Order Code RL31939

Report for Congress
Received through the CRS Web

Pensions and Retirement Saving Plans: Comparison of H.R. 1776 with Current Law

May 16, 2003

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Summary

H.R. 1776, (Portman/Cardin) the *Pension Preservation and Savings Expansion Act* was introduced April 11, 2003. Among the major provisions of the bill, it would:

- make permanent the pension provisions of the *Economic Growth and Tax Relief Reconciliation Act of 2001* (EGTRRA), which otherwise expire after 2010;
- accelerate the scheduled increases in contribution limits to individual retirement accounts and employer-sponsored plans, as included in the EGTRRA of 2001;
- expand and make permanent a non-refundable income tax credit for low- and moderate-income individuals who contribute to a qualified retirement plan;
- replace the interest rate on 30-year Treasury bonds as the rate used by defined benefit plans to calculate funding ratios and lump-sum distribution amounts with a rate based on an index of high-quality, long-term corporate bonds;
- allow retirees to use distributions from a retirement plan to pay premiums for employer-based health insurance on a pre-tax basis;
- allow up to $2,000 of retirement annuity income to be free of income taxes;
- raise the age at which participants must begin to take distributions from pension plans and individual retirement accounts from 70½ to 75, and reduce the excise tax for not taking distributions from 50% to 20% of the amount not distributed;
- allow workers to diversify company stock acquired through employer matching contributions after 3 years of service and company stock acquired through other employer contributions after 5 years of service;
- impose an excise tax on excessive payments to executives prior to bankruptcy;
- direct the IRS to adopt new mortality assumptions for "blue collar" workers;
- increase the permissible deduction for employers that maintain both a defined benefit and defined contribution plan;
- allow small employers to make additional contributions to SIMPLE plans, establish employee-funded SIMPLE plans, and adopt a §401(k) plan mid-year;
- repeal the IRA "marriage penalty"; enhance portability of state and local pension benefits; and
- allow disabled persons to contribute to retirement plans and to qualify for Supplemental Security Income (SSI) while holding up to $75,000 of retirement assets.

This report will be updated as further legislative developments occur.

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Pensions and Retirement Saving Plans: Comparison of H.R. 1776 with Current Law

Introduction

H.R. 1776 (Portman/Cardin), the *Pension Preservation and Savings Expansion Act* was introduced April 11, 2003. Provisions of the bill would make permanent the pension provisions of the *Economic Growth and Tax Relief Reconciliation Act of 2001* (EGTRRA), which otherwise expire after 2010, and accelerate the scheduled increases in contribution limits to individual retirement accounts and employer-sponsored plans that were included in the EGTRRA of 2001. The bill also would expand and make permanent a non-refundable tax credit for low- and moderate-income individuals who contribute to a qualified retirement plan. It would replace the interest rate on 30-year Treasury bonds as the rate used by defined benefit plans to calculate funding ratios and lump-sum distribution amounts. It would allow retirees to use distributions from a retirement plan to pay premiums for employer-based health insurance on a pre-tax basis, and allow up to $2,000 of retirement annuity income to be free of income taxes. It would raise from 70½ to 75 the age at which participants must begin to take distributions from pension plans and individual retirement accounts and reduce the excise tax for not taking required distributions. It would allow workers to diversify company stock acquired through employer matching contributions after 3 years of service and company stock acquired through other employer contributions after 5 years of service. The bill would allow disabled persons to contribute unearned income to retirement plans and to qualify for Supplemental Security Income (SSI) while holding retirement assets of $75,000 or more. The following pages provide a side-by-side comparison of all provisions of H.R. 1776 with current law.

Side-by-Side Comparison of H.R. 1776 as Introduced in the House of Representatives with Current Law

Section title	Current law	H.R. 1776
Title I. Making Today's Savings Opportunities Permanent		
Section 101. Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent	Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA," P.L. 107-16) provides that the Act shall not apply after December 31, 2010.	Provides that Section 901of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of that law relating to pensions and individual retirement arrangements.
Section 102. Saver's credit made permanent	Section. 618 of P.L. 107-16 authorized a non-refundable tax credit to certain low- and moderate-income individuals for elective salary deferrals to an employer-sponsored plan or contributions to an individual retirement account. The credit does not apply to years that begin after December 31, 2006.	Provides for permanent extension of the non-refundable tax credit.

Section title	Current law	H.R. 1776
Title II. Preserving Retirement Assets		
Section 201. Simplification and updating of the minimum distribution rules	Section 401(a)(9) of the Internal Revenue Code (I.R.C.) requires plan participants and owners of traditional IRAs to begin taking distributions no later than April of the year after reaching age 70½. There is an exception that allows participants in employer-sponsored plans who are still working at age 70½ to delay distributions until April of the year after they have retired, unless they own 5% or more of the firm. Distributions must be made over the life expectancy of the plan participant, or over the joint life expectancies of the plan participant and his or her designated beneficiary. If a participant in a defined benefit plan retires after age 70½, the benefit must be increased in an actuarially fair manner. Failure to take a required distribution results in a tax penalty equal to 50% of the amount that should have been distributed.	The required beginning date for distributions would be increased from age 70½ to 75 on the following schedule: **Year** — **Required Beginning Date:** 2004-2005 — Dec. 31 of year attain age 72 2006-2007 — Dec. 31 of year attain age 73 2008-2009 — Dec. 31 of year attain age 74 2010 and later — Dec. 31 of year attain age 75 As under current law, distributions could be delayed until retirement (if later) except for traditional IRAs and 5% owners of a firm. Actuarial adjustment would continue to be required for defined benefit plan participants who retire after age 70½. To prevent the occurrence of two required distributions in 1 year, the required beginning date would be December 31 of the later of (1) the year the participant reaches the designated age that required distributions must begin or (2) the year of retirement. An employee retiring in December would be treated as retiring in December of the following year. The excise tax for failure to take a required minimum distribution would be reduced from 50% to 20% of the amount that should have been distributed. Provisions would be effective after December 31, 2003.

Section title	Current law	H.R. 1776
Section 202. Treatment of unclaimed benefits	I.R.C. Section 411(a)(11) provides that if the present value of a participant's vested benefit exceeds $5,000, a plan may not distribute the accrued benefit to a departing employee without his or her consent. Section 657 of EGTRRA amended I.R.C. Section 401(a)(31) to require the direct transfer to an IRA of distributions of less than $5,000 (but more than $1,000) unless the participant directs the distribution to another eligible plan or elects to receive the distribution in cash. If a participant in a terminated plan cannot be located, the plan is authorized to purchase an annuity or transfer the benefits of the participant to the Pension Benefit Guaranty Corporation (PBGC). Neither defined benefit plans that have not terminated nor defined contribution plans can transfer benefits of missing participants to the PBGC.	Plans would be permitted to transfer distributions subject to Section 657 of EGTRRA (distributions of more than $1,000 but less than $5,000) to the PBGC rather than to an IRA. Distributions of less than $1,000 also could be transferred to the PBGC. Distributions of more than $5,000 could be transferred to the PBGC after one year unless the participant directs otherwise. Account balances of missing participants in defined contribution plans that terminate could be transferred to the PBGC, effective January 1, 2005. All state escheat laws that might otherwise apply to these transfers would be superseded by the I.R.C., effective on the date of enactment.
Section 203. Facilitation under fiduciary rules of certain rollovers and annuity distributions	ERISA Section 404(c) provides that if an employee exercises control over the investment of the funds in a qualified retirement plan, the employer will not be held liable for investment losses that the employee experiences as a result of exercising that control.	The relief from fiduciary liability under ERISA Section 404(c) would be extended to the transfer to an IRA or annuity contract of amounts distributed from the plan under I.R.C. Section 401(a)(31) if the participant elected the transfer or distribution and the participant was given an opportunity to elect another individual retirement plan or another annuity contract.

Section title	Current law	H.R. 1776
Section 204. Equalizing treatment of defined benefit plans and defined contribution plans	Section 401(a)(9) of the I.R.C. requires plan participants to begin taking distributions no later than April 1 of the year after reaching age 70½. Participants in employer-sponsored plans who are still working at age 70½ can delay distributions until April 1 of the year after they have retired. This exception does not apply either to traditional IRAs or to plan participants who own 5% or more of the firm that sponsors the plan. Distributions must be made over the life expectancy of the plan participant, or over the joint life expectancies of the plan participant and his or her designated beneficiary. The Treasury Department has issued proposed regulations under which the distribution requirements for annuity payments under a defined benefit plan differ from the requirements for payments from an annuity purchased through a defined contribution plan.	The Secretary of the Treasury would be directed to permit defined benefit plans to meet the required distribution rules of the Internal Revenue Code by satisfying the rules applicable to annuity contracts distributed under defined contribution plans, as specified under Temporary Treasury Regulation 1.401(a)(9)-6T Q&A 4(b), or by satisfying any final regulations to the extent that the final regulations permit additional means of satisfying the relevant sections of the Code.
Section. 205. Study concerning defined contribution plan losses due to market volatility	No provision.	The Secretary of the Treasury would conduct for the Committee on Ways and Means and the Committee on Finance a study to evaluate possible ways to lessen defined contribution plan losses resulting from market volatility.
Title III. Enhancing Fairness and Pension Portability		
Section 301. Allow transfers to spouse's retirement plans	Under I.R.C. Section 408, transfer of IRA assets from the IRA owner to his or her spouse's IRA is taxable except in cases of divorce or death of the account owner.	Transfer of IRA assets between spouses' IRAs would in most cases not be treated as a taxable distribution.
Section. 302. Faster vesting of employer nonelective contributions	Under I.R.C. Section 411(a), employees must be fully vested in *nonelective* employer contributions (i.e., contributions other than matching contributions) after no more than 5 years of service, or in increments of 20% beginning in the 3rd year with full vesting after 7 years. Employees must be fully vested in employer *matching contributions* after no more than 3 years of service, or in increments of 20% beginning in the 2nd year with full vesting after 6 years.	Vesting in nonelective employer contributions would be the same as the vesting schedule for employer matching contributions. Employees would be fully vested in nonelective employer contributions after no more than 3 years of service, or in increments of 20% beginning in the 2nd year with full vesting after 6 years.

Section title	Current law	H.R. 1776
Section 303. Rollovers by nonspouse beneficiaries	If a participant in an employer-sponsored plan dies and the named beneficiary of the deceased participant is not the participant's spouse, distributions from the plan to the named beneficiary cannot be rolled over into another tax-qualified plan and are taxable distributions. If the owner of an IRA dies, and the named beneficiary of the deceased account owner is not the account owner's spouse, the beneficiary may maintain the IRA in the name of the decedent. The beneficiary is required to take distributions from the plan based on his or her remaining life expectancy. If an employer-sponsored plan requires more rapid distributions (e.g., a lump sum), the plan's rules control the distribution.	A non-spouse beneficiary of a deceased plan participant could transfer the assets of the plan to an IRA in the deceased participant's name and receive distributions from the IRA over his or her remaining life expectancy.
Section. 304. Allow direct rollovers from retirement plans to Roth IRAs	Individuals with modified adjusted gross income under $100,000 can convert a traditional IRA to a Roth IRA. The converted amount, minus the amount originally contributed to the IRA by the participant (the account "basis") is treated as taxable income in the year of the conversion. Assets held in an employer-sponsored plan cannot be rolled over into a Roth IRA; however, they can be rolled over into a traditional IRA which can then be converted to a Roth IRA.	Individuals with modified adjusted gross income under $100,000 could roll over a distribution from an employer-sponsored plan to a Roth IRA. The converted amount, minus the amount originally contributed to the plan by the participant (the account "basis") would be treated as taxable income in the year of the conversion.
Section 305. Exclusion of percentage of lifetime annuity payments	Most distributions from retirement plans are taxed as ordinary income, regardless of whether they are received as a lump-sum distribution or in the form of an annuity. (That part of any distribution that represents repayment to the participant of amounts that he or she contributed to the plan with after-tax dollars is excluded from taxable income.)	As an incentive for plan participants to choose annuity payments rather than lump-sum distributions, a percentage of annuity payments from an employer-sponsored plan or an IRA could be excluded from taxable income. For tax years 2004 to 2007, 5% of annuity payments up to $20,000 could be excluded from income (i.e., a maximum exclusion of $1,000 per year.) In 2008 and later, 10% of annuity payments could be excluded. The $20,000 limit on countable annuity payments would be indexed to inflation. The exclusion would be phased out for single tax filers with adjusted gross income between $75,000 and $90,000 and for joint filers with AGI from $150,000 to $180,000.

Section title	Current law	H.R. 1776
Section 306. Rollover of after-tax amounts in annuity contracts	Section 643 of EGTRRA provided that distributions from a tax-qualified employer-sponsored plan or an IRA that include amounts that were contributed on an after-tax basis by the plan participant can be rolled over into an IRA or another employer-sponsored plan.	Clarifies that amounts that were contributed on an after-tax basis to a §403(b) annuity may be rolled over into a §401(k) plan, and vice versa.
Section 307. Fair treatment under substantially equal periodic payments rule	Under I.R.C. Section 72(t), distributions from an employer-sponsored plan or IRA that occur before age 59½ are subject a 10% penalty. There are several exceptions to the 10% penalty, including distributions made as a series of substantially equal periodic payments that are based on the life expectancy of the plan participant or the joint life expectancies of the participant and his or her designated beneficiary. If the series of payments is terminated or modified (except because of death or disability) before *the later of* age 59½ or the end of a 5-year period beginning on the date of the first distribution, the entire series of distributions is then subject to the 10% penalty. Under Revenue Ruling 2002-62, an individual can elect a one-time change in the series of equal periodic payments without incurring the tax penalty. The ruling further specifies that either a nontaxable transfer of a portion of the account balance to another retirement plan or a rollover of the amount received by the taxpayer to another account will be treated as a modification of the series of payments, resulting in all distributions being subject to the 10% tax penalty. The ruling also specifies that the interest rate used in calculating these payments may not exceed 120% of the federal mid-term rate.	Would amend I.R.C. Section 72(t) such that a change from one permissible method of calculating substantially equal periodic payments to another permissible method would not result in the 10% tax penalty being imposed if the change results initially in a reduction in the amount of the payments. It would further provide that if amounts are being received as a series of substantially equal periodic payments, and a transfer or rollover "of all or a portion of the taxpayer's benefit" is made into another tax-qualified retirement plan, the 10% tax penalty will not be applied. Provides that any "reasonable" interest rate may be used in determining whether distributions are substantially equal periodic payments. [*Note*: I.R.S. Revenue Ruling 2002-62 refers specifically to changes in the *account balance* that will be treated as a modification to the series of payments and thus trigger the 10% tax penalty. H.R. 1776 §308 refers to a transfer or a rollover from the qualified retirement plan ... of all or a portion of the *taxpayer's benefit* under the transferor plan ...." [Emphasis added] It is not clear whether the phrase *taxpayer's benefit* is intended to refer to the account balance, the series of payments from the account, or both.]
Section 308. Treatment of subsequent qualified domestic relations orders	Under ERISA Section 206(d), pension benefits can be assigned to an alternate payee under a qualified domestic relations order (QDRO), as for payment of alimony or child support.	Would clarify that a qualified domestic relations order that is issued subsequent to an earlier QDRO must be obeyed by a plan, but only for amounts paid after the subsequent QDRO has been determined to be qualified.

Section title	Current law	H.R. 1776
Section 309. Treatment of delayed qualified domestic relations orders	Under ERISA Section 206(d), pension benefits can be assigned to an alternate payee under a qualified domestic relations order (QDRO), as for payment of alimony or child support.	Would clarify that a qualified domestic relations order that meets the requirements of ERISA must be recognized by a plan regardless of the date it was issued.
Section 310. Treatment of annuity contracts	I.R.C. Section 402(e)(4) provides that if a plan participant receives a lump-sum distribution that includes employer securities, any net unrealized appreciation attributable to that part of the distribution which consists of employer securities shall be excluded from gross income.	Amends I.R.C. Section 402(e)(4)(D) to provide that a distribution of an annuity contract from a trust or annuity plan may be treated as a part of a lump sum distribution. Effective, December 31, 1999 (i.e., as if included in §1401(b) of P.L. 104-188).
Section 311. Preservation of pension plans	The Supplemental Security Income (SSI) program is a means-tested, federally administered income assistance program authorized by Title XVI of the Social Security Act. SSI provides monthly cash payments to needy aged, blind, and disabled persons. The maximum SSI payment in 2003 is $552 per month for a single person and $829 per month for a couple. The asset limit for SSI eligibility is $2,000 for a single person and $3,000 for a couple.	Up to $75,000 in a qualified retirement account would be excluded from assets in determining eligibility for SSI. Beginning at age 60½, the Social Security Administration would count as monthly income the annuity value of any retirement account balance and offset SSI benefits by that amount, regardless of whether or not the individual had converted the account to an annuity.
Section 312. Certain plan transfers and mergers	An employer that wishes to change from one kind of individual account plan to another (e.g., from a plan authorized under I.R.C. Section 401 to one authorized under I.R.C. Section 403, or vice versa) must sometimes maintain the old plan, even though it receives no more employee salary deferrals or employer contributions.	The Secretary of the Treasury would publish regulations under which assets held in one kind of individual account plan maintained by an employer could be transferred to another individual account plan maintained by that employer. The regulation must provide for the protection of participants' and spouses' rights.

Section title	Current law	H.R. 1776
Title IV. Increasing Retirement Plan Participation and Savings		
Section 401. Expansion of the Saver's credit	Section 618 of EGTRRA authorizes a non-refundable tax credit equal to a percentage of the first $2,000 contributed annually to a qualified retirement plan by low- and moderate-income individuals and families. The credit does not apply to years after 2006. The credit is applied according to the following schedule: **Single return** — **Joint return** — **Credit** AGI < $15,000 — AGI < $30,000 — 50% 15,001-16,250 — 30,001-32,500 — 20% 16,251-25,000 — 32,501-50,000 — 10%	The non-refundable credit would be made permanent and would be expanded for tax years after 2003 according to the following schedule: **Single return** — **Joint return** — **Credit** AGI < $15,000 — AGI < $30,000 — 55% 15,001-20,000 — 30,001-40,000 — 25% 20,001-25,000 — 40,001-50,000 — 20% 25,001-30,000 — 50,001-60,000 — 10%

<table>
<tr><th>Section title</th><th>Current law</th><th>H.R. 1776</th></tr>
<tr><td rowspan="3">Section 402. Acceleration of scheduled increases in pension plan contribution limits</td><td>Section 611 of EGTRRA amended the I.R.C. to increase the maximum annual employee contribution to qualified retirement plans authorized under Sections 401(k), 403(b), and 457(b), according to the following schedule:

Year Maximum employee contribution

2003 $12,000
2004 $13,000
2005 $14,000
2006 $15,000*

*Indexed to inflation in $500 increments.</td><td>The maximum annual employee contribution to qualified retirement plans authorized under Sections 401(k), 403(b), and 457(b) would be increased to $15,000 in 2004 and indexed to inflation in $500 increments in later years.</td></tr>
<tr><td>Section 611 of EGTRRA increased the maximum annual employee contribution to a SIMPLE retirement plan under Section 408(p) according to the following schedule:

Year Maximum employee contribution

2003 $ 8,000
2004 $ 9,000
2005 $10,000*

*Indexed to inflation in $500 increments.</td><td>The maximum annual employee contribution to a SIMPLE retirement plan would be increased to $10,000 in 2004 and indexed to inflation in $500 increments in later years.</td></tr>
<tr><td>Section 631 of EGTRRA amended I.R.C. Section 414(v) to permit persons age 50 and older to make additional contributions to retirement plans, according to the following schedule:

Year 401(k), 403(b), 457(b) SIMPLE

2003 $2,000 $1,000
2004 $3,000 $1,500
2005 $4,000 $2,000
2006 $5,000* $2,500*

*Indexed to inflation in $500 increments.</td><td>The maximum additional contribution to plans under Sections 401(k), 403(b), and 457(b) by individuals age 50 and older would be increased to $5,000 in 2004 and indexed to inflation in later years. The maximum additional contribution to a SIMPLE plan by individuals age 50 and older would be increased to $2,500 in 2004 and indexed to inflation in $500 increments in later years.</td></tr>
</table>

Section title	Current law	H.R. 1776
Section 403. Removing barriers to automatic contribution trust arrangements	The IRS has authorized firms to enroll employees automatically in salary reduction retirement savings plans, provided certain conditions are met. (See Revenue Rulings 98-30 and 2000-8.) Employees must receive notice of the arrangement and have the opportunity to choose not to participate. ERISA Section 404(c) provides that, in general, if an employee can exercise control over the investment of the funds in a qualified retirement plan, the employer will not be held liable for investment losses that the employee may experience as a result of exercising control over the investment of plan assets. There is some ambiguity concerning the application of ERISA Section 404(c) when the participant has not affirmatively elected to participate in the plan and selected the investments to which plan assets are to be allocated. Also, there are some instances in which state laws might be interpreted as prohibiting automatic enrollment.	Would amend ERISA Section 404(c) to authorize "automatic contribution trust arrangements" under which the employer could contribute a uniform percentage of employee pay to a retirement account that is invested in accordance with regulations to be prescribed by the Secretary of Labor. Employees must be notified of their right not to participate in the plan and also of assets in which the contributions to the plan will be invested in the absence of specific directions by the employee. Would amend I.R.C. Section 514(b) to supersede any state laws that otherwise would prohibit automatic enrollment in a qualified retirement savings plan.
Section 404. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements	Under a "Flexible Spending Arrangement" (FSA), an employee can choose between receiving cash or certain nontaxable benefits, usually reimbursements for health care or dependent care. If the FSA meets the requirements of I.R.C. Section 125, the employee is not taxed on the amount of compensation that was available. If the full amount is not used by the end of the year, it cannot be carried forward to the next year.	Would allow up to $500 per year of unused health care benefits in a flexible spending account to be contributed to a qualified retirement plan, including plans under Sections 401, 403, 457, and IRAs. These amounts would be treated as elective contributions and would be subject to the annual contribution limits under Section 402(g), nondiscrimination testing under Section 401, and any other applicable limits.
Section 405. Updating deduction rules for combination of plans	I.R.C. Section 407(a)(7) limits the deduction that can be taken by an employer who sponsors both a defined benefit plan and a defined contribution plan.	Would limit the application of the I.R.C. Section 407(a)(7) deduction limits to cases in which employer contributions to one or more defined contribution plans exceed 6% of the compensation paid to plan participants.

Section title	Current law	H.R. 1776
Title V. Expanding Retirement Plan Coverage to Employees of Small Businesses		
Section 501. Additional nonelective employer contributions to SIMPLE plans	P.L. 104-188 allows employers with 100 or fewer employees to establish a Savings Incentive Match Plan for Employees (SIMPLE). Under a SIMPLE plan, an employer must either (1) match 100% of employee salary deferrals up to 3% of pay to a maximum match of $6,000 in 2003 for all *participating* employees or (2) make a nonelective employer contribution of 2% of pay up to $4,000 in 2003 for all *eligible* employees. No other employer contributions are permitted.	An employer could choose to make an additional nonelective contribution of a uniform percentage of pay up to 10% of total compensation for each eligible employee, regardless of whether or not the employer also makes a matching contribution.
Section 502. Matching contribution rules for SIMPLE IRAs and SIMPLE 401(k)s conformed	Under the SIMPLE IRA, an employer can reduce its contribution to 1% of pay in 2 years out of any 5. Reduced contributions are not permissible in a SIMPLE 401(k).	An employer that sponsors a SIMPLE 401(k) could make matching contributions of less than 3% of pay, provided that the contribution is at least 1% of pay and the reduced contribution is not in effect for more than 2 years in a 5-year period ending in the current year.
Section 503. Salary-reduction only SIMPLE plans	Under a SIMPLE plan, an employer must either (1) match 100% of salary deferrals up to 3% of pay to a maximum match of $6,000 in 2003 for any *participating* employee, or (2) make a nonelective employer contribution of 2% of pay to a maximum contribution of $4,000 in 2003 for any *eligible* employee.	A small employer that has not sponsored a retirement plan in the previous 2 years, and that is otherwise eligible to sponsor a SIMPLE plan, could adopt a SIMPLE plan funded entirely through employees' elective deferrals with no employer contributions. Employees could defer up to $5,000 per year, indexed to inflation. Other rules applicable to SIMPLE plans would continue to be in effect.
Section 504. Permit a mid-year change from a SIMPLE plan to another plan	Once an employer has adopted a SIMPLE plan, the employer cannot adopt an alternative tax-qualified plan to replace the SIMPLE plan, except at the end of the year.	The Secretary of the Treasury would be required to propose regulations by December 31, 2004 that would permit an employer to replace a SIMPLE plan with another tax-qualified plan in mid-year. The regulation must assure that rules applicable to funding and participation are not violated by an employer having two plans in a single year.
Section 505. Elimination of higher penalty on certain SIMPLE distributions	I.R.C. Section 72(t) imposes a 10% tax penalty on IRA distributions before age 59½, except in certain circumstances. During the first 2 years an employee participates in a SIMPLE IRA, a tax penalty of 25% is imposed on distributions.	Would lower the tax penalty on distributions from a SIMPLE IRA during the first 2 years of participation to 10% of the amount distributed.

Section title	Current law	H.R. 1776
Section 506. SIMPLE plan portability	In general, amounts held in a plan authorized under I.R.C. Sections 401(k), 403(b), or 547(b) can be rolled over into any of these kinds of plans or into an IRA. Amounts in these plans cannot, however, be rolled over into a SIMPLE, and during the first 2 years an employee participates in a SIMPLE IRA, a distribution from it can be rolled over only into another SIMPLE IRA.	Would allow individuals to roll over balances from any other type of qualified retirement savings plan into a SIMPLE IRA. Amounts held in a SIMPLE IRA could be rolled over into other qualified retirement plans to the same extent as other IRAs.
Section 507. Correction of Simplified Employee Pension compensation inconsistency	Under a Simplified Employee Pension (SEP), the maximum deduction an employer can take for employer contributions to the plan is 25% of the total compensation of the firm's employees. For purposes of the deduction, employee compensation is *gross compensation*, including salary deferrals. Employer contributions to a SEP are limited to the *lesser of* (1) an employee's *taxable compensation* (i.e., net of salary deferrals and (2) $40,000 (indexed to inflation).	For purposes of applying the 25% limit on contributions, compensation would be defined to be gross compensation (including salary deferrals), as in I.R.C. Section 415(c)(3).
Section 508. Equalization of tax treatment of retirement plan contributions of the self-employed	Employer contributions to a retirement plan on behalf of employees are a deductible business expense for the firm and are excluded for purposes of determining payroll taxes. A self-employed person's contributions to a retirement plan on his or her own behalf are not excluded for determining employment taxes, (e.g., Social Security payroll taxes).	Would exclude a self-employed person's contributions to a retirement plan on his or her own behalf for purposes of determining employment taxes.

Section title	Current law	H.R. 1776
Title VI. Strengthening Individual Retirement Arrangements		
Section 601(a). Acceleration of increases in IRA contribution limits	Section 601 of EGTRRA increases the maximum annual contribution to an IRA according to the following schedule: **Year** **Maximum contribution** 2002 to 2004 $3,000 2005 to 2007 $4,000 2008 $5,000 After 2008, the maximum contribution is indexed to inflation in $500 increments.	The maximum annual contribution to an IRA would be increased to $5,000 in 2004 and indexed to inflation in $500 increments in later years.
Section 601(b). Acceleration of increases in IRA catch-up contributions	Section 601 of EGTRRA allows individuals age 50 and older to make additional contributions to IRAs, according to the following schedule: **Year** **Additional contribution** 2002 to 2005 $ 500 2006 and later $1,000	The maximum additional contribution to an IRA for persons age 50 and older would be increased to $1,000 in 2004 and later years.

Section title	Current law	H.R. 1776
Section 602. Acceleration and expansion of certain scheduled increases in eligibility for IRAs and elimination of IRA marriage penalty	Contributions to a traditional IRA are fully deductible if neither the worker nor his spouse is covered by an employer-sponsored retirement plan. For unmarried workers covered by an employer-sponsored retirement plan and married workers covered by an employer-sponsored plan, the maximum deductible contribution phases out between the following amounts of modified AGI: **Year** / **Single filers** / **Joint filers** 2003 / $40,000-50,000 / $60,000-70,000 2004 / $45,000-55,000 / $65,000-75,000 2005 / $50,000-60,000 / $70,000-80,000 2006 / $50,000-60,000 / $75,000-85,000 2007, later / $50,000-60,000 / $80,000-100,000 For a married worker who files a joint return and does not have an employer-sponsored retirement plan, but whose spouse is covered by an employer's plan, the maximum deductible contribution phases out between $150,000 and $160,000 of modified adjusted gross income. For single tax filers, the maximum permissible contribution to a Roth IRA phases out from $3,000 to $0 for those with modified adjusted gross income between $95,000 and $110,000. For married couples filing jointly, the maximum permissible contribution to a Roth IRA phases out between $150,000 and $160,000 of annual income. For married persons filing separately, the contribution limit phases out between $0 and $10,000 of income.	The increase in the income limit for deductible IRA contributions by married couples filing jointly would be accelerated according to the following schedule: **Year** / **Joint filers** 2003 / $60,000- 70,000 2004 / $70,000- 80,000 2005 / $75,000- 85,000 2006 / $80,000- 90,000 2007 / $85,000-105,000 2008 / $90,000-110,000 2009 / $95,000-115,000 2010, later / $100,000-120,000 Effective after 2006, a married worker filing a joint return whose spouse is covered by an employer's plan could make a deductible contribution to a traditional IRA regardless of the couple's joint income. For married couples filing jointly, the maximum permissible contribution to a Roth IRA would be phased out between $190,000 and $220,000 of modified adjusted gross income.

Section title	Current law	H.R. 1776
Section 603. IRA eligibility for the disabled	Individual Retirement Accounts (IRAs) were authorized by Congress in the Employee Retirement Income Security Act of 1974 (ERISA, P.L. 93-406) to give employees without access to an employer-sponsored retirement plan the opportunity to save for retirement on a tax-deferred basis. IRA contributions are limited to the lesser of a specific dollar amount (currently $3,000) or the individual's *earned income* for the year.	Disabled persons, as defined in I.R.C. §72(m)(7), could contribute to an IRA, regardless of whether they had earned income for the year of the contribution, provided that they had not yet reached age 70½.
Section 604. Protecting IRA assets	Although the IRS has systems in place to correct erroneous distributions from qualified employer-sponsored plans, no method exists for participants in IRAs to redeposit erroneous distributions.	The Secretary of the Treasury would be directed to establish a procedure allowing an individual to rescind one or more distributions from an IRA to correct errors that result from the individual's misunderstanding of applicable rules or an error of the custodian of the individual retirement plan in processing a transaction as a distribution rather than as a transfer or rollover. The procedure must also include conditions that will prevent abuse.
Title VII. Revitalizing Defined Benefit Plans		
Section 701. Multiple employer plans permitted to elect separate or aggregate treatment for purposes of applying the funding rules and deduction limitations	In multiple employer plans created in 1989 or later, funding requirements and limitations on deductions are usually applied separately to each participating employer. In plans created before 1989, funding requirements and deduction limits are usually applied to the plan as a whole, and required contributions are allocated among the participating employers.	Plan administrators of multiple-employer plans could choose whether the plan is to be treated as a single plan or as separate plans for purposes of applying funding requirements and deduction limits. The choice would become effective in the year it is made. It could not be changed without IRS approval.
Section 702. Treatment of employee contributions to contributory defined benefit plans	In the private sector, most defined benefit plans are funded entirely by the employer. If employees are required to contribute, the employee contributions must be made on an *after-tax* basis. In the public sector, most governmental defined benefit plans require employees to contribute to the plan; however, governmental employers can choose to take employee contributions on a *pre-tax* basis. (*Note*: Federal employee contributions to CSRS and FERS are made with *after-tax* income.)	Employers in the private sector could treat employee contributions to defined benefit plans as contributions of *pre-tax* dollars.

Section title	Current law	H.R. 1776
Section 703. Reform of the minimum participation rule	I.R.C. Section 401(a)(26) requires a defined benefit plan to cover no fewer than the lesser of (1) 50 employees or (2) 40% of the employer's employees.	I.R.C. Section 401(a)(26) would apply only to the extent defined in regulations to be issued by the Secretary of the Treasury. The regulations would target plans that by design are inconsistent with the prohibition on plans that discriminate in favor of highly compensated employees.
Section 704. Plan valuation data collection	In calculating the funded status of a defined benefit plan, assets and liabilities must be valued as of the same date. As codified by Section 661 of EGTRRA, this calculation must reference a date within the plan year to which the plan valuation refers or the month preceding the beginning of that year. In an exception, EGTRRA allows defined benefit plans with assets equal to at least 125% of the plan's current liability to calculate the plan's assets with respect to a date in the year *before* the year to which the valuation refers.	Would allow defined benefit plans to value plan liabilities based on a date up to 1 year before the date of the plan valuation. The liabilities would then be projected forward to the date of the plan valuation by adjusting for acquisitions, divestitures, or other significant events. Plan assets could be valued as of a date after the valuation of plan liabilities, but (in general) not later than the end of the plan year.
Section 705. Replacement of interest rate on 30-year Treasury securities with interest rate on conservatively-invested long-term corporate bonds	The I.R.C. requires the interest rate on 30-year U.S. Treasury Bonds to be used (1) to determine the funded status of a defined benefit plan, (2) to calculate the amount of lump-sum distributions to plan participants, and (3) to determine maximum benefit amounts. The Treasury Department no longer issues 30-year bonds.	For determining the funded status of defined benefit plans, the interest rate on 30-year Treasury Bonds would be replaced with an interest rate based on an index of high-quality, long-term corporate bonds. For calculating lump-sum distributions, the corporate bond rate would be phased in over 4 years beginning in 2006. For determining maximum benefit amounts under I.R.C. §415(b), the Treasury interest rate would be replaced by a rate of 5.5% in 2004.
Section 706. Interest rate range for additional funding requirements	Section 405 of P.L. 107-147 allows plans to determine current liability for 2002 and 2003 using an interest rate of up to 120% of the 4-year weighted average rate on 30-year Treasury bonds, rather than 105% of this rate, as was provided for under prior law.	Would allow plans to apply the higher interest rate authorized by P.L. 107-147 to plan year 2001 as well as 2002 and 2003.

Section title	Current law	H.R. 1776
Section 707. Asset valuation	Defined benefit plans are required by law to pay premiums to the Pension Benefit Guaranty Corporation. The current premium is $19 per participant per year. Underfunded plans are required to pay a supplemental variable rate premium because of their higher risk of failure. The additional premium is not levied if the employer's contribution in the previous year was at least equal to the amount by which liabilities exceeded the lesser of (1) the fair market value of plan assets or (2) the actuarial value of plan assets, (i.e., the "full funding limitation" under I.R.C. §412(c)(7)).	In determining whether contributions were equal to the full funding limit, plans could use the actuarial value of assets in their calculations of excess liabilities, even if the fair market value of assets were less than the actuarial value of assets.
Section 708. Multiemployer plan emergency investment loss rule	Under I.R.C. Section 412(b)(2)(B)(iv), multi-employer plans must amortize experience losses (e.g., investment losses) over not more than 15 years.	Multi-employer plans could amortize certain experience losses over 30 years. These losses would be the difference between the fair market value of plan assets as of the end of a plan year beginning after June 30, 1999 and ending before January 1, 2004 and what the market value of those assets would have been if it had realized its projected rate of return.
Section 709. Mortality table adjustment	The mortality tables to be used in determining a defined benefit plan's current liability and funding obligations are set forth in I.R.C. Section 412(l)(7).	For purposes of determining the current liability of defined benefit plans, the Secretary of the Treasury would be directed to develop mortality tables applicable specifically to "blue-collar" workers, as defined in rules to be published by the Secretary.
Title VIII. Simplify and Streamline Retirement Plan Rules		
Section 801. Excise tax on excess contributions	Certain contributions to a retirement plan in excess of the annual maximum are subject to an excise tax of 10% of the excess contribution. The excise tax is not levied if the excess contribution is distributed or forfeited within 2½ months of the end of the plan year. Amounts distributed within the 2½ month limit usually are included in employee income in the year they were contributed to the plan. If the distribution is less than $100 or occurs more than 2½ months after the end of the plan year, it is included in income in the year distributed.	The 2½ month time limit on corrective distributions would be extended to 6 months. Corrective distributions of excess contributions up to $1,000 would be included in income in the year of the distribution, regardless of date. Distributions of $1,000 or more that occur within 6 months of the end of the plan year would be included in income in the year the excess contribution was made.

Section title	Current law	H.R. 1776
Section 802. Excess benefit plans	Tax-qualified plans subject to ERISA cannot discriminate in favor of highly-compensated employees (HCEs), generally defined as owners of 5% or more of a business and employees earning $90,000 or more per year (indexed to inflation). A firm can choose to count only the top fifth of wage earners as HCEs, but it must include all 5% owners. Certain highly-compensated employees, called "top-hat" employees, may be covered by nonqualified plans that are not subject to ERISA. Some highly-compensated employees may not be "top-hat" employees; thus, while their benefits under the qualified plan may be limited by law, they cannot participate in the firm's nonqualified plan.	A plan would not be subject to ERISA if it provides benefits that would have been provided under the employer's qualified plan except for the application of the nondiscrimination rules under (1) the actual deferral percentage (ADP) test under I.R.C. Section 401(k), (2) the actual contribution percentage (ACP) test under I.R.C. Section 401(m), or (3) the annual compensation limit under I.R.C. Section 401(a)(17). An employer that must limit contributions by highly compensated employees to its qualified plan in order to comply with the ADP test or the ACP test could provide additional benefits to these employees through a nonqualified plan.
Section 803. Paperless technologies in retirement plans	Under guidance issued by the Departments of Labor and Treasury, qualified plans may use electronic means (e.g., email, web sites, telephones, etc.) to perform some notification and transaction functions. Some plan transactions may not be conducted through electronic media.	The Departments of Labor and the Treasury would be directed to allow electronic media to be used for (1) notices, elections, and spousal consents under I.R.C. §401(a)(11) and §417 and ERISA §205, (2) satisfying requirements for a hardship distribution under I.R.C. §401 (k)(2)(B)(i)(IV), and (3) other transactions. The regulations may not permit electronic media to be used if it would compromise the rights of plan participants or interfere with the enforcement of ERISA or the I.R.C.
Section 804. Elimination of unintended consequences attributable to use of base pay or rate of pay	For purposes of testing plans for prohibited discrimination in favor of highly compensated employees, plans must measure employee compensation in accordance with I.R.C. §414(s). Total compensation generally includes overtime, bonuses, and other special pay, which might not be included in an employee's "base pay." Benefits under qualified plans are usually based on base pay rather than total compensation. In order for base pay to qualify as compensation under Section 414(s), it must be a "reasonable" measure that does not systematically favor highly compensated employees and it must meet a mathematical test.	The Secretary of the Treasury would be directed to issue regulations under which base pay could be used for testing defined benefit plans for prohibited discrimination in favor of highly compensated employees, provided that it is a reasonable measure and that it does not systematically favor highly compensated employees.

Section title	Current law	H.R. 1776
Section 805. Repeal of the gateway test	A single firm may have separate plans for separate "lines of business." Before the rules applicable to plans in separate lines of business can be used, the employer is subject to a "gateway test" that applies to the entire firm.	Would repeal the "gateway test."
Section 806. Intermediate sanctions for inadvertent failures	A plan that fails to meet a requirement or requirements of the I.R.C. may be disqualified. In general, the I.R.C. does not provide for lesser sanctions. In practice, the I.R.S. allows most plans to correct violations, and it has established the Employee Plans Compliance Resolution System to facilitate the process.	A plan that inadvertently violates a provision of the I.R.C. would not be disqualified if it has made a good faith effort at compliance and corrects the violation. Plans subject to audit may be charged a fee by the IRS. In the event of disqualification, non-highly compensated employees would not have to include employer contributions and earnings on plan contributions in their taxable income.
Section 807. Qualified preretirement survivor annuity	An election prior to age 35 to waive a pre-retirement annuity from a qualified plan is no longer valid after reaching age 35.	An election prior to age 35 to waive a pre-retirement annuity from a qualified plan would continue to be valid after age 35.
Section 808. Cost-of-living adjustment of $5,000 cash-out amount	Vested accrued benefits of less than $5,000 can be paid as a lump-sum distribution to a separating employee without his or her consent. This amount is not indexed.	The $5,000 amount that can be paid as a lump-sum distribution to a separating employee without his or her consent would be indexed to inflation in increments of $500.
Section 809. Catch-up contributions	Section 631 of EGTRRA amended I.R.C. Section 414(v) to permit individuals age 50 and older to make additional contributions to retirement plans. An employer that chooses to allow employees to make "catch-up" contributions must do so for all eligible employees.	The rule that if catch-up contributions are offered they must be available to all eligible employees would be incorporated into the nondiscrimination rules under I.R.C. Section 401(a)(4). Would clarify that employees in collectively bargained plans and qualifying separate lines of business would not be included in determining compliance.
Section 810. Reverse match salary reduction arrangement simplified employee annuity	P.L. 104-188 prohibited establishment of any new salary reduction Small Employer Pensions (SARSEPs). Existing SARSEPs were not affected.	New SARSEPs could be established. Employee salary deferrals could be no more than twice the percentage of pay contributed by the employer. Salary deferrals would be prohibited if more than 25 employees of the firm were eligible to participate in the preceding year, or would have been eligible if the employer had offered a plan in that year.

Section title	Current law	H.R. 1776
Section 811. Level dollar contributions to SEPs	Employer contributions to a Simplified Employee Pension (SEP) are required to be the same percentage of pay for all participating employees.	Would allow employer contributions to be made in the same dollar amount for all participating employees.
Section 812. Tax on nondeductible contributions not to apply to certain nontrade or business SEP contributions	Nondeductible employer contributions to a qualified retirement plan are usually subject to a 10% excise tax. Section 637 of EGTRRA provided that the 10% excise tax will not apply to contributions to a SIMPLE retirement account under I.R.C. Section 408(p) or a SIMPLE plan under I.R.C. Section 401(k)(11) that are non-deductible "solely because such contributions are not made in connection with a trade or business of the employer."	The 10% excise tax on nondeductible employer contributions would be waived in the case of nondeductible contributions to a Simplified Employee Pension (SEP), as well as in the case of contributions to a SIMPLE IRA or a SIMPLE plan.
Section 813. Clarification of fiduciary duty	I.R.C. Section 411(a)(11) provides that if the present value of a participant's vested benefit exceeds $5,000, a plan may not distribute the accrued benefit to a departing employee without his or her consent. Section 657 of EGTRRA amended I.R.C. Section 401(a)(31) to require the direct transfer to an IRA of distributions of less than $5,000 (but more than $1,000) unless the participant directs the distribution to another eligible plan or elects to receive the distribution in cash.	ERISA Section 404(c) would be amended to provide that in the case of a mandatory distribution that is rolled over by the disbursing plan into an IRA, the plan would be subject to ERISA's fiduciary standards with respect to selecting the IRA into which the distribution is deposited. There would be a safe harbor for any liability for a plan that follows the Department of Labor's guidance on rollovers.
Section 814. Multiemployer plan clarification	I.R.C. Section 414(f) defines a ''multiemployer plan'' as a plan (1) to which more than one employer is required to contribute, (2) that is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and (3) that satisfies such other requirements as the Secretary of Labor may prescribe by regulation.	The Secretary of the Treasury would be directed to issue regulations setting forth conditions under which, for purposes of any applicable nondiscrimination rules, a multiemployer plan would not be treated as a plan maintained by the employers of the plan's participating employees.
Section 815. Clarification of status of Young Men's Christian Association Retirement Fund	Churches and some church-related organizations can sponsor retirement plans under I.R.C. Section 403(b)(9).	Would provide that the Young Men's Christian Association (YMCA) Retirement Fund is a church plan under I.R.C. Section 403(b)(9).

Section title	Current law	H.R. 1776
Title IX. Expanding Retirement Savings Opportunities for Employees of Tax-Exempt Organizations and Governments		
Section 901. Deferred compensation plans of tax-exempt organizations	State and local governments and tax-exempt organizations can offer deferred compensation arrangements under I.R.C. Section 457. The maximum amount that can be deferred in 2003 is $12,000. This amount will increase by $1,000 per year until it reaches $15,000 in 2006, after which it will be indexed.	The deferred compensation plans of tax-exempt organizations would no longer be covered under I.R.C. Section 457. A new Section 459 would be added to the Internal Revenue Code, under which the annual deferral limit for tax-exempt organizations would be the greater of the Section 457 limit or one-third of an employee's annual compensation. Deferrals of more than this amount would be taxed when the employee becomes vested.
Section 902. Inapplicability of 10% additional tax on early distributions of pension plans of public safety employees	Under I.R.C. Section 72(t), a 10% penalty is imposed on most distributions from an employer-sponsored plan that occur before age 59½. Exceptions are provided for participants who retire at age 55 or older, die, become disabled, purchase a home, pay qualified educational or health insurance expenses, or receive the distributions in a series of substantially equal periodic payments based on life expectancy or the joint life expectancies of the participant and his or her designated beneficiary.	Public safety employees such as police and firefighters often are eligible to retire earlier than other workers. H.R. 1776 would waive the 10% penalty on distributions before age 59½ for public safety employees who participate in a "deferred retirement option plan" (DROP) in which a retirement eligible employee continues to work and pension distributions are paid into a personal account.
Section 903. Clarifications regarding purchase of permissive service credit	Employees of state and local governments who move from one state or locality to another often can purchase service credit in the new employer's defined benefit pension plan. Section 647 of EGTRRA provided that distributions from a defined contribution plan under I.R.C. Section 403 or Section 457 will not be taxable income if used to purchase service credit.	I.R.C. Sections 403 and 457 would be amended to facilitate the use of distributions from 403 and 457 plans to purchase service credit under state and local defined benefit plans. Would clarify that the defined benefit plan's distribution rules would apply to the transferred amounts.
Section 904. Certain rollovers of benefits permitted	Transfers from one Section 457 deferred compensation plan to another are not treated as income to the participant.	A transfer from one Section 457 plan to another of the entire benefit of one or more participants would be permitted even if not all assets of the transferor plan are transferred to the other plan.

Section title	Current law	H.R. 1776
Section 905. Minimum distribution rules	Distributions from an employer-sponsored retirement plan must begin at age 70½, or at retirement, if later.	The Secretary of the Treasury would issue regulations under which a governmental plan may be treated as having complied with the minimum distribution rules if the plan complies with a "reasonable good faith interpretation" of those rules.
Section 906. Church plan rule	Under I.R.C. Section 415(b), the maximum annual benefit under a single-employer defined benefit retirement plan is the lesser of (1) the average of the participant's 3 highest years of pay or (2) $160,000 (indexed to inflation). The maximum benefit under a governmental plan or a multi-employer plan is $160,000.	Except for some highly-compensated employees, the maximum annual benefit provided by defined benefit plans of churches and religious institutions would be $160,000, even if this is greater than the average of the participant's 3 highest years of pay.
Section 907. Plans maintained by governments and tax-exempt organizations	Under I.R.C. Section 415(b), the maximum annual benefit under a single-employer defined benefit retirement plan is the lesser of (1) the average of the participant's 3 highest years of pay or (2) $160,000 (indexed to inflation). The benefit limit under Section 415(b) is reduced actuarially for retirement before age 62.	Would amend I.R.C. Section 415(b) such that, in the case of governments, tax-exempt organizations, and certain merchant marine plans, the actuarial reduction would not reduce the maximum benefit below $130,000 for retirement at age 55 or later. For retirement before 55, the reduction could not be below an amount that is actuarially equivalent to $130,000 beginning at age 55.
Title X. Restricting Excessive Remuneration		
Section 1001. Golden parachute excise tax to apply to excessive employee remuneration paid by corporation after declaration of bankruptcy	An excise tax of 20% is imposed on certain payments to owners and officers of a corporation that are contingent on a change in company ownership or control of assets.	Would impose an excise tax of 50% on "excessive employee remuneration" (including nonqualified pension benefits) that is paid during bankruptcy and the 2 years preceding a bankruptcy filing. In the case of company payments made to cover an employee's income taxes on "excessive employee remuneration," the excise tax would be 100%.

Section title	Current law	H.R. 1776
Title XI. Defined Contribution Plan Protections		
Section 1101. Provision of investment education notices to participants	Under ERISA Section 105, a participant is entitled to receive once each year a statement indicating, on the basis of the latest available information, (1) the total benefits he or she has accrued under the plan, and (2) the nonforfeitable pension benefits, if any, that he or she has accrued, or the earliest date on which benefits will become nonforfeitable.	Would require all defined contribution plans to provide quarterly "investment education notices" to participants that would include an explanation of generally accepted investment principles, including principles of risk management and diversification, and a discussion of the risk of holding substantial portions of a portfolio in the security of any one entity, such as employer securities. An excise tax of $100 per participant would be levied on plans that fail to provide the required notices.
Section 1102. Notice of blackout periods to participant or beneficiary under defined contribution plan	P.L. 107-204 requires plans to notify participants 30 days in advance of any period of 3 or more days during which 50% or more of a plan's participants would be unable to trade the employer's securities. The Secretary of Labor may assess a civil penalty of up to $100 per participant per day from the date of the plan administrator's failure or refusal to provide notice to participants and beneficiaries.	An excise tax of $100 per participant would be levied on any non-ERISA plan that fails to provide notice 30 days in advance of any period of 3 or more days during which 50% or more of a plan's participants would be unable to trade the employer's securities.
Section 1103. Diversification requirements for defined contribution plans that hold employer securities	Employer contributions to defined contribution plans are sometimes made with shares of the employer's stock. Employers sometimes require employees to hold this stock until separation or until age 50 or 55.	Employers could not require employees to purchase company stock with their own salary deferrals. Participants would be allowed to sell company stock acquired through employer matching contributions after 3 years of service and company stock acquired through other employer contributions after 5 years of service. The diversification requirement would be phased in from 2004 to 2008. Diversification requirements would not apply to (1) employee stock ownership plans (ESOPs) that hold neither employer salary deferrals nor employer matching contributions or (2) plans that do not hold company stock that is readily traded on a public stock exchange.
Section 1104. Treatment of qualified retirement planning services	Individuals who pay for retirement planning services generally must do so with after-tax income.	Employees could pay for retirement planning services on a pre-tax basis through payroll deduction.

Section title	Current law	H.R. 1776
Section 1105. Special rules	No provision.	In the case of collectively bargained plans, amendments made by sections 1101-1104 of H.R. 1776 would not apply to plan years beginning before the earlier of – (1) the later of (A) January 1, 2005, or (B) the date on which the collective bargaining terminates, or (2) January 1, 2006.
Title XII. Other Tax Provisions Relating to Pensions		
Section 1201. Amendments to Retirement Protection Act of 1994	Section 769 of the Retirement Protection Act of 1994 (P.L. 103-465) established special funding rules for certain plans.	Would set the funded current liability percentage at 90% for purposes of I.R.C. Section 412(l) and at 100% for purposes of I.R.C. Section 412(m). Would provide that for purposes of determining unfunded vested benefits under ERISA Section 4006(a)(3)(E)(iii), the mortality table shall be the mortality table used by the plan.
Section 1202. Reporting simplification	A "one-participant plan" covers only a business owner and his or her spouse. These plans are exempt from some reporting requirements if assets are under $100,000, and must file simplified reports in other instances.	One-participant plans with assets under $250,000 would be exempt from some reporting requirements. The Secretary of the Treasury and the Secretary of Labor would develop simplified reporting for plans with fewer than 25 participants.
Section 1203. Improvement of employee plans compliance resolution system	A plan that fails to meet a requirement or requirements of the I.R.C. may be disqualified. In general, the I.R.C. does not provide for lesser sanctions. In practice, the I.R.S. allows most plans to correct violations, and it has established the Employee Plans Compliance Resolution System to facilitate the process.	The Secretary of the Treasury would be directed to continue to improve the Employee Plans Compliance Resolution System, with special emphasis on the needs of small employers.
Section 1204. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to state and local plans	The Taxpayer Relief Act of 1997, P.L. 105-34 exempted state and local government plans from certain rules that prohibit discrimination in favor of highly compensated employees.	Would exempt all governmental plans, as defined in I.R.C. Section 414(d), from the rules on minimum participation and nondiscrimination in favor of highly compensated employees.

Section title	Current law	H.R. 1776
Section 1205. Notice and consent period regarding distributions	A plan must provide information on forms of distribution and taxation of eligible rollover distributions no more than 90 days before the date of the distribution.	The required notices could be provided up to 180 days before the date of the distribution. The Secretary of the Treasury would issue regulations to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.
Section 1206. Reduced PBGC premium for new plans of small employers	Defined benefit plans are required by law to pay a premium of $19 per participant per year to the Pension Benefit Guaranty Corporation.	Employers with fewer than 100 employees that adopt a defined benefit plan would pay a reduced premium of $5 per participant for each of the first 5 years of the plan.
Section 1207. Reduction of additional PBGC premium for new and small plans	Underfunded plans are required to pay a supplemental premium (the variable rate premium) because of their higher risk of failure.	If a new plan is subject to a supplemental premium, it would be phased in over 6 years. Supplemental premiums for firms with fewer than 25 employees would be capped at $5 per participant per year.
Section 1208. Authorization for PBGC to pay interest on premium overpayment refunds	The Pension Benefit Guaranty Corporation is not authorized to pay interest on refunds of premium overpayments.	The Pension Benefit Guaranty Corporation would be authorized to pay interest on refunds of premium overpayments.
Section 1209. Substantial owner benefits in terminated plans	In the case of a plan termination, the benefits paid by the PBGC to a "substantial owner" of a business (owner of 10% or more of a company) are subject to special rules.	The same 5-year phase-in of benefit guarantees that applies to non-owners would apply to a substantial owner with less than a 50% interest. For an owner with more than a 50% interest, the phase-in would be based on the number of years the plan has been in effect.
Section 1210. Qualified group legal services plans	Prior to June 30, 1992, I.R.C. §120 allowed employer contributions for, and services provided under, qualified group legal services plans to be excluded from employee income up to an annual value of $70.	The exclusion from income for legal services would be reinstated for the years 2004 though 2008 with an annual maximum of $150.
Section 1211. Studies	No provision.	The Department of Labor, in consultation with the Treasury Department would conduct a study of possible designs for a model plan for small employers. The Department of Labor would conduct a study of the effects of EGTRRA and H.R. 1776 on retirement plan sponsorship and participation.

Section title	Current law	H.R. 1776
Title XIII. Stock Options		
Section 1301. Exclusion of incentive stock options and employee stock purchase plan stock options from wages	In November 2001, the Treasury issued proposed regulations that would have made stock options subject to Social Security payroll taxes when the options were exercised. A subsequent notice (2002-47) suspended the proposed regulations indefinitely.	Would provide that stock options exercised under an incentive stock option plan or an employee stock purchase plan are not subject to payroll taxes.
Title XIV. Other Elements of Retirement Security		
Section 1401. Employee pre-tax payments for retiree health	Retired employees who purchase health insurance through a former employer pay these premiums with after-tax income.	Would provide that retirees can pay for health insurance purchased though a former employer with pre-tax income, provided that the premium is paid, in whole or in part with distributions from an employer-sponsored plan under I.R.C. Sections 401, 403, and 457. Would not apply to distributions from an IRA. Prior to 2010, the limit on plan distributions used for pre-tax payment of health insurance premiums would be $500 in 2004 and 2005, $1,000 in 2006 and 2007, and $2,000 in 2008 and 2009.
Section 1402. Encouraging employers to maintain retiree health plans	Financial Accounting Standard 106 requires public corporations to report on their financial statements the amount of any unfunded obligation for retiree health insurance benefits. Employers are not required to pre-fund these obligations, and most retiree health insurance benefits are either unfunded or underfunded. Under I.R.C. Section 401(h), an account can be maintained as part of a defined benefit plan or money purchase plan to be used to pre-fund some retiree health benefits.	Would amend the I.R.C. Section 401(h) such that accounts to prefund retiree health benefits also could be maintained under profit-sharing or stock bonus plans. Employer contributions to the 401(h) account would be limited to 25% of the employer's total contributions to the plan, as under current law, except that for profit-sharing and stock bonus plans the limit would be 5% in 2004 and 2005, 10% in 2006 and 2007, and 20% in 2008 and 2009.

Section title	Current law	H.R. 1776
Title XV. Reducing Regulatory Burdens		
Section 1501. Provisions relating to plan amendments	No provision.	Plan amendments required by the passage of H.R. 1776 would not have to be made before the last day of the plan year beginning on or after January 1, 2006. Except as provided for in Treasury regulations, plan amendments will not be construed to violate the "anti-cutback" rules of I.R.C. Section 411(d). For governmental plans, the required date for plan amendments would be the end of the first plan year beginning on or after January 1, 2008.
Title XVI. Social Security and Medicare Held Harmless		
Section 1601. Protection of Social Security and Medicare	No provision.	Amounts transferred to any trust fund under the Social Security Act would be determined as if H.R. 1776 had not been enacted.