

105TH CONGRESS
1ST SESSION

H. R. 509

To protect the retirement security of Americans.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1997

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Government Reform and Oversight, and Transportation and Infrastructure, 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 protect the retirement security of Americans.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Retirement Protection Act of 1997”.

6 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO ERISA REPORTING AND DISCLOSURE PROVISIONS

Sec. 101. Requirement for annual report.

Sec. 102. Effective date.

TITLE II—PUBLIC EMPLOYEE PENSION PLAN LIABILITY

- Sec. 201. Reporting and disclosure requirements.
 Sec. 202. Civil enforcement relating to public employee pension plans.
 Sec. 203. Review by qualified review boards of changes in employer contributions.
 Sec. 204. Effect on other laws.
 Sec. 205. Definitions and coverage.
 Sec. 206. Effective date.

TITLE III—WOMEN'S PENSION EQUITY

- Sec. 301. Model spousal consent form and qualified domestic relations order.
 Sec. 302. Extension of Tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
 Sec. 303. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under Civil Service Retirement System.
 Sec. 304. Court orders relating to Federal retirement benefits for former spouses of Federal employees.
 Sec. 305. Prevention of circumvention of court order by waiver of retired pay to enhance civil service retirement annuity.

TITLE IV—EMPLOYER REVERSIONS

- Sec. 401. Increase in excise tax on reversions.
 Sec. 402. Reversion report.

1 **TITLE I—AMENDMENTS TO**
 2 **ERISA REPORTING AND DIS-**
 3 **CLOSURE PROVISIONS**

4 **SEC. 101. REQUIREMENT FOR ANNUAL REPORT.**

5 (a) IN GENERAL.—Section 104(b) of the Employee
 6 Retirement Income Security Act of 1974 (29 U.S.C.
 7 1024(b)) is amended to read as follows:

8 “(b)(1) Within 210 days after the close of each plan
 9 year, the administrator shall furnish to each participant,
 10 and to each beneficiary receiving benefits under the plan—

11 “(A) a copy of the statements and schedules,
 12 for such plan, described in subparagraphs (A) and
 13 (B) of section 103(b)(3);

1 “(B) a report containing—

2 “(i) a description of all investments and
3 assets of the plan, including their value;

4 “(ii) the names and positions of all of the
5 trustees of the plan, and the time remaining be-
6 fore the expiration of their term;

7 “(iii) a description of the method of trustee
8 selection;

9 “(iv) a description of any changes in in-
10 vestment policy of the plan during the fiscal
11 year; and

12 “(v) an evaluation of the long-term sol-
13 vency of the plan, including the number of par-
14 ticipants and beneficiaries and a summary of
15 their benefits, and a projection of the amount
16 of benefits expected to be paid for the fifth,
17 tenth, and fifteenth plan year following the date
18 of the publication of the report; and

19 “(C) any other material (including the percent-
20 age determined under section 103(d)(11)) as is nec-
21 essary to fairly summarize the latest annual report.

22 Such information shall be written and calculated to be un-
23 derstood by the average plan participant, and shall be suf-
24 ficiently accurate and comprehensive to reasonably apprise

1 such participants and beneficiaries of their rights and obli-
2 gations under the plan.

3 “(2) The administrator shall make copies of the plan
4 description and the latest annual report and the bargain-
5 ing agreement, trust agreement, contract, or other instru-
6 ments under which the plan was established or is operated
7 available for examination by any plan participant or bene-
8 ficiary in the principal office of the administrator and in
9 such other places as may be necessary to make available
10 all pertinent information to all participants (including
11 such places as the Secretary may prescribe by regula-
12 tions).

13 “(3) The administrator shall, upon written request
14 of any participant or beneficiary, furnish a copy of the
15 latest annual report, any terminal report, the bargaining
16 agreement, trust agreement, contract, or other instru-
17 ments under which the plan is established or operated.
18 The administrator may make a reasonable charge to cover
19 the cost of furnishing such complete copies. The Secretary
20 may by regulation prescribe the maximum amount which
21 will constitute a reasonable charge under the preceding
22 sentence.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 101(a) of such Act (29 U.S.C.
25 1021(a)) is amended to read as follows—

1 “SEC. 101. (a) The administrator of each employee
2 benefit plan shall cause to be furnished in accordance with
3 section 104(b) to each participant covered under the plan
4 and to each beneficiary who is receiving benefits under the
5 plan the information described in sections 104(b)(1) and
6 105(a) and (c).”.

7 (2) Section 101(b) of such Act (29 U.S.C.
8 1021(b)) is amended by striking paragraph (1) and
9 redesignating paragraphs (2), (3), (4), and (5), as
10 paragraphs (1), (2), (3), and (4), respectively.

11 (3) Section 102(a)(1) of such Act (29 U.S.C.
12 1022(a)(1)) is amended to read as follows:

13 “SEC. 102. (a)(1) A report shall be furnished to par-
14 ticipants and beneficiaries as provided in section 104(b).”.

15 (4) Section 102(b) of such Act (29 U.S.C.
16 1022(b)) is amended by striking “and summary plan
17 description” and inserting “report”.

18 (5) Section 103(a)(3)(A) of such Act (29
19 U.S.C. 1023 (a)(3)(A)) is amended in the second
20 sentence by striking “104(b)(3)” and inserting
21 “104(b)(1)(A) and (C)”.

22 (6) Section 104(a)(1)(C) of such Act (29
23 U.S.C. 1024(a)(1)(C)) is amended to read as fol-
24 lows:

1 “(C) a copy of the materials required to be fur-
2 nished to participants and beneficiaries pursuant to
3 subsection (b)(1) of this section; and”.

4 **SEC. 102. EFFECTIVE DATE.**

5 The amendments made by this title shall apply with
6 respect to plan years beginning on or after January 1,
7 1997.

8 **TITLE II—PUBLIC EMPLOYEE**
9 **PENSION PLANS**

10 **SEC. 201. REPORTING AND DISCLOSURE REQUIREMENTS.**

11 (a) IN GENERAL.—Within 210 days after the close
12 of each plan year, the administrator of each public em-
13 ployee pension plan shall furnish to each participant, and
14 to each beneficiary receiving benefits under the plan—

15 (1) a statement of the assets and liabilities of
16 the plan aggregated by categories and valued at
17 their current value, and the same data displayed in
18 comparative form for the end of the previous plan
19 year;

20 (2) a statement of receipts and disbursements
21 during the preceding 12-month period aggregated by
22 general sources and applications;

23 (3) a report containing—

24 (A) a description of all investments and as-
25 sets of the plan, including their value;

1 (B) the names and positions of all of the
2 trustees of the plan, and the time remaining be-
3 fore the expiration of their term;

4 (C) a description of the method of trustee
5 selection;

6 (D) a description of any changes in invest-
7 ment policy of the plan during the fiscal year;

8 (E) an evaluation of the long-term solvency
9 of the plan, including the number of partici-
10 pants and beneficiaries and a summary of their
11 benefits, and a projection of the amount of ben-
12 efits expected to be paid for the fifth, tenth,
13 and fifteenth plan year following the date of the
14 publication of the report; and

15 (F) the percentage which the current value
16 of the assets of the plan is of the current liabil-
17 ity under the plan; and

18 (4) any other material as is necessary to fairly
19 summarize the latest annual report.

20 Such information shall be written and calculated to be un-
21 derstood by the average plan participant, and shall be suf-
22 ficiently accurate and comprehensive to reasonably apprise
23 such participants and beneficiaries of their rights and obli-
24 gations under the plan.

1 (b) AVAILABILITY OF PLAN DOCUMENTS FOR EXAM-
2 INATION.—The administrator shall make copies of the
3 plan description and the latest annual report and the bar-
4 gaining agreement, trust agreement, contract, or other in-
5 struments under which the plan was established or is oper-
6 ated available for examination by any plan participant or
7 beneficiary in the principal office of the administrator and
8 in such other places as may be necessary to make available
9 all pertinent information to all participants (including
10 such places as the Secretary of Labor may prescribe by
11 regulations).

12 (c) AVAILABILITY OF INFORMATION UPON RE-
13 QUEST.—The administrator shall, upon written request of
14 any participant or beneficiary, furnish a copy of the latest
15 annual report, any terminal report, the bargaining agree-
16 ment, trust agreement, contract, or other instruments
17 under which the plan is established or operated. The ad-
18 ministrator may make a reasonable charge to cover the
19 cost of furnishing such complete copies. The Secretary of
20 Labor may by regulation prescribe the maximum amount
21 which will constitute a reasonable charge under the pre-
22 ceding sentence.

1 **SEC. 202. CIVIL ENFORCEMENT OF PUBLIC EMPLOYEE PEN-**
2 **SION PLAN TERMS.**

3 (a) IN GENERAL.—A civil action may be brought, by
4 a participant or beneficiary under a public employee pen-
5 sion plan, against the plan—

6 (1) to recover benefits due to him or her under
7 the terms of the plan, to enforce his or her rights
8 under the terms of the plan or this title, or to clarify
9 his or her rights to future benefits under the terms
10 of the plan;

11 (2) to enjoin any act or practice which violates
12 the terms of the plan, or

13 (3) to obtain other appropriate equitable relief
14 (A) to redress violations of the terms of the plan or
15 this title or (B) to enforce the terms of the plan or
16 this title.

17 (b) BURDEN OF PROOF.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), in any action brought under this section,
20 the plaintiff may prevail if the plaintiff proves his or
21 her case by a preponderance of the evidence.

22 (2) SPECIAL RULE FOR PLANS SUBJECT TO RE-
23 VIEW BY QUALIFIED REVIEW BOARDS.—In the case
24 of a public employee pension plan which meets the
25 requirements of section 203 in any action brought
26 under this section relating to a change in employer

1 contributions, the plaintiff may prevail only if the
2 plaintiff proves his or her case by clear and convinc-
3 ing evidence.

4 (c) PLANS TREATED AS PERSONS.—A public em-
5 ployee pension plan may sue or be sued under this title
6 as a person. Service of summons, subpoena, or other legal
7 process of a court upon a trustee or an administrator of
8 a public employee pension plan in the trustee’s or adminis-
9 trator’s capacity as such shall constitute service upon the
10 plan.

11 (d) JURISDICTION AND VENUE.—

12 (1) IN GENERAL.—State courts of competent
13 jurisdiction and district courts of the United States
14 shall have concurrent jurisdiction of actions brought
15 under this section. The district courts of the United
16 States shall have jurisdiction without regard to the
17 amount in controversy or the citizenship of the par-
18 ties, to grant the relief provided for in subsection
19 (a).

20 (2) VENUE.—Notwithstanding section 94 of the
21 National Banking Act (12 U.S.C. 94), in any case
22 in which an action under this title is brought in a
23 district court of the United States, it may be
24 brought in any district of the State where the plan
25 is administered, where the breach took place, or

1 where a defendant resides or may be found, and
2 process may be served in any other district where a
3 defendant resides or may be found.

4 (e) ATTORNEY'S FEES.—In any action brought under
5 this section, the court may in its discretion award a rea-
6 sonable attorney's fee and costs of action to any party who
7 prevails or substantially prevails in such action.

8 **SEC. 203. REVIEW BY QUALIFIED REVIEW BOARDS OF**
9 **CHANGES IN EMPLOYER CONTRIBUTIONS.**

10 (a) IN GENERAL.—A public employee pension plan
11 meets the requirements of this section if, under the plan,
12 changes in employer contributions are subject to review
13 by a qualified review board established for the plan as pro-
14 vided in this section. For purposes of this section, the term
15 “qualified review board” means a board—

16 (1) whose membership is determined under the
17 law of the principal State in accordance with sub-
18 section (b), and

19 (2) whose powers are determined under the law
20 of the principal State in accordance with subsection
21 (c).

22 (b) MEMBERSHIP.—

23 (1) IN GENERAL.—The membership of a quali-
24 fied review board established for a plan shall consist
25 of 3 members selected from among individuals who,

1 by means of their education and experience, have
2 demonstrated expertise in the area of pension fund
3 management, as follows:

4 (A) one member is appointed by the Gov-
5 ernor of the State,

6 (B) one member is selected by the partici-
7 pants in the plan, by means of an election held
8 in such form and manner as shall be prescribed
9 in regulations of the Secretary of Labor, and

10 (C) one member is selected jointly by the
11 Governor and by a representative of partici-
12 pants in the plan (from a certified list of pen-
13 sion experts established in accordance with
14 paragraph (2)).

15 Each member of the board shall have 1 vote. Mem-
16 bers of the board shall serve for such equivalent
17 terms as shall be prescribed under the law of the
18 principal State.

19 (2) CERTIFIED LIST OF EXPERTS.—The Gov-
20 ernor of the State shall, for purposes of paragraph
21 (1)(C), establish and maintain with respect to each
22 public employee pension plan (for which such State
23 is the principal State) a certified list of pension ex-
24 perts meeting the requirements for membership on

1 the qualified review board. Individuals may be in-
2 cluded on such list only by agreement between the
3 Governor of the State and a representative elected
4 by participants in the plan, entered into by means
5 of collective bargaining in such form and manner as
6 shall be prescribed in regulations of the Secretary of
7 Labor.

8 (c) POWERS.—The board shall be treated as a quali-
9 fied review board for purposes of this section with respect
10 to any public employee pension plan (for which such State
11 is the principal State) only if the powers of such board
12 under the law of the principal State include review by the
13 board, for approval or disapproval by the board, of any
14 change in the terms of such plan, as a necessary pre-
15 requisite for such change to take effect, if—

16 (1) such change would have the effect of chang-
17 ing levels of employer contributions to the plan, and

18 (2) such review is requested, in such form and
19 manner as shall be prescribed in regulations of the
20 Secretary of Labor, by—

21 (A) at least one-third of the total number
22 of trustees of any trust fund forming a part of
23 the plan, or

1 (B) the head of any employee organization
2 representing at least 20 percent of the total
3 number of active participants in the plan.

4 The board may be treated as a qualified review board for
5 purposes of this section only if, under the law of the prin-
6 cipal State, any such change submitted to such review by
7 the board may take effect only upon approval of the
8 change by the board.

9 **SEC. 204. EFFECT ON OTHER LAWS.**

10 (a) IN GENERAL.—Nothing in this title shall be con-
11 strued to alter, amend, modify, invalidate, impair, or su-
12 persede any law of a State or any rule or regulation issued
13 under any such law, except to the extent that such law—

14 (1) may now or hereafter relate to the subject
15 matter of the provisions of this title as they apply
16 to any public employee pension plan described in
17 section 205(b)(1) and not exempt under section
18 205(b)(2), and

19 (2) prevents the application of such provisions.

20 (b) STATE CAUSES OF ACTION PRESERVED.—Noth-
21 ing in this title shall be construed to apply with respect
22 to State causes of action available in State courts.

23 **SEC. 205. DEFINITIONS AND COVERAGE.**

24 (a) DEFINITIONS.—For purposes of this title—

1 (1) ADMINISTRATOR.—The term “adminis-
2 trator” means—

3 (A) the board of trustees, retirement
4 board, or similar person with administrative re-
5 sponsibilities in connection with a plan, or any
6 other person specifically so designated in con-
7 nection with any requirement of this title by the
8 terms of the instrument or instruments under
9 which the plan is operated, including but not
10 limited to the law of any State or of any politi-
11 cal subdivision of any State, or

12 (B) in any case in which there is no person
13 described in subparagraph (A) in connection
14 with the plan, the plan sponsor.

15 (2) BENEFICIARY.—The term “beneficiary”
16 means a person designated by a participant, or by
17 the terms of a public employee pension plan, who is
18 or may become entitled to a benefit thereunder.

19 (3) CURRENT LIABILITY.—The term “current
20 liability” has the meaning provided in section
21 302(d)(7) of the Employee Retirement Income Secu-
22 rity Act of 1974.

23 (4) EMPLOYEE.—The term “employee” means
24 any individual employed by an employer, employer

1 representative, or other person required to make em-
2 ployer contributions under the plan.

3 (5) EMPLOYEE ORGANIZATION.—The term
4 “employee organization” means any labor union or
5 any organization of any kind, or any agency or em-
6 ployee representation committee, association, group,
7 or plan, in which employees participate and which
8 exists for the purpose, in whole or in part, of dealing
9 with employers or employer representatives concern-
10 ing a public employee pension plan or other matters
11 incidental to employment relationships; or any em-
12 ployees’ beneficiary association organized for the
13 purpose, in whole or in part, of establishing such a
14 plan.

15 (6) EMPLOYER.—The term “employer”
16 means—

17 (A) the government of any State or of any
18 political subdivision of a State,

19 (B) any agency or instrumentality of a
20 government referred to in subparagraph (A), or

21 (C) any agency or instrumentality of two
22 or more governments referred to in subpara-
23 graph (A).

24 (7) EMPLOYER CONTRIBUTION.—The term
25 “employer contribution” means any contribution to

1 a public employee pension plan other than a con-
2 tribution made by a participant in the plan.

3 (8) EMPLOYER REPRESENTATIVE.—The term
4 “employer representative” means—

5 (A) any group or association consisting, in
6 whole or in part, of employers acting, in connec-
7 tion with a public employee pension plan, for an
8 employer, or

9 (B) any person acting, in connection with
10 a public employee pension plan, indirectly in the
11 interest of an employer or of a group or asso-
12 ciation described in subparagraph (A).

13 (9) PUBLIC EMPLOYEE PENSION PLAN.—The
14 terms “public employee pension plan” and “plan”
15 mean any plan, fund, or program which was here-
16 tofore or is hereafter established or maintained, in
17 whole or in part, by an employer, an employer rep-
18 resentative, or an employee organization, or by a
19 combination thereof, to the extent that by its express
20 terms or as a result of surrounding circumstances
21 such plan, fund, or program—

22 (A) provides retirement income to employ-
23 ees, or

1 (B) results in a deferral of income by em-
2 ployees for periods extending to the termination
3 of covered employment or beyond,
4 regardless of the method of calculating the contribu-
5 tions made to the plan, the method of calculating
6 the benefits under the plan, or the method of distrib-
7 uting benefits from the plan.

8 (10) PRINCIPAL STATE.—The term “principal
9 State” means, for any plan year with respect to a
10 public employee pension plan, the State in which, as
11 of the beginning of such plan year, the largest per-
12 centage of the participants of the plan employed in
13 any single State is employed.

14 (11) GOVERNOR.—The term “Governor”
15 means, in connection with a public employee pension
16 plan, the Governor (or equivalent official) of the
17 principal State.

18 (12) PARTICIPANT.—The term “participant”
19 means any individual who is or may become eligible
20 to receive a benefit of any type from a public em-
21 ployee pension plan or whose beneficiaries may be el-
22 igible to receive any such benefit.

23 (13) PERSON.—The term “person” means a
24 State, a political subdivision of a State, any agency

1 or instrumentality of a State or a political subdivi-
2 sion of a State, an individual, a partnership, a joint
3 venture, a corporation, a mutual company, a joint-
4 stock company, a trust, an estate, an unincorporated
5 organization, an association, or an employee organi-
6 zation.

7 (14) PLAN SPONSOR.—The term “plan spon-
8 sor” means—

9 (A) in the case of a plan established or
10 maintained solely for employees of a single em-
11 ployer, such employer,

12 (B) in the case of a plan established or
13 maintained by an employee organization, the
14 employee organization, or

15 (C) in the case of a plan established or
16 maintained by two or more employers or jointly
17 by one or more employers and one or more em-
18 ployee organizations, the association, commit-
19 tee, board of trustees, or other similar group of
20 representatives of the parties who establish or
21 maintain the plan.

22 (15) PLAN YEAR.—The term “plan year”
23 means, with respect to a plan, the calendar, policy,
24 or fiscal year on which the records of the plan are
25 kept.

1 (16) STATE.—The term “State” means any
2 State of the United States, the District of Columbia,
3 the Commonwealth of Puerto Rico, the Virgin Is-
4 lands, American Samoa, and Guam.

5 (b) COVERAGE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), this title shall apply to any public em-
8 ployee pension plan.

9 (2) EXCEPTIONS FROM COVERAGE.—The provi-
10 sions of this title shall not apply to—

11 (A) any employee benefit plan described in
12 section 4(a) of the Employee Retirement In-
13 come Security Act of 1974 (29 U.S.C.
14 1003(a)), which is not exempt under section
15 4(b)(1) of such Act (29 U.S.C. 1003(b)(1));

16 (B) any plan which is unfunded and is
17 maintained by an employer or employer rep-
18 resentative primarily for the purpose of provid-
19 ing deferred compensation for a select group of
20 management or highly compensated employees;

21 (C) any arrangement which would be a
22 severance pay arrangement, as defined in regu-
23 lations of the Secretary of Labor under section
24 3(2)(B)(i) of the Employee Retirement Income
25 Security Act of 1974 (29 U.S.C.

1 1002(2)(B)(i)), if the employer were an em-
2 ployer within the meaning of section 3(5) of
3 such Act (29 U.S.C. 1002(5));

4 (D) any agreement to the extent it is a
5 coverage agreement entered into pursuant to
6 section 218 of the Social Security Act (42
7 U.S.C. 418);

8 (E) any individual retirement account or
9 any individual retirement annuity within the
10 meaning of section 408 of the Internal Revenue
11 Code of 1986, or a retirement bond within the
12 meaning of section 409 of such Code;

13 (F) any plan described in section 401(d) of
14 such Code;

15 (G) any individual account plan consisting
16 of an annuity contract described in section
17 403(b) of such Code;

18 (H) any eligible State deferred compensa-
19 tion plan, as defined in section 457(b) of such
20 Code; or

21 (I) any plan maintained solely for the pur-
22 pose of complying with applicable workers' com-
23 pensation laws or disability insurance laws.

1 **SEC. 206. EFFECTIVE DATE.**

2 The preceding provisions of this title shall apply with
3 respect to plan years beginning on or after January 1,
4 1997.

5 **TITLE III—WOMEN’S PENSION**
6 **EQUITY**

7 **SEC. 301. MODEL SPOUSAL CONSENT FORM AND QUALI-**
8 **FIED DOMESTIC RELATIONS ORDER.**

9 (a) MODEL SPOUSAL CONSENT FORM.—

10 (1) AMENDMENT TO INTERNAL REVENUE
11 CODE.—Section 417(a) of the Internal Revenue
12 Code of 1986 is amended by adding at the end the
13 following new paragraph:

14 “(7) CONSENT FORM.—The Secretary shall de-
15 velop a form not later than January 1, 1997, for the
16 spousal consent required under paragraph (2)
17 which—

18 “(A) is written in a manner calculated to
19 be understood by the average person, and

20 “(B) discloses in plain form whether—

21 “(i) the waiver is irrevocable, and

22 “(ii) the waiver may be revoked by a
23 qualified domestic relations order.”.

24 (2) AMENDMENT TO ERISA.—Section 205(c) of
25 the Employee Retirement Income Security Act of

1 1974 (29 U.S.C. 1055(c)) is amended by adding at
2 the end the following new paragraph:

3 “(8) The Secretary of the Treasury shall de-
4 velop a form not later than January 1, 1997, for the
5 spousal consent required under paragraph (2)
6 which—

7 “(A) is written in a manner calculated to
8 be understood by the average person, and

9 “(B) discloses in plain form whether—

10 “(i) the waiver is irrevocable, and

11 “(ii) the waiver may be revoked by a
12 qualified domestic relations order.”.

13 (b) MODEL QUALIFIED DOMESTIC RELATIONS
14 ORDER.—

15 (1) AMENDMENT TO ERISA.—Section 206(d)(3)
16 of the Employee Retirement Income Security Act of
17 1974 (29 U.S.C. 1056(d)(3)) is amended by adding
18 at the end the following new subparagraph:

19 “(O) The Secretary shall develop a form not later
20 than January 1, 1997, for a qualified domestic relations
21 order which meets—

22 “(i) the requirements of subparagraph (B)(i),
23 and

24 “(ii) the requirements of this Act related to the
25 need to consider the treatment of any lump sum

1 payment, qualified joint and survivor annuity, or
2 qualified preretirement survivor annuity.”.

3 (2) AMENDMENT TO INTERNAL REVENUE
4 CODE.—Section 414(p) of the Internal Revenue
5 Code of 1986 is amended by adding at the end the
6 following new paragraph:

7 “(13) The Secretary of Labor shall develop a
8 form not later than January 1, 1997, for a qualified
9 domestic relations order which meet—

10 “(A) the requirements of paragraph
11 (1)(A), and

12 “(B) the requirements of this Act related
13 to the need to consider the treatment of any
14 lump sum payment, qualified joint and survivor
15 annuity, or qualified preretirement survivor an-
16 nuity.”.

17 (c) PUBLICITY.—The Secretary of the Treasury and
18 the Secretary of Labor shall include publicity for the
19 model forms required by the amendments made by this
20 section in the pension outreach efforts undertaken by each
21 Secretary.

1 **SEC. 302. EXTENSION OF TIER II RAILROAD RETIREMENT**
2 **BENEFITS TO SURVIVING FORMER SPOUSES**
3 **PURSUANT TO DIVORCE AGREEMENTS.**

4 (a) IN GENERAL.—Section 5 of the Railroad Retire-
5 ment Act of 1974 (45 U.S.C. 231d) is amended by adding
6 at the end the following new subsection:

7 “(d) Notwithstanding any other provision of law, the
8 payment of any portion of an annuity computed under sec-
9 tion 3(b) to a surviving former spouse in accordance with
10 a court decree of divorce, annulment, or legal separation
11 or the terms of any court-approved property settlement
12 incident to any such court decree shall not be terminated
13 upon the death of the individual who performed the service
14 with respect to which such annuity is so computed unless
15 such termination is otherwise required by the terms of
16 such court decree.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 **SEC. 303. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
21 **AND FORMER SPOUSES OF FEDERAL EM-**
22 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
23 **FOR DEFERRED ANNUITY UNDER CIVIL**
24 **SERVICE RETIREMENT SYSTEM.**

25 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section
26 8341(f) of title 5, United States Code, is amended—

1 (1) in the matter preceding paragraph (1) by—

2 (A) by inserting “a former employee sepa-
3 rated from the service with title to deferred an-
4 nuity from the Fund dies before having estab-
5 lished a valid claim for annuity and is survived
6 by a spouse, or if” before “a Member”; and

7 (B) by inserting “of such former employee
8 or Member” after “the surviving spouse”;

9 (2) in paragraph (1)—

10 (A) by inserting “former employee or” be-
11 fore “Member commencing”; and

12 (B) by inserting “former employee or” be-
13 fore “Member dies”; and

14 (3) in the undesignated sentence following para-
15 graph (2)—

16 (A) in the matter preceding subparagraph

17 (A) by inserting “former employee or” before
18 “Member”; and

19 (B) in subparagraph (B) by inserting
20 “former employee or” before “Member”.

21 (b) BENEFITS FOR FORMER SPOUSE.—Section
22 8341(h) of title 5, United States Code, is amended—

23 (1) in paragraph (1) by adding after the first
24 sentence “Subject to paragraphs (2) through (5) of

1 this subsection, a former spouse of a former em-
2 ployee who dies after having separated from the
3 service with title to a deferred annuity under section
4 8338(a) but before having established a valid claim
5 for annuity is entitled to a survivor annuity under
6 this subsection, if and to the extent expressly pro-
7 vided for in an election under section 8339(j)(3) of
8 this title, or in the terms of any decree of divorce
9 or annulment or any court order or court-approved
10 property settlement agreement incident to such de-
11 cree.”; and

12 (2) in paragraph (2)—

13 (A) in subparagraph (A)(ii) by striking “or
14 annuitant,” and inserting “annuitant, or former
15 employee”; and

16 (B) in subparagraph (B)(iii) by inserting
17 “former employee or” before “Member”.

18 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—
19 Section 8339(j)(3) of title 5, United States Code, is
20 amended by inserting at the end the following:

21 “The Office shall provide by regulation for the appli-
22 cation of this subsection to the widow, widower, or surviv-
23 ing former spouse of a former employee who dies after
24 having separated from the service with title to a deferred

1 annuity under section 8338(a) but before having estab-
2 lished a valid claim for annuity.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act and shall apply only in the case of a former
6 employee who dies on or after such date.

7 **SEC. 304. COURT ORDERS RELATING TO FEDERAL RETIRE-**
8 **MENT BENEFITS FOR FORMER SPOUSES OF**
9 **FEDERAL EMPLOYEES.**

10 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

11 (1) IN GENERAL.—Section 8345(j) of title 5,
12 United States Code, is amended—

13 (A) by redesignating paragraph (3) as
14 paragraph (4); and

15 (B) by inserting after paragraph (2) the
16 following new paragraph:

17 “(3) Payment to a person under a court decree, court
18 order, property settlement, or similar process referred to
19 under paragraph (1) shall include payment to a former
20 spouse of the employee, Member, or annuitant.”.

21 (2) LUMP-SUM BENEFITS.—Section 8342 of
22 title 5, United States Code, is amended—

23 (A) in subsection (c) by striking “Lump-
24 sum benefits” and inserting “Subject to sub-
25 section (j), lump-sum benefits”; and

1 (B) in subsection (j)(1) by striking “the
2 lump-sum credit under subsection (a) of this
3 section” and inserting “any lump-sum credit or
4 lump-sum benefit under this section”.

5 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—
6 Section 8467 of title 5, United States Code, is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (d); and

9 (2) by inserting after subsection (b) the follow-
10 ing new subsection:

11 “(c) Payment to a person under a court decree, court
12 order, property settlement, or similar process referred to
13 under subsection (a) shall include payment to a former
14 spouse of the employee, Member, or annuitant.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 305. PREVENTION OF CIRCUMVENTION OF COURT**
19 **ORDER BY WAIVER OF RETIRED PAY TO EN-**
20 **HANCE CIVIL SERVICE RETIREMENT ANNU-**
21 **ITY.**

22 (a) CIVIL SERVICE RETIREMENT AND DISABILITY
23 SYSTEM.—(1) Subsection (c) of section 8332 of title 5,
24 United States Code, is amended by adding at the end the
25 following:

1 “(4) If an employee or Member waives retired pay
2 that is subject to a court order for which there has been
3 effective service on the Secretary concerned for purposes
4 of section 1408 of title 10, the military service on which
5 the retired pay is based may be credited as service for
6 purposes of this subchapter only if, in accordance with
7 regulations prescribed by the Director of the Office of Per-
8 sonnel Management, the employee or Member authorizes
9 the Director to deduct and withhold from the annuity pay-
10 able to the employee or Member under this subchapter,
11 and to pay to the former spouse covered by the court
12 order, the same amount that would have been deducted
13 and withheld from the employee’s or Member’s retired pay
14 and paid to that former spouse under such section 1408.”.

15 (2) Paragraph (1) of such subsection is amended by
16 striking out “Except as provided in paragraph (2)” and
17 inserting “Except as provided in paragraphs (2) and (4)”.

18 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—
19 (1) Subsection (c) of section 8411 of title 5, United States
20 Code, is amended by adding at the end the following:

21 “(5) If an employee or Member waives retired pay
22 that is subject to a court order for which there has been
23 effective service on the Secretary concerned for purposes
24 of section 1408 of title 10, the military service on which
25 the retired pay is based may be credited as service for

1 purposes of this chapter only if, in accordance with regula-
 2 tions prescribed by the Director of the Office of Personnel
 3 Management, the employee or Member authorizes the Di-
 4 rector to deduct and withhold from the annuity payable
 5 to the employee or Member under this subchapter, and
 6 to pay to the former spouse covered by the court order,
 7 the same amount that would have been deducted and with-
 8 held from the employee's or Member's retired pay and
 9 paid to that former spouse under such section 1408.”.

10 (2) Paragraph (1) of such subsection is amended by
 11 striking out “Except as provided in paragraph (2) or (3)”
 12 and inserting “Except as provided in paragraphs (2), (3),
 13 and (5)”.

14 (c) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall take effect on January 1, 1997.

16 **TITLE IV—EMPLOYER**

17 **REVERSIONS**

18 **SEC. 401. INCREASE IN EXCISE TAX ON REVERSIONS.**

19 (a) IN GENERAL.—Section 4980 of the Internal Rev-
 20 enue Code of 1986 (relating to tax on reversion of quali-
 21 fied plan assets to employer) is amended—

22 (1) in subsection (a), by striking “20 percent”
 23 and inserting “35 percent”; and

24 (2) in subsection (d)(1), by striking “substitut-
 25 ing ‘50 percent’ for ‘20 percent’ with respect to any

1 employer reversion” and inserting “substituting ‘65
2 percent’ for ‘35 percent’ with respect to any em-
3 ployer reversion”.

4 **SEC. 402. REVERSION REPORT.**

5 (a) IN GENERAL.—Section 4008 of the Employee Re-
6 tirement Income Security Act of 1974 (29 U.S.C. 1308)
7 is amended by adding at the end the following new sub-
8 section:

9 “(b) REVERSION REPORT.—As soon as practicable
10 after the close of each fiscal year, the Secretary of Labor
11 (acting in the Secretary’s capacity as chairman of the cor-
12 poration’s board) shall transmit to the President and the
13 Congress a report providing information on plans from
14 which residual assets were distributed to employers pursu-
15 ant to section 4044(d).”

16 (b) CONFORMING AMENDMENT.—Section 4008 (29
17 U.S.C. 1308) is amended by striking “SEC. 4008.” and
18 inserting “SEC. 4008. (a) ANNUAL REPORT.—”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to fiscal years beginning after Sep-
21 tember 30, 1996.

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