

104TH CONGRESS
2D SESSION

S. 2132

To amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 1996

Ms. MOSELEY-BRAUN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

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 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Comprehensive Women’s Pension Protection Act of
6 1996”.

7 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title.

TITLE I—PENSION REFORM

Sec. 101. Pension integration rules.

Sec. 102. Application of minimum coverage requirements with respect to separate lines of business.

- Sec. 103. Division of pension benefits upon divorce.
 Sec. 104. Clarification of continued availability of remedies relating to matters treated in domestic relations orders entered before 1985.
 Sec. 105. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
 Sec. 106. Effective dates.

TITLE II—PROTECTION OF RIGHTS OF FORMER SPOUSES TO PENSION BENEFITS UNDER CERTAIN GOVERNMENT AND GOVERNMENT-SPONSORED RETIREMENT PROGRAMS

- Sec. 201. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
 Sec. 202. 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. 203. Court orders relating to Federal retirement benefits for former spouses of Federal employees.
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TITLE III—REFORMS RELATED TO 401(K) PLANS

- Sec. 301. 401(k) plans prohibited from investing in collectibles.
 Sec. 302. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
 Sec. 303. 10-percent limitation on acquisition and holding of employer securities and employer real property applied to 401(k) plans.

TITLE IV—MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

- Sec. 401. Modifications of joint and survivor annuity requirements.

TITLE V—SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(K) PLANS

- Sec. 501. Spousal consent required for distributions from section 401(k) plans.

TITLE VI—WOMEN'S PENSION TOLL-FREE PHONE NUMBER

- Sec. 601. Women's pension toll-free phone number.

TITLE VII—ANNUAL PENSION BENEFITS STATEMENTS

- Sec. 701. Annual pension benefits statements.

1 TITLE I—PENSION REFORM

2 SEC. 101. PENSION INTEGRATION RULES.

3 (a) APPLICABILITY OF NEW INTEGRATION RULES

4 EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—

5 Notwithstanding subsection (c)(1) of section 1111 of the

1 Tax Reform Act of 1986 (relating to effective date of ap-
2 plication of nondiscrimination rules to integrated plans)
3 (100 Stat. 2440), effective for plan years beginning after
4 the date of the enactment of this Act, the amendments
5 made by subsection (a) of such section 1111 shall also
6 apply to benefits attributable to plan years beginning on
7 or before December 31, 1988.

8 (b) INTEGRATION DISALLOWED FOR SIMPLIFIED
9 EMPLOYEE PENSIONS.—

10 (1) IN GENERAL.—Subparagraph (D) of section
11 408(k)(3) of the Internal Revenue Code of 1986 (re-
12 lating to permitted disparity under rules limiting
13 discrimination under simplified employee pensions)
14 is repealed.

15 (2) CONFORMING AMENDMENT.—Subparagraph
16 (C) of such section 408(k)(3) is amended by striking
17 “and except as provided in subparagraph (D),”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply with respect to taxable
20 years beginning on or after January 1, 1996.

21 (c) EVENTUAL REPEAL OF INTEGRATION RULES.—
22 Effective for plan years beginning on or after January 1,
23 2003—

24 (1) subparagraphs (C) and (D) of section
25 401(a)(5) of the Internal Revenue Code of 1986 (re-

1 relating to pension integration exceptions under non-
2 discrimination requirements for qualification) are re-
3 pealed, and subparagraph (E) of such section
4 401(a)(5) is redesignated as subparagraph (C); and
5 (2) subsection (l) of section 401 of such Code
6 (relating to nondiscriminatory coordination of de-
7 fined contribution plans with OASDI) is repealed.

8 **SEC. 102. APPLICATION OF MINIMUM COVERAGE REQUIRE-**
9 **MENTS WITH RESPECT TO SEPARATE LINES**
10 **OF BUSINESS.**

11 (a) IN GENERAL.—Subsection (b) of section 410 of
12 the Internal Revenue Code of 1986 (relating to minimum
13 coverage requirements) is amended—

14 (1) in paragraph (1), by striking “A trust” and
15 inserting “In any case in which the employer with
16 respect to a plan is treated, under section 414(r), as
17 operating separate lines of business for a plan year,
18 a trust”, and by inserting “for such plan year” after
19 “requirements”; and

20 (2) by redesignating paragraphs (3) through
21 (6) as paragraphs (4) through (7), respectively and
22 by inserting after paragraph (2) the following new
23 paragraph:

24 “(3) SPECIAL RULE WHERE EMPLOYER OPER-
25 ATES SINGLE LINE OF BUSINESS.—In any case in

1 which the employer with respect to a plan is not
 2 treated, under section 414(r), as operating separate
 3 lines of business for a plan year, a trust shall not
 4 constitute a qualified trust under section 401(a) un-
 5 less such trust is designated by the employer as part
 6 of a plan which benefits all employees of the em-
 7 ployer.”.

8 (b) **LIMITATION ON LINE OF BUSINESS EXCEP-**
 9 **TION.**—Paragraph (6) of section 410(b) of such Code (as
 10 redesignated by subsection (a)(2) of this section) is
 11 amended by inserting “other than paragraph (1)(A)” after
 12 “this subsection”.

13 **SEC. 103. DIVISION OF PENSION BENEFITS UPON DIVORCE.**

14 (a) **AMENDMENTS TO THE INTERNAL REVENUE**
 15 **CODE OF 1986.**—

16 (1) **IN GENERAL.**—Subsection (a) of section
 17 401 of the Internal Revenue Code of 1986 (relating
 18 to requirements for qualification) is amended—

19 (A) by inserting after paragraph (31) the
 20 following new paragraph:

21 “(32) **DIVISION OF PENSION BENEFITS UPON**
 22 **DIVORCE.**—

23 “(A) **IN GENERAL.**—In the case of a di-
 24 vorce of a participant in a pension plan from a
 25 spouse who is, immediately before the divorce,

1 a beneficiary under the plan, a trust forming a
2 part of such plan shall not constitute a quali-
3 fied trust under this section unless the plan
4 provides that at least 50 percent of the marital
5 share of the accrued benefit of the participant
6 under the plan ceases to be an accrued benefit
7 of such participant and becomes an accrued
8 benefit of such divorced spouse, determined and
9 payable upon the earlier of the retirement of
10 the participant, the participant's death, or the
11 termination of the plan, except to the extent
12 that a qualified domestic relations order in con-
13 nection with such divorce provides otherwise.

14 “(B) LIMITATION.—Subparagraph (A)
15 shall not be construed—

16 “(i) to require a plan to provide any
17 type or form of benefit, or any option, not
18 otherwise provided under the plan,

19 “(ii) to require the plan to provide in-
20 creased benefits (determined on the basis
21 of actuarial value),

22 “(iii) to require the payment of bene-
23 fits to the divorced spouse which are re-
24 quired to be paid to another individual in
25 accordance with this paragraph or pursu-

1 ant to a domestic relations order previously
2 determined to be a qualified domestic rela-
3 tions order, or

4 “(iv) to require payment of benefits to
5 the divorced spouse in the form of a quali-
6 fied joint and survivor annuity to the di-
7 vorced spouse and his or her subsequent
8 spouse.

9 “(C) DEFINITIONS.—For purposes of this
10 paragraph—

11 “(i) DOMESTIC RELATIONS ORDER;
12 QUALIFIED DOMESTIC RELATIONS
13 ORDER.—The terms ‘domestic relations
14 order’ and ‘qualified domestic relations
15 order’ shall have the meanings provided in
16 section 414(p).

17 “(ii) MARITAL SHARE.—The term
18 ‘marital share’ means, in connection with
19 an accrued benefit under a pension plan,
20 the product derived by multiplying—

21 “(I) the actuarial present value
22 of the accrued benefit, by

23 “(II) a fraction, the numerator of
24 which is the period of time, during the
25 marriage between the spouse and the

1 participant in the plan, which con-
 2 stitutes creditable service by the par-
 3 ticipant under the plan, and the de-
 4 nominator of which is the total period
 5 of time which constitutes creditable
 6 service by the participant under the
 7 plan.

8 “(iii) QUALIFIED JOINT AND SURVI-
 9 VOR ANNUITY.—The term ‘qualified joint
 10 and survivor annuity’ has the meaning pro-
 11 vided in section 417(b).

12 “(D) REGULATIONS.—In prescribing regu-
 13 lations under this paragraph, the Secretary
 14 shall consult with the Secretary of Labor.”; and

15 (B) in the last sentence, by striking “and
 16 (20)” and inserting “(20), and (32)”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Subparagraph (B) of section
 19 401(a)(13) of such Code (relating to special
 20 rules for domestic relations orders) is amended
 21 by inserting “or if such creation, assignment, or
 22 recognition pursuant to such order is necessary
 23 for compliance with the requirements of para-
 24 graph (32)” before the period.

1 (B) Subsection (p) of section 414 of such
2 Code (defining qualified domestic relations or-
3 ders) is amended—

4 (i) in paragraph (3)(C), by inserting
5 “or to a divorced spouse of the participant
6 in connection with a previously occurring
7 divorce as required under section
8 401(a)(32)” before the period; and

9 (ii) in paragraph (7)(C), by striking
10 “if there had been no order” and inserting
11 “in accordance with section 401(a)(32) as
12 if there had been no qualified domestic re-
13 lations order”.

14 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
15 INCOME SECURITY ACT OF 1974.—

16 (1) IN GENERAL.—Section 206 of Employee
17 Retirement Income Security Act of 1974 (29 U.S.C.
18 1056) is amended by adding at the end the following
19 new subsection:

20 “(e)(1) In the case of a divorce of a participant in
21 a pension plan from a spouse who is, immediately before
22 the divorce, a beneficiary under the plan, the plan shall
23 provide that at least 50 percent of the marital share of
24 the accrued benefit of the participant under the plan
25 ceases to be an accrued benefit of such participant and

1 becomes an accrued benefit of such divorced spouse, deter-
2 mined and payable upon the earlier of the retirement of
3 the participant, the participant's death, or the termination
4 of the plan, except to the extent that a qualified domestic
5 relations order in connection with such divorce provides
6 otherwise.

7 “(2) Paragraph (1) shall not be construed—

8 “(A) to require a plan to provide any type or
9 form of benefit, or any option, not otherwise pro-
10 vided under the plan,

11 “(B) to require the plan to provide increased
12 benefits (determined on the basis of actuarial value),

13 “(C) to require the payment of benefits to the
14 divorced spouse which are required to be paid to an-
15 other individual in accordance with this subsection
16 or pursuant to a domestic relation order previously
17 determined to be a qualified domestic relations
18 order, or

19 “(D) to require payment of benefits to the di-
20 vorced spouse in the form of a joint and survivor an-
21 nuity to the divorced spouse and his or her subse-
22 quent spouse.

23 “(3) For purposes of this subsection—

1 “(A) The terms ‘domestic relations order’ and
2 ‘qualified domestic relations order’ shall have the
3 meanings provided in subsection (d)(3)(B).

4 “(B) The term ‘marital share’ means, in con-
5 nection with an accrued benefit under a pension
6 plan, the product derived by multiplying—

7 “(i) the actuarial present value of the ac-
8 crued benefit, by

9 “(ii) a fraction—

10 “(I) the numerator of which is the pe-
11 riod of time, during the marriage between
12 the spouse and the participant in the plan,
13 which constitutes creditable service by the
14 participant under the plan, and

15 “(II) the denominator of which is the
16 total period of time which constitutes cred-
17 itable service by the participant under the
18 plan.

19 “(C) The term ‘qualified joint and survivor an-
20 nuity’ shall have the meaning provided in section
21 205(d).

22 “(4) In prescribing regulations under this subsection,
23 the Secretary shall consult with the Secretary of the
24 Treasury.”.

1 (2) CONFORMING AMENDMENTS.—Section
2 206(d) of such Act (29 U.S.C. 1056(d)) is amend-
3 ed—

4 (A) in the first sentence of paragraph
5 (3)(A), by inserting “or if such creation, assign-
6 ment, or recognition pursuant to such order is
7 necessary for compliance with the requirements
8 of subsection (e)” before the period;

9 (B) in paragraph (3)(D)(iii), by inserting
10 “or to a divorced spouse of the participant in
11 connection with a previously occurring divorce
12 as required under subsection (e)” before the pe-
13 riod; and

14 (C) in paragraph (3)(H)(iii), by striking
15 “if there had been no order” and inserting “in
16 accordance with subsection (e) as if there had
17 been no qualified domestic relations order”.

18 **SEC. 104. CLARIFICATION OF CONTINUED AVAILABILITY OF**
19 **REMEDIES RELATING TO MATTERS TREATED**
20 **IN DOMESTIC RELATIONS ORDERS ENTERED**
21 **BEFORE 1985.**

22 (a) IN GENERAL.—In any case in which—

23 (1) under a prior domestic relations order en-
24 tered before January 1, 1985, in an action for di-
25 vorce—

1 (A) the right of a spouse under a pension
2 plan to an accrued benefit under such plan was
3 not divided between spouses,

4 (B) any right of a spouse with respect to
5 such an accrued benefit was waived without the
6 informed consent of such spouse, or

7 (C) the right of a spouse as a participant
8 under a pension plan to an accrued benefit
9 under such plan was divided so that the other
10 spouse received less than such other spouse's
11 pro rata share of the accrued benefit under the
12 plan, or

13 (2) a court of competent jurisdiction determines
14 that any further action is appropriate with respect
15 to any matter to which a prior domestic relations
16 order entered before such date applies,

17 nothing in the provisions of section 104, 204, or 303 of
18 the Retirement Equity Act of 1984 (Public Law 98-397)
19 or the amendments made thereby shall be construed to
20 require or permit the treatment, for purposes of such pro-
21 visions, of a domestic relations order, which is entered on
22 or after the date of the enactment of this Act and which
23 supersedes, amends the terms of, or otherwise affects such
24 prior domestic relations order, as other than a qualified

1 domestic relations order solely because such prior domestic
2 relations order was entered before January 1, 1985.

3 (b) DEFINITIONS.—For purposes of this section—

4 (1) IN GENERAL.—Terms used in this section
5 which are defined in section 3 of the Employee Re-
6 tirement Income Security Act of 1974 (29 U.S.C.
7 1002) shall have the meanings provided such terms
8 by such section.

9 (2) PRO RATA SHARE.—The term “pro rata
10 share” of a spouse means, in connection with an ac-
11 crued benefit under a pension plan, 50 percent of
12 the product derived by multiplying—

13 (A) the actuarial present value of the ac-
14 crued benefit, by

15 (B) a fraction—

16 (i) the numerator of which is the pe-
17 riod of time, during the marriage between
18 the spouse and the participant in the plan,
19 which constitutes creditable service by the
20 participant under the plan, and

21 (ii) the denominator of which is the
22 total period of time which constitutes cred-
23 itable service by the participant under the
24 plan.

1 (3) PLAN.—All pension plans in which a person
2 has been a participant shall be treated as one plan
3 with respect to such person.

4 **SEC. 105. ENTITLEMENT OF DIVORCED SPOUSES TO RAIL-**
5 **ROAD RETIREMENT ANNUITIES INDEPEND-**
6 **ENT OF ACTUAL ENTITLEMENT OF EM-**
7 **PLOYEE.**

8 Section 2 of the Railroad Retirement Act of 1974 (45
9 U.S.C. 231a) is amended—

10 (1) in subsection (c)(4)(i), by striking “(A) is
11 entitled to an annuity under subsection (a)(1) and
12 (B)”;

13 (2) in subsection (e)(5), by striking “or di-
14 vorced wife” the second place it appears.

15 **SEC. 106. EFFECTIVE DATES.**

16 (a) IN GENERAL.—Except as provided in subsection
17 (b), the amendments made by this title, other than section
18 101, shall apply with respect to plan years beginning on
19 or after January 1, 1996, and the amendments made by
20 section 103 shall apply only with respect to divorces be-
21 coming final in such plan years.

22 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
23 PLANS.—In the case of a plan maintained pursuant to 1
24 or more collective bargaining agreements between em-
25 ployee representatives and 1 or more employers ratified

1 on or before the date of the enactment of this Act, sub-
2 section (a) shall be applied to benefits pursuant to, and
3 individuals covered by, any such agreement by substituting
4 for “January 1, 1996” the date of the commencement of
5 the first plan year beginning on or after the earlier of—

6 (1) the later of—

7 (A) January 1, 1996, or

8 (B) the date on which the last of such col-
9 lective bargaining agreements terminates (de-
10 termined without regard to any extension there-
11 of after the date of the enactment of this Act),

12 or

13 (2) January 1, 1999.

14 (c) PLAN AMENDMENTS.—If any amendment made
15 by this title requires an amendment to any plan, such plan
16 amendment shall not be required to be made before the
17 first plan year beginning on or after January 1, 1996, if—

18 (1) during the period after such amendment
19 made by this title takes effect and before such first
20 plan year, the plan is operated in accordance with
21 the requirements of such amendment made by this
22 title, and

23 (2) such plan amendment applies retroactively
24 to the period after such amendment made by this
25 title takes effect and such first plan year.

1 A plan shall not be treated as failing to provide definitely
 2 determinable benefits or contributions, or to be operated
 3 in accordance with the provisions of the plan, merely be-
 4 cause it operates in accordance with this subsection.

5 **TITLE II—PROTECTION OF**
 6 **RIGHTS OF FORMER SPOUSES**
 7 **TO PENSION BENEFITS**
 8 **UNDER CERTAIN GOVERN-**
 9 **MENT AND GOVERNMENT-**
 10 **SPONSORED RETIREMENT**
 11 **PROGRAMS**

12 **SEC. 201. EXTENSION OF TIER II RAILROAD RETIREMENT**
 13 **BENEFITS TO SURVIVING FORMER SPOUSES**
 14 **PURSUANT TO DIVORCE AGREEMENTS.**

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

18 “(d) Notwithstanding any other provision of law, the
 19 payment of any portion of an annuity computed under sec-
 20 tion 3(b) to a surviving former spouse in accordance with
 21 a court decree of divorce, annulment, or legal separation
 22 or the terms of any court-approved property settlement
 23 incident to any such court decree shall not be terminated
 24 upon the death of the individual who performed the service
 25 with respect to which such annuity is so computed unless

1 such termination is otherwise required by the terms of
2 such court decree.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 202. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
7 **AND FORMER SPOUSES OF FEDERAL EM-**
8 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
9 **FOR DEFERRED ANNUITY UNDER CIVIL**
10 **SERVICE RETIREMENT SYSTEM.**

11 (a) **BENEFITS FOR WIDOW OR WIDOWER.**—Section
12 8341(f) of title 5, United States Code, is amended—

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

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

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

21 (2) in paragraph (1)—

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

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

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

3 (A) in the matter preceding subparagraph
4 (A) by inserting “former employee or” before
5 “Member”; and

6 (B) in subparagraph (B) by inserting
7 “former employee or” before “Member”.

8 (b) BENEFITS FOR FORMER SPOUSE.—Section
9 8341(h) of title 5, United States Code, is amended—

10 (1) in paragraph (1) by adding after the first
11 sentence “Subject to paragraphs (2) through (5) of
12 this subsection, a former spouse of a former em-
13 ployee who dies after having separated from the
14 service with title to a deferred annuity under section
15 8338(a) but before having established a valid claim
16 for annuity is entitled to a survivor annuity under
17 this subsection, if and to the extent expressly pro-
18 vided for in an election under section 8339(j)(3) of
19 this title, or in the terms of any decree of divorce
20 or annulment or any court order or court-approved
21 property settlement agreement incident to such de-
22 creee.”; and

23 (2) in paragraph (2)—

1 (A) in subparagraph (A)(ii) by striking “or
 2 annuitant,” and inserting “annuitant, or former
 3 employee”; and

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

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

9 “The Office shall provide by regulation for the appli-
 10 cation of this subsection to the widow, widower, or surviv-
 11 ing former spouse of a former employee who dies after
 12 having separated from the service with title to a deferred
 13 annuity under section 8338(a) but before having estab-
 14 lished a valid claim for annuity.”.

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

19 **SEC. 203. COURT ORDERS RELATING TO FEDERAL RETIRE-**
 20 **MENT BENEFITS FOR FORMER SPOUSES OF**
 21 **FEDERAL EMPLOYEES.**

22 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

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

1 (A) by redesignating paragraph (3) as
2 paragraph (4); and

3 (B) by inserting after paragraph (2) the
4 following new paragraph:

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

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

11 (A) in subsection (e) by striking “Lump-
12 sum benefits” and inserting “Subject to sub-
13 section (j), lump-sum benefits”; and

14 (B) in subsection (j)(1) by striking “the
15 lump-sum credit under subsection (a) of this
16 section” and inserting “any lump-sum credit or
17 lump-sum benefit under this section”.

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

20 (1) by redesignating subsection (c) as sub-
21 section (d); and

22 (2) by inserting after subsection (b) the follow-
23 ing new subsection:

24 “(c) Payment to a person under a court decree, court
25 order, property settlement, or similar process referred to

1 under subsection (a) shall include payment to a former
2 spouse of the employee, Member, or annuitant.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 204. PREVENTION OF CIRCUMVENTION OF COURT**
7 **ORDER BY WAIVER OF RETIRED PAY TO EN-**
8 **HANCE CIVIL SERVICE RETIREMENT ANNU-**
9 **ITY.**

10 (a) CIVIL SERVICE RETIREMENT AND DISABILITY
11 SYSTEM.—

12 (1) IN GENERAL.—Subsection (c) of section
13 8332 of title 5, United States Code, is amended by
14 adding at the end the following:

15 “(4) If an employee or Member waives retired pay
16 that is subject to a court order for which there has been
17 effective service on the Secretary concerned for purposes
18 of section 1408 of title 10, the military service on which
19 the retired pay is based may be credited as service for
20 purposes of this subchapter only if, in accordance with
21 regulations prescribed by the Director of the Office of Per-
22 sonnel Management, the employee or Member authorizes
23 the Director to deduct and withhold from the annuity pay-
24 able to the employee or Member under this subchapter,
25 and to pay to the former spouse covered by the court

1 order, the same amount that would have been deducted
2 and withheld from the employee's or Member's retired pay
3 and paid to that former spouse under such section 1408.”.

4 (2) CONFORMING AMENDMENT.—Paragraph (1)
5 of such subsection is amended by striking out “Ex-
6 cept as provided in paragraph (2)” and inserting
7 “Except as provided in paragraphs (2) and (4)”.

8 (b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

9 (1) IN GENERAL.—Subsection (c) of section
10 8411 of title 5, United States Code, is amended by
11 adding at the end the following:

12 “(5) If an employee or Member waives retired pay
13 that is subject to a court order for which there has been
14 effective service on the Secretary concerned for purposes
15 of section 1408 of title 10, the military service on which
16 the retired pay is based may be credited as service for
17 purposes of this chapter only if, in accordance with regula-
18 tions prescribed by the Director of the Office of Personnel
19 Management, the employee or Member authorizes the Di-
20 rector to deduct and withhold from the annuity payable
21 to the employee or Member under this subchapter, and
22 to pay to the former spouse covered by the court order,
23 the same amount that would have been deducted and with-
24 held from the employee's or Member's retired pay and
25 paid to that former spouse under such section 1408.”.

1 **SEC. 302. REQUIREMENT OF ANNUAL, DETAILED INVEST-**
2 **MENT REPORTS APPLIED TO CERTAIN 401(k)**
3 **PLANS.**

4 (a) IN GENERAL.—Paragraph (4) of section 401(k)
5 of the Internal Revenue Code of 1986 (relating to cash
6 or deferred arrangements), as amended by section 1, is
7 amended by adding at the end the following new subpara-
8 graph:

9 “(E) ANNUAL, DETAILED INVESTMENT RE-
10 PORTS REQUIRED.—

11 “(i) IN GENERAL.—A cash or deferred
12 arrangement of any employer with less
13 than 100 participants shall not be treated
14 as a qualified cash or deferred arrange-
15 ment unless the plan of which it is a part
16 provides to each participant an annual in-
17 vestment report detailing the name of each
18 investment acquired during such plan year
19 and the date and cost of such acquisition,
20 the name of each investment sold during
21 such year and the date and net proceeds of
22 such sale, and the overall rate of return for
23 all investments for such year.

24 “(ii) EXCEPTION.—Clause (i) shall
25 not apply with respect to any participant
26 described in section 404(c) of the Em-

1 ployee Retirement Income Security Act of
2 1974 (29 U.S.C. 1104(e)).”

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to plan years beginning after
5 the date of the enactment of this Act.

6 **SEC. 303. 10-PERCENT LIMITATION ON ACQUISITION AND**
7 **HOLDING OF EMPLOYER SECURITIES AND**
8 **EMPLOYER REAL PROPERTY APPLIED TO**
9 **401(K) PLANS.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 407(d)(3) of the Employee Retirement Income Security
12 Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding
13 at the end the following new sentence: “Such term also
14 excludes an individual account plan that includes a quali-
15 fied cash or deferred arrangement described in section
16 401(k) of the Internal Revenue Code of 1986, if such plan,
17 together with all other individual account plans main-
18 tained by the employer, owns more than 10 percent of the
19 assets owned by all pension plans maintained by the em-
20 ployer. For purposes of the preceding sentence, the assets
21 of such plan subject to participant control (within the
22 meaning of section 404(c)) shall not be taken into ac-
23 count.”.

24 (b) EFFECTIVE DATE; TRANSITION RULE.—

1 (1) EFFECTIVE DATE.—Except as provided in
2 paragraph (2), the amendment made by this section
3 shall apply to plans on and after the date of the en-
4 actment of this Act.

5 (2) TRANSITION RULE FOR PLANS HOLDING
6 EXCESS SECURITIES OR PROPERTY.—In the case of
7 a plan which on the date of the enactment of this
8 Act has holdings of employer securities and employer
9 real property (as defined in section 407(d) of the
10 Employee Retirement Income Security Act of 1974
11 (29 U.S.C. 1107(d)) in excess of the amount speci-
12 fied in such section 407, the amendment made by
13 this section shall apply to any acquisition of such se-
14 curities and property on or after such date of enact-
15 ment, but shall not apply to the specific holdings
16 which constitute such excess during the period of
17 such excess.

18 **TITLE IV—MODIFICATIONS OF**
19 **JOINT AND SURVIVOR ANNU-**
20 **ITY REQUIREMENTS**

21 **SEC. 401. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
22 **ITY REQUIREMENTS.**

23 (a) AMENDMENTS TO ERISA.—

24 (1) AMOUNT OF ANNUITY.—

1 (A) IN GENERAL.—Paragraph (1) of sec-
2 tion 205(a) of the Employee Retirement Income
3 Security Act of 1974 (29 U.S.C. 1055(a)) is
4 amended by inserting “or, at the election of the
5 participant, shall be provided in the form of a
6 qualified joint and two-thirds survivor annuity”
7 after “survivor annuity,”.

8 (B) DEFINITION.—Subsection (d) of sec-
9 tion 205 of such Act (29 U.S.C. 1055) is
10 amended—

11 (i) by redesignating paragraphs (1)
12 and (2) as subparagraphs (A) and (B), re-
13 spectively,

14 (ii) by inserting “(1)” after “(d)”,
15 and

16 (iii) by adding at the end the follow-
17 ing new paragraph:

18 “(2) For purposes of this section, the term “qualified
19 joint and two-thirds survivor annuity” means an annu-
20 ity—

21 “(A) for the participant while both the partici-
22 pant and the spouse are alive with a survivor annu-
23 ity for the life of the surviving individual (either the
24 participant or the spouse) equal to $66\frac{2}{3}$ percent of
25 the amount of the annuity which is payable to the

1 participant while both the participant and the
2 spouse are alive,

3 “(B) which is the actuarial equivalent of a sin-
4 gle annuity for the life of the participant, and

5 “(C) which, for all other purposes of this Act,
6 is treated as a qualified joint and survivor annuity.”.

7 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
8 of section 205(c)(3)(A) of such Act (29 U.S.C.
9 1055(c)(3)(A)) is amended to read as follows:

10 “(i) the terms and conditions of each qualified
11 joint and survivor annuity and qualified joint and
12 two-thirds survivor annuity offered, accompanied by
13 an illustration of the benefits under each such annu-
14 ity for the particular participant and spouse and an
15 acknowledgement form to be signed by the partici-
16 pant and the spouse that they have read and consid-
17 ered the illustration before any form of retirement
18 benefit is chosen,”.

19 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

20 (1) AMOUNT OF ANNUITY.—

21 (A) IN GENERAL.—Clause (i) of section
22 401(a)(11)(A) of the Internal Revenue Code of
23 1986 (relating to requirement of joint and sur-
24 vivor annuity and preretirement survivor annu-
25 ity) is amended by inserting “or, at the election

1 of the participant, shall be provided in the form
2 of a qualified joint and two-thirds survivor an-
3 nuity” after “survivor annuity,”.

4 (B) DEFINITION.—Section 417 of such
5 Code (relating to definitions and special rules
6 for purposes of minimum survivor annuity re-
7 quirements) is amended by redesignating sub-
8 section (f) as subsection (g) and by inserting
9 after subsection (e) the following new sub-
10 section:

11 “(f) DEFINITION OF QUALIFIED JOINT AND TWO-
12 THIRDS SURVIVOR ANNUITY.—For purposes of this sec-
13 tion and section 401(a)(11), the term “qualified joint and
14 two-thirds survivor annuity” means an annuity—

15 “(1) for the participant while both the partici-
16 pant and the spouse are alive with a survivor annu-
17 ity for the life of the surviving individual (either the
18 participant or the spouse) equal to $66\frac{2}{3}$ percent of
19 the amount of the annuity which is payable to the
20 participant while both the participant and the
21 spouse are alive,

22 “(2) which is the actuarial equivalent of a sin-
23 gle annuity for the life of the participant, and

24 “(3) which, for all other purposes of this title,
25 is treated as a qualified joint and survivor annuity.”.

1 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
2 of section 417(a)(3)(A) of such Code (relating to ex-
3 planation of joint and survivor annuity) is amended
4 to read as follows:

5 “(i) the terms and conditions of each
6 qualified joint and survivor annuity and
7 qualified joint and two-thirds survivor an-
8 nuity offered, accompanied by an illustra-
9 tion of the benefits under each such annu-
10 ity for the particular participant and
11 spouse and an acknowledgement form to
12 be signed by the participant and the
13 spouse that they have read and considered
14 the illustration before any form of retire-
15 ment benefit is chosen.”.

16 (c) EFFECTIVE DATES.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to plan years beginning after
19 December 31, 1996.

20 (2) SPECIAL RULE FOR COLLECTIVELY BAR-
21 GAINED PLANS.—In the case of a plan maintained
22 pursuant to one or more collective bargaining agree-
23 ments between employee representatives and one or
24 more employers ratified on or before the date of the
25 enactment of this Act, the amendments made by this

1 section shall apply to the first plan year beginning
2 on or after the earlier of—

3 (A) the later of—

4 (i) January 1, 1997, or

5 (ii) the date on which the last of such
6 collective bargaining agreements termi-
7 nates (determined without regard to any
8 extension thereof after the date of the en-
9 actment of this Act), or

10 (B) January 1, 1998.

11 (3) PLAN AMENDMENTS.—If any amendment
12 made by this section requires an amendment to any
13 plan, such plan amendment shall not be required to
14 be made before the first plan year beginning on or
15 after January 1, 1998, if—

16 (A) during the period after such amend-
17 ment made by this section takes effect and be-
18 fore such first plan year, the plan is operated
19 in accordance with the requirements of such
20 amendment made by this section, and

21 (B) such plan amendment applies retro-
22 actively to the period after such amendment
23 made by this section takes effect and such first
24 plan year.

1 A plan shall not be treated as failing to provide defi-
 2 nitely determinable benefits or contributions, or to
 3 be operated in accordance with the provisions of the
 4 plan, merely because it operates in accordance with
 5 this paragraph.

6 **TITLE V—SPOUSAL CONSENT**
 7 **REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(k)**
 8 **PLANS**
 9

10 **SEC. 501. SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(k) PLANS.**
 11

12 (a) IN GENERAL.—Paragraph (2) of section 401(k)
 13 of the Internal Revenue Code of 1986 (defining qualified
 14 cash or deferred arrangement) is amended by striking
 15 “and” at the end of subparagraph (C), by striking the pe-
 16 riod at the end of subparagraph (D) and inserting “, and”,
 17 and by adding at the end the following new subparagraph:

18 “(E) which provides that no distribution
 19 may be made unless—

20 “(i) the spouse of the employee (if
 21 any) consents in writing (during the 90-
 22 day period ending on the date of the dis-
 23 tribution) to such distribution, and

1 “(ii) requirements comparable to the
2 requirements of section 417(a)(2) are met
3 with respect to such consent.”

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to distributions in plan years be-
6 ginning after December 31, 1996.

7 **TITLE VI—WOMEN’S PENSION**
8 **TOLL-FREE PHONE NUMBER**

9 **SEC. 601. WOMEN’S PENSION TOLL-FREE PHONE NUMBER.**

10 (a) IN GENERAL.—The Secretary of Labor shall con-
11 tract with an independent organization to create a wom-
12 en’s pension toll-free telephone number and contact to
13 serve as—

14 (1) a resource for women on pension questions
15 and issues;

16 (2) a source for referrals to appropriate agen-
17 cies; and

18 (3) a source for printed information.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated \$500,000 for each of
21 the fiscal years 1997, 1998, 1999, and 2000 to carry out
22 subsection (a).

1 **TITLE VII—ANNUAL PENSION**
2 **BENEFITS STATEMENTS**

3 **SEC. 701. ANNUAL PENSION BENEFITS STATEMENTS.**

4 (a) **IN GENERAL.**—Subsection (a) of section 105 of
5 Employee Retirement Income Security Act of 1974 (29
6 U.S.C. 1025) is amended by striking “shall furnish to any
7 plan participant or beneficiary who so requests in writ-
8 ing,” and inserting “shall annually furnish to any plan
9 participant and shall furnish to any plan beneficiary who
10 so requests,”.

11 (b) **CONFORMING AMENDMENT.**—Subsection (a) of
12 section 105 of such Act (29 U.S.C. 1025) is amended by
13 striking “participant or”.

14 (c) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to plan years beginning after De-
16 cember 31, 1996.

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