

106TH CONGRESS
2D SESSION

H. R. 5549

To amend the Employee Retirement Income Security Act of 1974 to improve the retirement security of American families.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2000

Mr. ANDREWS (for himself, Mr. CLAY, Mr. KILDEE, Mr. OWENS, Mr. PAYNE, Mrs. MINK of Hawaii, Ms. WOOLSEY, Mr. ROMERO-BARCELO, Mr. FATTAH, Mr. TIERNEY, Mr. KIND, Ms. SANCHEZ, Mr. FORD, Mr. KUCINICH, and Mr. HOLT) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Armed Services, and Government Reform, 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 amend the Employee Retirement Income Security Act of 1974 to improve the retirement security of American families.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Retirement Enhancement Act of 2000”.

1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPROVED PARTICIPATION AND VESTING

- Sec. 101. Minimum coverage requirements.
- Sec. 102. Minimum participation requirements.
- Sec. 103. Faster vesting of benefits under defined contribution plans.
- Sec. 104. Model small employer group pension plan.
- Sec. 105. Enforcement under ERISA of requirements for simplified employee pensions.

TITLE II—IMPROVED PENSION PROTECTIONS FOR WOMEN

- Sec. 201. Elimination of integration with workers' compensation and similar benefits.
- Sec. 202. Spousal consent required for distributions from defined contribution plans.
- Sec. 203. Modifications of joint and survivor annuity requirements.
- Sec. 204. Division of pension benefits upon divorce.
- Sec. 205. Periods of family and medical leave treated as hours of service for pension participation and vesting.
- Sec. 206. Right of spouse to know distribution information.
- Sec. 207. Repeal of reduction in military survivor benefit plan annuities at age 62.
- Sec. 208. 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. 209. Order of precedence for disposition of amounts remaining in the thrift savings account of a Federal employee (or former employee) who dies before making an effective election controlling such disposition.
- Sec. 210. Interest on amounts paid to make up for certain civil service annuity benefits wrongfully denied.
- Sec. 211. Amendments relating to effective date provision of the Civil Service Retirement Spouse Equity Act of 1984.

TITLE III—SIMPLIFIED INVESTMENT STANDARDS

- Sec. 301. Exemption from prohibited transaction rules for emergent transactions.
- Sec. 302. Alternative method for publishing the pendency of prohibited transaction exemptions.
- Sec. 303. Employer protection from liability for the provision of investment advice.
- Sec. 304. Participation of participants in trusteeship of defined contribution plans.
- Sec. 305. Removal of \$500,000 cap on bonding requirement.
- Sec. 306. Disclosure regarding investments and voting of proxies.
- Sec. 307. Diversification in defined contribution plan investments.
- Sec. 308. Diversification of investments under employee stock ownership plans by participants and beneficiaries over 55 years of age.

TITLE IV—IMPROVEMENTS IN PENSION INFORMATION AND
ENFORCEMENT

- Sec. 401. Periodic pension benefit statements.
- Sec. 402. Benefit Statements required to include information on investment performance.
- Sec. 403. Disclosures to Secretary of Labor relating to plan termination and relating to plan sponsors after acquisition or merger of plans.
- Sec. 404. Disclosure of operating income of employers adjusted so as to exclude certain components mandated in FASB rules governing accounting for defined benefit pension plans.
- Sec. 405. Specific information regarding multiemployer plans included in annual report.
- Sec. 406. Limited scope audits.
- Sec. 407. Reporting and enforcement requirements for employee benefit plans.
- Sec. 408. Study of pension trends and characteristics.
- Sec. 409. Early resolution program for pension benefit claims.
- Sec. 410. De novo review of benefit determinations.
- Sec. 411. Allowable relief.
- Sec. 412. Civil penalty for breach of fiduciary responsibility.
- Sec. 413. Assessment by Secretary of Labor of penalties for failures to meet disclosure requirements.
- Sec. 414. Missing participants.
- Sec. 415. Increase in guaranteed benefit level for multiemployer plans.

TITLE V—IMPROVED PENSION PROTECTIONS FOR THE
CHANGING WORKFORCE

- Sec. 501. Loans from retirement plans for health insurance and job training expenses.
- Sec. 502. Immediate distributions permitted only if distribution rolled to a qualified plan.
- Sec. 503. Prompt distribution from defined contribution plans upon termination of participant's covered employment.
- Sec. 504. Extended period for recoupment of overpayments.

TITLE VI—GENERAL PROVISIONS

- Sec. 601. General effective date.
- Sec. 602. Plan amendments.

1 **TITLE I—IMPROVED**
2 **PARTICIPATION AND VESTING**
3 **SEC. 101. MINIMUM COVERAGE REQUIREMENTS.**

4 (a) IN GENERAL.—Part 2 of subtitle B of title I of
5 the Employee Retirement Income Security Act of 1974
6 (29 U.S.C. 201 et seq.) is amended by inserting after sec-
7 tion 201 the following new section:

1 “MINIMUM COVERAGE REQUIREMENTS

2 “SEC. 201A. (a) GENERAL RULE.—Each pension
3 plan maintained by an employer shall benefit all employees
4 of the employer.

5 “(b) EXCLUSION OF CERTAIN EMPLOYEES.—For
6 purposes of this section, there shall be excluded from
7 consideration—

8 “(1) employees who are included in a unit of
9 employees covered by an agreement which, as deter-
10 mined in accordance with regulations issued by the
11 Secretary, constitutes a collective bargaining agree-
12 ment between employee representatives and one or
13 more employers, if there is evidence that retirement
14 benefits were the subject of good faith bargaining
15 between such employee representatives and such em-
16 ployer or employers,

17 “(2) in the case of a trust established or main-
18 tained pursuant to an agreement which, as deter-
19 mined in accordance with regulations issued by the
20 Secretary, constitutes a collective bargaining agree-
21 ment between airline pilots represented in accord-
22 ance with title II of the Railway Labor Act and one
23 or more employers, all employees not covered by
24 such agreement, and

1 “(3) employees who are nonresident aliens and
2 who receive no earned income (within the meaning
3 of section 911(d)(2) of the Internal Revenue Code of
4 1986) from the employer which constitutes income
5 from sources within the United States (within the
6 meaning of section 861(a)(3) of such Code).

7 Paragraph (1) shall not apply with respect to coverage of
8 employees under a plan pursuant to an agreement under
9 such paragraph. Paragraph (2) shall not apply in the case
10 of a plan which provides contributions or benefits for em-
11 ployees whose principal duties are not customarily per-
12 formed aboard aircraft in flight.

13 “(c) EXCLUSION OF EMPLOYEES NOT MEETING AGE
14 AND SERVICE REQUIREMENTS.—

15 “(1) IN GENERAL.—If a plan—

16 “(A) prescribes, consistent with section
17 202(a), minimum age and service requirements
18 as a condition of participation, and

19 “(B) excludes all employees not meeting
20 such requirements from participation,

21 then such employees shall be excluded from consider-
22 ation for purposes of this section.

23 “(2) REQUIREMENTS MAY BE MET SEPARATELY
24 WITH RESPECT TO EXCLUDED GROUP.—If employees
25 not meeting the minimum age or service require-

1 ments of section 202(a)(1) (without regard to sub-
2 paragraph (B) thereof) are covered under a plan of
3 the employer which meets the requirements of sub-
4 section (a) separately with respect to such employ-
5 ees, such employees may be excluded from consider-
6 ation in determining whether any plan of the em-
7 ployer meets the requirements of subsection (a).

8 “(3) REQUIREMENTS NOT TREATED AS BEING
9 MET BEFORE ENTRY DATE.—An employee shall not
10 be treated as meeting the age and service require-
11 ments described in this subsection until the first
12 date on which, under the plan, any employee with
13 the same age and service would be eligible to com-
14 mence participation in the plan.

15 “(d) LINE OF BUSINESS EXCEPTION.—

16 “(1) IN GENERAL.—If, under section 414(r) of
17 the Internal Revenue Code of 1986, an employer is
18 treated as operating separate lines of business for a
19 year, the employer may apply the requirements of
20 this section for such year separately with respect to
21 employees in each separate line of business.

22 “(2) PLAN MUST BE NONDISCRIMINATORY.—
23 Paragraph (1) shall not apply with respect to any
24 plan maintained by an employer unless such plan
25 benefits such employees as qualify under a classifica-

1 tion set up by the employer and found by the Sec-
2 retary of the Treasury not to be discriminatory in
3 favor of highly compensated employees.

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

6 “(1) HIGHLY COMPENSATED EMPLOYEE.—The
7 term ‘highly compensated employee’ has the mean-
8 ing given such term by section 414(q) of the Inter-
9 nal Revenue Code of 1986.

10 “(2) AGGREGATION RULES.—An employer may
11 elect to designate—

12 “(A) 2 or more trusts,

13 “(B) 1 or more trusts and 1 or more annu-
14 ity plans, or

15 “(C) 2 or more annuity plans,

16 as part of 1 plan to determine whether the require-
17 ments of this section are met with respect to such
18 plan.

19 “(3) SPECIAL RULES FOR CERTAIN DISPOSI-
20 TIONS OR ACQUISITIONS.—

21 “(A) IN GENERAL.—If a person becomes,
22 or ceases to be, a member of a group described
23 in subsection (b), (c), (m), or (o) of section 414
24 of such Code, then the requirements of this sec-
25 tion shall be treated as having been met during

1 the transition period with respect to any plan
2 covering employees of such person or any other
3 member of such group if—

4 “(i) such requirements were met im-
5 mediately before each such change, and

6 “(ii) the coverage under such plan is
7 not significantly changed during the transi-
8 tion period (other than by reason of the
9 change in members of a group) or such
10 plan meets such other requirements as the
11 Secretary of the Treasury may prescribe
12 by regulation.

13 “(B) TRANSITION PERIOD.—For purposes
14 of subparagraph (A), the term ‘transition pe-
15 riod’ means the period—

16 “(i) beginning on the date of the
17 change in members of a group, and

18 “(ii) ending on the last day of the 1st
19 plan year beginning after the date of such
20 change.

21 “(4) ELIGIBILITY TO CONTRIBUTE.—In the
22 case of contributions which are subject to section
23 401(k) or 401(m) of the Internal Revenue Code of
24 1986, employees who are eligible to contribute (or

1 elect to have contributions made on their behalf)
2 shall be treated as benefiting under the plan.

3 “(5) REGULATIONS.—The Secretary of the
4 Treasury shall prescribe such regulations as may be
5 necessary or appropriate to carry out the purposes
6 of this section.”

7 (b) EMPLOYER MAY NOT REQUEST EMPLOYEE TO
8 WAIVE RIGHTS.—Section 203 of such Act (29 U.S.C.
9 1053) is amended by adding at the end the following new
10 subsection:

11 “(f) An employer may not request an employee to
12 waive any right of coverage under, or participation in, any
13 pension plan which is granted by this title.”

14 **SEC. 102. MINIMUM PARTICIPATION REQUIREMENTS.**

15 (a) IN GENERAL.—Sections 202(a)(3), 203(b)(2),
16 and 204(b)(4) of the Employee Retirement Income Secu-
17 rity Act of 1974 (29 U.S.C. 1052(a)(3), 1053(b)(2), and
18 1054(b)(4)) are each amended by striking “1,000 hours”
19 each place it appears and inserting “750 hours”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Sections 202(a)(3)(D), 203(b)(2)(D), and
22 204(b)(4)(E) (29 U.S.C. 1052(a)(3)(D),
23 1053(b)(2)(D), and 1054(b)(4)(E)) are each amend-
24 ed by striking “125 days” and inserting “94 days”.

1 (2) Sections 202(b)(5)(B) and 203(b)(3)(E)(ii)
2 (29 U.S.C. 1052(b)(5)(B) and 1053(b)(3)(E)(ii))
3 are each amended by striking “501 hours” and in-
4 serting “376 hours”.

5 (3) Section 203(b)(3)(A) (29 U.S.C.
6 1053(b)(3)(A)) is amended by striking “500 hours”
7 and inserting “375 hours”.

8 **SEC. 103. FASTER VESTING OF BENEFITS UNDER DEFINED**
9 **CONTRIBUTION PLANS.**

10 Paragraph (2) of section 203(a) of the Employee Re-
11 tirement Income Security Act of 1974 (29 U.S.C.
12 1053(a)) is amended by striking subparagraphs (A) and
13 (B) and inserting the following:

14 “(A) A plan satisfies the requirements of
15 this subparagraph if an employee has a non-
16 forfeitable right to 100 percent of the employ-
17 ee’s accrued benefit derived from employer
18 contributions—

19 “(i) in the case of a defined benefit
20 plan, as of completion by the employee of
21 at least 5 years of service, or

22 “(ii) in the case of a defined contribu-
23 tion plan, as of completion by the employee
24 of at least 3 years of service.

1 “(B) A plan satisfies the requirements of
 2 this subparagraph if an employee has a non-
 3 forfeitable right to a percentage of the employ-
 4 ee’s accrued benefit derived from employer con-
 5 tributions determined under the applicable table
 6 set forth in clause (i) or (ii).

7 “(i) In the case of a defined benefit
 8 plan, the applicable table is the following:

“Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100

9 “(ii) In the case of a defined contribu-
 10 tion plan, the applicable table is the fol-
 11 lowing:

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

12 **SEC. 104. MODEL SMALL EMPLOYER GROUP PENSION**
 13 **PLAN.**

14 (a) IN GENERAL.—Section 206 of the Employee Re-
 15 tirement Income Security Act of 1974 (29 U.S.C. 1056)
 16 is amended by adding at the end the following new sub-
 17 section:

18 “(g) MODEL SIMPLIFIED PENSION PLANS.—

1 “(1) ESTABLISHMENT OF MODEL PLAN.—The
2 Secretary, in consultation with the Secretary of the
3 Treasury, shall prescribe by regulations one or more
4 model simplified pension plans which would—

5 “(A) provide simplicity and minimal ad-
6 ministrative responsibilities to employers and
7 provide adequate retirement benefits to employ-
8 ees upon adoption by an employer, including
9 models which could be established by a group of
10 small employers, an employee association, an
11 employer association, or a financial institution,

12 “(B) cover all employees of the employer,

13 “(C) provide for a joint and survivor op-
14 tion, and

15 “(D) accept contributions from successive
16 employers,

17 “(E) readily permit and accept rollovers to
18 and from other qualified plans (as defined in
19 section 203(e)(2)), and

20 “(F) constitute a plan meeting the require-
21 ments of this Act and Internal Revenue Code of
22 1986.

23 In devising a model pension plan, the Secretary shall
24 consider the adequacy of existing simplified em-
25 ployee pension plan alternatives and may make rec-

1 ommendations to adopt such plans as model sim-
2 plified plans.

3 “(2) ADVERTISEMENT OF MODEL PLAN.—The
4 Secretary, in consultation with the Secretary of the
5 Treasury and the Administrator of the Small Busi-
6 ness Administration, shall advertise the model plans
7 developed pursuant to paragraph (1), including
8 through contracts (to the extent provided in appro-
9 priation Acts) with applicable organizations, to en-
10 sure that small employers and their employees are
11 apprised of the availability of administratively simple
12 single and group pension plans.”.

13 (b) INITIAL REGULATIONS.—Regulations under sec-
14 tion 206(g) of the Employee Retirement Income Security
15 Act of 1974 (added by this section) for the first model
16 simplified pension plans shall be issued within 12 months
17 of the date of the enactment of this Act.

18 (c) STUDY.—Not later than 3 years after the date
19 of the enactment of this Act, the Secretary of Labor and
20 the Secretary of the Treasury shall conduct a joint study
21 to determine the feasibility of permitting non-highly com-
22 pensated employees whose employer does not cover them
23 under a pension plan, and other non-covered individuals,
24 to seek an automatic payroll deduction or other deferral
25 mechanism to make contributions to a model plan similar

1 to one developed pursuant to section 206(g) of the Em-
 2 ployee Retirement Income Security Act of 1974. Such Sec-
 3 retaries shall submit a joint report to the Congress de-
 4 scribing the results of such study and making such rec-
 5 ommendations as the Secretaries determine necessary or
 6 appropriate.

7 **SEC. 105. ENFORCEMENT UNDER ERISA OF REQUIREMENTS**
 8 **FOR SIMPLIFIED EMPLOYEE PENSIONS.**

9 Subtitle A of title III of the Employee Retirement
 10 Income Security Act of 1974 is amended by adding after
 11 section 3004 (29 U.S.C. 1204) the following new section:

12 “TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS

13 “SEC. 3005. For purposes of part 5 of subtitle B of
 14 title I, the requirements of section 408(k) of the Internal
 15 Revenue Code of 1986 relating to simplified employee pen-
 16 sions (as defined in section 408(k)(1) of such Code) shall
 17 be treated as requirements of title I applicable to employee
 18 pension benefit plans (as defined in section 3(2)) which
 19 are such simplified employee pensions.”.

20 **TITLE II—IMPROVED PENSION**
 21 **PROTECTIONS FOR WOMEN**

22 **SEC. 201. ELIMINATION OF INTEGRATION WITH WORKERS’**
 23 **COMPENSATION AND SIMILAR BENEFITS.**

24 Section 206 of the Employee Retirement Income Se-
 25 curity Act of 1974 (29 U.S.C. 1056) is amended by adding
 26 at the end the following new subsection:

1 “(g) INTEGRATION WITH WORKERS’ COMPENSATION
2 AND SIMILAR BENEFITS PRECLUDED.—Benefits under an
3 employee pension benefit plan may not vary based on the
4 amount of benefits received by a participant or beneficiary
5 under an applicable worker’s compensation law, unemploy-
6 ment compensation law, or disability insurance law, or on
7 whether the participant or beneficiary is entitled to such
8 benefits.”.

9 **SEC. 202. SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.**

12 (a) IN GENERAL.—Section 205(b) of the Employee
13 Retirement Income Security Act of 1974 (29 U.S.C.
14 1055(b)) is amended to read as follows:

15 “(b)(1) This section shall apply to any defined benefit
16 plan and to any individual account plan.

17 “(2) This section shall not apply to a plan which the
18 Secretary of the Treasury or his delegate has determined
19 is a plan described in section 404(c) of the Internal Rev-
20 enue Code of 1986 (or a continuation thereof) in which
21 participation is substantially limited to individuals who,
22 before January 1, 1976, ceased employment covered by
23 the plan.”

1 (b) HARDSHIP DISTRIBUTION.—Section 205 of such
2 Act (29 U.S.C. 1055) is amended by adding at the end
3 the following new subsection:

4 “(m) This section shall not apply to a hardship dis-
5 tribution under section 401(k)(2)(B)(i)(IV) of the Internal
6 Revenue Code of 1986.”

7 (c) SPECIAL RULE FOR CASH-OUTS.—Section 205(g)
8 of such Act (29 U.S.C. 1055(g)) is amended by adding
9 at the end the following new paragraph:

10 “(4) SPECIAL RULE FOR DEFINED CONTRIBU-
11 TION PLANS.—

12 “(A) IN GENERAL.—In the case of an indi-
13 vidual account plan, notwithstanding paragraph
14 (2), if the present value of the qualified joint
15 and survivor annuity or the qualified preretire-
16 ment survivor annuity exceeds \$10,000, the
17 plan may immediately distribute 50 percent of
18 the present value of such annuity to each
19 spouse, subject to the requirements of section
20 203(f) as if each spouse were a participant.

21 “(B) EXCEPTION.—The plan may dis-
22 tribute a different percentage of the present
23 value of an annuity to each spouse if a court
24 order or contractual agreement between the
25 spouses provides for such different percentage.”

1 **SEC. 203. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
2 **ITY REQUIREMENTS.**

3 (a) AMOUNT OF ANNUITY.—

4 (1) IN GENERAL.—Paragraph (1) of section
5 205(a) of the Employee Retirement Income Security
6 Act of 1974 (29 U.S.C. 1055(a)) is amended by in-
7 serting “or, at the election of the participant, shall
8 be provided in the form of a qualified joint and 75
9 percent survivor annuity” after “survivor annuity,”.

10 (2) DEFINITION.—Subsection (d) of section 205
11 of such Act (29 U.S.C. 1055) is amended—

12 (A) by redesignating paragraphs (1) and

13 (2) as subparagraphs (A) and (B), respectively,

14 (B) by inserting “(1)” after “(d)”, and

15 (C) by adding, after subparagraph B, the

16 following new paragraph:

17 “(2) For purposes of this section, the term ‘qualified
18 joint and 75 percent survivor annuity’ means a joint and
19 survivor annuity under which the survivor annuity for the
20 life of the surviving spouse is equal to at least 75 percent
21 of the amount of the annuity which is payable during the
22 joint lives of the participant and spouse.”

23 (3) CONFORMING AMENDMENTS.—

24 (A) Paragraph (1) of section 205(c) of

25 such Act (29 U.S.C. 1055) is amended by in-

26 serting “or qualified joint and 75 percent sur-

1 vivor annuity” after “qualified joint and sur-
2 vivor annuity”.

3 (B) Subsection (e)(1) of such Act is
4 amended by inserting “or, if the participant has
5 so elected, a qualified joint and 75 percent sur-
6 vivor annuity” after “qualified joint and sur-
7 vivor annuity” each time it appears.

8 (b) ILLUSTRATION REQUIREMENT.—Clause (i) of
9 section 205(c)(3)(A) of such Act (29 U.S.C.
10 1055(c)(3)(A)) is amended to read as follows:

11 “(i) the terms and conditions of each qualified
12 joint and survivor annuity and qualified joint and 75
13 percent survivor annuity offered, accompanied by an
14 illustration of the benefits under each such annuity
15 for the particular participant and spouse and an ac-
16 knowledgement form to be signed by the participant
17 and the spouse that they have read and considered
18 the illustration before any form of retirement benefit
19 is chosen.”.

20 **SEC. 204. DIVISION OF PENSION BENEFITS UPON DIVORCE.**

21 (a) IN GENERAL.—Section 206(d)(3) of the Em-
22 ployee Retirement Income Security Act of 1974 (29
23 U.S.C. 1056(d)(3)) is amended by redesignating subpara-
24 graph (N) as subparagraph (O) and by inserting after
25 subparagraph (M) the following new subparagraph:

1 “(N) SPECIAL RULES AND PROCEDURES
2 FOR DOMESTIC RELATIONS ORDERS NOT SPECI-
3 FYING DIVISION OF PENSION BENEFITS.—

4 “(i) IN GENERAL.—In any case in
5 which—

6 “(I) a domestic relations order
7 (including an annulment or other
8 order of marital dissolution) relates to
9 provision of marital property with re-
10 spect to a marriage of at least 5 years
11 duration between an individual who is
12 a participant in a pension plan and
13 such individual’s former spouse,

14 “(II) such order, and all prior or-
15 ders (if any) described in subclause
16 (I) relating to such marriage, do not
17 specifically provide that pension bene-
18 fits were considered by the parties
19 and that no division of such benefits
20 is intended,

21 “(III) such order is not a quali-
22 fied domestic relations order (as de-
23 termined without regard to this sub-
24 paragraph) and there is no other prior
25 qualified domestic relations order

1 issued in connection with the dissolu-
2 tion of the marriage to which such
3 order relates, and

4 “(IV) the former spouse notifies
5 the plan within the period prescribed
6 under clause (vii) that the former
7 spouse is entitled to benefits under
8 the plan in accordance with the provi-
9 sions of this subparagraph,

10 such domestic relations order shall be
11 treated as a qualified domestic relations
12 order for purposes of this paragraph.

13 “(ii) AMOUNT OF BENEFIT.—Any do-
14 mestic relations order treated as a quali-
15 fied domestic relations order under clause
16 (i) shall be treated as specifying that the
17 former spouse is entitled to the applicable
18 percentage of the marital share of the par-
19 ticipant’s accrued benefit.

20 “(iii) MARITAL SHARE.—For purposes
21 of clause (ii), the marital share of a par-
22 ticipant’s accrued benefit is an amount
23 equal to the product of—

24 “(I) such benefit as of the date
25 of the first payment under the plan

1 (to the extent such accrued benefit is
2 vested on the date of the dissolution
3 of the marriage or any later date),
4 and

5 “(II) a fraction, the numerator of
6 which is the period of participation by
7 the participant under the plan start-
8 ing with the date of marriage and
9 ending with the date of dissolution of
10 marriage, and the denominator of
11 which is the total period of partici-
12 pation by the participant under the plan.

13 “(iv) APPLICABLE PERCENTAGE.—
14 For purposes of clause (ii), the applicable
15 percentage is—

16 “(I) except as provided in sub-
17 clause (II), 50 percent, and

18 “(II) in the case of a participant
19 who fails to provide the plan with no-
20 tice of a domestic relations order
21 within the time prescribed under
22 clause (v), 67 percent.

23 “(v) NOTICE BY PARTICIPANT.—Each
24 participant in a pension plan shall, within

1 60 days after the dissolution of the mar-
2 riage of the participant—

3 “(I) notify the plan administrator
4 of the plan of such dissolution, and

5 “(II) provide to the plan adminis-
6 trator a copy of the domestic relations
7 order (including an annulment or
8 other order of marital dissolution)
9 providing for such dissolution and the
10 last known address of the partici-
11 pant’s former spouse.

12 “(vi) NOTICE BY PLAN ADMINIS-
13 TRATOR.—Each plan administrator receiv-
14 ing notice under clause (v) shall promptly
15 notify the former spouse of a participant of
16 such spouse’s rights under this subpara-
17 graph, including the time period within
18 which such spouse is required to notify the
19 plan of the spouse’s intention to claim
20 rights under this subparagraph.

21 “(vii) NOTICE BY FORMER SPOUSE.—
22 A former spouse may notify the plan ad-
23 ministrator of such spouse’s intent to claim
24 rights under this subparagraph at any time

1 before the last day of the 1-year period fol-
2 lowing receipt of notice under clause (vi).

3 “(viii) COORDINATION WITH PLAN
4 PROCEDURES.—The determination under
5 subparagraph (G)(i)(II) with respect to a
6 domestic relations order to which this sub-
7 paragraph applies shall be made within a
8 reasonable period of time after the plan
9 administrator receives the notice described
10 in clause (vii).

11 “(ix) INTERPRETATION AS QUALIFIED
12 DOMESTIC RELATIONS ORDER.—Each plan
13 shall establish reasonable rules for deter-
14 mining how any such deemed domestic re-
15 lations order is to be interpreted under the
16 plan so as to constitute a qualified domes-
17 tic relations order that satisfies subpara-
18 graphs (C) through (E) (and a copy of
19 such rules shall be provided to such former
20 spouse promptly after delivery of the di-
21 vorce decree). Such rules—

22 “(I) may delay the effect of such
23 an order until the earlier of the date
24 the participant is fully vested or has
25 terminated employment,

1 “(II) may allow the former
2 spouse to be distributed immediately,

3 “(III) shall permit the former
4 spouse to be paid not later than the
5 earliest retirement age under the plan
6 or the participant’s death,

7 “(IV) may require the submitter
8 of the divorce decree to present a
9 marriage certificate or other evidence
10 of the marriage date to assist in ben-
11 efit calculations, and

12 “(V) may conform to the rules
13 applicable to qualified domestic rela-
14 tions orders regarding form or type of
15 benefit.”

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply with respect to notifications made
18 by former spouses pursuant to section 206(d)(3)(N)(vii)
19 of the Employee Retirement Income Security Act of 1974
20 after December 31, 2000.

21 **SEC. 205. PERIODS OF FAMILY AND MEDICAL LEAVE**
22 **TREATED AS HOURS OF SERVICE FOR PEN-**
23 **SION PARTICIPATION AND VESTING.**

24 (a) PARTICIPATION.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 202(a) of the Employee Retirement Income Security
3 Act of 1974 (relating to minimum participation
4 standards) is amended by adding at the end the fol-
5 lowing new subparagraph:

6 “(E)(i) For purposes of this subsection, in the case
7 of an individual who is absent from work on leave required
8 to be given to such individual under the Family and Med-
9 ical Leave Act of 1993, the plan shall treat as hours of
10 service—

11 “(I) the hours of service which otherwise would
12 normally have been credited to such individual but
13 for such absence, or

14 “(II) in any case in which the plan is unable to
15 determine the hours described in subclause (I), 8
16 hours of service per day of absence.

17 “(ii) The hours described in clause (i) shall be treated
18 as hours of service as provided in this subparagraph—

19 “(I) only in the year in which the absence from
20 work begins, if section 203(b)(2)(E)(ii)(I) requires
21 hours to be credited to the year in which the absence
22 from work begins, or

23 “(II) in any other case, in the immediately fol-
24 lowing year.”

1 (2) COORDINATION WITH TREATMENT OF MA-
2 TERNITY AND PATERNITY ABSENCES UNDER BREAK
3 IN SERVICE RULES.—Subparagraph (A) of section
4 202(b)(5) of such Act is amended by adding at the
5 end of clause (i) the following new sentence: “The
6 preceding sentence shall apply to an absence from
7 work only if no part of such absence is required to
8 be given under the Family and Medical Leave Act
9 of 1993.”

10 (b) VESTING.—

11 (1) IN GENERAL.—Paragraph (2) of section
12 203(b) of such Act (relating to minimum vesting
13 standards) is amended by adding at the end the fol-
14 lowing new subparagraph:

15 “(E)(i) For purposes of this subsection, in the case
16 of an individual who is absent from work on leave required
17 to be given to such individual under the Family and Med-
18 ical Leave Act of 1993, the plan shall treat as hours of
19 service—

20 “(I) the hours of service which otherwise would
21 normally have been credited to such individual but
22 for such absence, or

23 “(II) in any case in which the plan is unable to
24 determine the hours described in subclause (I), 8
25 hours of service per day of absence.

1 “(ii) The hours described in clause (i) shall be treated
2 as hours of service as provided in this subparagraph—

3 “(I) only in the year in which the absence from
4 work begins, if the participant’s rights in his ac-
5 crued benefit derived from employer contributions
6 are to any extent not nonforfeitable and the partici-
7 pant would have a year of service solely because the
8 period of absence is treated as hours of service as
9 provided in clause (i); or

10 “(II) in any other case, in the immediately fol-
11 lowing year.”

12 (2) COORDINATION WITH TREATMENT OF MA-
13 TERNITY AND PATERNITY ABSENCES UNDER BREAK
14 IN SERVICE RULES.—Clause (i) of section
15 203(b)(3)(E) of such Act is amended by adding at
16 the end of clause (i) the following new sentence:
17 “The preceding sentence shall apply to an absence
18 from work only if no part of such absence is re-
19 quired to be given under the Family and Medical
20 Leave Act of 1993.”

21 (c) APPLICATION TO CURRENT EMPLOYEES.—The
22 amendments made by this section shall not apply to any
23 employee who does not have at least 1 hour of service in
24 any plan year beginning after December 31, 2000.

1 **SEC. 206. RIGHT OF SPOUSE TO KNOW DISTRIBUTION IN-**
2 **FORMATION.**

3 Paragraph (3) of section 205(c) of the Employee Re-
4 tirement Income Security Act of 1974 (29 U.S.C.
5 1055(c)(3)) is amended by adding at the end the following
6 new subparagraph:

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

19 **SEC. 207. REPEAL OF REDUCTION IN MILITARY SURVIVOR**
20 **BENEFIT PLAN ANNUITIES AT AGE 62.**

21 (a) COMPUTATION OF ANNUITY FOR A SPOUSE,
22 FORMER SPOUSE, OR CHILD.—Subsection (a) of section
23 1451 of title 10, United States Code, is amended—

24 (1) in paragraph (1), by striking “shall be de-
25 termined as follows:” and all that follows and insert-

1 ing the following: “shall be the amount equal to 55
2 percent of the base amount.”;

3 (2) in paragraph (2), by striking “shall be de-
4 termined as follows:” and all that follows and insert-
5 ing the following: “shall be the amount equal to a
6 percentage of the base amount that is less than 55
7 percent and is determined under subsection (f).”.

8 (b) ANNUITIES FOR SURVIVORS OF CERTAIN PER-
9 SONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY
10 FOR SBP.—Subsection (c)(1) of such section is amended
11 by striking “shall be determined as follows:” and all that
12 follows and inserting the following: “shall be the amount
13 equal to 55 percent of the retired pay to which the member
14 or former member would have been entitled if the member
15 or former member had been entitled to that pay based
16 upon his years of active service when he died.”.

17 (c) REPEAL OF REQUIREMENT FOR REDUCTION.—
18 Such section is further amended by striking subsection
19 (d).

20 (d) REPEAL OF UNNECESSARY SUPPLEMENTAL
21 SBP.—(1) Subchapter III of chapter 73 of title 10,
22 United States Code, is repealed.

23 (2) The table of subchapters at the beginning of such
24 chapter is amended by striking the item relating to sub-
25 chapter III.

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on October 1, 2000, and shall
 3 apply with respect to annuity payments for months begin-
 4 ning on or after that date.

5 **SEC. 208. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
 6 **AND FORMER SPOUSES OF FEDERAL EM-**
 7 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
 8 **FOR DEFERRED ANNUITY UNDER CIVIL**
 9 **SERVICE RETIREMENT SYSTEM.**

10 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section
 11 8341(f) of title 5, United States Code, is amended—

12 (1) in the matter preceding paragraph (1) by—

13 (A) by inserting “a former employee sepa-
 14 rated from the service with title to deferred an-
 15 nuity from the Fund dies before having estab-
 16 lished a valid claim for annuity and is survived
 17 by a spouse, or if” before “a Member”; and

18 (B) by inserting “of such former employee
 19 or Member” after “the surviving spouse”;

20 (2) in paragraph (1)—

21 (A) by inserting “former employee or” be-
 22 fore “Member commencing”; and

23 (B) by inserting “former employee or” be-
 24 fore “Member dies”; and

1 (3) in the undesignated sentence following para-
2 graph (2)—

3 (A) in the matter preceding subparagraph
4 (A) by inserting “former employee or” before
5 “Member”; and

6 (B) in subparagraph (B) by inserting
7 “former employee or” before “Member”.

8 (b) BENEFITS FOR FORMER SPOUSE.—Section
9 8341(h) of title 5, United States Code, is amended—

10 (1) in paragraph (1)—

11 (A) by redesignating such paragraph as
12 paragraph (1)(A); and

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

14 “(B) Subject to paragraphs (2) through (5) of this
15 subsection, a former spouse of a former employee who dies
16 after having separated from the service with title to a de-
17 ferred annuity under section 8338(a) but before having
18 established a valid claim for annuity is entitled to a sur-
19 vivor annuity under this subsection, if and to the extent
20 expressly provided for in an election under section
21 8339(j)(3) of this title, or in the terms of any decree of
22 divorce or annulment or any court order or court-approved
23 property settlement agreement incident to such decree.”;
24 and

25 (2) in paragraph (2)—

1 (A) in subparagraph (A)(ii) by striking “or
2 annuitant,” and inserting “annuitant, or former
3 employee”; and

4 (B) in subparagraph (B)(iii) by inserting
5 “former employee or” before “Member”.

6 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—
7 Section 8339(j)(3) of title 5, United States Code, is
8 amended by adding at the end the following: “The Office
9 shall provide by regulation for the application of this sub-
10 section to the widow, widower, or surviving former spouse
11 of a former employee who dies after having separated from
12 the service with title to a deferred annuity under section
13 8338(a) but before having established a valid claim for
14 annuity.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act and shall apply only in the case of a former
18 employee who dies on or after such date.

1 **SEC. 209. ORDER OF PRECEDENCE FOR DISPOSITION OF**
2 **AMOUNTS REMAINING IN THE THRIFT SAV-**
3 **INGS ACCOUNT OF A FEDERAL EMPLOYEE**
4 **(OR FORMER EMPLOYEE) WHO DIES BEFORE**
5 **MAKING AN EFFECTIVE ELECTION CONTROL-**
6 **LING SUCH DISPOSITION.**

7 (a) IN GENERAL.—Section 8433(e) of title 5, United
8 States Code, is amended—

9 (1) by striking “(e)” and inserting “(e)(1)”;

10 (2) by striking all that follows “paid” and in-
11 serting “in accordance with paragraph (2).”; and

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

13 “(2) An amount under paragraph (1) shall be paid
14 in a manner consistent with the provisions of section
15 8424(d), except that, in applying the order of precedence
16 under such provisions—

17 “(A) the widow or widower of the decedent shall
18 be the first party entitled to receive (instead of any
19 designated beneficiary); and

20 “(B) if there is no widow or widower, the party
21 next entitled to receive shall be the beneficiary or
22 beneficiaries designated by the employee or Member
23 (or former employee or Member) in accordance with
24 the procedures that would otherwise normally apply,
25 subject to such additional conditions as the Execu-
26 tive Director shall by regulation prescribe based on

1 section 205(c)(2) of the Employee Retirement In-
2 come Security Act of 1974.”.

3 (b) EFFECTIVE DATE.—This section and the amend-
4 ment made by this section shall take effect on the 90th
5 day after the date of the enactment of this Act, and shall
6 apply in the case of any individual who dies on or after
7 such 90th day.

8 **SEC. 210. INTEREST ON AMOUNTS PAID TO MAKE UP FOR**
9 **CERTAIN CIVIL SERVICE ANNUITY BENEFITS**
10 **WRONGFULLY DENIED.**

11 (a) IN GENERAL.—Chapter 77 of title 5, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 **“§ 7704. Interest on amounts paid to make up for cer-**
15 **tain annuity benefits wrongfully denied**

16 “(a) In the case of an individual who, on the basis
17 of a timely appeal to the Merit Systems Protection Board
18 under section 8347(d) or 8461(e), or petition for judicial
19 review under section 7703 from a final order or decision
20 of the Board in any such appeal, is found by the relevant
21 authority—

22 “(1) to have been affected by an erroneous ap-
23 plication or interpretation of subchapter III of chap-
24 ter 83, chapter 84, or any other provision of law (or
25 any rule or regulation relating thereto), and

1 “(2) to be entitled to receive an amount equal
2 to all or any part of an annuity not paid to such in-
3 dividual as a result of such erroneous application or
4 interpretation,
5 the amount under paragraph (2) may, in the discretion
6 of such authority, be made payable with interest.

7 “(b) Any such interest—

8 “(1) shall be computed in such manner as the
9 Merit Systems Protection Board or the court (as the
10 case may be) considers appropriate; and

11 “(2) shall be payable out of the Civil Service
12 Retirement and Disability Fund.

13 “(c) For purposes of this section, the term ‘annuity’
14 means any annuity (including a survivor annuity) payable
15 out of the Civil Service Retirement and Disability Fund.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 8348(a)(1)(A) of title 5, United
18 States Code, is amended by striking “Fund;” and
19 inserting “Fund (including any interest payable
20 under section 7704);”.

21 (2) The analysis for chapter 77 of title 5,
22 United States Code, is amended by adding at the
23 end the following:

“7704. Interest on amounts paid to make up for certain annuity benefits wrong-
fully denied.”.

1 **SEC. 211. AMENDMENTS RELATING TO EFFECTIVE DATE**
2 **PROVISION OF THE CIVIL SERVICE RETIRE-**
3 **MENT SPOUSE EQUITY ACT OF 1984.**

4 (a) **ELIMINATION OF CERTAIN BARS TO ELIGI-**
5 **BILITY.**—Section 4(b) of the Civil Service Retirement
6 Spouse Equity Act of 1984 (5 U.S.C. 8341 note) is
7 amended—

8 (1) in paragraph (1)(B)(i), by striking “after
9 September 14, 1978, and”; and

10 (2) by repealing paragraph (4).

11 (b) **NEW DEADLINE FOR APPLICATIONS.**—

12 (1) **IN GENERAL.**—Section 4(b)(1)(B)(iv) of the
13 Civil Service Retirement Spouse Equity Act of 1984
14 is amended by striking “May 7, 1989” and inserting
15 “May 7, 2001”.

16 (2) **AUTHORITY TO WAIVE DEADLINE.**—Section
17 4(b) of the Civil Service Retirement Spouse Equity
18 Act of 1984 is amended by adding at the end the
19 following:

20 “(6)(A) The Director of the Office of Personnel Man-
21 agement may waive the deadline under paragraph
22 (1)(B)(iv) in any case in which the Director determines
23 that the circumstances so warrant.

24 “(B) In making a determination under this para-
25 graph, one of the factors which may be taken into account

1 is whether the individual involved has previously submitted
 2 a timely application under this section—

3 “(i) which was denied; but

4 “(ii) which, based on criteria applied under this
 5 section pursuant to changes in law subsequent to the
 6 denial, would have been approved.”.

7 **TITLE III—SIMPLIFIED**
 8 **INVESTMENT STANDARDS**

9 **SEC. 301. EXEMPTION FROM PROHIBITED TRANSACTION**

10 **RULES FOR EMERGENT TRANSACTIONS.**

11 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
 12 INCOME SECURITY ACT OF 1974.—Section 408 of the
 13 Employee Retirement Income Security Act of 1974 (29
 14 U.S.C. 1108) is amended by adding at the end the fol-
 15 lowing new subsection:

16 “(g)(1) Pursuant to regulations issued by the Sec-
 17 retary, a transaction between an employee benefit plan
 18 and an eligible person constituting the purchase or sale
 19 of a financial product which is in violation of a restriction
 20 imposed by section 406 or 407(a) shall be exempted under
 21 subsection (a) from treatment as a violation of such re-
 22 striction if—

23 “(A) prior to engaging in the transaction, the
 24 plan acquires from the eligible person a qualifying
 25 guarantee, consisting of a letter of credit or other

1 form of written guarantee, issued by a bank or simi-
2 lar financial institution (other than the eligible per-
3 son requesting the exemption or an affiliate) regu-
4 lated and supervised by, and subject to periodic ex-
5 amination by, an agency of a State or of the Federal
6 Government, in a stated amount equal, as of the
7 close of business on the day preceding the trans-
8 action, to not less than 100 percent of the amount
9 of plan assets involved in the transaction, plus inter-
10 est on that amount at a rate determined by the par-
11 ties to the transaction, or in the absence of such de-
12 termination, an interest rate equal to the under-
13 payment rate defined in section 6621(a)(2) of the
14 Internal Revenue Code of 1986;

15 “(B) the eligible person receives in such trans-
16 action not more than reasonable compensation;

17 “(C) such transaction is expressly approved by
18 an independent fiduciary who has investment au-
19 thority with respect to the plan assets involved in
20 the transaction;

21 “(D) within 60 days after the transaction, the
22 eligible person submits to the Secretary an applica-
23 tion for an exemption under subsection (a) from
24 such restriction;

1 “(E) immediately after the acquisition of the fi-
2 nancial product—

3 “(i) the fair market value of such financial
4 product does not exceed 1 percent of the fair
5 market value of the assets of the plan, and

6 “(ii) the aggregate fair market value of all
7 outstanding financial products acquired by the
8 plan from the eligible person pursuant to this
9 subsection does not exceed 5 percent of the fair
10 market value of the assets of the plan;

11 “(F) the Secretary determines not to grant the
12 exemption; and

13 “(G) the transaction is reversed within 60 days
14 after the date of the Secretary’s determination.

15 “(2) For purposes of this subsection—

16 “(A) a guarantee referred to in paragraph (1)
17 is ‘qualifying’ if such guarantee is irrevocable and,
18 under the terms of the guarantee—

19 “(i) if the Secretary grants the exemption,
20 the guarantee may expire without any payments
21 made to the plan, and

22 “(ii) if the Secretary determines not to
23 grant the exemption, the plan has the uncondi-
24 tional right to apply the amounts under the
25 guarantee to any losses suffered and to the pay-

1 ment of interest determined under paragraph
2 (1); and

3 “(B) the term ‘eligible person’ means a person
4 that—

5 “(i) consists of—

6 “(I) a bank as defined in section
7 202(a)(2) of the Investment Advisers Act
8 of 1940,

9 “(II) an investment adviser registered
10 under the Investment Advisers Act of
11 1940,

12 “(III) an insurance company which is
13 qualified to do business in more than one
14 State, or

15 “(IV) a broker-dealer registered under
16 the Securities Exchange Act of 1934,

17 “(ii) has shareholders’ or partners’ equity
18 in excess of \$1,000,000, and

19 “(iii) is not described in section 411.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply with respect to transactions occur-
22 ring after December 31, 2000.

1 **SEC. 302. ALTERNATIVE METHOD FOR PUBLISHING THE**
2 **PENDENCY OF PROHIBITED TRANSACTION**
3 **EXEMPTIONS.**

4 (a) IN GENERAL.—Section 408(a) of the Employee
5 Retirement Income Security Act of 1974 (29 U.S.C.
6 1108(a)) is amended by inserting before the last sentence
7 the following new sentence: “Nothing in this subsection
8 shall preclude the Secretary, in the Secretary’s sole discre-
9 tion, from prescribing by regulation, as an alternative to
10 publication in the Federal Register of the pendency of ex-
11 emptions under this subsection, an alternative method for
12 providing notice of the pendency of such exemptions, if
13 the other requirements of this subsection are met.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **SEC. 303. EMPLOYER PROTECTION FROM LIABILITY FOR**
18 **THE PROVISION OF INVESTMENT ADVICE.**

19 (a) IN GENERAL.—Section 402(c) of the Employee
20 Retirement Income Security Act of 1974 (29 U.S.C.
21 1102(c)) is amended—

22 (1) in paragraph (2), by striking “or” at the
23 end;

24 (2) in paragraph (3), by striking the period and
25 inserting “; or”; and

1 (3) by adding after paragraph (3) the following
2 new paragraph:

3 “(4) that a named fiduciary of a pension plan
4 described in section 404(c) may designate one or
5 more investment advisers to render advice to partici-
6 pants and beneficiaries with regard to assets held in
7 their individual accounts, if each such investment
8 adviser is—

9 “(A) registered as an investment adviser
10 under the Investment Advisers Act of 1940 or
11 under the laws of the State in which the invest-
12 ment adviser maintains its principal office and
13 place of business;

14 “(B) a bank as defined in section
15 202(a)(2) of the Investment Advisers Act of
16 1940;

17 “(C) an insurance company qualified to do
18 business under the laws of a State; or

19 “(D) a person registered as a broker or
20 dealer under the Securities Exchange Act of
21 1934.”.

22 (b) PROTECTION FROM LIABILITY FOR BREACH BY
23 Co-FIDUCIARY.—Section 405 of such Act (29 U.S.C.
24 1105) is amended—

1 (1) in subsection (c)(3), by inserting before the
2 period the following: “or the designation of an in-
3 vestment adviser in accordance with section
4 402(c)(4)”;

5 (2) by adding at the end the following new sub-
6 section:

7 “(e)(1) If any investment adviser designated under
8 a plan pursuant to paragraph (4) of section 402(c) ac-
9 knowledges in writing its designation as a fiduciary pursu-
10 ant to such paragraph, then, notwithstanding paragraphs
11 (2) and (3) of subsection (a) and subsection (b), no trustee
12 or named fiduciary of such plan shall be liable for acts
13 or omissions of such investment adviser in connection with
14 such plan.

15 “(2) Nothing in this subsection shall relieve any
16 trustee or named fiduciary of any liability under this part
17 for any act of such trustee or named fiduciary.”.

18 (c) LIABILITY OF INVESTMENT ADVISERS AND THE
19 SCOPE OF INVESTMENT ADVICE.—Section 404(c)(1) of
20 such Act (29 U.S.C. 1104(c)(1)) is amended by adding
21 at the end the following new subparagraph:

22 “(C)(i) Notwithstanding subparagraph (B)
23 and section 3(21)(A)(ii), an investment adviser
24 appointed pursuant to section 402(c)(4) shall
25 be considered a fiduciary and shall be liable for

1 any breach in connection with the provision of
2 investment advice to a participant or bene-
3 ficiary.

4 “(ii) For purposes of clause (i), an invest-
5 ment adviser appointed pursuant to section
6 402(c)(4) shall be considered to provide invest-
7 ment advice to a participant or beneficiary if
8 the adviser provides individualized recommenda-
9 tions to a participant or beneficiary with re-
10 spect to the purchase, sale, or retention of secu-
11 rities or other property for the participant’s or
12 beneficiary’s individual account.”.

13 (d) RESTORATION OF LOSSES TO INDIVIDUAL AC-
14 COUNT.—Section 409(a) of such Act (29 U.S.C. 1109(a))
15 is amended by inserting “(or, in the case of a pension plan
16 which provides for individual accounts, the individual ac-
17 count)” after “plan” the second, third, and fourth places
18 it appears.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to advice referred to
21 in section 3(21)(A)(ii) of the Employee Retirement In-
22 come Security Act of 1974 provided after December 31,
23 2000.

1 **SEC. 304. PARTICIPATION OF PARTICIPANTS IN TRUSTEE-**
2 **SHIP OF DEFINED CONTRIBUTION PLANS.**

3 (a) IN GENERAL.—Section 403(a) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1103(a)) is amended—

6 (1) by redesignating paragraphs (1) and (2) as
7 subparagraphs (A) and (B), respectively;

8 (2) by inserting “(1)” after “(a)”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(2)(A) Subject to subparagraph (B), the assets of
12 a single-employer plan which is a defined contribution plan
13 and under which some or all of the assets are derived from
14 employee contributions shall be held in trust by a joint
15 board of trustees, which shall consist of two or more trust-
16 ees representing on an equal basis the interests of the em-
17 ployer or employers maintaining the plan and the interests
18 of the participants and their beneficiaries.

19 “(B) This paragraph shall apply for any plan year
20 only if a majority of the participants of the defined con-
21 tribution plan indicates to the plan administrator, in such
22 form and manner as shall be prescribed in regulations of
23 the Secretary, its intention to have this paragraph so
24 apply.

25 “(C)(i) Except as provided in clause (ii), in any case
26 in which the plan is maintained pursuant to one or more

1 collective bargaining agreements between one or more em-
2 ployee organizations and one or more employers, the trust-
3 ees representing the interests of the participants and their
4 beneficiaries shall be designated by such employee organi-
5 zations.

6 “(ii) Clause (i) shall not apply with respect to a plan
7 described in such clause if the employee organization (or
8 all employee organizations, if more than one) referred to
9 in such clause file with the Secretary, in such form and
10 manner as shall be prescribed in regulations of the Sec-
11 retary, a written waiver of their rights under clause (i).

12 “(iii) In any case in which clause (i) does not apply
13 with respect to a single-employer plan because the plan
14 is not described in clause (i) or because of a waiver filed
15 pursuant to clause (ii), the trustee or trustees representing
16 the interests of the participants and their beneficiaries
17 shall be selected in accordance with regulations of the Sec-
18 retary. Such regulations may provide for selection of trust-
19 ees by the employer, but only from individuals who have
20 been demonstrated to be independent and to have no con-
21 flict of interest. An individual shall not be treated as ineli-
22 gible for selection as trustee solely because such individual
23 is an employee of the plan sponsor, except that the em-
24 ployee so selected may not be a highly compensated em-

1 ployee (as defined in section 414(q) of the Internal Rev-
2 enue Code of 1986).

3 “(iv) The Secretary shall provide by regulation for
4 the appointment of a neutral, in accordance with the pro-
5 cedures under section 203(f) of the Labor Management
6 Relations Act, 1947 (29 U.S.C. 173(f)), to cast votes as
7 necessary to resolve tie votes by the trustees.”.

8 (b) REGULATIONS.—The Secretary of Labor shall
9 prescribe the initial regulations necessary to carry out the
10 provisions of such amendments not later than 90 days
11 after the date of the enactment of this Act.

12 **SEC. 305. REMOVAL OF \$500,000 CAP ON BONDING REQUIRE-**
13 **MENT.**

14 Section 412(a) of the Employee Retirement Income
15 Security Act of 1974 (29 U.S.C. 1112(a)) is amended, in
16 the matter following paragraph (2), by striking “nor more
17 than \$500,000” and all that follows through “preceding
18 sentence”.

19 **SEC. 306. DISCLOSURE REGARDING INVESTMENTS AND**
20 **VOTING OF PROXIES.**

21 (a) IN GENERAL.—Section 101 of the Employee Re-
22 tirement Income Security Act of 1974 (29 U.S.C. 1021)
23 is amended by inserting after subsection (e) the following
24 new subsection:

1 “(f) DISCLOSURE REGARDING INVESTMENTS AND
2 VOTING OF PROXIES.—

3 “(1) IN GENERAL.—Within 30 days after re-
4 ceipt by the plan administrator of a written request
5 by a participant or beneficiary for relevant and spe-
6 cific information regarding—

7 “(A) the nature or extent of any particular
8 investment of plan assets occurring on a par-
9 ticular date specified in the request, or

10 “(B) the manner in which any right to
11 vote in connection with such investment has
12 been exercised by or under the plan,

13 the plan administrator shall furnish such informa-
14 tion in writing to such participant or beneficiary.

15 The administrator may make a reasonable charge to
16 cover the cost of furnishing such information.

17 “(2) STANDARDS AND REVIEW.—The Secretary
18 shall by regulation prescribe—

19 “(A) standards which must be met by re-
20 quests made pursuant to this subsection, in-
21 cluding standards relating to relevancy and
22 specificity of the information requested, the
23 specificity by which the investment must be
24 identified in the request, and the reasonableness

1 of charges made for furnishing the information,
2 and

3 “(B) procedures by which plan administra-
4 tors may rely on such standards in declining re-
5 quests for information which fail to meet such
6 standards, including methods for obtaining
7 timely and binding determinations by the Sec-
8 retary regarding whether such standards are
9 being met by particular requests.”.

10 (b) ENFORCEMENT.—Section 502(c)(1) of such Act
11 (29 U.S.C. 1132(c)(1)) is amended by striking “section
12 101(e)(1)” and inserting “subsection (e)(1) or (f)(1) of
13 section 101”.

14 (c) CONFORMING AMENDMENT.—Section 101(h)(1)
15 of such Act (29 U.S.C. 1021(h)(1)) is amended by insert-
16 ing “or subsection (f)” after “this subsection”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply with respect to written requests
19 received after December 31, 2000.

20 **SEC. 307. DIVERSIFICATION IN DEFINED CONTRIBUTION**
21 **INVESTMENTS.**

22 Section 407(d)(3) of the Employee Retirement In-
23 come Security Act of 1974 (29 U.S.C. 1107(d)(3)) is
24 amended by adding at the end the following:

1 “(D)(i) The term ‘eligible individual account
2 plan’ does not include that portion of a profit-shar-
3 ing plan that consists of employer contributions (in-
4 cluding elective deferrals (as defined in section
5 402(g)(3) of the Internal Revenue Code of 1986)
6 pursuant to a qualified cash or deferred arrange-
7 ment (as defined in section 401(k) of such Code))
8 and earnings allocable thereto, if—

9 “(I) under the documents and instruments
10 governing the plan, such contributions (or earn-
11 ings allocable thereto) are required to be in-
12 vested at the direction of a person other than
13 the participant on whose behalf such contribu-
14 tions are made to the plan (or the participant’s
15 beneficiary), or

16 “(II) the documents and instruments gov-
17 erning the plan do not provide for effective im-
18 plementation of investments directed by such a
19 participant (or beneficiary) within 3 years after
20 such direction is made known to the plan.

21 “(ii) For purposes of subsection (a), such por-
22 tion shall be treated as a separate plan.

23 “(iii) This subparagraph shall not apply to an
24 individual account plan if the fair market value of
25 the assets of all individual account plans maintained

1 by the employer equals not more than 10 percent of
 2 the fair market value of the assets of all pension
 3 plans maintained by the employer.

4 “(iv) This subparagraph shall not apply to an
 5 individual account plan that is an employee stock
 6 ownership plan as defined in section 409(a) or
 7 4975(e)(7) of the Internal Revenue Code or that is
 8 a stock bonus plan.”.

9 **SEC. 308. DIVERSIFICATION OF INVESTMENTS UNDER EM-**
 10 **PLOYEE STOCK OWNERSHIP PLANS BY PAR-**
 11 **TICIPANTS AND BENEFICIARIES OVER 55**
 12 **YEARS OF AGE.**

13 Section 206 of the Employee Retirement Income Se-
 14 curity Act of 1974 (29 U.S.C. 1056) (as amended by sec-
 15 tion 201) is amended by adding at the end the following
 16 new subsection:

17 “(h) DIVERSIFICATION OF INVESTMENTS UNDER EM-
 18 PLOYEE STOCK OWNERSHIP PLANS BY PARTICIPANTS
 19 AND BENEFICIARIES OVER 55 YEARS OF AGE.—

20 “(1) IN GENERAL.—An employee stock owner-
 21 ship plan shall provide that each qualified partici-
 22 pant may elect within 90 days after the close of each
 23 plan year in the qualified election period to direct
 24 the plan as to the investment of at least 25 percent
 25 of the participant’s account in the plan (to the ex-

1 tent such portion exceeds the amount to which a
2 prior election under this subsection applies). In the
3 case of the election year in which the participant can
4 make the participant's last election, the preceding
5 sentence shall be applied by substituting '50 percent'
6 for '25 percent'.

7 “(2) METHOD OF MEETING REQUIREMENTS.—

8 A plan shall be treated as meeting the requirements
9 of paragraph (1) if—

10 “(A) the portion of the participant's ac-
11 count covered by the election under paragraph
12 (1) is distributed within 90 days after the pe-
13 riod during which the election may be made, or

14 “(B) the plan offers at least 3 investment
15 options (not inconsistent with regulations pre-
16 scribed by the Secretary of the Treasury) to
17 each participant making an election under para-
18 graph (1) and within 90 days after the period
19 during which the election may be made, the
20 plan invests the portion of the participant's ac-
21 count covered by the election in accordance with
22 such election.

23 “(3) DEFINITIONS.—For purposes of this
24 subsection—

1 “(A) EMPLOYEE STOCK OWNERSHIP
2 PLAN.—The term ‘employee stock ownership
3 plan’ means a defined contribution plan which
4 is an employee stock ownership plan (within the
5 meaning of section 4975(e)(7) of the Internal
6 Revenue Code of 1986) or which meets the re-
7 quirements of section 409(a) of such Code.

8 “(B) QUALIFIED PARTICIPANT.—The term
9 ‘qualified participant’ means any participant
10 who has completed at least 10 years of partici-
11 pation under the plan and has attained age 55.

12 “(C) QUALIFIED ELECTION PERIOD.—The
13 term ‘qualified election period’ means the 6-
14 plan-year period beginning with the later of—

15 “(i) the first plan year in which the
16 individual first became a qualified partici-
17 pant, or

18 “(ii) the first plan year beginning
19 after December 31, 2000.

20 For purposes of the preceding sentence, an em-
21 ployer may elect to treat an individual first be-
22 coming a qualified participant in the first plan
23 year beginning in 2001 as having become a par-
24 ticipant in the first plan year beginning in
25 2002.”.

1 **TITLE IV—IMPROVEMENTS IN**
2 **PENSION INFORMATION AND**
3 **ENFORCEMENT**

4 **SEC. 401. PERIODIC PENSION BENEFIT STATEMENTS.**

5 (a) IN GENERAL.—Subsection (a) of section 105 of
6 the Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1025) is amended—

8 (1) by striking “shall furnish to any plan par-
9 ticipant or beneficiary who so requests in writing,”
10 and inserting “shall furnish at least once every 3
11 years, in the case of a participant in a defined ben-
12 efit plan who has attained age 35, and annually, in
13 the case of a defined contribution plan, to each plan
14 participant, and shall furnish to any plan participant
15 or beneficiary who so requests,” and

16 (2) by adding at the end the following flush
17 sentence:

18 “Information furnished under the preceding sentence to
19 a participant in a defined benefit plan (other than at the
20 request of the participant) may be based on reasonable
21 estimates determined under regulations prescribed by the
22 Secretary.”

23 (b) RULE FOR MULTIEMPLOYER PLANS.—Subsection
24 (d) of section 105 of such Act (29 U.S.C. 1025) is amend-
25 ed to read as follows:

1 “(d) Each administrator of a plan to which more than
2 1 unaffiliated employer is required to contribute shall fur-
3 nish to any plan participant or beneficiary who so requests
4 in writing, a statement described in subsection (a).”.

5 (c) MODEL STATEMENTS.—The Secretary of Labor
6 shall develop a model benefit statement to be used by plan
7 administrators in complying with the requirements of sec-
8 tion 105 of the Employee Retirement Income Security Act
9 of 1974. Such statement shall include—

10 (1) the amount of nonforfeitable accrued bene-
11 fits as of the statement date which is payable at nor-
12 mal retirement age under the plan,

13 (2) the amount of accrued benefits which are
14 forfeitable but which may become nonforfeitable
15 under the terms of the plan,

16 (3) the amount or percentage of any reduction
17 due to integration of the benefit with the partici-
18 pant’s Social Security benefits or similar govern-
19 mental benefits,

20 (4) information on how to contact the Social
21 Security Administration to obtain a participant’s
22 personal earnings and benefit estimate statement,
23 and

24 (5) information on early retirement benefit and
25 joint and survivor annuity reductions.

1 **SEC. 402. BENEFIT STATEMENTS REQUIRED TO INCLUDE**
2 **INFORMATION ON INVESTMENT PERFORM-**
3 **ANCE.**

4 Section 105(a) of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C. 1025(a)) is amended—

6 (1) in paragraph (1), by striking “and”;

7 (2) in paragraph (2), by striking the period at
8 the end and inserting “, and”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(3) the percentage of the net return on invest-
12 ment of plan assets for the preceding plan year (or,
13 with respect to investments directed by the partici-
14 pant, the net return on investment of plan assets for
15 such year so directed), and, stated separately, the
16 administrative and transaction fees incurred in con-
17 nection with such investment.”.

18 **SEC. 403. DISCLOSURES TO SECRETARY OF LABOR RELAT-**
19 **ING TO PLAN TERMINATION AND RELATING**
20 **TO PLAN SPONSORS AFTER ACQUISITION OR**
21 **MERGER OF PLANS.**

22 (a) **IN GENERAL.**—Section 104 of the Employee Re-
23 tirement Income Security Act of 1974 (29 U.S.C. 1024)
24 is amended—

25 (1) by redesignating subsection (d) as sub-
26 section (e); and

1 come Security Act of 1974 (29 U.S.C. 1023(c)) is
2 amended—

3 (1) by redesignating paragraph (5) as para-
4 graph (6); and

5 (2) by inserting after paragraph (4) the fol-
6 lowing new paragraph:

7 “(5) In the case of a pension plan that is a de-
8 fined benefit plan, the amount of the annual oper-
9 ating income of each employer maintaining the plan,
10 as shown on the employer’s most recent annual fi-
11 nancial statement, together with such amount as ad-
12 justed by excluding all components of net benefit
13 cost other than the service cost component.”.

14 (b) INFORMATION TO BE PROVIDED ANNUALLY TO
15 PARTICIPANTS AND BENEFICIARIES.—Section 104(b)(3)
16 of such Act (29 U.S.C. 1024(b)(3)) is amended by adding
17 at the end the following new sentence: “In the case of a
18 defined benefit plan, such other material shall include the
19 information described in paragraph (5) of section 103(c),
20 together with an explanation, written in a manner cal-
21 culated to be understood by the average plan participant,
22 of such information, of the service cost component in-
23 cluded in the adjusted amount of annual operating income
24 reported pursuant to such paragraph, and of each compo-

1 nent excluded from such adjusted amount of annual oper-
 2 ating income.”.

3 **SEC. 405. SPECIFIC INFORMATION REGARDING MULTIEM-**
 4 **EMPLOYER PLANS INCLUDED IN ANNUAL RE-**
 5 **PORT.**

6 Section 103 of the Employee Retirement Income Se-
 7 curity Act of 1974 (29 U.S.C. 1023) is amended by adding
 8 at the end the following new subsection:

9 “(f) With respect to a pension plan that is a multiem-
 10 ployer plan, an annual report under this section shall in-
 11 clude the following information regarding each contrib-
 12 uting employer:

13 “(1) the employer’s name,

14 “(2) the employer’s taxpayer identification
 15 number,

16 “(3) the contract period relating to the plan,
 17 and

18 “(4) the amount contributed by the employer
 19 for the year.”.

20 **SEC. 406. LIMITED SCOPE AUDITS.**

21 Subparagraph (C) of section 103(a)(3) of the Em-
 22 ployee Retirement Income Security Act of 1974 (29
 23 U.S.C. 1023(a)(3)(C)) is amended to read as follows:

24 “(C)(i) Subject to clause (ii), the opinion required by
 25 subparagraph (A) need not be expressed as to any state-

1 ments required by subsection (b)(3)(G) prepared by a
2 bank or similar institution or insurance carrier regulated
3 and supervised and subject to periodic examination by a
4 State or Federal agency if no less than ninety-five (95)
5 percent of the plan's assets have a readily ascertainable
6 market value at the end of the plan year for which the
7 opinion is being offered, and if such statements—

8 “(I) are certified by the bank, similar institu-
9 tion or insurance carrier as complete and accurate,

10 “(II) certify the current value of each asset,

11 “(III) include a representation that, within the
12 eighteen month period preceding the date of its cer-
13 tification, an independent, qualified public account-
14 ant who has satisfied the requirements of subsection
15 (D), has issued a report, in accordance with gen-
16 erally accepted auditing standards, to the bank or
17 similar institution or insurance carrier, stating that
18 its internal controls and procedures or the internal
19 controls and procedures of any affiliated entity, as
20 they pertain to the execution, maintenance of ac-
21 countability, recording and processing of trans-
22 actions related to plan or participant recordkeeping,
23 are adequate, and

24 “(IV) are made a part of the annual report.

1 “(ii) To the extent that the processing of transactions
2 related to plan or participant recordkeeping is performed
3 by an entity unaffiliated with the bank or similar institu-
4 tion or insurance carrier, clause(i) shall not apply unless
5 the plan has obtained a representation from the entity
6 that, within the eighteen month period preceding the date
7 of the opinion, an independent, qualified public accountant
8 who has satisfied the requirements of subsection (D), has
9 issued a report, in accordance with generally accepted au-
10 diting standards, to the entity stating that its internal
11 controls and procedures, as they pertain to the execution,
12 maintenance of accountability, recording and processing of
13 transactions related to plan or participant recordkeeping,
14 are adequate.

15 “(iii) For purposes of this subparagraph (C), the
16 term ‘readily ascertainable market value’ means a value
17 that can be readily determined on an established securities
18 market or in accordance with regulations promulgated by
19 the Secretary.”.

20 **SEC. 407. REPORTING AND ENFORCEMENT REQUIREMENTS**
21 **FOR EMPLOYEE BENEFIT PLANS.**

22 (a) IN GENERAL.—Part 1 of subtitle B of title I of
23 the Employee Retirement Income Security Act of 1974
24 (29 U.S.C. 1021 et seq.) is amended—

1 (1) by redesignating section 111 as section 112,
2 and

3 (2) inserting after section 110 the following
4 new section:

5 “DIRECT REPORTING OF CERTAIN EVENTS

6 “SEC. 111. (a) REQUIRED NOTIFICATIONS.—

7 “(1) NOTIFICATIONS BY PLAN ADMINIS-
8 TRATOR.—The administrator of an employee benefit
9 plan, within 5 business days after the administrator
10 determines that there is evidence (or after the ad-
11 ministrator is notified under paragraph (2)) that an
12 irregularity may have occurred with respect to the
13 plan, shall—

14 “(A) notify the Secretary of the irregu-
15 larity in writing; and

16 “(B) furnish a copy of such notification to
17 the accountant who is currently engaged under
18 section 103(a)(3)(A).

19 “(2) NOTIFICATIONS BY ACCOUNTANT.—

20 “(A) IN GENERAL.—An accountant en-
21 gaged by the administrator of an employee ben-
22 efit plan under section 103(a)(3)(A), within 5
23 business days after the accountant in connec-
24 tion with such engagement determines that
25 there is evidence that an irregularity may have
26 occurred with respect to the plan, shall—

1 “(i) notify the plan administrator of
2 the irregularity in writing, or

3 “(ii) if the accountant determines that
4 there is evidence that the irregularity may
5 have involved an individual who is the plan
6 administrator or who is a senior official of
7 the plan administrator, notify the Sec-
8 retary of the irregularity in writing.

9 “(B) NOTIFICATION UPON FAILURE OF
10 PLAN ADMINISTRATOR TO NOTIFY.—If an ac-
11 countant who has provided notification to the
12 plan administrator pursuant to subparagraph
13 (A)(i) does not receive a copy of the administra-
14 tor’s notification to the Secretary required
15 under paragraph (1)(B) within the 5-business-
16 day period specified therein, the accountant
17 shall furnish to the Secretary a copy of the ac-
18 countant’s notification made to the plan admin-
19 istrator on the next business day following such
20 period.

21 “(3) IRREGULARITY DEFINED.—

22 “(A) For purposes of this subsection, the
23 term ‘irregularity’ means--

24 “(i) a theft, embezzlement, or a viola-
25 tion of section 664 of title 18, United

1 States Code (relating to theft or embezzle-
2 ment from an employee benefit plan);

3 “(ii) an extortion or a violation of sec-
4 tion 1951 of title 18, United States Code
5 (relating to interference with commerce by
6 threats or violence);

7 “(iii) a bribery, a kickback, or a viola-
8 tion of section 1954 of title 18, United
9 States Code (relating to offer, acceptance,
10 or solicitation to influence operations of an
11 employee benefit plan);

12 “(iv) a violation of section 1027 of
13 title 18, United States Code (relating to
14 false statements and concealment of facts
15 in relation to employer benefit plan
16 records); or—

17 “(v) a violation of section 411, 501, or
18 511 of this title (relating to criminal viola-
19 tions).

20 “(B) The term ‘irregularity’ does not in-
21 clude any act or omission described in this
22 paragraph involving less than \$1,000 unless
23 there is reason to believe that the act or omis-
24 sion may bear on the integrity of plan manage-
25 ment.

1 “(b) NOTIFICATION UPON TERMINATION OF EN-
2 GAGEMENT OF ACCOUNTANT.—

3 “(1) NOTIFICATION BY PLAN ADMINIS-
4 TRATOR.—Within 5 business days after the termi-
5 nation of an engagement under section 103(a)(3)(A)
6 with respect to an employee benefit plan, the admin-
7 istrator of such plan shall—

8 “(A) notify the Secretary in writing of
9 such termination, giving the reasons for such
10 termination, and

11 “(B) furnish the accountant whose engage-
12 ment was terminated with a copy of the notifi-
13 cation sent to the Secretary.

14 “(2) NOTIFICATION BY ACCOUNTANT.—If the
15 accountant referred to in paragraph (1)(B) has not
16 received a copy of the administrator’s notification to
17 the Secretary as required under paragraph (1)(B),
18 or if the accountant disagrees with the reasons given
19 in the notification of termination of the engagement
20 for auditing services, the accountant shall notify the
21 Secretary in writing of the termination, giving the
22 reasons for the termination, within 10 business days
23 after the termination of the engagement.

24 “(c) DETERMINATION OF PERIODS REQUIRED FOR
25 NOTIFICATION.—In determining whether a notification re-

1 quired under this section with respect to any act or omis-
2 sion has been made within the required number of busi-
3 ness days—

4 “(1) the day on which such act or omission be-
5 gins shall not be included; and

6 “(2) Saturdays, Sundays, and legal holidays
7 shall not be included.

8 For purposes of this subsection, the term ‘legal holiday’
9 means any Federal legal holiday and any other day ap-
10 pointed as a holiday by the State in which the person re-
11 sponsible for making the notification principally conducts
12 business.

13 “(d) IMMUNITY FOR GOOD FAITH NOTIFICATION.—
14 Except as provided in this Act, no accountant or plan ad-
15 ministrator shall be liable to any person for any finding,
16 conclusion, or statement made in any notification made
17 pursuant to subsections (a)(2) or (b)(2), or pursuant to
18 any regulations issued under those subsections, if the find-
19 ing, conclusion, or statement is made in good faith.”.

20 (b) CIVIL PENALTY.—

21 (1) IN GENERAL.—Section 502(c) (29 U.S.C.
22 1132(e)) is amended by inserting after paragraph
23 (6) the following new paragraph:

24 “(7)(A) The Secretary may assess a civil penalty of
25 up to \$50,000 against any administrator who fails to pro-

1 vide the Secretary with any notification as required under
2 section 111.

3 “(B) The Secretary may assess a civil penalty of up
4 to \$50,000 against any accountant who knowingly and
5 willfully fails to provide the Secretary with any notification
6 as required under section 111.”.

7 (2) CONFORMING AMENDMENT.—Section
8 502(a)(6) (29 U.S.C. 1132(a)(6)) as amended by
9 section 101(e)(2)A(i) of the Health Insurance Port-
10 ability and Accountability Act of 1996, is amended
11 by striking “or (5)” and inserting “(5), or (7)”.

12 (c) CLERICAL AMENDMENTS.—

13 (1) Section 514(d)(29 U.S.C. 114(d)) is amend-
14 ed by striking “111” and inserting “112”.

15 (2) The table of contents in section 1 is amend-
16 ed by striking the item relating to section 111 and
17 inserting the following new items:

“Sec. 111. Direct reporting of certain events.

“Sec. 112. Repeal and effective date.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to any irregularity or
20 termination of engagement described in the amendments
21 only if the 5-day period described in the amendments in
22 connection with the irregularity or termination commences
23 at least 90 days after the date of the enactment of this
24 Act.

1 **SEC. 408. STUDY OF PENSION TRENDS AND CHARACTERIS-**
2 **TICS.**

3 (a) IN GENERAL.—Section 513 of the Employee Re-
4 tirement Income Security Act of 1974 (29 U.S.C. 1143)
5 is amended by adding at the end the following new sub-
6 section:

7 “(d) PENSION SURVEYS.—

8 “(1) IN GENERAL.—The Secretary shall submit
9 to each House of the Congress, before the close of
10 the second session of each Congress, a report, based
11 on a study of current statistical and survey data,
12 which describes dominant and emerging trends and
13 characteristics of the private pension system, so as
14 to ensure that the Congress is provided with periodic
15 and timely information regarding such system.

16 “(2) INCLUDED INFORMATION.—Each report
17 submitted pursuant to paragraph (1) shall include,
18 but not be limited to, information relating to exist-
19 ing pension plans regarding—

20 “(A) the types of such plans,

21 “(B) the level of employer and employee
22 contributions,

23 “(C) vesting status,

24 “(D) accrued benefits,

25 “(E) benefit receipt, and

26 “(F) form of benefit payments.

1 Such information shall be presented by category in
2 connection with cohorts defined on the basis of ap-
3 propriate attributes of the participants involved, in-
4 cluding gender, age, race, and income.

5 “(3) IDENTIFICATION OF BARRIERS TO PEN-
6 SION RECEIPT.—Each report submitted pursuant to
7 paragraph (1) shall also include information which
8 summarizes the types of problems that plan partici-
9 pants and beneficiaries experience in connection with
10 the receipt of promised retirement benefits.”.

11 (b) INITIAL REPORT.—The initial report submitted
12 pursuant to section 513(d) of the Employee Retirement
13 Income Security Act of 1974 shall be submitted not later
14 than the close of the second session of the 106th Congress.

15 **SEC. 409. EARLY RESOLUTION PROGRAM FOR PENSION**
16 **BENEFIT CLAIMS.**

17 (a) IN GENERAL.—Section 503 of the Employee Re-
18 tirement Income Security Act of 1974 (29 U.S.C. 1133)
19 is amended—

20 (1) by adding at the end of the heading the fol-
21 lowing: “AND EARLY RESOLUTION OF PENSION
22 CLAIMS”;

23 (2) by inserting “(a) IN GENERAL.—” after
24 “SEC. 503.”; and

1 (3) by adding at the end the following new sub-
2 section:

3 “(b) EARLY RESOLUTION PROGRAM FOR PENSION
4 BENEFIT CLAIMS.—

5 “(1) IN GENERAL.—The Secretary shall estab-
6 lish, in consultation with national bar and arbitra-
7 tion associations and other interested organizations,
8 an early resolution program for mediation of dis-
9 putes regarding claims for benefits which have been
10 denied under pension plans.

11 “(2) MEDIATORS.—The program shall provide
12 for recruitment of mediators to serve under the pro-
13 gram from individuals who have the requisite exper-
14 tise for such service. The program shall provide for
15 ongoing training for all mediators in employee bene-
16 fits law as determined necessary. Upon submission
17 of a claim to mediation proceedings under this sub-
18 section, the program shall provide for appointment
19 of a mediator, from the roster of mediators serving
20 under the program, to act as the mediator with re-
21 gard to the claim. Such appointment shall be
22 through a random selection procedure which shall be
23 prescribed in regulations.

24 “(3) FEES.—The Secretary shall assess fees as
25 necessary from each party to cover the costs of par-

1 participation in the program. The Secretary may reduce
2 or waive a fee on the basis of inability to pay.

3 “(4) INITIATION OF PROCEEDINGS.—A claim-
4 ant with a dispute which is eligible under the pro-
5 gram for submission to mediation thereunder may
6 elect to commence proceedings under the program
7 by means of filing under the program an election for
8 mediation of the dispute. An election to commence
9 mediation proceedings under the program shall be in
10 such form and manner as the Secretary may pre-
11 scribe.

12 “(5) PARTICIPATION IN PROCEEDINGS.—Upon
13 receipt of the election to commence proceedings, the
14 program shall provide for participation by all rel-
15 evant parties. Each such party shall participate, and
16 cooperate fully, in the proceedings. The plan admin-
17 istrator shall ensure that a copy of the written
18 record of any claims procedure completed by the
19 plan pursuant to subsection (a) and all relevant plan
20 documents are presented to the mediator within 30
21 days after commencement of the proceedings. The
22 program shall provide for appropriate confidentiality
23 of the proceedings.

24 “(6) TIME LIMIT FOR PROCEEDINGS.—The me-
25 diation proceedings under the program with respect

1 to the claim in dispute shall be completed within 30
2 days after compilation of all relevant plan documents
3 relating to the claim has been achieved.

4 “(7) PROCESS NONBINDING.—Findings and
5 conclusions made in the mediation proceedings
6 under the program shall be treated as advisory in
7 nature and nonbinding. Except as provided in para-
8 graph (8), the rights of the parties under this title
9 shall not be affected by participation in the medi-
10 ation proceedings under the program.

11 “(8) RESOLUTION THROUGH SETTLEMENT
12 AGREEMENT.—If a case is settled through participa-
13 tion in the mediation proceedings under the pro-
14 gram, the mediator shall assist the parties in draw-
15 ing up an agreement which shall constitute, upon
16 signature of the parties, a binding contract between
17 the parties, which shall be enforceable under section
18 502 as if the terms of such agreement were terms
19 of the plan.

20 “(9) OVERSIGHT.—The Secretary shall provide
21 for ongoing oversight of the program so as to ensure
22 that proceedings are conducted equitably and that
23 mediators meet prescribed standards of performance.
24 The Secretary shall monitor and record the results
25 of mediation proceedings conducted under the pro-

1 gram so as to enable comprehensive evaluation of
2 the effectiveness of the program as a means of alter-
3 native dispute resolution.

4 “(10) NOTICE.—The Secretary shall—

5 “(A) notify individuals of the program or
6 other sources of assistance in resolving benefits
7 claim disputes, and

8 “(B) provide model information with re-
9 spect to the program to be included in all sum-
10 mary plan descriptions and benefit determina-
11 tions.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to claims arising on
14 or after December 31, 2000.

15 **SEC. 410. DE NOVO REVIEW OF BENEFIT DETERMINATIONS.**

16 (a) INTERNAL REVIEW.—Section 503 of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1133) is amended—

19 (1) by inserting “(a)” after “SEC. 503.”;

20 (2) by redesignating paragraph (1) and (2) as
21 subparagraphs (A) and (B), respectively; and

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

24 “(2) Any review required under paragraph (1)(B)—

25 “(A) shall be de novo, and

1 “(B) shall be conducted by an individual who
2 did not make the initial decision denying the claim
3 and who is authorized to approve payment of the
4 claim.”.

5 (b) COURT REVIEW.—Section 502(e) of such Act (29
6 U.S.C. 1132(e)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(2) Notwithstanding any provision by the plan for
9 the exercise by a fiduciary of discretionary authority with
10 respect to any benefit determination, in any action under
11 paragraph (1)(B) or (3) of subsection (a) or in any other
12 action under this section to review a final benefit deter-
13 mination under the plan, the review by the court shall be
14 de novo, and the court may review all evidence pre-
15 sented.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply with respect to causes of action
18 arising after December 31, 2000.

19 **SEC. 411. ALLOWABLE RELIEF.**

20 (a) PRE-JUDGMENT INTEREST, ATTORNEY FEES,
21 AND COSTS OF ACTION.—

22 (1) PRE-JUDGMENT INTEREST ON UNPAID BEN-
23 EFITS.—Section 502(a)(1)(B) of the Employee Re-
24 tirement Income Security Act of 1974 (29 U.S.C.
25 1132(a)(1)(B)) is amended by inserting “(together

1 with reasonable pre-judgment interest on unpaid
2 pension plan benefits)” after “to recover benefits
3 due to him under the terms of his plan”.

4 (2) ATTORNEY FEES AND COSTS OF ACTION.—
5 Section 502(g) of such Act (29 U.S.C. 1132(g)) is
6 amended—

7 (A) in paragraph (1), by inserting “or (3)”
8 after “paragraph (2)”; and

9 (B) by adding at the end the following new
10 paragraph:

11 “(3) In any action or settlement proceeding under
12 this title with respect to an employee pension benefit plan
13 brought by a participant or beneficiary under such plan
14 in which the participant or beneficiary prevails or substan-
15 tially prevails, the participant or beneficiary shall be enti-
16 tled to reasonable attorney’s fees, reasonable expert wit-
17 ness fees, and other reasonable costs relating to the ac-
18 tion.”.

19 (b) ALLOWANCE FOR LEGAL RELIEF.—Section
20 502(a) of such Act (29 U.S.C. 1132(a)) is amended, in
21 paragraphs (3)(B), (5)(B), and (8)(B), by inserting “legal
22 or” before “equitable” each place it appears.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply with respect to causes of action
25 arising after the date of the enactment of this Act.

1 **SEC. 412. CIVIL PENALTY FOR BREACH OF FIDUCIARY RE-**
2 **SPONSIBILITY.**

3 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
4 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C. 1132(l))
6 is amended—

7 (1) by striking “shall” and inserting “may”,
8 and

9 (2) by striking “equal to” and inserting “not
10 greater than”.

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

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

1 (c) OTHER RULES.—Section 502(l) of such Act (29
2 U.S.C. 1132(l)) is amended by adding at the end the fol-
3 lowing 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 the person is jointly and severally liable for the appli-
7 cable 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 “(7) The Secretary, in his or her discretion, may pro-
13 vide for payment of some or all of any penalty assessed
14 under this subsection to the individual or individuals ag-
15 grieved by the violation giving rise to the penalty.”.

16 (d) EFFECTIVE DATES.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to any breach of fiduciary re-
19 sponsibility or other violation of part 4 of title I of
20 the Employee Retirement Income Security Act of
21 1974 occurring on or after the date of enactment of
22 this Act.

23 (2) TRANSITION RULE.—In applying the
24 amendment made by subsection (b) (relating to ap-
25 plicable recovery amount), a breach or other viola-

1 tion occurring before the date of the enactment of
2 this Act which continues after the 180th day after
3 that date (and which may be discontinued at any
4 time during its existence) shall be treated as having
5 occurred after the date of enactment.

6 **SEC. 413. ASSESSMENT BY SECRETARY OF LABOR OF PEN-**
7 **ALTIES FOR FAILURES TO MEET DISCLOSURE**
8 **REQUIREMENTS.**

9 (a) **FAILURES BY PLAN ADMINISTRATOR.**—Section
10 502(c)(1) of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1132(c)(1)) is amended—

12 (1) by inserting “(A)” after “(c)(1)”; and

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

15 “(B) In addition to any remedy provided under sub-
16 paragraph (A), the Secretary may assess against any plan
17 administrator a civil penalty of not more than \$1,000 a
18 day from the date of any failure or refusal by such plan
19 administrator described in subparagraph (A).”.

20 (b) **FAILURES BY EMPLOYERS.**—Section 502(c)(3) of
21 such Act (29 U.S.C. 1132(c)(3)) is amended—

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

23 (2) by adding at the end the following new sub-
24 paragraph:

1 “(B) In addition to any remedy provided under sub-
2 paragraph (A), the Secretary may assess against any em-
3 ployer a civil penalty of not more than \$1,000 a day from
4 the date of any failure by such employer described in sub-
5 paragraph (A).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to failures and refus-
8 als occurring on or after the date of the enactment of this
9 Act.

10 **SEC. 414. MISSING PARTICIPANTS.**

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

16 “(c) MULTIEMPLOYER PLANS.—The corporation
17 shall prescribe rules similar to the rules in subsection (a)
18 for multiemployer plans covered by this title that termi-
19 nate under section 4041A.

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

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

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

7 “(A) to the corporation, or

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

10 “(3) PAYMENT BY THE CORPORATION.—If ben-
11 efits of a missing participant were transferred to the
12 corporation under paragraph (1), the corporation
13 shall, upon location of the participant or beneficiary,
14 pay to the participant or beneficiary the amount
15 transferred (or the appropriate survivor benefit)
16 either—

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

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

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

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

1 “(i) to which the provisions of this
2 section do not apply (without regard to
3 this subsection), and

4 “(ii) which is not a plan described in
5 paragraphs (2) through (11) of section
6 4021(b), and

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

9 “(i) has missing participants, and

10 “(ii) has not provided for the transfer
11 of assets to pay the benefits of all missing
12 participants to another pension plan (with-
13 in the meaning of section 3(2)).

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

17 (b) CONFORMING AMENDMENTS.—Section 206(f) of
18 the Employee Retirement Income Security Act of 1974
19 (29 U.S.C. 1056(f)) is amended—

20 (1) by striking “title IV” and inserting “section
21 4050”, and

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

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

1 **SEC. 415. INCREASE IN GUARANTEED BENEFIT LEVEL FOR**
2 **MULTIEMPLOYER PLANS.**

3 (a) IN GENERAL.—Section 4022A(c) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1322a(c)) is amended—

6 (1) by striking “\$5” each place it appears in
7 paragraph (1) and inserting “\$11”;

8 (2) by striking “\$15” in paragraph (1) and in-
9 serting “\$33”;

10 (3) by striking paragraphs (2), (5), and (6);
11 and

12 (4) by redesignating paragraphs (3) and (4) as
13 paragraphs (2) and (3), respectively.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to any multiemployer plan that has
16 not received financial assistance (within the meaning of
17 section 4261 of the Employee Retirement Income Security
18 Act of 1974) within the 1-year period ending on the date
19 of the enactment of this Act.

20 **TITLE V—IMPROVED PENSION**
21 **PROTECTIONS FOR THE**
22 **CHANGING WORKFORCE**

23 **SEC. 501. LOANS FROM RETIREMENT PLANS FOR HEALTH**
24 **INSURANCE AND JOB TRAINING EXPENSES.**

25 (a) IN GENERAL.—Section 206 of the Employee Re-
26 tirement Income Security Act of 1974 (29 U.S.C. 1056)

1 (as amended by sections 201 and 308) is amended further
2 by adding at the end the following new subsection:

3 “(i) LOANS FROM RETIREMENT PLANS FOR HEALTH
4 INSURANCE AND JOB TRAINING EXPENSES.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this subsection, a pension plan shall
7 provide that a participant or beneficiary who is in-
8 voluntarily separated from employment may, on the
9 date of such separation, obtain a loan from the plan
10 the proceeds of which are to be used within 6
11 months after the date of such loan—

12 “(A) for payments for insurance which
13 constitutes medical care for the participant and
14 the participant’s spouse and dependents, or

15 “(B) for job training expenses.

16 “(2) QUALIFIED LOAN.—For purposes of this
17 subsection, the term ‘qualified loan’ means a loan—

18 “(A) which by its terms requires interest
19 on the loan to accrue not less frequently than
20 monthly,

21 “(B) which by its terms requires—

22 “(i) repayment to begin not later than
23 18 months after the date of the loan, and

1 “(ii) repayment in full not later the
2 date which is 36 months after the date of
3 the loan, and

4 “(C) which bears interest from the date of
5 the loan at a rate not less than 2 percentage
6 points below, and not more than 2 percentage
7 points above, the rate for comparable United
8 States Treasury obligations on such date.

9 “(3) LIMITATION ON AMOUNT OF LOANS.—The
10 aggregate amount of borrowings for a plan year
11 shall not exceed the sum of the amount of accruals
12 (other than contributions) during the plan year prior
13 to the plan year in which the loan is made.

14 “(4) LIMITATION ON NUMBER OF LOANS.—Not
15 more than 3 loans to an individual under this sub-
16 section may be outstanding at any time.

17 “(5) DELINQUENCIES TREATED AS DISTRIBU-
18 TION.—Any amount required to be paid by a partici-
19 pant or beneficiary under paragraph (2)(B) during
20 any plan year which is not paid at the time required
21 to be paid, and any amount remaining unpaid as of
22 the beginning of the plan year beginning after the
23 period described in paragraph (2)(B)(ii), shall be
24 treated as distributed during such plan year to the
25 participant or beneficiary.”.

1 (b) PROHIBITED TRANSACTION EXEMPTION.—Sec-
2 tion 408(b) of such Act (29 U.S.C. 1108(b)) is amended
3 by adding at the end the following new paragraph:

4 “(14) Any loan made by the plan to a disquali-
5 fied person who is a participant or beneficiary of the
6 plan if such loan—

7 “(A) is for the payment of health insur-
8 ance premiums or job training expenses, and

9 “(B) meets the requirements of section
10 206(i).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to loans made after the effective
13 date specified in section 601.

14 **SEC. 502. IMMEDIATE DISTRIBUTIONS PERMITTED ONLY IF**
15 **DISTRIBUTION ROLLED TO A QUALIFIED**
16 **PLAN.**

17 (a) VESTING.—Subsection (e) of section 203 of Em-
18 ployee Retirement Income Security Act of 1974 is
19 amended—

20 (1) by redesignating paragraph (3) as para-
21 graph (4); and

22 (2) by striking all that precedes paragraph (4)
23 (as redesignated) and inserting the following:

24 “(e)(1) A pension plan shall provide that the non-
25 forfeitable benefit with respect to a participant in the plan

1 (to the extent the distribution of such benefit is otherwise
2 includible in gross income) may be immediately distributed
3 only in a trustee-to-trustee transfer to a qualified plan of
4 such individual which is specified by such individual.

5 “(2) For purposes of paragraph (1), the term ‘quali-
6 fied plan’ means a plan, contract, pension, or trust de-
7 scribed in subparagraph (A) or (B) of section 219(g)(5)
8 of the Internal Revenue Code of 1986.

9 “(3) This subsection shall not apply in any case in
10 which the present value of the nonforfeitable benefit with
11 respect to the participant (calculated in accordance with
12 section 205(g)(3)) does not exceed \$500.”.

13 (b) JOINT AND SURVIVOR ANNUITIES.—Section
14 205(g) of such Act (29 U.S.C. 1055(g)) is amended by
15 striking so much as precedes paragraph (3) and inserting
16 the following:

17 “(g) RESTRICTIONS ON IMMEDIATE DISTRIBUTIONS.—
18 TIONS.—

19 “(1) IN GENERAL.—A pension plan may pro-
20 vide that the present value of a qualified joint and
21 survivor annuity under the plan or a qualified pre-
22 retirement survivor annuity under the plan (to the
23 extent the distribution of such value is otherwise in-
24 cludible in gross income) will be immediately distrib-

1 uted, but only if (in any case in which such value
2 exceeds \$500)—

3 “(A) the participant and the spouse of the
4 participant (or where the participant has died,
5 the surviving spouse) do not elect payment of
6 the distribution to themselves, and

7 “(B) such distribution is made in a trust-
8 ee-to-trustee transfer to 1 or more qualified
9 plans in accordance with paragraph (2).

10 “(2) DESIGNATION OF QUALIFIED PLAN.—An
11 immediate distribution described in paragraph (1)
12 may be made only to 1 or more qualified plans of
13 the participant or spouse designated by the partici-
14 pant and spouse (or where the participant has died,
15 the surviving spouse) or (if no such qualified plan is
16 so designated) to a qualified plan designated by the
17 administrator of such pension plan.

18 “(3) QUALIFIED PLAN.—For purposes of this
19 subsection, the term ‘qualified plan’ means a plan,
20 contract, pension, or trust described in subpara-
21 graph (A) or (B) of section 219(g)(5) of the Internal
22 Revenue Code of 1986.”.

1 **SEC. 503. PROMPT DISTRIBUTION FROM DEFINED CON-**
2 **TRIBUTION PLANS UPON TERMINATION OF**
3 **PARTICIPANT'S COVERED EMPLOYMENT.**

4 Section 206(a) of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C. 1056(a)) is amended—

6 (1) by redesignating paragraphs (1), (2), and
7 (3) as subparagraphs (A), (B), and (C), respectively,
8 and by inserting “(1)” after “(a)”;

9 (2) in the first sentence, by striking “pension
10 plan” and inserting “defined benefit plan”;

11 (3) in the second sentence, by striking “In the
12 case of a plan” and inserting “In the case of a de-
13 fined benefit plan”; and

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

16 “(2)(A) Except as provided in subparagraph (B),
17 each defined contribution plan shall provide that, unless
18 the participant otherwise elects—

19 “(i) the payment of benefits under the plan to
20 the participant will begin not later than the 60th
21 day after the close of the plan year in which occurs
22 the date on which the participant attains the earlier
23 of age 65 or the normal retirement age specified
24 under the plan, and

25 “(ii) in any case in which the participant termi-
26 nates his service with the employer prior to the date

1 described in clause (i), the participant's accrued ben-
2 efit shall be distributed, in the form of one or more
3 rollover contributions under section 402(c),
4 403(a)(4), or 403(b)(8) of the Internal Revenue
5 Code of 1986, clause (ii), (iii), or (iv) of section
6 408(d)(3)(A) of such Code, section 411(a)(12) of
7 such Code, or section 457(e)(16) of such Code, not
8 later than the 60th day after the date of the partici-
9 pant's termination of such service.

10 “(B) In any case in which immediate valuation of the
11 participant's accrued benefit is not practicable, the plan
12 may provide for a period of more than 60 days in lieu
13 of the 60-day period described in clauses (i) and (ii) of
14 subparagraph (A), except that any such longer period pro-
15 vided by the plan may not extend beyond 60 days after
16 the applicable valuation date under the plan.”

17 **SEC. 504. EXTENDED PERIOD FOR RECOUPMENT OF OVER-**
18 **PAYMENTS.**

19 Section 206 of the Employee Retirement Income Se-
20 curity Act of 1974 (29 U.S.C. 1056) (as amended by sec-
21 tions 201, 308, and 501(a)) is amended further by adding
22 at the end the following new subsection:

23 “(j) RECOUPMENT OF BENEFIT OVERPAYMENTS.—

24 “(1) MINIMUM PERIOD FOR RECOUPMENT.—

25 Any minimum period specified by an employee pen-

1 sion benefit plan during which an overpayment of
2 benefits under the plan must be repaid to the plan
3 may not be less than the 5-year period beginning on
4 the date of the overpayment.

5 “(2) WAIVER PERMITTED.—Nothing in this
6 title shall be construed to preclude the waiver by any
7 fiduciary on behalf of the plan of any overpayment
8 of benefits to a participant or beneficiary in any case
9 in which such participant or beneficiary is without
10 fault if recovery of the overpayment would defeat the
11 purpose of this title or would be against equity and
12 good conscience, and any such waiver may not be
13 precluded under the terms of the plan. In making
14 for purposes of this subsection any determination of
15 whether any participant or beneficiary is without
16 fault, the fiduciary shall specifically take into ac-
17 count any physical, mental, educational, or linguistic
18 limitation such participant or beneficiary may have
19 (including any lack of facility with the English lan-
20 guage).”.

21 **TITLE VI—GENERAL** 22 **PROVISIONS**

23 **SEC. 601. GENERAL EFFECTIVE DATE.**

24 (a) IN GENERAL.—Except as otherwise provided in
25 this Act, and subject to subsection (b), the amendments

1 made by this Act shall apply with respect to plan years
2 beginning on or after January 1, 2001.

3 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
4 PLANS.—In the case of a plan maintained pursuant to 1
5 or more collective bargaining agreements between em-
6 ployee representatives and 1 or more employers ratified
7 on or before the date of the enactment of this Act, sub-
8 section (a) shall be applied to benefits pursuant to, and
9 individuals covered by, any such agreement by substituting
10 for “January 1, 2001” the date of the commencement of
11 the first plan year beginning on or after the earlier of—

12 (1) the later of—

13 (A) January 1, 2002, or

14 (B) the date on which the last of such col-
15 lective bargaining agreements terminates (de-
16 termined without regard to any extension there-
17 of after the date of the enactment of this Act),

18 or

19 (2) January 1, 2003.

20 **SEC. 602. PLAN AMENDMENTS.**

21 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 first plan year beginning
24 on or after January 1, 2003, if—

1 (1) during the period after such amendment
2 made by this Act takes effect and before such first
3 plan year, the plan is operated in accordance with
4 the requirements of such amendment made by this
5 Act, and

6 (2) such plan amendment applies retroactively
7 to the period after such amendment made by this
8 Act takes effect and such first plan year.

○