

107TH CONGRESS
1ST SESSION

H. R. 155

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. POMEROY (for himself and Mr. KOLBE) 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

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 2001”.

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 the
4 date of the enactment of this Act.

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 the
22 date of the enactment of this Act.

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):

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

“Years of service:	The nonforfeitable percentage is:
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):

“Years of service:	The nonforfeitable percentage is:
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, 2001.

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, 2002, or

19 (B) January 1, 2006.

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 the date of
5 the enactment of this Act.

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 DISTRIBU-**
10 **TIONS FROM DEFINED CONTRIBUTION**
11 **PLANS.**

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 2001.

12 **SEC. 8. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
13 **PURPOSES OF CASH-OUT AMOUNTS.**

14 (a) AMENDMENTS TO 1986 CODE.—

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

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

1 subparagraph, the term ‘rollover contributions’
2 means any rollover contribution under sections
3 402(c), 403(a)(4), 403(b)(8), clause (ii), (iii),
4 or (iv) of 408(d)(3)(A), and 457(e)(16).”.

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions after the date of
 3 the enactment of this Act.

4 **SEC. 9. PURCHASE OF SERVICE CREDIT IN GOVERN-**
 5 **MENTAL DEFINED BENEFIT PLANS.**

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

9 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 10 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 11 amount shall be includible in gross income by reason
 12 of a direct trustee-to-trustee transfer to a defined
 13 benefit governmental plan (as defined in section
 14 414(d)) if such transfer is—

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

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

21 (b) 457 PLANS.—

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

24 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 25 PURCHASE PERMISSIVE SERVICE CREDIT.—No

1 amount shall be includible in gross income by reason
2 of a direct trustee-to-trustee transfer to a defined
3 benefit governmental plan (as defined in section
4 414(d)) if such transfer is—

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

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

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

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to trustee-to-trustee transfers after
18 the date of the enactment of this Act.

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

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

22 (1) such plan or contract shall be treated as
23 being operated in accordance with the terms of the
24 plan during the period described in subsection

25 (b)(2)(A), and

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

6 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

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

15 (B) on or before the last day of the first
16 plan year beginning on or after January 1,
17 2004.

18 In the case of a governmental plan (as defined in
19 section 414(d) of the Internal Revenue Code of
20 1986), this paragraph shall be applied by sub-
21 stituting “2006” for “2004”.

22 (2) CONDITIONS.—This section shall not apply
23 to any amendment unless—

24 (A) during the period—

1 (i) beginning on the date the legisla-
2 tive amendment or guidance described in
3 paragraph (1)(A) takes effect (or in the
4 case of a plan or contract amendment not
5 required by such legislative amendment or
6 guidance, the effective date specified by the
7 plan), and

8 (ii) ending on the date described in
9 paragraph (1)(B) (or, if earlier, the date
10 the plan or contract amendment is
11 adopted),

12 the plan or contract is operated as if such plan
13 or contract amendment were in effect, and

14 (B) such plan or contract amendment ap-
15 plies retroactively for such period.

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