

[COMMITTEE PRINT]

JULY 14, 1999

**TITLE VI OF H.R. 1102, AS REPORTED BY THE
COMMITTEE ON EDUCATION AND THE WORK-
FORCE**

1 **TITLE VI—AMENDMENTS TO THE**
2 **EMPLOYEE RETIREMENT IN-**
3 **COME SECURITY ACT OF 1974**
4 **Subtitle A—Expanding Coverage**
5 **and Increasing Portability**

6 **SEC. 601. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**
7 **NERS, AND SOLE PROPRIETORS.**

8 (a) IN GENERAL.—Paragraph (2) of section 408(d)
9 of the Employee Retirement Income Security Act of 1974
10 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
11 the following new subparagraph:

12 “(C) For purposes paragraph (1)(A), the term
13 ‘owner-employee’ shall only include a person described in
14 clause (ii) or (iii) of subparagraph (A).”

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to loans made after December 31,
17 2000.

1 **SEC. 602. 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) had not established or maintained a plan
5 to which this title applies with respect to which benefits
6 were accrued for substantially the same employees as are
7 in the 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 2 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 established after Decem-
21 ber 31, 2000.

22 **SEC. 603. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**
23 **NEW AND SMALL PLANS.**

24 (a) NEW PLANS.—Subparagraph (E) of section
25 4006(a)(3) of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
2 adding at the end 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 its
17 first 5 plan years if, during the 36-month period ending
18 on the date of the adoption of the plan, the sponsor and
19 each member of any controlled group including the spon-
20 sor (or any predecessor of either) did not establish or
21 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.”.

1 (b) SMALL PLANS.—Paragraph (3) of section
2 4006(a) of the Employee Retirement Income Security Act
3 of 1974 (29 U.S.C. 1306(a)) is amended—

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

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

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

15 “(ii) For purposes of clause (i), whether an employer
16 has 25 or fewer employees on the first day of the plan
17 year is determined taking into consideration all of the em-
18 ployees of all members of the contributing sponsor’s con-
19 trolled group. In the case of a plan maintained by 2 or
20 more contributing sponsors, the employees of all contrib-
21 uting sponsors and their controlled groups shall be aggre-
22 gated for purposes of determining whether 25-or-fewer-
23 employees limitation has been satisfied.”.

24 (c) EFFECTIVE DATES.—

1 (1) SUBSECTION (a).—The amendments made
2 by subsection (a) shall apply to plans established
3 after December 31, 2000.

4 (2) SUBSECTION (b).—The amendments made
5 by subsection (b) shall apply to plan years beginning
6 after December 31, 2000.

7 **SEC. 604. FASTER VESTING OF CERTAIN EMPLOYER**
8 **MATCHING CONTRIBUTIONS.**

9 (a) IN GENERAL.—Section 203(a) of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1053(a)) is amended—

12 (1) in paragraph (2), by striking “A plan” and
13 inserting “Except as provided in paragraph (4), a
14 plan”, and

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

16 “(4) FASTER VESTING FOR MATCHING CON-
17 TRIBUTIONS.—In the case of matching contributions
18 (as defined in section 401(m)(4)(A) of the Internal
19 Revenue Code of 1986), paragraph (2) shall be
20 applied—

21 “(A) by substituting ‘3 years’ for ‘5 years’
22 in subparagraph (A), and

23 “(B) by substituting the following table for
24 the table contained in subparagraph (B):

	The nonforfeitable
“Years of service:	percentage is:
2	20

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

1 (b) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to plan years beginning after December
5 31, 2000.

6 (2) COLLECTIVE BARGAINING AGREEMENTS.—

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

13 (A) the later of—

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

19 (ii) January 1, 2001, or

20 (B) January 1, 2005.

21 (3) SERVICE REQUIRED.—With respect to any
22 plan, the amendments made by this section shall not

1 apply to any employee before the date that such em-
2 ployee has 1 hour of service under such plan in any
3 plan year to which the amendments made by this
4 section apply.

5 **SEC. 605. TREATMENT OF FORMS OF DISTRIBUTION.**

6 (a) IN GENERAL.—Subsection (g) of section 204 of
7 the Employee Retirement Income Security Act of 1974
8 (29 U.S.C. 1054) is amended—

9 (1) in paragraph (2), by striking the last sen-
10 tence and inserting the following: “The Secretary of
11 the Treasury may by regulations provide that this
12 paragraph shall not apply to any plan amendment
13 that does not adversely affect the rights of partici-
14 pants in a material manner.”; and

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

16 “(4)(A) A defined contribution plan (in this subpara-
17 graph referred to as the ‘transferee plan’) shall not be
18 treated as failing to meet the requirements of this sub-
19 section merely because the transferee plan does not pro-
20 vide some or all of the forms of distribution previously
21 available under another defined contribution plan (in this
22 paragraph referred to as the ‘transferor plan’) to the ex-
23 tent that—

24 “(i) the forms of distribution previously avail-
25 able under the transferor plan applied to the account

1 of a participant or beneficiary under the transferor
2 plan that was transferred from the transferor plan
3 to the transferee plan pursuant to a direct transfer
4 rather than pursuant to a distribution from the
5 transferor plan;

6 “(ii) the terms of both the transferor plan and
7 the transferee plan authorize the transfer described
8 in clause (i);

9 “(iii) the transfer described in clause (i) was
10 made pursuant to a voluntary election by the partici-
11 pant or beneficiary whose account was transferred to
12 the transferee plan;

13 “(iv) the election described in clause (iii) was
14 made after the participant or beneficiary received a
15 notice describing the consequences of making the
16 election;

17 “(v) if the transferor plan provides for an annu-
18 ity as the normal form of distribution under the plan
19 in accordance with section 205, the transfer is made
20 with the consent of the participant’s spouse (if any),
21 and such consent meets requirements similar to the
22 requirements imposed by section 205(c)(2); and

23 “(vi) the transferee plan allows the participant
24 or beneficiary described in clause (iii) to receive any
25 distribution which the participant or beneficiary is

1 entitled under the transferee plan in the form of a
2 single sum distribution.

3 “(B) Subparagraph (A) shall apply to plan mergers
4 and other transactions having the effect of a direct trans-
5 fer, including consolidations of benefits attributable to dif-
6 ferent employers within a multiple employer plan.

7 “(5) Except to the extent provided in regulations, a
8 defined contribution plan shall not be treated as failing
9 to meet the requirements of this section merely because
10 of the elimination of a form of distribution previously
11 available thereunder. This paragraph shall not apply to
12 the elimination of a form of distribution with respect to
13 any participant unless—

14 “(A) a single sum payment is available to such
15 participant at the same time or times as the form
16 of distribution being eliminated; and

17 “(B) such single sum payment is based on the
18 same or greater portion of the participant’s account
19 as the form of distribution being eliminated.”.

20 (b) REGULATIONS.—Not later than December 31,
21 2001, the Secretary of the Treasury is directed to issue
22 final regulations under section 204(g) of the Employee Re-
23 tirement Income Security Act of 1974. Such regulations
24 shall apply to plan years beginning after December 31,

1 2001 or such earlier date as is specified by the Secretary
2 of the Treasury.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 2000.

6 **SEC. 606. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
7 **PURPOSES OF CASH-OUT AMOUNTS.**

8 (a) IN GENERAL.—Section 203(e) of the Employee
9 Retirement Income Security Act of 1974 (29 U.S.C.
10 1053(e)) is amended by adding at the end the following:

11 “(4) A plan shall not fail to meet the requirements
12 of this subsection if, under the terms of the plan, the
13 present value of the nonforfeitable accrued benefit is de-
14 termined without regard to that portion of such benefit
15 which is attributable to rollover contributions (and earn-
16 ings allocable thereto). For purposes of this paragraph,
17 the term ‘rollover contributions’ means any rollover con-
18 tribution under section 402(c), 403(a)(4), 403(b)(8),
19 408(d)(3)(A)(ii), or 457(e)(16) of the Internal Revenue
20 Code of 1986.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to distributions after December 31,
23 2000.

1 **Subtitle B—Strengthening Pension**
2 **Security and Enforcement**

3 **SEC. 611. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**
4 **FUNDING LIMIT.**

5 (a) IN GENERAL.—Section 302(c)(7) of the Em-
6 ployee Retirement Income Security Act of 1974 (29
7 U.S.C. 1082(c)(7)) is amended—

8 (1) by striking “the applicable percentage” in
9 subparagraph (A)(i)(I) and inserting “in the case of
10 plan years beginning before January 1, 2004, the
11 applicable percentage”, and

12 (2) by amending subparagraph (F) to read as
13 follows:

14 “(F) APPLICABLE PERCENTAGE.—For purposes
15 of subparagraph (A)(i)(I), the applicable percentage
16 shall be determined in accordance with the following
17 table:

“In the case of any plan year beginning in—	The applicable percentage is—
2001	160
2002	165
2003	170.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to plan years beginning after De-
20 cember 31, 2000.

21 **SEC. 612. MISSING PARTICIPANTS.**

22 (a) IN GENERAL.—Section 4050 of the Employee Re-
23 tirement Income Security Act of 1974 (29 U.S.C. 1350)

1 is amended by redesignating subsection (c) as subsection
2 (e) and by inserting after subsection (b) the following:

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

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

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

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

18 “(A) to the corporation, or

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

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

1 transferred (or the appropriate survivor benefit)
2 either—

3 “(A) in a single sum (plus interest), or
4 “(B) in such other form as is specified in
5 regulations of the corporation.

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

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

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

13 “(ii) which is not a plan described in
14 paragraphs (2) through (11) of section
15 4021(b), and

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

18 “(i) has missing participants, and

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

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

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

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

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

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

13 **SEC. 613. PERIODIC PENSION BENEFITS STATEMENTS.**

14 (a) IN GENERAL.—Section 105(a) of the Employee
15 Retirement Income Security Act of 1974 (29 U.S.C. 1025
16 (a)) is amended to read as follows:

17 “(a)(1) Except as provided in paragraph (2)—

18 “(A) The administrator of an individual ac-
19 count plan shall furnish a pension benefit
20 statement—

21 “(i) to a plan participant at least once an-
22 nually, and

23 “(ii) to a plan beneficiary upon written re-
24 quest.

1 “(B) The administrator of a defined benefit
2 plan shall furnish a pension benefit statement—

3 “(i) at least once every 3 years to each
4 participant with a nonforfeitable accrued ben-
5 efit who is employed by the employer maintain-
6 ing the plan at the time the statement is fur-
7 nished to participants, and

8 “(ii) to a participant or beneficiary of the
9 plan upon written request.

10 “(2) Notwithstanding paragraph (1), the adminis-
11 trator of a plan to which more than 1 unaffiliated em-
12 ployer is required to contribute shall only be required to
13 furnish a pension benefit statement under paragraph (1)
14 upon the written request of a participant or beneficiary
15 of the plan.

16 “(3) A pension benefit statement under paragraph
17 (1)—

18 “(A) shall indicate, on the basis of the latest
19 available information—

20 “(i) the total benefits accrued, and

21 “(ii) the nonforfeitable pension benefits, if
22 any, which have accrued, or the earliest date on
23 which benefits will become nonforfeitable,

1 “(B) shall be communicated in a manner cal-
2 culated to be understood by the average plan partici-
3 pant, and

4 “(C) may be provided in written, electronic, tel-
5 ephonic, or other appropriate form.

6 “(4) In the case of a defined benefit plan, the require-
7 ments of paragraph (1)(B)(i) shall be treated as met with
8 respect to a participant if the administrator provides the
9 participant at least once each year with notice of the avail-
10 ability of the pension benefit statement and the ways in
11 which the participant may obtain such statement. Such
12 notice shall be provided in written, electronic, telephonic,
13 or other appropriate form, and may be included with other
14 communications to the participant if done in a manner
15 reasonably designed to attract the attention of the partici-
16 pant.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 105 of the Employee Retirement In-
19 come Security Act of 1974 (29 U.S.C. 1025) is
20 amended by striking subsection (d).

21 (2) Section 105(b) of such Act (29 U.S.C.
22 1025(b)) is amended to read as follows:

23 “(b) In no case shall a participant or beneficiary of
24 a plan be entitled to more than one statement described

1 in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is appli-
2 cable, in any 12-month period.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to plan years beginning after De-
5 cember 31, 2000.

6 **SEC. 614. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**
7 **RESPONSIBILITY.**

8 (a) IMPOSITION AND AMOUNT OF PENALTY MADE
9 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-
10 tirement Income Security Act of 1974 (29 U.S.C.
11 1132(l)(1)) is amended—

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

14 (2) by striking “equal to” and inserting “not
15 greater than”.

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

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

1 Secretary of the violation, whether paid voluntarily or by
2 order of a court in a judicial proceeding instituted by the
3 Secretary under subsection (a)(2) or (a)(5). The Secretary
4 may, in the Secretary's sole discretion, extend the 30-day
5 period described in the preceding sentence.”.

6 (c) OTHER RULES.—Section 502(l) of the Employee
7 Retirement Income Security Act of 1974 (29 U.S.C.
8 1132(l)) is amended by adding at the end the following:
9 “(5) A person shall be jointly and severally liable for
10 the penalty described in paragraph (1) to the same extent
11 that such person is jointly and severally liable for the ap-
12 plicable recovery amount on which the penalty is based.

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

17 (d) EFFECTIVE DATES.—

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

24 (2) TRANSITION RULE.—In applying the
25 amendment made by subsection (b) (relating to ap-

1 plicable recovery amount), a breach or other viola-
2 tion occurring before the date of enactment of this
3 Act which continues after the 180th day after such
4 date (and which may have been discontinued at any
5 time during its existence) shall be treated as having
6 occurred after such date of enactment.

7 **SEC. 615. PROTECTION OF INVESTMENT OF EMPLOYEE**
8 **CONTRIBUTIONS TO 401(K) PLANS.**

9 (a) IN GENERAL.—Section 1524(b) of the Taxpayer
10 Relief Act of 1997 is amended to read as follows:

11 “(b) EFFECTIVE DATE.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to elective deferrals for plan years begin-
15 ning after December 31, 1998.

16 “(2) NONAPPLICATION TO PREVIOUSLY AC-
17 QUIRED PROPERTY.—The amendments made by this
18 section shall not apply to any elective deferral that
19 is invested in assets consisting of qualifying em-
20 ployer securities, qualifying employer real property,
21 or both, if such assets were acquired by the plan be-
22 fore January 1, 1999.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply as if included in the provision of
25 the Taxpayer Relief Act of 1997 to which it relates.

1 **SEC. 616. NOTICE OF SIGNIFICANT REDUCTION IN BENEFIT**
2 **ACCRUALS.**

3 (a) IN GENERAL.—Subsection (h) of section 204 of
4 the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1054) is amended to read as follows:

6 “(h) NOTICE OF SIGNIFICANT REDUCTION IN BEN-
7 EFIT ACCRUALS.—

8 “(1) If a plan described in paragraph (4) is
9 amended to provide for a significant reduction in the
10 rate of future benefit accrual, the plan administrator
11 shall provide a notice to—

12 “(A) each affected participant in the plan,

13 “(B) each affected beneficiary who is an
14 alternate payee (within the meaning of section
15 206(d)(3)(K)) under an applicable qualified do-
16 mestic relations order (within the meaning of
17 section 206(d)(3)(B)(i)), and

18 “(C) each employee organization rep-
19 resenting affected participants in the plan,

20 except that such notice shall instead be provided to
21 a person designated to receive such notice on behalf
22 of any person referred to in paragraph (A), (B), or
23 (C). For purposes of this paragraph, an affected
24 participant or beneficiary is a participant or bene-
25 ficiary to whom the significant reduction described
26 in this paragraph is reasonably expected to apply.

1 “(2) The notice required by paragraph (1)
2 shall—

3 “(A) include the plan amendment, or a
4 summary of such plan amendment, and its ef-
5 fective date, and

6 “(B) provide a notification and description
7 of the reduction described in paragraph (1).

8 A notification and description shall not fail to satisfy
9 paragraph (2)(B) by reason of a failure to provide
10 the specific amount of the reduction with respect to
11 any participant or beneficiary.

12 “(3) The notice required by paragraph (1) shall
13 be provided no less than 30 days prior to the effec-
14 tive date of the plan amendment.

15 “(4) A plan is described in this paragraph if
16 such plan is—

17 “(A) a defined benefit plan, or

18 “(B) an individual account plan which is
19 subject to the funding standards of section 302.

20 “(5) In the case of a material failure to comply
21 with requirements of this subsection with respect to
22 more than a de minimis number of persons described
23 in paragraph (1), the plan amendment to which the
24 failure relates shall not be effective with respect to
25 such persons for any period prior to the expiration

1 of 30 days following the date on which a notice is
2 provided in accordance with this subsection. For
3 purposes of this paragraph, the term ‘material fail-
4 ure’ includes any failure that results in materially
5 less information being provided to the persons de-
6 scribed in paragraph (1).”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan amendments that are
9 adopted more than 120 days after the date of enactment
10 of this Act.

11 **SEC. 617. TECHNICAL CORRECTIONS TO SAVER ACT.**

12 Section 517 of the Employee Retirement Income Se-
13 curity Act of 1974 (29 U.S.C. 1147) is amended—

14 (1) in subsection (a), by striking “2001 and
15 2005 on or after September 1 of each year involved”
16 and inserting “2001, 2005, and 2009 in the month
17 of September of each year involved”;

18 (2) in subsection (b), by adding at the end the
19 following new sentence: “To effectuate the purposes
20 of this paragraph, the Secretary may enter into a co-
21 operative agreement, pursuant to the Federal Grant
22 and Cooperative Agreement Act of 1977 (31 U.S.C.
23 6301 et seq.), with the American Savings Education
24 Council.”;

25 (3) in subsection (e)(2)—

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

3 “(D) the Chairman and Ranking Member
4 of the Subcommittee on Labor, Health and
5 Human Services, and Education of the Com-
6 mittee on Appropriations of the House of Rep-
7 resentatives and the Chairman and Ranking
8 Member of the Subcommittee on Labor, Health
9 and Human Services, and Education of the
10 Committee on Appropriations of the Senate;”;

11 (B) by redesignating subparagraph (G) as
12 subparagraph (J); and

13 (C) by inserting after subparagraph (F)
14 the following new subparagraphs:

15 “(G) the Chairman and Ranking Member
16 of the Committee on Finance of the Senate;

17 “(H) the Chairman and Ranking Member
18 of the Committee on Ways and Means of the
19 House of Representatives;

20 “(I) the Chairman and Ranking Member
21 of the Subcommittee on Employer-Employee
22 Relations of the Committee on Education and
23 the Workforce of the House of Representatives;
24 and”;

25 (4) in subsection (e)(3)(A)—

1 (A) by striking “There shall be no more
2 than 200 additional participants.” and inserting
3 “The participants in the National Summit shall
4 also include additional participants appointed
5 under this subparagraph.”;

6 (B) by striking “one-half shall be ap-
7 pointed by the President,” in clause (i) and in-
8 serting “not more than 100 participants shall
9 be appointed under this clause by the Presi-
10 dent,”, and by striking “and” at the end of
11 clause (i);

12 (C) by striking “one-half shall be ap-
13 pointed by the elected leaders of Congress” in
14 clause (ii) and inserting “not more than 100
15 participants shall be appointed under this
16 clause by the elected leaders of Congress”, and
17 by striking the period at the end of clause (ii)
18 and inserting “; and”; and

19 (D) by adding at the end the following new
20 clause:

21 “(iii) The President, in consultation
22 with the elected leaders of Congress re-
23 ferred to in subsection (a), may appoint
24 under this clause additional participants to
25 the National Summit. The number of such

1 additional participants appointed under
2 this clause may not exceed the lesser of 3
3 percent of the total number of all addi-
4 tional participants appointed under this
5 paragraph, or 10. Such additional partici-
6 pants shall be appointed from persons
7 nominated by the organization referred to
8 in subsection (b)(2) which is made up of
9 private sector businesses and associations
10 partnered with Government entities to pro-
11 mote long term financial security in retire-
12 ment through savings and with which the
13 Secretary is required thereunder to consult
14 and cooperate and shall not be Federal,
15 State, or local government employees.”;

16 (5) in subsection (e)(3)(B), by striking “Janu-
17 ary 31, 1998” in subparagraph (B) and inserting
18 “May 1, 2001, May 1, 2005, and May 1, 2009, for
19 each of the subsequent summits, respectively”;

20 (6) in subsection (f)(1)(C), by inserting “, no
21 later than 90 days prior to the date of the com-
22 mencement of the National Summit,” after “com-
23 ment” in paragraph (1)(C);

1 (7) in subsection (g), by inserting “, in con-
2 sultation with the congressional leaders specified in
3 subsection (e)(2),” after “report”;

4 (8) in subsection (i)—

5 (A) by striking “beginning on or after Oc-
6 tober 1, 1997” in paragraph (1) and inserting
7 “2001, 2005, and 2009”; and

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

10 “(3) RECEPTION AND REPRESENTATION AU-
11 THORITY.—The Secretary is hereby granted recep-
12 tion and representation authority limited specifically
13 to the events at the National Summit. The Secretary
14 shall use any private contributions received in con-
15 nection with the National Summit prior to using
16 funds appropriated for purposes of the National
17 Summit pursuant to this paragraph.”; and

18 (9) in subsection (k)—

19 (A) by striking “shall enter into a contract
20 on a sole-source basis” and inserting “may
21 enter into a contract on a sole-source basis”;
22 and

23 (B) by striking “fiscal year 1998” and in-
24 serting “fiscal years 2001, 2005, and 2009”.

1 **SEC. 618. CONFORMING AMENDMENTS RELATING TO**
2 **TRANSFER OF EXCESS DEFINED BENEFIT**
3 **PLAN ASSETS FOR RETIREE HEALTH BENE-**
4 **FITS.**

5 (a) IN GENERAL.—Title I of the Employee Retirement
6 Income Security Act of 1974 is amended—

7 (1) in section 101(e)(3) (29 U.S.C. 1021(e)(3)),
8 by striking “1995” and inserting “2001”;

9 (2) in section 403(c)(1) (29 U.S.C. 1103(c)(1)),
10 by striking “1995” and inserting “2001”; and

11 (3) in section 408(b)(13) (29 U.S.C.
12 1108(b)(13))—

13 (A) by striking “in a taxable year begin-
14 ning before January 1, 2001” and inserting
15 “made before October 1, 2009”; and

16 (B) by striking “1995” and inserting
17 “2001”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to taxable years begin-
20 ning after December 31, 2000.

21 **SEC. 619. MODEL SPOUSAL CONSENT LANGUAGE AND**
22 **QUALIFIED DOMESTIC RELATIONS ORDER.**

23 (a) MODEL SPOUSAL CONSENT LANGUAGE.—Section
24 205(c) of the Employee Retirement Income Security Act
25 of 1974 (29 U.S.C. 1055(c)) is amended by adding at the
26 end the following new paragraph:

1 “(9) Not later than January 1, 2001, the Secretary
2 of Labor shall develop model language for the spousal con-
3 sent required under paragraph (2) which—

4 “(A) is written in a manner calculated to be un-
5 derstood by the average person, and

6 “(B) discloses in plain terms whether—

7 “(i) the waiver is irrevocable, and

8 “(ii) the waiver may be revoked by a quali-
9 fied domestic relations order.”.

10 (b) MODEL QUALIFIED DOMESTIC RELATIONS
11 ORDER.—Section 206(d)(3) of such Act (29 U.S.C.
12 1056(d)(3)) is amended by adding at the end the following
13 new subparagraph:

14 “(O) Not later than January 1, 2001, the Secretary
15 shall develop language for a qualified domestic relations
16 order which meets—

17 “(i) the requirements of subparagraph (B)(i),
18 and

19 “(ii) the requirements of this Act related to the
20 need to consider the treatment of any lump sum
21 payment, qualified joint and survivor annuity, or
22 qualified preretirement survivor annuity.”.

23 (c) PUBLICITY.—The Secretary of Labor shall in-
24 clude publicity for the model language required by the

1 amendments made by this section in the pension outreach
2 efforts undertaken by each Secretary.

3 **SEC. 620. ELIMINATION OF ERISA DOUBLE JEOPARDY.**

4 (a) ELIMINATION OF SECOND LAWSUITS BY THE
5 SECRETARY.—Section 502(h) of the Employee Retirement
6 Income Security Act of 1974 (29 U.S.C. 1132(h)) is
7 amended—

8 (1) by inserting “(1)” after “(h)”, and

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

10 “(2) In any case in which—

11 “(A) a complaint in an action brought against
12 a person under subsection (a)(2) is served in accord-
13 ance with paragraph (1),

14 “(B) the action is maintained as a class action
15 or derivative action under the Federal Rules of Civil
16 Procedure,

17 “(C) the action is resolved by a court-approved
18 settlement agreement,

19 “(D) the complaint is served upon the Secretary
20 at least 90 days prior to final court approval of the
21 settlement agreement, and

22 “(E) the Secretary receives a fully executed
23 copy of the settlement agreement within the time es-
24 tablished by the court for notifying the plan’s par-
25 ticipants of the proposed compromise pursuant to

1 Rule 23 or 23.1 of the Federal Rules of Civil Proce-
2 dure,
3 the Secretary shall be barred from litigating any claim
4 against such person under subsection (a)(2) that was, or
5 could have been, brought in that action with respect to
6 the same plan. Notwithstanding this paragraph, the Sec-
7 retary shall not be barred from litigating any claim
8 against such person under subsection (a)(2) if the Sec-
9 retary filed a complaint under subsection (a)(2) prior to
10 the final court approval of the settlement agreement.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section are effective with respect to all actions or
13 claims commenced by the Secretary that are pending on
14 or after the date of the enactment of this Act.

15 **Subtitle C—Reducing Regulatory**
16 **Burdens**

17 **SEC. 621. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

18 (a) IN GENERAL.—Paragraph (9) of section 302(c)
19 of the Employee Retirement Income Security Act of 1974
20 (29 U.S.C. 1053(c)) is amended—

21 (1) by inserting “(A)” after “(9)”, and

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

23 “(B)(i) Except as provided in clause (ii), if, for any
24 plan year—

1 “(I) an election is in effect under this subpara-
2 graph with respect to a plan, and

3 “(II) the assets of the plan are not less than
4 125 percent of the plan’s current liability (as defined
5 in paragraph (7)(B)), determined as of the valuation
6 date for the preceding plan year,

7 then this section shall be applied using the information
8 available as of such valuation date.

9 “(ii)(I) Clause (i) shall not apply for more than 2
10 consecutive plan years and valuation shall be under sub-
11 paragraph (A) with respect to any plan year to which
12 clause (i) does not apply by reason of this clause.

13 “(II) Subclause (I) shall not apply to the extent that
14 more frequent valuations are required under the regula-
15 tions under subparagraph (A).

16 “(iii) Information under clause (i) shall, in accord-
17 ance with regulations, be actuarially adjusted to reflect
18 significant differences in participants.

19 “(iv) An election under this subparagraph, once
20 made, shall be irrevocable without the consent of the Sec-
21 retary of the Treasury.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to plan years beginning after De-
24 cember 31, 2000.

1 **SEC. 622. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**
2 **PLANS.**

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

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

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

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

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

21 For purposes of clause (iii), the constructive ownership
22 rules of section 1563(e) of the Internal Revenue Code of
23 1986 shall apply (determined without regard to section
24 1563(e)(3)(C)).

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

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

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

12 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

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

17 (2) Section 4044(b) of such Act (29 U.S.C.
18 1344(b)) is amended—

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

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

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

15 (c) CONFORMING AMENDMENTS.—

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

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

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

22 “(d) For purposes of subsection (b)(9), the term
23 “substantial owner” means an individual who, at any time
24 during the 60-month period ending on the date the deter-
25 mination is being made—

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

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

7 “(3) in the case of a corporation, owns, directly
8 or indirectly, more than 10 percent in value of either
9 the voting stock of that corporation or all the stock
10 of that corporation.

11 For purposes of paragraph (3), the constructive ownership
12 rules of section 1563(e) of the Internal Revenue Code of
13 1986 shall apply (determined without regard to section
14 1563(e)(3)(C)).”.

15 (2) Section 4043(c)(7) of such Act (29 U.S.C.
16 1343(c)(7)) is amended by striking “section 4022(b)(6)”
17 and inserting “section 4021(d)”.

18 (d) EFFECTIVE DATES.—

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

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

1 tion 4041(a)(2) of such Act (29 U.S.C.
2 1341(a)(2)) after the December 31, 2000, and
3 (B) under section 4042 of such Act (29
4 U.S.C. 1342) with respect to which proceedings
5 are instituted by the corporation on or after
6 such date.

7 (2) CONFORMING AMENDMENTS.—The amend-
8 ments made by subsection (c) shall take effect on
9 the date of enactment of this Act.

10 **SEC. 623. NOTICE AND CONSENT PERIOD REGARDING DIS-**
11 **TRIBUTIONS.**

12 (a) EXPANSION OF PERIOD.—

13 (1) IN GENERAL.—Subparagraph (A) of section
14 205(c)(7) of the Employee Retirement Income Secu-
15 rity Act of 1974 (29 U.S.C. 1055) is amended by
16 striking “90-day” and inserting “180-day”.

17 (2) MODIFICATION OF REGULATIONS.—The
18 Secretary of the Treasury shall modify the regula-
19 tions of such Secretary under part 2 of subtitle B
20 of title I of the Employee Retirement Income Secu-
21 rity Act of 1974 to the extent that they relate to
22 sections 203(e) and 205 of such Act to substitute
23 “180 days” for “90 days” each place it appears.

24 (3) EFFECTIVE DATE.—The amendments made
25 by paragraph (1) and the modifications required by

1 paragraph (2) shall apply to years beginning after
2 December 31, 2000.

3 (b) CONSENT REGULATION INAPPLICABLE TO CER-
4 TAIN DISTRIBUTIONS.—

5 (1) IN GENERAL.—The Secretary of the Treas-
6 ury shall modify the regulations under section 205
7 of the Employee Retirement Income Security Act of
8 1974 to provide that the description of a partici-
9 pant's right, if any, to defer receipt of a distribution
10 shall also describe the consequences of failing to
11 defer such receipt.

12 (2) EFFECTIVE DATE.—The modifications re-
13 quired by paragraph (1) shall apply to years begin-
14 ning after December 31, 2000.

15 **SEC. 624. ANNUAL REPORT DISSEMINATION.**

16 (a) IN GENERAL.—Section 104(b)(3) of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1024(b)(3)) is amended by striking “shall furnish”
19 and inserting “shall make available for examination (and,
20 upon request, shall furnish)”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to reports for years beginning after
23 December 31, 1998.

1 **SEC. 625. EXCESS BENEFIT PLANS.**

2 (a) IN GENERAL.—Section 3(36) of the Employee
3 Retirement Income Security Act of 1974 (29 U.S.C.
4 1002(36)) is amended to read as follows:

5 “(36) The term ‘excess benefit plan’ means a plan,
6 without regard to whether such plan is funded, maintained
7 by an employer solely for the purpose of providing benefits
8 to employees in excess of any limitation imposed by section
9 401(a)(17) or 415 of the Internal Revenue Code of 1986
10 or any other limitation on contributions or benefits in such
11 Code on plans to which any of such sections apply. To
12 the extent that a separable part of a plan (as determined
13 by the Secretary of Labor) maintained by an employer is
14 maintained for such purpose, that part shall be treated
15 as a separate plan which is an excess benefit plan.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to years beginning after December
18 31, 1999.

19 **SEC. 626. BENEFIT SUSPENSION NOTICE.**

20 (a) MODIFICATION OF REGULATION.—The Secretary
21 of Labor shall modify the regulation under section
22 203(a)(3)(B) of the Employee Retirement Income Secu-
23 rity Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide
24 that, except in the case of employment, subsequent to the
25 commencement of payment of benefits, with a former em-
26 ployer, the notification required by such regulation—

1 (1) may be included in the summary plan de-
2 scription for the plan furnished in accordance with
3 section 104(b) of such Act (29 U.S.C. 1024(b)),
4 rather than in a separate notice, and

5 (2) need not include a copy of the relevant plan
6 provisions.

7 (c) EFFECTIVE DATE.—The modification made
8 under this section shall apply to plan years beginning after
9 December 31, 1999.

10 **SEC. 627. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

13 (1) such plan or contract shall be treated as
14 being operated in accordance with the terms of the
15 plan during the period described in subsection
16 (b)(2)(A), and

17 (2) such plan shall not fail to meet the require-
18 ments of section 204(g) of the Employee Retirement
19 Income Security Act of 1974 (29 U.S.C. 1054(g)) by
20 reason of such amendment.

21 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

22 (1) IN GENERAL.—This section shall apply to
23 any amendment to any plan or annuity contract
24 which is made—

1 (A) pursuant to any amendment made by
2 this Act, or pursuant to any regulation issued
3 under this Act, and

4 (B) on or before the last day of the first
5 plan year beginning on or after January 1,
6 2003.

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

9 (A) during the period—

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

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

21 the plan or contract is operated as if such plan
22 or contract amendment were in effect, and

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

1 **SEC. 628. SIMPLIFIED ANNUAL FILING REQUIREMENT FOR**
2 **PLANS WITH FEWER THAN 25 EMPLOYEES.**

3 (a) IN GENERAL.—In the case of a retirement plan
4 which covers less than 25 employees on the first day of
5 the plan year and meets the requirements described in
6 subsection (b), the Secretary of the Treasury shall provide
7 for the filing of a simplified annual return that is substan-
8 tially similar to the annual return required to be filed by
9 a one-participant retirement plan.

10 (b) REQUIREMENTS.—A plan meets the requirements
11 of this subsection if it—

12 (1) meets the minimum coverage requirements
13 of section 410(b) of the Internal Revenue Code of
14 1986 without being combined with any other plan of
15 the business that covers the employees of the busi-
16 ness,

17 (2) does not cover a business that is a member
18 of an affiliated service group, a controlled group of
19 corporations, or a group of businesses under com-
20 mon control, and

21 (3) does not cover a business that leases em-
22 ployees.