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Minimum Wage [2]

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*Kennedy
Amendment*

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Fair Labor Standards Act of 1938
to increase the Federal minimum wage.

IN THE SENATE OF THE UNITED STATES—106th Cong., 1st Sess.

S. 625

To amend title 11, United States Code, and for other
purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 At the appropriate place, insert the following:

2 **TITLE _____—INCREASE IN THE**
3 **FEDERAL MINIMUM WAGE**

4 **SEC. ____01. FAIR MINIMUM WAGE.**

5 (a) SHORT TITLE.—This section may be cited as the
6 “Fair Minimum Wage Act of 1999”.

7 (b) MINIMUM WAGE INCREASE.—

8 (1) WAGE.—Paragraph (1) of section 6(a) of
9 the Fair Labor Standards Act of 1938 (29 U.S.C.
10 206(a)(1)) is amended to read as follows:

1 “(1) except as otherwise provided in this sec-
2 tion, not less than—

3 “(A) \$5.65 an hour during the year begin-
4 ning on January 1, 2000; and

5 “(B) \$6.15 an hour beginning on January
6 1, 2001;”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) takes effect on January 1, 2000.

9 (c) APPLICABILITY OF MINIMUM WAGE TO THE COM-
10 MONWEALTH OF THE NORTHERN MARIANA ISLANDS.—
11 The provisions of section 6 of the Fair Labor Standards
12 Act of 1938 (29 U.S.C. 206) shall apply to the Common-
13 wealth of the Northern Mariana Islands.

14 SEC. ____02. LIMITATION ON LOCATION OF PROVISION OF
15 SERVICES.

16 (a) IN GENERAL.—Section 1861(ff)(2) of the Social
17 Security Act (42 U.S.C. 1395x(ff)(2)) is amended in the
18 matter following subparagraph (I)—

19 (1) by striking “and furnished” and inserting
20 “furnished”; and

21 (2) by inserting before the period the following:
22 “, and furnished other than in a skilled nursing fa-
23 cility, residential treatment facility or other residen-
24 tial setting (as determined by the Secretary)”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) apply with respect to partial hospitalization
3 services furnished on or after the first day of the third
4 month beginning after the date of the enactment of this
5 Act.

6 **SEC. ____03. QUALIFICATIONS FOR COMMUNITY MENTAL**
7 **HEALTH CENTERS.**

8 (a) IN GENERAL.—Section 1861(ff)(3)(B) of the So-
9 cial Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended
10 by striking “entity” and all that follows and inserting the
11 following: “entity that—

12 “(i)(I) provides the mental health services de-
13 scribed in section 1913(c)(1) of the Public Health
14 Service Act; or

15 “(II) in the case of an entity operating in a
16 State that by law precludes the entity from provid-
17 ing a service described in such section itself, pro-
18 vides for such service by contract with an approved
19 organization or entity (as determined by the Sec-
20 retary);

21 “(ii) meets applicable licensing or certification
22 requirements for community mental health centers
23 in the State in which it is located; and

24 “(iii) meets such additional conditions as the
25 Secretary shall specify to ensure (I) the health and

1 safety of individuals being furnished such services,
2 (II) the effective and efficient furnishing of such
3 services, and (III) the compliance of such entity with
4 the criteria described in such section.”.

5 (b) CLARIFICATION OF CRITERIA FOR COMMUNITY
6 MENTAL HEALTH CENTERS.—Section 1913(c)(1)(E) of
7 the Public Health Service Act (42 U.S.C. 300x-
8 3(c)(1)(E)) is amended to read as follows:

9 “(E) Determining the clinical appropriate-
10 ness of admissions to inpatient psychiatric hos-
11 pitals by engaging a full-time mental health
12 professional who is licensed or certified to make
13 such a determination by the State involved.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section apply with respect to community mental
16 health centers furnishing services under the medicare pro-
17 gram on or after the first day of the third month begin-
18 ning after the date of the enactment of this Act.

19 **SEC. ____04. GUIDELINES FOR ITEMS AND SERVICES COM-**
20 **PRISING PARTIAL HOSPITALIZATION SERV-**
21 **ICES.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the Secretary shall first adopt national
24 coverage and administrative policies for partial hos-
25 pitalization services furnished under title XVIII of the So-

1 cial Security Act, using a negotiated rulemaking process
2 under subchapter III of chapter 5 of title 5, United States
3 Code.

4 **SEC. ____05. REFINEMENT OF PERIODICITY OF REVIEW OF**
5 **PLAN FOR PARTIAL HOSPITALIZATION SERV-**
6 **ICES.**

7 (a) **IN GENERAL.**—Section 1835(a)(2)(F)(ii) of the
8 Social Security Act (42 U.S.C. 1395n(a)(2)(F)(ii)) is
9 amended by inserting “at a reasonable rate (as determined
10 by the Secretary)” after “is reviewed periodically”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 subsection (a) applies with respect to plans for furnishing
13 partial hospitalization services established on or after the
14 first day of the third month beginning after the date of
15 the enactment of this Act.

16 **SEC. ____06. RECERTIFICATION OF PROVIDERS OF PARTIAL**
17 **HOSPITALIZATION SERVICES.**

18 (a) **IN GENERAL.**—With respect to each community
19 mental health center that furnishes partial hospitalization
20 services for which payment is made under title XVIII of
21 the Social Security Act, the Secretary of Health and
22 Human Services shall provide for periodic recertification
23 to ensure that the provision of such services complies with
24 applicable requirements of such title.

1 (b) DEADLINE FOR FIRST RECERTIFICATION.—The
2 first recertification under subsection (a) shall be com-
3 pleted not later than one year after the date of the enact-
4 ment of this Act.

5 **SEC. ____07. CIVIL MONETARY PENALTIES FOR FALSE CER-**
6 **TIFICATION OF ELIGIBILITY FOR HOSPICE**
7 **CARE OR PARTIAL HOSPITALIZATION SERV-**
8 **ICES.**

9 (a) IN GENERAL.—Section 1128A(b)(3) of the Social
10 Security Act (42 U.S.C. 1320a-7a(b)(3)) is amended—

11 (1) in subparagraph (A)(ii), by inserting “, hos-
12 pice care, or partial hospitalization services” after
13 “home health services”; and

14 (2) in subparagraph (B), by inserting “, section
15 1814(a)(7) in the case of hospice care, or section
16 1835(a)(2)(F) in the case of partial hospitalization
17 services” after “in the case of home health services”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) apply with respect to certifications of eligi-
20 bility for hospice care or partial hospitalization services
21 under the medicare program made on or after the first
22 day of the third month beginning after the date of the
23 enactment of this Act.

1 **TITLE ____—SMALL BUSINESS**
2 **TAX PROVISIONS**

3 **SEC. ____00. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This title may be cited as the
5 “Small Business Tax Reduction Act of 1999”.

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
7 wise expressly provided, whenever in this title 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 **Subtitle A—Enabling Small Busi-**
13 **ness to Provide Child Care,**
14 **Health, and Retirement Benefits**

15 **SEC. ____01. FULL DEDUCTION OF HEALTH INSURANCE**
16 **COSTS FOR SELF-EMPLOYED INDIVIDUALS.**

17 (a) **IN GENERAL.**—Section 162(l)(1) (relating to al-
18 lowance of deductions) is amended to read as follows:

19 “(1) **ALLOWANCE OF DEDUCTION.**—In the case
20 of an individual who is an employee within the
21 meaning of section 401(c)(1), there shall be allowed
22 as a deduction under this section an amount equal
23 to the amount paid during the taxable year for in-
24 surance which constitutes medical care for the tax-
25 payer and the taxpayer’s spouse and dependents.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1999.

4 **SEC. ____02. ALLOWANCE OF CREDIT FOR EMPLOYER EX-**
5 **PENSES FOR CHILD CARE ASSISTANCE.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 (relating to business related cred-
8 its) is amended by adding at the end the following:

9 **“SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

10 “(a) IN GENERAL.—For purposes of section 38, the
11 employer-provided child care credit determined under this
12 section for the taxable year is an amount equal to 25 per-
13 cent of the qualified child care expenditures of the tax-
14 payer for such taxable year.

15 “(b) DOLLAR LIMITATION.—The credit allowable
16 under subsection (a) for any taxable year shall not exceed
17 \$90,000.

18 “(c) DEFINITIONS.—For purposes of this section—

19 “(1) QUALIFIED CHILD CARE EXPENDITURE.—
20 The term ‘qualified child care expenditure’ means
21 any amount paid or incurred—

22 “(A) to acquire, construct, rehabilitate, or
23 expand property—

24 “(i) which is to be used as part of a
25 qualified child care facility of the taxpayer,

1 “(ii) with respect to which a deduction
2 for depreciation (or amortization in lieu of
3 depreciation) is allowable, and

4 “(iii) which does not constitute part of
5 the principal residence (within the meaning
6 of section 121) of the taxpayer or any em-
7 ployee of the taxpayer,

8 “(B) for the operating costs of a qualified
9 child care facility of the taxpayer, including
10 costs related to the training of employees, to
11 scholarship programs, and to the providing of
12 increased compensation to employees with high-
13 er levels of child care training, or

14 “(C) under a contract with a qualified
15 child care facility to provide child care services
16 to employees of the taxpayer.

17 “(2) QUALIFIED CHILD CARE FACILITY.—

18 “(A) IN GENERAL.—The term ‘qualified
19 child care facility’ means a facility—

20 “(i) the principal use of which is to
21 provide child care assistance, and

22 “(ii) which meets the requirements of
23 all applicable laws and regulations of the
24 State or local government in which it is lo-
25 cated, including, but not limited to, the li-

1 censing of the facility as a child care facil-
2 ity.

3 Clause (i) shall not apply to a facility which is
4 the principal residence (within the meaning of
5 section 121) of the operator of the facility.

6 “(B) SPECIAL RULES WITH RESPECT TO A
7 TAXPAYER.—A facility shall not be treated as a
8 qualified child care facility with respect to a
9 taxpayer unless—

10 “(i) enrollment in the facility is open
11 to employees of the taxpayer during the
12 taxable year,

13 “(ii) the facility is not the principal
14 trade or business of the taxpayer unless at
15 least 30 percent of the enrollees of such fa-
16 cility are dependents of employees of the
17 taxpayer, and

18 “(iii) the use of such facility (or the
19 eligibility to use such facility) does not dis-
20 criminate in favor of employees of the tax-
21 payer who are highly compensated employ-
22 ees (within the meaning of section 414(q)).

23 “(d) RECAPTURE OF ACQUISITION AND CONSTRUC-
24 TION CREDIT.—

1 “(1) IN GENERAL.—If, as of the close of any
 2 taxable year, there is a recapture event with respect
 3 to any qualified child care facility of the taxpayer,
 4 then the tax of the taxpayer under this chapter for
 5 such taxable year shall be increased by an amount
 6 equal to the product of—

7 “(A) the applicable recapture percentage,
 8 and

9 “(B) the aggregate decrease in the credits
 10 allowed under section 38 for all prior taxable
 11 years which would have resulted if the qualified
 12 child care expenditures of the taxpayer de-
 13 scribed in subsection (c)(1)(A) with respect to
 14 such facility had been zero.

15 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

16 “(A) IN GENERAL.—For purposes of this
 17 subsection, the applicable recapture percentage
 18 shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

19 “(B) YEARS.—For purposes of subpara-
 20 graph (A), year 1 shall begin on the first day

1 of the taxable year in which the qualified child
2 care facility is placed in service by the taxpayer.

3 “(3) RECAPTURE EVENT DEFINED.—For pur-
4 poses of this subsection, the term ‘recapture event’
5 means—

6 “(A) CESSATION OF OPERATION.—The
7 cessation of the operation of the facility as a
8 qualified child care facility.

9 “(B) CHANGE IN OWNERSHIP.—

10 “(i) IN GENERAL.—Except as pro-
11 vided in clause (ii), the disposition of a
12 taxpayer’s interest in a qualified child care
13 facility with respect to which the credit de-
14 scribed in subsection (a) was allowable.

15 “(ii) AGREEMENT TO ASSUME RECAP-
16 TURE LIABILITY.—Clause (i) shall not
17 apply if the person acquiring such interest
18 in the facility agrees in writing to assume
19 the recapture liability of the person dispos-
20 ing of such interest in effect immediately
21 before such disposition. In the event of
22 such an assumption, the person acquiring
23 the interest in the facility shall be treated
24 as the taxpayer for purposes of assessing

1 any recapture liability (computed as if
2 there had been no change in ownership).

3 “(4) SPECIAL RULES.—

4 “(A) TAX BENEFIT RULE.—The tax for
5 the taxable year shall be increased under para-
6 graph (1) only with respect to credits allowed
7 by reason of this section which were used to re-
8 duce tax liability. In the case of credits not so
9 used to reduce tax liability, the carryforwards
10 and carrybacks under section 39 shall be appro-
11 priately adjusted.

12 “(B) NO CREDITS AGAINST TAX.—Any in-
13 crease in tax under this subsection shall not be
14 treated as a tax imposed by this chapter for
15 purposes of determining the amount of any
16 credit under subpart A, B, or D of this part.

17 “(C) NO RECAPTURE BY REASON OF CAS-
18 UALTY LOSS.—The increase in tax under this
19 subsection shall not apply to a cessation of op-
20 eration of the facility as a qualified child care
21 facility by reason of a casualty loss to the ex-
22 tent such loss is restored by reconstruction or
23 replacement within a reasonable period estab-
24 lished by the Secretary.

1 “(e) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) AGGREGATION RULES.—All persons which
4 are treated as a single employer under subsections
5 (a) and (b) of section 52 shall be treated as a single
6 taxpayer.

7 “(2) PASS-THRU IN THE CASE OF ESTATES AND
8 TRUSTS.—Under regulations prescribed by the Sec-
9 retary, rules similar to the rules of subsection (d) of
10 section 52 shall apply.

11 “(3) ALLOCATION IN THE CASE OF PARTNER-
12 SHIPS.—In the case of partnerships, the credit shall
13 be allocated among partners under regulations pre-
14 scribed by the Secretary.

15 “(f) NO DOUBLE BENEFIT.—

16 “(1) REDUCTION IN BASIS.—For purposes of
17 this subtitle—

18 “(A) IN GENERAL.—If a credit is deter-
19 mined under this section with respect to any
20 property by reason of expenditures described in
21 subsection (c)(1)(A), the basis of such property
22 shall be reduced by the amount of the credit so
23 determined.

24 “(B) CERTAIN DISPOSITIONS.—If during
25 any taxable year there is a recapture amount

1 determined with respect to any property the
2 basis of which was reduced under subparagraph
3 (A), the basis of such property (immediately be-
4 fore the event resulting in such recapture) shall
5 be increased by an amount equal to such recap-
6 ture amount. For purposes of the preceding
7 sentence, the term 'recapture amount' means
8 any increase in tax (or adjustment in
9 carrybacks or carryovers) determined under
10 subsection (d).

11 “(2) OTHER DEDUCTIONS AND CREDITS.—No
12 deduction or credit shall be allowed under any other
13 provision of this chapter with respect to the amount
14 of the credit determined under this section.”

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 38(b) is amended—

17 (A) by striking “plus” at the end of para-
18 graph (11),

19 (B) by striking the period at the end of
20 paragraph (12), and inserting a comma and
21 “plus”, and

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

23 “(13) the employer-provided child care credit
24 determined under section 45D.”

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

 “Sec. 45D. Employer-provided child care credit.”

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

7 **SEC. ____03. PLAN LOANS FOR SUBCHAPTER S OWNERS,**
8 **PARTNERS, AND SOLE PROPRIETORS.**

9 (a) **AMENDMENT TO 1986 CODE.**—Subparagraph
10 (B) of section 4975(f)(6) (relating to exemptions not to
11 apply to certain transactions) is amended by adding at the
12 end the following new clause:

13 “(iii) **LOAN EXCEPTION.**—Solely for
14 purposes of subparagraph (A)(i), in deter-
15 mining whether an individual is—

16 “(I) an owner-employee under
17 section 401(c)(3), subparagraph (B)
18 thereof shall be applied by substitut-
19 ing ‘25 percent’ for ‘10 percent’, and
20 “(II) a shareholder-employee
21 under subparagraph (C), such sub-
22 paragraph shall be applied by sub-
23 stituting ‘25 percent’ for ‘5 percent’.”

24 (b) **AMENDMENT TO ERISA.**—Section 408(d)(2) of
25 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1108(d)(2)) is amended by adding at the end
2 the following new subparagraph:

3 “(C) Solely for purposes of paragraph (1)(A), in de-
4 termining whether an individual is—

5 “(i) an owner-employee under section 401(c)(3)
6 of the Internal Revenue Code of 1986, subparagraph
7 (B) thereof shall be applied by substituting ‘25 per-
8 cent’ for ‘10 percent’, and

9 “(ii) a shareholder-employee under paragraph
10 (3), such paragraph shall be applied by substituting
11 ‘25 percent’ for ‘5 percent’.”

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to loans made after December 31,
14 2000.

15 **SEC. ____04. CONTRIBUTIONS TO IRAS THROUGH PAYROLL**
16 **DEDUCTIONS.**

17 (a) DEFINITIONS.—For purposes of this section—

18 (1) CONTRIBUTION CERTIFICATE.—The term
19 “contribution certificate” means a certificate submit-
20 ted by an employee to the employee’s employer
21 which—

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

1 (B) identifies the individual retirement
2 plan to which the employee wishes to make con-
3 tributions through payroll deductions, and

4 (C) identifies the amount of such contribu-
5 tions, not to exceed the amount allowed under
6 section 408 of the Internal Revenue Code of
7 1986 to an individual retirement plan for such
8 year.

9 (2) EMPLOYEE.—The term “employee” does
10 not include an employee as defined in section
11 401(e)(1) of such Code.

12 (3) INDIVIDUAL RETIREMENT PLANS.—The
13 term “individual retirement plan” has the meaning
14 given the term by section 7701(a)(37) of the Inter-
15 nal Revenue Code of 1986.

16 (4) SECRETARY.—The term “Secretary” means
17 the Secretary of the Treasury.

18 (b) ESTABLISHMENT OF PAYROLL DEDUCTION SYS-
19 TEM.—An employer may establish a system under which
20 employees, through employer payroll deductions, may
21 make contributions to individual retirement plans. An em-
22 ployer shall not incur any liability under title I of the Em-
23 ployee Retirement Income Security Act of 1974 in provid-
24 ing for such a system.

1 (c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT
2 PLANS.—

3 (1) IN GENERAL.—The system established
4 under subsection (b) shall provide that contributions
5 made to an individual retirement plan for any tax-
6 able year are—

7 (A) contributions through employer payroll
8 deductions, and

9 (B) if the employer so elects, additional
10 contributions by the employee which, when
11 added to contributions under subparagraph (A),
12 do not exceed the amount allowed under section
13 408 of the Internal Revenue Code of 1986 for
14 the taxable year.

15 (2) EMPLOYER PAYROLL DEDUCTIONS.—

16 (A) IN GENERAL.—The system established
17 under subsection (b) shall provide that an em-
18 ployee may establish and maintain an individual
19 retirement plan simply by—

20 (i) completing a contribution certifi-
21 cate, and

22 (ii) submitting such certificate to the
23 employee's employer in the manner pro-
24 vided under subparagraph (D).

1 (B) CHANGE OF AMOUNTS.—An employee
2 establishing and maintaining an individual re-
3 tirement plan under subparagraph (A) may
4 change the amount of an employer payroll de-
5 duction in the same manner as under subpara-
6 graph (A).

7 (C) SIMPLIFIED FORMS.—

8 (i) CONTRIBUTION CERTIFICATE.—
9 The Secretary shall develop a model con-
10 tribution certificate for purposes of this
11 paragraph—

12 (I) which is written in a clear
13 and easily understandable manner,
14 and

15 (II) the completion of which by
16 an employee will constitute the estab-
17 lishment of an individual retirement
18 plan and the request for employer
19 payroll deductions or changes in such
20 deductions.

21 (ii) AVAILABILITY.—The Secretary
22 shall make available to all employees and
23 employers the forms developed under this
24 subparagraph, and shall include with such

1 forms easy to understand explanatory ma-
2 terials.

3 (D) USE OF CERTIFICATE.—Each em-
4 ployer electing to adopt a system under sub-
5 section (b) shall, upon receipt of a contribution
6 certificate from an employee, deduct the appro-
7 priate contribution as determined by such cer-
8 tificate from the employee's wages in equal
9 amounts during the remaining payroll periods
10 for the taxable year and shall remit such
11 amounts for investment in the employee's indi-
12 vidual retirement plan not later than the close
13 of the 30-day period following the last day of
14 the month in which such payroll period occurs.

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

22 (d) ADDITIONAL INFORMATION.—

23 (1) IN GENERAL.—The system established
24 under subsection (b) shall provide for the furnishing
25 of information to employees of the opportunity of es-

1 tablishing individual retirement plans and of trans-
2 ferring amounts to such plans.

3 (2) INVESTMENT INFORMATION.—The employer
4 shall also make available to employees information
5 on how to make informed investment decisions and
6 how to achieve retirement objectives.

7 (3) INFORMATION NOT INVESTMENT ADVICE.—
8 Information provided under this subsection shall not
9 be treated as investment advice for purposes of any
10 Federal or State law.

11 **SEC. ____05. MODIFICATION OF TOP-HEAVY RULES.**

12 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-
13 PLOYEE.—

14 (1) IN GENERAL.—Section 416(i)(1)(A) (defin-
15 ing key employee) is amended—

16 (A) by striking “or any of the 4 preceding
17 plan years” in the matter preceding clause (i),

18 (B) by striking clause (i) and inserting the
19 following:

20 “(i) an officer of the employer having
21 an annual compensation greater than
22 \$80,000.”,

23 (C) by striking clause (ii) and redesignat-
24 ing clauses (iii) and (iv) as clauses (ii) and (iii),
25 respectively, and

1 (D) by striking the second sentence in the
2 matter following clause (iii), as redesignated by
3 subparagraph (C).

4 (2) CONFORMING AMENDMENT.—Section
5 416(i)(1)(B)(iii) is amended by striking “and sub-
6 paragraph (A)(ii)”.

7 (b) DISTRIBUTIONS DURING LAST YEAR BEFORE
8 DETERMINATION DATE TAKEN INTO ACCOUNT.—Section
9 416(g) is amended—

10 (1) in paragraph (3)—

11 (A) by striking “LAST 5 YEARS” in the
12 heading and inserting “LAST YEAR BEFORE DE-
13 TERMINATION DATE”, and

14 (B) in the matter following subparagraph
15 (B), by striking “5-year period” and inserting
16 “1-year period”, and

17 (2) in paragraph (4)(E)—

18 (A) by striking “LAST 5 YEARS” in the
19 heading and inserting “LAST YEAR BEFORE DE-
20 TERMINATION DATE”, and

21 (B) by striking “5-year period” and insert-
22 ing “1-year period”.

23 (c) REQUIREMENTS FOR QUALIFICATIONS.—Clause
24 (ii) of section 401(a)(10)(B) (relating to requirements for

1 qualifications for top-heavy plans) is amended by adding
2 at the end the following new flush sentence:

3 “The preceding sentence shall not apply to
4 a plan if the plan is not top-heavy and if
5 it is not reasonable to expect that the plan
6 will become a top-heavy plan.”.

7 (d) FROZEN PLAN EXEMPT FROM MINIMUM BENE-
8 FIT REQUIREMENT.—

9 (1) IN GENERAL.—Subparagraph (C) of section
10 416(c)(1) (relating to defined benefit plans) is
11 amended—

12 (A) in clause (i), by striking “clause (ii)”
13 and inserting “clause (ii) or (iii)”, and

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

15 “(iii) EXCEPTION FOR FROZEN
16 PLAN.—For purposes of determining an
17 employee’s years of service with the em-
18 ployer, any service with the employer shall
19 be disregarded to the extent that such
20 service occurs during a plan year when the
21 plan benefits (within the meaning of sec-
22 tion 410(b)) no employee or former em-
23 ployee.”.

24 (2) CONFORMING AMENDMENT.—Subparagraph
25 (A) of section 415(b)(5) is amended by adding at

1 the end the following: "An employee shall not be
2 credited with a year of participation in a defined
3 benefit plan for any year in which the plan does not
4 benefit (within the meaning of section 410(b)) such
5 employee."

6 (e) **EFFECTIVE DATE.**—The amendments made by
7 this section shall apply to plan years beginning after De-
8 cember 31, 1999.

9 **SEC. ____06. CREDIT FOR SMALL EMPLOYER PENSION PLAN**
10 **CONTRIBUTIONS AND START-UP COSTS.**

11 (a) **IN GENERAL.**—Subpart D of part IV of sub-
12 chapter A of chapter 1 (relating to business related cred-
13 its), as amended by section ____02, is amended by adding
14 at the end the following new section:

15 **"SEC. 45E. SMALL EMPLOYER PENSION PLAN CREDIT.**

16 "(a) **GENERAL RULE.**—For purposes of section 38,
17 in the case of an eligible employer, the small employer pen-
18 sion plan credit determined under this section for any tax-
19 able year is an amount equal to the sum of—

20 "(1) 50 percent of the qualified employer con-
21 tributions of the taxpayer for the taxable year, and

22 "(2) 50 percent of the qualified start-up costs
23 paid or incurred by the taxpayer during the taxable
24 year.

25 "(b) **LIMITATIONS.**—

1 “(1) LIMITS ON CONTRIBUTIONS.—For pur-
2 poses of subsection (a)(1)—

3 “(A) qualified employer contributions may
4 only be taken into account for each of the first
5 5 taxable years ending after the date the em-
6 ployer establishes the qualified employer plan to
7 which the contribution is made, and

8 “(B) the amount of the qualified employer
9 contributions taken into account with respect to
10 any qualified employee for any such taxable
11 year shall not exceed 3 percent of the com-
12 pensation (as defined in section 414(s)) of the
13 qualified employee for such taxable year.

14 “(2) LIMITS ON START-UP COSTS.—The amount
15 of the credit determined under subsection (a)(2) for
16 any taxable year shall not exceed—

17 “(A) \$2,000 for the first taxable year end-
18 ing after the date the employer established the
19 qualified employer plan to which such costs re-
20 late,

21 “(B) \$1,000 for each of the second and
22 third such taxable years, and

23 “(C) zero for each taxable year thereafter.

24 “(c) DEFINITIONS.—For purposes of this section—

25 “(1) ELIGIBLE EMPLOYER.—

1 “(A) IN GENERAL.—The term ‘eligible em-
2 ployer’ means, with respect to any year, an em-
3 ployer which has no more than—

4 “(i) for purposes of subsection (a)(1),
5 25 employees, and

6 “(ii) for purposes of subsection (a)(2),
7 100 employees,

8 who received at least \$5,000 of compensation
9 from the employer for the preceding year.

10 “(B) 2-YEAR GRACE PERIOD.—An eligible
11 employer who establishes and maintains a quali-
12 fied employer plan for 1 or more years and who
13 fails to be an eligible employer for any subse-
14 quent year shall be treated as an eligible em-
15 ployer for the 2 years following the last year
16 the employer was an eligible employer.

17 “(C) REQUIREMENT FOR NEW QUALIFIED
18 EMPLOYER PLANS.—Such term shall not in-
19 clude an employer if, during the 3-taxable year
20 period immediately preceding the 1st taxable
21 year for which the credit under this section is
22 otherwise allowable for a qualified employer
23 plan of the employer, the employer and each
24 member of any controlled group including the
25 employer (or any predecessor of either) estab-

lished or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

“(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

“(A) IN GENERAL.—The term ‘qualified employer contributions’ means, with respect to any taxable year, any employer contributions made on behalf of a qualified employee to a qualified employer plan for a plan year ending with or within the taxable year.

“(B) EMPLOYER CONTRIBUTIONS.—The term ‘employer contributions’ shall not include any elective deferral (within the meaning of section 402(g)(3)).

“(3) QUALIFIED EMPLOYEE.—The term ‘qualified employee’ means an individual who—

“(A) is eligible to participate in the qualified employer plan to which the employer contributions are made, and

“(B) is not a highly compensated employee (within the meaning of section 414(q)) for the year for which the contribution is made.

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

5 “(A) the establishment or maintenance of
6 a qualified employer plan in which qualified em-
7 ployees are eligible to participate, and

8 “(B) providing educational information to
9 employees regarding participation in such plan
10 and the benefits of establishing an investment
11 plan.

12 “(5) QUALIFIED EMPLOYER PLAN.—The term
13 ‘qualified employer plan’ has the meaning given such
14 term in section 4972(d).

15 “(d) SPECIAL RULES.—

16 “(1) AGGREGATION RULES.—All persons treat-
17 ed as a single employer under subsection (a) or (b)
18 of section 52, or subsection (n) or (o) of section 414,
19 shall be treated as one person. All qualified employer
20 plans of an employer shall be treated as a single
21 qualified employer plan.

22 “(2) DISALLOWANCE OF DEDUCTION.—No de-
23 duction shall be allowable under this chapter for any
24 qualified start-up costs or qualified contributions for
25 which a credit is determined under subsection (a).

1 “(3) ELECTION NOT TO CLAIM CREDIT.—This
2 section shall not apply to a taxpayer for any taxable
3 year if such taxpayer elects to have this section not
4 apply for such taxable year.”.

5 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
6 NESS CREDIT.—Section 38(b) (defining current year busi-
7 ness credit), as amended by section ____02, is amended
8 by striking “plus” at the end of paragraph (12), by strik-
9 ing the period at the end of paragraph (13) and inserting
10 “, plus”, and by adding at the end the following new para-
11 graph:

12 “(14) in the case of an eligible employer (as de-
13 fined in section 45E(c)), the small employer pension
14 plan credit determined under section 45E(a).”.

15 (c) PORTION OF CREDIT REFUNDABLE.—Section
16 38(c) (relating to limitation based on amount of tax) is
17 amended by adding at the end the following new para-
18 graph:

19 “(4) PORTION OF SMALL EMPLOYER PENSION
20 PLAN CREDIT REFUNDABLE.—

21 “(A) IN GENERAL.—In the case of the
22 small employer pension plan credit under sub-
23 section (b)(14), the aggregate credits allowed
24 under subpart C shall be increased by the lesser
25 of—

1 “(i) the credit which would be allowed
2 without regard to this paragraph and the
3 limitation under paragraph (1), or

4 “(ii) the amount by which the aggre-
5 gate amount of credits allowed by this sec-
6 tion (without regard to this paragraph)
7 would increase if the limitation under
8 paragraph (1) were increased by the tax-
9 payer’s applicable payroll taxes for the tax-
10 able year.

11 “(B) TREATMENT OF CREDIT.—The
12 amount of the credit allowed under this para-
13 graph shall not be treated as a credit allowed
14 under this subpart and shall reduce the amount
15 of the credit allowed under this section for the
16 taxable year.

17 “(C) APPLICABLE PAYROLL TAXES.—For
18 purposes of this paragraph—

19 “(i) IN GENERAL.—The term ‘applica-
20 ble payroll taxes’ means, with respect to
21 any taxpayer for any taxable year—

22 “(I) the amount of the taxes im-
23 posed by sections 3111 and 3221(a)
24 on compensation paid by the taxpayer
25 during the taxable year.

1 “(II) 50 percent of the taxes im-
2 posed by section 1401 on the self-em-
3 ployment income of the taxpayer dur-
4 ing the taxable year, and

“(III) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

10 “(ii) AGREEMENTS REGARDING FOR-
11 EIGN AFFILIATES.—Section 24(d)(5)(C)
12 shall apply for purposes of clause (i).”.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section ____02, is amended by adding at the end the following new item:

"Sec. 45E. Small employer pension plan credit."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred or contributions made in connection with qualified employer plans established after December 31, 2000.

21 SEC. ____07. ELECTIVE DEFERRALS NOT TAKEN INTO AC-
22 COUNT FOR PURPOSES OF DEDUCTION LIM-
23 ITS.

24 (a) IN GENERAL.—Section 404 (relating to deduction
25 for contributions of an employer to an employees' trust

1 or annuity plan and compensation under a deferred pay-
2 ment plan) is amended by adding at the end the following
3 new subsection:

4 “(n) **ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
5 **COUNT FOR PURPOSES OF DEDUCTION LIMITS.**—Elective
6 deferrals (as defined in section 402(g)(3)) shall not be
7 subject to any limitation contained in paragraph (3), (7),
8 or (9) of subsection (a), and such elective deferrals shall
9 not be taken into account in applying any such limitation
10 to any other contributions.”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 this section shall apply to years beginning after December
13 31, 2000.

14 **SEC. ____08. FASTER VESTING OF CERTAIN EMPLOYER**
15 **MATCHING CONTRIBUTIONS.**

16 (a) **AMENDMENTS TO 1986 CODE.**—Section 411(a)
17 (relating to minimum vesting standards) is amended—

18 (1) in paragraph (2), by striking “A plan” and
19 inserting “Except as provided in paragraph (12), a
20 plan”, and

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

22 “(12) **FASTER VESTING FOR MATCHING CON-**
23 **TRIBUTIONS.**—In the case of matching contributions
24 (as defined in section 401(m)(4)(A)), paragraph (2)
25 shall be applied—

1 “(A) by substituting ‘3 years’ for ‘5 years’
 2 in subparagraph (A), and
 3 “(B) by substituting the following table for
 4 the table contained in subparagraph (B):

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

5 (b) AMENDMENTS TO ERISA.—Section 203(a) of the
 6 Employee Retirement Income Security Act of 1974 (29
 7 U.S.C. 1053(a)) is amended—

8 (1) in paragraph (2), by striking “A plan” and
 9 inserting “Except as provided in paragraph (4), a
 10 plan”, and

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

12 “(4) FASTER VESTING FOR MATCHING CON-
 13 TRIBUTIONS.—In the case of matching contributions
 14 (as defined in section 401(m)(4)(A) of the Internal
 15 Revenue Code of 1986), paragraph (2) shall be ap-
 16 plied—

17 “(A) by substituting ‘3 years’ for ‘5 years’
 18 in subparagraph (A), and
 19 “(B) by substituting the following table for
 20 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40

"Years of service:	The nonforfeitable percentage is:
4	60
5	80
6	100."

1 (c) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to contributions for plan years beginning
5 after December 31, 1999.

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 contributions on behalf of employees covered by any
13 such agreement for plan years beginning before the
14 earlier of—

15 (A) the later of—

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

21 (ii) January 1, 2000, or

22 (B) January 1, 2004.

1 (3) SERVICE REQUIRED.—With respect to any
2 plan, the amendments made by this section shall not
3 apply to any employee before the date that such em-
4 ployee has 1 hour of service under such plan in any
5 plan year to which the amendments made by this
6 section apply.

7 **SEC. ____09. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
8 **SMALL EMPLOYERS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
10 4006(a)(3) of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

12 (1) in clause (i), by inserting “other than a new
13 single-employer plan (as defined in subparagraph
14 (F)),” after “single-employer plan,”

15 (2) in clause (iii), by striking the period at the
16 end and inserting “. and”, and

17 (3) by adding at the end the following new
18 clause:

19 “(iv) in the case of a new single-employer plan
20 (as defined in subparagraph (F)) maintained by a
21 small employer (as so defined) for the plan year, \$5
22 for each individual who is a participant in such plan
23 during the plan year.”.

24 (b) DEFINITION OF NEW SINGLE-EMPLOYER
25 PLAN.—Section 4006(a)(3) of the Employee Retirement

1 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
2 amended by adding at the end the following new subpara-
3 graph:

4 “(F)(i) For purposes of this paragraph, a
5 single-employer plan maintained by an employer
6 shall be treated as a new single-employer plan
7 for each of its first 5 plan years if, during the
8 36-month period ending on the date of the
9 adoption of such plan, the employer or any
10 member of such employer’s controlled group (or
11 any predecessor of either) had not established
12 or maintained a plan to which this title applies
13 with respect to which contributions were made,
14 or benefits were accrued, for substantially the
15 same employees as are in the new single-em-
16 ployer plan.

17 “(ii)(I) For purposes of this paragraph,
18 the term ‘small employer’ means an employer
19 which on the first day of any plan year has, in
20 aggregation with all members of the controlled
21 group of such employer, 100 or fewer employ-
22 ees.

23 “(II) In the case of a plan maintained by
24 2 or more contributing sponsors that are not
25 part of the same controlled group, the employ-

1 ees of all contributing sponsors and controlled
2 groups of such sponsor shall be aggregated for
3 purposes of determining whether the sponsor is
4 a small employer.”.

5 (c) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to plan years beginning after De-
7 cember 31, 1999.

8 **SEC. ____10. PHASE-IN OF ADDITIONAL PBGC PREMIUM FOR**
9 **NEW PLANS.**

10 (a) **AMENDMENTS TO ERISA.**—Subparagraph (E) of
11 section 4006(a)(3) of the Employee Retirement Income
12 Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amend-
13 ed by adding at the end the following new clause:

14 “(v) In the case of a new defined benefit plan, the
15 amount determined under clause (ii) for any plan year
16 shall be an amount equal to the product derived by mul-
17 tipling the amount determined under clause (ii) by the
18 applicable percentage. For purposes of this clause, the
19 term ‘applicable percentage’ means—

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

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

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

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

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

1 “(VI) 100 percent. for the sixth plan year, and
2 for each succeeding plan year.

3 For purposes of this clause, a defined benefit plan (as de-
4 fined in section 3(35)) maintained by an employer shall
5 be treated as a new defined benefit plan if, during the
6 36-month period ending on the date of the adoption of
7 the plan, the employer and each member of any controlled
8 group including the employer (or any predecessor of ei-
9 ther) did not establish or maintain a plan to which this
10 title applies with respect to which contributions were
11 made, or benefits were accrued, for substantially the same
12 employees as are in the new plan.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to plan years beginning after De-
15 cember 31, 1999.

16 **SEC. ____ 11. ELIMINATION OF USER FEE FOR REQUESTS TO**
17 **IRS REGARDING NEW PENSION PLANS.**

18 (a) ELIMINATION OF CERTAIN USER FEES.—The
19 Secretary of the Treasury or the Secretary’s delegate shall
20 not require payment of user fees under the program estab-
21 lished under section 10511 of the Revenue Act of 1987
22 for requests to the Internal Revenue Service for ruling let-
23 ters, opinion letters, and determination letters or similar
24 requests with respect to the qualified status of a new pen-
25 sion benefit plan or any trust which is part of the plan.

1 (b) NEW PENSION BENEFIT PLAN.—For purposes of
2 this section—

3 (1) IN GENERAL.—The term “new pension ben-
4 efit plan” means a pension, profit-sharing, stock
5 bonus, annuity, or employee stock ownership plan
6 which is maintained by one or more eligible employ-
7 ers if such employer (or any predecessor employer)
8 has not made a prior request described in subsection
9 (a) for such plan (or any predecessor plan).

10 (2) ELIGIBLE EMPLOYER.—The term “eligible
11 employer” means an employer (or any predecessor
12 employer) which has not established or maintained a
13 qualified employer plan with respect to which con-
14 tributions were made, or benefits were accrued for
15 service, in the 3 most recent taxable years ending
16 prior to the first taxable year in which the request
17 is made.

18 (c) EFFECTIVE DATE.—The provisions of this section
19 shall apply with respect to requests made after December
20 31, 1999.

21 **SEC. ____ 12. DEDUCTION LIMITS.**

22 (a) IN GENERAL.—Section 404(a) (relating to gen-
23 eral rule) is amended by adding at the end the following:

24 “(12) DEFINITION OF COMPENSATION.—For
25 purposes of paragraphs (3), (7), (8), and (9), the

1 term 'compensation' shall include amounts treated
2 as participant's compensation under subparagraph
3 (C) or (D) of section 415(c)(3).".

4 (b) CONFORMING AMENDMENT.—Subparagraph (B)
5 of section 404(a)(3) is amended by striking the last sen-
6 tence thereof.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 2000.

10 **SEC. ____13. TREATMENT OF MULTIEMPLOYER PLANS**
11 **UNDER SECTION 415.**

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

15 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
16 MENTAL AND MULTIEMPLOYER PLANS.—In the case
17 of a governmental plan (as defined in section
18 414(d)) or a multiemployer plan (as defined in sec-
19 tion 414(f)), subparagraph (B) of paragraph (1)
20 shall not apply.”.

21 (b) COMBINING AND AGGREGATION OF PLANS.—

22 (1) COMBINING OF PLANS.—Subsection (f) of
23 section 415 (relating to combining of plans) is
24 amended by adding at the end the following:

1 “(3) EXCEPTION FOR MULTIEMPLOYER
2 PLANS.—Notwithstanding paragraph (1) and sub-
3 section (g), a multiemployer plan (as defined in sec-
4 tion 414(f)) shall not be combined or aggregated
5 with any other plan maintained by an employer for
6 purposes of applying the limitations established in
7 this section, except that such plan shall be combined
8 or aggregated with another plan solely for purposes
9 of determining whether such other plan meets the
10 requirements of subsection (b)(1)(A).”.

11 (2) CONFORMING AMENDMENT FOR AGGREGA-
12 TION OF PLANS.—Subsection (g) of section 415 (re-
13 lating to aggregation of plans) is amended by strik-
14 ing “The Secretary” and inserting “Except as pro-
15 vided in subsection (f)(3), the Secretary”.

16 (c) EARLY RETIREMENT LIMITS FOR CERTAIN
17 PLANS.—Section 415(b)(2)(F) is amended to read as fol-
18 lows:

19 “(F) MULTIEMPLOYER PLANS AND PLANS
20 MAINTAINED BY GOVERNMENTS AND TAX EX-
21 EMPT ORGANIZATIONS.—In the case of a gov-
22 ernmental plan (within the meaning of section
23 414(d)), a plan maintained by an organization
24 (other than a governmental unit) exempt from
25 tax under this subtitle, a multiemployer plan

1 (as defined in section 414(f)), or a qualified
2 merchant marine plan—

3 “(i) subparagraph (C) shall be ap-
4 plied—

5 “(I) by substituting ‘age 62’ for
6 ‘social security retirement age’ each
7 place it appears, and

8 “(II) as if the last sentence
9 thereof read as follows: ‘The reduction
10 under this subparagraph shall not re-
11 duce the limitation of paragraph
12 (1)(A) below (i) 80 percent of such
13 limitation as in effect for the year, or
14 (ii) if the benefit begins before age 55,
15 the equivalent for such 80 percent
16 amount for age 55.’”, and

17 “(ii) subparagraph (D) shall be ap-
18 plied by substituting ‘age 65’ for ‘social se-
19 curity retirement age’ each place it ap-
20 pears.

21 For purposes of this subparagraph, the term
22 ‘qualified merchant marine plan’ means a plan
23 in existence on January 1, 1986, the partici-
24 pants in which are merchant marine officers
25 holding licenses issued by the Secretary of

1 Transportation under title 46, United States
2 Code.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 1999.

6 **SEC. ____14. PENSION REDUCTION DISCLOSURE.**

7 (a) NOTICE REQUIRED FOR CERTAIN PLAN AMEND-
8 MENTS REDUCING FUTURE BENEFIT ACCRUALS.—

9 (1) GENERAL NOTICE REQUIREMENTS.—Sec-
10 tion 204(h) of the Employee Retirement Income Se-
11 curity Act of 1974 (29 U.S.C. 1054(h)) is amended
12 to read as follows:

13 “(h) NOTICE REQUIREMENTS FOR PENSION PLAN
14 AMENDMENTS REDUCING ACCRUALS.—

15 “(1) IN GENERAL.—If an applicable pension
16 plan is amended so as to provide for a significant re-
17 duction in the rate of future benefit accrual of 1 or
18 more applicable individuals, the plan administrator
19 shall—

20 “(A) not later than the 45th day before
21 the effective date of the amendment, provide
22 the written notice described in paragraph (2) to
23 each applicable individual (and to each em-
24 ployee organization representing applicable indi-
25 viduals), and

1 “(B) in the case of a large applicable pen-
2 sion plan—

3 “(i) include in the notice under para-
4 graph (2) the additional information de-
5 scribed in paragraph (3),

6 “(ii) make available the information
7 described in paragraph (4) in accordance
8 with such paragraph, and

9 “(iii) provide individual benefit state-
10 ments in accordance with section 105(e).

11 “(2) BASIC WRITTEN NOTICE.—The notice
12 under paragraph (1) shall include a summary of the
13 important terms of the amendment, including—

14 “(A) the effective date of the amendment,

15 “(B) a statement that the amendment is
16 expected to significantly reduce the rate of fu-
17 ture benefit accrual.

18 “(C) a description of the classes of applica-
19 ble individuals to whom the amendment applies,
20 and

21 “(D) a description of how the amendment
22 significantly reduces the rate of future benefit
23 accrual.

24 “(3) ADDITIONAL INFORMATION TO BE PRO-
25 VIDED BY LARGE APPLICABLE PENSION PLANS.—

1 “(A) IN GENERAL.—The information de-
2 scribed in this paragraph is—

3 “(i) a description of the plan’s benefit
4 formulas (including formulas for determin-
5 ing early retirement benefits) both before
6 and after the amendment and an expla-
7 nation of the effect of the different for-
8 mulas on applicable individuals,

9 “(ii) an explanation of the cir-
10 cumstances (if any) under which (for ap-
11 propriate categories of applicable individ-
12 uals) the amendment is reasonably ex-
13 pected to result in a temporary period
14 after the effective date of the amendment
15 during which there are no or minimal ac-
16 cruals,

17 “(iii) illustrative examples of normal
18 or early retirement benefits meeting the re-
19 quirements of subparagraph (B), and

20 “(iv) notice of each applicable individ-
21 ual’s right to request, and of the proce-
22 dures for requesting, the information re-
23 quired to be provided under paragraph (4)
24 and under section 105(e).

1 “(B) ILLUSTRATIVE EXAMPLES.—Illus-
2 trative examples meet the requirements of this
3 subparagraph if such examples illustrate the
4 adverse effects of the plan amendment. Such
5 examples shall be prepared by the plan adminis-
6 trator in accordance with regulations prescribed
7 by the Secretary of the Treasury, and such reg-
8 ulations shall require that the examples—

9 “(i) reflect fairly the different cat-
10 egories of applicable individuals who are
11 similarly affected by the plan amendment
12 after consideration of all relevant factors,

13 “(ii) show a comparison of benefits
14 for each such category of applicable indi-
15 viduals under the plan (as in effect before
16 and after the effective date) at appropriate
17 future dates, and

18 “(iii) illustrate any temporary period
19 described in subparagraph (A)(ii).

20 Such comparison shall be based on benefits in
21 the form of a life annuity and on actuarial as-
22 sumptions each of which is reasonable (and is
23 so certified by an enrolled actuary) when ap-
24 plied to all participants in the plan.

1 “(4) SUPPORTING INFORMATION RELATING TO
2 CALCULATION OF BENEFITS.—

3 “(A) IN GENERAL.—Each individual who
4 receives or who is entitled to receive the infor-
5 mation described in paragraph (3) may (after
6 so receiving or becoming so entitled) request
7 the plan administrator to provide the informa-
8 tion described in subparagraph (B).

9 “(B) INFORMATION.—The plan adminis-
10 trator shall, within 15 days after the date on
11 which a request under subparagraph (A) is
12 made, provide to the individual information (in-
13 cluding benefit formulas and actuarial factors)
14 which is sufficient—

15 “(i) to confirm the benefit compari-
16 sons in the illustrative examples described
17 in paragraph (3)(B), and

18 “(ii) to enable the individual to use
19 the individual’s own personal information
20 to make calculations of the individual’s
21 own benefits which are similar to the cal-
22 culations made in such examples.

23 Nothing in this subsection shall be construed to
24 require the plan administrator to provide to an

1 individual such individual's personal informa-
2 tion for purposes of clause (ii).

3 “(C) TIME LIMITATION ON REQUESTS.—

4 This paragraph shall apply only to requests
5 made during the 12-month period that begins
6 on the later of the effective date of the amend-
7 ment to which it relates or the date the notice
8 described in paragraph (2) is provided.

9 “(5) SANCTIONS.—

10 “(A) IN GENERAL.—In the case of any
11 egregious failure to meet any requirement of
12 this subsection with respect to any plan amend-
13 ment, the provisions of the applicable pension
14 plan shall be applied as if such plan amendment
15 entitled all applicable individuals to the greater
16 of—

17 “(i) the benefits to which they would
18 have been entitled without regard to such
19 amendment, or

20 “(ii) the benefits under the plan with
21 regard to such amendment.

22 “(B) EGREGIOUS FAILURE.—For purposes
23 of subparagraph (A), there is an egregious fail-
24 ure to meet the requirements of this subsection
25 if such failure is—

1 “(i) an intentional failure (including
2 any failure to promptly provide the re-
3 quired notice or information after the plan
4 administrator discovers an unintentional
5 failure to meet the requirements of this
6 subsection),

7 “(ii) a failure to provide most of the
8 individuals with most of the information
9 they are entitled to receive under this sub-
10 section, or

11 “(iii) a failure which is determined to
12 be egregious under regulations prescribed
13 by the Secretary of the Treasury.

14 “(C) EXCISE TAX.—For excise tax on fail-
15 ure to meet requirements, see section 4980F of
16 the Internal Revenue Code of 1986.

17 “(6) SPECIAL RULES.—

18 “(A) PLAIN LANGUAGE.—The notice re-
19 quired under paragraph (1) shall be written in
20 a manner calculated to be understood by the av-
21 erage plan participant who is an applicable indi-
22 vidual.

23 “(B) NOTICE TO DESIGNEES.—The notice
24 and information required to be provided under
25 this subsection may be provided to a person

1 designated, in writing, by the person to which
2 it would otherwise be provided.

3 “(7) ALTERNATIVE METHODS OF COMPLIANCE
4 WITH ENHANCED DISCLOSURE REQUIREMENTS IN
5 CERTAIN CASES.—The Secretary of the Treasury
6 shall prescribe such regulations as may be necessary
7 to carry out this subsection. The Secretary of the
8 Treasury may—

9 “(A) prescribe alternative or simplified
10 methods of complying with paragraphs (3) and
11 (4) in situations where—

12 “(i) there is no fundamental change in
13 the manner in which the accrued benefit of
14 an applicable individual is determined
15 under the plan, and

16 “(ii) such other methods are adequate
17 to reasonably inform plan participants who
18 are applicable individuals of the impact of
19 the reductions,

20 “(B) reduce the advance notice period in
21 paragraph (1)(A) from 45 days to 15 days be-
22 fore the effective date of the amendment for
23 cases in which compliance with the 45-day ad-
24 vance notice requirement would be unduly bur-
25 densome because the amendment is contingent

1 on a merger, acquisition, disposition, or other
2 similar transaction involving plan participants
3 who are applicable individuals or because 45
4 days advance notice is otherwise impracticable,

5 “(C) permit the comparison of benefits
6 under paragraph (3)(B)(i) to be based on a
7 form of payment other than a life annuity, or

8 “(D) specify actuarial assumptions that
9 are deemed to be reasonable for purposes of the
10 benefit comparisons under paragraph (3)(B)(i).

11 “(8) APPLICABLE INDIVIDUAL.—For purposes
12 of this subsection, the term ‘applicable individual’
13 means, with respect to any plan amendment—

14 “(A) each participant in the plan, and

15 “(B) each beneficiary who is an alternate
16 payee (within the meaning of section
17 206(d)(3)(K)) under a qualified domestic rela-
18 tions order (within the meaning of section
19 206(d)(3)(B)(i)),

20 whose future benefit accruals under the plan may
21 reasonably be expected to be reduced by such plan
22 amendment.

23 “(9) TERMS RELATING TO PLANS.—For pur-
24 poses of this subsection—

1 “(A) APPLICABLE PENSION PLAN.—The
2 term ‘applicable pension plan’ means—

3 “(i) a defined benefit plan, or

4 “(ii) an individual account plan which
5 is subject to the funding standards of sec-
6 tion 302.

7 “(B) LARGE APPLICABLE PENSION
8 PLAN.—The term ‘large applicable pension
9 plan’ means an applicable pension plan which
10 had 100 or more active participants as of the
11 last day of the plan year preceding the plan
12 year in which the plan amendment becomes ef-
13 fective.”

14 (2) INDIVIDUAL STATEMENTS.—Section 105 of
15 the Employee Retirement Income Security Act of
16 1974 (29 U.S.C. 1025) is amended by adding at the
17 end the following new subsection:

18 “(e)(1) The plan administrator of a large applicable
19 pension plan shall furnish an individual statement de-
20 scribed in paragraph (2) to each individual—

21 “(A) who receives, or is entitled to receive,
22 under section 204(h) the information described in
23 paragraph (3) thereof from such administrator, and

24 “(B) who requests in writing such a statement
25 from such administrator.

1 “(2) The statement described in this paragraph is a
2 statement which provides information which is substan-
3 tially the same as the information in the illustrative exam-
4 ples described in section 204(h)(3)(B) but which is based
5 on data specific to the requesting individual and, if the
6 individual so requests, information as of 1 other future
7 date not included in such examples.

8 “(3) Paragraph (1) shall apply only to requests made
9 during the 12-month period that begins on the later of
10 the effective date of the amendment to which it relates
11 or the date the notice described in section 204(h)(2) is
12 provided. In no case shall an individual be entitled under
13 this subsection to receive more than one such statement
14 with respect to an amendment.

15 “(4) Notwithstanding section 502(c)(1), the state-
16 ment required by paragraph (1) shall be treated as timely
17 furnished if furnished on or before—

18 “(A) the date which is 90 days after the effec-
19 tive date of the plan amendment to which is relates,
20 or

21 “(B) such later date as may be permitted by
22 the Secretary of Labor.

23 “(5) Any term used in this subsection which is used
24 in section 204(h) shall have the meaning given such term
25 by such section.

1 “(6) A statement under this subsection shall not be
2 taken into account for purposes of subsection (b).”

3 (b) EXCISE TAX ON FAILURE TO PROVIDE NOTICE
4 BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING
5 FUTURE BENEFIT ACCRUALS.—

6 (1) IN GENERAL.—Chapter 43 (relating to
7 qualified pension, etc., plans) is amended by adding
8 at the end the following new section:

9 **“SEC. 4980F. FAILURE OF DEFINED BENEFIT PLANS REDUC-**
10 **ING BENEFIT ACCRUALS TO SATISFY NOTICE**
11 **REQUIREMENTS.**

12 “(a) IMPOSITION OF TAX.—There is hereby imposed
13 a tax on the failure of a plan administrator of an applica-
14 ble pension plan to meet the requirements of subsection
15 (e) with respect to any applicable individual.

16 “(b) AMOUNT OF TAX.—

17 “(1) IN GENERAL.—The amount of the tax im-
18 posed by subsection (a) on any failure with respect
19 to any applicable individual shall be \$100 for each
20 day in the noncompliance period with respect to such
21 failure.

22 “(2) NONCOMPLIANCE PERIOD.—For purposes
23 of this section, the term ‘noncompliance period’
24 means, with respect to any failure, the period begin-

1 ning on the date the failure first occurs and ending
2 on the date the failure is corrected.

3 “(c) LIMITATIONS ON AMOUNT OF TAX.—

4 “(1) OVERALL LIMITATION FOR UNINTEN-
5 TIONAL FAILURES.—

6 “(A) IN GENERAL.—In the case of failures
7 that are due to reasonable cause and not to
8 willful neglect, the tax imposed by subsection
9 (a) for failures during the taxable year of the
10 employer (or, in the case of a multiemployer
11 plan, the taxable year of the trust forming part
12 of the plan) shall not exceed \$500,000
13 (\$1,000,000 in the case of a large applicable
14 pension plan).

15 “(B) TAXABLE YEARS IN THE CASE OF
16 CERTAIN CONTROLLED GROUPS.—For purposes
17 of this paragraph, if all persons who are treated
18 as a single employer for purposes of this section
19 do not have the same taxable year, the taxable
20 years taken into account shall be determined
21 under principles similar to the principles of sec-
22 tion 1561.

23 “(2) WAIVER BY SECRETARY.—In the case of a
24 failure which is due to reasonable cause and not to
25 willful neglect, the Secretary may waive part or all

1 of the tax imposed by subsection (a) to the extent
2 that the payment of such tax would be excessive rel-
3 ative to the failure involved.

4 “(d) LIABILITY FOR TAX.—The following shall be lia-
5 ble for the tax imposed by subsection (a):

6 “(1) In the case of a plan other than a multi-
7 employer plan, the employer.

8 “(2) In the case of a multiemployer plan, the
9 plan.

10 “(e) NOTICE REQUIREMENTS FOR PENSION PLAN
11 AMENDMENTS REDUCING ACCRUALS.—

12 “(1) IN GENERAL.—If an applicable pension
13 plan is amended so as to provide for a significant re-
14 duction in the rate of future benefit accrual of 1 or
15 more applicable individuals, the plan administrator
16 shall—

17 “(A) not later than the 45th day before
18 the effective date of the amendment, provide
19 the written notice described in paragraph (2) to
20 each applicable individual (and to each em-
21 ployee organization (as defined in section 3(4)
22 of the Employee Retirement Income Security
23 Act of 1974) representing applicable individ-
24 uals), and

1 “(B) in the case of a large applicable pen-
2 sion plan—

3 “(i) include in the notice under para-
4 graph (2) the additional information de-
5 scribed in paragraph (3), and

6 “(ii) make available the information
7 described in paragraph (4) in accordance
8 with such paragraph.

9 “(2) BASIC WRITTEN NOTICE.—The notice
10 under paragraph (1) shall include a summary of the
11 important terms of the amendment, including—

12 “(A) the effective date of the amendment,

13 “(B) a statement that the amendment is
14 expected to significantly reduce the rate of fu-
15 ture benefit accrual,

16 “(C) a description of the classes of applica-
17 ble individuals to whom the amendment applies,
18 and

19 “(D) a description of how the amendment
20 significantly reduces the rate of future benefit
21 accrual.

22 “(3) ADDITIONAL INFORMATION TO BE PRO-
23 VIDED BY LARGE APPLICABLE PENSION PLANS.—

24 “(A) IN GENERAL.—The information de-
25 scribed in this paragraph is—

1 “(i) a description of the plan’s benefit
2 formulas (including formulas for determin-
3 ing early retirement benefits) both before
4 and after the amendment and an expla-
5 nation of the effect of the different for-
6 mulas on applicable individuals,

7 “(ii) an explanation of the cir-
8 cumstances (if any) under which (for ap-
9 propriate categories of applicable individ-
10 uals) the amendment is reasonably ex-
11 pected to result in a temporary period
12 after the effective date of the amendment
13 during which there are no or minimal ac-
14 cruals,

15 “(iii) illustrative examples of normal
16 or early retirement benefits meeting the re-
17 quirements of subparagraph (B). and

18 “(iv) notice of each applicable individ-
19 ual’s right to request, and of the proce-
20 dures for requesting, the information re-
21 quired to be provided under paragraph (4)
22 and under section 105(e) of Employee Re-
23 tirement Income Security Act of 1974.

24 “(B) ILLUSTRATIVE EXAMPLES.—Illus-
25 trative examples meet the requirements of this

1 subparagraph if such examples illustrate the
2 adverse effects of the plan amendment. Such
3 examples shall be prepared by the plan adminis-
4 trator in accordance with regulations prescribed
5 by the Secretary, and such regulations shall re-
6 quire that the examples—

7 “(i) reflect fairly the different cat-
8 egories of applicable individuals who are
9 similarly affected by the plan amendment
10 after consideration of all relevant factors,

11 “(ii) show a comparison of benefits
12 for each such category of applicable indi-
13 viduals under the plan (as in effect before
14 and after the effective date) at appropriate
15 future dates, and

16 “(iii) illustrate any temporary period
17 described in subparagraph (A)(ii).

18 Such comparison shall be based on benefits in
19 the form of a life annuity and on actuarial as-
20 sumptions each of which is reasonable (and is
21 so certified by an enrolled actuary) when ap-
22 plied to all participants in the plan.

23 “(4) SUPPORTING INFORMATION RELATING TO
24 CALCULATION OF BENEFITS.—

1 “(A) IN GENERAL.—Each individual who
2 receives or who is entitled to receive the infor-
3 mation described in paragraph (3) may (after
4 so receiving or becoming so entitled) request
5 the plan administrator to provide the informa-
6 tion described in subparagraph (B).

7 “(B) INFORMATION.—The plan adminis-
8 trator shall, within 15 days after the date on
9 which a request under subparagraph (A) is
10 made, provide to the individual information (in-
11 cluding benefit formulas and actuarial factors)
12 which is sufficient—

13 “(i) to confirm the benefit compari-
14 sons in the illustrative examples described
15 in paragraph (3)(B), and

16 “(ii) to enable the individual to use
17 the individual’s own personal information
18 to make calculations of the individual’s
19 own benefits which are similar to the cal-
20 culations made in such examples.

21 Nothing in this subsection shall be construed to
22 require the plan administrator to provide to an
23 individual such individual’s personal informa-
24 tion for purposes of clause (ii).

1 “(C) TIME LIMITATION ON REQUESTS.—

2 This paragraph shall apply only to requests
3 made during the 12-month period that begins
4 on the later of the effective date of the amend-
5 ment to which it relates or the date the notice
6 described in paragraph (2) is provided.

7 “(5) SPECIAL RULES.—

8 “(A) PLAIN LANGUAGE.—The notice re-
9 quired under paragraph (1) shall be written in
10 a manner calculated to be understood by the av-
11 erage plan participant who is an applicable indi-
12 vidual.

13 “(B) NOTICE TO DESIGNEES.—The notice
14 or information required to be provided under
15 this subsection may be provided to a person
16 designated, in writing, by the person to which
17 it would otherwise be provided.

18 “(6) ALTERNATIVE METHODS OF COMPLIANCE
19 WITH ENHANCED DISCLOSURE REQUIREMENTS IN
20 CERTAIN CASES.—The Secretary shall prescribe such
21 regulations as may be necessary to carry out this
22 subsection. The Secretary may—

23 “(A) prescribe alternative or simplified
24 methods of complying with paragraphs (3) and
25 (4) in situations where—

1 “(i) there is no fundamental change in
2 the manner in which the accrued benefit of
3 an applicable individual is determined
4 under the plan, and

5 “(ii) such other methods are adequate
6 to reasonably inform plan participants who
7 are applicable individuals of the impact of
8 the reductions,

9 “(B) reduce the advance notice period in
10 paragraph (1)(A) from 45 days to 15 days be-
11 fore the effective date of the amendment for
12 cases in which compliance with the 45-day ad-
13 vance notice requirement would be unduly bur-
14 densome because the amendment is contingent
15 on a merger, acquisition, disposition, or other
16 similar transaction involving plan participants
17 who are applicable individuals or because 45
18 days advance notice is otherwise impracticable,

19 “(C) permit the comparison of benefits
20 under paragraph (3)(B)(i) to be based on a
21 form of payment other than a life annuity, or

22 “(D) specify actuarial assumptions that
23 are deemed to be reasonable for purposes of the
24 benefit comparisons under paragraph (3)(B)(i).

1 “(7) APPLICABLE INDIVIDUAL.—For purposes
2 of this subsection, the term ‘applicable individual’
3 means, with respect to any plan amendment—

4 “(A) each participant in the plan, and

5 “(B) each beneficiary who is an alternate
6 payee (within the meaning of section 414(p)(8))
7 under a qualified domestic relations order
8 (within the meaning of section 414(p)(1)),
9 whose future benefit accruals under the plan may
10 reasonably be expected to be reduced by such plan
11 amendment.

12 “(8) TERMS RELATING TO PLANS.—For pur-
13 poses of this subsection—

14 “(A) APPLICABLE PENSION PLAN.—The
15 term ‘applicable pension plan’ means—

16 “(i) a defined benefit plan, or

17 “(ii) an individual account plan which
18 is subject to the funding standards of sec-
19 tion 412.

20 Such term shall not include any governmental
21 plan (within the meaning of section 414(d)) or
22 any church plan (within the meaning of section
23 414(e)) with respect to which the election pro-
24 vided by section 410(d) has not been made.

1 “(B) LARGE APPLICABLE PENSION
2 PLAN.—The term ‘large applicable pension
3 plan’ means an applicable pension plan which
4 had 100 or more active participants as of the
5 last day of the plan year preceding the plan
6 year in which the plan amendment becomes ef-
7 fective.”

8 (2) CONFORMING AMENDMENT.—The table of
9 sections for chapter 43 is amended by adding at the
10 end the following new item:

 “Sec. 4980F. Failure of defined benefit plans reducing benefit ac-
 cruals to satisfy notice requirements.”

11 (c) EFFECTIVE DATES.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to plan amendments taking
14 effect after the date of the enactment of this Act.

15 (2) SPECIAL RULES.—

16 (A) IN GENERAL.—The amendments made
17 by this section shall not apply to any plan
18 amendment for which there was written notice
19 before July 12, 1999, which was reasonably ex-
20 pected to notify substantially all of the plan
21 participants or their representatives.

22 (B) TRANSITION.—Until such time as the
23 Secretary of the Treasury issues regulations
24 under section 4980F(e) (3) and (4) of the In-

1 shall be treated as reducing accrued bene-
2 fits of a participant if, under the terms of
3 the plan after the adoption of the amend-
4 ment, the accrued benefit of the partici-
5 pant may at any time be less than the sum
6 of—

7 “(I) the participant’s accrued
8 benefit for years of service before the
9 effective date of the amendment, de-
10 termined under the terms of the plan
11 as in effect immediately before the ef-
12 fective date, plus

13 “(II) the participant’s accrued
14 benefit determined under the formula
15 applicable to benefit accruals under
16 the current plan as applied to years of
17 service after such effective date.

18 “(ii) LARGE DEFINED BENEFIT
19 PLAN.—For purposes of this subpara-
20 graph, the term ‘large defined benefit plan’
21 means any defined benefit plan which had
22 100 or more participants who had accrued
23 a benefit under the plan (whether or not
24 vested) as of the last day of the plan year

1 preceding the plan year in which the plan
2 amendment becomes effective.

3 “(iii) **PROTECTED ACCRUED BENE-**
4 **FIT.**—For purposes of this subparagraph,
5 an accrued benefit shall include any early
6 retirement benefit or retirement-type sub-
7 sidy (within the meaning of subparagraph
8 (B)(i)), but only with respect to a partici-
9 pant who satisfies (either before or after
10 the effective date of the amendment) the
11 conditions for the benefit or subsidy under
12 the terms of the plan as in effect imme-
13 diately before such date.”

14 (b) **AMENDMENT OF ERISA.**—Section 204(g) of the
15 Employee Retirement Income Security Act of 1974 is
16 amended by adding at the end the following new para-
17 graph:

18 “(4)(A) For purposes of paragraph (1), a plan
19 amendment adopted by a large defined benefit plan shall
20 be treated as reducing accrued benefits of a participant
21 if, under the terms of the plan after the adoption of the
22 amendment, the accrued benefit of the participant may at
23 any time be less than the sum of—

24 “(i) the participant’s accrued benefit for years
25 of service before the effective date of the amend-

1 ment, determined under the terms of the plan as in
2 effect immediately before the effective date, plus

3 “(ii) the participant’s accrued benefit deter-
4 mined under the formula applicable to benefit accru-
5 als under the current plan as applied to years of
6 service after such effective date.

7 “(B) For purposes of this paragraph, the term ‘large
8 defined benefit plan’ means any defined benefit plan which
9 had 100 or more participants who had accrued a benefit
10 under the plan (whether or not vested) as of the last day
11 of the plan year preceding the plan year in which the plan
12 amendment becomes effective.

13 “(C) For purposes of this paragraph, an accrued ben-
14 efit shall include any early retirement benefit or retire-
15 ment-type subsidy (within the meaning of paragraph
16 (2)(A)), but only with respect to a participant who satis-
17 fies (either before or after the effective date of the amend-
18 ment) the conditions for the benefit or subsidy under the
19 terms of the plan as in effect immediately before such
20 date.”

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to plan amendments adopted after
23 June 29, 1999.

1 **Subtitle B—Promoting Techno-**
2 **logical and Economic Develop-**
3 **ment**

4 **SEC. ____21. INCREASE IN EXPENSING LIMITATION TO**
5 **\$25,000.**

6 (a) **IN GENERAL.**—Paragraph (1) of section 179(b)
7 of the Internal Revenue Code of 1986 (relating to limita-
8 tions) is amended to read as follows:

9 “(1) **DOLLAR LIMITATION.**—The aggregate cost
10 which may be taken into account under subsection
11 (a) for any taxable year shall not exceed \$25,000.”

12 (b) **EFFECTIVE DATE.**—The amendment made by
13 this section shall apply to taxable years beginning after
14 December 31, 1999.

15 **SEC. ____22. NEW MARKETS TAX CREDIT.**

16 (a) **IN GENERAL.**—Subpart D of part IV of sub-
17 chapter A of chapter 1 (relating to business-related cred-
18 its), as amended by section ____06, is amended by adding
19 at the end the following new section:

20 **“SEC. 45F. NEW MARKETS TAX CREDIT.**

21 **“(a) ALLOWANCE OF CREDIT.—**

22 **“(1) IN GENERAL.**—For purposes of section 38,
23 in the case of a taxpayer who holds a qualified eq-
24 uity investment on a credit allowance date of such
25 investment which occurs during the taxable year, the

1 new markets tax credit determined under this sec-
2 tion for such taxable year is an amount equal to 6
3 percent of the amount paid to the qualified commu-
4 nity development entity for such investment at its
5 original issue.

6 “(2) CREDIT ALLOWANCE DATE.—The term
7 ‘credit allowance date’ means, with respect to any
8 qualified equity investment—

9 “(A) the date on which such investment is
10 initially made, and

11 “(B) each of the 4 anniversary dates of
12 such date thereafter.

13 “(b) QUALIFIED EQUITY INVESTMENT.—For pur-
14 poses of this section—

15 “(1) IN GENERAL.—The term ‘qualified equity
16 investment’ means any equity investment in a quali-
17 fied community development entity if—

18 “(A) such investment is acquired by the
19 taxpayer at its original issue (directly or
20 through an underwriter) solely in exchange for
21 cash,

22 “(B) substantially all of such cash is used
23 by the qualified community development entity
24 to make qualified low-income community invest-
25 ments, and

1 “(C) such investment is designated for
2 purposes of this section by the qualified com-
3 munity development entity.

4 Such term shall not include any equity investment
5 issued by a qualified community development entity
6 more than 5 years after the date that such entity re-
7 ceives an allocation under subsection (f). Any alloca-
8 tion not used within such 5-year period may be re-
9 allocated by the Secretary under subsection (f).

10 “(2) LIMITATION.—The maximum amount of
11 equity investments issued by a qualified community
12 development entity which may be designated under
13 paragraph (1)(C) by such entity shall not exceed the
14 portion of the limitation amount allocated under
15 subsection (f) to such entity.

16 “(3) SAFE HARBOR FOR DETERMINING USE OF
17 CASH.—The requirement of paragraph (1)(B) shall
18 be treated as met if at least 85 percent of the aggre-
19 gate gross assets of the qualified community devel-
20 opment entity are invested in qualified low-income
21 community investments.

22 “(4) TREATMENT OF SUBSEQUENT PUR-
23 CHASERS.—The term ‘qualified equity investment’
24 includes any equity investment which would (but for
25 paragraph (1)(A)) be a qualified equity investment

1 in the hands of the taxpayer if such investment was
2 a qualified equity investment in the hands of a prior
3 holder.

4 “(5) REDEMPTIONS.—A rule similar to the rule
5 of section 1202(c)(3) shall apply for purposes of this
6 subsection.

7 “(6) EQUITY INVESTMENT.—The term ‘equity
8 investment’ means—

9 “(A) any stock in a qualified community
10 development entity which is a corporation, and

11 “(B) any capital interest in a qualified
12 community development entity which is a part-
13 nership.

14 “(c) QUALIFIED COMMUNITY DEVELOPMENT EN-
15 TITY.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified com-
17 munity development entity’ means any domestic cor-
18 poration or partnership if—

19 “(A) the primary mission of the entity is
20 serving, or providing investment capital for,
21 low-income communities or low-income persons,

22 “(B) the entity maintains accountability to
23 residents of low-income communities through
24 representation on governing or advisory boards
25 or otherwise, and

1 “(C) the entity is certified by the Secretary
2 for purposes of this section as being a qualified
3 community development entity.

4 “(2) SPECIAL RULES FOR CERTAIN ORGANIZA-
5 TIONS.—The requirements of paragraph (1) shall be
6 treated as met by—

7 “(A) any specialized small business invest-
8 ment company (as defined in section
9 1044(c)(3)), and

10 “(B) any community development financial
11 institution (as defined in section 103 of the
12 Community Development Banking and Finan-
13 cial Institutions Act of 1994 (12 U.S.C. 4702)).

14 “(d) QUALIFIED LOW-INCOME COMMUNITY INVEST-
15 MENTS.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified low-in-
17 come community investment’ means—

18 “(A) any equity investment in, or loan to,
19 any qualified active low-income community busi-
20 ness,

21 “(B) the purchase from another commu-
22 nity development entity of any loan made by
23 such entity which is a qualified low-income com-
24 munity investment if the amount received by
25 such other entity from such purchase is used by

such other entity to make qualified low-income community investments,

“(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

“(D) any equity investment in, or loan to, any qualified community development entity if substantially all of the investment or loan is used by such entity to make qualified low-income community investments described in subparagraphs (A), (B), and (C).

“(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘qualified active low-income community business’ means, with respect to any taxable year, any corporation or partnership if for such year—

“(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

“(ii) a substantial portion of the use of the tangible property of such entity

1 (whether owned or leased) is within any
2 low-income community,

3 “(iii) a substantial portion of the serv-
4 ices performed for such entity by its em-
5 ployees are performed in any low-income
6 community,

7 “(iv) less than 5 percent of the aver-
8 age of the aggregate unadjusted bases of
9 the property of such entity is attributable
10 to collectibles (as defined in section
11 408(m)(2)) other than collectibles that are
12 held primarily for sale to customers in the
13 ordinary course of such business, and

14 “(v) less than 5 percent of the aver-
15 age of the aggregate unadjusted bases of
16 the property of such entity is attributable
17 to nonqualified financial property (as de-
18 fined in section 1397B(e)).

19 “(B) PROPRIETORSHIP.—Such term shall
20 include any business carried on by an individual
21 as a proprietor if such business would meet the
22 requirements of subparagraph (A) were it incor-
23 porated.

24 “(C) PORTIONS OF BUSINESS MAY BE
25 QUALIFIED ACTIVE LOW-INCOME COMMUNITY

1 BUSINESS.—The term ‘qualified active low-in-
2 come community business’ includes any trades
3 or businesses which would qualify as a qualified
4 active low-income community business if such
5 trades or businesses were separately incor-
6 porated.

7 “(3) QUALIFIED BUSINESS.—For purposes of
8 this subsection, the term ‘qualified business’ has the
9 meaning given to such term by section 1397B(d);
10 except that—

11 “(A) in lieu of applying paragraph (2)(B)
12 thereof, the rental to others of real property lo-
13 cated in any low-income community shall be
14 treated as a qualified business if there are sub-
15 stantial improvements located on such property,

16 “(B) paragraph (3) thereof shall not apply,
17 and

18 “(C) such term shall not include any busi-
19 ness if a significant portion of the equity inter-
20 ests in such business are held by any person
21 who holds a significant portion of the equity in-
22 vestments in the community development entity.

23 “(e) LOW-INCOME COMMUNITY.—For purposes of
24 this section—

1 “(1) IN GENERAL.—The term ‘low-income com-
2 munity’ means any population census tract if—

3 “(A) the poverty rate for such tract is at
4 least 20 percent, or

5 “(B)(i) in the case of a tract not located
6 within a metropolitan area, the median family
7 income for such tract does not exceed 80 per-
8 cent of statewide median family income, or

9 “(ii) in the case of a tract located within
10 a metropolitan area, the median family income
11 for such tract does not exceed 80 percent of the
12 greater of statewide median family income or
13 the metropolitan area median family income.

14 “(2) AREAS NOT WITHIN CENSUS TRACTS.—In
15 the case of an area which is not tracted for popu-
16 lation census tracts, the equivalent county divisions
17 (as defined by the Bureau of the Census for pur-
18 poses of defining poverty areas) shall be used for
19 purposes of determining poverty rates and median
20 family income.

21 “(3) TARGETED POPULATION.—The Secretary
22 may prescribe regulations under which 1 or more
23 targeted populations (within the meaning of section
24 3(20) of the Riegle Community Development and
25 Regulatory Improvement Act of 1974 (12 U.S.C.

1 4702(20))) may be treated as low-income commu-
2 nities. Such regulations shall include procedures for
3 identifying the area covered by any such community
4 for purposes of determining entities which are quali-
5 fied active low-income community businesses with re-
6 spect to such community.

7 “(f) NATIONAL LIMITATION ON AMOUNT OF INVEST-
8 MENTS DESIGNATED.—

9 “(1) IN GENERAL.—There is a new markets tax
10 credit limitation of \$750,000,000 for each of cal-
11 endar years 2001 through 2005 and zero for any
12 succeeding calendar year.

13 “(2) ALLOCATION OF LIMITATION.—The limita-
14 tion under paragraph (1) shall be allocated by the
15 Secretary among qualified community development
16 entities selected by the Secretary. In making alloca-
17 tions under the preceding sentence, the Secretary
18 shall give priority to entities with records of having
19 successfully provided capital or technical assistance
20 to disadvantaged businesses or communities.

21 “(3) CARRYOVER OF UNUSED LIMITATION.—If
22 the new markets tax credit limitation for any cal-
23 endar year exceeds the aggregate amount allocated
24 under paragraph (2) for such year, such limitation

1 for the succeeding calendar year shall be increased
2 by the amount of such excess.

3 “(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

4 “(1) IN GENERAL.—If, at any time during the
5 5-year period beginning on the date of the original
6 issue of a qualified equity investment in a qualified
7 community development entity, there is a recapture
8 event with respect to such investment, then the tax
9 imposed by this chapter for the taxable year in
10 which such event occurs shall be increased by the
11 credit recapture amount.

12 “(2) CREDIT RECAPTURE AMOUNT.—For pur-
13 poses of paragraph (1), the credit recapture amount
14 is an amount equal to the sum of—

15 “(A) the aggregate decrease in the credits
16 allowed to the taxpayer under section 38 for all
17 prior taxable years which would have resulted if
18 no credit had been determined under this sec-
19 tion with respect to such investment, plus

20 “(B) interest at the overpayment rate es-
21 tablished under section 6621 on the amount de-
22 termined under subparagraph (A) for each
23 prior taxable year for the period beginning on
24 the due date for filing the return for the prior
25 taxable year involved.

1 No deduction shall be allowed under this chapter for
2 interest described in subparagraph (B).

3 “(3) RECAPTURE EVENT.—For purposes of
4 paragraph (1), there is a recapture event with re-
5 spect to an equity investment in a qualified commu-
6 nity development entity if—

7 “(A) such entity ceases to be a qualified
8 community development entity,

9 “(B) the proceeds of the investment cease
10 to be used as required of subsection (b)(1)(B),
11 or

12 “(C) such investment is redeemed by such
13 entity.

14 “(4) SPECIAL RULES.—

15 “(A) TAX BENEFIT RULE.—The tax for
16 the taxable year shall be increased under para-
17 graph (1) only with respect to credits allowed
18 by reason of this section which were used to re-
19 duce tax liability. In the case of credits not so
20 used to reduce tax liability, the carryforwards
21 and carrybacks under section 39 shall be appro-
22 priately adjusted.

23 “(B) NO CREDITS AGAINST TAX.—Any in-
24 crease in tax under this subsection shall not be
25 treated as a tax imposed by this chapter for

1 purposes of determining the amount of any
2 credit under this chapter or for purposes of sec-
3 tion 55.

4 “(h) BASIS REDUCTION.—The basis of any qualified
5 equity investment shall be reduced by the amount of any
6 credit determined under this section with respect to such
7 investment.

8 “(i) REGULATIONS.—The Secretary shall prescribe
9 such regulations as may be appropriate to carry out this
10 section, including regulations—

11 “(1) which limit the credit for investments
12 which are directly or indirectly subsidized by other
13 Federal benefits (including the credit under section
14 42 and the exclusion from gross income under sec-
15 tion 103).

16 “(2) which prevent the abuse of the provisions
17 of this section through the use of related parties,

18 “(3) which impose appropriate reporting re-
19 quirements

20 “(4) which apply the provisions of this section
21 to newly formed entities.”

22 (b) CREDIT MADE PART OF GENERAL BUSINESS
23 CREDIT.—

24 (1) IN GENERAL.—Subsection (b) of section 38,
25 as amended by section ____06, is amended by strik-

1 ing “plus” at the end of paragraph (13), by striking
2 the period at the end of paragraph (14) and insert-
3 ing “, plus”, and by adding at the end the following
4 new paragraph:

5 “(15) the new markets tax credit determined
6 under section 45F(a).”

7 (2) LIMITATION ON CARRYBACK.—Subsection
8 (d) of section 39 is amended by adding at the end
9 the following new paragraph:

10 “(11) NO CARRYBACK OF NEW MARKETS TAX
11 CREDIT BEFORE JANUARY 1, 2000.—No portion of
12 the unused business credit for any taxable year
13 which is attributable to the credit under section 45E
14 may be carried back to a taxable year ending before
15 January 1, 2000.”

16 (c) DEDUCTION FOR UNUSED CREDIT.—Subsection
17 (c) of section 196 is amended by striking “and” at the
18 end of paragraph (7), by striking the period at the end
19 of paragraph (8) and inserting “, and”, and by adding
20 at the end the following new paragraph:

21 “(9) the new markets tax credit determined
22 under section 45F(a).”

23 (d) CLERICAL AMENDMENT.—The table of sections
24 for subpart D of part IV of subchapter A of chapter 1,

1 as amended by section ____06, is amended by adding at
2 the end the following new item:

“Sec. 45F. New markets tax credit.”

3 (e) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to investments made after Decem-
5 ber 31, 2000.

6 **SEC. ____23. WAGE CREDITS FOR ROUND 2 EMPOWERMENT**
7 **ZONES.**

8 (a) **IN GENERAL.**—Section 1396(b)(2) (relating to
9 special rule) is amended by inserting “or pursuant to sec-
10 tion 1391(g)” after “section 1391(b)(2)”.

11 (b) **CONFORMING AMENDMENT.**—Section 1396 is
12 amended by striking subsection (e).

13 (c) **EFFECTIVE DATE.**—The amendments made by
14 this section shall take effect of the date of the enactment
15 of this Act.

16 **SEC. ____24. CREDIT FOR INFORMATION TECHNOLOGY**
17 **TRAINING PROGRAM EXPENSES.**

18 (a) **IN GENERAL.**—Subpart D of part IV of sub-
19 chapter A of chapter 1 (relating to business-related cred-
20 its), as amended by section ____22, is amended by adding
21 at the end the following:

22 **“SEC. 45G. INFORMATION TECHNOLOGY TRAINING PRO-**
23 **GRAM EXPENSES.**

24 “(a) **GENERAL RULE.**—For purposes of section 38.
25 in the case of an employer, the information technology

1 training program credit determined under this section is
2 an amount equal to 20 percent of information technology
3 training program expenses paid or incurred by the tax-
4 payer during the taxable year.

5 “(b) ADDITIONAL CREDIT PERCENTAGE FOR CER-
6 TAIN PROGRAMS.—The percentage under subsection (a)
7 shall be increased by 5 percentage points for information
8 technology training program expenses paid or incurred—

9 “(1) by the taxpayer with respect to a program
10 operated in—

11 “(A) an empowerment zone or enterprise
12 community designated under part I of sub-
13 chapter U,

14 “(B) a school district in which at least 50
15 percent of the students attending schools in
16 such district are eligible for free or reduced-cost
17 lunches under the school lunch program estab-
18 lished under the National School Lunch Act,

19 “(C) an area designated as a disaster area
20 by the Secretary of Agriculture or by the Presi-
21 dent under the Disaster Relief and Emergency
22 Assistance Act in the taxable year or the 4 pre-
23 ceding taxable years,

24 “(D) a rural enterprise community des-
25 ignated under section 766 of the Agriculture,

1 Rural Development, Food and Drug Adminis-
2 tration, and Related Agencies Appropriations
3 Act, 1999,

4 “(E) an area designated by the Secretary
5 of Agriculture as a Rural Economic Area Part-
6 nership Zone, or

7 “(F) an area designated by the Secretary
8 of Agriculture as a Champion Community, or
9 “(2) by a small employer.

10 “(c) LIMITATION.—The amount of information tech-
11 nology training program expenses with respect to an indi-
12 vidual which may be taken into account under subsection
13 (a) for the taxable year shall not exceed \$6,000.

14 “(d) INFORMATION TECHNOLOGY TRAINING PRO-
15 GRAM EXPENSES.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘information
17 technology training program expenses’ means ex-
18 penses paid or incurred by reason of the participa-
19 tion of the employer in any information technology
20 training program.

21 “(2) INFORMATION TECHNOLOGY TRAINING
22 PROGRAM.—The term ‘information technology train-
23 ing program’ means a program—

24 “(A) for the training of—

1 “(i) computer programmers, systems
2 analysts, and computer scientists or engi-
3 neers (as such occupations are defined by
4 the Bureau of Labor Statistics), and

5 “(ii) such other occupations as deter-
6 mined by the Secretary, after consultation
7 with a working group broadly solicited by
8 the Secretary and open to all interested in-
9 formation technology entities and trade
10 and professional associations,

11 “(B) involving a partnership of—

12 “(i) employers, and

13 “(ii) State training programs, school
14 districts, university systems, tribal colleges,
15 or certified commercial information tech-
16 nology training providers, and

17 “(C) at least 50 percent of the costs of
18 which is paid or incurred by the employers.

19 “(3) CERTIFIED COMMERCIAL INFORMATION
20 TECHNOLOGY TRAINING PROVIDER.—The term ‘cer-
21 tified commercial information technology training
22 providers’ means a private sector provider of edu-
23 cational products and services utilized for training in
24 information technology which is certified with re-
25 spect to—

1 “(A) the curriculum that is used for the
2 training, or

3 “(B) the technical knowledge of the in-
4 structors of such provider,

5 by 1 or more software publishers or hardware manu-
6 facturers the products of which are a subject of the
7 training.

8 “(e) SMALL EMPLOYER.—For purposes of this sec-
9 tion, the term ‘small employer’ means, with respect to any
10 calendar year, any employer if such employer employed
11 200 or fewer employees on each business day in each of
12 20 or more calendar weeks in such year or the preceding
13 calendar year.

14 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
15 or credit under any other provision of this chapter shall
16 be allowed with respect to information technology training
17 program expenses (determined without regard to the limi-
18 tation under subsection (c)).

19 “(g) CERTAIN RULES MADE APPLICABLE.—For pur-
20 poses of this section, rules similar to the rules of section
21 45A(e)(2) and subsections (c), (d), and (e) of section 52
22 shall apply.”

23 (b) CREDIT TO BE PART OF GENERAL BUSINESS
24 CREDIT.—Section 38(b) (relating to current year business
25 credit), as amended by section ____22, is amended by

1 striking "plus" at the end of paragraph (14), by striking
2 the period at the end of paragraph (15) and inserting "
3 plus", and by adding at the end the following:

4 “(16) the information technology training pro-
5 gram credit determined under section 45G.”

6 (c) NO CARRYBACKS.—Subsection (d) of section 39
7 (relating to carryback and carryforward of unused cred-
8 its), as amended by section ____22, is amended by adding
9 at the end the following:

10 “(12) NO CARRYBACK OF SECTION 45G CREDIT
11 BEFORE EFFECTIVE DATE.—No portion of the un-
12 used business credit for any taxable year which is
13 attributable to the information technology training
14 program credit determined under section 45G may
15 be carried back to a taxable year ending before the
16 date of the enactment of section 45G.”

17 (d) CLERICAL AMENDMENT.—The table of sections
18 for subpart D of part IV of subchapter A of chapter 1,
19 as amended by section ____22, is amended by adding at
20 the end the following:

 “Sec. 45G. Information technology training program expenses.”

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2000.

1 **SEC. ____25. RESTORATION OF STANDARDS FOR DETERMIN-**
2 **ING WHETHER TECHNICAL WORKERS ARE**
3 **NOT EMPLOYEES.**

4 (a) **REPEAL OF SECTION 530(d) OF THE REVENUE**
5 **ACT OF 1978.**—Section 530(d) of the Revenue Act of
6 1978 (as added by section 1706 of the Tax Reform Act
7 of 1986) is repealed.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 subsection (c) shall apply to periods ending after the date
10 of enactment of this Act.

11 **SEC. ____26. CERTAIN POST-SECONDARY EDUCATIONAL**
12 **BENEFITS PROVIDED BY AN EMPLOYER TO**
13 **CHILDREN OF EMPLOYEES EXCLUDABLE**
14 **FROM GROSS INCOME AS A SCHOLARSHIP.**

15 (a) **IN GENERAL.**—Section 117 (relating to qualified
16 scholarships) is amended by adding at the end the follow-
17 ing:

18 “(e) **EMPLOYER-PROVIDED POST-SECONDARY EDU-**
19 **CATIONAL BENEFITS PROVIDED TO CHILDREN OF EM-**
20 **PLOYEES.**—

21 “(1) **IN GENERAL.**—In determining whether
22 any amount is a qualified scholarship for purposes
23 of subsection (a), the fact that such amount is pro-
24 vided in connection with an employment relationship
25 shall be disregarded if—

1 “(A) such amount is provided by the em-
2 ployer to a child (as defined in section
3 161(c)(3)) of an employee of such employer,

4 “(B) such amount is provided pursuant to
5 a plan which meets the nondiscrimination re-
6 quirements of subsection (d)(3), and

7 “(C) amounts provided under such plan
8 are in addition to any other compensation pay-
9 able to employees and such plan does not pro-
10 vide employees with a choice between such
11 amounts and any other benefit.

12 For purposes of subparagraph (C), the business
13 practices of the employer (as well as such plan) shall
14 be taken into account.

15 “(2) DOLLAR LIMITATIONS.—

16 “(A) PER CHILD.—The amount excluded
17 from the gross income of the employee by rea-
18 son of paragraph (1) for a taxable year with re-
19 spect to amounts provided to each child of such
20 employee shall not exceed \$2,000.

21 “(B) AGGREGATE LIMIT.—The amount ex-
22 cluded from the gross income of the employee
23 by reason of paragraph (1) for a taxable year
24 (after the application of subparagraph (A))
25 shall not exceed the excess of the dollar amount

1 contained in section 127(a)(2) over the amount
2 excluded from the employee's gross income
3 under section 127 for such year.

4 “(3) PRINCIPAL SHAREHOLDERS AND OWN-
5 ERS.—Paragraph (1) shall not apply to any amount
6 provided to any child of any individual if such indi-
7 vidual (or such individual's spouse) owns (on any
8 day of the year) more than 5 percent of the stock
9 or of the capital or profits interest in the employer.

10 “(4) SPECIAL RULES OF APPLICATION.—In the
11 case of an amount which is treated as a qualified
12 scholarship by reason of this subsection—

13 “(A) subsection (a) shall be applied with-
14 out regard to the requirement that the recipient
15 be a candidate for a degree, and

16 “(B) subsection (b)(2)(A) shall be applied
17 by substituting ‘section 529(e)(5)’ for ‘section
18 170(b)(1)(A)(ii)’.

19 “(5) CERTAIN OTHER RULES TO APPLY.—Rules
20 similar to the rules of paragraphs (4), (5), and (7)
21 of section 127(c) shall apply for purposes of this
22 subsection.”

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 the date of enactment of this Act.

1 **SEC. ____27. INCREASE IN STATE CEILING ON LOW-INCOME**
 2 **HOUSING CREDIT.**

3 (a) **IN GENERAL.**—Clause (i) of section 42(h)(3)(C)
 4 (relating to State housing credit ceiling) is amended to
 5 read as follows:

6 “(i) the applicable amount under sub-
 7 paragraph (H) multiplied by the State
 8 population,”.

9 (b) **APPLICABLE AMOUNT.**—Paragraph (3) of section
 10 42(h) (relating to housing credit dollar amount for agen-
 11 cies) is amended by adding at the end the following new
 12 subparagraph:

13 “(H) **APPLICABLE AMOUNT OF STATE**
 14 **CEILING.**—For purposes of subparagraph
 15 (C)(i), the applicable amount shall be deter-
 16 mined under the following table:

“For calendar year—	The applicable amount is—
2000	\$1.30
2001	1.35
2002	1.40
2003	1.45
2004	1.50
2005	1.55
2006	1.60
2007	1.65
2008	1.70
2009 and thereafter	1.75.”

17 (c) **EFFECTIVE DATE.**—The amendments made by
 18 this section shall apply to calendar years after 1999.

1 **Subtitle C—Expanding Economic**
2 **Opportunities**

3 **SEC. ____31. WORK OPPORTUNITY CREDIT AND WELFARE-**
4 **TO-WORK CREDIT.**

5 (a) TEMPORARY EXTENSION.—Sections 51(c)(4)(B)
6 and 51A(f) (relating to termination) are each amended
7 by striking “December 31, 2000” and inserting “Decem-
8 ber 31, 2004”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to individuals who begin work for
11 the employer after December 31, 2000.

12 **SEC. ____32. EXTENSION OF CREDIT FOR HOLDERS OF**
13 **QUALIFIED ZONE ACADEMY BONDS.**

14 Section 1397E(e)(1) (relating to national limitation)
15 is amended by striking “and 1999” and inserting “, 1999,
16 and 2000”.

17 **Subtitle D—Promoting Family-**
18 **Owned Farms and Businesses**

19 **SEC. ____41. INCREASE IN ESTATE TAX DEDUCTION FOR**
20 **FAMILY-OWNED BUSINESS INTEREST.**

21 (a) IN GENERAL.—Section 2057(a)(2) (relating to
22 maximum deduction) is amended by striking “\$675,000”
23 and inserting “\$1,125,000”.

24 (b) CONFORMING AMENDMENTS.—Section
25 2057(a)(3)(B) (relating to coordination with unified cred-

1 it) is amended by striking “\$675,000” each place it ap-
2 pears in the text and heading and inserting “\$1,125,000”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to estates of decedents dying after
5 December 31, 2002.

6 **SEC. ____42. INCOME AVERAGING FOR FARMERS NOT TO IN-**
7 **CREASE ALTERNATIVE MINIMUM TAX LIABIL-**
8 **ITY.**

9 (a) **IN GENERAL.**—Section 55(c) (defining regular
10 tax) is amended by redesignating paragraph (2) as para-
11 graph (3) and by inserting after paragraph (1) the follow-
12 ing:

13 “(2) **COORDINATION WITH INCOME AVERAGING**
14 **FOR FARMERS.**—Solely for purposes of this section,
15 section 1301 (relating to averaging of farm income)
16 shall not apply in computing the regular tax.”

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2000.

20 **SEC. ____43. NET OPERATING LOSS OF FARMERS.**

21 (a) **INCREASE IN CARRYBACK YEARS.**—Paragraph
22 (1) of section 172(b) (relating to net operating loss
23 carrybacks and carryforwards) is amended by adding at
24 the end the following new subparagraph:

1 “(G) FARMING LOSSES.—Subparagraph

2 (A) shall be applied—

3 “(i) in the matter preceding clause (i),

4 by substituting ‘any taxable year beginning

5 with the 3rd taxable year after the taxable

6 year of such loss’ for ‘any taxable year’,

7 and

8 “(ii) in clause (i), by substituting ‘10

9 years’ for ‘2 years’,

10 with respect to the portion of the net operating

11 loss of an eligible taxpayer (as defined in sub-

12 section (i)) for any taxable year beginning after

13 December 31, 2000, and ending before January

14 1, 2003, which is a farming loss (as so defined)

15 with respect to the taxpayer.”

16 (b) DEFINITIONS AND RULES RELATING TO FARM-

17 ING LOSSES.—Section 172 is amended by redesignating

18 subsection (i) as subsection (j) and inserting after sub-

19 section (h) the following new subsection:

20 “(i) DEFINITIONS AND RULES RELATING TO FARM-

21 ING LOSSES.—For purposes of this section—

22 “(1) FARMING LOSS.—

23 “(A) IN GENERAL.—The term ‘farming

24 loss’ means the lesser of—

1 “(i) the net operating loss of the tax-
2 payer for the taxable year, or

3 “(ii) the net operating loss of the tax-
4 payer for the taxable year determined by
5 only taking into account items of income
6 and deduction attributable to 1 or more
7 qualified farming business of the taxpayer.

8 “(B) DOLLAR LIMITATION.—

9 “(i) IN GENERAL.—The farming loss
10 of taxpayer for any taxable year shall not
11 exceed \$200,000.

12 “(ii) AGGREGATION RULES.—

13 “(I) IN GENERAL.—All persons
14 treated as 1 employer under sub-
15 sections (a) or (b) of section 52 shall
16 be treated as 1 person.

17 “(II) PASS-THRU ENTITY.—In
18 the case of a partnership, trust, or
19 other pass-thru entity, the limitation
20 shall be applied at both the entity and
21 the owner level.

22 “(III) OWNER.—The limitation
23 shall be reduced by the amount of
24 farming loss determined for a cor-
25 poration for which the taxpayer is a

1 “(ii) which does not receive in excess
2 of \$7,000,000 for sales in a taxable year.

3 For purposes of clause (i)(II), owners which are
4 members of a single family shall be treated as
5 a single owner.

6 “(3) OWNER.—

7 “(A) 20 PERCENT OWNER.—The term ‘20
8 percent owner’ means any person who would be
9 described in section 416(i)(1)(B)(i) if ‘20 per-
10 cent’ were substituted for ‘5 percent’ each place
11 it appears in such section.

12 “(B) 50 PERCENT OWNER.—The term ‘50
13 percent owner’ means any person who would be
14 described in section 416(i)(1)(B)(i) if ‘50 per-
15 cent’ were substituted for ‘5 percent’ each place
16 it appears in such section.

17 “(4) COORDINATION WITH SUBSECTION
18 (b)(2).—For purposes of applying subsection (b)(2),
19 a farming loss for any taxable year shall be treated
20 as a separate net operating loss for such taxable
21 year to be taken into account for the remaining por-
22 tion of the net operating loss for such taxable year.

23 “(5) ELECTION.—Any taxpayer entitled to a
24 10-year carryback under subsection (b)(1)(G) from
25 any loss year may elect to have the carryback period

1 with respect to such loss year, and any portion of
2 the farming loss for such year, determined without
3 regard to subsection (b)(1)(G). Such election shall
4 be made in such manner as may be prescribed by
5 the Secretary and shall be made by the due date (in-
6 cluding extensions of time) for filing the taxpayer's
7 return for the taxable year of the net operating loss.
8 Such election, once made for any taxable year, shall
9 be irrevocable for the taxable year."

10 **SEC. ____ 44. SMALL BUSINESSES ALLOWED INCREASED DE-**
11 **DUCTION FOR MEAL EXPENSES.**

12 (a) IN GENERAL.—Subsection (n) of section 274 (re-
13 lating to only 50 percent of meal and entertainment ex-
14 penses allowed as deduction) is amended by adding at the
15 end the following new paragraph:

16 "(4) SPECIAL RULE FOR SMALL BUSINESSES.—

17 "(A) IN GENERAL.—In the case of any
18 taxpayer which is a small business, paragraph
19 (1) shall be applied by substituting for '50 per-
20 cent' with respect to expenses for food or bev-
21 erages—

22 "(i) '55 percent' in the case of taxable
23 years beginning in 2001, and

24 "(ii) '60 percent' in the case of tax-
25 able years beginning after 2001.

1 “(B) SMALL BUSINESS.—For purposes of
2 this paragraph, the term ‘small business’
3 means, with respect to expenses paid or in-
4 curred during any taxable year—

5 “(i) any C corporation which meets
6 the requirements of section 55(e)(1) for
7 such year, and

8 “(ii) any S corporation, partnership,
9 or sole proprietorship which would meet
10 such requirements if it were a C corpora-
11 tion.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to taxable years beginning after
14 December 31, 2000.

15 **SEC. ____45. TAX EXCLUSION FOR COST-SHARING PAY-**
16 **MENTS UNDER PARTNERS FOR WILDLIFE**
17 **PROGRAM.**

18 (a) IN GENERAL.—Section 126(a) (relating to cer-
19 tain cost-sharing payments) is amended by redesignating
20 paragraph (10) as paragraph (11) and by inserting after
21 paragraph (9) the following:

22 “(10) The Partners for Wildlife Program au-
23 thorized by the Fish and Wildlife Act of 1956 (16
24 U.S.C. 742a et seq.).”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2000.

4 **Subtitle E—Providing**
5 **Administrative Relief**

6 **SEC. ____51. DISCLOSURE OF TAX INFORMATION TO FACILI-**
7 **TATE COMBINED EMPLOYMENT TAX REPORT-**
8 **ING.**

9 Section 6103(d)(5) is amended to read as follows:

10 “(5) DISCLOSURE FOR COMBINED EMPLOY-
11 MENT TAX REPORTING.—The Secretary may disclose
12 taxpayer identity information and signatures to any
13 agency, body, or commission of any State for the
14 purpose of carrying out with such agency, body, or
15 commission a combined Federal and State employ-
16 ment tax reporting program approved by the Sec-
17 retary. Subsections (a)(2) and (p)(4) and sections
18 7213 and 7213A shall not apply with respect to dis-
19 closures or inspections made pursuant to this para-
20 graph.”

21 **SEC. ____52. ENROLLED AGENTS.**

22 (a) IN GENERAL.—Chapter 77 (relating to mis-
23 cellaneous provisions) is amended by adding at the end
24 the following new section:

1 **"SEC. 7527. ENROLLED AGENTS.**

2 “(a) IN GENERAL.—The Secretary may prescribe
3 such regulations as may be necessary to regulate the con-
4 duct of enrolled agents in regards to their practice before
5 the Internal Revenue Service.

6 “(b) USE OF CREDENTIALS.—

7 “(1) IN GENERAL.—Any enrolled agent prop-
8 erly licensed to practice before the Internal Revenue
9 Service under subsection (a) shall be allowed to use
10 the credentials ‘Enrolled Agent’, ‘EA’, or ‘E.A.’.

11 “(2) PROHIBITION ON INTERFERENCE.—No
12 state, municipality or locality, or agency thereof,
13 shall interfere with the right of enrolled agents to
14 use such credentials as described in paragraph
15 (b)(1).”

16 “(b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 77 is amended by adding at the end the follow-
18 ing new item:

“Sec 7527. Enrolled agents.”

19 “(c) PRIOR REGULATIONS.—Nothing in the amend-
20 ments made by this section shall be construed to have any
21 effect on part 10 of title 31, Code of Federal Regulations,
22 or any other Federal rule or regulation issued before the
23 date of the enactment of this Act.

Subtitle F—Revenue Offsets

SEC. ____61. RESTORATION OF PHASE-OUT OF UNIFIED CREDIT.

(a) **IN GENERAL.**—Paragraph (2) of section 2001(c) is amended by striking “\$10,000,000” and all that follows and inserting “\$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3)) and \$359,200.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to estates of decedents dying after the date of enactment of this Act.

SEC. ____62. REPEAL OF LOWER-OF-COST-OR-MARKET METHOD OF ACCOUNTING FOR INVEN- TORIES.

(a) **IN GENERAL.**—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b) **CERTAIN WRITE-DOWNS NOT PERMITTED; USE
OF MARK-DOWNS REQUIRED UNDER RETAIL METHOD.**—

“(1) **IN GENERAL.**—A taxpayer—

“(A) may not use the lower-of-cost-or-market method of accounting for inventories, and

1 “(B) may not write-down items by reason
2 of being unsalable at normal prices or unusable
3 in the normal way because of damage, imperfec-
4 tions, shop wear, changes of style, odd or bro-
5 ken lots, or other similar causes.

6 Subparagraph (B) shall not apply to a taxpayer
7 using a mark-to-market method of accounting for
8 both gains and losses in inventory values.

9 “(2) MARK-DOWNS REQUIRED TO BE TAKEN
10 INTO ACCOUNT UNDER RETAIL METHOD.—The retail
11 method of accounting for inventories shall be applied
12 by taking into account mark-downs in determining
13 the approximate cost of the inventories.

14 “(3) EXCEPTION FOR CERTAIN SMALL BUSI-
15 NESSES.—Paragraph (1) shall not apply to any tax-
16 payer for any taxable year if, for all prior taxable
17 years ending on or after the date of the enactment
18 of this subsection, the taxpayer (or any predecessor)
19 met the \$5,000,000 gross receipts test of section
20 448(c).

21 “(4) REGULATIONS.—The Secretary shall pre-
22 scribe such regulations as may be appropriate to
23 carry out the purposes of this subsection, including
24 regulations relating to wash-sale-type transactions.”

25 (b) CONFORMING AMENDMENTS.—

1 (1) Clause (iii) of section 312(n)(4)(C) is
2 amended to read as follows:

3 “(iii) INVENTORY AMOUNT.—The in-
4 ventory amount of assets under the first-
5 in, first-out method authorized by section
6 471 shall be determined using the method
7 authorized to be used by the taxpayer
8 under such section.”

9 (2) Subparagraph (C) of section 1363(d)(4) is
10 amended to read as follows:

11 “(C) INVENTORY AMOUNT.—The inventory
12 amount of assets under a method authorized by
13 section 471 shall be determined using the meth-
14 od authorized to be used by the corporation
15 under such section.”

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to taxable years beginning
19 after the date of the enactment of this subsection.

20 (2) CHANGE IN METHOD OF ACCOUNTING.—In
21 the case of any taxpayer required by this section to
22 change its method of accounting for its first taxable
23 year beginning after the date of the enactment of
24 this subsection—

1 (A) such change shall be treated as initi-
2 ated by the taxpayer,

3 (B) such change shall be treated as made
4 with the consent of the Secretary of the Treas-
5 ury, and

6 (C) the net amount of the adjustments re-
7 quired to be taken into account by the taxpayer
8 under section 481 of the Internal Revenue Code
9 of 1986 shall be taken into account ratably over
10 the 4-taxable year period beginning with the
11 first taxable year beginning after such date.

12 **SEC. ____63. CONSISTENT AMORTIZATION PERIODS FOR IN-**
13 **TANGIBLES.**

14 (a) **START-UP EXPENDITURES.—**

15 (1) **ALLOWANCE OF DEDUCTION.—**Subsection
16 (b) of section 195 (relating to start-up expenditures)
17 is amended by striking paragraph (1), by redesignat-
18 ing paragraph (2) as paragraph (3), and by insert-
19 ing before paragraph (3), as so redesignated, the fol-
20 lowing new paragraphs:

21 “(1) **ALLOWANCE OF DEDUCTION.—**If a tax-
22 payer elects the application of this subsection with
23 respect to any start-up expenditures—

24 “(A) the taxpayer shall be allowed a deduc-
25 tion for the taxable year in which the active

1 trade or business begins in an amount equal to
2 the lesser of—

3 “(i) the amount of start-up expendi-
4 tures with respect to the active trade or
5 business, or

6 “(ii) \$5,000, reduced (but not below
7 zero) by the amount by which such start-
8 up expenditures exceed \$50,000, and

9 “(B) the remainder of such start-up ex-
10 penditures shall be allowed as a deduction rat-
11 ably over the 180-month period beginning with
12 the month in which the active trade or business
13 begins.

14 “(2) AGGREGATION RULE.—For purposes of
15 paragraph (1), all persons which are treated as a
16 single employer under subsections (a) and (b) of sec-
17 tion 52 shall be treated as a single person.”

18 (2) CONFORMING AMENDMENT.—Subsection (b)
19 of section 195 is amended by striking “AMORTIZE”
20 and inserting “DEDUCT” in the heading.

21 (b) ORGANIZATIONAL EXPENDITURES.—Subsection
22 (a) of section 248 (relating to organizational expenditures)
23 is amended to read as follows:

24 “(a) ELECTION TO DEDUCT.—

1 “(1) IN GENERAL.—If a corporation elects the
2 application of this subsection (in accordance with
3 regulations prescribed by the Secretary) with respect
4 to any organizational expenditures—

5 “(A) the corporation shall be allowed a de-
6 duction for the taxable year in which the cor-
7 poration begins business in an amount equal to
8 the lesser of—

9 “(i) the amount of organizational ex-
10 penditures with respect to the taxpayer, or

11 “(ii) \$5,000, reduced (but not below
12 zero) by the amount by which such organi-
13 zational expenditures exceed \$50,000, and

14 “(B) the remainder of such organizational
15 expenditures shall be allowed as a deduction
16 ratably over the 180-month period beginning
17 with the month in which the corporation begins
18 business.

19 “(2) AGGREGATION RULE.—For purposes of
20 paragraph (1), all persons which are treated as a
21 single employer under subsection (a) or (b) of sec-
22 tion 52 shall be treated as a single person.”

23 (c) TREATMENT OF ORGANIZATIONAL AND SYNDICA-
24 TION FEES OR PARTNERSHIPS.—Section 709(b) (relating
25 to amortization of organization fees) is amended by redес-

1 ignating paragraph (2) as paragraph (4) and by amending
2 paragraph (1) to read as follows:

3 “(1) ALLOWANCE OF DEDUCTION.—If a tax-
4 payer elects the application of this subsection (in ac-
5 cordance with regulations prescribed by the Sec-
6 retary) with respect to any organizational ex-
7 penses—

8 “(A) the taxpayer shall be allowed a deduc-
9 tion for the taxable year in which the partner-
10 ship begins business in an amount equal to the
11 lesser of—

12 “(i) the amount of organizational ex-
13 penses with respect to the partnership, or

14 “(ii) \$5,000, reduced (but not below
15 zero) by the amount by which such organi-
16 zational expenses exceed \$50,000, and

17 “(B) the remainder of such organizational
18 expenses shall be allowed as a deduction ratably
19 over the 180-month period beginning with the
20 month in which the partnership begins busi-
21 ness.

22 “(2) DISPOSITIONS BEFORE CLOSE OF AMORTI-
23 ZATION PERIOD.—In any case in which a partner-
24 ship is liquidated before the end of the period to
25 which paragraph (1)(B) applies, any deferred ex-

1 penses attributable to the partnership which were
2 not allowed as a deduction by reason of this section
3 may be deducted to the extent allowable under sec-
4 tion 165.

5 “(3) AGGREGATION RULE.—For purposes of
6 paragraph (1), all persons which are treated as a
7 single employer under subsection (a) or (b) of sec-
8 tion 52 shall be treated as a single person.”

(d) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking “AMORTIZATION” and inserting “DEDUCTION” in the heading.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

15 SEC. ____64. EXTENSION OF HAZARDOUS SUBSTANCE
16 SUPERFUND TAXES.

17 (a) EXTENSION OF TAXES.—

18 (1) ENVIRONMENTAL TAX.—Section 59A(e) is
19 amended to read as follows:

20 “(e) APPLICATION OF TAX.—The tax imposed by this
21 section shall apply to taxable years beginning after De-
22 cember 31, 1986, and before January 1, 1996, and to tax-
23 able years beginning after December 31, 1999, and before
24 January 1, 2010.”

1 (2) EXCISE TAXES.—Section 4611(e) is amend-
2 ed to read as follows:

3 “(e) APPLICATION OF HAZARDOUS SUBSTANCE
4 SUPERFUND FINANCING RATE.—The Hazardous Sub-
5 stance Superfund Financing rate under this section shall
6 apply after December 31, 1986, and before January 1,
7 1996, and after the date of the enactment of the Tax Ex-
8 tenders Act of 1999, and before October 1, 2009.”

9 (b) EFFECTIVE DATES.—

10 (1) INCOME TAX.—The amendment made by
11 subsection (a)(1) shall apply to taxable years begin-
12 ning after December 31, 1999.

13 (2) EXCISE TAX.—The amendment made by
14 subsection (a)(2) shall take effect on the date of the
15 enactment of this Act.

16 **SEC. ____ 65. DISALLOWANCE OF NONECONOMIC TAX AT-**
17 **TRIBUTES.**

18 (a) IN GENERAL.—Section 7701 is amended by re-
19 designating subsection (m) as subsection (n) and by in-
20 serting after subsection (l) the following new subsection:

21 “(m) DISALLOWANCE OF NONECONOMIC TAX AT-
22 TRIBUTES.—

23 “(1) IN GENERAL.—In determining liability for
24 any tax under subtitle A, noneconomic tax attributes
25 shall not be allowed.

1 “(2) NONECONOMIC TAX ATTRIBUTE.—For
2 purposes of this subsection, a noneconomic tax at-
3 tribute is any deduction, loss, or credit claimed to
4 result from any transaction unless—

5 “(A) the transaction changes in a mean-
6 ingful way (apart from Federal income tax con-
7 sequences) the taxpayer’s economic position,
8 and

9 “(B)(i) the present value of the reasonably
10 expected potential income from the transaction
11 (and the taxpayer’s risk of loss from the trans-
12 action) are substantial in relationship to the
13 present value of the tax benefits claimed, or

14 “(ii) in the case of a transaction which is
15 in substance the borrowing of money or the ac-
16 quisition of financial capital, the deductions
17 claimed with respect to the transaction for any
18 period are not significantly in excess of the eco-
19 nomic return for such period realized by the
20 person lending the money or providing the fi-
21 nancial capital.

22 “(3) PRESUMPTION OF NONECONOMIC TAX AT-
23 TRIBUTES.—For purposes of paragraph (2), the fol-
24 lowing factors shall give rise to a presumption that

1 a transaction fails to meet the requirements of para-
2 graph (2):

3 “(A) The fact that the payments, liabil-
4 ities, or assets that purport to create a loss (or
5 other benefit) for tax purposes are not reflected
6 to any meaningful extent on the taxpayer’s
7 books and records for financial reporting pur-
8 poses.

9 “(B) The fact that the transaction results
10 in an allocation of income or gain to a tax-indif-
11 ferent party which is substantially in excess of
12 such party’s economic income or gain from the
13 transaction.

14 “(4) TREATMENT OF BUILT-IN LOSS.—The de-
15 termination of whether a transaction results in the
16 realization of a built-in loss shall be made under
17 subtitle A as if this subsection had not been enacted.
18 For purposes of the preceding sentence, the term
19 ‘built-in loss’ means any loss or deduction to the ex-
20 tent that such loss or deduction had economically
21 been incurred before such transaction is entered into
22 and to the extent that the loss or deduction was eco-
23 nomically borne by the taxpayer.

24 “(5) DEFINITION AND SPECIAL RULES.—For
25 purposes of this subsection—

1 “(A) TAX-INDIFFERENT PARTY.—The
2 term ‘tax-indifferent party’ means any person
3 or entity exempt from tax under subtitle A. A
4 person shall be treated as a tax-indifferent
5 party with respect to a transaction if, by reason
6 of such person’s method of accounting, the
7 items taken into account with respect to the
8 transaction have no substantial impact on such
9 person’s liability under subtitle A.

10 “(B) SERIES OF RELATED TRANS-
11 ACTION.—A transaction which is part of a se-
12 ries of related transactions shall be treated as
13 meeting the requirements of paragraph (2) only
14 if—

15 “(i) such transaction meets such re-
16 quirements without regard to the other
17 transactions, and

18 “(ii) such transactions, if treated as 1
19 transaction, would meet such requirements.
20 A similar rule shall apply to a multiple step
21 transaction with each step being treated as a
22 separate related transaction.

23 “(C) NORMAL BUSINESS TRANSACTIONS.—
24 In the case of a transaction which is an integral
25 part of a taxpayer’s trade or business and

1 which is entered into in the normal course of
2 such trade or business, the determination of the
3 potential income from such transaction shall be
4 made by taking into account its relationship to
5 the overall trade or business of the taxpayer.

6 “(D) TREATMENT OF FEES.—In determin-
7 ing whether there is risk of loss from a trans-
8 action (and the amount thereof), potential loss
9 of fees and other transaction expenses shall be
10 disregarded.

11 “(E) TREATMENT OF ECONOMIC RETURN
12 ENHANCEMENTS.—The following shall be treat-
13 ed as economic returns and not tax benefits:

14 “(i) The credit under section 29 (re-
15 lating to credit for producing fuel from a
16 nonconventional source).

17 “(ii) The credit under section 42 (re-
18 lating to low-income housing credit).

19 “(iii) The credit under section 45 (re-
20 lating to electricity produced from certain
21 renewable resources).

22 “(iv) The credit under section 1397E
23 (relating to credit to holders of qualified
24 zone academy bonds) or any similar pro-
25 gram hereafter enacted.

1 “(v) Any other tax benefit specified in
2 regulations.

3 “(F) EXCEPTIONS FOR NONBUSINESS
4 TRANSACTIONS.—

5 “(i) INDIVIDUALS.—In the case of an
6 individual, this subsection shall only apply
7 to transactions entered into in connection
8 with a trade or business or activity en-
9 gaged in for profit.

10 “(ii) CHARITABLE TRANSFERS.—This
11 subsection shall not apply in determining
12 the amount allowable as a deduction under
13 section 170, 545(b)(2), 556(b)(2), or
14 642(c).

15 “(6) ECONOMIC SUBSTANCE DOCTRINE, ETC.,
16 NOT AFFECTED.—The provisions of this subsection
17 shall not be construed as altering or supplanting any
18 rule of law referred to in section 6662(i)(2)(B) and
19 the requirements of this subsection shall be con-
20 strued as being in addition to any such rule of law.”

21 (b) INCREASE IN SUBSTANTIAL UNDERPAYMENT
22 PENALTY WITH RESPECT TO DISALLOWED NON-
23 ECONOMIC TAX ATTRIBUTES.—Section 6662 (relating to
24 imposition of accuracy-related penalty) is amended by
25 adding at the end the following new subsection:

1 “(i) INCREASE IN PENALTY IN CASE OF DIS-
2 ALLOWED NONECONOMIC TAX ATTRIBUTES.—

3 “(1) IN GENERAL.—In the case of the portion
4 of the underpayment to which this subsection ap-
5 plies—

6 “(A) subsection (a) shall be applied with
7 respect to such portion by substituting ‘40 per-
8 cent’ for ‘20 percent’, and

9 “(B) subsection (d)(2)(B) and section
10 6664(c) shall not apply.

11 “(2) UNDERPAYMENTS TO WHICH SUBSECTION
12 APPLIES.—This subsection shall apply to an under-
13 payment to which this section applies by reason of
14 paragraph (1) or (2) of subsection (b) to the extent
15 that such underpayment is attributable to—

16 “(A) the disallowance of any noneconomic
17 tax attribute (determined under section
18 7701(m)), or

19 “(B) the disallowance of any other bene-
20 fit—

21 “(i) because of a lack of economic
22 substance or business purpose for the
23 transaction giving rise to the claimed bene-
24 fit,

1 “(ii) because the form of the trans-
2 action did not reflect its substance, or

3 “(iii) because of any other similar rule
4 of law.

5 “(3) INCREASE IN PENALTY NOT TO APPLY IF
6 COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—

7 Paragraph (1)(A) shall not apply if the taxpayer—

8 “(A) discloses to the Secretary within 30
9 days after the closing of the transaction appro-
10 priate documents describing the transaction,
11 and

12 “(B) files with the taxpayer’s return of tax
13 imposed by subtitle A—

14 “(i) a statement verifying that such
15 disclosure has been made,

16 “(ii) a detailed description of the
17 facts, assumptions of facts, and factual
18 conclusions with respect to the business or
19 economic purposes or objectives of the
20 transaction that are relied upon to support
21 the manner in which it is reported on the
22 return,

23 “(iii) a description of the due dili-
24 gence performed to ascertain the accuracy

1 of such facts, assumptions, and factual
2 conclusions,

3 “(iv)(I) a statement (signed by the
4 senior financial officer of the corporation
5 under penalty of perjury) that the facts,
6 assumptions, or factual conclusions relied
7 upon in reporting the transaction are true
8 and correct as of the date the return is
9 filed, to the best of such officer’s knowl-
10 edge and belief, and

11 “(II) if the actual facts varied materi-
12 ally from the facts, assumptions, or factual
13 conclusions relied upon, a statement de-
14 scribing such variances,

15 “(v) copies of any written material
16 provided in connection with the offer of the
17 transaction to the taxpayer by a third
18 party,

19 “(vi) a full description of any express
20 or implied agreement or arrangement with
21 any advisor, or with any offeror, that the
22 fee payable to such person would be con-
23 tingent or subject to possible reimburse-
24 ment, and

1 “(vii) a full description of any express
2 or implied warranty from any person with
3 respect to the anticipated tax results from
4 the transaction.”

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to transactions after the date of
7 the enactment of this Act.