

106TH CONGRESS  
1ST SESSION

# H. R. 739

To amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. POMEROY (for himself, Mr. KOLBE, Mr. STENHOLM, Mrs. JOHNSON of Connecticut, Mr. SMITH of Washington, Mr. SHAYS, Ms. DELAURO, and Mr. GEJDENSON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Retirement Account Portability Act of 1999”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
2 shall be considered to be made to a section or other provi-  
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF**  
5 **PLANS.**

6 (a) ROLLOVERS FROM AND TO SECTION 457  
7 PLANS.—

8 (1) ROLLOVERS FROM SECTION 457 PLANS.—

9 (A) IN GENERAL.—Section 457(e) (relat-  
10 ing to other definitions and special rules) is  
11 amended by adding at the end the following:

12 “(16) ROLLOVER AMOUNTS.—

13 “(A) GENERAL RULE.—In the case of an  
14 eligible deferred compensation plan, if—

15 “(i) any portion of the balance to the  
16 credit of an employee in such plan is paid  
17 to such employee in an eligible rollover dis-  
18 tribution (within the meaning of section  
19 402(c)(4)),

20 “(ii) the employee transfers any por-  
21 tion of the property such employee receives  
22 in such distribution to an eligible retire-  
23 ment plan described in section  
24 402(c)(8)(B), and

1           “(iii) in the case of a distribution of  
2           property other than money, the amount so  
3           transferred consists of the property distrib-  
4           uted,

5           then such distribution (to the extent so trans-  
6           ferred) shall not be includible in gross income  
7           for the taxable year in which paid.

8           “(B) CERTAIN RULES MADE APPLICA-  
9           BLE.—Rules similar to the rules of paragraphs  
10          (2) through (7) and (9) of section 402(c) and  
11          section 402(f) shall apply for purposes of sub-  
12          paragraph (A).

13          “(C) REPORTING.—Rollovers under this  
14          paragraph shall be reported to the Secretary in  
15          the same manner as rollovers from qualified re-  
16          tirement plans (as defined in section 4974(c)).”

17          (B) DEFERRAL LIMIT DETERMINED WITH-  
18          OUT REGARD TO ROLLOVER AMOUNTS.—Section  
19          457(b)(2) (defining eligible deferred compensa-  
20          tion plan) is amended by inserting “(other than  
21          rollover amounts)” after “taxable year”.

22          (2) ROLLOVERS TO SECTION 457 PLANS.—

23          (A) Section 402(c)(8)(B) (defining eligible  
24          retirement plan) is amended by striking “and”  
25          at the end of clause (iii), by striking the period

1 at the end of clause (iv) and inserting “, and”,  
2 and by adding at the end the following:

3 “(v) an eligible deferred compensation  
4 plan described in section 457(b) of an eli-  
5 gible employer described in section  
6 457(e)(1)(A).”

7 (B) Paragraph (9) of section 402(c) is  
8 amended by striking “except that” and all that  
9 follows and inserting “except that only an ac-  
10 count or annuity described in clause (i) or (ii)  
11 of paragraph (8)(B) shall be treated as an eligi-  
12 ble retirement plan with respect to such dis-  
13 tribution.”

14 (C) Subsection (a) of section 457 (relating  
15 to year of inclusion in gross income) is amended  
16 by striking “or otherwise made available”.

17 (b) ALLOWANCE OF ROLLOVERS FROM AND TO  
18 403(b) PLANS.—

19 (1) ROLLOVERS FROM SECTION 403(b)  
20 PLANS.—Section 403(b)(8)(A)(ii) (relating to roll-  
21 over amounts) is amended by striking “such dis-  
22 tribution” and all that follows and inserting “such  
23 distribution to an eligible retirement plan described  
24 in section 402(c)(8)(B), and”.

1           (2) ROLLOVERS TO SECTION 403(b) PLANS.—  
2           Section 402(c)(8)(B) (defining eligible retirement  
3           plan), as amended by subsection (a), is amended by  
4           striking “and” at the end of clause (iv), by striking  
5           the period at the end of clause (v) and inserting “,  
6           and”, and by adding at the end the following:

7                           “(vi) an annuity contract described in  
8                           section 403(b).”

9           (c) EXPANDED EXPLANATION TO RECIPIENTS OF  
10          ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section  
11          402(f) (relating to written explanation to recipients of dis-  
12          tributions eligible for rollover treatment) is amended by  
13          striking “and” at the end of subparagraph (C), by striking  
14          the period at the end of subparagraph (D) and inserting  
15          “, and”, and by adding at the end the following new sub-  
16          paragraph:

17                           “(E) of the provisions under which dis-  
18                           tributions from the eligible retirement plan re-  
19                           ceiving the distribution may be subject to re-  
20                           strictions and tax consequences which are dif-  
21                           ferent from those applicable to distributions  
22                           from the plan making such distribution.”

23          (d) CONFORMING AMENDMENTS.—

1           (1) Section 72(o)(4) is amended by striking  
2           “and 408(d)(3)” and inserting “403(b)(8),  
3           408(d)(3), and 457(e)(16)”.

4           (2) Section 219(d)(2) is amended by striking  
5           “or 408(d)(3)” and inserting “408(d)(3), or  
6           457(e)(16)”.

7           (3) Section 401(a)(31)(B) is amended by strik-  
8           ing “and 403(a)(4)” and inserting “, 403(a)(4),  
9           403(b)(8), and 457(e)(16)”.

10          (4) Subparagraph (B) of section 403(b)(8) is  
11          amended by inserting “and (9)” after “through  
12          (7)”.

13          (5) Section 408(a)(1) is amended by striking  
14          “or 403(b)(8)” and inserting “, 403(b)(8), or  
15          457(e)(16)”.

16          (6) Subparagraphs (A) and (B) of section  
17          415(b)(2) are each amended by striking “and  
18          408(d)(3)” and inserting “403(b)(8), 408(d)(3), and  
19          457(e)(16)”.

20          (7) Section 415(e)(2) is amended by striking  
21          “and 408(d)(3)” and inserting “408(d)(3), and  
22          457(e)(16)”.

23          (8) Section 4973(b)(1)(A) is amended by strik-  
24          ing “or 408(d)(3)” and inserting “408(d)(3), or  
25          457(e)(16)”.

1 (e) EFFECTIVE DATE; SPECIAL RULE.—

2 (1) EFFECTIVE DATE.—The amendments made  
3 by this section shall apply to distributions after De-  
4 cember 31, 1998.

5 (2) SPECIAL RULE.—Notwithstanding any other  
6 provision of law, subsections (h)(3) and (h)(5) of  
7 section 1122 of the Tax Reform Act of 1986 shall  
8 not apply to any distribution from an eligible retire-  
9 ment plan (as defined in clause (iii) or (iv) of section  
10 402(c)(8)(B) of the Internal Revenue Code of 1986)  
11 on behalf of an individual if there was a rollover to  
12 such plan on behalf of such individual which is per-  
13 mitted solely by reason of any amendment made by  
14 this section.

15 **SEC. 3. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**  
16 **MENT PLANS.**

17 (a) IN GENERAL.—Subparagraph (A) of section  
18 408(d)(3) (relating to rollover amounts) is amended by  
19 striking “or” at the end of clause (ii), by striking the pe-  
20 riod at the end of clause (iii) and inserting a semicolon,  
21 and by adding at the end the following:

22 “(iv)(I) the entire amount received  
23 (including money and other property) rep-  
24 represents the entire interest in the account  
25 or the entire value of the annuity,

1           “(II) no amount in the account and  
2           no part of the value of the annuity is at-  
3           tributable to any source other than a roll-  
4           over contribution from an eligible retire-  
5           ment plan and any earnings on such roll-  
6           over, and

7           “(III) such entire amount received is  
8           paid into an eligible retirement plan (for  
9           the benefit of such individual) not later  
10          than the 60th day after he receives the  
11          payment or distribution; or

12          “(v) the entire amount received (in-  
13          cluding money and any other property) is  
14          paid into an eligible retirement plan for  
15          the benefit of such individual not later  
16          than the 60th day after the date on which  
17          he receives the payment or distribution.

18          For purposes of clauses (iv) and (v), the term  
19          ‘eligible retirement plan’ has the meaning given  
20          such term by clauses (iii), (iv), (v), and (vi) of  
21          section 402(c)(8)(B), except that for purposes  
22          of clause (iv)(II) of this subparagraph, the term  
23          shall also include an eligible deferred compensa-  
24          tion plan described in section 457(b) of an eligi-

1           ble employer described in section  
2           457(e)(1)(B).”

3           (b) CONFORMING AMENDMENTS.—

4           (1) Paragraph (1) of section 403(b) is amended  
5           by striking “section 408(d)(3)(A)(iii)” and inserting  
6           “clause (iii), (iv), or (v) of section 408(d)(3)(A)”.

7           (2) Clause (i) of section 408(d)(3)(D) is amend-  
8           ed by striking “or (iii)” and inserting “(iii), (iv), or  
9           (v)”.

10          (3) Subparagraph (G) of section 408(d)(3) is  
11          amended to read as follows:

12                   “(G) SIMPLE RETIREMENT ACCOUNTS.—In  
13                   the case of any payment or distribution out of  
14                   a simple retirement account (as defined in sub-  
15                   section (p)) to which section 72(t)(6) applies,  
16                   this paragraph shall not apply unless such pay-  
17                   ment or distribution is paid into another simple  
18                   retirement account.”

19          (c) EFFECTIVE DATE; SPECIAL RULE.—

20          (1) EFFECTIVE DATE.—The amendments made  
21          by this section shall apply to distributions after De-  
22          cember 31, 1998.

23          (2) SPECIAL RULE.—Notwithstanding any other  
24          provision of law, subsections (h)(3) and (h)(5) of  
25          section 1122 of the Tax Reform Act of 1986 shall

1 not apply to any distribution from an eligible retire-  
 2 ment plan (as defined in clause (iii) or (iv) of section  
 3 402(c)(8)(B) of the Internal Revenue Code of 1986)  
 4 on behalf of an individual if there was a rollover to  
 5 such plan on behalf of such individual which is per-  
 6 mitted solely by reason of the amendments made by  
 7 this section.

8 **SEC. 4. FASTER VESTING OF EMPLOYER MATCHING CON-**  
 9 **TRIBUTIONS.**

10 (a) AMENDMENTS TO 1986 CODE.—Subsection (a) of  
 11 section 411 (relating to minimum vesting standards) is  
 12 amended—

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

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

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

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

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

<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
2 .....	20

<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
3 .....	40
4 .....	60
5 .....	80
6 .....	100.”

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

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

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

8 “(4) FASTER VESTING FOR MATCHING CON-  
 9 TRIBUTIONS.—In the case of matching contributions  
 10 (as defined in section 401(m)(4)(A) of the Internal  
 11 Revenue Code of 1986), paragraph (2) shall be  
 12 applied—

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

15 “(B) by substituting the following table for  
 16 the table contained in subparagraph (B):

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

17 (c) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-  
 19 graph (2), the amendments made by this section

1 shall apply to contributions for plan years beginning  
2 after December 31, 1999.

3 (2) COLLECTIVE BARGAINING AGREEMENTS.—

4 In the case of a plan maintained pursuant to 1 or  
5 more collective bargaining agreements between em-  
6 ployee representatives and 1 or more employers rati-  
7 fied by the date of enactment of this Act, the  
8 amendments made by this section shall not apply to  
9 contributions on behalf of employees covered by any  
10 such agreement for plan years beginning before the  
11 earlier of—

12 (A) the later of—

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

18 (ii) January 1, 2000, or

19 (B) January 1, 2004.

20 (3) PARTICIPATION REQUIRED.—The amend-  
21 ments made by this section shall not apply to any  
22 employee who does not have 1 hour of service in any  
23 plan year to which the amendments made by this  
24 section apply.

1 **SEC. 5. EXTENSION OF MISSING PARTICIPANTS PROGRAM.**

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

7 “(c) **MULTIEMPLOYER PLANS.**—The corporation  
8 shall prescribe rules similar to the rules in subsection (a)  
9 for multiemployer plans covered by this title that termi-  
10 nate under section 4041A.

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

12 “(1) **TRANSFER TO CORPORATION.**—The plan  
13 administrator of a plan described in paragraph (4)  
14 may elect to transfer a missing participant’s benefits  
15 to the corporation upon termination of the plan.

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

22 “(A) to the corporation, or

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

25 “(3) **PAYMENT BY THE CORPORATION.**—If ben-  
26 efits of a missing participant were transferred to the

1 corporation under paragraph (1), the corporation  
2 shall, upon location of the participant or beneficiary,  
3 pay to the participant or beneficiary the amount  
4 transferred (or the appropriate survivor benefit)  
5 either—

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

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

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

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

13 “(i) to which the provisions of this  
14 section do not apply (without regard to  
15 this subsection), and

16 “(ii) which is not a plan described in  
17 paragraphs (2) through (11) of section  
18 4021(b), and

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

21 “(i) has missing participants, and

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

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

4           (b) CONFORMING AMENDMENT.—Section 206(f) of  
5           the Employee Retirement Income Security Act of 1974  
6           (29 U.S.C. 1056(f)) is amended by striking “the plan shall  
7           provide that”.

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

14       **SEC. 6. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

15          (a) IN GENERAL.—

16               (1) Subsection (c) of section 402 (relating to  
17               rules applicable to rollovers from exempt trusts) (as  
18               amended by section 2) is amended by striking para-  
19               graph (2) and redesignating paragraphs (3) through  
20               (10) as paragraphs (2) through (9), respectively.

21               (2) Paragraph (31) of section 401(a) (relating  
22               to optional direct transfer of eligible rollover dis-  
23               tributions) is amended by striking subparagraph (B)  
24               and redesignating subparagraphs (C) and (D) as  
25               subparagraphs (B) and (C), respectively.

1           (3) Subparagraph (B) of section 408(d)(3) (re-  
2 relating to rollover contributions) is amended by strik-  
3 ing “which was not includible in his gross income  
4 because of the application of this paragraph” and in-  
5 serting “to which this paragraph applied”.

6           (4) Paragraph (7)(B) of section 402(c) (as re-  
7 designated by subsection (a) and as amended by sec-  
8 tion 2) is amended—

9                   (A) by striking “The term” and inserting  
10 “Except as provided in this subparagraph, the  
11 term”, and

12                   (B) by adding at the end the following:  
13 “Arrangements described in clauses (iii), (iv)  
14 (v), and (vi) shall not be treated as eligible re-  
15 tirement plans for purposes of receiving a roll-  
16 over contribution of an eligible rollover distribu-  
17 tion to the extent that such eligible rollover dis-  
18 tribution is not includible in gross income (de-  
19 termined without regard to paragraph (1)).”

20           (5) Paragraph (2) of section 408(d) is  
21 amended—

22                   (A) by striking “For purposes” and insert-  
23 ing the following:

24                           “(A) IN GENERAL.—Except as provided in  
25 this paragraph, for purposes”,

1 (B) by striking “(A) all” and inserting “(i)  
2 all”;

3 (C) by striking “(B) all” and inserting  
4 “(ii) all”;

5 (D) by striking “(C) the” and inserting  
6 “(iii) the”;

7 (E) by striking “subparagraph (C)” and  
8 inserting “clause (iii)”; and

9 (F) by inserting at the end the following:

10 “(B) APPLICATION OF SECTION 72.—For  
11 purposes of applying section 72, if—

12 “(i) a distribution is made from an in-  
13 dividual retirement plan, and

14 “(ii) a rollover contribution described  
15 in paragraph (3) is made to an eligible re-  
16 tirement plan described in section  
17 402(e)(7)(B)(iii), (iv), (v), or (vi) with re-  
18 spect to all or part of such distribution,

19 the includible amount in the individual’s indi-  
20 vidual retirement plans shall be reduced by the  
21 amount described in subparagraph (C). As of  
22 the close of the calendar year in which the tax-  
23 able year begins, the reduction of all amounts  
24 described in subparagraph (C)(i) shall be ap-  
25 plied prior to the computations described in

1           subparagraph (A)(iii). The amount of any dis-  
2           tribution with respect to which there is a roll-  
3           over contribution described in clause (ii) shall  
4           not be treated as a distribution for purposes of  
5           subparagraph (A).

6           “(C) AMOUNT DESCRIBED.—The amount  
7           described in this subparagraph is the sum of—

8                   “(i) the amount of the rollover con-  
9                   tribution described in subparagraph  
10                  (B)(ii), and

11                   “(ii) in the case of any portion of the  
12                   distribution with respect to which there is  
13                   not a rollover contribution described in  
14                   paragraph (3), the amount of such portion  
15                   that is included in gross income under sec-  
16                   tion 72.

17           “(D) INCLUDIBLE AMOUNT.—For purposes  
18           of this paragraph, the term ‘includible amount’  
19           shall mean the amount that is not investment  
20           in the contract (as defined in section 72).”

21           (6) Subparagraph (C) of section 402(c)(6) is  
22           amended by inserting after “other than money” the  
23           following: “or where the amount of the distribution  
24           exceeds the amount of the rollover contribution”.

1           (7) Clause (ii) of section 408(d)(3)(A) is  
2 amended—

3           (A) by striking “an employee’s trust de-  
4 scribed in section 401(a) which is exempt from  
5 tax under section 501(a) or from an annuity  
6 plan described in section 403(a)” and inserting  
7 “an eligible retirement plan (as defined in sec-  
8 tion 402(c)(7)(B)(iii) or (iv))”, and

9           (B) by striking “such trust or annuity  
10 plan” and inserting “such eligible retirement  
11 plan (as defined in section 402(c)(7)(B)(iii) or  
12 (iv))”.

13          (8) Clause (iii) of section 408(d)(3)(A) is  
14 amended—

15          (A) by striking “an annuity contract de-  
16 scribed in section 403(b)” and inserting “an eli-  
17 gible retirement plan (as defined in section  
18 402(c)(7)(B)(vi))”, and

19          (B) by striking “another annuity contract  
20 described in section 403(b)” and inserting “an-  
21 other eligible retirement plan (as defined in sec-  
22 tion 402(c)(7)(B)(vi))”.

23 (b) HARDSHIP EXCEPTION TO 60-DAY RULE.—

24          (1) Paragraph (2) of section 402(c) (as so re-  
25 designated) is amended to read as follows:

1           “(2) TRANSFER MUST BE MADE WITHIN 60  
2           DAYS OF RECEIPT.—

3           “(A) IN GENERAL.—Except as provided in  
4           subparagraph (B), paragraph (1) shall not  
5           apply to any transfer of a distribution made  
6           after the 60th day following the day on which  
7           the distributee received the property distrib-  
8           uted.

9           “(B) HARDSHIP EXCEPTION.—The Sec-  
10          retary may waive the 60-day requirement under  
11          subparagraph (A) where the failure to waive  
12          such requirement would be against equity or  
13          good conscience, including casualty, disaster, or  
14          other events beyond the reasonable control of  
15          the individual subject to such requirement.”

16          (2) Paragraph (3) of section 408(d) (relating to  
17          rollover contributions) is amended by adding at the  
18          end the following new subparagraph:

19          “(H) WAIVER OF 60-DAY REQUIREMENT.—  
20          The Secretary may waive the 60-day require-  
21          ment under subparagraphs (A) and (D) where  
22          the failure to waive such requirement would be  
23          against equity or good conscience, including  
24          casualty, disaster, or other events beyond the

1 reasonable control of the individual subject to  
2 such requirement.”

3 (c) CONFORMING AMENDMENTS.—

4 (1) Paragraph (5) of section 402(c) is amended  
5 by striking “(8)(B)” and inserting “(7)(B)”.

6 (2) Subparagraph (B) of section 403(a)(4) is  
7 amended by striking “(2) through (7)” and inserting  
8 “(2) through (6)”.

9 (3) Section 403(b)(8)(A)(ii) (as amended by  
10 section 2) is amended by striking “section  
11 402(c)(8)(B)” and inserting “section 402(c)(7)(B)”.

12 (4) Subparagraph (A) of section 408(d)(3) (as  
13 amended by section 3) is amended by striking  
14 “402(c)(8)” and inserting “402(c)(7)”.

15 (5) Paragraph (16) of section 457(e) (as added  
16 by section 301) is amended—

17 (A) in subparagraph (A)(i) by striking  
18 “402(c)(4)” and inserting “402(c)(3)”,

19 (B) in subparagraph (A)(ii) by striking  
20 “402(c)(8)(B)” and inserting “402(c)(7)(B)”,  
21 and

22 (C) in subparagraph (B) by striking “para-  
23 graphs (2) through (7) and (9) of section  
24 402(c)” and inserting “paragraphs (2) through  
25 (6) and (8) of section 402(c)”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided by para-  
3 graph (2), the amendments made by this section  
4 shall apply to distributions made after December 31,  
5 1998.

6 (2) HARDSHIP EXCEPTION.—The amendments  
7 made by subsection (b) shall apply to 60-day periods  
8 ending after the date of the enactment of this Act.

9 **SEC. 7. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.**  
10  
11

12 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE  
13 FROM EMPLOYMENT.—

14 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)  
15 (relating to qualified cash or deferred arrangements)  
16 is amended by striking “separation from service”  
17 and inserting “severance from employment”.

18 (2) 403(b) CONTRACTS.—

19 (A) Clause (ii) of section 403(b)(7)(A) is  
20 amended by striking “separates from service”  
21 and inserting “severs from employment”.

22 (B) Paragraph (11) of section 403(b) is  
23 amended—

1 (i) by striking “SEPARATION FROM  
2 SERVICE” in the heading and inserting  
3 “SEVERANCE FROM EMPLOYMENT”, and

4 (ii) by striking “separates from serv-  
5 ice” and inserting “severs from employ-  
6 ment”.

7 (3) 457 PLANS.—Clause (ii) of section  
8 457(d)(1)(A) is amended by striking “is separated  
9 from service” and inserting “has a severance from  
10 employment”.

11 (b) BUSINESS SALE REQUIREMENTS DELETED.—

12 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)  
13 (relating to qualified cash or deferred arrangements)  
14 is amended by striking “an event” and inserting “a  
15 plan termination”.

16 (2) CONFORMING AMENDMENTS.—Section  
17 401(k)(10) is amended—

18 (A) by striking subparagraph (A) and in-  
19 serting the following:

20 “(A) IN GENERAL.—A plan termination is  
21 described in this paragraph if the termination  
22 of the plan does not involve the establishment  
23 or maintenance of another defined contribution  
24 plan (other than an employee stock ownership  
25 plan as defined in section 4975(e)(7)).”,

1 (B) in subparagraph (B)—

2 (i) by striking “An event” and insert-  
3 ing “A termination”, and

4 (ii) by striking “the event” and insert-  
5 ing “the termination”,

6 (C) by striking subparagraph (C), and

7 (D) by striking “OR DISPOSITION OF AS-  
8 SETS OR SUBSIDIARY” in the heading.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to distributions after December 31,  
11 1999.

12 **SEC. 8. TRANSFeree DEFINED CONTRIBUTION PLAN NEED**  
13 **NOT HAVE SAME DISTRIBUTION OPTIONS AS**  
14 **TRANSFEROR DEFINED CONTRIBUTION**  
15 **PLAN.**

16 (a) IN GENERAL.—Section 411(d)(6) (relating to ac-  
17 crued benefit not to be decreased by amendment) is  
18 amended by adding at the end the following new subpara-  
19 graph:

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

1           tion previously available under another defined  
2           contribution plan (in this subparagraph referred  
3           to as the ‘transferor plan’) to the extent that—

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

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

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

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

24                   “(v) if the transferor plan provides for  
25                   an annuity as the normal form of distribu-

1           tion under the plan in accordance with sec-  
2           tion 417, the transfer is made with the  
3           consent of the participant’s spouse (if  
4           any), and such consent meets requirements  
5           similar to the requirements imposed by  
6           section 417(a)(2), and

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

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

17          “(4) A defined contribution plan (in this paragraph  
18          referred to as the ‘transferee plan’) shall not be treated  
19          as failing to meet the requirements of this subsection  
20          merely because the transferee plan does not provide some  
21          or all of the forms of distribution previously available  
22          under another defined contribution plan (in this para-  
23          graph referred to as the ‘transferor plan’) to the extent  
24          that—

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

8           “(B) the terms of both the transferor plan and  
9           the transferee plan authorize the transfer described  
10          in subparagraph (A),

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

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

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

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

6           (c) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to transfers after December 31,  
8           1999.

9           **SEC. 9. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**  
10           **PURPOSES OF CASH-OUT AMOUNTS.**

11           (a) AMENDMENTS TO 1986 CODE.—

12           (1) Section 411(a)(11) (relating to restrictions  
13           on certain mandatory distributions) is amended by  
14           adding at the end the following:

15           “(D) SPECIAL RULE FOR ROLLOVER CON-  
16           TRIBUTIONS.—A plan shall not fail to meet the  
17           requirements of this paragraph if, under the  
18           terms of the plan, the present value of the non-  
19           forfeitable accrued benefit is determined with-  
20           out regard to that portion of such benefit which  
21           is attributable to rollover contributions (and  
22           earnings allocable thereto). For purposes of this  
23           subparagraph, the term ‘rollover contributions’  
24           means any rollover contribution under sections

1           402(c), 403(a)(4), 403(b)(8), clause (ii), (iii),  
2           or (iv) of 408(d)(3)(A), and 457(e)(16).”.

3           (2) Clause (i) of section 457(e)(9)(A) is amend-  
4           ed by striking “such amount” and inserting “the  
5           portion of such amount which is not attributable to  
6           rollover contributions (as defined in section  
7           411(a)(11)(D))”.

8           (b) AMENDMENT TO ERISA.—Section 203(e) of the  
9           Employee Retirement Income Security Act of 1974 (29  
10          U.S.C. 1053(e)) is amended by adding at the end the fol-  
11          lowing:

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

22          (c) EFFECTIVE DATE.—The amendments made by  
23          this section shall apply to distributions after December 31,  
24          1999.

1 **SEC. 10. PURCHASE OF SERVICE CREDIT IN GOVERN-**  
2 **MENTAL DEFINED BENEFIT PLANS.**

3 (a) 403(b) PLANS.—Subsection (b) of section 403 is  
4 amended by adding at the end the following new para-  
5 graph:

6 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO  
7 PURCHASE PERMISSIVE SERVICE CREDIT.—No  
8 amount shall be includible in gross income by reason  
9 of a direct trustee-to-trustee transfer to a defined  
10 benefit governmental plan (as defined in section  
11 414(d)) if such transfer is—

12 “(A) for the purchase of permissive service  
13 credit (as defined in section 415(n)(3)(A))  
14 under such plan, or

15 “(B) a repayment to which section 415  
16 does not apply by reason of subsection (k)(3)  
17 thereof.”

18 (b) 457 PLANS.—

19 (1) Subsection (e) of section 457 is amended by  
20 adding at the end the following new paragraph:

21 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO  
22 PURCHASE PERMISSIVE SERVICE CREDIT.—No  
23 amount shall be includible in gross income by reason  
24 of a direct trustee-to-trustee transfer to a defined  
25 benefit governmental plan (as defined in section  
26 414(d)) if such transfer is—

1           “(A) for the purchase of permissive service  
2           credit (as defined in section 415(n)(3)(A))  
3           under such plan, or

4           “(B) a repayment to which section 415  
5           does not apply by reason of subsection (k)(3)  
6           thereof.”

7           (2) Section 457(b)(2), as amended by section 2,  
8           is amended by striking “(other than rollover  
9           amounts)” and inserting “(other than rollover  
10          amounts and amounts received in a transfer referred  
11          to in subsection (e)(17))”.

12          (c) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to trustee-to-trustee transfers after  
14          December 31, 1999.

15          **SEC. 11. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

18                 (1) such plan or contract shall be treated as  
19                 being operated in accordance with the terms of the  
20                 plan during the period described in subsection  
21                 (b)(2)(A), and

22                 (2) such plan shall not fail to meet the require-  
23                 ments of section 411(d)(6) of the Internal Revenue  
24                 Code of 1986 or section 204(g) of the Employee Re-

1       tirement Income Security Act of 1974 by reason of  
2       such amendment.

3       (b) AMENDMENTS TO WHICH SECTION APPLIES.—

4             (1) IN GENERAL.—This section shall apply to  
5       any amendment to any plan or annuity contract  
6       which is made—

7             (A) pursuant to any amendment made by  
8       this Act or pursuant to any guidance issued by  
9       the Secretary of the Treasury (or the Sec-  
10      retary’s delegate) under any such amendment,  
11      and

12            (B) on or before the last day of the first  
13      plan year beginning on or after January 1,  
14      2002.

15      In the case of a governmental plan (as defined in  
16      section 414(d) of the Internal Revenue Code of  
17      1986), this paragraph shall be applied by substitut-  
18      ing “2004” for “2002”.

19            (2) CONDITIONS.—This section shall not apply  
20      to any amendment unless—

21            (A) during the period—

22               (i) beginning on the date the legisla-  
23      tive amendment or guidance described in  
24      paragraph (1)(A) takes effect (or in the  
25      case of a plan or contract amendment not

1 required by such legislative amendment or  
2 guidance, the effective date specified by the  
3 plan), and

4 (ii) ending on the date described in  
5 paragraph (1)(B) (or, if earlier, the date  
6 the plan or contract amendment is  
7 adopted),

8 the plan or contract is operated as if such plan  
9 or contract amendment were in effect, and

10 (B) such plan or contract amendment ap-  
11 plies retroactively for such period.

○