

105TH CONGRESS
2D SESSION

H. R. 3101

To amend the Internal Revenue Code of 1986 to require faster vesting of employer contributions to defined benefit plans, to require employer plans to permit rollovers to individual retirement accounts on an employee's separation from service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1998

Mr. NEAL of Massachusetts 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 require faster vesting of employer contributions to defined benefit plans, to require employer plans to permit rollovers to individual retirement accounts on an employee's separation from service, 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.**

4 This Act may be cited as the "Pension Improvement
5 Act of 1998".

1 **SEC. 2. FASTER VESTING FOR EMPLOYER CONTRIBUTIONS**
2 **TO DEFINED CONTRIBUTION PLANS.**

3 (a) AMENDMENTS TO INTERNAL REVENUE CODE.—

4 (1) IN GENERAL.—Paragraph (2) of section
5 411(a) of the Internal Revenue Code of 1986 (relat-
6 ing to minimum vesting standards), as amended by
7 paragraph (2), is amended by adding at the end the
8 following new subparagraph:

9 “(B) DEFINED CONTRIBUTION PLANS.—A
10 defined contribution plan satisfies the require-
11 ments of this subparagraph if the plan satisfies
12 the requirements of clause (i) or (ii).

13 “(i) 3-YEAR VESTING.—A plan satis-
14 fies the requirements of this clause if an
15 employee who has completed at least 3
16 years of service has a nonforfeitable right
17 to 100 percent of the employee’s accrued
18 benefit derived from employer contribu-
19 tions.

20 “(ii) 5-YEAR VESTING.—A plan satis-
21 fies the requirements of this clause if an
22 employee has a nonforfeitable right to a
23 percentage of the employee’s accrued bene-
24 fit derived from employer contributions de-
25 termined under the following table:

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.”.

1 (2) CONFORMING AMENDMENTS.—Paragraph
2 (2) of section 411(a) of such Code (as in effect be-
3 fore the amendment made by paragraph (1)) is
4 amended—

5 (A) by redesignating subparagraphs (A)
6 and (B) as clauses (i) and (ii),

7 (B) by striking the material preceding
8 clause (i) (as so redesignated) and inserting the
9 following:

10 “(2) EMPLOYER CONTRIBUTIONS.—

11 “(A) DEFINED BENEFIT PLANS.—A de-
12 fined benefit plan satisfies the requirements of
13 this subparagraph if the plan satisfies the re-
14 quirements of clause (i) or (ii).”, and

15 (C) in clauses (i) and (ii) (as so redesign-
16 ated), by striking “subparagraph” and insert-
17 ing “clause”.

18 (b) AMENDMENTS TO ERISA.—

19 (1) IN GENERAL.—Paragraph (2) of section
20 203(a) of the Employee Retirement Income Security
21 Act of 1974 (29 U.S.C. 1053(a)), as amended by

1 paragraph (2), is amended by adding at the end the
 2 following new subparagraph:

3 “(B) A defined contribution plan satisfies the
 4 requirements of this subparagraph if the plan satis-
 5 fies the requirements of clause (i) or (ii).

6 “(i) A plan satisfies the requirements of
 7 this clause if an employee who has completed at
 8 least 3 years of service has a nonforfeitable
 9 right to 100 percent of the employee’s accrued
 10 benefit derived from employer contributions.

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

“Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.”.

16 (2) CONFORMING AMENDMENTS.—Paragraph
 17 (2) of section 203(a) of such Act (as in effect before
 18 the amendment made by paragraph (1)) is amend-
 19 ed—

20 (A) by redesignating subparagraphs (A)
 21 and (B) as clauses (i) and (ii),

1 (B) by striking the material preceding
2 clause (i) (as so redesignated) and inserting the
3 following:

4 “(2)(A) A defined benefit plan satisfies the re-
5 quirements of this subparagraph if the plan satisfies
6 the requirements of clause (i) or (ii).”, and

7 (C) in clauses (i) and (ii) (as so redesign-
8 ated), by striking “subparagraph” and insert-
9 ing “clause”.

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall apply to contributions for plan years beginning
14 after December 31, 1998.

15 (2) COLLECTIVE BARGAINING AGREEMENTS.—

16 In the case of a plan maintained pursuant to 1 or
17 more collective bargaining agreements between em-
18 ployee representatives and 1 or more employers rati-
19 fied by the date of the enactment of this Act, the
20 amendments made by this section shall not apply to
21 contributions on behalf of employees covered by any
22 such agreement for plan years beginning before the
23 earlier of—

24 (A) the later of—

1 (i) the date on which the last of such
2 collective bargaining agreements termi-
3 nates (determined without regard to any
4 extension thereof on or after such date of
5 enactment), or

6 (ii) January 1, 1999, or

7 (B) January 1, 2003.

8 **SEC. 3. EMPLOYERS REQUIRED TO PERMIT ROLLOVERS TO**
9 **INDIVIDUAL RETIREMENT PLANS WITHIN 3**
10 **MONTHS AFTER SEPARATION FROM SERVICE.**

11 (a) IN GENERAL.—Subsection (a) of section 401 of
12 the Internal Revenue Code of 1986 (relating to qualified
13 pension, profit-sharing, and stock bonus plans) is amend-
14 ed by inserting after paragraph (34) the following new
15 paragraph:

16 “(35) ROLLOVERS REQUIRED TO BE PER-
17 MITTED AFTER SEPARATION FROM SERVICE.—

18 “(A) IN GENERAL.—A trust shall not con-
19 stitute a qualified trust under this section un-
20 less the plan of which such trust is a part pro-
21 vides that—

22 “(i) each employee is entitled to elect
23 that an eligible rollover distribution be
24 made to a individual retirement plan dur-
25 ing the 90-day period beginning on the

1 date the employee separates from service
2 with the employer, and

3 “(ii) if such election is made and the
4 employee specifies the individual retire-
5 ment plan to which such distribution is to
6 be paid (in such form and at such time as
7 the plan administrator may prescribe),
8 such plan will make such distribution dur-
9 ing such period.

10 “(B) LIMITATION.—Subparagraph (A)
11 shall apply only to the extent that the eligible
12 rollover distribution—

13 “(i) would be includible in gross in-
14 come if not transferred as provided in sub-
15 paragraph (A) (determined without regard
16 to sections 402(c) and 403(a)(4)), and

17 “(ii) consists of not less than substan-
18 tially all of the portion of the balance to
19 the credit of the employee which would be
20 so includible.”

21 (b) 25-PERCENT ADDITIONAL TAX ON DISTRIBU-
22 TIONS WITHIN 2 YEARS AFTER ROLLOVER.—Subsection
23 (t) of section 72 of such Code (relating to 10-percent addi-
24 tional tax on early distributions from qualified retirement

1 plans) is amended by adding at the end the following new
2 paragraph:

3 “(9) 25-PERCENT ADDITIONAL TAX ON DIS-
4 TRIBUTIONS WITHIN 2 YEARS AFTER ROLLOVER
5 AFTER SEPARATION FROM SERVICE.—In the case of
6 an individual retirement plan to which a rollover de-
7 scribed in section 401(a)(35)(A) is made—

8 “(A) IN GENERAL.—During the 2-year pe-
9 riod beginning on the date that the rollover (re-
10 ferred to in such section) is paid into the plan,
11 paragraph (1) shall be applied by substituting
12 ‘25 percent’ for ‘10 percent’.

13 “(B) COMMINGLING NOT PERMITTED.—

14 “(i) Section 408(d)(3) shall not apply
15 to any amount received by an individual
16 from such plan (and no amount trans-
17 ferred from such plan to another individual
18 retirement plan shall be excluded from
19 gross income by reason of such transfer).

20 “(ii) Such plan shall not be treated as
21 an individual retirement plan for purposes
22 of determining whether any other amount
23 is a rollover contribution.”.

24 (c) EXCEPTION FROM INCOME TAX WITHHOLD-
25 ING.—Paragraph (2) of section 3405(c) of such Code is

1 amended by striking “section 401(a)(31)(A)” and insert-
2 ing “paragraph (31)(A) or (35)(A) of section 401(a)”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to employees who separate from
5 service after December 31, 1998.

6 **SEC. 4. PENALTY-FREE DISTRIBUTIONS FROM INDIVIDUAL**
7 **RETIREMENT PLANS TO UNEMPLOYED INDI-**
8 **VIDUALS.**

9 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
10 the Internal Revenue Code of 1986 is amended by adding
11 at the end the following new subparagraph:

12 “(G) DISTRIBUTIONS TO UNEMPLOYED IN-
13 DIVIDUALS.—A distribution from an individual
14 retirement plan to an individual after separa-
15 tion from employment, if—

16 “(i) such individual has received un-
17 employment compensation for 12 consecu-
18 tive weeks under any Federal or State un-
19 employment compensation law by reason of
20 such separation, and

21 “(ii) such distributions are made dur-
22 ing any taxable year during which such un-
23 employment compensation is paid or the
24 succeeding taxable year.

1 To the extent provided in regulations, a self-em-
2 ployed individual shall be treated as meeting
3 the requirements of clause (i) if, under Federal
4 or State law, the individual would have received
5 unemployment compensation but for the fact
6 the individual was self-employed.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to distributions after December
9 31, 1998.

10 **SEC. 5. INVOLUNTARY CASH-OUTS PERMITTED ONLY IF**
11 **DISTRIBUTION ROLLED TO AN IRA.**

12 (a) AMENDMENTS TO INTERNAL REVENUE CODE.—

13 (1) VESTING.—Paragraph (11) of section
14 411(a) of the Internal Revenue Code of 1986 (relat-
15 ing to restrictions on certain mandatory distribu-
16 tions) is amended by redesignating subparagraphs
17 (B) and (C) as subparagraphs (C) and (D), respec-
18 tively, and by inserting after subparagraph (A) the
19 following new subparagraph:

20 “(B) ROLLOVER REQUIRED IF PRESENT
21 VALUE OF BENEFIT BELOW THRESHOLD.—If
22 the present value of any nonforfeitable accrued
23 benefit does not exceed \$5,000, a plan meets
24 the requirements of this paragraph only if such
25 plan provides that such benefit (to the extent

1 the distribution of such benefit is otherwise in-
2 cludible in gross income) may be immediately
3 distributed only in a trustee-to-trustee transfer
4 to an individual retirement plan of such individ-
5 ual which is specified by such individual.”.

6 (2) JOINT AND SURVIVOR ANNUITIES.—The
7 first sentence of section 417(e)(1) of such Code is
8 amended to read as follows: “If the present value of
9 a qualified joint and survivor annuity or a qualified
10 preretirement survivor annuity under a plan does
11 not exceed the dollar limit under section
12 411(a)(11)(A), the plan may provide that such value
13 (to the extent the distribution of such value is other-
14 wise includible in gross income) will be immediately
15 distributed but only if the participant and the
16 spouse of the participant (or where the participant
17 has died, the surviving spouse) designate 1 or more
18 individual retirement plans of any such individual to
19 receive such distribution and such distribution is
20 made in a trustee-to-trustee transfer in accordance
21 with such designation.”.

22 (3) SECTION 457 PLANS.—Subparagraph (A) of
23 section 457(e)(9) of such Code is amended by add-
24 ing at the end the following new sentence: “This
25 paragraph shall apply only if the amount (to the ex-

1 tent the distribution of such amount is otherwise in-
2 cludible in gross income) is distributed in a trustee-
3 to-trustee transfer to an individual retirement plan
4 of such individual which is specified by such individ-
5 ual.”.

6 (4) 25-PERCENT ADDITIONAL TAX ON DIS-
7 TRIBUTIONS WITHIN 2 YEARS AFTER CASHOUT
8 ROLLOVER.—Subsection (t) of section 72 of such
9 Code (relating to 10-percent additional tax on early
10 distributions from qualified retirement plans) is
11 amended by adding at the end the following new
12 paragraph:

13 “(10) 25-PERCENT ADDITIONAL TAX ON DIS-
14 TRIBUTIONS WITHIN 2 YEARS AFTER CASHOUT
15 ROLLOVER.—

16 “(A) IN GENERAL.—In the case of any
17 trustee-to-trustee transfer described in section
18 411(a)(11), 417(e)(1), or 457(e)(9) to an indi-
19 vidual retirement plan, during the 2-year period
20 beginning on the date that such transfer is
21 made to such plan, paragraph (1) shall be ap-
22 plied by substituting ‘25 percent’ for ‘10 per-
23 cent’.

24 “(B) COMMINGLING NOT PERMITTED.—In
25 the case of a individual retirement plan to

1 which there is a rollover described in subpara-
2 graph (A)—

3 “(i) section 408(d)(3) shall not apply
4 to any amount received by an individual
5 from such plan (and no amount trans-
6 ferred from such plan to another individual
7 retirement plan shall be excluded from
8 gross income by reason of such transfer),
9 and

10 “(ii) such plan shall not be treated as
11 an individual retirement plan for purposes
12 of determining whether any other amount
13 is a rollover contribution.”.

14 (5) EXCEPTION FROM INCOME TAX WITHHOLD-
15 ING.—Paragraph (2) of section 3405(c) of such
16 Code is amended by inserting before the period “or
17 if the distribution is a trustee-to-trustee transfer de-
18 scribed in section 411(a)(11), 417(e)(1), or
19 457(e)(9)”.

20 (b) AMENDMENTS TO ERISA.—

21 (1) VESTING.—

22 (A) Subsection (e) of section 203 of Em-
23 ployee Retirement Income Security Act of 1974
24 is amended by redesignating paragraphs (2)
25 and (3) as paragraphs (3) and (4), respectively,

1 and by inserting after paragraph (1) the follow-
2 ing new paragraph:

3 “(2) If the present value of any nonforfeitable benefit
4 with respect to a participant in a plan does not exceed
5 \$5,000, the plan shall provide that such benefit (to the
6 extent the distribution of such benefit is otherwise includ-
7 ible in gross income) may be immediately distributed only
8 in a trustee-to-trustee transfer to an individual retirement
9 plan of such individual which is specified by such individ-
10 ual.”.

11 (B) Paragraph (3) of section 203(e) of
12 such Act, as redesignated by subparagraph (A),
13 is amended by striking “paragraph (1)” and in-
14 serting “paragraphs (1) and (2)”.

15 (2) JOINT AND SURVIVOR ANNUITIES.—The
16 first sentence of section 205(g)(1) of such Act is
17 amended to read as follows: “If the present value of
18 a qualified joint and survivor annuity or a qualified
19 preretirement survivor annuity under a plan does
20 not exceed the dollar limit under section 203(e)(1),
21 the plan may provide that such value (to the extent
22 the distribution of such value is otherwise includible
23 in gross income) will be immediately distributed but
24 only if the participant and the spouse of the partici-
25 pant (or where the participant has died, the surviv-

1 ing spouse) designate 1 or more individual retire-
2 ment plans of any such individual to receive such
3 distribution and such distribution is made in a trust-
4 ee-to-trustee transfer in accordance with such des-
5 ignation.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to plan years beginning after De-
8 cember 31, 1998.

○