

105TH CONGRESS  
2D SESSION

# S. 2329

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 SENATE OF THE UNITED STATES

JULY 17, 1998

Mr. JEFFORDS (for himself, Mr. BINGAMAN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

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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 1998”.

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)),

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

24 “(iii) in the case of a distribution of  
 25 property other than money, the amount so

1 transferred consists of the property distrib-  
 2 uted,  
 3 then such distribution (to the extent so trans-  
 4 ferred) shall not be includible in gross income  
 5 for the taxable year in which paid.

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

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

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

21 (2) ROLLOVERS TO SECTION 457 PLANS.—

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

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

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

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

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

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

(1) ROLLOVERS FROM SECTION 403(b)  
PLANS.—Section 403(b)(8)(A)(ii) (relating to roll-  
over amounts) is amended by striking “such dis-  
tribution” and all that follows and inserting “such  
distribution to an eligible retirement plan described  
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, and  
8 section 402(d) of the Internal Revenue Code of 1986  
9 (as in effect for taxable years beginning before Jan-  
10 uary 1, 2000), shall not apply to any distribution  
11 from a defined contribution plan (as defined in sec-  
12 tion 408(d)(3)(A) of such Code, as amended by sec-  
13 tion 3) or a defined benefit plan (as so defined) on  
14 behalf of an individual if there was a rollover to such  
15 plan on behalf of such individual which is permitted  
16 solely by reason of any amendment made by this  
17 section.

18 **SEC. 3. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**  
19 **MENT PLANS.**

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

1 “(iv)(I) the entire amount received  
2 (including money and other property) rep-  
3 resents the entire interest in the account  
4 or the entire value of the annuity,

5 “(II) no amount in the account and  
6 no part of the value of the annuity is at-  
7 tributable to any source other than a roll-  
8 over contribution from a defined contribu-  
9 tion plan or a defined benefit plan and any  
10 earnings on such rollover, and

11 “(III) such entire amount received is  
12 paid into a defined contribution plan or a  
13 defined benefit plan (for the benefit of  
14 such individual) not later than the 60th  
15 day after he receives the payment or dis-  
16 tribution; or

17 “(v)(I) the entire amount received (in-  
18 cluding money and other property) rep-  
19 resents the entire interest in the account  
20 or the entire value of the annuity,

21 “(II) no amount in any such account  
22 and no part of the value of any such annu-  
23 ity is attributable to any source other than  
24 a rollover contribution from such an ac-



count or annuity of such individual (and  
any earnings on such contribution),

“(III) all contributions to all individual retirement accounts, and all amounts paid for all individual retirement annuities, of such individual were allowed as a deduction under section 219, and

“(IV) such entire amount received is paid (not later than the 60th day after being so received) into a defined contribution plan or a defined benefit plan (for the benefit of such individual) under which amounts are held in trust by a person described in section 408(a)(2) or in a manner that satisfies section 401(f).

If a payment or distribution from an individual retirement plan is described in more than one clause of this subparagraph, such payment or distribution shall be treated as described only in the clause specified by the payee or distributee. For purposes of this subparagraph, the term ‘defined contribution plan’ means a defined contribution plan (as defined in section 414(i)) which includes a trust exempt from tax under section 501(a), an annuity plan described in

1 section 403(a), an annuity contract described in  
 2 section 403(b), and an eligible deferred com-  
 3 pensation plan described in section 457(b) of an  
 4 eligible employer described in section  
 5 457(e)(1)(A). For purposes of clause (iv)(II),  
 6 the term ‘defined contribution plan’ shall also  
 7 include an eligible deferred compensation plan  
 8 described in section 457(b) of an eligible em-  
 9 ployer described in section 457(e)(1)(B). For  
 10 purposes of this subparagraph, the term ‘de-  
 11 fined benefit plan’ means a defined benefit plan  
 12 (as defined in section 414(j)) which includes a  
 13 trust exempt from tax under section 501(a).”

14 (b) CONFORMING AMENDMENT.—Paragraph (1) of  
 15 section 403(b) is amended by striking “section  
 16 408(d)(3)(A)(iii)” and inserting “clause (iii), (iv), or (v)  
 17 of section 408(d)(3)(A)”.

18 (c) EFFECTIVE DATE; SPECIAL RULE.—

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

22 (2) SPECIAL RULE.—Notwithstanding any other  
 23 provision of law, subsections (h)(3) and (h)(5) of  
 24 section 1122 of the Tax Reform Act of 1986, and  
 25 section 402(d) of the Internal Revenue Code of 1986

1 (as in effect for taxable years beginning before Jan-  
 2 uary 1, 2000), shall not apply to any distribution  
 3 from a defined contribution plan (as defined in sec-  
 4 tion 408(d)(3)(A) of the such Code, as amended by  
 5 this section) or a defined benefit plan (as so defined)  
 6 on behalf of an individual if there was a rollover to  
 7 such plan on behalf of such individual which is per-  
 8 mitted solely by reason of the amendments made by  
 9 this section.

10 **SEC. 4. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

11 (a) IN GENERAL.—

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

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

22 (3) Subparagraph (B) of section 408(d)(3) (re-  
 23 lating to rollover contributions) is amended by strik-  
 24 ing “which was not includible in his gross income

1 because of the application of this paragraph” and in-  
2 serting “to which this paragraph applied”.

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

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

6 “(2) **TRANSFER MUST BE MADE WITHIN 60**  
7 **DAYS OF RECEIPT.**—

8 “(A) **IN GENERAL.**—Except as provided in  
9 subparagraph (B), paragraph (1) shall not  
10 apply to any transfer of a distribution made  
11 after the 60th day following the day on which  
12 the distributee received the property distrib-  
13 uted.

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

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

24 “(H) **WAIVER OF 60-DAY REQUIREMENT.**—

25 The Secretary may waive the 60-day require-

1           ment under subparagraphs (A) and (D) where  
 2           the failure to waive such requirement would be  
 3           against equity or good conscience, including  
 4           casualty, disaster, or other events beyond the  
 5           reasonable control of the individual subject to  
 6           such requirement.”

7           (c) CONFORMING AMENDMENTS.—

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

11          (2) Section 403(b)(8)(A)(ii) (as amended by  
 12          section 301) is amended by striking “section  
 13          402(c)(8)(B)” and inserting “section 402(c)(7)(B)”.

14          (3) Paragraph (16) of section 457(e) (as added  
 15          by section 2) is amended—

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

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

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

25          (d) EFFECTIVE DATE.—

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

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

8 **SEC. 5. EXTENSION OF MISSING PARTICIPANTS PROGRAM**  
 9 **TO MULTIEMPLOYER PLANS.**

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

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

19 (b) CONFORMING AMENDMENT.—Section 206(f) of  
 20 the Employee Retirement Income Security Act of 1974  
 21 (29 U.S.C. 1056(f)) is amended by striking “the plan shall  
 22 provide that”.

23 (c) EFFECTIVE DATE.—The amendments made by  
 24 this section shall apply to distributions made after final  
 25 regulations implementing subsection (c) of section 4050

1 of the Employee Retirement Income Security Act of 1974  
 2 (as added by subsection (a)) are prescribed.

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

6 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE  
 7 FROM EMPLOYMENT.—

8 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)  
 9 (relating to qualified cash or deferred arrangements)  
 10 is amended by striking “separation from service”  
 11 and inserting “severance from employment”.

12 (2) 403(b) CONTRACTS.—

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

16 (B) Paragraph (11) of section 403(b) is  
 17 amended—

18 (i) by striking “SEPARATION FROM  
 19 SERVICE” in the heading and inserting  
 20 “SEVERANCE FROM EMPLOYMENT”, and

21 (ii) by striking “separates from serv-  
 22 ice” and inserting “severs from employ-  
 23 ment”.

24 (3) 457 PLANS.—Clause (ii) of section  
 25 457(d)(1)(A) is amended by striking “is separated

1 from service” and inserting “has a severance from  
2 employment”.

3 (b) BUSINESS SALE REQUIREMENTS DELETED.—

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

8 (2) CONFORMING AMENDMENTS.—Section  
9 401(k)(10) is amended—

10 (A) by striking subparagraph (A) and in-  
11 serting the following:

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

18 (B) in subparagraph (B)—

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

21 (ii) by striking “the event” and insert-  
22 ing “the termination”,

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

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



1       (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to distributions after December 31,  
 3 1998.

4 **SEC. 7. TRANSFeree DEFINED CONTRIBUTION PLAN NEED**  
 5 **NOT HAVE SAME DISTRIBUTION OPTIONS AS**  
 6 **TRANSFEROR DEFINED CONTRIBUTION**  
 7 **PLAN.**

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

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

21               “(i) the forms of distribution pre-  
 22 viously available under the transferor plan  
 23 applied to the account of a participant or  
 24 beneficiary under the transferor plan that  
 25 was transferred from the transferor plan to

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

4 “(ii) the terms of both the transferor  
5 plan and the transferee plan authorize the  
6 transfer described in clause (i),

7 “(iii) the transfer described in clause  
8 (i) was made pursuant to a voluntary elec-  
9 tion by the participant or beneficiary  
10 whose account was transferred to the  
11 transferee plan,

12 “(iv) the election described in clause  
13 (iii) was made after the participant or ben-  
14 eficiary received a notice describing the  
15 consequences of making the election,

16 “(v) if the transferor plan provides for  
17 an annuity as the normal form of distribu-  
18 tion under the plan in accordance with sec-  
19 tion 417, the transfer is made with the  
20 consent of the participant’s spouse (if  
21 any), and such consent meets requirements  
22 similar to the requirements imposed by  
23 section 417(a)(2), and

24 “(vi) the transferee plan allows the  
25 participant or beneficiary described in

1 clause (iii) to receive any distribution to  
2 which the participant or beneficiary is enti-  
3 tled under transferee plan in the form of  
4 a single sum distribution.”.

5 (b) CONFORMING AMENDMENT.—Section 204(g) of  
6 the Employee Retirement Income Security Act of 1974  
7 (29 U.S.C. 1054(g)) is amended by adding at the end the  
8 following new paragraph:

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

17 “(A) the forms of distribution previously avail-  
18 able under the transferor plan applied to the account  
19 of a participant or beneficiary under the transferor  
20 plan that was transferred from the transferor plan  
21 to the transferee plan pursuant to a direct transfer  
22 rather than pursuant to a distribution from the  
23 transferor plan,

1           “(B) the terms of both the transferor plan and  
2           the transferee plan authorize the transfer described  
3           in subparagraph (A),

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

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

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

19          “(F) the transferee plan allows the participant  
20          or beneficiary described in subparagraph (C) to re-  
21          ceive any distribution to which the participant or  
22          beneficiary is entitled under transferee plan in the  
23          form of a single sum distribution.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to transfers after December 31,  
 3 1998.

4 **SEC. 8. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**  
 5 **PURPOSES OF CASH-OUT AMOUNTS.**

6 (a) AMENDMENTS TO 1986 CODE.—

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

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

22 (2) Clause (i) of section 457(e)(9)(A) is amend-  
 23 ed by striking “such amount” and inserting “the  
 24 portion of such amount which is not attributable to

1        rollover contributions (as defined in section  
2        411(a)(11)(D))”.

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

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

17       (c) EFFECTIVE DATE.—The amendments made by  
18       this section shall apply to distributions after December 31,  
19       1998.

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

22       (a) 403(b) PLANS.—Subsection (b) of section 403 is  
23       amended by adding at the end the following new para-  
24       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, 1998.

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                  2001.

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 substitut-  
15           ing “2003” for “2001”.

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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