

105TH CONGRESS
1ST SESSION

H. R. 766

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Mrs. KENNELLY of Connecticut (for herself, Ms. BROWN of Florida, Mrs. CARSON, Ms. JACKSON-LEE of Texas, Ms. KAPTUR, Mrs. LOWEY, Mrs. MALONEY of New York, Mrs. MEEK of Florida, Ms. MILLENDER-MCDONALD, Ms. SANCHEZ, Mrs. MORELLA, and Ms. FURSE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Transportation and Infrastructure, and Government Reform and Oversight, 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 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 1997”.

1 (b) TABLE OF CONTENTS.—

Sec. 1. Short title.

TITLE I—PENSION REFORM

Sec. 101. Pension integration rules.

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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.

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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.

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

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

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

TITLE VII—PERIODIC PENSION BENEFITS STATEMENTS

Sec. 701. Periodic 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
6 Tax Reform Act of 1986 (relating to effective date of ap-
7 plication of nondiscrimination rules to integrated plans)
8 (100 Stat. 2440), effective for plan years beginning after
9 the date of the enactment of this Act, the amendments
10 made by subsection (a) of such section 1111 shall also
11 apply to benefits attributable to plan years beginning on
12 or before December 31, 1988.

13 (b) **INTEGRATION DISALLOWED FOR SIMPLIFIED**
14 **EMPLOYEE PENSIONS.—**

15 (1) **IN GENERAL.—**Subparagraph (D) of section
16 408(k)(3) of the Internal Revenue Code of 1986 (re-
17 lating to permitted disparity under rules limiting
18 discrimination under simplified employee pensions)
19 is repealed.

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

23 (3) **EFFECTIVE DATE.—**The amendments made
24 by this subsection shall apply with respect to taxable
25 years beginning on or after January 1, 1998.

1 (c) EVENTUAL REPEAL OF INTEGRATION RULES.—
2 Effective for plan years beginning on or after January 1,
3 2004—

4 (1) subparagraphs (C) and (D) of section
5 401(a)(5) of the Internal Revenue Code of 1986 (re-
6 lating to pension integration exceptions under non-
7 discrimination requirements for qualification) are re-
8 pealed, and subparagraph (E) of such section
9 401(a)(5) is redesignated as subparagraph (C); and
10 (2) subsection (l) of section 401 of such Code
11 (relating to nondiscriminatory coordination of de-
12 fined contribution plans with OASDI) is repealed.

13 **SEC. 102. APPLICATION OF MINIMUM COVERAGE REQUIRE-**
14 **MENTS WITH RESPECT TO SEPARATE LINES**
15 **OF BUSINESS.**

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

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

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

5 “(3) SPECIAL RULE WHERE EMPLOYER OPER-
6 ATES SINGLE LINE OF BUSINESS.—In any case in
7 which the employer with respect to a plan is not
8 treated, under section 414(r), as operating separate
9 lines of business for a plan year, a trust shall not
10 constitute a qualified trust under section 401(a) un-
11 less such trust is designated by the employer as part
12 of a plan which benefits all employees of the em-
13 ployer.”.

14 (b) LIMITATION ON LINE OF BUSINESS EXCEP-
15 TION.—Paragraph (6) of section 410(b) of such Code (as
16 redesignated by subsection (a)(2) of this section) is
17 amended by inserting “other than paragraph (1)(A)” after
18 “this subsection”.

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

20 (a) AMENDMENTS TO THE INTERNAL REVENUE
21 CODE OF 1986.—

22 (1) IN GENERAL.—Paragraph (1) of section
23 414(p) of the Internal Revenue Code of 1986 (relat-
24 ing to qualified domestic relations order defined) is

1 amended by adding at the end the following new
2 subparagraph:

3 “(C) DEEMED DOMESTIC RELATIONS
4 ORDER UPON DIVORCE.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (iv), a domestic relations
7 order with respect to a marriage of at least
8 5 years duration between the participant
9 and the former spouse (including an annul-
10 ment or other order of marital dissolution)
11 shall, if the former spouse, within 60 days
12 after the receipt of notice under paragraph
13 (6)(B)(i)(II), so elects, be deemed by the
14 plan to be a domestic relations order that
15 specifies that 50 percent of the marital
16 share of the participant’s accrued benefit
17 is to be provided to such former spouse.

18 “(ii) MARITAL SHARE.—The marital
19 share shall be the accrued benefit of the
20 participant under the plan as of the date
21 of the first payment under the plan (to the
22 extent such accrued benefit is vested at the
23 date of the divorce or any later date) mul-
24 tiplied by a fraction, the numerator of
25 which is the period of participation by the

1 participant under the plan starting with
2 the date of marriage and ending with the
3 date of divorce, and the denominator of
4 which is the total period of participation by
5 the participant under the plan.

6 “(iii) INTERPRETATION AS QUALIFIED
7 DOMESTIC RELATIONS ORDER.—Each plan
8 shall establish reasonable rules for deter-
9 mining how any such deemed domestic re-
10 lations order is to be interpreted under the
11 plan so as to constitute a qualified domes-
12 tic relations order that satisfies paragraphs
13 (2) through (4) (and a copy of such rules
14 shall be provided to such former spouse
15 promptly after delivery of the divorce de-
16 cree). Such rules—

17 “(I) may delay the effect of such
18 an order until the earlier of the date
19 the participant is fully vested or has
20 terminated employment,

21 “(II) may allow the former
22 spouse to be paid out immediately,

23 “(III) shall permit the former
24 spouse to be paid not later than the

1 earliest retirement age under the plan
2 or the participant's death,

3 “(IV) may require the submitter
4 of the divorce decree to present a
5 marriage certificate or other evidence
6 of the marriage date to assist in bene-
7 fit calculations, and

8 “(V) may conform to the rules
9 applicable to qualified domestic rela-
10 tions orders regarding form or type of
11 benefit.

12 “(iv) APPLICATION.—This subpara-
13 graph shall not apply—

14 “(I) if the domestic relations
15 order states that pension benefits
16 were considered by the parties and no
17 division is intended, or

18 “(II) to the extent that a quali-
19 fied domestic relations order issued in
20 connection with such divorce provides
21 otherwise.”.

22 (2) NOTIFICATION PROCEDURES.—Section
23 414(p)(6) of such Code (relating to plan procedures
24 with respect to orders) is amended by striking sub-
25 paragraph (A), by redesignating subparagraph (B)

1 as subparagraph (C), and by inserting before sub-
2 paragraph (C) (as so redesignated) the following
3 new subparagraphs:

4 “(A) NOTICE AND DETERMINATION BY AD-
5 MINISTRATOR.—In the case of any domestic re-
6 lations order received by a plan, including such
7 an order received under subparagraph (B) or
8 section 4980B(f)(6)(C)—

9 “(i) within 14 days after receipt of
10 such order, the plan administrator shall—

11 “(I) notify the participant and
12 each alternate payee of the receipt of
13 such order and the plan’s procedures
14 for determining the qualified status of
15 domestic relation orders, and

16 “(II) notify the former spouse of
17 such former spouse’s rights under
18 paragraph (1)(C), and

19 “(ii) within a reasonable period after
20 receipt of such order, the plan adminis-
21 trator shall determine whether such order
22 is a qualified domestic relations order and
23 notify the participant and each alternate
24 payee of such determination.

1 “(B) NOTIFICATION OF PLAN ADMINIS-
2 TRATOR.—In the case of a domestic relations
3 order which is not a qualified domestic relations
4 order, each plan—

5 “(i) shall require that each participant
6 is responsible for notifying the plan admin-
7 istrator of the occurrence of a divorce of
8 the participant from the former spouse and
9 for delivery to the plan administrator of
10 the domestic relations order along with the
11 information required by paragraph (2)(A)
12 within 60 days after the date of the di-
13 vorce, and

14 “(ii) shall allow a former spouse to so
15 notify the plan administrator and deliver to
16 the plan administrator the domestic rela-
17 tions order within 60 days after the date
18 of the divorce.”.

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

21 (1) IN GENERAL.—Subsection (d)(3)(B) of sec-
22 tion 206 of the Employee Retirement Income Secu-
23 rity Act of 1974 (29 U.S.C. 1056) is amended—

24 (A) by striking “this paragraph—” and in-
25 serting “this paragraph:”.

1 (B) in clause (i)—

2 (i) by striking “the term” and insert-
3 ing “The term”, and

4 (ii) by striking “met, and” and insert-
5 ing “met.”,

6 (C) in clause (ii), by striking “the term”
7 and inserting “The term”, and

8 (D) by adding at the end the following new
9 clause:

10 “(iii)(I) Except as provided on subclause (IV),
11 a domestic relations order with respect to a marriage
12 of at least 5 years duration between the participant
13 and the former spouse (including an annulment or
14 other order of marital dissolution) shall, if the
15 former spouse, within 60 days after the receipt of
16 notice under subparagraph (G)(ii)(I)(bb), so elects,
17 be deemed by the plan to be a domestic relations
18 order that specifies that 50 percent of the marital
19 share of the participant’s accrued benefit is to be
20 provided to such former spouse.

21 “(II) The marital share shall be the accrued
22 benefit of the participant under the plan as of the
23 date of the first payment under the plan (to the ex-
24 tent such accrued benefit is vested at the date of the
25 divorce or any later date) multiplied by a fraction,

1 the numerator of which is the period of participation
2 by the participant under the plan starting with the
3 date of marriage and ending with the date of di-
4 vorce, and the denominator of which is the total pe-
5 riod of participation by the participant under the
6 plan.

7 “(III) Each plan shall establish reasonable rules
8 for determining how any such deemed domestic rela-
9 tions order is to be interpreted under the plan so as
10 to constitute a qualified domestic relations order
11 that satisfies subparagraphs (C) through (E) (and a
12 copy of such rules shall be provided to such former
13 spouse promptly after delivery of the divorce decree).
14 Such rules—

15 “(aa) may delay the effect of such an order
16 until the earlier of the date the participant is
17 fully vested or has terminated employment,

18 “(bb) may allow the former spouse to be
19 paid out immediately,

20 “(cc) shall permit the spouse to be paid
21 not later than the earliest retirement age under
22 the plan or the participant’s death,

23 “(dd) may require the submitter of the di-
24 vorce decree to present a marriage certificate or

1 other evidence of the marriage date to assist in
2 benefit calculations, and

3 “(ee) may conform to the rules applicable
4 to qualified domestic relations orders regarding
5 form or type of benefit.

6 “(IV) This clause shall not apply—

7 “(aa) if the domestic relations order states
8 that pension benefits were considered by the
9 parties and no division is intended, or

10 “(bb) to the extent that a qualified domes-
11 tic relations order issued in connection with
12 such divorce provides otherwise.”.

13 (2) NOTIFICATION PROCEDURES.—Section
14 206(d)(3)(G) of such Act (29 U.S.C. 1056(d)(3)(G))
15 is amended by striking all matter before clause (ii),
16 by redesignating clause (ii) as clause (iii), and by in-
17 serting before clause (iii) (as so redesignated) the
18 following:

19 “(G)(i) In the case of any domestic relations order
20 received by a plan, including such an order received under
21 clause (ii) or section 606(a)(3)—

22 “(I) within 14 days after receipt of such order,
23 the plan administrator shall—

24 “(aa) notify the participant and each alter-
25 nate payee of the receipt of such order and the

1 plan's procedures for determining the qualified
2 status of domestic relation orders, and

3 "(bb) notify the former spouse of such
4 former spouse's rights under subparagraph
5 (B)(iii), and

6 "(II) within a reasonable period after receipt of
7 such order, the plan administrator shall determine
8 whether such order is a qualified domestic relations
9 order and notify the participant and each alternate
10 payee of such determination.

11 "(ii) In the case of a domestic relations order which
12 is not a qualified domestic relations order, each plan—

13 "(I) shall require that each participant is re-
14 sponsible for notifying the plan administrator of the
15 occurrence of a divorce of the participant from the
16 former spouse and for delivery to the plan adminis-
17 trator of the domestic relations order along with the
18 information required by subparagraph (C)(i) within
19 60 days after the date of the divorce, and

20 "(II) shall allow a former spouse to so notify
21 the plan administrator and deliver to the plan ad-
22 ministrator the domestic relations order within 60
23 days after the date of the divorce.".

1 **SEC. 104. CLARIFICATION OF CONTINUED AVAILABILITY OF**
2 **REMEDIES RELATING TO MATTERS TREATED**
3 **IN DOMESTIC RELATIONS ORDERS ENTERED**
4 **BEFORE 1985.**

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

6 (1) under a prior domestic relations order en-
7 tered before January 1, 1985, in an action for di-
8 vorce—

9 (A) the right of a spouse under a pension
10 plan to an accrued benefit under such plan was
11 not divided between spouses,

12 (B) any right of a spouse with respect to
13 such an accrued benefit was waived without the
14 informed consent of such spouse, or

15 (C) the right of a spouse as a participant
16 under a pension plan to an accrued benefit
17 under such plan was divided so that the other
18 spouse received less than such other spouse's
19 pro rata share of the accrued benefit under the
20 plan, or

21 (2) a court of competent jurisdiction determines
22 that any further action is appropriate with respect
23 to any matter to which a prior domestic relations
24 order entered before such date applies,

25 nothing in the provisions of section 104, 204, or 303 of
26 the Retirement Equity Act of 1984 (Public Law 98–397)

1 or the amendments made thereby shall be construed to
2 require or permit the treatment, for purposes of such pro-
3 visions, of a domestic relations order, which is entered on
4 or after the date of the enactment of this Act and which
5 supersedes, amends the terms of, or otherwise affects such
6 prior domestic relations order, as other than a qualified
7 domestic relations order solely because such prior domestic
8 relations order was entered before January 1, 1985.

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

10 (1) IN GENERAL.—Terms used in this section
11 which are defined in section 3 of the Employee Re-
12 tirement Income Security Act of 1974 (29 U.S.C.
13 1002) shall have the meanings provided such terms
14 by such section.

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

19 (A) the actuarial present value of the ac-
20 crued benefit, by

21 (B) a fraction—

22 (i) the numerator of which is the pe-
23 riod of time, during the marriage between
24 the spouse and the participant in the plan,

1 which constitutes creditable service by the
2 participant under the plan, and

3 (ii) the denominator of which is the
4 total period of time which constitutes cred-
5 itable service by the participant under the
6 plan.

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

10 **SEC. 105. ENTITLEMENT OF DIVORCED SPOUSES TO RAIL-**
11 **ROAD RETIREMENT ANNUITIES INDEPEND-**
12 **ENT OF ACTUAL ENTITLEMENT OF EM-**
13 **PLOYEE.**

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

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

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

21 **SEC. 106. EFFECTIVE DATES.**

22 (a) IN GENERAL.—Except as provided in subsection
23 (b), the amendments made by this title, other than section
24 101, shall apply with respect to plan years beginning on
25 or after January 1, 1998, and the amendments made by

1 section 103 shall apply only with respect to divorces be-
2 coming final in such plan years.

3 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
4 PLANS.—In the case of a plan maintained pursuant to 1
5 or more collective bargaining agreements between em-
6 ployee representatives and 1 or more employers ratified
7 on or before the date of the enactment of this Act, sub-
8 section (a) shall be applied to benefits pursuant to, and
9 individuals covered by, any such agreement by substituting
10 for “January 1, 1998” the date of the commencement of
11 the first plan year beginning on or after the earlier of—

12 (1) the later of—

13 (A) January 1, 1999, or

14 (B) the date on which the last of such col-
15 lective bargaining agreements terminates (de-
16 termined without regard to any extension there-
17 of after the date of the enactment of this Act),

18 or

19 (2) January 1, 2000.

20 (c) PLAN AMENDMENTS.—If any amendment made
21 by this title requires an amendment to any plan, such plan
22 amendment shall not be required to be made before the
23 first plan year beginning on or after January 1, 2000, if—

24 (1) during the period after such amendment
25 made by this title takes effect and before such first

1 plan year, the plan is operated in accordance with
2 the requirements of such amendment made by this
3 title, and

4 (2) such plan amendment applies retroactively
5 to the period after such amendment made by this
6 title takes effect and such first plan year.

7 A plan shall not be treated as failing to provide definitely
8 determinable benefits or contributions, or to be operated
9 in accordance with the provisions of the plan, merely be-
10 cause it operates in accordance with this subsection.

11 **TITLE II—PROTECTION OF**
12 **RIGHTS OF FORMER SPOUSES**
13 **TO PENSION BENEFITS**
14 **UNDER CERTAIN GOVERN-**
15 **MENT AND GOVERNMENT-**
16 **SPONSORED RETIREMENT**
17 **PROGRAMS**

18 **SEC. 201. EXTENSION OF TIER II RAILROAD RETIREMENT**
19 **BENEFITS TO SURVIVING FORMER SPOUSES**
20 **PURSUANT TO DIVORCE AGREEMENTS.**

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

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

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

8 (2) in paragraph (1)—

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

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

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

15 (A) in the matter preceding subparagraph

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

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

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

22 (1) in paragraph (1) by adding after the first
23 sentence “Subject to paragraphs (2) through (5) of
24 this subsection, a former spouse of a former em-
25 ployee who dies after having separated from the

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

10 (2) in paragraph (2)—

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

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

16 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—

17 Section 8339(j)(3) of title 5, United States Code, is
18 amended by inserting at the end the following:

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

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

5 **SEC. 203. COURT ORDERS RELATING TO FEDERAL RETIRE-**
6 **MENT BENEFITS FOR FORMER SPOUSES OF**
7 **FEDERAL EMPLOYEES.**

8 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

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

11 (A) by redesignating paragraph (3) as
12 paragraph (4); and

13 (B) by inserting after paragraph (2) the
14 following new paragraph:

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

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

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

24 (B) in subsection (j)(1) by striking “the
25 lump-sum credit under subsection (a) of this

1 section” and inserting “any lump-sum credit or
2 lump-sum benefit under this section”.

3 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

4 Section 8467 of title 5, United States Code, is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (d); and

7 (2) by inserting after subsection (b) the follow-
8 ing new subsection:

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

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

16 **TITLE III—REFORMS RELATED** 17 **TO 401(K) PLANS**

18 **SEC. 301. REQUIREMENT OF ANNUAL, DETAILED INVEST-** 19 **MENT REPORTS APPLIED TO CERTAIN 401(k)** 20 **PLANS.**

21 (a) IN GENERAL.—Section 104(b)(3) of the Em-
22 ployee Retirement Income Security Act of 1974 (29
23 U.S.C. 1024(b)(3)) is amended—

24 (1) by inserting “(A)” after “(3)”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(B)(i) If a plan includes a qualified cash or
4 deferred arrangement (as defined in section
5 401(k)(2) of the Internal Revenue Code of 1986)
6 and is maintained by an employer with less than 100
7 participants, the administrators shall furnish to each
8 participant and to each beneficiary receiving benefits
9 under the plan an annual investment report detail-
10 ing such information as the Secretary by regulation
11 shall require.

12 “(ii) Clause (i) shall not apply with respect to
13 any participant described in section 404(c).”.

14 (b) REGULATIONS.—

15 (1) IN GENERAL.—The Secretary of Labor, in
16 prescribing regulations required under section
17 104(b)(3)(B)(i) of the Employee Retirement Income
18 Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)),
19 as added by subsection (a), shall consider including
20 in the information required in an annual investment
21 report the following:

22 (A) Total plan assets and liabilities as of
23 the beginning and ending of the plan year.

1 (B) Plan income and expenses and con-
2 tributions made and benefits paid for the plan
3 year.

4 (C) Any transaction between the plan and
5 the employer, any fiduciary, or any 10-percent
6 owner during the plan year, including the acqui-
7 sition of any employer security or employer real
8 property.

9 (D) Any noncash contributions made to or
10 purchases of nonpublicly traded securities made
11 by the plan during the plan year without an ap-
12 praisal by an independent third party.

13 (2) ELECTRONIC TRANSFER.—The Secretary of
14 Labor in prescribing such regulations shall also
15 make provision for the electronic transfer of the re-
16 quired annual investment report by a plan adminis-
17 trator to plan participants and beneficiaries.

18 (c) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to plan years beginning after
20 the date of the enactment of this Act.

21 **SEC. 302. SECTION 401(k) INVESTMENT PROTECTION.**

22 (a) LIMITATIONS ON INVESTMENT IN EMPLOYER SE-
23 CURITIES AND EMPLOYER REAL PROPERTY BY CASH OR
24 DEFERRED ARRANGEMENTS.—Paragraph (3) of section
25 407(d) of the Employee Retirement Income Security Act

1 of 1974 (29 U.S.C. 1107(d)) is amended by adding at the
2 end the following new subparagraph:

3 “(D) The term ‘eligible individual account plan’
4 does not include that portion of an individual ac-
5 count plan that consists of elective deferrals (as de-
6 fined in section 402(g)(3) of the Internal Revenue
7 Code of 1986) pursuant to a qualified cash or de-
8 ferred arrangement as defined in section 401(k) of
9 the Internal Revenue Code of 1986 (and earnings
10 thereon), if such elective deferrals (or earnings
11 thereon) are required to be invested in qualifying
12 employer securities or qualifying employer real prop-
13 erty or both pursuant to the documents and instru-
14 ments governing the plan or at the direction of a
15 person other than the participant (or the partici-
16 pant’s beneficiary) on whose behalf such elective de-
17 ferrals are made to the plan. For the purposes of
18 subsection (a), such portion shall be treated as a
19 separate plan. This subparagraph shall not apply to
20 an individual account plan if the fair market value
21 of the assets of all individual account plans main-
22 tained by the employer equals not more than 10 per-
23 cent of the fair market value of the assets of all pen-
24 sion plans maintained by the employer.”.

25 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall take effect on the date of the en-
3 actment of this Act.

4 (2) TRANSITION RULE FOR PLANS HOLDING
5 EXCESS SECURITIES OR PROPERTY.—

6 (A) IN GENERAL.—In the case of a plan
7 which on the date of the enactment of this Act,
8 has holdings of employer securities and em-
9 ployer real property (as defined in section
10 407(d) of the Employee Retirement Income Se-
11 curity Act of 1974 (29 U.S.C. 1107(d)) in ex-
12 cess of the amount specified in such section
13 407, the amendment made by this section ap-
14 plies to any acquisition of such securities and
15 property on or after such date, but does not
16 apply to the specific holdings which constitute
17 such excess during the period of such excess.

18 (B) SPECIAL RULE FOR CERTAIN ACQUISI-
19 TIONS.—Employer securities and employer real
20 property acquired pursuant to a binding written
21 contract to acquire such securities and real
22 property entered into and in effect on the date
23 of the enactment of this Act, shall be treated as
24 acquired immediately before such date.

1 **TITLE IV—MODIFICATIONS OF**
2 **JOINT AND SURVIVOR ANNU-**
3 **ITY REQUIREMENTS**

4 **SEC. 401. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
5 **ITY REQUIREMENTS.**

6 (a) AMENDMENTS TO ERISA.—

7 (1) AMOUNT OF ANNUITY.—

8 (A) IN GENERAL.—Paragraph (1) of sec-
9 tion 205(a) of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1055(a)) is
11 amended by inserting “or, at the election of the
12 participant, shall be provided in the form of a
13 qualified joint and $\frac{2}{3}$ survivor annuity” after
14 “survivor annuity.”

15 (B) DEFINITION.—Subsection (d) of sec-
16 tion 205 of such Act (29 U.S.C. 1055) is
17 amended—

18 (i) by redesignating paragraphs (1)
19 and (2) as subparagraphs (A) and (B), re-
20 spectively,

21 (ii) by inserting “(1)” after “(d)”,
22 and

23 (iii) by adding at the end the follow-
24 ing new paragraph:

1 “(2) For purposes of this section, the term “qualified
2 joint and $\frac{2}{3}$ survivor annuity” means an annuity—

3 “(A) for the participant while both the partici-
4 pant and the spouse are alive with a survivor annu-
5 ity for the life of surviving individual (either the par-
6 ticipant or the spouse) equal to 67 percent of the
7 amount of the annuity which is payable to the par-
8 ticipant while both the participant and the spouse
9 are alive,

10 “(B) which is the actuarial equivalent of a sin-
11 gles annuity for the life of the participant, and

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

14 (2) ILLUSTRATION REQUIREMENT.—Clause (i)
15 of section 205(c)(3)(A) of such Act (29 U.S.C.
16 1055(c)(3)(A)) is amended to read as follows:

17 “(i) the terms and conditions of each qualified
18 joint and survivor annuity and qualified joint and
19 $\frac{2}{3}$ survivor annuity offered, accompanied by an illus-
20 tration of the benefits under each such annuity for
21 the particular participant and spouse and an ac-
22 knowledgement form to be signed by the participant
23 and the spouse that they have read and considered
24 the illustration before any form of retirement benefit
25 is chosen,”.

1 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

2 (1) AMOUNT OF ANNUITY.—

3 (A) IN GENERAL.—Clause (i) of section
4 401(a)(11)(A) of the Internal Revenue Code of
5 1986 (relating to requirement of joint and sur-
6 vivor annuity and preretirement survivor annu-
7 ity) is amended by inserting “or, at the election
8 of the participant, shall be provided in the form
9 of a qualified joint and $\frac{2}{3}$ survivor annuity”
10 after “survivor annuity,”.

11 (B) DEFINITION.—Section 417 of such
12 Code (relating to definitions and special rules
13 for purposes of minimum survivor annuity re-
14 quirements) is amended by redesignating sub-
15 section (f) as subsection (g) and by inserting
16 after subsection (e) the following new sub-
17 section:

18 “(f) DEFINITION OF QUALIFIED JOINT AND $\frac{2}{3}$ SUR-
19 VIVOR ANNUITY.—For purposes of this section and section
20 401(a)(11), the term “qualified joint and $\frac{2}{3}$ survivor an-
21 nuity” means an annuity—

22 “(1) for the participant while both the partici-
23 pant and the spouse are alive with a survivor annu-
24 ity for the life of surviving individual (either the par-
25 ticipant or the spouse) equal to 67 percent of the

1 amount of the annuity which is payable to the par-
2 ticipant while both the participant and the spouse
3 are alive,

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

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

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

12 “(i) the terms and conditions of each
13 qualified joint and survivor annuity and
14 qualified joint and $\frac{2}{3}$ survivor annuity of-
15 fered, accompanied by an illustration of
16 the benefits under each such annuity for
17 the particular participant and spouse and
18 an acknowledgement form to be signed by
19 the participant and the spouse that they
20 have read and considered the illustration
21 before any form of retirement benefit is
22 chosen,”.

23 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to plan years beginning on
3 or after January 1, 1998.

4 (2) SPECIAL RULE FOR COLLECTIVELY BAR-
5 GAINED PLANS.—In the case of a plan maintained
6 pursuant to 1 or more collective bargaining agree-
7 ments between employee representatives and 1 or
8 more employers ratified on or before the date of en-
9 actment of this Act, the amendments made by this
10 section shall apply to the first plan year beginning
11 on or after the earlier of—

12 (A) the later of—

13 (i) January 1, 1999, or

14 (ii) the date on which the last of such
15 collective bargaining agreements termi-
16 nates (determined without regard to any
17 extension thereof after the date of enact-
18 ment of this Act), or

19 (B) January 1, 2000.

20 (3) PLAN AMENDMENTS.—If any amendment
21 made by this section requires an amendment to any
22 plan, such plan amendment shall not be required to
23 be made before the first plan year beginning on or
24 after January 1, 2000, if—

1 (A) during the period after such amend-
 2 ment made by this section takes effect and be-
 3 fore such first plan year, the plan is operated
 4 in accordance with the requirements of such
 5 amendment made by this section, and

6 (B) such plan amendment applies retro-
 7 actively to the period after such amendment
 8 made by this section takes effect and such first
 9 plan year.

10 A plan shall not be treated as failing to provide defi-
 11 nitely determinable benefits or contributions, or to
 12 be operated in accordance with the provisions of the
 13 plan, merely because it operates in accordance with
 14 this paragraph.

15 **TITLE V—SPOUSAL CONSENT**
 16 **REQUIRED FOR DISTRIBUTIONS FROM SECTION 401(k)**
 17 **PLANS**

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

21 (a) IN GENERAL.—Paragraph (2) of section 401(k)
 22 of the Internal Revenue Code of 1986 (defining qualified
 23 cash or deferred arrangement) is amended by striking

1 “and” at the end of subparagraph (C), by striking the pe-
 2 riod at the end of subparagraph (D) and inserting “, and”,
 3 and by adding at the end the following new subparagraph:

4 “(E) which provides that no distribution
 5 may be made unless—

6 “(i) the spouse of the employee (if
 7 any) consents in writing (during the 90-
 8 day period ending on the date of the dis-
 9 tribution) to such distribution, and

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

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to distributions in plan years be-
 15 ginning on or after January 1, 1998.

16 **TITLE VI—WOMEN’S PENSION**
 17 **TOLL-FREE PHONE NUMBER**

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

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

23 (1) a resource for women on pension questions
 24 and issues;

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

3 (3) a source for printed information.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$500,000 for each of
6 the fiscal years 1998, 1999, 2000, and 2001 to carry out
7 subsection (a).

8 **TITLE VII—PERIODIC PENSION**
9 **BENEFITS STATEMENTS**

10 **SEC. 701. PERIODIC PENSION BENEFITS STATEMENTS.**

11 (a) IN GENERAL.—Subsection (a) of section 105 of
12 the Employee Retirement Income Security Act of 1974
13 (29 U.S.C. 1025) is amended by striking “shall furnish
14 to any plan participant or beneficiary who so requests in
15 writing,” and inserting “shall furnish at least once every
16 3 years, in the case of a defined benefit plan, and annu-
17 ally, in the case of a defined contribution plan, to each
18 plan participant, and shall furnish to any plan participant
19 or beneficiary who so requests,”.

20 (b) RULE FOR MULTIEMPLOYER PLANS.—Subsection
21 (d) of section 105 of the Employee Retirement Income Se-
22 curity Act of 1974 (29 U.S.C. 1025) is amended to read
23 as follows:

1 “(d) Each administrator of a plan to which more than
2 1 unaffiliated employer is required to contribute shall fur-
3 nish to any plan participant or beneficiary who so requests
4 in writing, a statement described in subsection (a).”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to plan years beginning after the
7 earlier of—

8 (1) the date of issuance by the Secretary of
9 Labor of regulations providing guidance for simplify-
10 ing defined benefit plan calculations with respect to
11 the information required under section 105 of the
12 Employee Retirement Income Security Act of 1974
13 (29 U.S.C. 1025), or

14 (2) December 31, 1997.

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