

106TH CONGRESS
1ST SESSION

S. 1357

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

IN THE SENATE OF THE UNITED STATES

JULY 13 (legislative day, JULY 12), 1999

Mr. JEFFORDS introduced the following bill; which was read twice and referred to the Committee on Finance

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
9 to, or repeal of, a section or other provision, the reference

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

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

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

7 (1) ROLLOVERS FROM SECTION 457 PLANS.—

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

11 “(16) ROLLOVER AMOUNTS.—

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

14 “(i) any portion of the balance to the
15 credit of an employee in such plan is paid
16 to such employee in an eligible rollover dis-
17 tribution (within the meaning of section
18 402(c)(4) without regard to subparagraph
19 (C) thereof),

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.—The rules of paragraphs (2) through (7)
10 (other than paragraph (4)(C)) and (9) of sec-
11 tion 402(c) and section 402(f) shall apply for
12 purposes of subparagraph (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 (C) DIRECT ROLLOVER.—Paragraph (1) of
23 section 457(d) is amended by striking “and” at
24 the end of subparagraph (A), by striking the
25 period at the end of subparagraph (B) and in-

1 serting “, and”, and by inserting after subpara-
2 graph (B) the following:

3 “(C) the plan meets requirements similar
4 to the requirements of section 401(a)(31).

5 Any amount transferred in a direct trustee-to-trust-
6 ee transfer in accordance with section 401(a)(31)
7 shall not be includible in gross income for the tax-
8 able year of transfer.”

9 (D) WITHHOLDING.—

10 (i) Paragraph (12) of section 3401(a)
11 is amended by adding at the end the fol-
12 lowing:

13 “(E) under or to an eligible deferred com-
14 pensation plan which, at the time of such pay-
15 ment, is a plan described in section 457(b); or”.

16 (ii) Paragraph (5) of section 3405(e)
17 is amended by adding at the end the fol-
18 lowing: “Such term shall include an eligible
19 deferred compensation plan described in
20 section 457(b).”

21 (iii) Paragraph (3) of section 3405(c)
22 is amended to read as follows:

23 “(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For
24 purposes of this subsection, the term ‘eligible roll-

1 over distribution' has the meaning given such term
2 by section 402(f)(2)(A).”

3 (iv) LIABILITY FOR WITHHOLDING.—

4 Subparagraph (B) of section 3405(d)(2) is
5 amended by striking “or” at the end of
6 clause (ii), by striking the period at the
7 end of clause (iii) and inserting “, or”, and
8 by adding at the end the following:

9 ‘(iv) section 457(b).”

10 (2) ROLLOVERS TO SECTION 457 PLANS.—

11 (A) Section 402(c)(8)(B) (defining eligible
12 retirement plan) is amended by striking “and”
13 at the end of clause (iii), by striking the period
14 at the end of clause (iv) and inserting “, and”,
15 and by adding at the end the following:

16 “(v) an eligible deferred compensation
17 plan described in section 457(b) of an eli-
18 gible employer described in section
19 457(e)(1)(A).”

20 (B) Paragraph (9) of section 402(c) is
21 amended by striking “except that” and all that
22 follows and inserting “except that only an ac-
23 count or annuity described in clause (i) or (ii)
24 of paragraph (8)(B) shall be treated as an eligi-

1 ble retirement plan with respect to such dis-
2 tribution.”

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

6 (3) MINIMUM DISTRIBUTIONS.—Paragraph (2)
7 of section 457(d) is amended to read as follows:

8 “(2) MINIMUM DISTRIBUTION REQUIRE-
9 MENTS.—A plan meets the distribution requirements
10 of this paragraph if the plan meets the requirements
11 of section 401(a)(9).”

12 (4) CONFORMING AMENDMENT.—Paragraph (9)
13 of section 457(e) is amended to read as follows:

14 “(9) BENEFITS NOT TREATED AS FAILING TO
15 MEET DISTRIBUTION REQUIREMENTS OF SUB-
16 SECTION (d).—A plan shall not be treated as failing
17 to meet the distribution requirements of subsection
18 (d) by reason of a distribution of the total amount
19 payable to a participant under the plan if—

20 “(A) such amount does not exceed the dol-
21 lar limit under section 411(a)(11)(A), and

22 “(B) such amount may be distributed only
23 if—

24 “(i) no amount has been deferred
25 under the plan with respect to such partici-

1 pant during the 2-year period ending on
2 the date of the distribution, and

3 “(ii) there has been no prior distribu-
4 tion under the plan to such participant to
5 which this paragraph applied.”

6 (b) ALLOWANCE OF ROLLOVERS FROM AND TO
7 403(b) PLANS.—

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

14 (2) ROLLOVERS TO SECTION 403(b) PLANS.—
15 Section 402(c)(8)(B) (defining eligible retirement
16 plan), as amended by subsection (a), is amended by
17 striking “and” at the end of clause (iv), by striking
18 the period at the end of clause (v) and inserting
19 “, and”, and by adding at the end the following:

20 “(vi) an annuity contract described in
21 section 403(b).”

22 (3) CONFORMING AMENDMENT.—Subparagraph
23 (B) of section 403(b)(8) is amended by striking
24 “Rules similar to the” and inserting “The”.

1 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
2 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section
3 402(f) (relating to written explanation to recipients of dis-
4 tributions eligible for rollover treatment) is amended by
5 striking “and” at the end of subparagraph (C), by striking
6 the period at the end of subparagraph (D) and inserting
7 “, and”, and by adding at the end the following new sub-
8 paragraph:

9 “(E) of the provisions under which dis-
10 tributions from the eligible retirement plan re-
11 ceiving the distribution may be subject to re-
12 strictions and tax consequences which are dif-
13 ferent from those applicable to distributions
14 from the plan making such distribution.”

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 72(o)(4) is amended by striking
17 “and 408(d)(3)” and inserting “403(b)(8),
18 408(d)(3), and 457(e)(16)”.

19 (2) Section 219(d)(2) is amended by striking
20 “or 408(d)(3)” and inserting “408(d)(3), or
21 457(e)(16)”.

22 (3) Section 401(a)(31)(B) is amended by strik-
23 ing “and 403(a)(4)” and inserting “, 403(a)(4),
24 403(b)(8), and 457(e)(16)”.

1 (4) Subparagraph (A) of section 402(f)(2) is
2 amended by striking “or paragraph (4) of section
3 403(a)” and inserting “, paragraph (4) of section
4 403(a), subparagraph (A) of section 403(b)(8), or
5 subparagraph (A) of section 457(e)(16)”.

6 (5) Paragraph (1) of section 402(f) is amended
7 by striking “from an eligible retirement plan”.

8 (6) Subparagraphs (A) and (B) of section
9 402(f)(1) are amended by striking “another eligible
10 retirement plan” and inserting “an eligible retire-
11 ment plan”.

12 (7) Subparagraph (B) of section 403(b)(8) is
13 amended by striking “shall apply for purposes of
14 subparagraph (A)” and inserting “and section
15 402(f) shall apply for purposes of subparagraph (A),
16 except that section 402(f) shall be applied to the
17 payor in lieu of the plan administrator”.

18 (8) Subparagraph (B) of section 403(b)(8) is
19 amended by inserting “and (9)” after “through
20 (7)”.

21 (9) Section 408(a)(1) is amended by striking
22 “or 403(b)(8)” and inserting “, 403(b)(8), or
23 457(e)(16)”.

24 (10) Subparagraphs (A) and (B) of section
25 415(b)(2) are each amended by striking “and

1 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
2 457(e)(16)”.

3 (11) Section 415(c)(2) is amended by striking
4 “and 408(d)(3)” and inserting “408(d)(3), and
5 457(e)(16)”.

6 (12) Section 4973(b)(1)(A) is amended by
7 striking “or 408(d)(3)” and inserting “408(d)(3), or
8 457(e)(16)”.

9 (e) EFFECTIVE DATE; SPECIAL RULE.—

10 (1) EFFECTIVE DATE.—The amendments made
11 by this section shall apply to distributions after De-
12 cember 31, 1999.

13 (2) SPECIAL RULE.—Notwithstanding any other
14 provision of law, subsections (h)(3) and (h)(5) of
15 section 1122 of the Tax Reform Act of 1986 shall
16 not apply to any distribution from an eligible retire-
17 ment plan described in clause (iii) or (iv) of section
18 402(c)(8)(B) of the Internal Revenue Code of 1986
19 on behalf of an individual if there was a rollover to
20 such plan on behalf of such individual which is per-
21 mitted solely by reason of any amendment made by
22 this section.

1 **SEC. 3. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
2 **MENT PLANS.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 408(d)(3) (relating to rollover amounts) is amended by
5 adding “or” at the end of clause (i), by striking clauses
6 (ii) and (iii), and by adding at the end the following:

7 “(ii) the entire amount received (in-
8 cluding money and any other property) is
9 paid into an eligible retirement plan for
10 the benefit of such individual not later
11 than the 60th day after the date on which
12 the individual receives the payment or dis-
13 tribution.

14 For purposes of clause (ii), the term ‘eligible re-
15 tirement plan’ means an eligible retirement plan
16 described in clause (iii), (iv), (v), or (vi) of sec-
17 tion 402(c)(8)(B).”

18 (b) CONFORMING AMENDMENTS.—

19 (1) Paragraph (1) of section 403(b) is amended
20 by striking “section 408(d)(3)(A)(iii)” and inserting
21 “section 408(d)(3)(A)(ii)”.

22 (2) Clause (i) of section 408(d)(3)(D) is amend-
23 ed by striking “(i), (ii), or (iii)” and inserting “(i)
24 or (ii)”.

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

1 “(G) SIMPLE RETIREMENT ACCOUNTS.—In
2 the case of any payment or distribution out of
3 a simple retirement account (as defined in sub-
4 section (p)) to which section 72(t)(6) applies,
5 this paragraph shall not apply unless such pay-
6 ment or distribution is paid into another simple
7 retirement account.”

8 (c) EFFECTIVE DATE; SPECIAL RULE.—

9 (1) EFFECTIVE DATE.—The amendments made
10 by this section shall apply to distributions after De-
11 cember 31, 1999.

12 (2) SPECIAL RULE.—Notwithstanding any other
13 provision of law, subsections (h)(3) and (h)(5) of
14 section 1122 of the Tax Reform Act of 1986 shall
15 not apply to any distribution from an eligible retire-
16 ment plan described in clause (iii) or (iv) of section
17 402(c)(8)(B) of the Internal Revenue Code of 1986
18 on behalf of an individual if there was a rollover to
19 such plan on behalf of such individual which is per-
20 mitted solely by reason of the amendments made by
21 this section.

22 **SEC. 4. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS; HARD-**
23 **SHIP EXCEPTION.**

24 (a) AFTER-TAX CONTRIBUTIONS.—

1 (1) ROLLOVERS.—Subsection (c) of section 402
2 (relating to rules applicable to rollovers from exempt
3 trusts) (as amended by section 2) is amended by
4 striking paragraph (2) and redesignating paragraphs
5 (3) through (10) as paragraphs (2) through (9), re-
6 spectively.

7 (2) DIRECT TRANSFERS.—Paragraph (31) of
8 section 401(a) (relating to optional direct transfer of
9 eligible rollover distributions) is amended by striking
10 subparagraph (B) and redesignating subparagraphs
11 (C) and (D) as subparagraphs (B) and (C), respec-
12 tively.

13 (3) ANNUITIES.—Subparagraph (B) of section
14 408(d)(3) (relating to rollover contributions) is
15 amended by striking “which was not includible in his
16 gross income because of the application of this para-
17 graph” and inserting “to which this paragraph ap-
18 plied”.

19 (4) ELIGIBLE RETIREMENT PLAN.—Paragraph
20 (7)(B) of section 402(c) (as redesignated by sub-
21 section (a)(1) and as amended by section 2) is
22 amended—

23 (A) by striking “The term” and inserting
24 “Except as provided in this subparagraph, the
25 term”, and

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

2 “Arrangements described in clauses (iii), (iv)
3 (v), and (vi) shall not be treated as eligible re-
4 tirement plans for purposes of receiving a roll-
5 over contribution of an eligible rollover distribu-
6 tion to the extent that such eligible rollover dis-
7 tribution is not includible in gross income (de-
8 termined without regard to paragraph (1)).”

9 (5) TAXATION OF DISTRIBUTIONS.—Paragraph
10 (2) of section 408(d) is amended—

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

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

15 (B) by striking “(A) all” and inserting “(i)
16 all”;

17 (C) by striking “(B) all” and inserting
18 “(ii) all”;

19 (D) by striking “(C) the” and inserting
20 “(iii) the”,

21 (E) by striking “subparagraph (C)” and
22 inserting “clause (iii)”, and

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

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

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

3 “(ii) a rollover contribution described
4 in paragraph (3) is made to an eligible re-
5 tirement plan described in section
6 402(e)(7)(B)(iii), (iv), (v), or (vi) with re-
7 spect to all or part of such distribution,

8 the includible amount in the individual’s indi-
9 vidual retirement plans shall be reduced by the
10 amount described in subparagraph (C). As of
11 the close of the calendar year in which the tax-
12 able year begins, the reduction of all amounts
13 described in subparagraph (C)(i) shall be ap-
14 plied prior to the computations described in
15 subparagraph (A)(iii). The amount of any dis-
16 tribution with respect to which there is a roll-
17 over contribution described in clause (ii) shall
18 not be treated as a distribution for purposes of
19 subparagraph (A).

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

22 “(i) the amount of the rollover con-
23 tribution described in subparagraph
24 (B)(ii), and

1 “(ii) in the case of any portion of the
2 distribution with respect to which there is
3 not a rollover contribution described in
4 paragraph (3), the amount of such portion
5 that is included in gross income under sec-
6 tion 72.

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

11 (6) TRANSFERS TO IRAS.—Subparagraph (C) of
12 section 402(c)(5) (as redesignated by subsection
13 (a)(1)) is amended by inserting after “other than
14 money” the following: “or where the amount of the
15 distribution exceeds the amount of the rollover con-
16 tribution”.

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

18 (1) PLAN ROLLOVERS.—Paragraph (2) of sec-
19 tion 402(c) (as so redesignated) is amended to read
20 as follows:

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

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), paragraph (1) shall not
25 apply to any transfer of a distribution made

1 after the 60th day following the day on which
2 the distributee received the property distrib-
3 uted.

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

11 (2) IRA ROLLOVERS.—Paragraph (3) of section
12 408(d) (relating to rollover contributions) is amend-
13 ed by adding at the end the following new subpara-
14 graph:

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

23 (c) CONFORMING AMENDMENTS.—

1 (1) Paragraph (4) of section 402(c) (as redesignig-
2 nated by subsection (a)(1)) is amended by striking
3 “(8)(B)” and inserting “(7)(B)”.

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

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

10 (4) Subparagraph (B) of section 403(b)(8) (as
11 amended by section 2) is amended by striking “(2)
12 through (7) and (9) of section 402(c)” and inserting
13 “(2) through (6) and (8) of section 402(c)”.

14 (5) Subparagraph (A) of section 408(d)(3) (as
15 amended by section 3) is amended by striking
16 “402(c)(8)” and inserting “402(c)(7)”.

17 (6) Paragraph (16) of section 457(e) (as added
18 by section 2) is amended—

19 (A) in subparagraph (A)(i) by striking
20 “402(c)(4)” and inserting “402(c)(3)”,

21 (B) in subparagraph (A)(ii) by striking
22 “402(c)(8)(B)” and inserting “402(c)(7)(B)”,

23 and

24 (C) in subparagraph (B) by striking “para-
25 graphs (2) through (7) (other than paragraph

1 (4)(C)) and (9) of section 402(c)” and inserting
 2 “paragraphs (2) through (6) (other than para-
 3 graph (3)(C)) and (8) of section 402(c)”.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided by para-
 6 graph (2), the amendments made by this section
 7 shall apply to distributions made after December 31,
 8 1999.

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

12 **SEC. 5. EXTENSION OF MISSING PARTICIPANTS PROGRAM**
 13 **TO MULTIEMPLOYER PLANS.**

14 (a) IN GENERAL.—Section 4050 of the Employee Re-
 15 tirement Income Security Act of 1974 (29 U.S.C. 1350)
 16 is amended by redesignating subsection (c) as subsection
 17 (d) and by inserting after subsection (b) the following new
 18 subsection:

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

23 (b) CONFORMING AMENDMENT.—Section 206(f) of
 24 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1056(f)) is amended by striking “the plan shall
2 provide that,”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to distributions made after final
5 regulations implementing subsection (c) of section 4050
6 of the Employee Retirement Income Security Act of 1974
7 (as added by subsection (a)) are prescribed.

8 **SEC. 6. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.**

9 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE FROM EMPLOYMENT.—

10 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)
11 (relating to qualified cash or deferred arrangements)
12 is amended by striking “separation from service”
13 and inserting “severance from employment”.

14 (2) 403(b) CONTRACTS.—

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

18 (B) Paragraph (11) of section 403(b) is
19 amended—

20 (i) by striking “SEPARATION FROM
21 SERVICE” in the heading and inserting
22 “SEVERANCE FROM EMPLOYMENT”, and
23

1 (ii) by striking “separates from serv-
2 ice” and inserting “severs from employ-
3 ment”.

4 (3) 457 PLANS.—Clause (ii) of section
5 457(d)(1)(A) is amended by striking “is separated
6 from service” and inserting “has a severance from
7 employment”.

8 (b) BUSINESS SALE REQUIREMENTS DELETED.—

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

13 (2) CONFORMING AMENDMENTS.—Section
14 401(k)(10) is amended—

15 (A) by striking subparagraph (A) and in-
16 serting the following:

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

23 (B) in subparagraph (B)—

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

1 (ii) by striking “the event” and insert-
 2 ing “the termination”,
 3 (C) by striking subparagraph (C), and
 4 (D) by striking “OR DISPOSITION OF AS-
 5 SETS OR SUBSIDIARY” in the heading.

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

9 **SEC. 7. TRANSFEREE DEFINED CONTRIBUTION PLAN NEED**
 10 **NOT HAVE SAME DISTRIBUTION OPTIONS AS**
 11 **TRANSFEROR DEFINED CONTRIBUTION**
 12 **PLAN.**

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

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

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

9 “(ii) the terms of both the transferor
10 plan and the transferee plan authorize the
11 transfer described in clause (i),

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

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

21 “(v) if the transferor plan provides for
22 an annuity as the normal form of distribu-
23 tion under the plan in accordance with sec-
24 tion 417, the transfer is made with the
25 consent of the participant’s spouse (if

1 any), and such consent meets requirements
2 similar to the requirements imposed by
3 section 417(a)(2), and

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

10 (b) AMENDMENT TO ERISA.—Section 204(g) of the
11 Employee Retirement Income Security Act of 1974 (29
12 U.S.C. 1054(g)) is amended by adding at the end the fol-
13 lowing new paragraph:

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

22 “(A) the forms of distribution previously avail-
23 able under the transferor plan applied to the account
24 of a participant or beneficiary under the transferor
25 plan that was transferred from the transferor plan

1 to the transferee plan pursuant to a direct transfer
2 rather than pursuant to a distribution from the
3 transferor plan,

4 “(B) the terms of both the transferor plan and
5 the transferee plan authorize the transfer described
6 in subparagraph (A),

7 “(C) the transfer described in subparagraph
8 (A) was made pursuant to a voluntary election by
9 the participant or beneficiary whose account was
10 transferred to the transferee plan,

11 “(D) the election described in subparagraph (C)
12 was made after the participant or beneficiary re-
13 ceived a notice describing the consequences of mak-
14 ing the election,

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

22 “(F) the transferee plan allows the participant
23 or beneficiary described in subparagraph (C) to re-
24 ceive any distribution to which the participant or

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

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

6 **SEC. 8. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
7 **PURPOSES OF CASH-OUT AMOUNTS.**

8 (a) AMENDMENTS TO 1986 CODE.—

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

12 “(D) SPECIAL RULE FOR ROLLOVER CON-
13 TRIBUTIONS.—A plan shall not fail to meet the
14 requirements of this paragraph if, under the
15 terms of the plan, the present value of the non-
16 forfeitable accrued benefit is determined with-
17 out regard to that portion of such benefit which
18 is attributable to rollover contributions (and
19 earnings allocable thereto). For purposes of this
20 subparagraph, the term ‘rollover contributions’
21 means any rollover contribution under sections
22 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
23 and 457(e)(16).”

24 (2) Clause (i) of section 457(e)(9)(A) is amend-
25 ed by striking “such amount” and inserting “the

1 portion of such amount which is not attributable to
2 rollover contributions (as defined in section
3 411(a)(11)(D))”.

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

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

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to distributions after December 31,
20 1999.

21 **SEC. 9. PURCHASE OF SERVICE CREDIT IN GOVERN-**
22 **MENTAL DEFINED BENEFIT PLANS.**

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

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

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

10 “(B) a repayment to which section 415
11 does not apply by reason of subsection (k)(3)
12 thereof.”

13 (b) 457 PLANS.—

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

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

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

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

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

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

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

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

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

19 (2) such plan shall not fail to meet the require-
20 ments of section 411(d)(6) of the Internal Revenue
21 Code of 1986 or section 204(g) of the Employee Re-
22 tirement Income Security Act of 1974 by reason of
23 such amendment.

24 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

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

9 (B) on or before the last day of the first
10 plan year beginning on or after January 1,
11 2002.

12 In the case of a governmental plan (as defined in
13 section 414(d) of the Internal Revenue Code of
14 1986), this paragraph shall be applied by sub-
15 stituting “2004” for “2002”.

16 (2) CONDITIONS.—This section shall not apply
17 to any amendment unless—

18 (A) during the period—

19 (i) beginning on the date the legisla-
20 tive amendment or guidance described in
21 paragraph (1)(A) takes effect (or in the
22 case of a plan or contract amendment not
23 required by such legislative amendment or
24 guidance, the effective date specified by the
25 plan), and

1 (ii) ending on the date described in
2 paragraph (1)(B) (or, if earlier, the date
3 the plan or contract amendment is adopt-
4 ed),

5 the plan or contract is operated as if such plan
6 or contract amendment were in effect, and

7 (B) such plan or contract amendment ap-
8 plies retroactively for such period.

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