

108TH CONGRESS  
1ST SESSION

# S. 1912

A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2003

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

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## A BILL

A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms.

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 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Retirement Account Portability Act of 2003”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-  
8 wise expressly provided, whenever in this Act an amend-  
9 ment or repeal is expressed in terms of an amendment  
10 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 (c) TABLE OF CONTENTS.—The table of contents of  
 4 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

#### TITLE I—BUILDING AND PRESERVING RETIREMENT ASSETS AND ENHANCING PORTABILITY

Sec. 101. Allow rollovers by nonspouse beneficiaries of certain retirement plan  
 distributions.

Sec. 102. Facilitation under fiduciary rules of certain rollovers and annuity dis-  
 tributions.

Sec. 103. Faster vesting of employer nonelective contributions.

Sec. 104. Allow rollover of after-tax amounts in annuity contracts.

#### TITLE II—EXPANDING RETIREMENT PLAN COVERAGE TO EMPLOYEES OF SMALL BUSINESSES

Sec. 201. Elimination of higher penalty on certain Simple distributions.

Sec. 202. Simple plan portability.

#### TITLE III—EXPANDING RETIREMENT SAVINGS FOR TAX-EXEMPT ORGANIZATION AND GOVERNMENT EMPLOYEES

Sec. 301. Clarifications regarding purchase of permissive service credit.

Sec. 302. Eligibility for participation in retirement plans.

#### TITLE IV—SIMPLIFICATION AND EQUITY

Sec. 401. Allow direct rollovers from retirement plans to Roth IRAs.

Sec. 402. Transfers to the PBGC.

## 5 **TITLE I—BUILDING AND PRE-** 6 **SERVING RETIREMENT AS-** 7 **SETS AND ENHANCING PORT-** 8 **ABILITY**

### 9 **SEC. 101. ALLOW ROLLOVERS BY NONSPOUSE BENE-** 10 **FICIARIES OF CERTAIN RETIREMENT PLAN** 11 **DISTRIBUTIONS.**

12 (a) IN GENERAL.—

1           (1) QUALIFIED PLANS.—Section 402(c) (relat-  
 2           ing to rollovers from exempt trusts) is amended by  
 3           adding at the end the following new paragraph:

4           “(11) DISTRIBUTIONS TO INHERITED INDIV-  
 5           VIDUAL RETIREMENT PLAN OF NONSPOUSE BENE-  
 6           FICIARY.—

7           “(A) IN GENERAL.—If, with respect to any  
 8           portion of a distribution from an eligible retire-  
 9           ment plan of a deceased employee, a direct  
 10          trustee-to-trustee transfer is made to an indi-  
 11          vidual retirement plan described in clause (i) or  
 12          (ii) of paragraph (8)(B) established for the pur-  
 13          poses of receiving the distribution on behalf of  
 14          an individual who is a designated beneficiary  
 15          (as defined by section 401(a)(9)(E)) of the em-  
 16          ployee and who is not the surviving spouse of  
 17          the employee—

18                 “(i) the transfer shall be treated as an  
 19                 eligible rollover distribution for purposes of  
 20                 this subsection,

21                 “(ii) the individual retirement plan  
 22                 shall be treated as an inherited individual  
 23                 retirement account or individual retirement  
 24                 annuity (within the meaning of section

1                   408(d)(3)(C)) for purposes of this title,  
 2                   and  
 3                   “(iii) section 401(a)(9)(B) (other than  
 4                   clause (iv) thereof) shall apply to such  
 5                   plan.

6                   “(B) CERTAIN TRUSTS TREATED AS BENE-  
 7                   FICIARIES.—For purposes of this paragraph, to  
 8                   the extent provided in rules prescribed by the  
 9                   Secretary, a trust maintained for the benefit of  
 10                  one or more designated beneficiaries shall be  
 11                  treated in the same manner as a trust des-  
 12                  ignated beneficiary.”.

13               (2) SECTION 403(a) PLANS.—Subparagraph (B)  
 14               of section 403(a)(4) (relating to rollover amounts) is  
 15               amended by inserting “and (11)” after “(7)”.

16               (3) SECTION 403(b) PLANS.—Subparagraph (B)  
 17               of section 403(b)(8) (relating to rollover amounts) is  
 18               amended by striking “and (9)” and inserting “, (9),  
 19               and (11)”.

20               (4) SECTION 457 PLANS.—Subparagraph (B) of  
 21               section 457(e)(16) (relating to rollover amounts) is  
 22               amended by striking “and (9)” and inserting “, (9),  
 23               and (11)”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to distributions after December 31,  
 3 2003.

4 **SEC. 102. FACILITATION UNDER FIDUCIARY RULES OF CER-**  
 5 **TAIN ROLLOVERS AND ANNUITY DISTRIBUTIONS.**  
 6

7 (a) IN GENERAL.—Section 404(c) of the Employee  
 8 Retirement Income Security Act of 1974 (29 U.S.C.  
 9 1104(c)) is amended by adding at the end the following  
 10 new paragraph:

11 “(4)(A) In the case of a pension plan which makes  
 12 a transfer under section 401(a)(31)(A) of the Internal  
 13 Revenue Code of 1986 to an individual retirement plan  
 14 (as defined in section 7701(a)(37) of such Code) in con-  
 15 nection with a participant or beneficiary or makes a dis-  
 16 tribution to a participant or beneficiary of an annuity con-  
 17 tract described in subparagraph (B), the participant or  
 18 beneficiary shall, for purposes of paragraph (1), be treated  
 19 as exercising control over the transfer or distribution if—

20 “(i) the participant or beneficiary elected such  
 21 transfer or distribution, and

22 “(ii) in connection with such election, the par-  
 23 ticipant or beneficiary was given an opportunity to  
 24 elect any other individual retirement plan (in the  
 25 case of a transfer) or any other annuity contract de-

1       scribed in subparagraph (B) (in the case of a dis-  
2       tribution).

3       “(B) An annuity contract is described in this sub-  
4       paragraph if it provides, either on an immediate or de-  
5       ferred basis, a series of substantially equal periodic pay-  
6       ments (not less frequently than annually) for the life of  
7       the participant or beneficiary or the joint lives of the par-  
8       ticipant or beneficiary and such individual’s designated  
9       beneficiary. Annuity payments shall not fail to be treated  
10      as part of a series of substantially equal periodic payments  
11      because the amount of the periodic payments may vary  
12      in accordance with investment experience, reallocations  
13      among investment options, actuarial gains or losses, cost  
14      of living indices, or similar fluctuating criteria. The avail-  
15      ability of a commutation benefit, a minimum period of  
16      payments certain, or a minimum amount to be paid in  
17      any event shall not affect the treatment of an annuity con-  
18      tract as an annuity contract described in this subpara-  
19      graph.

20      “(C) Under regulations prescribed by the Secretary,  
21      this paragraph shall apply without regard to whether the  
22      particular individual retirement plan receiving the transfer  
23      or the particular annuity contract being distributed is spe-  
24      cifically identified by the pension plan as available to the  
25      participant or beneficiary.

1       “(D) Notwithstanding the preceding provisions of  
 2 this paragraph, paragraph (1)(B) shall not apply with re-  
 3 spect to liability under section 406 in connection with the  
 4 specific identification of any individual retirement plan or  
 5 annuity contract as being available to the participant or  
 6 beneficiary.”.

7       (b) EFFECTIVE DATE AND RELATED RULES.—

8           (1) EFFECTIVE DATE.—The amendment made  
 9 by this section shall take effect on the date of the  
 10 enactment of this Act.

11          (2) ISSUANCE OF FINAL REGULATIONS.—Final  
 12 regulations under section 404(c)(4) of the Employee  
 13 Retirement Income Security Act of 1974 (added by  
 14 this section) shall be issued no later than 1 year  
 15 after the date of the enactment of this Act.

16 **SEC. 103. FASTER VESTING OF EMPLOYER NONELECTIVE**  
 17 **CONTRIBUTIONS.**

18       (a) AMENDMENTS TO THE INTERNAL REVENUE  
 19 CODE OF 1986.—

20           (1) IN GENERAL.—Paragraph (2) of section  
 21 411(a) (relating to employer contributions) is  
 22 amended to read as follows:

23           “(2) EMPLOYER CONTRIBUTIONS.—

24           “(A) DEFINED BENEFIT PLANS.—

“(i) IN GENERAL.—In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

“(ii) 5-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

“(iii) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee’s accrued benefit derived from employer contributions determined under the following table:

| <b>“Years of service:</b> | <b>The nonforfeitable percentage is:</b> |
|---------------------------|--|
| 3 .....                   | 20                                       |
| 4 .....                   | 40                                       |
| 5 .....                   | 60                                       |
| 6 .....                   | 80                                       |
| 7 or more .....           | 100.                                     |

“(B) DEFINED CONTRIBUTION PLANS.—

“(i) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this paragraph if it



1 satisfies the requirements of clause (ii) or  
 2 (iii).

3 “(ii) 3-YEAR VESTING.—A plan satis-  
 4 fies the requirements of this clause if an  
 5 employee who has completed at least 3  
 6 years of service has a nonforfeitable right  
 7 to 100 percent of the employee’s accrued  
 8 benefit derived from employer contribu-  
 9 tions.

10 “(iii) 2 TO 6 YEAR VESTING.—A plan  
 11 satisfies the requirements of this clause if  
 12 an employee has a nonforfeitable right to  
 13 a percentage of the employee’s accrued  
 14 benefit derived from employer contribu-  
 15 tions determined under the following table:

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

16 (2) CONFORMING AMENDMENT.—Section  
 17 411(a) (relating to general rule for minimum vesting  
 18 standards) is amended by striking paragraph (12).

19 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT  
 20 INCOME SECURITY ACT OF 1974.—

21 (1) IN GENERAL.—Paragraph (2) of section  
 22 203(a) of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to  
 2 read as follows:

3 “(2)(A)(i) In the case of a defined benefit plan,  
 4 a plan satisfies the requirements of this paragraph  
 5 if it satisfies the requirements of clause (ii) or (iii).

6 “(ii) A plan satisfies the requirements of this  
 7 clause if an employee who has completed at least 5  
 8 years of service has a nonforfeitable right to 100  
 9 percent of the employee’s accrued benefit derived  
 10 from employer contributions.

11 “(iii) A plan satisfies the requirements of this  
 12 clause if an employee has a nonforfeitable right to  
 13 a percentage of the employee’s accrued benefit de-  
 14 rived from employer contributions determined under  
 15 the following table:

| <b>“Years of service:</b> | <b>The nonforfeitable<br/>percentage is:</b> |
|---------------------------|--|
| 3 .....                   | 20   |
| 4 .....                   | 40   |
| 5 .....                   | 60   |
| 6 .....                   | 80   |
| 7 or more .....           | 100.   |

16 “(B)(i) In the case of an individual account  
 17 plan, a plan satisfies the requirements of this para-  
 18 graph if it satisfies the requirements of clause (ii) or  
 19 (iii).

20 “(ii) A plan satisfies the requirements of this  
 21 clause if an employee who has completed at least 3  
 22 years of service has a nonforfeitable right to 100

1 percent of the employee's accrued benefit derived  
2 from employer contributions.

3 “(iii) A plan satisfies the requirements of this  
4 clause if an employee has a nonforfeitable right to  
5 a percentage of the employee's accrued benefit de-  
6 rived from employer contributions determined under  
7 the following table:

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

8 (2) CONFORMING AMENDMENT.—Section  
9 203(a) of such Act is amended by striking para-  
10 graph (4).

11 (c) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to contributions for plan years beginning  
15 after December 31, 2003.

16 (2) COLLECTIVE BARGAINING AGREEMENTS.—  
17 In the case of a plan maintained pursuant to one or  
18 more collective bargaining agreements between em-  
19 ployee representatives and one or more employers  
20 ratified before the date of the enactment of this Act,  
21 the amendments made by this section shall not apply  
22 to contributions on behalf of employees covered by

1 any such agreement for plan years beginning before  
2 the earlier of—

3 (A) the later of—

4 (i) the date on which the last of such  
5 collective bargaining agreements termi-  
6 nates (determined without regard to any  
7 extension thereof on or after such date of  
8 the enactment); or

9 (ii) January 1, 2004; or

10 (B) January 1, 2006.

11 (3) SERVICE REQUIRED.—With respect to any  
12 plan, the amendments made by this section shall not  
13 apply to any employee before the date that such em-  
14 ployee has 1 hour of service under such plan in any  
15 plan year to which the amendments made by this  
16 section apply.

17 **SEC. 104. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN**  
18 **ANNUITY CONTRACTS.**

19 (a) IN GENERAL.—Subparagraph (A) of section  
20 402(c)(2) (maximum amount which may be rolled over)  
21 is amended by striking “and which” and inserting “or to  
22 an annuity contract described in section 403(b) and such  
23 plan or contract”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to taxable years beginning after  
 3 December 31, 2003.

4 **TITLE II—EXPANDING RETIRE-**  
 5 **MENT PLAN COVERAGE TO**  
 6 **EMPLOYEES OF SMALL BUSI-**  
 7 **NESSES**

8 **SEC. 201. ELIMINATION OF HIGHER PENALTY ON CERTAIN**  
 9 **SIMPLE DISTRIBUTIONS.**

10 (a) IN GENERAL.—Subsection (t) of section 72 (re-  
 11 lating to 10-percent additional tax on early distributions  
 12 from qualified retirement plans) is amended by striking  
 13 paragraph (6) and redesignating paragraphs (7), (8), and  
 14 (9) as paragraphs (6), (7), and (8), respectively.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 72(t)(2)(E) is amended by striking  
 17 “paragraph (7)” and inserting “paragraph (6)”.

18 (2) Section 72(t)(2)(F) is amended by striking  
 19 “paragraph (8)” and inserting “paragraph (7)”.

20 (3) Section 408(d)(3)(G) is amended by strik-  
 21 ing “applies” and inserting “applied on the day be-  
 22 fore the date of the enactment of the Retirement Ac-  
 23 count Portability Act of 2003)”.

24 (4) Section 457(a)(2) is amended by striking  
 25 “section 72(t)(9)” and inserting “section 72(t)(8)”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to years beginning after December  
3 31, 2003.

4 **SEC. 202. SIMPLE PLAN PORTABILITY.**

5       (a) REPEAL OF LIMITATION.—Paragraph (3) of sec-  
6 tion 408(d) (relating to rollover contributions), as amend-  
7 ed by this Act, is amended by striking subparagraph (G)  
8 and redesignating subparagraph (H) as subparagraph  
9 (G).

10       (b) Section 402(c)(8)(B) is amended by adding at the  
11 end the following new sentence: “Individual retirement ac-  
12 counts and individual retirement annuities described in  
13 clauses (i) and (ii) shall be treated as eligible retirement  
14 plans without regard to whether they are part of a sim-  
15 plified employee pension (within the meaning of section  
16 408(k)) or a simplified retirement account (within the  
17 meaning of section 408(p)).”.

18       (c) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to years beginning after December  
20 31, 2003.

1 **TITLE III—EXPANDING RETIRE-**  
 2 **MENT SAVINGS FOR TAX-EX-**  
 3 **EMPT ORGANIZATION AND**  
 4 **GOVERNMENT EMPLOYEES**

5 **SEC. 301. CLARIFICATIONS REGARDING PURCHASE OF PER-**  
 6 **MISSIVE SERVICE CREDIT.**

7 (a) IN GENERAL.—Subparagraph (A) of section  
 8 457(e)(17) (relating to trustee-to-trustee transfers to pur-  
 9 chase permissive service credit), and subparagraph (A) of  
 10 section 403(b)(13) (relating to trustee-to-trustee transfers  
 11 to purchase permissive service credit), are both amended  
 12 by striking “section 415(n)(3)(A)” and inserting “section  
 13 415(n)(3) (without regard to subparagraphs (B) and (C)  
 14 thereof)”.

15 (b) DISTRIBUTION REQUIREMENTS.—Section  
 16 457(e)(17) and section 403(b)(13) are both amended by  
 17 adding at the end the following sentence: “Amounts trans-  
 18 ferred under this paragraph shall be distributed solely in  
 19 accordance with section 401(a) as applicable to such de-  
 20 fined benefit plan.”.

21 (c) SERVICE CREDIT.—Clause (ii) of section  
 22 415(n)(3)(A) is amended to read as follows:

23 “(ii) which relates to benefits with re-  
 24 spect to which such participant is not oth-  
 25 erwise entitled, and”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall take effect as if included in the amend-  
 3 ments made by section 647 of the Economic Growth and  
 4 Tax Relief Reconciliation Act of 2001.

5 **SEC. 302. ELIGIBILITY FOR PARTICIPATION IN RETIRE-**  
 6 **MENT PLANS.**

7 An individual shall not be precluded from partici-  
 8 pating in an eligible deferred compensation plan by reason  
 9 of having received a distribution under section 457(e)(9)  
 10 of the Internal Revenue Code of 1986, as in effect prior  
 11 to the enactment of the Small Business Job Protection  
 12 Act of 1996.

13 **TITLE IV—SIMPLIFICATION AND**  
 14 **EQUITY**

15 **SEC. 401. ALLOW DIRECT ROLLOVERS FROM RETIREMENT**  
 16 **PLANS TO ROTH IRAS.**

17 (a) IN GENERAL.—Subsection (e) of section 408A  
 18 (defining qualified rollover contribution) is amended to  
 19 read as follows:

20 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For  
 21 purposes of this section, the term ‘qualified rollover con-  
 22 tribution’ means a rollover contribution—

23 “(1) to a Roth IRA from another such account,  
 24 “(2) from an eligible retirement plan, but only  
 25 if—



1           “(A) in the case of an individual retire-  
 2           ment plan, such rollover contribution meets the  
 3           requirements of section 408(d)(3), and

4           “(B) in the case of any eligible retirement  
 5           plan (as defined in section 402(c)(8)(B) other  
 6           than clauses (i) and (ii) thereof), such rollover  
 7           contribution meets the requirements of section  
 8           402(c), 403(b)(8), or 457(e)(16), as applicable.

9   For purposes of section 408(d)(3)(B), there shall be dis-  
 10 regarded any qualified rollover contribution from an indi-  
 11 vidual retirement plan (other than a Roth IRA) to a Roth  
 12 IRA.”.

13       (b) CONFORMING AMENDMENTS.—

14       (1) Section 408A(c)(3)(B) is amended—

15           (A) in the text by striking “individual re-  
 16           tirement plan” and inserting “an eligible retire-  
 17           ment plan (as defined by section  
 18           402(c)(8)(B))”, and

19           (B) in the heading by striking “IRA” and  
 20           inserting “ELIGIBLE RETIREMENT PLAN”.

21       (2) Section 408A(d)(3) is amended—

22           (A) in subparagraph (A) by striking “sec-  
 23           tion 408(d)(3)” inserting “sections 402(c),  
 24           403(b)(8), 408(d)(3), and 457(e)(16)”,

1 (B) in subparagraph (B) by striking “indi-  
 2 vidual retirement plan” and inserting “eligible  
 3 retirement plan (as defined by section  
 4 402(c)(8)(B))”,

5 (C) in subparagraph (D) by striking “or  
 6 6047” after “408(i)”,

7 (D) in subparagraph (D) by striking “or  
 8 both” and inserting “persons subject to section  
 9 6047(d)(1), or all of the foregoing persons”,  
 10 and

11 (E) in the heading by striking “IRA” and  
 12 inserting “ELIGIBLE RETIREMENT PLAN”.

13 (c) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to distributions after December 31,  
 15 2003.

16 **SEC. 402. TRANSFERS TO THE PBGC.**

17 (a) MANDATORY DISTRIBUTIONS TO PBGC.—Clause  
 18 (i) of section 401(a)(31)(B) (relating to general rule for  
 19 certain mandatory distributions) is amended by inserting  
 20 “to the Pension Benefit Guaranty Corporation in accord-  
 21 ance with section 4050(e) of the Employee Retirement In-  
 22 come Security Act of 1974 or” after “such transfer”.

23 (b) TAX TREATMENT OF DISTRIBUTIONS.—Subpara-  
 24 graph (B) of section 401(a)(31) is amended by adding at  
 25 the end the following new clause:

1 “(iii) INCOME TAX TREATMENT OF  
 2 TRANSFERS TO PBGC.—For purposes of  
 3 determining the income tax treatment re-  
 4 lating to transfers to the Pension Benefit  
 5 Guaranty Corporation under clause (i)—

6 “(I) the transfer of amounts to  
 7 the Pension Benefit Guaranty Cor-  
 8 poration pursuant to clause (i) shall  
 9 be treated as a transfer to an indi-  
 10 vidual retirement plan under such  
 11 clause, and

12 “(II) the distribution of such  
 13 amounts from the Pension Benefit  
 14 Guaranty Corporation shall be treated  
 15 as a distribution from an individual  
 16 retirement plan.”.

17 (c) MISSING PARTICIPANTS AND BENEFICIARIES.—

18 (1) IN GENERAL.—Section 4050 of the Em-  
 19 ployee Retirement Income Security Act of 1974 (29  
 20 U.S.C. 1350) is amended by redesignating sub-  
 21 section (c) as subsection (f) and by inserting after  
 22 subsection (b) the following new subsections:

23 “(c) MULTIEMPLOYER PLANS.—The corporation  
 24 shall prescribe rules similar to the rules in subsection (a)

1 for multiemployer plans covered by this title that termi-  
 2 nate under section 4041A.

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

4 “(1) TRANSFER TO CORPORATION.—The plan  
 5 administrator of a plan described in paragraph (4)  
 6 may elect to transfer the benefits of a missing par-  
 7 ticipant or beneficiary to the corporation upon ter-  
 8 mination of the plan.

9 “(2) INFORMATION TO THE CORPORATION.—To  
 10 the extent provided in regulations, the plan adminis-  
 11 trator of a plan described in paragraph (4) shall,  
 12 upon termination of the plan, provide the corpora-  
 13 tion information with respect to benefits of a miss-  
 14 ing participant or beneficiary if the plan transfers  
 15 such benefits—

16 “(A) to the corporation, or

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

19 “(3) PAYMENT BY THE CORPORATION.—If ben-  
 20 efits of a missing participant or beneficiary were  
 21 transferred to the corporation under paragraph (1),  
 22 the corporation shall, upon location of the partici-  
 23 pant or beneficiary, pay to the participant or bene-  
 24 ficiary the amount transferred (or the appropriate  
 25 survivor benefit) either—

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

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

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

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

8 “(i) to which the provisions of this  
9 section do not apply (without regard to  
10 this subsection), and

11 “(ii) which is not a plan described in  
12 paragraphs (2) through (11) of section  
13 4021(b), and

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

16 “(i) has one or more missing partici-  
17 pants or beneficiaries, and

18 “(ii) has not provided for the transfer  
19 of assets to pay the benefits of all missing  
20 participants and beneficiaries to another  
21 pension plan (within the meaning of sec-  
22 tion 3(2)).

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

1 “(e) INVOLUNTARY CASHOUTS.—

2 “(1) PAYMENT BY THE CORPORATION.—If ben-  
 3 efits under a plan described in paragraph (2) were  
 4 transferred to the corporation under section  
 5 401(a)(31)(B) of the Internal Revenue Code of  
 6 1986, the corporation shall, upon application filed by  
 7 the participant or beneficiary with the corporation in  
 8 such form and manner as may be prescribed in regu-  
 9 lations of the corporation, pay to the participant or  
 10 beneficiary the amount transferred (or the appro-  
 11 priate survivor benefit) either—

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

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

15 “(2) INFORMATION TO THE CORPORATION.—To  
 16 the extent provided in regulations, the plan adminis-  
 17 trator of a plan described in paragraph (3) shall,  
 18 upon transferred to the corporation under section  
 19 401(a)(31)(B) of such Code, provide the corporation  
 20 information with respect to benefits of the partici-  
 21 pant or beneficiary so transferred.

22 “(3) PLANS DESCRIBED.—A plan is described  
 23 in this paragraph if the plan is a pension plan (with-  
 24 in the meaning of section 3(2))—

1           “(A) which provides for mandatory dis-  
 2           tributions under section 401(a)(31)(B) of the  
 3           Internal Revenue Code of 1986, and

4           “(B) which is not a plan described in para-  
 5           graphs (2) through (11) of section 4021(b).

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

9           (2) CONFORMING AMENDMENTS.—Section  
 10          206(f) of such Act (29 U.S.C. 1056(f)) is amend-  
 11          ed—

12                 (A) by striking “title IV” and inserting  
 13                 “section 4050”; and

14                 (B) by striking “the plan shall provide  
 15                 that,”.

16          (d) EFFECTIVE DATE.—

17                 (1) INTERNAL REVENUE CODE OF 1986 PROVI-  
 18                 SIONS.—The amendments made by subsections (a)  
 19                 and (b) shall take effect as if included in the amend-  
 20                 ments made by section 657 of the Economic Growth  
 21                 and Tax Relief Reconciliation Act of 2001.

22                 (2) EMPLOYEE RETIREMENT INCOME SECURITY  
 23                 ACT OF 1974 PROVISIONS.—The amendments made  
 24                 by subsection (c) shall apply to distributions made  
 25                 after final regulations implementing subsections (c),

1 (d), and (e) of section 4050 of the Employee Retire-  
2 ment Income Security Act of 1974 (as added by sub-  
3 section (c)), respectively, are prescribed.

4 (3) REGULATIONS.—The Pension Benefit Guar-  
5 anty Corporation shall issue regulations necessary to  
6 carry out the amendments made by subsection (c)  
7 not later than December 31, 2004.

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