plan descriptions and descriptions of material modifications to a plan; technical corrections.
- Sec. 175. Repeal of 150 percent of current liability funding limit.
- Sec. 176. New technologies in retirement plans.

TITLE II—SECURITY

- Sec. 200. Amendment of ERISA.

Subtitle A—General Provisions

- Sec. 201. Section 401(k) investment protection.
- Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
- Sec. 203. Information required to be provided to investment managers of 401(k) plans.
- Sec. 204. Study on investments in collectibles.
- Sec. 205. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.
- Sec. 206. Multiemployer plan benefits guaranteed.
- Sec. 207. Prohibited transactions.
- Sec. 208. Substantial owner benefits.
- Sec. 209. Reversion report.
- Sec. 210. Development of additional remedies.

Subtitle B—ERISA Enforcement

- Sec. 211. Repeal of limited scope audit.
- Sec. 212. Additional requirements for qualified public accountants.
- Sec. 213. Clarification of fiduciary penalties.
- Sec. 214. Conforming amendments relating to ERISA enforcement.

TITLE III—PORTABILITY

- Sec. 301. Faster vesting of employer matching contributions.
- Sec. 302. Rationalize the restrictions on distributions from 401(k) plans.
- Sec. 303. Treatment of transfers between defined contribution plans.
- Sec. 304. Missing participants.

TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION

Subtitle A—Pension Reform

- Sec. 401. Pension integration rules.
- Sec. 402. Application of minimum coverage requirements with respect to separate lines of business.
- Sec. 403. Division of pension benefits upon divorce.
- Sec. 404. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
- Sec. 405. Effective dates.

Subtitle B—Protection of Rights of Former Spouses to Pension Benefits
Under Certain Government and Government-Sponsored Retirement Programs

- Sec. 411. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
- Sec. 412. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under civil service retirement system.
- Sec. 413. Termination of two-tier annuity computation and social security offset under military survivor benefit plan.
- Sec. 414. Court orders relating to Federal retirement benefits for former spouses of Federal employees.

Subtitle C—Modifications of Joint and Survivor Annuity Requirements

- Sec. 421. Modifications of joint and survivor annuity requirements.

Subtitle D—Spousal Consent Required for Distributions From Section 401(k)
Plans

- Sec. 431. Spousal consent required for distributions from section 401(k) plans.

Subtitle E—Women's Pension Toll-Free Phone Number

- Sec. 441. Women's pension toll-free phone number.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

- Sec. 501. Date for adoption of plan amendments.

1 **TITLE I—PENSION ACCESS AND**
2 **COVERAGE**

3 **SEC. 100. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this title an amendment or repeal is expressed in terms

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

5 **Subtitle A—Improved Access to**
6 **Individual Retirement Savings**

7 **CHAPTER 1—CONTRIBUTIONS TO INDI-**
8 **VIDUAL RETIREMENT PLANS**
9 **THROUGH PAYROLL DEDUCTIONS**

10 **SEC. 101. DEFINITIONS.**

11 For purposes of this chapter:

12 (1) **CONTRACTOR.**—The term “contractor”
13 means the private entity awarded a contract by the
14 Secretary of Labor under section 108.

15 (2) **CONTRIBUTION CERTIFICATE.**—The term
16 “contribution certificate” means a certificate submit-
17 ted by an employee to the employee’s employer and
18 the contractor which—

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

21 (B) identifies the amount of the contribu-
22 tion to an individual retirement plan the em-
23 ployee wishes to make for the taxable year
24 through a payroll deduction, not to exceed the
25 amount allowed under section 408 of the Inter-

1 nal Revenue Code of 1986 to an individual re-
2 tirement plan for such year.

3 (3) EMPLOYEE.—The term “employee” does
4 not include an employee as defined in section
5 401(c)(1) of such Code.

6 (4) INDIVIDUAL RETIREMENT PLANS.—

7 (A) IN GENERAL.—The term “individual
8 retirement plan” has the meaning given the
9 term by section 7701(a)(37) of the Internal
10 Revenue Code of 1986).

11 (B) APPLICATION OF RULES.—Rules appli-
12 cable to an individual retirement plan under the
13 Internal Revenue Code of 1986 are applicable
14 to an individual retirement plan referred to in
15 this chapter.

16 **SEC. 102. ESTABLISHMENT OF PAYROLL DEDUCTION AND**
17 **INVESTMENT SYSTEM.**

18 The contractor shall establish a system under
19 which—

20 (1) employees, through employer payroll deduc-
21 tions, may make contributions to individual retire-
22 ment plans, and

23 (2) amounts in the individual retirement plans
24 are invested as provided in section 104.

1 **SEC. 103. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT**
2 **PLANS.**

3 (a) IN GENERAL.—The system established under sec-
4 tion 102 shall provide that contributions made to an indi-
5 vidual retirement plan for any taxable year are—

6 (1) contributions under an employer payroll de-
7 duction system, and

8 (2) additional contributions which, when added
9 to contributions under paragraph (1), do not exceed
10 the amount allowed under section 408 of the Inter-
11 nal Revenue Code of 1986 for the taxable year.

12 (b) EMPLOYER PAYROLL DEDUCTION SYSTEMS.—

13 (1) IN GENERAL.—The system established
14 under section 102 shall provide to the maximum ex-
15 tent feasible that contributions under employer pay-
16 roll deduction systems are made in such a manner
17 as provides all employers with a simple, cost-effec-
18 tive way of making such contributions.

19 (2) SIMPLIFIED EMPLOYEE ENROLLMENT AND
20 PARTICIPATION.—

21 (A) ESTABLISHMENT.—An employee may
22 establish and maintain an individual retirement
23 plan simply by—

24 (i) completing a contribution certifi-
25 cate, and

1 (ii) submitting such certificate to the
2 employee's employer and the contractor in
3 the manner provided under paragraph (3).

4 (B) EASE OF ADMINISTRATION.—An em-
5 ployee establishing and maintaining an individ-
6 ual retirement plan under subparagraph (A)
7 may change the amount of an employer payroll
8 deduction, request employer payroll deductions
9 by new employers to an existing plan, and make
10 changes in elections made under section 104(d)
11 in the same manner as under subparagraph
12 (A).

13 (C) SIMPLIFIED FORMS.—

14 (i) CONTRIBUTION CERTIFICATE.—
15 The contractor shall develop a contribution
16 certificate for purposes of subparagraph
17 (A)—

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

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

1 (ii) OTHER FORMS.—The contractor
2 shall develop such model forms for pur-
3 poses of subparagraph (B) as are nec-
4 essary to enable the contractor and an em-
5 ployer to easily administer an individual
6 retirement plan on behalf of an employee.

7 (iii) AVAILABILITY.—The contractor
8 shall make available to all employees and
9 employers the forms developed under this
10 subparagraph, and shall include with such
11 forms easy to understand explanatory ma-
12 terials.

13 (3) USE OF CERTIFICATE.—Each employer
14 upon receipt of a contribution certificate from an
15 employee shall deduct the appropriate contribution
16 as determined by such certificate from the employ-
17 ee's wages in equal amounts during the remaining
18 payroll periods for the taxable year and shall remit
19 such amounts to the contractor for investment in the
20 employee's individual retirement plan.

21 (4) FAILURE TO REMIT PAYROLL DEDUC-
22 TIONS.—For purposes of the Internal Revenue Code
23 of 1986, any amount which an employer fails to
24 remit to the contractor on behalf of an employee
25 pursuant to a contribution certificate of such em-

1 ployee shall not be allowed as a deduction to the em-
2 ployer under such Code.

3 **SEC. 104. INVESTMENT OPTIONS.**

4 (a) IN GENERAL.—The contractor shall, pursuant to
5 the system established under section 102, enter into ar-
6 rangements, on a competitive basis, with qualified profes-
7 sional asset managers to provide individuals with the op-
8 portunity to invest sums in an individual retirement plan
9 in each of the funds described in subsection (b).

10 (b) TYPE OF FUNDS.—The funds described in the
11 subsection are the following:

12 (1) A government securities investment fund.

13 (2) A fixed income investment fund.

14 (3) A common stock index investment fund.

15 (c) ASSET MANAGERS.—

16 (1) IN GENERAL.—The contractor may select
17 more than 1 qualified professional asset manager for
18 each type of fund described in subsection (b).

19 (2) ASSET ALLOCATION.—The contractor may
20 place limits on the amount which may be allocated
21 by the contractor to any qualified professional asset
22 manager to the extent the contractor determines
23 necessary to prevent undue impact on any financial
24 market or undue risk to participants.

1 (3) DEFINITION.—For purposes of this section,
2 the term “qualified professional asset manager” has
3 the meaning given the term by section 8438(a)(7) of
4 title 5, United States Code.

5 (d) PARTICIPANT ELECTIONS.—

6 (1) IN GENERAL.—The system established
7 under section 102 shall provide that an individual on
8 whose behalf an individual retirement plan is estab-
9 lished may—

10 (A) elect the investment funds into which
11 contributions to the plan are to be invested, and

12 (B) elect to transfer contributions (and
13 earnings) from one fund to another.

14 (2) METHOD.—Any election shall be made in
15 the manner provided by the system, except that the
16 contractor shall seek to ensure elections may be
17 made in a simple, timely manner.

18 (3) LIMITATION.—Any election under this sub-
19 section shall be subject to the asset allocation limita-
20 tion under subsection (c)(2).

21 (e) INVESTMENT POLICIES.—The system established
22 under section 102 shall provide that any investment poli-
23 cies adopted by the contractor shall provide for—

24 (1) prudent investments suitable for accumulat-
25 ing funds for payment of retirement income, and

1 (2) low administrative costs.

2 **SEC. 105. ACCOUNTING AND INFORMATION.**

3 (a) ESTABLISHMENT OF PLANS.—

4 (1) IN GENERAL.—The system established
5 under section 102 shall provide for the establishment
6 and maintenance of an individual retirement plan
7 for each individual—

8 (A) for whom contributions are made to
9 the contractor under an employer payroll deduc-
10 tion system pursuant to a contribution certifi-
11 cate, and

12 (B) who makes any additional contribu-
13 tions allowed under section 408 of the Internal
14 Revenue Code of 1986 for the taxable year.

15 (2) ALLOCATIONS AND REDUCTIONS TO
16 PLAN.—Such system shall provide for—

17 (A) the allocation to each plan of an
18 amount equal to a pro rata share of the net
19 earnings and net losses from each investment of
20 sums in such plan, and

21 (B) a reduction in each such plan for the
22 plan's appropriate share of the administrative
23 expenses to be paid out.

24 (3) EXAMINATION OF PLANS.—

1 (A) IN GENERAL.—The contractor shall
2 annually engage, on behalf of all individuals for
3 whom an individual retirement plan is main-
4 tained, an independent qualified public account-
5 ant (within the meaning of section
6 103(a)(3)(D) of the Employee Retirement In-
7 come Security Act of 1974 (29 U.S.C.
8 1023(a)(3)(D)) who shall conduct an examina-
9 tion of all plans and other books and records
10 maintained in the administration of this chapter
11 as the accountant considers necessary to make
12 the determination under subparagraph (B). The
13 examination shall be conducted in accordance
14 with generally accepted auditing standards and
15 shall involve such tests of the plans, books, and
16 records as the public accountant considers nec-
17 essary.

18 (B) DETERMINATION OF COMPLIANCE.—
19 The public accountant conducting an examina-
20 tion under subparagraph (A) shall determine
21 whether the plans, books, and records referred
22 to in such subparagraph have been maintained
23 in conformity with generally accepted account-
24 ing principles. The public accountant shall
25 transmit to the contractor and the Secretary of

1 Labor a report on such examination and deter-
2 mination.

3 (C) RELIANCE.—In making a determina-
4 tion under subparagraph (B), a public account-
5 ant may rely on the correctness of any actuarial
6 matter certified by an enrolled actuary if the
7 public accountant states a reliance in the report
8 to the contractor.

9 (b) ADDITIONAL INFORMATION.—

10 (1) IN GENERAL.—The system established
11 under section 102 shall provide for the furnishing of
12 information to employees and employers of the op-
13 portunity of establishing individual retirement plans
14 and of transferring amounts to such plans.

15 (2) PLAN PARTICIPANTS.—

16 (A) IN GENERAL.—Such system shall pro-
17 vide that each individual for whom an individ-
18 ual retirement plan is maintained shall be peri-
19 odically furnished with—

20 (i) a statement relating to the individ-
21 ual's plan, and

22 (ii) a summary description of the in-
23 vestment options under the plan and a his-
24 tory of the investment performance of such

1 options during the 5-year period preceding
2 the evaluation.

3 (B) PLAN VALUATION.—Such system shall
4 also provide that each individual for whom an
5 individual retirement plan is established shall be
6 entitled, upon request, to a periodic valuation of
7 amounts in each fund described in section
8 104(b) in order to enable the individual to
9 make an election to transfer such amounts be-
10 tween funds.

11 (3) INVESTMENT INFORMATION.—The contrac-
12 tor shall also make available to employees informa-
13 tion on how to make informed investment decisions
14 and how to achieve retirement objectives.

15 (4) INFORMATION NOT INVESTMENT ADVICE.—
16 Information provided under this subsection shall not
17 be treated as investment advice for purposes of any
18 Federal or State law.

19 **SEC. 106. ADMINISTRATIVE COSTS.**

20 (a) IN GENERAL.—Except as provided from amounts
21 described in section 108(c), any expense incurred by the
22 contractor in carrying out its functions under this chapter
23 shall be paid first from the earnings of the funds in indi-
24 vidual retirement plans and then from balances in such
25 plans.

1 (b) ALLOCATION.—Expenses under subsection (a)
2 shall be allocated to each individual retirement plan in the
3 manner provided under section 105.

4 **SEC. 107. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**
5 **PENALTIES; BONDING; INVESTIGATIVE AU-**
6 **THORITY.**

7 Except as modified by the Secretary of Labor in regu-
8 lations to correspond to the structure and responsibilities
9 of the contractor, the provisions of sections 8477, 8478,
10 8478a, and 8479(a) of title 5, United States Code, shall
11 apply to the contractor in the same manner as such provi-
12 sions apply to the Thrift Savings Fund.

13 **SEC. 108. SELECTION OF CONTRACTOR.**

14 (a) SELECTION.—

15 (1) IN GENERAL.—The Secretary of Labor shall
16 contract out, on a competitive basis, the duties
17 under this chapter to a private entity.

18 (2) MEASUREMENT OF CONTRACT PERFORM-
19 ANCE.—No contract shall be entered into with any
20 entity under paragraph (1) unless the Secretary of
21 Labor finds that such entity will perform its obliga-
22 tions under the contract efficiently and effectively
23 and will meet such requirements as to financial re-
24 sponsibility, legal authority, and other matters as
25 the Secretary finds pertinent. The Secretary of

1 Labor shall publish in the Federal Register stand-
2 ards and criteria for the efficient and effective per-
3 formance of contract obligations under this chapter
4 (including standards and criteria for the termination
5 of such contract), and opportunity shall be provided
6 for public comment prior to implementation.

7 (b) TREATMENT AS TRUSTEE.—For purposes of the
8 Internal Revenue Code of 1986 the contractor shall be
9 treated in the same manner as a trustee described in sec-
10 tion 408(a)(2) of such Code.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as are nec-
13 essary for the Secretary of Labor to design and award the
14 contract described in subsection (a)(1) and for the con-
15 tractor to begin operations under this chapter.

16 (d) EFFECTIVE DATE OF SYSTEM.—The system es-
17 tablished under section 102 shall take effect on the first
18 day of the sixth month following the month in which the
19 contract under subsection (a) is awarded.

1 **CHAPTER 2—NONREFUNDABLE TAX**
 2 **CREDIT FOR CONTRIBUTIONS TO IN-**
 3 **DIVIDUAL RETIREMENT ACCOUNTS**

4 **SEC. 111. NONREFUNDABLE TAX CREDIT FOR CONTRIBU-**
 5 **TIONS TO INDIVIDUAL RETIREMENT PLANS.**

6 (a) IN GENERAL.—Subpart A of part IV of sub-
 7 chapter A of chapter 1 (relating to nonrefundable personal
 8 credits) is amended by inserting after section 25 the fol-
 9 lowing new section:

10 **“SEC. 25A. RETIREMENT SAVINGS.**

11 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 12 lowed as a credit against the tax imposed by this chapter
 13 so much of the qualified retirement contributions of the
 14 taxpayer for the taxable year as does not exceed the appli-
 15 cable amount of the adjusted gross income of the taxpayer
 16 for such year.

17 “(b) APPLICABLE AMOUNT.—For purposes of sub-
 18 section (a), the applicable amount is determined in accord-
 19 ance with the following table:

“If adjusted gross income is:	The applicable amount is:
Not over \$15,000	\$450.
Over \$15,000 but not over \$20,000.	\$400.
Over \$20,000 but not over \$25,000.	\$350.
Over \$25,000 but not over \$30,000.	\$300.
Over \$30,000	\$0.

1 “(c) SECTION NOT TO APPLY TO CERTAIN CON-
2 TRIBUTIONS.—This section shall not apply with respect
3 to—

4 “(1) an employer contribution to a simplified
5 employee pension, and

6 “(2) any amount contributed to a simple retire-
7 ment account established under section 408(p).

8 “(d) OTHER LIMITATIONS AND RESTRICTIONS.—

9 “(1) BENEFICIARY MUST BE UNDER AGE
10 70½.—No credit shall be allowed under this section
11 with respect to any qualified retirement contribution
12 for the benefit of an individual if such individual has
13 attained age 70½ before the close of such individ-
14 ual’s taxable year for which the contribution was
15 made.

16 “(2) RECONTRIBUTED AMOUNTS.—No credit
17 shall be allowed under this section with respect to a
18 rollover contribution described in section 402(e),
19 403(a)(4), 403(b)(8), or 408(d)(3).

20 “(3) AMOUNTS CONTRIBUTED UNDER ENDOW-
21 MENT CONTRACT.—In the case of an endowment
22 contract described in section 408(b), no credit shall
23 be allowed under this section for that portion of the
24 amounts paid under the contract for the taxable
25 year which is properly allocable, under regulations

1 prescribed by the Secretary, to the cost of life insur-
2 ance.

3 “(4) DENIAL OF CREDIT FOR AMOUNT CON-
4 TRIBUTED TO INHERITED ANNUITIES OR AC-
5 COUNTS.—No credit shall be allowed under this sec-
6 tion with respect to any amount paid to an inherited
7 individual retirement account or individual retire-
8 ment annuity (within the meaning of section
9 408(d)(3)(C)(ii)).

10 “(5) NO DOUBLE BENEFIT.—No credit shall be
11 allowed under this section for any taxable year with
12 respect to the amount of any qualified retirement
13 contribution for the benefit of an individual if such
14 individual takes a deduction with respect to such
15 amount under section 219 for such taxable year.

16 “(e) QUALIFIED RETIREMENT CONTRIBUTION.—For
17 purposes of this section, the term ‘qualified retirement
18 contribution’ means—

19 “(1) any amount paid in cash for the taxable
20 year by or on behalf of an individual to an individual
21 retirement plan for such individual’s benefit, and

22 “(2) any amount contributed on behalf of any
23 individual to a plan described in section 501(c)(18).

24 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

1 “(1) COMPENSATION.—For purposes of this
2 section, the term ‘compensation’ has the meaning
3 given in section 219(f)(1).

4 “(2) MARRIED COUPLES MUST FILE JOINT RE-
5 TURN.—If the taxpayer is married at the close of
6 the taxable year, the credit shall be allowed under
7 subsection (a) only if the taxpayer and the tax-
8 payer’s spouse file a joint return for the taxable
9 year.

10 “(3) TIME WHEN CONTRIBUTIONS DEEMED
11 MADE.—For purposes of this section, a taxpayer
12 shall be deemed to have made a contribution to an
13 individual retirement plan on the last day of the pre-
14 ceding taxable year if the contribution is made on
15 account of such taxable year and is made not later
16 than the time prescribed by law for filing the return
17 for such taxable year (not including extensions
18 thereof).

19 “(4) EMPLOYER PAYMENTS.—For purposes of
20 this title, any amount paid by an employer to an in-
21 dividual retirement plan shall be treated as payment
22 of compensation to the employee (other than a self-
23 employed individual who is an employee within the
24 meaning of section 401(c)(1)) includible in his gross
25 income in the taxable year for which the amount was

1 contributed, whether or not a credit for such pay-
2 ment is allowable under this section to the em-
3 ployee.”

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 86(f) is amended by redesignating
6 paragraphs (2), (3), and (4) as paragraphs (3), (4),
7 and (5), respectively, and by inserting after para-
8 graph (1) the following new paragraph:

9 “(2) section 25A(f)(1) (defining compensa-
10 tion),”.

11 (2) Clause (i) of section 501(c)(18)(D) is
12 amended by inserting “which may be taken into ac-
13 count in computing the credit allowable under sec-
14 tion 25A or” before “with respect”.

15 (3) Section 6047(c) is amended by inserting
16 “section 25A or” before “section 219”.

17 (4) Section 6652(g) is amended by inserting
18 “CREDITABLE” before “DEDUCTIBLE” in the head-
19 ing thereof.

20 (5) The table of sections for subpart A of part
21 IV of subchapter A of chapter 1 is amended by in-
22 serting after the item relating to section 25 the fol-
23 lowing new item:

“Sec. 25A. Retirement savings.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section apply to taxable years beginning after Decem-
3 ber 31, 1997.

4 **CHAPTER 3—EXPANDED INDIVIDUAL RE-**
5 **TIREMENT ACCOUNTS TO INCREASE**
6 **COVERAGE AND PORTABILITY**

7 **Subchapter A—IRA Deduction**

8 **SEC. 121. INCREASE IN INCOME LIMITATIONS.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 219(g)(3) (defining applicable dollar amount) is amend-
11 ed—

12 (1) by striking “\$40,000” in clause (i) and in-
13 serting “\$80,000 (\$70,000 in the case of taxable
14 years beginning in 1997, 1998, or 1999)”, and

15 (2) by striking “\$25,000” in clause (ii) and in-
16 serting “\$50,000 (\$45,000 in the case of taxable
17 years beginning in 1997, 1998, or 1999)”.

18 (b) PHASEOUT OF LIMITATIONS.—Clause (ii) of sec-
19 tion 219(g)(2)(A) (relating to amount of reduction) is
20 amended by striking “\$10,000” and inserting “an amount
21 equal to 10 times the dollar amount applicable for the tax-
22 able year under subsection (b)(1)(A)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 1996.

1 **SEC. 122. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
2 **AMOUNT AND INCOME LIMITATIONS.**

3 (a) IN GENERAL.—Section 219 (relating to retire-
4 ment savings) is amended by redesignating subsection (h)
5 as subsection (i) and by inserting after subsection (g) the
6 following new subsection:

7 “(h) COST-OF-LIVING ADJUSTMENTS.—

8 “(1) DEDUCTIBLE AMOUNTS.—In the case of
9 any taxable year beginning in a calendar year after
10 1997, the \$2,000 amount under subsection (b)(1)(A)
11 shall be increased by an amount equal to—

12 “(A) such dollar amount, multiplied by

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, deter-
16 mined by substituting ‘calendar year 1996’ for
17 ‘calendar year 1992’ in subparagraph (B)
18 thereof.

19 “(2) APPLICABLE DOLLAR AMOUNT.—In the
20 case of any taxable year beginning in a calendar
21 year after 2000, the applicable dollar amounts under
22 subsection (g)(3)(B) shall be increased by an
23 amount equal to—

24 “(A) such dollar amount, multiplied by

25 “(B) the cost-of-living adjustment deter-
26 mined under section 1(f)(3) for the calendar

1 year in which the taxable year begins, deter-
2 mined by substituting ‘calendar year 1999’ for
3 ‘calendar year 1992’ in subparagraph (B)
4 thereof.

5 “(3) ROUNDING RULES.—

6 “(A) DEDUCTION AMOUNTS.—If any
7 amount after adjustment under paragraph (1)
8 is not a multiple of \$500, such amount shall be
9 rounded to the next lowest multiple of \$500.

10 “(B) APPLICABLE DOLLAR AMOUNTS.—If
11 any amount after adjustment under paragraph
12 (2) is not a multiple of \$5,000, such amount
13 shall be rounded to the next lowest multiple of
14 \$5,000.”.

15 (b) CONFORMING AMENDMENTS.—

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

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

24 (3) Section 408(j) is amended by striking
25 “\$2,000”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1996.

4 **Subchapter B—Distributions and**
5 **Investments**

6 **SEC. 131. DISTRIBUTIONS FROM IRAS MAY BE USED WITH-**
7 **OUT ADDITIONAL TAX TO PURCHASE FIRST**
8 **HOMES, TO PAY HIGHER EDUCATION, OR TO**
9 **PAY FINANCIALLY DEVASTATING MEDICAL**
10 **EXPENSES.**

11 (a) IN GENERAL.—Paragraph (2) of section 72(t)
12 (relating to exceptions to 10-percent additional tax on
13 early distributions from qualified retirement plans) is
14 amended by adding at the end the following new subpara-
15 graph:

16 “(E) DISTRIBUTIONS FROM CERTAIN
17 PLANS FOR FIRST HOME PURCHASES OR EDU-
18 CATIONAL EXPENSES.—Distributions to an in-
19 dividual from an individual retirement plan—

20 “(i) which are qualified first-time
21 homebuyer distributions (as defined in
22 paragraph (7)); or

23 “(ii) to the extent such distributions
24 do not exceed the qualified higher edu-

1 cation expenses (as defined in paragraph
2 (8)) of the taxpayer for the taxable year.”.

3 (b) FINANCIALLY DEVASTATING MEDICAL EX-
4 PENSES.—

5 (1) CERTAIN LINEAL DESCENDANTS AND AN-
6 CESTORS TREATED AS DEPENDENTS.—Subpara-
7 graph (B) of section 72(t)(2) (relating to subsection
8 not to apply to certain distributions) is amended by
9 striking “medical care” and all that follows and in-
10 inserting “medical care determined—

11 “(i) without regard to whether the
12 employee itemizes deductions for such tax-
13 able year, and

14 “(ii) in the case of an individual re-
15 tirement plan, by treating such employee’s
16 dependents as including all children,
17 grandchildren, and ancestors of the em-
18 ployee or such employee’s spouse.”.

19 (2) CONFORMING AMENDMENT.—Subparagraph
20 (B) of section 72(t)(2) is amended by striking “or
21 (D)” and inserting “, (D), or (E)”.

22 (c) DEFINITIONS.—Section 72(t) is amended by add-
23 ing at the end the following new paragraphs:

1 “(7) QUALIFIED FIRST-TIME HOMEBUYER DIS-
2 TRIBUTIONS.—For purposes of paragraph
3 (2)(E)(i)—

4 “(A) IN GENERAL.—The term ‘qualified
5 first-time homebuyer distribution’ means any
6 payment or distribution received by an individ-
7 ual to the extent such payment or distribution
8 is used by the individual before the close of the
9 60th day after the day on which such payment
10 or distribution is received to pay qualified ac-
11 quisition costs with respect to a principal resi-
12 dence of a first-time homebuyer who is such in-
13 dividual or the spouse, child (as defined in sec-
14 tion 151(c)(3)), or grandchild of such individ-
15 ual.

16 “(B) QUALIFIED ACQUISITION COSTS.—
17 For purposes of this paragraph, the term
18 ‘qualified acquisition costs’ means the costs of
19 acquiring, constructing, or reconstructing a res-
20 idence. Such term includes any usual or reason-
21 able settlement, financing, or other closing
22 costs.

23 “(C) FIRST-TIME HOMEBUYER; OTHER
24 DEFINITIONS.—For purposes of this para-
25 graph—

1 “(i) FIRST-TIME HOMEBUYER.—The
2 term ‘first-time homebuyer’ means any in-
3 dividual if—

4 “(I) such individual (and if mar-
5 ried, such individual’s spouse) had no
6 present ownership interest in a prin-
7 cipal residence during the 3-year pe-
8 riod ending on the date of acquisition
9 of the principal residence to which
10 this paragraph applies, and

11 “(II) subsection (h) or (k) of sec-
12 tion 1034 did not suspend the run-
13 ning of any period of time specified in
14 section 1034 with respect to such in-
15 dividual on the day before the date
16 the distribution is applied pursuant to
17 subparagraph (A).

18 In the case of an individual described in
19 section 143(i)(1)(C) for any year, an own-
20 ership interest shall not include any inter-
21 est under a contract of deed described in
22 such section. An individual who loses an
23 ownership interest in a principal residence
24 incident to a divorce or legal separation is
25 deemed for purposes of this subparagraph

1 to have had no ownership interest in such
2 principal residence within the period re-
3 ferred to in subclause (II).

4 “(ii) PRINCIPAL RESIDENCE.—The
5 term ‘principal residence’ has the same
6 meaning as when used in section 1034.

7 “(iii) DATE OF ACQUISITION.—The
8 term ‘date of acquisition’ means the date—

9 “(I) on which a binding contract
10 to acquire the principal residence to
11 which subparagraph (A) applies is en-
12 tered into, or

13 “(II) on which construction or re-
14 construction of such a principal resi-
15 dence is commenced.

16 “(D) SPECIAL RULE WHERE DELAY IN AC-
17 QUISTION.—Any portion of any distribution
18 from any individual retirement plan which fails
19 to meet the requirements of subparagraph (A)
20 solely by reason of a delay or cancellation of the
21 purchase or construction of the residence may
22 be contributed to an individual retirement plan
23 as provided in section 408(d)(3)(A)(i) (deter-
24 mined by substituting ‘120 days’ for ‘60 days’
25 in such section), except that—

1 “(i) section 408(d)(3)(B) shall not be
2 applied to such portion, and

3 “(ii) such portion shall not be taken
4 into account in determining whether sec-
5 tion 408(d)(3)(B) applies to any other
6 amount.

7 “(8) QUALIFIED HIGHER EDUCATION EX-
8 PENSES.—For purposes of paragraph (2)(E)(ii)—

9 “(A) IN GENERAL.—The term ‘qualified
10 higher education expenses’ means tuition and
11 fees required for the enrollment or attendance
12 of—

13 “(i) the taxpayer,

14 “(ii) the taxpayer’s spouse,

15 “(iii) a dependent of the taxpayer
16 with respect to whom the taxpayer is al-
17 lowed a deduction under section 151, or

18 “(iv) the taxpayer’s child (as defined
19 in section 151(c)(3)) or grandchild,
20 as an eligible student at an institution of higher
21 education.

22 “(B) EXCEPTIONS.—The term ‘qualified
23 higher education expenses’ does not include—

1 “(i) expenses with respect to any
2 course or other education involving sports,
3 games, or hobbies, unless such expenses—

4 “(I) are part of a degree pro-
5 gram, or

6 “(II) are deductible under this
7 chapter without regard to this section;
8 or

9 “(ii) any student activity fees, athletic
10 fees, insurance expenses, or other expenses
11 unrelated to a student’s academic course of
12 instruction.

13 “(C) COORDINATION WITH SAVINGS BOND
14 PROVISIONS.—The amount of qualified higher
15 education expenses for any taxable year shall be
16 reduced by any amount excludable from gross
17 income under section 135.

18 “(D) ELIGIBLE STUDENT.—For purposes
19 of subparagraph (A), the term ‘eligible student’
20 means a student who—

21 “(i) meets the requirements of section
22 484(a)(1) of the Higher Education Act of
23 1965 (20 U.S.C. 1091(a)(1)), as in effect
24 on the date of the enactment of this sec-
25 tion, and

1 “(ii)(I) is carrying at least one-half
2 the normal full-time work load for the
3 course of study the student is pursuing, as
4 determined by the institution of higher
5 education, or

6 “(II) is enrolled in a course which en-
7 ables the student to improve the student’s
8 job skills or to acquire new job skills.

9 “(E) INSTITUTION OF HIGHER EDU-
10 CATION.—The term ‘institution of higher edu-
11 cation’ means an institution which—

12 “(i) is described in section 481 of the
13 Higher Education Act of 1965 (20 U.S.C.
14 1088), as in effect on the date of the en-
15 actment of this section, and

16 “(ii) is eligible to participate in pro-
17 grams under title IV of such Act.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to payments and distributions after
20 December 31, 1996.

21 **SEC. 132. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
22 **USED WITHOUT PENALTY DURING PERIODS**
23 **OF UNEMPLOYMENT.**

24 (a) IN GENERAL.—Paragraph (2) of section 72(t)
25 (relating to exceptions to 10-percent additional tax on

1 early distributions from qualified retirement plans), as
2 amended by section 131, is further amended by adding
3 at the end the following new subparagraph:

4 “(F) ADDITIONAL DISTRIBUTIONS TO UN-
5 EMPLOYED INDIVIDUALS.—

6 “(i) IN GENERAL.—Distributions from
7 an individual retirement plan, or from
8 amounts attributable to employer contribu-
9 tions made pursuant to elective deferrals
10 described in subparagraph (A) or (C) of
11 section 402(g)(3) or section
12 501(e)(18)(D)(iii), to an individual after
13 separation from employment if—

14 “(I) such individual has received
15 unemployment compensation for 12
16 consecutive weeks under any Federal
17 or State unemployment compensation
18 law by reason of such separation, and

19 “(II) such distributions are made
20 during the 1-year period beginning on
21 the date of such separation.

22 “(ii) DISTRIBUTIONS AFTER REEM-
23 PLOYMENT.—Clause (i) shall not apply to
24 any distribution made after the individual
25 has been employed for at least 60 days

1 after the separation from employment to
2 which clause (i) applies.

3 “(iii) COORDINATION WITH SUBPARA-
4 GRAPH (D).—Distributions during the 1-
5 year period described in clause (i)(II) shall
6 not be taken into account in applying the
7 limitation under subparagraph
8 (D)(i)(III).”

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 401(k)(2)(B)(i) of such Code is
11 amended by striking “or” at the end of subclause
12 (III), by striking “and” at the end of subclause (IV)
13 and inserting “or”, and by inserting after subclause
14 (IV) the following new subclause:

15 “(V) the date on which a period
16 referred to in section 72(t)(2)(F) be-
17 gins, and”.

18 (2) Section 403(b)(11) of such Code is amend-
19 ed by striking “or” at the end of subparagraph (A),
20 by striking the period at the end of subparagraph
21 (B) and inserting “, or”, and by inserting after sub-
22 paragraph (B) the following new subparagraph:

23 “(C) for distributions to which section
24 72(t)(2)(F) applies.”

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

4 **SEC. 133. CONTRIBUTIONS MUST BE HELD AT LEAST 5**
5 **YEARS IN CERTAIN CASES.**

6 (a) IN GENERAL.—Section 72(t), as amended by sec-
7 tion 131(c), is amended by adding at the end the following
8 new paragraph:

9 “(9) CERTAIN CONTRIBUTIONS MUST BE HELD
10 5 YEARS.—

11 “(A) IN GENERAL.—Paragraph (2)(A)(i)
12 shall not apply to any amount distributed out
13 of an individual retirement plan which is alloca-
14 ble to contributions made to the plan during the
15 5-year period ending on the date of such dis-
16 tribution (and earnings on such contributions).

17 “(B) ORDERING RULE.—For purposes of
18 this paragraph—

19 “(i) FIRST-IN, FIRST-OUT RULE.—
20 Distributions shall be treated as having
21 been made—

22 “(I) first from the earliest con-
23 tribution (and earnings allocable
24 thereto) remaining in the account at
25 the time of the distribution, and

1 “(II) then from other contribu-
2 tions (and earnings allocable thereto)
3 in the order in which made.

4 “(ii) ALLOCATION OF EARNINGS.—
5 Earnings shall be allocated to contribu-
6 tions in such manner as the Secretary may
7 prescribe.

8 “(iii) AGGREGATIONS OF CONTRIBU-
9 TIONS.—Except as provided by the Sec-
10 retary, for purposes of this subpara-
11 graph—

12 “(I) all contributions made dur-
13 ing the same taxable year may be
14 treated as 1 contribution, and

15 “(II) all contributions made be-
16 fore the first day of the 5-year period
17 ending on the day before any distribu-
18 tion may be treated as 1 contribution.

19 “(C) SPECIAL RULE FOR ROLLOVERS.—

20 “(i) PENSION PLANS.—Subparagraph
21 (A) shall not apply to distributions out of
22 an individual retirement plan which are al-
23 locable to rollover contributions to which
24 section 402(c), 403(a)(4), or 403(b)(8) ap-
25 plied.

1 “(ii) CONTRIBUTION PERIOD.—For
2 purposes of subparagraph (A), amounts
3 shall be treated as having been held by a
4 plan during any period such contributions
5 were held (or are treated as held under
6 this clause) by any individual retirement
7 plan from which transferred.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to contributions (and earnings allo-
10 cable thereto) which are made after December 31, 1996.

11 **CHAPTER 4—PERIODIC PENSION**

12 **BENEFITS STATEMENTS**

13 **SEC. 141. PERIODIC PENSION BENEFITS STATEMENTS.**

14 (a) IN GENERAL.—Subsection (a) of section 105 of
15 the Employee Retirement Income Security Act of 1974
16 (29 U.S.C. 1025) is amended by striking “shall furnish
17 to any plan participant or beneficiary who so requests in
18 writing,” and inserting “shall furnish at least once every
19 3 years, in the case of a defined benefit plan, and annu-
20 ally, in the case of a defined contribution plan, to each
21 plan participant, and shall furnish to any plan participant
22 or beneficiary who so requests,”.

23 (b) RULE FOR MULTIEMPLOYER PLANS.—Subsection
24 (d) of section 105 of the Employee Retirement Income Se-

1 curity Act of 1974 (29 U.S.C. 1025) is amended to read
2 as follows:

3 “(d) Each administrator of a plan to which more than
4 1 unaffiliated employer is required to contribute shall fur-
5 nish to any plan participant or beneficiary who so requests
6 in writing, a statement described in subsection (a).”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan years beginning after the
9 earlier of—

10 (1) the date of issuance by the Secretary of
11 Labor of regulations providing guidance for simplify-
12 ing defined benefit plan calculations with respect to
13 the information required under section 105 of the
14 Employee Retirement Income Security Act of 1974
15 (29 U.S.C. 1025), or

16 (2) December 31, 1997.

17 **Subtitle B—Improved Fairness in**
18 **Retirement Plan Benefits**

19 **SEC. 151. AMENDMENTS TO SIMPLE RETIREMENT AC-**
20 **COUNTS.**

21 (a) MINIMUM CONTRIBUTION REQUIREMENT.—

22 (1) IN GENERAL.—Paragraph (2) of section
23 408(p) (defining qualified salary reduction arrange-
24 ment) is amended—

1 (A) by striking clauses (iii) and (iv) of sub-
2 paragraph (A) and inserting the following new
3 clauses:

4 “(iii) the employer is required to make
5 a matching contribution to the simple re-
6 tirement account for any year in an
7 amount equal to—

8 “(I) so much of the amount the
9 employee elects under clause (i)(I) as
10 does not exceed 3 percent of com-
11 pensation for the year, and

12 “(II) a uniform percentage
13 (which is at least 50 percent but not
14 more than 100 percent) of the amount
15 the employee elects under clause (i)(I)
16 to the extent that such amount ex-
17 ceeds 3 percent but does not exceed 5
18 percent of the employee’s compensa-
19 tion,

20 “(iv) the employer is required to make
21 nonelective contributions of 1 percent of
22 compensation for each employee eligible to
23 participate in the arrangement who has at
24 least \$5,000 of compensation from the em-
25 ployer for the year, and

1 “(v) no contributions may be made
2 other than contributions described in
3 clause (i), (iii), or (iv).”, and

4 (B) by striking subparagraph (B) and in-
5 serting the following new subparagraph:

6 “(B) CONTRIBUTION RULES.—

7 “(i) EMPLOYER MAY ELECT 3-PER-
8 CENT NONELECTIVE CONTRIBUTION.—An
9 employer shall be treated as meeting the
10 requirements of clauses (iii) and (iv) of
11 subparagraph (A) for any year if, in lieu of
12 the contributions described in such clauses,
13 the employer elects to make nonelective
14 contributions of 3 percent of compensation
15 for each employee who is eligible to partici-
16 pate in the arrangement and who has at
17 least \$5,000 of compensation from the em-
18 ployer for the year. If an employer makes
19 an election under this clause for any year,
20 the employer shall notify employees of such
21 election within a reasonable period of time
22 before the 60-day period for such year
23 under paragraph (5)(C).

24 “(ii) DISCRETIONARY CONTRIBU-
25 TIONS.—A plan shall not be treated as fail-

1 ing to meet the requirements of subpara-
2 graph (A)(v) merely because, pursuant to
3 the terms of the plan, an employer makes
4 nonelective contributions under subpara-
5 graph (A)(iv) or clause (i) of this subpara-
6 graph in excess of 1 percent or 3 percent
7 of compensation, respectively, but only if
8 all such contributions bear a uniform rela-
9 tionship to the compensation of each eligi-
10 ble employee and do not exceed 5 percent
11 of compensation for any eligible employee.

12 “(iii) COMPENSATION LIMITATION.—
13 The compensation taken into account
14 under this paragraph for any year shall
15 not exceed the limitation in effect for such
16 year under section 401(a)(17).”.

17 (2) MATCHING CONTRIBUTIONS.—Subpara-
18 graph (B) of section 401(k)(11) (relating to adop-
19 tion of simple plan to meet nondiscrimination tests)
20 is amended—

21 (A) by striking subclauses (II) and (III) of
22 clause (i) and inserting the following new sub-
23 clauses:

24 “(II) the employer is required to
25 make a matching contribution to the

1 trust for any year in an amount equal
2 to—

3 “(aa) so much of the
4 amount the employee elects
5 under subclause (I) as does not
6 exceed 3 percent of compensation
7 for the year, and

8 “(bb) a uniform percentage
9 (which is at least 50 percent but
10 not more than 100 percent) of
11 the amount the employee elects
12 under subclause (I) to the extent
13 that such amount exceeds 3 per-
14 cent but does not exceed 5 per-
15 cent of the employee’s compensa-
16 tion,

17 “(III) the employer is required to
18 make nonelective contributions of 1
19 percent of compensation for each em-
20 ployee eligible to participate in the ar-
21 rangement who has at least \$5,000 of
22 compensation from the employer for
23 the year, and

24 “(IV) no other contributions may
25 be made other than contributions de-

1 scribed in subclause (I), (II), or
2 (III).”, and

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

5 “(ii) CONTRIBUTION RULES.—

6 “ (I) EMPLOYER MAY ELECT 3-
7 PERCENT NONELECTIVE CONTRIBU-
8 TION.—An employer shall be treated
9 as meeting the requirements of sub-
10 clauses (II) and (III) of clause (i) for
11 any year if, in lieu of the contribu-
12 tions described in such subclauses, the
13 employer elects to make nonelective
14 contributions of 3 percent of com-
15 pensation for each employee who is el-
16 igible to participate in the arrange-
17 ment and who has at least \$5,000 of
18 compensation from the employer for
19 the year. If an employer makes an
20 election under this subclause for any
21 year, the employer shall notify em-
22 ployees of such election within a rea-
23 sonable period of time before the 60th
24 day before the beginning of such year.

1 “(II) DISCRETIONARY CONTRIBU-
2 TIONS.—A plan shall not be treated
3 as failing to meet the requirements of
4 clause (i)(IV) merely because, pursu-
5 ant to the terms of the plan, an em-
6 ployer makes nonelective contributions
7 under clause (i)(III) or subclause (I)
8 of this clause in excess of 1 percent or
9 3 percent of compensation, respec-
10 tively, but only if all such contribu-
11 tions bear a uniform relationship to
12 the compensation of each eligible em-
13 ployee and do not exceed 5 percent of
14 compensation for any eligible em-
15 ployee.”.

16 (b) OPTION TO SUSPEND CONTRIBUTIONS.—Section
17 408(p) (relating to simple retirement accounts) is amend-
18 ed by adding at the end the following new paragraph:

19 “(8) SUSPENSION OF PLAN.—Except as pro-
20 vided by the Secretary, a plan shall not be treated
21 as failing to meet the requirements of this sub-
22 section if, under the plan, the employer may suspend
23 all elective, matching, and nonelective contributions
24 under the plan after notifying employees eligible to
25 participate in the arrangement of such suspension in

1 writing at least 30 days in advance. Such suspension
2 shall apply to contributions with respect to com-
3 pensation earned after the effective date of the sus-
4 pension. Only 1 suspension under this paragraph
5 may take effect during any year.”.

6 (c) CONFORMING AMENDMENTS.—Section
7 408(p)(2)(C), as so added, is amended—

8 (1) by striking clause (ii),

9 (2) by striking “DEFINITIONS” in the heading
10 and inserting “ELIGIBLE EMPLOYER”,

11 (3) by striking “(i) ELIGIBLE EMPLOYER.—”,
12 and

13 (4) by redesignating subclauses (I) and (II) as
14 clauses (i) and (ii), respectively.

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall apply to taxable years beginning after Decem-
19 ber 31, 1997.

20 (2) DELAYED EFFECTIVE DATE FOR PLANS ES-
21 TABLISHED IN 1997.—In the case of plans estab-
22 lished in 1997 under section 408(p) of the Internal
23 Revenue Code of 1986, as in effect on January 1,
24 1997, the amendments made by this section shall

1 apply to taxable years beginning after December 31,
2 2002.

3 **SEC. 152. NONDISCRIMINATION RULES FOR QUALIFIED**
4 **CASH OR DEFERRED ARRANGEMENTS AND**
5 **MATCHING CONTRIBUTIONS.**

6 (a) ALTERNATIVE METHODS OF SATISFYING SEC-
7 TION 401(k) NONDISCRIMINATION TESTS.—Subpara-
8 graph (B) of section 401(k)(12) (relating to alternative
9 methods of meeting nondiscrimination requirements) is
10 amended to read as follows:

11 “(B) NONELECTIVE AND MATCHING CON-
12 TRIBUTIONS.—

13 “(i) IN GENERAL.—The requirements
14 of this subparagraph are met if the re-
15 quirements of clauses (ii) and (iii) are met.

16 “(ii) NONELECTIVE CONTRIBU-
17 TIONS.—The requirements of this clause
18 are met if, under the arrangement, the em-
19 ployer is required, without regard to
20 whether the employee makes an elective
21 contribution or employee contribution, to
22 make a contribution to a defined contribu-
23 tion plan on behalf of each employee who
24 is not a highly compensated employee and
25 who is eligible to participate in the ar-

1 rangement in an amount equal to at least
2 1 percent of the employee's compensation.

3 “(iii) MATCHING CONTRIBUTIONS.—

4 The requirements of this clause are met if,
5 under the arrangement, the employer
6 makes matching contributions on behalf of
7 each employee who is not a highly com-
8 pensated employee in an amount equal
9 to—

10 “(I) 100 percent of the elective

11 contributions of the employee to the
12 extent such elective contributions do
13 not exceed 3 percent of the employee's
14 compensation, and

15 “(II) 50 percent of the elective

16 contributions of the employee to the
17 extent that such elective contributions
18 exceed 3 percent but do not exceed 5
19 percent of the employee's compensa-
20 tion.

21 “(iv) RATE FOR HIGHLY COM-

22 PENSATED EMPLOYEES.—The require-
23 ments of clause (iii) are not met if, under
24 the arrangement, the rate of matching con-
25 tribution with respect to any rate of elec-

1 tive contribution of a highly compensated
2 employee is greater than that with respect
3 to an employee who is not a highly com-
4 pensated employee. For purposes of this
5 clause, to the extent provided in regula-
6 tions, the last sentences of paragraph
7 (3)(A) and subsection (m)(2)(B) shall not
8 apply.

9 “(v) ALTERNATIVE PLAN DESIGNS.—

10 If the rate of matching contribution with
11 respect to any rate of elective contribution
12 is not equal to the percentage required
13 under clause (iii), an arrangement shall
14 not be treated as failing to meet the re-
15 quirements of clause (iii) if—

16 “(I) the rate of an employer’s
17 matching contribution does not in-
18 crease as an employee’s rate of elec-
19 tive contribution increase, and

20 “(II) the aggregate amount of
21 matching contributions at such rate of
22 elective contribution is at least equal
23 to the aggregate amount of matching
24 contributions which would be made if
25 matching contributions were made on

1 the basis of the percentages described
2 in clause (iii).”.

3 (b) CONTRIBUTIONS PART OF QUALIFIED CASH OR
4 DEFERRED ARRANGEMENT.—Subparagraph (E)(ii) of
5 section 401(k)(12), as so added, is amended to read as
6 follows:

7 “(ii) SOCIAL SECURITY AND SIMILAR
8 CONTRIBUTIONS NOT TAKEN INTO AC-
9 COUNT.—Except as provided in regula-
10 tions, an arrangement shall not be treated
11 as meeting the requirements of subpara-
12 graph (B) or (C) unless such requirements
13 are met without regard to subsection (l),
14 and, for purposes of subsection (l), and de-
15 termining whether contributions provided
16 under a plan satisfy subsection (a)(4) on
17 the basis of equivalent benefits, employer
18 contributions under subparagraph (B) or
19 (C) shall not be taken into account.”.

20 (c) ALTERNATIVE METHODS OF SATISFYING SEC-
21 TION 401(m) NONDISCRIMINATION TESTS.—Section
22 401(m)(11) (relating to alternative method of satisfying
23 tests) is amended—

1 (1) by striking “subparagraph (B)” in subpara-
2 graph (A)(iii) and inserting “subparagraphs (B) and
3 (C)”,

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

6 “To the extent provided in regulations, the last
7 sentences of paragraph (2)(B) and subsection
8 (k)(3)(A) shall not apply for purposes of clause
9 (iii).”, and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(C) TEST MUST BE MET SEPARATELY.—
13 If this paragraph applies to any matching con-
14 tributions, such contributions shall not be taken
15 into account in determining whether employee
16 contributions satisfy the requirements of this
17 subsection.”.

18 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
19 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—
20 Subparagraph (E) of section 401(k)(3) is amended to read
21 as follows:

22 “(E) For purposes of this paragraph, in
23 the case of the first plan year of any plan, the
24 amount taken into account as the actual defer-

1 ral percentage of nonhighly compensated em-
2 ployees for the preceding plan year shall be—

3 “(i) 3 percent, or

4 “(ii) the actual deferral percentage of
5 nonhighly compensated employees deter-
6 mined for such first plan year in the case
7 of—

8 “(I) an employer who elects to
9 have this clause apply, or

10 “(II) except to the extent pro-
11 vided by the Secretary, a successor
12 plan.”.

13 (e) **EFFECTIVE DATE.**—The amendments made by
14 this section shall take effect as if included in the amend-
15 ments made by section 1433 of the Small Business Job
16 Protection Act of 1996.

17 **SEC. 153. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
18 **EES.**

19 (a) **IN GENERAL.**—Subparagraph (B) of section
20 414(q)(1) (defining highly compensated employee) is
21 amended to read as follows:

22 “(B) for the preceding year had compensa-
23 tion from the employer in excess of \$80,000. ”.

24 (b) **CONFORMING AMENDMENTS.**—

1 (1)(A) Subsection (q) of section 414 is amended
2 by striking paragraphs (3), (5), and (7) and by re-
3 designating paragraphs (4), (6), and (8) as para-
4 graphs (3) through (5), respectively.

5 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
6 408(k)(2)(C), and 416(i)(1)(D) are each amended
7 by striking “section 414(q)(4)” and inserting “sec-
8 tion 414(q)(3)”.

9 (C) Section 416(i)(1)(A) is amended by striking
10 “section 414(q)(5)” and inserting “section
11 414(r)(9)”.

12 (2)(A) Section 414(r) is amended by adding at
13 the end the following new paragraph:

14 “(9) EXCLUDED EMPLOYEES.—For purposes of
15 paragraph (2)(A), the following employees shall be
16 excluded:

17 “(A) Employees who have not completed 6
18 months of service.

19 “(B) Employees who normally work less
20 than 17½ hours per week.

21 “(C) Employees who normally work not
22 more than 6 months during any year.

23 “(D) Employees who have not attained the
24 age of 21.

1 “(E) Except to the extent provided in reg-
2 ulations, employees who are included in a unit
3 of employees covered by an agreement which
4 the Secretary of Labor finds to be a collective
5 bargaining agreement between employee rep-
6 resentatives and the employer.”.

7 (B) Subparagraph (A) of section 414(r)(2) is
8 amended by striking “subsection (q)(5)” and insert-
9 ing “paragraph (9)”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect as if included in the amend-
12 ments made by section 1431 of the Small Business Job
13 Protection Act of 1996.

14 **Subtitle C—Improving Retirement** 15 **Plan Coverage**

16 **SEC. 161. CREDIT FOR PENSION PLAN START-UP COSTS OF** 17 **SMALL EMPLOYERS.**

18 (a) ALLOWANCE OF CREDIT.—Section 38(b) (defin-
19 ing current year business credit) is amended by striking
20 “plus” at the end of paragraph (11), by striking the period
21 at the end of paragraph (12) and inserting “, plus”, and
22 by adding at the end the following new paragraph:

23 “(13) the small employer pension plan start-up
24 cost credit.”.

1 (b) SMALL EMPLOYER PENSION PLAN START-UP
2 COST CREDIT.—Subpart D of part IV of subchapter A
3 of chapter 1 (relating to business related credits) is
4 amended by adding at the end the following new section:

5 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP**
6 **COST CREDIT.**

7 “(a) AMOUNT OF CREDIT.—For purposes of section
8 38—

9 “(1) IN GENERAL.—The small employer pen-
10 sion plan start-up cost credit for any taxable year is
11 an amount equal to the qualified start-up costs of an
12 eligible employer in establishing a qualified pension
13 plan or qualified employer payroll deduction system.

14 “(2) AGGREGATE LIMITATION.—The amount of
15 the credit under paragraph (1) for any taxable year
16 shall not exceed \$500, reduced by the aggregate
17 amount determined under this section for all preced-
18 ing taxable years of the taxpayer.

19 “(b) ELIGIBLE EMPLOYER.—For purposes of this
20 section, the term ‘eligible employer’ means an employer
21 which—

22 “(1) had an average daily number of employees
23 during the preceding taxable year not in excess of
24 50, and

1 “(2) did not make any contributions on behalf
2 of any employee to a qualified pension plan during
3 the 2 taxable years immediately preceding the tax-
4 able year.

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

7 “(1) QUALIFIED START-UP COSTS.—The term
8 ‘qualified start-up costs’ means any ordinary and
9 necessary expenses of an eligible employer which—

10 “(A) are paid or incurred in connection
11 with the establishment of a qualified pension
12 plan or a qualified employer payroll deduction
13 system, and

14 “(B) are of a nonrecurring nature.

15 “(2) QUALIFIED PENSION PLAN.—The term
16 ‘qualified pension plan’ means—

17 “(A) a plan described in section 401(a)
18 which includes a trust exempt from tax under
19 section 501(a),

20 “(B) a simplified employee pension (as de-
21 fined in section 408(k)), or

22 “(C) a simple retirement account (as de-
23 fined in section 408(p)).

24 “(3) QUALIFIED EMPLOYER PAYROLL DEDUC-
25 TION SYSTEM.—The term ‘qualified employer payroll

1 deduction system' means a system described in sec-
 2 tion 103 of the Retirement Security Act of 1997.

3 “(d) SPECIAL RULES.—For purposes of this sec-
 4 tion—

5 “(1) AGGREGATION RULES.—All persons treat-
 6 ed as a single employer under subsection (a) or (b)
 7 of section 52 or subsection (n) or (o) of section 414
 8 shall be treated as one person.

9 “(2) DISALLOWANCE OF DEDUCTION.—No de-
 10 duction shall be allowable under this chapter for any
 11 qualified start-up costs for which a credit is allow-
 12 able under subsection (a).”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 39(d) is amended by adding at the
 15 end the following new paragraph:

16 “(8) NO CARRYBACK OF PENSION CREDIT.—No
 17 portion of the unused business credit for any taxable
 18 year which is attributable to the small employer pen-
 19 sion plan start-up cost credit determined under sec-
 20 tion 45D may be carried back to a taxable year end-
 21 ing before the date of the enactment of section
 22 45D.”.

23 (2) The table of sections for subpart D of part
 24 IV of subchapter A of chapter 1 is amended by add-
 25 ing at the end the following new item:

“Sec. 45D. Small employer pension plan start-up cost credit.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to costs incurred after the date
3 of the enactment of this Act in taxable years ending after
4 such date.

5 **SEC. 162. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
6 **SECTION 415.**

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

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

16 (b) TREATMENT OF CERTAIN EXCESS BENEFIT
17 PLANS.—

18 (1) APPLICATION OF SECTION 457.—Paragraph
19 (14) of section 457(e) (relating to other definitions
20 and special rules) is amended to read as follows:

21 “(14) TREATMENT OF EXCESS BENEFIT AR-
22 RANGEMENTS.—

23 “(A) IN GENERAL.—Subsections (b)(2)
24 and (c)(1) shall not apply to any excess benefit
25 arrangement and benefits provided under such

1 an arrangement shall not be taken into account
2 in determining whether any other plan is an eli-
3 gible deferred compensation plan.

4 “(B) EXCESS BENEFIT ARRANGEMENT DE-
5 FINED.—For purposes of this section, the term
6 ‘excess benefit arrangement’ means a plan
7 which is maintained by an eligible employer
8 solely for purposes of providing benefits for cer-
9 tain employees in excess of the limits on con-
10 tributions and benefits imposed by section 415.
11 Such term includes a qualified governmental ex-
12 cess benefit arrangement (as defined in section
13 415(m)(3)).”.

14 (2) CONFORMING AMENDMENT.—Subparagraph
15 (E) of section 457(f)(2) (relating to tax treatment of
16 participants where plan or arrangement of employer
17 is not eligible) is amended to read as follows:

18 “(E) an excess benefit arrangement (as de-
19 fined in subsection (e)(14)(B)).”.

20 (c) EXEMPTION FOR SURVIVOR AND DISABILITY
21 BENEFITS.—Subparagraph (I) of section 415(b)(2) (relat-
22 ing to limitation for defined benefit plans) is amended—
23 (1) by inserting “or a multiemployer plan (as
24 defined in section 414(f))” after “section 414(d))”
25 in clause (i),

1 the limitations imposed by section 401(a)(17)
2 or section 415, or both.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 1996.

6 **SEC. 164. SPECIAL RULES FOR SELF-EMPLOYED INDIVID-**
7 **UALS.**

8 (a) CONTRIBUTIONS BY SELF-EMPLOYED INDIVID-
9 UALS TREATED AS MATCHING CONTRIBUTIONS.—Section
10 414 (relating to definitions and special rules) is amended
11 by adding at the end the following new subsection:

12 “(v) CONTRIBUTIONS BY SELF-EMPLOYED INDIVID-
13 UALS TREATED AS MATCHING CONTRIBUTIONS.—For
14 purposes of this title, matching contributions (as defined
15 in section 401(m)(4)(A)) made on behalf of a self-em-
16 ployed individual shall not be treated as elective deferrals
17 (within the meaning of section 402(g)(3)) or as made pur-
18 suant to an election by the self-employed individual.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to years beginning after December
21 31, 1996.

22 **SEC. 165. IMMEDIATE PARTICIPATION IN THE THRIFT SAV-**
23 **INGS PLAN FOR FEDERAL EMPLOYEES.**

24 (a) ELIMINATION OF CERTAIN WAITING PERIODS
25 FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Para-

1 graph (4) of section 8432(b) of title 5, United States
2 Code, is amended to read as follows:

3 “(4) The Executive Director shall prescribe such reg-
4 ulations as may be necessary to carry out the following:

5 “(A) Notwithstanding subparagraph (A) of
6 paragraph (2), an employee or Member described in
7 such subparagraph shall be afforded a reasonable
8 opportunity to first make an election under this sub-
9 section beginning on the date of commencing service
10 or, if that is not administratively feasible, beginning
11 on the earliest date thereafter that such an election
12 becomes administratively feasible, as determined by
13 the Executive Director.

14 “(B) An employee or Member described in sub-
15 paragraph (B) of paragraph (2) shall be afforded a
16 reasonable opportunity to first make an election
17 under this subsection (based on the appointment or
18 election described in such subparagraph) beginning
19 on the date of commencing service pursuant to such
20 appointment or election or, if that is not administra-
21 tively feasible, beginning on the earliest date there-
22 after that such an election becomes administratively
23 feasible, as determined by the Executive Director.

24 “(C) Notwithstanding the preceding provisions
25 of this paragraph, contributions under paragraphs

1 (1) and (2) of subsection (c) shall not be payable
2 with respect to any pay period before the earliest
3 pay period for which such contributions would other-
4 wise be allowable under this subsection if this para-
5 graph had not been enacted.

6 “(D) Sections 8351(a)(2), 8440a(a)(2),
7 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be
8 applied in a manner consistent with the purposes of
9 subparagraphs (A) and (B), to the extent those sub-
10 subparagraphs can be applied with respect thereto.

11 “(E) Nothing in this paragraph shall affect
12 paragraph (3).”.

13 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) Section 8432(a) of title 5, United States
15 Code, is amended—

16 (A) in the first sentence by striking
17 “(b)(1)” and inserting “(b)”; and

18 (B) by amending the second sentence to
19 read as follows: “Contributions under this sub-
20 section pursuant to such an election shall, with
21 respect to each pay period for which such elec-
22 tion remains in effect, be made in accordance
23 with a program of regular contributions pro-
24 vided in regulations prescribed by the Executive
25 Director.”.

1 (2) Section 8432(b)(1)(B) of such title is
2 amended by inserting “(or any election allowable by
3 virtue of paragraph (4))” after “subparagraph (A)”.

4 (3) Section 8432(b)(3) of such title is amended
5 by striking “Notwithstanding paragraph (2)(A), an”
6 and inserting “An”.

7 (4) Section 8432(i)(1)(B)(ii) of such title is
8 amended by striking “either elected to terminate in-
9 dividual contributions to the Thrift Savings Fund
10 within 2 months before commencing military service
11 or”.

12 (5) Section 8439(a)(1) of such title is amended
13 by inserting “who makes contributions or” after “for
14 each individual” and by striking “section
15 8432(c)(1)” and inserting “section 8432”.

16 (6) Section 8439(c)(2) of such title is amended
17 by adding at the end the following: “Nothing in this
18 paragraph shall be considered to limit the dissemina-
19 tion of information only to the times required under
20 the preceding sentence.”.

21 (7) Sections 8440a(a)(2) and 8440d(a)(2) of
22 such title are amended by striking all after “subject
23 to” and inserting “subject to this chapter.”.

24 (c) EFFECTIVE DATE.—This section shall take effect
25 6 months after the date of the enactment of this Act or

1 such earlier date as the Executive Director may by regula-
2 tion prescribe.

3 **SEC. 166. MODIFICATION OF 10 PERCENT TAX FOR NON-**
4 **DEDUCTIBLE CONTRIBUTIONS.**

5 (a) IN GENERAL.—Subparagraph (B) of section
6 4972(c)(6) (relating to exceptions) is amended to read as
7 follows:

8 “(B) contributions to 1 or more defined
9 contribution plans which are not deductible
10 when contributed solely because of section
11 404(a)(7), in an amount not in excess of the
12 greater of—

13 “(i) the amount of contributions not
14 in excess of 6 percent of compensation
15 (within the meaning of section 404(a))
16 paid or accrued (during the taxable year
17 for which the contributions were made) to
18 beneficiaries under the plans, or

19 “(ii) the amount of contributions de-
20 scribed in section 401(m)(4)(A) or
21 402(g)(3)(A).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 1996.

1 **SEC. 167. TREATMENT OF CERTAIN DISABILITY BENEFITS**
2 **RECEIVED BY FORMER POLICE OFFICERS OR**
3 **FIREFIGHTERS.**

4 (a) **GENERAL RULE.**—For purposes of determining
5 whether any amount to which this section applies is ex-
6 cludable from gross income under section 104(a)(1) of the
7 Internal Revenue Code of 1986, the following conditions
8 shall be treated as personal injuries or sickness in the
9 course of employment:

10 (1) Heart disease.

11 (2) Hypertension.

12 (b) **AMOUNTS TO WHICH SECTION APPLIES.**—This
13 section shall apply to any amount—

14 (1) which is payable—

15 (A) to an individual (or to the survivors of
16 an individual) who was a full-time employee of
17 any police department or fire department which
18 is organized and operated by a State, by any
19 political subdivision thereof, or by any agency
20 or instrumentality of a State or political sub-
21 division thereof, and

22 (B) under a State law (as in existence on
23 July 1, 1992) which irrebuttably presumed that
24 heart disease and hypertension are work-related
25 illnesses but only for employees separating from
26 service before such date; and

1 (2) which is received in calendar year 1989,
2 1990, or 1991.

3 For purposes of the preceding sentence, the term “State”
4 includes the District of Columbia.

5 (c) WAIVER OF STATUTE OF LIMITATIONS.—If, on
6 the date of the enactment of this Act (or at any time with-
7 in the 1-year period beginning on such date of enactment)
8 credit or refund of any overpayment of tax resulting from
9 the provisions of this section is barred by any law or rule
10 of law, credit or refund of such overpayment shall, never-
11 theless, be allowed or made if claim therefore is filed be-
12 fore the date 1 year after such date of enactment.

13 **Subtitle D—Simplifying Plan**
14 **Requirements**

15 **SEC. 171. FULL FUNDING LIMITATION FOR MULTIEM-**
16 **EMPLOYER PLANS.**

17 (a) AMENDMENTS TO CODE.—

18 (1) FULL-FUNDING LIMITATION.—Section
19 412(c)(7)(C) (relating to full-funding limitation) is
20 amended—

21 (A) by inserting “or in the case of a multi-
22 employer plan,” after “paragraph (6)(B),” and

23 (B) by inserting “AND MULTIEmployer
24 PLANS” after “PARAGRAPH (6)(B)” in the head-
25 ing thereof.

1 (2) VALUATION.—Section 412(c)(9) (relating to
2 annual valuation) is amended—

3 (A) by inserting “(3 years in the case of a
4 multiemployer plan)” after “year”, and

5 (B) by striking “ANNUAL VALUATION” in
6 the heading and inserting “VALUATION”.

7 (b) AMENDMENTS TO ERISA.—

8 (1) FULL-FUNDING LIMITATION.—Section
9 302(c)(7)(C) of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is
11 amended—

12 (A) by inserting “or in the case of a multi-
13 employer plan,” after “paragraph (6)(B),”, and

14 (B) by inserting “AND MULTIEMPLOYER
15 PLANS” after “PARAGRAPH (6)(B)” in the head-
16 ing thereof.

17 (2) VALUATION.—Section 302(c)(9) of such Act
18 (29 U.S.C. 1082(c)(9)) is amended—

19 (A) by inserting “(3 years in the case of a
20 multiemployer plan)” after “year”, and

21 (B) by striking “ANNUAL VALUATION” in
22 the heading and inserting “VALUATION”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to plan years beginning after De-
25 cember 31, 1996.

1 **SEC. 172. ELIMINATION OF PARTIAL TERMINATION RULES**
2 **FOR MULTIEMPLOYER PLANS.**

3 (a) **PARTIAL TERMINATION RULES FOR MULTIEM-**
4 **PLOYER PLANS.**—Section 411(d)(3) (relating to termi-
5 nation or partial termination; discontinuance of contribu-
6 tions) is amended by adding at the end the following new
7 sentence: “This paragraph shall not apply in the case of
8 a partial termination of a multiemployer plan.”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 this section shall apply to partial terminations beginning
11 after December 31, 1996.

12 **SEC. 173. MODIFICATIONS TO NONDISCRIMINATION AND**
13 **MINIMUM PARTICIPATION RULES WITH RE-**
14 **SPECT TO GOVERNMENTAL PLANS.**

15 (a) **GENERAL NONDISCRIMINATION AND PARTICIPA-**
16 **TION RULES.**—

17 (1) **NONDISCRIMINATION REQUIREMENTS.**—
18 Paragraph (5) of section 401(a) (relating to quali-
19 fied pension, profit-sharing, and stock bonus plans)
20 is amended by adding at the end the following new
21 subparagraph:

22 “(F) **GOVERNMENTAL PLANS.**—Para-
23 graphs (3) and (4) shall not apply to a govern-
24 mental plan (within the meaning of section
25 414(d)).”.

1 (2) ADDITIONAL PARTICIPATION REQUIRE-
2 MENTS.—Subparagraph (H) of section 401(a)(26) is
3 amended to read as follows:

4 “(H) EXCEPTION FOR GOVERNMENTAL
5 PLANS.—This paragraph shall not apply to a
6 governmental plan (within the meaning of sec-
7 tion 414(d)).”.

8 (3) MINIMUM PARTICIPATION STANDARDS.—
9 Paragraph (2) of section 410(c) is amended to read
10 as follows:

11 “(2) A plan described in paragraph (1) shall be
12 treated as meeting the requirements of this section
13 for purposes of section 401(a), except that in the
14 case of a plan described in subparagraph (B), (C),
15 or (D) of paragraph (1), this paragraph shall only
16 apply if such plan meets the requirements of section
17 401(a)(3) (as in effect on September 1, 1974).”.

18 (b) PARTICIPATION STANDARDS FOR QUALIFIED
19 CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of
20 section 401(k) is amended by adding at the end the follow-
21 ing new subparagraph:

22 “(E)(i) The requirements of subparagraph
23 (A)(i) and (C) shall not apply to a govern-
24 mental plan (within the meaning of section
25 414(d)).

1 “(ii) The requirements of subsection
2 (m)(2) (without regard to subsection (a)(4))
3 shall apply to any matching contribution of a
4 governmental plan (as so defined).”.

5 (c) NONDISCRIMINATION RULES FOR SECTION
6 403(b) PLANS.—Paragraph (12) of section 403(b) is
7 amended by adding at the end the following new subpara-
8 graph:

9 “(C) GOVERNMENTAL PLANS.—For pur-
10 poses of paragraph (1)(D), the requirements of
11 subparagraph (A)(i) shall not apply to a gov-
12 ernmental plan (within the meaning of section
13 414(d)).”.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to taxable years beginning on
17 or after the date of the enactment of this Act.

18 (2) TREATMENT FOR YEARS BEGINNING BE-
19 FORE DATE OF ENACTMENT.—A governmental plan
20 (within the meaning of section 414(d) of the Inter-
21 nal Revenue Code of 1986) shall be treated as satis-
22 fying the requirements of sections 401(a)(3),
23 401(a)(4), 401(a)(26), 401(k), 401(m), 403
24 (b)(1)(D) and (b)(12), and 410 of such Code for all

1 taxable years beginning before the date of the enact-
2 ment of this Act.

3 **SEC. 174. ELIMINATION OF REQUIREMENT FOR PLAN DE-**
4 **SCRIPTIONS AND THE FILING REQUIREMENT**
5 **FOR SUMMARY PLAN DESCRIPTIONS AND DE-**
6 **SCRIPTIONS OF MATERIAL MODIFICATIONS**
7 **TO A PLAN; TECHNICAL CORRECTIONS.**

8 (a) **FILING REQUIREMENTS.**—Section 101(b) of the
9 Employee Retirement Income Security Act of 1974 (29
10 U.S.C. 1021(b)) is amended by striking paragraphs (1),
11 (2), and (3) and by redesignating paragraphs (4) and (5)
12 as paragraphs (1) and (2), respectively.

13 (b) **PLAN DESCRIPTION.**—

14 (1) **IN GENERAL.**—Section 102(a) of the Em-
15 ployee Retirement Income Security Act of 1974 (29
16 U.S.C. 1022(a)) is amended—

17 (A) by striking paragraph (2), and

18 (B) by striking “(a)(1)” and inserting
19 “(a)”.

20 (2) **CONFORMING AMENDMENTS.**—

21 (A) Section 102(b) of such Act (29 U.S.C.
22 1022(b)) is amended by striking “The plan de-
23 scription and summary plan description shall
24 contain” and inserting “The summary plan de-
25 scription shall contain”.

1 (B) The heading for section 102 of such
2 Act is amended by striking “PLAN DESCRIPTION
3 AND”.

4 (c) FURNISHING OF REPORTS.—

5 (1) IN GENERAL.—Section 104(a)(1) of the
6 Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1024(a)(1)) is amended to read as fol-
8 lows:

9 “SEC. 104. (a)(1) The administrator of any employee
10 benefit plan subject to this part shall file with the Sec-
11 retary the annual report for a plan year within 210 days
12 after the close of such year (or within such time as may
13 be required by regulations promulgated by the Secretary
14 in order to reduce duplicative filing). The Secretary shall
15 make copies of such annual reports available for inspection
16 in the public document room of the Department of
17 Labor.”.

18 (2) SECRETARY MAY REQUEST DOCUMENTS.—

19 (A) IN GENERAL.—Section 104(a) of such
20 Act (29 U.S.C. 1024(a)) is amended by adding
21 at the end the following new paragraph:

22 “(6) The administrator of any employee benefit plan
23 subject to this part shall furnish to the Secretary, upon
24 request, any documents relating to the employee benefit
25 plan, including but not limited to, the latest summary plan

1 description (including any summaries of plan changes not
2 contained in the summary plan description), and the bar-
3 gaining agreement, trust agreement, contract, or other in-
4 strument under which the plan is established or oper-
5 ated.”.

6 (B) PENALTY.—Section 502(c) of such Act
7 (29 U.S.C. 1132(c)) is amended by redesignat-
8 ing paragraph (6) as paragraph (7) and by in-
9 sserting after paragraph (5) the following new
10 paragraph:

11 “(6) If, within 30 days of a request by the Secretary
12 to a plan administrator for documents under section
13 104(a)(6), the plan administrator fails to furnish the ma-
14 terial requested to the Secretary, the Secretary may assess
15 a civil penalty against the plan administrator of up to
16 \$100 a day from the date of such failure (but in no event
17 in excess of \$1,000 per request). No penalty shall be im-
18 posed under this paragraph for any failure resulting from
19 matters reasonably beyond the control of the plan admin-
20 istrator.”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) Section 104(b)(1) of the Employee Retirement
23 Income Security Act of 1974 (29 U.S.C.
24 1024(b)(1)) is amended by striking “section

1 102(a)(1)” each place it appears and inserting “sec-
2 tion 102(a)”.

3 (2) Section 104(b)(2) of such Act (29 U.S.C.
4 1024(b)(2)) is amended by striking “the plan de-
5 scription and” and inserting “the latest updated
6 summary plan description and”.

7 (3) Section 104(b)(4) of such Act (29 U.S.C.
8 1024(b)(4)) is amended by striking “plan descrip-
9 tion”.

10 (4) Section 106(a) of such Act (29 U.S.C.
11 1026(a)) is amended by striking “descriptions,”.

12 (5) Section 107 of such Act (29 U.S.C. 1027)
13 is amended by striking “description or”.

14 (6) Paragraph (2)(B) of section 108 of such
15 Act (29 U.S.C. 1028) is amended to read as follows:
16 “(B) after publishing or filing the annual reports,”.

17 (7) Section 502(a)(6) of such Act (29 U.S.C.
18 1132(a)(6)) is amended by striking “or (5)” and in-
19 serting “(5), or (6)”.

20 (e) TECHNICAL CORRECTION.—Section 1144(c) of
21 the Social Security Act (42 U.S.C. 1320b–14(c)) is
22 amended by redesignating paragraph (9) as paragraph
23 (8).

1 **SEC. 175. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**
 2 **FUNDING LIMIT.**

3 (a) IN GENERAL.—Section 412(c)(7) of the Internal
 4 Revenue Code of 1986 (relating to full-funding limitation)
 5 is amended—

6 (1) by striking “150 percent” in subparagraph
 7 (A)(i)(I) and inserting “the applicable percentage”,
 8 and

9 (2) by adding at the end the following new sub-
 10 paragraph:

11 “(F) APPLICABLE PERCENTAGE.—For
 12 purposes of subparagraph (A)(i)(I), the applica-
 13 ble percentage is determined according to the
 14 following table:

“In the case of any plan year beginning in—	The applicable percentage is—
1998	155
1999	160
2000	165
2001	170
2002 and succeeding years	0.”

15 (b) SPECIAL AMORTIZATION RULE.—

16 (1) IN GENERAL.—Section 412(c)(7) of the In-
 17 ternal Revenue Code of 1986, as amended by sub-
 18 section (a) is amended by adding at the end the fol-
 19 lowing new subparagraph:

20 “(G) SPECIAL AMORTIZATION RULE.—Con-
 21 tributions that would be required to be made
 22 under the plan but for the provisions of sub-

1 paragraph (A)(i)(I) shall be amortized over a
2 20-year period.”

3 (2) CONFORMING AMENDMENT.—Section
4 412(c)(7)(D) of such Code is amended by adding
5 “and” at the end of clause (i), by striking “, and”
6 at the end of clause (ii) and inserting a period, and
7 by striking clause (iii).

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to any unamortized
10 bases with respect to plan years beginning before,
11 on, or after December 31, 1997.

12 **SEC. 176. NEW TECHNOLOGIES IN RETIREMENT PLANS.**

13 The Secretary of the Treasury and the Secretary of
14 Labor shall expand their efforts to examine existing guid-
15 ance regarding notice, recordkeeping, and operational re-
16 quirements for retirement plans, in order to permit the
17 use of new technologies by plan sponsors and administra-
18 tors in ways which maintain the protection of the rights
19 of participants and beneficiaries.

20 **TITLE II—SECURITY**

21 **SEC. 200. AMENDMENT OF ERISA.**

22 Except as otherwise expressly provided, whenever in
23 this title an amendment or repeal is expressed in terms
24 of an amendment to, or repeal of, a section or other provi-
25 sion, the reference shall be considered to be made to a

1 section or other provision of the Employee Retirement In-
2 come Security Act of 1974.

3 **Subtitle A—General Provisions**

4 **SEC. 201. SECTION 401(k) INVESTMENT PROTECTION.**

5 (a) LIMITATIONS ON INVESTMENT IN EMPLOYER SE-
6 CURITIES AND EMPLOYER REAL PROPERTY BY CASH OR
7 DEFERRED ARRANGEMENTS.—Paragraph (3) of section
8 407(d) (29 U.S.C. 1107(d)) is amended by adding at the
9 end the following new subparagraph:

10 “(D) The term ‘eligible individual account plan’
11 does not include that portion of an individual ac-
12 count plan that consists of elective deferrals (as de-
13 fined in section 402(g)(3) of the Internal Revenue
14 Code of 1986) pursuant to a qualified cash or de-
15 ferred arrangement as defined in section 401(k) of
16 the Internal Revenue Code of 1986 (and earnings
17 thereon), if such elective deferrals (or earnings
18 thereon) are required to be invested in qualifying
19 employer securities or qualifying employer real prop-
20 erty or both pursuant to the documents and instru-
21 ments governing the plan or at the direction of a
22 person other than the participant (or the partici-
23 pant’s beneficiary) on whose behalf such elective de-
24 ferrals are made to the plan. For the purposes of
25 subsection (a), such portion shall be treated as a

1 separate plan. This subparagraph shall not apply to
2 an individual account plan if the fair market value
3 of the assets of all individual account plans main-
4 tained by the employer equals not more than 10 per-
5 cent of the fair market value of the assets of all pen-
6 sion plans maintained by the employer.”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall take effect on the date of the en-
10 actment of this Act.

11 (2) TRANSITION RULE FOR PLANS HOLDING
12 EXCESS SECURITIES OR PROPERTY.—

13 (A) IN GENERAL.—In the case of a plan
14 which on the date of the enactment of this Act,
15 has holdings of employer securities and em-
16 ployer real property (as defined in section
17 407(d) of the Employee Retirement Income Se-
18 curity Act of 1974 (29 U.S.C. 1107(d)) in ex-
19 cess of the amount specified in such section
20 407, the amendment made by this section ap-
21 plies to any acquisition of such securities and
22 property on or after such date, but does not
23 apply to the specific holdings which constitute
24 such excess during the period of such excess.

1 (B) SPECIAL RULE FOR CERTAIN ACQUI-
2 TIONS.—Employer securities and employer real
3 property acquired pursuant to a binding written
4 contract to acquire such securities and real
5 property entered into and in effect on the date
6 of the enactment of this Act, shall be treated as
7 acquired immediately before such date.

8 **SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVEST-**
9 **MENT REPORTS APPLIED TO CERTAIN 401(k)**
10 **PLANS.**

11 (a) IN GENERAL.—Section 104(b)(3) (29 U.S.C.
12 1024(b)(3)) is amended—

13 (1) by inserting “(A)” after “(3)”; and

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

16 “(B)(i) If a plan includes a qualified cash or
17 deferred arrangement (as defined in section
18 401(k)(2) of the Internal Revenue Code of 1986)
19 and is maintained by an employer with less than 100
20 participants, the administrators shall furnish to each
21 participant and to each beneficiary receiving benefits
22 under the plan an annual investment report detail-
23 ing such information as the Secretary by regulation
24 shall require.

1 “(ii) Clause (i) shall not apply with respect to
2 any participant described in section 404(c).”.

3 (b) REGULATIONS.—

4 (1) IN GENERAL.—The Secretary of Labor, in
5 prescribing regulations required under section
6 104(b)(3)(B)(i) of the Employee Retirement Income
7 Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)),
8 as added by subsection (a), shall consider including
9 in the information required in an annual investment
10 report the following:

11 (A) Total plan assets and liabilities as of
12 the beginning and ending of the plan year.

13 (B) Plan income and expenses and con-
14 tributions made and benefits paid for the plan
15 year.

16 (C) Any transaction between the plan and
17 the employer, any fiduciary, or any 10-percent
18 owner during the plan year, including the acqui-
19 sition of any employer security or employer real
20 property.

21 (D) Any noncash contributions made to or
22 purchases of nonpublicly traded securities made
23 by the plan during the plan year without an ap-
24 praisal by an independent third party.

1 In determining the types of information to be in-
2 cluded in the annual investment report presented to
3 participants and beneficiaries, the Secretary of
4 Labor shall take into account the purposes of the di-
5 versification protection provided to such participants
6 and beneficiaries by section 407(d)(3)(D) of the Em-
7 ployee Retirement Income Security Act of 1974 (29
8 U.S.C. 1107(d)(3)(D)), as added by section 201(a).

9 (2) ELECTRONIC TRANSFER.—The Secretary of
10 Labor in prescribing such regulations shall also
11 make provision for the electronic transfer of the re-
12 quired annual investment report by a plan adminis-
13 trator to plan participants and beneficiaries.

14 (c) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to plan years beginning after
16 the date of the enactment of this Act.

17 **SEC. 203. INFORMATION REQUIRED TO BE PROVIDED TO**
18 **INVESTMENT MANAGERS OF 401(k) PLANS.**

19 (a) IN GENERAL.—Section 105 (29 U.S.C. 1025) is
20 amended by adding at the end the following new sub-
21 section:

22 “(e) If—

23 “(1) the administrator of an individual account
24 plan described in section 401(k) of the Internal Rev-
25 enue Code of 1986 provides for investment of the

1 plan assets by means of a contractual arrangement
2 with another party, and

3 “(2) such other party is not required under
4 such arrangement to separately account for benefits
5 accrued with respect to each participant and bene-
6 ficiary under this plan,

7 such administrator shall be treated as failing to meet the
8 requirements of subsection (a) unless, under such contrac-
9 tual arrangement, such administrator provides to such
10 other party such information as is necessary to enable
11 such party to separately account at any time for benefits
12 accrued with respect to each participant and beneficiary.”.

13 (b) CIVIL PENALTY FOR VIOLATIONS.—Paragraph
14 (1) of section 502(c) (29 U.S.C. 1132(c)(1)) is amended
15 by striking “or section 101(e)(1)” and inserting “, section
16 101(e)(1), or section 105(e)”.

17 **SEC. 204. STUDY ON INVESTMENTS IN COLLECTIBLES.**

18 (a) STUDY.—The Secretary of Labor, in consultation
19 with the Secretary of the Treasury, shall study the extent
20 to which pension plans invest in collectibles and whether
21 such investments present a risk to the pension security
22 of the participants and beneficiaries of such plans.

23 (b) REPORT.—Not later than 12 months after the
24 date of the enactment of this Act, the Secretary of Labor
25 shall submit a report to the Congress containing the find-

1 ings of the study described in subsection (a) and any rec-
2 ommendations for legislative action.

3 **SEC. 205. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
4 **MAKING LOANS THROUGH CREDIT CARDS**
5 **AND OTHER INTERMEDIARIES.**

6 (a) IN GENERAL.—Subsection (a) of section 401 of
7 the Internal Revenue Code of 1986 is amended by adding
8 at the end the following new paragraph:

9 “(35) PROHIBITION OF LOANS THROUGH CRED-
10 IT CARDS AND OTHER INTERMEDIARIES.—A trust
11 shall not constitute a qualified trust under this sec-
12 tion if the plan makes any loan to any beneficiary
13 under the plan through the use of any credit card
14 or any other intermediary.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to plan years beginning after
17 the date of the enactment of this Act.

18 **SEC. 206. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.**

19 (a) IN GENERAL.—Section 4022A(c) (29 U.S.C.
20 1322a(c)) is amended—

21 (1) by striking “\$5” each place it appears in
22 paragraph (1) and inserting “\$11”,

23 (2) by striking “\$15” in paragraph (1) and in-
24 serting “\$33”, and

1 (3) by striking paragraphs (2), (5), and (6) and
2 by redesignating paragraphs (3) and (4) as para-
3 graphs (2) and (3), respectively.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to any multiemployer plan that has
6 not received financial assistance (within the meaning of
7 section 4261 of the Employee Retirement Income Security
8 Act of 1974) within the 1-year period ending on the date
9 of the enactment of this Act.

10 **SEC. 207. PROHIBITED TRANSACTIONS.**

11 (a) **IN GENERAL.**—Section 502(i) (29 U.S.C.
12 1132(i)) is amended by striking “5 percent” and inserting
13 “10 percent”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to prohibited transactions occur-
16 ring after the date of the enactment of this Act.

17 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

18 (a) **MODIFICATION OF PHASE-IN OF GUARANTEE.**—
19 Subparagraphs (B) and (C) of section 4022(b)(5) (29
20 U.S.C. 1322(b)(5)) are amended to read as follows:

21 “(B) For purposes of this title, the term ‘majority
22 owner’ has the same meaning as substantial owner under
23 subparagraph (A), except that subparagraph (A) shall be
24 applied by substituting ‘50 percent or more’ for ‘more
25 than 10 percent’ each place it appears.

1 “(C) In the case of a participant who is a majority
2 owner, the amount of benefits guaranteed under this sec-
3 tion shall not exceed the product of—

4 “(i) a fraction (not to exceed 1) the numerator
5 of which is the number of years from the later of the
6 effective date or the adoption date of the plan to the
7 termination date, and the denominator of which is
8 30, and

9 “(ii) the amount of the majority owner’s month-
10 ly benefits guaranteed under subsection (a) (as lim-
11 ited by paragraph (3) of this subsection).”.

12 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

13 (1) Section 4044(a)(4)(B) (29 U.S.C.
14 1344(a)(4)(B)) is amended by striking “section
15 4022(b)(5)” and inserting “section 4022(b)(5)(C)”.

16 (2) Section 4044(b) (29 U.S.C. 1344(b)) is
17 amended—

18 (A) by striking “(5)” in paragraph (2) and
19 inserting “(4), (5),” and

20 (B) by redesignating paragraphs (3)
21 through (6) as paragraphs (4) through (7), re-
22 spectively, and by inserting after paragraph (2)
23 the following new paragraph:

24 “(3) If assets available for allocation under
25 paragraph (4) of subsection (a) are insufficient to

1 satisfy in full the benefits of all individuals who are
2 described in that paragraph, the assets shall be allo-
3 cated first to benefits described in subparagraph (A)
4 of that paragraph. Any remaining assets shall then
5 be allocated to subparagraph (B). If assets allocated
6 to subparagraph (B) are insufficient to satisfy in full
7 the benefits in that subparagraph, the assets shall
8 be allocated pro rata among individuals on the basis
9 of the present value (as of the termination date) of
10 their respective benefits described in that subpara-
11 graph.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to plan terminations—

14 (1) under section 4041(c) of the Employee Re-
15 tirement Income Security Act of 1974 (29 U.S.C.
16 1341(c)) with respect to which notices of intent to
17 terminate are provided under section 4041(a)(2) of
18 such Act (29 U.S.C. 1341(a)(2)) on or after the
19 date of the enactment of this Act, or

20 (2) under section 4042 of such Act (29 U.S.C.
21 1342) with respect to which proceedings are insti-
22 tuted by the corporation on or after such date.

1 **SEC. 209. REVERSION REPORT.**

2 (a) IN GENERAL.—Section 4008 (29 U.S.C. 1308)
3 is amended by adding at the end the following new sub-
4 section:

5 “(b) REVERSION REPORT.—As soon as practicable
6 after the close of each fiscal year, the Secretary of Labor
7 (acting in the Secretary’s capacity as chairman of the cor-
8 poration’s board) shall transmit to the President and the
9 Congress a report providing information on plans from
10 which residual assets were distributed to employers pursu-
11 ant to section 4044(d).”.

12 (b) CONFORMING AMENDMENT.—Section 4008 (29
13 U.S.C. 1308) is amended by striking “SEC. 4008.” and
14 inserting “SEC. 4008. (a) ANNUAL REPORT.—”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to fiscal years beginning after Sep-
17 tember 30, 1996.

18 **SEC. 210. DEVELOPMENT OF ADDITIONAL REMEDIES.**

19 (a) FINDINGS.—The Congress finds that—

20 (1) the provisions of this Act, like many of
21 those proposed by the President and recently signed
22 into law, are designed to expand retirement savings;

23 (2) this goal can be achieved in part by sim-
24 plifying the pension system and reducing administra-
25 tive costs of maintaining pension plans for all em-
26 ployers;

1 (3) such simplification can benefit not only the
2 implementation and ongoing administration of pen-
3 sion plans but also the correction of problems that
4 arise in the operation of such plans;

5 (4) the Secretary of the Treasury has com-
6 mendably already acted to develop programs in-
7 tended to facilitate such corrections; and

8 (5) efficient correction serves participants and
9 beneficiaries not only by fulfilling the law's require-
10 ments regarding pension plans but also by directing
11 funds into plans rather than toward correction ef-
12 forts and by encouraging employers to continue to
13 sponsor support for such plans.

14 (b) SENSE OF CONGRESS.—It is the sense of the
15 Congress that the Secretary of the Treasury should—

16 (1) review existing correction mechanisms to de-
17 termine whether modifications might facilitate addi-
18 tional utilization by sponsors, improve voluntary
19 compliance, and hasten the correction of pension
20 plans,

21 (2) consider whether additional means of ad-
22 dressing nonegregious violations should be explored,

23 (3) make whatever legislative recommendations,
24 if any, appear necessary to fulfill these goals, and

1 (4) remain cognizant that the Congress, as well
2 as the Secretary, considers the continuing security of
3 retirement savings for workers, retirees, and bene-
4 ficiaries of fundamental importance.

5 **Subtitle B—ERISA Enforcement**

6 **SEC. 211. REPEAL OF LIMITED SCOPE AUDIT.**

7 (a) IN GENERAL.—Section 103(a)(3)(C) (29 U.S.C.
8 1023(a)(3)(C)) is amended by adding at the end the fol-
9 lowing:

10 “(ii) If an accountant is offering an opinion under
11 this section in the case of an employee pension benefit
12 plan, the accountant shall, to the extent consistent with
13 generally accepted auditing standards, rely on the work
14 of any independent public accountant of any bank or simi-
15 lar institution or insurance carrier that holds assets or
16 processes transactions of the employee pension benefit
17 plan provided that such bank, institution, or insurance
18 carrier is regulated, supervised, and subject to periodic ex-
19 amination by a State or Federal agency.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 103(a)(3)(A) of such Act (29
22 U.S.C. 1023(a)(3)(A)) is amended by striking “sub-
23 paragraph (C)” and inserting “subparagraph
24 (C)(i)”.

1 (2) Section 103(a)(3)(C) of such Act (29
2 U.S.C. 1023(a)(3)(C)) is amended by striking “(C)
3 The” and inserting “(C)(i) In the case of an em-
4 ployee benefit plan other than an employee pension
5 benefit plan, the”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to opinions required
8 under section 103(a)(3)(A) of the Employee Retirement
9 Income Security Act of 1974 for plan years beginning on
10 or after January 1 of the calendar year following the date
11 of the enactment of this Act.

12 **SEC. 212. ADDITIONAL REQUIREMENTS FOR QUALIFIED**
13 **PUBLIC ACCOUNTANTS.**

14 (a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C.
15 1023(a)(3)(D)) is amended—

16 (1) by inserting “(i)” after “(D)”;

17 (2) by inserting “, with respect to any engage-
18 ment of an accountant under subparagraph (A)”
19 after “means”;

20 (3) by redesignating clauses (i), (ii), and (iii) as
21 subclauses (I), (II), and (III), respectively;

22 (4) by striking the period at the end of sub-
23 clause (III) (as so redesignated) and inserting a
24 comma;

1 (5) by adding after subclause (III) (as so redesi-
2 gnated), and flush with clause (i), the following:

3 “but only if such person meets the require-
4 ments of clauses (ii) and (iii) with respect
5 to such engagement.”; and

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

8 “(ii) A person meets the requirements
9 of this clause with respect to an engage-
10 ment of such person as an accountant
11 under subparagraph (A) if such person—

12 “(I) has in operation an appro-
13 priate internal quality control system;

14 “(II) has undergone a qualified
15 external quality control review of the
16 person’s accounting and auditing
17 practices, including such practices rel-
18 evant to employee benefit plans (if
19 any), during the 3-year period imme-
20 diately preceding such engagement;
21 and

22 “(III) has completed, within the
23 2-year period immediately preceding
24 such engagement, at least the mini-
25 mum number of hours of continuing

1 education or training which contrib-
2 utes to the accountant’s professional
3 proficiency and which meets such re-
4 quirements as may be prescribed by
5 the Secretary in regulations.

6 The Secretary shall issue the regulations
7 under subclause (III) not later than De-
8 cember 31, 1998.

9 “(iii) A person meets the require-
10 ments of this clause with respect to an en-
11 gagement of such person as an accountant
12 under subparagraph (A) if such person
13 meets such additional requirements and
14 qualifications of regulations which the Sec-
15 retary deems necessary to ensure the qual-
16 ity of plan audits.

17 “(iv) For purposes of clause (ii)(II),
18 an external quality control review shall be
19 treated as qualified with respect to a per-
20 son referred to in clause (ii) if—

21 “(I) such review is performed in
22 accordance with the requirements of
23 external quality control review pro-
24 grams of recognized auditing stand-

1 ard-setting bodies, as determined in
2 regulations of the Secretary, and

3 “(II) in the case of any such per-
4 son who has, during the peer review
5 period, conducted one or more pre-
6 vious audits of employee benefit plans,
7 such review includes the review of an
8 appropriate number (determined as
9 provided in such regulations, but in
10 no case less than one) of plan audits
11 in relation to the scale of such per-
12 son’s auditing practice.

13 The Secretary shall issue the regulations
14 under subclause (I) not later than Decem-
15 ber 31, 1998.”.

16 (b) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply with respect to plan years beginning on
20 or after the date which is 3 years after the date of
21 the enactment of this Act.

22 (2) RESTRICTIONS ON CONDUCTING EXAMINA-
23 TIONS.—Clause (iii) of section 103(a)(3)(D) of the
24 Employee Retirement Income Security Act of 1974

1 (as added by subsection (a)(6)) shall take effect on
2 the date of the enactment of this Act.

3 **SEC. 213. CLARIFICATION OF FIDUCIARY PENALTIES.**

4 (a) MODIFICATION OF PROHIBITION OF ASSIGNMENT
5 OR ALIENATION.—

6 (1) IN GENERAL.—Section 206(d) (29 U.S.C.
7 1056(d)) is amended by adding at the end the fol-
8 lowing new paragraphs:

9 “(4) Paragraph (1) shall not apply to any offset of
10 a participant’s accrued benefit in an employee pension
11 benefit plan against an amount that the participant is or-
12 dered or required to pay to the plan if—

13 “(A) the order or requirement to pay arises—

14 “(i) under a judgment of conviction for a
15 crime involving such plan,

16 “(ii) under a civil judgment (including a
17 consent order or decree) entered by a court in
18 an action brought in connection with a violation
19 (or alleged violation) of part 4 of this subtitle,
20 or

21 “(iii) pursuant to a settlement agreement
22 between the Secretary and the participant, or a
23 settlement agreement between the Pension Ben-
24 efit Guaranty Corporation and the participant,
25 in connection with a violation (or alleged viola-

1 tion) of part 4 of this subtitle by a fiduciary or
2 any other person,

3 “(B) the judgment, order, decree, or settlement
4 agreement expressly provides for the offset of all or
5 part of the amount ordered or required to be paid
6 to the plan against the participant’s accrued benefit
7 in the plan, and

8 “(C) if the participant has a spouse at the time
9 at which the offset is to be made—

10 “(i) such spouse has consented in writing
11 to such offset and such consent is witnessed by
12 a notary public or representative of the plan,

13 “(ii) such spouse is ordered or required in
14 such judgment, order, decree, or settlement to
15 pay an amount to the plan in connection with
16 a violation of part 4 of this title, or

17 “(iii) in such judgment, order, decree, or
18 settlement, such spouse retains the right to re-
19 ceive the value of the survivor annuity under a
20 qualified joint and survivor annuity provided
21 pursuant to section 205(a)(1) and under a
22 qualified preretirement survivor annuity pro-
23 vided pursuant to section 205(a)(2), determined
24 in accordance with paragraph (5).

1 “(5)(A) The value of the survivor annuity described
2 in paragraph (4)(C)(iii) shall be determined as if—

3 “(i) the participant terminated employment on
4 the date of the offset,

5 “(ii) there was no offset,

6 “(iii) the plan permitted retirement only on or
7 after normal retirement age,

8 “(iv) the plan provided only the minimum-re-
9 quired qualified joint and survivor annuity, and

10 “(v) the amount of the qualified preretirement
11 survivor annuity under the plan is equal to the
12 amount of the survivor annuity payable under the
13 minimum-required qualified joint and survivor annu-
14 ity.

15 “(B) For purposes of this paragraph, the term ‘mini-
16 mum-required qualified joint and survivor annuity’ means
17 the qualified joint and survivor annuity which is the actu-
18 arial equivalent of a single annuity for the life of the par-
19 ticipant and under which the survivor annuity is 50 per-
20 cent of the amount of the annuity which is payable during
21 the joint lives of the participant and the spouse.”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by this subsection shall apply to judgments, orders,
24 and decrees issued, and settlement agreements en-

1 tered into, on or after the date of the enactment of
2 this Act.

3 (b) CIVIL PENALTIES FOR BREACH OF FIDUCIARY
4 RESPONSIBILITY.—

5 (1) IMPOSITION AND AMOUNT OF PENALTY
6 MADE DISCRETIONARY.—Section 502(l)(1) (29
7 U.S.C. 1132(l)(1)) is amended—

8 (A) by striking “shall” and inserting
9 “may”, and

10 (B) by striking “equal to” and inserting
11 “not greater than”.

12 (2) APPLICABLE RECOVERY AMOUNT.—Section
13 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read
14 as follows:

15 “(2) For purposes of paragraph (1), the term ‘appli-
16 cable recovery amount’ means any amount which is recov-
17 ered from (or on behalf of) any fiduciary or other person
18 with respect to a breach or violation described in para-
19 graph (1) on or after the 30th day following receipt by
20 such fiduciary or other person of written notice from the
21 Secretary of the violation, whether paid voluntarily or by
22 order of a court in a judicial proceeding instituted by the
23 Secretary under subsection (a)(2) or (a)(5). The Secretary
24 may, in the Secretary’s sole discretion, extend the 30-day
25 period described in the preceding sentence.”.

1 (3) OTHER RULES.—Section 502(l) (29 U.S.C.
2 1132(l)) is amended by adding at the end the follow-
3 ing new paragraphs:

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

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

12 (4) EFFECTIVE DATES.—

13 (A) IN GENERAL.—The amendments made
14 by this subsection shall apply to any breach of
15 fiduciary responsibility or other violation of part
16 4 of subtitle B of title I of the Employee Re-
17 tirement Income Security Act of 1974 occurring
18 on or after the date of the enactment of this
19 Act.

20 (B) TRANSITION RULE.—In applying the
21 amendment made by paragraph (2) (relating to
22 applicable recovery amount), a breach or other
23 violation occurring before the date of the enact-
24 ment of this Act which continues after the
25 180th day after such date (and which may have

1 been discontinued at any time during its exist-
2 ence) shall be treated as having occurred after
3 such date of enactment.

4 **SEC. 214. CONFORMING AMENDMENTS RELATING TO ERISA**
5 **ENFORCEMENT.**

6 (a) SPECIAL RULE FOR CERTAIN JUDGMENTS AND
7 SETTLEMENTS.—Section 401(a)(13) of the Internal Reve-
8 nue Code of 1986 (relating to assignment and alienation)
9 is amended by adding at the end the following new sub-
10 paragraphs:

11 “(C) SPECIAL RULE FOR CERTAIN JUDG-
12 MENTS AND SETTLEMENTS.—Subparagraph (A)
13 shall not apply to any offset of a participant’s
14 accrued benefit in a plan against an amount
15 that the participant is ordered or required to
16 pay to the plan if—

17 “(i) the order or requirement to pay
18 arises—

19 “(I) under a judgment of convic-
20 tion for a crime involving such plan,

21 “(II) under a civil judgment (in-
22 cluding a consent order or decree) en-
23 tered by a court in an action brought
24 in connection with a violation (or al-
25 leged violation) of part 4 of subtitle B

1 of title I of the Employee Retirement
2 Income Security Act of 1974, or

3 “(III) pursuant to a settlement
4 agreement between the Secretary of
5 Labor and the participant, or a settle-
6 ment agreement between the Pension
7 Benefit Guaranty Corporation and the
8 participant, in connection with a viola-
9 tion (or alleged violation) of part 4 of
10 subtitle B of title I of such Act,

11 “(ii) the judgment, order, decree, or
12 settlement agreement expressly provides
13 for the offset of all or part of the amount
14 ordered or required to be paid to the plan
15 against the participant’s accrued benefit in
16 the plan, and

17 “(iii) if the participant has a spouse
18 at the time at which the offset is to be
19 made—

20 “(I) such spouse has consented
21 in writing to such offset and such con-
22 sent is witnessed by a notary public or
23 representative of the plan,

24 “(II) such spouse is ordered or
25 required to pay in such judgment,

1 order, decree, or settlement an
2 amount to the plan in connection with
3 a violation of part 4 of this title, or

4 “(III) in such judgment, order,
5 decree, or settlement, such spouse re-
6 tains the right to receive the value of
7 the survivor annuity under a qualified
8 joint and survivor annuity provided
9 pursuant to paragraph (11)(A)(i) and
10 under a qualified preretirement survi-
11 vor annuity provided pursuant to
12 paragraph (11)(A)(ii), determined in
13 accordance with subparagraph (D).

14 “(D) DETERMINATION OF VALUE OF SUR-
15 VIVOR ANNUITY IN CONNECTION WITH OFF-
16 SET.—The value of the survivor annuity de-
17 scribed in subparagraph (C)(iii)(III) shall be
18 determined as if—

19 “(i) the participant terminated em-
20 ployment on the date of the offset,

21 “(ii) there was no offset,

22 “(iii) the plan permitted retirement
23 only on or after normal retirement age,

1 “(iv) the plan provided only the mini-
2 mum-required qualified joint and survivor
3 annuity, and

4 “(v) the amount of the qualified pre-
5 retirement survivor annuity under the plan
6 is equal to the amount of the survivor an-
7 nuity payable under the minimum-required
8 qualified joint and survivor annuity.

9 For purposes of this subparagraph, the term
10 ‘minimum-required qualified joint and survivor
11 annuity’ means the qualified joint and survivor
12 annuity which is the actuarial equivalent of a
13 single annuity for the life of the participant and
14 under which the survivor annuity is 50 percent
15 of the amount of the annuity which is payable
16 during the joint lives of the participant and the
17 spouse.

18 “(E) WAIVER OF CERTAIN DISTRIBUTION
19 REQUIREMENTS.—With respect to the require-
20 ments of subsections (a) and (k) of section 401,
21 section 403(b), and section 409(d), a plan shall
22 not be treated as failing to meet such require-
23 ments solely by reason of an offset under sub-
24 paragraph (C).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to judgments, orders, and de-
3 crees issued, and settlement agreements entered into, on
4 or after the date of the enactment of this Act.

5 **TITLE III—PORTABILITY**

6 **SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CON-** 7 **TRIBUTIONS.**

8 (a) IN GENERAL.—Paragraph (2) of section 203(a)
9 of the Employee Retirement Income Security Act of 1974
10 (29 U.S.C. 1053(a)) is amended—

11 (1) by striking “or (B)” and inserting “(B), or,
12 if applicable, (C)”, and

13 (2) by adding at the end the following new sub-
14 paragraph:

15 “(C) 401(k) PLANS.—A plan satisfies the re-
16 quirements of this subparagraph—

17 “(i) if the plan includes a qualified cash or
18 deferred arrangement (as defined in section
19 401(k)(2)) of the Internal Revenue Code of
20 1986, and

21 “(ii) if—

22 “(I) an employee who has completed
23 at least 3 years of service has a nonforfeit-
24 able right to 100 percent of the employee’s
25 accrued benefit derived from employer

1 matching contributions (as defined in sec-
 2 tion 401(m)(4)(A) of such Code), or

3 “(II) an employee has a nonforfeitable
 4 right to a percentage of the employee’s ac-
 5 crued benefit derived from employer
 6 matching contributions (as so defined) de-
 7 termined under the following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

8 For purposes of this subparagraph, matching con-
 9 tributions shall be taken into account regardless of
 10 whether the matching contributions are made to the
 11 same plan as the contributions made under section
 12 401(k) of such Code, and matching contributions to
 13 any plan shall be taken into account if such match-
 14 ing contributions are made with respect to after-tax
 15 employee contributions includible in gross income
 16 and if the employer’s limit on matching contribu-
 17 tions with respect to such includible employee con-
 18 tributions is coordinated with the employer’s limit on
 19 matching contributions with respect to contributions
 20 under such section.”.

1 (b) CONFORMING AMENDMENTS.—Paragraph (2) of
2 section 411(a) of the Internal Revenue Code of 1986 (re-
3 lating to employer contributions) is amended—

4 (1) by striking “or (B)” and inserting “(B), or,
5 if applicable, (C)”, and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(C) 401(k) PLANS.—A plan satisfies the
9 requirements of this subparagraph—

10 “(i) if the plan includes a qualified
11 cash or deferred arrangement (as defined
12 in section 401(k)(2)), and

13 “(ii) if—

14 “(I) an employee who has com-
15 pleted at least 3 years of service has
16 a nonforfeitable right to 100 percent
17 of the employee’s accrued benefit de-
18 rived from employer matching con-
19 tributions (as defined in section
20 401(m)(4)(A) of such Code), or

21 “(II) an employee has a non-
22 forfeitable right to a percentage of the
23 employee’s accrued benefit derived
24 from employer matching contributions

1 (as so defined) determined under the
 2 following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

3 For purposes of this subparagraph, matching
 4 contributions shall be taken into account re-
 5 gardless of whether the matching contributions
 6 are made to the same plan as the contributions
 7 made under section 401(k), and matching con-
 8 tributions to any plan shall be taken into ac-
 9 count if such matching contributions are made
 10 with respect to after-tax employee contributions
 11 and if the employer’s limit on matching con-
 12 tributions with respect to such after-tax em-
 13 ployee contributions is coordinated with the em-
 14 ployer’s limit on matching contributions with
 15 respect to contributions under such section.”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
 18 graphs (2) and (3), the amendments made by this
 19 section shall apply to plan years beginning after De-
 20 cember 31, 1997.

21 (2) APPLICATION TO CURRENT EMPLOYEES.—

22 The amendments made by this section shall not

1 apply to any employee who does not have at least 1
2 hour of service in any plan year beginning after De-
3 cember 31, 1997.

4 (3) COLLECTIVE BARGAINING AGREEMENTS.—

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

12 (A) the later of—

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

18 (ii) January 1, 1998, or

19 (B) January 1, 2002.

20 **SEC. 302. RATIONALIZE THE RESTRICTIONS ON DISTRIBUTIONS FROM 401(k) PLANS.**
21

22 (a) IN GENERAL.—Section 401(k)(2)(B)(i)(I) of the
23 Internal Revenue Code of 1986 (relating to qualified cash
24 or deferred arrangements) is amended by striking “sepa-

1 ration from service” and inserting “severance from em-
2 ployment”.

3 (b) BUSINESS SALE REQUIREMENTS DELETED.—

4 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)
5 of the Internal Revenue Code of 1986 (relating to
6 qualified cash or deferred arrangements) is amended
7 by striking “an event” and inserting “a plan termi-
8 nation”.

9 (2) CONFORMING AMENDMENTS.—Section
10 401(k)(10) of such Code is amended—

11 (A) by striking subparagraph (A) and in-
12 serting the following:

13 “(A) IN GENERAL.—A plan termination is
14 described in this paragraph if the termination
15 of the plan is without establishment or mainte-
16 nance of another defined contribution plan
17 (other than an employee stock ownership plan
18 as defined in section 4975(e)(7)).”,

19 (B) by striking subparagraph (C), and

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

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to distributions after December 31,
24 1997.

1 **SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED**
2 **CONTRIBUTION PLANS.**

3 (a) IN GENERAL.—Section 411(d)(6) of the Internal
4 Revenue Code of 1986 (relating to accrued benefit not to
5 be decreased by amendment) is amended by adding at the
6 end the following new subparagraph:

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

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

24 “(ii) the terms of both the transferor
25 plan and the transferee plan authorize the
26 transfer described in clause (i),

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

6 “(iv) the election described in clause
7 (iii) was made after the participant or ben-
8 eficiary received a notice describing the
9 consequences of making the election,

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

18 “(vi) the transferee plan allows the
19 participant or beneficiary described in
20 clause (iii) to receive any distribution to
21 which the participant or beneficiary is enti-
22 tled under transferee plan in the form of
23 a single sum distribution.”.

24 (b) CONFORMING AMENDMENT.—Section 204(g) of
25 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1054(g)) is amended by adding at the end the
2 following new paragraph:

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

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

18 “(B) the terms of both the transferor plan and
19 the transferee plan authorize the transfer described
20 in subparagraph (A),

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

1 “(D) the election described in subparagraph (C)
2 was made after the participant or beneficiary re-
3 ceived a notice describing the consequences of mak-
4 ing the election,

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

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

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to transfers after December 31,
19 1997.

20 **SEC. 304. MISSING PARTICIPANTS.**

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

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

5 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

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

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

16 “(A) to the corporation, or

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

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

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

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

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

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

8 “(i) to which the provisions of this
9 section do not apply (without regard to
10 this subsection), and

11 “(ii) which is not a plan described in
12 paragraphs (2) through (11) of section
13 4021(b), and

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

16 “(i) has missing participants, and

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

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

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 206(f) of the Employee Retirement
2 Income Security Act of 1974 (29 U.S.C. 1056(f)) is
3 amended—

4 (A) by striking “title IV” and inserting
5 “section 4050”, and

6 (B) by striking “the plan shall provide
7 that”.

8 (2) Section 401(a)(34) (relating to benefits of
9 missing participants on plan termination) is amend-
10 ed by striking “title IV” and inserting “section
11 4050”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions made after final
14 regulations implementing subsections (c) and (d) of sec-
15 tion 4050 of the Employee Retirement Income Security
16 Act of 1974 (as added by subsection (a)), respectively, are
17 prescribed.

18 **TITLE IV—COMPREHENSIVE**
19 **WOMEN’S PENSION PROTECTION**
20 **Subtitle A—Pension Reform**

21 **SEC. 401. PENSION INTEGRATION RULES.**

22 (a) APPLICABILITY OF NEW INTEGRATION RULES
23 EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—
24 Notwithstanding subsection (c)(1) of section 1111 of the
25 Tax Reform Act of 1986 (relating to effective date of ap-

1 plication of nondiscrimination rules to integrated plans)
2 (100 Stat. 2440), effective for plan years beginning after
3 the date of the enactment of this Act, the amendments
4 made by subsection (a) of such section 1111 shall also
5 apply to benefits attributable to plan years beginning on
6 or before December 31, 1988.

7 (b) INTEGRATION DISALLOWED FOR SIMPLIFIED
8 EMPLOYEE PENSIONS.—

9 (1) IN GENERAL.—Subparagraph (D) of section
10 408(k)(3) of the Internal Revenue Code of 1986 (re-
11 lating to permitted disparity under rules limiting
12 discrimination under simplified employee pensions)
13 is repealed.

14 (2) CONFORMING AMENDMENT.—Subparagraph
15 (C) of such section 408(k)(3) is amended by striking
16 “and except as provided in subparagraph (D),”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply with respect to taxable
19 years beginning on or after January 1, 1998.

20 (c) EVENTUAL REPEAL OF INTEGRATION RULES.—
21 Effective for plan years beginning on or after January 1,
22 2004—

23 (1) subparagraphs (C) and (D) of section
24 401(a)(5) of the Internal Revenue Code of 1986 (re-
25 lating to pension integration exceptions under non-

1 discrimination requirements for qualification) are re-
 2 pealed, and subparagraph (E) of such section
 3 401(a)(5) is redesignated as subparagraph (C); and
 4 (2) subsection (l) of section 401 of such Code
 5 (relating to nondiscriminatory coordination of de-
 6 fined contribution plans with OASDI) is repealed.

7 **SEC. 402. APPLICATION OF MINIMUM COVERAGE REQUIRE-**
 8 **MENTS WITH RESPECT TO SEPARATE LINES**
 9 **OF BUSINESS.**

10 (a) IN GENERAL.—Subsection (b) of section 410 of
 11 the Internal Revenue Code of 1986 (relating to minimum
 12 coverage requirements) is amended—

13 (1) in paragraph (1), by striking “A trust” and
 14 inserting “In any case in which the employer with
 15 respect to a plan is treated, under section 414(r), as
 16 operating separate lines of business for a plan year,
 17 a trust”, and by inserting “for such plan year” after
 18 “requirements”; and

19 (2) by redesignating paragraphs (3) through
 20 (6) as paragraphs (4) through (7), respectively and
 21 by inserting after paragraph (2) the following new
 22 paragraph:

23 “(3) SPECIAL RULE WHERE EMPLOYER OPER-
 24 ATES SINGLE LINE OF BUSINESS.—In any case in
 25 which the employer with respect to a plan is not

1 treated, under section 414(r), as operating separate
2 lines of business for a plan year, a trust shall not
3 constitute a qualified trust under section 401(a) un-
4 less such trust is designated by the employer as part
5 of a plan which benefits all employees of the em-
6 ployer.”.

7 (b) LIMITATION ON LINE OF BUSINESS EXCEP-
8 TION.—Paragraph (6) of section 410(b) of such Code (as
9 redesignated by subsection (a)(2) of this section) is
10 amended by inserting “other than paragraph (1)(A)” after
11 “this subsection”.

12 **SEC. 403. DIVISION OF PENSION BENEFITS UPON DIVORCE.**

13 (a) AMENDMENTS TO THE INTERNAL REVENUE
14 CODE OF 1986.—

15 (1) IN GENERAL.—Paragraph (1) of section
16 414(p) of the Internal Revenue Code of 1986 (relat-
17 ing to qualified domestic relations order defined) is
18 amended by adding at the end the following new
19 subparagraph:

20 “(C) DEEMED DOMESTIC RELATIONS
21 ORDER UPON DIVORCE.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (iv), a domestic relations
24 order with respect to a marriage of at least
25 5 years duration between the participant

1 and the former spouse (including an annul-
2 ment or other order of marital dissolution)
3 shall, if the former spouse, within 60 days
4 after the receipt of notice under paragraph
5 (6)(B)(i)(II), so elects, be deemed by the
6 plan to be a domestic relations order that
7 specifies that 50 percent of the marital
8 share of the participant's accrued benefit
9 is to be provided to such former spouse.

10 “(ii) MARITAL SHARE.—The marital
11 share shall be the accrued benefit of the
12 participant under the plan as of the date
13 of the first payment under the plan (to the
14 extent such accrued benefit is vested at the
15 date of the divorce or any later date) mul-
16 tiplied by a fraction, the numerator of
17 which is the period of participation by the
18 participant under the plan starting with
19 the date of marriage and ending with the
20 date of divorce, and the denominator of
21 which is the total period of participation by
22 the participant under the plan.

23 “(iii) INTERPRETATION AS QUALIFIED
24 DOMESTIC RELATIONS ORDER.—Each plan
25 shall establish reasonable rules for deter-

1 mining how any such deemed domestic re-
2 lations order is to be interpreted under the
3 plan so as to constitute a qualified domes-
4 tic relations order that satisfies paragraphs
5 (2) through (4) (and a copy of such rules
6 shall be provided to such former spouse
7 promptly after delivery of the divorce de-
8 cree). Such rules—

9 “(I) may delay the effect of such
10 an order until the earlier of the date
11 the participant is fully vested or has
12 terminated employment,

13 “(II) may allow the former
14 spouse to be paid out immediately,

15 “(III) shall permit the former
16 spouse to be paid not later than the
17 earliest retirement age under the plan
18 or the participant’s death,

19 “(IV) may require the submitter
20 of the divorce decree to present a
21 marriage certificate or other evidence
22 of the marriage date to assist in bene-
23 fit calculations, and

24 “(V) may conform to the rules
25 applicable to qualified domestic rela-

1 tions orders regarding form or type of
2 benefit.

3 “(iv) APPLICATION.—This subpara-
4 graph shall not apply—

5 “(I) if the domestic relations
6 order states that pension benefits
7 were considered by the parties and no
8 division is intended, or

9 “(II) to the extent that a quali-
10 fied domestic relations order issued in
11 connection with such divorce provides
12 otherwise.”.

13 (2) NOTIFICATION PROCEDURES.—Section
14 414(p)(6) of such Code (relating to plan procedures
15 with respect to orders) is amended by striking sub-
16 paragraph (A), by redesignating subparagraph (B)
17 as subparagraph (C), and by inserting before sub-
18 paragraph (C) (as so redesignated) the following
19 new subparagraphs:

20 “(A) NOTICE AND DETERMINATION BY AD-
21 MINISTRATOR.—In the case of any domestic re-
22 lations order received by a plan, including such
23 an order received under subparagraph (B) or
24 section 4980B(f)(6)(C)—

1 “(i) within 14 days after receipt of
2 such order, the plan administrator shall—

3 “(I) notify the participant and
4 each alternate payee of the receipt of
5 such order and the plan’s procedures
6 for determining the qualified status of
7 domestic relation orders, and

8 “(II) notify the former spouse of
9 such former spouse’s rights under
10 paragraph (1)(C), and

11 “(ii) within a reasonable period after
12 receipt of such order, the plan adminis-
13 trator shall determine whether such order
14 is a qualified domestic relations order and
15 notify the participant and each alternate
16 payee of such determination.

17 “(B) NOTIFICATION OF PLAN ADMINIS-
18 TRATOR.—In the case of a domestic relations
19 order which is not a qualified domestic relations
20 order, each plan—

21 “(i) shall require that each participant
22 is responsible for notifying the plan admin-
23 istrator of the occurrence of a divorce of
24 the participant from the former spouse and
25 for delivery to the plan administrator of

1 the domestic relations order along with the
2 information required by paragraph (2)(A)
3 within 60 days after the date of the di-
4 vorce, and

5 “(ii) shall allow a former spouse to so
6 notify the plan administrator and deliver to
7 the plan administrator the domestic rela-
8 tions order within 60 days after the date
9 of the divorce.”.

10 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
11 INCOME SECURITY ACT OF 1974.—

12 (1) IN GENERAL.—Subsection (d)(3)(B) of sec-
13 tion 206 of the Employee Retirement Income Secu-
14 rity Act of 1974 (29 U.S.C. 1056) is amended—

15 (A) by striking “this paragraph—” and in-
16 serting “this paragraph:”,

17 (B) in clause (i)—

18 (i) by striking “the term” and insert-
19 ing “The term”, and

20 (ii) by striking “met, and” and insert-
21 ing “met.”,

22 (C) in clause (ii), by striking “the term”
23 and inserting “The term”, and

24 (D) by adding at the end the following new
25 clause:

1 “(iii)(I) Except as provided on subclause (IV),
2 a domestic relations order with respect to a marriage
3 of at least 5 years duration between the participant
4 and the former spouse (including an annulment or
5 other order of marital dissolution) shall, if the
6 former spouse, within 60 days after the receipt of
7 notice under subparagraph (G)(ii)(I)(bb), so elects,
8 be deemed by the plan to be a domestic relations
9 order that specifies that 50 percent of the marital
10 share of the participant’s accrued benefit is to be
11 provided to such former spouse.

12 “(II) The marital share shall be the accrued
13 benefit of the participant under the plan as of the
14 date of the first payment under the plan (to the ex-
15 tent such accrued benefit is vested at the date of the
16 divorce or any later date) multiplied by a fraction,
17 the numerator of which is the period of participation
18 by the participant under the plan starting with the
19 date of marriage and ending with the date of di-
20 vorce, and the denominator of which is the total pe-
21 riod of participation by the participant under the
22 plan.

23 “(III) Each plan shall establish reasonable rules
24 for determining how any such deemed domestic rela-
25 tions order is to be interpreted under the plan so as

1 to constitute a qualified domestic relations order
2 that satisfies subparagraphs (C) through (E) (and a
3 copy of such rules shall be provided to such former
4 spouse promptly after delivery of the divorce decree).

5 Such rules—

6 “(aa) may delay the effect of such an order
7 until the earlier of the date the participant is
8 fully vested or has terminated employment,

9 “(bb) may allow the former spouse to be
10 paid out immediately,

11 “(cc) shall permit the spouse to be paid
12 not later than the earliest retirement age under
13 the plan or the participant’s death,

14 “(dd) may require the submitter of the di-
15 vorce decree to present a marriage certificate or
16 other evidence of the marriage date to assist in
17 benefit calculations, and

18 “(ee) may conform to the rules applicable
19 to qualified domestic relations orders regarding
20 form or type of benefit.

21 “(IV) This clause shall not apply—

22 “(aa) if the domestic relations order states
23 that pension benefits were considered by the
24 parties and no division is intended, or

1 “(bb) to the extent that a qualified domes-
2 tic relations order issued in connection with
3 such divorce provides otherwise.”.

4 (2) NOTIFICATION PROCEDURES.—Section
5 206(d)(3)(G) of such Act (29 U.S.C. 1056(d)(3)(G))
6 is amended by striking all matter before clause (ii),
7 by redesignating clause (ii) as clause (iii), and by in-
8 serting before clause (iii) (as so redesignated) the
9 following:

10 “(G)(i) In the case of any domestic relations order
11 received by a plan, including such an order received under
12 clause (ii) or section 606(a)(3)—

13 “(I) within 14 days after receipt of such order,
14 the plan administrator shall—

15 “(aa) notify the participant and each alter-
16 nate payee of the receipt of such order and the
17 plan’s procedures for determining the qualified
18 status of domestic relation orders, and

19 “(bb) notify the former spouse of such
20 former spouse’s rights under subparagraph
21 (B)(iii), and

22 “(II) within a reasonable period after receipt of
23 such order, the plan administrator shall determine
24 whether such order is a qualified domestic relations

1 order and notify the participant and each alternate
2 payee of such determination.

3 “(ii) In the case of a domestic relations order which
4 is not a qualified domestic relations order, each plan—
5 “(I) shall require that each participant is re-
6 sponsible for notifying the plan administrator of the
7 occurrence of a divorce of the participant from the
8 former spouse and for delivery to the plan adminis-
9 trator of the domestic relations order along with the
10 information required by subparagraph (C)(i) within
11 60 days after the date of the divorce, and

12 “(II) shall allow a former spouse to so notify
13 the plan administrator and deliver to the plan ad-
14 ministrator the domestic relations order within 60
15 days after the date of the divorce.”.

16 **SEC. 404. ENTITLEMENT OF DIVORCED SPOUSES TO RAIL-**
17 **ROAD RETIREMENT ANNUITIES INDEPEND-**
18 **ENT OF ACTUAL ENTITLEMENT OF EM-**
19 **PLOYEE.**

20 Section 2 of the Railroad Retirement Act of 1974 (45
21 U.S.C. 231a) is amended—

22 (1) in subsection (c)(4)(i), by striking “(A) is
23 entitled to an annuity under subsection (a)(1) and
24 (B)”;

1 (2) in subsection (e)(5), by striking “or di-
2 vorcee wife” the second place it appears.

3 **SEC. 405. EFFECTIVE DATES.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (b), the amendments made by this subtitle, other than sec-
6 tion 401, shall apply with respect to plan years beginning
7 on or after January 1, 1998, and the amendments made
8 by section 403 shall apply only with respect to divorces
9 becoming final in such plan years.

10 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
11 PLANS.—In the case of a plan maintained pursuant to 1
12 or more collective bargaining agreements between em-
13 ployee representatives and 1 or more employers ratified
14 on or before the date of the enactment of this Act, sub-
15 section (a) shall be applied to benefits pursuant to, and
16 individuals covered by, any such agreement by substituting
17 for “January 1, 1998” the date of the commencement of
18 the first plan year beginning on or after the earlier of—

19 (1) the later of—

20 (A) January 1, 1999, or

21 (B) the date on which the last of such col-
22 lective bargaining agreements terminates (de-
23 termined without regard to any extension there-
24 of after the date of the enactment of this Act),

25 or

1 (2) January 1, 2000.

2 (c) PLAN AMENDMENTS.—If any amendment made
3 by this subtitle requires an amendment to any plan, such
4 plan amendment shall not be required to be made before
5 the first plan year beginning on or after January 1, 2000,
6 if—

7 (1) during the period after such amendment
8 made by this subtitle takes effect and before such
9 first plan year, the plan is operated in accordance
10 with the requirements of such amendment made by
11 this subtitle, and

12 (2) such plan amendment applies retroactively
13 to the period after such amendment made by this
14 subtitle takes effect and such first plan year.

15 A plan shall not be treated as failing to provide definitely
16 determinable benefits or contributions, or to be operated
17 in accordance with the provisions of the plan, merely be-
18 cause it operates in accordance with this subsection.

1 **Subtitle B—Protection of Rights of**
2 **Former Spouses to Pension Ben-**
3 **efits Under Certain Government**
4 **and Government-Sponsored Re-**
5 **tirement Programs**

6 **SEC. 411. EXTENSION OF TIER II RAILROAD RETIREMENT**
7 **BENEFITS TO SURVIVING FORMER SPOUSES**
8 **PURSUANT TO DIVORCE AGREEMENTS.**

9 (a) **IN GENERAL.**—Section 5 of the Railroad Retire-
10 ment Act of 1974 (45 U.S.C. 231d) is amended by adding
11 at the end the following new subsection:

12 “(d) Notwithstanding any other provision of law, the
13 payment of any portion of an annuity computed under sec-
14 tion 3(b) to a surviving former spouse in accordance with
15 a court decree of divorce, annulment, or legal separation
16 or the terms of any court-approved property settlement
17 incident to any such court decree shall not be terminated
18 upon the death of the individual who performed the service
19 with respect to which such annuity is so computed unless
20 such termination is otherwise required by the terms of
21 such court decree.”.

22 (b) **EFFECTIVE DATE.**—The amendment made by
23 this section shall take effect on the date of the enactment
24 of this Act.

1 **SEC. 412. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
2 **AND FORMER SPOUSES OF FEDERAL EM-**
3 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
4 **FOR DEFERRED ANNUITY UNDER CIVIL**
5 **SERVICE RETIREMENT SYSTEM.**

6 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section
7 8341(f) of title 5, United States Code, is amended—

8 (1) in the matter preceding paragraph (1) by—

9 (A) by inserting “a former employee sepa-
10 rated from the service with title to deferred an-
11 nuity from the Fund dies before having estab-
12 lished a valid claim for annuity and is survived
13 by a spouse, or if” before “a Member”; and

14 (B) by inserting “of such former employee
15 or Member” after “the surviving spouse”;

16 (2) in paragraph (1)—

17 (A) by inserting “former employee or” be-
18 fore “Member commencing”; and

19 (B) by inserting “former employee or” be-
20 fore “Member dies”; and

21 (3) in the undesignated sentence following para-
22 graph (2)—

23 (A) in the matter preceding subparagraph

24 (A) by inserting “former employee or” before
25 “Member”; and

1 (B) in subparagraph (B) by inserting
2 “former employee or” before “Member”.

3 (b) BENEFITS FOR FORMER SPOUSE.—Section
4 8341(h) of title 5, United States Code, is amended—

5 (1) in paragraph (1) by adding after the first
6 sentence “Subject to paragraphs (2) through (5) of
7 this subsection, a former spouse of a former em-
8 ployee who dies after having separated from the
9 service with title to a deferred annuity under section
10 8338(a) but before having established a valid claim
11 for annuity is entitled to a survivor annuity under
12 this subsection, if and to the extent expressly pro-
13 vided for in an election under section 8339(j)(3) of
14 this title, or in the terms of any decree of divorce
15 or annulment or any court order or court-approved
16 property settlement agreement incident to such de-
17 cree.”; and

18 (2) in paragraph (2)—

19 (A) in subparagraph (A)(ii) by striking “or
20 annuitant,” and inserting “annuitant, or former
21 employee”; and

22 (B) in subparagraph (B)(iii) by inserting
23 “former employee or” before “Member”.

24 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—
25 Section 8339(j)(3) of title 5, United States Code, is

1 amended by inserting at the end the following: “The Office
2 shall provide by regulation for the application of this sub-
3 section to the widow, widower, or surviving former spouse
4 of a former employee who dies after having separated from
5 the service with title to a deferred annuity under section
6 8338(a) but before having established a valid claim for
7 annuity.”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act and shall apply only in the case of a former
11 employee who dies on or after such date.

12 **SEC. 413. TERMINATION OF TWO-TIER ANNUITY COMPUTA-**
13 **TION AND SOCIAL SECURITY OFFSET UNDER**
14 **MILITARY SURVIVOR BENEFIT PLAN.**

15 (a) **TERMINATION.**—Section 1451 of title 10, United
16 States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking out
19 “shall be” in the matter preceding subpara-
20 graph (A) and all that follows in that para-
21 graph and inserting in lieu thereof “shall be the
22 amount equal to 55 percent of the base
23 amount.”; and

24 (B) in paragraph (2), by striking out
25 “shall be” in the matter preceding subpara-

1 graph (A) and all that follows in that para-
2 graph and inserting in lieu thereof “shall be the
3 amount equal to a percentage of the base
4 amount that—

5 “(A) is less than 55 percent; and

6 “(B) is determined under subsection (f).”;

7 and

8 (2) in paragraph (1) of subsection (c), by strik-
9 ing out “shall be” in the matter preceding subpara-
10 graph (A) and all that follows in that paragraph and
11 inserting in lieu thereof “shall be the amount equal
12 to 55 percent of the retired pay to which the mem-
13 ber or former member would have been entitled if
14 the member or former member had been entitled to
15 that pay based upon his years of active service when
16 he died.”.

17 (b) REPEAL OF REQUIREMENT FOR REDUCTION OF
18 ANNUITY AT AGE 62.—Such section is further amended
19 by striking out subsection (d).

20 (c) REPEAL OF ALTERNATIVE COMPUTATION FOR
21 CERTAIN BENEFICIARIES FOR WHOM SOCIAL SECURITY
22 OFFSET WAS MORE BENEFICIAL THAN TWO-TIER COM-
23 PUTATION.—Such section is further amended by striking
24 out subsection (e).

1 (d) CONFORMING AMENDMENT.—Subsection (f) of
2 such section is amended by striking out “(a)(2), (b)(2),
3 or (e)(2)(B)” and inserting in lieu thereof “(a)(2) or
4 (b)(2)”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to payment of annuities for months
7 that begin after the date of the enactment of this Act.

8 (f) RECOMPUTATION OF EXISTING ANNUITIES.—In
9 the case of a person who is a beneficiary under the Survi-
10 vor Benefit Plan established by subchapter II of chapter
11 73 of title 10, United States Code, on the date of the en-
12 actment of this Act, the Secretary concerned (as defined
13 in section 101 of title 37, United States Code) shall re-
14 compute the amount of that person’s annuity as necessary
15 to reflect the amendments made by this section.

16 **SEC. 414. PAYMENT OF LUMP-SUM BENEFITS TO FORMER**
17 **SPOUSES OF FEDERAL EMPLOYEES.**

18 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Chapter
19 83 of title 5, United States Code, is amended—

20 (1) in section 8342(c), by striking “Lump-sum”
21 and inserting “Except as provided in section
22 8345(j), lump-sum”;

23 (2) in section 8345(j) by adding at the end of
24 paragraph (1) the following: “Except for purposes of
25 subparagraph (B), the first sentence of this para-

1 graph shall be deemed to be amended by inserting
2 after ‘that individual’ the following: ‘, and any lump-
3 sum benefits authorized by section 8342(d) through
4 (f) which would otherwise be paid to any person or
5 persons under section 8342(c),’ ”; and

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

7 “(4) Any payment under this subsection to a person
8 bars recovery by any other person.”.

9 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

10 Chapter 84 of title 5, United States Code, is amended—

11 (1) in section 8424(d), by striking “Lump-sum”
12 and inserting “Except as provided in section
13 8467(a), lump-sum”; and

14 (2) in section 8467—

15 (A) in subsection (a), by adding at the end
16 the following: “Except for purposes of para-
17 graph (2), the first sentence of this subsection
18 shall be deemed to be amended by inserting
19 after ‘that individual’ the following: ‘, and any
20 lump-sum benefits authorized by section
21 8424(e) through (g) which would otherwise be
22 paid to any individual or individuals under sec-
23 tion 8424(d),’ ”; and

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

1 “(d) Any payment under this section to a person bars
2 recovery by any other person.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to any amount payable
5 by reason of any death occurring on or after the date of
6 the enactment of this Act.

7 **Subtitle C—Modifications of Joint**
8 **and Survivor Annuity Require-**
9 **ments**

10 **SEC. 421. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
11 **ITY REQUIREMENTS.**

12 (a) AMENDMENTS TO ERISA.—

13 (1) AMOUNT OF ANNUITY.—

14 (A) IN GENERAL.—Paragraph (1) of sec-
15 tion 205(a) of the Employee Retirement Income
16 Security Act of 1974 (29 U.S.C. 1055(a)) is
17 amended by inserting “or, at the election of the
18 participant, shall be provided in the form of a
19 qualified joint and $\frac{2}{3}$ survivor annuity” after
20 “survivor annuity,”.

21 (B) DEFINITION.—Subsection (d) of sec-
22 tion 205 of such Act (29 U.S.C. 1055) is
23 amended—

1 (i) by redesignating paragraphs (1)
2 and (2) as subparagraphs (A) and (B), re-
3 spectively,

4 (ii) by inserting “(1)” after “(d)”,
5 and

6 (iii) by adding at the end the follow-
7 ing new paragraph:

8 “(2) For purposes of this section, the term “qualified
9 joint and $\frac{2}{3}$ survivor annuity” means an annuity—

10 “(A) for the participant while both the partici-
11 pant and the spouse are alive with a survivor annu-
12 ity for the life of surviving individual (either the par-
13 ticipant or the spouse) equal to 67 percent of the
14 amount of the annuity which is payable to the par-
15 ticipant while both the participant and the spouse
16 are alive,

17 “(B) which is the actuarial equivalent of a sin-
18 gle annuity for the life of the participant, and

19 “(C) which, for all other purposes of this Act,
20 is treated as a qualified joint and survivor annuity.”.

21 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
22 of section 205(c)(3)(A) of such Act (29 U.S.C.
23 1055(c)(3)(A)) is amended to read as follows:

24 “(i) the terms and conditions of each qualified
25 joint and survivor annuity and qualified joint and

1 $\frac{2}{3}$ survivor annuity offered, accompanied by an illus-
2 tration of the benefits under each such annuity for
3 the particular participant and spouse and an ac-
4 knowledgement form to be signed by the participant
5 and the spouse that they have read and considered
6 the illustration before any form of retirement benefit
7 is chosen.”.

8 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

9 (1) AMOUNT OF ANNUITY.—

10 (A) IN GENERAL.—Clause (i) of section
11 401(a)(11)(A) of the Internal Revenue Code of
12 1986 (relating to requirement of joint and sur-
13 vivor annuity and preretirement survivor annu-
14 ity) is amended by inserting “or, at the election
15 of the participant, shall be provided in the form
16 of a qualified joint and $\frac{2}{3}$ survivor annuity”
17 after “survivor annuity,”.

18 (B) DEFINITION.—Section 417 of such
19 Code (relating to definitions and special rules
20 for purposes of minimum survivor annuity re-
21 quirements) is amended by redesignating sub-
22 section (f) as subsection (g) and by inserting
23 after subsection (e) the following new sub-
24 section:

1 “(f) DEFINITION OF QUALIFIED JOINT AND $\frac{2}{3}$ SUR-
2 VIVOR ANNUITY.—For purposes of this section and section
3 401(a)(11), the term “qualified joint and $\frac{2}{3}$ survivor an-
4 nuity” means an annuity—

5 “(1) for the participant while both the partici-
6 pant and the spouse are alive with a survivor annu-
7 ity for the life of surviving individual (either the par-
8 ticipant or the spouse) equal to 67 percent of the
9 amount of the annuity which is payable to the par-
10 ticipant while both the participant and the spouse
11 are alive,

12 “(2) which is the actuarial equivalent of a sin-
13 gle annuity for the life of the participant, and

14 “(3) which, for all other purposes of this title,
15 is treated as a qualified joint and survivor annuity.”.

16 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
17 of section 417(a)(3)(A) of such Code (relating to ex-
18 planation of joint and survivor annuity) is amended
19 to read as follows:

20 “(i) the terms and conditions of each
21 qualified joint and survivor annuity and
22 qualified joint and $\frac{2}{3}$ survivor annuity of-
23 fered, accompanied by an illustration of
24 the benefits under each such annuity for
25 the particular participant and spouse and

1 an acknowledgement form to be signed by
2 the participant and the spouse that they
3 have read and considered the illustration
4 before any form of retirement benefit is
5 chosen.”.

6 (c) EFFECTIVE DATES.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to plan years beginning on
9 or after January 1, 1998.

10 (2) SPECIAL RULE FOR COLLECTIVELY BAR-
11 GAINED PLANS.—In the case of a plan maintained
12 pursuant to 1 or more collective bargaining agree-
13 ments between employee representatives and 1 or
14 more employers ratified on or before the date of en-
15 actment of this Act, the amendments made by this
16 section shall apply to the first plan year beginning
17 on or after the earlier of—

18 (A) the later of—

19 (i) January 1, 1999, or

20 (ii) the date on which the last of such
21 collective bargaining agreements termi-
22 nates (determined without regard to any
23 extension thereof after the date of enact-
24 ment of this Act), or

25 (B) January 1, 2000.

1 (3) PLAN AMENDMENTS.—If any amendment
2 made by this section requires an amendment to any
3 plan, such plan amendment shall not be required to
4 be made before the first plan year beginning on or
5 after January 1, 2000, if—

6 (A) during the period after such amend-
7 ment made by this section takes effect and be-
8 fore such first plan year, the plan is operated
9 in accordance with the requirements of such
10 amendment made by this section, and

11 (B) such plan amendment applies retro-
12 actively to the period after such amendment
13 made by this section takes effect and such first
14 plan year.

15 A plan shall not be treated as failing to provide defi-
16 nitely determinable benefits or contributions, or to
17 be operated in accordance with the provisions of the
18 plan, merely because it operates in accordance with
19 this paragraph.

1 **Subtitle D—Spousal Consent Re-**
2 **quired for Distributions From**
3 **Section 401(k) Plans**

4 **SEC. 431. SPOUSAL CONSENT REQUIRED FOR DISTRIBU-**
5 **TIONS FROM SECTION 401(k) PLANS.**

6 (a) IN GENERAL.—Paragraph (2) of section 401(k)
7 of the Internal Revenue Code of 1986 (defining qualified
8 cash or deferred arrangement) is amended by striking
9 “and” at the end of subparagraph (C), by striking the pe-
10 riod at the end of subparagraph (D) and inserting “, and”,
11 and by adding at the end the following new subparagraph:

12 “(E) which provides that no distribution
13 may be made unless—

14 “(i) the spouse of the employee (if
15 any) consents in writing (during the 90-
16 day period ending on the date of the dis-
17 tribution) to such distribution, and

18 “(ii) requirements comparable to the
19 requirements of section 417(a)(2) are met
20 with respect to such consent.”

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to distributions in plan years be-
23 ginning on or after January 1, 1998.

1 **Subtitle E—Women’s Pension Toll-**
2 **Free Phone Number**

3 **SEC. 441. WOMEN’S PENSION TOLL-FREE PHONE NUMBER.**

4 (a) IN GENERAL.—The Secretary of Labor shall con-
5 tract with an independent organization to create a wom-
6 en’s pension toll-free telephone number and contact to
7 serve as—

8 (1) a resource for women on pension questions
9 and issues;

10 (2) a source for referrals to appropriate agen-
11 cies; and

12 (3) a source for printed information.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated \$500,000 for each of
15 the fiscal years 1998, 1999, 2000, and 2001 to carry out
16 subsection (a).

17 **TITLE V—DATE FOR ADOPTION**
18 **OF PLAN AMENDMENTS**

19 **SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

20 (a) IN GENERAL.—Except as otherwise provided in
21 this Act, if any amendment made by this Act requires an
22 amendment to any plan, such plan amendment shall not
23 be required to be made before the last day of the first
24 plan year beginning on or after January 1, 1998, if—

1 (1) during the period after such amendment
2 takes effect and before the last day of such first
3 plan year, the plan is operated in accordance with
4 the requirements of such amendment, and

5 (2) such plan amendment applies retroactively
6 to such period.

7 A plan shall not be treated as failing to provide definitely
8 determinable benefits or contributions, or to be operated
9 in accordance with the provisions of the plan, merely be-
10 cause it operates in accordance with this subsection.

11 (b) GOVERNMENTAL PLANS.—In the case of a gov-
12 ernmental plan (as defined in section 414(d) of the Inter-
13 nal Revenue Code of 1986), subsection (a) shall be applied
14 by substituting for “January 1, 1998” the later of—

15 (1) January 1, 1999, or

16 (2) the date which is 90 days after the opening
17 of the first legislative session beginning after Janu-
18 ary 1, 1999, of the governing body with authority to
19 amend the plan, but only if such governing body
20 does not meet continuously.

21 (c) SPECIAL RULE FOR COLLECTIVELY BARGAINED
22 PLANS.—Notwithstanding any other provision of this
23 Act, in the case of a plan maintained pursuant to 1 or
24 more collective bargaining agreements between employee
25 representatives and 1 or more employers ratified on or be-

1 fore the date of the enactment of this Act, any amendment
2 made by this Act which requires an amendment to such
3 plan shall not be required to be made before the last day
4 of the first plan year beginning on or after the earlier of—

5 (1) the later of—

6 (A) January 1, 1998, or

7 (B) the date on which the last of such col-
8 lective bargaining agreements terminates (de-
9 termined without regard to any extension there-
10 of after the date of the enactment of this Act),

11 or

12 (2) January 1, 1999.

○