

AMENDMENT IN THE NATURE OF A SUBSTITUTE
To H.R. 1776
OFFERED BY MR. THOMAS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;

2 TABLE OF CONTENTS.

3 (a) SHORT TITLE.—This Act may be cited as the
4 “Pension Preservation and Savings Expansion Act of
5 2003”.

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

12 (c) TABLE OF CONTENTS.—The table of contents of
13 this Act is as follows:

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

**TITLE I—BUILDING AND PRESERVING RETIREMENT ASSETS AND
ENHANCING PORTABILITY**

Sec. 101. Acceleration of scheduled increases in pension plan contribution limits.

Sec. 102. Acceleration of scheduled increases in IRA contribution limits.

Sec. 103. Extension and expansion of Saver’s credit.

Sec. 104. Faster vesting of employer nonelective contributions.

Sec. 105. Allow transfers to spouse’s retirement plan.

Sec. 106. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.

Sec. 107. Allow rollover of after-tax amounts in annuity contracts.

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- Sec. 108. IRA eligibility for the disabled.
- Sec. 109. Exclusion of certain annuity payments.

TITLE II—REVITALIZING DEFINED BENEFIT PENSION PLANS

- Sec. 201. Tax treatment of employee contributions to contributory defined benefit plans.
- Sec. 202. Reform of the minimum participation rule.
- Sec. 203. Temporary replacement of 30-year Treasury rate.
- Sec. 204. Updating deduction rules for combination of plans.

TITLE III—EXPANDING SMALL BUSINESS RETIREMENT PLAN COVERAGE

- Sec. 301. Allow additional nonelective contributions to Simple plans.
- Sec. 302. Conform matching contribution rules for Simple IRAs and Simple 401(k)s.
- Sec. 303. Correction of Simplified Employee Pension compensation inconsistency.
- Sec. 304. Allow level dollar contributions to SEPs.
- Sec. 305. Tax treatment of certain nontrade or business SEP contributions.

TITLE IV—EXPANDING RETIREMENT SAVINGS FOR TAX-EXEMPT ORGANIZATION AND GOVERNMENT EMPLOYEES

- Sec. 401. Waiver of 10 percent early withdrawal penalty tax on certain distributions of pension plans for public safety employees.
- Sec. 402. Clarifications regarding purchase of permissive service credit.
- Sec. 403. Eligibility for participation in retirement plans.
- Sec. 404. Clarification of minimum distribution rules.
- Sec. 405. Church plan rule.

TITLE V—SIMPLIFICATION AND EQUITY

- Sec. 501. Updating of the minimum distribution rules.
- Sec. 502. Clarification of catch-up contributions.
- Sec. 503. Transfers to the PBGC.
- Sec. 504. Allow direct rollovers from retirement plans to Roth IRAs.
- Sec. 505. Reform excise tax on excess contributions.
- Sec. 506. Intermediate sanctions for inadvertent failures.
- Sec. 507. Clarification of substantially equal periodic payment rule.
- Sec. 508. Clarification of treatment of distributions of annuity contracts.
- Sec. 509. Allow certain plan transfers and mergers.
- Sec. 510. Treatment of YMCA retirement fund.

TITLE VI—OTHER TAX PROVISIONS RELATING TO PENSIONS

- Sec. 601. Reporting simplification.
- Sec. 602. Improvement of employee plans compliance resolution system.
- Sec. 603. Extension of moratorium on application of certain nondiscrimination rules to all governmental plans.
- Sec. 604. Notice and consent period regarding distributions.
- Sec. 605. Reduced PBGC premium for new plans of small employers.
- Sec. 606. Reduction of additional PBGC premiums for new and small plans.
- Sec. 607. Authorization for PBGC to pay interest on premium overpayment refunds.
- Sec. 608. Substantial owner benefits in terminated plans.

TITLE VII—STOCK OPTIONS

Sec. 701. Exclusion of incentive stock options and employee stock purchase plan stock options from wages.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Provisions relating to plan amendments.

Sec. 802. Application of EGTRRA sunset.

1 **TITLE I—BUILDING AND PRE-**
2 **SERVING RETIREMENT AS-**
3 **SETS AND ENHANCING PORT-**
4 **ABILITY**

5 **SEC. 101. ACCELERATION OF SCHEDULED INCREASES IN**
6 **PENSION PLAN CONTRIBUTION LIMITS.**

7 (a) **ELECTIVE DEFERRALS.—**

8 (1) **IN GENERAL.**—Section 402(g)(1) (relating
9 to general rule for limitation on exclusion for elective
10 deferrals) is amended—

11 (A) in subparagraph (A) by striking “the
12 applicable dollar amount” and inserting
13 “\$15,000”,

14 (B) by striking subparagraph (B) and re-
15 designating subparagraph (C) as subparagraph
16 (B).

17 (2) **CONFORMING AMENDMENTS.—**

18 (A) Section 402(g)(1)(B) (as redesignated
19 by paragraph (1)) is amended by striking “ap-
20 plicable dollar amount under subparagraph

1 (B)” and inserting “amount in effect under
2 subparagraph (A)”.

3 (B) Section 402(g)(4) is amended—

4 (i) by striking “2006” and inserting
5 “2004”,

6 (ii) by striking “paragraph (1)(B)”
7 and inserting “paragraph (1)(A)”, and

8 (iii) by striking “2005” and inserting
9 “2003”.

10 (b) DEFERRED COMPENSATION PLANS OF STATE
11 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
12 ZATIONS.—

13 (1) IN GENERAL.—Subsection (b)(2)(A) of sec-
14 tion 457 (defining eligible deferred compensation
15 plan) is amended by striking “the applicable dollar
16 amount” and inserting “\$15,000”.

17 (2) CONFORMING AMENDMENT.—Paragraph
18 (15) of section 457(e) is amended to read as follows:

19 “(15) COST-OF-LIVING ADJUSTMENTS.—In the
20 case of taxable years beginning after December 31,
21 2004, the Secretary shall adjust the \$15,000
22 amount in subsection (b)(2)(A) at the same time
23 and in the same manner as under section 415(d),
24 except that the base period shall be the calendar
25 quarter beginning July 1, 2003, and any increase

1 under this paragraph which is not a multiple of
2 \$500 shall be rounded to the next lowest multiple of
3 \$500.”.

4 (c) SIMPLE RETIREMENT ACCOUNTS.—

5 (1) IN GENERAL.—Clause (ii) of section
6 408(p)(2)(A) (relating to general rule for qualified
7 salary reduction arrangement) is amended by strik-
8 ing “the applicable dollar amount” and inserting
9 “\$10,000”.

10 (2) CONFORMING AMENDMENT.—Subparagraph
11 (E) of section 408(p)(2) is amended to read as fol-
12 lows:

13 “(E) COST-OF-LIVING ADJUSTMENT.—In
14 the case of a year beginning after December 31,
15 2004, the Secretary shall adjust the \$10,000
16 amount in subparagraph (A)(ii) at the same
17 time and in the same manner as under section
18 415(d), except that the base period taken into
19 account shall be the calendar quarter beginning
20 July 1, 2003, and any increase under this sub-
21 paragraph which is not a multiple of \$500 shall
22 be rounded to the next lowest multiple of
23 \$500.”.

24 (d) CATCH-UP CONTRIBUTIONS.—

1 (1) IN GENERAL.—Subparagraph (B) of section
 2 414(v)(2) (relating to applicable dollar amount) is
 3 amended—

4 (A) in clause (i) by striking “shall be” and
 5 all that follows and inserting “is \$5,000.”, and

6 (B) in clause (ii) by striking “shall be”
 7 and all that follows and inserting “is \$2,500.”.

8 (2) CONFORMING AMENDMENTS.—Section
 9 414(v)(2)(C) is amended—

10 (A) by striking “2006” and inserting
 11 “2004”, and

12 (B) by striking “2005” and inserting
 13 “2003”.

14 (e) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to years beginning after December
 16 31, 2003.

17 **SEC. 102. ACCELERATION OF SCHEDULED INCREASES IN**
 18 **IRA CONTRIBUTION LIMITS.**

19 (a) DEDUCTIBLE AMOUNT.—The table in subpara-
 20 graph (A) of section 219(b)(5) (relating to general rule
 21 for deductible amount) is amended to read as follows:

“For taxable years beginning in:	The deductible amount is:
2002 through 2003	\$3,000
2004 and thereafter	\$5,000.”.

(b) CATCH-UP CONTRIBUTIONS.—The table in clause (ii) of section 219(b)(5)(B) (relating to applicable amount) is amended to read as follows:

“For taxable years beginning in:	The applicable amount is:
2002 through 2003	\$500
2004 and thereafter	\$1,000.”.

(c) CONFORMING AMENDMENTS.—Section 219(b)(5)(C) is amended—

(1) by striking “2007” and inserting “2003”,
and

(2) by striking “2008” and inserting “2004”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 103. EXTENSION AND EXPANSION OF SAVER’S CREDIT.

(a) EXTENSION.—Subsection (h) of section 25B (relating to termination) is amended by striking “2006” and inserting “2010”.

(b) EXPANSION.—The table contained in subsection (b) of section 25B (relating to applicable percentage) is amended to read as follows:

“Adjusted Gross Income						Applicable percentage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
	\$30,000		\$22,500		\$15,000	50
30,000	40,000	22,500	30,000	15,000	20,000	20
40,000	50,000	30,000	37,500	20,000	25,000	10
50,000		37,500		25,000		0”

(c) ADJUSTMENT FOR INFLATION.—Section 25B (as amended by subsection (a)) is further amended by redesign-

1 nating subsection (h) as subsection (i) and by inserting
2 after subsection (g) the following new subsection:

3 “(h) ADJUSTMENT FOR INFLATION.—

4 “(1) IN GENERAL.—In the case of any taxable
5 year beginning after December 31, 2008, each dollar
6 amount in the table contained in subsection (b) in
7 the columns under the heading ‘All other cases’ shall
8 be increased by an amount equal to—

9 “(A) such dollar amount, multiplied by

10 “(B) the cost-of-living adjustment deter-
11 mined under section 1(f)(3) for such calendar
12 year by substituting ‘calendar year 2007’ for
13 ‘calendar year 1992’ in subparagraph (B)
14 thereof.

15 If any increase under the preceding sentence is
16 not a multiple of \$1,000, such increase shall be
17 rounded to the nearest multiple of \$1,000.

18 “(2) ADJUSTMENT OF AMOUNTS RELATING TO
19 JOINT RETURN AND HEAD OF HOUSEHOLD.—In the
20 case of any taxable year beginning after December
21 31, 2008—

22 “(A) there shall be substituted for each
23 dollar amount in the table contained in sub-
24 section (b) in the columns under the heading
25 ‘Joint return’ a dollar amount equal to twice

1 the corresponding dollar amount in such table
2 in the columns under the heading ‘All other
3 cases’ (as increased under paragraph (1)), and
4 “(B) there shall be substituted for each
5 dollar amount in the table contained in sub-
6 section (b) in the columns under the heading
7 ‘Head of household’ a dollar amount equal to
8 1½ times the corresponding dollar amount in
9 such table in the columns under the heading
10 ‘All other cases’ (as increased under paragraph
11 (1)).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2006.

15 **SEC. 104. FASTER VESTING OF EMPLOYER NONELECTIVE**
16 **CONTRIBUTIONS.**

17 (a) AMENDMENTS TO THE INTERNAL REVENUE
18 CODE OF 1986.—

19 (1) IN GENERAL.—Paragraph (2) of section
20 411(a) (relating to employer contributions) is
21 amended to read as follows:

22 “(2) EMPLOYER CONTRIBUTIONS.—

23 “(A) DEFINED BENEFIT PLANS.—

24 “(i) IN GENERAL.—In the case of a
25 defined benefit plan, a plan satisfies the

1 requirements of this paragraph if it satis-
 2 fies the requirements of clause (ii) or (iii).

3 “(ii) 5-YEAR VESTING.—A plan satis-
 4 fies the requirements of this clause if an
 5 employee who has completed at least 5
 6 years of service has a nonforfeitable right
 7 to 100 percent of the employee’s accrued
 8 benefit derived from employer contribu-
 9 tions.

10 “(iii) 3 TO 7 YEAR VESTING.—A plan
 11 satisfies the requirements of this clause if
 12 an employee has a nonforfeitable right to
 13 a percentage of the employee’s accrued
 14 benefit derived from employer contribu-
 15 tions determined under the following table:

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

16 “(B) DEFINED CONTRIBUTION PLANS.—

17 “(i) IN GENERAL.—In the case of a
 18 defined contribution plan, a plan satisfies
 19 the requirements of this paragraph if it
 20 satisfies the requirements of clause (ii) or
 21 (iii).

1 “(ii) 3-YEAR VESTING.—A plan satis-
 2 fies the requirements of this clause if an
 3 employee who has completed at least 3
 4 years of service has a nonforfeitable right
 5 to 100 percent of the employee’s accrued
 6 benefit derived from employer contribu-
 7 tions.

8 “(iii) 2 TO 6 YEAR VESTING.—A plan
 9 satisfies the requirements of this clause if
 10 an employee has a nonforfeitable right to
 11 a percentage of the employee’s accrued
 12 benefit derived from employer contribu-
 13 tions determined under the following table:

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”.

14 (2) CONFORMING AMENDMENT.—Section
 15 411(a) (relating to general rule for minimum vesting
 16 standards) is amended by striking paragraph (12).
 17 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
 18 INCOME SECURITY ACT OF 1974.—

19 (1) IN GENERAL.—Paragraph (2) of section
 20 203(a) of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to
 2 read as follows:

3 “(2)(A)(i) In the case of a defined benefit plan,
 4 a plan satisfies the requirements of this paragraph
 5 if it satisfies the requirements of clause (ii) or (iii).

6 “(ii) A plan satisfies the requirements of this
 7 clause if an employee who has completed at least 5
 8 years of service has a nonforfeitable right to 100
 9 percent of the employee’s accrued benefit derived
 10 from employer contributions.

11 “(iii) A plan satisfies the requirements of this
 12 clause if an employee has a nonforfeitable right to
 13 a percentage of the employee’s accrued benefit de-
 14 rived from employer contributions determined under
 15 the following table:

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

16 “(B)(i) In the case of an individual account
 17 plan, a plan satisfies the requirements of this para-
 18 graph if it satisfies the requirements of clause (ii) or
 19 (iii).

20 “(ii) A plan satisfies the requirements of this
 21 clause if an employee who has completed at least 3

1 years of service has a nonforfeitable right to 100
 2 percent of the employee's accrued benefit derived
 3 from employer contributions.

4 “(iii) A plan satisfies the requirements of this
 5 clause if an employee has a nonforfeitable right to
 6 a percentage of the employee's accrued benefit de-
 7 rived from employer contributions determined under
 8 the following table:

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”.

9 (2) CONFORMING AMENDMENT.—Section
 10 203(a) of such Act is amended by striking para-
 11 graph (4).

12 (c) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
 14 graph (2), the amendments made by this section
 15 shall apply to contributions for plan years beginning
 16 after December 31, 2003.

17 (2) COLLECTIVE BARGAINING AGREEMENTS.—
 18 In the case of a plan maintained pursuant to one or
 19 more collective bargaining agreements between em-
 20 ployee representatives and one or more employers
 21 ratified before the date of the enactment of this Act,
 22 the amendments made by this section shall not apply

1 to contributions on behalf of employees covered by
2 any such agreement for plan years beginning before
3 the earlier of—

4 (A) the later of—

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

10 (ii) January 1, 2004; or

11 (B) January 1, 2006.

12 (3) SERVICE REQUIRED.—With respect to any
13 plan, the amendments made by this section shall not
14 apply to any employee before the date that such em-
15 ployee has 1 hour of service under such plan in any
16 plan year to which the amendments made by this
17 section apply.

18 **SEC. 105. ALLOW TRANSFERS TO SPOUSE'S RETIREMENT**
19 **PLAN.**

20 (a) IN GENERAL.—Paragraph (6) of section 408(d)
21 (relating to transfers incident to divorce) is amended by—

22 (1) striking “his spouse or former spouse under
23 a divorce or separation instrument described in sub-
24 paragraph (A) of section 71(b)(2)” and inserting
25 “his spouse (or his former spouse under a divorce or

1 separation instrument described in subparagraph
2 (A) of section 71(b)(2))”, and

3 (2) striking the heading and inserting “TRANS-
4 FER OF ACCOUNT TO SPOUSE OR FORMER
5 SPOUSE.—”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to years beginning after the date
8 of the enactment of this Act.

9 **SEC. 106. ALLOW ROLLOVERS BY NONSPOUSE BENE-**
10 **FICIARIES OF CERTAIN RETIREMENT PLAN**
11 **DISTRIBUTIONS.**

12 (a) IN GENERAL.—

13 (1) QUALIFIED PLANS.—Section 402(c) (relat-
14 ing to rollovers from exempt trusts) is amended by
15 adding at the end the following new paragraph:

16 “(11) DISTRIBUTIONS TO INHERITED INDIV-
17 IDUAL RETIREMENT PLAN OF NONSPOUSE BENE-
18 FICIARY.—

19 “(A) IN GENERAL.—If, with respect to any
20 portion of a distribution from an eligible retire-
21 ment plan of a deceased employee, a direct
22 trustee-to-trustee transfer is made to an indi-
23 vidual retirement plan described in clause (i) or
24 (ii) of paragraph (8)(B) established for the pur-
25 poses of receiving the distribution on behalf of

1 an individual who is a designated beneficiary
2 (as defined by section 401(a)(9)(E)) of the em-
3 ployee and who is not the surviving spouse of
4 the employee—

5 “(i) the transfer shall be treated as an
6 eligible rollover distribution for purposes of
7 this subsection,

8 “(ii) the individual retirement plan
9 shall be treated as an inherited individual
10 retirement account or individual retirement
11 annuity (within the meaning of section
12 408(d)(3)(C)) for purposes of this title,
13 and

14 “(iii) section 401(a)(9)(B) (other than
15 clause (iv) thereof) shall apply to such
16 plan.

17 “(B) CERTAIN TRUSTS TREATED AS BENE-
18 FICIARIES.—For purposes of this paragraph, to
19 the extent provided in rules prescribed by the
20 Secretary, a trust maintained for the benefit of
21 one or more designated beneficiaries shall be
22 treated in the same manner as a trust des-
23 ignated beneficiary.”.

1 (2) SECTION 403(a) PLANS.—Subparagraph (B)
2 of section 403(a)(4) (relating to rollover amounts) is
3 amended by inserting “and (11)” after “(7)”.

4 (3) SECTION 403(b) PLANS.—Subparagraph (B)
5 of section 403(b)(8) (relating to rollover amounts) is
6 amended by striking “and (9)” and inserting “, (9),
7 and (11)”.

8 (4) SECTION 457 PLANS.—Subparagraph (B) of
9 section 457(e)(16) (relating to rollover amounts) is
10 amended by striking “and (9)” and inserting “, (9),
11 and (11)”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions after December 31,
14 2003.

15 **SEC. 107. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN**
16 **ANNUITY CONTRACTS.**

17 (a) IN GENERAL.—Subparagraph (A) of section
18 402(c)(2) (maximum amount which may be rolled over)
19 is amended by striking “and which” and inserting “or to
20 an annuity contract described in section 403(b) and such
21 plan or contract”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to taxable years beginning after
24 December 31, 2003.

1 **SEC. 108. IRA ELIGIBILITY FOR THE DISABLED.**

2 (a) IN GENERAL.—Subsection (f) of section 219 (re-
3 lating to other definitions and special rules) is amended
4 by adding at the end the following:

5 “(8) SPECIAL RULE FOR CERTAIN DISABLED
6 INDIVIDUALS.—In the case of an individual—

7 “(A) who is disabled (within the meaning
8 of section 72(m)(7)), and

9 “(B) who has not attained the applicable
10 age (as defined in section 401(a)(9)(H)) before
11 the close of the taxable year,

12 subparagraph (B) of subsection (b)(1) shall not
13 apply.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2003.

17 **SEC. 109. EXCLUSION OF CERTAIN ANNUITY PAYMENTS.**

18 (a) IN GENERAL.—

19 (1) QUALIFIED PLANS.—Subsection (e) of sec-
20 tion 402 (relating to exempt trusts) is amended by
21 adding at the end the following new paragraph:

22 “(7) EXCLUSION OF PERCENTAGE OF LIFETIME
23 ANNUITY PAYMENTS.—

24 “(A) IN GENERAL.—In the case of a life-
25 time annuity payment to a qualified distributee
26 from a qualified trust (within the meaning of

1 subsection (c)(8)(A)) maintained in connection
2 with a defined contribution plan, gross income
3 shall not include 10 percent of the amount oth-
4 erwise includible in gross income (determined
5 without regard to this paragraph).

6 “(B) 5-YEAR LIMITATION.—Subparagraph
7 (A) shall apply to a qualified distributee only in
8 the first 5 taxable years in which the qualified
9 distributee receives lifetime annuity payments
10 for the entire taxable year. For purposes of this
11 subparagraph, all lifetime annuity payments re-
12 ceived by a qualified distributee shall be taken
13 into account to the extent that such payments
14 are subject to this paragraph or to rules similar
15 to the rules of this paragraph.

16 “(C) LIMITATION.—With respect to any
17 qualified distributee, subparagraph (A) shall
18 not apply to any lifetime annuity payment to
19 the extent that such payments, when added to
20 all previous payments under such annuity to
21 such qualified distributee during the taxable
22 year, exceed 50 percent of the applicable
23 amount for such year under section
24 415(c)(1)(A). For purposes of this subpara-
25 graph, all lifetime annuity payments received by

1 a qualified distributee shall be taken into ac-
2 count to the extent that such payments are sub-
3 ject to this paragraph or to rules similar to the
4 rules of this paragraph.

5 “(D) DEFINITIONS.—For purposes of this
6 paragraph—

7 “(i) LIFETIME ANNUITY PAYMENT.—

8 “(I) IN GENERAL.—The term
9 ‘lifetime annuity payment’ means a
10 distribution which is a part of a series
11 of substantially equal periodic pay-
12 ments (made not less frequently than
13 annually) made over the life of the
14 qualified distributee or the joint lives
15 of the qualified distributee and the
16 qualified distributee’s designated ben-
17 eficiary.

18 “(II) EXCEPTIONS.—Annuity
19 payments shall not fail to be treated
20 as part of a series of substantially
21 equal periodic payments because the
22 amount of the periodic payments may
23 vary in accordance with investment
24 experience, reallocations among in-
25 vestment options, actuarial gains or

1 losses, cost of living indices, or similar
2 fluctuating criteria. The availability of
3 a commutation benefit, a minimum
4 period of payments certain, or a min-
5 imum amount to be paid in any event
6 shall not affect the treatment of a dis-
7 tribution as a lifetime annuity pay-
8 ment. In the case of lifetime annuity
9 payments being made to a qualified
10 trust, payments by the qualified trust
11 to a qualified distributee of the entire
12 amount received by the qualified trust
13 with respect to the qualified dis-
14 tributee shall constitute lifetime annu-
15 ity payments.

16 “(ii) QUALIFIED DISTRIBUTE.—The
17 term ‘qualified distributee’ means the em-
18 ployee, the surviving spouse of the em-
19 ployee, and an alternate payee who is the
20 spouse or former spouse of the employee.

21 “(E) RECAPTURE TAX.—

22 “(i) IN GENERAL.—If—

23 “(I) a an amount is not includ-
24 ible in gross income by reason of sub-
25 paragraph (A), and

1 “(II) the series of payments of
2 which such payment is a part is sub-
3 sequently modified (other than by rea-
4 son of death or disability) so that
5 some or all future payments are not
6 lifetime annuity payments,
7 the qualified distributee’s gross income for
8 the first taxable year in which such modi-
9 fication occurs shall be increased by an
10 amount, determined under rules prescribed
11 by the Secretary, equal to the amount
12 which (but for subparagraph (A)) would
13 have been includible in the qualified
14 distributee’s gross income if the modifica-
15 tion had been in effect at all times, plus in-
16 terest for the deferral period at the under-
17 payment rate established under section
18 6621.

19 “(ii) DEFERRAL PERIOD.—For pur-
20 poses of this subparagraph, the term ‘de-
21 ferral period’ means the period beginning
22 with the taxable year in which (without re-
23 gard to subparagraph (A)) the payment
24 would have been includible in gross income
25 and ending with the taxable year in which

1 the modification described in clause (i)(II)
2 occurs.

3 “(F) PHASE-OUT OF EXCLUSION.—

4 “(i) IN GENERAL.—In any taxable
5 year, the exclusion from gross income for
6 any qualified distributee under this para-
7 graph and under rules similar to the rules
8 of this paragraph shall not exceed the in-
9 come-adjusted limit.

10 “(ii) INCOME-ADJUSTED LIMIT.—For
11 purposes of this subparagraph, the income-
12 adjusted limit shall be—

13 “(I) 10 percent of the limitation
14 described in subparagraph (C), re-
15 duced (but not below zero) by

16 “(II) the amount determined
17 under clause (iii).

18 “(iii) AMOUNT DETERMINED.—The
19 amount determined under this clause shall
20 be the amount which bears the same ratio
21 to the amount described in clause (ii)(I)
22 as—

23 “(I) the excess of the taxpayer’s
24 adjusted gross income for such tax-

1 able year over the applicable dollar
2 amount, bears to

3 “(II) \$15,000 (\$30,000 for a
4 joint return).

5 “(iv) LIMITATION ON REDUCTION.—
6 The income-adjusted limit shall not be re-
7 duced below \$200 by clause (ii)(II) unless
8 (without regard to this clause) such limit is
9 reduced to zero.

10 “(v) ROUNDING RULE.—Any income-
11 adjusted limit determined under this sub-
12 paragraph which is not a multiple of \$10
13 shall be rounded to the next lowest mul-
14 tiple of \$10.

15 “(vi) ADJUSTED GROSS INCOME.—For
16 purposes of this subparagraph, adjusted
17 gross income of any taxpayer shall be de-
18 termined in the same manner as under sec-
19 tion 408A(c)(3)(C)(i) except that section
20 408A(c)(3)(C)(i)(II) shall not apply for
21 this purpose.

22 “(vii) APPLICABLE DOLLAR LIMIT.—
23 For purposes of this subparagraph, the ap-
24 plicable dollar amount is—

1 “(I) in the case of a taxpayer fil-
2 ing a joint return, an amount equal to
3 twice the amount in effect under sub-
4 clause (II),

5 “(II) in the case of any other
6 taxpayer (other than a married indi-
7 vidual filing a separate return),
8 \$60,000, and

9 “(III) in the case of a married
10 individual filing a separate return,
11 zero.

12 “(viii) SPECIAL RULE FOR MARRIED
13 INDIVIDUALS FILING SEPARATELY AND
14 LIVING APART.—Section 219(g)(4) shall
15 apply for purposes of this subparagraph.

16 “(ix) COST-OF-LIVING ADJUST-
17 MENT.—In the case of taxable years begin-
18 ning after December 31, 2004, the Sec-
19 retary shall adjust the \$60,000 amount in
20 clause (vii)(II) at the same time and in the
21 same manner as under section 415(d), ex-
22 cept that the base period shall be the cal-
23 endar quarter beginning July 1, 2003, and
24 any increase under this clause which is not

1 a multiple of \$5,000 shall be rounded to
2 the next lowest multiple of \$5,000.”.

3 (2) SECTION 403(a) PLANS.—Paragraph (4) of
4 section 403(a) (relating to qualified annuity plans)
5 is amended by adding at the end the following new
6 subparagraph:

7 “(C) EXCLUSION OF PERCENTAGE OF
8 LIFETIME ANNUITY PAYMENTS.—Rules similar
9 to the rules of section 402(e)(7) shall apply to
10 distributions under any annuity contract to
11 which this subsection applies.”.

12 (3) SECTION 403(b) PLANS.—Section 403(b)
13 (relating to purchased annuities) is amended by add-
14 ing at the end the following new paragraph:

15 “(14) EXCLUSION OF PERCENTAGE OF LIFE-
16 TIME ANNUITY PAYMENTS.—Rules similar to the
17 rules of section 402(e)(7) shall apply to distributions
18 under any annuity contract or custodial account to
19 which this subsection applies.”.

20 (4) IRAs.—Section 408(d) (relating to tax
21 treatment of distributions) is amended by adding at
22 the end the following new paragraph:

23 “(8) EXCLUSION OF PERCENTAGE OF LIFETIME
24 ANNUITY PAYMENTS.—Rules similar to the rules of

1 section 402(e)(7) shall apply to distributions out of
2 an individual retirement plan.”.

3 (5) SECTION 457 PLANS.—Section 457(e) (relat-
4 ing to special rules for deferred compensation plans)
5 is amended by adding at the end the following new
6 paragraph:

7 “(18) EXCLUSION OF PERCENTAGE OF LIFE-
8 TIME ANNUITY PAYMENTS.—Rules similar to the
9 rules of section 402(e)(7) shall apply to distributions
10 from an eligible deferred compensation plan of an el-
11 igible employer described in subsection (e)(1)(A).”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions made after Decem-
14 ber 31, 2003.

15 **TITLE II—REVITALIZING DE-**
16 **FINED BENEFIT PENSION**
17 **PLANS**

18 **SEC. 201. TAX TREATMENT OF EMPLOYEE CONTRIBUTIONS**
19 **TO CONTRIBUTORY DEFINED BENEFIT**
20 **PLANS.**

21 (a) AMENDMENT TO THE INTERNAL REVENUE CODE
22 OF 1986.—Subsection (e) of section 402 (relating to other
23 rules applicable to exempt trusts) is amended by adding
24 at the end the following new paragraph:

1 “(7) MANDATORY EMPLOYEE CONTRIBUTIONS
2 TO DEFINED BENEFIT PLANS.—

3 “(A) IN GENERAL.—Qualified mandatory
4 employee contributions shall not be includible in
5 gross income for the taxable year of such con-
6 tribution.

7 “(B) QUALIFIED MANDATORY EMPLOYEE
8 CONTRIBUTIONS.—For purposes of subpara-
9 graph (A), the term ‘qualified mandatory em-
10 ployee contributions’ means employee contribu-
11 tions made pursuant to the terms of a defined
12 benefit plan described in subparagraph (C) in
13 effect on January 1, 2003 (determined without
14 regard to any plan amendment made after such
15 date), which—

16 “(i) are mandatory contributions (as
17 defined in section 411(c)(2)(C)), and

18 “(ii) do not exceed 2 percent of com-
19 pensation (within the meaning of section
20 415(c)(3)).

21 “(C) DEFINED BENEFIT PLAN DE-
22 SCRIBED.—For purposes of subparagraph (B),
23 a defined benefit plan is described in this sub-
24 paragraph if such plan—

1 “(i) requires employee contributions
2 as a condition of participation in such
3 plan,

4 “(ii) allows an employee to make a
5 one-time irrevocable election to participate
6 in the plan,

7 “(iii) does not provide for employee
8 contributions with respect to which a sepa-
9 rate account is maintained and treated as
10 a defined contribution plan under section
11 414(k), and

12 “(iv) is not a governmental plan
13 (within the meaning of section 414(d)).”.

14 (b) WITHHOLDING.—Subsection (a) of section 3401
15 (defining wages) is amended by striking “or” at the end
16 of paragraph (20), by striking the period at the end of
17 paragraph (21) and inserting “; or”, and by inserting
18 after paragraph (21) the following new paragraph:

19 “(22) for any payment made to or for the ben-
20 efit of an employee if at the time of such payment
21 it is reasonable to believe that the employee will be
22 able to exclude such payment from income as a
23 qualified mandatory employee contribution under
24 section 402(e)(7).”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to contributions made in years be-
3 ginning after December 31, 2003.

4 **SEC. 202. REFORM OF THE MINIMUM PARTICIPATION RULE.**

5 (a) IN GENERAL.—Subparagraph (F) of section
6 401(a)(26) (relating to special rule for certain dispositions
7 or acquisitions) is amended by inserting before the period
8 at the end the following: “during the transition period (as
9 described in section 410(b)(6)(C)(ii)) or such longer pe-
10 riod as may be prescribed by the Secretary”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect on the date of enactment
13 of this Act.

14 **SEC. 203. TEMPORARY REPLACEMENT OF 30-YEAR TREAS-**
15 **URY RATE.**

16 (a) INTERNAL REVENUE CODE OF 1986.—

17 (1) IN GENERAL.—Paragraph (5) of section
18 412(b) (relating to interest) is amended by adding
19 at the end the following new subparagraph:

20 “(C) SPECIAL RULE FOR YEARS THROUGH
21 2006.—

22 “(i) IN GENERAL.—In the case of
23 plan years beginning after December 31,
24 2003, and before January 1, 2007, sub-
25 paragraph (B)(ii)(I) shall be applied by in-

1 serting ‘amounts conservatively invested in
2 long-term corporate bonds’ in lieu of ‘30-
3 year Treasury securities’.

4 “(ii) METHOD FOR DETERMINING
5 RATE OF INTEREST.—The Secretary shall,
6 by regulation, prescribe a method for de-
7 termining the rate of interest on amounts
8 conservatively invested in long-term cor-
9 porate bonds, based on one or more indi-
10 ces, as determined from time to time by
11 the Secretary.”.

12 (2) DETERMINATION OF PRESENT VALUE RE-
13 LATING TO SURVIVOR ANNUITIES.—Subclause (II) of
14 section 417(e)(3)(A)(ii) is amended by adding at the
15 end the following: “In the case of years beginning
16 after December 31, 2005, and before January 1,
17 2007, the preceding sentence shall be applied by in-
18 serting ‘amounts conservatively invested in long-term
19 corporate bonds’ in lieu of ‘30-year Treasury securi-
20 ties’. The Secretary shall, by regulations, prescribe a
21 method for determining this interest rate based on
22 one or more indices, as determined from time to
23 time by the Secretary.”.

24 (3) CONFORMING AMENDMENT.—Section
25 415(b)(2)(E)(ii) is amended by inserting before the

1 period at the end “, except that in the case of years
2 beginning in 2004, 2005, or 2006, ‘5.5 percent’ shall
3 be substituted for ‘5 percent’ in clause (i)”.

4 (4) PHASEIN OF INTEREST RATE ON LONG-
5 TERM CORPORATE BONDS.—Section 417(e)(3)(A)(ii)
6 is amended by adding at the end the following:

7 “(III) PHASEIN OF INTEREST
8 RATE ON LONG-TERM CORPORATE
9 BONDS.—In the case of a plan year
10 beginning in 2006, the interest rate
11 for purposes of subclause (II) shall be
12 the lower of (aa) the rate specified in
13 subclause (II) (without regard to this
14 subclause), or (bb) the 30-year Treas-
15 ury securities rate plus 20 percent of
16 the excess of the rate specified in sub-
17 clause (II) (without regard to this
18 subclause) over the 30-year Treasury
19 securities rate.”.

20 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
21 OF 1974.—

22 (1) IN GENERAL.—Paragraph (5) of section
23 302(b) of Employee Retirement Income Security Act
24 of 1974 is amended by adding at the end the fol-
25 lowing new subparagraph:

1 “(C) SPECIAL RULE FOR YEARS THROUGH
2 2006.—

3 “(i) IN GENERAL.—In the case of
4 plan years beginning after December 31,
5 2003, and before January 1, 2007, sub-
6 paragraph (B)(ii)(I) shall be applied by in-
7 serting ‘amounts conservatively invested in
8 long-term corporate bonds’ in lieu of ‘30-
9 year Treasury securities’.

10 “(ii) METHOD FOR DETERMINING
11 RATE OF INTEREST.—The Secretary of the
12 Treasury shall, by regulation, prescribe a
13 method for determining the rate of interest
14 on amounts conservatively invested in long-
15 term corporate bonds, based on one or
16 more indices, as determined from time to
17 time by the Secretary of the Treasury.”.

18 (2) DETERMINATION OF PRESENT VALUE RE-
19 LATING TO SURVIVOR ANNUITIES.—Subparagraph
20 (A) of section 205(g)(3) of such Act is amended by
21 adding at the end the following:

22 “(iii) SPECIAL RULE FOR 2006.—In
23 the case of years beginning after December
24 31, 2005, and before January 1, 2007,
25 clause (ii)(II) shall be applied by inserting

1 ‘amounts conservatively invested in long-
2 term corporate bonds’ in lieu of ‘30-year
3 Treasury securities’. The Secretary of the
4 Treasury shall, by regulations, prescribe a
5 method for determining this interest rate
6 based on one or more indices, as deter-
7 mined from time to time by the Secretary
8 of the Treasury.”.

9 (3) PHASEIN OF INTEREST RATE ON LONG-
10 TERM CORPORATE BONDS.—Section 205(g)(3)(A)(ii)
11 is amended by adding at the end the following:

12 “(III) In the case of a plan year beginning
13 in 2006, the interest rate for purposes of sub-
14 clause (II) shall be the lower of (aa) the rate
15 specified in subclause (II) (without regard to
16 this subclause), or (bb) the 30-year Treasury
17 securities rate plus 20 percent of the excess of
18 the rate specified in subclause (II) (without re-
19 gard to this subclause) over the 30-year Treas-
20 ury securities rate.”.

21 (3) PBGC.—Subparagraph (E) of section
22 4006(a)(3) of such Act is amended by adding at the
23 end the following new clause:

24 “(v) SPECIAL RULE FOR YEARS
25 THROUGH 2006.—In the case of years be-

1 ginning after December 31, 2003, and be-
2 fore January 1, 2007, clause (iii)(II) shall
3 be applied by inserting ‘amounts conserv-
4 atively invested in long-term corporate
5 bonds’ in lieu of ‘30-year Treasury securi-
6 ties’. The Secretary of the Treasury shall,
7 by regulations, prescribe a method for de-
8 termining this interest rate based on one
9 or more indices, as determined from time
10 to time by the Secretary of the Treasury.”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graphs (2), (3), (4), and (5), the amendments made
14 by this section shall apply to plan years beginning
15 after December 31, 2003.

16 (2) SURVIVOR ANNUITIES.—Except as provided
17 in paragraphs (3) and (4), in the case of amend-
18 ments made by this section to section 417(e)(3)(A)
19 of the Internal Revenue Code of 1986 and to section
20 205(g)(3)(A) of the Employee Retirement Income
21 Security Act of 1974, and for purposes of section
22 411(a)(11)(B) of the Internal Revenue Code of 1986
23 and section 203(e)(2) of the Employee Retirement
24 Income Security Act of 1974, such amendments

1 shall apply to years beginning after December 31,
2 2005.

3 (3) LOOKBACK RULES.—For purposes of apply-
4 ing all applicable lookback rules in years beginning
5 on or after the otherwise applicable effective date de-
6 termined under paragraph (1), (2), or (4), the
7 amendments made by this section shall be applied as
8 if such amendments had been in effect for all years
9 beginning before such effective date. For purposes of
10 this paragraph, a lookback rule is a rule that uses
11 data from a prior year in determining requirements
12 applicable to the current year.

13 (4) NO REDUCTION REQUIRED.—In the case of
14 any participant or beneficiary, the amount payable
15 under any form of benefit subject to section
16 417(e)(3) of the Internal Revenue Code of 1986
17 shall not be required to be reduced below the
18 amount determined as of the last day of the last
19 plan year beginning before January 1, 2004, merely
20 because of the amendments made by subsection
21 (a)(3).

22 **SEC. 204. UPDATING DEDUCTION RULES FOR COMBINA-**
23 **TION OF PLANS.**

24 (a) IN GENERAL.—Subparagraph (C) of section
25 404(a)(7) (relating to limitation on deductions where com-

1 bination of defined contribution plan and defined benefit
2 plan) is amended by adding after clause (ii) the following
3 new clause:

4 “(iii) LIMITATION.—In the case of
5 employer contributions to 1 or more de-
6 fined contribution plans, this paragraph
7 shall only apply to the extent that such
8 contributions exceed 6 percent of the com-
9 pensation otherwise paid or accrued during
10 the taxable year to the beneficiaries under
11 such plans. For purposes of this clause,
12 amounts carried over from preceding tax-
13 able years under subparagraph (B) shall
14 be treated as employer contributions to 1
15 or more defined contributions to the extent
16 attributable to employer contributions to
17 such plans in such preceding taxable
18 years.”.

19 (b) CONFORMING AMENDMENTS.—Subparagraph (A)
20 of section 4972(c)(6) (relating to nondeductible contribu-
21 tions) is amended to read as follows:

22 “(A) so much of the contributions to 1 or
23 more defined contribution plans which are not
24 deductible when contributed solely because of
25 section 404(a)(7) as does not exceed the

1 amount of contributions described in section
2 401(m)(4)(A).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to contributions for taxable years
5 beginning after December 31, 2003.

6 **TITLE III—EXPANDING SMALL**
7 **BUSINESS RETIREMENT PLAN**
8 **COVERAGE**

9 **SEC. 301. ALLOW ADDITIONAL NONELECTIVE CONTRIBU-**
10 **TIONS TO SIMPLE PLANS.**

11 (a) IN GENERAL.—

12 (1) MODIFICATION TO DEFINITION.—Subpara-
13 graph (A) of section 408(p)(2) (defining qualified
14 salary reduction arrangement) is amended by strik-
15 ing “and” at the end of clause (iii), by redesignating
16 clause (iv) as clause (v), and by inserting after
17 clause (iii) the following new clause:

18 “(iv) the employer may make nonelec-
19 tive contributions of a uniform percentage
20 (up to 10 percent) of compensation for
21 each employee who is eligible to participate
22 in the arrangement and who has at least
23 \$5,000 of compensation from the employer
24 for the year, and”.

1 (2) LIMITATION.—Subparagraph (A) of section
2 408(p)(2) (defining qualified salary reduction arrange-
3 ment) is amended by adding at the end the following:
4 “The compensation taken into account under clause (iv)
5 for any year shall not exceed the limitation in effect for
6 such year under section 401(a)(17).”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 408(p)(2)(A)(v), as redesignated by
9 subsection (a), is amended by striking “or (iii)” and
10 inserting “, (iii), or (iv)”.

11 (2) Paragraph (8) of section 408(p) is amended
12 by inserting “, the employer contribution actually
13 made under paragraph (2)(A)(iv) of this sub-
14 section,” after “paragraph (2)(A)(ii) of this sub-
15 section”.

16 (3) Section 401(k)(11)(B)(i) is amended by
17 striking “and” at the end of subclause (II), by re-
18 designating subclause (III) as subclause (IV), and
19 by inserting after subclause (II) the following new
20 subclause:

21 “(III) the employer may make
22 nonelective contributions of a uniform
23 percentage (up to 10 percent) of com-
24 pensation for each employee who is el-
25 igible to participate in the arrange-

1 ment and who has at least \$5,000 of
2 compensation from the employer for
3 the year, and”

4 (4) Section 401(k)(11)(B)(i)(IV), as redesign-
5 nated by paragraph (2), is amended by striking “or
6 (II)” and inserting “, (II), or (III)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 2003.

10 **SEC. 302. CONFORM MATCHING CONTRIBUTION RULES FOR**
11 **SIMPLE IRAS AND SIMPLE 401(k)S.**

12 (a) IN GENERAL.—Subclause (II) of section
13 401(k)(11)(B)(i) (relating to general rule for contribution
14 requirements) is amended by striking “3 percent” and in-
15 serting “the applicable percentage (as defined in section
16 408(p)(2)(C)(ii))”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to years beginning after December
19 31, 2003.

20 **SEC. 303. CORRECTION OF SIMPLIFIED EMPLOYEE PEN-**
21 **SION COMPENSATION INCONSISTENCY.**

22 (a) IN GENERAL.—Subparagraph (A) of section
23 402(h)(2) (relating to limitations on employer contribu-
24 tions) is amended by striking “414(s)) from such employer

1 includible in the employee's gross income" and inserting
2 "415(c)(3)) from such employer".

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2003.

6 **SEC. 304. ALLOW LEVEL DOLLAR CONTRIBUTIONS TO SEPS.**

7 (a) IN GENERAL.—Subparagraph (C) of section
8 408(k)(3) (relating to contributions must bear uniform re-
9 lationship to total compensation) is amended by inserting
10 before the period at the end the following: "or unless such
11 contributions are a uniform dollar amount on behalf of
12 each such employee."

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to years beginning after December
15 31, 2003.

16 **SEC. 305. TAX TREATMENT OF CERTAIN NONTRADE OR**
17 **BUSINESS SEP CONTRIBUTIONS.**

18 (a) IN GENERAL.—Subparagraph (B) of section
19 4972(c)(6) (relating to exceptions) is amended—

20 (1) by striking "408(p) or" and inserting
21 "408(p),", and

22 (2) by inserting after "401(k)(11))" the fol-
23 lowing: " , or a simplified employee pension (within
24 the meaning of section 408(k))".

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to years beginning after December
3 31, 2003.

4 **TITLE IV—EXPANDING RETIRE-**
5 **MENT SAVINGS FOR TAX-EX-**
6 **EMPT ORGANIZATION AND**
7 **GOVERNMENT EMPLOYEES**

8 **SEC. 401. WAIVER OF 10 PERCENT EARLY WITHDRAWAL**
9 **PENALTY TAX ON CERTAIN DISTRIBUTIONS**
10 **OF PENSION PLANS FOR PUBLIC SAFETY EM-**
11 **PLOYEES.**

12 (a) IN GENERAL.—Section 72(t)(2) of the Internal
13 Revenue Code of 1986 (relating to subsection not to apply
14 to certain distributions) is amended by adding at the end
15 the following new subsection:

16 “(G) DROP DISTRIBUTIONS TO QUALIFIED
17 PUBLIC SAFETY EMPLOYEES IN GOVERN-
18 MENTAL PLANS.—

19 “(i) IN GENERAL.—Distributions to
20 an individual who is a qualified public safe-
21 ty employee from a governmental plan
22 within the meaning of section 414(d) to
23 the extent such distributions are attrib-
24 utable to a DROP benefit.

1 “(ii) DEFINITIONS.—For purposes of
2 this subparagraph—

3 “(I) DROP BENEFIT.—The term
4 ‘DROP benefit’ means a feature of a
5 governmental plan which is a defined
6 benefit plan and under which an em-
7 ployee elects to receive credits to an
8 account (including a notional account)
9 in the plan which are not in excess of
10 the plan benefits that would have been
11 provided if the employee had retired
12 under the plan at a specified earlier
13 retirement date and which are in lieu
14 of increases in the employee’s accrued
15 pension benefit based on years of
16 service after the effective date of the
17 DROP election.

18 “(II) QUALIFIED PUBLIC SAFETY
19 EMPLOYEE.—The term ‘qualified pub-
20 lic safety employee’ means any em-
21 ployee of any police department or fire
22 department organized and operated by
23 a State or political subdivision of a
24 State if the employee provides police
25 protection, firefighting services, or

1 emergency medical services for any
2 area within the jurisdiction of such
3 State or political subdivision and if
4 the employee was eligible to retire on
5 or before the date of such election and
6 receive immediate retirement bene-
7 fits.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to distributions after the date of
10 enactment of this Act.

11 **SEC. 402. CLARIFICATIONS REGARDING PURCHASE OF PER-**
12 **MISSIVE SERVICE CREDIT.**

13 (a) **IN GENERAL.**—Subparagraph (A) of section
14 457(e)(17) (relating to trustee-to-trustee transfers to pur-
15 chase permissive service credit), and subparagraph (A) of
16 section 403(b)(13) (relating to trustee-to-trustee transfers
17 to purchase permissive service credit), are both amended
18 by striking “section 415(n)(3)(A)” and inserting “section
19 415(n)(3) (without regard to subparagraphs (B) and (C)
20 thereof)”.

21 (b) **DISTRIBUTION REQUIREMENTS.**—Section
22 457(e)(17) and section 403(b)(13) are both amended by
23 adding at the end the following sentence: “Amounts trans-
24 ferred under this paragraph shall be distributed solely in

1 accordance with section 401(a) as applicable to such de-
2 fined benefit plan.”.

3 (c) SERVICE CREDIT.—Clause (ii) of section
4 415(n)(3)(A) is amended to read as follows:

5 “(ii) which relates to benefits with re-
6 spect to which such participant is not oth-
7 erwise entitled, and”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect as if included in the amend-
10 ments made by section 647 of the Economic Growth and
11 Tax Relief Reconciliation Act of 2001.

12 **SEC. 403. ELIGIBILITY FOR PARTICIPATION IN RETIRE-**
13 **MENT PLANS.**

14 An individual shall not be precluded from partici-
15 pating in an eligible deferred compensation plan by reason
16 of having received a distribution under section 457(e)(9)
17 of the Internal Revenue Code of 1986, as in effect prior
18 to the enactment of the Small Business Job Protection
19 Act of 1996.

20 **SEC. 404. CLARIFICATION OF MINIMUM DISTRIBUTION**
21 **RULES.**

22 The Secretary of the Treasury shall issue regulations
23 under which a governmental plan (as defined in section
24 414(d) of the Internal Revenue Code of 1986) shall, for
25 all years to which section 401(a)(9) of such Code applies

1 to such plan, be treated as having complied with such sec-
2 tion 401(a)(9) if such plan complies with a reasonable
3 good faith interpretation of such section 401(a)(9).

4 **SEC. 405. CHURCH PLAN RULE.**

5 (a) IN GENERAL.—Paragraph (11) of section 415(b)
6 is amended by adding at the end the following: “Subpara-
7 graph (B) of paragraph (1) shall not apply to a plan main-
8 tained by an organization described in section
9 3121(w)(3)(A) except with respect to highly compensated
10 benefits. For purposes of this paragraph, the term ‘highly
11 compensated benefits’ means any benefits accrued for an
12 employee in any year on or after the first year in which
13 such employee is a highly compensated employee (as de-
14 fined in section 414(q)) of the organization described in
15 section 3121(w)(3)(A). For purposes of applying para-
16 graph (1)(B) to highly compensated benefits, all benefits
17 of the employee otherwise taken into account (without re-
18 gard to this paragraph) shall be taken into account.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to plan years beginning after De-
21 cember 31, 2003.

1 **TITLE V—SIMPLIFICATION AND**
2 **EQUITY**

3 **SEC. 501. UPDATING OF THE MINIMUM DISTRIBUTION**
4 **RULES.**

5 (a) REQUIRED DISTRIBUTIONS.—

6 (1) INCREASE IN AGE FOR REQUIRED BEGIN-
7 NING DATE.—Clauses (i) and (ii) of section
8 401(a)(9)(C) (relating to required beginning date)
9 are amended by striking “age 70½” each place it
10 appears and inserting “the applicable age”.

11 (2) MANDATORY DISTRIBUTION AGE.—Para-
12 graph (9) of section 401(a) (relating to required dis-
13 tributions) is amended by inserting at the end the
14 following new subparagraph:

15 “(H) APPLICABLE AGE.—For purposes of
16 this paragraph, the applicable age shall be de-
17 termined in accordance with the following table:

“Calendar year:	Applicable age is:
2004, 2005, 2006, and 2007	72
2008 and thereafter	75.”.

18 (3) SPOUSE BENEFICIARIES.—Subclause (I) of
19 section 401(a)(9)(B)(iv) (relating to special rule for
20 surviving spouse of employee) is amended by striking
21 “age 70½” and inserting “the applicable age”.

22 (4) ACTUARIAL ADJUSTMENT OF BENEFIT
23 UNDER DEFINED BENEFIT PLAN.—Clause (iii) of

1 section 401(a)(9)(C) (relating to actuarial adjust-
2 ment) is amended to read as follows:

3 “(iii) ACTUARIAL ADJUSTMENT.—

4 “(I) IN GENERAL.—In the case
5 of a defined benefit plan, an employ-
6 ee’s accrued benefit shall be actuari-
7 ally increased to take into account the
8 period after the applicable date during
9 which the employee was not receiving
10 any benefits under the plan.

11 “(II) APPLICABLE DATE.—For
12 purposes of clause (I), the term ‘appli-
13 cable date’ means April 1 of the cal-
14 endar year following the calendar year
15 in which the employee attains age
16 70½.”.

17 (b) REDUCTION IN EXCISE TAX.—Subsection (a) of
18 section 4974 (relating to excise tax on certain accumula-
19 tions in qualified retirement plans) is amended by striking
20 “50 percent” and inserting “20 percent”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the amendments made by this section
24 shall apply to years beginning after December 31,
25 2003.

1 (2) TRANSITION.—A plan shall not be treated
2 as failing to meet the requirements of section
3 401(a)(9) of the Internal Revenue Code of 1986
4 merely because, in years beginning after December
5 31, 2003, no distribution is made to an employee be-
6 fore the employee’s required beginning date, as de-
7 termined in accordance with the amendments made
8 by this section.

9 **SEC. 502. CLARIFICATION OF CATCH-UP CONTRIBUTIONS.**

10 (a) EXCEPTION TO NONDISCRIMINATION RULES.—

11 (1) IN GENERAL.—Paragraph (4) of section
12 414(v) (relating to application of nondiscrimination
13 rules) is amended by redesignating subparagraph
14 (B) as subparagraph (C) and by inserting after sub-
15 paragraph (A) the following new subparagraph:

16 “(B) EXCEPTION.—An applicable employer
17 plan shall not fail to satisfy the requirements of
18 this subparagraph solely because another appli-
19 cable employer plan maintained by the employer
20 that is qualified under Puerto Rico law does not
21 provide for additional elective deferrals under
22 this subsection.”.

23 (2) EXCEPTION TO AGGREGATION RULES.—
24 Subparagraph (C) of section 414(v)(4), as redesign-
25 nated by paragraph (1), is amended by adding at

1 the end the following new sentence: “In addition,
2 employees described in section 410(b)(3) shall be ex-
3 cluded from consideration. For any year in which an
4 employer complies with section 410(b) on the basis
5 of separate lines of business pursuant to section
6 410(b)(5), the employer may apply subparagraph
7 (A) for such year separately with respect to employ-
8 ees in each separate line of business.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect as if included in section
11 631(a) of the Economic Growth and Tax Relief Reconcili-
12 ation Act of 2001.

13 **SEC. 503. TRANSFERS TO THE PBGC.**

14 (a) MANDATORY DISTRIBUTIONS TO PBGC.—Clause
15 (i) of section 401(a)(31)(B) (relating to general rule for
16 certain mandatory distributions) is amended by inserting
17 “to the Pension Benefit Guaranty Corporation in accord-
18 ance with section 4050(e) of the Employee Retirement In-
19 come Security Act of 1974 or” after “such transfer”.

20 (b) TAX TREATMENT OF DISTRIBUTIONS.—Subpara-
21 graph (B) of section 401(a)(31) of such Code is amended
22 by adding at the end the following new clause:

23 “(iii) INCOME TAX TREATMENT OF
24 TRANSFERS TO PBGC.—For purposes of
25 determining the income tax treatment re-

1 lating to transfers to the Pension Benefit
2 Guaranty Corporation under clause (i)—

3 “(I) the transfer of amounts to
4 the Pension Benefit Guaranty Cor-
5 poration pursuant to clause (i) shall
6 be treated as a transfer to an indi-
7 vidual retirement plan under such
8 clause, and

9 “(II) the distribution of such
10 amounts from the Pension Benefit
11 Guaranty Corporation shall be treated
12 as a distribution from an individual
13 retirement plan.”.

14 (c) MISSING PARTICIPANTS AND BENEFICIARIES.—

15 (1) IN GENERAL.—Section 4050 of the Em-
16 ployee Retirement Income Security Act of 1974 (29
17 U.S.C. 1350) is amended by redesignating sub-
18 section (c) as subsection (f) and by inserting after
19 subsection (b) the following new subsections:

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

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

1 “(1) TRANSFER TO CORPORATION.—The plan
2 administrator of a plan described in paragraph (4)
3 may elect to transfer the benefits of a missing par-
4 ticipant or beneficiary to the corporation upon ter-
5 mination of the plan.

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

13 “(A) to the corporation, or

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

16 “(3) PAYMENT BY THE CORPORATION.—If ben-
17 efits of a missing participant or beneficiary were
18 transferred to the corporation under paragraph (1),
19 the corporation shall, upon location of the partici-
20 pant or beneficiary, pay to the participant or bene-
21 ficiary the amount transferred (or the appropriate
22 survivor benefit) either—

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

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

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

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

5 “(i) to which the provisions of this
6 section do not apply (without regard to
7 this subsection), and

8 “(ii) which is not a plan described in
9 paragraphs (2) through (11) of section
10 4021(b), and

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

13 “(i) has one or more missing partici-
14 pants or beneficiaries, and

15 “(ii) has not provided for the transfer
16 of assets to pay the benefits of all missing
17 participants and beneficiaries to another
18 pension plan (within the meaning of sec-
19 tion 3(2)).

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

23 “(e) INVOLUNTARY CASHOUTS.—

24 “(1) PAYMENT BY THE CORPORATION.—If ben-
25 efits under a plan described in paragraph (2) were

1 transferred to the corporation under section
2 401(a)(31)(B) of the Internal Revenue Code of
3 1986, the corporation shall, upon application filed by
4 the participant or beneficiary with the corporation in
5 such form and manner as may be prescribed in regu-
6 lations of the corporation, pay to the participant or
7 beneficiary the amount transferred (or the appro-
8 priate survivor benefit) either—

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

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

12 “(2) INFORMATION TO THE CORPORATION.—To
13 the extent provided in regulations, the plan adminis-
14 trator of a plan described in paragraph (3) shall,
15 upon transferred to the corporation under section
16 401(a)(31)(B) of such Code, provide the corporation
17 information with respect to benefits of the partici-
18 pant or beneficiary so transferred.

19 “(3) PLANS DESCRIBED.—A plan is described
20 in this paragraph if the plan is a pension plan (with-
21 in the meaning of section 3(2))—

22 “(A) which provides for mandatory dis-
23 tributions under section 401(a)(31)(B) of the
24 Internal Revenue Code of 1986, and

1 “(B) which is not a plan described in para-
2 graphs (2) through (11) of section 4021(b).

3 “(4) CERTAIN PROVISIONS NOT TO APPLY.—
4 Subsections (a)(1) and (a)(3) shall not apply to a
5 plan described in paragraph (2).”.

6 (2) CONFORMING AMENDMENTS.—Section
7 206(f) of such Act (29 U.S.C. 1056(f)) is
8 amended—

9 (A) by striking “title IV” and inserting
10 “section 4050”; and

11 (B) by striking “the plan shall provide
12 that,”.

13 (d) EFFECTIVE DATE.—

14 (1) INTERNAL REVENUE CODE PROVISIONS.—
15 The amendments made by subsections (a) and (b)
16 shall take effect as if included in the amendments
17 made by section 657 of the Economic Growth and
18 Tax Relief Reconciliation Act of 2001.

19 (2) EMPLOYEE RETIREMENT INCOME SECURITY
20 ACT OF 1974 PROVISIONS.—The amendments made
21 by subsection (c) shall apply to distributions made
22 after final regulations implementing subsections (c),
23 (d), and (e) of section 4050 of the Employee Retire-
24 ment Income Security Act of 1974 (as added by sub-
25 section (c)), respectively, are prescribed.

1 (3) REGULATIONS.—The Pension Benefit Guar-
2 anty Corporation shall issue regulations necessary to
3 carry out the amendments made by subsection (c)
4 not later than December 31, 2004.

5 **SEC. 504. ALLOW DIRECT ROLLOVERS FROM RETIREMENT**
6 **PLANS TO ROTH IRAS.**

7 (a) IN GENERAL.—Subsection (e) of section 408A
8 (defining qualified rollover contribution) is amended to
9 read as follows:

10 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
11 purposes of this section, the term ‘qualified rollover con-
12 tribution’ means a rollover contribution—

13 “(1) to a Roth IRA from another such account,
14 “(2) from an eligible retirement plan, but only
15 if—

16 “(A) in the case of an individual retire-
17 ment plan, such rollover contribution meets the
18 requirements of section 408(d)(3), and

19 “(B) in the case of any eligible retirement
20 plan (as defined in section 402(c)(8)(B) other
21 than clauses (i) and (ii) thereof), such rollover
22 contribution meets the requirements of section
23 402(c), 403(b)(8), or 457(e)(16), as applicable.

24 For purposes of section 408(d)(3)(B), there shall be dis-
25 regarded any qualified rollover contribution from an indi-

1 vidual retirement plan (other than a Roth IRA) to a Roth
2 IRA.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 408A(c)(3)(B) is amended—

5 (A) in the text by striking “individual re-
6 tirement plan” and inserting “an eligible retire-
7 ment plan (as defined by section
8 402(c)(8)(B))”, and

9 (B) in the heading by striking “IRA” and
10 inserting “ELIGIBLE RETIREMENT PLAN”.

11 (2) Section 408A(d)(3) is amended—

12 (A) in subparagraph (A) by striking “sec-
13 tion 408(d)(3)” inserting “sections 402(c),
14 403(b)(8), 408(d)(3), and 457(e)(16)”,

15 (B) in subparagraph (B) by striking “indi-
16 vidual retirement plan” and inserting “eligible
17 retirement plan (as defined by section
18 402(c)(8)(B))”,

19 (C) in subparagraph (D) by striking “or
20 6047” after “408(i)”,

21 (D) in subparagraph (D) by striking “or
22 both” and inserting “persons subject to section
23 6047(d)(1), or all of the foregoing persons”,
24 and

1 (E) in the heading by striking “IRA” and
2 inserting “ELIGIBLE RETIREMENT PLAN”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to distributions after December 31,
5 2003.

6 **SEC. 505. REFORM EXCISE TAX ON EXCESS CONTRIBU-**
7 **TIONS.**

8 (a) EXPANSION OF CORRECTIVE DISTRIBUTION PE-
9 RIOD.—Subsection (f) of section 4979 is amended—

10 (1) in paragraph (1) by striking “2½ months”
11 and inserting “6 months”, and

12 (2) in the heading by striking “2½ MONTHS”
13 and inserting “6 MONTHS”.

14 (b) YEAR OF INCLUSION.—Paragraph (2) of section
15 4972(f) is amended to read as follows:

16 “(2) YEAR OF INCLUSION.—Any amount dis-
17 tributed as provided in paragraph (1) shall be treat-
18 ed as earned and received by the recipient in his tax-
19 able year in which such distributions were made.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 2003.

1 **SEC. 506. INTERMEDIATE SANCTIONS FOR INADVERTENT**
2 **FAILURES.**

3 (a) IN GENERAL.—Section 401(a) (relating to quali-
4 fied pension, profit-sharing, and stock bonus plans) is
5 amended by inserting after paragraph (34) the following:

6 “(35) PROTECTION FROM DISQUALIFICATION
7 UPON TIMELY CORRECTION OR PAYMENT OF FINE.—

8 A trust shall not fail to constitute a qualified trust
9 under this section if the plan of which such trust is
10 a part has made good faith efforts to meet the re-
11 quirements of this section, has inadvertently failed
12 to satisfy 1 or more of such requirements, and
13 either—

14 “(A) substantially corrects (to the extent
15 possible) such failure before the date the plan
16 becomes subject to a plan examination for the
17 applicable year (as determined under rules pre-
18 scribed by the Secretary), or

19 “(B) substantially corrects (to the extent
20 possible) such failure on or after such date.

21 If the plan satisfies the requirement under subpara-
22 graph (B), the Secretary may require the sponsoring
23 employer to make a payment to the Secretary in an
24 amount that does not exceed an amount that bears
25 a reasonable relationship to the severity of the plan’s
26 failure to satisfy the requirements of this section.”.

1 (b) APPLICATION TO CASH OR DEFERRED ARRANGE-
2 MENTS.—Section 401(k) is amended by inserting after
3 paragraph (12) the following new paragraph:

4 “(13) PROTECTION FROM DISQUALIFICATION.—
5 Rules similar to the rules set forth in section
6 401(a)(35) shall apply for purposes of determining
7 whether a cash or deferred arrangement is a quali-
8 fied cash or deferred arrangement.”.

9 (c) APPLICATION TO SECTION 403(b) ANNUITY CON-
10 TRACTS.—Section 403(b) is amended by inserting after
11 paragraph (12) the following:

12 “(13) CORRECTION OF ERRORS.—For purposes
13 of determining whether the exclusion from gross in-
14 come under paragraph (1) is applicable to an em-
15 ployee for any taxable year, rules similar to the rules
16 set forth in section 401(a)(35) shall apply to any an-
17 nuity contract purchased under this subsection or
18 any plan established to meet the requirements of
19 this subsection.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of enactment of
22 this Act.

1 **SEC. 507. CLARIFICATION OF SUBSTANTIALLY EQUAL PERI-**
2 **ODIC PAYMENT RULE.**

3 (a) IN GENERAL.—Paragraph (4) of section 72(t)
4 (relating to change in substantially equal payments) is
5 amended by inserting at the end the following new sub-
6 paragraphs:

7 “(C) ROLLOVERS TO SUBSEQUENT
8 PLAN.—If—

9 “(i) payments satisfying paragraph
10 (2)(A)(iv) are being made from a qualified
11 retirement plan,

12 “(ii) a transfer or a rollover from the
13 qualified retirement plan is made to an-
14 other qualified retirement plan of all or a
15 portion of the taxpayer’s benefit under the
16 transferor plan, and

17 “(iii) distributions from the transferor
18 and transferee plans would in combination
19 continue to satisfy paragraph (2)(A)(iv) if
20 made only from the transferor plan,

21 such transfer or rollover shall not be treated as
22 a modification under subparagraph (A)(ii) and
23 compliance with paragraph (2)(A)(iv) shall be
24 determined on the basis of the combined dis-
25 tributions described in clause (iii).

1 “(D) INTEREST RATE.—Any reasonable in-
2 terest rate may be used in determining whether
3 payments are substantially equal under para-
4 graph (2)(A)(iv).”.

5 (b) EFFECTIVE DATES.—

6 (1) ROLLOVERS.—Section 72(t)(4)(C) of the
7 Internal Revenue Code of 1986, as added by sub-
8 section (a), shall apply to transfers and rollovers
9 after the date of enactment of this Act.

10 (2) INTEREST RATE.—Section 72(t)(4)(D) of
11 such Code, as so added, shall apply to series of pay-
12 ments commencing on or after the date of enactment
13 of this Act.

14 **SEC. 508. CLARIFICATION OF TREATMENT OF DISTRIBUTIONS OF ANNUITY CONTRACTS.**

16 (a) IN GENERAL.—Clause (i) of section 402(e)(4)(D)
17 is amended by adding after “section 401(c)(1).” the fol-
18 lowing: “A distribution of an annuity contract from a trust
19 or annuity plan referred to in the first sentence of this
20 clause may be treated as a part of a lump sum distribu-
21 tion.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall take effect as if included in section
24 1401(b)(1) of the Small Business Job Protection Act of
25 1996.

1 **SEC. 509. ALLOW CERTAIN PLAN TRANSFERS AND MERG-**
2 **ERS.**

3 (a) AMENDMENT TO THE INTERNAL REVENUE CODE
4 OF 1986.—Section 414 (relating to definitions and special
5 rules) is amended by adding at the end the following new
6 subsection:

7 “(w) CERTAIN PLAN TRANSFERS AND MERGERS.—

8 “(1) IN GENERAL.—Under rules prescribed by
9 the Secretary, no amount shall be includible in gross
10 income by reason of—

11 “(A) a transfer of all or a portion of the
12 account balance of a participant or beneficiary,
13 whether or not vested, from a defined contribu-
14 tion plan described in section 401(a) or section
15 403(a) of an employer to an annuity contract
16 described in section 403(b) of the same em-
17 ployer,

18 “(B) a transfer of all or a portion of the
19 account balance of a participant or beneficiary,
20 whether or not vested, from an annuity contract
21 described in section 403(b) of an employer to a
22 defined contribution plan described in section
23 401(a) or section 403(a) of the same employer,
24 or

25 “(C) a merger of a defined contribution
26 plan described in section 401(a) or section

1 403(a) of an employer with an annuity contract
2 described in section 403(b) of the same em-
3 ployer,
4 so long as the transfer or merger does not cause a
5 reduction in the vested benefit or total benefit (in-
6 cluding non-vested benefit) of any participant or
7 beneficiary. A plan or contract shall not fail to be
8 considered to be described in sections 401(a),
9 403(a), or 403(b) (as applicable) merely because
10 such plan or contract engages in a transfer or merg-
11 er described in this paragraph.

12 “(2) DISTRIBUTIONS.—Amounts transferred or
13 merged pursuant to paragraph (1) shall be subject
14 to the requirements of paragraphs (3) and (4) and
15 to the distribution requirements under sections
16 401(a), 403(a), or 403(b) applicable to the trans-
17 feree or merged plan.

18 “(3) SPOUSAL CONSENT AND ANTI-CUTBACK
19 PROTECTION.—In the case of a transfer or merger
20 described in paragraph (1), amounts in the trans-
21 feree or merged plan that are attributable to the
22 transferor or predecessor plan shall—

23 “(A)(i) be subject to section 401(a)(11) or
24 section 205 of the Employee Retirement Income
25 Security Act of 1974 to the extent that such

1 sections applied to such amounts in the trans-
2 feror or predecessor plan, or

3 “(ii) be required to satisfy the require-
4 ments of section 401(a)(11)(B)(iii)(I) or section
5 205(b)(1)(C)(i) of the Employee Retirement In-
6 come Security Act of 1974 to the extent that
7 such sections applied to such amounts in the
8 transferor or predecessor plan, and

9 “(B) be treated as subject to section
10 411(d)(6) and section 204(g) of the Employee
11 Retirement Income Security Act of 1974 to the
12 extent that such amounts were subject to such
13 sections in the transferor or predecessor plan.

14 “(4) SPECIAL RULES.—Under rules prescribed
15 by the Secretary, to the extent amounts transferred
16 or merged pursuant to paragraph (1) were otherwise
17 entitled to grandfather treatment under the trans-
18 feror or predecessor plan, such amounts (and income
19 or loss attributable thereto) shall remain entitled to
20 such treatment under the transferee or merged plan.
21 The rules prescribed by the Secretary shall require
22 that such amounts be separately accounted for by
23 the transferee or merged plan. For purposes of this
24 paragraph, ‘grandfather treatment’ shall mean spe-
25 cial treatment under the Internal Revenue Code of

1 1986 or the Employee Retirement Income Security
2 Act of 1974 that is provided for prior benefits, prior
3 periods of time, or certain individuals in connection
4 with a change in the applicable law.

5 “(5) CONSENT.—In the case of a qualified trust
6 described in section 401(a) or 403(a) and an annu-
7 ity contract described in section 403(b) with respect
8 to which transfers may be made only with the con-
9 sent of a participant or beneficiary pursuant to the
10 terms of such trust or contract or pursuant to appli-
11 cable law, a transfer from such trust or contract
12 pursuant to paragraph (1) may be made only if such
13 participant or beneficiary consents to such transfer.
14 For purposes of this paragraph, a merger of an an-
15 nuity contract described in section 403(b) with a
16 plan described in section 401(a) or 403(a) shall be
17 treated as a transfer from the predecessor plan or
18 contract to the merged plan or contract. Nothing in
19 this subsection shall affect the application of con-
20 tract or plan terms otherwise applicable in the case
21 of a withdrawal from the contract or plan.”.

22 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
23 INCOME SECURITY ACT OF 1974.—Section 4 of the Em-
24 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1003) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(d) This title shall apply to any plan or contract de-
4 scribed in section 414(w) of the Internal Revenue Code
5 of 1986 only to the extent necessary to comply with the
6 requirements of such section.”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to transfers or mergers in
10 years beginning after the Secretary of the Treasury
11 prescribes rules under section 414(w) of the Internal
12 Revenue Code of 1986.

13 (2) RULES.—The Secretary of the Treasury
14 shall issue rules under section 414(w) of the Inter-
15 nal Code of 1986 within 1 year after the date of en-
16 actment of this Act.

17 **SEC. 510. TREATMENT OF YMCA RETIREMENT FUND.**

18 (a) IN GENERAL.—Section 1012(c)(4)(C)(i) of the
19 Tax Reform Act of 1986 (100 Stat. 2394) is amended
20 by adding before the comma at the end thereof the fol-
21 lowing: “(whose retirement plans (including the reserve
22 accounts for such plans) are deemed to be plans described
23 in section 403(b)(9)(B) of the Internal Revenue Code of
24 1986 for years beginning on or after January 1, 2003)”.

1 (b) CLARIFICATION OF SCOPE OF CHURCH PLAN
2 STATUS.—

3 (1) NONDISCRIMINATION TESTING.—Any fund
4 or plan described in subsection (a) shall be subject
5 to the nondiscrimination requirements of section
6 403(b)(12) of such Code and shall not be treated as
7 a contract purchased by a church for purposes of
8 section 403(b)(1)(D) of such Code.

9 (2) APPLICABILITY OF 403(b)(9) RULES GEN-
10 ERALLY.—Nothing in this section shall exempt the
11 retirement fund of the YMCA from complying with
12 the rules otherwise applicable to a plan described in
13 section 403(b)(9)(B) of such Code in order for the
14 treatment described in section 403(b)(1) of such
15 Code to apply.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to years beginning after December
18 31, 2002.

19 **TITLE VI—OTHER TAX PROVI-**
20 **SIONS RELATING TO PEN-**
21 **SIONS**

22 **SEC. 601. REPORTING SIMPLIFICATION.**

23 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
24 OWNERS AND THEIR SPOUSES.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury and the Secretary of Labor shall modify the re-
3 quirements for filing annual returns with respect to
4 one-participant retirement plans to ensure that such
5 plans with assets of \$250,000 or less as of the close
6 of the plan year need not file a return for that year.

7 (2) ONE-PARTICIPANT RETIREMENT PLAN DE-
8 FINED.—For purposes of this subsection, the term
9 “one-participant retirement plan” means a retire-
10 ment plan with respect to which the following re-
11 quirements are met:

12 (A) on the first day of the plan year—

13 (i) the plan covered only one indi-
14 vidual (or the individual and the individ-
15 ual’s spouse) and the individual owned 100
16 percent of the plan sponsor (whether or
17 not incorporated), or

18 (ii) the plan covered only one or more
19 partners (or partners and their spouses) in
20 the plan sponsor;

21 (B) the plan meets the minimum coverage
22 requirements of section 410(b) of the Internal
23 Revenue Code of 1986 without being combined
24 with any other plan of the business that covers
25 the employees of the business;

1 (C) the plan does not provide benefits to
2 anyone except the individual (and the individ-
3 ual's spouse) or the partners (and their
4 spouses);

5 (D) the plan does not cover a business that
6 is a member of an affiliated service group, a
7 controlled group of corporations, or a group of
8 businesses under common control; and

9 (E) the plan does not cover a business that
10 leases employees.

11 (3) OTHER DEFINITIONS.—Terms used in para-
12 graph (2) which are also used in section 414 of the
13 Internal Revenue Code of 1986 shall have the re-
14 spective meanings given such terms by such section.

15 (4) EFFECTIVE DATE.—The provisions of this
16 subsection shall apply to plan years beginning on or
17 after January 1, 2003.

18 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
19 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case
20 of plan years beginning after December 31, 2004, the Sec-
21 retary of the Treasury and the Secretary of Labor shall
22 provide for the filing of a simplified annual return for any
23 retirement plan which covers less than 25 employees on
24 the first day of a plan year and which meets the require-

1 ments described in subparagraphs (B), (D), and (E) of
2 subsection (a)(2).

3 **SEC. 602. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
4 **ANCE RESOLUTION SYSTEM.**

5 The Secretary of the Treasury shall continue to up-
6 date and improve the Employee Plans Compliance Resolu-
7 tion System (or any successor program) giving special at-
8 tention to—

9 (1) increasing the awareness and knowledge of
10 small employers concerning the availability and use
11 of the program;

12 (2) taking into account special concerns and
13 circumstances that small employers face with respect
14 to compliance and correction of compliance failures;

15 (3) extending the duration of the self-correction
16 period under the Self-Correction Program for signifi-
17 cant compliance failures;

18 (4) expanding the availability to correct insig-
19 nificant compliance failures under the Self-Correc-
20 tion Program during audit; and

21 (5) assuring that any tax, penalty, or sanction
22 that is imposed by reason of a compliance failure is
23 not excessive and bears a reasonable relationship to
24 the nature, extent, and severity of the failure.

1 The Secretary of the Treasury shall have full authority
2 to effectuate the foregoing and to implement the Employee
3 Plans Compliance Resolution System (or any successor
4 program) and any other employee plans correction poli-
5 cies, including the authority to waive income, excise, or
6 other taxes to ensure that any tax, penalty, or sanction
7 is not excessive and bears a reasonable relationship to the
8 nature, extent, and severity of the failure.

9 **SEC. 603. EXTENSION OF MORATORIUM ON APPLICATION**
10 **OF CERTAIN NONDISCRIMINATION RULES TO**
11 **ALL GOVERNMENTAL PLANS.**

12 (a) IN GENERAL.—

13 (1) Subparagraph (G) of section 401(a)(5) of
14 the Internal Revenue Code of 1986 and subpara-
15 graph (H) of section 401(a)(26) of such Code are
16 each amended by striking “section 414(d))” and all
17 that follows and inserting “section 414(d)).”.

18 (2) Subparagraph (G) of section 401(k)(3) of
19 the Internal Revenue Code of 1986 and paragraph
20 (2) of section 1505(d) of the Taxpayer Relief Act of
21 1997 (26 U.S.C. 401 note) are each amended by
22 striking “maintained by a State or local government
23 or political subdivision thereof (or agency or instru-
24 mentality thereof)”.

25 (b) CONFORMING AMENDMENTS.—

(1) The heading for subparagraph (G) of section 401(a)(5) of such Code is amended to read as follows: “GOVERNMENTAL PLANS.—”.

(2) The heading for subparagraph (H) of section 401(a)(26) of such Code is amended to read as follows: “EXCEPTION FOR GOVERNMENTAL PLANS.—”.

8 (3) Subparagraph (G) of section 401(k)(3) of
9 such Code is amended by inserting “GOVERN-
10 MENTAL PLANS.—” after “(G)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2003.

14 SEC. 604. NOTICE AND CONSENT PERIOD REGARDING DIS-
15 TRIBUTIONS.

16 (a) EXPANSION OF PERIOD.—

17 (1) AMENDMENT OF INTERNAL REVENUE
18 CODE.—

(A) IN GENERAL.—Subparagraph (A) of section 417(a)(6) of the Internal Revenue Code of 1986 is amended by striking “90-day” and inserting “180-day”.

(B) MODIFICATION OF REGULATIONS.—
The Secretary of the Treasury shall modify the
regulations under sections 402(f), 411(a)(11),

1 and 417 of the Internal Revenue Code of 1986
2 to substitute “180 days” for “90 days” each
3 place it appears in Treasury Regulations sec-
4 tions 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–
5 1(b).

6 (2) AMENDMENT OF ERISA.—

7 (A) IN GENERAL.—Section 205(c)(7)(A) of
8 the Employee Retirement Income Security Act
9 of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended
10 by striking “90-day” and inserting “180-day”.

11 (B) MODIFICATION OF REGULATIONS.—

12 The Secretary of the Treasury shall modify the
13 regulations under part 2 of subtitle B of title
14 I of the Employee Retirement Income Security
15 Act of 1974 to the extent that they relate to
16 sections 203(e) and 205 of such Act to sub-
17 stitute “180 days” for “90 days” each place it
18 appears.

19 (3) EFFECTIVE DATE.—The amendments made
20 by paragraphs (1)(A) and (2)(A) and the modifica-
21 tions required by paragraphs (1)(B) and (2)(B)
22 shall apply to years beginning after December 31,
23 2003.

24 (b) CONSENT REGULATION INAPPLICABLE TO CER-
25 TAIN DISTRIBUTIONS.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury shall modify the regulations under section
3 411(a)(11) of the Internal Revenue Code of 1986
4 and under section 205 of the Employee Retirement
5 Income Security Act of 1974 to provide that the de-
6 scription of a participant's right, if any, to defer re-
7 ceipt of a distribution shall also describe the con-
8 sequences of failing to defer such receipt.

9 (2) EFFECTIVE DATE.—

10 (A) IN GENERAL.—The modifications re-
11 quired by paragraph (1) shall apply to years be-
12 ginning after December 31, 2003.

13 (B) REASONABLE NOTICE.—In the case of
14 any description of such consequences made be-
15 fore the date that is 90 days after the date on
16 which the Secretary of the Treasury issues a
17 safe harbor description under paragraph (1), a
18 plan shall not be treated as failing to satisfy the
19 requirements of section 411(a)(11) of such
20 Code or section 205 of such Act by reason of
21 the failure to provide the information required
22 by the modifications made under paragraph (1)
23 if the Administrator of such plan makes a rea-
24 sonable attempt to comply with such require-
25 ments.

1 **SEC. 605. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
2 **SMALL EMPLOYERS.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 4006(a)(3) of the Employee Retirement Income Security
5 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

6 (1) in clause (i), by inserting “other than a new
7 single-employer plan (as defined in subparagraph
8 (F)) maintained by a small employer (as so de-
9 fined),” after “single-employer plan,”

10 (2) in clause (iii), by striking the period at the
11 end and inserting “, and”, and

12 (3) by adding at the end the following new
13 clause:

14 “(iv) in the case of a new single-employer plan
15 (as defined in subparagraph (F)) maintained by a
16 small employer (as so defined) for the plan year, \$5
17 for each individual who is a participant in such plan
18 during the plan year.”.

19 (b) DEFINITION OF NEW SINGLE-EMPLOYER
20 PLAN.—Section 4006(a)(3) of the Employee Retirement
21 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
22 amended by adding at the end the following new subpara-
23 graph:

24 “(F)(i) For purposes of this paragraph, a single-em-
25 ployer plan maintained by a contributing sponsor shall be
26 treated as a new single-employer plan for each of its first

1 5 plan years if, during the 36-month period ending on the
2 date of the adoption of such plan, the sponsor or any
3 member of such sponsor's controlled group (or any prede-
4 cessor of either) did not establish or maintain a plan to
5 which this title applies with respect to which benefits were
6 accrued for substantially the same employees as are in the
7 new single-employer plan.

8 “(ii)(I) For purposes of this paragraph, the term
9 ‘small employer’ means an employer which on the first day
10 of any plan year has, in aggregation with all members of
11 the controlled group of such employer, 100 or fewer em-
12 ployees.

13 “(II) In the case of a plan maintained by two or more
14 contributing sponsors that are not part of the same con-
15 trolled group, the employees of all contributing sponsors
16 and controlled groups of such sponsors shall be aggregated
17 for purposes of determining whether any contributing
18 sponsor is a small employer.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to plans first effective after Decem-
21 ber 31, 2003.

22 **SEC. 606. REDUCTION OF ADDITIONAL PBGC PREMIUMS**
23 **FOR NEW AND SMALL PLANS.**

24 Subparagraph (E) of section 4006(a)(3) of the Em-
25 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1306(a)(3)(E)) is amended by adding at the end
2 the following new clause:

3 “(v) In the case of a new defined benefit plan, the
4 amount determined under clause (ii) for any plan year
5 shall be an amount equal to the product of the amount
6 determined under clause (ii) and the applicable percent-
7 age. For purposes of this clause, the term ‘applicable per-
8 centage’ means—

9 “(I) 0 percent, for the first plan year.

10 “(II) 20 percent, for the second plan year.

11 “(III) 40 percent, for the third plan year.

12 “(IV) 60 percent, for the fourth plan year.

13 “(V) 80 percent, for the fifth plan year.

14 For purposes of this clause, a defined benefit plan (as de-
15 fined in section 3(35)) maintained by a contributing spon-
16 sor shall be treated as a new defined benefit plan for each
17 of its first 5 plan years if, during the 36-month period
18 ending on the date of the adoption of the plan, the sponsor
19 and each member of any controlled group including the
20 sponsor (or any predecessor of either) did not establish
21 or maintain a plan to which this title applies with respect
22 to which benefits were accrued for substantially the same
23 employees as are in the new plan.”.

24 (b) SMALL PLANS.—Paragraph (3) of section
25 4006(a) of the Employee Retirement Income Security Act

1 of 1974 (29 U.S.C. 1306(a)), as amended by section
2 210(b), is amended—

3 (1) by striking “The” in subparagraph (E)(i)
4 and inserting “Except as provided in subparagraph
5 (G), the”, and

6 (2) by inserting after subparagraph (F) the fol-
7 lowing new subparagraph:

8 “(G)(i) In the case of an employer who has 25 or
9 fewer employees on the first day of the plan year, the addi-
10 tional premium determined under subparagraph (E) for
11 each participant shall not exceed \$5 multiplied by the
12 number of participants in the plan as of the close of the
13 preceding plan year.

14 “(ii) For purposes of clause (i), whether an employer
15 has 25 or fewer employees on the first day of the plan
16 year is determined by taking into consideration all of the
17 employees of all members of the contributing sponsor’s
18 controlled group. In the case of a plan maintained by two
19 or more contributing sponsors, the employees of all con-
20 tributing sponsors and their controlled groups shall be ag-
21 gregated for purposes of determining whether the 25-or-
22 fewer-employees limitation has been satisfied.”.

23 (c) EFFECTIVE DATES.—

1 (1) SUBSECTION (a).—The amendments made
2 by subsection (a) shall apply to plans first effective
3 after December 31, 2003.

4 (2) SUBSECTION (b).—The amendments made
5 by subsection (b) shall apply to plan years beginning
6 after December 31, 2003.

7 **SEC. 607. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**
8 **PREMIUM OVERPAYMENT REFUNDS.**

9 (a) IN GENERAL.—Section 4007(b) of the Employ-
10 ment Retirement Income Security Act of 1974 (29 U.S.C.
11 1307(b)) is amended—

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

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

16 “(2) The corporation is authorized to pay, subject to
17 regulations prescribed by the corporation, interest on the
18 amount of any overpayment of premium refunded to a des-
19 ignated payor. Interest under this paragraph shall be cal-
20 culated at the same rate and in the same manner as inter-
21 est is calculated for underpayments under paragraph
22 (1).”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply to interest accruing for periods

1 beginning not earlier than the date of the enactment of
2 this Act.

3 **SEC. 608. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
4 **PLANS.**

5 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—
6 Section 4022(b)(5) of the Employee Retirement Income
7 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended
8 to read as follows:

9 “(5)(A) For purposes of this paragraph, the term
10 ‘majority owner’ means an individual who, at any time
11 during the 60-month period ending on the date the deter-
12 mination is being made—

13 “(i) owns the entire interest in an unincor-
14 porated trade or business,

15 “(ii) in the case of a partnership, is a partner
16 who owns, directly or indirectly, 50 percent or more
17 of either the capital interest or the profits interest
18 in such partnership, or

19 “(iii) in the case of a corporation, owns, directly
20 or indirectly, 50 percent or more in value of either
21 the voting stock of that corporation or all the stock
22 of that corporation.

23 For purposes of clause (iii), the constructive ownership
24 rules of section 1563(e) of the Internal Revenue Code of

1 1986 shall apply (determined without regard to section
2 1563(e)(3)(C)).

3 “(B) In the case of a participant who is a majority
4 owner, the amount of benefits guaranteed under this sec-
5 tion shall equal the product of—

6 “(i) a fraction (not to exceed 1) the numerator
7 of which is the number of years from the later of the
8 effective date or the adoption date of the plan to the
9 termination date, and the denominator of which is
10 10, and

11 “(ii) the amount of benefits that would be guar-
12 anteed under this section if the participant were not
13 a majority owner.”.

14 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

15 (1) Section 4044(a)(4)(B) of the Employee Re-
16 tirement Income Security Act of 1974 (29 U.S.C.
17 1344(a)(4)(B)) is amended by striking “section
18 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

19 (2) Section 4044(b) of such Act (29 U.S.C.
20 1344(b)) is amended—

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

23 (B) by redesignating paragraphs (3)
24 through (6) as paragraphs (4) through (7), re-

1 spectively, and by inserting after paragraph (2)
2 the following new paragraph:

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

17 (c) CONFORMING AMENDMENTS.—

18 (1) Section 4021 of the Employee Retirement
19 Income Security Act of 1974 (29 U.S.C. 1321) is
20 amended—

21 (A) in subsection (b)(9), by striking “as
22 defined in section 4022(b)(6)”, and

23 (B) by adding at the end the following new
24 subsection:

1 “(d) For purposes of subsection (b)(9), the term ‘sub-
2 stantial owner’ means an individual who, at any time dur-
3 ing the 60-month period ending on the date the determina-
4 tion is being made—

5 “(1) owns the entire interest in an unincor-
6 porated trade or business,

7 “(2) in the case of a partnership, is a partner
8 who owns, directly or indirectly, more than 10 per-
9 cent of either the capital interest or the profits inter-
10 est in such partnership, or

11 “(3) in the case of a corporation, owns, directly
12 or indirectly, more than 10 percent in value of either
13 the voting stock of that corporation or all the stock
14 of that corporation.

15 For purposes of paragraph (3), the constructive ownership
16 rules of section 1563(e) of the Internal Revenue Code of
17 1986 shall apply (determined without regard to section
18 1563(e)(3)(C)).”.

19 (2) Section 4043(c)(7) of such Act (29 U.S.C.
20 1343(c)(7)) is amended by striking “section 4022(b)(6)”
21 and inserting “section 4021(d)”.

22 (d) EFFECTIVE DATES.—

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

1 (A) under section 4041(c) of the Employee
2 Retirement Income Security Act of 1974 (29
3 U.S.C. 1341(c)) with respect to which notices
4 of intent to terminate are provided under sec-
5 tion 4041(a)(2) of such Act (29 U.S.C.
6 1341(a)(2)) after December 31, 2003, and

7 (B) under section 4042 of such Act (29
8 U.S.C. 1342) with respect to which proceedings
9 are instituted by the corporation after such
10 date.

11 (2) CONFORMING AMENDMENTS.—The amend-
12 ments made by subsection (c) shall take effect on
13 January 1, 2004.

14 **TITLE VII—STOCK OPTIONS**

15 **SEC. 701. EXCLUSION OF INCENTIVE STOCK OPTIONS AND** 16 **EMPLOYEE STOCK PURCHASE PLAN STOCK** 17 **OPTIONS FROM WAGES.**

18 (a) EXCLUSION FROM EMPLOYMENT TAXES.—

19 (1) SOCIAL SECURITY TAXES.—

20 (A) Section 3121(a) (relating to definition
21 of wages) is amended by striking “or” at the
22 end of paragraph (20), by striking the period at
23 the end of paragraph (21) and inserting “; or”,
24 and by inserting after paragraph (21) the fol-
25 lowing new paragraph:

1 “(22) remuneration on account of—

2 “(A) a transfer of a share of stock to any
3 individual pursuant to an exercise of an incen-
4 tive stock option (as defined in section 422(b))
5 or under an employee stock purchase plan (as
6 defined in section 423(b)), or

7 “(B) any disposition by the individual of
8 such stock.”.

9 (B) Section 209(a) of the Social Security
10 Act is amended by striking “or” at the end of
11 paragraph (17), by striking the period at the
12 end of paragraph (18) and inserting “; or”, and
13 by inserting after paragraph (18) the following
14 new paragraph:

15 “(19) Remuneration on account of—

16 “(A) a transfer of a share of stock to any
17 individual pursuant to an exercise of an incen-
18 tive stock option (as defined in section 422(b)
19 of the Internal Revenue Code of 1986) or under
20 an employee stock purchase plan (as defined in
21 section 423(b) of such Code), or

22 “(B) any disposition by the individual of
23 such stock.”.

1 (2) RAILROAD RETIREMENT TAXES.—Sub-
2 section (e) of section 3231 is amended by adding at
3 the end the following new paragraph:

4 “(11) QUALIFIED STOCK OPTIONS.—The term
5 ‘compensation’ shall not include any remuneration
6 on account of—

7 “(A) a transfer of a share of stock to any
8 individual pursuant to an exercise of an incen-
9 tive stock option (as defined in section 422(b))
10 or under an employee stock purchase plan (as
11 defined in section 423(b)), or

12 “(B) any disposition by the individual of
13 such stock.”.

14 (3) UNEMPLOYMENT TAXES.—Section 3306(b)
15 (relating to definition of wages) is amended by strik-
16 ing “or” at the end of paragraph (16), by striking
17 the period at the end of paragraph (17) and insert-
18 ing “; or”, and by inserting after paragraph (17) the
19 following new paragraph:

20 “(18) remuneration on account of—

21 “(A) a transfer of a share of stock to any
22 individual pursuant to an exercise of an incen-
23 tive stock option (as defined in section 422(b))
24 or under an employee stock purchase plan (as
25 defined in section 423(b)), or

1 “(B) any disposition by the individual of
2 such stock.”.

3 (b) WAGE WITHHOLDING NOT REQUIRED ON DIS-
4 QUALIFYING DISPOSITIONS.—Section 421(b) (relating to
5 effect of disqualifying dispositions) is amended by adding
6 at the end the following new sentence: “No amount shall
7 be required to be deducted and withheld under chapter
8 24 with respect to any increase in income attributable to
9 a disposition described in the preceding sentence.”.

10 (c) WAGE WITHHOLDING NOT REQUIRED ON COM-
11 PENSATION WHERE OPTION PRICE IS BETWEEN 85 PER-
12 CENT AND 100 PERCENT OF VALUE OF STOCK.—Section
13 423(c) (relating to special rule where option price is be-
14 tween 85 percent and 100 percent of value of stock) is
15 amended by adding at the end the following new sentence:
16 “No amount shall be required to be deducted and withheld
17 under chapter 24 with respect to any amount treated as
18 compensation under this subsection.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to stock acquired pursuant to op-
21 tions exercised after the date of the enactment of this Act.

1 **TITLE VIII—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

4 (a) IN GENERAL.—If this section applies to any plan
5 or contract amendment—

6 (1) such plan or contract shall be treated as
7 being operated in accordance with the terms of the
8 plan during the period described in subsection
9 (b)(2)(A), and

10 (2) except as provided by the Secretary of the
11 Treasury, such plan shall not fail to meet the re-
12 quirements of section 411(d)(6) of the Internal Rev-
13 enue Code of 1986 and section 204(g) of the Em-
14 ployee Retirement Income Security Act of 1974 by
15 reason of such amendment.

16 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

17 (1) IN GENERAL.—This section shall apply to
18 any amendment to any plan or annuity contract
19 which is made—

20 (A) pursuant to any amendment made by
21 this Act or title VI of the Economic Growth and
22 Tax Relief Reconciliation Act of 2001, or pur-
23 suant to any regulation issued by the Secretary
24 of the Treasury or the Secretary of Labor
25 under this Act or such title VI, and

1 (B) on or before the last day of the first
2 plan year beginning on or after January 1,
3 2006.

4 In the case of a governmental plan (as defined in
5 section 414(d) of the Internal Revenue Code of
6 1986), this paragraph shall be applied by sub-
7 stituting “2008” for “2006”.

8 (2) CONDITIONS.—This section shall not apply
9 to any amendment unless—

10 (A) during the period—

11 (i) beginning on the date the legisla-
12 tive or regulatory amendment described in
13 paragraph (1)(A) takes effect (or in the
14 case of a plan or contract amendment not
15 required by such legislative or regulatory
16 amendment, the effective date specified by
17 the plan), and

18 (ii) ending on the date described in
19 paragraph (1)(B) (or, if earlier, the date
20 the plan or contract amendment is adopt-
21 ed),

22 the plan or contract is operated as if such plan
23 or contract amendment were in effect; and

24 (B) such plan or contract amendment ap-
25 plies retroactively for such period.

1 **SEC. 802. APPLICATION OF EGTRRA SUNSET.**

2 Each amendment made by this Act shall be subject
3 to title IX of the Economic Growth and Tax Relief Rec-
4 onciliation Act of 2001 to the same extent and in the same
5 manner as the provision of the Economic Growth and Tax
6 Relief Reconciliation Act of 2001 to which such amend-
7 ment relates.

Amend the title so as to read: “A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms.”.