

105TH CONGRESS
1ST SESSION

S. 14

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

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. GRAHAM, Ms. MIKULSKI, Mr. KERRY, Mr. REID, Mr. DURBIN, Mr. INOUE, Mr. TORRICELLI, and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retirement Security
5 Act of 1997”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

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

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH
PAYROLL DEDUCTIONS

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

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

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

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

SUBCHAPTER A—IRA DEDUCTION

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

SUBCHAPTER B—DISTRIBUTIONS AND INVESTMENTS

- Sec. 131. Distributions from IRAs may be used without additional tax to purchase first homes, to pay higher education, or to pay financially devastating medical expenses.
 Sec. 132. Contributions must be held at least 5 years in certain cases.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

- Sec. 141. Periodic pension benefits statements.

Subtitle B—Improved Fairness in Retirement Plan Benefits

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

Subtitle C—Improving Retirement Plan Coverage

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

Subtitle D—Simplifying Plan Requirements

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

TITLE II—SECURITY

- Sec. 200. Amendment of ERISA.

Subtitle A—General Provisions

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

Subtitle B—ERISA Enforcement

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

TITLE III—PORTABILITY

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

TITLE IV—TOWARD EQUITY FOR WOMEN

- Sec. 401. Individual's participation in plan not treated as participation by spouse.
- Sec. 402. Modifications of joint and survivor annuity requirements.
- Sec. 403. Division of pension benefits upon divorce.
- Sec. 404. Deferred annuities for surviving spouses of Federal employees.
- Sec. 405. Payment of lump-sum credit for former spouses of Federal employees.
- Sec. 406. Women's pension toll-free phone number.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

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

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

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

4 Except as otherwise expressly provided, whenever in
 5 this title an amendment or repeal is expressed in terms
 6 of an amendment to, or repeal of, a section or other provi-
 7 sion, the reference shall be considered to be made to a
 8 section or other provision of the Internal Revenue Code
 9 of 1986.

10 **Subtitle A—Improved Access to**
 11 **Individual Retirement Savings**

12 **CHAPTER 1—CONTRIBUTIONS TO INDI-**
 13 **VIDUAL RETIREMENT PLANS**
 14 **THROUGH PAYROLL DEDUCTIONS**

15 **SEC. 101. DEFINITIONS.**

16 For purposes of this chapter:

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

20 (2) **CONTRIBUTION CERTIFICATE.**—The term
 21 “contribution certificate” means a certificate submit-
 22 ted by an eligible employee to the employee’s em-
 23 ployer and the contractor which—

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

1 (B) includes a certification by the em-
2 ployee that the employee is an eligible employee,
3 and

4 (C) identifies the amount of the contribu-
5 tion to an individual retirement plan the em-
6 ployee wishes to make for the taxable year
7 through a payroll deduction, not to exceed the
8 amount allowed under section 408 of the Inter-
9 nal Revenue Code of 1986 to an individual re-
10 tirement plan for such year.

11 (2) ELIGIBLE EMPLOYEE.—

12 (A) IN GENERAL.—The term “eligible em-
13 ployee” means, with respect to any taxable
14 year, an employee whose employer does not
15 sponsor a qualified retirement plan (as defined
16 in section 4974(c) of the Internal Revenue Code
17 of 1986.

18 (B) EMPLOYEE.—The term “employee”
19 does not include an employee as defined in sec-
20 tion 401(c)(1) of such Code.

21 (3) INDIVIDUAL RETIREMENT PLANS.—

22 (A) IN GENERAL.—The term “individual
23 retirement plan” has the meaning given the
24 term by section 7701(a)(37) of the Internal
25 Revenue Code of 1986).

1 (B) APPLICATION OF RULES.—Rules appli-
2 cable to an individual retirement plan under the
3 Internal Revenue Code of 1986 are applicable
4 to an individual retirement plan referred to in
5 this chapter.

6 **SEC. 102. ESTABLISHMENT OF PAYROLL DEDUCTION AND**
7 **INVESTMENT SYSTEM.**

8 The contractor shall establish a system under
9 which—

10 (1) eligible employees, through employer payroll
11 deductions, may make contributions to individual re-
12 tirement plans, and

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

15 **SEC. 103. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT**
16 **PLANS.**

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

20 (1) contributions under an employer payroll de-
21 duction system, and

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

1 (b) EMPLOYER PAYROLL DEDUCTION SYSTEMS.—

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

8 (2) SIMPLIFIED EMPLOYEE ENROLLMENT AND
9 PARTICIPATION.—

10 (A) ESTABLISHMENT.—An eligible em-
11 ployee may establish and maintain an individual
12 retirement plan simply by—

13 (i) completing a contribution certifi-
14 cate, and

15 (ii) submitting such certificate to the
16 eligible employee's employer and the con-
17 tractor in the manner provided under para-
18 graph (3).

19 (B) EASE OF ADMINISTRATION.—An eligi-
20 ble employee establishing and maintaining an
21 individual retirement plan under subparagraph
22 (A) may change the amount of an employer
23 payroll deduction, request employer payroll de-
24 ductions by new employers to an existing plan,

1 and make changes in elections made under sec-
2 tion 104(d) in the same manner as under sub-
3 paragraph (A).

4 (C) SIMPLIFIED FORMS.—

5 (i) CONTRIBUTION CERTIFICATE.—

6 The contractor shall develop a contribution
7 certificate for purposes of subparagraph
8 (A)—

9 (I) which is written in a clear
10 and easily understandable manner,
11 and

12 (II) the completion of which by
13 an eligible employee will constitute the
14 establishment of an individual retire-
15 ment plan and the request for em-
16 ployer payroll deductions.

17 (ii) OTHER FORMS.—The contractor
18 shall develop such model forms for pur-
19 poses of subparagraph (B) as are nec-
20 essary to enable the contractor and an em-
21 ployer to easily administer an individual
22 retirement plan on behalf of an eligible em-
23 ployee.

1 (iii) AVAILABILITY.—The contractor
2 shall make available to all eligible employ-
3 ees and employers the forms developed
4 under this subparagraph, and shall include
5 with such forms easy to understand ex-
6 planatory materials.

7 (3) USE OF CERTIFICATE.—Each employer
8 upon receipt of a contribution certificate from an eli-
9 gible employee shall deduct the appropriate contribu-
10 tion as determined by such certificate from the em-
11 ployee’s wages in equal amounts during the remain-
12 ing payroll periods for the taxable year and shall
13 remit such amounts to the contractor for investment
14 in the employee’s individual retirement plan.

15 (4) FAILURE TO REMIT PAYROLL DEDUC-
16 TIONS.—For purposes of the Internal Revenue Code
17 of 1986, any amount which an employer fails to
18 remit to the contractor on behalf of an eligible em-
19 ployee pursuant to a contribution certificate of such
20 employee shall not be allowed as a deduction to the
21 employer under such Code.

1 **SEC. 104. INVESTMENT OPTIONS.**

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

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

10 (1) A government securities investment fund.

11 (2) A fixed income investment fund.

12 (3) A common stock index investment fund.

13 (c) ASSET MANAGERS.—

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

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

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

1 (d) PARTICIPANT ELECTIONS.—

2 (1) IN GENERAL.—The system established
3 under section 102 shall provide that an individual on
4 whose behalf an individual retirement plan is estab-
5 lished may—

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

8 (B) elect to transfer contributions (and
9 earnings) from one fund to another.

10 (2) METHOD.—Any election shall be made in
11 the manner provided by the system, except that the
12 contractor shall seek to ensure elections may be
13 made in a simple, timely manner.

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

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

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

22 (2) low administrative costs.

23 **SEC. 105. ACCOUNTING AND INFORMATION.**

24 (a) ESTABLISHMENT OF PLANS.—

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

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

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

12 (2) ALLOCATIONS AND REDUCTIONS TO
13 PLAN.—Such system shall provide for—

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

18 (B) a reduction in each such plan for the
19 plan's appropriate share of the administrative
20 expenses to be paid out.

21 (3) EXAMINATION OF PLANS.—

22 (A) IN GENERAL.—The contractor shall
23 annually engage, on behalf of all individuals for

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

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

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

7 (b) ADDITIONAL INFORMATION.—

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

13 (2) PLAN PARTICIPANTS.—

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

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

20 (ii) a summary description of the in-
21 vestment options under the plan and a his-
22 tory of the investment performance of such
23 options during the 5-year period preceding
24 the evaluation.

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

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

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

17 **SEC. 106. ADMINISTRATIVE COSTS.**

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

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

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

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

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

14 (a) SELECTION.—

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

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

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

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

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

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

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

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

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

10 **“SEC. 25A. RETIREMENT SAVINGS.**

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

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

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

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

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

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

8 “(d) OTHER LIMITATIONS AND RESTRICTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(4) REPORTS.—The Secretary shall prescribe
20 regulations which prescribe the time and the manner
21 in which reports to the Secretary and plan partici-
22 pants shall be made by the plan administrator of a
23 qualified employer or government plan receiving
24 qualified voluntary employee contributions.

1 “(5) EMPLOYER PAYMENTS.—For purposes of
2 this title, any amount paid by an employer to an in-
3 dividual retirement plan shall be treated as payment
4 of compensation to the employer (other than a self-
5 employed individual who is an employee within the
6 meaning of section 401(c)(1)) includible in his gross
7 income in the taxable year for which the amount was
8 contributed, whether or not a credit for such pay-
9 ment is allowable under this section to the employee.

10 “(g) CROSS REFERENCE.—

“For failure to provide required reports, see section 6652(g).”.

11 (b) CONFORMING AMENDMENTS.—

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

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

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

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

24 (4) Section 6652(g) is amended—

1 (A) by inserting “section 25A(f)(4) or” be-
 2 fore “section 219(f)(4)”, and

3 (B) by inserting “CREDITABLE” before
 4 “DEDUCTIBLE” in the heading thereof.

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

“Sec. 25A. Retirement savings.”.

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

12 **CHAPTER 3—EXPANDED INDIVIDUAL RE-**
 13 **TIREMENT ACCOUNTS TO INCREASE**
 14 **COVERAGE AND PORTABILITY**

15 **Subchapter A—IRA Deduction**

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

17 (a) IN GENERAL.—Subparagraph (B) of section
 18 219(g)(3) (defining applicable dollar amount) is amend-
 19 ed—

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

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

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

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

9 **SEC. 122. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
 10 **AMOUNT AND INCOME LIMITATIONS.**

11 (a) IN GENERAL.—Section 219 (relating to retire-
 12 ment savings) is amended by redesignating subsection (h)
 13 as subsection (i) and by inserting after subsection (g) the
 14 following new subsection:

15 “(h) COST-OF-LIVING ADJUSTMENTS.—

16 “(1) DEDUCTIBLE AMOUNTS.—In the case of
 17 any taxable year beginning in a calendar year after
 18 1997, the \$2,000 amount under subsection (b)(1)(A)
 19 shall be increased by an amount equal to—

20 “(A) such dollar amount, multiplied by

21 “(B) the cost-of-living adjustment deter-
 22 mined under section 1(f)(3) for the calendar
 23 year in which the taxable year begins, deter-
 24 mined by substituting ‘calendar year 1996’ for

1 ‘calendar year 1992’ in subparagraph (B)
2 thereof.

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

8 “(A) such dollar amount, multiplied by

9 “(B) the cost-of-living adjustment deter-
10 mined under section 1(f)(3) for the calendar
11 year in which the taxable year begins, deter-
12 mined by substituting ‘calendar year 1999’ for
13 ‘calendar year 1992’ in subparagraph (B)
14 thereof.

15 “(3) ROUNDING RULES.—

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

20 “(B) APPLICABLE DOLLAR AMOUNTS.—If
21 any amount after adjustment under paragraph
22 (2) is not a multiple of \$5,000, such amount
23 shall be rounded to the next lowest multiple of
24 \$5,000.”.

25 (b) CONFORMING AMENDMENTS.—

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

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

9 (3) Section 408(j) is amended by striking
 10 “\$2,000”.

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

14 **Subchapter B—Distributions and**
 15 **Investments**

16 **SEC. 131. DISTRIBUTIONS FROM IRAS MAY BE USED WITH-**
 17 **OUT ADDITIONAL TAX TO PURCHASE FIRST**
 18 **HOMES, TO PAY HIGHER EDUCATION, OR TO**
 19 **PAY FINANCIALLY DEVASTATING MEDICAL**
 20 **EXPENSES.**

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

1 “(E) DISTRIBUTIONS FROM CERTAIN
2 PLANS FOR FIRST HOME PURCHASES OR EDU-
3 CATIONAL EXPENSES.—Distributions to an in-
4 dividual from an individual retirement plan—

5 “(i) which are qualified first-time
6 homebuyer distributions (as defined in
7 paragraph (7)); or

8 “(ii) to the extent such distributions
9 do not exceed the qualified higher edu-
10 cation expenses (as defined in paragraph
11 (8)) of the taxpayer for the taxable year.”.

12 (b) FINANCIALLY DEVASTATING MEDICAL EX-
13 PENSES.—

14 (1) CERTAIN LINEAL DESCENDANTS AND AN-
15 CESTORS TREATED AS DEPENDENTS.—Subpara-
16 graph (B) of section 72(t)(2) (relating to subsection
17 not to apply to certain distributions) is amended by
18 striking “medical care” and all that follows and in-
19 serting “medical care determined—

20 “(i) without regard to whether the
21 employee itemizes deductions for such tax-
22 able year, and

23 “(ii) in the case of an individual re-
24 tirement plan, by treating such employee’s
25 dependents as including all children,

1 grandchildren, and ancestors of the em-
2 ployee or such employee’s spouse.”.

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

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

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

11 “(A) IN GENERAL.—The term ‘qualified
12 first-time homebuyer distribution’ means any
13 payment or distribution received by an individ-
14 ual to the extent such payment or distribution
15 is used by the individual before the close of the
16 60th day after the day on which such payment
17 or distribution is received to pay qualified ac-
18 quisition costs with respect to a principal resi-
19 dence of a first-time homebuyer who is such in-
20 dividual or the spouse, child (as defined in sec-
21 tion 151(c)(3)), or grandchild of such individ-
22 ual.

23 “(B) QUALIFIED ACQUISITION COSTS.—
24 For purposes of this paragraph, the term
25 ‘qualified acquisition costs’ means the costs of

1 acquiring, constructing, or reconstructing a res-
2 idence. Such term includes any usual or reason-
3 able settlement, financing, or other closing
4 costs.

5 “(C) FIRST-TIME HOMEBUYER; OTHER
6 DEFINITIONS.—For purposes of this para-
7 graph—

8 “(i) FIRST-TIME HOMEBUYER.—The
9 term ‘first-time homebuyer’ means any in-
10 dividual if—

11 “(I) such individual (and if mar-
12 ried, such individual’s spouse) had no
13 present ownership interest in a prin-
14 cipal residence during the 3-year pe-
15 riod ending on the date of acquisition
16 of the principal residence to which
17 this paragraph applies, and

18 “(II) subsection (h) or (k) of sec-
19 tion 1034 did not suspend the run-
20 ning of any period of time specified in
21 section 1034 with respect to such in-
22 dividual on the day before the date
23 the distribution is applied pursuant to
24 subparagraph (A).

1 In the case of an individual described in
2 section 143(i)(1)(C) for any year, an own-
3 ership interest shall not include any inter-
4 est under a contract of deed described in
5 such section. An individual who loses an
6 ownership interest in a principal residence
7 incident to a divorce or legal separation is
8 deemed for purposes of this subparagraph
9 to have had no ownership interest in such
10 principal residence within the period re-
11 ferred to in subclause (II).

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

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

17 “(I) on which a binding contract
18 to acquire the principal residence to
19 which subparagraph (A) applies is en-
20 tered into, or

21 “(II) on which construction or re-
22 construction of such a principal resi-
23 dence is commenced.

24 “(D) SPECIAL RULE WHERE DELAY IN AC-
25 QUISSION.—Any portion of any distribution

1 from any individual retirement plan which fails
2 to meet the requirements of subparagraph (A)
3 solely by reason of a delay or cancellation of the
4 purchase or construction of the residence may
5 be contributed to an individual retirement plan
6 as provided in section 408(d)(3)(A)(i) (deter-
7 mined by substituting ‘120 days’ for ‘60 days’
8 in such section), except that—

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

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

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

17 “(A) IN GENERAL.—The term ‘qualified
18 higher education expenses’ means tuition and
19 fees required for the enrollment or attendance
20 of—

21 “(i) the taxpayer,

22 “(ii) the taxpayer’s spouse,

23 “(iii) a dependent of the taxpayer
24 with respect to whom the taxpayer is al-
25 lowed a deduction under section 151, or

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

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

7 “(i) expenses with respect to any
8 course or other education involving sports,
9 games, or hobbies, unless such expenses—

10 “(I) are part of a degree pro-
11 gram, or

12 “(II) are deductible under this
13 chapter without regard to this section;

14 or

15 “(ii) any student activity fees, athletic
16 fees, insurance expenses, or other expenses
17 unrelated to a student’s academic course of
18 instruction.

19 “(C) COORDINATION WITH SAVINGS BOND
20 PROVISIONS.—The amount of qualified higher
21 education expenses for any taxable year shall be
22 reduced by any amount excludable from gross
23 income under section 135.

1 “(D) ELIGIBLE STUDENT.—For purposes
2 of subparagraph (A), the term ‘eligible student’
3 means a student who—

4 “(i) meets the requirements of section
5 484(a)(1) of the Higher Education Act of
6 1965 (20 U.S.C. 1091(a)(1)), as in effect
7 on the date of the enactment of this sec-
8 tion, and

9 “(ii)(I) is carrying at least one-half
10 the normal full-time work load for the
11 course of study the student is pursuing, as
12 determined by the institution of higher
13 education, or

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

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

20 “(i) is described in section 481 of the
21 Higher Education Act of 1965 (20 U.S.C.
22 1088), as in effect on the date of the en-
23 actment of this section, and

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

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

4 **SEC. 132. CONTRIBUTIONS MUST BE HELD AT LEAST 5**
5 **YEARS IN CERTAIN CASES.**

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

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

11 “(A) IN GENERAL.—Paragraph (2)(A)(i)
12 shall not apply to any amount distributed out
13 of an individual retirement plan (other than a
14 special individual retirement account) which is
15 allocable to contributions made to the plan dur-
16 ing the 5-year period ending on the date of
17 such distribution (and earnings on such con-
18 tributions).

19 “(B) ORDERING RULE.—For purposes of
20 this paragraph—

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

24 “(I) first from the earliest con-
25 tribution (and earnings allocable

1 thereto) remaining in the account at
2 the time of the distribution, and

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

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

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

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

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

21 “(C) SPECIAL RULE FOR ROLLOVERS.—

22 “(i) PENSION PLANS.—Subparagraph
23 (A) shall not apply to distributions out of
24 an individual retirement plan which are al-
25 locable to rollover contributions to which

1 section 402(c), 403(a)(4), or 403(b)(8) ap-
2 plied.

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

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

13 **CHAPTER 4—PERIODIC PENSION**
14 **BENEFITS STATEMENTS**

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

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

1 (b) RULE FOR MULTIEMPLOYER PLANS.—Subsection
 2 (d) of section 105 of the Employee Retirement Income Se-
 3 curity Act of 1974 (29 U.S.C. 1025) is amended to read
 4 as follows:

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

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

12 (1) the date of issuance by the Secretary of
 13 Labor of regulations providing guidance for simplify-
 14 ing defined benefit plan calculations with respect to
 15 the information required under section 105 of the
 16 Employee Retirement Income Security Act of 1974
 17 (29 U.S.C. 1025), or

18 (2) December 31, 1997.

19 **Subtitle B—Improved Fairness in**
 20 **Retirement Plan Benefits**

21 **SEC. 151. AMENDMENTS TO SIMPLE RETIREMENT AC-**
 22 **COUNTS.**

23 (a) MINIMUM CONTRIBUTION REQUIREMENT.—

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

4 (A) by striking clauses (iii) and (iv) of sub-
5 paragraph (A) and inserting the following new
6 clauses:

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

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

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

23 “(iv) the employer is required to make
24 nonelective contributions of 1 percent of
25 compensation for each employee eligible to

1 participate in the arrangement who has at
2 least \$5,000 of compensation from the em-
3 ployer for the year, and

4 “(v) no contributions may be made
5 other than contributions described in
6 clause (i), (iii), or (iv).”, and

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

9 “(B) CONTRIBUTION RULES.—

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

1 before the 60-day period for such year
2 under paragraph (5)(C).

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

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

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

1 (A) by striking subclauses (II) and (III) of
2 clause (i) and inserting the following new sub-
3 clauses:

4 “(II) the employer is required to
5 make a matching contribution to the
6 trust for any year in an amount equal
7 to—

8 “(aa) so much of the
9 amount the employee elects
10 under subclause (I) as does not
11 exceed 3 percent of compensation
12 for the year, and

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

22 “(III) the employer is required to
23 make nonelective contributions of 1

1 percent of compensation for each em-
 2 ployee eligible to participate in the ar-
 3 rangement who has at least \$5,000 of
 4 compensation from the employer for
 5 the year, and

6 “(IV) no other contributions may
 7 be made other than contributions de-
 8 scribed in subclause (I), (II), or
 9 (III).”, and

10 (B) by striking clause (ii) and inserting the
 11 following new clause:

12 “(ii) CONTRIBUTION RULES.—

13 “(I) EMPLOYER MAY ELECT 3-
 14 PERCENT NONELECTIVE CONTRIBU-
 15 TION.—An employer shall be treated
 16 as meeting the requirements of sub-
 17 clauses (II) and (III) of clause (i) for
 18 any year if, in lieu of the contribu-
 19 tions described in such subclauses, the
 20 employer elects to make nonelective
 21 contributions of 3 percent of com-
 22 pensation for each employee who is el-
 23 igible to participate in the arrange-
 24 ment and who has at least \$5,000 of
 25 compensation from the employer for

1 the year. If an employer makes an
2 election under this subclause for any
3 year, the employer shall notify em-
4 ployees of such election within a rea-
5 sonable period of time before the 60th
6 day before the beginning of such year.

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

22 (b) FIDUCIARY DUTIES.—Section 404 of the Em-
23 ployee Retirement Income Security Act of 1974 (29
24 U.S.C. 1104) is amended—

1 (1) by striking “(1)” after “(c)” in subsection
2 (c),

3 (2) by striking paragraph (2) in subsection (c),
4 and

5 (3) by redesignating subsection (d) as sub-
6 section (e) and by inserting after subsection (c) the
7 following new subsection:

8 “(d)(1) In the case of a simple retirement account
9 which meets the requirements of section 408(p) of the In-
10 ternal Revenue Code of 1986, no plan sponsor who is oth-
11 erwise a fiduciary shall be liable under this part for any
12 loss, or by reason of any breach, which results from—

13 “(A) the designation of the trustee or issuer of
14 such account, or

15 “(B) the manner in which the assets in the ac-
16 count are invested,

17 after the earliest of the dates described in paragraph (2).

18 “(2) The dates described in this paragraph are as fol-
19 lows:

20 “(A) The date on which an affirmative election
21 with respect to the initial investment of any con-
22 tribution is made by the individual for whose benefit
23 the account is maintained.

1 “(B) The date on which there is a rollover of
2 the assets of the account to any other simple retire-
3 ment account or individual retirement plan.

4 “(C) The date which is 1 year after the account
5 is established.

6 “(3) This subsection shall not apply to the plan spon-
7 sor of a simple retirement account unless the plan partici-
8 pants are notified in writing (either separately or as part
9 of the notice under section 408(l)(2)(C)) that such con-
10 tributions may be transferred without cost or penalty to
11 another individual account or annuity.”.

12 (c) OPTION TO SUSPEND CONTRIBUTIONS.—Section
13 408(p) (relating to simple retirement accounts) is amend-
14 ed by adding at the end the following new paragraph:

15 “(8) SUSPENSION OF PLAN.—Except as pro-
16 vided by the Secretary, a plan shall not be treated
17 as failing to meet the requirements of this sub-
18 section if, under the plan, the employer may suspend
19 all elective, matching, and nonelective contributions
20 under the plan after notifying employees eligible to
21 participate in the arrangement of such suspension in
22 writing at least 30 days in advance. Such suspension

1 shall apply to contributions with respect to com-
2 pensation earned after the effective date of the sus-
3 pension. Only 1 suspension under this paragraph
4 may take effect during any year.”.

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

7 (1) by striking clause (ii),

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

10 (3) by striking “(i) ELIGIBLE EMPLOYER.—”,

11 and

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

14 (e) EFFECTIVE DATE.—

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

19 (2) DELAYED EFFECTIVE DATE FOR PLANS ES-
20 TABLISHED IN 1997.—In the case of plans estab-
21 lished in 1997 under section 408(p) of the Internal
22 Revenue Code of 1986, as in effect on January 1,
23 1997, the amendments made by this section shall
24 apply to taxable years beginning after December 31,
25 2002.

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

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

9 “(B) NONELECTIVE AND MATCHING CON-
10 TRIBUTIONS.—

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

14 “(ii) NONELECTIVE CONTRIBU-
15 TIONS.—The requirements of this clause
16 are met if, under the arrangement, the em-
17 ployer is required, without regard to
18 whether the employee makes an elective
19 contribution or employee contribution, to
20 make a contribution to a defined contribu-
21 tion plan on behalf of each employee who
22 is not a highly compensated employee and
23 who is eligible to participate in the ar-
24 rangement in an amount equal to at least
25 1 percent of the employee’s compensation.

1 “(iii) MATCHING CONTRIBUTIONS.—

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

8 “(I) 100 percent of the elective
9 contributions of the employee to the
10 extent such elective contributions do
11 not exceed 3 percent of the employee’s
12 compensation, and

13 “(II) 50 percent of the elective
14 contributions of the employee to the
15 extent that such elective contributions
16 exceed 3 percent but do not exceed 5
17 percent of the employee’s compensa-
18 tion.

19 “(iv) RATE FOR HIGHLY COM-
20 PENSATED EMPLOYEES.—The require-
21 ments of clause (iii) are not met if, under
22 the arrangement, the rate of matching con-
23 tribution with respect to any rate of elec-
24 tive contribution of a highly compensated
25 employee is greater than that with respect

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

7 “(v) ALTERNATIVE PLAN DESIGNS.—
8 If the rate of matching contribution with
9 respect to any rate of elective contribution
10 is not equal to the percentage required
11 under clause (iii), an arrangement shall
12 not be treated as failing to meet the re-
13 quirements of clause (iii) if—

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

18 “(II) the aggregate amount of
19 matching contributions at such rate of
20 elective contribution is at least equal
21 to the aggregate amount of matching
22 contributions which would be made if
23 matching contributions were made on
24 the basis of the percentages described
25 in clause (iii).”.

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

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

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

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

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

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

7 (3) by adding at the end the following new sub-
8 paragraph:

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

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

19 “(E) For purposes of this paragraph, in
20 the case of the first plan year of any plan, the
21 amount taken into account as the actual defer-
22 ral percentage of nonhighly compensated em-
23 ployees for the preceding plan year shall be—

24 “(i) 3 percent, or

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

5 “(I) an employer who elects to
6 have this clause apply, or

7 “(II) except to the extent pro-
8 vided by the Secretary, a successor
9 plan.”.

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

14 **SEC. 153. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
15 **EES.**

16 (a) IN GENERAL.—Subparagraph (B) of section
17 414(q)(1) (defining highly compensated employee) is
18 amended to read as follows:

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

21 (b) CONFORMING AMENDMENTS.—

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

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

5 (C) Section 416(i)(1)(A) is amended by striking
6 “section 414(q)(5)” and inserting “section
7 414(r)(9)”.

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

10 “(9) EXCLUDED EMPLOYEES.—For purposes of
11 paragraph (2)(A), the following employees shall be
12 excluded:

13 “(A) Employees who have not completed 6
14 months of service.

15 “(B) Employees who normally work less
16 than 17½ hours per week.

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

19 “(D) Employees who have not attained the
20 age of 21.

21 “(E) Except to the extent provided in reg-
22 ulations, employees who are included in a unit
23 of employees covered by an agreement which
24 the Secretary of Labor finds to be a collective

1 bargaining agreement between employee rep-
 2 resentatives and the employer.”.

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

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

10 **Subtitle C—Improving Retirement** 11 **Plan Coverage**

12 **SEC. 161. CREDIT FOR PENSION PLAN START-UP COSTS OF** 13 **SMALL EMPLOYERS.**

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

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

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

1 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP**
2 **COST CREDIT.**

3 “(a) **AMOUNT OF CREDIT.**—For purposes of section
4 38—

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

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

15 “(b) **ELIGIBLE EMPLOYER.**—For purposes of this
16 section, the term ‘eligible employer’ means an employer
17 which—

18 “(1) had an average daily number of employees
19 during the preceding taxable year not in excess of
20 50, and

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

25 “(c) **OTHER DEFINITIONS.**—For purposes of this
26 section—

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

4 “(A) are paid or incurred in connection
5 with the establishment of a qualified pension
6 plan or a qualified employer payroll deduction
7 system, and

8 “(B) are of a nonrecurring nature.

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

11 “(A) a plan described in section 401(a)
12 which includes a trust exempt from tax under
13 section 501(a),

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

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

18 “(3) QUALIFIED EMPLOYER PAYROLL DEDUC-
19 TION SYSTEM.—The term ‘qualified employer payroll
20 deduction system’ means a system described in sec-
21 tion 103 of the Retirement Security Act of 1997.

22 “(d) SPECIAL RULES.—For purposes of this sec-
23 tion—

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

1 of section 52 or subsection (n) or (o) of section 414
2 shall be treated as one person.

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

7 (c) CONFORMING AMENDMENTS.—

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

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

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

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

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to costs incurred after the date
22 of the enactment of this Act in taxable years ending after
23 such date.

1 **SEC. 162. TREATMENT OF MULTIEMPLOYER PLANS UNDER**
2 **SECTION 415.**

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

6 “(11) **SPECIAL LIMITATION RULE FOR GOVERN-**
7 **MENTAL AND MULTIEMPLOYER PLANS.**—In the case
8 of a governmental plan (as defined in section
9 414(d)) or a multiemployer plan (as defined in sec-
10 tion 414(f)), subparagraph (B) of paragraph (1)
11 shall not apply.”.

12 (b) **TREATMENT OF CERTAIN EXCESS BENEFIT**
13 **PLANS.**—

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

17 “(14) **TREATMENT OF EXCESS BENEFIT AR-**
18 **RANGEMENTS.**—

19 “(A) **IN GENERAL.**—Subsections (b)(2)
20 and (c)(1) shall not apply to any excess benefit
21 arrangement and benefits provided under such
22 an arrangement shall not be taken into account
23 in determining whether any other plan is an eli-
24 gible deferred compensation plan.

25 “(B) **EXCESS BENEFIT ARRANGEMENT DE-**
26 **FINED.**—For purposes of this section, the term

1 ‘excess benefit arrangement’ means a plan
2 which is maintained by an eligible employer
3 solely for purposes of providing benefits for cer-
4 tain employees in excess of the limits on con-
5 tributions and benefits imposed by section 415.
6 Such term includes a qualified governmental ex-
7 cess benefit arrangement (as defined in section
8 415(m)(3)).”.

9 (2) CONFORMING AMENDMENT.—Subparagraph
10 (E) of section 457(f)(2) (relating to tax treatment of
11 participants where plan or arrangement of employer
12 is not eligible) is amended to read as follows:

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

15 (c) EXEMPTION FOR SURVIVOR AND DISABILITY
16 BENEFITS.—Subparagraph (I) of section 415(b)(2) (relat-
17 ing to limitation for defined benefit plans) is amended—

18 (1) by inserting “or a multiemployer plan (as
19 defined in section 414(f))” after “section 414(d))”
20 in clause (i),

21 (2) by inserting “or multiemployer plan” after
22 “governmental plan” in clause (ii), and

23 (3) by inserting “AND MULTIEMPLOYER” after
24 “GOVERNMENTAL” in the heading.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect as if included in the amend-
3 ments made by section 1444 of the Small Business Job
4 Protection Act of 1996.

5 **SEC. 163. EXEMPTION OF MIRROR PLANS FROM SECTION**
6 **457 LIMITS.**

7 (a) IN GENERAL.—Subsection (e) of section 457 (re-
8 lating to deferred compensation plans of State and local
9 governments and tax-exempt organizations), as amended
10 by section 162(b)(1), is amended by adding at the end
11 the following new paragraph:

12 “(15) EXEMPTION FOR MIRROR PLANS.—

13 “(A) IN GENERAL.—Amounts of com-
14 pensation deferred under a mirror plan shall
15 not be taken into account in applying this sec-
16 tion to amounts of compensation deferred under
17 any other deferred compensation plan.

18 “(B) MIRROR PLAN.—The term ‘mirror
19 plan’ means a plan, program, or arrangement
20 maintained solely for the purpose of providing
21 retirement benefits for employees in excess of
22 the limitations imposed by section 401(a)(17)
23 or section 415, or both.”.

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

4 **SEC. 164. SPECIAL RULES FOR SELF-EMPLOYED INDIVID-**
 5 **UALS.**

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

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

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

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

22 (a) ELIMINATION OF CERTAIN WAITING PERIODS
 23 FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Para-
 24 graph (4) of section 8432(b) of title 5, United States
 25 Code, is amended to read as follows:

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

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

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

22 “(C) Notwithstanding the preceding provisions
23 of this paragraph, contributions under paragraphs
24 (1) and (2) of subsection (c) shall not be payable
25 with respect to any pay period before the earliest

1 pay period for which such contributions would other-
2 wise be allowable under this subsection if this para-
3 graph had not been enacted.

4 “(D) Sections 8351(a)(2), 8440a(a)(2),
5 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be
6 applied in a manner consistent with the purposes of
7 subparagraphs (A) and (B), to the extent those sub-
8 paragraphs can be applied with respect thereto.

9 “(E) Nothing in this paragraph shall affect
10 paragraph (3).”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Subtitle D—Simplifying Plan**
2 **Requirements**

3 **SEC. 171. FULL FUNDING LIMITATION FOR MULTIEM-**
4 **PLOYER PLANS.**

5 (a) AMENDMENTS TO CODE.—

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

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

11 (B) by inserting “AND MULTIEmployer
12 PLANS” after “PARAGRAPH (6)(B)” in the head-
13 ing thereof.

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

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

18 (B) by striking “ANNUAL VALUATION” in
19 the heading and inserting “VALUATION”.

20 (b) AMENDMENTS TO ERISA.—

21 (1) FULL-FUNDING LIMITATION.—Section
22 302(c)(7)(C) of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is
24 amended—

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

3 (B) by inserting “AND MULTIEMPLOYER
4 PLANS” after “PARAGRAPH (6)(B)” in the head-
5 ing thereof.

6 (2) VALUATION.—Section 302(c)(9) of such Act
7 (29 U.S.C. 1082(c)(9)) is amended—

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

10 (B) by striking “ANNUAL VALUATION” in
11 the heading and inserting “VALUATION”.

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

15 **SEC. 172. ELIMINATION OF PARTIAL TERMINATION RULES**
16 **FOR MULTIEMPLOYER PLANS.**

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

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to partial terminations beginning
25 after December 31, 1996.

1 **SEC. 173. MODIFICATIONS TO NONDISCRIMINATION AND**
2 **MINIMUM PARTICIPATION RULES WITH RE-**
3 **SPECT TO GOVERNMENTAL PLANS.**

4 (a) **GENERAL NONDISCRIMINATION AND PARTICIPA-**
5 **TION RULES.—**

6 (1) **NONDISCRIMINATION REQUIREMENTS.—**
7 Paragraph (5) of section 401(a) (relating to quali-
8 fied pension, profit-sharing, and stock bonus plans)
9 is amended by adding at the end the following new
10 subparagraph:

11 “(F) **GOVERNMENTAL PLANS.—**Para-
12 graphs (3) and (4) shall not apply to a govern-
13 mental plan (within the meaning of section
14 414(d)).”.

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

18 “(H) **EXCEPTION FOR GOVERNMENTAL**
19 **PLANS.—**This paragraph shall not apply to a
20 governmental plan (within the meaning of sec-
21 tion 414(d)).”.

22 (3) **MINIMUM PARTICIPATION STANDARDS.—**
23 Paragraph (2) of section 410(c) is amended to read
24 as follows:

25 “(2) A plan described in paragraph (1) shall be
26 treated as meeting the requirements of this section

1 for purposes of section 401(a), except that in the
2 case of a plan described in subparagraph (B), (C),
3 or (D) of paragraph (1), this paragraph shall only
4 apply if such plan meets the requirements of section
5 401(a)(3) (as in effect on September 1, 1974).”.

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

10 “(E)(i) The requirements of subparagraph
11 (A)(i) and (C) shall not apply to a govern-
12 mental plan (within the meaning of section
13 414(d)).

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

18 (c) NONDISCRIMINATION RULES FOR SECTION
19 403(b) PLANS.—Paragraph (12) of section 403(b) is
20 amended by adding at the end the following new subpara-
21 graph:

22 “(C) GOVERNMENTAL PLANS.—For pur-
23 poses of paragraph (1)(D), the requirements of

1 subparagraph (A)(i) shall not apply to a gov-
2 ernmental plan (within the meaning of section
3 414(d)).”.

4 (d) EFFECTIVE DATE.—

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

8 (2) TREATMENT FOR YEARS BEGINNING BE-
9 FORE DATE OF ENACTMENT.—A governmental plan
10 (within the meaning of section 414(d) of the Inter-
11 nal Revenue Code of 1986) shall be treated as satis-
12 fying the requirements of sections 401(a)(3),
13 401(a)(4), 401(a)(26), 401(k), 401(m), 403
14 (b)(1)(D) and (b)(12), and 410 of such Code for all
15 taxable years beginning before the date of the enact-
16 ment of this Act.

17 **SEC. 174. ELIMINATION OF REQUIREMENT FOR PLAN DE-**
18 **SCRIPTIONS AND THE FILING REQUIREMENT**
19 **FOR SUMMARY PLAN DESCRIPTIONS AND DE-**
20 **SCRIPTIONS OF MATERIAL MODIFICATIONS**
21 **TO A PLAN; TECHNICAL CORRECTIONS.**

22 (a) FILING REQUIREMENTS.—Section 101(b) of the
23 Employee Retirement Income Security Act of 1974 (29
24 U.S.C. 1021(b)) is amended by striking paragraphs (1),

1 (2), and (3) and by redesignating paragraphs (4) and (5)
2 as paragraphs (1) and (2), respectively.

3 (b) PLAN DESCRIPTION.—

4 (1) IN GENERAL.—Section 102(a) of the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1022(a)) is amended—

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

8 (B) by striking “(a)(1)” and inserting
9 “(a)”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 102(b) of such Act (29 U.S.C.
12 1022(b)) is amended by striking “The plan de-
13 scription and summary plan description shall
14 contain” and inserting “The summary plan de-
15 scription shall contain”.

16 (B) The heading for section 102 of such
17 Act is amended by striking “PLAN DESCRIPTION
18 AND”.

19 (c) FURNISHING OF REPORTS.—

20 (1) IN GENERAL.—Section 104(a)(1) of the
21 Employee Retirement Income Security Act of 1974
22 (29 U.S.C. 1024(a)(1)) is amended to read as fol-
23 lows:

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

10 (2) SECRETARY MAY REQUEST DOCUMENTS.—

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

14 “(6) The administrator of any employee benefit plan
15 subject to this part shall furnish to the Secretary, upon
16 request, any documents relating to the employee benefit
17 plan, including but not limited to, the latest summary plan
18 description (including any summaries of plan changes not
19 contained in the summary plan description), and the bar-
20 gaining agreement, trust agreement, contract, or other in-
21 strument under which the plan is established or oper-
22 ated.”.

1 (B) PENALTY.—Section 502(c) of such Act
2 (29 U.S.C. 1132(c)) is amended by redesignat-
3 ing paragraph (6) as paragraph (7) and by in-
4 serting after paragraph (5) the following new
5 paragraph:

6 “(6) If, within 30 days of a request by the Secretary
7 to a plan administrator for documents under section
8 104(a)(6), the plan administrator fails to furnish the ma-
9 terial requested to the Secretary, the Secretary may assess
10 a civil penalty against the plan administrator of up to
11 \$100 a day from the date of such failure (but in no event
12 in excess of \$1,000 per request). No penalty shall be im-
13 posed under this paragraph for any failure resulting from
14 matters reasonably beyond the control of the plan admin-
15 istrator.”.

16 (d) CONFORMING AMENDMENTS.—

17 (1) Section 104(b)(1) of the Employee Retirement
18 Income Security Act of 1974 (29 U.S.C.
19 1024(b)(1)) is amended by striking “section
20 102(a)(1)” each place it appears and inserting “sec-
21 tion 102(a)”.

22 (2) Section 104(b)(2) of such Act (29 U.S.C.
23 1024(b)(2)) is amended by striking “the plan de-
24 scription and” and inserting “the latest updated
25 summary plan description and”.

1 (3) Section 104(b)(4) of such Act (29 U.S.C.
2 1024(b)(4)) is amended by striking “plan descrip-
3 tion”.

4 (4) Section 106(a) of such Act (29 U.S.C.
5 1026(a)) is amended by striking “descriptions,”.

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

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

11 (7) Section 502(a)(6) of such Act (29 U.S.C.
12 1132(a)(6)) is amended by striking “or (5)” and in-
13 serting “(5), or (6)”.

14 (e) TECHNICAL CORRECTION.—Section 1144(c) of
15 the Social Security Act (42 U.S.C. 1320b–14(c)) is
16 amended by redesignating paragraph (9) as paragraph
17 (8).

18 **SEC. 175. NEW TECHNOLOGIES IN RETIREMENT PLANS.**

19 The Secretary of the Treasury and the Secretary of
20 Labor shall expand their efforts to examine existing guid-
21 ance regarding notice, recordkeeping, and operational re-
22 quirements for retirement plans, in order to permit the
23 use of new technologies by plan sponsors and administra-
24 tors in ways which maintain the protection of the rights
25 of participants and beneficiaries.

1 **TITLE II—SECURITY**

2 **SEC. 200. AMENDMENT OF ERISA.**

3 Except as otherwise expressly provided, whenever in
4 this title an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Employee Retirement In-
8 come Security Act of 1974.

9 **Subtitle A—General Provisions**

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

11 (a) LIMITATIONS ON INVESTMENT IN EMPLOYER SE-
12 CURITIES AND EMPLOYER REAL PROPERTY BY CASH OR
13 DEFERRED ARRANGEMENTS.—Paragraph (3) of section
14 407(d) (29 U.S.C. 1107(d)) is amended by adding at the
15 end the following new subparagraph:

16 “(D) The term ‘eligible individual account plan’
17 does not include that portion of an individual ac-
18 count plan that consists of elective deferrals (as de-
19 fined in section 402(g)(3) of the Internal Revenue
20 Code of 1986) pursuant to a qualified cash or de-
21 ferred arrangement as defined in section 401(k) of
22 the Internal Revenue Code of 1986 (and earnings
23 thereon), if such elective deferrals (or earnings
24 thereon) are required to be invested in qualifying

1 employer securities or qualifying employer real prop-
2 erty or both pursuant to the documents and instru-
3 ments governing the plan or at the direction of a
4 person other than the participant (or the partici-
5 pant's beneficiary) on whose behalf such elective de-
6 ferrals are made to the plan. For the purposes of
7 subsection (a), such portion shall be treated as a
8 separate plan. This subparagraph shall not apply to
9 an individual account plan if the fair market value
10 of the assets of all individual account plans main-
11 tained by the employer equals not more than 10 per-
12 cent of the fair market value of the assets of all pen-
13 sion plans maintained by the employer.”.

14 (b) EFFECTIVE DATE.—

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

18 (2) TRANSITION RULE FOR PLANS HOLDING
19 EXCESS SECURITIES OR PROPERTY.—

20 (A) IN GENERAL.—In the case of a plan
21 which on the date of the enactment of this Act,
22 has holdings of employer securities and em-
23 ployer real property (as defined in section

1 407(d) of the Employee Retirement Income Se-
2 curity Act of 1974 (29 U.S.C. 1107(d)) in ex-
3 cess of the amount specified in such section
4 407, the amendment made by this section ap-
5 plies to any acquisition of such securities and
6 property on or after such date, but does not
7 apply to the specific holdings which constitute
8 such excess during the period of such excess.

9 (B) SPECIAL RULE FOR CERTAIN ACQUISI-
10 TIONS.—Employer securities and employer real
11 property acquired pursuant to a binding written
12 contract to acquire such securities and real
13 property entered into and in effect on the date
14 of the enactment of this Act, shall be treated as
15 acquired immediately before such date.

16 **SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVEST-**
17 **MENT REPORTS APPLIED TO CERTAIN 401(k)**
18 **PLANS.**

19 (a) IN GENERAL.—Section 104(b)(3) (29 U.S.C.
20 1024(b)(3)) is amended—

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

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

24 “(B)(i) If a plan includes a qualified cash or
25 deferred arrangement (as defined in section

1 401(k)(2) of the Internal Revenue Code of 1986)
2 and is maintained by an employer with less than 100
3 participants, the administrators shall furnish to each
4 participant and to each beneficiary receiving benefits
5 under the plan an annual investment report detail-
6 ing such information as the Secretary by regulation
7 shall require.

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

10 (b) REGULATIONS.—

11 (1) IN GENERAL.—The Secretary of Labor, in
12 prescribing regulations required under section
13 104(b)(3)(B)(i) of the Employee Retirement Income
14 Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)),
15 as added by subsection (a), shall consider including
16 in the information required in an annual investment
17 report the following:

18 (A) Total plan assets and liabilities as of
19 the beginning and ending of the plan year.

20 (B) Plan income and expenses and con-
21 tributions made and benefits paid for the plan
22 year.

23 (C) Any transaction between the plan and
24 the employer, any fiduciary, or any 10-percent

1 owner during the plan year, including the acqui-
2 sition of any employer security or employer real
3 property.

4 (D) Any noncash contributions made to or
5 purchases of nonpublicly traded securities made
6 by the plan during the plan year without an ap-
7 praisal by an independent third party.

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

16 (2) ELECTRONIC TRANSFER.—The Secretary of
17 Labor in prescribing such regulations shall also
18 make provision for the electronic transfer of the re-
19 quired annual investment report by a plan adminis-
20 trator to plan participants and beneficiaries.

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

1 **SEC. 203. STUDY ON INVESTMENTS IN COLLECTIBLES.**

2 (a) STUDY.—The Secretary of Labor, in consultation
3 with the Secretary of the Treasury, shall study the extent
4 to which pension plans invest in collectibles and whether
5 such investments present a risk to the pension security
6 of the participants and beneficiaries of such plans.

7 (b) REPORT.—Not later than 12 months after the
8 date of the enactment of this Act, the Secretary of Labor
9 shall submit a report to the Congress containing the find-
10 ings of the study described in subsection (a) and any rec-
11 ommendations for legislative action.

12 **SEC. 204. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
13 **MAKING LOANS THROUGH CREDIT CARDS**
14 **AND OTHER INTERMEDIARIES.**

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

18 “(35) PROHIBITION OF LOANS THROUGH CRED-
19 IT CARDS AND OTHER INTERMEDIARIES.—A trust
20 shall not constitute a qualified trust under this sec-
21 tion if the plan makes any loan to any beneficiary
22 under the plan through the use of any credit card
23 or any other intermediary.”.

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

1 **SEC. 205. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.**

2 (a) IN GENERAL.—Section 4022A(c) (29 U.S.C.
3 1322a(c)) is amended—

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

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

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

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

17 **SEC. 206. PROHIBITED TRANSACTIONS.**

18 (a) IN GENERAL.—Section 502(i) (29 U.S.C.
19 1132(i)) is amended by striking “5 percent” and inserting
20 “10 percent”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to prohibited transactions occur-
23 ring after the date of the enactment of this Act.

1 **SEC. 207. SUBSTANTIAL OWNER BENEFITS.**

2 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—

3 Subparagraphs (B) and (C) of section 4022(b)(5) (29
4 U.S.C. 1322(b)(5)) are amended to read as follows:

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

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

13 “(i) a fraction (not to exceed 1) the numerator
14 of which is the number of years from the later of the
15 effective date or the adoption date of the plan to the
16 termination date, and the denominator of which is
17 30, and

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

21 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

22 (1) Section 4044(a)(4)(B) (29 U.S.C.
23 1344(a)(4)(B)) is amended by striking “section
24 4022(b)(5)” and inserting “section 4022(b)(5)(C)”.

25 (2) Section 4044(b) (29 U.S.C. 1344(b)) is
26 amended—

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

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

7 “(3) If assets available for allocation under
8 paragraph (4) of subsection (a) are insufficient to
9 satisfy in full the benefits of all individuals who are
10 described in that paragraph, the assets shall be allo-
11 cated first to benefits described in subparagraph (A)
12 of that paragraph. Any remaining assets shall then
13 be allocated to subparagraph (B). If assets allocated
14 to subparagraph (B) are insufficient to satisfy in full
15 the benefits in that subparagraph, the assets shall
16 be allocated pro rata among individuals on the basis
17 of the present value (as of the termination date) of
18 their respective benefits described in that subpara-
19 graph.”.

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

22 (1) under section 4041(c) of the Employee Re-
23 tirement Income Security Act of 1974 (29 U.S.C.
24 1341(c)) with respect to which notices of intent to
25 terminate are provided under section 4041(a)(2) of

1 such Act (29 U.S.C. 1341(a)(2)) on or after the
2 date of the enactment of this Act, or

3 (2) under section 4042 of such Act (29 U.S.C.
4 1342) with respect to which proceedings are insti-
5 tuted by the corporation on or after such date.

6 **SEC. 208. REVERSION REPORT.**

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

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

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

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

23 **SEC. 209. DEVELOPMENT OF ADDITIONAL REMEDIES.**

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

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

4 (2) this goal can be achieved in part by sim-
5 plifying the pension system and reducing administra-
6 tive costs of maintaining pension plans for all em-
7 ployers;

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

12 (4) the Secretary of the Treasury has com-
13 mendably already acted to develop programs in-
14 tended to facilitate such corrections; and

15 (5) efficient correction serves participants and
16 beneficiaries not only by fulfilling the law's require-
17 ments regarding pension plans but also by directing
18 funds into plans rather than toward correction ef-
19 forts and by encouraging employers to continue to
20 sponsor support for such plans.

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

23 (1) review existing correction mechanisms to de-
24 termine whether modifications might facilitate addi-
25 tional utilization by sponsors, improve voluntary

1 compliance, and hasten the correction of pension
2 plans,

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

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

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

11 **Subtitle B—ERISA Enforcement**

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

13 (a) IN GENERAL.—Section 103(a)(3)(C) (29 U.S.C.
14 1023(a)(3)(C)) is amended by adding at the end the fol-
15 lowing:

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

1 (b) CONFORMING AMENDMENTS.—

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

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

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

17 **SEC. 212. ADDITIONAL REQUIREMENTS FOR QUALIFIED**
18 **PUBLIC ACCOUNTANTS.**

19 (a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C.
20 1023(a)(3)(D)) is amended—

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

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

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

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

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

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

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

13 “(ii) A person meets the requirements
14 of this clause with respect to an engage-
15 ment of such person as an accountant
16 under subparagraph (A) if such person—

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

19 “(II) has undergone a qualified
20 external quality control review of the
21 person’s accounting and auditing
22 practices, including such practices rel-
23 evant to employee benefit plans (if

1 any), during the 3-year period imme-
2 diately preceding such engagement;
3 and

4 “(III) has completed, within the
5 2-year period immediately preceding
6 such engagement, at least 80 hours of
7 continuing education or training
8 which contributes to the accountant’s
9 professional proficiency and which
10 meets such requirements as may be
11 prescribed by the Secretary in regula-
12 tions.

13 The Secretary shall issue the regulations
14 under subclause (III) not later than De-
15 cember 31, 1998.

16 “(iii) A person meets the require-
17 ments of this clause with respect to an en-
18 gagement of such person as an accountant
19 under subparagraph (A) if such person
20 meets such additional requirements and
21 qualifications of regulations which the Sec-
22 retary deems necessary to ensure the qual-
23 ity of plan audits.

24 “(iv) For purposes of clause (ii)(II),
25 an external quality control review shall be

1 treated as qualified with respect to a per-
2 son referred to in clause (ii) if—

3 “(I) such review is performed in
4 accordance with the requirements of
5 external quality control review pro-
6 grams of recognized auditing stand-
7 ard-setting bodies, as determined in
8 regulations of the Secretary, and

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

19 The Secretary shall issue the regulations
20 under subclause (I) not later than Decem-
21 ber 31, 1998.”.

22 (b) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this section
25 shall apply with respect to plan years beginning on

1 or after the date which is 3 years after the date of
2 the enactment of this Act.

3 (2) RESTRICTIONS ON CONDUCTING EXAMINA-
4 TIONS.—Clause (iii) of section 103(a)(3)(D) of the
5 Employee Retirement Income Security Act of 1974
6 (as added by subsection (a)(6)) shall take effect on
7 the date of the enactment of this Act.

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

9 (a) MODIFICATION OF PROHIBITION OF ASSIGNMENT
10 OR ALIENATION.—

11 (1) IN GENERAL.—Section 206(d) (29 U.S.C.
12 1056(d)) is amended by adding at the end the fol-
13 lowing new paragraphs:

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

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

19 “(i) under a judgment of conviction for a
20 crime involving such plan,

21 “(ii) under a civil judgment (including a
22 consent order or decree) entered by a court in
23 an action brought in connection with a violation
24 (or alleged violation) of part 4 of this subtitle,

25 or

1 “(iii) pursuant to a settlement agreement
2 between the Secretary and the participant, or a
3 settlement agreement between the Pension Ben-
4 efit Guaranty Corporation and the participant,
5 in connection with a violation (or alleged viola-
6 tion) of part 4 of this subtitle by a fiduciary or
7 any other person,

8 “(B) the judgment, order, decree, or settlement
9 agreement expressly provides for the offset of all or
10 part of the amount ordered or required to be paid
11 to the plan against the participant’s accrued benefit
12 in the plan, and

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

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

18 “(ii) such spouse is ordered or required in
19 such judgment, order, decree, or settlement to
20 pay an amount to the plan in connection with
21 a violation of part 4 of this title, or

22 “(iii) in such judgment, order, decree, or
23 settlement, such spouse retains the right to re-
24 ceive the value of the survivor annuity under a
25 qualified joint and survivor annuity provided

1 pursuant to section 205(a)(1) and under a
2 qualified preretirement survivor annuity pro-
3 vided pursuant to section 205(a)(2), determined
4 in accordance with paragraph (5).

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

7 “(i) the participant terminated employment on
8 the date of the offset,

9 “(ii) there was no offset,

10 “(iii) the plan permitted retirement only on or
11 after normal retirement age,

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

14 “(v) the amount of the qualified preretirement
15 survivor annuity under the plan is equal to the
16 amount of the survivor annuity payable under the
17 minimum-required qualified joint and survivor annu-
18 ity.

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

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

6 (b) CIVIL PENALTIES FOR BREACH OF FIDUCIARY
7 RESPONSIBILITY.—

8 (1) IMPOSITION AND AMOUNT OF PENALTY
9 MADE DISCRETIONARY.—Section 502(l)(1) (29
10 U.S.C. 1132(l)(1)) is amended—

11 (A) by striking “shall” and inserting
12 “may”, and

13 (B) by striking “equal to” and inserting
14 “not greater than”.

15 (2) APPLICABLE RECOVERY AMOUNT.—Section
16 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read
17 as follows:

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

1 Secretary under subsection (a)(2) or (a)(5). The Secretary
2 may, in the Secretary's sole discretion, extend the 30-day
3 period described in the preceding sentence.”.

4 (3) OTHER RULES.—Section 502(l) (29 U.S.C.
5 1132(l)) is amended by adding at the end the follow-
6 ing new paragraphs:

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

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

15 (4) EFFECTIVE DATES.—

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

23 (B) TRANSITION RULE.—In applying the
24 amendment made by paragraph (2) (relating to
25 applicable recovery amount), a breach or other

1 violation occurring before the date of the enact-
2 ment of this Act which continues after the
3 180th day after such date (and which may have
4 been discontinued at any time during its exist-
5 ence) shall be treated as having occurred after
6 such date of enactment.

7 **SEC. 214. CONFORMING AMENDMENTS RELATING TO ERISA**
8 **ENFORCEMENT.**

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

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

20 “(i) the order or requirement to pay
21 arises—

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

1 “(II) under a civil judgment (in-
2 cluding a consent order or decree) en-
3 tered by a court in an action brought
4 in connection with a violation (or al-
5 leged violation) of part 4 of subtitle B
6 of title I of the Employee Retirement
7 Income Security Act of 1974, or

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

16 “(ii) the judgment, order, decree, or
17 settlement agreement expressly provides
18 for the offset of all or part of the amount
19 ordered or required to be paid to the plan
20 against the participant’s accrued benefit in
21 the plan, and

22 “(iii) if the participant has a spouse
23 at the time at which the offset is to be
24 made—

1 “(I) such spouse has consented
2 in writing to such offset and such con-
3 sent is witnessed by a notary public or
4 representative of the plan,

5 “(II) such spouse is ordered or
6 required to pay in such judgment,
7 order, decree, or settlement an
8 amount to the plan in connection with
9 a violation of part 4 of this title, or

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

20 “(D) DETERMINATION OF VALUE OF SUR-
21 VIVOR ANNUITY IN CONNECTION WITH OFF-
22 SET.—The value of the survivor annuity de-
23 scribed in subparagraph (C)(iii)(III) shall be
24 determined as if—

1 “(i) the participant terminated em-
2 ployment on the date of the offset,

3 “(ii) there was no offset,

4 “(iii) the plan permitted retirement
5 only on or after normal retirement age,

6 “(iv) the plan provided only the mini-
7 mum-required qualified joint and survivor
8 annuity, and

9 “(v) the amount of the qualified pre-
10 retirement survivor annuity under the plan
11 is equal to the amount of the survivor an-
12 nuity payable under the minimum-required
13 qualified joint and survivor annuity.

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

23 “(E) WAIVER OF CERTAIN DISTRIBUTION
24 REQUIREMENTS.—With respect to the require-
25 ments of subsections (a) and (k) of section 401,

1 section 403(b), and section 409(d), a plan shall
 2 not be treated as failing to meet such require-
 3 ments solely by reason of an offset under sub-
 4 paragraph (C).”.

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

9 **TITLE III—PORTABILITY**

10 **SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CON-** 11 **TRIBUTIONS.**

12 (a) IN GENERAL.—Paragraph (2) of section 203(a)
 13 of the Employee Retirement Income Security Act of 1974
 14 (29 U.S.C. 1053(a)) is amended—

15 (1) by striking “or (B)” and inserting “(B),
 16 and, if applicable, (C)”,

17 (2) by striking “3”, “4”, “5”, “6”, and “7” in
 18 the table in subparagraph (B) and inserting “1”,
 19 “2”, “3”, “4”, and “5”, respectively, and

20 (3) by adding at the end the following new sub-
 21 paragraph:

22 “(C) 401(k) PLANS.—A plan satisfies the re-
 23 quirements of this subparagraph if—

24 “(i) the plan includes a qualified cash or
 25 deferred arrangement (as defined in section

1 401(k)(2)) of the Internal Revenue Code of
2 1986, and

3 “(ii) an employee who has completed at
4 least 3 years of service has a nonforfeitable
5 right to 100 percent of the employee’s accrued
6 benefit derived from employer matching con-
7 tributions (as defined in section 401(m)(4)(A)
8 of such Code).

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

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

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

3 (2) by striking “3”, “4”, “5”, “6”, and “7” in
4 the table in subparagraph (B) and inserting “1”,
5 “2”, “3”, “4”, and “5”, respectively,

6 (3) by striking “3 TO 7” and inserting “1 TO
7 5”, and

8 (4) by adding at the end the following new sub-
9 paragraph:

10 “(C) 401(k) PLANS.—A plan satisfies the
11 requirements of this subparagraph if—

12 “(i) the plan includes a qualified cash
13 or deferred arrangement (as defined in sec-
14 tion 401(k)(2)), and

15 “(ii) an employee who has completed
16 at least 3 years of service has a nonforfeit-
17 able right to 100 percent of the employee’s
18 accrued benefit derived from employer
19 matching contributions (as defined in sec-
20 tion 401(m)(4)(A)).

21 For purposes of this subparagraph, matching
22 contributions shall be taken into account re-
23 gardless of whether the matching contributions
24 are made to the same plan as the contributions

1 made under section 401(k), and matching con-
2 tributions to any plan shall be taken into ac-
3 count if such matching contributions are made
4 with respect to after-tax employee contributions
5 and if the employer's limit on matching con-
6 tributions with respect to such after-tax em-
7 ployee contributions is coordinated with the em-
8 ployer's limit on matching contributions with
9 respect to contributions under such section.”.

10 (c) EFFECTIVE DATE.—

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

15 (2) APPLICATION TO CURRENT EMPLOYEES.—

16 The amendments made by this section shall not
17 apply to any employee who does not have at least 1
18 hour of service in any plan year beginning after De-
19 cember 31, 1997.

20 (3) COLLECTIVE BARGAINING AGREEMENTS.—

21 In the case of a plan maintained pursuant to 1 or
22 more collective bargaining agreements between em-
23 ployee representatives and 1 or more employers rati-
24 fied by the date of the enactment of this Act, the
25 amendments made by this section shall not apply to

1 employees covered by any such agreement in plan
2 years beginning before the earlier of—

3 (A) the later of—

4 (i) the date on which the last of such
5 collective bargaining agreements termi-
6 nates (determined without regard to any
7 extension thereof on or after such date of
8 enactment), or

9 (ii) January 1, 1998, or

10 (B) January 1, 2002.

11 **SEC. 302. RATIONALIZE THE RESTRICTIONS ON DISTRIBU-**
12 **TIONS FROM 401(k) PLANS.**

13 (a) **IN GENERAL.**—Section 401(k)(2)(B)(i)(I) of the
14 Internal Revenue Code of 1986 (relating to qualified cash
15 or deferred arrangements) is amended by striking “sepa-
16 ration from service” and inserting “severance from em-
17 ployment”.

18 (b) **BUSINESS SALE REQUIREMENTS DELETED.**—

19 (1) **IN GENERAL.**—Section 401(k)(2)(B)(i)(II)
20 of the Internal Revenue Code of 1986 (relating to
21 qualified cash or deferred arrangements) is amended
22 by striking “an event” and inserting “a plan termi-
23 nation”.

24 (2) **CONFORMING AMENDMENTS.**—Section
25 401(k)(10) of such Code is amended—

1 (A) by striking subparagraph (A) and in-
 2 serting the following:

3 “(A) IN GENERAL.—A plan termination is
 4 described in this paragraph if the termination
 5 of the plan is without establishment or mainte-
 6 nance of another defined contribution plan
 7 (other than an employee stock ownership plan
 8 as defined in section 4975(e)(7)).”,

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

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

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to distributions after December 31,
 14 1997.

15 **SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED**
 16 **CONTRIBUTION PLANS.**

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

21 “(D) PLAN TRANSFERS.—A defined con-
 22 tribution plan (in this subparagraph referred to
 23 as the ‘transferee plan’) shall not be treated as
 24 failing to meet the requirements of this para-
 25 graph merely because the transferee plan does

1 not provide some or all of the forms of distribu-
2 tion previously available under another defined
3 contribution plan (in this subparagraph referred
4 to as the ‘transferor plan’) to the extent that—

5 “(i) the forms of distribution pre-
6 viously available under the transferor plan
7 applied to the account of a participant or
8 beneficiary under the transferor plan that
9 was transferred from the transferor plan to
10 the transferee plan pursuant to a direct
11 transfer rather than pursuant to a dis-
12 tribution from the transferor plan,

13 “(ii) the terms of both the transferor
14 plan and the transferee plan authorize the
15 transfer described in clause (i),

16 “(iii) the transfer described in clause
17 (i) was made pursuant to a voluntary elec-
18 tion by the participant or beneficiary
19 whose account was transferred to the
20 transferee plan,

21 “(iv) the election described in clause
22 (iii) was made after the participant or ben-
23 efiary received a notice describing the
24 consequences of making the election,

1 “(v) if the transferor plan provides for
2 an annuity as the normal form of distribu-
3 tion under the plan in accordance with sec-
4 tion 417, the transfer is made with the
5 consent of the participant’s spouse (if
6 any), and such consent meets requirements
7 similar to the requirements imposed by
8 section 417(a)(2), and

9 “(vi) the transferee plan allows the
10 participant or beneficiary described in
11 clause (iii) to receive any distribution to
12 which the participant or beneficiary is enti-
13 tled under transferee plan in the form of
14 a single sum distribution.”.

15 (b) CONFORMING AMENDMENT.—Section 204(g) of
16 the Employee Retirement Income Security Act of 1974
17 (29 U.S.C. 1054(g)) is amended by adding at the end the
18 following new paragraph:

19 “(4) A defined contribution plan (in this paragraph
20 referred to as the ‘transferee plan’) shall not be treated
21 as failing to meet the requirements of this subsection
22 merely because the transferee plan does not provide some
23 or all of the forms of distribution previously available

1 under another defined contribution plan (in this para-
2 graph referred to as the ‘transferor plan’) to the extent
3 that—

4 “(A) the forms of distribution previously avail-
5 able under the transferor plan applied to the account
6 of a participant or beneficiary under the transferor
7 plan that was transferred from the transferor plan
8 to the transferee plan pursuant to a direct transfer
9 rather than pursuant to a distribution from the
10 transferor plan,

11 “(B) the terms of both the transferor plan and
12 the transferee plan authorize the transfer described
13 in subparagraph (A),

14 “(C) the transfer described in subparagraph
15 (A) was made pursuant to a voluntary election by
16 the participant or beneficiary whose account was
17 transferred to the transferee plan,

18 “(D) the election described in subparagraph (C)
19 was made after the participant or beneficiary re-
20 ceived a notice describing the consequences of mak-
21 ing the election,

22 “(E) if the transferor plan provides for an an-
23 nuity as the normal form of distribution under the
24 plan in accordance with section 205, the transfer is
25 made with the consent of the participant’s spouse (if

1 any), and such consent meets requirements similar
2 to the requirements imposed by section 205(c)(2),
3 and

4 “(F) the transferee plan allows the participant
5 or beneficiary described in subparagraph (C) to re-
6 ceive any distribution to which the participant or
7 beneficiary is entitled under transferee plan in the
8 form of a single sum distribution.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to transfers after December 31,
11 1997.

12 **SEC. 304. MISSING PARTICIPANTS.**

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

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

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

23 “(1) TRANSFER TO CORPORATION.—The plan
24 administrator of a plan described in paragraph (4)

1 may elect to transfer a missing participant's benefits
2 to the corporation upon termination of the plan.

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

9 “(A) to the corporation, or

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

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

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

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

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

24 “(A) the plan is a pension plan (within the
25 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.—

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

21 (A) by striking “title IV” and inserting
22 “section 4050”, and

23 (B) by striking “the plan shall provide
24 that”.

1 (2) Section 401(a)(34) (relating to benefits of
2 missing participants on plan termination) is amend-
3 ed by striking “title IV” and inserting “section
4 4050”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to distributions made after final
7 regulations implementing subsections (c) and (d) of sec-
8 tion 4050 of the Employee Retirement Income Security
9 Act of 1974 (as added by subsection (a)), respectively, are
10 prescribed.

11 **TITLE IV—TOWARD EQUITY FOR** 12 **WOMEN**

13 **SEC. 401. INDIVIDUAL’S PARTICIPATION IN PLAN NOT** 14 **TREATED AS PARTICIPATION BY SPOUSE.**

15 (a) IN GENERAL.—Paragraph (1) of section 219(g)
16 of the Internal Revenue Code of 1986 (relating to limita-
17 tion on deduction for active participants in certain pension
18 plans) is amended by striking “or the individual’s spouse”.

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

22 **SEC. 402. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-** 23 **ITY REQUIREMENTS.**

24 (a) AMENDMENTS TO ERISA.—

25 (1) AMOUNT OF ANNUITY.—

1 (A) IN GENERAL.—Paragraph (1) of sec-
2 tion 205(a) of the Employee Retirement Income
3 Security Act of 1974 (29 U.S.C. 1055(a)) is
4 amended by inserting “or, at the election of the
5 participant, shall be provided in the form of a
6 qualified joint and $\frac{2}{3}$ survivor annuity” after
7 “survivor annuity.”

8 (B) DEFINITION.—Subsection (d) of sec-
9 tion 205 of such Act (29 U.S.C. 1055) is
10 amended—

11 (i) by redesignating paragraphs (1)
12 and (2) as subparagraphs (A) and (B), re-
13 spectively,

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

16 (iii) by adding at the end the follow-
17 ing new paragraph:

18 “(2) For purposes of this section, the term “qualified
19 joint and $\frac{2}{3}$ survivor annuity” means an annuity—

20 “(A) for the participant while both the partici-
21 pant and the spouse are alive with a survivor annu-
22 ity for the life of surviving individual (either the par-
23 ticipant or the spouse) equal to 67 percent of the

1 amount of the annuity which is payable to the par-
2 ticipant while both the participant and the spouse
3 are alive,

4 “(B) which is the actuarial equivalent of a sin-
5 gle annuity for the life of the participant, and

6 “(C) which, for all other purposes of this Act,
7 is treated as a qualified joint and survivor annuity.”.

8 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
9 of 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 $\frac{2}{3}$
13 survivor annuity offered, accompanied by an illustra-
14 tion of the benefits under each such annuity for the
15 particular participant and spouse and an acknowl-
16 edgement form to be signed by the participant and
17 the spouse that they have read and considered the
18 illustration before any form of retirement benefit is
19 chosen,”.

20 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

21 (1) AMOUNT OF ANNUITY.—

22 (A) IN GENERAL.—Clause (i) of section
23 401(a)(11)(A) of the Internal Revenue Code of

1 1986 (relating to requirement of joint and sur-
2 vivor annuity and preretirement survivor annu-
3 ity) is amended by inserting “or, at the election
4 of the participant, shall be provided in the form
5 of a qualified joint and $\frac{2}{3}$ survivor annuity”
6 after “survivor annuity,”.

7 (B) DEFINITION.—Section 417 of such
8 Code (relating to definitions and special rules
9 for purposes of minimum survivor annuity re-
10 quirements) is amended by redesignating sub-
11 section (f) as subsection (g) and by inserting
12 after subsection (e) the following new sub-
13 section:

14 “(f) DEFINITION OF QUALIFIED JOINT AND $\frac{2}{3}$ SUR-
15 VIVOR ANNUITY.—For purposes of this section and section
16 401(a)(11), the term “qualified joint and $\frac{2}{3}$ survivor an-
17 nuity” means an annuity—

18 “(1) for the participant while both the partici-
19 pant and the spouse are alive with a survivor annu-
20 ity for the life of surviving individual (either the par-
21 ticipant or the spouse) equal to 67 percent of the
22 amount of the annuity which is payable to the par-
23 ticipant while both the participant and the spouse
24 are alive,

1 “(2) which is the actuarial equivalent of a sin-
2 gle annuity for the life of the participant, and

3 “(3) which, for all other purposes of this title,
4 is treated as a qualified joint and survivor annuity.”.

5 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
6 of section 417(a)(3)(A) of such Code (relating to ex-
7 planation of joint and survivor annuity) is amended
8 to read as follows:

9 “(i) the terms and conditions of each
10 qualified joint and survivor annuity and
11 qualified joint and $\frac{2}{3}$ survivor annuity of-
12 fered, accompanied by an illustration of
13 the benefits under each such annuity for
14 the particular participant and spouse and
15 an acknowledgement form to be signed by
16 the participant and the spouse that they
17 have read and considered the illustration
18 before any form of retirement benefit is
19 chosen,”.

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

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

24 (a) AMENDMENTS TO THE INTERNAL REVENUE
25 CODE OF 1986.—Subsection (p)(1) of section 414 of the

1 Internal Revenue Code of 1986 is amended by adding the
2 following new subparagraph:

3 “(C) DEEMED DOMESTIC RELATIONS
4 ORDER UPON DIVORCE.—

5 “(i) IN GENERAL.—A divorce decree
6 issued with respect to the participant and
7 the former spouse pursuant to a State do-
8 mestic relations law (including an annul-
9 ment or other order of marital dissolution)
10 shall, upon delivery to a plan along with
11 the information required by paragraph
12 (2)(A), be deemed by the plan to be a do-
13 mestic relations order that specifies that
14 50 percent of the marital share of the par-
15 ticipant’s accrued benefit is to be provided
16 to such former spouse, unless the divorce
17 decree states that pension benefits were
18 considered by the parties and no division is
19 intended.

20 “(ii) MARITAL SHARE.—The marital
21 share shall be the accrued benefit of the
22 participant under the plan as of the date
23 of the divorce (to the extent such accrued
24 benefit is vested at the date of the divorce
25 or any later date) multiplied by a fraction,

1 the numerator of which is the period of
2 participation by the participant under the
3 plan starting with the date of marriage
4 and ending with the date of divorce, and
5 the denominator of which is the total pe-
6 riod of participation by the participant
7 under the plan.

8 “(iii) INTERPRETATION AS QUALIFIED
9 DOMESTIC RELATIONS ORDER.—Each plan
10 shall establish reasonable rules for deter-
11 mining how any such deemed domestic re-
12 lations order is to be interpreted under the
13 plan so as to constitute a qualified domes-
14 tic relations order that satisfies paragraphs
15 (2) through (4) (and a copy of such rules
16 shall be provided to such former spouse
17 promptly after delivery of the divorce de-
18 cree). Such rules—

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

23 “(II) may allow the former
24 spouse to be paid out immediately,

1 “(III) shall permit the former
2 spouse to be paid not later than the
3 earliest retirement age under the plan,

4 “(IV) may require the submitter
5 of the divorce decree to present a
6 marriage certificate or other evidence
7 of the marriage date to assist in bene-
8 fit calculations,

9 “(V) may require that a divorce
10 decree be presented on the date which
11 is not later than 2 years after the
12 date of the issuance of the decree, and

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

17 “(iv) APPLICATION.—This subpara-
18 graph shall not apply to the extent that a
19 qualified domestic relations order issued in
20 connection with such divorce provides oth-
21 erwise.”.

22 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
23 INCOME SECURITY ACT OF 1974.—Subsection (d)(2)(B)

1 of section 206 of the Employee Retirement Income Secu-
2 rity Act of 1974 (29 U.S.C. 1056) is amended by adding
3 the following new subclause (iii):

4 “(iii) DEEMED DOMESTIC RELATIONS
5 ORDER UPON DIVORCE.—

6 “(I) IN GENERAL.—A divorce de-
7 cree issued with respect to the partici-
8 pant and the former spouse pursuant
9 to a State domestic relations law (in-
10 cluding an annulment or other order
11 of marital dissolution) shall, upon de-
12 livery to a plan along with the infor-
13 mation required by subparagraph
14 (C)(i), be deemed by the plan to be a
15 domestic relations order that specifies
16 that 50 percent of the marital share
17 of the participant’s accrued benefit is
18 to be provided to such former spouse.

19 “(II) MARITAL SHARE.—The
20 marital share shall be the accrued
21 benefit of the participant under the
22 plan as of the date of the divorce (to
23 the extent such accrued benefit is
24 vested at the date of the divorce or

1 any later date) multiplied by a frac-
2 tion, the numerator of which is the
3 period of participation by the partici-
4 pant under the plan starting with the
5 date of marriage and ending with the
6 date of divorce, and the denominator
7 of which is the total period of partici-
8 pation by the participant under the
9 plan.

10 “(III) INTERPRETATION AS
11 QUALIFIED DOMESTIC RELATIONS
12 ORDER.—Each plan shall establish
13 reasonable rules for determining how
14 any such deemed domestic relations
15 order is to be interpreted under the
16 plan so as to constitute a qualified do-
17 mestic relations order that satisfies
18 subparagraphs (C) through (E) (and
19 a copy of such rules shall be provided
20 to such former spouse promptly after
21 delivery of the divorce decree). Such
22 rules (aa) 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, (bb) may

1 allow the former spouse to be paid out
 2 immediately, and (cc) shall permit the
 3 spouse to be paid not later than the
 4 earliest retirement age under the plan.

5 “(IV) APPLICATION.—This sub-
 6 clause shall not apply to the extent
 7 that a qualified domestic relations
 8 order issued in connection with such
 9 divorce provides otherwise.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall be effective for divorce decrees issued
 12 after December 31, 1999.

13 **SEC. 404. DEFERRED ANNUITIES FOR SURVIVING SPOUSES**
 14 **OF FEDERAL EMPLOYEES.**

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

17 (1) in subsection (h)(1), by striking “section
 18 8338(b) of this title” and inserting “section
 19 8338(b), and a former spouse of a deceased former
 20 employee who separated from the service with title
 21 to a deferred annuity under section 8338 (if they
 22 were married to one another prior to the date of sep-
 23 aration),”; and

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

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

7 “(A) an annuity, commencing on what would
8 have been the former employee’s 62d birthday, equal
9 to 55 percent of the former employee’s deferred an-
10 nuity;

11 “(B) an annuity, commencing on the day after
12 the date of death of the former employee, such that,
13 to the extent practicable, the present value of the fu-
14 ture payments of the annuity would be actuarially
15 equivalent to the present value of the future pay-
16 ments under subparagraph (A) as of the day after
17 the former employee’s death; or

18 “(C) the lump-sum credit, if the surviving
19 spouse is the individual who would be entitled to the
20 lump-sum credit and if such surviving spouse files
21 application therefor.

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

1 (b) CORRESPONDING AMENDMENT FOR FERS.—
2 Section 8445(a) of title 5, United States Code, is amend-
3 ed—

4 (1) by striking “(or of a former employee or”
5 and inserting “(or of a former”); and

6 (2) by striking “annuity)” and inserting “annu-
7 ity, or of a former employee who dies after having
8 separated from the service with title to a deferred
9 annuity under section 8413 but before having estab-
10 lished a valid claim for annuity (if such former
11 spouse was married to such former employee prior
12 to the date of separation))”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to surviving spouses
15 and former spouses (whose marriage, in the case of the
16 amendments made by subsection (a), terminated after
17 May 6, 1985) of former employees who die after the date
18 of the enactment of this Act.

19 **SEC. 405. PAYMENT OF LUMP-SUM CREDIT FOR FORMER**
20 **SPOUSES OF FEDERAL EMPLOYEES.**

21 (a) IN GENERAL.—Title 5, United States Code, is
22 amended—

23 (1) in section 8342(c), by striking “Lump-sum”
24 and inserting “Except as provided in section
25 8345(j), lump-sum”;

1 (2) in section 8345(j)—

2 (A) in paragraph (1), by inserting after
3 “that individual” the following: “, or be made
4 under section 8342(d) through (f) to an individ-
5 ual entitled under section 8342(e),”; and

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

7 “(4) Any payment under this subsection to a person
8 bars recovery by any other person.”;

9 (3) in section 8424(d), by striking “Lump-sum”
10 and inserting “Except as provided in section
11 8467(a), lump-sum”; and

12 (4) in section 8467—

13 (A) in subsection (a), by inserting after
14 “that individual” the following: “, or be made
15 under section 8424(e) through (g) to an indi-
16 vidual entitled under section 8424(d),”; and

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

18 “(d) Any payment under this section to a person bars
19 recovery by any other person.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to any death occurring
22 after the 90th day after the date of the enactment of this
23 Act.

1 **SEC. 406. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.**

2 (a) IN GENERAL.—The Secretary of Labor shall con-
3 tract with an independent organization to create a wom-
4 en's pension toll-free telephone number and contact to
5 serve as—

6 (1) a resource for women on pension questions
7 and issues;

8 (2) a source for referrals to appropriate agen-
9 cies; and

10 (3) a source for printed information.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated \$500,000 for each of
13 the fiscal years 1997, 1998, 1999, and 2000.

14 **TITLE V—DATE FOR ADOPTION**
15 **OF PLAN AMENDMENTS**

16 **SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

17 (a) IN GENERAL.—Except as otherwise provided in
18 this Act, if any amendment made by this Act requires an
19 amendment to any plan, such plan amendment shall not
20 be required to be made before the last day of the first
21 plan year beginning on or after January 1, 1998, if—

22 (1) during the period after such amendment
23 takes effect and before the last day of such first
24 plan year, the plan is operated in accordance with
25 the requirements of such amendment, and

1 (2) such plan amendment applies retroactively
2 to such period.

3 A plan shall not be treated as failing to provide definitely
4 determinable benefits or contributions, or to be operated
5 in accordance with the provisions of the plan, merely be-
6 cause it operates in accordance with this subsection.

7 (b) GOVERNMENTAL PLANS.—In the case of a gov-
8 ernmental plan (as defined in section 414(d) of the Inter-
9 nal Revenue Code of 1986), subsection (a) shall be applied
10 by substituting for “January 1, 1998” the later of—

11 (1) January 1, 1999, or

12 (2) the date which is 90 days after the opening
13 of the first legislative session beginning after Janu-
14 ary 1, 1999, of the governing body with authority to
15 amend the plan, but only if such governing body
16 does not meet continuously.

17 (c) SPECIAL RULE FOR COLLECTIVELY BARGAINED
18 PLANS.—Notwithstanding any other provision of this
19 Act, in the case of a plan maintained pursuant to 1 or
20 more collective bargaining agreements between employee
21 representatives and 1 or more employers ratified on or be-
22 fore the date of the enactment of this Act, any amendment
23 made by this Act which requires an amendment to such
24 plan shall not be required to be made before the last day
25 of the first plan year beginning on or after the earlier of—

- 1 (1) the later of—
2 (A) January 1, 1998, or
3 (B) the date on which the last of such col-
4 lective bargaining agreements terminates (de-
5 termined without regard to any extension there-
6 of after the date of the enactment of this Act),
7 or
8 (2) January 1, 1999.

○