MEMO# 9797

March 26, 1998

BILL TO ENHANCE RETIREMENT ACCOUNT PORTABILITY FILED

[9797] March 26, 1998 TO: PENSION COMMITTEE No. 17-98 RE: BILL TO ENHANCE RETIREMENT ACCOUNT PORTABILITY FILED

Representatives Earl Pomeroy (D-ND) and Jim Kolbe (R-AZ), with other co-sponsors, recently filed H.R. 3503, the "Retirement Account Portability Act of 1998." The core provisions of the bill would enable individuals to move retirement account assets among different retirement plan vehicles as they move from one employer to another. Thus, the bill would permit individuals to roll over assets to and from 401(k) plans, 403(b) accounts or section 457 plans sponsored by state and local government employers. The bill also would allow individuals to roll deductible IRA assets into these employer- sponsored plans. The Institute has been an advocate for enabling such portability among varying plan types. Specifically, the bill includes the following provisions: 1. Rollovers Among Various Types of Employer-Sponsored Retirement Plans The bill would amend the Internal Revenue Code to treat rollover distributions from government-sponsored 457 plans as "eligible rollover distributions" under section 402(c)(4) and also treat such 457 plans as "eligible retirement plans" into which eligible rollover distributions may be made under section 402(c)(8)(B). The bill similarly would permit the distribution of 403(b) assets to an eligible retirement plan and the rollover of "eligible rollover distributions" from other plan types into a 403(b) account. Section 402(f) notices would be required to include an explanation of the different distribution rules to which account assets may be subject when rolled into a different type of plan. 2. Rollovers of IRAs to Employer-Sponsored Retirement Plans The bill would (1) expand the conduit IRA rules to enable the rollover of IRA assets the source of which is a defined contribution plan, 403(b) account or 457 plan into any other such plan and (2) permit the rollover of deductible IRA assets into such plans. 3. Rollovers of After-Tax Contributions The bill would permit the rollover of any part of a distribution attributed to after-tax contributions into another plan if the amount is reported by the distributing trustee and the plan into which it is paid agrees to report the amount in any subsequent distribution. 4. Faster Vesting of Employer Matching Contributions The bill would require employer matching contributions be vested either 100% upon three years of service or gradually vested over six years. 5. Extension of Missing Participants Program to Defined Contribution Plans The bill would expand the Pension Benefit Guaranty Corporation's Missing Participant Program to sponsors of defined contribution plans and multi-employer defined benefit plans. Under the program, plan sponsors may elect to transfer benefits of former employees whom they are unable to locate to the PBGC, which then attempts to locate them. 6. Waiver of 60-Day Rollover Period The bill would waive the 60-day rollover period for individuals who fail to meet the 60-day deadline in cases of natural disaster or military service. 7. Modification of the "Same Desk" Rule Under current law, when a business is sold, but an employee continues to work in the same job for the new employer, funds in certain defined contribution plans cannot be transferred to the new employer's plan. The bill would permit such transfers after a corporate sale by changing the relevant statutory language to permit distributions upon "severance from employment" rather than "separation from service." The bill would also delete the business sale requirements at sections 401(k)(2)B) and 401(k)(10). 8. Relief From Anti-Cutback Rules For Individuals Transferring Assets Between Defined Contribution Plans The bill would permit the transfer of assets from one defined contribution plan to another, regardless of the fact that the new plan may not have the same benefit options as the old plan. Such transfers could be made only pursuant to the voluntary election of a participant after receiving a notice describing the consequences of the election. If the plan from which assets would be transferred is subject to joint and survivor annuity requirements, the transfer could be made only with spousal consent. Finally, the plan into which the assets are transferred would be required to provide a single sum distribution benefit option. 9. Modification of the $5,000 Cashout Rule Employers under current law may cash out the accrued, vested retirement benefits of terminated employees where those amounts are valued at less than $5,000. The bill would provide that employers need not take into account rollover contributions into their plans when determining whether accrued, vested benefits exceed the $5,000 threshold. Russell G. Galer Senior Counsel Attachment

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